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# SENATE—*Tuesday, July 16, 2002*

The Senate met at 9:30 a.m. and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

William James gives us a thought for today and a call to prayer:

> We and God have business with each other. And in opening ourselves to His influence our deepest destiny is fulfilled. The universe, at those parts of it which our personal being constitutes, takes a turn genuinely for the worse or better in proportion as each one of us fulfills or evades God's demands.

Gracious God, we open ourselves to the influence of Your Spirit. Think Your thoughts through our minds; express Your love through our emotions; accomplish Your plans through our wills. We invite You to take control of our lives and use us today. Bless the Senators with an awareness of Your presence, an assurance of Your help, and an accountability to You for the work of this day. Help us all to fulfill our destiny as Your faithful servants today. Thank You for the privilege! You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, July 16, 2002.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. CORZINE thereupon assumed the Chair as Acting President pro tempore.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee.

Under the previous order, the second half of the time shall be under the control of the majority leader or his designee.

In my capacity as a Senator from the State of New Jersey, I suggest the absence of a quorum. Without objection, the time for the quorum call will be evenly divided.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## MEETING THE SENATE CHALLENGES

Mr. THOMAS. Mr. President, let me take a couple of minutes to speak on a couple of subjects which I feel very strongly about and that we are facing.

First of all, I want to talk about energy. Certainly, during this whole year we have been giving consideration to and having some emphasis on energy. The public interest has been higher, and we have problems. When gas prices are higher, everybody recognizes the issue that we have with energy. But when those settle down a little, the problem is still there. We in the Congress have tried to deal with it for this whole year. Now we are in the process of having a conference committee try to come out with conclusions. I just wanted to urge that we move forward with the conference committee and that we finally come up with an energy policy in this country. We do not have one.

We find ourselves in the position of being nearly 60 percent dependent on importation of oil in order to meet our needs. We don't want to be in that position, particularly with the unrest in the Middle East from where much of our oil comes. We certainly need to find solutions that will make us less dependent. It is not only an energy issue, it affects our economy. I do not know of anything that affects our economy more than energy. We use energy when we turn on our lights, when we have heat, and when we have air-conditioning.

In terms of the economy itself, nothing is more important than energy.

I am hopeful that we can move forward. We have put together a conference committee. The House bill is somewhat less extensive than the Senate bill. On the other hand, certainly there are a great many things in which there is common interests. Someone reviewed it and found that there are probably 55 issues in which we have a common interest.

We need to move forward. We are ready to do something. The committee has not yet actually met. Staff is meeting. I just can't say how important it is for us to move forward and complete that conference committee and bring those issues back to the Senate and the House before the September time expires.

We are talking, of course, not only about the idea of having increased production in our country, which we can have, we are also cognizant about renewables. We are talking about research to make coal cleaner for the air.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

We are talking about all kinds of issues with a balance between production and conservation. That is what we ought to be doing in policy.

I am really anxious that we find a way to move forward. Obviously, there are some issues on which there is disagreement: For example, an opportunity to have production in ANWR on the North Slope, which is part of the House bill and not part of the Senate bill. We ought to resolve that and come to a conclusion. That ought not be what holds up having an energy policy in this country. We can deal with the idea of having access to public lands so we can have production. And we can conserve and protect the environment at the same time. We have done that for a very long time in the West where most of the public land is located. We can do that.

There are those who try to make the point that if you have access to the land, it suddenly is going to be spoiled, and so on. That doesn't need to be the case. There are ways in which we can have effective production and at the same time have effective maintenance. Obviously, there are areas in which we don't want to have that kind of use, whether it be wilderness or the national parks or special parts of the forest. But, in general, half of Wyoming belongs to the Federal Government. The largest percentage of that is Bureau of Land Management lands. Those are lands that ought to be available under law for multiple use. Certainly, it should be used carefully. We want to do that.

There is also a great debate over what we do in terms of trying to get better efficiency out of our energy. And we can do that. There is a great debate on CAFE standards and mileage standards and whether that ought to be the best we can do or whether that ought to be put in law over a certain length of time. Again, we can resolve those issues.

The idea of using ethanol can also be resolved. We need to work at it.

The other issue that obviously is going to be on the floor right away is one that we have worked on in the Finance Committee for some time; that is, prescription drugs and pharmaceuticals, which we will be talking about today, and, as I understand it, from the leader's comments, probably for the next 2 weeks, which is fine. It is an issue that really needs to be resolved. Obviously, it impacts a great many people in this country, particularly those on Social Security, the elderly.

More and more, we find ourselves utilizing pharmaceuticals. Hopefully, that has been helpful to health care. Utilization is one of the reasons, of course, the costs per individual have gone up, in addition to the price of pharmaceuticals.

In the Finance Committee we worked on this bill, which is where the jurisdiction is. But I am disappointed that coming to the floor with a bill that has been approved by the committee is apparently not going to happen. The leader is going to go ahead and has already put a bill on the floor that has to do more with the patent rights than it does on the whole question of pharmaceuticals, and then to bring a bill as he chooses to do it as opposed to the committee approving a bill.

Interestingly enough, that is exactly what happened with energy. The bill was taken out of the Energy Committee by the leadership here, and then we dealt with it on the floor for I don't remember how many weeks. But that is not the way we are supposed to work.

We have committees and committees are supposed to report and bring their recommendations to the floor so that the great detail of these things has already been done. When you do not do that, then it comes to the floor, and we find ourselves, as we are now, frankly, behind in the work we ought to be doing towards the end of this session, and largely because of the idea of going around the committees and then bringing these controversial issues to the floor.

I do not think pharmaceuticals are controversial in terms of us wanting to deal with it, but there are lots of things in it. It is a very difficult issue. I am disappointed—if that is finally the way it works out—that we don't have a bill reported from the committee of jurisdiction.

It is a tough issue. There are lots of issues to talk about. Who should be the beneficiaries of a pharmaceuticals program of this kind? There are some who want it for everyone. There are some who want it simply as part of Medicare. And then, should the emphasis be on low-income individuals or should it be for everyone? I do not know the answer, but that is one of the issues that has to be talked about.

What can we do in terms of trying to get better prices, in terms of having prescription drugs available for people to buy? Or do we simply want to subsidize them at whatever price comes out? It is a very difficult issue, and one with which we have to deal.

Since we are talking about a kind of stand-alone situation with pharmaceuticals, we have to talk about a delivery system. How do you do this? How do you do this to allow for the local pharmaceutical, the local drug stores, the local pharmacies to be able to participate, as well as mail distributors? I think that is very important, particularly for those of us in rural communities. We need to make sure the drug system—whatever we come up with—and the delivery system are available in rural areas. We find some problems with that generally in terms of health insurance. In low-population areas, there are not the choices available as in other places. We need to ensure that is the case.

And then there is the cost, of course. There are at least three proposals that will be before us. One of them—I think it is called the Graham bill—will be one that gives very extensive coverage but over a 10-year period costs nearly $1 trillion, apparently. At least that is the best sort of pricing that we can get so far.

There is one that is the tripartisan bill. That comes out to a price of about $370 billion over 10 years. Again, it is difficult to get the scoring on these, but we have that.

And then, of course, there is another proposal out there. I think it is the Hagel bill. That is largely one in which there is a group purchasing process, and you would belong to the purchasing card arrangement and basically use the idea of volume to be able to have substantially less cost. I think it would cost about $150 billion. I never thought I would be talking about $150 billion being less, but that, nevertheless, is the way it is.

So we are faced with some tough decisions. Unfortunately, we will not have a committee-approved bill before us to deal with, I am afraid. The difficulty with that, of course, is that in the Senate we also do not have a budget; therefore, a point of order rises on anything that is above what was considered to be in the budget, which is $300 billion. So a point of order can be raised on two of these three bills that I mentioned; and then it takes 60 votes to get those passed. If there are not 60 votes, they will not be successful.

I think we find ourselves in a real difficult situation in dealing with something that almost everyone wants to complete. Unfortunately, it now becomes something of a political issue in terms of what you can do during the election period to talk about what an advocate you were on the floor. That should not be the purpose. The purpose ought to be to come up with a workable program designed to deal with the people in most need of assistance, designed to have a delivery system that gives people some choices which comes through the private sector; and those choices would exist all around the country, not simply in cities and highly urbanized areas, with some control over cost.

We are finding ourselves, obviously, in a great spending spree. Part of it, of course, is the result of terrorism and some of the events that have happened, and partly as a result of less revenue coming in as a part of the economy.

So I guess on balance I am saying we find ourselves in a tough position. I hope we can zero in on what it is we want to accomplish and find the best method of accomplishing that and get it done in the very near future.

So I think we have lots of challenges before us. I mentioned a couple: energy, pharmaceuticals. We ought to be able to get a budget so we have limitations on our spending. In the Senate, we obviously have not yet begun to deal with the 13 bills that we need on appropriations. We have not started on that.

So I think we have allowed ourselves to get into a pretty tight situation in terms of dealing with the issues. I am pleased that yesterday we were able to at least complete something in the accounting area that will deal with some of the problems we have seen in terms of corporate misbehavior. Hopefully, that will work. So I just wish we could move and get on with the work we know we have to do.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Illinois.

Mr. DURBIN. Madam President, I ask unanimous consent to be recognized in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## 14TH INTERNATIONAL CONFERENCE ON AIDS

Mr. DURBIN. Madam President, last Friday, July 12, the 14th International Conference on AIDS closed in Barcelona, Spain. This year's theme was "Knowledge and Commitment for Action."

More than 14,000 doctors, activists, and government officials gathered in Barcelona for the largest AIDS conference ever.

At the last conference, hosted in Durban, South Africa, in the year 2000, the concluding plan, by all the nations that assembled, was to take action on the following items: To spread the use of condoms as a means of avoiding infection; to curb mother-to-child transmission of AIDS and HIV; to empower women to choose their relationships and method of contraception freely; and, finally, to educate people about the risks.

The last 2 years have shown that all four of these activities can be done successfully.

Another success achieved in the past 2 years is the focus shift to providing treatment for all. This has been a result of lower drug costs and the realization that people will not get tested unless there is hope of treatment.

The opening session featured the Barcelona Declaration, which called for action on the following goals by the year 2004: Secure a donation of $10 billion per year for Global AIDS—$10 billion—provide 2 million people in the developing world with antiretroviral treatment; third, provide affordable drug treatment in the developed world and universal access to generic brand drugs in the developing world; and fourth, develop a new global partnership between government and nongovernment organizations, recognizing the crucial roles that NGOs play in the fight against AIDS.

The Barcelona conference has brought a great deal of attention to HIV/AIDS. Newspapers daily provide America with devastating facts. UNAIDS warns that the AIDS epidemic is just starting. An estimated 5 million new HIV infections occurred worldwide during 2001. That is about 15,000 infections every single day. More than 95 percent of these occur in developing countries. In 2001, 5 infections each minute occurred in young people age 15 to 24, approximately 6,000 young people in total. Worldwide, 13.4 million children have lost at least 1 parent to AIDS. That number is expected to grow to more than 25 million by the year 2010.

We tend to view AIDS and its growth as a Third World problem. We hear the statistics: 40 million infected people in sub-Saharan Africa; 15 million AIDS orphans or more in sub-Saharan Africa; projections by the World Bank that there will be over 20 million infected people in India alone in the next 5 to 10 years; all of the talk about China and Russia.

Never should we overlook the problem in the United States. AIDS is still a problem; HIV infection is a reality. It is growing particularly among the African-American population in America. It is growing particularly among heterosexuals and among women. This is a problem we have not conquered. In fact, we have not confronted it honestly in the United States for too long a period of time.

UNAIDS has just issued a report on the situation in China. The report is called "China's Titanic Peril" because the U.N. agency said, if China doesn't act now, this boat will sink. The Chinese Government estimates 850,000 are infected. The U.N. report indicates the Chinese Government lacks political commitment and thus far has not provided sufficient resources to deal with it. Seventeen percent of the people in China have never heard of the disease. China, India, and Indonesia are on the brink of outbreaks that could dwarf the current epidemic.

AIDS is the leading cause of death in sub-Saharan Africa. More than 28 million Africans are infected with it. HIV/AIDS weakens economic and political stability, national security, and agricultural output, all necessary for continued development.

The cost of AIDS rises each minute that the epidemic grows. Without a drastic change in the global approach to the HIV/AIDS epidemic, it is expected that an additional 45 million people will be living with AIDS by 2010. From the facts reported in the daily newspapers, it is clear that current spending levels are grievously insufficient to address the global epidemic.

In 1993, experts asked the world for $2 billion annually to slow the spread and to save $900 billion in associated costs. Only recently, the level of global spending has climbed to $2.8 billion. Think of that, a 9-year period of time when we did not respond to this epidemic as it spun out of control. This is well below the actual need today of $10 billion every year to fight this epidemic that is circling the globe.

A World Health Organization mathematical model estimates that only $9 billion can be usefully spent per year: $4.8 billion on prevention, $4.2 billion on treatment. This number assumes the medical infrastructures in developing countries will remain at current capacities. Jeffrey Sachs, a well-known development economist based at Columbia University in New York, suggests that investing in infrastructures would raise the yearly cost to about $15 billion.

I have been to some of these countries suffering with AIDS. Many of my colleagues have. You see that the medical infrastructure is virtually primitive. Not only do they not have clinics, they don't have water that is safe to drink. Imagine trying to treat an epidemic under those conditions. An investment in the public health infrastructures of these countries can mean we could put money into stopping and slowing this epidemic.

The United States spends more than $10 billion domestically to fight the disease, but we contribute only $1.1 billion to fight AIDS abroad. A few weeks ago, I brought an amendment to the floor asking that we make a commitment on an emergency basis to put $500 million more into fighting the AIDS epidemic. I am sorry to report my colleagues would not support me on that amendment. It is unfortunate. I believe, sadly, that in years to come we will look back on this as a missed opportunity to do something about an epidemic that will literally affect the lives of all of our children and grandchildren and affect the stability of the world.

What are the contributing causes to the global epidemic? No. 1 is lack of education. Eighty percent of those most at risk receive no information or any help with prevention. Just a few years back, 10 or 12 years ago, 30 percent of the pregnant women in Uganda were HIV positive. That number is now down to 11 percent. Was there a massive infusion of money into Uganda? There was, a selective infusion of money into public education. It worked. They preached ABC, which is very basic: Abstinence, which is the first advice to be given; make certain that if you are going to be sexually active, you are monogamous; and third, make certain you rely on condoms for protection if you don't accept the other two as a premise for your lifestyle. It is very fundamental, but it worked. It dramatically reduced the HIV infection rate among those who were pregnant.

We need programs that are going to change the habits of people. We have to understand poverty creates desperation. There is something we have to understand, which the Presiding Officer made a point of in the city of Chicago many years ago after she had returned from a trip to South Asia—I heard her speech; I remember it well—in which she said, the biggest single indicator of the likelihood of progress in a developing nation is the way they treat their women. If women are treated with respect, if they are given a voice in the society, if they can help decide their fate, you will have a more progressive society; you will find a country able to respond to many crises, not just the health crisis.

We in the United States have to understand that though we don't lead the world in foreign aid, per capita, we certainly want to make certain that our investment in foreign aid focuses on improving the role and voice of women in developing countries. Women who are not treated as slaves or chattel can make life decisions that will save their lives, enrich their children's lives, and give them a marital situation with hope instead of despair. That should be part of our approach in dealing with AIDS as well.

This epidemic is going to get worse before it gets better. We have to understand that the United States has, beyond a moral responsibility, a political responsibility in terms of this HIV/AIDS epidemic. There was a time a century ago when the problems around the world were in fact on the other side of the world; they couldn't, frankly, make it to the United States; many of these people who were sick would die on the way. We now know that any problem on the other side of the world is a 10- or 12-hour airplane flight from being our problem.

Let us understand we cannot take the current course that is being suggested by this administration. To give a symbolic amount of money this year to the global AIDS effort is in fact to invite further disaster on the people around the world and on the people of the United States. To go, as the administration has said, along the route that would suggest next year we would make no contribution to the global AIDS fund suggests perhaps that they believe the epidemic is going to wait for us to catch up with it. It won't. Then finally to say that maybe 2 years from now we will put another $300 million in, that kind of halfhearted, weak attempt to meet our moral and political obligation will mean the AIDS epidemic will continue to grow, not just in Africa, not just in Asia, but around the world.

Taking a meaningful, positive step forward in supporting prevention of AIDS research and education is in the best interest of the United States.

I note that major donor organizations such as the Gates Foundation and the Kaiser Foundation and others have made a commitment to this. The United States has to meet and exceed that commitment as well. We have to make certain that the Senate reverses the sad, terrible vote we cast just a few weeks ago, saying that we are not going to put more money on an emergency basis to fight the AIDS epidemic. I hope my colleagues in the Senate, as they reflect on the Barcelona conference and the commitment of thousands of leaders around the world, the HIV/AIDS epidemic, will put pressure on this administration to go beyond the rhetoric, beyond juggling the books, about $500 million over a 3-year period of time, and make a meaningful commitment that will save lives.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

## PRESCRIPTION DRUG COVERAGE

Ms. STABENOW. Madam President, I first commend my friend from Illinois for his advocacy on this critical issue. He has been here time and again with amendments to do what needs to be done. I thank him for his advocacy and concern, deep concern, about this issue.

In a related issue—relating to health care—this morning I am in the Chamber with my colleague from Florida to urge our colleagues on the other side of the aisle to join us in proceeding to the critical debate on the issue of prescription drugs. I cannot think of a more important issue facing our country than making sure that lifesaving medicines are available to our seniors, to our families, to anyone who needs them, and that we are lowering prices so that our small businesses can see their health care premiums go down to a reasonable level.

Large manufacturers, such as the big three automakers, that are in Michigan, and others all across the country who are seeing explosions in their health care costs need to know there is some relief in sight, there is a way to get this into a manageable situation. We have plans to address that, to provide Medicare coverage for our seniors—it is long overdue for prescription drugs—and to lower prices to everybody through increased competition and making sure our laws work and the opportunities for competition exist.

I was concerned to come to the floor last evening and find that a simple motion to proceed to debate the bill was objected to by our friend from New Hampshire and by others on the other side of the aisle—just to proceed to the debate. The leader told us we will have a full 2 weeks in a very crowded schedule to focus on this issue because it is so incredibly important. There is nothing more important to the quality of life of our citizens, to the cost to the economy, and there is nothing more important right now than addressing this issue of lowering prices and the issue of corporate responsibility, quite frankly, with the drug companies and how we make sure that lifesaving medicine is available to all of our citizens at an affordable price and that our seniors have a real promise of Medicare caps, because without covering outpatient prescriptions, we are no longer keeping the promise of Medicare.

So I come to the floor today to urge our colleagues to take away their objection and allow us to proceed to the debate. We have 2 weeks to work out the specifics, to work together on the right kind of plan. But we need to get to that debate.

The Governors of the country are meeting right now, and in fact the Governor from Michigan leads that organization. The Governors' conference, according to the paper, focuses on health costs. This morning, I tuned in to C-SPAN to listen to some of the discussion they were having on prescription drug prices and the costs to our Governors. It says in the paper:

> Despite signs of a gradual national recovery, the State's woes are expected to persist well into the current fiscal cycle. Their biggest problems are the ballooning costs of prescription drugs and Medicare.

We in the Senate have an opportunity to do something about that right now. The Governors are asking us to do that. Businesses are asking us, as are families, seniors, and workers. Every worker who has had to have their salary capped or frozen so that the employer can afford the rising cost of their health care plans has asked us to do something about this.

I want to take just a moment to bring forward the urgency of this issue by sharing some stories that have come into my Web site. I have set up something called a prescription drug people's lobby, asking people in Michigan to share their stories and join with us. We know the reason this is being held up, unfortunately, in the Senate is that there are far more drug company lobbyists than there are people's voices talking about what is affecting them and their families. There are six lobbyists for every one Member of the Senate. So we have a responsibility to speak for them and make sure their stories are told.

I start with Melissa Askin from Romulus, MI, who was the first person to sign up for our Michigan prescription drug people's lobby on May 22. I thank Melissa for that. She wrote in her story:

> I guess my story is no different from the many Americans, when it comes to deciding if I can afford food to live or medications. It boils down to a choice these days: what can I afford to keep myself alive once I pay my bills.
>
> I am 68 years old, my husband is deceased, and I have no family. I have had a heart bypass, both carotid arteries in my neck cleaned out, and now

> in April I was operated on for cancer, not to mention several other surgeries. I am supposed to be on nine medications, however, at the price of these meds, I can only afford three.
>
> I don't know what will happen with me by not being able to be on the meds I can't afford, but it makes me wonder what I'm living for. I feel like nobody cares.

Melissa needs to know that we care, we in the Senate care—not by our words, because people have heard enough words, but by our actions. That is what this is about right now. Are we going to proceed to this debate? Are people going to use procedural motions to stop us from even getting to the debate, or are we going to move forward together, find ways and common ground in a bipartisan way to do what needs to be done? Will we do that so that Melissa Askin, 68 years old, of Romulus, MI, knows that someone cares? When she needs nine medications in order to live and have quality of life, she should be able to get all nine medications and not have to settle for three. That is what this is about.

Let me share a story from a young woman, Shawn Somerville, from Ypsilanti, MI, who e-mailed me:

> Just this last Christmas, my grandmother was hospitalized because she stopped taking her prescription so that she could afford presents for all of us grandkids. She later died from an undiagnosed ulcer. It was very sad to me that these drugs are so expensive. Do they need to be?

Well, Shawn, no, they don't need to be. We as American taxpayers underwrite the cost of research and invest in and support the companies and provide patents so they can recover costs, and work with them in one of the most subsidized industries certainly in the country and in the world, because we want to make sure your grandmother has access to her medicine. We want to make sure the grandmothers and grandfathers of this country don't have to stop taking their medicine in order to have Christmas with their grandkids.

Unfortunately, today this system is just plain out of control. When we see prices rising three times the rate of inflation in the most profitable industry in the world and we see people who cannot afford their medicines, I argue that this is a debate about corporate responsibility.

We just finished an important debate last night in a unanimous vote to improve the oversight of publicly held corporations in this country so that in fact we can guarantee corporate responsibility, information for investors so that people's pensions will be protected. It was an important, bipartisan effort that ended up in a good result for the American people.

This is also about corporate responsibility. That is what this is about. I believe it is about corporate responsibility and ethics and, in fact, even morality. We can do better in the greatest country in the world than we are doing now as it relates to the affordability of lifesaving prescription drugs and the spiraling, out-of-control costs of our health care system as a result.

I urge people to get involved with us today. If someone is listening to what we are debating now on the Senate floor, I urge you to get involved right now. We need you to call your Senator. We need all of us to be engaged in this battle, and we welcome you to come to a Web site that has been set up—fairdrugprices.org.

We are asking people to share their stories. We are asking people to sign an online petition drive sending a message to the House, the Senate, and the President to act now. We do not need one more Christmas to go by with grandmas and grandpas trying to decide whether or not they can buy Christmas presents for their grandchildren or take their medicine.

Fairdrugprices.org is about getting involved and together getting our voices heard, and then through my colleagues and me, we will bring those stories that are shared through this Web site to the Chamber of the Senate and continue to make the case that this is real, it is about real people. We are not making this up. This is one of the most critical, if not the most critical, issues we will debate this year in terms of touching people's lives. The bill we just finished on corporate responsibility certainly is right up there with it, making sure we have confidence in the markets and people's pensions are protected, but if they have to take every single dime of that pension to pay for prescription drugs, they will still have a very difficult time in their retirement.

It is my pleasure right now to yield to my colleague from Florida who has been an outspoken advocate. I know he has been working with people as well and sharing stories and hearing from his constituents about this issue.

I simply say, as I yield to my colleague, that we are out of time. Now is the time to act. Now is the time for us to at least get started on the debate. We have the next 2 weeks to work together to figure out the specifics and bring it to a close.

I yield to my colleague and good friend from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, I am delighted to join my colleague from Michigan, who has given such tremendous leadership on this issue. It is very important that in the next couple of weeks, before we break for the August recess—and my colleague from Michigan will certainly agree with this—that we in the Senate pass a prescription drug benefit.

The problem is, under Senate rules, we do not have the opportunity to pass something unless we get 60 votes. It is not the typical majority plus one, otherwise 51 votes, but under the rules of the Senate, we have to get an extraordinary majority of 60 votes to prevent a filibuster in a parliamentary procedure that is known as a cloture motion, to cut off debate. That takes 60 votes.

Therefore, on one particular plan that is proposed for a prescription drug benefit, it makes it extra difficult for us to get those extra votes because out of every plan, there is going to be something in the plan with which somebody disagrees.

I wish to talk about one of those plans and talk about the reason why it is so important for us to modernize Medicare.

If we were designing a health insurance system for senior citizens today, would we design it to include prescription drugs? The obvious answer to that question is yes, because every day lives are benefited by virtue of an increased quality of life, an enhanced quality of life, enhanced health with the miracles of modern medicine that we know as prescription drugs. But Medicare, the health insurance system for senior citizens, was not designed today. It was designed 37 years ago.

In 1965, when state-of-the-art health care was centered around the hospital and acute care, the health care system, supported by the Federal Government, for senior citizens did not include prescription drugs unless they were attendant to the care of someone who was in the hospital. Thirty-seven years later, we must update that health insurance system for senior citizens. I want to give an example.

There is a lady in my constituency in Parrish, FL. Obviously, her name shall remain confidential, but for these purposes, I will refer to her as Mrs. Smith. Mrs. Smith is 69 years old and she suffers from a variety of medical conditions, including a painful muscle disorder. Because the cost of her prescription drugs is not covered by Medicare, on a monthly basis, her out-of-pocket expenditures are over $300 just for prescription drugs.

Let's look at her financial condition. She lives alone. She has no family members to help her. Sons and daughters often help their moms and dads, but Mrs. Smith does not have immediate family members to help her with her daily cost of living, including those costs of over $300 a month for prescription drugs.

What does she receive from Social Security? This is the only income she has—a $1,030 per month benefit from Social Security.

Of that $300 that she has to take out of that $1,000 Social Security payment, she has some big expenses. She has a drug called Neurontin. It is at a cost of

125 bucks a month. She has a drug called Ultram. It is at a cost of 150 bucks a month. She cannot afford, out of her Social Security benefits, to take the daily dosage of those drugs that her doctor has prescribed for her painful muscle disorder. What does it come down to? It comes down to groceries or prescriptions.

Can you imagine that in America in the year 2002 we have senior citizens all across this land who are having to make a choice between whether they are going to eat or whether they are going to get their medicine, as in the case of Mrs. Smith in Parrish, FL? I cannot imagine it, but it is happening, and that is what brings us to the Senate Chamber now as we take up this prescription drug bill.

Mrs. Smith is obviously frustrated that in her golden years she has enormous anxiety because of the high cost of the prescriptions. Under one version of the prescription drug bill, the version that I am a cosponsor of with my colleague from Florida, BOB GRAHAM, Mrs. Smith would only have to pay $25 a month premium for a Medicare prescription drug benefit. If she chose to have a brand name prescription, she would pay a copay of $40, but if she wanted a generic prescription, Ultram—that drug that I mentioned she takes at 150 bucks a month—it does have a generic alternative so she would only have to pay $10 for the prescription for the generic. That coverage for Mrs. Smith would begin upon enrollment, and Mrs. Smith would not be subject to any initial deductible, as is the case in the legislation that passed in the House.

It is another personal example, a real-life example, of why we ought to have a prescription drug benefit enacted to modernize Medicare.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Minnesota.

Mr. WELLSTONE. I thank the minority leader for his courtesy. I ask unanimous consent that I be allowed to follow the minority leader.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, is the Senator going to be debating the drug issue?

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. GREGG. Yes, but I believe the Senator from Minnesota wishes to proceed after the minority leader.

Mr. WELLSTONE. That is correct.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 812, which the clerk will report.

Mr. WELLSTONE. I say to my colleague, I would like to speak for about 10 minutes.

The PRESIDING OFFICER. If the Senator will withhold.

The assistant legislative clerk read as follows:

> A bill (S. 812) to amend the Federal Food, Drug and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Mr. LOTT. Madam President, what is the parliamentary situation at this time?

The PRESIDING OFFICER. The Senate is on the motion to proceed to S. 812.

Mr. LOTT. Madam President, I ask unanimous consent that I be allowed to speak under my leader time, probably for 8 or 10 minutes, on the issue that is related to this motion, and others may want to add to it.

Mr. WELLSTONE. Madam President, with the indulgence of the Senator from Massachusetts, I wonder if I could have 10 minutes after the minority so I could go back to a markup?

The PRESIDING OFFICER. The Republican leader has the right to speak at this time.

Mr. LOTT. Madam President, I know others are going to want to speak on the pending motion.

Mr. KENNEDY. Will the Senator yield so I can respond?

Mr. LOTT. I yield to Senator KENNEDY if he wants to make some clarification.

Mr. KENNEDY. We were going to get started. We all are under pressure, but I would be glad to have the Senator from Minnesota speak.

Mr. WELLSTONE. I thank my colleague.

Mr. KENNEDY. Then we will move on the regular order with the presentation of the legislation.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, I understand there was discussion last night, and in the HELP Committee, about how to proceed on the substantive issue, and there was some understanding that some language would be worked out. I do not know the details of it, but I am hoping that whatever was agreed to in committee can be resolved in a satisfactory way.

Without getting into how it was reported out of the committee and how we will proceed once that is clarified, I want to talk about the overall situation that causes me major concern. The Finance Committee has been meeting off and on for probably 5 years trying to decide the best way to proceed on prescription drugs. We have had repeated bipartisan meetings of the full committee, even this year. I have met, I think five times for as much as a couple of hours talking about the substance but it has always been a general discussion with no markup.

Last week, even though we did two minor bills, there was no markup on prescription drugs in the Finance Committee. This week we were scheduled to take up another bill, but the meeting at 10 was cancelled and now the meeting at 2 was cancelled because I assume the chairman realized that the so-called tripartisan bill was going to be offered in the Finance Committee to whatever bill might have been brought up.

This is legislation that has been developed by Senator BREAUX, Senator SNOWE, Senator GRASSLEY, Senator JEFFORDS, and Senator HATCH. It is truly a bipartisan bill and tripartisan because it does have the support of Senator JEFFORDS.

There is a determination not to allow the Finance Committee to act on this bill. The Finance Committee, for years, has been known as one of the most effective and bipartisan committees, whether it is welfare reform or trade legislation, Medicare, whatever it may be, but in this instance the Finance Committee is basically being told if they cannot get the votes for the so-called Kennedy-Graham-Miller proposal, they cannot act.

I think we are beginning to debate once again in the wrong way on the Senate floor on a very important issue. The majority leader has twice before tried to ignore the Finance Committee and basically come straight to the floor. We saw what has happened, how long it takes for us to work through a bill that has not gone through a committee markup. That is why I continue to urge that the homeland security issue go to a regular markup in the Governmental Affairs Committee, and I am being told that is what is going to happen, because so many of the problems can be resolved at the committee level. If we bring these important issues to the Senate floor without them having been worked through committee, it is a prescription for a real problem, long debate and in this case likely no result.

Last fall the majority leader and the Finance Committee chairman rammed a partisan stimulus bill through the Finance Committee. We told them at that time that process would fail because it set up a situation where we had to get 60 votes and we more than likely could not do that.

Two months ago, the majority leader used a flawed process to bring trade legislation to the Senate floor, and we saw as a result of that it took us, I think, about a month to get it done, even though it was a bill that had bipartisan support on both sides. Four bills were brought together, the trade promotion authority, the Andean trade provisions, the GSP provisions, as well as trade adjustment assistance. It was very difficult to get that work done.

But what we have today worries me even more. We are calling up the drug pricing and patents bill out of the HELP Committee. Then I understand at some point, a prescription drug bill, or bills, will be offered. No matter what is offered, it will have to get 60 votes.

Prescription drugs would have to get 60 votes in the Senate. Why is that? One, we do not have a budget resolution, so we are going under the existing law which says a prescription drug bill cannot be brought up that exceeds, I believe it is $300 billion. If it does, it takes 60 votes. Also, a bill that is brought to the floor without going to the Finance Committee requires 60 votes.

So we have two things that are happening with no budget resolution: we have a limit with the amount. If a bill exceeds $300 billion, it takes 60 votes. If it has not come through the Finance Committee, it will have to have 60 votes.

I do not know what the scoring is on the so-called Kennedy-Graham bill. As of last Friday, or even yesterday, it was not clear. I am under the impression that it is well in excess of $800 billion, probably closer to a trillion over 10 years. It is a universal coverage provision, without being targeted to catastrophic problems or the elderly poor. We do not know for sure what the costs will be. I am being told that the costs might be less because, instead of it being for 10 years, it will be for 5 years, or maybe even 4 years.

So we are setting up a situation where we cannot act. I think that is a tragedy. It is time we provide the elderly poor who are sick an opportunity to get help with their prescription drugs.

Some States are dealing with this issue, but they are to the limit of what they can do. Others have not been able to deal with it.

I certainly do not agree with this strategy, and the tragedy is that we are going to wind up without getting a result once again. Why not allow the Finance Committee to act?

Let us see what is reported out. Maybe it would not be the tripartisan bill or the Kennedy bill. Maybe it would be something more along the lines of what Senator HAGEL and Senator ENSIGN have proposed. I understand there are other Senators on both sides who will try to work together to find a way to get a result, something that can get 60 votes that would produce a result in this very critical issue.

Senator GRASSLEY has always worked to get bills out of the Finance Committee. They have always been bipartisan bills. I know he is disturbed by this and I believe Senator BAUCUS is disturbed that the Finance Committee has been cut out once again and that we are going with this convoluted process which, I guess, will provide some action on the pricing and patent bill.

That is fine. If we want to bring up that bill and have debate and have some action on it, I think we ought to have debate and some votes and we could get to conclusion of that. But I think to use this as a vehicle to avoid the Finance Committee is a very big mistake. It is not just about politics, it is about results.

Do we want to get a prescription drug provision through the Senate? If we want to do this, we can do it. But what we have before us will not produce a result, a product.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, I have just very brief remarks. I thank my colleagues. I have to go back to a committee hearing. I will be back for this debate day after day after day for the next 2 weeks because it is so important to the people of Minnesota.

I take exception to the remarks of the minority leader, as is quite often the case. I think it is an honest disagreement. I think, whether it be 50 votes or 60 votes, if we have a will there is a way. We voted 97 to 0 for a piece of legislation last night. We should have passed it. It was extremely important security reform legislation that was critical for people in the country.

Frankly, affordable prescription drug coverage is also critical for people in the country, for senior citizens, and others as well.

So if there is a will there is a way. We need to get started with this debate. I don't think we should be putting it off at all. It is a compelling interest, a compelling issue in people's lives.

In Minnesota, 40 percent of senior citizens have no coverage whatsoever. I remember a couple of months ago, actually, Helen Dewar from the Washington Post came out to Minnesota to cover the campaign. She spent time with different people. I wanted her to go to Northfield, which was really our home where I taught college, because I wanted her to go to the Quality Bakery—just a great place, a family-run bakery.

We were sitting in there talking and she was meeting with people and this man came in. I don't remember his name. I should have, but I did not remember his name, but I recognized him. It was a small town. We shook hands, and as soon as we shook hands I knew he had Parkinson's disease. I know that disease like the palm of my hand. Both my parents had Parkinson's. I could feel the shaking.

We were talking and I said: Are you on Sinemet?

He said: Yes, but there is another drug people are talking about that would be more helpful.

And I said: What about that?

And he looked at me and he said: I can't afford it.

This is unconscionable.

I want to say just a couple of things. These are the principles. Everybody is talking about getting together. That is absolutely critically important, but these are the principles.

No. 1, it ought to be affordable. You can't have the premiums too high. If you are going to talk about a premium or a deductible, we can't just suggest it. People have to make sure it is there. That is the problem with the House. There are suggestions about a deductible, but it is not part of Medicare, not a defined benefit. People don't know for sure.

No. 2, you bet it has to be catastrophic expenses. But if you have, for example, like on the House side it is between $2,000 and $3,700—no coverage at all. People are saying it will not make sense. We are paying premiums and you are not going to help us when we have bills over $2,000 a year—that is when we need the most help.

No. 3, absolutely make sure, for low-income seniors, they are not having to pay a lot or maybe anything. But if you are going to say that, then don't have stingy means tests where you say if they have a car worth more than $4,500, or a burial fund worth more than $1,500, they could be disqualified. Don't do that. Don't do that. Make sure it is affordable.

Finally, make sure as a matter of fact there is some way that people know this is really, again, going to be a benefit for them, and it will make a real difference.

I think that is why you put it on Medicare.

I understand what is going on here. The pharmaceutical industry—any bill that sort of meets their test is a little bit suspect. I know they are not interested in having the affordable coverage. I know they are not interested in broad coverage. And they are also, of course, not interested in any potential cost containment. If it becomes a part of Medicare, it is absolutely true that at a certain point in time we may very well say: Look, what we are doing here is giving a blank check to the industry, and you are filling in the amount and it is exorbitant prices and there has to be some cost containment.

I want to make a humble suggestion. It is a bill I will be bringing out with Senator DORGAN, Senator STABENOW, and others. Here is one thing we could do that could be a part of our overall getting the work done for people right here in the Senate. We could pass a provision which would say that our citizens, American citizens, can reimport back from Canada these prescription drugs meeting the strictest, same FDA guidelines, consumer protection guidelines. They ought to be able to do so. That not only helps senior citizens, it helps all the citizens.

Do you know what is interesting? You are talking about widely used drugs for depression, for cancer, for heart disease, at 30, 40, 50 percent discount. This is a winner, colleagues, and I believe that ought to be part of the mix as well.

I think the minority leader is wrong. Time is not neutral. I think people are expecting us to do the work. I think we should. If we believe we ought to do this, there ought to be a strong vote for it. I think the Graham and Miller and Kennedy bill is an extremely important start. I think there will be other amendments to strengthen it. But the main thing is we make this part of Medicare. It is not a suggestion. It is a benefit people can count on. We make sure it is affordable in terms of the premiums and the payments, and we make sure it covers the catastrophic bills that put people under.

I don't want to talk about the problems anymore. We have been talking about the problems forever. Let us talk about the solution. Let us get going. Let us start the debate. We should start. We should not delay anymore. We should have amendments out here. I am ready with an amendment and a provision which I have worked on for years on drug reimportation. Other Senators have amendments. We should get this work done.

My last point is that I think people are counting on us. There is a critically important issue. There is important work to be done. No more delay; let us all come out here and have the debate. Let us be accountable.

I yield the floor.

The PRESIDING OFFICER (Mr. REED). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, today is a very important day for all American families, and certainly for families who have suffered and have been diminished in a very important and significant personal way because of the high cost of prescription drugs. The Senate of the United States is debating an issue introduced by our colleagues and friends, Senator SCHUMER and Senator MCCAIN, to reach out a helping hand to the families of this country in order to get a handle on the cost of prescription drugs.

The cost of prescription drugs as well as the accessibility and the availability of prescription drugs are very closely related. We will have an opportunity to debate that issue later in the week. We are hopeful we will be able to work through this process in a way that will command broad bipartisanship on the floor of the Senate.

We invite the American people to give focus and attention to this debate. Certainly for me, this is most important because it is related to a commitment that we as a country made to our senior citizens back in 1964 and 1965 when we enacted Medicare. It is an issue which is front and center to every family in America today. It was an issue to families early this morning when many of our seniors went to their drugstores and tried to get the prescription drugs which are absolutely necessary for them and found that the costs have been continuing to escalate and wondered whether they could afford the prescription drugs and the food they need. It will be there this afternoon, at noontime, or this evening when workers return and they need prescription drugs to try to help a sick child.

The issues are front and center for every family. I don't think we will debate an issue which is of such central importance to every American family as this one. This issue is not a new issue for this body, but it is a new issue by the fact that we are debating this or have an opportunity to debate it on the floor of the Senate today.

Prescription drug legislation has been introduced and referred to committees over the last 5 years which has never emerged from those committees. I won't take the time of the Senate to go back prior to even 5 years ago. In 1978, Senator THURMOND and I introduced prescription drug legislation. We were never able to get it to the floor of the Senate. Now we will have a debate on this.

I take a moment of time to respond very quickly to the comments of my friend, the Republican leader, about the process of procedure.

Legislation is now before the Senate. It was voted on in our committee 16 to 5. We had a very similar vote on the legislation we just concluded, as a matter of fact. We found after the debate and discussion that we were able to get a unanimous vote on that legislation. We might not end up with a unanimous vote on this, but let us not discount the possibility that we can do something that is important for our seniors.

The point has been made about whether this procedure is consistent with the Senate rules. Clearly, it is. The legislation we are considering was reported out in a bipartisan way. I am hopeful and confident that we will consider other legislation to expand the access to prescription drugs.

I will not take much time to remind our Republican friends about actions they have taken on important legislation that also circumvented committee action. There were a number of instances. I think that is important. I think the needs of families in this country are by far more important.

I regret very deeply that we are going to have to take the Senate's time before we are permitted to actually get consideration of the bill. All Members know we are facing effectively a filibuster on the motion to proceed to this legislation. It is under the guise that some technical language wasn't satisfactory to the members of the committee. I reviewed last night the history on that technical language indicating that if it was just technical in nature, we would be glad to consider those proposals this morning and to clarify the language. If it is substantive, let us get on to the debate and let us get on to amendments. Why delay the Senate of the United States from considering this legislation?

We shouldn't be surprised that there are powerful financial interests that do not want this legislation, that are strongly opposed to this legislation, and that want Members in this body to filibuster to their last breath. This is because they have been taking advantage of the existing legislation to expand their profits at the expense of consumers in ways which we will describe during the course of this debate—the greed and collusion with other companies in order to deny quality drugs and generics being available at cheaper prices.

What this debate is about in many respects is corporate greed by those companies that are ripping off the public. They are able to get, in effect, a delay by this body in considering this important legislation. Let us make no mistake about what is going on. We will see it over the continuation of this debate.

There was a strong belief that we would never have the opportunity to report this legislation out of Committee. We were successful in doing it in a strong bipartisan way. We are grateful to our Republican friends for their support. But we don't underestimate the strong opposition that has been voiced by drug company after drug company that are abusing the process under the old Hatch-Waxman. As a result of that, they are experiencing incomes of billions of dollars more than they ever should, and they are receiving that at the cost of the American consumer. They do not want to lose that privileged position. As a result, they are in support of delay, delay, delay, delay, delay, delay. That is what is happening. Prescription drug legislation is going to be opposed by those that are profiteering.

There are many within the drug industry who support our efforts to try to work through a process because they understand the importance of the health factors that are involved in this. We are grateful to them. We hope we can work with them in trying to come up with real legislation that can benefit people. But we should not have to spend a great deal of time in reviewing what has been happening in terms of the escalation of the costs of prescription drugs.

The cost of prescription drugs has been escalating and far exceeding the average cost of living. It has been going up at the most extraordinary levels.

We see from this chart the fact that the increase in the cost of prescription drugs has been going up and exceeding the cost of living by about three or four times in recent years.

In 1996, we had a 3.23-percent rate of inflation, CPI, and the increase in the cost of prescription drugs was 10 percent. The increase in the cost of prescription drugs was 14 percent in 1997, 15 percent in 1998, 16 percent in 1999, 17 percent in 2000, and 17 percent in 2001. Look at the yellow bars that indicate the rate of inflation.

Why is it so important? It is important, obviously, for the health and consideration of our fellow citizens. But the fact remains, in 1965, when we passed the Medicare legislation, we went on record—the Congress went on record—with a solid commitment to our seniors and to the American people: Work hard, pay into the system, and at the time you are 65 years of age, you will have health security in this country. That was our commitment, and we did it. We have done it with regard to physician services, and we have done it with regard to hospitalization.

But what we have not done this with is prescription drugs. Every single day we fail to enact a prescription drug benefit program that is affordable, accessible, and available to seniors we are violating that solemn commitment and promise to our seniors—every day, every day; today, tomorrow. And that is a solemn commitment.

We will hear: We have X provision or Y provision that isn't clarified. The seniors understand what is out there. They understand what is important. We have a responsibility to meet the needs of our senior citizens, and to do it in a way that is affordable and accessible.

This legislation that is before the Senate now will have a significant impact in terms of the escalation of costs, make no mistake about it—if we are able to, and when we are able to, get a debate for the consideration of it. But what we are being told now, with only 3 weeks left before the August recess, is: No, we are not satisfied. No, we are not going to be able to take this up. No, we are not going to be able to consider this legislation.

If they have differences, let's hear those differences. Let's consider those amendments. Let's debate those amendments this afternoon. Let's vote on those amendments. But let's not just hide behind the questions about clarifications of language.

We have seen what has happened in terms of our senior citizens with regard to the coverage on prescription drugs. If you look at this particular chart, you will see where our seniors are now with regard to prescription drugs.

Thirteen million of our senior citizens have virtually no coverage whatsoever in the United States today. Ten million have employer-sponsored plans. We will come back to that. But keep that in mind: 10 million have employer-sponsored plans. Five million are under Medicare/HMO. Two million are under Medigap. Three million are under Medicaid.

The only Americans who can be guaranteed prescription drug coverage that will be available and accessible are those under Medicaid. Those are the only Americans who are not at risk today. We are trying to do something about it. But the drug companies say no. They will not even let us begin the debate on it. They say, no, we are not going to permit you to even proceed to the debate on this issue, even though we are finding out what is happening to our seniors.

We have 10 million who have employer-sponsored plans. Let's take a look at what happens to those who have employer-sponsored plans. If you take the employer-sponsored plans, the firms that have offered the prescription drug program for our seniors, look what has happened to those 10 million people. These individuals have retired. Let's look at what is happening to their coverage. It is dropping like a stone in a pond. It was 40-percent coverage in 1994; and it is going right on down and dramatically being reduced. That is as a result of the employers cutting that program out.

And 13 million do not have any coverage. As I said, 10 million have employer-sponsored plans. And this is what is happening to the employer-sponsored retirement coverage: The coverage is dropping like a stone in a pond.

Let's look at what is happening in terms of the HMOs. We said we had about 5 million who were covered by the HMOs. Take a good look at this particular part of the chart. This is Medicare coverage. HMO drug coverage is inadequate and unreliable. A drug benefit is offered only as an option, and 30 percent offer no drug coverage. And 5 percent of Medicare beneficiaries in rural areas have it.

But look at this bullet line: Medicare/HMOs are reducing the level of drug coverage. Seventy percent of Medicare/HMOs limit their drug coverage to $750 or less—$750 or less.

Fifty percent of the Medicare/HMOs with drug coverage only pay for the generic drugs.

So you can say we have all of those who are covered by employers. That is phony because the bottom is falling out for them. You can say you have 4.5 million of them covered by HMOs. This is increasingly phony because they have a limitation of $750. And about 18 percent of all of the seniors will benefit under that particular program.

So we go on and see what happens in terms of the next group, which would be the Medicaid coverage. We will find out that some 3 million have that program. And then, finally, you have those who are involved in what they call Medigap, where the average cost has gone up so high that it is increasingly out of range.

Our seniors are in a crisis. Our seniors are in crisis with the explosion of drug costs and the failure of coverage, and we are being told out here on the floor of the Senate we cannot even bring up the bill, even though there has been a prescription drug bill for 5 years in the Senate, and we have not had a debate on these issues.

So the question is, which way is the Senate going to go? Is the Senate going to go with the drug companies and the wealthy corporations that today are abusing and colluding with some generic companies to deny the lower prices for families in this country? Or are they going to stand up and say: We want to get this legislation passed that can make a real difference in the cost of their drugs?

If that is what they want, they should be letting those forces know here in the Senate—the Republican leadership on down—that this is the time for debate and action on this. We do not accept the fact that it is going to be complicated, it is going to be difficult, it is going to be hard to try to reach a coalition.

We are committed to getting something done. We believe we have the way to be able to do it.

I want to also mention another feature. We know that the House of Representatives took some action recently in order to try to address this issue. We welcome the fact that at least they passed some legislation. We would not be able to get legislation unless, obviously, the House passed it and the Senate passed it. We would not be able to get legislation unless we were able to have the House of Representatives pass legislation.

But I want to just review, very quickly, with the Members about what happens in the Republican proposal in the House of Representatives.

First of all, there is an assets test. What they have is an assets test. You will hear: The Republican program really covers and reaches out and covers individuals in the lower income levels. That is where the real need is.

Right, that is where the real need is. There is a great need when you figure two-thirds of seniors have incomes below $25,000. The average income is less than $14,000.

We talk about individuals, wealthy seniors. When two-thirds of them have an income of less than $25,000 and the average income is $13,000, certainly our seniors are hard pressed to be able to do this.

It is interesting. It has been suggested that for low-income people, they won't have any premiums. They won't have deductibles. They will not have any copays. That sounds good, but just take a look at the print. There is the assets test. Any senior can't have any more than $4,000 in savings. You can't have a car that is worth more than $4,500 or you are out. You are telling seniors who might be driving around in the cold of winter that they can't have a dependable car in order to go to the drugstore to get their prescription drugs or have a car in the heat of the summer, in the areas of this country that are scorching hot and have a decent car to be able to make sure they get to the drugstores. If they do, they will lose eligibility.

Burial expenses worth more than $1,500—isn't this wonderful? If it is more than $1,500, it moves against the assets test and moves to disqualify them. Personal property, a wedding ring, no more than $2,000 in furniture or personal property. A wedding ring counts as personal property. Let alone if it goes over that $2,000, it counts in the assets test, as does $4,000 in savings. In other words, you have to just burn every nickel and dime that you have been able to save over your lifetime in order to qualify for this.

Not only is this process unconscionable and it has been rejected by Senator GRAHAM and Senator MILLER in their particular proposal, but it is a very important part of the Republican program in the House of Representatives. It is not only that this is demeaning, but what do we ask our elderly people to do? Go in to fill out a little form. Can you imagine how demeaning that is? People who need that prescription drug as a lifesaver have to go in there to try to qualify. They have to count their wedding ring, their furniture, personal property, and whatever is in their savings when they go to qualify for this program. That is when we know from a financial statement that they are individuals in need.

Beyond this, you have the paltry coverage benefits under the Republican plan. On this left side you have the percent of seniors that purchase, for example, 18 percent spend $250 or less on drugs; 18 percent spend $250 to $1000; 17 percent spend $1,000 to $2000; 23 percent spend $2,000 to $4,000; and 7 percent spend $4,000 to $5,000. The beneficiary payments and the Medicare benefits, if you are spending $250 on drugs costs, you are still going to pay $658 because you are going to pay the premium and the deductible. So virtually we are telling these 18 percent of the Americans under the Republican program, no benefit, none. You don't get any at all.

If you are at 18 percent and you have drug costs of $1,000, you pay the payments and you pay the deductible. You pay your premiums and you pay your copay. That is $808. The Medicare payment is $192. The cost paid by the senior citizen is 81 percent. Some help and assistance that is.

The list goes on. The 17 percent with drug costs of $2,000 pay 65 percent of the cost themselves. Those with drug costs of $4,000 pay 83 percent; and the 7 percent with drug costs of $5,000 pay 82 percent. Some drug benefit that is.

It is important we have a debate to find out exactly what program does what. But we are denied that opportunity. We are denied that opportunity in the Senate to get on to what is happening with costs. We are strongly committed on our side to try to do something about one aspect of it, and that is the escalation in the drug costs to the American consumer.

We have a strong bipartisan proposal sponsored by our friends and colleagues, Senator SCHUMER and Senator McCAIN, strong bipartisan legislation that came out of our committee and can save as much as $71 billion over the next 10 years and make a real difference. There are other ideas that our colleagues have in the Senate that can show how the consumers can get an additional break in terms of the high cost of prescription drugs. We ought to have the opportunity to debate them.

But no, we can't do that. We can't do it today. We are prepared to get into the debate. We are prepared to get into amendments. We are prepared to have votes in the Senate. But, no, we are told by our colleagues from the other side of the aisle that we can't because there are language changes in here that are not satisfactory. If it is not language, it is substance. I might say that we are glad to work out language. And if it is not language, if it is substance, let's get to it in terms of a vote. We are being denied not only to consider the basic underlying bill, the Schumer-McCain proposal, but we are unable to consider other amendments that can also have a positive impact in reducing the cost of prescription drugs. We are denied that opportunity.

There are several of those. I see my friend from Michigan in the Chamber now. She knows a number of those and she will be an effective advocate for many of those. We can have an important debate, and we can have action that can have a meaningful impact in terms of seeing a leveling down of the escalation of the cost of prescription drugs in the future. But, no, we can't consider that.

There are certainly those who would say, if we are going to take that very important step, that will be important in and of itself, but what about the coverage? We are being denied consideration of various proposals including those by Senator ENSIGN, Senator HAGEL, and the tripartite group. However, we are unable to even consider and debate those. We are being closed out.

We will have to take the time of the Senate this week to just go ahead with what this body has done so well over a long period of time on prescription drugs, and that is to talk and talk about it but not take action.

We are prepared to take action. Majority Leader DASCHLE said weeks ago that we would take up legislation dealing with prescription drugs. He has met that commitment. That is a strong position of those of us on this side of the aisle. We were able to get that legislation out. We don't just say that it is only the Democrats who are interested, as I have said repeatedly; we have strong Republican support for the underlying legislation. If it had been so egregious at the time, I would have expected they wouldn't have supported it.

So we have important legislation. It is bipartisan in nature. We agreed, Republicans and Democrats, we want to take action, but we know where many of the drug companies, not all, but many of the drug companies are. They are saying: No; we do not want action on this bill. No, we do not want action on coverage. No, we don't want to have consideration of this legislation. No, we don't want any action whatsoever to protect the seniors and sick people of this country in terms of prescription drugs.

There are many of us who reject that attitude and that position.

We are strongly committed to having action here in the Senate on this proposal. We believe that the quicker we get to this legislation, the better off we are going to be.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, there have been a lot of representations by the Senator from Massachusetts as to why we are in this position. He need only turn to himself to answer that question.

When we marked up this bill in committee, there was an unequivocal, unquestioned agreement, in my opinion, that we would reach accommodation on two parts of this bill. There was significant discussion about the 45-day rule and about the fact that what the language in the bill represented, what the sponsor of the bill represented the language to do, was the opposite of what the language did. It was agreed to by the Senators there—both Republican and Democrat—that that language would be corrected. There was an agreement between the Senator from North Carolina and the Senator from Tennessee that the language dealing with the bioequivalency issue, which is critical in this bill, would be corrected before it got to the floor.

The essence of this bill was presented to the committee on Thursday and marked up. Now it is on the floor. That is rather prompt action, to say the least. But the understanding was that, before it got to the floor, these two items would be corrected so that the bill would be in the proper form when it reached the floor.

The reason there is delay occurring is that there continues to be a stonewalling of the agreement that was reached in the committee as to correcting those problems. It is pretty hard to reach an agreement in the committee and suddenly find it means nothing when you get to the floor. It makes it very hard to do business around here when that happens. But that is the reason for the delay of this bill being available for amendment.

The debate is going forward rather intensely. The Senator has numerous charts, and I am sure other Senators will be down here with numerous charts to discuss this bill. But I thought it was important we make the point that when an agreement is reached in committee during a markup that the bill will be corrected before it gets to the floor, on two specific and important points, that agreement should be upheld.

Now, obviously, at some point we are going to go to this bill and we will start amending it. It doesn't look as if the agreements that were reached in committee are ever going to be fulfilled, which is regrettable and inappropriate, in my opinion. It makes future markups very tenuous, because how can you mark up something and have an understanding, and then suddenly find that the understanding was meaningless once you agreed to move forward with the bill? It changes the whole tempo of how you do things around here.

So it has nothing to do with greedy drug companies. I am sure there are a lot of greedy companies out there. We have seen that everywhere. It has to do with the appropriate process in the Senate and the movement from the committee to the floor, as to why we are delaying this specific bill's ability to be amended. We are not delaying the ability to discuss the bill. There is a great deal to discuss, and I will take a few minutes to do that.

I am talking about the underlying bill, not the drug bills that are going to be coming as amendments to this bill. The underlying bill, which was Hatch-Waxman and has been amended by Edwards-Collins, has a very legitimate purpose: To get generics to the market quickly but at the same time protect the incentive of brand name companies to do research and have protection in the research and the products they produce, but at the same time allow generics onto the playing field quickly. It is a very technical bill, with technical language, which will have a big impact on the ability of Americans to buy drugs more cheaply and also to have new drugs come to the marketplace, which drugs will be able to save lives.

You have to remember that. I think something is often forgotten in the demagoguery of "let's reduce the price of drugs," which dominates the political marketplace today, as buses drive to Canada and people claim they can buy this or that at cheaper prices. The basic benefit that we as the American society have is that we have a vibrant research community in the area of producing new drugs. That has taken us from being a society where people were operated on all the time, and put under the risk of a knife, to a society where in health care drugs are able to take care of many of the issues that were not able to be cured before; and if they were not, you were put at risk of being put under a scalpel.

We need to continue to expand that, to have an expanding research base in the area of drug production. But in doing that, we see the costs going up. So how do we address that? The hope is that, as the drugs come on the market and after the people who have developed the drugs have a reasonable period of time to get a return on that so that they recover the costs—and it takes about 12 years and $500 million to bring a new drug to market—that was the last number I saw; maybe it is higher. But once the costs have been recovered at a reasonable rate in a typical market system, then you allow other people to produce the same drug. That is called the generics. They come in and produce it at a much lower cost.

What we don't want to do, as we are making those lower cost drugs available, is wipe out the incentive of people to go out and produce new drugs for the marketplace. So it is a very delicate balance, and it cannot be effectively handled by suddenly going to the Canadian system. The reason the Canadians are able to offer low-cost drug prices is that they take our research and they basically don't pay us back for it. They sell the drugs in Canada without the research factor as part of the cost.

Of course, there are other things we can do in this area—and, hopefully, we will get into those debates—such as marketing drugs and how you control the cost more effectively. Those are other issues. But this question of how we balance bringing generics into the marketplace versus creating continued incentive to research is absolutely a critical question of maintaining a healthy society and getting more drugs to the market, which will benefit more people within our society.

Hatch-Waxman has been an extraordinary success. When it was drafted by Senator HATCH and Congressman Henry Waxman, I don't think they would have anticipated they would produce something so successful. It has accomplished its goal very effectively. But, unfortunately, as so often happens, as time has gone on, we have seen some holes in it. It has mutated a bit, and smart lawyers have figured out ways around it. As a result, unfortunately, both the brand companies and the generic companies have found ways, in some instances—not all but some—to game the system. Brand companies are keeping generics out of the market longer by using the mechanisms available under Hatch-Waxman, and keeping other generic companies off the playing field by also using the mechanisms under Hatch-Waxman.

So there has been an attempt to reform it. It began with a bill called McCain-Schumer, which mutated into Collins-Edwards, which actually took as its base a significant amount of language that I developed for an amendment within the committee. So the underlying bill is basically moving in the right direction and is a good bill.

It has four major problems, however, two of which I thought had been fixed before we got out of committee—at least I think it was pretty clear that everybody at the markup believed there was an agreement that they would be fixed before it got to the floor. Two of the others still require amendment activity—or they are all going to require amendment activity now, but they should not. Only two of them should have to require amendment activity.

Where are these problems? They are technical in nature, but they have a huge impact on the process. The FDA has looked at the bill, and it has found these problems to exist. They are not my creation. They are not some brand name drug company's creation. They are not even the generics companies' creation. They are a problem which is highlighted by the way the language is drafted.

I want to read now the FDA's concerns because they basically make the case for these problems. The FDA, I believe, is the fair arbiter of this issue. In a memo dated July 10 from Frederick Ansell of the FDA to Diane Prince and Patrick McGarey, he points out a variety of issues. I will highlight the ones I think are the most significant.

The introductory paragraph:

> This memorandum follows up on my July 9 memorandum on technical issues with S. 812's substitute amendment. This memorandum addresses substantive concerns—

Substantive concerns—

> about the legislation.

The first point they make deals with something called civil actions. This is a change in patent law which is rather dramatic. It deals with the 30-month stay issue and how that works.

> Civil action to correct or delete patent information. The civil action can be brought against patent holder to "correct" patent information required to be provided under the bill. Since there is no requirement that the plaintiff have filed a par. IV certification, does this mean there is an alternative available to an ANDA holder to file suit in lieu of certifying under par. IV? That language also means that a suit can be brought not only to delete a patent that should not have been listed, but over whether the listing was "correct." If the incorrect or missing information means that the NDA or patent holder "fail[ed] to file information on or before the date," (even if it is later "corrected," since the correct information was not filed as of

> the due date), then a potentially technical failure to provide information will make the holder "barred from bringing a civil action for infringement of the patent against a person" who filed an ANDA.

Skipping a few sentences:

> This is a change in the patent law that would provide pharmaceutical patents less protection than any other category of patent and would presumably harm innovation in drug research area.

I reemphasize this point: This language "would presumably harm innovation in drug research." That is the FDA evaluating the effects of the 30-month rule as it is structured in this bill.

Going on to another section, the 45-day rule. This was something on which we thought we reached an agreement in the committee. It is a complicated issue, but the 45-day rule means that under the bill as it is drafted, if the holder of the patent, the brand company, the primary developer of the patent does not bring a suit in 45 days, they essentially lose their ability to bring suits against anybody, not just the generic company that filed a plan against their patent—against anybody.

This is a radical departure and would essentially mean that for most brand companies, they would just have to file suits interminably or else be put at risk of losing any rights to their patent.

To quote the FDA, which is summarizing their view of this language:

> The same considerations raised about barring patent lawsuits altogether raised about an earlier provision of the bill apply to this language concerning patents that would not, following the notice and suit, permit a 30-day stay.

Skipping down again:

> That may make preparing an infringement case sufficient to obtain a preliminary injunction difficult, making illusory the ability to protect the patent or forever be barred.

Making illusory—emphasizing "the ability to protect the patent or forever be barred."

Essentially this language, which we had thought we had agreement to correct, in the FDA's view would make "illusory the ability to protect the patent or forever be barred"—obviously not constructive to creating new research in the area of drugs.

The third area is the 180-day issue, which is a major issue. If a generic company files a challenge under the present law and comes on the playing field, so to say, then they get 180 days exclusively to put their product in the marketplace. This is an attempt to encourage generics to come into play.

The Edwards-Collins bill has an incredibly complex new system to try to address this issue. The language I proposed would have essentially eliminated the 180 days if there had been collusion between the brand name company and the generic company.

One way the system is gamed is a brand name company and a generic company get together. A generic company comes in, files, and, as a result, with the consent of the brand name company, essentially locks down the product for another 180 days, and then they continue to roll that out.

In an attempt to address that, I proposed language which would basically be use-it-or-lose-it language. In other words, if they came in and did not produce their product, they would not get their 180-day exclusivity.

The Edwards-Collins bill sets up a very convoluted system where you can have a rolling 180 days and can actually end up with this going on forever. The FDA memo describes this, and then it says in conclusion:

> And if in that circumstance, the second applicant cannot go to market within 60 days, then the third applicant obtains 180 day exclusivity.

Talking about how this becomes a rolling event.

Then it says:

> This does not seem to make a great deal of sense, given that the supposed purpose of exclusivity is to encourage a challenge to a patent by a generic. It is also possible that exclusivity could roll and roll on forever. It also means that it will not be clear which applicant if any should receive exclusivity. Finally, whereas under current law, only one applicant (the first) or none can receive exclusivity, the ability of one of multiple applicants to receive exclusivity means that there will be more instances of exclusivity, delaying the date that the public will be enabled to obtain generic versions of a drug generally, and at a cheaper price, than during the duopoly of the innovator and the generic with exclusivity.

In other words, the language actually works against bringing generics to the market according to the FDA view.

We have these four major issues, the fourth one being the fact that a new cause of action is created under this bill which is a private cause of action and which, in our opinion, is a very bad idea and very poor policy, and I will enter into the RECORD a number of letters, including one from Susan Estrich, reflecting the view that this is bad policy, to create this new cause of action.

The reason I raise these points is to make clear that this bill, which was first introduced on Thursday, which came out of committee on Thursday and which is now on the floor, has some substantive problems with it. Some of these substantive problems could have been corrected if the markup procedure had been followed. They were not. But I do believe it is appropriate we have a few days to air the issues so people can get a little window of knowledge on this bill before we suddenly jump into it. That is what we are asking for as a result of this delay in the ability to amend the bill.

The Senator from Massachusetts made the statement, or at least he was reported to have made the statement, that the first he heard of these concerns was 5 minutes ago—or to quote, "the first I heard there was an objection was 5 minutes before."

I presume before the objection, quoting Senator KENNEDY. That was in an AP story by Janelle Carter.

The fact is, that is not accurate. We had made it very clear that we expected the agreement in the markup to be followed, and one would presume if the agreement was not followed there would be an objection. How else would one proceed?

So the 5 minutes either implies that he was not at the markup, or that if he was at the markup he did not hear the agreement. The fact is, there was an agreement. So it is not reasonable to say that we were delaying this bill when, in fact, all we are trying to do is accomplish what was represented to us was going to be done originally, when the bill was ran through committee.

To lay the blame for this delay at the hands of greedy corporations is to throw red herrings and smokescreens over a process which, in my opinion, is being abused from the standpoint of the markup process. It has nothing to do with winners and losers under a delay. As a practical matter, this delay is probably going to have virtually no impact on this bill, or on the drug bill, because the debate is going to go forward today and we are going to discuss all the different issues, as I have outlined the problems—the FDA memorandum and the other issues which are of concern. Then when we get to the amendment process, people will be up to speed. Hopefully, a little more light will have been shined on this bill, which needs light on it, and then hopefully we can pass it. Of course, this bill is going to be totally overwhelmed by the actual bills that are going to deal with the overall drug bill.

While we are on that topic, let me make a couple of points. The Senator from Massachusetts held up a chart which showed a line that went straight down about drug coverage and other coverage that insured individuals are getting. He also held up another chart with a line that went straight up about people being added to the marketplace who were uninsured. I suspect he will probably refer to the fact there are so many uninsured.

It is a little like that story of the fellow who kills his parents and then goes to the court and throws himself on the mercy of the court because he is an orphan. The fact is, the reason the amount of coverage is going down and the reason the number of uninsured is going up is because this Congress continues to pass mandates on to the price of the premium, all sorts of different things which feel good, sound good, are good ideas but each new mandate significantly increases the cost of insurance for everyone. As a result of increasing that cost, either the other items of insurance have to be reduced in order to keep the price stable—which sometimes is what happens in reducing the availability of drug coverage or dental coverage or something else that one might have had before the new mandate hit—or you have to increase the price of the insurance, thus people and businesses cannot afford it, especially small businesses, so more people become uninsured.

We are complaining coverage is less and that more people are uninsured while we are basically creating the problem by adding more and more mandates into the marketplace, which inevitably forces up the price of insurance and inevitably forces people out of coverage. In the end, it may be the goal of some in this body and in the other body to accomplish that so there will be more pressure to generate a national health care plan along the lines of what was presented by Senator CLINTON back when she was First Lady, a plan which would basically have the Federal Government take over all health care so everybody would have some form of coverage, much like the Canadian or the British system. If more uninsured are created, there will be more pressure created, obviously. That may be the goal of some. The goal of others may be: I am especially concerned about this ailment or that ailment and I really want it to be covered by insurance; I have an anecdotal experience in my life that says this part of health care definitely needs to be covered because I know somebody who did not have coverage and who had this problem. So we add that as a mandate.

Whatever the reasons are, the facts cannot be denied: Every time we add these new mandates, we increase the cost of insurance or we reduce the other coverages under insurance, and the result is we are adding more uninsured to the marketplace, or alternatively we are reducing the availability of various types of coverage in other areas that are not mandated. And that is why that chart occurs. That is why we are seeing drops in coverage; it is us.

It is like the famous Pogo cartoon: We know the enemy, and he is us.

On that issue, the Senator from Massachusetts attacked aggressively the House-passed plan. The House plan does not happen to be the Senate plan—and that would be the Senate Democrat plan or the Senate Republican plan or the tripartite plan or bipartite plan, or however many different plans we have floating around. There are some very legitimate plans that have been proposed in the Senate, though, and if we are talking about procedure and how we get these plans discussed and properly voted on, one must ask the question: Why is the Finance Committee being bypassed? Why is this new drug plan being written in an office across the hall instead of in an open committee room where it should be written?

The answer is very simple. Because if the Democratic leadership went to the Finance Committee, it is very likely that a bipartisan bill would be reported out and it would be the tripartisan plan which has been offered by Senator BREAUX, Senator JEFFORDS, and Senator SNOWE. That plan, I suspect, has a majority vote—I do not know because I do not serve on the committee, but I certainly heard this from a lot of members of the committee—that plan has a very reasonable chance of having a majority on that committee. That is why the committee is being bypassed, because the Democratic leadership does not like that plan for some reason. I guess it does not cost enough.

That plan costs about $400 billion. That is still over the $300 billion we had in the budget, but it is nowhere near the pricetag of what I suspect will be the plan we will see proposed by the Democratic leadership, which may be scored as high as $700 billion, which is a huge amount of money, which leads me to the next question: When Senator KENNEDY talks about how little coverage the House plan had—or maybe others in this body do not feel the Snowe-Jeffords-Breaux bill has enough coverage and they want to expand that coverage dramatically by reducing copays or reducing deductibles or essentially reducing the catastrophic threshold, and so they get up to a number of $700 billion in their scoring of what their bill ends up costing, which is a huge amount of money. The $300 billion is a lot of money, I think; $700 billion is two and a half times that, almost. So that is really a lot of money.

Somebody has to ask the question: Where does it come from? We do not have a surplus. Where is the $700 billion going to come from, this extra $400 billion on top of the $300 billion that we have? It comes from the younger generation. It comes from those Americans who are working today, going to be working tomorrow, and going to be working 10 years from now, and who are going to have to support the baby boom generation when it hits retirement—my generation, the generation of Bill Clinton, the generation of George W. Bush, the generation of the Senator in the chair, the Presiding Officer.

Our generation is huge, absolutely huge. We know that. In every segment of American society that we have impacted, from when we started a dramatic run on baby carriages and cribs back in the early 1950s, to when we pushed the limits of our educational systems in the 1960s and 1970s, to our music in the 1980s—we have changed fundamentally the way this society has worked, simply by our size.

When we hit retirement we are going to have a huge impact on this society and the impact, the most significant impact we are going to have is that we as a massive generation that will be in retirement will have to be supported by the smaller generations that are younger than us who are working for a living—our children and our grandchildren. We are going to end up passing on to them huge costs to maintain the standard we have set and which we think is reasonable as a society for senior citizens to have, both in the area of health care and in the area of retirement benefits—Social Security. We know the Social Security system is headed toward a crisis because of this generation, because of our generation, and the demands we are going to put on the system.

When we add a new drug benefit, of which we are basically going to be the biggest beneficiaries—obviously people who are in the system today will benefit significantly, too, but the big cost of the benefit is going to kick in when we start to retire, beginning in the year 2008, which is not that far away—that cost is going to be passed on to our kids in the form of taxes. Their taxes are going to have to go up. They are going to have to work harder or they are going to take home less in order to support their young families so we can get that drug benefit.

When we start throwing out these new benefit ideas on the floor of the Senate, and we start to malign other programs—whether it is the House program or whether it is the tripartisan program put forward by Senator GRASSLEY and Senator BREAUX and Senator COLLINS and Senator JEFFORDS, or whether it is the proposal put forward by Senator ENSIGN and Senator HAGEL—when we start to malign these programs because they do not cost enough, they do not give enough benefit, somebody should be asking the question: Who is going to pay the bill for the increase to bump these programs up above what they are proposed at?

They are all extremely generous, $300 billion being the floor for these programs. Who is going to pay the cost? It is going to be younger Americans; our children and our grandchildren who are going to pay that cost. We need to be careful about what we do to them because if we continue on this path as our generation retires, we are going to significantly impact their quality of life. We are going to reduce it because we will have put so many burdens on them to support us.

Let's put some balance into this debate. Let's not just talk about how many new benefits we can put on the books. Let's talk about how many new benefits we can afford to put on the books, how many new benefits can our children afford to pay so we can help in the area of drug coverage.

Yes, we need a drug package. We need a Hatch-Waxman reform package absolutely—in fact, I drafted a large part of the package we are debating today, the Collins-Edwards package. That was borrowed from language which I was successful in putting in.

I appreciate the fact the Senator from North Carolina and the Senator from Maine chose to use language which I had developed because I believe very strongly that we need a strong generics industry and we need to have the capacity of generics to compete aggressively in the marketplace, coming quickly—or as quickly as reasonable—after you have a reasonable return to the brand companies, to accomplish the goal of reducing prices of drugs.

The basic bill is a good bill with some significant reservations, the most significant being the ones I have outlined.

Of course a new drug benefit for senior citizens is critical. We have gone from a society where, as I mentioned earlier, we treat people by putting them under the knife to where we treat people by giving them these miracle drugs. They are expensive. If you are a senior and you are trying to make ends meet and you get hit with a drug bill, it can be very difficult, in some instances. So we need a benefit. Low-income seniors especially should be completely covered—and all these programs do that and do it effectively. Middle-income seniors should have some sort of relief. Certainly anybody who has a catastrophic event which involves the cost of drugs over a threshold of any significance should have coverage. We can design a plan to do that.

But in doing that, let's be sensitive to the fact that it is costing somebody something. This is not money that grows on trees. This is money that comes from somebody's hard day's work. And that hard day's work is going to be done by our children and our grandchildren. They would like to have that money to maybe help them educate their children or their grandchildren or buy a new car or live a better life. So we have to be judicious in our approach, not simply be political.

Let me, for the record, put in the record, parts of the record of the markup so that it is clear at the markup there was an understanding, I believe, reached that this language would be corrected.

The first issue went to the "use it or lose it" language. I quote Senator CLINTON.

> My staff at least believed that it was intended to be as I have described it, that generic "X"——

And then Senator EDWARDS intervened and said:

> Why don't we just clarify it—Mr. Chairman, if we can just clarify this language. I think Senator GREGG is right about intent, and I actually read the language the same way he does—

Then I speak and I say:

> Well, that is a major step in the right direction.

That went to that issue. Then on another issue—this may be the same issue actually—Senator CLINTON said:

> —so I think we need to go back to the drawing board to clarify this.

Senator EDWARDS said:

> Yes, we can fix this.

Further to this issue why we—I, not we—have delayed going to this bill until tomorrow when cloture ripens, and the point about the representation being made by the Senator from Massachusetts that it was because of the greed of some corporations out there, that they want to delay, my representation is that there was an understanding in the markup—in the markup that was very clear, in my opinion—that two items in the bill would be corrected, two major items, one dealing with the 45-day rule, and the other dealing with bioequivalency, and that had to do with Senator FRIST, that those would be corrected before we took the bill to the floor.

Because of the rapidness of the bill coming to the floor without a report, within less than a week of its being actually filed in the committee, it seems to me that it was reasonable to shine some light on these two issues before we move to the bill—to actually amending the bill.

So I want to return to the language here of the markup to make it clear why I believe my presentation is correct on this point. The first item I quoted was Senator EDWARDS saying:

> Why don't we just clarify it—Mr. Chairman, if we can just clarify this language. I think Senator GREGG is right about the intent. . . .

This deals with the 45-day issue, and the question of whether or not it cuts off all lawsuits, all rights of remedy if you do not bring a suit; it cuts off all rights of remedy under the patents so that a person—the company basically loses its patent if it doesn't bring a lawsuit against filing generically in that 45 days. You lose your patent against everybody. Nobody wanted that, but that is what the bill ended up doing in its present language.

Then the second part of that discussion went to—Senator CLINTON:

> —so I think we need to go back to the drawing board and clarify this.

Senator EDWARDS says:

> Yes, we can fix this.

Then I said:

> Good.

The Chairman said:

> All right. Now we are going to instruct the staff to make that clarification, along with the rest of the bill.

That is my point.

There was, at the same time, some discussion of language which Senator COLLINS was straightening out. I believe that was actually straightened out.

Then I went on to say:

I think that significant progress has been made here in these discussions, obviously on the 45-day issue and on Senator COLLINS' proposal.

I believe there is middle ground that can be reached on the new cause of action, and much of this bill is excellent. In fact, it came out of ideas that I strongly endorse and was supportive of and hoped we could reach agreement on.

With the cause of action language in its present structure, I cannot vote for the bill, but certainly I hope that by the time we get to the floor and as we move through the floor that we can adjust it enough so that I can feel comfortable with voting for the bill.

I was talking about cause of action.

That is really a point on which I still hope we can reach agreement. If we can, the bill becomes, in my opinion, a very workable piece of legislation that should be passed.

Then wrapping up, I said:

I would also note for the record that we do wish to have our procedural days which are available to us to review this, and I would hope during this time we could work out the few—obviously, get the language straightened out—but work out the few substantive kinks and get this to a point where it could have unanimous support.

The Chairman. We will certainly work with you and your staff in working out the language on this.

That is more vague and not as much to the point as the 45-day exchange. But the point I was making there was that the traditional way we bring a bill to the floor is we do a report. The minority then has 3 days to file. Then there are 3 more days. You usually have 6 days after a report is filed under a bill before the bill comes to the floor. That has been totally shortened.

By not filing the report, the majority was able to put themselves in the position where they can call up a bill after 1 day. That is their right. That is the rule. But it is not the traditional way things have happened when you report a bill out of committee. You usually have the report and then have 3 days to respond to it. I was under the assumption, wrongly obviously, that we would have 3 days to work this out, put some light on the bill, and address the issues which were highlighted by me here.

There was another exchange—unfortunately, I don't have a copy—between Senator FRIST and Senator EDWARDS in which Senator FRIST raised the point about the bioequivalency issue that goes to whether or not the generic drug comes to the market and is actually equivalent to the drug that it claims to be copying. If it is not, you have significant health questions. I don't want a drug out there that comes to market claiming to be equivalent but is not equivalent, because then you have different absorption rates. As a result, you could have serious medical problems.

This was the point that Dr. FRIST made very well. Obviously, he is a doctor. Senator EDWARDS said to Dr. FRIST rather specifically: All right. We will work that out. I understand your concern. I am paraphrasing. We can work that out. Unfortunately, that was also not worked out.

Those are the reasons. Those are the issues that lie here on the question of why we are holding this bill over for 48 hours before we proceed to the amendment process, which will begin occurring tomorrow after cloture is voted, or cloture is vitiated. Either way, I do think it is appropriate that we have this time to discuss the bill because it is a complex bill and it needs to be aired.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from North Dakota.

Mr. DORGAN. Madam President, I must say that is one of the more tortured explanations I have heard about why a bill has been delayed coming to the floor of the Senate. Of course, everyone has that right.

Mr. GREGG. Will the Senator yield for a question?

Mr. DORGAN. I haven't finished the first sentence. Of course, I will yield to my friend.

Mr. GREGG. Does the Senator consider it tortured that a Senator feels a representation made in markup is not being pursued?

Mr. DORGAN. No. Let me just say that I heard the explanation the Senator gave, and I heard the explanation also by Senator KENNEDY on the floor that, in fact, we have people who do not want to bring this bill to the floor of the Senate. They never wanted it on the floor of the Senate.

They described a "good" bill in the House which was passed by the House. It is referred to as a credible bill. A senior with $1,000 in annual drug costs would still pay 81 percent out-of-pocket costs under a bill passed by the House. Is that a good bill? I don't think so.

A senior citizen with $2,000 in yearly drug expenditures would still pay 65 percent of the cost out of their pockets. Is that a good bill? I don't think so.

A senior citizen with $3,000 in annual drug costs pays 77 percent of the money out of their pocket. That is not a drug benefit that makes sense.

My only point is to say there is no reason to delay. Let us just proceed with the legislation, understanding that we are going to do a bill that deals with prescription drug benefits and Medicare. Let us proceed with the amendment process. If there are representations that need to be honored, let them be honored.

I think everyone understands that the chairman of the committee who brought this bill to the floor is an excellent legislator, and he works with everyone in this Chamber. I am certain that before the final consideration of this bill, the concerns that were expressed and the representations that were made in that committee, if they have not been fully met at this point, they will be met.

My only point is that was a long, tortured explanation of why to delay this bill. They do not need to delay this bill. The fact is, we all understand what needs to be done. We ought to get about the business of doing it now—not later, not tomorrow, and not the day after tomorrow.

It is true, as the Senator from New Hampshire said, that not too many decades ago most health care was treated under a knife. If you had a big problem, you went and had surgery.

It is also true that now we have miracle, lifesaving drugs that have been created in this country, in large part by public research at the National Institutes of Health, by research funded all across America, and also by private research by pharmaceutical manufacturing companies, which, incidentally, we provide a tax credit for that research. I support that tax credit. But the fact is, we have produced miracle, lifesaving drugs and those prescription drugs are now available to people who have problems with their health. The difficulty, however, is that you can only see a miracle happen with miracle drugs, or you can only save a life with lifesaving drugs if the person who needs them can afford them.

We have so many people living so much longer these days who reach their retirement years and declining income years who can't afford these lifesaving drugs. That is the reason we ought to put a prescription drug benefit in the Medicare Program.

My colleague who just spoke said: Who is going to pay for this? I found that interesting because we never heard any of those questions when recently we had a bill on the floor of the Senate and we were talking about repeal of the estate tax for the highest income earners in America. One of my colleagues said: Well, at least let us just repeal it for everybody under $100 million. And only people with more than $100 million will have to pay any estate tax at all. But that wasn't good enough. They voted against that. Who is going to pay for the estate tax of people whose estates are higher than $100 million? Did anybody ask that question? No. They only ask the cost when it comes to trying to provide some help for senior citizens—those who live on $400, $500, or $600 a month who are 80 years old, have heart disease and diabetes, and who have to take several different kinds of prescription drugs and can't afford them.

The two issues we are going to deal with are coverage; that is, shall we, will we, can we put a prescription drug benefit in the Medicare Program? The answer to all of those questions is yes. It is long past the time to do that.

We should provide coverage for prescription drugs in the Medicare Program, but it ought not be an illusory kind of coverage. It ought not be the case that we passed the bill and let us just tell everybody we passed a bill. Is it a good bill if you have $3,000 in prescription drug costs and the House of Representatives says, oh, by the way, we have given you a prescription drug benefit and you still get to pay 70 percent of your $3,000 cost out of your pocket, and we will cover the rest? That is like giving someone a $5 coupon and saying go buy a Mercedes. It isn't worth anything. But they say: We gave a discount with the coupon.

We have to provide coverage. We have to provide effective coverage that really does provide help.

I have described, before, meeting many senior citizens, especially senior citizens who are affected by drug prices. One evening, at a meeting in a small town in North Dakota, at the end of a meeting a woman came up to me, perhaps 75 or 80 years old, and she grabbed me by the elbow and said: Mr. Senator, can you help me? I said: I will sure try. What is the problem? She said: Well, I have these health problems that are very serious, and my doctor says I have to take this prescription drug medicine, but I can't afford it. As she spoke, her eyes welled with tears and her chin began to quiver. She began to cry. She said: I can't afford it. I don't have the money to get the medicine the doctor says I need.

This happens all across the country. We need to do something about that. That is why we want to put prescription drug coverage in the Medicare Program.

The second thing we need to do—and very important, in my judgment—is to do something that puts downward pressure on prices, because if we just put a prescription drug coverage provision in the Medicare Program and do nothing about prices, we will have done very little in the long term, because last year's prescription drug costs—that is, spending on prescription drugs—increased nearly 18 percent in this country; the year before that, 16 percent; the year before that, 17 percent. We will hook up a hose to the Federal trough and suck it dry. We can't do that.

We have to provide a prescription drug benefit in the Medicare Program, one that works, one that is sensible, thoughtful, and provides real benefits to senior citizens. But if that is all we do, we have failed miserably, in my judgment. We must also put downward pressure on prescription drug prices—for the benefit not only of the Medicare Program that will be saddled with these costs, but also for the benefit of all other Americans who are also required to take these prescription drugs.

Let me say—I have said it before on the floor of the Senate—we have prescription drug manufacturers that are good companies. I am not here to tarnish all companies that manufacture prescription drugs. We have some great companies out there. We have great men and women doing terrific research.

Incidently, I support the tax credit they have that exists for that research, experimentation, and development. I have always supported that tax credit. So good for them. I support those companies. But I do not like their pricing policies. So I am going to offer an amendment.

The underlying bill, incidentally, deals with generic drugs, the ability to substitute a virtually identical drug to be sold at a lower price. That is the underlying amendment. I support that. I and my colleagues—Senator WELLSTONE, Senator STABENOW, Senator SNOWE, and many others—intend to offer an amendment dealing with the reimportation of prescription drugs, as well, that will put downward pressure on prescription drug prices here in this country.

I do not want Americans to buy prescription drugs elsewhere. That is not the point of it. I want to force a repricing of prescription drugs in this country. I do not want to force Americans to go to Canada, for example.

The question is, Why should an American citizen have to go to Canada to get a fair deal and fair price on prescription drugs that were made in America? That is the question.

Let me, if I might, by unanimous consent, show several pill bottles on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Just to make the point: This is a drug called Zocor used to lower cholesterol. In fact, there is a football coach whom you see on television almost every day in this country who talks about his heart problems. He had surgery, and now he takes Zocor for a healthier life.

Zocor, likely, is a wonderful drug. You will see, it is sold in two different bottles. For this bottle, sold in the United States, it is $3.03 per tablet. If you buy it in Canada—the same drug, put in the same bottle, by the same company, FDA inspected—it is not $3.03, it is $1.12 per tablet. That is Zocor—nearly triple the price in the United States.

Let me demonstrate another prescription drug and the pricing policies. This is Vioxx, used for arthritis. It is sold in identical bottles in the U.S. and Canada. It is an FDA-approved prescription drug. If you buy it in the United States, it costs $2.20 per tablet. If you buy it in Canada, it costs 78 cents per tablet. Why nearly three times the price in the United States for the U.S. consumer?

Finally, if I might demonstrate one additional prescription drug, this is the prescription drug Paxil. It is used to treat depression. It is sold in identical bottles, made by the same company. It is the same tablet, produced by the same company. It costs $2.20 for the American consumer, 97 cents for the Canadian.

These examples beg the question about pricing policy: Why does the U.S. consumer pay the highest price in the world? My colleague from New Hampshire said that is because we are paying for all the research and development. That is not the case. It is just not accurate.

In fact, 37 percent of the research and development of prescription drugs is done in Europe; 36 percent is done in the United States. Slightly more is done in Europe than done in the United States, yet every European consumer is paying less money than the United States consumer for prescription drugs.

So that is not an argument that works. They try it, and I assume we will hear it again, so we will trot out these studies again to demonstrate it is not accurate.

We need to do two things, as I indicated. We need to provide a prescription drug benefit to the Medicare Program. We are going to do that, if not this week, next week. We have the patience to get this done. It needs to be effective. It cannot be what the House did, which is essentially a hollow vehicle that says: Hey, we passed a bill. They passed a bill that provides precious few benefits to senior citizens.

We are going to pass a piece of legislation that has a prescription drug benefit to it. We are also going to pass some legislation—and I hope a reimportation amendment, which is bipartisan and, incidentally, received 74 votes the last time it was addressed here on the floor of the Senate. We have narrowed it and changed it so it now deals with only reimportation from Canada, which has nearly an identical chain of custody supply and then can be accessed only by licensed pharmacists and licensed distributors in the United States.

So there is no safety issue. All there is, is a price issue. We are going to offer a reimportation amendment. We had 74 votes for it previously. I expect it to be added to this bill.

I expect, at the end of the day, we will have done something very important: Added a prescription drug benefit in the Medicare Program and also imposed some cost containment measures. By cost containment, I am saying, let the market system and the global economy apply downward price pressure on prescription drugs.

So there has been a lot said. My colleague from New Hampshire also talked about us running out of money in Social Security. I might observe that those who are trying to create privatized accounts in Social Security, and hook them to the stock market, might take a look at the market in recent days and see whether they might run out of money really quickly with their plan.

I think it would be nice to debate that plan one of these days. They have been pushing for the notion of privatized accounts inside the Social Security system, which falls about $1 trillion short. They create a $1 trillion hole but then connect Social Security to the stock market.

One might enjoy, it seems to me, having a discussion about the merits of that idea one of these days. There is very little enjoyment talking about what is happening in the market. This is a very important, serious issue in the country.

I just wanted to make the point that there are those who talk about the Social Security problem, and I will tell you how you make that problem much worse, and that is, embrace those who want to connect the Social Security revenues to the stock market in some way. And that includes the President and those in Congress who feel they want to do that.

This would be a good time, perhaps, to have a discussion about the dangers of taking the Social Security Program, which has the word "security" in it, and connecting it with the stock market.

But getting back, finally, to the question of prescription drugs, let me say to the Senator who chairs the committee, the underlying bill you brought to the floor of the Senate is a good bill. I held a hearing on this in my Consumer Affairs Subcommittee in the Commerce Committee.

This bill makes great sense. I fully support it. I hope, of course, for his support, and others', on the issue of reimportation, which is the amendment we will offer to try to impose some downward pressure on prescription drug prices. And then it is my fervent hope we find a way to do something that the House of Representatives could not or did not do, and that is to pass a prescription drug benefit in the Medicare Program that provides real benefits.

There are so many people in this country, senior citizens and other citizens as well, who just cannot afford lifesaving drugs. There is nothing lifesaving about a prescription drug you need but can't afford. That is what we are trying to address in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, earlier in the debate, there were questions about what was agreed to and what was supposed to be clarified. For those who have any question, I will reference two provisions that were discussed during our markup and also what was included in the bill.

As I have indicated, several times last evening and earlier today, if it is technical language, we are prepared to address the technical language now during the lunch break. We were also prepared to address these last evening. But if it is substantive, we ought to have a change in the form of an amendment. That is the way we proceed around here.

We agreed with Senator FRIST to technical language to clarify one provision. That language is in the bill. It deals with the section:

> Shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Food and Drug and Cosmetics . . .

He was concerned about whether it did or didn't and whether the language was sufficiently clear. We have included that particular section in it. Those who want to look at this can see that.

We agreed with Senator GREGG to instruct the staff to make a clarification on another provision stating that a patent can still be enforced against subsequent, future generic applicants. That technical language was added last Thursday. Senator GREGG received it last week but raised no objections. That language is on page 35:

> The owner of a patent shall be barred from bringing a civil action for infringement on the patent in connection with the development, manufacture, offer to sell, or sale of a drug for which the application was filed or approved under this subsection.

That is new language. The last three lines, 18 through 20, are new language. That language was available to the minority last Thursday night. We were not notified Friday or Saturday; we were not notified on Monday. We were notified about 10 minutes after the leader indicated he was going to offer the motion to proceed to the bill. I don't think it really carries much weight.

Before we recess for the lunch hour, I want to discuss the abuses of the existing legislation that the proposed legislation will remedy. Also, I would like to discuss why it is important to close these loopholes because of the impact it will have on the costs of drugs to consumers.

In 1984, Congress enacted the Hatch-Waxman Act, which provided a framework for allowing generic drugs to come to market while protecting the patents of new medicines that are breaking new ground each and every day. But as recent hearings before our Health Committee and the Committee on Commerce have revealed, there are abuses of the Hatch-Waxman Act by both name brand and generic drug companies that have delayed the approval and marketing of generic drugs. These findings are confirmed by numerous studies by the Federal Trade Commission and other independent experts.

The basic structure of the Hatch-Waxman Act remains sound. It has been a tremendous success in promoting competition and innovation. But there are clearly weaknesses in the Act which are being exploited to delay competition and shore up the bottom lines of drug companies with empty pipelines.

These abuses force American consumers to pay four times more on average for some prescription drugs. This must be stopped.

Everyone agrees that drug companies are entitled to fair profits on their research and innovation. But when patents expire, those companies must innovate to succeed and help patients, not block competition to their old drugs.

When we passed Hatch-Waxman, we believed we were going to see a whole series of breakthroughs in new prescription drugs, but that hasn't really taken place. What the drug companies have done is reshuffle the old formulas, put them out, and tried to maintain their privileged position under the patent laws. That is what has happened. We have had these abuses.

We have seen the patent abuses, as this chart indicates, where we show the cost to date to consumers, the additional cost to date, and now the various prescription drugs themselves. This delay has benefitted the patent holder.

Instead of having the patent expire and the generic being able to come on and offer this drug to consumers at a considerably lower price, the generic is not being made available.

Here's what we're talking about. Today, of the top fifteen best-selling drugs potentially subject to generic competition, the basic patents on at least five of them have long expired. Their exclusive rights to market their drugs have long expired. Yet, there is no generic competition.

Drug spending rose at double digit rates between 1996 and 1999, and experts expect the growth in prescription drug spending to continue to outpace the growth in health care spending. Some of this increase is due to increased use of drugs. But experts agree that spiraling drug prices have accounted for almost two-thirds of growth in drug spending, especially the higher prices of new, aggressively promoted drugs.

Generic drugs are clearly part of the answer. Simply put, a 1 percent increase in generic use can decrease the Nation's yearly bill for drugs by a billion dollars.

These savings are easy to understand. For patients and health plans alike, the costs for a brand drug are four times higher than for a generic equivalent. That difference is even higher for the elderly and uninsured, who must often pay full price for their medicines. On average, a month's supply of a generic drug costs a patient $4 and the health plan $16; the costs for a brand drug are four times higher: $16 for the patient, $64 for the plan. For the uninsured, and seniors who lack prescription drug coverage, the full costs are either $20 for the generic or $80 for the brand drug.

Prozac is a clear example. This antidepressant recently went off-patent after generic companies challenged and defeated a Prozac patent. Today, you can buy 30 generic Prozac tablets for less than $30, less than a third of what brand-name Prozac will cost you.

There are two key loopholes in the law that our legislation will end. The first is the practice of "ever-greening" patents, filing patent after patent, many of them entirely frivolous, to try to bar generic competition long after the basic patent on the medicine has expired. The second is the outrageous tactic used by some drug companies of buying off a potential generic competitor to prevent it from marketing its drug and using a quirk in the law to bar any other competitors from the market.

Those are the two loopholes and abuses. This legislation is targeted to the abuses. The abuses result in billions of dollars for drug companies, and that is why many of the major drug companies are so strongly opposed to this legislation.

Schumer-McCain closes the evergreen loophole by permitting only one 30-month stay to apply to each generic drug. For the other patents, the drug companies are free to defend its patents the same way any other company does.

A second tactic used by the drug companies is to collude with a generic drug manufacturer to block other generic versions of the drug from getting to consumers. Under the Hatch-Waxman Act, the first generic drug company which gets to market has that exclusive right for six months before any other generic can compete. In some cases, brand drug companies have bribed the generic drug company never to go to market. The clock on the six months exclusivity never starts to run, and every other generic competitor is locked out forever. But the ones who pay for these unconscionable sweetheart deals are American patients.

Those are the two abuses. Schumer-McCain prevents collusion between brand name companies and generic competitors by opening generic challenges to invalid patents. Closing those two loopholes will make an extraordinary difference.

Finally, Gov. Bill Janklow of South Dakota told our committee that the savings for his State's Medicaid Program would be enormous. He added:

That's a drop in the bucket compared to what the real costs are out there for the General Motors of this world, and Roy's Blacksmith Shop, and everyone in between. It's some individual or retired person that's paying for their own on Social Security, or a working person. The point is, they all pay more.

Madam President, we will all pay more until Schumer-McCain becomes law. That is what we are about with this legislation. That is why it is so important. It is going to have an important impact in calming down the increase in the cost of drugs for the American consumer, and we think the quicker we get on this bill the better.

There are other ideas that can also help us in getting a handle on the escalation of costs. Then, hopefully, we will have an opportunity to consider the issues of coverage as well. I know there has been a previous agreement for the lunch break.

I yield the floor.

Mr. REID. Madam President, I ask unanimous consent that I be allowed to speak for a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, at 2:15, or thereabouts, either Senator DASCHLE or I will offer a unanimous consent request to move on to the Military Construction Subcommittee appropriations bill. We have been working on this for more than a week. I have spoken to the Republican leader and I have spoken to the Senator who has been stopping this from going forward.

Everybody should be aware, as I have told the Republican leader and the Senator who is objecting to this, we are going to do this this afternoon. I hope that during the Republican conference they will work things out so that we can move to this legislation.

I was in the White House this morning. The President wants us to move forward on the appropriations bills, especially MILCON. This will be our first appropriations bill. I think it is a shame there are issues that normally are not handled in this bill, and it should not hold us from moving forward. Under the agreement we will propose, we will finish the bill in a little over an hour and have an appropriations bill sent to the conference committee and we can wrap it up quickly. In the next week, this bill could go to the President.

I think it is too bad we are being held up from moving forward on this bill. The two leaders of the committee, Senator BYRD and Senator STEVENS, have worked extremely hard to get us to this point. I repeat that, this afternoon, we are going to ask unanimous consent to move forward on this. I hope there is no objection to it.

Madam President, I simply say this. I have been listening to the debate this morning, and if this were a jury, like I used to have when I practiced law, this would be a quick verdict. We have the merits on our side. The American people support what we are trying to do, and I want the RECORD spread with how much I appreciate and applaud the leadership of the Senator from Massachusetts. This is something he has been working on not for days, weeks, or months but years. It is too bad we are being prevented from moving forward.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as in morning business for no more than 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXPLANATION OF VOTE

Mr. CRAIG. Mr. President, I was absent yesterday during that most important vote that was cast on S. 2673. Friday morning I spoke to the importance of that legislation and the importance that we move it rapidly. I was extremely pleased that happened. I knew I would be in Idaho yesterday. The Secretary of Energy was with me in Idaho Falls to announce a new mission for our National Laboratory, the INEEL, so I was unable to make that vote.

Had I been here, I would certainly have been with the unanimous majority who supported that very important piece of legislation. It is time we restore within the American people confidence that corporate America is doing all it can to manage its affairs appropriately and honestly for the integrity of the stock in which the citizens of our country invest.

That is important legislation. I hope we can move quickly now to get it to the President's desk after a conference with the House so that the American people know that it is law, know that there are penalties for the bad actors and the criminal activity that has occurred in certain instances at the corporate level.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

## UNANIMOUS CONSENT REQUEST—H.R. 5011

Mr. REID. Mr. President, as I indicated this morning, we are tremendously anxious to move to our first appropriations bill. I repeat, the President has been pushing us on these bills. We marked up in the Defense Appropriations Subcommittee today the largest Defense appropriations bill in the history of the country.

We have already reported out of the subcommittee and the full committee the military construction appropriations bill, and we have not been able to get it to the floor. There has been an objection on the other side to moving forward.

Mr. President, some have suggested we just bring it to the floor. We cannot just bring it to the floor because then we get into the cloture process and that takes many days. We are now trying to go forward on the prescription drug bill, and we are in a cloture situation there, having filed cloture on the motion to proceed, and we are going to vote on that tomorrow unless something comes in the meantime.

I am basically going to propound the same unanimous consent request I did before. The majority leader was on the floor. The Republican leader has been on the floor. The Republican leader, to his credit, has said he thinks we should move forward with this. Today, I spent some time with him and indicated what we can do to move this forward. He had just finished a meeting with the President.

We want to move forward with this bill. We are doing everything we can to move forward. We were told the last time the reason we are not moving forward—and I spoke with the junior Senator from Arizona, and I know how strongly he believes we have to do something about the firefighting problems. I am from the West. We have two big fires burning in Nevada right now. I am concerned about them, but the firefighting problems of our country have never been funded in the military construction appropriations bill.

We are going to have the ability in the supplemental where it should be done. It is an emergency. We have been blocked from doing that by the administration, but it will be done, as it has always been done during my tenure, if not in a supplemental, in the Interior appropriations bill, chaired by Senator BYRD, the President pro tempore of the Senate. I hope they will allow to us move forward on this.

There are military projects that will have to wait until we pass this bill. So here I go: I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate may proceed to the consideration of Calendar No. 486, H.R. 5011, the military construction appropriations bill, and that it be considered under the following limitations:

That immediately after the bill is reported, all after the enacting clause be stricken and the text of Calendar No. 479, S. 2709, the Senate committee-reported bill be inserted in lieu thereof; that debate time on the bill and substitute amendment be limited to a total of 45 minutes, with an additional 20 minutes under the control of Senator McCAIN; that the only other amendment in order be an amendment offered by Senators FEINSTEIN and HUTCHISON of Texas, which is at the desk; with debate limited to 10 minutes on the Feinstein-Hutchison amendment; that upon the use or yielding back of time on the amendment, without further intervening action or debate, the Senate proceed to vote on adoption of the amendment; that all debate time not already identified in this agreement be equally divided and controlled between the chair and ranking member of the subcommittee or their designee; that upon disposition of the Feinstein-Hutchison amendment, and the use or yielding back of all time, the substitute amendment, as amended, be agreed to; the bill, as amended, be read three times; that section 303 of the Congressional Budget Act be waived; and the Senate then proceed to a vote on passage of the bill; that upon passage of the bill, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona.

Mr. KYL. Reluctantly, I must object at this time on behalf of a group of other Senators and myself, not to the terms of the unanimous consent agreement as has been outlined by the Senator from Nevada, but rather to bringing up the bill until there has been an agreement reached on how to deal with the supplemental funding for dealing with these wildfires.

I think the Senator from Nevada is absolutely correct that that funding should be on the supplemental appropriations bill. Unfortunately, it has not been put on that bill so far. There are a lot of different reasons alleged to exist for that. It seems everybody is willing to do it but somehow or another they cannot all get together to make it happen, and if it does not happen on that bill, the only other alternative is to try to do it on the military construction bill.

The Interior Department appropriations bill is not likely to be able to come before us in a timely fashion so the money that is needed for replenishing these Forest Service accounts can be replenished before the end of the fiscal year, and that is the reason we have to retain this option.

I hope that within the next several hours an agreement can be reached and these funds will be put on the supplemental appropriations bill, as the Senator from Nevada suggests, and then we can move on with this important legislation. Until then, we do need this as a possible way to move forward with the funding that it seems everybody is for but they just cannot find a way to make happen.

The PRESIDING OFFICER. The objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I think this is too bad, for lack of a better way to describe things. This bill is not the proper place for this type of funding. With all due respect to my friend from Arizona, this does not create any pressure, holding up the Military Construction Subcommittee bill.

We have to understand that if we are going to take care of the men and women who are defending our country, we need to take care of the bills that fund them.

I have indicated I am concerned about firefighting in Nevada. We have fires burning as I speak, but never in the history of this country, that I am aware, have we funded firefighting through the military construction bill, and we are not going to do it in the future. Holding up this bill creates a false illusion that we are accomplishing something regarding firefighting in this country.

I hope that in the next couple of hours, as my friend from Arizona said, more deliberation can come and that we can move forward on this bill.

I am terribly disappointed we do not have more things declared emergencies. It is hard to believe, but the terrible disaster that occurred in Oklahoma where a barge ran into part of our interstate freeway system, dumped more than a score of cars in the river, killed at last count about 14 people, that is not deemed an emergency to fix that road. Now if that is not an emergency, I do not know what is. I do not know what we are trying to accomplish with the numbers game, but that is an emergency, if anything ever was an emergency.

Those fires that are burning, those are emergencies. They are not in the next fiscal year, they are in this fiscal year. The fires are burning right now. The fires in Arizona are not even out yet. They have them under control, but they will be burning for weeks into the future. They have large crews making sure they do not blow up again. I think books will probably be written about that fire in Arizona, if not articles. They were blowing out fireballs for miles, not a few hundred feet or a thousand feet but, by some accounts, up to 3 miles. They were blowing out big bombs of fire and starting fires up to 3 miles away.

I do not know what is happening down at 1600 Pennsylvania Avenue, but they have to come to their senses and realize that some things are emergencies. The big fire in Colorado was started by somebody who worked for the Forest Service. The big fire in Arizona, from the information we have now, a firefighter started that fire. It is too bad, but they were started. They are emergencies no matter how they were started. It is like the fire burning some 30 miles from Las Vegas, it was started by lightning, but they are emergencies, and they should be declared emergencies, and they should be placed on the supplemental. It does not count against any of the numbers we have. They are truly emergencies.

We are going to offer this again before the day is out. We want to go forward with that bill. The managers of that bill, the Senator from California and the Senator from Texas, have done a remarkably good job. This is a fine bill. I think it is remarkable they have been able to do the job they have done. They have both tremendous interest in the military, and they have both been speaking about the needs they have in their respective States and the country.

The military construction bill goes beyond what we do in this country. We have military construction we pay for that is outside this country. So I hope my friend from Arizona will do what he can. He has tremendous sway with the White House, and that is where the bottleneck is, and it should stop.

In the meantime, let us move forward. We are only asking for a little over an hour on this bill to complete it.

The only other thing, before my friend from Florida begins, is we are expecting a very important unanimous consent agreement on antiterrorism, and when that comes, if the Senator will allow me to interrupt, we will make sure his remarks do not appear interrupted in the RECORD.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. What is the parliamentary position of the Senate?

The PRESIDING OFFICER. The Senate is considering a motion to proceed on S. 812.

Mr. GRAHAM. Mr. President, I am going to talk about one of the issues which will be a central part of the next several days' debate on American health care. The specific bill before us upon which we are seeking permission to proceed relates to generic drugs and eliminating some of the legalisms which have grown up around our generic drug law and have made it difficult for competitive products to come to market, even after the brand name drug has run the full course of its patent. That will be a debate for another day, hopefully as early as today.

I am going to talk about an issue that will come up somewhat later in this debate and that is adding a prescription drug benefit to Medicare.

Some would say: Look, this issue has been around for a long time. Why should we continue to spend time debating a matter which has thus far been unable to find enough support in the Congress to become law? Why is this issue important enough for us to spend time on it?

The answer is: Freda Moss. That is why this is an important issue.

In Tampa, FL, Freda Moss, an 80-year-old American, along with her 84-year-old husband Coleman, is watching this, and so are thousands like Freda and Coleman. They are also watching us.

Freda is watching and waiting to see if we can improve her life and the lives of 39 million Americans by adding a prescription drug benefit to the Medicare Program. The story of Freda and Coleman is typical of many older Americans. They live on Social Security with an income of $1,038 a month. They are both eligible for Medicare. They have no prescription drug coverage.

While Coleman has remained healthy and has relatively low prescription drug costs, unfortunately, Freda suffers from diabetes, heart disease, and hypertension. Freda is on a list of prescription drugs that include Plavix, Mavik, Amaryl, and Zocor. In 1 year alone, Freda's prescription drug costs were nearly $7,800—62 percent of that couple's total income. It is for people like Freda that we need to add a prescription drug benefit to Medicare.

As more and more Americans discover the effectiveness of prescription drugs in promoting longer and healthier lives, they have become an indispensable part of our health care system. In 1980, prescription drugs accounted for less than 5 percent of national spending on health care. In 1980, less than 5 percent. Twenty years later, in 2000, prescription drug costs accounted for nearly 10 percent of national spending on health care. It is estimated in the year 2010 prescription drugs will reach 14 percent of total health care costs.

Last year, 20 percent of the increase in the total cost of health care came from increases in the cost of prescription drugs. Even though they were only 10 percent of all costs, they were 20 percent of the increase in cost.

As there has been in the last few years, there will be a lot of debate over the next few days about the many measures that will be introduced to conquer the problems in the prescription drug market. While many of these proposals are important and even useful to seniors, the ultimate goal must be a prescription drug benefit for older Americans. For many years we have come to the Senate floor to talk about how important this is. Others, beyond Freda, have been used as an example of the urgency of action, but every year we have gone home we have spoken to our constituents about how committed we were, how hard we worked to accomplish the objective of passing a prescription drug benefit but that we had failed.

Now is the time to overcome failure with victory. We can pass this year—we must pass this year—a benefit for our older citizens who are looking to us for the protection of their health care.

I appeal to all of you who have heard stories such as that of Freda Moss to join me in providing a prescription drug benefit for Medicare.

Why doesn't Medicare, established in 1965 and which covers 39 million people, provide a prescription drug benefit? Virtually every other health care plan, the kind of plan that the Presiding Officer, myself, and other 98 colleagues have, provides a prescription drug benefit as part of a total health care program. Why doesn't Medicare?

The answer is basically history and inertial. In 1965, when the Medicare Program was founded, prescription drugs were a very small part of health care. Few drugs were used by the very ill. Can you believe this? In the year Medicare was established, in 1965, the average spending for prescription drugs by older Americans was $65. That is not $65 a week or $65 a month. That is $65 a year was the average amount expended by older Americans on prescription drugs when Medicare was established.

What is the number today? According to the Congressional Budget Office, spending over the 37 years, from 1965 to today, has risen to an average of $2,149. That is a 35-times increase in the cost, on an annual basis, of prescription drugs for older Americans.

If the Medicare Program were to be designed today, in 2002, there would be no question that lawmakers would include a prescription drug benefit. Why? Not only because every other health care plan, the plans that most people have gotten accustomed to during their working lives, have long included a prescription drug benefit, but also because prescription drugs today are an integral part of a modern health care program.

Medications are used not only to halt the effects of a disease, but in many cases can even reverse the negative consequences of disease. After 37 years, it is unfair to ask our Nation's older citizens, one of the most vulnerable populations in our society, to continue to go without the Medicare Program offering coverage for the necessity of modern health care, prescription drugs. Everyone in this Chamber receives this benefit as a Federal employee. We should demand nothing less for our older citizens.

How do we solve the problem? I suggest there are a set of principles that we should look to as we shape a response to this problem of the missing benefit of prescription drugs for older Americans.

The first principle is modernization of the Medicare Program. We will hear, have heard, and until this debate is concluded will continue to hear, about reform in the Medicare system. There are lots of things we ought to do to reform the Medicare system. Many of those things that are referred to as reform are not unimportant but they tend to deal with the mechanics of the Medicare Program. We should ratchet up or down a deductible. We should change an amount of coinsurance that is required—alterations such as that.

In my judgment, the most fundamental reform that we can make to the Medicare Program is precisely what we are recommending today, and that is to add a prescription drug benefit. Why is this the most fundamental reform? Medicare today is, as it was in 1965, a "sickness" system. If you get sick enough to have to go to the doctor, or even sicker and have to go to the hospital, Medicare will come forward and pay a significant part of your bill. On average, about 77 percent of the cost of physicians' assistance or hospitalization will be paid by the Medicare Program. What Medicare does not pay for is very much prevention, those things that we know will help keep you well and avoid the necessity of having to go to the doctor or the hospital.

It doesn't pay a dime towards the prescription drugs that you will purchase at your local pharmacy or by mail order, which for almost every one of those prevention methodologies is an absolute fundamental aspect.

For example, suppose you have developed an ulcer. The treatment for that in the past was pretty straightforward. You had an operation and the ulcer was dealt with surgically. Today, ulcer surgery is virtually like the dinosaur, an animal of the past.

We have had the good fortune of having in our office for the last several months Dr. Howard Forman. He is a professor of medicine at Yale Medical School. He says that a simple 6-week course of drug therapy today can avoid the $20,000 cost of hospitalization for ulcer surgery. Even drugs such as Timolol, a generic heart drug, is estimated to save $4,000 to $7,500 per year per patient in select heart attack victims.

Drugs to lower cholesterol and to control hypertension can ward off possible stroke or heart attack—medical conditions that not only reduce the quality of life but are very costly for treatment through the traditional Medicare Program.

Modern medicine has been significantly altered by prescription drugs, notably by improving the quality of people's lives, reducing long recovery periods, and sometimes even negating the need for surgeries altogether, as in the instance of ulcers. This is why our seniors need a universal, affordable, accessible, and comprehensive drug benefit.

The second principle behind the addition of a prescription drug benefit is to provide beneficiaries with a real and meaningful benefit. An important part of assuring that a prescription drug program will be around for our children and grandchildren is to attract a broad variety of beneficiaries.

Mr. President, you know as I do that a fundamental principle of any insurance plan is to get a broad base of people participating, knowing that some of those people will suffer whatever it is they are insuring against—like their house burning down or their car being involved in an accident—and other people will be fortunate enough to avoid those instances. It is having enough people in the pool who can all share the cost that then allows us to rebuild the home that has been destroyed by fire.

Because this program is voluntary, and because it is critical that it attract a broad base of participation, it must have a reasonable price and a benefit package that will make it attractive to those older Americans who are relatively well today and who do not have large prescription drug bills. By attracting both seniors with high needs and those who simply need modest coverage and would like to be assured that should they suffer a heart attack or some other disabling condition they will be able to access the catastrophic coverage, that is the coverage that will give them full protection for prescription drugs beyond a certain point. This program will be solid. This program will be actuarially sound for our and future generations.

Any prescription drug plan must offer seniors coverage that begins from the first prescription bill; that is, no deductible standing in the way of getting benefits. Seniors should understand that if they are receiving a benefit, the benefit should be consistent, and seniors should actually receive it without any gaps in coverage. That is a so-called doughnut profit where you have coverage for a certain proportion of your drug expenditures and then all of a sudden you are 100-percent responsible until you reach the catastrophic level.

In order to make this program easy for seniors, it should operate in a way as similar as possible to the coverage that seniors had during their working life.

A third principle is that seniors should have choice. America as a nation thrives on choice. Choice is an important part of health decisions. Choice is an important part of creating a competitive environment that will assist in controlling costs. Our seniors deserve a choice in who delivers their prescription drugs, which is why we must assure that each region of the country has multiple providers of prescription drug benefits.

This will encourage competition, helping to keep costs down to beneficiaries as well as to the Medicare Program and ultimately to the American taxpayer. The choice of who you select to deliver your drugs should be made by seniors beginning with the position as to which firm you wish to be your representative. The phrase is a pharmacy benefit manager, or a BPM, and then which specific drugstore you want to go to have your prescriptions filled or should you choose to use a mail order form of description. Those ought to be choice decisions made by the individual senior American who we will treat with respect and dignity.

Fourth, we need to use a delivery system on which seniors can rely. American seniors deserve a delivery system for prescription drug benefits that is based on something tried and true, consistent with what seniors feel comfortable with, and modeled on what has already worked. We should not convert our 39 million older Americans into some giant new social health policy on how to deliver a product as critical and as basic as prescription drugs when there are already models on how to deliver prescription drugs with which seniors are familiar and which are working well.

Medical beneficiaries should not be led into being guinea pigs for social experimentation. If we are going to spend billions of taxpayer dollars on a prescription drug program, it should not be handled with untried and untested delivery models. We are responsible to the American taxpayers to invest in what we know will work. We should look at what the private sector does for guidance in developing a delivery system for a drug benefit and evaluate what is already effective for beneficiaries so they can help us better understand what will work for seniors.

The fifth principle is to provide an affordable program for beneficiaries. The majority of seniors in America live on fixed incomes. They need to know the cost of those things in order to be able to budget. This is why seniors need a prescription drug benefit that is affordable with a low premium and low copayments that are easy to calculate. They need to be assured against wild variations from month to month, or year to year. The program must also make financial sense to beneficiaries. Seniors should not have to wait until an emergency arises before the benefit is worthwhile.

We know that when seniors do not have coverage, they do not fill their prescriptions, a practice we hope to eliminate with this legislation. The gap in coverage means no coverage for many elderly who might be caught in this doughnut of noncoverage. It means that not only will they be unable to buy their prescriptions during that period, but it might discourage them from engaging in the preventive practices of asking the very legitimate question: What is the good of my starting on an expensive drug that will help control my hypertension if 4 months from now I am going to be in a position where I will no longer have any coverage and assistance to buy the drug that I can take home, so I will never start and get the benefits of that preventive treatment?

Cost will be a factor in order to maximize enrollment. We have been advised by a number of organizations that represent the interests of older Americans, such as AARP, that a premium in the range of $25 a month is a premium which will be able to attract broad participation by older Americans. In order for this program to be solid, we need to have that broad participation.

Sixth, this must be a fiscally prudent program. We have a responsibility as lawmakers to pass the budget and to maintain fiscal discipline. We must exercise this judgment when we look at all spending. And the case of prescription drugs should be no different.

That being said, we must look at prescription drug coverage in the context of other benefit programs. As I mentioned earlier, Medicare currently covers 77 percent of the total expenses of those services which are Medicare covered. If you go to the hospital to have an appendectomy or if you go to your local doctor for an outpatient procedure, on average, Medicare will pay 77 percent of the cost.

Prescription drugs are as important to seniors as the services which are currently covered under Medicare. If we were to cover 77 percent of drug expenses, as we do for current Medicare services, we would be spending over $1 trillion in the next 10 years to provide this benefit.

If we look at the drug coverage that those of us in this Chamber receive through the Federal Employees Health Benefits Program, if our seniors were to get the same level of Federal support for their prescription drugs as we, as Senators, get for ours through the same Federal Treasury, it would cost between $750 and $800 billion over 10 years to provide that coverage.

These numbers provide a context. Clearly, we will have to find a balance between giving seniors what they need and what the budget will allow, and what type of benefit will have the most use for Medicare beneficiaries.

I would like to briefly outline some of the details of the plan that will be introduced later this week on behalf of myself, Senator MILLER, Senator KENNEDY, Senator CLELAND, and a number of other colleagues. That plan would begin by asking the seniors, in a dignified way: Do you want to participate at all? It is your choice. This is a voluntary program.

If seniors say, Yes, I do want to participate, here is what they will get. First, they will get a bill for $25 a month. That is the cost of the premium to be a participant in this plan. Once they have made that $25 payment, then they will become eligible to participate. They will be eligible from the first dollar they expend after they join the plan; that is, there is no deductible.

Once they begin to acquire their prescription drugs, they will find a system very similar to what they used during their active years. They will make a copayment for each prescription they receive. We are suggesting that copayment should be $10 for each generic prescription and $40 for each brand name, medically necessary prescription.

Once you had expended $4,000 out of your pocket for prescription drugs, you would reach the level of catastrophic, and beyond that $4,000 from your pocket there would be no further copayments required.

Seniors with incomes below 135 percent of poverty would pay no premiums. Beneficiaries with incomes between 135 and 150 percent of poverty would pay reduced premiums.

Our plan uses the exact delivery model that America's private insurance companies utilize. It is also the same model the Federal Employees Health Benefits Plan utilizes which covers virtually, if not totally, all of our colleagues in this Chamber.

Every Federal employee health benefit plan uses pharmacy benefit managers, or PBMs, as the method of delivering and managing prescription drug benefits. PBMs are private, commercial companies that negotiate directly with pharmaceutical companies to achieve low prices. They are held accountable. Part of their fee to provide this service is based on their demonstrated capacity to contain costs and to provide quality care and service.

We would allow all seniors a choice of which PBM they wish to use by giving the seniors the opportunity to shop around for a plan that best meets their needs. PBMs would be accountable to the Medicare Program and to the taxpayers.

PBMs would be required to demonstrate their ability to keep drug costs down in order to be awarded a contract to seek to represent seniors. Further, once the PBM had the contract, they would not be paid for their services if they did not carry out their commitment to contain drug spending while, at the same time, providing a quality service to older Americans.

Our plan is estimated to cost less than $500 billion through the year 2010. We are suggesting that in that year, 2010, Congress should pause, Congress should review this plan that will now have been in effect for 7 years, and the Congress should decide what we have learned during this period, much as we are doing now as we reauthorize the welfare-to-work law. We are looking at what we have learned since 1996. And we are going to put that learning into the welfare-to-work law for the next period.

In my judgment, in light of the significance of this new program, it will be highly appropriate to examine how well the benefit is working and whether it is providing seniors with the benefits they need. Is it living up to those six principles I just outlined, which should be the cornerstone of an effective prescription drug program? We can learn from these first 7 years and apply those lessons to the future.

As I indicated earlier, this is not the only plan the Congress is considering. In fact, the House of Representatives has already passed a prescription drug plan. That will be awaiting our action in a conference committee, hopefully in the next few days, to begin the process of trying to arrive at an appropriate compromise. I would like to make a few comments about the House Republican plan which has passed and awaits that conference committee.

Providing a legitimate drug benefit that would actually help America's seniors is our goal on the Senate floor. In my judgment, the proposal passed by the House of Representatives almost 3 weeks ago fails to give Medicare beneficiaries what they need and deserve: an affordable, reliable, comprehensive, and accessible prescription drug benefit.

Unfortunately, the proposal that apparently is going to be offered by the Senate Republicans suffers from the same defects as that from the House Republicans. If a comparison is made between the House Republican plan, the Senate Republican plan, and the six principles I have just outlined, only one of the six criteria for a prescription drug benefit is met.

After many years, my colleagues on the other side of the aisle have finally come to recognize the basic need for a prescription drug benefit. The problems include the lack of a defined benefit. Seniors will not know, under either the House or Senate Republican plans, what they will get. Another problem is control is turned over to private insurance companies to determine what the senior will receive. And an additional problem is the money beneficiaries are expected to spend before they actually receive benefits.

The House Republican proposal fails to provide Medicare recipients with a stable, sustainable benefit. It would allow insurance companies to decide what type of coverage would be offered since the House legislation only requires that there be an "actuarial equivalent" of the basic benefits plan.

This means we have no idea what type of benefits would be offered to seniors. We do not really know what the premium is.

I have looked through all 426 pages of the House Republican bill, and I was unable to find a real hard number that guaranteed what seniors would pay every month as their premium responsibility. Although I have not looked through the Senate Republican bill, which was just offered yesterday, I suspect it is no different.

The House Republican bill could mean a $250 deductible or it could mean a deductible as high as $1,000. This means there would be a substantial delay between the time the senior signed up for the plan and when they would start getting any benefit. There is nothing reliable about this plan.

The bottom line is that America's seniors would be at risk for wild variations in the type of benefits they would have from place to place in America and from year to year in the same place.

For the first time in the history of Medicare, seniors, for instance, in Florida would pay a different premium than seniors in Georgia or seniors in Massachusetts. In both Republican plans insurance companies make all the decisions, have all the choices—not the Medicare beneficiary. These companies would be lured with taxpayers' dollars into a market in which they do not wish to participate in order to create a complex delivery system that does not currently exist.

There is an organization that represents a number of large pharmaceutical companies which has been a principal advocate of the House Republican plan. I met some time ago with a number of representatives of that association. After they had given me the explanation of why they were supporting this plan that requires seniors to purchase private insurance with unstable and uncertain benefit structures, I then asked them this question: How do your employees, the people who work for your pharmaceutical company, including you as an executive, how do you get your prescription drug benefits?

Do you know what the answer to the question was? Exactly the way that we are proposing in our legislation. They don't use this system of a private insurance policy for drug only for themselves or their own employees. They want 39 million American seniors to become the first farm of guinea pigs for this experimentation on how to deliver prescription drugs, when we know how to deliver prescription drugs, and in a system that seniors have already experienced during their working lives.

Money that could be used to enhance the benefit to seniors would instead go to marketing and administrative costs of the insurance company.

The Republican proposal allows insurance companies to determine beneficiaries, drugs, how many drugs they will get, what kind of drugs they will get, instead of doctors making the decision on our behalf as to whether we need Lipitor or Zocor for our cholesterol. Those decisions would increasingly be driven by the profits of the insurance companies. Seniors deserve the choices, not insurance companies.

The President must disagree with his party on this because just last week in Minneapolis he said:

> I support a prescription drug benefit for Medicare that allows seniors to choose the drug coverage that is best for them.

I support President Bush in my advocacy of seniors having the responsibility and the right to make the decision as to what is in their individual best interest.

The House Republican plan would put our Nation's seniors into an untried, untested delivery system that has never before been used. Is it fair to older Americans to be used as a social experiment for the insurance industry?

The delivery model presented in the House is, in my judgment, a recipe for potential failure, with a paltry benefit. Only those who need the most prescription drugs are likely to buy into the plan.

There is an example of this scheme. We are not talking totally theoretically about what is likely to occur under the House Republican plan. Several years ago, the legislature of Nevada adopted such a structure to be used for their prescription drug program. Their proposal was used where beneficiaries soon found that they were looking at very high premiums, high deductibles and copayments, which only lured the sickest seniors into the program. As a result, beneficiary claims exceeded premiums and copayments throughout the entire first year of Nevada's experiment.

The experiment had the State paying a premium of $85 a month per member for 7,500 beneficiaries. An independent actuary found that the State-operated program, working directly with PBMs, could have provided the same benefit for $53 a month. The extra money was paid to an insurance company which could have been used to serve 4,500 more seniors in Nevada.

The program has a waiting list of over 1,000 people, no doubt 1,000 of among the sickest people in Nevada who want to get on to this program.

One of the most important factors for seniors when deciding that they will sign up for a prescription drug benefit is cost: How much will it cost monthly? How much will they have to pay before benefits begin? How much value will there be in the benefit? The Republican plan fails to give seniors this value. The plan has a $250 deductible, meaning most seniors will have to wait for the benefit to begin, even as they are paying monthly premiums during this waiting period.

This predicament gets worse in the House plan after beneficiaries have spent the first $2,000. At that point, seniors, including low-income seniors, are forced into a gap in coverage. They suddenly, after the first $2,000, have to pay 100 percent of the cost of their drugs.

For a senior like 71-year-old Jeremiah O'Conner, a Ft. Lauderdale, FL, resident who survived cancer and now pays $1,279 per month for drugs to help with high cholesterol and a prostate problem, the Republican gap would begin in March of each year. He will have to float without coverage until at least May, still paying a monthly premium.

For a low-income senior who is 150 percent below the poverty level, which is now $13,300 for a single person, this would be more than 25 percent of their annual income that would have to be used to pay for their prescription drugs while they are caught in this gap of coverage.

The Republican plan will not help those seniors who are choosing between food and medicine. The doughnut will provide them with no nutrition. All they get is the empty hole.

For example, Ms. Olga Butler of Avon Park, FL, receives a monthly Social Security check of $672, which makes her barely over the income limit for Medicaid coverage. This means that 67-year-old Olga has to pay for her own medications, sometimes having to make that choice among food, rent, and prescription drugs.

Olga is on Lipitor and Clonidine for her hypertension and high cholesterol. She pays $95 a month for Lipitor and $22 per month for her Clonidine. These prescription drugs not only improve the quality of Olga's life, but they are helpful in warding off possible strokes or heart attacks for which she is at a high risk.

In order to qualify for the Republican prescription drug plan, Olga must pass an assets test in order to get low-income assistance—the first time such an asset test has been included in any Medicare Program. I know you know the answer to this question, but some of our colleagues may not know what an assets test is. This test means that Olga must deplete her savings which is less than $4,000. She must sell off her furniture and personal property, which is worth more than $2,000. And she must sell her car, if it is valued at more than $4,500. She must place herself in poverty in order to qualify for the low-income assistance, under the inadequate House Republican proposal.

Mr. KENNEDY. Will the Senator yield for a question on that point?

Mr. GRAHAM. I am pleased to yield.

Mr. KENNEDY. So is the Senator suggesting that, on one hand, the Republican proposal is suggesting that it is addressing the needs of really the lowest income seniors? I think it is always useful to review the average income of our seniors, which is about $13,000 a year, and two-thirds of them have less than $25,000. So we are talking now about the lowest income. I guess it is 135 percent of poverty.

So, on the one hand, the Senator is suggesting that those individuals are going to be covered and then he is pointing out that the Republicans have included an assets test, which includes a burial plot that is above $1,500. If they have a little cash in their bank account, which they have saved over their lifetime, evidently, this says they have to spend all of that. You cannot have personal property such as a wedding ring. You would have to give that to the pawnbroker and spend that.

Besides those cruel aspects of the assets test, what does the Senator think this does in terms of demeaning our fellow citizens—to have them go in hat in hand in this country—the greatest country in the world—and have them have to go through and bring out their little sheet and represent the value of their personal goods at home and demonstrate what that bank account is.

We have other ways of making these assessments that can be done while treating people with a sense of dignity. Does the Senator not agree with me that this is a particularly harsh proposal as well for our fellow citizens, particularly those who are extraordinarily needy and perhaps feeling a certain amount of despondency for the way life has treated them, and then the Republican proposal adds this additional dimension? Does the Senator not agree with me that it dehumanizes our fellow citizens and humiliates them in ways that are completely unacceptable?

Mr. GRAHAM. It is a testimony to exactly those attributes that we have had Medicare for 37 years and never, never has it been proposed that we add an assets test to people's ability to secure the basic necessities of health care that sustain life and the quality of life.

The Senator mentioned a number of items that would be lost, from a wedding ring to a burial plot. I think of particular significance is the fact that you can't own a car that has a value of more than $4,500. If you want to go down to the used car lot, you can see what that means in terms of an available vehicle.

Mr. KENNEDY. On this issue, may I ask the Senator a question?

Mr. GRAHAM. Yes.

Mr. KENNEDY. In part of the country, winters can be extremely cold. The northern tier States are colder still—up in the State of Maine, across the northern tier, in Montana, across Minnesota and Wisconsin. And the last thing we want for our seniors who are going down to the drugstore to get prescription drugs is to have their car break down. Or if they are in the southern part of the country, on those superhighways where traffic is moving with such rapidity and there is such a degree of intensity in terms of the conduct of traffic, you can imagine what happens to a senior whose car breaks down on those roads as well.

We are really flyspecking our fellow citizens. We are trying to set up a system that addresses the needy people in our society. Does the Senator not agree with me that we can do that with a sense of respect and dignity? When we are talking about this point of $4,500 for a car—which is to try to say that maybe if it is $2,000, we will be more understanding.

I must say that this is a humiliating aspect for our fellow senior citizens. I find it so difficult and so unwilling to accept.

I particularly appreciate the Senator's long explanation and detailed elaboration of the Senator's own bill. I pay great tribute to Senator GRAHAM and Senator MILLER in terms of the fashioning of this proposal. I am grateful to be able to join them. I think his careful review of the other proposal should make our colleagues think of whether that kind of a proposal is worth any degree of support.

Mr. GRAHAM. I have just one last comment about the automobile. As it is for most of us, an automobile is more than just a means of transportation; it is a statement of our independence, our ability to be able to do those things that make life meaningful. This is a particularly important thing for older Americans, many of whom live in rural areas. If you say you have a choice, can you imagine the pain that a 75-year-old American living in a rural area in your State, or mine, or Senator CLELAND's, or Senator STABENOW's, would feel if they say: Here are your choices: We can give you access to some payment for a drug which, if you are unable to secure will almost assuredly decline the quality of our life, and maybe cause death, but in order to get that assistance, you have to give up your independence by giving up the vehicle that allows you to have some degree of mobility. What kind of country is America? We are saying this to the generation that we have defined as our greatest generation. These are, in many cases, the people who have not only lived through the Depression of the 1930s, when our country was in tremendous jeopardy, they fought to defend our country, or they worked in the defense industries, as did that wonderful generation of young American women who did hard manufacturing work in order to be sure that those ships, planes, and tanks were built; and now we are going to tell these people when they are 75 years old: give up your mobility and your independence or give up life because you cannot afford to buy the prescription drugs. What kind of an America is that? That is not the kind of America by which I want my children and grandchildren and great-grandchildren to judge my generation.

Beyond those points, the insult even gets worse because, to use my example of Olga, she is not going to be immune from this gap, either. So under the Republican plan, once she hit the wall, the beginning of that big nonnutritious hole in the middle of this coverage, she would have to pay between $3,450 and $5,300 of drug costs, without getting any assistance.

So we have added insult to the tearing away of dignity and independence. The Republican plan would make this gap harder to fill by only including payments directly made to beneficiaries on their behalf. This is a technical issue, but it is an extremely important issue for many of our elderly.

The typical person, when they were 45 years old, their union negotiated a contract with their employer and the employer said: All right, I am going to put on the table an additional 25 cents an hour of immediate income; or I will write into this contract a provision that says when you get old and retire, I will pay a portion of your prescription drug costs.

I happen to be a retiree of the Florida State retirement system, and I am eligible, when I go on Medicare, to get a certain amount every month toward my prescription drug costs. We are going to say that in calculating how much you have to have spent out of your pocket to become eligible for the catastrophic coverage, you can't include the money that your employer is contributing. You have paid for it back 25 years ago when you gave up that quarter an hour of additional compensation to get that benefit, but now it suddenly evaporates in terms of counting toward meeting your catastrophic number that will allow you to avoid future copayments for your drugs.

It is just blatantly unfair, and it has been one of the hidden issues. If I thought of this idea, I would want to hide it, too. It has been effectively hidden.

Mr. KENNEDY. Can I ask the Senator, and I am so glad the Senator is taking the time to explain this issue, and I hope our colleagues are going to pay some attention to it because it is very easy to say: A prescription drug bill here, a prescription drug bill there, is there really any difference? The Senator is pointing out in great detail some of the very powerful differences.

One that is enormously important is how the Graham bill treats employers. Those good employers who are trying to provide a prescription drug benefit for their employees are hard pressed, particularly smaller businesses that pay a disproportionately high percentage in premiums. Nonetheless, they are prepared to do it.

Under the Graham proposal, there are provisions which help those employers maintain at least the coverage for the employees. It seems to me that everyone wins: The employee wins; the employer wins. The objective of the Graham bill is to make sure they have the coverage, as compared to the Republican plan which has disincentives, as I understand, in terms of the employers.

There are clear disincentives for employers to maintain the coverage, which means there is going to be additional costs and a higher risk of coverage. It is a very important part of the Graham proposal. I wonder if the Senator will spell that out because that is so important when we are looking at what is going to happen to companies that are providing prescription drugs and which program is best suited to make sure we have a continuity of coverage.

Mr. GRAHAM. The Senator is absolutely right. Under the current system, about 30 percent of our 39 million Medicare beneficiaries receive some assistance with their prescription drugs through their previous employer. Frankly, that number has been declining as in more recent years employers have been less willing to add to their benefit package a prescription drug payment in retirement. But 30 percent of current seniors do have that, and there is concern that under the House plan, which has no incentive for those employers to continue to provide the service, they are going to say: Look, we do not need to continue to write these checks to our retirees. There is now a Federal program. So we are going to cancel out and turn all these people over to the Federal Government to pay.

What we are proposing is that the Federal Government should essentially enter into a partnership with those employers. We would pick up two-thirds of the cost of what we would otherwise pay for a beneficiary. The employer would pick up the rest. It saves the employers two-thirds of what they are paying now, but it gives them enough incentive that they will continue to participate rather than have a new way of cost shift to the Federal Government and to the beneficiaries themselves since under the Republican plan it is less generous than most of these current employee plans, and so they will have to pick up—they, the beneficiaries—additional expenses.

Mr. KENNEDY. If the Senator will yield, as I understand, the CBO has estimated there would be 3.5 million people who are covered now with a good program who would lose that good program and be in the substandard Republican plan.

Mr. GRAHAM. Absolutely.

Mr. KENNEDY. That is CBO. There are the assets provisions the Senator just described. There is a provision which is a disincentive for the employers. And there is the doughnut or the wall which the Senator has described. This is enormously important because their bill fails the truth in advertising test.

Mr. GRAHAM. Mr. President, I appreciate the Senator's thoughtful, incisive questions which underscore some of the differences—I think clear deficiencies—in the legislation the House has already passed.

According to the Corporate Health Care Coalition, the benefit of employer-sponsored coverage is minimized under the Republican proposal and, as the Senator from Massachusetts said, threatens to force employers to choose between private plans or the Medicare plan, and the estimate is that a substantial number of employers would elect to dump their current coverage for retirees and let this become a full Federal plan responsibility.

This would be a threat to over 3 million seniors who today are able to rely on a reduced prescription drug benefit and which under our program would be able to, should they elect to do so, have the benefits of both their employer plan and the new Medicare plan as, in insurance industry terms, a wraparound policy.

Everyone in this Chamber understands the need for fiscal discipline, but this should not come at the cost of providing a meaningful drug benefit for Medicare beneficiaries.

The budget passed by the Senate Budget Committee provides up to $500 billion for a prescription drug benefit. Mr. President, our plan is within that range.

We do not have to provide beneficiaries a Cadillac. Rather, we would be more prudent to provide them with a Chevrolet or a Ford a reliable, useful automobile. But we also do not need to provide a benefit that is more like a moped—unreliable and cannot be driven on regular roads.

Mr. President, I say to my colleagues in the Chamber, now is the time. We have come to the Senate floor year after year promising America's seniors a prescription drug benefit, and every year the seniors have come to the beginning of the new fiscal year thinking this will be the year in which we will see the promised land, this will be the year in which these promises are delivered. Sadly, to recount, every year the seniors have found not an open door but a closed and padlocked door.

Today we can take the giant leap that Medicare beneficiaries have been waiting over the years for us to take. Just last week in Minneapolis, President George Bush said:

> We must make sure that whatever system evolves does not undermine the great innovations that take place in America.

Surely an untried, untested system such as the House Republican proposal which has already passed will have exactly that uncertain impact on medical advances. By using a system that is based on what we already know works, we do not threaten that innovation. We can, in fact, contribute and advance innovation.

That is what our proposal does. By passing the exact system that every Member of the Senate and most Americans use to get their prescription drugs, it is within our power to give America's elderly the parity, the security, they deserve in their lives and in their health care.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CARPER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I rise to speak on the underlying bill and on the background for Medicare, Medicare modernization, and strengthening Medicare.

First, I am delighted the discussion of health care security for our seniors has reached this stage of debate, active discussion, and active deliberation in this body. The House of Representatives admirably took this issue head on, worked very diligently through a committee process, and produced a bill, after debate, after discussion, and it passed. The House bill received a majority of votes and represents a very deliberate and very solid effort to address the cost of prescription drugs. More importantly, it addresses the issue of health care security—including prescription drugs as a part of the armamentarium physicians or nurses can use in looking seniors in the eyes and saying their health care security can be complete by passage of this bill. I think this is the crux of the issue.

Now is the time for us to act to include prescription drugs—that powerful tool, that powerful element of health care as we know it today—as part of the overall health care security package for our seniors. Including a prescription drug benefit within Medicare is long overdue. Prior to coming to the Senate, I was blessed to spend 20 years providing care to thousands of Medicare patients in the field of chest, heart, lungs, pulmonary status, emphysema, lung cancer, heart disease, and stroke. Thirty years ago, medicines, including prescription drugs, were used in these fields. However, 20 years ago prescription drugs were used a lot more, 10 years ago even more, and today they are an absolutely essential part of health care delivery.

As a surgeon, I do not want to say prescription drugs are more important than surgery, but it is getting to the point that medicines people take every day are equally important in acute and chronic care and in disease management. Now is the time for us to address the financing of health care delivery in this country, both in terms of the organization of health care delivery and insurance coverage.

Everybody knows the Medicare Program is absolutely critical to health care security. I think my colleagues in the Senate will agree that Medicare, health care security for our seniors and for our individuals with disabilities, is critically important and vital. It is imperative that we do not forget that the Medicare debate applies to both seniors and those with disabilities. I believe now is the time to strengthen it. Others might say to modernize it. Yet even others will say to reform it. Whatever word is used, now is the time to take a 1965 program which has been modified over the years in the way that we incrementally do things—and strengthen the program. We need to modernize the program to truly deliver what our seniors and disabled individuals expect us to do—to give them health care security.

So whether one uses the word "save," "strengthen," "modernize," or "reform," now is the time to have a discussion on the floor about the process itself.

As some people listen to the debate about Medicare and prescription drugs, many will question why we need to address the process. The process is important to help move such complex bills along in order to produce a good bill that can be married with the House bill. We can accomplish what most people want to achieve affordable access to prescription drugs for our seniors. This is a complicated issue because the overall cost of prescription drugs will continue to escalate unless we fix it.

Furthermore, health care delivery will continue to change in terms of the overall relative importance of inpatient hospital care, outpatient care, acute care, chronic management, and disease management. The process is designed to take this complex bill which could potentially be the single largest expansion of an entitlement program and modernize it, including the coverage of prescription drugs.

It is important to enact a bill in a responsible way. The demand for prescription drugs is going to be high because people will be counting on drugs for cures and to improve quality of life. With that sort of potential growth superimposed on a Medicare Program which is not designed for such growth, the impact will literally bring the overall program down.

For some time, the President and I have argued that as we look for prescription drug coverage inclusion, we need to do it in a way that is responsible to the American people—to seniors, to individuals with disabilities, to the taxpayer, to the current generation. This is also important to the next generation coming through the system who, if we do not appropriately fix Medicare, simply will not have the Medicare Program that they expect and deserve for their parents or for them a generation from now. Therefore, Medicare must be strengthened. Medicare must be improved.

I argue we should address prescription drugs through a process that includes the committee structure, where appropriate debate can be carried out. It is not clear if people have followed the debate over the course of today, including which bills are going to be considered, if there are going to be large bills to modernize all of Medicare, if there are going to be very specific bills that look at the prescription drug package to be placed in Medicare, or whether there are going to be catastrophic plans. I am hopeful, if we are going to bypass the committee process and come directly to the floor, that we debate all of those bills so the American people and our colleagues will have the opportunity to see the range of alternatives. If we consider just one bill, especially if it is a very partisan bill and has not been taken through a committee process, the long-term risk to the American people is huge. This will not just affect Medicare beneficiaries but will impact generations who will be Medicare beneficiaries in the future and the people who are paying for Medicare today.

Pharmaceuticals are a critical component of health care delivery. Now is the time to act, so let's do it. Let's not talk about a plan that will take effect 3 years, 4 years, 5 years from now. Let's go ahead and start today and let's do it in a responsible way.

Other Medicare issues may be addressed if health security is our goal. These issues include preventive services and other benefits that are covered by private health care plans today that are not covered in Medicare. When we strengthen, reform and modernize Medicare, we need to do so in a more comprehensive fashion.

We need to look at the Federal Employees Health Benefits Plan, the FEHBP—the health insurance coverage my colleagues and I have. You do not hear us complaining very much about our health care insurance. It is the same plan through which about 10 or 11 million Federal employees get their health care today. We ought to look at that model as we look to include prescription drugs.

There are a number of principles that do need to be stressed as we look forward because we do not know exactly what amendments are going to be coming to the floor today or over the next several days as we consider prescription drug coverage. I would like to stress four principles as we consider prescription drug benefit plans.

First, a prescription drug benefit should be permanent, affordable, and immediate.

By "permanent," I mean that we should not look at bills that will fix the program in another 4 to 5 years, rather, we need a bill to fix the program sooner. We need to act now. We need to have a bill that will help seniors and individuals with disabilities as soon as possible. So, I argue we should not start a bill or legislation and have its effect, say, 3 years from now.

When I say a prescription drug benefit should be permanent, I think it is dishonest for us to tell seniors that this is the fix when it only applies for 4 years to 6 years. It should be incumbent upon us to develop a plan, a proposal. We need to be smart enough to do it in a bipartisan fashion and include time for adequate discussion, so that we pass a bill that can be sustained over time—whether in times of deficit, or surplus. Additionally, a prescription drug benefit needs to take into consideration breakthroughs in medicine that find cures, treat or prevent such diseases as heart disease, Parkinson's disease, emphysema, and other lung diseases. Therefore, such a benefit must be sustainable to the best of our ability over time.

That means when we look at a plan, we don't say it starts at 2005 or 2006 or 2 years from now, and then sunsets 5 years later. I think we need to be honest with seniors and the current generation who is paying for Medicare today by ensuring that this plan is something that can be sustained to the best of our ability, and that it can be sustained over time. So, principle number 1 provides for a permanent, affordable, and immediate prescription drug benefit.

A second principle is that a prescription drug benefit should, in some way restrain what cannot be sustained long-term—the skyrocketing cost of prescription drugs that we see today. Seniors and individuals with disabilities cannot afford the high costs of drugs. Likewise, people in the private sector cannot afford it. Thus, a prescription drug benefit must lower the cost of prescription drugs. I would argue the only known way of doing that long term is through an element of competition, an element where you have informed consumers. It is an obligation of us in government to inform consumers. Consumers are those on the front line—seniors listening, to patients, to doctors, to nurses. Really, it boils down to what is happening at the doctor/patient relationship, to involve an element of educated consumers making smart, and commonsense decisions, long term.

The Congressional Budget Office has found that bills similar to Senator DASCHLE's bill, which will likely be coming to the floor later this week, would not decrease overall drug costs, but would increase drug costs. According to the Congressional Budget Office, bills that rely on public/private sector partnerships and an element of competition will help maintain the costs of drugs. For example, the House of Representatives bill that passed by a majority vote illustrates this point. Additionally, the Breaux-Frist bill, introduced in the 106th and 107th Congress, is based on the Federal Employees Health Benefits Plan model which relies on the private/public partnership. Overall, these bills include an element of competition, capturing the very best of the public and the private sector working together and reducing drug costs for seniors.

The third principle—following the first principle of permanent, affordable, and immediate prescription drug benefit and the second principle of competition to lower the cost of prescription drugs—is that a prescription drug benefit should be fiscally responsible. We need to do it. We need to act in this Congress. We need to act now so it will take effect now, and we need to do it responsibly. This is where dollar figures are important, so we know what these relative alternatives are all about.

Experts estimate proposals offered by Senator DASCHLE and some Senate Democrats would cost at least $600 billion over the next 8 to 10 years. In a time of deficit spending and in a time where the economy is tough, this would ultimately require cuts in other fields like education, national defense and Social Security. Furthermore, it would place a heavy financial burden on the current generation receiving benefits, the generation that is paying for those benefits, and the following generations.

The fourth principle I would like to stress is that a prescription drug benefit should be bipartisan. That means we need to come together. This is a big challenge. This is a big, new entitlement that at the end of the day is likely to be adopted—and I would argue should be adopted—if it is done in a responsible way. I would argue in this climate, especially in this climate where the Senate is about 50-50, where the American people are about 50-50 in terms of partisanship, that the only way for us to succeed is through a bipartisan bill. We need to have people from both sides of the aisle working together in a commonsense, rational way. Yes, we will concede to tradeoffs on either side to come to common ground. But we need to do it in a bipartisan manner.

The good news is that if we can pull it off with the right leadership, if we can pull it off with people who recognize the importance of pulling people together, we can do it and it can be done now. This will result in seniors benefitting very soon. It can be done in a way that is sustainable. I am absolutely convinced there are enough people who will work together in a bipartisan way on both sides of the aisle—majority of Republicans and majority of Democrats—so we can pass such a bill.

That is a challenge. It is a challenge because we have about 112 days left until the elections commence. The real risk is in trying to pass such a major piece of legislation in a partisan way—partisan could bring it down to where we do not pass a bill. Amidst all the talk at the end of the day, there are not going to be sufficient votes because the bills are not bipartisan.

A lot of the discussion today has been basically the other side of the aisle reaching out and saying we are ready to move forward, we want to take action. But much of the backdrop, is that the Senate Democrats today actually canceled or postponed a markup because of a fear that the tri-partisan bill that normally—normally the bill would come through the Finance Committee to be debated and amendments could be debated and passed or failed. There could be good debate among 20 people in that Finance Committee. The committee of jurisdiction was bypassed today with these bills being brought directly to the floor.

If you agree and if the American people agree that a prescription drug benefit is big, now is the time to act.

The only way in an environment today that tends to be partisan because of these elections is to demand bipartisanship. The only way to pass a prescription drug benefit is to openly consider the bipartisan and the tripartisan bills. And we do that, I again argue, first in the Finance Committee; however that does not look like that is going to happen.

I want to make absolutely sure that the Republicans are not overstating the importance of taking a bill this big through the Finance Committee before coming to the floor of the Senate. The tripartisan bill—the bill that has the majority of votes in the Finance Committee—has not been debated and has not been voted on or marked up in the Finance Committee. Additionally, the bill that Senator DASCHLE likely will bring to the floor sometime in the next several days is a strictly partisan bill which has not been considered in the Finance Committee either. The American people need to understand that Senator DASCHLE is playing straight up politics. I asked the Congressional Research Service to look up the top 10 or so major Medicare bills which passed the Congress over the past two decades and to find out: (1) Where were they first considered? (2) Did they bypass committee and brought directly to the floor of the Senate? They responded. It is very interesting. It looks as if there are about 12 to 15 major bills that have been considered over the past two decades. With the exception of one, all of these bills were considered and reported by the Senate Finance Committee before they were enacted into law. Those bills, again for reference—were TEFRA in 1982, DEFRA in 1984, COBRA in 1986, OBRA in 1978, the Medicare Catastrophic Coverage Act of 1998, the repeal of the Medicare Catastrophic Coverage Act in 1989, OFRA in 1989, OFRA in 1993, BBA in 1995, BBA in 1996, BBRA in 1999 were considered through the Finance Committee. The only legislation out of the 13 which bypassed committee was BIPA in 2000. BIPA is the only piece of legislation out of the 13 bills that did not have Finance Committee consideration before congressional passage.

However, I should note that even that particular bill—BIPA—was overwhelmingly bipartisan and passed overwhelmingly as part of the HHS appropriations in the year 2000. I mention this because it is important for the American people to understand the importance of the process which is now being bypassed in order to consider bills, which if they remain partisan will simply not pass this body.

Let me comment briefly on what I think and what I expect will happen over the next several days. I expect tomorrow we will continue to debate the underlying reforms in Hatch-Waxman. I look forward to hearing from Senator HATCH and others about that particular bill.

There will be several existing bipartisan proposals that are currently being filed and currently being submitted that will be introduced. I think we will have a good debate on a range of issues. It will be an educational process as we go through each of the amendments in the bills that come forward.

I hope as we consider these bills that we have as a goal to make them not political issues but to make sure that they are substantive policy issues that come forward. It is simply too important to be playing politics with our seniors' health care security. I think there will be a lot of opportunity over the next few days to talk about these specific Medicare proposals.

Let me close and simply comment on the patent reform bill and the modifications in Hatch-Waxman that we will in a more systematic way begin to address tomorrow. I think access to prescription drugs clearly needs to be the focus as we go forward, but the overall cost is important too because if you have prescription drugs and other drugs escalating with skyrocketing costs, there is, I think, no system that we can contain that long term over time.

The Hatch-Waxman law, which was passed in 1984, has been tremendous, but it has an impact on cost. The cost issues that we see in the private sector today are increasing 11, 12, and 13 percent. I don't think health insurance can simply be sustained in the long term. One major component of the increase in coverage is prescription drug costs which continue to skyrocket.

But I need to caution my colleagues who did not have the opportunity to sit through the Hatch-Waxman hearings in the Health Committee, it is pretty technical. It is important that we go back and do it right, that we fix Hatch-Waxman, or that we update it and modernize it because it really hasn't had a major look since 1984. But we must do it in a way that maintains the very careful balance that legislators very smartly put together in 1984.

The balance boils down to the fact that you have prescription drugs in the pharmaceutical industry that values patents and certain protections. Because they have those protections for a period of time, they are willing to invest, they are willing to innovate, they are willing to discover, and they are willing to put capital at risk. It is imperative that we all know how important that is. The only answer to finding a cure for coronary sclerosis, for pulmonary emphysema, for acute types of leukemia, or for something as big as HIV/AIDS is going to be research. Furthermore, I would argue that most of the world's research is being conducted in the United States of America.

Nevertheless, the protection and the incentives that we give to make these great discoveries must be balanced. This is the balance that was achieved by Hatch-Waxman with access to drugs. That, in large part, is determined by a strong, a productive, a broad, a growing generic drug industry where we know that important drugs are available at a reasonable cost. When Hatch-Waxman started, generics were only about 20 percent of all drugs. Now it is much greater—greater than 50 percent. But it is time to focus on some of those deficiencies in Hatch-Waxman. It is that balance that needs to be reviewed because both generic prescription drug companies and brand name companies have abused or found loopholes in Hatch-Waxman. Now is the time to fix the loopholes. We need to do that in a correct manner. That is what much of the debate will be about as we go forward.

Another topic, we had the opportunity last week on a couple of days to talk about is bioequivalence. It too is a little bit technical. But it is very important because, if we get it wrong, it is not just a cost issue. If we get it wrong, it can affect safety issues in terms of drugs and generic drugs.

The Hatch-Waxman law allows generic companies to market off-patent drugs if they are demonstrated to be bioequivalent.

There are definitions of bioequivalence that are applied today. If you have drug A, and you have another drug, and you are saying, well, this drug is the same as drug A, you want to make sure when you actually take that drug that it has the equivalent impact in fighting disease, the impact that it is billed to have, that the active ingredient is absorbed at the same rate, and that the side effects are the same.

The bill, which is the underlying bill on the floor today, could significantly weaken this important patient protection by giving the Food and Drug Administration, the FDA, broad authority to relax the statutory Hatch-Waxman bioequivalency standard.

Senator HATCH will be on the floor in the next several days, I am sure. I look forward to joining him in talking about a range of issues that are of concern to him—and he has been around a long time in terms of watching this bill and watching the effectiveness of this bill—and myself and many others.

Again, there are many other Members on the floor who wish to talk, so I will bring things to a close. But I wanted to bring forward the principles that I think should underline the debate as we move forward.

I wanted to point out, in the bill that is currently actively on the floor, this modification of Hatch-Waxman. There are a range of issues, such as bioequivalence, that I look forward to debating and talking with others about.

At the end of the day, in order for us to really be able to look seniors in the eyes and say, health care security is what this bill is all about, it means we are going to have to work together, we are going to have to do it in a way that is bipartisan, that clearly does not have strict partisanship. We cannot play politics with an issue that is this important.

I look forward to working with my colleagues as these bills more formally come to the floor.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from New York.

Mr. SCHUMER. Mr. President, I am glad to take the floor today because we are beginning a historic and very important debate on the issue of the accessibility and the cost of prescription drugs. It is going to be a very important 2 weeks.

I, first, thank the majority leader for giving us that kind of time. This is not an issue that should be dealt with quickly. It is an important issue. It affects all of our constituencies. And there are many different sides to it. Anyone who thinks the issue is totally cut and dry is mistaken.

We have had great advances in our health care system. Many of them are due to these prescription drugs. We knock our health care system. It is easy to do. But we often forget about its successes.

I point to my childhood where, in my neighborhood, Brooklyn, my friends would get on their bicycles and come to my house on Wednesday afternoons, and they would park their bicycles in the front and walk to the backyard and push their heads up against the window of our kitchen because sitting in our kitchen every Wednesday afternoon was something of a curiosity. It was my great-grandmother, and she was 81.

Most children in the neighborhood had never seen someone over 80. And she was billed as: "Come see the oldest lady in the world." The kids from the neighborhood would come around and look at her. And God bless her, she lived a long, tough life.

But now, only 50 years later, we have Willard Scott on TV reading—he has given up reading about 80-year-olds and 90-year-olds and 100-year-olds—about people who are 105 and 106.

Being 80 is young. My parents, thank God—my dad is going to be 80 next year. He is healthy. He has had a few little bouts, but he is healthy.

That is the other point I make. We not only live longer, we live better. When I think of my dad, who is 79, and played golf Sunday—my family and I went over and had dinner with him and my mom. And I compared them to—I mentioned this to them just that night—how my great-grandmother was so very old and could hardly walk at 81, and here is my dad, just about 80, filled and vibrant.

That did not happen all by accident within 50 years. We have had enormous advances in health care. And let's give credit where credit is due.

A good number of those advances are because of the prescription drugs we have. They are wonder drugs. I did not experience any of them until a year ago when our House physician—our Capitol physician; I am still used to calling him the House physician—prescribed Lipitor because my cholesterol was high and, boom, down it went, almost like a miracle. He explained to me that increases my chances of living longer and healthier. So these drugs are very good things. We do not knock them; we like them. We are glad they exist.

I think every one of us in this body realizes that it takes a lot of work to create some of these drugs; that it takes time; it takes mistakes.

I took organic chemistry when I was in college, in the days when my parents had dreams that I would be a doctor—dreams that went by the wayside, I regret to tell my colleagues.

To do one of those organic chemistry experiments, it is 50 steps. Those are little ones, the rudimentary ones. If you mess up step 46, you do not go back to step 45, you go to the first step because you contaminated the sample. Well, multiply that a million times, and that is how difficult it is to conceive and make these new drugs.

So the companies that make these drugs deserve a lot of credit. These drugs are wonder drugs; they are terrific.

When my friend from Tennessee, Dr. FRIST, comes on the floor, with all his erudition, and says we have to make sure there is a balance, I could not agree more. There has to be a balance. If we were, tomorrow, to do something that would mean the next generation of wonder drugs would not come on the market, we would be disserving everybody: ourselves, our children, our grandchildren. So that is important.

That is why the legislation that is before us today, introduced by Senator MCCAIN and myself, was honed with such care.

Dr. FRIST is right. I am not going to talk in great detail about this. We will have another day to debate the issues. I guess the minority is going to bring some amendments. We will get into the specifics of our bill later. But I do want to say we have taken a great deal of care in how we crafted this bill, mindful of the balance.

Our goal has been to keep that balance. It is our view, Senator MCCAIN's and myself, almost by definition—the 16 bipartisan members who voted for our bill; in even Dr. FRIST's view, who voted against the bill—that that balance had fallen out of whack. Here is what I think happened.

I think for the first 10 years or so, the Hatch-Waxman Act, the Generic Drug Act, worked quite well. New companies that tried to innovate, produced a whole lot of very fine innovations, got a great rate of return. If you look at Wall Street numbers, the drug companies did just about better than any other industry in terms of their profitability. So they were not hurt.

But, at the same time, it was a pretty certain thing that after that drug had its run, and the company not only recouped its costs, and recouped the costs of the mistakes that were made—natural and reasonable—and made a very fine profit, we would let other companies come and put these drugs out on the market.

It worked. When the generic drug comes on the market—we will have a lot more to say about this tomorrow—the cost plummets from 25 to 50 percent of what it otherwise was. A prescription that might cost $100 you can get for $25. Success is shown by the fact that now 47 percent of all the drugs prescribed are generic drugs, creating the same medical benefit but costing people a whole lot less and, incidentally, costing our State governments less when they pay for Medicaid, costing our big companies less when they pay for their health care plans, costing our HMOs less, as well as costing the average person less when he or she goes to the drugstore counter.

What happened in the last 5 years, in my judgment, was that Hatch-Waxman was thrown out of whack. It was thrown out of whack because too many—not all, by the way; a company such as Merck does not engage in this practice; a few other companies are very reticent and reluctant and mild in the way they engage in this practice—in general, a whole lot of drug companies saw that they had these huge blockbuster drugs on the market and the patents were expiring. They said: My goodness, now the generics will come along, and what are we going to do? We will make a lot less money.

What they started to do was to work with their lawyers and their advertisers and everybody else to figure out ways to basically extend the life of the drug. They have done it a whole lot of ways. In fact, I think I will submit for the RECORD five or six articles in the Wall Street Journal—hardly a publication that is anticapitalist—that showed various ways drug companies tried to get around the laws, tried to stretch the laws. Many of them involved the use of generics. But suffice it to say, they tried to figure out ways of going beyond the original Hatch-Waxman intent.

One of the key ways they did it was to, what I call, innovate, not new drugs but new patents—same old drug, new patent. And because the law had never been updated, as Dr. FRIST said, they found a lot of clever ways to do it.

It began to get out of hand. They would say: Give me a new patent because I am changing the type of pill. Give me a new patent because there is a different color bottle in which I will put the drug. No one who voted for Hatch-Waxman thought these were reasons to extend patents.

Then they began to do other things. Some people came over to me and asked: What about the situation where there is a vaccine for HIV and they come up with an oral drug; why shouldn't you allow that to have a new patent? We want to. We don't want to allow the oral patent to then extend the vaccine patent. In other words, if they come up with an oral one, let them apply from scratch, get the whole 20-year patent from the day the patent is filed. But if the vaccine patent is about to expire in a year, don't use the oral patent to extend the vaccine patent. That is a little less virulent form of this kind of game.

So what Senator MCCAIN and I did a couple years ago, actually, was sit down and examine the most egregious abuses. We said: How are we going to curb these abuses? How are we going to restore the original balance of Hatch-Waxman?

The proposal we came up with did that. By the way, it made some of the generic companies not happy either. This is not a bill that is just supposed to side with the generic companies; it is a bill that sides with the consumer. When the pharmaceutical company is abusive, we go after them. But when the generic is abusive, we go after them, too.

In one part of our bill, we wanted to get at the fact that certain generic companies that were given 180-day exclusivity so they might get a leg up and give them incentive to go out on the market, they were sort of selling that right to the pharmaceutical, the brand name company, and then there would be no generic. We stopped that. It was modified by the amendment of Senator EDWARDS and Senator COLLINS. But we looked at the abuses on each side and said: Let's stop it. Let's restore the balance.

This started out as a very modest bill. In fact, I think the pharmaceutical industry didn't pay much attention. They said: Who is going to pay attention to something that is admittedly technical? But what we found was that when you looked at this bill, it was one of the most important ways to reduce cost—reduce cost not just for seniors but for everyone, reduce cost for government and get those generics out.

Over the next couple of weeks we will have a debate on this, and there will be amendments to change what we are doing—probably in the next day or two—and we will debate it.

I want to say two things, though, in addition to talking about this specific proposal. The first is the view of my good friend from New Hampshire that somehow we didn't try to include him, that he is delaying the bill because, well, we could have worked out this language. First, this bill is not brand new. It wasn't written on the back of an envelope last week; it has been around for a long time. On many occasions I would go to Senator GREGG and say: Let's sit down and work something out, and he would be amenable, but nothing much would come of it.

The only point I am making is, he knew about the bill long before. And then at the end, when in an effort to try to get this bill to be bipartisan—it is always better—Senator EDWARDS and Senator COLLINS started to work together on some changes and didn't do a terrible injustice to our bill, Senator GREGG began to get involved. And we started talking to him. Senator KENNEDY and his staff were talking to him. And basically when Senator GREGG had a few objections, we were willing to go along with them.

First, he raised earlier the clarification of the language on this 45-day provision in the bill, the idea that you would have 45 days to sue. Senator GREGG had reminded us that there was an agreement during the markup to clarify the language, to make very specific that if a patent owner chose not to sue one generic applicant, it wouldn't be precluded from suing another. He is right. We honored that agreement. It is in the proposal. Following the markup, the staff changed the language to make the clarification so there would be no confusion.

It is my understanding that those technical changes were then forwarded directly to Senator GREGG's staff. Then the first time we heard about it was long afterwards. I guess it was this morning that we heard this was a problem.

That doesn't sound to me as though you are concerned with policy. That is saying to me, wait a minute, let's delay this thing. And I don't think that is what we should do, no matter what our view is here.

We all agree on the policy. Let me clarify it. The intent of the provision and the effect, because it is now clearly written—it may have not been clearly written before—was not to cut off all the rights of a patent owner if it refrains from suing a particular generic applicant within 45 days. Rather, it just cuts their rights off to sue that company.

It says that if a brand company chooses not to sue a particular generic applicant on a particular patent, the brand company only loses its right to sue that generic applicant or anyone else who sells or distributes that applicant's version of the drug.

So if Schering-Plough chooses not to sue Mylan for a patent infringement within 45 days, if they choose not to sue Mylan, they lose their right to sue Mylan or anyone else who distributes Mylan's version of the drug, but they will have every right to sue Barr or Teva or IVAX or any of the others, in complete accord with what we said that day at the markup.

This is no reason to hold up a bill. It says exactly what my friend from New Hampshire wanted. Now, if there is some staff talk that the language doesn't say that, let's sit down and take a look, but let's do it immediately. Let's not spend 30 hours sitting on the floor, each of us fulminating and not moving the bill forward and doing the people's business.

We have a lot of issues to discuss—not just generic drugs. We will discuss the Canadian importation and the ability of States to form consortia—all to lower costs. Then there is the big debate, of course, which is accessibility, allowing more people to get the drugs.

There is a one-two punch here: Lower the cost and extend the number of people who have the ability to get the drugs. But it is just almost to the point of, at best, counting the angels on a pin and, at worst, a desire to delay, to say that we don't have an agreement.

I wanted to discuss another issue Senator FRIST brought up—the bioequivalence issue. There is a lot of debate about bioequivalence and a lot of discussion about bioequivalence. The enemies of generic drugs, early on, had tried to say that the generic is not the same as the nongeneric in terms of its active ingredient. That reminds me of the argument I had with my mother. I take a vitamin C pill. She would say: Son, drink the regular orange juice. I would say: Mom, the vitamin C in the pill is exactly the same as the vitamin C in the orange juice. She said: No, no, no. I said: Well, it has nice little orange flecks in there, and it tastes different, but if you looked at the oxygen, hydrogen, and carbon atoms lined up in the vitamin C molecule, you could not tell the difference. She said: No, no, have the orange juice.

It is the same thing my friend, the good doctor from Tennessee, is talking about. The FDA knows what bioequivalence is. While some in the brand name debate have tried to imply in the past that the generic drug isn't as pure, or its inert ingredients may be different from nonactive ingredients, we all know it is bunk. The FDA has had rules on bioequivalence that have met every test for years and years, and no one has contested them. In all of the fighting between the brands and generic name court cases, there hasn't been an issue. All of a sudden, we are hearing that bioequivalence is an issue.

So what did we do? Senator KENNEDY, in the bill—it may have been Senator EDWARDS. Well, an amendment was added in the committee that took exactly what the FDA has done, without any dispute for the last 10 years, and codified it. Now, all of a sudden, we are hearing that bioequivalence is an issue. It is not an issue. It is a smokescreen for people who want to delay.

So my view is a simple one. Let's get on with the debate. We have two major issues before us—the issue of cost and the issue of access. The McCain-Schumer bill, the Dorgan proposal, and the Stabenow proposal on the States, all reduce the cost of the drug—here is my good colleague from Michigan now whom I just mentioned—to everybody, including senior citizens, parents who have a child who needs a serious drug, to State governments.

Then let's go on to what will probably be the main show, which is access, because so many people need access to these drugs. The one is not exclusive of the other. People ask me, Will you be happy if just the McCain-Schumer bill passes? No. I hope it will pass, but we have to go beyond that and we have to increase access. We have to have a good prescription drug plan to undo the mistake of those who wrote Medicare in 1965—except they didn't know there were so many of these drugs.

My plea to colleagues is this: Enough. We are debating about the number of angels on the head of a pin. We are debating about things that have long been settled. Let's move the bill forward. Let's lower our costs. Let's increase access. Let's disagree in a civil and fair way, and then let's vote and let the chips fall where they may.

Mr. KENNEDY. Will the Senator be good enough to yield?

Mr. SCHUMER. I am happy to yield to our leader from Massachusetts.

Mr. KENNEDY. Mr. President, I am struck by the point the Senator makes again on the floor of the Senate, which I have heard him make many times but which I think is important to understand, and that is that this is actually a very conservative piece of legislation. Effectively, if we accept the underlying legislation, which is just a version of the legislation the Senator introduced with Senator MCCAIN, really we are going back to what the original intention of the Hatch-Waxman proposal was all about.

I appreciate the Senator giving the historic perspective because at the time we passed the Hatch-Waxman, we anticipated the breakthroughs in many different areas of new pharmaceuticals to try to deal with the challenges of our time. It has never been more likely than it is now. We are in the life science century. Even since the passage of Hatch-Waxman, we have seen the sequencing of the human genome. We have this extraordinary DNA revolution. We have gone through these extraordinary kinds of basic new research. We have seen this explosion using new kinds of technology matched together with research, which is opening up extraordinary possibilities. We have heard about this in our HELP Committee.

So the opportunities are out there in terms of trying to see the day when Alzheimer's is no longer the scourge of so many families in this country. That would empty two-thirds of the nursing home beds in my State of Massachusetts. That is probably true also in the State of New York. We believe the Hatch-Waxman proposal was to try to make sure for the drug companies, the brand companies, that were prepared to go ahead and take advantage of these extraordinary opportunities, building on the incredible investment the American taxpayer has made in the NIH, which has been doubled in recent years. It is an additional reason the Schumer amendment ought to go in.

We ought to have the energy of those companies in these breakthrough new opportunities rather than in the "me too" drugs. This, I believe, is not only dealing with the abuses that exist, but also, if we let this continue along, it seems to me there will be a continued kind of financial incentive not to take chances for these breakthrough drugs that are out there, in terms of making such a difference in dealing with the health challenges we face, and there will be these financial incentives to game the system in order to deny people the lower cost of drugs by the generics.

So I commend the Senator. We will have a lot of debate and discussion about patent and patent laws and timing—30 months, and 180 days, and 45-day windows, and bioequivalency, and the rest. But we are talking about, as the Senator eloquently stated, a major downpayment—the first one that I know in any recent time that will bring pressure to lower the cost of drugs.

This is a major achievement and accomplishment if we do it. It is not going to solve the problem, but for the many families who are going home tonight and buying their drugs and finding out that the costs have increasingly gone up so far beyond the cost of living, it will make a big difference, will it not?

Secondly, I don't know what the argument is—I have not heard it—for the second provision of the Senator's amendment that deals with collusion between the brand names and the generics, which is taking place out there.

That is as bad as the gimmickry we have seen from these corporate scoundrels who have made out like bandits, such as at Enron, getting billions of dollars and then giving short shrift to the workers. What is the difference if those corporations make out like bandits, and in this case, instead of the workers, it is the seniors and sick people who will suffer? I do not see a great deal of difference.

The Senator has made such a strong statement. I am as perplexed as he is that we have not had a chance to get to the bill this afternoon and debate it. The Senator has correctly given the interpretation we had of the clarification of language that was raised.

I point out to the Senator and ask if he will agree with me, if they do not agree with language, we will be willing to accept the language to clarify those provisions. It is very clear what the intention was in the hearing record. We are not trying to change our position. We are still at that position. If they have language to do that, we will take it now and get on with the bill.

We should be under no illusions. That is not it. They want to change other provisions, substantive provisions. All the Senator from New York is saying is, if that is the case, why are we not out here debating those issues and taking votes on them and moving this legislation forward?

Does the Senator find any reason this can justify why we are having this delay on this important legislation that can make such a difference to many people? Why is it that on a Tuesday afternoon in July we are not doing the people's business and voting on these matters, debating these matters but instead are caught in tactical maneuvers by those who are opposed to the legislation?

I say to the Senator, it is being perpetrated by those who do not want any bill at all. If we do not have any bill at all, there will be brand companies that will make billions of dollars out of the pockets and pocketbooks of the consumers, which is in complete violation of the Hatch-Waxman bill. They are the ones who are behind this delay, and that is unconscionable.

I would appreciate any comment the Senator wishes to make on that issue.

Mr. SCHUMER. I thank my colleague. No one puts it better than he does, and he is exactly right. Let's vote; let's debate. Our differences are not very large. That is what makes us scratch our heads and think that really they do not want a bill; they hope we will give up. They hope people will lose interest. They hope something else will come along, maybe another corporate scandal. But I think I can speak for our leader, the Senator from Massachusetts, as well as the Senator from Minnesota, as well as the Senator from Michigan, that we are not letting this issue go away. They can delay us for a week or a month, and we will be back, it is so important.

I will make one other comment. My colleague from Massachusetts is just so good at this. After I am here half as many years as he, if I can be a quarter as good as him, I will be very happy. Here is what he said and I think it is worth repeating.

We are doing not only the public but the drug companies a favor. With this amendment, we are putting them back on track. They have lost their way. They are degenerating into something that is hated. For people who create such wonderful drugs, why should they be so despised? I saw a survey just recently that the drug industry was more disliked than the oil and gas industry. The reason is they all are losing their way. It should not be for the Senator from Massachusetts, the Senator from New York, the Senator from Michigan, and the Senator from Minnesota to help them find their way; they should find it themselves. But they have lost their way, and the Senator from Massachusetts has stated it exquisitely, which is we are going to send them back on the path of innovating, of creating new wonderful drugs, of doing good for society, and making money as they do it. We want them to do that. But we want them to add value, we want them to cure new diseases, not simply find a new color of a pill that already cures a disease. We want them to find new techniques.

We are sending them in the direction they started, but they have lost their way, and the smart ones in the industry know. I hear it whispered. They are letting the worst ones, the bad apples who will do anything, extend their profitability even if they do not have a new drug in their closet. They are letting those people lead and, in a sense, what we are saying is: Go back to your sacred mission. Go back to the mission of finding new cures and finding new drugs, and not only will you make money, but you will be proud of what you do.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SCHUMER. I will be happy to yield to my colleague.

Mr. KENNEDY. On this point the Senator makes—and I hope our colleagues will listen—we will put in the RECORD the exact figures, but if one were to look at a chart for new drugs and innovation, one would see that chart rising and rising, going up and up until almost the passage of the Hatch-Waxman bill. From that time, the innovations have gone down. It is the darndest thing we have ever seen.

I was absolutely startled by this. This might have been maybe one or two circumstances, the evergreening process which the Senator has outlined.

On the Senator's point about getting these drug companies back to doing what we had all hoped they would do and we know they can do and hopefully will do, every one of us have family members who benefit from these innovations, but we find that is not where they are going.

We have doubled the NIH budget, $33 billion, $34 billion a year. We doubled that over a period of time. Why did we double that at a time of scarce resources? The reason we doubled it is because Democrats and Republicans understood this is a life science century, and it is unlimited in its ability. It seems everybody knows this except the drug companies. That is what has been disappointing.

I thank the Senator again for outlining the basic provisions which, as he has mentioned, bring us back to ground zero. They bring us back to what was achieved with the Hatch-Waxman period, and does that to eliminate the collusion which is taking place and the gimmicking of the system which basically means higher prices for consumers. That is the challenge.

If others have better ways of doing it, I am sure the Senator will agree, let's do it, but we did not see that. My friend from Minnesota, Senator WELLSTONE, was in that markup. We did not hear other ways of doing it. All we heard was more delays, more delays, objections, objections, objections. That is because clearly there are billions of dollars at stake. We are talking about billions of dollars of profits for certain of these companies. No wonder they are out here in force trying to resist the Schumer proposal.

I thank the Senator for his excellent presentation.

Mr. SCHUMER. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleague from Maine, and I know the Senator from Michigan is here, I will actually be very brief. This will not be a typical WELLSTONE speech. I only have about 10 minutes. I say to the Senators from New York and Massachusetts, I very much enjoyed their discussion. I thank the Senator from New York for his leadership on this issue.

I remember, I say to Senator SCHUMER, during my years here two very humorous situations; one especially where somebody tried to extend the patent for Lodine. I actually found out about this, and I think Senator KENNEDY was also involved in trying to get to the bottom of it. It was in the language of the bill, but nobody would take credit for it. Nobody would take credit for having done this, although obviously somebody put in the language. It was you laugh or you cry—the whole notion that we can extend the patent and it does not go generic and they make a lot of money. But who gets hurt as a result?

The same thing has come up with Claritin as well. This is a no-brainer of where 99 percent of the people of the country are, that is for sure.

The only issue on which I disagree with my colleague from New York—and I am sorry to be the one more hard hitting on this, and I do apologize—I do not know that the pharmaceutical companies have lost their way—as in recently. As I go back—Senator KENNEDY probably knows the history better than I do—I have done a lot of reading about Estes Kefauver in the early fifties. He took on the pharmaceutical industry, and they took him on.

David Pryor, am I not correct, really did this? We have been battling it out with him for a long time. This is an industry that has been making Viagra-like profits, if I can say that on the floor of the Senate. It would be funny and a little cute to say it, except that what this really means is people cannot afford the prescription drugs, at least the people I represent.

This legislation is very important. I know Senator COLLINS has worked very hard on it. There is quite a bit of bipartisan support. I had a chance to speak earlier this morning about other provisions. I heard Senator GRAHAM speak earlier. Senator KENNEDY has spoken about it.

I want to say one thing about two other pieces of this in about 4 minutes. One is on this whole question of, how are we going to make sure there are affordable prescription drugs? I think delivery is critically important. There is a world of difference between adding this on to Medicare and making it a defined benefit.

We are learning all about defined benefits versus defined contributions as people see what is happening to 401(k)s versus the language in the House bill that suggests this will be the deductible and suggests this will be the premium but, frankly, there is no guarantee of it. This needs to be a defined benefit, and it does need to be a part of Medicare. We ought to at least agree on that.

Then I think there are going to be these trade-offs as to how much money versus how good is catastrophic coverage. I am sorry to go sort of populist on everyone, but I think I heard the Senator from Florida say earlier that for those of us in the Senate and the House—and we make pretty darn good salaries compared to the vast majority of the people we represent—something like 80 percent of our prescription drugs are covered. We might pay 20 percent; and that is it. It seems to me we ought to do as well for the people we represent.

My dream is to someday be in the Senate when we are debating Medicare for all. That is what I want to get back to. I almost think the people we represent should have as good a plan as we have through the Federal Employees Health Benefits Plan. But that is another debate for another time.

I cannot imagine how any of us could support any legislation that says when it comes to catastrophic expenses, after someone is over $2,000 a year—the very point where people are hurting—then we say we are not going to give any coverage, not until they get up to $3,700. That is nonsense. People say: What do you mean? One of the things we want you to do is help us deal with what happens when our expenses go up year to year. That is the second point.

The third thing I want to mention is I am going to be doing a bill on the whole question of drug reimportation for the year, which Senator DORGAN has addressed. It could be Senator SNOWE and Senator COLLINS will be a part of this. I know Senator STABENOW is. We are going to have legislation or an amendment that deals with cost containment, and I want to say one more time it is a simple and straightforward proposition. We are coming out together, and I assume there will be some strong bipartisan support. I know I am going to do it with Senator DORGAN and Senator STABENOW, and I think there will be Republicans as well. Basically, what we are going to say is you use the same FDA strict safety guidelines, and our citizens ought to be able to reimport these drugs.

I want to give some examples, and then I will be finished, I say to my colleague from Maine.

Celebrex, which is used for arthritis: A bottle costs $84.95 in the United States and $30.99 in Canada.

Glucophage, a medicine for diabetes, costs $63.12 in the United States and $16.68 in Canada. Think about that. I will not do the arithmetic because people can figure it out.

Methotrexate, a drug for cancer: $51.03 in the United States, $17.30 in Canada;

Tamoxifen, a breast cancer drug: $287.16 in the United States, $24.78 in Canada—same bottle, same dosage.

Imagine that. There is nothing that infuriates people more in Minnesota, makes them believe they are more exploited and ripped off by this industry, than this sharp contrast in prices.

There is legislation that Senator DORGAN, Senator STABENOW, and I are going to introduce, as well as others—I do not want to speak for Senator COLLINS, but Senator COLLINS and Senator SNOWE have been real leaders on this issue. This does not ask the Federal Government to spend any more money. We do not have to run into that issue. We do not have to talk about how much it is going to cost. This will dramatically reduce the cost of prescription drugs for our citizens.

The only question is this, and then I will sit down: I can promise, once people know it is the same strict FDA guidelines, once we make it clear if anything ever happens, if this goes wrong, then emergency action can be taken—I will say to the Chair this will happen in Nebraska—90 percent of the people are going to say: Absolutely, this is the best kind of free trade, and we ought to be able to do this. We ought to be able to reimport, or our pharmacists should be able to do it. There is one interest that is going to be opposed—pharmaceutical companies. They are not going to like it. But at a certain point in time do we not say: Tough luck. This is going to be a test case of a vote of whether we are going to represent the people in our States, democracy for the many, or whether we are going to let the pharmaceutical companies stop it. It is that simple.

We had a 97-to-0 vote last night on legislation on which Senator SARBANES and others worked so hard. That was stuck in committee forever, and people finally said: We have had enough. Do you know what. People in the country said it. People in the country are beginning to say: We have had enough. We do not want the pharmaceutical industry to run the show. We want you, Senator, to be accountable to us.

That is what these votes are going to be about. This is going to be a test case of whether we have a real system of representative democracy working.

I have taken some positions where I know the majority of people do not agree with me, but not in this debate, not in terms of where the vast majority of people in all of our States are. Let us not disappointment them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. This week we have a tremendous opportunity to make progress on an issue that affects Americans of all ages, but particularly our elderly, and that is the high cost of prescription drugs. I hope by the time the end of next week comes along, we will have passed the tripartisan legislation to provide a prescription drug benefit under Medicare that is long overdue. I also hope we will pass the legislation to which we are about to proceed, and that is the Greater Access to Affordable Pharmaceuticals Act.

I commend my colleagues from New York and Arizona, Senator SCHUMER and Senator MCCAIN, for their leadership and hard work in bringing this issue to the forefront. I was pleased to have had the opportunity to join with my colleague from North Carolina, Senator EDWARDS, in offering a compromise in the Health, Education, Labor, and Pensions Committee last week where it was approved by a strong bipartisan vote.

I also acknowledge the hard work of our chairman, Senator KENNEDY, and our ranking minority member, Senator GREGG, on this issue.

During the last 20 years, we have witnessed dramatic pharmaceutical breakthroughs that have helped to reduce deaths and disability from heart disease, cancer, diabetes, and many other diseases. As a consequence, people are living longer, healthier, and more productive lives. These medical miracles, however, often come with hefty pricetags, raising vexing questions about how patients, employers, and public and private health plans can continue to pay for them.

Prescription drug spending in the United States has soared by 92 percent during the past 5 years to almost $120 billion. These rising costs are particularly a burden for the millions of uninsured Americans as well as for those seniors on Medicare who lack prescription drug coverage. Many of these individuals are simply priced out of the market or forced to make decisions—that no one should have to make—between paying the bills or buying the pills that keep them healthy.

Skyrocketing prescription drug costs are also putting a squeeze on our Nation's employers. We are struggling in the face of double-digit annual premium increases to continue to provide health care coverage for their employees. I know from talking to the small businesses in my State, these escalating costs are a real problem for our smaller employers. They want to continue to provide health insurance coverage for their employees but they simply are finding it increasingly difficult to do so. If they pass on the higher health insurance costs to their employees, more and more of the workers deny coverage. They decline coverage because they cannot afford their share of the premium.

One of the key factors behind the escalating costs of health insurance is the high cost of prescription drugs. These high costs are also exacerbating the Medicaid funding crisis that we hear about from our Governors back home as they struggle to bridge the growing shortfalls in their State budgets.

The Presiding Officer and I have been working very hard on a proposal to increase the Federal match for Medicaid funding to help our Governors and our families, who are so dependent on these services, cope through this difficult time when States are struggling with budget shortfalls.

In 1984, the Hatch-Waxman Act made significant changes in our patent laws that were intended to encourage pharmaceutical companies to make the investments necessary to develop these miracle drugs. At the same time, the legislation was intended to enable their competitors to bring lower cost generic alternatives to the market. In large measure, the Hatch-Waxman Act succeeded.

Prior to Hatch-Waxman, it took 3 to 5 years for generics to enter the market after the brand name patent had expired. Today, lower cost generics often enter the market immediately upon the expiration of the patent. As a consequence, consumers are saving anywhere from $8 billion to $10 billion a year by purchasing generic alternatives.

Moreover, there are even greater potential savings on the horizon. Within the next 4 years, the patents on brand name drugs, with combined sales of $20 billion, are set to expire. If the Hatch-

Waxman Act were to work as it was intended, consumers should expect to save between 30 to 60 percent on these drugs as the lower cost generics become available after the patents expire.

However, despite its past successes, it is becoming increasingly apparent that the Hatch-Waxman Act has been subject to serious abuse. While many pharmaceutical companies have acted in good faith, there is mounting evidence that some brand name and generic drug manufacturers have attempted to game the system in order to maximize their profits at the expense of consumers. News reports, for example, have detailed how the manufacturer of the lucrative drug Prilosec, the patent on which was set to expire last fall, has used the automatic 30-month stay under the Hatch-Waxman Act to tie up generic manufacturers in court, in litigation, over secondary patents in order to keep the generic version of the drug off the market.

In the year 2000, Prilosec was the best selling drug in the world and generated an estimated $4.7 billion in U.S. sales. The Medicaid Program in Maine spent over $8 million on Prilosec in the year 2000. This bill could be cut in half if the generic alternative were available. So instead of the State of Maine spending $8 million on Prilosec if the generic were available, as it should have been last fall, the State of Maine would save about $4 million. That is much needed money that could be put into other health care services.

I mention that because that is just one drug. But that illustrates what happens when a brand name manufacturer exploits the loopholes in the current law to delay consumers access to the generic equivalent. That is just wrong.

It is no wonder that this legislation is supported by a broad coalition representing Governors, insurers, businesses, organized labor, and individual consumers who are footing the bill for these expensive drugs and whose costs for popular drugs such as Prilosec would be cut in half if the generic alternative was available when it was supposed to have been. We are not talking about infringing on the legitimate patents that protect the innovative drugs developed by pharmaceutical companies. We are talking about eliminating abuses that we are finding increasingly prevalent where the brand name manufacturer exploits the loopholes in the current law by engaging in excessive litigation for the sole purpose of keeping the generic off the market.

I ask unanimous consent that letters from the Business for Affordable Medicine and the Coalition for a Competitive Pharmaceutical Market expressing support for the Edward-Collins compromise approved by the committee be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Ms. COLLINS. Mr. President, I was also disturbed by the testimony of the chairman of the Federal Trade Commission before the Senate Commerce Committee. He testified there were a number of examples where the branded and generic drug manufacturer actually conspired to game the system and attempted to restrict competition beyond what the Hatch-Waxman Act intended. One case cited in the chairman's testimony involved the producer of a heart medication which in early 1996 brought a lawsuit for patent and trademark infringement against the generic manufacturer.

This is what happened. Instead of asking the generic company to pay damages, the brand name manufacturer offered a settlement to pay the generic company more than $880 million in return for keeping the generic drug off the market. So the brand name manufacturer essentially conspired with the generic manufacturer and paid off the generic manufacturer to keep the cheaper generic alternative from coming to the market.

The consequences for consumers were considerable. This heart medication, which treats high blood pressure, chest pains, and heart disease, costs about $73 a month but the generic alternative would have cost only $32 a month. The compromise legislation that we will soon consider will make cost-effective generic drugs more available by restoring the original intent of the Hatch-Waxman Act and by closing the loopholes that are delaying competition and slowing the entry of generics into the marketplace.

First, as amended by the Edwards-Collins compromise, the legislation would limit brand name manufacturers to a single 30-month stay for patents listed at the time of the brand product approval. Now, this will eliminate the brand manufacturer's ability to stack multiple and sequential automatic 30-month stays during patent litigation in order to keep generics off the market and extend their market exclusivity indefinitely. That is one of the primary abuses that our proposal would end.

It will help ensure that key patent issues are adjudicated before the generic goes to market, while at the same time ensuring that improper late listed patents are not able to obstruct market competition.

We heard in committee examples of the brand name manufacturer making extremely minor changes, such as in the color or the design of the packaging or the scoring of the pill that really did not indicate a different or improved use for the product but, rather, were devices intended to keep the generic off the market for a while longer.

For subsequent patents for which no automatic 30-month stay is available, a brand name company can still obtain a preliminary injunction based on merit to protect their patent rights and keep the generic product off the market if it is justified, if there truly is a legitimate patent issue. However, in too many cases we found there is not a legitimate patent issue. This is just an abuse and an exploitation of the loopholes in the current patent law.

Moreover, our legislation stipulates that the court is not to consider the possible availability of monetary damages when it is deciding whether or not to grant injunctive relief. This provision is intended to address the concern expressed by the brand name pharmaceutical companies that it is difficult to obtain injunctive relief in patent litigation because it is the court's view the treble monetary damages involved in these suits as an adequate remedy.

Second, the legislation will prevent the current 108-day exclusivity provision of the Hatch-Waxman Act from becoming a bottleneck for subsequent generic competitors. Under Hatch-Waxman, the first generic drug company to file an application with the FDA certifying that the patents on the brand name product are either invalid or will not be infringed is now granted 180 days of market exclusivity, once its application is approved. Entry to the market for other generics is therefore frozen until the 180-day period runs out on the first-to-file.

This provision has made it attractive for the kind of abuse that I mentioned earlier, and that is where a brand name manufacturer pays the first-to-file generic company to stay off the market.

What that results in is nobody else can come to market, under the current law, during that 180-day period. So you can see how that is abused, when the brand name firm pays the generic manufacturer to essentially forfeit that 180 days of exclusive market rights.

Under our legislation, the first generic applicant would forfeit that 180 days of exclusive market rights if it failed to go to market during that time, or entered into an agreement with a brand name company that the FTC determines to be anti-competitive. I think that would help end or eliminate altogether the kinds of deals between the brand name manufacturer and the generic manufacturer that are such a disservice to consumers.

The original Hatch-Waxman act was a carefully constructed compromise that balanced an expedited FDA approval process to speed the entry of lower cost generic drugs into the market with additional patent protections to ensure continuing innovation.

Regrettably, however, the law now needs to be strengthened and reformed so we can eliminate the abuses that we are seeing. This bipartisan compromise bill restores that balance by closing the loopholes that have reduced the original law's effectiveness in bringing lower cost generic drugs to market more quickly. Increasing access to these lower cost alternatives is all the more important as we begin work to provide an affordable and sustainable Medicare prescription drug benefit.

Mr. President, I urge all our colleagues to join me in supporting this legislation. It will do a great deal to make prescription drugs more affordable by promoting competition in the marketplace and increasing access to lower price generic drugs.

I yield the floor.

EXHIBIT 1

COALITION FOR A COMPETITIVE
PHARMACEUTICAL MARKET,
*Washington, DC, July 10, 2002.*

Hon. EDWARD M. KENNEDY,
*Chairman, Senate Health, Education, Labor and Pensions Committee, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: As a broad-based coalition of large employers, consumer groups, generic drug manufacturers, insurers, labor unions, and others, we are writing to advise you of our strong support for the Edwards/Collins amendment to S. 812, the Greater Access to Affordable Pharmaceuticals Act. We believe it is critical that Congress act this year to pass legislation that would eliminate barriers to generic drug entry into the marketplace. The legislation you will be marking up today clearly would accomplish this long-overdue need.

Prescription drug costs are increasing at double-digit rates, and clearly are unsustainable. Current pharmaceutical cost trends are increasing premiums, raising co-payments, pressuring reductions in benefits, and undermining the ability of businesses to compete in the world marketplace. We believe that a major contributor to the pharmaceutical cost crisis is the use of the Drug Price Competition and Patent Term Restoration Act of 1984 clearly in ways unanticipated by Congress, which effectively block generic entry into the marketplace. The repeated use of the 30-month generic drug marketing prohibition provision and other legal barriers have resulted in increasingly unpredictable and unaffordable pharmaceutical cost increases.

Although the compromise amendment being offered today does not totally eliminate the 30-month marketing prohibition provisions, as would be our preference, it does make important process changes that will lead to a more predictable, rational pharmaceutical marketplace. We recognize that compromises have been necessary to garner the support of a majority of the Members of the Committee and appreciate your leadership and the hard work of your staff. However, we would strongly oppose any additional amendments that would undermine the intent of this legislation by further delaying generic access or reducing competition and increasing costs to purchasers. We also remain opposed to legislation that would increase costs to purchasers either through extended monopolies or unnecessary and costly litigation.

We are convinced that the legislation you are advocating will make a major difference in increasing competition in the marketplace and enhancing access to more affordable, high quality prescription drugs. We look forward to working with you and other Members of the HELP Committee to ensure that this important legislation is enacted this year.

The Coalition for a Competitive Pharmaceutical Market is an organization of large national employers, consumer groups, generic drug manufacturers, insurers, labor unions, and others. CCPM is committed to improving consumer access to high quality generic drugs and restoring a vigorous, competitive prescription drug market. CCPM supports legislation eliminate legal barriers to timely access to less costly, equally effective generic drugs.

CCPM Participating Members: American Association of Health Plans; Aetna; Anthem Blue Cross and Blue Shield; Blue Cross and Blue Shield Association; Caterpillar, Inc.; Consumer Federation of America; Families USA; Food Marketing Institute; Generic Pharmaceutical Association; General Motors Corporation; Gray Panthers; Health Insurance Association of America; IVAX Pharmaceuticals; National Association of Chain Drug Stores; National Association of Health Underwriters; National Organization for Rare Disorders; Ranbaxy Pharmaceuticals; TEVA USA; The National Committee to Preserve Social Security and Medicare; United Auto Workers; Watson Pharmaceuticals; and WellPoint Health Networks.

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BUSINESS FOR AFFORDABLE MEDICINE,
*Washington, DC, July 10, 2002.*

Hon. SUSAN COLLINS,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR COLLINS: The Business for Affordable Medicine coalition encourages you to support the Edwards-Collins amendment to the 1984 Drug Price Competition and Patent Term Restoration Act (Hatch-Waxman Act).

The Senate Health, Education, Labor and Pensions Committee is scheduled to vote today on legislation to close loopholes in the Hatch-Waxman Act that delay competition and prevent timely access to lower-priced generic pharmaceuticals. Your vote for the Edwards-Collins amendment will ensure genuine reform for all Americans who face barriers to affordable medicine.

BAM members hope to continue working with the Committee and the Administration on appropriate enforcement mechanisms that avoid unnecessary and costly litigation.

Consumers and institutional purchasers (including employers, and federal and state governments) can no longer afford the anti-competitive practices that are made possible by loopholes in the Act. Now is the time for Congress to restore the original intent of the Hatch-Waxman Act—no more gaming of the system at the expense of purchasers across America.

Please take a moment to review the attached information, including a letter from BAM member governors outlining their concerns about this costly issue and the need for real reform. For more information about BAM, please visit our webswite at www.bamcoalition.org.

Thank you for your assistance in making Hatch-Waxman Act reform a reality during the 107th Congress.

Sincerely,

JODY HUNTER,
*BAM Co-Chair, Director, Health and Welfare, Georgia-Pacific Corporation.*

The PRESIDING OFFICER (Mr. MILLER). The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I appreciate the opportunity to speak once again on this very important topic of lower prices of prescription drugs and providing real Medicare prescription drug benefit. I join my colleague in speaking to the fact that we need to pass the bill that came out of the committee to close generic loopholes and stop the drug companies from gaming the system. I think everyone should be commended for bringing this to the floor. I appreciate the fact that they have done that.

The frustrating thing at this point is, despite the fact that there was an overwhelming bipartisan vote to bring this legislation to the floor so we could begin to add to it—add medicare prescription drug coverage, add other ways to increase competition and lower prices—we come this week with great anticipation of this debate to work together and work out all the details after a vote of 16 people saying yes in committee to only 5 saying no, a bipartisan vote—we come to the floor last night, and a colleague on the other side of the aisle objects to us proceeding even to the bill.

Colleagues come and talk about concerns about working out details, which we want to do, we know we have to do, and we will do. But we are being stopped. In fact, the clock has been ticking since last night and we are not even able to bring this issue before the Senate. It is amazing to me that, with the importance of this issue and all the words that have been spoken on this floor and the House, during Presidential campaigns and all the campaigns that we have been involved with—we come to the moment of truth of being able to bring this to the floor for debate and, instead, we are seeing an attempt to stall. We are seeing an attempt to hold us up from proceeding. That is of great concern.

I have great respect for my colleague from New Hampshire, but I disagree with this approach, and I urge him to reconsider and give us the opportunity to bring this to the full Senate.

Mr. GREGG. Will the Senator yield?

Ms. STABENOW. I am happy to yield.

Mr. GREGG. Mr. President, I ask unanimous consent that we proceed to the bill; we vitiate the vote on cloture and proceed to the bill.

The PRESIDING OFFICER. The Senator cannot make such a request until he has the floor.

Mr. GREGG. Will the Senator yield for me to make that request? The Senator suggested I make the request. I am willing to make it.

Ms. STABENOW. I would be happy to yield.

Mr. GREGG. I ask unanimous consent——

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. I ask unanimous consent we vitiate the cloture vote and proceed to the bill.

The PRESIDING OFFICER. Is there objection? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is an interesting proposal. It is 5 o'clock in the afternoon now on Tuesday. We had the opportunity last evening to lay down the bill. We could have considered the amendments during the course of the day and made some real progress on it. But it was the determination of the other side not to permit us to do that.

Mr. GREGG. Regular order. Regular order, Mr. President.

Mr. KENNEDY. The regular order is——

The PRESIDING OFFICER. Does the Senator object?

Mr. KENNEDY. I am reserving my right to object.

Mr. GREGG. Regular order. I ask for regular order.

Mr. KENNEDY. Mr. President, I understand that under the regular order, I have a right to object, and I——

The PRESIDING OFFICER. The Senator has a right to object. But not make a speech.

Mr. KENNEDY. Pardon? No?

Mr. GREGG. I ask for regular order. Either objection should be or not be made.

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. Objection is heard. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we had the opportunity to go to this bill last evening. We have been waiting here all day long in order to take action on this legislation. Legislation that can have a direct impact in terms of the cost of prescription drugs and also on coverage.

Now at 5 o'clock, the Senator comes here without any kind of notice and makes this request. I think the American people are entitled to know why, since the Senator from New Hampshire was the one who originally objected to bringing up the bill. I would be prepared to vote right now on whether to proceed to the bill if the Senator wants to call off tomorrow's cloture vote.

But if the Senator is objecting to the bill on substantive grounds last night, I think the American people are entitled to know where their Senators stand on considering this legislation. If the Senator wants to do it tonight, that is fine with me. If he does not care to do it tonight, we will follow the regular order and tomorrow when the roll is called—as it will be done here in the Senate—when the roll is called, we will find out. The American people will find out who believes we ought to move ahead with this legislation. That is the way it should be.

There has been objection raised to the majority leader to moving ahead. Now I think, since this issue has been raised during the course of the debate, during the course of the day, the American people are entitled to know who is going to be for this particular legislation.

That is why I have raised that issue.

Mr. SCHUMER. Will the Senator yield for a question?

Mr. KENNEDY. I believe I have the floor.

The PRESIDING OFFICER. The Senator has the floor.

Mr. KENNEDY. Mr. President, I think it is wise, if we are going to conduct our activities, that we do it in the light of day rather than the twilight of the evening. We ought to have the chance to have an open kind of a process. We have the Senator from Michigan here who has been waiting to make an excellent presentation. I was engaged in a conversation with my friend and colleague from Maine about this. Suddenly, there is a unanimous consent request to just go ahead with the legislation.

I think we ought to conduct a full debate on this issue, which is of such importance and consequence to families across the country in terms of the cost, availability, and accessibility of prescription drugs. And we ought to do it in the light of day. We ought to have a good debate on this issue.

But since there has been objection to the majority leader proceeding to this issue, because evidently the Committee did not conform to the understandings of certain Senators, and there has been objection raised from that side of the aisle during the course of discussion and debate, I am going to insist that the Senate go ahead and have a roll call vote. We are going to vote on this. And the American people will understand who is for moving ahead with this legislation and who is not. Hopefully, we can then make progress on this legislation. We will consider amendments and begin the substance of this debate rather than just the general debate.

I would be glad to yield to the Senator from New York. I believe I have the floor. The Senator from New York has asked for me to yield for a question.

Mr. SCHUMER. I thank the Senator. I appreciate his yielding. I want to make an inquiry of him. I am, in fact, in accord with what my friend from Massachusetts said.

We have now spent all day today. We could have spent it debating amendments and moving the bill forward. We might have even been able to go forward on Friday. All of a sudden, after all of this, when we can't accomplish anything, when we can't accomplish amendments, our good friend from New Hampshire comes up and says: Never mind.

Well, there is a reason we think we ought to have a vote. We ought to see where people are. We ought to avoid this from happening another time. What if it happens again 2 days from now? What if there is an amendment that gets somebody upset and they decide to filibuster again? Then we are in the middle of debating access, or in the middle of debating Canadian reimportation.

Let us see where the cards are. Let us see if there was a real reason to delay and delay and delay. Let us see where the votes are. Do people really want a delay? This idea of spending a whole day—I don't mind it. I like this issue. I have fun talking about it. I think it is good that the American people hear about it. But I would rather be voting on amendments. I would rather be crafting legislation. I would rather be reducing the cost of drugs to my constituents from Buffalo to Montauk from Plattsburgh down to Brooklyn.

I completely agree with my friend from Massachusetts. If you want to have a vote now so we can avoid these games in the future, by all means. But if you don't want to have that vote now, then let us wait until tomorrow. Let's have a vote on this. God knows we have spent enough time debating the issue.

I thank him for making that point so well and so forcefully.

Mr. KENNEDY. I see the Senator from Michigan has asked to be recognized. I yield to her.

Ms. STABENOW. Mr. President, I appreciate very much having the opportunity as well to raise the issue. I appreciate how our friend wants to move ahead with this issue. But we certainly want to make sure we have a vote so that we know that in fact we can proceed.

I ask of our leader, the Senator from Massachusetts: In order for us to guarantee that we can proceed and that this will not happen again in the future, is it his assumption that it is best for us then to move ahead to a vote so we may guarantee in fact, as my friend from New York said, that we don't have this happening again and not just a series of filibusters in order to stop us from moving ahead on this important issue?

Mr. KENNEDY. I thank the Senator. I intend to yield the floor. I will insist on the regular order so that we have a chance to vote on this tomorrow.

I see my friend and colleague, our leader from Nevada, wishes to address the Senate. Obviously, I would follow the leadership in terms of when that vote would occur. If the request is that we move ahead with a vote this evening, I will certainly support that proposal.

(Several Senators addressed the Chair).

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, crocodile tears are being shed here, I see. We agree to vitiate the vote. But we didn't want to vitiate the vote. We agree to proceed to the bill. We don't want to proceed to the bill. All day we heard about how outrageous it was that we were having to go to a vote. Suddenly, crocodile tears appear to be shed early today.

My reason for suggesting that we vitiate the vote was in response to the specific comments of the Senator from Michigan. The Senator from Michigan came to the floor and called upon me by name and by State to proceed with the bill. That is what the Senator from Michigan called upon me to do.

I ask if it is possible to read back the statement the Senator from Michigan made just prior to the most recent exchange.

The PRESIDING OFFICER. The statement would have to be obtained from the Official Reporters.

Mr. GREGG. I will represent—and hopefully people will take the representation as accurate—that the Senator from Michigan was on the floor asking why I was slowing the bill down and called on me to——

Ms. STABENOW. Will my colleague from New Hampshire yield?

Mr. GREGG. I would be happy to yield for a question.

Ms. STABENOW. I was here at 10 o'clock this morning asking that, and I think it would have been very appropriate if you had been here at 10 o'clock this morning. We would have welcomed that. We have all day been asking that. Now we are at a point where I think the concerns of my friend——

The PRESIDING OFFICER. The Senator from New Hampshire yielded for a question.

Ms. STABENOW. I ask why you were not with us this morning. We have been asking all day.

Mr. GREGG. I appreciate that question. I wasn't here this morning when you asked that question. But there is a tempo to this body. And the tempo involves putting on the RECORD the reasons this bill was, in my opinion, being brought forward in a manner which was inconsistent with the agreements which had been reached, in my opinion, within the committee.

There are two items that were represented as being fixed before the bill came to the floor, in my opinion. Neither of those items was corrected. The bill has had a very short shelf life. It was introduced last—we saw it for the first time, I believe, last Wednesday morning. It was passed last Thursday, and it was on the floor without a report on Monday.

During that period of it being passed in the committee on Thursday, there was an understanding between Senator EDWARDS and myself that part of the bill was incorrect and it would be fixed. Between Senator FRIST and Senator EDWARDS, there was another part of the bill that was incorrect which would be fixed.

For me, it seems inappropriate to move to the bill in such rapidity without having made that point—that point I spent a considerable amount of time making this morning and this afternoon, and which I am happy to continue to make.

But as a practical matter, I think the point has been made. I am willing to proceed to the bill, as the Senator from Michigan said. She came to the floor while I was here. I wasn't here this morning. Regrettably, I didn't hear your excellent speech. I am sure it was an excellent speech. But I was here to hear your last excellent speech. In response to it, I thought: Gee, let us proceed to the bill rather than have a vote tomorrow. We can have a vote tomorrow. I would counsel everyone to vote in favor of it, if they can.

Mr. SCHUMER. Will the Senator yield?

Mr. GREGG. I will yield in a second.

But the question was why I made this statement. It was because the Senator from Michigan asked me. I was stunned, startled, and surprised by the Senator from Massachusetts who, upon—and I understand that he was in a conversation and probably didn't hear the Senator from Michigan ask me. But had he heard the Senator from Michigan ask me, I am sure he would have said that is a reasonable response to the Senator from Michigan, I agree with it, and we should move to a vote.

I am also surprised that someone on the other side of the aisle is objecting to proceeding to the issue without a vote. If that is the case, that is the case; so be it; let us have the vote tomorrow. But if you want to proceed to the issue right now, I am perfectly willing to do that without a vote.

Mr. SCHUMER. Will the Senator yield for a question, my good friend?

Mr. GREGG. I will yield for a question. I am sure it will be an excellent question.

The PRESIDING OFFICER. The Senator from New Hampshire yields for a question.

Mr. SCHUMER. I thank the Senator. He knows from the days we played basketball together in the House gym that my questioning ability is about equal to my basketball playing ability—not very good. But I would simply ask him a question.

If he wishes to move to the bill, and understanding that some of us feel a little grieved that we debated this all day, why would he object to us having a vote right now and then moving to the bill?

Mr. GREGG. I would answer the question, because my colleague from New Hampshire is in New Hampshire attending a funeral. I would otherwise be happy to move to the vote right now.

I renew my request that we proceed to the bill.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I object.

The PRESIDING OFFICER. There is objection.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire still has the floor.

Mr. GREGG. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I have the opportunity to spend a lot of time on the floor and I see what goes on here more than this very important piece of legislation dealing with prescription drugs. For months and months, I have seen this. I have watched what has gone on. And it does not matter whether it is election reform, whether it is the energy bill, whether it is terrorism insurance, the supplemental appropriations bill, the Department of Defense authorization bill, or, as a couple hours ago, trying to move to military construction appropriations, it does not matter what we do, we cannot do it because they will not let us.

This is no different. And the answer is, you know, we can talk about: Sure, let's do it today. We will do it right now—after we have wasted actually 2 days—not 1 day, 2 days. Today is Tuesday.

This is the same on every piece of legislation with which we deal. And the reason is they do not want us—"they," meaning the Republican minority, do not want us to deal with this legislation—this legislation, election reform, energy, terrorism insurance, the supplemental, DOD authorization.

And the game does not stop with cloture on getting the bills to the floor with a motion to proceed. It is one thing after another. No, they don't want a 3-to-2 breakdown on the conference committee. They want 4 to 3. Or it doesn't matter what it is, we can't do it right.

But, Mr. President, we have the ability to persevere. And we have been able to pass election reform in spite of their not wanting us to go to it. We have been able to pass an energy bill in spite of their not wanting us to go to it. We have been able to pass a good terrorism bill in spite of not being able to get to it for weeks and weeks and weeks. We have passed a supplemental bill that is a good bill. The Department of Defense authorization bill is a good bill.

We have the ability to persevere and we are going to do it on prescription drugs. They can stall us for days. That is what this is all about, the big stall. That is one thing I have learned. I know what this is: stall, delay. And, of course, the Senator from Massachusetts is absolutely right; that is all this is about.

I have the greatest respect for the senior Senator from New Hampshire. He is good and he knows Senate procedures. He served in the House and was Governor of New Hampshire. And he is now a Senator, senior Senator. He knows the rules. He knows they have gotten 2 days on us on this bill to prevent us from offering amendments. I would like to spend some time on the Graham-Miller legislation, which the vast majority of the Senate—Democrats—support. It is good legislation. We should have been debating that all day today, and started on it yesterday.

No, we will not be able to do it. And the word has come from the other side that the minute it comes up—the minute it comes up—they are going to raise a point of order. And so the longer they stall on that, the less opportunity it will give us to talk about substantive issues.

So I am not surprised. This is the way it has been. They are going to continue to do this because they do not want the Senate Democrats to have victories. And we are having them in spite of having to fight every step of the way—every step of the way—to get where we need to go.

Mr. GREGG. Will the Senator yield for a question?

Mr. REID. I am happy to yield to my friend from New Hampshire for a question.

Mr. GREGG. I am willing to give you a victory. I am saying: You win. Proceed to the bill.

Mr. REID. Let me respond to my friend. I also understand this, that you have stalled for 2 days, at least. I think we can count Friday as another stall day.

Mr. GREGG. The bill wasn't passed until last Thursday.

Mr. REID. You stalled for 2 days. And here we now have a situation where, after having wasted 2 days, we now are in a situation where you say: OK, let's just go to it.

It is 5 o'clock tonight. You have told us your friend in New Hampshire has a funeral. I also spoke to our colleague from New Hampshire. He said: Do you think there are going to be any votes? I said: It looks like you're not going to give us any votes. I said: I would hope we would have a vote on military construction. Right out here at about 2:30 today he and I visited.

So I say your statement that our colleague from New Hampshire is at a funeral—I am glad he is attending a funeral. I am glad he was able to go there. I think it is the right thing to do. But what I say, if going to a funeral isn't an excuse for missing a vote, there isn't one that exists in the world. So I think that is a very poor excuse for our not voting on this tonight.

If, in fact, you want us to go forward, I ask unanimous consent that we vote on cloture right now. Let's say at 5:45. Give people an opportunity to get here. We vote. I will spread on the RECORD that anyone who questions the junior Senator from New Hampshire not being here for the vote—I will personally campaign against that person and say that it is wrong for anyone to raise that as an issue.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, I would actually note I am actually the junior Senator from New Hampshire. But independent of that subtlety——

Mr. REID. Let's say, you don't act like the junior Senator.

Mr. KENNEDY. Not all the time.

Mr. GREGG. Let me make the point, we do not need a vote because I am willing to agree to go to this without a vote. But if we are going to have a vote, let's have it when it was originally scheduled, which is tomorrow at 10:30 or 9:30, whatever it was. So I would object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I say to my friend from New Hampshire, we have had people who have told us they didn't want us to go forward. And I think they should be called here and cast a vote and see how—I don't like to use words like this, so I will not use the word "phony"—let's say deceptive.

Here they are now. They are saying: We aren't going to let you go to this, but we don't want to vote on it. I want them to vote on it. Probably the vote will be 98 to 0. We will show how fallacious and foolish and wasteful it was not allowing us to go forward on this anyway.

Mr. GREGG. If the Senator will yield for a further question, I think the Senator's knowledge of process around here certainly exceeds mine and, obviously, it borders on genius. And, therefore, I suspect the Senator knows there are ways in which to get one's point across in this institution which involve procedural activities.

My purpose in raising this issue was to get my point across, that I believed the bill was coming to the floor without having been adequately structured as to how it was going to leave the committee. Now, I made my point. I am happy to move on without a vote. There will be a vote tomorrow, if you wish to have it, and it will probably be 98 to 0.

Mr. REID. Does my friend have a question?

Mr. GREGG. My question is, Why do you need a vote?

Mr. REID. For the reasons that have been outlined, in detail, by the Senator from Massachusetts, and by me.

So I ask unanimous consent that the cloture vote on the motion to proceed to Calendar No. 491, S. 812, occur at 10:30, Wednesday morning, July 17, and that the time until the cloture vote be equally divided and controlled between Senators KENNEDY and GREGG or their designees; and that the mandatory quorum under rule XXII be waived; that immediately following the vote, if cloture is invoked, the motion to proceed be agreed to, and the Senate begin consideration of S. 812.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, the majority leader has asked that I announce there will be no more votes today.

I would say, after having said that, that is really too bad. What a time to do military construction today. We would take 20 minutes, plus 45 minutes. We would finish that bill and send it to the President.

Now, I would say that my friend from Arizona complained because he wants firemen. I have checked with Nevada. I will be very brief. I know people want to talk on prescription drugs, which they should, but in Nevada—you know, my friend from Arizona is complaining he wants to make sure there is going to be money to fight these fires—we have the Mud Springs fire covering 4,000 acres; Eagle fire, 10,000 acres; Buckeye fire, 850 acres; Ellsworth fire, 1,200 acres. They are burning right now—the Belmont fire, 650 acres; Cold Springs fire, 1,000 acres; Adobe fire, over 500 acres; Bridgeport fire, 250 acres; Pony Trail fire, 100 acres; Lost Cabin fire, 1,500 acres.

I am willing to do what we always have done: Wait until the money comes forward in the Interior appropriations bill. We have already established that the President should push this in the supplemental. He has not done that. Maybe he will do that. That is no excuse, no reason for not going forward with this bill.

As I outlined following Senator KENNEDY's statement, it is a sham. Everything we do here is an ordeal. It is an ordeal to get money to take care of construction needs for our military around the world. I repeat, election reform, energy, terrorism, supplemental appropriations, DOD, the corporate security bill, whatever it is, the big stall takes place. And we are able, in spite of that, to work our way through the system and declare some victories for the American people. We are going to continue to do that.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will just take a minute or two, and hopefully the Senator from Michigan will be able to complete her statement. She has been here all day long. She has yielded to all of the interventions. She has a determination that cannot be matched, but she also has patience and grace that can't be matched either. I will just take a moment, and hopefully she will be recognized.

Just as a general matter, this legislation is enormously important. We have all said that during the course of the day. I hope at the start of the substantive debate we can have a sense of civility about how we are going to proceed. If there are legitimate kinds of concerns, as expressed by the Senator from New Hampshire about being unwilling to permit the Senate to move forward, I will take those. I don't agree with them, and I think they are misplaced for reasons I have outlined, but I can understand those. Then we are going to play by the rules.

But I would hope, as we begin this extraordinarily important debate and discussion, that we will free ourselves from gamesmanship and surprises. Let's try and deal with this important issue. Let's share our amendments if we are going to call them up. Let's get back to a sense of civility. People have strong views. This is enormously important. The underlying legislation and these amendments are incredibly important.

People are entitled to have the full attention and consideration of the Members of this body and to be free of the gamesmanship that too often takes place. I hope at the start of this, we will have that as a basis on the way to proceed. I think the American people expect no less. There has been objection, as has been pointed out, to our considering this. This is too important. The American people will see with tomorrow's vote on the will of the Senate, whether this legislation is flawed in some way or whether we ought to proceed to it.

As the Senator from Nevada has pointed out, we are prepared to have that vote this evening as a roll call vote, so that the American people can see, after listening to this debate all day long and after the allegations and charges that were made about the incompleteness of the legislation, whether there are substantial Members of this body who don't feel we ought to go ahead, or whether the majority believe we should go ahead.

At the beginning of this debate, which will take some time and is very important, let's hope we can proceed in a way that is worthy of this institution.

I thank the Senate.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to comment on some of the remarks of the majority whip and some of the comments of the chairman of the committee with respect to this legislation.

No. 1, the junior Senator from New Hampshire has every right, as ranking member of the committee, to be outraged at the way this bill was brought to the floor. It is my understanding, listening to him today and from the discussion in committee, that there were certain commitments made with respect to bringing this bill to the floor. The fact is, the reason we have seen delays on the floor on the energy bill, the terrorism insurance bill, election reform, a variety of other bills, was because those bills had bypassed committees. They had been brought straight to the floor.

Now we are talking about another bill, the Medicare drug bill, which will be amended, attempted to be amended, to this underlying bill that will be bypassing the committee and brought straight to the floor. What is the underlying bill? A bill that was introduced on Thursday and now is on the floor. No one had seen it. I am still trying to understand this legislation. It is very technical, very complex. It is very important to my State, in which there is a lot of drug manufacturing. I am still trying to understand the complexity of what this bill actually does. It is here on the floor, and we are asked to just move ahead.

The Senator from New Hampshire had some understanding of what was going to be changed. As you know, when you are marking up a bill in committee, markups are not about legislative language. There are concept documents that are then put into legislative language and brought to the floor. The Senator from New Hampshire had understandings and those understandings were not incorporated into this legislation.

The Senator from New Hampshire had a right to come to the floor and explain his dissatisfaction with this procedure. We have two procedures set up: No. 1, you completely bypass the committee; No. 2, you go through committee, and then you don't bring the bill out that you say you are going to from committee.

The Senator from New Hampshire simply wanted to make that point. As you know, in the Senate we have the opportunity to put a halt on things temporarily so you can make a point. The point is, procedurally this Senate is being run amok, whether it is the work now coming out of committee or, more often than not, it is the work that is not even done in committee.

I don't know why we have a Finance Committee, much less a chairman of the committee, because every important issue the Finance Committee has had to deal with this session has been bypassed. The committee has been bypassed.

Whether it is taxes or Medicare prescription drugs, I cannot think of any two issues more important—I also include trade—the three most important issues Finance deals with: trade, taxes, and health care—of the three major issues of this session of Congress, the Finance Committee and the chairman were simply bypassed. Partisan bills were brought straight to the floor.

Why are we discussing this underlying bill? They brought this bill up because this is the vehicle by which to talk about health care because they couldn't get their prescription drug bill through the committee. They couldn't get the Democrat prescription drug bill through committee because it is a partisan approach. It will get no bipartisan support. It has no scoring. It has not even been written yet. It is still being worked on.

The bottom line is, they couldn't get that through committee. Actually, the bill that would have come out of committee—I am fairly confident—the bill that would have come out of committee would have been a bipartisan bill. But it wouldn't have been a bill that the majority leader wanted. So he takes the gavel out of the hand of the chairman and runs the bill straight to the floor; that is, his bill. That is a partisan bill.

Why does he do that? We are still operating on last year's budget agreement. Last year's budget agreement requires two things of a Medicare prescription drug bill: No. 1, that it be within the budget amount, which I believe is $300, $350 billion in number—it has to be that number or under—No. 2, it has to be reported from the Finance Committee.

So here is the state of play now because we are playing politics with prescription drugs instead of trying to do prescription drugs. We are playing politics. Why? Because any bill that is offered in the Senate that provides a prescription drug benefit for seniors will be subject to a point of order which is 60 votes. Why? Because it was never reported through the Finance Committee. Why? Because the majority leader refused to let the Finance Committee mark up a bill.

So what has he done? He has set up a game where he has placed the bar so high that no benefit will pass the Senate. Why? Morton Kondracke answered that in Roll Call when he said it is obvious the Senate Democrats wanted the issue more than the prescription drug coverage for seniors. They would rather have the issue this fall than the drug coverage for seniors as soon as possible.

I have not been around that long. I have been around since 1991. But since I have been here in the House and in the Senate, I have noticed one thing: When it comes to dealing with the big issues of the day, particularly health care, taxes, Social Security, et cetera, by and large—particularly with Social Security and Medicare entitlements—you cannot pass one of these pieces of legislation without a bipartisan consensus. You cannot do it, and I argue that you should not do it. You should try to work together to get a consensus. If you are serious about getting a bill through the Senate on prescription drugs, you cannot bypass the committee, bypass bipartisan agreements, bring a partisan bill to the floor, play games of 60-vote points of order, and claim you tried and the other side blocked you from succeeding, which is exactly the way this is going to play out.

Let's have no illusions as to how this will end. This is not a serious discussion, folks, of getting prescription drugs for seniors. This is a serious campaign rhetoric debate about who is for seniors more, knowing full well, the way the game was set up, seniors will lose, no matter what happens.

If you were serious about getting a prescription drug benefit for seniors, you would take it through the Senate Finance Committee and they would do the work that should not be done on the floor of the Senate. You have folks on the Finance Committee who have waited years and years to get on that committee and have studied these issues very hard, such as the Senator from Massachusetts, who is an expert in the areas under the Labor Committee's jurisdiction. He is an expert. He has been working on these issues. This is his area of expertise in legislating. When the Finance Committee deals with welfare, taxes, trade, Medicare, and health care, this is their area of expertise. They work together. This is a dynamic. That is how committees work. They work together and find compromise. They understand the real intricacies of the issues, and they work together to knead together legislation that will work and come to the floor without all of the different problems that confront a virgin piece of legislation that is dreamed up in some back room somewhere.

That is how the process works to help the Senate do its work. You build consensus in committee. You get Democrats and Republicans working together to form agreements and coalitions, to bring a bill to the floor so you can continue that. That has all been thrown out the window. Why? This bill is about partisan politics. This bill is about the November election. This is not about providing prescription drugs for seniors.

This is really tragic. It is amazing to me that the Senator from Nevada would complain about losing 2 days. We are going to lose 2 weeks in the Senate. We are going to spend 2 weeks debating health care issues that, because of the procedure that has been set up, will never pass the Senate, because we have set up a procedure that is doomed to fail, we have set up a procedure that does not allow bipartisan cooperation.

We have a bill introduced by members of the Senate Finance Committee—a tripartisan bill—that would have passed the committee, that could have come to the floor. A lot of the problems already could have been worked out. We could have spent less time, not more time, here in the Senate. If we really wanted to do a prescription drug bill, we could have let the Finance Committee do its work and we would have had the issues narrowed as a result of that. We could have come to the Senate floor and worked together and tried to get a bipartisan bill that could be conferenced with the House, so we could get a Medicare prescription drug bill. But a prescription drug bill is a partisan issue now. That is the result of this procedure we have going right now.

I don't understand why we say we have lost 2 days. We just voted on the corporate accountability and accounting bill at 7 o'clock last night. We had amendments and debate going on up until then—which would be allowed. There were amendments that were not allowed to be offered. We had debate going on and we had 4 or 5 votes last night. So I don't know how we have lost 2 days. The Senator from New Hampshire, about an hour ago, said he would be willing to vitiate the vote. There has been plenty of time for Members to lay down amendments. I think I can stipulate for the record, if anybody on the other side would care to have the stipulation as a satisfactory admission on our part, the vote tomorrow will be unanimous to move to proceed to the bill.

I don't think there is any question that every Member on this side wants to proceed to the bill. We want to talk about prescription drugs. We want to have our ideas. We have three different plans on this side of the aisle that are supported by various Members. Senator SMITH from New Hampshire and Senator ALLARD have a plan, Senators ENSIGN and GRAMM have a plan, and the tripartisan plan that is supported by many Republicans, all of which I think bring a tremendous contribution to the debate. We will have good discussions about it.

I know the Senator from Nevada said he wishes we had the Democratic prescription drug bill up. I hope the Senator from Nevada offers that bill right out of the shoot. I hope we do have a vote on that tomorrow, or lay down that bill and have a discussion about it. I think it would be great.

Mr. REID. Will the Senator yield for a question?

Mr. SANTORUM. Yes.

Mr. REID. Would the Senator from Pennsylvania support, then, an up-or-down vote on the Graham-Miller bill that you just talked about? Do you want to debate that, and would you be willing to have an up-or-down vote?

Mr. SANTORUM. I think we should have up-or-down votes on every plan I just listed. If the Senator would agree to up-or-down votes on the tripartisan plan and the other two plans I just listed, which are serious legislative proposals, I think there would be no question you would easily get an agreement to have an up-or-down vote on the point of order on all of those.

Mr. REID. I am not talking about a point of order. I asked the Senator from Pennsylvania if he would give us an up-or-down vote on the Graham-Miller prescription drug benefit plan.

Mr. SANTORUM. Obviously, the procedure by which this bill has been brought to the floor has tainted this entire process. I believe, actually, the best chance we have to get the high-water mark—in other words, the most votes on any bill—will be the tripartisan bill because it has tripartisan support.

Mr. REID. So the answer to my question is no?

Mr. SANTORUM. Again, I suggest that you have created the atmosphere by which the point of order is available to some Members, and whether I agree or not doesn't matter. I think there will be Members on both sides of the aisle who will raise a point of order. Why? Because it is available. The Senator from Nevada knows full well if points of order are available, someone on this side—or the other side of the aisle, I might add—will raise a point of order. You have brought this bill to the floor by bypassing the Finance Committee. You have brought it with an instant point of order. That is the remarkable thing. You could have a prescription drug benefit bill that would cost $10, and if you brought that to the floor, it would have a budget point of order. Why? Because the budget says the bill had to come through the Finance Committee. So what we have done is set the bar where you now have to have every single Member of the Senate agree that this bill comes to the floor without objecting to it on a point of order.

As the Senator from Nevada knows, you hardly get anybody to agree to anything around here, much less a multibillion-dollar expansion of health care benefits, without having someone opposed to the legislation and then raising a point of order. So what we have done, as I said before, is set the bar so high that you have ensured that nothing will happen.

I will yield for a question.

Mr. REID. I would say that the bill we are working on here was reported out of the HELP Committee by a 16-to-5 vote; 5 Republicans voted to bring it to the floor. That is why we were so stunned when we weren't able to go to the bill. I also say that it appears to me that this bill didn't need to go to the Finance Committee; it was under the jurisdiction of the HELP Committee. But even if a bill went through the Finance Committee, it would still need 60 votes and we could raise a point of order on it.

Mr. SANTORUM. Mr. President, taking back my time I say not necessarily. It depends. If it were in the budget constraint and were not marked up in the committee, would it not be subject to a point of order?

Mr. REID. Being marked up in committee makes no difference whatsoever.

Mr. SANTORUM. That is not what last year's budget agreement says.

I also make the other point that, with respect to this bill—and you said you were shocked at the objection. I hope you listened to the Senator from New Hampshire in laying out what were legitimate complaints about the way this bill was brought to the floor, when certain assurances were given. As you know—and the Senator is a committee chairman and knows how markups work—certain assurances were made about issues being brought up in committee, and technical corrections or other corrections were "agreed upon." And then when the bill came to the floor, those changes were not made.

Mr. LOTT. Will the Senator yield?

Mr. REID. Mr. Leader, he asked me a question. May I respond?

Mr. LOTT. I will be happy to let the Senator respond, and then I want to ask a question.

Mr. REID. I will be very quick in responding to the question. I say to my friend, in response to the question—even though you had the floor and you asked me a question—this, as far as I am concerned, is one of those excuses I have talked about. The bill was reported in a bipartisan fashion out of committee.

My friend from New Hampshire, the junior Senator, said: You told me certain things. That is what the amendment process is all about. He said: It is technical in nature. This is just an excuse not to go to the bill. This is just an excuse not to go to the bill. We are wasting time that should be used on prescription drugs. That is what we have tried to establish today. We are wasting time when we should be dealing with the bill itself, not talking about technical amendments that should not be here. It is here, it is here on a bipartisan basis.

Mr. SANTORUM. Reclaiming my time, the Senator knows fixing legislation on the floor is a lot harder than having something in the base bill. The fact is, the Senator believed certain assurances were made and those assurances were violated. He wanted an opportunity to pause to make that case. Subsequent to him making that case, he agreed to vitiate the vote. In fact, he agreed to proceed to the bill over an hour ago, and he agreed to vitiate the vote a couple hours ago.

All I suggest is, if we were serious about moving to this legislation, having a discussion about prescription drugs, we could be doing that right now. We are in some degree doing that right now. We could be on an amendment. I hope the Senator from Nevada or somebody on his side puts down the Democratic proposal that we can have this debate, begin in earnest and have votes. I will be happy to yield to the leader.

Mr. LOTT. Mr. President, if the Senator from Pennsylvania will yield, let me clarify. There are several issues in play. First of all, there was the point the Senator from Pennsylvania was just making that there was some understanding that Members thought they had some modification of the bill that was going to be made that did not happen. Maybe that was just a misunderstanding, but that contributed to this problem.

The second issue, this is not just about this drug pricing bill. Everybody knows this is going to wind up being the vehicle for debate on prescription drugs. There is concern about going forward in this way; that this is going to be a process to which I have referred as mutually assured destruction because whatever is offered is going to have to get 60 votes because it did not come from the Finance Committee and/or because it exceeds what the budget allows. And that is the point I wish to clarify.

If I am misinformed, I would like to know that at this point. But my understanding clearly is that because we do not have a budget resolution passed by the Senate, we do not have any budget numbers, that the number we are operating on that is allowed for prescription drugs is $300 billion. That is what was identified last year, and that still is what applies.

If you exceed that amount, you have to have 60 votes to overcome a point of order. Secondly, if it does not come from the Finance Committee, that in itself would require 60 votes to overcome a point of order.

There are two reasons we will have to have 60 votes to pass any of the bills that may be offered in the prescription drug area.

If that is not correct, then I stand corrected. If we could get a bill out of the committee that was under that amount, then there would not be a problem. At least one of the approaches, or maybe a couple approaches, that will be offered—the one by Senators HAGEL, ENSIGN, and GRAMM that would cost, I understand, somewhere between $150 billion to $170 billion—would not require the votes to overcome the point of order, but it would because it did not come through the Finance Committee.

There is a simple solution to this: The Finance Committee should meet and vote. We have met for hours trying to figure out the right way to do this. It is difficult, it is complicated, and it is important. We met 4 hours, and I was there a couple hours last week. Yet we have not had a markup. Let's go to a markup, have debate, amendments, and see if the Finance Committee can report a bill. That is what I urge we do. Then we can have a bill that came out of the committee, that could have tripartisan support, and it would not be subject to a 60-vote point of order. We could pass it with 51 votes and get real help to people who need it—the elderly, sick, poor people—and we can do it this week.

Mr. SANTORUM. Was there not a markup scheduled for the Finance Committee this week?

Mr. LOTT. There was a markup. We marked up two minor bills last week, and there was a markup scheduled at 10 o'clock this morning. It was delayed to 2 o'clock and then cancelled. Why? Because Senators SNOWE, GRASSLEY, and others in the tripartisan effort served notice that they were going to offer a prescription drug package to a so-called minor bill. As a result of that, that markup was canceled.

It really bothers me. It looks to me that we are headed for a situation where, when the smoke clears next week, no package will be left standing, and we will not have passed a bill with 60 votes and the people once again will not get the help they need. We seem to be striving to find a way not to do this. I do not understand it.

I do not question the merits of the different bills. We can argue about them and we can debate them, but if the end result is nothing, is that good? As far as the underlying bill, if we knew debate was going to be on the drug-pricing issue, we could have started earlier, and we could probably have finished it this week. But there are two distinct issues that are riding on each other. It is a real problem.

Once the prescription drug bills perhaps fail, I guess we will come back to the base bill, and it will probably pass and I assume it will be a bipartisan vote: Some for it; some against it. I want to clarify, it is my understanding that clearly it takes 60 votes because of the amount involved and because the Finance Committee will not have acted.

Mr. SANTORUM. The Republican leader is correct. As I said earlier, if a drug benefit bill were brought forward that cost $10, it would be subject to a budget point of order because of this procedure.

People are asking: Why is the 60-vote procedure such a problem? The Senator from Nevada asked would I object to an up-or-down vote on one of them? I can certainly agree to that. The problem is the 99 other Senators; only one of them needs to object to an up-or-down vote and make a point of order against the underlying bill because it is not reported out of the Finance Committee, and we have a problem. We have to get 60 votes.

The interesting question is why are we in this situation? Obviously, because the majority leader has decided to bring a bill straight to the floor and not through committee. Why are we in this situation even stepping back from what happened yesterday? Because we do not have a budget. We have no budget. For the first time since 1974, we have no budget in the Senate. Now we are starting to see the consequences of not having a budget.

The other point is we do not have any appropriations bills passed. I am not the one objecting to the MILCON appropriations bill, and I hope we can work that out and I would be very supportive of passing it on a very short timeframe. The fact is, we are way behind on appropriations, and if I look at the schedule, we are talking about health care this week, next week, and talking about homeland security the week we leave. I do not see any time in here to do 13 appropriations bills that are necessary to run the Government of the United States.

We have no budget, we have no appropriations bills, and as a result of having no budget, we have a, to be very candid, screwed-up system by which we are dealing with a Medicare prescription drug bill, which to my constituents—and I represent per capita the second oldest population in the country—is perhaps one of the most important bills, maybe the most important bill, we are going to deal with in Washington, DC, for the people of Pennsylvania.

I always say we are second to Florida per capita in the number of seniors, but my comment is, my seniors care more about Medicare and prescription drugs than the ones in Florida because all my rich seniors move to Florida, and what is left in Pennsylvania are the folks who really need the coverage and cannot afford it. So this is a very important bill for the folks in Pennsylvania.

This is something we want to accomplish. This is not something I want to be held up by some procedural trick.

I will say without reservation that if we had a clean process and we had a bill that came out of the Finance Committee that was not subject to a point of order, we could begin the amending process and have the Senate work its will. Would I be happy with the product? I would probably not be overjoyed with it. I do not even know if I would vote for it. But we would move the process forward where we get a bill to conference that is conferenceable with the House, and we have the potential of getting a prescription drug benefit for millions and millions of seniors across America who are relying on us to do it. But instead of going through the process which assures us of getting a bill, we have developed a process which assures us of getting no bill.

So don't anybody next Friday say, oh, golly, we did not make it; oh, golly, we did not pass a bill and think, gee, we really gave it a good chance.

This process was scripted for failure. This process was created for a partisan issue in November and nothing more. This is not a serious debate about Medicare prescription drugs. When we are serious about doing Medicare prescription drugs, we will do it the way it was intended to be done and contemplated by the budget of last year, which is what is done with every other major entitlement bill we have ever dealt with in the Senate. What is that? Go through the committee of jurisdiction. The committee works its will. A bill is brought that has had a lot of the kinks worked out, has had bipartisan compromise by experts who study and work on that kind of legislation—that is why they are on the committee—and the bill is brought to the floor to work out the final, in many cases major, issues. Then you get the bill done, you go to conference, and you move on.

That is not what is happening. Why? That is a good question. Why? Do we not trust the chairman of the Finance Committee to mark up a bill? Do we not trust the committee of jurisdiction to take up this legislation on which there is intense interest in the committee? There are several bills germinating out of members of that committee on both sides of the aisle. Why do we not trust this committee to do its work on the most important issue that that committee will deal with this year? Why have we said we do not trust the Finance Committee, we do not trust the chairman, we are going to go over their head, we are going to bring a partisan bill, which to my knowledge no one on this side of the aisle has seen? And I suspect there are a lot of folks on that side of the aisle who have not seen it.

The bill has not been scored. We have no idea how much it costs. The Senator from Nevada said he hoped to be debating this bill tomorrow. I hope to be debating the bill tomorrow, too, because I would like to see it.

Think about this: The largest expansion of entitlement programs in the history of the country, and we are going to bring the bill to the floor, having not gone through committee, having not seen it, and ask for a vote on it.

The rumor mill among the press is this bill costs $800 billion. Now, that may be high. I do not know. That is the number I heard outside. That is $800 billion, not over 10 years, because the bill sunsets, but only 6 years. So it is a trillion-dollar expansion of government. That is even a big number for Washington, a trillion-dollar expansion of government, and no one has seen the bill. It has not gone through committee. There has not even been a hearing on the bill. A trillion-dollar expansion of government, and there has not been a hearing on the bill, much less a markup.

Now what they are telling the American public is: We are really serious, aren't we? We are serious about passing a drug bill, aren't we? We have not had a hearing on it, we do not know how much it costs, we haven't gone through committee, haven't marked it up, we have not brought it to the floor, but trust me, we are serious about passing a bill. This is real, this is legit, we really want to do this, we really want to make this happen.

Remember, we have not drafted the bill, do not know how much it costs, have not had a hearing, have not had a markup, have not even brought the bill up to the floor, but we are serious, and it is, by the way, a trillion dollars. We really want to make this happen, and we are going to get it done in a couple of days, trust us, and we will work it out. That is the procedure.

Then we have people saying: How dare you raise a point of order against this bill that has not been finished, that costs a trillion dollars, has not had a hearing, has not been marked up, has not come to the floor. How dare you raise a point of order against this trillion-dollar expansion of government. How can you do that? You must not care about seniors. That is going to be the issue in November: You do not care about seniors because you did not allow us to pass a bill that no one had seen, costing potentially a trillion dollars, that no hearing had been held on, that no markup had been done on, and that we had not had the opportunity to even see and debate on the floor, with people wondering why we raised a point of order.

Mr. REID. Will the Senator yield for a question?

Mr. SANTORUM. I would be happy to yield for a question.

Mr. REID. Is the Senator aware that this legislation about which the Senator from Pennsylvania speaks has been written and authored by these two radical Democrats by the name of BOB GRAHAM from Florida and ZELL MILLER of Georgia, who both have credentials, I would suspect, that are as moderate as any in the Senate? Is the Senator aware of these two men who have sponsored this legislation, who have written it?

Mr. SANTORUM. I understand they have been involved in the writing of the legislation.

Mr. REID. Is the Senator also aware that this legislation about which the Senator speaks has been endorsed by many organizations and groups in America, including the AARP?

Mr. SANTORUM. Which I find remarkable to believe, and the answer is, I do know that some organizations support it, but I find it remarkable to believe that any legitimate organization would endorse a bill they have not seen and have no idea how much it costs. The answer to your question is, yes, I am aware that certain organizations have endorsed it. I question the responsible nature of those organizations that would endorse a bill they have not seen, have no idea what the impact is on their members, and have no idea what the impact is as far as the cost to their members and the cost to the taxpayers, because we do not know that yet.

Mr. REID. I have two very brief questions I would ask the Senator to answer.

Mr. SANTORUM. Sure.

Mr. REID. The Senator is not suggesting in any way that AARP is not a legitimate organization, is he?

Mr. SANTORUM. I did not say legitimate. I said responsible. There is a difference. They are certainly legitimate. I question how responsible they are.

Mr. REID. In the Senator's first statement, he did say legitimate.

Mr. SANTORUM. If I did, let me correct that. AARP is certainly a legitimate organization. I would question how responsibly they are acting if they are endorsing legislation they have not seen and do not know how much it costs.

Mr. REID. The Senator has indicated we should be working on appropriations bills, and I agree with the Senator. But is the Senator aware that for—I have lost track of the days, but for several days I have offered at least four, maybe more, unanimous consent requests that we move to military construction with a time of 65 minutes and I have received an objection on that side of the aisle?

Mr. SANTORUM. I would say to the Senator from Nevada, he did not receive an objection from me. All I can say is we have a Member or two on this side of the aisle who are concerned about the ability to pay for fires in their States, and I think the Senator knows that. We all have concerns about appropriations and disasters in our State. I certainly respect the Senators objecting to that. I hope we can work that out because I agree with the Senator from Nevada that we should be dealing with appropriations bills.

MILCON is one that is usually not very controversial, there usually are not a lot of amendments to it, and we should be able to pass it in a very short period of time. We are certainly working on this side of the aisle very diligently to try to take care of the objections so we can get to that issue.

I appreciate the Senator moving forward on that, and I hope the Senator from Nevada will then, after we get MILCON done, move to the Defense appropriations bill because I think it is vitally important, as we are fighting this war and we are trying to protect the homeland and we are doing things that are on the cutting edge of transforming our military, that we get that legislation passed in the Senate. When we get MILCON and DOD passed, the soldiers, sailors, airmen, and marines will know the money is there and the program dollars can be spent in a much more efficient way.

I am a member the Armed Services Committee, and that is always a concern, that there will be a delay in the release of money in the appropriations process. I think that would be a very important thing we could do between now and the August recess, if possible. I will certainly work with my colleagues on this side of the aisle to get them to have a very short list of amendments and see if we can get a DOD bill passed in short order.

Mr. REID. If I could respond to my friend without his losing the floor, as a member of the Appropriations Committee, we reported out this morning, or this afternoon—around noontime—the largest appropriations bill in the history of the country. That is why—and the Senator has taken my script—I have said basically the same thing on military construction. We have to move forward on that because we have construction projects for our men and women in the military all over the world. Most of them, of course, are in America, but we have military construction projects around the world that are waiting, and we need to get to that.

I appreciate the Senator saying he would join with us, but the problem is we have had trouble moving all legislation, not the least of which is the military construction appropriations bill.

I appreciate the courtesy of the Senator allowing me to ask questions.

Mr. SANTORUM. The Senator from Nevada is always courteous to Members on our side when we come to the floor and we appreciate that gentility in the way he deals with questions and answers and appreciate his questions. I know we can work together in a bipartisan way to manufacture as many appropriations bills as possible between now and the August break. I know the Appropriations Committee has begun to churn out these bills in marathon sessions. That is welcome news.

Hopefully, we can get to what I believe is the most important. It is a big bill and it is complex. It is several hundred billion dollars. It is still smaller than this bill and a heck of a lot less complex, a bill that potentially could be presented here by the majority to expand prescription drugs.

Again, even though I object to the way this procedure is being done, I am very much for having this debate on the Senate floor and trying to get a prescription drug bill done that meets the needs of our seniors all across the country. I don't like the way it is structured. I don't believe it has been structured in a way that will lead us to a result that can be satisfactory to any senior. It is certainly a debate we should have. I just wish we had it under circumstances with a possibility of success. I don't think we are heading in that direction at this time.

A final point is on the underlying legislation. As I said before, I have only had a chance to look at it over the last 24 hours since I have been back in town. I have some concerns about this underlying legislation. This is more of a vehicle than a substantive issue. We have to understand, when it comes to the pharmaceutical companies, they are the great whipping boy in the Senate and certainly in the House and many places across the country. The fact is, about 50 percent of the new drugs that come on the market come from innovations in the United States of America. People are alive today who are listening to my voice because of pharmaceutical companies making billions of dollars in investments each year to create new drugs, to move the envelope forward, to improve the quality of and to lengthen people's lives.

I understand they get beat up on because they try to use their patents and they charge more money here than in other countries and all the other things said about them, but the fact is, if bills such as this pass—and I am concerned about this particularly, some of the litigation provisions—we are going to erode the incentives for pharmaceutical companies to invest in cures.

It is popular, very popular, to go around and promise seniors you are going to get them cheap drugs; that these generics are the answer. These filthy horrible drug companies, the pharmaceutical companies, the name brand pharmaceutical companies are horrible people who are raping and pillaging you, and if we just give all their patents to the generic folks as quickly as possible and give the generics an opportunity to get in there quicker, your drug prices will be lower. That is an argument that appeals very much to this generation of seniors and this generation of pharmaceutical users at the expense of future cures for them and others.

Some may say that is a good tradeoff. The politics is smart, I guess, because people would rather have the money in their pocket than the perspective of maybe something happening that may or may not affect them in the future. I understand the game. I understand the politics. The politics are great in being able to promise somebody a 50-percent reduction in their drugs, or a 30-percent reduction in their drugs. That is great. People see it, feel it, and hear it. But people also need to realize that when you do that, you limit the innovation that occurs; you limit those lifesavings drugs, the enhancing of the quality-of-life drugs that come out of this Nation's terrific pharmaceutical industry.

Sure, I will join others on this side with some amendments. I know Senator HATCH and Senator GREGG have concerns about this underlying legislation, have concerns about some of the issues, such as the reimportation of drugs.

I have very serious concerns about the safety of the reimportation of drugs. In Canada, they are cheap and they can send them back here and they are cheap. They sell them in Canada because they say this is how much you are going to charge; if you don't want this price, you cannot sell your drug in Canada. By the way, if you really want the drug, we will make it and sell it here ourselves. So you have no market and we will sell your drug anywhere.

You say: I cannot believe that happens. That happens.

Here is a pharmaceutical company that says: I charge $2 for the drugs in America; it costs me a quarter to make them. I charge $2 for the drug in America. It costs me a quarter to make it—that is, the process to make it. But the rest is to make up for the many cases, hundreds of millions, invested to get this formula to where it is. I have to make it up somehow so I have to charge more.

Canada says: I will only pay you a dollar; I will not pay you $2. I will only pay you $1 or 50 cents. The drug company has to make a decision: Do I sell it for less there and get the wrath of the American politicians who say, look how cheap this drug is, or do I sell it for less there, still cover my costs, and make a small profit—not as much, but I make a small profit—or do I not sell my drug there, have a Canadian steal my patent, make the drug and sell it there anyway?

If you are a pharmaceutical company, that is a decision you have to make. Some say: No, I don't want to sell the drug. I will not do it. Others say a little profit is better than none. And some suggest this is perhaps a unique drug, they feel a social obligation to make it available in countries because this is a drug that maybe doesn't have anything similar to it. So they sell the drug even at a very small profit because they feel a social responsibility to do so because it will save lives.

For this, they have Senators of the Senate holding up drugs and saying: Look at these rotten drug companies. Look at these rotten drug companies. Look what they are doing.

Understand the story because you are not being told the full story. You are not being told what really happens. Yes, they are cheaper, but now you understand why they are cheaper. They can say no. Fine. In some cases, saying no means people will die. Most pharmaceutical companies, contrary to what you hear, are not in the business of wanting people to die so they sell their drugs. I suggest we understand the whole story before we get into how bad these guys are for selling drugs cheaper in other places.

The bottom line is the American public, as a result of the way foreign governments operate, subsidize research in the world. Is it the right thing to do? We should have a good policy discussion on that. There might be legitimate competing arguments whether we should subsidize the research by paying more for research. However, if we do not, the research will not get done and people will die because that new drug that could have been invented had the investment been made will not be developed or it will be much later.

Those are the chances. I know that is taking the dollar you could get now for cheaper drugs for the promise of something better later. One thing drug manufacturers can point to is the promises have been made good, if you look at the quality of the pharmaceuticals that we have on the market today and for people whose lives are being saved and the quality of life that is being improved.

Understand what we are doing. This is not as simple as some would let you believe. Understand what we are doing. We are going after the big bad pharmaceutical companies that are responsible for many people being alive today.

## ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak for a period not to extend 10 minutes each; I further ask, as part of that consent, that the Senator from Michigan be recognized; that the Senator from Arkansas be recognize to speak for up to 30 minutes, and if I could get the attention of my friend from Iowa, does the Senator from Iowa wish time to speak?

Mr. GRASSLEY. No.

Mr. REID. There is time for others to come to speak, but I ask the Senator from Michigan now be recognized in morning business under the unanimous consent request, and that following that, the Senator from Arkansas be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

## MEDICARE PRESCRIPTION DRUG BENEFIT

Ms. STABENOW. Madam President, it is difficult to know where to begin at this point. I feel compelled to respond to my colleague and friend from Pennsylvania, who has spoken at some length. As I listened to him on a variety of subjects, I have changed what I was going to say a number of times.

Let me just start by addressing the last issue he raised about knowing the whole story because I believe it is incredibly important. We have been trying, now, since Friday—or certainly we have been trying since yesterday—to move to this legislation which is so critical to lower prices of prescription drugs for everyone and also provide a Medicare prescription drug benefit that is beneficial. As we finally move to the bill, it is important that we understand the whole story of how the industry operates today and our role as taxpayers.

I think we need to understand that we start with basic research. This year, we as taxpayers are spending $23.5 billion that we give to the National Institutes of Health for basic research. I support that. I would support doing more. I think it is critical. But we do that, and companies take the information and then move it to the next level after we have subsidized or paid for the research.

They move to the next level and do research and development themselves, which is also very important. We subsidize that as well through tax write-offs on research and development as well as advertising and business costs and so on. So we participate through tax deductions and credits.

We then allow companies that bring a product to market to have up to a 20-year patent. That patent, then, allows them to have exclusive rights, without competition, so they can recover their costs, their research costs. It does cost a tremendous amount of money to bring new drugs to the market. We know that. We as Americans have built in a system to make sure that that innovation is recognized. We allow companies to recoup their costs, and they are then able to bring these lifesaving drugs to market.

We then get to the end of that process, and then something else is supposed to happen. The formula is supposed to be available for generic companies to be able to, in turn, manufacture the drugs and reduce the prices.

What happens today? Unfortunately, this industry, that has been supported and subsidized and is making 18-percent to 20-percent profit a year, fights every possible venue for competition. They fight everything. They fight generics going on the market. Sometimes they buy up the companies. Sometimes they just sue them to keep them off the market. They fight opening the borders to Canada which would create more competition. They fight real Medicare prescription drug coverage that would allow 40 million seniors and those with disabilities to be under one insurance plan and be able to have the clout to get a group discount. They fight everything.

That is the real story: Why we are here, seeing delay after delay after delay, because we see the lobbyists in that industry, looking for every opportunity to stop us from going forward.

My colleague also said we should have brought this up in the Finance Committee. One of the things I learned is that if you are wrong on substance, you bring up process arguments. So we had a lot of process arguments. Unfortunately, not one of those process arguments would buy one prescription for one senior.

We have heard arguments about the Finance Committee. I ask my colleagues: It is my understanding there has been a bill in the Finance Committee for 5 years. How long is long enough? How long is long enough? How long do seniors in the country have to wait for Medicare coverage? How long is long enough?

We debate on the floor skipping the Finance Committee. How about the senior who is skipping supper right now? Frankly, I am more concerned about that person right now. How long do people have to wait? How many

Presidential debates and campaigns? How many congressional campaigns? How long?

Now is the time to stop talking about process and start talking about real Medicare coverage and lowering prices for everyone, so the next group of employees do not have to be told their pay is frozen so the employer can pay the health care benefit; so the next round of small businesses do not see their premiums jump 30 percent, 40 percent, and they have to consider dropping insurance coverage for their employees—predominantly because of the driving costs of prescription drugs; so the manufacturers in my State do not have to struggle with this issue.

How long? I would suggest too long. And now is the time to do it. Now is the time to act. If we are operating as people of good will, we can work out the process, we can work out the details. There are philosophical differences—no question—about how to proceed. But if people of good will want to make something happen, I believe we can and we will.

I will have a lot more to say about the differences in the Medicare plans and other differences tomorrow, as we move through this debate. But this evening I would like to remind Senators, again, what we are supposed to be focusing on. I hope, anyway, with all due respect to colleagues, that we pay attention to what is really at stake. I have set up a prescription drugs people's lobby through my Web site and asked people to share with me their stories.

I close with two descriptions of real-life situations that are happening right now. One is from Rochelle Dodgson of Oak Park, MI. I want to thank her very much. I have shared this before, but I want to bring us back to what this is about. She writes:

> My mother is currently insured under COBRA after losing her job in August of 2001. While she has her basic Medicare coverage, she will lose her supplemental medical coverage in January 2003. She has recently been diagnosed with multiple myeloma and will require treatment for this blood disorder the rest of her life. The medication she was taking before this new illness costs over $500 retail on a monthly basis. I have not checked the prices of the 'chemo' she takes monthly nor the cost of the Procrit she takes weekly. I expect her monthly out of pocket expenses to be around $700 a month. Her Social Security is just over $800 a month.

Her monthly out of pocket expenses are $700; her Social Security is around $800.

> I can't imagine having to budget food and housing expenses along with medication on that kind of income. My husband and I will try to find a way to budget some of her medical costs into our own expenses. . . .

Many families are doing this across America.

> . . . but we also care for my husband's mother.
>
> My mother is still a viable part of society. She doesn't deserve to struggle just because she has chronic illness.

That is what this is about. It is not about procedures, and 60 votes versus 51 votes, and all of the other processes, objecting to proceeding with bills. This is what this is about.

Let me just share one other story. This is actually from Austin, TX. Jackie Smith wrote through my e-mail. I am sure she shared it with other colleagues as well. I appreciate it. She says:

> My prescriptions will cost $3,850 a month beginning August 15 [of this year].

Madam President, $3,850 a month for prescriptions.

> That is when my COBRA benefits—which allowed me to continue my health care coverage through my employer—will run out. I will then qualify for Medicare with no prescription drug coverage.
>
> Between my disability policy benefits and Social Security disability my fixed income is $2,000 a month. I have no idea where to turn for help.

Madam President, $2,000 a month in income, $3,850 a month in prescription drug costs. She describes her situation and ends by saying:

> Thank you so much for working for a meaningful drug benefit.

That is what this is about. If we want to fix it, we will. We don't need another campaign issue. This is about getting it done. We can do that if we want to do that. We are here thanks to the leadership of our majority leader who understands that it needs to be done and allocated 2 weeks in a schedule with a lot that needs to happen. Because of the importance of this issue, he said we will take 2 full weeks on this and work through it. Instead of doing it on Monday or on Tuesday, it will be tomorrow—Wednesday—before we start. OK. But let us get started. Let us get it done. If we want to do it—we have bright people on both sides of the aisle—we can do it. If we want to just argue process, we can argue process. But this is a bill which for 5 years has been under consideration by the Finance Committee. If it is not possible to get a meaningful, real Medicare benefit, and we instead do it on the floor—I have only been here for 1½ years; I have seen an awful lot of bills not go through committee and go directly to the floor, an awful lot of them on both sides of the aisle with both leaders of different parties. The reality is that when you are not able to do what you believe needs to happen it frequently goes to the floor.

The issue is how we are going to get it done. Are we going to do what is long, long overdue? I believe the American people are getting tired of hearing us talk. They want us to get it done. I hope we will.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Madam President, I wish to take a moment to respond to some of the comments by my distinguished colleague from Michigan regarding the process. I agree that the process in many cases does not matter. Normally, the American people do not care about process. Instead, they care about results. They care about their pains and their families' pains, and they are concerned about the future.

But if you have a process that is a prescription for failure, then process matters. If you have a process that is set up to ensure there is no result, then process matters.

I say to my distinguished colleague from Michigan that it is easy to ridicule concerns about the process, but when the process results in 60 votes needed for passage instead of 51 votes—a process which is going to guarantee that we don't get a prescription drug benefit for our seniors, and that is exactly the situation—then process matters. If the fact that we didn't go through the Finance Committee, and the fact that we didn't have a markup in the Finance Committee results in a point of order that sets the bar so high that we are not going to get a bill through, then it matters. If the process ensures that we are going to pass a bill with a pricetag that CBO has not even given us yet, perhaps in the range of $800 billion, and we send it to conference with the House bill that is much, much smaller, and it assures we are not going to have a result, then process matters.

I would suggest that the process we have been given—for legislation that provides for an enormous change in policy and the most significant legislation that some of us will vote on and many of us will debate in our entire careers—is less than adequate because we are being given a bill that has not had the benefit of a markup in committee.

As an Arkansan, I have colleagues in this body who serve on the Finance committee who are being denied their right to have input into the product that comes out. It is my understanding that members of the Finance Committee are ready to vote on a prescription drug bill, and the votes are there; that we could send a product to the Senate floor right now that we could debate and use as our vehicle. But instead we are going to have a bill presented that no one on this side has had the opportunity to read and that has not yet been scored by the Congressional Budget Office. It is a moving target. That is no way for us to do significant and important legislation.

My colleague from Pennsylvania said he has the second highest per capita senior population in the Nation. He is accurate in that, I am sure. But I would point out to him that in my home State, unfortunately, we have one of the highest percentages of low-income seniors per capita. This is an issue that is very important to seniors in Arkansas. And it is important not so we have a political issue for the campaigns that are less than 4 months off.

It is important because there are millions of seniors who are making do with a Medicare system that is out of date and that is headed towards obsolescence.

Medicare today was a wonderful system when it was developed in the 1960s. But health care has changed. Insurance has changed. It would be like going back to a 1960 model automobile. Prescription medicines today are an integral part of patient care. Medicare denies seniors those needed drugs. These are drugs to ease the symptoms of Parkinson's, Alzheimer's, and arthritis—drugs to control cholesterol, blood pressure, and to fight other life-threatening diseases such as cancer. Many seniors, even though they are prescribed these drugs, simply go without because they cannot afford them.

My colleague from Michigan is right about that. Seniors are what this debate is about. It is not whether or not at the end of next week, when all the dust has settled, we can campaign on an issue as we go into the election season. It is about whether or not millions of seniors are going to get the help they need.

Mary McDaniel from Crossett, AR, wrote and said:

> I am in favor of a program that promises affordable medication to all senior citizens but not a Medicare pharmacy policy that may take away my rights to choose my pharmacy and one that offers false promises. I want to be able to get the medication my doctor prescribes and not something the Government says I can have.

The fact is that prescription drugs improve lives and in many cases they save lives. Coverage for prescription drugs needs to be a part of our Medicare system.

The 21st Century Medicare Act—called the tripartisan bill—creates a prescription drug benefit which is permanent, available to all seniors, and does not jeopardize the stability of Medicare for future generations. That is so important.

What benefit are we giving our seniors if we pass a prescription drug benefit that is so expensive that it is like a barnacle on the ship that is the Medicare system, dragging it down to bankruptcy? A responsible benefit must be one that does not jeopardize the stability of the system for future generations.

Seniors will be able, under the tripartisan bill, to voluntarily sign up for this prescription drug benefit, which has an affordable monthly premium of $24, the lowest premium of any of the prescription drug bills introduced so far.

For low-income seniors, the bill provides additional support. Madam President, 11.7 million lower income beneficiaries with incomes below 150 percent of poverty will receive a generous subsidy for their prescription drug costs. Those below 135 percent of poverty will have 80 to 98 percent of their drug costs covered with no premium at all. For the State of Arkansas, that means for those beneficiaries under 135 percent of poverty—there are 179,378 such seniors in Arkansas out of 453,598 total Medicare beneficiaries—these seniors will have their entire premiums paid for and most of their drug costs covered as well.

This legislation also provides catastrophic coverage to protect seniors against extremely high out-of-pocket drug costs that exceed $3,700 per year.

The 21st Century Medicare Act also seeks to modernize Medicare benefits by allowing seniors to choose a new, enhanced benefit called Medicare Part E. This new benefit eliminates copays for important preventative health benefits such as mammograms, prostate cancer screenings, bone mass measurements, and medical nutrition therapy. It also streamlines hospital benefits, eliminating per-day copays and other limits.

If seniors do not like this option, they can always stick with traditional Medicare. This bill does not weaken traditional Medicare, but it makes it better and stronger. It does not make it more expensive. It does not make it less accessible.

To further ensure that seniors have choices, the 21st Century Medicare Act requires qualified providers of the prescription drug benefit to have "bricks and mortar" pharmacies in their network.

Let me pause here to tell you just how important our Nation's pharmacies are to seniors and to all Americans. You can give seniors prescription drugs, but if they don't know how to use them, they don't get any benefit.

Pharmacists play a critical role in counseling seniors and other patients about drug interactions and medication use in general. During the debate on how to structure a Medicare prescription drug benefit, we cannot forget that pharmacists will play, and must play, a critical role in making this a quality benefit.

So I am very pleased to be one of the cosponsors of the 21st Century Medicare Act. I intend to work to enhance the bill in regard to the role of pharmacists in the future.

I have received, as I am sure we all have, many examples of those who have written to express their support for a Medicare prescription drug benefit. I have also heard this sentiment expressed in town meetings across the State of Arkansas. During the Fourth of July recess, there was no issue more on the minds of my constituents than the rising cost of prescription drugs and how Congress is going to deal with it.

Ruth Blair, from Rogers, AR, writes:

> Please vote for help with prescription drugs for senior citizens. We either eat or take medicine. It's a tradeoff.

That is the sad situation for millions of Americans and tens of thousands of Arkansans on Medicare.

In 2001, more than 15 million Medicare beneficiaries had no prescription drug coverage at all, according to the Kaiser Family Foundation. Almost 400 new drugs have been developed in the last decade alone to fight diseases such as cancer, arthritis, heart disease, and diabetes. While 98 percent of employer health plans offer coverage of these often lifesaving therapies, Medicare does not. That is the issue before us. That is what we must address.

Dorothy Adams from England, AR, writes:

> Please support a prescription drug benefit. My husband and I have $300 to $400 drug bills every month.

That adds up to $3,600 or $4,800 per year. Under the tripartisan bill, the Adams family would have 90 percent of their drug costs covered after reaching $3,700 in drug costs. That is the kind of help we can give.

We have this phantom bill that is going to be brought to the floor by the Senate Democrats. It has not been scored by the Congressional Budget Office. We do not know what the pricetag is going to be. And there are different estimates out there as to what it is going to cost.

The original Graham-Miller-Daschle-Kennedy bill, the temporary benefit bill that was introduced, has a sunset provision. So you have a benefit that is truly an illusion. It starts late and ends early.

The Graham-Miller bill, which is the only bill we have to analyze right now, establishes a prescription drug benefit for seniors, and then it takes it away by terminating the benefit in 2010. That is the cruelest of all hoaxes. That is the ultimate use of a sensitive issue for vulnerable people for political purposes. And it is no way to fulfill our promise to America's seniors. They do not need a benefit that will disappear a few years after they sign up.

This gimmick is intended for one reason, and that is to reduce the price tag of the Democrat proposal.

AARP has said that a prescription drug benefit should be "a permanent and stable part of Medicare." The key word is "permanent." The benefit created under Graham-Miller bill is neither permanent nor a stable part of Medicare.

The Graham-Miller bill supposedly costs $450 billion over 7 years, according to the bill's sponsors. But by others' calculations, the bill could cost as much as $600 billion or, without the sunset, easily $1 trillion.

A benefit that costs $600 billion over the next 10 years would require cutting 10 percent of all Government programs other than Medicare. That includes education, health care, and national security programs. That is not responsible.

If we want a bipartisan bill, if we want a bill that Republicans and Democrats have worked together on and have consulted on and cooperated on—then we have a tri-partisan bill that we can vote out, and we have the prospect of actually having a responsible, realistic, achievable prescription drug bill to give the President this year.

But if the House passes a partisan bill, and if the Senate leadership insists that we are going to bypass the Finance Committee and bring a purely partisan bill to the floor of the Senate, it is a prescription for doing nothing this year. I suggest that in fact—though it will never be admitted—such failure is exactly what some people want to happen.

The Graham-Miller bill is partisan and does not currently have the support of Finance Committee Chairman MAX BAUCUS. It is apparent that the Graham-Miller bill could not pass out of the Finance Committee, and I would suggest that may be why the Finance Committee was not allowed to mark up a bill.

If the majority leader were serious about getting a prescription drug bill enacted into law this year, I would suggest that he would not bypass the Finance Committee. Is it a real accomplishment, achievement, that we want, or is it an election issue for November that is sought?

The majority leader has, I believe, turned a blind eye to the fact that there is in fact a bipartisan bill—a tripartisan bill as it is being called; it was introduced on Monday by Senators GRASSLEY, JEFFORDS, BREAUX, SNOWE, and HATCH—which I have cosponsored. It could pass out of the Finance Committee today if the committee were allowed to bring it up.

If Democrats and Republicans are willing to work together, we could make meaningful progress for our seniors.

In 1999, Republicans supported legislation based on the bipartisan Breaux-Thomas proposal which would have spent $60 billion over 10 years on a Medicare prescription drug benefit. That was 1999. But Democrats rejected this proposal and offered a $111 billion proposal. That was in 1999.

In 2000, Republicans proposed a drug benefit that would have spent $140 billion over 10 years on a Medicare prescription drug benefit, but Democrats again rejected this proposal as inadequate and offered a $338 billion proposal. That was in the year 2000.

In 2001, Republicans and Democrats agreed on a budget resolution which provided $300 billion for a Medicare prescription drug benefit. The House of Representatives has passed a $350 billion proposal, and there is a bipartisan bill in the Senate which is a $370 billion proposal. Yet the other side now says that is not enough.

I suggest that nothing will be enough because they do not want an accomplishment, they do not want an achievement, they do not want a prescription drug benefit this year. They want a campaign issue.

If we are serious about providing seniors with a Medicare prescription drug benefit, in the days ahead we should look at the only truly bipartisan bill that has a majority of support. Senator GRASSLEY, Senator BREAUX, Senator JEFFORDS, and others, who I have now joined as a cosponsor, have crafted a responsible, achievable, doable prescription drug benefit that can be conferenced, passed, and sent to the President.

So if we really mean it—when we say that the issue is not process, but our seniors—then the time to act, on a bipartisan basis, is now, instead of going down the road of a purely partisan political exercise.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## 21ST CENTURY MEDICARE ACT

Mr. GRASSLEY. Madam President, Medicare has not kept pace with the improvements in health care since its inception in 1965. It was a plan that was put together based on the practice of medicine in 1965, which you might expect to be natural for any program written at that particular time. At that particular time, the practice of medicine was to put almost anybody in the hospital who had anything very serious wrong with them. Today, the practice of medicine is to keep people out of the hospital environment as much as we can. Prescription drugs are very much a part of the medical plan to keep people out of hospitals.

Back in 1965, the cost of prescription drugs as part of the total cost of medicine was about 1 percent. Today the practice of medicine and the cost of medicine related to the total practice of medicine is about 10, 11 percent. So quite obviously, if Medicare is to be brought into the 21st century, we have to modernize it by including a prescription drug program for everybody, not just like it has been, prescription drugs for people who are in the hospital, but once you leave the hospital, no prescription drugs.

We have assumed a responsibility, some of us. I think maybe all 100 Senators agree on this issue, although they may not agree on how to do it, but we have all come to the conclusion that if you are going to strengthen and improve Medicare for the 21st century, Medicare must include a prescription drug program.

Several of us in this body—Senators BREAUX, JEFFORDS, SNOWE, and HATCH, and this Senator—have introduced a plan that we call the 21st Century Medicare Act. To cite the most obvious example of Medicare being outdated, many conditions that used to be treated in the hospital are now treated with prescription drugs. For that reason, employer-sponsored health plans have changed with the times since 1965 and now cover prescription drugs. But Medicare does not cover prescription drugs outside of the hospital environment.

Imagine that private health insurance for a long period of time has been including prescription drugs, but the Government-run Medicare Program is still back there in the 1960s, not covering prescription drugs.

There is another example of the outdated Medicare Program. The practice of medicine has evolved to focus on preventive benefits, since everyone knows that an ounce of prevention is worth a pound of cure. For this reason, many private health plans have eliminated cost sharing for preventive benefits. But the 1960s Medicare plan, run by the Government, has not covered preventive medicine in the same way that private health plans have by eliminating cost sharing. We still have cost sharing in the 1960 plan.

We ought to have Medicare come into the 21st century from the standpoint of eliminating cost sharing for preventive benefits in order to make sure that we emphasize an ounce of prevention weighed against a pound of cure.

There is a third example of Medicare being out of step. For those of us with employer-sponsored coverage—and Members of the Senate would fall into that category—these programs provide a limit on how much we will have to spend out of pocket if we become seriously ill. Yet the 1965 brand of Government-run health program, Medicare, offers no such protection for our senior citizens.

I will give three examples of the 1960-era, Government-run Medicare plan that does not give seniors adequate protection. Most important among all those is not having a prescription drug program.

I could go on and on, but I would rather focus on the good news. There is a compromise that can be enacted into law this year so that we can finally get to the business of bringing Medicare into the 21st century; in other words, to have a Government-run Medicare Program for seniors that parallels the practice of medicine in the 21st century.

This compromise, once again, is the only bipartisan compromise inside the beltway or outside the beltway. It is offered by Senators BREAUX, SNOWE, JEFFORDS, HATCH, and this Senator.

I emphasize the importance of bipartisanship. Nothing can get through the Senate that is strictly Republican or strictly Democrat. The Senate was meant to function for the last 214 years based on the proposition that minority points of view would be protected and considered. Consequently, with no limit on debate, with efforts of people to stymie the process, it is very essential that we work from day 1, if you want to get anything done, in a bipartisan way to craft a bill.

The five of us didn't just decide to do this. We started last summer to work on a prescription drug bill that could garner bipartisan support. We even announced about a year ago some basic principles, very broad principles, but we immediately got to work on filling in details. We had most of the details filled in back in March—not everything specific, but pretty much the principles and the details filled in.

I suppose people are asking: Why just now has this bill been introduced? We have even had some of the legislative language written a while ago.

Well, the reason we couldn't present our colleagues in the Senate this bipartisan approach was because we had to wait for the Congressional Budget Office to do the scoring and also, based upon preliminary scoring, some fine tuning on our part. It was just over the weekend that we, after we did our final fine tuning, got the final figures so that the bill could be put before the people of the country yesterday.

I want to mention bipartisan because obviously the President—there is one person there, one party—when he puts forth a proposal, it is partisan. There is a House Republican proposal that was passed. That is obviously a partisan proposal. There was a House Democrat alternative. It was obviously a partisan proposal. And there is a Senate Democrat proposal that is obviously partisan. There is no Republican proposal, something that represents the point of view of just Republicans in the Senate. But there is this bipartisan plan put together by Senators BREAUX, SNOWE, JEFFORDS, HATCH, and myself that is the only bipartisan plan, and not hastily put together, as 1 year of work on it indicates.

Consequently, it seems to me that if the Senate majority leader had allowed the Senate Finance Committee, which has jurisdiction, to work its will—and there is a majority of the Senate Finance Committee that is backing this proposal—we would have something out here for the Senate to consider, a bipartisan proposal.

That doesn't prove it would get 60 votes, but it has to be further down the road to accomplishing that very important goal than any of the proposals here in Washington, DC. Any coverage will have to be a compromise, a beginning. It is not something perfect.

I applaud Senator BAUCUS for seeking a reasonable compromise that can pass the Finance Committee. He has held a lot of rump sessions to discuss these things and understand them. But we have not had the opportunity to have the formal session to actually debate and amend and vote out a compromise. So after working on this for over a year, I can say this bill is that compromise. This level of total spending—$350 billion—is the level that can gain a majority of the votes in the Senate Finance Committee. In moving it up some to satisfy some people, or moving it down to a lower figure to satisfy some other people, it begins to lose votes from the high end or from the low end.

Nobody, including me, considers this a perfect plan, but it is the only deal that can be struck, and it is the only bipartisan proposal in Washington, DC. I urge Senator DASCHLE to allow the Finance Committee to work on my bill. Let any Senator, in a free exchange and consideration in the Senate Finance Committee, offer amendments. That is the only way to have a product that can get 60 votes.

As I have already written to Senator DASCHLE, to bypass the Senate Finance Committee when it can put out a bipartisan project is probably to kill any chance of a drug bill, and I hope he will reconsider.

Let me be very candid. Drug spending by the senior population is exploding. The cost between the bill a year ago, when we started, until now—as I said, it evolved over 12 months—has gone up $70 billion, but not because we as Senators working on this bipartisan compromise decided we wanted to spend $70 billion more, no; that is the way the drug market is today. So if Senator DASCHLE wants an issue instead of a program for seniors, then we come back next year, and it doesn't matter who controls the Senate. We will come back next year and we are going to spend another $70 billion to $100 billion more. Why don't we decide to put that money into the program and save it by adopting something right now, when we know, based upon the projections of prescription drugs, what is going to happen.

Let me suggest to you that the passage of strong legislation is going to be a damper on those exploding drug prices. So we have an opportunity and, if we miss it, it is going to cost Medicare a tremendous amount of money. Maybe $100 billion is a little bit high, but $70 billion to $80 billion to $90 billion would not be out of the realm of possibility. And we should also do it now so that baby boomers who have these good corporate plans they want to retire on are not shocked with a big difference between what 1965 Medicare is and what they have. They won't have to go through that if we have this bipartisan plan that gives seniors an option of having a new and improved and strengthened Medicare plan that is much closer to what they have now in the world of work.

The baby boomers are going to start to retire in only 8 years. So a new drug benefit could be incredibly expensive and could even put the existing Medicare Program at risk. In light of these facts, the truth is that we cannot afford an extravagant benefit. If we get to work and get it done now, it is not going to be so expensive.

The other main component of the bill that I have already made some reference to is a new, enhanced Medicare option, and it is not something seniors have to take if they don't want to. If they want to keep what they have right now, they can keep it, but if they want something a little closer to what they have in the private sector, they will have that available.

I talked about Medicare or a prescription drug program, but there is a new and enhanced Medicare option that reflects 21st century health care. The enhanced option removes all cost sharing on preventive benefits. Just think. If somebody under the present Medicare has an opportunity to take a prostate cancer test, and they have a 20-percent copay, and they, say: "I just cannot afford it," or "I don't want to pay that copay," you are going to discourage that person from taking that test. And one out of three men might need an operation to catch it ahead of time so that cancer hasn't spread. No copay. That is more apt to be. That is an ounce of prevention worth a pound of cure. It brings Medicare into the 21st century. It adds protection against devastating costs due to serious illness. It features a single deductible of $300 and a rational cost sharing rather than the irrational cost sharing in the existing fee-for-service system. It offers new, cheaper Medigap options. And with the improved coverage, beneficiaries might decide they don't need to buy Medigap at all.

This would create a tremendous savings for them and, potentially, for Medicare. The enhanced options resemble what beneficiaries had when they were still working, and they might decide to take it. But this is all entirely voluntary. We don't say to a single senior citizen in America that they have to do this. It is their choice. If they like what they already have, what has been on the books since 1965, they can have it.

The cost of our reform provisions—this new and improved and enhanced Medicare—is only $30 billion over 10 years.

Now, the AARP held a news conference today. Everyone around here knows that Senator DASCHLE's partisan approach cannot lead to 60 votes and can only lead to deadlock. Failure is not acceptable to the people of Iowa and it is not acceptable to me.

Let me comment on the substance of my bill, the 21st Century Medicare Act.

The drug benefit we offer is a voluntary benefit with affordable premiums of $24 a month. Unlike some proposals, it will provide drugs in a cost-effective manner, which is crucial. It will protect all seniors with drug costs, with special protections for low-income beneficiaries and those who incur very high costs. By law, at least two plans will be available everywhere in America, including rural areas, which is so important to me.

The Congressional Budget Office tells me that virtually all beneficiaries will find this drug benefit a good deal and will elect to take it. In fact, when you hear people demanding that "Cadillac" drug coverage be added to Medicare, what that tells you is that person doesn't really want legislation to pass. They just want an issue on which to campaign.

I have been very surprised and somewhat disappointed at the recent activity of the AARP on this issue. They ran ads this past weekend and they held a news conference today supporting the bill that Senator DASCHLE, we are told, plans to bring to the floor. In the same breath, they say they want a drug benefit that is permanent. They should make up their minds because Senator DASCHLE's bill is not permanent. That is because making it permanent would reveal how unaffordable it is. It is difficult to understand why they are sowing such confusion on the issue. Do they believe we should sunset the Medicare Program as a whole, as that bill does? I do not think we are going to sunset senior citizens. When the prescription drug program ends in 2009 or 2010, do they think the senior citizens of America are not going to need prescription drugs the next day? I hope AARP's members will tell Senator DASCHLE that is quite ludicrous, and they would be right.

Believe it or not, my bill—I should not say "my bill" because I have never had the pleasure of working with so many politically different people as Senator HATCH, Senator SNOWE, Senator BREAUX, Senator JEFFORDS, and myself—I am different, too. Over the course of a year, we had give and take by people with so many different political philosophies, bringing us to where we are with this bill. So many times along the way we thought everything would fall apart, but we would come back together because people of good will working together can get things done.

That same good will is on the Senate Finance Committee if we just have an opportunity to work the will of the committee. But we have produced a product—and I said I am embarrassed it was this Monday; it could just as well have been May 1, but we just could not get the Congressional Budget Office to score the bill. Maybe it is legitimate. It is a whole new Government program. They had to take into consideration putting people on board. I suppose CBO had to do a lot of education of their own staff. All I can say is, it is here, and it is not here too late.

Believe it or not, this bill is the only true bipartisan bill in all of Washington, DC, to add a drug benefit to Medicare. If ever there was an issue where true bipartisanship was needed, it is in this bill, it is needed beyond the authors of this bill to the entire body, and we can get something done this year rather than wait next year to spend another $100 billion more with the costs rising.

In short, the bipartisan 21st Century Medicare Act is the reasonable, pragmatic approach that can work even in an election year if Senator DASCHLE wants us to do it.

I thank the Chair.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Nevada.

Mr. REID. Mr. President, I will be brief. The Senator from Utah has been waiting for some time. I am not going to talk long in this regard, but I say to my friend from Iowa, for whom I have the deepest respect—I consider him a friend and a fine Senator—that AARP supports Graham-Miller because it is good legislation. I do not think anyone could ever consider the AARP as some wild-like liberal group. They are very careful with the legislation they sign on to.

I also say to my friend from Iowa, it is too bad we had not been able to start debating his amendment and other amendments earlier. Every time we bring a bill up, we have to fight to get it on the floor, but we are going to continue to do that. As on the other bills I listed earlier today which we had to fight to pass, we are going to work hard on this bill. We are going to pass prescription drug legislation because it is necessary we do that.

## 2002 NATIONAL PEACE ESSAY CONTEST SOUTH DAKOTA WINNER, JESSICA HICKS

Mr. DASCHLE. Mr. President, I am honored today to present to my colleagues in the Senate an essay by Jessica Hicks of Rapid City, SD. Jessica is a student at St. Thomas More High School and she is the National Peace Essay Contest winner for South Dakota. "Taking the Middle Ground: The Role of the Military in International Peacekeeping With Focus on Rwanda and Bosnia" is a call to U.S. leaders to seek an active American role in international peacekeeping that never loses sight of our national security interests. Jessica has tackled a vitally important subject with compassion, realism, and maturity. I can only hope that she continues to share her wisdom with the world, and I commend her essay to my colleagues' attention.

I ask unanimous consent that Jessica Hicks' essay be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### TAKING THE MIDDLE GROUND: THE ROLE OF THE U.S. MILITARY IN INTERNATIONAL PEACEKEEPING WITH FOCUS ON RWANDA AND BOSNIA

(By Jessica Hicks)

"Never doubt that a small group of deeply committed citizens can change the world. Indeed, it is the only thing that ever has" (qtd. Mead). The U.S. military is composed of a group of "committed citizens" that works to serve the U.S. and its interests. As of late, the U.S.'s interests have turned to international conflicts and peacekeeping. International peacekeeping involves outside countries aiding in stabilizing an area through mediation, presence, and humanitarian aid. The military's role in international peacekeeping has often been called into question. Many feel that the U.S. military should only work to end conflict and to ensure peace in areas of interest to the U.S. Others believe that the U.S. should take an isolationist approach toward peacekeeping, with the focus of the military on protecting U.S. borders.

Critics may not agree, but the U.S. military does have an important role in international peacekeeping, a role that was especially apparent during the 1990s. During this decade, genocide occurred in Rwanda and Bosnia. In Bosnia, the U.S. military took an active part in peacekeeping efforts ("Why the Troops Should Go"), whereas in Rwanda, the U.S. did not contribute to the United Nation's (UN) initial peacekeeping mission (Onumah). In the next decade, the U.S. military should follow a "middle ground" policy in international matters, so as to be able to maintain national security and to participate in peacekeeping (Hull 77).

The Rwandan genocide that occurred in 1994 was a result of past tensions (Goble). In 1919, Belgium colonized Rwanda, whose majority population is composed of two ethnic groups, the Hutus and the Tutsis (Freeman 16). Belgian colonizers increased differences between the two groups by issuing ethnic identity cards and placing the Tutsis in high government positions, though the Hutus were in the majority (Prunier 28).

Frustrated by their lack of power, the Hutus overthrew the monarchy of Rwanda in 1959 (Giles 59). As a result of this change of power, many Tutsis were killed, and approximately 200,000 became refugees in neighboring countries ("Rwanda"). In 1962, Rwanda gained independence from Belgium, and the Hutus gained control of the government (Iliffe 251). In 1973, Habyarimana, a Hutu general, became president of Rwanda. His attempts to include minority parties in the government were unpopular with Hutu extremists (Prunier 74–75).

Meanwhile, the exiled Tutsis created the Rwandan Patriotic Front (RPF), an army rebel group. In 1990, the RPF launched a civil war against the Hutus (Giles 59). The United Nations Assistance Mission to Rwanda (UNAMIR) was sent in to support Habyarimana's plan to share power with minorities (Shawcross 21). However, tensions between the Hutus and the Tutsis continued to increase, and in 1994, Hutu extremists shot down Habyarimana's airplane. Beginning in April of that year and continuing over the next three months, 800,000 Tutsis and moderate Hutus were killed in a genocide by the Hutus (Shawcross 21). The genocide ended in July, 1994, when the Tutsis regained control of the government. As a result, about two million Hutus left Rwanda, becoming refugees ("Rwanda"). When the killing began, most of the UNAMIR troops left Rwanda, and the genocide continued practically unrestrained by foreign influence (Goble). Although the U.S. sent humanitarian aid to Rwanda, it neglected to contribute much needed troops to initial UN peacekeeping efforts (Onumah).

The response of the U.S. military was different in Bosnia. Bosnia's tensions largely began with the creation of Yugoslavia after the First World War (Fromkin 135). Three ethnic groups have traditionally existed in Bosnia: the Croats, the Serbs, and the Muslims (Borden 16). Bosnia was part of communist Yugoslavia in the 1980s, and declared its independence in 1992 (Dragnich 192). Bosnian Serbs set out to create a "greater Serbia" by means of ethnic cleansing (Allen 44). In 1992, the UN responded by imposing naval blockades and trade sanctions on the former Yugoslavia (Ricchiardi 59). Croats and Muslims fought each other, as well as the Serbs. The United Nations unsuccessfully created six "safe havens" (protected cities) for the Muslims and the Croats in 1993 (Donia and Fine 243).

The U.S. helped to reduce the ethnic groups' fighting by mediating the signing of a peace agreement between the Croats and the Muslims in 1994 ("Fact Sheet: Human Rights Issues . . ."). Finally after atrocities committed by both sides, peace was reached in 1995, when, with the U.S.'s help the warring groups agreed to peace (to end war) in Dayton, Ohio ("Bosnia and Herzegovina"). To aid in peacekeeping, NATO sent in 60,000 troops as part of "multinational military Implementation Force" (IFOR) with U.S. soldiers comprising one-third of the troops ("Why the Troops Should Go"). The U.S. provided appropriate peacekeeping measures in Bosnia through mediation, presence, and humanitarian aid. Today, a reduced number of troops continues to remain in Bosnia to aid in keeping peace (Burg and Shoup 387).

The U.S. military has a vital role in international peacekeeping. Because of U.S. military influence, U.S. military involvement is critical to the success of peacekeeping efforts (Fromkin 49). The U.S. has access to resources that are essential to the peacekeeping process. In Rwanda, the U.S. initially did not want to be involved, and did not contribute troops, thus delaying peace in Rwanda (Jenish 24). In Bosnia, the U.S. military successfully worked through NATO to provide peacekeeping forces (Burg and Shoup 377–379). However, the U.S. should not dominate the peacekeeping process. A "middle ground" must be found in foreign policy. The "middle ground" policy involves the U.S.'s contributing military troops and aid, in cooperation with the UN, NATO, and other countries (Hull 77).

The U.S. military must determine whether its involvement is necessary in foreign conflicts. International peacekeeping turns the U.S. military away from its primary duty to protect the American borders and people. The U.S. must determine if the results of the conflict will affect its interests, such as national security (Fromkin 168). The U.S. military recognized that unrest in Bosnia could eventually cause conflict in Europe, whose stability is vital to the U.S. ("Why the Troops Should Go").

However, the U.S. also sends in military based on its ideals, such as recognition of a need for peace and stability (Fromkin 171). The U.S. has been accused of not being consistent in its involvement in international peacekeeping, and of becoming involved only when benefits are apparent for the U.S. The U.S. became involved in Bosnia partially because civilians felt that great injustices were occurring, and that peace was needed (Vulliamy 118).

Over the next decade, the U.S. military needs to continue aiding in international peacekeeping. However, a "middle ground" policy is a necessity when dealing with international matters. By maintain a "middle ground" policy, the U.S. can sustain a sufficient force at home for national security purposes (Hull 78). The U.S. military can also work with the UN, other countries, and regional organizations in peacekeeping. By taking the middle course, the U.S. military will be able to do its part in international affairs, while still protecting the American people.

In cooperation with the UN, the U.S. can work to provide mediation, presence, and material aid. Mediation was important in solving the Bosnia conflict. The U.S. helped arrange to have Bosnian leaders meet in Dayton, Ohio, acting as a mediator at the peace talks (Burg and Shoup 408). The U.S. can contribute military troops to the UN forces to help local officials maintain peace. The U.S. military can help ensure that minority groups are not threatened. As illustrated in Rwanda, the U.S.'s hesitancy to send troops to aid the UN forces in 1994 prevented the cessation of the genocide in its early stages ("Rwanda Revisited: A Look Back . . ."). Regional organizations should be utilized or established to help in peacekeeping actions, such as the distribution of humanitarian aid (Hull 93). When such organizations are not employed, aid can be misdirected, as in Rwanda, where corruption prevented appropriate distribution ("Humanitarian Efforts Threatened . . ."). Regional organizations are at the ground level of the problem, and, therefore, know who needs aid. Misappropriations of aid, as in Rwanda, can thus be avoided. These actions of mediation, presence, and material aid will be vital in the next decade.

The U.S. military has an important role in international peacekeeping, which was especially apparent in the 1990s. The U.S. military took an active part in Bosnian peacekeeping efforts. In Rwanda, however, the U.S. military failed to help in initial peacekeeping actions. The U.S. military should have a "middle ground" policy in dealing with international peacekeeping. This policy would allow the U.S. to maintain national security and to be active in international peacekeeping efforts. Because of the complicated nature of peacekeeping, the U.S. goals may not always be realized; but U.S. involvement is imperative for peace. As Theodore Roosevelt said, ". . . the man who really counts in the world is the doer, not the mere critic—the man who actually does the work, even if roughly and imperfectly, not the man who only talks or writes about how it ought to be done." The U.S. military aspires to take on this role in international peacekeeping.

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## FUTURE OF ANTI-TERRORIST COOPERATION IN COLOMBIA

Mr. THURMOND. Mr. President, I rise today to draw attention to the plight of the people of Colombia. For decades they have been plagued by the scourges of drugs, war, and terrorism. Today, thousands, if not millions of Colombians live under constant threat of attack by leftist guerrillas and right-wing paramilitary groups. However, in the recent elections the Colombian people overwhelmingly voted to bring the forces of terror and violence to their knees.

In support of their fight against terror, I believe it is the responsibility of our great Nation to offer its unwavering moral support to the people of Colombia and their democratically elected leaders. Since President Monroe first offered a vision for our Nation's involvement in the Western Hemisphere, the United States has been the guarantor of peace and democracy for all the peoples of the Americas. This is a tradition we must continue.

Consequently, it is time for us as a Nation to explore further extending our support, both moral and physical to the cause of developing the institutes of justice and governance in Colombia. In doing so, we help the Colombians achieve a better way of life and further our own fight against the forces of global terror.

In closing, we should not forego this opportunity to help a neighbor and an ally. I offer my firmest support to the people of Colombia and their fight to eradicate terrorists and criminals in their own country.

Mr. John Norton Moore is a distinguished professor of law and is the Director of the Center for National Security Law at the University of Virginia. He has written thoughtfully on this matter. I found his remarks to be highly valuable and wish to share them with the Senate. Therefore, I ask unanimous consent that an article written by Professor Moore be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Ending Terrorism in Colombia

(By John Norton Moore)

The people of Colombia, after years of negotiation with the forces of terror, have courageously voted for their own war on terrorism. For almost four decades, the people of Colombia have been beset with drug lords, old-thinking leftists, and paramilitaries waging war against their democracy and their humanity. Every year in that war a much smaller country than the United States loses more people than were killed in 9/11. Kidnapping runs rampant and the force of law is held hostage to the law of force. It is time for the World to notice Colombia's plight and to join with them to decisively end the terror.

Why should the United States and others help? Simply because unchecked terrorism left free to ravage democracies anywhere ultimately affects us all. Simply because the drug business in Colombia will never be tamed without an end to the armies of terror it feeds. Simply because economic development in Latin America and an extension of hemispheric trade requires the rule of law. Simply because a decisive hemispheric victory over terrorism in Colombia will have powerful deterrent legs in the global war against terrorism. Simply because the people and democracies of Latin America matter. And simply because, as the people of Colombia have just attested, four decades of terror is enough.

How can the United States help? Visualizing the ghost of Vietnam, the body politic in the United States has been reluctant to become directly involved in what many see as a domestic struggle in Colombia. Human rights abuses from all sides have further discouraged assistance. Political consensus has only permitted an increased program of aid said to be directed at the war on drugs. Even in a post 9/11 World, it is unlikely that the American body politic wants an Afghan style American military presence on the ground in Colombia. Moreover, America has a full plate in the fight on terror at present, and an important agenda for peace in the Palestinian/Israeli dispute and now the India/Pakistan dispute. But the alternative is not, and has never been, simply a U.S. military presence in Colombia or terror as usual.

The United States should take the lead in consultations with the new leadership of Colombia and the Organization of American States to put together a powerful Inter-American coalition under the Rio Treaty to decisively and permanently restore the reach of democracy over all of Colombia. The Rio Treaty, as the security arm of the Inter-American system, preceded NATO and, indeed, NATO was largely modeled on it. The Inter-American system as a whole has as a central purpose the protection of democracy and human dignity throughout the region. The Rio Treaty pledges the collective action of all of the American states to deal with threats to the peace to those ends. It is time to put that system to the test.

To be successful such as Inter-American effort would need the full agreement and cooperation of the new Colombian Government. In addition, it must be designed to field an overwhelming response against terror on all fronts and to prevail decisively and promptly. To do this would likely require a sophisticated package with major ground units from leading Latin American states, logistics, technological and intelligence assistance from the United States, a substantial package of economic aid, perhaps coordinated from Nations around the World, and a vigorous human rights effort to accompany the necessary military action. The action should also be coordinated with the United Nations Security Council even though as a matter of international law Colombia has every right simply to request assistance from any nation or the organization of American States to deal with its problem of terror. Further, the action should properly be placed in the global war on terror. Once the plan for overwhelming response has been adopted under the Rio Treaty, a requirement experience shows will lessen casualties on all sides, then the groups in Colombia resisting the rule of law should be given an opportunity to turn over their weapons and unconditionally accept democratic rule from the properly elected Colombia officials. If the perpetrators of terror refuse, the Inter-American plan should be carried out promptly and decisively to restore the rule of law and democracy throughout the proud nation of Colombia.

For many years I have heard brave representatives from Colombia describing the daily terror in their country. I have listened to the stories of car bombs, kidnappings, and a rural judiciary that had to wear running shoes to Court in order to be able to jump out of the window and run when the terrorist arrived. It is time to put those running shoes on those who challenge the rule of law.

## ACCOUNTING REFORM

Mr. NELSON of Nebraska. Mr. President, I rise to express my support for the accounting reform bill and the underlying goals of the legislation. I wholeheartedly endorse the principles expressed in this bill to root out corruption in our accounting industry.

The need for this bill is enormous. The accounting scandals that have rocked this Nation over the past nine months have shaken Americans' faith in our free market system. We simply cannot allow this attack at the bedrock of our economic system to pass unanswered. Those who have propagated corporate greed, those who have engaged in unethical business practices, and those who have willingly and knowingly turned a blind eye must be punished.

Moreover, we need to assure all Americans that they can and should have faith in American business. The loss of confidence caused by a lack of accountability has caused nearly as much damage as the economic impact of these surfacing scandals.

The perpetrators of these scandals are certainly in the forefront of our minds as we have debated this legislation. But, in the end, this bill is not about those who have violated the trusts of their employees and shareholders. This bill is really about those employees and shareholders who have been violated, it's about average Americans who are now being penalized and disadvantaged because of the corporate greed of a privileged few. And it is about those honest accountants whose integrity and profession have been scarred by a few dishonest individuals.

I need look no further than my home State of Nebraska to see the human aspect of these fraudulent accounting practices. Before it merged with Houston Natural Gas in 1985, InterNorth, the forerunner of Enron, was based in Omaha. In the year following the merger, the newly named Enron relocated to Houston, but it still had roots in Nebraska as well as thousands of InterNorth retirees.

Those retirees and employees have seen their lives turned upside down by the accounting trickery perpetrated by those at the top. Many have seen their retirement accounts evaporate while others have lost their jobs.

Not only has their trust been violated by the actions of Enron executives, they also have to witness the apparent disinterest of the accountants who were obliged to ensure honesty and integrity in bookkeeping. With the livelihoods and savings of tens of thousands on the line, a handful of accountants failed to do their duty.

When I was governor of Nebraska, we had a period of upswing in the distribution of dangerous drugs. In response, we stiffened penalties in our omnibus crime legislation. The same principle applies here. When there is an upswing in criminal and unethical behavior, we have to get tough.

Corporate greed is a scourge on Americans and those who are participating in it should be paying the price.

This legislation will ensure they do pay a price commiserate with the pain they have inflicted upon the American people.

I'd like to thank my colleague Senator SARBANES for his tireless work on this bill. His efforts to crack down on unethical accounting practices are greatly appreciated.

I urge all of my colleagues to join me in supporting this bill. Through this legislation, we can move away from the failures of the past, begin to restore investor confidence, help return to our strong economy and prove that a few bad seeds cannot bring down our great Nation.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 1, 2001 in Roanoke, VA. Two men and the pastor of a predominantly gay church were attacked by three men after a Bible study and prayer meeting, police and the pastor said. The Rev. Catherine Houchins was struck in the face as she tried to call 911 on her cellular phone after the initial attack. The attackers, who came out of an alley as the victims were getting into their cars, were heard to yell obscenities related to the victims' sexual orientation.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ADDITIONAL STATEMENTS

### COMMENDING THE DISTRICT OF COLUMBIA NATIONAL GUARD, THE NATIONAL GUARD BUREAU, AND THE ENTIRE DEPARTMENT OF DEFENSE

• Mr. DURBIN. Mr. President, I rise today in support of H. Con. Res. 378, which passed the Senate by unanimous consent on July 12, 2002. This resolution commends the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire congressional community in response to the terrorist and anthrax attacks of September and October 2001.

I would like to thank all of those who worked tirelessly for almost five months in response to the heightened state of emergency in the Capitol complex following the terrorist and anthrax attacks of September and October 2001.

We owe so much to the over 140 members of the District of Columbia Army National Guard, specifically the 260th Military Police Command, the 260th Regional Training Institute, the 74th Troop Command, the Headquarters District Area Regional Command, and the 33rd Civil Support Team, who answered the call to duty to assist the Capitol Police in protecting the Capitol complex. We here in the Capitol saw firsthand the cooperation between the National Guard and the Capitol Police. This time presented a challenging assignment for all involved, and the combined efforts of these two agencies served as a model for managing such a difficult situation.

Because of these men and women, we were protected around the clock and the activities in the Capitol were secure. Members of Congress, congressional employees, and visitors were confident of their safety here, and we were able to continue to serve the American people.

The dedication of the District of Columbia National Guard came at a price. These men and women worked an extreme number of hours under difficult conditions. The time they spent in order to serve their country was time away from their loved ones, and we are grateful for the personal sacrifices they made for our nation.

During the course of the Civil War, Abraham Lincoln came to Washington as the new president. The States began to divide into the Confederacy and the Union. When he arrived, this Capitol dome which you see outside was under construction. Many people went to the President and said: Mr. President, we can't afford to wage a war and build this Capitol dome. He said: "Yes; we can, because that Capitol dome represents the unity of this country and what we will be after this war." During the Civil War, he continued the construction of that great dome we see today. And Lincoln was right.

The National Guard protected not only the people within the Capitol complex, but the complex itself and the unity, liberty, and freedom it represents. I am honored to support this resolution commending the work of the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense, and I extend my personal gratitude for their service.•

## IN MEMORY OF THE LIFE AND LEGACY OF FRANCES RILEY

• Mr. SMITH of New Hampshire. Mr. President, I rise today in remembrance of a cherished friend and former Republican State representative, Frances Riley.

Mrs. Riley's professional career as a representative from New Hampshire can only be described as accomplished, passionate, and revered. As a House member from 1985 to 1998, Fran cofounded the Legislature for Limited Spending and was a valued member of the Manchester Federation Republican Woman's Club. She demonstrated an unyielding respect, not only for her position but for the positions of her colleagues as well. This was an important principle from which Fran never faltered, solidifying her role as a first-rate political official.

Riley is survived by her husband, Paul; their three daughters, Katherine James, Christine Riley, and Karen Godzyk, one brother, one sister, and four grandchildren.

Frances Riley had been a resident and active member of the Manchester community since she arrived there in 1957. My friendship with Mrs. Riley began some time ago and she remained a treasured and admired presence in both my personal and professional life. Her absence will be felt by all of us whose lives she touched and who were privileged to be her friend. Fran, I'll miss you.•

## APPLAUDING DIVERSITY

• Mr. BUNNING. Mr. President, I rise today among my colleagues to pay tribute to Susy Aparicio of Lexington, Kentucky. Last week, in what will surely be a giant step for Lexington's Latino community, Mrs. Aparicio officially opened Biblioteca Hispana to the public.

Susy Aparicio, a native of Ecuador, and her husband, a native of Bolivia, met while they were both students at the University of Kentucky in the late 1970s. After a short stint in Bolivia, Susy and her husband returned to Lexington. Throughout their time living in Kentucky, they have taken notice of the severe deficiency of books, magazines and newspapers available in Spanish. The public library offers a few options, but transportation and language issues serve as unavoidable obstacles to many Spanish-speaking residents. Although both Susy and her husband understand the importance of their children learning and mastering the English language, they still prefer that their children and their children's children grow up with access to resources published in their native language. For nearly two decades, Mrs. Aparicio has dreamed of opening a library where the Hispanic community could have easy access to various reading materials in Spanish. This dream has now become a reality.

Using a grant from the Partners for Youth Foundation, Susy organized a collection of about 400 books and audio and videotapes, mostly geared towards children. Eventually, Susy would like to obtain more funding to expand the library to include more adult-oriented books and offer storytelling, tutorial and family-literacy programs. She hopes this project will provide an adequate gateway for the Latino community to revel in its rich culture.

America is a diverse land full of differences in opinion, prayer and language. While I firmly believe that to succeed in America one must fully embrace the English language, at the same time the new arrivals to America should be sure to remember and celebrate their traditional roots. Diversity has always been and will remain to be one of this nation's greatest strengths.

Mrs. Aparicio has worked extremely hard for the Hispanic community in Lexington, and in the end, Biblioteca Hispana will be a place where future generations can take their children to learn about their ancestry and where they came from.●

## TRIBUTE TO ATOMIC VETERANS

● Mr. **MILLER**. Mr. President, I rise to acknowledge President Reagan's designation of July 16 as National Atomic Veterans' Day.

Between 1945 and 1963, the United States conducted over 235 atmospheric nuclear weapons tests in the Pacific and the American Southwest. At least 220,000 American servicemembers participated in these tests, or were stationed near Hiroshima and Nagasaki immediately following World War II. While they served our country patriotically, loyally, and proudly they were not informed of the dangers from exposure to ionizing radiation. For 50 years, these veterans have been one of the most neglected groups, even though they risked their lives for our freedom.

Despite their valuable contributions to the United States, these veterans have not received the recognition they deserve. It is only appropriate that the American people remember the service of these dedicated veterans today, National Atomic Veterans' Day.●

## ARTTABLE LUNCHEON

● Mrs. **CLINTON**. Mr. President, on April 26, 2002, I had the opportunity to attend the 10th annual ArtTable Luncheon. ArtTable is a national organization for professional women in leadership positions in the visual arts. Founded in 1981, it provides a forum for its members to exchange ideas, experience and information through various programs. ArtTable is dedicated to promoting and advancing greater knowledge, understanding, and appreciation of the visual arts. At each year's luncheon, a different woman who has given her distinguished service is honored. The keynote speaker on this occasion was Dr. Kirk Varnedoe, Chief Curator of the Department of Painting and Sculpture at the Museum of Modern Art and Professor in Historical Studies at the Institute for Advanced Study, Princeton University.

Dr. Varnedoe has more than a dozen major exhibitions to his credit, both for the Museum of Modern Art and for other institutions. His work has often been at the forefront of the history of modern art and his extensive publications on European and North American art of the nineteenth and twentieth centuries have helped reshape and open up a variety of fields in art history. His contributions began in 1972, at the age of 25, with his doctoral dissertation on the drawings of Rodin and the epidemic problem of forgeries of the later drawings. This work was so significant that its results were published in collaboration with Albert Elsen before the dissertation had even been submitted. His scholarship since that time has been instrumental in opening entire fields of inquiry, for example, Impressionism, Scandinavian modernism, and the influence of photography on painting, as well as bringing little known artists into the center of debate.

In his remarks at the luncheon, which I will ask be printed in the RECORD, Dr. Varnedoe spoke eloquently about his "personal odyssey with the art of Auguste Rodin" and the greater issues that journey brought to life. He discussed the ever-changing world of modern art and what it can teach us, especially during this incredibly challenging period of history through which we are living.

I am grateful to Dr. Varnedoe for his continued scholarship efforts in the area of art history and for sharing this history with us in a way that we can apply it to our experiences in the world today.

I ask that the remarks be printed in the RECORD.

### ARTTABLE KEYNOTE

April 26, 2002

(By Kirk Varnedoe)

I have had a personal odyssey with the art of Auguste Rodin. It's a love that I share—along with a great regard for her late husband Bernie—with Iris Cantor. Rodin was once for me an intense and special passion, a singular entry point into the history of art. And now, that body of work seems somehow seen at a distance, more coolly, and that artist one among many with whom I've worked, and from whom I've taken inspiration. Today, I would like to take that small and really trivial personal trajectory into and through Rodin and ruminate on it in relationship to a larger pattern: to use it to think about the way that the modern tradition metes out its gains and losses, the way it gives and takes; and then also to use my little journey to suggest much larger issues about learning and growth—about what we want from art as we change and learn.

Modern art, as is notorious, kills, and it kills mercilessly. In the late 19th Century as it was just being born it laid waste to the Salon world of Gérome and Bougureau. And then as it built up steam in the early 20th Century it decided to start slaying some of its own parents and godparents. After World War II modern art killed Rodin like a bright young barbarian gladiator taking down an aging, opulently garlanded emperor—in sheer exhaustion at the achievement of Rodin's weight and complexity, people found themselves gagged to surfeit by the ancienne cuisine richness of this enormous oeuvre, and yearned for a leaner, cleaner psychic and physical life in art. That is perhaps exemplified most pointedly by the beautiful polished surfaces of Brancusi's sculpture. Where once Rodin's flesh roiled volcanically, now you had a still-waters-run-deep beautiful gleam, more like armor than palping flesh; compression/density replaced extension/elasticity; wit and elegance took over for brooding and suffering; and abbreviated, pithy economic certainties were set up against the older anguished overflowing desire and doubt; fulfillment replaced yearning, and the sticky sweet humidity of Rodin's world was replaced by slick machine cool. And then in the 20's and 30's, the curse of the word "Victorian" descended on The Kiss on The Thinker and on so much else of Rodin's work. A curse that I might say is still enacted at the Metropolitan Museum of Art, if you go look at the installation of the former Andre Meyer Galleries where there is a special kind of purgatory off to the right of Cezanne Degas, and Manet, where The Age of Bronze strides in pride next to Rosa Bonheur and Bastien-Lepage.

But just as certainly as the modern movement took away, it so eventually gave back. Modern art is a sure killer but it is also a fantastic resuscitator. And it works its growth through pulses of recovery. One of those main pulses came in the 1960's with scholarship by men like my mentor Albert Elsen at Stanford, and by Leo Steinberg, who wrote a key essay at the time of Elsen's Retrospective of Rodin at the Modern in the late 60's. Elsen re-found a new Rodin, via his training under Meyer Schapiro, and by his engagement as a young man in the 50's with Abstract Expressionism. And his show in the late 60's was the culmination of new interest, in everything about Rodin's bronzes that was spontaneous, painterly, seemed to depend on accident, and broadcast a kind of heroic drama of angst that seemed in tune with Pollock, with Rothko etc.. While Steinberg, on the other hand, via his experience of Jasper Johns and Judd, pointed us to a new awareness of the formal strategies of Rodin: his techniques of repeating single molds to form new compositions; his processes of fragmenting and hybridizing the body's anatomy, against nature, towards new expressive devices. In these radical, small gestures of handling material, he found a new and more relevant Rodin for the late 60's, the age of minimalism.

Moving on, recuperating, resuscitating, the way that Modern art does it, involves, not simply leaving behind, but finding new ways to carry forward. We know that for example that Cezanne said that his goal was to redo Poussin after nature. Modern art has always had a steady urge to reinvent the past and to recapture it in terms that translate its values into ours, to reinvent, to make new, and this means not only old masters like Poussin, but its immediate forbearers. So in the 1960s, you not only have the reinvention of Rodin, but the re-invention of Russian Constructivism through minimalism, Marcel Duchamp reborn in the work of Richard

Hamilton, Jasper Johns and Bruce Nauman, and Futurism in Pop Art, especially British. A whole new parentage was reinvented, often outside the traditional "school of Paris" lineage, for Modernism. And the "recovery" of Rodin was a part of this revivification.

But at what a cost? Steinberg's essay for example, was explicit in saying we have to begin by disregarding so much. We have to begin by eliminating all of the public Rodin, all of the finished works, indeed virtually all of the most ambitious parts of his work, which are seen in a scornful way, as part of the desire to please too large a public. Steinberg wants to favor instead the intransigent truculence of a private experimenter, showing no compromise at all with the tastes or demands or emotions of the public of his time. In Steinberg's case it is particularly modern irony that imposes the great divide between our cooler, sophistication, and a rejected messier world of sentiment pathos, and earnest heroism in Rodins.

"Our" Rodin, then, relevant, sanitized and censored—not the Rodin of The Kiss, the Thinker, or the marble works, and surely not the Rodin before whom Cézanne fell embarrassingly to his knees, and to whom Ranier Maria Rilke dedicated his pen and his time. Is that the inevitable price of progress in knowing art? To narrow-hew, in order to make newly vivid/relevant? To diminish and deform as we try to reform, pick and choose?

This audience in this room is a kind of aristocracy, or meritocracy, of special knowledge about art. We work at it. We are typical of those the self-elected and self-organized elites and cenacles and Salons that have made Modern art get up and go from the beginning and all along. And this group too is typical of the kind of voluntary assemblages—shooting associations, stamp guilds, glee clubs, softball leagues and debating societies—that, far from being anti-democratic in nature, have been seen by observers since Tocqueville as being central to the health of our plural society, and indeed the unscripted backbone of democracy's difference from mere mob rule. Now it's an article of faith in this room that knowing more about art, being more sophisticated, is certainly a good way of forming a club, of defining one's self, gathering together with fellow feelers. But is it a legitimate corollary that more sophistication and knowledge is necessarily greater moral intelligence about the larger world, or indeed about all art? The dirty truth is that there is always a price to be paid, in the deadening of our capacity to respond to joys that once moved us, sealing us off from others in our iced and ironic superiority.

We have been living for years now in a time of great surprises, unpredictable events and changes that have deeply affected us—the coming of AIDS, and with it a new sense of fatality and mortality; the fall of the wall and what did not come in the wake of its euphoria; the haunted resurgence of Holocaust memory—and then, finally the massive rent in the historical fabric that took place just over six months ago. It is not just that the art of Louise Bourgeois, of Ghormley and Munoz, of Kiki Smith and Charlie Ray have for years now been asking us to rethink Rodin's heritage of the vulnerable body. Nor certainly am I dealing with only the question of suddenly now considering the specific memorial, monumental and public ambitions of the best sense of memory and tragedy in this one artist, Rodin—though both of these reinventions and rethinking seem overdue. But what seems subliminally an issue now is the broader confrontation with what our sophistications may cost us more generally—in a lack of access to the heroic, or to tragic, when these terms seem suddenly, newly apposite and relevant. Is it we slick pros who are irrelevant, and bound in? Inadequate to our time, as it has to our great surprise changed faster than we seem to be able to? This is a question I know many artists have been asking themselves, and it is one worth our asking ourselves too.

We need to rethink the balance of continuity, and relevance in art, the two things I think, that we go to art for. On the one hand for a vivid sense of our own life, of being alive, but also for a sense of things outside ourselves, other minds, other ways of feeling. And that other shifts as we change, and grow, and can include the parts of ourselves, the passions that got us here but that we have abandoned and closed up to some ostensible hipper and better good. What does it mean to grow up? (Baudelaire felt that true genius was only childhood recovered at will, now equipped with adult means of communication) What does it mean in the art world that we all inhabit, to be a pro? Is it a dead ideal that it could entail for ourselves, and those we advise and instruct an effort always towards a broadening, increasing sympathy for a wider range of life experience, more encompassing, more fully human? It might—if we could be less hidebound, a little more sure of ourselves—it might be a goal to be more alive to the possibilities of our peculiar moment in history, if we truly work at it.●

## CONGRATULATIONS TO WESTMINSTER CHRISTIAN ACADEMY

● Mr. BOND. Mr. President, I would like to congratulate Westminster Christian Academy of St. Louis, Missouri for their second place award in the "We the People . . . The Citizen and the Constitution" competition held in Washington, D.C. from May 4–6, 2002. These outstanding young people competed against 50 other classes from across the nation and demonstrated a remarkable understanding of the fundamental ideals and values of American constitutional government. I commend these students for their hard work and keen understanding of the Constitution and the Bill of Rights and the principles and values they embody. Congratulations to Chelsea Aaberg, Erin Aucker, Claire Barresi, David Baxter, Jordan Chapell, Eric Dalbey, Matt Frick, Brandon Furlong, Matt Georges, Megan Ghormley, Kate Gladney, Abi Haas, Elisabeth McClain, Alyson Miller, Becky Miller, Emily Munson, Amy Myers, Anu Orebiyi, Lauren Petry, Cassie Reed, Terra Romar, Matt Schrenk, Drew Winship, and Bethanne Zink.●

## TRIBUTE TO LT. GEN. MICHAEL A. NELSON, U.S. AIR FORCE, RETIRED

● Mr. WARNER. Mr. President, I rise today to pay tribute to an exceptional leader—Lieutenant General Mike Nelson, United States Air Force, Retired—in recognition of his remarkable career of service to our country.

General Nelson has a truly distinguished record, including 35 years of commissioned service in the U.S. Air Force uniform, that merits special recognition on the occasion of his retirement as President of The Retired Officers Association (TROA).

Born in East Los Angeles, California, he graduated from Stanford University and entered the Air Force as a second lieutenant in 1959, then earned his pilot's wings the following year. His subsequent military career exemplifies what the Air Force expects from its best and brightest.

General Nelson demonstrated valor and leadership throughout his 35 years of dedicated military service to his country, and has been a positive role model and mentor for countless officers of all services in his dedication to protecting the welfare of those who serve and sacrifice in uniform. That dedication and excellence has not diminished in his subsequent service to our nation's military community since 1995 as President of The Retired Officers Association, the position from which he is now retiring.

Under his thoughtful and inspired leadership, The Retired Officers Association has played a continuing, vital role as a staunch advocate of legislative initiatives to maintain readiness and improve the quality of life for all members of the uniformed service community—active, reserve, and retired, plus their families and survivors.

General Nelson has been a key supporter of the Armed Services Committee's efforts to improve long-term retention and readiness through a competitive compensation and retirement package for active and reserve forces, restoration of lifetime health care and fair disability treatment for retired personnel and their families, and enhancing protections for the survivors of deceased service members. Guided by his personal leadership efforts, TROA has been an invaluable source of information in the committee's deliberations on a long list of compensation and benefits issues during this extraordinarily productive period.

General Nelson's long and exceptionally distinguished career of leadership and personal dedication to protecting our Nation and those who serve in our armed forces is an inspiration to all who care about maintaining a strong national defense. Our very best wishes go with him for long life, well-earned happiness, and continued success in service to his nation and the uniformed service members whom he has so admirably led and served.

As a former Sailor and Marine, I offer General Nelson a grateful and heartfelt salute.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At. 6:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3214. An act to amend the charter of the AMVETS organizations.

H.R. 3482. An act to provide greater cybersecurity.

H.R. 3838. An act to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes.

H.R. 3988. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

H.R. 4755. An act to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the "Clarence Miller Post Office Building".

H.R. 4807. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 408. Concurrent resolution honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs.

H. Con. Res. 413. Concurrent resolution honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary; to the Committee on the Judiciary.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3214. An act to amend the charter of the AMVETS organization; to the Committee on the Judiciary.

H.R. 3482. An act to provide greater cybersecurity; to the Committee on the Judiciary.

H.R. 3838. An act to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes; to the Committee on the Judiciary.

H.R. 3988. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion; to the Committee on the Judiciary.

H.R. 4755. An act to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the "Clarence Miller Post Office Building", to the Committee on Governmental Affairs.

H.R. 4807. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 408. Concurrent resolution honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs; to the Committee on Environment and Public Works.

H. Con. Res. 413. Concurrent resolution honoring the invention of modem air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary; to the Committee on the Judiciary.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2. A bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7898. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the 2001 Annual Uranium Industry Report; to the Committee on Energy and Natural Resources.

EC–7899. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "New Mexico Regulatory Program" (NM–042–FOR) received on July 10, 2002; to the Committee on Energy and Natural Resources.

EC–7900. A communication from the General Counsel, National Science Foundation, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Revise National Science Foundation's Misconduct in Science and Engineering Regulations at 45 CFR Part 689" (RIN3145–AA39) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7901. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, transmitting, pursuant to law, the report of a rule entitled "Child and Adult Care Food Program: Implementing Legislative Reforms to Strengthen Program Integrity" (RIN0584–AC94) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7902. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Housing Assistance for Native Hawaiians; Native Hawaiian Housing Block Grant Program and Loan Guarantees for Native Hawaiian Housing" (RIN2577–AC27) received on July 9, 2002; to the Committee on Indian Affairs.

EC–7903. A communication from the Associate Deputy Administrator for Government Contracting and Business Development, Small Business Administration, transmitting, the report of a delay in submitting the Minority Small Business and Capitol Ownership Development Report for Fiscal Year 2001; to the Committee on Small Business and Entrepreneurship.

EC–7904. A communication from the Secretary of Education, transmitting, pursuant to law, a report with respect to the recommendations contained in the report of the President's Advisory Commission on Educational Excellence for Hispanic Americans; to the Committee on Health, Education, Labor, and Pensions.

EC–7905. A communication from the Comptroller General of the United States, General Accounting Office, transmitting, pursuant to law, a report concerning U.S. General Accounting Office (GAO) employees who were assigned to congressional committees during Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–7906. A communication from the Director, Office of Personnel Management, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Career Transition Assistance for Surplus and Displaced Federal Employees" (RIN3206–AJ32) received on June 26, 2002; to the Committee on Governmental Affairs.

EC–7907. A communication from the Administrator and Chief Executive Officer, Bonneville Power Administration, Department of Energy, transmitting, pursuant to law, the Annual Report for 2001; to the Committee on Governmental Affairs.

EC–7908. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 8C for Fiscal Years 2000, 2001, and 2002 from October 1, 1999 through December 31, 2002; to the Committee on Governmental Affairs.

EC–7909. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "NAFTA Procurement Threshold" (DFARS Case 2002–D007) received on June 26, 2002; to the Committee on Armed Services.

EC–7910. A communication from the Acting Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, Amtrak's Route Profitability Systems Results Report for Fiscal Year 2001; to the Committee on Commerce, Science, and Transportation.

EC–7911. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Assistance to Firefighters Grant Program" (RIN3067–AD21) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7912. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Twenty-Fourth

Annual Report concerning the Fair Debt Collection Practices Act for 2002; to the Committee on Commerce, Science, and Transportation.

EC–7913. A communication from the Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Development, transmitting, pursuant to law, the Federal Housing Administration's Fiscal Year 2001 Annual Report on Initiatives to Address Management Deficiencies; to the Committee on Banking, Housing, and Urban Affairs.

EC–7914. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Assessments on Security Futures Transactions and Fees on Sales of Securities Resulting From Physical Settlement of Securities Futures Pursuant to Section 31 of the Exchange Act" (RIN3235–AI49) received on July 9, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7915. A communication from the Executive Director, Air Transportation Stabilization Board, transmitting, pursuant to law, the report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC–7916. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent U.S. military personnel and U.S. individual civilians retained as contractors involved in the antinarcotics campaign in Columbia supporting Plan Colombia; to the Committee on Appropriations.

EC–7917. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, a report relative to specifying the projects and accounts to which funds provided in the Counter-Terrorism and Defense Against Weapons of Mass Destruction accounts are to be transferred; to the Committee on Armed Services.

EC–7918. A communication from the Assistant Secretary of the Army, Financial Management and Comptroller, Department of the Army, transmitting, pursuant to law, the Army Annual Financial Statement for Fiscal Year 2001; to the Committee on Armed Services.

EC–7919. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Ocean Transportation by U.S. Flag Vessels" (DFARS Case 2000–D014) received on July 9, 2002; to the Committee on Armed Services.

EC–7920. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Utilization of Indian Organizations and Indian-Owned Economic Enterprises" (DFARS Case 2000–D024) received on July 9, 2002; to the Committee on Armed Services.

EC–7921. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the National Defense Stockpile (NDS) Annual Materials Plan (AMP) for Fiscal Year 2003, and revisions to the Fiscal Year 2002 AMP; also included are AMPs for Fiscal Years 2004 through 2007; to the Committee on Armed Services.

EC–7922. A communication from the Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "TRICARE; CHAMPUS; Bonus Payment in Medically Underserved Areas" (RIN0720–AA60) received on July 10, 2002; to the Committee on Armed Services.

EC–7923. A communication from the Secretary of State, transmitting, pursuant to law, a report on verification of The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions signed May 24, 2002 in Moscow (the Moscow Treaty); to the Committee on Foreign Relations.

EC–7924. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the Annual Report on U.S. Government Assistance to Eastern Europe for Fiscal Year 2002; to the Committee on Foreign Relations.

EC–7925. A communication from the Assistant Bureau Chief for Management, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Establishment of Policies and Service Rules for the Non-Geostationary Satellite Orbit, Fixed Satellite Service in the Ku-Band" (FCC 02–123) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7926. A communication from the Deputy Chief, Telecom Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers" (FCC 02–171) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7927. A communication from the Assistant Bureau Chief, International Bureau, Policy Division, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of 2000 Biennial Regulatory Review, Amendment of Parts 43 and 63 of the Commission's Rules" (FCC 02–154) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7928. A communication from the Assistant Chief, Telecom Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers" (FCC 02–181) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7929. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Safety: Drug and Alcohol Testing for Pipeline Facility Employees" (RIN2137–AD55) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7930. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Boeing Model 757–200, 200CB, and 200PF, and 767–200, and 300, and 300F, Series Airplanes" ((RIN2120–AA64)(2002–0313)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7931. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "McDonnell Douglas Model MD–90–30 Airplanes" ((RIN2120–AA64)(2002–0314)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7932. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Retention of Shipping Papers" (RIN2137–AC64) received on July 11, 2002 ; to the Committee on Commerce, Science, and Transportation.

EC–7933. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Safety: Hazardous Liquid Pipeline Accident Reporting Revisions" (RIN2137–AD56) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7934. A communication from the Office of Managing Director, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Assessment and Collection of Regulatory Fees for Fiscal Year 2002" (MD Doc. No. 02–64, FCC 02–205) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7935. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "1998 Biennial Regulatory Review—Conducted Emission Limits Below 30 MHz for Equipment Regulated under Parts 15 and 18 of the Commission's Rules" (ET Doc. No. 98–80, FCC 02–157) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7936. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Part 15 of the Commission's Rules Regarding Spread Spectrum Devices" (ET Doc. No. 99–231, FCC 02–151) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7937. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems" (ET Doc. No. 98–253, FCC 02–48) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7938. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Alexandria, MN" (MM Doc. No. 01–207, RM–10206) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7939. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Station; Calais, ME" (MM Doc. No. 01–167, RM–10180) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7940. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Pierce, Nebraska; Coosada, Alabama; Pineview, Georgia; Diamond Lake, Oregon" (MM Doc. No. 01-340; 01-341; 01-342; 01-343) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7941. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Cocoa, FL" (MM Doc. No. 01-162; RM-10183) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7942. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Lakin, KS" (MM Doc. No. 02-3, RM-10349) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7943. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Bryan, TX" (MM Doc. No. 00-124; RM-9893) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7944. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Charleston, SC" (MM Doc. No. 01-128, RM-10133) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7945. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Boca Raton, FL" (MM Doc. No. 00-138; RM-9896) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7946. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Woodbury, GA; Relaince, WY; Eagle Lake, TX; Montana City, MT ; Plainville, GA; Rosholt, WI; Morganville, KY; Boswell, OK; Frederic, MI" (MM Doc. No. 01-13, 01-20, 01-80, 01-81, 01-102, 01-103, 01-114, 01-136, 01-201) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7947. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Huntington, WV" (MM Doc. No. 01-56) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7948. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, and Section 73.606(b), Table of Allotments, TV Broadcast Stations; Springfield, IL" (MM Doc. No. 02-27) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7949. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Clarksburg, WV" (MM Doc. No. 01-165) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7950. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Request for Comments Eurocopter France Model AS332L2 Helicopters" ((RIN2120-AA64) (2002-0316)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7951. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Wickenburg and Salome, AZ" (MM Doc. No. 01-345) received on July 11, 2002, received on July 11, 2002; to the Committee on Commerce , Science, and Transportation.

EC-7952. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes" ((RIN2120-AA64) (2002-0308)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7953. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pratt and Whitney (PW) PW2000 Series Turbofan Engines" ((RIN2120-AA64) (2002-0310)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7954. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Bell Helicopter Textron Canada Model 407 Helicopters" ((RIN2120-AA64) (2002-0311)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7955. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Eurocopter France Model AS332L2 Helicopters" ((RIN2120-AA64) (2002-0315)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7956. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; Rockford, IL Modification of Class E Airspace Rockford, IL Correction" ((RIN2120-AA66) (2002-0114)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7957. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Portsmouth, OH" ((RIN2120-AA66) (2002-0112)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7958. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Freemont, NE Class E Airspace Area" ((RIN2120-AA66) (2002-0113)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7959. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honeywell International, Inc. (formerly AlliedSignal and textron Lycoming) ALF-502 and LF507 Turbofan Engines" ((RIN2120-AA64) (2002-0307)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7960. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Flint, MI" ((RIN2120-AA66) (2002-0010)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7961. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace, St. Ignace, MI" ((RIN2120-AA66) (2002-0111)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7962. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace, Washington Court House, OH" ((RIN2120-AA66) (2002-0108)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7963. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mount Vernon, OH" ((RIN2120-AA66) (2002-0109)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7964. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Cincinnati/Northern Kentucky International Airport Class B Airspace Area; Kentucky" ((RIN2120-AA66) (2002-0107)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7965. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Raytheon Aircraft Company Models E55, E55A, A56TC, 58, 58A, 58P, 58PA, 58TC, and 58TCA Airplanes" ((RIN2120–AA64) (2002–0312)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7966. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Jet Route" ((RIN2120–AA66) (2002–0106)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7967. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Change Using Agency R-4305, Lake Superior, MN" ((RIN2120–AA66) (2002–0105)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7968. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Naval Submarine Base Bangor and Naval Submarines, Puget Sound and Strait of Juan De Fuca, WA" ((RIN2115–AA97) (2002–0117)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7969. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Portsmouth Harbor, Portsmouth, NH" ((RIN2115–AA97) (2002–0119)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7970. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Pilgrim Nuclear Power Plant, Plymouth, MA" ((RIN2115–AA97) (2002–0115)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7971. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port Valdez and Valdez Narrows, Valdez, Alaska" ((RIN2115–AA97) (2002–0114)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7972. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Charles' Engagement Fireworks Display, Black Point, CT" ((RIN2115–AA97) (2002–0118)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7973. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Force River Channel—Weymouth Fore River—Weymouth, MA" ((RIN2115–AA97) (2002–0121)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7974. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Corpus Christi Inner Harbor, Corpus Christi, TX" ((RIN2115–AA97) (2002–0124)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7975. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Navigation and Navigable Waters—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments" ((RIN2115–ZZ02) (2002–0001)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7976. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Offshore Gran Prix Powerboat Race, Long Beach, CA" ((RIN2115–AA97) (2002–0116)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7977. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Chesapeake Bay, Hampton Roads, James River, VA" ((RIN2115–AA97) (2002–0125)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7978. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Macatawa Triathlon, Holland, MI" ((RIN2115–AA97) (2002–0127)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 7: A bill to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets. (Rept. No. 107–211).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. NELSON of Florida):

S. 2730. A bill to modify certain water resources projects for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida and Alabama; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 2731. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Ms. SNOWE):

S. 2732. A bill to allow a custodial parent a bad debt deduction for unpaid child support payments, and to require a parent who is chronically delinquent in child support to include the amount of the unpaid obligation in gross income; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2733. A bill to amend the Internal Revenue Code of 1986 to expand retirement savings for moderate and lower income workers, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. HOLLINGS, Ms. LANDRIEU, Mr. BAUCUS, Mr. BINGAMAN, Mr. DASCHLE, and Mr. JOHNSON):

S. 2734. A bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought; to the Committee on Small Business and Entrepreneurship.

By Mr. ENSIGN:

S. 2735. A bill to amend title 49, United States Code, to provide for the modification of airport terminal buildings to accommodate explosive detection systems for screening checked baggage, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HAGEL (for himself, Mr. ENSIGN, Mr. LUGAR, Mr. GRAMM, and Mr. INHOFE):

S. 2736. A bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs; to the Committee on Finance.

By Mrs. LINCOLN:

S.J. Res. 40. A joint resolution designating August as "National Missing Adult Awareness Month"; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 318

At the request of Mr. DASCHLE, the names of the Senator from Rhode Island (Mr. REED) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 318, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance.

### S. 532

At the request of Mr. DORGAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 532, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

### S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 1002

At the request of Ms. SNOWE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1291

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Kansas (Mr. BROWNBACK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. DEWINE), the Senator from Washington (Mrs. MURRAY), the Senator from Indiana (Mr. LUGAR), the Senator from Nevada (Mr. REID) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1291, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien college-bound students who are long term United States residents.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1794

At the request of Mr. CLELAND, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1794, a bill to amend title 49, United States Code, to prohibit the unauthorized circumvention of airport security systems and procedures.

S. 2047

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 2047, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

S. 2119

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2188

At the request of Mr. BREAUX, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act.

S. 2246

At the request of Mr. DODD, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2512

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2570

At the request of Mr. NELSON of Nebraska, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2570, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2622

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2647, a bill to require that activities carried out by the United States in Afghanistan relating to governance, reconstruction and development, and refugee relief and assistance will support the basic human rights of women and women's participation and leadership in these areas.

S. 2679

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2679, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage, to provide for the establishment of health plan purchasing alliances, and for other purposes.

S. 2700

At the request of Mrs. LINCOLN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2700, a bill to amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that Act.

S. 2712

At the request of Mr. HELMS, his name and the name of the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 2712, a bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from New Jersey (Mr. TORRICELLI), the Senator from Florida (Mr. GRAHAM), the Senator from Kentucky (Mr. BUNNING), the Senator from Connecticut (Mr. DODD), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day".

S. RES. 270

At the request of Mr. CAMPBELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as "National Cystic Fibrosis Awareness Week".

S. RES. 302

At the request of Mr. BUNNING, his name was added as a cosponsor of S.

Res. 302, a resolution honoring Ted Williams and extending the condolences of the Senate on his death.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. NELSON of Florida):

S. 2730. A bill to modify certain water resources projects for the Apalachicola Chattahoochee, and Flint Rivers, Georgia, Florida and Alabama; to the Committee on Environment and Public Works.

Mr. GRAHAM. Mr. President, the locals call it "God's country." The Apalachicola River, beginning at the confluence of the Chattahoochee and Flint River, near the borders of Alabama, Florida, and Georgia, was and remains an important waterway in the southeast. The river's purpose as a waterway, however, has changed since its colonial fame.

The Apalachicola is the largest river east of the Mississippi. In its heyday, the Apalachicola was an important tributary that served as the largest port on the Gulf of Mexico, harboring ships carrying cotton to Europe and New England.

In the 21st century, while no longer an essential route of transport, the Apalachicola River is an important environmental and commercial asset. The history of the Apalachicola River is an Army Corps of Engineers project began in 1945 with the Rivers and Harbors Act, which authorized dredging of navigation channels. Over the past 57 years, millions of taxpayer dollars have been swept down the river in an effort to dredge and maintain the 9 foot deep channel.

The Corps has had difficulty maintaining the channel, and combines dredging with water releases in order to raise water levels and provide navigation windows. This system is hopelessly flawed. Dredging is unmanageable and navigation windows are unreliable, making the process a fiscal waste.

Add to this fact over the last few years, commercial barge traffic has slowed from an intermittent stream to a virtually non-existent trickle. River traffic dropped dramatically in the late 1990's, with fewer than 200 barges a year using the river system. By 2001, only 30 barges used the entire tri-river system with the cost of dredging the channel exceeding $30,000 per barge. The past November, the only company that used barges to carry cargo on the upper reaches of the river ceased operations.

Furthermore, the Congressional Budget Office estimates that the average cost per ton-mile from 1995–98 at 14.1 cents, almost 24 times more than the cost of the Upper Mississippi River at .597 cents. In light of these circumstances, continuing to dredge Florida's largest river is not just wasteful, it is foolish.

Ending the dredging is not just about how wasteful this project is, it is also about the environmental destruction that is being inflicted on the Apalachicola River and Bay. There are now beaches of sand where there were once river banks. There are now walls of sand, some towering like buildings four stories high, where the river waters used to meander. To date, dredged sand has resulted in the destruction of approximately one-quarter of the banks of the Apalachicola. The large amounts of sand have choked sloughs and cut off the water supply to surrounding habitat, ultimately threatening the local economy.

Navigation windows remain a threat to endanger species like the Gulf Sturgeon, the Fat Three-Ridge and the Purple Bank Climber. The April 2000 navigation window resulted in an almost complete failure of sportfish spawn along the entire Apalachicola River and reservoirs upstream. Sportfish populations have been in rapid decline along the river since 1990. This time frame corresponds with the Corps' continued reliance on water releases to provide adequate water for navigation.

The constant and gross interruptions of nature have degraded the environment of the Apalachicola River and quality of life of those who depend upon it. Because of this, the Apalachicola recently earned the designation by American Rivers as one of our nation's Most Endangered Rivers. The Apalachicola has also been included in the 2000 Troubled Waters Report and the 2001 and 2002 Green Scissors Reports.

Manipulation of the Apalachicola poses a serious risk to the local economy. Important businesses, such as farmers who produce Tupelo honey and the fishermen who harvest oysters and shrimp in Apalachicola Bay, are dependent on the river's overall health. Commercial fishing operations along the Gulf Coast also rely on the Bay for their livelihood.

The negative impacts of dredging and the low commercial use of the Apalachicola River led former Secretary of the Army for Civil Works, Joe Westphal, to describe the project as not "economically justified or environmentally defensible."

Dredging the Apalachicola exacts too high a price from both taxpayers and the environment. Clearly it is time to rethink this expensive and ecologically devastating practice. The bill I offer today, the Restore the Apalachicola River Ecosystem, RARE, Act, provides for the actions necessary to reform the Apalachicola River project.

First, my bill puts a stop to navigational dredging.

Secondly, it instructs the Corps to develop a comprehensive restoration plan to be submitted to Congress that corrects the past harms done to the Apalachicola.

This legislation is widely supported in the State of Florida. Governor Jeb Bush and his Cabinet recently passed a resolution that calls the end of navigational dredging on the Apalachicola. My bill is supported by the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Northwest Florida Water Management District, Taxpayers for Common Sense, American Rivers, Audubon Society, Florida Wildlife Federation, the Apalachicola Bay and River Keepers, Help Save the Apalachicola River, the Nature Conservancy, the Apalachee Ecological Conservancy, the Chipola River Economic and Environmental Council, the League of Conservation Voters Education Fund, Florida PIRG, the Florida Fishermen Federation, and 1000 Friends of Florida.

The only way to restore the Apalachicola River to its former greatness is to cease navigational dredging. This designation of the Apalachicola as one of the nation's most endangered rivers should be a wake-up call to Congress and the Army Corps of Engineers to permanently end the dredging of the Apalachicola and allow the river to return to its natural state free of man's manipulation.

I urge my colleagues to support this legislation, which is both fiscally sound and environmentally responsible.

Mr. NELSON of Florida. Mr. President, I rise to day in support of the Graham-Nelson bill to de-authorize the dredging of the Apalachicola River.

The time has come to end the dredging of the Apalachicola river in north Florida. The detriments far outweigh the benefits of this expensive Army Corps of Engineers river project. The barge traffic is negligible; and the environmental and economic impact to the area surrounding this river are harmful.

Since 1998, fewer than 140 barges have used the Florida portion of the Apalachicola River. And of the barge traffic that does navigate this waterway, most is confined to a 6 mile long stretch of the Apalachicola-Chattahoochee-Flint ACF River System for the transport of sand and gravel, the principal commodity shipped on the system.

The dredging to keep this small amount of barge traffic going has resulted in sand mountains that have destroyed one-quarter of the banks of the Apalachicola River and choked sloughs cutting off water supply to surrounding habitat. In addition, the releases of large quantities of water to allow barge traffic to navigate the river disrupts the spawning behavior of three endangered species: the Gulf Sturgeon, the Fat Three-Ridge and the Purple Bank Climber.

Another concern is the effect of pulses of this fresh water on the balance of salt and fresh water in Apalachicola Bay. The Apalachicola Bay is the largest oyster harvesting area in the Gulf of Mexico and one of the principal nurseries for Gulf Shrimp and blue crabs. Commercial fishing operations along the Gulf coast rely heavily on the Bay for their continued prosperity. The fresh water influxes threaten this important industry. For these reasons, this project must end.

I urge my colleagues support for this important piece of legislation.

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By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 2731. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today along with Senator TORRICELLI I am introducing legislation, the Crossroads of the American Revolution National Heritage Area Act of 2002, to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey. I am proud to be joining my New Jersey colleagues, Representatives RODNEY FRELINGHUYSEN and RUSH HOLT, who have introduced this legislation in the House of Representatives with the support of the entire New Jersey delegation.

This legislation recognizes the critical role that New Jersey played during the American Revolution. In fact, New Jersey was the site of nearly 300 military engagements that helped determine the course of our history as a nation. Many of these locations, like the site where George Washington made his historic crossing of the Delaware River, are well known and preserved. Others, such as the Monmouth Battlefield State Park in Manalapan and Freehold, and New Bridge Landing in River Edge, are less well known and are threatened by development or in critical need of funding for rehabilitation.

To help preserve New Jersey's Revolutionary War sites, this legislation would establish a Crossroads of the American Revolution National Heritage, linking about 250 sites in 15 counties. This designation would authorize $10 million to assist preservation, recreational and educational efforts by the State, county and local governments as well as private cultural and tourism groups. The program would be managed by the non-profit Crossroads of the American Revolution Association.

A National Heritage Area would bring many benefits to New Jersey. First, it would help our communities and state preserve our history and educate our citizens. It would also encourage the protection of open space within the area, which is so critical to our quality of life. Finally, National Heritage Areas create significant economic opportunities, providing local communities with incentives and resources to work together to increase tourism in the region by highlighting historic sites and cultural events.

Simply put, we are the Nation that we are today because of the critical events that occurred in New Jersey during the American Revolution and the many who died fighting there. By enacting the Crossroads of the American Revolution National Heritage Area Act of 2002, we will pay tribute to the patriots who fought and died in New Jersey so that we might become a Nation free from tyranny.

I am proud to introduce this legislation to ensure that we properly honor New Jersey's pivotal role in our Nation's history as the true crossroads of the American Revolution.

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By Mrs. BOXER (for herself and Ms. SNOWE):

S. 2732. A bill to allow a custodial parent a bad debt deduction for unpaid child support payments, and to require a parent who is chronically delinquent in child support to include the amount of the unpaid obligation in gross income; to the Committee on Finance.

Mrs. BOXER. Mr. President, the bill I am introducing today is long overdue. The Child Support Enforcement Act will bring much-needed relief to the millions of families who are not receiving the child support they are legally due.

The importance of this bill is clear. Each year, nearly 60 percent of parents owed child support receive less than the amount they are due. And more than 30 percent receive no payment at all. California is no exception: preliminary findings from the 2000 Census Report found that of the more than 2.3 million Californians who were owed child support, only 39 percent received those payments.

Clearly, millions of individuals, women and children, are in crisis when it comes to child support. It is time to treat delinquent child support the same way bad debt is treated in the tax law.

The Child Support Enforcement Act would allow custodial parents to deduct the amount of child support they are owed from their adjusted gross income on their income taxes. This is true for all taxpayers, regardless of whether they itemize. So while we are not providing the full amount they are due, this bill will provide much-needed relief.

This bill will also penalize the noncustodial parent who is not paying his or her legally obligated child support. It will force the deadbeat parent to add the owed amount to his adjusted gross income, creating a tax penalty.

This is not creating new tax law. It is extending current tax law on bad debts to delinquent child support payments. It's that simple.

The relief provided in this bill is extremely important for single parents. Child support payments can literally mean the difference between paying rent or being homeless; the difference between putting food on the table or being forced to let children go hungry; the difference between making ends meet or going on welfare.

I am pleased to be joined in this effort by Senator SNOWE. And Representative COX is introducing the House version of the bill today as well. As you can see, this is not a partisan issue, this is a family issue. It will help families and children nationwide. I urge my colleagues to cosponsor this bill.

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By Mr. BINGAMAN:

S. 2733. A bill to amend the Internal Revenue Code of 1986 to expand retirement savings for moderate and lower income workers, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the "Retirement Security for All Americans Act," legislation that will help all of our Nation's workers save for their retirement. Although there are several ways to measure pension and retirement plan coverage, there is one constant statistic, less than half of the workers in our country are covered by an employer sponsored pension plan. In spite of numerous incentives provided by Congress over the years, our Nation's coverage rate has remained virtually unchanged for the past three decades. New Mexico, my home State is the worst, with a coverage rate of 30 percent. In real terms, this means that 70 percent of New Mexicans working in the private sector will have to fund their retirement on the other 2 legs of the proverbial 3 legged stool, personal savings and Social Security. In truth, it seems unlikely that private sector workers who do not have a pension or retirement plan will have any significant savings, leaving them to get by on a one legged stool, not an easy trick.

Not surprisingly, the coverage rate is substantially reduced for lower income workers and minorities. For example, the 1999 U.S. Census Current Population Survey illustrates that only 27 percent of Hispanics in the private sector have an employer sponsored pension or retirement plan while it is 47 percent for whites and 44 percent for all workers. The Census data further illustrates that minorities are more likely to work at jobs that do not offer their workers a retirement plan. For instance, only 40 percent of Hispanics work at jobs that offer retirement plans while 62 percent of whites and 58 percent of all workers have this employee benefit. If, on the other hand, an employer does offer its employees a retirement plan, the Census data indicates that all workers, regardless of race or ethnicity tend to participate at the same rate. While it is not conclusive, this data indicates that if workers are offered a plan, they tend to take advantage of this benefit and save for their retirement.

We cannot continue to have a national retirement policy that results in the majority of Americans not having adequate savings for what is supposed to be their golden years. This is unacceptable. The legislation that I am introducing today addresses this need by encouraging employers to not only offer plans, but to provide contributions to their lower paid workers. While each of these provisions standing alone would improve coverage and our national savings rate, combined, there is a strong synergic effect among the provisions, making passage of all three imperative.

The first provision expands and makes permanent the current Savers' Credit that was signed into law last year. Under this new provision, employees earning up to $15,000, $30,000 for married couples, will receive $0.50 for every dollar that they save in their 401(k) or IRA. The credit rate gradually phases down for those with incomes between $15,000 and $27,500, $30,000 and $55,000 for married couples. Currently, the Savers' Credit drops from 50 percent to 20 percent once a worker makes $15,001. We get rid of this cliff by phasing the credit out so as to not have disincentives to save more.

For those taxpayers without income tax liability, we will provide a tax credit of 50 cents on the dollar for their contributions through a new series of indexed government bonds. These bonds are not transferable and not redeemable until the worker retires to avoid abuses and to guarantee the funds are saved for retirement. By giving new savers bonds, it will encourage them to save more and help them realize the benefits of long term savings plans.

The second provision of the bill requires all employers with more than 10 employees, who do not currently offer their employees a qualified retirement plan, to provide their workers with the option of a payroll deduction IRA. Presently, all employers remit payments to financial institutions for a variety of reasons, including the deposit of payroll taxes, it is something that they already have to do. This provision would simply ask them to set up accounts at a financial institution so that workers can to send part of their own paychecks directly to an IRA set up at a financial institution of the employer's choice.

To offset any administrative cost, a tax credit of $200 for the first year and $50 for subsequent years is provided to the employer, though in most cases there will be no additional expense. Employers are also allowed to remit the employee's contributions to their IRAs on the same schedule as they currently remit payroll tax deposits to the same financial institutions or the IRS.

The benefits to the employee are clear. A payroll deduction IRA will allow workers to save small amounts out of each paycheck instead of making periodic or annual contributions to an IRA. As little as $10 a week saved could result in an employee saving over $750 dollars a year when combined with the Savers Credit. Saving is a learned response, the first step is to get people to save the first dollar and experience the benefits of compounding interest.

The final section incorporates the Senate passed provision that was dropped in the Economic Growth and Tax Relief Reconciliation Act of 2001 conference that provides small businesses with a tax credit for their contributions to the retirement accounts of their non-highly compensated employees. This provision, which has been pushed by Chairman Baucus and others for many years, will greatly increase the amount that employers contribute to workers' retirement plans.

Essentially it allows employers to receive a 50 percent tax credit on contributions up to 3 percent of an employee's annual compensation, but only to the non-highly compensated. To keep the costs of the proposal down, it is only available for a limited time, 3 years, to new plans. This should encourage many employers to not only offer a plan for the first time, but creates a noteworthy incentive to contribute to these employees' accounts.

I look forward to working with my colleagues to bridge this enormous gap in pension coverage in our country. We must be realistic about how much we can accomplish in one shot. Coverage hasn't improved in 30 years. We must therefore continue to advance proposals that will make gradual but meaningful improvements. We cannot allow ourselves to operate under the fiction that the system is currently working for all Americans. At a time when Social Security solvency is at issue, we must find ways to reduce the reliance of all our seniors on these benefits for their retirement needs. It was never the intent of Social Security to be a retiree's sole source of retirement income. This legislation will begin the slow process of increasing our national pension coverage. Because these benefits will not accrue over night, we must act now while the spotlight is still on retirement policy. I hope all my colleagues will join me in passing this important legislation.

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By Mr. KERRY (for himself, Mr. HOLLINGS, Ms. LANDRIEU, Mr. BAUCUS, Mr. BINGAMAN, Mr. DASCHLE, and Mr. JOHNSON):

S. 2734. A bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, today I rise to introduce emergency legislation to help small non-farm businesses across this Nation that are in dire straits because of drought conditions in their State. They need assistance, particularly access to working capital to pay the bills and meet payroll, but they can't get it because they are falling through the cracks of Federal disaster loan programs.

Why? Well, this is hard to believe, but it is because a drought is not considered a disaster under the Small Business Administration's disaster loan program, and under the Department of Agriculture's disaster program, which does consider a drought a disaster, only agriculture-related businesses are eligible for disaster assistance.

This assistance is critical to the survival of thousands of small businesses that make their living in tourism and recreation industries, as well as other industries dependent on water. Droughts are a cruel phenomenon of nature. They are out of the control of a small business owner, and it isn't fair that they aren't eligible for Federal disaster assistance but the victims of floods, fires, and hurricanes are.

With a very small change, we can make all the difference to affected small businesses. Specifically, I propose amending the Small Business Act in order to make a drought a disaster.

More than 30 States are struggling with drought right now, according to the National Drought Mitigation at the University of Nebraska, and far more than agricultural, forestry and livestock businesses are hurt. If you talk to the governors of your States, I am sure they will tell you how bad the situation is. In northern Massachusetts, we have been in a drought since last fall. In South Carolina, the conditions are so bad that small businesses dependent upon lake and river tourism have seen revenues drop anywhere from 17 to 80 percent. The victims range from fish and tackle shops to rafting businesses, from restaurants to motels, from marinas to gas stations. For those who are listening and discount the serious impact of drought on small businesses, ask the rafting businesses that went bankrupt in Texas in 1996. The rivers were so low that these established businesses lost everything.

I thank my colleagues who are cosponsors, Senators HOLLINGS, LANDRIEU, BAUCUS, BINGAMAN, DASCHLE, and JOHNSON. I invite my other colleagues with droughts in their States to cosponsor this bill and call on the Administration to work with our Committee in passing this emergency legislation before we go home for the break in August. These small businesses cannot wait.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2734

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LOANS TO SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.**

(a) SHORT TITLE.—This Act may be cited as the "Small Business Drought Relief Act".

(b) FINDINGS.—Congress finds that—

(1) as of July 2002, more than 36 States (including Massachusetts, South Carolina, and Louisiana) have suffered from continuing drought conditions;

(2) droughts have a negative effect on State and regional economies;

(3) many small businesses in the United States sell, distribute, market, or otherwise engage in commerce related to water and water sources, such as lakes and streams;

(4) many small businesses in the United States suffer economic injury from drought conditions, leading to revenue losses, job layoffs, and bankruptcies;

(5) these small businesses need access to low-interest loans for business-related purposes, including paying their bills and making payroll until business returns to normal;

(6) absent a legislative change, only agriculture-related businesses are eligible for Federal disaster loan assistance as a result of drought conditions; and

(7) it is necessary to amend the Small Business Act to allow non-farm small businesses that have suffered economic injury from drought to receive financial assistance through Small Business Administration Economic Injury Disaster Loans.

(c) EXPANSION OF DISASTER DEFINITION.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended by inserting "drought," after "windstorms,".

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, July 17, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an OVERSIGHT HEARING on the Protection of Native American Sacred Places.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, July 18, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a HEARING on a bill to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

The Committee will meet again on Thursday, July 18, 2002, at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct a HEARING on S. 2065, a bill to Ratify an Agreement to Regulate Air Quality on the Southern Ute Indian Reservation.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Tuesday, July 16, 2002. The purpose of this hearing will be to discuss the proposed ban on packer ownership and also the enforcement of the Packers and Stockyards Act. At 10:00 a.m. in SD–562

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 16, 2002, at 10:00 a.m. to conduct an oversight hearing on "The Semi-annual Report on Monetary Policy of the Federal Reserve."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 16, 2002, at 2:30 pm on the nomination of Jonathan Adelstein to be a member of the FCC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Tuesday, July 16th, 2002, at 2:30 p.m. in SD–366.

The purpose of this hearing is to receive testimony on the Administration's plans to request additional funds for wildland firefighting and forest restoration as well as ongoing implementation of the National Fire Plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet jointly with the Committee on the Judiciary on Tuesday, July 16, 2002, at 10:00 a.m. to conduct a hearing to receive testimony on New Source Review policy, regulations and enforcement activities.

The hearing will be held in SD–106.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, July 16, 2002 at 10 a.m., to hear testimony on Homeland Security and International Trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on The Proposed Department of Homeland Security: Issues before the Help Committee during the session of the Senate on Tuesday, July 16, 2002 at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY/COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary and the Committee on Environment and Public Works be authorized to meet to conduct a joint hearing on "Clearing the Air: New Source Review Policy, Regulations and Enforcement Activities" on Tuesday, July 16, 2002 in Dirksen Room 106 at 10 a.m.

#### TENTATIVE WITNESS LIST

#### PANEL I

The Honorable Thomas L. Sansonetti, Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C.

The Honorable Jeffrey Holmstead, Assistant Administrator for Air and Radiation, U.S. Environmental Protection Agency, Washington, D.C.

#### PANEL II

The Honorable William H. Sorrell, Attorney General, State of Vermont, Montpelier, VT.

The Honorable Eliot Spitzer, Attorney General, State of New York, New York, NY.

The Honorable Bill Pryor, Attorney General, State of Alabama, Montgomery, AL.

#### PANEL III

Mr. Eric Schaeffer, Director, Environmental Integrity Project, Rockefeller Family Fund, Washington, D.C.

Mr. Bob Slaughter, President National Petrochemical & Refiners Association, Washington, D.C.

Mr. Hilton Kelley, Port Arthur, TX.

Mr. Steve Harper, Director, Environment, Health, Safety, and Energy Policy, Intel, Corp., Washington, D.C.

Mr. John Walke, Clean Air Director, Natural Resources Defense Council, Washington, D.C.

Mr. E. Donald Elliott, Paul, Hastings, Janofsky & Walker LLP, Washington, D.C.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 16, 2002 at 10:00 a.m.

and 2:30 p.m. to hold a closed hearing on the Joint Inquiry into the events of September 11, 2001.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on "FBI Computers: 1992 Hardware—2002 Problems" on Tuesday, July 16, 2002, at 2:00 p.m. in Room 226 of the Dirksen Senate Office Building.

### WITNESS

Ms. Sherry Higgins, Project Management Executive, Office of the Director, Federal Bureau of Investigation, Washington, DC.

THE PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Britt Gordon McKein, who is an intern, be granted the privilege of the floor during debate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to grant floor privileges to my fellows, Stacy Sacks, David Dorsey, and Brian Hickey, for the duration of the floor debate on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on behalf of Senator BAUCUS, I ask unanimous consent Alaine Perry, a detailee in his Finance Committee office, and Brian Elbel and Jeri Weaver, interns in his Finance Committee office, be allowed floor privileges for the duration of the debate on S. 812, and all motions related to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Richard McKeon, a fellow in my office, be granted the privilege of the floor for the duration of the debate on prescription drugs.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOTICE—REGISTRATION OF MASS MAILINGS

The filing date for 2002 second quarter mass mailings is July 25, 2002. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510-7116.

The Public Record office will be open from 8:00 a.m. to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224-0322.

## MEASURE PLACED ON THE CALENDAR—S. 2

Mr. REID. Mr. President, it is my understanding that S. 2 is at the desk and is due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask that S. 2 be read a second time, and then I object to any further proceedings at this time.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

> A bill (S. 2) to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

The PRESIDING OFFICER. Objection to further proceedings having been heard, the bill will be placed on the calendar.

## ORDERS FOR WEDNESDAY, JULY 17, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, July 17; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the motion to proceed to S. 812 regarding affordable pharmaceuticals, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of the senior Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

## MEDICARE PRESCRIPTION DRUG LEGISLATION

Mr. HATCH. Mr. President, I have heard my name being used a lot in this Chamber this afternoon, and I plan to make a comprehensive statement tomorrow that outlines my views on the Hatch-Waxman amendments contained in S. 812.

I might mention, I am very concerned about those amendments. I believe that the original Schumer-McCain bill was a bill that did not improve the Hatch-Waxman Act which was enacted in 1984. Of course, over the course of the last 18 years, it has been recognized as a very highly respected consumer protection law.

The reason is because that law has saved consumers between $8 billion and $10 billion every year since 1984—over the last 18 years. The reason it has saved them so much money is that it is a delicately balanced bill between the pioneer companies, that is, the large pharmaceutical companies, and the generic drug industry.

When we passed Hatch-Waxman, the generic industry had about 15 percent of the total drug business in this country. Today it has close to 50 percent. That is because of that delicate balance achieved through the Hatch-Waxman law. And I see that this underlying bill may very well disturb that delicate balance and disrupt a law that has worked well for consumers for many years.

I want to make sure that the bill approved by the Senate is a good bill, if, in the end if we are going to be amending the Hatch-Waxman Act. I put a lot of effort into that bill before it was passed in 1984.

It is an important law. It is a law that has really helped America. I have to say, if we disrupt that balance and we all of the sudden take away the incentives to put that $30 billion a year into research and development costs to develop these lifesaving drugs, we will not have the drugs to put into generic form later. And, we could lose these businesses—they could all go offshore if we do not handle this exactly right.

So what has been in some measure demagogued today on the floor—if we do not watch that, we will wind up making questionable changes to a law that now saves the lives of millions of Americans and does so at affordable costs.

I will spend some time on that tomorrow because I think it needs a comprehensive discussion. I will say this: The underlying bill, what used to be Schumer-McCain to Kennedy-Edwards, has moved to a degree in the right direction but certainly not nearly enough. Frankly, I would like to make sure that the law bill that I put so much blood, sweat, and tears into over the years leading up to 1984 when it was passed, will not be disrupted because of politics on this floor, especially since that bill has worked so well for the American people.

My purpose this afternoon, however, is to discuss the Medicare prescription drug issue which we will be debating in the very near future. I have been working with four of my Senate colleagues—Senators GRASSLEY, JEFFORDS, BREAUX, and SNOWE—for the last year on a Medicare reform and prescription drug bill. It is called the Tripartisan bill because it has Republicans, Democrats, and the sole Independent in the Senate.

This legislation, the 21st Century Medicare Act, better known as the Senate Tripartisan Medicare prescription drug proposal, was introduced yesterday after months and months of hard work. This bill was introduced because the five of us crossed party lines and worked together. It was introduced because all five of us want a Medicare prescription drug benefit to be signed into law this year. We are tired of waiting for legislation that we could have passed 2½, 3 years ago, but every time it is brought up, politics is played with this legislation rather than doing what is right for our senior citizens and others in dire need of this legislation.

Medicare beneficiaries deserve nothing less than to get it done this year, but others in this body, in my opinion, feel differently.

Here we are on the verge of considering Medicare prescription drug legislation on the Senate floor without the Finance Committee ever being even a small part of it. Now I heard comments made that the Finance Committee has gone back and forth with this for years. That is not true. This is the first time we have really had a chance of passing a bill through the Senate that I think could very easily be accepted by the House, or in a conference certainly basically accepted by the House and the Senate.

The Finance Committee members, under the leadership of Chairman MAX BAUCUS, have been meeting for weeks to try and draft a consensus Medicare prescription drug bill. But due to artificial deadlines imposed upon us by the powers that be, we are not going to be given an opportunity to even consider a Medicare prescription drug bill in the Finance Committee itself before the full Senate considers the Medicare drug legislation.

Why even have a Finance Committee—which everybody would acknowledge is one of the great committees in the United States Congress—when bills that are under its jurisdiction are brought up on the floor without even a hearing or a markup?

There were no delays. We could have had this markup and we could have passed this bill out today. We could have done it last week if we had had a markup. Sadly, politics is dictating policy, and I find that completely unacceptable, especially when it involves an issue as important as Medicare prescription drug coverage.

By putting politics before policy, we are not doing what is in the best interest of our senior citizens and our citizens as a whole.

I have also heard comments today that this is being filibustered. Nobody wants to filibuster this bill. That is always an old wives' tale that comes up when you do not have good arguments on your side.

I would like to take this opportunity, though, to talk about the tripartisan bill. When drafting this legislation, we tried to reach out to everyone who has a stake in this issue. It has required many hours of meetings, meetings among ourselves, with our staffs, CBO, CMS, seniors groups, insurance providers, PBM representatives, technical experts, and other interested parties. Let me assure you this has been a unified effort, one which has required some give and some take from all of us.

I truly believe this tripartisan bill is, in fact, the only bill capable of passing not only the Senate but the Congress in 2002.

We have worked with CBO constantly in order to come up with an affordable solution, and CBO has told us that our bill will cost $370 billion over 10 years. As far as I know, the Daschle-Graham-Miller bill does not have a CBO score, but I expect it to be extremely expensive. As a matter of fact, the Daschle-Graham-Miller bill, as I know it today, would be well over $800 billion over 10 years, and it has a sunset provision. So this isn't even a permanent benefit. I know my seniors in Utah will be surprised to hear that we're even considering such a bill.

In addition, there are no sunsets within our bill. Our Tripartisan bill is a permanent solution, not a temporary one, and CBO informs us that once our bill is implemented fully, 99 percent of all seniors will have drug coverage, which is truly remarkable.

So, the question is, how does a temporary solution truly help seniors in the long run? I do not think it does. Our Tripartisan bill provides all Medicare beneficiaries with affordable prescription drug coverage because we let innovation and competition determine the prices, not of Government bureaucrats. That is how we keep prices for drugs competitive.

I do not think it is a good idea to let the Government set the price, which is what will happen if the Daschle-Graham bill becomes law, and I do not think it has a chance of becoming law. I do not think it will get the necessary votes to become law. But our bill could, with honest decent work by all of us.

We also provide additional subsidies to low-income seniors so that they, too, can afford to pay for their drugs. I find it absolutely appalling that there are people in our country who have to choose between buying food and buying prescription drugs. The Tripartisan group's goal is to put an end to that and provide additional help to those seniors who really need it.

In fact, all seniors need it. For example, the 10 million beneficiaries with incomes below 135 percent of poverty will have 80 to 95 percent of the prescription drug costs covered by this plan, with absolutely no monthly premium. These seniors are exempt from the deductible and will pay well under $5 for their brand name prescriptions and their generic prescriptions. Enrollees at this income level who reach the catastrophic coverage limit will have full protection against all drug costs, with no coinsurance.

We also take care of the 11.7 million lower income beneficiaries with incomes below 150 percent of the poverty level. Enrollees between 135 percent and 150 percent of the Federal poverty level will also receive a more generous Federal subsidy that on average lowers their monthly premiums to anywhere between 0 and $24 a month on a sliding scale. It also more than halves the cost of their annual drug bills.

All other enrollees will have access to discounted prescriptions after reaching the $3,450 benefit limit and a critically important $3,700 catastrophic benefit, which protects seniors from high, out-of-pocket drug costs. This is hardly a doughnut hole. My friend and colleague Senator SNOWE refers to it as more of a bagel hole.

It is also important to note that 80 percent of Medicare beneficiaries will never experience a gap in coverage. As far as drug coverage is concerned, we let Medicare beneficiaries choose from at least two drug plans, allowing them to select a plan that suits their individual needs. Seniors are in charge, not the Federal Government.

The Daschle-Graham bill, on the other hand, has a one-size-fits-all drug plan that is offered to Medicare beneficiaries. That is the type of solution that will lead us down a dangerous path, and before you know it the Federal Government, not the private marketplace, will be setting drug prices. We need to avoid that scenario at all costs.

Finally, our plan gives seniors a choice of Medicare coverage. Seniors may remain in traditional Medicare or they may opt for the new, enhanced Medicare fee-for-service program which is designed to look more like private health insurance and less like a program that is stuck in the mid-1960s.

We all believe that Medicare needs to be improved. Medicare has hardly changed since it was first created in 1965 and Medicare needs to become a 21st century program. So our bill provides seniors with a choice in Medicare coverage. Beneficiaries may stay in traditional Medicare or they may opt for the new, enhanced fee-for-service Medicare plan.

I want to emphasize that we do not force seniors to enter into the new, enhanced fee-for-service plan. We just offer it to beneficiaries as an option. If Medicare beneficiaries want to stay in traditional Medicare, that is fine. Our bill allows them to do so. If they decide they do not like the new enhanced

Medicare plan, they can switch back to traditional Medicare. We need to give seniors choices concerning their health care coverage. They need to be able to keep the Medicare benefits seniors have today, but seniors must also be given improved health care choices.

I emphasize, once again, that CBO tells us that should our bill become law, 99 percent of all Medicare beneficiaries will have drug coverage. That would be tremendous for this country. We ought to do it this year. We should not be playing politics with it. We should not be setting up the Senate so this bill fails, so one side or the other can claim the other side refused to pass a bill this year.

I believe providing Medicare beneficiaries with their choice of coverage is key, and the Tripartisan group worked together for months to ensure that seniors get quality drug coverage for an affordable price.

I will conclude by saying we must make 2002 the year that Medicare is brought into the 21st century. This is the year that Medicare reform and prescription drug legislation should be passed by the Congress and signed into law. Our bill does more than just provide drug coverage. It includes Medicare reforms. It provides assistance to Medicare Choice.

We can start this process by allowing the Senate Finance Committee to do its job and consider Medicare prescription drug legislation before it is debated on the Senate floor. Bypassing the Senate Finance Committee and going directly to the Senate floor sends a message to the American people that we are more interested in playing political games than letting the legislative process work.

We need to have a markup in the Senate Finance Committee as soon as possible. We have Medicare bills to consider, both the Graham-Miller bill and the Tripartisan bill. We should have our Senate floor debate after the Finance Committee has approved legislation. It should not be the other way around. I believe Senators GRAHAM and MILLER are very sincere, fine people. They are good Senators. They believe in what they are doing. But if they do, we ought to have it come up in committee and vote. We are willing to have the Tripartisan bill voted upon. We have at least 12 votes out of 21 on the committee. That is probably the reason why the majority leader is determined not to bring up these matters in the Finance Committee.

I am hopeful we will be able to work this out and provide affordable prescription drug coverage for seniors through legislation considered by the Senate Finance Committee. This is a top priority of mine and many of my colleagues in the Senate. We have been hearing from seniors for years about their need for Medicare prescription drug benefits. Why are we playing political games with such an important issue?

I encourage my colleagues to work with us, to work with the Tripartisan group and others. I believe there is a majority, a significant majority, if we were allowed to do what is right, who would vote for the Tripartisan bill so seniors would finally get what they truly deserve, prescription drug coverage for the Medicare Program and bring Medicare into the 21st century once and for all.

Medicare beneficiaries deserve that opportunity. We owe it to them. This bill would allow that to happen.

I have been told this debate will take 2 weeks. I don't know why it has to take 2 weeks. We have three, four, or five different plans. We can vote on them. I personally hope we can vote on them. I believe if we are allowed to vote on them and people will get rid of the political aspects, we will pass a bill that will work this year for the benefit of seniors in the years to come. The Tripartisan bill does not have a sunset. The Tripartisan bill would continue on forever as far as we are concerned, to the benefit of all seniors in this country. I yield the floor.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m., Wednesday, July 17, 2002.

Thereupon, the Senate, at 7:33 p.m. adjourned until Wednesday, July 17, 2002, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate July 16, 2002:

### SECURITIES AND EXCHANGE COMMISSION

ROEL C. CAMPOS, OF TEXAS, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2005, VICE ISAAC C. HUNT, JR.

### DEPARTMENT OF STATE

ANTONIO O. GARZA, JR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MEXICO.

### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5044:

*To be general*

LT. GEN. WILLIAM L. NYLAND, 8595

# HOUSE OF REPRESENTATIVES—*Tuesday, July 16, 2002*

The House met at 10 a.m.

## MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO) for 5 minutes.

## PRESIDENT BUSH NEEDS TO CLEAN HOUSE

Mr. DEFAZIO. Mr. Speaker, when President Bush came into office at his first Cabinet meeting, he said, I expect only one standard and that is the highest of ethical standards. I think many Americans breathed a sigh of relief with the idea that we were going to have an administration free of the drip, drip, drip of scandal of the past administration.

Unfortunately, not too long into the President's tenure, that began to become a bit unraveled, and yet the President has yet to ask for the resignation of any of the ethically challenged members of his administration.

One standout is Secretary White of the Army. Secretary White was a general retired, and then went to Enron for his retirement. We all know Enron. Previous to MCI WorldCom, the largest scandal and bankruptcy of financial mismanagement and phony bookkeeping in the history of the United States. He headed the worst of Enron, Enron Energy Services. Not only was Enron Energy Services a total fraud, they never made a penny. In fact, they lost billions of dollars while showing huge profits on the books with phony trades. They created things called Death Star, Get Shorty, Fat Boy and other cute names, sounds like maybe secret weapon systems, maybe the kind of thing Secretary White should know about, but he says he did not know a thing about all this phoniness, he was just the front guy, just the rainmaker, just bringing in business and walking away with $60 million.

He also manipulated the West Coast energy market, destroying the economy of the Western United States. Oregon is in a deep recession in part because of a 40 percent unnecessary runup in our electric rates because of the shenanigans of Enron and other market manipulators.

Mr. White, who ran the part of Enron which did the market manipulation, says he did not know anything about that either, but he has compiled quite a stellar record since he has gone to be Secretary of the Army. He took a corporate jet to Aspen to sign papers to sell his $6.5 million ski house which he bought with his ill-gotten gains from Enron. He forgot to meet the ethics requirements to get rid of his stock with Enron, some stock options he had, and yet the President has not called for his resignation.

Now we have a new task force. So Americans should rest easy. We have a new task force, which is headed by a gentleman called Larry D. Thompson, Deputy Attorney General. President Bush sat between Mr. Harvey Pitt, who I have talked about on the floor before, the ethically challenged head of the Securities and Exchange Commission who cannot vote because he is so compromised because of his past association with all of the people he is supposed to be investigating. It is a good deal for them because then he cannot convict them of anything and cannot fine them.

Then on the other side of the President was Mr. Thompson. He is the new head of the so-called SWAT team which turns out instead to be a kind of a task force, low-key thing. We would not want to get too tough on corporate fraud.

Mr. Thompson has quite a bit of experience. He was on the board of Providian. Providian paid the largest penalties in the history of the United States. He was on the audit committee, on the board of directors, paid a pretty penny for this work, but Providian, during his tenure while he was on the audit committee and the board of directors, committed quite a bit of fraud and mismanagement and paid the largest ever penalties to the Comptroller of the Currency of the United States, $105 million of penalties for fraud, mismanagement, and consumer abuse; not trivial.

They have also settled a $38 million class action lawsuit, and there are other class action lawsuits pending. They are also being sued by their employees who said that Mr. Thompson and other members of the board of directors, and executives at Providian told them to put more stock in their 401(k)s while they were secretly dumping their own stock. This is our new chief corporate watchdog of the so-called SWAT team.

To return to Mr. Pitt, Mr. Pitt, head of the Securities and Exchange Commission, who the President also has expressed utmost confidence in, cannot vote on many enforcement actions of his agency because he, in fact, was not the lawyer for but the lobbyist for, and sometimes the lawyer of, many of these same firms who today it is being shown have caused this horrible scandal in the United States. Arthur Andersen was one of his prominent clients. MCI WorldCom was another of his clients and many others.

If the President really wants to put some meaning behind this statement, and I am all for it, and that is, the one standard and the highest of ethical standards, he needs to start to clean house. He needs to get rid of some of these extraordinarily, ethically challenged members of his administration who profited by tens of millions or hundreds of millions of dollars while Americans saw their pensions and their investments go down the drain.

Start in the administration.

## NATIONAL ENERGY POLICY

The SPEAKER pro tempore (Mr. BALLENGER). Pursuant to the order of the House of January 23, 2002, the gentleman from Illinois (Mr. SHIMKUS) is recognized during morning hour debates for 2 minutes.

Mr. SHIMKUS. Mr. Speaker, I want to take this opportunity to talk about the need for a national energy policy and push the conferees to move. We all know that we have an overreliance on foreign oil. That is why we need to push for the renewable portfolio presented in the Senate bill. We need to protect our marginal wells, and we need the development of ANWR.

We all know that we need to increase our electricity generation. That is why we need to continue to push for the use of natural gas in generation. We need to support and focus on clean coal technology and continue the use of nuclear generation which is very clean to the environment.

The national grid is also a concern. We need to continue to expand the national grid; hence, the need to move the electricity title of this bill.

Energy independence will drive down costs across the board and decrease costs. It will help create jobs and help the economy to continue to move forward. Eighty-four percent of all Americans say in a recent poll that we must

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

not leave, we being legislators here in Washington, that we must not leave Washington without the enactment of a national energy plan. I am one that agrees with this poll.

## CORPORATE GREED

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the fact that the Bush administration has close ties to industry is not, in and of itself, a problem. Part of the administration's job, to be sure, is to support American business as long as doing so coincides with what is best for the American people and does not compromise the principles and the values upon which this Nation was built. With the Bush administration, that is where the problem arises.

The interests of the American people should outweigh the interests of individual industry. Too often, with this administration, industry prevails regardless of the impact on consumers. One of the most disturbing examples of priorities run amok is the administration's kid glove treatment of the pharmaceutical industry.

Last year prescription drug costs increased in this country 17 percent while the overall inflation rate was only 1.6 percent. Rising drug costs fueled double-digit increases in the health insurance premiums. Rising drug costs are putting State budgets in the red. Rising drug costs are bankrupting seniors on fixed incomes. Rising drug costs are costing American business literally billions of dollars.

The Bush administration's response to this situation? Well, they spent the last couple of months putting together a study arguing that American consumers, get this, American consumers must continue to pay the highest prices of any country in the world for prescription drugs because, if we do not, medical research and development from the drug industry will dry up. The study is available at www.hhs.gov. I encourage every Member of Congress and every voter to read it. If my colleagues had any questions about how closely aligned this Republican administration is with the big drug companies, this study makes it clear they are in lock step.

I wonder if it is any coincidence that this study came out of the Department of Health and Human Services planning office which is managed by a former employee of the drug industry. This study, which quotes drug industry-backed experts and trivializes the attempts of every other industrialized nation to secure lower drug prices, says that the best bet for American consumers is the status quo. We do not want to change. Drug prices keep going up.

Private insurance strategies to reduce costs are okay, it says, but anything more aggressive than that will stop R&D in its tracks, the drug industry, I mean HHS, warns us.

The drug industry does not mind private insurance strategies, because these strategies have not prevented double-digit increases in prescription drug spending, but if we go any farther, the drug industry, I mean the administration warns us we will be responsible for killing research and development.

Drug makers topped all three measures of profitability for 2001, return investment, return equity, return on sales almost every year. By far the most profitable industry in America. They pay the lowest tax rate of any industry in America.

The overall profits of Fortune 500 companies went down 53 percent in 2001. Drug profits went up 33 percent in 2001. They spend twice as much on marketing as they do on research and development. U.S. tax dollars finance almost half the R&D through the National Institutes of Health in this country, but American consumers are thanked and should be grateful when they pay twice and three times and four times what prescription drug consumers in any other country in the world pay.

Regardless of whether this administration thinks the cost control methods other countries have used are good or bad, how could it possibly be in America's seniors' interests, in American prescription drug users' interests for our administration to say to drug makers, as they said, price your products however you want, there is just nothing we can do about it?

Congress today is debating competing drug coverage proposals. The Bush administration and the drug industry support the same proposal. They helped each other write it. It is the Republican bill, the one that forces seniors to go outside of Medicare to turn to prescription drug insurance HMOs to purchase private drug plans, the one that cuts costs not by bringing prices down but by offering the benefit that is only half as generous as Members of Congress receive.

☐ 1015

That is the point. The drug benefit in the Republican plan is only half as good as the one that Members of Congress receive.

The drug industry recently financed a $3 million ad campaign touting the Republican bill. The Bush administration recently released a study saying that the best seniors can hope for is the Republican bill, because the Federal Government would rather provide a bare-bones drug coverage than stand up to the drug industry and demand lower prices, something that Republicans will not do, something President Bush will not do, because the drug industry does not want them to do it. Where do the best interests of American consumers fit into this picture?

## GOVERNMENT ACCOUNTABILITY

The SPEAKER pro tempore (Mr. BALLENGER). Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, it has come to my attention that as we talk about corporate accountability, maybe it is an appropriate time to talk about government accountability. If corporations did what government has been doing, they would be chastised and probably sent to jail. Let us take this opportunity to start reviewing what government does in terms of accountability, in terms of honesty with the American people, who are really, the investors and stockholders in government.

The taxpayers of this Nation send their money to Washington and then, guess what happens? We do not do a very good job and we're not being honest with the public. There is a lot of hoodwinking. Let me give a few examples.

The Social Security trust fund. Actually, there is no trust fund. It is an accounting gimmick where there are IOUs given to the Social Security Administration with the provision that they cannot cash in those so-called IOU government bonds. It can only be an act of Congress. So we have, number one, fooled the American people with the words "trust fund" when it is really not a trust fund.

Secondly, we have spent all that money on other government programs and written these nonredeemable IOUs. We have experienced under Secretary Rubin and the Clinton administration, and now in the Bush administration, when we reach the limit of allowable debt, well, it is disregarded. We have a law that says we cannot go deeper in debt in this country without the permission of the United States Congress, signed by the President. Yet we play games with it, with the disinvestment of retirement funds for civil servants. So when we exceed the debt limit, what happens is the Treasurer starts pretending that we are not writing those IOUs to the retirement funds for government employees. Some call it disinvestment. This is another area where it just would not be acceptable nor would it be legal if it were done in the private sector.

The lockbox. The lockbox is another hoodwinking gimmick. It simply was an effort of Congress, both Republicans and Democrats, to try to make people believe that there was some additional security to Social Security trust funds if we had the gimmick called a lockbox. But nothing changed. The IOUs were still written and the money was spent for some other purposes.

Again, what I am trying to suggest is we take this opportunity to review what we are doing in the United States Congress and the Federal Government as a whole. In 1995, when the Republicans took the majority in this U.S. House of Representatives, one of the first things we did was to require an audit of all government departments and agencies. That initial audit came back and reported that, in most of these agencies and departments we cannot audit because their books are so bad. But what they had audited so far we found $100 billion that is unaccounted for in government assets, which is what government supposedly owns. The auditors could not find that $100 billion worth of property.

The Government Performance and Results Act was another thing Republicans did when we came into the majority in 1995. And that required annual audits of all the departments and agencies. The auditors came back and said the books are so bad in so many of these departments and agencies that we are unable to give them an audit. These were supposed to be annual audits. Yet from 1995, 7 years later, there are still agencies and departments that do not have their books in order in such a way that they can actually be audited.

We play games in our appropriation process. We come up with a budget resolution that, since I have been here for the last 9½ years, that budget has never been adhered to. And frankly, Mr. Speaker, I am upset that while we get on our pompous soap boxes here and criticize the corporate world, that needs criticizing and they need to go to jail, and they need to go to real jail, not some kind of country club jail for white-shirt crimes, we should also be looking inward at our own accounting practices and the way we handle taxpayers' money.

302(b)'s. This is a provision where, after we pass the budget, we send it to the appropriators and the appropriators come up with how they are going to divide that allotted money between the several appropriation bills. But what has been happening, and what I suspect is going to happen this year, is we turn out the early appropriation bills, and we add extra money to those bills so it is attractive to everybody. And then the final bills that come out, that are very popular, whether it is veterans or military or education, they say, look, we do not have any more money under the budget and we end up overspending.

Let me just conclude by saying we need to have a lot better accountability to the investors in the United States Government; that is the taxpayers' money. Let us take this opportunity to review, renew, and do a much better job of the way we handle this business of government and taxpayers' money.

## IN SUPPORT OF HOUSE CONCURRENT RESOLUTION 395

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) is recognized during morning hour debates for 5 minutes.

Mr. ACEVEDO-VILÁ. Mr. Speaker, later today the House will consider a resolution that commemorates the 50th anniversary of the ratification of the constitution of the Commonwealth of Puerto Rico. I ask my colleagues to support this resolution, which enjoys the support of both the chairman, the gentleman from Utah (Mr. HANSEN), and the ranking member, the gentleman from West Virginia (Mr. RAHALL), of the Committee on Resources.

The constitution of Puerto Rico established a republican form of government and provided for a broad bill of rights that followed both the U.S. Constitution's Bill of Rights and the Universal Declaration of the Rights of Man. This constitution also provided for the election of all members of the legislature of Puerto Rico by the free will of the people of Puerto Rico.

The ratification of the constitution by the people of Puerto Rico is the most significant democratic achievement of the Puerto Rican people in the 20th century. This bipartisan resolution recognizes the historic event that came about 50 years ago through the principles of democracy. It is through these same principles that I stand before my colleagues as the only elected representative here in Congress of some 4 million Puerto Ricans and ask for your support of House Concurrent Resolution 395.

## JOHN WALKER LINDH NOT A "GOOD BOY"

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Florida (Mr. FOLEY) is recognized during morning hour debates for 5 minutes.

Mr. FOLEY. Mr. Speaker, today, as most Americans awoke, they were greeted with headlines like the one I saw in my hometown Palm Beach Post: "Lindh's Dad Says Son a Good Boy." John Walker Lindh being described by his father as a good boy.

While I ran on the Mall this morning, I was listening to NPR, and I was listening to the defense attorney for that good boy, John Walker Lindh, describe his client as a slightly misguided youth who was actually in Afghanistan fighting the cocaine traffickers and the poppy growers and the drug lords. John Walker Lindh, a good boy.

It was difficult yesterday, because I received calls from two of my constituents, Ed and Maureen Lunder, whose son Christopher, at the age of 33, perished in the World Trade Center; and Stanley and Carol Eckna, whose son Paul perished in the World Trade Center at the age of 28.

John Walker Lindh, the good boy, will celebrate his birthdays in a Federal prison; and when he turns 41, he will celebrate his birthdays outside in the free world. Christopher and Paul do not get any birthdays any more. They do not get any anniversaries. They do not get to see their kids grow up. But John Walker Lindh is a good boy.

Maybe it does not startle people that the ethics of this Nation are collapsing. I remember when our President and chief executive officer of this Nation lied to a grand jury and lied to the American people. And at that time I heard from my colleagues who said, hey, listen, the economy is good, do not worry about it; it is his personal business.

Now we have companies like Endrun, formerly known as Enron, and WorldCon, formerly WorldCom, stealing money out of the till and enriching themselves at the cost of the consumer, taxpayer, and investor. And now we have John Walker Lindh described as a good boy.

Where are the ethics of this Nation? What about those 3,000 lives that were lost in the World Trade Center in New York and Washington, D.C. at the Pentagon, and in that airplane in Pennsylvania? Collaborating with the enemy, to me, was always treasonous. No matter how you describe it, no matter how you tie a bow on that package, John Walker Lindh has committed treason against the common good and purpose of this country. He violated our constitutional premise. He violated the sacred oath we have as citizens to protect one another. And he aided and abetted the enemy.

Now, in trying to comfort my constituents who lost their children, I said, well, maybe we did not have enough evidence, maybe we did not have enough to really secure a solid victory, so we took what we could get. I hope in the coming days the administration and others talk to us with clarity about why this deal was struck, how 10-year sentences can ever be equal to the damage suffered by my constituents.

We have to establish the right principles in this Nation if we are in fact to beat terrorism. We have to establish right from wrong, and we have to set a clear moral authority.

In the last couple of days, of course, the Democrats have seized on a lot of issues and tried to portray the President as not having ethics. Well, I challenge them to at least focus on some of the issues that face Americans, that face citizens like my constituents, who lost children; to face the issues of fighting the common problems with our economy; and not to point fingers but to find solutions.

Politics is beautiful. Politics is great. We have a chance to debate and to bring clarity to the issues. But oftentimes we muddle ourselves in the acrimony of fingerpointing, name calling, and attempting to malign other people. I am proud of our President, and I think he has spoken with clarity on so many issues. There is not a scandal out of the White House any longer. There is a proud leader of the American people trying to clear the way so we can beat and combat terrorism.

We have a lot to do on the economy, and I join my colleagues in looking for tougher standards. I honestly believe those who stole from the shareholders should go to jail. We take the cars of prostitutes and Johns, we take the ill-gotten gains of drug dealers and others as we combat the war on drugs. We should combat the war against deceitful CEOs by doing the same things.

Today, let us at least put John Lindh behind us, never to think of him as a good boy. Let him spend the 20 years in prison thinking about what he has done to his American colleagues. Maybe he will find justice somewhere. Maybe God will forgive him. But it is very, very difficult for me to forgive a traitor of this country.

□ 1030

## COCA-COLA DOES THE RIGHT THING

The SPEAKER pro tempore (Mr. BALLENGER). Pursuant to the order of the House of January 23, 2002, the gentleman from Georgia (Mr. ISAKSON) is recognized during morning hour debates for 5 minutes.

Mr. ISAKSON. Mr. Speaker, most of us in Congress utilize these moments of Special Orders and morning hour debates to speak about correcting a problem. We oftentimes rise and chastise others. We even sometimes use it for political gain or political statement.

Five weeks ago I made a speech in this well on a Thursday, and I spent that 5 minutes talking about the silence of the good in corporate America who had not begun to take action to correct what are the perceived and, in fact, in some cases real problems on Wall Street and corporate America. I asked the rhetorical question why in the world cannot the companies that are good, the CEOs that are responsible, speak out and take actions to restore the confidence of the American people.

We can create all of the laws and disclosures and regulations in the world, but we all know morality and integrity is the propriety of the man and woman, and their responsibility.

I listened and waited for 4½ weeks and got more disappointed as the days went on. I just could not understand why actions could not be taken to send the signal to the American people that corporate America had gotten the American people's message. Then yesterday it happened.

I rise today to respond to that speech by heaping praise on the Coca-Cola Company. And some will think that is because they are housed in Atlanta, Georgia, and I represent Georgia in Congress. That is not the reason. Yesterday they did what the rest of corporate America should do; they came out and said they will begin recognizing in the fourth quarter of this year stock options as expenses on their financial statements, and take the cost of those options prior to reporting the profitability of their company.

In other words, they are going to make it clear when they use stock options for compensation, it is disclosed and expensed in a timely fashion so that the profitability of the company is real, as real as it can be. There are only three Fortune 500 companies that do that, with Coca-Cola now joining the other two. It is a step in the right direction, it is a step for a company to take the voluntary initiative to respond to the crisis in confidence and do what is right.

I hope in the weeks and months ahead, corporate America will take those steps to take the disciplined and conservative approach to financial reporting and financial accounting that will ensure those too few wrongdoers who have so drastically impacted America's investment and economic interest over the past year will be truly just a small minority and that the actions of companies like the Coca-Cola Company will become pervasive, so that instead of rhetoric from this well, men and women of morality and integrity in corporate America will come forward and do what is right for the right reasons, and this great engine that we know as capitalism and the great free enterprise system will enjoy the credibility and the confidence of investment that it so richly deserves.

Mr. Speaker, I pause 5 weeks after the first speech asking where are the good voices to respond to the first one I have heard, the Coca-Cola Company, and say thank you for doing the right thing at the right time in the right way for America, its economy, and her investors.

## NO CORPORATION IS ABOVE THE LAW

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Maine (Mr. BALDACCI) is recognized during morning hour debates for 5 minutes.

Mr. BALDACCI. Mr. Speaker, I rise to address the issue of corporate accountability and to call for tougher corporate accountability in our society. We have been waiting, and we have been waiting, and we continue to wait for action. Over half of all American households have money invested in securities, either directly or through IRAs and pension funds. Since the Enron collapse, investors have lost hundreds of billions of dollars in stocks of companies that issued false financial reports.

The reforms we support and are needed to restore confidence in our financial institutions have not been acted upon by this House. We urge this House to address this legislation, to be able to join with the Senate, to be able to put to the President's desk tough measures that send a strong message to Wall Street and to Main Street that the actions by these people and these corporations will not be tolerated, and that people will be held accountable, and that these actions are exceptions to the rule and not the rule itself.

That message needs to be strong, needs to be firm, and needs the leadership of this country and in this House to be able to address it forcefully.

We also have highlighted four different areas which those reforms need to be a part of: The independence of the accountants and the consultants to the corporations, ending these conflicts of interest, making sure that there is an independent board of audit that is overseeing these actions and trying to restore some of the confidence that has been lost.

We need to make sure that the integrity of Wall Street and the faith in the markets has been restored, instead of lingering doubts and apprehensions. It cannot be left to the SEC to merely suggest guidelines.

There have to be imposed criminal penalties that these actions have warranted, and that means mandatory jail time for the offenders. There can be no excuses, just firm sentences and jail times.

Also, we need to make sure that we fund the SEC at a level so they can do their job effectively and they know that it is in the public interest and they are public servants. They need to understand their importance to the overall economy, and, in fact, to all of us in our daily lives so that they uphold those standards, so that no person is above the law, no corporation is above the law, and we are all here to serve in the public interest.

That is the message from this House Chamber that needs to be sent out across the Nation and to the world. That is where we all stand. I urge my colleagues in the House to join with the Senate in tough action and be able to put on the President's desk and urge the President to sign legislation to send a strong message from all parties, regardless of politics, and regardless of regions of this country, we stand as one. No one will have ownership in either party in terms of who is sending the strong message. All people in this country who are depending upon those stock markets and those investments to give them the retirement and the security in their later years, and they have worked hard for. We should not condone the actions of any person, any corporation, anywhere that has jeopardized that and has harmed our overall system.

I ask Members of the House to send that strong message, regardless of Democrat or Republican or Independent, that we send it as one. That is the strongest message, when this Capitol can stand together and send that message to Wall Street, Main Street and every street in our country.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 11:30 a.m. today.

Accordingly (at 10 o'clock and 38 minutes a.m.), the House stood in recess until 11:30 a.m.

☐ 1130

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 11:30 a.m.

## PRAYER

The Reverend W. Douglas Tanner, Jr., president, the Faith & Politics Institute, Washington, D.C., offered the following prayer:

Almighty God, as Members of this House gather on this midsummer's day to be about the business of this Nation and its people, we pray that the conduct of that business may be transformed to Your will in both means and ends.

Deliver us from temptations toward shallow, pious posturing, and grant us genuine insight into the spiritual dimensions of truly good government and wisdom in its pursuit. Call forth both courage and compassion in the consideration of substance, in the making of speeches, and in the casting of votes.

In the rough and tumble world of national politics and the sometimes morally murky world of calculating strategies and cutting deals, awaken in each of us our true potential as instruments of Your peace. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the individual bill on the Private Calendar.

## NANCY B. WILSON

The Clerk called the bill (H.R. 392), for the relief of Nancy B. Wilson.

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

## REAL INDEPENDENCE IS ENERGY INDEPENDENCE

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, 84 percent, 84 percent, 84 percent of all Americans say that we need to pass a national energy plan. Why? They know that we must decrease our reliance on foreign oil. That means we need to keep our marginal wells, expand the use of renewables, and grow into ANWR. They know that we must ensure that we have the ability to generate electricity from multiple sources. We need to continue to use natural gas, coal, and nuclear renewables like hydroelectric. They know that we must expand the grid to move the power from one point to another.

Mr. Speaker, real independence is energy independence. I join with 84 percent of all Americans who are calling on the conferees to get the job done and pass an energy bill and get the bill to the President.

## UNITED EFFORT TO BRING OUR CHILDREN HOME

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, the pictures of missing children like Elizabeth Smart and Michelle Van Dam have been all over the news lately, and that is a good thing; not that they are missing, but that people care enough to try to find them. As founder and chairman of the Congressional Caucus on Missing and Exploited Children, I see this as a positive move; but I am still concerned.

I am concerned about the sporadic coverage and the lack of coverage or discussion about all missing children, children from every walk of life in every circumstance imaginable. Whether it has been by stranger abduction, parental abduction, international abduction, or runaways, all deserve all of the attention that we can give them.

Mr. Speaker, I would like to challenge my colleagues here in the House of Representatives and in other branches of government and even the media to move toward more proactive and more helpful positions on missing kids, all missing kids, because that is the way we will bring our children home.

## KASS COMMISSION REPORTS ON CLONING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, there are some scientists in this country who have very poor ethics. They want to clone human beings. They say they only want to do it for research purposes and that they will make sure the embryos they create never get to grow up. Do not worry, they say, we will kill them before they can survive on their own.

Mr. Speaker, there is no ethical way to clone a human being. If you let it live, it is wrong. If you kill it, that is wrong too.

The President's commission on bioethics chaired by Dr. Leon Kass has just issued a report on cloning. The commission says that there should be a ban on all cloning, at least for the next 4 years. Of course, I think that ban should be permanent.

Nevertheless, the Kass commission joins the House of Representatives and the President and the American people in calling for a ban on cloning. There is only one-half of one branch of this government missing from this equation. It is time for the other body to demonstrate that it is not out of touch and to pass a ban on all human cloning.

## HONORING THE LIFE OF BENNY HERNANDEZ

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today I rise to honor the life of Benny Hernandez, a man who lived life to the fullest and touched the lives of many in Orange County and southern California.

Benny began his career as a social worker, but teaching was where his heart was. Benny was always fighting to keep kids in school. He helped to inspire young children from the beginning of their educational careers through the program "Kinder-Caminata." Through this program, thousands of kindergarteners throughout Orange County were exposed to college campuses, instilling in them a desire to work for a college degree.

A modest man, Benny once said that he won his election for the Anaheim City School Board on $8.13 and a prayer, referring to the money he used to buy wire to hang his election signs. He won because of all of the students he inspired who, in turn, went out door to door to get him elected. In fact, my husband, on seeing such a scene, referred to him as "Benny and the Jets."

On Thursday, July 11, Benny lost a hard-fought battle against brain cancer; and although he was taken away from us at an early age, he will certainly not be forgotten.

God bless you, Benny.

## HONORING THE MEMORY OF EMILY CANADAY PHILLIPS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on Sunday morning, South Carolina lost one of its finest first ladies. She was not first lady as the wife of a Governor, but qualifies as a first lady who courageously worked for the two-party system to be established in South Carolina, and she made a difference.

Emily Canaday Phillips of Columbia and Cope began her service in the Republican Party in the 1960 Presidential race, and she was a devoted volunteer in the 1961 race of State Representative Charlie Boineau of Richland County, who was the first successful Republican legislative candidate of the 20th century in South Carolina. Emily served in numerous positions with the new Party and Republican Women, achieving Second District Congressional Republican chairmanship for 10 years, and 5 years on the State Ethics Commission. Her integrity was recognized by twice being awarded the State's highest honor by two Governors, the Order of Palmetto.

She is survived by her loving husband of 49 years, E.D. Phillips, and their five children: Becky Phillips, Deedie Belangia, Jackie Finch, Hal Phillips, and Steve Phillips, along with seven grandchildren.

Emily will be missed; but her warm smile, her love for her family, and her dedication to governmental reform will never be forgotten.

## DEFEAT PRESIDENT'S PLAN TO PRIVATIZE SOCIAL SECURITY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, it has been a week since President Bush went to Wall Street to restore investor confidence in our capital markets. Unfortunately, the response from investors has been dismal. Since the President's trip, the two major stock indices have lost 7½ percent of their value. Last year alone, America's markets lost $2.4 trillion of their value, more than the gross domestic product of Germany.

Most Americans probably think that because of these massive stock market losses the President has reconsidered his plan to privatize Social Security. They would be wrong.

Even though our country is in the throes of the worst financial crisis of confidence in decades, President Bush is pressing forward with his program to privatize Social Security. The President's plan to privatize Social Security should be defeated, now more than ever.

## CORPORATE ACCOUNTABILITY

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, I rise today to urge my colleagues to shine a bright light into the darkness that has prevailed in some of America's largest corporate boardrooms.

Last week, President Bush went to New York to put America's corporate leaders on notice: the United States Government will not sit back and allow greed and dishonesty to bring down our economy. President Bush was right when he said that at this moment in time America's greatest economic need is higher ethical standards.

Today, we have an opportunity to answer the President's call by returning stability to the American economy and accountability to the corporate board room. The Corporate Fraud Accountability Act of 2002 is a strong bill that closes corporate loopholes, increases penalties for fraud, and bans for life any CEO or other company officer found to abuse power from ever serving in a corporate leadership position again.

Mr. Speaker, I urge my colleagues to shine the light of responsibility into the corporate boardrooms of America by supporting H.R. 5118.

## SENSE OF PERSPECTIVE ON CORPORATE ACCOUNTABILITY

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Speaker, I believe it is important to bring a sense of perspective to this debate on corporate accountability. Our economy is fundamentally solid. It is productive, and inflation is low. As I am speaking, Alan Greenspan is delivering those same sentiments to our colleagues in the other Chamber, and he will do the same tomorrow to the Committee on Financial Services in the House. Hopefully, his remarks will inject a sense of calm into our capital markets and do what even the President could not do: staunch the hemorrhaging on Wall Street.

Our colleagues in the other body should be commended. They have done what our leadership in this House has failed to do: empathize with anyone who is too scared to even open their monthly 401(k) statement.

Mr. Speaker, it is time for us to act. We need to go to conference committee on a bill to clean up corporate America, and we need to do it now.

## CONGRATULATING THE GRADUATING CLASS OF CITY COLLEGE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I congratulate the graduating class of City College, a 4-year, private institution with three Florida campuses, including one in my hometown of South Miami.

City College was established in Kentucky more than 70 years ago as a branch of a junior business college. Today it provides degrees in 12 areas of study and remains committed to the quality of education in an atmosphere of personalized instruction.

City College's motto remains "Your job tomorrow is our job today," and it can be your job tomorrow, and even improve it.

The dedicated faculty at City College ensures academic preparedness and provides career assistance, as well as training for a full life and a successful career.

On July 19, just a few days from today, City College will proudly graduate approximately 350 students, all of whom are undoubtedly excited to brave today's working world. As they do, I wish each and every one of them the best for triumphant success, and I ask that my colleagues also wish them a hearty congratulations with their motto, "Your job tomorrow is our job today."

□ 1145

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes may be taken in two groups, the first occurring after debate has concluded on H.R. 5118, and the second after debate has concluded on the remaining motions to suspend the rules.

## CORPORATE FRAUD ACCOUNTABILITY ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5118) to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5118

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Corporate Fraud Accountability Act of 2002".

**SEC. 2. HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.**

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking "five" and inserting "20".

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "five" and inserting "20".

(c) SECURITIES FRAUD.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

**"§ 1348. Securities fraud**

"Whoever knowingly executes a scheme or artifice—

"(1) to defraud any person in connection with any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f); or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f),

shall be fined under this title, or imprisoned not more than 25 years, or both.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1348. Securities fraud.'.

**SEC. 3. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.**

Section 1512 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Whoever corruptly—

"(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

"(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both."

**SEC. 4. AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.**

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider the promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Sentencing Commission pursuant to paragraph (2) and any additional policy recommendations the Sentencing Commission may have for combating offenses described in paragraph (1).

(b) CONSIDERATIONS IN REVIEW.—In carrying out this section, the Sentencing Commission is requested to—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating of mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) ensure that guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(5) ensure that the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(6) make any necessary conforming changes to the sentencing guidelines; and

(7) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553 (a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this sections as soon as practicable, and in any event not later than the 120 days after the date of enactment of this Act, in accordance with the procedures sent forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

**SEC. 5. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.**

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting "; or"; and

(3) by adding at the end, the following:

"(19) that—

"(A) is a claim for—

"(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), any of the State securities laws, or any regulation or order issued under such Federal or State securities laws; or

"(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

"(B) results, in relation to any claim described in subparagraph (A), from—

"(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

"(ii) any settlement agreement entered into by the debtor; or

"(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.".

**SEC. 6. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.**

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

**"§ 1349. Failure of corporate officers to certify financial reports**

"(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

"(b) CONTENT.—The statement required under subsection (a) shall certify that those financial statements fairly and accurately represent, in all material respects, the operations and financial condition of the issuer.

"(c) CRIMINAL PENALTIES.—Whoever—

"(1) knowingly violates this section shall be fined not more than $1,000,000, or imprisoned not more than 10 years, or both; or

"(2) willfully violates this section shall be fined not more than $5,000,000, or imprisoned not more than 20 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1349. Failure of corporate officers to certify financial reports.".

**SEC. 7. ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMINAL OFFENSES.**

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by inserting before section 2 the following:

**"§ 1. Attempt and conspiracy**

"Any person who attempts or conspires to commit any offense against the United States shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of title 18, United States Code, is amended so that the item relating to section 1 reads as follows:

"1. Attempt and conspiracy.".

**SEC. 8. INCREASED CRIMINAL PENALTIES UNDER SECURITIES EXCHANGE ACT OF 1934.**

Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended—

(1) by striking "$1,000,000, or imprisoned not more than 10 years" and inserting "$5,000,000, or imprisoned not more than 20 years"; and

(2) by striking "$2,500,000" and inserting "$25,000,000".

### SEC. 9. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) In General.—Section 21C(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)) is amended by adding at the end the following:

"(3) Temporary Freeze.—

"(A) In General.—

"(i) Issuance of Temporary Order.—Whenever, during the course of a lawful investigation involving possible violations of the Federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controling persons, agents, or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation of otherwise) to any of the foregoing persons, the Commission may petition a Federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days.

"(ii) Standard.—A temporary order shall be entered under clause (i), only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest.

"(iii) Effective Period.—A temporary order issued under clause (i) shall—

"(I) become effective immediately;

"(II) be served upon the parties subject to it; and

"(III) unless set aside, limited or suspended by a court of competent jurisdiction, shall remain effective and enforceable for 45 days.

"(iv) Extensions Authorized.—The effective period of an order under this subparagraph may be extended by the court upon good cause shown for not longer than 45 additional days, provided that the combined period of the order shall not exceed 90 days.

"(B) Process on Determination of Violations.—

"(i) Violations Charged.—If the issuer or other person described in subparagraph (A) is charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the order shall remain in effect, subject to court approval, until the conclusion of any legal proceedings related thereto, and the affected issuer or other person, shall have the right to petition the court for review of the order.

"(ii) Violations Not Charged.—If the issuer or other person described in subparagraph (A) is not charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the escrow shall terminate at the expiration of the 45-day effective period (or the expiration of any extension period, as applicable), and the disputed payments (with accrued interest) shall be returned to the issuer or other affected person."

"(b) Technical Amendment.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking "This" and inserting "paragraph (1)".

### SEC. 10. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) Securities Exchange Act of 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following:

"(f) Authority of the Commission to Prohibit Persons From Serving as Officers or Directors.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section, or that is required to file reports pursuant to section (d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such Issuer.".

(b) Securities Act of 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end of the following:

"(f) Authority of the Commission to Prohibit Persons From Serving as Officers or Directors.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.".

### SEC. 11. RETALIATION AGAINST INFORMANT.

(a) In General.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

"(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. Sensenbrenner) and the gentleman from Michigan (Mr. Conyers) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. Sensenbrenner).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5118, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I also ask unanimous consent that an additional 20 minutes on the motion to suspend the rules be granted, and be equally divided between the chairman and the ranking minority member of the Committee on Financial Services.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Xerox, WorldCom, Global Crossing, Enron, and Tyco are among several of the U.S. elite corporations now in Wall Street's Hall of Shame. They have all apparently cooked the books and served their employees with a recipe for disaster with pink slips and lost pension funds.

Enron overstated its profits by over half a billion dollars in 1997. WorldCom admitted that it had hidden a staggering $3.50 billion in losses. Many Americans have been hurt badly by this irresponsible behavior, and tragically, everybody's 401(k) assets have tanked. Employees who receive stock options as part of their income package have lost their life savings, on top of losing their jobs.

Much of these shenanigans appear to have begun in the 1990s, the decade when personal accountability and responsibility became irrelevant. It appears that for some in corporate America, the incentives for fraud and ill-gotten gain outweigh the consequences of getting caught.

Well, maybe the potential penalties for these crimes are just not strong enough. Today, it is our duty to fix that. Mr. Speaker, these few bad actors have not only harmed the employees that depended on them, the public that invested in them, but also the integrity and reputation of all of corporate America, which is the backbone of the greatest economic machine the world has ever seen.

We must return this country to personal accountability and responsibility, and help rebuild America and the world's confidence in our markets. We must crack down on the corporate crooks, and reestablish the honor of the vast majority of men and women in corporate America who are hard-working and honest.

The best way to do that is to punish the corporate wrongdoers, and punish them harshly. The American public needs to know that under this bill, H.R. 5118, the Corporate Fraud Accountability Act of 2002, corporate criminals will do real time, real long time.

If they commit mail or wire fraud in the furtherance of their corporate crimes, which is often how prosecutors nail these criminals, they will face 20 years in jail, not the current 5 years, nor the 10 years called for in the other body's legislation.

In addition, a distinct securities fraud crime is established with a maximum penalty of 25 years in jail. Again, the other body only calls for a 10-year penalty.

Importantly, H.R. 5118 strengthens laws that criminalize document shredding and other forms of obstruction of justice, and provides a maximum penalty of 20 years. The other body calls for just 10 years.

H.R. 5118 also requires top corporate executives to certify that the financial statements of the company fairly and accurately represent the financial condition of the company. Violating this section can subject corporate executives to fines of up to $5 million and up to 20 years in prison. Under the version passed by the other body, the maximum penalty a corporate officer would face is only a $1 million fine and 10 years in prison.

The Corporate Fraud Accountability Act also increases the criminal penalties for those who file false statements with the Securities and Exchange Commission to a maximum penalty of $5 million and 20 years in prison. If a corporation files a false statement, those fines can increase up to a maximum of $25 million.

The bill passed by the other body does not change the current penalties of a maximum fine of $1 million and 10 years in prison, and corporations would still only face maximum fines of $2.5 million.

By passing this bill today, the House is telling the American people that the law will make CEOs directly responsible for the integrity of their company's financial statements, and face severe financial and criminal penalties for falsifying such statements.

Under this legislation, top executives will not be allowed to pilfer the assets of the company by giving themselves huge bonuses and other extraordinary payments if the company is subject to an SEC investigation. Their pay and benefits are frozen when the investigation starts. Americans will know that corporate officers will no longer be able to misuse the bankruptcy laws to discharge liabilities based upon securities fraud, and the honest brokers of corporate America will know that those who abuse the law and tarnish corporate America's reputation will go to jail for a long, long time.

Finally, Mr. Speaker, this bill creates criminal sanctions against those who retaliate against corporate whistleblowers, similar to witness tampering in another context. The only thing the other body's bill does is provide for more lawsuits, a civil cause of action for the whistleblowers against the retaliators. Under the current bankruptcy law, if the whistleblower wins the civil lawsuit, the retaliator will be able to discharge that judgment in bankruptcy.

Mr. Speaker, H.R. 5118 is a tough bill that cracks down on the corporate crooks. It goes a long way to protecting the life savings of many Americans by making the price of theft too high.

Mr. Speaker, I urge my colleagues to support the bill, and I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I greet the gentleman from Wisconsin (Mr. SENSENBRENNER), my chairman. Before I begin my comments, could I ask my friend and chairman of the committee, why is this bill coming up under suspension?

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I would tell the gentleman, it is because there is an urgency that we restore confidence in the markets that corporate wrongdoing is going to be dealt with firmly and severely, which the increased penalties in this bill do.

Last week, the minority leader, the distinguished gentleman from Missouri (Mr. GEPHARDT), on three occasions called on taking bipartisan action to correct the problems now. At least insofar as weak criminal penalties are concerned, this bill meets the minority leader's call.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for his response. Can he explain to me if this bill has been referred to the Committee on the Judiciary?

Mr. SENSENBRENNER. Mr. Speaker, if the gentleman will continue to yield, the bill was introduced yesterday. It was jointly referred to the Committee on the Judiciary and the Committee on Financial Services.

The leadership and I made a decision, together with the gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Chairman TAUZIN), that it is really important that the bill be passed quickly, given the volatility in the stock market. Hopefully, we can provide some assurance that corporate wrongdoers will go to jail for a very long time, and this bill does that.

Mr. CONYERS. Mr. Speaker, I thank the gentleman. About what time was that yesterday that the bill was introduced?

Mr. SENSENBRENNER. If the gentleman will continue to yield, the bill was introduced at the time we cast our votes yesterday afternoon. The gentleman from Michigan (Mr. CONYERS) was given an opportunity to cosponsor the legislation, and I do not see his name on the list of cosponsors.

Mr. CONYERS. I know the gentleman does not see my name on the list. Did the gentleman tell me what time it was introduced, which was what my question was?

Mr. SENSENBRENNER. Yes, I did.

Mr. CONYERS. What time?

Mr. SENSENBRENNER. When we voted last night at 6:30.

Mr. CONYERS. It was 6:30 p.m. I thank the gentleman. Has the bill been changed since the bill was introduced at 6:30?

Mr. SENSENBRENNER. The motion to suspend the rules was.

Mr. CONYERS. Was it changed?

Mr. SENSENBRENNER. The motion to suspend the rules was as amended.

Mr. CONYERS. Was the bill changed?

Mr. SENSENBRENNER. The answer is yes.

If the gentleman will yield further, I will explain that the criminal penalties against those who retaliate against corporate whistleblowers was the addition, which was one loophole that was plugged, and the gentleman from Ohio (Chairman OXLEY) thinks this is a good amendment.

Mr. CONYERS. I am happy to learn of the zeal of the leadership in the House.

Now, let me just ask the gentleman, was there any consultation on the part of the Republican leadership with the Democratic leadership?

Mr. SENSENBRENNER. If the gentleman will yield further, I am not aware of whether it was or not. I am informed by staff, this is not personal knowledge, that there was a consultation; and furthermore, the majority staff on the Committee on the Judiciary consulted with the minority staff, and a few of the provisions that the minority suggested are contained in the bill.

Mr. CONYERS. In other words, what we have here today is a jacked-up version of a "let's-run-and-deal-with-an-emergency" that is so critical to the stabilization of the stock markets that the bill was introduced less than 24 hours ago, has never been before the Committee on the Judiciary, has never been consulted with the Democratic leadership, no consultations, and then has been amended in the process, and we now find ourselves under a suspension procedure in the House in which we are now told that this is very important that we do it, it is a very important piece of legislation, information on which there has never been a hearing in the Committee on the Judiciary.

Mr. Speaker, I do not mean to use up all my time with my friend, the gentleman from Wisconsin, but for my final question I would ask the gentleman from Wisconsin (Chairman SENSENBRENNER), are there any civil penalties for retaliation against whistleblowers in this bill?

Mr. SENSENBRENNER. If the gentleman will continue to yield, there are no civil penalties, but there are criminal penalties. People who retaliate against whistleblowers ought to go to jail rather than being allowed to file a lawsuit, which, if they win, would be dischargeable in bankruptcy.

Mr. CONYERS. In other words, the gentleman thought this out, or somebody, whoever put this bill together, and they have come to the conclusion that we do not want civil penalties, in other words, hitting these corporations and the crooked CEOs in the pocketbook, which is what motivates much of this malevolent corporate behavior; but the gentleman wants them to now go to jail, which was a provision that I had in the original bill that we proposed, I say to the gentleman from Wisconsin, that he and the Republicans voted against.

What newfound energies. This is really wonderful.

□ 1200

Mr. SENSENBRENNER. There are criminal fines in this bill that are $250,000 or double the amount of ill-gotten gain, whichever is greater.

Mr. CONYERS. I am talking about the civil penalties now. I am not talking about the criminal penalties. I agree with the criminal penalties. But there must have been some profound legal reasoning that led to the omission of civil penalties.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Michigan (Mr. CONYERS) must want to have more lawsuits. The gentleman from Wisconsin (Mr. SENSENBRENNER) wants to have people who retaliated against whistleblowers being thrown in jail because that is a kind of form of witness tampering.

Now criminal penalties are not dischargeable in bankruptcy under the current law and under the proposal that has passed both Houses and is in conference. Civil judgments are dischargeable in bankruptcy. So under my plan, the bad folks who have stripped corporate issues of their assets and treated their employees are not going to be able to run to the bankruptcy court to get a discharge.

Under what the gentleman from Michigan is proposing, they can be sued civilly, they can lose the lawsuit. The court can enter a huge judgment against them, and then they are back in court, and they will get a discharge in bankruptcy, and as a result there will be no money that will be going out of their pocket. That is the difference between his complaint and my bill.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Ohio (Mr. OXLEY) may proceed and then the gentleman from New York (Mr. LAFALCE). Each gentleman has 10 minutes.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation and commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for his excellent work.

This bill addresses corporate wrongdoing in a responsible and measured way. Specifically, the bill raises the criminal penalties for securities fraud under section 32 of the 1934 act by increasing the maximum fines and doubling of the potential jail time to a maximum of 20 years. It authorizes the SEC to place a temporary freeze on extraordinary payments to directors, officers, partners, or employees of public companies under investigation for a possible violation of securities fraud. Finally, it gives the SEC the authority to prohibit bad actors from ever serving as an officer or director in a public company.

I urge my colleagues to pass this tough measure. It is a good complement to the bipartisan legislation we passed in April with 119 Democrat votes in support to improve corporate responsibility, accounting practices, and the quality and timeliness of information to investors.

We need responsible measures to clean up corporate America, not measures that create loopholes for voracious trial lawyers. I again thank the gentleman for his leadership on this important issue. Our committee, the Committee on Financial Services, did not have jurisdiction over the criminal penalties side of the issue and so we welcome the complementary bill by the chairman of the Committee on the Judiciary.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill; but I do so with several, many, critical reservations. First of all the process. The bill was introduced at 6:30 last night. It is brought up on the Suspension Calendar. That means there is hardly a soul in the House of Representatives who has even had the time to read the bill, especially since it was amended after it was introduced. Secondly, for those of us who would like to offer strengthening amendments by bringing it up on the Suspension Calendar, we cannot offer one single amendment. That is what the Republicans decided to do: do not permit the Democrats to offer any amendments; this is as far as we want to go. On a scale of one to 10, this is a two. We want to make it a 10. You will not permit us an amendment to make it a 3, a 4, a 5, a 6, much less a 10. That is totally unacceptable.

Something else, too. The President wants a bill passed, and he wants a bill signed into law before we recess in August. The only way we will be able to do that, and you know this, is if we take the Senate bill that passed 97 to nothing. If President Bush really means what he says, he ought to say what he means, and that is take the Senate bill and pass it, and then we can come back in September and negotiate; but that should be the law of the land because 97 Members of the Senate, every Democrat who voted, every Republican who voted, voted for it. I hope this is not simply a tour de force.

Now, I am going to support this two out of 10, but there are an awful lot of things that it fails to do, that it omits to do. It omits critical safeguards contained in the Senate bill. For example, it fails to extend the time in which the victims of fraud may bring suit to recover their damages. For over 40 years, courts held that the statute of limitations for private securities fraud lawsuits brought under the Securities Exchange Act of 1934 was the statute of limitations determined under applicable State law. This rule provided adequate time for fraud victims to discover the fraud and bring a lawsuit against the perpetrators of the fraud.

Unfortunately, in a 1991 case in a 5–4 decision, the Supreme Court significantly shortened the period of time in which investors may bring securities fraud action: the earlier of 1 year from the discovery of fraud or 3 years from the fraudulent act. That Supreme Court decision, the Lampf case, adopting a shorter period, does not permit individual investors adequate time to discover and pursue violations of securities laws. We must change that.

Despite urging from the SEC, State securities regulators and experts, Congress failed to overturn Lampf when it adopted the Private Securities Litigation Reform Act of 1995.

The gentleman from Michigan (Mr. CONYERS) wants to change that. I want to change that. We ought to permit this body an opportunity to vote on that issue. The Republicans are saying no, we will not even permit you to vote on the issue.

The Senate has seen fit to protect investors by extending the time period to bring a suit for up to 2 years after the date in which the alleged violations were discovered or 5 years after the date in which the violation occurred. Why is that not in this bill?

This bill omits many of the other critical safeguards in the Senate bill, namely, the corporate whistleblower civil protections, a requirement for document retention, important sentencing guideline enhancements.

So I will vote for this bill today, but I hope that when the Congress sends the bill to the President, it will have the full arsenal of tools to fight securities fraud and corporate misconduct contained in the Senate bill, not merely the sprinkling few that the Republican leadership deems fit to bring to the floor of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York (Mr. LAFALCE) says this bill is a two on a scale of 10. If this bill is a two, then the Senate bill is a one, because in most cases the penalties in this bill are double the penalties in the bill passed by the other body. And this bill creates two new crimes that were not created in the bill that was passed by the other body.

Secondly, at least on the Committee on the Judiciary side, the majority and minority staffs worked together beginning on Friday of last week on the provisions of this bill, which was the day after the agreement was reached in the other body on the provisions contained in their bill. And there are at least four provisions in this bill that are patterned after provisions in similar legislation offered by my friend from Michigan (Mr. CONYERS) H.R. 4098.

They are higher-maximum penalties for wire and mail fraud; an amendment to the Federal sentencing guidelines which pertain in cases where there is actual destruction or fabrication of evidence; and in fraud cases where a large number of victims are involved, the debt is nondischargeable, and bankruptcy, if incurred in violation of securities fraud laws; and, fourthly, tampering with records and otherwise impeding with official proceedings. There the language is a little bit different, but the thrust between the Conyers bill and this bill are the same.

Now the other complaint that I have heard from both the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. LAFALCE) is that we are speeding too fast on this bill. Well, I pulled up out of the records what the minority leader, Mr. GEPHARDT, had to say last week. On July 9, the gentleman from Missouri said, "Now is the time to apply this lesson to corporate reform and go beyond the rhetoric and actually pass strong legislation to protect Americans and to improve cooperate responsibility and accountability."

Then the next day the gentleman from Missouri (Mr. GEPHARDT), the minority leader said, "Americans need financial reforms that are black and white. If we continue to practice corporate accounting in shades of gray, our economy will suffer. Failing to take action is not an option. We must take bipartisan action to correct these problems now." July 10.

Now, sometimes we are accused of being too partisan around here. We have listened to what the minority leader has to say. He wanted action taken now, and we are taking action now.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, how much remains?

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) has 13 minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 9½ minutes remaining. The gentleman from Ohio (Mr. OXLEY) has 8½ minutes remaining. The gentleman from New York (Mr. LAFALCE) has 6 minutes remaining.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is this kind of legislative process that gives our body a bad name. Now, it must take a certain amount of chutzpah to say that this is a bipartisan bill. There has not been any bipartisan input on this bill whatsoever, and it is a very important bill. There is no way that, as the gentleman from New York (Mr. LAFALCE) pointed out, there is no way that we can amend this bill.

The curious thing is back in April when I introduced a motion to recommit, it was April 9, the bill was voted down by the Republicans. All these provisions that were rejected are now the ones that are being brought forth with great pride. And so I just want to point out that it may have had something to do with the Senate voting unanimously to include the provisions that both the chairman of the Committee on the Judiciary and I have introduced to bring real accountability to wrongdoers.

Now, maybe this move to criminalize but not have civil penalties might be due to the fact that the Attorney General has yet to bring one case in this area for prosecution against any individual. Has he changed his attitude? I do not know and I wonder if anyone in the House does.

So we come here in some shock, some disappointment that we are here doing this kind of a run and catch up; let us get cover to make sure we might be able to head off the work that is being done in the other body.

Now, I want to ask this question to anybody in the House. Is it true that the whistleblowers language that is in this bill which was, I think, subsequently added, was that given any help or assistance from those in the securities industry?

You can answer that yes or no.

The criminal relief requires that an employee prove beyond a reasonable doubt to get a conviction; we are now eliminating the civil provisions which only require a preponderance of evidence. Are we aware of what we are doing here and why we are doing it?

So I am very disappointed in the way this is being done.

Mr. Speaker, I reserve my time at this point.

□ 1215

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

I would point out to my friend from Michigan that I suggest this will be a strong bipartisan vote when the vote is taken and it will be very much of a bipartisan effort in the House.

Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), and pending that, I ask unanimous consent that the gentleman from Louisiana be allowed to control the time for our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BAKER. Mr. Speaker, I thank the chairman for yielding me the time, and I wish to extend my appreciation to the gentleman from Wisconsin (Mr. SENSENBRENNER) as well as the gentleman from Ohio (Mr. OXLEY) for their good work on this most important matter.

Most Americans at home today are watching anxiously as the volatility of the stock market takes its toll in their personal savings or retirement plans, and they are looking to this Congress to take some action to stem the flow of capital away from those markets, to sit on the sidelines.

It is not only bad for corporations, it is not only bad for shareholders, it is bad for the economy when people are afraid to trust the CEO, the accountant, the analyst, anyone involved in the process, and failing to make that investment, curtail the ability to create jobs and provide opportunities. What they are saying to us is go get the bad guys, stop them from doing this in the future and make them pay a price.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Ohio (Mr. OXLEY) have before us a proposal which establishes new penalties for CEOs who fail to certify their financials or certify them knowing there is a material misstatement. They create a new penalty for failure to do so up to $5 million. They require a criminal penalty be assessed to those individuals who file false statements with the Securities and Exchange Commission and create a new penalty of up to $5 million. They provide for penalties relating to mail and wire fraud. A person communicates a material fact that is incorrect, misleading or false, they go to jail, not for 5 years, for up to 25 years.

With regard to those extraordinary benefits that are granted these executives who have manipulated the books and benefited themselves, this requires the SEC to freeze extraordinary payments until appropriate investigation may be concluded to determine whether such payments were warranted or not. When there is a determination that a CEO has violated his fiduciary responsibility to the shareholders and the public, there is a lifetime prohibition on that individual from ever serving on a board in a corporate management responsibility ever again.

This is a first step. This is not the end. We all know the Senate has acted. The House has acted on important reforms. There will be a conference, I assume a conference, which will meet very soon of the Committee on Financial Services and all interested stakeholders in this matter to pass additional restraints on inappropriate corporate behavior with guarantees of recompense to those who have been fraudulently abused.

This work deals with the criminal statutes in establishing those criminal penalties which ought to be appropriate given the egregious statements that CEOs have made across this country relative to the financial condition of their corporation, and we gave. More than 50 percent of Americans have investments in the markets today through on-line investing, which was not possible six years ago. Now 800,000 trades a day occur with moms and pops investing $100 at a time for their child's education, for their first home, for their own retirement.

This is no longer about institutional investors investing hundreds of millions of dollars at a time. It is no longer a question of sharks eating the sharks. It is the sharks after the minnows, and we are going to stop it.

Mr. LAFALCE. Mr. Speaker, I yield myself 2 minutes.

First of all, the allegation has been made that this is a bipartisan bill. My colleagues are going to get Democrats voting for this because we would rather vote for a 2 than a 0, although we prefer a 10, and that does not make it bipartisan.

I am the ranking Democrat on the House Committee on Financial Services. This morning I had a breakfast meeting with the former chairman, the gentleman from Iowa (Mr. LEACH), the president of Intra-American Development Bank, got to the office at 10 o'clock, discovered for the first time that a bill had been introduced and that we were going to be taking it up today, we thought later today. At about 11 o'clock we discover it is at 11:30. That is not bipartisanship.

When my colleagues do not include us in the drafting of the bill, in the introduction of the bill, in the formulation of the bill, when my colleagues tell the ranking Democrat on the relevant committee an hour or a half an hour beforehand that something is coming to the floor, do not have the audacity to call that bipartisanship.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I support this legislation and I applaud the leadership of this body for bringing this bill before us.

Let us not kid ourselves. Three months ago the gentleman from New York (Mr. LAFALCE) offered a substitute to the accounting reform bill that called for better corporate governance and it did not receive a single vote from the other side. Let me say that again. It did not receive a single vote from the other side.

Now we are considering a bill that would send CEOs to prison for up to 25 years for securities fraud or accountants to prison for 5 years for shredding their paperwork. We are making progress, but we have got a lot more work to do.

The gentleman from New York (Mr. LAFALCE) called for better corporate governance a long time ago. President Bush on March 2, that was 5 months ago, called for better corporate governance, and yet we have had no action from this body. So I applaud the leadership for bringing this bill forward, but we must also get to conference committee and put that on the President's desk by next week.

I urge my colleagues to support this measure.

Mr. BAKER. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, recent news from the corporate world has been pretty grim. All too often we have seen headlines from corporations like Enron and WorldCom that reveal appalling abuse and fraud leading to layoffs and bankruptcies. From the magnitude of the problem, it looks as though corporate fines are simply not enough to discourage billions of dollars in fraud. It is time for stronger penalties such as those offered in this bill.

The workers in my district of West Virginia and everywhere else have concerns about their families' futures. Whether they are saving to educate their children, working to secure their own retirements, hardworking West Virginians do not want to see another corporate hocus-pocus act where they get the raw end of the deal.

I am proud to say that we passed legislation, CARTA, Corporate and Auditing Accountability, Responsibility and Transparency Act and the Pension Security Act, and today we are taking another step in the right direction.

This legislation strengthens laws that criminalize obstruction of justice, close gaping loopholes and requires top executives to certify that their financial statements of their companies are fairly and accurately representing the financial condition of their company.

Mr. Speaker, the workers in America want assurances that the dollars they are working for today and saving will be there when it is needed down the road. That is why it is imperative that our colleagues join together and continue to get tough on corporate crooks. I certainly support this legislation.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Detroit, the ranking member, for yielding me the time. I thank the chairman for what I know is a well-intended effort.

Mr. Speaker, many of us have been exposed to this issue and none of us can claim oneupmanship. Might I, however, claim at least the personal exposure to the pain of 5,000 employees and a continuing saga of trying to rebuild the crumbling remains of a company of which we had great respect for in my district. Having experienced that in Houston, Texas, I realized that this is systemic and that they are hurting people across the Nation.

I also realize that this Congress and this particular body, this House, in Texas lingo, started with a hurricane, blowing fury, and now has ended with a mere raindrop, some might call it a teardrop, because the process by which this legislation came to the floor denigrates and disrespects those of us who have both felt the pain but have also dealt with this from a legislative perspective.

My legislation, H.R. 5110, is an omnibus bill. I made a commitment to my constituents that I would not have a pride of authorship and would work with those in this House on a bipartisan basis on legislation proceeding to solve this problem of corporate responsibility and accountability. I am an original cosponsor of the Conyers bill, H.R. 4098, that speaks particularly and clearly to the issues of criminal penalties. That would have been a bipartisan bill inasmuch as it is destined for a hearing on Friday.

I am a supporter of the bill in the other body that we should, in fact, take up today in substitute of this particular legislation that falls short.

Mr. Speaker, if we are talking about serious legislation, I agree with the good ranking member and friend of the Committee on Financial Services bill, we have fallen short. We have fallen short of his work, fallen short of the gentleman from Michigan's (Mr. CONYERS) work, and let me tell my colleagues why.

This bill does not have in it, as the bill in the other body, a document retention requirement as it relates to auditors, the key element to part of the fall of Enron and many other places. If we willy-nilly suggest, because the United States Chamber of Commerce is pressing on the Members of the other party that we not have a document destruction provision of which gives criminal penalties, then we are in trouble. If we do not protect whistleblowers like Sharon Watkins who came forward in the Enron case, we are in trouble.

We well know that the investment community is not interested in words. The President has given words and the market has fallen. They are not interested in Harvey Pitt's of the SEC's words and actions. The market has fallen.

The marketplace wants and corporate America wants clear delineation as to what we are doing in Congress so the market can regain confidence and we can expand on the corporate confidence and as well tell America that we stand behind capitalism, but we also stand behind integrity.

I would like a bill that I can support. I am considering what we have here, Mr. Speaker, but let me say this, it is a shame that we could not do this in a bipartisan way and put some teeth into this so that investors can know what Congress means and what Congress stands for.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

I am really befuddled on how Members on the other side of the aisle can come up and say that this bill is inadequate on criminal penalties when the criminal penalties are double those that were passed by the other body, and that we have turned our back on whistleblowers, when this bill provides criminal sanctions against those who retaliate against corporate whistleblowers. If someone would retaliate against a corporate whistleblower, they go to jail. The other body does not do that at all.

We have heard comments about the fact that this bill really does not deal with the whole issue of document shredding and other forms of obstruction of justice. Twenty years in this bill, 20 years in jail, that is a pretty tough penalty, and it is drafted broadly enough so that those who do shred documents can be caught in other obstruction-of-justice prosecutions.

The bill which the gentleman from Michigan (Mr. CONYERS) has introduced is only talking about 5-year penalties for these types of offenses. So if this is just a little teardrop, I think my colleague has had a wrong choice of words, because people who violate the law and the crimes that are set forth in this bill are going to go to jail for the rest of their productive lives, and that is a pretty serious penalty.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me the time.

The bad news is that corporations cannot go to jail, and so there are no civil penalties dealing with those particular issues.

I also would ask, if I had the time, but I will just pose the question, where in the bill that is on the floor has document retention requirements on auditors and where do we have the provision giving defrauded investors more time to seek relief? That is the question about helping these small investors, but we cannot send a corporation to jail. We need civil penalties in this legislation.

I thank the gentleman for yielding me the time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

This is the time for truth-telling. We put in 5 years and it was unanimously opposed by the other side. Where did the sudden legislative conversion take place? Over the weekend? Yesterday? Sometime before 6:30 when the bill was dropped by all of my colleagues? Five years was no good in April, May, June, July, but this morning that is nothing, we have got to get them.

Maybe it is because the Attorney General and the Department of Justice do not bring these kinds of cases, and I would like to ask the chairman and all of his lawyers and the other Members to tell us where there have been any cases brought like this. This is a sham, not against individuals, and that is why leaving out the civil penalties is a dead giveaway.

□ 1230

What about giving the defrauded investors more time to seek relief? Is that being covered? I do not think so. And my colleague has heard of sentencing enhancement, has he not? But they are not in the gentleman's bill.

So without trying to draw nitpicking distinctions, this bill is seriously flawed. I am voting against it. I know there may be Members that feel inclined to show that they are doing something rather than nothing. We are back to this scale of two versus 10. But this is a very flawed bill, and that is why we cannot bring it before the Committee on the Judiciary for hearings and the discussion it deserves.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

We provide in our bill the sentencing commission the authority to have sentence enhancements, and it comes right out of the bill the gentleman introduced. And we are going to have a hearing on the gentleman's bill on Friday. That was the date that we agreed upon. So what is the beef?

Mr. Speaker, I reserve the balance of my time.

Mr. BAKER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the chairman for his extraordinary leadership on this issue.

Mr. Speaker, I rise in strong support of the Corporate Fraud and Accountability Act of 2002. It was President Calvin Coolidge, Mr. Speaker, who said simply that "the business of America is business." And many people over the last century have used that term to denounce and deride those of us who believe in the free enterprise system in America.

The truth is that President Coolidge was a moralist. And when he said the business of America is business, he was fundamentally suggesting that American business relies on the integrity and the character of the people that occupy the chief executive officerships and the boards of directors rooms of America's corporations. It has always been the case; it will always be the case. But the backstop, Mr. Speaker, is and has ever been the law. Today, in the Corporate Fraud and Accountability Act of 2002, we raise the barrier of criminal law in the area of corporate fraud.

Now, some of our friends on the other side of the aisle may say that we are playing politics, that we are less than sincere; but the facts speak for themselves. As the chairman of the Committee on the Judiciary, on which I serve, just said, those who extol the bill passed in the other body in the last 24 hours apparently are prepared to vote against the bill that has two times the criminal penalties for corporate fraud.

This legislation increases the penalties for mail and wire fraud from 5 years to 25 years. There are $25 million fines in this legislation when corporations file false statements. It increases criminal penalties for individuals who file false statements with the SEC to $5 million, just to name a few.

Despite the best efforts of some on the other side of the aisle, Mr. Speaker, to politicize this issue, the truth is opposition to crime is a bipartisan position in this institution. All of us believe that righteousness exalts a nation. All of us believe in the rule of law. Let us vote in favor of this bill today.

Mr. LAFALCE. Mr. Speaker, I yield myself 1½ minutes.

The gentleman from Indiana referred to Calvin Coolidge. The difficulty is that President Bush has been playing the role of Calvin Coolidge for a year and a half, when the times demand a Teddy Roosevelt. A week ago he started to try to act like Teddy Roosevelt and, instead, he appeared to be Teddy Bear.

With respect to the bill before us today, I must make reference to what went on in the Committee on Financial Services and what went on on the floor of the House.

I offered a number of amendments, two in particular, one dealing with the question of substantial unfitness or unfitness to serve as an officer or director. The SEC had complained that the bar was too high having to prove substantial unfitness. I said let us just make it fitness. The Republicans monolithically voted no. They have now had a conversion belatedly.

Secondly, I said let us legislatively require that CEOs and CFOs certify as to the accuracy and reliability of the financial statements. The Republicans voted no.

I included those two provisions, and those two provisions alone, in the motion to recommit with the accounting bill, the Oxley bill, word for word. Those were the only two changes. The Republicans monolithically voted no. I welcome their belated conversion.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume to note that the motion to recommit we found out about 15 minutes before it was offered. So that was a shorter period of time than this bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Crime.

Mr. SMITH of Texas. Mr. Speaker, I thank the full Committee on the Judiciary chairman for yielding me this time.

I want to say first of all that this is a good bill. It is an improvement over other bills that have either been introduced or considered on either side of the Capitol, and I hope all our colleagues will take the opportunity to vote for corporate responsibility by supporting this legislation.

Mr. Speaker, in the wake of the recent scandals involving such companies as Enron, WorldCom, Global Crossing, Arthur Andersen, and Tyco, we should reform our laws to restore confidence in our markets and hold accountable those corporations and their executives who have defrauded investors and harmed the American economic system.

H.R. 5118, the Corporate Fraud Accountability Act of 2002, will punish corporate wrongdoing and punish those who would tarnish the integrity and reputation of all corporate America. And I might say that the vast majority of individuals, the vast majority of companies, of business owners, of the heads of corporations are hard working and honest. The dishonest represent just a small fraction of the whole.

Mr. Speaker, we need to remind some of our colleagues that this bill does in fact increase the penalties for mail and wire fraud from 5 years to 20 years and creates a new securities fraud section that carries a maximum penalty of 25 years. It also strengthens laws that criminalize document shredding and other forms of obstruction of justice and provides a maximum penalty of 20 years for such violations. It also grants emergency authority to the U.S. Sentencing Commission to promulgate guidelines that reflect the serious nature of securities pension and accounting fraud.

The legislation closes loopholes by which corporate officers can use bankruptcy laws to discharge liabilities based on securities fraud. And it requires top corporate executives to certify that the financial statements of the company fairly and accurately represent the financial condition of the company. Violating this section can subject corporate executives to fines up to $5 million and 20 years in prison.

Mr. Speaker, this bill provides additional tools to prosecutors to prosecute wrongdoing by corporate criminals who attempt and conspire to violate the law. This is a good piece of legislation; it should be supported by all Members who want to restore corporate responsibility to America.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds.

Could I ask my distinguished chairman of the Subcommittee on Crime, has his committee held hearings on this bill?

Mr. SMITH of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Texas. This is a yes or no response.

Mr. SMITH of Texas. Mr. Speaker, as I understand it, there is a hearing scheduled on the gentleman's legislation this Friday.

Mr. CONYERS. Reclaiming my time, Mr. Speaker, I simply ask, has the gentleman had a hearing on the bill?

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, there is a joint hearing by two subcommittees of the Committee on the Judiciary.

Mr. CONYERS. After this is passed, the gentleman is going to hold hearings. I thank the gentleman very much.

Mr. SMITH of Texas. I would say to the gentleman that that is on a different piece of legislation.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I thank the gentleman from New York for yielding me this time as well as the gentleman from Michigan (Mr. CONYERS).

Mr. Speaker, I will be very brief. I understand, in terms of listening to the debate, because I was not at a hearing when this bill was discussed, that the kind of action taken on this bill was quite similar to the shredding of documents by the Arthur Andersen company that gave rise to this whole debate at this time.

I was not a Member of Congress, but remember very well when, and, yes, it is political, when in 1994 there was a young man who was Speaker of the House that talked about a Contract With America. In fact, it turned out to be a contract on America. The Private Securities Litigation Reform Act of 1995 got us to where we are today. It repealed the civil RICO, thereby preventing defrauded investors from obtaining triple damages when they bring securities fraud claims.

This bill does nothing to address that problem. It is a cruel hoax. It is a farce. It should go back, perhaps on another midnight hour, and be fixed. It is broken.

Today, on the Suspension Calendar, with no opportunity to amend or improve it, the House Republican Leadership will offer up a so-called corporate responsibility bill. This bill eviscerates the bill that passed the Senate 97 to 0 and that the President said "shares [his] goals." Why?

The U.S. Chamber of Commerce, which is the second leading Republican donor in this cycle, and other corporate interests lobbied to roll back the Senate bill's prohibitions on document shredding, corporate whistleblower protection, increasing the time allotted for shareholders to seek relief in court, and to create a new enhanced securities fraud law.

Unlike the Senate, which sided with working families, the House Republican Leadership gave corporate fat cats everything they asked for.

Not one Senate Republican voted against any of the provisions dropped by the House Republican Leadership. Specifically, the Republican leadership bill excludes:

Document retention requirements on auditors. The bill passed yesterday by the Senate would require auditors to maintain all audit or review workpapers for a period of five years after the conclusion of an audit or review. This was part of the bipartisan Leahy-Hatch amendment, which passed the Senate 97 to 0. As has been exhaustively documented, Arthur Andersen impeded a Securities and Exchange Commission inquiry into Enron's finances last fall by destroying huge numbers of documents and e-mails. The Republican leadership bill drops these provisions.

Giving defrauded investors more time to seek relief. The bipartisan Leahy-Hatch amendment, which passed the Senate 97 to 0, reformed the unnecessarily restrictive statute of limitations governing private securities claims. Under current law, defrauded investors have one year from the date on which the alleged violation was discovered or three years after the date on which the alleged violation occurred. Because these type of violations are often successfully concealed for several years, the Senate increased the time period to 2 years after the date on which the alleged violation was discovered or 5 years after the date on which the alleged violation occurred. The Republican leadership bill drops these provisions.

Protecting Whistleblowers—The bill that passed yesterday in the Senate contained the Grassley amendment, which unanimously passed the Senate Judiciary Committee, extended whistleblower protections to corporate employees, thereby protecting them from retaliation in cases of fraud and other acts of corporate misconduct.

Sentencing Enhancements—The bill that passed in the Senate yesterday had bipartisan Leahy-Hatch sentencing enhancements when a securities fraud endangers to solvency of a corporation and for egregious obstruction of justice cases, where countless documents are destroyed. The Republican leadership bill drops these provisions.

Finally the Republican Leadership hides behind the penalties smokescreen, in the hopes that no one will notice everything that is missing from their bill. They mindlessly increase penalties for mail fraud and other offenses to ten years greater than the Senate bill. In reality, in most of these cases, there are numerous counts of mail fraud and whatever penalty that is assigned to the offense is multiplied by the number of counts.

The difference between a ten and twenty year penalty is, therefore, negligible in these cases.

Mr. BAKER. Mr. Speaker, I yield 1 minute to the gentlewoman from Pennsylvania (Ms. HART), a member of the Committee on Financial Services.

Ms. HART. Mr. Speaker, I rise in support of the bill and stand here at a loss as to why anyone would not support this bill.

In light of the news that we have heard lately about corporate fraud and cries from the general public that people go to jail, this bill provides for that. This bill provides for up to a 25-year maximum prison term for securities fraud. It provides an increase from 5 years of a prison term.

Now, I am not sure, but it seems to me that 25 years is a lot more of a deterrent than 5. We are given a wonderful, very clear, to-the-point bill by the gentleman from Wisconsin (Mr. SENSENBRENNER), supported by the Committee on Financial Services.

We are telling the general public that we mean business when it comes to punishing people who defraud our investors and people who work for these corporations in the United States. I urge my colleagues to support this bill. It certainly is clear. It will certainly provide a good sentence, a reasonable serious sentence, to send a message to corporate officers in America that we mean business.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, we have heard a lot about crime this morning, but let us remember it was this very House of Representatives that gave the green light to corporate executives to lie to their boards and to their shareholders; and we provided them with a safe harbor. It was called the Private Securities Litigation Reform Act of 1995 that was part of the Contract on America. It was vetoed by President Clinton and his veto was overridden.

Anything we try to do in this bill regarding the punishing of criminals is just a legislative Band-Aid unless and until we restore shareholders' rights. We will not restore shareholders' rights or investors' confidence until we repeal the Private Securities Litigation Reform Act of 1995.

This bill is nothing more than a feel-good bill. It never strikes at the root of the problem, of corporate corruption and corporate fraud. We have to repeal the Private Securities Litigation Reform Act. There are bills out there, like the Shareholders and Employees Rights Restoration Act of 2002, and we cannot even get a hearing on it, let alone a vote on it.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

The gentleman from Michigan says this is a feel-good bill. Anybody that is convicted of the fraud that is discussed in this bill and goes to jail for at least 20 years or 25 years I do not think is going to be feeling very good as they are sitting behind bars.

Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I commend the chairman of the Committee on the Judiciary for introducing this very important legislation to hold accountable those corporations and their executives who defraud the American public through manipulative accounting and other fraudulent practices.

President Bush has said that corporate America must be made more accountable to employees and stockholders. He was right in calling for tougher penalties for companies who use unethical accounting procedures to falsify profits at the expense of their employees and other investors.

As I travel through my district, I hear from many constituents whose confidence in the integrity of our markets has been shaken. Their faith in corporate management has been replaced with a fear of losing their retirement nest egg. They have demanded accountability from our corporate leaders, and we must ensure they have that accountability.

H.R. 5118 increases the penalties for activities like mail and wire fraud and provides additional tools for prosecutors to crack down on corporate criminals. This legislation is needed to restore confidence in our markets and hold corporate criminals accountable.

Hard-working Americans who save responsibly for their retirement should be able to have confidence in their retirement plans. Congress should enact meaningful reforms that provide safeguards for those who are saving for their retirement years.

As I listen to this debate, I see my colleagues on the other side of the aisle attempting to dance on the head of a pin. Instead, it is time to join us in passing this powerful new tool for prosecutors to crack down on crime.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WATERS), who serves on both committees, incidentally.

□ 1245

Ms. WATERS. Mr. Speaker, this is precisely why the American public does not trust the Members of Congress. We passed a bill out of the Committee on Financial Services that was not good enough. It was weak. The chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), refused to take up a good corporate responsibility bill that was headed up by the gentleman from Michigan (Mr. CONYERS).

Now the Senate has passed out a pretty strong bill, and finally, this gentleman is a Johnny-come-lately with a bill on the floor that we have never heard in the Committee of the Judiciary. Do not be tricked or fooled by this. There is no reason to be here. If there is some concern, go to the Conference Committee where we have a House bill and a Senate bill to be reconciled, and try to get additional concerns put in. But to do it this way does not make good sense. We are undermining the process and trying to jump on the bandwagon at the last minute when the gentleman should have been leading on this a long time ago.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to myself.

Mr. Speaker, the gentleman from Michigan (Mr. CONYERS) last week asked me to schedule a hearing on his corporate responsibility, H.R. 4098, and I agreed. It is an important issue. That hearing is going to be held this Friday. That was the date that we agreed on.

I guess the thanks I get for being bipartisan and agreeing to schedule the bill of the gentleman from Michigan is the attack that I just heard from the gentlewoman from California (Ms. WATERS). The gentlewoman should be more bipartisan in what is said on the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Republicans have been having a deathbed conversion because they have voted against so many of the reforms that they now advocate. But they have to do a little bit of repentance. This bill is not adequate. They have determined their own penance. It is two Hail Marys. We deserve a bill that can be called a complete Rosary. That should be their penance.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, the Republicans have been caught with an embarrassing bill. They passed a securities bill to tell the American public they cared about their pensions and their financial well-being. Then the Senate took really tough action, and now the Republicans have been caught with egg all over their face.

What do they want to do? They want to put everybody in jail. Fine, we will vote for the bill. But it is the things that people do today that are legal that is causing the heartburn.

They pass an embarrassingly weak pension bill, and embarrassingly weak securities bill. It is not the things that they do that are illegal, it is the fact that people under the pension bill are still locked into that stock for 3 years. They still cannot have a representative of employees on the board of their pensions. They cannot have an independent representative of their employees on the board. They cannot be notified on a timely basis of inside sales. So the pensioners absorb all of the financial shock for the ill-doings, but they happen to be legal under the law, just as many of the provisions that the Senate outlawed under their securities act continue to remain legal.

Now they come along and say if somebody engages in fraud, they should be put in jail. Where is the Attorney General today when they engage in fraud? The Republican bill is going to give it to the Attorney General to come up against these people on whistleblowers. Where does Sharon Watkins go to get her job back if she loses her job? Where does she go to be made financially whole? Nowhere. She goes to John Ashcroft and begs him to bring a case.

In the past 6 months as we have been having a meltdown in stock markets and peoples' pension plans where investors have lost over $5 trillion, we have not heard a word from the Attorney General; not a word from the Attorney General. The Republican plan puts all of their eggs there. I know they are covering their tracks. They are like the cowboys that did the bank robbery, and now they are dragging the trees behind their horses to cover their tracks. Good try. It will not work.

Mr. BAKER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we know we are going to have to cut down some of the trees to see the facts. In the year in which Harvey Pitt was appointed chairman of the SEC in late August, September 11 followed only days behind with destruction of the New York SEC offices.

Despite that, in the first 7 months of his term, for officer and director bars sought, and that is to keep officers and directors from continuing in a professional responsibility, he has sought 71. In the entire year preceding his appointment, only 51.

Disgorgement of compensation, bonuses, and stock options sought, 17 in a 7-month period, versus 18 in the entire year preceding.

Temporary restraining orders in all categories, 42 sought in 7 months, 31 in the preceding year.

Asset freezes in all categories, 50 in 7 months, versus 43 in the entire preceding year.

Trading suspensions, 10 versus 2 in the entire preceding year.

Subpoena enforcement proceedings, 18 versus 13 in the preceding year. Chairman Pitt has not only acted, he has acted forcefully. Today this Congress will act. It is appropriate, and the people of America are waiting.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, this bill is too weak, too weak. The President gets to name three people to the Securities and Exchange Commission. Who has he named? Three accounting industry employees. That is it. That is his decision. This Republican majority opposed an independent accounting board oversight; opposed it. And now it is looking for a legislative get well card as though now they are converted to protecting the investor.

What does this bill not include? Well, it does not require these companies to preserve all their auditing records for 5 years. It does not extend from 3 years out to 5 years the period upon which people can sue if they have been defrauded. We are only finding out right now about fraud from 2 or 3 years ago. We need to stretch out the statute of limitations so they can sue. We need whistleblower protection. This is a bad bill. Vote no.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from Massachusetts (Mr. MARKEY) has not read this bill. Apparently he wrote his speech before he read the bill. Now this bill is not too weak. It provides twice the criminal penalties than the bill that was passed by the other body. It provides criminal sanctions against those who retaliate against whistleblowers. The other body provides more lawsuits.

Every criminal penalty does allow the judge to enter a restitution order. Restitution orders are nondischargeable in bankruptcy. The huge fines in my bill are nondischargeable in bankruptcy. Corporate executives up to $5 million in fines, nondischargeable. Corporations up to $25 million in fines for filing a false statement, nondischargeable in bankruptcy.

So what we do is we provide jail terms for the bad actors, we provide nondischargeable fines for the bad actors, and we get tough on those that have looted the pensions and the savings of the employees that have worked dutifully for those corporations where the officers and the boards of directors have not fulfilled their fiduciary responsibility.

This is a tough bill because it puts people in jail for a long time. It ought to be passed, and passed now, as the gentleman from Missouri (Mr. GEPHARDT) has urged us to address this issue. I urge an aye vote.

Mr. BONIOR. Mr. Speaker, I rise to express my support for the Senate corporate accounting reform bill and applaud this long-overdue effort to punish those who break our securities laws.

We must hold those who break our securities laws responsible for their actions. Gone are the days when the threat of a fine or bad publicity is an effective deterrent for corporate fraud. It's time that corporate criminals get jail time when they ignore our securities laws and consumer protections. It's time that we put real teeth in our laws and the regulations of the SEC. We need to send the message loud and clear that corporate irresponsibility will not be tolerated by the Congress, by our courts, and by the American people.

In my home state of Michigan, thousands of public employees have watched as their pension funds have lost millions of dollars in the downfall of corporations like WorldCom and DCT, Inc. Investors and retirees have lost faith and confidence in a market that has been continuously shaken by reports of corporate irresponsibility and misleading financial statements. These workers have a right to know that their wages, pensions, and benefits are secure. They have a right to financial security in their later years. It's time that we stand up for them and enact meaningful reforms that will prevent the kinds of corporate scandals we've seen in recent months and prohibit corporate inside deals and murky accounting that puts the pensions of hard-working Americans at risk.

The legislation before us today follows the Senate's lead and establishes stricter criminal penalties for securities fraud. I applaud this effort as a good first step, but I believe we should ultimately enact the even tougher penalties set forth in the Senate accounting and corporate responsibility reform bill. There should be no question that corporate fraud is a serious crime in the eyes of the law.

In the months ahead, I will continue to fight for the rights of our workers and retirees to be financially secure. I will continue to press the House Republican leadership to pass the strong corporate responsibility legislation that the Senate recently passed. We need to act swiftly to pass meaningful reforms that will reign in corporate abuse and protect the rights of workers and investors before any more retirement savings are lost.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in strong support of H.R. 5118, the Corporate Fraud Accountability Act of 2002.

You've heard that expression, "crime doesn't pay?" Well, Mr. Speaker, for too long, for some business executives in America, crime has paid, and is has paid them well! We've got to put an end to this now—punishment for corporate crimes should be paid by those who break the law, not by those who have invested their hard-earned incomes, or worked for years, only to see their jobs, pensions, health care and retirements disappear as some CEO's absconded with millions!

For months now, we've seen company heads testify before this Congress only to invoke the Fifth Amendment. Why? For fear of incriminating themselves.

To my mind, Mr. Speaker, these executives should be scared. They should fear jail time for lying to employees and investors, and for betraying our market-based economy.

And jail time is exactly what corporate criminals will get under the bill we now consider, the bill we must pass to provide the "teeth" behind the President's strong message of corporate responsibility.

These tough new criminal penalties and enforcement provisions to punish those who refuse to "play by the rules" and threaten to undermine the integrity of our financial markets will do what every American believes to be fair, just and necessary.

The Corporate Fraud Accountability Act, increases the penalties for mail and wire fraud, strengthens laws that criminalize document shredding, grants emergency authority to the U.S. Sentencing Commission to promulgate securities, pension and accounting fraud guidelines, closes loopholes by which corporate officers can use bankruptcy laws to discharge liabilities based on securities fraud, increases the criminal penalties for those who file false statements with the Securities Exchange Commission and requires corporate executives to certify their company's financial statements, freezes extraordinary payments to executives while the company is under SEC investigation, and finally it bans company executives who clearly abuse their power from serving in any corporate leadership position. H.R. 5118 builds upon our efforts to hold corporations accountable contained in H.R. 3762, the Pension Security Act, and H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act, passed by the House last April.

Specifically, the bipartisan Pension Security Act, H.R. 3762, bars company insiders from selling their own stock during "blackout" periods when workers can't make changes to their 401(k)'s, give workers new freedoms to sell their company stock within three years of receiving it in their 401(k) plans, fixes outdated Federal rules that discourage employers from giving workers access to professional investment advice, empowers workers to hold company insiders accountable for abuses, and requires that workers be notified 30 days before the start of any "blackout" period affecting their pensions.

The Corporate and Auditing Accountability, Responsibility, and Transparency Act, H.R. 3763, recognizes the need for corporate leaders to act responsibly, and holds them accountable if they fail to do so. It seeks to restore confidence in accounting standards, increases corporate disclosure and responsibility, better protects 401(k) plan participants, and reduces analyst conflicts of interests.

These legislative reforms, and the President's plan for corporate responsibility, will benefit small investors and employees and will help strengthen faith and confidence in the corporate community in our own backyard. In New Jersey, I am mindful of the personal tragedy encountered by countless citizens who have lost their jobs, investments, pensions and even health care benefits. And poor management decisions at companies like Lucent have resulted in millions of investors and 401(k) plans having catastrophic losses. Furthermore, we must remember those employees whose pension benefits decreased when employers, like AT&T and others, transitioned from a traditional pension plan to a cash balance pension plan. While these transitions were within current legal boundaries, such moves have had devastating effects on longtime, dedicated workers, especially those who thought themselves secure in their retirement.

Clearly, not all companies or their executives fall into the "bad apple" categories about which there's been so much news recently, To those who, without stricter rules and reforms, have lived to the highest standards of ethical behavior, I commend you. But to those who have ventured from the truth, and who have been overwhelmed by greed, the party's over.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 5118, the Corporate Fraud Accountability Act of 2002. I commend Chairman SENSENBRENNER for acting expeditiously to ensure that this important element of corporate responsibility, namely the strengthening of criminal penalties, is part of Congress' effort to eliminate corruption in corporate America. This bill tells corporate criminals that they are no longer "above the law." It holds those executives who have defrauded investors and harmed the American economic system accountable with tough new criminal penalties. It helps to close the loopholes that have allowed for continued offenses in America's corporate community.

The reckless actions of corporate wrongdoers have undermined trust in our markets and our economy. We must return confidence back to the markets and to the accounting profession. Individual investors have to be certain that the information they are receiving is accurate and complete. House passage of the Corporate and Auditing Accountability, Responsibility and Transparency Act was a giant step in the right direction. CARTA includes important provisions to strengthen supervision and oversight of the accounting industry, increase the standard of corporate responsibility, and improve the quality of corporate disclosure and the auditing of publicly traded companies. Passage of H.R. 5118 will take us a step further.

This bill builds on CARTA by:

Increasing the penalties for mail and wire fraud.

Creating a new crime of "securities fraud."

Strengthening laws that criminalize obstruction of justice.

Granting emergency authority to the U.S. Sentencing Commission to promulgate guidelines that reflect the serious nature of securities, pension, and accounting fraud.

Closing loopholes that currently allow corporate officers to use bankruptcy laws to discharge liabilities.

Requiring top corporate executives to certify that financial statements of the company fairly and accurately represent the financial condition of the company.

Providing additional tools to prosecute wrongdoing by corporate criminals who attempt and conspire to violate the law.

Increasing the criminal penalties for those who file false statements with the Securities and Exchange Commission.

Freezing extraordinary payments to executives while the company is subject to an SEC investigation.

The bottom line is that criminals can steal more money with a briefcase than with a gun. Businessmen who extort the American public should be punished like the common criminals they are. This bill ensures that corporate wrongdoers go to jail for their crimes.

I am outraged by the fact that corporate executives consider themselves above the law and out of reach of the arm of justice. Some auditors and accountants have the impression that they have the right to skew numbers and reports, robbing hard-working Americans of their pension funds and stock investments. One of the pillars of our economy is confidence. And Americans are close to losing this confidence in our financial markets because of prominent corporate crooks. Passage of this bill is an important step toward restoring the confidence of the American people. I urge my colleagues to support it.

Further, I urge the leadership of the House and the Senate to act expeditiously to bring a final conference agreement back to this House on CARTA and the so-called Sarbanes bill, legislation that combines new corporate accounting reforms with tough new criminal penalties for corporate crooks.

Time is of the essence. Irresponsible corporate leaders have forced us to act. The American people expect us to act. The American economy needs us to act. We should not leave this Chamber next year having acted.

Mr. BLUMENAUER. Mr. Speaker, this bill brought before us is not the way in which Congress should craft legislation. While I'm supportive of increased criminal penalties for corporate misconduct, which this bill includes, it falls far short in other areas necessary to bring needed changes to the corporate world—lack of whistleblower protection and extending the statute of limitations for investor lawsuits.

No time was provided to review and analyze this legislation. It did not go through the committee process where it could be debated and refined in a bipartisan manner and was brought to the floor in a manner that does not allow amendments to be offered. Therefore, I do not support this bill. The only reason to treat Congress and the American public this way is to provide political cover.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 5118, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on H.R. 5118 will be followed by two 5-minute votes on motions debated yesterday.

The vote was taken by electronic device, and there were—yeas 391, nays 28, not voting 15, as follows:

[Roll No. 299]

YEAS—391

Ackerman
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey

Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sánchez
Sandlin
Sawyer
Saxton
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NAYS—28

Abercrombie
Baldwin
Blumenauer
Brady (PA)
Clay
Conyers
Davis (IL)
DeGette
Fattah
Filner
Hinchey
Honda
Jones (OH)
Kucinich
Lee
Markey
McDermott
McGovern
McKinney
Oberstar
Olver
Paul
Sabo
Sanders
Schakowsky
Scott
Stark
Waters

### NOT VOTING—15

Allen
Blagojevich
Bonior
Gibbons
Hastings (FL)
Hilleary
John
Lewis (GA)
Mascara
Morella
Nadler
Riley
Roukema
Schaffer
Traficant

□ 1318

Ms. DEGETTE, Mr. MCGOVERN, Mr. DAVIS of Illinois and Mrs. JONES of Ohio changed their vote from "yea" to "nay."

Mr. TOWNS and Mr. WATT of North Carolina changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. MORELLA. Mr. Speaker, on rollcall No. 299, I was unavoidably detained in the Capitol. Had I been present, I would have voted "yea."

Mr. GIBBONS. Mr. Speaker, on rollcall No. 299, I was unavoidably detained. Had I been present, I would have voted "yea."

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on two additional motions to suspend the rules on which the Chair has postponed further proceedings.

## HONORING TED WILLIAMS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 482.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 482, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 16, as follows:

[Roll No. 300]

### YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary

Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—16

Allen
Blagojevich
Bonior
Hastings (FL)
Hilleary
John
Lewis (GA)
Mascara
McCrery
Morella
Nadler
Riley
Roukema
Schaffer
Thomas
Traficant

☐ 1328

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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### CONGRATULATING DETROIT RED WINGS FOR WINNING 2002 STANLEY CUP CHAMPIONSHIP

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 452.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 452, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 0, answered "present" 4, not voting 20, as follows:

[Roll No. 301]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
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Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
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Lewis (KY)
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LoBiondo
Lofgren
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Lucas (KY)
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Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
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Skeen
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Smith (MI)
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Smith (TX)
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Snyder
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Spratt
Stark
Stearns
Stenholm
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Stump
Stupak
Sullivan
Sununu
Sweeney
Tanner
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Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
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Thornberry
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Towns
Turner
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Udall (NM)
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Walden
Walsh
Wamp
Waters
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Weiner
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Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—4

Clay
Hulshof
Sanders
Tancredo

NOT VOTING—20

Allen
Blagojevich
Bonior
Calvert
Hastings (FL)
Hilleary
John
Kaptur
Lewis (CA)
Lewis (GA)
Lucas (OK)
Mascara
McCrery
Morella
Nadler
Riley
Roukema
Schaffer
Thomas
Traficant

☐ 1336

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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### RECOGNIZING THE FIRST TEE

Mr. BOEHNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 448), recognizing The First Tee for its support of programs that provide young people of all backgrounds an opportunity to develop, through golf and character education, life-enhancing values such as honor, integrity, and sportsmanship.

The Clerk read as follows:

H. RES. 448

*Resolved*, That the House of Representatives recognizes The First Tee for its support of programs that provide young people of all backgrounds an opportunity to develop, through golf and character education, life-enhancing values such as honor, integrity, and sportsmanship.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

### GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 448.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of this resolution that recognizes the efforts of The First Tee, a youth character-building organization with programs located throughout the country. This program provides young people of all backgrounds an opportunity to develop, through both the game of golf and character education, values and character traits that will positively impact their lives and experiences in school.

The First Tee programs are community-based and implemented through a partnership of parents, civic and corporate leaders, State and local governments, youth-serving agencies, schools, and the golfing community.

Mr. Speaker, a few weeks ago, President and Mrs. Bush hosted a conference at the White House on the importance of character education to our Nation's youth. President Bush cited the importance of character education in instilling common values in our youth. He said, "Americans believe in character education because we want more for our children than apathy or cynicism," the President said. He went on by saying, "We've got higher aspirations for every child in America. We want them to understand the difference between right and wrong."

No activity better parallels life and teaches character better than the game of golf. On the golf course one learns responsibility, honesty, patience, self-control, integrity, respect, confidence, and most importantly, sportsmanship.

As in life, to be successful at golf we must realize we are going to make mistakes. Overcoming both our errors and bad bounces is just as much a part of the game as trying to hit a perfect shot. We learn that a 3-foot putt is just as important as a 300-yard drive, and that we must learn to put the last shot behind us in order to execute the next.

We also learn about ourselves and where our shortcomings lie, the things we need to work on on life's practice range.

The First Tee is working to make the game of golf more affordable and accessible to young people throughout the Nation by opening up golf courses and providing instruction for free and at reduced rates to children of all socioeconomic backgrounds. By the year 2005, The First Tee expects to serve more than 500,000 children in 250 programs throughout the United States. In my State of Ohio currently there are four The First Tee programs serving more than 1,500 children today.

Just as importantly, the golf-related exercises are paired with The First Tee life skills program, which teaches young people values such as responsibility, honesty, integrity, respect, confidence, and sportsmanship. Jack Nicklaus, a man synonymous with the game of golf and a supporter of The First Tee program, said, "For The First Tee, golf is the vehicle, but it is not the destination. We are teaching the young boys and girls a game that can last a lifetime, but through our life skills program we are teaching them lessons for life."

One student in particular, Amber Davis, from Atlanta, Georgia, has been involved with the Atlanta The First Tee program since April of 2000. She came before our committee and testified about her experiences. She has participated both of The First Tee Life Skills, and currently spends her time volunteering as a mentor for 13 of the young female participants in the The First Tee program.

An accomplished golfer, she has competed in several local, regional, State, and national competitions, and was the only freshman to make her high school golf team at the Woodward Academy in Atlanta. She credits The First Tee program with helping her to develop her strong leadership skills.

I am pleased to bring attention to this program, and I am grateful for the work that The First Tee is doing in our Nation's communities.

Mr. Speaker, I urge my colleagues to support this resolution today, and I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution as well, as a member of the Committee on Education and the Workforce.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BACA), my good friend and colleague, and also one of the finest golfers in this institution.

Mr. BACA. Mr. Speaker, I rise in strong support of House Resolution 448. I believe that The First Tee program is an excellent kind of a program that will allow many individuals to participate in golf, especially when we look at the number of minorities that we have throughout the United States. Over 27.6 percent are minorities, and only 6 percent participate in golf.

I can relate with my own personal story. I come from a large family of 15, being the 15th child. I did not have the opportunity to participate in such sports as these. The First Tee was not available. I wish it was available at the time that I was growing up. So I was involved in basketball and baseball and football and track and other sports. I did not get into golf until later in my years, until after the age of 32.

I wish I was able to have played golf at the earlier stages, because what it does is not only teaches one character in education, which is very important. Character is important in terms of learning, and it also teaches us the importance of self-esteem and confidence.

Not only do we learn responsibility, not only do we learn about our colleagues, but it also has parental involvement, which is very important when we look at The First Tee program. It is important when we have our children that are participating and we have parental involvement.

It takes a child, and that child begins to learn the skills of the game, or being competitive in another area. It presents opportunities for many kids to get into a program they would never have had an opportunity to have gotten into. The First Tee provides that opportunity for many minorities to get their hands in and play the game of golf.

Golf is important to many individuals, not only in terms of leadership skills, but integrity and honesty on the golf course, as well. Many individuals who play the game of golf sometimes forget how to count. It is excellent in math. It teaches good math skills because we learn how to count, as well.

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Some people happen to overexaggerate their handicap. This way the child knows exactly what the handicap is, and they do not have to exaggerate like most adults do to try to keep their handicaps low. Adults will learn the emphasis of the importance of establishing a handicap, which is very important.

As I said, the fundamental skills, the social skills are very important, the self-esteem, the confidence an individual will have. Most of all, it keeps kids off the streets, which is very important. It gets them involved, and we have got to find activities for many of our students to be involved. This presents an opportunity for many of our kids to be involved in another activity that maybe they would not have. They now will have an opportunity that they know that they can afford to play. Like most of us, it becomes so expensive to get out and play the game of golf. We say we cannot afford the game of golf. We do not have the equipment, cannot afford to buy the clubs. First Tee provides the individuals with golf clubs. First Tee provides the instructions that are necessary. These are the obstacles that many of us, minorities that do not have the money, would love to play the game, but say is there a vehicle for us to get that kind of service?

The vehicle is here through First Tee. It gives them an opportunity to go out there and participate without having to worry about the cost on themselves or their parents; and especially as we look at now, it is becoming so costly for anyone to play any kind of recreational activity. Parents who want to be involved in little league, now they have to pay X amount of dollars for the kids to play or participate. It has become a lot more difficult.

We have got to provide avenues for our children to play. This is an excellent avenue for them to develop their skills, to build their self-confidence, stay in school, which is more important, and educate our kids. I believe in the program. We should all support it, and I ask all of my colleagues to support H. Res. 448.

Mr. BOEHNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I thank the chairman for the introduction of this resolution, and I rise to pay tribute to the Professional Golf Association of America for what they are doing with the First Tee program.

The previous speaker did an outstanding job talking about the accessibility it gives to those that otherwise would not have it. He talked about the disciplines that the game of golf teaches to those who so desperately need disciplines.

Mr. Speaker, I would like to tell another story for a minute about how meaningful a program like this can be as the seed to not only change a life but change a community.

In Atlanta, Georgia, there is an area known as East Lake. In Atlanta, Georgia, the East Lake community was the home golf course of Bobby Jones. It is where Bobby Jones grew up. Over the years, East Lake became an abandoned country club. The East Lake community of Atlanta became the worst of Atlanta's inner-city poverty, crime-ridden neighborhoods.

This fall the PGA championship will be played at East Lake. What happened? What happened is a man named Tom Cousins in Atlanta bought the property and decided to change the lives and change that community. He redid the golf club. He bought abandoned houses and homes. He leased for $1 a year the public school and built a $28 million YMCA day care center and public school, and he established fundraisers for First Tee.

The first professional to come to Atlanta for that fundraiser was Tiger Woods. Since that time, other professional golfers have come to raise money to make golf accessible to those who previously thought it was not accessible.

In the meantime, he transformed a neighborhood. It is now a multi-income, multiracial, multiethnic pristine golf community that just years ago was devastation to our city.

There are a lot of lives in America that are just like East Lake was. They are impoverished. They have no hope. They have no mentor. They have no discipline, and they think there is no future.

Through the PGA and through the First Tee program, those in America most in need of all those things they do not have have it accessible to them. The First Tee's growth throughout the country is going to ensure that many Americans who might not have had a chance will have it.

I commend the professional sport and its athletes for giving of their time and their money to make a difference in lives; and I would comment that not all professional sports of this day and time can take credits to that mantle, but the PGA can. The First Tee changes lives, and we are right to commend the PGA tour, its commissioner, and all of its players for making a difference in the lives of young Americans.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I indicated earlier, I do rise in support of the resolution today. I commend the chairman, the gentleman from Ohio (Mr. BOEHNER), of the Committee on Education and the Workforce for holding a hearing on this important program, for offering this resolution which recognizes the wonderful accomplishments of the First Tee program, as well as character education generally, which is part of the Elementary and Secondary Education Act recently passed earlier this year, signed by the President, No Child Left Behind.

The First Tee program provides young people of all backgrounds an opportunity to develop life-enhancing values such as honor, integrity, sportsmanship through golf, and character education generally. Teaching character education through golf plays a significant role in many adolescents' lives. Specifically, the First Tee helps keep our children out of the rough and on the fairway towards a successful future.

I like to play a little golf myself, although not very well. I have two little boys, Johnny and Matthew, who are just six and four right now and I am introducing the sport to them. It is not only a lot of fun but it is a great sport. We are able to spend a lot of quality time together. A father and two little boys, chipping a little bit in the back yard. I set up a driving net where they hit the ball into. It is a lot of fun watching them develop not only their physical skills, but also the certain values that I hope they will carry through with them in life, the values of discipline and hard work, playing by the rules, getting along, sharing clubs, things of this nature that golf introduces to our youth and that the First Tee program is really all about.

I am pleased that through the First Tee program many children will have the same opportunity to participate in golf and reap the benefits that, unfortunately, just a few children receive today. The National Golf Foundation, for instance, revealed that only 2 percent of children age 12 to 17 ever tried golf and that only 5 percent of this Nation's golfers are minorities. Studies show that the major barrier to attracting more children, and especially economically disadvantaged children, to the sport was the lack of places that welcomed them, places they could physically get to and places that they could afford.

The First Tee program was created to address these access and affordability issues. The First Tee is implemented through a partnership of parents, civic and corporate leaders, State and local governments, youth-serving agencies, schools and the golfing community itself. As my friend, the gentleman from Georgia (Mr. ISAKSON), just pointed out, the Professional Golfers Association has been very involved, playing a leadership role in expanding the First Tee program across the country.

The program provides young people of all backgrounds an opportunity to develop through golf and character education life-enhancing values beyond building just physical skills. Students learn life skills and the importance of maintaining a positive attitude, considering the consequences of their decisions, setting and achieving objectives, holding themselves to high standards, and applying to their everyday lives the values such as responsibility, honesty, integrity, respect, confidence, and sportsmanship.

The strong values the First Tee teaches the youths will positively impact their lives, their education and their experiences in school.

The Committee on Education and the Workforce did hold a hearing on this on June 25 to highlight the success of this program, and the greatest golfer of the 20th century, Jack Nicklaus, came and testified. He testified about what the PGA and he personally have done involving the First Tee program, but also about what golf has meant in his life, but especially in those early formative stages of his life and the impact it had on him, the time he spent with his father, the time he spent developing the skills and the discipline and the value system that has made him one of the truly exemplary members of the golf profession today.

We also had another witness, Mr. Speaker, Amber Davis, a 15-year-old junior golfer who was a charter member of the First Tee program in Atlanta who testified before the committee. In her testimony she stated very clearly what a difference the First Tee program has made in her life. In fact, she stated during the testimony, "Golf has played a big role in my development. It has taught me to be the very best I can be, not just at golf, but to excel at everything I attempt. I think that if you are able to successfully master the game of golf, and I do not mean that you have to be a Renee Powell, a Lee Elder or a Tiger Woods, but if you apply all the qualities that it takes to be good at golf, dedication, discipline, honesty, integrity, a high regard for others and yourself, you will be successful at life.

Beyond the game of golf, however, incorporating character education into the school day is important for many children who may not learn basic life skills elsewhere. Strong character development is essential to our children's growth, and I strongly support programs that work towards this goal. That is why so many of us were pleased to include character education under title V of ESEA reauthorization last year. I would hope that appropriators view title V and that bill favorably as we work forward with the appropriation process during the remainder of the year.

The school district in my home town of La Crosse, Wisconsin, exemplifies a model that could be replicated across the Nation. It is unique in that the school board and community members developed core values of character education and included them as part of its school district's vision statement. Now, these values of character education are worked through an entire school system of three high schools, three middle schools, 11 elementary schools and four charter schools.

One exceptional school within the school district is Lacrossroads High School, a charter school for at-risk adolescents. My good friend, Karen Schoenfeld, teaches character education at this high school and has been working with at-risk adolescents since 1989 as a school counselor and charter school teacher. In June, she was also called to testify before the Committee on Education and the Workforce. I commend the work she does in the field of education and the important emphasis she places on including character education in the school's curriculum. She has truly made a difference in her students' lives. All of our Nation's youths need teachers like Ms. Schoenfeld in their lives to help guide them down the road to success and opportunity.

Mr. Speaker, I am pleased the House today is considering this important resolution. The strong values the First Tee teaches to youths will positively impact their lives, their education, and their experiences in school. These lessons will remain with participants for a lifetime, regardless of whether they play golf professionally or as a hobby. I commend the chairman for his leadership and the hearing and bringing this resolution forward. I would encourage all of our colleagues to support the resolution today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, again I am pleased to bring attention to the First Tee program. I appreciate the bipartisan support that this resolution has received.

The First Tee program was a collaboration between the World Golf Foundation, the PGA tour, the PGA of America, the Tiger Woods Foundation, and many others who have helped to put this program together and to allow it to grow to the extent that it has. They have very ambitious plans to grow this operation to serve some 500,000 children by the year 2005.

The program has integrated both sports and life skill lessons that teach character and instill common values in our youth. Because the First Tee's mission is broader than simply teaching kids how to play golf, their life skills curriculum includes community service and mentoring opportunities. These skills and activities also positively impact school experiences and the academic achievement of those who have been enrolled in the program.

Last year we passed the No Child Left Behind Act to help improve all of our schools and to give every child in America a better shot at a good education. But we know that between birth and age 18 children are only in school about nine percent of that time; 91 percent of that time they are at home and out in their communities. We know that for many of these children, the infrastructure, the support system that is needed to instill the kinds of values that we have talked about on the floor today have to come from home and in those communities. That is where I believe, and I think many Members believe, that if we are truly going to attack the problems we see in inner-city America, it is programs like these that find a way to teach children, one, how to play golf, but more importantly the kind of values that are necessary in order to be successful in life.

Mr. Speaker, I want to thank my colleagues who have spoken on this bill today, this resolution, and urge all of my colleagues to support the resolution.

Mr. CRENSHAW. Mr. Speaker, sports have been traditional vehicles for teaching important life lessons, but today, sport, at its highest levels, is played in an atmosphere where we have a preponderance of athletes who deny they have responsibility to be role models, let alone idols of the young.

There is, however, a sport that not only continues to teach positive life lessons, but also depends on an adherence to them for its very existence. That sport, of course, is golf.

For that reason, I rise today in support of the efforts of the First Tee initiative. This 2-year old program has as its mission to impact the lives of young people around the world by creating affordable and accessible golf facilities to primarily serve those who have not previously had exposure to the game and its positive values. The core values this program strives to instill are confidence, courtesy, honesty, integrity, judgment, perseverance, respect, responsibility, and sportsmanship. Further, while these kids are learning these important life management skills and enjoying the outdoors, they are not engaged in mischievous, delinquent activities.

On August 27, 2000, with 129 facilities in development in 38 states and 1 in Canada, First Tee surpassed their initial goal of having 100 golf-learning facilities in development. Since that time, the First Tee has redefined its goals for the long term by pledging to impact the lives of 500,000 youth by 2005. The program is overseen and has the active support of a committee comprised of members representing the Ladies Professional Golf Association, PGA of America, PGA TOUR, United States Golf Association and the Augusta National Golf Club. In addition, former President George Bush serves as Honorary Chairman.

Mr. Speaker, First Tee will not only have a positive impact on our society today, but will for years to come.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

□ 1400

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and agree to the resolution, H. Res. 448.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## FED UP HIGHER EDUCATION TECHNICAL AMENDMENTS OF 2002

Mr. BOEHNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4866) to make technical amendments to the Higher Education Act of 1965 incorporating the results of the Fed Up Initiative, as amended.

The Clerk read as follows:

H.R. 4866

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCE; EFFECTIVE DATE.**

(a) SHORT TITLE.—This Act may be cited as the "Fed Up Higher Education Technical Amendments of 2002".

(b) REFERENCE.—Except as otherwise expressly provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(c) Effective Date.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act.

**SEC. 2. TECHNICAL AMENDMENTS.**

(a) Amendments to Title I.—

(1) Section 101(a)(1) (20 U.S.C. 1001(a)(1)) is amended by inserting before the semicolon at the end the following: ", or students who meet the requirements of section 484(d)(3)".

(2)(A) Section 102(a)(2)(A) (20 U.S.C. 1002(a)(2)(A)) is amended to read as follows:

"(A) In general.—For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 101 (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 101(a)(4)). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of title IV unless—

"(i) in the case of a graduate medical school located outside the United States—

"(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

"(bb) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or

"(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or

"(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 101(a)(4)—

"(I) the institution was certified by the Secretary as eligible to participate in the loan program under part B of title IV before October 1, 1999; and

"(II) the institution's students complete their clinical training at an approved veterinary school located in the United States.".

(B) The amendment made by subparagraph (A) shall be effective on and after October 1, 1998.

(3) Section 102(a)(3)(A) (20 U.S.C. 1002(a)(3)(A)) is amended by striking "section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998".

(4) Paragraph (7) of section 103 (20 U.S.C. 1003) is amended to read as follows:

"(7) New borrower.—The term 'new borrower' when used with respect to any date for any loan under any provision of—

"(A) part B or part D of title IV means an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under either such part; and

"(B) part E of title IV means an individual who on that date has no outstanding balance of principal or interest owing on any loan made under such part.".

(5) Section 131 (20 U.S.C. 1015) is amended—

(A) in subsection (a)(3)(A)(iii)—

(i) by striking "an undergraduate" and inserting "a full-time undergraduate"; and

(ii) in subclause (I), by striking "section 428(a)(2)(C)(i)" and inserting "section 428(a)(2)(C)(ii)";

(B) in subsection (b), by striking "the costs for typical" and inserting "the prices for, and financial aid provided to, typical";

(C) in subsection (c)(2)(B), by striking "costs" and inserting "prices"; and

(D) in subsection (d)(1) is amended by striking "3 years" and inserting "4 years".

(6) Section 141 (20 U.S.C. 1018) is amended—

(A) in subsection (a)(2)(B)—

(i) by inserting "unit" after "to reduce the"; and

(ii) by inserting "and, to the extent practicable, total costs of administering those programs" after "those programs";

(B) in subsection (c)—

(i) in paragraph (1)(A), by striking "Each year" and inserting "Each fiscal year";

(ii) in paragraph (1)(B), by inserting "secondary markets, guaranty agencies," after "lenders,"; and

(iii) in paragraph (2)(B), by striking "Chief Financial Officer Act of 1990 and" and inserting "Chief Financial Officers Act of 1990," and by inserting before the period at the end the following: ", and other relevant statutes";

(C) in subsection (f)(3)(A), by striking "paragraph (1)(A)" and inserting "paragraph (1)"; and

(D) in subsection (g)(3), by adding at the end the following new sentence: "The names and compensation for those individuals shall be included in the annual report under subsection (c)(2).".

(b) Amendments to Title II.—Section 207(f)(2) (20 U.S.C. 1027(f)(2)) is amended by inserting ", including by electronic means," after "sent".

(c) Amendments to Title III.—

(1) Section 316(b)(3) (20 U.S.C. 1059c(b)(3)) is amended by striking "give" and inserting "given".

(2) Section 326(e)(1) (20 U.S.C. 1063b(e)(1)) is amended, in the matter preceding subparagraph (A), by inserting a colon after "the following".

(3) Section 342(5)(C) (20 U.S.C. 1066a(5)(C)) is amended—

(A) by inserting a comma after "equipment" the first place it appears; and

(B) by striking "technology,," and inserting "technology,".

(4) Section 343(e) (20 U.S.C. 1066b(e)) is amended by inserting after the subsection designation the following: "Sale of Qualified Bonds.—".

(5) Section 351(a) (20 U.S.C. 1067a(a)) is amended by striking "of 1979".

(6) Section 1024 (20 U.S.C. 1135b–3), as transferred by section 301(a)(5) of the Higher Education Amendments of 1998 (Public Law 105–244; 112 Stat. 1636), is repealed.

(d) Amendments to Part A of Title IV.—

(1) Section 402A (20 U.S.C. 1070a-11) is amended—

(A) in subsection (e)—

(i) in paragraph (1), by striking "(g)(2)" and inserting "(g)(4)"; and

(ii) in paragraph (2), by striking "(g)(2)" and inserting "(g)(4)"; and

(B) in subsection (g)—

(i) by redesignating paragraphs (1) through (4) as paragraphs (3) through (6), respectively; and

(ii) by inserting before paragraph (3), as redesignated, the following:

"(1) Different campus.—The term 'different campus' means an institutional site that—

"(A) is geographically apart from the main campus of the institution;

"(B) is permanent in nature; and

"(C) offers courses in educational programs leading to a degree, certificate, or other recognized educational credential.

"(2) Different population.—The term 'different population' means a group of individuals, with respect to whom an entity seeks to serve through an application for funding under this chapter, that is—

"(A) separate and distinct from any other population that the entity seeks to serve through an application for funding under this chapter; or

"(B) while sharing some of the same characteristics as another population that the entity seeks to serve through an application for funding under this chapter, has distinct needs for specialized services.".

(2)(A) Section 404A(b) (20 U.S.C. 1070a–21(b)) is amended by adding at the end thereof the following new paragraph:

"(3) Duration.—An award made by the Secretary under this chapter to an eligible entity described in paragraph (1) or (2) of subsection (c) shall be for the period of 6 years.".

(B) The amendment made by subparagraph (A) shall apply to awards made either before or after the date of enactment of this Act.

(3) Section 407E (20 U.S.C. 1070a–35) is redesignated as section 406E.

(4) Section 419C(b)(1) (20 U.S.C. 1070d–33(b)(1)) is amended by inserting "and" after the semicolon at the end thereof.

(5) Section 419D(d) (20 U.S.C. 1070d–34(d)) is amended by striking "Public Law 95–1134" and inserting "Public Law 95–134".

(e) Amendments to Part B of Title IV.—

(1) Section 428(a)(2)(A) (20 U.S.C. 1078(a)(2)(A)) is amended—

(A) by striking "and" at the end of subclause (II) of clause (i); and

(B) by moving the margin of clause (iii) two ems to the left.

(2) Section 428(b)(I)(G) (20 U.S.C. 1078(b)(1)(G)) is amended by inserting before the semicolon at the end the following: "and 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G)".

(3) Section 428(c) (20 U.S.C. 1078(c)) is amended—

(A) in paragraph (1)—

(i) by redesignating subparagraph (G) as subparagraph (H), and moving such subparagraph 2 em spaces to the left; and

(ii) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

"(I) the fourth sentence of subparagraph (A) by substituting '100 percent' for '95 percent';

"(II) subparagraph (B)(i) by substituting '100 percent' for '85 percent'; and

"(III) subparagraph (B)(ii) by substituting '100 percent' for '75 percent'.

"(ii) For purposes of clause (i) of this subparagraph, the term 'exempt claims' means claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.".

(B) in paragraph (3)(A)(i), by striking "in writing"; and

(C) by adding at the end the following new paragraph:

"(10) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agreement of the borrower by notice from the lender, and by recording the terms in the borrower's file.".

(4) Section 428C(a)(3)(B) (20 U.S.C. 1078–3(a)(3)(B)) is amended by adding at the end the following new clause:

"(ii) Loans made under this section shall, to the extent used to discharge loans made under this title, be counted against the applicable limitations on aggregate indebtedness contained in sections 425(a)(2), 428(b)(1)(B), 428H(d), 455, and 464(a)(2)(B).".

(5) Section 428H(e) (20 U.S.C. 1078–8(e)) is amended—

(A) by striking paragraph (6); and

(B) by redesignating paragraph (7) as paragraph (6).

(6) Section 428I(g) (20 U.S.C. 1078–9(g)) is amended by striking "Code," and inserting "Code".

(7) Section 432(m)(1)(B) (20 U.S.C. 1082(m)(1)(B)) is amended—

(A) in clause (i), by inserting "and" after the semicolon at the end; and

(B) in clause (ii), by striking "; and" and inserting a period.

(8) Section 439(d) (20 U.S.C. 1087–2(d)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(f) AMENDMENT TO PART D.—Section 457(a)(1) (20 U.S.C. 1087g(a)(1)) is amended by striking "431" and inserting "437".

(g) AMENDMENTS TO PART E OF TITLE IV.—

(1) Section 462(g)(1)(E)(i)(I) (20 U.S.C. 1087bb(g)(1)(E)(i)(I)) is amended by inserting "monthly" after "consecutive".

(2) Section 464(c)(1)(D) (20 U.S.C. 1087dd(c)(1)(D)) is amended by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

(3) Section 464(h)(1)(A) is amended—

(A) by inserting ", if practicable (as determined in accordance with regulations of the Secretary)," after "the loan shall"; and

(B) by inserting ", if such loan is considered rehabilitated," after "the Secretary) shall".

(4) Section 465(a)(2) (20 U.S.C. 1087ee(a)(2)) is amended—

(A) in subparagraph (A), by striking "section 111(c)" and inserting "section 1113(a)(5)"; and

(B) in subparagraph (C), by striking "With Disabilities" and inserting "with Disabilities".

(5) Section 467(b) (20 U.S.C. 1087gg(b)) is amended by striking "(5)(A), (5)(B)(i), or (6)" and inserting "(4)(A), (4)(B), or (5)".

(6) Section 469(c) (20 U.S.C. 1087ii(c)) is amended—

(A) by striking "sections 602(a)(1) and 672(1)" and inserting "sections 602(3) and 632(5)";

(B) by striking "qualified professional provider of early intervention services" and inserting "early intervention services"; and

(C) by striking "section 672(2)" and inserting "section 632(4)".

(h) AMENDMENTS TO PART F OF TITLE IV.—

(1) Section 478(h) (20 U.S.C. 1087rr(h)) is amended—

(A) by striking "476(b)(4)(B),"; and

(B) by striking "meals away from home, apparel and upkeep, transportation, and housekeeping services" and inserting "food away from home, apparel, transportation, and household furnishings and operations".

(2) Section 479A(a) (20 U.S.C. 1087tt(a)) is amended—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(a) AUTHORITY TO MAKE ADJUSTMENTS.—

"(1) ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES.—";

(B) by inserting before "Special circumstances may" the following:

"(2) SPECIAL CIRCUMSTANCES DEFINED.—";

(C) by inserting "a student's status as a ward of the court at any time prior to attaining 18 years of age," after "487,".

(D) by inserting before "Adequate documentation" the following:

"(3) DOCUMENTATION AND USE OF SUPPLEMENTARY INFORMATION.—"; and

(E) by inserting before "No student" the following:

"(4) FEES FOR SUPPLEMENTARY INFORMATION PROHIBITED.—".

(i) AMENDMENTS TO PARTS G AND H OF TITLE IV.—

(1) Section 483(d) (20 U.S.C. 1090(d)) is amended by striking "that is authorized under section 685(d)(2)(C)" and inserting ", or other appropriate provider of technical assistance and information on postsecondary educational services, that is supported under section 685".

(2) Section 484 (20 U.S.C. 1091) is amended—

(A) in subsection (a)(4), by striking "certification,," and inserting "certification,";

(B) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by striking "section 428A" and inserting "section 428H";

(ii) in subparagraph (A), by inserting "and" after the semicolon at the end thereof;

(iii) in subparagraph (B), by striking "; and" and inserting a period; and

(iv) by striking subparagraph (C); and

(C) in subsection (l)(1)(B)(i), by striking "section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998".

(3)(A) Section 484B (20 U.S.C. 1091b) is amended—

(i) in subsection (a)(1), by inserting "subpart 4 of part A or" after "received under";

(ii) in subsection (a)(3)(B)(ii), by inserting "(as determined in accordance with subsection (d))" after "student has completed";

(iii) in subsection (b)(2), by amending subparagraph (C) to read as follows:

"(C) GRANT OVERPAYMENT REQUIREMENTS.—Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

"(i) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

"(ii) 50 percent of the total grant assistance received by the student under this title for the payment period or period of enrollment.

A student shall not be required to return amounts of $50 or less,"; and

(iv) in subsection (d), by striking "(a)(3)(B)(i)" and inserting "(a)(3)(B)".

(B) The amendments made by subparagraph (A) shall be effective for academic years beginning on or after July 1, 2003, except that, in the case of an institution of higher education that chooses to implement such amendments prior to that date, such amendments shall be effective on the date of such institution's implementation.

(4) Section 485(a)(1) (20 U.S.C. 1092(a)(1)) is amended by striking "mailings, and" and inserting "mailings, or".

(5) Section 485B(a) (20 U.S.C. 1092b(a)) is amended—

(A) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively;

(B) by redesignating the paragraph (5) (as added by section 2008 of Public Law 101–239) as paragraph (6); and

(C) in paragraph (5) (as added by section 204(3) of the National Community Service Act of 1990 (Public Law 101–610))—

(i) by striking "(22 U.S.C. 2501 et seq.))," and inserting "(22 U.S.C. 2501 et seq.),"; and

(ii) by striking the period at the end thereof and inserting a semicolon.

(6) Section 487(a) (20 U.S.C. 1094(a)) is amended—

(A) in paragraph (22), by striking "refund policy" and inserting "policy on the return of title IV funds"; and

(B) in paragraph (23)—

(i) by moving subparagraph (C) two em spaces to the left; and

(ii) by adding after such subparagraph the following new subparagraph:

"(D) An institution shall be considered in compliance with the requirements of subparagraph (A) for any student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, provided such information is in an electronic message devoted to voter registration.".

(7) Section 491(c) (20 U.S.C. 1098(c)) is amended by adding at the end the following new paragraph:

"(3) The appointment of members under subparagraphs (A) and (B) of paragraph (1) shall be effective upon publication of the appointment in the Congressional Record.".

(8) Section 493A (20 U.S.C. 1098c) is repealed.

(9) Section 498 (20 U.S.C. 1099c) is amended—

(A) in subsection (c)(2), by striking "for profit," and inserting "for-profit,";

(B) in subsection (d)(1)(B), by inserting "and" at the end thereof.

(j) AMENDMENTS TO TITLE V.—Section 504(a) (20 U.S.C. 1101c(a)) is amended—

(1) by striking the following:

"(a) AWARD PERIOD.—

"(1) IN GENERAL.—The Secretary"

and inserting the following:

"(a) AWARD PERIOD.—The Secretary"; and

(2) by striking paragraph (2).

(k) AMENDMENTS TO TITLE VII.—

(1) Section 714(c) (20 U.S.C. 1135c(c)) is amended—

(A) by striking "section 716(a)" and inserting "section 715(a)"; and

(B) by striking "section 714(b)(2)" and inserting "section 713(b)(2)".

(2) Section 721(c) (20 U.S.C. 1136(c)) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(6) to assist such students with the development of analytical skills and study methods to enhance their success in entry into and completion of law school; and

"(7) to award Thurgood Marshall Fellowships to eligible law school students—

"(A) who participated in summer institutes authorized by subsection (d) and who are enrolled in an accredited law school; or

"(B) who are eligible law school students who have successfully completed a comparable summer institute program certified by the Council on Legal Educational Opportunity.".

**SEC. 3. CLERICAL AMENDMENTS.**

(a) DEFINITION.—Section 103 (20 U.S.C. 1003), as amended by section 2(a)(4), is further amended—

(1) by redesignating paragraphs (1) through (16) as paragraphs (2) through (17), respectively; and

(2) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) AUTHORIZING COMMITTEES.—The term 'authorizing committees' means the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.".

(b) COMMITTEES.—

(1) The following provisions are each amended by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees":

(A) Section 131(a)(3)(B) (20 U.S.C. 1015(a)(3)(B)).

(B) Section 131(c)(4) (20 U.S.C. 1015(c)(4)).

(C) Section 206(d) (20 U.S.C. 1026(d)).

(D) Section 207(c)(1) (20 U.S.C. 1027(c)(1)).

(E) Section 428(g) (20 U.S.C. 1078(g)).

(F) Section 428A(a)(4) (20 U.S.C. 1078–1(a)(4)).

(G) Section 428A(c)(2) (20 U.S.C. 1078–1(c)(2)).

(H) Section 428A(c)(3) (20 U.S.C. 1078–1(c)(3)).

(I) Section 428A(c)(5) (20 U.S.C. 1078–1(c)(5)).

(J) Section 455(b)(8)(B) (20 U.S.C. 1087e(b)(8)(B)).

(K) Section 483(c) (20 U.S.C. 1090(c)).

(L) Section 486(e) (20 U.S.C. 1093(e)).

(M) Section 486(f)(3)(A) (20 U.S.C. 1093(f)(3)(A)).

(N) Section 486(f)(3)(B) (20 U.S.C. 1093(f)(3)(B)).

(O) Section 487A(a)(5) (20 U.S.C. 1094a(a)(5)).

(P) Section 487A(b)(2) (20 U.S.C. 1094a(b)(2)).

(Q) Section 487A(b)(3)(B) (20 U.S.C. 1094a(b)(3)(B)).

(R) Section 498B(d)(1) (20 U.S.C. 1099c–2(d)(1)).

(S) Section 498B(d)(2) (20 U.S.C. 1099c–2(d)(2)).

(2) The following provisions are each amended by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees".

(A) Section 141(d)(4)(B) (20 U.S.C. 1018(d)(4)(B)).

(B) Section 428(n)(4) (20 U.S.C. 1078(n)(4)).

(C) The last sentence of section 432(n) (20 U.S.C. 1082(n)).

(D) Section 485(f)(5)(A) (20 U.S.C. 1092(f)(5)(A)).

(E) Section 485(g)(4)(B) (20 U.S.C. 1092(g)(4)(B)).

(3) Section 206(a) (20 U.S.C. 1026(a)) is amended by striking ", the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives" and inserting "and the authorizing committees".

(4) Section 401(f)(3) (20 U.S.C. 1070a(f)(3)) is amended by striking "Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives" and inserting "Committees on Appropriations of the Senate and House of Representatives and the authorizing committees".

(5) Section 428(c)(9)(K) (20 U.S.C. 1078(c)(9)(K)) is amended by striking "House Committee on Education and the Workforce and the Senate Committee on Labor and Human Resources" and inserting "authorizing committees".

(6) Section 428I(h) (20 U.S.C. 1078–9(h)) is amended by striking "Chairman of the Senate Labor and Human Resources Committee and the House Committee on Education and Labor" and inserting "chairpersons of the authorizing committees".

(7) Section 432(f)(1)(C) (20 U.S.C. 1082(f)(1)(C)) is amended by striking "Committee on Education and the Workforce of the House of Representatives or the Committee on Labor and Human Resources of the Senate" and inserting "either of the authorizing committees".

(8) Section 439(d)(1)(E)(iii) (20 U.S.C. 1087–2(d)(1)(E)(iii)) is amended by striking "Chairman and the Ranking Member on the Committee on Labor and Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives" and inserting "chairpersons and ranking minority members of the authorizing committees".

(9) Paragraphs (3) and (8)(C) of section 439(r) (20 U.S.C. 1087–2(r)) are each amended by striking "Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives," and inserting "chairpersons and ranking minority members of the authorizing committees".

(10) Paragraphs (5)(B) and (10) of section 439(r) (20 U.S.C. 1087–2(r)) are each amended by striking "Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor" and inserting "chairpersons and ranking minority members of the authorizing committees".

(11) Section 439(r)(6)(B) (20 U.S.C. 1087–2(r)(6)(B)) is amended by striking "Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives" and inserting "chairpersons and ranking minority members of the authorizing committees".

(12) Section 439(s)(2)(A) (20 U.S.C. 1087–2(s)(2)(A)) is amended by striking "Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives" and inserting "chairpersons and ranking minority members of the authorizing committees".

(13) Section 439(s)(2)(B) (20 U.S.C. 1087–2(s)(2)(B)) is amended by striking "Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives" and inserting "chairpersons and ranking minority members of the authorizing committees".

(14) Section 482(d) (20 U.S.C. 1089(d)) is amended by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives" and inserting "authorizing committees".

(c) ADDITIONAL CLERICAL AMENDMENTS.—

(1) Clauses (i) and (ii) of section 425(a)(2)(A) (20 U.S.C. 1075(a)(2)(A)) are each amended by striking "428A or 428B" and inserting "428B or 428H".

(2) Section 428(a)(2)(E) (20 U.S.C. 1078(a)(2)(E)) is amended by striking "428A or".

(3) Clauses (i) and (ii) of section 428(b)(1)(B) (20 U.S.C. 1078(b)(1)(B)) are each amended by striking "428A or 428B" and inserting "428B or 428H".

(4) Section 428(b)(1)(Q) (20 U.S.C. 1078(b)(1)(Q)) is amended by striking "sections 428A and 428B" and inserting "section 428B or 428H".

(5) Section 428(b)(7)(C) (20 U.S.C. 1078(b)(7)(C)) is amended by striking "428A, 428B," and inserting "428B".

(6) Section 428G(c)(2) (20 U.S.C. 1078–7(c)(2)) is amended by striking "428A" and inserting "428H".

(7) The heading for section 433(e) (20 U.S.C. 1083(e)) is amended by striking "SLS LOANS AND".

(8) Section 433(e) (20 U.S.C. 1083(e)) is amended by striking "428A, 428B," and inserting "428B".

(9) Section 435(a)(3) (20 U.S.C. 1085(a)(3)) is amended—

(A) by inserting "or" at the end of subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(10) Section 435(d)(1)(G) (20 U.S.C. 1085(d)(1)(G)) is amended by striking "428A(d), 428B(d), 428C," and inserting "428B(d), 428C, 428H,".

(11) Section 435(m) (20 U.S.C. 1085(m)) is amended—

(A) in paragraph (1)(A), by striking ", 428A,"; and

(B) in paragraph (2)(D), by striking "428A" each place it appears and inserting "428H".

(12) Section 438(c)(6) (20 U.S.C. 1087–1(c)(6)) is amended—

(A) by striking "SLS AND PLUS" in the heading and inserting "PLUS"; and

(B) by striking "428A or".

(13) Section 438(c)(7) (20 U.S.C. 1087–1(c)(7)) is amended by striking "428A or".

(14) Nothing in the amendments made by this subsection shall be construed to alter the terms, conditions, and benefits applicable to Federal supplemental loans for students ("SLS loans") under section 428A as in effect prior to July 1, 1994 (20 U.S.C. 1078–1).

(d) HIGHER EDUCATION AMENDMENTS OF 1998.—

(1) Section 801(d) of the Higher Education Amendments of 1998 (20 U.S.C. 1018 note) is amended by striking "Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate," and inserting "authorizing committees".

(2) Section 802(b) of the Higher Education Amendments of 1998 is amended by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees".

(3) The following provisions of the Higher Education Amendments of 1998 are each amended by striking "Committee on Labor and Human Resources of the Senate and the

Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees".

(A) Section 803(b) (20 U.S.C. 1015 note).

(B) Section 805(b) (20 U.S.C. 1001 note).

(C) Section 806(c).

(4) Section 804(b) of the Higher Education Amendments of 1998 (20 U.S.C. 1099b note) is amended by striking "Chairman and Ranking Minority Member of the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "chairpersons and ranking minority members of the authorizing committees".

(5) Section 861(b) of the Higher Education Amendments of 1998 is amended by striking "Committees on Ways and Means and on Education and the Workforce of the House of Representatives and the Committees on Finance and on Labor and Human Resources of the Senate" and inserting "Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the authorizing committees".

**SEC. 4. NO DELAY IN IMPLEMENTATION.**

Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the regulations implementing the amendments made by this Act.

**SEC. 5. STUDY OF TEACHER PREPARATION.**

Within six months after the date of enactment of this Act, the Comptroller General shall conduct a study of and submit to Congress a report on—

(1) which States and which institutions of higher education require passage on State teacher licensure exams in order for candidates to be admitted to a teacher preparation program or to declare an education major;

(2) which States and which institutions of higher education award diplomas, degrees, or other certificates to students in any subject area, but subsequently only consider them to have successfully completed a teacher preparation or other education program if they pass one or more State licensure exams;

(3) which States and which institutions of higher education award diplomas, degrees, or other certificates to students in education or teaching, but subsequently only consider them to have successfully completed a teacher preparation or education program if they pass one or more State licensure exams;

(4) the extent to which States and institutions of higher education, through means other than (1), (2), or (3), are, for the purposes of section 207(f)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1027(f)(1)(A)), treating as completing their teacher preparation programs only those students who pass State teacher licensure or certification assessments;

(5) the extent to which the practices described in paragraphs (1) through (4) may mislead or incompletely inform students and policymakers concerning the quality of such teacher preparation programs; and

(6) what assistance, if any, the States or institutions described in paragraphs (1) through (4) give to enrolled students and graduates who take but do not pass one or more teacher licensing exams.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4866.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4866, the Fed Up Higher Education Technical Amendments of 2002. The bill provides for technical amendments to the Higher Education Act.

This bill has had bipartisan support throughout its process. The development of the bill was done in an open, fully cooperative manner with my friends on the other side of the aisle. The foundation of this bill has been the FED UP process put forward by the gentleman from California (Mr. MCKEON) and the gentlewoman from Hawaii (Mrs. MINK) just about a year ago whereby student aid and higher education officials across the country had an opportunity to provide proposals on how to improve the programs in the Higher Education Act while maintaining the integrity of the student loan programs.

Everyone in the higher education community has enthusiastically supported the FED UP process, and this bill is intended to address the noncontroversial, budget-neutral changes to the Higher Education Act that will assist in reducing red tape.

It also clears the decks of clerical and technical problems within the act that set the stage for the committee to begin the reauthorization process next year.

The Secretary of Education and his staff were also enthusiastic partners in this process. He initiated a negotiated rulemaking process with the higher education community to address those proposals submitted via the FED UP Web site that were purely regulatory in nature. In a few short months, the negotiations were completed, and we expect the regulations will soon be released in draft form.

From its earliest stages this has been a collaborative and open process with no preconceived agenda, and when this bill was drafted, great care was given to ensure no amendments were made to current law without full agreement of Members of both sides of the aisle.

This legislation, while technical, also makes for a number of other positive improvements for students and institutions. It helps students avoid defaulting on their student loans by removing barriers to students seeking forbearance from lenders on their student loan payments. It makes clear that home schoolers can receive Federal aid. It makes clear that Federal scholarship aid can go to low-income and minority students for law school. It improves the flow of information to students, protects students' grant aid upon withdrawal from a college or university, and I am particularly pleased that this legislation eases aid requirements for America's Hispanic-serving institutions, allowing them to apply for Federal grants without waiting 2 years between applications.

This provision complements President Bush's fiscal year 2003 budget which includes $89.1 million for the developing Hispanic-Serving Institutions Program, an increase of $3.1 million to expand and enhance support for institutions that serve a large percentage of Hispanic students.

I wish we could have gone further to address two specific issues that are not in the bill. One is providing an extension of two expiring provisions in the Higher Education Act that encourage low default rates amongst institutions and provides student loans more quickly to students.

The second is clarifying the provision of denying title IV aid eligibility for students convicted of the sale or the possession of a controlled substance. The law, as written, has the unintended effect of including students who may have had a drug conviction before they were enrolled in higher education or receiving financial aid.

I want to thank my colleagues on the committee, the gentleman from Oregon (Mr. WU), and the gentleman from Indiana (Mr. SOUDER), for all of their assistance in trying to find ways to get these important provisions enacted. I also want to thank the Secretary of Education and his staff who were great partners in our efforts to find a way to pay for these provisions.

However, our attempts to reach a compromise on budgetary offsets were unfortunately unsuccessful, and we are going to continue our efforts to address these issues early in the next Congress, but as we begin the preparation for the reauthorization of the Higher Education Act, this legislation will also allow us to move forward with updating our laws with regard to many clerical and grammatical errors that are contained in the current bill. Our time and resources will then be available to deal with the more intricate policy issues before us.

The legislation was created in an effort to do what was right for students, institutions and others involved with providing higher education. It was developed in a cooperative, bipartisan manner and should be passed today on an overwhelmingly yes vote so it can be sent to the other body for swift action before the summer district work period.

I would urge my colleagues today to vote yes on H.R. 4866.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I rise in opposition to this legislation, not so much on its merits. It does a number of good things, technical changes to be done, but really, this is really about an important part of this institution, and that is, to whether or not the minority will be given an opportunity to affect and change hopefully bills that come through this House or whether or not we will be disenfranchised by the manner in which the process is run.

I say that as one who has had a very good relationship with the chairman of my committee where we were able to work on the Leave No Child Behind bill, and we have been able to work in the committee on an ongoing basis, but in this particular instance, where we had the one opportunity that we will have in this Congress, in this committee, to address a number of important issues, to meet other Members of the committee on the Democratic side of the aisle, we find that we were, in fact, closed out.

Again, it is not about the language of this bill, but it is about the opportunity and whether or not we would have been able to offer amendments to this legislation that were important to us, and what we see is a continuing pattern in the House of Representatives, whether it is on the floor of this House, now that has drifted into the committee, on whether or not Democrats will be allowed to offer amendments.

What we see is where we represent 49 percent of the country and the districts in which we have been elected, we find out that we are not allowed to offer amendments. We are not allowed to offer amendments if we can win those amendments. We are not allowed those amendments if it means the Republican must take a tough vote, if they disagree with it. We are not allowed to offer those amendments if it means the bill might take an extra few minutes of consideration, and yet basically the Congress has been working on a Tuesday-to-Thursday schedule.

Why the disenfranchisement of the Democratic Members? I think it is simply because they choose not to have us be able to articulate policy differences that we have with them. This was true on the welfare bill where simply amendments were not allowed. We were allowed a substitute. We all know that legislative gimmick. There are enough things in a substitute that everybody can justify a no vote or a yes vote but with amendments.

The same was true on pensions. The same was true on the securities legislation where we just limited access to the Democrats to offer this kind of legislation.

One would think this was a politburo. One would not think this was the people's House where theoretically each and every Member should be given an opportunity to voice his or her concern as legislation moves through the House of Representatives, through the committees, to offer amendments that some of us may like or not like, where we take a vote, a person wins or they lose. This is the politics that rules the House. That is what people come to expect. Now we are simply prevented from raising these issues.

This is not just about us and the process of the House. In this case, this was about whether or not we were going to be able to offer amendments to deal with whether or not there would be loan forgiveness for teachers that were trying to attract, that we recognize in the Leave No Child Behind Act, to try to attract teachers to high poverty schools, to try to attract teachers to come in and teach in math and sciences, to teach in special education, all of the areas that we know we have a shortage.

Would America's children, would America's parents, would America's schools have an opportunity to be able to attract additional teachers to those areas where there is the shortage, where there is a difficulty with the performance of America's school children on testing in math and science where we were ranked in the world? We are foreclosed from having that debate and offering that opportunity.

The gentlewoman from New York (Mrs. McCARTHY) wanted to offer the right to make sure that those who are lost family members in 9/11 would have their student loans forgiven where the first responders were killed. We were told by the majority leader we would have an opportunity to have a vote on that amendment. We were told that last year. We are still waiting. This is one of the last vehicles where we may have been able to come through and offer such an amendment.

We wanted to offer an amendment to deal with the questions of vocational education and the enforcement of title IX. These are amendments that may win and they may lose, but the fact of the matter is we were precluded from it. This is a good technical amendments bill. This is a good corrections bill, but that should not preclude it.

The majority says, well, it is getting too heavy; the bill is getting too heavy. That is not for them to determine. That is for the body to determine. It may not be too heavy to get out of committee, may get too heavy to get off the floor, the amendments may lose. That is the process the people in this country are supposedly guaranteed, but we see more and more that that process is closed down.

So the end result is the matters of great concern, matters of merit, to millions of people across this country will be foreclosed from being considered in this Congress.

The question of whether or not we have loan forgiveness, the loan forgiveness is a Republican amendment. The gentleman from South Carolina (Mr. GRAHAM) and I are cosponsors of this effort. It was in the President's budget. This is not some controversial idea we thought up to gig somebody. This is what the President said we should do. This is what the gentleman from South Carolina (Mr. GRAHAM) and the committee said we should do, and many people cosponsored that effort to do that, but we are precluded from offering it.

The FETA program was an outgrowth of an idea about what is the biggest problems these schools are having. The number one reason, one alluded to, was the question of what happens to students who had a violation of controlled substance laws prior to their entering a school of higher education. We cannot even address that in this bill now. We were going to offer the amendment. It was in the bill at one time. It was taken out of the bill. We talked to them and we were going to put it back in. What happened? The committee meeting was cancelled. Now we find ourselves on the floor in the suspension and we are denying America's teachers, we are denying America's schools an opportunity to try and get additional help to them.

For that reason, I oppose this bill and I would ask my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

As I said earlier, the whole FED UP process was really a rather innovative idea put together in a bipartisan way to try to get input from educators and those involved in higher education around the country, and my colleague, the subcommittee chairman, the gentleman from California (Mr. McKEON) will get into more of that in detail.

What we tried to do was to do on a regulatory side what could be done, and the Secretary of Education has done a good job in addressing many of these comments that we received on that that could be addressed in the regulatory process in that venue. What we are trying to do here was to find those issues where there was bipartisan support that did not cost money.

My colleagues all know we have to live under the Budget Act. There are three issues that we desperately wanted in this bill from our side of the aisle, the two extenders and the drug provision that the gentleman from California (Mr. GEORGE MILLER) just referred to. We could not find budgetary offsets. Together those three issues did not even cost $10 million a year.

Some of the proposals outlined by my good friend and colleague from California (Mr. GEORGE MILLER) cost far more than that. We would love to address forgiving teachers student loans for those in title I schools, $275 million in budget authority. How about allowing judges to set aside the ban on student aid for drug offenders, I think misconstrued by the Department, but again to fix it, $135 million in budget authority. Or how about the proposal by the gentlewoman from New York (Mrs. MCCARTHY), my good friend and colleague, someone whom I have been frankly working to try to help, on forgiving student loans for spouses of victims of 9/11, $3 million.

We did not put our proposals in the bill that cost money, and the proposals that have been outlined by my colleague cost significant amounts of money, and the fact is that the offsetting amounts from somewhere were never presented.

□ 1415

What we have before us is a very good bill, and what we should not do here is we should not let the perfect become the enemy of the good. The gentleman knows we have a very good bill on the floor today. It has broad support in the higher-education community, and it deserves the broad support of all of our colleagues. So let us not let the perfect become the enemy of the good.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 2 minutes.

First of all, Mr. Speaker, on the question of budget authority, the gentleman made a determination that this cost money and there were no offsets. The gentleman said there were no offsets, but he would not even let us look for offsets for these amendments. We also happen to have a number of free amendments. We happen to have a number of free amendments we are willing to offer.

The second thing is, the gentleman wanted to do something that was not controversial, where there could be agreement. On that theory, we just went through the securities bill in the House that turned out to be an embarrassment to everybody because, today, people ran down to the floor to add criminal penalties on almost a unanimous vote. So the question on that point, the Republicans were determining what is controversial. They said if we have criminal penalties against people who perpetrate fraud, that would be controversial and they left it out of the securities bill. In the Senate today it was 97 to 0, and this morning it was 400 to something.

So, again, my colleagues are setting themselves up as the arbiters of what is controversial, what can be considered, and what cannot be considered. That is not democracy. That looks like forms of government that we fight against around the world. That is not a democracy. In our democracy, we take a vote and we win or we lose. We get excited about winning, and we lick our wounds when we lose and come back another day. But that is not what is happening here. So this is far beyond that.

People were not raising the budget act when the farm bill passed through here. Or, actually, the gentleman was raising the budget act when the farm bill came through here, but the leadership was not raising the budget act when the farm bill came through here; and they are not raising it now in the supplemental. So the notion that somehow loan forgiveness for teachers is completely out of consideration, let the Members decide that. Let the Members decide if we want to make tradeoffs.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I oppose what is a good bill. I oppose it because there is a larger principle at stake here, and that is the reasonable right of the minority to have its say in the process of writing legislation.

The House has been here before, Mr. Speaker. Exactly 11 years and 1 day ago, a Member of this House came to the floor and protested a procedure and used these words: "This rule might aptly be called the representative democracy displacement rule since its substitutes the judgment of the majority leadership for that of the 435 freely elected Members of this House. It is ironic, Mr. Speaker, that as dictatorial governments around the world are allowing democracy to flourish, democracy does not flourish in the House of Representatives."

That speaker was not a Democrat disenchanted with the present majority, it was the present chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), who used those words 11 years ago. He was talking about a rule where the minority was given a substitute of its own version of a bill that would outlaw the use of replacement workers in a strike. We have not been given such prerogatives.

When the debt ceiling limitation was brought to this floor, the minority was not given the right to offer our own plan. When the prescription drug benefit legislation was brought to this floor, the minority was not given the right to offer its own plan. With this bill, as the gentleman from California (Mr. GEORGE MILLER) just said, our ideas to forgive student loans for those willing to teach in disadvantaged schools, to forgive the student loans of heroes who gave up their lives on September 11, to make sure that civil rights laws are enforced under vocational education programs, our ideas were deemed unworthy of being considered by this body.

Mr. Speaker, this process is unworthy of this body. It is one more example of the arrogant imposition of majority will. It is one more reason why people should rise up and vote "no" on this bill.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. MCKEON), the chairman of the Subcommittee on 21st Century Competitiveness.

Mr. MCKEON. Mr. Speaker, I thank the chairman for yielding me this time, and I rise in strong support of H.R. 4866, the FED UP Higher Education Technical Amendments Act.

I would like to thank the chairman, the gentleman from Ohio (Mr. BOEHNER), and the ranking members, the gentleman from California (Mr. GEORGE MILLER) and the gentlewoman from Hawaii (Mrs. MINK), for their support and leadership.

The success of FED UP, which is short for Upping the Effectiveness of Our Federal Student Aid Program, and openness of the entire process should serve as a model of collaboration and partnership at all levels.

When we began this process last year, I stated early on that I had absolutely no agenda to push; that my only consideration was to promote an initiative that benefits students so that we could increase access to higher education. To this end, the ranking member, the gentlewoman from Hawaii (Mrs. MINK), and I solicited comments from across the country, from college officials, administrators, and other personnel who operate America's institutions of higher learning in order to determine which regulations or statutory provisions could be modified or eliminated in order to remove regulatory burdens. We have 800 pages of Federal regulations dealing with higher education, and we were trying to simplify this process.

While participating in the process, Richard Atkinson, president of the University of California, states "Our efforts to keep tuition reasonable and affordable for students are undermined by the enormous compliance costs associated with Federal regulations. While we must ensure and document that Federal funds are spent properly, the current regulatory morass only increases costs and diverts faculty and staff from more productive activities."

Peggy Stock, president of Westminster College in Utah, said she could not "remember the last time someone asked us what was wrong and what we could do to make it better."

In just 3 months, we set up a Web page, and we asked for responses from all the schools around the country; and we received over 3,000 responses as to how the process could be improved. These responses came from individuals at every type of secondary institution and from every part of the country.

Once the responses were compiled, the committee worked with the Department of Education to assess which regulatory issues could be addressed immediately and which would need to be considered in the upcoming reauthorization of the Higher Education Act. With Secretary Rod Paige pledging to be a true partner throughout the FED UP process, the Department of Education addressed proposals that were strictly regulatory in nature.

As part of the third step in the process, we began working on legislation to address additional statutory provisions that placed an undue burden on colleges, universities, and ultimately our country's students. These proposed amendments were slated to be noncontroversial and technical in nature. And all of our staff were in there; we were in there working together.

As previously agreed to, and has been discussed repeatedly over and over again, all controversial ideas were to be taken offer the table and dealt with during reauthorization of the Higher Education Act. In fact, the gentlewoman from Hawaii (Mrs. MINK), in asking that one of the issues that we are talking about be removed, sent a letter to me, and I quote from her letter: "Our understanding was that this technical correction bill would not include any item that was controversial or which would be objected to by a significant number of Members."

This process will begin with the commencement of hearings later this fall, when we start on the reauthorization of the Higher Education Act. That is when we will address the controversial issues that my colleagues are talking about.

Over the last year, in an effort to produce this noncontroversial and budget-neutral bill, Members and staff have met with those from both parties, various members of higher-education associations, and the Department of Education. The results of these tireless efforts of the FED UP Higher Education Technical Amendments Act has support from every major college education association in the country and is cosponsored by the chairman, the gentleman from Ohio (Mr. BOEHNER), and actually the ranking member, the gentleman from California (Mr. GEORGE MILLER), and the gentlewoman from Hawaii (Mrs. MINK) and Members from both parties.

The thousands of students, parents, financial aid professionals, and college presidents who logged on are a key part of that collaboration. They are the experts. They are the individuals who must navigate the Federal student aid programs each day. And by logging on to our Web site, they gave us practical, more effective alternatives that will improve service to our Nation's students and reduce red tape for our colleges and universities.

Federal student aid programs provide a valuable service. Because of the efforts of this Congress to provide increased funding for grants, loans, and other aid each year, millions of students are able to follow their dreams. While these higher-education programs do a tremendous service to students by opening doors of opportunity that can only be opened by higher education, they are far from perfect. The confusing, convoluted, bureaucratic red tape students often face when trying to obtain financial aid must be cut.

Even though this vital piece of legislation includes numerous technical changes to the Higher Education Act, most of the changes in FED UP will directly improve service to students. The bill will help students avoid defaulting on their student loans by removing barriers to students seeking forbearance from lenders on student loan payments. It will improve the flow of information to students by expanding the use of technology on campus. It clarifies parts of the "return of title IV funds" policy to better protect students' grant aid when he or she withdraws from a college or university. It corrects a drafting error in current law that mistakenly prevents students attending nonprofit foreign veterinary schools from completing their education by making them ineligible for the Federal Family Education Loan program.

Students, parents, and administrators have spoken, and their voice is clear: the Federal student aid program must be reformed to make it easier to navigate. This should be an example for all parts of Federal Government to work on.

I strongly urge Members to support H.R. 4866, the FED UP Higher Education Technical Amendments Act of 2002, to return the Federal student aid program to its original purpose of aiding students.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. McCARTHY).

Mrs. McCARTHY of New York. Mr. Speaker, under normal conditions, I certainly would be supporting this bill. I do not think any of us on the committee have anything against it. But, again, I will talk about the process of how we came upon this.

When I came here to Congress, certainly I thought we would be working together to try to get a good bill out. Now, obviously, I came to Congress under very different circumstances. I was just an average housewife living in Mineola, but I actually thought the government worked under the democratic process.

I can offer an awful lot of amendments, and they can be voted down; but at least I can have my day and be able to talk about a bill. However, because my colleagues and I were not given an opportunity to debate this bill and approve it, I must voice my opposition to the process by which this bill came to the floor.

I had intended to offer an amendment to this bill that forgives student loans of the spouses of the victims of September 11. Due to the tragic events of September 11, many spouses who lost a loved one in the attack are enduring financial hardships. Charitable organizations have provided some form of relief, but the Federal Government must do more.

We must provide student loan relief to all spouses affected by the terrorist attack on September 11. Currently, an individual who died has their loan forgiven, but not the spouse, who may have relied on the working spouse to pay those loans back. My bill authorizes the Secretary of Education to discharge or cancel Federal student loan indebtedness to eligible spouses.

By the way, we worked very hard to keep those costs down. We had the CBO score how much this might cost, which was the next step, and it was under $500,000. We actually said it would probably cost $300,000.

This includes the spouse of an individual who served as a policeman, fireman, other safety or rescue personnel, or in the Armed Forces who died or became permanently disabled in the line of duty due to the injuries suffered under the terrorist attack.

In addition, our bill closes the loophole that does not allow for a loan to be forgiven if it has been consolidated. Under my bill, we close this loophole and allow spouses to have their student loans forgiven whether or not the loan had been consolidated.

It has been 10 months since this terrible tragedy has taken place. Have we really forgotten our pledge to help these victims any way we can? Let us stop the politics surrounding this legislation today. We must do everything in our power to help ease the financial burden our brave men and women may endure while they fight overseas to rid the world of terrorism. Relieving the student loan expenses helps financially strained spouses provide for their families during this difficult time.

But, again, let us come back to the democratic process. I could have brought this amendment up in committee. It could have been voted down. I would have accepted that. But at least I would have had a voice heard.

□ 1430

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, the debate on this bill provides a perfect example of why it is so much harder to pass legislation than it is to defeat it. Here is a piece of legislation coming to the floor of this House that was worked on in the spirit of bipartisanship with total cooperation between the parties, but because some Members are not satisfied that everything that they want is included, they are going to vote against it, even though not a single word has been spoken on the floor against any provision in the bill that is before us.

It is a good bill and it should pass on its merits, but Members would like to add more and do it their way. We cannot do it everybody's way and get anything done. It is easier to stop things than to pass it.

Mr. Speaker, I rise in strong support of a good bill. I would like to speak very briefly about a provision in the bill that makes a minor change to the statute governing the Federal TRIO programs in a way that will end the unfair disadvantages faced by the University of Wisconsin's 2-year colleges in applying for student support services grants.

The provision will override a Department of Education regulation that was preventing my State's 13 2-year college campuses, known as the UW college system, from applying for more than just one student support services grant. It is a good concrete example of a burdensome regulation that is preventing the proper functioning of a higher education program and making thousands of students ineligible for the benefits of the TRIO program.

The regulation in question sets criteria for what constitutes a "different population" served and "different campus" in such a way that, while almost every other State's 2-year college systems are treated as separate campuses for this purpose, those of Wisconsin and New Mexico are considered as one campus, even though they are scattered all over the State, serving demonstrably different populations, and independent of each other in every relevant respect.

In fact, UW colleges are allowed to apply for separate grants for every other TRIO program except the student support services program.

Mr. Speaker, I urge Members to support this legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I think Members understand that bills that come to the floor under suspension of the rules are intended to be noncontroversial, worked out, signed, sealed and ready for delivery.

The bill that comes to us today is in fact not yet completed. Certainly it is not controversial that increased access to college education is more important than ever. But this bill needs more than just some tinkering or some perfecting attention. There is room for substantial improvement.

We should be dealing with teacher loan forgiveness and addressing the shortage of special education teachers and we should be dealing with gender equity and vocational education and student loan relief for families of victims of September 11. We should be dealing with the policy of missing persons at universities and colleges.

I was prevented from offering an amendment that would have fulfilled President Bush's goal of increasing the number of math, science and special education teachers in the classroom.

We have not been able to complete work on this bill. The Committee on Education and the Workforce is very capable of bipartisan work. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), both sides of the committee, have worked together very well. The Leave No Child Behind bill is a product of that bipartisan work. I believe this bill should be sent back to the Committee on Education and the Workforce, marked up, and returned to the House floor in a bipartisan manner so we can increase access to colleges and universities for all of our students.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, first, I do not want to be appearing to be joining the minority whining session. I certainly have a legitimate complaint in the bill because mine was actually a technical correction. The technical corrections bill is supposed to be mostly grammatical and things that were misunderstood. And the things that are being debated on the floor right now are supposed to come up under separate legislation when we do a higher ed bill.

To quote the gentlewoman from Hawaii (Mrs. MINK) when I was trying to do what was actually a technical correction, she wrote, "Our understanding was that this technical correction bill would not include any item that was controversial or which would be objected to by a significant number of Members."

What we have been debating here is a higher ed bill or individual bills. My technical correction is very simple. The Clinton administration, either through deliberate, malicious intent, or incompetence, and I believe incompetence, ruled that students who are receiving a loan who got convicted of a drug offense applied to people 20 years back. A 14-year-old who had committed three offenses could not get a student loan.

Our debate was clear. An exchange the gentleman from California (Mr. GEORGE MILLER) and I had made it clear we were talking about students who were convicted while they were getting a college loan. They applied and denied thousands of students because of a laughable interpretation of the law. We have twice passed this technical correction in the House. We tried to put it in this bill, and the gentlewoman from Hawaii (Mrs. MINK) objected because she said it was a substantive change when this was a technical correction.

To his credit, the gentleman from California (Mr. GEORGE MILLER) disagreed, and so did the gentleman from New York (Mr. MEEKS), the cosponsor of this bill, and we tried to move it through. Finally it looked like we were going to move it through, and then there was a budget objection.

As an absurdity of congressional accounting, when we first passed my amendment, we did not get a debit or any balance based on the number of students who would lose the loan. But when we tried to follow the House law and the law as it was passed, then they said we had to get an offset if we let students who were not to be deprived in the first place get those loans back. So we also had a budget objection.

Mr. Speaker, I have a legitimate complaint in this technical corrections process, but I am going to vote for this bill because I know the higher ed bill is coming next year. We will deal with loan forgiveness, with which I agree, and other issues when we actually do a higher ed bill. This is to be a technical corrections bill.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, while I do not oppose the provisions that are included in the Fed Up Act, I am fed up for bringing it up on a suspensions calendar. I am not going to vote against this bill because of what is in the bill, I am going to vote against it because of what is not in the bill.

As a member of the Committee on Education and the Workforce, I had planned to offer an amendment to Fed Up when it was marked up in the full committee. However, rather than consider any Democratic amendments, the committee mark was cancelled and this bill was never considered at the committee level. Had it been, I would have offered an amendment to ensure that vocational education programs obey civil rights laws.

Just a few weeks ago, The Washington Post and other newspapers reported on a recent survey that revealed pervasive gender segregation in vocational and technical education programs all around the country. The survey found that women remain clustered in classes which lead to traditionally female jobs, such as cosmetology, child care or fashion technology. On the other hand, the classes in carpentry, electronics, and automotive programs were 85 percent male. So women are trained for jobs as hairdressers, earning a median hourly wage of $8.49 an hour, while males get work as plumbers who earn an hourly wage of $30 an hour. Thirty years after the passage of title IX, the patterns of enrollment in technical and vocational education programs look shockingly similar to the patterns that existed prior to the passage of title IX 30 years ago.

I am fed up with this unfair legislative process. I am fed up with being denied opportunity to work with my colleagues in crafting legislation that comes to the House floor. I urge Members to vote against the Fed Up bill, and vote against any bill where half the House is muzzled. Until Democrats are given a fair role in House proceedings, I suggest that we vote no.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, for those Members who paid attention to this debate and are about to vote, they should know the following: Every speaker who has risen in opposition of the bill has endorsed every provision in the bill, and so they would vote for it except for concerns of theirs.

Every speaker on the bill 2½ hours ago sat with me in a hearing before presidents of historically black colleges and minority and poor institutions who talked about the bureaucratic, technical and monetary impediments to deserving students getting a college education, 400,000 this year in America.

We should subordinate our political interests to the better interests of Americans trying to better their lives. If, in fact, there is no objection to a provision in the bill, we should vote for the recipients and the beneficiaries of student aid and improve their lives, not for our parochial or our political interests.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I appreciate the words of the gentleman from Georgia (Mr. ISAKSON), except under that theory, why have a democracy? The other side of the aisle would make a determination what is good, and then that is what is voted for.

That is not the issue of whether we support the underlying bill or provisions of it, it is whether or not under a process that would have allowed us to offer amendments, we were not allowed to offer those amendments. That is called fairness. That is called fairness.

It is not a question of whether, as the gentleman from Wisconsin (Mr. PETRI) said, we got all we wanted, we simply wanted a debate. We might have won the votes. Maybe we were wrong. That is the process in this House. The other side does not get to unilaterally decide whether we have enough. The votes in the House decide whether a bill goes too far. We weigh that every day. But that opportunity is being offered to us less and less. That is why when we have a bill of decent merit, but the suggestion is that is it, folks, take it or leave it, that is not our process of government.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield?

Mr. GEORGE MILLER of California. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, I would just ask the ranking member if there was a markup of this bill in the subcommittee where we would have had an opportunity to offer our amendments?

Mr. GEORGE MILLER of California. Mr. Speaker, I do not think there was. When we started to offer amendments in the full committee, the hearing was cancelled.

Mr. ANDREWS. If the gentleman will continue to yield, so there was no opportunity in the full committee to offer amendments to this bill either?

Mr. GEORGE MILLER of California. That is the problem. The gentleman is quite correct. I appreciate his question. Then when we get to the floor, we are told we cannot have amendments because it was on suspension.

Mr. Speaker, when is it we get to offer amendments? When is it we get to present a differing view, either on the technical underlying bill or on amendments that are germane, under the rules of germaneness, the rules of the House? Members can be the arbiters of that.

But I do not think the Members of the Democratic side should go along with that. I would hope that Republicans understand that and would not support the bill, and we can have this under an open rule. Maybe our amendments would be germane. It is not like we have been busy around here. All of a sudden we have to close down democracy when it looks like we have to take a tight vote, or maybe the minority might prevail.

Mr. Speaker, as has been pointed out, a number of our amendments were supported by the President's budget, they were supported by Members on the Republican side of the aisle. This is simply about trying to preserve the notion that this is a people's House.

The amendment is not for me or the gentlewoman from California (Ms. WOOLSEY). It is for the teachers in this country, it is for the young kids going to school thinking about whether they go into math and science. Do they go to a high poverty area or not. That is who the amendments are for, but that is precluded.

Mr. Speaker, I urge all Members on the Democratic side of the aisle to vote against this, and hope our colleagues would join us in trying to preserve some semblance of democracy in the House.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know the gentleman from California (Mr. GEORGE MILLER) would never accuse me of being unfair. We have had a very good process in our committee over the last 18 months, and I think Members on both sides of the aisle have far more respect for each other than we have seen for certainly the 12 years I have been on the committee.

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What we went through was a bipartisan, commonsense exercise to ask the higher-education community what is it that makes your life more miserable that we can address. We went through a commonsense, bipartisan effort to put this bill together. The agreement early on was if we could not come to an agreement on the issue, it did not go into the bill. But there are 30 issues in this bill that have common agreement, that we all agreed that this would happen. Then all of a sudden along the way the track either got crooked or the train ran off the track and there are other issues that wanted a place in this bill, issues that unfortunately cost an awful lot of money.

As the gentleman from Georgia (Mr. ISAKSON) pointed out, my colleagues on the other side of the aisle have supported everything in the bill. As I said before, let us not let the perfect become the enemy of the good. We will have ample time to deal with these other issues next year when we get into the reauthorization of the higher education act, but in the meantime let us do what we can to help more students get a better shot at a good college education.

Mr. KIND. Mr. Speaker, I support the efforts today to make necessary technical changes to the Higher Education Act. On behalf of the 3rd Congressional District of Wisconsin, I have a significant interest in a particular section of this legislation that will assist the University of Wisconsin two-year campuses in my home state.

Over the past 30 years, Congress has established a series of programs to help low-income Americans enter college, graduate, and move on to participate more fully in America's economic and social life. These programs include financial aid programs that help students overcome economic barriers to higher education, as well as TRIO programs which help students overcome class, social, and cultural barriers to higher education.

Currently, TRIO regulations allow multiple branch campuses to submit separate grant applications so long as the programs are run on campuses that are both geographically apart and independent of the main campus of the institution. Unfortunately, the Department of Education does not recognize the University of Wisconsin system as having "independent" two-year campuses because the thirteen branch campuses share a single chancellor.

Thus, the University of Wisconsin's two-year college system is only eligible for one TRIO grant, which currently provide only $435,000 for 475 students. This group of students is only 6 percent of those eligible for funding under the program.

Since 1996, when the UW campuses were first denied individual TRIO grants, until 2004, when they will next be able to apply for individual grants, they will have lost more than 1.4 million dollars in funding. This money could have served hundreds of students.

These institutions of higher education should not be penalized simply because of their administrative structure. Therefore, I am pleased that language from H.R. 4637, legislation I introduced with Congressman PETRI, that makes technical changes to the TRIO regulations, is included in this bill. The language will redefine what constitutes a different campus, allowing the University of Wisconsin's two-year schools to compete fairly for TRIO grants, just as other schools already do. In the end, these campuses will be able to serve more students who need assistance.

Mr. Speaker, I am happy that this language was included in FED-UP. I support assisting students in attaining a higher education. This legislation will help more people attend college, and as a result be more competitive in the workforce.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and pass the bill, H.R. 4866, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GEORGE MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## RECOGNIZING AND HONORING JUSTIN W. DART, JR.

Mr. McKEON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 460) recognizing and honoring Justin W. Dart, Jr., for his accomplishments on behalf of individuals with disabilities and expressing the condolences of the House of Representatives to his family on his death.

The Clerk read as follows:

*Resolved*, That the House of Representatives—

(1) recognizes Justin W. Dart, Jr., as one of the true champions of the rights of individuals with disabilities and for his many contributions to the Nation throughout his lifetime, and honors him for his tireless efforts to improve the lives of individuals with disabilities; and

(2) recognizes that the achievements of Justin Dart, Jr., have inspired and encouraged millions of Americans with disabilities to overcome obstacles and barriers so they can lead more independent and successful lives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. McKEON) and the gentleman from New York (Mr. OWENS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. McKEON).

### GENERAL LEAVE

Mr. McKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Res. 460.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 460, which recognizes and honors Justin W. Dart, Jr., a man who was a tireless advocate on behalf of individuals with disabilities. The resolution also expresses the condolences of the House of Representatives to Mr. Dart's family on his recent death.

Mr. Dart was known as a pioneer and leader in the disability rights movement, and his accomplishments and advocacy in that arena have spanned over 4 decades. Mr. Dart became a civil rights activist for individuals with disabilities following contracting polio in 1948.

Mr. Dart served in many leadership positions within the area of disability policy and was appointed to such positions by five Presidents, five Governors, and Congress, by Republican and Democrat alike. Along with participating in national policy development, including the Americans with Disabilities Act of 1990, Mr. Dart also sponsored formal and informal programs of independent-living training for individuals with disabilities.

Again, I am pleased to recognize and honor the accomplishments of Justin W. Dart, Jr., and I urge my colleagues to support this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 460. This resolution fittingly honors and celebrates the life of Justin W. Dart, Jr., a civil rights pioneer for individuals with disabilities. Sadly, he passed away at the end of June, leaving our Nation to mourn him, but also to recognize his legacy of accomplishments.

Justin Dart is remembered for his tireless work on behalf of individuals with disabilities and ensuring their ability to fully participate in life. His spirit and efforts to better opportunities for individuals with disabilities was a constant focus since he contracted polio at age 18. Justin Dart's determination for success led him to establish a successful business that employed disabled individuals, but also to fight for the civil rights of all Americans.

Justin received numerous awards and recognitions during his lifetime, including the Presidential Medal of Freedom awarded to him by President Clinton in 1998. Justin also held numerous positions within the disability community, including vice chairperson of the National Council on Disability, commissioner of the Rehabilitative Services Administration, and chairman of the President's Committee on Employment of People with Disabilities.

Justin is best remembered, however, for his tireless work to enact the Americans with Disabilities Act. The ADA has literally opened the doors of opportunity to millions of disabled Americans, ensuring they can work, go to school, and access facilities to the same extent as nondisabled individuals. Without Justin's work on this legislation, I am certain there would be no ADA today. The ADA is a living monument to his spirit and his determination.

Our thoughts go out to Yoshiko Dart, Justin's wife, and his family for their loss. As individuals and institutions around the world celebrate Justin Dart's life, it is only fitting the House recognizes him for his lifetime of contributions to the civil rights cause of individuals with disabilities. His legacy and his tireless work is an inspiration to us all.

Mr. Speaker, I had intimate, personal knowledge of Justin Dart and his amazing energy and dedication as reflected in the spirit with which he approached the passage of the Americans with Disabilities Act. I know as no one else knows that the Americans with Disabilities Act would never have been passed had it not been for Justin Dart. Justin Dart at the very beginning of the act's preparation, our effort to pass it, recognized the complexity of the bill. The ADA was a bill which had jurisdiction spread throughout all the committees of Congress. There were many people who predicted it could never pass. The ADA, however, moved forward and had a momentum that was mysterious to many people, but I clearly understood what was happening.

Every Congressman tells the advocates of any piece of legislation that the first thing they have to do is go out and get the sentiment of their own Congressman involved, to arouse the constituency of each Congressman who is involved in order to make certain that the bill is given the proper attention in this House. In the case of the ADA, I saw with my own eyes and heard with my own ears a monumental effort led by Justin Dart.

He put together a task force which visited every one of the 50 States. In every one of those 50 States, they made certain that somebody from every congressional district was present at a meeting or a hearing and went forward to talk to their own Congressman about the ADA. I recall conducting some hearings in some of the States as a result of the request of Justin Dart and the task force and they were monumental experiences. I do recall in Boston holding a hearing that lasted from 10 in the morning until 5, or it was supposed to last 10 to 5, it went 10 to 6, and had 90 witnesses. They actually had 90 witnesses. They were very disciplined. They held them to a 2- to 3-minute limit. Many of them could not speak. They had to have people to speak for them. Some of them had to use devices or machines to help speak for them. It was an unprecedented hearing; but they were all determined to be heard, and they were heard that day in Boston.

I recall in Houston, Texas, where one of the people who was a sworn opponent against the travel provisions of the ADA, the head of the Houston transportation system, he was known as an opponent against the bill, but he came in and he testified on behalf of the bill because he had suddenly seen the light. He not only testified but he said that it was a shibboleth that was being erected by his colleagues across the country in terms of their objections to the bill because of possible high cost. He said that the cost of the additional services that were being provided to people with disabilities would probably be no greater than the amount of money spent on conventions and travel by the various transportation authorities across the country. This hardball opponent concluded by reciting "Gray's Elegy" and tears were in his eyes when he sat down from his testimony. It was one of the most moving experiences I have ever had. Justin Dart and the legions he rounded up in every State inspired that kind of response across America.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER), the sponsor of the bill.

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from New York for yielding me this time.

The gentleman and I were very much involved in the passage of the Americans with Disabilities Act. No one who was involved in the passage of that act could not know Justin Dart. No one could possibly miss the incredible contribution he made to the passage of that most significant civil rights legislation in a quarter of a century. The gentleman from New York was a key part of the leadership in passing that bill in this House, as was Steve Bartlett, my Republican counterpart, who was assigned by his leadership, Bob Michel, to work with me, I was assigned by Speaker Foley, to work on this bill. Both of us knew that we owed Justin Dart an incredible debt.

Mr. Speaker, it is with a deep sense of loss, as well as a sincere appreciation, that I come to the floor to commemorate the passing on June 22 of a dear friend, a personal hero, and a truly extraordinary human being. For nearly 5 decades, Justin Dart, Jr., was one of the world's most courageous, passionate and effective advocates for civil and human rights. He was perhaps best known, as I have said, as the father of the Americans with Disabilities Act of 1990, the landmark civil rights law signed by President Bush that opened the door of equality to millions of our disabled brothers and sisters. Many called him properly the Martin Luther King of the disability civil rights movement. He thought of himself, however, in more humble terms, simply as a soldier of justice. But the undeniable moral clarity of his life's work, the inspirational, persistent march for equal treatment, respect and human dignity invites such comparisons.

Dr. King famously said, and I quote, "Injustice anywhere is a threat to justice everywhere." Justin Dart understood that truth and he acted on it, devoting his life to fighting discrimination, empowering the disabled and comforting the dispossessed. Justin Dart was born to privilege, the son of a wealthy industrialist who was a close adviser to President Reagan. His grandfather founded the Walgreen's drug store chain. Yet underachievement characterized his early life. He attended seven high schools and broke Humphrey Bogart's all-time record for demerits earned as a student at the elite Andover prep school.

Then, in 1948, his life changed forever. Just 18 years of age, he contracted polio which left him in a wheelchair for the next 52 years. He did not grieve. In fact, he said, and I quote, "I count the good days in my life from the time I got polio. These beautiful people not only saved my life, they made it worth saving."

What an incredible statement for a man struck down in the early prime of his life, serving the rest of his life in a wheelchair.

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That life was dramatic testimony to the ability he had while some looked at him as having a disability.

Justin went on to earn bachelor's and master's degrees at the University of Houston, where he organized an "Integration Club" at the then all-white institution. He wanted to become a teacher, but the university withheld his teaching certificate because of his wheelchair use.

In 1963, he started Japan Tupperware and, in just 2 years, the company expanded from three employees to 25,000 employees. Not surprisingly, Justin took severely disabled Japanese out of institutions and gave them paying jobs.

It is also in Japan that he met his wife of 39 years, Yoshiko Dart. What an extraordinary person she is as well.

In 1974, Justin and Yoshiko moved to Texas where they immersed themselves in disability activism; and then in 1981, President Reagan appointed him to be vice-chair of the National Council on Disability. In that position, Justin Dart helped draft a national policy calling for civil rights legislation to end discrimination against people with disabilities, an action which laid the foundation for the Americans With Disabilities Act signed on July 26, 1990.

In the 1980s, Justin also served as head of the Rehabilitation Services Administration, chair of the President's Committee on Employment of People With Disabilities, and chair of the Congressional Task Force on the Rights and Empowerment of People With Disabilities. However, despite his various positions and duties, the high point of his 5 decades, 5 decades in the civil rights movement, was the passage of the ADA.

As the lead House sponsor of the ADA, along with the gentleman from New York (Mr. OWENS) and a few others, I saw firsthand how Justice crisscrossed the country, at his own expense, building grass-roots support for its passage. As a matter of fact, in the last 16 years of his life, hear this, Justin Dart, on behalf of ADA implementation and ADA passage, visited every State in the Union at least five times. This man in a wheelchair, struck down by polio at the age of 18, in the last 16 years of his life visited every one of the 50 States at least five times on behalf of the cause that was his life.

Its enactment was singular testimony to his ability, his passion, and his determined spirit. Fittingly, President Bush presented Justin with the first pen he used to sign the ADA into law during a ceremony on the South Lawn. Eight years later, President Clinton awarded Justin the Medal of Freedom, the highest civilian honor, remarking that Justin had "literally opened the doors of opportunities to millions of our citizens by securing passage of one of the Nation's landmark civil rights laws."

Mr. Speaker, the great American humorist Will Rogers once said, "It is only the inspiration of those who die that makes those who live realize what constitutes a useful life." Justin Dart, Jr., has left a legacy of lives touched and hearts changed. We are the beneficiaries of his love, his compassion, and his devotion to equality. It now falls to us, Mr. Speaker, all of us, to carry on the fight and to realize Justin's vision of a revolution of empowerment. That is precisely what we owe the memory of this wonderful man.

Mr. Speaker, I offer my sincere condolences to Yoshiko, his daughters, and his entire family; and I urge my colleagues to support this resolution but, indeed, to do more than that: to keep the faith with this brave and decent human being, humble almost to a fault, giving credit to all around him for that which was accomplished. But all of us knew that in the final analysis, the moral leader of our effort, the inspiration for our work was this great and gentle man, Justin Dart, Jr.

Mr. MCKEON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in honor of a man that few of us have ever seen the like of. I want to thank the gentleman from Maryland (Mr. HOYER) for introducing this resolution and for the fact that this resolution has been brought up on the House floor today, which is a little earlier than 12 years since the signing into law of the Americans With Disabilities Act.

Justin Dart. Men and women like Justin that have made our Nation great have raised our conscious, challenged actions, and given to others relentlessly.

Mr. Speaker, Justin Dart continues to give, even in his death.

I would like to read for the RECORD Justin Dart's final words: "Dearly beloved: Listen to the heart of this old soldier. As with all of us, the time comes when body and mind are battered and weary.

"But I do not go quietly into the night. I do not give up struggling to be a responsible contributor to the sacred continuum of human life.

"I do not give up struggling to overcome my weakness, to conform my life, and that part of my life called death, to the great values of the human dream.

"Death is not a tragedy. It is not an evil from which we must escape. Death is as natural as birth.

"Like childbirth, death is often a time of fear and pain, but also of profound beauty, of celebration of the mystery and majesty which is life pushing its horizons toward oneness with the truth of mother universe.

"The days of dying carry a special responsibility. There is a great potential to communicate values in a uniquely powerful way, the person who dies demonstrating for civil rights.

"Let my final actions thunder of love, solidarity, protest, of empowerment.

"I adamantly protest the richest culture in the history of the world, a culture which has the obvious potential to create a golden age of science and democracy dedicated to maximizing the quality of life of every person, but which still squanders the majority of its human and physical capital on modern versions of primitive symbols of power and prestige.

"I adamantly protest the richest culture in the history of the world which still incarcerates millions of humans with and without disabilities in barbaric institutions, back rooms and, worse, windowless cells of oppressive perceptions, for the lack of the most elementary empowerment supports.

"I call for solidarity among all who love justice, all who live life, to create a revolution that will empower every single human being to govern his or her life, to govern this society, and to be fully productive of life equality for self and for all.

"I do so love all of the patriots of this and every Nation who have fought and sacrificed to bring us to the threshold of this beautiful human dream.

"I do so love America the beautiful and our wild, creative, beautiful people. I do so love you, my beautiful colleagues in the disability and civil rights movement.

"My relationship to Yoshiko Dart includes, but also transcends, love as the word is normally defined. She is my wife, my partner, my mentor, my leader, and my inspiration to believe that the human dream can live. She is the greatest human being I have ever known. Yoshiko, beloved colleagues, I am the luckiest man in the world to have been associated with you:

"Thanks to you, I die free. Thanks to you, I die in the joy of struggle. Thanks to you, I die in the beautiful belief that the revolution of empowerment will go on. I love you so much. I am with you always. Lead on! Lead on!"

Mr. Speaker, Justin Dart will live on in love.

Mr. OWENS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of House Resolution 460.

Justin Dart was known by many Members of Congress and by countless thousands in America and around the world for his inspirational leadership and determined efforts to open the doors of opportunity wider for all people whose hopes and dreams have been crushed by discriminatory treatment.

Since 1966, when Mr. Dart and his wife, Yoshiko, decided to dedicate their lives to removing the barriers of misunderstanding that exist about people with disabilities and to advocate for their civil rights wherever discrimination exists, he built an unstoppable grass-roots movement that will continue far beyond his days on this Earth.

Mr. Speaker, I last saw Justin Dart at a rally in the Senate where you and I and Senator HARKIN and some others were there in support of MiCASSA. I just recently read yesterday, as a matter of fact, a wonderful letter from his lovely wife who shared not only his life, but also his passion for the disabled. I guess the reality is that one can be as instructive and didactic in death as they have been in life.

If there is any person who never read Justin Dart's last writings that were just mentioned a moment ago by the gentlewoman from Maryland (Mrs. MORELLA), I would urge, if my colleagues want to be inspired, if my colleagues want to be motivated, if my colleagues want to be activated, if my colleagues want to be stimulated, just get that and read it.

Justin Dart will live on, not only in the hearts and minds of people, but in every action that we take to remove the barriers of discrimination that have existed against people with disabilities.

Mr. OWENS. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. MCKEON. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, today we pay tribute to a true hero, Justin Dart, Jr. I am proud to join with my colleagues, the gentleman from Maryland (Mr. HOYER), the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), and the gentleman from Minnesota (Mr. RAMSTAD) in introducing this legislation.

I have known Justin for several years. He spoke at my alma mater 3 years ago. He has traveled to my home State of Rhode Island on numerous occasions. But most of all, he is one of the primary reasons that I am here today. Justin Dart inspired me to run for office, supported me throughout my campaign and, years before, laid the path to make it possible for me to run for the United States Congress.

Twelve years ago, Justin crisscrossed the country to build grass-roots support for the passage of the Americans With Disabilities Act. He traveled five times to each of the 50 States, educating the public on mobilizing people with disabilities, their friends and loved ones, to support the enactment of ADA. He was the voice of reason, a vision of leadership, and a force to be reckoned with. He understood that the injustices he and millions of other Americans experienced on a daily basis must be stopped and that only Federal legislation could meet this objective. Justin Dart's dogged, yet charismatic, skills of persuasion and unyielding dedication to implementing a meaningful civil rights law is what ensured successful passage of the ADA.

Justin applied this rare combination of grit and wisdom to the many invaluable roles he played in prior administrations. He served as vice chairman of the National Council on Disability, commissioner of the Rehabilitation Services Administration, and chairperson of the President's Committee on Employment of People With Disabilities. He was also awarded the prestigious Presidential Medal of Freedom in 1998.

The commitment of making a difference ran through Justin Dart's veins from his youth. He was born into wealth, but chose to fight for justice at all costs. At the young age of 22, he created an organization to promote racial integration of the then-segregated University of Houston where he studied as both an undergraduate and graduate student. He championed equal rights and self-empowerment throughout his years in both the public and private sectors. He constantly fought for justice and equality for people with disabilities and government, business, labor, and religious organizations. He knew that if people are provided with the proper resources, training and opportunities, disabled or not, they can achieve tremendous success.

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Last year when I joined Justin for ADA anniversary celebrations in the Senate, he said, "Let us rise above politics as usual. Let us join together, Republicans, Democrats, Independents, Americans. Let us embrace each other in love for individual human rights. Let us unite in action to keep the sacred pledge: Liberty and justice for all."

Today I salute Justin Dart. I send my warmest condolences to his wife, Yoshiko, and I thank God for blessing us all for the powerful presence of such a luminous spirit, which lives on in each and every one of us.

As we will soon commemorate the 12th anniversary of the ADA, I urge all Americans to honor and celebrate Justin Dart.

Mr. OWENS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in conclusion, I would like to again thank the gentleman from Maryland (Mr. HOYER) for his sponsorship of this bill.

Justin Dart, with his wide-brimmed hat and in many other ways, liked to remind us that he was a Texan. His vision was broad and comprehensive like that of LBJ. He could also be as combative as Teddy Roosevelt.

Justin Dart was always politically alert, but he really operated above politics. He was a lifelong Republican who would not hesitate to make alliances with Democrats and others when he felt it was necessary. Justin was above politics. He really belongs with the ranks of Martin Luther King and Mother Teresa.

We are proud to recognize Justin Dart as one of the true champions of the rights of individuals with disabilities, and for his many other contributions to the Nation throughout his lifetime.

Mr. McKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Maryland (Mr. HOYER) for presenting this resolution. I did not personally know Mr. Justin Dart, Jr., but I feel, through the eloquence of my colleagues, and having had the opportunity to assist and listen to them this afternoon, that I have a regret that I did not have the opportunity of meeting him personally. He must have been a very great man.

I encourage all of my colleagues to support this resolution in his honor.

Mr. McKEON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from California (Mr. McKEON) that the House suspend the rules and agree to the resolution, H. Res. 460.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

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## PROVIDING FOR CONSIDERATION OF H.R. 5093, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 483 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 483

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with "Provided" on page 29, line 22, through page 30, line 11; page 68, lines 1 through 7. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. During consideration of the bill, points of order against amendments for failure to comply with clause 2(e) of rule XXI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 483 is an open rule providing for the consideration of H.R. 5093, the Department of the Interior and Related Agencies Appropriations Act, 2003. The rule waives all points of order against the consideration of the bill, and provides 1 hour of general debate, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Appropriations.

The rule provides that amendments printed in the Committee on Rules report accompanying the resolution shall be considered as adopted in the House and in the Committee of the Whole. It waives points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill, except as specified in the resolution.

The rule further provides that the bill shall be considered for amendment by paragraph, and waives all points of order during consideration of the bill against amendments for failure to comply with clause 2(e) of rule XXI, prohibiting nonemergency-designated amendments to be offered to an appropriation bill containing an emergency designation.

Finally, the rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and provides one motion to recommit, with or without instructions.

Mr. Speaker, the purpose of H.R. 5093 is to provide regular annual appropriations for the Department of the Interior, except for the Bureau of Reclamation, and for other related agencies, including the Forest Service, the Department of Energy, the Indian Health Service, the Smithsonian Institute, and the National Foundation of the Arts and Humanities.

H.R. 5093 also appropriates $19.7 million in new fiscal year 2003 budget authority, which is $546 million above last year's enacted level and $800 million more than the President's request. The bill also provides $700 million in emergency FY 2002 budget authority for firefighting.

Specifically, the bill provides $458 million for the National Wildlife Refuges, a $60 million increase over last year. National Park Service operations are funded at $1.6 billion, which is $117 million more than last year. In addition, the bill provides $368 million, an increase of $33 million, to reduce the Park Service's enormous maintenance backlog. Also, $96 million is appropriated for the ongoing restoration of the Florida Everglades.

H.R. 5093 provides $377 million for the Federal land acquisition, as well as $154 million for Stateside land acquisition grants; $150 million for urban parks, forests, and historic preservation; and $100 million for State wildlife grants.

Notably, the bill provides $50 million for landowner incentive and stewardship grants to help private property owners carry out habitat conservation measures required by the Federal Government.

Those of us who represent districts in the West have expressed our concern year after year about proposals to increase Federal landholdings in our areas. Several years ago, I coauthored an amendment with the distinguished gentleman from Ohio (Mr. REGULA) designed to put equal emphasis and dollars on maintaining the land and facilities the Federal Government already owns before acquiring even more.

Much of the local opposition to Federal land purchases in the West arises from concern about revenues lost when land moves off local tax rolls and into Federal ownership. I am pleased, therefore, that the committee has increased the Payments in Lieu of Taxes by $30 million, to $230 million in this year's bill.

In recognition of the important role energy conservation must play in strengthening our national security, the committee has also appropriated $985 million for energy conservation, and $300 million for weatherization and State energy grants.

Furthermore, the committee has fully funded the President's request for the National Endowment for the Arts and the National Endowment for the Humanities.

Finally, as a member from a State ravaged by wildfires in recent years, I would like to highlight the committee's efforts in the area of wildfire suppression in firefighting. The massive wildfires burning today throughout the western United States illustrate the grave need to actively and responsibly manage our forests.

Fire suppression will require a solid commitment by Congress and concerted efforts to overcome the forces currently encumbering Federal forest managers. This bill takes an important step to restore healthy, productive forests by appropriating more than $2 billion to implement the National Wildfire Plan, including $919 million for fire preparedness, $581 million for fire suppression activities, and $669 million for other fire-related operations, such as hazardous fuels reduction, restoring burned-out forests, and preventing and treating the problems of invasive insects.

On behalf of the brave men and women we depend on to fight wildfires and the citizens whose homes and livelihoods are threatened by wildfires, I thank the committee for the special attention it has devoted to this important matter.

Mr. Speaker, the Committee on Appropriations ordered H.R. 5093 reported by a voice vote on July 9. The subcommittee chairman, the gentleman from New Mexico (Mr. SKEEN) and the ranking member, the gentleman from Washington (Mr. DICKS), have requested an open rule, and the Committee on Rules is pleased that the resolution now before the House grants that request.

Accordingly, Mr. Speaker, I urge my colleagues to support both the rule and the underlying bill, H.R. 5093.

Mr. Speaker, I reserve the balance of my time.

**Ms. SLAUGHTER.** Mr. Speaker, I yield myself such time as I may consume, and I thank my colleague, the gentleman from Washington (Mr. HASTINGS), for yielding me the customary half hour.

Mr. Speaker, this is an open rule that I will not oppose, and the underlying bill has the support of many from both sides of the aisle. Moreover, the minority was consulted throughout the process in developing the legislation, a trend we all hope will continue throughout the process of appropriations.

The bill provides $19.8 billion in new discretionary spending authority for the Department of the Interior and related agencies. This is $546 million more than last year, and almost $900 million more than the President's budget request. Moreover, the committee provided an additional $700 million to fight the western wildfires as emergency FY 2002 spending.

For the communities fighting these fires and for all who are still recovering from the devastation these fires have wrought, this is welcome news. Communities in Colorado, Arizona, Nevada, Oregon, and other parts of the West need to know that Washington has not turned a blind eye to their very real pain.

I commend my colleague, the gentleman from Washington (Mr. DICKS), the ranking member of the Subcommittee on the Interior of the Committee on Appropriations, for ensuring that this funding was included. I also strongly commend the gentleman from New Mexico (Chairman SKEEN) and the gentleman from Washington (Mr. DICKS) for their success in the funding of a new conservation trust fund created in FY 2001. By including the $1.44 billion, $120 million above last year, authorized for conservation, Congress has kept a promise to expand funding for land acquisition, wildlife protection, and other preservation and conservation programs.

Specifically, the fund provides $100 million for State wildlife grants, $30 million for urban parks and recreation recovery grants, $60 million for Forest Legacy, $44 million for North American Wetlands Conservation Fund, $30 million for Save America's Treasures, $46 million for historic preservation, $50 million for Fish and Wildlife Service landowner incentive programs, $36 million for urban forestry, and $121 million for the Cooperative Endangered Species Conservation Fund.

This is an extraordinary victory for those who care about preserving our Nation's natural resources for future generations, and we thank the gentleman. But in other ways, the measure before us represents a lost opportunity, in its present form. In what is becoming an annual act of neglect, the committee failed to allow for the restoration of some of the unwise cuts made 7 years ago in the funding of those agencies responsible for the country's small but critically important arts and humanities education and preservation efforts.

The bill funds the NEA at $116 million, a level almost 40 percent below the 1995 funding level.

□ 1530

The National Endowment for the Humanities is funded at $126 million, almost 30 percent below the level in 1995. These funding levels fundamentally ignore the successful efforts by both NEA and NEH to broaden the reach of their programs and to eliminate controversial programs, the two reforms that were requested by the majority when they reduced the funding in 1995. It is time to recognize the success of these reforms and give these agencies the resources they need to meet this critical need.

This is penny-wise and pound-foolish. The NEA is essential to the part of the important link between education and the arts. The economic benefits we receive are enormous compared to our small investment in the NEA.

The Arts and Economic Prosperity Study conducted by Americans for the Arts reveals that the nonprofit art industry generates $134 billion in economic activity annually. Over $80 billion of the figure stems from related spending by arts audiences, at the parking lots where patrons leave their cars, at the restaurants where they eat before performances, at the gift shops where they buy souvenirs, and at the motels where they spend the night.

The $232 million that the Federal Government has invested in the NEA and NEH has returned $134 billion to Federal, State, and local economies. I cannot think of any Federal investments that yield that kind of return. Moreover, the public supports continued funding for the NEA because the NEA grants affect every congressional district. This funding is not concentrated in the handful of urban areas, but instead impacts hundreds of communities around the country.

The arts are not only good financial investment for our communities, they greatly benefit the growth and development of our children. A recent study entitled "Critical Links" conducted by the Arts Education Partnership shows that learning and the arts improves critical skills in math, reading, language development and writing, skills badly needed. For example, the study shows that learning dance and drama helped to develop skills and improve creative writing. Skills learned in music increase a student's understanding of concepts in math.

This body can ill afford the short changes that these vital programs provide when we have committed ourselves time and time again to improving the lives of our Nation's children. This is an inexpensive and most effective way to do that.

Mr. Speaker, during consideration of the underlying measure, I will work to ensure the programs are given a fighting chance. I will offer an amendment to give the NEA an additional $10 million and an additional $5 million to the NEA and urge my colleagues to support these efforts.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, this will probably be the first day that I ever vote against a rule because I believe very strongly in the principle of this House that you do not legislate on appropriations, and this is what this rule allows, especially concerning the Commission on Native American Policy.

This is a bill that was introduced into the Committee on Resources and was never heard, never had a markup; and it appears in this legislation. I think that is inappropriate for this body. I believe, in fact, it is meddling with the American Native. There is not one American Native group that supports the provision of H.R. 2244. And to have us now, in appropriations, legislate is wrong.

I hope everybody has my understanding of the American Native and the injustice and wrong that has been done to them all these years by supposedly the Government of the United States, and this is yet another example.

This is an example where this Congress is going to say, we are going to review your activities. We are going to make recommendations and we are going to do to you what was not done by the Justice Department, by the BIA, the FBI, and the Office of Tribal Justice. We are now going to tell you what you have been doing wrong all these years. Now, that is not correct legislative process.

So the first time since I have been in this body with the minority, when we were, and now with the majority for the last 8 years, I am going to vote against the rule because it is the wrong rule. And for those of you in the office, think about it for a moment. It can be you the next time. It can be you the next time where you look up one morning and find out something that you feel very strongly about and that is the American Native population or some other group that you feel equally as strong about, and a bill that has never had a hearing, never any input, no ramifications is now in an appropriations bill. I thought we were above that.

And to the Committee on Rules members, I suggest to you, where did this come from and why? Ask yourselves that.

So I am asking Members listening to this today, vote "no" on the rule, make them come back with a rule that protects the prerogative of the authorizing committee. This rule does not do so.

Mr. Speaker, I rise to oppose the Rule. Section 141 of H.R. 5093 constitutes legislating on an appropriation bill.

H.R. 2244 was introduced by the gentleman from Virginia (Mr. WOLF) in this Congress with the exact same language to create this Commission. The authorizing Committee has chosen not to take up this bill for consideration.

This proposed Commission on Native American Policy would ask whether Indian gaming benefits Indian communities, whether Tribal government gaming is regulated, and whether Tribal government is influenced by organized crime. I would like to point out, that at the gentleman from Virginia's request, the federal government—through the National Indian Gaming Impact Study Commission (NGISC), the Justice Department, and the National Indian Gaming Commission (NIGA) has already addressed these questions a number of times.

In contrast to what was stated by the author of this provision, I want to point out that Indian gaming benefits Tribal communities. The NGISC found that gaming is the only proven method of stimulating economic development in Indian country.

I also want to emphasize adamantly that Indian gaming is well regulated. In a July 3, 2002 Memo from the U.S. Justice Department's Office of Inspector General (with the Criminal Division, the FBI, and the Office of Tribal Justice) found that Indian gaming is not influenced by organized crime. Additionally, the Department of Justice (DOJ) Office of Organized Crime wrote to the Senate Indian Affairs Committee on July 25, 2001, confirming the Inspector General's report in its own independent report. Also, the $5 Million NGISC study found that Indian Gaming is not unduly influenced by organized crime—confirming DOJ reports. Tribes reimburse States over $40 million on State regulated Tribal gaming and have spent over $160 million on Tribal regulation of Indian gaming.

The gentleman from Virginia's provision is wasteful and unnecessary. Millions have already been spent on the creation and study of the NGISC for the same issues. The $200,000 appropriations request to create yet another Commission to study Indian Gaming would not permit the Department of the Interior to accomplish a meaningful study. Lastly, the money for the Commission would come out of the Bureau of Indian Affairs (BIA) "available funds", which could be used for much needed trust administration rather than a study intended to reach pre-established conclusions. BIA is already underfunded in many of its program areas, and we do not need to request another duplicative study on Indian Gaming.

I urge my colleagues to vote to delete Section 141 from H.R. 5093, the Interior Appropriations bill for fiscal year 2003.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding me time.

Mr. Speaker, I rise in support of this rule, in support of the underlying bill; and I wanted to commend the chairman and ranking member of the Subcommittee on the Interior and the Committee on Appropriations for drafting this bipartisan bill.

Mr. Speaker, I hope that more funds shall be made available in the future to meet the many critical needs addressed by this bill and to expand programs that benefit our environment and conserve our resources; however, for fiscal year 2003, I believe that this bill has done great service to the country and restored most of the short-sighted cuts recommended in President Bush's original budget proposal.

There are just a few areas where slightly more remains to be done, and I strongly urge my colleagues to support the amendment that will be offered by the gentlewoman from New York (Ms. SLAUGHTER) and the gentleman from Washington (Mr. DICKS) to provide an additional $10 million for the National Endowment for the Arts and $5 million for the National Endowment for the Humanities.

Mr. Speaker, in 1995 funding for the NEA and NEH was cut by more than 40 percent. Even though $116 million is provided in H.R. 5093 for the NEA, that amount is still $46 million below the 1995 level. NEH funding is similarly inadequate.

The Slaughter-Dicks amendment partially restores funding to these two vital programs. The reasons to support and expand these programs are well documented. The NEA provides critical support for arts education, which has been proven to increase skills in math, reading, language development, and writing.

Grants provided by the NEA and NEH leverage millions of dollars each year in private support for arts projects all across this country.

The NEH has embarked on numerous projects to preserve our Nation's cultural heritage. It is the Nation's largest source of support for research and scholarship in the humanities.

According to a recent study by the Georgia Institute for Technology, the arts industry generates millions of jobs and $134 billion in economic activity every year. Let me repeat that figure: $134 billion annually.

In Worcester, Massachusetts, the nonprofit arts community generates over $48 million annually. It supports 1,445 full-time jobs and generates over $1 million in local government revenue and over $3 million in State revenue.

Over the past 4 years, the Worcester community has benefited from $215,000 in NEA grants. These grants help mount exhibits in the Worcester Art Museum and in the Higgins Armory Museum. They brought arts exhibits to the public schools and school children to the community art centers and museums. Similar grants also supported the Attleboro Art Museum and community arts programs in central Massachusetts.

The NEH at the same time helped to protect some of our Nation's most precious documents and historical archives, which are preserved and displayed at the American Antiquarian Society in Worcester. Other NEH grants supported seminars on history and culture for K through 12 school teachers at the University of Massachusetts in Dartmouth and at Holy Cross College in Worcester.

These programs enrich our cultural heritage, strengthen our educational programs, stimulate our teachers and our children, and contribute to the economic well-being of our communities.

Mr. Speaker, I urge all of my colleagues to support the Slaughter-Dicks amendment when it is debated later on in the Interior bill, and I urge my colleagues to support the rule.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. REGULA), a former chairman of this subcommittee.

Mr. REGULA. Mr. Speaker, this is a good bill, but the rule has a serious flaw and let me point that out. I want to go back to WRDA, which was passed by an overwhelming majority in the year 2000 to do a restoration of the Everglades, and I quote from it: "The frame work for modifications and operational changes to the Central and South Florida project that are needed to restore, preserve, and protect the South Florida eco-system," that is the Everglades, "while providing them for other water-related needs of the region, including water supply and food protection."

Now, today's bill, and this is in the wisdom of the chairman, the gentleman from New Mexico (Mr. SKEEN), and I quote, "Activities of the restoration, coordination and verification team as described in the final feasibility report and programmatic environmental impact statement for the comprehensive review of the Central and Southern Florida project shall be directed jointly by the Secretary of the Army," that is the Corps of Engineers, "the Secretary of the Interior," because this is a national park and it is a national resource. It belongs to all the people of this Nation. "And the South Florida water management district, " because the way that water is managed is important to the people in South Florida.

However, the rule makes it possible and as I understand it there will be a point of order against that section I just read. Now, the net effect of that is to take the Secretary of the Interior out of the management. But I thought we were doing this to preserve the Everglades. And who has a greater stake as an agency than Interior? This bill provides $100 million of Interior money that is collected by taxes from people in 50 State, not just Florida, but 50 States. In the Interior bills in previous years, we have appropriated approximately $1 billion from all the people in the United States. Who better can speak on their behalf on matters of the eco-system, which is provided in WRDA, and matters that are important to the south Florida system, the Everglades? And yet this point of order will take the Secretary of the Interior out of play.

That is wrong. That is absolutely wrong, and I think that is a real flaw in this rule. And I believe that the only way we can correct that and pass this good bill is to defeat the rule and let this section be protected. The Secretary of the Interior who speaks for all of us who are paying the bill, a former head of the Corps of Engineers, estimated it might cost as much as $80 billion to restore the Everglades. Let us divide that by four, $20 billion to do the restoration and vision in WRDA, and yet we will not let the Secretary of the Interior have a voice? We will take that individual out of play?

It is not just this Secretary of the Interior. This is going to be a long-term project, and unless the Secretary of the Interior is in on the ground floor, this will not work. I think we ought to go back, pass a rule and protect the section that gives the Secretary of Interior a voice as the present bill includes, thanks to the wisdom of the chairman and the members of the subcommittee.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to associate myself with the substance of what the gentleman said. This year I went down to Florida, visited the Everglades, met with the top officials because this is a major program for our subcommittee and for the country, as the gentleman points out quite properly. And I completely concur with the gentleman that we should have the Secretary of the Interior as an equal player, and we need to have this Florida water modification program moved forward in order to get water back into the Everglades and into the Florida Bay.

Mr. Speaker, I just wanted to tell the gentleman I am very sympathetic to what he has to say and I appreciate him yielding.

□ 1545

Mr. REGULA. Mr. Speaker, reclaiming my time, such time as is left, and I thank the gentleman for his comments.

If the Secretary of Interior is not part of the management system, the emphasis will be on water, water for everything but the Everglades, and yet I think the people in the United States assume that we are going to restore the Everglades. The one individual who is a key player in all of that will be the Secretary of Interior, and that individual deserves a place at the table.

I would urge Members to support a rule that leaves this section that is in the bill as put there by the wisdom of the chairman.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I am supporting the bill today but understand that the Committee on Rules has chosen not to protect the language that has just been mentioned on the Florida Everglades restoration project. It is my hope that the language remains in the bill and that the language is ultimately adopted.

I would say that this certainly could have an impact on the committee's judgments in the future about the funding levels for this project if, in fact, this language is stricken. I just say that to give everyone fair warning.

The project is one of the most important environmental projects this subcommittee has ever undertaken, but we are at a critical juncture. The chairman and I feel very strongly that the Secretary of Interior has an equal voice, the Army Corps of Engineers and the Florida Water Management District. We have appropriated over a billion dollars in this bill over the course of the project and believe that this language ensures that.

I strongly support this year's bill and sincerely hope that the committee's guidance is maintained.

I also wanted to mention that in the question of the National Endowment for the Arts, we will have an amendment today. The gentlewoman from New York (Ms. SLAUGHTER) and I and others are cosponsoring this amendment at a time when our economy is under great stress.

I think it is very interesting to point out to the membership that there was a very comprehensive economic study done about arts and economic prosperity, and the figure here is that the total economic impact of the arts in our country is $134 billion, and it provides, I think, 4.27 million jobs, and at a time when our economy is hurt, I think we ought to remember that this sector is growing and is very vibrant. One of the reasons for it is the fact that this Congress has stayed with this program and added critical funding.

Also, I would like to point out to my colleagues that a couple of years ago we had had a big fight over CARA, and myself and the gentleman from Wisconsin (Mr. OBEY) offered an amendment creating a conservation trust fund, and at that time, the total spending in the country on conservation was $752 million if we added together the money in the Interior bill and the money in the Commerce-Justice-State bill.

I want to report to my colleagues that in this bill, there is $1.44 billion for these conservation categories, and also, there will be significant additional funding over in the Commerce-Justice-State portion which takes us up to $1.92 billion. So I think we have kept our commitment to the House that we would fund these programs in a more substantial way and including one program, the West Coast Salmon Recovery Initiative, and I want all Members of the House to know that I was out testing the waters this weekend, and the recovery initiative is doing quite well.

I disagree with my colleague. I think we should move ahead, pass the rule, and I hope that nobody will object to these important Everglades provisions.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I thank the gentleman from Washington for yielding me the time, and I rise this afternoon reluctantly to oppose the rule that we have before us today, and I want to cite a couple of problems that I see with the rule.

The first is actually, in my judgment, not the biggest of the problems that we have. The first, however, does require, I think, some observation, and that is, that we have added $700 million to this as an emergency measure to fight fires, apparently. This has been done despite the fact that there is no such request from the administration. This has been done despite the fact that evidently most, if not all, the fires are out, and although there probably is some need for some firefighting funds, this is probably considerably more than what is needed.

Frankly, where this belongs, and there probably is a need for some funds for firefighting, but it should be on the supplemental, and that is where we should be doing this kind of thing. In fact, the President, it is my understanding, has offered to put it on the supplemental, and to find offsets so that we can do that supplemental, get it done, get it done at the level that the President has asked and that the House has passed.

The point that I want to make is that there is another place for the appropriate number. I do not think that is the appropriate number. I do not think this is the appropriate place. I think it ought to be on the supplemental which, by the way, I do not know what is holding up the supplemental. It has been something like 120 days, and we still have not been able to get that done.

That is the small problem that I see with this rule and this bill. This larger problem is that this bill puts us on a path to bust the budget, and I think that that is a big, big mistake. We passed a budget on this floor, basically passed it twice, once as a budget resolution. A second time, we deemed that resolution to be the operative budget since we never got a budget out of the Senate and, in addition, the President has indicated that he wants to stick with the House-passed budget.

I think we owe it to the American people that we do stick to that budget. Let us think about this. We have a war under way. There are huge costs to that war. We have vulnerabilities that require huge expenditures for homeland defense and for security, completely legitimate and important. We are no longer able to set aside the surplus from Social Security as we did, as the Republican-controlled Congress did for a number of years. We are now running a deficit and we are told just yesterday that that deficit for this year alone will be approximately $165 billion. Yet this bill, if we proceed as it is currently contemplated, virtually assures us that we are not even going to stick to the budget that we passed, and let me explain why.

The reason is that the allocation of the total amount of spending that we agreed in the budget resolution, the allocation amongst the 13 appropriation bills, contemplates significant increases in spending much above and beyond the President's request, way above and beyond last year's level, on a handful of bills that are generally relatively easy to pass and that the plan is to pass them early. Well, they will pass easily, bills like Interior and Agriculture and Treasury Postal, where there are big plus-ups above and beyond the President's request.

The problem is to make the numbers add up. The assumption is that we are going to be able to pass Labor, Health and Human Services and VA, HUD, and Commerce-Justice-State, the assumption is that we are going to pass those bills at lower levels, and we know realistically that is not going to happen.

So if we are serious about delivering on the budget resolution that we voted to, that we adopted in this House and that the President wants us to stick with, if we are serious about that, and by all means we should be, then we need to stop this process right now and rethink these 302(b) allocations.

Maybe I am all mistaken and maybe this is just not the case at all and that every one of these bills can and will be brought out and we will pass it and that is the intention here. If so, then I would suggest let us start with the hard ones, not the easy ones. Why do we not start off with CJS right now, why do we not do VA-HUD, why do we not do Labor-HHS now, rather than at the end of this process, when in all past years when we get to the end, we shrug our shoulders and say, imagine that, there is not enough money to pass these bills, and then we bust the budget.

At this time when we are running the deficits that we are, when we have the vital challenges facing our Nation to equip our men and women in uniform, to protect our homeland from the threats that it faces, we cannot afford big increases in bills that are not as vital, and so I urge my colleagues to vote against this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I just want to mention to the Members that there is $700 million added to this bill for firefighting. That may not be enough to make up for the difference in what is needed because of the tremendous fires we have had in the West. In fact, we have heard that number may now be over a billion that is needed, and this is a 2002 supplemental. This is not part of the 2003 bill, and the gentleman from Wisconsin (Mr. OBEY) can, of course, speak on this better than I, but my judgment is this should be added to the 2002 supplemental, the regular supplemental, and if it were, we would obviously take it out in conference, but we need to get this money passed.

The problem we have is that the administration, Forest Service, the BLM need this money. If they do not get it, they will have to borrow from other accounts within the departments, and it will completely disrupt the way they do their business. So we have to be very careful here that we do not completely disrupt the way the Forest Service and the BLM operate because they have many other significant responsibilities.

This is the least we should be doing. We should be doing more, and I cannot imagine why the Office of Management and Budget does not understand that there is a problem out there that needs to be solved, and it is mystifying that they have not made a formal budget request when there is this kind of need out in the West.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me the time, and I wanted to just touch base, Mr. Speaker, on a couple of points about this bill.

This bill is our national environmental policy in many ways because it takes the management of land, the management of resources, policies affecting energy and a number of other issues, and it cobbles together a bill which is truly bipartisan and one that represents many different kinds of philosophies.

Many folks from the East have very strong opinions on this bill. Many from the West have other opinions and so this bill is actually delicately balanced and crafted. Many Members do not appreciate what goes into it, but I can assure my colleagues when we get so many Type A personalities in a body of 435 people, we are not always going to have agreement, but what we do end up with is a good bill, a bill that funds our national parks.

Our national park maintenance program is far behind, a billion dollars. This helps catch them up. We lose lots of assets on our Park Services every year. It helps round out a lot of the boundaries in the Fish and Wildlife and the wildlife refuges that are overdue, Forest Service and Bureau of Land Management, some of the policies that have to do with Western utilization of land.

One of the things that people do not get reminded enough in terms of our national forests is that the concept of national forests started under Theodore Roosevelt, and the idea was that the Federal Government cannot lock up everything, but the private sector also cannot always develop everything. The national forests are not supposed to be national parks. They are working forests, and so it is proper there for public utilization both for recreational and for commercial purposes to take place.

This bill has lots of great research for energy policy. At a time when, unfortunately, our energy bill has stalled in the other body, this bill steps forward without doing a lot of good research like fuel cell technology, things like this. This balances our issues in the Bureau of Indian Affairs, health care on reservations and land disputes and title research.

All of this is in there, Mr. Speaker, and I urge Members to support the rule and support the bill and let us keep our environmental policy in America moving forward.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member.

Mr. OBEY. Mr. Speaker, I thank the gentlewoman for the time.

Mr. Speaker, I think this bill is a perfectly reasonable bill and I intend to support it, but I must bring to the attention of the House certain facts that relate to the overall budget situation of which this bill is only a part. Because while the bill itself has been put together by the gentleman from New Mexico (Mr. SKEEN) and the gentleman from Washington (Mr. DICKS) in a perfectly responsible way, the allocation process under the Budget Act, under which it comes to the floor, is in my view a charade, and I want to explain that.

We are now for the third time going through the same drill that we have gone through the previous 2 years. The Committee on the Budget has imposed on this House a budget ceiling for domestic discretionary programs which is about $748 billion. Everyone understands, except perhaps 30 or 40 people in this House, everyone understands that, in the end, appropriation bills will wind up costing considerably more than that $748 billion. So this is a question of truth in packaging.

The problem that we face, what is happening this year, as was the case in the last 2 years, is that the larger bills which are going to be coming later, the VA-HUD bill, the Labor-Health-Education-Social Security Services bill and the Commerce-Justice-State bill are all being cut by very large amounts below the levels that both sides of the aisle recognize will be needed to eventually pass those bills, in order to, on a temporary basis, free up money which can be put into bills like this one to make it look as though we can pass bills like this and still remain consistent with the overall Budget Act.

□ 1600

Now, the fact that that is being done is not the fault of the Committee on Appropriations. It is the only choice left open to the chairman because of the unrealistic spending levels that are provided for in the budget resolution. But what this means, in the end, is that (while we will be able temporarily to hide from the truth, unfortunately, and we will be able to pass the smaller bills, such as the Ag bill, the Treasury Post Office bill, the military construction bill, this bill, and a few others), come September, guess what! Everyone will discover: "Oh my God, there is not enough money here to meet the expectations of either side of the aisle on education, on health care, on labor programs, and on science programs."

The VA–HUD bill, for instance, has been cut $2.7 billion below the budget request of the President in order to temporarily free up room for bills like this. The Labor-HHS bill is going to be cutting teacher improvement programs. It is going to be cutting Pell Grants and other programs if it is going to comply with the overall spending limits.

So, in essence, we have a charade. And I think the House ought to be facing up to it now versus later. But we are not going to do it because, I realize, that the House leadership has only one play that they know how to run. And as I said in committee, it kind of reminds me of my high school football team, when Dick Gumness was the quarterback and Jack Bush was the half back. We were unscored on the first seven games of the season. Then, in the last game, the opposition, Eau Claire, scored 14 points the first half, we scored 7 points the second half and were driving for a second tying touchdown. We got to about the 20 yard line, and Jack Bush, the half back, had his bell rung on a play. He came back into the huddle, and Dick Gumness, the quarterback, recognized that Jack could not remember any other play, except the one we had just run. So we ran that same play five straight times in order to cross the goal line, because that is the only play Jack could remember.

That is what it reminds me of when I look at what the leadership is doing here. This is the only play they can figure out, so they are going to run it again, again, and again, even if in the end it results in a futile effort and no score. That is the only difference between our game and this one. There is not going to be any score until people face reality.

So sometime between now and October 1 people are going to have to recognize that the budget resolution is a fiction. That does not mean there should not be a budget resolution. There should. But it should be an honest one which honestly, up-front, ahead of time estimates what the cost will be rather than hiding the true cost until the end game.

That is why this Congress is being delayed in so many other aspects of its work. It is a shame, but it is the only play, evidently, that the leadership knows how to run.

Mr. HASTINGS of Washington. Mr. Speaker, may I inquire as to how much time remains on both sides?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Washington (Mr. HASTINGS) has 10 minutes remaining, and the gentlewoman from New York (Ms. SLAUGHTER) has 11½ minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Speaker, I thank the gentleman from Washington for yielding me this time, and I want to congratulate the chairman of our subcommittee, the gentleman from New Mexico (Mr. SKEEN), and the ranking member, my colleague, the gentleman from Washington (Mr. DICKS), for their hard work.

I listened intently to the ranking member, the gentleman from Wisconsin (Mr. OBEY), talking about football plays; and this bill particularly, I guess, can be likened to the idea that there is going to be a Monday morning quarterback coming in always on this bill and trying to rewrite it, and I think that is probably what we will see some of today. It is different when you are in the room trying to solve the problem of allocating money among disparate resources and a limited amount of money for certain functions of the government that deal with our natural resources economy.

I think this bill, while not ever perfect, for goodness sakes, is a very balanced bill; and I think it is a rule that is fair as well. By and large this is a good package, and I think it has taken a tremendous amount of work to get Members on one side of the political spectrum dealing with those on the other and trying to come to a package that makes some sense.

I supported in the subcommittee, and I am very proud of my conservative credentials, fiscally and otherwise, but I supported the additional money for firefighting. I did it because we saw a memo that I hold here from the chief of the forest service basically saying this is such an extraordinary year facing fire costs that we must have additional money or else in the forest service they are simply going to say, drop all other obligations for the forest service and put that effort into firefighting and put the resources into firefighting.

If you are from the West, and I am, and your State is burned up, from time to time, you will be the last to criticize additional money that comes in for firefighting purposes. I say that advisedly to some of my colleagues who are concerned about this extra money. If you are from Arizona, you are not going to feel this way, necessarily. If you are from California or Washington or Oregon or elsewhere that is facing unrestricted firefighting problems, you are going to say, please help us out. And if it is your home that is being destroyed or your neighborhood or your region, you are going to be the first to stand up and say this government can help and we can do so through the Federal system.

So I think we are, within our budget allocations in the interior bill, in a difficult bill to try to balance, we are balancing it with adequate consideration for resources, for conservation, for development, for the arts, the humanities and so forth. It is a tough balancing act to try to get into law, and we are doing it and we have done it.

So I would say to any critics of this measure, be thoughtful about how you criticize, because this is a well-balanced package that I think is very well crafted to do all that we want to do in this bill.

It is important, I think, to know also that the administration supports the fiscal year 2003 Department of Interior and related agencies bill reported by the House Committee on Appropriations. And I hope my colleagues will support the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise today in opposition to the rule and to express my strong opposition to certain provisions included in the interior bill that impact American Indians.

Specifically, Mr. Speaker, I have concerns regarding the language on the Commission on Native American Policy, American Indian trust fund reform, and the Cobell v. Norton litigation. These provisions were not developed in consultation with Indian country. Rather, they were directly included in the House interior appropriations bill. This language will erode the legal rights of tribal governments and block the goals they seek to attain, and these provisions violate House rule XXI, which prohibits legislating on appropriation measures.

Mr. Speaker, in this day and age, the tactic of ignoring tribal government input and advice on initiatives that impact their lives and systems of government is really unacceptable. Congress should set the example for how adequate and meaningful consultation should occur between the Federal Government and tribal governments. The Commission on Native American Policy would mandate that tribal governments engaged in gaming be subjected to additional federally imposed examination and possibly more regulation.

I believe these provisions were put in by Members of Congress who oppose Indian gaming. But tribal governments, similar to State and Federal governments, are democratic systems of governance. If some tribal governments decide to pursue gaming activities as a means of securing economic self-sufficiency, Congress should not stand in their way.

The proposed commission will also divert Federal funds from other badly needed Federal Indian programs. And, in fact, millions of dollars have already been spent studying the need for more regulation of Indian gaming. We do not need to waste money on another study.

Mr. Speaker, I mentioned earlier that I also oppose two other provisions in the bill, one that will reform the American Indian trust fund strategy and the other dealing with the Cobell v. Norton litigation. These provisions will limit a historical accounting of trust funds to the period from 1985 to 2000, which will assume all records before 1985 are correct, and in addition would not provide an accounting for funds held in an account closed as of December 31, 2000.

The tribal governments and representatives involved in the trust fund and litigation procedures are demanding an accounting of their trust funds dating back to the 1800s. Why in the world are some Members of Congress attempting to deny these account holders a full accounting of their trust funds? I have no idea.

These provisions not only serve to undermine existing Federal law, requiring a full accounting of all trust funds, but they also deny a Federal court decision requiring an accounting of all funds regardless of the date deposited. Why are we trying to go counter to a Federal court action and contrary to the existing Federal law that is simply asking for an accounting for funds that are owed to tribes? It makes no sense whatsoever.

Basically, Mr. Speaker, these provisions in the bill are clearly moving in the wrong direction. They do not serve to meet the needs or strengthen the rights of Indian country. They are taking away the rights of Indian country. They are being done without consultation. It sets a terrible precedent on an appropriations bill that we do this without any opportunity for a hearing or any opportunity for consultation with American Indians.

For these reasons, I oppose these provisions, and I oppose the rule. I would ask my colleagues to support two amendments that the gentleman from Michigan (Mr. KILDEE), the gentleman from Arizona (Mr. HAYWORTH), and other Members of the Native American Caucus are going to offer later that would strike these very bad provisions, in my opinion, that impact Indian country in a very negative way.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Florida (Mr. YOUNG), the very distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of this rule. This is an open rule. Unlike some of the bills that come to this floor under closed rules, this is an open rule. The Committee on Appropriations brings open rules to the floor. Members will have an opportunity to deal with this bill responsibly, and this rule makes that in order.

Now, I understand, listening to some in the debate, that there are going to be some who do not like this bill. Well, that is usually always the case that some will not like this bill. But we cannot predict what will happen to bill number 13 based on bill number three. And this is only number three of the FY 2003 appropriation bills.

Now, why is that? Why is this only bill number three, and we here in the middle of July? It is number three because this chairman made a commitment to the President of the United States that this year the first appropriations bill to move through the House would be the defense appropriations bill, and the second one would be the military construction bill. And, Mr. Speaker, this chairman kept that commitment.

While we were doing that, we were also working on a supplemental, which was basically all defense and homeland security. So we have been very busy. Now, these other bills backed up because we have kept that commitment to the President to move the defense bills first. In a time of war, I think that is perfectly acceptable. I think it is a good idea.

But now I understand that because some people might not like what is coming down the road, they are going to use all the dilatory tactics we can on this interior bill, which is the last bill that the gentleman from New Mexico (Mr. SKEEN) is going to present to this House before he retires.

We are providing the membership with a good bill. There may be some differences, and there is nothing wrong with that. That is why we have an open rule. But this is a good bill. It meets the needs and the requirements of this country. There is nothing wrong with this bill. If there are some who think they want to change it, they can offer an amendment. Under an open rule, that is what you do.

Mr. Speaker, it is interesting. I read some comments by some of our colleagues who want to destroy the appropriations process. Do it, if you can. But understand that of all the bills that are considered in this House during a fiscal year, the ones that really have to pass are the appropriations bills, because without the appropriations bills, nothing happens.

So destroy the process, if you want. The budget process WAS destroyed. There is no budget process here, which makes it very difficult to appropriate and confer with our counterparts in the other body.

If what you are about here is just numbers and the destruction of the appropriations process, so be it. But I believe that a vast majority of this House will not agree to that because they understand the importance of the appropriations process to this House.

Mr. Speaker, again, this is a good rule, it is an open rule, and it allows the House to work its will.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I, for one, Mr. Speaker, do appreciate the open rule, and today I will be offering an amendment to the interior bill to encourage our administration to work on terminating the 36 undeveloped oil leases off California's coast. My amendment would restrict this year's Department of the Interior funds from being spent to develop these 36 leases.

It is similar to an amendment the House passed last year by a wide bipartisan margin to stop the sale of leases off Florida's coast.

□ 1615

Offshore oil drilling has long been a controversial issue throughout California. The 1969 blowout in the Santa Barbara Channel dumped 4 million gallons of oil into the sea, killing thousands of marine animals and damaging a huge swath of our beautiful coast. The devastation was so great that it galvanized virtually the entire State against more offshore oil drilling. Many credit this event to inspiring the modern environmental movement.

Since then, dozens of local governments have passed anti-oil drilling measures, and our State has enacted a permanent ban on new offshore oil leasing. Many of us have asked this administration to work on terminating these existing leases. So now I hope that a strong House vote on protecting California's coast and economy can encourage such action similar to the action on behalf of Florida and Michigan's coastlines.

Mr. Speaker, I urge Members to support this amendment and demonstrate the House's commitment to protecting our environment and the economy associated with our coastal resources, particularly in this case, the California coastline.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, this is a very good Interior appropriations bill; but the problem is that the rule failed to protect two very important provisions of the bill that were put in there by the Subcommittee on the Interior and endorsed by the full Committee on Appropriations on a bipartisan basis. These two provisions are critical to protecting a program to restore the natural system of the Florida Everglades. This restoration project is costing the people of the United States literally billions of dollars. It is the most comprehensive and ambitious environmental restoration project perhaps in the history of our world, certainly our country.

What happens is that one of the provisions that is not protected by the rule would ensure that the Department of the Interior is made a full partner with the Army Corps of Engineers and the State of Florida in determining how this restoration project goes forward, and that science is used to make sure that the project is carried out in a way that achieves its objectives.

Without the Department of Interior as a coequal partner, we are not going to get the kind of results that we want here. If the Department of Interior is required to play a subsidiary rule, as this rule would require, then the outcome is going to be less than what we want and money will be sorely wasted.

The other provision that the rule fails to protect is a provision with the way the water would flow, north to south and south to north. Right now the Tamiami Trail which runs east and west across southern Florida blocks the flow of that water. A provision in the appropriations bill, again put in there by the members of the Subcommittee on Interior and endorsed by the full committee on a bipartisan basis, would ensure that a provision which the Congress previously authorized, the purchase of land to make sure that the Tamiami Trail can be raised and the water can flow naturally back and forth, north and south through the Everglades and into Florida Bay, that provision is not protected.

These two essential ingredients of the Florida Everglades Restoration Plan, costing the taxpayers of this country billions of dollars, are not protected in this bill. That is why the rule should be defeated.

Some Members might say we are legislating on an authorization bill. That is nonsense. These provisions ensure that what the Committee on Appropriations does, which authorizes money to be spent, that that money is going to be spent properly, cleanly, honestly, scientifically, so that we get the results that we want and need in this restoration project. Politics and not science is going to rule the day if this rule goes forward. That is the problem with this rule, and that is why it should be defeated.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I rise in opposition to this rule, and associate myself with the words of the gentleman from Alaska (Mr. YOUNG), the former chairman of the Committee on Resources.

The Committee on Appropriations has breached rule XXI which forbids legislating on an appropriations bill. They have breached it in two places in a very delicate, complex area of Indian law which is under the jurisdiction of the Committee on Resources. We have been working on that area of law very carefully and over a number of years, and have within sight, I believe, a solution to the problems which they seek to address in this appropriations bill.

I went to the Committee on Rules last night asking them not to protect these two breaches of rule XXI, but they would not give me that protection, would not give the House that protection. Therefore, I oppose this rule. I think this breach is an insult to the authorizing committee, and it is really an affront to the Native Americans of this country with whom we have worked closely on the Committee on Resources to resolve their problems.

Ms. SLAUGHTER. Mr. Speaker, I yield 2¼ minutes to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, my comments are very similar to several speakers who have risen on the rule. I am very much in support of many provisions in the bill, but the rule, unfortunately, specifically in terms of not protecting two very significant issues on Everglades restoration, I urge my colleagues to look, understand the rule, and urge defeat of the rule for those very specific and unfortunate nonprotection issues.

Those are the only two issues where points of order are not waived. It was a very conscious, very specific decision that was made in the Committee on Rules. Members need to understand the specifics about what, and we are getting on some local, local issues. One of the provisions which has been mentioned deals with the Department of Interior representation in the process to determine literally how $8 billion is going to be spent. There is a real concern that that component, without the Department of Interior's involvement, is going to lead to results that this Congress does not want. If we pass the rule, that provision will be taken out. There has been incredible bipartisan support, people on both sides of the aisle have spoken against the rule for this very reason.

In the State of Florida, all of the 23 Members of the House have supported Everglades restoration efforts continuously at a legislative level. When we have had Democratic governors, Republican governors, candidates for President from both sides of the aisle have vigorously supported this restoration process. But in the bowels of the legislation to take out the Department of Interior really in a sense in the dark of the night in a specific way would be very unfortunate and would have the exact results that publicly no one has the guts to stand up and articulate a reason for doing it because it is such an untenable political position.

Mr. Speaker, there is a specific area called the 8½ square miles. There are 60 homes in that area right now. It is in my district. Those homes are probably going to have to be condemned. They are in the middle of a floodplain. However it happened, this provision prevents those homes from being condemned. They need to be condemned for Everglades restoration. This provision prevents it, and can actually prevent the entire project.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, first I congratulate the gentleman from New Mexico (Mr. SKEEN) who is, as the gentleman from Florida (Mr. YOUNG) said, is going to be bringing forward his last appropriations bill before he retires, and so I would like a great round of applause for the gentleman from New Mexico (Mr. SKEEN).

Mr. Speaker, this is, as was said so well by the gentleman from Florida (Mr. YOUNG), an open rule. There has been a lot of confusion about this process, but I want to take a moment to go through a couple of provisions raised by Members.

I oppose authorizing in appropriations bills. I do not believe it is the right thing to do, but sometimes it is necessary. We in the Committee on Rules have worked very diligently to ensure that we address the prerogative of the authorizing committees when we proceed. What that basically means is on rule XXI, which the gentleman from Michigan (Mr. KILDEE) just raised as an issue, if we have opposition that comes from the chairman of the authorizing committee, we in fact do not provide that waiver of rule XXI. So what we have done is we have received a grand total of one letter, and I have it here someplace, and it came from two committee chairmen raising concerns about legislating in an appropriations bill, and it did not have to do with the Indian provisions because under the open amendment process, any Member can rise and strike those provisions that were included in the bill.

The gentleman from Utah (Mr. HANSEN) is here. He is chairman of the Committee on Resources, and he did not choose to object on that issue. So for that reason, we in fact did provide the protection; but a striking amendment will still be in order.

The letter we did receive from the gentleman from Utah (Mr. HANSEN) and from the gentleman from Florida (Mr. YOUNG) deals with the two Everglades provisions. We found strong opposition from the authorizing chairmen who have jurisdiction there. So what we did do, what we chose to do was to make sure that those two issues could in fact be open to a point of order and be stricken.

Now, I will tell Members that every Member of this House who serves on an authorizing committee will, I believe, have some issue that they hope that the Committee on Appropriations does not address, and they, in working with their chairman, can get a letter that is sent to us to ensure that that issue is addressed appropriately in the Committee on Rules.

We have followed this pattern, which has worked very effectively on both the Indian gaming issue and on the Everglades issue and other concerns that were raised. So I will say to the gentleman from Pennsylvania (Mr. TOOMEY) who raised some concerns, he has the right to strike any provision that is in this bill, and he can offer an amendment to do that. But as the gentleman from Florida (Mr. YOUNG) said, we have to proceed with the appropriations process. It is a priority. It is a constitutional responsibility that we have to appropriate the dollars to deal with our priorities.

I urge Members to support this open rule which is very fair, addresses the concerns of both the authorizing committees and the Committee on Appropriations. Let us pass the rule and pass the bill itself. I urge Members to join with us in doing that.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HINCHEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

### PARLIAMENTARY INQUIRY

Mr. HASTINGS of Washington. Mr. Speaker, parliamentary inquiry.

Mr. Speaker, two points. Am I correct the gentleman has to be on his feet when the vote is called, and it has to be done in a timely manner?

The SPEAKER pro tempore. The Chair recognized the gentleman from New York.

The gentleman from New York objects to the vote on the ground that a quorum is not present and makes the point of order that a quorum is not present.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Following this vote, pursuant to clause 8 of rule XX, the Chair will then put the question on the remaining motions to suspend the rules on which further proceedings were postponed earlier today and then on the motion postponed from Monday, July 15.

Votes will be taken in the following order:

H.R. 4866, by the yeas and nays; and

H. Con. Res. 395, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote in this series.

The vote was taken by electronic device, and there were—yeas 322, nays 101, not voting 11, as follows:

[Roll No. 302]

YEAS—322

Ackerman
Aderholt
Armey
Bachus
Baker
Ballenger
Barr
Barton
Bass
Bentsen
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Castle
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (CA)

Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeLay
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinojosa
Hobson
Hoeffel
Holden
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meeks (NY)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pastor
Paul
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Towns
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (FL)

### NAYS—101

Abercrombie
Akin
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Bereuter
Blumenauer
Borski
Brady (PA)
Brown (OH)
Camp
Carson (OK)
Chabot
Clayton
Condit
Conyers
Costello
Cunningham
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeMint
Deutsch
Dingell
Doggett
Fattah
Filner
Flake
Goode
Green (WI)
Gutknecht
Hinchey
Hoekstra
Holt
Honda
Hooley
Hostettler
Inslee
Jackson (IL)
Johnson, Sam
Jones (NC)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lee
Lofgren
Luther
Maloney (CT)
Maloney (NY)
McCollum
McDermott
McKinney
McNulty
Meek (FL)
Menendez
Miller, George
Myrick
Napolitano
Pallone
Payne
Pence
Phelps
Pitts
Pomeroy
Rahall
Regula
Rivers
Ryan (WI)
Ryun (KS)
Sánchez
Sanders
Schakowsky
Shadegg
Smith (MI)
Solis
Stark
Terry
Thompson (CA)
Thurman
Toomey
Udall (CO)
Udall (NM)
Velazquez
Waters
Waxman
Weller
Wexler
Woolsey
Wu
Young (AK)

### NOT VOTING—11

Blagojevich
Bonior
Hastings (FL)
Hilleary
Lipinski
Mascara
Nadler
Pascrell
Riley
Schaffer
Traficant

□ 1655

Messrs. HOEKSTRA, BLUMENAUER, SANDERS, LUTHER, JACKSON of Illinois, KENNEDY of Rhode Island, CONYERS, DAVIS of Illinois, and BECERRA, and Ms. MCKINNEY, Ms. HOOLEY of Oregon, Mrs. NAPOLITANO, Ms. SOLIS and Ms. VELÁZQUEZ changed their vote from "yea" to "nay."

Mr. STRICKLAND and Mr. SHAW changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. PASCRELL. Mr. Speaker, I was unavoidably detained due to a personal matter and was unable to be present this afternoon for floor votes.

If I had been present, I would have voted in the affirmative on H. Con. Res. 395, H.R. 4866, and H. Res. 483.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

## FED UP HIGHER EDUCATION TECHNICAL AMENDMENTS OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4866, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and pass the bill, H.R. 4866, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 246, nays 177, not voting 11, as follows:

[Roll No. 303]

### YEAS—246

Abercrombie
Aderholt
Akin
Allen
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter

Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—177

Ackerman
Andrews
Baca
Baird
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Bishop
Blumenauer
Borski
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Moore
Moran (VA)
Murtha
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Blagojevich
Bonior
DeLay
Hastings (FL)
Hilleary
Lipinski
Mascara
Nadler
Pascrell
Riley
Traficant

☐ 1706

Mr. MCINTYRE changed his vote from "yea" to "nay."

Mr. BERRY changed his vote from "nay" to "yea."

Mr. GUTIERREZ changed his vote from "present" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

## CELEBRATING 50TH ANNIVERSARY OF CONSTITUTION OF COMMONWEALTH OF PUERTO RICO

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 395, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 395, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 389, nays 32, answered "present" 3, not voting 10, as follows:

[Roll No. 304]

YEAS—389

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
McCarthy (NY)
McCollum
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—32

Bonilla
Burton
Capuano
Conyers
Crowley
Delahunt
Deutsch
Farr
Fattah
Filner
Gilman
Goode
Houghton
Kennedy (RI)
Larson (CT)
Lee
Matsui
McCarthy (MO)
McGovern
McKinney
Meeks (NY)
Olver
Pallone
Rohrabacher
Sánchez
Serrano
Smith (WA)
Stark
Tancredo
Udall (NM)
Waters
Weiner

ANSWERED "PRESENT"—3

Engel
Gutierrez
Miller, Jeff

NOT VOTING—10

Blagojevich
Bonior
Hastings (FL)
Hilleary
Hyde
Mascara
Nadler
Pascrell
Riley
Traficant

☐ 1715

Ms. McCARTHY of Missouri and Mr. DEUTSCH changed their vote from "yea" to "nay."

Mr. LANGEVIN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read:

"Concurrent resolution celebrating the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico.".

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. ALLEN. Mr. Speaker, I was unavoidably detained earlier this afternoon. If I had been present, I would have voted "yes" on rollcall vote No. 299, "yes" on rollcall vote No. 300, and "yes" on rollcall vote No. 301.

## GENERAL LEAVE

□ 1715

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5093, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 483 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5093.

□ 1717

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Mexico (Mr. SKEEN) and the gentleman from Washington (Mr. DICKS) each will control 30 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. SKEEN).

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a good bill and a generous bill given our Nation's priorities since the terrorist attack on September 11, 2001. It provides $19.7 billion for fiscal year 2003. It increases funds for operating and maintaining our public lands. It increases funding for Everglades restoration, weatherization grants, and Native American programs.

Funding for the U.S. Geological Survey and the National Fire Plan has been restored and funding for Payments in Lieu of Taxes and critical energy research has been increased.

I want to thank the subcommittee members and the full committee members for their help in crafting this bill that balances many competing needs.

With the help of my good friend and committee ranking member, the gentleman from Washington (Mr. DICKS), the bill maintained past commitments Congress has made on important environmental programs.

The professional staff of the Subcommittee on the Interior of the Committee on Appropriations once again has done a superb job on this bill. I would like to take this opportunity to personally thank Deborah Weatherly, Loretta Beaumont, Joel Kaplan, Chris Topik, Andria Oliver, and Bob Glasgow.

Mike Stephens on the minority staff and Lesley Turner on the gentleman from Washington's (Mr. DICKS) personal staff have been a great help and great to work with.

The personal staff of subcommittee members also have helped us get this bill to the floor.

I want to extend a special thanks to Paul Ostrowski from my office and Jim Hughes, who left my office a short while ago to work at the Department of the Interior, where he will never be heard from again.

This is the last bill that I will manage as a member of the Committee on Appropriations. I would like to thank all of the current members of the committee as well as the many former members with whom I have served over the past 18 years. I cannot begin to tell you how much your friendship has meant to me.

I want to invite each and every one of you to come visit my district in New Mexico, with its great food and wonderful culture that go together and natural resources, as well as our famous Roswell aliens from outer space.

From the Gila Cliff Dwellings to the White Sands Monument, from the Nation's first wilderness area to the Carlsbad Caverns, from the Roswell Alien Museum to the Bosque Del Apache Wildlife Refuge, from Old Mesilla, the capital of New Mexico-Arizona territory, to the Isleta Indian pueblo, and much more, we offer you an experience that you can find nowhere else.

Vaya con Dios.

Mr. Chairman, I reserve the balance of my time, and everybody should be very thankful of that.

Mr. DICKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I rise to urge Members to vote for the Slaughter-Dicks, amendment which will be offered later today.

The arts are an integral part of our Nation's heritage and the arts represent the treasures of our Nation. They help children learn. Through arts education, millions of our children enter a world where they discover music, drama, dance, as well as the visual arts.

And the arts are not only important for cultural enrichment in the education of our children. From coast to coast, the arts are economic engines in our Nation's communities. The arts contribute $134 billion a year to our economy, according to a recent study. And in my hometown of St. Louis, the arts contribute almost $500 million to the local economy and are a source of employment for thousands of people.

If this amendment passes, funding for the arts and humanities would be increased by just $15 million. That is a modest increase, but the benefits are huge. I think it is time, once and for all, to end the assault on funding the arts that we have seen over the past years.

I hope today we can cast a bipartisan decisive vote. I hope we will send a strong signal. I hope we will demonstrate that the Congress is committed to enriching our culture and strengthening our education in our economy.

Jack Kennedy said in 1962 that one of the "fascinating challenges of these days" is "to further the appreciation of culture among all the people, to increase respect for the creative individual, to widen participation by all the processes and fulfillment of art."

Vote "yes" on this important amendment. Stand for the arts and stand for the future of our children and our families.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. YOUNG), chairman of the House Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman, the chairman of the subcommittee, for yielding to me this time.

As I think most of us know, this will be the last bill that Chairman SKEEN will present to this Congress before he enjoys his well-deserved retirement. I think that I can truly say that, of all the Members in this House, I do not know of anyone who is more respected and more loved by his colleagues. Those who support and endorse his work, and even those who disagree with his work, understand that JOE SKEEN is a real statesman, a real gentleman, and someone we have come to learn and trust and respect and love over the years.

JOE came to Congress under an unusual situation. He was elected as a write-in candidate. I do not know a lot of people who have come to Congress as a write-in candidate. It does not happen very often. But JOE SKEEN was such an overwhelming personality and such a hard worker in his district that people understood and respected him.

When our party became the majority party in Congress, JOE became the chairman of the Subcommittee on Agriculture of the Committee on Appropriations. He did a really good job. He helped to create farm and agriculture packages that were workable and that were good for our farming communities.

Since then, because of term limitations placed on chairmen, JOE became chairman of this Subcommittee on the Interior. Last year he produced an excellent outstanding interior bill; and this year once again Chairman JOE SKEEN, along with his partner, the minority ranking member, the gentleman from Washington (Mr. DICKS), has produced a very good bill. It might not satisfy everybody. It might not be enough spending for some. It might be too much for others, but all in all it is a good bill. And it is a bill that should get a substantial vote in this House when we finally get to voting on the bill itself. And as we go through the amendment process, we will listen to what Chairman SKEEN has to say because he is a strong leader on this issue.

But my primary comments were not to be about the bill itself. They were to be about the chairman who produced the bill and the members of his subcommittee. He is just a very much-revered member of Congress. He is loved and respected in his own home district. I know it is not proper to speak directly to a Member on the floor; but, JOE, I will tell you that as chairman of the committee I will miss you. You have been a long-time friend. I could not respect you more than I do. And in the most sincere way, let me tell you that as a human being, I love you, JOE SKEEN. You have been a tremendous, tremendous positive effect on this House of Representatives.

Mr. DICKS. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY), a very valued member of the subcommittee.

Mr. HINCHEY. Mr. Chairman, first of all, I want to add my thoughts to those that were just expressed on behalf of the gentleman from New Mexico (Mr. SKEEN).

It has been a great pleasure for me as a member of the Committee on Appropriations to serve under the chairmanship of JOE SKEEN, first as chairman of the Subcommittee on Agriculture, and then second as the Subcommittee on the Interior. As I have said before on this floor, I have never met a more affable man than JOE SKEEN. He is a delightful person and an absolute pleasure to work with. I am going to miss him very, very much.

I also want to say that I strongly support the interior appropriations bill before us today and congratulate the gentleman from New Mexico (Mr. SKEEN), the chairman, and the ranking member, the gentleman from Washington (Mr. DICKS), and their staffs for crafting this bipartisan bill that will help protect our natural and culture treasures.

This is dramatic improvement over the administration's proposal. The administration's budget played a shell game with conservation, cutting funds from many important Federal accounts to make up an illusionary increase in the Land and Water Conservation Fund.

The President's request would have gutted programs protecting urban parks, wetlands, heritage and cultural preservation, water quality and forest research. I am grateful that our subcommittee rejected the administration's approach which would have prioritized resource exploitation over preservation, would have gutted the Federal Government's ability to protect and acquire nationally-significant lands, and would have abrogated the Federal responsibility to manage Federal lands by turning this responsibility over to private interests.

□ 1730

I am pleased that the Chairman's mark honors our commitment to conservation spending by providing the full $1.44 billion for the historic conservation programs established by this subcommittee 2 years ago, an increase of $117 billion or 9 percent over the current level.

This program includes important funds for Federal land acquisition, urban and historic preservation, wetlands protection and State wildlife grants. I applaud the Chairman's efforts on behalf of our national parks.

The bill before us today takes a step in the right direction to address the significant funding shortfalls facing our national parks, increasing the operating budget of the parks by $21 million above the administration's request. The bill restores cuts that were proposed to the Park Service's national heritage service area, and it fully restores the $30 million urban parks conservation fund which helps local communities meet urban recreation needs.

The bill provides some much-needed direction to the Smithsonian related to executive pay and corporate contributions. In fiscal year 2001, 70 percent of the Smithsonian's budget came from appropriated funds from this Congress. Only 5 percent of the Smithsonian's funding came from corporations. Unfortunately, while corporations are the smallest source of funding, for a price the Smithsonian is letting the corporations associate their names with this revered institution, and increasingly to have an influence on what displays are promoted. I urge the regents of the Smithsonian to reconsider this decision, as directed by the report, and correct their error.

Finally, Mr. Chairman, again to congratulate Joe Skeen on his service as chairman of this subcommittee, on his service on the Committee on Appropriations, on his service to the State of New Mexico and to the United States of America. It has been a great pleasure to serve with this gentleman.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I am pleased to support this bill and point out that the chairman and the ranking member have done a superb job of dealing with something that is our Nation's jewels and that is our parklands.

About a third of America that is public lands is fortunate to have the kind of leadership that JOE has brought to this assignment. Being a major landowner in New Mexico himself, he understands how vital land is to the health of a Nation and how vital these areas that we preserve are for all of the people.

I particularly was pleased at the increase to the backlog maintenance account because that is a severe problem in our parks, forests and public lands, and we need to continue to work on reducing. We have the same problem with the Smithsonian.

Also, I was pleased to note that he increased the conservation amount because, again, conservation is one of the ways that we can preserve these wonderful lands for future generations. I note, also, that there is a $96 million increase in the Everglades funding. Some of my colleagues might have heard me speak on the rule, and I opposed it for the reason that it gives a right to exercise a point of order that would take the Secretary of Interior out of the loop on the management of the Everglades. After all, the Everglades is a national park and deserves the leadership of the Secretary of Interior. The $96 million in this bill, added to $1 billion that has been appropriated so far by this subcommittee, makes it very clear that the Interior Department is a player. I hope that those who have the right to do this under the rule will not exercise the point of order on the bill that takes out the Secretary of Interior from a leadership role, along with the Corps of Engineers and the South Florida Water Conservation District.

We will see how it plays out, but again, JOE, you have been a wonderful member of the subcommittee. We have served together for many, many years, and I will miss you. I hope you get rain out there as a reward when you get home because even Ohio is dry these days, and we have some sympathy for your problem of the absence of moisture. We will miss your insights and your leadership on this subcommittee. You bring it the firsthand knowledge of how vital all of this is to our Nation's future and to the preservation of this wonderful heritage we call our public lands, and we thank you for that great service that you have given us.

Mr. DICKS. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY), the distinguished ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I thank the gentleman for the time.

Let me simply say that, with respect to the bill, that I fully support it. I am especially pleased by the funding level for the new conservation trust fund, which is consistent with the agreement that was first worked out on that item 3 years ago when we converged with the Senate in conference. The result will be that it again will be fully funded, and that commitment will be honored.

I would like to spend the remainder of the time simply discussing our good friend JOE SKEEN. I said in committee and I want to say again publicly on the floor that many of us are familiar with Will Rogers' comment that he never met a man that he did not like. But as I said in committee, I do not believe there is ever a person who met JOE SKEEN who did not like JOE SKEEN.

JOE SKEEN has brought to this Chamber honesty, integrity, straight dealings with everyone in this institution. He has brought to this institution a love for the processes of democracy, and he has brought to this institution a fundamental decency which shows through in virtually everything that he does.

After you serve in this place for a while, you get to understand what is behind the partisan label, what is behind the ideological label, and you can tell whether someone in this House puts their ideology first, puts their party label first, or puts their duty to this institution first. We can all be partisan, we can all be strongly ideological from time to time, but in the end, what this institution needs from each and every one of us is respect for the processes of this institution, respect for people who we work with every day, and a recognition that from time to time there is nothing wrong with trying to make the work a little bit easier for each other, and JOE SKEEN has brought that attitude to this Chamber every day that I have known him.

I am proud to have served with him as a colleague, and I am pleased to have had him as a friend. We wish you Godspeed, and I think it is fair to say that there is a great deal of love in this Chamber on the part of all of the Members directed to you, JOE, and I hope you recognize that.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Chairman, I thank the gentleman for yielding me the time, and I thank my good friend from New Mexico for the recognition and for all the work he has done in this House and the work that he has done on this bill.

I appreciated the comments of the gentleman from Wisconsin, and though from time to time we have disagreements, we are in unanimity for our affection toward the affection of the subcommittee and my neighbor from New Mexico.

Mr. Chairman, I rise and come to the well for this time of general debate to make note of the fact that we have some differences in this, and indeed, there will be an amendment process, but I felt it incumbent upon this Member, Mr. Chairman, to come to the well to offer my thinking overall in terms of this appropriations bill and to clear up any misconceptions that may have been reported by assumption and/or innuendo.

The West has been ravaged by wildfire and the people of the 6th District of Arizona and the White Mountains have suffered the worst fire disaster in our history, hundreds of homes demolished, thousands of jobs lost. I thank my friend from Washington State for offering some changes that have been added here. In a bipartisan basis, this legislation deals with those challenges and problems.

Mr. Chairman, in a perfect world, I would love to see it in an emergency supplemental, but there are several hurdles that may preclude that fact. I appreciate, Mr. Chairman, the efforts of the administration to offer reprogramming of funds, but I do not want to see fire suppression or further fire prevention jeopardized.

As I look around this Chamber, I see my good friend from Michigan and others who share my concern for the rights of the first Americans, and there will be amendments we will offer to try and perfect some things that we have a disagreement on, but Mr. Chairman, for my people who have suffered, this legislation at the end of the day offers me help with that problem.

Mr. DICKS. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Chairman, I thank the gentleman from Washington State for the time.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want the gentleman to know, first of all, a couple of important facts.

One, the statement of administration policy is here, and it states that they support the bill. It gets into the question of $700 million, and one of the things it says is, "Nevertheless, should Congress seek to add additional contingent emergency funds for fiscal year 2002, the proper place for consideration of this funding is in the context of the pending emergency supplemental."

I am perfectly willing if the conference committee on the supplemental appropriations bill would take the $700 million. We could get it to the agencies faster than having it in the 2003 bill because I know the gentleman's concern is that the Forest Service and the BLM are running out of money. Yes, they can do transfers, but it means that all of their other programs suffer because of that.

So we are trying to get this money out there, and I have never been so frustrated. Maybe somebody could tell Mr. Daniels that there is fire in the West and we need this help.

Mr. HAYWORTH. Mr. Chairman, I thank my friend for the time.

I think, Mr. Chairman, what we are seeing on the floor is the process at work to help solve the problems. I have sat down with the administration. We do need to have the funds, whether in this bill or via supplemental. I pledge to work with the gentleman. I appreciate the collaborative efforts here to solve a problem, and it is in that spirit I come to the well looking forward to the amendment process and ultimately getting the money to the people who need it most.

Mr. DICKS. Mr. Chairman, I yield myself 4 minutes.

First of all, I want to join those who have complimented our chairman, the gentleman from New Mexico (Mr. SKEEN). He has done a great job as chairman of the Subcommittee on the Interior, coming after the gentleman from Ohio (Mr. REGULA) who was another outstanding chairman, and I would like to look back to the days of Sid Yates, who was also an outstanding chairman.

We have had great leadership and great bipartisan cooperation on the Subcommittee on the Interior, and the chairman properly mentioned all the staff people. I just do not think we could have a better staff on both sides of the aisle than we do on the Subcommittee on the Interior. They work with all the Members. They listen to everybody's concerns. This truly is a bipartisan bill that deserves the support of this institution.

I see the gentleman from Alaska, my good friend. I also want to mention that we are very pleased, for the third year in a row now we have fulfilled the commitment when we created the conservation trust fund a few years ago. When the other body would not enact the gentleman's legislation on CARA, we stepped in, and this year I want my good friend to know that we have taken the money from the original 2000 account, about $680 million, we are up to $1.44 billion, and the whole, we put Commerce-Justice-State together with Interior, $1.92 billion. So we are keeping our commitment and living up to what we said that we would do in the days of CARA. So I am proud of that.

The gentleman from Ohio (Mr. REGULA) worked on that. This has been a bipartisan effort. The gentleman from Wisconsin (Mr. OBEY) was involved. This has been a bipartisan effort on creating this conservation trust fund that allows us to deal more appropriately with all of these problems.

The other thing I am pleased about in this bill is an initiative that I took on dealing with the problem in the Northwest of culvert replacement.

□ 1745

The forest service and the BLM, have not been doing a good job in replacing culverts that block salmon, from being able to go up and down the Columbia River, up and down all the rivers in the Pacific Northwest. There are about 5,000 of these culverts that need to be replaced, and we have to start on that this year. This is a modest start, but one that I am proud of and that the committee responded to due to a GAO report in a hearing that we had on this issue this year.

So I am pleased to be here to support this bill, and I want to also compliment the gentleman from New Mexico (Mr. SKEEN), who has had an outstanding career, 22 years here. He has no enemies in this institution. He only has friends. And he will go back to New Mexico and enjoy the good life, as he deserves; but I want everyone to know that he has been a joy to work with. He has been a friend. We have traveled together, particularly on the Subcommittee on Defense, and I have really enjoyed working with him. We are going to miss you, but we are going to fight and get this bill passed.

And I want to remind everybody on that side of the aisle, this bill is supported by the Bush administration, and I think that is important. They accept the level. They say they would like to have this trimmed or that trimmed to have money to add back into things they want, but they accept this bill. So I hope that the Members on the other side of the aisle will join us in a bipartisan spirit and get this bill passed tonight. I hope we can do it in a timely way.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I want to thank the chairman; and as a member of the freshman class that we were part of, I want to pay tribute to you. God bless you, Joe, and your family. We are going to miss you, but we are going to stay in touch. You have been a good man. God bless, Joe.

Mr. Chairman, there is an amendment in here that is going to be offered to strike an amendment, which would, I believe, help Indians. Keep in mind that 80 percent of the Indians in the United States have received no money from gambling. None. None. Not one dime. Fifty percent of the gambling money has gone to 2 percent of the Indians. What are they afraid of?

Among Indians, the poverty level is 26 percent, and yet they do not want a commission to look at it. Health care among Indians, stroke, lung cancer, breast cancer, suicide is the highest in the Nation; and yet they do not want to look at it. The death rates among Indians is higher in seven categories; alcoholism, 620 percent higher, and yet they do not want to look at it; TB, 533 percent higher, and they do not want to look at it; diabetes, 249 percent higher, and they do not want to look at it. And on and on and on.

I would urge the defeat of the amendment that is going to be offered by the gentleman from Michigan and the gentleman from Arizona. My amendment to strike is a good amendment. There are people on the commission on both sides, those who are for gambling and those who are against gambling. We have an opportunity to bring economic development, good housing, good health care, and good education for the Indians. I urge the defeat of the amendment if it is offered.

If my colleagues really care about Indians, what are you afraid of? What are you afraid of, an 18 month commission to look back and make recommendations? What are you afraid of? Let us do something to help the Indians. Let us defeat their amendment and keep the language we have in the bill.

Mr. DICKS. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from Washington (Mr. DICKS) has 17½ minutes remaining, and the gentleman from New Mexico (Mr. SKEEN) has 16½ minutes remaining.

Mr. DICKS. Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Chairman, first of all, I want to congratulate the gentleman from New Mexico on a fine job of putting this appropriation bill together.

As the chairman of the House Committee on the Budget, I am pleased to report that this bill is consistent with the House concurrent resolution for the budget for fiscal year 2003, including the levels expressed in the subcommittee's 302(b) allocation. The levels of conservation-related spending in the bill are also consistent with the statutory caps.

So I will support this appropriations bill, but I would like to share with my colleagues one concern and a warning about the process. The bill designates $700 million for emergency wildland fire suppression for 2002. We are all concerned about the wildfires that have destroyed lives and property in Arizona, Colorado and elsewhere. However, if the money is urgently needed to meet a current unanticipated emergency, the fiscal year 2002 supplemental is the more appropriate vehicle to pursue this objective; and I would urge that approach by my colleagues in the House, the other body, and the administration.

Overall, I would also like to mention some concerns I have with the direction of the process for appropriations. While this bill is within its 302(b) allocation, it is approximately $700 million more than comparable levels in the President's budget. In addition, the Agriculture, Treasury Postal appropriation bills that we are expected to see on the floor later this week are also $700 million more than the President's request and our resolution.

At this rate, we are going to have to reduce spending for VA–HUD, Commerce, State, and Justice and other appropriation bills by several billion dollars to comply with the budget resolution. I hope that Members of the Committee on Budget and the Committee on Appropriations, as well as colleagues on both sides of the aisle, will work together to pass the remaining bills at the levels that are sustainable through the entire appropriations process.

We just heard a report today by the Office of Management and Budget on the midsession review for the budget and for the deficit that we are currently operating under. Spending restraint is the only way to get out of the dire circumstance that we find ourselves in. I urge our colleagues to continue to be responsible as we work through this process, and I urge support for this appropriations bill.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I first want to join all my colleagues on both sides of the aisle in saying what a great chairman and a great Representative JOE SKEEN has been. I have enjoyed working with him and serving on his Subcommittee on the Interior, as well as the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations. I do not think a finer gentleman has ever been in the United States Congress.

I was very glad that this committee, on a bipartisan basis, joined together to honor him with an appropriate tribute to him in the form of a visitor's center.

I want to say also, Mr. Chairman, that this bill can be a very difficult bill because we are 435 independent type-A personalities in this body, with geographical differences, philosophical differences and, then provincial differences which can sometimes split us up. But this bill, in a final product, is cobbled together and is a kaleidoscope of philosophies and attempts to do a lot of difficult things with about a $19 billion budget, a budget which I will say, although is slightly higher, is only about 2 percent higher than the funding for last year. I wish we could hold the line on all Federal funding to that modest 2 percent increase. But we have Members on both sides of the aisle who have demanded more studies, more land acquisition, and more increases; and so that is one of the reasons why the bill is higher than last year.

But this bill has good stuff for the National Park Service, catching us up on maintenance. It has money for firefighting, both for clearing out forests and putting more money in for emergency firefighting. There is money for energy research. At a time when we have a stalled bill in the other body that we cannot move forward, here is an opportunity to put a lot of the great research forward that we need in terms of our national energy policy. There is money for the first Americans, Native Americans, in the Bureau of Indian Affairs. We have a lot more money for tribal health services and a lot of needed issues that they have. There is money for the PILT grants, payment in lieu of taxes, and something for our local governments.

This bill has a lot of great stuff for our national environmental policy, and so I strongly support it and join my colleagues on a bipartisan basis to move it forward today.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, it is not very often in a body like this that we get to honor someone like JOE SKEEN.

I remember Mr. Natcher. I was a young freshman Member of Congress in the minority; and I was upset, like I am about the Wolf portion of this bill today that is a strike against Native Americans, and I was so upset I remember Bill Natcher said, "Well, Duke, in Kentucky, we have horse races. And sometimes those horses come out of the block so fast that they break their legs and we have to shoot them." And he says, "If the gentleman will settle down, I will help him with his amendment." Bill Natcher was like that, and JOE SKEEN is the same way. He is a gentleman, and he works in a bipartisan fashion. You will be missed here, JOE; but we will not forget you.

I rise in support of the Hayworth amendment. There was a gentleman on the Republican side that offered an amendment in committee that was legislating on an appropriations bill. That is supposed to be against the rules, and yet the Committee on Rules protected his amendment. That is wrong. We stopped Members' amendments on the other side. The gentleman from Wisconsin (Mr. OBEY) knows and objects to legislating on an appropriations bill. We do it from time to time, but it does not make it right. And that is the fact with regard to this process.

What we are doing as Republicans is adding a brand-new bureaucracy that oversees Indian gaming, when there has been report after report after report. This would be just another bureaucracy where a report is written that sits on a dusty shelf. Instead, let us take that money and put it toward Native American health care or education centers. We have been told there is only a 2 percent increase.

Let us support the Hayworth amendment when it comes up and fight, for once, for Native Americans.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding me this time; but I also rise in tribute to JOE SKEEN, who is a wonderful statesman, a very good friend, a man of integrity who worked across the aisle in the best interest of civility and in the best interest of the people of the United States of America. I salute you, JOE SKEEN; and I hope that you, as a role model, will carry on through the rest of us in this House of Representatives.

In addition to that, Mr. Chairman, I rise in strong support of an amendment that is going to be offered to this bill. It is the Slaughter-Dicks-Horn-Johnson-Morella amendment, and it would increase funding for the National Endowment for the Arts by $10 million and the National Endowment for the Humanities by $5 million.

As a long-time member of the Congressional Member Organization for the Arts, I really was not at all surprised by a recently released study which provides hard evidence that the arts improve critical skills in math, reading, language development, and writing.

□ 1800

The study, entitled Critical Links, shows that children who learn to use certain musical instruments develop spatial reasoning skills, which are necessary to understand and use mathematics.

Additionally, another study reports that the nonprofit arts industry is a $134 billion economic engine, creating over 4 million jobs, $89 billion in household income, $6.6 billion in local government tax revenues, $7 billion in State government tax revenues and $10 billion in Federal income tax revenues. That is quite a listing of revenue that is saved.

The nonprofit arts, unlike most industries, leverage significant amounts of event-related spending by their audiences. Attendance at arts events generates related commerce for hotels, restaurants, parking garages and more. Statistics illustrate that the average person spends $22.87 at arts events which generates into an estimated $80 billion of valuable revenue for local merchants and their communities. The National Endowment for the Arts and the National Endowment for the Humanities support the creation and preservation of our Nation's artistic and cultural heritage, including learning opportunities for adults and children in communities across the country. I specifically want to mention local arts organizations in Montgomery County, Maryland which support over 800 full-time jobs, and last year alone generated over $15 million in household income and contributed over $1 million to State and local tax base.

Mr. Chairman, public investment in the arts benefits our Nation and its citizenry. The Federal contribution of each U.S. taxpayer barely exceeds the cost of a single first class postage stamp. Funding for the arts recognizes and encourages artistic achievement and sustains our national tradition of excellence. Let us support this amendment. It is a sound investment in our Nation's cultural heritage, as well as our economic prosperity.

Mr. DICKS. Mr. Chairman, I yield 3 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA), a strong supporter of this committee's activities.

Mr. FALEOMAVAEGA. Mr. Chairman, I stand to object to the proposed provision in the appropriations for 2003, the Interior appropriations bill, and I express my strong support to the amendment offered by our authorizing committee, the gentleman from West Virginia (Mr. RAHALL), the gentleman from Michigan (Mr. KILDEE), and the gentleman from Arizona (Mr. HAYWORTH), and this is in reference to the establishment of a commission with reference to needs of Native Americans.

Mr. Chairman, I will not question Members' motives and wanting to give assistance to Native American Indians, but this provision goes too far. The provision will limit billions of dollars of claims against the Federal Government for mismanaging Indian trust funds by limiting the accounting from 1985 forward.

Further, the provisions will presume the balances as of 1985 were correct, even though the government admits that money has been mismanaged for decades. The provision would overturn a central provision of the American Indian Trust Management Reform Act, legislation enacted in 1994 requiring the Secretary of the Interior to provide a full accounting. We have already expended over $20 million plus even trying to get an auditing report from the Department of Interior which they have failed to do.

We owe the Native Americans. It is their money. We were the trustees, and we failed in that responsibility. I urge Members to support this proposed amendment that will be given at a later point by the gentleman from West Virginia (Mr. RAHALL), the gentleman from Michigan (Mr. KILDEE) and the gentleman from Arizona (Mr. HAYWORTH).

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) for his work on this bill.

In my home State of New Jersey, the most densely populated State of the Nation, the preservation of open space is a top public priority. That is why I am especially grateful to the gentleman from New Mexico (Mr. SKEEN) and the members on the committee for supporting a number of our New Jersey priorities.

At my request, this bill contains continued funding for the preservation of New Jersey's highlands, one of New Jersey's most threatened and important watersheds. This bill provides, through the gentleman's efforts, $6.3 million in critical funding for land purchases within this area. It also builds on our past successes at the Morristown National Historic Park and the Great Swamp National Wildlife Refuge. I thank the gentleman for his support and the committee's support for the New Jersey priorities.

Mrs. ROUKEMA. Mr. Chairman, today we will complete work on the Interior Appropriations Act. I am pleased that this bill includes $6.3 million for preservation of lands in the New Jersey Highlands region. This is great news for the residents of New Jersey. Preservation of the Highlands region is critical to our fight to maintain the quality of our ground and surface drinking water sources, to preserve open spaces and protect the wildlife.

The Highlands region encompasses more than 2,000,000 acres extending from eastern Pennsylvania through New Jersey and New York to northwestern Connecticut. A wide diversity of significant rare and endangered plants, animals and ecosystems, as well as historical structures and developments, exist in this beautiful region. The Highlands also provides clean drinking water to over 11,000,000 people in metropolitan areas in all four states. Over half of New Jersey residents rely on drinking water from Highland sources.

Continued federal funding for the Highlands is a big win for northern New Jersey. In northern New Jersey, an area of such dense population, we treasure our open spaces. The Highlands region is truly a natural—and national—treasure, threatened by continuing development. This commitment from the federal government is an important step in the continued fight of our communities to protect these open spaces.

The proposed funding of the New Jersey Highlands would allow for the purchase of additional land in the region, including designating $2.3 million for the expansion of the Wallkill River National Wildlife Refuge. The people of the northern New Jersey will truly see the effects of these well-allocated federal funds.

This is not only an accomplishment in the preservation of this beautiful land, but also in the protection of water sources for 3.5 million New Jersey residents. Additionally, we are committing $5 million for the Delaware Water Gap National Recreation Area for the preservation and restoration of historic buildings—many of which are in desperate need of repair.

At times of extreme budget constraints, the House's action today underscores the national significance of these important regions. I would like to commend Congressman RODNEY FRELINGHUYSEN, a member of the Appropriations Subcommittee, who worked hard to see that these federal dollars became a reality for the people of New Jersey.

Mr. ISSA. Mr. Chairman, I had intended to offer an amendment today to withhold funds from the Government of American Samoa to protest the treatment of one of my constituents.

In January of 1997 a constituent of mine signed a special services employment contract with the government of American Samoa as Executive Director of the Centennial 2000 program.

In August of 2000 he was informed by the Governor's office that his employment and contract had been terminated. As a result reimbursements, per diem, travel expenses, and salary were never fully paid under the terms of the contract. To date, he is still owed $87,942 by the government of American Samoa for services rendered.

I have pleaded with Governor Sunia to provide me with information necessary to make an independent judgment on my constituent's case. I have also requested that the Office of Insular Affairs withhold appropriate funds from the government of American Samoa until my constituent's claims are resolved. All my efforts to resolve this issue with the government of American Samoa have been unsuccessful.

Mr. Chairman, I was hesitant to bring these amendments to the floor but I felt that the appropriations process may be my only avenue to resolve this issue. Earlier today I was pleased to learn that my constituent was given an appointment with Governor Sunia to discuss this issue. I hope that a reasonable and just solution will result from their meeting and for this reason I will not be offering my amendment.

Mr. BEREUTER. Mr. Chairman, this Member would like to commend the distinguished gentleman from New Mexico (Mr. SKEEN), the Chairman of the Interior Appropriations Subcommittee, and the distinguished gentleman from Washington (Mr. DICKS), the Ranking Member of the Subcommittee, for their exceptional work in bringing this bill to the Floor.

This Member recognizes that extremely tight budgetary constraints made the job of the Subcommittee much more difficult this year. Therefore, the Subcommittee is to be commended for its diligence in creating such a fiscally responsible measure. In light of these budgetary pressures, this Member would like to express his appreciation to all the members of the Subcommittee and formally recognize that the Interior appropriations bill for fiscal year 2003 includes funding for several projects that are of great importance to Nebraska.

This Member is very pleased that the bill includes $400,000 from the U.S. Geological Survey-Biological Division for the establishment of a new fish and wildlife cooperative research unit at the University of Nebraska-Lincoln. This Member has requested funding for this cooperative research unit each year since 1990! The University of Nebraska and the Nebraska Game and Parks Commission has already committed funds and facilities for the unit, but a Federal earmark of $400,000 is needed to make it a reality.

Nebraska's strategic location presents several very special research opportunities, particularly relating to migratory birds. However, Nebraska is one of the few states without a fish and wildlife cooperative research unit within the state. Locating a cooperative research unit in Nebraska to develop useful information relating to these issues upon which to base critical management decisions is an urgent need.

This Member is also pleased that Homestead National Monument of America receives $300,000 under this legislation to begin implementing the recommendations of the recently completed General Management Plan. This level of funding is needed for planning of a visitors center and for design of exhibits.

Homestead National Monument of America commemorates the lives and accomplishments of all pioneers and the changes to the land and the people as a result of the Homestead Act of 1862, which is recognized as one of the most important laws in U.S. history. This Monument was authorized by legislation enacted in 1936. The fiscal year 1996 Interior Appropriations legislation directed the National Park Service to complete a General Management Plan to begin planning for improvements at Homestead. The General Management Plan, which was completed last year, made recommendations for improvements that are needed to help ensure that Homestead is able to reach its full potential as a place where Americans can more effectively appreciate the Homestead Act and its effects upon the nation.

Homestead National Monument of America is truly a unique treasure among the National Park Service jewels. The authorizing legislation makes it clear that Homestead was intended to have a special place among Park Service units. According to the original legislation:

> It shall be the duty of the Secretary of the Interior to lay out said land in a suitable and enduring manner so that the same may be maintained as an appropriate monument to retain for posterity a proper memorial emblematic of the hardships and the pioneer life through which the early settlers passed in the settlement, cultivation, and civilization of the great West. It shall be his duty to erect suitable buildings to be used as a museum in which shall be preserved literature applying to such settlement and agricultural

implements used in bringing the western plains to its present state of high civilization, and to use the said tract of land for such other objects and purposes as in his judgment may perpetuate the history of this country mainly developed by the homestead law.

Clearly, this authorizing legislation sets some lofty goals. I believe that the funding included in this bill will begin the process of realizing these goals.

Also, this Member is most pleased that this bill contains an appropriation of $8,241,000 to complete construction of the replacement facility for the Indian Health Service (IHS) hospital located in Winnebago, Nebraska. It has certainly been a long process and this Member would like to thank the Subcommittee for its invaluable assistance over the years in obtaining funding for this new hospital, which is much needed and will greatly benefit Native Americans in Nebraska and the adjacent states of Iowa and South Dakota.

Again Mr. Chairman, this Member commends the distinguished gentleman from New Mexico (Mr. SKEEN), the Chairman of the Interior Appropriations Subcommittee, and the distinguished gentleman from Washington (Mr. DICKS), the Ranking Member of the Subcommittee, for their support of projects which are important to Nebraska and the 1st Congressional District.

Mr. SKEEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DICKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule and the amendment printed in House Report 107–577 is adopted.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

### H.R. 5093

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, namely:

### TITLE I—DEPARTMENT OF THE INTERIOR

### BUREAU OF LAND MANAGEMENT

### MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $826,932,000, to remain available until expended, of which $1,000,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act; of which $2,228,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150); and of which not to exceed $1,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)); and of which $3,000,000 shall be available in fiscal year 2003 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for cost-shared projects supporting conservation of Bureau lands and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred; in addition, $32,696,000 for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $826,932,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors: *Provided further,* That of the amount provided, $43,028,000 is for conservation spending category activities pursuant to 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits.

### AMENDMENT OFFERED BY MR. TOOMEY

Mr. TOOMEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TOOMEY:

On page 2, line 13, insert after the dollar amount "(reduced by $162,254,000)".

Mr. TOOMEY. Mr. Chairman, I would like to begin this discussion with just a brief commendation of my own for the gentleman from New Mexico (Mr. SKEEN) who has provided such a great service to his constituents, to his State, and to America for many, many years. I think it is appropriate and fitting that he was recognized for the outstanding work that he has done over many years.

I am sure that very much of what is in this bill I would be happy to agree with. And let me start with recognition that the funds that are in here to fight the forest fires are an important topic for us to consider. First of all, there is no question this has been a devastating season for forest fires. It has been incredibly costly, and devastating to many Americans.

The point I want to make is we should not be putting this into this bill, an appropriation bill for fiscal year 2003. We should be putting this into the supplemental bill, which is long overdue, which would make the funds available much sooner, whatever the appropriate amount is. That is what we ought to be doing with the firefighting, and I think some Members on the other side of the aisle and our side probably agree with that.

But the bigger issue is the path that we are on, the path that this bill takes us down, in terms of overall spending. That is a path that will bust the budget that we adopted in this House, a budget which we later confirmed with a deeming resolution on this floor, and a budget that the President has indicated that he fully supports.

The gentleman from Wisconsin (Mr. OBEY) I think very accurately agreed with my assessment. In his comments during the discussion of rule, he talked about the fact that the big bills, the bills that are in many ways more difficult to pass, they have been rather low-balled, certainly with respect to the President's request. Funds have been taken from them and added to these earlier bills, the bills like Interior and Agriculture and Treasury-Postal. By loading up these bills, he can probably pass them because bills are easier to pass with the more spending there is.

But the problem is we will get to the end of this cycle, and we will find, as the gentleman from Wisconsin (Mr. OBEY) observed, that we do not have the votes to pass those bills. Now the gentleman from Wisconsin (Mr. OBEY) and I would probably disagree what we ought to do about this dilemma, but we agree that we have a fundamental dilemma here.

I would suggest that the chairman of the Committee on the Budget confirm that he has a concern about this process, a concern that some of these smaller bills have been added to make them easier to pass, but making it harder to pass the final ones. I think this is a very serious concern.

The fact is in recent years, spending has been out of control. The Federal Government has grown much faster than the rate of inflation, much faster than the rate of economic growth of our country. In fact, in recent years it has approached an average rate of 9 percent per year. When that happens, the Federal Government is squeezing out the private sector, it is undermining the performance of our economy, and it is very harmful for our future because now, sadly, it is also contributing to a deficit.

We worked so hard for so many years to get this budget in balance, and we did it. We started paying down the debt. We did that, Mr. Chairman, by restraining spending. When spending is out of control, we will stay in deficits and go deeper in deficits. We learned just yesterday that we are now facing for fiscal year 2002 a budget deficit of about $165 billion. There is a reason for that. We are fighting a war. We have got a war that is extremely costly. We have to rebuild the defense capabilities of our Nation from years of neglect. We need to put a lot of money into defense. That is appropriate.

We also have vulnerabilities here. We have vulnerabilities to future terrorist attacks, and we need to spend money to enhance ourselves to defend ourselves against those attacks, or to respond, God forbid, if they should occur.

These are big expenses, and we have to accept them. It is all the more reason that we have to tighten our belts in the other areas so we can get back to the budget surpluses that we want to return to. If we keep spending too much money, we will never get there. The reason we are in the dilemma we are in today, we have built the spending base up too high, and now we are adding to it.

Mr. Chairman, I have offered an amendment that simply says let us take a management fund, funds that are used to pay salaries and other administrative costs for the Bureau of Land Management, and let us reduce that back down to the level it would be at today if only we had grown spending on this account since 1996 at the rate of inflation. In other words, if we said the rate of inflation is an appropriate spending increase each and every year, we would be at the level that I am proposing in my amendment. Instead, we are much higher than that in the underlying bill. My amendment would have the effect of reducing spending by $162,254,000, bringing us that much closer to getting this budget in balance and getting back to the surpluses that we ought to return to.

Mr. SKEEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Bureau of Land Management is the last well-funded land managing agency in this bill.

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in very strong opposition to this amendment. First of all, this amendment would cut $162 million. It is a 20 percent reduction, $149 million below the President's budget request. Remember, the President of the United States in his statement of administration policy says he supports this bill.

It would cut $6.8 million from wildlife and fisheries, $21.4 million from energy development, $19 million from transportation on Federal lands, $15 million from resource protection.

As our former colleague, Silvio Conte, would say, this is nothing but a meat-ax approach by Members who have not read the bill, and their only possible course is to do across-the-board cuts rather than make specific cuts.

I rise in opposition, and I urge that we vote down the amendment and move along.

Mr. FLAKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I have a holding here. It is called the Arizona Media Advisory, sent out by the Committee on Appropriations to my home State. As Members know, Arizona has lost about 450,000 acres to fire over the past month.

□ 1815

What this media advisory says, and I will not mention the other names included in there, "Representative FLAKE Works to Slash Firefighting Funds."

We all know why the firefighting funds were put in there. It was to silence people from the West who have opposition to the runaway spending in this bill. This was sent out to the media in Arizona hoping that that would silence me and others who had opposition to the higher spending in this bill. Well, it will not. I think it is a horrible thing, and it is dirty politics at its worst to do this kind of thing; but let me say for the record that we have suffered a huge loss in Arizona. There is need for funding to fight fires. That ought to be handled in a supplemental appropriation bill, not here. Those funds will be needed now, not later.

This bill, if we look at the last 4 years, the soonest it has been passed, I believe, is October 4, or October 21. The latest is November. So if this money is not going to be available, anyway, why are we doing it now? The answer is simple. It is to silence those who want to stand up and say that we are engaging in runaway spending.

I appreciated the comments of the gentleman from Wisconsin (Mr. OBEY) earlier. He hit the nail right on the head. What we are doing here is we are plussing up, porking up the early bills after defense and military construction. We see here from the chart we are well above the President's request on these three; but lo and behold, when we get to the end of the appropriation trail, then we are well below. Does anybody think for a minute that these bills at the end of the process can even get out of committee? The gentleman from Wisconsin does not believe so on the minority side and neither do I. I do not think that anybody in this body reasonably believes that those bills can actually get out of committee, let alone pass on the floor.

And so what we are participating in here is a charade. We passed a budget, and as Republicans we ought to stick to it. We know that if we engage and we go forward with this bill, we will not be able to stick to that budget. That is the objection I have, and that is why I am supporting this amendment, and we ought to support every amendment that would bring the level of spending down so that we can actually get back to the budget that we passed, get back out of deficit spending, get back to surpluses and get back to doing what we ought to do here.

Mr. PENCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment.

### POINT OF ORDER

Mr. DICKS. Mr. Chairman, I have a point of order. Does the chart have to be taken down when the person who speaks is no longer speaking?

The CHAIRMAN. If the gentleman from Indiana is not using that chart, then it should be taken down. The gentleman from Indiana can use that chart if he so chooses.

Mr. DICKS. Is the gentleman from Indiana using the chart?

Mr. PENCE. Yes.

Mr. DICKS. I thank the gentleman.

Mr. PENCE. I thank the gentleman for the opportunity to clarify my chart usage. We likely, Mr. Chairman, will see this chart frequently tonight as we have conversation one with another about fiscal responsibility.

Let me begin tonight by joining so many others in commending Chairman SKEEN, whose integrity, whose career, whose commitment to public service represents a gold standard in the House of Representatives. I am honored to be able to say that I have served here for a time with him.

Mr. Chairman, it is not about challenging either the chairman or any member of this committee on either side of the aisle's sincerity in attempting to address the needs of this Nation in this important legislation. It is more, Mr. Chairman, in this amendment and in other amendments that will very likely be offered before the evening is out, before we may well be into the morning hours tomorrow, it is more about trying to live within our means.

The administration just recently this week indicated that if we will control spending, read that line within the budget that was adopted by resolution in this House, that we can return to surpluses within the next 2 years. That is a remarkable observation and assertion, Mr. Chairman. To think that we have passed through recession, through an attack on our Nation and through war and yet if we will but tighten our belts in this institution and live up to that which we have committed ourselves to in the budget, that we can return to surpluses within the next 2 years. The analysis indicates, however, that if we continue to increase spending at 5 percent-plus a year, enact a prescription drug bill that I supported and many of us supported as necessary in this time and concurrent receipts for veterans, both of which have passed the House, that we will be in deficit for 9 out of the next 10 years. This is the contemporary analysis of the administration and experts in this community.

This amendment simply makes an attempt to reduce the budget for the Bureau of Land Management to the 1996 level, plus inflation. The current projection is a 24 percent increase. I would simply argue that this is not the time for us to respond to the impulse of generosity in the appropriations process. Rather, now is the time for us to recognize the time of national duress that is truly upon us.

And so I rise tonight in support of the amendment of the gentleman from Pennsylvania. I will continue so long as my energy holds out to rise into the evening and to rise into the morning and maybe into the daylight tomorrow to stand for the simple principle that if you owe debts, pay debts, that government ought to live within its means just like every American, like those in Anderson, Indiana, families today who maybe face, some 700 in number, losing their jobs at the Delphi plant in these uncertain economic times. Now is not the time for us to live beyond our means.

And so I will apply myself to this process and trust that my colleagues on both sides of the aisle will see the sincerity of our purpose and urge my colleagues to support the amendment.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

I first would like to open my comments with my thoughts of Chairman SKEEN. He is an absolute gentleman. He is the epitome of what a legislator ought to be. I have had two staff people that worked for him for a number of years, and they have shared with me so many times what a wonderful man he was to work with and how well he trained them. I thank the gentleman for allowing me to have two of his ex-staff people who served me very well.

Mr. Chairman, I rise tonight to oppose this amendment. The interior bill is the one bill in Congress that invests in rural America. Rural America. I represent the most rural district east of the Mississippi. Everybody thinks that when you invest in rural America, you are talking about agriculture. That is true. But agriculture only impacts 10 percent of rural Americans. Ninety percent of rural Americans are not involved in agriculture. So this bill and the 100 amendments or so that have been drafted is cutting rural America. Rural America is economically struggling. The national parks, very much a part of rural America's economy, manage 90 million acres. The forest service manages 192 million acres. The Fish and Wildlife Service manages 85 million acres. The Bureau of Land Management, which this amendment goes to, manages 262 million acres and makes those properties available to the American public so the American public can enjoy nature, can enjoy recreation and can enjoy the natural resources that come from there.

This bill deals with the special responsibility we have to Native Americans, our Indians. This bill deals with energy R&D and our future. The economy of this country depends on the future of energy and how we use it wisely and what alternative energies we come to. This is what this bill will fund. This bill finally, not completely, but funds PILT more fairly. That is Payment in Lieu of Taxes. All this land I mentioned, we have never paid our taxes to the local governments, to the local people. This bill funds the geological service that does natural resource science for America. The Smithsonian Institution. This is the bill that deals with rural America.

We are going tonight to be hit with dozens and dozens of amendments taking a cut out of rural America. I will rise to oppose them, because rural America needs a break. Rural America needs to be treated more fairly. This is the one bill, one of two, agriculture and interior, that deal with rural America that is being targeted for these cuts that I think is unfair. It is not well thought out; $162 million out of management of one agency is not well thought out.

For that reason, I oppose this amendment. I urge those offering it to think more clearly about the impact they will have on the part of America that is struggling the most economically, rural America.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Twice now the House has voted to set an overall discretionary spending level of $748 billion for fiscal year 2003. As we begin the appropriations process, we begin to put in place the pieces that will enable us to either hit that target or to miss that target.

POINT OF ORDER

Mr. DICKS. Point of order, Mr. Chairman. Does the gentleman want this chart?

Mr. HOEKSTRA. Mr. Chairman, is this coming out of my time?

The CHAIRMAN. No.

Mr. HOEKSTRA. This is not coming out of my time? Yes.

Mr. DICKS. Could we see it? We cannot even see it over here.

Mr. HOEKSTRA. We were pointing it over here so our colleagues could see it more, but we would be more than willing to have you see it as well.

Mr. DICKS. I thank the gentleman. We wanted to make sure we could see it.

Mr. HOEKSTRA. I would also like to commend my colleague, the gentleman from New Mexico (Mr. SKEEN), for his tremendous service to the House, to the people of his district and to his State. He is a great colleague and has done tremendous work here and I think has done tremendous work on the Committee on Appropriations.

As we take a look at putting the pieces together for these 13 appropriations bills, we see that the House has put a marker out there of $748 billion. The other body has yet to pass a budget. President Bush has endorsed the House-spending level and indicated in numerous speeches that he will use his veto if necessary to enforce the House discretionary spending level. Why is this important? It is important because this year we are back in deficit. What we really want to do is we want to move back into surplus as quickly as possible. The House spending level that we have approved is almost identical to President Bush's fiscal year 2003 request. Any increase above the President's request in one bill will need to be offset by a decrease in another bill.

As we take a look at the schedule for this week, we see that three out of the first four bills that have been reported from appropriations are going to be above the President's request. The interior bill today is $775 million above the request. That does not include the $700 million in emergency firefighting. Treasury-Postal is $538 million above the request. The agriculture bill is $550 million above the request. The legislative branch looks like it will be reported out at the President's requested level. Collectively, these bills then are about $1.8 billion above the President's request.

If we are going to plus-up these early bills, it means that at the later end of the process, we are going to have to have reductions in some very difficult bills. Is this House ready for a $400 million-plus reduction from the President's request for Commerce-Justice-State? Are we ready for a $1.8 billion reduction from the request for Veterans, HUD and FEMA? These bills are currently scheduled to move at the end of the appropriations process. If we are going to be cutting from the President's request, which is going to be a very difficult process, those should be the bills that we move first to show that we are disciplined and we are willing to make those choices. If the House passes the first appropriations bills at levels significantly above the request, I think then we will be forced at the end of the process to break the bank to pass the veterans, HUD and FEMA bill at levels significantly higher than what the Committee on Appropriations might otherwise report them here.

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We need to get back to surplus. We need to get back to surplus, and one of the ways, the most direct way that we can do this through this body is by controlling spending. That is 100 percent within our control. We should lower these bills to the President's request, or we should move the other bills first to show that we have the discipline to pass spending bills that are below the President's request.

This bill is about $1 billion above last year, a more than 5 percent increase. That is more than twice the rate of inflation. The Committee bill is $775 million above the President's request. If we had held over the last 8 years' spending on this bill at roughly the rate of inflation, this bill would be 30 percent smaller than what we see today.

The administration has also clearly indicated that the best way to get back to surplus is to control spending. We cannot continue to increase spending at 5 plus percent per year. If we increase spending at that kind of level, it is unlikely that we will be back in surplus any time soon.

Mr. KINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose this amendment. I certainly believe that the intent of the amendment is a good one, and I certainly appreciate the debate and the opportunity to debate what funding levels are appropriate and what funding levels are not appropriate.

The Bureau of Land Management account, however, is 1.5 percent above last year's limit. I would love to serve in the House of Representatives and look at each and every government agency and say that the level of funding is only 1.5 percent higher than it was last year. Frankly, I would like to see a lot of these agencies a lot less than that, and not just a reduction in the increase, but a cut in last year's level. But this is about a $14 million level above the administration's request.

Now, why is that the case, Mr. Chairman? Why is not a flat level funded? I will say this, that if we look inside of this, much of this is driven by House Member requests and by the Secretary of the Interior.

For example, included in this was the oil and gas development money in the Powder River Basin in Idaho and in Montana. Also, the National Petroleum Reserve, the Challenge Cost Share programs, all at the request of the Secretary and a number of our western Members that have a particular concern in these particular accounts.

Just to give an example of why some of this money is needed, the land management plans now are obsolete. They have to be redone by the Secretary of the Interior. Why do we have to have a good land management plan? Because if we do not have an up-to-date, current plan, we cannot issue new permits. Remember, the purpose of a lot of these public lands is not just recreational, but actually commercial, and leasing is very important. Leasing for timber harvests, leasing for grazing permits, leasing for oil and gas. All of that cannot be permitted until we have good land management plans.

So right now, what is happening is that the Secretary of the Interior is getting sued because environmental groups and groups who are not really concerned about the land, but more concerned about the encroachment of that evil free enterprise system which seems to be a problem with many members of our society today, this allows a balance between protecting the land on the Federal ledger and yet allowing the private enterprise to utilize this land, which was the original intent.

We have lots of land in America that is locked up and cannot be used for any purpose except for wilderness, and some of that not even for recreational purposes. This land, though, is not in that category. But to be able to permit the full public utilization of it, we have to have a good land management plan. So this particular amendment would make it very difficult to have a good land management plan. For that reason, Mr. Chairman, I urge Members to vote against it.

Mr. RYUN of Kansas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the problem we are faced with is that the House has twice voted to set an overall discretionary spending level at $748 billion for fiscal year 2003. The Senate has yet to pass a budget, and that should give us all great concern. President Bush has endorsed the House spending level and indicated in numerous speeches that he will use his veto, if necessary, to enforce the House discretionary spending levels. Because the House spending level is nearly identical to President Bush's fiscal year 2003 request, any increase above the request will need to be offset by a decrease in another spending bill.

Three of the four nondefense bills reported by the Committee on Appropriations are significantly above the President's request. The Interior bill is $775 million over the request. The Treasury bill is $538 million, the agriculture bill is $550 million, and the fourth bill is the only one that really meets the requested level.

Collectively, these bills add up to $1.8 billion above the request. We have to have the money from some place. In order to pay for the increased spending in these and other bills, the committee is proposing a $400 million reduction in the President's request for Commerce, Justice, and State, and a $1.8 billion reduction for the request of the Veterans, HUD, and FEMA bill, and I do not think that is right.

If the House passes the first appropriations bills at levels significantly above the request, then we will be forced at the end to either break the budget or pass a Veterans, HUD and FEMA bill at levels significantly below the request.

Should the House pass the bills that are below that request before passing any bill above the request, we will have a problem later with the budget, and I think it is important that we show fiscal discipline and do so at the very outset instead of waiting until later.

Mr. HORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to say to the gentleman from New Mexico (Mr. SKEEN), a wonderful man, a gentleman, a great Westerner. I grew up in rural America and he has the values of rural America, and so do I. So it will be a loss to the House, but all he has done to help parks and help the Forest Service is something that he can be very proud of, and we can be proud because of all of the leadership he provided.

Mr. Chairman, a few hours from now, the gentlewoman from New York (Ms. SLAUGHTER) will describe the benefits of the arts to our national economy and to our local communities. The arts contribute in many ways to our Nation's economic prosperity. This is well documented in an economic impact study from the Georgia Institute of Technology. The study provides a compelling argument for increased Federal funding for our cultural agencies, the National Endowment for the Arts and the National Endowment of the Humanities.

The proposed fiscal year 2003 budget provides a nominal increase for agency administrative costs, but no new funds for local projects. We can do better than that. An increase in funding for the arts would come with economic rewards for the entire country. Nonprivate arts groups generate $134 billion in economic activity every year. That is in both rural and urban America. They generate $10.5 billion in Federal income tax revenues. That is a phenomenal return on the taxpayers' investment. Investment in the arts also is an investment in our children's future. I was one who was brought up on a farm, and I still will feel there.

The Arts Education Partnership recently published a study called Critical Links. This important study provides solid evidence that arts education helps students master other critical subjects, including math, reading, language development, and writing. The study also shows that arts education helps academic achievement in young children, students from low-income communities, and those who are falling behind.

Last year, President Bush set the example when he signed a bill, the No Child Left Behind Act. This landmark legislation recognizes the arts as one of the core subjects that all schools should teach.

Learning is not limited to the classroom. The NEA and the NEH help bring the arts and cultural programs to millions of Americans, both rural and urban, including children, every year.

Mr. Chairman, I urge my colleagues to join us later this evening in supporting this amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities.

Mr. WAMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as one of the most conservative members of the Committee on Appropriations, I rise in support of the bill and in opposition to the amendment. I do rise to commend the author of the amendment and the team of budget hawks that have assembled to begin the process that will last through the year at trying to hold the line on spending, because I do share that goal and think it is important, particularly in times of deficit spending; again, that we attempt to rein in the growth of government and strive for a more efficient and effective government.

However, I say today as a member of this subcommittee for the past 6 years, this is unfortunate that the process begins on this bill to try to rein in spending when this bill was very carefully put together, with extreme caution and, really, the motives on this bill to cut spending would run counter to fiscal responsibility in many regards.

For instance, would it be wise as a homeowner to allow the shingles to fall off of the roof of his home? It is not frugal, or it is not responsible to do that. I can tell my colleagues, if they want to go to the authorization committee and debate whether or not the Federal Government should own one-third of the land in America, go do that, but the truth is we do own, the Federal Government, one-third of the lands in America.

If my colleagues want to travel, as we have traveled, and go to the parks and go to the forests and go to the BLM and see the buildings, see the infrastructure, see the $14 billion backlog that we have on taking care of what we own, my colleagues will know that frugal, responsible leadership warrants investing in maintaining what we have. If my colleagues want to go fight the fight on not having so much, do that, but that is not done here.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I just want to commend the gentleman on a very thoughtful statement, to remind those people who have spoken earlier, if there is no money, if the BLM is cut by $162 million, then there is not going to be money for them to borrow to fight the fires; these accounts in the BLM, the money that is borrowed that is used to fight the fires. So if that money is taken away in a meat ax approach like this, then they are not going to have that.

The gentleman from Tennessee (Mr. WAMP) is absolutely right about the maintenance. We have to maintain these parks, these facilities, et cetera. It has been a high priority of this committee to do a good job on that and we have increased the money for the maintenance. We still have, as the gentleman points out, this long backlog.

So a meat ax approach is not going to solve this problem. The gentleman should remind his colleagues that the President supports this bill and the chairman of the Committee on the Budget supports this bill. So what is the problem?

Mr. WAMP. Mr. Chairman, reclaiming my time, we also have had previous speakers talk about how twice the House has passed a budget resolution, and we have already heard the Committee on the Budget chairman speak in support of this bill. But I can also tell my colleagues that a few months ago, the House was overwhelmingly in support of the CARA bill which would have effectively tripled the spending in this bill, and if it were not for the good work, stewardship, and careful crafting of a compromise by this subcommittee, there would be an influx of spending on automatic entitlement payments on conservation and resource-type issues, and we struck a compromise and a balance.

Mr. Chairman, this is a bill that requires our stewardship. This is what Speaker Gingrich called the best subcommittee in the House, because we fund our public lands and these investments.

Let me also tell my colleagues that in a bipartisan way, I am the Co-Chairman of the Energy Efficiency and Renewable Energy Caucus in this House.

□ 1845

We have half the House that belongs. We have many Members from the conservative Republican faction that have written us saying, invest in energy efficiency and energy conservation programs. I fought for an increase in those programs. If we are going to wean ourselves off of reliance on Middle Eastern oil, Mr. Chairman, we have to invest in alternatives. We have to invest in conservation and energy efficiency technologies.

We are going to fight too many more wars at a huge cost if we do not make ourselves energy-independent. That is what this bill funds. We cannot have it both ways. We need to invest in America. This bill invests in America. It is carefully crafted.

I would encourage those who want to cut $162 million out of this bill to be specific where they want to cut it. If it is fires, that has to be an emergency. We would love to put it in the supplemental, but the administration, our President from our party, has said no, it belongs in the 2003 bill and we cannot get it in the supplemental. Either way is fine with the committee, but we cannot do it that way, so it is very essential that we move this bill forward.

We are going to slug it out here on the floor for a few hours. At the end of the day, though, this is one of those bills that comes from the Committee on Appropriations that needs to pass in very close to its current form. It is a puzzle putting it together to make sure that we balance the stewardship needs of the Federal Government. We have done just that.

Mr. DEMINT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the gentleman for some very important remarks. I appreciate the work of the Committee very much. I am sure everything in this bill is important and could be useful.

But as all of us know, this country is going through very difficult times; difficult with our economy, difficult with enemies all around the world. There are many priorities.

As we go through this appropriations process, it is very important that we look at our priorities and look at the means that we have to accomplish them, and make sure that we make the tough decisions now, rather than later.

We know that we need additional money to fight the war, to build our military, to equip our soldiers, and to pay them. That is going to cost more money.

We know that our Social Security system, which is a very important promise to our seniors, that must be kept, and we must begin the debate on how we can improve and guarantee that Social Security is always there.

But we know with this budget this year that we are already spending money that is coming in for Social Security, and we need to scrutinize every dollar that we spend to make sure that we do not spend the Social Security surplus unnecessarily.

Across the country, we see devastation with the problems with health care and the cuts at the Federal level with Medicaid, and we look at our own Medicare system and see that it is going to become increasingly difficult to fund it. Seniors all across the country are being turned away from physicians who no longer take Medicare because we do not pay enough.

We have to scrutinize this budget. We cannot continue to spend and to grow the government and make new promises when there are promises that we have made to seniors, as well as the promises we have made to other citizens, such as the children of this country in our education plan, because we have promised more money to education from the Federal level, new promises:

In this bill this year we are making new promises that we are going to have to keep out of money that we do not have. I rise in support of this amendment because it looks closely at this Interior bill, looks at the management area, not cutting any programs, but just makes a small cut. If we continue this process throughout appropriations, then maybe we can save the money that we need to keep the promises that we have already made, and not make new promises to folks when we cannot keep the promises and do not have the money to do it.

I do support the amendment, and I urge all of my fellow Members to do the same.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to enter into a colloquy with the chairman of the Subcommittee on the Interior of the Committee on Appropriations.

I would say to the gentleman from New Mexico (Mr. SKEEN), I want to commend him on the excellent legislation that he has brought before the House floor. I wanted to bring to the gentleman's attention an energy research program which I believe holds great promise.

Mr. SKEEN. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I would be pleased to engage in a colloquy with the gentlewoman.

Mrs. MORELLA. I thank the chairman. I note, Mr. Chairman, that the chairman of the subcommittee has included increases in the bill for fuel cell research.

There is a program in this area which I believe has tremendous potential. I am specifically referring to technologies to investigate and encourage power management systems, which facilitate the application of fuel cells to reduce peak electricity demand.

This so-called peak shaving, through the use of fuel cell technology, has the potential to reduce costly utility excess capacity requirements, minimize local conflicts related to transmission capacity upgrades, and provide emergency standby power for law enforcement, fire, and rescue, as well as other emergency response operations.

Over the past few years, fuel cell technology has experienced steady progress toward commercial reality. However, work remains to be done. Mr. Chairman, research into fuel cell technology for peak shaving is needed to demonstrate the extent to which fuel cells can provide essential power for emergency operations facilities, for homeland defense, and provide cost savings to reduce peak electricity demand in other operations.

Mr. Chairman, would this type of program qualify for funding under the budget recommendations in the Interior bill?

Mr. SKEEN. If the gentlewoman will yield further, as the gentlewoman knows, Mr. Chairman, the energy research program in the Interior bill is awarded through a competitive procurement process, and this program certainly sounds like it is worthy of consideration. It is a process by the Department of Energy.

Mrs. MORELLA. I thank the gentleman, Mr. Chairman.

### POINT OF ORDER

Mr. DICKS. Point of order, Mr. Chairman. How can we have colloquies going on when there is an amendment being considered? Is there not an amendment still being considered by the House?

The CHAIRMAN. There is an amendment pending before the House.

Mr. DICKS. Should we not be debating that amendment?

The CHAIRMAN. The Chair waits for someone to raise a point of order on the question of relevancy.

Mr. DICKS. I make a point of order that we not have any colloquies; that we address this amendment, and we vote on the amendment.

The CHAIRMAN. The gentlewoman engaging in a colloquy has already yielded back her time.

Mr. DICKS. That is fine. I object to any future ones.

The CHAIRMAN. The Chair will keep that in mind.

Mr. RYAN of Wisconsin. Mr. Chairman, I move to strike the requisite number of words. I am speaking on the amendment at hand.

Mr. Chairman, I would like to address a bigger issue that is at play tonight with the bringing of this appropriations bill to the floor; that is, our budget resolution is unraveling before us.

The reason we set budget resolutions in Congress is so that we make the entire Federal budget fit into a comprehensive plan. When we wrote the budget resolution earlier this spring, we had a budget surplus. Now we see, as of a few days ago, we have a budget deficit, but we are still moving with that budget resolution, hopefully. But as we see this appropriations process unravel, it looks as though this budget resolution will even be broken.

So, Mr. Chairman, I am very much enlightened by the comments by the senior delegation member from my own State who I know to be a man that not always is in agreement with me, and I do not always agree with him, but I know he is a straight-shooter and I know he usually calls it like he sees it.

Earlier, under consideration of the rule, this senior member of the Committee on Appropriations basically laid out the following scenario. He said what the leadership plans to do is to take the easier-to-pass bills, raise the levels of spending on that, and then do so at the expense of lowering spending on other more difficult-to-pass pieces of legislation.

What this will end up doing is breaking the budget resolution, breaking any fiscal discipline we have in place for this fiscal year for this Congress.

This is a problem, Mr. Chairman. This is a problem because, quite simply, we have a budget deficit now on our hands. We are at war. We are trying to fix the problems in our homeland, so our priorities ought to be a line such as this: Win the war on terrorism, give the troops what they need, win the war on our homeland security, fix those vulnerabilities that we have here in the country, make sure that our domestic infrastructure is prepared for terrorist attacks.

But when it comes to fixing the budget deficit, we realize those are the areas we cannot go to. We need to hold the line on domestic spending. That means we need to have some budget discipline here in this body. But by moving forward with the appropriations process that we are engaging in this evening, and for the rest of the next few months this year, we are unraveling the very process that has a little bit of discipline left in it to try and get our hands around this budget deficit.

If we do not fix this budget deficit, Social Security will be dipped into for years. If we do not fix this budget deficit, we are going to see problems in the stock market. The markets are watching this body. The markets are watching to see if we have corporate accountability legislation passing, as we just did today; the markets are watching to see if there is accountability in accounting standards; but the markets are also watching to see if we have budget discipline. If Congress shows no discipline in balancing its budget, the markets are going to react in a way we are not going to like.

Mr. Chairman, our constituents are seeing their 401(k)s cut in half, they are seeing the market volatility take place in affecting their very livelihoods. This Congress can do a lot to reinstill confidence in our government, in our fiscal balance sheet, and in the stock market and the markets by making a stride for fiscal discipline.

That means taking this bill and the entire process and retooling it so that we actually do meet our budget resolution, a bill we have passed twice just this year through the House of Representatives. We did it once, we deemed it again, and we need to make sure that this budget resolution holds, that we do not break the ceiling on spending.

I am afraid the process we have right now is doing just that. That is why I urge passage of this amendment, Mr. Chairman. I thank the chairman of the committee for indulging me.

I do want to say one last point: They do a good job. The gentlemen are all here working hard, and I know that this is tough work. But I also know that the American people are watching, and that they want to see this budget deficit dealt with. They want to see fiscal discipline here in Congress.

We know how to make it happen, and we know how to make sure that it does not happen. I suggest we do more actions to make sure it does happen.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I feel inclined to do this at this time. I listened to my friend, the gentleman from Wisconsin (Mr. RYAN), who is my friend, and I have said many times on the floor I believe in years to come he will become one of our very strong leaders. He is right to want fiscal discipline in the Congress. Congress should not be spending any more money than is needed.

But I have to disagree with some of the comments that he made. For example, he said the appropriations process has unraveled. On the contrary, the appropriations process is one of the few processes in this Congress that has not unraveled. The appropriations process works.

Look at some of the others. Why is it that appropriators are asked to include nonappropriations issues on appropriations bills? Because the other processes are not working, we are asked to do a lot of things that are not even appropriations matters. The appropriations process has not unraveled, not at all.

Let me tell the Members what has unraveled: The budget process that the gentleman seems to like so much has totally unraveled. We do not have a budget process, I will say to my friend, the gentleman from Wisconsin. There is no budget process in this Congress.

Here is the way it is supposed to work. Under the law, the House should pass a budget resolution. We did that. The Senate should pass a budget resolution. They did not do that; but nevertheless, they are supposed to. Then the two houses come together and we decide on what the top number is for the budget, referred to as a 302(a) number. That did not happen this year.

The House deemed, then, a budget resolution. But let me tell the Members what this budget resolution does when the Senate does not have the same top number.

How do I reconcile appropriations bills with my colleagues in the other body if their top number is $9 billion higher than the House number? How do I force them down? Well, we try. On the supplemental we are working on, we have brought the Senate down almost to the House number that we passed. There are still some differences there, but we did bring them down. But it is very difficult if we do not have the same top number. So the budget process broke down.

And now about Social Security and fiscal discipline.

☐ 1900

Spending, Mr. Chairman, spending is spending. Whether it is spending by a discretionary appropriations bill or whether it is spending by back-door spending, through mandated entitlement programs or mandatory programs. A dollar being spent as a mandated program, or back-door spending, if you will, is the same, as a dollar appropriated by the Congress.

Congress earlier this year approved an agriculture bill. That bill increased the baseline for agriculture by $90 billion. Ninety billion, I would say to my friend from Wisconsin, spread over a 10-year period. Actually, it was supposed to be spread over a 6-year period, but it looked like it was less by doing it over a 10-year period. My friend from Wisconsin feels worried about Social Security, and I applaud him for that. I am too because I represent a lot of people on Social Security. But I voted against that farm bill because it provided a $90 billion increase over the baseline.

The gentleman from Wisconsin, who just spoke talking about fiscal and budget discipline, voted for the $90 billion increase over the baseline.

Now, we have got to be consistent in this House. If you are for spending, then vote to spend. If you are against spending, then vote not to spend; but do not stand up here after having voted for a very large increase in back-door spending and then criticize a small amount of money in a discretionary bill.

I am opposed to this amendment, and I hope the House will come down in large numbers to oppose this amendment. The gentleman from New Mexico (Mr. SKEEN) has worked hard to get this bill in balance, to make it a good bill. We can show you reasons why the BLM could use additional money, but we do not have additional money; and so we are not going to recommend it to the House. I hope the House will give us an overwhelming vote against this amendment.

We will not let this appropriations process unravel, and I know there are some that would like to see that happen. I read some comments in some of the in-house news media bout how some people are going to disrupt totally the appropriations process. One of the few constitutional requirements and obligations that Congress has is the appropriations process, the power of the purse. Nobody else has the right to spend money for this Federal Government except the Congress of the United States, and we are going to protect that constitutional responsibility: We are going to keep the oath of office that we took to protect the Constitution. Stick with us on this bill. Vote down this amendment. It is not a good amendment.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my grandfather used to be in town politics and county politics for about 30 years. And one of the things that he always told me is that the most dangerous thing you could do in politics is to believe your own baloney. And I think the problem that we have in this House is that there are a number of people who are so enamored of their own baloney that they do not even recognize it is baloney, and let me explain what I mean.

I appreciate the kind personal comments that the gentleman from Wisconsin made about this gentleman from Wisconsin. But I think we need to fairly analyze why it is that we have people with their noses out of joint tonight. We have a group of people in this House (and I do not attack them for it, I am simply stating fact), we have a group of people in this House who honestly believe that they can maintain the fiction that somehow the budget resolution which passed this House is a real instrument in divided government. It is not.

And the problem we face is that when you start the budget process with an erroneous initial set of assumptions, then everything that happens after that point is a colossal waste of time. And so because we started with a budget resolution, which for the third year in a row makes an unrealistic assumption about what in the end the collective judgment of people on both sides of the aisle is going to be with respect to the budget, we wind up starting from a false base to begin with. And now you have a number of people in this House who are upset because we will not stick to that false base.

Now, the previous gentleman from Wisconsin (Mr. RYAN) who spoke has me confused because he talks about the Committee on Appropriations unraveling the budget process. I would say that if he wants to look to a committee that has unraveled the process, he ought to start with his own committee. Our committee operates in an unusually bipartisan fashion. We do not agree on everything, but we often resolve our differences. We had some major differences on this bill which we resolved.

In contrast, my observation is that the Committee on Ways and Means, the other side of the financial ledger, is so polarized that they often are barely speaking to each other. And the products that they bring to the floor demonstrate that as well. Because those products have essentially said that over the next 10 years we are going to spend $1.7 trillion on tax reductions, and that is going to come largely out of borrowed money.

Now, I happen to think that tax cuts in the short term make sense because if the economy is sagging, you need to give the economy a kicker. And I do not think there is anything wrong with in the short run having some stimulus in the tax side as well as the spending side. But the problem with the markets is that they are looking at the long-term result of that decision, and that $1.7 trillion in lost revenue over the next 10 years makes the differences on appropriations bills appear to be minuscule by comparison.

Does anybody really think the budget is going to be balanced if this amendment is passed tonight? Come on, give me a break.

The other thing I would point out is that I am, frankly, a little baffled because I have one gentleman from Wisconsin on that side of the aisle say we are going to spend too much money; and yet we are noticed by another gentleman from Wisconsin on that side of the aisle that he is going to ask us to spend more money on a program that is important to him and to me, Chronic Wasting Disease. Now he has an offset for that amendment, and I congratulate him for it; but the problem is that offset is going to be met with bipartisan opposition because the program that is being cut means as much to the folks who want that program as the program that the other gentleman from Wisconsin wants to see money added to, the Chronic Wasting Disease for the deer herd and the elk herd means to us.

So the Committee on Appropriations has committed the unpardonable sin of bringing to the House floor a realistic document which represents our best professional judgment on a bipartisan basis.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. Obey) has expired.

(By unanimous consent, Mr. Obey was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, our best professional judgment about what the realistic level is that Members want to see provided in this bill.

Now, we may have been on point. We may have missed it a little bit. Who knows? Nobody is perfect. But the fact is that I think the problem we have here is that on that side of the aisle there are a number of people who resent the fact that the Committee on Appropriations in the end has to deliver a reality message to both sides of the Capitol and both parties, and that is what this bill is attempting to do.

If people think it is wrong, then they ought to vote for this amendment. If they think we have made a reasonable effort to get through the week and move the process forward, then they ought to vote it down. I hope they vote it down.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Before I speak on the amendment, with the permission of the subcommittee ranking member and the chairman of that committee, I want to make a couple comments on Joe Skeen.

Joe is a hero of American agriculture; and that is when I got to know him, doing the excellent job on the Committee on Appropriations Subcommittee on Agriculture. Joe first ran for Congress as a write-in candidate. Amazing. And most of us are politically aware enough that we know that that is an almost impossible task at local government, let alone for the United States Congress.

Joe served in the Navy. He was a graduate from Texas A&M, a farmer, a sheep rancher on a 15,000-acre-plus operation. Joe, maybe it has gotten bigger since I read the 15,000. At age 33, he was one of the youngest State senators in New Mexico. Later he ran for Governor, and lost by 1 percent point.

Joe, I am proud to have had the opportunity to serve with you. So my best compliment to you and your family.

Now, on the amendment, my nose probably is out of joint on overspending. Some of us in desperation do not know exactly what to do to try to reduce the tendency to spend a lot of money to try to please the Senate. Sometimes we say it is to please the other side of the aisle. So when an amendment comes forth to save $162 million, it influences what I came here to Congress to do, and that is to keep Social Security solvent. I introduced my first Social Security bill the first year that I entered Congress and every session since. Each has been scored to keep Social Security solvent.

So if this amendment saves some money and if this appropriations bill is the start of overspending, it has been my experience throughout my 9½ years in Congress that we pass a budget which may be irrelevant in terms of controlling spending. Obviously, if you look at the number of times that the budget numbers have prevailed, it is irrelevant because we never stick to it. But what happens is in the Committee on Appropriations when we come up with the 302(b)'s, the first bills that we pass and put before this Chamber are easy to pass because there is something in it for everybody. And so we pass the early bills that are somewhat popular, somewhat overspending and then we end up with the tough bills later on for veterans, for education; with an appropriation level that is so low, so below anybody's request that you have to increase the amount—overspend the budget, and you come up busting the budget.

Look, Republicans have done a bad job in terms of holding down spending. Sometimes we blame it on Democrats. Sometimes we blame it on the Senate. But somehow, someplace, somewhere we have to do the cutting that is tough.

Let me give you the statistic from the Heritage Foundation. Most of the benefits of government go to a population that pays less than 1 percent of the income tax. So we are evolving into a society where most of our constituents say, well, a little more spending and a little more help from government is good, because a lot of those constituents do not pay their equivalent share of the income taxes. That is because we have made the income tax so progressive.

This chart represents the biggest financial problem that government is facing, and that is where we are going on the future of Social Security. It is an entitlement program. We have made the promise. We have made the commitment. People have gauged their savings and their lives for their retirement to include what they are going to be getting from Social Security. We are moving into an era of spending frenzy that will lead us to a time when we will not be able to pay those benefits.

So I say, every chance we have, let us grit our teeth and let us come up with the courage we need to do what is right and that is to reduce spending and not dig ourselves into a kind of hole where we are forced to overspend in the last two or three appropriations bills.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when I go back to my district in Maine and I try to explain what goes on in the people's House, I try to explain that only in this House, as contrasted with my constituents' houses, do we talk about revenues and expenditures at different times, and it is as if they were completely disconnected from each other. And I think in some places I should tape this discussion on the proposed amendment and send it back to the people in Maine and say, this is what I am talking about, because I rise in opposition to the amendment. But what I have heard tonight calls for fiscal discipline, calls for being tough on spending, not one mention of the revenue side.

If I went to a businessman, businesswoman in Maine and they said to me, Here is my plan for next year: I am going to reduce my revenues, reduce my sales significantly by discontinuing a product line, but I am going to increase my expenses dramatically by spending more on staff, and I know that we will be in deficit for the next year and the year after that, but I have a plan.

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The plan is I am going to borrow money from my children in order to get me through the next few years. There is not a businessman, a businesswoman in the State of Maine that would think that is the right approach. They would say go back and take another look.

Sure, take a look at the spending, but in this House, at this moment in our history, we have some serious security and defense expenditures that we all agree on.

The alternative is to go back and take a look at our revenues, and last year, when the rallying cry in this House from those who supported the President's tax cut was it is not the government's money, it is your money, there were those of us who said, wait a minute, we can support a tax cut of an appropriate size but not one that uses all of the non-Social Security surplus for the next 6 or 7 years.

Today, and what we see when taxes are discussed in the House here at other times, it is always that we have to make permanent the damage that was done last year. The urge to make permanent the tax cuts is a determination to make sure that people earning $1 million a year, will be able to enjoy an average tax cut of $53,000 every single year. That $53,000 is more than 60 percent of what the American people make in a year.

All I am asking, Mr. Chairman, my friends on the other side is if we are going to talk about fiscal discipline, if we are going to talk about balanced budgets, if we are going to worry about the spending of the Social Security surplus, the least we should do is what every American family who is fiscally responsible does when they sit down to do their family budget and every responsible American businessman or businesswoman does when they sit down and do their budget for their company. They look at revenues and expenditures together and they say what is the right balance, how can we do this in a responsible way.

I submit that this House will never do its budgeting in a responsible way if it does not look at revenues and expenditures together. We are not doing that tonight. It is irresponsible not to do it.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the point is that, what is it, 67 percent of the budget is entitlements. We are talking about one-third of the budget, when we look at discretionary spending, a significant part of that is defense. A significant part of it is HHS with very crucial and sensitive programs.

I just hope that the same zeal and vigor will be applied by the people who are bringing us the Agriculture bill with that big expenditure that just went through this House of Representatives and when they look at tax cuts for the wealthiest people in this country. But to come after these bills that have been worked out on a bipartisan basis, that restrains spending, we can go through this exercise, but we all know what this is about.

As the gentleman from Wisconsin (Mr. OBEY) would say, you have a few people here posing for holy pictures, that is what this is all about. I would hope that we would quit wasting the committee's time and move forward and vote on this amendment and defeat it like it should be defeated.

Mr. ALLEN. Mr. Chairman, I align myself with the comments of the gentleman from Washington (Mr. DICKS), the ranking member.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say as a person who has been here for 7 years, been through the 1995 period where we did not pass appropriations bills, 1996 we went through the process of not passing appropriations bills at the end of the process, we ended up spending more money than anybody wanted. So these 13 bills are bills we have to pass, and I think the point that is being tried to being made by many of us on the committee who worked through all this and do not like it exactly the way it is, but realize that there are votes on this side of the aisle and there are votes on that side of the aisle, and there are perspectives that differ broadly among the constituencies that are represented in this Congress, in this House.

We cannot pass a bill out of the committee if we do not have the votes. We cannot pass a bill out of the subcommittee or the full committee if we do not have the votes, and if they do not have the votes and they do not pass the bill, then what happens is that at the end of the process we get a bigger bill, we get an omnibus bill because we have to fund the Federal Government, whether we want to or not. We have to fund the Federal Government.

This attempt in this bill is an attempt to be balanced, to be fair. Is it too much in some accounts, too little in others? Probably so. Does it frustrate us from time to time? I am from the West. I wish we had less money for certain things and more money for others to make sure we can manage ourselves in the West, but I tell my colleagues, we have worked diligently.

This chairman has worked his heart out. Our full committee chairman, the gentleman from Washington (Mr. DICKS); the gentleman from Wisconsin (Mr. OBEY), everybody is working hard to make this balance so we can get a bill out of committee, get a bill out of the full committee and then pass it and hopefully have the President sign it.

I caution my colleagues who are using this tactic to slow down this process. We get the message. We understand it. We are going to have to deal with it, but I think if we pass no appropriations bills other than the ones we have, we are in for a mighty difficult time at the end of the process as we pass nothing and we end up getting a bigger bill.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. NETHERCUTT. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I do not think we want to go back to the days of massive continuing resolutions where this House has not even had a chance to exercise its goodwill and judgment on these individual bills. That is where the real mischief can occur.

These bills are responsible. We ought to deal with them, each one of them. That is the most effective thing we can do, fight amongst ourselves, get the best numbers that we can. But to go straight to continuing resolutions puts the power in just a handful of people, and this House, and its views on spending issues will be completely ignored.

Mr. NETHERCUTT. Mr. Chairman, reclaiming my time, I appreciate the gentleman's point.

My colleagues had to have been here because if we look at what happened in the wee hours of the day and night, with my own leadership and the leadership on the other side sort of sticking things in and taking things out and putting things in nobody really knew about, we ended up with a massive omnibus package that is not in the best interests of our constituents, of the House or anybody else, and frankly, let me say, I do not think it is in the best interests of our constituents to sort of delay this process, to frustrate the process, to obstruct the process. In the final analysis, it is something that probably is going to be worse than we all are looking at today.

So, again, I come at this as conservative as anybody else, but I am sitting in the room working on these bills and trying to figure out how to balance them, and that is what the chairman has done, the gentleman from Tennessee (Mr. WAMP) and the gentleman from Florida (Mr. YOUNG) and others, and the gentleman from Wisconsin (Mr. OBEY) and Mr. DICKS. We are not all on the same page, but we have got a package that we think makes some sense, trying to get it through the process and work through and get 13 appropriations bills signed and into law and fund the Federal Government to the extent that a majority of the Members of the House and Senate and the President feel should be funded.

So I just say let us vote on the bill, on this amendment. Let us either defeat it or pass it, but I urge my colleagues, move the process along. Let us get through this system, get this bill passed and move on to the next one, and we will have more attempts, more opportunities to craft a bill, but we have to get through this first step first, and I think that is what we ought to be doing and moving along and respecting the chairman of the subcommittee and all of the people who have worked so hard to make this right.

Mr. TERRY. Mr. Chairman, I move to strike the requisite number of words.

I thank the Chair for allowing me these 5 minutes to speak on this, and the gentleman from Washington (Mr. NETHERCUTT) certainly raises some very good points here, and ones that we as the fiscal conservative group, that some, a renegade group as we have been branded here, suggested have discussed that, and we certainly do not want that type of an omnibus bill where the shenanigans take place where there are so many riders and additional spending that gets thrown in and it is thrown up at 9 o'clock in the morning and voted on at 10 o'clock in the morning, like what happened in my first year here with the smaller omnibus bill. I voted no on that one, just as I would vote no on any new one.

Still, it just frustrates me that those of us that are sincerely frustrated with the increased spending, especially at a time of decreasing revenues, are somehow branded as intellectually dishonest by the other gentleman from Washington, or somehow I forget the name that he called us, but the fact of the matter is that I sincerely worried about the type of spending that we are engaging in; that I came here because I wanted to restrain spending; that I felt that that was important to our children's future; that we were taking out a credit card and passing the bill to our children.

The other gentleman from Maine had a very sincere discussion about family budgets and that at times the family budgets need restraint, and the businesses, a person certainly would not take away revenues and criticizing those of us, including me, and I am proud of the tax votes that we have taken because I think empowering families and allowing them to keep more of their own money, especially at a time of an economic downturn, is just simple, common sense, good economic family policy.

We have to adopt in coordination with a tax-cutting policy fiscal restraint. Certainly, most every family has to live on a budget, even we in Congress, even though I get a lot of e-mails suggesting otherwise. We have to live on a budget, and if my revenues are running short, that means we take less trips to Target, and I am not apologetic that I stand up here and support amendments to decrease our trips to Target because that is what we are doing.

This Interior bill is $950 million over last year's spending, $775 million over what the President had suggested. All we are standing up here and doing is asking for a little bit of fiscal restraint on particularly these types of items. This amendment that I rise in favor of reduces the Bureau of Land Management's land and resources to $664,678,000. It just simply takes $162 billion out of it. It just reduces it by a small percent. What we are trying to do here is find little bits of money here and there so at the totality of this bill, we bring it down or maybe even below last year's spending level.

That is just the purpose here. It is not as malicious as the gentleman from Washington suggests.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. TERRY. I yield to the gentleman from Washington.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding for a question.

Does the gentleman realize that that BLM increase is 1½ percent over last year? I am from the West. I know what the challenges are in environmental advocacy out in the West and some of the Federal lands that are subject to being under BLM authority. I know it is just numbers, but there is an impact on the ground that comes from the gentleman's amendment and the comments that he has made.

Mr. TERRY. Mr. Chairman, the amendment, as I understand it, was not a dramatic spending increase, but, as the gentleman from Maine suggested, that we have other priorities such as defense spending, national security, and he is absolutely right, and I think all of us in the House share those priorities. So it becomes a time where if we want to have the secondary goal of saving money, where do we cut?

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. TERRY) has expired.

(On request of Mr. YOUNG of Florida, and by unanimous consent, Mr. TERRY was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. TERRY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I have a very simple question. If he would explain to me and to our colleagues in the House the difference in discretionary spending and mandatory spending, back-door spending in effect, and compare that to this amendment versus the farm bill that the gentleman voted for and that spends $90 billion over the baseline. If he could just explain the difference, explain the consistencies or inconsistencies.

Mr. TERRY. Mr. Chairman, I assume that is more of a rhetorical question to put me on the spot for voting for a farm bill, and I am anxious to see the Agriculture appropriations bill.

□ 1930

But I will admit to the gentleman, coming from the State of Nebraska, that I will have leanings towards securing, especially in a time when we are in a severe drought and I have already been told that for the State of Nebraska, from the gentleman's committee and the White House, not to expect any disaster relief; that we will have to find it within the budget. I am glad to do that. I am glad to take those type, instead of going off-budget like we had done when Texas certainly needed disaster relief. I am willing to take our money out of that.

Mr. YOUNG of Florida. If the gentleman will yield further, I commend the gentleman for that, for being realistic about the needs. But what is the difference in the mandatory dollar versus the discretionary dollar? It seems to me they are both the same. They are both spending.

Mr. TERRY. Well, granted.

Mr. AKIN. Mr. Chairman, I move to strike the requisite number of words.

I also very much appreciate the hard work that has gone on in trying to put all these numbers together and the long hours and the sincere efforts that have been made by everybody. I suppose I am a little concerned that maybe people worked about $775 million too long on it, and that is what I wanted to try to talk about just briefly.

My concern is to try to put this thing into perspective. I understand the long hours that are spent, but perhaps the result of that is to take us a little too close to the trees to see the forest. The concern I have is that when I was just a little 2-year-old and we had an average family in this country, mom and dad and just two little kids, and dad would go off and earn a dollar at work, at the end of the time he had earned that dollar, three pennies of the dollar was spent on direct taxation, Federal, State, and local. All added together, three cents on the dollar.

Five years ago, that three cents had jumped to 38 cents. Mom and dad, two kids, with dad earning a dollar, 38 cents on the dollar goes to direct taxation. That is more than the average family pays for food, clothing, and shelter combined. My question is: Are we perhaps buying too much government?

The nation of Rome collapsed, apparently, with a 25 percent tax rate. We are talking about direct taxation on our families of 38 cents, and that was 5 years ago. So the question we have before us tonight is really how much government can we afford?

I think the first thing is to try to put that into perspective and to say, well, what then is the state of our economy? If our economy is robust and thriving, then perhaps we can afford a little more government. But it does not seem to me that that is the case. In fact, there seems to be a great deal of jitters and concern about the condition of our economy.

So if we go ahead and ask people who have made a life study of economics, as we did, we had a conference call with all kinds of different people who are experts on the economy and asked them what it is Congress can do. We have these things we call economic stimulus packages. We pull a magic lever and somehow the economy is supposed to take off like a jet. What exactly is it we can do? These economists told us we only have two things we can do. The first thing is we can cut taxes. And if we cut taxes, it is not going to do a hoot of good if we do not follow it with the second thing we have to do, which is to cut spending.

I think that is what the concern is here. We are talking about too much spending. And I understand that there are priorities. I understand there are things we have to fund. But the bottom line is we have to take a look at the big picture. We have gone from three cents to 38 cents just in my own lifetime. I am not quite dead yet. And so the question is, can we continue to buy more and more and more government? That is the concern here.

It is not only this amendment, which makes an honest effort to try to reduce some of this $775 million, but the overall question is just how much can our constituents afford? How many of the people, those little families, that instead of spending three pennies when dad goes to work, are now carrying more government than food and clothing and shelter combined? I think that this amendment is at least a step in the right direction to try to move us toward cutting that, cutting that $775 million.

I do not pretend to be an expert on the details of it, but certainly we have to say something eventually to the point of where are we going to draw the line.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. AKIN. I yield to the gentleman from Washington.

Mr. NETHERCUTT. Mr. Chairman, I just heard the gentleman say he is not an expert on the details of the request, that he just wants to cut money. And I appreciate that and understand that, and I respect the point of view of the gentleman. But the budget request that the President sent up, and by the way the President supports this bill, the administration has already said they support this bill, the interior appropriations bill. So it is not the President that is against this; it is Members of the House.

The budget request cut PILT funding, Payment in Lieu of Taxes. We have the Western Caucus, of which I am a member, who went nuts. That hits our small counties out in the Northwest and the western States. So that is $65 million. The science and water programs of the U.S. Geological Survey, two-thirds of those requests were from Republicans to restore U.S. Geological Survey money, $61 million. The national fire plan. We have the Western Governors Association and the National Governors' Association and the Western Caucus that want that in.

So it is important what is in the details. It is not just money; it is not just the big number. It is what is in the details. I challenge the gentleman to look at these and to say where he does not like them.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

To the gentleman from New Mexico (Mr. SKEEN), the gentleman from Florida (Mr. YOUNG), the gentleman from Washington (Mr. DICKS), and the gentleman from Wisconsin (Mr. OBEY) I want to say thank you for the leadership that you provide.

The reason I came down tonight, and to my friend, the gentleman from Washington (Mr. NETHERCUTT), is simply because I am extremely concerned about the next generation's future, quite frankly. I have been coming to the floor for the last 3 weeks. I have written to Secretary O'Neill and to the gentleman from Indiana (Mr. BURTON), because in the report from the Secretary of Treasury, Secretary O'Neill, the "2001 Financial Report of the United States Government," they acknowledge in this report that we have lost $17.3 billion of the American people's money. I would hope somebody in this House, both Democrat and Republican, would join me in asking Mr. O'Neill where is $17.3 billion of the American people's money.

Certainly I must say to my good friend, the gentleman from Maine (Mr. ALLEN), who is a good friend, that certainly many of my colleagues did not realize this, and I want to be very honest about it, I did not either until the July 4 break listening to a talk show host in Raleigh, North Carolina, reading a New York Post article and chastising the American Government and the Congress and the Secretary of the Treasury for reporting that we had lost $17.3 billion. So I came down here tonight to speak on behalf of this amendment simply because I am concerned about the next generation's future.

We all hope that we do the right things when we are here on the floor of the House voting. But I really think about the way we are going with increased spending. And I was a former Democrat, by the way, who joined the Republican Party in 1993 because I believed that my party, quite frankly, would do the best job of holding down the growth of government. That has not happened yet, and I am somewhat surprised and disappointed. But as we continue to expand the Federal Government and the spending of the Federal Government, what we are doing to the next generation is that by the year 2012 or 2015 we are going to be asking the next generation and those who are working that we need to increase their Federal taxes by 20 to 25 percent, 20 to 25 percent.

To everybody on this floor tonight, staff as well as Members, you know what you are paying in taxes. Think about the working people of this country who are making $30,000, $40,000 a year, maybe $50,000 trying to raise their children and take care of their family. Think about their taxes. That is what we do when we increase the spending of the Federal Government.

Mr. Chairman, I must say that, again, there is a whole lot in this bill that I do like and I do support. But, again, when we expand the spending over what was requested, then that is when we have sincerely, I think, an obligation to the American people. Yes, we pay our taxes. We all work hard. I am always back home in my district, when I go into a school, I praise every Member of the United States House of Representatives, liberal or conservative; and I praise the staff, and I talk about how hard they work and how they do what they think is right for the American people. I believe that sincerely. But I will say that if we, in a bipartisan way, do not work to hold down the growth of government, then when our grandchildren, when many of us, not George and Tom, but when many of us are in our 70s and 80s, we will have our children who are trying to raise our grandchildren say to us, how in the world could you serve in the Congress and we are having to pay 35 and 40 percent in taxes?

This is just the beginning of the appropriation process; and, Mr. Chairman, I will yield to you because I did support you on the military issues, but let me say to you that all of us are guilty, including myself, of not doing a better job of holding down the growth of this Federal Government. And I hope that we will work together, and whether we agree on every issue, we can work together to do a better job.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for that, and I do not want to be combative about this, but I am looking for an explanation. I want to ask the same question that I asked of the gentleman from Nebraska (Mr. TERRY). What is the difference in back-door spending dollars versus the discretionary spending dollars?

Mr. JONES of North Carolina. Mr. Chairman, reclaiming my time, and since the chairman asked the question of the gentleman from Nebraska (Mr. TERRY), if I might, the one thing about the farm bill is it was consistent with the budget resolution. This is not.

Mr. GUTKNECHT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly rise tonight to support this amendment, but, more importantly, to begin to raise the issue and the consciousness of this Congress about what has been happening in this Congress for the last 3 or 4 years.

Now, the gentleman from Washington (Mr. NETHERCUTT) and a number of us came here in 1994, and we were very serious about balancing the Federal budget. We were serious about controlling the growth in discretionary spending. And every time we passed an emergency supplemental bill, for the benefit of some of the Members who have come here in subsequent years, when we passed an emergency supplemental bill, there was an offset. And as a result, we balanced the budget in 4 consecutive years. We paid down over

$450 billion worth of publicly held debt. And that was the right thing to do.

Now, last year, after September 11, and because of the slowdown of the economy, we have begun to slip back into deficits. But we have a chance, as we go through this appropriation process, to begin to get the ship of state headed back in the right direction.

Now, I regret, I want to say to the gentleman from New Mexico (Mr. SKEEN) and all the members of the Subcommittee on Interior of the Committee on Appropriations that it just so happens that his bill is the first out of the chute, because I know that he does good work, and there are a lot of important things for all kinds of constituencies in this bill. But the question we ought to all ask ourselves is this: Why should the Federal budget grow at a rate of twice that of the average family budget?

The average family budget in America today is growing a little more than 3 percent. Discretionary spending, and I will be happy to talk to the chairman of the Committee on Appropriations, but discretionary spending is going to grow this year, unless we get serious about controlling that growth rate, by more than 7 percent. Now, at a time when the average family budget is growing 3 percent, discretionary spending is 7 percent.

The question is: How much is enough? When are we going to say enough is enough? Because, my colleagues, if we stay on the path we are on right now, and last week the House passed what is very important legislation as regards prescription drug coverage, but if we look at the charts that have been prepared by the Republican study committee, with that bill and with the continuing growth in discretionary spending in this budget and the next, we are going to be looking at $250 billion deficits as far as the eye can see. Now, that is not what the American people sent us here to do.

So, unfortunately, we have to begin to stand and draw a line in the sand and say, enough is enough. And unfortunately, it happens to be that this is the first bill. What this amendment does, as I understand it, we simply go back to what we agreed to back in 1996, where we said we are going to adjust this account to what the spending would be if that account had gone up every year at the rate of inflation.

□ 1945

Now, do not talk to us about draconian cuts. We are saying let us go back to what we thought we agreed to in 1995, 1996 and 1997 when this Congress was serious about balancing the budget.

There was a Pepsi commercial a few years ago that said life is a series of choices. What we do on the floor of this House every day is a series of choices. We have to decide whether we are going to allow the Federal spending machine to continue to grow at double the rate of the average family budget, or are we going to start to say enough is enough.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. GUTKNECHT. I yield to the gentleman from Washington.

Mr. NETHERCUTT. Mr. Chairman, my understanding is that this bill is about 2.8 percent of an increase over last year. That is below what the family budget of most families would be if you look at inflation in this country. So this bill is staying within the guidelines, and we did so diligently, and with a lot of effort.

Mr. GUTKNECHT. Mr. Chairman, reclaiming my time, I will give all Members a medal and a kiss on the cheek.

But the point is that this account has grown by more than double the inflation rate. All we are saying is let us take this account back to the 1996 levels adjusted for inflation. I am not here to be critical of the Committee on Appropriations because they have done a good job.

Mr. TOOMEY. Mr. Chairman, will the gentleman yield?

Mr. GUTKNECHT. I yield to the gentleman from Pennsylvania.

Mr. TOOMEY. Mr. Chairman, if we exclude emergencies and look at the bill from last year and the bill that is proposed, my number suggests that this is an increase of 5.54 percent, to be exact, which is, of course, way above the rate of inflation and way above the growth of most families' budgets.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. GUTKNECHT. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, we obviously have been wasting our time for quite some time because the gentleman is wrong. Without the emergencies that the gentleman is referring to, this bill is a 2.8 percent increase. That is a fact. I hope we are not held up all night long on an unfactual basis.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I point out to Members that yes, it is true that we are facing budget deficits once again. But the reason we are facing these budget deficits is not because of the incremental increases in some of these budgets, and as was just pointed out by the gentleman from Washington (Mr. NETHERCUTT), the increase in this particular budget is not a budget-breaker at all, it is quite modest.

The problem that we have is last year this Congress passed a tax cut which was way out of line. That tax cut is what is causing us to have these enormous budget deficits. Members do not want to admit that is the problem, but that is at the very root of any financial difficulty we have, and the reason why we are facing substantial budget deficits today and into the future.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, one of the things about this bill, it generates $6 billion in revenue. This is a revenue-producing bill, and a large amount of that revenue comes from the Bureau of Land Management. I want to point out to Members, this amendment will cut into the BLM and will hurt our ability to gain this revenue. This comes from oil leasing, cattle leases, mine leases, grazing leases, all of the various ways that we raise money through this bill.

Also, some Member said this is not a big cut. This is a 20 percent reduction in the activities of the Bureau of Land Management. It is $149 million below the President. It cuts $6.8 million from wildlife and fisheries. It cuts $21.4 million from energy development. It cuts $19 million from transportation on Federal lands. It cuts $15 million from resource protection, and many other important accounts.

The chairman of the Committee on the Budget said he can support this bill. The President has set up his statement of administration policy. He can support this bill. What we have here is a small group of Members who are intent on making a point. I think they have made it, and I think the House now has to vote down this amendment and show them that they support the work of the Committee on Appropriations, and that we are in a position now to get some action on these 13 bills. We have a responsibility to the country. Let us get moving on these bills.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I think we are getting close to the end of this debate, at least I have consulted with some of the potential speakers, and I think we are near the end.

I have to say I am a little uncomfortable here today because these Members who are proposing this amendment, I find myself more philosophically tuned in to their position than to my friends who are supporting my position on this amendment. However, I still think these Members are wrong in this case.

I want to correct a couple of things. First of all, the President's budget, when he sent it down here, was $768 billion for discretionary spending. The budget that we are working under in the House is not the $768 billion that the President requested, it is $759 billion. We are under the President's budget request by $9 billion, but we are working with it.

One of the earlier speakers, the gentleman from Wisconsin, talked about how this is unraveling the appropriations process. He talked about how we are going to spend all the money on the easy bills, and then we are going to rip off the bills at the end. The gentleman specifically mentioned the Labor-HHS bill, the Veterans Affairs-HUD bill, and the Commerce-State-Justice bill.

The Labor-HHS bill under the Committee on Appropriations' 302(b) is exactly at the President's request.

The 302(b) for the Commerce-Justice-State bill is only one percent below the President's request.

The 302(b) for the VA-HUD bill is less than one percent below the President's request. So we are not messing up the appropriations process. It is not unraveling.

As I said, philosophically I tend to be more in tune with these Members, but in this case it is important that we defeat this amendment. The Bureau of Land Management is involved in processes that bring in $6 billion a year because of leasing arrangements that have been ongoing. We do not want to unravel that process.

I want to close with this comment, and I did not ask all of my colleagues this question because there were too many of them. But what is the difference in a dollar spent by back-door spending in a mandated spending bill, and a dollar spent in a discretionary spending bill? The way I look at it, there is no difference. A dollar spent is a dollar spent. What is magic about mandatory programs versus discretionary programs?

I was happy to remind some of my friendly colleagues who support this amendment that they in fact voted for the farm bill, and I am not saying that it is a good vote or a bad vote, but it spent $90 billion over the baseline. That is a $90 billion increase over a period of years. What is the difference in $90 billion spent there. And now they want to unravel this bill for $162 million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. TOOMEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

### RECORDED VOTE

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 84, noes 332, not voting 18, as follows:

[Roll No. 305]

AYES—84

Akin
Armey
Barr
Bartlett
Barton
Bass
Berry
Boehner
Boozman
Brady (TX)
Burr
Burton
Cantor
Chabot
Coble
Collins
Cox
Crane
Culberson
Davis, Jo Ann
DeLay
DeMint
Doggett
Duncan
Flake
Forbes
Fossella
Goode
Goodlatte
Graham
Graves
Green (WI)
Gutknecht
Hart
Hefley
Hill
Hilleary
Hoekstra
Hostettler
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kirk
Lucas (KY)
Manzullo
Mica
Miller, Jeff
Myrick
Norwood
Nussle
Paul
Pence
Petri
Pitts
Platts
Portman
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Shimkus
Shows
Smith (MI)
Souder
Stearns
Stenholm
Sullivan
Tancredo
Taylor (MS)
Terry
Thornberry
Tiberi
Toomey
Turner
Upton
Weldon (FL)
Wilson (SC)

NOES—332

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Buyer
Callahan
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gonzalez
Gordon
Goss
Granger
Green (TX)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Stark
Strickland
Stump
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—18

Blagojevich
Bonior
Clay
Dooley
Ehrlich
Gilman
Harman
Hastings (FL)
Istook
Lynch
Mascara
Nadler
Quinn
Riley
Smith (WA)
Spratt
Sununu
Traficant

□ 2016

Messrs. COMBEST, OTTER, RANGEL, WYNN and SAXTON changed their vote from "aye" to "no."

Messrs. TERRY, FORBES, LUCAS of Kentucky and FOSSELLA, and Mrs. JO ANN DAVIS of Virginia changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. GILMAN. Mr. Speaker, earlier this evening, I attempted to vote on the Toomey Amendment to H.R. 5093 but my vote was not recorded. Accordingly, if I had been able to vote on rollcall No. 305, I would have voted "no."

Mr. ALLEN. Mr. Chairman, I move to strike the last word for the purpose of entering into a colloquy with the distinguished chairman of the Subcommittee on Interior Appropriations.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I certainly will yield.

Mr. NETHERCUTT. Mr. Chairman, on behalf of the chairman of the subcommittee, I would be pleased to have a colloquy with the gentleman from Maine.

Mr. ALLEN. Mr. Chairman, I would like to bring to the attention of the chairman of the subcommittee, the gentleman from New Mexico (Mr. SKEEN), the need for land acquisition funding at the Rachel Carson Natural Wildlife Refuge at my district in Maine. I appreciate the chairman's past support for the refuge and its land acquisition program, which purchases critical coastal, estuarine and upland properties from willing sellers in order to conserve critical wildlife habitat that is being lost to development up and down the coast of Maine.

While I understand the difficulties the chairman faced in crafting this bill, I also must point out that in fiscal year 2003, there was a continuing need for funding to acquire a number of properties within the Rachel Carson refuge boundary.

The refuge, working in partnership with other organizations, has agreements with willing landowners to purchase several properties. If funds are not available this year, these critical natural resource lands could be lost forever to development.

As the chairman is aware, the Senate Interior appropriations includes $3 million for Rachel Carson National Wildlife Refuge. I respectfully urge the chairman to consider including this amount in the final conference report.

Mr. NETHERCUTT. Mr. Chairman, if the gentleman will yield, I thank the gentleman for his comments; and we appreciate the gentleman's arguments on behalf of the Rachel Carson refuge. On behalf of the chairman of the subcommittee, we can assure the gentleman that we will consider his request as we work towards completion of this bill.

Mr. DAN MILLER of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to ask to have a colloquy with the chairman of the subcommittee, or if the gentleman from Washington (Mr. NETHERCUTT) would engage in a colloquy with me.

Mr. Chairman, I would like to add my compliments to the great job that the gentleman from New Mexico (Mr. SKEEN) has done over the past years. I have had the pleasure of serving for the past 8 years on the Committee on Appropriations with him. It has always been a pleasure and he has been a real leader. I will be retiring with the gentleman, and we can look forward to the next years.

I would like to talk about Egmont Key. As the chairman may know, I will be authorizing legislation, bipartisan legislation very soon to convey a small island in my district named Egmont Key in the mouth of Tampa Bay to the Florida State Park Service. This island in Tampa Bay is currently under the jurisdiction of the U.S. Fish and Wildlife Service, but it is operated by the Florida State Park Service, and it has three full-time State park rangers already stationed on the island.

Egmont Key is unique and is natural in its cultural history, and that has made that island a very valuable resource to our area. Area residents, including my family and I, have enjoyed Egmont Key's cultural and recreational benefits for years, and the local support for conveying the ownership of this island to the Florida State Park Service is strong, and I do have bipartisan support. I anticipate the legislation will be enacted before the commencement of the conference committee on interior appropriations for the fiscal year 2003, and upon enactment of authorization legislation, I will be requesting appropriations from the distinguished gentleman's subcommittee.

This island in the middle of Tampa Bay is really kind of in three Members' districts, including the gentleman from Florida (Mr. YOUNG), the chairman of the full Committee on Appropriations, and the gentleman from Florida (Mr. DAVIS) of the Tampa area, and he will be working with me on this issue.

Let me make one other comment. Upon conveyance of land by the Federal Government, the Federal Government will actually save money in the long term, and I want to make sure my colleagues are aware that there will be a savings in the long term.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. DAN MILLER of Florida. I yield to the gentleman from Washington.

Mr. NETHERCUTT. Mr. Chairman, the subcommittee is aware of the gentleman's good work and also has the same understanding as the gentleman that there will be a savings of money.

Mr. DAN MILLER of Florida. Mr. Chairman, I yield to my colleague from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I would just like to join in the gentleman's comments and to thank the chairman for his recognition of this very important issue. This is one of the most historic parts of the Tampa Bay area. It is a convergence of the gentleman of Florida's (Mr. DAN MILLER), the gentleman of Florida's (Chairman Young), and the district I represent; and we will be introducing legislation shortly to transfer title, and there certainly will be appropriation issues accompanying that. This is also a piece of land that the gentleman from Washington (Mr. DICKS), the ranking member of the subcommittee, is very familiar with as well.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. DAN MILLER of Florida. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, we certainly will help and cooperate and do everything we can to be supportive.

Mr. DAN MILLER of Florida. Mr. Chairman, I might add in concluding that the Florida State Park Service, under the authorizing legislation, will have to continue to preserve the wildlife, habitat, and the environment that exists on the island. I look forward to working with the Committee on Appropriations once we get the authorization legislation moving forward. I thank the chairman for hopefully working with us on this.

Mr. NETHERCUTT. Mr. Chairman, if the gentleman will yield further, the committee will look forward to working with the gentleman after the Egmont Key transformation legislation has been enacted.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the last word to engage in a colloquy with the distinguished gentleman from New Mexico (Mr. SKEEN) or his representative.

Mr. Chairman, I very much appreciate the gentleman from New Mexico. He is truly a man of the West. He has distinguished himself as such, and I just wish to offer my congratulations to him on his service here and well wishes for the future after his service is concluded.

Mr. Chairman, I thank the gentleman for agreeing to engage in this colloquy. As the chairman is aware, my colleague, the gentleman from California (Mr. RADANOVICH), and I both sent letters expressing our support for funding in the amount of $2,943,150 from the fiscal year 2003 interior appropriations measure to compensate the High Sierra Packers Associations for losses incurred as a result of a recent injunction issued against the United States Forest Service.

The injunction resulted in tremendous decreases in pack use within the Ansel Adams and John Muir Wilderness Areas located in both the Inyo and Sierra National Forests within California. Losses accumulated from this court mandate were based on the forest service's own violation of the law. This is simply unacceptable. Therefore, my colleague and I respectfully requested that the Federal Government reimburse the High Sierra Packers Associations in the sum of $2,943,150 for the unjust decision dealt to them.

We look forward to working with the distinguished gentleman from New Mexico to see what avenues may be available to help the packers who, through no fault of their own, have been injured.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Washington.

Mr. NETHERCUTT. Mr. Chairman, on behalf of the subcommittee and the chairman of the subcommittee, we thank the gentleman from California for bringing this important issue to our attention. The staff and the chairman are prepared to assist the gentleman and the gentleman from California (Mr. RADANOVICH) in finding alternative means to rectify the situation.

Mr. DEAL of Georgia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to also engage in a colloquy with the subcommittee chairman or his representative.

First of all, I would like to extend my congratulations too for the hard work that the gentleman from New Mexico (Mr. SKEEN), the chairman of the subcommittee, has given to us, not only this year, but in many past years. We are going to miss him in the next Congress.

Mr. Chairman, I would like to call to the attention of the Congress and this subcommittee an issue that is of serious concern to my constituents in the Chattahoochee-Oconee National Forests area in the State of Georgia.

Additional funding is needed to correct a shortfall in law enforcement funding for these forests that are at the doorstep of the metropolitan area in Atlanta, Georgia. Additional law enforcement personnel are needed to provide adequate protection for visitors, adequate protection of the forests' natural resources, and to increase efforts to combat illegal drug production and trafficking. Viable options include hiring additional personnel or increasing cooperative law enforcement agreements with State and county law enforcement agencies.

I realize that tough decisions will be made in this year's budget, but I believe that safety of the users of public lands rises to a high priority level. I am encouraged by the chairman's efforts to work with me, and I expect that he will be able to address this request as he moves this bill through conference.

Mr. Chairman, I yield to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I wanted to take a minute to thank the gentleman from New Mexico (Mr. SKEEN) too and thank the gentleman from Georgia (Mr. DEAL) for their hard work on this issue. Since I hope I will be representing many of the forests in question that we are discussing here in the 108th Congress, this issue will continue to be very important to me.

Securing sufficient dollars for law enforcement to ensure the safety, environmental quality, and the security of the Chattahoochee-Oconee National Forests is critically important, as future generations deserve to enjoy this treasure as those have in the past. I look forward to working with both gentlemen in the coming weeks to preserve this objective within our Georgia forests.

Mr. KINGSTON. Mr. Chairman, will the gentleman yield?

Mr. DEAL of Georgia. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding, and I want to say that I support the efforts of my colleagues from Georgia and know of their efforts to try to get this corrected.

I have been disappointed that we as a committee have not been able to come up with a satisfactory solution, but I know the gentlemen from Georgia (Mr. DEAL) and (Mr. NORWOOD) have a serious local problem here that we have got to address on a national basis, because I think there are some issues that have been inherited from past administrations that we are now suffering from.

So I wanted to say to my colleagues from Georgia that I stand in support of what they are trying to do; and I want to say in terms of the conference, I want to do everything I can, Mr. Chairman, to try to get this thing corrected.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. DEAL of Georgia. I yield to the gentleman from Washington.

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Mr. NETHERCUTT. Mr. Chairman, on behalf of the chairman of the subcommittee, I thank all three gentlemen from Georgia for their kind words about the chairman on this issue, and I can assure the gentlemen that the chairman and the committee will work in conference to address their concerns regarding adequate protection of visitors and resources in Georgia's national forests.

Mr. DEAL of Georgia. I thank both gentlemen for their cooperation. I do look forward to working with them in conference.

Mr. GREEN of Wisconsin. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to make a statement, and then to engage in a colloquy with the chairman or his representative.

Mr. Chairman, I rise today to talk about a crisis in my home State of Wisconsin, something that folks around here may not have heard much about, but I fear that they will. The subject is chronic wasting disease, which is a disease that afflicts elk and deer. There is no cure. There is no treatment. In fact, we are not even sure, quite frankly, how it is spread.

It was first recognized in the State of Colorado back in 1967. Now, sadly, some nine States, including my home State of Wisconsin, have been afflicted by it. It is a health challenge because we do not understand how this disease is spread, and we want to make certain that it cannot spread into other species.

It is obviously an environmental challenge, and it is also a cultural challenge, because deer hunting and wildlife management is a critical part of the culture in my home State and some other States. It is certainly an economic challenge, because there are 1.6 million deer in Wisconsin, 600,000 hunters, and the deer harvest each year is approximately 300,000 animals.

The sad news, Mr. Chairman, is that we are short on research, and we are just as short on testing capacity. I came here today with an amendment which would have provided money to relevant agencies to try to implement part of a comprehensive plan, but in discussing this matter with the chairman in his office, I am confident that we can reach that goal without an amendment.

Mr. Chairman, I would like to engage in a colloquy with the distinguished chairman of the subcommittee, the gentleman from New Mexico (Mr. SKEEN), or his representative.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Wisconsin. I yield to the gentleman from Washington.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would say to the gentleman, I know that we have agreed we need to take quick action to deal with this chronic wasting disease. From the information the gentleman has shared with us, it appears that more funding is needed in order to address this problem.

Mr. GREEN of Wisconsin. That is correct, Mr. Chairman. As part of the new Federal task force on chronic wasting disease, the U.S. Geologic Survey needs additional funding. The current estimated total dollar funding need for the USGS for chronic wasting disease activity is about $6.6 million for fiscal year 2003 alone.

Keeping in mind that my colleague, the gentleman from Wisconsin (Mr. OBEY), has already secured $2.7 million for the needs in the bill before us today, we are left with a need of an additional $3.9 million which is required to meet the funding goal. That is why I was going to offer this amendment.

Mr. NETHERCUTT. If the gentleman will continue to yield, Mr. Chairman, the gentleman and other Members of the Wisconsin delegation are to be congratulated for their hard work on this matter.

The chairman believes we can meet that goal as the appropriations process goes forward. We have his pledge to the gentlemen from Wisconsin, Mr. GREEN and Mr. RYAN, and to the other Members that the chairman will use his position in the conference committee on this bill with the Senate to do everything that we can to see that the needed funding is provided.

Mr. GREEN of Wisconsin. I thank the chairman very much, and my colleagues from Wisconsin, for their cooperation and hard work, and I look forward to working together with them and with the chairman in the future on this issue that affects our home State.

I will not offer my amendment, but I thank the gentleman for engaging me in a colloquy.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I simply want to, in a continuing comment on the previous subject, note that this committee has been quite generous, I think, in helping us to meet our responsibilities in dealing with this problem, chronic wasting disease.

Last year, the committee provided $2.25 million for the Department of Agriculture and the Centers for Disease Control. In the supplemental appropriation bill, which passed the House and the Senate, the committee provided $12 million in the House version, and thanks to the efforts of the other body, Senators KOHL and FEINGOLD, they have provided $21 million in the Senate bill.

In the Interior bill so far we have $2.7 million, and in the Agriculture bill, which will follow on, we have $16.4 million. So I think we have received fine cooperation on the legislative end from the committee, and I appreciate it.

Mr. KIND. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Chairman, I thank the gentleman for yielding to me. I just want to commend the ranking member on the Committee on Appropriations for his attention to this very serious issue that has afflicted the State of Wisconsin, chronic wasting disease.

Mr. Chairman, I am an avid hunter myself, with two little boys, and this has sent shock waves across the entire State of Wisconsin. This is the first time the disease has been detected east of the Mississippi. It has now been detected west of the Continental Divide. It has also been detected down in New Mexico.

This is a disease that is spreading across the continent, and the paucity of scientific research has led to a lot of bad options on how to contain it. That is why earlier this year I introduced legislation to establish a comprehensive scientific research program so we can start getting some answers in regard to CWD, and what we can best do to contain it and hopefully eradicate it, so future generations may enjoy the sport of hunting whitetail in the State of Wisconsin.

But this has received a lot of attention. We have been working in a bipartisan fashion within the Wisconsin delegation. Our leader here, the gentleman from Wisconsin (Mr. OBEY), on the Committee on Appropriations has been very attentive to these issues, and the mounting expenses and the great concern we have in Wisconsin over the impact of this disease.

I am heartened to hear the assurance from the other Members of the committee, the ranking member and the chairman himself, whom we have been in touch with, in regard to their attention to this issue. I am confident that if we can continue proceeding in a bipartisan fashion, hopefully we will be able to get things in place in order to prevent the further spread of this disease, and hopefully, eventually the eradication of it.

Ms. BALDWIN. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentlewoman from Wisconsin.

Ms. BALDWIN. Mr. Chairman, I thank the gentleman for yielding to me.

Last February, when the first case of chronic wasting disease was documented in my district, a quiet panic began to race against south central Wisconsin. People wondered how seriously this disease would affect the health of the deer population, as well as the health of their own families.

On behalf of my constituents, I would like to thank the chairman, the gentleman from New Mexico (Mr. SKEEN), the ranking member, the gentleman from Washington (Mr. DICKS), and the dean of our delegation, the gentleman from Wisconsin (Mr. OBEY), for understanding the importance of this needed funding. This funding will be vital in slowing the spread of the disease, as well as learning a lot more about it.

Mr. OBEY. Mr. Chairman, I thank the gentlewoman. I simply want to say, a lot more money will be required in the future, not just in Wisconsin but in a number of States around the country. We will have to deal with this as a national problem, because it is a national problem.

Mr. HAYES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Washington.

Mr. NETHERCUTT. Mr. Chairman, I would be happy to have a colloquy with the gentleman from North Carolina.

Mr. HAYES. Mr. Chairman, I would like to share with my colleagues an issue of importance regarding the Energy Star program.

Over the last 18 months, the Department of Energy has solicited public comment for proposals to change the criteria applicable to its Energy Star windows, doors, and skylights program. A recent decision by the Department of Energy confirms that no new criteria will be implemented, and the current Energy Star criteria for windows, doors, and skylights will remain in effect.

I would like to take this opportunity to commend the DOE for removing from consideration the proposal to change the criteria so that the Department of Energy may more carefully analyze the significance of solar heat again in certain regions of the country. By withdrawing this proposal from consideration, DOE has averted the creation of a government-sanctioned monopoly, and determined that competition is preferred and marketplace forces should prevail.

I would also like to commend DOE on their intention to complete additional research concerning technical issues before proposing any future change to the current criteria.

Is it my colleague's position that any proposed changes to the criteria for this program by DOE should be based on sound science, should rely on the collective input of stakeholders in the program and, above all, should continue to rely on the marketplace to determine the structure of the industries affected by this program?

Mr. NETHERCUTT. If the gentleman will continue to yield, the gentleman from North Carolina makes a very good point. We commend him for his excellent work in this area. I note on behalf of the chairman of the subcommittee that we look forward to working with the gentleman from North Carolina to ensure the continued integrity of the Energy Star program. We thank the gentleman very much for bringing this to the committee's attention.

Mr. HAYES. Mr. Chairman, I thank the chairman of the committee, the gentleman from New Mexico (Mr. SKEEN), for all his wonderful work.

Mr. FORBES. Mr. Chairman, I move to strike the last word for the purpose of engaging in a colloquy with the chairman or his designee.

Mr. Chairman, I would first like to thank my colleague, the gentleman from New Mexico (Mr. SKEEN), for his hard work on this bill before us today. I recognize the difficult choices that must be made, and appreciate the fair and balanced bill he has developed.

The Fourth District in Virginia is home to a large part of the Great Dismal Swamp National Wildlife Refuge. The remaining portion is in North Carolina. This refuge was established nearly 30 years ago with the express purpose of protecting a unique ecosystem. Its 109,000 acres are home to a large diversity of fish, bird, animal, and plant species.

As of late, it has become an increasingly popular attraction for ecotourists from across the region, the State, and the Nation.

The U.S. Fish and Wildlife Service is currently in the process of developing its comprehensive conservation plan for the Great Dismal Swamp. As part of this process, the service is planning the construction of a visitors center. It is my hope that ultimately the service will determine that the most appropriate location for the visitors center is on the Virginia side of the refuge.

In fact, according to a letter my office received from Lloyd Culp, the refuge manager, on January 18, this outcome is the most logical and efficient conclusion. As Mr. Culp indicated, "One cannot plan for visitor access to the Great Dismal Swamp National Wildlife Refuge without working on improved access to Lake Drummond, which is undoubtedly the most popular attraction for the refuge. All current land access to Lake Drummond is within the city of Suffolk, Virginia, and I don't see that changing."

I would appreciate the opportunity to continue working with my colleague, the gentleman from New Mexico, towards ensuring that the conference report on this bill and future appropriation bills leads to the establishment of a topnotch visitors center for the Great Dismal Swamp refuge, which makes the most of the natural advantages of spots like Lake Drummond to ensure its success.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. FORBES. I yield to the gentleman from Washington.

Mr. NETHERCUTT. Mr. Chairman, we appreciate my colleague's interest in this matter, and certainly offer to work with him toward that end. I speak on behalf of the chairman and the entire subcommittee.

Mr. FORBES. Mr. Chairman, I thank the chairman.

AMENDMENT OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLAKE:

On page 2, line 13, insert after the dollar amount "(reduced by $51,300,000)."

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. TOOMEY. I object, Mr. Chairman.

The CHAIRMAN. The Chair hears an objection.

MOTION TO LIMIT DEBATE OFFERED BY MR. NETHERCUTT

Mr. NETHERCUTT. Mr. Chairman, I move that all debate on the amendment and all amendments thereto be limited to 10 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Washington.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NETHERCUTT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 324, noes 79, not voting 31, as follows:

[Roll No. 306]

AYES—324

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Boehlert
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Callahan
Calvert
Camp
Capito
Capps
Cardin
Carson (OK)
Castle
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Conyers
Costello
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Fletcher
Foley
Forbes
Ford
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (TX)
Hansen
Harman
Hastings (WA)
Hayes
Hefley
Herger
Hill
Hilliard
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Shaw
Shays
Sherman
Sherwood
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Stearns
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—79

Akin
Baird
Bartlett
Barton
Blunt
Brady (TX)
Burton
Cantor
Capuano
Carson (IN)
Chabot
Clay
Condit
Cox
Crane
Cubin
Delahunt
DeLay
DeMint
Doggett
Doolittle
Filner
Flake
Fossella
Frank
Gilchrest
Graham
Graves
Gutknecht
Hart
Hayworth
Hilleary
Hinchey
Hoekstra
Hostettler
Jackson-Lee (TX)
Jenkins
Johnson, Sam
Jones (NC)
Lee
Lewis (GA)
Luther
Matheson
McCollum
McDermott
McGovern
McKinney
Miller, George
Moran (KS)
Myrick
Otter
Pastor
Pence
Pitts
Platts
Pombo
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Serrano
Sessions
Shadegg
Shimkus
Smith (MI)
Souder
Stark
Stenholm
Stump
Sullivan
Sununu
Tancredo
Terry
Toomey
Waters
Wilson (SC)
Wu

NOT VOTING—31

Blagojevich
Boehner
Bonior
Burr
Buyer
Cannon
Clayton
Cooksey
Coyne
Dooley
Gordon
Hall (OH)
Hastings (FL)
Hinojosa
Isakson
Kirk
LaTourette
Lynch
Mascara
Nadler
Nussle
Paul
Quinn
Riley
Roukema
Smith (WA)
Spratt
Tauzin
Traficant
Watts (OK)
Wicker

□ 2105

Messrs. TERRY, ROHRABACHER, BURTON of Indiana, McGOVERN, Ms. JACKSON-LEE of Texas and Mr. FOSSELLA changed their vote from "aye" to "no."

Ms. DEGETTE and Ms. WOOLSEY changed their vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The gentleman from Arizona (Mr. FLAKE) will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

Let me just say I feel particularly honored that they have chosen to limit the debate on my amendment. I am not sure what the opposition is afraid of, but in any event, we will move ahead.

The last amendment that we voted on, it was said by the Democratic opposition that that was a meat ax approach to this bill. I am pleased to say that this is more of a machete kind of approach. The last one cut about $162 million from the Interior bill. This will cut about $51 million. It is about a third of the original amendment. If they do not like that, then we will take, I guess, the scalpel approach. The next amendment offered by the gentleman from Indiana (Mr. PENCE) will cut, I believe, $13 million from the bill. So we are here to please and to offer a variety of amendments.

A lot has been said about the farm bill. In fact, many Members were asked if they had voted for the farm bill, yet were supporting the amendments that were offered here.

I would gladly yield to the gentleman from Florida if he wants to ask if I voted for the farm bill. I did not. I will be glad to yield if anybody asked if I voted for the airline bailout. I did not. I will be glad to yield if anybody asked if I voted for the President's education bill. I did not.

I have not voted for any of the big spending bills. I think they are spending far too much. The average American has to work 181 days of the year simply to pay the cost of government. That is, I believe, six days longer than we had to work last year. We are spending simply too much.

Early this year Citizens Against Government Waste identified $20.1 billion in Federal pork projects. This is an increase of 9 percent over last year's total. The money was spread out over 8,341 projects injected into the appropriations bills in fiscal year 2002. This is an increase of 32 percent.

The report also identified $1.2 trillion in savings over 5 years in its prime cuts report. For those who say that we simply cannot cut anymore, that is wrong. We can cut. We are simply spending too much. The problem is not tax cuts. The problem is spending. We are spending far more this year than we spent the year before. We spent far more last year than we did the year before that. We have got a long way to go before we reach fiscal discipline.

In fact, we have heard a lot over the last couple of weeks about corporate crooks. Let me tell my colleagues, over the past 5 years, lawmakers have spent a total of $142 billion above the levels in corresponding budgets. These are our own budgets that we passed, and yet we go above, $142 billion over 5 years. That is more than 12 times the misstated earnings from Enron, Xerox and WorldCom combined. For us to lecture the private sector on what they have to do to have transparency and to get their books in order when we are ourselves $142 billion over 5 years in excess of our own corresponding budgets.

It has been said that the farm bill, $9 billion, and we are talking here just a couple of hundred million dollars. I am not here to defend the farm bill, believe me. I think that was the worst piece of legislation passed in a long time here, but we are talking here, if we go ahead with the appropriations request, $9 billion this year above the President's request. We have to remember that the President's request was modified to match the House budget. So we are $9 billion above this year's request. That, over 10 years, is more than the farm bill.

As I said, I am not here to defend the farm bill, but there are some who point out the farm bill, $9 billion over 10 years, that is a lot of money. I am not here to defend the farm bill at all, but we need to put it in perspective. We are over the President's request.

Mr. Chairman, on January 30, 2002, President George W. Bush said, To achieve these great national objectives, to win the war, protect the homeland, to revitalize our economy, our budget will run a deficit that will be small and short term so long as Congress restrains spending and acts in a fiscally responsible manner. That is the case. The problem is spending. We simply need to get it under control.

That is why we are offering amendments. That is why we are stepping in tonight and making sure that we restore a bit of fiscal discipline. That is all we are trying to do here, and when I took to the floor last week, we were being lectured on lifting the debt ceiling. We were told that we were acting irresponsibly because we wanted to lift the debt ceiling because we had to lift the debt ceiling. We were being lectured over here by those who had approved and had voted for big spending projects that we had never approved and we had never voted for. Yet we were being lectured on that.

My time is ending, but I just want to say that I urge everyone to vote for this amendment.

Mr. SKEEN. Mr. Chairman, I rise in opposition, and I yield 2½ minutes to the gentleman from Washington (Mr. DICKS).

(Mr. DICKS asked and was given permission to revise and extend his remarks.)

Mr. DICKS. Mr. Chairman, the Bureau of Land Management, just in case some people would like to know, for the multiple use management protection and development of a full range of natural resources, including minerals, timber, rangeland, fish, wildlife habitat and wilderness of about 262 million acres of the Nation's public lands, and for management of 700 million additional acres of federally owned subsurface mineral rights, the bureau is the second largest supplier of public outdoor recreation in the Western United States.

Under the multiple use and ecosystem management concept, the bureau administers the grazing of approximately 4.3 million head of livestock on some 161 million acres of public land ranges and manages over 48,000 wild horses and burros, some 262 million acres of wildlife habitat, and over 117,000 miles of fisheries habitat. Grazing receipts are significant as are other receipts.

I would just like to ask the gentleman who sponsored the amendment, tell me one account in this bill that he would like to cut. Can the gentleman tell me one specific line item that he would cut with his meat cleaver instead of his meat ax? Can the gentleman tell me one line item in this bill that he would like to cut, and name it specifically?

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, the one I just proposed. I just proposed going back to the fiscal 2002 levels.

Mr. DICKS. What is it the gentleman wants to cut?

Mr. FLAKE. Mr. Chairman, we are in a situation now, since the gentleman yielded, where American families all over the country are having to cut their own budget.

Mr. DICKS. I take it the gentleman is not going to answer the question. Let me give my colleagues a few choices.

☐ 2115

Range management, wild horses and burrow management, oil and gas, coal management, mineral management, Alaskan minerals for the gentleman from Alaska (Mr. YOUNG), hazardous materials management. I mean, I think if the gentleman is going to cut something, he ought to be able to at least identify an account or two and how he would like to cut it.

Mr. Chairman, I yield back the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I object to the amendment. Like the previous amendment, it cuts entirely the good programs under the guise of fiscal responsibility. This is not a responsible approach. We have before us a good balanced bill, and I urge my colleagues to vote "no".

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 337, not voting 12, as follows:

[Roll No. 307]

AYES—85

Akin
Armey
Barr
Barrett
Bartlett
Barton
Berry
Boehner
Boswell
Brady (TX)
Burr
Burton
Chabot
Chambliss
Clay
Coble
Collins
Cox
Crane
Culberson
Davis, Jo Ann
Deal
DeLay
DeMint
Doggett
Duncan
Flake
Fossella
Gilchrest
Goodlatte
Graham
Graves
Green (WI)
Gutknecht
Hart
Hefley
Hill
Hilleary
Hoekstra
Hostettler
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kirk
Luther
Manzullo
Miller, Gary
Miller, Jeff
Myrick
Norwood
Nussle
Otter
Paul
Pence
Petri
Pitts
Platts
Portman

Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (MI)
Souder
Stearns
Stenholm
Sullivan
Sununu
Tancredo
Taylor (MS)
Terry
Tiberi
Toomey
Turner
Upton
Wilson (SC)

NOES—337

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Costello
Coyne
Cramer
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Gordon
Goss
Granger
Green (TX)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Herger
Hilliard
Hinchey
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shows
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stump
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Blagojevich
Bonior
Buyer
Cooksey
Dooley
Hastings (FL)
Hinojosa
Mascara
Nadler
Riley
Roukema
Traficant

□ 2135

Ms. PELOSI changed her vote from "aye" to "no."

Mr. FOSSELLA changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. TOOMEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to discuss briefly a little bit about what we are trying to do here procedurally. This is not a happy occasion for anyone. This is not something that we enjoy doing. In fact, this is a painful process. We have no interest in making this any more of a painful process than it needs to be, but we think that there is an important issue that we need to discuss.

The issue is very simply some of us think that our budget process has gone awry, and if we continue down this road, we will not adhere to the budget resolution that we have passed. Some of us do not want to adhere to that budget, and I understand that. Some of us think in light of the economic downturn and other things that have happened since budget resolution, we should be spending less than that budget resolution.

But we want to have an opportunity for all Members to have this discussion, have this debate, have a chance to air their amendments. We have 75-odd Republicans and 8 or 10 Democrats vote in favor of some dramatic cuts right out of the block on the first line of this bill.

As we move through the process, I strongly suspect there will be more interest in some of these cuts because I believe there is a recognition that there is a problem here. As we work to try to reach a consensus, and we would like to, we are open to rolling votes and finding whatever way can cause the minimum inconvenience for our Members. We are open to reaching a unanimous consent agreement, and we are prepared to speak with Members about that. But it is very important that we have this discussion. We think that it is vitally important that we have this debate and give every Member to have their day and represent their constituents on each and every amendment that we offer.

I do not think that it was appropriate to limit the discussion on the amendment of the gentleman from Arizona (Mr. FLAKE) to 10 minutes, but let me assure Members we are trying to find a way, find a procedure under which we can do this expeditiously, but we are going to have this discussion.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is obvious to Members what exercise we are going through here and why. There has been a lot of debate. I remind Members of a very famous Member of this House, Morris Udall, and I think many know him, if not personally, by reputation. If I can paraphrase what he said, everything that needs to be said has already been said; the problem is that not everybody has said it yet.

We have had a fairly good debate here. I would like to ask someone representing the organized effort to amend this bill, if someone could tell me how many amendments we might be looking at in title I of this bill, for example. We have some colloquies and some points of order we need to get to. We could open up title I and deal with the amendments that are at the desk, but I am wondering how many amendments are at the desk or would be if that request is made. I wonder if some Member could respond to me with an answer.

Mr. TOOMEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. TOOMEY. Mr. Chairman, I do not know exactly how many amendments we have. I would be happy to step off the floor and have this discussion, and see if we can reach an agreement on this vote. I am not prepared to do that at the moment.

Mr. YOUNG of Florida. Mr. Chairman, I think that is fair; but before we make any motion to open the title or close the title, I think we need to have an idea. If Members intend to keep us here all night, we ought to know that.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I would like Members to know we have 17 other amendments besides the untold number of amendments from this group, from the rest of the House, that we would like to consider as well, plus the colloquy, so we can get on with the business of other amendments from both sides of the aisle.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, what process are we going to go through in terms of recognition? There have been several amendments recognized on that side. There has not been an amendment recognized on this side. Is it the Chair's intention to recognize our side for amendments?

The CHAIRMAN. The Chair attempts to alternate between majority and minority Members.

Mr. DICKS. But we have to go right at the point we are in the bill, until the bill is opened up.

THE CHAIRMAN. The gentleman is correct.

Mr. YOUNG of Florida. Mr. Chairman, reclaiming my time, it is now almost 10 p.m., and Members have a right to know what the plan is for the balance of the evening or the morning, whatever the case might be. Maybe as the gentleman from Pennsylvania (Mr. TOOMEY) suggested, we can have an offsite conversation about this. That being the case, we will report back.

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

As the chairman of the Committee on Science, the committee with jurisdiction over a number of the energy conservation programs funded under the bill, I rise to engage the floor manager of the bill in a colloquy.

First, I want to compliment the committee for providing the needed funding for these important research, development and demonstration programs that do so much to advance new energy technologies. One program I am particularly interested in is residential micro cogeneration of energy. In my district, I am familiar with companies that are developing new combined heating, cooling, electricity and hot water that is far more efficient than residential systems which are commercially available today.

It is my understanding that funding provided in the bill will allow DOE to undertake the needed testing, evaluation and demonstration of residential cogeneration technologies.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, the gentleman is correct. The committee has provided $79.7 million in funding for distributed generation technologies in the power technologies account under the energy conservation appropriation, an increase of $15.5 million over the amount requested by the President, and $15.9 million over the amount provided last year.

□ 2145

These funds are available to assist with a variety of projects, including residential cogeneration systems. I would like for the chairman to know that this is just one of many very justified requests by Republicans to increase accounts in this bill above the President's request.

Mr. BOEHLERT. I would like to thank the gentleman and pledge to work with the chairman and members of the committee as this bill moves forward to ensure that the funding needed to carry out these important projects is made available.

Mr. WAMP. We look forward to working with the gentleman on this important issue.

Mrs. CUBIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise because I have seen something tonight that I have not ever seen in the 8 years that I have been in Congress. And I think it is a sad night tonight. I do not believe that our party would limit the debate by a Member on an open rule on an appropriations bill. They would not do that to the other side, and I do not believe the other side would do that to us. Yet we have done this to one of our own tonight. While I oppose the goal of the gentleman from Arizona, I am in favor of this bill, I think it is a good bill, and I intend to support it and vote against the amendments; but I think what happened here procedurally tonight was very wrong. If we have an open rule, then we need to have an open rule and to limit one gentleman, Mr. Chairman, is not right. I hope that we do not fall into that later because we do not like the issue that someone is bringing forward.

Mr. PENCE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise tonight finding myself feeling like it is early in the day and not late in the day. I am invigorated by this debate. I am invigorated by the quality and integrity of the debate on both sides of the aisle and that 85-some-odd colleagues of mine still believe in what the gentleman from Wisconsin referred to earlier as baloney.

Mr. Chairman, I have often associated many things with Wisconsin, usually cheese; but henceforth I will always associate Wisconsin with baloney as well because it was the distinguished member of the minority, the ranking member, who said on this floor tonight that the problem with this group of conservatives was that we did what his late father, a man active in public life, said one should never do: we believe our own baloney. I would amend the record to say his late and distinguished grandfather, who said that politicians should never believe their own baloney.

Let me give a few examples as we try and talk about the issues that we confront tonight. We are not here in some vain exercise to exact a torturous schedule on our colleagues this early in the legislative week. Neither are we ignorant of the long days that are ahead of us before we break and return to be with our families. But the enforcement of the budget resolution that we adopted in this Chamber once and deemed another time is at stake. This bill that we consider today is $775 million over our budget. Treasury-Postal is $538 million. The agriculture approps bill is $550 million. We will have to extract severe cuts in VA-HUD and Commerce-Justice-State. Those two pieces of legislation will have to give off over $2 billion from previous-year levels just to stay within our budget resolution.

The truth is when we speak about the vision of a balanced Federal budget, that is not baloney. That I argue, Mr. Chairman, is what most of our constituents sent us here to do. I would even argue that, with very few exceptions, the constituents who voted for my Democrat colleagues to come to this august institution sent them here to advocate some basic American values, believing in the American dream that if our generation works hard and makes sacrifices, we can actually leave our children a better life and a better future than we inherited.

Another simple piece of the American dream was the dream of a balanced Federal budget, the dream that governments, like families, just like my wife, Karen, and my children who may well be sitting at home in our living room tonight in Bartholomew County watching, they live within their budget at our home on the Flat Rock River, and Americans looking in tonight, Mr. Chairman, expect us to do no different. We have written a budget. Chairman JIM NUSSLE led this institution with vigor and with vision and with commitment; and we gave the American people, in the midst of recession and war, the vision for a budget that returns to balance within 24 months. Yet tonight, however inconvenient it might be to some, we are actually laboring over whether or not we will endorse and embrace that budget.

Some, and I say this with respect and no small attempt at humor, some may consider that baloney. Some may consider it baloney that people in Congress ought to make the income meet the outgo to the best of their abilities, that we ought to balance the Federal budget. I say rather, Mr. Chairman, that it is what we are all, Republicans and Democrats, sent here to do: to be careful stewards of the public resources that are entrusted to us.

The Good Book has this admonishment, and with this I close. It admonishes the shepherd. It says, "Pay careful attention to your herds, keep careful watch over your sheep, for riches do not endure forever." It is precisely because we do not know the future, Mr. Chairman, and the challenges that our

Nation may face in even darker days ahead that this skirmish that happens on this floor tonight matters, that we must enforce the budget resolution that we labored to adopt, that we endorsed twice in this institution. It is my hope that even if we are here when the sun is peeking its way through the windows, that we will do just that, living within our means.

Mr. SHADEGG. Mr. Chairman, I move to strike the last word.

I would like to discuss the process that brings us here, but first I want to begin by expressing my strong admiration for the chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), for the work he does and for the dedication he brings to his job. But also on this particular night, I want to express my deep respect for and admiration for the chairman of this subcommittee. You come here as a young freshman and you get various assignments. Some of them you do not anticipate, and some of them you are unaware of. I am elected from Arizona. I did not know JOE SKEEN when I was first elected, but I got assigned here and I became a deputy whip. As a whip, I was assigned to whip various Members. One of the Members I was assigned to whip was JOE SKEEN. I think that happened just as a matter of serendipity. It was not preplanned. As it turned out, someone was already whipping the Arizona delegation, and so I suppose it made sense to somebody that I should whip the New Mexico delegation. And so I did.

For the duration of my tenure here in Congress, I have had the privilege of whipping JOE SKEEN. What that has meant is that I have had the honor to have conversations with him week in and week out and have him impart to me his wisdom and his knowledge of this institution, of the pressures that move in each direction, of the people that are at play, of the great traditions of this institution. It would be difficult for me to express how many times JOE SKEEN in those days when I have chatted with him has been able to educate me, to give me as a younger Member of this House advice and counsel.

JOE is leaving this institution after this session of Congress, and I simply want it to be known to my colleagues here in Congress and the people across America that this institution will be diminished by his departure. He is indeed a dedicated public servant. He is a man of the people, revered by the people of New Mexico and of his district. He is a man who has come here from his ranch and who has brought the common knowledge and the common understanding of the people across America to his job here. I would be remiss if I did not say thank you, JOE, for all you do.

We tend to look at our inconvenience tonight being here on the floor at approximately 10 p.m. at night as a great imposition. Yet there is not a one of us who wears this pin, not a one of us that is elected to this institution that does not understand the immense privilege and the immense honor it is to serve in this institution. For those who are perhaps frustrated that on this particular Tuesday evening we might debate late into the night these issues and for those who are frustrated and do not like the amendments that are being offered, I would simply remind you, I would urge you to perhaps step outside and look at the dome that is above our heads, contemplate the task we are about, because each and every amendment offered here tonight, and I have three or four that I would like to offer, is a serious amendment offered by a Member with deep beliefs.

I happen to be embroiled in a scandal in my own State on the issue of firefighting. I feel very strongly about fighting wildfires. It is vitally important that we fight wildfires. But this institution is the people's House. This is the place where debate should occur. This is the institution where we should talk about whether it is appropriate to put $700 million into this bill, as the gentleman from Washington (Mr. DICKS) offered in committee and as was adopted by committee or whether it would be more appropriate to put that money into the supplemental bill which can become law much sooner.

We are engaged in a huge debate and it is a serious debate, as my colleague from Pennsylvania pointed out. These are grave issues. Spending is running out of control in this Congress, and the American people are worried about it. Go home and ask them. Go home this weekend. Think about the conversations you had last weekend. I would remind my colleagues that when we adopted this budget, we thought there was going to be a surplus or perhaps a small deficit. The reality is last weekend's paper, at least my home paper on Saturday morning blared with a gigantic headline, "$165 Billion Deficit." It occurs to me that when we adopted the budget resolution and we believed we were going to have a surplus and we are now here tonight recognizing we are going to have not a small deficit but a massive deficit, not only is it wrong to limit debate as we just did on the dimensions of this budget and our spending but it is what the American people would want us to do. They would want us here debating these issues.

One of the definitions of insanity is to do the same thing over and over again. We are in changed circumstances, and those changed circumstances demand that we debate this budget tonight in a serious fashion.

Mr. FARR of California. Mr. Chairman, I move to strike the last word. Let me just remind the other side that we have had a big debate tonight about appropriating money which is spending money. But the other side is collecting money. And the other side led the biggest tax cut, created the biggest hole in our ability to carry out the functions of this country. So let us be a little bit more reasonable about being balanced. It is an income and an outflow. This is the discussion about the outflow, but you have already taken the biggest bite in history out of the income, and that has also affected this picture; and that is what has caused the great big deficit that we have.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Washington.

Mr. DICKS. I can remember the debate on this on the floor. Many of us on this side of the aisle said the tax cut was going to be too big and that it could result in deficits, that we could see our surplus go away. I see that OMB said today that it is lack of revenue coming in, some of it to deal with the stock transactions. These were all foreseeable things. If you want to be fiscally responsible, if somebody wants to get serious over there, why do we not have a budget summit where we go back and revisit the tax cut and then we will talk to you about spending. But to pick out one-third of the budget is hypocrisy, and everybody in this place understands that. So you can continue to pose for the holy pictures and say we are going to cut spending, but you are not going to deal with the problem except in a very marginal way. The only way this is ever going to get fixed, the budget gets fixed, is if we go back and review everything; and that is what you are not willing to do.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the last word.

It is interesting as my colleagues talk about the spending side and the revenue side, we have had the discussion on the revenue side; now we are talking about spending. It is amazing that the Federal Government at a time where the economy is not growing, where there is not a high rate of inflation, there are some that believe that growing the Federal Government at twice the rate of inflation may not be enough; that as household incomes grow at a smaller rate that somehow the Federal Government is entitled to grow twice as fast as the rate of inflation, that the Federal Government has priority over other sources of income and revenue in this country.

□ 2200

I do not know where that has been established. This House has set out a mandate. We have said that we will grow spending to a level of $748 billion in 2003. We have not done it once, we have done it twice. The other body has yet to pass a budget. President Bush has embraced the spending level of the House. President Bush has indicated that, if necessary, he will use the veto to make sure that we control spending and achieve the number of $748 billion at the end of the process.

Because the House's number is almost identical to the President's, it is important that we take a look at each individual bill as it goes through the process. Each bill where we spend more than what the President has proposed means that later on in the process, we will have to reduce those bills significantly from what the President's recommendation is. Three of the first four bills or the nondefense bills that have been reported by the Committee on Appropriations are significantly above the President's request.

The Interior bill is at $775 million above the request, without including the $700 million in emergency firefighting money. Treasury-Postal is $538 million above the President's request, and the Agriculture bill is going to be $550 million above the request. Collectively, these bills are about $1.8 billion above the request of the President.

In order to pay for these increased spending levels, the Committee is proposing a $400 million reduction from the President's request for the Commerce, Justice, State bill, and a $1.8 billion reduction for the request from the Veterans, HUD, and FEMA bill. These bills are scheduled to move later in the appropriations process.

If the House passes the first appropriations bills at levels significantly above the request, I think there are many of us that question whether we will be able to pass the other bills because they will be so far below the President's request. If that is the strategy that we are going to have where we are going to have significant differences between the levels passed by the House and the levels requested by the President, we should bring to the floor first those bills that are significantly lower than the President's request, move those first so that we can show and demonstrate that we are disciplined and that we will make those tough decisions, and that we can then accumulate that money and move it into some of these other bills. But we should not begin the process by fattening up the earlier bills with the belief that later on in the process we will be able to deviate significantly from the President's request.

This bill is a good place to start. We should try to move that back down to the President's request.

Mr. Chairman, today in the Committee on the Budget, Mitch Daniels talked about the projections. We are no longer in an era of surpluses. We are projected to have a deficit of $165 billion. What we need to do to get back into surplus is we need to control that area that we have significant control over.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Chairman, the gentleman seems to be suggesting that we should stick to the budget, to the President's request. If a family loses income, a family loses their job and they go on unemployment, the budget they started when they had a full job is not going to continue spending as usual. Maybe we should even reduce it below the budget.

Mr. HOEKSTRA. Mr. Chairman, reclaiming my time, I think what my colleague points out is the fallacy in this process if we increase over the President's spending.

Mr. OBEY. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Mr. Chairman, I want to address and comment on two things that I have heard, if I could. I am somewhat bemused as I sit here tonight listening to some of the comments about the sanctity of open debate and legislative alternatives. Some of the same people who have been uttering those platitudes are the same people who voted to deny the minority an alternative on prescription drugs. They voted to deny us the opportunity to debate and produce an alternative to the very budget resolution which has this place wrapped around the axle. They voted to deny us the opportunity to debate and offer an alternative to the economic stimulus package, to the airline bailout, to the antiterrorism bill, to the fast track trade bill, and they have engaged in incredible legislative legerdemain in order to avoid the regular processes of this House, but now suddenly express tonight their concern for open debate. I find that quaint, to be polite.

Second, I would simply note a comment of my old friend, Archie the Cockroach. Archie said this once: "Man always fails because he is not honest enough to succeed. There are not enough men continuously on the square with themselves and with other men. The system of government does not matter so much; the thing that matters is what men do with any kind of system they happen to have."

The fact is that the reason we are having such problems here tonight is because the budget resolution that passed this House early in the year was not on the square; it contained tricky accounting. It rejected CBO accounting after, several years earlier, our Republican friends were willing to shut down the Congress in order to require it. I would simply say that if Members feel that they are on the hook tonight, they have not been put there by the Committee on Appropriations; they have been put there by their own votes on their own budget resolution. That budget resolution essentially picked a number of numbers out of the air in order to pretend that there was room to do everything for everybody and, now, the chickens are coming home to roost.

That is why tonight what we are seeing really is not a mini filibuster; we are seeing a philosophical war within the majority party between the realists, those who are still trying to function and produce bipartisan product that this House can pass, even though none of us may be thrilled by what it produces; and those who would like to reject realism. It will be interesting to see how that fight comes out. I hope it is decided in time to get some productive work done in this institution, but we do not have very many days to go before that August recess. But only time will tell.

Mr. GUTKNECHT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to agree, in part, with what the gentleman from Wisconsin just said. He said that there is not enough money to do all of the things that we want to do. That is exactly right, and that is why we have a budget, and that is why the family has a budget. What we are saying tonight is you cannot allow the Federal budget to continue to grow at twice the rate of the average family budget. You have to make some choices.

Now, we had a Committee on the Budget meeting today and we talked about what has happened to the Federal budget in the last 12 months. A lot of what has happened to the budget is the result of what happened on September 11. Revenues are about $234 billion less than we expected.

Now, let us be honest. About 14 percent of that is because of the tax cuts that we passed. Frankly, I think if we had that vote again, every one of us who voted for those tax cuts would vote for them again. It was exactly the right thing to do and, as it turns out, with the economy slowing down, I think it was a brilliant thing to do. So we are not going to back off on the tax relief.

Let me tell my colleagues something. I was visiting with a farmer friend of mine a few years ago, and we were sitting on bales of hay. He said something pretty profound. He said, the problem with you guys in Washington is not that we do not send enough money into Washington; he said, the problem is you spend it faster than we can send it in. And that is the problem.

Now, we have said earlier that we do not fault the Subcommittee on Interior of the Committee on Appropriations; we think they have done a pretty good job. But they are part of the problem. Let us be honest. Let us look at this chart. Do my colleagues see the green line right here? That is the inflation rate. For a few years, we were doing a pretty good job. We were keeping spending at just slightly above the inflation rate. But then somehow in about 2000, and it might have something to do with the fact that we began to have these big surpluses, that rate began to increase. That is the red line.

The question we have to answer tonight and during the next several weeks is, will we be able to slow the rate of that growth back to the inflation rate, or are we going to continue to allow it to grow? If we do, here is what we are going to face. We are going to face big, big deficits. We are going to lead to perpetual deficits.

It is not the Interior appropriations, it is not Treasury-Postal, it is not any one of those individual bills, it is not even prescription drugs; it is a combination of that. We wind up with a chart that looks like this.

Now, how many of us really want to go home this November and explain to the folks back home why we started with a chart just a few years ago where we were paying down anywhere from $100 billion to $200 billion worth of publicly held debt every year and go home and explain, but now we have decided that we are going to go on a spending spree? We can blame Agriculture, we can blame all of the various committees, but it is like Pogo. We have met the enemy and the enemy is us.

As I say, it is unfortunate that the Skeen bill is the first one out of the chute, but I say to my colleagues, we have to start getting serious about this budget. I think every person that we represent understands that there is absolutely no reason that the Federal budget ought to grow at a rate twice that of the average family budget. So tonight the only option that some of us have is to come to the floor of the House and ask our colleagues to slow the machine down, just slow down the spending. We are not asking to cut the Interior appropriations; all we are asking to do is bring it down to the rate of inflation. If we do that, good things will happen. The good thing is that within 2 years, I believe we will be back on the path towards a balanced budget and paying off that debt.

One other thing. Back in the Midwest, it used to be that part of the American dream was to pay off the mortgage and leave your kids the farm. Well, I think that is still a dream. But unfortunately, we are going to go back to that old saw here in Washington where we are literally going to sell off the farm and leave our kids the mortgage, and every one of us knows that it is wrong. It starts tonight, and the question is, do we have the discipline, do we have the courage to do what we really know is right, and that is to get off this spending track, get back on a reasonable spending track of slowing the rate of growth in the Federal Government to roughly the inflation rate and, if we do that, we can balance the budget and, yes, we will have plenty of room to provide tax relief to the American families as we go forward.

So the money is there. It is not that they are not sending it in fast enough; it is that we want to spend it faster than they send it in.

Mr. ROTHMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I certainly agree with my colleagues that just like all of our families, we try not to spend more than we take in. I do not think, though, that for most Americans, given the fact that we are now going through a very important, dangerous, and necessary war on terrorism that we ought to give up the war on terrorism because it is going to cost us some money in the short term, and we have to spend what it takes to protect our homeland and to bring to justice or bring justice to those who have attacked us. Nor do I think we can do much, although we are trying, in terms of corporate accountability, to deal with our coming out of this recession or our lack of confidence in the markets.

But we do have another tool at our disposal to eliminate perhaps as much as 45 percent of the financial hole this Congress, or the majority, has created over the next 10 years; a financial hole created by the majority in this Congress of about $1.7 trillion over the next 10 years.

□ 2215

I am speaking of the tax cut that the Republican Party and a handful of Democrats, but most of the Members of the Republican Party, passed; a tax cut costing $1.7 trillion over 10 years that benefits disproportionately the top 2 percent of Americans.

I think most Americans today, given the war on terrorism and the difficulties in the stock market, would say, maybe we ought to hold off for 1 year on that tax cut. Let us see how the war on terrorism goes. Let us see how the stock market rebounds, hopefully, within that 1-year period, before we execute on this tax cut, just for this 1 year; postpone it 1 year. Would that not be the prudent thing to do?

But my colleagues on the other side of the aisle say, no, we are going ahead with this tax cut, which will cost $1.7 trillion over 10 years, benefiting disproportionately the top 2 percent of Americans, and then cry or complain that we are spending too much money, and too much money is going out and not enough is coming in.

I think average Americans would say let us postpone this tax cut for at least a year and see what the economy, what the world situation is like; take all that savings that was going to the top 2 percent of Americans, who, by the way, are doing very well, and God bless them, and not have this battle today over which essential program we are going to cut or not cut, rather than mess with this tax cut.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. ROTHMAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I simply want to note, since we have heard of this so-called spending spree that the Committee on Appropriations is engaging in, I want to simply note that since 1980 through today, the percentage of our total national income which we spend on domestic discretionary programs financed by this committee and approved by this House has dropped by 35 percent.

It seems to me that a 35 percent contraction as a percentage of the total national family income that we spend on domestic needs is some pretty hefty fiscal discipline, no matter how myopically some other Members might view it.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in a colloquy with the ranking Democrat on the Subcommittee of the Interior of the Committee on Appropriations, the gentleman from Washington (Mr. DICKS), but before that I would like to join my colleagues in thanking the gentleman from New Mexico (Mr. SKEEN) for his outstanding leadership.

I remember one of the first things he said to me when I came to this body was that the best legislation was bipartisan, and I have appreciated how he and the gentleman from Washington (Mr. DICKS) have worked together on this subcommittee in a bipartisan way to help our country in so many ways.

I want to especially thank him for his leadership on the Parkinson's Task Force, in which he, along with many of my colleagues, called upon the National Institutes of Health to come forward with a 5-year plan to cure Parkinson's, and he has worked diligently to implement that plan. We will miss the gentleman.

As the gentleman knows, I say to the gentleman from Washington (Mr. DICKS), he may be aware that Governor's Island at the entrance to New York harbor has played an extremely important role in the history of our country.

Two forts on the island, Fort Jay and Castle Williams, helped protect New York harbor from invasion in both the War of 1812 and the Civil War. New York gave the island to the Federal Government to serve as a military base. For more than 200 years it served our country, first for our Armed Forces, and since the 1960s, as a Coast Guard base.

One of President Clinton's last acts was to declare the fort a national monument, and one of President Bush's first acts was to publish this executive order in the Federal Register.

I am very pleased that President Bush has continued to show his support for the island with the promise to give it back to New York State so that it can be developed for the enjoyment of all Americans.

We hope that the forts will remain national monuments under the jurisdiction of the Park Service. The forts should soon be included in one of the most revered park systems of the Nation, along with Ellis Island and the Statue of Liberty, at the gateway to New York harbor.

Unfortunately, the forts are in very bad shape. In fact, they are on the National Trust for Historic Preservation's list of the 11 most endangered historic sites and buildings, a measure both of their bad condition and their historic importance.

The Park Service needs appropriate funds to protect the forts from further destruction, and to help restore them so that the public may soon have an opportunity to visit them and to learn more about the important role that they played in the history of our country.

Mr. DICKS. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I thank the gentlewoman for the work she has done on this important issue, and for bringing it to the subcommittee's attention. I share her concern for protecting national monuments.

I want to assure the gentlewoman that I will work with her and the majority to find the best source of funding for this important project.

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for his leadership and his assistance on this matter, and I look forward to working with him and the gentleman from New Mexico (Mr. SKEEN) in a bipartisan way to preserve these forts for our country.

Mr. DEMINT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate some of the comments of the previous speaker, because he kind of laid out the character for the debate tonight, or really, the essence of what the debate is all about.

I believe one of my colleagues suggested that maybe, instead of giving Americans tax relief, that we withhold that tax relief so that we can spend more here in the Congress, instead of taking the time to have the debate on the floor, look through these 13 spending bills carefully and determine if there are ways that we can save, so that we can keep more money in the pockets of Americans and continue to improve consumer confidence in spending, which has really held up our economy over the last year.

We have some tough decisions to make. On our side, while we might be fussing and arguing tonight, our whole point is to try to keep spending at its lowest level. If we look back at this chart that was reviewed a minute ago, we know that we are on a course for some pretty heavy deficits.

But I want to give just one example of why these deficits are so detrimental to the future of this country, and why it is so important that we take the time tonight to go through this appropriation bill, and all of the ones that we have this year, to see if there are some things that we can do to reduce the growth of the spending.

That is really all we are talking about, because this deficit we see does not take into account doing anything to secure the future for American seniors by improving and strengthening Social Security. We are doing nothing over the next 10 years to guarantee that future Americans have the Social Security that they have been promised.

We have to remember, as Members of Congress, that this is not some handout to Americans, this is something they have paid for. It is something they have paid for, with a promise that we have to be prepared to keep. And instead of spending every dime that comes in, we need to establish a mechanism where we can really save at least part of what people put into Social Security.

There are several goals that we have to have for Social Security in addition to reducing spending so that we can really save for the future. One is, we need to reassure every American, regardless of age, that they will never receive less from Social Security than they are receiving today. This talk of cutting benefits needs to be thrown out the front door of this House. We need to guarantee the benefits for every American and establish where we are as the floor.

In addition, instead of spending every dime that people put into Social Security, as we are doing today, we need to establish a mechanism within Social Security so that individuals can save part of what they are putting into Social Security for their future, so that when they retire they own something and have some control of their lives; and particularly for the poor, that they have something to pass on to the next generation.

If we leave Social Security the way it is today, within 15 years, just a few years after this chart ends, we will begin to take money from the general fund just to pay the benefits of seniors, without changing anything on Social Security.

Over the next 75 years, Members have heard some figures thrown out tonight, like $1.7 trillion over the next 10 years, but we are talking about, with no changes to Social Security, $25 trillion from the general fund that has to be transferred in addition to what is being paid into Social Security now so that we can continue to pay benefits in the future.

We cannot continue to overlook this promise that we have made to Americans and continue to spend on everything, even though these are important things that we are talking about. All of us probably have something in these appropriation bills, but all of us have to be willing to give a little, and to at least slow the spending so that we can keep the promises to the seniors that we have made, and to help them really save and really own and really have independence when they retire.

Mr. FRANK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, to begin, I want to join the gentleman from Wisconsin in welcoming those to the "don't-shut-off-debate" club. I voted against the motion to limit debate to 10 minutes. I am sorry it lost. But I am also sorry that we had rule after rule this year that brutally shut down this House. We had rule after rule where we had hours of free time on Tuesdays and Wednesdays and Thursdays, but the minority was not allowed to offer amendments.

I voted not to shut down debate, and I hope that the commitment to open debate was not simply a fleeting one.

Beyond that, I want to talk about what is really a very important philosophical issue. I am pleased that this has come forward, because we are talking here not about petty issues, we are talking about one of the most fundamental questions we can, as elected representatives, discuss: What is the appropriate level of public activity in our society?

I think what is happening here is that it is being made clear that the reduction in revenue that went through in 2001 was unsustainable, according to the majority. After all, and it is very important to note in this debate, I have not heard those offering amendments and pushing for cuts denouncing the spending as bad. That is very important. This is not a case where people are saying, that is a bad thing; do not do it. What people are saying, and I respect the philosophical fount that it comes from, people are saying, yes, that is a good activity, but we cannot afford to do this much of it.

No one is saying that the appropriations bill is funding things that should not be funded. The argument is that we are fiscally constrained. Well, that is a serious problem. I would have some sympathy for the majority Members of the Committee on Appropriations who found themselves in this dilemma if they had not put themselves in the dilemma.

What we have here is a very clear example of a fact: The Republican Party is more committed to spending reduction in general than it is to spending reduction in particular. Unfortunately, they cannot cut spending in general, they have to cut spending in particular.

So when it comes to cutting revenues, everybody wants to cut, but then when it comes to cutting programs to meet those revenue cuts, nobody wants to cut; not nobody, I take it back, about a third of the Republican Party, or maybe 40 percent wants to, and I honor them for having the courage of their convictions.

But I must say, the majority of the Republican Party, I have heard of wanting to eat one's cake and have it, too. When they vote for tax cuts, and then they vote for appropriation bills above the level that the tax revenues will now support, they have a variation on eating the cake and have it too. They want to eat their cake, but also get credit for giving it away. First they reduce the revenues, then they commit themselves to spending more than they get in revenues.

I am reminded of a piece of philosophical wisdom I got from a Boston city councillor in 1968 when I complained about what seemed to me to be inconsistency on the part of the voters. He patted me on the knee and said, hey, kid, ain't you heard the news: Everybody wants to go to heaven, but nobody wants to die.

They want to cut taxes and get credit for reducing the revenues of this government, but then when their own majority brings forward appropriations, which they acknowledge are for good purposes, they say we cannot afford them. Why can we not afford them? Because they cut the revenues too much.

Mr. Chairman, people ought to understand this, go back to David Stockman. In his book he said, here is why we cut taxes under President Reagan: We knew that if the money was there, the American public would want it spent. We knew that there were programs that were popular, and the only way to control the spending was to cut the revenue.

If it was done to stimulate the economy, boy, that did not work, did it? In fact, the President in 2000 said, as a candidate, let us cut the taxes because the economy is doing so well. In 2001, he said, let us cut taxes because the economy is not doing well.

Why cut taxes? To prevent spending from going forward. It turns out that much of this spending is essential, it is desirable, and only the Federal Government can do it. Only the Federal Government can fight the fires and do the other things in this bill.

And again, I want to stress, I have not heard people denouncing the spending as bad spending.

□ 2230

There is an implicit acknowledgment that these are good things that we cannot afford. So what we are seeing today is an example of what I think, frankly, is a philosophical incoherence on the part of the Republican majority. There is a Republican minority that is philosophically consistent and is prepared to live up to the tax cut, but the rest of the Republican Party wants to have it both ways.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Washington.

Mr. DICKS. I would just say to the gentleman, I just went through this. We were looking at this. I want these Members who have been so critical of the Committee on Appropriations in a sense, although they have been very kind towards the chairman and all of the rest of us to be aware of this.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. FRANK was allowed to proceed for 1 additional minute.)

Mr. DICKS. Mr. Chairman, I want you to know we made some cuts in the subcommittee. Some of these are very painful. For example, the Cooperative Conservation Initiative, minus 100 million; Stateside Land and Water conservation, minus 46 million; Park Service Construction, minus 62 million; Land Acquisition National Parks, minus 31 million; Technology Road Maps, Department of Energy, minus 4.5 million; the Kennedy Center, minus 4 million. So we made some cuts.

Mr. FRANK. Reclaiming my time, I appreciate that, but do not expect too much credit for the cuts. I will be ready to come down here and apologize the day I read that Member after Member who voted for the tax cut went back to his or her district and said, I have good news for you. Thanks to the tax cut I voted for, we will not get the following project. Are we not glad for what we did for America?

The day I hear Members who voted for the tax cut take credit for its consequences, I will acknowledge error.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is easy to say we should spend more money, but think for a moment of what is happening to American families. A lot of individuals around the United States are losing their jobs. Do you think they will be spending as usual? No, they are not. And all we are suggesting is simply to limit our increase in discretionary spending to inflation. We are not talking about cutting the interior budget or any other budget. If we could simply limit our spending to what the rest of the American people are doing. They are tightening their belts.

We have had an emergency in this country. That emergency was being hit on September 11 by terrorists. That means we have got to come up with more money for that war on terror. If you have a war, if you have an emergency, it is reasonable, it is logical, it is practical to reduce some of the other spending that has lesser importance, not to go on spending as usual. That is not what an American family can do. That is not what an American business can do.

I know we are in a situation where the people that lobby us say let us have more spending for this, for that. I know that we tend to go to the committees that we support and that we push for more spending as we gain seniority on those particular committees, but that is a problem we have got to deal with. Somehow we have got to realize that what made this country great was not being overtaxed. What made this country great was a Constitution that says that those that work hard, that try, that invest, that educate themselves are going to end up better off than those who do not. Yet we have continually pushed for increased taxes on corporations, increased taxes on bills.

If a young couple decides to get a second job so they can have more for their families, we not only tax them at the same rate, we increase the rate of taxation so they have to pay more taxes to the Federal Government.

Let us get back to our roots. Let us get back to what makes this country great. Let us not overtax ourselves and discourage business expansion. Let us do what we need to do in this House. We have let, and the gentleman from Washington (Mr. DICKS) has said that a lot of this is now entitlement spending; and we have got to deal with that too. But the discretionary spending is what we are talking about tonight. That is what we should deal with. That is what we should say is reasonable, to limit that spending increase to inflation.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the Chair.

Mr. Chairman, I listen with great interest to this debate this afternoon, and it is always amazing to me that these debates always take place at night, and they always take place by a majority of those participating in it who come from the west coast, which just happens to be prime time there. I am not making that innuendo that that is the reason that they are doing that now, but I rise to ask you a question.

Mr. Chairman, the legislative appropriations that we will pass that we, most everyone, will vote for this year will be $3.4 billion. And, Mr. Chairman, if you break that down into 8 months of annual sessions, which is generally where we are in, at 5 days a week, which generally we are only in 3 days a week, that amounts to 160 legislative days. If you break the 160 legislative days down into weeks or to 1 day, it amounts to $21 million a week, or 2.65 thousand dollars an hour in which we debate.

So every 5 minutes we spend debating an issue, it is costing the American taxpayer $44,000. By my calculations, if I have 5 minutes under the House rules to engage in this discussion with you, Mr. Chairman, if I yield back 2 minutes of my time, will I not save the American taxpayers $88,000?

The CHAIRMAN. The gentleman is not stating a parliamentary inquiry.

Mr. CALLAHAN. Mr. Chairman, I was just engaging in a colloquy with you because we all respect your judgment and know your tremendous knowledge of the operations of this House.

The fact is it costs $44,000 a minute to run this House. It would appear to me that every time they talk about reducing a bill by $10,000, if they are going to spend $44,000 of Social Security money, it looks to me like we are losing money, and I would encourage them to try to work out something and they ought to do it in advance. They ought to go to the chairman of the Committee on Appropriations. They ought to go to the people who write the various appropriations bills and suggest to them before prime time television and then try to iron out their differences.

But, Mr. Chairman, I want to be sure and yield back 2 minutes of my 5 minutes so I can save the American taxpayers $88,000.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do commend anyone who tries to save the taxpayers a buck, and I have actually voted with you guys on these things tonight. But the net effect of what you have done tonight is sort of like a flea biting into the hide of an elephant and saying, I have really got him now.

The last vote was for 50 million. To give you some idea of just how broke this Nation is, at the end of last month our Nation was $6,126,468,760,400.48 in debt.

When the gentleman from Illinois (Mr. HASTERT) was sworn in as Speaker, the Nation's debts was only, comparatively, $5,615,428,551,461.33. That means in the approximately 1,290 days he has been Speaker, $511,040,208,938 have been added to the debt, and you are worried about 50.

See, in those approximately 1,290 days the Speaker has not allowed this body to vote on what really matters, and that is in the cutting a little bit here or a little bit of a tax break there, it is a constitutional amendment to balance the budget. So whether the R's or the D's or the I's or the chickens are running this House, the rules are you cannot cut taxes more than it takes to balance a budget, and you cannot spend more than you have in the bank.

See, the biggest problem with this country is that we are squandering a billion dollars a day on interest on the national debt. I really appreciate what the gentleman from Alabama (Mr. CALLAHAN) had to say. Where I come from, $44,000 is a heck of a lot of money. So if $44,000 is a heck of a lot of money, what do you think a billion a day is? A billion a day is a thousand times a thousand times a thousand. This year we will spend a thousand times a thousand times a thousand times 365 just on interest on the national debt. It will not educate one kid. It will not fight one fire. It will not help the farmers. It will not defend our Nation. It is just squandered interest on the national debt.

If you guys want to do something about it, why do you not ask the Speaker for a straight up-or-down vote on a balanced budget amendment to the Constitution? It just says we will live within our means. We passed it 7 years ago through this body. It went to the other body. It only failed by one vote. Maybe some of you think it might interfere with the $50 billion a year that we lose to the estate tax vote. Maybe some think it means we will not have money for social spending.

Maybe all of us ought to be willing to give a little something up because all we are doing is sticking our kids with the bill. And in the past 23 years we have added over $5 trillion to the national debt. Just the Speaker's bill alone is more than this Nation borrowed between George Washington becoming President and 1975. That is 199 years of this Republic has been surpassed in debt during the Speaker's watch. I am ready to say enough is enough, but the only way we can do that is get a vote on a balanced budget amendment.

I will help you with some of our amendments. I will vote against some of the amendments. If you are really sincere about doing something for the American people, if you want to leave a legacy, let us pass a balanced budget amendment to the Constitution, so that regardless of who is running this House it lives within its means. And before somebody gets too ambitious with tax cuts, they do not do it at the next generation's expense. All we have really done is the equivalent of someone going off to the car lot and saying, I want the most expensive car out there. And by the way, bill my 6-year-old kid. Or I want the most expensive house in the State of Mississippi; and, by the way, I have a 3-year-old grandson; just stick him with the bill, plus interest.

That is what we have been doing for the past 23 years in this Nation. I am ashamed of that. I think in your heart of hearts you are too.

We have a few days left in this session. We can pass that. We can send it to the other body. If you are really serious about the spending, let us not go after the fleas. Let us go after the real problem. Let us balance the budget.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, to my friend from Mississippi (Mr. TAYLOR), and he is my friend, I concur with you 110 percent; and there are many on this side of the aisle that do concur with you.

I also want to say something else. I came in 1995 to my first year in the United States Congress, and I am proud to be a foot soldier here in the United States House, and I consider myself a foot soldier. There are a number of us on both sides of the aisle who are foot soldiers, who believe and hope that the majority of the time we are doing what is right for American people.

I mention that because recently my friend from Mississippi, who is in the back of the Chamber, kept us here until like 2 or 3 in the morning making motions; and because he believed so strongly in what he was doing, I never was offended. Some Members on both sides of the aisle, I heard grumbling; but quite frankly, I did not because I thought that the gentleman was doing what he was elected to do if he believed what he was doing. I know the gentleman well enough to know that he believed in what he was doing.

I want to say that tonight because we have Members on our side of the aisle and certainly those on the Democratic aisle that feel very passionately about these issues tonight. I want to mention, again, I did the first time I spoke 30, 40 minutes ago, that I have been on the floor once a week with a chart that I would hope some of the Members here tonight and those that will be in their offices would join me in a letter that I wrote to Secretary O'Neill.

Now, we have been talking about billions of dollars here and billions of dollars there and millions of dollars here. Let me just read to you who might not be familiar with this. In the "2001 Financial Report of the United States Government," which came out in March of this year, in March of this year, the report provides minimal data and information regarding these unreconciled transactions. Not only is the Federal Government missing $17.3 billion, but there is no reason given for this loss.

Now, that is in the report to the American people. I know that makes the taxpayers of this country feel real good about their tax money.

Now, I know this is not part of this interior bill or this debate, but I wanted to have this opportunity to say to my colleagues on both sides of the aisle, we should be demanding that the Secretary of the Treasury come forward and explain where $17.3 billion has been lost by this Federal Government.

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I am just as upset as anybody about the fact that WorldCom and Enron and the corporate executives cheated and committed fraud to those investors, but what I want to say to my colleagues, the taxpayers do not have a choice. They have to pay their taxes. I am not defending those who created the fraud because those people made investments, which we all do, most of us do from time to time, but the fact that the taxpayers of this country cannot get an explanation as to why in the 2001 report we have lost $17.3 billion.

So as this debate continues tonight or tomorrow or both days, it is, and we do agree, I agree with the gentleman from Massachusetts (Mr. FRANK) a while ago in what he was saying. We have got to make decisions. We cannot cut taxes and expand government at the same time.

That is the problem in my State of North Carolina. They are $2 billion in debt today, and I do not know how my State of North Carolina is going to work out of this problem in the next 3 years, but part of that problem is when they did cut the taxes, they expanded the governmental programs, and it caught up with them.

I just want for my children and grandchildren and my colleagues' children and grandchildren that they are not going to have to be paying a tax on the Federal taxes that they owe this government of 35 and 40 percent over what we are paying today. In my opinion, that would be the economic downfall of this country.

Mr. RYAN of Wisconsin. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to add my voice to the debate that is taking place tonight. What this debate is about is trying to get our arms around this budget process. When the budget resolution passed earlier in the spring, it was passed at a time when we still had a budget surplus, and now when we find out just a few days ago we actually have a $165 billion budget deficit, and yet even still we are having a hard time getting an agreement to stick to the budget resolution that we created when we had a budget surplus.

What this debate is all about, Mr. Chairman, is trying to make sense in the process. The men and the women who serve on the Committee on Appropriations who are managing these bills this evening are hardworking, good people, but the concern is bigger than just the appropriations process. It is bigger than the Committee on Appropriations.

The concern is, are we going to put together a process, absent with the fact that the Senate did not pass a budget resolution, that gives us some spending discipline here in Congress? We have serious challenges facing our country this year, Mr. Chairman. We went to war. We are just trying to get ourselves out of a recession, and we have serious vulnerabilities on our homeland that we are trying to protect. At the same time, we have a very significant and large budget deficit that just popped onto us for the first time in 5 years.

We need to deal with this and we need this Congress to deal with it in a very serious way, and that is why we see these amendments coming through on the floor tonight because tonight is the first time we are approaching domestic discretionary spending. We passed defense bills for military construction. We passed a defense bill to fund the Pentagon, and we passed the supplemental to fund homeland security and to fund the ongoing operations in Afghanistan.

Tonight is the beginning of the funding of domestic discretionary spending. That is why this debate is taking place tonight, because now as we move forward on funding domestic priorities, we realize that these priorities have not been adequately addressed by this Congress yet.

That is why we are saying this, hold the line on domestic spending, address the need to fight the war, address the need to protect the homeland, and let us get a handle on getting rid of this budget deficit. That is why this debate is taking place.

When we take a look at the budget process and we take a look at the budget resolution we have, the process has always broken down along the following logic, put the easier-to-pass bills earlier in the process, put them in the queue, raise the spending level on those bills and then lower the spending levels under levels that are not acceptable by this conference for the difficult appropriation bills. My own senior delegation member, the ranking member of the Committee on Appropriations, probably put it better than anybody has on the floor tonight; that is, that this is a process that is doomed to fail and that is doomed to spend more money at the end of the day.

That is what we are trying to get our arms around right now. We are trying to make this a process that is not doomed to fail, that is not a process that is doomed to spend more money at the end of the day. We are trying to bring sense to this process so that it is a process that helps us get our handle on this budget deficit while fixing our problems in the homeland, while fighting our priorities in the war and making sure that we go to the American people and we show them that we are being good stewards of their money.

Mr. Chairman, we have corporate accounting scandals that are popping up in the Wall Street Journal and the New York Times every week, and these corporate accounting scandals are showing that corporations are misrepresenting the facts, that they are overreporting income. Mr. Chairman, look at the kind of accounting problems we have had here in effect. It has already been mentioned over and over again that just in the last 5 or 6 years the corresponding budget amendments that have passed this House have been exceeded by this Congress by about $142 billion, five times the reported scandals that have occurred in the private sector.

So we need to get our handle on our fiscal responsibilities. We need to put our fiscal house in order, and we need to bring some common sense to this budget process because this is not a common year.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that the remainder of title I be considered as read, printed in the RECORD, and open to any amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The text of the remainder of title I is as follows:

### WILDLAND FIRE MANAGEMENT

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, $655,332,000, to remain available until expended, of which not to exceed $12,374,000 shall be for the renovation or construction of fire facilities: *Provided*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further*, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: *Provided further*, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: *Provided further*, That the costs of implementing any cooperative agreement between the Federal government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That in entering into such grants or cooperative agreements, the Secretary may consider the enhancement of local and small business employment opportunities for rural communities, and that in entering into procurement contracts under this section on a best value basis, the Secretary may take into account the ability of an entity to enhance local and small business employment opportunities in rural communities, and that the Secretary may award procurement contracts, grants, or cooperative agreements under this section to entities that include local non-profit entities, Youth Conservation Corps or related partnerships, or small or disadvantaged businesses: *Provided further*, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act in connection with wildland fire management activities: *Provided further*, That the Secretary of the Interior may use wildland fire appropriations to enter into non-competitive sole source leases of real property with local governments, at or below fair market value, to construct capitalized improvements for fire facilities on such leased properties, including but not limited to fire guard stations, retardant stations, and other initial attack and fire support facilities, and to make advance payments for any such lease or for construction activity associated with the lease.

For an additional amount for "Wildland Fire Management" for fiscal year 2002 in addition to the amounts made available by Public Law 107-63, $200,000,000, to remain available until December 31, 2002, for the cost of fire suppression activities carried out by the Bureau of Land Management and other Federal agencies related to the 2002 fire season, including reimbursement of funds borrowed from other Department of Interior programs to fight such fires: *Provided*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

### CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), $9,978,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account to be available until expended without further appropriation: *Provided further*, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

### CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $10,976,000, to remain available until expended.

### PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), $230,000,000, of which not to exceed $400,000 shall be available for administrative expenses and of which $70,000,000 is for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than $100.

### LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, $49,286,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

### OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $105,633,000, to remain available until expended: *Provided*, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

### FOREST ECOSYSTEMS HEALTH AND RECOVERY FUND

### (REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, *implementing*, and monitoring salvage timber sales and forest ecosystem health and recovery activities such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181f–1 et seq., and Public Law 106–393) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

### RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,000,000, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

### SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: *Provided*, That notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further*, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

### MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

### ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on her certificate, not to exceed $10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

### UNITED STATES FISH AND WILDLIFE SERVICE

### RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $918,359,000 to remain available until September 30, 2004, except as otherwise provided herein, of which $69,006,000 is for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: *Provided*, That not less than $2,000,000 shall be provided to local governments in southern California for planning associated with the Natural Communities Conservation Planning (NCCP) program and shall remain available until expended: *Provided further*, That $2,000,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided further*, That not to exceed $9,077,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)), of which not to exceed $5,000,000 shall be used for any activity regarding the designation of critical habitat, pursuant to subsection (a)(3), excluding litigation support, for species already listed pursuant to subsection (a)(1) as of the date of enactment this Act: *Provided further*, That of the amount available for law enforcement, up to $400,000 to remain available until expended, may at the discretion of the Secretary, be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on her certificate: *Provided further*, That of the amount provided for environmental contaminants, up to $1,000,000 may remain available until expended for contaminant sample analyses.

### CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $51,308,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, a single procurement for the expansion of the Clark R. Bavin Forensics Laboratory in Oregon may be issued, which includes the full scope of the project: *Provided further*, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

### LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $82,250,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That none of the funds appropriated for specific land acquisition projects can be used to pay for any administrative overhead, planning or other management costs.

### LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $40,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: *Provided*, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, Tribes, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish, or supplement existing, landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, or candidate species, or other at-risk species on private lands.

### STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $10,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: *Provided*, That the amount provided herein is for the Secretary to establish a Private Stewardship Grants Program to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, or candidate species, or other at-risk species.

### COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, $121,400,000, of which $42,929,000 is to be derived from the Cooperative Endangered Species Conservation Fund and $86,471,000 is to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

### NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $19,414,000, of which $5,000,000 is for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits.

### NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $43,560,000, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That, notwithstanding any other provision of law, amounts in excess of funds provided in fiscal year 2001 shall be used only for projects in the United States.

### NEOTROPICAL MIGRATORY BIRD CONSERVATION

For financial assistance for projects to promote the conservation of neotropical migratory birds in accordance with the Neotropical Migratory Bird Conservation Act, Public Law 106–247 (16 U.S.C. 6101–6109), $5,000,000, to remain available until expended, and to be for conservation spending activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits.

### MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105–96; 16 U.S.C. 4261–4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), and the Great Ape Conservation Act of 2000 (16 U.S.C. 6301), $4,800,000, to remain available until expended, and to be for conservation spending activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits.

### STATE WILDLIFE GRANTS

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and federally recognized Indian tribes under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, $100,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That of the amount provided herein, $5,000,000 is for a competitive grant program for Indian tribes not subject to the remaining provisions of this appropriation: *Provided further*, That the Secretary shall, after deducting said $5,000,000 and administrative expenses, apportion the amount provided herein in the following manner: (A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof: and (B) to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: *Provided further*, That the Secretary shall apportion the remaining amount in the following manner: (A) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (B) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: *Provided further*, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount: *Provided further*, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: *Provided further*, That the non-Federal share of such projects may not be derived from Federal grant programs: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, or committed to develop by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State, territory, or other jurisdiction's wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: *Provided further*, That any amount apportioned in 2003 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2004, shall be reapportioned, together with funds appropriated in 2005, in the manner provided herein.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 102 passenger motor vehicles, of which 75 are for replacement only (including 39 for police-type use); repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in Senate Report 105–56.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, $1,605,593,000, of which $9,000,000 is for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits and of which $10,892,000 for research, planning and interagency coordination in support of Everglades restoration shall remain available until expended; and of which $90,280,000 to remain available until September 30, 2004, is for maintenance repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; and of which $2,000,000 is for the Youth Conservation Corps, defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, for high priority projects: *Provided*, That the only funds in this account which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established National Park Service procedures, those funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unbudgeted overtime and travel costs associated with special events for an amount not to exceed $10,000 per event subject to the review and concurrence of the Washington headquarters office: *Provided further*, That none of the funds in this or any other Act may be used to fund a new Associate Director position for Law Enforcement, Protection, and Emergency Services.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, $78,431,000.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $56,330,000.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.), $30,000,000, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), $76,500,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 2004, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That, of the amount provided herein, $2,500,000, to remain available until expended, is for a grant for the perpetual care and maintenance of National Trust Historic Sites, as authorized under 16 U.S.C. 470a(e)(2), to be made available in full upon signing of a grant agreement: *Provided further*, That, notwithstanding any other provision of law, these funds shall be available for investment with the proceeds to be used for the same purpose as set out herein: *Provided further*, That of the total amount provided, $30,000,000 shall be for Save America's Treasures for priority preservation projects, of nationally significant sites, structures, and artifacts: *Provided further*, That any individual Save America's Treasures grant shall be matched by non-Federal funds: *Provided further*, That individual projects shall only be eligible for one grant, and all projects to be funded shall be approved by the House and Senate Committees on Appropriations and the Secretary of the Interior in consultation with the President's Committee on the Arts and Humanities prior to the commitment of grant funds: *Provided further*, That Save America's Treasures funds allocated for Federal projects shall be available by transfer to appropriate accounts of individual agencies, after approval of such projects by the Secretary of the Interior, in consultation with the House and Senate Committees on Appropriations and the President's Committee on the Arts and Humanities.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $325,186,000, to remain available until expended, of which $53,736,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That none of the funds in this or any other Act, may be used to pay the salaries and expenses of more than 160 Full Time Equivalent personnel working for the National Park Service's Denver Service Center funded under the construction program management and operations activity: *Provided further*, That none of the funds provided in this or any other Act may be used to predesign, plan, or construct any new facility (including visitor centers, curatorial facilities, administrative buildings), for which appropriations have not been specifically provided if the net construction cost of such facility is in excess of $5,000,000, without prior approval of the House and Senate Committees on Appropriations: *Provided further*, That this restriction applies to all funds available to the National Park Service, including partnership and fee demonstration projects: *Provided further*, That the National Park Service may transfer to the City of Carlsbad, New Mexico, funds for the construction of the National Cave and Karst Research Institute to be built and operated in accordance with provisions in Public Law 105–325 and all other applicable laws and regulations. Title to the Institute will be held by the City of Carlsbad.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 2003 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, $253,099,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, of which $150,000,000 is for the State assistance program including $4,000,000 to administer the State assistance program: *Provided*, That of the amounts provided under this heading, $20,000,000 may be for Federal grants, including Federal administrative expenses, to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed: *Provided further*, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new matching non-Federal funds by the State, or are matched by the State pursuant to the cost-sharing provisions of section 316(b) of Public Law 104–303, and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades: *Provided further*, That none of the funds provided for the State assistance program may be used to establish a contingency fund: *Provided further*, That notwithstanding any other provision of law, funds provided in this Act and in prior Acts for project modifications by the Army Corps of Engineers pursuant in section 104 of the Everglades National Park Protection and Expansion Act of 1989 shall be made available to the Army Corps of Engineers, which shall implement without further delay Alternative 6D, including acquisition of lands and interests in lands, as generally described in the Central and Southern Florida Project, Modified Water Deliveries to Everglades National Park, Florida, 8.5 Square Mile Area, General Reevaluation Report and Final Supplemental Environmental Impact Statement, dated July 2000, for the purpose of providing a flood protection system for the 8.5 Square Mile Area.

### ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 301 passenger motor vehicles, of which 273 shall be for replacement only, including not to exceed 226 for police-type use, 10 buses, and 8 ambulances: *Provided*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

Notwithstanding any other provision of law, in fiscal year 2003 and thereafter, sums provided to the National Park Service by private entities for utility services shall be credited to the appropriate account and remain available until expended. Heretofore and hereafter, in carrying out the work under reimbursable agreements with any State, local or tribal government, the National Park Service may, without regard to 31 U.S.C. 1341 or any other provision of law or regulation, record obligations against accounts receivable from such entities, and shall credit amounts received from such entities to the appropriate account, such credit to occur within 90 days of the date of the original request by the National Park Service for payment.

## UNITED STATES GEOLOGICAL SURVEY

### SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $928,405,000, of which $64,855,000 shall be available only for cooperation with States or municipalities for water resources investigations; of which $15,650,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; of which $24,448,000 shall be available until September 30, 2004 for the operation and maintenance of facilities and deferred maintenance; and of which $170,414,000 shall be available until September 30, 2004 for the biological research activity and the operation of the Cooperative Research Units: *Provided*, That none of these funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: *Provided further*, That of the amount provided herein, $25,000,000 is for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

### ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.: *Provided further*, That the United States Geological Survey may use cooperative agreements for joint research and data collection programs with Federal, State, and academic partners and may obtain space in cooperator facilities incident to such cooperative agreements.

## MINERAL MANAGEMENT SERVICE

### ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, $164,721,000, of which $83,284,000, shall be available for royalty management activities; and an amount not to exceed $100,230,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: *Provided*, That to the extent $100,230,000 in additions to receipts are not realized from the sources of receipts stated above, the amount needed to reach $100,230,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: *Provided further*, That $3,000,000 for computer acquisitions shall remain available until September 30, 2004: *Provided further*, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d): *Provided further*, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, $15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service (MMS) concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: *Provided further*, That MMS may under the royalty-in-kind pilot program, or under its authority to transfer oil to the Strategic Petroleum Reserve, use a portion of the revenues from royalty-in-kind sales, without regard to fiscal year limitation, to pay for transportation to wholesale market centers or upstream pooling points, to process or otherwise dispose of royalty production taken in kind, and to recover MMS transportation costs, salaries, and other administrative costs directly related to filling the Strategic Petroleum Reserve: *Provided further*, That MMS shall analyze and document the expected return in advance of any royalty-in-kind sales to assure to the maximum extent practicable that royalty income under the pilot program is equal to or greater than royalty income recognized under a comparable royalty-in-value program.

### OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,105,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

### REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; $105,367,000: *Provided*, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2003 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

### ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, $184,745,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $10,000,000, to be derived from the Federal Expenses Share of the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: *Provided*, That grants to minimum program States will be $1,500,000 per State in fiscal year 2003: *Provided further*, That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 percent shall be used for emergency reclamation projects in any one State and funds for federally administered emergency reclamation projects under this proviso shall not exceed $11,000,000: *Provided further*, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 percent limitation per State and may be used without fiscal year limitation for emergency projects: *Provided further*, That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That funds made available under title IV of Public Law 95–87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further*, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act.

### BUREAU OF INDIAN AFFAIRS

### OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, $1,859,064,000, to remain available until September 30, 2004 except as otherwise provided herein, of which not to exceed $89,857,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed $133,209,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2003, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and up to $2,000,000 shall be for the Indian Self-Determination Fund which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts or cooperative agreements with the Bureau under such Act; and of which not to exceed $454,985,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2003, and shall remain available until September 30, 2004; and of which not to exceed $57,536,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: *Provided*, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed $49,065,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with the operation of Bureau-funded schools: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2004, may be transferred during fiscal year 2005 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 2005.

### CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, $345,252,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That for fiscal year 2003, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

### INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $60,949,000, to remain available until expended; of which $24,870,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 101–618 and 102–575, and for implementation of other enacted water rights settlements; of which $5,068,000 shall be available for future water supplies facilities under Public Law 106–163; of which $31,011,000 shall be available pursuant to Public Laws 99–264, 100–580, 106–263, 106–425, and 106–554: *Provided*, That of the amount provided for implementation of Public Law 106–263, $3,000,000 for a water rights and habitat acquisition program shall be derived from the Land and Water Conservation Fund.

### INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed and insured loans, $5,000,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $72,424,000.

In addition, for administrative expenses to carry out the guaranteed and insured loan programs, $493,000.

### ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations, pooled overhead general administration (except facilities operations and maintenance), or provided to implement the recommendations of the National Academy of Public Administration's August 1999 report shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

## DEPARTMENTAL OFFICES

## INSULAR AFFAIRS

### ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $73,217,000, of which: (1) $67,922,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $5,295,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: *Provided further*, That of the amounts provided for Northern Mariana Islands Covenant grant funding, $1,000,000 shall be granted to the Prior Service Benefits Administration: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure, with territorial participation and cost sharing to be determined by the Secretary based on the grantee's commitment to timely maintenance of its capital assets: *Provided further*, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

### COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $21,045,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658.

## DEPARTMENTAL MANAGEMENT

### SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $72,533,000, of which not to exceed $8,500 may be for official reception and representation expenses, and of which up to $1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

## OFFICE OF THE SOLICITOR

### SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $47,473,000.

## OFFICE OF INSPECTOR GENERAL

### SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $36,239,000, of which $3,812,000 shall be for procurement by contract of independent auditing services to audit the consolidated Department of the Interior annual financial statement and the annual financial statement of the Department of the Interior bureaus and offices funded in this Act.

## NATIONAL INDIAN GAMING COMMISSION

### SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $2,000,000, to remain available until expended.

## OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

### FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $141,277,000, to remain available until expended, including not to exceed $15,000,000 to perform a historical accounting of each Individual Indian Money Account open on December 31, 2000, covering the period from the date on which the account was opened or January 1, 1985, whichever is later, to December 31, 2000: *Provided*, That hereafter no funds provided under this or any other Act shall be available to conduct a historical accounting of Individual Indian Money Accounts other than an accounting for the period specified in this Act of accounts open on December 31, 2000, unless such accounting is specifically provided for in a subsequent Act of Congress: *Provided further*, That funds for trust management improvements may be transferred, as needed, to the Bureau of Indian Affairs "Operation of Indian Programs" account and to the Departmental Management "Salaries and Expenses" account: *Provided further*, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2003, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further*, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of $1.00 or less: *Provided further*, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder: *Provided further*, That not to exceed $50,000 is available for the Secretary to make payments to correct administrative errors of either disbursements from or deposits to Individual

Indian Money or Tribal accounts after September 30, 2002: *Provided further*, That erroneous payments that are recovered shall be credited to this account.

### INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, $7,980,000, to remain available until expended and which may be transferred to the Bureau of Indian Affairs and Departmental Management.

## NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

### NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101–380) (33 U.S.C. 2701 et seq.), and Public Law 101–337, as amended (16 U.S.C. 19jj et seq.), $5,538,000, to remain available until expended.

### ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

## GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for "wildland fire operations" shall be exhausted within 30 days: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Annual appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of 12 months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore oil and natural gas preleasing, leasing, and related activities, on lands within the North Aleutian Basin planning area.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 111. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

SEC. 112. Notwithstanding any other provisions of law, the National Park Service shall not develop or implement a reduced entrance fee program to accommodate non-local travel through a unit. The Secretary may provide for and regulate local non-recreational passage through units of the National Park System, allowing each unit to develop guidelines and permits for such activity appropriate to that unit.

SEC. 113. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any available unobligated balances from prior appropriations Acts made under the same headings, shall be available for expenditure or transfer for Indian trust management and reform activities.

SEC. 114. Notwithstanding any other provision of law, the Secretary of the Interior hereafter has ongoing authority to negotiate and enter into agreements and leases, without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), with any person, firm, association, organization, corporation, or governmental entity, for all or part of the property within Fort Baker administered by the Secretary as part of the Golden Gate National Recreation Area. The proceeds of the agreements or leases shall be retained by the Secretary and such proceeds shall remain available until expended, without further appropriation, for the preservation, restoration, operation, maintenance, interpretation, public programs, and related expenses of the National Park Service and nonprofit park partners incurred with respect to Fort Baker properties.

SEC. 115. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: *Provided*, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 116. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2003. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

SEC. 117. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2003 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 118. (a) The Secretary of the Interior shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery in Kansas City, Kansas (as described in section 123 of Public Law 106–291) are used only in accordance with this section.

(b) The lands of the Huron Cemetery shall be used only: (1) for religious and cultural uses that are compatible with the use of the lands as a cemetery; and (2) as a burial ground.

SEC. 119. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–208, the Secretary may accept and retain land and other forms of reimbursement: *Provided*, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100–696; 16 U.S.C. 460zz.

SEC. 120. Section 412(b) of the National Parks Omnibus Management Act of 1998, as amended (16 U.S.C. 5961) is further amended by striking "2002" and inserting "2003".

SEC. 121. Notwithstanding other provisions of law, the National Park Service may authorize, through cooperative agreement, the Golden Gate National Parks Association to provide fee-based education, interpretive and visitor service functions within the Crissy Field and Fort Point areas of the Presidio.

SEC. 122. Notwithstanding 31 U.S.C. 3302(b), sums received by the Bureau of Land Management for the sale of seeds or seedlings including those collected in fiscal year 2002, may be credited to the appropriation from which funds were expended to acquire or grow the seeds or seedlings and are available without fiscal year limitation.

### WHITE RIVER OIL SHALE MINE, UTAH—SALE

SEC. 123. Subject to the terms and conditions of section 126 of the Department of the Interior and Related Agencies Act, 2002, the Administrator of General Services shall sell all right, title, and interest of the United States in and to the improvements and equipment of the White River Oil Shale Mine.

SEC. 124. The Secretary of the Interior may use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

SEC. 125. Funds provided in this Act for Federal land acquisition by the National Park Service for Shenandoah Valley Battlefields National Historic District, and Ice Age National Scenic Trail may be used for a grant to a State, a local government, or any other governmental land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Fund Act of 1965 as amended.

SEC. 126. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 127. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.

SEC. 128. None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance.

SEC. 129. Notwithstanding any other provision of law, the United States Fish and Wildlife Service may use funds appropriated in this Act for incidental expenses related to promoting and celebrating the Centennial of the National Wildlife Refuge System.

SEC. 130. The National Park Service may in fiscal year 2003 and thereafter enter into a cooperative agreement with and transfer funds to Capital Concerts, a nonprofit organization, for the purpose of carrying out programs pursuant to 31 U.S.C. 6305.

SEC. 131. No later than 30 days after enactment of this Act, the Secretary of the Interior shall provide to the House and Senate Committees on Appropriations and the House Committee on Resources and the Senate Committee on Indian Affairs a summary of the Ernst and Young report on the historical accounting for the five named plaintiffs in Cobell v. Norton. The summary shall not provide individually identifiable financial information, but shall fully describe the aggregate results of the historical accounting.

SEC. 132. None of the funds in this or any other Act for the Department of the Interior or the Department of Justice can be used to compensate the Special Master and the Court Monitor appointed by the United States District Court for the District of Columbia in the Cobell v. Norton litigation at an annual rate that exceeds 200 percent of the highest Senior Executive Service rate of pay for the Washington-Baltimore locality pay area.

SEC. 133. Within 90 days of enactment of this Act the Special Trustee for American Indians, in consultation with the Secretary of the Interior and the Tribes, shall appoint new members to the Special Trustee Advisory Board.

SEC. 134. The Secretary of the Interior may use discretionary funds to pay private attorneys fees and costs for employees and former employees of the Department of the Interior reasonably incurred in connection with Cobell v. Norton to the extent that such fees and costs are not paid by the Department of Justice or by private insurance. In no case shall the Secretary make payments under this section that would result in payment of hourly fees in excess of the highest hourly rate approved by the District Court for the District of Columbia for counsel in Cobell v. Norton.

SEC. 135. Section 124(a) of the Department of the Interior and Related Agencies Appropriation Act, 1997 (16 U.S.C. 1011 (a)), as amended, is further amended by inserting after the phrase "appropriations made for the Bureau of Land Management" the phrase "including appropriations for the Wildland Fire Management account allocated to the National Park Service, Fish and Wildlife Service, and Bureau of Indian Affairs".

SEC. 136. Public Law 107–106 is amended as follows: in section 5(a) strike "9 months after the date of enactment of the Act" and insert in lieu thereof "September 30, 2003".

SEC. 137. Notwithstanding any other provision of law, the funds provided in the Labor, Health and Human Services, Education and Related Agencies Appropriations Act of 2002, Public Law 107–116, for the National Museum of African American History and Culture Plan for Action Presidential Commission shall remain available until expended.

SEC. 138. Activities of the Restoration, Coordination and Verification team, as described in the final feasibility report and programmatic environmental impact statement for the comprehensive review of the Central and Southern Florida project, shall be directed jointly by the Secretary of the Army, the Secretary of the Interior, and the South Florida Water Management District.

SEC. 139. The U.S. Fish and Wildlife Service shall, in carrying out its responsibilities to protect threatened and endangered species of salmon, implement a system of mass marking of salmonid stocks released from Federally operated or Federally financed hatcheries including but not limited to fish releases of the coho, chinook, and steelhead species. The requirements of this section shall not be applicable when the hatchery fish are produced for conservation purposes.

Sec. 140. The visitor center at the Bitter Lake National Wildlife Refuge in New Mexico shall be named for Joseph R. Skeen and, hereafter, shall be referred to in any law, document, or record of the United States as the "Joseph R. Skeen Visitor Center".

**SEC. 141. COMMISSION ON NATIVE AMERICAN POLICY.**

(a) Establishment.—Hereafter, there is established a commission to be known as the "Commission on Native American Policy" (in this section referred to as the "Commission").

(b) Membership.—The Commission shall be composed of 13 members appointed for the life of the Commission by the President as follows:

(1) A representative from the National Governors' Association.

(2) A representative from the National Association of Attorneys General.

(3) The Attorney General, or a designee.

(4) The Secretary of the Treasury, or a designee.

(5) The Secretary of the Interior, or a designee.

(6) The Secretary of Commerce, or a designee.

(7) The Chairman of the National Indian Gaming Commission, or a designee.

(8) 2 representatives from Indian tribes that operate Indian gaming facilities.

(9) 2 representatives from Indian tribes that do not operate Indian gaming facilities.

(10) 1 representative from a unit of local government that is located near an Indian gaming facility.

(11) 1 representative from the chamber of commerce of a unit of local government that is located near an Indian gaming facility.

(c) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) Quorum.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) Chairperson.—The Chairperson of the Commission shall be elected by the members of the Commission. The term of office of the Chairperson shall be for the life of the Commission.

(f) Basic Pay.—

(1) Compensation of members.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation is not precluded by a State, local, or Native American tribal government position, shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) Travel expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(g) Hearings and Sessions.—

(1) In general.—The Commission may, for the purpose of carrying out its duties, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(2) Witness expenses.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(h) Powers of Members and Agents.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(i) Obtaining Official Data.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(j) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(k) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its duties.

(l) Contract Authority.—To the extent or in the amounts provided in advance in appropriation Acts, the Commission may contract with and compensate government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(m) Study; Report.—

(1) Study.—Not later than 18 months after funds are first made available for this section, the Commission shall complete a study on the following:

(A) Living standards in Indian country, including health, infrastructure, economic development, educational opportunities, and housing.

(B) The effectiveness of current Federal programs designed to improve living standards in Indian country, including health, infrastructure, economic development, educational opportunities, and housing.

(C) Crime control on Indian reservations.

(D) The influence of non-Native American private investors on the Indian Federal recognition process.

(E) The influence of non-Native American private investors on the establishment and operation Indian gaming facilities.

(F) The influence of organized crime on Indian gaming.

(G) The impact of Indian gaming facilities on local communities, including the impact on economic, environmental, and social issues.

(2) Report.—Not later than 6 months after completion of the study required by paragraph (1), the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its legislative recommendations for improving—

(A) the welfare of Native Americans, including health infrastructure, economic development, educational opportunities, and housing;

(B) the relationship between tribal entities and nontribal communities that live in the same area as tribal entities or Indian gaming facilities; and

(C) regulations that govern tribal gaming to reduce the potential for crime and exploitation of Indians and Indian tribes.

(n) Termination.—The Commission shall terminate 30 days after submitting its final report pursuant to this section.

(o) Funding.—Of the amount appropriated in this Act for "Bureau of Indian Affairs—operation of indian programs", $200,000 shall be available to carry out this section.

The CHAIRMAN. Are there any points of order to title I?

POINT OF ORDER

Mr. HANSEN. Mr. Chairman, I make a point of order against the language contained in section 138 of the bill. This section, on page 68 of the bill, requiring the Army Corps of Engineers and the Department of Interior to jointly manage the central and southern Florida remediation project without delay, constitutes legislation on an appropriations bill in violation of clause 2(b) of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. SKEEN. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from New Mexico is recognized.

Mr. SKEEN. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The language is stricken.

POINT OF ORDER

Mr. HANSEN. Mr. Chairman, I make a point of order against the language contained at pages 29–30 of the bill. This language, starting with the word "provided" at page 29, line 22, through line 11 at page 30, requiring the Army Corps of Engineers to implement so-called alternative 6D without further delay, constitutes legislation on an appropriations bill in violation of clause 2(b) of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. SKEEN. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from New Mexico is recognized.

Mr. SKEEN. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The language will be stricken.

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hansen:

Page 8, line 16, after the dollar amount insert "(reduced by $1,800,000)".

Page 15, line 1, after the dollar amount insert "(increased by $1,800,000)".

Mr. HANSEN. Mr. Chairman, this amendment would shift $1.8 million from Bureau of Land Management land acquisition for Utah's Grand Staircase Escalante National Monument to the Fish and Wildlife Service construction account. The purpose is to provide the final installment of $1.8 million that is required to start construction and provide for the completion of the Bear River Migratory Bird Refuge Education Center in Brigham City, Utah.

This center has been previously authorized by the House pursuant to its recent passage of H.R. 3322 which approved the project for a total of $11 million. This $1.8 million provides the last and final installment which allows the project to move forward to completion.

According to the Congressional Budget Office, and this is the important part, this amendment is revenue-neutral and does not increase outlays or spending rates. This amendment does not affect projects in any other State.

Mr. SKEEN. Mr. Chairman, I have seen the amendment by the gentleman from Utah and the chairman of the House Committee on Resources and my good friend. I note that it moves money from one project in Utah to another, and as such, I have no objection.

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just say that I hope that the gentleman will make certain that the commitments that were made about matching funds are made and kept on this project. From the majority staff, we have been told that there has been a question about that, but if the gentleman has assured me that those questions will be answered affirmatively and positively with his personal commitment, I will have not have any objection to the project.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I would be happy to make that commitment to the gentleman. I was personally involved in some of the fundraisers that have been involved in this, and I have no problem taking care of the gentleman's concern.

### MOTION TO RISE OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Washington (Mr. DICKS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

### RECORDED VOTE

Mr. HANSEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 210, not voting 15, as follows:

[ROLL NO. 308]

### YEAS—209

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Borski
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hefley
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Murtha
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sánchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (MI)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NAYS—210

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOT VOTING—15

Blagojevich
Blunt
Bonior
Boucher
Dooley
Hastings (FL)
Mascara
Moran (VA)
Nadler
Ney
Reynolds
Riley
Roukema
Sabo
Traficant

□ 2319

Messrs. SULLIVAN, NORWOOD, GILMAN, SMITH of Texas, BURTON of Indiana, COLLINS, HYDE, ADERHOLT, FLAKE, WHITFIELD, HOUGHTON, SAM JOHNSON of Texas, HORN, and Mrs. MYRICK changed their vote from "aye" to "no."

Mr. BARCIA changed his vote from "no" to "aye."

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. HANSEN).

The amendment was agreed to.

Mr. YOUNG of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, had come to no resolution thereon.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## HONORING SAM MORRIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. HAYES) is recognized for 5 minutes.

Mr. HAYES. Mr. Speaker, 2 weeks ago the 8th Congressional District of North Carolina lost one of its treasures. Sam Morris was the epitome of a newspaperman who cared deeply about his community, the City of Raeford in Hoke County, North Carolina. Sadly, my friend, Sam Morris, recently passed away.

Sam played a number of roles in his community. He was a respected historian, long time newspaperman, prominent civic and political leader, and a leader in the Raeford Presbyterian Church. Sam was the former general manager of the Dickson Press, and a former Raeford City councilman. Additionally, Sam proudly served his State and country as a member of the North Carolina National Guard, rising to the rank of first lieutenant.

Sam stepped down from his official role with the Raeford News Journal back in 1982, but kept up his weekly column until the very end. His column, "Around Town," focused on people, social events, weather, politics, and anything else that caught Sam's eye. The column was a widely read and widely respected one in Hoke County. As a matter of fact, I would gladly trade a week of national TV interviews for one good mention in Sam's column.

Sam had a reputation for always doing the right thing in all of his pursuits in life. His time at the newspaper was no different. He was a stickler for accuracy and doing the right thing during his newspaper career.

I am going to miss Sam. I know that Hoke County is going to miss Sam and miss reading his weekly insights. He is survived by his loving wife, Mary Alice; son, John Arthur Morris of New Bern; daughter, Sarah Morris Moore of Virginia Beach; and four grandchildren. My heartfelt condolences go out to his family for their loss and the community's loss.

While his presence in Hoke County will be missed, his legacy will remain with us forever.

☐ 2330

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. NADLER (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mrs. ROUKEMA (at the request of Mr. ARMEY) for July 15 and today until 2:00 p.m. on account of illness.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Ms. BALDWIN) to revise and extend their remarks and include extraneous material:

Mrs. THURMAN, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. UDALL of New Mexico, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SHOWS, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

The following Members (at the request of Mr. SIMMONS) to revise and extend their remarks and include extraneous material:

Mr. GILMAN, for 5 minutes, July 18.

Mr. HAYES, for 5 minutes, today.

## ADJOURNMENT

Mr. HAYES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 17, 2002, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7978. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Tuberculosis in Cattle and Bison; State and Zone Designations; Texas [Docket No. 02-021-1] received June 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7979. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Tolerance Nomenclature Changes; Technical Amendment [OPP-2002-0043; FRL-6835-2] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7980. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Tolerance Nomenclature Changes; Technical Amendment [OPP-2002-0043; FRL-7180-1] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7981. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Hydrogen Peroxide; An Amendment to an Exemption from the Requirement of a Tolerance; Technical Correction [OPP-2002-0042; FRL-6835-3] (RIN: 2070-AB78) received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7982. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Extension of Tolerances for Emergency Exemptions (Multiple Chemicals) [OPP-2002-0112; FRL-7183-6] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7983. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Mesotrione; Pesticide Tolerances for Emergency Exemptions [OPP-2002-0117; FRL-7184-2] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7984. A letter from the Senior Paralegal (Regulations), Office of Thrift Supervision, Department of the Treasury, transmitting the Department's final rule — Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes [No. 2002-19] (RIN: 1550-AB45) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7985. A letter from the Director, FDIC Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Payment of Post-insolvency Interest In Receiverships With Surplus Funds (RIN: 3064-AB92) received June 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7986. A letter from the Associate General Counsel, National Credit Union Administration, transmitting the Administration's final rule — Loan Interest Rates — received June 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7987. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule — Organization and Operations of Federal Credit Unions — received June 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7988. A letter from the Director, Office of Management and Budget, transmitting a supplemental update of the Budget, pursuant to 31 U.S.C. 1106(a); (H. Doc. No. 107—245); to the Committee on the Budget and ordered to be printed.

7989. A letter from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting the Department's final rule — Disability and Rehabilitation Research Projects (DRRP) Program — received June 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7990. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule — Obstetric and Gynecology Devices; Effective Date of Requirement for Premarket Approval for Glans Sheath Devices [Docket No. 99N-0922] received July 1, 2002, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Energy and Commerce.

7991. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Louisiana; Control of Emissions of Volatile Organic Compounds from Industrial Wastewater Facilities [LA-35-2-7339a; FRL-7234-3] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7992. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Commonwealth of Puerto Rico: Control of Emissions from Existing Hospital, Medical, and Infectious Waste Incinerators [Region II Docket No. PR9-242, FRL-7232-4] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7993. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area [LA-58-1-7522; FRL-7235-9] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7994. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake County — Trading of Emission Budgets for PM 10 Transportation Conformity [UT-001-0042; FRL-7238-5] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7995. A letter from the Principal Deputy Associate Administator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Michigan [MI78-01-7287a, FRL-7226-6] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7996. A letter from the Principal Deputy Associate Administator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans: South Carolina: Nitrogen Oxides Budget and Allowance Trading Program [SC-037; SC-040; SC-044-200226; FRL-7238-6] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7997. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Indiana [IN122-3; FRL-7235-2] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7998. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Michigan [MI79-01-7288a; FRL-7242-8] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7999. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Minnesota [MN71-7296a; FRL-7242-6] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8000. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Halosulfuron; Pesticide Tolerances for Emergency Exemptions [OPP-2002-0113; FRL-7183-2] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8001. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production [FRL-7243-9] (RIN: 2060-AH82) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8002. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances [AD-FRL-7244-1] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8003. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-402, "Tax Clarity and Recorder of Deeds Temporary Act of 2002" received July 16, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

8004. A letter from the Vice Chairman, Federal Election Commission, transmitting the Commission's final rule — Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money [Notice 2002-11] received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

8005. A letter from the Assistant Administrator for Fisheries, NMFS, Department of Commerce, transmitting the Department's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Stellar Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska [Docket No. 011218304-1304-01; I.D. 121701A] (RIN: 0648-AQ02) received June 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8006. A letter from the Assistant Secretary, Land and Minerals Management, Department of Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations on the Outer Continental Shelf--Supsension of Operations for Exploration Under Salt Sheets (RIN: 1010-AC92) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8007. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Bycatch Rate Standards for the Second Half of 2002 [I.D. 043002A] received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8008. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 052402A] received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8009. A letter from the Director, Policy Directives and Instructions Branch, Department of Justice, transmitting the Department's final rule — Allowing Eligible Schools To Apply for Preliminary Enrollment in the Student and Exchange Visitor Information System (SEVIS) [INS No. 2211-02] (RIN: 1115-AG55) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8010. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Civil Monetary Penalty Inflation Adjustment Rule [FRL-7231-7] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8011. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Georgetown Channel, Potomac River [CGD05-02-041] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8012. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Liquefied Natural Gas Tankers, Cook Inlet, AK [COTP Western Alaska 02-001] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8013. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations; Harbour Town Fireworks Display, Calibogue Sound, Hilton Head, SC [CGD07-02-056] (RIN: 2115-AE46) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8014. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations; Skull Creek, Hilton Head, SC [CGD07-02-045] (RIN: 2115-AE46) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8015. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Naval Submarine Base Bangor, Puget Sound [CGD13-02-010] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8016. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes [Docket No. 2001-NM-35-AD; Amendment 39-12767; AD 2002-11-06] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8017. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Charleston Harbor, Cooper River, SC [COTP CHARLESTON-02-065] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8018. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; San Francisco Bay, San Francisco, CA and Oakland, CA [COTP San Francisco Bay 02-014] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8019. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Detroit River, Grosse Ile, MI [CGD09-02-037] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8020. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Festa Italiana 2002, Milwaukee, Wisconsin [CGD09-02-032] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8021. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Fees for FAA Services for Certain Flights (RIN: 2120-AG17) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8022. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Sturgeon Bay Fireworks, Sturgeon Bay, Wisconsin [CGD09-02-042] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8023. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Tractor, Inc. Models AT-400, AT-401, AT-401B, AT-402, AT-402A, AT-402B, AT-501, AT-802, and AT-802A Airplanes [Docket No. 2001-CE-36-AD; Amendment 39-12766; AD 2002-11-05] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8024. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Saginaw River, Bay City, MI [CGD09-02-039] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8025. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc. RB211 Trent 875, 877, 884, 892, 892B, and 895 Series Turbofan Engines [Docket No. 2001-NE-17-AD; Amendment 39-12769; AD 2002-11-08] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8026. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B and 895 Series Turbofan Engines [Docket No. 2001-NE-12-AD; Amendment 39-12761; AD 2002-10-15] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8027. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Safety Zones; Port of New York and New Jersey [CGD01-02-062] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8028. A letter from the Chief, Regulations and Administrative Law, Acting USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Saginaw River, Bay City, MI [CGD09-02-036] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8029. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Textron Lycoming Reciprocating Engines [Docket No. 2000-NE-36-AD; Amendment 39-12779; AD 2002-12-07] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8030. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations; Savannah Waterfront Association July 4th Fireworks Display, Savannah River, Savannah, GA [CGD07-02-049] (RIN: 2115-AE46) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8031. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Model S-70A and S-70C Helicopters [Docket No. 2002-SW-10-AD; Amendment 39-12771; AD 2002-11-10] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8032. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2002-NM-68-AD; Amendment 39-12730; AD 2002-08-18] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8033. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations; APBA Off-Shore Boat Race, Tybee Island, GA [CGD07-02-074] (RIN: 2115-AE46) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8034. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and EC130 B4 Helicopters; Correction [Docket No. 2002-SW-09-AD; Amendment 39-12681; AD 2002-03-52] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8035. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters Inc. Model MD-900 Helicopters [Docket No. 2001-SW-39-AD; Amendment 39-12751; AD 2002-10-05] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8036. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA330F, G, J, and AS332C, L, and L1 Helicopters [Docket No. 2002-SW-34-AD; Amendment 39-12786; AD 2002-12-14] (RIN: 2120-AA64) received July 1, 2002; to the Committee on Transportation and Infrastructure.

8037. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Navy Pier, Lake Michigan, Chicago Harbor, IL [CGD09-02-035] (RIN: 2115-AA97) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8038. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-3A1 and -3B1 Series Turbofan Engines; Correction [Docket No. 99-NE-49-AD; Amendment 39-12670; AD 2002-05-02] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8039. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-600 and A300 B4-600R Series Airplanes, and Model A300 F4-605R Airplanes [Docket No. 99-NM-322-AD; Amendment 39-12765; AD 2002-11-04] (RIN: 2120-AA64) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8040. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Siesta Drive Drawbridge, Gulf Intracoastal Waterway, Sarasota, Florida [CGD7-00-123] (RIN: 2115-AE47) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8041. A letter from the Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Shipment by Government Bills of Lading (RIN: 2700-AC33) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8042. A letter from the Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Non-Commercial Representations and Certifications and Evaluation Provisions for Use in Simplified Acquisitions (RIN: 2700-AC33) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8043. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2002-49] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8044. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Deduction for Contributions of an Employer to an Employees'

Trust or Annuity Plan and Compensation Under a Deferred-Payment Plan [Rev. Rul. 2002-46] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8045. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Deduction for Contributions of an Employer to an Employees' Trust or Annuity Plan and Compensation Under a Deferred-Payment Plan [Notice 2002-48] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8046. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Agent for Consolidated Group [T.D. 9002] (RIN: 1545-AX56) received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 2990. A bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes; with an amendment (Rept. 107–580). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3815. A bill to authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing a Presidential National Historic Site, in Hope, Arkansas, and for other purposes (Rept. 107–581). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 417. Resolution recognizing and honoring the career and work of Justice C. Clifton Young (Rept. 107–582). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1577. A bill entitled the "Federal Prison Industries Competition in Contracting Act of 2002"; with an amendment (Rept. 107–583). Referred to the Committee of the Whole House on the State of the Union.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. S. 1834. An act for the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit (Rept. 107–578). Referred to the Private Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2245. A bill for the relief of Anisha Goveas Foti (Rept. 107–579). Referred to the Private Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BALLENGER (for himself and Mr. DELAHUNT):

H.R. 5128. A bill to amend section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 to require that certain claims of expropriation by the Government of Nicaragua be filed within a specified time period for purposes of the prohibition on foreign assistance to that government; to the Committee on International Relations.

By Mr. BOYD:

H.R. 5129. A bill to modify certain water resources projects for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama; to the Committee on Transportation and Infrastructure.

By Mr. COX (for himself, Mr. FOLEY, Ms. HART, Ms. LOFGREN, Mr. FILNER, Mr. DREIER, Mr. SHADEGG, Mr. SCHAFFER, Mr. TOWNS, Mr. MCKEON, Mr. SENSENBRENNER, Mr. OWENS, Mr. WILSON of South Carolina, Mr. GRAHAM, Mr. CUNNINGHAM, Mr. BALDACCI, Mr. OSE, Mr. SANDERS, Mr. BARR of Georgia, Ms. BROWN of Florida, Mr. BURTON of Indiana, Mr. CALVERT, Mr. ROTHMAN, Mr. HORN, Mr. ISSA, Mr. GARY G. MILLER of California, Mr. KUCINICH, Mr. PENCE, Mr. PITTS, Mr. PASCRELL, Mr. POMBO, Mr. ROHRABACHER, Mr. ROYCE, Mr. TANCREDO, Mr. TIBERI, Mr. WALDEN of Oregon, Mr. GILLMOR, Mr. DUNCAN, Mr. TRAFICANT, Mr. FOSSELLA, Ms. MILLENDER-MCDONALD, Mr. GILCHREST, and Mrs. MORELLA):

H.R. 5130. A bill to allow a custodial parent a bad debt deduction for unpaid child support payments, and to require a parent who is chronically delinquent in child support to include the amount of the unpaid obligation in gross income; to the Committee on Ways and Means.

By Mr. BURTON of Indiana (for himself, Mr. WAXMAN, Mr. LATOURETTE, Mr. OSE, Mr. SCHROCK, Mr. DAVIS of Illinois, Mr. TOWNS, Mr. CUMMINGS, Mrs. MORELLA, Mr. HORN, Mr. TOM DAVIS of Virginia, Mr. GILMAN, Mr. SHAYS, Mr. ALLEN, Mr. PLATTS, Ms. WATSON, Mr. TURNER, Mr. SOUDER, Mr. MCHUGH, Mr. LANTOS, Mr. DUNCAN, Ms. NORTON, Mr. BARR of Georgia, Ms. ROS-LEHTINEN, Mrs. MALONEY of New York, Mrs. JO ANN DAVIS of Virginia, Mr. WELDON of Florida, Mr. SULLIVAN, Mrs. MINK of Hawaii, Mr. KUCINICH, Mr. DAN MILLER of Florida, Mr. SANDERS, Mr. OTTER, Mr. PUTNAM, Mr. CANNON, Mr. LYNCH, Mr. MICA, Mr. LEWIS of Kentucky, Mr. BLAGOJEVICH, Mr. KANJORSKI, Ms. SCHAKOWSKY, and Mr. OWENS):

H.R. 5131. A bill to ensure that requests or petitions for executive clemency are treated as lobbying contacts, and for other purposes; to the Committee on the Judiciary.

By Mr. SKELTON:

H.R. 5132. A bill to express the sense of Congress concerning the fiscal year 2003 end strengths needed for the Armed Forces to fight the War on Terrorism; to the Committee on Armed Services.

By Mrs. CHRISTENSEN:

H.R. 5133. A bill to expand the eligibility of individuals to qualify for loan forgiveness for teachers in order to provide additional incentives for teachers currently employed or seeking employment in economically depressed rural areas, Territories, and Indian Reservations; to the Committee on Education and the Workforce.

By Mr. DOYLE (for himself, Mr. CARDIN, Mr. CLAY, Mr. HASTINGS of Florida, Ms. KILPATRICK, Mr. MASCARA, Mr. NADLER, and Mr. SCHROCK):

H.R. 5134. A bill to amend the Older Americans Act of 1965 to authorize appropriations to provide supportive services to older individuals who reside in naturally occurring retirement communities; to the Committee on Education and the Workforce.

By Ms. GRANGER (for herself, Mr. MICA, Mr. SAM JOHNSON of Texas, Mr. FROST, Mr. PASTOR, Mrs. MEEK of Florida, Mr. KINGSTON, Mr. BRADY of Texas, Mr. HALL of Texas, Mr. BONILLA, Mr. BARTON of Texas, Ms. KILPATRICK, Mr. SESSIONS, Mr. ISAKSON, Mr. LEWIS of Georgia, Mr. CUNNINGHAM, Mr. GIBBONS, Ms. JACKSON-LEE of Texas, Mrs. MYRICK, Mr. COLLINS, Mr. HAYWORTH, Mr. BARR of Georgia, Ms. MCCARTHY of Missouri, Mr. LUCAS of Kentucky, Mr. COOKSEY, and Mr. PENCE):

H.R. 5135. A bill to amend title 49, United States Code, to provide for the modification of airport terminal buildings to accommodate explosive detection systems for screening checked baggage, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HUNTER:

H.R. 5136. A bill to amend the Salton Sea Reclamation Act of 1998 to reauthorize activities relating to river reclamation and wetlands projects for the Alamo River and New River, Imperial County, California; to the Committee on Resources.

By Mr. JONES of North Carolina (for himself and Mr. MCINTYRE):

H.R. 5137. A bill to authorize the Secretary of the Army to make beneficial use of dredged material for shoreline protection and restoration; to the Committee on Transportation and Infrastructure.

By Mr. KING (for himself, Mrs. MALONEY of New York, Mr. ENGEL, Mr. WATTS of Oklahoma, Mr. STEARNS, Mrs. ROUKEMA, and Mr. TANCREDO):

H.R. 5138. A bill to posthumously award congressional gold medals to government workers and others who responded to the attacks on the World Trade Center and the Pentagon and perished and to people aboard United Airlines Flight 93 who helped resist the hijackers and caused the plane to crash, to require the Secretary of the Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11, 2001, and for other purposes; to the Committee on Financial Services.

By Mr. OBERSTAR:

H.R. 5139. A bill to amend title XVIII of the Social Security Act to provide certain caregivers with access to Medicare benefits, to amend the Internal Revenue Code of 1986 to provide a long-term care tax credit, and to provide for programs within the Department of Health and Human Services and Department of Veterans Affairs for patients with fatal chronic illness; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H.R. 5140. A bill to provide for a Federal program to stabilize medical malpractice insurance premiums; to the Committee on Energy and Commerce.

By Mr. STARK:

H.R. 5141. A bill to amend title XVIII of the Social Security Act to direct the Secretary of Health and Human Services to establish a continuous quality improvement program for providers that furnish services under the Medicare Program to individuals with end stage renal disease, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS:

H.R. 5142. A bill to provide that the standard for soundproofing a residential building under section 47502 of title 49, United States Code, for Los Angeles International Airport shall be a community noise equivalent level of 60 decibels instead of 65 decibels, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. WATERS:

H.R. 5143. A bill to amend title 49, United States Code, to make Los Angeles International Airport a priority airport for the purposes of receiving grants for airport noise compatibility planning and programs; to the Committee on Transportation and Infrastructure.

By Ms. WATERS:

H.R. 5144. A bill to limit the expansion of Los Angeles International Airport; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Florida (for himself, Mr. Shaw, Mr. Bilirakis, Mr. Stearns, Mr. Goss, Ms. Ros-Lehtinen, Ms. Brown of Florida, Mrs. Thurman, Mr. Mica, Mr. Dan Miller of Florida, Mrs. Meek of Florida, Mr. Deutsch, Mr. Diaz-Balart, Mr. Hastings of Florida, Mr. Weldon of Florida, Mr. Foley, Mr. Boyd, Mr. Davis of Florida, Mr. Wexler, Mr. Putnam, Mr. Crenshaw, Mr. Keller, and Mr. Jeff Miller of Florida):

H.R. 5145. A bill to designate the facility of the United States Postal Service located at 3135 First Avenue North in St. Petersburg, Florida, as the "William C. Cramer Post Office Building"; to the Committee on Government Reform.

By Mr. WATTS of Oklahoma:

H. Res. 487. A resolution expressing the sense of the House of Representatives that General Benjamin O. Davis, Jr., should be recognized as a courageous warrior, an extraordinary officer, and a great American hero; to the Committee on Armed Services.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

331. The SPEAKER presented a memorial of the Legislature of the State of Hawaii, relative to Senate Resolution No. 99 memorializing the United States Congress to approve and authorize the establishment of a sister-state relationship between the state of Hawaii of the United States of America and the municipality of Tianjin in the People's Republic of China; to the Committee on International Relations.

332. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 65 memorializing the United States Congress to enact legislation requiring the Medicare program to cover all oral anticancer drugs; jointly to the Committees on Energy and Commerce and Ways and Means.

333. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 71 memorializing the United States Congress to request that the United Nations consider the establishment in Hawaii, of a center for the health, welfare, and education of children, youth and families for Asia and the Pacific; jointly to the Committees on International Relations and Energy and Commerce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 68: Mr. Ballenger, Mr. Doolittle, Mr. Taylor of Mississippi, Mr. Dicks, Mr. Davis of Illinois, Mr. Etheridge, Mr. Wu, Mr. Grucci, Mr. Pomeroy, Mr. John, Mr. Hefley, and Mr. Sandlin.

H.R. 397: Mr. Linder.

H.R. 440: Mr. Tanner.

H.R. 572: Mr. Bartlett of Maryland.

H.R. 596: Mrs. Maloney of New York.

H.R. 702: Mr. George Miller of California.

H.R. 984: Mrs. Bono.

H.R. 1021: Mr. Hastings of Washington and Mr. Wilson of South Carolina.

H.R. 1090: Mr. Schrock, Mr. Jackson of Illinois, Mr. Quinn, and Mr. Rothman.

H.R. 1220: Mr. Edwards.

H.R. 1268: Mr. Rothman.

H.R. 1274: Mr. Hastings of Washington.

H.R. 1304: Mr. Wilson of South Carolina.

H.R. 1452: Ms. Baldwin.

H.R. 1624: Mr. Kingston.

H.R. 1672: Mr. Waxman.

H.R. 1811: Ms. Berkley and Mr. Cannon.

H.R. 2071: Mr. McGovern and Mr. Hoeffel.

H.R. 2117: Mr. Kildee, Mr. Bishop, and Mr. Davis of Illinois.

H.R. 2145: Mr. Skelton.

H.R. 2220: Mr. Thompson of Mississippi.

H.R. 2280: Mr. Neal of Massachusetts.

H.R. 2322: Mr. Kildee.

H.R. 2349: Mr. Pomeroy.

H.R. 2357: Mr. Ford.

H.R. 2483: Mr. Clay and Mr. Bishop.

H.R. 2527: Mr. Matsui, Mr. Platts, Mr. Spratt, Mr. Nadler, Mr. Holt, Mr. Lewis of Kentucky, Mr. Norwood, Mr. McDermott, Mr. Frank, and Mr. Schiff.

H.R. 2807: Mr. Ramstad.

H.R. 2929: Mr. Carson of Oklahoma.

H.R. 2966: Mr. Sanders.

H.R. 2974: Ms. Lee and Mr. Hoeffel.

H.R. 3037: Ms. Schakowsky.

H.R. 3132: Mr. Culberson, Mr. Hastings of Florida, Mr. McDermott, and Ms. Eddie Bernice Johnson of Texas.

H.R. 3192: Ms. Eddie Bernice Johnson of Texas.

H.R. 3207: Mr. Gutierrez.

H.R. 3236: Ms. McKinney, Mr. McDermott, Mr. Doggett, and Mr. Barrett.

H.R. 3278: Mr. Filner and Ms. Harman.

H.R. 3320: Mr. Gilchrest.

H.R. 3372: Mr. Price of North Carolina.

H.R. 3449: Mr. Souder.

H.R. 3450: Ms. Sánchez, Mr. Smith of New Jersey, and Mr. Etheridge.

H.R. 3509: Mr. Matheson.

H.R. 3612: Ms. Velázquez.

H.R. 3794: Mr. Gonzalez and Mr. Hefley.

H.R. 3887: Mr. Wu and Mr. Markey.

H.R. 3974: Mr. Weldon of Pennsylvania.

H.R. 3995: Mr. LoBiondo, Mr. Petri, Mrs. Morella, Mr. English, Mr. Wolf, Mr. Nussle, Mr. Larsen of Washington, Mr. Doyle, and Mr. Osborne.

H.R. 4030: Mr. Shays.

H.R. 4032: Mr. LaFalce, Mr. Payne, and Ms. Roybal-Allard.

H.R. 4037: Ms. Pelosi.

H.R. 4071: Mr. Smith of Michigan.

H.R. 4099: Mr. Deal of Georgia.

H.R. 4205: Mr. Honda, Ms. Norton, Ms. DeGette, Ms. Roybal-Allard, Mrs. Mink of Hawaii, and Ms. Schakowsky.

H.R. 4483: Ms. DeGette.

H.R. 4524: Mr. Lantos and Ms. Kaptur.

H.R. 4634: Mr. Smith of New Jersey.

H.R. 4653: Mr. Frost.

H.R. 4680: Ms. Rivers, Mr. Evans, Mrs. Davis of California, Mrs. Mink of Hawaii, and Ms. Schakowsky.

H.R. 4683: Mrs. Mink of Hawaii.

H.R. 4701: Mr. Burr of North Carolina, Mr. Doyle, Mr. Fletcher, and Mr. Bryant.

H.R. 4718: Mr. Baldacci, Mr. Rogers of Michigan, and Mr. Peterson of Minnesota.

H.R. 4720: Mr. Schaffer, and Mr. Brown of Ohio.

H.R. 4728: Mr. Rodriguez.

H.R. 4738: Mr. Stupak.

H.R. 4793: Mr. Berry.

H.R. 4796: Mr. Lampson, Mr. Matsui, and Mrs. Thurman.

H.R. 4799: Mr. Olver.

H.R. 4831: Mr. Menendez, Mr. Holt, Ms. DeLauro, Mr. Goode, and Mr. Frost.

H.R. 4889: Mr. English, and Mr. Smith of New Jersey.

H.R. 4904: Mr. Pascrell, Mr. Doggett, Mr. Gutierrez, Mr. Udall of Colorado, Mr. Gibbons, Mr. Lynch, and Ms. Watson.

H.R. 4916: Mr. LaFalce, Mr. Lantos, Mr. Thompson of California, and Ms. Lee.

H.R. 4950: Mr. Barr of Georgia, Mr. Ryun of Kansas, and Mr. Goode.

H.R. 4965: Mr. Chambliss, Mr. Moran of Kansas, Mr. Hefley, Mr. Osborne, Mr. Sherwood, Mr. Culberson, Mr. Istook, Mr. Skeen, Mr. Rehberg, and Mr. Crenshaw.

H.R. 4967: Mrs. Mink of Hawaii.

H.R. 5002: Mr. Burton of Indiana.

H.R. 5026: Mr. Phelps.

H.R. 5027: Mr. Phelps.

H.R. 5029: Mr. Frost and Ms. Brown of Florida.

H.R. 5035: Mr. Boucher.

H.R. 5040: Mr. Lynch, Ms. McKinney, Mr. Pomeroy, Mr. Neal of Massachusetts, Mr. Kildee, Ms. Schakowsky, and Ms. Millender-McDonald.

H.R. 5047: Mr. McDermott.

H.R. 5060: Ms. Carson of Indiana, Mr. Paul, Mr. Evans, Mr. Hefley, Mrs. Mink of Hawaii, Mr. McGovern, Mr. Frost, Mr. Kildee, Mr. Lynch, Mr. Spratt, Ms. Brown of Florida, Ms. Woolsey; Mr. Faleomavaega, and Mr. Gibbons.

H.R. 5064: Mr. Otter, Mr. Rohrabacher, Mr. Wamp, Mr. Bonilla, Mr. Shimkus, Mr. Boehner, Ms. Hart, Mr. Reynolds, Mr. Lucas of Kentucky, Mr. Brown of South Carolina, Mr. Hostettler, Mr. Kerns, Mr. Hunter, Mr. Tancredo, and Mr. Smith of New Jersey.

H.R. 5085: Mr. Shows, Mr. Norwood, Mr. Hilleary, Mr. Ross, and Mr. Wolf.

H.R. 5107: Ms. Rivers, Mr. Brown of Ohio, Mr. Levin, Ms. Norton, Mrs. Tauscher, Mrs. Thurman, Mr. Larson of Connecticut, Mr. Sherman, Ms. Jackson-Lee of Texas, Mr. Thompson of Mississippi, Mr. Hinojosa, Ms. Solis, Mr. Rodriguez, Mr. Ortiz, Mr. Cramer, Ms. Brown of Florida, Mr. Crowley, Mr. Stark, Mr. McDermott, Mr. Engel, Mr. Condit, Mr. Brady of Pennsylvania, Mr. Baldacci, Ms. Baldwin, Mr. Baca, Mr. Israel, Mr. Meehan, Mr. Neal of Massachusetts, Mr. McGovern, Mr. Owens, Mr. Berman, Mr. Becerra, Mr. Kildee, Mr. McIntyre, Mr. Skelton, Mr. Abercrombie, Mr. Honda, Mr. Holt, Mr. Peterson of Minnesota, Mr. Phelps, and Mr. Shows.

H.R. 5118: Mr. Oxley, Mr. Frelinghuysen, Mr. Walden of Oregon, Mrs. Capito, Mr. Baker, and Mr. Rehberg.

H. Con. Res. 99: Mr. HOEFFEL, Mr. PASTOR, Mr. KENNEDY of Rhode Island, and Mr. JACKSON of Illinois.

H. Con. Res. 164: Mr. DOGGETT.

H. Con. Res. 181: Mr. DAVIS of Florida.

H. Con. Res. 287: Mr. MEEKS of New York, Mr. HOUGHTON, and Mr. ROYCE.

H. Con. Res. 385: Mr. EVANS.

H. Con. Res. 401: Mr. DICKS.

H. Con. Res. 411: Mr. POMBO.

H. Con. Res. 429: Mrs. MEEK of Florida, Mr. DAVIS of Illinois, Ms. WATSON, Ms. NORTON, Mr. LEWIS of Georgia, Ms. LEE, Mrs. JONES of Ohio, Mr. CLYBURN, Mr. PAYNE, and Ms. MILLENDER-MCDONALD.

H. Con. Res. 432: Mr. SHIMKUS, Mr. LEACH, Mr. DOYLE, Mr. BROWN of Ohio, Mr. SHERMAN, Mr. ENGEL, Mr. WOLF, Mr. ROTHMAN, Mr. SPRATT, Mr. FRANK, Ms. KAPTUR, and Mrs. JO ANN DAVIS of Virginia.

H. Con. Res. 439: Ms. LOFGREN, Ms. BROWN of Florida, Mrs. WILSON of New Mexico, Mr. MURTHA, Mr. HALL of Ohio, Mr. HINCHEY, Mr. WOLF, Mr. SHERWOOD, Ms. BALDWIN, Ms. HARMAN, Mr. REGULA, and Mr. MOLLOHAN.

H. Res. 94: Mr. FARR of California, Mrs. EMERSON, Ms. WATERS, Mrs. NORTHUP, Mrs. CLAYTON, Mr. BISHOP, Mr. RUSH, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. NAPOLITANO, Mr. UNDERWOOD, Mr. WALSH, Mr. MOLLOHAN, Ms. ROYBAL-ALLARD, Ms. WATSON, Mr. BERMAN, Ms. LEE, Mrs. MALONEY of New York, Ms. VELÁZQUEZ, Mrs. DAVIS of California, Mr. DEFAZIO, Ms. KAPTUR, Mr. KUCINICH, Mr. SCOTT, Mr. WATT of North Carolina, Mr. CLYBURN, Mr. LEWIS of Georgia, Mr. HILLIARD, Ms. MCKINNEY, Ms. SOLIS, Ms. MCCARTHY of Missouri, Mr. FRANK, Ms. BERKLEY, Mr. LANGEVIN, Mr. GARY G. MILLER of California, Mr. SHERMAN, Mr. DREIER, Ms. SLAUGHTER, Mr. MARKEY, Mr. DOGGETT, Mrs. MCCARTHY of New York, Mr. OWENS, Mr. PORTMAN, Mr. COX, Mr. GOSS, Mr. ADERHOLT, Mr. MANZULLO, Mr. DOOLITTLE, Mr. ISSA, Mr. HORN, Mr. REYNOLDS, Mr. JACKSON of Illinois, Mr. WICKER, Ms. HART, Mr. KINGSTON, Mr. SHOWS, Mr. TURNER, Ms. SCHAKOWSKY, Ms. DELAURO, Mr. RANGEL, Mrs. LOWEY, Mr. DINGELL, and Mr. WEINER.

H. Res. 407: Mr. SMITH of New Jersey.

H. Res. 410: Mr. BONIOR, Ms. MCKINNEY, Mr. FALEOMAVAEGA, and Mr. BURTON of Indiana.

H. Res. 416: Mr. VITTER.

H. Res. 443: Ms. BALDWIN and Mr. FROST.

H. Res. 454: Mr. LUTHER.

## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

*[Omitted from the Record of July 15, 2002]*

H.R. 5120

OFFERED BY: MR. MORAN OF KANSAS

AMENDMENT NO. 9: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC.   . None of the funds made available in this Act may be used to implement any sanction imposed by the United States on private commercial sales of agricultural commodities (as defined in section 402 of the Agricultural Trade Development and Assistance Act of 1954) or medicine or medical supplies (within the meaning of section 1705(c) of the Cuban Democracy Act of 1992) to Cuba (other than a sanction imposed pursuant to agreement with one or more other countries).

*[Submitted July 16, 2002]*

H.R. 5093

OFFERED BY: MR. HAYWORTH

AMENDMENT NO. 10: Page 50, strike line 16 and all that follows through line 13 on page 52.

H.R. 5093

OFFERED BY: MR. HAYWORTH

AMENDMENT NO. 11: Strike section 141.

H.R. 5093

OFFERED BY: MR. HOEFFEL

AMENDMENT NO. 12: Under the heading "NATIONAL FOREST SERVICE", insert after the dollar amount on page 76, line 13, the following: "(reduced by $5,000,000)(increased by $5,000,000)".

H.R. 5093

OFFERED BY: MR. SHADEGG

AMENDMENT NO. 13: Under the heading "WILDLAND FIRE MANAGEMENT" in title I, insert after the dollar amount on page 4, line 5, the following: "(increased by $23,089,000)".

Under the headings "BUREAU OF LAND MANAGEMENT" and "LAND ACQUISITION" in title I, insert after the dollar amount on page 8, line 16, the following: "(reduced by $36,000,000)".

H.R. 5093

OFFERED BY: MR. SHADEGG

AMENDMENT NO. 14: Under the heading "WILDLAND FIRE MANAGEMENT" in title II, insert after the dollar amount on page 77, line 8, and the dollar amount on page 78, line 9, the following: "(increased by $46,900,000)".

Under the heading "LAND ACQUISITION" in title I, insert after the dollar amount on page 83, line 22, the following: "(reduced by $46,900,000)".

H.R. 5093

OFFERED BY: MR. SHADEGG

AMENDMENT NO. 15: Under the heading "WILDLAND FIRE MANAGEMENT" in title II, insert after the dollar amount on page 77, line 8, the following: "(increased by $1)".

Under the headings "NATIONAL ENDOWMENT FOR THE ARTS" and "GRANTS AND ADMINISTRATION" in title II, insert after the dollar amount on page 114, line 7, the following: "(reduced by $1)".

H.R. 5093

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 16: Page 77, line 8, after the dollar amount insert "(increased by $43,000,000".

Page 78, line 8, after the second dollar amount insert "(increased by $8,000,000)".

Page 78, line 9, after the dollar amount insert "(increased by $35,000,000)".

Page 114, line 7, after the dollar amount insert "(decreased by $50,000,000)".

H.R. 5093

OFFERED BY: MR. UNDERWOOD

AMENDMENT NO. 17: Page 47, line 8, after the first dollar amount insert "(decreased by $5,000,000)(increased by $5,000,000)".

Page 47, line 8, after the second dollar amount insert "(decreased by $5,000,000) (increased by $5,000,000)".

H.R. 5120

OFFERED BY: MR. BARR

AMENDMENT NO. 10: Insert at the end before the short title the following:

SEC.   . None of the funds made available in this Act under the heading "Special Forfeiture Fund (Including transfer of funds)" to support a national media campaign shall be used to pay any entity that has entered into a settlement to pay claims against that entity by the United States under the False Claims Act.

H.R. 5120

OFFERED BY: MR. COX

AMENDMENT NO. 11: Page 47, line 7, after the second dollar amount, insert the following: "(reduced by $500,000)".

Page 49, line 18, after the dollar amount, insert the following: "(reduced by $500,000)".

Page 54, line 5, after the dollar amount, insert the following: "(increased by $500,000)".

H.R. 5120

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 12: At the end of the bill (before the short title), insert the following:

SEC.   . None of the funds made available in this Act may be used to prevent the rehabilitation of urban and rural post offices.

H.R. 5120

OFFERED BY: MR. ROGERS OF MICHIGAN

AMENDMENT NO. 13: In the item relating to "UNITED STATES CUSTOMS SERVICE—SALARIES AND EXPENSES", after the second dollar amount, insert "(increased by $700,000)".

In the item relating to "INTERNAL REVENUE SERVICE—PROCESSING, ASSISTANCE, AND MANAGEMENT", after the first dollar amount, insert "(reduced by $700,000)".

H.R. 5120

OFFERED BY: MR. ROGERS OF MICHIGAN

AMENDMENT NO. 14: At the end of the bill, insert after the last section (preceding the short title) the following:

SEC.   . None of the funds made available in this Act may be used by the United States Customs Service to permit the importation of municipal solid waste originating in Canada for deposit in the State of Michigan.

# EXTENSIONS OF REMARKS

## PAYING TRIBUTE TO LES MERGELMAN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor a great individual who has helped revitalize and strengthen his community's way of life. Les Mergelman is an example of success derived from hard work and determination. And it is a great honor to praise his efforts and contributions.

Les is retiring after thirteen proud years of service as the President of the Olathe State Bank. During his tenure, the bank prospered and thrived, becoming an instrumental piece of the Olathe financial community. Les helped regenerate lost revenue, and was instrumental in engineering the grand opening of the bank's main office in Olathe. However, Les is not one to bask in personal achievement, as he takes pride in the teamwork of his staff. He fervently believes in never giving up and keeping his head high regardless of the situation. Les's wisdom and leadership cannot, by any means, be duplicated, and each member of Les's office undoubtedly cherishes the countless contributions Les has made to the 'team.'

Mr. Speaker, I stand before you today to applaud the efforts of Les Mergelman before this body of Congress and this nation. The State of Colorado will always be grateful for his constant support of Olathe sweet corn and the culture of Colorado. We wish him the best with all the future endeavors that he undertakes. I fervently believe that he will continue to be a beacon to the Olathe community for years to come.

## MONSIGNOR GEORGE C. HIGGINS

### HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. OBEY. Mr. Speaker, in the tumult of recent events, the passing of a great man did not receive as much attention as it should have. Monsignor George C. Higgins died on May 1.

More than any other clergyman in this century, Monsignor Higgins personified the moral obligation that a just society has to honor work and workers. To me he more than anyone else over his long lifetime personified the demand for justice that should permeate our whole society.

E.J. Dionne, the thoughtful Washington Post columnist, wrote a splendid column on the death of Monsignor Higgins. I commend it to my colleagues.

THE GREAT MONSIGNOR

There is no such thing as a timely death. But just when you thought all the stories on American priests were destined to be about evil committed and covered up, one of the truly great priests was called to his eternal reward.

Monsignor George G. Higgins was the sort of Catholic clergyman regularly cast as a hero in movies of the 1930s and '50s. He was an uncompromising pro-labor priest who walked picket lines, fought anti-Semitism, supported civil rights and wrote and wrote and wrote in the hope that some of his arguments about social justice might penetrate somewhere.

He got attached to causes before they became fashionable, and stuck with them after the fashionable people moved on. Cesar Chavez once said that no one had done more for American farm workers than Monsignor Higgins. In the 1980s, he traveled regularly to Poland in support of Solidarity's struggle against communism and became an important link between American union leaders and their Polish brethren.

As it happens, even the day of Monsignor Higgins's death, at the age of 86, was appropriate. He passed from this world on May 1, the day that many countries set aside to honor labor and that the Catholic Church designates as the Feast of St. Joseph the Worker.

If Higgins had been there when that famous carpenter was looking for a place to spend the night with his pregnant wife, the monsignor would certainly have taken the family in. He would also have handed Joseph a union card, told him he deserved better pay and benefits, and insisted that no working person should ever have to beg for shelter.

Yes, Higgins sounds so old-fashioned—and in every good sense he was—that you might wonder about his relevance to our moment. Let us count the ways.

One of the most astonishing and disturbing aspects of the Catholic Church's current scandal is the profound disjunction—that's a charitable word—between what the church preaches about sexuality and compassion toward the young and how its leaders reacted to the flagrant violation of these norms by priests.

Higgins, who spent decades as the Catholic Church's point man on labor and social-justice issues, hated the idea of preachers' exhorting people to do one thing and then doing the opposite. And so he made himself into a true pain for any administrator of any Catholic institution who resisted the demands of workers for fair pay and union representation.

"These men and women mop the floors of Catholic schools, work in Catholic hospital kitchens and perform other sometimes menial tasks in various institutions," he once wrote. "They have not volunteered to serve the church for less than proportionate compensation."

"The church has a long history of speaking out on justice and peace issues," he said. "Yet only in more recent times has the church made it clear that these teachings apply as well to the workings of its own institutions."

Where some religious leaders complain that they get caught up in scandal because they are unfairly held to higher standards, Higgins believed that higher standards were exactly the calling of those who claim the authority to tell others what to do.

It bothered Higgins to the end of his life that the cause of trade unionism had become so unfashionable, especially among well-educated and well-paid elites. For 56 years, he wrote a column for the Catholic press, and he returned to union issues so often that he once felt obligated to headline one of his offerings:: "Why There's So Much Ado About Labor in My Column."

His answer was simple: "I am convinced that we are not likely to have a fully free or democratic society over the long haul without a strong and effective labor movement."

To those who saw collective bargaining as outdated in a new economy involving choice, mobility and entrepreneurship, Higgins would thunder back about the rights of those for whom such a glittering world was still, at best, a distant possibility: hospital workers, farm workers, fast-food workers and others who need higher wages to help their children reach their dreams. He could not abide well-paid intellectuals who regularly derided unions as dinosaurs, and he told them so, over and over.

It is one of the highest callings of spiritual leaders to force those who live happy and comfortable lives to consider their obligations to those heavily burdened by injustice and deprivation. It is a great loss when such prophetic voices are stilled by scandal and the cynicism it breeds. Fortunately, that never happened to Higgins. He never had to shut up about injustice and, God bless him, he never did.

## HONORING LAURA E. PAUL LONG ON HER 100TH BIRTHDAY

### HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. GEKAS. Mr. Speaker, I rise today to honor Mrs. Laura E. Paul Long of Gratz, Pennsylvania. On August 3, Laura will be celebrating her 100th birthday.

Laura is the daughter of Maria Hoch Paul and David D. Paul and was born on August 3, 1902, in Leck Kill, Pennsylvania. She spent her childhood in Lower Mahanoy Township with her parents and siblings and was married in 1922 to Samuel Felix Long.

Laura worked at Pillow Manufacturing in Pillow, Pennsylvania and for Dormar Manufacturing located in Gratz, Pennsylvania. She finally retired from Dormar Manufacturing around the age of 68.

Content with her life in Pennsylvania, Laura never left the state until after she retired when she traveled throughout Europe with her youngest daughter.

Although noted for her crocheting, Laura is renowned for her talent at continuing a line of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

geraniums descendant from the plants she grew on her farm in Klingerstown, PA in the 1930's. Her geraniums still thrive today.

Laura is also very dedicated to her family with nine children, 29 grandchildren, 43 great-grandchildren, and 23 great-grandchildren. She was widowed in 1966.

I ask my colleagues in the House to join me in wishing Laura a wonderful One-Hundredth Birthday and continued health and happiness for many years to come.

## PAYING TRIBUTE TO SGT. TONY LOMBARD

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Sergeant Tony Lombard of the Denver Police Department and thank him for his extraordinary contributions to his community and to his state. As a resident of Denver, Colorado, Tony has dedicated himself to protecting the Denver community by selflessly devoting his time and energy to his job, his family, and his community. His remarkable twenty-nine years on the force serve as a symbol of the commitment that Tony feels for the Denver Police Department and the City of Denver. As we celebrate the accomplishments of this fine career, let it be known that I, along with the people of Colorado, applaud his efforts and are eternally grateful for all that he has done for his community.

Throughout his career, Tony served as a spokesman and legislative lobbyist for the Denver Police Department. He has also worked as an active member in the narcotics division and credits his wife, Cynthia for always understanding his absence when work required him to leave church, movies, parties, and family dinners. As a former police officer, I understand Mr. Lombard's frustration and tolerance. Moreover, his goodhearted interests have further served to set him apart in his community, and have earned him much respect throughout the Denver Police Department.

Throughout the course of his career, Tony served in the sex-crimes unit and also worked for several years with his father in the public information office. Together, they comprised the only father-son spokesman team in the department's history. Tony is retiring because he wants to pursue other avenues of work such as working with the Police Protective Association.

Mr. Speaker, it is clear that Tony Lombard is a man of unparalleled dedication and commitment to his job, his community and his family. It is his commitment to hard work, as well as his spirit of integrity and selflessness with which he has always conducted himself that I wish to bring before this body of Congress. Sgt. Tony Lombard has served his state and his country in an honorable manner, and it is my privilege to extend to him my sincere congratulations on his retirement and I wish him all the best in his future endeavors.

## UKRAINE BI-ELECTIONS

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. LANTOS. Mr. Speaker, I wish to call attention once again to the alarming conditions surrounding the Ukrainian parliamentary bi-elections, held on Sunday, July 14. On the evening of July 12, less than forty-eight (48) hours before the balloting was to begin, a local court found Olexander Zhyr, the candidate I referred to in my remarks last week, guilty of campaign finance improprieties. Mr. Zhyr was disqualified from the race with no time to appeal the decision. As the domestic nonpartisan election watchdog group the Committee of Voters of Ukraine has commented, the last minute timing of the decision made it impossible for the elections to be considered democratic.

Mr. Speaker, I have already gone on the record as noting the important role Mr. Zhyr played in the Ukrainian Rada, heading the parliamentary committee that investigated the murders of Ukrainian journalists. Additionally, Mr. Zhyr was leading investigations into accusations that the Ukrainian government illegally exported arms to Iraq. I would like to express my deep concern that Mr. Zhyr's disqualification was politically motivated. Electoral manipulation of this sort severely undermines the democratic process. Again, I would stress that as a country that aspires to full membership in Western institutions, the Government of Ukraine must improve its democratic record. A good start would be to reverse the decision to disqualify Mr. Zhyr, and allow him to participate in an election that meets international standards of transparency and democratic procedures.

## INTRODUCTION OF ESRD QUALITY IMPROVEMENT ACT

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. STARK. Mr. Speaker, I rise today to introduce the ESRD Quality Improvement Act. To address the life and death importance of quality dialysis therapy for End Stage Renal Disease patients, this legislation would codify and build upon existing quality improvement efforts in a variety of ways including the addition of recognition for outstanding clinical outcomes and sanctions for chronically substandard care.

The 340,000 ESRD patients are the only Medicare enrollees eligible for coverage due to a specific medical diagnosis. ESRD patients have lost full kidney function and must undergo a kidney transplant or weekly dialysis treatments to survive. This chronically ill group of beneficiaries presents Congress with a special responsibility with regard to assuring quality and safe care.

As the dominant purchaser of dialysis services, the Medicare Program must demand improvement of deficient practices. Unfortunately, there is evidence that substandard care is being delivered at some Medicare funded sites. In 2000, the Inspector General noted numerous instances of poor care and an oversight system that is fragmented and lacks sufficient accountability. The GAO reported that in 1999, only 1 in 9 dialysis facilities underwent an unannounced inspection and that in 1998, almost 1 in 2 dialysis facilities had not been inspected within three years. A February 2002 Arizona Republic article further highlights the need for enhancements to the dialysis quality infrastructure. The article illustrates some patients are receiving weekly dialysis in atrocious conditions—unacceptable practices reported include poor or absent staff training, incorrect operation of dialysis machines, unclean facilities, neglected quality controls, and mission documentation. The full article is attached.

I'm pleased to note that the Center for Medicare and Medicaid Services (CMS) is currently making improvements in the quality of the ESRD Program such as the implementation of health outcomes standards and data system to assess quality of services. I regret it has taken so long to move forward with these efforts and I believe some deficiencies remain. This bill does not delay or interfere with the current quality initiatives, and in fact, builds upon them.

Currently, there only minimal ESRD quality assurance provisions in statute or regulation. The act would establish in statute a quality oversight role for the Department of Health and Human Services (HHS). In addition, a quality coordination function with certain duties delineated for the regional ESRD Quality Networks. The Networks are contracted by CMS to administer the ESRD program and serve as a liaison between dialysis provider and the Department. The Network quality functions delineated in the bill include training and technical assistance for providers, data collection and analysis, establishing national performance standards, conducting peer reviews, monitoring patient satisfaction, and disseminating of best practices. In coordination with existing HHS and Network goals, ESRD Clinical Performance Measures are to be developed to serve as performance standards to which patient and facility clinical outcomes can be compared.

The bill also requires the HHS Secretary to implement an information system to link service providers, Networks, and the Department and maintain national database that generates clinical profiles on the performance of dialysis facilities and providers. To provide incentives for high quality care and promote the exchange of best practices, awards for high achievement will be issued to top performing dialysis providers and facilities. To eliminate harmful care, provider and facility sanctions for substandard services are created.

Conditions of participation in the Medicare program for providers and facilities would be expanded to incorporate the terms of the CQI and QA Programs established in the bill. Also, to further support the quality provision of the bill, a per-treatment fee of 0.50 cents shall be paid to the Networks by the HHS Secretary during the initial 30-month period for which dialysis facilities are currently exempted. Consistent with the current process, dialysis facilities would continue to pay the 0.50 per-treatment fee beginning in the 31st month.

It is my hope that Congress, CMS and the ESRD provider community will react positively to the introduction of this bill. We need to work together to assure all ESRD facilities funded by Medicare are doing no harm. Please join me in this effort by agreeing to cosponsor the ESRD Continuous Quality Improvement Act.

## TRIBUTE TO THE SISTERS AND TO OSF ST. FRANCIS MEDICAL CENTER

### HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. LAHOOD. Mr. Speaker, I rise today to extend my congratulations to the Sisters and to OSF St. Francis Medical Center in Peoria, Illinois, for celebrating 125 years of continuous service to the people of Central Illinois.

In 1876, six German sisters were invited to come to Peoria to provide nursing care to the sick and injured. The Sisters' dedication to their mission, and to Central Illinois, led them to establish their own order on July 16, 1877, calling themselves The Sisters of the Third Order of Saint Francis. Their first hospital, today's OSF St. Francis, was also established that year.

The Sisters' mission to serve with the greatest care and love led to a commitment to the poor that has never wavered. OSF St. Francis Medical Center has been in the forefront of medical innovation, technology and service for 125 years.

During the time that I was growing up on the East Bluff of Peoria, I lived just a few blocks from St. Francis Hospital. As a matter of fact, my two brothers and I were born at St. Francis. During the 25 years that we lived on the East Bluff, St. Francis provided the best health care our family could have hoped for. The Sisters really took a great deal of interest in their patients. We are so fortunate to have such a long-standing tradition of outstanding health care in our community.

Therefore, I extend my congratulations and sincere gratitude to the Sisters and OSF St. Francis Medical Center for their tremendous dedication and loyal service to the people of Central Illinois.

## PAYING TRIBUTE TO GARRY MACCORMACK

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize the contributions of Garry MacCormack to the Pueblo, Colorado community. After providing thirty years of quality telecommunication service to the community, Garry is retiring to spend more time with his family. Garry has played a vital role in the development of the Pueblo telecommunications community and I can think of no better way to celebrate Garry's retirement than to thank him for his service before this body of Congress, and this nation.

Rye Telephone Company was started by Garry's parents in the 1950s when they purchased the neighborhood telephone cooperative. Garry took over the reins of the business in 1974, and as telecommunication advancements evolved, so too has the Rye Telephone Company. The company has matured from offering a single phone with long distance to the community, to the current telecommunications amenities such as multiple lines, voicemail, and Internet service to three states. Garry has nurtured the company through some amazing times, like installing fiber optic lines, and will now pass the family legacy over to his daughter, Michelle.

Mr. Speaker, as Garry enjoys his retirement with his wife Dayle, I am confident the company will continue to grow and prosper under Michelle's direction. Garry's success story serves as a model example of hard work and perseverance for a member of the community and I am honored to represent him and his family before you today. Thanks for all your years of service to Pueblo, Garry, and I wish you all the best in your well-deserved retirement.

## IN HONOR OF JOHN B. ANDERSON

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. GILMAN. Mr. Speaker, I rise today to honor the life and accomplishments of an outstanding American citizen, my friend and former colleague, the Honorable John B. Anderson.

Throughout John Anderson's twenty years in this body he served the Sixteenth District of Illinois, the State of Illinois and our Nation with dedication, strength and distinction. While serving on the Rules Committee and as Chairman of the House Republican Conference, John was always true to his ideals and his constituencies.

John Anderson was a champion of education in his district. Dr. Thomas Shaheen, a superintendent of schools in Rockford, Illinois, commented "It was to John B. Anderson that I could turn for support of Rockford's school children, its teachers, and administrators, and to me as its superintendent." Anderson urged the Rockford Public Schools to apply for a Federal grant under the Elementary Schools Educational Act. It was with his approval that the Rockford Public Schools received an award of $600,000 to implement a Teacher Development Center and Demonstration School. That project won a national award presented by National Education Association and The Thom McAn Association. The initiative begun in 1966 still exists and functions today.

After leaving political office, John Anderson is sought out as a lecturer and expert commentator on issues of electoral reform, United Nations reform, foreign affairs, American politics, and independent candidacies.

Throughout his tenure in Congress, John made significant contributions to discussions of foreign relations. His strong and passionate ideals made him a significant voice in the international community. Today, John Anderson comments often on the role of Congress in both domestic and international affairs. He is committed to improving our system and our country. I commend and support his efforts.

In the 1980 Presidential campaign, John ran as an independent candidate receiving six million votes. His campaign for the Presidency reflected his passion and vision for our nation.

A scholar, John has taught political science as a visiting professor at numerous universities, including the University of Illinois, Bryn Mawr College, Brandeis University and Stanford University. The way John communicates his experiences and love of our government and politics surely inspires and motivates his students.

John B. Anderson is a writer, a speaker, a veteran, an educator, and perhaps most importantly, a lover of America. I am delighted to participate in honoring a great American citizen and individual. Thank you John, for your dedication, your spirit and your integrity.

## PERSONAL EXPLANATION

### HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. BARRETT of Wisconsin. Mr. Speaker, because of commitments in my home State of Wisconsin, I was unable to vote on rollcall Numbers 283 through 295. Had I been present, I would have voted: "AYE" on rollcall No. 283; "AYE" on rollcall No. 284; "AYE" on rollcall No. 285; "AYE" on rollcall No. 286; "AYE" on rollcall No. 287; "NO" on rollcall No. 288; "NO" on rollcall No. 289; "NO" on rollcall No. 290; "NO" on rollcall No. 291; "NO" on rollcall No. 292; "AYE" on rollcall No. 293; "AYE" on rollcall No. 294; "AYE" on rollcall No. 295; "AYE" on rollcall No. 296; "AYE" on rollcall No. 297 and "NO" on rollcall No. 298.

## THE BOSTON GLOBE'S TELLING CRITIQUE OF ADMINISTRATION AFGHAN POLICY

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. FRANK. Mr. Speaker, Americans overwhelmingly supported President Bush's response to the terrorism of September 11, and his attack on the Taliban for providing a haven to these murderers was an entirely legitimate one. The successes American military forces achieved were impressive, and have contributed to a situation in which we have both diminished the possibility of terrorist attacks, and paved the way for a significant improvement in the lives of the people of Afghanistan.

But that latter accomplishment is being put somewhat in jeopardy by a pattern of inappropriate action and undue inaction on the part of the administration. The recent killing of dozens of people at a wedding party is of course tragic. But it is more than that. No one believes that any American military were consciously indifferent to the lives of innocent people. But it does appear that the strategy being dictated from Washington at this point fails to take into account sufficiently the need to prevent this sort of killing of innocent people. No one wants American troops put unnecessarily at risk, but we must achieve a better balance of serving our legitimate military ends while being fully respectful of the lives of innocent Afghans. Our current policy fails to give appropriate weight to that latter concern.

In addition, the stubborn refusal of the administration to support extending international peacekeeping beyond Kabul is a grave error. We had every moral right in my judgment to go into Afghanistan to go after the murderers who have attacked not just Americans but many others over the past few years. But having successfully and legitimately destroyed the Taliban regime, we have an equal moral obligation now to help the people of Afghanistan live in peace and security. And our current policy fails to live up to that.

Mr. Speaker, an editorial in the Boston Globe for July 10 makes these points extremely well. Because nothing is more important to our national security and our moral purpose than acting appropriately in Afghanistan right now, I ask that this very thoughtful editorial from the Boston Globe documenting the shortcomings in the current administration policy in Afghanistan be printed here.

[From The Boston Globe, July 10, 2002]

AFGHAN TARGETS

The assassination Saturday in Kabul of a minister in President Hamid Karzai's government, no less than the lethal strafing of Afghan villagers by US aircraft, illuminates America's need to help Afghans rebuild their nation.

It was a calamitous error for the US military to use an AC-130 aerial gunship to attack four villages in Oruzgan province last week, killing dozens of women and children and wounding more than a hundred. Unless President Bush prohibits similar attacks in the future, his phoned apologies to President Hamid Karzai will be remembered as little more than a futile expression of regret from a leader who did not know how to preserve his battlefield victories.

There may be a bit of a mystery about how many villagers were killed in the attack and some unanswered questions about anti-aircraft guns that disappeared from sites where pilots had seen them firing. But US soldiers entered the village of Kakrák after the attack and saw the blood and gore. Something atrocious happened to a wedding party in Kakrak.

There is no excuse for loosing such firepower on an Afghan village without US spotters on the ground who can be trusted when they call in strikes on armed enemy forces.

Strategically, US decision makers are acting like rote managers who cannot see the forest for the trees. They are deploying high-powered US war machines to hunt tiny clusters of Taliban. In reality, the Taliban are finished. They present no immediate threat to the Karzai government. The members of Osama bin Laden's terrorist cult are in a different category, but because those foreigners are generally despised by Afghans, they are at the mercy of local Afghan informers.

The United States has much more to lose by killing innocent villagers than it has to gain by trapping a few Taliban diehards or even by catching their leader, Mullah Omar. The US strafing of wedding guests risks making the Americans, who liberated Afghans from the Taliban, look like just another band of foreign invaders.

Since nobody has claimed credit for the daytime assassination of Karzai's public works minister, Haji Abdul Qadir, the murder is unlikely to be part of a blood feud. It is more likely the work of forces intent on destabilizing Karzai's government.

To help that government survive and prosper, Bush should drop his administration's foolish opposition to expansion of the international security force—now composed of Turkish troops—this is currently confined to Kabul. If Bush wants to keep Afghanistan out of the hands of international terrorists, he must commit US power and prestige to nation-building in that country. Aid money must be funneled directly to the central government for the rebuilding of roads, bridges, canals, and irrigation systems. It will be much easier and less expensive to help rebuild Afghanistan than to go on chasing Taliban bandits through the mountains for years to come.

## PAYING TRIBUTE TO JOHN HICKENLOOPER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. McINNIS. Mr. Speaker, today I rise before you to praise the lifeworks of Mr. John Hickenlooper. Mr. Hickenlooper plays an active role in the Denver, Colorado community, especially in the conservation of historical sites. It is an honor of this body of Congress to recognize his hard work and determination, which are two attributes highly deserving of our admiration.

John Hickenlooper was born in Philadelphia, Pennsylvania and graduated from Wesleyan University in 1974 with a Bachelor of Arts in English, later receiving his Masters in 1980 in Geology. He worked as an exploration geologist for Buckhorn Petroleum for five years before establishing the Wynkoop Brewing Company, the first brewpub in Colorado. He is considered a business pioneer in Denver's LoDo historic District, and his formerly small brewpub expanded and is now the largest brewpub in the world.

Mr. Hickenlooper has been a valuable contributor to the civic and business communities and has served his community well. He serves on numerous boards, including the Denver Art Museum, the Denver Metro Convention Visitors Bureau, the Institute of Brewing Studies, Volunteers for Outdoor Colorado, and the Chinook Fund. He also acts as chairman for the Association of Brewers as well as the Colorado Business for the Arts.

Mr. Speaker, it gives me great pleasure to recognize the achievements of John Hickenlooper. He truly sets an example not only for his community, but also for the entire State of Colorado. His exploits have set an example for all Coloradoans and indeed the entire nation and I am grateful for his service to his community. John, I wish you the best in your future endeavors and thanks for your contribution to society.

## AFGHANISTAN'S FUTURE IN ITS YOUTH'S HANDS

### HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. CAPUANO. Mr. Speaker, I rise today to inform my colleagues of the remarkable courage the children of Afghanistan have shown by returning to their classrooms this year in record numbers, despite the ongoing violence that has torn the country apart. The U.N. International Children's Emergency Fund, UNICEF, announced last week that over 5 million Afghani children, both boys and girls, have returned to school since the beginning of this year. This far exceeds the previously expected number of 1.78 million children. To the innocent people of Afghanistan who have long suffered from the great injustice, torture and oppression of the Taliban dictatorship, their children are a bright beacon of freedom and hope that a better future lies ahead.

I believe it is incumbent upon us to provide UNICEF with the necessary funds to continue rebuilding Afghanistan's schools, hire more teachers and provide more books so they can live and learn like our children here in the United States. It is imperative that we keep the hopes of the Afghani people alive by assisting UNICEF's efforts to provide these children with proper food, shelter and clothing. We can help them grow up in happiness and in a safe environment in a country that has known neither in many years.

UNICEF's program in Afghanistan this year has been recorded as its largest educational development effort since its inception. However, the organization estimates that it will still need an additional $57 million this year to support the newly crated education ministry, teacher training and recruitment, the development of curricula and textbooks for primary; secondary and higher education as well as a system of community radio programs to provide basic education to remote, underserved areas of Afghanistan.

Educating Afghani children is essential to the future stability of Afghanistan. With our help, UNICEF has taken on the enormous task of creating an educational system from scratch and has made remarkable progress so far. We must renew our commitment to the citizen of Afghanistan by investing more in UNICEF's efforts on behalf of the citizens of Afghanistan.

## PERSONAL EXPLANTION

### HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. MALONEY of Connecticut. Mr. Speaker, I was unavoidably detained on Monday, July 15, 2002, and missed rollcall votes No. 296, No. 297 and No. 298. Had I been present, I would have voted "Aye," on rollcall No. 296, "Aye," on rollcall No. 297, and "Aye," on rollcall No. 298.

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## TRIBUTE TO SPECIALIST KENNETH LOEHNER AND OTHER MEMBERS OF THE MISSOURI NATIONAL GUARD

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. SKELTON. Mr. Speaker, it has come to my attention that several acts of selflessness were performed by Missouri National Guardsmen. Specialist Kenneth Loehner, of Jefferson City, MO, heroically helped rescue a group of people in danger of falling into the Savannah River in Savannah, GA, while others protected the area from intrusion by growing crowds.

Spc. Kenneth Loehner and other Missouri National Guard members had been training during an annual two-week mission at Fort Stewart in Hainesville, GA. Halfway through their temporary duty, he and other members of his team were given a break and toured the local communities. During the break, Spc. Loehner heard a loud noise at a parking lot near the Savannah River. Part of the parking lot had caved in and trapped 3 tourists in a 10-foot deep crater nearly tossing them into the river. He immediately jumped into the hole to help the tourists and saved them in a matter of minutes. Several of Spc. Loehner's colleagues successfully directed onlookers away from the chaotic scene.

Mr. Speaker, Spc. Kenneth Loehner and the other Guardsmen involved have distinguished themselves by going above and beyond the call of duty to ensure the safety of others. I am certain that my colleagues will join me in congratulating them on a job well done.

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## PAYING TRIBUTE TO KEITH WIER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. McINNIS. Mr. Speaker, today I stand before you to recognize the personal achievements of Mr. Keith Wier, of Denver, Colorado. Keith's contributions to environmental technology have been implemented throughout Colorado, our nation, and the world. Moreover, his tireless efforts to preserve our ecosystem have led to the creation of new methodologies for the disposing of toxins.

Keith has used his MBA is Real Estate and Finance in all but the obvious manner. He has devoted his career to the development and manufacture of international products used in nuclear instrumentation. Keith's formation of the Resonant Shock Compaction in 1997 dramatically improved existing methods for contaminated granular waste disposal. He has also capitalized on grants received from the U.S. Department of Energy and the City of Denver Mayor's Office of Economic Development and International Trade to work jointly with the Japanese in the modernization of environmental export programs. In addition, Keith founded an international conglomerate of utility companies that studied the formation of construction products from coal burning byproducts. The published results helped commence the development of industries in India and Japan based on his research and findings.

Mr. Speaker, it is with great pride I rise today to pay tribute for the works of Keith Wier. The results of his research have transformed former waste into necessary products, which has helped local agencies and the environment in numerous ways. Congratulations Keith and good luck in your future endeavors.

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## PERSONAL EXPLANATION

### HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. HINCHEY. Mr. Speaker, I regret that a pressing family matter yesterday forced me to miss recorded vote numbers 296, 297, and 298.

Had I been present, I would have voted "yea" on H.R. 3482, the Cyber Security Enhancement Act, and H.R. 4755, the Clarence Miller Post Office Building Designation Act. I would have voted "nay" on H.R. 3479, the National Aviation Capacity Expansion Act.

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## TENTH ANNIVERSARY OF THE ASSISTANCE LEAGUE OF CHARLOTTE

### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mrs. MYRICK. Mr. Speaker, I rise today to commend the Assistance League of Charlotte on its tenth anniversary.

The Assistance League of Charlotte is a volunteer organization that has dedicated ten years of hard work to bettering the Charlotte-Mecklenburg community and is deserving of public recognition and commendation.

This nonprofit organization was founded in 1992 as the 93rd chapter of the National Assistance League. Its volunteer members are dedicated to identifying, developing, implementing and funding philanthropic projects to serve the needs of the Charlotte-Mecklenburg community. In 2001–2002, 113 members devoted almost 26,000 hours of community service to local children.

Its motto is Changing Lives for a Better Community, and the League has certainly lived by this credo, working tirelessly to enrich and uplift the people of Charlotte. Through philanthropic projects such as Operation Check Hunger, Operation School Bell, the Mecklenburg County Teen Court, and a scholarship fund for Charlotte-area seniors, the Assistance League of Charlotte has continually demonstrated its outstanding ability to enact real and beneficial changes in the Charlotte-Mecklenburg community.

I am honored to recognize the Assistance League of Charlotte on its tenth anniversary and to extend my heartfelt thanks to its members for their vision and integrity in serving the people of Charlotte-Mecklenburg.

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## HONORING JAMES E. BURTON

### HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. MATSUI. Mr. Speaker, I rise today to honor Mr. James Burton as he ends his tenure as the Chief Executive Officer of the California Public Employees' Retirement System (CalPERS). As his friends, family and colleagues all gather to celebrate his departure from over 25 years of public service, I ask all my colleagues to join me in honoring the dedicated service of this truly distinguished citizen of Sacramento.

Jim Burton came to the California Public Employees' Retirement System in 1992 and was appointed CEO in 1994. During his eight years of guiding the fund, total assets increased 30 percent and now total over $150 billion. His leadership has provided the 1.3 million California public employees, retirees and their families with a secure future.

Jim's time at CalPERS will not only be remembered by the funds' outstanding growth, but also by his commitment to the participating employees. Providing enrollees with exceptional customer service was high on his list of concerns. This can be seen in the organization's first strategic plan, which he helped shape.

In addition to leading CalPERS through a time of remarkable growth, Jim has served on numerous boards and committees of many prestigious organizations. These include the National Association of State Retirement Administrators, the Council of Institutional Investors, and the National Association of Securities Dealers, Inc. He also is a former Blue Ribbon Commission member of the National Association of Corporate Directors.

In recognition of his excellent work in serving the public employees of California, Jim was recently named Outstanding Public Administrator by the Sacramento Chapter of the American Society for Public Administration.

His service to the citizens of California, which has spanned the course of four decades, will surely be missed. Yet, his commitment to the employees of California and their families will undoubtedly serve as a model for others to follow.

Mr. Speaker, I am honored to pay tribute to one of Sacramento's most distinguished citizens, James Burton. His successes have been great, and it is a wonderful opportunity for me to recognize his many contributions to the people of California. I ask all my colleagues to join me in wishing my friend, Jim Burton, continued success in his future endeavors.

## TRIBUTE TO DOUGLAS COUNTY REGISTER OF DEEDS, SUE NEUSTIFTER, UPON HER RETIREMENT

### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. MOORE. Mr. Speaker, I rise today to pay tribute to a dedicated public servant upon the occasion of her retirement. Sue Neustifter, the elected Register of Deeds of Douglas County, Kansas, which is located in the Third Congressional District, retired at the end of last month after holding that office since her first election in 1972, and after having worked for Douglas County for 43 years.

Sue Neustifter was elected to the Douglas County Courthouse in 1972, as one of the group of Democratic candidates whose election in Douglas County in that year marked the real beginning of two-party politics in the home of Lawrence and the University of Kansas. She joined the Register of Deeds office on June 1, 1959, just a few days after graduating from Eudora High School. With the exception of one six month period when she left the office to campaign for the position of Register, Sue served in the office continuously until July 1st of this year. Elected thirty years ago, she was re-elected her last seven times on the ballot without any formal opposition.

As an active member of the Kansas Register of Deeds Association, Sue has served as President, Vice President, Secretary and Treasurer of that group; she also has been a part of many Lawrence community organizations, such as Soroptimist International of Lawrence, Lawrence Business Women, the local legal secretaries' group, and the Lions' Club, where she was awarded "Lion of the Year" in 2001. She also received a 40-year award from the Kansas Association of Counties.

Now that Sue has handed the keys of the Register's office over to Kay Pesnell, so that she can spend more time with her daughter, Sandra, son-in-law, Terry, and three grandchildren—Paige, Kalia and Tyler—it is fitting, Mr. Speaker, to include in today's RECORD a recent article from the Lawrence Journal-World that reviews the tenure and accomplishments of this dedicated and deservedly popular Kansas public servant. On behalf of the citizens of Douglas County, I wish her all the best upon her much deserved retirement and ask unanimous consent to reprint the article below.

[From the Lawrence Journal-World, June 4, 2002]

REGISTER OF DEEDS LEAVES LEGACY OF GROWTH, EFFICIENCY

(By Mark Fagan)

Sue Neustifter is closing the book on a 43-year career at the hub of Douglas County's development industry.

Make that the disk drive.

"We've gone from typewritten to photostat to microfilm to scanning now," said Neustifter, who has overseen the recording of thousands of land transfers as the country's register of deeds. "It's easier now, but the work has tripled."

Neustifter, in her ninth term as the country's elected register of deeds, said Monday that she would retire effective July 1. She will leave behind an office that generated an unprecedented $2.46 million in revenues last year for the county, bolstered by a record year for taxes on new and refinanced mortgages throughout the growing community.

And the tally is poised to grow even stronger.

Beginning the day Neustifter leaves office, mortgage-registration fees will go up by $2 per page, as mandated by the Kansas Legislature. The extra money will be used to upgrade technology in her office, which already has started transferring hundreds of rolls of microfilm onto dozens of compact discs for posterity.

For an office that records pages at breakneck speed—1,000 pages last Friday alone—Neustifter's efficiency and proclivity will be missed, said Craig Weinaug, county administrator.

The information kept in Neustifter's office forms the basis of virtually every land transfer in the county, and is relied upon by Realtors, title companies and property owners alike.

Last year Neustifter and her seven employees faxed, photocopied and pulled enough documents—at $1, 50 cents and 25 cents a pop, respectively—for customers to add $20,930 to the county's budget.

"I've never heard one peep of complaint about anything out of your office," Commissioner Charles Jones said, after joining a standing ovation to applaud her work. "And you're the cast cow."

Neustifter joined the register of deeds office June 1, 1959, just days after graduating from Eudora High School. She started as a clerk, and worked her way up before quitting in 1972—for six months—only so that she could run for the top job.

A Democrat, she won that race and every one since, including the last seven without any formal opposition. Neustifter intends to recommend that Kay Pesnell, who has worked for her for the past 12 years, be appointed by the county's Democratic Central Committee to serve out the remaining two years of Neustifter's term.

Her 30 years in office marks one of the longest tenures of any elected official in Kansas—a testimony to her competence, work ethic and community involvement," said Carrie Moore, chair of the county's Democratic Party.

The party's central committee is scheduled to meet June 17 to appoint a new register of deeds.

A few weeks later, Neustifter, 63, intends to be on the road to Michigan to visit her daughter and three grandchildren.

"I'm ready to retire," she said.

## PAYING TRIBUTE TO PATRICK SULLIVAN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Sheriff Patrick Sullivan, Jr. of Arapahoe County, Colorado and thank him for his extraordinary contributions to his community and to his state. As a resident of Arapahoe County, Patrick has dedicated his career to protecting the community by selflessly devoting his time and energy to his job, his family, and his community. His remarkable nineteen years as sheriff serve as a symbol of the commitment that Patrick feels for the Arapahoe County Sheriff's department and the protection of Colorado residents. As we celebrate the accomplishments of his fine career, let it be known that I, along with the people of Colorado, applaud his efforts and are eternally grateful for all that he has done for his community.

Sheriff Sullivan received his law enforcement training from several institutions including the FBI National Academy Sheriffs' Institute; the Juvenile Officers' Institute, California Specialized Training Institute, Special Tactical Firearms Course, and the Special Weapons and Tactics Course (SWAT). During his tenure as sheriff of Arapahoe County he led the department in becoming the first sheriff's office to national accreditation under the 908 professional standards established by the commission on Accreditation for Law Enforcement Agencies.

During Patrick's time as Sheriff, Arapahoe County has hosted several Presidential events and a Papal visit, as well as co-hosting the 1997 G–8 summit with the City of Denver. Each of these events presented security and terrorist threats that required significant preparation and uncommon diligence. In every event, Sheriff Sullivan and his men met the challenges presented by such high profile security details; professionalism and skill have been their hallmark throughout Patrick's tenure. Here in Washington, Sheriff Sullivan has shared his expert knowledge with me and my colleagues, having advised and testified before subcommittees of this House that deal with Crime and Trade, areas in which he has been able to provide us with invaluable guidance and wisdom.

Mr. Speaker, it is clear that Sheriff Patrick Sullivan is a man of unparalleled dedication and commitment to his job, his community and his country. It is his dedication to hard work, as well as the spirit of integrity and selflessness, that I wish to bring before this body of Congress, and our nation. Sheriff Sullivan has honorably served his state and nation, and it is my privilege to extend to him my sincere congratulations on his retirement and to wish him all the best in his future endeavors.

## TRIBUTE TO WALTER L. JOHNSON

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. LANTOS. Mr. Speaker, it is with great pleasure that I rise today to invite my colleagues to join me in paying tribute to an extraordinary man and a dear friend of mine, Mr. Walter L. Johnson, a member of the San Francisco Labor Council, who is to be honored by the San Mateo Labor Council at its annual banquet on July 18th, 2002.

Mr. Speaker, Walter Johnson was raised in North Dakota, and like many men of his generation he gallantly served our country during World War II. After his discharge in 1946, like many wise men of that day, he moved to San Francisco, where he obtained a job as an appliance salesperson with Sears Roebuck, and immediately joined the Department Store Employees' Union Local 1100.

From his earliest working days, Walter showed a deep commitment to racial equality, which is best highlighted by the key role he played in 1958, when he was instrumental in helping the first African American woman work behind the counter at Woolworth's. That same year, he was elected President of Local 1100. By 1964, he was elected to a senior leadership position: Secretary Treasurer of the Department Store Employees Union. He was reelected a remarkable eleven times. In 1965 he became Executive Officer of the Union.

In the spring of 1985, Walter Johnson was elected Secretary Treasurer of the San Francisco Labor Council, a position he has held since that time. Under his guidance, the Council continues to work for the laudable goal of providing employment, advantageous wages and benefits for its members. Serving over 100 Unions and over 75,000 workers in San Francisco, Walter Johnson is the voice of labor in the Bay area.

Mr. Speaker, Walter Johnson and his lovely wife Jane are residents of South San Francisco, which is in my congressional district. They are the proud parents of three children and five grandchildren. Aside from working closely with many union leaders, he also interacts with community groups, elected officials, and religious leaders to promote issues that enhance the quality of life for working people. Strengthening his position as an advocate for working men and women, he serves on various boards and committees, including the United Way of the Bay Area, the Bay Area Sports Organizing Committee and Our Redeemers Lutheran Church.

Walter is the recipient of numerous awards, which are far too many to enumerate, but I will mention a few key ones. He has provided valuable direction as President of the James F. Housewright—United Food and Commercial Workers International Union (UFCW), Scholarship Fund, and he is a member of the UFCW Advisory Board, the International's Foreign Affairs Committee, and its National Department Store Committee.

Moreover, Walter has been a member of the board of directors of the San Francisco Private Industry Council, Arriba Juntos, the Bay Pacific Health Plan, the Council for Civic Unity, KQED-TV, the Organized Training Center, the Board of the San Francisco Bay Area Girl Scout Council, the Center for Ethics and Social Policy, the Shelter Network, the Death Penalty Focus Board, the Advisory Board of Nature Conservancy, the Western Opera Theatre, and the San Francisco Organizing Project. Walter has distinguished himself as founder and President of San Francisco Renaissance. In addition, he has been an active member of the Advisory Board of the Labor Archives and Research Center and the President's Advisory Board of San Francisco State University. In 1988, Mr. Johnson was chosen to receive the Bay Area Union Labor Party's "1988 Leadership Award" as an appreciation of his exemplary record of achievements.

Mr. Speaker, I invite my colleagues to join me in commending Walter L. Johnson for his dedication to our nation's working men and women, his exemplarily record of civic achievement, and his determination to better the condition of working people. Walter's service has shown us the meaning of courage, courtesy, compassion and commitment.

## H.R. 3479, THE NATIONAL AVIATION CAPACITY ACT

SPEECH OF

## HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 15, 2002*

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 3479, the National Aviation Capacity Act. This legislation was introduced by my good friend, Mr. LIPINSKI, and I would like to thank him for his hard work. I am pleased to join him as a cosponsor of this legislation.

O'Hare is a tremendously important airport in not only to Chicago and the Midwest, but also our entire national aviation system. It recently reclaimed the title of the world's busiest airport and is the only airport to serve as a hub for two major airlines. O'Hare serves 190,000 travelers and operates 2,700 flights daily, employs 50,000 people and generates $37 billion in annual economic activity.

However, O'Hare needs to be redesigned to meet today's demands. It is laid out with seven runways, six of which intersect at least one other runway. The modernization plan would add one new runway. The seven existing runways will be reconfigured to include a southern runway for a total of eight runways, of which six would be parallel. These improvements would have a significant impact on reducing delays and cancellations: bad weather delays would decrease by 95 percent and overall delays would decrease by 79 percent.

On December 5, 2001, Mayor Daley and Governor Ryan reached a historic agreement to expand and improve O'Hare airport. The agreement would modernize O'Hare, create western access to the airport, provide additional funds for soundproofing home and schools near O'Hare, move forward with the construction of a third Chicago airport at the Peotone site and keep Meigs Field open until at least 2006, and likely until 2026.,

H.R. 3479 would simply codify the deal so that a future governor does not rescind the agreement. Illinois is in a unique situation because the governor does have veto power. If this legislation is not enacted, it is possible that a future governor could undo all the hard work that the current governor and mayor of Chicago have done to reach this agreement.

There is some concern that this legislation sets a precedent by involving the federal government or creating a short-cut around environmental laws. Again, O'Hare is an exceptional situation which requires this limited federal action. Other cities and airport authorities do not have a governor with veto authority over this issue. The city of Chicago does not want the federal government to take over the modernization of O'Hare but the language is included in case the State delays the State Implementation Plan (SIP) of the Clean Air Act to slow down the project. The language granting priority consideration for a Letter of Intent from the FAA for Peotone is no different than language that can be found in any Transportation Appropriations bill.

Regarding environmental concerns, the bill says that implementation shall be subject to federal laws with respect to environmental protection and analysis, and that the environmental reviews will go forward in an expedited way. There is no attempt to go around existing state or federal environmental laws, and this legislation has the support of many environmental groups.

Mr. Speaker, this legislation will allow the much-needed expansion of O'Hare to move forward. I urge my colleagues to join me in supporting this bill.

## INTRODUCTION OF BENEFICIAL USE OF DREDGED MATERIAL LEGISLATION

## HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. JONES of North Carolina. Mr. Speaker, I rise today to inform the House of Representatives about the introduction of legislation to allow for the transfer of dredged material onto our Nation's beaches.

In my home state of North Carolina, our beaches are economic engines, providing thousands of jobs and millions of dollars in revenues. However, beach erosion threatens the existence of these economic engines and frankly the federal regulatory and statutory regimes do not move quickly enough to replace this lost infrastructure.

The current standard used by the U.S. Army Corps of Engineers requires the disposal of dredged material obtained from a Federal navigation project in the least costly manner. This method almost always results in the offshore placement of sand. However, when these facilities are dredged, the disposal of the dredged material offshore may not be the least cost disposal method. The offshore disposal option increase the costs of erosion so the regional and national economies are damaged by a reduction in recreation spending.

Therefore, I have introduced legislation today making it easier to place sand dredged from authorized navigation projects onto beaches in order to provide shore protection for years to come. My legislation would amend the least cost disposal method to allow municipalities to take these dredged spoils and place them on nearby beaches while adhering to the current 65/35 cost-share ratio.

Mr. Speaker, I would ask my colleagues to join me today in cosponsoring this legislation. Four times more Americans visit the Nation's beaches than our National Parks every year. Beach nourishment is good economic policy and this proposal will allow the Army Corps of Engineers to supplement its effective shore protection programs.

## TRANSPORTATION OF NUCLEAR WASTE HAS IMPRESSIVE SAFETY RECORD

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from the July 15, 2002, Omaha World-Herald. The editorial offers insightful comments on the issue of transporting nuclear waste and highlights the impressive safety record of shipments which have been made over the years. For instance, 3,000 shipments of high-level nuclear waste have been safely completed over the past three decades. The containers for the waste have been subjected to numerous tests to ensure their strength and durability even in the most extreme circumstances.

Unfortunately, many opponents of the Yucca Mountain site have tried to use emotional scare tactics about the transportation of nuclear waste in hopes of derailing the entire project. However, as the editorial makes clear, central depository would greatly enhance safety.

[From the Omaha World-Herald, July 15, 2002]

HOW SAFE IS IT?

Now that the Senate has voted to allow the construction of a national high-level nuclear waste storage facility at Yucca Mountain, Department of Energy officials will have to confront a key issue: Transportation.

Officials expect up to 77,000 tons of dangerous radioactive material such as spent nuclear plant fuel rods to be transported to the remote Nevada desert for indefinite storage. That waste will come from all 39 states, encompassing 131 sites, that currently store the material in mostly above-ground facilities. The sites include not only nuclear power plants but also military weapons facilities and research institutions.

The waste will travel by truck and rail. It will have to pass through some of the nation's most populous areas. Some will come through the Midlands, on its Interstate highways and its many rail lines. The government has projected that as many as 100 truck or rail accidents might occur over the 25-year life of the project.

The question of safety is key.

Opponents of the project tried to attack transport of the waste before the Senate decision because methods and routes had not yet been specified. But they were premature. It's only now, as DOE applies for a license for the facility from the Nuclear Regulatory Commission, that such issues can be addressed.

Many critics of Yucca Mountain, by the way, aren't necessarily being open about their motives. Some may honestly believe approval of the site is potentially dangerous. Others, however, are simply anti-nuclear. They realize that without a disposal site, nuclear power in this country will likely die—"choking on its own waste," as one senator put it.

When critics raise their objections, they will have to overcome this fact; In the past 30 years, about 3,000 shipments of high-level waste have traveled around the United States safely. Not without accidents—trucks and trains are always vulnerable to accidents—but without any radiation leaks.

The Nuclear Energy Institute says that the waste transport containers used thus far, with their multiple layers of lead and other shielding, are built to withstand severe accidents. They have been tested: hit by a locomotive traveling at 60 miles per hour, driven into a concrete wall at 80 miles an hour, burned, submerged. They have withstood the worst flung at them without failure, whether in testing or in actual transportation-accident situations.

The presence of so many above-ground storage facilities for nuclear waste, in so many locations, near so many people—160 million by one estimate—amounts to an open invitation to accidents or terrorism. The chilling security uncertainties alone should predispose Americans toward a central, safe waste site.

Getting the waste materials there is a technical problem, not a reason to kill the construction of Yucca Mountain. If current methods of transportation aren't adequate—and such assertions are still far from proved—then federal officials and nuclear plant operators should find other ways to protect the shipments.

A single national repository is the only reasonable way to go. If Yucca Mountain is as desirable a site as its supporters say, then questions about transportation of the waste should not hold it back.

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## RECOGNIZING NATHAN WEINBERG

### HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. CARDIN. Mr. Speaker, I rise today to ask my colleagues to recognize the accomplishments of Nathan Weinberg and thank him for his service to his country and his community as he retires as a trustee of the Harry and Jeannette Weinberg Foundation and his appointment as Civilian Aide to the Secretary of the Army.

In 1917, Nathan Weinberg was the first of his six siblings to be born in America, and in 1941, was inducted into the U.S. Army. On December 25, 1945, Mr. Weinberg was discharged as a 2nd Lieutenant after service in Texas, Australia, New Guinea and the Philippines.

After returning home to Baltimore, Mr. Weinberg worked in real estate and lived briefly in Texas and Pennsylvania working on business interests of his brother, Harry Weinberg. He remained a member of the standby reserve until October 1955 when he was honorably discharged.

In 1960, Mr. Weinberg became an active officer and trustee of the Harry and Jeannette Weinberg Foundation. Since his brother Harry's death in 1990, Mr. Weinberg has remained one of five trustees to the Foundation, which is one of the largest private foundations in the United States. His leadership on the board has included projects supported by his brother, particularly housing and amenities for the elderly from Coney Island to Tel Aviv to Hawaii.

Mr. Weinberg was appointed Civilian Aide to the Secretary of the Army in 2000. His military experience and his dedication to the Maryland Army National Guard has provided leadership, friendship and financial support for community outreach.

Mr. Weinberg has a strong sense of family and a firmly held belief in equality and equitable treatment for all people. At ground breakings and ribbon cuttings, he is not shy about expressing his concern for the welfare of the audience, unhappy that the dignitaries receive special treatment while the audience is left to stand, swelter in the heat or freeze in the cold. His sense of justice guides his dealings with others and he expects others to pass along that philosophy as well. He is a leader by example and deeds.

I would ask my colleagues to please join me in congratulating Mr. Weinberg on a life well lived and in thanking him for his service to his country. Our appreciation extends to his family, his wife Lillian and his three sons, Donn, Glenn and Joseph, their wives and children.

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## PHILADELPHIA HOUSING AUTHORITY'S PRE-APPRENTICESHIP PROGRAM

### HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. BORSKI. Mr. Speaker, I rise in honor of the upcoming graduation services of the latest class of the Philadelphia Housing Authority's Pre-Apprenticeship building, maintenance and construction trades program.

This will be the seventh graduating class of this model program that originated in 1999. Carl R. Greene, the Executive Director of the Philadelphia Housing Authority is proud of the program that will enable residents of public housing to improve their lives by providing them with skills to secure meaningful employment.

The program has won recognition from the Department of Housing and Urban Development and the Department of Labor. It is also supported by the Philadelphia Building and Construction Trades Council, Metropolitan Regional Council of the United Brotherhood of Carpenters and Joiners of America, Cement Masons Local Union 592, International Brotherhood of Painters and Allied Trades, District Council 21, International Brotherhood of Electrical workers, Local Union 98, Laborers' Local 332, and Plumbers Union Local 690.

The Pre-Apprenticeship program provides vocational and educational skills through a hands-on, 21-week training program designed to help participants pass the apprenticeship test for the construction unions. Upon completion of the program, graduates can work in the construction industry as qualified apprentices. The trainees will work with PHA and union contractors to rehabilitate, modernize and build at various Housing Authority properties.

PHA continues to be nationally recognized for its innovation in public housing. It has the distinction of being the first housing authority in America to be designed by the Institute of Real Estate Management (IREM) of the National Association of Realtors as an "Accredit Management Operation." This designation is awarded to firms engaged in property management, which have met IREM's high standards in the areas of education, experience, integrity, and financial stability.

## AMERICAN LEGION AMENDMENT ACT, VETERANS OF FOREIGN WARS CHARTER AMENDMENT ACT

SPEECH OF

### HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 15, 2002*

Mr. COSTELLO. Mr. Speaker, I rise today in strong support of two bills, H.R. 3988, the American Legion Amendment Act, and H.R. 3838, the Veterans of Foreign Wars Charter Amendment Act. Both of these measures seek to broaden membership to their respective organizations. H.R. 3838, the American Legion Amendment Act, revises American Legion eligibility requirements by providing that individuals who are currently serving honorably in the armed forces are eligible for membership in the American Legion, H.R. 3838, the Veterans of Foreign Wars Charter Amendment Act, amends the charter of the Veterans of Foreign Wars of the United States (VFW) to allow members of the armed services who have received special pay for duty subject to hostile fire or imminent danger to be a member of the VFW. The bill also clarifies that the VFW would be considered "charitable" in order to qualify the organization's member activities for tax purposes.

Mr. Speaker, these measures send a strong message to our Nation's veterans. I am pleased that the House is taking action on these measures and will continue to strive to meet the needs of our veterans of today and tomorrow. As a father of a Gulf War veteran, I am proud that he will have the opportunity to join a major veterans organization, as well as the thousands of other deserving military service members who served in dangerous military campaigns such as Somalia, Kosovo and more recently, the war on terrorism in Afghanistan. I, along with my colleagues in Congress, are committed to serving America's veterans and their families with dignity and compassion. For these reasons, I strongly support these two measures.

## IN RECOGNITION OF THE LAO-HMONG WIDOWS

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. UDALL. Mr. Speaker, I rise today both to honor and thank the widows of the brave men who fought alongside American soldiers during the Vietnam War. This week, members of the Lao-Hmong community will celebrate the first Lao-Hmong Recognition Day. This day will be a time to reflect on the important friendship between the Lao-Hmong and the American people, and to thank the Lao-Hmong for the sacrifices they have made.

The husbands of these brave women fought against communism in the name of freedom and democracy. Their dedication to this country and its ideals is admirable, and we owe it to them to honor their wives who risked their lives and the lives of their families to defend our Nation.

Mr. Speaker, this Congress has shown its appreciation for the Lao-Hmong veterans in passing legislation establishing Lao-Hmong Recognition Day. I respectfully ask that we take time during this day to also honor these widows, and to thank them for their loyality.

## A TRIBUTE TO HUEY HAVARD

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. ROSS. Mr. Speaker, I rise today to pay tribute to Mr. Huey Havard, the top law enforcement officer for nearly 10 years in Union County. Sheriff Havard died Sunday, June 23, 2002 after a long struggle with liver cancer. He was 63.

Sheriff Havard took office in 1993 but his career in law enforcement began three decades earlier as a 25-year-old patrolman for the El Dorado Police Department. It was then Havard found he had an unending passion to serve and protect the people he knew and loved in Union County. He had the distinction of being one of the first narcotics officers at the El Dorado Police Department and over the years he served as a motorcycle patrolman, commander of the patrol division, and in the detective division, climbing the ranks to sergeant, lieutenant, and finally captain.

Havard was named the city's officer of the year in 1973 and served as interim chief of police for a few months before taking a patrol deputy's assignment at the sheriff's office in 1983. During his tenure, Havard increased the number of patrol deputies and began 12-hour shifts for deputies to allow for better patrol coverage. He also assigned deputies to work full-time with the 13th Judicial District Drug Task Force.

Sheriff Havard was an honorable, driven, and passionate law officer. He was an amazing man, and an asset to Union County. I understand that this is a difficult time for his wife, Cathy, his mother, Eva, two daughters, Shondra and Laura, stepdaughter, Michele, and all of his many friends and relatives whom he loved dearly. They are in my heart and in my prayers.

Huey Havard will be missed greatly. His legacy of hard work, determination, and love of people will live on in the lives he touched and changed forever.

## ON THE DEATH OF BENJAMIN O. DAVIS JR.

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. RANGEL. Mr. Speaker, I rise to mourn the passing of General Benjamin O. Davis, Jr., who was born on December 18, 1912, and died on July 4, 2002 at the age of 89. General Davis was buried at Arlington Cemetery with full military honors.

General Davis was an American hero, who through his leadership of the legendary Tuskegee Airmen, helped to dispel the myths about the ability of African-Americans to successfully engage in combat and specifically to master the complexities of flying and maintaining aircraft.

He was the first black graduate of the United States Military Academy at West Point in the 20th Century. When Davis was commissioned as a second lieutenant in 1936, the Army had had a total of two black officers, Benjamin O. Davis Senior and Benjamin O. Davis, Jr.

While at West Point, Davis applied for entry to the Army Air Corps, but was rejected. He later attended the Army's Infantry School at Fort Benning, and taught military tactics at Tuskegee Institute. Diverting Davis from the Air Corps was the Army's way of avoiding having a black officer command white soldiers, in a time when segregation prevailed and black troops had little hope for promotion.

In 1941, as wartime approached, an all-black flying unit was created, and Captain Davis was assigned to the first training class at Tuskegee Army Air Field in Alabama. In March of 1942, Benjamin O. Davis won his wings and became one of five black officers to complete the course. In July of the same year, Davis was promoted to lieutenant colonel and was named commander of the first all black air unit known as the 99th Pursuit Squadron.

In the spring of 1943, the 99th Pursuit Squadron went to North Africa, where they saw combat for the first time on June 2. By summer, the 99th were flying missions to support the invasion of Sicily. In the fall, Colonel Davis returned to the United States to command the 332nd Fighter Group, an even larger all black unit preparing to make the trip overseas. it was about this time when Top Brass recommended that the 99th be removed from tactical operations for poor performance. Colonel Davis held a news conference at the Pentagon to defend his men. Although they were permitted to continue fighting, a top-level inquiry ensued. Questions about the squadron were put to rest in January 1944, when its pilots downed 12 German fighter planes over the Anzio beach in Italy.

Colonel Davis and the 332nd arrived in Italy shortly after that. They were based at Ramitelli and came to be known as the Red Tails for the distinctive marking on their planes. The four-squadron unit accumulated a successful record of missions flown deep into German territory.

General Benjamin O. Davis was a highly decorated leader of dozens of missions in P–47 Thunderbolts and P–51 Mustangs. He received the Silver Star for a strafing run into Austria, and the Distinguished Flying Cross for a bomber escort mission into Munich. General Davis went on to lead the all black 477th Bombardment Group, which compiled an exemplary combat record.

When General Davis retired from the military in 1970, he became the Director of Public Safety in Cleveland. Later he joined the United States Department of Transportation, directing anti-hijacking efforts. In his five years with the department he supervised the sky marshal program, airport security and a program to stop cargo theft. In 1998 President Bill Clinton awarded General Benjamin O. Davis a fourth star, the military's highest peacetime rank.

## PAYING TRIBUTE TO LEE REEVES

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today in recognition of Lee Reeves of Howell, Michigan. Since 1987, Lee has served as President of the Howell Area Chamber of Commerce where she used her leadership skills and good nature to build up the city of Howell to its potential. Now she is leaving the chamber to pursue personal projects and family time.

Lee Reeves may be leaving the position this month, but the work she did while in office will continue to benefit the Howell community for years to come. While serving as President, Lee started countless community events, such as the Michigan Challenge Balloonfest, Sunday Farmer's Market, Taste of Livingston County, and the Fantasy of Lights Parade. She also saw Chamber membership grow from 200 to 925, and the budget increase from $70,000 to $850,000. In addition, Lee established a Downtown Development Authority and formed the Livingston County Visitors Bureau. She has received numerous awards, including Huron Valley Girl Scouts Woman of the Year, and Howell Citizen of the Year 2002. Lee has a husband, Louis, and a son, Skyler. She plans on writing a book about her daughter, Leta, who passed away five years ago from Leukemia.

Lee's efforts have contributed greatly to helping Howell grow into a remarkable city and a pleasant place to live. I am confident that her hard work and dedication to her community will continue well into the future. My Speaker, I ask my colleagues to join me in thanking Lee Reeves for all of her contributions to the community to Howell, and wish her success in her future endeavors.

## TALKING TALONS YOUTH LEADERSHIP MAKES SIGNIFICANT CONTRIBUTION TO NEW MEXICO

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. UDALL of New Mexico. Mr. Speaker, during the Independence Day work period, I had the opportunity, like many of my colleagues, to visit constituents and groups in my home State. There was one visit that was especially gratifying that I would like to relate to my colleagues.

Talking Talons Youth Leadership, located in the mountains east of Albuquerque, is a nonprofit youth development organization. This program works in several different ways to evaluate youth to be effective advocates and ethical stewards of themselves, wildlife, and the environment. I went into this program believing that it was a basic rehabilitation program for wild animals. I was pleasantly surprised to learn that Talking Talons is so much more.

I want to give a brief history of this program. In 1988, Wendy C. Aeschliman, a nurse at Roosevelt Middle School, in Tijeras, New Mexico, with a side practice as a licensed animal rehabilitor, observed that her young patients suffered less from physical ailments and more from a downcast spirit and low self-esteem. The youth did seem, however, extremely curious and excited about her animal patients. With a small Burrowing Owl named "Bo" who had been declared non-releasable, she set forth to combine the natural love of animals she observed in youth, with the goal of increasing their self-esteem. She implemented, on a small scale at the middle school, a curriculum which trained students to perform public presentations about injured wildlife and their conservation. Thirteen years later, Talking Talons' basic approach to instill healthy lifestyles and attitudes in young people has grown and taken off.

Today, the program thrives in New Mexico. Through a dedication team of staff, volunteers, contributors, and State and Federal Government, Talking Talons is realizing its vision of the future. Through experiences in public speaking, team-building activities, and conservation projects, the youth of our communities and our environmental advocates of tomorrow are developing a commitment toward conservation of natural resources. We owe Talking Talons our gratitude for ensuring that such valuable opportunities exist.

Mr. Speaker, it seems that every time we open a newspaper or watch the news, we hear of another devastating scandal involving corporate America. From Enron to WorldCom, the news of recent months has been disheartening and unbelievable. It is nice to know, however, that there are some businesses out there that want to do the right thing. They want to become community partners. In that spirit, I want to commend Campbell Corporation and its President and CEO Robert Gately for recently donating land where students can implement reparian restoration practices, and for pledging to assist in the development of a new Talking Talons Leadership Center and Museum, along New Mexico's historic Turquoise Trail. At this new facility, Talking Talons will engage the community in conservation-based projects, including education wildlife programs designed to connect children and teens with nature.

Campbell Corporation is also working with Talking Talons to support a private-match funding source that will enable the program to qualify and compete for grants available from various foundations and agencies. I am so pleased that the East Mountains has a community partner like Campbell Corporation to help quality non-profits expand their operations.

During my visit, I had the opportunity to see firsthand the restoration project that Talking Talons has been conducted at the San Pedro Creek since spring this year. This ongoing restoration of the fragile environment involves the young preservationists working to identify native and non-native plant species and restoring the creek to its original state.

When I visited Talking Talons, I met a number of the students that are involved in the program. These young adults were clearly inspired, intelligent, and friendly. Some of the students gave me presentations on different projects that they were undertaking. Just meeting the students was positive proof that the mission of Talking Talons is soaring and succeeding.

Many of the students work directly with animals that can never be released again, either due to permanent injury or their unnatural contact with humans. These animals, however, will be taken care of and used in a positive way. I was especially pleased to learn that Talking Talon, in conjunction with the New Mexico Department of Health's Tobacco Use Prevention and Control Program, is working to warn other students about the deadly realities of tobacco. The students use the animals as metaphors for the strength and courage it takes to resist the peer pressure of tobacco and other negative influences. Seeing the animals used this way is truly novel. It is just another example of the creative approach that the staff of Talking Talons has taken to address the various challenges that are facing New Mexico's youth.

Another important element of this program is its location. Talking Talons is located in what is called the Tri-County area. So named because in about a ten-minute drive you will go through the counties of Bernalillo, Sandoval and Santa Fe. This particular area of the State is rural in nature and surrounded by beautiful forests. As is the case with most rural areas, finding things for youths to do—whether it be working or volunteering—is often difficult. Without positive outlets, our children often end up in negative and unhealthy situations. The genius of Talking Talons is that because of its location young people in the East Mountains have a wonderful and productive alternative way to spend their time.

Mr. Speaker, I look forward to building a relationship with Talking Talons Youth Leadership. I am very proud to be able to share with you the story of these terrific students and the wonderful gift they are giving to their community and to themselves. They are demonstrating what life really is—being a leader, a good student, and living a healthy lifestyle.

## INTRODUCTION OF THE "LIVING WELL WITH FATAL CHRONIC ILLNESS ACT OF 2002"

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. OBERSTAR. Mr. Speaker, I rise today to introduce the "Living Well with Fatal Chronic Illness Act of 2002," a bill to build the capacity to meet the challenge of growing numbers of people living with serious chronic illness for some time before death. I am joined in introducing this bill by my colleagues Representative STEPHANIE TUBBS JONES, Representative MARTIN FROST, Representative MICHAEL MCNULTY, and Representative ELEANOR HOLMES NORTON.

The early ideas for this legislative initiative came from conversations around the dinner table with my wife, Jean. We have both lost spouses, who succumbed at an unusually early age to cancer, and we have tended to disabled and frail parents.

Many citizens have been personally touched by the experience of caring for disabled and frail parents or for spouses and children as they lived out their final days. My experience in these difficult situations has been that our health care system is a patchwork quilt of mismatched services that carry with them substantial expense. So, the challenges faced by those nearing the end of life, as well as by those caring for loved ones, are particularly meaningful to me.

Just in the last half-century, the way that most Americans come to the end of life has changed dramatically. Today, most people live for many months with a serious chronic illness before they die. In fact, statistics show that, on average, Americans will be unable to care for themselves for the last two years of their lives. However, the services that our health care system makes readily available were designed to cope with short-term threats, such as accidental injuries and heart attacks. Our Nation's health care system has not been adapted to meet the needs of people facing the final phase of life or the many challenges faced by their caregivers.

Many of the shortcomings in the health care system related to care at the end of life arise from inherent shortcomings in Federal policy. Unfortunately, we have been slow to see that these lapses are not just personal calamities and challenges, but rather, are built into Federal policy. For example, while Medicare coverage makes operations and emergency services readily available to the elderly, services more appropriate for serious disability and dying are not easily found. Medicare, Medicaid, and Veteran's coverage do not provide for continuity in care, advance care planning, family support, or symptom relief for long-term fatal illnesses.

Further, end of life care uses a large portion of funding allocated to health care services. Those last few years of life are tremendously expensive, with the last year alone using 28 percent of the overall Medicare budget. It is estimated that half of Medicare cost, and even more of Medicaid for the elderly and Veteran's health care, go toward care of those who are very sick and will die, rather than get well. Although taxpayers spend money on end of life care, they do not get reliability and quality from that care.

And this is a problem that will only increase in the coming years. The numbers of people facing serious illness and death will double within a quarter century, as the Baby Boomer generation reaches old age. Our Nation must not only arrange and pay for services that can support the unprecedented number of people who will need care, but we must also learn how to support family caregivers. Facts show that a family member will spend nearly as many years, seventeen, caring for an elderly parent, as raising children, eighteen years. Further, a family caregiver can expect to lose more than one-half million dollars in net worth, (from having a lower pension, more time not covered by health insurance, and lost wages.)

The "Living Well with Fatal Chronic Illness Act of 2002" will meet the challenges faced by a growing number of people who must live with serious chronic illness for some time before death. This comprehensive legislation addresses four key initiatives—two affect caregivers, two points relate to improving end of life care.

First, we establish an early Medicare buy-in program for otherwise uninsured caregivers aged 55 to 65. This provision would guarantee that those caregivers approaching Medicare age would not have to go without health insurance themselves when they are forced to leave work to care for a family member. For example, a 60-year-old woman who leaves her job to take care of her 85-year-old mother who has Alzheimer's disease often not only loses her income and social role, but also her employer-sponsored health insurance. Age and pre-existing conditions make it unlikely that the daughter could purchase health insurance as an individual, so she may have to jeopardize her own medical care for that of her mother. By enabling family caregivers aged 55 or older to buy into Medicare at community rates, with no penalty for pre-existing conditions, we recognize the important contributions made by caregivers and support their valuable work in useful ways.

Second, the legislation proposes a $3,000 per year tax credit for the primary caregiver of a low-income individual who has long-term care needs. This is important, because the United States is the only developed nation that does not support family caregivers. There is no Federal Government program to help improve skills, provide respite; indeed, we do not generally demonstrate that we honor their love and loyalty. The tax credit we propose is admittedly not enough to pay for the financial sacrifices of caregivers who provide long-term care, but it will demonstrate support and respect for the significant commitment and contributions made by those who help loved ones to live well despite serious illness.

We have been so focused on learning how to prevent and cure diseases that we have all but abandoned interest in what occurs as those possibilities run out. Most people now die of long-term irreversible conditions like dementia, frailty, heart failure, emphysema, cancer, and stroke; yet there is very little reliable evidence about serious illness and the end of life. This legislation will help provide guidance that the medical community needs to respond more effectively to unique end of life challenges.

Third, the bill authorizes the Department of Health and Human Services to establish research, demonstration, and education programs to improve the quality of end-of-life care across multiple Federal agencies.

Fourth, the bill authorizes the Department of Veterans Affairs to develop and implement programs to improve the delivery of appropriate health and support services for patients with fatal chronic illness. The Veterans Health Care System has been a leader in end-of-life care delivery and innovation, especially in advance care planning and pain management. This bill aims to support continued excellence through enhanced education and service delivery for this important care system that now serves so many disabled and elderly veterans.

Our Nation will face major challenges in the next quarter century as baby boomers approach old age. We must ensure that people suffering from fatal chronic illnesses live out their lives in a dignified, comfortable, and meaningful way, and we must support and honor the invaluable work of caregivers.

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## HONORING DHIRUBHAI AMBANI

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. ACKERMAN. Mr. Speaker, it is with great sadness that I rise to mark the passing of one of India's greatest industrialists and entrepreneurs, Dhirubhai Ambani, who died on Saturday, July 6, 2002, at the age of sixty-nine.

Dhirubhai Ambani was the ultimate success story. Born in a rural village in Gujurat, he rose from a small trader of textiles and spices to head the largest and most profitable industrial concern in India, the Reliance Group. Through a series of shrewd. business moves and decades of hard work, Dhirubhai Ambani transformed Reliance from a minor retail concern into an entity which included the largest and most modern refinery in Asia, a petrochemical business of unparalleled quality, a five billion dollar satellite and broadband subsidiary, and petroleum and refining businesses which set the standard throughout South Asia. At the time of his death, Dhirubhai Ambani oversaw an economic juggernauht which accounted in almost 3 percent of India's GDP and 16 percent of the value of the Bombay Stock Exchange. He was one of the wealthiest men in the world, a recognized billionaire by Forbes Magazine, and in 2000 he was rightly acknowledged by Business India magazine as India's Businessman of the Century.

Mr. Speaker, although Dhirubhai Ambani became very rich, his wealth was never closely held. Unlike many old line Indian companies, Dhirubhai Ambani shunned debt financing from banks and instead offered shares in Reliance to India's growing middle class. Shares in Reliance were eagerly purchased whenever offered. Today there are more than three million shareholders, almost all of whom are financially far better off as a result of their investment.

For anyone who may wonder about the ability of capitalism to flourish in the Indian economy, despite that country's long dance with government intervention and control, one need look no further than the story of The Reliance Group and its departed Chairman, Dhirubhai Ambani.

Mr. Speaker, as the Former Chairman of the Congressional Caucus on India and Indian Americans and a frequent visitor to India, I had the distinct privilege of spending time with Dhirubhai Ambani both at his office in South Bombay and his lovely residence. He was a gentleman of immediate warmth. A modest man who did not discuss his achievements or his generosity towards his employees, his community and his country, Dhirubhai Ambani immediately made me feel as through we had been friends for a long time.

Mr. Speaker, I know my colleagues join me in expressing condolences to Dhirubhai Ambani's two sons, Mukesh and Anil, who have taken over the management of Reliance, as well as his widow, Kokilaben, and his two daughters. Although they have suffered a great loss, their loss is shared, not only by India's citizens, but by many friends of India in the Congress and throughout the United States.

## LEGISLATION TO NAME A UNITED STATES POST OFFICE IN ST. PETERSBURG, FLORIDA FOR THE HONORABLE WILLIAM C. CRAMER

### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. YOUNG of Florida. Mr. Speaker, this morning I have introduced legislation to name the United States Post Office at 3135 First Avenue North in St. Petersburg, Florida for the Honorable William C. Cramer, who represented the great State of Florida in this House for 16 years from January 3, 1955 to January 3, 1971.

Bill Cramer moved to St. Petersburg in 1925 where he attended public schools and The St. Petersburg Junior College. He enlisted in the Naval Reserve in 1943 and served with distinction as a gunnery officer during World War II. In particular he was cited for his service during the allied invasion of southern France. He was discharged as a Lieutenant in 1946.

Upon leaving the Navy, he graduated from the University of North Carolina and the Harvard Law School. He was admitted to the Florida Bar in 1948, when he began practicing law in St. Petersburg.

Bill Cramer began his distinguished career in public service in 1950, when he was elected to the Florida House of Representatives, where he served until 1952, including one year as the House's first Minority Leader.

It was in November of 1954 that he was elected to the United States House of Representatives, and was sworn into the 84h Congress on January 3, 1955. Bill Cramer was the first Republican from Florida elected to the House since reconstruction in 1875. He was reelected to seven succeeding Congresses.

During his eight terms in the House, Bill Cramer established a reputation for being one of our Nation's foremost experts on transportation and public works issues. His career in Congress culminated with his service as the Ranking Republican on the House Public Works Committee, its Subcommittee on Roads, and on the Federal Aid Highway Investigating Committee. He also served as a member of the Judiciary Committee.

Following his retirement from the House, Bill Cramer was a distinguished professor and lecturer at the St. Petersburg Junior College, where he taught very popular classes in politics and government.

He is the father of three sons: William C., Jr., Mark C., and Allyn Walters. He and his wife Sara currently live in St. Petersburg.

Mr. Speaker, Bill Cramer is a friend and mentor who served our Nation with great honor in this House, The enactment of this legislation will leave in St. Petersburg, the hometown he so dearly loves and served, a lasting tribute to his service, his patriotism, and his devotion to our Nation.

## PERSONAL EXPLANATION

### HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. RYUN of Kansas. Mr. Speaker, regrettably, last night I was unable to return to the House to vote on H.R. 3482, H.R. 4755, and H.R. 3479. I ask unanimous consent that the record reflect that had I been present for the votes, I would have voted "no" on H.R. 3479, and would have voted "yea" on H.R. 4755 and 3482.

## HONORING TONY RUSSELL

### HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. DOOLITTLE. Mr. Speaker, today I wish to remember and honor a dedicated public servant, Mr. Russell Anthony Tuccelli. After a lifetime of hard work and commitment to his family, community, and State, my friend, who was better known as Tony Russell, passed away on April 20, 2002. Having completed an eight-year battle with cancer, he was buried at sea on May 8th. He was 75 years old.

Tony had a long and distinguished career working in the news media and on behalf of State and local governments. During the 1970s he was the news director for both KCRA Radio and KFBK Radio in Sacramento, California. He also was a foreign correspondent for United Press International and a talk show host for KFBK.

In 1980, Tony assumed the role of director of communications for the Senate Minority Caucus in the California State Legislature. Later, he became my district coordinator when I represented the 3rd State Senatorial District. I deeply appreciate the valuable service he provided me. In 1984, he left my office to become an administrative assistant to the Sacramento County Board of Supervisors. In 1987 he moved over to a similar position for the Sacramento City Council before joining the Governor's Office of Criminal Justice Planning as the chief of communications.

The year 1991 marked the beginning of his decade of service to California's Employment Development Department. Within this agency he worked as a public information officer, marketing specialist, and an associate information systems analyst.

He was known as a leader in the community through his involvement as a youth mentor in EDD's School Partnership Program. Also, he was often the guest speaker at swearing-in ceremonies for our newest U.S. citizens, giving everyone in attendance a brief history lesson and instilling a rousing sense of patriotism.

Tony is survived by his loving wife of 49 years, Lenamarie Tuccelli. He is also survived by his son Michael and daughter-in-law Erin, his son Stephen and daughter-in-law Karen, and his grandchildren Angela, Raymond, Stephanie, and Ryan. Tony Russell will be greatly missed by his family and friends, but his legacy of devotion to family and service to the community remains with us forever.

## RECENT STEM CELL BREAKTHROUGHS

### HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. SOUDER. Mr. Speaker, recently a scientific study was published that should have ended the ongoing debate regarding human cloning and embryonic stem cell research. Researchers reported that they have identified a cell from bone marrow that is capable of transforming itself into most, or even all, of the specialized cells in the body.

This finding suggests that every one of us may carry our own "repair kit" that can be used to treat countless medical conditions and genetic disorders.

The New York Times reports that these "cells could in principle do everything expected of embryonic stem cells, with two extra advantages." They do not form tumors, which are a serious hazard associated with embryonic stem cells, and they could be derived from the patient to be treated. "Being the patient's own cells, they would be at no risk of immune rejection."

And the Washington Post notes that this discovery "heightens the prospect that therapies scientists are trying to create—cures for diabetes, Parkinson's disease, hemophilia and many others—can be made entirely with adult cells alleviating moral concerns" that exist with the research involving embryos and clones.

Yet, proponents of these unethical and unproven practices have largely ignored theses adult stem cell breakthroughs. But the facts are simple.

Research using embryos and clones requires the creation and destruction of a form of human life. Adult stem cell research does not. In fact, adult stem cells are widely available in every one of us.

Research using embryos and clones has yet to produce any clinical applications for human patients. Adult stem cell therapies are currently used to treat a host of medical conditions with new breakthroughs announced on an almost weekly basis.

Without a doubt, embryonic stem cell research and cloning are highly speculative and problematic. Both require the destruction of human embryos and the diversion of finite, and much needed, funds and resources away from more promising research avenues, such as adult stem cells.

[From the Washington Post, Fri. June 21, 2002]

STUDY FINDS POTENTIAL IN ADULT CELLS; DISCOVERY WILL LIKELY FUEL ETHICAL DEBATE

(By Justin Gillis)

Researchers have isolated a type of cell from bone marrow that seems capable of transforming itself into most or all of the specialized cells in the body, a dramatic new finding likely to fuel the debate over the ethics of stemcell research.

The finding was reported by researchers at the University of Minnesota and published online yesterday by the journal Nature. It heightens the prospect that therapies scientists are trying to create—cures for diabetes, Parkinson's disease, hemophilia and many others—can be made entirely with adult cells, alleviating moral concerns over using discarded embryos and fetuses as sources of tissue.

There has been conflicting evidence about whether cells found in adults might be as useful as those derived from embryos. But the work by Catherine Verfaillie, known as a fastidious and cautious researcher, was widely acknowledged as the most definitive evidence to date that adult cells may be almost as versatile as embryonic cells. Austin Smith, a prominent researcher in Scotland who has criticized some prior studies using such cells, called the Verfaillie paper "extraordinary."

The work is still at an early stage, however, and Verfaillie asked that it not be used as a political weapon to fight simultaneous work on embryonic and fetal cells.

"I think it is going to be important to be in a position to really compare and contrast the cells," she said, with the ultimate goal of determining "which cells are going to work for which therapy."

As if to underscore that point, Nature simultaneously published work at the National Institutes of Health showing that embryo-derived cells can vastly improve symptoms similar to those associated with Parkinson's disease in mice. That work, led by Ron McKay, is one of the most convincing demonstrations to date that such embryonic cells may be useful in medical care.

The cells in McKay's experiments, derived from mouse embryos, took up residence at the right spot in the brains of adult mice and produced dopamine—a critical substance that is in short supply in Parkinson's disease—in exactly the way that would be needed to relieve the symptoms of the ailment. It is far from proof of a cure, but "it's absolutely definitive evidence that these cells can work in the brain," McKay said.

The more unexpected finding was that of Verfaillie, director of the University of Minnesota's Stem Cell Institute. With the paper, she joined the company of biologists who are overturning the dogma that animal development proceeds in one irreversible direction, from the unspecialized cell formed when sperm and egg fuse to the highly specialized cells of an adult body.

Hints of her work had been emerging for two years in papers and scientific conferences, and scientists had been eagerly awaiting it. Many other reports, some of them controversial, already emerged in recent years of various adult cell types being able to perform unexpected feats of transformation. But Verfaillie has discovered what appears to be the most flexible adult-derived cell yet.

She calls the cells in question "multipotent adult progenitor cells." She and her colleagues have isolated them from mice, rats and people, though they are only able to do so in 70 percent to 80 percent of the people they test, for unknown reasons.

In animal experiments, the cells proved to lack certain characteristics of embryonic stem cells, which are capable of making every tissue in an animal's body. But they shared many other characteristics and proved to be able to transform into cells of the liver, lung, gut, blood, brain and other organs. They have proven particularly amenable to transformation into liver cells.

Many of the types of experiments Verfaillie reported, which involved injecting the adult cells into developing mouse embryos, cannot ethically be done in humans. But further animal experimentation may clear the way to use the cells in treating human disease. Several scientists cautioned that this will take years, at best.

Verfaillie's results suggest the tantalizing possibility that every adult may carry around the raw material of his or her own repair kit—one that nature is somehow failing to use in many diseases but that scientists might be able to exploit to make new tissues and revivify failing organs.

Cells derived from a person's bone marrow would be unlikely to be rejected by the immune system, a potential problem with treatments based on embryonic- or fetal-derived cells.

Verfaillie said the cells might even be useful for correcting genetic diseases. They could be taken out of the body, a repaired gene could be inserted, doctors could grow many copies and then the cells would be inserted into a deficient organ such as the liver, along with proper manipulations to get them to turn into functional liver cells.

The Verfaillie work "is a nice research paper," said John Gearhart, a biologist at Johns Hopkins University in Baltimore and one of the two American scientists known for isolating human embryonic and fetal stem cells. "I think it's good, solid work. We'll see where it goes."

Verfaillie's work was particularly welcomed yesterday by opponents of embryonic stem cell research. They have long contended that adult-derived cells offer just as much promise and don't pose the same moral concerns as embryonic cells.

The Senate is embroiled in arguments over a related issue. Sen. Sam Brownback (R-Kan.) wants a federal ban on the transfer of nuclei from adult cells into hollowed-out human eggs.

The intent of the scientists who want to perform that procedure, a type of cloning, would be to derive healthy replacement cells that are a perfect genetic match for a human patient. But because the procedure would create a microscopic embryo that would be capable, briefly, of turning into a human clone if implanted into a woman's uterus, some groups oppose it, saying destruction of the microscopic embryo would be tantamount to murder.

## TRIBUTE TO BERNARD E. HANUS DETROIT-WAYNE JOINT BUILDING AUTHORITY

### HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. BONIOR. Mr. Speaker, I rise today to recognize Bernard Hanus, who was honored at the Detroit-Wayne Joint Building Authority's Pre-Retirement Luncheon on July 10, 2002. As distinguished guests, colleagues, and community members gathered together to bid farewell to a longtime friend and advocate of public service, they honored his coming retirement with a celebration of tributes, memories, and good cheer.

Demonstrating outstanding leadership and commitment throughout the years, Bernard Hanus has always been dedicated to his work and his community. As Chairman of the Detroit-Wayne Joint Building Authority from 1974–2001, he has served over 28 remarkable years and has been an integral part of the Detroit-Wayne Joint Building Authority's success. Managing a key role in the development and execution of the Detroit-Wayne Joint Authority's agenda, his hard work and innovative approach for Detroit and Wayne County has been truly outstanding. As he prepares for his retirement, his leadership and legacy will surely be missed.

Bernard Hanus also understands the importance of dedication and commitment to the principles of community, family and public service. Serving Wayne County for over 22 years, he has devoted his time and energy to principles he believes in. As the Director of Administration and Committee Clerk, his hard work has been demonstrated by his remarkable achievements for the city of Detroit and beyond. In addition, he has served his community well as former President of Our Lady Queen of Peace Roman Catholic School Board, former Commander of AMVETS Post No. 33, and life member of the Lt. Robert H. Stoll AMVETS Post No. 33. Bernard Hanus has always been a leader, and as he retires from the Detroit-Wayne Joint Building Authority, he will assuredly continue to lead the way in this community for many years to come.

I applaud Bernard Hanus for his leadership and commitment, and thank him for his outstanding years with the Detroit-Wayne Joint Building Authority. I urge my colleagues to join me in saluting him for his exemplary years of service.

## SIKHS OBSERVE ANNIVERSARY OF GOLDEN TEMPLE ATTACK

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. TOWNS. Mr. Speaker, I would like to take this opportunity to note a historic occasion that is being observed this week. In addition to our observance of D-Day, the day that Allied troops landed in Europe to begin the attack on Nazi Germany, this week marks the anniversary of India's military attack on the Golden Temple in Amritsar and the brutal massacre of 20,000 Sikhs in June 1984. Recently, Sikhs from the East Coast gathered to commemorate this event in front of the Indian Embassy here in Washington. Similar events have been held or will be held in New York, London, and many other cities.

The Golden Temple attack was an attack on the seat of the Sikh religion. It forever put the lie to India's claim that it is secular and democratic. How can a democratic state launch a military attack on religious pilgrims gathered at the most sacred site of their religion? The Indian troops shot bullet holes through the Sikh holy scriptures, the Guru Granth Sahib, and took boys as young as eight years old out in the courtyard and shot them in cold blood. This set off a wave of repression against Sikhs that continues to this day.

Mr. Speaker, I would like to put the flyer from that event into the RECORD now. It contains a lot of important information about the Golden Temple attack that shows the tyranny just under the facade of Indian democracy.

KHALISTAN MARTYRS DAY, JUNE 1, 2002

PROTESTING INDIAN GOVERNMENT DESECRATION OF THE GOLDEN TEMPLE AND MASSACRE OF SIKHS

Sikhs Demand Freedom for Sikh Nation of Khalistan. Remember the Victims of Indian Genocide. "If the Indian government attacks the Golden Temple, it will lay the foundation of Khalistan."—Sant Jarnail Singh Bhindranwale, Sikh martyr

Indian government genocide against the Sikh nation continues to this day. From June 3 to 6, 1984 the Indian Government launched a military attack on the Golden Temple in 'Amritsar, the holiest of Sikh shrines and seat of the Sikh religion. This is the equivalent of attacking the Vatican or Mecca. 38 other Gurdwaras throughout Punjab, Khalistan were simultaneously attacked. More than 20,000 Sikhs were killed in these attacks.

Desecration of the temple included shooting bullets into the Guru Granth Sahib, the Sikh holy scripture, and destroying original Hukam Namas written by hand by the ten Sikh Gurus. Young Sikh boys ages 8 to 12 were taken outside and asked if they supported Khalistan, the independent Sikh homeland. When they responded "Bole So Nihal," a religious statement, they were shot to death in cold blood by the brutal Indian troops.

The Golden Temple attack launched an ongoing campaign of genocide against Sikhs by the Indian government that continues to this day. Punjab, Khalistan, the Sikh homeland, has been turned into a killing field. The Golden Temple attack made it clear that there is no place for Sikhs in India. "The essence of democracy is the right to self-determination."—Former Senate Majority Leader George Mitchell (D-Me.)

The Movement Against State Repression issued a report showing that India is holding at least 52,268 Sikh political prisoners, by their own admission, in illegal detention without charge or trial. Some of them have been held since 1984. Many prisoners continue to be held under the repressive, so-called "Terrorist and Disruptive Activities Act (TADA) even though it expired in 1995. According to the report, in many cases, the police would file TADA cases against the same individual in different states "to make it impossible for them to muster evidence in their favor." It was also common practice for police to re-arrest TADA prisoners who had been released, often without filing new charges.

"In November 1994," the report states, "42 employees of the Pilibhit district jail and PAC were found guilty of clubbing to death 6 Sikh prisoners and seriously wounding 22 others. They were TADA prisoners. Uttar Pradesh later admitted the presence of around 5000 Sikh TADA prisoners." Over 50,000 Sikhs have been made to disappear since 1984.

Sikhs in Punjab, Khalistan formally declared independence on October 7, 1987, to be achieved through the Sikh tradition of Shantmai Morcha, or peaceful resistance. Sikhs ruled Punjab from 1765 to 1849 and were to receive sovereignty at the time that the British quit India.

"When it comes to Kashmir and Punjab and Jammu, the Indian Government might as well not be a democracy. For people in those areas, India might as well be Nazi Germany. "—U.S. Representative Dana Rohrabacher (R-Cal)

Only a terrorist state could commit atrocities of such magnitude.

While India seeks hegemony in South Asia, the atrocities continue. India has openly tested nuclear weapons and deployed them in Punjab, weapons that can be used in case of nuclear war with Pakistan. These warheads put the lives of Sikhs at risk for Hindu Nationalist hegemony over South Asia. The Indian government is run by the BJP, the militant Hindu nationalist party in India, and is unfriendly to the United States. In May 1999, the Indian Express reported that Indian Defense Minister George Fernandes led a meeting with representatives from Cuba, Russia, China, Libya, Iraq, and other countries to build a security alliance "to stop the U.S."

In March 42 Members of the U.S. Congress from both parties wrote to President Bush asking him to help free tens of thousands of political prisoners.

India voted with Cuba, China, and other repressive states to kill a U.S. resolution against human-rights violations in China.

India is a terrorist state. According to published reports in India, the government planned the massacre in Gujarat (which killed over 5,000 people) in advance and they ordered the police to stand by and not to interfere to stop the massacre. Last year, a group of Indian soldiers was caught redhanded trying to set fire to a Gurdwara and some Sikh homes in a village in Kashmir.

According to the Hitavada newspaper, India paid the late Governor of Punjab, Surendra Nath, $1.5 billion to organize and support covert state terrorism in Punjab and Kashmir.

Continuing Repression Against Sikhs

"The Indian government, all the time they boast that they're democratic, they're secular, but they have nothing to do with a democracy, they have nothing to do with a secularism. They try to crush Sikhs just to please the majority." Narinder Singh, a spokesman for the Golden Temple, Amritsar, Punjab, interviewed on National Public Radio, July 11, 1997.

Since 1984, India has engaged in a campaign of ethnic cleansing and murdered tens of thousands of Sikhs and secretly cremated them. The Indian Supreme Court described this campaign as "worse than a genocide."

The book Soft Target, written by two Canadian journalists, proves that India blew up its own airliner in 1985 to blame the Sikhs and justify more genocide. The Indian government paid over 41,000 cash bounties to police officers for killing Sikhs, according to the U.S. State Department.

Indian police tortured and murdered the religious leader of the Sikhs, Gurdev Singh Kaunke, Jathedar of the Akal Takht. No one has been punished for this atrocity and the Punjab government refused to release its own commission's report on the Kaunke murder.

Human-rights activist Jaswant Singh Khalra was kidnapped by the police on September 6, 1995, and murdered in police custody. His body was not given to his family. Rajiv Singh Randhawa, the only eyewitness to the police kidnapping of Jaswant Singh Khalra, was arrested in front of the Golden Temple in Amritsar Sikhism's holiest shrine, while delivering a petition to the British Home Minister asking Britain to intervene for human rights in Punjab.

In March 2000, 35 Sikhs were massacred in Chithisinghpora in Kashmir by the Indian government.

A Wave of Repression Against Christians

Since Christmas 1998, India has carried out a campaign of repression against Christians in which churches have been burned, priests have been murdered, nuns have been raped, and schools and prayer halls have been attacked. On January 17, 2001, Christian leaders in India thanked Sikhs for saving them from Indian government persecution. Members of the Bajrang Dal, part of the pro-Fascist Rashtriya Swayamsewak Sangh (RSS), the parent organization of the ruling BJP, burned missionary Graham Staines and his two young sons, ages 8 and 10, to death while they slept in their jeep. The RSS published a booklet last year on how to implicate Christians and other minorities in false criminal cases.

Democracies don't commit genocide. Support self-determination for the people of Khalistan.

# TRIBUTE TO PHIL SCHERER TRANSPORTATION DEVELOPMENT ASSOCIATION OF WISCONSIN

## HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. PETRI. Mr. Speaker, I want to pay tribute to Phil Scherer upon his retirement as Executive Director of the Transportation Development Association of Wisconsin. Phil has been with TDA for just over 15 years, and during that time he has been an effective leader in bringing together varied transportation interests in the State of Wisconsin to work toward the common goal of improving transportation for all the citizens of our state.

TDA's goal is the "establishment and maintenance of a balanced transportation network that meets Wisconsin's present and future mobility needs in an efficient and effective manner." Members include representatives from both the private and public sector who are involved in all modes of transportation so that it really provides a well-balanced, thoughtful perspective on the many transportation challenges we face.

Needless to say, it takes a unique person who can work effectively and cooperatively with these various interests to pull together a coherent policy and action plan that makes sense. And Phil has been up to the task. I think I can safely say that all of us in government—whether at the federal, state, or local level—have come to rely on Phil and his organization over the years as we debate the transportation issues of the day.

Phil obviously has been well-served by his extensive background in the area of transportation and planning. Prior to coming to TDA, he served for 12 years as the Lead Senior Planner for the Northwest Regional Planning Commission where he had responsibility for the 10-county commission's transportation planning program. In addition, he has worked as a senior planner for a national architectural, engineering and planning firm in Milwaukee and also as an Associate Planner for the City of Racine.

Throughout his career, Phil has served on many state and local committees, advisory boards and commissions. In 1989 he served as the Chairman of the Better Roads & Transportation Council of America where he received its highest award for excellence in public education efforts relating to transportation. The National Association of Development Organizations recognized Phil for his groundbreaking work on development of a system to aid local officials in managing their roadways that is now utilized by over 100 communities in our state.

Phil recognizes the role that an efficient transportation network plays in a strong economy and improving the standard of living for every Wisconsin resident. He has been an effective leader who has played a critical role in transportation issues at every level. We all owe him a debt of gratitude for his selfless and dedicated efforts advocating a first-class transportation system in Wisconsin.

I want to commend Phil for his stellar leadership at TDA and wish him all the best upon his retirement.

## "CITY WITHOUT LIMITS", LORIS, SOUTH CAROLINA

### HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. BROWN of South Carolina. Mr. Speaker, I rise today to congratulate the, "city without limits", Loris, South Carolina in their centennial celebration.

On July 26, 1902, the city of Loris, South Carolina was incorporated and quickly became a trading post for the lumber, turpentine, and agriculture industries for Horry County.

In 1997, the city of Loris was declared to be the second fastest growing city in the state of South Carolina.

Although the city of Loris is growing fast it has not lost its small town charm.

The location of Loris to the Grand Strand, the friendly citizens of the town, and the small town feel continue to make Loris, South Carolina a popular place for the relocation of families and businesses.

I encourage you to join me and my fellow Carolinians in celebrating the 100th Anniversary and the accomplishments of the city of Loris, South Carolina.

## PERSONAL EXPLANATION

### HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. SOUDER. Mr. Speaker, due to a series of visits to national parks in Colorado and New Mexico, I was not in Washington on July 8, 2002 when the Fort Clatsop National Memorial Expansion Act of 2002 passed the House. If I had been here, I would have voted for the bill.

I was a cosponsor of this bill and worked closely with Representative WU and Representative BAIRD to help this nationally significant legislation pass through the Subcommittee on National Parks, Recreation, and Public Lands, and the full Resources Committee.

The Fort Clatsop bill is time-sensitive because the important celebration of the Bicentennial of the Lewis and Clark Expedition is just about to begin. This celebration is not only historically significant for celebrating what the Corps of Discovery accomplished, but also for recognizing its part in creating the spirit of what being an American is all about. The expansion of Fort Clatsop lends credence not only to the importance of the completion of the expedition's journey, but also to the beginning of the growth of a nation. This new trail will enable visitors to the inland campsite to experience, as the expedition did, the walk to the beautiful Oregon coast. The members of the expedition regularly hiked to the salt works, as well as to experience their first views of a whale, that was beached. This proposal also calls for further consideration of the important Washington State side of the Columbia River, where the Lewis and Clark Expedition first explored a wintering site and first saw the Pacific Ocean. Developing these sites for future Americans to appreciate will be an enduring legacy of this Congress.

## TRIBUTE TO WILLIAM POLAKOWSKI, DETROIT-WAYNE JOINT BUILDING AUTHORITY

### HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. BONIOR. Mr. Speaker, I rise today to recognize William Polakowski, who was honored at the Detroit-Wayne Joint Building Authority's Pre-Retirement Luncheon on July 10, 2002. As distinguished guests, colleagues, and community members gathered together to bid farewell to a longtime friend and advocate of public service, they honored his coming retirement with a celebration of tributes, memories, and good cheer.

Demonstrating outstanding leadership and commitment throughout the years, William Polakowski has always been dedicated to his work and his community. Working hard as the General Manager of the Detroit-Wayne Joint Building Authority for 8 years, and as a Commissioner for 8 years before that, he has been an integral part of the Detroit-Wayne Joint Building Authority's success. Managing a key role in the development and execution of the Detroit-Wayne Joint Authority's agenda, his hard work and innovative approach for Detroit and Wayne County has been truly outstanding. As he prepares for his retirement, his leadership and legacy will surely be missed.

William Polakowski also understands the importance of dedication and commitment to the principles of community, team work, and workers rights. Serving as an International Representative for the United Auto Workers for 23 years, Polakowski served the UAW well devoting his time and energy to principles he believes in. As the Executive Director of SEMCAP and the Director of the Metropolitan AFL–CIO, his hard work and innovative approaches give testament to his unwavering dedication to ensuring the rights of working families. As President of the John W. Smith Old Timers Club and President of P.A.C.E., the Polish American Citizens For Equity, he also has dedicated much of his time serving his local community as well. Demonstrating his concern for his local neighborhood, he has worked in conjunction with neighboring communities to ensure safer neighborhoods. William Polakowski has always been a leader, and as he retires from the Detroit-Wayne Joint Building Authority, he will assuredly continue to lead the way in this community for many years to come.

I applaud William Polakowski for his leadership and commitment, and thank him for his outstanding years with the Detroit-Wayne Joint Building Authority. I urge my colleagues to join me in saluting him for his exemplary years of service.

## INDIA'S HEGEMONIC AMBITIONS LEAD TO CRISIS IN SOUTH ASIA

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. TOWNS. Mr. Speaker, we are all hoping that war can be avoided in South Asia. A war there would take an enormous toll in human lives and in damage to land and the fragile economies of India and Pakistan. The biggest losers, clearly, would be the Islamic people of Kashmir and Sikhs of Punjab, Khalistan.

Unfortunately, some of the media accounts of this conflict have been very one-sided. You would think after reading a lot of the papers and watching a lot of TV news that India is absolutely blameless in this conflict. That is not true. As the Wall Street Journal pointed out on June 4, it is India's hegemonic ambitions, as much as anything, that have brought this crisis to a head.

Mr. Speaker, at the time that India was partitioned, the Hindu maharajah of Kashmir, despite a majority Muslim population, acceded to India. That accession has always been disputed and India promised the United Nations in 1948 that it would settle the issue with a free and fair plebiscite on Kashmir's status. As we all know, the plebiscite has never been held. Instead, India has tried to reinforce its rule there with over 700,000 troops. According to columnist Tony Blankley in the January 2, Washington Times, meanwhile, India supports cross-border terrorism in the Pakistani province of Sindh. Indian officials have said that everyone who lives in India must either be Hindu or subservient to Hindus, and they have called for the incorporation of Pakistan into "Akand Bharat"—Greater India.

In January, Home Minister L.K. Advani admitted that once Kashmir is free from India rule, it will bring about the breakup of India. India is a multinational state and history shows that such states always unravel eventually. We all hope that it won't take a war to do it. No one wants another Yugoslavia in South Asia, but there are 17 freedom movements within India. Unless India takes steps to resolve these issues peacefully and democratically, a violent solution becomes much more likely. As the former Majority Leader of the other chamber, Senator George Mitchell, said, "The essence of democracy is self-determination." It is true in the Middle East and it is true in South Asia.

The Sikh Nation in Punjab, Khalistan also seeks its freedom by peaceful, democratic, nonviolent means, as does predominantly Christian Nagaland, to name just a couple of examples. The Sikhs declared the independence of Khalistan on October 7, 1987. They ruled Punjab prior to the British conquest of the submcommittee and no Sikh representative has signed the Indian constitution.

India claims that these freedom movements have little or no support. Well, if that is true, and if India is "the world's largest democracy," as it claims, then why would it not hold a plebiscite on the stauts of Kashmir, of Nagaland, of Khalistan? Wouldn't that be the democratic way to resolve these issues without a violent solution?

Until that day comes, Mr. Speaker, we should support self-determination. We should declare our support for a plebiscite in Khalistan, in Kashmir, in Nagaland, and wherever they are seeking freedom. We should stop aid to India until all people in the subcontinent live in freedom and peace. These measures will help bring the glow of freedom to everyone in that troubled, dangerous region.

Mr. Speaker, I would like to place the Wall Street Journal article into the RECORD at this time.

[From the Wall Street Journal]

INDIA'S KASHMIR AMBITIONS

Western worry over Kashmir has focused on Pakistan's willingness to control terrorists slipping over the border with India, and rightly so. But that shouldn't allow U.S. policy to overlook India's equal obligation to prevent a full-scale war from breaking out in Southwest Asia.

That obligation has come into focus with today's Asian security conference in Kazakstan. Indian Prime Minister Atal Bihari Vajpayee and President Pervez Musharraf of Pakistan will both be on hand, and everyone has been urging a bilateral meeting on the sidelines. But so far Mr. Vajpayee has ruled out any dialogue until Pakistan presents evidence that it is acting against the Kashmiri terrorist groups crossing the U.N. line of control to attack Indian targets.

This is shortsighted, not least for India, because it allows Mr. Musharraf to take the moral high ground by offering to talk "anywhere and at any level." On Saturday the Pakistani leader also went on CNN to offer an implied assurance that he wouldn't resort to nuclear weapons, as something no sane individual would do. This went some way toward matching India's no-first-use policy and could be considered a confidence-building measure, however hard it would be for any leader to stick to such a pledge were national survival at stake.

India's refusal even to talk also raises question about just what that regional powerhouse hopes to achieve out of this Kashmir crisis. If it really wants terrorists to be stopped, some cooperation with Pakistan would seem to be in order. We hope India isn't looking for a pretext to intervene militarily, on grounds that it knows that it would win (as it surely would) and that this would prevent the emergence of a moderate and modernizing Pakistan.

This question is one the mind of U.S. leaders who ask Indian officials what they think war would accomplish, only to get no clear answer. India is by far the dominant power in Southwest Asia, and it likes it that way. Some in India may fear Mr. Musharraf less because he has tolerated terrorists than because he has made a strategic choice to ally his country with the U.S. If he succeeds, Pakistan could become stronger as a regional competitor and a model for India's own Muslim population of 150 million.

The danger here is that if India uses Kashmir to humiliate Pakistan, Mr. Musharraf probably wouldn't survive, whether or not fighting escalates into full-scale war. That wouldn't do much to control terrorism, either in India or anywhere else. It would also send a terrible signal to Middle Eastern leaders about what happens when you join up with America. All of this is above and beyond the immediate damage to the cause of rounding up al Qaeda on the Afghan-Pak border, or of restoring security inside Afghanistan.

No one doubts that Mr. Musharraf has to be pressed to control Kashmiri militants, as President Bush has done with increasing vigor. The Pakistani ruler was the architect of an incursion into Indian-controlled Kashmir at Kargil two years ago, and his military has sometimes provided mortar fire to cover people crossing the line of control.

But at least in the past couple of weeks that seems to have changed, as Pakistani security forces have begun restraining militants and breaking their communications links with terrorists already behind Indian lines. In any case, the line of control is so long and wild that no government can stop all incursions. More broadly, Mr. Musharraf has already taken more steps to reform Pakistani society than any recent government. U.S. officials say he has taken notable steps to clean up his intelligence service and that he has even begun to reform the madrassa schools that are the source of so much Islamic radicalism. (The problem is that Saudi Arabia hasn't stopped funding them.)

The Pakistani leader has done all this at considerable personal and strategic risk, and it is in the U.S. and (we would argue) Indian interests that he process continue and succeed. He deserves time to show he is not another Yasser Arafat, who has a 20-year record of duplicity.

As it works to defuse the Kashmir crisis, the U.S. has to press Mr. Musharraf to stop as many terror incursions into India as possible. But it also must work to dissuade India from using Kashmir as an excuse to humiliate Pakistan, a vital U.S. ally. The U.S. has a long-term interest in good relations with India, a sister democracy and Asian counterweight to China. But self-restraint over Kashmir is a test of how much India really wants that kind of U.S. relationship.

## PERSONAL EXPLANATION

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. BECERRA. Mr. Speaker, on Friday, July 12, 2002, and Monday, July 15, 2002, due to official business in my District, I was unable to cast my floor vote on rollcall No. 295, 296, 297, and 298. The votes I missed include rollcall vote No. 295 on passage of H.R. 4687, the National Construction Safety Team Act; rollcall vote No. 296 on the Motion to Suspend the Rules and Pass H.R. 3482, the Cyber Security Enhancement Act; rollcall vote No. 297 on the Motion to Suspend the Rules and Pass H.R. 4755, the Clarence Miller Post Office Building Designation Act; and rollcall vote 298 on the Motion to Suspend the Rules and Pass, as amended H.R. 3479, the National Aviation Capacity Expansion Act.

Had I been present for the votes, I would have voted "aye" on rollcall vote Nos. 295, 296, 297, and 298.

## PERSONAL EXPLANATION

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. UDALL of Colorado. Mr. Speaker, on July 15th I was unavoidably detained in returning to Washington, D.C. from Colorado. As a result, I was unable to vote on three measures considered that day.

Had I been present, on rollcall No. 296, passage of H.R. 3482, the Cyber Security Enhancement Act, I would have voted "yes."

I also would have voted "yes" on both rollcall No. 297, passage of H.R. 4755, and rollcall No. 298, passage of H.R. 3479.

## THE INVESTIGATION OF JOHN DEMJANJUK

### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. TRAFICANT. Mr. Speaker, John Demjanjuk, of Cleveland, Ohio, was convicted and sentenced to death as the "Infamous" Ivan The Terrible of The Treblinka Death Camp in Poland.

The Demjanjuk family appealed to all Members of the House and Senate, and were "turned away" because the case was "too sensitive!"

They came to me! I told them I would pull the switch on Demjanjuk if he was guilty, but would look into the matter.

My investigation exonerated Demjanjuk. The Israeli Supreme Court released him to me and I returned Demjanjuk to his family. The Government is now charging him with something "new"!

Congress wouldn't even look into the liberating evidence I discovered.

The real Ivan was:

1. Nine years older than John Demjanjuk,
2. He was taller,
3. He had a long scar on his neck,
4. The Real Ivan had Black Hair not blonde like John Demjanjuk.

The frightening issue was that our government, through the Office of Special Investigation (O.S.I.), knew John Demjanjuk was not Ivan The Terrible before they stripped him of his citizenship and sent him to Israel to DIE! The Prosecutor for O.S.I., Amy Moscovitz and OSI Agents Garand and Daugherty suborned perjury of S.S. NAZI Guard Otto Hom knowingly and willingly, to strip an American of all his rights and ship him to be executed!

Shame! Shame! And shame on Congress!

I am proud that I helped to save his life! Demjanjuk should be left alone to die with his family. Moscovitz, Garand and Daugherty should have been sent to prison.

As a result of this, I was labeled an anti-Semite and targeted! I am not an anti-Semite!

If a Jewish-American needed help, where no one would intervene, I would have acted in the same fashion and manner.

Bottom Line, in 1991 a top-ranking official of The American Israeli Public Affairs Committee (A.I.P.A.C) was fired and she released AIPAC'S Top Hit List: President George Bush, Secretary of State James Baker, Jesse Jackson, James A. Traficant, Jr.

I was the number one target of Jewish Organizations of 535 Members of Congress and they have done everything to defeat me. The Department of Justice targeted me for the embarrassment I caused them with the Demjanjuk case!

Everybody in Congress knows that I oppose excessive hand-outs to Israel—special preferences to Israel and a one-sided Middle East policy that now has imported Middle East violence to our homeland.

I have nothing against Israel, but I will not sit back and see America endangered because everybody is afraid to tell it like it is. Palestinians deserve a homeland too!

I have been targeted for removal for many reasons: 1. The only American to ever defeat the U.S. Department of Justice, in a RICO case pro se, 2. IRS Legislation that changed the burden of proof so the taxpayers would, once again, be innocent and not have the burden to prove it. 3. Demjanjuk, 4. Waco, 5. Ruby Ridge, 6. Pan Am 103, 7. and basically because I love America and respect and admire the elected Congress.

I do hate our government, run by un-elected bureaucrats who even intimidate our aristocratic judiciary.

In closing, I am absolutely amazed that some jackass federal judge declared the Pledge of Allegiance unconstitutional! Beam me up!

Tyrants will rule a people who are not governed by God. Those words were spoken by William Penn.

I say—a nation that excludes God—by judges appointed to lifetime terms—is a nation that will ultimately collapse and fail.

Congress must become more than an Advisory Board and start to straighten out this mess in our government!

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## A TRIBUTE IN HONOR OF THE 20TH ANNIVERSARY OF THE HOT AIR JUBILEE IN JACKSON, MICHIGAN

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. SMITH of Michigan. Mr. Speaker, July 19, 2002 marks the 20th Anniversary of the Hot Air Jubilee in Jackson, Michigan. This event began in 1983 when Jackson Balloon Pilots Tony Hurst and Jim Ahearn suggested the idea to Jackson Resident Mike Brown. The initial goal was to provide a new and exciting family oriented activity to attend in the Jackson area. The inaugural event hosted 17 balloons from Michigan and Ohio and was launched from the Sparks Foundation County Park, Cascades Park, and the grounds of Jackson Community College. At the first Jubilee, approximately 20,000 people were in attendance for the initial launch. In 1996, the Jackson Hot Air Jubilee moved to Reynolds Field at the Jackson County Airport to accommodate the growth in the event. Since that time, the Jackson Hot Air Jubilee has grown to over 65 balloons, with participants coming from as far away as Japan and Australia. In 2001, over 100,000 people attended the event.

The Jackson Hot Air Jubilee has a positive impact on the community by stimulating the local economy through hotel stays, restaurant meals, and other expenditures at local Jackson businesses. The Jubilee also contributes more than $15,000 to local civic organizations in the Jackson area.

The success of this event over the past 20 years is due to the hard work and dedication of the volunteer planning committee and the more than 600 area volunteers from all walks of life that contribute to the Jackson Hot Air Jubilee. Therefore, I would like to commend the 35 member all Volunteer Hot Air Jubilee planning committee, which works year around to produce this fine event. I also want to recognize the more than 600 local volunteer citizens that contribute their time and energy to the Jackson hot air jubilee, without whose assistance this event would not happen. The members of the business community and private citizens that sponsor the Jackson Hot Air Jubilee also deserve recognition for supporting such a fine family oriented event for the citizens of the 7th Congressional District and beyond. I would also like to commend the Jackson County Airport for opening their facility for the Jackson Hot Air Jubilee and the community at large.

The Jackson Hot Air Jubilee is an exemplary model of a community working together to achieve a common goal: providing a well-organized, family oriented festival for all to enjoy. I commend the Jackson Hot Air Jubilee for a job well done, and wish the Committee continued success for many years to come.

# SENATE—*Wednesday, July 17, 2002*

The Senate met at 9:30 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, whose mercies are new every morning, we praise You for Your faithfulness. We exalt You with a rendition of the words of that wonderful old hymn, "Great is Your faithfulness! Great is Your faithfulness! Morning by morning, new mercies we see; all we have needed Your hand has provided. Great is Your faithfulness, Lord, unto us!"

As we begin this new day, we thank You for Your faithfulness to our Nation throughout history. One of the ways You express that now is through the labors of the women and men of this Senate. May they experience fresh assurance of Your faithfulness that will renew their faithfulness to be God-centered, God-honoring, God-guided, God-empowered leaders. In the quiet of this moment of prayer, grip them with the conviction that their labors today are sacred and that they will be given supernatural strength, vision, and guidance. Thank You in advance for a truly productive day. Through our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 17, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mrs. CLINTON thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

## UNANIMOUS CONSENT REQUEST—H.R. 3210

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 252, H.R. 3210, the House-passed terrorism insurance bill; that all after the enacting clause be stricken, and the text of S. 2600, as passed in the Senate, be inserted in lieu thereof; the bill, as thus amended, be read a third time and passed; the motion to reconsider be laid on the table; the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses; and the Chair be authorized to appoint conferees on the part of the Senate with the ratio being 4 to 3, without any intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BENNETT. Madam President, I came to the floor to make a speech and discovered that my leader is not here. But to protect leadership rights in this matter, I will object until leadership has an opportunity to review the request made by the Senator from Nevada.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, there certainly is no surprise. We worked on this all day yesterday. We were told, as we are often told, that given a few more minutes, we will get it all worked out.

We need to have this terrorism insurance bill conferenced and completed. No one knows better than the Presiding Officer what the people of New York have gone through as a result of the terrorist acts of September 11. The people of this country and the businesses of this country need terrorism insurance.

Everyone should understand that on this side of the aisle we have done everything we can to get this passed. We were held up for weeks and weeks before we were allowed to bring it to the floor. Now we have been held up weeks and weeks to try to get the bill to conference.

It is too bad. There is a continuous pattern of obstruction that we have faced. Everyone should understand that terrorism insurance is being held up by the Republican minority.

## PROGRAM

Mr. REID. Madam President, today the Senate will resume consideration of the motion to proceed to S. 812, the affordable pharmaceutical bill, time until 10:30 equally divided between the two managers, Senator KENNEDY and Senator GREGG.

## UNANIMOUS CONSENT REQUEST—H.R. 5011

Mr. REID. Madam President, before my friend from Utah leaves the floor, I want to renew another unanimous consent request. I, along with a number of other people, were at the White House yesterday. They were asking us what we were going to do about getting appropriations bills passed, especially the military bill that affects our defense.

We have 13 appropriations bills. Two of them are defense related—military construction and defense.

We reported out of the appropriations subcommittee yesterday the largest military appropriations bill in the history of the country—some $350 billion, approximately. The Military Construction Subcommittee reported it out. It came out of the committee, and we want to bring this to the floor. We have wanted to get it here for 2 weeks. They won't let us. The excuse now is forest fires.

The defense of this country depends on our doing these bills. Military construction is important for the fighting men and women of this country. We have 10 or 11 forest fires burning in Nevada right now. The people of Nevada want to go forward to help the service men and women of this country with military construction.

It is an excuse. It doesn't matter what we do over here to get a bill up. It doesn't matter what we do. It isn't quite right.

I renew my request that Senators FEINSTEIN and HUTCHINSON—the two managers of this bill—be allowed to bring this up under the time agreement that has been offered previously, which is 45 minutes for the bill and 20 minutes for Senator MCCAIN.

I would be happy to read it in its entirety. I have done that so many times that I almost have it memorized.

I ask unanimous consent that we be allowed to proceed under the terms and conditions of the previous unanimous consent request that I have made in this body, and that we be able to take the bill up as soon as the two leaders agree that it can be done.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BENNETT. Madam President, on the same basis as before, reserving the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

right for my leadership to examine it, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, I appreciate my friend from Utah, but having the leadership examine it, Senator LOTT has been out here on the floor saying he thinks it is the right thing to do.

It is too bad. I haven't changed a single word of the two requests I have made—one being the terrorism insurance bill going to conference, and the other simply allowing us to bring a bill to the floor. They won't allow us to do that. That is too bad for the country.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 812, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 812) to amend the Federal Food, Drug and Cosmetic Act to provide greater access to affordable pharmaceuticals.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. shall be equally divided and controlled between the Senator from Massachusetts and the Senator from New Hampshire or their designees.

Mr. KENNEDY. Madam President, just to state the obvious so all of our colleagues understand exactly where we are, the bill before the Senate is the Schumer-McCain Greater Access to Affordability Pharmaceuticals Act of 2001.

This legislation closes loopholes in the law that deny patients access to low-cost, high-quality generic drugs.

It is the most important single step the Senate can take to slow the galloping increase in the cost of prescription drugs, and make medicines more affordable for all Americans. I anticipate that other constructive measures to control the cost of prescription drugs may be offered as amendments to this underlying legislation when we get to the legislation.

We have been denied the opportunity, for the last 2 days, to get to this legislation, but I believe there will be an overwhelming vote in the Senate to say: Let's move ahead on this legislation.

To a very real extent, what the Senate does with this legislation is a key indication and a key test, I believe, of the Senate of the United States. We have a major problem and concern for families all over this Nation; and that is, the cost of drugs and the availability of drugs. We have carefully thought out solutions to these particular problems. There are different solutions to it, but this institution has the opportunity, over the period of the next 2 weeks, to resolve a public policy concern that is of real deep concern to families all over this Nation.

This debate is not about technicalities, although if you listen to those who have been opposed to bringing this legislation up, they would list the various technicalities. They talk about jurisdictions. They talk about everything but the substance of the facts.

The interesting point is, there has been prescription drug legislation before the Senate in the committees over the last 5 years. This is our first opportunity to address this issue on the floor of the Senate. We have a responsible measure now that is going to be voted on now as to whether we are going to address this. That is how we are going to be able to deal with the problem which is called evergreening, which means that brand name companies can continue their patents on this and deny legitimate generic drug companies from getting into the market to produce lower cost quality drugs. And this is how we will be able to get to the issues of collusion between brand name companies and generic drug companies which also work to the disadvantage of consumers.

Our best estimate is that the savings, when this is scored, will be tens of billions of dollars, as much as even $60 billion. We will wait until that report is in.

Can you say to parents, can you say to children, can you say to families across this country, we can save you $60 billion, and yet our Republican friends refuse to let us get to this issue? We will get to this issue. It is of vital importance.

I look forward to continuing this debate.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mr. DURBIN. I ask the Senator, is it not true that in the last 2 days we have really failed to seize an opportunity to move this bill forward? Have we not been tied up on the floor of the Senate with tactics from those who oppose prescription drug reform, to slow down the Senate debate, to try to stop us from passing this legislation before the August recess? Is it not true that we are now going to have a vote this morning to finally bring this to an issue so we have Members on the Record—Democrats and Republicans—and maybe once and for all we can see who is willing to stand in the path and who is willing to move forward when it comes to the issue you raised this morning?

Mr. KENNEDY. The Senator is absolutely correct. The measure that is before us passed the committee by a 16-to-5 vote, including five Republicans. It was bipartisan in nature. That is why it is difficult for us to understand why our Republican friends—because the objections were not from the Democratic side; the objections were all from the Republican side—why they would object to this, when five of their members—and I think we have more support from other members of the Republican Party who support this—why they would object to us, the Senate, considering this legislation, and other measures that are going to reduce the costs of prescription drugs for families.

I say to my friend from Illinois, I think the Senate will respond overwhelmingly and say: Let's get on with its business. But I regret the fact it has taken us 2 days in order to move this process forward.

Mr. DURBIN. Will the Senator yield for another question?

Mr. KENNEDY. I will.

Mr. DURBIN. On the substance of the issue, when you use the term "generic drugs," that has a lot of connotations. But is it not true that a drug such as Claritin, made by Schering-Plough, which is for allergies, widely advertised across the United States, when the patent on that drug expires, other drug companies can make the Claritin formula and sell it? It is exactly the same as the prescription drug that has been sold under patent for years and years, and that what you are talking about is making certain that kind of drug, generic drug, at a lower cost, is available to consumers across America so they can cut their drug bills and still have the same drug, which, under patent for years and years, was advertised as the very best for allergies and problems such as that?

Mr. KENNEDY. The Senator is quite correct.

I welcome the fact that the Senator has pointed out these generic drugs are effectively and actively the bioequivalence of the other brand name drugs. We will deal with those issues. They are effectively the same but at a very reduced cost.

I am glad to yield because I see my colleagues in the Chamber.

Madam President, we have how much time remaining?

The ACTING PRESIDENT pro tempore. Nineteen minutes.

Mr. KENNEDY. Nineteen minutes. So why don't I yield 4 minutes to the Senator from Michigan and do the same for the Senator from North Carolina. And other Senators want to speak.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Madam President, I thank our leader, the Senator from Massachusetts, who is such a stalwart and passionate advocate on this issue.

I wish to respond to one of my colleagues as to one of the reasons why I think this bill is being held up. I think it is being held up because it is not supported by the pharmaceutical industry.

We know there are six drug company lobbyists for every Member of the Senate. It is clear they would prefer the House plan, which they helped to write. I would, once again, share with my colleagues a quote that was in the Washington Post when the House plan was passed:

> A senior House GOP leadership aide said that Republicans are working hard behind the scenes on behalf of PhRMA [the pharmaceutical lobby] to make sure that the party's prescription drug plan for the elderly suits drug companies.

I believe the reason the bill is being held up is that, in fact, our prescription drug plan does not suit drug companies. Our prescription drug plan is written for the seniors and the disabled of America.

Our plan for lowering prices through the generics bill and through other options, to increase competition, is to make sure that prices are lower for everybody. The small business, which has premiums skyrocketing, and which has difficulty affording health care coverage for its employees, would see a major change as a result of our efforts to lower prices and create more competition. The manufacturers in my State would see decreases as well.

So, in fact, what we have are two distinct views of how to proceed. One, as was indicated in the paper, is a plan for the elderly that suits drug companies. We will have various versions of it on the floor. But I would argue that those fighting proceeding to a real Medicare plan are doing so because our plan does not suit the drug companies.

One of my major concerns is there is so much money that is going into this effort to promote the House plan—the drug company plan. What does the drug company plan do in the end analysis?

When we look at this, they are asking the senior citizens of our country, up front, to pay a $250 out-of-pocket deductible before they get any help. Then, out of the first amount of money, the beneficiary would pay $650 to get help with $1,100. But then the beneficiary would continue to have to pay while they have a gap in coverage. They would pay $2,800 when they received no help in the middle here, as shown on the chart, in order to get some catastrophic help at the end.

So what does this mean? It means, out of pocket, the average beneficiary will pay $3,700 to get $4,800 worth of help.

I am not that great on math, but I would suggest that, in fact, the $3,700 out of pocket for $4,800 is not that great a deal. I would suggest it is not that great a deal for the average person.

I have read a number of stories in this Chamber; one last night was of a gentleman who had an $800 a month income and his prescription drugs were $700 a month. This will not help him. This will not help the individual, the average individual who is struggling to pay their bills versus getting their medicine every day.

We have a better plan, a plan that will, on average, pay for 65 percent of the bill, which is a good start. It is a good step forward. It would not have a deductible. It would be a voluntary plan that would make sense and lower prices.

I realize my time is up, but I would like to also join with my colleagues in advocating that we get on with the business of real Medicare coverage and lowering prices for everyone.

Thank you.

Mr. KENNEDY. Madam President, I yield 4 minutes to the Senator from North Carolina and 4 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. EDWARDS. Madam President, this is a very simple proposition. Our friends on the other side of the aisle who oppose this prescription drug benefit largely oppose it because they say it is too expensive; we can't pay for it. They propose a prescription drug benefit that leaves lots of senior citizens behind.

The problem is, when we respond with, No. 1, a more comprehensive prescription drug benefit that, in fact, protects all senior citizens and, No. 2, with a real and meaningful proposal to bring the cost of prescription drugs under control so that we can, in fact, afford a comprehensive prescription drug benefit for all senior citizens, that will work for all senior citizens, then they also block us on that front. This makes no sense. There is no logic to this.

What we are saying is we want to provide a real and meaningful prescription drug benefit, No. 1; No. 2, in order to afford it, we have to do something about the cost of prescription drugs.

The costs of prescription drugs have been going up anywhere from 10 to 20 percent a year, way above the cost of inflation. We have to do something about that.

One of the issues Senator SCHUMER and Senator McCAIN have worked very hard on is legislation to close the loopholes in the patent system that allow brand companies to keep a patent on a drug when the generic ought to be able to enter the marketplace. We know the way this works. The brand name company has a patent. As soon as the generic is allowed to enter the marketplace, the cost of the medicine goes down so that not only senior citizens but all Americans are able to afford it.

What we are doing and what they did in that legislation was to close loopholes that allowed brand name companies to keep generics out of the marketplace automatically for 30 months, if, in fact, a generic tried to enter the market at the time that a patent was about to expire.

What we have done is worked to close those loopholes so we get generics into the marketplace, so we have real competition and, most importantly, so we lower the cost of prescription drugs for all Americans and so we have a prescription drug benefit that we can, in fact, afford.

Senators McCAIN and SCHUMER actually had a very good bill. It dealt with the abuses that were occurring, situations such as a brand name company had a patent that was about to expire. They would come in and say: We are entitled to a new patent because our pills have to be in brown bottles; or we are entitled to a new patent because our pills have two lines on them, as opposed to one, for scoring when you have to cut the pills—no innovation, no creativity, no new medical benefit. This is not the reason the patent system was created. It is not the reason the original legislation, the Hatch-Waxman legislation, back in 1984, was created.

What has happened is, the brand name companies have found a way to game the system, to exploit the system. The problem is, the people who pay the price of that are not the generic companies. The people who pay the price are Americans who have to go buy their medicine at the drugstore because when the generic can't get in the market, their cost stays up. And the only people who benefit are the brand companies that keep their patent, and their profit, as a result, stays much higher.

What we have done, Senators McCAIN and SCHUMER have done, was help close the loopholes. When that legislation came before our committee, the Labor Committee, the HELP Committee, we worked, Senator COLLINS and I, in a bipartisan way, along with a number of our colleagues on both sides of the aisle, to address some of the concerns that others had about the McCain-Schumer bill. I actually think their bill was a very good bill and the work they did was very good.

We dealt with it in a responsible way, found a bipartisan compromise. That is the legislation that is now on the floor of the Senate. It got the vote of five Republicans in committee. It is the kind of legislation that could actually do something about the cost of prescription drugs so we can afford a real and meaningful prescription drug benefit for all senior citizens in America.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. I thank my colleague from Massachusetts and my colleague from North Carolina.

We have all been working together on this issue, as the Senator from North Carolina has said. It has been bipartisan—Senator McCAIN and myself and then he and Senator COLLINS as well. The reason we are all coming together at this moment is a very simple one: These wonderful drugs that make people live longer and make people live better are just getting so darn expensive that most people can't afford them.

It is not just senior citizens, although it is certainly them. What about a family who has a child with a disease and they need that drug and the man works for a small business, the wife maybe works at home; they can't afford this drug for their child? Maybe a year from now it might be affordable, 6 months, because the generic is available. Then the pharmaceutical company goes and hires their lawyers and plays some trick and says the price is going to stay at $250 a month instead of $70 a month. What does that family think?

We have an urgency here. This is not just a political game. This is not just rhetoric. This is not just a stick to beat one party up or the other party. This is what we are all about—life. Our job is to make sure people can get these wonderful drugs.

I have no relish beating up on the drug companies. I think they have done great things, but unfortunately, as the Senator from Massachusetts said last night, they have lost their way. The generic drug proposal we are talking about puts them back on track. It says, instead of spending your time innovating patents, spend your time innovating drugs. Instead of going to Harvard Law School to hire people to come up with new legal tricks, go to Harvard Medical School and come up with the best researchers. For years this system has worked so well, but it has begun to get off track.

I make a plea to people on both sides of the aisle—I make a plea to the drug industry—get back with it. Go back to your noble mission of creating these wonder drugs that save people's lives, that avoid people having to go to the hospital and needing an operation.

The Schumer-McCain bill does that. It doesn't take away any of the incentives, the profits. We are a free market system. When you innovate that drug, you will make some money. But then don't, 15 years later, say: I have a new idea. I will make a blue pill red; I want another 15 years. I have another idea, I am going to say this drug is good for tennis elbow as well as pancreatis; I want another 15 years, not only for tennis elbow but for the pancreatis as well. That is what we are against here.

It is no longer that technical. When the Senator from Arizona and I started on our journey, people said: This is a very technical bill to which no one will pay attention. But now people realize what it is all about. It is about lowering costs dramatically.

By the way, it doesn't just lower the cost to the citizen. That is our paramount goal, to the average citizen. It lowers the cost to American business which has drug plans. Why is General Motors for this plan; why are so many corporate leaders for this plan? Why, when the pharmaceutical industry went to them and said, stop supporting Schumer-McCain, did they say: We can't for the very simple, self-interested reason, it means hundreds of millions of dollars to them? Why are State governments for this? Go to your counties, your State, and ask them what their biggest cost is. It is Medicaid.

What is the biggest cost within Medicaid? Whether it be Utah, Massachusetts, or New York, it is the rising cost of prescription drugs. This will limit it.

I urge that we not try to fight the Schumer-McCain bill but we, rather, try to build on it with some of the other proposals.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I have enjoyed being here this morning and hearing the debate. When I came to the Senate, I was interested in health care, anxious to do what I could to improve health care in this country, and recognized rather quickly that one of the major things that has happened in this country is that technology has long since outstripped, overcome, and ignored legislation.

I tell town meetings, among people who talk to me about Medicare, Medicare is the best Blue Cross Blue Shield fee-for-service indemnity plan that we could devise in the 1960s, frozen in time. Legislation does not allow flexibility; legislation freezes things. And we have a Medicare system that, frankly, makes little or no sense in the face of the way we practice medicine today.

In the 1960s, when Blue Cross Blue Shield laid down their fee-for-indemnity plan, which Congress basically embraced and froze in legislation, prescription drugs didn't make much of an impact. The big financial challenge in those days was the cost of going to the hospital. So a plan was frozen in place that said, We will reimburse you for going to the hospital and, today, 40 years later, the way Medicare is structured doesn't make any sense. People take pills rather than having an operation, but the pills, even though they are many times cheaper than the operation, are not reimbursed, whereas the operation would be.

There is a disincentive to practice intelligent medicine under Medicare. So to suggest that any rational individual looking at our present health care system, does not support a prescription drug solution to our present dilemma is to misstate the facts. Everybody who looks at this, who has any understanding of the system, is in favor of a prescription drug benefit for Medicare. All right. We are all in favor. Let's do it. It is a little like someone having a medical condition back in the 1700s and turning to a physician and saying: We are all in favor of medical assistance, let's do it. And then the physician, acting on the conventional wisdom of the time, says: Bring in some more leeches, because that is the accepted technology.

Unfortunately, that point of view would cause someone who had greater knowledge to say: Don't seek medical assistance under this circumstance. Do something different.

Oh, no, we have to act quickly, and the prescribed method is to bring in some more leeches. So let's act quickly on this. The prescribed method is to simply attach a prescription drug benefit to the existing Medicare system and not pay much attention to any of the side effects.

I was here in 1993 when we debated health care almost exclusively on this floor. It was the raging issue through the end of 1993 and through almost all of 1994. I was here when the effort to reform our health care system died on this floor. A lot of people think it was voted down. It was not voted down. It simply died of its own weight.

George Mitchell, who was the majority leader at the time, despairing of the committee's not being able to produce a bill that might pass, took the whole process into his office and he produced, without any committee background, the Mitchell bill.

I was part of the effort to defeat the Mitchell bill. We met twice a day in Senator Dole's conference room. We met under the leadership of the then-ranking member of the Senate Finance Committee, Senator Packwood from Oregon, who understood this issue about as well as anybody, and we laid out the traps that we were setting for Senator Mitchell.

Quite frankly, it was not very difficult. His bill was filled with so many problems and so many challenges that we didn't have to be very expert or very careful to be able to shoot it down. As we would raise one issue after another, Senator Mitchell finally withdrew the bill and simply let it die. It was never voted down. It died of its own weight.

During that debate, Joe Califano—who served on the White House staff with Lyndon Johnson and was appointed Secretary of Health, Education, and Welfare, and who some have called the father of Medicare—wrote an editorial. I would like to quote from the Washington Post of August 18, 1994. He was urging caution based on his experience. Here is the relevant paragraph:

> History teaches two lessons about Federal health care reform: It will cost more than any reasonable estimate at the time of enactment, and it will provoke a bevy of unintended consequences. The danger is that Congress may repeat history with a vengeance.

Picking up on Secretary Califano's two points—it will cost more than any reasonable estimate at the time of enactment and it will provoke a bevy of unintended consequences—let's talk about cost. I have heard this morning that we can solve the problem of cost by—if I may quote a colleague—"closing a few loopholes." We can solve the problem of cost by telling the drug companies to hire fewer lawyers. We can solve the problem of cost by preventing the pharmaceutical industry from having 30 months more of control on the prices of their original drugs.

For just 30 months more, they are somehow raising the price to the point that it is costing us so much money that we cannot afford this bill. And if we can just change that 30 months—just close that one little loophole—suddenly we will have enough money to pay for the whole thing.

Mr. SCHUMER. Will my colleague yield?

Mr. BENNETT. Yes.

Mr. SCHUMER. I thank my friend from Utah. He is always gracious in the spirit of debate. I ask two questions. First, does the Senator realize the generic drug is usually about a third of the cost?

Mr. BENNETT. I realize that. I am talking about loopholes.

Mr. SCHUMER. Second, not only is it one 30-month extension, many of the pharmaceutical companies line them up—30 months, 30 months, 30 months. So after they have made their rate of return, which they should, and I admire them for making these drugs, but I was asking the Senator if he realizes that the new practice is not just to have one automatic 30-month extension when you change the color of the bottle, but to pile them on and to have the patents extend long beyond the 20 years that was expected.

Mr. BENNETT. I realize the battle between the original creators of the patent and the generic drug companies has been going on ever since generic companies were formed, and that one group will always try to get the advantage over the other, and that a number of tactics are going on. I also realize the generic companies have been successful far more than many of the original companies would like, and to step in that battle and legislate that the generics will always win is fraught with all kinds of possibilities and all kinds of unintended consequences that Secretary Califano warned us against.

The Senator from New Jersey wishes to ask a question.

Mr. GREGG. Well, it is New Hampshire, but we are all in the East.

Mr. BENNETT. I am often considered the Senator from Idaho. So that is fair.

Mr. GREGG. I simply ask the Senator if he is aware that under the bill brought forward to us, as amended, the 30-day rolling exclusivity would be able to continue to roll over, that under this bill it is potential—and in fact likely—that second and third 30-day periods could be driven under this bill—and even fourth 30-day periods. There was actually language that would have eliminated that opportunity completely.

Mr. BENNETT. I was not aware of that. If I may, reclaiming my time, make this comment about this whole circumstance, one of the reasons I was unaware of that is because I am not a member of any of the committees that deal with this. I often thought that since I was not a member of the committees, I would not have an opportunity to be involved in the details of the bills. But I have discovered in this circumstance that not being a member of the committee is not a barrier to being involved, because the committee is not writing this legislation. The committee has been dismissed. The members of the committee who have expertise, the committee staffs that have been working on this for the 5 years that the Senator from Massachusetts referred to, have been dismissed. Their expertise is being ignored.

The majority leader has taken the bill into his office, and he has created his own bill, much like Senator Mitchell did back in 1994. I trust it will have the same effect. The Mitchell bill, however well-intentioned, hit the floor with all of the flaws in it that could have been worked had it had a proper committee process.

I submit that this bill is hitting the floor with this process. It is hitting the floor with all of the same potential so that Senators, such as the Senator from New Hampshire, who has expertise in this area, have been frozen out. Senators in the Finance Committee who have tremendous expertise in this area have been frozen out. And the majority leader has taken this all to himself.

That means all of us who have gaps in our knowledge are suddenly confronted with the responsibility of dealing with this issue without a committee report, dealing with this issue without the guidance of ranking minority concurrent opinions. We are just faced with this on the floor, and all of us, willy-nilly, have to do our best to do our homework.

I apologize to the Senator from New Hampshire for not knowing the specific he raised, but I point out that this is to be expected under the circumstances with which we are presented in this bill.

Mr. President, the phrase that is used over and over with respect to medicine goes all the way to the Hippocratic oath, which says: Do no harm. That is a more specific way of summarizing what Joe Califano warned us about in 1994, the unintended consequences and the cost.

The Senator from Massachusetts used the figure $60 billion in savings. I would like to see the background for that figure. He said it has not been scored yet, but I am sure he has some basis for coming up with that figure, and I do not challenge it. I am being told that the bill he would prefer to have passed, which also has not been scored, will eventually cost $1 trillion over a 10-year period—$1 trillion. Somehow, $60 billion does not get us to $1 trillion.

I cannot intuitively think that closing some loopholes in an area where there has been intense competition and litigation for years is somehow going to give us such dramatic savings that we can pay for this bill in a way that will not end up hurting the senior citizens and hurting the people at the bottom of our economic ladder.

Let me make this one additional point because I see one of my colleagues here, the Senator from Pennsylvania, who would like to speak further.

For those who say cost is important but health care is more important, that cost is important but compassion is the most important thing, and we should not let cost stand in the way of our helping our least fortunate citizens, that is an emotion with which I totally identify. That is a feeling that all of us can accept and agree with. But the fact—the cruel fact—is that if the economy is in trouble, if the Government is feeding inflation through tremendous deficits and soaring expenditures, the people who get hurt the most in those difficult economic times are the people at the bottom.

Conversely, in the period we have just gone through when everything was soaring and doing well, someone asked Alan Greenspan: Who benefited the most from this boom?—thinking he would say it was the Donald Trumps and the Bill Gates of the world who benefited the most from the boom.

He said: Without question, the evidence is overwhelming that the people who benefited the most from the sound economy were the people in the bottom quintile; that is, the people in the bottom fifth had the greatest benefit in terms of what happened to make their lives better.

When we talk about costs, we are not being cold hearted. We are not being green-eyeshade accountants. We are recognizing there is an element of compassion that redounds to the benefit of the people at the bottom if we keep our finances under control, if we see to it that the Government is properly funded and properly financed, and we do not allow expenditures to run willy-nilly out of control. That is part of compassion. That is part of taking care of the least fortunate, and that is a debate we are having on this floor now that some would like to wave aside.

I reserve the remainder of the time and yield to Senator GREGG, as he takes over the leadership spot, but yield to the Senator from Pennsylvania.

Mr. GREGG. If the Senator will yield a second, I want to clarify. I wandered in in the middle of the discussion and misunderstood the issue. I believe the Senator from New York is correct in his assessment of the bill on the 30-month issue. It was the 180-day rule to which I was referring.

Mr. BENNETT. So I was correct in saying I did not understand the Senator's point.

Mr. GREGG. Yes, that is correct. That happens to people from New Jersey.

Mr. BENNETT. I will be more than happy, Mr. President, to turn the control of the time over to the Senator.

Mr. GREGG. I yield the remainder of our time to the Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. There are 7½ minutes remaining for the Senator from Pennsylvania; 5 minutes 40 seconds for the Senator from Massachusetts.

Mr. SANTORUM. Does the Senator from Massachusetts want to go or have me finish the time?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to make sure we understand, No. 1, this vote did not have to occur. We saw woeful crocodile tears today about how we have to have this vote today and be delayed 2 days. The Senator from New Hampshire yesterday afternoon agreed to vitiate this vote and agreed to proceed to the bill. We could be discussing amendments right now if we wanted. We could have been discussing amendments last night. When I was on the floor at about 5 o'clock, we could have been debating amendments, but we were debating whether we would allow this vote to be vitiated or not and agree to the motion to proceed.

I have to question how genuine the concern is about having this delay of 2 days when we could have been on the bill yesterday and we could be amending the bill as we speak. That is No. 1.

No. 2, let's understand, the underlying bill is the discussion, which has to do with the generics versus the main line pharmaceutical companies, and how we deal with the issue of reimportation of drugs is going to be an issue—there will be other issues—related to prescriptions. But this is a vehicle for a much broader and I think to the American public more important debate, and that is how we are going to provide prescription drugs for seniors. That is what the majority leader has said this debate is going to be all about that we are going to move to very quickly once this motion to proceed is agreed to, and I believe it will be unanimous.

Let's understand the game that has been set up. The majority leader has set up a procedure on the floor of the Senate to guarantee—and I am underlying that word—to guarantee that no bill to provide prescription drugs would pass the Senate. I do not say that lightly. I use the word "guarantee." We have 100-percent assurance under this procedure that no bill to provide prescription drug coverage will pass the Senate. Why? Because in last year's budget agreement—I say last year's budget agreement and you say: Senator, what about this year's budget agreement? We do not have a budget agreement for this year. We have no agreement of the budget that provides for money to be set aside for a Medicare prescription drug benefit.

So we have to go to last year's budget agreement to see what that provides for with respect to Medicare and prescription drug benefits.

What does that provide for? Two things. No. 1, any bill that is not reported from the Finance Committee to the floor of the Senate on Medicare prescription drugs will have a 60-vote point of order against it. What does that mean? That means if we had a $10 bill, a bill that costs $10 to the American Treasury, on the floor of the Senate it would be subject to a budget point of order. It would have to have 60 votes.

So what the Senator from South Dakota, the majority leader, has done, is he has required every single Medicare prescription drug bill to get 60 votes. The other budget provision says it had to be under $300 billion.

Now, what we are hearing is that there is some outrage that we have delayed this all of less than a day actually, and that the majority wants to go forward and move their prescription drug bill. Fine. Let's look at this prescription drug bill. This is a bill they could not get through committee. Had they been able to get it through committee, I am sure they would have allowed Senator BAUCUS to mark up this bill and go through committee, but they could not get it through committee. So they bypassed the committee, thereby assuring, as the Senator from New Hampshire said, mutual assured destruction. This is a partisan exercise.

So the bill will come to the floor. This is a bill that I have heard out in the hallways is going to cost upwards of a trillion dollars. Nobody has seen this bill. This is the largest expansion of entitlements in the history of this country, and no one has seen the bill. It is going to cost hundreds of billions, potentially a trillion dollars, over the next 10 years; it has not had one hearing in committee and it has not been marked up in the committee. What we are expected to do in the Senate is somehow agree to pass this bill within, according to the majority leader, the next 7 days. Within 7 or 8 days, we are going to pass a prescription drug bill that no one has seen, that nobody knows how much it costs—it could cost up to a trillion dollars—that no hearing has been held on, that no markup has been done on.

If we are serious about getting a prescription drug benefit, this is not the way to present this to the Senate. What this is, pure and simple, is politics. This is about the majority leader being interested in setting up a procedure that will assure that no bill passes so they have the issue of saying, see, we wanted to give you all these wonderful things, we wanted to give you all these benefits, give you Cadillac this and Cadillac that, and these lousy Republicans do not want to let you have it.

I suggest that we have three proposals on this side of the aisle on which we would love to get votes. Senator SMITH from New Hampshire has one; Senators HAGEL and ENSIGN have one; and then there is the tripartisan bill, all of which will move the ball down the field substantially when it comes to providing prescription drug benefits for seniors, all of which I believe could pass the test of the budget, which is getting through the Finance Committee and being under $300 billion in expenditures.

That is what we should be doing. We should be trying to pass a bill that gets through the Senate so we can get it to conference, work with the House, and get a drug benefit by November, not get a political issue by November.

This process has been set up to fail. This process has been set up to fail so some believe they will get political advantage by doing so. I want everybody to understand that when next Friday rolls around and we are at loggerheads because nobody can get 60 votes on a budget point of order and everybody is now gnashing their teeth and wringing their hands and saying, oh, woe is us, we could not get a bill done, we failed the American public, the Republicans would not let us pass our bill, or whatever the case may be, understand the template has been set for that today. The template has been set for that today by bringing a bill to the floor which requires 60 votes as a budget point of order. Once that template was set, once the majority leader decided to bypass the Finance Committee, a Finance Committee that, without question, could pass a bill—there is no question they could pass a bill, but again the majority leader, as he did with trade, as he has done with a whole lot of issues with respect to the Finance Committee, has basically pushed the Finance Committee aside.

I do not know whether he does not trust the committee, whether he does not trust the leadership. I do not know what it is, but the Finance Committee has pretty much been made irrelevant over the past several months by the majority leader. What we have as a result of that is a procedure that is doomed to failure.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. I understand we have 5 minutes 40 seconds left. Is that right?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. What I would like to do is give 1½ minutes to the Senator from New York and 3 minutes to the Senator from New Jersey.

Mr. SCHUMER. I yield my remaining time. Senator GREGG corrected the time. I would be happy to yield my remaining time.

Mr. KENNEDY. I yield 4½ minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I rise to speak about the unspeakable, as far as I am concerned. I picked up the paper this morning and I read House GOP leaders fight audit plan, an audit plan that passed this body 97 to 0.

There are rumors circulating out among those on the Hill that a procedural process called blue-slipping has been applied to the Senate-passed corporate responsibility act, more formally known as the Accounting Reform and Investor Protection Act, which our Nation is crying out for, in response to corporate malfeasance and the deterioration of the quality of financial reporting corporate governance in this Nation.

If we have ever seen a situation where politics is an overwhelming necessity, where the politics of a given issue is undermining the needs of the American people, investors across this country, retirees, people who are dependent on our financial system having integrity and how it responds to information presented from companies, it is demonstrated by these actions with regard to trying to stop or hold back something that is absolutely essential for making sure that our economy and our markets function properly.

In case people had not noticed, we have lost over $2.5 trillion in our financial markets this year alone with respect to what is going on in corporate governance, corporate malfeasance. Yesterday we heard a positive statement out of the Chairman of the Federal Reserve Board about the underlying fundamentals of the economy. Productivity is up; inflation is down. There is plenty of reason for why our market should be moving forward, why the marketplace should feel comfortable with itself, but what is standing in its way is the integrity of corporate responsibility, the integrity of our financial statements, the integrity of how our marketplace works. We are refusing to deal with this on a straightforward and expeditious manner.

The President has asked for it to be placed on his desk in less than 3 weeks, and now we are being stopped cold dead by the House leadership.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. CORZINE. Absolutely.

Mr. SCHUMER. I could not agree more with what my colleague from New Jersey has said. We passed a 31(e) bill, which reduced taxes on corporate transactions but was supposed to fund the SEC. We could not even get an authorization to have pay parity for the SEC to hire new people. That is one of the reasons we are in the pickle we are in.

So I ask my colleague from New Jersey: Is this not the same type of thing where they say, oh, yes, we are for enforcement, but they do not put any money in to either get enforcers or the quality of enforcers that we need?

Mr. CORZINE. The reason we have had responses like we have had in the marketplace in the last 2 weeks is that people are hot on rhetoric and low, low, low with regard to results and doing anything that is proper action to deal with the problem.

Mr. SCHUMER. If the Senator will continue to yield, the best place we can have action is in the bowels of the agencies where they find the wrongdoing; capable people, Government workers, they find it, nail them, so it does not happen again. Am I wrong about that?

Mr. CORZINE. The Senator is certainly right.

The PRESIDING OFFICER. The Senator has used 3 minutes.

Mr. CORZINE. I hope we take real action soon to stop this crisis of confidence from continuing.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Fifteen seconds.

Mr. KENNEDY. Vote for cloture and get on with debate. This is an important first step that can take us on the road to lower prices and better availability of drug coverage for people who need it in our country.

I understand under the procedure the yeas and nays are automatic; is that correct?

The PRESIDING OFFICER. That is right.

Mr. KENNEDY. I understand all time has expired.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the motion to proceed to Calendar No. 491; S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001:

Senators Harry Reid, Jon Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul Sarbanes, Debbie Stabenow, Dick Durbin, Thomas Carper, Tom Daschle, Jack Reed, Daniel K. Akaka, Kent Conrad, Zell Miller, Charles Schumer, Ernest Hollings, Hillary Clinton.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 99, nays 0, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—99

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 99, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the motion to proceed is agreed to and the clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

The Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 812

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Greater Access to Affordable Pharmaceuticals Act of 2001".

### SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) prescription drug costs are increasing at an alarming rate and are a major worry of American families and senior citizens;

(2) enhancing competition between generic drug manufacturers and brand-name manufacturers can significantly reduce prescription drug costs for American families;

(3) the pharmaceutical market has become increasingly competitive during the last decade because of the increasing availability and accessibility of generic pharmaceuticals, but competition must be further stimulated and strengthened;

(4) the Federal Trade Commission has discovered that there are increasing opportunities for drug companies owning patents on brand-name drugs and generic drug companies to enter into private financial deals in a manner that could restrain trade and greatly reduce competition and increase prescription drug costs for consumers;

(5) generic pharmaceuticals are approved by the Food and Drug Administration on the basis of scientific testing and other information establishing that pharmaceuticals are therapeutically equivalent to brand-name pharmaceuticals, ensuring consumers a safe, efficacious, and cost-effective alternative to brand-name innovator pharmaceuticals;

(6) the Congressional Budget Office estimates that—

(A) the use of generic pharmaceuticals for brand-name pharmaceuticals could save purchasers of pharmaceuticals between $8,000,000,000 and $10,000,000,000 each year; and

(B) generic pharmaceuticals cost between 25 percent and 60 percent less than brand-name pharmaceuticals, resulting in an estimated average savings of $15 to $30 on each prescription;

(7) generic pharmaceuticals are widely accepted by consumers and the medical profession, as the market share held by generic pharmaceuticals compared to brand-name pharmaceuticals has more than doubled during the last decade, from approximately 19 percent to 43 percent, according to the Congressional Budget Office;

(8) expanding access to generic pharmaceuticals can help consumers, especially senior citizens and the uninsured, have access to more affordable prescription drugs;

(9) Congress should ensure that measures are taken to effectuate the amendments made by the Drug Price Competition and Patent Term Restoration Act of 1984 (98 Stat. 1585) (referred to in this section as the "Hatch-Waxman Act") to make generic drugs more accessible, and thus reduce health care costs; and

(10) it would be in the public interest if patents on drugs for which applications are approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) were extended only through the patent extension procedure provided under the Hatch-Waxman Act rather than through the attachment of riders to bills in Congress.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase competition, thereby helping all Americans, especially seniors and the uninsured, to have access to more affordable medication; and

(2) to ensure fair marketplace practices and deter pharmaceutical companies (including generic companies) from engaging in anticompetitive action or actions that tend to unfairly restrain trade.

### *SEC. 3. FILING OF PATENT INFORMATION WITH THE FOOD AND DRUG ADMINISTRATION.*

*(a) FILING AFTER APPROVAL OF AN APPLICATION.—*

*(1) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) (as amended by section 9(a)(2)(B)(ii)) is amended in subsection (c) by striking paragraph (2) and inserting the following:*

*"(2) PATENT INFORMATION.—*

*"(A) IN GENERAL.—Not later than the date that is 30 days after the date of an order approving an application under subsection (b) (unless the Secretary extends the date because of extraordinary or unusual circumstances), the holder of the application shall file with the Secretary the patent information described in subparagraph (C) with respect to any patent—*

*"(i)(I) that claims the drug for which the application was approved; or*

*"(II) that claims an approved method of using the drug; and*

*"(ii) with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug.*

*"(B) SUBSEQUENTLY ISSUED PATENTS.—In a case in which a patent described in subparagraph (A) is issued after the date of an order approving an application under subsection (b), the holder of the application shall file with the Secretary the patent information described in subparagraph (C) not later than the date that is 30 days after the date on which the patent is issued (unless the Secretary extends the date because of extraordinary or unusual circumstances).*

*"(C) PATENT INFORMATION.—The patent information required to be filed under subparagraph (A) or (B) includes—*

*"(i) the patent number;*

*"(ii) the expiration date of the patent;*

*"(iii) with respect to each claim of the patent—*

*"(I) whether the patent claims the drug or claims a method of using the drug; and*

*"(II) whether the claim covers—*

*"(aa) a drug substance;*

*"(bb) a drug formulation;*

*"(cc) a drug composition; or*

*"(dd) a method of use;*

*"(iv) if the patent claims a method of use, the approved use covered by the claim;*

*"(v) the identity of the owner of the patent (including the identity of any agent of the patent owner); and*

*"(vi) a declaration that the applicant, as of the date of the filing, has provided complete and accurate patent information for all patents described in subparagraph (A).*

*"(D) PUBLICATION.—On filing of patent information required under subparagraph (A) or (B), the Secretary shall—*

*"(i) immediately publish the information described in clauses (i) through (iv) of subparagraph (C); and*

*"(ii) make the information described in clauses (v) and (vi) of subparagraph (C) available to the public on request.*

*"(E) CIVIL ACTION FOR CORRECTION OR DELETION OF PATENT INFORMATION.—*

*"(i) IN GENERAL.—A person that has filed an application under subsection (b)(2) or (j) for a drug may bring a civil action against the holder of the approved application for the drug seeking an order requiring that the holder of the application amend the application—*

*"(I) to correct patent information filed under subparagraph (A); or*

*"(II) to delete the patent information in its entirety for the reason that—*

*"(aa) the patent does not claim the drug for which the application was approved; or*

*"(bb) the patent does not claim an approved method of using the drug.*

*"(ii) LIMITATIONS.—Clause (i) does not authorize—*

*"(I) a civil action to correct patent information filed under subparagraph (B); or*

*"(II) an award of damages in a civil action under clause (i).*

*"(F) NO CLAIM FOR PATENT INFRINGEMENT.—An owner of a patent with respect to which a holder of an application fails to file information on or before the date required under subparagraph (A) or (B) shall be barred from bringing a civil action for infringement of the patent against a person that—*

*"(i) has filed an application under subsection (b)(2) or (j); or*

*"(ii) manufactures, uses, offers to sell, or sells a drug approved under an application under subsection (b)(2) or (j).".*

*(2) TRANSITION PROVISION.—*

*(A) FILING OF PATENT INFORMATION.—Each holder of an application for approval of a new drug under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) that has been approved before the date of enactment of this Act shall amend the application to include the patent information required under the amendment made by paragraph (1) not later than the date that is 30 days after the date of enactment of this Act (unless the Secretary of Health and Human Services extends the date because of extraordinary or unusual circumstances).*

*(B) NO CLAIM FOR PATENT INFRINGEMENT.—An owner of a patent with respect to which a holder of an application under subsection (b) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) fails to file information on or before the date required under subparagraph (A) shall be barred from bringing a civil action for infringement of the patent against a person that—*

*(i) has filed an application under subsection (b)(2) or (j) of that section; or*

*(ii) manufactures, uses, offers to sell, or sells a drug approved under an application under subsection (b)(2) or (j) of that section.*

*(b) FILING WITH AN APPLICATION.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—*

*(1) in subsection (b)(2)—*

*(A) in subparagraph (A), by striking "and" at the end;*

*(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(C) with respect to a patent that claims both the drug and a method of using the drug or claims more than 1 method of using the drug for which the application is filed—*

*"(i) a certification under subparagraph (A)(iv) on a claim-by-claim basis; and*

*"(ii) a statement under subparagraph (B) regarding the method of use claim."; and*

*(2) in subsection (j)(2)(A), by inserting after clause (viii) the following:*

*"With respect to a patent that claims both the drug and a method of using the drug or claims more than 1 method of using the drug for which the application is filed, the application shall contain a certification under clause (vii)(IV) on a claim-by-claim basis and a statement under clause (viii) regarding the method of use claim.".*

### SEC. 4. LIMITATION OF 30-MONTH STAY TO CERTAIN PATENTS.

*(a) ABBREVIATED NEW DRUG APPLICATIONS.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended—*

*(1) in subparagraph (B)—*

*(A) in clause (iii)—*

*(i) by striking "(iii) If the applicant made a certification described in subclause (IV) of paragraph (2)(A)(vii)," and inserting the following:*

*"(iii) SUBCLAUSE (IV) CERTIFICATION WITH RESPECT TO CERTAIN PATENTS.—If the applicant made a certification described in paragraph (2)(A)(vii)(IV) with respect to a patent (other than a patent that claims a process for manufacturing the listed drug) for which patent information was filed with the Secretary under subsection (c)(2)(A),"; and*

*(ii) by adding at the end the following: "The 30-month period provided under the second sentence of this clause shall not apply to a certification under paragraph (2)(A)(vii)(IV) made with respect to a patent for which patent information was filed with the Secretary under subsection (c)(2)(B).";*

*(B) by redesignating clause (iv) as clause (v); and*

*(C) by inserting after clause (iii) the following:*

*"(iv) SUBCLAUSE (IV) CERTIFICATION WITH RESPECT TO OTHER PATENTS.—*

*"(I) IN GENERAL.—If the applicant made a certification described in paragraph (2)(A)(vii)(IV) with respect to a patent not described in clause (iii) for which patent information was published by the Secretary under subsection (c)(2)(D), the approval shall be made effective on the date that is 45 days after the date on which the notice provided under paragraph (2)(B) was received, unless a civil action for infringement of the patent, accompanied by a motion for preliminary injunction to enjoin the applicant from engaging in the commercial manufacture or sale of the drug, was filed on or before the date that is 45 days after the date on which the notice was received, in which case the approval shall be made effective—*

*"(aa) on the date of a court action declining to grant a preliminary injunction; or*

*"(bb) if the court has granted a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug—*

*"(AA) on issuance by a court of a determination that the patent is invalid or is not infringed;*

*"(BB) on issuance by a court of an order revoking the preliminary injunction or permitting the applicant to engage in the commercial manufacture or sale of the drug; or*

*"(CC) on the date specified in a court order under section 271(e)(4)(A) of title 35, United States Code, if the court determines that the patent is infringed.*

*"(II) COOPERATION.—Each of the parties shall reasonably cooperate in expediting a civil action under subclause (I).*

*"(III) EXPEDITED NOTIFICATION.—If the notice under paragraph (2)(B) contains an address for the receipt of expedited notification of a civil action under subclause (I), the plaintiff shall, on the date on which the complaint is filed, simultaneously cause a notification of the civil action to be delivered to that address by the next business day."; and*

*(2) by inserting after subparagraph (B) the following:*

*"(C) FAILURE TO BRING INFRINGEMENT ACTION.—If, in connection with an application under this subsection, the applicant provides an owner of a patent notice under paragraph (2)(B) with respect to the patent, and the owner of the patent fails to bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice is received, the owner of the patent shall be barred from bringing a civil action for infringement of the patent in connection with the development, manufacture, use, offer to sell, or sale of the drug for which the application was filed or approved under this subsection.".*

*(b) OTHER APPLICATIONS.—Section 505(c)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) (as amended by section 9(a)(3)(A)(iii)) is amended—*

*(1) in paragraph (3)—*

*(A) in subparagraph (C)—*

*(i) by striking "(C) If the applicant made a certification described in clause (iv) of subsection (b)(2)(A)," and inserting the following:*

*"(C) CLAUSE (iv) CERTIFICATION WITH RESPECT TO CERTAIN PATENTS.—If the applicant made a certification described in subsection (b)(2)(A)(iv) with respect to a patent (other than a patent that claims a process for manufacturing the listed drug) for which patent information was filed with the Secretary under paragraph (2)(A),"; and*

*(ii) by adding at the end the following: "The 30-month period provided under the second sentence of this subparagraph shall not apply to a certification under subsection (b)(2)(A)(iv) made with respect to a patent for which patent information was filed with the Secretary under paragraph (2)(B)."; and*

*(B) by inserting after subparagraph (C) the following:*

*"(D) CLAUSE (iv) CERTIFICATION WITH RESPECT TO OTHER PATENTS.—*

*"(i) IN GENERAL.—If the applicant made a certification described in subsection (b)(2)(A)(iv) with respect to a patent not described in subparagraph (C) for which patent information was published by the Secretary under paragraph (2)(D), the approval shall be made effective on the date that is 45 days after the date on which the notice provided under subsection (b)(3) was received, unless a civil action for infringement of the patent, accompanied by a motion for preliminary injunction to enjoin the applicant from engaging in the commercial manufacture or sale of the drug, was filed on or before the date that is 45 days after the date on which the notice was received, in which case the approval shall be made effective—*

*"(I) on the date of a court action declining to grant a preliminary injunction; or*

*"(II) if the court has granted a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug—*

*"(aa) on issuance by a court of a determination that the patent is invalid or is not infringed;*

*"(bb) on issuance by a court of an order revoking the preliminary injunction or permitting the applicant to engage in the commercial manufacture or sale of the drug; or*

*"(cc) on the date specified in a court order under section 271(e)(4)(A) of title 35, United States Code, if the court determines that the patent is infringed.*

*"(ii) COOPERATION.—Each of the parties shall reasonably cooperate in expediting a civil action under clause (i).*

*"(iii) EXPEDITED NOTIFICATION.—If the notice under subsection (b)(3) contains an address for the receipt of expedited notification of a civil action under clause (i), the plaintiff shall, on the date on which the complaint is filed, simultaneously cause a notification of the civil action to be delivered to that address by the next business day."; and*

*(2) by inserting after paragraph (3) the following:*

*"(4) FAILURE TO BRING INFRINGEMENT ACTION.—If, in connection with an application under subsection (b)(2), the applicant provides an owner of a patent notice under subsection (b)(3) with respect to the patent, and the owner of the patent fails to bring a civil action against the applicant for infringement of the patent on or before the date that is 45 days after the date on which the notice is received, the owner of the patent shall be barred from bringing a civil action for infringement of the patent in connection with the development, manufacture, use, offer to sell, or sale of the drug for which the application was filed or approved under subsection (b)(2).".*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall be effective with respect to any certification under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) made after the date of enactment of this Act in an application filed under subsection (b)(2) or (j) of that section.*

*(2) TRANSITION PROVISION.—In the case of applications under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) filed before the date of enactment of this Act—*

*(A) a patent (other than a patent that claims a process for manufacturing a listed drug) for which information was submitted to the Secretary of Health and Human Services under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (as in effect on the day before the date of enactment of this Act) shall be subject to subsections (c)(3)(C) and (j)(5)(B)(iii) of section 505 of the Federal Food, Drug, and Cosmetic Act (as amended by this section); and*

*(B) any other patent (including a patent for which information was submitted to the Secretary under section 505(c)(2) of that Act (as in effect on the day before the date of enactment of this Act)) shall be subject to subsections (c)(3)(D) and (j)(5)(B)(iv) of section 505 of the Federal Food, Drug, and Cosmetic Act (as amended by this section).*

### SEC. 5. EXCLUSIVITY FOR ACCELERATED GENERIC DRUG APPLICANTS.

*(a) IN GENERAL.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) (as amended by section 4(a)) is amended—*

*(1) in subparagraph (B)(v), by striking subclause (II) and inserting the following:*

*"(II) the earlier of—*

*"(aa) the date of a final decision of a court (from which no appeal has been or can be taken, other than a petition to the Supreme Court for a writ of certiorari) holding that the patent that is the subject of the certification is invalid or not infringed; or*

*"(bb) the date of a settlement order or consent decree signed by a Federal judge that enters a final judgment and includes a finding that the patent that is the subject of the certification is invalid or not infringed;"; and*

*(2) by inserting after subparagraph (C) the following:*

*"(D) FORFEITURE OF 180-DAY PERIOD.—*

*"(i) DEFINITIONS.—In this subparagraph:*

*"(I) APPLICATION.—The term 'application' means an application for approval of a drug under this subsection containing a certification under paragraph (2)(A)(vii)(IV) with respect to a patent.*

*"(II) FIRST APPLICATION.—The term 'first application' means the first application to be filed for approval of the drug.*

*"(III) FORFEITURE EVENT.—The term 'forfeiture event', with respect to an application*

under this subsection, means the occurrence of any of the following:

"(aa) FAILURE TO MARKET.—The applicant fails to market the drug by the later of—

"(AA) the date that is 60 days after the date on which the approval of the application for the drug is made effective under clause (iii) or (iv) of subparagraph (B) (unless the Secretary extends the date because of extraordinary or unusual circumstances); or

"(BB) if 1 or more civil actions have been brought against the applicant for infringement of a patent subject to a certification under paragraph (2)(A)(vii)(IV) or 1 or more civil actions have been brought by the applicant for a declaratory judgment that such a patent is invalid or not infringed, the date that is 60 days after the date of a final decision (from which no appeal has been or can be taken, other than a petition to the Supreme Court for a writ of certiorari) in the last of those civil actions to be decided (unless the Secretary extends the date because of extraordinary or unusual circumstances).

"(bb) WITHDRAWAL OF APPLICATION.—The applicant withdraws the application.

"(cc) AMENDMENT OF CERTIFICATION.—The applicant, voluntarily or as a result of a settlement or defeat in patent litigation, amends the certification from a certification under paragraph (2)(A)(vii)(IV) to a certification under paragraph (2)(A)(vii)(III).

"(dd) FAILURE TO OBTAIN APPROVAL.—The applicant fails to obtain tentative approval of an application within 30 months after the date on which the application is filed, unless the failure is caused by—

"(AA) a change in the requirements for approval of the application imposed after the date on which the application is filed; or

"(BB) other extraordinary circumstances warranting an exception, as determined by the Secretary.

"(ee) FAILURE TO CHALLENGE PATENT.—In a case in which, after the date on which the applicant submitted the application, new patent information is submitted under subsection (c)(2) for the listed drug for a patent for which certification is required under paragraph (2)(A), the applicant fails to submit, not later than the date that is 60 days after the date on which the Secretary publishes the new patent information under paragraph (7)(A)(iii) (unless the Secretary extends the date because of extraordinary or unusual circumstances)—

"(AA) a certification described in paragraph (2)(A)(vii)(IV) with respect to the patent to which the new patent information relates; or

"(BB) a statement that any method of use claim of that patent does not claim a use for which the applicant is seeking approval under this subsection in accordance with paragraph (2)(A)(viii).

"(ff) UNLAWFUL CONDUCT.—The Federal Trade Commission determines that the applicant engaged in unlawful conduct with respect to the application in violation of section 1 of the Sherman Act (15 U.S.C. 1).

"(IV) SUBSEQUENT APPLICATION.—The term 'subsequent application' means an application for approval of a drug that is filed subsequent to the filing of a first application for approval of that drug.

"(ii) FORFEITURE OF 180-DAY PERIOD.—

"(I) IN GENERAL.—Except as provided in subclause (II), if a forfeiture event occurs with respect to a first application—

"(aa) the 180-day period under subparagraph (B)(v) shall be forfeited by the first applicant; and

"(bb) any subsequent application shall become effective as provided under clause (i), (ii), (iii), or (iv) of subparagraph (B), and clause (v) of subparagraph (B) shall not apply to the subsequent application.

"(II) FORFEITURE TO FIRST SUBSEQUENT APPLICANT.—If the subsequent application that is the first to be made effective under subclause (I) was the first among a number of subsequent applications to be filed—

"(aa) that first subsequent application shall be treated as the first application under this subparagraph (including subclause (I)) and as the previous application under subparagraph (B)(v); and

"(bb) any other subsequent applications shall become effective as provided under clause (i), (ii), (iii), or (iv) of subparagraph (B), but clause (v) of subparagraph (B) shall apply to any such subsequent application.

"(iii) AVAILABILITY.—The 180-day period under subparagraph (B)(v) shall be available to a first applicant submitting an application for a drug with respect to any patent without regard to whether an application has been submitted for the drug under this subsection containing such a certification with respect to a different patent.

"(iv) APPLICABILITY.—The 180-day period described in subparagraph (B)(v) shall apply to an application only if a civil action is brought against the applicant for infringement of a patent that is the subject of the certification.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective only with respect to an application filed under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) after the date of enactment of this Act for a listed drug for which no certification under section 505(j)(2)(A)(vii)(IV) of that Act was made before the date of enactment of this Act, except that if a forfeiture event described in section 505(j)(5)(D)(i)(III)(ff) of that Act occurs in the case of an applicant, the applicant shall forfeit the 180-day period under section 505(j)(5)(B)(v) of that Act without regard to when the applicant made a certification under section 505(j)(2)(A)(vii)(IV) of that Act.

**SEC. 6. FAIR TREATMENT FOR INNOVATORS.**

(a) BASIS FOR APPLICATION.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (b)(3)(B), by striking the second sentence and inserting "The notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that, as of the date of the notice, the patent is not valid or is not infringed, and shall include, as appropriate for the relevant patent, a description of the applicant's proposed drug substance, drug formulation, drug composition, or method of use. All information disclosed under this subparagraph shall be treated as confidential and may be used only for purposes relating to patent adjudication. Nothing in this subparagraph precludes the applicant from amending the factual or legal basis on which the applicant relies in patent litigation."; and

(2) in subsection (j)(2)(B)(ii), by striking the second sentence and inserting "The notice shall include a detailed statement of the factual and legal basis of the opinion of the applicant that, as of the date of the notice, the patent is not valid or is not infringed, and shall include, as appropriate for the relevant patent, a description of the applicant's proposed drug substance, drug formulation, drug composition, or method of use. All information disclosed under this subparagraph shall be treated as confidential and may be used only for purposes relating to patent adjudication. Nothing in this subparagraph precludes the applicant from amending the factual or legal basis on which the applicant relies in patent litigation.".

(b) INJUNCTIVE RELIEF.—Section 505(j)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)) (as amended by section 4(a)(1)) is amended—

(1) in clause (iii), by adding at the end the following: "A court shall not regard the extent of the ability of an applicant to pay monetary damages as a whole or partial basis on which to deny a preliminary or permanent injunction under this clause."; and

(2) in clause (iv), by adding at the end the following:

"(IV) INJUNCTIVE RELIEF.—A court shall not regard the extent of the ability of an applicant to pay monetary damages as a whole or partial basis on which to deny a preliminary or permanent injunction under this clause.".

**SEC. 7. BIOEQUIVALENCE.**

(a) IN GENERAL.—The amendments to part 320 of title 21, Code of Federal Regulations, promulgated by the Commissioner of Food and Drugs on July 17, 1991 (57 Fed. Reg. 17997 (April 28, 1992)), shall continue in effect as an exercise of authorities under sections 501, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 355, 371).

(b) EFFECT.—Subsection (a) does not affect the authority of the Commissioner of Food and Drugs to amend part 320 of title 21, Code of Federal Regulations.

(c) EFFECT OF SECTION.—This section shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). Any such authority shall be exercised under that Act as in effect on the day before the date of enactment of this Act.

**SEC. 8. REPORT.**

(a) IN GENERAL.—Not later than the date that is 5 years after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report describing the extent to which implementation of the amendments made by this Act—

(1) has enabled products to come to market in a fair and expeditious manner, consistent with the rights of patent owners under intellectual property law; and

(2) has promoted lower prices of drugs and greater access to drugs through price competition.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

**SEC. 9. CONFORMING AND TECHNICAL AMENDMENTS.**

(a) SECTION 505.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (a), by striking "(a) No person" and inserting "(a) IN GENERAL.—No person";

(2) in subsection (b)—

(A) by striking "(b)(1) Any person" and inserting the following:

"(b) APPLICATIONS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—Any person";

(B) in paragraph (1)—

(i) in the second sentence—

(I) by redesignating subparagraphs (A) through (F) as clauses (i) through (vi), respectively, and adjusting the margins appropriately;

(II) by striking "Such persons" and inserting the following:

"(B) INFORMATION TO BE SUBMITTED WITH APPLICATION.—A person that submits an application under subparagraph (A)"; and

(III) by striking "application" and inserting "application—";

(ii) by striking the third through fifth sentences; and

(iii) in the sixth sentence—

(I) by striking "The Secretary" and inserting the following:

"(C) GUIDANCE.—The Secretary"; and

(II) by striking "clause (A)" and inserting "subparagraph (B)(i)"; and

(C) in paragraph (2)—

*(i) by striking "clause (A) of such paragraph" and inserting "paragraph (1)(B)(i)";*

*(ii) in subparagraphs (A) and (B), by striking "paragraph (1) or"; and*

*(iii) in subparagraph (B)—*

*(I) by striking "paragraph (1)(A)" and inserting "paragraph (1)(B)(i)"; and*

*(II) by striking "patent" each place it appears and inserting "claim"; and*

*(3) in subsection (c)—*

*(A) in paragraph (3)—*

*(i) in subparagraph (A)—*

*(I) by striking "(A) If the applicant" and inserting the following:*

*"(A) CLAUSE (i) OR (ii) CERTIFICATION.—If the applicant"; and*

*(II) by striking "may" and inserting "shall";*

*(ii) in subparagraph (B)—*

*(I) by striking "(B) If the applicant" and inserting the following:*

*"(B) CLAUSE (iii) CERTIFICATION.—If the applicant"; and*

*(II) by striking "may" and inserting "shall";*

*(iii) by redesignating subparagraph (D) as subparagraph (E); and*

*(iv) in subparagraph (E) (as redesignated by clause (iii)), by striking "clause (A) of subsection (b)(1)" each place it appears and inserting "subsection (b)(1)(B)(i)"; and*

*(B) by redesignating paragraph (4) as paragraph (5); and*

*(4) in subsection (j)—*

*(A) in paragraph (2)(A)—*

*(i) in clause (vi), by striking "clauses (B) through ((F)" and inserting "subclauses (ii) through (vi) of subsection (b)(1)";*

*(ii) in clause (vii), by striking "(b) or"; and*

*(iii) in clause (viii)—*

*(I) by striking "(b) or"; and*

*(II) by striking "patent" each place it appears and inserting "claim"; and*

*(B) in paragraph (5)—*

*(i) in subparagraph (B)—*

*(I) in clause (i)—*

*(aa) by striking "(i) If the applicant" and inserting the following:*

*"(i) SUBCLAUSE (I) OR (II) CERTIFICATION.—If the applicant"; and*

*(bb) by striking "may" and inserting "shall";*

*(II) in clause (ii)—*

*(aa) by striking "(ii) If the applicant" and inserting the following:*

*"(i) SUBCLAUSE (III) CERTIFICATION.—If the applicant"; and*

*(bb) by striking "may" and inserting "shall";*

*(III) in clause (iii), by striking "(2)(B)(i)" each place it appears and inserting "(2)(B)"; and*

*(IV) in clause (v) (as redesignated by section 4(a)(1)(B)), by striking "continuing" and inserting "containing"; and*

*(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively.*

*(b) SECTION 505A.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—*

*(1) in subsections (b)(1)(A)(i) and (c)(1)(A)(i)—*

*(A) by striking "(c)(3)(D)(ii)" each place it appears and inserting "(c)(3)(E)(ii)"; and*

*(B) by striking "(j)(5)(D)(ii)" each place it appears and inserting "(j)(5)(F)(ii)";*

*(2) in subsections (b)(1)(A)(ii) and (c)(1)(A)(ii)—*

*(A) by striking "(c)(3)(D)" each place it appears and inserting "(c)(3)(E)"; and*

*(B) by striking "(j)(5)(D)" each place it appears and inserting "(j)(5)(F)";*

*(3) in subsections (e) and (l)—*

*(A) by striking "505(c)(3)(D)" each place it appears and inserting "505(c)(3)(E)"; and*

*(B) by striking "505(j)(5)(D)" each place it appears and inserting "505(j)(5)(F)"; and*

*(4) in subsection (k), by striking "505(j)(5)(B)(iv)" and inserting "505(j)(5)(B)(v)".*

*(c) SECTION 527.—Section 527(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc(a)) is amended in the second sentence by striking "505(c)(2)" and inserting "505(c)(1)(B)".*

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I will propound a unanimous consent request. It has been agreed to on both sides. And then I would like to put the Senate in a quorum call so we might proceed in an organized way. I think we are just about there.

I ask unanimous consent that the committee-reported amendment be considered and agreed to, and the motion to reconsider be laid upon the table; that the bill, as thus amended, be considered as original text for the purpose of further amendment; that no points of order be considered waived by virtue of this agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The committee amendment was agreed to.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent the Senator from Arizona be recognized for up to 15 minutes and that I get the floor following the completion of his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. The Senator from Arizona has indicated this is for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized for up to 15 minutes.

Mr. MCCAIN. Madam President, I thank the Senator from Nevada.

It is time to talk about the bill that is before us which, as we all know, is going to be used as a vehicle to attempt to address the very controversial issue of prescription drug benefits for Medicare.

I also thank the Senator from Massachusetts for passing this bill through his committee and reporting it to the floor.

I thank especially Senator SCHUMER who really is the person responsible for this legislation. All of us like to take credit for things in this body. The fact is, the reality is, Senator SCHUMER brought this issue, certainly the idea for this legislation, to my attention. He is the one who really worked on it. I am grateful he included me in this very important issue.

It is important to the people of my State and to all Americans. As we all know, there are large numbers of retirees who have been intelligent enough to move from New York to Arizona, and they are deeply affected by the cost of prescription drugs.

Mr. SCHUMER. Will the Senator yield for a brief comment?

Mr. MCCAIN. I am glad to yield to the Senator from New York.

Mr. SCHUMER. I thank my friend. I want to thank him. We have been in this together from the beginning—almost 2 years ago, when we realized that something had to be done. His steadfastness, his courage, and his constant efforts to refine the legislation and make it better and make sure we bring it to the floor has been a large part of why we are here. I thank the Senator for being a great colleague with whom to work. I wanted to repay the accolades and compliment of the Senator.

Mr. MCCAIN. I thank my friend from New York. Again, I reiterate that he really is the one who has been the leader in this issue and in this legislation. He is also well known for his tenacity.

Madam President, first of all, I think we also ought to understand that this issue alone—that of getting affordable drugs to all Americans—obviously, as I spoke of before, particularly seniors and those on fixed retirement incomes are the ones most dramatically affected. That is a critical issue in America today. I don't claim that this bill before us solves the problem of providing prescription drugs for all Americans, particularly seniors, but I do argue that this is a very important step in the right direction in lowering the cost of prescription drugs to all Americans.

Now, the drug companies have mounted a massive attack on this legislation. They were the major contributors in recent fundraisers on both sides of the aisle. It is not complicated. The bill is not complicated. It only has three or four provisions. Basically, what it achieves is an ability to do what the Hatch-Waxman bill was intended to do, and that is to make available generic drugs as early as possible, with respect for the rights of those who invested massive amounts of money, in many cases, in research and development and testing, and for them to have an adequate return on their investment. There is no intent here to harm the drug companies. What it is intended to do is to get drugs to the market in the generic fashion so people would only have to pay less.

Madam President, Allen Feezor, CalPERS' Assistant Executive Officer for Health Benefits, said:

> In two of the past three years, pharmaceutical costs have increased more than any other component in our CalPERS health rate.

CalPERS is the retirement plan for California employees, which are very large in number.

> In our Medicare Choice/Supplemental plans, pharmacy trend can account for over 50 percent of the increase in premium rates that we see in our retiree plans one year to the next.

The obvious result is very clear. Every year, prescription drugs become less and less affordable to all Americans but especially retirees. It should be noted. He goes on to say:

> It should be noted that in both our hospital and [prescription drug] trends, a measurable portion of the trend is due to increased utilization by our enrollees, but this cannot take away from the extraordinarily high trends in both pharmacy and hospital pricing.

The rising cost of prescription drugs is also playing a significant role in the growing financial burden companies experience as they struggle to provide employees with health care coverage. For example, General Motors, the largest provider of private sector health care coverage, spends over $4 billion a year to insure over 1.2 million workers, retirees and their dependents, $1.3 billion of which is on prescription drugs alone. Even with aggressive cost-saving mechanisms in place, GM's prescription drug costs continue to rise between 15 percent and 20 percent per year.

Given the crises in both corporate America and our Nation's health care system, anticompetitive behavior in the marketplace is particularly onerous. That is what we are trying to get at, the anticompetitive behavior. This legislation is intended not to weaken patent laws to the detriment of the pharmaceutical industry, nor is it to impede the tremendous investments they make in the research and development of new drugs. The purpose of the underlying legislation is to close loopholes in the Hatch-Waxman act, and to ensure more timely access to generic medications. This is an important distinction which must be made clear.

However, to believe that patent laws are not being abused is to ignore the mountain of testimony from consumers, industry analysts, and the Federal Trade Commission. The Commerce Committee heard testimony regarding the extent by which pharmaceutical companies, including generic manufacturers, engage in anticompetitive activities and impede access to affordable medications. During that hearing, Chairman Muris, of the FTC, testified:

> In spite of this remarkable record of success, the Hatch-Waxman amendments have also been subject to abuse. Although many drug manufacturers, including both branded companies and generics, have acted in good faith, some have attempted to "game" the system, securing greater profits for themselves without providing a corresponding benefit to consumers.

The intent of the Hatch-Waxman act was to address the escalating costs of prescription drugs by encouraging generic competition, while at the same time providing incentives for brand name drug companies to continue research and development into new and more advanced drugs. To a large extent, Hatch-Waxman has succeeded in striking that difficult balance between bringing new lower cost alternatives to consumers, while encouraging more investment in U.S. pharmaceutical research and development.

In the 15 years since the enactment of Hatch-Waxman, research and development has increased from $3 billion to $21 billion. However, some bad actors have manipulated the law in a manner that delays and, at times, prohibits generics from entering the marketplace.

I believe this legislation will improve the current system while preserving the intent of Hatch-Waxman. This legislation is not an attempt to jeopardize the patent rights of innovative companies, nor does it seek to provide unfair advantage to generic manufacturers. Rather, the intent of this legislation is to strike a balance between these two interests so that we can close the loopholes that allow some companies to engage in anticompetitive actions by unfairly prolonging patents or eliminating fair competition. In doing so, we offer consumers more choice in the marketplace.

It is imperative that Congress build upon the strengths of our current health care system while addressing its weaknesses. This should not be done by imposing price controls or creating a universal, Government-run health care system. Rather, a balance must be found that protects consumers with market-based, competitive solutions without allowing those protections to be manipulated at the consumers' expense, particularly senior citizens and working families without health care insurance.

Madam President, today, there are probably buses leaving places in the Northeast and in the Southwest, loaded with seniors who are going either to Mexico or Canada to purchase drugs, which will probably cost them around half of what they would at their local pharmacy. There are people today, as we speak, who are making a choice between their health and their income. That is wrong. It is wrong. It is wrong when patent drug companies game the system by doing things like bringing suits, which then delays the implementation. It is wrong when the patent drug companies actually pay generic drug companies not to produce a particular prescription drug while they continue their profits, and it is wrong to game this system.

So here we are with a bill that with proper debate and perhaps amendments, could be passed by this body and is supported by an overwhelming number of consumer organizations. Even the patent drug companies and the generic drug companies themselves will admit that we need to make reforms.

Unfortunately, this statement that I have made and those made by Senator SCHUMER may be the only debate we have on this legislation which could be passed between now and September. So what are we going to do? What we are really going to do is have a debate over the prescription drug issue, Medicare, and that will bog us down with competing proposals, all of which will require 60 votes, and none of which has the 60 votes. At the end of 2 weeks, rather than passing this bill, which we should, we are going to say, oops, we really cannot come to an agreement, and if we did have an agreement, the House bill is very different, and we would have to go to a conference, from which bills would never emerge.

I think the American people deserve better. Why do we not pass this underlying bill, or at least make a commitment to pass this underlying bill, if the competing proposals that will be before us on Medicare prescription drugs do not receive 60 votes?

What I am afraid is going to happen is that none of the three will receive 60 votes. Then we will drop the bill and move on to other issues, and I think that is wrong. I think we know that with this approach, this underlying legislation, with some changes, absent, of course, the huge campaign contributions of the drug companies, we could reach an agreement which would be fair to the prescription drug companies, fair to the generics, and fair to the American public, and, indeed, in the view of anyone, including a recent study by the Federal Trade Commission that shows that these abuses are having a direct impact on the increasing costs of prescription drugs to all Americans particularly.

I remind my colleagues that we may be doing an injustice and a disservice to Americans for this year by not addressing this particular aspect of it and having it encumbered and bogged down by competing proposals.

I believe this legislation is fairly simple. It passed through the committee of jurisdiction with half of the Republican members voting for it. I know Senator GREGG, the ranking member, has some problems with it. I think with debate, amendment, and discussion, we could resolve those concerns that we might have and move forward.

Mr. GREGG. Will the Senator yield for a question?

Mr. McCAIN. I would be glad to yield.

Mr. GREGG. The Senator characterizes my views accurately, and I agree with the Senator that this bill should be moved independent of the drug bill. Unfortunately, the greater issue, or game, of the drug fight has been set up to lose so that nothing will happen, as the Senator from Arizona so appropriately pointed out. I do think this is important legislation. I hope we will pass it somehow.

My concerns go to the expansion of lawsuits under the new cause of action. Much of the rest of the bill—in fact the vast majority of the rest of the bill—I think is excellent. I appreciate the work of the Senator from Arizona in bringing it forward.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCAIN. I ask unanimous consent for an additional 5 minutes, for debate purposes only.

Mr. REID. Under the same conditions we put forward earlier.

The PRESIDING OFFICER. There is no objection under the same conditions: When the Senator has completed, the Senator from Nevada will be recognized.

Mr. McCAIN. I thank the Senator from Nevada.

Again, I thank the Senator from Massachusetts for getting this bill through the committee. I thank Senator GREGG from New Hampshire for his willingness to work with us, even though he has a couple of concerns that I think we could work out.

I urge my colleagues again, if the Medicare prescription drug issue is not resolved, to go back to the underlying bill, pass it, and perhaps we can give the American people at least some relief between now and next year.

This issue is not going away. Maybe after this year's elections we could try to address it in a more nonpartisan fashion.

On another issue, very briefly, in this morning's Washington Post there is an article by Mr. Andrew Grove, who is the chairman of the Intel Corporation. I believe he is one of the most respected men in America. He makes a case that is very important. He outlines some of the changes he thinks need to be made in the area of increasing corporate responsibility. I think it is worthwhile to be included in the RECORD.

I ask unanimous consent that the article appearing in the Washington Post by Andrew S. Grove called "Stigmatizing Business" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### STIGMATIZING BUSINESS

(By Andrew S. Grove)

I grew up in Communist Hungary. Even though I graduated from high school with excellent grades, I had no chance of being admitted to college because I was labeled a "class alien." What earned me this classification was the mere fact that my father had been a businessman. It's hard to describe the feelings of an 18-year-old as he grasps the nature of a social stigma directed at him. But never did I think that, nearly 50 years later and in a different country, I would feel some of the same emotions and face a similar stigma.

Over the past few weeks, in reaction to a series of corporate scandals, the pendulum of public feeling has swung from celebrating business executives as the architects of economic growth to condemning them as a group of untrustworthy, venal individuals.

I have been with Intel since its inception 34 years ago. During that time we have become the world's largest chip manufacturer and have grown to employ 50,000 workers in the United States, whose average pay is around $70,000 a year. Thousands of our employees have bought houses and put their children through college using money from stock options. A thousand dollars invested in the company when it went public in 1971 would be worth about $1 million today, so we have made many investors rich as well.

I am proud of what our company has achieved. I should also feel energized to deal with the challenges of today since we are in one of the deepest technology recessions ever. Instead, I'm having a hard time keeping my mind on our business. I feel hunted, suspect—a "class alien" again.

I know I'm not alone in feeling this way. Other honest, hard-working and capable business leaders feel similarly demoralized by a political climate that has declared open season on corporate executives and has let the faults, however egregious, of a few taint the public perception of all. This just at a time when their combined energy and concentration are what's needed to reinvigorate our economy. Moreover, I wonder if the reflexive reaction of focusing all energies on punishing executives will address the problems that have emerged over the past year.

Today's situation reminds me of an equally serious attack on American business, one that required an equally serious response. In the 1980s American manufacturers in industries ranging from automobiles to semiconductors to photocopiers were threatened by a flood of high-quality Japanese goods produced at lower cost. Competing with these products exposed the inherent weakness in the quality of our own products. It was a serious threat. At first, American manufacturers responded by inspecting their products more rigorously, putting ever-increasing pressure on their quality assurance organizations. I know this firsthand because this is what we did at Intel.

Eventually, however, we and other manufacturers realized that if the products were of inherently poor quality, no amount of inspection would turn them into high-quality goods. After much struggle—hand-wringing, finger-pointing, rationalizing and attempts at damage control—we finally concluded that the entire system of designing and manufacturing goods, as well as monitoring the production process, had to be changed. Quality could only be fixed by addressing the entire cycle, from design to shipment to the customer. This rebuilding from top to bottom led to the resurgence of U.S. manufacturing

Corporate misdeeds, like poor quality, are a result of a systemic problem, and a systemic problem requires a systemic solution. I believe the solutions that are needed all fit under the banner of "separation of powers."

Let's start with the position of chairman of the board of directors. I think it is universally agreed that the principal function of the board is to supervise and, if need be, replace the CEO. Yet, in most American corporations, the board chairman is the CEO. This poses a built-in conflict. Reform should start with separating these two functions. (At various times in Intel's history we have combined the functions, but no longer). Furthermore stock exchanges should require that boards of directors be predominantly made up of independent members having no financial relationship with the company. Separation of the offices of chairman and CEO, and a board with something like a two-thirds majority of independent directors, should be a condition for listing on stock exchanges.

In addition, auditors should provide only one service: auditing. Many auditing firms rely on auxiliary services to make money, but if the major stock exchanges made auditing by "pure" firms a condition for listing, auditing would go from being a loss leader for these companies to a profitable undertaking. Would this drive the cost of auditing up? Beyond a doubt. That's a cost of reform.

Taking the principle a step further, financial analysts should be independent of the investment banks that do business with corporations, a condition that could do business with corporations, a condition that could and should be required and monitored by the Securities and Exchange Commission.

The point is this: The chairman, board of directors, CEO, CFO, accountants and analysts could each stop a debacle from developing. A systemic approach to ensuring the separation of powers would put them in a position where they would be free and motivated to take action.

I am not against prosecuting individuals responsible for financial chicanery and other bad behavior. In fact, this must be done. But tarring and feathering CEOs and CFOs as a class will not solve the underlying problem. Restructuring and strengthening the entire system of checks and balances of the institutions that make up and monitor the U.S. capital markets would serve us far better.

Reworking design, engineering and manufacturing processes to meet the quality challenge from the Japanese in the 1980s took five to 10 years. It was motivated by tremendous losses in market share and employment. Similarly, the tremendous loss of market value from the recent scandals provides a strong motivation for reform. But let us not kid ourselves. Effective reform will take years of painstaking reconstruction.

Our society faces huge problems. Many of our citizens have no access to health care; some of our essential infrastructure is deteriorating; the war on terror and our domestic security require additional resources. Attacking these problems requires a vital economy. Shouldn't we take time to think through how we can address the very real problems in our corporations without demonizing and demoralizing the managers whose entrepreneurial energy is needed to drive our economy?

Mr. McCAIN. I will read the last paragraph of Mr. Grove's column. He said:

> Our society faces huge problems. Many of our citizens have no access to health care; some of our essential infrastructure is deteriorating; the war on terror and our domestic security require additional resources. Attacking these problems requires a vital economy. Shouldn't we take time to think through how we can address the very real problems in our corporations without demonizing and demoralizing the managers whose entrepreneurial energy is needed to drive our economy?

I might point out that a number of the proposals Mr. Grove has made are not incorporated in the Sarbanes bill, and if we have to go back and revisit this issue, which I am afraid we might, I hope everyone will pay attention to some of his proposals.

As is well known to most of us, Mr. Grove grew up in Communist Hungary, escaped at a very early age. He wrote a marvelous book about it. It is a great American success story. I think he is one of the most respected men in America. He has been at Intel since its inception 34 years ago, and it has become the world's largest chip manufacturer and grown to employ 50,000 workers in the United States, whose average pay is around $70,000 a year.

So I hope we will pay attention to Mr. Grove's recommendations, as well as his statements of principle.

I thank my colleagues for allowing me to debate the bill, and I yield back the remainder of my time.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 4299

(Purpose: To permit commercial importation of prescription drugs from Canada)

Mr. REID. Madam President, I send an amendment to the desk on behalf of Senators DORGAN, WELLSTONE, and STABENOW.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DORGAN, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, and Mr. FEINGOLD, proposes an amendment numbered 4299.

Mr. REID. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

### AMENDMENT NO. 4300 TO AMENDMENT NO. 4299

(Purpose: To provide a substitute for the amendment)

Mr. REID. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DORGAN, proposes an amendment numbered 4300 to amendment No. 4299.

Mr. REID. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. Madam President, we appreciate the cooperation of the managers of this bill. At this point, we are now going to be in a posture to debate drug reimportation. We would hope we could have time agreements on this on whatever the minority wishes to offer.

Prior to that, I ask unanimous consent the Senator from Maine, Ms. SNOWE, be recognized for 20 minutes to speak on the bill, or whatever she chooses to speak on.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Madam President, I rise today to begin a discussion on the prescription drug benefit and specifically the one that has been introduced by the tripartisan group including Senator GRASSLEY, Senator BREAUX, Senator JEFFORDS, Senator HATCH, and myself.

Before I proceed, I express my support for the amendment offered by Senator DORGAN regarding reimportation. I have long supported that initiative. Many of my seniors in the State of Maine have to travel across the border into Canada in order to get prescription drugs that are offered lower there than in the United States. It is a tragedy that compels seniors to be put in a situation where they have to cross the border in order to do that. I hope we can support that amendment so they can have the benefit of those lower priced prescription drugs in the United States. It is the only fair approach. It is one way of addressing the issue of controlling costs and making costs competitive so they can have the benefit of lower prices.

I am very pleased to talk about the tripartisan proposal. I regret we have not had the opportunity in the Senate Finance Committee to be able to consider competing proposals, certainly the one that has been introduced by the ranking member, Senator GRASSLEY, Senator BREAUX, Senator JEFFORDS, and Senator HATCH and myself, along with other proposals, that obviously has the support of other members of the committee.

We should do everything we can to have the opportunity to explore, to debate, to consider the various proposals. Obviously, that starts within the committee process. It is unfortunate at this point as we begin to debate the other issues in the underlying bill, which is an important piece of legislation, that we are not in a position of being able to consider a prescription drug benefit plan. That is not the way the process ought to work. If you look at what happened on the tax bill last year, no one knew what the vote would be in the committee, let alone on the floor, but we had the opportunity to address the issue within the Senate Finance Committee. It ultimately passed 14 to 6. When it came to the floor, it had 53 votes and ultimately yielded a vote of 62 to 38. That is the way the process works. We did not write the ending first. The prologue begins in the committee.

In this case, one of the most significant social domestic issues facing this country today, prescription drug benefits, Medicare authorization, and we have not been able to have a markup in the committee of jurisdiction, the Senate Finance Committee, we are told, because it does not have 60 votes. How many bills that are marked up in the committee have 60 votes before they hit the floor of the Senate? How do we know? How do we know until we begin the process of debating, analyzing, considering various issues? That is what this process is all about.

I truly regret we have not had the chance to be able to consider this bill in the manner it deserves and in the manner it deserves for the seniors of this country who are dealing with the overwhelming burden of the high costs of prescriptions. Why are we allowing this to be politicized? Why are we allowing this to be a matter of partisanship?

We have come a long way just on the funding issue alone. I have been working on this issue in the Senate Budget Committee with then-Chairman DOMENICI, Senator WYDEN, Senator SMITH, and others, and we were able to develop a reserve fund. We started with $40 billion, which was more than then-President Clinton had proposed. We are up to $300 billion, and our tripartisan proposal is $370 billion, recognizing that as every year passes, the price goes up and up. We have come a long way in even understanding that we are going to have to spend more to provide a strong benefit to seniors, and we must start now.

Some people might just want the issue for the next election. Maybe that is what it is all about. Maybe some people want to see a headline that says: Senate fails to muster the 60 votes; the issue is put off for another year. I do not want to see that kind of headline. I do not think it is fair to the seniors in this country because I know this institution can do better, and that is why we put forward this tripartisan proposal because we did not want partisan differences, political differences, philosophical differences to impede our ability to address this most important issue to the seniors in this country.

That is why we undertook this effort more than a year ago in our tripartisan group to see what we could agree to that would provide a most substantial benefit to the seniors in this country. Seniors cannot put off their illnesses. We should not be putting off a solution, and we crossed the political divide to develop our tripartisan proposal.

We worked closely with the Congressional Budget Office to ascertain the precise cost of our proposal so we do not jeopardize the solvency of the Medicare Program for future generations. We developed a competitive, efficient model to yield the best results for seniors as well as for the Government.

I do not want partisanship to jeopardize our ability to send a bill to the President, Madam President. I want to break the logjam here and now. Seniors have heard the excuses. How can we do anything less than give this our full effort here and now, particularly for the one-third of the Medicare beneficiaries who have no coverage whatsoever?

The Medicare Program is outdated, given the fact that it does not include a prescription drug benefit first and foremost, and we need to bring Medicare into the 21st century. The best way we can do it is by adding a prescription drug benefit.

It is simply unconscionable in a country of our means and wealth that older Americans should ever have to choose between filling their cupboards and filling their prescriptions. That is not hyperbole; that is not exaggeration; that is the truth. It certainly is the truth in my State. People are forced to make those tragic choices, and we have within our means right here and now, Madam President, to make the difference so seniors are no longer forced to make that terrible choice.

That is why we have offered the plan that we have. That is why I do not want to bypass the committee, because I know that is our best opportunity to pass a prescription drug benefit when we complete the process that begins in the committee.

We should not have any political motivations or maneuvers to bypass the process. I have been told: We cannot consider a bill in the committee that does not have 60 votes. Since when has that been a precondition for any markup in the committee? Then I am told: We cannot have a bill that is not supported by the Democratic leadership. I never thought that prevented us from doing our job; that eventually we could reach results.

We are not saying our bill is written in concrete. We are saying this is a beginning. It is a basis for action. Henry Ford used to tell his Model T customers that they could have any color they wanted for a car as long as it was black. It sort of reminds me of the situation we are in today: We will consider a prescription drug bill as long as it is ours.

We are saying let's bring out the proposals in the committee, let's go through the committee process, and then let's report out a bill to the floor. The tripartisan bill has the support of 12 members of the committee as we speak—12 members of the 21. We have the support in the committee, but let's go through the committee process. Let's do what we need to do.

Refusing to have a markup in the Senate Finance Committee is hiding behind false pretenses that we should only act if we have 60 votes.

Madam President, I want to discuss the tripartisan proposal and what it is.

First and foremost, it is a plan that offers an affordable, comprehensive, and available prescription drug benefit to seniors. It maximizes the benefits for the low-income seniors, and finally, it is a fully funded, permanent part of the Medicare process. There will be no sunsets. Providing a sunset in legislation, as has been recommended by the other competing plan offered by the Senator from Florida, is really providing a false hope to seniors. How can we tell them: Oh, by the way, in 7 years your benefit will expire? I think that is doing a tremendous disservice to seniors in this country, saying we are only willing to give this benefit for 7 years, so you had better not have an illness because we are not going to be able to give you a benefit in 7 years.

Our plan is fully funded and a permanent part of Medicare. It has been scored and estimated for cost by the Congressional Budget Office. They have vetted every aspect of our proposal. It is right here in a major legislative initiative. It is right here for everybody to review and to evaluate.

The plan is universal. It is offered to every Medicare beneficiary. That was a major priority for us, and it was a major priority for the seniors in this country in all the discussions we had with seniors and AARP. They wanted a universal, at the lowest possible monthly premium, and that is exactly what our benefit provides. It is lower than any other proposal that has been offered: A monthly premium of $24.

It will be offered to seniors whether they live in urban areas or rural areas. They will have a choice of a minimum of two plans, no matter where they live in America. The plan is targeted for seniors between 135 percent and 150 percent of the poverty level. That is about $18,000 for an elderly couple. They will receive coverage for about $12 a month at 150 percent of the poverty level. Below 135 percent they will pay no premium, no deductible whatsoever.

The plan is comprehensive. They will have access to every drug, whether it is a generic drug or the most advanced innovative therapies. It also will provide relief from catastrophic costs from high annual prescription drug costs.

Most of all, the plan will save the seniors real money, anywhere from 33 percent to 98 percent in out-of-pocket expenses, with the average senior saving more than $1,600 every year, as my colleagues can see on this chart. The average spending for seniors without any drug benefit in 2005 will be $3,059 per year; more than a quarter of Medicare beneficiaries spend more than $4,000.

The average savings under our proposal for seniors above 150 percent of the poverty level will be more than 53 percent. For those below 135 percent, they will save 98 percent—98 percent—in their costs of prescription drugs. But no matter, the average savings to seniors will be at least one-half, more than $1,600.

Our plan eliminates the so-called donut for lower income seniors, the seniors hardest hit by high drug costs. There are 11.7 million Medicare beneficiaries who have incomes below 150 percent of the poverty level, and they are exempt from the $3,450 benefit limit. The enrollees between 135 percent and 150 percent of the poverty level will have a monthly premium based on a sliding scale that ranges from anywhere from zero to 24 percent.

The 10 million Medicare beneficiaries who have incomes below 135 percent of the poverty level will see, as I said, 98 percent of their prescription drug costs covered by this plan with no monthly premium. These seniors are exempt from the deductible and will pay an average coinsurance of anywhere from $1 to $2 for prescription drugs.

They also have the protection of catastrophic limits, which will be $3,700 under our legislation. That is where the catastrophic benefit limit will begin, at $3,700. And they will have full protection against all drug costs with no coinsurance.

All enrollees will have access to discounted prescription drugs after reaching the $3,450 benefit limit and before the $3,700 catastrophic benefit limit.

They will all still have access to discounted drugs between the $3,450 and the $3,700 catastrophic benefit. In fact, 80 percent—let me repeat, 80 percent—of the enrollees will never be affected by the benefit limit of $3,450.

As you can see from this chart, I want to repeat, it has the lowest premium of any of the comprehensive proposals that have been introduced, at $24. Ninety-nine percent of Medicare beneficiaries, according to CBO, will be participating under this program—99 percent. Let me repeat, 99 percent.

The coinsurance paid for the top 50 drugs is $21. I want to compare that to the proposal offered by the Senator from Florida, because under the nonpreferred drug plan, of the top 50 drugs, we provide a lower coinsurance on all but one. And for the top 50 drugs in the preferred drug list, we provide a lower coinsurance than the proposal offered by Senator GRAHAM of Florida on all but 11 of the 50 drugs on the top 50 list.

So we are not only more substantial when it comes to providing the coinsurance on all of these preferred and nonpreferred drugs—as you see listed on the chart are the preferred drugs. For all but 11 out of the 50 drugs, we are lower in our copays than the proposal offered by Senator GRAHAM of Florida. And for the nonpreferred drug list, we are lower for all but 1 out of the 50 drugs. In other words, for 49 out of the 50 we are lower. We provide a lower copay for these prescription drugs, not to mention the fact that we provide a lower monthly premium of $24 a month for those who are 150 percent above the poverty level. For those that are below 135 percent of the poverty level, they pay zero. And more importantly, our proposal is not sunsetted.

CBO estimated, as I said, that 99 percent of seniors will have coverage under this proposal—99 percent of seniors. I think it is important for everybody to understand that if we are going to offer a prescription drug benefit, and if we are serious about making sure it is part of the Medicare Program, then, clearly, it is important that we make sure that it never expires, that we do not resort to budget gimmicks or artificial sunset requirements that provide a false hope to seniors.

Seniors deserve better than a false hope of a drug benefit that expires after 7 years with no guarantee of further coverage. I think that would be regretable if we decided to take that approach.

That is why we initiated this effort more than a year ago, to provide a benefit that was generous, that would help the low incomes first and foremost, that was universal, that was affordable, that did not jeopardize the future financial stability of the Medicare Program—because, obviously, that has to be the foremost concern to all of us as well as to seniors—and that we had the maximum benefits possible for seniors against high annual drug costs.

So I hope we will have the opportunity to have an honest, thorough debate on a prescription drug benefit that can be included as a permanent part of the Medicare Program.

Seniors are struggling under the burden of high prescription drug costs. We cannot allow election year politics to overwhelm any chances, any possibilities of getting a Medicare drug benefit through the Senate this year. We must allow a full debate to occur on this issue both in the committee and on the floor.

The Finance Committee should be a part of this process. Each of us has a stake—individually and collectively—about the kind of process we are willing to embrace in the Senate.

It does make a difference as to whether or not we are going to choose to bypass the committees repeatedly and bring up significant legislation on the floor without having the benefit of the committee process and for those Members who serve on those respective committees to be part of that process.

So each of us has a responsibility to that process, and, most critically, when it comes to such an important issue to millions of Americans: Those who are struggling under the weight of high prescription drug costs and those who can expect to face the same problem in the future.

I think each of us here knows that without a markup in the committee we are creating a predetermined train wreck. We are heading for a train wreck because we are creating a process designed for failure. It is designed for politics. It is not designed for creating a solution to a serious problem.

I think if we continue to resort to these ill-advised procedures and political maneuvers and charades, and if we continue to allow this political choreographing which sort of superficially addresses the issue but does not really because we do not really want to create a consensus and a compromise because we want the issue for this year's elections, then we have failed and this Senate has abrogated its responsibility to do what is right.

That is what it is all about. It is whether or not we choose to do what is right. I think we all know what is right. Those of us in our tripartisan group—I am not saying that our proposal, as I said earlier, is written in stone. It is not a finite product, but it is a serious product. It is one that has evolved for more than a year. It is one that has been evaluated by the Congressional Budget Office. And it is the only proposal that has been introduced that has bipartisan, tripartisan support, and the only one that has been scored by the Congressional Budget Office.

It is the only one that has the lowest monthly premium. And it is the one that is not sunsetted. It is a permanent part of Medicare.

Getting back to this chart, seniors pay less for the top 50 prescriptions under the tripartisan plan versus the Graham-Kennedy-Miller proposal. They pay less. So they pay less on their monthly premium, and they pay less in their copays for the top 50 prescriptions, either on the preferred drug list or on the nonpreferred drug list.

Those are the facts.

I just hope that we will have the opportunity to consider this legislation and other competing proposals—such as the one offered by the Senator from Florida, Senator GRAHAM—in committee; utilizing the committee process to amend, to debate and to vote on a final measure. My proposal, as it stands, has the votes in the committee.

But let us go through the committee process. We would be more than happy to evaluate other issues and other amendments of the members of the committee.

I just do not understand why we can't have a markup in the Senate Finance Committee. We are here to do our job. That is our responsibility. That is why we have the committee process. I want to be able to legislate the best solution to the problem. We have come up with a proposal. Others have other proposals. But let us have a competition of ideas and debate in the committee that allows for the best hope for getting a bill through on the floor of the Senate that will yield the 60 votes, that will go to conference, and the differences worked out with the House.

As others have said, let us get a bill to the President for his signature this year. I don't want another year to go by. That is what I have been hearing every year. I have been hearing it every year now. Four years ago, they said next year. Next year turns into 2 years, 4 years, 6 years. How long do we think seniors can wait for this prescription drug benefit? How long? How long is it going to take? Why is it that we have to have these political machinations? Our group—Senator GRASSLEY, Senator BREAUX, Senator JEFFORDS, Senator HATCH—has worked long and hard for more than a year. Why can't we have a markup in the committee on this issue?

I would like to have a reasonable answer to that question. But I don't think I am going to get a reasonable answer. There is nothing to justify precluding us from doing our jobs in the committee. There is nothing acceptable by what is happening here.

I am here to legislate. I don't expect everybody to agree with my thoughts or my ideas or my proposals. But I do expect that we will honor the process by which we have the ability to do our job. Otherwise, we have all failed.

I don't care if it is a day before the election. I don't care. The time is now. To be frank with all of you, I think that we should reach the limits of our frustration with this process. Why do we continue to say it is acceptable? The same machinations existed with the health care proposal back in 1994. It is exactly the process it took. It bypassed the committee process and came to the floor. Guess what. Nothing happened.

Here we are in the year 2002—2002. We don't have a bill. The same is going to happen with prescription drugs. People will say next year: We can't do it.

We are getting paid to do our jobs now—not next year. We were elected to do our job now. Senator GRASSLEY has worked long and hard.

Senator GRASSLEY, the ranking member of the Senate Finance Committee, has gone the extra mile to reach out to both sides, to the chairman, to other members of the committee, and to others here on the Senate floor across the aisle, and as he did in this tripartisan proposal. Senator BREAUX and Senator JEFFORDS have also worked with us. We have been working together because we know this is the only way we can accomplish this most important issue for the seniors of this country.

I hope we will do the right thing. Let's begin this process in the Finance Committee so that we can consider the proposals on the floor which will ultimately yield the best results, not only in terms of policy but for the seniors of this country.

I yield the floor.

The PRESIDING OFFICER (Mr. REED of Rhode Island). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I intend to speak for a very few moments, and then hopefully we will be on the amendment of the Senator from North Carolina.

First of all, I thank my good friend, the Senator from Maine, for her very eloquent and passionate speech and statement in favor of the strong prescription drug program. It was eloquent, indeed. There were parts of it that I agree with very much. There were some parts to which I take exception. But I welcome the opportunity to have the kind of discussion and debate that she eagerly awaits here in the Senate.

I agree with her that it is long overdue. I agree with her that the time is now. I agree certainly with her that we are going to have to find common ground. I hope very much that we can.

I respect those who have gone forward and supported the tripartisan proposal.

Let me offer a few quick facts. Virtually none of the senior groups are supporting the tripartisan program. That doesn't have to be the bottom-line test. But they believe it doesn't provide the kind of protections that are in the Graham-Miller legislation—I think that they believe this for a very good reason. The tripartisan proposal has an assets test that will exclude many of the neediest of our senior citizens. The assets test says that if you have assets worth more than $1,500, or a car worth more than $400, or personal property worth more than $4,000, you are not eligible. That would affect a great many of the people in my State.

I think it is also demeaning to seniors to have to go in and try to give an assessment of what these personal items really are. I think we will have a chance to debate that.

One of the very important aspects of the Graham bill is that it doesn't have that test.

Second, there has been a good deal of talk about the estimated premium of $24. That is just an estimate because this program is turned over to the insurance companies. There is virtually no guarantee that the premium is going to remain $24. It may be $34 or $44.

I find that senior citizens in my State want certainty, they want predictability, they want to know exactly what that premium is going to be now. That is something that we will have to debate.

Third, as the Congressional Budget Office indicated, it will mean that 3.5 million seniors who are covered by their employer will be dropped for a less adequate program because there is no reimbursement for the employers.

That is not a finding that I make. It is a finding that the Congressional Budget Office makes.

Finally, I want to make this point. The issue of prescription drugs has been before the Finance Committee for 5 years. For 4 of the last 5 years, the Finance Committee has been under Republican control, and we have had Republican leaders on the committee. This is the first chance we have had to debate it.

I listened to the Senator talk about wanting an answer to why we are not having a markup. I question why we didn't have one over the last 4 years. Now, under a Democratic leader, we are going to debate and hopefully take action on the floor.

I don't think people in my State are wondering about the committee process and how we are going to give adequate time for the committees to work. They want the Senate to act. That is the commitment of our leader. That is what they want.

I look forward to having the opportunity to act.

As the leader has pointed out, we want to try to deal with some of the issues of accessibility and also cost containment. In that cost containment debate, we have had strong bipartisan support in our committee—now 16 to 5. We had five Republicans who worked very closely on this issue.

We are going to find that there will be substantial savings for seniors as a result. We are going to hopefully have the opportunity to consider other amendments on this that are going to help deal with the problems of the cost of prescription drugs. Then we will have an opportunity to debate the other provisions.

But, as always, the Senator from Maine is eloquent, she is passionate, and she is knowledgeable about these issues.

I am very hopeful that before the end of this debate we will be on the same side in terms of supporting a program that will be worthy of the people of Maine as well as Massachusetts.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, it is appropriate to address again the issue of why this bill should have been vetted—not this bill we are hearing about, the big bills that are coming at us, the drug bills for drug benefits under Medicare—why they should have been vetted by the Finance Committee.

The Senator from Massachusetts represents that it didn't happen the last 5 years. There was no bill reported out of the committee. So why should the committee have to take it up this year? Why not just write it in the office of the majority leader, which is what has happened here? We haven't seen the bill. It is ironic. We have had all the representations as to what the Democratic bill is. We haven't even seen the bill. It hasn't been scored. It doesn't exist, as far as we know. Yet there are people out here puffing its strengths.

The reason you have to take this to committee is that if you don't take it to committee, you guarantee, almost, that you will not pass a bill. You are certainly not going to pass a bill that was drafted in some back office around here. If the bill does not go through the Finance Committee, it requires 60 votes to pass this body. It is subject to a point of order under the Budget Act.

It appears that the reason Senator GRASSLEY, being ranking member on the Finance Committee, Senator BREAUX, Senator SNOWE, being members of the Finance Committee, and Senator HATCH is supportive of this bill and is a member of the committee—it appears within the Finance Committee there is a working majority to pass a bill out, specifically the tripartite bill. Senator JEFFORDS is a member of the committee who is on this bill. There is a working majority to pass the bill out of the committee right now. If that happens, when the bill comes to the floor, it only needs 51 votes to pass and you actually get a drug benefit for senior citizens.

The way this process has been set up by the Democratic leadership is to create a hurdle that makes it virtually impossible to get a bill off the floor of the Senate. That is the difference. That is why you need to go through committee. The difference is that simple.

If you want to pass a bill, you go through the committee so you only need 51 votes to pass it. If you don't want to pass a bill, don't take it through the committee, because then you create a hurdle of 60 votes, and it makes it virtually impossible to pass the bill.

This is a process which has been set up to fail, as has been mentioned by innumerable speakers. It has been set up to fail. It has been set up to create a political issue as we go into the August recess before the November elections.

That is unfortunate. It is cynical. The Senator from Maine has, in terms of considerable outrage, expressed her frustration with that type of process. She has worked conscientiously with the Senators from Iowa and Louisiana, and other Senators in this body, to develop what is a consensus piece of legislation which will give seniors who are in dire need of it a very significant benefit in the area of drugs, for purchasing the drugs they need to live a decent life. It is a bill which is fairly expensive. We are talking, I believe, about $400 billion. That is a lot of money. Maybe it is $350 billion over 10 years.

Whatever it is, it is a very expensive bill. We are talking about taking a large amount of money from working Americans out of their paycheck through taxes and using it to support a seniors drug benefit, a very reasonable approach. Because it is such a large amount of money, it is outside the budget which we presently have in place. We have a $300 billion number which we put in place as a Congress last year to try to address the drug issue to help seniors. The plan, bipartisanly reached, tripartisanly reached, exceeds that number, as does every other plan being proposed, except for the Hagel-Ensign plan which is below that number.

All the other plans, with the exception of Hagel-Ensign, are subject to a point of order and, thus, subject to 60 votes. And it is extremely unlikely, considering the nature of the Senate, that you will get 60 votes for a final package. There are three different competing packages on our side, and there is this phantom package on the other side being written in an office, or a cloakroom, or a closet somewhere, and which we will see someday.

In any event, we know it has not been adequately vetted and we know the number is very high, over $600 billion minimum, maybe as high as $1 trillion if it is honestly scored.

That is why you have to go through committee. The committee has the expertise on it. That is important. More importantly than that, the committee gives the imprimatur of budgetary action, and if a bill is reported out of the committee, it meets the budgetary guidelines; it is not subject to a point of order.

So the misrepresentation that if it didn't happen the last 4 years that the committee reported out a bill on this issue, why should the committee have to report now, is a bit of a red herring. The issue isn't that you didn't do it 4 years ago. The issue is, do you want to pass a drug benefit package today or do you want a political issue? If you want a political issue, don't run it through the committee, bring it out on the floor and guarantee it fails because it can't get 60 votes. If you want a drug benefit package, put it through committee, and the committee comes out with a package, which would probably be the package outlined by Senator SNOWE, and it gets 51 votes at least. I suspect it will get more than 51—in the midfifties, probably.

Then you have a package with which you can turn to your senior citizens and say: This will be a significant benefit to you as you deal with the issue of prescription drugs. That is the difference. That is why you need committee action on this bill. As long as there is no committee action, I suspect you are guaranteeing failure.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we will move on from here, but the fact is, as the Senator stated correctly, if it were less than $300 billion, then it would need 51 votes. But the Senator from Maine's proposal is $370 billion. So they are going to need 60 votes, too. Do we understand? I don't understand what the Senator from New Hampshire was talking about. They are going to need 60 votes for their proposal because they are going to violate the point of order.

When we are talking about the fact that the seniors are going to spend, over 10 years, $1.8 trillion. With $300 billion you are going to do very little to offset the kinds of challenges they are facing.

Finally, I have listened to our Republican leader, to my good friend from New Hampshire about following the committees and how important it is to follow the procedures. I am so thankful that we have a leader who is bringing this to the floor of the Senate at last. Now we hear this is circumventing procedure.

In May of 2000, Republicans brought S. 2557 to the floor, an energy bill sponsored by Senator LOTT, without committee approval; that was the big energy bill. In March 2000, Republicans brought legislation to the floor to eliminate the earnings test for individuals without committee approval. I voted for that. I am glad they did it. In June of 1999, Republicans brought the Social Security lockbox to the floor without committee approval. In July 1996, Republicans brought the Taxpayer Bill of Rights.

It seems they were prepared to bring a lot of other things, but they didn't bring a prescription drug bill to the floor. This leader has said this is the priority and that is why we are having this debate today.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, the amendment we are now considering, a first- and second-degree amendment, I have offered for myself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Ms. SNOWE. It is a bipartisan amendment. It is a very important amendment—one that addresses a part of that which we are here to consider on the floor of the Senate on the issue of prescription drugs.

Let me describe what the problems are. One, we don't have a prescription drug benefit in the Medicare Program, and we need to change that. We need to add a prescription drug benefit to the Medicare Program. Why do we need to do that? Because when Medicare was created, many of the lifesaving miracle drugs that exist now that allow senior citizens to live a longer and healthier life did not exist. So Medicare was basically an opportunity to provide health insurance coverage for doctors and hospitals but no prescription drug coverage. That was back in the 1960s. Things have changed.

Were we to write a Medicare Program today, we would clearly include prescription drug coverage in that Medicare Program. I mentioned senior citizens especially because that is who benefits from the Medicare Program. They represent about 12 percent of the population of our country, and they consume one-third of all prescription drugs. It is not unusual at all to talk to a senior citizen who has a series of health issues, as they have reached the later stages of their lives, and they have to take 4, 5, 10, and in some cases 12 different prescription medicines every day in order to deal with their health issues.

The problem is, when senior citizens reach that time of their lives where they have retired and have a lower income, they have less ability to be able to afford those prescription drugs. With the cost and spending increasing substantially, senior citizens are finding all too often that the prescription drugs they need to take are simply out of reach.

Let me describe some of the consequences that result. I talked yesterday about the woman who came up to me—and all of us have had this experience—she grabbed me by the elbow and said: Senator DORGAN, can you help me?

I said: What is wrong?

She said: Well, I have very serious health problems and my doctor prescribed prescription drugs that I must take, but they are too expensive. I don't have the money to be able to afford them.

Her eyes welled up with tears and her chin began to quiver and she began to cry.

She said: Can you help me, please?

This happens all across the country every day. Let me just read some letters. This is from a North Dakotan who wrote me some while ago, about 2 months ago:

> DEAR SENATOR DORGAN: I just returned from a drug store, where I happened to witness a very pathetic situation that brought tears to my eyes. Standing in front of me at the counter was an elderly gentleman about 80 years of age. He handed 2 prescriptions to the pharmacist. He said, "Before you fill these, can you tell me what the price is?" The pharmacist checked the price through her computer and told the elderly man, "The first prescription is $94.76. The next prescription is $49.88. Do you want me to fill them for you?" The old man looked around and was deep in thought and said, "No, I guess not. I haven't bought Christmas presents for my wife and grandchildren. I will just put up with the pain." Using his cane, he walked away.

"God bless America," she writes. "I just thought," she said, "you and your Senate colleagues who have reservations about the need for lower priced prescription drugs ought to understand that this is going on in our country."

A North Dakotan wrote to me and said:

> I am 86 years old, so I cannot work.

Her first thought, of course, would be to work.

> I am 86 years old, so I cannot work. I am writing in regard to the medication I take. I

> get $303 in Social Security every month. I have never worked out of my home. I pay $400 a month for my medication. I have had heart surgery and have osteoporosis of the bones. The medicines are very high priced. We need help. We are using all of our savings. I am 86 years old, so I cannot work.

Another woman from my State says:

> I am a person with scleroderma, diagnosed at the Mayo 24 years ago. While this disease attacks different parts of my body, it's mainly my lungs. I have been on oxygen for 2 years now. A new medication is out named Tracleer. One pill a day is $3,600 a year. I called Medicare to see if there was an insurance I can buy for medications. I was told I could not do that. I am a farm wife, 74 years old, who drove a tractor until 2 years ago when I lost my husband and then my lungs got worse.

She goes on at some great length.

I recall a snowy North Dakota day in January, in a small van going to Canada with some senior citizens from my State. Among the people who traveled to a little one-room drugstore in Emerson, Canada, that snowy day was Silvia Miller, a 70-year-old Medicare beneficiary from Fargo, ND, with no prescription drug coverage. She has diabetes, heart problems, and emphysema. She takes 10 to 12 medications every day. In 1999, she spent more than $4,900 for her medications. Well, Silvia Miller, like a lot of others, struggles to try to make do and deal with very serious health problems and tries to catch an increased price every year—increased costs of prescription drugs. Of course, she cannot catch that. It is moving out of sight.

Last year, there was a 17- to 18-percent cost increase for prescription drugs. The year before that, it was about 16 percent. The year behalf that, it was about 17 percent. So year after year after year, there are relentless increases in the cost of prescription drugs. This trend continues. What can we do about it?

Well, the point we make with this amendment is this: We support fully putting a prescription drug benefit in the Medicare Program. That ought to be done. I hope it will be done. But if that is all we do—if we do nothing to try to dampen down prices, put some downward pressure on prescription drug prices, we will have done nothing but hook up a hose to the Federal trough and we will suck it dry.

The American taxpayer beware. If we don't do something to try to put some downward pressure on prescription drug prices, we cannot afford putting a prescription drug benefit in the Medicare Program. We must do both, in my judgment. Let's put the benefit in the Medicare Program, make it optional, make it good, and at the same time let's do some things that put downward pressure on prescription drug prices.

I mentioned that I went to Canada with a group of North Dakota senior citizens. More recently, the Alliance For Retired Americans arranged 16 bus trips to Canada between May and June of this year to highlight the enormous price differences that exist for the identical prescription drugs between the United States and Canada. Participants in those 16 trips saved $506,000, or $1,340 per person.

I think it is important that we talk about policy in theory in the U.S. Senate, but let me do something a bit more than that, if I can.

I ask unanimous consent to show some prescription drug bottles that describe the real problem.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DORGAN. Mr. President, if I might go through a few of these, it will be useful for people to understand what senior citizens are discovering with respect to pricing.

This prescription drug is Celebrex, quite a remarkable drug for pain. It is sold both in the United States and Canada bottles that are essentially identical. The U.S. consumer is charged $2.22 per tablet. The Canadian consumer is charged 79 cents per tablet. Same drug, same bottle, made by the same company; the difference is the American consumer is charged dramatically more for the same prescription drug.

Mr. President, Paxil is a prescription drug used to treat depression. As you can see, these two pill bottles are identical. The cost is $2.22 per tablet to the U.S. consumer; for the Canadians, for the same drug, it is 97 cents. Again, it is $2.22 for the American purchaser and 97 cents for the Canadian purchaser.

One might ask, as you go through this—and I have a couple more examples—why the difference in pricing? Well, that is a good question. We have had hearings on this and it is not that there is a difference in the tablets in the bottles.

This is Zocor. A famous football coach talks about Zocor on television every day. He says he takes this prescription drug and recommends it to others who need it. Zocor is sold in the United States in this bottle. It is $3.33 cents per tablet in the United States, and it is $1.12 per tablet in Canada.

Finally, this is a prescription drug called Prevacid. As one can see, this prescription drug, like the others, is marketed in an identical bottle in the U.S. and Canada. This is used for ulcers. It has a label that is of a slightly different color, but the bottle is identical—same pill, same bottle, made by the same company. In the United States, a purchaser pays $3.58 per tablet; in Canada, it is $1.26 per tablet. I have more.

Mr. WELLSTONE. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Mr. WELLSTONE. What was the last drug?

Mr. DORGAN. Prevacid. It is used for ulcers.

Mr. WELLSTONE. May I add to the Senator's list two drugs? So much of this is personal. I am sure he hears from people in North Dakota what I hear from people in Minnesota, that this drives them crazy.

Permax is a drug to manage Parkinson's disease. The same bottle in the United States is $398.24, and the Canadian price is $189. I mention this because I ran into a teacher a couple months ago in my hometown who, when I met him—I have not seen him for a while—I said: How are you doing? We shook hands. I know Parkinson's. Both my parents had it. I know it in the palm of my hand. I felt the shake. I said: Are you taking Sinemet?

He said: Yes, but there is a better drug.

I said: Are you taking the other one?

He said: I cannot afford it.

This is by way of an example.

Did the Senator from North Dakota mention tamoxifen? It is a breast cancer drug. The United States price, same bottle, is $287; Canadian price, $24. I wanted to add two more examples to what my colleague mentioned.

Mr. DORGAN. Tamoxifen is a good example because it is priced at 10 times the Canadian price for those in this country who need it to deal with breast cancer. It is a good example.

This is a chart that shows other drugs, which I have not listed. It shows the substantial changes in prices between the United States and Canada.

Let me make a couple additional points.

I do not come here suggesting that the pharmaceutical manufacturing industry or the manufacturers themselves are bad. I do not suggest they are bad companies. In many cases, they do good work. They produce lifesaving miracle drugs. I might say, they could from time to time give more credit to the American taxpayer for some of that because a substantial amount of research also goes on through the National Institutes of Health that is federally funded, the benefits of which then are used by the pharmaceutical manufacturers.

It is not my intention to tarnish those manufacturers as somehow unworthy companies. It is my point to say that the pricing strategy employed by those manufacturers is wrong and it penalizes the American consumer.

They say: We must have this kind of pricing practice and pricing strategy by which the American consumer pays the highest prices by far because that is the way we get the money to do research and development.

It is interesting that a report I read says they do slightly more research and development in Europe than they do in the United States: 37 percent in Europe; 36 percent in the United States. And still in virtually every country in Europe, they charge a much lower price for the identical prescription drug they sell in the United States.

It is not the case that this is all about research and development. The legislation we have introduced, the Prescription Drug Price Parity for Americans Act, would allow U.S. consumers to benefit from the international price competition for prescription medicines.

We have changed this approach from the previous legislation that was enacted by the Congress because we make this apply only to the country of Canada. We would like licensed and registered pharmacists and distributors to be able to reimport into this country prescription drugs that are approved by the FDA. We are limiting that to Canada only. We will allow in this legislation pharmacists and distributors to access FDA-approved drugs from Canada and bring them into this country and pass the savings along to the American consumer.

This bill would become effective immediately. We have, as I said, passed this legislation before. It has not been implemented by two administrations because some have raised the question that this would pose risks for the consumer. However, we have included provisions in this legislation on page 9 addressing suspension of importation which will minimize those risks.

While I talk about that for a moment, let me describe why I think those risks are very minimal. Of course, we now have risks with respect to the shipment of prescription drugs across borders. We ship a substantial amount of United States manufactured drugs to Canada. In fact, the Congressional Research Service has a report quoting an information officer from Canada who says that most of the pharmaceuticals marketed and distributed in Canada originate from U.S. manufacturers.

The question we should ask, it seems to me, as policymakers, is, Why should an American citizen have to go to Canada to get a fair price on a prescription drug made in the United States? It is a rhetorical question but I suspect one without an answer in this Chamber.

In any event, a substantial amount of the prescription drugs sold in Canada are prescription drugs originating in the United States, and there is now a law on the books that says the United States consumer, through their pharmacists or through their licensed distributors, may not access those drugs even if they are less costly in Canada. In my judgment, that makes no sense at all.

Included in the legislation we have introduced is a provision that would allow the Secretary of Health and Human Services to suspend reimportation. Let me read the language we are including in the second-degree amendment:

> The Secretary shall require that importations of a specific prescription drug or importations by a specific importer under subsection (b) be immediately suspended on discovery of a pattern of importation of the prescription drugs or by the importer that is counterfeit or in violation of any requirement under this section or poses an additional risk to the public health until an investigation is completed and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b).

David Kessler, former head of the FDA, had this to say in a letter to us:

> The Senate bill which allows only the importation of FDA-approved drugs, manufactured in approved FDA facilities, for which the chain of custody has been maintained, addresses my fundamental concerns.

This is a larger description of his letter:

> Let me address your specific questions. I believe U.S. licensed pharmacists and wholesalers who know how drugs need to be stored and handled and would be importing them under the strict oversight of the FDA are well positioned to safely import quality products rather than having American consumers do this on their own.

The Congressional Research Service report I referred to a few moments ago is a report that I had asked they complete in which they should evaluate the chain of custody in Canada so we would understand whether there is a chain of custody issue.

If we manufacture a prescription drug, for example, in the United States and send it to end up on the shelf of a drugstore in Winnipeg, Canada, is there a chain of custody problem that would allow someone to say: You cannot have a pharmacist go to Winnipeg and buy that drug because that is inherently unsafe?

The answer is no, that is just sheer nonsense that there is any kind of a problem with that.

The CRS report says both countries have similar requirements and processes for reviewing and approving pharmaceuticals, including compliance with good manufacturing practices. We have similar rules for requiring labeling. The Canadian Federal Government inspects drug manufacturing facilities. Pharmacists and drug wholesalers have to be licensed. There is no chain of custody question.

I understand one thing about this. If I were a pharmaceutical manufacturer, I would want to kill this legislation. Why? Because the pharmaceutical industry confronts price controls in some other countries, and they do not like them. Those price controls allow them to charge their costs and add a profit to it, and that is the price they are able to exact.

There are no price controls in this country. So the pharmaceutical manufacturers make the point that, if you can reimport prescription drugs from somewhere else such as Canada, you are reimporting price controls from Canada.

We have price controls in this country really. It is just that the prescription drug manufacturers control the price, and they control the price by charging the U.S. consumer the highest prices in the world. Medicine after medicine, we find the U.S. consumers paying the highest prices in the world.

Lifesaving prescription drugs save no lives if you cannot afford to purchase them. Show me something else in the daily lives of the American people, or especially of senior citizens, that they need—that they don't have a choice on—that is increasing at 16, 17, 18 percent a year. Can anyone come up with anything that relates to those kinds of relentless increases? I do not think anyone can.

I want us to continue an aggressive search for miracle drugs and lifesaving medicines. That is why many of us in this Chamber have agreed to double the amount of funding at the National Institutes of Health. This is the fifth and final year to do that. We have gone from $12 billion to $24 billion. That was bipartisan. We did it. I want the drug manufacturers as well to also engage in robust research and development. I support research and development tax credits for that purpose, from which they benefit. But I do not want the pharmaceutical manufacturers to say to the American people: We have a scheme by which we will impose upon you the highest prices of any group of people in the world for our prescription drugs. We will have multitiered price policies, and you, American citizens, shall pay the highest. We want you to pay 10 times the cost for tamoxifen that our friends in Winnipeg, Canada, are charged. We want you to pay substantially higher prices for Zocor, Lipitor, Premarin, and Celebrex. It is simply not fair.

The point of this amendment is not to try to force anyone to go to Canada to buy prescription drugs. It is to try to force a repricing of prescription drugs in this country, for if our registered pharmacists and licensed distributors can access an FDA-approved drug in Canada and bring it back and pass the savings along, it will certainly force a repricing of prescription drugs in this country. That is my goal. That is our goal.

So what we have today is an amendment that will allow the reimportation, under very strict circumstances, of FDA approved prescription drugs from Canada to the United States only by licensed distributors and licensed pharmacists, and that will put downward pressure on prescription drug prices.

What we also have in this Chamber, I think, are those who want to kill this because the pharmaceutical industry does not like it. I understand that. If I were the pharmaceutical industry, I would not like it either. They have the best deal in the world in the United States, but it is unfair to American consumers. It is unfair to those in this country who need prescription drugs, who need lifesaving drugs, who need these miracle drugs, and cannot afford them.

So even while we put a prescription drug benefit in the Medicare plan, which I fully support, we must pass the underlying generic amendment, which also has the effect of putting downward pressure on prices.

We must pass this amendment, the reimportation amendment, which gives very careful consideration to the safety issues that others have raised, and we should not fear, and we should not shrink from, the pharmaceutical manufacturers' attacks that somehow this is bad public policy.

It is good public policy. They just do not like it. It is good public policy for the American consumer, and it is safe for the American consumer as well. My hope is that my colleagues will support this amendment and I strongly urge them to do so.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, during the fine presentation of the Senator from North Dakota, which is standard for the Senator from North Dakota, I have been speaking with the managers of the bill. The other side would accept his amendment by voice vote. I have not had a chance to speak to the Senator from North Dakota, but it is my understanding that he does want a recorded vote.

Mr. DORGAN. That is correct.

Mr. REID. May I ask the manager of the bill and Senator COCHRAN, who is heavily involved in this, if we could set a time—we would draw something up on paper—for a vote on this amendment at 2:30? I do not, frankly, know if all the time would be taken up on this amendment. This would give the Senator from Mississippi time, if he were so inclined, to talk about his amendment. Part of the deal would be that the next amendment in order would be the amendment of the Senator from Mississippi, which will, of course, occur if this passes, and it obviously is going to.

Mr. GREGG. As long as the position of the Senator from Mississippi is protected as being the next amendment offered, I certainly have no objection, but it is the call of the Senator from Mississippi.

Mr. COCHRAN. Mr. President, if the Senator will yield, I am happy to recommend that to our side of the aisle. The only Senators I know of who want to be heard on this amendment I will offer after the amendment of Senator from North Dakota are Senator BREAUX and Senator ROBERTS, both of whom have expressed an interest in this amendment. I would like the opportunity to see, though, if there are others who want to speak and make sure we can accommodate everybody. But I personally do not have any objection to a 2:30 vote.

Mr. REID. I say to my friend from Mississippi, I am sure his amendment will take a little bit of time because he has people who want to speak on it; the majority and others want to speak on it. We will not set a time for dealing with his amendment.

Mr. COCHRAN. Good.

Mr. REID. If it gets out of hand, we can always move to table, but I am sure the Senator from Mississippi, being one of the most experienced legislators we have, understands the rules. We will try to be fair and move this along as quickly as possible.

Mr. COCHRAN. Mr. President, I appreciate the assistance of the distinguished Senator from Nevada. We will be glad to try to work with him to accommodate that suggestion.

Mr. REID. What we will do is have the staffs prepare something on paper, but generally we all understand what it would be; there would be a vote on the Dorgan amendment at 2:30.

Mr. GREGG. With no intervening action?

Mr. REID. No intervening action. The person next to be recognized to offer an amendment would be the Senator from Mississippi.

Mr. GREGG. With the time equally divided.

Mr. WELLSTONE. Mr. President, if I could say to the Senator from Nevada, and I will relinquish the floor in a second, one of the things we need to do on our side—I know Senator STABENOW wants to speak on this. There are other Senators who also want to speak.

Mr. REID. That is why I set the time. We have until 2:30, and even though there is a conference, people can step out of that and speak. So we will prepare something, and we should have it in the next few minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Before there is any unanimous consent agreement propounded, I do want to make sure I state to my colleague from North Dakota we have quite a few Senators who have worked on this for some time and we want to make sure they do have a chance to come down.

I thank my colleague from North Dakota and my colleague from Michigan, and all the other Senators on both sides of the aisle, who support this legislation. I think this has been like about 5 years of work, as I think back to when some of us first started this journey.

One of the things I want to do right away is deal with one of the arguments that are made against this legislation. It is an argument by the pharmaceutical companies that, look, we have to charge American citizens a lot more because we need that money for the research. Senator STABENOW was there, Senator GRAHAM was there, as well as Senator MILLER.

One of the arguments we hear over and over again from the pharmaceutical companies, the drug companies, is they need to make this excessive amount of money, they need to have the very high priced drugs because this goes to research for the miracle drugs that help everyone.

When the President was in Minneapolis in my State last week, he adopted the pharmaceutical or the drug lobby's position and said that the high prices everyone sees are necessary to sustain the research and development.

One of the arguments made against this reimportation bill is, if you begin to do that and people start getting discounts and we cannot charge as much, we cannot put the money into the research. Families USA came out with a report they called "Profiting From Pain." They looked at the drug company's recent submissions before the Securities and Exchange Commission about their activities in 2001. They looked at the nine publicly traded companies that market the top 50 drugs to seniors. I will go over their key findings.

The first finding is these large pharmaceutical companies spent $45.4 billion on marketing and advertising and administration—this is from their own SEC report—and $19 billion for research and development—2½ times more for marketing, advertising, and administration as for research and development.

The second finding for profits over the last 10 years, profits last year as percentage of revenue, was 18.5 percent, 5.5 times the median profit for the Fortune 500 companies.

The third key finding is these companies lavish huge compensation packages and even larger stock options—does this sound familiar to anyone—to the top drug executives. Mr. C.A. Heimbold, the former chairman at Bristol-Myers, had the following compensation package, not including unexercised stock options: Ready? $74.9 million; John R. Stafford, chairman of Wyeth, $44.5 million. The five highest paid executives received over $183 million last year.

Looking at the unexercised stock options, Mr. Raymond Gilmartin, president and CEO of Merck, $93.3 million; Mr. C.A. Heimbold, $76.1 million; two Pfizer executives, $60.2 million and $56.5 million.

I make the plea in the Senate because pharmaceutical companies do not want this bill. By the way, I said to my colleague from Michigan, who has worked so hard on this, one of the reasons I love this legislation, this helps all of our citizens, all our families. Pharmaceutical companies and wholesalers can meet every strict FDA safety rule, reimport back the prescription drugs and pass on the savings. That is what this is about.

The drug industry should stop scaring citizens in our country, seniors and others, with the false claim that if there is a discount and people are charged a reasonable price, this will prevent research in medicine. I thank Families USA for their excellent study. I make the point which they made today, in light of the huge industry profits, enormous executive compensation and big marketing budgets, these claims that we need to rip people off with the obsessive, obscene profits in order to do the research, are irresponsible and wrong.

The next point, by way of context of this amendment, it seems to me the drug companies in this country are making Viagra-like profits—you get the meaning of what I am saying—on the backs of American consumers, on the backs of Minnesota consumers. The thought that these companies, acting as a cartel, can make Viagra-like profits based on the misery and illness and sickness of people is obscene.

We are going to do something about it and we are going to make sure people in Minnesota and people around the country get a discount and they get the same fair price that people in Canada get so people can afford these prescriptions that are so important.

What does our amendment do? It allows for the reimportation of the drugs from Canada. Believe me, many citizens from Michigan and Minnesota and North Dakota know all too well what the differences are. People can save as much as 40 percent, if not more, for their prescription drugs. The amendment of Senator DORGAN, myself, Senator STABENOW, and others would allow pharmacists, drug wholesalers, and individuals to reimport safe and effective FDA-approved prescription drugs from Canada. These drugs, developed in the United States, are available in Canada for a fraction of the price of what we get charged. This would help not only senior citizens but other Minnesotans and other Americans as well.

Some examples to add to what my colleague from North Dakota mentioned: Coumadin, blood thinner, same bottle, $20.99 in the United States; Canadian price is $6.23. Zocor, a cholesterol drug, is $116.69 in the United States and $53.51 in Canada—same bottle, same prescription. Permax, for Parkinson's disease, which so important to people with that neurological disease, is $398.24 in the United States, $189 in Canada. Tamoxifen, a breast cancer drug, is $287 in the United States, $24.78 in Canada.

When I am traveling around Minnesota, people are asking me, more than anything else, can't we get a discount? Isn't there something to do to make the drugs affordable? A lot of Minnesotans ask why we can't have the same price as our neighbors to the north. This is the best of free trade and fair trade. Let our pharmacists and wholesalers meeting FDA guidelines reimport these drugs back and pass on the savings to the citizens we represent.

We have a provision for a suspension. If there is a problem with the drug, the Secretary can stop the batch of drugs coming into the United States until the investigation is completed.

Now we made it stronger, saying if there is any risk to public health, any kind of risk at all to people in this country who deals with public health where we have to worry about a batch of drugs that should not be in here, that violates safety standard, then the Secretary can stop the importation immediately. It is important to protect the health of people. We do that. This language assures that bad drugs are not going to reach patients in the United States and the Secretary at that point in time can suspend those drugs.

What we cannot do, and what I want every Senator to be aware of, we cannot let the pharmaceutical industry gut this amendment. We cannot say that the Secretary of Health and Human Services, be it Democrat or Republican, can set out conditions and certify those conditions have to be met before we have the reimportation. If that is the case, we will allow any Secretary of Health and Human Services in any administration to kill this.

Our citizens are tired of being ripped off. They are tired of the pharmaceutical companies running the show. Our people want a discount. We move forward with this. If, God forbid, there is any tampering with any drugs or any violation of public safety, then the Secretary of State can immediately suspend. But we do not want to have any kind of provision or any kind of amendment that passes that creates a huge loophole that enables the pharmaceutical industry to do all their behind the scenes lobbying and kill this legislation so that, in fact, the Secretary of Health and Human Services never ends up implementing it. That is not what the people in Minnesota are asking. That is not what people in the country are asking.

Mr. REID. Mr. President, will my friend yield?

Mr. WELLSTONE. Yes.

Mr. REID. Mr. President, I ask unanimous consent that the time until 2:30 today be for debate on the pending amendments, with the time equally divided and controlled between Senators DORGAN and GREGG or their designees; that no intervening amendment be in order prior to the disposition of amendment No. 4300; that a vote on or in relation to amendment No. 4300 occur at 2:30 this afternoon, without further intervening action or debate; provided further, upon disposition of that amendment, Senator COCHRAN be recognized to offer an amendment on the issue of drug reimportation.

The PRESIDING OFFICER (Mrs. CARNAHAN). Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, I will take 1 more minute. Other Senators want to speak. Senator STABENOW has been a leader on this legislation for a long time and has been coordinating the effort of all Democrats.

Let me just conclude this way: I know Senators do not want to be seen as opposing an amendment that would enable all of our seniors and all of our citizens to be able to get a reasonable price for prescription drugs. My fear is that we will have an amendment out here with fine-sounding language which will create a huge loophole and will basically kill this amendment by giving any Secretary of Health and Human Services the ability to stop this legislation before it is ever implemented. That is unacceptable. That is unacceptable. We cannot let the pharmaceutical industry kill this bill and kill this amendment.

I believe that people in Minnesota, people in Michigan, and people around the country look at this as simple. I have said it before. I will conclude it this way. I think this is a test case of whether we have a system of democracy for the few or a democracy for the many. If it is a democracy for the many, we will support this provision. If is democracy for a few of the pharmaceutical companies, the devil is in the details. They will be able to create a huge loophole, which will mean this will never be implemented and they will be able to kill it.

I urge all colleagues to support this Dorgan, Wellstone, Stabenow, et al, amendment and to resist any amendment to essentially gut this amendment and stop this piece of legislation from being implemented.

I yield the floor.

## APPOINTMENT OF CONFEREES—H.R. 3763

The PRESIDING OFFICER. Under the authority of the order of July 15, the Chair appoints the following conferees on the part of the Senate on H.R. 3763.

The Presiding Officer appointed Mr. SARBANES, Mr. DODD, Mr. JOHNSON, Mr. REED of Rhode Island, Mr. LEAHY, Mr. GRAMM of Texas, Mr. SHELBY, Mr. BENNETT, and Mr. ENZI conferees on the part of the Senate.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mrs. STABENOW. I thank the Chair, I yield myself up to 15 minutes under the agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Madam President, this is a very important second-degree amendment that not only will help our seniors be able to lower the prices they pay for prescription drugs, as my colleagues have said. I thank the Senator from Minnesota for his ongoing leadership on this issue and, of course, the Senator from North Dakota for his sponsorship and ongoing leadership and advocacy, as well as my other colleagues who are cosponsoring this amendment.

This not only affects our seniors, this affects everyone. It affects the president of Michigan State University, who called me about his health clinics and his college of medicine looking for ways to be able to lower prices so that he does not have to deal with possibly laying off more staff, which he had to do this year as a result of the dramatic increases in the health care costs at the university.

It addresses the big three automakers, small businesses, families, and everyone who is paying exorbitant prices for prescription drugs.

I want to start by quoting our President, President Bush, when he was a candidate for President. He indicated that he thought this idea was a good idea. He said:

> Allowing the new bill that was passed in the Congress made sense to allow for, you know, drugs that were sold overseas to come back and other countries to come back into the United States.

That was what then-candidate George W. Bush and now President Bush said makes sense. It does make sense. It made sense before. The problem before was that there was an amendment added which basically killed our ability to be able to do this. We know that same amendment which is supported by the pharmaceutical industry will be offered later. There will be an attempt to kill it again.

But we are hopeful that our colleagues will join with us in what is a very reasonable proposal that addresses any legitimate issues regarding safety and health and allow us to open the border to Canada and be able to provide the kind of competition we need to lower prices.

I think it is important also to reiterate that at a September 5, 2001, hearing before the Senate Commerce Committee's Subcommittee on Consumer Affairs, William Hubbard, FDA Senior Associate Commissioner, testified:

> I think as a potential patient, were I to be ill and purchase a drug from Canada, I would have a relatively high degree of confidence in Canadian drugs.

We know the Canadian system is similar to ours as it relates to the regulatory and safety system.

We feel very confident that this modest proposal of simply opening the border to Canada—and we know that Canada right now exchanges goods and services with us every single day. We have the largest port of entry in Detroit, MI, which I am proud to represent, with over $1 billion in goods going across. We trade every day with them.

We believe this proposal will allow one thing to be traded which is desperately needed by our citizens and is not now allowed to go back and forth across that port of entry. It makes sense. This is a reasonable, modest proposal.

Instead of opening all of our borders, some would argue that this does not go far enough; that we should open to Mexico, Europe, or other places around the world. But we are taking a modest step to begin to show that this kind of approach can work.

We want to simply start with Canada with a very modest approach that will allow us to be able to share with our neighbors to the north the ability to bring back to our citizens American-made prescription drugs which are sold in Canada.

I think this is an issue of fairness as well because we are talking about prescription drugs on which we helped to underwrite research. As I have said so many times, $23.5 billion this year alone was given by the taxpayers of this country. And I support that strongly. I support having that be a higher number. I think basic research into new potential treatments is absolutely critical and is a good investment. But we are making those investments. We are then giving that information to the drug companies, that pick up the information and then proceed to do their own research and development.

We allow tax writeoffs for that research and development, tax credits, and tax reductions. We subsidize them further. We allow up to 20-year patents so they can recover their costs because we know it costs a lot to research and develop new drugs. So we let them be able to recover those costs without competition for their name brand. So we highly subsidize—highly subsidize—this area; the most profitable industry in the world, highly subsidized by American taxpayers.

Then what do we get at the end of that process? The highest prices in the world. One of the reasons is we close the borders to competition. And we are subsidizing heavily all of the research and development of new medications that the Canadians enjoy, that people around the world enjoy, while we in fact pay the highest prices in the world.

I have had an opportunity to take a number of bus trips to Canada; the latest was on June 10 of this year. I will just share with you some of the differences. My colleagues have talked about that as well. But it is shocking to take a mere 5-minute bus trip across a bridge or through a tunnel and see the dramatic differences in prices.

I might add, I am not interested in continuing to put people on buses or in cars to have to go over to Canada to get those lower priced medications. What we want is the ability to bring them back, so that the neighborhood pharmacy can offer these same kinds of prices. That is what this is all about, to bring them back and place them in the local pharmacy.

But it is shocking when we look at the differences. Zoloft is an antidepressant drug. In Michigan, it costs $220.65 for a monthly supply; in Canada, $129.05. So it is $220 versus $129. That difference can buy food, pay the electric bill, pay the rent, it can be the difference between someone having a quality of life that makes sense and one that involves struggling every day to pay for their medications.

We also know one of the most dramatic differences is tamoxifen, which I have spoken about here before. Tamoxifen is a breast cancer treatment drug. When we went to Canada, we were able to get it for $15. And back in Michigan it is $136.50.

If you have breast cancer and you are struggling to pay for your medications to get the treatments you need to deal with all of the other issues in your life as well, the difference between $15 and $136 a month is a big deal. That is why this amendment is a big deal. I hope our colleagues will join overwhelmingly in our amendment—which is, in fact, a bipartisan amendment, a tripartisan amendment—to say: Yes, it is time to be fair to Americans.

This is about fairness for Americans. It is about competition. It is about opening the border in a way that maintains safety for our citizens.

I would like to speak to a couple of the arguments that I know we will hear from colleagues who are opposing this amendment and what the drug companies have said.

The drug companies have said that bringing those prescription drugs back from Canada is not safe. For the record, drugs are already frequently imported into this country, but predominantly by the companies themselves, by manufacturers.

I also note that individual consumers now are allowed to bring back up to a 90-day supply. Because of the concerns that have been raised, they have looked the other way at the FDA and allow people, for personal use, to bring back up to a 90-day supply.

In fact, according to the International Trade Commission, $14.7 billion in drugs were imported into the United States in the year 2000, and $2.2 billion in drugs sold in Canada were originally made in the United States.

So it is ironic that the drug makers are saying that drugs cannot safely move between the borders of the two countries. They do already. The issue is price. The issue is who controls them moving back and forth. When the companies want to move them back and forth, they think it is fine. When the pharmacists want to move them back and forth or individuals want to move them back and forth and get a lower price, it is not fine. They are the same medications. It is a question of who controls them.

In fact, in recent years the FDA has allowed thousands of American consumers to import from Canada medications for their personal use every year. The FDA Senior Associate Commissioner, as I said before, indicated that as a consumer he would have a relatively high degree of confidence in drugs purchased from Canada. So these arguments do not make sense. The arguments we will hear about safety do not make sense.

We will hear that safety standards in Canada are more lax than here in the United States. There was a September 2001 report by the nonpartisan Congressional Research Service—which we all use—which confirms that the United States and Canadian systems for drug approval, manufacturing, labeling, and distribution are similarly strong in all respects. Both countries have similar requirements and processing for reviewing and improving pharmaceuticals, including ensuring compliance with good manufacturing practices.

Both countries also maintain "closed drug distribution systems" under which wholesalers and pharmacists are licensed and inspected by Federal and/or local governments. All prescription drugs shipped in Canada must, by law, include the name and address of each company involved along with the chain of distribution.

Let me finally address one of the other myths I am sure we will hear more about today, and that is that somehow our bill will allow Canada to become a conduit for counterfeit or contaminated drugs into the United States.

On the contrary, this bill provides for safe protections, many of which are not in current law. We go beyond current law, which we all know needs to be done now as we look at so many areas of homeland security.

We have gone beyond what is currently in place. If implemented, this bill would have the potential to decrease, more than today, the possibility of allowing counterfeit drugs into the United States.

We would provide there be strict FDA oversight, proof of FDA approval of imported medicines. There must be a paper chain of custody, which is important. Only licensed pharmacists and wholesalers would be able to import medications for resale. They would have to meet requirements for handling as strict as those in place by the manufacturers—equally strict as what the manufacturers do today.

There will be lab testing to screen out counterfeits, registration with Canadian pharmacists and wholesalers by HHS. There will be lab testing to ensure purity, potency, and safety of medications.

We also say that the Secretary of Health and Human Services can immediately suspend this provision, immediately suspend the importation of prescription medicines that appear to be counterfeit or otherwise violate the law.

We have made it very clear that they can immediately suspend "on discovery of a pattern of importation of the prescription drugs or by the importer that it is counterfeit or in violation of any requirement under this section or poses an additional risk to the public health"—they can immediately suspend.

This is a responsible provision. It is a moderate provision. It opens the border to a country that we trade with every day, whose system is similar to ours. It allows actions if in fact anything is found to create a threat to Americans in terms of our health and safety. It allows immediate action and suspension of this new provision.

I believe we have put into place something that is reasonable. It is logical. It is long overdue. I am hopeful that we will have a strong bipartisan vote.

If we want to lower the prices immediately, without much, if any, expenditure of taxpayers' dollars—if we want to do it immediately—all we have to do is drop the barrier at the border to Canada.

I urge my colleagues to join us.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I yield myself 5 minutes.

The Dorgan amendment before the Senate has enormous potential to make more prescription drugs more affordable for more people. The amendment is particularly important for our seniors, most of whom live on fixed incomes and constantly have to decide whether they can afford to fill those prescriptions.

We have a bizarre situation. We manufacture drugs in America, but they are sold at cheaper prices in other countries. Just a few examples: Brand name drugs cost an average of 31 percent less in the United Kingdom than they do in the United States; 35 percent less in Germany; 38 percent less in Canada; 45 percent less in France; 48 percent less in Italy. The General Accounting Office has studied 121 drugs and found that on average prescription drugs in the United States are priced 34 percent higher than the exact same products in Canada.

I travel around Michigan, and I listen to the stories of citizens who are trying to pay for expensive prescriptions and wonder why their neighbors in Canada, just a few miles away, are able to buy the exact same drug, manufactured in America, often for half the price.

We conducted a survey this last February of two of the most commonly prescribed prescription drugs. In every case, the prescription in Canada cost significantly less than the same drug in Michigan. For example, we looked at a number of pharmacies on both sides of the border. A 1-month supply of Prilosec, a gastrointestinal drug, costs about $126 in Michigan but only $71 in Canada. Similarly, a 1-month supply of Lipitor, a cholesterol-lowering drug, costs $74 in Michigan but $41 in Canada.

As a result of these enormous price disparities, we have the spectacle of American citizens, mostly seniors, going into Canada by the busload to buy American-made prescription drugs at a fraction of what they have to pay here. It is absurd. It is unconscionable that we give pharmaceutical manufacturers tax breaks and direct grants to bring new drugs to the market, and then those drugs cost more in America, where they are made, than they do in other countries. We subsidize the drug costs for the rest of the planet, and that has to change.

The Dorgan amendment fixes this problem in two fundamental ways: First, the amendment allows U.S. licensed pharmacists and drug wholesalers to import FDA-approved medications from Canada. Second, the amendment would allow individuals to import prescription drugs from Canada as long as the medicine is for their own personal use, as evidenced by a prescription, and is a 90-day supply or less.

These provisions will allow American citizens, through the appropriate channels, to take advantage of lower prescription drug prices in Canada.

According to a Boston University School of Public Health study, drug reimportation, just from Canada, could have saved consumers $38 billion in the year 2001, an enormous sum.

In the year 2000, the Senate approved strikingly similar legislation by a strong bipartisan vote of 74 to 21. Unfortunately, a technical amendment blocked implementation of the legislation. Now the Senate can act again to bring lower priced prescription drugs to people who desperately need them. We can act to bring in some competition. We can act to bring in some free trade. American scientific know-how has led to the development of hundreds of lifesaving and life-enhancing prescription drugs.

Some of the newer prescription drugs are modern-day medical miracles which help millions of Americans lead healthy lives well into their golden years.

These drugs won't do any good if people can't afford them. It is that simple and that demanding.

I hope our colleagues will support the Dorgan amendment and allow for the reimportation of prescription drugs.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. FRIST. Madam President, I yield myself 20 minutes to speak in opposition to the amendment.

The PRESIDING OFFICER. From whose time?

Mr. COCHRAN. The time should be charged to that under the control of Senator GREGG. He has asked me, as his designee, to yield.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FRIST. Madam President, I rise to address the issue introduced in the last hour and a half; that is, the issue of reimportation of drugs, especially as it affects the safety of the American people. They have been introduced by the proponents of this legislation as myths. By calling them myths, it is as if in some way we should say they are myths. They are not real, therefore, let's proceed down this path.

I want to give a little bit of historical perspective to these so-called myths and explain to my colleagues why I believe they are not myths but reality. The potential of such reality can result in direct harm as we look at public health and safety.

I look forward to the afternoon because the debate will continue. The debate ultimately will start with cost and buses running back and forth to Canada. Then Senators will say that this idea is appealing and critically important to pass so we can lower the cost of prescription drugs. We are all for lowering prescription drugs costs. Prescription drugs cost too much; they are out of reach today for too many people.

The focus is on cost. It is motivating and a driving force because it is something on which we all agree. Prescription drugs costs too much today—the rate of increase is too much. But to focus on cost without focusing on public health and safety is wrong and irresponsible.

If we look at the legislative history of the consideration of reimportation of drugs and pharmaceutical agents from other parts of the world outside of the borders of the United States to this country, we have a lot to learn. It is a rich history in terms of lessons learned.

I will not focus on the cost issue, but let me just dismiss the cost issue in terms of my comments now by saying there is no evidence that this amendment will guarantee price savings. For seniors, individuals with disabilities, or the American people who are listening today, there is no evidence to indicate this. It is pretty dramatic, holding up two bottles and saying one comes from another country and one from the here. The assumption is that it will reduce the cost of prescription drugs in the United States, however, that evidence is not there.

What I want to focus on—and I think it is even worse than not being able to make that assurance to the American people—is my concern with health.

From July 1985 to June 1987, nine hearings were held and three investigative reports issued regarding the issue of reimportation of pharmaceuticals. These efforts, over that time, led to the enactment of the Prescription Drug Marketing Act of 1987. That law was specifically designed to protect America's health and safety against the risks of drugs that in some way may have been altered or counterfeit imported medicines.

The act, a product of the debate at that time, found among other things, "a significant volume of pharmaceuticals are being reimported. These goods present a health and safety risk to American consumers because they may become subpotent or adulterated during foreign handling and shipping."

The overall purpose of the Prescription Drug Marketing Act of 1987 was to "to decrease the risk of counterfeit, adulterated, misbranded, subpotent or expired prescription drugs reaching the American public."

In the Committee report which accompanied the Prescription Drug Marketing Act, the Commerce Committee concluded:

> Reimported pharmaceuticals threaten the American public health in two ways. First, foreign counterfeits, falsely described as reimported U.S.-produced drugs, have entered the distribution system. Second, proper storage and handling of legitimate pharmaceuticals cannot be guaranteed by U.S. law once the drugs have left the boundaries of the United States.

I mentioned the history because it is incumbent upon us—as we look at this legislation and change, modify, defeat, pass, improve, strengthen this legislation—that we have to address the issues that were so prominently raised at that time. That was from 1985 to 1987. At that time, we did not have nearly as many cost concerns as we do today.

In 2000, as was mentioned on the floor, Congress revisited the issue and passed at that time the Medicine Equity and Drug Safety Act. This act allowed reimportation of prescription drugs if the Secretary of Health and Human Services could guarantee the safety and certify that cost savings would result. Safety and cost savings, again, are two issues that remain current today. We want to bring down the cost of prescription drugs, but we certainly do not want to do it if it is going to hurt the American people.

Since that time, two Secretaries of Health and Human Services—of two administrations—have stated that the Food and Drug Administration cannot guarantee the safety of reimported prescription drugs.

In fact, then-Secretary Shalala called it "impossible . . . to demonstrate that [reimportation] is safe and cost effective." Let us jump to the next administration.

Secretary Thompson also concluded that reimportation would "pose a greater public health risk than we face today and a loss of confidence by Americans in the safety of our drug supply."

Those were Secretaries of Health and Human Services and their overall approach in reimportation.

Let us now turn to the Commissioners of the FDA. When FDA Deputy Commissioner Lester Crawford was asked to comment on "whether reimportation (from Canada) now raises greater challenges than it did previously"—meaning prior to September 11—and "what is your view as it relates to safety as it relates to drugs for the consuming Americans," Deputy Commissioner Lester Crawford replied, "The problem would be if it becomes apparent to the rest of the world, including the world of terrorists that we are not interdicting shipments of drugs that come from Canada. . . . I think this is a signal to a would-be terrorist that this might be a way to enter the United States. . . . It also would be a signal to a community that it is not as dangerous as terrorists obviously, but to the transshippers and these would-be people in various countries that may not have a regulatory system or may not have a regulatory system for exported drugs. . . .

I think the important issue is that we are in a new world, compared even to 2 years ago, and that it is incumbent upon us to address this whole idea of having drugs produced or imported or reimported from outside our boundaries at the same time we are trying to strengthen our boundaries in terms of what comes into this country. How careful can we be, how assured can we be that a product is not counterfeit, has not been adulterated, or is not the product of somebody who has ill intent against America. At the same time, we are working to make the borders less porous and tightly overseen, we want to make our borders more porous when it comes to chemical and pharmaceutical agents.

Former FDA Commissioner, Dr. Jane Henney, expressed severe reservations regarding the importation of drugs. This is from a different administration than the current one. Dr. Henney said:

> The trackability of a drug is more than in question. Where did the bulk product come from? How is it manufactured? You're just putting yourself at increased risk when you don't know all of these things.

Let us go back to another FDA Commissioner. Remember, the FDA Commissioners are those people who we have, as a nation, given the responsibility of overseeing the public's health and safety of food and drugs. Dr. David Kessler, former head of FDA, stated:

> In my view, the dangers of allowing reimportation of prescription drugs may be even greater today than they were in 1986. For example, with the rise of Internet pharmacies, the opportunities of illicit distribution of adulterated and counterfeit products have grown well beyond those available in prior years.

That is David Kessler, former head of FDA. He continues:

> Repealing the prohibition on reimportation of drugs would remove one of the principal statutory tools for dealing with this growing issue.

Let us look back to an FDA Commissioner from the Carter administration, Dr. Jere Goyan, who said it best. This is FDA Commissioner Goyan:

> I respect the motivation of the Members of Congress who support this legislation. They are reading, as I am, stories about the high prescription drug prices and people which are unable to pay for the drugs they need. But the solution to this problem lies in better insurance coverage for people who need prescription drugs, not in threatening the quality of medicines for us all.

It is important because, again, in our urge to bring down the cost of prescription drugs and restrain that skyrocketing of costs, we do not want to put drugs out of the reach of the American people. We do not want to do that unintentionally.

Given the statements of the FDA Commissioners and the Secretaries of Health and Human Services, we do not want to open the door and increase the risk to the public health.

Last fall the FDA affirmed its concern about the safety of reimported drugs—even those from Canada, and I understand the underlying amendment is focusing on one country—stating they could not even provide safety assurances for those drugs entering the Nation over our northern border. The FDA further noted that reimported drugs "pose considerable risks to consumers because they may be counterfeit, expired, superpotent, subpotent, simply tainted, or mislabeled."

I point this out early in the debate and want to turn to other people and to the other side, who say: Yes, our amendments are written with more safeguards in the pieces of legislation that come forward. I think that needs to be debated. Ultimately, the safety issue is the key issue in addressing this legislation as we shape it and vote for or against it.

I fear that, in spite of the proponents' attempts in the underlying amendment to establish a mechanism to assure safety—and it is fairly elaborate—a lack of success, lack of assurance of having these safety mechanisms, at the end of the day, puts at risk the American people. This is all in the interest of bringing down the cost of prescription drugs, which is something that we agree with, but there are better and more direct mechanisms to deal with that issue of cost.

We see an elaborate set of safety mechanisms that I think are impossible to implement, which wholesalers and pharmacists are not equipped to handle and, more importantly, mechanisms that only ultimately add—and nobody talks about it—to the cost of prescription drugs. Regardless of whether a pharmaceutical is originally manufactured here in the United States, once a drug leaves this country and crosses borders, I believe it is impossible to ensure that it is properly handled. It is out of our reach and our vision. We can sort of pass the laws and pass regulations, but in truth, we are not going to see it.

It is impossible to guarantee how it is handled, stored, at what temperature it is stored, and whether it is safe for eventual use.

Most people know—we have talked about this in the Chamber of this body—it is very important how drugs are stored, at what temperature, and their potency. In fact, certain drugs that are used in a routine way, if improperly handled, can become lethal if mishandled in being brought back into this country.

Even more hazardous to the health of Americans is counterfeit medicines. I mentioned terrorism, and I do not want to overstate that, but again, we are currently working very hard to fight issues such as bioterrorism. We are working hard to make sure we are able to track and regulate contents of agents that can be used against us. I do not think we should be moving in the direction of opening those borders broadly when I contend it is impossible, or next to impossible, to guarantee their safety.

There is one interesting example. Gentamicin sulfate is a prescription medicine to treat people with resistant infections, abdominal infections, and people who are very ill. Several years ago, FDA reported that this drug resulted in 17 deaths and 202 serious reactions. This drug is a very powerful drug, a very good drug, and one of the best antibiotics out there when used in a targeted, specific way.

Ultimately, it was no surprise to later find that the medicines causing these 17 deaths were being imported from another country. It was not Canada. It happened to be China. Both the current and former leaders of the FDA have made it ultimately clear, really crystal clear, that they will have a tough time establishing mechanisms that are sufficiently elaborate, complex, and detailed enough to ensure pharmaceuticals coming into this country from foreign manufacturers are safe to use.

The underlying amendment purports to address drug safety by only allowing U.S.-approved drugs to be reimported and incorporating a drug testing requirement. Again, it sounds very good, but let me state up-front—and we can debate it as the day goes on—end product testing, after a drug has traveled and handled in certain ways, simply is not adequate. End product testing is not adequate to demonstrate that a drug was manufactured in accordance with U.S.-approved standard and quality requirements.

Also, testing at the moment of import, at the time it actually comes into the country, does not ensure the integrity of the drug throughout its shelf life once it arrives here. Drugs are fluid agents. They are agents that can be adulterated. They can be changed, and, as I mentioned, their storage is critically important.

I will close mentioning this whole danger of counterfeiting drugs because, again, in this environment post-September 11, it is one we need to look at. We need to address this issue up-front. It is the new environment in which we are working. In that regard, I am hopeful we can address this amendment to make absolutely sure we have safe drugs for the American people. We need to make sure that we have not opened the door at the same time we are putting interest in lowering costs and reducing costs over time, opened the door, opened our borders, or made them more porous in a way that ultimately will hurt the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains on each side?

The PRESIDING OFFICER. The Senator from North Dakota controls 21 minutes; and the Senator from Mississippi controls 25 minutes.

Mr. DORGAN. Madam President, I yield 8 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I thank the Senator from North Dakota for bringing this matter to the attention of the Senate. I am very hopeful it will be accepted in the Senate in a short time. There are some interesting underlying facts. What we are finding now has been referenced during the course of this debate. The United States and its taxpayers are subsidizing the world in terms of prescription drugs. That happens to be a fact.

The research for brand and generic drugs is basically now conducted in the United States. They have moved dramatically from Europe over the recent years. With the doubling of the NIH budget, much of that is funding basic research which is essential for the development of drugs. So the taxpayer is paying for the funding of the NIH and then paying the additional costs at home. Furthermore, these drugs are a good deal cheaper outside the United States.

We are doing for the rest of the world in the area of prescription drugs what we are doing for our national security. We keep the Straits of Malacca open, the Suez Canal open, and the Panama Canal open. The great choke points of the world are free because of the U.S. Navy and that is the way it is. We wish that it could be better. There are things that could be done and should be done in this area. Nonetheless, that is the case. That is one issue, if we are able to have prices that are reasonable for the American consumer, but we do not have that. One of the principal efforts of what we are discussing in the Senate is taking steps to assure those families who are in need of prescription drugs that they are going to have access to them.

We have an underlying bill that will make a very important difference. The Dorgan amendment, cosponsored by our Democrat and Republican colleagues, can make an important contribution to that as well, and we will have follow-on amendments.

Rightfully, it has been identified that safety is a key issue. However, we are talking about drugs that are FDA approved and produced in plants that have FDA inspections. Many of the safety issues raised in Secretary Shalala's letter some years ago in criticism of a much broader amendment by the Senator from North Dakota have been addressed in this legislation. The safety issues that have been addressed included the counterfeiting, the proliferation of handling, and a wide range of other issues. They have been addressed in a very serious and responsible way.

We are doing this against a background where we are free, thank goodness, of examples or incidents where there has been contamination of drugs imported from Canada. That has not been true in terms of Mexico and other countries, but it certainly has been true with Canada.

This is a very modest program, but it is an important one. It is a vital program certainly for millions of our citizens who live in or around the northern tier States. It has caught on because of the frustration of our fellow citizens. And it is a legitimate frustration because of the fact that we in the Congress have not taken steps to assure that the generic drugs or that brand-name drugs are going to be sold at a more reasonable cost. It is out of frustration for that.

I do not hear those supporting this proposal saying they are in strong support of the underlying proposal that will make the availability of drugs less expensive for the consumer, or other means as well. It is a question of the cumulative effect. This is targeted to Canada, where we have high regard and respect for their system of handling these ingredients.

I think the issues which have been outlined and detailed expressing reservations about this proposal, certainly with regard to Secretary Shalala, and to a significant extent Secretary Thompson, have been addressed by the Dorgan amendment. This will be a measured but very constructive and important step in assuring that some of our citizens get vitally needed drugs.

As the Senator from North Dakota has pointed out, the fact is that if people are not able to get drugs at all because they cannot afford them, they are willing to take some risks to be able to get them. That is what this is about. We cannot make the excellent the enemy of the good.

The opportunity for getting good quality drugs at reasonable prices will make a difference, as the Senator has pointed out with his examples of individuals with cancer who otherwise would not be able to afford any of the higher-priced drugs. So with all the inevitable health hazards that they are facing, it is either these drugs or no drugs.

This is a measured step. It is one that is eminently worthwhile. I commend my colleague for offering it, and hopefully it will be accepted.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from North Dakota has 14½ minutes.

Mr. DORGAN. Do we know with respect to those who are yielding time to the opponents of this legislation, or at least yielding time on behalf of Senator GREGG, whether they will be using their time at this point?

The PRESIDING OFFICER. The Senator from Mississippi has 25 minutes.

Mr. COCHRAN. Madam President, we are happy to abide by the unanimous consent agreement which calls for a vote at 2:30. We have an indication that there are Senators who want to talk. I will speak on the subject. We already have had remarks by Senator FRIST on this subject.

Mr. DORGAN. Madam President, as the Senator who offered the amendment, I reserve some time to close debate.

I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I thank my colleague from North Dakota, who has worked so hard on this legislation and has done such a wonderful job of crafting what is a very reasonable and modest approach.

I did want to respond to comments that had been made a little while ago to emphasize again that this is a different proposal than was brought before the Congress before it was passed. It is limited to Canada where we know there is a very similar safety regulatory structure. We are trading back and forth. Our manufacturers of prescription drugs go back and forth across the border all the time. The only difference is they control the prices, as opposed to giving consumers the ability to have lower prices. So this is a different system. This is a system that sets up a number of protections, in fact more protections than we have in current law.

So this is actually strengthening, and given the current times that we are in, that makes sense. It makes sense to limit this to Canada as a way to begin this process and see how it works, and it makes sense to add all the safety provisions that are put in. It also makes sense to allow the Secretary of Health and Human Services to have the power to immediately stop reimportation if, in fact, there is a problem. If there is a safety problem, if there is a health problem, if there is a concern at all about counterfeit drugs, then the Secretary has the ability, based on the evidence, to be able to stop this process.

So I believe we have built in a number of provisions that are very important, that are very responsible, and I believe this plan should go forward.

My colleague from Tennessee also said that there is no evidence we will see prices lowered or that we will see the lower prices passed on. First, I would absolutely say what we do know. There is great evidence that in fact our seniors—in fact everyone—are going to be paying higher prescription drug prices every year. We do know that. We do know in the last year, the brand name companies raised the prices over three times the rate of inflation. We do know that. We do know there is an explosion in advertising, two and a half times more in advertising, than research. We know there is in fact an explosion in prices going on in this country. We do know that our families are desperate, that our seniors are desperate, and many have drug bills that are higher than their incomes; families struggling to help mom and dad, grandma and grandpa.

We do know our small businesses are struggling to provide health care for themselves and their employees. We do know too many workers find themselves in a situation where their employer says: We have to have a pay freeze in order to be able to afford your health care benefits.

We know that is predominately because of the rising prices of prescription drugs.

So even if one thinks this is not the best proposal in the world, it is better than what is occurring today for American consumers, for American families, American seniors. I am very confident, in talking to pharmacists, community pharmacists, those who are on the front lines around this country, that they would welcome the ability to have a lower cost product brought into their pharmacies so they can offer it to American citizens.

They are on the front lines. They see the senior that walks up, gives the prescription for a 30-day supply of a drug, and then looks at the bill and comes back and says: Can I get one week's supply or I cannot get this at all. Or they take it home and they cut the pills in half. I have known couples who both needed the same heart medicine. They buy one and share it. We all know the stories.

I know that pharmacists in our neighborhood pharmacies are very much in support of efforts to bring in lower priced prescription drugs. One way to do that is by opening the border to Canada.

So I would simply rise to, again, voice strong support and my pleasure at being a cosponsor of this amendment, having worked on this issue for a number of years. I urge my colleagues to get beyond the scare tactics and to support us in this reasonable, moderate effort to add competition and lower prices for our citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, as the designee of Senator GREGG, I yield myself such time as I may consume.

To refresh the memory of Senators on this subject and the fact that we have had this issue before the Senate on an earlier occasion, 2 years ago during the consideration of the annual appropriations bill for the Department of Agriculture and the Food and Drug Administration and related agencies, the Senator from Vermont, Mr. JEFFORDS, offered a similar amendment to allow drug reimportation. These were prescription drug reimportation rights.

Senator KOHL, who was the ranking Democrat at the time on the appropriations subcommittee, and I, serving as chairman, offered an amendment to that amendment which required a finding by the Secretary of Health and Human Services that the implementation of that amendment would not increase risk to public health and safety and that it would result in a reduction in the cost of products to consumers.

This language was modified slightly in conference with the House. The word "demonstrate" was substituted for the word "certified," but in all other respects the amendment survived conference and was a part of the law.

Subsequent to that, Secretary Shalala, who was serving as the Secretary of Health and Human Services in the Clinton administration, wrote a letter to President Clinton describing her views about whether the Department could demonstrate, as required by the law, that the reimportation rights would not cause any failure of safety standards and that it would reduce the costs of prescription drugs to those who reimported them.

Her letter suggested that she could not make such a demonstration; she could not meet the requirements of the law and certify that.

Then at some point Senator KOHL became chairman of the subcommittee, and we thought we would be confronted in the next Congress with the same amendment. So we had a meeting in his office with FDA officials, Department of HHS officials, and others, to discuss the views of the administration on this subject. We had a new administration come to town. Secretary Thompson was in the meeting.

I was impressed and surprised at how much counterfeiting of drugs goes on; that countries manufacture and label and package drugs all over the world to look exactly like the drugs, some of which are off-the-shelf medications in our drugstores throughout our country; others are prescription drugs you can buy only if you have a prescription from a physician. They showed us parcel after parcel, illustration after illustration, of how much of this is going on around the world. They cautioned we should be very careful about accepting any language that would make it easier for the counterfeiters and for those who would want to do harm and bring such drugs into the country because there is no guarantee of their safety or efficacy, or that the strength stated on the package is really what is on the inside.

By looking at the drugs or the medical devices, one could not tell the difference. I could not tell the difference. No one could tell the difference to decide whether this was safe or without a chemical analysis.

The point of the story was, we were prepared to insist upon the same language in the appropriations bill that we had gotten the Senate to approve unanimously the year before, 96 to 0. They voted on the language that would make sure we would not be doing anything that would affect safety and that we really would be doing something to help reduce the cost of prescription drugs to America. But no amendment was offered.

I say that now by way of background and also to suggest to the Senate, after we vote on the Dorgan amendment, which says if you are going to permit reimportation and you find there is counterfeiting going on, you can suspend it. That is what this amendment says. OK, that is harmless enough. Let's approve that when we vote at 2:30 on a regular vote. We agreed to accept this amendment by voice vote, but there will be a recorded vote. I will vote for it. Sure, they ought to be able to suspend reimportation if they find it to be counterfeit. But guess what. There is counterfeiting and they will find it. It is no big secret.

This amendment is meaningless. What we will need to do after we adopt the Dorgan amendment at 2:30, under the agreement I will offer the same amendment. We will say that the Secretary of Health and Human Services must be able to certify that this will not adversely affect safety or be a threat to U.S. consumers, and it will result in cost savings. I want the Senator to know we will have an opportunity at that time to consider another amendment to this proposal which I hope the Senate will also adopt, as it has in the past, by unanimous vote.

I yield to the distinguished Senator from Utah.

Mr. HATCH. I thank my colleague.

Almost 2 years ago today, we visited the issue of whether to allow importation of prescription drugs from other countries. The Senate has before it today The Prescription Drug Price Parity for Americans Act, designed to permit the commercial importation of prescription drugs from Canada and to permit personal importation of prescription drugs from any country.

S. 2244 is intended to modify the Medicine Equity and Drug Safety Act of 2000, MEDSA, attempts both to address the safety concerns voiced by FDA, DEA, U.S. Customs, Secretary of HHS, and others and also expand the personal importation exemption contained in current law.

As I will explain, reimportation was not a good idea then, and it is an absolutely terrible idea today, especially after 9/11.

The high cost of pharmaceuticals is indeed one of the most difficult matters facing our society today. We face a harsh reality: At a time when scientists are able to offer an unbelievable new array of medication, diagnostics, and vaccines, many Americans are encountering difficulties in affording these state-of-the-art and often costly therapeutics.

We have all heard stories of Americans going across the borders to Mexico and Canada to purchase cheaper drugs. This type of activity is also increasing over the Internet.

It may appear that the solution is simply to allow the importation of prescription drugs into our country. While I do not question the good intentions of those who believe this is the correct solution, we all must be aware of the disturbing, lasting, unintended and negative consequences this proposal would have.

It was not possible to assure safety of reimported pharmaceuticals 2 years ago. Sadly, it is even more difficult to do so today.

We are facing an unprecedented time in history. I need not point out to my colleagues the challenges this country is already facing in our war on terrorism. Allowing drug reimportation is only going to further threaten our safety and inundate our law enforcement and regulatory agencies.

As always, there are many issues at play in this debate. But, the number one fundamental issue at stake here is the safety of the American people.

Assuring the American public that these imported drugs are safe and effective and unadulterated is next to impossible, especially now, in the midst of a war on terror. I worry that a day will come when either an underpotent or over-potent or adulterated, either intentionally or unintentionally, batch of imported drugs will cause injury and even death.

Yes, we can have certifications and regulations and foreign inspections and every other policing mechanism you can think of, but the fact remains we cannot police everyone around the world.

With this bill, we are opening a door that Congress prudently closed in 1988 when it enacted the Prescription Drug Marketing Act.

Let me give you a little background regarding the history of drug importation law.

During the 1980s, the House Energy and Commerce Committee conducted a lengthy investigation into the foreign drug market that ultimately led to enactment of the Prescription Drug Marketing Act legislation—PDMA.

This bill was enacted after our nation experienced a series of serious adverse events due to improperly stored, handled, and transported imported drugs. There were serious threats to public health and safety. That investigation discovered, among other things, that permitting reimportation of American drugs "prevents effective control or even routine knowledge of the true sources of merchandise in a significant number of cases." As a result, the House Committee found that "pharmaceuticals whic have been mislabeled, misbranded, improperly stored or shipped, have exceeded their expiration dates, or are bald counterfeits, are injected into the national distribution system for ultimate sale to consumers". It was determined that we could not prevent the introduction of substandard, ineffective, or even counterfeit pharmaceuticals.

The PDMA was necessary to eliminate health and safety problems before serious injury to consumers could occur. the Committee report was clear on why the PDMA was needed:

"[R]eimported pharmaceuticals threaten the public health in two ways. First, foreign counterfeits, falsely described as reimported U.S. produced drugs, have entered the distribution system. Second, proper storage and handling of legitimate pharmaceuticals cannot be guaranteed by U.S. law once the drugs have left the boundaries of the United States."

Now we place a high premium on our citizens receiving safe and effective products, free from adulteration and misbranding. The Dorgan bill, could unravel the protection that the PDMA provides us.

Dating from the 1906 Pure Food and Drugs Act, through the 1938 Federal Food, Drug and Cosmetic Act, the 1962 efficacy amendments written by the Senate Judiciary Committee, and the 1988 Prescription Drug Marketing Act, our Nation has devised a regulatory system that painstakingly ensures drug products will be carefully controlled and monitored all the way from the manufacturer to the patient's bedside.

Under the current Federal Food, Drug, and Cosmetic Act, FDCA, it is unlawful for anyone to introduce into interstate commerce a new drug that is not covered by an approved New Drug Application, NDA, or Abbreviated New Drug Application, ANDA. When a product is introduced into interstate commerce that does not comply with an approved application, it is considered an unapproved new drug in violation of section 505 of the FDCA. It is also misbranded under section 502. These basic rules cover importations, since importing is a form of introducing a drug into interstate commerce. Under FDCA, a drug that is manufactured in the US pursuant to an approved NDA and shipped to another country may not be reimported into the US by anyone other than the original manufacturer.

The provision restricting the right to reimport US drugs to the original manufacturer was designed to ensure that only the party that can truly vouch for the purity of the drug is allowed to bring that medicine back into the country. The prohibition on reimportation of products previously manufactured in the US and exported abroad was added to the law in 1988 to guard against the entry of counterfeit and adulterated products into this country.

On the issue of importing drugs for personal use, FDA has had a "personal importation" policy since the mid 1980s, which permits the importation of an unapproved new drug for personal use, meaning the individual may import no more than a 90-day supply, in certain situations.

It was intended solely to allow unapproved medications into the US for compassionate use. But over the years, there has been a tremendous increase in volume and FDA has recently taken the position that the personal importation policy has outgrown its usefulness and now presents a threat to public health.

In a letter to Congress, FDA reported that the personal importation policy "is difficult to implement . . . due in part to the enormous volume of drugs being imported for personal use and the difficulty faced by FDA inspectors, or even health practitioners, in identifying a medicine by its appearance". FDA lacks the ability to adequately monitor the enormous volume of mail-order pharmaceuticals.

The FDA has therefore proposed to the Department of Health and Human Services that it eliminate its personal use policy for mail imports. The Dorgan bill proposes to expand personal importation at a time when the FDA is telling us that it can't handle this and wants us to stop this policy.

In 2002, the Medicine Equity and Drug Safety Act—MEDSA—included a provision that allowed an importer or wholesaler—in addition to the original manufacturer—to reimport US-manufactured drugs into the United States. But this provision would become effective only if the Secretary of HHS demonstrated to Congress that its implementation would impose no additional risk to the public's health and safety and that it would result in a significant reduction to the cost of covered products to the American consumer.

In December 2000, HHS Secretary Donna Shalala said she could not make this determination, citing flaws in the legislation that could "undermine the potential for cost savings associated with" prescription drug reimportation and that prescription drug reimportation "could pose unnecessary public health risks".

In July 2001, HHS Secretary Tommy Thompson also declined to make this determination on the premise that the safety of prescription drugs could not be adequately guaranteed if reimportation were permitted under its provisions.

So we have certifications by the top health officials of both the Clinton and Bush administrations that reimportation is inherently unsafe. Are we willing to say, that it is safer today to import drugs by mail and other avenues and that we can do a better job ensuring the safety of these imported drugs? Especially after the tragic events we have been through?

The Dorgan bill, S. 2244, is a modified version of MEDSA. A review of S. 2244 will show that the new language is not significantly different from the MEDSA provisions that Secretary Shalala and Secretary Thompson rejected. Senator DORGAN, the sponsor of the bill, has stated that it is very similar to MEDSA.

Although the modifications in S. 2244 are intended to address original concerns inherent in MEDSA, they fall short of providing these safeguards—safeguards which are nearly impossible to implement. The new bill suffers from the same flaws as did MEDSA.

For example, S. 2244 is limited ostensibly to drugs imported from Canada. In fact, however, a drug could be imported from anywhere in the world under this bill, as long as it entered the U.S. through Canada.

There is no effective way under this bill to prevent the transshipment of drugs—legitimate or not—from other countries into Canada and then into the U.S. This would permit the entry of drugs that have been manufactured, stored, shipped, and handled anywhere in the world—in unsanitary conditions, unregulated conditions—and drugs that have become adulterated and even toxic.

At a September 2001 hearing before the Senate Consumer Affairs, Foreign Commerce, and Tourism Subcommittee, FDA's Senior Associate Commissioner for Policy, Planning, and Legislation, Bill Hubbard, warned of this very risk. Mr. Hubbard stated, "Even if the Canadian system is every bit as good as ours, and I don't know whether it is or not . . . the Canadian system is open to vulnerabilities by people who will try to enter the U.S. market again because that's where the money is."

To give another example, S. 2244 differs from MEDSA insofar as it would require manufacturers to allow importers to use their FDA-approved U.S. labeling free of charge. This could lead to an influx of misbranded products into the U.S., as importers paste FDA-approved labeling onto products from other parts of the world.

These drugs would be seen as an FDA-approved product manufactured and sold by a U.S. manufacturer—but could easily be a different product—a drug that could have deteriorated, or been contaminated, subpotent, or toxic. The products would be indistinguishable to a consumer in a local pharmacy, to a health professional, and even to the FDA. Consumers would be deceived by this practice, thinking the U.S. manufacturer had vouched for the purity, safety, and effectiveness of the product when in fact the manufacturer could not and had not.

Our top health care financing official has concerns as well. In March 2002, the Administrator of the Centers for Medicare and Medicaid Services—CMS—told the Senate Finance Committee that CMS opposes the reimportation of prescription drugs into the U.S. "We have opposed it," he stated. "There is no way for FDA to monitor and regulate drugs coming in from Canada, Mexico, or other countries."

The Dorgan bill also permits a significantly lower standard for personally imported drugs than applies to domestic drugs. The Dorgan bill could also open up a loophole in the FDCA for unscrupulous commercial importers. It permits FDA to issue regulations permitting individuals to reimport prescriptions not only in their personal luggage but also through the mail or other delivery services.

We all know there is no way for FDA to limit mail order shipments to personal use. A commercial importer could simply divide its shipments into 90-day quantities and mail them separately, taking advantage of the personal use policy to introduce counterfeit products into the stream of U.S. commerce. This would overwhelm the ability of FDA and Customs to process the millions of incoming packages. Many of the criticisms of MEDSA—voiced by FDA, DEA, and others—apply equally to the new Dorgan bill.

Many senior officials in various agencies, including FDA, U.S. Customs Service, the DEA, the Secretary of HHS warned of the difficulty in ensuring the purity and safety of reimported drugs.

Let's hear again what the experts have to say about reimportation.

William Hubbard, FDA Senior Associate Commissioner for Policy, Planning and Legislation, June 7, 2001:

> We are very concerned that a system, if designed to be a different system than the current system, poses risks and we cannot be assured that we could successfully implement such a system and bring in safe drugs because we do not have the same level of confidence about where it was manufactured, and how it was manufactured, and by whom it was manufactured, that we have under the current system.

Elizabeth Durant, Executive Director, Trade Programs, U.S. Customs Service, June 7, 2001:

> You can see the kinds of drugs that come through the mail. They are not even in bottles many times, just loose in paper. We have counterfeit drugs. We have gray-market drugs. We have prohibited drugs and we have unapproved drugs. And this is a situation that is pretty much replicated around the country.

We live in a very different world now after 9/11—a more dangerous, less certain world. We must question the safety of reimportation of prescription drugs even more than ever.

As Secretary Thompson cautioned on June 9, 2002:

> Opening our borders to reimported drugs potentially could increase the flow of counterfeit drugs, cheap foreign copies of FDA-approved drugs, expired and contaminated drugs, and drugs stored under inappropriate and unsafe conditions. In light of the anthrax attacks of last fall, that's a risk we simply cannot take.

That's the Secretary of Health and Human Services warning us.

Here's another quote from William Hubbard, FDA Senior Associate Commissioner for Policy, Planning and Legislation, July 9, 2002:

> The cheaper drugs are there. We just have no way to say to a given consumer, "You have gotten a product that will help—will save your life," and we fear that many people will get a bad product that will hurt them.

We invest lots of money and resources in the United States to ensure that medications and other therapeutics are made and distributed at the highest quality and standards. Our agencies, while not perfect, have a remarkable record of protecting the public from contaminated, ineffective, and unsafe drugs.

We cannot guarantee an acceptable level of quality and safety with re-imported drugs. We can't sacrifice quality and safety in the hopes of getting cheaper medications. What's the use of cheap drugs if they can potentially do a great deal of harm and threaten the public's safety?

Reestablishing a system where wholesalers and pharmacists may import prescription pharmaceuticals through Canada to the U.S. would recreate the public health risk of counterfeit, unsafe, and adulterated drugs that Congress sought to eliminate in the late 1980s with the Prescription Drug Marketing Act.

Even if we put aside these very real safety concerns, the idea that the Dorgan bill can achieve the goal of bringing cheaper drug products to US consumers is unlikely.

This bill requires drug manufacturers to disseminate their drug formulations to potentially thousands of pharmacies and wholesalers. This information, currently protected under patent laws, could be worth millions of dollars per drug, on the black market. Unscrupulous individuals could obtain drug formulations and learn how to make their fake drugs look real and survive chemical analysis.

Allowing individuals to pirate the hard work and innovation of American drug companies to produce so called "gray market" products, counterfeit products, is no way to ensure that Americans have access to the latest pharmaceuticals in the long-run because they simply will not exist if we do not protect the work of our private sector companies.

While there is a clear and obvious health danger in a contaminated, pirated product, there is also great detriment to the American public if the unscrupulous are allowed to reimport America's inventions back into America without compensating the inventor. Few will be willing to invest the upfront capital—hundreds of millions of dollars—to develop a drug if another party can make and sell the drug while it is under patent protection.

It takes an average of 15 years and a half a billion dollars to create one of the blockbuster drugs. So we have to be careful. We must be able to continue to attract the private sector investment into committing to the research and development that has made the American drug development pipeline so successful. We jeopardize this with reimportation of drugs.

We can't just do what appears on the surface to be good but, in essence, could kill people and undermine our fundamental system of encouraging innovation and rewarding hard work.

How successful is pharmaceutical innovation in Canada? They have price controls, and nobody is going to invest the money into developing these life-saving and cost-saving drugs over the long run in those countries with price controls.

This is another step toward price controls that will weaken one of the most important industries in America at a time when we just mapped the human genome, and we are at the point where we can actually create more life-saving medicines.

When the value of American inventions is stolen, it is American inventors and American consumers who suffer. The United States cannot and should not allow free riders around the world essentially to force the American public to underwrite a disproportionate amount of the research and development that results in the next breakthrough product. On the surface it seems there's no harm if drugs obtained from outside the United States at prices lower than U.S. prices can be resold in the U.S.; presumably this could lower prevailing U.S. prices. But great harm can come from this. I can say that where nations impose price controls, the research and development we count on to bring us miracle cures is jeopardized.

How can we guarantee that foreign government price controllers will not set an artificially low price on some new badly-needed Alzheimer's or Parkinson's or Lupus drug? We can be sure that this will have the unintended, but real, effect of convincing company officials to forgo research on this new class of drugs for fear that, in conjunction with the new liberal re-import policy, they will not be able to recoup their investment?

Let's stop the free riders and cheap riders overseas while American citizens are paying the full freight of R&D. Look, I understand the appeal of bringing goods sold cheaper abroad back to the United States at presumable savings to U.S. citizens. Yet, the amendment provides no guarantee that those wholesalers and pharmacists importing the products would pass their savings on to the consumer. And so, at best, with this bill we could be trading public safety for middleman profits.

We would also incur far more costs policing this endeavor. The cost of implementing the Dorgan bill would require very substantial resources at a time when we are stretching our funding to HHS and other federal departments to prevent future terrorist incidents.

We have to find a way around this drug access problem in this country without creating a public health hazard and "gray market".

We will be importing not just drugs but some other government's questionable safety standards and price controls into U.S. market dynamics.

In our valid and justified quest to help make drugs more affordable to the American public, we would be mindful not to unwittingly impede innovation.

Even the Dean of the House, Representative JOHN DINGELL of Michigan did not support similar legislation in the past when the House Energy and Commerce Committee issued a report that concluded that "the very existence of a market for reimported goods provides the perfect cover for foreign counterfeits."

The concerns are relevant to the Dorgan bill that we are considering today.

In our haste to bring cheaper drugs to seniors and other needy Americans—an important and laudable goal—we risk making changes to key health and safety laws and changes in our innovative pharmaceutical industry that no one can afford. We must bring safe, effective drugs to Americans, and particularly seniors, through avenues such as the Tripartisan Medicare Bill.

We need to focus our efforts on passing a Medicare prescription drug benefit bill. We should not pass another feel-good drug reimportation bill before the election that we already know today will not and cannot be implemented after the election.

## UNANIMOUS-CONSENT AGREEMENT

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate may proceed to the consideration of Calendar No. 486, H.R. 5011, the Military Construction Appropriations bill; and that it be considered under the following limitations; that immediately after the bill is reported all after the enacting clause be stricken and the text of Calendar No. 479, S. 2709, the Senate committee-reported bill be inserted in lieu thereof; that debate time on the bill and substitute amendment be limited to a total of 45 minutes; with an additional 20 minutes under the control of Senator MCCAIN; that the only other amendment in order be an amendment offered by Senators FEINSTEIN-HUTCHISON, which is at the desk; with debate limited to 10 minutes on the Feinstein-Hutchison amendment; that upon the use or yielding back of time on the amendment, without further intervening action or debate, the Senate proceed to vote on adoption of the amendment; that all debate time, not already identified in this agreement, be equally divided and controlled between the chair and ranking member of the subcommittee or their designee; that upon disposition of the Feinstein-Hutchison amendment, and the use or yielding back of all time, the substitute amendment, as amended, be agreed to; the bill, as amended, be read three times, that Section 303 of the Congressional Budget Act be considered waived; and the Senate then vote on passage of the bill; that upon passage of the bill; the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses; and that the chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

The PRESIDING OFFICER (Mr. CARPER). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, under the designation of the Senator from New Hampshire, I yield to the distinguished Senator from Louisiana, Mr. BREAUX.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Thank you very much. I thank the distinguished Senator from Mississippi who I think is preparing an amendment which will be offered later on in the debate on the whole question of importation of drugs, which in essence is the same amendment that 97 Senators voted for the last time we addressed this issue on the question of importation of drugs.

Let me mention, to start with, that I think the topic of the debate on how we can provide prescription drugs for all of our Nation's seniors is really the challenge that is before the Senate. We can get waylaid, or delayed, or sidetracked by saying we are going to fix the problem by opening our borders to imported drugs coming from foreign countries or from Canada. That is something we need to discuss. But it is certainly not, by any stretch of the imagination, going to solve the problem of prescription drugs for seniors until we come up with a comprehensive, across-the-board Medicare package that can guarantee insurance coverage for prescription drugs just as every Member of the Senate has when we buy prescription drugs. That is the type of plan we have. People compete for the right to sell us those drugs. We have a choice between the plans that best can serve our families' needs at the best possible price.

That is the type of system on which I think we should be working and, in fact, on which we are spending a great deal of time.

With regard to the specific issue before this body at the current time—the question of importation of prescription drugs from our neighbors to the north in the country of Canada—the concern I have with that is guaranteeing, before you allow these drugs to come into this country, that they are going to be just as safe and just as real as the drugs we buy in this country which are certified by the FDA and tracked from the manufacturer all the way to the pharmacist and to the customer.

We had hearings just a week ago in the Senate Aging Committee where we discussed the issue of counterfeit drugs. We had U.S. Customs come in, we had the FDA Administrator come in, and give us information from their perspective about imported drugs coming from Canada or from other foreign countries. Here are some statements from the FDA about the issue of imported drugs.

It is not just a question of whether they are cheaper. Of course, they could be cheaper. I can get open heart surgery in Juarez, Mexico, a lot cheaper than I can get it at the Houston Medical Center. The question is, Is that the type of open heart surgery I want? The answer, from my perspective—and I think most Americans—is that it is not. I want it to be not just the cheapest price, I also want the best service.

The issue is not where you can get the cheapest drugs but where you can get drugs that are also affordable and are also the real thing.

It is estimated that about 8 percent of the drugs coming into the United States right now are counterfeit, and the projection is, if you open up the borders, that amount will increase greatly.

Here is what the FDA said when testifying before the Senate Aging Committee:

> For those who buy drugs overseas, we have been consistently saying that you are really taking a great risk. You certainly risk your pocketbook, but you may be risking your health, and you may even be risking your life.

FDA also said:

> Unapproved drugs and reimported approved medications may be contaminated, subpotent, superpotent, or counterfeit.

The final thing they said, which I think is significant because the argument is this is from Canada, and they are our friend, they are a democracy and not a third-world country, and it is all right to do it from Canada; we are not going to let you do it from Bangladesh, they said in our hearing:

> Throwing the door open to drugs purchased by individuals directly from Canadian sellers will encourage unscrupulous individuals to devise schemes using Canada as a transshipment point for dangerous products from all points around the globe.

It is not just going to be drugs manufactured in Canada that can penetrate our border under an importation policy but drugs manufactured in Colombia, manufactured in Bangladesh, and manufactured in some very unsettled parts of the world that can be transshipped through Canada and come into the United States.

Here is an example. I have a lot of examples. Some of our colleagues have held up two bottles and said: This bottle cost $350 in America, and this bottle of the same stuff cost $20 in Canada. That is fine, if it is the same stuff. The problem is when it is not the same stuff.

Here is an example of a product that is supposed to be an anti-inflammatory drug. This is great. This is a prescription drug. In this particular case, they took a white powder. They stamped the name of the product into the little bitty pills. You can't tell the difference in the pills. They put it in a blister pack and sold it as the drug Ponstan. The only problem is that it sure looks like Ponstan. The package looks like Ponstan. It has every word on it that the real thing has, and the dosage is the same in fine print. The pill is exactly the same. It has the name Ponstan stamped into it.

Here is what is really in it. When you analyze it, the yellow powder which they put in it, instead of being the real thing, ended up being stuff that could do grave damage. This happens to be boric acid, floor wax, and yellow, leaded highway paint. That is a heck of a thing to be able to do. Is this cheaper than the real stuff? Oh, yes, it is a lot cheaper. But I don't want to take a pill that says it is the real thing but is yellow, leaded highway paint which they pressed into these packages and sold.

Can they sell it a lot cheaper? Yes. I can sell it for 2 cents a pill. I don't care what I sell it for because it does not cost much to make yellow, leaded highway paint and sell it as a pill and take it across the border.

It is my understanding, in reading the legislation and amendment before this body, that you can immediately suspend importation, but after the fact, after they have exhibited a pattern of importation of drugs "that is counterfeit or in violation of [these] requirement[s] . . . or poses an additional risk to the public health." After we determine that it is being done, then you can stop it from being done.

Isn't it better to have to have that certification up front before we allow them to start bringing things over the border that may be real or may not be real; may be half real and half not real? Shouldn't we establish what the rules are before we let them in?

The Senate has discussed and debated that issue. And by a unanimous vote, every single one of us who voted on this issue before supported the Cochran amendment, 97 to 0, that said, before we can allow it to start coming in, we have to have a system in place that is guaranteed by our Food and Drug Administration that it is coming in and it is not counterfeited; it is safe; we have tracked the manufacturer and we know how they make it, what they are doing, and what is in the little packets of pills.

The legislation before the committee, I fear, now says that only after our Government determines that there is a pattern of counterfeiting or a pattern of bringing in drugs that pose a risk to the human health—then, and only then, can we suspend their operations.

Don't do it after the horse is already out of the barn. You have to stop it before it starts. How many people are going to have to take yellow, leaded highway paint before they can show there is a pattern of doing this in order to come in with a suspension of these importations? Do we have to have five people—to create a pattern—get sick from taking yellow, leaded highway paint? Do we have to have 100? I would not want to be 1 of the 100, if that is the establishment of what we have to do before we can suspend their operations.

It is far superior to take the approach: Yes, we will let you bring in imported drugs from Canada, but only if there is established, prior to the time it starts, a guarantee that these drugs can be brought in and are not counterfeit and are not harmful to your human health and are, in fact, not yellow, leaded highway paint.

Mr. DURBIN. Will the Senator yield for a question?

Mr. BREAUX. I am happy to.

Mr. DURBIN. Can the Senator tell me, in this particular instance, was this drug imported from Canada?

Mr. BREAUX. I am not sure where it was from.

The point I make is, Canada is our good friend, a civilized society, with high-quality manufacturers. But what Food and Drug says about Canada is the following:

Throwing the door open to drugs purchased by individuals directly from Canadian sellers will encourage unscrupulous individuals to devise schemes using Canada as a transshipment point for dangerous products from all points around the globe.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Ms. COLLINS. Mr. President, I rise in support of the amendment offered by my colleague from North Dakota, Senator DORGAN, to allow for the reimportation of prescription drugs from Canada by pharmacists and wholesalers.

The United States leads the world in the discovery, development and manufacture of cutting-edge pharmaceuticals. Yet too many citizens who live in Maine and elsewhere must travel over the broader to Canada to buy the prescription drugs that they need to stay healthy for much lower prices than they would pay at their neighborhood drug store.

It is well documented that the average price of prescription drugs is much lower in Canada than in the United States, with the price of some drugs in Maine being twice that of the same drugs that are available only a few miles away in a Canadian drug store.

It simply does not seem fair that American consumers are footing the bill for the remarkable, yet costly, advancements in pharmaceutical research and development, while our neighbors across the border receive these medications at substantially lower prices.

That is why I cosponsored legislation in the last Congress, the Medicine Equity and Drug Safety Act, to allow American consumers to benefit from international price competition on prescription drugs by permitting FDA-approved medicines made in FDA-approved facilities to be re-imported into this country. A modified version of that bill was signed into law last October, and I am extremely disappointed that the Department of Health and Human Services continues to refuse to implement the law.

I am therefore pleased to cosponsor this amendment, which will allow American consumers to benefit from international price competition in two ways:

First, it allows U.S. licensed pharmacists and drug wholesalers to import FDA-approved medications from Canada, which has a drug approval and distribution system comparable to ours.

Second, the amendment codifies existing U.S. Customs' practices that allow Americans to bring limited supplies of prescription drugs into this country from Canada for their personal use. That way, consumers who follow the rules won't have to worry that their medicines will be confiscated at the border.

While this amendment is a step in the right direction, it is not the solution to the prescription drug problem in the United States. I believe that our top priority should be to strengthen Medicare and include a prescription drug benefit, and I look forward to working on a bipartisan basis with my colleagues to give all Americans better access to affordable prescription drugs.

Mr. DORGAN. Mr. President, how much time remains for both sides.

The PRESIDING OFFICER. The Senator from North Dakota controls 7½ minutes.

Mr. DORGAN. Is that total time?

The PRESIDING OFFICER. Total time.

Mr. DORGAN. I yield 3 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. JEFFORDS. Mr. President, it is not often I disagree with my good friend from Louisiana, but when you come from a northern State such as Vermont, and when you see what is happening, and you are buying a drug from a drugstore, which is certified under Canadian law, which is just as strong as ours, and you can pay half the price for it—to say you cannot go across the border to do that just does not make any common sense.

The real threat as far as drugs coming into this country, because of the disproportionate pricing, is the utilization of the Internet. That is where the problems are. On the Internet there is no checking, and you can order your drugs over the Internet. That is where you ought to look to try to prevent sales coming into this country. And that is wide open now.

When I was chairman of the committee that put together the pharmaceutical bill, we worked carefully with the FDA to make sure that when this bill passed, it gave them authority for sales across the border, and that they would have full authority to make sure that any sales are stopped that should not be allowed under the law. So I think the statements that are being made now just do not fit the reality of the situation.

To deny our people the ability to purchase these drugs, under a safely designed plan, which the FDA has the authority to approve, to make sure there is no counterfeiting or unlawful sales—it is just without merit to say that we need the protection there. It is there. We did that before. We passed it by a large vote, I believe, and put it into law. But the Secretary had authority not to let it go forward. And under the previous administration, that happened.

So what we should do now is pass this bill to allow our people the opportunity to get good pharmaceuticals that are not overpriced, which are safe and available. I think all the comments to the contrary are missing the point and missing the Bill.

This amendment will allow pharmacists and wholesalers to import safe, U.S.-made, FDA-approved lower-cost prescription drugs from our neighbor to the north—Canada. This amendment will do nothing to undermine the gold standard of safety in this country because our northern friends have virtually the same standards. What this amendment will do is rein in the platinum standard we have for prices we pay for our medicines.

Prescription drugs have revolutionized the treatment of certain diseases, but they are only effective if patients have access to the medicines that their doctors prescribe. The best medicines in the world will not help a person who cannot afford them.

Americans pay by far the highest prices in the world for prescription drugs, and for many the prices is just too high. What's worse is that those Americans who can least afford it are the ones paying the highest prices. Americans who don't have health insurance that covers drugs are forced to pay the "sticker price" off the pharmacist's shelf.

It is sad that during a time when the United States is experiencing economic problems and higher unemployment it is becoming more common to hear of patients who cut pills in half, or skip dosages in order to make prescriptions last longer, because they can't afford the refill.

This is not about the Medicare benefit that we will also have an opportunity to debate later. But this too is a tripartisan effort. And, it is equally important because this will effect all Americans—not just our Medicare seniors. The question that we must ask is, can we put politics aside and work in a nonpartisan manner to deal with this national crisis? I say we must. And I am hopeful that today we can.

This amendment is based on legislation I introduced in the last Congress, the Medicine Equity and Drug Safety Act. Then, as now, we were joined by my friends Senators DORGAN, SNOWE, WELLSTONE, and COLLINS. I am also glad to see that this year our group has been joined by Senator STABENOW and Senator LEVIN. That measure passed on an overwhelming vote of 74 yeas to 21 nays. It is time for us to take that vote again, and again pass this legislation.

This amendment has been substantially revised to address the concerns over safety that have been raised.

Two key elements. First, the FDA approved drugs can only be brought in from Canada. These are the same drugs that are currently being brought in under existing FDA policy. There have been no reports of adverse events, poisonings or counterfeit by the senior citizens taking buses to Canada. In addition, it gives the Secretary the authority to suspend this program should these safety issues arise.

I would also point out to my colleagues that this amendment specifically authorizes FDA to incorporate any other safeguard that it believes is necessary to ensure the protection of the public health of patients in the United States.

It is important to remember—these are exactly the same drugs that have been approved by the FDA except they are sold for far less.

Why is it that Canada and the rest of the developed world pays less for drugs than the U.S. It is because drugs are somehow exempt from the laws of the open market and free trade. And for that reason we have been subsidizing the rest of the world, in spite of the fact that we have U.S. citizens going without health care and without the medicines they need.

Why should Americans pay the highest prices in the world for prescription drugs? All this amendment does is allow international competition to bring rational pricing practices to the prescription drug industry. It introduces competition which is the hallmark of our success in this Nation.

I want the record to clearly reflect that I still feel strongly that Vermonters should not be in violation of Federal law if they go a few miles across the border into Canada to get deep discounts on prescriptions. We do nothing in here to indicate they should not be allowed to do so.

This amendment will provide equitable treatment of Americans, particularly those who do not have insurance, or access to big discounts for large purchases like HMOs. This is not the only solution. I strongly believe we need a good competitive prescription drug benefit in the Medicare program. And I look forward to working with all of my colleagues to develop a balanced, generous prescription drug benefit that can be supported by Members from both sides of the aisle.

But right now, this is a commonsense measure that we can enact now to ease the burden of expensive prescription drugs on our people, for those on the borders, and all Americans.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President it is unusual we have a real debate on the floor of the Senate. I think it is interesting to do so. It is also interesting to listen to the debate and see the tactics we have heard about terrorists, terrorism, heart surgery in Tijuana, everything but poppy seeds from Afghanistan—yellow highway paint from somewhere around the world. He is not sure where it comes from.

Well, he just won a debate no one is having. It is the easiest debate in the world to win. Congratulations.

The real subject, however, is vastly different than the presentation you just heard. This is about FDA-approved drugs, only FDA-approved drugs produced in FDA-approved manufacturing plants, moved across the border by licensed pharmacists and licensed distributors, and only those.

Apparently—obviously—the pharmaceutical industry does not like what we are doing here. I understand that. And I understand why people stand up and say the pharmaceutical industry does not want this to happen.

But what they are saying is, it is OK for the manufacturers to move prescription drugs back and forth across the border—and they do; they do a lot of it every day—but it is not appropriate for licensed pharmacists or distributors to do so.

Why is it we trust the manufacturers so much more than the Main Street pharmacists? Tell me about that, if you will. Why is one trustworthy and the other untrustworthy. And is it not the case that there might be a price differential, I say to my colleague from Louisiana, between the United States and Canada?

It is a fact that there is a very substantial price differential, and that the American consumer is charged the highest prices in the world for the identical prescription drug.

There is a lot of fog in this debate and very little light. We are talking about something very simple. We are not talking about counterfeit drugs or adulterated drugs. We are not talking about terrorism. We are talking about very careful circumstances under which a licensed pharmacist or distributor goes to Canada, which has a chain of custody that is similar to ours, accesses the identical prescription drugs that are FDA approved, brings them back across the border, and passes the savings along to the American consumer.

Why don't the pharmaceutical companies like that? Because it will force them to reprice their drugs in this country. It will force down drug prices to the U.S. consumer. That is why they do not like that.

I renew the question I have asked time and time again, for which no one in this Chamber has an answer—no one. Why should American citizens have to go to Canada to get a fair price on a prescription drug that was manufactured in the United States?

There is no answer to that in this Chamber. No one has attempted an answer. What we have seen is a discussion about——

Mr. SANTORUM Will the Senator from North Dakota yield for an answer?

Mr. DORGAN. I have very limited time. I am sorry.

Mr. SANTORUM. I would be happy to answer at some point.

Mr. DORGAN. The Senator will have ample time to answer the question. I will inquire when he does so.

In the minute or so I have remaining, let me say this: This is life or death for a lot of people, this issue of prescription drug pricing. Yes, we need to put a prescription drug benefit in the Medicare Program. I support that strongly. But if we do not do something to put downward pressure on prescription drug prices, we will simply break the bank, in my judgment.

That is why we need reimportation. And we need the generic amendment—the base bill. We need to do both of these things. I am not interested in compromising safety under any condition or any circumstance. This amendment is very simple. It says, in part, that the Secretary of Health and Human Services can suspend and will suspend and shall suspend the implementation of this reimportation if, in fact, there is a counterfeiting problem, or other problems such as terrorism.

The issue of counterfeit drugs that had been raised, the issue of terrorism, has nothing at all to do with this amendment. We are talking about licensed pharmacists, licensed distributors, FDA-approved drugs, FDA-approved plants—a system in which those from the U.S. who are licensed to do so can get the exact same prescription drug safely from Canada at much cheaper prices and pass those savings along to customers.

I understand we will have another amendment following the vote on this amendment. That amendment will have the effect of essentially making this provision unworkable. We will have to debate that at that time.

How much time remains?

The PRESIDING OFFICER. Twenty seconds.

Mr. DORGAN. I yield back my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 4300 offered by the Senator from Nevada for the Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—69

Akaka
Allard
Baucus
Biden
Bingaman
Bond
Boxer
Brownback
Burns
Byrd
Cantwell
Carnahan
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Craig
Crapo
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Grassley
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Wellstone
Wyden

NAYS—30

Allen
Bayh
Bennett
Breaux
Bunning
Campbell
Carper
Corzine
DeWine
Domenici
Ensign
Enzi
Frist
Gramm
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Nickles
Roberts
Santorum
Shelby
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner

NOT VOTING—1

Helms

The amendment (No. 4300) was agreed to.

The PRESIDING OFFICER. Under the previous order the Senator from Mississippi is to be recognized to offer an amendment.

The Senator from Mississippi.

AMENDMENT NO. 4301 TO AMENDMENT NO. 4299

(Purpose: To protect the health and safety of Americans)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. BREAUX, proposes an amendment numbered 4301 to amendment No. 4299.

On page 15, line 17, strike "section.". and insert "section," and insert the following new subsection:

"(2) CONDITIONS.—This section shall become effective only if the Secretary of Health and Human Services certifies to the Congress that the implementation of this section will—

"(A) pose no additional risk to the public's health and safety, and

"(B) result in a significant reduction in the cost of covered products to the American consumer.".''

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I support the effort to make prescription drugs more affordable for all Americans. However, I am concerned that creating new opportunities to bring counterfeit or dangerous drugs into the United States from foreign countries is not the way to do it.

The amendment I have sent to the desk on behalf of myself and the Senator from Louisiana, Mr. BREAUX, will provide an opportunity for the Secretary of Health and Human Services to make a certification that the reimportation of drugs from Canada will not jeopardize human safety, the consuming public who buys these drugs, and it will, in fact, lower the cost of prescription drugs for Americans.

I have also been asked to state that other Senators who want to be added as cosponsors to this bill are Senator ROBERTS of Kansas and Senator SANTORUM of Pennsylvania. I make that request.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, the amendment of the Senator from North Dakota could very well make it easier to avoid U.S. standards and inspections at a time when we are increasing border surveillance and trying to prevent acts of terrorism.

Two years ago, a similar amendment was added to the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act for Fiscal Year 2001. However, the Senate-approved language that I offered at that time required the Secretary of Health and Human Services to certify that implementation of the amendment would pose no additional risk to the public's health and safety and would result in a significant reduction in prescription drug costs for U.S. consumers.

Secretary of HHS Donna Shalala was not able to make such a demonstration as required by that law.

I ask unanimous consent that a copy of her letter to President Clinton dated December 26, 2000, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
*Washington, DC, December 6, 2000.*

Hon. WILLIAM J. CLINTON,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: The annual appropriations bill for the Food and Drug Administration (FDA) (P.L. 106-387), signed into law earlier this year, included a provision to allow prescription drugs to be reimported from certain countries for sale in the United States. The law requires that, prior to implementation, the Secretary of Health and Human Services demonstrate that this reimportation poses no additional risk to the public's health and safety and that it will result in a significant reduction in the cost of covered products to the American consumer.

I am writing to advise you that I cannot make the demonstration called for in the statute because of serious flaws and loopholes in the design of the new drug reimportation system. As such, I will not request the $23 million that was conditionally appropriated for FDA implementation costs for the drug reimportation system included in the FY 2001 appropriations bill.

As you know, Administration officials worked for months with members of Congress and staff to help them design safe and workable drug reimportation legislation. Unfortunately, our most significant concerns about this proposal were not addressed. These flaws, outlined below, undermine the potential for cost savings associated with prescription drug reimportation and could pose unnecessary public health risks.

First, the provision allows drug manufacturers to deny U.S. importers legal access to the FDA approved labeling that is required for reimportation. In fact, the provision explicitly states that any labeling information provided by manufacturers may be used only for testing product authenticity. This is a major loophole that Administration officials discussed with congressional staff but was not closed in the final legislation.

Second, the drug reimportation provision fails to prevent drug manufacturers from discriminating against foreign distributors that import drugs to the U.S. While the law prevents contracts or agreements that explicitly prohibit drug importation, it does not prohibit drug manufacturers from requiring distributors to charge higher prices, limit supply, or otherwise treat U.S. importers less favorably than foreign purchasers.

Third, the reimportation system has both authorization and funding limitations. The law requires that the system end five years after it goes into effect. This "sunset" provision will likely have a chilling effect on private-sector investment in the required testing and distribution systems because of the uncertainty of long-term financial returns. In addition, the public benefits of the new system are diminished since the significant investment of taxpayer funds to establish the new safety monitoring and enforcement functions will not be offset by long-term savings to consumers from lower priced drugs. Finally, Congress appropriated the $23 million necessary for first year implementation costs of the program but did so without funding core and priority activities in FDA, such as enforcement of standards for internet drug purchase and post-market surveillance activities. In addition, while FDA's responsibilities last five years, its funding authorization is only for one year. Without a stable funding base, FDA will not be able implement the new program in a way that protects the public health.

As you and I have discussed, we in the Administration and the Congress have a strong obligation to communicate clearly to the American people the shortcomings in policies that purport to offer relief from the high cost of prescription drugs. For this reason, I feel compelled to inform you that the flaws and loopholes contained in the reimportation provision make it impossible for me to demonstrate that it is safe and cost effective. As such, I cannot sanction the allocation of taxpayer dollars to implement such a system.

Mr. President, the changes to the reimportation legislation that we have proposed can and should be enacted by the Congress next year. At the same time, I know you share my view that an importation provision—no matter how well crafted—cannot be a substitute for a voluntary prescription drug benefit provided through the Medicare program. Nor is the solution a low-income, state-based prescription drug program that would exclude millions of beneficiaries and takes years to implement in all states. What is needed is a real Medicare prescription drug option that is affordable and accessible to all beneficiaries regardless of where they live. It is my strong hope that, when Congress and the next Administration evaluate the policy options before them, they will come together on this approach and, at long last, make prescription drug coverage an integral part of Medicare.

Sincerely,

DONNA E. SHALALA.

Mr. COCHRAN. More recently, on July 9, 2001, a letter from the current Secretary of Health and Human Services, Tommy Thompson, indicated that based on an analysis by the Food and Drug Administration on the safety issues and analysis by his planning office on the cost issues, he could not make the required determinations, and he stated his view that we should not sacrifice public safety for uncertain speculative cost savings.

Secretary Thompson also indicated that prescription drug safety could not be adequately guaranteed if drug reimportation were allowed and that costs associated with documentation, sampling, and testing of imported drugs would make it difficult for consumers to get any significant price savings.

I ask unanimous consent that Secretary Thompson's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
*Washington, DC July 9, 2001.*

Hon. JAMES JEFFORDS,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR JEFFORDS: I am writing to follow up on my earlier response to your letter of January 31, 2001, co-signed by fifteen of your colleagues, regarding the Medicine Equity and Drug Safety Act of 2000 (MEDS Act).

You and other Senators and Representatives asked that I reconsider former Secretary Shalala's decision and make the determination necessary to implement the MEDS Act. As I mentioned in my prior communication, I asked the Food and Drug Administration (FDA) to carefully reexamine the law to evaluate whether this new system poses additional health risks to U.S. consumers, and the Office of the Assistant Secretary for Planning and Evaluation (OASPE) to examine whether the new law will result in a significant cost savings to the American public.

I believe very strongly that seniors should have access to affordable prescription drugs. I applaud your leadership in this area, and agree that helping seniors obtain affordable medicines should be a priority. However, as my earlier response stated, I do not believe we should sacrifice public safety for uncertain and speculative cost savings.

SAFETY CONCERNS

After a thorough review of the law, FDA has concluded that it would be impossible to ensure that the MEDS Act would result in no loss of protection for the drugs supplied to the American people. As you know, the drug system as it exists today is a closed system. Most retail stores, hospitals, and other outlets obtain drugs either directly from the drug manufacturer or from a small number of large wholesalers. FDA and the states exercise oversight of every step within the chain of commercial distribution, generating a high degree of product potency, purity, and quality. In order to ensure safety and compliance with current law, only the original drug manufacturer is allowed to reimport FDA-approved drugs.

Under the MEDS Act, this system of distribution would be opened to allow any pharmacist or wholesaler to reimport drugs from abroad; this could result in significant growth in imported commercial drug shipments. As you know, the FDA and the states do not have oversight of the drug distribution chain outside the U.S. Yet, opening our borders as required under this program would increase the likelihood that the shelves of pharmacies in towns and communities across the nation would include counterfeit drugs, cheap foreign copies of FDA-approved drugs, expired drugs, contaminated drugs, and drugs stored under inappropriate and unsafe conditions.

While the MEDS Act requires chain of custody documentation and sampling and testing of imported drugs, these requirements cannot substitute for the strong protections of the current distribution system. Counterfeit or adulterated and misbranded drugs will be difficult to detect, and the sampling and testing proposed under this program can not possibly identify these unsafe products entering our country in large commercial shipments.

I can only conclude that the provisions in the MEDS Act will pose a greater public health risk than we face today and a loss of confidence by Americans in the safety of our drug supply. Although I support the goal of reducing the cost of prescription drugs in this country, no one in this country should be exposed to the potential public health threat identified by the FDA in their analysis. Further, the expenditure of time and resources in maintaining such a complex regulatory system as proposed by the MEDS Act would be of questionable public health value and could drain resources from other beneficial public health program.

COST SAVINGS

The clear intent of the MEDS Act is to reduce the price differentials between the U.S. and foreign countries. The review of the Office of the Assistant Secretary for Planning and Evaluation (OASPE) concludes there are significant disincentives for reimportation under the MEDS Act, including the costs associated with documenting, sampling and testing, the potential relabeling requirements and related costs and risk associated with such requirements, the overall risk of increased legal liability, the costs associated with the management of inventories by wholesalers and pharmacists, and the risk to existing and future contractual relationships between all parties involved. Moreover, there are a number of reasons (including potential responses by foreign governments) why lower foreign prices may not translate into lower prices for U.S. consumers. Insufficient information exists for me to demonstrate that implementation of the law will result in significant reduction in the cost of drug products to the American consumer.

CONCLUSION

Since I am unable to make the determination on the safety and cost savings in the affirmative, as required under the law, I cannot implement the MEDS Act. Please find attached to this letter a more detailed analysis of the factors influencing the public-safety and cost-savings questions. If you need further clarification of my position on these issues, please do not hesitate to contact me.

Thank you for your leadership in health care. I look forward to working with you on new initiatives for making medicine more affordable to our citizens, and on other health issues of importance to our Nation.

Sincerely,

TOMMY G. THOMPSON.

Mr. COCHRAN. Even though the amendment being offered by the Senator from North Dakota, Mr. DORGAN, would apply under its terms only to drugs exported to and reimported from Canada, it would seem prudent that the safeguards we adopted 2 years ago by a vote of 96 to 0 should also be applied to this reimportation proposal. That is why I am offering this amendment.

We should be certain that any change we make results in no less protection in terms of the safety of the drugs supplied to the American people and will indeed make prescription drugs more affordable. Liberalization of protections that are designed to keep unsafe drugs out of this country, especially following the terrorist threats we face now, should occur only if the necessary safeguards are in place. This amendment will ensure that the concerns of the last two administrations regarding the safety and cost-effectiveness are addressed prior to the implementation of this proposal.

Currently, under the Federal Food, Drug, and Cosmetic Act, it is unlawful for anyone to introduce into interstate commerce a new drug that is not covered by an approved new drug application or an abbreviated new drug application. Approval must be sought on a manufacturer and product-by-product basis. A product that does not comply with an approved application, including an imported drug not approved by FDA for marketing in the United States, may not be imported, even if approved for sale by that country.

A product introduced into interstate commerce that does not comply with an approved application is considered an unapproved new drug in violation of the Food, Drug, and Cosmetic Act, as well as "misbranded" under the section of that act.

Under section 801 of the act, a drug that is manufactured in the United States pursuant to an approved new drug application and shipped to another country may not be reimported into the United States by anyone other than the original manufacturer. This prohibition on reimportation of products previously manufactured in the United States and then exported was added in 1988 to prevent the entry into this country of counterfeit and adulterated products.

Section 801 was enacted not to protect the corporate interests of pharmaceutical companies but to protect the safety of American consumers. Counterfeit drugs are a very real threat and can be deadly. Any liberalization of drug reimportation laws must assure safety from this threat. Limiting reimportation of drugs from Canada does not necessarily solve that problem.

During testimony before the Senate Finance Committee on March 7 of this year, the administrator of the Centers for Medicare and Medicaid Services, Tom Scully, was asked whether the administration opposes or supports the importation of prescription drugs into the United States. He said, and I quote:

> We have opposed it . . . there is no way for FDA to monitor and regulate drugs coming in from Canada, Mexico or other countries.

Others have told us there is no effective way to prevent transshipment of drugs from other countries into Canada and then into the United States. Limiting reimportation to Canada will only make Canada a port of entry for counterfeit and substandard drugs into the United States.

William Hubbard, who is FDA's Senior Associate Commissioner for Policy Planning and Legislation, told us at a September 5, 2001, hearing, before the Senate Consumer Affairs Foreign Commerce and Tourism Subcommittee, the following:

> Even if the Canadian system is every bit as good as ours, the Canadian system is open to vulnerabilities by people who will try to enter the U.S. market because, again, that is where the money is.

Last year, U.S. Customs and Drug Enforcement Administration officials testified before the House Energy and Commerce Committee that thousands of counterfeit and illegal drugs are already coming across our borders and through the mail from other countries. Far from supporting the reimportation proposals before Congress, these agencies recommended tightening our current regulations on reimportation of pharmaceuticals.

In a July 11, 2001, letter to the Energy and Commerce chairman and ranking member, William Simpkins, Acting Administrator of the Department of Justice Drug Enforcement Administration, who was referring to reimportation amendments, said the following:

> (W)e oppose . . . these amendments because they would hinder the ability of law enforcement officials to ensure that drugs are imported into the United States in compliance with long-standing Federal laws designed to protect the public health and safety.

On March 5 of this year, the New York Times in some articles explained that the illegal production in the United States of popular stimulants such as methamphetamine reflects lax regulation in Canada for the chemical ingredients. As a result, Canada has become the leading supply route for the raw ingredient into the United States where the substances are more tightly controlled. In the last 11 months, the U.S. Customs Service has seized more than 110 million tablets of decongestants that contain the primary ingredient for making methamphetamines, or speed, as smugglers attempt to bring shipments across the border in everything from furniture to glassware.

The article notes:

> An alliance of diverse organized crime groups, stretching from Mexico to Iraq to Jordan, have found Canada an easy entry point into a growing American market for synthetic drugs.

The Canadian Government concedes that they have relatively loose control on the powder used to make methamphetamine, which criminal elements have easily circumvented. According to an intelligence report by DEA and the Royal Canadian Mounted Police in January:

> The diversion of pseudoephedrine from Canadian suppliers to the illicit market is reaching a critical level.

The FBI and DEA officials have tracked the profit trail to the Middle East where they are probing to see if it is being used to fund terrorist networks.

This amendment would also permit personal importation of drugs from any country. It is illegal to import unapproved drugs into the United States, but the FDA has for years, in the exercise of its enforcement discretion, allowed U.S. citizens to bring a 90-day supply of prescription drugs for their personal use. The reason for this policy is one of compassionate use. It was to allow patients with life-threatening or serious diseases to have access to non-FDA-approved therapies that are available in other countries. Under this policy, the patient affirms it is for his or her own use and provides the name and address of the U.S.-licensed doctor responsible for treatment.

The FDA has not officially permitted the importation of foreign versions of U.S.-approved medications because it has been unable to assure these products are safe or effective. In testimony before the Subcommittee on Oversight and Investigation in the House Committee on Energy and Commerce, in June 2001, William Hubbard of FDA indicated:

> Under the FD&C Act, unapproved, misbranded, and adulterated drugs are prohibited from importation into the U.S., including foreign versions of U.S.-approved medications, as is reimportation of approved drugs made in the U.S. In general, all drugs imported by individuals fall into one of these prohibited categories. From a public health standpoint, importing prescription drugs for personal use is a potentially dangerous practice. FDA and the public do not have any assurance that unapproved products are effective or safe, or have been produced under U.S. good manufacturing practices. U.S.-made drugs that are reimported may not have been stored under proper conditions, or may not be the real product, because the U.S. does not regulate foreign distributors or pharmacies. Therefore, unapproved drugs and reimported approved medications may be contaminated, subpotent, superpotent, or counterfeit. In addition, some foreign web site offer to prescribe medicines without a physical examination, bypassing the traditional doctor-patient relationship. As a result, patients may receive inappropriate medications because of misdiagnosis, or fail or receive appropriate medications or other medical care, or take a product that could be harmful or fatal, if taken in combination with other medicines they might be taking.

The importation of personal use amounts by mail continues to increase according to FDA. A 5-week survey of mail in Carson City, California, conducted by Customs and the FDA in 2001 found serious public health risks associated with drugs intercepted. These included drugs that could not be identified because they had no labeling, drugs once approved by the FDA but withdrawn from the market due to safety concerns, and drugs that should only be used under the supervision of a doctor licensed to administer the drug.

In a letter to Congress last July, Mr. Hubbard indicated that the personal importation policy "is difficult to implement" partly "due to the enormous volume of drugs being imported for personal use and the difficulty faced by FDA inspectors, or even health care practitioners, in identifying a medicine by its appearance."

When I was discussing the amendment of the Senator from North Dakota, Mr. DORGAN, which we just approved, I told the story of how Senator KOHL and I had a meeting in Senator KOHL's office. We were anticipating a second amendment to the appropriations bill last year to find out more about the dangers and the difficulties our inspectors have at the border when dealing with imported prescription drugs. The Internet and mail resources, buying drugs here and there by mail, were another example of bypassing the inspections and bypassing the enforcement of a lot of U.S. regulations.

It is amazing the number of drugs that are now on the shelves in drugstores in America that are counterfeit and no one knows about it. These are difficulties that we now face. The proposal of this amendment by the Senator from North Dakota will further relax our capability to find illegal drugs, to find those drugs that are dangerous that are being brought into this country. It will create a new opportunity for transshipping drugs all over the world into our country which will be a great danger to the citizens of our country.

The conditions contained in my amendment, which would be added to the legislative proposal before the body, are the same as those previously adopted by this Senate and included in the 2001 Agriculture appropriations bill. They were adopted at that time by a unanimous vote of the Senate during our consideration of that appropriations bill. I ask my colleagues to again support this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I compliment Senator COCHRAN for his amendment. I ask unanimous consent to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Senator COCHRAN alluded to 2 years ago when we passed this amendment unanimously. He said if we are going to do it, let's make sure it does not impose significant additional risk on consumers, thereby saving money. I don't know why anyone would vote against that amendment. I hope no one will vote against this amendment. It is a very important amendment.

Let me make a couple of comments. Someone will ask, didn't we already do that in the Dorgan amendment which passed by a nice vote? The Dorgan amendment is full of loopholes. It says it would be suspended upon the discovery of a pattern of importation of prescriptions by the importer that is counterfeit or in violation of any requirement in this section. If this is the case, how many people will have to die before we realize there is a pattern? How many will realize those yellow tablets that Senator BREAUX was holding up are actually paint instead of maybe a lifesaving drug? How many patterns have to exist before we realize this really didn't work?

We have the FDA where we spend millions and millions of dollars inspecting, trying to make sure we have quality drugs for our citizens. We are just going to open up a gigantic loophole for unscrupulous manufacturers. I wish that were not the case, but if anyone travels anywhere in the world, they know it happens often. When you talk with our State Department about counterfeit drugs or copyright violations on software, they will tell you that it happens lots of time. Unfortunately, it should not happen. But we have a pretty closed system right now where FDA goes to great lengths to ensure the drugs coming into the United States are safe.

Last year, Senator DORGAN said, let's have it basically open ended coming from Canada and Mexico. Now we are just saying Canada. How safe is that?

My staff did some homework. Canada has a provision under the Canadian Food and Drug Act, section 37. It reads:

This Act does not apply to any packaged food, drug, cosmetic or device, not manufactured for consumption in Canada and not sold for consumption in

Canada. If the package is marked in distinct overprinting with the word "Export" or "Exportation" and a certificate that the package and its contents do not contravene any known requirement of the law of the country to which it is or is about to be consigned has been issued in respect of the package and its contents in prescribed form and manner.

In other words, the Canadian Food and Drug Act does not apply to drugs brought in strictly for export. Canada can import drugs from Sudan and export them to the United States and they are not covered by Canadian Food and Drug regulations.

Yet Senator DORGAN's amendment says: Bring them on, bring them on. Our FDA people, our leaders, both past administrations as well as present administration, say we cannot do that safely.

Here is a letter that was addressed to Senator COCHRAN. It is an extensive letter that is critical of Senator DORGAN's approach. I will just read one paragraph:

> The bill would actually create an incentive for unscrupulous individuals to find ways to sell unsafe or counterfeit drugs that, while purporting to be from Canada, may actually originate from any part of the world. Canada could become a transshipment point for legitimate or nonlegitimate manufacturing concerns throughout the world, and in many cases we would not be able to determine the true country of origin. For all these reasons we find this provision would greatly erode the ability of the FDA to ensure the safety and efficacy of the drug supply and protect public health.

I could go on.

If Canada says we are not going to regulate drugs that are brought into Canada for export only, and we are saying wait a minute, Canada, we want to be able to import your drugs.

I listened to a lot of the debate. Almost every example that was given was of United States-manufactured drugs sent to Canada that are a lot cheaper in Canada than they are in the United States. There is nothing in Senator DORGAN's amendment that says these drugs have to be manufactured in Canada or the United States. These drugs could come from Sudan.

There was a pharmaceutical plant in Sudan that was bombed a few years ago. There are pharmaceutical plants all around the world. Some of them may have great quality controls, some of them may not. Some of them may be in terrorist states. Yet we are leaving ourselves wide open.

So I urge my colleagues——

Mr. SANTORUM. Will the Senator yield for a question?

Mr. NICKLES. I will be happy to, but I tell my colleagues I hope and pray the Cochran amendment will pass. If it does not pass, I will have an amendment that says the drugs that are covered should be of American or Canadian origin, manufacture, or control. American drugs are controlled. Even the drugs that we import, if they have FDA approval, we send FDA inspectors over to those plants to certify them. We have what is called a pedigree requirement to follow those drugs, to know where they are manufactured, know where they are distributed, before FDA puts their approval on them.

So we try to and do protect safety. We do not have that for all drugs that would be coming from Canada.

I would just mention there is a fatal flaw, in my opinion, in the Dorgan amendment we just adopted. One of those is that there has to be a pattern. If you look at the language of the amendment we just adopted, there has to be a pattern of importation from each importer.

That is too late when there are people who have already died, are already sick, when there are people who did not get cured because we waited for a pattern, we waited for evidence, we waited for unfortunate results—not to mention, there is no telling how many people would have been cheated out of money, and so on.

So I think the amendment we just adopted is probably not worth the paper it was written on.

I also find it kind of clever to think we had the original Dorgan amendment, then they had a second degree. They left out one paragraph, and then the second-degree was reinstating that one paragraph. I am guessing it was saying we will use this as a substitute for the Cochran amendment. That is a false and faulty substitute. It is not a satisfactory substitute.

The Cochran amendment—and I urge my colleagues to read it, and I cannot imagine anyone would oppose it—says:

> This section shall become effective only if the Secretary of Health and Human Services certifies to Congress that the implementation of this section (A) will pose no additional risk to public health and safety.

How could anybody oppose that?

And, second:

> . . . result in a significant reduction of cost of covered products to the American consumer.

We are all in favor of that. I compliment the Senator from Mississippi for his leadership on it this year and 2 years ago. As a result of the amendment of the Senator from Mississippi, we have saved lives and eliminated a lot of fraud and counterfeiting and abuse that would have transpired had he not been so vigilant for the last couple of years. I compliment him and urge all my colleagues to support the Cochran amendment, and I am happy to yield.

The PRESIDING OFFICER. Is the Senator yielding the floor?

Mr. NICKLES. I yield to the Senator for a question.

Mr. SANTORUM. I have a question. Listening to your comments, are you suggesting that a product made in Iraq or Yemen or Iran or some other country that may have terrorists in their country, they could actually send a drug through Canada into the United States, without anybody inspecting it, and have it show up here not marked as from what country it came, and be sold here in America, under the Dorgan amendment?

Mr. NICKLES. Under Canadian law, which I just read—this is section 37 of the Canadian Food and Drug Act—it said any item, whether it be packaged food, drug, cosmetic, or other devices—and if that item is imported and exported, not to be consumed or utilized in Canada, then it is not under their regulatory scheme.

Mr. SANTORUM. So it would come in here under the Dorgan amendment, reimportation, not being reviewed by the FDA before it came here? Only if we found out the terrorist attack was successful through this scheme would we then find out that we have a problem?

Mr. NICKLES. That would be too late.

Mr. SANTORUM. That would be far too late.

Mr. NICKLES. That would be under the category of the pattern of action.

Mr. DORGAN. Will the Senator yield for a question?

Mr. NICKLES. I am happy to yield for a question.

Mr. DORGAN. I appreciate the courtesy. The amendment deals with FDA drugs, so the condition under which that drug from Canada would come into this country would be it was purchased at a Canadian-licensed pharmacy or distributer by a licensed facility or distributor in this country, and therefore it must be FDA approved and produced in an FDA-approved plant. Is that not the case?

Mr. NICKLES. I am reading a letter from the FDA, and they said absolutely. I ask unanimous consent to have printed in the RECORD a letter dated July 17, from the Department of Health and Human Services addressed to Senator COCHRAN.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF
HEALTH & HUMAN SERVICES,
*Rockville, MD, July 17, 2002.*

Hon. THAD COCHRAN,
*U.S. Senate, Washington, DC.*

DEAR SENATOR COCHRAN. We take this opportunity to provide the views of the Food and Drug Administration (FDA) on S. 2244, the Prescription Drug Price Parity for Americans Act, introduced by Senator Byron Dorgan on April 24, 2002.

The Administration is sympathetic to the goal of making prescription drugs more affordable for American citizens, including senior citizens. However, FDA is concerned about the negative impact on public health of a proposal such as S. 2244 that aims to open the nation's drug regulation system and allow drugs from outside that system into U.S. commerce and our citizens' medicine cabinets. We therefore must oppose enactment of this legislation.

S. 2244 would allow wholesales, pharmacists and individuals to import drugs from Canada under certain specified conditions. The bill would create a new section 804 of the Food, Drug, and Cosmetic Act (the Act), replacing the current provisions of section 804, which are the drug re-importation provisions enacted in 1999 (the MEDS Act).

Currently, drugs marketed in the United States must be approved by FDA based on demonstrated safety and efficacy; they must be produced in manufacturing plants inspected and approved by FDA; and their shipment and storage must be properly documented. This "closed" regulatory system has been very successful in preventing unapproved, adulterated or misbranded drug products from entering the U.S. stream of commerce. Legislation that would establish other distribution routes for drug products, particularly where those routes routinely transverse a U.S. border, creates a wide inlet for counterfeit drugs and other dangerous products that are potentially injurious to the public health and a threat to the security of our nation's drug supply.

S. 2444 would establish two new routes for introducing drugs from Canada into U.S. commerce. First, new section 804(b) would require the Secretary of Health and Human Services (the Secretary) to promulgate regulations to permit pharmacists and wholesalers to import prescription drugs from Canada into the U.S. The bill purports to safeguard the domestic drug supply by requiring, in new section 804(c), that these drugs comply with sections 505, 501 and 502 of the Act, and that importers comply with detailed recordkeeping and testing requirements

As a practical matter, meeting these requirements would be an enormous undertaking, and the testing required under the bill would be costly and time consuming, both for the government and importers. Moreover, some of the testing requirements cannot even be met, as there is no testing that can ensure that a shipment of drugs does not contain counterfeits. Since counterfeits can easily be commingled with authentic product, either by the case, by the bottle, or by the pill, there is no sampling or testing protocol sufficient to protect against the grave public harm they pose. No random sampling plan will be able to detect and protect such criminal conduct since the threat does not depend upon the nature of the reimported product, but upon the integrity of those handling it. Furthermore, the legislation fails to require reporting of any counterfeits that may be found by testing, so even if counterfeits are discovered, FDA may never learn of them.

It is unlikely that Canadian sellers and U.S. importers would be willing to endure these new requirements, but even if they were, it is likely that the intended cost savings for consumers would be absorbed by fees charged by exporters, pharmacists, wholesalers, and testing labs. Because the bill requires that the drugs comply with sections 501, 502 and 505 of the Act, it may be found, in practice, that for the bill to have its intended effect U.S. manufacturers would have to sell drug products manufactured, labeled and intended for the U.S. market to Canadian distributors specifically for re-sale to the U.S. Even if they were willing to do so, these sales may represent illegal shipments to the Canadian market under Canadian law. All of these concerns make the proposed program for importation by pharmacies and wholeasalers both impractical and unworkable.

The second route proposed by S. 2244 for importing drugs into the United States is by allowing individual consumers to import drugs on their own from Canadian pharmacies. New section 804(k)(2) would compel the Secretary to promulgate guidance to allow consumers to directly import drugs and medical devices from Canada. This represents an enormous intrusion on the Department's enforcement discretion, and it would over-ride existing statutory provisions that allow FDA to refuse personal importation of prescription drugs from Canada if they are believed to be unsafe, ineffective, adulterated, radioactive, or contaminated.

In surveys conducted by FDA over the past several years, we have found that a wide variety of dangerous drug products have been imported by individuals from outside the United States, both by mail and by traveling to other countries. The bill would actually create an incentive for unscrupulous individuals to find ways to sell unsafe or counterfeit drugs that, while purported to be from Canada, may actually originate in any part of the world. Canada could become a transshipment point for legitimate or non-legitimate manufacturing concerns throughout the world, and in many cases we would not be able to determine the true country of origin. For all of these reasons, we find that this provision would greatly erode the ability of FDA to ensure the safety and efficacy of the drug supply, and protect the public health.

FDA has numerous other specific concerns that S. 2244 may undermine current law regarding drug labeling, record keeping, testing, and enforcement, and we have laid out these concerns in an attachment to this letter.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LESTER M. CRAWFORD, D.V.M., PH.D.
Deputy Commissioner.

Mr. NICKLES. This is the quote from FDA. I might say this is the position that is consistent, not only with this administration but the previous administration. They state:

> The bill would actually create an incentive for unscrupulous individuals to find ways to sell unsafe or counterfeit drugs that, while purporting to be from Canada, may actually originate in any part of the world. Canada could become the transshipment point for legitimate or nonlegitimate manufacturing concerns throughout the world, and in many cases we would not be able to determine the true country of origin. For all these reasons we find this provision would greatly erode the ability of FDA to ensure the safety and efficacy of the drug supply and protect the public health.

Mr. DORGAN. If the Senator will yield for one additional question, the Senator is aware, I am sure, that today pharmaceutical manufacturers reimport a substantial amount of prescription drugs from Canada. What is to prevent the circumstance you just described from occurring now, with respect to current law?

Mr. NICKLES. Current law requires FDA, for their certification—for FDA to give their certification, you have a pedigree requirement. The pedigree requirement means we have FDA inspectors go visit the plants in Canada to certify that yes, these are FDA-approved drugs. They do the sampling. They make sure the packages are safe. Inspections are done at great expense. That is already done for FDA, for drugs that are manufactured in the United States or reimported into the United States. It would not be done under any drug in Canada or under the Canadian law, which basically says if these drugs are purchased strictly for export purposes, they do not fall under Canadian regulation.

Mr. DORGAN. But is it not then the case that they are not FDA-approved drugs and therefore our amendment deals with that?

Mr. NICKLES. Mr. President, I will reclaim the floor. That is not correct.

Mr. DORGAN. It is correct.

Mr. NICKLES. Again, I am reading to my colleague. I have a statement from the past FDA Administrator as well that says they can't guarantee the safety of these drugs. They do not have the regulators. The Senator's amendment did not have the pedigree requirement for drugs that would be imported into the country. That is a possible amendment that I am considering offering.

If the Cochran amendment doesn't pass, we are going to be on this bill for a while because I am going to offer an amendment—I will tell my colleague, and maybe you will accept it—I am going to offer amendment that says all the drugs covered by this act shall be manufactured in the United States or Canada, because that has been implied but it is not factual under the bill.

Ms. STABENOW. Will my friend from Oklahoma yield for a question?

Mr. NICKLES. Let me finish. I am also going to offer an amendment that will replace language under the Dorgan amendment that says there is a pattern of importation of drugs, counterfeit and so on. That would be replaced by "any instance." So we are not going to wait for a pattern if this amendment is adopted. Again, I hope my colleague from North Dakota would agree, with this amendment, that it could be suspended if there were an instance of counterfeit drugs, if there is an intent of abuse of the system. Then they can be suspended and not wait for a pattern.

I think both of those amendments are very acceptable. I hope my colleagues will agree to consider them favorably.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I think the Senator from Oklahoma has made a vitally important point. We have gone through I can't tell you the number of steps to try to stop terrorism.

The Senator from Kansas has just come to the floor. He has been a leader in the area of bioterrorism and agriterrorism.

Under this provision that we are debating right now—the underlying Dorgan bill—you are creating an incredible loophole for terrorist attacks and bioterrorist attacks in this country. We are creating a loophole that allows any foreign country to go through Canada to import drugs into the United States. And the Canadian Government doesn't even inspect it and does not even open it. It can come right in here.

Ms. STABENOW. Mr. President, will the Senator yield for a question?

Mr. SANTORUM. Yes. I am happy to yield for a question.

Ms. STABENOW. The trading of drugs is probably more highly regulated than any kind of trade. I am wondering if my friend would also object to all the food that comes into the United States from Canada and other countries. We have foods and vegetables coming in every day. We have bottled water and alcoholic beverages coming in. We have all kinds of things that go back and forth across the border from a lot of countries that are not regulated nearly as much as prescription drugs. I am wondering if the Senator is also concerned about or would object to that kind of trade as well.

Mr. SANTORUM. That is why we have Customs inspectors and FDA inspectors, who do, in fact, monitor things coming into this country for purposes that are fundamentally different. When you are talking about pharmaceutical products, that is a fundamentally different area.

All I am suggesting is that what is being created in the Dorgan amendment is an opportunity. As the amendment says, you have to have a pattern of problems with these drugs before you can do anything.

I think that creates a loophole that is in today's world of terrorism, one that would be certainly filled by any number of terrorist organizations that want to hit the United States with some sort of bioterrorism.

I want to get back to what the Senator from North Dakota said prior to the vote on the last amendment. He said he would like to have someone come here and explain to him why drugs in Canada are so much less expensive than they are here in the United States, why we pay such premiums for those drugs here in the United States, and why Canada can sell them so much less expensively than they do here. There are a lot of reasons. Let me give you a few.

No. 1, the Canadian health care system is a single-payer system. It is a government-run health care system. It is run through the provinces and the territories.

This government-run health care system negotiates prices. Not all drugs that are made available in the United States are available in Canada. Why? Because the Canadian Government has a formulary. There may be four arthritis drugs that may be very effective in dealing with different forms of arthritis. The Canadian Government basically negotiates with companies, plays one against the other, and gets the cheapest price. They make one available. That one available may be the right particular drug for this group of arthritis sufferers. But it may not be the best drug for the whole class. That is why there is probably four of them. They have different little initiatives that make their drug more effective on certain people in certain circumstances. But in Canada, you get one. Maybe you get two in a general class. They negotiate it based on the best price they can get.

That is one thing.

In Canada, people don't get access to the variety of different drugs that may be the best therapy available. They negotiate a price because they are a big purchaser. They purchase for the entire 35 million people in Canada. They purchase drugs, and they compete it so they get one company getting the entire market, in many cases. So they can get a much reduced price as a result of the volume discount which they give.

Again, they limit the access to a variety of different drugs to the people of Canada. It is a balancing act for the drug company that wants to compete in Canada to get access to that market.

I am sure the Senator from North Dakota and the Senator from Michigan are familiar with this.

The second thing is there is a provision in the Canadian law called "compulsory licensing." Most Senators on the other side of the aisle know what compulsory licensing is. But just in case they don't, let me explain to Members what the impact of compulsory licensing has on drug prices.

Compulsory licensing is the ability for the Canadian Government, if they do not get a satisfactory negotiation for a drug they believe is necessary to be offered in Canada, and if they aren't happy with the price the pharmaceutical company is willing to sell that drug at, they can basically, in a word, steal the patent.

Let me repeat that.

If Merck, which happens to be a big pharmaceutical company in my State, wants to sell a particular drug that is effective for arthritis—maybe it is a very new drug, an important drug, one on which they have spent a lot of money, and it has tremendous results and they want to sell it in Canada—said: We will sell it for $2 a pill here in the United States. Canadian says: That is nice. We are not going to pay $2. We want a volume discount. Merck says: OK. We will negotiate some sort of volume discount. We will sell it to you for $1.50 a pill. Canada says: That is nice. We will pay you 50 cents. Merck says: That is not a fair price. So they negotiate back and forth.

OK. Fine. We believe this is an important drug for our people. If you want to sell it to us for 50 cents, you lose your patent. We will license it to someone here in Canada. They will make the drug, and you get nothing.

Most people would say that doesn't seem particularly fair. No. It is not fair. But under Canadian law, I would suggest to you that not just Canada but in most countries around the world, unfortunately, that is a fact of life for many drug companies. If you point to Brazil, to South Africa, or to France, or to some other country, and ask, How can they get these drugs? It is because if they do not sell the drug at the price the national government wants the drug sold at, they steal the patent, they compulsory license it.

You are now looking at a drug company that says: Wait a minute. We want to sell this drug for $2. It cost us 25 cents extra to make the pill. They say: Wait a minute. Why do you want to sell if for $2? It took us $800 million to bring this thing to market. We have a few research costs involved in getting this drug formulated, approved, and all the things that are necessary to make sure it is safe and effective. It cost us a lot of money. Yes, but making the pill doesn't cost a lot. But to get to where we can make the pill, it costs an enormous amount of money. We would like to recoup that. Because they are in business, they would like to make a profit. The Canadian Government says: Look, it only cost you a quarter to make this pill, but we are giving you 50 cents. You are making money. It is better than making no money. If you don't sell it to us for 50 cents, you make no money.

So the drug company has to make this decision. Do I sell the drug at 50 cents and make some money, or do I choose not to sell the drug?

They may have it be made somewhere else. Even if they don't compulsory license it—even if they say, no, they are not going to compulsory license it, they are not going to sell it, put aside compulsory licensing. They say: We want to sell the drug. It is 50 cents. You don't have access to our market.

So the drug company has to make a decision. Do I sell the drug at 50 cents and make a small profit to help underwrite the cost of the research that was done on this drug, or do I choose not to sell?

You can make the argument that they shouldn't sell. You can make the argument that they should try to negotiate a better deal. But there is one negotiator, the Government of Canada, and they set the price. If you do not like the price, you either don't sell, and no drug is made available in Canada, which is no skin off the back of Canadian Government because in most cases, most drugs are not available in Canada. It is just another drug that is not available.

If they really want your drug, and if they really believe it is important to get your drug, they simply license it to someone in Canada, and they make the drug, which they buy. They can make the drug in such sufficient quantities that they can actually import that drug into the United States. So they can steal your patent. And under this bill, a stolen patent can be imported.

I understand it is very, very popular to be beat up on pharmaceutical companies. They make money. We do not like anybody that makes money around here. So they make some money. They do some things that are cutting edge. For some reason this is a problem.

It is very popular to go out and beat up on pharmaceutical companies for charging all this money for products that people need. But let me remind you, the Senator from Massachusetts said this bill will save $60 billion. If I am wrong on that, that is what I thought I heard yesterday. The Senator from Massachusetts said this will save $60 billion for the American consumer.

My question is, save it from whom? Who is it going to cost? It comes from somewhere. The obvious answer is, it is going to save it from the pharmaceutical industry.

Let's look at the pharmaceutical industry in this country, the much maligned pharmaceutical industry. What did this pharmaceutical industry do to deserve this treatment? What it did to deserve this treatment is invest more as an industry in research and development than any other industry in America.

Let me repeat that. What have they done to incur the wrath of the U.S. Senate today? What they have done is invest more money in research and development than any other industry in America. As a result, they have come up with breakthrough drugs, which cost a lot of money but, by the way, save lives and improve the quality of life for millions in America.

So what are we doing to thank them, to congratulate them, for being one of the leading exporters in this country, for improving our balance of payments in this country, for employing people in high-priced jobs in this country, for moving scientific research in this country, for curing diseases in this country, for improving the quality of life in this country, for extending lives in this country?

We say we are going to whack off $60 billion out of your bottom line, which means, of course, the research will stop or be dramatically reduced.

So understand what we are doing. We are all beating our chests saying: We are going to get the big, bad pharmaceutical companies that are pillaging the American public with outrageous drug prices, and we are going to cut those prices by 30 to 50 percent.

Understand the consequences. Less money in research. Less money in research means fewer new drugs. Fewer new drugs mean people will die who would otherwise be saved by those innovations. That is what the consequences are.

All I am suggesting is, if that is the tradeoff, if 30 percent less on your pharmaceutical price is a good tradeoff for not having the next generation of lifesaving drugs or quality-improving drugs, that is fine. That is a worthy debate in the Senate. It is one that we should have, but it is not one that we are having.

The debate we are having is, corporate greed versus poor senior citizen. That is the debate here: These horrible pharmaceutical companies that are raping and pillaging the people of America while making these enormous profits.

Look at their profit lines, look at the prices for their stock, and I will assure you, they are not showing those enormous profits.

What is going to happen—if this were successful and we did take $60 billion out of this industry—and that is where it is coming from. It is not coming from anywhere else. It is not being drawn out of whole cloth. It is coming out this industry, which means $60 billion less of research.

We run around this country, and we are very proud in the Senate talking about how we are increasing the budget for the National Institutes of Health and how we care deeply about improving the quality of health in this country and how we are going to put more and more taxpayers' dollars into solving diseases, into fighting problems that perplex us, into finding out more about how our bodies work. Wonderful. Wonderful. That is great basic research. It is important to do. It is great scientific discovery. But where does all this stuff lead? Where does this lead?

In many, many cases it leads to research then being handed off to a private-sector organization that goes ahead and develops that lifesaving cure, that pharmaceutical product that, in the end, saves lives.

Mr. FRIST. Mr. President, will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield for a question.

Mr. FRIST. Mr. President, I will be very brief. The Senator from Pennsylvania addresses a very important point, which forces us to look to the future in terms of future cures, whether it is for HIV/AIDS, emphysema or heart disease.

He hit the point very directly, in a way that I have not heard on this floor, in response to one of the main reasons why drug prices are higher in the United States than in Canada.

I would like to ask the Senator the following question. Typically, in the United States an individual company will set prices in such a way to cover research. They will look at supply, demand, and the efficacy and efficiency with which the goal of cure or prevention is carried out.

In order for the prices of medicine to be sustained over time, you must allow some recoupment of that investment in research. We all know that, on average, only 3 out of 10 medicines that are eventually approved in this country actually generate enough revenue to pay for that investment over time in the United States.

Mr. SANTORUM. Not to mention all the hundreds or thousands of compounds that were even tried to be researched, and they ended up where they decided: No, we are not even producing a drug that could be sought for approval.

Mr. FRIST. That is correct. That is the United States.

The real question goes to the following: In Canada they have a very different system. Everybody looks to Canada's system as if it is similar to or in some ways better than ours. In Canada, not the United States—this is what you essentially said—is it not correct that each company is denied the freedom to set prices for its own innovative medicines?

Mr. SANTORUM. Let me explain to you exactly how that process works. It is not a free market. They cannot set their prices. They have to negotiate with a board, and it is called the Patented Medicines Price Review Board. That board sets the prices in Canada.

They do so in the following way. The statute mandates that the price of most new patented medicines may not exceed the price of the most expensive drug marketed in Canada that treats the same disease.

So let's take HIV/AIDS. You have a regiment of drugs that are out there to treat it. Someone comes on the market with a brand new AIDS drug that may cure AIDS or may substantially improve the quality of life for someone with AIDS.

In Canada, they cannot, under the statute, charge more than what the highest priced drug already in the market is, which may have an improving effect on the quality of AIDS but may not be one of those transformational drugs.

So, No. 1, statutorily they are limited. No. 2, the price in Canada of a drug constituting a breakthrough drug, in therapy, may not exceed the median of its price in seven countries.

Let me tell you, all of those specified countries, with the exception of the U.S.—that is one of the seven—the other six, interestingly enough, are all price-controlled countries where the government sets the prices.

So it is a spiraling-down effect. One refers to the other country as a way to set the price, and so they each keep setting lower and lower prices, and they rachet the price down by having all these price control countries as the reference point for Canada.

Ms. STABENOW. Will my friend from Pennsylvania yield?

Mr. SANTORUM. I will as soon as I finish the question from the Senator from Tennessee.

Mr. FRIST. Just a quick followup question.

Based on what you have said, the only choice a manufacturer has is to set it at the price that Canada allows or to not sell it.

If a manufacturer decided not to sell a medicine at a price the government allowed, then is it correct that the government would authorize a Canadian company to copy and sell the drug, even without the patent holder's permission, which, it would seem to me, throws out the meaning of patents?

If we throw out the meaning of patents when it comes to pharmaceuticals and drugs, what are the implications for us in this country or the person listening today who has heart disease or HIV/AIDS, as they look with hope for that cure?

Mr. SANTORUM. There are enormous implications if we allow the Canadian Government to deny and basically say to the company: Either take it at this price or we will go ahead and manufacture it ourselves.

By the way, once they license it in Canada, the Canadian manufacturer can appeal to the government and say: Look, yes, we are manufacturing it here, but for us to make a profit, we have to export some because we have to make it in sufficient quantities. And if that is approved, they can send the drug back here to the United States.

Our companies could do all the research, expend all the money, and then be forced not to be able to sell the drug. In that case, the Canadian Government will say, it is not important enough. If you don't give it to us at the price we want, you lose the competition between three other drugs that may be similarly situated. You just don't sell the drug in Canada. Or, if we think it is important enough, if we think it is vital to our national health and you don't want to sell it to us at a price we believe is reasonable, we will have compulsory licensing. They simply license it to another.

That is not some far off concept. Right after the anthrax scare in the Senate, the Canadian health minister said that if they cannot get enough quantities of Cipro, they were going to revoke the patent of Bayer and produce it in Canada.

So just understand, this is not a theoretical concept. This is a real concept. Even if it is not done routinely, which it is not, it is certainly a hammer that the government uses to get prices at a level that they want, not that the manufacturer believes is fair for their product.

Ms. STABENOW. Will my friend yield?

Mr. SANTORUM. I yield for a question.

Ms. STABENOW. I appreciate the ability for us to debate this important issue. I am wondering, as a result of what you have described, and I appreciate the sympathies for drug companies, if you then support the fact that the average pharmaceutical drug for Americans is going up three times the rate of inflation?

Mr. SANTORUM. That is important because another provision of the Canadian system is that the price may not increase more than the consumer price index. They fix prices even after they have set them in place.

The prices of drugs are going up. The research involved in discovering new drugs and the complications of doing so is driving up drug prices. That is a problem. I think we do need to do something.

But the issue is not price control. It is access to insurance. That is the key. What we need to do is to provide, for the private-sector American, the Medicare-eligible American, an opportunity to get insurance to reduce the cost of drugs to them. That is vitally important.

Ms. STABENOW. I am wondering if my friend might also respond then to the well-known practice now that the companies are spending 2½ times more on advertising than they are on research and development, and how you might feel about that.

Mr. SANTORUM. I must respectfully disagree with my colleague's assertion on that point, for it is factually incorrect, although a commonly cited myth. According to recent findings by NDC Health, a health care information company, the pharmaceutical industry spends significantly more on research and development than it does on advertising. For 2001, $2.8 billion was spent on direct-to-consumer advertising. This is less than one-tenth of the $30.3 billion America's pharmaceutical industry spent on research and development. Moreover, I am someone who believes that a company is entitled to advertise and sell their product. Certainly, I don't know of any business that makes a product that doesn't tell anybody what their product is. If you look at the research and development cost of every other industry compared to their advertising cost, the pharmaceutical industry would probably stack up better than any other industry. You could say they are spending a lot on advertising. I would hope they are spending money to try to tell people what their products are about.

Are you telling me they shouldn't be able to spend money to tell American consumers or physicians or hospitals what their product is and how it can be used? Of course, they should. They have an obligation to.

Mr. FRIST. Would the Senator yield for another brief question?

Mr. SANTORUM. Yes.

Mr. FRIST. Mr. President, clearly the United States does subsidize the world in terms of research and development. For better or worse, many other countries do have strict price controls. Those price controls ultimately translate pretty uniformly across the world into less investment in terms of research and development and investigation and experimentation for future cures of a broad range of diseases that we globally suffer with today.

The hope out there—whether it is Parkinson's disease, emphysema, heart disease, or lung disease—comes in the development of new drugs.

My question to the Senator is to verify the data that at least has been made available to me. In the United States our pharmaceutical industry—and I will phrase this as a question—spends about how much? The answer is the United States spends around $30 billion for research and development in the private sector coming from private investment in this country. In Canada, the cost for all research and development in pharmaceutical agents is not $30 billion; it is $1 billion.

I mention that because people glorify the Canadian system and how inexpensive it is. We need to be very sensitive to the fact that the United States is doing the world's research and development in the pharmaceutical arena which gives us the hope. Canada does not. The system described does not.

Would the Senator agree with that?

Mr. SANTORUM. That is absolutely right. The initial comment the Senator made is right. This is the fundamental issue we need to debate. Should the American public, through its pricing system, free market pricing system of drugs, continue to subsidize the rest of the world in pharmaceutical research? If the answer is no, we need to state that. If the answer is, no, we don't want that to continue, we should come out in front and say: We are not going to let the United States consumer bear the brunt of researching new drugs. If that is what we want to do, we need to be very upfront about that.

That may be a very legitimate position to take. I don't share that view. I don't believe that is the right thing for us to do. I don't think that moves this country forward. I don't think that keeps us on the cutting edge of an industry that is a world leader.

If that is what this body wants, then we are going to make the short-term trade, and the underlying bill on generics is exactly in this direction. We are going to make the short-term trade. We will have to charge our consumers less, allow more generic drugs, allow reimportation of drugs, all of which will undermine and cut into the revenues and intellectual property of the pharmaceutical industry, which will subsequently reduce their ability to do research on drugs for the short-term gain of having cheaper prices on the drugs available today.

The exchange is, lower prices on the existing pot of drugs available today versus a cure for heart disease or cancer or emphysema or Parkinson's or you name it down the road. That is the tradeoff.

Let's be honest. Of the drugs available today, many of them are very good, but some of them are not as accessible. You could make the argument, it is more important to get those drugs to people today than it is to get that next generation of cures tomorrow. Maybe we will have to wait. Instead of getting them next year or 2 years from now, we will have to make it 5 or 10 years. That is a tradeoff.

Let's have a debate about that. But let's understand that all this other talk is just glossing over the broader issue. That is the fundamental issue.

I haven't seen any polls on this issue. There may be Americans who believe that is the way to go. There may be others who feel strongly the other way. We have to understand that is the debate.

With that, understand the bottom line: Lower prices, either on generic drugs or reimported drugs, versus cures tomorrow and the next. That is the debate. We must make a choice.

The PRESIDING OFFICER. The Senator from Nevada has sought the floor.

In my capacity as Chair, I might say to colleagues, I will try to switch back and forth on positions so I will recognize the Senator from North Dakota next.

Mr. REID. I say to my friend, you should recognize who asks, not back and forth. Unless there is some agreement, I respectfully suggest that the Chair should not do that.

The PRESIDING OFFICER. The Chair apologizes.

Mr. REID. Mr. President, if I could have the attention of the minority, I have talked to Senator COCHRAN, and he tentatively agreed to this schedule. We would have a vote at approximately 5:40 today; that the time between now and then would be equally divided, even though that perhaps is unfair. The Senator from Pennsylvania has spoken for such an extensive time, but I don't think we need to worry much about that.

So I would like to propound a unanimous consent agreement that we would have a vote on the Cochran amendment at 5:40; that following the vote, we would proceed to the Stabenow amendment, which would be in the form of a second-degree amendment to the underlying amendment; then following that, tonight, as soon as that amendment is laid down, we would go to the MILCON bill—which we got consent on earlier today, and I appreciate that—and we would complete that debate tonight and vote on that in the morning. In the morning, we will start off with the Stabenow amendment, which will be debatable.

Mr. GREGG. Mr. President, if the Senator will yield, at this time we cannot agree to such an understanding. As the Senator has noted, this amendment has generated a very significant interest. Debate has been, obviously, substantive and there is still a fair amount of debate that has to flow under the bridge before we can close the game, if I can mix metaphors.

Mr. REID. I understand the statement of the Senator from New Hampshire, even though I do not agree. We have agreed to accept the amendment tentatively—unless something has changed in the interim. I think there would be an agreement that we could accept this amendment.

All I say to my friend is, if that is the case—and I think it is—again, we are legislating by virtue of slow-walking. As I say, we have tried—and if they would like to tango, we will play music; if they want to rumba, we will do that. But we need to move this legislation. We have a lot of things to do. We are constantly told by the President there are things he would like done. We do our best to meet what the administration wants. For example, if we are going to be able to get to the bill where he is talking about consolidating different agencies, we are going to have to do that. We have to finish this first. Here it is Wednesday at 4 o'clock at night. We have had one vote today—that is all I remember—and we are not able to go ahead with anything else. As I indicated, the homeland security issue is something the President believes we should do. The majority leader wants to do it. We cannot do it like this. Now we want to get to the military construction bill tonight.

I don't understand what we can do to be more cooperative and move things along. It is not as if we are asking the impossible. I am going to propound this request. I will yield to the Senator from Oklahoma for a question.

(Mr. DAYTON assumed the Chair.)

Mr. NICKLES. Will the Senator withhold propounding the request for a few moments until we have a little more time to look at it?

Mr. REID. I will be happy to do that. I say this respectfully, and I know the Senator from Pennsylvania has been talking and has not had an opportunity to look at this. We have been floating this for an hour or 2. Another few minutes will not matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. The Senator from Pennsylvania was speaking about advertising costs and so on. Toward the end of his speech, I know the Senator from Michigan wanted to be yielded to. I yield to her for a question at this point.

Ms. STABENOW. Mr. President, if I might share this for the RECORD for my colleagues and ask my friend from North Dakota to respond, I did want to put into the RECORD, as we were talking about advertising versus research and so on, that, in fact, today two and a half times more is spent on advertising and marketing of a product than is spent on research and development. What is more startling is the fact that according to a report released today by Family USA, we have companies that are having two or three times more in profits than they spend on research and development. This is no longer a research and development driven industry—which it needs to be. It has become much more about sales, marketing, and "me too" drugs rather than new breakthrough drugs.

Today, Family USA showed us in a report that, for instance, America, last year—in 2001—had a profit, a net income, that was three times more than what they spent on R&D. Pfizerpen's was one and a half times more. Bristol-Myers was two times more in profit.

What is also disturbing is that, while I appreciate the sympathies for the drug companies, it is really quite shocking when we look at where the money goes as opposed to R&D. This chart shows the five highest-paid drug company executives. I won't say them by name, but the CEO of Bristol-Myers gets $74 million, not counting unexercised stock options. Wyeth's gets $40 million, not counting stock options. If you include the stock options, you are looking at another $93 million for one company, $76 million for another, $60 million, and so on.

So I appreciate the concern about the drug companies and the different system in Canada. But if our concern is about research and development—which we should be concerned about because not enough is being done now—we have a lot of money going in a lot of other places that I think would be of concern to the average senior who is trying to figure out tonight at supper time whether they eat or get their medication. I appreciate the time.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, I have heard a generous and interesting presentation for 45 minutes or so—in fact, I think it was the most effective discourse I have heard for some while on behalf of the pharmaceutical industry and their pricing policies. Of course, I disagree with it very strongly. Nonetheless, I think it was a good representation of what the pharmaceutical industry believes about pricing strategies.

As I listened to the back and forth, it reminded me of a small grease-fire in a small restaurant; a lot is going on, but nothing real urgent. Let me react to some of the statements made recently.

Statement: "Some people in the Senate don't like anybody who makes any money." That is absurd, but obviously in the Senate we can say those things, I guess. I would like to see one Member stand up and say: All right, here is what I stand for. I stand for a pricing strategy by which the American consumer is charged the highest prices for prescription drugs of anybody in the world. I want to see one Senator stand and say that I stand with the pharmaceutical industry and the pricing strategy, and I want the American consumer to pay the highest prices in the world.

Nobody will stand and say that. Instead, they will use metaphors that mean something different. We are told, for example, the problem is that, if we don't pay those high prices, we don't get the R&D. The information that was used was, of course, incorrect. Actually, more money is spent in Europe on R&D than in the United States 37% versus 36%—not a lot more, but more—and in every country in Europe their consumers pay far lower prices for prescription drugs. How does that figure add up?

We just heard our colleague say to us that if you don't pay the highest prices for prescription drugs, you don't get the R&D. Tell us about the Europeans.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. DORGAN. If the Senator will let me finish my statement first—I listened for 45 minutes to the great case the Senator made on behalf of the pharmaceutical industry—I will be happy to yield when I finish.

The point is this: We are told that the pricing strategy by which Americans are charged the highest prices is fair and is necessary—fair because it is the only way we will get the R&D, and it is necessary because nobody else will pay those prices. So we need to accumulate that cash from the American consumer in order to pay for the R&D.

There are a couple things wrong with that. One, we spend a substantial amount of taxpayers' money at the National Institutes of Health. We have gone from $12 billion to $24 billion. I supported that. It was bipartisan in the Senate. We doubled the amount of money for the National Institutes of Health for health and research, and the pharmaceutical industry benefits from that as well because they take that accumulated research and use it to create new and miracle medicine. Yes, they do research as well, and I commend them for that.

My point is, we do a lot in public policy, such as research at the NIH. We passed a tax credit—I assume my colleague from Pennsylvania supports that, as I do—to say we will give you a tax credit for research and development. This country gives a very substantial tax credit for research and development, and I support that. I voted for it for two dozen years. I bet my colleague did as well.

This is not about research and development, it is about a pricing policy, that says that we will do more research in Europe and charge them lower prices then the American consumer, and, oh, by the way, when someone wants to raise questions about that, we will say: No, you cannot raise questions about that; this is a pricing strategy that is fair to the American people.

Not where I come from, and I come from a much smaller town, I am sure, than some others here, a town of 400 people. We had a drugstore. We had a fellow who came to my town when he was just out of medical school. His name was Doc Hill. He was the doctor and ran the drugstore in town. He knew everything about everything. There was not anything he could not treat or any diagnosis he could not make. He was just a wonderful guy.

I grew up with that kind of medicine in a small town. In my small town, if someone said: We have a little deal here in the county—we have three towns—Mott, Regent, and New England. Regent is mine, by the way. We have a policy. What we would like to do is charge you folks in Regent 10 times as much for tamoxifen. If you women have breast cancer and are using tamoxifen, we are going to charge you 10 times as much as we are going to charge the people in New England and Mott.

Do you know what the people in Regent would say about that? Are you nuts? Are you stark raving mad? For God's sake, what kind of a pricing policy is that? It is fundamentally unfair, they would say.

Let's take that globally. We are told this is a global economy, after all, and just as it would be for my county, we are told by the pharmaceutical manufacturers that with tamoxifen, Premarin, Zocor, Lipitor, or dozens of other medicines, we should ask the American consumer to pay much more than others.

I understood there are people here who represent the interests of those who want higher prices. That is not the President's position, by the way. This is the President's position. The third Presidential debate in St. Louis, from George W. Bush, now President Bush:

> Allowing the new bill passed in Congress, you know, for drugs that were sold overseas to come back into the United States, that makes sense.

That is President George W. Bush. That is called reimportation. That is President George W. Bush in 2000 saying it makes sense. Sure, it makes sense. It does not make sense to the pharmaceutical industry, and I understand why. They have price controls. They control the price. People say we do not have price controls in America. Yes, we do; of course, we have price controls. The pharmaceutical industry controls the price. With respect to this global economy, it is interesting, my colleague said: In effect, you are going to import price controls from Canada. Canada has price controls on prescription drugs. Yes, that is true. Canada has price controls on prescription drugs. So do many other countries. We reimport a lot of products from other countries. That is one of the factors that makes the global economy interesting. If my friend the Senator from Pennsylvania has a necktie that is made in China today—and I do not know if he does or not, but there is a pretty good likelihood many of us are wearing neckties made in China—then one might make the case that the price of that necktie supports the salary of the leader of a Communist government.

Does that make it tighter around our necks? I do not think so. It is the global economy. Do I like to buy something from a country that perhaps supports a Communist government? No, no, no, but a global economy means we move products back and forth, and sometimes we inherit policies we may not like. But inheriting the capability through reimportation to allow the American consumer to pay less for prescription drugs than they would otherwise pay is good public policy and makes good sense for our citizens.

The Capitol is full of people who care a lot about drug prices, and they are very concerned about this—they are lobbying this issue on behalf of the pharmaceutical industry. They have every right to do that. I talked about a woman named Elizabeth earlier. I know there was some chiding about that, the teary stories about individuals. But I am wondering if Elizabeth has anyone who is going to grab somebody by the arm before they vote and say: You know, it is very important that you cast your vote the right way.

Remember, Elizabeth is a farm wife who is 74 years old who drove a tractor until 2 years ago when she lost her husband and her lungs got worse.

She has scleroderma and was diagnosed at Mayo. She talks about how she has been on oxygen for 2 years. She talks about the one new pill that would cost $3,600 or more a year. She cannot afford it. But I ask: If there is anybody in the Capitol Building today who is representing Elizabeth today? There are plenty who represent those who want to keep the current pricing strategy.

Or Velma:

> I am 86 years old. I can't work.

That is pretty reasonable. She is 86 years old and says: I can't work.

> I get $303 in Social Security each month, and I pay $400 a month for medicines.

She has had heart surgery and osteoporosis.

Sylvia Miller, 70 years old, diabetes, heart problems, emphysema. She went with me to Emerson, Canada, to buy prescription drugs. In recent years, she has spent $4,900 on her medicines. It was up $1,000 from the previous year.

The point is, this is a very important issue. This is a tripartisan bill that is supported by Senator JEFFORDS and many on both sides of the aisle. There is no one advocating reimportation who wants in any way ever to diminish the safety standards that exist that allow the American people to access a safe supply of prescription drugs.

An important point is this: Prescription drugs are lifesaving and miracle drugs only to those who can afford them when they need them. They save no lives when those who need drugs cannot have access to them. These prices are unfair, and reimportation will help put downward pressure on prices.

I say to those who oppose reimportation, what approach do you have to put downward pressure on prescription drugs prices, or is it simply Katie bar the door? Is there another approach? I am willing to embrace almost any approach that attempts to put downward pressure on drug prices.

The Cochran amendment is offered, I know, to try to effectively scuttle the issue of reimportation because it was effective in doing so to the bill we passed 2 years ago. At the time we did not know it would scuttle that legislation, but it did, with two Secretaries.

I think those who bank on the Cochran amendment effectively killing this legislation this time are wrong. We have changed the reimportation amendment this year. Our legislation now does not permit reimportation of medicines from Mexico. It does not allow for the reimportation of medicine from Bangladesh. It does not allow for the reimportation of medicines from China or Taiwan or South Korea. It allows for the reimportation of medicines from one country, Canada, a country that has a nearly identical chain of supply to this country.

It will be, in my judgment, nearly impossible for a secretary to assert that there is additional risk by allowing the reimportation of prescription drugs from a country that has a nearly identical chain of supply, a country that is our nearest neighbor, a country that is our largest trading partner.

I do not believe the Cochran amendment is effectively going to kill reimportation. I know some believe this is a great way on behalf of the pharmaceutical industry to do that, but I do not think so. As a matter of fact, I think the Cochran amendment will not have the impact it had 2 years ago because the bill 2 years ago was not country specific. This bill is limited and deals only with the country of Canada.

The Senator from Pennsylvania answered a question I did not ask, so let me ask the real question and then answer that. I was asked a question: Why are prices higher here than in Canada? That is not the question I asked. I asked the question I have asked a dozen times, which is: Who here believes that an American citizen ought to have to go to Canada to get a fair price on prescription drugs made in the United States? That is the question I asked. That still has not been answered, and I do not believe it will be answered.

If I were to try to answer the question the Senator has asked—why are prescription drugs higher priced in the United States than in Canada?—the answer is fairly simple on two fronts. One, it is true that Canada does have price controls and we do not. Second, I have held a couple of hearing on this subject, and the answer as to why drug costs in the U.S. are so high for prescription drugs is because the charges are set in this country at whatever the consumer will bear. That was essentially what the pharmaceutical manufacturers told us.

My feeling is that it is not a fair pricing system, and on behalf of a lot of Americans, not just senior citizens who have to find a way to access these prescription drugs to deal with their serious medical problems, I think we need to find ways to put downward pressure on prescription drug prices.

I do not want people going to Canada to access prescription drugs. That is not the goal of this amendment. Our goal is to allow pharmacists and distributors to bring them back, pass the savings along, and that will force the pharmaceutical industry to reprice those prescription drugs in this country. That is our goal.

I finish with this point. It is interesting to me that some on the other side say those of us who want reimportation are saying the pharmaceutical industry is a big, bad industry; shame on them for making profits. I have heard none of that rhetoric today. I certainly have not taken part in that myself. I have said repeatedly, the pharmaceutical industry is a big industry, a profitable industry. It has done some terrific things. I commend it. I want them to do well. I wish them well. Their pricing strategy is wrong, and I want them to change it.

They will not change it voluntarily, and I fully understand that. If that is the industry I worked for, I would not change it voluntarily, I suppose, because their responsibility to the stockholders is to maximize profits. Since they have the ability to control prices in this country and maximize profits for their stockholders, that is exactly what they do. But if we are going to put a prescription drug benefit in the Medicare program and if we are going to care about the needs of all Americans, not just senior citizens, who can't afford prescription drugs, then we have to do more.

We have to employ ways to put downward pressure on prescription drug prices. We have to do that. Failing to do so means we will break the bank, and I am not prepared to allow that to happen.

So that is why we offer this, not to tarnish the prescription drug industry and the pharmaceutical manufacturers. I trust the Main Street pharmacists. I trust those distributors. I trust the Canadian system which is nearly identical to ours.

I have heard this bizarre argument about counterterrorism and counterfeit drugs. In fact, one of my colleagues brought some yellow paint, I guess yellow cement paint, and some other devices, none of which came from Canada. Isn't that interesting? Maybe I could have brought some kangaroos to the floor of the Senate and watched them jump. Wouldn't that be interesting? Sure, it is all interesting, but it has no relevance to the discussion. So we can be interesting but maybe what we should do is care a little more about pricing of pharmaceuticals in this country in a manner that is fair to the American people. That is all we are trying to do with this amendment.

We are not trying to tarnish anybody. We are saying, give the American people a fair break. If 10 cents is going to be charged for a breast cancer drug in Canada, then do not charge a dollar for it to a woman with breast cancer in the United States. Do not do that. It is not fair to the American consumer. That is all we are saying.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today in support of the Breaux-Cochran amendment to the Dorgan amendment on this subject of reimportation of prescription drugs from Canada. It is not my intent to stand here as an expert in regards to how much money the pharmaceutical companies of the United States should spend on advertising, how much money they should spend on R&D or to talk about the global imports where we have price controls in various countries, or even as to where my tie came from.

I think the Senator from North Dakota indicated that we have a lot of imports. My tie is from Italy, by the way. It is a gift from my daughter. But the thing I want to talk about is safety, and this tie which came from Italy is safe, at least to the best of my knowledge it is, unless somebody gets ahold of me and yanks on the tie.

It is not my desire to talk about the hometown druggist whether it be in North Dakota or in Kansas, where I grew up, or whether you trust the druggist. I do want to talk about safety, and I do want to talk about the fact that Senator SANTORUM was kind enough to mention that I serve on the Intelligence Committee, used to be chairman of the Subcommittee on Emerging Threats on the Armed Services Committee. I am now the ranking member with Senator LANDRIEU, who is doing an excellent job as chairman.

I am a little worried about this in regards to the language—I am not a little worried, but I am concerned about the language of the Dorgan amendment which passed and the safety issue that is raised by the Cochran amendment, which I think is the better approach.

Basically, this amendment, for which I am a cosponsor, would require the Secretary of Health and Human Services to certify that prescription drugs that are reimported from Canada are indeed safe before—and that is the keyword, "before," not after. You survey and you have some sort of a panel discussion and determine that at some date later we have a situation where some drug was imported from Canada and it indeed was unsafe. I would hate to think what would happen before we would take notice of that, even in terms of lives being lost. So the key word is "before" we allow my constituents in Kansas or the constituents of the distinguished Senator from North Dakota or the distinguished Senator from Michigan and others throughout the United States to receive them.

As I have indicated, as a member of the Select Committee on Intelligence, ranking member on the Subcommittee on Emerging Threats, I see reimportation as another way—I would not have thought of it before 9/11, but today I see it as another way for a terrorist organization to cause many human lives to be put at risk without the proper security measures in place.

One might say: Now, Senator ROBERTS, come on. Prescription drugs from Canada—this really represents a threat?

Well, we asked all the experts in the Emerging Threats Subcommittee some time ago, prior to 9/11, what keeps you up at night in this unsafe world? Bioterrorism came in No. 1, and I won't go into the rest of them. We could probably list 100 different threats and the terrorists in their own inimical way would say we are going to do 101. It is an asymmetrical approach. How easy would it be to reenact the Tylenol scare that happened some years ago in regard to some kind of a terrorist threat?

We have seen the situation at the Capitol of the United States in regards to anthrax. Dr. FRIST, the distinguished Senator from Tennessee, can give us about an hour lecture on that, what we saw then and what we see now in regard to what we have to do in terms of safeguards.

I remember Operation Dark Winter, which was done about 2 years ago, about the possibility of using a strain of smallpox from the former Soviet Union in Oklahoma City. Do you know how they distributed that? They did it by basically walking through shopping centers and spraying plants. How easy would it be to use imported drugs from Canada?

So this year and years past, during the reimportation debate, Members of both the House and Senate have received statements from people who ought to know in regard to the fact, is there a safety issue? That is from former FDA commissioners, the current and former heads of the Department of Health and Human Services. The statement was made about this administration, past administration—their testimony was exactly the same—and officials of the Food and Drug Administration.

They state they cannot assure the American people that reimported drugs are safe. Cheaper, yes. I understand that. I understand the compassion and the caring and the difference between drugs in regard to border States and Canada or, for that matter, any State and Canada. I hope we can bring the prices down.

However, are they safe? They have even recently given testimony, all the people I just talked about, as of July 9, about a week or so ago, before the Select Committee on Aging. Why the Select Committee on Aging? Obviously, every letter read by the distinguished Senator from North Dakota was a senior citizen who desperately needs drugs. There is a quote by the Senator from Michigan indicating that Mr. Hubbard said, on balance, he would say it would be OK for somebody who is suffering from some malady to use a Canadian drug.

I suppose if I were not in your home State and I were in Canada and sick and I didn't have much of a choice, I would say: OK, Mr. Hubbard, I think that is OK. I think I will take my chances. He is the senior associate commissioner for policy, planning, and legislation at the Food and Drug Administration.

But he also testified, as the statement demonstrated by the distinguished Senator from Michigan:

> FDA cannot assure the public that reimported drugs made in the U.S. have been stored under proper conditions or that they are even the real product because the agency does not regulate foreign distributors or pharmacists. Therefore, unapproved drugs and reimported approved medications may be contaminated, subpotent, superpotent, or counterfeit.

I don't know how the supporters of the underlying amendment can read these statements by these experts and possibly indicate we are trying to scuttle the bill. I don't want to scuttle the bill. I want to put in the proper safeguards. I don't want to put lives at risk without assurance to the safety of the American consumer.

The question is, Are we, the Members of the Senate, willing to put a new burden of proof on an agency or agencies having to deal with a new set of priorities since September 11? We know in terms of trying to put together a new Homeland Security Agency, it is like pushing a rope; that we will get it done, hopefully by September 11. Here we have yet another large-scale security undertaking that they, the Customs Service, in coordination with other departments and agencies, will have to administer without the resources, without the manpower and training available to them to stop the counterfeit drugs that will put human lives, or could put human lives, at risk.

An example from Mr. Hubbard's testimony outlines exact fears we should have in allowing reimportation without the safety guarantee. On May 14 of this year, the Ontario College of Pharmacists, which is a Canadian Government agency, filed charges under the Ontario law against the Canadian Drugstore, Ink. for unlawfully operating an unlicensed pharmacy and using an unregistered pharmacist in filling prescriptions for United States residents. The college also filed charges against a licensed pharmacy and physician in Ontario for helping to facilitate the delivery of prescription and nonprescription drugs to U.S. residents. A drug wholesaler was charged with supplying medications to a nonlicensed pharmacy.

Here is the key of the whole debate. As noted by Elizabeth Durant, the executive director of Trade Promotions for the U.S. Customs Service, at the same hearing on the Select Committee on Aging, Customs is working with the Food and Drug Administration to better identify adulterated or misbranded drugs entering our borders. However, she said, at this time they clearly do not have the manpower nor the infrastructure in place to ensure adequately and screen all of the prescriptions that would enter our borders.

As an example given in Ms. Durant's testimony, we have a program. Nothing has been said about this program during this entire debate, or at least I am not aware of it, and Customs has really initiated a program called Operation Safe Guard. During a recent phase of this program that took place at two international mail branches, 31 parcels containing 52 types of questionable pharmaceuticals underwent intensive analysis. The analysis shows that eight of the so-called pharmaceutical drugs—and, yes, they were less expensive—or 15 percent contained no identifiable active ingredient. They were phony. And 18 contained a substance that is regulated under the Federal Controlled Substances Act.

There is example after example of unscrupulous practices by individuals looking to take advantage of consumers desperately trying to find a more affordable way to get the prescriptions they must have. Yes, we need to provide relief to Kansas seniors, to Minnesota seniors, to West Virginia seniors, to Massachusetts seniors, to Michigan seniors, North Dakota seniors, Oklahoma seniors, and Tennessee seniors. But I cannot in good conscience support a measure that is a public health safety and security risk.

Instead of looking to our neighbors to the north for pricing relief and instead of relying on unsure and unsafe practices without the proper personnel and training in place to roll out a plan such as this, we need to focus on passing meaningful prescription drug legislation. Until I can assure my constituents in Kansas that the drugs they are receiving are indeed what is labeled on the package, or an FDA-approved package, I do not think the underlying amendment can be supported. This is why I urge my colleagues to support the Cochran-Breaux amendment.

The key word is "before"; before a drug gets here, it is determined safe. That is what this argument is all about. That is what the debate is all about.

Mr. FRIST. Will the Senator yield?

Mr. ROBERTS. I am happy to yield.

Mr. FRIST. Mr. President, the Senator made the point which is important and I tried to introduce earlier today. In this environment where we do have a lower threshold for worrying about terrorism and worrying about what comes across our borders, he made the linkage, based on his experience dealing in the field of bioterrorism and the agriterrorism arena and the field of intelligence, that we are moving in one direction of bioterrorism to close our borders to the potential for counterfeit agents, potential bioterror agents coming in. I made the point earlier that we need to look at it in this new environment.

My question is, Does he agree with a recent op-ed published on July 16 in the Washington Times by a former FBI agent linking bioterrorism and prescription drugs and reimportation? The agent states:

> During my 3 decades with the FBI, however, I worked with other Federal agencies whose main goal was preventing illegal narcotics from crossing our borders. When going after prescription drug shipments it usually was large quantities, mostly acting on tips. Neither we nor the 3 Federal agencies we cooperated with on such efforts—the U.S. Food and Drug Administration, the Drug Enforcement Administration, and the Customs Service—had enough personnel to go after prescription drug smuggling at the time. With the massive new threat of terrorism, we have even less resources to devote to such activities. Terrorists easily could use the cover of counterfeit drug smuggling to sneak lethal prescription drugs or worse, biological and nuclear weapons, into our country.

Do you agree with the thrust of the FBI's statement?

Mr. ROBERTS. In the Emerging Threat Subcommittee we heard from the Bremmer commission, the Gilmore commission, the Hart-Rudman commission, the Center for Strategic and International Studies Group, and the Rumsfeld commission. In virtually every one of those commissions, they indicated the need for greater border security with all of the threats you have mentioned.

We just had a hearing before the Senate Agriculture Committee, and Director Ridge just came before the committee. Secretary Ann Veneman of the Department of Agriculture came before the committee. It is another one of those cases where, as we try to reorganize the Department of Homeland Security, people get a little worried about their turf. People get a little worried about past practices. People say: Wait a minute; do we need to transfer that whole agency over to the superagency?

There is an agency within the Department of Agriculture called the Animal and Plant Health Inspection Service. As you know, in working with the bioterrorism bill, I had an agriterrorism section. We tried to ramp up the funding for our basic research universities: Athens, GA, for salmonella; Ames, IA, for the livestock industry; Plum Island, where you don't want to open up any refrigerator doors under any circumstance because of the pathogens that are there. We found now that we can use 3,200 of these employees who have the capability to take a closer look and provide the kind of security the Senator is mentioning, to the Department of Homeland Security, keep the rest of the employees so if a farmer from Kansas or, for that matter, North Dakota says, "Hey, I have wheat rust," he doesn't have to pick up the phone and call Tom Ridge. Or if he is going to try to enforce the Animal Welfare Act, there is no need to do that. But 3,200 more people are needed just to prevent some kind of problem with security and danger or agriterrorism and food security and how easy it would be for the terrorist to use the pharmaceutical that you are talking about to come in and do great damage in our country.

The issue is safety, and the higher bar that we must have, now, to guarantee it.

The whole thing is, we used to talk about we have to detect, we have to deter, and then, in the worst case scenario, we have to get into consequence management. Are we ready? The answer to that is no.

The new paradigm is we have to detect and preempt. We have to go on the offensive and then deter and then get into consequence management.

What the Senator from Mississippi has done is simply said to the Department of Health and Human Services, please guarantee the safety of these products before they come in, not afterwards; not after we see some evidence that something will happen. It is a before-and-after question. Sure, that senior citizen before may get a drug that is more inexpensive. He may die. That is a dramatic kind of statement, but it could happen.

That is how I would answer the Senator.

The PRESIDING OFFICER. The Senator yielded the floor. The Chair recognized the Senator from West Virginia. The Chair permitted a question. The question has been answered. The floor belongs to the Senator from West Virginia.

Mr. ROBERTS. I think the Senator already asked the question.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. We had an interesting and important discussion this afternoon for quite some time. I want to add a little bit to the discussion.

The PRESIDING OFFICER. The Senate will be in order. Senators will take conversations off the floor so the Senator can be heard, and others will be recognized thereafter.

The Senator from West Virginia.

Mr. ROCKEFELLER. I say to the Presiding Officer, I would like to put a little perspective in what I see at least as the prescription drug aspect of all this, which permeates part of this discussion, although it is not immediately apparent in the debate of this afternoon.

We have this historic opportunity to do something real in prescription drugs. We also have the historic opportunity to fail to do it or we have the historic opportunity to do it in such a way that it will make us feel good but will not do anything to help seniors. In other words, that we would pass something which we could say we passed when we went home in August but would not in fact really help seniors in ways that are meaningful, something that I will not have anything to do with, that kind of strategy.

I say to the Presiding Officer, who is my good friend over many years, that nowhere is the problem more visible with respect to prescription drugs, and therefore creating a sensible plan that will address the problem of prescription drugs, than in the State I represent where 30 percent of the seniors have no drug coverage at all and 19 percent have very little drug coverage; therefore, basically half are more or less untouched entirely or to a great degree.

About a third of rural seniors as opposed to about a fourth of urban seniors—this is a 10 percent difference, but it makes a difference—pay more than $500 out of pocket each year. So my first overriding concern is the 336,000 seniors in the State of West Virginia. I will yield or sit down to nobody in fighting for them and for a plan which works for them in one of the poorest States in the Nation.

The question is, seniors know there are no easy solutions. We talk as if there are, but there are not. We have to be honest with our constituents about that. I know there is an election coming up. So what. A prescription drug bill that passes is a prescription drug bill that lasts for a substantial period of time. We have to do it right. There are a variety of alternative plans. I am not going to be referring to any of them individually, but some of them are a whole lot better than others and people better start thinking about some of the issues involved. I am going to try to raise some of those issues.

Providing a real drug benefit to all seniors, a benefit that covers all seniors all the time for all drugs at a price they can afford, that is what we need to do. At the end of the day, to be quite honest with you, seniors are not really enormously moved and do not care tremendously about whether it is a Democratic bill or whether it is a Republican bill, whether it is a White House bill. That may have some short-term advantage, but in terms of the way it affects their lives, which is what I care about, which is why I am here in this body, it doesn't make any difference to them. They don't want to be promised something we cannot actually deliver. There is a lot of talk about that kind of stuff.

As seniors consider all the competing prescription drug bills, they need to ask a number of very basic questions. One of the matters which I think people need to focus on is that the most important issue in all this is the delivery mechanism. People say: What is that? It is the core of the whole argument. It needs to be explained. It is a question of, really, who takes the risk?

One of the plans we are looking at—that is the way I am going to refer to it, one, then another, et cetera—says that the insurance companies will take the risk. Chip Kahn was President of the Health Insurance Association of America. He says that is like insuring against haircuts. An insurance company is not in the business of taking risk. They can't, and they particularly can't where people are older, sicker, and frailer and are less likely to be able to afford either to join them or to pay what it is that they charge.

On the other hand, you can also have a system where you use what you call a government/private partnership, PPMs. That is in another plan. I happen to favor that. They don't have to make a profit. They can set the price on the medicine which is best for the senior. But the business of who takes the risk is really important in all of this.

You say: How can you prove that? I will prove it indirectly. Since we do not have this before us, in West Virginia we have one plan on Medicare+Choice. We have Medicare and we have Medicare+Choice. We have Medicare, but we only have one plan that affects one part of the State involved with one university and some counties right around it. It covers 2 percent of the people in the State of West Virginia. That means it does not cover 98 percent. That means 98 percent of the people in West Virginia are not covered at all. They have a cap in their plan of $500 on their drug benefit.

That means if you use up your $500, you have a catastrophic something or other, by February, March, April, or May that is it—there is nothing you can do. There is no more expended. You have to pay for it yourself.

One good thing, though, that can be said about Medicare+Choice is that, if the plan pulls out, the senior, the Medicare beneficiary, has the option of a fallback position. That is to go back to fee-for-service medicine. That is not included in any of the other plans. I use the word "other" in the prescription drug plans that are before us. It is included in one, but it is not included in the others. It is not included in the one from the House. It is not included in one of the several that are wandering around the Senate Finance Committee.

If you do not have a fallback position, you can't do anything. That means you are just out of it. The plan decides to pull out and you get nothing. If it is Medicare+Choice, and the plan decides to pull out because they can't make money, because you are poor, you have a lot of people using services, and at least, therefore, you have the fallback position and that is, you can go back to fee-for-service medicine. It is an extremely important aspect of all of this.

So the question that seniors ought to ask and we ought to ask ourselves is, first, does the final plan that we vote on cover all seniors? Does it cover all seniors? Medicare does; not prescription drugs but in other things it does.

Does it cover all seniors, as prescription drugs should? All seniors need to know that they won't be left out of the prescription drug bill just because they come from a State that has a lot of rural area where the cost of providing services is much higher. The plan I support covers all seniors in every State.

Seniors can get their drugs through their local pharmacy, just as they do now. There is no difference. The government and the private sector would be working together to make sure all seniors are covered just like Medicare today. That makes sense to me. The other plans say that every senior is "eligible" for coverage. But, in fact, many seniors won't get any benefit at all under these other plans. That is because those plans leave up to private insurers the decision where and when and to whom they will offer coverage.

The experience of rural areas—and certainly in my State—is the plans and insurance companies have said they want to have nothing to do with ensuring prescription drug benefits. They made it very plain. The other plans pretend they haven't said that and go ahead and include them.

Private insurers are focused on profits. "Profits" is not a dirty word. But it becomes an important word when you are talking about the distribution and accessibility and the affordability of prescription drugs.

We know from experience that the insurance companies will simply not voluntarily ensure seniors in parts of the State of Minnesota. They will in others but they won't in other parts. Or insurance companies will have the ability to have certain kinds of benefits in these kinds of areas, and other kinds of benefits in other kinds of areas. In other words, nothing is defined, and nothing is consistent that people can really count on. That is really wrong in prescription drugs. If we pass a bill that does that, that is wrong. That is the wrong thing to do to seniors.

We need to think about that. Seniors need to be on the alert for exactly that kind of behavior.

Second, does the final plan cover all seniors all the time?

Seniors need a benefit that is universal. They do not know when they are going to get sick or have a catastrophic incident. They have to know that it is going to be there for them all the time. They need benefits that help them 365 days a year.

The plan I support covers all seniors, all year, without a gap in benefits, and with no gaps in coverage. Other plans stop after a senior's drug costs exceed $2,000, and even if it happens to be in the first month of the year, or gives seniors no coverage at all for costs between $2,000 and $3,700. That is called a doughnut. It is a very serious problem, and a very real problem.

When you say people do not know what you are talking about necessarily out there, even in here a doughnut is a bad thing to do. When you say that you are stop-loss at $2,000 through $3,700, you have to pay everything in between, that is a wrong policy. Some of the other plans have it. The House plans have that. One of the plans floating around in the Senate Finance Committee has that. It is wrong.

Third, does the final plan cover all seniors all the time for all drugs?

That is the third question seniors need to ask us and that we need to be asking ourselves as we evaluate what we are going to do, if we are going to do something.

Seniors want to make decisions about which drugs are taken on advice of their doctor. They don't want to have it done on the advice of their insurance companies. We have heard about that for years—doctors having to dial insurance companies to get permission to do something which they know they have to do. They resent it. They are denied. Nobody can do anything about it. Doctors and patients should make key health decisions. I think that is a moral compass for how we look at a prescription drug bill.

Under the plan I support, seniors have a guaranteed benefit. Seniors and their doctors will decide which medicines are best for them to take, and they will take those medicines.

The other plans, as I say, talk about a standard benefit—the beauty of words in the Congress. But the fact is they too often leave it up to the insurance companies to decide which drugs will be covered. And that is not a guaranteed benefit for all drugs.

We went through this in the Medicare Commission for a year. It was a question about do you have a defined benefit? Do you have an actuarial? People ask, What does actuarial mean? The point is that in one you get a benefit for all seniors all across America, and in others you get a certain amount of money. When the money runs out, you are on your own.

It is cruel. It is cruel. It is wrong. But it is in two of the three main plans that we are considering on prescription drugs, and people need to know about it.

Four, does the final plan cover all seniors all the time for all drugs at a price which they can afford?

None of these questions strike me as unreasonable, if we are doing something as stark as this.

We have been talking about this for 5 years. I have sat for the last 4 years in sometimes up to three meetings a day in Finance Committee meetings and with staff trying to discuss all of these things, and here we are again. That is fine, if we produce a decent product. I don't care. The senior Senator from Massachusetts has a theory that sometimes things take 10 or 12 years to pass. If you have to do that for prescription drugs, that is a bad thing because, in the meantime, a lot of people are dying and suffering needlessly. But the plan I support on this matter of affordability is the only one with the guaranteed affordable premium for every senior in the country of just $25 a month—not 50 percent; for every senior, therefore, in the country, just $25 a month, and no large, upfront deductible.

Seniors would pay $10 for any generic drug up to $40 for more expensive brand name drugs. That is fair. After $4,000 in total dollars in out-of-pocket spending, all drug costs would be covered by—guess what—the Federal Government. Yes, medicine is expensive. Seniors are important. They are growing in size and in frailty. We are involved in their lives.

Just as under Medicare, seniors pay the same amount regardless of where they live or how much their income is each year. Some people dispute that. It is the moral principle of a social contract.

The other plans, again, as I say, in the spirit of not being unkind, mostly provide what they call "estimates," or "averages," like the word "actuarially." It is one of those good words that makes you believe that everything is in good hands, except when the time comes for this to work it just doesn't quite work. Rather than real costs, seniors can compare. They talk about "estimates," or "averages." But if you look at the details, it is clear that every one of those plans has a higher premium, and large, upfront deductibles and higher copayments. That is a fact.

For example, the premium under the House-passed bill is "estimated" at $33 a month. But the insurance companies can set it higher. Why? Because they are establishing the risk. They are setting the price. If they don't like the risk, the price goes up. If they are out in Westchester County, the price goes down. If they go to West Virginia, the price goes out of sight. So they don't come to West Virginia because they can't make any money.

We are not blaming them for it. It is a fact of the way the free enterprise system works. Should West Virginia seniors, if anybody is interested, pay more than those in other States?

The House bill also has a suggested $250 upfront deductible that seniors have to pay every year, although that could be set higher by these same insurance companies for the same reasons.

Again, it is the benefit of how you do the mechanism which sends these benefits out. If you do it through the insurance company, they do not like risk. They don't like old, frail people. For those eligible to do it through the PBM, they do not have to make money, and they look at it differently.

So, again, for costs between $2,000 and $3,700, seniors get nothing. That is a big gap in coverage. It means millions of seniors will pay thousands more under the House bill.

I am about to conclude.

Seniors have been waiting for more than a decade while we in Congress fight about all this. I want to repeat what I said when I started by saying some of my colleagues have suggested—my colleagues on my side of the aisle—that if we cannot achieve a fair and comprehensive benefit, then we should accept a weak and watered-down bill. And what is it that is getting us all worried?

We all know we are going to have to get 60 votes. We are going to have to get 60 votes. None of the plans has enough votes right now, so we have to get 60 votes.

So that is what leads you to a watered-down plan, just so we can go home in August and say that we have done something.

We all get good benefits. Seniors all across America being left with the results of a watered-down prescription drug bill is not something that I am going to be a part of, I say to the Presiding Officer.

We have a once-in-a-lifetime chance to do something extraordinarily meaningful for every senior and every American family. Anything else is, and should be, unacceptable to every single one of us.

In the end, I want to enact a bill that guarantees West Virginians the same access to lifesaving and life-enhancing prescription drugs as people in other States. But the bill has to be right, it has to be fair, and it has to cover the right aspects. If it does not, we should not do it.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we are now at a point where the Republican leader signed off on our being able to have a vote. We wanted to do that at 5:40. The last vote was at 2:30. We have been on this amendment, we have basically agreed to, now for 2½ hours.

My point is, I know Senator ENSIGN is in the Chamber and wishes to speak.

I ask my colleague how long he would like to speak.

Mr. ENSIGN. About 15 minutes.

Mr. REID. OK. Senator DURBIN, 10 minutes; Senator WELLSTONE—.

Mr. WELLSTONE. Ten minutes.

Mr. REID. And 5 minutes for Senator KENNEDY. So that is 40 minutes, I think. Does anyone else on the Republican side wish to speak?

Mr. ENSIGN. I understand Senator BUNNING would like 15 minutes, and Senator ENZI would like 10 minutes.

Mr. REID. OK. If I could have someone add up that time, that is an hour and 5 minutes. I wonder if we could work that out to save a few minutes. We need to get to military construction tonight. So rather than an hour and 5 minutes, let's do an hour.

Do you think Senator BUNNING could go for 14 minutes? I bet he could. He is a good guy. Senator BUNNING for 14 minutes—I say to my friends in the minority, they have had most of the time this afternoon. I think if we can just cut a few minutes, and if I could stop talking, it would help a little bit, too.

So I am wondering if we could ask unanimous consent that the vote will occur at 6 o'clock, with the time proportionately taken from every speaker that has requested time—30 seconds, something like that, from every speaker. I think we can work that out. The vote would be on or in relation to the amendment, No. 4301, and the time is as indicated.

Mr. ENSIGN. If the Senator would yield, I will keep mine under 10 minutes.

Mr. REID. That will take care of the problem.

I say to my friend from Nevada, thank you very much.

So I ask unanimous consent that the vote occur at 6:05, as per the agreement, with no intervening amendment in order prior to disposition of the Cochran amendment.

The PRESIDING OFFICER (Ms. CANTWELL). Is there objection?

Mr. WELLSTONE. Madam President, I will not object. But I ask the Senator, you locked in time?

Mr. REID. Everybody has the time except Senator ENSIGN. He graciously took 5 minutes off his time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nevada.

Mr. ENSIGN. Madam President, while I support the underlying amendment, I want to talk about a prescription drug proposal that I believe, and the other authors of this bill believe, could be the answer that seniors are looking for around the country.

Senator HAGEL and Senator GRAMM and Senator LUGAR and myself have been working on a proposal that I have worked on for a couple years along with Senator HAGEL.

This proposal, to keep it very brief, has two major components. The first component of our proposal allows every senior to participate on a voluntary basis. They sign up for a $25 fee. This takes care of just the administrative costs. This $25 fee allows them to get a prescription drug discount card.

We use the private sector. The private sector will set up what are called pharmaceutical benefit managers. These managers will offer certain drug plans. Seniors can choose between those drug plans. The better the drug plan, the better chance they have of attracting seniors.

It is estimated there will be somewhere between 25 to 40 percent savings for seniors using this prescription drug discount card. The reason they will save money is, very simply, that they are taking advantage of volume buying.

We see volume buying all the time. HMOs buy in volume, in bulk. So seniors will get the advantage of this volume buying when they are on Medicare and they sign up for this card.

The second part of our plan caps out-of-pocket expenses.

The biggest thing that we hear from seniors these days is that they are afraid they are going to be bankrupt. We had an e-mail in our office that came in a little after 11 o'clock Pacific Coast Time last week. It was from a person who said that many seniors have to choose between rent and prescription drugs. So they were saying: Will you step up to the plate, the "moral plate," as this person called it, and do something that seniors really need?

Our plan actually does something that seniors really need. It provides them the prescription drug coverage by capping out-of-pocket expenses.

Let me give a couple illustrations.

For a senior citizen who has now signed up for the plan, let's say they make anything less than 200 percent of poverty—which is, for an individual $17,700 per year; for a couple it is almost $24,000 a year—if they are below 200 percent of poverty, our bill caps their out-of-pocket expenses at $1,500, so basically $120 a month.

So let's take, for instance, somebody who has diabetes or somebody who is a cardiac patient or a cancer patient, and they have $4,000, $5,000, $6,000 a year in drug expenses. This is what they are going to pay. Those are the seniors who need it the most.

The nice thing about our plan is—we are hearing about cost estimates of the, quote, "tripartisan" bill as being somewhere around $370 billion over the next 10 years. Other plans are floating around out there, and that may be $650 billion-plus.

Our plan looks like it is going to come in at an estimate of about $150 billion over 10 years. The other plans, in the next 10 years, really skyrocket. Ours goes up, like every plan does, but it does not go up significantly.

This is something for which the next generation can afford to pay; the other plans that are being talked about, the next generation cannot.

The reason our bill costs so much less money is a simple fact: If you keep the senior citizen, who is going to be getting these prescription drugs—the Medicare recipient—in the accountability loop, that means when they are paying the first dollars out of pocket—up to, for the lower income seniors, $1,500 per year—they will be cost conscious. That means they will go out and shop. They will make sure those plans have the drugs they need at a price they can afford. So we will have seniors all across the country shopping for their prescription drugs.

If we just give them a plan and say we will cover everything, the seniors quit shopping. The market forces then don't keep the competition where it needs to be. Because about half the seniors in America have less than $1,200 per year in prescription drug costs, that is where the huge savings comes to the taxpayer in our plan. We are looking out for the senior with our plan, but we are also looking out for the taxpayer. For the future of the next generation and the generation after that, we cannot afford to ignore the taxpayer because somebody has to pay for this prescription drug benefit.

All of us want to take care of our parents and our grandparents, and we want to be taken care of someday. Especially for those who really cannot afford it and are having to choose between sometimes what they are eating and whether they are taking their medicines or whether they are able to pay rent that month and whether they are going to be able to take their medicine, it is a real problem. But we have to do it in a way that is fiscally responsible. We think our bill does that.

I have a real life example—we have received some numbers—of a senior citizen who is around 68 years of age. This is a profile of a real senior, but we won't release any names because of privacy. This patient makes around $17,000, is being treated for diabetes, has no prescription drug coverage today, and pays a total of about $5,700 currently per year. Under the Democrat proposal, at least the parts we can tell from it, this person would pay around $2,100 a year, saving about $3,900 a year. Under the tripartisan proposal, the person would pay about $2,300, saving about $3,700 a year. Under our proposal, this person would pay about $1,900 a year, saving around $3,800 a year.

So for the person who really needs it, who has serious disease and has a lot of prescription drug costs, our bill actually saves that person more, by a couple hundred dollars at least, than either the Democrat proposal or the tripartisan proposal. Yet it does this in a way that is responsible to the taxpayer because our bill is literally hundreds of billions of dollars less than the competing proposals.

I am urging my colleagues to take a look at this plan. This plan would go into effect at least a year earlier than any of the other competing plans. It can go into effect on January 1 of 2004. The other plans don't go into effect until January 1, 2005. Our plan is permanent as well. One of the other plans is sunsetted.

Our plan is easy to understand. If you take a look at it, it doesn't sound that easy to understand except when compared to the other plans which are much more complicated. It is much easier to understand for the senior. It provides the benefit and most of the benefit to those who truly need it.

I reiterate—and this must be reiterated time and time and time again—it is responsible to the next generation. We cannot afford to pay for seniors today and forget about the next generation. We all want to take care of the seniors today, but we must do it in a fiscally responsible way.

To sum up, a $25 fee, you get into the plan. You get a prescription drug discount card which saves you 25 to 40 percent. Then, depending on income, we cap your out-of-pocket expenses. For those 200 percent of poverty and below, their cap will be $1,500. For those 200 or 400 percent of poverty, they are capped at $3,500 out-of-pocket expenses for the year. For those at 400 to 600 percent, they are capped at $5,500. And for the wealthiest, they can still participate. But for the Ross Perots of the world, they have to pay 20 percent of their income in prescription drug costs before they benefit. So the Ross Perots of the world, those people who do not need the coverage like that, will not get the coverage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, there are other Senators on the floor. I had spoken earlier. I think I can probably cover the ground in 3 or 4 minutes.

I think it is best to be as concrete as possible. Coumadin is a blood thinner widely used in the United States. A bottle is $20.99. For the same bottle, dosage, the Canadian price is $6.23. Zocor, which is a cholesterol drug, in the United States: $116.69; our neighbor Canada, $5.51; Permax, to manage Parkinson's disease, $398.24; Canadian price, $189.26; tamoxifen, breast cancer drug, $287.16; the Canadian price, U.S. dollars, 24.78.

That is what this amendment is about that Senator DORGAN and I, Senator STABENOW, and others have supported. Our amendment passed overwhelmingly.

I have heard so much said in the last couple hours. That is why it is hard to get started, because if you get started, it goes on and on.

Families USA came out with a study today that makes it pretty clear that by a 2-to-1 margin, pharmaceutical companies spend the money on advertising and marketing as opposed to research, with profits beyond belief—what I have described as Viagra-like profits—based upon the misery, sickness, and illness of elderly people.

The pharmaceutical industry hates this amendment that has passed. They don't want to see people in Minnesota or Illinois or anywhere in the country get this discount, and they don't want to see downward pressure on prices. They don't want this to happen. The industry would be happy for us to pump in as much money as possible, as long as we give them a blank check and they can fill it in.

The amendment we have before us, the Cochran amendment, basically says that this amendment we just passed, this legislation, only becomes effective if the Secretary of Health and Human Services certifies to the Congress that implementation of this section will "pose no additional risk to the public health and safety and will result in a significant reduction in cost of covered products."

I don't know about the "reduction." I think it is pretty clear it is going to be a significant reduction.

I have two views about this. The first is, we have had two prior Secretaries of Health and Human Services—it creates such a loophole that they have refused to provide the certification. The pharmaceutical industry, which is so powerful and has always gotten its way, it gives them the perfect opportunity to lobby against it and stop it—no question about that.

This amendment may have passed with all of our votes, although I must say I will vote for it with very mixed feelings because I believe in my heart of hearts that this Secretary of Health and Human Services will do everything to block implementation of the legislation we passed earlier today.

However, there are at least two or three things that are different, and now the optimist in me will conclude. One is that we are only talking about Canada. Anybody who really looks at this with any kind of rigor will realize it is hard to argue when you don't have the same stringent health and safety guidelines, and all of this has to be FDA guidelines in any case, No. 1.

Second of all, expectations are up. If you don't think this isn't a big deal to people—to have a dramatic reduction in the price of prescription drugs so they can afford it—you are wrong.

Therefore, I believe what has happened today—this amendment will pass overwhelmingly, close to a 100-percent vote. It has raised people's expectations. I don't mind that. I would rather have expectations raised than lowered around the country. And it is not just senior citizens; it is all citizens who benefit from this.

My final message to the Senior Federation of Minnesota and the other citizens groups who have been fighting so hard is that we should have an overwhelming vote for prescription drug reimportation, and then a strong vote for the Cochran amendment. I think we have more to deal with on health and safety issues, but we have to do it this way. But if this Secretary of Health and Human Services should block this in perpetuity—and it is clear he has no intention of certifying this—or any Secretary of Health and Human Services, representing either party—as a couple colleagues on the other side of the aisle give me that look—I say to the seniors of Minnesota, and all other citizens, all those buses you have been taking to Canada, take them right here to Washington, DC. Come right to the office of the Secretary of Health and Human Services and demand that he or she not block this in the future.

We are expecting Secretary Thompson to move on this. We are not expecting him to use the Cochran amendment as a gigantic loophole to block the legislation we passed today that would provide a serious discount and would provide many more affordable prescription drugs to people.

As a Senator from Minnesota, I will join the buses if we need to go down to the office of the Secretary of Health and Human Services. Let's hope we don't need to go.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise today to talk for a few minutes about adding a prescription drug benefit to the Medicare Program.

Over the next few weeks, the Senate will debate one of the most important issues we will consider this year whether to provide a medicare prescription drug benefit to seniors.

But I am afraid that if we do not get our act together and start really working together it will all be a huge waste of time.

I think we can all agree that something needs to be done. The cost of drugs is going up and up. It is the fastest rising medical expense that seniors and many other Americans face.

And it is clear that medicare now is not set up to deal with this problem.

Medicare is still basically a 1965 program that is struggling to keep up with health care in the year 2002.

Health care has changed dramatically in the last three and a half decades.

When Medicare was first set up, prescription drug costs were low. People were more concerned about being able to afford hospital stays.

Now because of medical advances and the amazing things we can do with these medicines, the relative costs of hospital stays are less important. But the cost of prescriptions are rising.

However, the medicare fee structure is not flexible enough to adapt to this change.

It must change.

In a perfect world, we would be debating a broader Medicare reform bill now along with a prescription drug benefit.

It would be the most effective way to go, and it is something I hope we can address before too long.

But for today, we are talking about a drug benefit. We are all for it. The question is: How do we set it up and how do we pay for it?

Before I get into the substance of this issue, I think we need to first talk about process.

The Senate is built on procedure. Here we still follow precedents and rules that were handed down over two centuries ago.

It is important, and it makes a big difference when it comes to passing legislation.

In the case of the bill before us today, that process has not worked very well.

In fact, it hasn't worked at all.

I hope we have a long, thorough debate to make sure that members have time to closely examine the base bill.

After all, it doesn't even have a committee report attached to it to allow Members and staff to fully examine and assess what is in the legislation.

It was rushed through the help committee and to the floor for this debate because the committee of jurisdiction—the finance committee—couldn't agree on its own Medicare proposal.

Finance has had problems because this is a tricky, complicated issue. And the only way the majority could start today's debate was by bringing up the generic bill instead.

In my book, that is putting the cart before the horse. This is too important an issue not to get right.

We have to be careful.

Procedurally, we got off on the wrong foot, and while it might not seem that important on the surface, little twists and turns like this can make a difference when it comes to the fine print of the legislation.

We all know this is going to end up really being a debate about a prescription drug benefit. Generics are part of that, and I have no objection to considering this issue in the Senate.

That is why we are here—to legislate and make the tough calls.

But when the bill before us today is brought to the floor in such a backwards way it makes me nervous.

The fact is that we are doing the body a disservice by not letting the finance committee finish its work.

They have the most expertise in this area.

They have been wrestling with this the longest. I sure hope the majority does not try to rush them, and the full Senate, anymore into writing a bad bill.

This is a pattern we have seen before, and the results have been bad.

Virtually the same thing happened with the energy bill.

In that case, the majority leadership didn't like how things were going in the energy committee, so they brought their own separate bill to the floor and bypassed the committee.

In the end we passed legislation, but I know that it was not as good a bill as we could have passed if the committee of jurisdiction had been able to finish working its will.

We have seen this happen again and again—on the farm bill, the economic stimulus bill, the railroad retirement bill, and the patients' bill of rights.

In each case, we passed something. But we as a body didn't do our best work.

It is just as important to get things right than to get them done fast.

In the case of Medicare and prescription drugs, the majority is pushing us and pushing aside the only bipartisan prescription drug bill.

That should tell you something. And it can make a big difference when it comes to the substance.

We all know that many older Americans are faced with making some tough choices when deciding how to pay for their prescription drugs.

We have all heard of the sacrifices seniors make to afford their prescription drugs.

Some cut their pills in half to make their medication last longer or cut back on their grocery purchases to have enough money left over for another month's supply of their medication.

Many seniors can't get their doctor's prescriptions filled because they simply cannot afford them.

These are decisions that no American living in the year 2002 should have to make, and we in Congress have a moral obligation to pass a prescription drug bill this year, and get it to the President to sign.

I support the tripartisan plan that has been put together by several members of the Finance Committee.

In a nutshell, this proposal establishes a new voluntary prescription drug benefit in the Medicare Program, along with making some changes to the Medicare+Choice program to make it more competitive.

Monthly premiums are relatively low—$24. There is an affordable deductible of $250 per year.

Those who need the most help—those seniors living 150 percent below poverty receive extra assistance with costs.

And there is extra protection when out-of-pocket costs skyrocket too high.

It is a sensible proposal that means real relief to all seniors.

It is these seniors who benefit the most from this bill, and we have a responsibility to help them today—not tomorrow or the day after. But now.

Because of the way this issue is being handled on the Senate floor, we could very easily end up at the end of this prescription drug debate with no bill at all.

Because it has been rushed to the floor—because the Finance Committee is still working on a number of competing proposals—there is no real consensus about what to pass.

This could mean that no one bill gets a majority of the votes and nothing passes.

If that happens, we'll be back exactly where we started—with no relief for American seniors.

Congress can pass a prescription drug bill this year, and we can start helping seniors with their prescription costs in the near future.

We have been talking about it for years. Now we have a chance to do it.

But it is going to take real dedication by all Members of this Chamber to actually pass a bill.

And it is going to take more respect for the process, for the time and chance to make thoughtful, deliberative decisions.

Personally, I hope we don't succumb to playing politics with what is literally a life or death issue for many older Americans.

While the process we are working under looks like it has been set up to fail, I still think and hope we can come up with some sort of proposal.

Madam President, I thank you for the time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, all here today have the same goal in mind, and that same goal is to be sure we have the lowest priced, best, and most available prescription drugs in the world. We do want to make sure the cost is as low as possible. How we get there we have some disagreement over, and I would like to take a moment to address the first-degree amendment that is before us right now, which I hope will be corrected with the second-degree amendment.

The first-degree amendment would allow for pharmacies and pharmaceutical distributors to reimport drugs from Canada. I continue to have two major concerns about the amendment.

First, as my colleague from Mississippi has articulated, there is no way to assure the safety of drugs reimported from Canada. Experts, including two Secretaries of Health and Human Services, said it cannot be safely implemented for consumers. That is probably even more true since September 11 and the anthrax attack. Safety is the reason we do not have it right now.

I believe we are presently operating under the Prescription Drug Marketing Act of 1987, which expressly bans the reimportation of drugs to protect the public health and the integrity of the distribution market in the United States. It passed the Senate unanimously. That means everybody who was here on March 31, 1988, agreed for it to go through.

Former Senator Al Gore was a cosponsor, and on the House side it was implemented and backed by such outstanding conservatives as Representative JOHN DINGELL and Representative HENRY WAXMAN. They were the key House sponsors of the legislation. The finding in the bill as passed did focus on the risk of reimportation to consumers.

I ask unanimous consent that the findings from that bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**SEC. 2. FINDINGS.**

The Congress finds the following—

(1) American consumers cannot purchase prescription drugs with the certainty that the products are safe and effective.

(2) The integrity of the distribution system for prescription drugs is insufficient to prevent the introduction and eventual retail sale of substandard, ineffective, or even counterfeit drugs.

(3) The existence and operation of a wholesale submarket, commonly known as the "diversion market", prevents effective control over or even routine knowledge of the true sources of prescription drugs in a significant number of cases.

(4) Large amounts of drugs are being reimported to the United States as American goods returned. These imports are a health and safety risk to American consumers because they may have become subpotent or adulterated during foreign handling and shipping.

(5) The ready market for prescription drug reimports has been the catalyst for a continuing series of frauds against American manufacturers and has provided the cover for the importation of foreign counterfeit drugs.

(6) The existing system providing drug samples to physicians through manufacturer's representatives has been abused for decades and has resulted in the sale to consumers of misbranded, expired, and adulterated pharmaceuticals.

(7) The bulk resale of below wholesale priced prescription drugs by health care entities, for ultimate sale at retail, helps fuel

> the diversion market and is an unfair form of competition to wholesalers and retailers that must pay otherwise prevailing market prices.
>
> (8) The effect of these several practices and conditions is to create an unacceptable risk that counterfeit, adulterated, misbranded, subpotent, or expired drugs will be sold to American consumers.

Mr. ENZI. Madam President, I will read a couple:

> (1) American consumers cannot purchase prescription drugs with the certainty that the products are safe and effective.
>
> (2) The integrity of the distribution system for prescription drugs is insufficient to prevent the introduction and eventual retail sale of substandard, ineffective, or even counterfeit drugs.
>
> (5) The ready market for prescription drug reimports has been the catalyst for a continuing series of frauds against American manufacturers and has provided the cover for importation of foreign counterfeit drugs.

It is interesting; some of the people who debated in favor of doing that—and, as I mentioned, it passed unanimously—we are having that same debate right now, and the same arguments are valid for why that would not provide a good solution for consumers.

I also mention S. 2244 would create a second route for transporting drugs into the United States outside the existing regulatory system. The bill would allow pharmacists and wholesalers to purchase drugs from Canadian sellers over which the United States authority, the FDA, and others have no jurisdiction or control. It provides the threat of counterfeits and does not depend on the integrity of the product itself but on the integrity of those handling the product.

Even worse, the bill would require drug manufacturers to disseminate their drug formulations and chemical fingerprints to potentially thousands of pharmacies and wholesalers. This information, currently protected as a trade secret, could be worth millions of dollars per drug on the black market.

Counterfeiters could obtain drug formulations and learn how to make their fake drugs look real and survive chemical analysis. Notwithstanding these very real safety concerns, it is unlikely the bill would achieve the goal of bringing cheaper drug products to U.S. consumers.

The cost savings we talk about might be obtained but more likely would be absorbed by the fees that would be charged by the exporters; the wholesalers, the pharmacists, and the testing labs.

The bill also requires Canadian sellers to register with the FDA. However, because the FDA has no authority to inspect foreign facilities, the agency will have no way of knowing whether these registered firms are legitimate, whether they handle and store drugs properly, or whether the drugs were manufactured under current good manufacturing practices. That is the first reason.

I hope our colleagues who support the amendment and have been on the floor today urging us to support the amendment so seniors can have access to the drug pricing structure that Canada has imposed on drug companies will look a little bit at Canada. Canada, which operates a socialized national medical system, has imposed price controls on prescription drugs. Canada has also imposed rationing in other health care services, such as dialysis for elderly patients suffering from kidney failure. But we probably do not want to import that policy.

I know a lot of people from Canada who come down to the United States to get their health care because they cannot get all of the choices the United States has, and even when they can get the choices, have to wait in line for it. I think it has already been covered a little bit by my colleague from Pennsylvania that in Canada they bid for the drugs.

You do not get all of the drugs. You get the one drug that will handle that general practice, and the country gets competition by bidding among the several people who try to handle that particular ailment. By bidding on it, they are able to drive some of the prices down. They also eliminate choices for doctors and for consumers, ultimately the consumers.

If what we are trying to do is price controls, we can do price controls, too. We probably ought to be debating them as price controls, legislate them, affirmative approval, and setting U.S. price controls. I hope we do not do that. I am not serious at all in suggesting that because when my wife and I first went into the shoe business, it was at the time that Nixon was in office and they talked about price controls. As soon as they talked about price controls, the companies that were supplying us with shoes did a 30-percent increase in the price of the shoes. Then, as soon as price controls went into effect, they did the 20-percent increase that they were allowed to do.

People were paying 50 percent more for shoes than they should have been just because the companies were worried about how they were going to be able to continue their profits. I can say that each and every year on the date they were allowed to raise their prices, they raised their prices. It had nothing to do with what the cost of the shoes were, but it affected the consumer dramatically.

Passing the Dorgan amendment is not only having Canada legislate for America, it is denying Congress and the American people the opportunity to fairly debate the matter. I do not think we are ready to do that yet. We all want to have the lowest priced pharmaceuticals we possibly can, but we do want to have the safety factor, and I do not think we want to have price controls or the Canada method of doing health care.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, if I understand the unanimous consent, I am entitled to 10 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Madam President, this debate about prescription drugs really comes down to a very fundamental issue. It is an issue about whether or not the pharmaceutical companies will prevail and continue to charge the highest prices in the world to American consumers or whether the consumers of America, the families and the small businesses, will prevail and finally bring to this marketplace some competition; some form of oversight, that gives them a fighting chance.

America believes in its drug industry. We understand the miracles that have occurred because of research and hard work within that drug industry. Look at the money we pump every year into the National Institutes of Health, taxpayer dollars spent by this Congress at the National Institutes of Health, to find new cures for diseases—last year, $23.5 billion. I supported it. I will support it again this year; it is money well spent to find cures for diseases that plague Americans and the world.

Look at what we do as well: We say to these pharmaceutical companies we will give them a tax credit for research and development. We give them a tax break to continue to find new cures, and then we say we will give them a tax break for advertising and other costs of business.

Our Government is friendly, supportive, and encouraging of the drug industry, as it should be. What do we get in return? Well, American consumers get the highest drug prices in the world. That is right. Our taxpayers invest more money in this industry and pay more back to it than any other country in the world.

Take a look at this chart. It was prepared by the House Committee on Government Reform. They said, if Americans pay an average of $1 for a pharmaceutical product, how much would that same product cost in other countries around the world? In other words, the American pill that we have paid the research money on and the tax credits for, that cost us $1, well, what does it cost in the other countries around the world?

In France, it is 55 cents; Italy, 52 cents; Germany, 65 cents; England, 69 cents; in Canada, 62 cents.

What is wrong with this picture, Americans? We are the ones subsidizing this industry, and we are paying the highest prices. Our thanks to PhRMA for giving them all of this assistance, all of this encouragement, and in return being asked to pay the highest prices in the world. Why? Because, frankly, we as a government have never stood up and said we have had it.

The Canadians have. I heard an allusion earlier to the socialism of Canada. Well, I do not consider them to be lockstep Fabian Socialists. This is a country which decided a long time ago that when it came to the health of Canadian citizens, they were going to do everything they could to make it affordable and available, and one of the first things they did was to say to the American drug companies: If you want to sell the same pills that you are charging so much for in America, if you want to sell them in Canada, you are going to have to face price restrictions. We will not let you sell them at those inflated prices that you charge your own American citizens.

As a result, the same drugs made by the same companies, subject to the same inspection, cost a fraction in Canada of what they do in the United States.

When you take a look at some of these drugs, for example—and you will recognize these names, incidentally, because they are all over your television screen, they are in every magazine you pick up now, newspapers, every single day.

Paxil: Feel a little anxious this morning? Take your Paxil. If you take it, it is $2.62 in the United States. Go to Canada, and it costs $1.69. It is a beautiful ad they have on television. Americans, you are paying for that ad. You are paying for it about a dollar more a pill.

Zocor, $3.75 in the United States, $2.32 in Canada; Prevacid, $3.91 in the United States, $2.24 in Canada, because the Canadian Government said: We are not going to let you rip off Canadians. You can rip off Americans. They will pay for it, no questions asked. Do you know why? Because PhRMA, this lobby, has a death grip on Congress. Congress is not going to rock the boat. It is not going to pass a law to protect American consumers as the Canadian Parliament did, no way. That is what this debate is all about.

The Dorgan amendment basically says we are so despondent, we have reached the point of despair where we are going to allow people to bring in drugs from Canada, the cheap drugs from Canada, because we cannot hold the American pharmaceutical companies to a standard of charging Americans a fair price. Boy, have we really reached that point, where we have to rely on the Canadians' bargaining authority to give American consumers a fighting chance? It appears we do. But that amendment passed 69 to 30. It shows you the desperation of the Senate, that we will not pass a law demanding fair prices for Americans; we are going to piggyback on the Canadians who have the political courage to do it.

Now comes the Cochran amendment. Senator COCHRAN of Mississippi is my friend. He is an honorable man. There are two ways to look at this amendment. Let me look first at the positive side. He has said the Secretary of Health and Human Services has to be able to certify that if these drugs come in from Canada, they are going to be safe for American consumers. Well, I hope so. Most of them are exactly the same drugs we sent to pharmacies all around our country.

The second thing is that if we import them from Canada, there is a significant reduction in price for the consumer.

I think both of those tests would be met, and if that is the case, it is hard to vote against Senator COCHRAN. I am going to support him. I think it is a good standard. I sincerely hope this is not part of an agenda by the pharmaceutical companies that believe if they cannot win a vote on the Senate floor and they cannot win a vote on the House floor, they may be able to persuade one member of the President's Cabinet to put an end to the reimportation of drugs from Canada.

Think about that for a second. This one person, man or woman, serving as Health and Human Services Secretary, will have the power to stop the discounted drugs from coming from Canada into the United States. It is a considerable amount of authority.

We have had statements from Dr. Kessler at the FDA, and from people currently at the FDA, who say the Canadian drugs are safe, there is going to be no problem. And we know they are cheaper. This should not be anything other than a formal decision saying the approach of the Dorgan amendment—which I am proud to cosponsor—is an approach which is good for America.

Step back for a minute and look at this debate. Look at the fact that this Congress and this President cannot pass a law that gives the American consumer a fighting chance when it comes to the cost of prescription drugs.

We are going to rely on the political courage of the Canadians to stand up to the same companies and hope we can bring in discounted Canadian drugs into the United States. Is this upside down or what?

I hope we go further than this underlying bill on generic drugs, than the Dorgan amendment on Canadian reimportation, and actually put in place something we can be proud of, something that says to every American, rich or poor, they are not going to die, they are not going to be forced into the hospital because they have to choose between food and medicine. Is that a radical, socialist notion? I don't think so. It sounds like an American notion that we believe in this land of compassion, that we can find the resources and the wherewithal to help our people.

I have seen them. I have met them. Every Senator in this Chamber has met them. They are men and women who have worked hard all of their lives, have retired in their little homes with their savings accounts, and want to live in happiness, follow the sports page and tend to their garden and enjoy their retirement. Then comes an illness—unexpected, perhaps. The doctor tells that person—your mother, grandmother, father or grandfather—this pill will keep you out of the hospital. They go to the local drugstore and realize they cannot afford to take the medicine that keeps them out of the hospital.

That is a fact of life in America.

Meanwhile the drug companies—there will not be any tag days for the drug companies—are making a lot of money. They are in business for a profit and deserve a profit. Look at this chart showing the profitability of Fortune 500 companies in the last 10 years: The drug industry, 18.5 percent; the median for other Fortune 500 companies, 3.3 percent.

Drug companies are doing extremely well. They say: We need to make a lot of money because we have to put the money into research for new drugs.

But look at this chart which shows how much they are spending on marketing and how much on research. The blue line is research; the yellow line is marketing. Look at the disparity in companies such as Merck, Pfizer, Bristol-Myers Squibb, Abbott, Wyeth, Pharmacia, Eli Lilly, and Schering-Plough. They make Claritin. You have seen that. They have switched over to the brand new drug called Clarinex. They used to show on television the people skipping through a field of wildflowers: I am taking Claritin and will never sneeze again.

Schering-Plough spent more advertising Claritin than PepsiCo spent on Pepsi-Cola.

Let us hold them to a standard in which we believe. The drugs are safe and will save the American consumer money.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I say to the Senator from Illinois, half the money in advertising for drug companies is for free samples, samples to physicians that end up going to patients for free medication. Just understand half of that money, roughly half, is for free samples given out to hospitals and doctors. That is a way many people who do not have prescription coverage end up getting some medication.

I find it remarkable the Senator says that PhRMA has the Congress in a death grip, and then says somehow the bill that passed last year over PhRMA's objection will pass this year both in the House and the Senate. He says PhRMA has us in a death grip, but at the same time they are passing legislation willy-nilly. I find that inconsistent.

I also find it inconsistent when the Senator says somehow or another we are relying on the courage of the Canadians—that is an often used term—to stand up to the drug companies. What courage is he talking about? He is talking about price controls. He was very forthright in saying we do not have the courage in the Congress to do price controls, so this is the next best thing. We all know how successful price controls are in America. They are an abject failure. We tried that in the 1970s. We have not tried it since because of the horrible disasters that occurred in our economy because of it.

What we are doing here is trying to impose price controls. On whom? We are trying to impose price controls on an industry that invests more on saving lives and preserving the quality and quantity of people's lives than any other industry in America. How are we doing that? We are doing it by reimporting drugs. And the safety issue is clear.

I encourage everyone to vote for the Cochran amendment. That is not going to be enough. Under this measure, the Dorgan proposal, drugs from all over the world—from terrorist countries—can come through Canada into this country without anybody inspecting them in Canada, no one. The law in Canada says they do not have to inspect it. As long as it is not to be used in Canada, all they have to do is mark it Canadian and ship it to the United States, and God knows what will be in the drugs. It could be terrorists, but it could be just phony drugs. We have no ability to check.

This is a huge safety issue. While the Cochran amendment gets at it, it is very important we need to do other things on this legislation to ensure that we are not opening up another avenue for terrorism, another avenue for people to die. The Dorgan amendment says we are not going to do anything to stop the reimportation of drugs until we have a pattern of people dying. So if one person dies, we will keep going until we see three, four, or five? This is remarkable. For what? So we can get lower prices on pharmaceuticals.

Understand what that means. The Senator from Illinois held up a picture of all the countries that have low prices for drugs. Every one of them have price controls, every one of them. They have price controls. They say to the company: Sell at the price we want you to sell it at or you cannot sell it.

In Canada, yes, you pay a lower price. If the company does not take the lower price, No. 1, they cannot sell their drug in Canada. No. 2, if they do not take the lower price, Canada can go ahead and license someone in Canada to make it and infringe on their patent.

What choice does the drugmaker have? None. He is absolutely correct. We in America subsidize that. He is absolutely right on that. There is no bone of contention. The question is; If we don't, what are the consequences? The consequences are very clear. There will be a dramatic reduction in the amount of research that is done. There will be less new drugs coming to market. There will be less cures. There will be less improvement of the quality of people's lives. That is a tradeoff.

But to sit up here and say this is somehow the big bad drug companies against poor patients who cannot get their drugs because of the expense of the drugs here, we have to go to Canada to get them, is a false choice. The choice is, giving that drug at a lower price, yes; putting price controls in it. If that is what the Senator from Illinois wants, he ought to offer an amendment. The choice is less research and less cures in the future.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, in just a few moments we will take a vote on the Cochran amendment. I intend to support the Cochran amendment.

I thought it might be useful to sum up where we are on the issue of trying to get a handle on the costs of drugs in the United States and also on the availability and the accessibility of drugs for our population.

There has been prescription drug legislation before the Senate for 5 years. Four years of this 5 years we were under the Republican control of the Senate, both in terms of the Finance Committee and the floor of the Senate. During that period of time, the Republican leadership found all kinds of ways to circumvent various committees to prioritize issues they wanted to do, but they never did it with regard to the availability of prescription drugs.

And now our Republican friends have been complaining all afternoon. We just heard another complaint.

This debate is about is how we are going to reduce the cost of prescription drugs, and hopefully on how we will increase the availability and the accessibility of prescription drugs.

The underlying amendment is the Dorgan amendment. It will mean many billions in terms of savings for consumers.

Mr. CORZINE. Mr. President, I rise in strong support of the Cochran amendment to allow reimportation of drugs from Canada with important safety protections, and in opposition to the Dorgan amendment, which would allow such reimportation without these important precautions.

As so many of my constituents, I am very concerned about increasing drug costs. Spiraling costs have a real impact on not just seniors but all Americans and health care costs generally.

That is why we need to find ways to contain costs. And Congress needs to enact a Medicare prescription drug benefit that will ensure that all seniors have access to the medicines they need.

Reimportation would allow American consumers to benefit from lower priced drugs available in Canada. It would provide much needed relief for seniors, and it would also provide assistance for the 39 million Americans who have no health care coverage at all.

Reimportation is not without risks, however. I feel strongly that opening our borders without ensuring that adequate protections are in place puts in danger our national security and the health and safety of our citizens. That is why I supported the Cochran amendment, which would enable the Secretary of Health and Human Services to fully assess and determine the safety of drug reimportation before allowing it to go into effect.

I opposed the Dorgan amendment because it lacked these safety precautions and could result in Canada becoming the portal for dangerous counterfeit drugs. In fact, this concern is only heightened now that we face bioterrorist threats, which we witnessed firsthand in New Jersey, where we found ourselves on the front lines of the anthrax attack.

The bottom line is that without a prescription drug benefit seniors will continue to struggle to afford all of their drugs—be they brand name, generics, or reimported drugs. Before us now, we have the opportunity to pass a prescription drug benefit that ensures the safety of our pharmaceuticals and provides access to affordable medicines for our seniors

For those who are watching this debate, let me share some figures. I want to tell the cancer patients who are watching this debate that, as a result of the pharmaceutical companies abusing the Hatch-Waxman Act and what is called the evergreening of payments, we have seen a 19 month delay of the generic drug Taxol at a cost to consumers of $1.2 billion. Families watching and those affected with breast cancer should know they paid $1.2 billion, because the pharmaceutical companies abused the Hatch-Waxman bill.

For those families affected with epilepsy, the 30 month delay of Neurontin has cost them $1.4 billion. For patients with depression, six evergreened patents have delayed the generic drug Wellbutrin for 31 months, at a cost to consumers of $1.3 billion. For the many seniors with high blood pressure, collusive agreements have delayed generics for months, costing them hundreds of millions of dollars.

For Americans who are watching now, let me say that we are going to do something about it. That is, the underlying bill will do something about it. And we are committed to doing something about it, in spite of all the opposition we have heard this afternoon from those on the other side.

We have the Dorgan amendment, which will make a difference for all the reasons that have been outlined by

Senator DORGAN, Senator DURBIN, and others. It will help to put pressure on the drug companies.

Now we are anticipating that, after this vote we will consider the Stabenow amendment. The Stabenow amendment will permit States to bargain with drug companies in order to make available to low-income, uninsured seniors and needy people, necessary drugs at the lowest possible prices.

With all these measures we are trying to give some assurance to the American people that we will make every possible effort to see a damping down on the high costs of prescription drugs.

There are other amendments which we will have an opportunity to debate through tomorrow and into Friday. Hopefully, next week we will have the opportunity to ensure the American people that they are going to have access to prescription drugs that will be dependable and affordable.

I was here in the Senate when we passed the Medicare bill in 1965. I was here in 1964 when it failed by 16, 18 votes, and about 8 months later it passed with 4 or 5 votes to spare. There was a switch of 22 votes in the Senate.

In 1965, the Senate went on record. What we did was to give an assurance to the American people that, if they played by the rules and paid their share, that when they turned 65 they would have health security. We have provided that in terms of hospitalization and physician care.

Prescription drugs are just as important as hospitalization and physician care. Can anyone believe that if we had left out physician care or hospitalization and instead included prescription drugs in 1965, that we would not be debating including hospitalization or physician care tonight in the Medicare system? Of course we would.

When we achieve it, people will say: Why did it take so long? What was the big deal about it? It is absolutely essential to our senior citizens.

Finally, I think this is also a moral issue. When we find that we have prescription drugs that can be life sustaining for our fellow citizens—the elderly and the sick, the men and women who fought in World War II and lifted this country out of a depression and sacrificed for their children—and they can't afford them, that we must act. We have the ability to help improve their quality of life and to reduce their suffering, and we are talking about sending bills to subcommittees and committees? And it is out of order?

It is about time we address this issue. That is what the American people want us to do. That is what they are challenging us to do. That is what the Democratic leader pledged we will do. And we will continue to battle and fight in the days ahead.

I believe our time has expired and under the previous order a roll call vote has been ordered.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Pennsylvania.

Mr. SANTORUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 4301. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—99

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Helms

The amendment (No. 4301) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4305

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator STABENOW.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Ms. STABENOW, proposes an amendment numbered 4305.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to clarify that section 1927 of the Social Security Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program)

At the end, add the following:

**SEC. . CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.**

Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following:

"(l) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

"(1) directly entering into rebate agreements that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

"(2) making prior authorization (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.".

## MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

Mr. REID. Mr. President, on behalf of the majority leader, pursuant to the unanimous consent agreement previously entered into, and after having consulted with the Republican leader, I ask unanimous consent that Calendar No. 486, H.R. 5011, the military construction bill, be called before the Senate.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

Mr. REID. Mr. President, before the Senators start discussing this bill, Senator MCCAIN has asked for 5 minutes in the morning rather than having his 20 minutes now.

I ask unanimous consent that when the Senate resumes consideration of H.R. 5011 on Thursday, there be 15 minutes of debate time with the time divided as follows: 5 minutes each for Senators FEINSTEIN, HUTCHISON, and

MCCAIN; that upon the use of that time, without further intervening action or debate, the Senate proceed to vote on passage of the bill, with all other provisions of the previous order remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 2709 is inserted in lieu thereof.

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I am pleased to join with my ranking member, Senator HUTCHISON of Texas, to bring the Fiscal Year 2003 Military Construction Appropriations bill to the Senate for consideration. This is a balanced, bipartisan bill intended to meet some of the most pressing infrastructure requirements of our military forces.

This bill provides $10.6 billion in new budget authority. It represents an increase of less than one tenth of one percent over last year's $10.5 billion military construction bill. But it is nearly 10 percent more than the President's 2003 budget request.

The 2003 budget request submitted by the President severely underfunded the Guard and Reserves. The request was 52 percent below last year's request. Congress is left to make up the shortfall. As all Members know, the Defense Emergency Response Fund funded all projects identified by the President as necessary for the war on terror. While it may be tempting to blame the decrease in military construction funding on the costs of fighting a war on terror, the fact is that the war on terror is fully funded through the Defense Emergency Response Fund.

This bill was coordinated carefully with the Armed Services Committee, and each project in this bill is included in the National Defense Authorization Act passed by the Senate. All of the projects in this bill meet the stringent standards for military construction funding set by the Senate. Every project we funded is in the Services' Future Years Defense Plans, and every project is a top priority of the installation commanders.

Mr. President, the bill was unanimously reported out of the Appropriations Committee on June 27. The package before the Senate today includes technical and conforming changes in the bill and report, as authorized by the full Committee. These changes include clarification of report language as needed and, in one instance, a correction in the tables to delete an unauthorized project that was inadvertently included in the committee print.

The bill provides $5.6 billion—53 percent of the total—for military construction for active and reserve components. Included in this funding is $1.1 billion for barracks; $26 million for child development centers; $137 million for hospital and medical facilities; $159 million for the Chemical Demilitarization Program; and $610 million for the Guard and Reserve components.

An additional $4.23 billion, or 40 percent of the total bill, goes to family housing. This includes $1.33 billion for new family housing units and improvements to existing units; and $2.9 billion for operation and maintenance of existing units.

This bill also includes two new military construction initiatives. The first is the Army and Air Force Transformation Initiative, which sets aside funding for the Army and the Air Force to be used for infrastructure requirements.

For the Army, the funding is allocated for construction related to the Interim Brigade Combat Teams. The Interim Brigades, which were just recently renamed Stryker Brigades, are essential to the Army's effort to become a lighter, more mobile, more effective fighting force. Army officials testified before the Defense Appropriations Subcommittee earlier this year that current levels of military construction funding are not adequate to meet the Army's time line for these brigades.

Likewise, the Air Force is in need of additional funding to move forward quickly with the beddown of aircraft associated with its Air Mobility Modernization Program. The Air Force is facing a serious shortfall in airlift capability. The Air Mobility Modernization Program, which encompasses the acquisition and upgrading of C–17s, C–5s, and C–130s, is urgently needed.

Simply put, the timetables for Army and Air Force transformation that were in place prior to September 11 are no longer adequate. The war on terror has placed pressing new demands, not only on personnel and equipment, but also on infrastructure. The large increase in defense funding that has occurred since September 11 reflects those demands. Under the transformation initiative, the committee has made $100 million available each for the Army and Air Force to be used for infrastructure requirements of the Stryker Brigades and C–17 Air Mobility programs, as determined by the Services.

The second major initiative in this bill is the BRAC Environmental Cleanup Acceleration Initiative. This initiative provides an extra $100 million above the fiscal year 2003 budget request to accelerate the cleanup of dangerous contaminants at military bases that have been closed or realigned as part of the BRAC process. Until the environmental cleanup process is completed, these closed bases are the equivalent of giant white elephants. The services no longer need them, but the communities cannot complete the conversion of them to productive use. In some cases, the lengthy cleanup process presents a problem far worse than just an economic drain on the Services and the communities—in some cases, the contaminants polluting the soil of closed military bases present a serious hazard to human health and the environment.

In my home state of California, for example, plutonium contamination at McClellan Air Force Base continues to present a hazard to the community and to impede progress towards profitable reuse of the property. In Texas, toxic groundwater that has migrated to nearby neighborhoods from the former Kelly Air Force Base has raised fears among residents that the pollution could be causing health problems. These are only two of many examples. The fact is, we have a responsibility to the American people to clean up the buried ordnance and hazardous wastes that contaminate many of our closed or realigned military installations. And I believe that we have a responsibility to act expeditiously. Although the President requested only $545 million for BRAC environmental cleanup, the Services, at the request of the Committee, identified another $237 million in environmental cleanup requirements that could be executed in 2003 if funding were made available. We could not provide the full $237 million needed, but the extra $100 million we recommended will help to speed the cleanup process. Simple common sense indicates that the military should finish the cleanup from the first four rounds of BRAC before diverting scarce resources and creating additional cleanup costs in another round of base closures.

I want to point out that all the projects added to military construction authorization and appropriations bills that are not part of the President's budget request are carefully screened and vetted by the Services. They are the priorities of the men and women who live and work on military installations throughout the country, and sometimes those priorities differ from the priorities of the Pentagon. Installation commanders are uniquely attuned to the needs of their bases, whereas the budget officers at the Pentagon and the Office of Management and Budget are focused on the corporate needs of the Defense Department as a whole. In some cases, a child care center or a barracks may be essential to the well-being of a base, but may not score high enough at the Pentagon to make it into the President's budget. In other cases, a worthy project may be programmed for funding down the road when it is urgently needed now.

Mr. President, this bill meets many military construction needs—all of the projects are authorized, are in the military's Future Year's Defense Plan, and are the base commander's priority. I urge my colleagues to support it. I would like to thank my ranking member for her support in developing this bill. It is a privilege and a pleasure to work with Senator HUTCHISON. I also thank Chairman BYRD, Senator STEVENS, and Senator INOUYE for their guidance and support in developing this package. And I thank the staff of the subcommittee for their dedication and hard work in putting this package together.

I thank my ranking member for her support in developing this bill. I also thank Chairman BYRD, Senator STEVENS, and Senator INOUYE for their guidance and support in developing this package.

I also thank the staff, specifically Christina Evans, B.G. Wright, and Matt Miller on the Democratic side, and Sid Ashworth, Alycia Farrell, and Michael Ralsky on the Republican side.

I reserve the remainder of my time and yield to the ranking member, Senator HUTCHISON from Texas.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I thank the Senator from California, the chairman of the committee. We certainly have worked together on this bill, and Senator FEINSTEIN outlined some of the problems we faced in trying to make up for some of the shortfalls in the budget that we had before, particularly in the environmental cleanup and Guard and Reserve accounts.

We have been able to address the major issues for the Department of Defense and also try to stay on the course that we set to improve the quality of life for our military personnel.

In 2001, when President Bush took the oath of office, he made a promise to America that we would see a transformation of our military. He wanted to take a 25-year look at what our military needs would be, and he appointed Secretary of Defense Donald Rumsfeld, who has the most experience of any Secretary of Defense, having been Secretary of Defense before, to do that very job.

After 9/11, of course, our priorities immediately changed because we then became immediately involved in a crisis, a war on terrorism. Now we are prosecuting a war on terrorism at the same time that we still are trying to look to the future needs of our national defense.

Our bill for military construction attempts to address the top priorities of the Department of Defense. It is a balanced bill and is quite bipartisan.

I am particularly pleased to see that we are going to put a large part of this bill, $1.17 billion, in barracks and dormitories for our military quality of life; $4.23 billion for family housing. We are asking so much of our military today. Our military personnel on active duty know that they may well be deployed overseas and perhaps on dangerous missions. So we want them to have a quality of life for themselves and for their families that will allow them to serve, knowing that their families will be taken care of in good housing and with good health care. Our part is housing, and we are fully funding the new barracks, dormitories, and family housing.

In recent years, we have made real progress in improving housing for single servicemembers and for families. We are also trying to improve workplaces. We have funding in this bill for the upgrading of the work facilities, the battalion headquarters, and the units where they are working. It is my hope that in future budgets we will see sufficient resources to continue this effort to modernize, renovate, and improve our aging defense facilities and infrastructure.

The effects of sustained inattention by the Department and the military services to basic infrastructure are certainly apparent on nearly every military installation in our country. This will continue to have long-term implications as facilities continue to age disproportionately without sustained investment in maintenance and repair.

This bill also provides $599 million for the Reserve components, which is a substantial increase over the President's budget request primarily because of the increased use of the Guard and Reserve since September 11. These are important increases that signal a renewed commitment to upgrading and rebuilding the infrastructure that is truly the backbone of our Nation's military, which has so long been neglected.

Guard and Reserve members have stepped up to the plate for our country, even before 9/11, but more so after. These are men and women with full-time civilian jobs. They answer the call when our country asks, and their employers sacrifice, too. We are asking a lot, and they always come through. That is why we are trying to upgrade the facilities and the equipment they need to do their jobs well.

The bill also addresses several key Department of Defense initiatives. First are the Army and Air Force transformation initiatives. We have provided $100 million for critical infrastructure needed to support the Army's interim brigade combat teams and $100 million for the Air Force's aircraft mobility programs.

Senator FEINSTEIN discussed those programs earlier. These programs are essential to ensuring that the Army and Air Force have the infrastructure in place to move forward with the transformation efforts over the next several years. Without this assistance, they would not be able to meet their established milestones.

The committee report also includes a $100 million increase over the President's budget request for environmental cleanup at military installations that have been closed as a part of the base realignment and closure effort. This additional funding is necessary to enable the military to accelerate the cleanup of dangerous contaminants at closed and realigned bases throughout the Nation.

Senator FEINSTEIN mentioned my home State of Texas where Kelly Air Force Base is one of those that were closed and where there are very significant reported health problems that many believe—and there is evidence to support—are caused by environmental contaminants at that closed base. Certainly California is experiencing similar problems. We are going to try to do what we said we would do for the people in the communities where we have closed bases.

I support this bill. It is exactly what we need to address the infrastructure problems that will support our military and Department of Defense budget.

I thank the chairman of the subcommittee, Senator FEINSTEIN, for her leadership in crafting this bill. She and her staff—Christina Evans and B.G. Wright—have done an excellent job in putting together a bipartisan bill.

I also thank my staff—Sid Ashworth, Alycia Farrell and Michael Ralsky—for their invaluable work on our Committee on Appropriations every year. Michael Ralsky has done a wonderful job for me and will soon be going over to the Pentagon where we know he will contribute his expertise, gained from working in the Senate for so many years.

Their support has been really terrific, and we appreciate that. I appreciate that Senator FEINSTEIN also thanked Senator INOUYE and Senator STEVENS for their work. They do the Department of Defense budgets, and we certainly dovetail with them in our military construction budgets. I cannot think of any two people who are more committed to our strong military than TED STEVENS and DANNY INOUYE, two veterans who have served our country in the military and who would never, ever walk away from our responsibility to take care of our military personnel. They have been so supportive of this military construction effort that Senator FEINSTEIN and I have put together.

I support the bill and urge my colleagues to support it when we vote tomorrow.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Again, I thank my ranking member. It was great to work with her, and I think she knows that. I think we have a very good bill.

### AMENDMENT NO. 4306

Mrs. FEINSTEIN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mrs. HUTCHISON, Mr. THURMOND, Mr. DOMENICI, Mr. BINGAMAN, Mr. BIDEN, Mr. CARPER, Mr. WYDEN, Mr. SMITH of Oregon, Mr. FRIST, and Mr. THOMPSON proposes an amendment numbered 4306.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Army", $8,000,000 may be provided for a parking garage at Walter Reed Army Medical Center, District of Columbia.

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Army", $3,000,000 may be provided for a Anechoic Chamber at White Sands Missile Range, New Mexico.

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Air Force", $7,500,000 may be provided for a control tower at Dover Air Force Base, Delaware.

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Army National Guard", $9,000,000 may be provided for a Joint Readiness Center at Eugene, Oregon.

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Air National Guard", $8,400,000 may be provided for a Composite Maintenance Complex, Phase II in Nashville, Tennessee.

Mrs. FEINSTEIN. Mr. President, Senator HUTCHISON and I authored this amendment on behalf of Senators THURMOND, DOMENICI, BINGAMAN, BIDEN, CARPER, WYDEN, GORDON SMITH, FRIST, and THOMPSON. The amendment would include in the military construction bill five projects that were authorized by the Senate during consideration of the National Defense Authorization Act. These projects include a parking garage at Walter Reed Medical Center in the District of Columbia; an Anechoic testing chamber at White Sands Missile Range in New Mexico; a control tower at Dover Air Force base in Delaware; a Joint Readiness Center at Eugene, OR; and a composite maintenance complex in Nashville, TN.

All of these projects have been authorized. They meet all the requirements of the military construction program, and I urge my colleagues to adopt the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 4306.

The amendment (No. 4306) was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHUMER. Mr. President, I would like to take a moment to thank Senator FEINSTEIN for her stewardship of the Military Construction Appropriations Act for Fiscal Year 2003. Her work on this bill will provide billions of dollars in funding to support our Nation's defense efforts, and I support those efforts wholeheartedly.

My colleague from New York, Senator CLINTON, and I would like to take a moment to engage our colleague in a colloquy.

Mrs. FEINSTEIN. I thank my colleague for his kind words and would be happy to engage in a colloquy with the Senators from New York.

Mr. SCHUMER. Last month, Senator CLINTON and I had the special honor of joining in the welcome-home celebration of the men and women of the 10th Mountain Division at Fort Drum. From fighting in Afghanistan to peacekeeping in Kosovo, our troops help make the world safe for people who cherish freedom. These soldiers were prepared for whatever obstacles came their way in Afghanistan precisely because of the training they received at Fort Drum. As we look to transform our nation's military to fit the needs of 21st century warfare, Fort Drum-trained soldiers are exactly the kind of troops we need.

Mr. CLINTON. In April, I had the privilege of visiting the Walter Reed Army Medical Center, where other soldiers from the 10th Mountain Division were recuperating from wounds suffered in battle in Afghanistan. I know that all Americans feel the same pride for these distinguished service men and women as Senator SCHUMER and myself. It is no coincidence that when the initial troops were called into Afghanistan, soldiers from the 10th Mountain Division were among the first ones in. As one of the most frequently deployed missions in the U.S. Army, these flexible, mobile forces are a powerful weapon.

Mr. SCHUMER. Mr. President, it is my understanding that contained in the House version of the Military Construction Appropriations Act for fiscal year 2003 is an additional $18.3 million in military construction funding that will support the construction of two projects vital to the continued functioning of Fort Drum, located in upstate New York.

Mrs. CLINTON. The first of the two projects is a parallel taxiway at Wheeler-Sack Army Airfield, WSAAF at Fort Drum. This project will construct a new concrete taxiway parallel to the main runway to support operations at the airfield. The taxiway is required to enhance the capability, safety, and efficiency in the deployment of troops and equipment for the 10th Mountain Division, LI, and other fully functional units ready for combat from the installation. Fort Drum has experienced an increase in the number of air training missions and deployment operations in support of training, contingency, and NATO support missions. This construction project is necessary to keep the fort operating.

Mr. SCHUMER. The second project is the one-plus-one DIVARTY barracks expansion. This project consists of construction of a two-story barracks building with a 100-room unaccompanied enlisted personnel housing facility to include a built-in soldier community building. The project will upgrade the current barracks to meet the new Department of Defense enlisted personnel housing standards. The project is required to support the DIVARTY housing facilities for personnel in grades E1 through E6 to meet the one-plus standard. My colleague and I feel that this project is vital to New York as well as a number of States in the Northeast.

Mrs. CLINTON. Now more than ever, we must remain resolute in our defense of America's values, interests and security. Our safety at home, as well as abroad rests on the strength of our military response, and Fort Drum is an absolutely essential component. Senator SCHUMER and I plan to work with my colleagues to ensure that Fort Drum and the 10th Mountain Division continue to play a large role in defending our Nation.

Mr. SCHUMER. We are aware that there are many priorities that the Senate is considering, but would just like to bring to our distinguished colleague's attention that these projects would not be included in the Senate Bill because they were not authorized in accordance with Senate authorization criteria. This same criteria is not applicable in the House. We trust that the chairman looks favorably upon these construction projects and is willing to take the steps necessary to support the House's appropriation allocation.

Mrs. FEINSTEIN. I appreciate the remarks of the Senators of New York and assure them that we will do our best to retain these projects in conference.

Mr. CONRAD. Mr. President, I rise to offer for the RECORD the Budget Committee's official scoring for S. 2709, the Military Construction Appropriations Act for Fiscal Year 2003.

The Senate bill provides $10.622 billion in discretionary budget authority, all classified as defense spending, which will result in new outlays in 2003 of $2.771 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total $10.12 billion in 2003.

Despite the bipartisan support of 59 Senators, the Senate was blocked on procedural grounds last month from approving a 302(a) allocation for the Appropriations Committee. Consequently, the Appropriations Committee voted 20–0 on June 27 to adopt a set of non-binding sub-allocations for its 13 subcommittees totaling $768.1 billion in budget authority and $793.1 billion in outlays. While the committee's subcommittee's allocations are consistent with both the amendment supported by 59 Senators last month and with the President's request for total discretionary budget authority for fiscal year 2003, they are not enforceable under either Senate budget rules or the Balanced Budget and Emergency Deficit Control Act.

For the Military Construction subcommittee, the full committee allocated $10.622 billion in budget authority and $10.122 billion in total outlays for 2003. The bill reported by the full committee on June 27 is fully consistent with that allocation. In addition, S. 2709 does not include any emergency designations or advance appropriations.

I ask unanimous consent that a table displaying the budget committee scoring of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2709, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

[Spending comparisons—Senate-reported bill (in millions of dollars)]

| | Defense | Mandatory | Total |
|---|---|---|---|
| Senate-reported bill: | | | |
| Budget Authority | 10,622 | ............ | 10,622 |
| Outlays | 10,120 | ............ | 10,120 |
| Senate committee allocation: [1] | | | |
| Budget Authority | 10,622 | ............ | 10,622 |
| Outlays | 10,122 | ............ | 10,122 |
| House-passed: [2] | | | |
| Budget Authority | 10,083 | ............ | 10,083 |
| Outlays | 10,052 | ............ | 10,052 |
| President's request: [2] | | | |
| Budget Authority | 9,663 | ............ | 9,663 |
| Outlays | 9,996 | ............ | 9,996 |
| SENATE-REPORTED BILL COMPARED TO: | | | |
| Senate committee allocation: [1] | | | |
| Budget Authority | ............ | ............ | ............ |
| Outlays | (2) | ............ | (2) |
| House-passed: | | | |
| Budget Authority | 539 | ............ | 539 |
| Outlays | 68 | ............ | 68 |
| President's request: | | | |
| Budget Authority | 959 | ............ | 959 |
| Outlays | 124 | ............ | 124 |

[1] The Senate has not adopted a 302(a) allocation for the Appropriations Committee. The committee has set non-enforceable sub-allocations to its 13 subcomittees. The table compares the committee-reported bill with the committee's allocation to the Military Construction Subcommittee for informational purposes only.

[2] The cost of the House-reported bill does not include $6 million in 2003 outlays estimated by CBO to occur as a result of the House-passed 2002 supplemental. Outlays from the 2002 supplemental will be added after completion of the conference on that bill.

[3] The President requested total discretionary budget authority for 2003 of $768.1 billion, including a proposal to change how the budget records the accrual cost of future pension and health retiree benefits earned by current federal employees. Because the Congress has not acted on that proposal, for comparability, the numbers of the table exclude the effects of the President's accrual proposal.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions. Prepared by SBC Majority Staff, 7–16–01.

Mrs. FEINSTEIN. I believe that completes the military construction bill.

Mr. President, I yield back all my time. It is my understanding the vote will be tomorrow at 10:30.

The PRESIDING OFFICER. Under the previous order, the substitute amendment, as amended, is agreed to.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Ohio.

## A BUDGET DEFICIT REALITY CHECK

Mr. VOINOVICH. I rise today to discuss an issue that I have been known to have some thoughts about from time to time, and that is our Nation's fiscal situation and this body's approach to its budget responsibilities, something the President and I have talked about on many occasions.

The country's finances are in dire condition. We face a sea of red ink as far as the eye can see, and perhaps the worst thing about it is that few people in this body appear to recognize or acknowledge how bad that predicament is. The Federal Government is running a deficit and will for the foreseeable future, when just last year we had an on-budget surplus. Despite this, Congress continues to spend money like drunken sailors, refusing to prioritize and make the tough choices necessary to stop the bleeding and get us back on track.

In the rush to spend, we are not asking the basic question: Is this the best use of our limited funds at this point in time?

I want to emphasize to my colleagues how critical our budget situation has become. Over the past year, the budget outlook has worsened dramatically. Last year, the Congressional Budget Office predicted a unified budget surplus of $313 billion. That is for fiscal year 2002. That means the Social Security surplus and the on-budget surplus together equals $313 billion. We all thought everything was going great, and I was extremely pleased because Congress believed that we might be able to once again use the entire Social Security surplus to reduce the national debt, after all, we did it in 1999 and 2000. As a matter of fact, during that period of time we reduced the national debt $365 billion, the first time that had happened in almost 30 years. Unfortunately, it is not turning out that way. Instead of reducing the debt, we are going to add to it. Seven months ago CBO released budget projections that showed the Federal Government is in much worse fiscal condition than we all thought. These new projections show that the Federal Government will spend the entire Social Security surplus in both the current fiscal year and in fiscal year 2003.

Today, our fiscal condition continues to deteriorate. Figures from the Senate Budget Committee show that we will likely suffer a budget deficit of $152 billion this year. That means that this year we will borrow and spend the entire $157 billion Social Security surplus and on top of that we are going to have to borrow another $152 billion through the issuance of new debt. Put another way, the Federal Government will borrow a total of $310 billion this year. This is new debt on top of the staggering $6 trillion national debt we already owe.

It is no wonder that our constituents have such a hard time grasping the magnitude of the national debt when it is counted in unfathomable terms like trillions of dollars.

Unfortunately, next year it gets even worse. For fiscal year 2003, which begins October 1, if we maintain our current course of spending we will borrow and spend the entire $176 billion Social Security surplus and issue $194 billion in debt on top of that. Already, next year's budget deficit totals $370 billion, and that is before any supplemental spending, which we all know is inevitable.

If anyone believes these discouraging numbers can be turned around by a growing economy, I think they ought to understand that these projections for 2003 are based on a healthy inflation-adjusted economic growth rate of 3.4 percent.

I would like to draw everyone's eyes to this chart that I am talking about for fiscal year 2002 and fiscal year 2003. This year, fiscal year 2002, we were projected to have a $313 billion surplus, but instead we are going to take the Social Security surplus that the President and I talked about using to pay down debt and spend that to operate the government. Then on top of that we are going to borrow another $152 billion. So we are going to borrow nearly $310 billion.

Next year, the Social Security surplus will be $175 billion. Instead of using that money to pay down debt, we are going to spend it to run the Government, and then we are going to add another almost $200 billion of additional debt.

When people come to see me in my office and want something from the Federal Government, I ask the question of them: Is it so worthwhile that we should borrow the money? Does it justify spending the Social Security surplus or causing the Treasury to issue new debt?

We are filling the gap today in the only way we know; that is, we are putting the Treasury back in the business of auctioning new debt to raise the billions of dollars needed to pay for the Government's operations this year.

What I find very telling about the Treasury auctions is the duration of some of the new bonds. They mature in roughly 10 years. What that tells me is the U.S. Treasury recognizes the Federal Government will need to borrow money for a long time. This speaks volumes about our long-term budget predicament. We better take notice.

What we really need is a fiscal reality check. We are sinking deeper and deeper into deficits. But most disturbing of all, I don't hear any outcry. No one seems to be paying any attention. What I do hear are constant calls for more Government programs and for more Government spending.

The fact that our Nation faces several serious challenges right now, including a serious national security challenge, does not exempt us from the basic rules of fiscal policy. In fact, I believe the national security crisis we now face demands of us an even more vigilant look at what we are doing with our spending to make sure the needed funds go to the most pressing priorities.

Spending without check, wrapping every pork project in the flag and calling it a national security priority, saying yes to every major interest group, and playing politics with the public's purse are all irresponsible behaviors that will sentence us to another long term of deficit spending and increased national debt.

We recently passed a farm bill that even leading farm legislators decried as too expensive. Besides returning to the failed farm policies of the past, this legislation increased agricultural spending by $80 billion over the next 10 years. We have also just finished a Defense authorization bill that contains huge increases. The Senate-passed bill authorizes $393.4 billion in spending. That is an increase of $42 billion or about 12.2 percent over last year. We cannot have it all.

The White House is calling for a $45 billion increase in defense spending and a big increase in spending on homeland security. These are serious needs and deserve our attention. They require making some tradeoffs to meet them. We do need to increase defense spending, but let's examine whether $45 billion is the right number. I was heartened to learn that the House of Representatives acted to move about $2.3 billion in funding from defense allocations to other programs. The Senate should do the same, and then some, instead of forever increasing funding by adding additional spending to the total. We need to make some tough decisions to make tradeoffs and shift funding within given budget totals.

At the same time, the record growth of domestic spending over the past several years has been nothing short of meteoric. Given the huge increases many agencies and programs have had, do we really need to continue feeding them at these huge levels? If anything, I think agencies need a breather to spend the money Congress has been shoveling their way over the past several years. Anyone looking for the location of the recently departed surplus, need look no further than the huge increases in discretionary spending for fiscal years 1998 to 2002.

This is the chart that shows it: Agriculture, the average growth was 5.2 percent; total growth was 21 percent from 1998 to 2002; Commerce, 51 percent; Defense, 24 percent; Education, 60 percent; Energy, 23 percent; Health and Human Services, 50 percent; HUD, 44 percent.

These are unbelievable increases in spending. That is a lot of money in the pipeline. The fact is, at this stage of the game, we need to look at the spending we have already done during the last several years and scrutinize our domestic priorities to make sure our most pressing needs receive our limited budget dollars. This means making tough choices, telling some people no, and having the guts to stand up to groups that are considered untouchables and say we cannot afford them right now.

I am talking about lots of other requests we will be getting. For example, we are talking about Medicare and what we are going to do about that. What we have to understand is we just cannot rack up huge bills today that will come due tomorrow because tomorrow's bills will be even bigger than today's. I am talking about Social Security and Medicare. These two critical programs are headed toward serious financial trouble and will require huge infusions of cash to keep them going. On top of that, there is widespread agreement, myself included, that we need to provide a prescription drug benefit to seniors. And it is not going to be cheap. This is the issue now before the Senate.

We face a situation in a couple of decades in which spending on Social Security, Medicare, and other entitlements will equal what we spend today on the entire Federal Government. In a few short years, the percentage of overall spending that is left for defense and other domestic needs will be very little. To their credit, David Walker, the Comptroller General, and CBO Director, Dan Crippen, have made this point over and over again, before committee after committee, but no one seems to be listening.

Make no mistake, we will meet these obligations. The trillions of dollars in special issue Treasury bonds held by the Social Security trustees are going to be redeemed and made good by the Treasury. Some beltway pundits might dispute the reality of the Social Security trust fund, but they are dead wrong. The liabilities in the trust fund are real. The day will come, in 2015 or 2016, when the money coming into Social Security will not be enough to cover all the payments, and we will have to reach into that Social Security trust fund and begin redeeming those IOUs. To pay those IOUs we either have to borrow more money or raise taxes.

The fact is the day of reckoning is rapidly approaching. We need to start being concerned about it. Remember the money that was supposed to be kept in the lockbox to pay down the debt? I remember the lockbox. I was going to bring my lockbox from my office to demonstrate my point. We will not see the money in that lockbox paying down debt for probably a decade. We won't see an on-budget surplus for at least 10 years at the rate we are going.

Mr. President, I want my colleagues to recognize that the surpluses we refer to are on a unified basis. The public is being told we might go back to that unified budget. But I hope they understand that the unified budget includes the Social Security surplus. When we talk about a surplus, the surplus we are talking about includes the Social Security surplus. In my book that is not a true surplus because it requires raiding the Social Security surplus. The people that know, understand we will be using that Social Security surplus for a long time; not to pay down debt but to pay for the regular operation of the Federal Government.

When the day arrives in 2015 or 2016 and that Social Security surplus disappears, we will have to find additional money to pay for Social Security and Medicare.

Our budget process is broken and needs to be fixed. This year, the Senate is increasingly resigned to the fact that we will not adopt a budget resolution. I say, shame on the majority. This is the first time since 1974 that the Senate has not passed a budget resolution. What it tells us about the State of the budget process is this: It is a critical document that we need to manage our money, and we did not even write one. In its current form, the budget process is weak and meaningless and does nothing to control the endless congressional urge to splurge.

When the Budget Enforcement Act expires in September, Katy bar the door on the floor of the Senate when the spending rampage begins.

I fully support my colleagues efforts to extend the discretionary spending caps and extend the pay-go rules. These are important steps in reestablishing fiscal discipline. The problem is, these safeguards are not enough. These good rules have been circumvented repeatedly in the past, so we know that rules to enforce fiscal discipline can be ignored unless there is a broad-based sense of urgency that we must address our budgetary crisis. Until we change our thinking and recognize we must live within our means, we will continue to face a mounting deficit despite the rules.

In the absence of an enforceable budget document this year, one key step for enforcing budgetary discipline in Congress would be to adhere to the aggregate discretionary spending total of $759 billion proposed in the President's budget and in the budget resolution that passed in the House of Representatives.

Many of my colleagues say it is not possible to limit spending to that amount. I disagree, and I applaud my colleagues in the House who understand that we have to make those hard choices. Drawing a line in the sand at $759 billion is a way to do that.

A few weeks ago my friend from Kentucky, Senator **BUNNING**, and I sent a letter to the President with 34 signatures from Members of the Senate pledging to back him up if he vetoes excessive spending bills. I hope the President will exercise his veto authority for any bills that would likely increase spending beyond $759 billion.

But the President has to understand that if he vetoes any spending over $759 billion, we cannot hold to that figure unless we shift money from the defense budget.

What I am suggesting is that we shift some of the money from the defense budget to the domestic side, rethink some of the large increases in domestic spending that are in the 2003 budget, and spread that money around to meet our other domestic needs. That means taking on things such as NIH, that we all love. That has almost increased 50 percent during the last several years.

The President knows, as a former State Governor, that when you have a financial problem, what you do is reconsider your spending plans. If you have some peaks in spending, you have to reduce those so you can make more money available to stay within your budget. This administration has to understand if they receive every dime they want for defense spending and do not do anything about the peaks they have on the domestic side of the budget, we are going to have a catastrophe at the end of this year. They will get their money for defense, the domestic money will be forthcoming, and we will go far beyond the $759 billion.

We will do the same thing that happened in the 1980s when I was mayor of the city of Cleveland and watched what was happening here in Washington. The President got his defense money, others got their domestic spending, and this terrible debt that we have, the $6 trillion debt we are paying for today is a result of that fiscal irresponsibility. We have to make sure it doesn't happen again.

As I said, these are the kinds of hard choices I had to make as a mayor and Governor. I did not have the option of just borrowing the money from our pension funds. I could not do that. If I told the people of Ohio, for example, when I was Governor, I was going to use the Public Employees Retirement Funds to run the State of Ohio, they would have run me out of office. But here in the Federal government it apparently is OK for Congress to use the Social Security money. It is unbelievable to me. We should be doing what cities are doing in this country today, what States are doing in this country today, and what families are doing. There are a lot of families in this country today who are reallocating their resources because the money is just not coming in. They are changing their priorities, and we should do the same thing. We are no better than America's families.

If people around here could not borrow the money or use pension funds, I can tell you things would be different. That is why we ought to have a balanced budget amendment, so we have the same kind of fiscal restraint we had as Governors and mayors and county officials.

This year is an anomaly, however, and I hope not to see it repeated. I hope that next year we will have in place an invigorated budget process that helps Congress resist its worst urges and control spending in a responsible way.

Yesterday, Federal Reserve Chairman Alan Greenspan said:

> . . . that the underlying disciplinary mechanisms that form the framework for Federal budget decisions over most of the past 15 years have eroded. The administration and Congress can make a valuable contribution to the prospects for the growth of the economy by taking measures to restore this discipline and return the Federal budget over time to a posture that is supportive of long-term economic growth.

If we do not get things under control, we are not going to have the economic growth necessary to take care of all our needs. That is why I have been developing a budget process reform bill with Senator **FEINGOLD**. This bill will extend important aspects of the existing budget process, such as the spending caps and PAYGO.

In addition, the bill contains several provisions aimed at providing more information on the true state of the budget so people understand what is going on around here. It is not hocus-pocus.

The bill requires accrual accounting for Federal insurance programs. It requires CBO and the Joint Tax Committee to report how legislation changes interest costs. It requires the GAO to issue an annual report on the magnitude of liabilities facing the Federal Government. And it convenes another budget concepts commission, which last met in 1967, to assess whether the fundamental measures for the Federal budget are the right ones.

With some tough new guidelines to rework the budget process, a willingness to accept the fact that future expenses are as real and as important as today's, and the guts to make the tough choices necessary to prioritize our spending, we might just have a shot at achieving sound fiscal health.

Today, the Federal budget deficits are not as big as those we faced in the 1980s compared to the economy as a whole. But we are headed quickly in that direction. Given the rampant spending proclivities of Congress, it will not be long before our situation becomes just as bad as it was in the 1980s. I implore my colleagues to understand that we are on the edge of an abyss. We must stop before we commit fiscal suicide.

A lot of people will say that the 1980s were pretty great, but it is also part of the reason, as I mentioned, that we have the enormous debt we have today. I remind my colleagues that we spend 11 percent of the annual Federal budget to pay for our fiscal irresponsibility of the past; i.e., we were not willing to either pay for or do without things. We borrowed the money, used the Social Security surplus, and that is why we have the debt we have today.

We are now engaged in the war against terrorism at home and abroad, and we have some very pressing domestic needs. We have to understand that we cannot get the job done by practicing business as usual. We have to understand that. We just cannot do that anymore.

The decisions we make this year are going to have enormous impact on the United States of America, our ability to maintain a competitive position in the world, and on the quality of life of our children and grandchildren. Our country and their future are in our hands.

Let history record that we had the courage to prioritize our Nation's needs within the framework of fiscal responsibility—to make tough choices and exercise tough love today, for our children's and grandchildren's tomorrows.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TERRORISM INSURANCE

Mr. REID. Mr. President, I am not going to formally ask this UC because there is no one here to object, but I want to again offer the UC regarding terrorism insurance. I will just lay on the record that, when we initially offered this, we wanted a ratio of three Democrats to two Republicans, which is fairly standard. We were told by the minority they would rather have four and three. Remember, this is terrorism insurance. So we said: Fine, four-three.

And now they won't agree to that. It is too bad.

The country needs this legislation. We can't do it until we go to conference. This is only appointing conferees.

I hope we are able to get this cleared in the immediate future. I ran into one of the President's lobbyists out here. The President has three or four people who cover the Senate. One of them told me—I will not embarrass that person; I don't want to get him in trouble with anyone—he said: Keep pushing this. This is something we need.

We know that. But he should not be talking to me, although I am happy to talk to him anytime. He should be talking to whoever is holding this up.

## WOMEN IN THE SENATE

Mr. REID. Mr. President, we were finally able to get the military construction appropriations bill completed. We will vote on it in the morning, but basically it is completed. That is our first appropriations bill. We will vote on that tomorrow. We will have 12 to go. I hope we can make good progress in the next couple of weeks and get more of those done. But before we leave the military construction appropriations bill, I want to make a few comments.

I had the good fortune of being able to chair that subcommittee for some time. I was ranking member after that. It was a great experience. It is a wonderful bill, to work on programs that directly affect military personnel. It affects them all over the world.

Construction takes place in Nevada at Nellis Air Force Base, Fallon Naval Air Station. Indian Springs, that used to be a full-fledged air base and now it is a base that deals principally with the drones, unmanned vehicles. It is not only a bill that is for Nevada, it is good for every State in the Union. As I indicated, construction takes place around the world.

The reason I wanted to comment on this is, I know this bill very well. I have to say Senators FEINSTEIN and HUTCHISON have done a remarkably good job.

I talked to Senator FEINSTEIN after she completed debate. I said: DIANNE, I just think you have done such a good job on this, you and Senator HUTCHISON. I don't want to say anything that is wrong, that will be untoward, but I think it speaks volumes that two women are handling the legislation dealing with the military personnel of our country.

She said to me that she recognized that.

And I said: Would you be offended in any way if I talk about that a little bit, the fact that here we have this multibillion-dollar bill that has been handled as well as any bill could be handled, and I think the American public should understand the great contribution made by these two female Senators.

I have seen the Senate change since I came here. Twenty percent of the Democratic caucus now are women. The Senate is a better place because of women serving here. Things have been accomplished that would not have been accomplished but for them.

I go back to something that really struck home with me. I was touring a ranch in northern Nevada. The ranch was run by the Glaser brothers. I know them well. One of them I served with in the State legislature for many years. He had retired at the time. He is now deceased.

We were out looking at this bird sanctuary he had created on his own with no Federal help, no State help, in the middle of this vast, beautiful ranch of his. We were talking about how much farm equipment costs.

Farm equipment is very expensive. But he said something to me I have never forgotten. He said: You know, Harry, any time that I can hire women to run these big pieces of heavy equipment, I do so.

I said: Norm, why is that?

He said: Because they take better care of it. I have found over the years that they are more gentle with the equipment. They don't do things to hurt the equipment. Any chance I get that I can hire women to run these big pieces of equipment, I do, because they do a better job than the men.

Well, I don't want to concede anything at this time, that these two Senators did a better job than has been done in the past. But I will have to tell you, it wouldn't take much to convince the rest of the Senate that they probably did a better job than has ever been done before.

I say the Senate and the country are better for having these women in the Senate. I hope that as the years go by there will be more women elected to the Senate. There are a lot of women around the country running for the Senate this year. In the years to come, there will certainly be more than 20 percent of the Democratic caucus that are women.

## U.S.-CHINA SECURITY REVIEW COMMISSION ANNUAL REPORT

Mr. BYRD. Mr. President, the U.S.-China Security Review Commission on Monday released its first annual report, as directed by the Congress in its authorizing statute, P.L. 106–398, October 30, 2000. It is a broad-ranging analysis, with major recommendations for consideration. I will ask unanimous consent that the Executive Summary be printed in the RECORD at the conclusion of my remarks.

The report is extensive, thorough, and disturbing in many respects. It paints a detailed portrait of a China determined to: acquire a vast array of high technology; broaden and deepen its industrial base; expand its research and development capabilities; and attract substantial amounts of American and other foreign investment. China is on the move. But, it is worthwhile to note that China pays for much of its progress through a highly imbalanced trade relationship with the U.S. Last year the U.S. trade deficit with China exceeded $80 billion U.S. dollars.

One could simply say that the Chinese are intent on entering the modern era, and on building a strong nation state, financed by aggressively exporting goods to the U.S. But, Mr. President, there are some very troubling aspects of the U.S./Chinese relationship.

The Commission found that U.S. policy toward China has been and is alarmingly fragmented. It lacks consistency and depth. U.S. policy toward China has often been driven solely by commercial interests, specific human rights issues, or by a particular military crisis, rather than by a comprehensive examination of all the issues which impact upon this relationship. Furthermore, over the last 30 years U.S. policy toward China has been dominated by strong Executive branch personalities and compulsive secrecy. There seems to be little sustainable consensus on the long-term national interests of the U.S. vis a vis China.

The Report makes numerous recommendations designed to elicit a more comprehensive understanding of China by U.S. policy makers and by the general public. These include rebuilding the Library of Congress' China collection, new language and area studies programs, new efforts at open source collection by the intelligence community, and an upgrading of the Federal Broadcast Information Service. The fact is that we as a nation know far too little about China, and we need a better level of effort in this regard.

There is new information and analysis in the Commission's report regarding Chinese access to U.S. capital markets, and a renewed call for more effective consultations and consensus-building between the President and Congress on Taiwan policy. The report also recommends new tools which should be employed to encourage the Chinese to comply with their commitments—in proliferation practices, prison labor agreements, intellectual property agreements enforcement, and most importantly, with their far-reaching obligations under the WTO.

The report calls for increased scrutiny of corporate activities in China, and a new corporate reporting system to reveal what investment, R&D and technology is being sent to China. Transparency, disclosure and corporate accountability should be required of U.S. firms' operations in China, and are certainly of much interest to American shareholders and investors.

I am pleased that the Report is a strong bipartisan effort, a broad consensus of nearly all the Commissioners, who approved it by a vote of 11–1. It is both an educational report and an action document. Each chapter highlights findings and makes recommendations for action which flow from those findings. The executive summery gives the key 21 recommendations, but additional valuable proposals are found at the end of each chapter.

Some of the Report's key findings about the U.S.-China relationship include:

The U.S.-China bilateral relationship is poorly coordinated and lacks a sustainable consensus among elected officials in Congress and the Executive branch;

China's leaders see the United States as a declining power with important military vulnerabilities that can be exploited;

There are serious differences in perceptions each country holds of the other and a potential for misunderstandings that are compounded by the lack of bilateral institutions for confidence-building and crisis-management;

There is plausible evidence that the burgeoning trade deficit with China will worsen despite China's entry into the World Trade Organization (WTO);

The U.S. may be developing a reliance on Chinese imports that could in time undermine the U.S. defense industrial base;

The U.S. lacks adequate institutional mechanisms to monitor national security concerns involving Chinese and other foreign entities seeking to raise capital in the U.S. debt and equity markets;

China provides technology and components for weapons of mass destruction and their delivery systems to terrorist sponsoring states, presenting an increasing threat to U.S. security interests, in the Middle East and Asia in particular.

Radical changes in China's economic fortunes have been fueled by U.S. investors and multinational firms, and have come with severe sacrifices in the form of lost American manufacturing jobs.

Mr. President, there is much to recommend in this Report, and many recommendations which may be of interest to my colleagues.

I congratulate the Chairman and all of the commissioners who authored this fine report, as well as the staff members of the Commission who worked tirelessly on this important endeavor.

Mr. President, I ask unanimous consent that the executive summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### EXECUTIVE SUMMARY

Relations between the United States and China during the last half-century have not always been smooth. The two countries have sharply contrasting worldviews, competing geo-strategic interests, and opposing political systems. More recently, bilateral ties have centered on rapidly growing economic interactions that have muted political differences. For the moment, these relations have not softened China's egregious behavior on human rights nor changed its strategic perceptions that the U.S. is its principal obstacle to growing regional influence. No one can reliably predict whether relations between the U.S. and China will remain contentious or grow into a cooperative relationship molded by either converging ideologies or respect for ideological differences, compatible regional interests, and a mutually beneficial economic relationship.

However the relationship develops, it will have a profound impact on the course of the twenty-first century. The policies pursued today by both China and the United States will affect future relations. The Congress created the U.S.-China Security Review Commission to assess "the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China" and to report its conclusions annually to the Congress. It specifically directed the Commission to focus on our deepening economic, trade, and financial linkages with China. The Congress wanted the Commission to evaluate whether our economic policies with China harm or help United States national security and, based on that assessment, to make recommendations in those areas that will improve our nation's interests.

National security has come to include military, economic and political relationships. At any time, one of these concerns may dominate. They interact with one another and affect our overall security and well-being. Neglect of any one element will diminish our overall security as a nation. The United States must be attentive to the strength and readiness of our military forces, the health of our economy, and the vibrancy of our political relationships.

The Congress also asked the Commission to include in its Report "a full analysis, along with conclusions and recommendations for legislative and administrative actions." This is the Commission's first Report. In keeping with the Congressional mandate, this Report provides a comprehensive analysis of the Commission's year-long review of U.S.-China relations, the principal findings that emerged from that investigation, and the recommendations or measures the Commission believes should be implemented to help safeguard our national security in the years ahead. This initial Report provides a baseline against which to measure and assess year-to-year changes in the relationship.

### MAIN THEMES

Our relationship with China is one of the most important bilateral relationships for our nation. If it is not handled properly, it can cause significant economic and security problems for our country. China is emerging as a global economic and military power, and the United States has played, and continues to play a major role in China's development.

China's foreign trade has skyrocketed over the past twenty years (from approximately $20 billion in the late 1970s to $475 billion in 2000). Our trade deficit with China has grown at a sharp rate, from $11.5 billion in 1990 to $85 billion in 2000. Foreign investment—with America a leading investor—grew apace. This trade and investment has helped to strengthen China both economically and militarily.

America's policy of economic engagement with China rests on a belief that the transition to a free market economy and the development of the rule of law in China's business sector would likely lead to more political and social openness and even democracy. This belief, along with the desire to expand American commercial interests, drove U.S. support for China's entry into the World Trade Organization (WTO). Many also believe that a more prosperous China will be a more peaceful country, especially if it is fully integrated into the Pacific and world economies.

But these are hypotheses, and many leading experts are convinced that certain aspects of our policy of engagement have been a mistake. They argue that the PRC faces enormous economic and social problems, that its leaders are intractably antidemocratic, that they are hostile to the U.S. and its prominent role in Asia, and that we are strengthening a country that could challenge us economically, politically and military.

The Commission does not believe that anyone can confidently forecast the future of China and the U.S.-China relationship, and contends that while we may work and hope for the best, our policymakers should prepare for all contingencies.

Over the past twenty years, China has created a more market-based economy and allowed more social and economic freedom. Chinese participation in international security and economic regimes has grown. On the other hand, China has made little progress toward granting its citizens political and religious freedom, and protecting human and labor rights. In fact, the government has notably increased its repression of some religious practices, including its brutal campaign against the Alum Gong.

Chinese leaders have repeatedly stressed to their Communist Party support and the Chinese people that they have no desire to repeat in China the political and economic collapse that took place in the former Soviet Union. They seek to maintain and strengthen the Communist Party's political and social control while permitting freer economic activity. They consistently limit the freedom of the Chinese people to obtain and exchange information, practice their religious faith, to publicly express their convictions, and to join freely organized labor unions. Chinese leaders frequently use nationalistic themes to rally support for their actions, including crack downs on dissenters.

China is thus embarked on a highly questionable effort—to open its economy but not its political system—the outcome of which will influence the destinies of many countries, including our own. If the economy fails, or if the Chinese people demand full freedom instead of merely a taste of it, then the leaders will have to choose between reasserting central control and granting greater political and social freedom, with a consequent weakening of their own authority. On the other hand, if China becomes rich but not free, the United States may face a wealthy, powerful nation that could be hostile toward our democratic values, to us, and in direct competition with us for influence in Asia and beyond.

American policymakers must take these scenarios seriously, and to that end the Commission has established benchmarks against which to measure future change. There are important areas in which Chinese policy runs directly counter to U.S. national security interests, such as not controlling exports that contribute to the proliferation of weapons of mass destruction, its close relations with terrorist-sponsoring states like Iran, Iraq, Syria, Libya, Sudan and North Korea, its expanding long-range missile forces, its threatening policies toward Taiwan, and its pursuit of both asymmetric warfare capabilities and modern military technology that could menace American military forces.

China's leaders view the United States as a partner of convenience, useful for its capital technology, know-how and market. They often describe the United States as China's long-term competitor for regional and global military and economic influence. Much rhetoric and a considerable volume of official writings support this hypothesis. The recent empirical study of Chinese newspapers' coverage of the U.S., conducted by University of Maryland scholars for the Commission, found a divided perspective: articles in these newspapers, which we believe generally represent the views of the leadership, are consistently positive on trade and investment matters and applaud Sino-U.S. cooperation in these areas. In contrast, their coverage of U.S. foreign policy is largely negative and frequently depicts the U.S., as hegemonic and unilateralist.

In time we will learn whether China is to become a responsible world power or an aggressive, wealthy dictatorship, and whether the Communist Party maintains its monopoly of political power or shares it with the Chinese people. We will also learn whether the Chinese economy flourishes or stumbles and collapses under the burden of state-owned industries, a weak banking system, enormous debt, wide-scale corruption, social dislocation, and the new challenges of international competition brought about by its WTO entry.

Current U.S. policies and laws fail to adequately monitor the transfers of economic resources and security-related technologies to China, considering the substantial uncertainties and challenges to U.S. national interests in this relationship. This Report attempts to begin to address these uncertainties, trends, and challenges in a systematic manner. It proceeds on the premise that far more prudence must be displayed and far better understanding developed on the part of the Congress on the full extent of this relationship and its impact on U.S. interests. In addition, too little attention has been devoted to the adverse impact of recent Chinese economic strength on our Asian allies and friends. The Commission believes the U.S. must develop a better understanding of the vulnerabilities and needs of our Asian allies and friends, and must carefully construct policies to protect and nurture those relationships.

### SUMMARY OF RECOMMENDATIONS

The Commission has identified its key findings and recommendations with each chapter in this Report. The Commission developed more than forty recommendations that are listed with each of the ten chapters. We have prepared a separate classified report providing additional details and recommendations. Here, we highlight and summarize those recommendations we believe are the highest priority and which we recommend for immediate action. A more extended analysis is contained in each of the Report's ten chapters.

### CONFLICTING NATIONAL PERSPECTIVES

The United States Government is poorly organized to manage our increasingly complex relationship with China. We are not adequately informed about developments within China and about their leaders' perceptions of the U.S., and we dedicate insufficient resources to understand China. Because Chinese strategic thinking and analysis of military planning differ markedly from our own, our incomplete understanding enhances the possibilities for miscalculation, misunderstanding, and potential conflict.

Recommendation 1: The U.S. Government should expand its collection, translation and analysis of open source Chinese-language materials, and make them available to the larger community. Despite two studies advocating an improved collection of Chinese materials at the Library of Congress, its collection is nearly unusable and shameful. Congress should provide funds to implement recommendations already submitted by the two previous studies. In addition, the Commission recommends increased funding for Chinese language training and area studies programs, similar to the program in the National Defense Education Act of 1958, and incentives for post-secondary graduates to participate in government services. The relevant executive branch agencies should report annually to the Congress on steps taken to rectify this situation.

Recommendation 2: The U.S. should develop a comprehensive inventory of official government-to-government and U.S. Government-funded programs with China. The President should designate an executive branch agency to coordinate the compilation of a database of all such cooperative programs. The database should include a full description of each program, its achievements to date, and the benefits to the U.S. and should be prepared annually in both classified and unclassified forms. The Commission further recommends that the executive branch prepare a biannual report, beginning in 2004, on the cooperative Science and Technology (S&T) programs with China patterned on the report submitted to Congress in May 2002 at the request of Senator Robert C. Byrd. The President should establish a working group to set standards for S&T transfers, monitor the programs, and coordinate with the intelligence agencies.

Recommendation 3: The Commission recommends that Congress encourage the Department of Defense to renew efforts to develop military-to-military confidence building measures (CBMs) within the context of a strategic dialogue with China and based strictly on the principles of reciprocity, transparency, consistency, and mutual benefit.

### MANAGING U.S.-CHINA ECONOMIC RELATIONS (TRADE AND INVESTMENT)

The United States has played a major role in China's rise as an economic power. We are China's largest export market and a key investor in its economy. Fueled by China's virtually inexhaustible supply of low-cost labor and large inflows of foreign direct investment (FDI), the U.S. trade deficit with China has grown at a furious pace—from $11.5 billion in 1990 to $85 billion in 2000. The U.S. trade deficit with China is not only our largest deficit in absolute terms but also the most unbalanced trading relationship the U.S. maintains. U.S. trade with China is only 5 percent of total U.S. trade with the world but our trade deficit with China is 19 percent of the total U.S. trade deficit. U.S. exports to China are only 2 percent of total U.S. exports to the world, while we import over 40 percent of China's exports.

Foreign direct investment has helped China leapfrog forward both economically and technologically. These developments have provided China with large dollar reserves, advanced technologies, and greater R&D capacity, each of which has helped make China an important world manufacturing center and a growing center of R&D, which are contributing to its military-industrial modernization. U.S. companies have difficulty competing with Chinese based companies, in large part, because the cost of labor in China is depressed through low wages and denial of worker rights. Essentially, Chinese workers do not have the ability to negotiate their wages. Attracted in part by the low wages in China, a growing number of U.S. manufacturers are now operating in China, many of whom are utilizing China as an "export platform" to compete in U.S. and global markets.

China's large trade surplus with the United States, the inflow of U.S. private investment into China, and China's access to U.S. capital markets each contributes, directly or indirectly, to China's economic growth and military modernization.

Recommendation 4: The Commission recommends the creation of a federally mandated corporate reporting system that would gather appropriate data to provide a more comprehensive understanding of the U.S. trade and investment relationship with China. The reporting system should include reports from U.S. companies doing business in China on their initial investment, any transfers of technology, offset or R&D cooperation associated with any investment, and the impact on job relocation and production capacity from the United States or U.S. firms overseas resulting from any investment in China.

Recommendation 5: The Commission recommends that the U.S. make full and active use of various trade tools including special safeguards provisions in the WTO to gain full compliance by China with its World Trade Organization (WTO) accession agreement.

### CHINA'S WTO MEMBERSHIP: CONFLICTING GOALS

The U.S. and China hold differing goals for China's membership in the WTO. (The Chinese saying for this situation is: "same bed, different dreams"). China's leadership sought WTO membership to further the nation's economic reform and growth through export production and the accumulation of foreign investment, capital, and technology in order to become a world power. U.S. support for China's WTO membership was intended to enhance market access for U.S. goods and services, and also to promote internal economic, political and civil reforms, including a more open society.

China has instituted legal reforms to supervise foreign direct investment (FDI), financial markets and private businesses in order to stimulate trade and investment and fulfill the country's WTO commitments. The development of a commercial rule of law in China faces numerous obstacles, including the lack of an independent judiciary and trained judges, local protectionism, and widespread corruption. Despite some advances in commercial legal reforms, China remains grossly deficient in granting its citizens civil and political freedoms, and makes widespread use of prison labor.

Recommendation 6: The Commission recommends that Congress renew the Super 301 provision of U.S. trade law and request the Administration to identify and report on other tools that would be most effective in opening China's market to U.S. exports if China fails to comply with its WTO commitments. In examining these tools, priority should be given to those industry sectors where China expects rapid economic growth in exports to the U.S. market.

Recommendation 7: Congress should authorize and appropriate additional funds to strengthen the Commerce Department's support for commercial rule of la reform in China, including intellectual property rights and WTO implementation assistance, and to strengthen the Department of State's promotion of capacity-building programs in the rule of law, administrative reform, judicial reform and related areas.

Recommendation 8: The U.S. should improve enforcement against imports of Chinese goods made from prison labor by shifting the burden of proof to U.S. importers and by more stringent requirements relating to visits to Chines facilities suspected of producing and exporting prison-made goods to the United States. (Note: The Commission made recommendations to Congress on this issue in a May 2002 letter).

Recommendation 9: The Commission recommends that Congress request the annual Trade Promotion Coordination Committee (TPCC) report prepared by the Department of Commerce include an assessment of China's progress in compliance with its WTO commitments, recommendations on initiatives to facilitate compliance, and a survey of market access attained by key U.S. industry sectors in China, including agriculture. The report should include comparisons of U.S. market access in those key industry sectors with those gained by the European union and Japan.

Recommendation 10: The Commission recommends that Congress urge the U.S. Trade Representative (USTR) to request WTO consultations on China's noncompliance with its obligations under the Trade-related Aspects of Intellectual Property Rights (TRIPS) Agreement, particularly its inadequate enforcement, to deter China's counterfeiting and piracy of motion pictures and other video products. If China fails to respond, Congress should encourage the USTR to request a WTO dispute settlement panel be convened on the matter.

Recommendation 11: Congress mandated the Commission to evaluate and make recommendations on invoking Article XXI of the General Agreement on Tariffs and Trade (GATT), relating to security exceptions from GATT obligations. The Commission believes that the steel industry is a possible candidate for using Article XXI. If the Administration's current safeguard measures prove ineffective, the Commission recommends that Congress consider using Article XXI to ensure the survival of the U.S. steel industry.

### ACCESSING U.S. CAPITAL MARKETS

Chinese firms raising capital or trading their securities in U.S. markets have almost exclusively been large state-owned enterprises, some of which have ties to China's military and intelligence services. There is a growing concern that some of these firms may be assisting in the proliferation of weapons of mass destruction of ballistic missile delivery systems. The U.S. lacks adequate institutional mechanisms to monitor national security concerns raised by certain Chinese and other foreign entities accessing the U.S. debt and equity markets. We also lack sufficient disclosure requirements to inform the investing public of the potential risks associated with investing in such entities.

Recommendation 12: The Commission recommends that foreign entities seeking to raise capital or trade their securities in U.S. markets be required to disclose information to investors regarding their business activities in countries subject to U.S. economic sanctions.

Recommendation 13: The Commission recommends that the Treasury Department, in coordination with other relevant agencies, assess whether China or any other country associated with the proliferation of weapons of mass destruction or ballistic-missile delivery systems are accessing U.S. capital markets and make this information available to the Securities Exchange Commission (SEC). state public pension plans, and U.S. investors. Entities sanctioned by the Department of State for such activities should be denied access to U.S. markets.

### PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

China fails to control the export of dual-use items that contribute to the proliferation of weapons of mass destruction and their delivery systems. China is a leading international source of missile-related technologies. Its proliferation activities with terrorist-sponsoring and other states, despite commitments to the U.S. to ease such activities, present serious problems for U.S. national security interests, particularly in the Middle East and Asia.

Recommendation 14: The Commission recommends that the President be provided an extensive range of options to penalize foreign countries for violating commitments or agreements on proliferation involving weapons of mass destruction and technologies and delivery systems relating to them. All current statutes dealing with proliferation should be amended to include a separate authorization for the President to implement economic and other sanctions against offending countries, including quantitative and qualitative export and import restrictions, restricting access to U.S. capital markets, controlling technology transfers, and limiting U.S. direct investment.

Recommendation 15: The United States should work with the United Nations Security Council and other appropriate inter-governmental organizations to formulate a framework for effective multilateral action to counter proliferation of weapons of mass destruction and their delivery systems. Member states found in violation of the agreed framework should be subject to international sanctions.

Recommendation 16: The United States should continue to prohibit satellite launch cooperation with China until it puts into place an effective export-control system consistent with its November 2000 commitment to the U.S. to restrict proliferation of weapons of mass destruction and associated technologies to other countries and entities.

### CROSS-STRAIT AND REGIONAL RELATIONS

Cross-strait relations are a major potential flashpoint in U.S.-China relations. Economic and people-to-people interactions between Taiwan and the Mainland have increased dramatically in recent years, raising prospects that such interactions could help ameliorate cross-strait political tensions. At the same time, China is enhancing its capability to carry out an attack across the Taiwan Strait with special operations, air, navy and missile forces. It continues to deploy short- and intermediate-range missiles opposite Taiwan and although the threat of an immediate attack appears to be low, this buildup appears designed to forestall pro-independence political movements in Taiwan and help bring about an eventual end to the Island's continued separate status.

China's economic integration with its neighbors in East Asia raises the prospects of an Asian economic area dominated or significantly influenced by China. The U.S. has an interest in China's integration in Asia if it gives all parties a stake in avoiding hostilities. Nonetheless, U.S. influence in the area could wane to a degree, particularly on economic and trade matters.

Recommendation 17: The Commission recommends that the Department of Defense continue its substantive military dialogue with Taiwan and conduct exchanges on issues ranging from threat analysis, doctrine, and force planning.

Recommendation 18: The Commission recommends making permanent those provisions in the fiscal years 2001 and 2002 Foreign Operations Appropriations Acts providing for executive branch briefings to the Congress on regular discussions between the administration and the government on Taiwan pertaining to U.S. arms sales to Taiwan.

Recommendation 19: The Commission believes that the Congress should encourage the Administration to initiate consultations with other Asian countries to assess and make recommendations on the impact of the "hollowing out" phenomenon with respect to China on regional economies and on U.S. economic relations with the region.

### CHINA'S MILITARY ECONOMY

China's official defense spending has expanded by more than one-third in the past two years. The Commission estimates that China's official defense budget represents about one-third of its actual spending level. Its ability to increase defense spending in the face of competing priorities is supported by its rapid economic growth. China has the largest standing army in the world and ranks second in actual aggregate spending. The military's role in China's economy has been reduced in recent years, but the military derives extensive financial and technological benefits from the growth and modernization of the domestic economy, which is designed to serve it.

Recommendation 20: The Commission recommends that the Secretary of Defense prepare a biannual report on critical elements of the U.S. defense industrial base that are becoming dependent on Chinese imports or Chinese-owned companies. The Department of Defense should also update its acquisition guidelines and develop information from defense contractors on any dependency for critical parts of essential U.S. weapons systems.

### TECHNOLOGY TRANSFERS AND MILITARY ACQUISITIONS

China has a well-established policy and program to acquire advanced technologies for its industrial development, military capabilities and intelligence services. Over the next ten years, China intends to acquire an industrial capability to build advanced conventional and strategic weapons systems. Current U.S. policies do not adequately consider the impact of the transfers of commercial and security-related technologies to China.

Recommendation 21: The Commission recommends that the Department of Defense and the FBI jointly assess China's targeting of sensitive U.S. weapons-related technologies, the means employed to gain access to these technologies and the steps that have been and should be taken to deny access and acquisition. This assessment should include an annual report on Chinese companies and Chinese PLA-affiliated companies operating in the United States. Such reports are mandated by statute but have never been provided to Congress.

The Commission cannot forecast with certainty the future course of U.S.-China relations. Nor can we predict with any confidence how China and Chinese society will develop in the next ten to twenty years. We do know that China now ranks among our most important and most troubling bilateral relationships and believe that China's importance to the United States will increase in the years ahead. As its economy and military grow and its influence expands, China's actions will carry increased importance for the American people and for our national interests.

For this reason, the Commission believes that there is a pressing need to fully understand the increasingly complex economic, political and military challenges posed by China's drive toward modernity. To gain such comprehension will require the allocation of more resources and the elevation of China in our foreign and national security priorities. The Commission hopes that U.S.-China relations will develop in a positive direction but we must urge that this outcome, though preferred, may not happen. The U.S. must, therefore, be prepared for all possible contingencies.

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## THE SILK ROAD: CONNECTING CULTURES, CREATING TRUSTS

Mr. KENNEDY. Mr. President, I welcome this opportunity to commend the Smithsonian Institution and Yo-Yo Ma for this year's extraordinary Folklife Festival, "The Silk Road: Connecting Cultures, Creating Trusts." The festival, which was held from June 26 through July 7 on The Mall, enabled hundreds of thousands to experience the art of 375 musicians, dancers, cooks and storytellers from the nations along the famous Silk Road trade routes through central Asia centuries ago.

In the aftermath of September 11, it is more important than ever to expand our understanding of those cultures. Yo-Yo Ma, with broad support from Secretary of State Colin Powell, the Aga Khan, and the Congressional Silk Road Caucus, and many others, helped us to embark on a journey of understanding and appreciation by bringing an incredible diversity of products and ideas that have emerged from central Asia to our Nation's front lawn—the Smithsonian Mall.

Yo-Yo Ma deserves special recognition for his unique ability to engage us all in an educational process that celebrates cultural differences. He is one of our Nation's preeminent musical artists. He is also an extraordinary cultural leader who has won the hearts of millions throughout the world with his outreach and education programs. He has used his incomparable talents to inspire us to learn about diverse peoples and cultures.

I commend all those who worked so effectively to make this year's Folklife Festival such an unequivocal success. It is a privilege to pay tribute to their efforts. I ask unanimous consent to include remarks at the opening ceremony of the Smithsonian Silk Road Project in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### The Silk Road: Connecting Cultures, Creating Trust—Smithsonian Folklife Festival Opening Ceremony, Washington, D.C., Remarks by Smithsonian Institution Secretary, Lawrence M. Small

To all our distinguished guests, welcome to the Nation's Capital, welcome to the national mall, and the opening of the 36th annual Smithsonian Folklife Festival, The Silk Road: Connecting Cultures, Creating Trust.

We have assembled some 400 musicians, artists, and storytellers from more than 25 countries around the globe to 20 acres here on the mall, the nation's front yard.

And I must mention Kubla and Gobi who come from Texas, the two Bactrian camels, who have two humps. They have been specially trained to respond to commands in both English and Kazakh, which means you can now see the only double-humped, bilingual camels in the world.

The Smithsonian had plenty of help this year. This was truly an international effort, with many countries cooperating across borders for a common goal. As you look around, it's clear the goal has been accomplished. My congratulations to all involved, many are here today, many are in their home countries, we thank them all wherever they are.

The State Department has provided valuable assistance, and we have a special guest who will be here soon to officially open the Festival, the Honorable Colin Powell, Secretary of State.

The Smithsonian could not carry out its mission without the generous support of Congress, and we are always grateful for that. We thank Senator Brownback and Senator Biden, honorary co-chairs of the Folklife Festival. You'll hear from Senator Brownback soon.

We're very grateful for the help of Senator Kennedy; you'll hear from him in a moment. And thanks also to Congressman Pitts from the 16th district of Pennsylvania, and all the members of the Congressional Silk Road Caucus.

We also are grateful for the support of His Highness the Aga Khan, a true humanitarian whose caring and concern span the globe. We welcome the Honorable Fran Mainella, Director of the National Park Service.

A special thanks to Rajeev Sethi, the Festival scenographer, and head of the Asian Heritage Foundation, who collaborated closely with the Smithsonian in the design and the production of the Festival. And whose many wonders you see here on the mall. And, we would not be here without the incredibly generous contribution of time, talent, and resources of Yo Yo Ma. We're honored to be working with him and the organization he founded, the Silk Road Project. We're very thankful for their support. You will hear from Yo Yo Ma and the Silk Road Ensemble very soon.

Centuries ago, had you been a traveler on the storied trade route from Japan to Italy, you would have seen traders carrying textiles, tea, spices, silk, and much more from the Pacific to the Mediterranean. Perhaps most importantly, these traders carried art, music, literature, ideas, a way of life, a culture, from one land to the next. As a result, all the cultures were changed—and the change continues to this day.

The Silk Road lives not in the past but the present—influencing our lives every day.

This Festival will make abundantly clear why it is so important to continue open cultural exchange between diverse peoples and societies. Especially now.

I want to thank Richard Kurin, Richard Kennedy, Diana Parker, and all the staff at the Smithsonian Center for Folklife and Cultural Heritage for all their hard work in putting this together. This year, the Freer and Sackler galleries, The Smithsonian Associates, the Hirshhorn Museum and Sculpture Garden, the National Museum of Natural History, the National Museum of African Art, and the Smithsonian Magazine, have all picked up the Silk Road theme in their activities. Thanks to them also.

Later on in the program, Richard Kurin will tell you more about this remarkable event, including how many silk worms are needed to make one pound of silk, when is a 5-ton truck not a painting, what "bushkazi" is, and where polo comes from and when the polo matches start on the mall. Yes, I said polo.

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### Remarks by His Highness the Aga Khan at the Opening of the Smithsonian Folklife Festival—Washington D.C.

I am here to speak briefly about Central Asia. I wanted to share with you some of the reasons why the theme of the Smithsonian Folklife Festival this year is so important. As you know, Central Asia has been an area of considerable concern and instability for the world. Over the past decade, Central Asian countries have come into existence in difficult circumstances. Frontiers have been changed, ethnic groups have been divided, old traditions have been modified by the Soviet presence, and all this has caused considerable difficulty in looking ahead in that part of the world.

The period of deep change at the national and regional levels has prompted a search for new forces of stability. One that seems particularly important, I think, to the United States and to all of us, is the validation and vigorous promotion of human and cultural pluralism. Historically the Silk Route was a link that interconnected diverse aspects of human society and culture from the Far East to Europe, and did so on the basis of mutual interest. This suggests that for the new countries of Central Asia, the inherent pluralism of their societies can be regarded as an asset rather than a liability. In the wider sense, it can be a means of enlarging the frontiers of global pluralism. This is a goal with which we all can and should associate.

The remarkable work of Yo-Yo Ma has enthralled audiences, from all the countries of the Silk Route and beyond. By his leadership and imagination he has proved that the force of cultural pluralism to bind people is as necessary, powerful and achievable today as was the Silk Route in history.

It is my privilege and honor to be associated with the founder of the modern Silk Route, a cultural journey that inspires people to unity and joy through art.

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### Remarks by Yo-Yo Ma at the Opening of the Smithsonian Folklife Festival

Your Highness, thank you for your kind words. The Silk road Project and I admire you for many reasons. In your cultural work you have created the Aga Khan Prize for Architecture, you have supported and founded Universities around the world, and you are doing important restoration work in cities like Cairo and now Kabul. We are honored to be working with you and the Aga Khan Trust for Culture on this year's Smithsonian Folklife Festival.

I would also like to single out someone who is both a friend of mine and of the Silk Road Project, the Senator from my home state of Massachusetts, Ted Kennedy. Senator Kennedy, thank you for your tireless work for arts organizations.

Secretary Powell, Senator Kennedy, Senator Brownback, Secretary Small, Your Highness, distinguished guests, welcome to the sights, sounds and scents familiar to over half the world's population. In the past, to experience all these elements you would need to travel by camel, by foot, by boat, and now, by plane. Today and for the next two weeks here on the National Mall we're providing the camels, the painted truck from Pakistan, and the rik-shaws, so all you need are your eyes, ears and imagination.

During twenty-five years of travel, I have been introduced to some of these sights, sounds and scents, and the many stories that accompany them.

Often the music you hear when I play the cello comes from these very stories. During this year's Smithsonian Folklife Festival, you can hear these stories for yourselves in encounters with four hundred artists from twenty-four countries.

Most of these artists will be strangers to you. Many of these artists are strangers to each other. We all meet strangers all the time. When the Silk Road Ensemble musicians and I first started playing together two years ago we had to find ways to trust each other onstage even though we had only just met. To me, the best way to create this trust is to share something precious—a personal story or belief. In music, this process of sharing deepens the harmonies, but more broadly this process starts a true dialogue and strengthens our common world heritage. This festival is about that dialogue.

In the end, the goal of the Smithsonian Center for Folklife and Cultural Heritage, the Aga Khan Trust for Culture, and the Silk Road Project is the same: to draw on the wisdom of all of our cultures to enrich our world one encounter at a time.

### Remarks of Senator Edward Kennedy Opening Ceremony—Folklife Festival

Thank you, Mr. Kurin, for that generous introduction. It is an honor to be here this morning with all the exceptionally talented artists and the visionary sponsors of the Silk Road Project—the cornerstone of this year's Folklife Festival. The Folklife Festival is one of our capital city's most beloved traditions. Each year, it brings the customs and cultures of a unique region or ethnic population alive with music and dance, craft and culinary wonders.

I commend Lawrence Small, Secretary of the Smithsonian Institution. He is a dynamic leader of the Smithsonian, and I commend him for the success of this inspiring project.

It is a privilege to be here with Secretary of State, Colin Powell who is an effective advocate for the United States in these difficult times. He is skillful in the pursuit of peace across the world and I commend him for all he continues to do.

I also join in welcoming His Highness the Aga Khan who was an early supporter of the Silk Road Project. He is an impressive leader for our time and I commend all that he has done, especially in the field of education and cultural exchange. Now, more than ever, his voice is one that needs to be acknowledged and understood. We are honored to have him with us today.

It is especially important that the Smithsonian has embarked on this remarkable celebration of the cultural richness and diversity of the Silk Road countries. Centuries ago, the Silk Road trade routes gave birth to an unprecedented and extraordinary exchange of cultural and economic traditions. Today, more than ever, it is essential to remember the incredible diversity of products and ideas that have emerged from Central Asia.

The Mall is truly the Main Street of our nation's capital city. Today, it brings us exhibits and cultural performances representing the Silk Road countries, from Italy to India, Mongolia and Japan. There is something here for everyone to enjoy. And that is, after all, what the Folklife Festival is about. It is a starting point for exploration and education, and it is always about entertainment.

The Silk Road's artistic demonstrations and musical performances will bring the Mall to new life over the next several weeks.

We are especially privileged to have with us one of our nation's most preeminent artists. Yo-yo Ma is a musician who has won both critical and popular acclaim for his virtuosity. He has also won the hearts and minds of millions of people throughout the world, with his outreach and education projects.

From Sesame Street to Carnegie Hall, he has brought music to life, and life to music. He is the tireless and seemingly unstoppable energy behind youth orchestras across the country, and projects as musically diverse as the memorable "Crouching Tiger, Hidden Dragon" and his energetic Appalachian strings recordings.

He starred on David Letterman two nights ago, and today he is with us—on America's Main Street—to celebrate the beginning of the Folklife Festival. He inspires each of us to do all we can to embrace and celebrate diverse peoples and cultures through education and understanding.

After the tragic events of September 11th, it is more important than ever for each of us to understand and embrace new ideas and cultures. Today, we continue this journey of understanding with Yo-Yo Ma.

He has used his magnificent genius to bring the entire world closer together. He inspires people everywhere to seek peace and reconciliation, and he has done it all with his magical cello.

He is here with the performers of the Silk Road Ensemble and I am honored to introduce them now.

### REMARKS AT THE OPENING OF THE SILK ROAD FESTIVAL—SECRETARY COLIN L. POWELL, SMITHSONIAN FOLKLIFE FESTIVAL ON THE MALL, WASHINGTON, DC

Secretary Powell: Thank you very much, ladies and gentlemen. Thank you so very much, Richard, for that kind introduction, and my congratulations to the Smithsonian for putting on this 36th Annual Folklife Festival. With each year's Folklife Festival, the Mall becomes a living cultural exhibition, not only for the citizens of this city, but for the citizens of the world who come to Washington, D.C. In the words of former Smithsonian Secretary S. Dillon Ripley, "The Festival brings the museum out of its glass case and into real life."

I want to thank you also, Yo-Yo Ma and your Silk Road Project, to the Aga Khan for his Trust for Culture, to Lawrence Small of the Smithsonian, for all the wonderful work they have done to make this such an exciting and important event. And I am very proud that the State Department had such a role to play in it, and some of my leaders from the Department who had a role to play are here. Under Secretary of State Charlotte Beers and Assistant Secretary of State Beth Jones, and I think Assistant Secretary of State Pat Harrison are here, and they also are deserving of your recognition.

In fact, we did have some diplomatic challenges in making this happen. The two yurts that are here, tents that you will see in due course, they had to be custom made to conform to American laws for access to the handicapped. And so our embassy in Kazakhstan worked closely with the Kazakh Government to make sure they were up to standard—and then helped ship them here in time for this Festival. So we are not only culturally pure, we are OSHA-pure as well. I want you to know that.

We have seen so many talented people this morning, and we have had such wonderful speakers. And I, as always, enjoyed Yo-Yo Ma. But Yo-Yo, I have to say the throat singers might have had a slight edge on you. It was marvelous, and I haven't heard throat singing like that since my last congressional appearance. And it was before the Senate, not the House.

But what these artists have done for you this morning so far is they have painted a marvelous picture of the old Silk Road and the central place that the Silk Road played in our own history, our own culture, and in our own civilization.

Listening to this morning's speakers, you can almost see Marco Polo trekking eastward toward lands unknown to Europeans, or hear the sounds of a merchant caravan heading west with its cargo of silks and spices.

The Silk Road of old was the main link between the civilizations of the east, Central Asia, and Europe. From Europe, the products and ideas of Central and East Asia then spread to the New World of the Americas. All of our peoples were enriched by the exchange of goods, the exchange of ideas, and the exchange of cultures.

But the Silk Road is more than a subject for magazines and museums. It is more than an image of past glories. The nations of Central Asia are once again joining the nations at either end of the Silk Road on a path to a better future for all. There is far to go, and the region's security, stability, and prosperity depend on critical economic and political reforms. But the Silk Road is once again a living reality, as the over 350 artists and craftspeople from 20 nations here testify.

Now, in our new age of globalization, we are restoring the linkages and the interchanges that once made the Silk Road so rich and so vital. We have been making up for lost time. Our political, economic, diplomatic, and security contacts have increased with all the nations along the central part of the Silk Road, boosted by our cooperation especially as we came together in the campaign against terrorism following 9/11 last year.

But even more important, our cultural and institutional ties have also grown. We are once again exchanging ideas and learning about cultures with all of the countries and peoples along the Silk Road.

The links between our peoples are the most vital and enduring elements of our ties. Festivals like the Smithsonian Silk Road Festival play a major role in helping us get reacquainted and start learning from each other once again. As the theme of this exhibition reminds us, it's all about "Connecting cultures and creating trust."

This Festival, like the future, stretches ahead before us. So without further delay, and with sincere thanks for your patience, let me now light the lamp that will allow us to embark on our journey along the Silk Road. Thank you very, very much.

Mr. CRAPO. Mr. President, I was unavailable to vote on the afternoon of July 10, and all of July 11, 12, 15 and 16 due to the death of my mother. Had I been able I would have voted as follows: Rollcall No. 169—"yea"; Rollcall No. 170—"yea"; Rollcall No. 171—"yea"; Rollcall No. 172—"yea"; Rollcall No. 173—"yea"; Rollcall No. 174—"yea"; Rollcall No. 175—"yea"; Rollcall No. 176—"yea"; Rollcall No. 177—"yea".

## STOCK OPTIONS

Mr. CLELAND. Mr. President, in this time of seemingly endless stories of corporate fraud and mismanagement, I would like to take the opportunity to salute a bold step recently taken by one of the world's most respected corporations. As you know, the Coca-Cola Company's world headquarters is located in Atlanta, GA.

The Coca-Cola Company announced on Sunday that it would expense the cost of all stock options the company grants, beginning with options to be granted in the fourth quarter of 2002.

I commend CEO Douglas Daft and the leadership of the Coca-Cola Company on their decision. Stock options are indeed a form of employee compensation and their characterization as a balance sheet expense will provide investors with a clearer picture of Coca-Cola's fiscal health.

Sunday's announcement is indicative of Coca-Cola's ongoing commitment to economic integrity and fairness. With this new policy, the company will be able to design whatever kind of options it believes will both best motivate employees and more align their interests with those of share owners, without regard for the options' accounting effects.

While Coca-Cola is the first company of its size to take this important step, I predict it will not be the last. As other corporations follow Coke's lead, investor confidence in our markets will grow once again.

## NOMINATION OF DR. RICHARD CARMONA FOR SURGEON GENERAL

Mr. FRIST. Mr. President, this morning the members of the Senate Committee on Health, Education, Labor, and Pensions, HELP, voted to support the nomination of Dr. Richard Carmona for the position of U.S. Surgeon General. While the Surgeon General has played a major role on health care matters for more than one hundred years, the unique challenges confronting our Nation at the beginning of the 21st century require an elevated level of leadership.

The threat of bioterrorism is real—a fact made clear in the last year as anthrax attacks killed five people, infected 22, and exposed hundreds. These attacks highlighted the inadequacy of our Nation's public health infrastructure to prevent, detect, and respond to an infectious disease outbreak, whether such an outbreak is intentionally or naturally caused.

Since that time, much has taken place. We in Congress have passed, and the President has signed into law, the Public Health Security and Bioterrorism Preparedness and Response Act. We have significantly increased the Federal commitment to upgrading capacity in State and local health departments and we are now considering how a new Department of Homeland Security could enhance our efforts to prevent and respond to bioterrorism.

Despite these steps, we are still not fully prepared to meet the threat of bioterrorism and much work remains to be done to bolster our public health system. This will be one of the most important tasks facing the country and facing the incoming Surgeon General. Dr. Carmona's experience and expertise prepares him well for this effort.

As we strengthen the public health system's capabilities, we are also challenged by a growing epidemic of chronic disease that significantly impacts our Nation's health. Take, for example, obesity. Sixty-one percent of American adults and 13 percent of children and adolescents are overweight or obese, and these rates are increasing among all age groups. In my home State of Tennessee, the rate of obesity has grown from 12 percent to 22 percent over the past decade. An estimated 300,000 deaths each year in the United States are linked to being overweight or obese. Those who are obese have a 50- to 100-percent increased risk of premature death. This problem is now one of the most serious public health challenges facing the country. Next week, Senator BINGAMAN, Senator DODD, Senator STEVENS, and I will be introducing the Improved Physical Activity and Nutrition Act to help address this problem. I look forward to working with Dr. Carmona to address this issue.

Additionally, youth smoking and substance abuse are a significant concern. Twenty-five percent of adults smoke—with even higher rates among young adults. Tobacco use is the leading cause of preventable death in this country, and alcohol misuse contributes to one-third of motor vehicle crash related deaths. Over one-half of 10th graders have smoked tobacco. Sixteen percent of 8th graders have been drunk at least once in the past year. Twenty-five percent of high school seniors have used an illicit drug in the past 30 days.

There are a number of approaches we can take to these problems as legislators. Last Congress, we reauthorized the Substance Abuse and Mental Health Services Administration, in which we included a special emphasis on youth drug abuse. But the Surgeon General bears a special responsibility to help educate the Nation about the dangers of such behavior, and I am pleased that this will be a priority for Dr. Carmona as Surgeon General.

During the Health, Education, Labor, and Pensions Committee hearing on his nomination, Dr. Carmona emphasized that his priority will be prevention: to prevent unnecessary illness, disability and death. Many of the major health problems facing the country can be improved with a focus on prevention, and Dr. Carmona's focus on these issues will benefit the country as he serves us as Surgeon General.

Before the hearing on Dr. Carmona's nomination, there were concerns raised regarding some aspects of his professional background. The committee appropriately inquired about these issues during the hearing. Dr. Carmona's responses were forthright and direct, and I believe he has addressed concerns about his ability to perform the duties of the Surgeon General. His background and experience as a trauma surgeon, as a director of a county health system, and as an expert in emergency medical systems, along with her personal drive and commitment to improving the health of all Americans, will serve the country well. Mr. President, I intend to support Dr. Carmona's nomination. I urge my colleagues to support him as well.

## CONFIRMATION OF LAVENSKI SMITH TO THE U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Mr. WELLSTONE. Mr. President, this week I voted not to confirm Lavenski Smith to the U.S. Court of Appeals for the Eighth Circuit, which includes my State of Minnesota. While I have supported the vast majority of administration appointments that have come to the floor to date, I voted against this nominee because I am concerned about his lack of experience and qualifications, as well as about what I consider to be an excessively ideological approach to important issues, such as women's reproductive rights, in his legal work so far.

Our district needs and deserves the best judges, especially because they receive lifetime appointments. I regret that the President did not nominate a person with a more distinguished record to this important position.

Mr. Smith has just 7 years' experience practicing law, in which time he has gained minimal Federal experience and minimal appellate experience. He has no experience arguing cases before the Eighth Circuit, the court to which he has now been confirmed.

In addition to his lack of experience, Mr. Smith has advocated ideologically tendentious legal positions that I believe may cast doubt on his ability to adjudicate cases fairly. In the one appellate case in which Mr. Smith took a lead role, his argument in relation to reproductive rights was unanimously rejected by the Arkansas Supreme Court. The court's decision observed that Mr. Smith disregarded both judicial precedent and the plain meaning of the Arkansas Constitution in making his case.

The circuit court of appeals is one step from the Supreme Court. Yet the Arkansas Times wrote of this nominee: "Lavenski Smith of Little Rock is not the best qualified Arkansan President Bush could have chosen for the U.S. Eighth Circuit Court of Appeals, nor even close." Whatever State a nominee might come from, Minnesota and the Eighth Circuit deserve better.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred February 6, 1995, in West Hollywood, CA. A gay man was punched and kicked by several youths who made anti-gay remarks. The assailants, three teens, were charged with battery and interference with civil rights.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ADDITIONAL STATEMENTS

## AN ESSAY BY SANFORD WEILL ON ACCOUNTING REFORMS

● Mr. HOLLINGS. Mr. President, I want to share with my colleagues an excellent essay by the best of the best, Sandy Weill. As the article points out, most corporate executives, like Sandy Weill, are honest and already enacting changes in their companies to provide better accounting disclosure policies.

As the message comes from someone who has distinguished himself as a business leader, it is a message I hope all American business executives not only hear, but heed.

I ask to print the essay in the RECORD.

The essay follows:

### CORE VALUES START AT THE TOP

America has long had a financial system to be proud of and it is therefore critical—particularly at a time of danger and uncertainty—that both industry and government enact changes to address the recent corporate scandals that have shaken faith in the system and its corporate executives.

The country will come through this period stronger than ever, but only with the hard work of legislators, regulators and, most important chief executive officers. George W. Bush's call for a new ethic of corporate responsibility comes at the right time, with its emphasis on holding corporate officers more accountable, protecting small investors, moving accounting out of the shadows and providing better disclosure along with a stronger and more independent corporate audit system.

The president's proposal that corporate officers lose compensation they may receive by manipulating their accounting statements, and efforts by Harvey Pitt, chairman of the Securities and Exchange Commission, to make CEOs more individually accountable for their companies' financial disclosures should be welcomed.

Used correctly, option grants should not only reward good performance but encourage a long-term perspective. Many companies use them for this purpose: more should. I have long been a proponent of "buy-and-hold" investing, and at Citigroup, our senior managers and board abide by a rigorous stock ownership commitment. Every one of us makes a pledge—a "blood oath"—to hold three-quarters of any stock or options we receive as long as we remain with the company, which reinforces our consistent focus on the long term. Also, we have never repriced stock options for our senior executives, and we never will. When companies do this, an alarm should sound that the long-term alignment of shareholde and management interests is not in place.

To ensure that everyone in a company is focused on appropriate long-term objectives, stock ownership should go as deep as possible within an organization. To encourage this, and to respond to concerns regarding excess compensation, I suggest that options be expended for the top five officers identified in the proxy, and that tax treatment be enhanced for options given to the rank and file earning less than $100,000 by allowing options to be included in 401(k) pension plans. Proposals to change the accounting or tax treatment of stock options should not hinder these programs—they should encourage other companies to adopt them.

In the wake of recent scandals, all CEOs should examine their governance principles. They must push for strong, independent boards and focus on full disclosure. Bulletproof audit processes, with exhaustive internal and external checks and balances must be in place, reporting to an independent committee of the board whose involvement goes beyond quarterly meetings.

Audit partners should be rotated regularly and outside auditors should be used for audit and tax purposes only. Companies must also get back to basic accounting, based on Generally Accepted Accounting Principles, and be required to account for all revenues and expenses rather than producing pro forma or ebitda as their primary income measure.

One of the most distressing fall-outs of the current crisis is the public's reduced confidence in audited financial statements, for decades the very underpinning of America's financial system. We cannot make auditors out of lawyers, boards, rating agencies, research analysts or bankers. We need auditors to do their jobs and be accountable to one group alone: the shareholders.

I therefore applaud efforts by Senator Paul Sarbanes, Congressman Michael Oxley and the. US Congressional leadership towards comprehensive accounting reform legislation. Just as concern over corporate disclosure during the Great Depression led to the creation of the SEC, a strong independent authority must be established to set accounting standards and oversee auditor conduct. In effect, we need an SEC for the accounting industry.

Eliot Spitzer, New York's attorney-general, has identified serious issues in the way investment banks and research analysts interact. Citigroup's Salomon Smith Barney was the first to adopt voluntarily the research reforms put forward by Mr. Spitzer. These, along with proposals from the SEC and the New York Stock Exchange, are setting higher standards for the industry.

Even so, we must do more. I believe the entire industry should be subject to additional rules that make research independent from investment banking. Analysts should be barred from attending any meeting with investment bankers soliciting business from public companies and from participating in any "roadshow" presentation to investors. Investment bankers should be barred from having any input in determining the compensation of research analysts and from previewing any research reports prior to publication.

The current crisis is an opportunity to recapture core values. But this will only be possible if CEOs accept the responsibility that comes with their rank. It is up to use to lead the way.●

## DR. WILLIS HAVILAND CARRIER

● Mrs. CLINTON. Mr. President, I rise today to honor the accomplishments of a great New Yorker, Dr. Willis Haviland Carrier, who invented air-conditioning 100 years ago today.

Dr. Carrier was a man of humble background. Born in 1876 in Angola, NY, he delayed his education for 2 years to work on the family farm during the Depression of the mid-1890s. After finishing high school in Buffalo, he won a scholarship to attend Cornell University in Ithaca. While at Cornell, he founded a cooperative student laundry agency, the first of its kind. He graduated in 1901 with a degree in electrical and mechanical engineering, and went to work for the Buffalo Forge Company.

When the Sackett-Wilhelms Lithographing and Publishing Company of Brooklyn was looking for a solution to the problem of paper expansion due to heat and humidity, Carrier was assigned to the task. On July 17, 1902, he presented his design for a system to control temperature, humidity, air quality, circulation, and ventilation. The modern era of air conditioning was born.

Dr. Carrier had the business acumen to make his invention a success, and in 1915 he founded the Carrier Corporation in Syracuse. Movie theaters were among the first adopters of the new technology, soon to be followed by department stores, airplanes, and cars. Air conditioning came to the House of Representatives in 1928 and here to the Senate in 1929. After World War II, air conditioning became affordable for private homes, forever changing the American lifestyle.

Dr. Carrier held 80 patents at the time of his death in 1950. His company has continued his tradition of innovation, with the introduction in the 1950s of rooftop systems for skyscrapers eliminating the need for large and costly basement rooms. Today, Carrier Corporation is an industry leader in environmental responsibility, with chlorine-free alternative refrigerants in use across its entire product line.

Dr. Willis H. Carrier used his creativity and entrepreneurship to change the way we live and the way we work. We are fortunate to benefit from the contributions of this great New Yorker.●

## CONGRATULATIONS TO THE WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION PARTICIPANTS FROM WYOMING

● Mr. ENZI. Mr. President, on May 4–6, 2002, more than 1,200 students from across the United States visited Washington, DC, to compete in the national finals of the We the People . . . The Citizen and the Constitution program, the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights.

I am proud to report that the class from Green River High School from Green River represented the State of Wyoming in this national event. These young scholars worked diligently to reach the national finals and through their experience have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The fine students from Wyoming who were chosen to participate include: Jamie Adams, Ashley Andersen, Melissa Bassett, Kimberly Bucheit, Michelle Edwards, Christina Gipson, Aaron Hayes, Daniel Johnson, Christopher Legerski, Michael Merkley, Nathaniel Steinhoff, Eric Stewart, Julia Stuble, and Katherine Tolliver. I would also like to recognize their teacher, Dennis Johnson, who deserves much of the credit for their success.

The 3-day national competition is modeled after hearings in the Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their constitutional knowledge.

Administered by the Center for Civic Education, the We the People . . . program has provided curricular materials at upper elementary, middle, and high school levels for more than 26.5 million students nationwide. The program provides students with a working knowledge of our Constitution, Bill of Rights, and the principles of democratic government. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers and by participating in other educational activities.

It is inspiring to see these young people advocate the fundamental ideals of principles of our Government in the aftermath of the tragedy on September 11. These are ideas that identify us as a people and bind us together as a nation. It is important for our next generation to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy.

I would once again like to congratulate Dennis Johnson and the fine students from Green River High School.●

## TRIBUTE TO WARD F. CORRELL

● Mr. BUNNING. Mr. President, I rise today to pay tribute to one of Kentucky's leading citizens, Mr. Ward F. Correll. On the 27th day of this month, Mr. Correll will be presented with the 2002 Kentuckian Award by the A.B. "Happy" Chandler Foundation for his commitment to family, God, country, and the Commonwealth of Kentucky. Fellow recipients of this award include such greats as University of Kentucky basketball announcer Cawood Ledford and country music legend Loretta Lynn.

Born to a poverty-stricken family in Wayne County, KY, Ward Correll grew up as 1 of 13 children. As you can surely imagine, basic living necessities were quite scarce at times. After graduating from high school, Ward decided to hitchhike, with only $2.67 in his pockets, to Detroit, where he would begin what would become a memorable journey.

While living in Detroit, Ward Correll mowed lawns to make ends meet until he could find a more permanent and stable job opportunity. But before this could happen, our Nation went to war in Korea. Throughout the war, Ward served his country in the U.S. Army as part of an intelligence unit. After his time in the service came to an end, Ward packed up his bags and headed back to his old Kentucky home. Once back in Kentucky, he met his future bride-to-be and soulmate, Regina Tarter.

After discovering the woman of his dreams, Ward decided it was time to begin his life as a businessman. Ward let the words from the prayer by GEN Douglas MacArthur be his compass—"Lord, give me a son who will not let his wishbone take the place of his backbone." With a lot of hard work, a little luck, and the occasional helping hand, Ward Correll turned that $2.67 into a business empire.

Today, his many business enterprises include Cumberland Shell Oil, Inc. and Trade and Wind and Trade Way shopping centers in Somerset and Monticello. He is one of the top 10 jobbers in the Nation for Shell Oil. Furthermore, he is a major stockholder in First Southern National Banks, where his son Jesse is the CEO. You often hear people talk about living the American dream. Ward Correll skipped the talking part and moved straight to the living.

Besides his unwavering dedication to country and capitalism, Ward Correll has exemplified what it means to be a good Christian. He tithed the first penny he ever made as a child and has continued this practice even to this very day. He firmly believes God has blessed him financially and that he has a moral obligation to those less fortunate individuals whose pockets are as shallow as his once were. Throughout his lifetime, Ward Correll has assisted the needy, providing them with clothes, shoes, dishes and flatware—items that he and his family once struggled to possess.

Mr. President, I ask now that my fellow colleagues join me in praising Mr. Ward F. Correll for all that he has accomplished with his life. He is a devoted father and husband, a veteran and patriot, and a truly righteous man. He has worked tirelessly to make Kentucky and the United States of America a better place for us all to live. He is a tribute to the American spirit.

Finally, I would like to share with you, Mr. President, and my fellow Senators Mr. Correll's recipe for success. "Apply the wisdom of what wise people have taught you during childhood to all you do; seek the advice of wise people, especially those who have experienced failure and picked themselves up to become successful again; always do more than what you are paid to do; empower yourself to be positive and say every day 'I feel happy, healthy and terrific and I can do all things through Christ who strengthens me.' "•

## IN MEMORY OF COLONEL RUBY BRADLEY, ARMY NURSE

• Mr. ROCKEFELLER. Mr. President, on July 2, 2002, a modern American hero was buried in Arlington National Cemetery. Her name is Ruby Bradley, and she is the most decorated woman ever to serve in the U.S. military.

Ruby was an Army nurse stationed in Manila. On September 23, 1943, she was captured by the Japanese Army. During her 3-year imprisonment, she was known as a member of the Angels in Fatigues. This small group of nurses took it upon themselves to care for those within the camp. Ruby assisted in 230 operations and delivered 13 babies while dropping to a weight of just over 80 pounds. She starved herself so the imprisoned children could eat, trusting that she would be able to cling to her own life.

On February 3, 1945, her faith paid off in the form of what she described as "the best Saturday night performance I'll ever see in my life." American troops freed those who were being held captive, and Ruby returned to her home in Spencer, WV, to a hero's parade. But Ruby's military journey was not over.

Her sacrifice, generosity, and compassion took her to the Korean war, where she again found herself in the midst of grave danger. The Army sent a plane to retrieve Ruby, but she was the last person to board that plane. After running from her ambulance just before it was blown up by enemy bombs, she loaded the sick and wounded. Once again, she returned to Spencer as the honoree of a hero's parade.

In 1963, Ruby retired from the Army, having earned 34 medals and citations, including the Legion of Merit and the Bronze Star, in honor of her tenacious devotion to this Nation and all that we stand for.

I had the privilege of visiting Ruby in her home 3 years ago and presented her with replacement medals that had been lost over the years. In this short time, it was obvious to me what an inspiration she was to her family and community, and it was obvious why she was honored with the rank of colonel by the Army. Ruby Bradley was a woman whose soul knew no limits. Her heart had room for everyone, and she was not reluctant to assist those around her, no matter their age, race, or condition.

Ruby once said, "I just want to be remembered as an Army nurse." Her family can rest assured that she will be remembered as an Army nurse, one of the best this Nation has seen and will ever see. Her courage in the midst of conflict serves as a shining example to those around her and will continue to be a beacon for bravery in the future for West Virginia and for America.•

## LETTER DECLARING THE TEMPORARY TRANSFER OF POWER TO THE VICE PRESIDENT OF THE UNITED STATES—PM 103

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on June 29, 2002, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying papers; which was ordered to lie on the table:

Pursuant to the provisions of the 25th Amendment to the Constitution of the United States, the President of the United States, on June 29, 2002, transmitted the following message to the President pro tempore of the Senate [Mr. BYRD].

THE WHITE HOUSE,
*Washington, June 29, 2002.*

Hon. ROBERT C. BYRD,
*President pro tempore of the Senate, Washington, DC.*

DEAR MR. PRESIDENT: As my staff has previously communicated to you, I will undergo this morning a routine medical procedure requiring sedation. In view of present circumstances, I have determined to transfer temporarily my Constitutional powers and duties to the Vice President during the brief period of the procedure and recovery.

Accordingly, in accordance with the provisions of Section 3 of the Twenty-Fifth Amendment to the United States Constitution, this letter shall constitute my written declaration that I am unable to discharge the Constitutional powers and duties of the office of President of the United States. Pursuant to Section 3, the Vice President shall discharge those powers and duties as Acting President until I transmit to you a written declaration that I am able to resume the discharge of those powers and duties.

Sincerely,

GEORGE W. BUSH.

## LETTER DECLARING THE RESUMPTION OF DUTIES AS PRESIDENT OF THE UNITED STATES—PM 104

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on June 29, 2002, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying papers; which was ordered to lie on the table:

Pursuant to the provisions of the 25th Amendment to the Constitution of the United States, the President of the United States, on June 29, 2002, transmitted the following message to the President pro tempore of the Senate [Mr. BYRD].

THE WHITE HOUSE,
*Washington, June 29, 2002.*

Hon. ROBERT C. BYRD,
*President pro tempore of the Senate, Washington, DC.*

DEAR MR. PRESIDENT: In accordance with the provisions of Section 3 of the Twenty-Fifth Amendment to the United States Constitution, this letter shall constitute my written declaration that I am presently able to resume the discharge of the Constitutional powers and duties of the office of President of the United States. With the transmittal of this letter, I am resuming those powers and duties effective immediately.

Sincerely,

GEORGE W. BUSH.

## MESSAGE FROM THE HOUSE

At 1:08 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5118. An act to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 395. Concurrent resolution celebrating the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico.

## MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 395. Concurrent resolution celebrating the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico; to the Committee on the Judiciary.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7979. A communication from the Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Luxembourg; to the Committee on Banking, Housing, and Urban Affairs.

EC-7980. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Cost Estimate for Pay-As-You-Go Calculations for Report Number 579; to the Committee on the Budget.

EC-7981. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Cost Estimate for Pay-As-You-Go Calculations for Report Number 580; to the Committee on the Budget.

EC-7982. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Austria Because of BSE" (Doc. No. 02-004-2) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7983. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in

Disease Status of Austria Because of BSE" (Doc. No . 02-004-2) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7984. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Methoxychlor; Tolerance Revocations" (FRL7184-4) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7985. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Indoxacarb; Pesticide Tolerance" (FRL7186-2) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7986. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cethodim; Pesticide Tolerance" (FRL7185-7) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7987. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Benomyl; Tolerance Revocations" (FRL7177-7) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7988. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Atrazine, Bensulide, Diphnamid, Imazalil, 6-Methyl-1, 3-dithiolo (4,5-b) quinoxalin-2-One, Phosphamidon S-Propyl dipropylthiocarbamate, and Trimethacarb; Tolerance Revocations" (FRL7182-5) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7989. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Asergillus flavus AF36 ; Amendment, Temporary Exemption From the Requirement of a Tolerance" (FRL7185-4) received on July 11, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7990. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Tennessee Implementation Plan" (FRL7245-7) received on July 11, 2002; to the Committee on Environment and Public Works.

EC-7991. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Tennessee: Approval and Revisions to Tennessee Implementation Plan" (FRL7245-7) received on July 11, 2002; to the Committee on Environment and Public Works.

EC-7992. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Section 112(1) Authority for Regulating Hazardous Air Pollutants; Equivalency by Permit Provisions National Emissions Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of Maine" (FRL7240-7) received on July 11, 2002; to the Committee on Environment and Public Works.

EC-7993. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Commonwealth of Puerto Rico: Control of Emissions from Existing Municipal Solid Waste Landfills" (FRL7246-7) received on July 11, 2002; to the Committee on Environment and Public Works.

EC-7994. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District" (FRL7231-8) received on July 11, 2002; to the Committee on Environment and Public Works.

EC-7995. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District and South Coast Air Quality Management District" (FRL7220-6) received on July 11, 2002; to the Committee on Environment and Public Works.

EC-7996. A communication from the Acting Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards; Travel Agencies; Economic Injury Disaster Loan Program" (RIN3245-AE93) received on July 16, 2002; to the Committee on Small Business and Entrepreneurship.

EC-7997. A communication from the Acting Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards; Travel Agencies" (RIN3245-AE95) received on July 16, 2002; to the Committee on Small Business and Entrepreneurship.

EC-7998. A communication from the Director, National Legislative Commission, The American Legion, transmitting, pursuant to law, the Accountants' Report and Consolidated Financial Statements for 2001; to the Committee on the Judiciary.

EC-7999. A communication from the Administrator, General Service Administration, transmitting, the report of lease prospectuses that support the General Service Administration's Fiscal Year 2003 Capital Investment and Leasing Program; to the Committee on Environment and Public Works.

EC-8000. A communication from the Secretary of State, transmitting , pursuant to law, the Annual Report for 2001 on Voting Practices at the United Nations; to the Committee on Foreign Relations.

EC-8001. A communication from the Vice Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Prohibited and Excessive Contributions: Non-Federal Funds of Soft Money" (Notice 2002-11) received on July 16, 2002; to the Committee on Rules and Administration.

EC-8002. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions and Clarifications to Encryption Controls in the Export Administration Regulations—Implementation of Changes in Category 5, Part 2 ("Information Security"), of the Wassenar Arrangement List of Dual-Use Goods and Other Technologies" (RIN0694-AC61) received on July 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-8003. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Semiannual Monetary Policy Report dated July 16, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-8004. A communication from the Under Secretary for Domestic Finance, Department of the Treasury, transmitting, pursuant to law, the Annual Report on the Resolution Funding Corporation for the calendar year 2001; to the Committee on Banking, Housing, and Urban Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DORGAN, from the Committee on Appropriations, without amendment:

S. 2740: An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107-212) .

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service for a term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS:

S. 2737. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2738. A bill to provide for the reimbursement under the medicaid program under title XIX of the Social Security Act of nursing facilities that are located on an Indian reservation in the State of South Dakota and owned or operated by an Indian tribe or tribal organization, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. DeWine, Mr. Lott, Mr. Domenici, Mr. Bunning, Mr. Grassley, Mr. Kyl, Mr. McConnell, Mr. Sessions, Mr. Santorum, Mr. Hutchinson, Mr. Thurmond, and Mr. Helms):

S. 2739. A bill to provide for post-conviction DNA testing, to improve competence and performance of prosecutors, defense counsel, and trial judges handling State capital criminal cases, to ensure the quality of defense counsel in Federal capital cases, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN:

S. 2740. An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. GRASSLEY (for himself and Mr. Nelson of Nebraska):

S. 2741. A bill to amend title 38, United States Code, to improve procedures for the determination of the inability of veterans to defray expenses of necessary medical care, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON (for herself, Mr. Levin, Mr. Bingaman, Mr. Domenici, Mr. Murkowski, and Ms. Cantwell):

S. 2742. A bill to establish new nonimmigrant classes for border commuter students; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. McCain):

S. 2743. A bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; to the Committee on Indian Affairs.

By Mr. DeWINE (for himself and Mr. Voinovich):

S. 2744. A bill to establish the National Aviation Heritage Area , and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself and Mr. Hatch):

S. 2745. A bill to provide for the exchange of certain lands in Utah; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself and Ms. Collins):

S. 2746. A bill to establish a Federal Liaison on Homeland Security in each State, to provide coordination between the Department of Homeland Security and State and local first responders, and for other purposes; to the Committee on Governmental Affairs.

By Mr. TORRICELLI:

S. 2747. A bill to provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries and for women diagnosed with breast cancer; to the Committee on Finance.

By Mr. CONRAD:

S. 2748. A bill to authorize the formulation of State and regional emergency telehealth network testbeds and, within the Department of Defense, a telehealth task force; to the Committee on Armed Services.

By Mr. CORZINE (for himself, Mr. Torricelli, Mr. Schumer, Mrs. Clinton, Mr. Dodd, and Mr. Lieberman):

S. 2749. A bill to establish the Highlands Stewardship Area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself and Mr. Lieberman):

S. Con. Res. 128. A concurrent resolution honoring the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 267

At the request of Mr. Akaka, the name of the Senator from Wisconsin (Mr. Kohl) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 411

At the request of Mr. Lieberman, the name of the Senator from Georgia (Mr. Cleland) was added as a cosponsor of S. 411, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 540

At the request of Mr. DeWine, the name of the Senator from Pennsylvania (Mr. Specter) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 556

At the request of Mr. Jeffords, the name of the Senator from North Carolina (Mr. Edwards) was added as a cosponsor of S. 556, a bill to amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes.

S. 776

At the request of Mr. Bingaman, the names of the Senator from South Dakota (Mr. Johnson) and the Senator from Oregon (Mr. Smith) were added as cosponsors of S. 776, a bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2002.

S. 948

At the request of Mr. Lott, the name of the Senator from Texas (Mrs. Hutchison) was added as a cosponsor of S. 948, a bill to amend title 23, United States Code, to require the Secretary of Transportation to carry out a grant program for providing financial assistance for local rail line relocation projects, and for other purposes.

S. 960

At the request of Mr. Bingaman, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 960, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular diseases.

S. 1626

At the request of Mr. Bingaman, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 1626, a bill to provide disadvantaged children with access to dental services.

S. 2055

At the request of Ms. Cantwell, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 2055, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes.

S. 2067

At the request of Mr. Bingaman, the name of the Senator from Maine (Ms. Collins) was added as a cosponsor of S. 2067, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes.

S. 2210

At the request of Mr. Biden, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 2210, a bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative.

S. 2455

At the request of Mr. Ensign, the name of the Senator from Idaho (Mr. Craig) was added as a cosponsor of S. 2455, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 2513

At the request of Mr. Biden, the name of the Senator from Pennsylvania (Mr. Specter) was added as a cosponsor of S. 2513, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 2541

At the request of Mrs. FEINSTEIN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2541, a bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2626

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2628

At the request of Mr. CORZINE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2628, a bill to amend part A of title IV of the Social Security Act to require a State to promote financial education under the temporary assistance to needy families program and to allow financial education to count as a work activity under that program.

S. 2670

At the request of Mr. KYL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2670, a bill to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems.

S. 2674

At the request of Mr. BROWNBACK, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2714

At the request of Mrs. CLINTON, the names of the Senator from California (Mrs. BOXER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2714, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002.

S. 2715

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2715, a bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

S. 2734

At the request of Mr. KERRY, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. RES. 239

At the request of Mr. ALLEN, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. Res. 239, a resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the S.S. Henry Bacon, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Utah (Mr. HATCH) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

S. RES. 258

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. Res. 258, a resolution urging Saudi Arabia to dissolve its "martyrs" fund and to refuse to support terrorism in any way.

S. RES. 270

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as "National Cystic Fibrosis Awareness Week".

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS:

S. 2737. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Trade Adjustment Assistance Improvement Act of 2002.

You may ask why I am introducing this new bill now. After all, only about a month ago the Senate passed the Trade Act of 2002, a bill which prominently features a landmark expansion and improvement of the current Trade Adjustment Assistance program.

We all know that work on that trade bill is not yet complete. And I continue working diligently to get that bill through the conference process and on to the President's desk just as soon as possible.

Indeed, I am frustrated that so much time has been lost on this bill. Five weeks in the House as they worked through a very unusual process of appointing conferees. More time in the Senate while Republicans blocked efforts to get the bill to conference.

The TAA provisions in the trade bill that passed the Senate back in May are solid and important. They represent a huge improvement over current law. It is critical to remember, however, that they are the product of compromise, a compromise that was reached between Democrats and Republicans in the Senate and with the Administration.

In my view, the Senate-passed TAA reforms represent a good first step toward making TAA work for American workers. But we could do better. And we should do better.

That is why I am here introducing new TAA legislation today. I think American workers should know that my commitment to improve TAA will not end after we pass the current trade bill.

This new bill includes a number of provisions not included in H.R. 3009, the bill that passed the Senate. I would like to summarize a few of the most important new provisions now.

First, this bill makes training a full entitlement under TAA.

Under current law, TAA income support is an individual entitlement, but the training entitlement is subject to a funding cap. When funds run out, as they frequently do, workers cannot get the training to which they are entitled. In some cases, this results in denial of income support as well.

While H.R. 3009 raises the funding cap in an attempt to eliminate funding shortfalls for TAA training, I think this bill takes an even better approach. After all, TAA is fundamentally a retraining program. It just makes sense to make the same commitment to fully fund training that we already do to income support.

Second , this bill broadens the scope of eligibility to additional groups of trade-impacted workers who were dropped from TAA in the compromise language passed by the Senate. This includes, most importantly, a much broader definition of secondary workers.

In particular, this bill includes full TAA eligibility for downstream secondary workers, rather than limiting that eligibility to workers impacted by NAFTA.

It also includes coverage for workers who provide services under contract to trade-impacted firms and to truckers who may be adversely affected by the opening of the border to Mexican trucking services. In sum, this bill aims to make sure that every worker who loses his job as a result of trade gets fair and equitable access to services under TAA.

Third, this bill creates an easy and efficient process for providing TAA benefits on an industry-wide rather than firm-by-firm basis. We all know that there are industries in this country, like softwood lumber, steel, and textiles, just to name a few, that are experiencing declining employment on a national basis as a direct consequence of trade.

The bill addresses the problem two ways. In cases where an industry has already demonstrated adverse trade effects in a section 201 or "safeguard" investigation, the President must provide industry-wide TAA certification as part of the remedy.

It also requires the Secretary of Labor to use an industry-wide approach to certification in other industries when there is evidence that trade-related worker displacements are national in scope.

Finally, we restore the 75 percent health care tax credit for TAA participants that was reduced to 70 percent in the compromise trade bill. We also give workers additional choices for obtaining health care coverage.

Without strong and meaningful improvements in the TAA program, I think we would not have seen the wide, bipartisan support for the overall trade bill that allowed it to pass the Senate by a vote of 66–30.

For that reason, I view the Senate-passed TAA bill as a floor for what can reasonably be agreed to in conference. I don't think that something weaker is going to get us to a majority when the Senate considers the conference report.

As I mentioned before, many of the provisions included in this new bill were dropped from the trade bill that recently passed the Senate as part of a bipartisan compromise. Many, if not all, of them fall easily within the scope of the upcoming conference.

While I plan to vigorously defend the Senate bill in conference, I want to remind my colleagues in the House that the Senate bill already represents a bipartisan compromise, one worked out with the Administration.

In passing the rule to go to conference, my colleagues in the House have passed a bill that would completely gut the Senate-passed provisions. For example: the restrictions on coverage for secondary workers are so strict as to effectively eliminate coverage; the bill would not cover shifts in production to non-NAFTA countries; and the health care benefits have been significantly weakened. They would cover many fewer workers, for a shorter period of time, with reduced benefits that may be of little use.

I would suggest to my colleagues in the House that efforts to weaken the Senate bill will be met with equally strong efforts to strengthen it. It should come as no surprise that, if my House colleagues persist in trying to weaken TAA, I will feel obligated to raise some of the provisions that were dropped in the Senate negotiations.

As I have said many times, I believe an improved TAA program is critical to regaining public confidence in a liberal trade policy for our country. In future, I intend to keep working toward the goal of improving TAA in every way available. I think this new bill points us in the right direction and I am pleased to be introducing it today.

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By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2738. A bill to provide for the reimbursement under the Medicaid program under title XIX of the Social Security Act of nursing facilities that are located on an Indian reservation in the State of South Dakota and owned or operated by an Indian tribe or tribal organization, and for other purposes; to the Committee on Finance.

Mr. JOHNSON. Mr. President, South Dakota tribes are prevented from developing elder care on their reservations due to a State imposed moratorium on the construction or acquisition of additional nursing home beds. This impasse has gone on for nearly a decade, much too long.

Today I am introducing legislation along with my good friend and colleague Senator DASCHLE, that will facilitate the development and operation of nursing facilities that are owned or operated by an Indian tribe or tribal organization on Indian reservations that are located in the State of South Dakota. Additionally, the legislation will protect the right of members of Indian tribes and tribal organizations to access health care provided by nursing facilities in the exercise of those members' entitlement to medical assistance under the Medicaid program.

The facts and information discussed during the Senate Indian Affairs July 10, 2002, Hearing on Elder Health Issues, confirms the need for this legislation. The National Resource Center on Native American Aging at the University of North Dakota, NRCNAA, reports that there is a "greater level of need for personal assistance among the Native American elders than in the general population". Only 6.5 percent of the Native American elders over 55 receive such services. This fact is especially alarming in light of the fact that Indian elders are affected disproportionately by disability and poor health. For example, the prevalence of diagnosed diabetes among American Indians and Alaska Natives age 65 and over, is 21.5 percent. This is nearly double the rate of 11 percent for the non-Hispanic white population, age 65 and over. Additionally, because of their rural isolation, poverty, and other barriers, reservation elders have little access to existing long term care delivery mechanisms that may serve mainstream or urban elderly populations.

This legislation will reduce existing barriers and give South Dakota tribes, their tribal elders, and their families long-term care alternatives. This legislation will assist tribes in their goal of providing their elders with care that preserves the individuals' dignity and health. I will continue to work closely with tribal leaders in South Dakota and Senator DASCHLE to address this critical problem facing the Native American community. I urge my colleagues to support passage of the South Dakota Tribal Nursing Facilities Act of 2002.

Mr. DASCHLE. Mr. President, today I join the Senator from South Dakota, Mr. Johnson, in introducing the South Dakota Tribal Nursing Facilities Act of 2002. I am proud do be an original cosponsor of this legislation, which will address the growing need for tribally-operated nursing homes on South Dakota's Indian reservations.

The Committee on Indian Affairs recently held a hearing on the growing health concerns facing Native American elders throughout Indian Country. Elderly Native Americans suffer from diabetes and other debilitating illnesses at rates hundreds of times higher than the general population. As more and more people live longer, it is necessary to find new ways to provide them with the health care, support, and services they need to lead productive, dignified lives.

American Indian elders are well respected and play a strong, central role in their communities. They are the storytellers, the historians, the teachers, and the link between the younger generation and the past. Unfortunately, Native American elderly in need of nursing home or other long-term care are forced to enter off-reservation facilities, or pay for private care, which many cannot afford. In rural States like South Dakota, many off-reservation facilities are hundreds of miles from the reservation, which places an increased burden on family members and ioslated the elders who are housed there. Many families cannot afford to visit their parents or grandparents in these distant nursing homes, and the elders often die forgotten and alone. While these nursing homes provide for the physical well-being, their spiritual health suffers.

There are only eleven tribally operated nursing home nationwide, and only one in South Dakota, operated by the Rosebud Sioux Tribe. The National

Indian Council on Aging estimates that there are approximately 165,000 American Indians elderly nationwide, with less than 700 tribal nursing home beds available. Tribal nursing homes will allow tribal elders to remain in their communities, surrounded by friends and loved ones in their later years. In recent years, several South Dakota tribes have expressed an interest in establishing nursing homes on their reservations to provide for their tribal elderly. However, the South Dakota Legislature, in response to a surplus of nursing home beds and dwindling Medicaid funding, enacted a moratorium prohibiting the construction and licensing of new nursing homes.

While the moratorium does not apply to construction on Indian reservations in the State, the prohibition on licensing has the unfortunate effect of blocking access to a key and critical source of funding for any tribally-operated nursing home, Medicaid. Federal law requires that nursing homes be licensed by the State in which they are located to be eligible for reimbursement under Medicaid. The South Dakota Tribal Nursing Facilities Act of 2002 will overcome this obstacle by authorizing Indian tribes to construct, operate and license their own nursing homes. This will level the playing field to afford an opportunity to tribal governments that is afforded already to States. It is my hope this proposal will serve as a starting point so we can begin to address the long-term health care needs of American Indians across the country. I hope you will support our joint efforts

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By Mr. HATCH (for himself, Mr. DEWINE, Mr. LOTT, Mr. DOMENICI, Mr. BUNNING, Mr. GRASSLEY, Mr. KYL, Mr. MCCONNELL, Mr. SESSIONS, Mr. SANTORUM, Mr. HUTCHINSON, Mr. THURMOND, and Mr. HELMS):

S. 2739. A bill to provide for post-conviction DNA testing, to improve competence and performance of prosecutors, defense counsel, and trial judges handling State capital criminal cases, to ensure the quality of defense counsel in Federal capital cases, and for other purposes; to the Committee on the Judiciary

Mr. HATCH. Mr. President, the issue of the death penalty in our country continues to spark significant debate. The recent Supreme Court decisions addressing capital punishment underscore the importance of this issue to the American people. It is an issue that engenders great passion, both among its supporters and among its opponents. The American people believe in the death penalty, especially for terrorists who have killed thousands of Americans. And all of us agree that the death penalty must be imposed fairly and accurately.

I have stated on numerous occasions my views on the death penalty. It is the ultimate punishment and it should be reserved only for those defendants who commit the most heinous of crimes. I am firmly convinced that we must be vigilant in ensuring that capital punishment is meted out fairly against those truly guilty criminals. We cannot and should not tolerate defects in the capital punishment system. No one can disagree with this ultimate and solemn responsibility.

In the last decade, DNA testing has evolved as the most reliable forensic technique for identifying criminals when biological evidence is recovered. While DNA testing is now standard in pre-trial investigations today, the issue of post-conviction DNA testing has emerged in recent years as the technology for such testing has improved. The integrity of our criminal justice system and in particular, our death penalty system, can be enhanced with the appropriate use of DNA testing. No one disagrees with the fact that post-conviction DNA testing should be made available to defendants when it serves the ends of justice.

In addition to post-conviction DNA testing, every defendant in our criminal justice system is afforded the guarantee by the 6th Amendment of our Constitution of competent and effective counsel. The Supreme Court has enforced this right in numerous decisions in order to ensure that all defendants are afforded the constitutional protections guaranteed to them.

Death penalty opponents argue that the system is broken and blame ineffective assistance of counsel. Their own evidence, however, indicates that the system is not broken. To the contrary, a recent Justice Department study concluded that "[i]n both Federal and large State courts, conviction rates were the same for defendants represented by publicly financed and private attorneys." (Caroline Wolf Harlow, Defense Counsel in Criminal Cases, Bureau of Justice Statistics, November 2000). Further, 34 out of 38 States with capital punishment have adopted standards or have existing practices to ensure assignment of competent counsel. In my view, the appellate system and our habeas system, which was reformed in 1996, remain robust and entirely capable of identifying and rectifying instances of deficient representation or substantial error at the trial level.

We have all heard the horror stories of the attorney who fell asleep during his client's trial and the attorney who showed up for trial intoxicated. Some opponents of the death penalty seek to portray these stories as "par for the course." This view ignores the hundreds of capital cases in which no flaw was found in the quality of legal representation. It also ignores the hundreds of capital cases in which defendants were either acquitted, or sentenced to a penalty less than death, many times the result of outstanding representation by defense counsel. The truth is that in many cases prosecutors handling a capital case are out-manned and outgunned by defense teams funded by a combination of public and private sources.

The legislation I introduce today will ensure the integrity of our death penalty system. The Act addresses post-conviction DNA testing for defendants, provides grants to States to fund state post-conviction DNA testing programs, and creates new grant programs to train State prosecutors, defense counsel and judges to ensure that defendants receive a fair capital trial.

First, the Act authorizes post-conviction DNA testing where a federal defendant can show that the DNA test will establish his or her "actual innocence." There has been considerable debate about when a convicted defendant should be entitled to post-conviction DNA testing. Under my proposal, when a defendant demonstrates that a favorable result would show that he or she is actually innocent of the crime, the defendant will be given access to DNA testing. Thus, DNA testing will not be permitted where such a test would only muddy the waters and be used by the defendant to fuel a new and frivolous series of appeals. When a DNA test shows that the defendant is actually innocent, then the Act authorizes the defendant to file a motion for a new trial. Under the Act, DNA testing in capital cases will be prioritized and conducted on a "fast track," so that these important cases are handled quickly.

Second, in order to discourage a flood of baseless claims, the Act authorizes the prosecution of defendants who make false claims of innocence in support of a DNA testing request. Each defendant will be required to assert under penalty of perjury that they are, in fact, innocent of the crime. When DNA testing reveals that the defendant's claim of innocence was actually false, the defendant can then be prosecuted for perjury, contempt or false statements. Further, the Act allows DNA test results to be entered into the CODIS database and compared against unsolved crimes. If the test result shows that the defendant committed another crime, the defendant may then be prosecuted for the other crime.

Third, with respect to State defendants, the Act encourages States to create similar DNA testing procedures, and provides funding assistance to those States that implement DNA testing programs. Twenty-five of 38 States which have capital punishment already have enacted post-conviction DNA testing programs, and 6 States have pending legislation to create such a program. With the new source of funding, more States will enact DNA testing programs, and will provide such testing on an expedited basis.

Fourth, in order to improve the fairness and accuracy of state capital trials, the Act creates grant programs to train defense counsel, prosecutors and trial judges to ensure fair capital trials. While I do not believe that the system is broken, I do believe that our justice system can always be improved. The grants proposed under the Act will enable States to send prosecutors, defense counsel and trial judges to training programs to ensure that capital cases are handled more efficiently and effectively, and that every capital defendant will receive a fair trial under our justice system.

Starting in 2001 and continuing through this year, the Judiciary Committee, has conducted a number of hearings to examine these difficult issues relating to the death penalty system in our country. A competing proposal, S. 486, is now pending before the Committee. The alternative proposal would open the floodgates to frivolous litigation by allowing convicted Federal and State defendants to obtain post-conviction DNA testing even when they have never previously claimed they were innocent of the crime. Second, the alternative proposal tramples on the concept of federalism by stretching the 14th Amendment to mandate DNA testing and evidence preservation requirements on the States. Third, the alternative proposal would strip state courts of their traditional power to appoint counsel to represent indigent defendants; require states to comply with federally-mandated requirements for assignment of competent counsel; and fund new private capital resource litigation centers. Fourth, the alternative bill threatens to reduce valuable Byrne grants to State law enforcement agencies which are needed to fight crime in our local communities. Finally, the alternative bill would authorize a flood of private suits to enforce a set of new federal mandates on each of the states.

My bill will further our nation's commitment to justice, ensure that our country has a fair death penalty system, and protect the sovereignty of states from burdensome and unnecessary federal assertions of power.

I strongly urge my colleagues to join with me in promptly passing this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows

[Data not available at time of printing.]

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By Mr. GRASSLEY (for himself and Mr. NELSON of Nebraska):

S. 2741. A bill to amend title 38, United States Code, to improve procedures for the determination of the inability of veterans to defray expenses of necessary medical care, and for other purposes; to the Committee on Veterans' Affairs.

Mr. GRASSLEY. Mr. President, today I am introducing legislation to address a problem in the way the Department of Veterans Affairs, VA, determines a veteran's eligibility category for health care, which results in an unfair misclassification of many veterans who are farmers. Veterans who do not have a service-connected disability but who are unable to defray the cost of necessary health care are placed in priority group 5 and are able to receive health care services from the VA at no cost to the veteran. In order to determine whether a veteran falls below the means test threshold and is thus eligible to enroll in priority group 5, the VA looks at the net worth of a veteran's estate, including any real property owned by the veteran or the veteran's spouse. When you add in the value of farm land, the net worth of many farmer-veterans can appear high on paper even though they may in fact have little or no income.

The current means test threshold for net worth is set at $80,000. Given the current average value of farm land in Iowa of $1,857, a farm in Iowa worth $80,000 would average a barely viable 44 acres. A more viable 80 acre farm would be worth $148,560 on average. In other words, almost any Iowa farm large enough to be viable would exceed the current means test threshold.

Under the current law, when the value of a veteran's estate exceeds the means test threshold, the veteran becomes ineligible to enroll in priority group 5 if the VA determines that "it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance." I don't think it is ever "reasonable" that a veteran, who has little or no income or other assets, be asked to sell a portion of his family farm in order to pay his medical bills. Nevertheless, because of the way the law currently reads, these land-rich but cash-poor veterans are often placed in priority group 7, meaning they may only enroll in VA health care if they agree to pay co-payments to the VA and then only on a space-available and funds-available basis.

This problem was first brought to my attention by one of my constituents, Larry Sundall, who is a county veterans service officer in Emmet County, IA. In response, I convened a meeting in Des Moines in April of 2000, which was attended by county veterans service officers and State veterans affairs officers from Iowa, Minnesota, Nebraska, and South Dakota as well as VA staff. I heard many similar stories about low-income veterans who were in the same boat. In September of that year, I introduced legislation to fix this problem by excluding the value of real property from the calculation of the net worth of a veteran's estate in determining a veteran's eligibility category for health care.

Unfortunately, my bill was not acted on before the end of the 106th Congress. In the first session of the 107th Congress, an unsuccessful attempt was made to address this issue in the context of legislation to make improvements to various veterans' programs. I am now reintroducing my legislation in hopes of fixing this problem once and for all.

In addition, my bill makes some adjustments to the way the VA determines the attributable income of a veteran that will make the process easier for both the VA and the veteran. The VA currently has the authority to verify a veteran's income using a quick and efficient computer process that matches VA records with data from the IRS and other Federal agencies. However, the data for the prior year is often unavailable making it impossible for the VA to perform this income verification for the majority of veterans at the time when the data is needed. My bill would allow the VA to use the data available for the year preceding the previous year to determine the attributable income of a veteran. This would not only help the VA to more easily and more accurately determine a veteran's income, it would also allow a veteran to check a box to let the VA use this procedure to gather the veteran's income data without the veteran having to dig through his financial records and fill out the information on a form. It can be frustrating for a veteran to have to fill out the paperwork necessary to apply for benefits and this change would make the application process easier for both the veteran and the VA.

My bill would correct a fundamental unfairness that adversely affects veterans who are farmers while making the application process for health benefits simpler for veterans and more efficient for the VA. In fact, taken together, these important reforms would actually save taxpayer dollars. According to data provided to me by the VA, over $8.7 million would be saved in fiscal year 2003 alone. This legislation is a win-win proposition and I would urge my colleagues to join me in supporting the swift passage of this measure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2741

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. IMPROVEMENT OF PROCEDURES FOR DETERMINATION OF INABILITY TO DEFRAY EXPENSES OF NECESSARY MEDICAL CARE.**

(a) EXCLUSION OF CERTAIN ASSETS FROM ATTRIBUTABLE INCOME AND CORPUS OF ESTATES.—Subsection (f) of section 1722 of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting before the period at the end the following: ", except

that such income shall not include the value of any real property of the veteran or the veteran's spouse or dependent children, if any, or any income of the veteran's dependent children, if any"; and

(2) in paragraph (2), by striking "the estates" and all that follows and inserting "the estate of the veteran's spouse, if any, but does not include any real property of the veteran, the veteran's spouse, or any dependent children of the veteran, nor any income of dependent children of the veteran.".

(b) Alternative Year for Determination of Attributable Income.—That section is further amended by adding at the end the following new subsection:

"(h) For purposes of determining the attributable income of a veteran under this section, the Secretary may determine the attributable income of the veteran for the year preceding the previous year, rather than for the previous year, if the Secretary finds that available data do not permit a timely determination of the attributable income of the veteran for the previous year for such purposes.".

(c) Use of Income Information From Certain Other Federal Agencies.—Section 5317 of that title is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) In addition to any other activities under this section, the Secretary may utilize income information obtained under this section from the Secretary of Health and Human Services or the Secretary of the Treasury for the purpose of determining the attributable income of a veteran under section 1722 of this title, in lieu of obtaining income information directly from the veteran for that purpose.".

(d) Permanent Authority To Obtain Information.—(1) Section 5317 of that title, as amended by subsection (c), is further amended by striking subsection (h).

(2) Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7)(D)) is amended in the flush matter at the end by striking the second sentence.

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By Mrs. HUTCHISON (for herself, Mr. Levin, Mr. Bingaman, Mr. Domenici, Mr. Murkowski and Ms. Cantwell):

S. 2742. A bill to establish new nonimmigrant classes for border commuter students; to the Committee on the Judiciary.

Mr. LEVIN. Mr. President, I am pleased to join my colleague from Texas, Senator Hutchison, in introducing legislation to make part-time commuter students who are nationals of either Canada or Mexico and attend school in the United States eligible for student visas.

Thousands of Canadian nationals commute to attend schools part time in the United States and hundreds of these part-time students commute to schools in Michigan. Between 35 and 40 part-time Canadian students attend Baker College, in Port Huron, MI, each semester. And more than 400 Canadian students plan to attend Wayne State University in Detroit part time this fall alone. Other schools in Michigan, including Lake Superior State University in Sault Saint Marie, also have a number of part-time Canadian students. Unfortunately, current law does not establish an appropriate visa for these part-time commuter students.

Under the Immigration and Naturalization Act, aliens who reside in a foreign country and are pursuing a full course of study from a recognized vocational institution or an established college, university, or other academic institution in the United States are eligible for student visas. For purposes of granting student visas, the INS defines "full course of study" as 12 credits or more. Part-time commuter students, those who might be only taking a class or two, are not currently eligible for student visas.

However, some INS district offices have permitted part-time commuter students to enter the United States as visitors to pursue their studies. However, the INS recently announced its intention to eliminate this practice and enforce the full time, 12 credit hour requirement.

I agree with the INS that we need to tighten up enforcement of our immigration laws. However, achieving this goal does not mean that we have to prohibit all part-time commuter students from attending classes at schools in the United States. But absent a legislative remedy, that is exactly what will happen. Fortunately, the agency recently postponed enforcement of the policy until August 15, 2002, while administrative and legislative remedies are considered. The legislation we are introducing today appropriately addresses the problem facing part-time commuter students without opening new avenues for illegal immigration.

Our bill would amend 18 U.S.C. 1101 to make certain part-time commuter students eligible for student visas. The bill would allow nationals of Canada or Mexico who both maintain a residence and a place of abode in their country or nationality and who commute to school to enroll part time in schools in the United States. Part-time commuter student visas are restricted to nationals of Canada or Mexico. Our bill would not make political asylees, residents, or others who are nationals of third countries but simply live in Canada or Mexico eligible for the visas.

The legislation also enhances national security by ensuring that part-time commuter students are tracked through SEVIS, the Student and Exchange Visitor Information System. SEVIS was set up to make the Federal Government aware of changes in a foreign student's status that could affect their eligibility to remain in the United States. The Enhanced Border Security and Visa Entry Reform Act passed by the Senate in April and signed into law by the President on May 14, 2002, paved the way for full implementation of SEVIS. Certain schools began participating in a SEVIS this month and participation is mandatory by January 30, 2003. However, SEVIS only tracks nonimmigrant students and exchange visitors. Aliens admitted with visitor visas are not tracked through the system. Our bill will, for the first time, ensure that part-time commuter students from Canada and Mexico are tracked through SEVIS.

Mr. President, the legislation we are introducing today is not only an improvement on current INS policy with regards to part-time commuter students but it closes an important loophole in INS's student tracking system. I am pleased to join Senator Hutchinson in introducing the bill and I look forward to seeing it pass the 107th Congress.

### BORDER COMMUTER STUDENT ACT OF 2002

Ms. CANTWELL. Mr. President, I am joining today with Senator Kay Bailey Hutchison to introduce the Border Commuter Student Act of 2002.

In my State and many other States along our borders, Canadian and Mexican students take advantage of our excellent community colleges and vocational schools. For many years, this system has worked well, providing economic benefits to the schools and to the surrounding communities while also helping Mexican and Canadian students to benefit from educational opportunities in this country.

Unfortunately, despite the fact that this is a system that has worked well for both Canadian students and the local communities the Immigration and Naturalization, INS, recently decided to begin enforcing a 50-year-old law that prohibits those students from attending U.S. schools on a part-time basis. As of August 15, students will no longer be allowed to cross the Canadian border to attend classes at Bellingham Technical College. This will result in a significant loss of funds for Bellingham Technical College and the surrounding community in Whatcom County which is already suffering from severely reduced border traffic in the wake of September 11 and the economic downturn in the State as a whole.

They will not be allowed to cross the border to attend El Paso Community College, D'Youville College in Buffalo, or Wayne State University in Detroit.

In my home State of Washington, Bellingham Technical College currently has many part-time students who commute from Canada, the vast majority of whom are enrolled in nursing, surgical technology, and dental assistant training programs. This action is being taken at the same time we are facing a devastating shortage of nurses and other health care professionals both in the United States and in Canada.

This bill will address this issue by creating a new category for students who do not intend to immigrate to this country. It will be limited to Canadian and Mexican commuter students residing in their home country and attending school on a full- or part-time basis at schools in many of our border States. In order to qualify for this visa, students will have to prove that they are who they say they are, and will be subjected to more strict requirements than Canadian visitors entering the U.S. for pleasure.

Our educational system is the best in the world, and the INS decision to terminate a system that has been extending that educational opportunity to those who live adjacent to our borders and that has been providing economic benefit to my State and many other States, is the wrong policy. With the introduction of this legislation today, we will address this problem and allow a system that has been working to continue. I am proud to be a cosponsor of the Border Commuter Student Act of 2002.

I would like to thank Senator HUTCHISON for her leadership on the bill and look forward to working with her and my other colleagues to pass this important legislation

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By Mr. KYL (for himself and Mr. McCAIN):

S. 2743. A bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; to the Committee on Indian Affairs.

Mr. KYL. Mr. President, on behalf of Senator McCAIN and myself I am introducing legislation today that would codify the settlement of the Zuni Indian Tribe's water rights for its religious lands in northeastern Arizona. Congress first recognized the importance of these lands in 1984 when it created the Zuni Heaven Reservation, Pub. L. No. 98-498, as amended by Pub. L. No. 101-486, 1990. The small communities upstream from this Reservation have been fully-appropriated, they have had more would-be water users than water, for nearly a century. The prospect of dividing this limited water with yet another user created great uncertainty. To resolve that uncertainty and to avoid expensive and protracted litigation, the Zuni Tribe, the United States on behalf of the Zuni Tribe, the State of Arizona, including the Arizona Game and Fish Commission, the Arizona State Land Department, and the Arizona State Parks Board, and the major water users in this area of Arizona negotiated for many years to produce a settlement that is acceptable to all parties.

This bill would provide the Zuni Tribe with the resources and protections necessary to acquire water rights from willing sellers and to restore and protect the wetland environment that previously existed on the Reservation. In return, the Zuni Tribe would waive its claims in the Little Colorado River Adjudication. In addition, the Zuni Tribe would, among other things, grandfather existing water uses and waive claims against many future water uses in the Little Colorado River basin. In summary, with this bill, the Zuni Tribe can achieve its needs for the Zuni Heaven Reservation while avoiding a disruption to local water users and industry. Furthermore, the United States can avoid litigating water rights and damage claims and satisfy its trust responsibilities to the Tribe regarding water for the Reservation. The parties have worked many years to reach consensus and I believe this bill would produce a fair result to all.

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By Mr. DEWINE (for himself and Mr. VOINOVICH):

S. 2744. A bill to establish the National Aviation Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Mr. DeWINE. Mr. President, I rise today with my friend and fellow Ohioan, Senator VOINOVICH, to introduce a bill that would establish a National Aviation Heritage Area within our home state of Ohio.

The year 2003 represents the 100th anniversary of manned flight. On December 17, 1903, Wilbur and Orville Wright, who are native Ohioans, invented controlled, heavier-than-air flight. This was the first step in the century-long progression of flight. The Wright Brothers' successful design and the science behind it were the forerunners to our modern airplanes and space vehicles.

There is obvious historical and cultural significance to the birth of aviation, and one of the unique educational aspects of aviation is the opportunity we can give children to interact with the subject outside of the classroom. This is why I am proud today to be introducing the National Aviation Heritage Area Act.

Our bill seeks to foster strong public and private investments in aviation landmarks. Some of these landmarks include the Wright Brother's Wright Cycle Company, located in Dayton, OH; the National Aviation Hall of Fame; the Wright-Dunbar Interpretive Center, where students of all ages can learn about the painstaking measures the Wright Brothers and many of their predecessors took to fly; and the Huffman Prairie Flying Field, where the Brothers perfected the design of the world's first airplane. Listed in the bill are several other important aviation sites that may be added into the Heritage Area at a later date, such as the NASA-Glenn Research Facility and the Captain Edward V. Rickenbacher House.

Mr. President, flight has become another important square in the patchwork of our nation's history. We are reminded of this every time we look skyward and see the crisscross of jet contrails. We are reminded of this every time we walk through the Rotunda of our very own U.S. Capitol and see the last frieze square that depicts the invention of flight by the Wright Brothers. And, we are reminded of this by one of the symbols of America, the eagle, a flying bird that represents the freedom of a people.

It is vital that we protect the sites that have played such an important role in aviation. Doing so, we can enhance the education and enrichment of our children and our grandchildren for many years to come.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2744

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I—NATIONAL AVIATION HERITAGE AREA

### SECTION 101. SHORT TITLE.

This title may be cited as the "National Aviation Heritage Area Act".

### SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Few technological advances have transformed the world or our Nation's economy, society, culture, and national character as the development of powered flight.

(2) The industrial, cultural, and natural heritage legacies of the aviation and aerospace industry in the State of Ohio are nationally significant.

(3) Dayton, Ohio, and other defined areas where the development of the airplane and aerospace technology established our Nation's leadership in both civil and military aeronautics and astronautics set the foundation for the 20th Century to be an American Century.

(4) Wright-Patterson Air Force Base in Dayton, Ohio, is the birthplace, the home, and an integral part of the future of aerospace.

(5) The economic strength of our Nation is connected integrally to the vitality of the aviation and aerospace industry, which is responsible for an estimated 11,200,000 American jobs.

(6) The industrial and cultural heritage of the aviation and aerospace industry in the State of Ohio includes the social history and living cultural traditions of several generations.

(7) The Department of the Interior is responsible for protecting and interpreting the Nation's cultural and historic resources, and there are significant examples of these resources within Ohio to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Aviation Heritage Foundation, Incorporated, the State of Ohio, and other local and governmental entities to adequately conserve, protect, and interpret this heritage for the educational and recreational benefit of this and future generations of Americans, while providing opportunities for education and revitalization.

(8) Since the enactment of the Dayton Aviation Heritage Preservation Act of 1992

(Public Law 102-419), partnerships among the Federal, State, and local governments and the private sector have greatly assisted the development and preservation of the historic aviation resources in the Miami Valley.

(9) An aviation heritage area centered in Southwest Ohio is a suitable and feasible management option to increase collaboration, promote heritage tourism, and build on the established partnerships among Ohio's historic aviation resources and related sites.

(10) A critical level of collaboration among the historic aviation resources in Southwest Ohio cannot be achieved without a congressionally established national heritage area and the support of the National Park Service and other Federal agencies which own significant historic aviation-related sites in Ohio.

(11) The Aviation Heritage Foundation, Incorporated, would be an appropriate management entity to oversee the development of the National Aviation Heritage Area.

(12) Five National Park Service and Dayton Aviation Heritage Commission studies and planning documents "Study of Alternatives: Dayton's Aviation Heritage", "Dayton Aviation Heritage National Historical Park Suitability/Feasibility Study", "Dayton Aviation Heritage General Management Plan", "Dayton Historic Resources Preservation and Development Plan", and Heritage Area Concept Study (in progress) demonstrated that sufficient historical resources exist to establish the National Aviation Heritage Area.

(13) With the advent of the 100th anniversary of the first powered flight in 2003, it is recognized that the preservation of properties nationally significant in the history of aviation is an important goal for the future education of Americans.

(14) Local governments, the State of Ohio, and private sector interests have embraced the heritage area concept and desire to enter into a partnership with the Federal Government to preserve, protect, and develop the Heritage Area for public benefit.

(15) The National Aviation Heritage Area would complement and enhance the aviation-related resources within the National Park Service, especially the Dayton Aviation Heritage National Historical Park, Ohio, and the Wright Brothers National Memorial, Kitty Hawk, North Carolina.

(b) PURPOSE.—The purpose of this title is to establish the Heritage Area to—

(1) encourage and facilitate collaboration among the facilities, sites, organizations, governmental entities, and educational institutions within the Heritage Area to promote heritage tourism and to develop educational and cultural programs for the public;

(2) preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, structures, facilities, and sites within the National Aviation Heritage Area;

(3) encourage within the National Aviation Heritage Area a broad range of economic opportunities enhancing the quality of life for present and future generations;

(4) provide a management framework to assist the State of Ohio, its political subdivisions, other areas, and private organizations, or combinations thereof, in preparing and implementing an integrated Management Plan to conserve their aviation heritage and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the Heritage Area; and

(5) authorize the Secretary to provide financial and technical assistance to the State of Ohio, its political subdivisions, and private organizations, or combinations thereof, in preparing and implementing the private Management Plan.

### SEC. 103. DEFINITIONS.

For purposes of this title:

(1) BOARD.—The term "Board" means the Board of Directors of the Foundation.

(2) FINANCIAL ASSISTANCE.—The term "financial assistance" means funds appropriated by Congress and made available to the management entity for the purpose of preparing and implementing the Management Plan.

(3) HERITAGE AREA.—The term "Heritage Area" means the National Aviation Heritage Area established by section 4 to receive, distribute, and account for Federal funds appropriated for the purpose of this title.

(4) MANAGEMENT PLAN.—The term "Management Plan" means the management plan for the Heritage Area developed under section 106.

(5) MANAGEMENT ENTITY.—The term "management entity" means the Aviation Heritage Foundation, Incorporated (a nonprofit corporation established under the laws of the State of Ohio).

(6) PARTNER.—The term "partner" means a Federal, State, or local governmental entity, organization, private industry, educational institution, or individual involved in promoting the conservation and preservation of the cultural and natural resources of the Heritage Area.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) TECHNICAL ASSISTANCE.—The term "technical assistance" means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary.

### SEC. 104. NATIONAL AVIATION HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State of Ohio, and other areas as appropriate, the National Aviation Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall include the following:

(1) A core area consisting of resources in Montgomery, Greene, Warren, Miami, Clark, and Champaign Counties in Ohio.

(2) The Neil Armstrong Air & Space Museum, Wapakoneta, Ohio, and the Wilbur Wright Birthplace and Museum, Millville, Indiana.

(3) Sites, buildings, and districts recommended by the Management Plan.

(c) MAP.—A map of the Heritage Area shall be included in the Management Plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Aviation Heritage Foundation.

### SEC. 105. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

(a) AUTHORITIES.—For purposes of implementing the Management Plan, the management entity may use Federal funds made available through this Act to—

(1) make grants to, and enter into cooperative agreements with, the State of Ohio and political subdivisions of that State, private organizations, or any person;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.— The management entity shall—

(1) develop and submit to the Secretary for approval the proposed Management Plan in accordance with section 106;

(2) give priority to implementing actions set forth in the Management Plan, including taking steps to assist units of government and nonprofit organizations in preserving resources within the Heritage Area and encouraging local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the Management Plan;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area in developing and implementing the Management Plan;

(4) maintain a collaboration among the partners to promote heritage tourism and to assist partners to develop educational and cultural programs for the public;

(5) encourage economic viability in the Heritage Area consistent with the goals of the Management Plan;

(6) assist units of government and nonprofit organizations in—

(A) establishing and maintaining interpretive exhibits in the Heritage Area;

(B) developing recreational resources in the Heritage Area;

(C) increasing public awareness of and appreciation for the historical, natural, and architectural resources and sites in the Heritage Area; and

(D) restoring historic buildings that relate to the purposes of the Heritage Area;

(7) assist units of government and nonprofit organizations to ensure that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are placed throughout the Heritage Area;

(8) conduct public meetings at least quarterly regarding the implementation of the Management Plan;

(9) submit substantial amendments to the Management Plan to the Secretary for the approval of the Secretary; and

(10) for any year in which Federal funds have been received under this Act—

(A) submit an annual report to the Secretary that sets forth the accomplishments of the management entity and its expenses and income;

(B) make available to the Secretary for audit all records relating to the expenditure of such funds and any matching funds; and

(C) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of such funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The management entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds from other sources for authorized purposes.

### SEC. 106. MANAGEMENT PLAN.

(a) PREPARATION OF PLAN.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a proposed Management Plan that shall take into consideration State and local plans and involve residents, public agencies, and private organizations in the Heritage Area.

(b) CONTENTS.—The Management Plan shall incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area and shall include the following:

(1) An inventory of the resources contained in the core area of the Heritage Area, including the Dayton Aviation Heritage Historical Park, the sites, buildings, and districts listed in section 202 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419), and any other property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, or maintained because of its significance.

(2) Recommendations for inclusion within the Heritage Area of suitable and feasible sites, buildings, and districts outside the core area of the Heritage Area. Such recommendations shall be included in the inventory required under paragraph (1) and may include the following:

(A) The Wright Brothers National Memorial, Kitty Hawk, North Carolina.

(B) The Captain Edward V. Rickenbacker House National Historic Landmark, Columbus, Ohio.

(C) The NASA Glenn Research Center at Lewis Field, Cleveland, Ohio.

(D) The Rocket Engine Test Facility National Historic Landmark, Sandusky, Ohio.

(E) The Zero Gravity Research Facility National Historic Landmark, Cleveland, Ohio.

(F) The International Women's Air & Space Museum, Inc., Cleveland, Ohio.

(G) The John and Annie Glenn Museum and Exploration Center, New Concord, Ohio.

(3) An assessment of cultural landscapes within the Heritage Area.

(4) Provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with the purposes of this Act.

(5) An interpretation plan for the Heritage Area.

(6) A program for implementation of the Management Plan by the management entity, including the following:

(A) Facilitating ongoing collaboration among the partners to promote heritage tourism and to develop educational and cultural programs for the public.

(B) Assisting partners planning for restoration and construction.

(C) Specific commitments of the partners for the first 5 years of operation.

(7) The identification of sources of funding for implementing the plan.

(8) A description and evaluation of the management entity, including its membership and organizational structure.

(c) DISQUALIFICATION FROM FUNDING.—If a proposed Management Plan is not submitted to the Secretary within 3 years of the date of the enactment of this Act, the management entity shall be ineligible to receive additional funding under this Act until the date on which the Secretary receives the proposed Management Plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—The Secretary, in consultation with the State of Ohio, shall approve or disapprove the proposed Management Plan submitted under this Act not later than 90 days after receiving such proposed Management Plan.

(e) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed Management Plan, the Secretary shall advise the management entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed Management Plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(f) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve substantial amendments to the Management Plan. Funds appropriated under this Act may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

### SEC. 107. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Upon the request of the management entity, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Heritage Area to develop and implement the Management Plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(A) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(2) OTHER ASSISTANCE.—Upon request, the Superintendent of Dayton Aviation Heritage National Historical Park may provide to public and private organizations within the Heritage Area, including the management entity, such technical and financial assistance as appropriate to support the implementation of the Management Plan, subject to the availability of appropriated funds. The Secretary is authorized to make grants and enter into cooperative agreements with public and private organizations for the purpose of implementing this subsection.

(b) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this Act;

(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(4) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

### SEC. 108. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE AND THE ADMINISTRATOR OF NASA.

The decisions concerning the execution of this title as it applies to properties under the control of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall be made by such Secretary or such Administrator, in consultation with the Secretary of the Interior.

### SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

(b) 50 PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent.

(c) OTHER FEDERAL FUNDS.—Other Federal funding received by the management entity for the implementation of this Act shall not be counted toward the authorized appropriation.

### SEC. 110. SUNSET PROVISION.

The Secretary shall not provide any grant or other assistance under this title after September 30, 2017.

## TITLE II—WRIGHT COMPANY FACTORY STUDY

### SEC. 201. STUDY.

(a) IN GENERAL.—The Secretary shall conduct a special resource study updating the study required under section 104 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419) and detailing alternatives for incorporating the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park.

(b) CONTENTS.—The study shall include an analysis of alternatives for including the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park that detail management and development options and costs.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with the Delphi Corporation, the Dayton Aviation Heritage Commission, the Aviation Heritage Foundation, State and local agencies, and other interested parties in the area.

### SEC. 202. REPORT.

Not later than 2 years after funds are first made available for this title, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study conducted under section 201.

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By Mr. BENNETT (for himself and Mr. HATCH):

S. 2745. A bill to provide for the exchange of certain lands in Utah; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, it gives me great pleasure today to introduce for the Senate's consideration legislation that will benefit the school children of Utah and improve the management of the public lands within Utah. This legislation closely follows two previous legislated land exchanges, the "Utah Schools and Lands Exchange Act of 1998" and the "Utah West Desert Land Exchange Act of 2000". Each of these past exchanges has enabled the Federal Government to consolidate lands in Utah with significant resource value while the State of Utah has accumulated lands of lesser environmental significance, but with higher revenue generating potential. The Federal-Utah State Trust Lands Consolidation Act will only add to the successes earned through the last two land exchanges.

The Utah Enabling Act of 1894 granted to the State four sections, each section approximately 640 acres in size, in each 36 square-mile township. These lands were granted for the support of the public schools, and thus are referred to a school trust lands. Accordingly, the School and Institutional trust Lands Administration, SITLA, is required by law to generate revenue in accordance with its mission from approximately 3.5 million acres of widely dispersed land. The location of these lands, as they are not contiguous to each other, has made management by the State difficult. In addition, as school trust lands are interspersed with Federal lands, Federal land designations, such as wilderness study areas, national monuments, and national parks, have further complicated the state's ability to fully carry out its trust responsibility to its public schools.

The legislation I propose today will ratify an agreement signed by the State of Utah, the Department of the Interior, and the Department of Agriculture. Under the agreement the Federal Government will receive 108, 284 acres from SITLA while the Federal government will transfer to SITLA approximately 133,000 acres of federal lands. SITLA will exchange property with significant resource values including inholdings in the Manti-La Sal National Forest, the Red Cliffs Desert Reserve, and most importantly 102,000 acres in the San Rafael Swell. The San Rafael Swell is one of the most remarkable areas in the county. It is 900 square miles of rugged terrain sprinkled with amazing mesas, buttes, and canyons. The San Rafael Swell also contains significant natural, historical, and cultural resources and it is home to an important population of desert bighorn sheep. Furthermore, over the yeas the San Rafael Swell has been proposed to be designated as wilderness, a national conservation area, a heritage area, and a national monument. It is widely agreed that this area deserves special recognition. Because of the proposed designations and the overall importance of the San Rafael Swell, sizable school trust inholdings are not advisable; both the State and Federal Government would be better served by consolidated ownership.

The majority of the lands acquired by the SITLA are in the Uinta Basin, which will compliment current SITLA holdings. These lands are less environmentally sensitive but have good potential for development in the future, thereby allowing the State to maintain its trust responsibilities. Additional properties will be acquired in Emery, Washington, Sevier, and Utah counties.

During negotiations between the State of Utah and the Federal Government great care was taken to exclude from exchange Federal lands designated as wilderness study areas, areas proposed for wilderness designations in pending Federal legislation, significant endangered species habitat, significant archaeological resources, areas of critical environmental concern, or other lands known to raise significant environmental concerns of any kind. Additionally, the parties to this agreement expended substantial effort to ensure the value of the exchange was equal. To ensure the exchange was of comparable value the parties obtained the services of a nationally recognized real estate consultant who reviewed the methodologies and assumptions used to determine value. After completing a thorough review, the consultant supported the parties' conclusion that the exchange was of equal value.

This legislation has the strong support of Utah's delegation, the Utah State Office of Education, and the Utah Parent Teacher Association. I look forward to working with my colleagues to pass this legislation this year.

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By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 2746. A bill to establish a Federal Liaison on Homeland Security in each State, to provide coordination between the Department of Homeland Security and State and local first responders, and for other purposes; to the Committee on Governmental Affairs.

Mr. FEINGOLD. Mr. President, I rise today with my colleague from Maine to introduce legislation to improve and streamline Federal support for first responders. Our proposal will also provide an avenue for our first responders, our fire fighters, law enforcement, rescue, and emergency medical service, EMS, providers, to help Federal agencies and the new Department of Homeland Security improve and coordinate existing programs and future initiatives.

The President has proposed a massive shift in the Federal Government by creating a new Department of Homeland Security. While Washington will surely be shaken up by this restructuring, nobody will feel the impact of this shift more than those on the front lines, our law enforcement, firefighters, rescue workers, EMS providers, and other first responders.

I am concerned that as the proposed Department of Homeland Security moves forward, one of the most important functions has not received enough consideration, supporting first responders.

A recent editorial by Amy Smithson, the Director of the Chemical and Biological Nonproliferation Project at the Henry L. Stimson Center, which was published in the New York Times, illustrates that even without this massive re-organization, Washington must do a more effective job in targeting the resources to the training and equipment programs that our communities need.

Ms. Smithson details how Washington has already shifted key training and equipment programs for firefighters, police, paramedics, and others from the Defense Department to the Justice Department and now on to the Federal Emergency Management Agency.

While these first responders are the most important people in any emergency, they received just $311 million of the more than $9.7 billion in counter-terrorism spending in 2001.

While I commend the Administration for raising the funding dedicated to first responders for 2003 fiscal year to $5 billion, I share Ms. Smithson's concern that with the new layers of bureaucracy and reorganization, that number could shrink significantly.

Providing resources is not the only answer. These resources need to be dedicated to those programs that meet the needs of the first responders serving our communities.

The Federal agencies in the Department of Homeland Security must listen to the priorities of our communities. After all, the needs of first responders vary between regions, as well as between rural and urban communities. In Wisconsin, I have heard needs ranging from training to equipment to more emergency personnel in the field, just to name a few.

We must listen to our law enforcement officials to identify which programs most effectively help them protect our communities. We must listen to our firefighters and fire chiefs to identify which programs most effectively prevent and respond to disasters.

Once we have identified these programs and perceived needs, the Federal agencies under the New Department of Homeland Security must coordinate their activities in an effective manner.

In the case of EMS providers, more than five Federal agencies currently support EMS services, but they lack coordination and the necessary input from our local EMS providers. Earlier this year, Congress approved legislation, sponsored by the Senator from Maine and myself, that would improve coordination between these services.

We must ensure that the agencies within the Department of Homeland Security promote this same kind of coordination and not fall into the trap of five separate initiatives to address the same problem.

Our legislation, the First Responder Support Act will promote effective coordination among Federal agencies under the Department of Homeland Security and ensure that our first responders, our firefighters, law enforcement, rescue, and EMS providers, can help Federal agencies and the new Department of Homeland Security improve existing programs and future initiatives.

Our proposal establishes a Federal Liaison on Homeland Security in each State, to provide coordination between the Department of Homeland Security and State and local first responders. This office will serve not only as an avenue to exchange ideas, but also as a resource to ensure that the funding and programs are effective. For example, they can help ensure that State and local priorities are matching up with those set out at the new Department. They can also identify areas of Homeland Security in which the Federal and State or local role is duplicative and recommend ways to decrease or eliminate unneeded resources.

It would also direct the agencies within the Department of Homeland Security to coordinate and prioritize their activities that support first responders, and at the same time, ensure effective use of taxpayer dollars.

As part of this coordination, the First Responders Support Act establishes a new advisory committee of those in the first responder community to identify and streamline effective programs.

I am submitting this proposal in the hope that the Committee charged with creating the new agency will consider it during their mark up of any legislation. I recognize, however, that this consideration does not prejudge which committee will be charged with oversight of this new department.

We must be aggressive in seeking the advice of our first responders, and helping them to attain the resources that they need to provide effective services. They are on the front lines, and deserve our support. In almost any disaster, the local first providers and health care providers play an indispensable role. If the Department of Homeland Security is to be effective, we need to ensure that the resources are delivered to the front line personnel in an effective and coordinated manner. I urge my Colleagues to join me in cosponsoring this proposal and support our first responders.

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By Mr. CONRAD:

S. 2748. A bill to authorize the formulation of State and regional emergency telehealth network testbeds and within the Department of Defense, a telehealth task force; to the Committee on Armed Services.

Mr. CONRAD. Mr. President, today I am introducing the National Emergency Telemedical Communications Act of 2002 or NETCA. This bill would take important steps to strengthen our Nation's ability to respond to and manage biological, chemical, and nuclear terrorist attacks and other natural disasters.

Today, we live in a world forever changed by the September 11 attacks on our country. These events exposed weaknesses in our homeland defense; the anthrax attacks further showed how important it is to have a strong public health system and what happens when such a system has been neglected.

My bill would help address both of these issues. It would authorize two regional telehealth test beds, linking local and state health departments with the CDC, academic, VA, and DoD medical centers, Emergency Medical Services, and other health entities. Additionally, these efforts would be coordinated with local and State law enforcement, fire departments, and the National Guard. The system would then be tested for its ability to gather information in real-time, send timely alerts, and connect front-line responders with key support people to prevent or assist in managing a crisis. For instance, in a situation where there are mass casualties, an emergency room physician, while in the hospital, would be able to assist the emergency medical technician at the scene in triaging patients and directing where patients should be transported. They also would be able to participate directly in the treatment of patients in the field and not have to wait for them to arrive at the hospital. In these situations, minutes mean lives; enactment of this legislation would save lives.

But this system would do more than allow for medical specialist-to-patient consultations; it would permit disaster experts hundreds or even thousands of miles away to view the disaster area and communicate directly with front-line responders. For example, in a "dirty" bomb explosion, fire and rescue responders might not notice anything different than expected based upon their training for response to explosives. However, if their trucks and uniforms were equipped with devices that recognized this radiation, not only would they be alerted, but the information could be automatically relayed by the telehealth system to radiation experts who could then be "brought" to the scene to help direct the response and improve responder safety.

For such a system to work, everyone must be on the same page. This means the information being sent must be understood by all. We cannot have one part of the system use medical terminology typical for one region of the country, such as "reactive airway disease", and another part of the system using a different name, such as "asthma." Thus, a common agreed upon language must be determined. Furthermore, each statewide network must be connected in a seamless fashion so this information can pass through smoothly and without interruption. My bill would create a task force of relevant experts from private and government to solve both of these challenges and then use the test beds to evaluate their solutions.

In the end, I envision an intelligent system, capable of gathering information real-time and proactively connecting front-line responders with key support people. It would provide timely alerts, crisis response, prevention, and prediction of medical and other dangers.

Ultimately, it is my hope that this project will lead to the formation of a secure National Emergency Telemedical Network. I am happy to say that there is broad support for this legislation in the telemedicine and information management communities, as well as in various State and Federal agencies. In particular, I am pleased that my bill has been endorsed by the American Telemedicine Association, the Center for Telemedicine Law, the American Association of Medical Colleges, the North Dakota Hospital Association, the North Dakota Medical Association, the North Dakota State Department of Health, the University of Texas Health Sciences Center, the University of Tennessee Health Sciences Center, and the Telemedicine Center of East Carolina University. I am also pleased that Senator Kay Bailey Hutchison has joined me in this effort, and I urge my other colleagues to support this important piece of legislation.

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By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. SCHUMER, Mrs. CLINTON, Mr. DODD, and Mr. LIEBERMAN):

S. 2749. A bill to establish the Highlands Stewardshp area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry

Mr. CORZINE. Mr. President, today along with Senator TORRICELLI, Schumer, Clinton, Dodd and Lieberman, I am introducing the Highlands Stewardship Act of 2002. I am proud to be joining my colleagues from the New Jersey, New York, and Connecticut delegations in the House of Representatives, who have introduced identical legislation in the House.

This legislation would help to preserve one of the last open space treasures in this country, the Highlands forest region that stretches from northwestern Connecticut, across the lower Hudson River valley in New York, through my State of New Jersey and into east-central Pennsylvania. This region encompasses more than two million acres of forest, farms, streams, wetlands, lakes and reservoirs and historic sites. It includes the Green, Taconic and Notre Dame Mountains. It also includes such historic sites as Morristown National Historic Park and West Point.

The value of the ecological, recreational and scenic resources of the Highlands cannot be overstated. 170 million gallons are drawn from the Highlands aquifers daily, providing quality drinking water for over 11 million people. 247 threatened or endangered species live in the Highlands including the timber rattlesnake, wood turtle, red-shouldered hawk, barred owl, great blue heron and eastern wood rat. There also are many fishing, hiking and boating recreation opportunities in the Highlands that are used by many of the one in twelve Americans who live within 2 hours of travel of the Highlands.

Unfortunately, much of Highlands is quickly vanishing. According to a study issued by the United States Department of Agriculture we lost 3,400 acres of forest and 1,600 acres of farmland between 1995 and 2000 to development.

This legislation would designate a Stewardship Area amongst the four States in order to protect the most important Highlands projects. It would create a source of funding for conservation and preservation projects in the Highlands to preserve and protect the open space that remains. $7 million a year for seven years would be provided for conservation assistance projects in the four Highlands states. This funding could be used for items such as smart growth initiatives and cultural preservation projects. $25 million a year over ten years also would be provided for open space preservation projects in the four Highlands states. The source of this funding would be the Land and Water Conservation Fund.

I am proud to introduce this legislation to ensure that we do protect this resource, which is so critical to our quality of life.

I ask unanimous consent that the text of the bill be printed in the RECORD

### S. 2749

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Highlands Stewardship Act of 2002".

### SEC. 2. FINDINGS.

Congress finds that—

(1) the Highlands region is a geographic area that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut;

(2) the Highlands region is an environmentally unique and economically important area that—

(A) provides clean drinking water to over 11,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

(B) provides critical wildlife habitat, including habitat for threatened and endangered species;

(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains—

(i) recreational resources; and

(ii) cultural and multicultural landscapes relating to the development of commerce, transportation, the maritime industry, agriculture, and industry in the Highlands region; and

(E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits;

(3) an estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region;

(4) more than 1,000,000 residents live in the Highlands region;

(5) the Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve natural and agricultural resources, open spaces, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner;

(6) continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources;

(7) the natural, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant;

(8) the national significance of the Highlands region has been documented in—

(A) the Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Assessment Update conducted by the Forest Service in 2001;

(C) the bi-State Skylands Greenway Task Force Report;

(D) the New Jersey State Development and Redevelopment Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition FY 2001-2006

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region;

(9) the Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, restore, promote, or interpret resources of the Highlands region, including—

(A) the Wallkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridors;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail; and

(J) the United States Military Academy at West Point, New York;

(10) it is in the interest of the United States to protect, conserve, restore, promote, and interpret the resources of the Highlands region for the residents of, and visitors to, the Highlands region;

(11) the States of Connecticut, New Jersey, New York, and Pennsylvania, regional entities, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, and promoting the resources of the Highlands region; and

(12) because of the longstanding Federal practice of assisting States in creating, protecting, conserving, preserving, and interpreting areas of significant natural, economic, and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States, regional entities, and units of local government in the Highlands region, protect, restore, promote, preserve, and interpret the natural, agricultural, historical, cultural, and economic resources of the Highlands region.

### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to recognize the importance of the natural resources and the heritage, history, economy, and national significance of the Highlands region to the United States;

(2) to assist the Highlands States, regional entities, and units of local government, public and private entities, and individuals in protecting, restoring, preserving, interpreting, and promoting the natural, agricultural, historical, cultural, recreational, and economic resources of the Highlands Stewardship Area;

(3) to authorize the Secretary of Agriculture and the Secretary of the Interior to provide financial and technical assistance for the protection, conservation, preservation, and sustainable management of forests, land, and water in the Highlands region, including assistance for—

(A) voluntary programs to promote and support private landowners in carrying out forest land and open space retention and sustainable management practices; and

(B) forest-based economic development projects that support sustainable management and retention of forest land in the Highlands region;

(4) to provide financial and technical assistance to the Highlands States, regional entities, and units of local government, and public and private entities for planning and carrying out conservation, education, and recreational programs and sustainable economic projects in the Highlands region; and

(5) to coordinate with and assist the management entities of the Hudson River Valley National Heritage Area, the Wallkill National Refuge Area, the Morristown National Historic Area, and other federally designated areas in the region in carrying out any duties relating to the Highlands region.

### SEC. 4. DEFINITIONS.

In this Act:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means any agricultural producer, regional entity, unit of local government, public entity, private entity, or other private landowner in the Stewardship Area.

(2) HIGHLANDS REGION.—The term "Highlands region" means the region that encompasses nearly 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(3) HIGHLANDS STATE.—The term "Highlands State" means—

(A) the State of Connecticut;

(B) the State of New Jersey;

(C) the State of New York; and

(D) the State of Pennsylvania.

(4) LAND CONSERVATION PARTNERSHIP PROJECT.—The term "land conservation partnership project" means a project in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of protecting, conserving, or preserving the natural, forest, agricultural, recreational, historical, or cultural resources of the Stewardship Area.

(5) OFFICE.—The term "Office" means the Office of Highlands Stewardship established under section 6(a).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(7) STEWARDSHIP AREA.—The term "Stewardship Area" means the Highlands Stewardship Area established under section 5(a).

(8) STUDY.—The term "study" means the Highlands Regional Study conducted by the Forest Service in 1990.

(9) UPDATE.—The term "update" means the New York-New Jersey Highlands Regional

Assessment Update conducted by the Forest Service in 2001.

(10) WORK GROUP.—The term "Work Group" means the Highlands Stewardship Area Work Group established under section 6(c).

**SEC. 5. ESTABLISHMENT OF HIGHLANDS STEWARDSHIP AREA.**

(a) ESTABLISHMENT.—The Secretary and the Secretary of the Interior, shall establish the Highlands Stewardship Area in the Highlands region.

(b) CONSULTATION AND RESOURCE ANALYSES.—In establishing the Stewardship Area, the Secretary and the Secretary of the Interior shall—

(1) consult with appropriate officials of the Federal Government, Highlands States, regional entities, and units of local government; and

(2) utilize the study, the update, and relevant State resource analyses.

(c) MAP.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall prepare a map depicting the Stewardship Area.

(2) AVAILABILITY.—The map shall be on file and available for public inspection at the appropriate offices of the Secretary and the Secretary of the Interior.

**SEC. 6. OFFICE OF HIGHLANDS STEWARDSHIP.**

(a) ESTABLISHMENT.—The Secretary, in consultation with the Under Secretary of Agriculture for Natural Resources and Environment, the Chief of the Natural Resources Conservation Service, the Administrator of the Farm Service Agency, the Chief of the Forest Service, and the Under Secretary for Rural Development, shall establish within the Department of Agriculture the Office of Highlands Stewardship.

(b) DUTIES.—The Office shall implement in the Stewardship Area—

(1) the strategies of the study and update; and

(2) in consultation with the Highlands States, other studies consistent with the purposes of this Act.

(c) HIGHLANDS STEWARDSHIP AREA WORK GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the "Highlands Stewardship Area Work Group" to assist the Office in implementing the strategies of the studies and update referred to in subsection (b).

(2) MEMBERSHIP.—The Work Group shall be comprised of members that represent various public and private interests throughout the Stewardship Area, including private landowners and representatives of private conservation groups, academic institutions, local governments, and economic interests, to be appointed by the Secretary, in consultation with the Governors of the Highlands States.

(3) DUTIES.—The Work Group shall advise the Office, the Secretary, and the Secretary of the Interior on priorities for—

(A) projects carried out with financial or technical assistance under this section;

(B) land conservation partnership projects carried out under section 7;

(C) research relating to the Highlands region; and

(D) policy and educational initiatives necessary to implement the findings of the study and update.

(d) FINANCIAL AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Office may provide financial and technical assistance to an eligible entity to carry out a project to protect, restore, preserve, promote, or interpret the natural, agricultural, historical, cultural, recreational, or economic resources of the Stewardship Area.

(2) PRIORITY.—In determining the priority for financial and technical assistance under paragraph (1), the Office shall consider the recommendations of the study and update.

(3) CONDITIONS.—

(A) IN GENERAL.—The provision of financial assistance under this subsection shall be subject to the condition that the eligible entity enter into an agreement with the Office that provides that if the eligible entity converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the financial assistance was provided, as determined by the Office, the United States shall be entitled to reimbursement from the eligible entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(ii) the amount by which the financial assistance has increased the value of the land on which the project is carried out.

(B) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a project under this subsection shall not exceed 50 percent of the total cost of the project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $7,000,000 for each of fiscal years 2004 through 2010, to remain available until expended.

**SEC. 7. LAND CONSERVATION PARTNERSHIP PROJECTS.**

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary, the Office, and the Governors of the Highlands States, shall annually designate land conservation partnership projects that are eligible to receive financial assistance under this section.

(b) CONDITIONS.—

(1) IN GENERAL.—To be eligible for financial assistance under subsection (a), a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

(A) identifies—

(i) the non-Federal entity that will own or hold the land or interest in land; and

(ii) the source of funds to provide the non-Federal share under paragraph (2);

(B) provides that if the non-Federal entity converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(ii) the amount by which the financial assistance increased the value of the land or interest in land; and

(C) provides that use of the financial assistance will be consistent with—

(i) the open space plan or other plan of the Highlands State in which the land conservation partnership project is being carried out; and

(ii) the findings and recommendations of the study and update.

(2) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this subsection shall not exceed 50 percent of the total cost of the land conservation partnership project.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior from the Treasury or the Land and Water Conservation Fund to carry out this section $25,000,000 for each of fiscal years 2004 through 2013, to remain available until expended.

(2) USE OF LAND AND WATER CONSERVATION FUND.—Appropriations from the Land and Water Conservation Fund under paragraph (1) shall be considered to be for Federal purposes under section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–7).

## STATEMENTS ON SUBMITTED RESOLUTIONS

### SENATE CONCURRENT RESOLUTION 128—HONORING THE INVENTION OF MODERN AIR CONDITIONING BY DR. WILLIS H. CARRIER ON THE OCCASION OF ITS 100TH ANNIVERSARY

Mr. DOOD (for himself and Mr. LIBERMAN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 128

Whereas on July 17, 1902, Dr. Willis H. Carrier submitted designs to a printing plant in Brooklyn, New York, for equipment to control temperature, humidity, ventilation, and air quality, marking the birth of modern air conditioning;

Whereas air conditioning has become an integral technology enabling the advancement of society through improvements to the Nation's health and well-being, manufacturing processes, building capacities, research, medical capabilities, food preservation, art and historical conservation, and general productivity and indoor comfort;

Whereas Dr. Carrier debuted air conditioning technology for legislative activity in the House of Representatives Chamber in 1928, and the Senate Chamber in 1929;

Whereas the air conditioning industry now totals $36,000,000,000 on a global basis and employs more than 700,000 people in the United States; and

Whereas the year 2002 marks the 100th anniversary of modern air conditioning: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress honors the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

Mr. DODD. Mr. President, I rise today to mark the 100th anniversary of the modern air conditioner, which was invented by Dr. Willis H. Carrier in 1902. I join with my colleague Senator LIEBERMAN to submit a Resolution honoring this achievement.

It was 100 years ago today that a 25 year old engineer named Willis Carrier, while trying to address a printing problem caused by heat and humidity at the Sackett-Williams Lithographing and Publishing Company of Brooklyn, developed a cooling solution which ended up revolutionalizing the world we live in.

Dr. Carrier had grown up an only child, surrounded by a large extended family on a farm in Angola, NY. He worked three jobs during his college years at Cornell to pay for his room and board, and showed a work ethic and tirelessness that carried over into his career as a mechanical engineer. His first job after graduation was with the Buffalo Forge Company planning heating mechanisms for the drying of coffee and lumber. It was soon after a promotion to head of the Forge Company's department of experimental engineering that he made his breakthrough with the control of heat and humidity for the Sackett-Williams Company that led to modern air conditioning.

Several years later, he and six friends formed their own company in Syracuse, NY, Carrier, that now has current annual revenues of $9 billion and clients in 170 countries. Indeed, not only has this company grown over the past century, but the expanding role and impact of modern air conditioning has been nothing short of tremendous. Air conditioning has afforded us such a dramatic improvement in quality of life that it is difficult now to conceive of its absence. It has increased our economic productivity and output, our comfort and our mood, and in some cases, our general health and welfare. Some have suggested that air conditioning is even responsible for keeping Washington as our Nation's capital, when long, unbearable summer months not only shortened the legislative session, but threatened to send politicians looking for a more climatically hospitable city to conduct their business in. Dr. Carrier brought air-conditioning to the House Chamber in 1928 and the Senate Chamber in 1929.

Indeed, on a 93 degree day such as today, I think we all see the special value of Dr. Carrier's life's work, and I ask my colleagues to join me remembering him today, and giving our thanks for modern air conditioner.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4299. Mr. REID (for Mr. Dorgan (for himself, Mr. Wellstone, Mr. Jeffords, Ms. Stabenow, Ms. Collins, Mr. Levin, Mr. Johnson, Mr. Miller, Mr. Durbin, Mr. Feingold, and Mr. Harkin)) proposed an amendment to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

SA 4300. Mr. REID (for Mr. Dorgan (for himself, Mr. Wellstone, Mr. Jeffords, Ms. Stabenow, Ms. Collins, Mr. Levin, Mr. Johnson, Mr. Miller, Mr. Durbin, and Mr. Feingold)) proposed an amendment to amendment SA 4299 proposed by Mr. Reid (for Mr. Dorgan (for himself, Mr. Wellstone, Mr. Jeffords, Ms. Stabenow, Ms. Collins, Mr. Levin, Mr. Johnson, Mr. Miller, Mr. Durbin, Mr. Feingold, and Mr. Harkin)) to the bill (S. 812) supra.

SA 4301. Mr. COCHRAN (for himself, Mr. Breaux, Mr. Roberts, Mr. Santorum, Mr. Nickles, and Mr. Hutchinson) proposed an amendment to amendment SA 4299 proposed by Mr. Reid (for Mr. Dorgan (for himself, Mr. Wellstone, Mr. Jeffords, Ms. Stabenow, Ms. Collins, Mr. Levin, Mr. Johnson, Mr. Miller, Mr. Durbin, Mr. Feingold, and Mr. Harkin)) to the bill (S. 812) supra.

SA 4302. Mr. THOMAS (for himself and Mr. Roberts) submitted an amendment intended to be proposed to amendment SA 4299 proposed by Mr. Reid (for Mr. Dorgan (for himself, Mr. Wellstone, Mr. Jeffords, Ms. Stabenow, Ms. Collins, Mr. Levin, Mr. Johnson, Mr. Miller, Mr. Durbin, Mr. Feingold, and Mr. Harkin)) to the bill (S. 812) supra; which was ordered to lie on the table.

SA 4303. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 812, supra; which was ordered to lie on the table.

SA 4304. Mr. SMITH, of New Hampshire (for himself, Mr. Allard, Mr. Grassley, Mr. Hatch, Mr. Burns, Mr. Craig, Mr. Crapo, and Mr. Santorum) submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4305. Mr. REID (for Ms. Stabenow) proposed an amendment to the bill S. 812, supra.

SA 4306. Mrs. FEINSTEIN (for herself, Mrs. Hutchison, Mr. Thurmond, Mr. Domenici, Mr. Bingaman, Mr. Biden, Mr. Carper, Mr. Wyden, Mr. Smith of Oregon, Mr. Frist, and Mr. Thompson) proposed an amendment to the bill H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

## TEXT OF AMENDMENTS

**SA 4299.** Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) proposed an amendment to the bill S. 812), to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; and follows:

S. 812

At the end, add the following:

### TITLE —IMPORTATION OF PRESCRIPTION DRUGS

**SEC. 01. IMPORTATION OF PRESCRIPTION DRUGS.**

(a) In General.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804 and inserting the following:

**"SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS.**

"(a) Definitions.—In this section:

"(1) Importer.—The term 'importer' means a pharmacist or wholesaler.

"(2) Pharmacist.—The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

"(3) Prescription drug.—The term 'prescription drug' means a drug subject to section 503(b), other than—

"(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

"(C) an infused drug (including a peritoneal dialysis solution);

"(D) an intravenously injected drug; or

"(E) a drug that is inhaled during surgery.

"(4) Qualifying laboratory.—The term 'qualifying laboratory' means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

"(5) Wholesaler.—

"(A) In general.—The term 'wholesaler' means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

"(B) Exclusion.—The term 'wholesaler' does not include a person authorized to import drugs under section 801(d)(1).

"(b) Regulations.—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

"(c) Limitation.—The regulations under subsection (b) shall—

"(1) require that safeguards be in place to ensure that each prescription drug imported under the regulations complies with section 505 (including with respect to being safe and effective for the intended use of the prescription drug), with sections 501 and 502, and with other applicable requirements of this Act;

"(2) require that an importer of a prescription drug under the regulations comply with subsections (d)(1) and (e); and

"(3) contain any additional provisions determined by the Secretary to be appropriate as a safeguard to protect the public health or as a means to facilitate the importation of prescription drugs.

"(d) Information and Records.—

"(1) In general.—The regulations under subsection (b) shall require an importer of a prescription drug under subsection (b) to submit to the Secretary the following information and documentation:

"(A) The name and quantity of the active ingredient of the prescription drug.

"(B) A description of the dosage form of the prescription drug.

"(C) The date on which the prescription drug is shipped.

"(D) The quantity of the prescription drug that is shipped.

"(E) The point of origin and destination of the prescription drug.

"(F) The price paid by the importer for the prescription drug.

"(G) Documentation from the foreign seller specifying—

"(i) the original source of the prescription drug; and

"(ii) the quantity of each lot of the prescription drug originally received by the seller from that source.

"(H) The lot or control number assigned to the prescription drug by the manufacturer of the prescription drug.

"(I) The name, address, telephone number, and professional license number (if any) of the importer.

"(J)(i) In the case of a prescription drug that is shipped directly from the first foreign recipient of the prescription drug from the manufacturer;

"(I) Documentation demonstrating that the prescription drug was received by the recipient from the manufacturer and subsequently shipped by the first foreign recipient to the importer.

"(II) Documentation of the quantity of each lot of the prescription drug received by the first foreign recipient demonstrating that the quantity being imported into the United States is not more than the quantity that was received by the first foreign recipient.

"(III)(aa) In the case of an initial imported shipment, documentation demonstrating that each batch of the prescription drug in the shipment was statistically sampled and tested for authenticity and degradation.

"(bb) In the case of any subsequent shipment, documentation demonstrating that a statistically valid sample of the shipment was tested for authenticity and degradation.

"(ii) In the case of a prescription drug that is not shipped directly from the first foreign recipient of the prescription drug from the manufacturer, documentation demonstrating that each batch in each shipment offered for importation into the United States was statistically sampled and tested for authenticity and degradation.

"(K) Certification from the importer or manufacturer of the prescription drug that the prescription drug—

"(i) is approved for marketing in the United States; and

"(ii) meets all labeling requirements under this Act.

"(L) Laboratory records, including complete data derived from all tests necessary to ensure that the prescription drug is in compliance with established specifications and standards.

"(M) Documentation demonstrating that the testing required by subparagraphs (J) and (L) was conducted at a qualifying laboratory.

"(N) Any other information that the Secretary determines is necessary to ensure the protection of the public health.

"(2) MAINTENANCE BY THE SECRETARY.—The Secretary shall maintain information and documentation submitted under paragraph (1) for such period of time as the Secretary determines to be necessary.

"(e) TESTING.—The regulations under subsection (b) shall require—

"(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

"(2) if the tests are conducted by the importer—

"(A) that information needed to—

"(i) authenticate the prescription drug being tested; and

"(ii) confirm that the labeling of the prescription drug complies with labeling requirements under this Act;

be supplied by the manufacturer of the prescription drug to the pharmacist or wholesaler; and

"(B) that the information supplied under subparagraph (A) be kept in strict confidence and used only for purposes of testing or otherwise complying with this Act; and

"(3) may include such additional provisions as the Secretary determines to be appropriate to provide for the protection of trade secrets and commercial or financial information that is privileged or confidential.

"(f) REGISTRATION OF FOREIGN SELLERS.—Any establishment within Canada engaged in the distribution of a prescription drug that is imported or offered for importation into the United States shall register with the Secretary the name and place of business of the establishment.

"(g) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

"(h) PROHIBITION OF DISCRIMINATION.—

"(1) IN GENERAL.—It shall be unlawful for a manufacturer of a prescription drug to discriminate against, or cause any other person to discriminate against, a pharmacist or wholesaler that purchases or offers to purchase a prescription drug from the manufacturer or from any person that distributes a prescription drug manufactured by the drug manufacturer.

"(2) DISCRIMINATION.—For the purposes of paragraph (1), a manufacturer of a prescription drug shall be considered to discriminate against a pharmacist or wholesaler if the manufacturer enters into a contract for sale of a prescription drug, places a limit on supply, or employs any other measure, that has the effect of—

"(A) providing pharmacists or wholesalers access to prescription drugs on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the prescription drug; or

"(B) restricting the access of pharmacists or wholesalers to a prescription drug that is permitted to be imported into the United States under this section.

"(i) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, section 801(d)(1) continues to apply to a prescription drug that is donated or otherwise supplied at no charge by the manufacturer of the drug to a charitable or humanitarian organization (including the United Nations and affiliates) or to a government of a foreign country.

"(j) WAIVER AUTHORITY FOR IMPORTATION BY INDIVIDUALS.—

"(1) DECLARATIONS.—Congress declares that in the enforcement against individuals of the prohibition of importation of prescription drugs and devices, the Secretary should—

"(A) focus enforcement on cases in which the importation by an individual poses a significant threat to public health; and

"(B) exercise discretion to permit individuals to make such importations in circumstances in which—

"(i) the importation is clearly for personal use; and

"(ii) the prescription drug or device imported does not appear to present an unreasonable risk to the individual.

"(2) WAIVER AUTHORITY.—

"(A) IN GENERAL.—The Secretary may grant to individuals, by regulation or on a case-by-case basis, a waiver of the prohibition of importation of a prescription drug or device or class of prescription drugs or devices, under such conditions as the Secretary determines to be appropriate.

"(B) GUIDANCE ON CASE-BY-CASE WAIVERS.—The Secretary shall publish, and update as necessary, guidance that accurately describes circumstances in which the Secretary will consistently grant waivers on a case-by-case basis under subparagraph (A), so that individuals may know with the greatest practicable degree of certainty whether a particular importation for personal use will be permitted.

"(3) DRUGS IMPORTED FROM CANADA.—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

"(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

"(B) is accompanied by a copy of a valid prescription;

"(C) is imported from Canada, from a seller registered with the Secretary;

"(D) is a prescription drug approved by the Secretary under chapter V;

"(E) is in the form of a final finished dosage that was manufactured in an establishment registered under section 510; and

"(F) is imported under such other conditions as the Secretary determines to be necessary to ensure public safety.

"(k) STUDIES; REPORTS.—

"(1) BY THE INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—

"(A) STUDY.—

"(i) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct a study of—

"(I) importations of prescription drugs made under the regulations under subsection (b); and

"(II) information and documentation submitted under subsection (d).

"(ii) REQUIREMENTS.—In conducting the study, the Institute of Medicine shall—

"(I) evaluate the compliance of importers with the regulations under subsection (b);

"(II) compare the number of shipments under the regulations under subsection (b) during the study period that are determined to be counterfeit, misbranded, or adulterated, and compare that number with the number of shipments made during the study period within the United States that are determined to be counterfeit, misbranded, or adulterated; and

"(III) consult with the Secretary, the United States Trade Representative, and the Commissioner of Patents and Trademarks to evaluate the effect of importations under the regulations under subsection (b) on trade and patent rights under Federal law.

"(B) REPORT.—Not later than 2 years after the effective date of the regulations under subsection (b), the Institute of Medicine shall submit to Congress a report describing the findings of the study under subparagraph (A).

"(2) BY THE COMPTROLLER GENERAL.—

"(A) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effect of this section on the price of prescription drugs sold to consumers at retail.

"(B) REPORT.—Not later than 18 months after the effective date of the regulations under subsection (b), the Comptroller General of the United States shall submit to Congress a report describing the findings of the study under subparagraph (A).

"(l) CONSTRUCTION.—Nothing in this section limits the authority of the Secretary relating to the importation of prescription drugs, other than with respect to section 801(d)(1) as provided in this section.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301(aa) (21 U.S.C. 331(aa)), by striking "covered product in violation of section 804" and inserting "prescription drug in violation of section 804"; and

(2) in section 303(a)(6) (21 U.S.C. 333(a)(6), by striking "covered product pursuant to section 804(a)" and inserting "prescription drug under section 804(b)".

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**SA 4300.** Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr.

LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, and Mr. FEINGOLD)) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

In the amendment strike all after the first word and insert the following:

### —IMPORTATION OF PRESCRIPTION DRUGS

**SEC. 01. IMPORTATION OF PRESCRIPTION DRUGS.**

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804 and inserting the following:

**“SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS.**

“(a) DEFINITIONS.—In this section:

“(1) IMPORTER.—The term ‘importer’ means a pharmacist or wholesaler.

“(2) PHARMACIST.—The term ‘pharmacist’ means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

“(3) PRESCRIPTION DRUG.—The term ‘prescription drug’ means a drug subject to section 503(b), other than—

“(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

“(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

“(C) an infused drug (including a peritoneal dialysis solution);

“(D) an intravenously injected drug; or

“(E) a drug that is inhaled during surgery.

“(4) QUALIFYING LABORATORY.—The term ‘qualifying laboratory’ means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

“(5) WHOLESALER.—

“(A) IN GENERAL.—The term ‘wholesaler’ means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

“(B) EXCLUSION.—The term ‘wholesaler’ does not include a person authorized to import drugs under section 801(d)(1).

“(b) REGULATIONS.—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

“(c) LIMITATION.—The regulations under subsection (b) shall—

“(1) require that safeguards be in place to ensure that each prescription drug imported under the regulations complies with section 505 (including with respect to being safe and effective for the intended use of the prescription drug), with sections 501 and 502, and with other applicable requirements of this Act;

“(2) require that an importer of a prescription drug under the regulations comply with subsections (d)(1) and (e); and

“(3) contain any additional provisions determined by the Secretary to be appropriate as a safeguard to protect the public health or as a means to facilitate the importation of prescription drugs.

“(d) INFORMATION AND RECORDS.—

“(1) IN GENERAL.—The regulations under subsection (b) shall require an importer of a prescription drug under subsection (b) to submit to the Secretary the following information and documentation:

“(A) The name and quantity of the active ingredient of the prescription drug.

“(B) A description of the dosage form of the prescription drug.

“(C) The date on which the prescription drug is shipped.

“(D) The quantity of the prescription drug that is shipped.

“(E) The point of origin and destination of the prescription drug.

“(F) The price paid by the importer for the prescription drug.

“(G) Documentation from the foreign seller specifying—

“(i) the original source of the prescription drug; and

“(ii) the quantity of each lot of the prescription drug originally received by the seller from that source.

“(H) The lot or control number assigned to the prescription drug by the manufacturer of the prescription drug.

“(I) The name, address, telephone number, and professional license number (if any) of the importer.

“(J)(i) In the case of a prescription drug that is shipped directly from the first foreign recipient of the prescription drug from the manufacturer:

“(I) Documentation demonstrating that the prescription drug was received by the recipient from the manufacturer and subsequently shipped by the first foreign recipient to the importer.

“(II) Documentation of the quantity of each lot of the prescription drug received by the first foreign recipient demonstrating that the quantity being imported into the United States is not more than the quantity that was received by the first foreign recipient.

“(III)(aa) In the case of an initial imported shipment, documentation demonstrating that each batch of the prescription drug in the shipment was statistically sampled and tested for authenticity and degradation.

“(bb) In the case of any subsequent shipment, documentation demonstrating that a statistically valid sample of the shipment was tested for authenticity and degradation.

“(ii) In the case of a prescription drug that is not shipped directly from the first foreign recipient of the prescription drug from the manufacturer, documentation demonstrating that each batch in each shipment offered for importation into the United States was statistically sampled and tested for authenticity and degradation.

“(K) Certification from the importer or manufacturer of the prescription drug that the prescription drug—

“(i) is approved for marketing in the United States; and

“(ii) meets all labeling requirements under this Act.

“(L) Laboratory records, including complete data derived from all tests necessary to ensure that the prescription drug is in compliance with established specifications and standards.

“(M) Documentation demonstrating that the testing required by subparagraphs (J) and (L) was conducted at a qualifying laboratory.

“(N) Any other information that the Secretary determines is necessary to ensure the protection of the public health.

“(2) MAINTENANCE BY THE SECRETARY.—The Secretary shall maintain information and documentation submitted under paragraph (1) for such period of time as the Secretary determines to be necessary.

“(e) TESTING.—The regulations under subsection (b) shall require—

“(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

“(2) if the tests are conducted by the importer—

“(A) that information needed to—

“(i) authenticate the prescription drug being tested; and

“(ii) confirm that the labeling of the prescription drug complies with labeling requirements under this Act;

be supplied by the manufacturer of the prescription drug to the pharmacist or wholesaler; and

“(B) that the information supplied under subparagraph (A) be kept in strict confidence and used only for purposes of testing or otherwise complying with this Act; and

“(3) may include such additional provisions as the Secretary determines to be appropriate to provide for the protection of trade secrets and commercial or financial information that is privileged or confidential.

“(f) REGISTRATION OF FOREIGN SELLERS.—Any establishment within Canada engaged in the distribution of a prescription drug that is imported or offered for importation into the United States shall register with the Secretary the name and place of business of the establishment.

“(g) SUSPENSION OF IMPORTATION.—The Secretary shall require that importations of a specific prescription drug or importations by a specific importer under subsection (b) be immediately suspended on discovery of a pattern of importation of the prescription drugs or by the importer that is counterfeit or in violation of any requirement under this section or poses an additional risk to the public health, until an investigation is completed and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b).

“(h) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

“(i) PROHIBITION OF DISCRIMINATION.—

“(1) IN GENERAL.—It shall be unlawful for a manufacturer of a prescription drug to discriminate against, or cause any other person to discriminate against, a pharmacist or wholesaler that purchases or offers to purchase a prescription drug from the manufacturer or from any person that distributes a prescription drug manufactured by the drug manufacturer.

“(2) DISCRIMINATION.—For the purposes of paragraph (1), a manufacturer of a prescription drug shall be considered to discriminate against a pharmacist or wholesaler if the manufacturer enters into a contract for sale of a prescription drug, places a limit on supply, or employs any other measure, that has the effect of—

“(A) providing pharmacists or wholesalers access to prescription drugs on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the prescription drug; or

“(B) restricting the access of pharmacists or wholesalers to a prescription drug that is permitted to be imported into the United States under this section.

"(j) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, section 801(d)(1) continues to apply to a prescription drug that is donated or otherwise supplied at no charge by the manufacturer of the drug to a charitable or humanitarian organization (including the United Nations and affiliates) or to a government of a foreign country.

"(k) WAIVER AUTHORITY FOR IMPORTATION BY INDIVIDUALS.—

"(1) DECLARATIONS.—Congress declares that in the enforcement against individuals of the prohibition of importation of prescription drugs and devices, the Secretary should—

"(A) focus enforcement on cases in which the importation by an individual poses a significant threat to public health; and

"(B) exercise discretion to permit individuals to make such importations in circumstances in which—

"(i) the importation is clearly for personal use; and

"(ii) the prescription drug or device imported does not appear to present an unreasonable risk to the individual.

"(2) WAIVER AUTHORITY.—

"(A) IN GENERAL.—The Secretary may grant to individuals, by regulation or on a case-by-case basis, a waiver of the prohibition of importation of a prescription drug or device or class of prescription drugs or devices, under such conditions as the Secretary determines to be appropriate.

"(B) GUIDANCE ON CASE-BY-CASE WAIVERS.—The Secretary shall publish, and update as necessary, guidance that accurately describes circumstances in which the Secretary will consistently grant waivers on a case-by-case basis under subparagraph (A), so that individuals may know with the greatest practicable degree of certainty whether a particular importation for personal use will be permitted.

"(3) DRUGS IMPORTED FROM CANADA.—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

"(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

"(B) is accompanied by a copy of a valid prescription;

"(C) is imported from Canada, from a seller registered with the Secretary;

"(D) is a prescription drug approved by the Secretary under chapter V;

"(E) is in the form of a final finished dosage that was manufactured in an establishment registered under section 510; and

"(F) is imported under such other conditions as the Secretary determines to be necessary to ensure public safety.

"(l) STUDIES; REPORTS.—

"(1) BY THE INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—

"(A) STUDY.—

"(i) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct a study of—

"(I) importations of prescription drugs made under the regulations under subsection (b); and

"(II) information and documentation submitted under subsection (d).

"(ii) REQUIREMENTS.—In conducting the study, the Institute of Medicine shall—

"(I) evaluate the compliance of importers with the regulations under subsection (b);

"(II) compare the number of shipments under the regulations under subsection (b) during the study period that are determined to be counterfeit, misbranded, or adulterated, and compare that number with the number of shipments made during the study period within the United States that are determined to be counterfeit, misbranded, or adulterated; and

"(III) consult with the Secretary, the United States Trade Representative, and the Commissioner of Patents and Trademarks to evaluate the effect of importations under the regulations under subsection (b) on trade and patent rights under Federal law.

"(B) REPORT.—Not later than 2 years after the effective date of the regulations under subsection (b), the Institute of Medicine shall submit to Congress a report describing the findings of the study under subparagraph (A).

"(2) BY THE COMPTROLLER GENERAL.—

"(A) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effect of this section on the price of prescription drugs sold to consumers at retail.

"(B) REPORT.—Not later than 18 months after the effective date of the regulations under subsection (b), the Comptroller General of the United States shall submit to Congress a report describing the findings of the study under subparagraph (A).

"(m) CONSTRUCTION.—Nothing in this section limits the authority of the Secretary relating to the importation of prescription drugs, other than with respect to section 801(d)(1) as provided in this section.

"(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301(aa) (21 U.S.C. 331(aa)), by striking "covered product in violation of section 804" and inserting "prescription drug in violation of section 804"; and

(2) in section 303(a)(6) (21 U.S.C. 333(a)(6), by striking "covered product pursuant to section 804(a)" and inserting "prescription drug under section 804(b)".

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**SA 4301.** Mr. COCHRAN (for himself, Mr. BREAUX, Mr. ROBERTS, Mr. SANTORUM, Mr. NICKLES, and Mr. HUTCHINSON) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

On page 15, line 17, strike "section."." and insert "section." and insert the following new subsection:

"(e) CONDITIONS.—This section shall become effective only if the Secretary of Health and Human Services certifies to the Congress that the implementation of this section will—

"(A) pose no additional risk to the public's health and safety, and

"(B) result in a significant reduction in the cost of covered products to the American consumer."."

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**SA 4302.** Mr. THOMAS (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812), to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table, as follows:

Strike subsection (h) of section 804 of the Federal Food, Drug, and Cosmetic Act (as added by the amendment) and insert the following:

"(h) LABELING.—

"(1) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

"(2) DISCLAIMER.—The importer of any prescription drug under this section shall provide a labeling statement prominently displayed and in bold face type as follows:

**"THIS DRUG HAS BEEN IMPORTED FROM CANADA.**

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**SA 4303.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. ___ . ELIGIBILITY OF CHILDREN ENROLLED IN THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM FOR THE PEDIATRIC VACCINE DISTRIBUTION PROGRAM.**

(a) IN GENERAL.—Section 1928(b)(2)(B)(ii)(I) of the Social Security Act (42 U.S.C. 1396s(b)(2)(B)(ii)(I)) is amended by inserting "(other than a State child health plan under title XXI)" after "policy or plan".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to vaccines administered on or after the date of the enactment of this Act.

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**SA 4304.** Mr. SMITH of New Hampshire (for himself, Mr. ALLARD, Mr. GRASSLEY, Mr. HATCH, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___ . MEDICARE PAYMENT FOR OUTPATIENT PRESCRIPTION DRUGS UNDER THE RX OPTION.**

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

"PART E—VOLUNTARY MEDICARE
PRESCRIPTION DRUG COVERAGE

"MEDICARE PRESCRIPTION DRUG PLAN

"SEC. 1860AA. (a) IN GENERAL.—Each Medicare Prescription Drug Plan eligible individual may elect coverage (beginning on

January 1, 2003) under this part in lieu of any other prescription drug coverage program under this title by enrolling in the Rx Option in order to receive coverage for outpatient prescription drugs as described in section 1860BB and to pay a combined deductible under section 1860CC.

"(b) MEDICARE PRESCRIPTION DRUG PLAN ELIGIBLE INDIVIDUAL DEFINED.—In this part, the term 'Medicare Prescription Drug Plan eligible individual' means an individual who is—

"(1) eligible for benefits under part A and enrolled under part B;

"(2) not enrolled in a Medicare+Choice plan under part C; and

"(3) not eligible for medical assistance for outpatient prescription drugs under title XIX.

### "RX OPTION

"SEC. 1860BB. (a) ENROLLMENT IN THE RX OPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall establish a process for the enrollment of Medicare Prescription Drug Plan eligible individuals under the Rx Option that is based upon the process for enrollment in Medicare+Choice plans under part C of this title.

"(2) EXCEPTIONS.—

"(A) 2-YEAR OBLIGATION.—Except as provided in subparagraph (B), a Medicare Prescription Drug Plan eligible individual who elects the Rx Option shall be subject to the provisions of this part for a minimum period of 2 years, beginning with the first full month during which the individual is eligible for benefits under the Rx Option.

"(B) FREE LOOK PERIOD.—An individual who elects the Rx Option may disenroll from such Option no later than the last day of the first full month following the month in which such election was made.

"(3) ENROLLMENT IN MEDICARE SUPPLEMENTAL POLICIES.—An individual enrolled in the Rx Option may be enrolled only in a medicare supplemental policy subject to the special rules described in section 1882(v).

"(b) OUTPATIENT PRESCRIPTION DRUG BENEFITS.—

"(1) IN GENERAL.—Beginning in 2002, under the Rx Option, after the enrollee has met the combined deductible under section 1860C, the Secretary shall provide a benefit for outpatient prescription drugs through private entities under section 1860D equal to 50 percent of the lesser of—

"(A) the cost of outpatient prescription drugs for such year; or

"(B) $5000.

"(2) COST-OF-LIVING ADJUSTMENT.—In the case of any calendar year beginning after 2002, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to—

"(A) such dollar amount; multiplied by

"(B) the percentage (if any) by which—

"(i) the prescription drug component of the Consumer Price Index for all urban consumers (all items city average) for the 12-month period ending with August of the preceding year; exceeds

"(ii) such prescription drug component of the Consumer Price Index for the 12-month period ending with August 2001.

"(3) ROUNDING.—If any increase determined under paragraph (2) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

### "COMBINED DEDUCTIBLE

"SEC. 1860CC. (a) IN GENERAL.—Notwithstanding any provision of this title and beginning in 2002, a beneficiary electing the Rx Option shall be subject to a combined deductible that shall apply in lieu of the deductibles applied under sections 1813(a)(1) and 1833(b).

"(b) AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a), the combined deductible is equal to $675.

"(2) COST-OF-LIVING ADJUSTMENT.—In the case of any calendar year after 2002, the dollar amount in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount; multiplied by

"(B) the percentage (if any) by which—

"(i) the medical component of the Consumer Price Index for all urban consumers (all items city average) for the 12-month period ending with August of the preceding year; exceeds

"(ii) such medical component of the Consumer Price Index for the 12-month period ending with August 2001.

"(3) ROUNDING.—If any increase determined under paragraph (2) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

"(c) APPLICATION.—In applying the combined deductible described in subsection (a) such deductible shall apply to each expense incurred on a calendar year basis for each item or service covered under this title, and each expense paid on a calendar year basis for such an item or service shall be credited against such deductible.

### "PARTNERSHIPS WITH PRIVATE ENTITIES TO OFFER THE RX OPTION

"SEC. 1860DD. (a) PARTNERSHIPS.—

"(1) IN GENERAL.—The Secretary shall contract with private entities for the provision of outpatient prescription drug benefits under the Rx Option.

"(2) PRIVATE ENTITIES.—The private entities described in paragraph (1) shall include insurers (including issuers of medicare supplemental policies under section 1882), pharmaceutical benefit managers, chain pharmacies, groups of independent pharmacies, and other private entities that the Secretary determines are appropriate.

"(3) AREAS.—The Secretary may award a contract to a private entity under this section on a local, regional, or national basis.

"(4) DRUG BENEFITS ONLY THROUGH PRIVATE ENTITIES.—Outpatient prescription drug benefits under the Rx Option shall be offered only through a contract with a private entity under this section.

"(b) SECRETARY REQUIRED TO CONTRACT WITH ANY WILLING QUALIFIED PRIVATE ENTITY.—The Secretary may not exclude a private entity from receiving a contract to provide outpatient prescription drug benefits under the Rx Option if the private entity meets all of the requirements established by the Secretary for providing such benefits.

### "ELIGIBILITY FOR CATASTROPHIC COVERAGE

"SEC. 1860EE. Noting in this part shall be construed to prohibit an individual who elects coverage under the Rx Option from obtaining catastrophic coverage under any other program under this title.".

(b) CONFORMING MEDIGAP CHANGES.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

"(v) SPECIAL RULES FOR MEDICARE PRESCRIPTION DRUG PLAN ENROLLEES.—

"(1) REVISION OF BENEFIT PACKAGES.—

"(A) IN GENERAL.—Notwithstanding subsection (p), the benefit packages established under such subsection (including the 2 plans described in paragraph (11)(A) of such subsection) shall be revised (in the manner described in subsection (p)(1)(E)) so that each of the benefit packages classified as 'A' through 'J' remain exactly the same, except that each benefit package shall include special rules that apply only to individuals enrolled in the Rx Option under section 1860B as follows:

"(i) COMBINED DEDUCTIBLE.—Each benefit package shall require the beneficiary of the policy to pay annual out-of-pocket expenses (other than premiums) in an amount equal to the amount of the combined deductible under section 1860C(b) before the policy begins payment of any benefits.

"(ii) PRESCRIPTION DRUG COVERAGE.—In the case of a benefit package classified as 'H', 'I', and 'J', such policy may not provide coverage for outpatient prescription drugs that duplicates the coverage for outpatient prescription drugs provided under the Rx Option under section 1860B(b).

"(B) ADJUSTED PREMIUM.—In the case of an individual enrolled in the Rx Option, the premium for the policy in which the individual is enrolled may be appropriately adjusted to reflect the special rules applicable to such individual under subparagraph (A).

"(2) RENEWABILITY AND CONTINUITY OF COVERAGE.—The revisions of benefit packages under paragraph (1) shall not affect—

"(A) the renewal of medicare supplemental policies under this section that are in existence on the effective date of such revisions; or

"(B) the continuity of coverage under such policies.".

**SA 4305.** Mr. REID (for Ms. STABENOW) proposed an amendment to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

At the end, add the following:

**SEC. . CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.**

Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following:

"(l) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

"(1) directly entering into rebate agreements that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

"(2) making prior authorization (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.".

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**SA 4306.** Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. THURMOND, Mr. DOMENICI, Mr. BINGAMAN, Mr. BIDEN, Mr. CARPER, Mr. WYDEN, Mr. SMITH of Oregon, Mr. FRIST, and Mr. THOMPSON) proposed an amendment to the bill H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes; as follows:

Viz: At the appropriate place, insert the following:

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Army", $8,000,000 may be provided for a parking garage at Walter Reed Army Medical Center, District of Columbia.

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Army", $3,000,000 may be provided for an Anechoic Chamber at White Sands Missile Range, New Mexico.

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Air Force", $7,500,000 may be provided for a control tower at Dover Air Force Base, Delaware.

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Army National Guard", $9,000,000 may be provided for a Joint Readiness Center at Eugene, Oregon.

SEC. Of the amount appropriated in this Act under the heading "Military Construction, Air National Guard", $8,400,000 may be provided for a composite Maintenance Complex, Phase II in Nashville, Tennessee.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a full Committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, July 24, at 3:00 pm in SD–366.

The purpose of the hearing is to conduct oversight to examine issues related to the need for and barriers to development of electricity infrastructure. The hearing will focus on the Department of Energy's National Transmission Grid Study, and on information developed in a series of technical conferences held by the Federal Energy Regulatory Commission starting in November of 2001.

Those wishing to submit written statements on this subject should address them to the Committee on Energy and Natural Resources, Attn: Leon Lowery, United States Senate, Washington, D.C. 20510.

For further information, please call Leon Lower at 202/224–2209 or Jonathan Black at 202/224–6722.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Wednesday, July 17, 2002. The purpose of this hearing will be to discuss homeland security at 2:00 pm.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 17, 2002, at 9:30 am on the FTC Reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 17, 2002 at 10:00 a.m., to hear testimony on Schemes, Scams and Cons, Part IV: Fuel Tax Fraud.

The PRESIDING OFFICER. Without objection, it is so ordered

### COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 17, 2002 at 10:30 a.m. to hold a hearing on the Moscow Treaty.

AGENDA

WITNESSES

The Honorable Donald L. Rumsfeld, Secretary of Defense, Washington, DC; General Richard B. Myers, Chairman, Joint Chiefs of Staff, Washington, DC.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 17, 2002 at 2:00 pm to hold a hearing to consider the nomination of Mark W. Everson to be Deputy Director for Management, Office of Management and Budget.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate after the first vote of the day on Wednesday, July 17, 2002, in S–216 of the Capitol.

AGENDA

Richard H. Carmona, of Arizona, to be U.S. Surgeon General of the Public Health Service.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 17, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on the Protection of Native American Sacred Places.

THE PRESIDING OFFICER. Without objection, it is so ordered

### SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 17, 2002, at 2:30 p.m. to conduct an oversight hearing on "Transit: A Lifeline For America's Citizens."

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON THE CONSTITUTION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution be authorized to meet to conduct a hearing on "S.J. Res. 35, Proposing A Victim's Rights Amendment to the United States Constitution," on Wednesday, July 17, 2002, at 10:00 a.m. in SD226.

TENTATIVE WITNESS LIST

PANEL I

The Honorable John Gillis, Director, Office for Victims of Crime, U.S. Department of Justice, Washington, DC.

PANEL II

Arwen Bird, Survivors Advocating for an Effective System, Portland, OR.

Julie Goldscheid, Esq., General Counsel, Safe Horizon, New York, NY.

James Orenstein, Esq., Baker & Hostetler LLP, New York, NY.

Roger Pilon, Director, Center for Constitutional Studies, CATO Institute, Washington, DC.

Roberta Roper, Director, Stephanie Roper Committee and Foundation, Upper Marlboro, MD.

Steven J. Twist, Esq., General Counsel, National Victims Constitutional Amendment Network, Scottsdale, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. GREGG. Mr. President, I ask unanimous consent that Madhavi Patt, with Senator HATCH, be granted the privileges of the floor during consideration of S. 812.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that Lynn Borkon of my staff be granted the privilege of the floor during my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

### NOMINATION OF RICHARD R. CLIFTON, OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. REID. Mr. President, I move to proceed to executive session to consider Calendar No. 825, Richard Clifton, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

### CLOTURE MOTION

Mr. REID. Mr. President, we have no objection to the confirmation on this side of the aisle. We have, however, been advised there is an objection on the Republican side. As a result of that, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Executive Calendar No. 825, the nomination of Richard Clifton to be U.S. Circuit Court Judge for the Ninth Circuit.

Jeff Bingaman, Patrick Leahy, Daniel Inouye, Harry Reid, Tom Daschle, Dianne Feinstein, Orrin Hatch, Chuck Grassley, Michael B. Enzi, Craig Thomas, Christopher Bond, Jeff Sessions, Jon Kyl, Rick Santorum, Pat Roberts, and Trent Lott.

Mr. REID. Mr. President, I ask unanimous consent that the live quorum under rule XXII be waived; that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## ORDERS FOR THURSDAY, JULY 18, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, July 18; that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:30 a.m. the Senate resume consideration of the military construction appropriations bill, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. REID. Mr. President, as a result of the order previously entered, a rollcall vote will occur on passage of the military construction appropriations bill at approximately 10:45 a.m. Senator MCCAIN and the two managers of the bill, Senator HUTCHISON of Texas and Senator FEINSTEIN of California, will each have 5 minutes.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:02 p.m., adjourned until Thursday, July 18, 2002, at 9:30 a.m.

# HOUSE OF REPRESENTATIVES—*Wednesday, July 17, 2002*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. STEARNS).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *July 17, 2002.*
>
> I hereby appoint the Honorable CLIFF STEARNS to act as Speaker pro tempore on this day.
>
> J. DENNIS HASTERT,
> *Speaker of the House of Representatives.*

## PRAYER

The Reverend T. Brannon Bowman, Pastor, Monroeville Presbyterian Church, Monroeville, Alabama, offered the following prayer:

Our almighty and gracious God, great is Your faithfulness. Your mercies never cease and Your compassions never fail.

We ask, O Lord, that Your blessings be upon the Members of this 107th Congress, that Your strength would make them equal to their tasks, that Your wisdom would guide them in their service to this great Nation, and that Your Providence would ensure that they are found faithful to those who rise to serve You tomorrow.

Bless, O Lord, the citizens of the United States. May their symphony of prayer and praise ring loudly throughout this land with never-ending crescendo.

Bless, O Lord, our President. Grant him strength and wisdom in proportion to that which is required of him this day.

Bless, O Lord, our military as they bravely serve the cause of peace and justice. And we ask most earnestly, O God, that You bring them home safely and soon.

Bless us all, we pray, that we would do justly, love mercy, and walk humbly with our God.

This we pray, as one Nation, under God, through Jesus Christ our Lord. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. LAMPSON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LAMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes from each side, following that of the gentleman from Alabama (Mr. CALLAHAN).

## WELCOMING REVEREND BRANNON BOWMAN FROM MONROEVILLE, ALABAMA

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I am honored and pleased to have had with us this morning, and still in the audience or in the body this morning, a guest chaplain from my district, the Reverend Brannon Bowman. We are privileged to have him here visiting from Monroeville, Alabama, where he serves as pastor of the Monroeville Presbyterian Church.

After nearly 14 years as a Presbyterian pastor, Reverend Bowman has played a vital role in establishing churches in communities across Alabama. His service extends beyond his own church. The reverend offers his time as the chaplain of the Monroeville County Hospital, the area coordinator for the National Day of Prayer, as well as a professor at the Birmingham Theological Seminary.

Born in Montgomery, Alabama, he earned a Bachelor of Science from the Birmingham Southern College, a master's in music from Auburn University, and a Master of Divinity from Birmingham's Theological Seminary. Reverend Bowman has been married to Carol New Bowman since 1990, and they are proud parents of a son, Thomas.

Mr. Speaker, I know the House joins me in welcoming Reverend Bowman. At this time, when our Nation is in most need of strong faith, we are fortunate to have someone of his character among us. I thank him for his uplifting prayer this morning.

## CONGRESS SHOULD CONTINUE ITS COMMITMENT TO FINDING A CURE TO CANCER BY SUPPORTING NIH AND CDC

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today I rise to celebrate American Cancer Society's Celebration on the Hill Bus, which will be in Reno, Nevada. Celebration on the Hill is a grassroots event celebrating cancer survivorship.

Mr. Speaker, our Nation's cancer statistics are startling. Over 1 million American people get cancer each year. Approximately one out of two American men and one out of every three American women will have some type of cancer at some point during their lifetime; yet, luckily, more and more people are surviving cancer every day, thanks to medical breakthroughs and lifesaving drugs and procedures.

Today, I rise to congratulate the cancer survivors in my State of Nevada and across the entire country.

It is my hope that we will continue our commitment in Congress to finding a cure by supporting the NIH and CDC in their research efforts against this deadly disease. Our commitment could lead to finding a cure sooner rather than later.

## CONGRESS AND COMMUNITIES CAN JOIN TOGETHER TO EMPOWER CHILDREN AND FAMILIES TO REDUCE CHILD VICTIMIZATION

(Mr. LAMPSON asked and was given permission to address the House for 1

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I rise today in light of the reported abduction and murder of young Dannarriah Finley of southeast Texas, coming on the heels of the nationally publicized abductions of Danielle Van Damme and Elizabeth Smart.

It is time for our communities to come together to educate our children and save other families from the heartbreaking tragedy of child abduction, exploitation and murder.

There are ways that we can work together to make sure that children are safe in our communities.

First, I encourage my colleagues to go to schools in their districts to do a "know the rules" workshop with students and parents. Education is the key to giving children the tools and power to stay safe.

Second, I encourage Members to start a student Safety Ambassadors program. The program seeks to empower children through safety, and has students leading and teaching their peers on the issue.

Third, Members should work with our schools to make sure they know about the "Guidelines for Programs to Reduce Child Victimization: A Resource for Communities When Choosing a Program to Teach Personal Safety to Children." These research-based guidelines were developed by the National Center for Missing and Exploited Children's Education Standards Task Force to assist schools as they select curricula aimed at reducing crimes against children.

It takes each one of us, including schools, to keep our kids safe, happy, and healthy.

## U.S. FORCES BOMB IRAQ, AGAIN

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, since the Gulf War, pilots have been patrolling Iraqi skies keeping Saddam Hussein from killing his own people. This past weekend, Iraqi forces fired antiaircraft missiles at several of our aircraft. We responded in kind by shooting back and defending ourselves against this aggression.

I would like to remind my colleagues that Saddam Hussein is more than an enemy that regularly tries to kill or capture American pilots. Saddam Hussein plays a critical role in our country by providing us with oil. In the first quarter of this year, we bought $1.4 billion of Iraqi oil.

Where do we think that money goes? What does it pay for in Iraq? Propping up Saddam's regime. We know he rewards the family of each Palestinian suicide bomber with a check of $25,000. We import nearly 1 million barrels a day from this madman. More than 10 percent of our oil comes from Saddam Hussein, yet he still would like nothing more than a downed American pilot to parade before the world.

It is time our energy policy got in line with our foreign policy. I urge the Senate and House conferees to pass a bill that can be sent to the President for signing. If it is worth fighting for over there, it is worth exploring for over here at home.

## THE REPUBLICAN PARTY STAYS TRUE TO ITS CORPORATE SPONSORS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, what a difference a week makes. Last week, the gentleman from Florida (Mr. FOLEY) and others berated the Senate here on the floor of the House, and they touted the sham fake-accounting reforms passed by the House in March.

But today, the most dangerous place in Washington, D.C. is in front of a crowd of rank-and-file Republicans in their rush to embrace the Senate's Sarbanes bill and to take up real reform of the accounting industry and take care of the disasters on Wall Street. But thank God for the GOP leaders.

"Hill GOP Leaders Fight Audit Plan. One day after the Senate unanimously passed broad overhauls of corporate securities laws, top House Republicans said they will try to delay and likely dilute some of the proposed changes."

At least someone in the Republican Party is true to their corporate sponsors, benefactors, and contributors.

## INVITING MEMBERS TO VIEWING OF AWARD-WINNING FILM, "BEYOND DIVISION: REUNIFYING THE REPUBLIC OF CYPRUS"

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, this Saturday marks the 28th anniversary of the invasion of Cyprus that still keeps the island divided. To mark this tragic event, today at 5 p.m. at 2255 Rayburn, I am hosting a viewing of the award-winning film "Beyond Division: Reunifying the Republic of Cyprus." It captures the Cypriot people's suffering resulting from the brutal invasion of their country and the hope for a brighter future when their island is no longer divided.

It is shameful that a fellow NATO member continues to occupy one-third of Cyprus. A settlement to the Cyprus issue must be reached by the end of the year, when the island is expected to join the rest of the European territory.

Mr. Speaker, I invite all of my colleagues to watch this award-winning film and learn about the ongoing tragedy of the occupation of Cyprus, and also about the prospects of reunification and the EU accession. I hope to see Members today at 5 p.m. at 2255 Rayburn.

## CORPORATE ACCOUNTABILITY

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today I rise to speak about corporate accountability, and the simple idea that for every action, there is a consequence.

Recent scandals are part of a bigger problem. Some CEOs and other corporate leaders are acting irresponsibly, hurting investors, jeopardizing my communities and all of America's pensions and retirement security.

These business people need to be held accountable. This administration sent the wrong message, signing into law an irresponsible tax package that gave millions of dollars to the largest corporations.

Democrats support legislation that would require honest accounting, independent investment advice, sensible regulation, and criminal penalties for those guilty of corporate wrongdoing.

We need to put our priorities in order: education, Social Security, the environment, prescription drugs. These things should come before corporate giveaways.

## CORPORATE CRIMINALS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, when one is an executive of a large corporation, one has a job that carries tremendous responsibility. Ford Motors, Chevron, Texaco, and IBM have more employees than many countries have citizens. Wal-Mart, EXXON, and General Motors have annual budgets larger than the gross domestic products of many nations.

When the executives of Enron, which was America's fifth largest company, cooked the books, the victims of their crime are not just a few people from Houston. Americans everywhere suffer, some severely. When the executives of WorldCom, which was America's 42nd largest employer, used tricky accounting to fool investors, everybody suffers, too.

When a mugger in a back alley sticks us up at gunpoint and takes our wallets, that is bad. But is it not worse when a man in a thousand dollar suit steals millions of dollars from people who are counting on his honesty to help them keep their jobs or to retire?

Yesterday, the House voted for a new law to severely punish corporate crooks for their crimes. We should conference with the other body immediately so we can send a bill to the President as soon as possible.

## PRESCRIPTION DRUG COVERAGE FOR AMERICA'S SENIORS

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, let me start and indicate how important it is for us to not forget our seniors when it comes to prescription drug coverage.

Our seniors right now represent 34 percent of the prescriptions that are dished out every single year.

□ 1015

Out of every dollar, 42 cents represents the amount of money that they dish out. Forty-two percent. Despite that, it is expected that sales and benefits of pharmaceutical companies will be over 18 percent. So at the expense of our seniors, the pharmaceutical companies continue to make these huge profits.

It is up to us to make sure we do what we can to make sure that we allow that opportunity for our seniors to have accessibility and be able to have affordable coverage when it comes to prescription drug coverage.

We know that those same pharmaceutical companies sell those prescriptions elsewhere, throughout the world and throughout Europe, at lower prices. These are the same products that are sold to our seniors here at higher prices. So it is up to us to push forward a prescription drug coverage and allow Medicare to cover the prescriptions.

## HONORING A GREAT AMERICAN

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is an honor for me today to be able to honor an American war hero, First Lieutenant James Flowers, Jr. He enlisted as a private in the Texas National Guard in 1930, and from there worked his way up the military ladder and on July 10, 1944, Flowers was a platoon leader when he volunteered his four tanks to help an infantry battalion encircled by Germans.

His unit encountered enemy fire, and from there Flowers endured what can only be described as hell on earth. While 1 minute cannot do his sacrifices justice, please know this man embodies duty, honor, and country.

First, his right foot was blown away by enemy fire. While waiting for relief, he lost his left leg below the knee. After two nights of desperately needing medical attention and lying severely injured, Americans finally came to the rescue.

Nominated for the Medal of Honor, he was awarded four medals for his bravery and valor.

While some would be hardened and angry after this unspeakable kind of tragedy, Flowers persevered. After being discharged, he attended SMU and began working in the prosthetics department of the VA. He moved to the Dallas VA where he established the first prosthetics treatment center in the Nation.

Flowers has given so much to this country in his area of expertise. He exemplifies our greatest generation. God bless him and God bless our servicemen and women around the world.

## AMERICANS SHOULD CONTRIBUTE TO THE BETTERMENT OF THE COUNTRY

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, last night this House was kept in session to a ridiculously late hour because there was a divide on the Republican side of the aisle over our Interior bill, where we are supposed to be finding the money to keep our parks open with enough bathrooms and visitor centers and parking spaces to accommodate a growing American public.

They were mad because they said there was not enough money. Well, let me contend where they should look for the money. They should not look for the money in the Committee on Appropriations. They should go back to the tax committee and figure out who they gave the money to.

Richey Rich is going to make $20 million this year in our country. And if we look at the buy-out packages that they permitted to the chief executive officers in this country and the tax breaks alone in the Bush tax bill, the tax bill to Richey Rich will amount to $712,800 this year because his marginal rate was reduced to 3.6 percent. We might say, gosh, he is only going to make $19.8 million this year, at the same time as we struggle for pennies and are forced to increase fees at our national parks across this country.

The answer is not inside the Subcommittee on Interior, the answer is to go back to the tax committee and make every single American contribute to the betterment of this Republic.

## CONDEMNING TERRORIST ATTACK ON KASHMIRI CIVILIANS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I condemn Saturday's terrorist attack in Kashmir that killed 28 people. This attack was just another reminder to the Kashmiri Pandit community that Hindus are still being targeted by Islamic militants in order to drive them from the Indian state of Kashmir. This was cold-blooded murder of civilian men, women, and children, who were innocently listening to a radio sports event at a tea stall.

More than 400,000 Hindus in Kashmir have been forced from their homes due to targeted attacks of Islamic militants. For many years, Pakistan's military worked together with its intelligence agency, the ISI, to coordinate attacks against civilians in Kashmir. These very same forces helped in creating the Taliban and al Qaeda.

Pakistan must stop the movement of al Qaeda members from the northwestern part of Pakistan into the Pakistan-occupied Kashmir. Pakistan must also shut down its terrorist camps, remove the influence of extremist religious clerics from government affairs, and make generous peace offerings to India. Only then can a dialogue between India and Pakistan take place.

## CONGRESS MUST PLAY A ROLE IN ANY POSSIBLE ATTACK ON IRAQ

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, it is worth considering the headlines regarding Iraq in the last week. From United Press International: "U.S. Plans Massive Invasion of Iraq." From Associated Press: "U.S. Says Iraq Would Target Troops." From United Press: "According to officials who spoke to UPI, three dates are being discussed as possible times to launch the attack. The first would be before the November elections." And from Associated Press: "U.S. worries Iraq's chemical, biological weapons would target invading American troops in Israel."

There has been discussion of a quarter of a million of our men and women being sent to Iraq. The discussion is in the media, it is not on the floor of this House. The New York Times editorial says as follows: "Congressional leaders, including top Democrats, have rushed to voice approval for the popular notion of getting rid of Mr. Hussein. They have not, however, lived up to their responsibility for demanding a full public disclosure about how to pursue this attractive goal with maximum chances of success and minimum risk to American forces' interest and alliances. Discussion of these issues is possible without giving away legitimate military secrets."

War with Iraq, if it comes, is still many months away. What is urgently needed now is informed and serious debate, and attention to article I, section 8 of the Constitution, which requires Congress has a role.

## HOUSE MAJORITY ATTEMPTING TO MOVE LEGISLATION TO HELP AMERICA

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, most of us Republicans and Democrats come to the House to pass legislation and to help the American people. I heard a minute ago from one of the Members that the accounting bill that we passed on this floor was a sham. Well, I want to inform my colleagues that 118 Democrats voted for that. Only 40 Democrats, from the leadership, primarily, voted against it.

Instead of helping the American people in a time of crisis, when the markets are bad and people are losing confidence, the Democrat leadership, once again, is playing partisan election year politics.

They also say that tax relief is only for the rich. Well, listen to the facts, as stated by Alan Greenspan yesterday. Tax relief stopped the recession. It also put this economy back on a positive note. Yet my friends on the other side, the Democratic leadership, would rather say that the tax break was for the rich. This is partisan election year rhetoric.

Mr. Speaker, we are here to pass legislation, not to jam it up, like the other body, which is holding 54 of our bills.

## CORPORATE RESPONSIBILITY

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, the time is right for this body to act on corporate accountability. The other body got it right when it passed the Sarbanes bill by a unanimous vote.

Corporate greed is affecting every one of our constituents, whether it is in their 401(k) plans or the performance of our economy, with job opportunity, and the list goes on and on.

Mr. Speaker, let us act now. Let us act as the other body did, in a bipartisan way. Let us take up today and pass the Sarbanes bill, and let us send it to the President. He has indicated he will sign it. That will help restore confidence among our constituents and our economy.

## PRESCRIPTION DRUGS

(Mr. SULLIVAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SULLIVAN. Mr. Speaker, a few weeks ago, the House of Representatives passed a prescription drug benefit under Medicare. Since this has happened, I have received hundreds of calls from seniors thanking me for voting for this very important measure.

A significant number of seniors in the First District of Oklahoma are forced to live on a fixed budget. In order to live within their means, some skip a meal, some turn off their air conditioners, and some only take half the prescriptions that have been prescribed to them, to save.

It is a simple fact that seniors need permanent prescription drug benefit from this Congress. But simple is not always synonymous with easy, especially when politics are involved. The House has passed a good bill, and I encourage my colleagues in the Senate to follow the House's lead.

Our bill was based on simple, common sense principles. They are: To lower the cost of prescription drugs now and in the future; guarantee all seniors prescription drug coverage under Medicare; improve Medicare with more choices and more savings; and strengthen Medicare for the future.

Our seniors need a prescription drug benefit this year. I hope my colleagues in the Senate will follow suit.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. STEARNS). The Chair would remind all Members giving 1-minute speeches that they cannot urge the other body to take action.

## ENERGY INDEPENDENCE

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, increasing our energy independence is absolutely vital to ensuring America's national security.

Americans are 5 percent of the world's population. We use 25 percent of the world's oil production, and yet we produce 30 percent of the world's output of goods and services. We are the most energy-efficient and productive Nation on earth, but America has only 2 percent of the world's known oil reserves. In pumping that 2 percent, we meet only 44 percent of America's needs.

America must import nearly 60 percent of our oil, up from 32 percent in 1992 and 34 percent during the last Arab oil embargo. Americans must pay billions of dollars to unstable or hostile regimes, such as Saddam Hussein's Iraq, for the oil we need to run our economy and our military. Every year since 1970, with only a tiny blip from Alaska's Prudhoe Bay, oil production in the United States has gone down, and experts agree it will continue to go down.

That is why conservation, efficiency, and alternative and renewable forms of energy are critically important parts of a balanced, comprehensive national energy strategy.

## JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Chair's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LAMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 50, answered "present" 1, not voting 22, as follows:

[Roll No. 309]

YEAS—361

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)

Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (NM)
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—50

Aderholt
Baird
Borski
Brady (PA)
Costello
Crane
DeFazio
English
Fletcher
Ganske
Gillmor
Green (TX)
Gutknecht
Hart
Hefley
Hilliard
Hulshof
Kennedy (MN)
Kucinich
LaFalce
Larsen (WA)
LoBiondo
McDermott
McGovern
McNulty
Miller, George
Moore
Neal
Oberstar
Obey
Olver
Pallone
Peterson (MN)
Ramstad
Roemer
Sabo
Schaffer
Schakowsky
Strickland
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Visclosky
Waters
Weller
Wicker
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—22

Blagojevich
Bonior
Capuano
Clay
Clayton
Culberson
Cunningham
Filner
Hastings (FL)
Hilleary
Hyde
Jefferson
Manzullo
Mascara
Meek (FL)
Nadler
Platts
Rangel
Solis
Stark
Stump
Traficant

□ 1050

Mr. WELLER changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 309, I missed this vote due to a medical appointment. Had I been present, I would have voted, "nay."

## GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5093, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. STEARNS). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 483 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5093.

□ 1052

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 16, 2002, the amendment by the gentleman from Utah (Mr. HANSEN) had been disposed of and the bill was open from page 4, line 1 through page 74, line 23.

Mr. SKEEN. Mr. Chairman, I include for the RECORD a table detailing the various accounts in this bill be inserted in the RECORD at this point.

The tabular material is as follows:

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| TITLE I - DEPARTMENT OF THE INTERIOR | | | | | |
| Bureau of Land Management | | | | | |
| Management of lands and resources | 746,632 | 772,962 | 782,904 | +36,272 | +9,942 |
| Conservation | 29,000 | 40,028 | 44,028 | +15,028 | +4,000 |
| Subtotal | 775,632 | 812,990 | 826,932 | +51,300 | +13,942 |
| Wildland fire management: | | | | | |
| Preparedness | 280,807 | 277,213 | 278,639 | -2,168 | +1,426 |
| Fire suppression operations | 127,424 | 160,351 | 160,351 | +32,927 | --- |
| Other operations | 216,190 | 216,190 | 216,342 | +152 | +152 |
| Suppression (contingent emergency appropriations) | 34,000 | --- | --- | -34,000 | --- |
| Fiscal year 2002 supplemental | --- | --- | 200,000 | +200,000 | +200,000 |
| Other operations (contingent emergency appropriations) | 20,000 | --- | --- | -20,000 | --- |
| Subtotal | 678,421 | 653,754 | 855,332 | +176,911 | +201,578 |
| Central hazardous materials fund | 9,978 | 9,978 | 9,978 | --- | --- |
| Construction | 13,076 | 10,976 | 10,976 | -2,100 | --- |
| Payments in lieu of taxes | 160,000 | 150,000 | 160,000 | --- | +10,000 |
| Conservation | 50,000 | 15,000 | 70,000 | +20,000 | +55,000 |
| Subtotal | 210,000 | 165,000 | 230,000 | +20,000 | +65,000 |
| Land acquisition (conservation) | 49,920 | 44,686 | 49,286 | -634 | +4,600 |
| Oregon and California grant lands | 105,165 | 105,633 | 105,633 | +468 | --- |
| Range improvements (indefinite) | 10,000 | 10,000 | 10,000 | --- | --- |
| Service charges, deposits, & forfeitures (indefinite) | 8,000 | 7,900 | 7,900 | -100 | --- |
| Offsetting fee collections | --- | -7,900 | -7,900 | -7,900 | --- |
| Miscellaneous trust funds (indefinite) | 12,405 | 12,405 | 12,405 | --- | --- |
| Total, Bureau of Land Management | 1,872,597 | 1,825,422 | 2,110,542 | +237,945 | +285,120 |
| Appropriations | (1,689,677) | (1,725,708) | (1,747,228) | (+57,551) | (+21,520) |
| Conservation | (128,920) | (99,714) | (163,314) | (+34,394) | (+63,600) |
| Contingent emergency appropriations | (54,000) | --- | (200,000) | (+146,000) | (+200,000) |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| United States Fish and Wildlife Service | | | | | |
| Resource management | 819,597 | 825,598 | 847,353 | +27,756 | +21,755 |
| Conservation | 31,000 | 78,006 | 71,006 | +40,006 | -7,000 |
| Subtotal | 850,597 | 903,604 | 918,359 | +67,762 | +14,755 |
| Construction | 55,543 | 35,402 | 51,308 | -4,235 | +15,906 |
| Land acquisition (conservation) | 99,135 | 70,384 | 82,250 | -16,885 | +11,866 |
| Landowner incentive program (conservation) | 40,000 | 50,000 | 40,000 | --- | -10,000 |
| Private stewardship grants program (conservation) | 10,000 | 10,000 | 10,000 | --- | --- |
| Cooperative endangered species conservation fund (conservation) | 96,235 | 91,000 | 121,400 | +25,165 | +30,400 |
| National wildlife refuge fund | 14,414 | 14,414 | 14,414 | --- | --- |
| Conservation | --- | --- | 5,000 | +5,000 | +5,000 |
| Subtotal | 14,414 | 14,414 | 19,414 | +5,000 | +5,000 |
| North American wetlands conservation fund (conservation) | 43,500 | 43,560 | 43,560 | +60 | --- |
| Neotropical migratory birds conservation fund (conservation) | 3,000 | --- | 5,000 | +2,000 | +5,000 |
| Multinational species conservation fund | 4,000 | 5,000 | --- | -4,000 | -5,000 |
| Conservation | --- | --- | 4,800 | +4,800 | +4,800 |
| State wildlife grants (conservation) | 85,000 | 60,000 | 100,000 | +15,000 | +40,000 |
| Rescission | -25,000 | --- | --- | +25,000 | --- |
| Subtotal | 60,000 | 60,000 | 100,000 | +40,000 | +40,000 |
| Total, United States Fish and Wildlife Service | 1,276,424 | 1,283,364 | 1,396,091 | +119,667 | +112,727 |
| Appropriations | (893,554) | (880,414) | (913,075) | (+19,521) | (+32,661) |
| Conservation | (407,870) | (402,950) | (483,016) | (+75,146) | (+80,066) |
| Rescission | (-25,000) | --- | --- | (+25,000) | --- |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| National Park Service | | | | | |
| Operation of the national park system | 1,474,977 | 1,560,565 | 1,596,593 | +121,616 | +36,028 |
| Conservation | 2,000 | 24,000 | 9,000 | +7,000 | -15,000 |
| Emergency appropriations (P.L. 107-117) | 10,098 | --- | --- | -10,098 | --- |
| Subtotal | 1,487,075 | 1,584,565 | 1,605,593 | +118,518 | +21,028 |
| United States Park Police | 65,260 | 78,431 | 78,431 | +13,171 | --- |
| Emergency appropriations (P.L. 107-117) | 25,295 | --- | --- | -25,295 | --- |
| Subtotal | 90,555 | 78,431 | 78,431 | -12,124 | --- |
| National recreation and preservation | 66,159 | 46,824 | 56,330 | -9,829 | +9,506 |
| Urban park and recreation fund (conservation) | 30,000 | 300 | 30,000 | --- | +29,700 |
| Historic preservation fund (conservation) | 74,500 | 67,000 | 76,500 | +2,000 | +9,500 |
| Construction | 299,193 | 240,182 | 271,450 | -27,743 | +31,268 |
| Conservation | 66,851 | 82,202 | 53,736 | -13,115 | -28,466 |
| Emergency appropriations (P.L. 107-117) | 21,624 | --- | --- | -21,624 | --- |
| Total, Construction | 387,668 | 322,384 | 325,186 | -62,482 | +2,802 |
| Land and water conservation fund (rescission of contract authority) | -30,000 | -30,000 | -30,000 | --- | --- |
| Land acquisition and state assistance (conservation) | 274,117 | 286,057 | 253,099 | -21,018 | -32,958 |
| Total, National Park Service (net) | 2,380,074 | 2,355,561 | 2,395,139 | +15,065 | +39,578 |
| Appropriations | (1,905,589) | (1,926,002) | (2,002,804) | (+97,215) | (+76,802) |
| Conservation | (447,468) | (459,559) | (422,335) | (-25,133) | (-37,224) |
| Emergency appropriations | (57,017) | --- | --- | (-57,017) | --- |
| Rescission | (-30,000) | (-30,000) | (-30,000) | --- | --- |

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| United States Geological Survey | | | | | |
| Surveys, investigations, and research | 889,002 | 853,760 | 903,405 | +14,403 | +49,645 |
| Conservation | 25,000 | 13,578 | 25,000 | --- | +11,422 |
| Total, United States Geological Survey | 914,002 | 867,338 | 928,405 | +14,403 | +61,067 |
| Minerals Management Service | | | | | |
| Royalty and offshore minerals management | 253,397 | 264,452 | 264,951 | +11,554 | +499 |
| Use of receipts | -102,730 | -100,230 | -100,230 | +2,500 | --- |
| Oil spill research | 6,105 | 6,105 | 6,105 | --- | --- |
| Total, Minerals Management Service | 156,772 | 170,327 | 170,826 | +14,054 | +499 |
| Office of Surface Mining Reclamation and Enforcement | | | | | |
| Regulation and technology | 102,800 | 105,092 | 105,092 | +2,292 | --- |
| Receipts from performance bond forfeitures (indefinite) | 275 | 275 | 275 | --- | --- |
| Subtotal | 103,075 | 105,367 | 105,367 | +2,292 | --- |
| Abandoned mine reclamation fund (definite, trust fund) | 203,455 | 174,035 | 184,745 | -18,710 | +10,710 |
| Total, Office of Surface Mining Reclamation and Enforcement | 306,530 | 279,402 | 290,112 | -16,418 | +10,710 |
| Bureau of Indian Affairs | | | | | |
| Operation of Indian programs | 1,799,809 | 1,837,110 | 1,859,064 | +59,255 | +21,954 |
| Construction | 357,132 | 345,252 | 345,252 | -11,880 | --- |
| Indian land and water claim settlements and miscellaneous payments to Indians | 60,949 | 57,949 | 60,949 | --- | +3,000 |
| Indian guaranteed loan program account | 4,986 | 5,493 | 5,493 | +507 | --- |
| (Limitation on guaranteed loans) | (75,000) | (72,424) | (72,424) | (-2,576) | --- |
| Total, Bureau of Indian Affairs | 2,222,876 | 2,245,804 | 2,270,758 | +47,882 | +24,954 |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Departmental Offices | | | | | |
| Insular Affairs: | | | | | |
| Assistance to Territories | 51,230 | 42,497 | 45,497 | -5,733 | +3,000 |
| Northern Marianas | 27,720 | 27,720 | 27,720 | --- | --- |
| Subtotal | 78,950 | 70,217 | 73,217 | -5,733 | +3,000 |
| Compact of Free Association | 8,745 | 8,745 | 9,045 | +300 | +300 |
| Mandatory payments | 14,500 | 12,000 | 12,000 | -2,500 | --- |
| Subtotal | 23,245 | 20,745 | 21,045 | -2,200 | +300 |
| Total, Insular Affairs | 102,195 | 90,962 | 94,262 | -7,933 | +3,300 |
| Departmental management | 67,741 | 78,596 | 72,533 | +4,792 | -6,063 |
| Emergency appropriations (P.L. 107-117) | 2,205 | --- | --- | -2,205 | --- |
| Subtotal | 69,946 | 78,596 | 72,533 | +2,587 | -6,063 |
| Office of the Solicitor | 45,000 | 47,773 | 47,473 | +2,473 | -300 |
| Office of Inspector General | 34,302 | 36,659 | 36,239 | +1,937 | -420 |
| National Indian Gaming Commission | --- | 2,000 | 2,000 | +2,000 | --- |
| Office of Special Trustee for American Indians | | | | | |
| Federal trust programs | 99,224 | 151,027 | 141,277 | +42,053 | -9,750 |
| Indian land consolidation | 10,980 | 7,980 | 7,980 | -3,000 | --- |
| Total, Office of Special Trustee for American Indians | 110,204 | 159,007 | 149,257 | +39,053 | -9,750 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Natural resource damage assessment fund............... | 5,497 | 5,538 | 5,538 | +41 | --- |
| Federal priority land acquisitions and exchanges...... | --- | 3,000 | --- | --- | -3,000 |
| Total, Departmental Offices.................... | 367,144 | 423,535 | 407,302 | +40,158 | -16,233 |
| Total, title I, Department of the Interior: | | | | | |
| New budget (obligational) authority (net)... | 9,496,419 | 9,450,753 | 9,969,175 | +472,756 | +518,422 |
| Appropriations.......................... | (8,428,939) | (8,501,952) | (8,705,510) | (+276,571) | (+203,558) |
| Conservation............................ | (1,009,258) | (978,801) | (1,093,665) | (+84,407) | (+114,864) |
| Emergency appropriations................ | (59,222) | --- | --- | (-59,222) | --- |
| Contingent emergency appropriations..... | (54,000) | --- | (200,000) | (+146,000) | (+200,000) |
| Rescissions............................. | (-55,000) | (-30,000) | (-30,000) | (+25,000) | --- |
| (Limitation on guaranteed loans)............ | (75,000) | (72,424) | (72,424) | (-2,576) | --- |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| TITLE II - RELATED AGENCIES | | | | | |
| DEPARTMENT OF AGRICULTURE | | | | | |
| Forest Service | | | | | |
| Forest and rangeland research | 241,304 | 242,798 | 252,000 | +10,696 | +9,202 |
| State and private forestry | 190,221 | 121,805 | 146,695 | -43,526 | +24,890 |
| Conservation | 101,000 | 155,558 | 133,133 | +32,133 | -22,425 |
| Subtotal | 291,221 | 277,363 | 279,828 | -11,393 | +2,465 |
| National forest system | 1,331,439 | 1,366,475 | 1,370,567 | +39,128 | +4,092 |
| Wildland fire management: | | | | | |
| Preparedness | 622,618 | 600,703 | 640,000 | +17,382 | +39,297 |
| Fire suppression operations | 255,321 | 420,699 | 420,699 | +165,378 | --- |
| Other operations | 336,410 | 347,736 | 452,750 | +116,340 | +105,014 |
| Suppression (contingent emergency appropriations) | 266,000 | --- | --- | -266,000 | --- |
| Fiscal year 2002 supplemental | --- | --- | 500,000 | +500,000 | +500,000 |
| Other operations (contingent emergency appropriations) | 80,000 | --- | --- | -80,000 | --- |
| Subtotal | 1,560,349 | 1,369,138 | 2,013,449 | +453,100 | +644,311 |
| Capital improvement and maintenance | 485,188 | 501,222 | 507,865 | +22,677 | +6,643 |
| Conservation | 61,000 | 50,866 | 64,866 | +3,866 | +14,000 |
| Subtotal | 546,188 | 552,088 | 572,731 | +26,543 | +20,643 |
| Land acquisition (conservation) | 149,742 | 130,510 | 146,336 | -3,406 | +15,826 |
| Acquisition of lands for national forests, special acts | 1,069 | 1,069 | 1,069 | --- | --- |
| Acquisition of lands to complete land exchanges (indefinite) | 234 | 234 | 234 | --- | --- |
| Range betterment fund (indefinite) | 3,290 | 3,402 | 3,402 | +112 | --- |
| Gifts, donations and bequests for forest and rangeland research | 92 | 92 | 92 | --- | --- |

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Management of national forest lands for subsistence uses | 5,488 | 5,542 | 5,542 | +54 | --- |
| Reduction for non-conservation funding | -2,000 | -2,000 | -2,000 | --- | --- |
| Conservation (Youth Conservation Corps) | 2,000 | 2,000 | 2,000 | --- | --- |
| Total, Forest Service | 4,130,416 | 3,948,711 | 4,645,250 | +514,834 | +696,539 |
| Appropriations | (3,470,674) | (3,609,777) | (3,798,915) | (+328,241) | (+189,138) |
| Conservation | (313,742) | (338,934) | (346,335) | (+32,593) | (+7,401) |
| Contingent emergency appropriations | (346,000) | --- | (500,000) | (+154,000) | (+500,000) |
| DEPARTMENT OF ENERGY | | | | | |
| Clean coal technology: | | | | | |
| Deferral | -40,000 | --- | -50,000 | -10,000 | -50,000 |
| (Transfer out) | (-33,700) | (-40,000) | --- | (+33,700) | (+40,000) |
| Fossil energy research and development | 582,790 | 489,305 | 664,205 | +81,415 | +174,900 |
| Clean coal technology (by transfer) | (33,700) | (40,000) | --- | (-33,700) | (-40,000) |
| Alternative fuels production (rescission) | -2,000 | --- | --- | +2,000 | --- |
| Naval petroleum and oil shale reserves | 17,371 | 20,831 | 20,831 | +3,460 | --- |
| Elk Hills School lands fund | --- | 36,000 | --- | --- | -36,000 |
| Advance appropriations, FY 2003 | 36,000 | --- | --- | -36,000 | --- |
| Energy conservation | 912,805 | 901,651 | 984,653 | +71,848 | +83,002 |
| Economic regulation | 1,996 | 1,487 | 1,487 | -509 | --- |
| Strategic petroleum reserve | 179,009 | 168,856 | 175,856 | -3,153 | +7,000 |
| SPR petroleum account | --- | 11,000 | 7,000 | +7,000 | -4,000 |
| Northeast home heating oil reserve | --- | 8,000 | 8,000 | +8,000 | --- |
| Energy Information Administration | 78,499 | 80,111 | 80,611 | +2,112 | +500 |
| Total, Department of Energy: | | | | | |
| New budget (obligational) authority (net) | 1,766,470 | 1,717,241 | 1,892,643 | +126,173 | +175,402 |
| Appropriations | (1,772,470) | (1,717,241) | (1,942,643) | (+170,173) | (+225,402) |
| Advance appropriations | (36,000) | --- | --- | (-36,000) | --- |
| Rescissions | (-2,000) | --- | --- | (+2,000) | --- |
| Deferral | (-40,000) | --- | (-50,000) | (-10,000) | (-50,000) |
| (Transfer out) | (-33,700) | (-40,000) | --- | (+33,700) | (+40,000) |
| (By transfer) | (33,700) | (40,000) | --- | (-33,700) | (-40,000) |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| DEPARTMENT OF HEALTH AND HUMAN SERVICES | | | | | |
| Indian Health Service | | | | | |
| Indian health services | 2,389,614 | 2,453,835 | 2,508,756 | +119,142 | +54,921 |
| Indian health facilities | 369,487 | 362,571 | 391,865 | +22,378 | +29,294 |
| Total, Indian Health Service | 2,759,101 | 2,816,406 | 2,900,621 | +141,520 | +84,215 |
| OTHER RELATED AGENCIES | | | | | |
| Office of Navajo and Hopi Indian Relocation | | | | | |
| Salaries and expenses | 15,148 | 14,491 | 14,491 | -657 | --- |
| Institute of American Indian and Alaska Native Culture and Arts Development | | | | | |
| Payment to the Institute | 4,490 | 5,130 | 5,130 | +640 | --- |
| Smithsonian Institution | | | | | |
| Salaries and expenses | 399,253 | 448,760 | 450,760 | +51,507 | +2,000 |
| Rescission | --- | -14,100 | -14,100 | -14,100 | --- |
| Emergency appropriations (P.L. 107-117) | 21,707 | --- | --- | -21,707 | --- |
| Subtotal | 420,960 | 434,660 | 436,660 | +15,700 | +2,000 |
| Repair, restoration and alteration of facilities | 67,900 | 81,300 | 81,300 | +13,400 | --- |
| Construction | 30,000 | 12,000 | 10,000 | -20,000 | -2,000 |
| Total, Smithsonian Institution | 518,860 | 527,960 | 527,960 | +9,100 | --- |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| National Gallery of Art | | | | | |
| Salaries and expenses | 68,967 | 78,219 | 78,219 | +9,252 | --- |
| Emergency appropriations (P.L. 107-117) | 2,148 | --- | --- | -2,148 | --- |
| Subtotal | 71,115 | 78,219 | 78,219 | +7,104 | --- |
| Repair, restoration and renovation of buildings | 14,220 | 16,230 | 16,230 | +2,010 | --- |
| Total, National Gallery of Art | 85,335 | 94,449 | 94,449 | +9,114 | --- |
| John F. Kennedy Center for the Performing Arts | | | | | |
| Operations and maintenance | 15,000 | 16,310 | 16,310 | +1,310 | --- |
| Emergency appropriations (P.L. 107-117) | 4,310 | --- | --- | -4,310 | --- |
| Subtotal | 19,310 | 16,310 | 16,310 | -3,000 | --- |
| Construction | 19,000 | 17,600 | 17,600 | -1,400 | --- |
| Total, John F. Kennedy Center for the Performing Arts | 38,310 | 33,910 | 33,910 | -4,400 | --- |
| Woodrow Wilson International Center for Scholars | | | | | |
| Salaries and expenses | 7,796 | 8,488 | 8,488 | +692 | --- |
| National Foundation on the Arts and the Humanities | | | | | |
| National Endowment for the Arts | | | | | |
| Grants and administration | 98,234 | 99,489 | 99,489 | +1,255 | --- |
| National Endowment for the Humanities | | | | | |
| Grants and administration | 108,382 | 109,632 | 109,932 | +1,550 | +300 |
| Matching grants | 16,122 | 16,122 | 16,122 | --- | --- |
| Total, National Endowment for the Humanities | 124,504 | 125,754 | 126,054 | +1,550 | +300 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Institute of Museum and Library Services/ Office of Museum Services | | | | | |
| Grants and administration 1/ | 26,899 | --- | --- | -26,899 | --- |
| Challenge America Arts Fund | | | | | |
| Challenge America grants | 17,000 | 17,000 | 17,000 | --- | --- |
| Total, National Foundation on the Arts and the Humanities | 266,637 | 242,243 | 242,543 | -24,094 | +300 |
| Commission of Fine Arts | | | | | |
| Salaries and expenses | 1,224 | 1,224 | 1,255 | +31 | +31 |
| National Capital Arts and Cultural Affairs | | | | | |
| Grants | 7,000 | 7,000 | 7,000 | --- | --- |
| Advisory Council on Historic Preservation | | | | | |
| Salaries and expenses | 3,400 | 3,667 | 3,667 | +267 | --- |
| National Capital Planning Commission | | | | | |
| Salaries and expenses | 7,253 | 7,253 | 7,553 | +300 | +300 |
| Emergency appropriations (P.L. 107-117) | 758 | --- | --- | -758 | --- |
| Total, National Capital Planning Commission | 8,011 | 7,253 | 7,553 | -458 | +300 |
| United States Holocaust Memorial Museum | | | | | |
| Holocaust Memorial Museum | 36,028 | 38,663 | 38,663 | +2,635 | --- |

1/ Funded in the Labor HHS bill for FY 2003.

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Presidio Trust | | | | | |
| Presidio trust fund | 23,125 | 21,327 | 21,327 | -1,798 | --- |
| Total, title II, related agencies: | | | | | |
| New budget (obligational) authority (net) | 9,671,351 | 9,488,163 | 10,444,950 | +773,599 | +956,787 |
| Appropriations | (8,988,686) | (9,163,329) | (9,662,715) | (+674,029) | (+499,386) |
| Conservation | (313,742) | (338,934) | (346,335) | (+32,593) | (+7,401) |
| Advance appropriations | (36,000) | --- | --- | (-36,000) | --- |
| Emergency appropriations | (28,923) | --- | --- | (-28,923) | --- |
| Contingent emergency appropriations | (346,000) | --- | (500,000) | (+154,000) | (+500,000) |
| Rescissions | (-2,000) | (-14,100) | (-14,100) | (-12,100) | --- |
| Deferral | (-40,000) | --- | (-50,000) | (-10,000) | (-50,000) |
| (Transfer out) | (-33,700) | (-40,000) | --- | (+33,700) | (+40,000) |
| (By transfer) | (33,700) | (40,000) | --- | (-33,700) | (-40,000) |
| Grand total: | | | | | |
| New budget (obligational) authority (net) | 19,167,770 | 18,938,916 | 20,414,125 | +1,246,355 | +1,475,209 |
| Fiscal year 2002 (contingent emergency) | --- | --- | (700,000) | (+700,000) | (+700,000) |
| Fiscal year 2003 (net) | (19,167,770) | (18,938,916) | (19,714,125) | (+546,355) | (+775,209) |
| Appropriations | (17,417,625) | (17,665,281) | (18,368,225) | (+950,600) | (+702,944) |
| Conservation | (1,323,000) | (1,317,735) | (1,440,000) | (+117,000) | (+122,265) |
| Advance appropriations | (36,000) | --- | --- | (-36,000) | --- |
| Emergency appropriations | (88,145) | --- | --- | (-88,145) | --- |
| Contingent emergency appropriations | (400,000) | --- | --- | (-400,000) | --- |
| Rescissions | (-57,000) | (-44,100) | (-44,100) | (+12,900) | --- |
| Deferral | (-40,000) | --- | (-50,000) | (-10,000) | (-50,000) |
| (Transfer out) | (-33,700) | (-40,000) | --- | (+33,700) | (+40,000) |
| (By transfer) | (33,700) | (40,000) | --- | (-33,700) | (-40,000) |
| (Limitation on guaranteed loans) | (75,000) | (72,424) | (72,424) | (-2,576) | --- |

AMENDMENT OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAHALL:

Page 50, beginning on line 19, strike "expended" and all that follows through "Congress: *Provided further,*" on line 6, page 51, and insert "expended: *Provided,*".

Mr. RAHALL. Mr. Chairman, I begin by commending the gentleman from New Mexico (Mr. SKEEN), the chairman of the Subcommittee on the Interior. He has brought a very sound bill to the floor. I commend the gentleman for his leadership and salute him upon his retirement from this body. I salute, as well, the ranking minority member, the gentleman from Washington (Mr. DICKS), who I understand may oppose this amendment, but has been very courteous to me in allowing this amendment to proceed.

I offer this amendment with the gentleman from Michigan (Mr. KILDEE). It is my understanding the gentleman from Arizona (Mr. HAYWORTH) on the majority side has a keen interest in this matter and may want to speak as well.

Mr. Chairman, I did vote against the rule governing debate on this measure because it waived all points of order against the bill on matters which constitute an authorization on an appropriation measure with the exception of an issue relating to the Everglades.

In this regard, I am particularly concerned with one authorizing provision in particular that is so unfair, so callous in my view that since it was protected from a point of order under the rule, it has prompted me to offer this amendment.

This provision is nothing more and nothing less than a gag order on thousands of American Indians who are seeking a proper accounting from the Federal Government of royalties that are owed to them. It is a most repressive provision.

Simply stated, this provision in the bill prohibits the government from accounting for amounts owed to more than 300,000 Indians prior to 1985. It is unfortunate, but true, that through both Democrat and Republican administrations, the Department of the Interior has acted like the Enron of Federal agencies when it comes to managing Indian trust assets.

Over the years, countless investigative reports by the Congress, the GAO, the Inspector General, and others have been issued on the failure of the Department of the Interior to properly account for and manage Indian trust funds. This matter is in litigation and the contention is that the Department of the Interior has squandered more than $10 billion in royalties owed to these individuals. Compared to this scandal, the Teapot Dome scandal was chump change.

But rather than allowing the litigation to go forward, rather than allowing for a full and proper accounting of these trust fund accounts, H.R. 5093 places an arbitrary cutoff date of 1985. That would be like telling Americans who have placed money in a savings account all of their adult lives and have proper records that we will have the bank tell the investor what is in their account regardless of what the investor's records show. If the investor's records show an investment of $100,000 in the bank, but the bank says they have only $50,000, then the bank figure would stand, and there is no recourse.

That is what this provision in H.R. 5093 says to these American citizens. They are our first Americans. They have died in our wars. They have invested and contributed to our society. And today they are being treated with the most callous disregard, no better than the heads of Enron and WorldCom treated their investors.

Mr. Chairman, I ask for adoption of this amendment. I ask that my colleagues in support be recognized as well.

REQUEST TO LIMIT DEBATE

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 40 minutes to be equally divided and controlled.

Mr. RAHALL. Mr. Chairman, reserving the right to object, we have a number of requests on this side of the aisle for time.

Mr. SKEEN. Would the gentleman agree to an hour?

Mr. RAHALL. Mr. Chairman, continuing under my reservation, at this time I would like to reserve the option to see how many more speakers may come to the floor.

Mr. TOOMEY. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. SKEEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I oppose the gentleman's amendment. Since fiscal year 1996, the Subcommittee on the Interior has taken the steps necessary to have the Department of the Interior and the Indian community clean up decades of trust fund mismanagement. After appropriating hundreds of millions of dollars for this purpose, it has become clear that a number of "good government" legislative changes were necessary to ensure that trust fund reform can go forward. If trust reform is to succeed, these provisions must be enacted into law.

□ 1100

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. Let us begin by acknowledging that this is not a partisan issue. We have had Interior secretaries under Democrat administrations and under Republican administrations that have struggled with this that have been subject to court orders and contempt of court and employees in both administrations. This has been an extraordinarily difficult issue.

Let us put a little perspective on this. Let us understand what is involved with this. It was 1996 when five plaintiffs filed a class action suit against the Department of Treasury and Interior on behalf of themselves and 300,000 individual Indian money accountholders. It is called the Cobell v. Norton lawsuit for breach of trust in handling Indian funds.

Now, it is not as though the subcommittee and the House of Representatives and the Congress have not recognized the problem. Over the years, we have appropriated $45 million for the trust fund accounting system, $43 million for the trust asset accounting management system, $22 million for data cleanup, and $20 million for a transaction-by-transaction historical accounting of the named plaintiffs and their predecessors to serve as a benchmark to determine future funding requirements for this type of activity. This amount, about $130 million, is in addition to all of the other things that we are doing on a day-to-day basis in the operations of the trust account.

Meanwhile, we have had the courts making and the plaintiffs making life very difficult for employees. They have had contempt of court motions filed against them. They are being advised to purchase their own personal liability insurance. As a result, many of them have recused themselves and they were not able to get employees to work on this accounting system. It is becoming an almost impossible situation for everybody within the department. We need to get this thing resolved.

Now, the reason we have this limitation, this historical accounting limitation, is because it would do all accounts that were opened as of December 31, 2000, going back as far as January 1985. That is virtually the vast majority of them. We are talking about going back to infinity in time to the very beginning of time, and we are talking about something that is almost impossible to do, and it is estimated that it would cost about $2.4 billion, $2.4 billion to do the accounting. It is extraordinarily expensive, but it is not going to yield the desired results because of the missing data that we have. So what we are talking about is trying to narrow this down to something that is reasonable that we can actually accomplish.

If we were required to undertake an extensive historical accounting, we would have to divert funds from other high priority Indian programs and it is going to have a disastrous effect on Native Americans.

We are likely to spend, even with this limited amount, we are likely to spend $200 million over the next several years.

Mr. Chairman, in my view, what we are trying to do is the responsible thing, to act in a responsible way to make sure that we can get this historical accounting done for the vast majority of the Native Americans who deserve to have this done. One of the things we need to make sure that we do is to release the Ernst & Young report that has been held up by the Court; the Court has denied its being released. It has been denied by the Court. We need to do that so we could see what we would have in the way of historical accounting for the numbers of people that would be affected. We need to give some compensation to employees for their litigation expenses. We need to have new members of the Special Trustee Advisory Board and, I think, ultimately, we need to limit this historical accounting to the 300,000 individual accounts.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. KOBLE. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman for yielding and, certainly, as I said in my opening comments, this is something that has gone on through a Republican and Democrat administration. I would agree with the gentleman that it is very hard to get an historical accounting, a true accounting of these monies that are owed, and the Interior Department said that in our Committee on Resources during our hearings on this issue. They said that on numerous occasions.

But I think what we must recognize is that this issue is in litigation at the current time, as the gentleman has noted, and as we are all very much aware. That litigation should be allowed to proceed. I would fear, by the language in the pending bill, that we are prejudging the outcome of that litigation, and that is my concern.

Mr. KOLBE. Mr. Chairman, reclaiming my time, since I think my time is limited at this point, I would just say that it is in litigation, but it is not exactly the first time that the Congress of the United States has stepped in when there has been litigation to try to resolve something. This is litigation that has absolutely no end in sight; none. There is no prospect of this litigation ever coming to a resolution; there is no prospect of ever resolving this issue. We are trying to put some parameters around it so that we can get an historical accounting for the people who really need it. I urge this amendment be defeated.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as cochair of the Congressional Native American Caucus, I strongly urge the House to support the amendment to strike the provision in the Interior appropriations that would limit government accountability to Indians by restricting an historical accounting of Indian trust funds.

This provision would limit the legal claims against the Federal Government for mismanaging Indian trust funds by limiting the accounting from 1985 forward.

Further, the provisions would presume the balances as of 1985 are correct, even though the government admits the money has been mismanaged for decades.

It would also overturn a central provision of the American Indian Trust Management Reform Act, legislation enacted in 1994 after many hearings and deliberations on this issue. That act requires that the Secretary of the Interior provide a full accounting for "all funds held in trust by the United States for the benefit of the Indian tribes or individual Indians."

The Federal courts have also mandated that the government provide Indians with an historical accounting based on trust principles that apply to all Americans. The D.C. Federal District Court and a unanimous D.C. Circuit have already ruled that the government owes Indians an historical accounting of all funds from the date the funds were deposited into Federal accounts for Indians.

To overturn the earlier mandate of the Congress and the Federal courts for this important act of government accountability fails the poorest Americans: Indians, who rely on money from their lands to whom the Federal Government owes a trust responsibility.

This provision also raises new claims that this proposed congressional action constitutes an unconstitutional taking of Indians' property: their money.

Mr. Chairman, this is the Indians' money, not the government's. It is not from a Federal program or entitlement, but from the leases of Indian lands. Money comes directly into the Interior Department in trust from Indians from payments for use of Indian lands for grazing, timber, and mineral royalties. The United States has admitted that it mismanaged and lost the money.

This amendment would absolve the government for accounting for that mismanagement while opening up the government to new legal claims based upon unconstitutional taking of property.

In effect, this provision we seek to strike legalizes years of malfeasance, misfeasance, and nonfeasance. In some instances, it legalizes actual theft of Indian property.

Right now, a Tribal Task Force on Trust Reform is currently working with the Department of Interior on a trust fund proposal that, upon completion, will be submitted to the committees of jurisdiction for review. Let us let them finish their work, and we are working with them. I have been in contact with them, this Indian task force and the Department of the Interior. They are seeking a solution to this themselves.

I urge my colleagues to support this amendment to strike these provisions from the Interior funding bill.

Mr. Chairman, we spend $16 billion a year on foreign aid. Should we not at least be willing to render justice to our Native Americans at a much less cost when it is their own money?

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been listening with great interest to the debate, and I want to congratulate the chairman, the gentleman from Arizona (Mr. KOLBE), for bringing this to the floor to discuss. I also happen to agree with the gentleman from Michigan (Mr. KILDEE) and the gentleman from West Virginia (Mr. RAHALL). This issue has been with us since 1906, and if anybody has a responsibility, it is this body, the Congress. Because it is our estimate, and when I say ours, the different accounting firms and not Andersen, but different accounting firms, there is about $12 billion unaccounted for that belonged to the American Indians. In my State alone since 1971, we cannot account for the BIA $800,000, and that is a short period of time.

But I will say that what the committee is trying to do here, and I hope that as we go through this process, what I am worried about, and the gentleman from Michigan (Mr. KILDEE) mentioned, this is the Indians' money, and he is absolutely right, but what is happening is it is going to be the lawyers' money. It is going to be the lawyers' money. What the committee has tried to do, and whether they are right or wrong, and why they picked 1985 I do not know, is try to, in fact, pick the date that has the modern communications system for accounting, the computer system that is in place so that they can account for that period of time.

I do not believe, and if I could ask, although I do not see the gentleman from Arizona (Mr. KOLBE) here, but somebody, perhaps the gentleman from New Mexico (Mr. SKEEN) or the gentleman from Tennessee (Mr. WAMP), is there somebody who can tell me, this does not preclude or close off other investigations prior to 1985. Can anybody address that? Does anybody know? Is anybody listening?

Mr. KINGSTON. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Chairman, I have been listening to the gentleman from Alaska, and I believe that the gentleman is actually giving a very good description of the situation we are in, and I am going to double-check that, if the gentleman will give me 1 minute.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I will get back to the gentleman.

What I am suggesting here is I do not want to see this happen, this to go on and on and on, and never be settled. If we can get the money from 1985 and not preclude the money beyond that and the earlier years, then I think we have achieved a goal. But right now, we know who is making the money out of this, and that is the lawyers who are presenting the cases and it is the lawyers for the government who are defending against government inaction, a malfeasance. So I am just saying, let us try to bring a conclusion to this, and let us really work on making sure from now on that the system works.

Now, I will say when Ms. NORTON became Secretary, the first thing I did was call her up and said get rid of the BIA and that accounting firm for the trust fund because it is not working. Mr. Babbitt was cited for contempt. But that is not the only person, the person before him, all the way to 1906, the government has not acted as I think they should, and I agree with the gentleman from West Virginia (Mr. RAHALL), that is absolutely wrong. But right now we have to try to get this thing started so from now on we do not have the misuse of these funds and, in fact, the loss of these funds.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman yielding. Even if we were to adopt this arbitrary cutoff date of 1985, from 1985 on, we cannot even get a proper accounting. Mr. Tommy Thompson, one of the special trustees before our committee, testified as such when he said that we cannot get a grasp of the short-term leases that have been recorded post-1985. So we still have an accounting nightmare out there in which we cannot track everything.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, that means that we have to address that issue. We have to address that issue, maybe not in this legislation; I will be honest with the gentleman on that, I am not sure this will do it. But I am saying somewhere along the line we have to solve this problem. Create a grand master, make an accounting firm that will handle that and get out of the BIA, because as long as the BIA is where it is, we will never have a good system of accounting.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, first of all, it is going to cost about $900 million just to do the accounting back to 1985. The department does not have all of these records, or they would have done it. We have to have a settlement. At some point this Congress is going to have to impose a settlement on this issue. I have done one before, the Puyallup Indian land claim settlement, a very comprehensive settlement which Congress supported. We are going to have to craft a settlement.

Now, if these gentlemen who have come here to the floor today to help us, if their committees would get busy and develop a compromise and do a settlement on this issue, it could be coming from the Congress. Somehow we have to resolve this, because we do not have enough money.

I think there is a lot of wishful thinking that suggests that this is all going to come out of the Justice Department. It may not come out of the Justice Department. If there is malfeasance, Mitch Daniels is going to say, Interior, you repay this $2.5 billion, 5 billion, whatever the number is. So that is a possibility.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I agree with the gentleman. What I am suggesting to the people and those of us who support the American Indians, as I do, I think it is the responsibility of Congress. Because if we look at the trust, if we look at the trust, if we look at what is said about the American Indians, the trust belongs to the Congress.

□ 1115

We have been neglectful in not pursuing and making sure that this issue had been solved in previous years.

So I am asking us to sit down, as the gentleman mentioned before, and say, let us solve this problem, because they owe their money to themselves. We have spent that money somewhere. It is our responsibility.

Like the gentleman says, they will say, we will not appropriate, we do not have the money. But somewhere along we have to step up to the plate and say listen, we have spent that money, we owe it to them, and we ought to take it and get it to them as soon as possible and shut the doors.

Mr. DICKS. Mr. Chairman, if the gentleman will continue to yield, this is why they cannot get this done, they do not have all the records. There is no possible way to do this. Someone is going to make an estimate of what is there, and it can either be done by the court, which is not helping us, by the way, or by the Congress.

If we do not do it there, between the parties, then it has to be done by the Congress. Congress has to step in, the authorizing committee has to step in, and come up with a legislative settlement of this issue.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a great deal of respect for my colleagues who have been speaking so far this morning.

Mr. KINGSTON. Mr. Chairman, if the gentleman will yield for one minute, this is something unrelated that I think the gentleman will support dispensing with.

Mr. DICKS. Mr. Chairman, I ask unanimous consent that the gentleman from New Jersey (Mr. PALLONE) have 1 additional minute to answer the question.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The gentleman from New Jersey (Mr. PALLONE) is recognized for 1 additional minute.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I would like to have a colloquy with the gentleman from Pennsylvania (Mr. TOOMEY), who objected to that time limit on this amendment.

It is my understanding that the gentleman from Pennsylvania (Mr. TOOMEY) will not object to other amendments in title I as long as title I is not closed up, which would reserve the gentleman's right to offer amendments to title I at a later time.

So when we consider other amendments under title I, such as the amendment of the gentleman from Arizona (Mr. HAYWORTH), we can agree to a time limit without the gentleman's objection.

Is that the gentleman's position?

Mr. TOOMEY. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Pennsylvania.

Mr. TOOMEY. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me.

I would say to the gentleman from Tennessee, we do have a number of additional amendments which we would certainly reserve the right to introduce. However, we recognize many Members have important amendments, and in the interest of cooperation here and in giving everybody their opportunity, we would agree to not object to any agreements on time limits on the amendments that the gentleman would like to offer in title I, provided that when the gentleman finishes with his amendment, the committee rises without closing out title I.

Mr. WAMP. I thank the gentleman from New Jersey (Mr. PALLONE) for yielding to me, Mr. Chairman.

Mr. PALLONE. Mr. Chairman, again I want to say that I have a great deal of respect for those who have spoken so far. I know that they are well intentioned, but I am very disturbed by some of the comments and the procedure that we are following this morning.

Let me say that I understand perfectly what the gentleman from Alaska said, but this is a debate that really does not belong here. I know we are dealing with money and trust reform, and one could argue that somehow it is appropriations related, but I think the very fact that there is such a debate, and so many questions about what we should be doing with the trust funds means that it should not be done on an appropriations bill.

There should be a hearing, or perhaps a series of hearings that are being held in the Committee on Resources, in the authorizing committee, not here on the floor, when we are dealing with this larger bill.

I think it is a huge mistake. The very nature of the debate shows it is a mistake, and why we should support the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

Beyond that, I was very disturbed by some of the comments the gentleman from Arizona made. He talked about how we have spent a million here or a million there in order to try to deal with this trust issue. But we are talking about a scandal, I use the term "scandal" because that is what it is, that affects about $10 billion in funds that may or may not be owed, depending on the amount, to American Indians.

We have had problems over the last few weeks and the last few months with the corporate scandals and the accountants that we have had in Enron and WorldCom and everything else, and everybody on a bipartisan basis has been on this floor saying that we have to take responsibility and the CEOs have to take responsibility and do the right thing to make sure that the accounting is proper.

Why is that any different for the Federal Government? Why is it any different for this Congress? This Congress has the same responsibility. I am not interested in whether the employees at the Interior Department are going to be harmed in some way, or whether or not they are going to have to go out and get a lawyer in some way because of something they may have done wrong.

We are talking about people who historically have been harmed by this Congress. We have a special burden here. There are 100 or 200 years of harm to American Indians, and they do not trust us. I understand why they do not trust us, because of the things that have happened historically with this Congress and with the Federal Government.

There is a special burden here, a special burden that goes beyond the Enrons and the WorldComs, so they do not think that everything that they do and everything that Congress does is going to harm them and be discriminatory against them.

I know it is very easy for us to say here that we have to worry about this money and we have to worry about that money, but I think for us to suggest here today that we are going to have some sort of cutoff pre-1985, or we are going to have some sort of cutoff after the year 2000, and say that we are going to limit the accounting or what the liability should be without having consultation with American Indian tribes is a huge mistake.

The gentleman from Michigan (Mr. KILDEE) mentioned that there is now a task force within the tribes in the American Indian community that is sitting down with the Interior Department, with Members of Congress, with our Committee on Resources, and talking about a process that we should go about, in consultation with them, to decide how to deal with this essentially accounting issue.

We need the time for that task force to sit down, to come back to the authorizing committee, the Committee on Resources, and discuss what should be done so that American Indians do not continue to be harmed.

It is not fair for us in this little debate today, even though my friends are well-intentioned, and I am not suggesting they are not, it is not fair for us in this half hour or hour of debate to make cutoffs and arbitrarily decide what we want to do, even if it is for monetary reasons, because there is too much money involved, there is too much of a history of discrimination involved. And given what we have seen with the corporate sector over the last few weeks and the last few months, I think we have a particular responsibility as elected officials and as representatives of the Federal Government to not do the same things in trying to protect the CEOs or, in this case, the government officials who have the responsibility to deal with this issue.

It is wrong to have that discussion here. This amendment should be passed, if for no other reason than this is not the forum and this is not the time to be taking this action.

Mr. HAYWORTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the House is in the Committee of the Whole House to consider this, I rise in support of this bipartisan amendment, acknowledging what I believe to be good-faith efforts of the appropriators for what is a very difficult problem. Indeed, simply to call this a very difficult problem may be the understatement of this new century, and maybe the understatement, quite candidly, Mr. Chairman, of almost 3 centuries.

I was honored, upon first arriving in this House, to join my colleague, the gentleman from Michigan, in a bipartisan fashion co-chairing a task force dealing with this very problem. In 1994, this Congress required the Secretary of the Interior to provide an accounting of all funds held in trust by the United States for the benefit of an Indian tribe or individual Indians.

There is a body of law, ratified treaties, the long-standing tribal trust relationship, the sacred trust, that this government must exercise. And there are larger questions, not only from an institutional perspective, where, despite the good faith of our friends, the appropriators, they are actually stepping in to what the authorizing committee, my colleagues and I who serve on the Committee on Resources, should be working out.

We have taken steps, and I appreciate my friend, the gentleman from West Virginia, and my friend, the gentleman from Michigan. We have held some hearings. My friend, the gentleman from New Jersey, quite correctly pointed out that the tribes themselves, working with the Department of the Interior, and let me say, Mr. Chairman, that the current Secretary of the Interior takes this seriously. She has worked on this every day. The contempt citation offered by Judge Lambert is something that she takes seriously.

Good people can disagree; but it seems to me if we are involved in forensic accounting, the point has been made in a variety of news analyses that when we look at the hocus-pocus of either maladroit or unethical accounting, whatever the corporate world has done cannot eclipse, for whatever reason, what has gone on for a long time in the halls of government.

So, Mr. Chairman, let it begin here. Our first genuine efforts at accounting reform, let it begin with the first Americans, the first Americans, who have taken steps in good faith with the Secretary of the Interior, who has taken steps in good faith with an authorizing committee that wants to work together in good faith to address this problem.

It is a challenge, to say the least. But the remedy offered, however well-intentioned, by the Committee on Appropriations today is something we should thank them for, but ultimately reject. That is why I support this bipartisan amendment. We will work this in good order and move to accept this amendment. I thank my friends who have spoken on behalf of it.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, is the gentleman from Arizona or the subcommittee aware of any formal requests from the administration for this provision?

Mr. HAYWORTH. Mr. Chairman, reclaiming my time, I am not aware of any formal requests for this particular provision. I think it offers another compelling reason why we thank the appropriators, given the magnitude of the task, but reassert the role of the authorizing committee, and recognize the good but challenging work that has been done thus far to try and deal with this problem.

So again, I ask my colleagues on both sides of the aisle to support this amendment.

Mr. BACA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of this amendment. This amendment strikes a provision that would limit a historical accounting of Indian trusts. The accounting would only cover the period from 1985 to 2000. How can we limit the accounting to such a short period when the accounting practices in question date back over 300 years?

At a time when we are trying to increase accounting responsibility in the corporate world, can we really say that these standards apply only to them, and I say, only apply to them, Native American Indians? Can we really be that unfair to Native American brothers and sisters, once again, to our Native American Indians being unfair?

The President and Congress has made it clear that the proper accounting goes hand in hand with high moral standards. Should we not expect the same standards to be applied to the Federal Government accounting Indian trust funds? Morality and ethics should be applied to all of us.

Mr. Chairman, this provision undermines a Federal law that this House passed requiring a full accounting of all trust funds. It also undermines a Federal court decision requiring an accounting of all funds, regardless of dates deposited.

Most importantly, it undermines our moral and ethical values. We cannot argue for fairness in corporate accounting and act in such a way which is unfair today, as we are to Native Americans who have made a contribution, who are the first Native Americans of this country, who have contributed so much to our society. We have a trust responsibility and a moral responsibility to provide full and fair accounting of all Indian trust funds. I urge Members to support this amendment.

Mr. KINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what I wanted to do is kind of go through some of the questions that have been brought up here. One of the questions was, Does the administration know about this? Does the administration support it?

The administration does know about this language and the administration does support this bill. Certainly, the Department of the Interior has flyspecked it as carefully as they can. As we all know, Democrats and Republicans and the administration are quick to point out what they like or dislike on anything we are doing here on the Hill.

The second issue I wanted to touch base on was one that the gentleman from Alaska (Mr. YOUNG) raised about precluding any dispute prior to 1985. It is the intention of this committee to not permanently preclude any accounting for other accounts for other periods. Why is the 1985 date the one we are starting with? We are starting with that because that was the beginning of the electronic era, when it became a little easier to track this.

Why are we in this situation to begin with? We go back, and this actually does span hundreds of years, the dates might not be exactly accurate, but say 1820-ish. At that time, there were Indian reservations. In 1833, there was an act of Congress that busted them up, and it was called the Land Allotment Act, 1833 and 1834.

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And at that time much of this previous reservation land was returned into the hands of Native Americans. And then through a number of unscrupulous moves they lost a lot of this land. The Federal Government came back and said this is not fair. We have got to get the land back to the people who own it, and so they started a system of leasing land.

Now, let us say you were a Native American in 1840 and you owned 240 acres of land, easy, clear to understand. But fast forward down the road 100 years, and you have got a thousand people, a thousand heirs who are claiming that 240 acres, and in many cases smaller tracts of lands and more heirs are claiming it. So it is very difficult to administer this thing.

To give you an idea what we are talking about, some of these leaseholders are getting paid 3 and 4 cents, Mr. Chairman, and it costs $30 or $40 a lease to administer the payment to them.

So what the committee is trying to do in this confusion is bracket the problem off and say, tell you what, the year is 2002, let us go back to 1985 where we had hard core electronic records of the land. Let us start with that. Let us try to figure this out in this bracket. Now we are not saying we will not go back, but we are saying from this point on let us clean up the mess that we have because this portion is more manageable.

It is not, again, the intent of the committee to preclude any accounting problems prior to 1985. But one thing I want to say, if we do not put a bracket on it, we are looking at $2.4 billion in accounting. And a lot of money, this money, as the gentleman from Alaska (Mr. YOUNG) has pointed out, is going to wind up in the hands of lawyers, not in the hands of the Native American landowners. So the committee is trying to find some reasonable balance and it is bipartisan.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. I think the thing we want to emphasize here is that we are trying to get this thing resolved without spending what has been estimated. If we go the route we are going, it could cost from $500 to $700 million out of the Interior Department budget to do this historical accounting. What we have proposed is let us take the period from the year 2000 going back to 1985, let us do that first, that is going to cost approximately $900 million. That is still going to come out of the Interior Department budget. Then, if the Congress, if the authorizers who we see here today, want to, we could then have a subsequent congressional act that would, go back 100 years and try to reach some kind of an accounting, estimate, or settlement on what would be fair considering the facts that we do not have the accounts.

What we are faced with is we have got a broken main here. And money is gushing out because of this lawsuit. It could be up to a billion dollars, $500 to $700 million up to a billion. On 5 individuals they spent $20 million. And that is the finding that the judge will not release to the Congress.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. KINGSTON) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. KINGSTON was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, we are faced with a very tough problem and there are some who may not realize that this is already hurting all of the other tribes because this money comes out of the Interior budget and is not available for other programs.

Now, Babbitt tried as hard as he could. I believe that Norton is trying as hard as she can. But you have litigants who are going after the people in the agency who are trying to do the work, forcing them to be recused and threatening them with civil liabilities. This is an outrageous act of legal activity aimed at trying to destroy the Department of Interior and its ability to function. In fact, people are being held personally liable under lawsuits because of their work in this particular matter.

I just think that this is broken. We have got to fix it here. It is a possible way to move forward with a reasonable amount of money. We could spend a billion dollars and still not get the information because it is not there, the information pre-1985 is not there in any definable way. You cannot do this job. And if you just keep throwing money at it and say, do it, and they cannot do it, then we cannot get anything done.

I am a very practical guy. At some point if it is broke, let us fix it. Let us come up with a settlement. Let us get the authorizers to do something and create a settlement here and pass it through the Congress that is fair and equitable. Listen to all the witnesses. Listen to the best information you can get, the best estimates you can. Do a settlement, not this litigation which is broken.

We have a judge that is out of control who is saying the Department cannot use the Internet. To me it is one of the most outrageous things that I have witnessed in my career. We have to stop it. If the Democrats are worried about saving some money, this is a place to do it.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. KINGSTON) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. KINGSTON was allowed to proceed for 1 additional minute.)

Mr. KINGSTON. Reclaiming my time, I want to make the point, this is not an arbitrary move by the Committee on Appropriations. There were budget hearings on this, oversight hearings and annual appropriations committees. All we are trying to do, as the gentleman from Washington (Mr. DICKS) has said, is just start with some certainty from 1985, from here on, that point on, we are going to clean it up. And that cost is going to be about $900 million. If we do not have that 1985 bracketed, we are looking at two things: A cost of about 2.4 billion according to the Department of Interior's Office of Historical Trust Accounting. And what is worse than that, we will not be able to resolve it.

Mr. DICKS. There is $143 million this year in this budget for this activity. This is broken. We need somehow to get our hands around this and try to come up with a settlement. Congress is going to have to do it or we are going to spend billions on something that we cannot do.

Mr. KINGSTON. Reclaiming my time, this helps a lot of people in that 1985 to 2000 and on bracket. There are lots who are not going to be benefitted either way but these people will be helped tremendously.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am impressed with the sincerity, I think, that is being offered by our various points of view in different perspectives on the floor here. However, the longer I serve in Congress, this is an area where I do not just feel worse, I feel guilty as an American about the treatment of our Native American citizens. And it seems to me the efforts here to establish an arbitrary date, which is arbitrary, which is not going to stop litigation, which is not going to solve confusion, is not going to help make the process work. By all means, treat it as the crisis that it is.

I identify with the comments from my friend from New Jersey who talked about how people are pulling all sorts of rabbits out of the hat around here dealing with corporate responsibility, including putting bills on this floor that have never been to committee, that we never had a chance to analyze, that have had significant ramifications because there is a scent of scandal in the air.

Well, ladies and gentlemen, this is a scandal of monumental proportions. And I would hopefully, respectfully suggest that instead of trying to jimmie it, to cut the ground out from underneath it, to try and take a small portion of it, that we move forward, give it the treatment that it accords. Work with the authorizing committee. Work with others here who have the sincere effort to move it forward. Put serious money behind it. It is going to cost a huge amount of money, but it seems to me that it is not going to move us forward by trying to arbitrarily bracket it here in the appropriations bill.

I strongly support the amendment from the gentleman from West Virginia (Mr. RAHALL). I hope that we can use this as a way to start forward, taking the good will that has been expressed on a bipartisan basis, the acknowledgment of the financial contribution that is going to have to be made, approve the amendment, but move forward with a comprehensive approach.

I know that there are Members of this Congress who would like to do some serious legislating. This is an area where I think people would step up to the plate for Congress to finally accept its responsibility. I would not like this to be perceived by our friends in the Native American community as another chapter in this long, sad history.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the full 5 minutes, but I rise in strong support of this amendment.

I think when we come to this floor and we find ourselves in a time like this, I am excited. I see a ray of light that can finally maybe work for this problem. I agree with the gentleman from Washington (Mr. DICKS). This issue is so complicated it should not be on this bill. We need to support the Rahall amendment, and we need to fix it this issue. And the positive side of this, we see Members from both sides of the aisle recognize that, A. this problem is difficult, that it has been festering for too long and that it is wrong what our government has done to Native Americans.

How many of us, when we walked out of Dances With Wolves, felt sad? Probably sad in what we have done to the Native Americans. What about Wounded Knee? What about Code Talkers? I do not have a reservation in my district. There is one in San Diego.

I want to tell you what these Native Americans are trying to do. They are trying to stand on their own two feet, and every time they stand and they may just get one leg up, this government takes and whacks them and knocks them down.

This is a chance for us to come together as Members of Congress, both in the House and in the other body, and really do some good. I want to thank my colleague, and I think that it is time that we act. Members will find that I think most of us on this side of the aisle are very, very supportive.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, be limited to 30 minutes, to be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. RAHALL. Mr. Chairman, reserving the right to object, is the request that the limit be 30 minutes equally divided between the opponents of the amendment and the proponent, myself? Fifteen minutes each side, is that the request?

The CHAIRMAN. That is the gentleman's request.

Mr. KINGSTON. If the gentleman will yield, it is the intent to do 30 minutes total, but if the gentleman would want to substitute to another number, I think that would be appropriate.

Mr. RAHALL. I have no problem with 30 minutes. I just wanted to make sure I understood the division of time therein.

Mr. KINGSTON. Fifteen minutes on each side.

The CHAIRMAN. The gentleman's request is to limit debate to 30 minutes, 15 minutes divided and controlled by the gentleman on this amendment and on all amendments thereto, equally divided between the gentleman from West Virginia (Mr. RAHALL) and a Member opposed.

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman will yield, I would like to address in colloquy with the chairman. Would the gentleman be opposed to making that 40 minutes, primarily the next amendment? We have many, many speakers.

The CHAIRMAN. It is just this amendment and any amendments to this amendment.

Mr. RAHALL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the unanimous consent request is granted.

There was no objection.

The CHAIRMAN. The gentleman from West Virginia (Mr. RAHALL) controls 15 minutes.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding me time.

I think it has become clear that the language in the appropriations bill has become unacceptable. I think somebody said earlier on the Republican side of the aisle, we should thank them for the language but we should reject it because I think it does not deal with this in a proper fashion.

We have all understood and many of us have been struggling for many years on a bipartisan basis on many committees to get around the mismanagement of these funds, to get an accounting and get the money to the people who deserve it. It is a massive mismanagement of the funds by the Federal government and people have been hurt and damaged by this and we must resolve it.

I think the gentleman from Washington (Mr. DICKS) has made some good points. I think the gentleman from Alaska (Mr. YOUNG) and others have made some points that we are at a point here where to some extent the Department of Interior does not want to admit that they cannot reconcile the accounts, and we keep giving them money to do a job that maybe they cannot do.

Other people are not interested in a settlement at this point, but my concern here with bracketing this to 1985 is we really have not discussed what we do with the others. I appreciate that people said our intent is not to close it off, but maybe we ought to reject this language; and hopefully between now and the conference committee be discussing with the parties that this is a staged operation. What happens to the people before 1985 or the accounts in 1985. Is there a parallel negotiation that can be entered into, because everybody has pointed out those records will not be full and complete.

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I am afraid that this alone leaves us with kind of a large unanswered question, what happens pre-1985, and I know the Members of the committee have expressed, well, this really, we can come along and authorize that later, but that puts a lot of people at a disadvantage.

So I think we ought to reject this language, but we ought to do it in the spirit of what people have said both on the Committee on Appropriations and on the authorizing committee. I do not know that we can direct in legislative language a settlement, but we have got to direct the parties that we cannot keep funding this sort of Alice in Wonderland attempt at accounting when it will not resolve the issue in the end, and it is taking money away from vital programs.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. GEORGE MILLER of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I completely concur with the gentleman. I think the gentleman laid this out correctly. That is what needs to happen in terms of having some mechanism created to deal with pre-1985 so that we get some expert estimate, and negotiate that.

Our hope was to take to the present, forward where we believe the records are sufficient, and get that done as quickly as possible. I do not know how we are going to have to have that structured, but that is what we need to do. I would love to work with the gentleman on this to try to see if we cannot move something like that forward.

Mr. GEORGE MILLER of California. Mr. Chairman, I think the concern here is that some people are affected 1985 to 2000 and other people are affected 1785 to 1985. I think that we have got to make sure that we can assure both parties that their rights will be protected, but we also have to get them to understand that no matter what we do, no matter what the accounting is, even 1985 to 2000, it is going to be disputed. So we are going to end up at some point in settlement, and those settlements must go forward.

I am afraid that the Department keeps asking for money to do the accounting. Part of that is trying to insulate themselves from liability, that they are working on the issue, but they are digging a hole.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. GEORGE MILLER of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, they are directed by the judge to do this.

Mr. GEORGE MILLER of California. Exactly.

Mr. DICKS. Mr. Chairman, then the litigants go after the people doing the work, saying they are not acting in good faith, and then they have to be recused, subject to litigation, personal liability, I might add, which we have tried to take care of in this bill.

This thing is broken; and somehow all the people that are here today expressing their wonderful concern, there is going to be a tomorrow, and we will see if anybody really wants to stand up with the majority side obviously having to be involved and work on this. This has to be done. We have got to get something done here.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. GEORGE MILLER of California. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I perfectly agree with the statements that have been said. We want to settle this. We want a settlement. Let us allow the current litigation to go forward or get a settlement.

Mr. DICKS. Mr. Chairman, if the gentleman will yield, what efforts have been made by the Committee on Resources to foster a settlement?

Mr. GEORGE MILLER of California. Mr. Chairman, I think, with all due respect, it is very clear, I am sorry to the gentleman from Alaska (Mr. YOUNG) and others, the gentleman from Arizona (Mr. HAYWORTH), when he came here with his special commission.

Part of this was about getting the administration, the past administration and others to recognize that they had real liability for these funds. Let us not forget that we were being pushed back by the Department of the Interior for many, many years to somehow this problem did not really exist. The gentleman from Alaska (Mr. YOUNG), to his credit, is the one who really broke it open.

Now they recognize that they cannot escape that liability. They had had preliminary discussions about settlement. We have got to encourage that to go forward, but we cannot make this decision about 1985 here and now without the consultation of the other parties.

The CHAIRMAN. Does the gentleman from Georgia (Mr. KINGSTON) wish to control time in opposition to the amendment?

Mr. KINGSTON. Mr. Chairman, yes, I would like to control the time; and I reserve the balance of the time.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico (Mr. UDALL), a valuable member of our Committee on Resources.

Mr. UDALL of New Mexico. Mr. Chairman, I thank the gentleman for yielding me the time, and let me just first thank the gentleman from New Mexico (Mr. SKEEN) for his leadership on this bill. The chairman is from my home State of New Mexico. He has always served New Mexico very well, many years of distinguished service, and so I just want to say to him, I know this is going to be the last bill he manages on the floor, that we are all going to miss him very much, and he has been somebody I think that has always been there for New Mexico. So I thank the gentleman from New Mexico (Mr. SKEEN).

I want to rise in support of this amendment, the Kildee-Hayworth amendment. This is a bipartisan amendment; and I think the important thing, as the gentleman from Arizona (Mr. HAYWORTH) said, is that Native American issues should not be partisan issues. This Congress should address these issues in a bipartisan way, and that is what we are trying to do on the Committee on Resources.

We have two senior Members that have offered this amendment. It is a good, solid amendment, and basically what it does is take out these provisions that hurt Native Americans.

What specifically it does is when we talk about a court case, we are talking about the current court case of Cobell v. Norton. That court case is a case which arose from major officials violating their trust responsibilities to Native Americans.

The court has said in the strongest of terms and condemned the actions of Federal officials and how they have dealt with these accounts. So there is absolutely no doubt that there has been a violation by the Federal Government, and the provisions in this bill cut off Native American rights. There are very specific deadlines in there, and all of those need to be taken out; and the important thing here is this bill language comes at a time when the Nation is focused on accounting responsibility.

The President and the Congress have made it clear that accounting must be marked by transparency and high moral standards. We expect the same standards to be applied to the Federal Government accounting for Indian trust funds and not to allow the Federal Government to absolve itself of accounting responsibility.

So these provisions would throw the Native Americans out of court, and I do not think that is the way we want to go.

The gentleman from Washington (Mr. DICKS) raises, I think, a very good point when he says we need to move this case toward settlement. I do not think there is any doubt that we need to move this case toward settlement. We should be working on the settlement issue, and we should let all of the attorneys know we want to move towards settlement.

The key issue here, the committee that should be working on this is the Committee on Resources. We have had hearings on this issue. We have had Secretary Norton in the Committee on Resources as recently as February 6, 2002; and unfortunately, she will not admit that she does not have the records. Very pointedly, the gentleman from West Virginia (Mr. RAHALL), the ranking member, specifically asked her, Do you have the records? Can you do this accounting? She would not admit that she could not do the accounting.

So part of the responsibility for prolonging this comes from the Department, which is not willing to admit that they do not have the records. They should step forward, say they cannot do this, and that would lead to some kind of settlement.

The last issue I want to raise is this issue of attorneys' fees, and the issue has come up that attorneys are getting rich on this. The lead plaintiffs in this case are the Native American Rights Fund. It is a nonprofit. It is a law firm that is dedicated to protecting Native American rights. They are only allowed to get their attorneys' fees. No attorneys are getting rich in the Native American Rights Fund, and so I would just say that that attorneys' fee issue, we ought to move that to the side, and as the gentleman from Washington (Mr. DICKS) says, in terms of the committee, let us get on with settlement and move in that direction.

Mr. KINGSTON. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I think we made some progress here today. I want to make sure there is clear understanding that the committee, this committee has been one of the strongest advocates for Native Americans. We have increased every year that I have been on this committee; we have had added money for Native Americans.

This is not an effort by the committee to do something to harm the tribes that are affected here. What we are trying to do is to get them money in a reasonable period of time without decimating the interior appropriations bill every single year. I want that $143 million to be used for other programs that will help Native Americans. I do not want to waste $1 billion in going out and trying to do accounting that is not going to give us the information pre-1985.

I have talked to the chairman and the staff. We are prepared to work with the authorizers on language that would deal with the pre-1985 period between now and the conference committee and maybe we can put together a package as the gentleman from California (Mr. GEORGE MILLER) has laid out previously, which I think makes some sense, so that we can move expeditiously on the period between 2000 and 1985; and then we craft an approach for a settlement of some sort pre-1985 so that we move the game forward, get this thing moving in the right direction so that the tribes will get some money.

To do just historical accounting every single year and let this litigation fester is not accomplishing anything to help the tribes. They are not going to get the money. It is going to be years and years and years before this will be resolved. It will go through litigation. It will go to the circuit court of appeals. It will go to the United States Supreme Court. We need to work out a settlement; and this amendment was offered in the spirit of trying to break this logjam, trying to move this thing forward.

I would like to see the authorizers agree with us today that we should work together collectively to try to come up with some pre-1985 language. The chairman and his people are willing to work with us on this, and I think we could make some very significant progress and move this thing forward.

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, we strike the pre-1985 accounts and then give them some vague promise that we may restore that, and I have been working in Indian matters now as a legislator for 38 years, and many promises have been made.

Mr. DICKS. Reclaiming my time, the gentleman wants to make his speech, make it on the gentleman from West Virginia's (Mr. RAHALL) time.

Mr. KILDEE. Mr. Chairman, may I make my next point then?

Mr. DICKS. Yes.

Mr. KILDEE. Mr. Chairman, I think what we do with this language that we have in the bill is just invite new litigation with more cost to the government, because as soon as this becomes law, new litigation will break out because we are taking property unconstitutionally.

Mr. DICKS. Mr. Chairman, we are not doing very well the way we are going, and again, the prospects are we are going to spend between 500 and $700 million on the historical accounting. It could go to $1 billion if we go the way we are going; and if we try this approach, we may be able to limit the amount of money spent to $100 million on the 1985 to the current accounting, then work out an approach pre-1985. It has got to be a settlement because they do not have the records. It has got to be a settlement, and we ought to work on the language.

I resent the intonation that it is some vague promise. The gentleman from Washington has never ever made a commitment that I have not kept in my years in this Congress. When I say we are willing to sit down and work on something, that is not a vague promise.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

I say to my good friend from Washington, and fellow classmate, that I do not believe I was referring to any vague promises.

Mr. DICKS. Mr. Chairman, if the gentleman would yield, it was not you. It was the previous speaker.

Mr. RAHALL. Mr. Chairman, I certainly agree with the comments he made as far as his word and ability to work with everybody.

□ 1200

Mr. Chairman, we have heard a lot about settling today, and I certainly agree with that. I think we all want to settle this very complicated and very unjust provision that does affect our Native Americans. I happen to believe, and the reason I offered this amendment, was that the provision in the pending legislation happens to hamper us in that effort and perhaps even prejudges the outcome of current litigation.

My good friend from Washington has suggested that we perhaps work on this between the floor and the conference.

And with all due respect, and I know he realizes, there are perhaps some scoping problems if that were to be done. I would suggest as an alternative using the framework of the gentleman from California, using the framework of the gentleman from Washington, whoever else's framework wants to resolve this in a fair manner, that we start with a clean slate. And in order to do that, we have to delete the current provision of the pending legislation.

I would note as well that the Department of Interior, as I have already noted in this debate, will never be able to conduct a full historical accounting of these trust fund accounts, and the Department has admitted that to us during hearings before our Committee on Resources. In my opinion, the Department should be sitting down with the plaintiffs in the current Cobell litigation and settle this matter and move on.

Something that has been referred to earlier is the lawyers' fees; that this is making the lawyers rich. I would note that the lawyers are working for fees only, no percentages, and I do not believe they could be described as getting rich on this issue. But, instead, I think some in the Department, and again this is not a partisan comment, but it has been occurring over time, have engaged in sleights of hand. They have thought to shuffle the deck chairs and intended to dilute their responsibility, and that is just truly unfair.

I would suggest that we delete this provision and allow litigation to come to a proper and fair resolution. And I would note as well that any settlement of this litigation would not be paid for by this appropriation bill; rather, any settlement of this litigation would come out of the Claims and Judgment Fund at the Justice Department, which is set up when the United States loses any legal case, not just in this matter but any others. That is where the settlement would come from.

It is not the intention of this gentleman to see this matter drag on any longer than it has. However, I cannot stand idly by while the rights of thousands of citizens are trampled upon by the limitation that is contained in the pending legislation. I think it is a dangerous precedent. It is one we should not be establishing, and especially in these times of widespread accounting scandals in the corporate world.

So, in conclusion, we all agree we must settle this, but I fear that the provision in the current legislation would harm our bipartisan efforts to settle this important matter for our Native Americans in a fair manner, and I would urge adoption of the pending amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. KINGSTON. Mr. Chairman, I yield myself such time as I may consume, and I thank the gentleman for his comments. I want to make a few closing points that I think are very important.

Number one, on the question of 1985, it has been called an arbitrary date. It is not an arbitrary date. That is the date of the electronic records. If my colleagues do not like the 1985 date, what date do they want? 1980, 1975, 1979? And then with that gap, what records will you have? If you have the records for the period prior to 1985 to any other date certain, please come up with it.

Number two, this does not preclude claims that happened before 1985. It simply gets us started.

Number three, we are looking at now making real progress, getting the job done, or at least taking the first very significant step at a cost of about $900 million versus a cost of $2.4 billion. Earlier, on this bill, last night, we had lots of debate and heartaches about the money this bill was spending. It seems odd to me that now people would say, well, let us just spend $1.5 billion.

And that money, as the gentleman from Washington (Mr. DICKS) has pointed out, may never get to the people who we all want to get the money to eventually. It has been said that the lawyers are not making money. Well, lawyers do tend to do things for a profit. The court monitors in 2001, for example, were paid about $342,000. The court monitor was paid $342,000 and the special master was paid $354,000. That is compensation well over $400,000 a year. So I think what was asserted earlier, that the lawyers are making money on this thing, I think is important to say.

This committee has long stood up for Native Americans. This is the committee that funds the Native American programs. This is the committee that advocates for Native Americans, and it is in that regard that we are saying let us get this job started with the 1985 date, do a good job on those that we know are certain, and then go back.

I want to point out that this bill has $2.9 billion for Indian health services, new hospitals, critical health care services, research on diabetes and treatment. It has $1.8 billion for the Bureau of Indian Affairs' operation of Indian programs. That, Mr. Chairman, means education programs, money for new computers, money for new teachers, money for new transportation so school kids can get to schools. And, also, this bill, at the advocacy of the gentleman from Arizona (Mr. HAYWORTH) and many, many others, puts $22 million in Indian program increases, which will help build six new schools and continues critical hospital and clinic construction.

This bill does a lot of things because this committee, on a bipartisan basis, does everything it can for our Native Americans.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the one thing I want to correct, and I know the gentleman from West Virginia did not intend it, but there is an assumption being made by the proponents of this amendment that any claim in this issue will be paid for out of the Justice Department funds. We have had just recently a Ramah settlement, $80 million, that came out of the claims fund, and OMB directed the Department of the Interior to take money from their accounts and put it back into the Justice Department.

So this is not a clear-cut case. And there could be an effort to make the Department of the Interior pay this.

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the distinguished gentleman from California.

Mr. GEORGE MILLER of California. Just on that point, Mr. Chairman, it would be a travesty of justice if the Indian programs ended up getting punished because of the mismanagement by the Federal Government of Indian trust funds.

I appreciate OMB may direct them to do that, but I cannot believe the Congress is going to go along with that directive.

Mr. DICKS. Mr. Chairman, if the gentleman will continue to yield, it would not be just the Indian programs. All the programs of the Department of the Interior would have to be taxed for the $80 million to pay back to the claims.

The point I am making is the gentleman from West Virginia stood up here and said that it is an automatic deal for the Justice Department to have to take care of this settlement. That is not an automatic deal. I want the House and the Members to understand that.

Mr. KINGSTON. Reclaiming my time, Mr. Chairman, I thank the gentleman for his comments.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the amendment to H.R. 5093 offered by Mr. NICK RAHALL of West Virginia that would strike provisions in the Interior Appropriations bill that rob the legal rights of Native Americans. The provision in question limits the Federal Government's accountability to Native Americans by restricting an historical accounting of Indian Trust Funds.

Mr. Chairman, these trust funds have been entrusted to the care of the Federal Government for over a century and for nearly as long the trust has experienced rampant mismanagement of funds, destruction of records, and blatant dissembling by those charged with management. And the provision of the Interior Appropriations bill would seek to limit billions of dollars in claims against the Federal Government, claims that are legal and just, by mandating accurate accounting of the trust funds only from 1985 forward. The trust has been in existence since 1887—that is the date from which accurate accounting should be given.

Mr. Chairman, this provision is not only unjust, it's downright illegal, overturning a central provision of the American Indian Trust Management Reform Act that requires the Secretary of the Interior to provide a full accounting of "all funds held in trust by the United States for the benefit of an Indian tribe or individual Indians." If a Congressional act were not enough, the federal courts have also demanded a full accurate accounting from the date the funds were deposited into Federal accounts.

Mr. Chairman, these trust funds are not entitlements, they are monies that come directly from the sale or lease of Native American owned property and is held in trust by the Department of the Interior. This is Native American money. And the Federal Government has admitted the funds' mismanagement and an inexplicable "loss" of its money.

Mr. Chairman, the sort of mismanagement of accounts and destruction of records the Department of the Interior has performed makes the scandals of Enron seem like stealing from a piggy bank. If the House of Representatives truly wants to make a statement about fair accounting and accountability, it will start here by supporting the Rahall Amendment.

Mr. GALLEGLY. Mr. Chairman, I rise in support of the Rahall Amendment and urge its adoption by the House. Included in the Interior bill are several provisions relating to trust reform efforts and the Cobell v. Norton litigation. These legislative provisions will limit an historical accounting of trust funds from the period of 1985 to 2000, which will assume all records before 1985 are correct. There is also language included in the bill that would not provide an accounting for funds held in an account closed as of December 31, 2000.

I believe these provisions undermine existing Federal law requiring a full accounting of all trust funds and a Federal court decision requiring an accounting of all funds regardless of the date deposited.

As a former Chairman of the Native American and Insular Affairs Committee of the House Resources Committee, I have heard countless times the concerns of Native Americans who say they just want an historical accounting done by the government entrusted with managing their assets. They have waited long enough.

I would strongly encourage the House to vote for the Rahall Amendment.

Mr. THUNE. Mr. Chairman, it is no secret that the federal government has failed its responsibility in handling American Indian trust funds. But parties, Republicans and Democrats, agree that the governments has mismanaged these trust funds and there is definite need for reform.

Previously, trust reform legislation has passed Congress twice. In addition, a Task Force is currently working with Members of Congress, the Administration and the tribal communities on how to best reform how Indian Trust Funds are managed.

Unfortunately, current provisions in this bill would limit true fund reform. By accepting the provisions in the Interior bill, Congress must assume that the records and accounting are correct prior to 1985. This is hard to believe, due to the fact that the trust funds have been mismanaged for decades. The Federal Government is responsible for these funds, and to simply suggest that everything is perfect prior to 1985 is a slap in the face to our Native Americans. Through legislation, Congress has asked for historical accounting of these trust funds and a Federal Court has ordered it as well. The provisions in the bill would overturn legislation already passed and could possibly open up the government to even more lawsuits. It is imperative for historical accounting to take place, which includes the years and decades prior to 1985.

The issue of Trust Fund reform is extremely important to me and the Tribes I represent in the state of South Dakota. Their voice needs to be heard whenever decisions are being made regarding Indian Trust Funds. I have heard from them, and they are adamantly opposed to these provisions of the bill.

We must remember that the funds we are talking about are not federal programs or entitlements, but money that Native Americans have earned from the lease of their lands for mining, grazing and timber. This is their money, and the Federal Government has failed to honor its responsibilities.

Mr. Chairman, I urge support of this amendment to strike the provisions of this bill, and the continuation of true Indian Trust Fund reform.

Mr. KINGSTON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) will be postponed.

### AMENDMENT NO. 11 OFFERED BY MR. HAYWORTH

Mr. HAYWORTH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. HAYWORTH:

Strike section 141.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 60 minutes to be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. DICKS. Mr. Chairman, reserving the right to object, I would like to inquire of the chairman if this is on the Hayworth amendment?

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from New Mexico.

Mr. SKEEN. Yes, this is on the Hayworth amendment.

Mr. DICKS. Reclaiming my time, is it his amendment and all amendments thereto?

Mr. SKEEN. Yes.

Mr. DICKS. And we would split it 30–30, or would it be 15?

Mr. SKEEN. Thirty-thirty.

Mr. DICKS. And then it would be split, the time in opposition?

Mr. SKEEN. Yes.

Mr. HAYWORTH. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Arizona.

Mr. HAYWORTH. A further point of clarification. Again, this would be time divided between opponents and proponents, instead of along party lines?

Mr. DICKS. As I understand it, the gentleman from Arizona would have 30 minutes and the chairman and I would split the other 30 minutes, 15 minutes each in opposition.

Mr. HAYWORTH. Mr. Chairman, I thank my friends for the clarification on a bipartisan basis. Appreciate where we are headed.

Mr. DICKS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The gentleman from Arizona is recognized for 30 minutes on his amendment.

Mr. HAYWORTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment for a simple reason: The current language in title I provides for yet another study of Native American gaming. Mr. Chairman, I am holding here in my hand a recitation of recent studies, most of them in the 1990s, a couple from the 1980s, but 73 studies in total dealing with Indian Country health, infrastructure, economic development, education and housing; and, more specifically, Mr. Chairman, to the question of the influence of organized crime on Indian gaming, no fewer than three studies already conducted by our Federal Government.

So 73 studies total, six of them directly linked to my good friend from Virginia. Let me say in defense of the work he does, I understand his intent and his sincerity, but I come to this floor to say that we must strike section 141 because it offers yet another study of something we have studied before and we have studied time and again.

The money involved here, I realize by Washington standards, does not even qualify as something to come out of Uncle Sam's change scoop. But, Mr. Chairman, a couple hundred thousand dollars would go a long way in Bylas, Arizona. A couple hundred thousand dollars would help my Native American constituents, who are dealing with fire and the aftermath of what went on in the White Mountains. This is real money. And to take this from programs of the BIA and apply it to yet another study, no matter how well intentioned, is exactly the wrong policy at the wrong time for what might be sincere reasons.

Not only is it ill-advised policy, Mr. Chairman, but once again we are getting into a situation where this House could find itself in violation of rule XXI. No matter what mores or customs of the House have been observed here, the fact is, in the final analysis, by allowing this language to stay in the bill, this is a legislative rider on appropriations legislation. This takes from the purview of the authorizing committee the public policy that the authorizing committee should continue to control.

The exact language of this proposal is already found in H.R. 2244, a bill that is pending before the Committee on Resources. So not only, in my opinion, do we have an ill-advised study, number 74 on the list, and not only is it spending money that could be better utilized, but again it is a usurpation of the prerogatives of the authorizing committee.

For those reasons, I ask my colleagues to support the amendment and join in striking section 141 of this title I.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Washington (Mr. DICKS) controls 15 minutes.

Mr. WOLF. Mr. Chairman, I ask unanimous consent to control the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. The gentleman from Virginia (Mr. WOLF) controls 15 minutes in opposition to the amendment.

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Let me just say that what the gentleman said, the scope of this is totally new. Totally. There has never been a study of these issues with regard to the tribal relationship regarding the surrounding communities.

I worked at the Department of Interior for 5 years under Secretary Morton. I am sure for those who have ever gone on any reservation they have seen the utter despair that is on those reservations. This amendment, Mr. Chairman, will hurt Native Americans.

Eighty percent of the Native Americans in this country, 80 percent, have never received one penny from gambling.

□ 1215

The Hopi, the Navajos, most of the tribes do not want gambling; but in many respects this has given an opportunity and allowed the country and allowed the government and the Congress to neglect Native Americans. Indians and Native Americans have suffered more and have not been treated well by this Congress and not been treated well by this administration or previous administrations.

The poverty level that afflicts Native Americans, they are in the 36 percent category. The gentleman says there have been other studies, but they have not worked; and we all know and anyone who has been on an Indian reservation knows that what has been tried has not worked. Why do Members oppose something that is going to study something to see if we can do something to help Native Americans?

With regard to stroke, they have one of the highest rates in the country, so that is not working; and the study over there is not working. Lung cancer, the highest; breast cancer, the highest; suicide, the highest. So the policies of the Congress and the policies of both Republican and Democrat administrations have not worked. Why do Members oppose something that will bring members all together to come up with a study to help them?

The death rate among Native Americans is higher in seven major categories. Alcoholism, the death rate is 627 percent higher than other categories. TB, 533 percent higher than other categories. Diabetes, 249 percent higher than other categories. Accidents, 204 percent higher than other categories. Homicide, it is dangerous, 63 percent higher than other categories. Housing, and those Members who have been on Indian reservations know that housing is miserable; it is absolutely miserable. We all like to live in a good house and our constituents like to live in a good house. Why can they not have the same opportunity?

Crime is twice the national average on the reservation. Education is miserable. This is a commission, and what the amendment of the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from Michigan (Mr. KILDEE) does is strike this. It says we are going to put our head in the sand and say we do not know how bad alcoholism and education is. We are not going to look at it.

We have seen the movies, and the gentleman from San Diego has talked about the movie "Wounded Knee" and other things, we have seen the movies; but we are not going to look at it and see if we can come up with something different. Maybe an economic development administration, maybe an EDA like what has been used in Appalachia, maybe something constructive, something new that we can do to help. We must not be afraid to at least look at it.

The 13-member commission will include representatives of State Governors. That should not frighten us. Attorney generals, members of the Departments of Treasury, Interior and Commerce, and the National Indian Gaming Commission, they are going to be participating. A local or municipal government official, a small businessperson from areas near the reservation, two representatives from nongambling Indian tribes, and they should be heard from. We should not just hear from those who have gambling and also two representatives from tribes that are operating gambling casinos. And thanks to the gentleman from Wisconsin (Mr. OBEY), we will work with others who represent Indian interests.

So what will this commission do? It will take a thorough look at the living standards on Indian country, including health care, infrastructure, economic development, and education and housing. Now that is not a bad thing. That is not a bad thing to look at.

If Members lived on some of these reservations, Members would not object to us looking to see if we could come up with some constructive ideas to see if we could improve the situation. The commission will look at the effectiveness of current Federal programs designed to improve standards in these designated areas. That is not a bad thing. That is not a bad thing to look at. That will not hurt. That will not hurt.

Go on an Indian reservation and ask them whether they object to us seeing if we can improve housing and education and health care. Whether they have gambling or not, they will not object to this.

Crime control on Indian reservations, we all like to live in a safe community. Would it hurt for Congress to look at crime on Indian reservations? What would be wrong with that? What would be wrong with looking at crime on Indian reservations? We would also look at the influence of non-Native American private investors on the Indian Federal recognition process. We know there have been Inspector General reports that the process is becoming corrupt. We know it. The Wall Street Journal knows it; the Boston Globe knows it. The London Day in Connecticut knows it. Papers know there are problems here.

They know in the previous administration, one person came in the day after the administration left and signed the recognition thing. And non-Indians are exploiting those in certain cases and taking advantage of them. So what would be wrong with looking at that, the economic, the environmental, the social impact? So after an 18-month review, the commission will submit to Congress a report containing legislative recommendations as to the welfare of Native Americans, including health care and infrastructure and housing and education.

I, frankly, think we in the government have failed Native Americans. I think we have used the Indian Gaming Regulatory Act of 1988 to provide gambling as a staple of Native American policies. Since that act, our investment in Federal programs intended to improve the health and welfare of tribes has declined significantly.

Mr. Chairman, gambling has been an excuse to reduce the commitment of the Federal Government to the Nation's first citizens. A bad excuse. The overall portrait of America's most impoverished group continues to be dominated by disease, by unemployment, by infant mortality, and by school dropout rates that are among the highest in the Nation. We can do something today to make a difference in the lives of the Nation's first citizens. We can quit hiding behind gambling as a panacea for Native Americans and take action to improve their health, their lives, and their welfare. I do not believe that those Members supporting the amendment believe any differently. I think we should do this. I urge defeat of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, from 1989 until now, there have been no fewer than one dozen studies dealing with the spectre of crime on Indian reservations.

Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. KILDEE), the co-chairman of the Native American Caucus.

Mr. KILDEE. Mr. Chairman, as cochair of the Native American Caucus, I would like to express my strong opposition to provisions included in the fiscal year 2003 interior appropriations bill relating to establishing a commission on Native American policy. I support the bipartisan amendment of the gentleman from Arizona (Mr. HAYWORTH), whose knowledge and concern of Indian matters is of the highest order, and his credentials among Indians are held in the highest regard.

The commission proposed in this bill would address several areas including Indian gaming examined recently by the National Gambling Impact Study Commission. In 1996, Congress authorized $5 million to fund this study. In fact, since 1980, more than 70 federally funded reports have been published that address the same areas that the commission would study.

Provisions similar to the amendment are included in H.R. 2244, a bill pending in the Committee on Resources, the committee of jurisdiction. These provisions will take Federal funds from badly needed Indian programs.

The funding for the commission would come from the Bureau of Indian Affairs operation of Indian programs line item, which pays for welfare assistance payments, housing improvements, roads, education, tribal courts, law enforcement, and other programs that improve the quality of life and the economic potential of those on Indian reservations.

Congress does not need another study to tell us that these programs require more funding, not less, to assist tribes and their members. Millions of Federal dollars have already been spent studying the same areas that the proposed commission would study. Congress should not waste taxpayers' dollars by duplicating studies on the same subject matter.

Congress should not take Federal dollars from Federal programs designed to assist tribal governments that continue to suffer from high unemployment rates, inadequate educational systems, poor road conditions, and insufficient health care systems. I urge my colleagues to support the Hayworth amendment to strike these provisions.

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to the amendment and in support of the proposal for a commission in this bill by the gentleman from Virginia (Mr. WOLF).

I fail to understand why we do not need this kind of study. In 14 years since the 1988 bill, we have seen enormous problems of poverty, school dropout, disease, infant mortality and unemployment. Since 1994, because we passed a more enlightened policy for the rest of America, we have reduced poverty among children in American 3 consecutive years. We have never done that. And the deepest reductions in poverty were among black kids. Why is it that we just ignore the fact that poverty among Indian children is terrible? Why do we not notice or study the impact on families of the level of substance abuse on the reservations. We have known it is there. Why do we keep appropriating dollars when we know they are not changing lives?

I see no reason to fear this commission, and I see every reason to look at what is Federal policy in regard to our reservations, and how does it compare to Federal policy in regard to the rest of Americans. Why is it Federal policy has reduced poverty in America but not for reservations? Why is it we are making progress on some of the childabuse issues in the States and our Federal level, and we are not strengthening families on the reservations? Why is it that the school dropout rate is so extraordinary? What are the policy comparisons? What are the policies that we as Federal lawmakers are supporting in these different areas?

As one who is increasingly affected and frankly more aware of and knowledgeable about Federal policy toward tribes, I would have to say it is distressing to watch outsiders come in, finance big-stakes casinos, and watch the people in the surrounding towns pay for the hospitals that everybody has to use. I do not see the little guys getting the same benefit as the big guys.

It is time to look at this. I do not see that it is a danger, and I do not see that it is duplicative. Recognizing that on Indian issues I am not one of the more knowledgeable Members, but seeing Indians from my perspective in a community where they have benefited from all these resources, and we do not have the poverty, but seeing the big money going to some and not others, we need this study. It is disgraceful not to do it.

□ 1230

Mr. HAYWORTH. Mr. Chairman, I yield 5 minutes to the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Transportation and Infrastructure and the chairman emeritus, in fact, vice chairman of the Committee on Resources.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of this amendment.

I think most of you heard me yesterday on the floor. This provision should not be in this bill. This legislation was introduced in the Committee on Resources and it never had a hearing because we did not want one. We do not believe it is necessary. It has been repeated before. There have been many studies. The studies show, in fact, that the native groups are doing quite well in the gaming industry.

Let us not kid ourselves, this is what this is all about. But also let us answer the question. I listened to my good friend, and I do respect him a great deal, the gentleman from Virginia (Mr. WOLF) and his opposition to this amendment. He is really trying to target the gaming. Let us be knowledgeable about that and recognize that, and he has that right to do so. But he talks about the suicides and the poverty and the poor housing and the education level and the sewer problems, all those things that every Native American has faced over these years. Let us not kid ourselves. This is nothing new.

But you ask why that occurs. I will tell you why it occurs. One of the basic reasons why is they are tired of having people study them and tell them how to solve their problems, of having the people come in with their briefcases, the Governors and this person and that person and say, "We're going to study you," and they have to respond to the study. It happens every day.

I live with them. I am close to them. My wife is native, my kids are Native American Indians, and I am proud of it. I think I have a little bit of knowledge about this. If you really want to help the Native Americans, let them help themselves, provide the money, but let them make the decisions, and not some commission. We know the problems. They know the problems. Let them solve those problems with their knowledge and their will and they will do it. We do not need another government study to explain this to everybody and spend that money out of needed funds. That is where these moneys are coming from. Let us give them credit. Intelligent, smart, persevering, if they have an opportunity and not the government to tell them how to do it and what they cannot do.

Let us say you can do it and we will help you. You know the old saying, a hand down will help everybody up. Let us not put our hand on their head again with another study. My God, if you go back to the history of this Congress, how many studies have we had and spent that money to take and identify the problem? In my case I will tell you. My 12 regional corporations know the problem. They are addressing the problem. They know what can be done and they want to do it themselves and the money that is being spent on this commission ought to go to solving those problems and letting them do it themselves. That is what we ought to be doing today. It should not be in this bill. I told the leadership it should not be in this bill. We should not attempt to try to do it again and again and again. It solves nothing.

There are those who will say this is about gambling. I guess maybe those that oppose this, taking it out, is about gambling. I happened to be the author of that original gambling bill with Mr. UDALL. Some of you object to gambling and I understand that. I do not gamble myself, other than being elected once in a while. That is a gamble. But I will tell you one thing. I have visited most of these gambling establishments and seen what the people say about what it has done for their tribes. And, yes, there is outside involvement. You would not expect them not to have that. They hire the best. They do the job. If there is something illegally happening, then let us address that and we do that under the gambling commission and under the Justice Department. Both of those say there is nothing happening there that is illegal.

If you want to be against gambling, and I am all for that, let us eliminate all gambling. Let us not have racetracks in Virginia. They do not have racetracks, but lotto, pull tabs. What else? Racetracks in every other State. Gambling in some States. Let us look at that. But let us not have a so-called quasi-study to take and identify the problems when we know what the problems are. I urge this Congress to think about that a moment.

Let us let them help them lift themselves up. Let us not have a commission dictating to them what is wrong with their great race of people. That is all I ask you. Vote for this amendment. The gentleman from Arizona (Mr. HAYWORTH) is right on. I believe the gentleman from Michigan (Mr. KILDEE) is right on.

For you appropriators again, it is not your fault. I say this. I do blame the Committee on Rules and the leadership for not making this issue for a point of order. It should never have been protected. We would not have had this debate if we had gone through the legislative process.

Vote for the Hayworth amendment.

Mr. HAYWORTH. Mr. Chairman, on behalf of this bipartisan amendment, I yield 3 minutes to the gentleman from West Virginia (Mr. RAHALL), the ranking member of the authorizing committee, the Committee on Resources:

Mr. RAHALL. Mr. Chairman, I thank the gentleman from Arizona for yielding time. I commend him on his effort here today and his leadership, as well as the gentleman from Michigan (Mr. KILDEE).

Mr. Chairman, I rise to support the amendment to strike the provision which authorizes the establishment of the Commission on Native American Policy to study Indian Country. This provision sets up a fiscally irresponsible study which is underfunded, far-reaching and duplicative of numerous other Federal studies.

As the ranking Democratic member of the Committee on Resources, I do oppose the way this commission is being forced down the throats of Indian Country. Clearly, authorizing a study of this magnitude and the value of such a study is the jurisdiction of the Committee on Resources. Yet we have not had the opportunity to study or hold hearings on this matter at all.

This language has not been publicly vetted and Indian tribes have not been permitted to participate in crafting this provision. So we should not be surprised that the commission and its study is set up to fail. It is simply wrong to set this up without allowing for open consultation with Indian tribes.

Funding for this commission is set so low that it would virtually guarantee a flawed study being conducted. In addition, these moneys would be taken from Federal Indian programs where they are badly needed for housing, transportation, welfare assistance, tribal courts and law enforcement.

As we have heard, Mr. Chairman, since 1980 more than 70 federally funded reports have been released addressing the same areas that this commission would study. Most of those reports were well thought out, narrow in scope and appropriately funded to assure accurate and comprehensive findings. Sadly, that is not the case with this commission.

It is clear, and nobody is being misled here, that the Committee on Appropriations can establish this commission and with the support of the Committee on Rules and the leadership of this House, we are at a severe disadvantage in trying to delete the provision, make no mistake about it. But just because the appropriators can do it to Indian Country does not mean that the appropriators should do it to Indian Country.

If you want to spend money and set up a flawed study, do not do it out of the paltry Indian program budget. I urge my colleagues to support the Hayworth amendment to strike the Commission on Native American Policy from this bill and once again to be fair to our Native American Indians.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Chairman, I rise today to oppose the amendment by the gentlemen from Arizona and Michigan, both fine and excellent Members of this body, but like many Americans, I am concerned that gambling is a panacea for the real problems of poverty on Indian reservations. As gambling has become more and more a part of Native American policy, investment in Federal programs intended to improve the health and welfare of tribes has declined.

While the intent of the 1988 Indian Gaming Regulatory Act was to allow Native Americans to lift themselves out of poverty through self-reliance, today nearly 80 percent of Native Americans do not receive anything from gambling revenues. The reality is that most tribes, which are located in areas not economically viable for a casino, live in poverty.

The National Indian Gaming Commission, which is now in the bill, would be struck by this amendment. This would be unfortunate because the Indian Gaming Commission would undertake a study of a number of problems which impact the Native American community, including the welfare of Native Americans, including health, infrastructure; housing, economic development and educational opportunities; the relationship between tribal entities and nontribal communities; and regulations that govern tribal gaming to produce potential for abuse or exploitation by organized crime and the gaming industry.

This commission, I believe, provides a much-needed review of Federal policy on Native Americans. Given the current state of affairs, I urge my colleagues to preserve the National Indian Gaming Commission and to oppose the Hayworth-Kildee amendment.

Mr. HAYWORTH. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the Committee on Appropriations and a genuine American hero.

Mr. CUNNINGHAM. Mr. Chairman, my colleague from Virginia said that 80 percent of the Native Americans never receive funds. That is not factual. It is absolutely untrue. The study that he himself proposed cost $5 million. He said this would only cost $200,000. Well, this 13-board commission also receives full per diem, airline tickets for 18 months. This is going to cost another million bucks. And study after study after study generated by the gentleman from Virginia. He can be opposed to gaming, that is fine. But do not try and do it with study after study, because the studies that he proposed found out many of the same things he is asking in this study. The only problem is he did not get the answers that he wants, so you do another study until you get the answers that you want. It is wrong.

Mr. Chairman, the Interior appropriations bill before the House does include these provisions, and it is wrong. No hearings. In the dead of night—actually it was the daytime—all of a sudden the gentleman from Virginia inserts an amendment on an appropriations bill, not authorized, not studied but in the appropriations bill. I was told by staff that if I did not object in the committee, this would be killed. And here I find it is okayed by the rules. Why? The gentleman is a cardinal and leadership recognized that. But it does not make it right. It should be eliminated.

The chairman of this committee, the gentleman from New Mexico (Mr. SKEEN), is going to vote for this amendment because it is bad policy, terrible policy. There have been studies from the Department of Justice, memos from the Department of Justice to the anticrime, all recognizing the issues that the gentleman from Virginia is talking about. And you want to talk about Indian health care and education and those things. Absolutely. But visit some of these tribes. I do not have it in my district, but they are in San Diego and I visit them because they used to come down to my ranch to swim, the kids. I want to tell you, they did not have an education center. They do now. They did not have a health care center. They do now. As a matter of fact, that center studies alcoholism, which is a primary problem with Native Americans, and tied to that is diabetes. These people have pulled themselves up by their bootstrings. Just because you are against gambling, do not try to hamfist them and tie them down from doing the things that help them the most. It is just wrong.

We all want to do what is right and promised, but how many times have we looked at Native Americans and tied them down in every type of endeavor? Oil on their land. We took it. Their hunting rights. We stopped them. Water rights. They have to fight tooth, hook and nail even for water rights on their own land. We took it.

□ 1245

And here, for the first time, they found something that is viable. The study that the gentleman from Virginia (Mr. WOLF) commissioned found that there is no other viable, long-term, across-the-board resource that can help as much as this issue. They are doing everything that we ask. They spend millions of dollars to fund the gaming commission. They spend millions of dollars internally to fund it, and they are doing it right; and because someone is opposed to gaming, they want to stop it. That is wrong. Support the Hayworth amendment.

Mr. WOLF. Mr. Chairman, I yield myself 1 minute just to respond.

The study does show, as the Boston Globe piece demonstrates, which we are bringing over, that 80 percent of the Indians have never received anything. Fifty percent of all of the revenues have gone to 2 percent. It is actually an area of location, where you are is what you do, and Indians on the tribes and the reservations in most parts of the country have received absolutely nothing.

Secondly, it did not say what the gentleman said in that report.

Lastly, what the report that we are asking for talks about is looking at the welfare of native Americans, including health, which everyone will acknowledge, and I stipulate the goodness of the gentleman on the other side; the health infrastructure, housing, and economic development, and educational, educational opportunities. They are all things that we all want for our families and for our constituents and others.

Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I rise in opposition to this amendment. My State of Connecticut is home to two of the world's, the world's largest casinos. In fact, both of these casinos are about a 15-minute drive from my home; both are Indian casinos, and both were built within the last decade.

When gaming came to Connecticut in the early 1990s, it was a fortuitous event. The Cold War had ended, defense cutbacks had affected our defense industry, our economy was in decline. Unemployment was high, and there was actually a net loss of population from the region. Indian casinos created thousands of jobs. They increased the State's revenues, and spared the region from an economic recession.

The casinos purchase goods and services and pay upwards of $300 million a year to the State of Connecticut. Tribal members have been personally generous with their new wealth and support numerous community projects and charities.

But with all of these benefits come some very real problems. Indian casinos place a substantial burden on small, local municipalities who have no right to tax, to zone, or to plan for these facilities. Small State and local roads are overburdened, again, with no offsetting tax revenues. Volunteer fire and ambulance services are overwhelmed to the point that some have shut down their operations altogether. Land taken into trust is removed from the tax rolls. Gambling addiction creates problems at home, in the schools, and in the workplaces.

While Indian casino gambling in Connecticut has made two tribes very wealthy and has motivated other groups in Connecticut to seek Federal recognition, the fundamental question remains: To what extent has casino gambling improved the health and the wealth of Indian country as a whole, and what are the costs involved?

I have read that 365 of the 561 Indian tribes do not have casinos. I am told that up to 80 percent of American Indians do not receive any benefit from gambling revenues, and we know that many continue to live in terrible poverty. That is why I support the provision of the gentleman from Virginia (Mr. WOLF). A commission would examine how we can do a better job to help Indian tribes for whom gambling is not an option, either because of their geographic location or for other reasons; and it would also help examine how gambling affects the welfare of Indian tribes.

Earlier amendments have focused on substantial increases in funding within this bill overall; tens, actually hundreds of millions of dollars. But this recommendation to establish a commission costs merely $200,000. It is a small price to pay. It is an insignificant price to pay.

Recently, my hometown newspaper, The New London Day, editorialized in favor of the Wolf provision and they said, "His amendment will ruffle some feathers, but Representative WOLF is asking questions worth answering."

I concur with the editor, and I cannot understand why current information on an important issue is a problem. It would seem to me that current information on an important issue would be a plus, not a minus.

Mr. Chairman, I ask my colleagues to oppose the amendment.

Mr. HAYWORTH. Mr. Chairman, continuing with the bipartisan support of this amendment, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), a fellow member of the Committee on Resources.

Mr. PALLONE. Mr. Chairman, I listened to what the gentleman from Connecticut said and the gentleman from Virginia said and, again, just as on the previous amendment that we discussed today, there are a lot of important issues here, but it does not belong on an appropriations bill. The Wolf amendment is before the Committee on Resources. We should have a hearing. We should have an opportunity for all sides to be heard, not bring it up today in this debate in the context of the appropriations bill.

I just want to remind those who are opposed to this amendment that the law is clear that Indian nations are sovereign. They make a decision, just like a State makes a decision, about whether they want to have gambling or what kind of gambling they want to have; and as long as States are allowed to have it, they should be allowed to make those decisions as well. A lot of sovereign Indian nations have decided they do not want gambling, but a lot of them have decided that they do want it because they know that it is a way for them to achieve economic self-sufficiency.

Now, I do not hear any proposal here to say to, for example, a State or even my own State, well, why do you not have a Federal body that is going to look into gambling and see whether it is a good thing or not? This is only being imposed on tribes. That is not fair. There is no indication, as the gentleman from Virginia said, that somehow Indian gambling is corrupt versus gambling in other aspects. In fact, we have had many, many studies that have shown, in fact, that that is not the case; that it is well regulated; that it is not in any way a victim of corruption. In fact, there may be corruption in other types of gambling, but where is the indication that it is strongly or in any way significantly influences Indian gambling? There is not any.

I know that the gentleman from Virginia (Mr. WOLF) is well intentioned. I have seen him stand up for press people, and I know that he is not influenced by any special interests. But let me tell my colleagues, not him, but a lot of the people that are making the allegations about corruption in Indian gambling is because they resent the competition from Indian gambling. These media interests that are being cited here that are criticizing Indian gaming, they are not operating with clean hands. They represent special interests. So do not impose this on Indian nations and not talk about it in terms of other States or other groups that do the gambling. If someone is opposed to gambling, then look at it in general, but do not pick on Indian tribes, once again.

Mr. HAYWORTH. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Chairman, I rise in strong support of the Hayworth and the Kildee amendment to strike the Wolf language from this appropriations bill.

Like my friend, the gentleman from Arizona (Mr. HAYWORTH), I stand in strong support of the first Americans; and I believe they need to be given every opportunity as we work to ensure that they are full Americans. Our Constitution, as I have learned over the years, gives full sovereignty to our Native American tribes; and I think we all respect their efforts to be self-determined and self-sufficient.

The question is, Why do we need one more commission? Now, a lot of times when we talk to the tribes and they wonder, because they have already had 70 of these kinds of commissions, and what good is one more group of guys in suits carrying brief cases saying, we are here from Washington and we are here to help and we are going to study you and we need you to fill out these forms. We are going to take you away from all of your other activities, so, hopefully, we can get some results that we want for whatever our agenda is.

I have great respect for the gentleman from Virginia. I have admired his perseverance. He is a leading opponent of commercial gaming in America, and I have admired his perseverance about that, and that is what this is all about. What this study is being proposed for is to eliminate Indian gaming. That is the agenda here. Whether we support Indian gaming or not, the tribes have the right, under our national laws, to be able to engage in commercial gaming activities. If it is going to be discussed whether or not to take it away, it should be fully and thoroughly discussed in the Committee on Resources, which has jurisdiction over this language. It is the authorizing committee of this language. I would note that the Committee on Resources has not held a hearing on this bill and has not moved this legislation, probably because they recognize there have already been 70 other studies.

Now, if one opposes gaming, I would note that the National Gaming Impact Study Commission and National Indian Gaming Commission have already thoroughly discussed these issues. Please vote for the Hayworth-Kildee amendment. It is the right thing to do. Let us not harass the tribes any more.

Mr. WOLF. Mr. Chairman, I yield myself 1 minute. What the gentleman said is not accurate. My good friend from Illinois said it is to eliminate, and that is not true. There is nothing in the bill that says that, and it is not fair to go down to the well of the House and say something that is not in the bill. That is not fair. I would urge the gentleman from Illinois, my friend, to read what it says. It does not say that.

I have a Boston Globe piece right here, Mr. Chairman. It said the plight of the native Americans is the unemployment rate, which is 43 percent. We argue in this body over is it going to go to 4 to 5 to 6 percent for non-Native Americans. Forty-three percent, says the Boston Globe. Employed, but living below poverty, 33 percent. I stand corrected; I just said it was 26 percent. It is 33 percent. Suicide rate for ages 15 to 24, the flower of the youth, 37.15 percent. We have to look at that. We have to look at that.

So what the gentleman says, and he is a good friend, it is not to eliminate; it is to look at other ways in addition. We do not say that.

Lastly, with regard to diabetes, my figure was too low; it is 9 percent.

Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in opposition to the Kildee-Hayworth amendment and in support of establishing a commission to examine the Federal Government's policy towards Native Americans.

Our Nation has a responsibility to Native Americans. This commission would go a long way in finding out if the Federal Government is meeting this responsibility.

It is important for us to establish conditions so that we can examine what we are doing right, what we are doing wrong and what more needs to be done for the Native American community. Studies suggest the overall portrait of the community is failing in the areas of poverty, health care, housing, crime, education, and economic development.

Finally, I fail to see any harm in establishing a commission which would make recommendations on how we can improve the performance of Federal assistance programs. I see only a positive.

A commission will examine what the true effect of the Federal Government's reliance on gaming to the societal ills on reservations and answer the long-standing question of what it means for the Native American community at large.

□ 1300

I would also suggest that whatever we are doing today for Native Americans is simply not succeeding. I have wondered for a long time why we failed to have any real, meaningful dialogue in the committee on why conditions are so bad for Native Americans.

I happen to believe that, sadly, gaming has helped in some communities simply because the Federal Government has failed to do its job. Gaming cannot be a substitute for what we need to be doing as the Federal Government to help our Native Americans.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. BACA), continuing with the bipartisan support for this amendment.

Mr. BACA. Mr. Chairman, I rise in support of the Kildee-Hayworth amendment. This amendment strikes a provision that would create a Commission on Native American Policy to conduct more studies related to Native American communities.

This provision violates House rules that prohibit legislation on an appropriation bill.

We talked earlier about needing a study. The problem with this bill is it does not appropriate additional dollars. It does not appropriate additional dollars.

The studies have already been done. We know that. What we need to do is provide more funding. What we are doing right now is we are taking Federal funding away from Indian bureaus when we should be providing the additional funding for education, for housing, for law enforcement.

Yes, that is what we should be doing right now, but we are not doing it. All we are asking for is an additional study with no appropriation monies. We all have the information in front of us. What we should be doing is providing the funding.

Yes, I have been to Indian reservations. I have visited the schools. When schools are going on, we see a child who does not have a computer, does not have the technology; and when we look at people who do not have the clothing, we need to make sure that we provide the funding.

This study does not do anything for us. Let us make sure that we provide the assistance and support for the Kildee-Hayworth amendment right now that strikes this provision.

Mr. WOLF. Mr. Chairman, I yield myself 15 seconds.

It does not take it away from housing. It does not. It takes it away from the administration. It takes it away from the administration. We cannot come down and say things that are not accurate on the bill. It takes it away from administration; it does not take it away from housing.

Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I personally find this a very difficult issue. On one hand, I think it should be abundantly clear that gambling is corroding the fundamental moral fabric of our Nation, as hard work is being disconnected from financial success. We see more and more Americans thinking that somewhere it is in the lottery or by manipulation through the stock market or manipulating the bank statements of different companies; that there is an easy way out.

The more we see the advertising for the lotteries, the ads for the casinos, it is undermining the moral fabric. We are also seeing families deprived of the income that they need. As adult members of their family blow their savings, thinking they are going to see some pot of gold at the bottom of the rainbow, it is hitting their potential to actually care for the health care or the education needs of their children because of the gambling epidemic we have in our country.

That said, this is still a complicated issue, because I believe that some seem to argue that the only people who should not be allowed to have gaming are the tribal nations of America; that it is okay for all the politicians to run lotteries; it is okay for them to have the casinos, and not the Indian nations.

I think it is indisputable that there have been some financial gains to the Indian nations from this, and it has caused some transformation of the different nations. I have also seen in the State of Indiana where the Potowatomie Indians are being deprived their tribal status because competing gaming interests, as well as those of us who oppose gambling, do not want to see them own a casino.

The Miami Indians of Indiana have been deprived tribal status, even though they unanimously voted not to have a casino. Because of the fear that they might do a casino, they cannot get their tribal status recognized because of the opposition to gambling. Plus, those people have a vested interest in the gambling people.

That said, we still have a fundamental question that needs to be looked at. Yes, we have had studies. We have studies on child abuse all the time. We have studies on juvenile delinquency all the time. We have studies on drug abuse all the time because conditions change, variables change, and also the different studies change.

This government would not be spending hundreds of millions of dollars, billions of dollars in studies, if the criteria for a study was, oh, we researched that before. We research all the time looking for new angles and information.

There are a couple of questions that clearly need to be looked at. While, superficially, additional dollars are being brought in to the Indian nations, but net, what is being actually transformed in those communities, and is it reaching the communities?

Or, secondarily, are there damages being done that are going to be very difficult to undermine? Are there dependency things, and are we substituting quick financial success for the real things that we need to do: how to develop an infrastructure and an independence for these communities?

Secondly, when I was just in New Mexico, we could see every pueblo had been turned into a big casino operation; and the historic structures and things that historically were the way people viewed the Pueblan people were not the way they do them currently. Most of those cars at those casinos were not, there are not enough Indians to fill those casinos.

It is also having an impact on the communities around them. We need to be looking at the broader impact, in addition to the Indian nations.

I hope we will go ahead with this study. I am not hostile in particular to whether Native Americans should have casinos and the government should be allowed to do this, but I do believe we need to look at the impact on the peoples themselves and whether we have reached the limit, whether it is a corrupting influence on the families there and outside, and what the balances are.

I believe the amendment of the gentleman from Virginia (Mr. WOLF) is important. Where we get the money should not be the fundamental question; it is that we need this information to do a wise job managing funds.

Mr. HAYWORTH. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP), a fellow member of the Committee on Ways and Means.

Mr. CAMP. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in support of the Hayworth amendment in this bipartisan effort to remove the Wolf language creating a Commission on Native American Policy from the interior appropriations bill.

I have great personal respect for the gentleman from Virginia, and we agree on most things; but the Wolf provision is unnecessarily duplicative, and it violates rule XXI by legislating on an appropriations bill.

What is particularly troubling to me is that there was no process, no hearings, no authorization, no consultation. The Wolf language would direct available funds from the very tight budget of the Bureau of Indian Affairs to create a commission.

Others have said the proposed commission would duplicate existing reports to Congress. I will not go through all of that, but each of these questions has been answered a number of times, at great cost to the American taxpayer, millions of dollars.

If there has been any thread tying together centuries of failed United States Government policy toward the First Americans, it is the lack of consultation. In the name of trying to help Native Americans, there has been untold heartache and much loss of life. At a minimum, Native Americans should be part of any process and have the same respect and opportunity to be heard as any other group who is being considered to have legislation in the United States Congress.

Let us let the committee of jurisdiction deal with this issue. Let us have hearings. The United States Constitution recognizes the sovereignty of the First Americans. I would hope this House would do so, as well, and support the Hayworth amendment.

Mr. WOLF. Mr. Chairman, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from California (Mr. GEORGE MILLER), former chairman of the committee, continuing with the support for the bipartisan amendment we offer.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding time to me, Mr. Chairman, and for offering this amendment.

Let us just begin that by understanding for **$200,000** we are not going to get a quality study covering this range of issues. It is just simply impossible, and to assemble the expertise for the time and effort to do that. That is why we spent $5 million just on gaming in that commission.

Let us all understand that to say that 80 percent of the Native Americans do not participate in gaming does not tell us anything. Many States do not allow gaming. Many do not allow gaming at all. Many reservations cannot participate because it is not economically viable. Many have chosen voluntarily not to do that.

That does not tell us anything about the benefits of Indian gaming. What we ought to do is spend more time on reservations and see the kind of economic development, the kind of economic diversity, the kind of opportunity that is being presented now that did not exist.

I sat on the Committee on Resources and watched this Committee on Appropriations appropriate millions and millions and hundreds of millions of dollars in economic development that went nowhere, that went nowhere, just disasters across Indian country. Now we have an opportunity to have some success. They may not like that it is based in gaming, but the fact is that it is successful and it is providing that economic opportunity.

I have listened to this ruse argument about organized crime from the day we wrote the first statute to the Supreme Court, and nobody has been able to prove it; nobody has been able to show it. These people operate their casinos under more restrictions than any other operators in the country. This is just disingenuous. Disingenuous is what this is about.

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what the gentleman from California (Mr. George Miller) said is not accurate with regard to more regulations than any other. In Atlantic City there are 12 casinos, and there are roughly 800 people, totally, who regulate them, 100 every day. In Indian casinos, there are roughly 200 casinos and there are a few dozen, probably about 36. So what the gentleman said, again, is really not accurate.

Again, the fact deserves a cap on how much we are regulating. But that is not what we are talking about today. We are talking about health care and those other issues.

Mr. Chairman, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Florida (Mr. Deutsch).

Mr. DEUTSCH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Hayworth-Kildee amendment.

I understand the concerns people have about gambling in America. They are very real concerns, and there is much that we can do as a Congress and much we can do as a country to deal with some of the tragedy that occurs from gambling around the country.

But this has nothing to do with that. It has nothing to do with it. This is a study on Indian gaming when studies have already occurred. It is focusing only on Indian gaming. It is a mistake.

If the issue really is, and I acknowledge and I support and I have been involved in efforts to deal with some ancillary problems, and they are very real and serious problems about gaming in America, then let us address them. Let us have the Congress do oversight investigations. Let us do hearings on those issues.

Really, there is much we can do. There is absolutely much we can do in terms of research in terms of addictive gambling and things like that. But through this process, this is just a mistake; and the amendment should be supported and the study not go on.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my friend, the gentleman from American Samoa (Mr. Faleomavaega).

Mr. FALEOMAVAEGA. Mr. Chairman, I want to associate myself in support of the Kildee-Hayworth amendment. I do have the utmost respect for my friend, the gentleman from Virginia, and his efforts, never questioning his integrity nor his sincerity about the proposed amendment.

But Mr. Chairman, I submit, the Pacific Island cultures and the First Americans have been studied to death. We have had enough studies already: 11 Federal studies on health and economic needs of Native Americans; four Federal studies on economic development; nine Federal studies on educational needs of the First Americans; nine Federal studies of housing for First Americans; four Federal studies on infrastructure development; nine Federal studies on the effectiveness of the current programs that we are giving to the First Americans; 12 Federal studies on crime control in Indian reservations; six Federal studies on influence on non-Native American private investors dealing with Indian gaming; three Federal studies on influence of organized crime, supposedly.

I want to submit, Mr. Chairman, the Indian gaming industry is controlled by the Federal Government under the auspices of the Congress. That is not the case with State gaming operations, and that makes a distinction here. There is no organized crime involvement in this effort. I submit, Mr. Chairman, we do not need this proposed amendment.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Rhode Island (Mr. Kennedy).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise today as vice-chairman of the Native American Caucus to express my support for the Kildee-Hayworth amendment, and encourage my colleagues to strike this measure from the bill.

Mr. Chairman, let me say that since I was first elected to Congress, I have strongly supported efforts that would seek to expose the long history and failure of this country to recognize the deep poverty within Native American country.

I applaud the gentleman from Virginia (Mr. Wolf) for continuing to expose that. But the answer is not to take away the one vehicle that so many tribes have used to even take themselves out of poverty. The answer is, we need to put more money into Indian health services, more money into education, more money into Indian law enforcement. These are the answers.

Until we have those answers, we do not pull the leg out of the stool that is the one thing that many Native American tribes are standing on. That happens to be gaming.

□ 1315

Mr. WOLF. Mr. Chairman, I thank the gentleman on the other side.

To read from the Boston Globe, here is what it said: "Congress in the Reagan administration embraced Indian gambling as a vehicle to foster tribal self-sufficiency in 1988, after a decade of steadily cutting per capita spending on six major programs for Native Americans from 6,000 to 3,000 measured in 1997 dollars, a time when spending on social services aimed at the rest of America was on the rise." It goes on to say, "The result is untold riches for a few smaller tribes. Annual revenues are 100 million or more for a couple of dozen of additional tribes near major urban centers and continued poverty for the vast majority of Indians spread across rural America."

We are talking, Mr. Chairman, as I said, 43 percent unemployment. If we had 43 percent unemployment in our district, we would be upset. We would say let us study it. We would be saying let's storm the Bastille doors to do something. But today we are complaining about a study to see. Thirty-three percent live below poverty. Why would not we want to find out today? You have different computers in your offices than you had 5 years ago. Did you say we do not want to study new computers? We do not want to change? So a study was done 5 years ago. We do it again today. But would it not be worth it to spend $200,000 to do it?

The suicide rate is 37.5 percent. The national average is 13 percent of those ages 15 to 24.

I urge defeat of the Hayworth-Kildee amendment and urge that we can move on and study these issues so we can truly come together. And let me say there are Indian tribes who have gambling and who do not have gambling who were on this commission, good people. And I spoke to my friend, the gentleman from Arizona (Mr. Hayworth), saying we can come together, if I happen to be successful, come together and try to find out the very best minds that are around in the country to see if we can come up with some new ideas to really make life better for these people who have suffered so much.

I thank the gentleman on the other side for the debate.

Mr. Chairman, I yield back the balance of my time.

Mr. HAYWORTH. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Washington State (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, last Sunday I was driving up on the Tulalip reservation in northwest Washington. I was going to a memorial service for a good friend of mine, and I noticed a really nice white building on the Tulalip reservation in Tulalip, Washington. It was a beautiful place on the water. And when I got to the service I asked my friend what that new building was, and he said that was the Tulalip Boys and Girls Club, and that was the first Boys and Girls Club on an Indian reservation in America ever.

It has been supremely successful. And the reason it has been supremely successful, in part, is because this group of folks have developed an industry to make this possible.

Now, I know many people have very sincere concerns about gaming, but I just hope that when we vote on this, we will think of the faces of those young boys and girls of Tulalip people who are learning respect for elders, discipline, team work in that building that has been allowed because this industry has been allowed to blossom.

I hope we support this amendment, sincere as it is, for that reason, so these people can continue those American values of the first American people.

The CHAIRMAN. The gentleman from Arizona (Mr. HAYWORTH) has 1½ minutes remaining.

Mr. HAYWORTH. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, sometimes studies of the obvious are important. But it is obvious that across the width and breadth of the country we have the first Americans, quite candidly, oftentimes dealing with Third World conditions. Economic opportunity should know no bounds. If there are those who dispute some endeavors, God bless them. They have that right. But to again study, to add now to the grand total study number 74 of what we know to be problematic, I think is wrong. Support this bipartisan amendment.

Mr. GALLEGLY. Mr. Chairman, I am proud to be one of the supporters of this amendment to strike language in the Fiscal Year 2003 Interior Appropriations bill that would create yet another commission to study the benefits of gaming to the Native American community.

The Commission on Native American Policy created by the Interior bill would report to Congress on whether Indian gaming benefits Indian communities, whether Tribal government gaming is regulated and whether Tribal government gaming is influenced by organized crime. I oppose this language because it would be legislating on an appropriations bill. This provision has not been subject to any hearings or debate in the Resources Committee, which has jurisdiction over Native American issues. In addition, because these issues have been thoroughly studied before, I believe this language wastes valuable taxpayer resources.

Mr. Chairman, I believe it is more important for Congress to continue to focus funding towards providing the educational, healthcare and economic needs of the Native American community. I urge the House to adopt this amendment.

Again, I thank you Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. HAYWORTH).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WOLF. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

### AMENDMENT OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. SLAUGHTER:

Under the heading "DEPARTMENTAL MANAGEMENT—SALARIES AND EXPENSES" in title I, insert after the dollar amount on page 49, line 16, the following: "(reduced by $15,000,000)".

Under the heading "NATIONAL ENDOWMENT FOR THE HUMANITIES—GRANTS AND ADMINISTRATION" in title II, insert after the dollar amount on page 114, line 18, the following: "(increased by $5,000,000)".

Under the heading "CHALLENGE AMERICA ARTS FUND—CHALLENGE AMERICA GRANTS" in title II, insert after the dollar amount on page 115, line 14, the following: "(increased by $10,000,000)".

The CHAIRMAN. The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 5 minutes.

Ms. SLAUGHTER. Mr. Chairman, I yield to the gentleman from Washington (Mr. NETHERCUTT) for a unanimous consent request.

Mr. NETHERCUTT. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 60 minutes to be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The gentlewoman from New York (Ms. SLAUGHTER) will control 30 minutes and a Member opposed will control 30 minutes.

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is our annual rite of passage on the Interior bill. I remember that one of my colleagues recently said in the last debate that it just is not right to come down here and lie.

Well, we are accustomed to that. It seems that every year something comes up that people view with great alarm by the National Endowment for the Arts. This year is a very interesting one. This one comes from Eagle Forum and they say something like 167, I believe, which is an odd number, but 167 naked go-go dancers put on a performance sponsored by the NEA. Not so, Mr. Chairman.

The group called Broadway Cares, which was in Equity, fights AIDS, was given a $10,000 grant from the National Endowment for the Arts for a single performance to be held in September of this year. It has not been held. They are master classes conducted by some of the most prestigious companies in modern dance, including the Alvin Ailey Dance Theater, the Merce Cunningham Dance Company, and the Tricia Brown Company. The festival will include performances by notable dancers including current and former dancers of the New York City Ballet, Ballet Hispanico, Sean Curr and Company, Alpha Omega, and that is the only project of Broadway Cares sponsored by the NEA. So that one bites the dust.

Today comes a new Dear Colleague saying that NEA has lined up with Planned Parenthood for a dance group, $10,000 again, they do not have many grants, for young people to stop teen pregnancy. And I say hooray for that. But I am proud of my colleagues who every year have seen through this verbiage and understand that the NEA is a very important part.

Mr. Chairman, I rise today as I do every year to offer an amendment to try to offer a very modest increase in the National Endowment for the Arts and also for the National Endowment for the Humanities.

We can and we should appropriate an additional $10 million to the NEA and an additional $5 million to the NEH because these agencies both remain well below the funding level from a decade ago.

A recent economic impact study clearly shows that investing in the arts has a profound economic impact on our States and local communities. The Arts and Economic Prosperity Study which was conducted by the Americans for the Arts just recently, and mostly in rural America and smaller cities, reveals that the nonprofit arts industry, this is so important, I do not want anybody to miss this. The nonprofit arts industry generates $134 billion annually in economic activity.

Now, over $80 billion of this stems from related spending by the arts audiences. At the parking lots where they park their cars, the restaurants where they eat before or after performances, at the gift shops where they buy souvenirs, at the hotels where they spend the night, and on and on.

I have this chart here to give you some idea of what we get. The $134 billion that comes back into the Federal Treasury, it creates 4.58 million full time equivalent jobs. The resident household income of the people who work in arts is 89.4 billion. The local government revenue is 6.6 billion. State government revenue, 7.3 billion. Federal income tax revenue, 10.5 billion. I challenge anybody to tell me of any other program which we give a very modest amount to, $116 million in this case, that comes back with this kind of return, and this is just the economic return.

There are many others. The things that it does for young children; their developing minds; as we have mentioned a while ago, cutting down on teenage pregnancy.

Let me go on with some of these figures that I think are very important. The patrons spend an average of $22.87 per person over the price of admission which is being spent in our local communities, supporting the businesses and sustaining the local jobs. As you can see, this is a very important investment that we make here and we get a great deal back for the modest amount we put in.

Now the 232 million the Federal Government invested in NEA and NEH last year, as I said, has returned $134 billion and I think that is a good investment. The study also shows that the kids who are exposed to art, their SAT scores in high school go up 57 points. It improves their critical skills in math, reading, language development and writing. That, again, is cheap at the price to get that kind of return for money for arts in schools. For example, the study shows that learning dance and drama help to develop skills that improve creative writing.

Probably what they are worried about this morning with Planned Parenthood will teach young women that they have a better hope in life other than being a teenage mother.

Skills learned in music increases a student's understanding of concepts in math. That is so important to us.

More broadly, the study concludes student attendance and retention is better for those involved in the arts. Additionally, student learning experiences in drama, music, dance and other art activities assist in conflict resolution and lead to improved self-confidence and social tolerance.

I think as I go through these things you can say these are things we devoutly wish for the children of the United States.

These results demonstrate the importance of incorporating arts into our schools. So it is time for us to give them a portion of the financial support they deserve.

This amendment goes just to support the NEA's Challenge America program which is targeted specifically for communities that have been underrepresented among the NEA direct grants.

Challenge America has successfully supported arts education and community arts development in many communities nationwide. The program facilitates State and local arts partnerships and regional touring arts programs. We need to extend this great program and the amendment will provide part of the funds to be able to do that.

State and local and regional arts associations receive vital support from the NEA, bringing arts close to home. The NEA also supports the after-school programs and activities in underserved communities that allow our youth to understand the benefits of arts learning.

The NEH. NEH is a wonderful program, bringing into our communities the humanities; subjects such as history and literature or foreign languages and philosophy and geography. For example, they support a summer teacher training program that prepares and encourages teachers to bring humanities alive in the classroom. They teach us well who we were, what we hope to be, and what we can become.

The NEH actively supports historic preservations of books, newspapers, official documents and material culture collections that are so important for us to understand our history. These efforts are vital to preserving America's historical and cultural heritage.

I commend the President for recognizing the critical role the arts play in our schools and communities. Now it is time to show us the money. The administration's budget request includes a very slight increase, actually not any increase at all, just inflation. But if we want to leave no child behind, if we really want to encourage growth in this economy, we need to increase the funding for these two agencies because they are proven, proven like no other to do exactly that: Encourage growth in the economy and leaving no child behind.

So we request $10 million more for the NEA, $5 million for the NEH by making minor correspondent reductions in the administrative budget in the Department of the Interior.

The account, which is appropriated an increase in the underlying bill, would be increased by less than half of 1 percent. This offset ought to be acceptable to all of my colleagues.

Less than 1 percent of our entire budget is committed to arts. In other words, it costs each year less than 40 cents a year to support art. Yet, our small Federal investment in the arts reaps rewards, as we have said here, many, many times over. I urge my colleagues to vote for this amendment cosponsored by my good friend and cochairman, the gentleman from California (Mr. HORN), and by the ranking member on this committee, the gentleman from Washington (Mr. DICKS) who fights valiantly every year for this program in committee, and for whom we are very grateful, to the gentlewoman from Connecticut (Mrs. JOHNSON), and the gentlewoman from Maryland (Mrs. MORELLA).

Please support this modest increase in the NEA and NEH. It is the least we can do to invest in cultural and economic well-being of our Nation. And once again, I ask my colleagues to reject the fearmongering that comes out every year. To tell the truth, I almost wait with some anticipation to see what they will dig up year after year.

Mr. Chairman, I reserve the balance of my time.

□ 1330

The CHAIRMAN. Who claims time in opposition?

Mr. SKEEN. Mr. Chairman, I do; and I yield 3 minutes to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) for yielding me the time, and last night, many of us commended all the good things he has done and I want to say it again. He helped parks and he has cared about the students in rural America. I grew up on a farm, and I am talking about the National Endowment for the Arts, which includes not just urban America but also rural America. That is when I first saw a symphony and that was in the WPA. He will remember that and I will, in the 1930s, 1940s and 1950s, the WPA, and that was the wonderful job they did to have young children that never would have to do it any other way than in that.

The gentlewoman from New York (Ms. SLAUGHTER) was highlighting the enormous benefits of the arts to our economy and to our local communities. A recent economic impact study from Georgia Institute of Technology, which she used, and I want to put this again, nonprofit arts industries in America generate $134 billion for our Nation's economy. That is an outstanding return on taxpayers' investment, and that is about $10.5 billion for the Internal Revenue Service; and the children also benefit from the arts and the educational curriculum, as the gentlewoman from New York (Ms. SLAUGHTER) noted. And we obviously want arts education, and it has happened in math, reading, language development, and writing.

This is a new NEA in the sense that they have a lot of common sense now in that group, and I would hope that all of us could vote for that and see the arts that percolate through our secondary schools, our community colleges, our research centers, our State humanities council; and I urge my colleagues to join us in supporting this amendment to increase funding for the national endowment for the arts and the national endowment for the humanities.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, I want to congratulate the distinguished gentlewoman from New York (Ms. SLAUGHTER) for her leadership on these issues over the years. She has been tireless, and with those Members that are supporting this Member, I rise in support of this amendment.

Just to give my colleagues a little bit of a picture of what happens in a rural State like Maine and the importance of the arts and humanities, there are many areas of America, particularly rural America and rural Maine, that cannot afford some of the luxuries of major urban areas; and it is important to have organizations like the NEA and NEH provide resources to rural communities so that they can have an opportunity to participate and be exposed to the arts programs.

In my home State, the Maine Humanities Council has developed several programs that have greatly served our State. Current programs run by the council promote literacy for all ages, provide teacher enrichment. They have seminars in preserving cultural heritage. In addition, they have grant programs that provide the support to Maine libraries and museums, historical societies and schools.

One of their programs, literature and medicine, has become so successful that the national council has just received a significant grant application and awarded Maine a national endowment grant for the humanities to expand this program to eight other States.

Clearly, we must continue the support of these programs. Even on top of all of that, the economic opportunity that was highlighted earlier generated over $134 billion in economic opportunity. This gives rural States like Maine a real opportunity to focus on this creative cluster of development opportunities in our region; so that in a lot of rural areas we are manufacturing textiles and the agriculture have seen some declines, that there is an opportunity to create new economic growth in opportunities in terms of our art galleries, art exhibits and the promotion of the arts.

So we are very much in support of this effort, very much asking my colleagues to support this increase. It does a great job. It does a great job in Maine, and it does a great job in the Nation.

Mr. SKEEN. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me the time; and Mr. Chairman, I rise in support of the arts, but I rise in opposition to this amendment.

The President's budget provides a budget request of $116,489,000. Last year, fiscal year 2002, the enacted budget appropriation was $115,234,000. So we are over a $1 million increase already in the President's budget, essentially flat-funding it, but increasing it slightly.

The request today is for $116,489,000 for the National Endowment for the Arts; and the committee, in a bipartisan way, supported that. They supported it because it believed it is an adequate amount to pay for the Federal share of contribution to the arts, and I believe that, too. I think $116,489,000 is a fair amount. It is a fair number.

I point out to my colleagues that this was an increase last year of over $10 million a year ago for the National Endowment for the Arts. It was $104 million, went up to $115 million. So we have already added over $10 million a year ago and now to come back and add another $10 million this year, in addition to the $1 million that the President has already requested and the committee, in a bipartisan way, has already approved, I think is wrong.

When is enough enough? I have serious questions about the $134 billion that is generated, allegedly generated, by nonprofit arts groups; and I know they do a great job. They do it in my State, and I support them very strongly. However, that is like saying if we buy little league uniforms for the teams in America, we are going to generate all the money that goes to little league or high school or sports. It is a big universe, in other words; and I will give credit to some amount of money that is generated by the $115 million that we put in last year and that we are going to put in $116 million this year. I think that is a fair expenditure. For some it is too much; for some it is too little. But I think it is just right.

I would just urge my colleagues, when is enough enough? I will say to the sponsors of the amendment, this is money that is going to be cut out of the Interior Department operations accounts. We have held these operations accounts in the bill down. We have not even fully funded their inflationary request; and so if we are going to further cut into the Interior Department operations accounts, I think it is going to have an impact on the national parks operations. It is going to have an impact on public lands administration, on refuges that a lot of people go to see and enjoy the wildlife refuges in this country, and other programs that are part of the interior appropriations process.

The interior bill has a lot of responsibilities. We have a documented backlog in repairs for public facilities of over $12 billion. Ten million can make a big difference in that $12 billion backlog maintenance problem. We are trying to make prudent investment in our land management agencies, in Indian health programs, in energy research. They can use $10 million, too, if we really want to look at the cumulative effect of having dollars invested and benefits to the public.

I am not going to say the arts are not valuable, they are; but $116 million is enough, and I urge my colleagues to vote against this amendment, finding that $116 million is adequate.

Ms. SLAUGHTER. Mr. Chairman, I would like to remind my colleague from Washington State that just applauding the arts is not enough, and I yield 2 minutes to the other gentleman from Washington State (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I thought that the study was very professionally done, and I think the arts generate probably more than $134 billion in economic activity. The most important number was the Federal revenues, $10.5 billion for a $116 million investment. I do not think we are going to do any better than that on return in investment.

The other thing I would point out, when the House of Representatives was under the control of the Democratic Party in 1994, we provided $162 million for the National Endowment for the Arts on a very bipartisan basis. I see many Members here on the floor supported that level of funding; and then, of course, in 1995 that was reduced to less than $100 million, we had this dramatic Draconian cut in funding.

We have come back, and last year we had a vote on the floor of the House of Representatives for an increase of $15 million: $10 million for the endowment for the arts, because it was cut more severely than the endowment for the humanities, $3 million for humanities, $2 million for museums and library services. We do not have museum services anymore in this bill, so it is $10 million for the arts, $5 million for the humanities this year.

We can go to every part of this country now and we can see the consequences, the impact of these efforts, the Challenge America program. These moneys are going all over the country. We made sure that all the arts are not in the big cities. They are now everywhere; and that is why they are creating all this economic activity, creating these jobs and giving audiences all over the country a chance to enjoy the arts and the humanities.

This is a good, positive thing to do. Let us support it. Let us get back to where we used to be back in the good old days in 1994.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, let me just talk about the good old days. The good old days, for my dear friend from Washington State, were days when there was deep criticism of the National Endowment for the Arts for putting pornographic material in grants that they offered. I mean, that is what resulted in the cut. The representatives in the House of Representatives and the Senate and the country were disgusted with the way that the National Endowment for the Arts was distributing grants. They were wasting taxpayers' money. So just as a matter of historical reference, that is why they were cut back was because they were granting sort of disgusting material for grants with taxpayer money.

So what we did not see before 1994 was a limitation on the amount of money that went to big museums and big cities and people with all the money and the resources in the world. Thanks to the gentleman from Ohio (Mr. REGULA), the gentleman from New Mexico (Mr. SKEEN), the gentleman from Washington (Mr. DICKS), and others, we put in these reforms after 1995 and 1996, which said put a cap on the amount of funds that one State can receive, that State grant programs and State set-asides increased to 40 percent of the total grants. That is what we did in the post-1994 period.

Anti-obscenity requirement for grants supported by a Supreme Court decision in 1998. Put six Members of Congress on the National Council of the Arts to monitor what went through the system. We reduced the Presidentially appointed council members to 14 instead of 26. We prohibited grants to individuals except for literature fellowships and National Heritage fellowships or American Jazz Masters fellowships. Prohibited self-granting or full seasonal support grants. Allowed the NEA and the NEH to solicit vest private funds to support the agencies.

That is a beef that I have had for quite a while is that we give grants to people. With all due respect for the good work they do, they go out and make a tremendously good commercial success, but they do not give back; and my argument has been commercially successful people ought to be able to come back and give back to the big pot to help everybody, the fledgling artists and others who are out there trying to get some help instead of reaping the commercial benefit at taxpayers' expense.

☐ 1345

We have provided granting priority for projects to underserved populations. That is very important, as I come from a relatively rural area. We have provided priority for education, understanding and appreciation of the arts, and emphasis for grants to community music programs. These were all post-1994 reforms.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. NETHERCUTT. I yield to the gentleman from Washington.

Mr. DICKS. Well, then, we have a bipartisan consensus that we made these changes. Then let us give them back the money they so desperately need to fund the program all over the country. They need this money.

Mr. NETHERCUTT. Reclaiming my time, Mr. Chairman, I ask the gentleman if $116 million is not enough.

Mr. DICKS. No. No.

Mr. NETHERCUTT. I thought the gentleman would say that. Back in the 1970s, when this program first came out, it had zero. So now we have grown it to $116 million. One hundred sixteen million is enough. Let us give it a one-year hiatus. We have a war going on, we are trying to provide for people in New York, we have a defense bill, and homeland security. Let us give it a rest. Let us economize.

Mr. Chairman, I urge defeat of the amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

What we have heard on this floor for years on this subject is that we should not fund amendments like this simply because at some time in the past the arts program was not perfect. Well, I grant that. But for how we ought to view them today, I once again consult my sociological bible, my friend archie the cockroach, and here is what archie said about the arts.

"They are instinctively trying to hand the public some kind of stuff that wins the audience away from the often sordid surface of existence. They may do it badly, they may do it obviously, they may do it crudely, but they do have the hunch that what the millions want is to be shown that there is something possible to the human race besides the dull repetition of the triviality which is so often the routine of common existence. . . . And every now and then they have blundered into doing something with the touch of the universal in it."

That, to me, is what is so great about this little program. I do not much care about what this program does for the big cities in this country. I do not represent a city over 40,000. What I care about is what these programs help to deliver by way of cultural experiences, door-opening experiences for kids and for working families who, in the rural parts of this country and the small towns of this country, would otherwise never be exposed to it. And sometimes it may not be perfect, but a lot of times it is awfully good and it has a profoundly enriching experience on young people's lives. That is why this amendment ought to be passed.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the amendment, and I thank the gentleman for yielding me this time.

Let me just tell my colleagues why we are introducing this amendment that I am a coauthor of. The National Endowment for the Humanities will get 5 million more dollars because they carry enormously important national responsibilities, like dealing with brittle books and the problem of documents that are critical to our heritage and to future generations, needing a lot of care and a lot of restoration.

They are also in libraries in very small towns, bringing experts on poetry to do readings and workshops, and provide inspiration and guidance for those who want to learn to write poetry or short stories or get acquainted with the body of literature that has developed the culture of the Western world.

In the arts, we put $10 million more into the Challenge America program. That is the grassroots. Let me tell my colleagues what grassroots sounds like and looks like in my district.

I walked into a HOT school the other day. Now, HOT schools are funded by national NEA money flowing through our Connecticut Commission on the Arts. And I asked this young girl who was touring me around, a 5th grader, I said, what is a HOT school? She said, well, it is a Higher Order of Thinking School. And as we went through the school, there was a kid who was drawing everything we did, and there were several kids who were scribing down everything we did so they could do a report.

We saw the exhibition of art, portraits done by the kindergartners in the style of Miro. How wonderful for these kids to see the abstraction of portraiture done in that very modern style, so they could begin to think about who they really were, who the next person was, and how do we conceptualize the world around us.

There is just overwhelming evidence that strong arts develop higher test scores on math and reading. Why? Because it develops the mind, not just the tables, but the abstraction of mathematics.

Then we went on to the older grades where they had studied the Lascaux caves and how those drawings in the caves represented the history and the way people lived in that era, and they thought about it. They thought about not only the substance of life, but the artistic expression and how we communicate.

Then, every month, they have an assembly in which they have a competition for the best poetry, the best drawing. This has changed the lives of these inner-city children. It changed their lives and elevated their thinking. It has made them think that education is fun and powerful. So let us not neglect to fund the arts.

My Governor, a Republican in Connecticut, put more money into the arts than had ever been invested because the arts help revitalize our cities economically. So this is about education, it is about achievement, it is about excellence, it is about communication, it is about history, it is about culture, it is about inspiration, and it is about the dollars and cents of a strong economy. Support the amendment to increase funding for the arts.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I rise in support of restoring funding for the National Endowment for the Arts and the National Endowment for the Humanities.

While the proposed increases still will not return the support we knew in 1995, it is so important to the children of our country that we make this progress.

I want to cite what many of my colleagues have talked about today. Many people think of the NEA and the NEH grants as large grants to communities, but, actually, what we have are a number of grants that go to small organizations. I think even the fact that they are out there really inspires many, many organizations to put forth initiatives that they otherwise would never have put together, would never have explored.

In San Diego, we have many, many connections and many, many links. The National Endowment for the Arts supports major organizations in my area, like the San Diego Opera Association in its symphony outreach to students and the Old Globe Theater in their Teatro Meta program.

We also have a Challenge America grant, which enabled the San Diego Youth & Community Services to artist-led activities that link students in the Teen Connection program with actors from the La Jolla Playhouse and the Diversionary Theater.

Another grant enabled a partnership with the Metropolitan Area Advisory Committee on Anti-Poverty for the Teen Producers Project, and that provides after-school media arts education to young people living in public housing.

There are many, many of these grants, and all children deserve this opportunity to explore new arts interests and develop their talent, the kind of opportunities that the NEA and the NEH grants offer to enrich their lives.

My colleagues, if looking into the eyes of children who become inspired by the arts is not sufficient, I would point out, as my colleagues have, that the multiplier effect on the economy of every dollar spent on the arts also enriches all of our communities.

Mr. SKEEN. Mr. Chairman, I yield 6 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time, and as I sit here and listen to this bill, now going close to 24 hours, I am reminded of a Dr. Seuss character that I think was called a Push Me-Pull You. I do not really remember what it was all about, but it seemed to me that the character was unwilling to be pushed, unwilling to be pulled.

I think that must be the description of the Interior bill; that it is a very delicately balanced bill, and we can push it one way, but it is not going to pass; or we can pull it another way, and it is not going to pass. That is why this is kind of a thin-ice situation here. There are a lot of good arguments for this, but put one more straw on the camel's back, and then we lose on our side 24 votes. Same way on the other side; they lose 25 votes. That is why I think it is important that we leave the language and the numbers where they are in this particular bill on this amendment.

I support the arts, and I think everybody in Congress supports the arts. That is why it is very important to not confuse the NEA with the arts. We in Congress provide a $10 billion tax credit that is authorized for people who donate to art galleries and to art-related theaters and so forth. That is $10 billion. The Democrats are fond of saying how much is this costing? Well, $10 billion.

What about all the art that the Federal Government purchases, the paintings in this Capitol? We just underwent a renovation of the rotunda. That is in support of the arts. What about art education? All the programs on the State level, on the local level, on the Federal level that we as taxpayers of America support the arts on? We are very pro art in America. But to confuse the NEA with the art statement of America is truly misleading.

I believe that art is magical. I heard a songwriter say a good song takes you someplace else. And that is true, because, doggone it, I cannot drive my car without the radio going, because, Mr. Chairman, I do not always want to go to work. I like to hear the song about, I miss the planes out in Africa or the land down under in Australia. I think that is why we listen to music, because it does take us to a different place.

When we look at this picture of Lafayette over here, and think about the inspiration of a great Frenchman who comes over here and fights for America during the Revolutionary War. We get inspired when we look at the portrait of George Washington with the sword carefully painted out to show that this is not an institution that uses violence but that we use the weapons of words to clash our ideas together.

It is inspirational, as we look at the dynamics of both of these people, and to look up to the ceiling in the rotunda, and to think about a good drama that we all get invited to every now and then at JFK. It is truly inspirational. We need to all be protective of art.

And I want to say that I think the NEA has gone a long way in kind of cleaning up their act. The NEA, I think, has come a long way. The gentleman from Washington (Mr. NETHERCUTT) has cited it well. And I can say that on our side of the aisle, as the gentleman from Washington (Mr. DICKS) knows, some of the strong offended feelings, and I saw it was included in this regarding some of the shenanigans of the NEA in the past, I have to say that, actually, it was cleaned up probably more by the Supreme Court than by Congress.

I will yield to my friend in a minute, but as the gentleman remembers, it was the famous case of a woman who was dipped in chocolate, and the question was is that a proper use of the taxpayer dollars or should it be artistic freedom. I believe in artistic freedom, but let her leap in a whole vat of chocolate. I am all for it. A new definition of Hershey's Kisses. But when I am paying for it, or I am asking a guy who is driving a truck for $6 an hour back in Georgia, maybe we should not do that. Maybe we should just stick with the picture of the cow standing by the mill stream.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the point we tried to make before, and the gentleman from Washington (Mr. NETHERCUTT) did a good job, as has the gentleman from Georgia, in going back to those issues, but we reformed those things. We put provisions in the bill that emphasized quality, and those have all been adopted.

Mr. KINGSTON. Reclaiming my time, Mr. Chairman. That is exactly why I bring it up, is to acknowledge the changes that have been made. And the gentleman and I have both sat through hearings, through Democrat and Republican administrators over there, and I think they have cleaned it up, and I am glad. Some of it has been with a hammer, some of it has been more willing, but a lot has gone on.

I would also like them to continue to decentralize the NEA. I do think, and if I were the gentlewoman from New York (Ms. SLAUGHTER) I would be pushing it hard, because so much of the money is concentrated in New England, but there is a lot of art outside of New York City. When these theater groups come down and they do a little ballet for the rural folks down home, and they say, well, we kept the hicks from the sticks happy, now we can go home, I do not think it is anything that great and wonderful. I would love to see the NEA have a distribution formula where they say we have to push that stuff out and distribute it more in Idaho, Montana, and Mississippi.

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Mr. Chairman, my point is NEA, I think, has moved forward in a good direction. Unlike years past when I have voted to cut the NEA, I will vote to support the NEA. But I know as the vice chairman of this committee, to put more money in it means that we are going to lose votes, so I must oppose this amendment.

On the NEH, I am a big NEH supporter. I would support the NEH increase, but I cannot do it on the floor of the House because that is going to run off votes. I think there are some things to talk about in the process which I look forward to engaging in as the months go by.

Right now, all of the issues that we have gotten together with the Westerners and the Easterners and the folks on Native American issues, we need to keep the precarious balance of this bill where it is because it is a Push Me-Pull You.

Ms. SLAUGHTER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Missouri (Ms. MCCARTHY).

Ms. MCCARTHY of Missouri. Mr. Chairman, I rise in support of the Slaughter-Dicks amendment.

Mr. Chairman, I rise today in support of the Slaughter-Dicks-Horn-Johnson-Morella amendment to the Interior Appropriations bill to give the National Endowment for the Arts (NEA) additional appropriations of $10 million and the National Endowment for the Humanities (NEH) an additional $5 million. The value of the NEA lies in its ability to nurture the growth and artistic excellence of thousands of arts organizations and artists in every corner of the country, making the performing, visual, literary, media and folk arts available to millions of Americans.

Even in this time of fiscal restraint and budget deficits, the value of the NEA cannot be overstated. Additional appropriations are still required, as the NEA is a great investment in the economic growth of every community in the country. A recent study conducted by the Georgia Institute of Technology found that the nonprofit arts industry alone generates $134 billion annually in economic activity, supports 4.85 million full time jobs and returns $10.5 billion to the Federal Government in income taxes. While the economic benefit of the arts industry is integral to our Nation's economy, affording children access to the arts through education yields more significant dividends to our society. The U.S. Department of Justice found that arts education reduced delinquency in San Antonio by 13 percent, increased communication skills of Atlanta students by 57 percent, and improved cooperation skills of Portland youth by 57 percent. In addition, the College Board has shown that college bound students who are involved in the arts have higher overall SAT scores than other students.

The National Endowment for the Humanities is the largest single funder of humanities programs in the United States, enriching American intellectual and cultural life through support to museums, archives, libraries, colleges, universities, state humanities councils, public television and radio, and to individual scholars. A small investment through NEH reaps large rewards, providing seed money for high quality projects and programs that reach millions of Americans each year. This money, and NEH's reputation, leverage millions of dollars in private support for humanities projects. NEH is critical to addressing the Nation's future needs in education. More than two-thirds of our Nation's K–12 curriculum is dedicated to the humanities; 2 million new teachers will be needed in our classrooms over the next decade, and 4 out of 5 teachers feel inadequately prepared in their subject area. NEH summer seminars and institutes address these very issues, and are the catalyst for revitalized teachers for tens of thousands of students each year.

America's creative industries are our Nation's leading export with over $60 billion annually in overseas sales, including the output of artists and other creative workers in publishing, audiovisual, music and recording and entertainment businesses.

The National Endowment for the Humanities plays an important role in the American arts enterprise. NEH grants provide critical funding for work in art history, theory and criticism, including: university based and independent research projects; professional development seminars for K–12 and college teachers; film and radio programs; museum exhibitions and exhibition catalogs; and material culture preservation.

In my home state of Missouri, our Humanities Council currently is planning an array of public programs for distribution in Missouri during the bicentennial of the Lewis and Clark expedition, 2003 through 2006. The planning is supported by grants from the National Endowment for the Humanities and the Missouri Lewis and Clark Bicentennial Commission. The NEH planning grant supporting these trial programs is intended to produce program templates that can be deployed successfully with local participation by Native American spokespersons in Missouri, Kansas, Nebraska, and Iowa, serving communities within a day-trip's distance of the Missouri River. These programs will provide Missouri youth an important lesson in American history in an entertaining environment.

Mr. Chairman, I commend all arts advocates today on their continued dedication to arts in education. I strongly urge for increased resources for arts education in this year's appropriations process.

Ms. SLAUGHTER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of this increase, although it is so minimal I hesitate to call it an increase. We have still not recovered from the grave cuts of 1994, but I strongly support this amendment and wish I had time to talk about how important the arts are to New York and this country.

Mr. Chairman, I rise today to voice my enthusiastic support for the Slaughter-Dicks-Horn-Johnson amendment.

The $10 million for the National Endowment for the Arts and the $5 million for the National Endowment for the Humanities will continue the process of restoring Federal funding for the arts to appropriate levels.

It is difficult to call it an increase since the amount is so *minimal.* These organizations have not recovered from the severe cuts of 1994.

NEA funds do more than simply support individual programs, they support entire communities.

NEA funds help encourage private donors to give to a program, so every dollar we spend pays dividends.

When we invest in the arts, entire neighborhoods benefit. Studies show that children who are involved in the arts, concentrate better, learn how to listen and do better in school.

Every community has their own example of a program that has benefitted from NEA grants. I'll give a small example from my district. The New York Ballet Theater received a $15,000 grant from the NEA last year. They are a terrifically innovative program that teaches young people to dance and introduces children to the ballet.

More importantly, they recruit students from the shelter system, along with their more wealthy pupils. Their work has literally saved lives, taking at risk children and giving them a future.

One student, Steven Melendez, a 15-year-old boy from the shelter system, has literally had his life changed. He is a phenomenally talented dancer who has a future because of the New York Ballet Theater. His dancing received national recognition and he has been offered a place at the world renowned American Ballet Theatre. His story shows what a difference NEA funding can make in the lives of our young people.

I urge my colleagues to support the slaughter amendment, to enable the NEA to reach more programs.

In addition, the nonprofit arts industry generates $134 billion in economic activity yearly and over $20 billion in taxes.

Millions of Americans are employed in arts organizations, and they depend on the U.S. Government to continue to fund their industry.

We can help them, help our children, improve our economy, and create an enduring cultural legacy—all by passing this necessary amendment.

I urge my colleagues to support this amendment, to enable the NEA and NIH to reach more programs.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I rise in support of the Slaughter-Dicks amendment to benefit the National Endowment for the Arts and the National Endowment for the Humanities. The arts and the humanities enrich all of our lives; and as the gentlewoman from New York (Ms. SLAUGHTER) has pointed out, the arts enrich not just our lives figuratively; they enrich us economically. They not only challenge us to think, they deepen our understanding of the world around us and help us to understand ourselves and each other.

Not surprisingly, they help us in a number of other ways, in building spatial reasoning skills and improving performance in math and science in our children, language development and reading skills. The arts and humanities affect every American. In fact, they are central to being American. Our rights of speech and assembly have fueled works of art.

I ask Members to look around this beautiful Capitol building. This symbol of our democracy is a work of art. The NEA provides tens of millions of dollars, along with State arts agencies for more than 7,000, almost 8,000, arts education programs in thousands of communities all over America, large and small towns. The NEA offers lifetime learning opportunities through a range of public programs.

This budget-neutral amendment represents a small, but meaningful, increase for the arts and humanities. The arts give back to all of us many times over. This is not enough funding, but at least let us do this much.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I rise to question this amendment, the fact that if we were awash in money, if we were in a surplus, if we had lots of cash to spread around, I think this amendment might be appropriate. But when it really comes down to it, we have gotten by the original NEA debate in this country. A lot of positive changes have happened. A lot of the things that upset the American public have been changed. But is it really a priority in America to have almost a 10 percent increase in the arts when we have an economy that is in trouble, when we have poor people in this country who have lost their jobs, we have people underemployed, unemployed? Is this a prudent expenditure of our funds? When we are in economic trouble, is there no line item that can be level-funded? And this is not level-funded; it is increased. Does it really stand up to a test of almost a 10 percent increase? I think not.

The arts and entertainment community in America is the richest of the rich. I applaud them for what they do. But this is a time that they can step up and help expand the arts to all Americans. I find it interesting that those who are vehemently supporting this 10 percent increase oppose across-the-board tax cuts because some of them go to the more successful Americans.

We all know when we cut taxes across the board, we stimulate the economy because we give American employers more money to invest in their businesses. I think it is the wrong time to ask for a major increase. We have gotten by the debate of the past. Let us stay there. Let us not revive that issue at this time when America is struggling to balance its budget. We cannot willy-nilly hand out 9 and 10 percent increases to nice things.

Mr. Chairman, I think it is an inappropriate amendment. I think it is not well thought out. I think it revives the debate we could get by this year if we do not do it. I urge Members to say "no" to this amendment. It is the wrong time, the wrong place, and sends the wrong message to the poor of America.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, this amendment is completely offset by a very small cut in administrative expenses. Because of the offset, the money is not going to be taken from here and moved over to some worthy cause. This is a worthy cause because we have created this enormous industry in this country that have jobs, economic activity surrounding the arts.

We started this endowment back in 1964. My good friend, Livingston Biddle, was the staff person who worked with Senator Pell to get this thing created. Ever since then, we have seen the growth of the arts throughout the country because of the seed money that comes from the endowment. Even with this 10 percent increase, we are still 30 percent below where we were in 1994. If we had inflation, it would be 50 percent below. We are just trying to get back to a reasonable level of funding, and this House supported this amendment last year. I urge a vote for it this year.

Mr. SKEEN. Mr. Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) for all the gentleman has done over the years. But despite how much I like the gentleman from New Mexico, what an embarrassment. Once again, the House of Representatives is considering a Department of Interior appropriations bill that does not sufficiently fund the arts and the humanities.

Funding for the National Endowment for the Arts was cut dramatically in 1995 by more than 40 percent, and it has never returned to adequacy. Shame on us.

Opponents of this amendment call for fiscal discipline, as if the richest Nation in the world needs to be culturally impoverished. Shame on us.

We all know that it is not the lack of money that keeps funding for the NEA and the NEH so low, because the funding we invest provides a huge economic return on our Federal investment, both in dollars and in jobs. According to a recent study by Americans for the Arts, the nonprofit arts industry generates $134 billion in economic activity every year, creating more than 4 million jobs. The arts industry is a money maker, not a money taker. Another study, this one by the Arts Education Partnership, provides hard evidence that children who participate in the arts improve their critical learning skills in math, reading, language development, and writing. In addition, NEA funds programs like Positive Alternatives for Youth, which lowers the rate of juvenile crime by creating artist-led after-school programs for our youth.

When we deprive the NEA or the NEH of needed funds, we deprive this entire Nation of an active cultural community. It is a battle that has been going on since the stockades were used to control creativity in Puritan times, and it is absolutely wrong-headed.

The arts teaches us to think, encourages us to feel and see and to look in different ways. This is a good amendment, and it must be passed.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I also rise today in support of the Slaughter-Dicks amendment, which would increase the funding for the National Endowment for the Arts by $10 million and the National Endowment for the Humanities by $5 million.

In our country, 76.2 million adults attend performing arts events or exhibition events every year. Arts and humanities play a big role in our lives.

This year I had the honor of serving as co-chair with the gentleman from Florida (Mr. FOLEY) for the Congressional Arts Competition. Not too long ago, we had 308 students from across this country come here and exhibit their artwork. We were all very proud to see them here, for them to realize their talents and skills, and to maybe someday think that they could also receive a grant to continue their profession.

I cannot tell Members how heartfelt it was for me to see a student from my district compete in this competition and know that they have a career ahead of them. Coming from a life of poverty, living in a trailer park could somehow be able to actualize their talents and skills. I think we need to support this amendment. We need to continue to increase funding, especially for our young, disadvantaged youth that were discussed earlier. Let us not leave any child behind. Let us give them an opportunity to participate in a civic way in the arts, to give good examples and allow them to extend their talents and share that with the entire world.

NEA funds 249 grants throughout the country called the Challenge American Positive Alternative Youth Program. I am in support of this program. Just remember, Members, when we walk through the tunnel between our buildings and the Capitol, look at the artwork. Think about what young people have been helped, and let us give them a chance to be a part of the artistic discoveries in our country.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, in listening to this debate, Members would think that in fact prior to the establishment of the National Endowment for the Arts, prior to the hundreds of millions of dollars that we have taken away from our taxpayers and given to that organization, if we do not pass this amendment, there will be no art.

All of the wonderful things that art has done through our history has been recounted by the supporters of this particular amendment. Of course, who can argue that art is not a good thing? It is a great thing. It is a wonderful thing. I am all for art. And I can assure Members, if we defeat this amendment, and if we struck all funding for the National Endowment for the Arts, there would still be art.

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It actually existed before the National Endowment for the Arts. It actually was able to thrive, to be nurtured by individuals, to somehow find its way into the public life before the National Endowment for the Arts and certainly before this amendment was even thought of.

We have heard over and over again about the effect of art on students, that they learn more. The effect of art on the general population, that we are all somehow made better individually as a result of having art out there. That is probably true. I will not even deny that there is some effect on children's learning, on just the general nature of the population if you have a lot of art available to you. I have heard these things stated so far: It changed their lives, elevated their thinking, improved their test scores. It is about inspiration.

Mr. Chairman, every single one of those things can be attributed to another aspect of our culture, and that is religion. As a matter of fact, children who come from religious households do score better on test scores. It is something that improves all of our lives, at least I believe. So why do we not appropriate $100 million a year to religion? It does all of the same things that this particular amendment does or that the National Endowment for the Arts says they do, but, of course, we do not appropriate money to religion because we would then argue about whose religion should be centered and identified and given the money. You are right. We should not do that. We should not appropriate money for religion. We should not appropriate money for the arts because it is in the eye of the beholder as to what is art. And to take money away from somebody in my district to determine what somebody in your district thinks is art is, I think, unfair.

This amendment is, of course, unfair. The National Endowment for the Arts, as far as I am concerned, should not be funded at all. Certainly it should not be given the opportunity to have another grab at the apple.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, think about where we stand in the world today with our concentration of wealth and power. It is comparable almost to the great Greek and Roman civilizations.

But what do we remember about those civilizations? It is their art, their striving for their greatest aspirations of the human spirit. We want to leave that to our future generations. Sure, the private sector could do it. But let me tell you about Denyce Graves, one of the greatest opera singers we have today. She grew up in Washington, D.C., a few blocks away from the Kennedy Center. But if she could, if we allowed it, she would be on the floor today telling us the Kennedy Center might as well have been a world away because she could never have gotten to the Kennedy Center if she had not gotten an NEH grant to be able to perform. It was that grant that was invested in the District of Columbia that gave her the opportunity to show what she was capable of. There are thousands, maybe millions, of people all over the country that have benefited from this ability to leverage money in arts throughout America, in our smallest communities and our largest communities. This is something we will be proud of for generations to come.

Let us better fund the arts. Vote for the Slaughter-Dicks amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I thank the gentlewoman for yielding me this time. I have listened intently to this argument, to this debate, and to this discussion.

I represent a district that is rich in diversity, rich in pluralism, rich in people from different walks of life, different backgrounds. What this program activity does is provide for people to understand each other better, to know what is going on with other people, to know what is in their thoughts and minds and ideas. And so we are not talking about funding a program. We are talking about funding a way of life, to help keep America the diverse, understanding, pluralistic Nation that it is and that is what happens.

The Illinois Humanities Council does an outstanding job of bringing people together throughout our State. I guarantee you that my residents, the people I represent, would want us to fund this amendment. I am pleased to stand and speak in favor of it and urge its passage.

Mr. Chairman, I rise in support of the Slaughter amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities.

Mr. Chairman, as the country becomes more diverse and more pluralistic it is important, necessary, as a matter of fact, it is absolutely essential that we find ways to acquaint each other with cultural contributions, mores and folkways of different groups within our society and although we recognize the economic plight of our nation, we know that inordinate resources must be devoted to anti-terrorism and homeland security measures but we also know that education and the transference of understanding are necessary to maintain and grow our democracy.

Mr. Chairman, I represent an area rich in diversity and rich in understanding of the need to pay attention to not just programs; but also to a way of life, a way of life that keeps alive the American dream and a way of life that keeps music, art, culture and hope ever present in our lives.

Mr. Chairman, the Illinois Humanities Council and others like them throughout the nation do outstanding jobs of dividing and allocating these resources, they spread them around and we get the biggest bang for our bucks; therefore, Mr. Chairman, I urge my colleagues to vote in favor of this amendment, the Slaughter-Dicks amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I rise in support of this amendment. All of the civilizations throughout history which we want our children to study and which we admire, every one of them subsidized the arts at the national level. We should do no less. If we have any respect for ourselves and respect for our place in history, we ought to have an understanding of the importance of art in the development of our culture and the expression of ourselves as a people around the world.

A gentleman recently on that side of the aisle said that there was art here in the United States prior to the National Endowment for the Arts. To an extent, that is true. But that art was limited. It was limited to the elites, to small groups of the wealthiest and best situated people. The National Endowment for the Arts and the National Endowment for the Humanities brings the humanities and the arts to people all across this country. The funding that is in this bill and that which would be increased by this amendment goes out to virtually every congressional district across America, thereby benefiting the people, in elementary schools, in secondary schools, and communities all across this Nation.

Finally, if this amendment is passed, the amount of money that it adds to this bill will still not bring us to the level of support that the arts and humanities enjoyed in 1993–1994. We need to pass this amendment. We need to express ourselves as a people in this positive way. We need to show Americans across this country that we appreciate arts, the arts and artists, and show people around the world that we are a human country and appreciate and expound this great expression of ourselves as a people.

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume to refute what was said by a previous speaker, that the NEA does not have a distribution formula. It is very important, I think, that we get this information out to the populace here. As we have said, the NEA serves every nook and cranny of the United States. Forty percent of the total budget is distributed to all of the 50 States through the State arts agencies and distributed at the State level. That is 40 percent of it. The remaining 60 is awarded from the NEA at the Federal level and the distribution formula says that no individual State can get more than 15 percent of the NEA's budget.

I wish that people could understand that because this again comes up year after year.

Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. DICKS).

The CHAIRMAN. The gentleman from Washington is recognized for 2¼ minutes.

Mr. DICKS. Mr. Chairman, I think this has been a very lively debate today. I want to commend all the speakers who have spoken on support for the arts and I want to even commend the positive attitude of the people who have reservations about this amendment but who also say that they strongly support the arts in our country. I have been on this subcommittee a long time, this is my 26th year. Before that, I worked on the staff of Senator Warren Magnuson, and have followed the National Endowment for the Arts almost from its inception.

The point that I want to make is that this investment has caused a tremendous explosion in private funds in support of the arts. Now we see with this newest study that this has become a $134 billion industry, providing 4.5 million jobs in this country, at a time when we are in a recession. I think this is a very prudent investment. We are increasing the funding here by $15 million, $10 million for the arts, $5 million for the humanities. It is completely offset by a very innocuous reduction in administrative expenses. If my friend from Washington finds that onerous, we will fix it in conference, okay? So just to make sure, nobody is being hurt here. This is a positive amendment that will do a lot for our country.

I was at the opening of the Museum of Glass in Tacoma, Washington, a facility constructed at the leadership of George Russell. I saw young children in the glass art center creating glass art. We have had kids in Tacoma who used to be juvenile delinquents now are leading a program in creating glass art. This is something that is important for every young person in this country. Education is enhanced by the arts and humanities.

This is a very modest amendment. It is a chance for us to say to the endowments that they have done a good job, have listened to the Congress, have adopted the reforms that the gentleman from Ohio (Mr. REGULA) and I and the gentleman from New Mexico (Mr. SKEEN) have proposed over the years to correct the problems. They are emphasizing quality. This is an administration that is also strongly committed to the arts. I think this is a small amendment but a good one. Let us approve it and let us move on.

Mr. SKEEN. Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. NETHERCUTT).

The CHAIRMAN. The gentleman from Washington is recognized for 5½ minutes.

Mr. NETHERCUTT. Mr. Chairman, I am pleased to close on this debate. It has been a good debate. I appreciate the tone from all parties who spoke very fervently about their belief in the arts and their support of the arts.

I would argue that there is not one person in the House of Representatives who does not support the arts. Period. The question is, does everyone support a $10 million increase in the National Endowment for the Arts? I think we have to make sure everybody understands that this is an issue of how much can we afford. How much can we spend on different accounts in this particular bill? I would argue, Mr. Chairman, that we have got $116 million in this bill, about a $1 million increase over last year, which last year was about an $11 million increase over the year before. I guess my thinking is, it can never be enough. If you really want to take the arguments of the proponents of this amendment to their logical extension, it will never be enough. I would argue that this is enough at this time, at this place, given the circumstances of this bill, given the circumstances of our economy and our national priorities.

Much has been made of Members saying, well, we have to treat the Federal Treasury like our family budget. I would argue to you that if you got your mortgage and you got your food and your transportation and all the other necessary accounts to run your family, that maybe you say at some point, "Until things get a little better, I'm not going to go to the movies this weekend. In fact, I'm going to stay home and read a book." I think that is what we have to do with this amendment. We have to say, $116 million is enough. It is enough. And we do not need at this point to spend another $10 million just to demonstrate our commitment to the arts in this country.

Very few speakers today spoke of the direct relationship between the NEA and their love of the arts. We can love the arts, and we all do. We all appreciate the value of music and artistic expression. It is valuable. But I hasten to point out, we spend 20 percent of the $116 million on the administrative cost of the NEA. I know this amendment speaks to that, but still we are spending 20 cents, 25 cents out of every dollar spent on the NEA in administrative cost. My argument is in this amendment let us stick to the balance that has been provided by the chairman, by the ranking member, by the entire full Committee on Appropriations when we reported this bill out.

The gentleman from Washington said it is an innocuous reduction in the Department of Interior accounts. I would argue that reduction in land management for fires, for Indian Health Service, for BIA education or other accounts that this will come out of in the land management agencies for us in the West is not the right time to spend more money on arts and less money on the administration of fire suppression and other accounts that this is likely to be taken out of. So I would argue that this is not innocuous. It is not an innocuous addition. It is $10 million of addition to this account that already has $116 million.

I would just say this. We can be relatively assured, I will say almost positively assured, that the other body will want to add even more than this. I know that satisfies some Members who want more money. But if we are going to be fiscally responsible and if we are going to keep the balance in this bill and we have relatively, even most likely, the assurance that the money is going to go in in even greater amounts when we get with the other body in conference, I say hold the line.

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On this day, at this moment, with these pressures on our economy, with these pressures on our homeland security, on our post-September 11 activity, with the recession that we are trying to come out of in this country, let us not spend money to go to the movies; let us say, let us stay home and read a book. I argue that these Department of Interior accounts that are being cut today are going to have a greater impact on reducing spending and administration of existing accounts for Members of the House of Representatives than will this particular $10 million increase affect Members in a similar manner.

So I would just say I think again, the argument has been in favor of the arts and we all favor the arts. The challenge that the proponents have to exercise is, is this NEA distribution, the money going to the Federal agency, going to have the same impact that $10 million might have in other accounts of the interior agencies that are affected by the amendment of the gentlewoman from New York and the gentleman from Washington.

I respect their commitment, let there be no mistake. I know they feel strongly about this. But I think the rest of us must feel strongly about protecting the Federal purse, protecting the integrity of the appropriations process, protecting the integrity of the challenge, the pressure that is going to be on the land management agencies as we have droughts and natural disasters and challenges to Indian health service and Indian education and all of the other accounts that are part of the interior bill.

Mr. Chairman, I would urge the defeat of the amendment.

The CHAIRMAN. All time has expired.

(By unanimous consent, Mr. NETHERCUTT was allowed to speak out of order.)

### LEGISLATIVE PROGRAM

Mr. NETHERCUTT. Mr. Chairman, I would advise the Chair and the Members that after this series of votes, we will continue with amendments to title I under regular order. Then we will proceed to title II under regular order. Members are asked that if they have amendments to title I and the remainder of the bill, to come to the floor and submit their written amendments to the desk.

Mr. BLUMENAUER. Mr. Chairman, I come to the floor today to support this critical amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities.

A similar amendment passed on the House floor last year and I hope we are again able to demonstrate clear congressional support for arts and humanities funding today.

From the beginning of my political career, I have worked to increase funding for the arts and appreciation for the public value they add to our communities.

As a local county commissioner I crafted the first local government "percent for art" program and saw first-hand the multiplier effect it had on investment in the arts.

In Oregon, the arts and cultural industry has a tremendous economic value. The non-profit arts industry alone employs more than 28,000 people and generates $64 million annually.

Nationally, the nonprofit arts industry pumps $134 billion into our economy every year and provides a huge economic return on our small federal investment.

This industry provides 4.85 million jobs; $89.4 billion in household income; $10.5 billion in federal income tax revenues; $7.3 billion in state government tax revenues; and $6.6 billion in local government tax revenues.

The arts and humanities have more than an economic impact—they enrich our neighborhoods, our schools and our cities;

Each year, NEH grants are awarded in every U.S. state and territory, going to nonprofit cultural institutions such as museums, archives, libraries, colleges, universities, research centers, and state humanities councils; to film, television and radio producers; and to individual scholars.

Providing strong federal funding is also what the majority of the American public expects from Congress.

79 percent of Americans believe that "there should be federal, state, and local councils for the arts to . . . provide financial assistance to worthy arts organizations."

Unfortunately Since 1995, when funding for the NEA was reduced by 40 percent, the NEA has had to cut most grants to individual artists, funding for seasonal support, and has had to limit the scope of their focus dramatically.

Yet this is about far more than money and public opinion. The arts and humanities are what make a community vibrant, unique and lively.

Today's modest yet effective increase in the Interior Appropriations bill will help improve our federal commitment and is vital to promoting livable communities where our families are safe, healthy and more economically secure.

I urge my colleagues to support the Slaughter-Dicks-Horn-Johnson amendment to increase arts funding.

Mr. UDALL of New Mexico. Mr. Chairman, I rise this evening in support of the Slaughter-Dicks-Horn-Johnson-Morella amendment to the fiscal year 2003 Interior Appropriations bill. This amendment will give $10 million to the National Endowment for the Arts (NEA) and $5 million to the National Endowment for the Humanities (NEH).

Funding from the NEA and NEH leverage millions of dollars each year in private support for arts projects all across the country. We also know that arts education has been proven to increase skills in math, reading, language development and writing.

While New Mexico proudly proclaims itself as the State of many cultures—some call it a melting pot, others a mosaic—we all have at least one thing in common, and that is keeping together our strong connection to the history and traditions of our State through the arts. Funding through the NEA and NEH have showcased numerous Native American, Spanish, Mexican, and Anglo cultures by artists young and old.

Mr. Chairman, the NEA has approved thousands of dollars in federal funding for several arts organizations located in my Congressional District and throughout New Mexico. I would like to highlight a few of those organizations:

Santa Fe Opera—$50,000. Funding will support the American premiere of the opera L'amore de loin by Finnish composer Kaija Saariaho with libretto by French-Lebanese author Amin Maalouf. Approximately 6,000 persons are expected to attend three performances of the opera at the Santa Fe Opera Theater.

New Mexico CultureNet, Santa Fe—$30,000. Funding will support a project called InterLAC which links local arts councils throughout New Mexico via web-based services, workshops, and an annual conference.

Taos Talking Pictures—$7,500. Funding will be used to support the Taos Talking Picture Film Festival. The spring event showcases films by independent filmmakers working in all genres.

Pueblo of Zuni—$20,000. Zuni Fish and Wildlife Department. Funding will support an architectural design for an eagle aviary compound. In this second phase of the project an eagle breeding ground, visitor facilities, orchards, and landscape features will be added to the existing facility.

When it comes to private partnerships between private, state and federal funding of the arts by requiring that these grant recipients match federal monies dollar for dollar, the NEA set an outstanding example. According to the NEA, one federal dollar attracts $12 or more from state and regional arts agencies as well as corporations, businesses and individuals.

These are just a few of the many projects that funding through the NEA and NEH go to support. I'm sure that every member of this chamber could share similar project successes in their respective districts. I would like to remind my colleagues that a similar amendment passed the House on June 21, 2001 by a bipartisan margin of 221–193 in last year's Interior bill.

I urge my colleagues to support this important amendment.

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Slaughter-Dicks-Horn-Johnson amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities.

I support this modest amendment and believe increased funding would have an enormous impact by bringing the arts to underserved communities, like our inner-cities and rural areas, and by encouraging more support for preserving and promoting our cultural heritage.

Federal funding helps symphonies, theaters, musical productions, ballet and educational programs.

I grew up in an arts family. My mom and dad, both performing actors, met in the theater. I know the arts make a significant contribution to our lives.

The arts improve the lives of many people, including children, the elderly and those on a limited budget, who might not otherwise have the opportunity to see some very beautiful and enriching performances. And federal funding helps enable talented individuals to pursue careers in the arts.

Besides the cultural benefit, the economic impact of the arts is staggering.

I urge you to support the amendment and increase funding for the NEA and NEH.

Mr. SCHIFF. Mr. Chairman, I rise in support today for this modest bipartisan amendment offered by Representatives SLAUGHTER, DICKS, HORN, JOHNSON and MORELLA to increase funds for the National Endowment for the Arts and the National Endowment for the Humanities.

As a Member of the Congressional Arts Caucus, I value the tremendous role arts funding and arts education programs play in the lives of our citizens.

Several academic studies demonstrate the connection between music, dance, visual arts, and the development of the human brain. It is well known among researchers that arts education cultivates critical thinking skills so important in our information age economy.

Let me tell you about some of the programs in my community that received NEA and NEH funds this past year.

Artist-in-residence programs in elementary schools to encourage student and teacher involvement. A program in my district that incorporates traditional music and dance from diverse cultures to improve student relations, coordination and memory. An amateur chamber orchestra. A fellowship program at a library and museum for art instructors who will, in turn, teach our artists of tomorrow.

But this debate is not simply about the arts alone. Children who learn to read music or play an instrument show improved proficiency in math.

This increase of $15 million under the Interior Appropriations for the NEA and NEH will go to fund so many rich programs offered and so many opportunities for us all.

Last month, an economic study, Americans for the Arts, found that America's nonprofit arts industry generates $134 billion in annual economic activity. This number includes full time jobs, household income and local, state and federal tax revenue. This study includes more than $80 billion in event-related spending by audiences. This is additional clear evidence that opportunities funded through NEA and NEH continue to bring us to new levels in our economy, culture, language, music, art and life.

By supporting the arts and the humanities, the Federal Government has the ability to partner with state and local efforts to bolster the arts and educational opportunities in our communities.

Mr. FARR of California. Mr. Chairman, today we debate the level of our federal commitment to arts and humanities programs. We have an opportunity to ensure that the children who today dip their hands in pots of fingerprints and sit listening to storybooks will grow up to be active members of a creative nation, rich and beauty and ideas.

We all deserve arts and humanities.

All children and adults deserve the opportunity to learn to create, to express their ideas and their visions. They deserve the opportunity to learn history, languages, philosophy, painting, sculpture, music, and dance.

We all need arts and humanities.

Arts and humanities do more than just offer us entertainment and distraction from turmoil in our lives, they provide insight and perspective, they offer comfort and hope.

Arts and humanities give us ways to understand and find meaning in what is happening in our nation, and what has happened centuries ago. They give us ways to share that meaning with our children.

Last September, we witnessed some use their ability to destroy against our nation. We have endeavored to find ways to honor those who lost their lives in the destruction. I think one way to do so today is to support our nation's ability to create.

I proudly support the Slaughter-Dicks-Horn-Johnson-Morella amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities, and I ask my colleagues to do same.

Mr. NADLER. Mr. Chairman, I rise in strong support of the Slaughter, Dicks, Horn, Johnson amendment. Funding for the arts is one of the best investments our government makes. In purely economic terms, it generates a return that would make any Wall Street investor jealous. For just a fraction of one percent of the entire federal budget, the National Endowment for the Arts supports a thriving non-profit arts industry which generates more than $134 billion annually, nearly 5 million full-time jobs and returns $10.5 billion in federal taxes each year.

With grants that touch nearly every Congressional district in the country, the NEA supports educational programs that teach children valuable life-long skills; allows new and innovative art to find an audience; helps bring the arts to under-served communities; enables organizations to share their exhibitions and performances with the rest of the nation through national tours; and most important, provides crucial seed money for organizations to leverage private donations.

Yet the NEA continues to suffer from the shortsighted decision by Congress to slash its funding back in 1996, after attempting outright elimination. It has been forced to do more with less and despite consistent under-funding, it has been an efficient and productive agency. However, we should at least restore the NEA to its pre-1996 levels and we should be considering an increase over that level, not the paltry funding it has had since then. Only through increased public support can the arts continue to be so vibrant throughout the nation.

The NEH, too, is a crucial agency but without additional funding, the important work of interpreting and preserving our nation's heritage will go unrealized. The NEH is at the forefront of preserving endangered recordings of folk music, jazz and blues; bringing Shakespeare to inner-city youth; promoting research into immigrant life and culture; and helping disseminate this information into communities through technology with the Internet and CD–Rom.

The arts and humanities also provide the emotional and spiritual lift that we have all needed since September, helping us heal in profound ways. In the wake of the attacks on our nation, people flocked to theaters, music halls, and museums for a sense of community and emotional release. The arts and humanities are also a critical tool in promoting cultural understanding, something that is sorely needed in the world today.

In the wake of September 11th, I convened a discussion of the many arts organizations in lower Manhattan that had been devastated after the attacks. At that meeting, an artist named Brookie Maxwell gave a powerful testament to why additional arts funding is needed. She said, "We need funding for the arts so we can process what happened. Art addresses the meaning between the words, and it addresses the mystery of life."

Mr. Chairman, I can think of no better words to sum up why this amendment is so sorely needed and I urge my colleagues to adopt it.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of this amendment which provides for a modest increase of funding for the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH). Mr. Speaker, this year we have spent much time and energy improving our education system with the No Child Left Behind Act. I am proud of the work we have done. Yet we cannot leave the arts behind—exposure and understanding of the arts is vital to our children's development and we must properly fund the NEA and NEH to accomplish this.

The NEA supports local communities in our states and creates many educational outreach programs which enrich the cultural world of our children. The NEH serves to advance the nation's scholarly and cultural life by providing humanities education to America's school children and college students, offers lifelong learning opportunities through a range of public programs and supports projects that encourage Americans to discover their American heritage.

The most important function of the NEA and NEH is their role in education our children. Studies continue to illustrate the positive impact that exposure to arts has on a child's development. A recent study released by the Arts Education Partnership entitled Critical Links, provides hard evidence that the arts improve critical skills in math, reading, language development, and writing. The arts nourish a child's imagination and creativity and help develop collaborative and teamwork skills.

But arts in education is not only important for student achievement. Arts have also been shown to deter delinquent behavior of at-risk youth. The U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention found that arts programs that were geared toward at-risk youth dramatically improved academic performance, reduced school truancy, and increased skills of communication, conflict resolution, completion of challenging tasks, and teamwork.

In a time when we are searching for innovative ways to combat violence in our schools, studies such as the one I just cited demonstrate the positive effects that arts education can have on behavior.

Congress affirmed the critical role of arts education when it passed the No Child Left Behind Act. This landmark education reform legislation recognizes the arts as one of the core subjects that all schools should teach. We must ensure that arts remain a part of our children's educational development. Investing in our children's future is necessary. I commend the NEA and other fine programs for their work to improve the quality of education in America.

A good deal is being said (and circulated) about what some consider the sponsorship of questionable art by the National Endowment of the Arts. I do agree that the federal government has no business subsidizing works of "art" that are lewd or that depict our religious figures or symbols in an objectionable manner.

But let me remind you that Congress has taken the necessary steps to ensure that the NEA is precluded from funding such offensive projects. For example, in 1996 Congress eliminated most individual grants and prohibited the use of NEA funds for projects that depict sexual activities or denigrate religious objects. In 1990, I served as Republican leader of the subcommittee that re-wrote NEA regulations to establish a new, decency standard and outlawed NEA support for projects with controversial sexual and religious themes.

We have this debate every year. The NEA we debate about today is the reformed NEA—not the NEA of the past. The NEA of today supports good programs that use the strength of the Arts and our nation's cultural life to enhance communities in every state in the nation. However, the NEA is still being punished for its past and is still funded at levels that are significantly lower than the funding levels of a decade ago.

I urge my colleagues to support the amendment and ensure that arts remain a part of our children's educational development.

Ms. DELAURO. Mr. Chairman, I rise in strong support of the Slaughter-Dicks amendment to provide increased funding for the National Endowment for the Arts and the National Endowment for the Humanities.

These agencies are charged with bringing the history, the beauty, the wisdom of our culture into the lives of all Americans—young and old, rich and poor, urban and rural. We in Congress have said that preserving our national heritage, and bringing the arts into the lives of more Americans, is a goal worthy of our support.

For the past two years, we have made an important investment in the NEA's Challenge America program. This program focuses on arts education and enrichment, after-school arts programs for youth, access education and enrichment, after-school arts programs for youth, access to the arts for underserved communities, and community arts development initiatives. This initiative has helped strengthen America's communities and foster new relationships between communities, state and federal agencies, and national organizations. We make sure that these vital agencies have the resources they need to continue and expand the impact of the arts.

Many years ago, I spent seven years as the chair of the Greater New Haven Arts Council back in Connecticut. I know first hand that the arts not only enrich lives, but contribute to the economic growth of the community.

Federal investment in the arts is not the only means of support for this endeavor. Rather, our dollars—which represent only a small fraction of our annual budget—are used to leverage private funding and fuel what is really an arts industry. This industry creates jobs, increases travel and tourism, and generates thousands of dollars for a state's economy.

In addition, the NEA is an important partner in bringing arts education to more American students. Arts education is critical in planting seeds of art appreciation and in cultivating the talent that may have yet to be discovered in these young minds. The Endowment, in partnership with state arts agencies, provides $37 million of annual support for Kindergarten through 12th grade arts education projects in more than 2,600 communities across the country. It also funds professional development programs for art specialists, classroom teachers, and artists.

Recent studies have shown that the arts have real value in restoring civility to our society and providing our children and communities real alternatives. Participation in arts programs helps children learn to express anger appropriately and enhance communication skills with adults and peers. Students who have benefitted from arts programs have also shown better self-esteem, an improved ability to finish tasks, less delinquent behavior, and a more positive attitude toward school. We must continue to support this effort to bring the arts and humanities into the lives of our young people.

We know that the arts build our economy, enrich our culture, and feed the minds of adults and children alike. The NEA and NEH need this increase to fulfill their missions, and it's time we gave them this support. Vote for this amendment. Preserve our heritage and make it accessible to all.

Mr. CASTLE. Mr. Chairman, I rise today in support of the Slaughter-Dicks-Horn-Johnson-Morella Amendment to increase funding for the National Endowment for the Arts and the National Endowment for Humanities. The arts and humanities are important both socially and economically to our Nation as a whole.

Studies have shown students benefit from exposure to both the arts and humanities. They gain not only a better cultural appreciation but are able to translate their positive experiences into skills that are essential for their academic future and their future in the American workforce.

Arts and humanities funding are increasingly allocated to state agencies for grant programs that reach out to underprivileged and smaller suburban and rural areas that do not have the benefits of big city art programs. In correlation, seventy-nine percent of businesses believe it is important to have an active cultural community in the locale in which they operate. Businesses in Delaware work hand-in-hand with the arts and humanities communities. This partnership makes my State a stronger community than it otherwise would be.

I have witnessed in Delaware firsthand how rewarding arts and humanities programs can be to our Nation's youth. For example, the Possum Point Players in Georgetown, Delaware, is funded through the NEA's Challenge American Program. This organization provides positive alternatives for youth in Sussex County high schools through the creation of theater programs for rural and low-income students. Many of these students would not have the opportunity to participate in such programs without the Challenged American Program. These students have better chance to increase their SAT scores, develop increased self-confidence, and are more likely to create multiple solutions to problems and work collaboratively with one another.

Furthermore, the Delaware Humanities Forum, through NEH funding, has played an essential role in bringing humanities to all corners of the state with programs available or schools, businesses, and other community groups. Each year the Humanities Forum presents an annual living history event bringing education and entertainment together. Past events have centered around the Old West and the Gilded Age in American History.

It is important for us to remember, the collective benefits gained by not only our districts but also by the Nation as a whole and that is why I rise today in strong support of increased funding for the NEA and the NEH.

Mr. GILMAN. I rise in support of the Slaughter-Dicks-Horn-Johnson-Morella amendment which calls for increases of $10 million for the National Endowment for the Arts and $5 million for the National Endowment for the Humanities.

Throughout the last 30 years our Nation has been enriched by the Arts. Sophocles wrote: "Whoever neglects the arts when he is young has lost the past and is dead to the future." When Congress supports and appropriates Federal funding for the NEA and the NEH, our Nation's commitment to the future and the freedom of expression if reinforced and reinvigorated.

The NEA and NEH create programming that cultivates and fosters achievement in the arts throughout our Nation. If this funding is not allocated to these important endowments, the freedom of expression enjoyed by every citizen will be jeopardized and inhibited. Progress in the Arts will be imperiled.

We all take pride in America's contributions in the Arts; however, it is important and essential that we secure the promise of future achievements. In addition to applauding our American spirits, and observing that an energetic life contributes to a strong democracy, we must take action to make the arts a priority. This is what is necessary to maintain and improve upon past standards. As integral as the Arts have been to our American heritage, the younger generations must make a sustained effort to support and aid in maintaining this essential facet of our culture and society.

If we reduce funding for the Arts, our Nation would be the first among cultured nations to remove the Arts as a priority. In my role as Chairman Emeritus of the International Relations Committee, I recognize the importance of the Arts on an international level, as they help foster a common appreciation of history and culture that are so essential to our humanity. If we do not meet the needs of the NEA, we would be erasing part of our civilization and breaking possible bonds to others.

Moreover, I understand the importance of the Arts on our Nation's children. Whether it is music or drama or dance, children are drawn to the Arts. Many after school programs provide children with an opportunity to express themselves in a positive environment, removed from the temptations of drugs and violence. Empowering children with pride and passion, they are better able to make good choices and avoid following the crowd down dark paths. However, many children are not able to enjoy the feeling of pride that comes with performing or creating because their school are cutting arts programming or not offering it altogether. We need to ensure that this does not continue to happen. Increasing children's access to the Arts only benefits our Nation and its future.

It is our responsibility to ensure that our children have access to the Arts. Accordingly, I strongly support increased funding for the NEA and NEH. I urge my colleagues to oppose any amendments which seek to decrease NEA funding, and to support the Slaughter-Dicks-Horn-Johnson-Morella amendment.

Mr. DINGELL. Mr. Chairman, I rise today in support of increased funding for the National Endowment for the Arts (NEA) and National Endowment for the Humanities (NEH). Public investment in arts and humanities benefits society in countless ways, including enhancing individual creativity, increasing skills in math, reading, language development and writing, and expanding global relationships and understanding.

President Bush has recommended FY 2003 funding for NEA and NEH at $116 million and $126 million, respectively. It is important to note that NEA's amount is $46 million below its 1995 level. However, the payoff from even this meager public investment is still enormous. In addition to the aforementioned benefits of public funding for arts and humanities, a recent study found that arts groups generate at least $134 billion in economic activity each year, 4.85 million full-time equivalent jobs, $89.4 billion in household income, and $24.4 billion in government taxes. Although NEA and NEH are the sole source off arts funding in some communities, in others, grants from NEA and NEH leverage millions of dollars each year in private support for arts projects.

Last year in Michigan's 16th District alone, NEA awarded two grants totaling $40,000. One of the grants was awarded to the Sphinx Competition in Dearborn, Michigan, an outstanding program that gives young, primarily African American and Latino students, the opportunity to improve their craft, and perform with their peers and professional musicians. I can think of few programs that are more deserving of NEA funding, or that have been as effective in expanding access to classical music opportunities for minority students. Last year, NEH funding was awarded to 13 organizations in my district, mostly to elementary schools which brought live cultural presentations to the students. These programs consisted of a wide diversity of cultural programs from school assembly musical performances to library storytellers. Without these funds, many of these students would not have had the opportunity to be exposed to these culturally enriching activities.

Currently, Americans pay about the cost of a postage stamp to fund these two important programs. Given the important and measurable benefits of exposure to arts and cultural activities, Congress must step up and increase public funding for NEA and NEH.

Ms. HARMAN. Mr. Chairman, I rise today in strong support of the Amendment to the Interior Appropriations bill to increase funding for the Endowment of the Arts and the National Endowment of the Humanities.

Increased funding for NEA and NEH is essential to the Government's role in ensuring the beauty and diversity of the arts are accessible to all our citizens. The arts help children to develop fundamental skills and provide the opportunity for students to excel in academic and social areas. More specifically, the effects of early arts exposure can help to increase a child's motivation to learn about all subjects.

In Venice, CA, which I represent, the Los Angeles Theatre Works stands as an example of what NEA funding can accomplish. The LA Theatre Works not only produces plays but also takes an active role in the Venice community to bring the arts to children in need. Their "Arts and Children" program provides hands-on workshops to at-risk youth, encouraging them to develop their talents and channel their energies into the arts.

It is through the funding from NEA and NEH that organizations such as the Los Angeles Theatre Works are able to reach out into communities and touch the lives of children and, in turn, the lives of the rest of us.

Mr. Chairman, I encourage my colleagues to vote for this amendment to ensure that the NEA and NEH continue to provide enrichment to citizens across the country.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today to voice my strong support for this amendment to the FY03 Interior Appropriations bill (H.R. 5093), which would reaffirm our commitment to enriching the education of our children. The Slaughter-Dicks-Horn-Johnson amendment would increase funding for the National Endowment for the Humanities by $5 million and the National Endowment for the Arts by $10 million. These small increases in funding will have a tremendous impact on the quality of education for all children.

As a member of the Congressional Arts Caucus and a former teacher, I understand the importance of the arts and humanities in our education system. More than two-thirds of our Nation's K–12 curriculum is dedicated to the humanities. As the largest supporter of the humanities in the country, the Federal Government, through the NEH, provides access to high-quality educational programs and resources through grants to non-profit cultural institutions such as museums, universities, and State humanities councils. These grants strengthen teaching, facilitate research, and provide opportunities for lifelong learning. It is incumbent upon the Federal Government to maintain its commitment to the humanities if we are to maintain a high level of excellence in our public schools.

The arts create an environment of creativity, expression, and success for children. The NEA nurtures the growth and artistic excellence of thousands of arts organizations all over the country by making the performing, visual, literary, media and folk arts available to millions of Americans. Programs, such as the Arts Learning grants, support projects for children and youth, in school and outside the regular school day and year, in pre-K through grade 12 and in youth arts areas. This project, which partners public education and nonprofit arts organizations, helps to contribute to the incredible economic success of the arts industry. The nonprofit arts industry generates $36.8 billion annually in economic activity and supports 1.3 million jobs.

In my district, the Connecticut's Commission on the Arts uses NEA funding to support its Higher Order Thinking (HOT) Schools Program. The HOT Schools Program is designed to transform entire school communities. The arts, especially writing, play a central role in this change process. School culture focuses on student needs and celebrates each child's accomplishments by sharing them with the larger school community. The program began in 1994 with only six schools and has grown to include over twenty-four schools from across Connecticut involving over 5,000 students and 500 educators.

In recent years, funding for the NEA and the NEH has been slashed—leaving many arts and cultural programs scrambling for funding. For example, in my state of Connecticut, Federal grants dropped from $10 million in 1994 to an average of only $3 million. Such reductions serve as an impediment to accessing and unearthing the country's rich cultural and educational infrastructure. The modest increases proposed in this amendment would help to close the gap created by revenue shortfalls in many states.

The Slaughter-Dicks-Horn-Johnson amendment will serve to only improve the NEA and the NEH. With additional funding, we will be able to preserve programs already in place like the HOT Schools Program, and build upon their successes to create new programs, which will enhance the education of more children.

The NEA and the NEH are integral to our children's educational development. The NEA and the NEH have already suffered from cuts and reductions over the years. It is time to reinvest in these extremely successful agencies and provide America's children with a complete cultural and artistic education. Therefore, I urge my colleagues to join me in voting in favor of this amendment.

Mr. UDALL of Colorado. Mr. Chairman, I rise today in support of the Slaughter-Dicks-Horn-Johnson Amendment to the Department of Interior Appropriations bill to increase funding for the National Endowment for the Arts and National Endowment for the Humanities by fifteen million dollars.

The value of supporting the arts is widely accepted. Art provides a venue for expression and understanding of human thought and emotion. Educators have argued that there are many educational benefits to students enrolled in the arts. Some institutions looking to bridge the gap of understanding between different cultures use art as a universal means of communicating concerns and developing understanding.

The National Endowment for the Arts and National Endowment for the Humanities consistently work to give artists across the country the opportunity to participate in the arts. In fact, forty percent of the money allocated to the national endowment is transferred directly to states so that they are able to fund local programs. In Colorado, money from the National Endowment of the Arts is used to fund the Arts and Education Learning Network which teaches arts organizations how to work with schools, and the Online Poetry Project to help schools address poetry related questions on standardized CSAP exams. The bulk of funding requested in the amendment will go to the Challenge America Program that works to start arts and humanities programs in communities that have yet to receive funding from the Endowment.

Along with the immeasurable value of the contribution of the arts and the humanities as an expression of our culture and of the individual, the arts have proven to have a quantifiable value as well. A study recently conducted by an economist at the University of Georgia of ninety-one communities nationwide showed that communities that spend money on the arts, make money from the arts.

One of the communities in the study was Boulder, CO. It was calculated that just over nineteen million dollars in spending by the nonprofit arts industry in Boulder generated over thirteen million dollars in revenue and income for Boulder businesses, residents and local government, and supported five hundred and ninety-four full time jobs. The arts and humanities bring money and jobs to communities in today's difficult economic environment.

This amendment would allocate necessary funding to a grossly underfunded national arts program. Support of the amendment is necessary so that arts can continue to bring all of the benefits that come from encouraging and supporting development of the arts.

Ms. PELOSI. Mr. Chairman, today's vote by the House to increase funding for the NEA and NEH is a victory of imagination over ideology.

In recent years, we have worried a great deal about the digital divide—a lack of access to technology that could limit opportunity for lower-income Americans. We should be equally concerned about a creativity crisis.

Studies have proven that arts education is not just a frill tacked on to the vital work of learning reading, writing and arithmetic. Art education increases skills in all of these subjects, as well as in language development and writing and spatial reasoning.

Grants from the National Endowments for the Arts and the Humanities leverage millions of dollars each year in private support for arts projects. In many communities, they are the sole source of arts funding.

This amendment would provide an additional $10 million for the NEA's "Challenge America" initiative, which is specifically designed to provide access to the arts for underserved communities. According to the Georgia Institute of Technology, the arts industry generations millions of jobs and $134 billion in economic activity every year.

The amendment also provides $5 million for the NEH—the nation's largest source of support for research and scholarship in the humanities.

I want to make it very clear that this amendment is not an increase in funding, but an attempt to recoup some of the cuts that NEA faced in 1995 when its budget was slashed by 40 percent. There is strong, bipartisan consensus now that those cuts were felt too deeply by some of our most vulnerable young people.

Exposure to the arts through the NEA helps children build confidence in their class work, honors their creativity, and unleashes the power of their imagination. The poet, Shelley, once wrote that the greatest force for moral good is imagination. With the challenges that we face today, we need all the imagination we can muster.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to support the amendment offered by Congresswoman SLAUGHTER to increase funding for the National Endowment for the Humanities by $5 million and for the National Endowment for the Arts' Challenge America Initiative by $10. million.

The National Endowment for the Humanities (NEH) provides grants to every state and territory in the United States to support programs in our museums, libraries, colleges, research centers, and state humanities councils, and to support the work of individual scholars. I have been extremely impressed by the products of the grants awarded in my State, particularly support for Hawaii History Day and National History Day.

NEH grants help to bring the humanities to Americans throughout our nation. NEH grants are also used to improve teaching, support research and scholarship, preserve our nation's historical and cultural heritage through conservation of precious documents and artifacts, and provide access to the humanities through public programs.

The Challenge America Initiative of the National Endowment for the Arts is specifically designed to provide underserved communities with access to the arts. The Initiative supports arts education, youth-at-risk programs, cultural heritage preservation, and community arts partnerships.

Student involvement in the arts has been proven to increase skills in mathematics, reading, language development, and writing. And students who play certain musical instruments demonstrate enhanced development of spatial reasoning skills. The arts have also shown success in improving outcomes for at-risk youth.

Grants from NEH and NEA leverage millions of dollars in private support for the arts and humanities. America's nonprofit arts industry generates some $134 billion in economic activity each year, including 4.85 million full-time equivalent jobs, $89.4 billion in household income, $6.6 billion in local government tax revenues, $7.3 billion in state government tax revenues, and $10.5 billion in federal income tax revenues.

These valuable programs help to promote the arts, humanities, and education in our communities. The relatively small investments made by the federal government in these programs greatly enrich the lives of all Americans.

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Slaughter-Dicks Amendment, to make important increases to the NEA and NEH.

Before I continue, I must relay my hesitation to use the term "increase" when referring to the modest funding this amendment would provide. After all, the NEA and NEH have yet to fully recover from the more than 40 percent cut they suffered in 1995.

We know that the arts are crucial to the development of our culture and our economy, and beneficial to all our citizens. In fact, a recent study showed that the nonprofit arts industry generates $134 billion in economic activity and $24 billion in tax revenue in the U.S. annually. The arts are especially important to New York.

As a former member of the National Council on the Arts, I have seen first-hand the grant selection process, and I applaud the NEA for successfully increasing all Americans' access to the arts, through programs such as "Challenge America." It is vital that we continue to fully support these extraordinary programs.

We must recognize, however, that last year's funding increase was not the conclusion of a struggle, but rather, a first step toward funding the arts and humanities at levels appropriate to them. A $10 million increase to the NEA budget would not only support magnificent artistic work, but would also generate federal revenue and foster local economic activity. Let's use this opportunity to get back to providing a level of resources to the NEA and the NEH of which we can all be proud.

My colleagues, I urge you to support the Slaughter-Dicks amendment.

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in support of the amendment to the Interior Appropriations bill offered by my colleagues, Representatives SLAUGHTER and DICKS, to increase funding for the National Endowment for the Arts by $10 million and the National Endowment for the Humanities by $5 million. There is no question that education about the arts and humanities not only creates well-rounded human beings, but more responsible citizens who contribute to the richness of our cultural heritage.

For many years, under the wise guidance and leadership of my predecessor, Congressman Sydney Yates, Congress understood the cultural and economic importance of federal funding for arts. Yates almost single-handedly protected the arts, and was awarded for his tireless efforts by President Clinton in 1993 with the Presidential Citizens Medal.

Unfortunately, NEA funding was cut by more than 40 percent in 1995 and, for the most part, has yet to recover, despite overwhelming evidence that the arts contribute greatly to our society and culture. A recent study released by the Arts Education Partnership provides hard evidence that exposure to the arts improves students' critical skills in math, reading, language development, and writing. Furthermore, other studies suggest that for certain populations, including students from economically disadvantaged circumstances, students needing remedial instruction, and younger children, arts education is especially helpful in boosting learning and achievement.

The humanities play an equally valuable role in the education of children and adults. In particular, state humanities councils, which receive NEH funding, have been working for nearly 30 years to educate citizens about our history and culture and stimulate dialogue about contemporary issues of concern. Collaborating with libraries, museums, religious institutions, schools, senior centers, historical societies, and community centers, state humanities councils have served as the single most reliable source of local support for programs that educate citizens for civic life, thereby strengthening the fabric of our democracy.

My district in Illinois greatly benefits from NEA and NEH funding. In 2001, the 9th Congressional District received over $180,000 from NEA through a wide variety of grants. That same year, Illinois received $4.6 million in NEH funding, making Illinois the fourth largest recipient of NEH funds in the country. My constituents reap the benefits of this.

If we are to preserve these programs, and other similar programs all over the country, it is critical that we provide adequate funding for the NEA and NEH. I strongly support increasing the NEA and NEH funding levels by a total of $15 million, and urge my colleagues to support the amendment to do so.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

### RECORDED VOTE

Mr. NETHERCUTT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, this 15-minute vote on the Slaughter amendment will be followed by 5-minute votes, if ordered, on the Rahall and Hayworth amendments, in turn.

The vote was taken by electronic device, and there were—ayes 234, noes 192, not voting 8, as follows:

[Roll No. 310]

AYES—234

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Ballenger
Barrett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank
Frelinghuysen
Frost
Gephardt
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Greenwood
Grucci
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—192

Aderholt
Akin
Armey
Bachus
Baker
Barcia
Barr
Bartlett
Barton
Bass
Bilirakis
Blunt
Boehner
Bonilla
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Flake
Fletcher
Foley
Forbes
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
King (NY)
Kingston
Knollenberg
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McInnis
McIntyre
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Myrick
Nethercutt
Ney
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Riley
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Blagojevich
Bonior
Ehrlich
Kaptur
Mascara
McHugh
Nadler
Traficant

□ 1456

Messrs. SULLIVAN, CALVERT, COX, and PICKERING changed their vote from "aye" to "no."

Mr. ROTHMAN and Mr. PAYNE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, point of order.

The CHAIRMAN. The gentleman from Washington will state his point of order.

Mr. DICKS. Mr. Chairman, is this the Rahall amendment coming up?

The CHAIRMAN. The Chair would tell the gentleman that it is, yes.

AMENDMENT OFFERED BY MR. RAHALL

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 281, noes 144, not voting 9, as follows:

[Roll No. 311]

AYES—281

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Bishop
Blumenauer
Blunt
Boehlert
Bono
Boozman
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Calvert
Camp
Capito
Capps
Capuano
Carson (IN)
Carson (OK)
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Cooksey
Costello
Coyne
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Ford
Fossella
Frank
Frost
Gallegly
Gephardt
Gibbons
Gonzalez
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Honda
Hooley
Houghton
Hoyer
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Knollenberg
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Napolitano
Neal

Ney
Norwood
Nussle
Oberstar
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pickering
Pombo
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Rehberg
Reyes
Rivers
Rodriguez
Rogers (MI)
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano
Sessions
Shaw
Sherman
Shows
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stump
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walden
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weller
Wexler
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)

NOES—144

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Barton
Bass
Biggert
Bilirakis
Boehner
Bonilla
Boyd
Brady (TX)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Cannon
Cantor
Cardin
Castle
Chabot
Coble
Combest
Cox
Cramer
Crenshaw
Culberson
Davis (FL)
DeLay
DeMint
Dicks
Doolittle
Dunn
Ehlers
Emerson
Everett
Flake
Fletcher
Forbes
Frelinghuysen
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Herger
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Isakson
Jackson (IL)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kingston
Kirk
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Northup
Obey
Ose
Pence
Peterson (PA)
Pitts
Platts
Portman
Pryce (OH)
Putnam
Radanovich
Regula
Reynolds
Riley
Roemer
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ryun (KS)
Sabo
Schaffer
Schrock
Sensenbrenner
Shadegg
Shays
Sherwood
Shimkus
Shuster
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—9

Blagojevich
Bonior
Ehrlich
Holt
Kaptur
Mascara
McHugh
Nadler
Traficant

□ 1505

Mr. ROGERS of Michigan changed his vote from "no" to "aye".

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. KNOLLENBERG. Mr. Chairman, on rollcall No. 311, I inadvertently voted "aye." I meant to vote "no".

### AMENDMENT NO. 11 OFFERED BY MR. HAYWORTH

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. HAYWORTH) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 273, noes 151, not voting 10, as follows:

[Roll No. 312]

AYES—273

Abercrombie
Ackerman
Allen
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Bishop
Blumenauer
Boehlert
Boehner
Bono
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Buyer
Callahan
Calvert
Camp
Capito
Capps
Capuano
Carson (IN)
Carson (OK)
Chabot
Clay
Clayton
Clyburn
Coble
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Engel
English
Etheridge
Evans
Farr
Fattah
Filner
Flake
Foley
Ford
Fossella
Frank
Frost
Gallegly
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Graves
Green (TX)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hostettler
Houghton
Hoyer
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Knollenberg
Kolbe
Lampson
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, George
Mink
Moore
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Oberstar
Olver
Ortiz
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pombo
Pomeroy
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Rogers (KY)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sessions
Sherman
Shows
Shuster
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
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Tanner
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Tauzin
Taylor (MS)
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Terry
Thompson (CA)
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Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Walden
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Watson (CA)
Watt (NC)
Waxman
Weiner
Weller
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—151

Aderholt
Akin
Andrews
Armey
Barr
Barton
Bass
Biggert
Bilirakis
Blunt
Bonilla
Boozman
Boucher
Bryant
Burton
Cannon
Cantor
Cardin
Castle
Chambliss
Clement
Collins
Combest
Cox
Crenshaw
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeLauro
DeLay
DeMint
Doolittle
Ehlers
Emerson
Eshoo
Everett
Ferguson
Fletcher
Forbes
Frelinghuysen
Ganske
Gibbons
Gilchrest
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (WI)
Hall (OH)
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Hart
Hayes
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Hulshof
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Hyde
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Johnson (CT)
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Jones (NC)
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Kennedy (MN)
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King (NY)
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Kleczka
Kucinich
LaFalce
LaHood
Langevin
Latham
Leach
Lewis (KY)
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCrery
McInnis
Miller, Dan
Miller, Jeff
Mollohan
Moran (KS)
Moran (VA)
Myrick
Northup
Norwood
Nussle
Obey
Osborne
Ose
Pence
Petri
Phelps
Pickering
Pitts
Platts
Portman
Pryce (OH)
Putnam
Regula
Riley
Roemer
Rogers (MI)
Ros-Lehtinen
Roukema
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Simmons
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Tancredo
Thomas
Thornberry
Tiberi
Toomey
Upton
Visclosky
Vitter
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
Wicker
Wilson (SC)
Wolf

NOT VOTING—10

Bachus
Blagojevich
Bonior
Ehrlich
Jones (OH)
Kaptur
Mascara
McHugh
Nadler
Traficant

□ 1514

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1515

Mr. WAMP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this point, we will proceed under regular order with title I. Following that, we will turn to title II under regular order. I ask that Members who have amendments to the remainder of the bill bring them to the floor and file them at the desk if they have not done so already.

Mrs. MINK of Hawaii. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the Chair of the subcommittee and with the ranking member about an inequity that I believe must be addressed.

In 1985, Congress passed PL 99–239, the Compact of Free Association with the Republic of the Marshall Islands and the Federated States of Micronesia.

Under the terms of the compact, the United States gained critical strategic access and exclusive military privileges in these Freely Associated States, referred to as Micronesia. In return, the Compact Nations received financial assistance and their citizens received the right to freely migrate to the United States for purposes of education, employment, and residence.

In recognition of the likely impact of this national policy, Congress authorized appropriations to cover the costs that may be incurred by the State of Hawaii, the territories of Guam, Samoa and the Commonwealth of the Northern Marianas.

In the 16 years between 1986 and 2001, Hawaii has incurred about $100 million in expenses in education and social services for the compact migrants. Despite the intent of Congress, Hawaii has not received any appropriations until last year, when we finally received $4 million. We spend approximately $17 million on compact migrants each year.

My colleague from Hawaii is here and is certainly in support of this request, and both of us sent a letter to the committee requesting an appropriation of $10 million to be included in this bill. We know that the situation is very tight and the needs are many, and therefore, the amount of money that we requested was not included.

Our economy is suffering. It had been even before September 11, but certainly after September 11 the situation has been very tight. So the fact that we were able to reserve the request until last year should not penalize the fact that the law entitles us to come under consideration for reimbursement for the funds.

I would like to ask the chairman to consider Hawaii's case to support the appropriations that we have requested and to reimburse Hawaii at least part of the $100 million that we have spent thus far in this national defense program.

Mr. WAMP. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I thank the gentlewoman for yielding. We thank the gentlewoman from Hawaii and recognize the many years she has worked to obtain this funding. We promise, the subcommittee, to give the gentlewoman's request full consideration during our conference with the Senate.

We also point out that the tiny territories of Guam and Northern Marianas have a very similar financial impact from the compacts, and they have far less ability to cover these expenses. In 2001, Guam had about $20 million in expenses, Hawaii about $17 million, and the Commonwealth of Northern Marianas about $9 million.

Mr. DICKS. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I know that this is a major concern in Hawaii, and I want to work with the gentlewoman on this issue and will work with our friends in the other body to seek a solution. I appreciate the gentlewoman bringing this to our attention.

Mrs. MINK of Hawaii. Mr. Chairman, I thank the ranking member.

I yield the remainder of my time to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, I want to thank the gentleman from Washington (Mr. DICKS) and the gentleman from Tennessee (Mr. WAMP) for their replies in this colloquy and thank the gentlewoman from Hawaii (Mrs. MINK) for pointing this out.

Mr. Chairman, I would hope that Members would note we are approaching the membership for consideration under something that should actually be taken up, in my judgment, in the Department of Defense and should be included in that budget. Nonetheless, we are here today under the present rules asking merely for the compensation that is due us under the treaty obligation of the United States.

It is not fair to ask a State of the Union to undertake expenditures that are engendered as a result of the actions of the United States of America, nor is it fair to ask any of the territories or the Commonwealth of Marianas to assume the same costs. This is particularly true when the three entities are suffering from the decline in tourism dollars and revenue that has come in. The fact that we have borne this burden for this time should not give rise to any consideration or thought that this has been something that is equitable.

So I would hope that the membership would understand, as we conclude our deliberations on the bill, that this is an amount of money that is but a minuscule portion of that which is due Guam, American Samoa, the Marianas and the State of Hawaii.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

## TITLE II—RELATED AGENCIES

## DEPARTMENT OF AGRICULTURE

### FOREST SERVICE

### FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $252,000,000 to remain available until expended.

### STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management including treatments of pests, pathogens and invasive or noxious plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, $279,828,000, to remain available until expended, as authorized by law, of which $60,000,000 is for the Forest Legacy Program, to be derived from the land and water conservation fund; $36,235,000 is for the Urban and Community Forestry Program, defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided*, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the Forest Service notifies the House Committee on Appropriations and the Senate Committee on Appropriations, in writing, of specific acquisition of lands or interests in lands to be undertaken with such funds: *Provided further*, That each forest legacy grant shall be for a specific project: *Provided further*, That a grant shall not be released to a State unless the Secretary determines that the State has demonstrated that 25 percent of the total value of the project is comprised of a non-Federal cost share.

### NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, $1,370,567,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): *Provided*, That unobligated balances available at the start of fiscal year 2003 shall be displayed by budget line item in the fiscal year 2004 budget justification: *Provided further*, That the Secretary may authorize the expenditure or transfer of such sums as necessary to the Department of the Interior, Bureau of Land Management for removal, preparation, and adoption of excess wild horses and burros from National Forest System lands.

### AMENDMENT NO. 12 OFFERED BY MR. HOEFFEL

Mr. HOEFFEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. HOEFFEL:

Under the heading "NATIONAL FOREST SERVICE", insert after the dollar amount on page 76, line 13, the following: "(reduced by $5,000,000)(increased by $5,000,000)".

Mr. HOEFFEL. Mr. Chairman, this amendment would add $5 million to the grazing management account of the forest service from the general account of the forest service.

Mr. Chairman, the bill before us would allow the forest service to automatically renew expiring livestock grazing permits without completing the required environmental assessments. I think that this blanket waiver proposed under the terms of the bill is, from a policy point of view, a bad idea; but I understand the practical reasons for doing this waiver, for proposing this waiver.

The problem is the forest service does not have the resources to do all of the environmental assessments that it should do when it renews livestock grazing permits. Everybody agrees that abuse of grazing can be bad for the land. It can jeopardize endangered species. It can pollute streams and lakes, and it can lead to soil erosion; and everybody understands the environmental assessments are a positive step to working cooperatively with the ranching community and with the environmental community through the good offices of the forest service to protect the land, to allow it to be used appropriately for grazing, which is a necessary activity in the West, necessary for the economic stability of the West.

In our efforts to be good stewards of the land, the forest service needs the resources to conduct these environmental reviews, and they have at the forest service a huge backlog.

In 1995 in the rescissions act, Congress allowed them to waive these environmental assessments, but they were supposed to follow a self-determined schedule for trying to do those assessments as best they could. By their own acknowledgment, they are 55 percent behind even their own schedule of assessments.

The system is not working. I think a blanket waiver alone is not the right answer, nor is it the right answer to oppose the waiver because such a block of the waiver might also have unintended consequences, bad for the ranching community and not helpful to environmental protection.

So I want to thank the gentleman from New Mexico (Mr. SKEEN), the chairman, and the gentleman from Washington (Mr. DICKS), the ranking member, for already recognizing this problem. The underlying bill would add $6 million to the grazing management account in the forest service.

My amendment would add an additional $5 million to the grazing management account. It would help the forest service complete these assessments; and I have received a commitment only verbally, I am afraid, not in writing, from the forest service that it will use these additional funds, the funds that the committee has already earmarked and the additional funds represented by this amendment, to catch up on the backlog of environmental assessments that go back to 1999 all the way through 2002 and to work to do as many environmental assessments in 2003 as they possibly can.

The more money we give them, the better job they can do. I thank the Chair and his staff and the ranking member and his staff for coming together for this good idea in this cooperative way, and I hope we can agree to do the proper oversight of the forest service to make sure that they live up to their commitments to do the very best job with these environmental assessments as possible.

Mr. UDALL of New Mexico. Mr. Chairman, will the gentleman yield?

Mr. HOEFFEL. I yield to the gentleman from New Mexico.

Mr. UDALL of New Mexico. Mr. Chairman, just a brief comment on this. I have spoken with the gentleman from Pennsylvania (Mr. HOEFFEL); and first of all, I want to congratulate him on his leadership and his looking out for forest service lands. I know that he cares a lot about these lands and has worked on them and worked on these issues; and I think that the $5 million additional in these accounts is really going to make a difference in terms of moving us along.

It is a win-win situation for both of us, and so I look forward to supporting the amendment and urge all of my colleagues to do so; and I thank the gentleman from Washington (Mr. DICKS) and the gentleman from New Mexico (Mr. SKEEN) for working with the gentleman from Pennsylvania (Mr. HOEFFEL) on this and for their leadership.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HOEFFEL. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to just commend the gentleman on his creative work here. This is an important issue. I think the way he has handled it will produce a real result, and we can help the gentleman if the forest service does not keep its word. The gentleman needs to make sure he lets us know. We will be following it, too.

Mr. HOEFFEL. Mr. Chairman, I thank the gentleman very much for his kind words and for his support and his staff's support on this important amendment.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. HOEFFEL. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, we are prepared to accept the gentleman's amendment. We commend his work. As he knows, the chairman of our subcommittee is very committed to the ranchers and wants the grazing plans to get updated more quickly himself. This is why our committee mark did have the $5 million increase for grazing plans. We are willing to increase this further in order to see that proper environmental clearances get done and that ranchers are not harmed.

We commend all of the partners in a bipartisan way for doing what is right.

Mr. HOEFFEL. Mr. Chairman, I thank the ranking member, and I thank the gentleman who spoke for their comments. I ask for support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. HOEFFEL).

The amendment was agreed to.

Mr. UNDERWOOD. Mr. Chairman, I move to strike the last word.

Earlier under section 1, I had planned to offer an amendment to the appropriations bill to increase by $5 million compact impact aid for Guam. I commend the progress of the committee on this particular issue, which is a very important issue to the people of Guam, in order to make sure that there is adequate compensation for migration from the Freely Associated States, mostly from the Federated States of Micronesia to Guam.

□ 1530

I am pleased to note that today's bill is a big step in the right direction, as it includes a $1 million increase above the President's budget, a proposal of $4.58 million in Compact Impact Aid, bringing Guam's total amount to $5.58 million. This amount still does not reach last year's final amount, and my amendment would have increased Compact Impact Aid by $5 million.

Even the GAO recognizes that the actual impact to Guam is over $12 million. The Government of Guam thinks it is a little bit closer to $19 million. But in any event, it is clear that the Compact Impact assistance that Guam is receiving under this Interior appropriations bill is clearly inadequate.

It is particularly critical at this time because Guam has just undergone the impact of two storms, Chata'an and Ha Long. As we speak today, power and water have been out on Guam for nearly 3 weeks. So we were hoping that if we could get some recognition of this fact, that we would use the proposed increase in Compact Impact assistance to ready the schools, which will be opening next month, and also to ensure that the hospitals be open.

I know that there has been an effort here on the part of both the majority and the minority to recognize that there is a need for some increased funds for Guam.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, clearly this is another issue we plan to take up in conference and we will give the gentleman and his constituents the highest consideration in the conference. We appreciate his raising this issue yet again today on the floor, and I am sure we will do all we can within our power to address this satisfactorily.

Mr. UNDERWOOD. Reclaiming my time, Mr. Chairman, I thank the gentleman for his assurance on that, and I thank also the chairman, the gentleman from New Mexico (Mr. SKEEN), for his understanding of this issue during the course of his work.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, we certainly appreciate the gentleman's leadership, and we are very sympathetic to the problems that the gentleman is facing in Guam. We know the gentleman has done a terrific job in representing his area, and we will do everything we can to help him as the process moves forward.

Mr. UNDERWOOD. Mr. Chairman, once again reclaiming my time, I thank the gentleman from Washington very much.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. FOSSELLA) assumed the Chair.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3763. An act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

The message also announced that the Senate insist upon its amendment to the bill (H.R. 3763) "An Act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SARBANES, Mr. DODD, Mr. JOHNSON, Mr. REED, Mr. LEAHY, Mr. GRAMM, Mr. SHELBY, Mr. BENNETT, and Mr. ENZI to be the conferees on the part of the Senate.

The SPEAKER pro tempore. The committee will resume its sitting.

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The Committee resumed its sitting.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

### WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, hazardous fuel reduction on or adjacent to such lands, and for emergency rehabilitation of burned-over National Forest System lands and water, $1,513,449,000, to remain available until expended: *Provided*, That such funds including unobligated balances under this head, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: *Provided further*, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2002 shall be transferred, as repayment for past advances that have not been repaid, to the fund established pursuant to section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.): *Provided further*, That notwithstanding any other provision of law, $8,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: *Provided further*, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for the Joint Fire Science Program: *Provided further*, That funds provided shall be available for emergency rehabilitation and restoration, hazard reduction activities in the urban-wildland interface, support to Federal emergency response, and wildfire suppression activities of the Forest Service: *Provided further*, That of the funds provided, $640,000,000 is for preparedness, $420,699,000 is for wildfire suppression operations, $228,109,000 is for hazardous fuel treatment, $63,000,000 is for rehabilitation and restoration, $20,376,000 is for capital improvement and maintenance of fire facilities, $27,265,000 is for research activities and to make competitive research grants pursuant to the Forest and Rangeland Renewable Resources Research Act, as amended (16 U.S.C. 1641 et seq.), $58,000,000 is for state fire assistance, $8,500,000 is for volunteer fire assistance, $27,000,000 is for forest health activities on State, private, and Federal lands, and $12,500,000 is for economic action programs: *Provided further*, That amounts in this paragraph may be transferred to the "State and Private Forestry", "National Forest System", "Forest and Rangeland Research", and "Capital Improvement and Maintenance" accounts to fund state fire assistance, volunteer fire assistance, and forest health management, vegetation and watershed management, heritage site rehabilitation, wildlife and fish habitat management, trails and facilities maintenance and restoration: *Provided further*, That transfers of any amounts in excess of those authorized in this paragraph, shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in House Report No. 105–163: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That in entering into such grants or cooperative agreements, the Secretary may consider the enhancement of local and small business employment opportunities for rural communities, and that in entering into procurement contracts under this section on a best value basis, the Secretary may take into account the ability of an entity to enhance local and small business employment opportunities in rural communities, and that the Secretary may award procurement contracts, grants, or cooperative agreements under this section to entities that include local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or disadvantaged businesses: *Provided further*, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriations, up to $15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: *Provided further*, That included in funding for hazardous fuel reduction is $5,000,000 for implementing the Community Forest Restoration Act, Public Law 106–393, title VI, and any portion of such funds shall be available for use on non-Federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: *Provided further*, That in expending the funds provided with respect to this Act for hazardous fuels reduction, the Secretary of the Interior and the Secretary of Agriculture may conduct fuel reduction treatments on Federal lands using all contracting and hiring authorities available to the Secretaries applicable to hazardous fuel reduction activities under the wildland fire management accounts: *Provided further*, That notwithstanding Federal Government procurement and contracting laws, the Secretaries may conduct fuel reduction treatments, rehabilitation and restoration, and other activities authorized under this heading on and adjacent to Federal lands using grants and cooperative agreements: *Provided further*, That notwithstanding Federal Government procurement and contracting laws, in order to provide employment and training opportunities to people in rural communities, the Secretaries may award contracts, including contracts for monitoring activities, to local private, nonprofit, or cooperative entities; Youth Conservation Corps crews or related partnerships, with State, local and non-profit youth groups; small or micro-businesses; or other entities that will hire or train a significant percentage of local people to complete such contracts: *Provided further*, That the authorities described above relating to contracts, grants, and cooperative agreements are available until all funds provided in this title for hazardous fuels reduction activities in the urban wildland interface are obligated: *Provided further*, That the Secretary of Agriculture may transfer or reimburse funds, not to exceed $7,000,000, to the United States Fish and Wildlife Service of the Department of the Interior, or the National Marine Fisheries Service of the Department of Commerce, for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference as required by section 7 of such Act in connection with wildland fire management activities in fiscal years 2002 and 2003: *Provided further*, That the amount of the transfer of reimbursement shall be as mutually agreed by the Secretary of Agriculture and the Secretary of the Interior or Secretary of Commerce, as applicable, or their designees. The amount shall in no case exceed the actual costs of consultation and conferencing in connection with wildland fire management activities affecting National Forest System lands.

AMENDMENT NO. 16 OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. TANCREDO:

Page 77, line 8, after the dollar amount insert "(increased by $43,000,000)".

Page 78, line 8, after the second dollar amount insert "(increased by $8,000,000)".

Page 78, line 9, after the dollar amount insert "(increased by $35,000,000)".

Page 114, line 7, after the dollar amount insert "(decreased by $50,000,000)".

Mr. TANCREDO. Mr. Chairman, I rise today to offer an amendment that I hope will help those of us among the body who feel a terrible mistake was made in an earlier amendment that actually increased funding for the National Endowment for the Arts. My amendment reduces funding for the National Endowment for the Arts by $50 million and redirects the money into the budget for the U.S. Forest Service.

We all know and certainly have had a lot of discussion about the devastating impact the fires have had on the American West, with hundreds of thousands of acres in Arizona, Nevada, Oregon, and my home State of Colorado reduced to charcoal by wildfire. In many of these States, the fire season is only now underway. According to the Forest Service, an additional 73 million acres remain at risk to catastrophic fire. To put it in perspective, 73 million acres is an area slightly larger than the State of Arizona.

While this amendment only reduces its budget, few programs seem more worthy of outright elimination than the National Endowment for the Arts. First created in 1965, the NEA has been one of the most controversial government programs on the books, almost since its inception. The most notorious aspects of the NEA have been talked about for many years, and I will not go into them today.

Instead of squandering nearly $100 million on questionable and offensive exhibits, we should utilize these funds in a way that better serve the public interest. In a lean budget year like this one, we ought to not squander limited resources on subsidizing the arts. Instead, I believe we should use these funds to increase the government's ability to help control and prevent wildfires in the American West.

My amendment would do just that by redirecting the portion of the NEA budget to the U.S. Forest Service Wildland Fire Management Plan, splitting the dollars between fire suppression efforts and hazardous fuels reduction programs.

Mr. Chairman, President Theodore Roosevelt's then agricultural secretary James Wilson wrote a letter where he said, "And where conflicting interests must be reconciled, the question should always be decided from the standpoint of the greatest good for the greatest number over the long run." I ask my colleagues to let Mr. WILSON's words guide them in their actions today when making a decision on this amendment. Which program will do the greatest good for the greatest number.

Mr. WAMP. Mr. Chairman, I rise in opposition to the gentleman's amendment on behalf of the committee.

This agreement that we have on NEA is long-standing, it is bipartisan, it is very delicate, and conservatives and liberals and moderates have come together on this in the past. Obviously, the amendment that just passed increasing NEA funding makes this amendment somewhat problematic for some on this side.

I have to also say, as a member of the subcommittee for 6 years, we have seen tremendous improvement. Under Bill Ivey's leadership, the NEA is much more accountable, much more responsive, and much more efficient. I know he is no longer there, but it is a much-improved organization. The funding levels have been agreed to.

This bill is a careful balance. On virtually every item in the bill we have had to work through a compromise so that we could report the bill out with comity and cooperation for the good of the country. This agreement, at approximately $100 million for the NEA, is a carefully crafted bill. This amendment cuts that in half, which obviously would create the inability to ever pass this bill, to ever conference this bill with the Senate, to ever finally arrive at an agreement here.

So we respectfully oppose the amendment and ask the entire body to vote against the amendment.

Mr. DICKS. Mr. Chairman, I move to strike the last word, and I rise in very willing opposition to this amendment.

This amendment is not about adding money to anything, it is about cutting the minimal funding which is currently in this bill for the arts. In light of the vote just taken by the House of Representatives, in which 234 Members voted for the arts, I think it is also very untimely.

This amendment would cut the NEA below the $116 million requested by President Bush and recommended by the Republican leadership of the committee. The $116 million provided in this bill for the National Endowment for the Arts is only 1 percent above last year. It is $46 million below the level approved in 1994 for the agency.

The gentleman's arguments against NEA are outdated and do not reflect the many reforms implemented by the Congress and former NEA chairman Bill Ivey, and the new chairman, Eileen Mason, to address public concerns about controversial arts projects supported by public funds.

Anyone who knows about the arts realizes that there will always be controversy. These include broader distribution of funds throughout the United States, elimination of general operating support for organizations with no control on content, and prohibitions on regranting of NEA funds to other organizations. Today, funds at NEA flow to over 300 congressional districts with great enthusiasm and very little complaint, and with an emphasis on quality.

Essentially, the same item was offered last year on the Interior bill by the gentleman from Florida (Mr. STEARNS). It failed on a vote of 145 to 264. I hope an even larger number of Members will vote "no" on this amendment and finally declare an end to the culture wars which started 8 years ago in this House. It is over.

Let me also say that the gentleman from Washington was the author of an amendment to increase the firefighting funds available to this administration in a supplemental attached to this bill by $700 million with $200 million for the BLM and $500 million for the Forest Service. Obviously, we recognize the need to deal with forest fires.

I would say that those who were voting yesterday to kill the cut of the BLM funding are the same people who should be looked at in terms of their commitment to having adequate funding at the BLM in order to do the firefighting.

This amendment is bad, it is wrong, it is unnecessary, and I think we should voice vote it and move along.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TANCREDO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

The Clerk will read.

The Clerk read as follows:

For an additional amount for "Wildland Fire Management", for fiscal year 2002 in addition to the amounts made available by Public Law 107–63 $500,000,000, remain available until December 31, 2002, for the cost of fire suppression activities carried out by the Forest Service and other Federal agencies related to the 2002 fire season, including reimbursement of funds borrowed from other Department of Agriculture programs to fight such fires: *Provided*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

### CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $572,731,000, to remain available until expended for construction, reconstruction, maintenance, and acquisition of buildings and other facilities, and for construction, reconstruction, repair, and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205, of which, $64,866,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: *Provided further*, That up to $15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: *Provided further*, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project.

### LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $146,336,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

### ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

### ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

### RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

### GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

### MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,542,000, to remain available until expended.

### ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of not to exceed 113 passenger motor vehicles, of which 10 will be used primarily for law enforcement purposes and of which 113 shall be for replacement; acquisition of 25 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed seven for replacement only, and acquisition of sufficient aircraft from excess sources to maintain the operable fleet at 195 aircraft for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein, pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions if and only if all previously appropriated emergency contingent funds under the heading "Wildland Fire Management" have been released by the President and apportioned and all funds under the heading "Wildland Fire Management" are obligated.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report No. 105–163.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report No. 105–163.

No funds available to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture that exceed the total amount transferred during fiscal year 2000 for such purposes without the advance approval of the House and Senate Committees on Appropriations.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

Of the funds available to the Forest Service, $2,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to $2,500,000 may be advanced in a lump sum as Federal financial assistance to the National Forest Foundation, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That of the Federal funds made available to the Foundation, no more than $300,000 shall be available for administrative expenses: *Provided further*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: *Provided further*, That authorized investments of Federal funds held by the Foundation may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98–244, $2,650,000 of the funds available to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, as authorized by 16 U.S.C. 3701–3709, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds advanced by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the "National Forest System" and "Capital Improvement and Maintenance" accounts and planned to be allocated to activities under the "Jobs in the Woods" program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99-663.

For fiscal years 2003 through 2007, the Secretary of Agriculture is authorized to enter into grants, contracts, and cooperative agreements as appropriate with the Pinchot Institute for Conservation, as well as with public and other private agencies, organizations, institutions, and individuals, to provide for the development, administration, maintenance, or restoration of land, facilities, or Forest Service programs, at the Grey Towers National Historic Landmark: *Provided,* That, subject to such terms and conditions as the Secretary of Agriculture may prescribe, any such public or private agency, organization, institution, or individual may solicit, accept, and administer private gifts of money and real or personal property for the benefit of, or in connection with, the activities and services at the Grey Towers National Historic Landmark: *Provided further,* That such gifts may be accepted notwithstanding the fact that a donor conducts business with the Department of Agriculture in any capacity.

Funds appropriated to the Forest Service shall be available, as determined by the Secretary, for payments to Del Norte County, California, pursuant to sections 13(e) and 14 of the Smith River National Recreation Area Act (Public Law 101-612).

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed $500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: *Provided,* That such amounts shall not exceed $750,000.

## DEPARTMENT OF ENERGY

### CLEAN COAL TECHNOLOGY

### (DEFERRAL)

Of the funds made available under this heading for obligation in prior years, $50,000,000 shall not be available until October 1, 2003: *Provided,* That funds made available in previous appropriations Acts shall be available for any ongoing project regardless of the separate request for proposal under which the project was selected.

### FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $664,205,000, to remain available until expended, of which $11,000,000 is for construction, renovation, furnishing, and demolition or removal of buildings at National Energy Technology Laboratory facilities in Morgantown, West Virginia and Pittsburgh, Pennsylvania; and for acquisition of lands, and interests therein, in proximity to the National Energy Technology Laboratory, and of which $150,000,000 are to be made available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded demonstrations of commercial scale technologies to reduce the barriers to continued and expanded coal use: *Provided,* That no project may be selected for which sufficient funding is not available to provide for the total project: *Provided further,* That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading "Clean Coal Technology" in prior appropriations: *Provided further,* That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department, including repayments from sale and licensing of technologies from both domestic and foreign transactions: *Provided further,* That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: *Provided further,* That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. 7651n, and Chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: *Provided further,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further,* That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account.

### NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, $20,831,000, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

### ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104-106, $36,000,000, to become available on October 1, 2003 for payment to the State of California for the State Teachers' Retirement Fund from the Elk Hills School Lands Fund.

### ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $984,653,000, to remain available until expended: *Provided,* That $300,000,000 shall be for use in energy conservation grant programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509, such sums shall be allocated to the eligible programs as follows: $250,000,000 for weatherization assistance grants and $50,000,000 for State energy conservation grants.

### ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $1,487,000, to remain available until expended.

### STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $175,856,000, to remain available until expended.

### SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $7,000,000, to remain available until expended.

### NORTHEAST HOME HEATING OIL RESERVE

For necessary expenses for Northeast Home Heating Oil Reserve storage, operations, and management activities pursuant to the Energy Policy and Conservation Act of 2000, $8,000,000 to remain available until expended.

### ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $80,611,000, to remain available until expended.

### ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

In addition to other authorities set forth in this Act, the Secretary may accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State or private agencies or concerns.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### INDIAN HEALTH SERVICE

### INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,508,756,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That $468,130,000 for contract medical care shall remain available for obligation until September 30, 2004: *Provided further*, That of the funds provided, up to $25,000,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That funds provided in this Act may be used for 1-year contracts and grants which are to be performed in 2 fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 2004: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed $270,734,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2003, of which not to exceed $2,500,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts or annual funding agreements: *Provided further*, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account.

### INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $391,865,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That from the funds appropriated herein, $5,000,000 shall be designated by the Indian Health Service as a contribution to the Yukon-Kuskokwim Health Corporation (YKHC) to continue a priority project for the acquisition of land, planning, design and construction of 79 staff quarters in the Bethel service area, pursuant to the negotiated project agreement between the YKHC and the Indian Health Service: *Provided further*, That this project shall not be subject to the construction provisions of the Indian Self-Determination and Education Assistance Act and shall be removed from the Indian Health Service priority list upon completion: *Provided further*, That the Federal Government shall not be liable for any property damages or other construction claims that may arise from YKHC undertaking this project: *Provided further*, That the land shall be owned or leased by the YKHC and title to quarters shall remain vested with the YKHC: *Provided further*, That not to exceed $500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: *Provided further*, That not to exceed $500,000 shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: *Provided further*, That not to exceed $500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings: *Provided further*, That notwithstanding the provisions of title III, section 306, of the Indian Health Care Improvement Act (Public Law 94-437, as amended), construction contracts authorized under title I of the Indian Self-Determination and Education Assistance Act of 1975, as amended, may be used rather than grants to fund small ambulatory facility construction projects: *Provided further*, That if a contract is used, the IHS is authorized to improve municipal, private, or tribal lands, and that at no time, during construction or after completion of the project will the Federal Government have any rights or title to any real or personal property acquired as a part of the contract: *Provided further*, That notwithstanding any other provision of law or regulation, for purposes of acquiring sites for a new clinic and staff quarters in St. Paul Island, Alaska, the Secretary of Health and Human Services may accept land donated by the Tanadgusix Corporation.

### ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act) and Public Law 93-638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

Funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act.

With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding. Such amounts shall remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

## OTHER RELATED AGENCIES

### Office of Navajo and Hopi Indian Relocation

### SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, $14,491,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

### Institute of American Indian and Alaska Native Culture and Arts Development

### PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99-498, as amended (20 U.S.C. 56 part A), $5,130,000, of which $1,000,000 shall remain available until expended for construction of the Library Technology Center.

### Smithsonian Institution

### SALARIES AND EXPENSES

### (INCLUDING RESCISSION)

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $450,760,000, of which not to exceed $41,884,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of the American Indian, security improvements, and the repatriation of skeletal remains program shall remain available until expended, and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: *Provided further*, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: *Provided further*, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

From unobligated balances of prior year appropriations $14,100,000 is rescinded.

### REPAIR, RESTORATION AND ALTERATION OF FACILITIES

For necessary expenses of maintenance, repair, restoration, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including necessary personnel, including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $81,300,000, to remain available until expended, of which $16,750,000 is provided for maintenance, repair, rehabilitation and alteration of facilities at the National Zoological Park: *Provided*, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

### CONSTRUCTION

For necessary expenses for construction, including necessary personnel, $10,000,000, to remain available until expended.

### ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs including closure of facilities, relocation, of staff or redirection of functions and programs without approval by the Board of Regents of recommendations received from the Science Commission.

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

### National Gallery of Art

### SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $78,219,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

### REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $16,230,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

### John F. Kennedy Center for the Performing Arts

### OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $16,310,000.

### CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $17,600,000, to remain available until expended.

### Woodrow Wilson International Center for Scholars

### SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $8,488,000.

### National Foundation on the Arts and the Humanities

### National Endowment for the Arts

### GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $99,489,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, for program support, and for administering the functions of the Act, to remain available until expended.

### NATIONAL ENDOWMENT FOR THE HUMANITIES

### GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $109,932,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

### MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $16,122,000, to remain available until expended, of which $10,436,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

### CHALLENGE AMERICA ARTS FUND

### CHALLENGE AMERICA GRANTS

For necessary expenses as authorized by Public Law 89–209, as amended, $17,000,000 for support for arts education and public outreach activities, to be administered by the National Endowment for the Arts, to remain available until expended.

### ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further*, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses: *Provided further*, That the Chairperson of the National Endowment for the Arts may approve grants up to $10,000, if in aggregate this amount does not exceed 5 percent of the sums appropriated for grant making purposes per year: *Provided further*, That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the Chairperson.

### COMMISSION OF FINE ARTS

### SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $1,255,000: *Provided*, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

### NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, $7,000,000.

### ADMINISTRATIVE PROVISION

None of the funds appropriated in this or any other Act, except funds appropriated to the Office of Management and Budget, shall be available to study the alteration or transfer of the National Capital Arts and Cultural Affairs program.

### ADVISORY COUNCIL ON HISTORIC PRESERVATION

### SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), $3,667,000: *Provided*, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

### NATIONAL CAPITAL PLANNING COMMISSION

### SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $7,553,000: *Provided*, That all appointed members of the Commission will be compensated at a rate not to exceed the daily equivalent of the annual rate of pay for positions at level IV of the Executive Schedule for each day such member is engaged in the actual performance of duties.

### UNITED STATES HOLOCAUST MEMORIAL MUSEUM

### HOLOCAUST MEMORIAL MUSEUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36 U.S.C. 2301–2310), $38,663,000, of which $1,900,000 for the museum's repair and rehabilitation program and $1,264,000 for the museum's exhibitions program shall remain available until expended.

### PRESIDIO TRUST

### PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $21,327,000 shall be available to the Presidio Trust, to remain available until expended.

Mr. WAMP (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. Are there further amendments to title II?

### AMENDMENT NO. 8 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. SANDERS:

Page 95, line 14, insert "(reduced by $3,000,000) (increased by $3,000,000)" after "$984,653,000".

Mr. SANDERS. Mr. Chairman, this tripartisan amendment is being cosponsored by the gentleman from Iowa (Mr. LEACH), the gentleman from Colorado (Mr. MARK UDALL), the gentleman from New York (Mr. GILMAN), the gentleman from Wisconsin (Mr. KIND), and the gentlewoman from Wisconsin (Ms. BALDWIN). To the best of my knowledge, it has been agreed to by the majority, and I thank them very much for that.

The legislative intent of this amendment is to increase funding for the highly successful Energy Star program by $3 million, bringing the total funding for this program up to the President's request of $6.2 million. This increase in funding will be offset by a $3 million reduction in salaries and expenses at the Department of Energy that I hope will be restored in conference.

Mr. Chairman, the Energy Star program has a cost-effective proven track record of saving energy and saving money. In fact, for every dollar spent on program costs, the Energy Star program produces average energy bill savings of $75 and sparks $15 in investment and new technology. This voluntary partnership program helps businesses, State and local governments, homeowners, and consumers save money by investing in energy efficiency.

The bottom line is that if this amendment is passed, we will increase energy efficiency, save consumers money, protect the environment and enhance our energy security.

According to the Alliance to Save Energy, in 2001 alone, Americans, with the help of Energy Star, saved $5 billion on their energy bills, reduced carbon dioxide emissions by the equivalent of taking 10 million cars off the road, and prevented 140,000 tons of nitrogen oxide emissions.

To date, more than 55,000 Energy Star homes have been built, locking in financial savings for homeowners of more than $15 million every single year.

□ 1545

Through the Energy Star Building Program, more than $25 billion kilowatt hours of energy have been saved. However, as successful as the Energy Star program has been, much more could be accomplished with increased funding. For example, it is estimated that if all consumers chose only Energy Star-labeled products over the next decade or so, the Nation's energy bill would be reduced by about $100 billion while avoiding 300 million metric tons of greenhouse gas emissions.

If all commercial building owners took advantage of the Energy Star program, they could achieve another $130 billion in energy savings and reduce 350 million metric tons of carbon dioxide emissions over the next 10 years.

Mr. Chairman, rising energy costs and consumer demands make today's investments in energy efficiency ever more vital to America's energy security.

Mr. Chairman, I thank the gentleman from New Mexico (Mr. SKEEN) and the gentleman from Tennessee (Mr. WAMP) for accepting this amendment. I think it is an excellent amendment, and we appreciate their support as well as the support of the gentleman from Washington (Mr. DICKS) and the minority.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, on behalf of the subcommittee, we have no objection to this amendment and we commend the gentleman from Vermont (Mr. SANDERS) for offering it.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I also commend the gentleman from Vermont. This is a very good amendment. The gentleman every year has had a constructive addition to this bill, and we compliment him for that.

Mr. UDALL of Colorado. Mr. Chairman, I rise in strong support of this amendment that would increase funding by $3 million for the Energy Star program, bringing it to the level of the President's request.

Energy Star is a voluntary partnership program that helps businesses, state and local governments, homeowners, and consumers save money by investing in energy efficiency in homes, businesses, buildings, and products.

For every federal dollar spent on program costs, the Energy Star program produces average energy bill savings of $75 and sparks $15 in investment in new technology.

Recognizing this impressive track record, the Bush Administration called for Energy Star's expansion in last year's National Energy Policy report, and this year requested a higher level of funding for the program. Sixty of my colleagues in the House indicated their endorsement of the President's request by signing a letter I circulated this year in support of increased Energy Star funding.

Through programs like Energy Star, we can reduce pollution, promote economic growth by stimulating investment in new technology, help reduce dependence on imported oil, and help ensure the reliability of our electric system by reducing peak demand. An investment in Energy Star today means greater energy security tomorrow.

The President's FY03 request for increased funding for Energy Star recognized that this program could accomplish more with increased funding. It is estimated that if all consumers chose only Energy Star-labeled products over the next decade or so, the nation's energy bill would be reduced by about $100 billion while avoiding 380 million metric tons of carbon-equivalent in greenhouse gas emissions.

These are real benefits that make the Energy Star program worthy of funding at the level of the President's request. I urge support for this amendment.

Mr. BOEHLERT. Mr. Chairman, I rise in support of the amendment by the gentleman from Vermont to restore $3 million requested by the Administration for the Department of Energy's Energy Star program. I do so with at least a measure of reluctance because I understand the Appropriations Committee leadership's frustration with the current administration of program and the agency's inability to meet deadlines.

As the Chairman of the House Committee on Science and someone committed to the cause of energy conservation and energy efficiency, I am a strong supporter of the goals of the Energy Star program. The program helps identify products that are the most energy efficient products currently available in the marketplace—thereby assisting consumers in reducing their energy costs, encouraging manufacturers to develop more energy efficient products and helping the nation to reduce our dependence on foreign oil. However, I can attest that timeliness has been a serious problem for DOE's Energy Star program—at least in the development of new standards for energy efficient windows.

It is my understanding that several manufacturers, not just one as some have alleged, are ready to go forward with new window products that could help cut energy losses through improved design. These designs meet mandatory codes already in effect in several states. Despite widespread support for the standards, DOE's has been working on this issue for 18 months. The agency has proposed new standards on two occasions, issued a delay to the effective date once and now has withdrawn the proposal entirely pending further analysis.

Therefore, I understand the committee's frustration with the program as evidenced by their reduction of the amount requested. I am concerned, however, that the reduction below the requested amount could only further delay these important rules. I appreciate the committee's sensitivity to the window issue and their willingness to provide additional funding for window related research, research that should be used to expedite the decisionmaking on the proposed new standards and not to delay action further. However, I believe the Energy Star program funds are needed to ensure the fastest possible action.

Accordingly, I urge a yes vote on the amendment to restore the program to the level recommended by the Administration.

Mr. ISRAEL. Mr. Speaker, as a freshman Member of the House Financial Services Committee, I'm still new enough to hope that both sides of the aisle truly want to accomplish meaningful corporate reform. But I'm not naive.

A few months ago, in the wake of Enron, many of us on the Committee offered amendments to the majority's corporate governance reform. We offered an amendment to stop the conflicts between analysts and investment bankers. The majority defeated it. We offered an amendment to ensure independence of auditors. The majority diluted it. We offered amendments to achieve true structural reform and end corporate thievery. The majority delayed it.

And now, in the bottom of the ninth with two outs and two strikes, suddenly the majority has seen the light and felt the heat of an expansive population of angry Americans who are watching their retirements dissipate.

The President has asked us to get a bill on his desk—while members of his Administration deal with a daily barrage of reports on their own conduct as the corporate leaders of Haliburton, Harkin, Enron and others.

Tonight we have a choice. We can continue to allow the majority to defeat, dilute and delay true protections of Main Street investors and retirees. Or we can draw the line with the Sarbanes bill that puts people ahead of politics.

The CHAIRMAN. Is there further debate on the amendment?

If not, the question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

### TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 303. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 304. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 305. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 306. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2002.

SEC. 307. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2003, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 308. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103–138, 103–332, 104–134, 104–208, 105–83, 105–277, 106–113, 106–291, and 107–63 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2002 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 309. Of the funds provided to the National Endowment for the Arts—

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 310. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

SEC. 311. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term "underserved population" means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 312. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 313. None of the funds in this Act may be used to support Government-wide administrative functions unless such functions are justified in the budget process and funding is approved by the House and Senate Committees on Appropriations.

SEC. 314. Amounts deposited during fiscal year 2002 in the roads and trails fund provided for in the 14th paragraph under the heading "FOREST SERVICE" of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 315. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 316. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western redcedar: *Provided*, That sales which are deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western redcedar may be advertised upon receipt of a written request by a prospective, informed bidder, who has the opportunity to review the Forest Service's cruise and harvest cost estimate for that timber. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 2002, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western redcedar, all of the western redcedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in fiscal year 2002, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised under the transaction evidence appraisal system using domestic Alaska values for western redcedar, the volume of western redcedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska; and (ii) is that percent of the surplus western redcedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a "rolling basis" shall mean that the determination of how much western redcedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western redcedar shall be deemed "surplus to the needs of domestic processors in Alaska" when the timber sale holder has presented to the Forest Service documentation of the inability to sell western redcedar logs from a given sale to domestic Alaska processors at price equal to or greater than the log selling value stated in the contract.

All additional western redcedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

SEC. 317. A project undertaken by the Forest Service under the Recreation Fee Demonstration Program as authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, as amended, shall not result in—

(1) displacement of the holder of an authorization to provide commercial recreation services on Federal lands. Prior to initiating any project, the Secretary shall consult with potentially affected holders to determine what impacts the project may have on the holders. Any modifications to the authorization shall be made within the terms and conditions of the authorization and authorities of the impacted agency;

(2) the return of a commercial recreation service to the Secretary for operation when such services have been provided in the past by a private sector provider, except when—

(A) the private sector provider fails to bid on such opportunities;

(B) the private sector provider terminates its relationship with the agency; or

(C) the agency revokes the permit for noncompliance with the terms and conditions of the authorization.

In such cases, the agency may use the Recreation Fee Demonstration Program to provide for operations until a subsequent operator can be found through the offering of a new prospectus.

SEC. 318. Prior to October 1, 2003, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: *Provided*, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.

SEC. 319. Until September 30, 2004, the authority of the Secretary of Agriculture to enter into a cooperative agreement under the first section of Public Law 94–148 (16 U.S.C. 565a–1) for a purpose described in such section includes the authority to use that legal instrument when the principal purpose of the resulting relationship is to the mutually significant benefit of the Forest Service and the other party or parties to the agreement, including nonprofit entities.

SEC. 320. No funds provided in this Act may be expended to conduct preleasing, leasing, and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.

SEC. 321. Section 347(a) of the Department of the Interior and Related Agencies Appropriations Act, 1999, as included in Public Law 105–277 as amended, is amended by striking "2004" and inserting "2005". The authority to enter into stewardship and end result contracts provided to the Forest Service in accordance with section 347 of title III of section 101(e) of division A of Public Law 105–277 is hereby expanded to authorize the Forest Service to enter into an additional 12 contracts subject to the same terms and conditions as provided in that section.

SEC. 322. TECHNICAL CORRECTION RELATED TO CABIN USER FEES.—Section 608(b)(2) of the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6207(b)(2); Public Law 106–291) is amended by striking "value influences" and inserting in lieu thereof "criteria" and striking "section 606(b)(3)" and inserting in lieu thereof "section 606(b)(2)".

SEC. 323. EXTENSION OF FOREST SERVICE CONVEYANCES PILOT PROGRAM.—Section 329 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16 U.S.C. 580d note; Public Law 107–63) is amended—

(1) in subsection (b), by striking "10" and inserting "20"; and

(2) in subsection (d), by striking "2005" and inserting "2006".

SEC. 324. A grazing permit or lease issued by the Secretary of the Interior or the Secretary of Agriculture where National Forest System lands are involved that expires (or is transferred or waived) during fiscal year 2003 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752), section 19 of the Granger-Thye Act, as amended (16 U.S.C. 5801), or if applicable, section 510 of the California Desert Protection Act (16 U.S.C. 410aaa–50). The terms and conditions contained in the expiring permit or lease shall continue in effect under the new permit or lease until such time as the Secretary of the Interior or the Secretary of Agriculture completes processing of such permit or lease in compliance with all applicable laws and regulations, at which time such permit or lease may be canceled, suspended, or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the statutory authority of the Secretary of the Interior or the Secretary of Agriculture. Any Federal lands included within the boundary of Lake Roosevelt National Recreation Area, as designated by the Secretary of the Interior on April 5, 1990 (Lake Roosevelt Cooperative Management Agreement), that were utilized as of March 31, 1997, for grazing purposes pursuant to a permit issued by the National Park Service, the person or persons so utilizing such lands as of March 31, 1997, shall be entitled to renew said permit under such terms and conditions as the Secretary may prescribe, for the lifetime of the permittee or 20 years, whichever is less.

SEC. 325. Notwithstanding any other provision of law or regulation, employees of foundations established by Acts of Congress to solicit private sector funds on behalf of Federal land management agencies shall qualify for General Services Administration contract airfare rates and Federal Government hotel accommodation rates when such employees are traveling on official foundation business.

SEC. 326. Notwithstanding any other provision of law or regulation, to promote the more efficient use of the health care funding allocation for fiscal year 2003, the Eagle Butte Service Unit of the Indian Health Service, at the request of the Cheyenne River Sioux Tribe, may pay base salary rates to health professionals up to the highest grade and step available to a physician, pharmacist, or other health professional and may pay a recruitment or retention bonus of up to 25 percent above the base pay rate.

SEC. 327. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 328. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are fighting fires. The Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country. When an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country. Neither the sending country nor any organization associated with the firefighter shall be subject to any action whatsoever pertaining to or arising out of fighting fires.

SEC. 329. PROHIBITION OF OIL AND GAS DRILLING IN THE FINGER LAKES NATIONAL FOREST, NEW YORK.—None of the funds in this Act may be used to prepare or issue a permit or lease for oil or gas drilling in the Finger Lakes National Forest, New York, during fiscal year 2003.

Mr. WAMP (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 135, line 13, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

### AMENDMENT NO. 2 OFFERED BY MRS. CAPPS

Mrs. CAPPS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of amendment No. 2 is as follows:

Amendment No. 2 offered by Mrs. CAPPS:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC.    . None of the funds provided in this Act may be expended by the Department of the Interior to approve any exploration plan, any development and production plan, any application for permit to drill or to permit any drilling on Outer Continental Shelf Southern California Planning Area leases numbered OCS–P0443, OCS–P0445, OCS–P0446, OCS–P0449, OCS–P0499, OCS–P0500, OCS–P0210, OCS–P0527, OCS–P0460, OCS–P0464, OCS–P0409, OCS–P0396, OCS–P0397, OCS–P0402, OCS–P0403, OCS–P0408, OCS–P0414, OCS-P0319, OCS-P0320, OCS-P0322, OCS-P0323-A, OCS-P0426, OCS-P0427, OCS-P0432, OCS-P0435, OCS-P0452, OCS-P0453, OCS-P0425, OCS-P0430, OCS-P0431, OCS-P0433, OCS-P0434, OCS-P0415, OCS-P0416, OCS-P0421, and OCS-P0422.

Mrs. CAPPS. Mr. Chairman, I am offering this amendment with the gentleman from West Virginia (Mr. RAHALL) and the gentleman from California (Mr. GEORGE MILLER). It is time to take action to permanently end the threat of new oil drilling off the central coast of California. Californians oppose new drilling. We have plenty of oil platforms already, and even the oil companies themselves want a resolution to our mess.

Passage of this amendment would be a major step toward terminating the leases that threaten the central coast's environment and economy. Specifically, our amendment would prohibit the Department of the Interior from spending any funds during this funding cycle to permit new drilling activities on the 36 undeveloped oil and gas leases off California's coast. We hope this will spur negotiations between the administration, the oil company lease holders, and the State of California about terminating these leases.

Mr. Chairman, there is precedent for this approach. Settlements to remove leases from Alaska and North Carolina occurred after congressional action to prevent new leasing and the development of existing leases. Last year the House passed a historic amendment similar to what we are offering here today. The Davis amendment halted the sale of Lease 181 off Florida's coast. It passed by a wide bipartisan margin, with 70 of my Republican colleagues voting in favor of it. Following up on this action, the administration reached an agreement with Florida to purchase drilling leases in Lease 181 area and other coastal areas and the Everglades. These actions have been widely acclaimed throughout Florida. I fully supported this bold step to protect their environment and economy.

The President cited local opposition to new drilling as a prime reason for the decision. Which left Californians asking, What about us? According to Department of Interior Secretary Norton, "A major difference between Florida and California is that Florida opposes coastal drilling and California does not."

As the U.S. Representative for Santa Barbara and San Luis Obispo Counties, and a nearly 40-year resident of the central coast, I was dumbfounded by this assertion. The Santa Barbara News Press editorialized about what it called Secretary Norton's jaw-dropping remarks asking, "What alternative universe is Ms. Norton living in?"

Mr. Chairman, I lived in Santa Barbara in 1969 when a huge blowout on Union Oil's platform A put 4 million gallons of oil into our sea. It killed thousands of sea birds, and I will show one. Sea birds like this one, seals, dolphins, fish and other sea life; and it damaged a huge swath of our beautiful coast.

It galvanized central coast residents, indeed virtually the whole State, against more offshore oil drilling. While we were outraged by the environmental damage, we knew another blowout would wreak havoc on our tourism, fishing, and recreation industries, all critical components of our local economy.

As the newspaper noted, "This catastrophe helped spark an environmental movement that has spread far beyond Santa Barbara." Since that time, at least two dozen city and county governments have passed anti-oil measures. In 1994, Republican Governor Pete Wilson signed into a law a permanent ban on new offshore leasing in State waters.

In 1999, the State Assembly adopted a resolution requesting the Federal Government enact a permanent ban on drilling off California's coast. Even the Federal Government has demonstrated its sensitivity to Californians' opposition to new drilling.

In 1990, President George H.W. Bush placed a 10-year moratorium on new leasing in Federal waters off California, later renewed and extended by President Clinton. We have asked for the administration, the leaseholders, and the State of California to work with us to terminate the leases off California's coast.

It is time to end the long-standing controversy surrounding the 36 undeveloped leases. Californians have spoken loud and clear. We do not want more drilling. The Federal Government should respect our wishes.

California's coastline is a priceless treasure. It is home to everything from blue whales to otters, and it is home to two of our national marine sanctuaries and the Channel Islands National Park. This map shows where the park fits and where these leases are right in between. More oil drilling is just not worth the risk to this environmentally and economically valuable area.

I urge support for the Capps-Rahall-Miller amendment to demonstrate the House's commitment to protecting the environment and the economy of both coastlines, the Atlantic and the Pacific.

Mr. WAMP. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 30 minutes equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The gentlewoman from California (Mrs. CAPPS) and the gentleman from Tennessee (Mr. WAMP) each will control 15 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I very reluctantly rise on behalf of the subcommittee to oppose the gentlewoman's amendment. She is a class act in every sense of the term, and such a wonderful person, and serves her State and district with such distinction, and certainly her motives are pure here in trying to take care of the environment in the great Pacific region of our country. Certainly there is a need there.

However, there is no reason for this funding limitation in this bill when there are no development plans approved by the Department of the Interior for this year. Both the State of California and the leaseholders are currently litigating this issue. Some Members today will likely point to the actions that Congress took last year with respect to the leases off the coast of Florida, but the facts are very different and there has not been offshore oil and gas development off the coast of Florida.

We know there has been a significant amount of development off the coast of California. As a matter of fact, Federal leases have produced more than a billion barrels of oil, and State leases have produced more than 2.5 billion barrels of oil.

I am the co-chairman of the House Renewable Energy Efficiency Caucus and have worked with the gentlewoman there on a variety of new technologies and alternative energy sources. And clearly with respect to energy and the environment, we need to do that. I advocate that greatly. However, we cannot reduce the amount of energy production that our country has today without dramatically impacting our freedom in this country.

In order to maintain our society as we know it, we are going to have to maintain a certain amount of domestic production, and this obviously would cut into that domestic production. Energy issues have dominated recent debate, especially as both price and supply of energy fuels have been in the headlines. This amendment would actually send the wrong message right now to the markets. It would potentially drive up costs at a time when we are experiencing economic pains; and clearly, we are going to have to look at both reducing the demand and increasing the supply.

That is what the President's comprehensive energy proposal is all about. That bill is in conference today between the Senate and the House. We need a conference report on the energy bill, but we better not tie our hands behind our backs through this amendment and actions like this amendment because we have to be able to produce a certain amount of oil in this country in order to not be so reliant on foreign sources and ultimately have the proverbial gun to our head from OPEC, Iraq and other nations.

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Therefore, the subcommittee respectfully, very respectfully, opposes the gentlewoman's amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. CAPPS. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from West Virginia (Mr. RAHALL), the ranking member of the Committee on Resources and the coauthor of this amendment.

Mr. RAHALL. Mr. Chairman, I thank the gentlewoman from California for yielding me this time, and I certainly want to commend her for her excellent leadership on this issue, an issue that is dear and near to her State and to her people. She has been a true fighter on this most important matter.

Mr. Chairman, many of us concerned with the impacts of Federal oil and gas leasing sought to overlook the politics of the issue when President Bush, as a favor to his brother Jeb, recently announced the buyback of certain oil and gas leases in Florida. These were highly controversial leases and their development threatened parts of Florida's coastline and efforts to restore the Everglades. Moreover, there have been similar settlements in the past, although they were prompted by congressional action in the case of OCS leases off the coast of North Carolina and in Bristol Bay, Alaska.

So initially we sought to overlook the fact that the President's brother was up for reelection as Governor of Florida and that the buyback of these leases would help his candidacy as well as the President's own fortunes in the State of Florida. And we sought to ignore it as well because the buyback was the right thing to do.

I would say to my colleagues that we were not allowed to overlook the politics for too long. I say this because the Governor of California also asked for the same consideration for 36 highly controversial OCS leases off the coast of that State. These are undeveloped leases, several of which are over 3 decades old. Yet the Secretary of the Interior, Gale Norton, denied that request. She stated, and it is quoted here in this editorial, "A major difference between Florida and California is that Florida opposes coastal drilling and California does not." As this editorial states, "What alternative universe is Ms. Norton living in?" Even a person of my generation, born and raised in the southern coal fields of Beckley, West Virginia, knows that the very genesis of the campaign to limit offshore oil and gas drilling was in that State of California.

We are offering this amendment today to say thank you, President Bush, for what you did in Florida. Thank you very much, Mr. President. But the interests of all Americans should compel you to do the same thing in the State of California. There are resources at stake here that have national significance. The OCS oil and gas leases in question are adjacent to the Channel Islands National Park which encompasses 250,000 acres over five islands. The park is of international significance, having been designated a Biosphere Reserve by the United Nations in 1976. Further, this area is also part of a national marine sanctuary. Clearly oil and gas development is not compatible with these national preservation designations.

This amendment is premised on seeking equity for all parties involved, for the people of southern California who want to protect their shoreline and their economy; equity for the American people as a whole who have a vested interest in the integrity of units of the national park system such as the Channel Islands; and equity for the holders of 36 OCS leases themselves who are left holding the bag with these stranded investments in some cases for 3 decades now.

In my view, in conclusion, Mr. Chairman, it is time to come to grips with this controversy, to own up to the fact that these 36 leases will probably never be developed, and to work out a sensible solution. I urge the House to adopt the pending amendment.

Mr. WAMP. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Pennsylvania (Mr. PETERSON), a member of the subcommittee.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I find this amendment interesting. These 36 leases are suspended. They are not active. This language only deals with 1 year, if my information is correct, so it says no money in this budget could be spent. From my understanding of the oil and gas business—and I come from where it started in Pennsylvania, I live 5 miles from the first oil well—is that really this legislation is of no value, or is somewhat meaningless, because you could not facilitate in 12 months what it would take to get these leases active, and so it prohibits activity for the next 12 months.

But I would like to speak a moment on the bigger issue. Coming from an oil patch, I want to share with you what nature does. The hills in Pennsylvania where oil was first discovered, and we did not know much about production, they had gushers, it comes spurting out of the ground. There are pictures of a place that is now called Oil Creek State Park where there was nothing growing. Every tree was dead. Every blade of grass was dead. The streams were polluted. The hills were washing away every time you would get a rainstorm. Today, that is a mature oak forest. It is a State park. It is beautiful. The springs are clean. The streams are natural habitat for brook trout, as good as it gets. It was totally destroyed 100 and some years ago when oil was discovered, but nature has healed it.

Back then, we did not know how to produce oil. But I find it troubling every time we get an oil or gas vote on this floor, we vote to lock it up. We had the President's set-asides with his areas. We had a vote last year on the Great Lakes where you now do slant drilling and you do not drill into the lake but you drill under the lake. We buy oil and gas from Canada that comes out from under the Great Lakes but we prohibit Great Lakes drilling in the States. Much of the coastline is locked up. Last year we locked up some more of the Gulf. Much of the Midwest is locked up. I guess the question I ask is, is it more important to lock up oil and gas drilling around this country when we have safe, modern methods that do not cause environmental degradation? You look at the record in recent years of oil and gas drilling in this country, and it is pretty good, because we have the skill to do it. For a country as dependent on energy as us and that energy comes from countries like Iraq and Iran, does it make sense to continue, every time we have a vote on oil and gas, to lock it up? I find it interesting that one of the debaters for this amendment supports mountaintop mining, certainly with greater environmental degradation than drilling an oil and gas well, punching a little hole in the ground.

I think we as a body need to be more thoughtful. Where do we go with energy? We know it needs to be more renewable. We know we need to be better conserving. But in the interim, until we have something to replace oil, we need oil for this country. Every time we have a spike in oil and gas prices, and we had one in 2000 and 2001, this economy pays. We lost millions of jobs in this country with a spike in energy prices just a year and a half ago. Yet we continue on a course, with supposedly good environmental stewardship, of locking it up, resources that we can extract today with good sound science, and I think it is a debate we better think seriously about. These leases could not be developed in the next 12 months if we wanted to, yet that is what this amendment does. It says we lock it up for 12 more months because no money can be spent. It is an amendment to raise another vote against oil and gas development, something this country is dependent on for its absolute economic future. I think it is something we need to be very thoughtful about.

Mrs. CAPPS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I thank the gentlewoman for yielding me this time. I rise in strong support of this amendment. It is very important to this Nation, and let me point out why.

First of all, there is a big myth going on that we need this oil and gas off the

California coastline. These leases have been out there since 1968 and the oil companies did nothing with them. They did not drill on these leases. They have sat on them. They have been exempt from all the moratoriums and now they want to continue these leases. Why, we think? What has changed since 1968? What has changed is that California has invested in alternative energy. No other State has developed more alternatives. No other State has more geothermal, wind, biomass, hydro, nuclear, natural gas. In energy conservation, we have done more than any other State to make our State not dependent on one source of energy but independent by developing all kinds of alternatives.

We want our State coastline back. Why? Because a majority of Californians live on that coastline. It is the most productive, prosperous, enjoyed, visited, photographed, painted, lived-in coastline in the United States. The people that come there to photograph it, enjoy it and swim in that ocean are your constituents. They do not want to come to visit offshore oil rigs. They want to enjoy the pristine California coast.

So, Mr. President, do for California what you did for your brother in Florida. Buy back the leases.

Mr. WAMP. Mr. Chairman, I reserve the balance of my time.

Mrs. CAPPS. Mr. Chairman, I am very pleased to yield 3 minutes to the gentleman from Washington (Mr. DICKS), the ranking member of the Subcommittee on Interior.

Mr. DICKS. Mr. Chairman, I want to commend the gentlewoman for her outstanding amendment. We have had similar problems in the State of Washington. We passed numerous amendments to deal with that problem and, of course, the issue now is that of equity between California and Florida.

In May of this year, President George Bush reached agreement with Governor Jeb Bush to buy back a series of oil leases which had been awarded many years ago, but which were under a moratorium from development as a result of public opposition to drilling near the Florida coastline. This agreement, which we support, will cost $235 million. I would note, however, that the National Environmental Trust has described the deal as a $235 million campaign contribution to the incumbent Governor of Florida.

California is faced with very similar circumstances but has so far received no similar accommodation from the Federal Government. There are currently 36 Outer Continental Shelf leases off the California coast which the Governor of California does not want to develop because of threats to the beach and coastline. They have taken the Federal Government to court as did the State of Florida. But a court case could take many, many years due to the uncertainty with regard to the Federal Government's position on drilling in California waters.

The amendment offered by the gentlewoman from California and others would send a clear signal that the Federal Government will not permit drilling. This action, while effective for 1 year only, would push both the State and the Department of the Interior to reach a settlement so that the people of California will know that these areas remain free of risk from drilling and potential environmental damage.

The amendment should be agreed to.

Mr. WAMP. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ROHRABACHER) who is the past chairman of the Subcommittee on Energy and Environment of the Committee on Science and the current chairman of the Subcommittee on Space and Aeronautics.

Mr. ROHRABACHER. Mr. Chairman, sometimes it is very perplexing to be a Member of Congress to note the way this body sometimes will simply go with the trends, what is trendy, especially when it comes to issues of science and energy. I am perplexed as much as I ever have been about this particular issue. I, as most of you know and as many people in the public may know, am an avid surfer. I am in the ocean water every weekend. Less than 4 days ago, I was out surfing. I am also a scuba diver. I am someone who loves the ocean. We have had offshore oil drilling in my district for almost 50 years and there has never been not only not a major problem but not even a significant problem with any type of spillage or any other type of threat to our environment. What did happen during that time period, however, was a major spill, and guess where it came from? A tanker. Yes, a tanker that was delivering oil. Let us also remember the Exxon Valdez was headed toward southern California. If it would have had its accident down there, we would still be cleaning up that mess. The tanker accident off of my district was when a tanker inadvertently ran over its own anchor, spilling a huge amount of oil onto our coastline.

What we hear being suggested today by people claiming to be concerned about the environment and the ocean is to make our coastline perhaps 10, perhaps a hundred times more likely to suffer from an oil spill because every drop of oil that we do not get from these offshore oil rigs will come to us by tanker. We can philosophize that, oh, we shouldn't be so dependent on oil in the first place.

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Okay, I will listen to that. I will listen to we should try to develop other alternative resources, but in reality, everyone in here knows that if we do not develop the actual oil resources, we are going to get that oil from someone who will deliver it to us by tanker, which is perhaps 10 to 100 times more likely to spill that oil on our coastline.

This bill is an antienvironmental bill. This proposition is against cleanliness in the ocean, but it is trendy, it is happy; we do not have to explain ourselves because everybody knows that one has to be against actual oil drilling to be for the environment.

Let me note that this also has a bad effect on the environment. I can tell my colleagues, I have gone as a scuba diver and taken dives off the offshore oil rigs and found that is where all the fish are because they know it is safe for them to be around those rigs. They are not in the other places, they are near those rigs. But what else does it do for us? It is better for the environment not to be dependent on these oil tankers, but it is also better for our country not to be dependent on hostile powers.

Why is it that we have people in this body who will vote against any type of energy development when it comes to oil or natural gas? Why is that, when they realize we have people overseas at this minute risking their lives because our country is dependent on potentially hostile powers for our oil. Again, we could philosophize and say, oh, well, we should not be so dependent on oil, we should develop wind and solar and the rest of it, and I am for that. But we know that if we do not develop our oil resources, we are going to have the Saudi Arabians, the Iraqis, all the others who we are going to be more dependent on.

So we cannot even drill in Alaska, one of the most God-forsaken areas of the world. So we cannot drill there and we cannot drill offshore, and what does that do to our economy? By the way, the local offshore rigs in my district have been providing revenue to our State and our local areas all of this time.

Mr. Chairman, let me say, why is it that we are doing this? Number one, it is trendy. It is very trendy to be against offshore oil drilling and, number two, we have some very wealthy people who are concerned about their view, and that is it; very wealthy people concerned about their view. We are making our country more likely to have oil spills. We are putting ourselves in jeopardy by being dependent on these overseas powers to give us the oil, and we are hurting ourselves by eliminating that resource in terms of tax resources. And, by the way, when we talk about the balance of payments, if we are concerned about our economy, and it is wavering now, this is a major cause of unbalanced payments. We are not going to do anything to try and help those things, but we are going to help the rich people so they do not have to see an ugly oil well. Well, I would support anything that says let us make those oil wells not ugly. But I will not say we should not have oil. We can build those oil wells offshore that are safe and are beautiful, but let us not say we are not going to utilize what God gave us as these natural resources when it is safer to do so.

Mrs. CAPPS. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE), my esteemed colleague.

Mr. INSLEE. Mr. Chairman, the President of the United States of America has taken action against offshore oil drilling in Florida. The problem we have here is we just have not been able to find any of his relatives in California.

I have checked the Santa Barbara phone book and I found an Allison Bush, an Albert Bush and an Anna Bush, and I hope that they or any of the other people named Bush in the Santa Barbara area will call the White House and ask the President to afford them the same courtesy he afforded his relative in Florida.

The President takes care of his family, and this is a noble, virtuous thing. We believe in family values on this side of the aisle, but we want to believe that to take care of all of the Bush relatives in the State of California, I do not care if it is a second cousin, third time removed, call the White House and ask him to take care of California.

Mrs. CAPPS. Mr. Chairman, I am happy to yield 1½ minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, about 1 year ago, former Congressman Joe Scarborough and I led a debate on the floor of the House that is remarkably similar to the one today, except it had to do with the coast of Florida. One of the arguments we raised was that the minimal amount of supply available off the coast of Florida did not warrant the extraordinary risk to our State, its pristine beauty, and to so many people that depended upon the economy associated with those beautiful beaches. Those same arguments apply here today in California.

We are talking about supply related to asphalt. I do not hear anybody here complaining we are depending on other countries to build enough parking lots in this Nation. California needs a few less parking lots and so do the State of Florida and others. So we are not talking about a precious supply for motor vehicles, for generating electricity for industry and manufacturing; we are talking about asphalt. I think the Democrats and Republicans in the State of California are entitled to the same respect that we afford to Floridians when we sat up and told our colleagues of the economic impact to our State associated with a spill that could occur.

The final point here is that the President of the United States and others need to stand up and say, why are Californians different than Floridians? Are they of some inferior status? Of course the answer is no. We are a country. This is an issue to put politics aside. It does not matter who the Governor of the State of California is this year or in the future. It is the same issue. If this Congress will pay attention to the details, because the devil is in the details, as we did last year, we will adopt the Capps amendment, and I urge adoption of the amendment.

Mrs. CAPPS. Mr. Chairman, I am very pleased to yield 1½ minutes to the gentleman from California (Mr. GEORGE MILLER), the former chair of the Committee on Resources.

Mr. GEORGE MILLER of California. Mr. Chairman, this is a critical issue for so many reasons. It is not only a question of equity of whether or not California will be treated the same as Florida, but it is also a question about the California economy.

Our oceans, our beaches, our seaside landscapes are huge economic engines within our State. They are the engines that drive individuals who want to come and reside there and start businesses and provide opportunity. They are the engines for tourism. They are the engines for a whole range of economic activity.

Now, we know that this is a much better oil industry today than it was at the time of the Santa Barbara oil spill. We know that the technology is much better today than it was then. But we also know that we have a much more intense concentration of economic benefits on our coast today than we had then, and that an accident and the risk of that accident for the benefits of the amount of oil available just does not make sense.

Mr. Chairman, our colleague, the gentleman from California (Mr. ROHRABACHER) said, how can we do this? How can we turn down the supply of oil? Well, if we are going to take the supply of oil and put it into cars that get 12 and 13 miles a gallon, we have already made a decision that we are going to waste this oil. Seventy percent of our oil goes into transportation, and earlier this year, this Congress made the decision that we are not going to improve the CAFE standards, not a mile, not 2 miles, not 3 miles. So why would we risk this magnificent coastline, its magnificent benefits to us and its dynamic economic energy, why would we risk that at a time when the Congress has made a decision that they are simply going to waste the oil?

We have to support the Capps amendment. I want to thank the gentlewoman for her leadership and her tenacity on this issue. We are not going away until we get the same justice that the people in Florida got and we get it for our economy and for our environment.

Mr. WAMP. Mr. Chairman, I reserve the balance of my time.

Mrs. CAPPS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentlewoman from California (Ms. ESHOO), my colleague on the Committee on Energy and Commerce.

Ms. ESHOO. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I am pleased to rise in support of this very important amendment today.

I would like to state some facts for the Record. Why are we in support of this? First of all, we have the fifth largest economy in the world, California does. We are a nation State and, you bet, we are going to go to bat for our economy. A good deal of our economy rests on our coast side. We have fishermen, we have tourism, we have many small businesses, and we want to protect them. We do not want these parts of our coast side despoiled.

Now, I purposely said "parts." We are not talking about the entire coastline of California. California today produces its fair share of our Nation's need for oil supply from its coast. We want a fair shake from the President, from this administration, that we be able to buy these leases that have been outstanding.

We think that the President should speak to his father, who agreed with us on this. This is a long-term, bipartisan issue in California.

Today the Republican nominee in California says no offshore oil drilling; continued moratorium on these specific leases. So as the Bush administration of today says "yes" to his brother in Florida, we say, Mr. President, Members of Congress, follow the previous President's support and the President before that, George Bush 41. Give us a fair shake. Let us buy back these leases to protect California's coastline and her economy.

Mrs. CAPPS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, this is a battle that my California colleagues and I have been fighting for many, many years. It is not a fad. I thank the gentlewoman from California (Mrs. CAPPS), as well as the gentleman from California (Mr. GEORGE MILLER) and the gentleman from West Virginia (Mr. RAHALL) for their leadership on this issue.

Without this amendment, the Bush administration's concern with promoting the interests of big oil over serving the people of California will cause great harm to our coast.

The answer to America's energy needs is not contained in 36 oil leases; our energy future depends on increased use of renewable energy sources and conservation measures. Drilling for oil off our coast will threaten to destroy our environment, wreak havoc on our economy, an economy that depends on tourism and a great deal on fishing.

Unfortunately, the future of these 36 undeveloped leases is only a symptom of a bigger problem.

The real solution is for the Federal Government to enact a permanent ban on drilling off California's coast. For too long now, the coast of California has been protected only by a multiyear presidential order.

Mrs. CAPPS. Mr. Chairman, I yield myself the remaining time.

I would like to thank the gentleman from Tennessee (Mr. WAMP), and I thank my colleagues for joining with me in presenting our case for the State of California. This is about our economy, it is about a national economy, a State that produces its fair share of energy resources, a State where we have a coastline that needs protection. This amendment seeks to limit the Interior Department's funding for the funding cycle so that we can encourage the Federal Government and the State of California to sit with the local oil lessees, oil lessees who have come to my office and told me that they would like to settle, they would like to find a way out, and this amendment can give them that time and give us the opportunity to make a resolution in some situation such as Florida has done.

□ 1630

Again, it will protect our environment. This oil-soaked bird is an example of what can happen with one accident.

Our economy needs this protection; our environment needs this protection. I am pleased to implore my colleagues to support this amendment and work with us to allow these negotiations to occur for the State of California, for our environment and our economy.

Mr. WAMP. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, I do commend the gentlewoman from California (Mrs. CAPPS) and all of our friends from California for fighting for a clean environment and fighting for what is right and good in our country. I have been there and seen the whales and enjoyed it as much as anyone.

But I think we must be vigilant and continue to recognize in the days following September 11 how fragile our economy is, how fragile our freedom is, and how much we must reduce our dependence on the Middle East for oil.

If we are going to do that, we cannot cancel leases. We cannot use funds to restrict oil and gas leases that we have domestically. The vast majority of people in this country believe we must have our own production capabilities, and we must not retreat from that, and in doing so, keep our country free and strong and productive. That is what we must do.

So on behalf of the subcommittee, we respectfully ask that the amendment be denied, with the greatest respect for those that offered it, because their motives are pure; but it is not in our country's best interest to limit this capability at this time through this appropriations bill.

Mrs. DAVIS of California. Mr. Chairman, I rise to support the Capps-Rahall-Miller amendment as a matter of equity for California in its long effort to protect its coastline from the potential effects of offshore oil production.

Many of us remember the devastation to the Santa Barbara coastline because of an oil spill. The state of California has been actively fighting these leases since then, including a 1994 law permanently banning new offshore oil leasing in state waters.

Like Florida, the coastal resources of California are critical to the strong economy of the state as well as to the aesthetic appreciation of its citizens and people around our Nation. I have been proud to join the authors in a series of efforts to insist that California be protected from potential environmental effects of new oil and gas offshore drilling.

It is important to protect our coastline by preventing the administration from expending funds to allow new drilling activity.

Mr. HOEFFEL. Mr. Chairman, I rise to express my strong support for the Capps-Rahall-Million amendment. This important amendment would work toward ending 36 undeveloped oil leases off the Californian cost. If these leases are allowed to be developed, we risk the tragic environmental contamination of a great swath of coastline. Executive Orders have placed moratoriums on developing these leases since 1990 and this outstanding amendment moves us closer to a permanent solution that will protect the health of the coast.

While I am greatly pleased with this amendment, I must also voice my criticism of two provisions within this bill that I find objectionable. I have long been an opponent of corporate welfare in its many forms. This bill contains several provisions that benefit corporate America at the expense of the American taxpayer. I believe that the are wrong and should be addressed.

The fee charged for grazing animals on public lands is one of the most blatant and objectionable subsidies in this bill. Currently, ranchers may apply for permits to graze their animals on Federal land at significantly below market rates. The Bureau of Land Management and the Forest Service each charge approximately $1.43 per animal per month, whereas the market value of the same averages $13.10 per head. This is a 915 percent difference. This body and this country should not allow this gift to continue unabated.

This bill also contains another offensive subsidy to corporate America that should be addressed. Hardrock mining, the mining of solid minerals that are not fuel from rock deposits, are governed by the General Mining Law of 1872. The law ranges free access to individuals and corporations to prospect for minerals in public domain lands, and allows them, upon making a discovery, to stake (or "locate") a claim on that deposit. A claim gives the holder the right to develop the minerals and may be "patented" to convey full title to the claimant. The total amount of money that the claimant pays to the government to develop the mining claim is a $100 a year holding fee and between $2.50 and $5.00 an acre (not adjusted since 1872) for an application fee.

The 1872 law allows companies to extract minerals without paying a royalty. This is unlike all other resources taken from public lands. For example, oil gas and coal industries operating on public lands pay a 12.5 percent royalty on the gross income of the operation. We are giving away resources that belong to us all. The public interest is not being served, and will not be served until we eliminate this example of corporate welfare.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Mrs. CAPPS).

The question was taken; and Chairman announced that the noes appeared to have it.

Mrs. CAPPS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Mrs. CAPPS) will be postponed.

Are there further amendments?

### AMENDMENT NO. 1 OFFERED BY MR. BLUMENAUER

Mr. BLUMENAUER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BLUMENAUER:

Add at the end, before the short title, the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used to enter into any new commercial agricultural lease on the Lower Klamath and Tule Lake National Wildlife Refuges in the States of Oregon and California that permits the growing of row crops or alfalfa.

Mr. WAMP. Mr. Chairman, I ask unanimous consent that all debates on this amendment and all amendments thereto be limited to 40 minutes, equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The gentleman from Oregon (Mr. BLUMENAUER) will control 20 minutes and the gentleman from Tennessee (Mr. WAMP) will control 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Members may remember the huge controversy from last year when the Bureau of Reclamation shut off irrigation water to farmers in order to provide enough water for endangered suckerfish and threatened coho salmon. It was back in the news again recently, where the Bureau of Reclamation announced last week that this will be another dry year in the Klamath Basin.

Mr. Chairman, this issue is always going to be a story, or on the verge of being one, for two reasons: number one, land management on our refuges in the Klamath Basin, and part of what I want to talk about here today deals with this remarkable wildlife refuge, it is guided by incompatible priorities: the reclamation of wetlands for agriculture and the preservation of wetlands for wildlife.

The water in this basin is overallocated by some 100,000 acre feet a year. Visualize 100,000 football fields covered by a foot of water. The water will be available for competing uses in the Klamath Basin only for perhaps 6 out of every 10 years; 2, 3, 4, 5 of those 10 years, we are going to be in deficit.

Now, the Federal Government created this mess at the beginning of the century by draining regions where there was too much water and creating an artificial hydrological system in the basin. The basin was a 3,500-acre wetland. Now, over 75 percent of this 350,000 acres has been drained for agriculture and other developments.

The water that is left in the basin is damaged. The Klamath River is one of the more polluted rivers in the State of Oregon, and the Upper Klamath Basin Lake is severely polluted. American Rivers has listed the Klamath as one of America's most endangered rivers.

The basin is always going to be in the news unless and until we take steps to reduce the damage. This amendment is a simple, commonsense step towards addressing part of the conflict in the basin between farmers, endangered species, the wildlife refuges, and Native Americans. It aims to reduce the damage from commercial agriculture and the refuge lands in the basin.

The Lower Klamath National Wildlife Refuge was established by Teddy Roosevelt as the Nation's first waterfowl refuge in 1908. Members may be surprised to find out, as I was, that the Klamath Basin refuges are the only refuges in the country that allow leasing for commercial agriculture of this nature. They are damaging wildlife in the process.

Farming on the refuge currently uses 56 different pesticide products, including 10 carcinogenics, two neurotoxins, and 13 endocrine disrupters. At least six of the pesticides have been determined by the U.S. EPA and the U.S. Geological Survey to be toxic to salmon. This is activity that is goihg on in one of our precious natural wildlife refuges.

That is one of the reasons, perhaps, the daily peak of overall number of birds who visit the refuge have declined from 6 million birds in the sixties to less than 1 million birds today.

For most of America, the conflict between wildlife refuge use and agriculture was fixed by Congress when it passed the National Wildlife Refuge System Improvement Act in 1997 by an overwhelming vote of 407 to one. The act clarified that wildlife conservation is the singular mission of wildlife refuges. It requires that the economic uses of national wildlife refuges only be permitted if they contribute to the achievement of refuge purposes and that such uses not degrade biological integrity, diversity, and environmental health.

Unfortunately, this standard has not yet been applied to the Klamath Basin.

I want to be clear: the amendment would not eliminate the lease land program on Tule Lake in the Lower Klamath Wildlife Refuge. The amendment only applies to the 17 agricultural leases that will be up for renewal in October of this year, a little over 2,000 acres out of the 22,000 acres that we are currently leasing.

The amendment does not stop agricultural activity. Farmers would be able to continue to farm in the wildlife refuge; but it would prohibit the growing of alfalfa, which is water-intensive, and row crops such as onions and potatoes, which are pesticide-intensive, on any new leases. The statistics are rather stark about the intense use of water for these row crops during the summer months when water is scarce in the basin. Farmers would still be able to grow crops that are beneficial to wildlife, such as barley, oats, and wheat.

The Federal Government's efforts in the Klamath Basin have been uncoordinated; and in fact, in concert with some local boosters over the last 100 years, they have made environmental shortcuts and did not honor basic agreements on the scale of ownership, financial commitment, and water use. In this process, Native Americans, the environment, wildlife, and, the taxpayers have all been shortchanged.

I strongly urge that my colleagues join me in helping restore the integrity of the Klamath Basin and the National Wildlife Refuge system, and support this amendment that has been offered by myself and my colleague, the gentleman from California (Mr. THOMPSON).

Mr. Chairman, I reserve the balance of my time.

Mr. WAMP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on behalf of the subcommittee, I rise in opposition to the gentleman's amendment.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HERGER), the distinguished subcommittee chairman.

Mr. HERGER. Mr. Chairman, the lease land program is a perfect example of how wildlife and agriculture can thrive together. Congress recognized that balance and specifically afforded farming a special status in the national wildlife refuges of the Klamath Basin. The Kuchel Act enshrined the lease land farm program in Federal law, specifying a compromise between row and forage crops and cereal grains in a way that would satisfy the requirements of the law, including maximizing revenues to the government and to local counties, and providing food and habitat for the migrating birds and other wildlife.

While couched in seemingly innocent terms, this amendment takes a short step in the direction of eliminating the lease land program by chipping away at its foundation. If we remove row crops, we remove the greatest incentive to farm and upset the balance that was established in Federal law almost 40 years ago.

Moreover, this would deal another devastating economic blow to these communities, which have already suffered incredible hardship in the wake of last year's tragic water shutoff. Estimates are that these crops generated an average of approximately $10 million annually over the last 5 years. Those same acres planted to grain, as required by this amendment, would generate a little over $1 million. That is a $9 million out of $10 million loss that would cripple this community.

Mr. Chairman, my colleagues with agriculture in their districts know how tenuous commodity markets are. Farmers need opportunities, not more baseless limitations. The irony here is, Mr. Chairman, that despite the gentleman's stated desires to help wildlife, their amendment would do precisely the opposite. By preventing the planting of onions, potatoes, and alfalfa, we effectively eliminate an important food source.

The potatoes, which I should note the gentlemen have specifically targeted, provide a particularly important source of nutrients for geese, allowing them to migrate and breed successfully; and they remove the very mechanism, crop rotation, that allows farmers to maintain the quality of the soils, and, in turn, enhance the production of the cereal grains that provide food and habitat. That is why it is in the Kuchel Act.

Claims of harm from pesticides used are simply unfounded. There is not a shred of evidence, not one, despite years of study, that lends any support whatsoever to that argument. The refuge manager himself has stated that there is "no smoking gun." That is because pesticide use is severely restricted. California has the most stringent pesticide rules in the country, and over 95 percent of those allowable pesticides are prohibited on the leased lands.

Despite the rhetoric of the radical environmental groups, all the evidence is exactly to the contrary. Mr. Chairman, consider this statement from the California Waterfowl Association: "For nearly 100 years, farmers and ranchers of the Klamath Basin have co-existed with immense populations of wildlife. Many wildlife species, especially waterfowl, are familiar visitors to their highly productive farms and ranches.

Klamath Basin agriculture provides a veritable nursery for wildlife."

So if there is no harm here, if experience over the long history of this program has shown that agriculture helps and enhances wildlife, then why seek to undo the delicate balance? The only explanation is, quite simply, that this is another attempt to shrink farming in this area.

Note that some of the same radical environmental groups behind this amendment were the same groups that were pursuing a similar proposal 2 years ago which would have eliminated the leases entirely. There is no doubting these groups' desire to remove agriculture from the Klamath Basin.

Mr. Chairman, I urge my colleagues to reject this anti-agriculture amendment.

Mr. BLUMENAUER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Chairman, I would like to thank the gentleman from Oregon for yielding time to me and for his work on this very important matter.

Mr. Chairman, this amendment is good for agriculture, it is good for waterfowl, it is good for the fishing industry, and it is good for the families in the Klamath Basin, the north coast of California, and the coast of Oregon.

In 1908, President Theodore Roosevelt established our country's first waterfowl refuge in the Klamath and Tule Lake National Wildlife Refuge.

□ 1645

These are among the most important refuges in our country and they are the most important refuges in California. It is the largest staging area for waterfowl in the entire Pacific flyway. It also has the greatest concentration of wintering bald eagles in the United States. As was pointed out earlier, these are the only refuges in the country that allow commercial lease land farming. They farm over 20,000 acres of farmland. Many of the crops are water-consumptive and chemically intensive. The area is an area of very little waterfall. The average is less than that of some parts of Arizona where they have next to nothing.

There are about 100,000 acre-feet of water that are overallocated in the basin; and this, Mr. Chairman, coupled with a multiyear drought, has hurt farmers, it hurts fish, and it hurts waterfall. The area of the headwaters of the Klamath River, which was the number one salmon river in the Lower 48 States. Today's water shortages and intensive chemicals have greatly diminished the fish and the economy of the coastal communities of Northern California and some parts of Oregon.

In 1988, sports and commercial fishing in the Pacific region generated over $1.2 billion to our regional economy. Today's salmon fishing between Fort Bragg, California and my district and Coos Bay, Oregon has been all but shut down for the last 10 years. Klamath River salmon are 1 percent of their historical population, and the coast families in California and Oregon have lost over 72,000 family wage jobs. We must address the water problems of the Klamath Basin. We have got to do it soon.

This amendment, I believe, is a very important first step in doing that. The amendment will limit the crops grown on about 2,000 acres of the refuge that is leased to farming. That is 17 leases and, remember, they farm 2,000 acres of lease farming there. The crops that will be grown on those 17 leases, on those 2,000 acres, will be less water-consumptive. They will rely less on chemicals and they will provide some very needed food to waterfowl.

We are talking about going from row crops and alfalfa to potatoes to cereal grain to crops that are beneficial to the important wildlife that fly through the entire Pacific flyway. And most important and against what some of the critics of this amendment will say is that it still allows families in the area to farm. These areas will not go out of farming production. They will continue to be farmed. There are just going to be restrictions on what can be farmed in this area, restrictions that will be good for the coastal communities, good for the farming communities, good for the Native American community, good for fish, good for wildlife and good for waterfowl.

This is an important solution to the Klamath Basin water problem and it will help immensely with the downturn in the economy for the aforementioned reasons, and I would urge all of my colleagues to vote in favor of this initiative, and do so knowing this can be good for fish, good for waterfowl and good for people.

I thank the gentleman from Oregon again.

Mr. WAMP. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Oregon (Mr. WALDEN), a member of the Committee on Energy and Commerce and the Committee on Resources.

Mr. WALDEN of Oregon. Mr. Chairman, I am dismayed that my colleague from Portland has chosen to attack farming the Klamath Basin with this reckless and harmful amendment. By doing so, we are kicking the very farmers in the stomach just when they have been begun to recover from the last attack that this government hit them with. You remember, these are the men and women of the Klamath Basin who had their irrigation water cut off to them last year. They could not raise their crops and then the National Academy of Science has found the government's decision to cut off their water could not be backed up by science.

In short, the Federal Government got it wrong, terribly wrong.

What makes this amendment especially troubling is that it flies in the face of science and could hurt the farmers, the economy, the community and the very species that it is supposed to be introduced to protect.

Mr. Chairman, it is our responsibility to see that this Congress does not get it wrong again and do even more damage in the Klamath Basin, damage not only to the farmers who lease the lands on the refuges but also damage the wildlife, the waterfowl and refuges.

The proponents make two arguments: That growing row crops and alfalfa are incompatible with the refuges and the pesticides are adversely affecting the environment of the refuges. First, growing row crops is not only compatible with the refuges, but is also a practice that benefits the soil by improving its fertility as crops are rotated. This practice is as old as farming in America. The increased fertility of the soil in turn benefits the cereal grains that represent more than 75 percent of the acreage in the refuges which are then eaten by various species.

Mr. Chairman, activities on the Klamath and Tule Lake Refuges are governed by several Federal laws, including the 1964 Kuchel Act, which restricts row crops on the refuges to no more than 25 percent. It is worth noting that current planning of row crops represents less than that figure.

Periodically the U.S. Fish and Wildlife Service conducts a compatibility determination, a formal and involved public process to make sure that agricultural processes are consistent with operating the refuges for the benefit of wildlife and waterfowl. The latest compatibility determination was issued on June 4 of this year. It selected a no-action alternative which means that the farming activities are indeed compatible with the goals of the refuge.

Further, Fish and Wildlife determined that even if these leased lands are reduced, the increased returned flows of water generated from reduced lease land farming would not be available to refuge wetlands. They are the lowest on the priority list to water rights in the basin. This is because the Endangered Species Acts, tribal trust assets, and agricultural contracts take precedent.

In short, cutting back on leasing the lease lands will not result in more water to the refuge wetlands.

Now let us talk about alfalfa. We are talking about onions and potatoes. Growing onions requires hand-weeding which helps keep down the noxious weeds. What better way to control noxious weed infestations than by hand-weeding. Growing potatoes benefits waterfowl. According to the California Waterfowl Association, potatoes specifically benefit two types of geese, the lesser snow and the white-fronted geese, because after the first frost the potatoes left in the field provide food for these geese. The pronghorned antelope on the refuge eat the alfalfa sprouts.

Mr. Chairman, the Blumenauer-Thompson amendment would deny leases that allow farmers to raise these row crops that have indeed been found compatible with the purposes of the refuge.

Now let us move on to pesticides. It is ironic that my friend from California would be on this amendment about pesticides when all the scientific studies, and I have a list of them here, found no adverse effect from these pesticides. And, in fact, I want to go to a statement by the manager of the Klamath Basin National Wildlife Refuge. "We have never found that the pesticides have had an adverse effect on the environment."

The Littlejohn report from 1993, the Boyer and Grew reports from 1994, the Moore report in 1993, on and on. These farmers used integrated pest management programs to minimize the use of pesticides in this basin. Each year they go through a pesticide use proposal process. I have the minutes of the April meeting here where they go through and look at how they can minimize the use.

California, and you all from California know this, probably has the most restricted use of pesticides in the United States of America. On this refuge, 97.8 percent of those pesticides allowed everywhere else in California are denied in this refuge already. They only use 2.2 percent of the available pesticides. For nearly a decade scientist after scientist has studied the use of the pesticides and found no problems. Where they have thought there might be some concerns, they have moved back how they applied the pesticides so it does not get in the water, does not get in the canals, and does not adversely affect the species in the Klamath Refuge.

It is important to note, because I know my friend and colleague from Portland originally wanted to ban funding for any renewal of leases but then compromised and just wants to do away about the row crops. Let me point out what Phil Norton, the manager of the Klamath Basin Refuge said. His greatest nightmare would be to have a whole bunch of lands that we were not set up to handle. That is what will happen if we start cutting off these leases.

Again, I want to make the point, if the lease lands are not used, the water does not go to the refuge but to other higher-use priorities.

Finally, let me close by saying this. Those of us who represent rural areas have a concern when those in the urban areas have situations far worse than polluting rivers. In the city of Portland, 3.4 billion gallons of stormwater and sewage flow in in 55 locations into the Columbia and the Willamette River; 3.4 billion gallons of raw sewage. They flush it and it flows right into where the endangered salmon are. Right over where there are toxic dumps, Superfund sites in the Willamette River. Yet the American Rivers Council does not say that one is polluted. They just say that Klamath is.

Mr. Chairman, this is a bad amendment for agriculture. It does not work for the wildlife. What they have done on that refuge is compatible, and I urge opposition to this amendment.

Mr. BLUMENAUER. Mr. Chairman, I yield myself 1 minute.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I ask if there is a chance we could get a unanimous consent agreement on dividing the time equally, but limiting the remaining debate to 12 minutes so we can honor leadership's commitment to rise at a time certain, and that would be six minutes per side?

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

Mr. BLUMENAUER. With all due respect, I wanted to cooperate with the gentleman. I did this from the beginning. It was the other side who asked for 20 minutes. I had agreed to 15 minutes a side. Now I am going to get behind the curve. If you give me 9 minutes, I will agree to 6. I think that will put us even and I am a happy guy.

Mr. WAMP. If we go beyond 12, we will have to rise and come back at 6 o'clock. That was an agreement we made earlier.

Mr. BLUMENAUER. I will be happy to do it.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The gentleman from Oregon (Mr. BLUMENAUER) is recognized.

Mr. BLUMENAUER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, first of all, I have been working very hard, as I think my gentleman friend from Eastern Oregon knows, to deal with the problems in the Willamette River. I negotiated a settlement. We put a lot of money into it. I am continuing to work on that. But one thing we decided is we were going to make it better, not worse. And what this amendment is seeking to do is to make sure that we are making it better.

Second, the notion is given to the 1964 Kuchel Act. Well, give me a break. We have learned a lot about managing the environment in the last 28 years. And if we were doing it over again, we would not enact, I do not think even this Congress would enact something that looks like that 1964 act. And I am suggesting that what we are doing here is an attempt to bring that into conformity.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding me time and for offering this amendment.

To follow up on what he said, we have spent the last 15 years cleaning up after the reclamation projects that were started in the 1950s, the 1960s and even into the 1970s. We completely reorganized the Central Utah project, the Central Arizona project, the Garrison project, the Central Valley project in California. Why? Because in 1964 and 1960 and 1970, we made some very bad decisions about the use of those lands, and the damage from those decisions was now spilling over onto other farmers, onto the cities, onto water users, onto tribes, onto the environment.

We have an opportunity here under this amendment to take a realistic look at a very oversubscribed basin on the use of water. And the particular use here is at the behest of Federal leases that are subsidized; at crops, in some cases, that are subsidized or the farmer was growing crops, one subsidized, one unsubsidized, and I am not clear whether or not yet the water is in fact subsidized.

That is kind of what makes this basin go. But the spillover effect of this basin is all the way to the Pacific Ocean, and it spills over to the recreational industries, onto tourism industry, onto the farming industry, onto the Pacific Coast fisheries, onto the water qualities issues, and the environmental issues.

At a minimum what the gentleman has raised is something we ought to take very seriously because we had a huge outbreak of concern in the Klamath about how we will allocate water between species and farmers and Indians and fish and all the rest of it.

We have an opportunity with the renewal of these leases to put some of this in abeyance and see what the impact is on the other entities in what is an area that is clearly oversubscribed. If everybody exercises their water rights, the species, the farmers, the tribes, then we know that it is oversubscribed. That is why we are having this problem. Yes, this might have made sense 40 years ago and it might have made sense at the turn of the century when people came to the Klamath Basin. But the State of Utah made a decision, the State of Arizona made a decision, to some extent the State of California, it does not make sense to keep raising alfalfa in the desert.

☐ 1700

Because the usage of the water is just too high, especially if we are doing it on subsidized land, and those are the kinds of changes that have to be made.

I do not know if this is the perfect amendment, but we ought not to turn down the serious consideration, what the gentleman is offering here, as we in the Committee on Resources sit and look at the struggle that is going on in this basin. This may be one of the easier options that we can have in trying to sort out an area that is so terribly over subscribed and short of water for all of the competing uses, all of which have very, very legitimate claims on that water. But as we try to sort it out, I think the gentleman has brought forth one of the tools that might be used that is under the control of the Secretary who has to make some very tough decisions and can try to balance out the competing interests of the parties.

I thank the gentleman for yielding me the time.

Mr. WAMP. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. NETHERCUTT), a distinguished member of the subcommittee.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me the time.

I am sort of amazed at the overkill, the overrhetoric that comes on some of these debates. I know there has been allegations by the distinguished gentlemen who were the sponsors of this amendment, both of whom I respect, who said there is damage to the fowl and the fish; and yet the manager of the refuge has not made that determination at all. In fact, he said we found that the pesticides that are used, that none of these pesticides have an adverse effect on the environment.

I listened to the gentleman from California talk about environmental protection. Ninety-eight percent of the pesticides that are allowed in California are already prohibited from use on this refuge. So I say let us clean up California. Maybe if there is such a pesticide problem in California or on this refuge, clean up California first rather than coming out and trying to whack away at farmers.

Frankly, Mr. Chairman, this is 17 families that are affected by this issue, 17 leases. Well, that is 17 families who were trying like crazy to make a living in farming. In fact, the refuge monitors pesticides all the time. That is why we have managers of refuges. That is what they do. They make sure there is no adverse effect on fish or fowl.

So to come in here and keep saying there is damage to this and there is damage to that, it just is not true. There is no evidence of it, and I think that this House ought to stand up and say, wait a minute, this is overkill and let us not go to extremism that I think some of the supporters of this amendment want us to go to.

In fact, if a person does not grow potatoes in this refuge, the lesser snow and white fronted geese feed on the first frost in the refuge. So my point is this is good for wild fowl and snow and white fronted geese. Same with alfalfa, it is good for the fowl and the animals in the refuge.

So enough overkill. That is what this amendment is, and I urge its defeat.

The CHAIRMAN. The gentleman from Oregon (Mr. BLUMENAUER) has 2 minutes remaining. The gentleman from Tennessee (Mr. WAMP) has 4 minutes remaining.

Mr. BLUMENAUER. Mr. Chairman, I yield myself such time as I may consume.

In conclusion, Mr. Chairman, I have been listening to the rhetoric, and I find it somewhat amusing. First, they have been quoting Phil Norton, the refuge manager, about the fact that there are not any problems with pesticides. First of all, it might be hard to tell the effect of the pesticides when the farmers are not allowed to go on the fields after they spray for 48 to 72 hours. That is a hint that it may not be as healthy as one suggests.

The notion that this Mr. Norton somehow is a proponent of continuation, I read an article in the San Francisco Chronicle. Mr. Norton said, "We want to manage the land we already own." That, "we want." The leased land program has to go. We get conflicting reactions from the wildlife manager; but the point is, I think it is bizarre that it is being advanced that somehow the wildlife are not going to survive unless we are growing things like potatoes on the wildlife refuge.

The fact is that the wildlife got along quite well without us. It is after we went in and monkeyed with the ecosystems up and down the coasts that we have had problems.

We are suggesting that farming can continue consistent with the uses of the refuge. We are hearing about potatoes; $10 million was referenced by my friend, the gentleman from California (Mr. HERGER). That has been a wildly up and down notion in terms of the value. My friend who is in the Chair right now knows that last year people were leaving potatoes in the field because they cannot afford to harvest them. The point is the potatoes use extensive water, particularly during the growing season. It is not the best use.

We have the charge about reckless and damaging; and with all due respect, as I think my colleagues review the hundred-year history of the Klamath Basin, the people who are reckless and damaging are those who feel that we do not need any changes, that somehow we can continue to ignore the demands of the overall environment of wildlife, of Native Americans, and that the failure to renew 17 leases for other than uses that are compatible with agriculture is reckless and upsetting, I think, Mr. Speaker is overblown, and anybody who looks at it will concur.

Dennis Healey once talked about the theory of the hole; when a person is in it, stop digging. This is a tiny step to restoring the health of the Klamath Basin and protecting the wildlife refuge.

I urge its passage.

Mr. WAMP. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. HASTINGS), a member of the Committee on Rules.

Mr. HASTINGS of Washington. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. WALDEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Washington. I yield to the gentleman from Oregon.

Mr. WALDEN of Oregon. Mr. Chairman, let us get to the facts here; and the facts are these, and let me read this. I will turn to pesticides. Although current studies and modern activities have failed to detect an acute problem with pesticides on the refuge, they go into this. That is why they did, the IPM, the integrated pest management plan. I can give my colleague study after study right here of great researchers in the State of Oregon that have looked at pesticide use and have found no significant impact.

Beyond that, let me just say this. I have supported, as have the gentleman, legislation to study the water quality and quantity in this basin. It has passed this Congress, probably unanimously, and the agencies are working on that. I have supported and the gentleman has supported legislation to improve fish passage at Chilicottan dam. I have supported conservation efforts to improve water quality and quantity in this basin and habitat.

My feet are not stuck in concrete, but I want to do it in a way that works in the basin for the farmers and the fish and the fowl with science-based decisions. The rest is the rhetoric.

Mr. HASTINGS of Washington. Mr. Chairman, I have to say that when I see somebody from an urban area sponsoring an amendment that deals with rural America, I get a little bit antsy, and I think that is the case that is happening right here.

I was down at Klamath Basin a little over a year ago at a hearing, and I heard what the farmers went through. It was devastating to them; and now this amendment, which looks innocuous, it just simply says a person cannot grow row crops and no money should be used for row crops or alfalfa. That has an unintended consequence in my view in the future of now saying on reclamation projects a person is limited to what crops they can grow.

It sets a precedent and I think a very bad precedent that could apply to areas probably all over the country, including the central valley of California and my area of Washington, Columbia Basin Project, that I think is very detrimental because those larger areas have the large diversity of crops.

I think the gentleman comes at this with strong feelings. It is a bad way to go, in my view. I urge my colleagues to oppose the amendment.

Mr. WAMP. Mr. Chairman, I yield the balance of our time to the gentleman from California (Mr. DOOLITTLE), a member of the Committee on Appropriations.

Mr. DOOLITTLE. Mr. Chairman, this area has been devastated by government mismanagement already. We already know the history when for no good scientific reason the water was cut off to the farmers. It did irreparable harm, and it should not have happened, and now we come with this new amendment which is going to just compound the error that was made then and will do grave injustice to a community that depends upon the farming.

The farming is essential to these refuges. These refuges do not use much water. I think 2 percent of the water developed in the basin goes for the purpose of agriculture. It is really a de minimus amount.

It is clear that pesticides are not a problem. We have had these uses compatible that have gone on for over a hundred years in this area. There is a waterfowl area. We need farming. The Kuchel Act mandates we have farming in order to sustain the refuges. We have to have this continue. It would be a terrible injustice to enact this amendment.

We need to stay focused, get the good science; and the good science says that agriculture and refuges are compatible. Please defeat this amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Oregon (Mr. BLUMENAUER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BLUMENAUER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon (Mr. BLUMENAUER) will be postponed.

Mr. WAMP. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DAN MILLER of Florida) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, had come to no resolution thereon.

## APPOINTMENT OF CONFEREES ON H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

### MOTION TO INSTRUCT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

> Mr. CONYERS moves that the managers on the part of hte House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 3763 be instructed to recede from disagreement with the provisions contained in the proposed section 1520 of Chapter 73 of Title 18 of the United States Code added by section 802, and the provisions contained in sections 804, 805, and 806 of the engrossed Senate amendment.

The SPEAKER pro tempore. Under the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Ohio (Mr. OXLEY) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

This motion to instruct conferees would be to ask the acceptance of four antifraud measures contained in the Senate measure that were not included in yesterday's suspension bill. These provisions relate to document retention, statute of limitations, whistleblower protection, and sentencing enhancement. All of these were contained in the same measure in the other body that enjoyed a 97 to 0 vote last week.

First, we would ensure that auditors maintain their audit review and other work papers for a period of 5 years after the conclusion of an audit review. This will make sure that evidence of potential accounting fraud is retained for future investigation. In addition, the motion would give defrauded investors more time to seek relief. Under current law, defrauded investors have a year from the date on which the alleged violation was discovered or 3 years after the date on which the alleged violation occurred; but because these types of wrongs are often successfully concealed for years, the other body increased the time period to 2 years after the date on which the alleged violation was discovered or 5 years after the date on which the alleged violation occurred.

□ 1715

And this motion to instruct carries that provision.

In addition, we protect corporate whistleblowers. In the other body that measure was contained in the Grassley amendment, which extended whistleblower protections to corporate employees, thereby protecting them from retaliation in cases of fraud and other acts of corporate misconduct. Those like Sharon Watkins should be afforded the same protections as government whistleblowers.

The last provision in the motion to instruct would provide for strong sentencing enhancements. In the other body the bill included the Leahy-Hatch sentencing enhancements when a securities fraud endangers the solvency of a corporation and for egregious obstruction of justice cases where countless documents are shredded or destroyed.

Now, the Enron scandal broke in November 2001. Since then, our stock market and the economy as well have been devastated by a wave of scandals: Arthur Andersen, Global Crossing, Xerox, MCI, Merck, Quest and others. Tens of billions of hard-earned pension and retirement dollars have evaporated while those at the top of the corporate ladder have cashed out their options.

During this period of time, no person, not a single individual, has faced a single indictment from the Department of Justice. My instructions will give the Department the tools that they need to protect our investors and bring some of these people who have escaped, so far, to justice.

It is my hope that we will get the support that is needed to instruct our conferees in this fashion.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, having just seen this document, the motion to instruct, I would have to say to my friend, the gentleman from Michigan, that most of the issues that he talks about in his motion I have a great deal of empathy for. Certainly the issue over document destruction, of whistleblower protections, and the like, are all part and parcel of what ultimately I think this legislation needs to look at.

I have some concerns, as the gentleman might expect, regarding the language of the extension of the statute of limitations in regard to lawsuits. As the gentleman knows, back in 1995, Congress, on a bipartisan basis, passed the Securities Litigation Reform Act. That was vetoed by then-President Clinton and was the only veto ultimately overridden. So, in fact, the House and the Senate spoke very loudly in 1995 on that issue.

It is also true that Chairman Greenspan, when asked in the Senate yesterday, when he testified as to whether he saw any need to change the existing statute in regard to securities litigation reform, answered in the negative. So we are, on this side, somewhat perplexed that the minority would choose this particular issue, which was ultimately not part of the legislation that came out of the Committee on Financial Services, the committee of major jurisdiction, so I have some concerns about that part.

On the other hand, it seems to me those are the kinds of issues that we need to work towards and to complete in a conference.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York (Mr. LAFALCE), the distinguished ranking member of the Committee on Financial Services.

Mr. LAFALCE. Mr. Speaker, I thank the distinguished ranking member of the Committee on the Judiciary, the gentleman from Michigan, for yielding me this time.

I think the best thing that this House could have done would have been to accept the Senate-passed bill as is. Pass it today and send it today to the President for his signature. I cannot think of anything else that would have restored as much integrity to our publicly traded markets, as much confidence on the part not just of the American public but the world in the integrity of those markets of that single act.

I would still like to hear President Bush call for passage by the House of Representatives of the bill that passed the Senate 97 to 0. Now, my colleagues like to talk about bipartisanship. Ninety-seven to 0 is unanimous with respect to every single Senator from both parties that was voting: They were able to forge a consensus. If they can forge a consensus 97 to 0, and if the President really wants to sign a bill before the end of July, as he said, that is the approach we should take.

Now, unfortunately, the House Republican leadership does not want to take that approach. However, there are alternatives. We could take up the Senate bill and offer one or two amendments to it. If there are four or five or six amendments, my colleagues could offer those four, five, or six amendments to the Senate bill and send it back to them. And that would be a very expeditious way of proceeding.

What I am fearful of is that this conference that my colleagues want to go to could be two things: Number one, long and drawn-out; and, number two, an opportunity to dilute behind the scenes and closed doors the strong provisions of the Senate bill. And we are not going to let that happen.

I want to put everyone on notice right now that on every single issue where we differ from the Senate I intend to have total transparency. There will be a revelation to the world of every single issue and difference and every single vote within conference. There will be total transparency so that they can understand what we are trying to do to protect the American investor and what others might be trying to do.

Now, with respect to the motion of the gentleman from Michigan, what he is trying to do is say that at the very least there are certain provisions within the Senate-passed bill that the House should recede to. It is basically the Sarbanes-Leahy bill, and the ranking member of the House Committee on the Judiciary has focused in on the Leahy provisions, particularly section 802, dealing with the criminal penalties for the altering of documents; section 805, mandating a review of the Federal sentencing guidelines; section 806, creating a private cause of action for whistleblowers if they are in any way discriminated against, a civil cause of action; and very, very importantly, a statute of limitations, because the statute of limitations issue that we are talking about was not dealt with by this Congress. The statements that we did were erroneous.

We need to deal with that because, unfortunately, by the time we discovered the wrongdoing that took place in the Enron case, in the Global Crossing case, in the WorldCom case, et cetera, the private cause of action may have seen the statute of limitations expire. So we need more time. That is an essential and important provision.

There is no reason whatsoever for opposing that. There is no reason whatsoever for opposing any of those provisions. And because of that, the distinguished gentleman from Michigan has said let us instruct the conferees to recede to the Senate on those issues.

If my colleagues oppose this motion to instruct, that means that they oppose those particular provisions within the Senate bill. Let there be no mistake about that. So the issues will be quite clear when we do go to a vote on this motion to instruct.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Speaker, I want to commend the chairman on his work in gaining corporate responsibility. I would not stand here today if I did not believe at the end of our session here before recess that we would not have a bill on the President's desk.

Just in the last few weeks, the Dow Jones Industrial saw about a 10 percent decline. Yesterday, just yesterday alone, $152 billion of wealth disappeared; $2.6 trillion just this year alone. Those are big numbers.

Now, we heard from my good friends in the minority about process and what goes where and about a very long drawn-out process. But let me say this: The other day I had a woman at a coffee shop who came in, an elderly woman, and she could not get three words into her story before she started to shake and tears started running down her face because she was just informed that they would not be able to retire in 12 months. Too much of their 401(k), too much of their retirement, was gone.

Now, let me tell my colleagues what they understand, my colleagues. They do not care whose name is on the bill. They do not care what process is used to get to the bill. They want trust, they want accountability, and they want somebody to pay the price for stealing. They understand that whether someone wears an Armani suit or a cheap ski mask, if they steal money, they ought to go to jail. They want us to understand that they are counting on us in Congress, not Republicans, not Democrats, not a name on a bill, but all of us to stand up together and say we are going to reinvigorate the trust and confidence in our American markets.

I think today that will happen. I am very, very pleased at what this chairman has done and what he has committed to do, and with that, I intend to enter into a colloquy with the chairman.

The gentleman from Ohio is going to be the chairman of the conference committee that will hear this matter in conference; is that not true?

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. ROGERS of Michigan. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, the gentleman is correct.

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Speaker, the gentleman has made a commitment, and today a very public commitment, that by the end of next week, before this House recesses, the President will have on his desk to sign into law a bill that upholds the principles that the gentleman has fought so hard for these last few months on corporate responsibility; is that correct?

□ 1730

Mr. OXLEY. Mr. Speaker, if the gentleman will continue to yield, I want to assure the gentleman from Michigan (Mr. ROGERS) that is exactly what our goal is. The President has tasked this Congress to get a bill to his desk before the August break. The Speaker has done the same. I am committed, and I think all of us are committed, to getting that job done.

Mr. ROGERS of Michigan. Mr. Speaker, reclaiming my time, we have heard from the gentleman who has given his commitment. Do not talk about months; do not talk about weeks. Do not let one more tear fall on the statement of a 401(k) plan. Let us work together and get this done for the people of America. It is too important.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I am delighted that the gentleman wants to work together. That is what we want to do. We want to instruct the conferees to accept these specific four provisions of the Senate-passed bill. If the gentleman wants to work with us, let us vote for this motion to instruct the conferees, unless the gentleman opposes those four provisions. If he opposes those four provisions, or portions of them, the gentleman should come to the floor and tell us what he opposes about them. I do not think that we could be any more cooperative than that.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, we talk about important bills, and this is one of them. I support the gentleman from Ohio (Mr. OXLEY), who has worked very hard on this issue. I also want to see this issue resolved by next week.

The Democrats talk about the Sarbanes bill as if it is the end-all, be-all bill on this floor. While I was on the Senate floor watching the debate, they resisted Senator MCCAIN's efforts to include language relative to options. They did a procedural effort to stop calculating options in the corporate environment. So it is not perfect.

But I have been given assurances by the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, that he is going to go into the room and see that we have a final working product with Senator SARBANES, who I have a great deal of respect for on this issue; and I believe that is going to be accomplished.

The gentleman from Michigan (Mr. ROGERS) enunciated some of the concerns that I have as well: stabilizing the markets, ensuring integrity, bringing relief.

I will not be supporting the motion to instruct. I am going to work with our chairman, and I hope that we will deliver a product. But I can assure the House that we will be back on Wednesday and Thursday if it is not delivered to the floor for a vote.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I have great regard for the gentleman from Florida (Mr. FOLEY), and even higher regard because of the letter which he sent out saying, let us send something to the President's desk before we recess, and if need be, the Senate-passed bill. I thank the gentleman very much for that.

With respect to the issue of the expensing of stock options, I would love to have FASB promulgate a requirement that stock options be expensed. I have called for that since 1994 when FASB recommended that. But unfortunately, there was so much pressure within Congress to do that that FASB withdrew it as a mandate and merely said do it voluntarily. Only two companies in the world did it.

At the very least, the Senate bill does say to FASB reconsider that issue and if they think it should be mandated, mandate it. The House bill is absolutely silent on that. So if Members want the ranking member from Michigan to alter his motion to instruct the conferees to get them to accept that provision of the Senate bill, I will do what is within my power to get him to so amend that amendment.

The House bill is silent on the issue of expensing. We on this side of the aisle want FASB to reconsider it and not just recommend it, but require it, as Warren Buffitt says we should do, as Alan Greenspan says we should do, as Coca-Cola said they will do, as BankOne said they will do, and as the Republicans have repeatedly said, let us not do.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COX), a valuable member of our committee.

Mr. COX. Mr. Speaker, I have read carefully the very brief motion to instruct conferees and the underlying provisions of the Senate-passed bill that the House would recede were we to adopt this. I am surprised that the motion to instruct focuses on the criminal provisions of the House and the Senate bills respectively because it is well known that the House-passed bill that we adopted here earlier this week by a vote of 391 to 28 is much tougher than the Senate bill.

The specific provision concerning shredding of documents that this motion to instruct would have us adopt, we would recede to the Senate position, drop any disagreement with the Senate position, would have us adopting a 10-year maximum sentence for shredding documents. But just a few days ago by a vote of 391 to 28, virtually every Member sitting on the floor right now voted for a maximum sentence of 20 years.

I cannot understand why, if we want to be tough on corporate fraud, if we want to be tough on corporate wrongdoers, we would focus on this portion of the disagreement between the House and Senate bill and substitute the far-weaker provisions of the Senate bill.

The Senate bill provisions that we are asked to accept in this motion to instruct also include obstruction of justice penalties. The maximum penalty for obstruction of justice in the House-passed bill earlier this week is 20 years, significantly lengthening the provisions under existing law. What the Senate bill does on this point is ask the United States Sentencing Commission to review the sentencing guidelines and do what they think is necessary to deter offenders.

Adopting the far weaker provisions of the Senate bill in this respect, where we know that the criminal provisions enacted by this House are much tougher, makes no sense at all; and I regretfully must oppose this motion to instruct conferees.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to myself.

Mr. Speaker, I must say to the gentleman from California (Mr. COX) the conference is on the Sarbanes bill and the Oxley bill. This motion to instruct in no way changes anything in either of the two bills, and it merely adds some items in the unanimously reported Sarbanes bill.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. COX. Mr. Speaker, as a conferee, I certainly would urge, and I believe it is the general intent of all of the conferees in the House to urge, as the House position in this conference when it comes to criminal changes, criminal law changes, to urge the House-passed bill be included in the conference report.

Were we to adopt this motion to instruct, we would undermine that position of the House. We would be required to take the much weaker Senate provisions.

Mr. CONYERS. Mr. Speaker, all we want to do is add these four recommendations to the two bills. We are not diluting anything. There is no dilution in here. I just want the gentleman to understand what is going to conference and what it is we are giving instructions on.

Mr. COX. Mr. Speaker, if the gentleman will continue to yield, the dilution is moving from the House position of 20 years maximum sentence for shredding of documents and for obstruction of justice to 10 years.

Mr. CONYERS. Mr. Speaker, reclaiming my time, no, what we are dealing with is document retention. We deal with audit review, statute of limitations, whistleblower protection, and sentencing enhancement. If the gentleman from California (Mr. COX) is confused on this, there may be some other Members that are not clear on this.

We are talking about document retention, statute of limitations, whistleblower protection, and sentencing enhancement only. We are not reducing any time for shredding or anything else.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I apologize for attempting to create a partisan approach to dealing with a very real problem.

I think all of us are intending to make a good bill better. But one of the things we have to be cautious about is in examining the Senate bill which has been brought over is to be reminded that article I, section 7 of the Constitution says, "All bills for raising revenue shall originate in the House of Representatives."

Referring back to the opening of the 102nd Congress in which the CONGRESSIONAL RECORD reflected, and I will have this made a part of the RECORD at the appropriate time, "jurisdictional concepts related to clause 5(b) of rule XXI."

This is an attempt to create a systematic approach: "In order to provide guidance concerning the referral of bills to assist committees in staying within their appropriate jurisdictions under rule X, to assist committees without jurisdiction overtax or revenue measures, it should be emphasized that the constitutional prerogative of the House to originate revenue measures will continue to be viewed broadly to include any meaningful revenue proposal that the Senate may attempt to originate."

I would tell the gentleman in reviewing the Sarbanes bill, especially in terms of the scope of the board under section 108 on page 61 and the requirement that the fees be raised necessary to meet the needs of the board, when we take those two provisions along with several others, there is no narrowly defined board which would produce narrowly defined fees which could meet the test of fees.

When we have a broadly based, loosely determined jurisdiction of a board and a commitment that mandatory fees cover all of those activities, we begin to slip into the area Speaker FOLEY rightly referred to as broadly to include any revenue proposals.

The constitutional and institutional prerogative of the House I would hope everyone would want to maintain. We do not want to delay producing this product, given the commitment of the chairman on a very tight time line. We just want to make note of the fact that we believe there is a possibility of this violation. As this bill goes to committee, I understand that the Committee on Ways and Means will be conferees. We will work with everyone to make sure that the fees that are called fees in the Senate truly are fees that do not violate the revenue provision and/or we will work together to produce a product which the House participates in, protecting our constitutional prerogative to generate revenue. The goal is not to stop progress, but to make sure that it is done correctly.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I heard this morning that the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, had contemplating issuing what is known as a "blue slip." That is a document that would have precluded the House from going to conference with the Senate on the Senate-passed bill on the grounds that it had violated a constitutional prerogative. I disagree with his interpretation, but I am pleased he realized if he did proceed on the course that he outlined this morning, the issuance of his blue slip would have caused thousands of pink slips across America.

☐ 1745

However, my primary concern now that he has not exercised what he intended to is what will happen when we go to conference because the chairman of the conference committee has publicly said within the past several days that what we need is a cooling-off period, a cooling-off period. Rather than expeditious action, he has publicly called for, it has been printed in the paper, a cooling-off period. We need action. We need action before we recess. We are not cool right now. We are hot. We want action while we are hot because that is when we can get a tough law on the books. We do not need time to cool off. We need to pass a tough bill and send it to President Bush and he will sign whatever we send to his desk and we know that.

Let us make it good and tough.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. LAFALCE. On your time.

Mr. THOMAS. He has not dropped the gavel, so I assume there is still time on your time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Does the gentleman from New York yield back the time?

Mr. LAFALCE. Yes, to the gentleman from Michigan.

Mr. THOMAS. So the gentleman voluntarily removes the time.

Mr. LAFALCE. I would be pleased to answer any questions on your time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I was not interested in yielding to ask the gentleman a question but merely to clarify that the gentleman is adept at putting words in people's mouths. I did not say that I was going to blue-slip it. At no time did I say I was going to blue-slip it. The determination was whether or not it was blue-slippable, and those are two entirely different things, in an attempt to create an appearance that we were slowing the process down. All I wanted to do was make sure that constitutionally and institutionally we did it correctly. I would assume that would be in the interest of all Members of the House, in fact, anyone who raised their hands and swore to uphold the Constitution.

I thank the gentleman for yielding the time.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I think one thing that we all know about all Americans of whatever party today is that they do not want weak tea, they want strong medicine to deal with this economic crisis. They do not want passivity. They want action. The majority party is giving them nothing but delay and inaction. Did the majority party just pass a 97–0 vote in the Senate? No. Will they accept this substantive amendment to give instructions to the committee? No.

But let me tell you what the majority party leadership did 5 days ago. I read about this in the newspaper today. The leadership of the Committee on Energy and Commerce in the midst of this economic crisis had time to send a letter to the Public Broadcasting System to complain about the introduction of a new Muppet character. It was not the gentleman from Ohio (Mr. OXLEY), of course, but the chair of another committee. These majority party Members did not think it was right to have a new Muppet that had HIV. They thought that was a problem they had to deal with.

Well, America wants an answer to this question. If the majority party can stand up to Sesame Street, why will you not stand up to Wall Street? If you will deal with the Cookie Monster, why will you not deal effectively with the moral monsters who are stealing America's retirement accounts? That is what America wants to know. It is not enough simply to say you are going to increase jail time, and I will tell you why not. When we were dealing with the terrorist threat to our air system, did we think our job was done by just saying everybody that blows up an airplane gets 50 years instead of 25 years? Did we consider our job done when we did that? No. We developed a security system to check to make sure terrorists do not get into our airplanes, and now we need a security system to make sure fiscal terrorists are not taking over the boardroom.

You need to join with us and stop messing around with Sesame Street and start taking on Wall Street to save people's retirement incomes.

Mr. OXLEY. Mr. Speaker, may I inquire of the time remaining on both sides?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. OXLEY) has 18½ minutes and the gentleman from Michigan (Mr. CONYERS) has 9½ minutes.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE), a valuable member of the Committee on Financial Services.

Mr. CASTLE. Mr. Speaker, I rise a little bit perplexed about the motion to instruct conferees in that it appears to me that the Republican-passed legislation calls for stricter penalties from a group which is asking for stronger measures which does not seem quite right.

But that is not really what I want to speak to right now. What I want to speak to is the fact that the Senate, in my judgment, has adopted a very good piece of legislation, at least as I know it, the Sarbanes legislation. But there are some questions about that that I certainly have and that I think conferees would have. The House has also passed, in my judgment, a very good piece of legislation, frankly not that dissimilar from the Sarbanes legislation, and it also has provisions in it that I think should be looked at. I believe that the right way to do this is to go to conference, not to instruct the conferees as to what to do. Let them make their decisions on the timetable as outlined by the chairman of the Committee on Financial Services here before us tonight to look at some of the House issues as well as some of the Senate issues. The real-time disclosure, in my judgment, is a real issue. The FAIR account to return money to investors which the gentleman from Louisiana (Mr. BAKER) got done, I think, is very significant. This whole issue of the criminal penalties we are talking about right now is very significant. I believe that we can do this.

I believe we can adopt good legislation with good committee review, with good staff review, something I agree with that has been said on the other side, the President will sign this, and when he does, I believe we will have legislation which the investors in America can look to and say, this will help us make our decisions about the future of corporate America.

Mr. CONYERS. Mr. Speaker, the manager on the other side has twice as much time remaining as I do.

Mr. OXLEY. Is that a good thing or a bad thing?

Mr. Speaker, I am pleased to yield 2½ minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, this morning I asked Chairman Greenspan a question which is directly relevant to this motion to instruct. My question was:

"Do you think that increasing the ability for individuals to sue corporations for inaccuracies in their statements is a proper goal for this kind of legislation?"

I am quoting now from Mr. GREENspan's response. He said:

> I think not. I don't see that has any particular economic advantage. The issue is a technical one and a complex one and should be really under the aegis of the Securities and Exchange Commission. And they should be taking the actions which are required to redress inaccuracies, mistakes, malfeasance and the like. I don't think you gain anything by increasing the ability to sue the company. Because remember that it is shareholders suing other shareholders. That is what it is.

Republicans are committed to strengthening this legislation in conference by including real-time disclosures, adding a provision to ensure that investors and not trial lawyers are the beneficiaries of funds recovered from corporate malfeasance and adding tougher penalties to corporate fraud.

If the Senate had not dragged its feet, this bill would have been done months ago. But for whatever cynical reasons they have, the Senate chose to play politics with this issue. And for the same cynical reasons, the Democratic leadership is threatening to drag out any conference for 2 months.

Mr. Speaker, I ask my colleagues on both sides of this aisle to join us in voting against this motion to instruct and for a stronger corporate accountability law.

Mr. CONYERS. Mr. Speaker, the manager on the other side still has twice as much time left as we do.

Mr. OXLEY. Then we will continue to plod on.

Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), the distinguished chairman of the Subcommittee on Capital Markets.

Mr. BAKER. I thank the gentleman for yielding me this time.

Mr. Speaker, this is a very important matter that the House must consider this evening and I do appreciate the recommendations the gentleman has made in his motion to instruct. All of those issues will certainly be the subject of conversation during the course of this important conference.

I am surprised that the motion to instruct did not include the specific directions to adopt the provisions contained in the Senate-passed bill, the Sarbanes bill, since it has been viewed by so many as being the answer to the problem. But as is always the case, no legislative product is the perfect answer for all issues. I respectfully suggest that the Sarbanes bill is no different. There is work to do.

For example, the Sarbanes bill does not make provision with regard to real-time material fact disclosure. What does that mean? That means if the corporate manager knows it and it is something that affects shareholder value and he does not report it until the 90-day quarterly earnings statement, you have terrific volatility in the markets and prices go up and down. We unfortunately are seeing that to great extreme today. That is why companies all too often file what they call pro forma returns. They get something out early that is not really a total disclosure, but it is something to help defuse the volatility of the quarterly earnings report.

Real-time material disclosure says if you know it, you got to tell it. If you know it and you do not tell it, that is a criminal penalty. If you did not know it but should have, that is a civil penalty. We want to talk about what real-time material fact disclosure means. That will be the subject of the conference, because that is in the House-passed bill. But what has not been in either bill, and unfortunately I did not see in the motion to instruct, is to do something to actually help the defrauded investor. It troubles me to get home in the evening, turn on the TV and see some millionaire in Mississippi with an $18 million mansion who has run a corporation into the ground and we cannot get the house because he built it with shareholder-defrauded funds. We want to include a fair fund that says within the SEC all fines, all penalties, everything that is disgorged, that means taken back from the guys who have gotten ill-gotten gains, put it into an account and then let the SEC be bound to distribute 90 percent or more of it to the defrauded investor. With all due respect, we are not into a transfer of wealth. We do not want to take corporate wealth and give it to trial lawyer wealth by simply creating new causes of action while the shareholder sits on the sidelines and watches assets be spent in the courts while the fellow is down in the Caribbean enjoying a $150-million-a-year lifestyle. We need to fix that, and we are going to.

In summary, the gentleman from California (Mr. COX) talked about the fact that the House-passed criminal penalties for inappropriate conduct are twice what are now suggested by the motion to instruct. If you want to be tough on criminals, if you want to get the money back and you want to give information to investors, please defeat this motion to instruct.

Mr. CONYERS. Mr. Speaker, the other side now has 12 minutes remaining and I have 9. I would recommend that they continue to carry on the debate.

Mr. OXLEY. Mr. Speaker, I think the gentleman from Michigan has several speakers available in the bullpen. We are prepared to listen to their dulcet tones.

The SPEAKER pro tempore. Does the gentleman from Michigan wish to yield time? Who wishes to yield time?

Mr. OXLEY. Mr. Speaker, we have no further speakers at this time. I would ask the gentleman if he is prepared to yield back the balance of his time and we could proceed to a vote.

Mr. CONYERS. Mr. Speaker, I am very pleased to yield 4 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House.

Mr. DINGELL. Mr. Speaker, I have heard the name Alan Greenspan mentioned on several occasions in connection with this. This is what Alan had to say yesterday:

"Even a small increase in the likelihood of large, possibly criminal penalties for egregious misbehavior of CEOs can have profoundly important effects on all aspects of corporate governance because the fulcrum of governance is the chief executive officer."

What he is saying there is, put them in jail, they will understand. The problem here is that the bill that the House has passed has nothing on criminal penalties but the bill passed yesterday does. The motion to instruct takes care of that problem.

I think we ought to adopt the Senate bill because the Senate bill is a good bill. The House bill is nothing. It is pablum. On the 30th of June, the New York Times warned that there is a staggering rush of corporate debacles and that they are raising a disturbing question: Can capitalism survive the capitalists themselves? It should be noted the market has fallen, it should be noted the dollar is weaker, all of which, experts say, is related to the behavior of Global Crossing, Enron, Adelphia, WorldCom and others. We need strong medicine, not a placebo.

The Washington Post has pointed out that a distinguished member of this body is punting because apparently my friends on the other side are not real anxious to pass strong bills and strong legislation like the Senate. The House-passed bill purports to set up a lot of things, including a regulatory board, to oversee accountants, but it really does not mean anything because it really does not do anything.

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The House-passed bill does not require an outright halt of the peddling of lucrative consulting services to audit clients and the conflicts that ensue.

The House-passed bill does nothing about the revolving door between auditors and clients.

The House-passed bill ducks many important issues such as the conflicts of interest between Wall Street analysts and credit-rating agencies, by relegating them to, guess what? Studies. The bill is replete with studies, but there is no strong Federal policy direction here.

Let us look at what the Senate bill does. It improves the timeliness, quality, and transparency of financial reporting. It creates an independent Public Company Accounting Oversight Board to strengthen the regulation of, guess who? The accountants, who certainly need regulation, because there has been more misbehavior there than there has been outside of a red light district. It would ban consulting services that clearly compromise the independence of accountants and auditors. It would enhance the accounting standards process and provide independent funding for the FASB. It would increase accountability of corporate officers and boards of directors. It would require objectivity and independence by securities analysts, and it would enhance SEC resources and authority. It would increase criminal penalties for corporate securities frauds that figured in the recent chain of debacles.

Mr. Speaker, it is time we passed strong legislation to stop the misbehavior in the corporate behavior and in the accounting profession that is shaking the faith of the American people and that is raising real questions about the viability of our securities markets and the well-being of capitalism in this country.

Vote for the motion to instruct and vote for a strong bill. We have had enough nonsense in this place.

On June 30, 2002, the New York Times warned that the "staggering rush of corporate debacles is raising a disturbing question: can capitalism survive the capitalists themselves?"

Confidence in U.S. capitalism has been dealt a severe blow. U.S. investors and foreign investors are fleeing stocks in droves.

From Enron to Global Crossing, Adelphia to WorldCom, and many more examples, companies lied about their performance, the watchdogs slept or were complicit, and investors and employees paid a dear price.

To cure this problem, we need strong medicine, not a placebo.

On April 24, 2002, a Washington Post editorial entitled "Mr. Oxley Punts" lambasted the House bill for taking "half-steps and side-steps."

The House-passed bill purports to step up a new regulatory board to oversee and discipline accountants, which everybody agrees is needed, but the bill includes no details on the board's staffing and budget and provides inadequate disciplinary authority.

The House-passed bill stops short of requiring an outright halt to the peddling of lucrative consulting services to audit clients and the conflicts that ensue.

The House-passed bill also says nothing about the revolving door between auditors and their clients.

The House-passed bill ducks many important issues, such as the conflicts of interest among Wall Street analysts and credit rating agencies, by allegating them to studies. The bill is replete with studies rather than the strong Congressional policy direction that is called for.

I therefore urge the House to accept the Sarbanes bill.

It would: Improve the timeliness, quality, and transparency of financial reporting; create an independent Public Company Accounting Oversight Board to strengthen regulation of, and where appropriate disciplinary actions against, firms that audit public companies; ban the consulting services that clearly compromise auditor independence; enhance the accounting standards setting process and provide independent funding for FASB; increase the accountability of corporate officers and boards of directors; require objectivity and independence by securities analysts; enhance SEC resources and authority; and increase criminal penalities for the corporate and securities frauds that figured in the recent chain of debacles.

This morning's Washington Post reports on the front page for all the world to see that "House Republicans say they will try to delay, and likely dilute, some of the proposed changes."

Shame on the GOP! And shame on the House if decent Members in this body allow such a travesty to occur.

[From the Washington Post, April 24, 2002]

MR. OXLEY PUNTS

The House is due to vote today on a package of post-Enron reforms prepared by Rep. Michael Oxley (R-Ohio), chairman of the Financial Services Committee. The bill is a troubling sign of how easily the momentum for reform can be dissipated. Though it purports to deal with many of the audit reforms discussed during dozens of congressional hearings since January, it actually pulls its punches. Democrats will get a chance to offer some better provisions in the House today, but nobody expects them to pass. It will be up to the Senate, if it can ever terminate its interminable debates on energy, to produce a stronger bill.

The Oxley bill purports to set up a new regulatory board to oversee and discipline auditors, which everybody agrees is needed. But it would not give this body powers of subpoena, which would undermine its authority; and it would allow auditors to fill some of the board's positions, which could undermine its independence. The details of the new board would be left to the Securities and Exchange Commission, which would have to decide among other things how the new body would be funded. Given the SEC's vulnerability to industry lobbying, there is a danger that the result will fall short of what's needed.

The Oxley bill takes other half-steps and side-steps. It directs the SEC to prohibit auditors from performing certain types of consulting services for their clients, but it stops short of requiring an outright halt to consulting and the conflicts of interest that ensue. The bill says nothing about the revolving door between auditors and their clients—Enron, for example hired several Arthur Andersen auditors—even though auditors who are angling for jobs from their customers are unlikely to show much independence from them. The bill is also silent on the rotation of audit firms. If an auditor knew that, after a few years, a different outside auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest.

The Oxley bill does at least boost the SEC's budget substantially, and it has the right mood music. But given the outrage that Congress has expressed about the Enron scandal, that is a weak effort. Just this week, Enron announced that it had discovered a further $14 billion worth of assets in its balance sheet that don't really exist after all, and it confessed that a "material portion" of this overstatement was due to accounting irregularities. This kind of confession further undermines investors' trust in financial disclosures. Congress needs to restore that trust with tough legislation. Perhaps the Senate can deliver if the House won't.

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Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

I am constantly amazed. The minority party offered a motion to instruct that basically tells the House we ought to accept lower penalties instead of the higher penalties that this House passed just this week. I am frankly stunned at that. I want to make it clear that House Republicans support a much stronger bill and reject the kind of efforts to weaken this bill that our friends on the other side have projected.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I rise in opposition to the motion to instruct conferees.

This motion would hinder the House's ability to have a meaningful conference with the Senate on H.R. 3763. The Senate does not equate to perfection. We have two bodies here, and this is an important issue.

Mr. Speaker, it is also important that we have a conference on this important bill so that we have the ability to negotiate on all the issues contained in this bill. It is vital to protecting investors and creating the best legislation we can possibly bring to the American people.

For example, there are some provisions in the House-passed version that are not in the Senate version that I believe will increase investor protections, transparency, and improve disclosure. The gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Chairman BAKER) have done a good job, and a lot of time has been put into this.

But let me just say something in addition to what the gentleman from Ohio (Chairman OXLEY) just mentioned. I think this is very important for anybody who has any doubt. We had a 391 to 28 vote here. Mr. Speaker, H.R. 5118, in the Senate, increased the penalties for fraud to a maximum of 10 years. The House increases the penalties for mail and wire fraud from 5 to 20 years and creates a new securities fraud section and carries a maximum penalty of 25; 25 versus 10. I think we are a little bit better, obviously.

The Senate, the maximum penalty for destruction of records and documents is 10 years. The House strengthens laws that criminalize document shredding and other forms of obstruction of justice and provides a maximum of 20 years. The Senate 10, House 0.

Under the Senate version, the maximum penalty a corporate officer would face is a $1 million fine and 10 years in prison. The House, $5 million and 20 years. One and 10; 5 and 20.

The last provision I wanted to mention does not change the current penalties of a maximum fine of $1 million and 10 years in prison; corporations would still only face a maximum fine of $2.5 million. The House increases the criminal penalties for those who file false statements with the Securities and Exchange Commission to a maximum penalty of $5 million and 20 years; 1 and 10 in the Senate, 5 and 20 in the House.

It is so clear, and the rhetoric is unbelievable here tonight. We are the strong version. We are the version that is right for the American people. Going to a conference does not do anything except help us to get these tough penalties to protect the American people and to make this a better bill.

I surely urge that people rise in opposition to this conference report.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, passing the Senate bill is but the first step. Hopefully, the conferees will go beyond even the Senate bill or will take up new legislation in the Committee on Financial Services.

The Senate bill contains the provisions that reauthorize the SEC and contains provisions that talk about expensing stock options. We can no longer leave this issue to the Financial Accounting Standards Board that acknowledged long ago that it was best to expense stock options and then refused to make that mandatory. Nor can we allow the recent situation where consumers can compare Coke and Pepsi, but investors cannot, because the two similar companies use different methods of accounting for stock options.

Further, in reauthorizing the SEC, we must demand that they actually read the filings of the largest 1,000 companies, something that their chairman refuses to even consider because he has adopted a "hear no evil, see no evil" approach.

Mr. Speaker, we need to go far beyond even the Senate bill.

Mr. OXLEY. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I support the motion to go to conference because it affirms the supremacy of the Leahy provisions. The President asked Congress to get him a bill before the August recess. We could easily get him a good bill by the weekend if we took up and passed the Sarbanes bill.

The problems facing corporate America are extremely serious; and I think the head of Goldman Sachs, Henry Paulson, put it well when he said accounting at Enron "bore little or no relationship to economic reality."

The Sarbanes bill will restore the credibility of the accounting industry by creating a truly independent accounting oversight board that will not be dominated by the industry. The Sarbanes bill will not solve all of corporate America's problems overnight, but it will send a strong message to investors that Congress did not succumb to special interests but, rather, worked very hard at the public interest in building in more accountability.

Mr. Speaker, I urge my colleagues to support the motion to instruct, and I hope that we will report back to the floor the Sarbanes bill.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Speaker, I would like to engage the gentleman from California (Mr. COX) on the question of the criminal penalties issue which seems to be still in some contention.

As I understand the Sensenbrenner bill we passed in the House on yesterday, there was a provision that required the CEO of a corporation to certify the accuracy of financial statements and also to certify the accuracy of reports to the Securities and Exchange Commission.

In both of those cases, it was my understanding that the penalties that were adopted in that matter dramatically exceeded the prior existing criminal penalties for misrepresentation.

Is that the gentleman's understanding?

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. BAKER. I yield to the gentleman from California.

Mr. COX. Mr. Speaker, that is certainly correct.

Mr. BAKER. It was also my understanding that there were additional personal liabilities associated with underperformance or inappropriate conduct that either did not exist in prior law or that the penalties associated with that conduct were dramatically increased.

Is the gentleman familiar with those provisions, and is that accurate?

Mr. COX. Mr. Speaker, I am certainly familiar with those provisions, and that is accurate as well. The gentleman might also point out that not only were the provisions of H.R. 5113 adopted almost unanimously by this House just a few days ago, not only are those provisions much tougher than existing law, but they are significantly tougher than comparable provisions in the Senate legislation.

Mr. BAKER. Mr. Speaker, may I further inquire of the gentleman, once an individual is found to have violated or has committed criminal conduct and found guilty, that the consequence of that activity is to be banned from holding even a corporate or board position for the individual's life?

Mr. COX. That is correct.

Mr. BAKER. Can the gentleman tell me how we could go further in protecting shareholders and constituents with any additional penalties or assessments that would be appropriate in light of the egregious examples we have seen in the marketplace?

Mr. COX. Well, certainly the scope of this legislation on both the House and the Senate side gives ample opportunity to do other things, to reinforce these criminal law provisions; but the motion to instruct that is before us is addressed only to the criminal law provision.

Mr. BAKER. Mr. Speaker, I appreciate the gentleman's explanation. It is clear to me we have taken a very bold step, and I cannot understand anyone who would want to reduce these provisions.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Ohio (Mr. OXLEY) has 8 minutes remaining, and the gentleman from Michigan (Mr. CONYERS) has 3½ minutes remaining and the right to close.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. ROYCE), our good friend and a valuable member of the Committee on Financial Services.

Mr. ROYCE. Mr. Speaker, one of the points I was going to make was that prior to the passage of our CAARTA bill, during a Committee on Financial Services meeting, I asked the SEC chairman if the SEC had all of the tools that it needed to return the ill-gotten gains from dishonest executives to the shareholders of these companies. His response was that it would be helpful if Congress were to include language that made it clear that it is Congress's intent that the SEC have the power to return these stolen funds to the shareholders.

Now, the Federal Account for Investor Restitution language, as proposed by the gentleman from Louisiana (Mr. BAKER), would effectively accomplish this task.

Now, currently, the Securities and Exchange Commission has the power to disgorge these funds from corrupt managers. However, the funds rarely make it back to the shareholders who deserve them. They are currently distributed in an ad hoc fashion. I would say less than 20 percent are returned to the shareholders today, with the rest going to the plaintiffs, attorneys' fees, and to the Treasury's general revenue.

So this proposal that is offered by the gentleman from Louisiana (Mr. BAKER) to the conference would ensure that all of these ill-gotten gains be returned to the people who deserve them, and that is the individual shareholders and pension investors who were bilked out of their money through corporate malfeasance. It is another reason why we need to move forward with that conference.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I want to commend my colleagues on both sides of the aisle for the work that we have done in this House over the last several weeks to move to the position that we find ourselves in today, going to conference with the Senate on this very important legislation. The President is urging us to act quickly, and we intend to do so. It is our intention on the majority side, and I think it is the intention also on the minority side, to get a bill as soon as possible, certainly by the end of the next week when we adjourn for our August recess.

To that end, in the House of Representatives we have enacted not one, but two bills addressed to this subject; indeed, three bills, because we have included pension reform as well. Several months ago we responded to the President's call for 10 major reforms addressed to corporate wrongdoing. We waited quite a long time for a response from the other body, but now we have it and we are moving quickly.

It should be the position of this House when we go to conference to back the toughest criminal penalties that we can impose as a Nation on those who would undermine our markets, on those who would steal from investors.

☐ 1815

That is what this House voted to do just a few days ago. H.R. 5118, produced by the Committee on the Judiciary, which ought to, in our standing committee structure, write criminal laws, that bill passed 391 to 28; and it should be the position of this House. We all voted for it.

I am very puzzled that we would now have a motion to instruct that says, abandon the House position articulated by all of us here on the floor, produced in a quality fashion by the ranking member on the Committee on the Judiciary, who is here with us on the floor today, and by the gentleman from Wisconsin (Chairman SENSENBRENNER); abandon those positions, those tough positions, and instead insert essentially identical positions in the House bill that differ only in that they have half the penalty that we approved here earlier this week.

There is not much to this motion to instruct. It says that "the House should recede from disagreement with section 802, section 804, section 805, and section 806 of the Senate bill."

Section 802 of the Senate bill concerns criminal penalties for shredding documents, and the penalty is very clearly stated in section 802 of the Senate bill. It is 10 years. The provision in our House-passed bill, a bill that I think the ranking member on the Committee on the Judiciary takes pride in, that I take pride in, I voted for it, I supported it here on the floor, that identical provision in the House-passed bill is 20 years. That should be our position in conference.

The same with obstruction of justice. The same with all of the things covered in this motion to instruct, which are addressed essentially to the criminal features only of this otherwise broad legislation.

I strongly oppose, therefore, this motion to instruct and urge my colleagues to do likewise.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 1 minute to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, there has never been a period in U.S. history when the economy grew and the stock market shrank at the same time. They have always gone hand in hand.

I think our government must inject a sense of calm into our capital markets, and it is going to take more than just cheerleading. It is actually going to require Congress to pass legislation that not only removes the ability for the greedy to cut corners and defraud investors, but make sure they go to prison, just like any other thief. I think we are on the right track.

Four months ago, the gentleman from New York (Mr. LAFALCE) offered a substitute to the accounting reform bill in the House that sought to do many of the things the other body has agreed to do unanimously. Four months ago, the proposal of the gentleman from New York (Mr. LAFALCE) did not get a single vote from our colleagues on the other side. But yesterday morning, most Members voted for a bill that would send someone to prison for 25 years for securities fraud, and I think that is good. I think we are on the right path.

But the Members know and I know that tougher criminal penalties for wrongdoing are not the solutions to the market's deficiencies. So let us get serious and let us make it nearly impossible to pass fraudulent information along to investors. Let us have more transparencies. Let us clean up the mess. Let us get a bill to the President next week and restore the trust and confidence of the public in the markets.

Mr. OXLEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this has been an enlightening debate. Let me just review the bidding, if I can. Back when Enron became a household word, and all of the scandals that developed, the Committee on Financial Services was the first committee last year in December to hold a hearing on the Enron scandal.

Our committee, the committee of jurisdiction, passed strong legislation, the CAARTA legislation, Corporate and Auditing Accountability, Responsibility, and Transparency Act. It passed in the committee with a strong bipartisan vote, dealing with corporate scandals, dealing with accounting irregularities, directing our efforts at the real problem while preserving the ability of the marketplace to work very effectively.

Then the bill came to the floor. It passed by a large margin, 334 to 90; 119 Democrats wisely voted for that piece of legislation. We waited and we waited and we waited for the other body to act, almost 3 months. Finally, when the WorldCom bombshell hit, the Senate finally decided to act, and act they did.

In large measure, the Sarbanes bill and our bill are very, very similar. I applaud Senator SARBANES, Chairman SARBANES, for his hard work and his dedication. We are now in a process where we all ought to be, and that is to reconcile the differences between the House and Senate. That is what we do here. That is what legislators do.

Those who would say we need to take the Senate bill lock, stock, and barrel and not worry about any of the potential problems in that bill, I think, denigrate our committee and the legislative process.

So we are here to say, let us do regular order. Let us get to a conference. We can do this. The President said, let us get this done before the August recess. The Speaker said, get this done before the August recess. We are going to get this done before the August recess; and we are going to have a good, bipartisan bill that we can take to the President for his signature and send a strong signal to the American people and the investing public that the Congress has done everything possible to restore confidence to our public markets.

We should take a great deal of pride on both sides of the aisle for the way that we have addressed this issue. I have been proud to work with my good friend, the gentleman from New York (Mr. LAFALCE), the ranking member. We have had our differences of opinion; but at the same time, he has been a very strong advocate for doing the kind of reform necessary. I salute him in his last few months here in this great body.

We are on the verge of a very positive approach to the scandals that have enveloped corporate America. Let us move on to the conference. Let us reject this unwise motion and move to a conference in good order.

Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 1 minute to the gentlewoman from California (Ms. WATERS), a member of the Committee on the Judiciary.

Ms. WATERS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I do not delight in having to reveal that the Chairs of both the Committee on Financial Services and the Committee on the Judiciary just did not do their job.

My friend on the other side of the aisle, the gentleman from Ohio (Mr. OXLEY), is a good chairman; and I suppose if he had had the support of his Republican conference perhaps he could have had a stronger bill; but the bill that we passed was just too weak.

The gentleman from New York (Mr. LAFALCE) never had an opportunity in the Committee on Financial Services to really get his amendments set forth in the way that he would like. The gentleman from Wisconsin (Mr. SENSENBRENNER) did not even take up the bill that the gentleman from Michigan (Mr. CONYERS) was trying so desperately, begging him to take up, so we could have a stronger response to corporate crime.

Now we have an opportunity to instruct the conferees. The Sensenbrenner bill that surfaced yesterday does not do what we need to have done. It is not even in conference. As a matter of fact, they would want us to believe that it is tougher because they have some tougher sentencing, but all of the issues that have been identified here in the Conyers motion are what we all need to embrace. Unless we do it, we are not sincere about doing something about corporate crime.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to our distinguished colleague, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, vote for this motion. If the Republican bill were an SEC filing, it almost would be actionable under the antifraud provisions of the Federal securities laws. It is a fraud. It masquerades as an investor protection bill when, in actuality, it is an accountant and corporate wrongdoer protection act.

What does it not have in it? Well, it does not have an accounting board that is controlled by independent auditors. It is all controlled by the accounting industry, just as the Securities and Exchange Commission is now controlled by the accounting industry.

It does not separate auditing from consulting when an auditing firm, an accounting firm, goes inside to audit a firm.

It does not separate investment banking from analyst recommendations in terms of the compensation which is received by the analyst, a conflict of interest that is creating all of the problems.

What does this motion to recommit say? It says we should extend from 3 years to 5 years the time that people have to go in and do something about fraud, because we are now talking about fraud committed in 1998 and 1999, and the statute of limitations has run. We must extend it out to 5 years. Ordinary investors are only finding out now how valueless their investments were.

In addition, the auditors must keep the work paper for 5 years so people can bring action against them, whether it be criminal or civil.

Vote for this meaningful motion if Members want to protect American investors against further fraud in the American marketplace.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 207, nays 218, not voting 9, as follows:

[Roll No. 313]

YEAS—207

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NAYS—218

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)

Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Blagojevich
Bonior
Ganske
Lantos
Lipinski
Mascara
McHugh
Nadler
Traficant

☐ 1849

Messrs. McINNIS, SIMMONS and BASS changed their vote from "yea" to "nay."

Mrs. TAUSCHER, Ms. HOOLEY of Oregon and Ms. WATERS changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the Chair appoints the following conferees:

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Messrs. OXLEY, BAKER, ROYCE, NEY, Mrs. KELLY, Messrs. COX, LAFALCE, FRANK, KANJORSKI and Ms. WATERS.

Provided that Mr. SHOWS is appointed in lieu of Ms. WATERS for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference.

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, JOHNSON of Texas and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference: Messrs. TAUZIN, GREENWOOD and DINGELL.

From the Committee on the Judiciary, for consideration of section 105 and titles 8 and 9 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and CONYERS.

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, McCRERY and RANGEL.

There was no objection.

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 483 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5093.

☐ 1852

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and, for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 1 by the gentleman from Oregon (Mr. BLUMENAUER) had been postponed, and the bill was open from page 126, line 15 through page 135, line 13.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 16 by Mr. TANCREDO of Colorado;

Amendment No. 2 by Mrs. CAPPS of California;

Amendment No. 1 by Mr. BLUMENAUER of Oregon.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

### AMENDMENT NO. 16 OFFERED BY MR. TANCREDO

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 16 offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 123, noes 300, not voting 11, as follows:

[Roll No. 314]

AYES—123

Aderholt
Akin
Armey
Bachus
Barr
Bartlett
Barton
Bilirakis
Blunt
Boehner
Boozman
Brady (TX)
Bryant
Burton
Buyer
Callahan
Cannon
Cantor
Chabot
Chambliss
Coble
Combest
Cooksey
Cox
Crane
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Emerson
Everett
Flake
Forbes
Goode
Goodlatte
Graves
Green (WI)
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hostettler
Hulshof
Hunter
Hyde
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
King (NY)
Kingston
Lewis (KY)
Linder
Lucas (KY)
Manzullo
McCrery
McInnis
Miller, Gary
Miller, Jeff
Myrick
Ney
Norwood
Osborne
Otter
Paul
Pence
Petri
Pickering
Pitts
Pombo
Putnam
Radanovich
Rehberg
Riley
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shows
Shuster
Skelton
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Toomey
Vitter
Watkins (OK)
Weldon (FL)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—300

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Calvert
Camp
Capito
Capps
Capuano

Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Costello
Coyne
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Graham
Granger
Green (TX)
Greenwood
Grucci
Gutierrez
Hall (OH)
Harman
Hart
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Simmons
Simpson
Skeen
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sununu
Sweeney
Tanner
Tauscher
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walden
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn
Young (FL)

### NOT VOTING—11

Blagojevich
Bonior
Johnson (CT)
LaFalce
Lantos
Lipinski
Mascara
McHugh
Nadler
Smith (MI)
Traficant

□ 1910

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 2 OFFERED BY MRS. CAPPS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. CAPPS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 252, noes 172, not voting 10, as follows:

[Roll No. 315]

### AYES—252

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Berman
Bilirakis
Bishop
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Calvert
Capito
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Goss
Green (WI)
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hunter
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Langevin
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Miller, Jeff
Mink
Moore
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Oberstar
Obey
Olver
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Platts
Pomeroy
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Rivers
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sánchez
Sanders
Sawyer
Saxton
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sununu
Sweeney
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Woolsey
Wu
Wynn
Young (FL)

### NOES—172

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Barton
Bass
Bentsen
Berry
Biggert
Blunt
Boehner
Bonilla
Boozman
Brady (TX)
Brown (SC)
Bryant
Burton
Buyer
Callahan
Camp
Cannon
Cantor
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Crane
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Deal
DeLay
DeMint
Doolittle
Duncan
Edwards
Emerson
Everett
Flake
Fletcher
Foley
Forbes
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Graham
Granger
Graves
Green (TX)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hyde
Isakson
Istook
Jenkins
John
Johnson, Sam
Keller
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
Lampson
Latham
LaTourette
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Mollohan
Moran (KS)
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Otter
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ryun (KS)
Sandlin
Schrock
Sessions
Shadegg
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stenholm
Stump
Sullivan
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)

Weller,
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—10

Bereuter
Blagojevich
Bonior
Lantos
Lipinski
Mascara
McHugh
Nadler
Schaffer
Traficant

☐ 1919

Mr. ROGERS of Michigan changed his vote from "aye" to "no."

Mr. CRAMER changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 1 OFFERED BY MR. BLUMENAUER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 1 offered by the gentleman from Oregon (Mr. BLUMENAUER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 201, noes 223, not voting 10, as follows:

[Roll No. 316]

AYES—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Biggert
Blumenauer
Boehlert
Borski
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Ehlers
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Larson (CT)
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—223

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Berry
Bilirakis
Bishop
Blunt
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Etheridge
Everett
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
John
Johnson, Sam
Jones (NC)
Keller
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Bereuter
Blagojevich
Bonior
Istook
Lantos
Lipinski
Mascara
McHugh
Nadler
Traficant

☐ 1927

Mrs. JOHNSON of Connecticut changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHADEGG:

At the end of the bill, before the short title, insert the following new section:

SEC. . The Regional Forester for a National Forest System Region may exempt a specific project involving the removal of trees with a diameter of 12 inches or less on land owned or managed by the Forest Service in that Region from the applicability of the citizen suit authority contained in section 11(g) of the Endangered Species Act of 1973 (16 U.S.C. 1540(g)) if the Regional Forester finds (and certifies these findings to the Chief of the Forest Service and Congress) that, on the basis of the best scientific information available, (1) a wildfire in the area of the project is likely to cause extreme harm to the forest ecosystem and destroy human life and dwellings and (2) the project is necessary to prevent these occurrences.

☐ 1930

Mr. GEORGE MILLER of California. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. SHADEGG. Mr. Chairman, this amendment is designed to address a problem with the Endangered Species Act and the fires that are raging across the West at the present time. Right now citizens' suits are being brought to prevent the clearing of these forests by thinning out the dead wood and thinning out the smaller trees. As a result of the fact that we are not doing this removal of smaller trees, we are encouraging crown fires which destroy entire areas.

In my State of Arizona, we have just had a fire that has destroyed 500,000 areas. If you look at areas that have been treated, it appears as though the fire never even went through those areas. If you look at areas where they were not treated, there has been absolute, total devastation. This simply says that a regional forest ranger could make a determination that a wildfire in the area of the project to thin out the fire load was likely to cause extreme harm to the forest ecosystem and destroy human life and dwellings and that the project was necessary to prevent these occurrences. Once that finding had been made and had been certified to the United States Congress, then the thinning could occur without there being a citizen lawsuit to block the thinning from occurring.

Mr. Chairman, I yield to the gentleman from Utah to discuss the issue as well.

Mr. HANSEN. I thank the gentleman for yielding.

Mr. Chairman, let me point out as the chairman of the Committee on Resources, one of the biggest problems we have in America and the West at this particular time is called fuel load. Fuel load is when we have dead trees and we have all kinds of trash and no one is allowing prescription, to go in and take these out on prescribed fires. We have case after case all over America where forests are burning to the ground. Last year I went with staff and we went to about four Western States. You have got fuel load up to your armpits. All you need is one strike of lightning and you have got a fire. Never have we had fires like this. Last year I asked all of the forest supervisors, are we going to have more fires? They said, "Count on it. You'll never have as many fires as you have."

Why is this? It is because we cannot go in and we cannot seem to find a position that we can clear it out like we have since 1905. In one committee we had one of the large environmental groups there. She said, "We don't believe in this. We shouldn't do it that way. It's not nature's way."

I think this amendment is an excellent amendment. Somebody has got to wake up, be honest, and have guts enough to look some of these guys in the face and say, we have to clean the forests or we are going to burn the West down; and we are well on the way to doing it.

Mr. SHADEGG. Mr. Chairman, I yield to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I rise in support of the gentleman's amendment and in opposition to the point of order.

The gentleman's amendment allows the management of the forest by thinning and protection of life and health of the forest by local control, that is, the Forest Service regional forester. I think it is a commonsense amendment, I cannot imagine anybody would be against it, and so I support the gentleman's amendment.

Mr. SHADEGG. Mr. Chairman, it seems to me this is, in fact, a commonsense amendment. It does not say that you can never bring such a lawsuit. It is limited to certain circumstances where they are cutting small diameter trees, trees of less than 12 inches. It would not allow commercial logging. It simply allows a reasonable thinning of the forest to stop the kind of devastating crown fires that have destroyed Arizona recently and have stricken California and Colorado and many other States. It is, I believe, an absolute essential requirement that we allow this thinning to occur so that we do not burn our forests down. When you look at the language of the amendment, which requires a rather extreme certification that the wildfire is likely to cause extreme harm to the forest ecosystem, destroy human life and dwellings, and that the project is necessary to prevent these occurrences, I believe it is a very, very reasonable amendment. It is designed to protect our forests and strike a balance, because this would not block a citizen lawsuit if they wanted to thin larger trees. It would not block a citizen lawsuit under other circumstances where these certifications were not made. It is a middle ground that I think makes a great deal of sense.

I would urge that the point of order be withdrawn so that the Members can at least look at this policy. Our forests are burning to the ground. We lost over 460 homes of people that live in those forests in Arizona in the absence of being able to strike a reasonable policy, and I think this does. This requires a certification. It requires that the certification be that there be extreme harm and that it is going to destroy human life and dwellings and that the thinning project is necessary. In Arizona, the environmental groups have agreed that they support thinning so long as it does not go to large-diameter, old-growth trees. Indeed they have rushed to say we are willing to support this kind of policy as long as it is limited.

I was urged not to put a diameter limit in this because I was told, look, if you put a diameter limit in it, we may need to cut some larger trees. I said, no, I want a bright line so that those who oppose allowing timber harvesting to go forward under this policy will not be able to see this as a ruse. It is not a ruse. It is a genuine effort by us to strike a reasoned policy that will allow thinning to go forward without extended legal battles where the thinning is not a commercial logging effort but is, rather, necessary to save the forest and to prevent these kind of crown fires.

The evidence is absolutely clear that these crown fires take off and occur only when there is the underlying load, fuel load, which has not been removed. In the strongest possible terms, it seems to me that this is a reasonable compromise which I would urge upon this Congress and upon our colleagues that they withdraw the point of order.

### POINT OF ORDER

Mr. GEORGE MILLER of California. Mr. Chairman, I insist upon my point of order. I make a point of order against the amendment because it proposes to change existing law and imposes new duties and constitutes legislation on an appropriation bill and therefore violates clause 2 of rule XXI. The rule states, in pertinent part, "No amendment to a general appropriation bill shall be in order if changing existing law." The amendment imposes additional duties.

Therefore, I ask for a ruling of the Chair.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. KINGSTON. Mr. Chairman, I ask to speak on the point.

I just want to say I have read this amendment and listened to a lot of testimony over the past several years about the need to do this sort of thing in our forests. When you look at the common sense of preserving the life of the forest, the ecosystem and helping save human lives and dwellings, this is a reasonable, commonsense approach. I would ask my friend from California to reconsider the point of order simply because I do think this is something in the interest of forest management that our agencies need. I regret that the gentleman from Arizona did not have it in the committee because I think that we would certainly try to work with you on the committee. But I hope the gentleman will withdraw the point of order because I think this is common sense, and I am an Easterner, but I have lots of forests, tree farms, as we would call them in my district, and forest management is part of the responsibility and it is a great, I would say, intercourse between man and nature and great involvement.

I think this is a good amendment. I hope that we can keep it in the bill and that the gentleman would withdraw his point.

Mr. DICKS. Mr. Chairman, I hate to do this, but we are supposed to be talking about the point of order, not the substance of the amendment. I would hope that the gentlemen would restrict their discussion to the point of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. HANSEN. Mr. Chairman, I would hope the gentleman from California would withdraw the point of order. I think it is substantive when you talk about these particular areas. We have a situation out there, and we had the BLM director.

Mr. DICKS. Mr. Chairman, I have to raise a point of order here. The gentleman is not discussing the point of order. You have to have some way to talk about the rules of the House. He is not addressing the point of order.

The CHAIRMAN. Members are reminded to confine their remarks to the point of order.

The gentleman may proceed.

Mr. HANSEN. Parliamentary inquiry. Would you define "point of order" for us?

The CHAIRMAN. The gentleman will proceed on the point of order. The point of order is whether the amendment legislates on an appropriation bill.

Mr. GEORGE MILLER of California. Mr. Chairman, I ask for a ruling on my point of order.

The CHAIRMAN. The gentleman from Utah may proceed.

Mr. HANSEN. I will say that we legislate on appropriations on a very regular basis around here. I think that my good friend from Washington is making something out of nothing, but that is his privilege to do that. But I would just like to say this.

Mr. DICKS. The gentleman is willing to exercise his points of order when he needs them.

The CHAIRMAN. The gentleman from Washington is not recognized.

Mr. HANSEN. You have a situation with the BLM and the gentleman from Washington (Mr. DICKS) got up, he talked about show us a place where you can save money yesterday, he was talking of one, and here is one that comes out. The new director of BLM stands up and says, "I'm spending close to 50 percent of my money on litigation."

Mr. DICKS. Mr. Chairman, I insist that the gentleman speak on the point of order and not talk about irrelevancies.

The CHAIRMAN. If there is no further debate on the point of order, the Chair is prepared to rule.

The amendment proposes to convey new authority to the Executive and, as such, constitutes legislation in violation of clause 2(c) of rule XXI. The point of order is sustained.

AMENDMENT OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. NORTON:

At the end of the bill (before the short title), insert the following:

SEC. ___. None of the funds made available in this Act may be used for the planning, design, or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the Committees on Appropriations.

Ms. NORTON. Mr. Chairman, I believe this is a noncontroversial amendment. It is language identical to the language included in six previous appropriations bills. It makes sure that Pennsylvania Avenue, for 200 years America's Main Street, does not become a park without Congress having some say in it, that it would not be an administrative matter that the Park Service should simply be allowed to go ahead and do.

It has been offered every year in the past by the distinguished former chair of this subcommittee, the gentleman from Ohio (Mr. REGULA). I understand it has been cleared with the present chair, the gentleman from New Mexico (Mr. SKEEN), and with ranking members of the full committee and of the subcommittee on our side. I want to make clear that it has no security impact. All during the time this amendment has been in force, all 6 years, the White House has proceeded to on Pennsylvania Avenue put up the appropriate security. If you go there now, they have the same contraption that goes up and down that we have to come into the Senate and House side of the House.

While I am on the floor, I want to explain why I did not offer an amendment on the payment of rent by Wilson Center at the Ronald Reagan Building to the Federal building fund. I have been assured of discussions going on now to accomplish what my amendment seeks, so I will hold it in abeyance for the time being.

This is a noncontroversial amendment. I simply ask that we reinsert the amendment that has previously been in the appropriation for the last 6 years.

Mr. SKEEN. Mr. Chairman, we accept the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON).

The amendment was agreed to.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

We just recently were talking about this issue of fuel load which is a very sensitive issue to those of us in the West. We are seeing the West burn up. It is a very important thing. I remember yesterday when some people were talking about the idea of show us where you can save money. The new director of BLM is a lady by the name of Kathleen Clark. Kathleen Clark is a very bright lady. She was head of the natural resources department in the State of Utah. She has had all kinds of experience. We had her before the committee of which I chair of Natural Resources. She made an interesting statement. She said that she spends almost 50 percent of her budget fighting lawsuits put in by extreme environmental people. That was very interesting to us.

Then we turned and asked the question also to Dale Bosworth, the new chief of the Forest Service. His is not that high, but it is pretty high. We are sitting here worried about the lands of America. What are we going to do to take care of this thing? How are we going to clean this forest? How are we going to get rid of this fuel load? So all this money we are putting up, we are turning around and paying it to attorneys. Around here, attorneys' retirement plans are a pretty big deal, it seems like. I have never seen such a waste of money, especially when they get on this rule 28. Win, lose or draw, they get paid 350 bucks an hour. I think that is really excessive. If we are going to take care of the forests, if we are going to take care of the public lands, if we are going to take care of these areas, somebody in Judiciary, this committee and others have got to have courage enough to start reining these people in. We can hardly go out spending all of this money that these CATs yesterday were talking about taking out. Look how much you could put into taking care of the forest if you did not do it this way. The judges, in effect, have taken over the public lands of America. Hardly qualified in my mind as I read many of their decisions to come up and explain what they feel is right in public lands.

I wish I had an hour, and on a special order I may do this, talking about some of the dumbest decisions I have ever read in my life where these people are telling us how to run the public lands of America.

□ 1945

The reclamation, the BLM, the forest service and services as this.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, this just jumps out at me that if the gentleman has been reading these decisions and we do not like the current law, which is what the judges are interpreting, the gentleman from Utah was in a wonderful position as chairman of the committee to try and do something about it, to clarify the law, or to make it clearer on some of these points.

Mr. HANSEN. Mr. Chairman, I appreciate those comments. Believe me, if the gentleman has watched what we have done in the committee, he would know that we have tried very diligently to do it, and we would sure like the gentleman's support.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the last word.

I want to take a moment to thank the gentleman from California (Mr. DICKS) and the gentleman from New Mexico (Chairman SKEEN) for securing funding for the Urban Park and Recreation Funding Program, known as UPAR, and for increasing the allocation for National Parks operation.

Since its inception in 1979, UPAR has provided over 1,400 grants to 42 States, Puerto Rico, and the District of Columbia for the revitalization of our urban and suburban parks and sports facilities and recreational facilities for young people throughout this country.

The President has zeroed out the UPAR program, and I am thankful to the gentleman from New Mexico (Chairman SKEEN) and the ranking member, the gentleman from Washington (Mr. DICKS), for restoring this funding for this critically important urban and suburban program.

This is a program that is sponsored by many, many parts of the private sector, from the sporting good manufacturers, pro sports and national league baseball, the NBA, the NFL, the

Women's National Basketball Association and so many others who have participated with this in this effort to revitalize these recreational opportunities in our cities and in our suburbs.

I also want to thank them, as I mentioned, for restoring and increasing of funds for the Park Service operations. Over 83 Members wrote to the committee asking for an increase in this, and they were able to secure an additional $118 million for Park Service operations, which are so vital to the operations of the Park Service and to continue to present the kind of experience that the American citizens and people from around the world expect when they visit these massive, world-famous national parks in our system.

I also want to take a moment just to recognize the gentleman from New Mexico (Chairman SKEEN), whom I have had the pleasure of serving with in Congress for these many years, and who I have found to be one of the really fun people in the Congress of the United States, who has been a gentleman whenever we have had our disagreements. I have had the chance to travel with him on the issues of trade and agriculture, between Mexico and the United States, and enjoyed listening to him and the information that he understood, given his long background of living on the border, if you will, and understanding the relationships between our two nations.

This is the final bill of his career; and I just want to thank him for all of his kindness, for his generosity, for hearing me out; not always granting my wishes, but at least hearing me out and being very fair about it. I thank the gentleman, and I thank him for his chairmanship of this committee and for his time served in Congress. It has been a joy to serve with the gentleman.

### AMENDMENT OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHADEGG:

At the end of the bill, preceding the short title, insert the following:

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available for "DEPARTMENT OF THE INTERIOR—Bureau of Land Management—Land Acquisition" and by increasing the amount made available for "DEPARTMENT OF THE INTERIOR—Bureau of Land Management—Wildland Fire Management" by $36,000,000 and $23,089,000 respectively.

Mr. SKEEN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 20 minutes to be evenly divided.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. DICKS. Mr. Chairman, reserving the right to object, does the gentleman think we need that much time on this amendment?

Mr. SHADEGG. Mr. Chairman, I certainly would agree with the gentleman from Washington that we will not need more, but we might need 20 minutes. I think it is a reasonable number.

Mr. DICKS. Mr. Chairman, continuing my reservation, could the gentleman state how many other speakers there will be on this amendment?

Mr. SHADEGG. I do not know.

Mr. DICKS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The gentleman from Arizona (Mr. SHADEGG) will control 10 minutes and the gentleman from New Mexico (Mr. SKEEN) will control 10 minutes.

The Chair recognizes the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume.

This is a straightforward amendment about prioritization. I have, as I indicated last night in my remarks, the greatest admiration both for the chairman of the overall committee and for the chairman of the subcommittee. I have worked with him since I got here. I know that in the process of drafting this bill they had to make many hard choices, but I believe that one of them has been misallocated.

The bill currently provides $23 million less for the Bureau of Land Management's budget for wildfire management than the current year allows. We have reduced the amount of money to fight wildfires. At the same time, we have increased the amount of money to acquire land to $49 million. I would suggest that this is a misprioritization of our resources.

In an age when we have seen outrageous fires across the West, in my State, as I mentioned a moment ago, we have lost half a million acres to wildfire, we are seeing a situation where we are reducing the amount of money to fight wildfires; but we are increasing the amount of money to buy land. It seems to me clearly imprudent to follow that course of conduct.

Now, the acquisition of land would mean that we are going to buy more land in the western United States, because the BLM operates exclusively in the western United States. What that means is that this $49 million that is in the bill currently to acquire more land will be used to buy even more Federal land.

I would suggest that that is a serious problem, that we do not need to acquire more land; but most importantly, we certainly do not need to acquire more Federal land in the eastern United States.

In my State of Arizona, there is no shortage of public land. The Federal Government owns 29 percent of all of the land in the United States, and 92 percent of that land is in the 12 Western States. In my State of Arizona, 83 percent of Arizona's landmass is owned by one level of the government or other, leaving only 17 percent of our land in public ownership. There are only 32 States that have higher percentages of public ownership than Arizona, and that is Alaska, which is 90 percent public owned, and Nevada, which is 87 percent publicly owned. I might add Utah is 79 percent publicly owned.

In contrast, the number of eastern States like Connecticut is only fourtenths Federal. New York is 1.4 percent Federal. We do not need at this moment in our history, with a war on and a battle over domestic terrorism, to be acquiring more Federal land, but we particularly do not need to do so at the expense of wildfire fighting. That should be obvious to anyone who has read the papers in the last month.

It may be true that we need to acquire some land, and my amendment does not take out all of the monies in this legislation to acquire additional land. Some $13 million is left in this legislation to buy more land. But it does say that we are going to transfer a portion of that $49 million to buy more land, leaving $13 million there, a portion of that $49 million to buy more land we are going to transfer over to fight wildfires. I would suggest that it is absolutely irrational to oppose this amendment.

Right now, again, I want to make this point, that there is an over-$23 million cut in the current bill for wildfire fighting. That is obviously an error. In this bill itself, there is a supplemental for this year of $700 million to add for firefighting this year. If it was not enough last year, and it clearly was not enough, and it was the Dicks amendment which added $700 million for wildfire fighting this year, how can it be rational to cut wildfire fighting next year by $23 million over the figure from this year, before we add the $700 million? It simply does not make any sense.

Nobody can stand here today and say that there is a dramatically smaller chance of wildfires next year. Nobody has that kind of crystal ball. Indeed, what we are told, Arizona is in one of the worst droughts in its history; the entire West is in one of the worst droughts in its history. The entire West is burning up from heat. Temperatures are way up in Washington, hotter than they are in my State of Arizona. And that is part of a long-term drought.

It is very obvious to me that we are going to need money to fight wildfires next year. I am simply saying that it does not make sense, when we are having to add in this very piece of legislation $700 million additional dollars to fight wildfires in the current fiscal year, that we would, at the same time, reduce the amount of money that we are allocating to fight wildfires in the coming year. Who can explain that? There is no reason to believe the drought is going to end; there is no reason to believe that the cost of fighting fires is going to go down. What we are doing is creating a situation where we will have to be back here on this floor the next time a devastating wildfire occurs finding more money for next year's budget because we simply underfunded it.

With all due respect to the members of the committee, I think they made a conscientious effort, but we ought to make priorities. It is literally irrational to spend all of this money for additional firefighting efforts this year, $700 million under the Dicks amendment, and cut $23 million next year. I simply say we restore that by taking that money from land acquisition.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to rise in opposition to the gentleman's amendment, but praise him for his concern about this. I have the same concerns and the same philosophy about this issue.

What I want to emphasize in my remarks, however, is that the subcommittee has led the way on the wildfire issue. For the forest service the subcommittee provided $146 million more than the President requested for wildfire. We added $5 million, over $5 million for the readiness and program management, which is really the money to get out there and fight these fires. We have $700 million additional in emergency spending for wildfires and fighting those within the system of the Interior Department, and we are at the President's budget request of $160 million for fire suppression operations.

I think the gentleman makes some very good points; and I am going to be real frank about it, because I come from the West, and I know we are worried about additional acquisitions that are not then properly accounted for within the system. In other words, proper management falls behind.

I will say, with respect to the gentleman's offset and the reduction, that if this land acquisition program reduction occurs, there will be a disruption in some of the agreed upon acquisitions that Members of this body, the House, and Members on both sides of the aisle, have looked at and agreed upon as a sensible acquisition, not an insensible one.

So I think we, again, feel as though the subcommittee has balanced this issue pretty carefully, and I really want to commend the gentleman for his sensitivity about fire issues, especially from his State and his concern in this amendment. Again, I reluctantly oppose it; but on the other hand, I oppose it because there is a substantial amount of money in the bill that the subcommittee looked at and the full committee looked at and felt was appropriate at a level that meets the needs of fire suppression.

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. NETHERCUTT. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, my only question is, this does reduce the amount of money for land acquisition, but it does not zero it out. I mean, the intention of the amendment was to say let us leave some money there and to recognize that we need to acquire some lands. There are things that need to happen in a timely fashion. It seems to me reasonable to delay some of those land acquisitions.

I guess I am asking, does the gentleman know what projects have to be delayed, what acquisitions would have to be delayed, based on the reduction contemplated in the legislation?

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Mr. NETHERCUTT. Reclaiming my time, Mr. Chairman, I do not know which would be delayed. That is part of the problem that we have, that there may be some agreed-upon acquisitions that the BLM and the Members and others, and the administration and others, feel are sensible and genuine. So that is part of the problem that we cannot identify them exactly.

Mr. SHADEGG. Mr. Chairman, I reserve the balance of my time.

Mr. DICKS. Mr. Chairman, will the gentleman from New Mexico (Mr. SKEEN) yield me time?

Mr. SKEEN. Yes. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I appreciate the gentleman from Arizona mentioning the fact that our committee, when we looked at this in the full committee, added $200 million for the BLM for this purpose as a 2002 supplemental.

I would like to see us in the supplemental, the one that is moving now in conference committee, and the administration suggested that we do that, add the $700 million in the 2002 conference so we will get the money back faster for the agencies, because they desperately need this money.

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, I certainly concur with the gentleman that the place for firefighting money is in the supplemental, which could become law literally next week.

Mr. DICKS. In a couple of days.

Mr. SHADEGG. In a couple of days, rather than leaving it in this bill, which is not likely, at best, to become law before October. So I join the gentleman.

Mr. DICKS. Reclaiming my time, Mr. Chairman, we are trying to do what the gentleman is suggesting, what the gentleman has suggested, that we need more money for firefighting. We do. The agencies are telling us that they have to borrow money from other accounts in order to pay for the firefighting; that they are going to be completely dislocated in the last quarter of this year because they have not got the resources. Once they give the money for firefighting, all kinds of other things are going to stop within the BLM and the forest service.

The gentleman has a stake in that, and I do. Many in this House have a stake in that. What I suggest to the gentleman, what I would suggest to the gentleman, is let us try to work on that issue with both of our leaderships on that committee to try to get the $700 million, it actually needs to be a couple more hundred million than that right now, into the supplemental.

What we do here in the land acquisition account is completely disrupt the program that the President of the United States sent up. The President asked for $44,686,000. The committee added a small amount of money.

There is, on page 21 of the report of the gentleman from Washington, the gentleman from Arizona, a list of the projects that will be affected, and these are all projects that I think are very well thought out. I notice there is one in Moses Lake, Washington, for example; one for Lewis and Washington Historic Trail in Montana; the Lewis and Clark National Historic Trail in Idaho.

These are well thought out and very important projects; so I would urge the gentleman, he has made his point. We want to help him on the firefighting deal, but do not go in and disrupt this other program and slash the money that the President asked for. Yes, there are a few congressional projects in here, but this is well thought out, well balanced.

The majority staff works with all the Members on this. This is not the place to take the money. What we should do, this should be emergency money. We should not have to take it out of this account. This should be emergency money.

Mr. SHADEGG. If the gentleman will continue to yield, Mr. Chairman, certainly I agree with the gentleman that this should be emergency money. I believe it belongs in the supplemental bill and not in this bill.

But that $700 million goes to this current fiscal year. What we are debating in my amendment is the funding for next fiscal year, where the committee has reduced the amount of money for wildfire fighting by $23 million. That is what I am trying to restore.

I would point out, the gentleman points out there is a list on page 21 of the report that shows the projects that need to be purchased, or that the committee has looked at purchasing; but no one of those projects is above the amount of money that I have left in the bill for land acquisition.

This simply would say that in the current circumstances, with the unbelievable fires we are having in the West, with Colorado burning up and Arizona burning up, that for next year, we go through and reprioritize this list, delay the acquisition of some of that land.

Mr. DICKS. Mr. Chairman, I get the gentleman's point.

Mr. SHADEGG. And fight fires.

Mr. NETHERCUTT. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Washington.

Mr. NETHERCUTT. I thank the gentleman for pointing out the list on page 21. As I look at it and see the Lewis and Clark National Historic Trail, that affects numerous States from Missouri westward, and I think that is a fair acquisition. I think it is necessary as we come up on the bicentennial.

We have the Lower Salmon River Area in Idaho of critical environmental concern. I think there has been some sensitivity about that whole issue. I do not think this list is the one to knock out, because it is agreed upon. They are necessary projects.

I would just point out, too, to my friends, the gentleman from Washington and the gentleman from Arizona, the President is $150 million above the fire plan. We have that 150 extra in. We are right where the President wants us to be in the budget request, so we are on budget. We are on target. We are even over with respect to the critical issues of fire suppression and fire assistance.

So, Mr. Chairman, I would urge that the amendment be defeated.

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I simply want to make the point that my colleague, the gentleman from Washington, and I complimented the committee for its effort to begin with, has pointed out some of these particular projects: the Lewis and Clark National Historic Trail. I simply want to make the point that project is only $1 million. The second project that he cited is also only $1 million.

We have left, under my amendment, a substantial sum of money in the bill so that we could go through and acquire much of this land in the current year as planned; and even with that, if we restored $23 million, we will probably have to come back here and put more money into wildfire fighting next year.

But I would simply say that it should be obvious to anyone, certainly it is obvious to the people of Arizona, that the devastation of these wildfires has not stopped and is not going to stop.

I would point out that my colleague on the opposite side of the aisle just fought us, at least his side of the aisle did, and objected to an effort by our side to allow a thinning of the forest, to allow us to clean out the fuel wood load so we would not have the devastating crown fires we now have.

Some of the Nation's best experts are in Arizona. Dr. Wally Covington of NAU has said the only way we can save these forests is to clean out the fire load, fuel load that is underneath them. Yet we just made an effort to try to do that, and it was blocked on a point of order by the other side.

If we cannot thin the forests, if we cannot take the advice of the experts like Dr. Wally Covington to avoid these wildfires, then we had better put the money behind fighting them. It is simply irrational, and I hope my colleagues in this Congress are listening carefully, it is simply irrational to add $700 million to firefighting this year and cut $23 million from wildfire fighting next year. What we are doing is we are putting the people who live in those forests at risk, and we are putting the firefighters who need that funding at risk, and we are putting the people who need these funds at risk.

Right now, we just heard my colleague, the gentleman from the other side, say that, by gosh, we should not put these firefighting funds at risk. It is desperate to get money into them. Well, if it is desperate to get money into them, it is irrational and I would say dangerous to take money out of them; to undercut, underfund next year's firefighting effort by $23 million, when we know this is a long-term drought; when we know we are not thinning the forest the way we need to. It simply makes no sense.

I have the greatest respect for the committee. I am simply saying we should not be buying millions of dollars of additional land that we cannot protect at the same time that we are bulldozing extra money into the current year. If we need $700 million more this year, by gosh, it is wrong to cut $23 million next year.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, I think the point that is being missed here is that this acquisition list for limited purposes, for conservation or preservation, will be managed, will be managed against wildfire. I think by doing that in this particular bill in this particular acquisition, we are going to assure that the Lewis and Clark Trail does not burn up. We are going to assure that, as acquisition comes, so does management. This is not just land that is being bought for public purposes. It is bought for purposes of a specific region, a specific area that goes or carries along with it the obligation to manage it, to protect it from wildfires.

So I would argue that it has a greater opportunity to be protected from wildfire on these particular lands than if it were otherwise acquired, or just left unacquired.

So I think we agree with the gentleman, and I think there is some validity to the argument that we can protect this property from wildfire by having it acquired.

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume.

First of all, I want to thank the participants in this debate for its collegial nature. I think we are debating very, very important issues. I know for the people of Arizona, for the people of Colorado, for the people of California, and indeed, for the people of the entire West, Washington and New Mexico and all of these States, these are critically important issues. I appreciate the debate.

My colleague, the gentleman from Washington, I paid a compliment to earlier. I think the committee struggled with these issues. I would simply argue that when this committee draft was put together, I do not know that we appreciated the dimension of this year's problems. I know this report was prepared very, very recently; and I know that the fire in Arizona literally was contained just a matter of a week or so ago.

With regard to the point my colleague just made with regard to we can protect the land we are acquiring, yes, I would certainly agree, we can protect the lands we are acquiring. But candidly, we cannot protect it by reducing the amount of money for wildfire fighting for the coming year by $23 million. It is simply irrational to say that we can protect it next year for $23 million less, but we need $700 million more this year.

I think for the people across America who understand this issue, certainly for my constituents in the West, they have to say, I would rather we acquired a little bit less, just acquire a little bit less, still go ahead and acquire the Lewis and Clark Trail, and I am just finishing the book on Lewis and Clark, "Undaunted Courage," so I certainly think we ought to protect those lands. But we can slow down the acquisition of more Federal land this year in this economic climate, just slow it down, not bring it to a stop, and put a little of that money back into wildfire fighting, so we knew that money was there when we needed it.

It simply makes no sense, and it literally cannot be justified, given the fires; and I know the Colorado fires recently broke out. They are a recent development. The committee may not have, thought through those. I know the California fires are relatively recent. I know the Arizona fires that have been devastating to my State and to 460 families who lost their homes, and to half a million acres of Arizona that is burned up and gone, I know those people would want to know that the money is not just there, the $700 million in the current year, but is going to be there next year. Because no one, again, I challenge my colleagues, either of my colleagues from Washington or anybody else on this floor, can say to me that they can establish that next year is going to be a less severe fire season than this year.

If it is not going to be, and they cannot prove it is going to be, we cannot plus it up by $700 million this year and pull it down by $23 million in the next year. We will be back at this issue. We should not do it this way. We ought to put the $23 million back in.

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, we have it. We have it.

Mr. Chairman, I would just say to the gentleman that I understand his concern. He has made a very valid point about the importance of proper funding, which this administration has refused to fund. Mitch Daniels should pull his head out of the sand and smell the smoke, okay? That is what happened: the West is burning. I quoted that from the gentleman from Wisconsin (Mr. OBEY), and he got it from Archie.

The bottom line here is we will try to take care of this in the conference between the House and Senate. I urge our colleagues not to destroy this other program which we need in order to do it. We have heard them, and we will help them in the conference. I think they ought to withdraw the amendment.

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, sometimes in this body we get to an issue that we want to flip a coin on and say, heads or tails, because we are genuinely confused. Sometimes that coin actually lands on the edge.

I have to say to my friend, the gentleman from Arizona, as I listened to his arguments, as I know my own philosophy on Federal land acquisition, the coin lands on a clear message that he has. I am going to support the Shadegg amendment. I believe he has proven the case. I think this is a worthwhile amendment with sincere reasons.

Should it fail, I will commit, as will the gentleman from Washington (Mr. DICKS), that we are going to try to work this out in conference. Should it pass, I will try to protect it in conference. I think the gentleman has a good amendment, and he has raised some excellent points.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Arizona (Mr. SHADEGG).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SHADEGG. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona (Mr. SHADEGG) will be postponed.

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Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have two amendments which I am not yet offering to insert two new sections related to the Everglades restoration effort. These sections are structured slightly differently but are functionally identical to the language included by the committee when it reported the bill to the House.

The first amendment would add a provision to require the Secretary of Interior to be a full partner in the interagency RECOVER team which oversees the hundreds of individual projects which make up the $8 billion Everglades restoration effort. My amendment is consistent with the long-held position of the Committee on Appropriations that if this project is to achieve true environmental restoration, the Secretary of Interior must be an equal partner with the Army Corps of Engineers and the Florida Water Management District.

The second amendment provides statutory authority necessary to resolve pending litigation against the Army Corps of Engineers and its implementation regarding the so-called Modified Water Deliveries Project, the heart of the restoration effort. This language is supported by Governor Jeb Bush, the Secretary of Interior, the Army Corps of Engineers and several prominent environmental organizations. This project, which involves acquisition within the 8.5 square mile area, has been controversial. However, after a lengthy public hearing process and supplemental EIS, a final decision was made in 2000 by the Army Corps of Engineers to adopt a compromise measure, alternative 6D. This action was supported by the Florida Water Management District and the Secretary of the Interior.

Alternative 6D was also formally adopted by the Congress in the WRDA 2000 Act. But notwithstanding this agreement, the file actions have been tied up in court and the language inserted by the committee and reinserted by amendment is absolutely necessary if Everglades renewal and water development in South Florida are to be successful.

It really upsets me to read today again in the Washington Post, there is a very good picture of the chairman of the Committee on Natural Resources, that because of maybe less than two or three dozen homes, we are standing in the way of this entire Florida restoration effort. And I will tell you, the gentleman from Washington is getting fed up. We are supposed to send them something like $8 billion in Federal money to fund this project. And if we cannot get them to at least have the courage to deal with this issue and to start this project moving forward, I think the committee has to seriously reconsider funding for the Florida project.

And what is happening here is that Members of the Florida delegation are quietly behind the scenes going to the chairman of the Committee on Transportation and Infrastructure, the chairman of the Committee on Natural Resources because politically they cannot stand up here and offer the amendment themselves. In order to get, in order to protect a handful of people in their district, they are subverting the whole process of moving forward with this project.

This is an important project. This may be the most important environmental restoration effort ever attempted. And if we cannot do this thing, if we cannot do mod 6, if we cannot make this initial start, then how are we ever going to move this project forward?

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS:

At the end of the bill; before the short title on page 135, insert the following new section:

SEC. . Of the amounts provided under the heading "NATIONAL PARK SERVICE, LAND ACQUISITION AND STATE ASSISTANCE", $20,000,000 may be for Federal grants, including Federal administrative expenses, to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of the lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed: *Provided further*, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new marching non-federal funds by the State, or are matched by the State pursuant to the cost-sharing provisions of section 316(b) of Public Law 104-303, and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades: *Provided further*, That none of the funds provided for the State assistance program may be used to establish a contingency fund: *Provided further*, That notwithstanding any other provision of law, funds provided in this Act and in prior Acts for project modifications by the Army Corps of Engineers pursuant in section 104 of the Everglades National Park Protection and Expansion Act of 1989 shall be made available to the Army Corps of Engineers, which shall implement without further delay Alternative 6D, including acquisition of lands and interests in lands, as generally described in the Central and Southern Florida Project, Modified Water Deliveries to Everglades National Park, Florida, 8.5 Square Mile Area, General Reevaluation Report and Final Supplemental Environmental Impact Statement, dated July 2000, for the purpose of providing a flood protection system for the 8.5 Square Mile Area.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. DICKS. Mr. Chairman, why do my colleagues object to this? The President, the Governor of Florida, the Corps of Engineers, the Department of Interior, all think this is necessary in order to move this project forward. Are we going to let a couple dozen people, and most of which I am told are prepared to sell their property, so it gets down to a handful of people, are we going to let that block this project?

I think the gentleman from Alaska who has been a great leader in terms of our efforts on the West Coast to return the salmon runs, I think of that and this as the two most important environmental efforts of our time. Why are we trying to block this?

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. There are two reasons. One is I am not terribly fond of what originally this Congress did about the Florida Everglades. This is one of the largest pits we have ever created as far as dollars and expenditures. And we have some difference of opinion from science about the benefit of what they are trying to do. I have heard this as Resources chairman.

Secondly, although small in number, there are about 200 people that are directly affected by the actions that you propose. Now, that may be small in number for a lot of people in this room, but I am one that believes that the individual is all-important, not the mass.

Mr. DICKS. The gentleman has answered the question. Let me ask this. If we are going to let a handful of people block this project, how are we going to complete this immense effort? How are we going to get that done if we cannot get this small initial project started?

Mr. YOUNG of Alaska. I think there are different alternatives. I think it can be done a different way. I am not convinced that this is the perfect way of doing it, as I mentioned to you. As long as, in fact, I have the opportunity to see a different way, I am going to try to have that happen.

Now, I know the sincerity of the gentleman. I do not doubt that, but I am not convinced that everybody is right in this issue. I have people from Florida calling me, talking to me, asking me to do this. And very frankly, just because there is 200 does not make the project that important if they are going to be adversely affected.

Mr. DICKS. I definitely disagree with the gentleman.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I would just reiterate what I said yesterday, that this is a major project. It is basically sold on the fact that we will restore the Everglades as a great national monument and part of our heritage, biological heritage. To not allow the Secretary of Interior to have a voice in the management of this project does not make any sense at all because it is fundamentally Interior. We have put in a billion dollars thus far from Interior. We are going to put 100 million in in this bill. And certainly the American people who are putting up the money with their taxes are doing this not because they care about Florida, but because they care about the Everglades. It is a great natural asset.

Unfortunately, the language as it would be at the moment is that the Corps of Engineers and the South Florida Development Association will be calling the shots. And what is the key to all of this? Water. And, therefore, the Secretary of Interior should have a voice in the access to the water because that is the thing that makes the Everglades what it is.

And, of course, on this land issue I thought that they had that resolved in the 8.5 square miles because they changed it so that only a limited number of houses are affected by it. But if we want to restore the Everglades, and that has been the basic premise of which all this has been done, we have to have the water and we have to have the Secretary of Interior playing a role in management.

Mr. DICKS. I will just say the final thing since the gentleman has covered my second amendment, and I think the gentleman from Alaska will object to both of them, I would let the gentleman now proceed with his point of order which I will concede.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I raise a point of order.

This amendment violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriation bill in violation of House rules.

The CHAIRMAN. Does any Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

The amendment waives existing law in violation of clause 2 of rule XXI.

The point of order is sustained.

AMENDMENT OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. . None of the funds made available in this Act may be used to provide any grant, loan, loan guarantee, contract, or other assistance to any entity (including a State or locality, but excluding any Federal entity) identified specifically by name as the recipient in a report of the Committee on Appropriations of the House of Representatives or the Senate, or in a joint explanatory statement of the committee of conference, accompanying this Act unless the entity is also identified specifically by name as the recipient in this Act.

Mr. DICKS. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman reserves a point of order.

The gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Chairman, this amendment is actually quite simple. We have a situation in Congress now, we have been spending the last full day, many, many hours trying to amend the Interior appropriations bill. This is the bill. There are very strict limits on what we can amend and what we can do because we can only amend the bill. The problem is most of the spending is actually directed not on the bill itself but in the committee report.

The committee report actually directs how a lot of the money is to be spent. The hard marks are in the bill. The soft marks are in the committee report.

The problem we have is once this bill passes through the House, passes through the Senate, and then comes to a House-Senate conference, we then have the bill which we in the House vote on and they vote on it in the Senate, we have to go up or down. We cannot go in and amend specific language. But, again, most of the spending is actually directed, not then by a committee report, but by a conference report. Ordinary run-of-the-mill Members, if you are not a member of Committee on Appropriations, really do not have a chance to go in and amend some of the most egregious pork barrel projects that are often part of the bill. And there are some doozies. We hear about them all the time.

□ 2030

We have little ability on the House floor either at this point or no ability when we vote on the House-Senate conference report to actually go in and amend and actually go to try to clean up some of these pork barrel projects. What this amendment simply says is the executive branch of government cannot spend money, cannot expend any of the money appropriated in the bill that is not expressly contained in the bill.

This does not get rid of earmarks. Earmarks are an important part of the congressional prerogative. The executive branch does not always know the best way to spend money, and Congress has the prerogative to direct that spending.

What this amendment simply says is that if we want to direct the spending, if we want to earmark the spending, do so in the bill, not in the conference report; and that will allow Members to go in and actually take that money out or move it around and not be limited to the very limited amount of money that we can actually direct or rescind or move around in the bill. We have to remember, most of the money is directed and earmarked through soft marks in the report language in the committee and then the conference report.

I think this amendment is very simple. It actually would shine a lot of sunshine on the process. This would allow Members of the House and the Senate, not just those on the Committee on Appropriations, but Members at large to actually go in and face that pork barrel spending and actually do something about it, not just tell their constituents, hey, I was forced with an up-or-down vote, I had to vote "yes" or I had to vote "no."

That is the amendment and I urge my colleagues to support it.

POINT OF ORDER

Mr. DICKS. Mr. Chairman, I make a point of order against the amendment, and I insist on my point of order because it proposes to change existing law and imposes new duties and constitutes legislation in an appropriation bill and, therefore, violates clause 2 of rule XXI.

The rule states in pertinent part, "No amendment to a general appropriation bill shall be in order if changing existing law the amendment imposes additional duties."

I ask for a ruling from the Chair.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. FLAKE. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The gentleman from Arizona is recognized.

Mr. FLAKE. Mr. Chairman, as I understand the rules of the House, a proposal constitutes legislating if it imposes an additional task or new task on the executive branch or a government official, such as having information that that government official does not currently have.

I would inquire of the Chair, is that the correct understanding of this provision?

The CHAIRMAN. The Chair is going to listen to arguments on the point of order, and then the Chair is going to rule.

Mr. FLAKE. Mr. Chairman, the amendment I have proposed only requires that a government official responsible for making grants or loans knows what is in the appropriation bill. Now I think we assume that those on the executive side actually read the bill. That is all that is required here. When they read the bill, they will know if this is report language or if it is language actually contained in the bill.

With this information, they are able to make that determination simply by reading the bill. I do not see how this imposes a new task on a government official.

If the Chair rules that my amendment is subject to a point of order because it proposes a new duty, then the Chair is ruling that a government official does not have the responsibility to actually read the bill. That is, I think, the least we can expect of government officials is that they actually read the bills that we pass.

I would submit that this should not be subject to a point of order. It is inconceivable that this body is deciding that government officials cannot actually read the report. I respectfully ask that the Chair does not sustain the point of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order? If not, the Chair is prepared to rule.

The gentleman from Washington (Mr. DICKS) makes a point of order that the amendment offered by the gentleman from Arizona (Mr. FLAKE) changes existing law in violation of clause 2 of rule XXI.

The amendment in pertinent part would require the examination of certain legislative reports to determine whether an entity is specifically identified by name. As indicated on page 802 of the House Rules and Manual, the burden is on the proponent of the amendment to prove that the amendment does not change existing law. In this instance, the proponent has been unable to prove the existence of a requirement in law requiring the examination of legislative reports by Federal agencies.

Accordingly, the point of order is sustained.

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am in support of the proposed interior appropriations, and I am including my statement in the RECORD and also a letter from deputy assistant Secretary David Cohen.

Mr. Chairman, the gentleman from California, Congressman DARRELL ISSA, has introduced two amendments to reduce considerably funding for my district of American Samoa. It is my understanding that there has been an exchange of communications between the Gentleman and the Governor of American Samoa. Specifically the gentleman's constituent has had an employment contract dispute with the American Samoa Government, and this matter has been ongoing for almost two years now.

Mr. Chairman, it is my understanding the gentleman has withdrawn his amendments, and that he will insert a statement for the record. I do appreciate the fact that the gentleman has decided not to introduce his amendments, but I would also like submit this statement to express my concerns on the proposed amendments.

I can appreciate the gentleman's concerns for his constituent, and I commend the gentleman for his efforts to look after the needs of his constituent. And every member should follow his good example.

Mr. Chairman, my concern for these two amendments is that the gentleman's constituent has not sought judicial adjudication for whatever rights he felt were not fulfilled by the American Samoa Government. To punish every man, woman, and child in my district by reducing critically needed funding as the gentleman's amendments proposed—is just simply unfair and not right.

This matter was never brought to the attention of the Interior Appropriations Subcommittee, as well as the Full Appropriations Committee. And the matter certainly has been reviewed by the appropriate authorizing committees.

Mr. Chairman, we have the courts to deal with contractual disputes between individuals and government entities. Our High Court in my district is the proper forum for my colleague's constituent to pursue his rights under the employment contract he agreed to with the American Samoa Government.

I submit the American Samoa Government does have budgetary and fiscal problems, but so does our federal government, the state of California and all other states and other territorial governments. But this is not an issue about fiscal management or mismanagement. It is an issue about making sure the constitutional rights of my colleague's constituent are protected. And I submit the constituent always was afforded an opportunity to take the matter to court, but he did not.. And for this basic reason, my colleague's amendments are not in order and should not be approved by this body.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, DC, July 16, 2002.*

Hon. C.W. BILL YOUNG,
*Chairman, Committee on Appropriations, House of Representatives, Washington, DC*

DEAR MR. CHAIRMAN: It has come to our attention that two amendments have been offered to the Department of the Interior's appropriations bill that would limit grants to the government of American Samoa for fiscal year 2003 to $22,012,058 (under one proposed amendment) or $23,012,058 (under the other proposed amendment). As you know, a total of $33,240,000 was earmarked for American Samoa's government operations and capital improvement projects for fiscal year 2002, and the same amount was requested by the Administration for these purposes for fiscal year 2003. Additionally, approximately $2,100,000 in technical assistance grants is provided to American Samoa through my office in a typical year. Therefore, the more severe of the two proposed amendments would have the effect of reducing appropriations to American Samoa for fiscal year 2002 to fiscal year 2003 by approximately $13,328,000 or by approximately 38%. Needless to say, such a drastic reduction would jeopardize essential projects that my office was supported for hospital improvements, new classrooms, water and wastewater systems, public safety equipment and other essential activities. Either of the proposed amendments would likely have a significant adverse impact on the health and safety of the people of American Samoa.

Please feel free to contact me at my office at 208-4736 should you or your staff have any questions.

Sincerely,

DAVID B. COHEN
*Deputy Assistant Secretary, for Insular Affairs.*

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. SHADEGG

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. SHADEGG) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 269, not voting 12, as follows:

[Roll No. 317]

AYES—153

Aderholt
Akin
Armey
Bachus
Baker
Barr
Bartlett
Barton
Bilirakis
Blunt
Boehner
Boozman
Brady (TX)
Bryant
Burr
Burton
Buyer
Cannon
Cantor
Chabot
Chambliss
Coble
Collins
Combest
Condit
Cooksey
Cox
Crane
Cubin
Culberson
Cunningham
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Emerson
Everett
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Horn
Hostettler
Hunter
Hyde
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Kolbe
Latham
Lewis (KY)
Linder
Lucas (OK)
Manzullo
Matheson
McCrery
McInnis
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Ney
Norwood
Nussle
Osborne
Ose
Otter
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pryce (OH)
Putnam
Radanovich
Rehberg
Reynolds
Riley
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shuster
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Toomey
Turner
Upton
Vitter
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Wicker
Wilson (NM)
Wilson (SC)

NOES—269

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Callahan
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Frank
Frelinghuysen
Frost
Gekas
Gephardt
Gilman
Gonzalez
Gordon
Granger
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayes
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Houghton
Hoyer
Hulshof
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Sherman
Shows
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sununu
Sweeney
Tanner
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walden
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Bereuter
Blagojevich
Bonior
Ehrlich
Lantos
Lipinski
Mascara
McHugh
Meehan
Nadler
Oxley
Traficant

☐ 2058

Mr. BRADY of Pennsylvania, Mr. QUINN, Ms. McCOLLUM, Ms. JACKSON-LEE of Texas, Mrs. JO ANN DAVIS of Virginia, and Mr. LUTHER changed their vote from "aye" to "no."

Mr. SHAYS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 2100

Mrs. WILSON of New Mexico. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it has been a long couple of days for all of us, and we are coming to the end of the Department of Interior appropriations bill, which will be the last appropriations bill with the gentleman from New Mexico (Mr. SKEEN) as the chairman of a subcommittee of this House.

Whenever I walk through the halls of the House and I pass by the statue of Will Rogers, I always think of JOE because Will Rogers is such a wonderful, funny man with a dry sense of humor who loved his country. JOE SKEEN is the same kind of guy. He is a gentleman with a dry sense of humor, almost as dry as New Mexico this year. He loves his country, he loves this House; and he has served it well. I think we should all show our thanks to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, will the gentlewoman yield?

Mrs. WILSON of New Mexico. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I thank the Members. Now sit down and go to work.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 2003".

Mr. UDALL of Colorado. Mr. Chairman, this is a good bill. I support it, and urge its passage by the House.

This bill is important for the whole country, of course, but it is particularly important for Colorado and other states that include large amounts of federal lands.

So, I am very appreciative of the hard work of Chairman JOE SKEEN, ranking Member NORM DICKS, and the other members of the Interior Subcommittee as well as Chairman YOUNG and ranking Member OBEY of the full Appropriations Committee.

In particular, I want to thank them for including in the bill $700 million in Fiscal Year 2002 emergency firefighting funds. As we in Colorado are all too aware, the combination of serious drought conditions and the results of a century's policy of suppressing all fires on federal lands has produced a series of extreme wildfires that have threatened the lives and property of thousands of people in our state and elsewhere.

As a result, the Forest Service, Bureau of Land Management, and other federal land-managing agencies have exhausted the funds budget for firefighting and have had to divert money from other important purposes to respond to the emergency conditions.

That was why last month, along with my Colorado colleagues, Representative HEFLEY, Representative DEGETTE, and Representative TANCREDO, and my cousin, Representative TOM UDALL of New Mexico, I wrote to Chairman YOUNG and Mr. OBEY, urging that the agencies be provided with emergency supplemental firefighting funds.

I thought then—and still think—that the best way to accomplish this would be to include the funds in the conference report on the emergency supplemental bill already passed in both Chambers. However, I understand that the Administration opposes that idea and therefore as an alternative the money has been included in this bill. I certainly support that, although I am concerned that the result may be to unnecessarily delay the provision of these vitally-needed funds to the agencies.

I also want to express my appreciation for inclusion of the bill of $4 million to enable the Forest Service to continue acquiring lands in the Beaver Brook area of Clear Creek County, in Colorado's Second Congressional District.

This tract encompasses almost the entire watershed of Beaver Brook, which flows into Clear Creek. The city of Golden originally acquired the lands as a potential source of water. However, it now wants to sell the lands so it can use the money for pressing municipal needs.

The Beaver Brook lands, nearly 6,000 acres in all, are important elk habitat and include pristine riparian areas and ponderosa pine stands that are comparatively rare in this part of Colorado. The tract also is a key part of a corridor of open and undeveloped lands linking the alpine terrain of the Mount Evans Wilderness with the foothills and piedmont of the Front Range area. In short, these lands provide scenic, recreational, and wildlife resources that are important to all Coloradans, and it is very important that they remain undeveloped—especially because our population growth is leading to increasing development throughout this part of the state.

The City of Golden—the property owner—is willing to sell the lands to the federal government so they can be added to the national forest. Clear Creek County, where the lands are located, also supports that acquisition, and the Forest Service has identified it as a high regional priority. The acquisition is also supported by a wide range of other individuals and groups in Colorado—and here in Washington, Representative TANCREDO and I have been working together on the idea as well.

Last week, I had the pleasure of attending a ceremony marking transfer of part of the lands to the United States for inclusion in the Arapaho National Forest. The funds provided in this bill will help maintain momentum as we move toward completion of this important acquisition.

The bill also includes a number of other items of particular importance to Colorado, including money for construction work at Rocky Mountain National Park and the Great Sand Dunes National Monument, funds to make the land acquisition that will set the stage for upgrading the Great Sand Dunes to National Park status, and funds for important work to further the protection of endangered species and the sound management of our natural resources.

Of course, no bill is perfect. But this bill is a good one and I urge its passage.

Mr. BLUMENAUER. Mr. Chairman, today I voted for the Appropriations Bill for the Department of the Interior and Related Agencies for the year FY 2003. It is not a perfect bill, but it includes many provisions that are important for Oregon and the rest of the country.

The bill appropriates a total of $20.4 billion, which includes an important $700 million for emergency fire fighting in the West. The bill includes an increase in funding over both the President's request and the appropriation for last year for important programs within the Bureau of Indian Affairs and the Indian Health Service. The bill also increases funding for the National Parks Service, which has a tremendous responsibility as caretaker of some or our nation's most valued natural, cultural, and historic resources that draw nearly 300 million visitors annually. I was also pleased to vote for a bill that provides $1.4 billion for conservation programs, $120 million more than what President Bush recommended. Finally, on the 100-year anniversary of the National Wildlife Refuge system, the bill provided a $60 million increase for the refuge system to $458 million.

I was pleased that the bill also provides funding for programs that are crucial to Oregon. We were able to secure $10 million and $2.5 million to purchase land from willing sellers in the Columbia River Gorge and the Sandy River watershed, respectively. The bill increases funding to help fish in the Pacific Northwest, providing $4 million for fish screens and $20 million for additional fish passage projects. It also provides $500,000 for the Columbia River Estuary Research program at the OGI School of Science and Engineering.

This bill was also improved on the floor. Amendments on the floor increased funding for the National Endowment for the Humanities that will help improve our federal commitment to the arts, which make a community vibrant, unique and lively. On the floor the House also voted to increase funding for the Energy Star Program and to prohibit funding for new oil drilling activity on the coast of California. Finally, adjustments were made to the bill on the floor to remove provisions that would be at best troubling, and possibly destructive to, the Native American community. More importantly, a strong commitment was made by the appropriators and members to work together to fashion a solution to the long ignored Native American trust issues.

Unfortunately, an amendment I introduced that would have helped improve the situation in the Klamath Basin did not pass. The amendment would have help solveed the inherent conflicting priorities and competition over scarce basin water by farmers, endangered species, wildlife refuges, and Native Americans. The amendment would have also helped make farming on the Lower Klamath and Tule Lake Wildlife Refuges more consistent with farming on other refuges around the country by prohibiting new leases from growing row crops or alfalfa. I pledge to continue to work with my colleagues in Oregon and California to address the shortage of water and habitat degradation in the Klamath basin.

Overall, I believe this is a good bill for Oregon and for the United States.

Mr. HOLT. Mr. Chairman, as a Member of the National Parks Subcommittee in Congress, I have made the protection of our National Parks one of my priorities in Congress. Our National Parks are our national treasures, and belong to each and every American.

Each year millions of American families enjoy the fresh air, natural splendor, and diverse wildlife of our National Parks. If we are to preserve our Parks for future generations, however, we must invest the resources necessary for their continued preservation and maintenance.

Due to a lack of funds, many of our parks suffer from inadequate sewer systems, poor and deteriorating facilities, and an insufficient number of park rangers. In addition to damaging the parks themselves, these conditions detract from the experience that visitors take away with them.

Yellowstone National Park, the world's first National Park and one of my favorites, is representative of this problem. Created to preserve its unique geothermal features, Yellowstone currently lacks a geologist on staff to monitor and protect the park's geysers and "underground plumbing."

Yellowstone, and the rest of or nation's treasures, deserve better. Earlier this year I joined 83 of my colleagues urging a significantly higher increase for the operations of the National Parks than provided in the bill we are debating today. But, given the funding constraints placed on the Committee, this bill takes a big step in the right direction to address the significant operating shortfalls facing our nation's parks. Because of this I would like to applaud the efforts of the committee. As the bill moves to Conference, it is critical that at a minimum, we hold the line on funding provided in this bill, and even do better.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ISAKSON) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 483, he reported the bill, as amended pursuant to that rule, back to the House with sundry further amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 46, not voting 11, as follows:

[Roll No. 318]

### YEAS—377

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NAYS—46

Akin
Barr
Barton
Berry
Boswell
Capuano
Chabot
Collins
Cox
Crane
DeMint
Doggett
Duncan
Emerson
Flake
Gibbons
Goode
Graves
Green (WI)
Gutknecht
Hefley
Hostettler
Jones (NC)
Kerns
Manzullo
Miller, Gary
Miller, Jeff
Myrick
Paul
Pence
Petri
Pitts
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Stearns
Terry
Tiahrt
Toomey
Weldon (FL)
Wilson (SC)

### NOT VOTING—11

Bereuter
Blagojevich
Bonior
Lantos
Lipinski
Markey
Mascara
McHugh
Meeks (NY)
Nadler
Traficant

☐ 2124

Mr. WILSON of South Carolina changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## FUNDING FOR THE ARTS AND HUMANITIES

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, as evidenced by the enormous vote on the previous appropriations bill, the Interior bill enjoys much support from this body. It is a bill that protects our natural resources and the natural beauty of this Nation.

I rise to speak to this bill for its inclusion of support of the National Endowment for the Arts and the National Endowment for the Humanities. I was very pleased to be able to support the Slaughter amendment which added $15 million to the budgets of the NEA and the NEH. It is a small but important step, for those two organizations raise the Nation's cultural competence. It is extremely important that the next generation of Americans be culturally aware. They need to understand the history, the art, the culture, the literature and archaeology not only of this Nation but of the world.

I am very proud, coming from the 18th Congressional District in Houston, to support the Houston Symphony, the Houston Ballet, the Houston Grand Opera, the Ensemble and many, many other arts institutions in our community. The many, many museums that we enjoy in Houston and the State of Texas, all of it benefits from the support of the National Endowment for the Arts and the National Endowment for the Humanities. That is why this bill was passed with such overwhelming support. That is why I am pleased to have supported the Slaughter amendment and to rise today to support the NEA and the NEH.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## PARTIAL-BIRTH ABORTION BAN ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, in the midst of important debates in the last 48 hours over critical spending bills and the creation of our national budget, a very, very important piece of lawmaking has taken place that will find its way onto the blue carpet of this historic place next week. It is the issue of partial-birth abortion, H.R. 4965, the Partial-Birth Abortion Ban Act of 2001, which I am proud to say as a Member of the Committee on the Judiciary we marked up and reported out by an overwhelming vote earlier today.

Mr. Speaker, I would offer that societies are rightly judged by how they deal with the most defenseless among their citizenry and how they confront those who exploit the most defenseless. This is best expressed in the proverb that "Whatsoever you do for the least of these, you do also for me."

□ 2130

Today, in the House Committee on the Judiciary, we took up what for some, at times, sounded like the debate over abortion and the woman's right to choose that has been settled law in this country since 1973. In fact, Mr. Speaker, what we brought up today was an issue altogether different. It is about a practice in this country described in our legislation that is barbarous, to say the least.

In our legislation we describe the procedure that is banned, that the American Medical Association has said is never medically indicated. "A partial-birth abortion under this law is an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument and sucks the child's brains out before completing delivery of a dead infant."

I must tell my colleagues that as a Christian and as an American and as a father of three children, it is astonishing to me that this is even remotely legal in America today, but it is. And as we will no doubt hear on this floor next week, it is practiced all too often in this country.

We will bring the Partial-Birth Abortion Ban Act of 2002 to the floor again. We have changed the bill, adding findings of fact to overcome constitutional barriers, and I am confident that it will survive judicial review. The American people, Mr. Speaker, want this bill in overwhelming numbers, believing in their hearts that we are better than this. We are a better people.

Lastly, Mr. Speaker, it is simply the right thing to do, to stand with newborn children, the most defenseless among us. The Good Book tells us, "See I set before you today blessings and curses, life and death; now choose life so that you and your children may live."

It is my hope, and it will be my prayer, in the intervening days as I urge my colleagues on both sides of the aisle to do as we have done in bipartisan fashion in the past in this institution, and send a deafening message into the laws of the United States that this heinous, barbarous practice of infanticide, which we call a procedure known as partial-birth abortion, has no place in the great and good Nation of the United States.

## IN CELEBRATION OF THE 30TH ANNIVERSARY OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, June 23rd marked the 30th anniversary of Title IX of the Education Amendments of 1972 which prohibits sex discrimination in any educational institution that receives federal funds. To commemorate this 30th anniversary, it is important that we celebrate the successes of Title IX, acknowledge its tremendous and positive impact on the lives of girls and women in our country, and rededicate ourselves to the continued pursuit of equal educational opportunities for girls and women.

I was a member of the House Education and Labor Committee in 1972. I worked diligently to promote civil rights legislation during my entire tenure. I consider Title IX to be one of my most significant efforts as a Member of Congress, and I take special pride in honoring its contributions to changing our view about women's role in America.

Title IX has opened the doors of educational opportunity to millions of girls and women who otherwise would have been shunned or relegated to a secondary place. Title IX has helped to tear down barriers to admissions, increase opportunities for women in nontraditional fields of study, improve vocational educational opportunities for women, reduce discrimination against pregnant students and teen mothers, protect female students from sexual harassment in our schools, and increase athletic competition for girls and women.

We have heard much about the many successes of Title IX, particularly in athletics. Most do not know of the long arduous course we took before the enactment of Title IX and the battles that we have fought to keep it intact. On the occasion of this 30th anniversary, it is appropriate to take time to reflect on the history of this landmark legislation so we may never forget the struggles and we may never forget the original purpose.

From the day at age four when I had my appendix removed, I knew I wanted to be a doctor. I went to college drive with this goal. I was elected President of our college pre-med organization. No one bothered to tell me that my career goal could not be achieved because I was female. In my senior year I applied to a dozen or more medical schools. Everyone turned me down because I was female. I was stunned. I had a degree in zoology and chemistry that could not get me to my coveted profession. America the land of the free had closed its doors of opportunity to me because I was female.

Again after I got my law degree I was shut out from employment because I was female.

When I ran for elected office was ostracized because I was "only a woman" and presumably therefore had nothing to contribute.

This personal story of my life adds meaning to what happened in Congress. Title IX had its origins in a series of hearings on sex discrimination and equal opportunities for girls and women held in the mid-1960s and early 1970s by the House Education and Labor Committee. Throughout that time, the committee had been engaged in the process of systematically gathering a large body of evidence of discrimination against girls and women in our educational system.

In 1965, the year I first came to Congress and became a freshman member of the Education and Labor Committee, Chair Adam Clayton Powell initiated an examination of discrimination in textbooks. Our committee scrutinized textbooks and found that they portrayed girls and women in stereotypical ways and minimized our potential to lead. We hauled in the U.S. Department of Health, Education, and Welfare because they were issuing brochures and films that consistently portrayed women in occupations such as nursing, teaching, or social work, but never as scientists, doctors, lawyers, judges, pilots, or engineers. We scrutinized vocational education courses and found that girls were being taught home economics while boys were being taught skills and concepts that would prepare them for higher wage careers. In addition, we found that the admissions policies of many institutions systematically excluded women from graduate and professional schools and rarely if ever afforded them scholarships, fellowships, research stipends, or staff assistantships.

In 1970, Congresswoman Edith Green (D–OR), Chair of the House Special Subcommittee on Education, held hearings on a bill she had introduced, H.R. 16098. This bill would have amended Title VI of the Civil Rights Act of 1964—which prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance—to also ban sex discrimination.

On July 3, 1970, Assistant Attorney General for Civil Rights Jerris Leonard testified before Congresswoman Green's subcommittee on H.R. 16098. He said that while the Justice Department would not support language to amend the Civil Rights Act, "we suggest an alternative". The alternative was that the committee should concentrate on developing separate legislation that would prohibit sex discrimination in education. This was the genesis of Title IX.

It is important to put this initiative in the context of the times. This was right around the time of the big push for the Equal Rights Amendment. The women's movement was active and growing and supporters of equal rights for women were pursuing equal protection under the Constitution. Under the leadership of Representative Martha Griffiths (D–MI) Congress voted for the ERA in 1971 by a vote of 354 to 24, sending it to the states for ratification. While Congresswoman Green's bill to prohibit sex discrimination under the Civil Rights Act of 1964 would have provided broader protections for women, prohibiting sex discrimination in education would be a giant step forward in the fight for equal rights for girls and women.

The opportunity to add Title XI came in 1971 when the House turned its attention to consideration of amendments to the Higher Education Act, H.R. 7248. It was initially Title X of H.R. 7248 and it prohibited discrimination on the basis of sex in any educational institution receiving federal funds. It also authorized the Civil Rights Commission to investigate sex discrimination, removed the exemption of teachers from the equal employment coverage of the 1964 Civil Rights Act, and eliminated the exemption of executives, administrators, and professions from the Equal Pay Act.

The bill was reported out of the House Education and Labor Committee on September 30 1971 and was considered by the full House on October 27, 1971.

During consideration by the full House, Representative John Erlenborn (R–IL) offered an amendment to exempt undergraduate admissions policies of colleges and universities from the prohibition of sex discrimination. This amendment won by a 5-vote margin, 194 to 189.

The provision that would have authorized the Civil Rights Commission to investigate sex discrimination (section 1007) was eliminated during the floor debate on a point of order by House Judiciary Committee Chair Emanuel Celler (D–NY) because it came under the jurisdiction of his committee.

At the same time, the Senate was working on amendments to its Higher Education Act. The Senate also argued bitterly over the inclusion of a provision banning sex discrimination in schools.

During the Senate floor debate on August 6, 1971, Senator Birch Bayh (D–IN) offered an amendment, along with Senators Edward Kennedy (D–MA) and Phil Hart (D–MI), to ban sex discrimination in any public higher education institution or graduate program receiving federal funds. Senator George McGovern (D–SD) also submitted an amendment prohibiting sex discrimination in education, but decided not to offer it and instead supported the Bayh amendment.

As the Bayh amendment was considered, Senator Strom Thurmond (R–SC) raised a point of order against it on the grounds that it was not germane. The point of order was sustained by the Chair, who agreed and ruled that "the pending amendment deals with discrimination on the basis of sex. There are no provisions in the bill dealing with sex." A 50 to 32 roll call vote sustained the ruling of the Chair.

The Senate reconsidered the higher education legislation in early 1972 because it objected to the House version that included provisions prohibiting the use of federal education funds for busing. Again, the bill that came out of the Committee on Labor and Public Welfare did not include any provisions banning. sex discrimination in schools.

Fortunately, Senator Birch Bayh was persistent on the issue of sex discrimination in education. During the floor debate that began on February 22, 1972 he offered an amendment that would prohibit sex discrimination in educational institutions receiving federal funds but would exempt the admissions policies of private institutions. Later, Senator Lloyd Bentsen (D–TX) offered an amendment to the Bayh amendment that also provided an exemption for public single-sex undergraduate institutions. Both amendments passed by voice vote. This time, a provision prohibiting sex discrimination in schools was included in the bill passed by the Senate.

Negotiations in the House-Senate Conference Committees, held in the spring of 1972, finally yielded Title IX. The final language prohibited sex discrimination in educational institutions receiving federal funding and applied to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education. The conference report was filed in the Senate on May 22 and in the House on May 23. The bill was approved by Congress on June 8. On June 23, 1972—30 years ago—President Nixon signed it into law.

Since its passage most people have come to associate Title IX with gains made by girls and women in athletics. Certainly, this is the most visible, spectacular, and recognized outcome of Title IX. However, many are surprised to learn that the topic of athletics did not even come up in the original discussions about Title IX. Our primary goal was to open up educational opportunities for girls and women in academics, and the most controversial issue at that time was the application of Title IX to institutional admissions policies.

The impact of Title IX on athletics became apparent almost immediately. We were thrilled to see that athletic opportunities were starting to open up to girls and women, although these changes also sparked controversy. When coaches and male athletes began to realize that they would have to share their facilities and budgets with women, they became outraged. In 1975, this anger prompted the first and most significant challenge to the law.

Opponents of Title IX proposed an amendment to the education appropriations bill to prohibit the Department of Health, Education, and Welfare from promulgating Title IX regulations to apply to college and university athletics. They paraded a number of college and professional athletes through the committee room to testify that Title IX hurt men's athletics. At the time, women athletes were so few and unknown that the only well-known athlete we could bring in to testify was Billie Jean King. The fact that there were virtually no prominent women athletes in our country was a testament in itself to the necessity of Title IX.

The amendment was agreed to by the House and was included in the 1975 House appropriations bill (H.R. 5901), but it was not agreed to by the Senate and was stricken in conference.

On July 16, 1975, I managed the House floor debate against a motion by Representative Robert Casey (R–TX) to insist on the House position. In the midst of vigorous debate on the issue and just prior to the vote, I was sent word that my daughter had been in a life-threatening car accident in Ithaca, New York. I left the floor immediately and rushed off to Ithaca to be with her. After I left, the Casey motion carried on a vote of 212 to 211. The House had voted to exclude college athletics from Title IX regulations. The newspapers reported that I had left the floor "crying" in the face of defeat. Without checking with my office the paper indulged in the very stereotypical smear that we were fighting against.

The following day, the Senate voted 65 to 29 to insist on the Senate position and strike the amendment from the bill.

On the next legislative day, July 18, 1975, Speaker Carl Albert (D–OK) and Representative Daniel Flood (D–PA) took the House floor and explained the circumstances of my departure. Representative Flood then offered a motion "to recede and concur in the Senate position". An affirmative vote on this motion would reverse the vote taken by the House two days prior and would reject both the Casey position and the amendment. It carried by a vote of 216 to 178. Title IX's application to athletics for preserved.

While the story of Title IX is a story of celebration, it also a story of struggle to defend it against persistent challenges. Although we celebrate the year 1972 as the year of enactment of Title IX, in retrospect it is clear that I was engaged in efforts to pass a Title IX law since I first arrived in Congress in 1965. There is also a clear pattern of repeated attempts to weaken or undermine Title IX from the very beginning. For 30 years, we have constantly needed to be on guard to defend it.

Five years ago, several colleagues and I came together on the House floor to celebrate the 25th anniversary of Title IX. Since then its story of spectacular successes, coupled with new and significant challenges, has continued to evolve. One of the most notable successes since the last anniversary was the tremendous victory by the U.S. Women's Soccer Team in the 1999 Women's World Cup. Hundreds of thousands of spectators attended the games and millions more watched on television. These strong, disciplined, and exciting athletes drew record-breaking audiences, inspired a whole new generation of girls to pursue their dreams, and captivated a nation.

This victory was significant not only for its impact on women's athletics but as a testament to the power of Congress to change the nation for the better. Mia Hamm, one of the team's brightest stars, was born in 1972—the same year that Title IX was signed into law. Without Title IX, she and many of her teammates may have never had the opportunity to develop their talents and pursue their dreams.

Along with recent public celebrations of Title IX however, there have also been new and high-profile attacks. In 1998, the Republican majority of the Committee on Education and the Workforce inserted an 11th hour provision into the Higher Education Amendments that would have required colleges and universities to report annually any changes in funding or in the number of participants on an athletics team. In addition, it would have required them to forecast four years in advance any decisions to eliminate or reduce athletic programs or funding and to "justify" their decisions.

During the House floor debate on the Higher Education Amendments on May 6, 1998 Tim Roemer (D–IN) offered an amendment to delete the provision.

Several colleagues and I argued strenuously in support of the Roemer amendment. We believed that this provision would have been extraordinarily intrusive on the decision-making processes of colleges and universities. We believed that it was impractical because it would have been virtually impossible for institutions to know four years in advance whether or not they would need to cut programs. Most importantly, we opposed this provision because of its potential for severe and adverse impact on the enforcement of Title IX. This provision had been supported by opponents of Title IX who wanted to force colleges and universities into blaming Title IX for their decisions to make reductions or cuts to minor, non-revenue men's sports teams.

The argument that Title IX is to blame for the reduction of some men's minor, non-revenue teams is patently false. Title IX regulations do not require schools to cut men's teams in order to comply with Title IX. Instead, reductions or cuts to some men's sports teams—and to many women's minor sports teams as well—are due to choices made by college administrators in favor of the big budget, revenue-generating programs such as football and basketball. To blame Title IX is disingenuous and just plain wrong! The goal of Title IX is not to disadvantage men but to provide equal opportunities for women.

After a vigorous debate on the House floor, the Roemer amendment was agreed to by a vote of 292–129. The provision was deleted from the Higher Education Amendments of 1998.

Unfortunately, the myth that Title IX is to blame for the reduction of men's minor sports teams on college campuses has continued to persist. In January of this year, the National Wrestling Coaches Association and other groups filed a high-profile lawsuit in federal court against the U.S. Department of Education, arguing that colleges and universities have cut wrestling teams and other men's minor sports teams in order to comply with Title IX.

This argument is unsupportable. The Department of Education's regulations regarding Title IX do not require schools to cut men's teams in order to comply with Title IX. Rather, "proportionality" is only one of three ways that schools can comply with the law. They may (1) offer athletic opportunities in substantial proportion to male and female enrollment, or (2) show that the institution is steadily increasing opportunities for women students overtime, or (3) show that the athletic interests and abilities of female students are being met. Institutions do not need to demonstrate all three.

While the Department of Justice filed a motion to seek dismissal of this lawsuit on May 29, 2002, the final disposition of the case is pending.

New challenges and questions have also been raised recently about Title IX and single-sex education. On May 8, 2002 the U.S. Department of Education announced its intention to encourage single-sex education in the nation's public schools by filing a notice of intent to propose amendments to the regulations implementing Title IX. According to the announcement in the Federal Register, the Bush Administration wants to "provide more flexibility for educators to establish single-sex classes and schools at the elementary and secondary levels". This announcement marked a reversal of three decades of federal education policy regarding single-sex education.

While advocates of this proposal cite research studies indicating that students may perform better in same-sex educational environments, opponents fear that the proposal endorses a form of segregation. In addition, many others worry that tampering with the current Title IX regulations is risky and dangerous and may have the ultimate effect of weakening Title IX.

Given difficult challenges such as these, it is especially important that we celebrate the many successess of Title IX. However, it is even more important that we not become complacent about Title IX. Many young girls and women today do not even know about Title IX and take it for granted that equal educational opportunities are safeguarded by the Constitution. While it is wonderful that equity has become the expected norm, we must also teach each new generation that there was a time when Title IX did not exist. Further, we all need to be reminded that since Title IX was put in a place by a legislative body, it can also be taken away by a legislative body. We need to be vigilant. Title IX must be protected and defended to ensure that equal educational opportunities for girls and women are preserved for all generations to come.

Mr. Speaker, as I have recounted this story here tonight, you can see that the pursuit and enforcement of Title IX has been a personal crusade for me for three decades. I am proud to have been a part of the enactment of Title IX in Congress 30 years ago, and I continue to be proud of its rich and lasting legacy of equal educational opportunities for girls and women. On this 30th anniversary, let us rededicate ourselves to the goals of dignity, equality, and opportunity for all that characterized our dreams for Title IX 30 years ago. These goals are every bit as worthy and important today, in 2002, as they were in 1972.

## LEGACIES OF DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, about a week ago the President of the United States went to Wall Street in the wake of the accounting scandals and the scandals that have caused so many Americans to lose so much money, so much of their life savings, so much money that they were counting on to pay for their retirements. One of the things he told the Wall Street firms was, you have to change the system of hiding your debts, making your balance sheets look better than they are. It is a shame the President did not live by his own axiom a year ago right now.

Those of my colleagues who watch television, those of my colleagues who read the newspapers know that starting last January, February, March, we are talking about a year ago, the President was telling the American people, Washington is awash in money, it is awash in money. We have to have this big tax break. Well, it is easy to pay, Mr. President, if you are hiding the debts of the country. You see, because a year ago right now, and I do mean a year ago right now, our Nation was $5,726,814,835,287.17 in debt, and yet you had the American people convinced that we were awash in money.

What is even worse than the fact that we owed all of that money was that we owed; and I look into the audience and I look around the country and I see folks who pay taxes and the biggest portion of a lot of folks' taxes is what they pay to Social Security, that is that FICA on your tax bill. The promise was made in the 1980s when they raised those taxes, with a Democratic House and a Republican Senate and a Republican President by the name of President Reagan, they were going to take that money and set it aside and make sure it is used for nothing but Social Security. They lied to us.

Mr. Speaker, right now, if we were to find the mythical lock box for Social Security and open it up, all we will find is an IOU that says we owe the people who paid into the Social Security Trust Fund $1,300,000,000,000. If we look a little bit farther down on our pay stub, and again, these taxes were raised in the 1980s, a Democratic House, a Republican Senate and a Republican President, they raised the taxes on Medicare. If you were to find the mythical lock box for Medicare, and I do mean mythical, because there is nothing there, we would find an IOU for $271 billion.

Now, for folks like myself from Mississippi, it is hard to imagine $1 billion. I think one of the reasons that the folks in Washington use the term "billion" is we think of it as 271 of these things, be it apples or boats or whatever. So let me walk an average Joe like myself through it.

Everybody can visualize $1,000. A lot of people pay $1,000 on their house on rent. So we can kind of visualize a thousand times a thousand. That gets us up to a million. Visualize a thousand times that. That is a billion. So a thousand times a thousand times a thousand times 271 is what we owe the Medicare trust fund. There is not a penny there. It is spent. The money collected was supposed to be set aside for Social Security, for Medicare. It is gone.

How about our military retirees? How many times have we heard since September how proud we are of our troops and how we need to do everything for them? Well, Mr. President, maybe one of the things we ought to do for them is pay back the $168 billion that we owe to their retirement fund. Again, a thousand times a thousand times a thousand times 168. There is not a penny there, it is just IOUs.

We have heard about our brave Border Patrol, the Customs agents, the FBI agents, the guys who sweep these buildings on a fairly regular basis looking for chemical and biological weapons. They pay into their retirement fund; this young lady right here pays into her retirement fund; her employer, you, the Federal Government pays a portion into her retirement fund. If we were to find the account for the retirement fund, all we are going to find is an IOU for a thousand times a thousand times a thousand times 540.

Mr. President, it begs the question, how did you tell the American people we were awash in money when we were $5 trillion in debt? You had your budget. You had a Republican House, a Republican Senate, they passed you a budget dollar for dollar the way you wanted it. You got your tax cuts, and in the wake of all of that, in 12 months alone, we have increased the national debt, the debt that all of these young people in this room have to pay, the debt that my kids have to pay, by $399,653,925,113.31.

Mr. Speaker, in the time that you have been Speaker of the House, the national debt has increased by $511,040,208,939. That is more money than this country accumulated in debt in 199 years, and yet, for 1,300 days you have not allowed us a vote on a balanced budget amendment. Is this not enough? Is this the legacy you want to leave the American people, or do you want to leave the American people a legacy of a balanced budget? I hope, and I ask, for the latter.

## MUSHARRAF AND DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I would like to express my outrage over the continued infiltration by Pakistani-backed militants and the line of control in Kashmir and the continued blatant terrorist attacks on innocent women and children in Jammu and Kashmir.

About a month ago, President Musharraf of Pakistan acquiesced and promised to end infiltration of militants who were openly supported politically and morally by Pakistan. India had been willing to honor Musharraf's promise by giving him a chance to act on his word and waiting until October to assess the infiltration situation at the Line of Control.

But much to everyone's dismay, this brutal killing in this war-torn region is going on unabated, despite Musharraf's promises. This past weekend's savage attack has left 27 civilians dead and wounded another 30 civilians. Another attack today wounded 13 people in Kashmir. I do not think there is any justification for such violence.

Mr. Speaker, infiltration by militants at the border and terrorism in Kashmir needs to be stopped in order for peace and stability to be reinstated in this fragile region of the world. However, every step Musharraf is taking is, in fact, turning Pakistan in the opposite direction of achieving any sense of peace or stability, and, most importantly, achieving democracy.

Mr. Speaker, President Musharraf has proposed changes to the constitution that are of grave concern. The underlying strategy behind his guise of transitioning to democracy is, in fact, to restructure the Pakistani government, to protect his dictatorship. Through over 70 proposed amendments, he is attempting to rewrite Pakistan's constitution in order to empower his branch of government over other branches of the Pakistani government. In addition, Musharraf would also be giving the constitutional power to dissolve the parliament, dismiss and appoint a prime minister, and establish a national security council as a constitutional body.

The latest piece of his proposal is to require members of parliament to hold university degrees which would disqualify 98 percent of Pakistan's 144 million citizens, but also would disallow over half of the politicians serving in the last parliament from holding office again.

Mr. Speaker, I am concerned about the use of American resources provided in economic and military aid to an antidemocratic Pakistani regime. In October 2001, Congress passed a bill, S. 1465, which granted the President authority to waive all sanctions against Pakistan, including sanctions against Pakistan that prohibited aid to a nation whose democratically elected government was deposed. I introduced legislation today that reinstates the democracy sanctions, because I think it is necessary to implement measures that encourage Pakistan to transition back to democracy.

I have written to President Bush and I have requested that he and his administration, particularly Secretary Colin Powell, who will be visiting the region over the next 2 weeks, to take these violent actions by Pakistan into consideration for any future talks with Musharraf, and that the United States use its influence to encourage a return to democracy in Pakistan.

## CORPORATE FRAUD

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, to my colleague, the gentleman from New Jersey (Mr. PALLONE), I am not going to follow up with some comments about your previous comments. In fact, I found the gentleman's comments pretty interesting.

This evening I want to spend the time with my colleagues speaking about corporate fraud. I spoke about that at length the other day but, actually, the conversation I wanted to have with my colleagues was cut short by the time. So tonight I wanted to go through it in much more detail at a little slower pace so that we have a pretty clear understanding of what is happening out there in corporate America, with a few bad apples, but these bad apples are so bad they are ruining the bushel of apples. I come from apple country out in the Rocky Mountains of Colorado, and I can tell my colleagues if we do not track down the bad apple in a bushel of apples, no matter how good the rest of the apples in that bushel are, it will not be very long before the stain from the bad apple begins to go over on the good apples, and pretty soon the whole bushel of apples is ruined.

Now, I have heard many of my colleagues recently talk about the corporate fraud that is going on and, remember, it is not all corporations. It does not entail all of the corporations. Keep in mind that there are many, many smaller corporations in America.

□ 2145

When we speak of the word "corporation," it is very broad. As I said the other evening, my in-laws are cattle ranchers. They are not big cattle ranchers, but they have a cattle ranch up in the mountains. It has been in their family since the 1880s. They are incorporated for liability purposes.

I have a friend who owns an ice cream shop. He has two employees, actually his partner, he and his wife, they are incorporated. So not all corporations fall into this.

There are a few corporations that I am going to address specifically by name this evening. There are a couple of corporate executives, thieves, that I am going to address this evening by name; and I hope my colleagues are attentive to this issue.

But back to the point that I was making, recently several Members have said that this is like a bank robbery. These guys are bank robbers. I stand to differ with them. These people, like the President of Tyco, or Bernie Ebbers, the President of WorldCom, or Scott Sullivan, the chief financial officer, they are not like bank robbers.

I will tell the Members the difference. It is right here on this poster. A bank robber, generally in a bank robbery the person who commits the bank robbery is generally a poor person taking from a rich person. That is not what we have here. What we have with these corporate problems in America today is not a poor person taking from a rich institution, but instead, just the opposite: we have a rich institution taking from the poor people. That is exactly what is happening out there.

So when we hear people say, this is kind of like a bank robber, it is just the opposite of a bank robbery. It is the institution taking from the small guy, instead of the poor guy maybe taking from the bank. That is the difference.

These people who are dealing with this are not any different than a bank robber, though, as far as how we might describe them otherwise, like two-bit crooks, two-bit hoods. That is exactly what we are talking about here.

Let me go over a few things. I think, first of all, the best thing to talk about, I mentioned earlier that, by far, most of the corporations in America are small companies. Most of the companies in America run a pretty good operation. America, by far, has the strongest economy in the world's history. America will continue to have a strong economy. We are going to get through this.

In a sense, this is somewhat of a cleansing process. We are cleansing ourselves of the bad apples in the bushel, so to speak. The cleansing process is always painful, but the only way the cleansing process works is that it has to be complete. The only way we save the bushel of apples is to get in there and find the bad apple.

We just cannot talk about the fact that we have a bad apple in a bushel of apples. We have to get in there and find out where that apple is and find out if the bruise and the rot in the bad apple has spread to others, and we have to get rid of all of those.

That is the duty of our enforcement agencies in this country. It is also the duty, the peer duty of other companies, other chief executives. We have to lift our standards in this country. This kind of behavior demands that other chief executives, the good chief executives, the good people who work hard out there, that deliver a good product on behalf of the company, that are honest with their books, that do not use their attorneys to try to deceive shareholders and employees, that these people demand a higher standard.

I know a number of chief executives. I can tell the Members, they pride themselves on the standards that they demand. Their standards exceed all of the standards that some accounting firm may want, or the standards that the law firm says are the minimal standards they must meet.

The most successful companies in America are not the companies that perform unethically, or perform right on the border. The successful ones over a long period of time or over the average period of time are the ones that are honest in their dealings with their employees. They are honest in their dealings with their shareholders. They are honest in their dealings with government agencies. They are honest in their dealings in the reports they give to the general public.

Those are the companies, those are the businesses in America, in fact, those are the businesses in the world that over the long run will be the most successful and the strongest.

Now, I think it is important that we have a good concept of what a corporation is. What makes up a corporation? How does it work? Who is an insider? What are some of the buzz words that are used when we talk about corporations?

Of course, the first buzz word we use is "corporation" itself. As I said earlier, a corporation really, or corporations in America, are comprised of many, many different sizes of corporations. We can go all the way from General Electric or a Wal-Mart Corporation clear down to the mom and pop ice cream shop in our local community that incorporates generally for tax or liability purposes.

So when we hear the word "corporation," do not just apply it to the big corporations and do not just apply it every time we use it in a negative connotation to the bad corporations, like Tyco or K-Mart Corporation. And really, the corporation as a whole was not so bad, but the people who worked within it were rotten apples.

We have to be able to segregate the bad from the good because the good deliver us good products. We can take a look at the car we drive, we can take a look at the toothpaste that we brush our teeth with in the morning, the mouthwash, or the cold medicine that we take, or the pen that we write with, the lights, the power that is delivered here, or even the clothes we have on. There are a lot of good products in our country.

There are a lot of honest, hardworking people in our country. They are being smeared by the likes of Scott Sullivan in Florida, who right now is building his $19 million mansion, or the likes of Gary Winnick with Global Crossing in California, who is building a $90 million mansion. We can go on and on. Bernie Ebbers.

I will go through a lot of these names with the Members because we ought to know the names of the people. We ought to be able to identify what apple in the bushel is bad. Remember the saying: once a crook, always a crook. A crook is a crook is a crook. That is the way it is. We have to call it as we see it. Call a spade a spade; call a crook a crook.

I will tell the Members, if we allow a crook to stay in our midst, if we allow a crook to stay and influence what we do, over time we begin to pick up some of those bad habits. After a while, that old saying, you cannot teach an old dog new tricks, it kind of applies to a crook, too.

Look at the president of Tyco, the guy who bought millions of dollars in art. He is worth hundreds of millions of dollars, but he cheated on a very small part of the art. He decided not to declare it on the sales tax so he could avoid it, save $100,000 here and $100,000 there.

To someone worth hundreds of millions of dollars, that is pennies; that is nothing. But to illustrate, that this individual would go to the trouble to cheat the State out of a small amount of State sales tax lets us know that that old saying, you cannot teach an old dog new tricks and once a crook, always a crook, those sayings out there have applicability to some of these individuals.

Let us go back and study what the structure of a corporation looks like. A corporation always starts here on the top. It always starts with the shareholders. The shareholders are the fundamental part of a corporation.

A corporation really is not recognized as a human being, obviously; it is a legal body that is created by law that allows a group of people, in some States as few as one or two people, in other States it requires more, but it can allow a corporation to be built with just a couple of people who own the shares of the corporation.

If it is tightly held, what "tightly held" means is a very few people or a family holds that corporation, the stock, the shares in that corporation, and shares and stock being synonymous, and "closely held" means maybe it is a little broader than tightly held, maybe you only have 20 shareholders.

We have lots of those. For example, my wife and her parents have a family ranch. It is very closely held, tightly held by the family, closely held; and it does not have but maybe, I do not know, 10 or 15 shareholders in that corporation.

A lot of corporations, for example, an IBM or a General Electric or a Wal-Mart Corporation, they literally have millions of shareholders, millions of people who want to pool their money together. They entrust their money. They entrust their investment in this corporate entity, in this vehicle, to go out and see if they can make a product upon which there will be demand, which the consumer will want.

In turn, those shareholders hope over time, as a result of their investment in this corporate vehicle, that they are going to get paid dividends, that they are going to be able to make money off their investment. But in making that investment, there are certain levels of integrity or trust.

Now, we are not fools. We know that we deal with a lot of different people that form these corporations. We know that in any given body of people, whether it is Congress or whether it is the Catholic priesthood or whether it is schoolteachers, once in a while we are going to get a corrupt person in that group.

So we do not just leave it to the honesty or integrity of people who form corporations, especially if those corporations are broader than a closely held corporation, if they are publicly traded, broadly traded, as they say. If they are broadly traded, we do not just totally trust them, the government. We do not completely trust them. We mostly trust them, but we do not completely trust them.

What we do is require audits. We require public disclosure statements, financial disclosure statements, so that the public has an opportunity to screen very carefully what the audit says or what the financial statements say. It is kind of a check and balance on the chief executives.

But in order for that check and balance to work to give protection not only to the shareholders but to the employees and to the people who are affiliated with that corporation, in order for that to work, we have to have honest accountants.

Here comes Arthur Andersen. There is a problem with Arthur Andersen. We have to have honest attorneys. Here comes a problem with K-Mart and Tyco Corporation; here comes a problem with Adelphia Cable Systems, where the family themselves stole from the public shareholders almost $3.5 billion, not million, billion dollars.

So in order for the whole system, in order for this whole system to work, which I am going to go through, we have to have some honesty. We have to have honesty and integrity from the attorneys.

If we happen to have an attorney, like in Tyco Corporation, who pays himself a $20 million or $30 million bonus and breaks it up so he does not have to put it in the public disclosure statement that I referred to, so the shareholders, the check and balance, can determine whether or not the attorney deserved his self-enrichment of 20 or $30 million, if we do not have an attorney who is honest, we ought to have him disbarred. That is the check and balance that tries to keep the legal counsel in check.

It did not work with Tyco Corporation. In fact, in Tyco Corporation, the attorney kind of was in bed with the president of the company. The president of the company self-enriched himself with hundreds of millions of dollars, and the same thing with the attorney. We are going to see the same thing in something called ImClone, ImClone, the Martha Stewart case. We are going to get into that in a little detail. That is where I am going to describe inside deals.

But let me go back to the corporate structure. So we have the shareholders. A shareholder could own one share. For example, I may own one share of BankOne, a very reputable company out there. I do not know what their shares, let us say it is $24. So you could own one share, or be a mutual fund that owns hundreds of thousands of shares.

Now, 10 or 15 years ago, 20 years ago, very few people, as a percentage of the whole of society, owned stock. The average person on the street did not invest in stock. But that has changed significantly over the last few years. One, we now have many more people that have retirement funds, called mutual funds, or 401(k)s with their company, or they form some other type of retirement vehicle. That money is pooled, and believe it or not, a lot of people out there who do not think they own stock, in fact, they indirectly do own stock because their retirement fund, their 401(k) or their mutual funds, actually are stockholders. They hold stock on your behalf. So today we have many, many more people invested in 401(k)s, et cetera. Therefore, we have many, many more people who now own stock.

We have also seen a surge of interest in the stock market, especially during the boom years. We now have a lot of people we would never imagine buying stock who would figure out the best stock to buy down at the local barber shop. We had a boom. That boom, that big bubble, has burst.

What I am trying to get at here is that we have lots of people who are now reliant on a credible corporate structure. We have more people in this country today dependent upon the integrity and the honesty and the strength of the corporate structure in America than we have ever had in the history of this country.

That is why it is important that, one, we recognize not every corporation is corrupt. We have a lot of good companies that produce good products out there: the toothpaste, the car, the electric blanket, you name it. But that is why it is so important that we find the corporations like Tyco, ImClone, or K-Mart, or some of these others, Enron Corporation, WorldCom, Waste Management, Adelphia, Conseco. That is why we have to clean house on these.

When I say clean house, I mean clean house. We cannot just sit back here and treat these people like they have not done something wrong. Keep in mind, in America, if you steal a car off a shopping center parking lot, and even though that car is only worth $50, and somebody turns you in to the police, when the police stop you, they do not stop you with one police car and one police officer.

□ 2200

They stop you with a number of police officers. A number of police officers surround you. They pull you out of the vehicle at gun point for stealing this $50 car. They put you on the pavement. And while you are laying down on the pavements they handcuff you. They then put you in a police car, in a cage in the police car and they haul you to the police department.

Bernie Ebbers of WorldCom or Gary Winnick of Global Crossing, Gary Winnick is currently residing in his $90 million home in Bel Air, California. He has never felt handcuffs. Bernie Ebbers of WorldCom went to the board of directors and borrowed $408 million and neither he nor those board of directors have ever had the feel of handcuffs around their hands.

Our society has got to give them that feeling because if they do not get that feeling of handcuffs, we are not going to get the feeling of credibility. We are not going to get the feeling that our system is working, that the checks and balances are in place. So it is just as important to society that appropriate and tough punishment be meted out as it is to our own feeling of, well, they deserved this punishment as it is to fairness.

You go into a Kmart and you steal a candy bar, you will suffer a lot more penalty under the criminal law than the chief executives of Kmart who loan themselves millions of dollars, and then the week before the company was taken into bankruptcy, got the loans forgiven by corporate documents. In other words, you do not have to pay it back. You sign it. Self-serving. And then they took the company into bankruptcy. Remember, we are not just talking about shareholders.. There is another group up here that hurts a lot, that has suffered a lot as a result of the Enron and the WorldComs and the Tycos and the people of Global Crossing and the companies like that. That is the ones clear at the bottom of the list, but probably the most important box on the list, and that is the employees. And not just the active employees. Do not forget we have retired employees. So there really should be another box right here. The retired employees. Some who have given their entire careers to these corporations, and now they find themselves out on the street. WorldCom, who bought company after company and assumed those employees, now those employees are out on the street.

This company will declare bankruptcy this week or early next week. These retired employees will find their pensions wiped out. The same with Global Crossing. How do you think the employees of Global Crossing feel today? They have been wiped out and Gary Winnick is living in a $90 million mansion, currently being remodeled because he thinks it needs upkeep, in Bel Air, California. Or Scott Sullivan, the 40-year-old guy who shows up in Congress chuckling while we are interviewing him while his $20 million home on the ocean or lakeside is currently under construction in Florida. You think he gives a hoot about these retired employees? You think he gives a hoot about the current employees?

These people have broken the trust of America and these people should pay the price. They should not be allowed to live the rest of their life in the luxury of a king and in the mockery of a justice system.

Let me go back to how this corporation is made up. We have talked about our shareholders. The corporation would not exist without the shareholders. Now the shareholders entrust their money and they give their money, they put their money into the corporation. And then you have gotten the corporation, a group of individuals who represent the best interests of the corporate entity as a whole, who look out for the shareholders, who have responsibility for guidance of the corporation, not day-to-day guidance of the corporation, but overall policy, overall direction of the corporation. And these people have what is described as a fiduciary duty.

What does fiduciary duty mean? It means a special duty, a special obligation to the people that you are representing. More than just, okay, I will do it for you. It is a special level of trust. It is a higher standard, and that is what these boards of directors do. I can tell you any time you find one of those overpaid executives, any of these corporations you would find in trouble whether it is Enron, TYCO, ImClone, whether it is Waste Management, whether it is Xerox Corporation, Sunbeam Corporation, any of these in trouble, you will find trouble in the board of directors. You will find a breach of fiduciary duty with those boards of directors. Either they fell asleep on the job or they were lulled asleep by the management that bestowed them with gifts.

For example, in WorldCom, Bernie Ebbers made sure that one of his board of directors was given a corporate jet which probably costs the corporation $200,000 a month, but he decided to lease it at an arm's length transaction, a fair transaction. So he let the director lease it for a dollar a year, and all the expenses were paid.

Do you think that director has got a fiduciary duty? Do you think he is representing the shareholders or the best interest of that corporation, or do you think he is representing the best interest of Bernie Ebbers of the WorldCom Corporation? It is clear he has breached his trust. That is why this part right here, these boards of directors, that is very, very important. Every box in here is important for the corporation to work correctly.

Every box in here has an integral part, a basic and fundamental part of the company. This vehicle cannot move forward effectively if any of the people in these boxes have corrupted the box. For example, if you have corrupt shareholders, this corporation will not work. It will not be a good corporation. If you have a corrupt board of directors, we have seen what has happened with Enron or these others. If you have corrupt legal counsel, corrupt auditors like Arthur Andersen, corrupt president like the president of Tyco or the president of ImClone, the inside deals, or if you have a management team that is corrupt, it will not work, or employees that steal from the company, if you have employees that are corrupt. Every box in here has to work; and if it works, it is a very powerful economic machine. If it does not work, it is a complete failure or close to it. It can cause an implosion, and that is what you are seeing with some of these companies. You are seeing an implosion with WorldCom. You have seen an implosion with Xerox. You have seen an implosion with some of these and it is because of defective management in a large degree.

So we talk about the board of directors. The board of directors does not go to work every day. They are generally retired executives, men and women, prominent in their communities, but they are supposed to be qualified on that board. They were not supposed to be on there for celebrity status. They are not supposed to be on there to be yes people. They are supposed to be on there for the best interest of the shareholder and of the corporation. And for some reason, that has been diluted.

In my opinion, the long-term solution for this, one of the key parts of that is that we have got to professionalize our boards of directors across this country. We have to increase the standards and the behavior that we expect from them, which also means we have to increase the punishment if the board goes bad, if they become corrupt.

So now we go and we have got our legal counsel. I have referred to our legal counsel a little. You should not have an attorney who gives you the advice that you want to hear. A good attorney will give you the advice regardless of what you want to hear. And what happens here, unfortunately, and Tyco is the excellent example, the attorney goes to work for Tyco. He got his job as a personal favor from the president of the company. The president of the company is a guy that cheats on his sales tax even though he makes tens of millions of dollars every year. And the lawyer here decides to cozy up in bed as well, so what he does is start to pay himself bonuses.

Now, remember that the board of directors issues reports that go out to the shareholders. They issue reports that go out to the public, and they issue reports that are read all the way down this system. In Tyco what happened is the legal counsel made sure that the bonus he got of $20 or $30 million was broken up and titled in such a way that it would never have to show up in any of these reports. So the employees did not know what the attorney was paying himself. The board of directors, theoretically, did not know what he was paying himself. Certainly the shareholders did not know what he was paying himself. It was what is called a sweetheart deal.

Now, you also have the auditors over here. And you saw the same thing with Enron. That is the excellent example of Enron Corporation. With Enron what you did is you had Arthur Andersen in the morning, and keep in mind it is not just Arthur Andersen, but you had Arthur Andersen in the morning being your auditor, telling you whether or not your books were clean and whether or not they had been cooked, and in the afternoon offering to you a much more lucrative contract for themselves doing consulting.

We have got to break apart auditing firms that offer auditing at this time and consulting at this time. They are two separate functions, and they should be handled by two totally independent, unaffiliated units for it to work effectively. What happened with Arthur Andersen, they got too cozy with the management at Enron. These accountants, these CPAs out there making 100,000 or 90,000, they could not resist the temptation to make several hundred thousand like the executives at Enron. So when the executives at Enron or the board members that were corrupt at Enron came over to the accountants and said, here is what we want this report to the public to look like, the auditors for their own self-enrichment say, we can make it work. We can hide those numbers. And that is exactly what they did at WorldCom.

At WorldCom they took their expenses that should have been put in the expense column and they capitalized them so it looked like they were making more profits. And this was done with the assistance of their auditing team. And, in turn, they had stock options that went up in value because the stock price was high because the public, the shareholders and the public that wanted those shares thought the company was making money when, in fact, it never made money. It never made any kind of money. They threw out these corrupt corporate executives or these board members threw out a line. They got the auditors to bite on the bait. They pull in the auditors, then they throw in another line. They pull in the legal counsel and then, of course, pretty soon they say we have enough. Now, let us see what kind of suckers are out there.

The first suckers they go after are the shareholders. They suck in the shareholders, and then the people that suffer the worst at the bottom are the employees. People that have worked for these companies for years, for decades. What is left of their future is decimated. Their life savings is gone. It is pretty hard to stomach this. It is pretty hard to look at how much these employees of WorldCom or Enron or Kmart or Tyco or ImClone, it is hard to stomach what has happened to these people's savings, to their pensions, when people like Scott Sullivan are living in a $20 million brand new mansion in Florida or Gary Winnick of Global Crossing is living in a $90 million mansion in Bel Air, California, all at the expense of these employees and of these shareholders. Self-enrichment. Inside deal. Inside knowledge.

Now, what do I mean by inside knowledge? You know, to run a corporation, your executive officers have certain information that is obviously confidential. They have information that would impact the corporation. They cannot, for example, if they are negotiating to buy some property across the street, they do not want to release publicly about what price they are willing to pay for that. They keep that inside the company's information. And it is for obvious reasons. They keep it. And that is perfectly legal. That is called inside information. But what is not legal is when these executive officers, this management team or these boards of directors use that confidential inside information for their own self-enrichment. And I will give you the perfect example of it. I have it laid out right here for you. It is a company.

Many of you have never heard of ImClone Systems, Incorporated, but you have heard a case affiliated with it called Martha Stewart. She is tied into this little deal. Let us take a look at what ought to be a textbook example for every college business book that is published for study, a textbook example of corruption at the core, of the misuse, and the breach of fiduciary duty by your corporate officers. Here is what happens. ImClone has a president, and the president of the corporation finds out December 4, remember the dates. They are important. On my poster, this is the key date right here. Lots of these corporate officers, including the president, the vice president, the legal attorney, the vice president for marketing, they hold a lot of stocks. They hold a lot of options on shares of stocks.

Now they are about to get information that the public will not have access to for several days. Now under the rules of law, they are not to share this information with anybody because it gives one person an unfair advantage. Our stock market works out there, our investment market works because theoretically both parties have an equal advantage at least going into it. And they then negotiate and they bargain. But you cannot have a system that works correctly when one party has inside information and using it inappropriately, the other side can never get a fair deal. There is no square deal on something like that. And ImClone was not about to give anybody a square deal, except the inside people. Here is what happened.

□ 2215

December 4, FDA officials meet privately with the ImClone vice president and informally and probably improperly, but informally signaled that the company's cancer drug could have licensing problems. So on December 4, an FDA official, and again, I am not sure this was proper what this official told, but he hinted or dropped the hint, hey, your drug, which this company has built itself upon, is in serious trouble. It may not get its license. You guys may be in real trouble.

What happens? Look what happens. You think that they go public with this information? No. You think they are going to go out to the average John or Jane on the street that owns stock, that trusts this management, you think they go to the board of directors? They may, by the way, have gone to the board, but do you think they go to the employees who work so hard to make this a success and say we have got some information, you need to be aware this stock may collapse? No, they do not do that. These people are corrupt. They are going to use that to self-enrich themselves.

Here is the sequence of things that happened. December 6, two days later, their attorney, and remember, I told you how important it is that you have legal counsel that has integrity, that has capability and knows the rules of law when it comes to corporate governance. So what happens on December 6? This attorney, their general attorney, general counsel the title they use, unloads $2.5 million worth of ImClone stock. Cannot wait to sell. Two days after that information gets to him, he drops the stock. What a wonderful timing. What a coincidence, what a hunch. Must be a very brilliant guy in the stock market.

December 11, ImClone vice president Ronald Martell sells another two-point-some-million dollars' worth of ImClone stock.

On December 26, now we are jumping to December 26, a very key date right here, here is the CEO, this guy, in my opinion, is as big a two-bit crook as you have ever seen in the history of this country. This guy was called the general attorney, now the general counsel. He has already sold his stock because he knows the news is coming. He spends 17 minutes on the phone with the CEO, Sam Waksal, the president. Here is what he does. He spends 17 minutes on the phone with the president. The president then drafts a note, and on the note he marks "urgent, immediate attention required," and he sends it to his broker, to the broker that holds the president's, this guy, he sends it over to his personal broker, this note, urgent, immediate attention required.

Then what he does is he knows that in the next couple of days, on December 27 or December 28, I guess it is December 28, there is going to be an announcement that ImClone's drug is not going to get licensed by the FDA, and he knows that their stock price will implode. It will collapse. So he immediately calls his broker, and he knows that if he sells the stock in his name, it is going to be pretty obvious he had inside information.

So he transfers 4.5 million shares or $4.5 million, I cannot remember which, into his daughter's name and says to his daughter, sell the stock quick. What happens to the daughter? She turns around and sells her stock. She has got over $2 million or $3 million worth of stock. She attempts to sell her father's stock in her name, but Merrill Lynch says no, something is fishy here, we are not going to let you sell that 4 million shares, but we will let you sell your shares because maybe you are like the attorney and the marketing guy and like some of the other executive officers, you just know how to read the stock market, just timing, just a coincidence that you had such a hunch that this stock was going to implode.

Do not forget now they have got buddies out there. They do have a couple of close friends. One of their close friends is this broker at Merrill Lynch. What does this broker at Merrill Lynch do? He calls somebody named Martha Stewart. What does Martha Stewart do? He leaves a message to Martha Stewart. This is before the general public knows of the inside information that is going on. The Merrill Lynch broker calls Martha Stewart, and the message he leaves her is ImClone is going to start trading downward, ImClone is in trouble, in other words, but the exact quote is, "ImClone is going to start trading downward."

What happens? Martha Stewart immediately sells almost $300,000, I think it is within a few minutes sells $300,000 approximately worth of her stock.

What happens? Next day, the announcement comes out. ImClone stock almost becomes worthless. Who loses on the deal? Well, the shareholders of ImClone lose in a big way unless you happen to be on the inside. The employees of ImClone lose in a big way. The retired employees of ImClone get their pension plans, their retirements, all get wiped out.

Who comes out of it smelling like a rose? The two bit-crook comes out of it smelling like a rose. Some of the board members come out of it. The president of the company, the president's daughter and people like Martha Stewart, who by coincidence just happened to know the right day to sell.

These are the kind of deals that are putting a black eye on business in America. These are the kind of deals that are shading the honest people. These are the kind of bad apples in the bushel we have got to dig down and we have got to find it, and I will tell you it is not just with this ImClone Corporation.

Let me just give you a quick demonstration. Enron Corporation, I do not need to talk much about that. We know about the corruption that went on at Enron Corporation, and take a look at the problems they had on their board of directions at Enron Corporation. Not one of those executives has yet had the feeling of handcuffs on their wrists. Keep that in mind next time you go to the grocery store or the shopping center. You might see somebody that stole a 95 cent candy bar and they have got handcuffs on their wrists, but nobody at Enron did.

Take a look at Arthur Andersen, completely breached their duties, not the whole corporation. There were a lot of good people that worked in that, but the whole corporation was dependent on their executive officers who were supposed to have integrity and honesty, but they got reeled in. They cast out there and the executives reeled them in, said, come on, we will cut you in on the deal. Arthur Andersen.

Xerox Corporation overstates their sales, tried to deceive the shareholder.

Kmart Corporation goes out and loans its chief executive officers and several of the executive officers millions of dollars a couple of weeks before they know they are going to declare bankruptcy; and the week before they declare bankruptcy, the chief executive officers sit down and write a statement to themselves, dear self, the money that we had you loan from Kmart is now forgiven, signed self. That is what happened here.

I know people that worked at Kmart. You know stores of Kmart that have closed. They are trying to make it. They are still trying to make it go. There are a lot of people. These are blue collar workers, a lot of them. These are not wealthy people. It is like I said at the beginning of my remarks, this is not a bank robbery going on here because keep in mind, the bank robbery, it is generally a poor person trying to rob from a rich institution. These are wealthy institutions trying to rob from poor people; and at Kmart they were successful, lots of retired employees there that made maybe five, six bucks an hour who had just a few hundred dollars a month. They do not have a $90 million dollar mansion like Gary Winnick with Global Crossing.

They get wiped out, these people, and they are not 20-year-old kids that have a lot of life ahead of them. They are 50-, 60-, 70-year-old people that are dependent upon their pension after 30 years with Kmart.

Take a look at WorldCom, Tyco Corporation. Take a look at ImClone. That is the one that we took, and I have got more charts. I could tell you about more and more of them.

I have got back here Adelphia Corporation. There the executive officers bought their own sports team, built their own private golf course for $20 million, managed to siphon $3.5 billion, not million, billion off the corporate books. Where were the auditors? Where was the attorney? Where was the corporate board of directors? They stole that money. They are probably playing golf today, and we have more examples like that.

Waste Management, Sunbeam which was caught several years ago, Global Crossing.

There is a little game called Monopoly out there, and I am not trying to be cute here. I am serious as I can be. In that game you could pull a card, and if you get in trouble, you could pull a card. You know what that card says, "Go to jail, and as you pass go, do not collect your $200."

What I worry about here is that people like Gary Winnick, people like the head of Tyco, people like Scott Sullivan, and by the way, if you have not seen it, this is Scott Sullivan's $20 million palace currently under construction on Lakeside in Florida. These people should not only ought to go to jail. They should not collect the money on the way to jail.

These proceeds were taken from the employees of that corporation. These proceeds were taken from the shareholders who trusted the management team of that corporation. There is a solution, and our solution is kind of multistage.

The first step in the solution for getting this is to keep in mind that the whole system has not imploded. I would say that a very small fraction of the system is in trouble, but your body may be cancer-free and you may have just a little tiny bit of cancer on your big toe. If you do not catch that cancer for a while, most everything is going fine; but if you ignore that cancer on your toe, pretty soon it may go up your leg and then pretty soon it will kill you.

Now we have discovered it on our toe. Now is the time to act. Keep in mind that we do not need to pull out a gun and shoot ourselves because most of our body is in fine shape and we are going to be able to remove that cancer. If we remove it and if we act aggressively and if we dig deep enough, we can get that cancer off and we will be fine. So it is no use destroying your body. Keep in mind, most of your body is working well, but you have got to act aggressively against the problem you have got on that foot. It is the same thing here.

The second step, we have got to aggressively pursue these crooks. A crook is a crook is a crook; and a crook that steals from the poor, a crook that steals from the working population in this country, a crook that steals from anybody ought to be punished. The days of our society, of these people being allowed to live in these kinds of mansions after we know they took the money or the ImClone people and I do not care how popular they are. It may be Martha Stewart.

I admire Martha Stewart. She built her empire from nothing. She is a hardworking lady but she made a big mistake, in my opinion. She dealt on inside information, information that the little guy was not entitled to, but the law says the little guy is entitled to.

These people have broken the law, and these people should be punished. If we do not punish these people, if we do not go aggressively after these people, then we begin to lose the integrity and the credibility that we are going to be able to get that cancer off our foot, and then we do have the risk of our entire system imploding.

That is a long way off because I am confident, especially under the President's statements of the last couple of weeks, under action take on this floor, under action taken on the other body's floor and the compromise that we will eventually come up with, we are going to go after them; but we need our local prosecutors to go after them. We need the Internal Revenue Service to go after them. We need the Securities and Exchange Commission to go after them. There is no reason any agency that has any kind of jurisdiction over these individuals should not pursue these people as aggressively as they would pursue a two-bit thief that walks out of one of these companies with a pen or a candy bar or calculator that they have stolen.

I have been pretty emotional with this speech because I feel deeply about it. I feel a lot of people have gotten cheated; and I know I have said it time and time again, but it is not a bank robbery. It is not poor people trying to steal from the rich. These are a very few people who are very wealthy who acted in a very self-serving, very selfish method for one purpose and that was to enrich themselves at the expense of somebody else; and in these particular cases, the people that have done this were already wealthy. It was not like they needed to get wealthy. It was not like they needed to take bread home to their kids. These people were already wealthy. They just did not have enough so they decided to cheat the system, and the people they cheated are the people that do not have enough.

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They are the people that have had their pensions wiped out; that have had their dreams wiped out; that have had their jobs eliminated. Those are the people that are suffering, and the people who have invested in these shares and the American dream. Those are the people that are suffering, and we ought to right the wrong. It is dependent on us, colleagues, to right that wrong, and we are going to have this opportunity.

So once again I call for prosecutors across the country, for the IRS, for the SEC, for Congress, the President has already shown his aggressiveness on this, we need to come together and we need to bring down the hammer and we need to bring it down hard so that people know that the American business system is a credible system that works on integrity. If we can do that, we will restore the economic strength of our business machine. We have to have that for this country to continue its greatness.

## CORPORATE RESPONSIBILITY

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Mr. Speaker, I have come to the floor of the House tonight to advise the American people about the status of our efforts to deal with the crisis of confidence in our corporate structure, which indeed is deep.

Mr. Speaker, I have to say that one thing I realize all Americans share tonight, looking at these repeated scandals, fiscal collapses and debacles in the accounting structure of our corporations, all Americans, I think, share one belief, be they Democrats or Republicans, suburban, rural, north or south, and that is that we need strong medicine rather than weak tea in dealing with this problem. We need more aggressivity and not so much passivity in dealing with this problem. We need action rather than inaction.

Mr. Speaker, I must report to Americans that, unfortunately, we have not had enough action in dealing with these problems. Let me give an example of what I mean by that. A few days ago in the other body a bill was passed to deal with these problems by a vote of 97 to zero. Ninety-seven Democrats and Republicans joined together to pass a meaningful bill to provide for the security of Americans, for their retirement and investment in corporations.

We should be here voting on that bill tonight. Tonight, we should be sitting here, Republicans and Democrats, passing that legislation which had overwhelming bipartisan support in the other Chamber, but we are not. And why are we not doing that work for the American people tonight? Well, the reason is this, and it is sad to say, but the leadership in this House in the majority party has made a conscious decision to drag their feet; has made a conscious decision to be passive rather than active; has made a conscious decision to answer the needs of some special interests rather than the American investors who are losing their shirts in the last few days in the stock market and in their retirement funds, which are rapidly disappearing.

The sad fact is that we have some very commonsense things that we need to do to make sure that there is a fiscal security apparatus in our corporations so that people cannot pull the wool over the eyes of investors, defraud investors, and falsify their books. Unfortunately, the majority party refuses to adopt those measures.

Today, on this floor, we had a motion that my party proposed that would require some very commonsense measures so that investors would have greater confidence; measures to give whistleblowers protection, these whistleblowers who have blown the whistle on corporate misdeeds, to make sure they have protection. That was rejected by the majority party.

We had a proposal to require records to be kept for a decent interval so we could figure out what had happened and find the trail of fraud in these cases. That was rejected by the other party.

We had a provision that would give investors who had been damaged greater leeway, a greater period of time to seek redress if they had been hurt by corporate fraud. That was rejected by the majority party.

These are things we could have done today. For the last 2 months, it has been a common litany here that we have proposed ideas and we have had to drag the majority party kicking and screaming to get consideration of these issues. It is really sad, because I have a lot of friends on the other side of the aisle who, unfortunately, are not being given a chance to vote on these commonsense measures.

Now, let me mention what the majority party has been doing in the last week. During the last week, when the economy has been in a crisis of consumer confidence and investor confidence in the last week, on July 12, just a few days ago, the leadership of the Committee on Energy and Commerce in the majority party, in response to this, what did they do? Well, they wrote a letter to the Public Broadcasting Service, PBS. In the midst of this economic crisis, the leaders of this Chamber's Committee on Energy and Commerce wrote a letter to PBS. And you know what they wrote about? They were complaining that Sesame Street program was going to introduce a muppet character that was HIV-positive.

They were so concerned about this that they wrote a letter to PBS to stop this heinous introduction of this muppet character. Well, Americans want to know the answer to this question tonight: If the Republican Party in this House is willing to take on Sesame Street, why are they not willing to take on Wall Street? If the Republican Party is willing to take on the Cookie Monster, why are they not willing to take on these moral monsters who are defrauding American investors and taking away people's entire retirement income in some cases?

This is a time for a bipartisan response to an economic crisis that does not just give Americans weak tea. Yes, the majority party is going to have to stand up against some of the special interests who have been so prevalent in this Chamber in the last decade. Yes, they are going to have to do it. But we need them to do it. We need them to join us to do it.

Now, we have heard this response that they have made, and they have joined with Democrats to do one of the things that needs to be done. They have increased with us the jail time that corporate defrauders will be exposed to. And that is a good thing. It is necessary. It is probably not adequate, because I would support mandatory jail time. Because, unfortunately, a lot of white collar criminals spend too little time in these country club prisons. We should have mandatory jail term. But, nonetheless, we have joined in a bipartisan way to increase the jail time.

Unfortunately, some Members on the other side of the aisle have said that is enough; our job is done. But that is not enough. If we draw a metaphor to our airline security system, when we had this terrorist threat against airlines, we did not say our job was done as soon as we increased jail time for terrorists. Because that is not enough. We have to draw a security ring around airplanes to make sure terrorists do not put bombs in the checked baggage of our airplanes, do not sneak weapons onto our airplanes. We need to be proactive, rather than just coming after the crime and sanctioning people with jail.

So it is not enough for the majority party to simply say we will increase jail times and go home. That is not enough. What we need to do is to assure that we have watchdogs watching corporate behavior to make sure investors are not defrauded. Now, what does that mean? Well, let me suggest some of the commonsense proposals that were adopted 97 to 0 in the other Chamber and have the overwhelming support of Democrats in this House. Let me mention a few.

One, a segregation, to make sure that auditors do not have conflicts of interest. We depend on auditors to act as referees or umpires, to make sure there are no fouls. But right now those auditors can have these huge conflicts of interest where they have these giant contracts with the companies they are supposed to be auditing, and we want to end that practice. We want auditors to be real meaningful cops on the beat. The majority party refuses to accept that. That is most unfortunate. We need to get that security ring up and running.

Second, we need CEOs to verify their financial statements. We need the people at the top, the captain of the ship, the one who is ultimately responsible for the corporation to sign their John Hancock to verify the financial accounting. If we do not do that, then nobody is in charge. And it is about time to adopt that proposal.

Third, we have to have an independent accountancy board to make sure that the rules of auditing are workable, tough, and enforceable. Unfortunately, right now, we have learned that the accounting rules have allowed tremendous creative accounting to take place. Creativity is something we need in artists, not in accountants and auditors. We need to have an independent board to establish the rules of how these audits are conducted, and we do not have that right now. Americans do not have that right now. The profession essentially writes its own rules, and that has been a recipe for disaster.

Now, in the other Chamber, on a 97 to 0 vote, that was adopted, and we have proposed this on our side of the aisle. But tonight, as people's retirements are disappearing all across America, the majority party refuses to allow us to have a vote on this House floor to implement that commonsense measure. And I respect people on the other side of the aisle. I have some great friends on the other side of the aisle. But it is wrong not to allow this House to have a vote on those commonsense measures, because ultimately America needs people who will stand up for those investors against fraud.

Mr. Speaker, I hope tomorrow that when we convene we will have people in the majority party who will join us on a bipartisan basis to get this job done, and finally convince the majority party if they are going to be willing to stand up to Sesame Street, join us in standing up to the shenanigans on Wall Street and get this job for the American people.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess for approximately 10 minutes.

Accordingly (at 10 o'clock and 44 minutes p.m.), the House stood in recess for approximately 10 minutes.

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## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. JEFF MILLER of Florida) at 10 o'clock and 53 minutes p.m.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5120, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–585) on the resolution (H. Res. 488) providing for consideration of the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–586) on the resolution (H. Res. 489) providing for consideration of the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. MCHUGH (at the request of Mr. ARMEY) for today after 1:30 p.m. and the balance of the week on account of attending a funeral for a former member of his staff.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. KANJORSKI, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. BENTSEN, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

The following Members (at the request of Mr. PENCE) to revise and extend their remarks and include extraneous material:

Mr. OSBORNE, for 5 minutes, today and July 18.

Mr. DELAY, for 5 minutes, July 22.

Mr. BLUNT, for 5 minutes, July 22.

Mr. ADERHOLT, for 5 minutes, July 22.

Mr. PENCE, for 5 minutes, today.

Mr. KIRK, for 5 minutes, July 18.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. INSLEE, for 5 minutes, today.

## ADJOURNMENT

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Thursday, July 18, 2002, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8047. A letter from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting the Department's final rule — Housing Assistance for Native Hawaiians: Native Hawaiian Housing Block Grant Program and Loan Guarantees for native Hawaiian Housing; Interim Rule [Docket No. FR-4668-I-01] (RIN: 2577-AC27) received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8048. A letter from the Director, FDIC Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Risk-Based Capital Standards: Claims on Securities Firms [No. 2002-5] (RIN: 1550-AB11) received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8049. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Standards for Business Practices of Interstate Natural Gas Pipelines [Docket No. RM96-1-020; Order No. 587-O] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8050. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 02-36), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8051. A letter from the Director, Defense Security Cooperation Agency, transmitting the listing of all outstanding Letters of Offer to sell any major defense equipment for $1 million or more; the listing of all Letters of Offer that were accepted, as of March 31, 2002, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

8052. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Report on Denial of Visas to Confiscators of American Property; to the Committee on International Relations.

8053. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the determination and certification of seven countries that are not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria; to the Committee on International Relations.

8054. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed transfer of major defense equipment pursuant to Section 3 (d) of the Arms Export Control Act (AECA); to the Committee on International Relations.

8055. A letter from the Chief, Regulations and Administrative Law, USCG, Departmenmt of Transportation, transmitting the Department's final rule — Safety and Security Zones; High Interest Vessels —— Boston Harbor, Weymouth Fore River, and Salem Harbor, Massachusetts [CGD01-01-

227] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8056. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations; Beaufort Water Festival July 12th Fireworks Display, Beaufort River, Beaufort, SC [CGD07-02-087] (RIN: 2115-AE46) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8057. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Pelican Island Causeway, Galveston Channel, TX [CGD08-02-003] (RIN: 2115-AE47) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8058. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Lady's Island Bridge, Atlantic Intracoastal Waterway (AIWW), Beaufort, South Carolina [CGD07-99-038] (RIN: 2115-AE47) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8059. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Chicago River, IL [CGD09-01-148] (RIN: 2115-AE47) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8060. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone: Sag Harbor Fireworks Display, Sag Harbor, NY [CGD01-02-085] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8061. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety and Security Zones; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston, Marine Inspection Zone and Captain of the Port Zone [CGD01-01-214] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8062. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Port Hueneme Harbor, Ventura County, CA [COTP Los Angeles-Long Beach 01-013] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8063. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River Miles 355.5 to 356.5, Portmouth, Ohio [COTP Huntington-02-009] (RIN: 2115-AA97) Receive July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8064. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Lake Huron, Harbor Beach, MI [CGD09-02-038] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8065. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Seafair Blue Angels Performance, Lake Washington, WA [CGD13-02-008] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8066. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety and Security Zone; Boston and Salem Harbors, Massachusetts [CGD01-02-016] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8067. A letter from the transmitting the Department's final rule —, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8068. A letter from the Chief, Regulations Branch, Department of Treasury, transmitting the Department's final rule — Import Restrictions Imposed On Pre-Classical and Classical Archaeological Material Originating in Cyprus [T.D. 02-37] (RIN: 1515-AC86) received July 16, 2002, pursuant to 5 U.S.C. 01(a)(1)(A); to the Committee on Ways and Means.

8069. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventorie [Rev. Rul. 2002-47] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8070. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Returns of Information of Brokers and Barter Exchanges [Rev. Proc. 2002-50] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8071. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Substitute Agent for a Consolidated Group when the Common Parent Ceases to Exist [Rev. Proc. 2002-43] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8072. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability [Rev. Proc. 2002-49] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8073. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Class Life of Floating Gaming Facilities — received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8074. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters [Rev. Proc. 2002-32] received July 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8075. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories [Rev. Rul. 2002-29] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8076. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2002-32] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 521. A bill to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam (Rept. 107-584). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 488. Resolution providing for consideration of the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-585). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 489. Resolution providing for consideration of the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-586). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GILMAN (for himself, Mrs. ROUKEMA, Mr. FRELINGHUYSEN, Mrs. KELLY, Mrs. JOHNSON of Connecticut, Mr. HOLT, Mr. WALSH, Mrs. MCCARTHY of New York, and Mr. ENGEL):

H.R. 5146. A bill to establish the Highlands Stewardship Area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes; to the Committee on Resources.

By Mrs. BONO (for herself, Mr. TERRY, Mr. BUYER, Mr. GREENWOOD, Mr. FRANK, Mr. SWEENEY, Mr. QUINN, Mr. OSBORNE, Mr. GREEN of Texas, Mr. ENGLISH, Mr. SHERWOOD, Mrs. JOHNSON of Connecticut, and Mr. TAYLOR of Mississippi):

H.R. 5147. A bill to allow the Financial Accounting Standards Board to develop standards of financial accounting and reporting related to the treatment of stock options; to the Committee on Energy and Commerce.

By Mr. HOBSON (for himself, Mr. HALL of Ohio, Mr. TIBERI, Mr. PORTMAN, Mr. OXLEY, Mr. GILLMOR, Mr. NEY, Mr. REGULA, Mr. BROWN of Ohio, Mrs. JONES of Ohio, Mr. LATOURETTE, Mr. BOEHNER, Mr. KUCINICH, Mr. STRICKLAND, and Ms. PRYCE of Ohio):

H.R. 5148. A bill to establish the National Aviation Heritage Area, and for other purposes; to the Committee on Resources.

By Mr. LEACH:

H.R. 5149. A bill to establish the Securities and Commodities Exchange Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory commission, and for other purposes; to the Committee on

Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H.R. 5150. A bill to remove the exemption with respect to Pakistan from the prohibition on assistance to a country whose elected head of government was deposed by decree or military coup; to the Committee on International Relations.

By Mr. PAUL:

H.R. 5151. A bill to exclude certain properties from the John H. Chafee Coastal Barrier Resources System; to the Committee on Resources.

By Mr. QUINN (for himself, Mr. NADLER, Mr. KING, Mrs. MALONEY of New York, Mrs. KELLY, Mr. CROWLEY, Mr. MCHUGH, Mrs. MCCARTHY of New York, Mr. HOUGHTON, Mr. ENGEL, Mr. FOSSELLA, Mr. TOWNS, Mr. BOEHLERT, Mr. OWENS, Mr. WALSH, Mr. ISRAEL, Mr. GRUCCI, and Mrs. LOWEY):

H.R. 5152. A bill to extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001; to the Committee on Transportation and Infrastructure.

By Mrs. ROUKEMA:

H.R. 5153. A bill to designate the facility of the United States Postal Service located on Kinderkamack Road in Emerson, New Jersey, as the "Gary Albero Post Office Building"; to the Committee on Government Reform.

By Mr. STUPAK:

H.R. 5154. A bill to provide Medicare beneficiaries with access to prescription drugs at Federal Supply Schedule prices; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of South Carolina (for himself, Mr. BARTLETT of Maryland, Mr. CHAMBLISS, Mr. DEMINT, Mr. DOOLITTLE, Mr. GOODE, Mr. GRAHAM, Mr. HALL of Texas, Ms. HART, Mr. HAYES, Mr. JENKINS, Mr. JONES of North Carolina, Mr. KERNS, Mr. KINGSTON, Mr. MCHUGH, Mrs. MYRICK, Mr. NORWOOD, Mr. OSBORNE, Mr. PENCE, Mr. PICKERING, Mr. PITTS, Mr. RILEY, Mr. SHIMKUS, Mr. SHOWS, Mr. SMITH of Michigan, Mr. SOUDER, Mr. SULLIVAN, Mr. TAYLOR of North Carolina, Mr. TIAHRT, Mr. VITTER, and Mr. WILSON of South Carolina):

H.J. Res. 106. A joint resolution proposing an amendment to the Constitution of the United States respecting real and virtual child pornography; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. BORSKI):

H. Con. Res. 442. Concurrent resolution recognizing the American Road and Transportation Builders Association for reaching its 100th Anniversary and for the many vital contributions of its members in the transportation construction industry to the American economy and quality of life through the multi-modal transportation infrastructure network its members have designed, built, and managed over the past century; to the Committee on Transportation and Infrastructure.

By Ms. CARSON of Indiana (for herself, Mr. VISCLOSKY, Mr. PENCE, Mr. ROEMER, Mr. SOUDER, Mr. BUYER, Mr. BURTON of Indiana, Mr. KERNS, Mr. HOSTETTLER, and Mr. HILL):

H. Con. Res. 443. Concurrent resolution expressing the sense of Congress supporting the 2002 World Basketball Championship and welcoming the 16 national teams competing; to the Committee on International Relations.

By Mr. ISAKSON (for himself, Mr. TANNER, Mr. MATHESON, Mr. SIMPSON, Mr. PLATTS, Mr. TOM DAVIS of Virginia, Mr. ISTOOK, Mrs. BIGGERT, Mr. EHLERS, Mr. CALVERT, Mrs. CUBIN, Mr. JONES of North Carolina, Mr. GUTKNECHT, Mr. TIBERI, Mr. HAYWORTH, Mr. LEWIS of Kentucky, Mr. WELLER, Mr. WATTS of Oklahoma, Mrs. JOHNSON of Connecticut, Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, Mr. HAYES, Mr. KINGSTON, Mr. KENNEDY of Minnesota, and Mr. MCKEON):

H. Con. Res. 444. Concurrent resolution expressing the sense of the Congress that the Federal Mediation and Conciliation Service should exert its best efforts to cause the Major League Baseball Players Association and the National Association of Professional Baseball Leagues to enter into a contract to continue to play professional baseball games without engaging in a strike, a lockout, or any coercive conduct that interferes with the playing of scheduled professional baseball games; to the Committee on Education and the Workforce.

By Mr. FATTAH (for himself, Mr. PAYNE, and Mr. MEEKS of New York):

H. Res. 490. A resolution concerning the formation of the African Union; to the Committee on International Relations.

By Mr. STARK (for himself, Mr. GEORGE MILLER of California, Mr. BROWN of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MCKINNEY, Ms. LEE, Ms. MILLENDER-MCDONALD, Ms. WOOLSEY, Mr. DOGGETT, Mr. MCGOVERN, and Mr. FARR of California):

H. Res. 491. A resolution supporting the use of fair trade certified coffee; to the Committee on Government Reform, and in addition to the Committees on House Administration, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 360: Mr. SANDERS.

H.R. 632: Mr. FATTAH, Mr. STUPAK, and Mr. NORWOOD.

H.R. 638: Mr. CUMMINGS.

H.R. 658: Mr. PETERSON of Minnesota.

H.R. 840: Mr. SCHIFF, Mr. LANGEVIN, Mr. DINGELL, Mr. DOGGETT, and Mr. HOUGHTON.

H.R. 853: Mr. BARCIA.

H.R. 969: Mr. AKIN.

H.R. 1296: Mr. LEWIS of Kentucky.

H.R. 1307: Mr. CONYERS.

H.R. 1362: Mr. ROTHMAN.

H.R. 1581: Mr. CRENSHAW.

H.R. 1723: Mr. MARKEY.

H.R. 1726: Mr. MCGOVERN.

H.R. 1842: Mr. KANJORSKI.

H.R. 1907: Mr. ORTIZ.

H.R. 2117: Mr. SHERMAN and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2570: Mrs. MALONEY of New York and Mr. RANGEL.

H.R. 2702: Mr. MATHESON and Mr. KIRK.

H.R. 2735: Mr. UNDERWOOD, Mr. SMITH of New Jersey, and Mr. KENNEDY of Minnesota.

H.R. 2763: Mr. GRAHAM.

H.R. 2874: Mr. PALLONE, Mr. MALONEY of Connecticut, and Ms. BERKLEY.

H.R. 3063: Ms. MCKINNEY, Mr. MCGOVERN, and Mr. KENNEDY of Rhode Island.

H.R. 3273: Mr. SIMMONS and Mr. WILSON of South Carolina.

H.R. 3321: Mr. ACEVEDO-VILA.

H.R. 3339: Mr. PRICE of North Carolina.

H.R. 3443: Mr. MANZULLO.

H.R. 3450: Mr. GOSS, Mrs. KELLY, and Mr. BARTON of Texas.

H.R. 3456: Mr. ROSS.

H.R. 3567: Mr. HOEKSTRA and Mr. WILSON of South Carolina.

H.R. 3594: Ms. WOOLSEY.

H.R. 3645: Mr. SMITH of New Jersey, Mr. MCKEON, and Mr. UDALL of New Mexico.

H.R. 3695: Mr. BROWN of Ohio and Ms. LEE.

H.R. 3831: Mr. THOMPSON of California, Mr. MORAN of Virginia, and Mrs. MCCARTHY of New York.

H.R. 3884: Mr. CARDIN, Mr. WEXLER, and Mr. MATHESON.

H.R. 3894: Mr. BARRETT.

H.R. 3974: Mr. FILNER.

H.R. 4061: Mr. LATOURETTE.

H.R. 4098: Ms. NORTON, Ms. DELAURO, Mr. BROWN of Ohio, and Mrs. LOWEY.

H.R. 4194: KLECZKA, Mr. PASTOR, and Mr. TOWNS.

H.R. 4483: Mr. LIPINSKI and Mr. LANTOS.

H.R. 4524: Mr. CUMMINGS and Mr. PAYNE.

H.R. 4600: Mrs. EMERSON, Mrs. JOHNSON of Connecticut, and Mr. ROGERS of Kentucky.

H.R. 4668: Ms. SLAUGHTER.

H.R. 4693: Mr. SKELTON and Mr. VITTER.

H.R. 4730: Mr. NADLER.

H.R. 4754: Mr. WILSON of South Carolina, Mr. FILNER, and Mr. PRICE of North Carolina.

H.R. 4757: Mr. SCHIFF.

H.R. 4780: Mr. BERMAN, Mr. KILDEE, Ms. WATERS, Mr. FRANK, and Mr. PHELPS.

H.R. 4790: Mr. KERNS.

H.R. 4792: Mr. BACA.

H.R. 4804: Mr. CRANE and Mr. KERNS.

H.R. 4821: Mr. ISRAEL.

H.R. 4840: Mr. RADANOVICH.

H.R. 4852: Mr. JEFF MILLER of Florida.

H.R. 4857: Mrs. MORELLA.

H.R. 4881: Mrs. MYRICK and Mr. ENGLISH.

H.R. 4894: Mr. BARRETT, Mr. NEAL of Massachusetts, Ms. MCCARTHY of Missouri, Mr. DOYLE, and Ms. MCKINNEY.

H.R. 4909: Mr. SOUDER.

H.R. 4937: Mr. STARK and Mr. CUMMINGS.

H.R. 4951: Mr. TOWNS, Ms. SLAUGHTER, Mr. WEXLER, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. PAYNE, and Mr. ENGEL.

H.R. 4963: Mr. DUNCAN and Mr. SMITH of New Jersey.

H.R. 4967: Mr. GUTIERREZ and Mr. BERMAN.

H.R. 4976: Ms. SCHAKOWSKY.

H.R. 5013: Mr. PICKERING, Mr. BOYD, Mr. FOLEY, Mr. KERNS, Mrs. JO ANN DAVIS of Virginia, and Mr. SHOWS.

H.R. 5033: Mr. BROWN of South Carolina, Mr. YOUNG of Alaska, Mr. GARY G. MILLER of California, Mr. WILSON of South Carolina, Mr. SOUDER, Mr. KERNS, Mr. TAYLOR of North Carolina, Mr. JONES of North Carolina, and Mr. KOLBE.

H.R. 5005: Mr. UDALL of New Mexico.

H.R. 5064: Mr. TAYLOR of North Carolina, Mr. FORBES, Mr. HERGER, Mr. HOEKSTRA, Mr. JEFF MILLER of Florida, Mr. CANTOR, Mrs. EMERSON, Mr. GRAVES, Mr. POMBO, and Mr. HAYES.

H.R. 5069: Mr. NADLER.

H.R. 5073: Ms. PELOSI.

H.R. 5089: Mr. LEVIN.

H.R. 5105: Mr. FRANK and Mr. MCGOVERN.

H.R. 5107: Mr. WYNN, Ms. SCHAKOWSKY, Mr. DEFAZIO, Mr. MENENDEZ, Mrs. LOWEY, Mr. MALONEY of Connecticut, Mr. SANDLIN, Mr. ROSS, Ms. SLAUGHTER, Mr. KLECZKA, Mr. CUMMINGS, Mr. LAMPSON, Mr. HOEFFEL, Mr. JOHN, Mr. CARDIN, Mr. CARSON of Oklahoma, Mr. DICKS, Mr. HOLDEN, and Mr. BOSWELL.

H.R. 5129: Mr. BARR of Georgia.

H.R. 5135: Mr. BALLENGER and Mr. MEEKS of New York.

H.R. 5139: Mrs. JONES of Ohio, Mr. FROST, Mr. MCNULTY, Ms. NORTON, Mr. PETERSON of Minnesota, Ms. WOOLSEY, Mr. MCDERMOTT, Ms. MCCOLLUM, and Mrs. CLAYTON.

H. Con. Res. 221: Mr. MEEKS of New York.

H. Con. Res. 238: Mr. UDALL of New Mexico.

H. Con. Res. 269: Mrs. KELLY, Mr. MALONEY of Connecticut, and Mr. SENSENBRENNER.

H. Con. Res. 327: Mr. GILMAN, Mr. HASTINGS of Florida, and Mr. HOUGHTON.

H. Con. Res. 367: Mr. WALSH, Mr. STEARNS, Mr. JONES of North Carolina, and Mr. ROGERS of Michigan.

H. Con. Res. 385: Mr. SUNUNU, Mr. BENTSEN, and Mr. CUMMINGS.

H. Con. Res. 421: Mr. ROTHMAN.

H. Con. Res. 437: Ms. MILLENDER-MCDONALD, Ms. JACKSON-LEE of Texas, Mr. LANTOS, and Mr. MORAN of Virginia.

H. Con. Res. 439: Ms. ROYBAL-ALLARD, Ms. PELOSI, Ms. WATERS, Ms. DUNN, and Mrs. MEEKS of Florida.

H. Res. 94: Mr. FORD, Ms. JACKSON-LEE of Texas, Mr. THOMPSON of California, Mrs. CHRISTENSEN, Mr. KENNEDY of Rhode Island, Mr. FILNER, Mr. BARRETT, Mr. BACA, Mr. BAIRD, Mr. GIBBONS, Mrs. CUBIN, Mr. LEWIS of California, Mr. FALEOMAVAEGA, Mr. TOM DAVIS of Virginia, Mr. REYES, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. INSLEE, Mr. SERRANO, Mr. CROWLEY, Mr. HILL, Ms. PELOSI, Mrs. JONES of Ohio, Ms. SÁNCHEZ, Ms. DUNN, Mr. HINOJOSA, Ms. KILPATRICK, Mrs. MEEK of Florida, Ms. BROWN of Florida, Mr. DELAHUNT, Ms. ROS-LEHTINEN, Ms. MCCOLLUM, Mr. MCNULTY, Mrs. MINK of Hawaii, Mrs. CAPPS, Mr. LARSON of Connecticut, Mr. BERRY, Mr. SCHIFF, Mr. MATHESON, Mr. CARSON of Oklahoma, Mr. WU, Mr. HINCHEY, Ms. RIVERS, Mr. CUMMINGS, Mr. RAHALL, Mr. DICKS, Mr. CLAY, Mr. DAVIS of Illinois, Ms. HARMAN, Mrs. CAPITO, and Ms. ESHOO.

H. Res. 295: Mrs. MORELLA.

H. Res. 410: Mr. SCHAFFER.

H. Res. 443: Mr. PASTOR.

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## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

AGRICULTURE APPROPRIATIONS BILL

OFFERED BY: MR. ROYCE

AMENDMENT NO. 1: At the end of the bill, before the short title, insert the following new section:

SEC.   . None of the funds appropriated by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out a market promotion/market access program pursuant to the Agricultural Trade Act of 1978.

H.R. 5120

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 15: Page 57, line 1, after the dollar amount, insert the following: "(reduced by $339,000)".

H.R. 5120

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 16: At the end of the bill (before the short title), insert the following:

SEC.   . Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

H.R. 5120

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 17: Page 71, beginning on line 1, strike section 513 (relating to applicability of cost accounting standards to Federal Employees Health Benefits Program).

H.R. 5120

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 18: At the end of the bill (before the short title), add the following new section:

SEC.   . None of the funds provided in this Act shall be used to enforce or implement discounts for the statistical value of a human life estimated during regulatory reviews through implementation of OMB Circular A–94 Guidelines and Discount Rates for Benefit Cost Analysis of Federal Programs or any guidance having the same substance.

H.R. 5120

OFFERED BY: MS. MILLENDER-MCDONALD

AMENDMENT NO. 19: Page 61, line 12, insert before the period the following:

*Provided further*, That, of the funds provided in this paragraph, $600,000 shall be for the preservation of the records of the Freedmen's Bureau, as required by section 2910 of title 44, United States Code, and as authorized by section 3 of the Freedmen's Bureau Records Preservation Act of 2000 (Pub. L. 106–444).

# EXTENSIONS OF REMARKS

## CELEBRATING 50TH ANNIVERSARY OF CONSTITUTION OF COMMONWEALTH OF PUERTO RICO

SPEECH OF

**HON. PETER DEUTSCH**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 15, 2002*

Mr. DEUTSCH. Mr. Speaker, I join my colleagues from New York, Rhode Island, and throughout the country in opposing this resolution because I, too, find no reason to celebrate the anniversary of the Constitution of Puerto Rico. This constitution prolonged the colonial status of Puerto Rico when approved in 1952, and the people of Puerto Rico continue to be dependent on the absolute powers of the United States Congress under the territorial clause of the United State Constitution.

As a result, the citizens of Puerto Rico lack full representation in the same United States Congress that retains absolute powers over their future and their children's future. Under the commonwealth status celebrated by this resolution, Puerto Rican citizens remain disenfranchised, as they cannot vote for the President or a voting Representative to the Federal Government.

I rise today to express my continued support for Puerto Rico's statehood and oppose this resolution that celebrates the status quo of the commonwealth and colonial status. I stand by my colleagues who believe that the only suitable change in the relationship between Puerto Rico and the United States is an agreement that either brings Puerto Rico into statehood or independence.

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## CORPORATE FRAUD ACCOUNTABILITY ACT

SPEECH OF

**HON. BENJAMIN A. GILMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 16, 2002*

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 5118, the Corporate Fraud Accountability Act. I urge my colleagues to give it their support.

This bill is a necessary step to control a situation that is erupting throughout our economy. Corporate America can no longer take liberties to deliberately and purposefully deceive the American public. This legislation will create, redefine and strengthen those laws and penalties to force corporate America to stand up and be held accountable.

The recent wave of corporate scandals has shattered the companies involved, cost thousands of dedicated employees their jobs and shaken the faith of investors and the American public in the American model of capitalism. Unless this trust is restored, we run the real risk of further corporate scandal, continued meltdowns in the financial markets, and ongoing hardship for the individual investor who sees 401K and other retirement savings disappear.

While there is little that Congress can do to prevent future problems that have yet to be uncovered from the creative accounting practices of the recent past, it can act to head off any future shenanigans from those CEOs and corporations that might be tempted to pad the bottom line in order to inflate a stock price. This legislation seeks to accomplish this objective along with the greater goal of restoring faith in the American free market system.

First, this bill will undoubtedly strengthen existing laws that will criminalize obstruction of justice such as document shredding, and provide prosecutors with the necessary tools to prosecute such actions, and create a new "Securities Fraud" section. It will also increase penalties for mail and wire fraud. The U.S. sentencing commission will then have the authority to change guidelines to reflect the grave nature of pension, securities and accounting fraud crimes.

Moreover, this measure will require top corporate executives to take responsibility and be held accountable for their actions and those of their company. It requires that these company officers certify financial statements that accurately represent the financial situation of the company. Should they fail to do so, they can then be held liable and subject to fines up to $5 million and twenty years in prison. The bill also increases the criminal penalties for filing false statements with the SEC, and increases the fines for the corporation if a false financial statement is uncovered. Furthermore, the legislation also affects the personal incomes of the top executives. If their financial statements result in an investigation by the SEC any unsusal or large payments to the executives will then be frozen.

In summary, H.R. 5118 is a necessary and positive step in reassuring the American public that corporate America is being honest and accurate in their financial disclosures. It is imperative that we send a strong message to these companies that may be falsifying records or altering their accounts that they will be held accountable for these actions, and face stiff fines and prison time for breaking such serious laws.

Accordingly, I urge my colleagues to support H.R. 5118, the Corporate Accountability Act of 2002, which sends a clear message to the American public that executives and top employees of corporations will be held responsible for their actions, or face severe penalties, fines and prison time.

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## TRIBUTE TO WILLIAM AND VERNA BROWN OF BRONSON, FLORIDA AND THE CHILDREN'S TABLE

**HON. KAREN L. THURMAN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mrs. THURMAN. Mr. Speaker, I am here today to pay tribute to William and Verna Brown of Bronson, Florida. Through their organization, The Children's Table, the Browns provide food for needy families in North Central Florida. Since November of last year, the organization has distributed 7,346,000 pounds of food and, incredibly, this is done on a budget of less than $20,000! These wonderful people provide fresh produce, along with other foods, to families who would otherwise not be able to eat.

The Browns incorporated their hobby of farming into what they truly love to do—help people. It all began in 1996 when the Browns fed a single mother and her three young children. Not long after that, The Children's Table was born. The Browns would trade plants grown on their 40 acre property to local grocery stores for nonperishable food items that they would then deliver to the needy. Today, the Browns have expanded this wonderful organization to touch the lives of rural, small town and some large city families in 51 Florida counties, an area that runs from Orlando to the Georgia border and from Jacksonville to Pensacola. On a more personal note, they distribute thousands of pounds of food to a small rural community called Dunnellon, my hometown. The Browns love does not stop here, however, as they are collecting food to send to the children of Afghanistan.

The Browns have proven that neighbors can help neighbors in very caring and effective ways. They've shown that the true spirit of a community comes to light in bad times as well as in good and they've extended their hands to others to join their effort. With the assistance of an army of volunteers, donors, various community and church groups, The Children's Table has grown into an increasingly successful operation. Their goal for each day is to feed one more family and to continue doing so one family at a time. These families are in need of temporary emergency assistance. Many of them are struggling to get by following a job loss, serious illness or a death in the family. They do all of this to teach communities that they can and must do more to take care of their needy. The Browns believe that no child or adult should be deprived of the nutrition necessary to lead a healthy, happy, and productive life.

Recently the Browns were honored with the Gainesville Sun's 39th annual Community Service Award. Upon winning, Mr. Brown said, "We didn't win it," as he gave credit to the 20,000 volunteers who are active in the organization. After all, it is the volunteers who have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

brought the Brown's dream to life. The dream of helping as many people as possible. As selfless as ever, Mr. Brown also gave the reason for The Children's Table when he said, "People need us."

I am so proud of William and Verna Brown, The Children's Table, and all the volunteers that work so hard for such a wonderful cause. I would also like to submit for the RECORD an article from the Gainesville Sun that helps explain the goodwill of the Browns:

### COUPLE PLEDGE TO FEED HUNGRY

GAINESVILLE SUN STAFF REPORT

When it comes to serving others, there's nothing more essential than feeding the hungry.

And that's just what Bill and Verna Brown have devoted their lives to doing for the past six years.

The Browns, co-founders of The Children's Table, an organization that provides food and assistance to the rural needy in 44 Florida counties, have been nominated for The Gainesville Sun's 39th Annual Community Service Award.

The roots of The Children's Table began with the efforts of the couple, who owned a commercial nursery, to give away food from their home garden to those who might need it. Little by little, they expanded their efforts, gathering more and more food to give away by purchasing it with their own money, asking for donations and trading plants from their nursery. They would then spend evenings delivering the food themselves.

Today, The Children's Table network distributes some 2 million pounds of fresh produce and USDA food to rural communities every month, according to Don Ricard, president of the Blessed Hope Foundation, one of many groups that works with The Children's Table. Ricard wrote one of 10 letters nominating the Browns for the award.

During 2001, the Browns put together a distribution network that extends north from Orlando to cover all of North Central Florida. They also have recently initiated hearing screening at rural food distribution sites and provided medicines to the needy.

"I have had the pleasure of working with Bill Brown on various food collection and distribution projects for the past two years," wrote Paul Fuller, a board member of Gainesville Harvest, which works with The Children's Table in their common mission to feed the hungry. "He and his wife, Verna, are the finest examples of Community Service I have ever known in my entire lifetime. . . These folks love their fellow man and give because it is the human thing to do.

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## INTRODUCTION OF THE HIGHLANDS STEWARDSHIP ACT

## HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. GILMAN. Mr. Speaker, I rise today to introduce the Highlands Stewardship Act of 2002, H.R. 5146, a new, cooperative approach to addressing urban sprawl in our Highlands region; an area which includes critical water supplies for three of our Nation's largest metropolitan areas.

The Highlands region, stretching from eastern Pennsylvania, through New Jersey and New York, to northwestern Connecticut, includes the drinking water supply for over 11 million people, a wide diversity of significant rare and endangered plants, animals, and ecosystems agricultural and timber lands, historic sites and structures, and landscapes. It is estimated that one in twelve Americans live within two hours travel of the Highlands region and an astonishing 14 million people visit the more than 200,000 acres of public land in the Highlands region annually, exceeding visitation to even our Nation's most famous national parks. In 1992, the USDA Forest Service completed their Highlands Study which, among other things, found the region to be a "landscape of national significance."

Mr. Speaker, "Urban Sprawl" and "Smart Growth" are modern terms coined by the environmental movement to describe the unsustainable growth patterns in certain suburban and rural areas throughout our Nation and efforts to promote sound planning initiatives. Anywhere that we witness population growth, from the northeast to the southwest, urban sprawl is or will become an issue important to communities and citizens. Urban sprawl can be readily addressed with effective and educated planning, proper zoning, and financial assistance. There is no better place for us to witness the impacts of urban sprawl, or to foresee future impacts, then in the Highlands region, where, it is estimated, that we are losing approximately 5,000 acres of Highlands land and resources, each year.

As noted in the USDA Forest Service Highlands Study (1992), the draft Update (2002), and other State and local open space and planning reports, the Highlands region is being imminently threatened and that there is a national interest in protecting the natural, historical agricultural and economic benefits of the Highlands for the residents of, and visitors to, the region.

Accordingly, in October of 2000, I hosted our Highlands Preservation Summit, which began our Highlands Preservation Initiative, a comprehensive effort to develop a proposal which would find a balance between the environmental and economic needs of the region and define what role the Federal Government should play in the Highlands.

While I feel that it is inappropriate for the Federal Government to influence local decisionmaking matters, I firmly believe that the Federal Government can provide sound leadership by ensuring that our communities have the information and support needed to protect critical, regional resources. Moreover, it is important to undertake a partnership approach which does not infringe on private property rights or the ability of communities to make sovereign decisions.

All of these components have been included in our Highlands Stewardship Act.

In sum, our measure recognizes the national significance of the Highlands region by defining it as our Nation's first "Stewardship Area," modeled after National Heritage Areas and underscoring the importance of the President's call for "good stewardship" and "cooperation" where "Private organizations, landowners, government at all levels are working with each other." The measure is broken into two provisions: Land Conservation and Office of Highlands Stewardship.

In the "Land Conservation" provision, instead of using a "Federal Government knows-best" approach, this measure builds on the outstanding work already completed by our States in their open space plans. Using these existing plans, the Governors of each State work together with the Secretary of Interior to determine which projects should be funded from the federal-side of the Land and Water Conservation Fund (LWCF). We are also including flexibility for the use of these funds to allow for innovative conservation approaches, notably conservation easements, which allow the land to be protected, but at the same time to remain on local tax rolls.

The use of Federal-side LWCF is the most contentious issue in this measure. However the Land and Water Conservation Fund Act of 1965 provides for the acquisition of land, waters, or the interests in land and waters "within the exterior boundaries of the National Park System" and for "endangered species and threatened species." As noted in our measure, the Highlands region contains or is adjacent to numerous Federal designations, including the Wallkill River National Wildlife Refuge, the Upper Delaware Scenic and Recreational River, the U.S. Military Academy at West Point, New York.

Mr. Speaker, our Atlantic region benefits little from the Federal-side of the Land and Water Conservation Fund. However, there is no appropriate Federal designation available to meet the diverse needs of the Highlands region. Moreover, time is of the essence in protecting this critical national treasure. Use of the Federal-side Land and Water Conservation Fund for the purposes described in this measure allows us to expeditiously access existing sources of assistance; ensures the funds are used for land preservation purposes of nationally significant lands; is justified by the findings of multiple State and Federal studies; protects resources in a manner which minimizes the acquisition of additional Federal lands and the need for additional Federal staff; and affords our Nation the opportunity to use a unique approach to addressing urban sprawl, an issue not known when the Land and Water Conservation Fund Act of 1965 was adopted.

Mr. Speaker, our measure also authorizes the creation of an Office of Highlands Stewardship; designed to work with the States and communities, private landowners, including farmers, and individuals, ensuring that they have the information, resources, and support needed to protect the resources of this region. This includes technical and financia assistance for Highlands communities looking to update their master-plans or attempting to reduce non-point source pollution, support for farmers to reduce run-off, ensuring that towns and villages have scientific data and information on important Highlands issues, working with private landowners, etc. Various units of government could use the assistance for planning, carrying capacity analysis, smart growth initiatives, infrastructure assessments, appropriate economic development, eco-tourism, or the development of Smart Growth Resource Centers to develop a tool box for municipalities on Smart Growth and on environmental and land use education.

Due to the multi-state nature of this region, it is important that we ensure that our communities have the opportunity to coordinate with each other and with a Federal entity to ask for information or assistance.

Finally, this measure also creates a diverse working group of citizens, organizations, communities, and other interests in the region to consult with this office and with the states and act as guides to our agencies.

In closing, Mr. Speaker, in view of the national significance of the Highlands, the Federal Government has a significant role in assisting the States in creating, protecting, conserving, preserving, and interpreting areas of significant natural, economic, historical and cultural importance in the Highlands.

New York Governor Pataki, New Jersey Governor McGreevey, Pennsylvania Governor Schweiker, and Connecticut Governor Rowland are supportive of our measure. Our colleague in the Senate, the gentleman from New Jersey, Mr. CORZINE is offering a companion measure with the support of Senator TORRICELLI, Senator SCHUMER, and Senator LIEBERMAN. Numerous local, regional, and national organizations are with us in this effort. We are gathering support from local governments, including mayors and county officials, and are bringing together a number of media outlets to help publicize this important initiative.

Moreover, the ongoing drought has heightened public interest in protecting water supplies and offers an excellent opportunity to respond to this crisis.

To encourage economic growth in locations and ways that are fiscally and environmentally sound, we must depend on quality infrastructure, mass transit systems, green spaces, water and recreational facilities, and comprehensive planning decisions. All of these components are necessary to provide good jobs, adequate services, livable neighborhoods, and are critical to the long-term health of the Highlands.

The Highlands Stewardship Act recognizes the national significance of the Highlands region, builds on the work of the USDA Forest Service Highlands Regional Study and Update, the open space and other related plans of Highlands States, and relies on the partnership needed between Federal, State, local, and private entities to meet the present and future need of this important region.

If you are interested in more information or in supporting this important measure, I invite my colleagues to contact Brian Walsh in my office at 202–225–3776.

H.R. 5146

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Highlands Stewardship Act of 2002".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Highlands region is a geographic area that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut;

(2) the Highlands region is an environmentally unique and economically important area that—

(A) provides clean drinking water to over 11,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

(B) provides critical wildlife habitat, in eluding habitat for threatened and endangered species;

(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains—

(i) recreational resources; and

(ii) cultural and multicultural landscapes relating to the development of commerce, transportation, the maritime industry, agriculture, and industry in the Highlands region; and

(E) provides other significant ecological, natural, tourism, recreational, educational, and Economic Benefits;

(3) an estimated 1 in 12 citizens of the United States live within a 2-hour drive of the highlands region;

(4) more than 1,000,000 residents live in the Highlands region;

(5) the Highlands region forms a greenbelt adjacent to the Philadephia-New York City-Hartford urban corridor that offers the opportunity to preserve natural and agricultural resources, open spaces, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner;

(6) continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources;

(7) the natural, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant;

(8) the national significance of the Highlands region has been documented in—

(A) the Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Assessment Update conducted by the Forest Service in 2001;

(C) the bi-State Skylands Greenway Task Force Report;

(D) the New Jersey State Development and Redevelopment Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition FY 2001–2006;

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region;

(9) the Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, restore, promote, or interpret resources of the Highlands region, including—

(A) the Wallkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridors;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail; and

(J) the United States Military Academy at West Point, New York;

(10) it is in the interest of the United States to protect, conserve, restore, promote, and interpret the resources of the Highlands region for the residents of, and visitors to, the Highlands region;

(11) the States of Connecticut, New Jersey, New York, and Pennsylvania, regional entities, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, and promoting the resources of the Highlands region, and

(12) because of the longstanding Federal practice of assisting States in creating, protecting, conserving, preserving, and interpreting areas of significant natural, economic, and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States, regional entities, and units of local government in the Highlands region, protect, restore, promote, preserve, and interpret the natural, agricultural, historical, cultural, and economic resources of the Highlands region.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to recognize the importance of the natural resources and the heritage, history, economy, and national significance of the Highlands region to the United States;

(2) to assist the Highlands States, regional entities, and units of local government, public and private entities, and individuals in protecting, restoring, preserving, interpreting, and promoting the natural, agricultural, historical, cultural, recreational, and economic resources of the Highlands Stewardship Area;

(3) to authorize the Secretary of Agriculture and the Secretary of the Interior to provide financial and technical assistance for the protection, conservation, preservation, and sustainable management of forests, land, and water in the Highlands region, including assistance for—

(A) voluntary programs to promote and support private landowners in carrying out forest land and open space retention and sustainable management practices; and

(B) forest-based economic development projects that support sustainable management and retention of forest land in the Highlands region;

(4) to provide financial and technical assistance to the Highlands States, regional entities, and units of local government, and public and private entities for planning and carrying out conservation, education, and recreational programs and sustainable economic projects in the Highlands region; and

(5) to coordinate with and assist the management entities of the Hudson River Valley National Heritage Area, the Wallkill National Refuge Area, the Morristown National Historic Area, and other federally designated areas in the region in carrying out any duties relating to the Highlands region.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means any agricultural producer, regional entity, unit of local government, public entity, private entity, or other private landowner in the Stewardship Area.

(2) HIGHLANDS REGION.—The term "Highlands region" means the region that encompasses nearly 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(3) HIGHLANDS STATE.—The term "Highlands State" means—

(A) the State of Connecticut;

(B) the State of New Jersey;

(C) the State of New York; and

(D) the State of Pennsylvania.

(4) LAND CONSERVATION PARTNERSHIP PROJECT.—The term "land conservation partnership project" means a project in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of protecting, conserving, or preserving the natural, forest, agricultural, recreational, historical, or cultural resources of the Stewardship Area.

(5) OFFICE.—The term "Office" means the Office of Highlands Stewardship established under section 6(a).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(7) STEWARDSHIP AREA.—The term "Stewardship Area" means the Highlands Stewardship Area established under section 5(a).

(8) STUDY.—The term "study" means the Highlands Regional Study conducted by the Forest Service in 1990.

(9) UPDATE.—The term "update" means the New York-New Jersey Highlands Regional Assessment Update conducted by the Forest Service in 2001.

(10) WORK GROUP.—The term "Work Group" means the Highlands Stewardship Area Work Group established under section 6(c).

### SEC. 5. ESTABLISHMENT OF HIGHLANDS STEWARDSHIP AREA.

(a) ESTABLISHMENT.—The Secretary and the Secretary of the Interior shall establish the Highlands Stewardship Area in the Highlands region.

(b) CONSULTATION AND RESOURCE ANALYSES.—In establishing the Stewardship Area, the Secretary and the Secretary of the Interior shall—

(1) consult with appropriate officials of the Federal Government, Highlands States, regional entities, and units of local government; and

(2) utilize the study, the update, and relevant State resource analyses.

(c) MAP.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall prepare a map depicting the Stewardship Area.

(2) AVAILABILITY.—The map shall be on file and available for public inspection at the appropriate offices of the Secretary and the Secretary of the Interior.

### SEC. 6. OFFICE OF HIGHLANDS STEWARDSHIP.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Under Secretary of Agriculture for Natural Resources and Environment, the Chief of the Natural Resources Conservation Service, the Administrator of the Farm Service Agency, the Chief of the Forest Service, and the Under Secretary for Rural Development, shall establish within the Department of Agriculture the Office of Highlands Stewardship.

(b) DUTIES.—The Office shall implement in the Stewardship Area—

(1) the strategies of the study and update, and

(2) in consultation with the Highlands States, other studies consistent with the purposes of this Act.

(c) HIGHLANDS STEWARDSHIP AREA WORK GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the "Highlands Stewardship Area Work Group" to assist the Office in implementing the strategies of the studies and update referred to in subsection (b).

(2) MEMBERSHIP.—The Work Group shall be comprised of members that represent various public and private interests throughout the Stewardship Area, including private landowners and representatives of private conservation groups, academic institutions, local governments, and economic interests, to be appointed by the Secretary, in consultation with the Governors of the Highlands States.

(3) DUTIES.—The Work Group shall advise the Office, the Secretary, and the Secretary of the Interior on priorities for—

(A) projects carried out with financial or technical assistance under this section;

(B) land conservation partnership projects carried out under section 7;

(C) research relating to the Highlands region; and

(D) policy and educational initiatives necessary to implement the findings of the study and update.

(d) FINANCIAL AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Office may provide financial and technical assistance to an eligible entity to carry out a project to protect, restore, preserve, promote, or interpret the natural, agricultural, historical, cultural, recreational, or economic resources of the Stewardship Area.

(2) PRIORITY.—In determining the priority for financial and technical assistance under paragraph (1), the Office shall consider the recommendations of the study and update.

(3) CONDITIONS.—

(A) IN GENERAL.—The provision of financial assistance under this subsection shall be subject to the condition that the eligible entity enter into an agreement with the Office that provides that if the eligible entity converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the financial assistance was provided, as determined by the Office, the United States shall be entitled to reimbursement from the eligible entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or,

(ii) the amount by which the financial assistance has increased the value of the land on which the project is carried out.

(B) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a project under this subsection shall not exceed 50 percent of the total cost of the project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $7,000,000 for each of fiscal years 2004 through 2010, to remain available until expended.

### SEC. 7. LAND CONSERVATION PARTNERSHIP PROJECTS.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary, the Office, and the Governors of the Highlands States, shall annually designate land conservation partnership projects that are eligible to receive financial assistance under this section.

(b) CONDITIONS.—

(1) IN GENERAL.—To be eligible for financial assistance under subsection (a), a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

(A) identifies—

(i) the non-Federal entity that will own or hold the land or interest in land; and

(ii) the source of funds to provide the non-Federal share under paragraph (2);

(B) provides that if the non-Federal entity converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(ii) the amount by which the financial assistance increased the value of the land or interest in land; and

(C) provides that use of the financial assistance will be consistent with—

(i) the open space plan or other plan of the Highlands State in which the land conservation partnership project is being carried out; and

(ii) the findings and recommendations of the study and update.

(2) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this subsection shall not exceed 50 percent of the total cost of the land conservation partnership project.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior from the Treasury or the Land and Water Conservation Fund to carry out this section $25,000,000 for each of fiscal years 2004 through 2013, to remain available until expended.

(2) USE OF LAND AND WATER CONSERVATION FUND.—Appropriations from the Land and Water Conservation Fund under paragraph (1) shall be considered to be for Federal purposes under section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–7).

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## NAMES OF THOSE WHO ARE MISSING OR HAVE PERISHED AS A RESULT OF SEPTEMBER 11, ATTACKS

### HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, for the past few months, I have submitted into the CONGRESSIONAL RECORD the names of those who are missing or who have perished as a result of the September 11 attacks. Today, I would like to complete the list of names that are available to date. This will be an ongoing effort as more names are released. The fallen deserve our recognition, our remembrance, and our respect.

Paula Morales, Martin Morales, Abner Morales, Carlos Morales, John Moran, Gerard Moran, Lindsay S. Morehouse, George Morell, Vincent Morello, Steven P. Morello, Roy Wallace Moreno, Yvette Nichole Moreno, Arturo Alva Moreno, Richard J. Morgan, Dorothy Morgan, Nancy Morgenstern, Sanae Mori, Blanca Morocho, Leonel Morocho, Dennis G. Moroney, and Odessa V. Morris.

## TO DESIGNATE THE NEW POST OFFICE IN THE TOWN OF EMERSON, NEW JERSEY AS THE GARY ALBERO POST OFFICE

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### HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mrs. ROUKEMA. Mr. Speaker, today I am introducing a bill to designate the new post office in the town of Emerson, New Jersey in the name of a man who exemplified our American ideals, Gary Albero. On September 11, Gary was killed while conducting the nation's economic business in the World Trade Center. A dedicated husband, proud father, and intelligent insurance broker, Gary Albero lived his life with a unique perspective. As his family explained, "he could find the extraordinary in the very ordinary." And although he may have been taken early from this life, we have the opportunity today to extend his spirit and legacy beyond his friends and family by naming the Emerson Post Office after this man.

Mr. Speaker, when Congress names particular facilities in honor of someone, we do it to recognize their outstanding contributions to society. Gary's wife, family and friends can best describe the contributions he made to their lives, and the community can best explain the character and friendliness he brought to the town. I will tell of the contribution Gary Albero made to our nation, as a proud American.

That Tuesday in September, Gary went to a meeting in Tower Two as an employee of Swett & Crawford. As a newly named Vice President, he worked hard to provide for his family and create a good life in Emerson, New Jersey. Like so many Americans that morning, Gary was dutifully doing his job, however what happened next changed the community of Emerson.

Thousands were killed that day, leaving tremendous voids in their communities. Gary was the only individual killed from the tight-knit community of Emerson. The terrorists attacked these towers because the World Trade Center represented America's democracy, economic prosperity, diversity and freedom. Gary embodied these ideals in his work and his life.

Out of this tragedy, our nation has emerged with strength and pride. Our spirit is inspired by these stories of brave men and women from that day—true American heroes such as Gary Albero. In the naming of this post office in Emerson after Gary, we will have his memory and inspiration with us for generations. The Gary Albero Post Office will represent his spirit, as well as "the warm courage of national unity" of which Franklin Delano Roosevelt once spoke. We are a nation united, now more than ever. And for this we are all tremendously grateful to Gary Albero. For a man who loved his family, community and country, his death brought his country closer together.

Emerson, New Jersey is a small family town of just over 7,200 people. The council of the Borough of Emerson has requested that I introduce legislation to rename their new post office for Gary Albero. I am proud to honor Gary and his family with the naming of this postal facility with a man who embodied our American values.

Mr. Speaker, I ask my colleagues to join me in commemorating the life of Gary Albero by naming the new facility of the United States Postal Service located on Kinderkamack Road in Emerson, New Jersey, as the "Gary Albero Post Office Building."

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## RECOGNIZING DON SCOTT

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### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mrs. JONES of Ohio. Mr. Speaker, I rise today to acknowledge Don Scott, an American hero and pioneer in the sport of bowling, whose outstanding achievements will be recognized on Friday, July 19, 2002, as the Hall of Fame inductee at the Greater Cleveland Bowling Association's Annual Awards banquet. Since 1981, Don and his wife, Vel have been my personal friends and I am proud to join the Greater Cleveland Bowling Association to honor Don Scott.

A native of Cleveland, Ohio, Mr. Scott was introduced to the game as a teenage pin boy at the Cleveland and Akron lanes. In 1959, he was allowed membership in the Professional Bowlers Association and then became the first African-American bowler to appear on national television competing with national champions for major monetary awards.

In 1961, Mr. Scott led the qualifying round of the Professional Bowling Association Open. He was the only African American competing against many of the giants in bowling including Dick Webber, Don Carter and other long-time stars. Throughout his career, Mr. Scott competed against top bowlers in Canada, Japan, China, the Ivory Coast, the Philippines and major cities in the United States. Continuing to pave the way for others, Mr. Scott organized the first Negro team to ever compete in the American Bowling Congress Classic Division.

In 1964, Don Scott was sponsored in the Firestone Championship Bowling at Copley Lanes in Akron, Ohio. He averaged 202 during three match plays against Carmen Salvino, Bill Allen and George Allen. Mr. Scott, a certified bowling instructor and co-author of How to Bowl, was inducted into the Cleveland Bowling Senate Hall of Fame in April 1991. Through his travel, Mr. Scott truly became a goodwill ambassador for the game of bowling as he earned the love and respect of many.

In 2000, Don Scott received the Congressional Black Caucus "Unsung Hero" award to honor his lifetime achievements for excellence in sports. Our colleague from the great State of South Carolina Representative JIM CLYBURN joined me in this tribute. As a former bowling instructor and coach, Representative CLYBURN became good friends with Don Scott after losing to him 39 years ago in South Carolina and presented the award to Don Scott on my behalf.

I ask that other Members in the U.S. Congress join me and the people of greater Cleveland in saluting the outstanding efforts of Mr. Don Scott, a great American trailblazer who paved the way for others in the sport of bowling.

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## INTRODUCTION OF A HOUSE RESOLUTION URGING THE GOVERNMENT TO PURCHASE FAIR TRADE CERTIFIED COFFEE

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### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. STARK. Mr. Speaker, I rise today with a group of my colleagues to introduce a resolution recommending the use of fair trade coffee by the Congress, the Judicial Branch, and the Executive Branch. This resolution requires very little effort from us and yet would promote efforts to assure a decent standard of living to poor coffee farmers around the world.

Small Coffee farmers in Latin America, Africa and Asia consistently do not receive a living wage for their coffee. In fact, many farmers receive an amount that is less than the cost of production. Millions of small farmers earn only 5–10 percent of the final retail price of their coffee due to the interference of coffee middlemen who take a huge cut from the sales. This creates a cycle of debt and poverty in the lives of the farmers. These farmers must constantly borrow money from the coffee middlemen to stay afloat, and yet they can never make enough money to support their families, let alone get out of debt.

As a major purchaser of coffee, the U.S. has a responsibility to ensure that the producers of that coffee are adequately compensated for their work. And as the Congress, we can do our part to ensure that we pay a fair price for the coffee that is purchased for our own use. Starbuck's has successfully brought fair trade coffee to their shops. In addition, Starbucks currently brews it for retail sale and makes the beans available for purchase. The use of fair trade coffee is already being implemented in some of the House of Representatives cafeterias, but we need to do more.

Transfair USA is a non-profit U.S. based organization that certifies coffee is "fair trade" by placing a seal upon all the bags that qualify. In order to determine if the coffee is fair trade, representatives visit the farms in the countries in which the coffee is grown in addition to monitoring the sale and distribution within the U.S. The criteria for fair trade coffee are as follows: (1) Coffee importers agree to purchase from the small farmers included on the international trade register; (2) farmers are guaranteed a minimum "fair trade price" of $1.26 per pound for their coffee; (3) coffee importers provide a certain amount of credit to farmers against future sales to help the farmers stay out of debt to coffee middlemen; (4) importers and roasters agree to develop longterm relationships with producer groups that cut out the coffee middlemen.

Fair trade coffee has been sold since 1988 in Europe, which has imported 30 million pounds this year, as compared to the 7 million pounds imported by the U.S. Fair trade coffee currently represents 5 percent of the Swiss and Dutch markets. It is time for the U.S. to show that we are interested in supporting the 800,000 small coffee farmers that currently benefit from the fair trade relationship.

The story of Blanca Rosa Molina provides testament to the benefits of fair trade coffee.

She has been working in the Nicaraguan coffee industry since she was a little girl. The money she received from fair trade coffee allowed her to receive an education and provide for her family. In her own words, "I always give thanks to fair trade coffee because if it hadn't been for fair trade, I wouldn't have sold my coffee. I wouldn't have been able to pay for my studies." Blanca now holds an undergraduate degree in engineering and a graduate degree in rural development and sustainable agriculture. With stories like this, the choice as to purchase fair trade coffee is an obvious one.

Fair trade coffee is no more expensive than gourmet coffee, but provides so many benefits to the producers that it is hard to justify not buying it. There is also still plenty of coffee to go around. 165–170 million pounds of fair trade coffee are being produced each year, but only 35 million pounds have been sold worldwide. There is a strong supply of fair trade coffee; all that is currently needed are purchasers like the House of Representatives.

The Resolution we are introducing today recommends that Congress, the Judicial Branch and the Executive Branch exclusively purchase fair trade coffee for all of their offices and events. It sends an important message about the willingness of our Federal Government to aid farmers in other countries by supporting family farms and in turn promoting better labor practices world-wide.

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## TRIBUTE TO MRS. LAUNA BANKS BREWINGTON

### HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mrs. CLAYTON. Mr. Speaker, I rise today to bring to your attention the momentous occasion of the 90th birthday of Mrs. Launa Banks Brewington of Greenville North Carolina. Mrs. Brewington was born in Pitt County on August 31st, 1912 to Oscar & Lena Banks. The 5th of 12 children, her family included eight brothers and three sisters. Only two of her siblings are still living; Mrs. Lena R. Murrell-White and Mrs. Missouri (Lady) Wilkens. She married the late Jesse Brewington of Greenville North Carolina in 1930. They lived and she still resides in the home that her father built in 1925. Their marriage lasted until his death in 1993..

Although she and her husband did not have children of their own, they adopted her niece Bernice Banks Forbes and raised her as their own loving daughter. Mrs. Brewington is now the proud grandmother of four children and great-grandmother to eight children.

For 29 years, Mrs. Brewington worked in the Greenville City School system. After she retired, she still did not stop. She then joined the staff of East Carolina University becoming the first Black supervisor of the Custodial Department retiring after 10 years of service.

During the 90 years of her life, Mrs. Brewington has exemplified those attributes we all attempt to embrace. She is a caring, generous, dedicated, honest, and faithfully religious woman. She always received great joy in helping and caring for others. If anyone suffered with an illness, she was always there to help. The neighborhood children were also her children. She was always taking them in and caring for them. She has been a member of the Sycamore Hill Missionary Baptist Church since 1937. Her church activities included singing in the church choir for over 50 years and acting as Treasurer for the choir, serving as President of the Missionary Board, President of the Senior Ladies Auxiliary, serving on the Trustee Board, President of the Pastor's Aide organization, Chairman of the Kitchen Committee, and serving on the Pulpit Committee. In her community, she was the President of the Matrons Club which ministered to the bereaved in the community. In addition, she was a member of the Morning Light Tent Lodge, serving as leader and was also elected as Queen of the Royal Degree Circle.

Friends and family will gather in Hampton, Virginia to celebrate Mrs. Launa Banks Brewington's 90th milestone.

Mr. Speaker, I ask that you join me, our colleagues, Mrs. Brewington's family and friends, and the city of Greenville in recognizing this momentous occasion of her 90th birthday.

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## HONORING THE FOX COMPANY, A MARINE CORPS RESERVE UNIT FROM UTAH

### HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. CANNON. Mr. Speaker, after the tragic events of September 11, Americans have shown their patriotism and support for the War on Terror in various ways, such as voting, volunteering and serving in the armed forces. One such group of patriots is the men and women of the Fox Company, a Marine Corps Reserve unit from my home State of Utah. These Marines were recently called to active duty and sent to Camp Pendleton, California, assigned to Homeland Security. They have left their families, friends, homes and careers to defend and protect us, standing as bulwark for our freedom.

Today I wish to thank those men and women of the Fox Company for accepting that call of duty. These Marines have willingly put their lives on the line to defend the freedom that this country enjoys. Though they have not yet been deployed to fight the enemy overseas, these Marines play a vital role in securing our safety and liberty. Their service and determination to uphold and defend our rights must not go unnoticed. They should be recognized and appreciated by all Utahns and all Americans.

I would also like to recognize the families of these Marines. Their support, sacrifice and love are the driving force and inspiration behind the Fox Company. These Utah families are not only facing the absence of a father, husband, mother or wife, but also financial hardship due to the significantly decreased income from established careers so they may serve full time. This is no easy task, but one that these families willingly take on as their part in operation Enduring Freedom.

I commend the courage and patriotism of the Marine Reserve Fox Company. They are admirably performing an honorable job to defend and support the flag at a time when evil enemies are attempting to tear down the institutions that protect the freedom Americans have worked long to build. We should all be thankful for the sacrifice and work of the Fox Company.

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## HONORING HAROLD OSHRY

### HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. DEUTSCH. Mr. Speaker, I rise today to honor the life of Mr. Harold Oshry, a noted humanitarian, a civic-minded businessman and an exemplary leader. Born in Chelsea, Massachusetts in 1918, Mr. Oshry graduated Magna Cum Laude from Bowdoin College in 1940. Shortly thereafter, he proudly answered the call of his nation and served as a captain in the 32nd Special Services Unit of the Eighth Army Air Force during World War II, where he was awarded six battle stars for his courage in the Normandy Invasion and other crucial European Campaigns. After his discharge, he married Claire Herman and relocated to New York City where he began a successful business career.

In 1955, Mr. Oshry founded a transportation holding company, which later became known as Sandgate Corporation. This immensely successful venture afforded Mr. Oshry the opportunities and resources to make a significant impact on many people's lives. His most noted accomplishments were seen in his efforts to further cultural understanding through education. Mr. Oshry was an influential member of the New York United Jewish Associations Federation where he demonstrated his commitment to the public's understanding of Jewish culture. In 1976, he established the Harry Oshry Scholarship Fund at Bowdoin College in honor of his father. Additionally, Mr. Oshry's generous contributions allowed Ben Gurion University in Israel to endow a chair in Aquatic Microbiology Federations. As a final tribute, Mr. Oshry was honored a week before his death by the Yeshiva Shaar Ephraim, a center for Jewish Studies in Monsey, NY, for his generosity and philanthropic pursuits.

Mr. Speaker, it is indeed a truly special occasion for me to honor Harold Oshry, who worked to foster a better understanding among the world's citizens. His unparalleled dedication to this cause serves as an example for us all.

Mr. Oshry is survived by his wife Claire Oshry of Tamarac, FL, in addition to his daughters Suzanne Oshry of Pacific Palisades, CA, Meryl Evens of Point Reyes Station, CA, and son Michael Oshry of Hewlitt Harbor, NY. Mr. Oshry also is survived by his sister Sally Adelson of Delray Beach, FL and brother George Oshry of Brookline, MA, along with seven grandchildren.

## PRESIDENT'S EXECUTIVE ORDER GRANTING CITIZENSHIP TO U.S. SERVICEMEN ON ACTIVE DUTY

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to commend President Bush on the executive order he signed on July 3, 2001. This executive order speeds up the citizenship proceedings for non-citizens who have been serving in the U.S. military since September 11, 2000.

Under current immigration law, non-citizens must serve in the U.S. military for three years before they are even eligible to apply for U.S. citizenship. This executive order is an important first step in acknowledging the dedication of the thousands of non-citizens currently serving in the Armed Forces. I say first step because we have been attempting to rectify this situation with permanent legislation for some time.

Although it has the bipartisan support of 42 House Members, H.R. 4575, the Citizenship for America's Troops Act, has languished in the Judiciary Subcommittee on Immigration and Claims since April 24th of this year. H.R. 4575, sponsored by my good friend and colleague Representative MARTIN FROST, will rectify a variety of barriers faced by U.S. servicemen and women seeking to become naturalized citizens.

This legislation reduces the required amount of military service for qualification to apply for citizenship from three years to two years; allows the INS to conduct citizen interviews and oath ceremonies for military personnel overseas, and exempts non-citizen military personnel from paying fees for their naturalization.

Over 10,000 servicemen and women will benefit from this legislation. Currently there are 6,000 non-citizen enlisted personnel in the Army, 6,620 in the Marine Corps, 2,901 in the Air Force, and 2,878 in the Navy. These military personnel have demonstrated a willingness to die in defense of this country. Not only is this legislation the very least we can do to show our gratitude, it will have the additional benefit of enhancing recruiting, retention, morale and readiness within the armed services.

Again, I congratulate the President on this initiative and urge my colleagues to bring H.R. 4575 to the floor for a vote before the August recess.

## PERSONAL EXPLANATION

### HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. CLEMENT. Mr. Speaker, on rollcall No. 295, had I been present, I would have voted "yes".

## OPPOSITION TO H.R. 5002

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. PALLONE. Mr. Speaker, I come to the House floor this evening to express my strong opposition to H.R. 5002, a bill to include Turkey in the Qualified Industrial Zone, allowing duty-free goods from Turkey to enter the U.S. markets. This bill is not only an inappropriate and fiscally irresponsible back-door approach to establishing a free trade agreement with Turkey, but also rewards a country that has illegally occupied 37 percent of Cyprus for the last 28 years. On July 20, 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 40,000 heavily armed troops on the island. Nearly 200,000 Greek Cypriots, who fell victim to a policy of ethnic cleansing, were forcibly evicted from their homes and became refugees in their own country. This bill would send the wrong message to countries that are seeking access to our trade markets. It sends the presumably unintended message that violating international laws can be rewarded.

Mr. Speaker, I believe a discussion by this Congress to grant Turkey substantial trade benefits cannot take place until a settlement has been achieved in Cyprus and Turkish troops have vacated the island. The Turkish government must exert pressure on Turkish Cypriot leader Denktash to put aside his unreasonable and unacceptable demands, and negotiate in good faith with Cyprus President Clerides. International officials were hoping for a breakthrough in negotiations by the end of June, but once again the Turkish side refused to budge and move closer to a peace agreement within the framework provided by the United Nation's Security Council.

I am also very concerned by reports that the Turkish government sent more than 5,500 Turkish soldiers to the Turkish-occupied section of Cyprus over the last month. Cypriot leaders and officials from the European Union see this action as a deliberate attempt on Turkey's part to create tension and negatively impact peace negotiations.

Once a peace settlement is reached, all political and social restrictions on the enclaved Greek Cypriots must be lifted, and any transfer of property that has taken place over the last 28 years in the occupied area should not be recognized. I also believe that our federal courts should be granted jurisdiction to hear the cases of U.S. citizens who have been excluded from their real property in occupied Cyprus.

I believe each of these five conditions must be met before any discussion of extending trade with Turkey can begin.

Turkey has also not been a good neighbor to Greece in questioning the established maritime boundary of the two countries in the Aegean Sea. This boundary has been established through several treaties dating back to 1923. The U.S. cannot now support expanded trade with Turkey while Turkey refuses to abide by provisions in the 1947 Paris Peace Treaty that once again established the Aegean boundary. The United States was one of the nations that signed that historic document, and therefore must publicly state that it accepts the demarcation of the maritime borders in the Aegean Sea as final.

Mr. Speaker, I am concerned that this legislation not only reflects poorly on the United States' moral authority in trade policy, but also represents dangerous fiscal policy; in effect subsidizing a politically unstable and economically backwards country. Two weeks ago, 34 members of Prime Minister Bulent Ecevit's ruling party resigned in protest of the Prime Minister's refusal to step down as ruler of Turkey. Then, last week, two of the highest-level Ministers resigned: Economic Minister Kemal Dervis and Foreign Minister Ismail Cem, triggering calls within Turkey for new elections as early as September. Minister Dervis is widely recognized as the architect of the colossal International Monetary Fund bailouts of Turkey, which saved Turkey from immediate financial disaster, but has put Turkey in debt to the IMF for a staggering 31 billion dollars. The nine billion dollars that were made available for release this year have not made any impact on the rapidly shrinking economy and massive unemployment.

We should not reward Turkey and put our own economy in further jeopardy without radical reform of Turkey's economic and trade policy.

Mr. Speaker, it is time to stop making special concessions for Turkey. Their blatant disregard for international norms—whether it be trade policy or their abysmal human and minority rights record—can no longer be ignored.

## CORPORATE ACCOUNTING METHODS AND THE RULE OF LAW

### HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. PUTNAM. Mr. Speaker, in recent months America has seen the collapse of several large corporations because of shady accounting methods and practices. These events have left many American investors worried and some financially ruined. These revelations of corporate abuses and corporate fraud have caused a temporary crisis of confidence in our markets and financial institutions.

The ripple effect of these financial scandals is extending all the way to the smallest investors. It is the small private investor, not necessarily the large institutional investor, who is taking the brunt of this crisis of confidence. Small investors have seen their retirement plans dwindle not because of a poor investment strategy, but because the entire market has been depressed by the actions of a few dishonest and corrupt corporate executives.

I do not believe these instances of fraud and abuse are representative of all American corporations or the executives that run them, but there should be no difference between "ethics" and "business ethics." Like anyone else in our society, for a corporate executive to succeed, honesty and integrity are essential. Corporate CEOs who commit fraud or whose actions destroy confidence in the entire market and thereby steal the retirement nest eggs of millions of Americans are no better than thugs. They must be identified and prosecuted to the fullest extent of the law. To root out the perpetrators of these crimes, we must move corporate accounting out of the shadows to protect America's small investors and pension holders.

Our society and culture must reaffirm that it values ethics over next quarter's balance sheet. Corporate executives, no matter how much paper wealth they create, are not above the law. Those that commit fraud and violate the public's trust will be brought to justice.

Our free market economy is anchored in the rule of law. There can be no special exceptions for corporate leaders with regard to the rule of law.

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## NATIONAL AVIATION HERITAGE AREA

### HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. HALL of Ohio. Mr. Speaker, I rise to join Mr. HOBSON and my other Ohio Colleagues in introducing the National Aviation Heritage Area Act, a bill to protect and enhance sites in and near the State of Ohio associated with the history of aviation. The legislation establishes the National Aviation Heritage Area, building on earlier measures enacted by Congress. The legislation is supported by individuals and historical organizations throughout the state. It is appropriate to create the National Aviation Heritage Area to recognize the significant contributions made in the state toward the advancement of aviation and aerospace. The legislation would be a fitting step to mark the celebration of the 100th anniversary of the Wright brothers' first flight in 2003.

With the passage of the Dayton Aviation Heritage Act of 1992, Congress recognized the importance of several historic sites associated with the Wright brothers by establishing the Dayton Aviation Heritage National Historical Park. The park is expected to be fully operational by the year 2003. That is the 100th anniversary of the first manned, controlled, and sustained flight by the Wright brothers, ushering in the aviation era. Though the two interpretive centers for the park are still under construction, the park has already transformed the way our Nation looks at the early history of flight by recognizing the key role that Dayton played. The park has also enhanced local pride in our two most famous sons and their achievements.

However, the link between Ohio and aviation history goes far beyond the Wright brothers. In what could be viewed as an early example of technology spin-off, familiarity with the secrets of aviation enabled Ohioans to make further developments in aeronautics and later aerospace. The attention devoted to the development of the national park has sparked a broad interest in the state beyond the Dayton area about the larger role Ohio has played that followed from the Wright brothers' invention.

There is probably no state in the union that is more closely associated with the history of aviation and the men and women who pioneered the development of flight than Ohio. It was in Dayton where the Wright brothers built the first airplane. At Huffman Prairie Flying Field the Wright brothers tested and developed the world's first practical flying machine and established the first permanent flying school. Cleveland's NASA Glenn Research Center has been responsible for advances in air and space technology. At McCook Field, and later Wright-Patterson Air Force Base, much of our Nation's military aviation technology was developed. The first American in orbit, as well as the first man to walk on the moon, were both raised in Ohio. The Columbus home of World War I aviator Captain Edward Rickenbacker is a National Historic Landmark. Cleveland's Rocket Engine Test Facility, also a National Historic Landmark, pioneered the technology to use hydrogen as a rocket fuel. In Sandusky, the Centaur Rocket was developed in yet another National Historic Landmark and Akron has the Goodyear Airdock, the world's largest airship hangar.

Ohio boasts the world's first mass produced airplane, the first commercial airplane flight, and the development of the modern free fall parachute, nighttime flying, high altitude flying, radio beacon navigation, guided missiles, reversible pitch airplane propellers, crop-dusting airplanes, the pressurized airplane cabin, and blind flying. The list goes on and on.

The same law which created the Dayton Aviation Heritage National Historical Park also established the Dayton Aviation Heritage Commission, which was charged with assisting the preservation of the many sites in Ohio's Miami Valley related to the history of aviation. The commission, which is currently chaired by United States District Judge Walter H. Rice, has recommended establishing the National Aviation Heritage Area to continue the preservation and enhancement of historic sites not only in the Dayton area but throughout the state. This is the natural step, given the interest and historical resources in Ohio.

A heritage area is a cohesive group of natural, historic, cultural, or recreational resources in a distinct geographical area that can benefit from forming a collaboration to protect, enhance, and promote those resources. Congress has designated 23 National Heritage Areas which have special national significance and which offer outstanding opportunities for conservation and interpretation. The National Aviation Heritage Area established under this bill fully meets these criteria.

As part of the process of developing the National Aviation Heritage Area concept, public meetings were held in Columbus, Cleveland, and Dayton giving a chance for individuals to comment on the proposal. Public comment was also provided through a Website and an extensive e-mail campaign. A list was compiled of almost 100 specific sites in Ohio with potential public access that are linked with significant developments in aviation history. Examples include the Neil Armstrong Air and Space Museum, United States Air Force Museum, Cincinnati Museum Center, Ohio Flight Museum, John and Annie Glenn Museum and Exploration Center, National Inventors Hall of Fame, and the NASA Glenn Research Center Visitors Center.

The bill establishes the National Aviation Heritage Area including a core area of Montgomery, Greene, Warren, Miami, Clark, and Champlain Counties in Southwest Ohio. Additional sites can be added upon the recommendation of a management plan. The bill provides a management framework to improve collaboration among the sites and organizations within the heritage area to promote educational programs, historic preservation, and heritage tourism. The bill authorizes $10 million over the next 15 years, provided an equal amount of non-Federal funds are raised.

The idea behind the heritage area is that the sites and organizations, working together, can accomplish more than working separately. Because they are linked together by theme and geographical proximity, they can readily collaborate on preservation activities, promotion, and programming. The bill calls for a management plan and provides on-going assistance to maintain the collaboration. The real work of the heritage area is conducted by the individual sites and organizations. The minimal role of the Federal government is to help coordinate and assist the management of the groups.

The bill also includes a provision to study the Wright Company factory buildings in West Dayton.

The National Aviation Heritage Area concept is supported by the Ohio Economic Development Council, Downtown Dayton Partnership, Dayton Mayor Rhine McLean, the United States Air and Trade Show, Inc., Inventing Flight, and the Dayton Aviation Heritage Commission. The bill is sponsored or cosponsored by a total of 14 Ohio House members, more than half of the state's House delegation. Similar legislation is being introduced by Ohio's two Senators, MIKE DEWINE and GEORGE VOINOVICH.

I commend my colleague, Mr. HOBSON, for his leadership on this issue. We have enjoyed a long partnership working together to protect and promote Ohio's historic aviation heritage going back to the legislation establishing the Dayton Aviation Heritage National Historical Park. This measure builds on and continues those earlier successes.

Mr. Speaker, the United States leads the world in aviation and aerospace technology. The State of Ohio has been a dominant force in bringing our Nation to this position. It is therefore fitting that the National Aviation Heritage Area be established in Ohio to protect the state's historic aviation resources and share the stories of our rich aviation heritage with the world.

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## IN SUPPORT OF H. RES. 393, A RESOLUTION CONDEMNING THE RISE OF ANTI-SEMITISM IN EUROPE

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today as one of the original cosponsors of House Resolution 393, a resolution condemning the rise of anti-Semitism in Europe which has occurred over the past 18 months. The recent rise of anti-Semitism in Europe is an unacceptable development which must be stopped, and European governments must take whatever action is needed to achieve this end. I applaud my friend from New York, Mr. CROWLEY, for his fight against the abhorrent developments leading up to this resolution

Anti-Semitism is a dangerous creature with a long and ignominious history in Europe. It is a particularly virulent form of racism which goes beyond place and time, oversteps borders and languages. It finds a home within the ignorant, dissatisfied and disenfranchised in all parts of the globe.

In every era, anti-Semitism finds a new way to manifest itself and a new justification for its presence. Starting in the 12th century, blood libels were levied against the Jews of Europe, citing the fictionist Jewish need for Christian blood as evidence for the accusations. When the bubonic plague struck in the 14th century, Jews were wrongfully blamed for the outbreak of the epidemic and the decimation of the European population. Jews across Europe were murdered by angry mobs as punishment for these alleged crimes.

Later, European anti-Semitism took on a scientific justification. In 1899, Houston Stewart Chamberlain published "The Foundations of the Nineteenth Century." He argued that all of the accomplishments of Western civilization resulted from the influence of the superior, Germanic race, while inferior races, like the Jews, impeded progress. His book became the Nazi bible and his arguments were adopted by Adolf Hitler as grounds for the elimination of European Jewry. Today anti-Semitism disguises itself as a political platform, often as opposition to Israeli policies.

This rise in anti-Semitism, while despicable in its own right, is indicative of a much greater problem. It is part of an obnoxious rise in racism, intolerance, and widespread xenophobia. Though anti-Semitism today lacks the religious mythology attached to it in the Middle Ages or the scientific theories that fueled it in the first half of the 20th century, it is equally dangerous and terrorizes the Jewish community just as it did 60 years ago.

Mr. Speaker, last week, I returned from Berlin where the annual session of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, an organization of which I serve as Vice President, was convened. For some of my European colleagues, combating increased anti-Semitism is an issue they are concerned about. For those who were not concerned, it was time to make it clear to them that they need to be.

Since the days of President Woodrow Wilson and the League of Nations, we have worked to build a global community. Now, xenophobia threatens to undo over 80 years of progress, to destroy our work and our accomplishments. The spread of discrimination in all of its incarnations, be it anti-Semitism or any other form of bigotry, must be stopped.

Mr. Speaker, I rise today with all of my colleagues, black, white, Hispanic, Asian, Jewish and otherwise, in support of this resolution, and urge European governments to fight the spread of anti-Semitism within their borders. Frankly, if we do not, then history is bound to repeat itself.

## IN RECOGNITION OF THE CYPRUS FEDERATION OF AMERICA, INC.

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mrs. MALONEY of New York. Mr. Speaker, I rise to pay tribute to the Cyprus Federation of America, Inc. which will solemnly commemorate the 28th year anniversary of the tragic invasion and occupation of Cyprus by the Turkish armed forces on Saturday, July 20, and Sunday, July 21, 2002. The Cyprus Federation of America is an umbrella organization representing the Cypriot American community in the United States. The largest Hellenic Cypriot community outside of Cyprus is located in the 14th congressional district, which I am fortunate to represent.

Twenty-eight years ago, on July 20, 1974, the Turkish armed forces invaded Cyprus, in a tragic and brutal disregard for the human rights of Cypriots. Since then, 37% of Cyprus has remained under Turkish rule. The Cyprus Federation of America has been leading the effort to promote an end to the devastating occupation.

The occupation of Cyprus has had a devastating impact on the people of Cyprus. Families have been separated, parents have lost the right to bequeath land that has been in their families for generations, churches have been desecrated and historical sites destroyed. More than 1,500 Greek Cypriots, including four American citizens, were missing after the invasion and we still do not know what happened to many of them.

In a spirit of remembrance and commemoration, a concert will be held on July 20, 2002 at the SummerStage in Central Park, New York, with the participation of two exemplary artists from Greece, Dionyssios Savopoulos and Alkinoos Ioannides. These remarkable performers have been strong advocates against the division of Cyprus and the human rights violations perpetrated by the Turkish army in Cyprus.

On July 21, 2002, memorial services will be held for the victims of the Turkish invasion and occupation of Cyprus at the Cathedral of Holy Trinity in Manhattan. His Eminence, Archbishop Demetrios, Primate of the Greek Church of America, will officiate.

After twenty-eight years of occupation, all Cypriots deserve to live in peace and security, with full enjoyment of their human rights. I am hopeful that their desire for freedom will one day be fulfilled.

In recognition of the spirit of the people of Cyprus, I ask my colleagues to join me in honoring the Cyprus Federation of America, and in solemnly commemorating the twenty-eighth anniversary of the invasion of Cyprus. I hope that this anniversary will mark the advent of true freedom and peace for Cyprus.

## A CALL FOR PEACE IN CYPRUS

### HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. BONIOR. Mr. Speaker, it has been 28 years since the Turkish invasion of Cyprus. In 1974, Turkish troops evicted 200,000 Greek Cypriots from their homes, making them refugees in their own country. And yet, the elapsing of more than a quarter century has not darkened the memory of the invasion. Turkey's continued violation of the Greek Cypriots' human rights, and the need for the reversal of Turkey's actions and a return to peace, remains as strong today as it did in 1974.

For 25 years, Turkey has fought to increase its grip on Cyprus. In violation of international law, Turkey has moved more than 80,000 settlers into the ancestral homes of the Greek Cypriots. A campaign of harassment and the destruction of cultural sites has been used to intimidate the Greek Cypriots.

Despite these abuses, the people of Cyprus continue to work toward peace. The Cypriot Government called for the demilitarization of Cyprus, despite the threat of the Turkish army occupying 37% of the island's territory. Cyprus is seeking to join the European Union, a step that will move them forward. Even as it is constantly confronted with uncertainty and instability, the Cypriot Government acts in the best interest of its people.

The world community has joined the call for peace, yet Turkey continues to threaten with force and non-compliance. To the international community, the objection over the invasion of 1974 remains as strong today as it was then. For the Greek Cypriots, who struggle to move forward underneath the burden of human rights violations and refugee status, the desire for peace is unending. In the name of democracy and in the defense of human rights, we need to continue to support the people of Cyprus in their efforts to bring peace and stability back to their country.

## IN HONOR OF OUR NATION'S FIRST RESPONDERS

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. HOLT. Mr. Speaker, I rise today to recognize, honor, and thank our nation's fire, rescue, and police squads. These "first responders" represent our first line of defense—made all too clear on September 11, 2001 and since. And they continue to play an invaluable role in our daily lives, serving their local communities, protecting our families, and risking their lives for our safety.

Much has been said about these valiant men and women. The President and my colleagues here in Congress understand the indispensable role that our local first responders will play in the defense of our nation.

I can certainly speak of their intrepid actions. On the night of July 8, 2002, a fire damaged my home in New Jersey. My wife, daughter, and grandchildren were present at the time, when a smoke alarm roused them from their sleep.

Members from the Lawrence, Lawrenceville, Pennington, and Union police, fire, and rescue squads quickly responded, ensuring the safety of my family. And members from Bucks County, Hunterdon County, Montgomery, Princeton and West Trenton backed up these departments by filling their vacancies and providing mutual support.

I am fortunate that my family escaped without getting hurt, and I would like to thank the men and women serving on the Bucks County, Hunterdon County, Lawrence, Lawrenceville, Montgomery, Pennington, Princeton, Union, and West Trenton police, fire, and rescue squads for promptly responding to my family's 911 call and for containing the fire before it caused irreparable damage to my home.

As legislation establishing a Department of Homeland Security takes shape, it is imperative that we include our first responders. Homeland Security is hometown security. These brave men and women continue to answer our calls everyday, and I share in the admiration and gratitude of all Americans in expressing my thanks for their service. All Americans could help these men and women by surveying their homes and offices for fire and other safety hazards—checking smoke detectors, escape plans, and escape routes.

Therefore, Mr. Speaker, again, I rise to celebrate and honor these brave men and women. I ask my colleagues to join me in recognizing their local police, fire, and rescue squads.

## SUMMER MUSIC

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. KIRK. Mr. Speaker, this evening, July 17th, Mark Damisch, the Mayor of Northbrook, Illinois will preview the classical piano program he will take on the road to Europe late this summer. I want to congratulate this accomplished pianist as he celebrates his 42nd year of performing. While many in Northbrook and throughout the Chicagoland area know him as a prominent civic leader as demonstrated through his service as the mayor of Northbrook and his work with the Metropolitan Mayor's Caucus, he has been participating in good will cultural events throughout the world for almost 30 years.

In March 1974, while on a New Trier High School Choir tour of Europe where the choir performed with the Vienna Boys Choir, Mark arranged, promoted and played a series of Concerts in Eastern Europe, Western Europe and the Soviet Union. In 1977, Mark returned to the stage to perform in a seven week tour around the world. He performed concerts in Washington, D.C., Keflavik, Iceland, Oxford, England, Oslo, Norway, Hannover, Germany, Tokyo, Japan, Mondorf, Luxembourg and Honolulu, Hawaii. The Tour was recognized by President Jimmy Carter, Illinois Governor James Thompson and Chicago Mayor Michael Bilandic. All of the concerts were dedicated to forging better relations between the United States and citizens in the host countries.

This summer's tour will consist of twenty-five concerts performed in 42 days, including tonight's engagement at the Chicago Theater as well as two concerts sponsored by the International Music Foundation and a sold out performance at the North Shore Senior Center in Northfield.

Mark Damisch is an accomplished and talented musician as well as a thoughtful and respected leader in his community. I commend him on bringing his talents beyond our Chicagoland borders and working with others throughout the world in promoting his love of music. I look forward to continued work with my friend Mark Damisch, and express our community's best wishes for a successful summer of music.

## TRIBUTE TO RAY McKENNA

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to pay tribute to Ray McKenna of East Hartford, Connecticut. There is truly only one name that can be associated with sports in my hometown of East Hartford: Ray McKenna. For kids like myself, growing up in Mayberry Village, Ray was a person to look up to. He is a legendary figure and it only proper that he be recognized for his achievements and his positive influence on our community.

I am also submitting for the RECORD a radio commentary by Scott Gray of WTIC 1080 AM in Hartford, who captured the essence of Ray McKenna and his importance to East Hartford.

[From WTIC AM News Talk 1080, May 16, 2002]

COMMENTARY FOR TODAY

(By Scott Gray)

University of New Mexico women's basketball coach Don Flanagan wrapped up his acceptance speech on being inducted into the East Hartford Explorers Tap-Off Club Hall of Fame at the Marco Polo restaurant last night with a simple thank you. Flanagan, who knows something about winning, felt it was important to thank another big winner from East Hartford, the man responsible for the annual fete, Ray McKenna. But he wasn't thanking Ray for putting on the dinner or for his induction into the hall of fame, he was thanking him for giving a kid from the Mayberry Village section of East Hartford, which has produced a list of national and international sports luminaries, inspiration, inspiration, and a chance to see such heroes as Bill Russell, Bob Cousy and Tommy Heinsohn play basketball in an intimate setting in his hometown. I did mention Flanagan knows about winning. In sixteen seasons as a high school coach at Eldorado High in Albuquerque he had a record of four hundred one wins and thirteen losses. In seven seasons at New Mexico he's turned the program into a big winner, with a 144–72 record and games played in front of average crowds approaching nine thousand, fifth highest average in the nation. But on the second Wednesday of every May the biggest winner in East Hartford is named Ray McKenna. He talks about the committee that puts the annual dinner together. I've never seen one. The committee is named Ray McKenna, the guy who coached the East Hartford Explorers to more than eleven hundred wins and less than two hundred fifty losses, and thirteen New England Basketball Association titles. And every year they celebrate the team, they celebrate the town, they celebrate East Hartford sports. Every year they fill the banquet room at the Marco Polo, they come for Ray McKenna. Mayor Tim Larson beams about the new UConn football stadium going up in his town, and the innovations that will be part of it. Congressman John Larson, if he can't be there in person, reads the names of the inductees, the Explorers and, as he says, the legendary Ray McKenna into the Congressional Record. Dave Cowens and Larry Costello and John Calipari and Jim Calhoun and Geno Auriemma have all come to be part of the celebration of Ray McKenna. Dom Pemo, Tom Penders, George Blaney and Nick Macarchuk have all come. Bill Detrick and Howie Dickenman, the legends of Central Connecticut, rarely miss it. They come to celebrate a glorious past and to honor it's heroes. They come to honor the new stars and bright young citizens of East Hartford High School basketball and those kids from neighborhoods like Mayberry Village who go on to greater glory. They come, like Don Flanagan, who broke away from a busy schedule, to say thanks to Ray McKenna. There's a baseball park in the town named for the humble former East Hartford mailman, who utters his classic expletive, "pretzels", anytime someone suggests he's more special than he believes himself to be. However Ray McKenna may downplay his own accomplishments, accomplishments that have enriched so many lives, this I know to be true. When you say Ray McKenna in East Hartford, magic happens. With a comment from the sports world, I'm Scott Gray.

## CONGRATULATING NATIONAL JEWISH MEDICAL AND RESEARCH CENTER ON ITS U.S. NEWS AND WORLD REPORT RANKING

### HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Ms. DEGETTE. Mr. Speaker, I rise today to congratulate National Jewish Medical and Research Center on being named "U.S. News and World Report's" best respiratory hospital in the nation for the fifth consecutive year in its annual survey of "America's Best Hospitals."

National Jewish was selected by board-certified pulmonologists, as well as by the numbers—mortality rates, ratio of registered nurses to beds, technology, and other factors culled from the annual survey of hospitals by the American Hospital Association. In short, this is an honor bestowed upon National Jewish by its peers.

National Jewish is located in the heart of my congressional district of Denver, Colorado. Founded in 1899, this nonprofit and nonsectarian institution is dedicated to enhancing prevention, treatment and cures through research, and to developing and providing innovative clinical programs for treating patients regardless of age, religion, race or ability to pay.

I am pleased and proud that the only medical and research center in the United States devoted entirely to respiratory, allergic and immune system diseases is a stellar institution and is in my congressional district.

## HOLY CATHEDRAL MINISTERS CELEBRATE 20 YEARS OF PASTORAL LEADERSHIP

### HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

Mr. KLECZKA. Mr. Speaker, on Monday, September 9th, 2002 members of the Holy Cathedral Church of God in Christ (COGIC) congregation and the Milwaukee community will join together to celebrate Pastor and Lady C. H. McClelland's 20 years of ministry and community service.

Dr. Charles H. McClelland was appointed pastor of Holy Cathedral in September 1982. In July 1989, with his wife Prentiss and a congregation of less than 300 members, Pastor McClelland led his flock from the former Eagle Eye COGIC congregation into its present location on North 40th Street in Milwaukee. Since then membership has continued to thrive and now numbers over 1,200 strong.

The mission of Holy Cathedral is to "reap the harvest of souls by preaching of the gospel as well as the provision of an array of services that are Christ centered through the Word of Hope Ministries." The Word of Hope Ministries, founded by Pastor McClelland, includes a Family Resource Center, Health and Social Service programs, an Alcohol, Tobacco and Other Drug Abuse (ATODA) Support Group, Job Placement and Training, and a training lab in the Family Technology Center.

The wide range of ministries offered through Word of Hope, directly address the needs of the surrounding community. The Men's Ministry focuses on spiritual development for all men, with special focus on the challenges facing young black males in the city of Milwaukee. There is also a Women's Ministry, designed to address the physical, moral and spiritual development of lay women. Members of the congregation also reach out to prison inmates, nursing home residents and poor through the Urban Ministry.

So it is with great pride that I congratulate Dr. and Lady C.H. McClelland on a lifetime of service to God, and on 20 years of service, not only to the congregation of Holy Cathedral Church of God in Christ, but also to the surrounding Milwaukee community.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 18, 2002 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

JULY 19

10 a.m.
Intelligence
To continue joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001.
S-407, Capitol

JULY 23

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.
SD-342

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the challenge of America's uninsured.
SD-430

Judiciary
To hold hearings to examine pending nominations.
SD-226

10:30 a.m.
Foreign Relations
To resume hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc. 107-8).
SD-419

2 p.m.
Judiciary
To hold hearings on S. 2480, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.
SD-226

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings on S. 2494, to revise the boundary of the Petrified Forest National Park in the State of Arizona; S. 2598, to enhance the criminal penalties for illegal trafficking of archaeological resources; S. 2727, to provide for the protection of paleontological resources on Federal lands; and H.R. 3954, to designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System.
SD-366

JULY 24

9:30 a.m.
Veterans' Affairs
To hold hearings to examine mental health care issues.
SR-418

Health, Education, Labor, and Pensions
Business meeting to consider S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S. 2499, to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food; S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; proposed legislation authorizing funds for the Child Care and Development Block Grant; and the nominations of Edward J. Fitzmaurice, Jr., of Texas, and Harry R. Hoglander, of Massachusetts, each to be a Member of the National Mediation Board.
SD-430

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD-366

10 a.m.
Indian Affairs
To hold hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.
SR-485

Joint Economic Committee
To hold hearings to examine the measuring of economic change.
311, Cannon Building

10:30 a.m.
Environment and Public Works
Foreign Relations
To hold joint hearings to examine implementation of environmental treaties.
SD-406

2:30 p.m.
Banking, Housing, and Urban Affairs
Housing and Transportation Subcommittee
To hold oversight hearings to examine management challenges of the Department of Housing and Urban Development.
SD-538

Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine corporate responsibility, focusing on criminal sanctions to deter wrong doing.
SD-226

3 p.m.
Energy and Natural Resources
To hold hearings to examine issues surrounding the Federal Energy Regulatory Commission.
SD–366

JULY 25

9:30 a.m.
Armed Services
To hold hearings to examine the national security implications of the Strategic Offensive Reductions Treaty.
SD–106

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands.
SD–366

JULY 30

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To resume hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.
SD–342

10 a.m.
Indian Affairs
To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Taks Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.
SR–485

JULY 31

9:30 a.m.
Finance
To hold hearings to examine the Report of the President's Commission to Strengthen Social Security.
SD–215

10 a.m.
Indian Affairs
To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.
SR–485

Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine consumer safety and weight loss supplements, focusing on the extent of the use of supplements for weight loss purposes, the validity of claims currently being made for and against weight loss supplements, and the structure of the current federal system of oversight and regulation for dietary supplements.
SD–342

AUGUST 1

10 a.m.
Indian Affairs
To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.
SR–485

2 p.m.
Indian Affairs
To hold oversight hearings to examine problems facing Native youth.
SR–485

# HOUSE OF REPRESENTATIVES—*Thursday, July 18, 2002*

The House met at 10 a.m.

The Reverend Ronald J. Jansen, Pastor, Holy Cross Lutheran Church, Collinsville, Illinois, offered the following prayer:

O Almighty God, You have given us this good land as a place for us to live and serve You. We ask, Lord, that as You concern Yourself with the busyness of Your universe, You would also give Your attention to the business of this place, the House of Representatives. May Your spirit so guide the Members of this chamber that they remember they are representing the people of the United States of America. Bless them also with the knowledge that they govern as Your representatives to the people.

Be with the Members in their conversation, their deliberations, and their votes, that they may serve You and be a blessing to the people who dwell in this land.

In the name of the Risen Redeemer, Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Indiana (Ms. CARSON) come forward and lead the House in the Pledge of Allegiance.

Ms. CARSON of Indiana led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## WELCOMING REVEREND RONALD A. JANSEN, HOLY CROSS LUTHERAN CHURCH, COLLINSVILLE, ILLINOIS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I would like to welcome my Pastor, Pastor Ronald Jansen, to the floor of the House to open us up with prayer.

Pastor Jansen grew up on a northwestern Wisconsin dairy farm and has pastored in the Lutheran Church, Missouri Synod, for 35 years. He served in parishes in Winono and Albert Lee, Minnesota, Marshfield, Wisconsin, and currently is at Holy Cross in Collinsville for the past 13 years.

He is married to his wife Becky, a public schoolteacher for 17 years. They are accompanied by his 90-year-old father Victor, and second oldest son and daughter-in-law, Dr. Aaron and Melissa Jansen.

Pastor Jansen is my pastor, and when I think about Pastor Jansen, I think about Ephesians 2:8–10, "For by grace are you saved through faith, and not of works, lest any man should boast. For we are His workmanship, created for good works in Christ, who calls us to offer up ourselves a living sacrifice."

Pastor Jansen preaches from the pulpit law and gospel, which is the hallmark of the Lutheran Church, Missouri Synod.

I want to thank Pastor Jansen for calling us to a higher calling this morning.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 1-minute speeches on each side.

## WELCOMING THE WORLD BASKETBALL CHAMPIONSHIPS TO INDIANA AND THE UNITED STATES

(Ms. CARSON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CARSON of Indiana. Mr. Speaker, I rise today to request that all of the Members join me in welcoming and recognizing the 16 national teams that will be competing in the upcoming 2002 world basketball championship for men.

For the first time in its 50-year history, the world basketball championship is being held in the United States, and, appropriately, in the basketball capital of the world, my hometown, Indianapolis, Indiana.

From August 29 to September 8, Indianapolis will play host to the largest and most prestigious basketball event in the world. In total, 62 games will be played over the course of the 11-day event. It will bring "Hoosier Basketball Hysteria" of the NBA finals and NCAA Final Four to a new international scene with an expected visitor capacity of 150,000 people from around the world.

The importance of continuing international sporting events and fostering positive relationships between countries has never been more important.

Therefore, Mr. Speaker, I ask that Congress join me in supporting this important resolution.

## PROTECTING MISSING AND EXPLOITED CHILDREN

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, yesterday the world discovered that another child, 5-year-old Samantha Runnion, who was violently abducted from outside her home while playing with a friend, was sexually assaulted, strangled and left naked on the side of the California road.

The police in California said that this sick and deranged person may do this terrible act again to another child based on the way he left this poor child's body on the side of the road. They say this may be his calling card. Parents throughout the Nation are both shocked and frightened that this could happen to their child.

Over 2,000 children are reported missing to law enforcement every single day. While Congress focuses on restructuring its homeland security, we must be made aware of the incredible efforts that the FBI and other law enforcement agencies provide in retrieving these children and finding their abductors. We must make sure that these agencies have the manpower and resources necessary to continue these efforts.

To that end, as cochairman of the Congressional Missing and Exploited Caucus, I will work with the gentleman from Texas (Mr. LAMPSON), the Committee on the Judiciary and the administration to ensure the work on legislation to increase both criminal and civil penalties for abductors and provide the necessary funding for our law enforcement agencies.

## STATE DEPARTMENT NOT HELPING RETRIEVE KIDNAPPED AMERICAN CHILDREN

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I rise today to continue my talks about Ludwig Koons, the 9-year-old little United States citizen who is being held in the country of Italy.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Last week I met with Ambassador Salleo of Italy, and I want to thank the Ambassador from Italy, for he is trying to help this American citizen come back home to the United States where he belongs.

This is more than I can say for our own State Department. Two weeks ago the Washington Post ran a story on the removal of Mary Ryan from her position at the State Department. Ms. Ryan at one time was in charge of the office that handles international abduction of children. I am asking the State Department to look into the handling of that office over the past years, just as they are doing other offices that Ms. Ryan was in charge of.

Jeff and Ludwig Koons, just like thousands of other parents, are not getting concrete help from our State Department. If the State Department does not do something about it, then Congress must. Please help us bring our children home.

## CONGRATULATING CAPTAIN JOSEPH NIMMICH AND COAST GUARD GROUP KEY WEST

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to congratulate Captain Joseph Nimmich and the rest of the men and women of the United States Coast Guard Group Key West for hosting a community outreach event on Trumbo Point in Key West. This event is sponsored by the Navy League Key West and the Key West Chamber of Commerce Military Affairs Committee.

I am very proud to recognize this group, because the work that they do is truly amazing and selfless. In the average month, the men and women of the Coast Guard Group Key West provide the people of Florida with invaluable services. Saving lives, conducting search-and-rescue missions and providing marine exams and aids to navigation are everyday activities for these brave and selfless individuals.

This is a particularly special event, because it also celebrates the Coast Guard's 212th anniversary with the Key West community.

I ask my Congressional colleagues to join me in congratulating and commending Captain Nimmich and his colleagues on this special celebration.

## PROVIDING CORPORATE ACCOUNTABILITY AND REFORM

(Mr. SANDLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDLIN. Mr. Speaker, by now we are all well aware of the recent wave of corporate accounting scandals and the consequent need for systemic reform in this country. Though WorldCom is only one of several high-profile cases of corporate abuse, the sheer size of WorldCom's alleged accounting "error" and the ease with which the company perpetrated this fraud have served as the catalysts for long overdue and much-needed reform.

According to the Wall Street Journal, public pension funds, such as the teacher retirement system in Texas, mutual funds and insurance companies in my home State of Texas, hold approximately $870 million in WorldCom bonds that are virtually worthless as a result of imminent Chapter 11 bankruptcy filing.

Simply, the type of corporate behavior that has led to WorldCom's meltdown is outrageous. It must end right now.

WorldCom's financial situation, when considered in the context of other recent corporate accounting scandals, raises the troubling question of these scandals' immediate impact on investor confidence, and potentially long-term impact on investors' faith in the integrity of our capital markets.

Access to accurate financial information is essential to the proper functioning of the markets, and as corporate America seems unwilling thus far to enact reasonable financial reforms, Congress must reform the system.

## HONORING U.S.-JAPAN MARITIME YOUTH EXCHANGE PROGRAM

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GUTKNECHT. Mr. Speaker, today I rise to honor the U.S.-Japan Maritime Youth Exchange Program. This program brings together high school age students from Japan and the United States for a 3-week program of travel and study in both countries.

It was developed and funded in 1996 through a partnership between the U.S. Navy Memorial Foundation here in Washington and Mr. Kaoru Hasegawa, an unsuccessful World War II Japanese kamikaze pilot and now president of Rengo Company, Limited, in Japan.

Mr. Hasegawa was shot down and then rescued by the crew of the USS *Callaghan* back in World War II. When the survivors of the *Callaghan* invited Mr. Hasegawa to attend their reunion several years ago, it was a very emotional reunion. The desire to share their new-found goodwill and understanding with the next generation of Americans and Japanese led to the creation of the Maritime Youth Exchange Program.

The program's purpose is to teach participants about the historical, cultural and economic factors that impact the two countries' maritime policies and practices. With understanding, respect, teamwork and friendship, the program will work to create a healthy partnership for the future of these two great countries.

Mr. Speaker, I will leave the names of all of the participants, and I congratulate them and wish them the best of luck during their travels.

Mr. Speaker, I include the list of participants for the RECORD.

Adam Meyer of Cary, North Carolina; Titus Wong of Des Plaines, Illinois; Juliet Bintliff of Corpus Christi, Texas; Caroline Toole of Mountain Home, Arkansas; Ashley Thompson of Cincinnati, Ohio; Andrea Claycomb of Euclid, Ohio; Tatsuaki Takanashi of Nagano, Japan; Terumi Tabata of Kagoshima, Japan; Shoko Ishigami of Hyogo, Japan; Yuka Sakai of Saitama, Japan; and Akiko Hasebe of Tokyo, Japan.

## RAISING CONCERNS ABOUT CORPORATE ACCOUNTABILITY

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I rise today to express my deep concerns about corporate accountability and its impact on our Nation's economic future.

In the wake of recent corporate bombshells, investor confidence in our financial markets has been badly shaken. Congress cannot afford to wait for reports of another tragic example of corporate deception, followed by more lost jobs and depleted pensions.

While I welcome the President's comments during his visit to Wall Street last week, this looming crisis requires a firm commitment from our administration to seriously address this problem. But words, like stocks, lose their value when actions do not back them up.

We must hold those irresponsible few accountable for their actions now and enact safeguards to protect our markets, our workers, our consumers and reputations of companies who do play by the rules. Our economic recovery and the future of millions of American families depend on it.

## CONGRATULATING HOUSE FOR EARLY ACTION IN ADDRESSING CORPORATE RESPONSIBILITY

(Mr. KENNEDY of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, today I rise to congratulate the House for their early action in addressing corporate responsibility and encourage the conferees to finish their work quickly so that we can get a bill to the President's desk before the August break.

In April, we acted on a strong bipartisan bill to strengthen the accounting oversight of corporate America and punish corporate wrongdoing. Now, finally, the Senate has acted.

Corporate criminals must understand that they will be prosecuted, we will increase their jail time, we will take away their ill-gotten gains. And the money we recover will go to workers and investors who were cheated, not to a trial lawyer windfall.

Our economy is built on confidence, and because of a few dishonest executives, confidence in the market has eroded. But let our actions send a signal to corporate America and the American people: The era of "everything goes" is over. There is a new sheriff in town.

Let me also say to those that I read today and hear today would drag this out as a partisan attempt for gain: Playing politics with the lives, the jobs and the retirement savings of millions of Americans is shameful and will not earn you people's votes; only their contempt.

Mr. Speaker, this is one of the most important issues this Congress is faced with. We must get our economy back on track. This is an important step in the process.

## CORPORATE GREED

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, blatant acts of fraud and misgovernance by executives of some of America's largest companies, most of them large contributors to President Bush, have destroyed the retirement accounts of millions of Americans. But rather than focus on legislation that will increase corporate account bills, the President and House Republicans are pushing for another huge giveaway to corporate America, Fast Track trade legislation.

The Fast Track agreement opens the door to expansion of NAFTA-style investor rules that empower foreign corporations to sue State and local governments for billions of dollars if consumer and environmental laws interfere with their profits.

A Canadian chemical company has used NAFTA to attack clean water laws in California. A U.S. toxic waste handler successfully challenged the right of a desperately poor Mexican community to block the company from building a toxic dump on top of their water supply.

A new study from Tufts University says NAFTA-style corporate lawsuits will eventually line the pocket of global corporations with $32 billion per year in U.S. taxpayer funds.

I urge this House to oppose Fast Track when it returns to the House.

## LET DEPARTMENT OF DEFENSE DEFEND AMERICA

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, this morning's Wall Street Journal has an editorial which says this about the proposed Homeland Security Department: "It seemed like a good idea at the time. But the more we look at the hash Washington is making of President Bush's proposal for a new Department of Homeland Security, the more we think we would be wiser to call the whole thing off."

Steven Moore, in a column in today's Philadelphia Inquirer, said the new Department would probably cost $4 billion just in reorganization costs. Then he said, "There are, however, a number of problems with the proposal. First, and most important, we already have a Department of Homeland Security and it is called the Department of Defense. If Defense, which spends about $350 billion a year, more than almost all of the other nations combined, if Defense isn't spending money on protecting the homeland, what is it spending these funds on? The very reason we had a 9/11 attack was that our government wasn't doing the one thing it is supposed to do: Keep us safe from foreign harm."

This new department will simply make the Federal Government bigger, more bureaucratic and much more expensive, and it will not make it any safer. We should not have to create a Cabinet level department just to get government agencies to cooperate with each other. If we do, the Federal Government is much worse than even I thought it was.

## DO NOT EASE TRADE EMBARGO ON CUBA

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I am very concerned about a proposal that we may have on the floor today to terminate some of the trade embargo between the United States and Cuba.

Mr. Speaker, Cuba is not exactly your stereotypical, friendly next-door neighbor, and there are certain reasons why this island nation has the honor, a very dubious honor, I want to say, of being one of the seven terrorist-supporting nations in the world by the State Department.

In fact, let me quote what our intelligence community says. "The U.S. believes that Cuba has at least a limited, developmentally offensive biological warfare research and development effort. Cuba has provided dual use technology to rogue states. We are concerned that such technology could support biological warfare programs in these states."

Now, easing this trade embargo would merely provide Castro the financial capital he needs to fund his reign of terrorism and abuse. It would be tragic if the legislative actions of this Congress helped finance any attack on its own citizens or any of the citizens around the world.

Now is not the time for us to succumb to the wishes of a maniacal ruler and give in on our trade embargo. We have to keep the bar very, very high, because with the terrorist threat around the world, this is one neighbor we have to be mindful of.

## AIRPORT SCREENING FOR AVIATION EMPLOYEES

(Mr. SESSIONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SESSIONS. Mr. Speaker, today I propose and ask the Transportation Secretary to put in place a separate aviation employee screening process by September 1 of this year that will allow airlines to safely and efficiently comply with Federal law.

This separate aviation employee screening process would be uniform from airport to airport, performed by TSA personnel at separate portals from passenger screening, and must take advantage of the new aviation employee credentials that are presently under development.

I ask Transportation Secretary Norm Mineta to appoint a task force to include airline, labor and airport representatives to provide necessary and helpful real-world input and resources in creating and implementing this process.

This task force can greatly enhance the government's ability to meet the proposed September 1 implementation deadline and facilitate acceptance in the aviation community.

## RECESS

The SPEAKER pro tempore (Mr. COOKSEY). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 23 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1252

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GILLMOR) at 12 o'clock and 52 minutes p.m.

## PROVIDING FOR CONSIDERATION OF H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 489 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

### H. RES. 489

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read through page 61, line 16. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with "Provided" on page 11, line 4, through line 9; page 16, line 21, through page 21, line 17. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. No amendment to the bill shall be in order except the amendment printed in the report of the Committee on Rules accompanying this resolution and except pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate. The amendment printed in the report may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and the amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER); pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 489 is a structured rule providing for the consideration of H.R. 5121, the Legislative Branch Appropriations Act for fiscal year 2003. The rule provides for 1 hour of general debate evenly divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The rule further provides that the amendment offered by the ranking minority member of the subcommittee, the gentleman from Virginia (Mr. MORAN), be made in order.

This is a fair rule that will allow all Members ample opportunity to debate the important issues associated with this bill. I want to point out again, Mr. Speaker, that the gentleman from Virginia had an amendment that he wished to make in order with regard to the issue of the Joint Committee on Taxation reducing some funds, I believe it is $590,000, and even though this is a structured rule, we made it in order in the interest of absolute fairness.

The underlying legislation funds many important programs that work to keep our government functioning. Some of these programs include $219 million for the Capitol Police, $422 million for the Library of Congress, $86 million for the Congressional Research Service, and $457 million for the General Accounting Office.

At this time I think it is important we highlight a particular item of this bill. Since September 11, the Capitol Police have worked incredibly, tirelessly, to ensure that we, the Members and all the staff here, and the Capitol itself be safe. Their efforts have allowed us to do our jobs without any safety concerns and worries, and I would like to take this opportunity to commend the Capitol Hill Police, all of the officers in that distinguished body, for their courage and their dedication.

I would also like to thank the Committee on Appropriations for ensuring that the brave men and women of the Capitol Police will receive pay at least equal to other Federal law enforcement agencies.

I would also like to thank the chairman of this subcommittee, the gentleman from North Carolina (Mr. TAYLOR), and all the members of the subcommittee. Mr. Speaker, this bill gives us the tools to serve our constituents in an effective and efficient manner, and I urge my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume, and I thank my colleague for yielding me the customary half hour.

Mr. Speaker, I rise in opposition to this rule. The measure leaves unprotected a provision of the underlying bill authored by my colleague, the gentleman from Virginia (Mr. MORAN). The unprotected provision withholds the release of $590,000, the amount the Joint Committee on Taxation requested above its fiscal 2002 budget until the Joint Committee releases its Report on Expatriates.

My colleagues may remember this report. It was requested by one of our former chairs, Mr. Archer, in 1999, to study the scope and the impact of wealthy U.S. taxpayers who renounce their citizenship to avoid paying their U.S. taxes.

In the wake of recent corporate scandals and in the wake of assertions by members of the majority leadership that corporations moving their corporations abroad do it only to avoid taxes, which was the fault of our Tax Code and not of the corporations, the report has taken on an added importance.

Earlier this year, the Wall Street Journal ran a story suggesting the report was largely completed. But despite repeated requests, the report has yet to be released. Last night, the Committee on Rules could easily have removed this potential roadblock to obtaining this report, but it chose not to.

Mr. Speaker, this, unfortunately, has become a pattern with the majority leadership. Reports in recent days have suggested that the majority leadership is joining forces with corporations who abuse tax avoidance schemes in an effort to kill our attempts to close major tax loopholes, with the help of the Treasury.

Specifically, the GOP leadership attempted earlier this week to strip out a provision passed by Democrats in the Committee on Appropriations that would prohibit government contracts from being issued to companies that have reincorporated overseas specifically to avoid paying taxes.

□ 1300

Accenture, formerly Andersen Consulting, is spearheading a lobbying campaign, as their $43 million contract with the IRS could be affected. Accenture recently moved its headquarters to Bermuda to avoid paying U.S. taxes. The amendment to curtail this practice is the first in a campaign by the Committee on Appropriations to force the majority to confront corporate wrongdoing, worker pension raids by executives, and stockholder deception. It is my hope that the majority will stop blocking the efforts to address these reform efforts.

In other respects, however, the underlying bill is noncontroversial and provides funds for all aspects of operating the House of Representatives, including staff and committee salaries and expenses, mail and security. It also covers congressional agencies such as the Library of Congress, the General Accounting Office, and the Botanical Gardens.

I would like to highlight the bill's provisions designed to improve Capitol Police recruitment and retention. Since September 11, the hours and pressures of protecting staff and Members and the visiting public have increased dramatically. It is imperative that we take steps to ensure that the Capitol Police have the resources to maintain this level of commitment. With this in mind, the bill contains a 5 percent merit pay raise for Capitol Police officers, as well as a 4.1 percent cost-of-living increase.

I would also note that the measure provides language clarifying the structure of the Capitol Police Board and authorizing the Chief of Police to appoint an executive director of the board. Moreover, it authorizes the chief to hire officers at a rate higher than the minimum rate associated with that position. The bill also includes language authorizing the Capitol Police to run their own payroll services as opposed to having the House and Senate pay some of the officers out of their systems.

We owe it to law enforcement to ensure that they and their families are provided for in this new and uncertain environment. We also owe it to the thousands of visitors to the Capitol each year so that they have confidence that they are being protected to the utmost of our ability.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I am frankly not quite sure what to say on this rule. I think we need to explain what is involved in our opposition to it. Last week the Committee on Appropriations expressed the fact that we were fed up with corporations who, having received support services from our communities, law enforcement services, highways, transportation, police protection and the like, we simply got fed up with corporations who were ostensibly moving their legal locations from the United States of America to other more exotic countries in order to avoid paying taxes.

We adopted the DeLauro amendment in committee, which I was pleased to cosponsor, to try to say that if you are a company and you walk out on your obligation to pay your fair share of taxes in this country, then you cannot expect to get contracts with the government of the country that you are abandoning.

At the same time, the gentleman from Virginia (Mr. MORAN) tried to point out in this bill that there is a study pending in the Joint Committee on Taxation which relates to the same nefarious practices, only those practices are being engaged in apparently by individuals rather than corporations. So the gentleman from Virginia (Mr. MORAN) tried to see to it that that Joint Committee on Taxation study being done was released because it has been held up.

Now what the Committee on Rules has done is to eliminate the protection under the rules for the Moran amendment so that the House can hide from this issue by having somebody move to strike that language on a point of order.

I do not know what the majority is trying to hide, and I do not know why after the steady stream of revelations that we have had about the nefarious conduct of corporations by hiding the true nature of their balance sheets, I do not know why the House is continuing to coddle individuals who are engaging in those practices; but evidently the House seems compelled to do that.

As long as that is the case, we feel compelled to vote against this rule because we feel that language should have been protected. It would be funny if it were not so sad.

What I am reminded of, with apologies to the gentleman from Massachusetts (Mr. FRANK), I was reminded yesterday by the gentleman of the lyrics of a song done by the Beach Boys years ago. Part of those lyrics go as follows:

> Aruba, Jamaica, ooo I wanna take you, To Bermuda, Bahama come on pretty mama, Key Largo, Montego, baby why don't we go. Ooo I wanna take you down to Kokomo.

Mr. Speaker, that seems to be the motto of the people in this House who are hiding the activities of the jet set, both individual and corporate. To me it is a pretty sad day in the House.

So we will be voting against this rule, not because of our objections to the core bill itself, but because sooner or later we believe that the majority party leadership ought to join us in pursuing the public's right to know which individuals and which corporations are welching on their obligations to support the government that has given them the opportunities to make all of that money that they are now trying to hide and protect.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, we had an opportunity to pass a rule in a nonpartisan fashion. This should have been a good bill that we could have all agreed on and passed within a few minutes. Unfortunately, because of the rule, we have a problem with this bill.

We tried to help out. Three years ago there was a request by Chairman Bill Archer of the Committee on Ways and Means to give Congress a report on the amount of money that expatriates are sheltering overseas so they can avoid their Federal income taxes. That was 3 years ago. We have been waiting for this report, and we have not gotten it. We were not even getting a response from the committee.

So what we tried to do is in the most constructive way possible just suspend the increase on the Joint Committee on Taxation; and as soon as we got the report, they would get their increase. But the rule did not make that in order. So now we are going to have an amendment that we are going to have to fight over. It is unfortunate.

We do not know the specifics of what is in this report, but we certainly cannot figure out why the other side of the aisle would not want that information to be made public when the Federal taxpayer is paying for the Joint Committee's activities. That is the big issue. The Committee works for us and we work for American citizens.

There was another issue that was not made in order, and again we were trying to do the right thing. We put in a provision that allowed the chief of the Capitol Police to have more direct control over his troops. It was something that people who understand the issue in terms of management felt was called for. So we put that in. It was something that the Committee on House Administration should do and they did not do. We understood that it was something that they wanted us to do. We did it, and now it is not made in order.

There is a provision for student loans, to be able to pay off student loans by working for the legislative branch in the same way the executive branch provides incentive so we can acquire and retain the best personnel working for us. The Committee on House Administration has not brought it up. We put it in this bill knowing we were doing the right thing.

We tried to be constructive. We tried not to be controversial. We certainly would not want to demagogue an issue like this, but here we are in a situation where we have a rule that did not make in order two very constructive provisions. That is why we have to object to the rule, unfortunately.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, since September 11, Congress has been considering many issues related to terrorism and homeland security: detection of biological and chemical agents, development of new vaccines and therapeutic drugs, aviation security, biometric technologies for border security, communications systems for the public health system, the psychological effects of terrorism, and cybersecurity.

I ask Members, particularly on the Republican side, do they feel confident in their ability to analyze these technical issues? Can they name anyone on their staff, on their committee staff or personal staff, who is capable of analyzing these issues? I can tell Members, the answer for these technical issues and other technical issues in transportation, health care, agriculture, energy is no.

Congress used to have scientific expertise at its disposal. The Office of Technology Assessment was established in 1972 because lawmakers recognized a need for the legislative branch to have its own source of technical analysis. The OTA was defunded in 1995. During its existence, the OTA provided Congress with unbiased technical analysis.

In analyzing technical issues, OTA adopted an interdisciplinary approach. It resulted in reports that were excellent and are still regarded as excellent. And to ensure a balanced approach, a bipartisan 12-member technology assessment board comprised of six House and six Senate members, both Republicans and Democrats equally represented, governed the OTA.

The OTA should not have been abolished, but we can debate that. But no, we cannot debate that because this rule does not allow it. In 1995, Congress voted to dissolve the OTA in a misguided attempt to institute government reform.

I presented to the Committee on Rules yesterday a very clean amendment. Members will not find a cleaner amendment. This amendment would have provided $4 million to refund the OTA, which is still authorized. There would be no legislating done here in the appropriations bill. The $4 million would be taken without an offset against any other program, nobody's ox is gored, except perhaps the memory of a former Speaker of the House. But no. This clean amendment was not ruled in order.

The Office of Technology Assessment could be revived, but because Republicans since 1995 have been denying this body unbiased technical analysis, they would rather depend on biased sources for their scientific advice.

Mr. Speaker, this should not have happened. The Republican leadership certainly has given up any claim to want to have informed decisions on technical issues here in this Congress.

□ 1315

This was an appropriate amendment, a simple amendment. It could have been debated. Perhaps they would like to defend their abolition of the Office of Technology Assessment in 1995. Fine. Let us have that discussion. But do not pretend that you have here on Capitol Hill at your disposal the technical analysis to deal with biological and chemical agents, vaccines, aviation security, biometrics, public health communication and so forth.

Mr. Speaker, I will vote against the rule for this reason and I urge my colleagues to do the same.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

I was of the impression that our friends on the other side of the aisle perhaps had listened too much to the Beach Boys and had a few too many margaritas after hearing their arguments this afternoon until I heard the gentleman from Wisconsin's rendition of the Beach Boys song. I think maybe a couple of more margaritas would improve the rendition.

But in all seriousness, Mr. Speaker, I am somewhat confused. The main allegation being made is that the Committee on Rules is not permitting the gentleman from Virginia's issue to be discussed. This is a structured rule that required us to make in order any amendments, and the Committee on Rules made in order an amendment by the gentleman from Virginia (Mr. MORAN) precisely dealing with the issue that the gentlewoman from New York (Ms. SLAUGHTER) and he brought up. The amendment is made in order. I kind of wish we had not made it in order, but we did. In the interest of full fairness and the opportunity to debate issues, knowing the passion which the gentleman from Virginia feels on this issue, that amendment was made in order.

Maybe it is too many margaritas, I am not sure what, but I wanted to reiterate that the amendment was made in order and that we look forward as we proceed, since we did make it in order, to debate on the gentleman from Virginia's amendment and obviously then on the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 15 seconds to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I just want to respond to my friend from Florida. Our problem is that we did not want to have to cut the funding for the Joint Committee on Taxation. We just wanted to suspend the money until we get the report. That is the issue. We really do not want to be punitive and cut the funding. You only gave us the option of cutting the funding. That is our problem with the decision of the Committee on Rules.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, on November 12, 2001, President Bush signed permanent legislation which permits Federal agencies at their discretion to use appropriated funds to assist their lower income employees with the high cost of quality child care. In order to qualify, the total family income of the employee parent cannot exceed $60,000. Additionally, the children cannot exceed the age of 13, 18 if disabled, and must be placed in licensed day care, home care or afterschool care. Employees meeting these criteria could have had from 20 percent to 50 percent of their total child care cost covered. Employees qualifying for this benefit must be working in the United States.

I attempted to have an amendment included that would have provided for a study to determine the feasibility of providing child care services to low-income employees of the legislative branch. Unfortunately, that rule was not included. We need to create an affordable child care plan for legislative branch employees. I could not understand and still cannot understand why such an amendment could not have been included so that those individuals could have the possibility of receiving benefits that would assist them to have their children in licensed day care programs.

For that reason, I too must vote against this rule because I think it could have allowed certainly this amendment which would have done no harm to anything or anybody.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I am resisting and voting against the rule because it does not allow the House of Representatives an opportunity to work its will. We have in this bill a provision that would allow us to hold back the fundings of the Joint Committee on Taxation until such time that they release to the Committee on Ways and Means, and the House of Representatives, information which they have that would tell us with some degree of accuracy the cost to the United States for companies that have decided to leave the United States and to go abroad in order to avoid paying United States taxes. I want to thank the gentleman from Virginia (Mr. MORAN) for using this vehicle for us to get what we are entitled to get.

At the end of the day, we are not asking anyone to vote up or down. All we are saying is that when a committee that has been formed for the purpose of providing information for us to work our will based on that information, that we should have it. And whether we are under Democratic leadership or Republican leadership, the ability to stop a legitimate committee from reporting that information is against the best interests of the committee, the Congress and, indeed, our country. When that flag is up and waving as a result of the terrorists' cowardly attack on the United States of America, it would seem to me that all of us have to find some sense of responsibility as to what do we owe this great Republic, this great country of ours. And even though I have not reached the position that it is a privilege to pay taxes, I do reach the position it is a responsibility to pay taxes in order to appreciate the rights and the privileges that we have in this great country. When someone decides that they do not want to pay taxes here, that they do not like our tax laws, what they should be doing is petitioning this Congress to change those laws, but not flee the jurisdiction of the United States and take the jobs with them abroad just for the sole purpose that they do not want to do it.

We are asking for information, and when we get so partisan that we do not like the reports, that we tell the employees we do not want to hear it, then it is up to us to say that we do not fund that type of activity. And when we are able to persuade the committee to put it in there, then the least that you can expect from the Committee on Rules is that they would protect us, because it is not Moran, it is not Democrats, it is not Republicans, it is the integrity of this great House.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, the gentleman from Florida said that the issue was too many margaritas. The issue really is too few opportunities to vote on Bermuda. I am in opposition to this rule today. I am going to continue to be in opposition to these rules until there is an opportunity for this full House to vote on the issue of runaway corporations moving offshore to avoid American taxes in a time of war. The President has requested $48 billion more for national defense, $38 billion for homeland security, and these corporations in the dark of night are sneaking out of the country without ample opportunity for this body to take a vote on stopping it. Whether it is Stanley Tools running off to Bermuda to avoid taxes or J. Paul Getty's grandson turning in his U.S. citizenship to avoid individual income taxes, the American taxpayer wants us to act to stop these tax dodgers.

We have known that these penalties are insufficient for those who renounce U.S. citizenship for tax purposes, but since 1996 we have had no opportunity to do anything about it. These expatriates still visit, work and even live here while avoiding U.S. income taxes. The Republicans have stopped this vote from coming up, and now they even stop the report on individual expatriates from coming to the House floor. We deserve a vote and I will predict what I have said all along. Give us a vote on the Bermuda tax dodge, what these corporate traitors are doing in the dark of night, and 300 Members of this body at a minimum will vote to do something about it.

Stop blocking this opportunity. We need the report to find out what is happening with these billionaires and our tax revenues. Let me say this. We can stand here and hold hands and sing "God Bless America," but part of the blessings that we enjoy in this country are paying for the benefits that we have as well. Give us a vote on the Bermuda tax dodge.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I rise to engage Chairman TAYLOR in a colloquy.

Mr. Chairman, in the Southeast we are facing a major problem with a veterans' health care system that is outdated and no longer able to meet the needs of those who have placed their lives on the line to preserve our freedom. We have seen a recent trend of veterans moving southward, yet the medical facilities that are in place in these States seeing the greatest influx are not sufficient to meet their needs.

In July of 2000, the Veterans' Administration entered into a contract in my district with Erlanger Hospital in Chattanooga, Tennessee that created a pilot project to provide quality medical service to our veterans closer to home. There are currently veterans in my district who are forced to wait months for appointments in Murfreesboro or Nashville when by utilizing services at Erlanger Medical Center, our regional safety net public hospital, they can reduce their wait time as well as their travel.

Since the inception of the program in July 2000, I believe that the VA never truly committed to this contract. In the first year of this pilot program, there were only 24 referrals to Erlanger from the VA. When Erlanger renewed for a second year, we negotiated contract changes to increase the volume of veterans eligible to be referred to Erlanger. However, the second year of the program saw only a meager increase in referrals to 34. Despite the fact that Erlanger is being reimbursed at the Medicare rate, the VA refuses to refer the vast majority of the veterans in the area and instead forces them to make the long trip to the veterans' hospital 2 hours away. The current contract is set to expire next month, August 31, and the VA received zero bids for their requests for proposals.

Mr. Chairman, I want to thank you for agreeing to join me in sending a letter to the GAO requesting a study of this pilot project and the reasons for its failure. We have asked the GAO to undertake a study of the VA Tennessee Valley Health Care System-Erlanger Medical Center contract in Chattanooga, Tennessee. The focus of the study should be for the GAO to evaluate the 2-year contract, the volume of referrals, system for referring veterans, the funding allocated to the contract and the total amount expended. The study should also focus on the specific reasons for contract termination, adjustments of future contracts, diagnosis and medical services list, like surgery, the number of veterans that qualified under the terms of the contract that were not referred, and the cost estimate to continue this contract with the focus on quality care closer to home for veterans.

Furthermore, we would like the GAO to review and update an inspector general's report on the Chattanooga outpatient clinic. This update should include wait times for appointments, referral times to a VA hospital, staffing issues and physical capacity to accommodate increasing patient load, specialty care provided by the Chattanooga outpatient clinic, and report back to the subcommittee and me as soon as possible.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I do share the gentleman's sentiments about the accessibility of quality care for our Nation's veterans. North Carolina has also experienced an influx of veterans in recent years and the failure of this VA pilot program is a setback in our efforts to provide all veterans with quality and convenient health care. I am pleased to work with you on this matter and look forward to receiving and reviewing the GAO study.

Mr. WAMP. I commend and thank our distinguished chairman for working with me on this important issue for our veterans in the Southeast. The recent migratory trends in our veteran population affect much of the South and I know that the chairman shares my concern about the medical attention that they are being provided.

□ 1330

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I am going to support the underlying bill, as I know the ranking member and certainly the chairman will. I will speak at greater lengths on the substance of the bill, which is excellent, and I appreciate the gentleman from North Carolina (Mr. TAYLOR) working with us.

Mr. Speaker, we are in an environment that is very dangerous. It is an environment in which secrecy in the marketplace has undermined the confidence of investors. It has undermined the confidence of the investors to the extent that the market has plummeted, and millions of people have lost very substantial amounts in their 401(k)s, their Keoughs, and other savings plans.

One might say, well, that is interesting. What does it have to do with this bill? What it has to do with this bill is that we ought to be in an environment of making sure that investors, in this case taxpayers who invest in America, know what is happening with their tax dollars, and know what is happening with those around them in terms of contributing to the war on terrorism, to homeland security, to education, to health care, to the welfare and greatness of this Nation. That is what the Moran amendment seeks to do.

Very frankly, self-respect, if nothing else, should compel us to adopt the Moran amendment. Self-respect to the extent that the House says to one of its committees, produce a report, in this case, the Republican chairman of the Committee on Ways and Means, not a Democrat. Notwithstanding that request, and notwithstanding the fact that the Joint Committee on Taxation conducted a study about tax absconders, tax dodgers, that report is being kept secret.

Mr. Speaker, we ought to oppose this rule and put the Moran amendment back in this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, there is just one basic issue relating to this rule: Why is the Republican majority hiding a report on individuals who flee America and give up their citizenship, in a sense, in name, in order to avoid paying American taxes? Why are our Republican colleagues hiding it? They should use some of their time to answer that question.

In 1999, the gentleman from New York (Mr. RANGEL) tried to address this, and in order to avoid it, the Republican majority said there will be a study with a report back by 2000. As far as I know, this is the year 2002.

Why are all other provisions that have some legislating in them, why are they all protected except this one? I yield any remaining time to the gentleman from Florida to respond.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, what does it mean to be an American? We all have our personal reflections, sometimes finding an answer in a school child's essay, a veteran's speech, or a visit to the Lincoln Memorial. Most Americans understand that freedom is not free, and that the price of being a part of the greatest Nation in the history of the world is accepting the responsibility to pay for our security at home and abroad.

But some of our wealthiest Americans have shirked their responsibility and fled to foreign shores. These individual ex-patriots, just like their corporate cousins at Stanley Works, have elected personal gain over patriotism.

More than three years have passed since the Joint Committee on Taxation was first asked to evaluate whether existing rules for these ex-patriots were being applied as we intended them here in Congress. It only took Forbes Magazine a short while. Three years ago, in three words they concluded, "It ain't working." And it is still not.

Now, some cynics suggest that the Joint Committee on Taxation has stonewalled and delayed this report because they want to thwart the efforts of Democrats to ensure that billionaires are paying their fair share. As I said, in 1995, when this issue was up, Newt Gingrich and the Republicans had as their agenda a "pattern of protection of plutocrats" in what they called the "Contract on America."

Today, though, I offer a more humble suggestion. Perhaps the Joint Committee on Taxation is simply shorthanded and understaffed, because too many of its staff members have moved on to greener, indeed, much greener pastures. Ken Kies, who was the chief of staff of this very same committee from 1995 to 1998 under the Republicans, left to join Pricewaterhouse Coopers where, in 2000, he lobbied on behalf of the same Section 877 Coalition to weaken the already modest limitations on these billionaires, who renounce America. The Coalition members, of course, like this Joint Committee report, remained secret because he never revealed the clients, who were paying for the lobbying in his official lobbyist disclosure reports.

Pricewaterhouse Coopers Consulting has since itself renounced America, reemerged and reincorporated abroad to dodge taxes under the unusual name "Monday."

Nor did Ken Kies devote all of his time in this manner. He took time out in March of this year, according to a solicitation from the National Republican Congressional Committee, to meet with contributors, together with the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), to, according to this solicitation, instruct those who were invited "how to cut your taxes and stimulate your business." No doubt this was a most insightful presentation.

Nor is Ken Kies the only former staff member of this particular committee to find greener pastures elsewhere. Barbara Angus, who served on this Joint Committee on Taxation, moved over to Price Waterhouse and joined the same coalition fighting on behalf of the billionaire ex-patriots. That, of course, is not where Republican Barbara Angus is today. Today, President Bush has appointed her as the international tax counsel for the United States Department of Treasury, where she is undoubtedly seeking to ensure that her former clients pay their fair share.

To protect the public Treasury, the Bush Administration supported by its allies here in Congress, is anointing lapdogs instead of appointing watchdogs. The same reason why the Republicans bar the public from reading this report is why they are obstructing the legislation I have introduced on abusive tax shelters and to end this Bermuda tax dodge. Their watchword is "friends do not let friends pay taxes," or, in the memorable words of Leona Helmsley, "taxes are for the little people."

And there is a cycle: Draft weak laws. Lobby on behalf of billionaires to keep them weak, and then return to government to police the same laws.

Mere requests in English to produce this report for three years have been unsuccessful, so we must talk in the only language that these folks understand money: no report, no money. Support the Moran amendment.

Mr. DIAZ-BALART. Mr. Speaker, I would inquire, has all the time on the other side expired?

The SPEAKER pro tempore (Mr. GILLMOR). Yes. All time of the gentlewoman from New York has expired.

Mr. DIAZ-BALART. I thank the Speaker for the clarification.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to point out again, because I have been trying to follow the arguments that have been coming from the other side, and I saw in one of the publications here on the Hill today that they have all gotten their orders and they are going to talk on this issue from now until eternity, no matter what the matter at hand is about.

I want to point out that the amendment from the gentleman from Virginia (Mr. MORAN) was requested of the Committee on Rules. We did not impose it on the gentleman. We did not in the Committee on Rules say we are going to force the amendment down onto the gentleman from Virginia (Mr. MORAN). He requested of us, and we made it in order. We have made the Moran amendment in order precisely because of the fervor with which it was made clear that the gentleman from Virginia (Mr. MORAN) wanted it to be heard and discussed.

With regard to the statement of a colleague who got up, I forget who he was, and said that we were hiding something, this report, not only are we not hiding anything, this report is of the Joint Tax Committee. The chairman of the Joint Tax Committee, it is my understanding, is Mr. BAUCUS, a Senator from, I believe it is Montana. I would hope and assume that they would talk with the chairman of the committee that they think is hiding something. It happens to be a member of their party. But I saw in the paper today what the strategy is, and that is part of the process.

But also part of the process is something serious, which is the legislative branch appropriations bill, including the Capitol Police, that we have brought to the floor and, as I said before, with commendations and admiration for the men and women of the Capitol Police. So I would urge my colleagues to pass this rule and pass the underlying legislation, get on with the business, despite what we see in the little papers about strategies and tactics and dreams; everyone is entitled to dreams. Let us get on with the Nation's business, and let us pass the rule.

Mr. COLLINS. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from Georgia.

Mr. COLLINS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, if I understand this amendment correctly, it is to reduce the Joint Committee on Taxation's appropriation or budget by some $590,000, because of a report. That report is not going to change why people expatriated. Mr. Speaker, when they leave this country and go anywhere else in the world to make money, they are going to pay tax. The reason they are doing so is because of a country that has less taxation. The liability is less. That is America: freedom to go wherever you want to. I do not like it. I do not like it because people are leaving.

Stanley Works has been mentioned. If I read right, Stanley Works wants to reincorporate in Bermuda. They would save some $32 million based on the difference in taxation. Does not that type of movement or reason to move or incentive to move tell us that our tax codes, our tax structure is penalizing people? Now, they are leaving the business here and the jobs here. They are moving taxation. I would rather they stay here. But this $590,000, we could make it $1 million, it is not going to change the reason. The reason is the environment.

Mr. Speaker, it bothers me when, based on the current environment in this town, that the word "profit" or "profits" is a bad word. Profits only relate to people who are in business who are greedy, commit fraud and do not do right with their bookkeeping. That is not true. Profits of business, whether it is a one-man operation, one-woman operation or a conglomerate, those profits relate directly to salaries, to income, to retirement, to savings, to health care for their families.

□ 1345

It all comes from profits. And we are penalizing business in this country with the high cost of taxation. All business does is collect it from the private sector through their sales.

I have been into a lot of businesses to buy a product, or even buy a vehicle or a major purchase. I have never been given two bills, one for the purchase that I was making, and the other for the taxes they were making off of the profit they were going to have to pay the government. It is all-inclusive. The end result is the consumer pays the bill.

We have different tax provisions in this country than we will find in other parts of the world. We should look at those areas. Some of the gentlemen who have gotten up and spoken are on the Committee on Ways and Means. They know this as well as I do.

We double-tax dividends that companies pay to their investors. We were talking about the investors a minute ago, the 401(k)s, the IRAs. We double-tax those dividends. Other nations do not do that. European nations do not do that. That is the reason we have several who have located in Europe.

A lot of industrialized nations do not have capital gains tax; we do. I do not know of another country that has an alternative minimum tax, but we do. Let us talk about those things and what we can do in changing the tax law, or in the regulatory provisions and costs that we impose on a business that will do away with that corrective to move offshore, to reincorporate in Bermuda, to sell out to a company in Europe or Asia.

A plant in my district just sold to a group in China. They are going to leave the plant there, hopefully. They may close it, because they are opening a plant, too, in China. I do not like that, but this is not going to do any changing to it. It will not change it, I say to the gentleman from Virginia (Mr. MORAN), not at all.

I would like to see the report, too. It is forthcoming, I hope. But I hope that this Congress will spit out that bitter taste they have about business and profits and address the real problem, that is, the costs that we impose as a Congress on business, to do business in this country. It directly reflects the individual worker here.

Mr. WAMP. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Speaker, I just want the record to reflect and to be clear, we debated this expatriate issue at the full Committee on Appropriations. An overwhelming bipartisan vote took place against expatriate corporations, and the gentlewoman from Kentucky (Mrs. NORTHUP) and myself led the Republican debate to hold these companies accountable; to say to expatriated companies, they cannot do business with the Federal Government. It was a defense measure, to say they could not contract with defense. I stood to say we should go further. They should not do Medicare, Medicaid business, and should not contract with the Federal Government.

This is not a Democrat or Republican issue. To me, this is an American issue. I said that these corporations are un-American that seek to set up shop in foreign countries to avoid paying taxes. We need to hold them accountable.

This amendment is about joint taxation, where they have connected this issue. I hope we can reach agreement with the authorization committee to accommodate the gentleman from Virginia (Mr. MORAN). But this issue of expatriation, in a bipartisan way I believe people of patriotic fervor will come together to say that we have to say, if you are going to do business in America, be American, pay your taxes, pull your load, do what is right for the workers.

Republicans and Democrats are going to hold corporate America to a standard; we are not going to regulate them into oblivion. The gentleman from Georgia is right, we cannot tax them, regulate them, or litigate them too much or they will be strangled. We want the free enterprise system.

But we have to say to American corporations, they should pay their taxes as they go. We say it with a unified bipartisan voice. We did it in the committee, a bipartisan vote. So before the gentleman makes hay out of this all the way to November, understand we stand together in a bipartisan way to hold American corporations accountable.

Mr. DIAZ-BALART. Reclaiming my time, Mr. Speaker, we have made the amendment of the gentleman from Virginia (Mr. MORAN) in order. I think it is appropriate that we get to the underlying legislation and that we fund the legislative branch, which is what the business of today is. Despite the hay we have heard, they had more than half their time on the floor here.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 219, nays 206, not voting 9, as follows:

[Roll No. 319]

YEAS—219

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler

Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NAYS—206

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOT VOTING—9

Bonior
Carson (OK)
Cox
Fossella
Lowey
Mascara
McCarthy (NY)
McHugh
Traficant

☐ 1420

Mr. DELAHUNT and Mr. MEEHAN changed their vote from "yea" to "nay."

Mr. SIMPSON changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MAKING IN ORDER PRO FORMA AMENDMENTS DURING CONSIDERATION OF H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

Mr. DIAZ-BALART. Mr. Speaker, I ask unanimous consent that during the consideration of H.R. 5121, pursuant to House Resolution 489, pro forma amendments offered by the chairman and ranking minority member of the Committee on Appropriations or their designees for the purpose of debate may be offered at any time.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentleman from Florida?

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 5011. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5011) "An Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. REID, Mr. BYRD, Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, and Mr. STEVENS to be the conferees on the part of the Senate.

## GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5121, and that I may include tabular and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 489 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5121.

☐ 1422

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Virginia (Mr. MORAN) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we take up the fiscal year 2003 legislative branch appropriations bill; but before we begin, I would like to thank the hard work of the Members of the subcommittee, especially the gentleman from Virginia (Mr. MORAN), our ranking member.

I would like to note that our subcommittee has taken a reasoned approach to our increased needs in the aftermath of September 11. I am pleased to note that we provided a modest 5 percent overall increase over the current fiscal year in this bill. This is especially reasonable when one realizes that well over 75 percent of our costs are personnel related and the cost-of-living component government-wide this year is 4.1 percent. Price level increases account for 1.8 and almost 2 percent of the government-wide spending increase this year. So, in real terms, we have kept our bill below the rate of inflation and cost increases.

We have provided the necessary and sufficient funding in this bill for our security needs, a police pay increase of 5 percent, in addition to their COLA, and increased management flexibility for our new chief. We provide the police with all the additional manpower that they acknowledge that they can recruit and train in the upcoming year.

We have continued our commitment to digitalization at the Library of Congress and gotten back on track with their building program and storage needs by asking the Corps of Engineers to take over the completion of the library's storage facility at Fort Meade, Maryland.

We have directed the Congressional Research Service to join with the rest of the legislative branch to join the communications revolution to better enable them to communicate with Members' offices. We have included language in this bill which authorizes a tuition reimbursement program for House employees.

Finally, I would like to thank all the employees of this people's House for all their hard work, their stamina, and the good spirits through this tough year. I know this Member appreciates them, and the American people appreciate them as well.

Of course, without the steady hand of Liz Dawson, Chuck Turner and our dedicated, knowledgeable committee staff, and Roger France of my staff, we would not have the bill we have today. Also, I would like to thank Scott Lilly, Mark Murray, Mike Malone, and Tim Aikin for all their hard work and dedication on this bill.

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| TITLE I - CONGRESSIONAL OPERATIONS | | | | | |
| HOUSE OF REPRESENTATIVES | | | | | |
| Payments to Widows and Heirs of Deceased Members of Congress | | | | | |
| Gratuities, deceased Members | 145 | --- | --- | -145 | --- |
| Salaries and Expenses | | | | | |
| House Leadership Offices | | | | | |
| Office of the Speaker | 1,866 | 1,979 | 1,979 | +113 | --- |
| Office of the Majority Floor Leader | 1,830 | 1,899 | 1,899 | +69 | --- |
| Office of the Minority Floor Leader | 2,224 | 2,309 | 2,309 | +85 | --- |
| Office of the Majority Whip | 1,562 | 1,624 | 1,624 | +62 | --- |
| Office of the Minority Whip | 1,168 | 1,214 | 1,214 | +46 | --- |
| Speaker's Office for Legislative Floor Activities | 431 | 446 | 446 | +15 | --- |
| Republican Steering Committee | 806 | 834 | 834 | +28 | --- |
| Republican Conference | 1,342 | 1,397 | 1,397 | +55 | --- |
| Democratic Steering and Policy Committee | 1,435 | 1,490 | 1,490 | +55 | --- |
| Democratic Caucus | 713 | 741 | 741 | +28 | --- |
| Nine minority employees | 1,293 | 1,337 | 1,337 | +44 | --- |
| Training and Program Development: | | | | | |
| Majority | 290 | 290 | 290 | --- | --- |
| Minority | 290 | 290 | 290 | --- | --- |
| Cloakroom Personnel: | | | | | |
| Majority | 330 | 340 | 340 | +10 | --- |
| Minority | 330 | 340 | 340 | +10 | --- |
| Subtotal, House Leadership Offices | 15,910 | 16,530 | 16,530 | +620 | --- |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Members' Representational Allowances Including Members' Clerk Hire, Official Expenses of Members, and Official Mail | | | | | |
| Expenses | 479,472 | 483,536 | 476,536 | -2,936 | -7,000 |
| Committee Employees | | | | | |
| Standing Committees, Special and Select (except Appropriations) | 104,514 | 108,741 | 108,741 | +4,227 | --- |
| Committee on Appropriations (including studies and investigations) | 23,002 | 24,200 | 24,200 | +1,198 | --- |
| Subtotal, Committee employees | 127,516 | 132,941 | 132,941 | +5,425 | --- |
| Salaries, Officers and Employees | | | | | |
| Office of the Clerk | 15,408 | 17,530 | 20,032 | +4,624 | +2,502 |
| Office of the Sergeant at Arms | 4,139 | 4,732 | 5,097 | +958 | +365 |
| Office of the Chief Administrative Officer | 67,495 | 99,863 | 104,363 | +36,868 | +4,500 |
| By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117) | 41,712 | --- | --- | -41,712 | --- |
| Office of Inspector General | 3,756 | 3,947 | 3,947 | +191 | --- |
| Office for Emergency Planning, Preparedness and Operations | --- | 2,603 | 6,000 | +6,000 | +3,397 |
| Office of General Counsel | 894 | 894 | 894 | --- | --- |
| Office of the Chaplain | 144 | 149 | 149 | +5 | --- |
| Office of the Parliamentarian | 1,344 | 1,464 | 1,464 | +120 | --- |
| Office of the Parliamentarian | (1,168) | (1,279) | (1,279) | (+111) | --- |
| Compilation of precedents of the House of Representatives | (176) | (185) | (185) | (+9) | --- |
| Office of the Law Revision Counsel of the House | 2,107 | 2,168 | 2,168 | +61 | --- |
| Office of the Legislative Counsel of the House | 5,456 | 5,852 | 5,852 | +396 | --- |
| Corrections Calendar Office | 883 | 915 | 915 | +32 | --- |
| Other authorized employees | 140 | 146 | 146 | +6 | --- |
| Technical Assistants, Office of the Attending Physician | (140) | (146) | (146) | (+6) | --- |
| Subtotal, Salaries, Officers and Employees | 143,478 | 140,263 | 151,027 | +7,549 | +10,764 |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Allowances and Expenses | | | | | |
| Supplies, materials, administrative costs and Federal tort claims | 3,379 | 3,384 | 3,384 | +5 | --- |
| Official mail for committees, leadership offices, and administrative offices of the House | 410 | 410 | 410 | --- | --- |
| Government contributions | 152,957 | 171,888 | 178,888 | +25,931 | +7,000 |
| Miscellaneous items | 690 | 690 | 690 | --- | --- |
| Subtotal, Allowances and expenses | 157,436 | 176,372 | 183,372 | +25,936 | +7,000 |
| Undistributed reduction | -4,050 | --- | --- | +4,050 | --- |
| Outlays | --- | --- | --- | --- | --- |
| Total, salaries and expenses | 919,762 | 949,642 | 960,406 | +40,644 | +10,764 |
| Total, House of Representatives | 919,907 | 949,642 | 960,406 | +40,499 | +10,764 |
| JOINT ITEMS | | | | | |
| Joint Economic Committee | 3,424 | 3,658 | 3,658 | +234 | --- |
| Joint Committee on Taxation | 6,733 | 7,323 | 7,323 | +590 | --- |
| Office of the Attending Physician | | | | | |
| Medical supplies, equipment, expenses, and allowances | 1,865 | 1,947 | 3,000 | +1,135 | +1,053 |
| Capitol Guide Service and Special Services Office | 2,512 | 3,035 | 3,035 | +523 | --- |
| By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117) | 350 | --- | --- | -350 | --- |
| Total, Capitol Guide Service and Special Services Office | 2,862 | 3,035 | 3,035 | +173 | --- |
| Statements of Appropriations | 30 | 30 | 30 | --- | --- |
| Total, Joint items | 14,914 | 15,993 | 17,046 | +2,132 | +1,053 |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Capitol Police | | | | | |
| Salaries: | | | | | |
| Sergeant at Arms of the House of Representatives.. | 55,239 | --- | --- | -55,239 | --- |
| Sergeant at Arms and Doorkeeper of the Senate..... | 57,805 | --- | --- | -57,805 | --- |
| Capitol Police salaries.......................... | --- | 184,526 | 175,675 | +175,675 | -8,851 |
| Subtotal, salaries........................... | 113,044 | 184,526 | 175,675 | +62,631 | -8,851 |
| General expenses..................................... | 13,146 | 28,100 | 43,000 | +29,854 | +14,900 |
| By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117).................. | 31,000 | --- | --- | -31,000 | --- |
| Subtotal, General expenses.................... | 44,146 | 28,100 | 43,000 | -1,146 | +14,900 |
| ARCHITECT OF THE CAPITOL | | | | | |
| Capitol Police Buildings and Grounds................. | --- | --- | 37,500 | +37,500 | +37,500 |
| Total, Capitol Police....................... | 157,190 | 212,626 | 256,175 | +98,985 | +43,549 |
| OFFICE OF COMPLIANCE | | | | | |
| Salaries and expenses................................ | 2,059 | 2,224 | 2,059 | --- | -165 |
| CONGRESSIONAL BUDGET OFFICE | | | | | |
| Salaries and expenses................................ | 30,780 | 32,390 | 32,390 | +1,610 | --- |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| ARCHITECT OF THE CAPITOL | | | | | |
| Capitol Buildings and Grounds | | | | | |
| General administration, salaries and expenses......... | 51,371 | 63,951 | 61,927 | +10,556 | -2,024 |
| Capitol buildings................................... | 15,194 | 46,789 | 32,062 | +16,868 | -14,727 |
| By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)................... | 106,304 | --- | --- | -106,304 | --- |
| Capitol grounds..................................... | 6,009 | 7,711 | 8,125 | +2,116 | +414 |
| House office buildings.............................. | 54,006 | 46,250 | 58,460 | +4,454 | +12,210 |
| Capitol Power Plant................................. | 56,983 | 148,003 | 111,573 | +54,590 | -36,430 |
| Offsetting collections.............................. | -4,400 | -4,400 | -4,400 | --- | --- |
| Net subtotal, Capitol Power Plant............... | 52,583 | 143,603 | 107,173 | +54,590 | -36,430 |
| Total, Architect of the Capitol................. | 285,467 | 308,304 | 267,747 | -17,720 | -40,557 |
| LIBRARY OF CONGRESS | | | | | |
| Congressional Research Service | | | | | |
| Salaries and expenses............................... | 81,454 | 87,646 | 86,241 | +4,787 | -1,405 |
| GOVERNMENT PRINTING OFFICE | | | | | |
| Congressional printing and binding.................. | 81,000 | 90,143 | 90,143 | +9,143 | --- |
| UNITED STATES CAPITOL HISTORICAL SOCIETY | | | | | |
| Grant - By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117)......................... | 1,000 | --- | --- | -1,000 | --- |
| Total, title I, Congressional Operations........ | 1,573,771 | 1,698,968 | 1,712,207 | +138,436 | +13,239 |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| TITLE II - OTHER AGENCIES | | | | | |
| BOTANIC GARDEN | | | | | |
| Salaries and expenses | 5,646 | 5,361 | 5,936 | +290 | +575 |
| LIBRARY OF CONGRESS | | | | | |
| Salaries and expenses | 306,692 | 357,121 | 358,797 | +52,105 | +1,676 |
| Authority to spend receipts | -6,850 | -6,850 | -6,850 | --- | --- |
| By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117) | 29,615 | --- | --- | -29,615 | --- |
| Subtotal, Salaries and expenses | 329,457 | 350,271 | 351,947 | +22,490 | +1,676 |
| Copyright Office, salaries and expenses | 40,896 | 44,321 | 44,876 | +3,980 | +555 |
| Authority to spend receipts | -27,864 | -29,527 | -31,102 | -3,238 | -1,575 |
| Subtotal, Copyright Office | 13,032 | 14,794 | 13,774 | +742 | -1,020 |
| Books for the blind and physically handicapped, salaries and expenses | 49,788 | 51,020 | 56,522 | +6,734 | +5,502 |
| Furniture and furnishings | 7,932 | 8,003 | --- | -7,932 | -8,003 |
| Total, Library of Congress (except CRS) | 400,209 | 424,088 | 422,243 | +22,034 | -1,845 |
| ARCHITECT OF THE CAPITOL | | | | | |
| Capitol Visitors Center | | | | | |
| Capitol Visitors Center | 70,000 | --- | --- | -70,000 | --- |
| Congressional Cemetery | | | | | |
| Congressional Cemetery | 1,250 | --- | --- | -1,250 | --- |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Library Buildings and Grounds | | | | | |
| Structural and mechanical care | 21,753 | 26,880 | 35,319 | +13,566 | +8,439 |
| Total, Architect of the Capitol | 93,003 | 26,880 | 35,319 | -57,684 | +8,439 |
| GOVERNMENT PRINTING OFFICE | | | | | |
| Office of Superintendent of Documents | | | | | |
| Salaries and expenses | 29,639 | 32,302 | 29,661 | +22 | -2,641 |
| Government Printing Office Revolving Fund | | | | | |
| By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117) | 4,000 | --- | --- | -4,000 | --- |
| Total, Government Printing Office | 33,639 | 32,302 | 29,661 | -3,978 | -2,641 |
| GENERAL ACCOUNTING OFFICE | | | | | |
| Salaries and expenses | 424,345 | 457,802 | 456,534 | +32,189 | -1,268 |
| Offsetting collections | -2,501 | -3,000 | -3,000 | -499 | --- |
| By Transfer - Legislative Branch Emergency Response Fund (P.L. 107-117) | 7,600 | --- | --- | -7,600 | --- |
| Total, General Accounting Office | 429,444 | 454,802 | 453,534 | +24,090 | -1,268 |
| CENTER FOR RUSSIAN LEADERSHIP DEVELOPMENT | | | | | |
| Payment to the Russian Leadership Development Center Trust Fund | 8,000 | 10,000 | 13,000 | +5,000 | +3,000 |
| Total, title II, Other agencies | 969,941 | 953,433 | 959,693 | -10,248 | +6,260 |
| Grand total | 2,543,712 | 2,652,401 | 2,671,900 | +128,188 | +19,499 |

## COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| TITLE I - CONGRESSIONAL OPERATIONS | | | | | |
| House of Representatives | 919,907 | 949,642 | 960,406 | +40,499 | +10,764 |
| Joint Items | 14,914 | 15,993 | 17,046 | +2,132 | +1,053 |
| Capitol Police | 157,190 | 212,626 | 256,175 | +98,985 | +43,549 |
| Office of Compliance | 2,059 | 2,224 | 2,059 | --- | -165 |
| Congressional Budget Office | 30,780 | 32,390 | 32,390 | +1,610 | --- |
| Architect of the Capitol | 285,467 | 308,304 | 267,747 | -17,720 | -40,557 |
| Library of Congress: Congressional Research Service | 81,454 | 87,646 | 86,241 | +4,787 | -1,405 |
| Congressional printing and binding, Government Printing Office | 81,000 | 90,143 | 90,143 | +9,143 | --- |
| United States Historical Society Grant | 1,000 | --- | --- | -1,000 | --- |
| Total, title I, Congressional operations | 1,573,771 | 1,698,968 | 1,712,207 | +138,436 | +13,239 |
| TITLE II - OTHER AGENCIES | | | | | |
| Botanic Garden | 5,646 | 5,361 | 5,936 | +290 | +575 |
| Library of Congress (except CRS) | 400,209 | 424,088 | 422,243 | +22,034 | -1,845 |
| Architect of the Capitol | 93,003 | 26,880 | 35,319 | -57,684 | +8,439 |
| Government Printing Office (except congressional printing and binding) | 33,639 | 32,302 | 29,661 | -3,978 | -2,641 |
| General Accounting Office | 429,444 | 454,802 | 453,534 | +24,090 | -1,268 |
| Center for Russian Leadership Development | 8,000 | 10,000 | 13,000 | +5,000 | +3,000 |
| Total, title II, Other agencies | 969,941 | 953,433 | 959,693 | -10,248 | +6,260 |
| Prior year outlays | --- | --- | --- | --- | --- |
| Grand total | 2,543,712 | 2,652,401 | 2,671,900 | +128,188 | +19,499 |

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

We have a good bill here. I was pleased to work with the gentleman from North Carolina (Mr. TAYLOR) to craft a legislative branch appropriation bill that really ought to deserve strong bipartisan support. The 302(b) allocation of $3.4 billion that the subcommittee received was fine. It may sound like a high number, but it reflects approximately a 5 percent increase over last year's appropriation.

It largely covers the cost-of-living adjustment for all the Members' offices, committees and legislative branch agencies. In terms of total Federal spending, it is a pretty small amount, approximately .18 percent of the fiscal year 2003 budget. In other words, if the whole budget was equal to $1, this would be 18/100 of one penny, a small price to pay for the greatest functioning democratic body in the world.

For as good or as bad as this institution may operate, on certain days it is this Nation's best check on tyranny and one-man rule. It is the best opportunity for the views and concerns of the public to be heard and addressed by the Federal Government.

Mr. Chairman, the bill before us today will improve security and will ensure that this institution is better prepared to respond to any future terrorist threat. It ensures that the legislative branch agencies have the resources that they need next year to maintain their high level of professionalism and accountability.

I am also pleased to see that we were able to provide for legislative branch employees more equitable treatment relative to their counterparts in the executive branch. By that, I mean a 4.1 percent annual wage adjustment for all employees in the legislative branch effective next January and funding for a full $100 monthly transit benefit for eligible employees of all agencies.

Authorization and funding are also included for a student loan repayment program for the House which will resemble programs in the Senate, other legislative branch agencies and the executive branch, of course. This program will, in particular, help Members, committees and House offices to attract and to retain qualified employees.

The Library of Congress, the GAO, General Accounting Office, the Congressional Budget Office, and Government Printing Office will largely receive what they requested.

The Capitol Police should be able to hire and train all of the officers that they need to protect Capitol Hill. The current workforce of 1,166 officers will be increased by 288, bringing the full complement to 1,454 sworn police officers. The bill makes funds available for a 5 percent pay increase for the Capitol Police, including all civilians, and that is effective this fall. It includes a number of other provisions designed to reduce officer attrition and improve recruitment and several administrative and management reforms.

Let me close by expressing my praise for how well the Congress, the staff, and the legislative branch agencies have conducted themselves since the terrorist attacks of September 11.

□ 1430

What we once took for granted, the continuous operation of this U.S. Congress, was threatened as it never has been before, and I want to applaud the many selfless individuals and officers that worked often around the clock to keep this institution in order and running through the attacks of September 11 and then the subsequent anthrax attack. This also is an opportunity to thank the members of the D.C. National Guard who filled in last fall to help beef up our security.

It is always a privilege to serve on the Subcommittee on Legislative. The dedication of thousands of legislative branch employees since September has made it even more so. I do want to thank those outstanding professionals who have worked on the legislative branch, Mark Murray, Mike Malone, Liz Dawson, Chuck Turner, Kelly Wade, Roger France, with Chairman Taylor's office, and of course Tim Aiken, who is my legislative director and does this work for me, and David Pomerantz, who always does a great job in whatever his assignment might be. All of our staff is invaluable.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I rise to enter into a colloquy with the chairman. I would like to bring to the chairman's attention the Cameron elm, the one we walk by every day on the way to vote. It is one of the oldest and most historic trees on the Capitol grounds and was named after Senator Simon Cameron, a Republican from Pennsylvania, who saved it from being cut down in the 1870s for a walkway.

This is a strong and vibrant tree that has overcome many obstacles and can clearly thrive for many more years. I want to make sure that proper attention is given to the Cameron elm to prevent treatable health problems from turning more severe. I would like to work with the chairman to ensure that the health of the Cameron elm is monitored and maintained.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman from Ohio for bringing this to my attention. I agree with him that every effort should be made toward helping to protect the health of this historic tree. I pledge to work with the gentleman and the Architect of the Capitol to ensure every effort will be made to protect this tree.

Mr. KUCINICH. I thank the chairman.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 6 minutes to the very distinguished gentleman from Maryland (Mr. HOYER), the ranking member of the Committee on House Administration, who is also an invaluable member of our appropriations subcommittee.

Mr. HOYER. Mr. Chairman, I thank the gentleman for his comments and for yielding me this time.

Mr. Chairman, the bill before us deserves our support, and I want to congratulate the gentleman from Virginia (Mr. MORAN) and the gentleman from North Carolina (Mr. TAYLOR) for working together. I also want to congratulate both Liz Dawson and Mark Murray, as well as the other members of the staff who worked on this bill.

There are too many good provisions to discuss them all. One of the best, however, is funding for all the new Capitol police officers that the agency can recruit and train next year; a total of 288 more. We certainly hope that the police can reach this goal and bring the force to a total of 1,454 sworn personnel.

As our challenges of security have increased substantially, we need this complement of personnel to carry out their duties not only in terms of the security to the building and the people who visit and work here, but also with respect to the safety of those officers. Our Capitol police have faced tremendous challenges since September 11. They worked 12-hour shifts, 6 days a week for months. Now they are losing officers to other agencies, especially the Transportation Security Administration, which offers, frankly, more money and benefits.

In fiscal 2002, the Capitol police have already lost to other agencies over twice the number lost, on average, in the last 3 years. They will lose more unless we act. Fortunately, this bill includes key provisions of the retention bill that the gentleman from Ohio (Mr. NEY) and I cosponsored, and which the House passed on June 26, including a 5 percent pay raise in the fall. It also includes a tuition reimbursement program, expanded specialty pay, and recruiting bonuses.

As a matter of fairness, the bill makes whole those officers adversely affected during the recent period of heavy overtime by limits on holiday and other premium pay. In addition, it provides for the cost-of-living adjustment of 4.1 percent in January. This restores roughly $350,000 that the officers earned in premium pay but were not paid.

To these, the bill adds new provisions to encourage recruitment and retention, including authority for premium pay in lieu of overtime and enhanced professional training. With these provisions, Mr. Chairman, we intend to assure Capitol police officers that we value their service and we hope that they will stay. We want to encourage those young men and women who seek a career in law enforcement to seek a position with the Capitol Police.

Another excellent feature is the authorization of a student loan repayment program for the House. The Committee on House Administration met Wednesday and approved regulations so the Chief Administrative Officer can have the program in place as soon as we pass this bill. This program will help Members, committees, and officers recruit and retain qualified employees. It is needed, in my opinion, to enable the House to stay competitive with other agencies, including the United States Senate, which already has such a program.

In this vein, Mr. Chairman, I want to highlight the work of our colleague, the gentlewoman from California (Ms. LEE), who is seated to my left. She has promoted this program tirelessly. The gentlewoman introduced a bill last year to bring this program to legislative branch agencies that did not have it.

I understand the Architect, the last major agency without it, is certainly of significant interest to her, to me, and I think to the House. I am hopeful that as we move forward, and we expect to have a colloquy on this issue, to include them as well. I look forward to working with the gentlewoman and others to provide appropriate authority for the Architect, and I thank her for her strong leadership in this area.

This bill also includes language authorizing a program to facilitate employment in the House of persons with disabilities. As a sponsor of the Americans with Disabilities Act, this is a particularly important provision to me, and I thank the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Virginia (Mr. MORAN) for including it in the bill. I thank Ms. Dawson for her hard work on this program as well.

This bill also funds, of course, all legislative employees, including the police, and extends to them the same 4.1 percent COLA that executive branch employees will receive next January. It funds the same $100 cash transit benefit for participants in that program. Federal employees in the legislative branch deserve parity on these important benefits.

In addition to funding fire safety work in the complex, the bill calls for studying ways to beautify the power plant in conjunction with the needed capital improvements. Now, when I say beautify, I am working very hard, Mr. Chairman, with this committee and other committees to ensure that the south capital gateway to our capital is as impressive as are the other gateways to our capital. The power plant does not enhance that at this point in time. And as a good neighbor, we ought to work towards that end.

Finally, last year's bill included a provision ending the Architect's employment of temporary workers for long periods without benefits. While implementing the provisions, the Architect of the Capitol faced several technical obstacles to carrying out the original intent and sought our assistance.

The technical correction in this bill requires the Architect to make employer contributions for benefits for AOC employees directly to entities designated to receive such contributions.

Those corrections are included in this bill, and I appreciate again the staff's help on accomplishing that.

Mr. Chairman, this is a good bill. It will meet the needs of the legislative agencies in the coming year. The subcommittee staff, and I have mentioned Liz Dawson, but Chuck Turner, Mark Murray, Mike Malone, Tim Akin, of the office of the gentleman from Virginia (Mr. MORAN), and many others, including agency budget officers, have done an excellent job. I also would be neglectful if I did not mention my own staffer Mike Harrison, who has worked so diligently on this bill, and others. And I would urge an "aye" vote.

I will speak later on it, but I also want to speak to the Moran amendment, which I think will be a very important addition to this bill and which I hope passes.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Chairman, I rise in support of H.R. 5121, a bill to provide promotions for the legislative branch.

I want to compliment the gentleman from Florida (Mr. YOUNG) and the chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR) for their cooperation in making sure that this bill complies with the House-passed budget resolution for fiscal year 2003. It provides $2.7 billion in budget authority and $2.9 billion for outlays for fiscal year 2003. If this measure is enacted, spending will have increased on an average of 11.1 percent for each of the last 3 years.

Consistent with longstanding practice under which each House establishes its own priorities, the bill does not include appropriations for the other Chamber, which will be incorporated into the bill during conference.

I am pleased that the bill is within the subcommittee's 302(b) allocation and is fully consistent with the provisions of the 1974 Budget Act. It does not designate any emergencies that would increase the 302(b) allocation or rescind any previously enacted budget authority.

Let me also mention the Moran amendment that will be on the floor to cut $590,000 from the Joint Committee on Taxation. As the chairman of the Committee on the Budget, we rely on the estimates of this important committee. Particularly at this very difficult time for our country in estimating revenue, it would be unconscionable and irresponsible to cut the budget for the Joint Committee on Taxation.

So I urge Members to support the committee mark, and, in closing, I again commend Chairman YOUNG and Subcommittee Chairman TAYLOR for crafting a bill that meets the needs of the House in a manner that is consistent with the budget resolution.

Mr. MORAN of Virginia. Mr. Chairman, I am very pleased to yield 3 minutes to my distinguished colleague, the gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, as well as being a member of the Subcommittee on Legislative.

Ms. KAPTUR. Mr. Chairman, I thank the ranking member, the gentleman from Virginia (Mr. MORAN), for yielding me this time, and I want to thank him for his cooperative efforts and leadership on this bill, and also the chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR), who is an historian of the House as well, for their very gracious accommodation to so many of the needs of our Chamber and of this House.

I want to use this opportunity as a member of the committee to thank all the personnel, especially over the last several months when there has been additional pressure on our officers and all of the House staff, for the tremendous cooperation and the patriotism that they have demonstrated. We have the public coming back into our Chambers now, there is security beyond what we had before. We have to do this for the moment, but we want to thank all of them for their dedication to our country and the cause of liberty.

I also want to say that in this bill we have funds, obviously, for the Congressional Research Service and the Library of Congress, two of the most distinguished organizations in the world for the assembly of the documents, materials, and analysis that represent us as a free people. Without question, the Library of Congress is the finest library in the world, and we hope that we will make it even better with the appropriations in this bill.

In addition to that, we appreciate the openness of the head librarian, Dr. Billington, in looking at ethnic museums across our country and their respective archives and trying to bring those into some sort of coordinated affiliation with the Library of Congress where those types of affiliations are sought.

We also want to thank Ranking Member Moran and Chairman Taylor for including report language dealing with enhancing our capability as the chief legislative body for our country through expanded televideo conferencing, where we can conference with our colleagues in parliaments around the world. Would that not be a contributor to peace? Would it not be great if we could do that in many places in the Middle East right now? We hope that by expanding these facilities and getting recommendations through the report language that is in here that we will leave those who follow us here in better condition than we found the institution when we arrived.

☐ 1445

Also regarding the renumbering of the offices in all of these buildings, so important to helping the general public find their way around, we want to see a report on that.

And the continuing efforts to bring the works of artists to represent the contributions of women to American life in this Capitol so that all of our society can see that they made a contribution. This has a real place in our bill.

I thank the Capitol Police. We do not have a provision here in the bill, but we met with them regarding alternative fuel vehicles. We thank them for their leadership in assuring that the new purchases of vehicles will help us move this branch, and indeed our whole country, to a noncarbon-based future, and hopefully moving us to a carbohydrate-based future.

In closing, I thank the gentleman from Virginia (Mr. MORAN) and the gentleman from North Carolina (Mr. TAYLOR) for their cooperation in helping us build an even better legislative branch for our country.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 5½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank our ranking member, the gentleman from Virginia (Mr. MORAN), for his leadership, and also the gentleman from North Carolina (Mr. TAYLOR) for crafting a very excellent, bipartisan bill.

I rise in strong support of H.R. 5121, this year's legislative branch appropriations act. I especially thank the chairman and the ranking member for the provision which includes our student loan for House employees. I want to give a huge thanks to the lead cosponsor of a bill I introduced early last year, H.R. 2555, which incorporated these student loan provisions, to the gentleman from Maryland (Mr. HOYER). The gentleman's work on both the Subcommittee on Legislative Branch appropriations and as ranking member of the Committee on House Administration has been exemplary and tireless on this issue. We could not have done this without the gentleman from Maryland (Mr. HOYER), so I want to say thanks to the gentleman. I am sure all of our House employees would like to thank the gentleman also today.

Just a bit of history on this provision. Early last year, I introduced H.R. 2555 with the gentleman from Maryland (Mr. HOYER) as the lead cosponsor. This bill would have provided student loan forgiveness for all legislative branch employees. I tried to offer an amendment in last year's legislative branch appropriations bill, but it was not allowed by the Committee on Rules. While I was pleased that subsequently Senate employees were included in the other body's version of the legislative branch appropriations act, and the Capitol Police were included in other legislation last year, we had hoped that we could have included all Hill staff.

Once again, I am very thankful to the gentleman from North Carolina (Mr. TAYLOR), to the ranking member, the gentleman from Virginia (Mr. MORAN), and the gentleman from Maryland (Mr. HOYER) for their inclusion of loan forgiveness provisions this year.

As a former House staff member and as the employer of a number of staffers who have a great deal of student loans, I strongly support loan forgiveness for all legislative branch employees. I believe it is essential that we establish such a program for the legislative branch. Employees on Capitol Hill on average earn less than their executive branch counterparts, but they still have the same student loan debt. Executive branch and Senate employees have loan forgiveness, and our congressional employees should have it also. They work long hours, and they provided the expertise for us to deliberate public policy for the betterment of our country and for the entire world.

Loan forgiveness is really an excellent tool for attracting and retaining the fantastic staff that we work with each and every day. It is also one of the important ways that we can compete with the private sector, which really does offer higher salaries and other benefits. Many young people want to come to work for the United States Congress and dedicate themselves to public service, but they cannot afford to when they owe tens of thousands of dollars in student loans. This new program will make public service more attractive to them.

Additionally, many support personnel in the legislative branch, many are Architect of the Capitol employees, cannot afford to go to college in the first place. So a student loan forgiveness program would be immensely helpful in allowing them to take college classes. The AOC staff work hard each and every day to make sure that our offices are clean and our buildings are well taken care of. But, unfortunately, they are one of the few categories of Hill staffers that were not included in this loan forgiveness program, and I am delighted that the gentleman from Maryland (Mr. HOYER) is committed to working with us to make sure that we include them, or at least attempt to once we get into conference. I think we owe it to the people who take care of us. We owe it to them to add them to this program, and I hope Members will join us in supporting this provision when we go to conference.

In conclusion, I must thank my legislative director, Danielle LeClair, for her diligence, her focus, and hard work on this. Her staying the course did help us get this far. I also thank Mike Harrison on the staff of the gentleman from Maryland (Mr. HOYER) for his cooperation and hard work. Again, I thank the ranking member for really carrying out the provisions which were included in my legislation last year by expanding the student loan forgiveness program, and hope that we can work together as we move forward to include the AOC staff.

Mr. HOYER. Mr. Chairman, will the gentlewoman yield?

Ms. LEE. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for her leadership and extraordinary efforts on behalf of all of the employees of the legislative branch. I know her deep concern for the Architect's office, which is a sort of hybrid of the legislative branch. I appreciate very much the gentlewoman giving credit to a lot of other people, but she has been the spark plug on this issue and the engine behind it.

I wanted to also say that Liz Dawson of our committee was extraordinarily helpful in getting us to this point, as well as the other staffers that were mentioned.

And more importantly, I know that the employees of the House and of the Architect's office and others on Capitol Hill appreciate the gentlewoman's work.

Mr. MORAN of Virginia. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER), who has been the national leader on smart growth policies and is probably going to suggest some smart policies for the Congress.

Mr. BLUMENAUER. Mr. Chairman, I appreciate the hard work that has been undertaken by the subcommittee dealing with the quality of life here on Capitol Hill for our employees, for the tens of thousands of Washington, D.C. residents, and for the millions of visitors who come to the Capitol every year, many of whom are outside right now as we are deliberating in the Chamber.

I think it is important for the committee to continue its work in focusing on what is going on around the Capitol during these difficult times. I appreciate the concern dealing with the security of our visitors, of our neighbors, our employees, and of the men and women who are in Congress itself. At times, however, some things happen that we find sort of mystifying.

As chairman of the Bicycle Caucus, I have received some people who are sort of mystified about the signage that has appeared around Capitol Hill indicating that no longer are bicycles welcomed on the Capitol grounds and streets surrounding the Capitol. It is somewhat ironic because bicycles have been an important part of the circulation around here. People wonder why we are prohibiting in the name of security people who use this as an important passageway. Many bicycle commuters who live near the Capitol ride to their downtown offices, staying off the streets, not contributing to congestion and air pollution. One of the few bicycle lanes that has been available has been through the Capitol grounds. One of the most convenient follows East Capitol right to the doorstep of the Capitol where some of our employees can come, and others have gone around on down the Mall and to its monuments. Now we have these signs that say people cannot do this any more.

Mr. Chairman, I am hopeful we can be sensitive to what this is doing to the people who enjoy cycling around here, tourists or employees or commuters. Currently the only legal option for bicyclists is to travel on heavily trafficked, four-lane thoroughfares with no shoulders around Capitol Hill.

I would suggest that perhaps Congress can lead by example by making sure that our campus is amenable to men and women who use cycling to commute. While we work to ensure safety and access for the surrounding community and visitors alike, it is no reason that we have to barricade these grounds off to bicyclists.

With the recent groundbreaking of the visitors center, it is clear that it is time to address long-term plans, including, parking, circulation and cycling. I sincerely hope that we can use the influence of this august subcommittee to help the Capitol Police and the Architect of the Capitol develop plans that accommodate cyclists and visitors. We must not ignore the need of local citizens who should have input as well. We need to make sure that we are working with the citizens who are our neighbors who were never consulted.

I hope that we can find language that Members can help us with that encourages a different approach so that we are aware that we are part of the community here in Washington, D.C., that the impacts that we make affect the health, safety and economy and overall livability of tens of thousands of residents on the Hill, millions of visitors every year, and the fact that the bicycle is not a terrorist threat. The bicycle provides an opportunity to improve the quality of life on the Hill for tourists, for employees, and for our neighbors.

Mr. MORAN of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I thank the gentleman for yielding me this time.

It is my understanding that the gentleman from Virginia will be offering an amendment to reduce the amount of funds for the Joint Committee on Taxation of which I am a Member. The issue at hand is the production of a report that may or may not be complete but which the general public, through reports in the press, suspects is complete.

There are several issues involved here, but the principal issue is that a joint committee with the long record of serving on a bipartisan, bicameral nature should not selectively withhold information from Members. I rather suspect that the rules of the House give any Member of the House a right to go in and look at committee records. That is generally the case, and in the absence of any rules prohibiting that, it could be done. It might raise a question of personal privilege in the House. It ought not to.

Regardless of who has requested the reports or regardless of what the reports will say, it does not translate into legislation. It ought not to disadvantage anyone. Much of the information that is of an exciting nature has already been made public in Forbes magazine. Whether it is accurate or not, we do not know.

But for us to begin on a partisan basis to withhold information that is produced by joint committees, whether it is the Congressional Budget Office or GAO or the joint committee, I think takes us down a road that we should all be very hesitant to travel.

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While the gentleman from Virginia's amendment is a harsh remedy, it could easily be solved by the chairman of the Committee on Ways and Means, who also serves as chair of the Joint Committee on Taxation, agreeing to make that report available, at least to members of the Joint Committee on Taxation. I am sure, given that kind of an assurance, the gentleman from Virginia would withhold. That would seem to me to be a way to resolve it and not start a precedent in the House of withholding information because someone has the power to do it. I think it is a bad precedent. I am not sure the information we are talking about is going to make huge changes in the tax law, but I think we are all entitled to it. I urge my colleagues to think about supporting the gentleman from Virginia's amendment on the basis of not changing a long-held precedent in the House of being able to rely on jointly produced, bipartisan, bicameral information that is useful to all of us.

Mr. BARTLETT of Maryland. Mr. Chairman, as the Chairman of the Subcommittee on Energy of the House Science Committee, and as a conferee for the National Energy Strategy bill, I would like to thank the Subcommittee Chairman and floor manager of the Legislative Branch Appropriations bill. First, I want to compliment the gentleman for providing the needed funding for the ongoing efforts of the Architect of the Capitol to improve the energy efficiency of the buildings of the Capitol complex. It is important that we in the Congress practice what we preach, both as an example to others and to make the best use of taxpayer dollars by getting the most out of our energy related expenditures. In this regard, it has come to my attention that the Capitol Power Plant provides heat for buildings in the Capitol complex but is not currently used to generate electric power. It occurs to me that there is an opportunity here to not only capture the efficiency benefits of Combined Heat and Power but also to provide emergency backup power for the Capitol complex in the event of disruption of the local grid. It is my understanding that funding provided in the bill will allow the Architect of the Capitol to undertake the needed studies to determine the feasibility of such a generation demonstration project.

The Legislative Branch Appropriations bill includes $267.7 million in funding for various operational and maintenance activities under the jurisdiction of the Architect of the Capitol, $40.6 million below the amount requested by the President and $17.7 million below the amount provided last year. These funds specifically include support for continued efforts to seek energy and operations savings such as this feasibility study.

Mr. BLUMENAUER. Mr. Chairman, today I voted for the fiscal year 2003 Appropriations Bill for the Legislative Branch. I am pleased with the focus Congress has given to livability in this bill through increased funding for the Capitol Police, important provisions for staff, and the direction to improve the Capitol Grounds.

The Capitol Police will receive additional funding to help retain officers on the force and pay them for the significant overtime they have worked to protect the Capitol and visitors since September 11. This bill includes tuition payment provisions that will help attract and retain both congressional staff and officers.

I am pleased to see the Legislative Branch catch up with much of the rest of the Federal Government and private employers across the country by providing funds to increase the staff transit benefit to $100 per month. Transit benefits are a valuable incentive that help reduce traffic congestion, improve air quality, and save transportation costs for hardworking families.

The Capitol grounds have been ransacked since September 11, first by excessive and ill thought out security measures and now by the beginning construction phases of the planned Capitol Visitors Center. The bill contains language that directs that an English Elm Tree estimated to be 130 to 160 years old cannot be removed or cut down without approval of the House and Senate Appropriations committees. The committee is also working to ensure there is a long-term vision for bicycle and pedestrian accessibility on and around the Capitol grounds, which will improve the livability of congressional employees, neighboring residents, and visitors alike.

For these reasons I support passage of this bill.

Mr. MORAN of Virginia. Mr. Chairman, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment through page 61, line 16.

The text of the bill through page 61, line 16 is as follows:

### H.R. 5121

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, namely:

## TITLE I—CONGRESSIONAL OPERATIONS

## HOUSE OF REPRESENTATIVES

### Salaries and Expenses

For salaries and expenses of the House of Representatives, $960,406,000, as follows:

### HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $16,530,000, including: Office of the Speaker, $1,979,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,899,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $2,309,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $1,624,000, including $5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $1,214,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $446,000; Republican Steering Committee, $834,000; Republican Conference, $1,397,000; Democratic Steering and Policy Committee, $1,490,000; Democratic Caucus, $741,000; nine minority employees, $1,337,000; training and program development—majority, $290,000; training and program development—minority, $290,000; Cloakroom Personnel—majority, $340,000; and Cloakroom Personnel—minority, $340,000.

### Members' Representational Allowances

### Including Members' Clerk Hire, Official Expenses of Members, and Official Mail

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $476,536,000.

### Committee Employees

### Standing Committees, Special and Select

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $108,741,000: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2004.

### Committee on Appropriations

For salaries and expenses of the Committee on Appropriations, $24,200,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2004.

### Salaries, Officers and Employees

For compensation and expenses of officers and employees, as authorized by law, $151,027,000, including: for salaries and expenses of the Office of the Clerk, including not more than $13,000, of which not more than $10,000 is for the Family Room, for official representation and reception expenses, $20,032,000, of which $2,500,000 shall remain available until expended; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than $3,000 for official representation and reception expenses, $5,097,000; for salaries and expenses of the Office of the Chief Administrative Officer, $104,363,000, of which $7,693,000 shall remain available until expended; for salaries and expenses of the Office of the Inspector General, $3,947,000; for salaries and expenses of the Office of Emergency Planning, Preparedness and Operations, $6,000,000, to remain available until expended; for salaries and expenses of the Office of General Counsel, $894,000; for the Office of the Chaplain, $149,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,464,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $2,168,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $5,852,000; for salaries and expenses of the Corrections Calendar Office, $915,000; and for other authorized employees, $146,000.

### ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $183,372,000, including: supplies, materials, administrative costs and Federal tort claims, $3,384,000; official mail for committees, leadership offices, and administrative offices of the House, $410,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, $178,888,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $690,000.

### CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

### Administrative Provisions

Sec. 101. (a) Requiring Amounts Remaining in Members' Representational Allowances To Be Used for Deficit Reduction or To Reduce the Federal Debt.—Notwithstanding any other provision of law, any amounts appropriated under this Act for "HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances" shall be available only for fiscal year 2003. Any amount remaining after all payments are made under such allowances for fiscal year 2003 shall be deposited in the Treasury and used for deficit reduction (or, if there is no Federal budget deficit after all such payments have been made, for reducing the Federal debt, in such manner as the Secretary of the Treasury considers appropriate).

(b) Regulations.—The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) Definition.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

Sec. 102. (a) There is hereby established in the Treasury of the United States a revolving fund for the House of Representatives to be known as the Net Expenses of Equipment Revolving Fund (hereafter in this section referred to as the "Revolving Fund"), consisting of funds deposited by the Chief Administrative Officer of the House of Representatives from amounts provided by offices of the House of Representatives to purchase, lease, obtain, and maintain the equipment located in such offices, and amounts provided by Members of the House of Representatives (including Delegates and Resident Commissioners to the Congress) to purchase, lease, obtain, and maintain furniture for their district offices.

(b) Amounts in the Revolving Fund shall be used by the Chief Administrative Officer without fiscal year limitation to purchase, lease, obtain, and maintain equipment for offices of the House of Representatives and furniture for the district offices of Members of the House of Representatives (including Delegates and Resident Commissioners to the Congress).

(c) The Revolving Fund shall be treated as a category of allowances and expenses for purposes of section 101(a) of the Legislative Branch Appropriations Act, 1993 (2 U.S.C. 95b(a)).

(d) This section shall apply with respect to fiscal year 2003 and each succeeding fiscal year, except that for purposes of making deposits into the Revolving Fund under subsection (a), the Chief Administrative Officer may deposit amounts provided by offices of the House of Representatives during fiscal year 2002 or any succeeding fiscal year.

Sec. 103. Effective with respect to fiscal year 2003 and each succeeding fiscal year, any amount received by House Information Resources from any office of the House of Representatives as reimbursement for services provided shall be deposited in the Treasury for credit to the account of the Office of the Chief Administrative Officer of the House of Representatives.

Sec. 104. Section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) does not apply to purchases and contracts for supplies or services for any office of the House of Representatives in any fiscal year.

Sec. 105. (a) Establishment.—The Chief Administrative Officer shall establish a program under which an employing office of the

House of Representatives may agree to repay (by direct payment on behalf of the employee) any student loan previously taken out by an employee of the office. For purposes of this section, a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) shall not be considered to be an employee of the House of Representatives.

(b) REGULATIONS.—The Committee on House Administration shall promulgate such regulations as may be necessary to carry out the program under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program under this section during fiscal year 2003 and each succeeding fiscal year.

### PROGRAM TO INCREASE EMPLOYMENT OPPORTUNITIES IN HOUSE OF REPRESENTATIVES FOR INDIVIDUALS WITH DISABILITIES

SEC. 106. (a) IN GENERAL.—In order to promote an increase in opportunities for individuals with disabilities to provide services to the House of Representatives, the Chief Administrative Officer of the House of Representatives is authorized to—

(1) enter into 1 or more contracts with nongovernmental entities to provide for the performance of services for offices of the House of Representatives by individuals with disabilities who are employees of, or under contract with, such entities; and

(2) provide reasonable accommodations, including assistive technology devices and assistive technology services, to enable such individuals to perform such services under such contracts.

(b) ELEMENTS OF PROGRAM.—The Chief Administrative Officer of the House of Representatives, in entering into any contract under subsection (a), shall seek to ensure that—

(1) traditional and nontraditional outreach efforts are used to attract individuals with disabilities for educational benefit and employment opportunities in the House;

(2) the non-governmental entity provides adequate education and training for individuals with disabilities to enhance such employment opportunities; and

(3) efforts are made to educate employing offices in the House about opportunities to employ individuals with disabilities.

(c) FUNDING.—There are authorized to be appropriated from the applicable accounts of the House of Representatives $500,000 to carry out this section for each of the fiscal years 2003 through 2007.

## JOINT ITEMS

For Joint Committees, as follows:

### JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,658,000, to be disbursed by the Secretary of the Senate.

### JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $7,323,000, to be disbursed by the Chief Administrative Officer of the House: *Provided*, That $590,000 of such amount shall not be made available until the Joint Committee publicly releases the report on tax evasion by expatriates which was requested by the Honorable William Archer, the former chair of the Committee on Ways and Means of the House of Representatives.

For other joint items, as follows:

### OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of $2,175 per month to the Attending Physician; (2) an allowance of $725 per month each to four medical officers while on duty in the Office of the Attending Physician; (3) an allowance of $725 per month to two assistants and $580 per month each not to exceed 11 assistants on the basis heretofore provided for such assistants; and (4) $1,414,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $3,000,000, of which $300,000 shall remain available until expended, to be disbursed by the Chief Administrative Officer of the House of Representatives.

### CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, $3,035,000, to be disbursed by the Secretary of the Senate: *Provided*, That no part of such amount may be used to employ more than 58 individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than 120 days each, and not more than 10 additional individuals for not more than 6 months each, for the Capitol Guide Service.

### STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the second session of the One Hundred Seventh Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

## CAPITOL POLICE

### SALARIES

For the Capitol Police for salaries of officers, members, and employees of the Capitol Police, including overtime, hazardous duty pay differential, and Government contributions for health, retirement, Social Security, and other applicable employee benefits, $175,675,000, to be disbursed by the Capitol Police.

### GENERAL EXPENSES

For the Capitol Police for necessary expenses, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, not more than $2,000 for the awards program, and not more than $5,000 to be expended on the certification of the Chief of the Capitol Police in connection with official representation and reception expenses, postage, communication services, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, $43,000,000, of which $7,632,000 shall remain available until expended, to be disbursed by the Capitol Police or their delegee: *Provided*, That $5,000,000 of the amount provided is withheld from obligation subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 2003 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

## ARCHITECT OF THE CAPITOL

### CAPITOL POLICE BUILDINGS AND GROUNDS

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses for the maintenance, care, and operation of buildings and grounds of the United States Capitol Police, $37,500,000, of which $36,500,000 shall remain available until September 30, 2007: *Provided*, That $13,000,000 of the amount provided is withheld from obligation subject to the approval of the Committees on Appropriations of the House of Representatives and Senate: *Provided further*, That of this amount, not more than $3,500,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor: *Provided further*, That any amounts provided to the Architect of the Capitol prior to the date of the enactment of this Act for maintenance, care, and operation of buildings of the United States Capitol Police which remain unobligated as of the date of the enactment of this Act shall be transferred to the account under this heading.

### ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 107. Amounts appropriated for fiscal year 2003 for the Capitol Police may be transferred between the headings "SALARIES", "GENERAL EXPENSES", and "ARCHITECT OF THE CAPITOL", "CAPITOL POLICE BUILDINGS AND GROUNDS", upon the approval of the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 108. During fiscal year 2003 and any succeeding fiscal year, the Capitol Police may—

(1) enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year to the same extent as the head of an executive agency under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253l); and

(2) enter into multi-year contracts for the acquisitions of property and nonaudit-related services to the same extent as executive agencies under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c).

SEC. 109. (a) Within the limits of available appropriations, the Capitol Police may dispose of surplus or obsolete property of the Capitol Police by inter-agency transfer, donation, sale, trade-in, or any other appropriate method.

(b) Any amounts received by the Capitol Police from the disposition of property pursuant to subsection (a) shall be credited to the account established for the general expenses of the Capitol Police, and shall be available to carry out the purposes of such account during the fiscal year in which the amounts are received and the following fiscal year.

(c) This section shall apply with respect to fiscal year 2003 and each succeeding fiscal year.

SEC. 110. (a) TRANSFER OF DISBURSING FUNCTION.—(1) The Chief of the Capitol Police shall be the disbursing officer for the

Capitol Police. Any reference in any law or resolution before the enactment of this section to funds paid or disbursed by the Chief Administrative Officer of the House of Representatives and the Secretary of the Senate relating to the pay and allowances of Capitol Police officers, members, and employees shall be deemed to refer to the Chief of the Capitol Police.

(2) Any statutory function, duty, or authority of the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate as disbursing officers for the Capitol Police shall transfer to the Chief as the single disbursing officer for the Capitol Police.

(3) Until such time as the Chief notifies the Chief Administrative Officer of the House of Representatives and the Secretary of the Senate that systems are in place for discharging the disbursing functions under this subsection, the House of Representatives and the Senate shall continue to serve as the disbursing authority on behalf of the Capitol Police.

(b) TREASURY ACCOUNTS.—(1) There is established in the Treasury of the United States a separate account for the Capitol Police, to be deposited appropriations received by the Chief of the Capitol Police and available for the salaries of the Capitol Police.

(2) There is established in the Treasury of the United States a separate account for the Capitol Police, to be deposited appropriations received by the Chief of the Capitol Police and available for the general expenses of the Capitol Police.

(c) TRANSFER OF FUNDS, ASSETS, ACCOUNTS, RECORDS, AND AUTHORITY.—(1) The Chief Administrative Officer of the House of Representatives and the Secretary of the Senate are hereby authorized and directed to transfer to the Chief of the Capitol Police all funds, assets, accounts, and copies of original records of the Capitol Police that are in the possession or under the control of the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate in order that all such items may be available for the unified operation of the Capitol Police. Any funds so transferred shall be deposited in the Treasury accounts established under subsection (b) and be available to the Chief for the same purposes as, and in like manner and subject to the same conditions as, the funds prior to the transfer.

(2) Any transfer authority existing prior to the enactment of this Act granted to the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate for salaries, expenses, and operations of the Capitol Police shall be transferred to the Chief.

(d) UNEXPENDED BALANCES.—Notwithstanding the provisions of any other law, the unexpended balances of appropriations for the fiscal year 2003 and succeeding fiscal years that are subject to disbursement by the Chief of the Capitol Police shall be withdrawn as of September 30 of the second fiscal year following the period or year for which provided. Unpaid obligations chargeable to any of the balances so withdrawn or appropriations for prior years shall be liquidated from any appropriations for the same general purpose, which, at the time of payment, are available for disbursement.

(e) HIRING AUTHORITY; ELIGIBILITY FOR SAME BENEFITS AS HOUSE EMPLOYEES.—(1) The Chief of the Capitol Police, in carrying out the duties of office, is authorized to appoint, hire, discharge, and set the terms, conditions, and privileges of employment of officers, members, and employees of the Capitol Police, subject to and in accordance with applicable laws and regulations.

(2) Officers, members, and employees of the Capitol Police who are appointed by the Chief under the authority of this subsection shall be subject to the same type of benefits (including the payment of death gratuities, the withholding of debt, and health, retirement, Social Security, and other applicable employee benefits) as are provided to employees of the House of Representatives, and any such individuals serving as officers, members, and employees of the Capitol Police as of the date of the enactment of this Act shall be subject to the same rights, protections, pay, and benefits received prior to such date.

(f) WORKER'S COMPENSATION.—(1) There shall be established a separate account in the Capitol Police for purposes of making payments for officers, members, and employees of the Capitol Police under section 8147 of title 5, United States Code.

(2) Notwithstanding any other provision of law, payments may be made from the account established under paragraph (1) of this subsection without regard to the fiscal year for which the obligation to make such payments is incurred.

(g) EFFECT ON EXISTING LAW.—(1) The provisions of this section shall not be construed to reduce the pay or benefits of any officer, member, or employee of the Capitol Police whose pay was disbursed by the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate prior to the enactment of this Act.

(2) All provisions of law inconsistent with this section are hereby superseded to the extent of the inconsistency.

(h) CONFORMING AMENDMENTS.—(1) Section 1821 of the Revised Statutes of the United States (40 U.S.C. 206) is amended by striking the third sentence.

(2) Section 1822 of the Revised Statutes of the United States (40 U.S.C. 207) is repealed.

(3) Section 9C of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 207a) is amended by striking the second sentence.

(4) Section 111 of title I of the Act entitled "Making supplemental appropriations for the fiscal year ending September 30, 1977, and for other purposes", approved May 4, 1977 (2 U.S.C. 64-3), is amended—

(A) by striking "Secretary of the Senate" and inserting "Chief of the Capitol Police"; and

(B) by striking "United States Senate" and inserting "Capitol Police".

(i) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect October 1, 2002, or the date of the enactment of this Act, whichever is later.

SEC. 111. (a) CONDITIONS FOR RECRUITMENT AND RELOCATION BONUSES.—Section 909(a) of chapter 9 of the Emergency Supplemental Act, 2002 (40 U.S.C. 207b-2; Public Law 107-117; 115 Stat. 2320) (in this section referred to as the "Act") is amended—

(1) in paragraph (1), by striking "determines that the Capitol Police would be likely, in the absence of such a bonus, to encounter difficulty in filling the position" and inserting ", in the sole discretion of the Chief, determines that such a bonus will assist the Capitol Police in recruitment efforts"; and

(2) by adding at the end the following:

"(6) DETERMINATIONS NOT APPEALABLE OR REVIEWABLE.—Any determination of the Chief under this subsection shall not be appealable or reviewable in any manner.".

(b) CONDITIONS FOR RETENTION ALLOWANCES.—Section 909(b) of the Act is amended—

(1) in paragraph (1)—

(A) by striking subparagraphs (A) and (B); and

(B) by striking "if—" and inserting "if the Chief, in the sole discretion of the Chief, determines that such a bonus will assist the Capitol Police in retention efforts."; and

(2) in paragraph (3), by striking "the reduction or elimination of a retention allowance may not be appealed" and inserting "any determination of the Chief under this subsection, or the reduction or elimination of a retention allowance, shall not be appealable or reviewable in any manner".

(c) TUITION REIMBURSEMENT.—

(1) IN GENERAL.—Section 909 of the Act is amended—

(A) by redesignating subsections (f) and (g) as subsections (g) and (h); and

(B) by inserting after subsection (e) the following new subsection:

"(f) TUITION REIMBURSEMENT.—

"(1) IN GENERAL.—In order to recruit or retain highly qualified personnel, the Chief of the Capitol Police shall establish a tuition reimbursement program for officers and members of the Capitol Police who are enrolled in or accepted for enrollment in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education in a course of study relating to law enforcement.

"(2) CONDITIONS FOR ELIGIBILITY.—In addition to meeting any other conditions the Chief may by regulation impose, an officer or member of the Capitol Police may participate in the tuition reimbursement program under this subsection only if—

"(A) the officer or member agrees in writing, before receiving any reimbursement under the program, to remain in the service of the Capitol Police for a period specified by the Chief (not less than 3 years), unless involuntarily separated; and

"(B) the officer or member has not participated, and agrees in writing not to participate in, any student loan repayment program covering the academic program involved.

"(3) CAP ON AMOUNT OF REIMBURSEMENT.—The total amount reimbursed with respect to any individual under the program established under this subsection may not exceed $40,000.".

(2) DEADLINE FOR REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Chief of the Capitol Police shall promulgate any regulations required to carry out the amendment made by paragraph (1).

SEC. 112. (a) ADDITIONAL COMPENSATION FOR EMPLOYEES WITH SPECIALTY ASSIGNMENTS AND PROFICIENCIES.—

(1) ESTABLISHMENT OF POSITIONS.—The Chief of the Capitol Police may establish and determine, from time to time, positions in salary classes of officers, members, and employees of the Capitol Police to be designated as employees with specialty assignments or proficiencies, based on the experience, education, training, or other appropriate factors required to carry out the duties of such employees.

(2) ADDITIONAL COMPENSATION.—In addition to the regularly scheduled rate of basic pay, each officer, member, or employee holding a position designated under this subsection shall receive a per annum amount determined by the Chief, except that—

(A) such amount may not exceed 25% of the member's or employee's annual rate of basic pay; and

(B) such amount may not be paid in a calendar year to the extent that, when added to the total basic pay paid or payable to such officer, member, or employee for service performed in the year, such amount would cause the total to exceed the annual rate of basic pay payable for level II of the Executive Schedule, as of the end of such year.

(3) MANNER OF PAYMENT.—The additional compensation authorized by this subsection shall be paid to an officer or employee in the same manner as the regular compensation paid to the officer or employee.

(b) RECRUITMENT OF FORMER MILITARY AND LAW ENFORCEMENT PERSONNEL WITHOUT REGARD TO AGE.—

(1) IN GENERAL.—The Chief of the Capitol Police shall carry out any activities and programs to recruit former members of the uniformed services and former officers of other law enforcement agencies to serve as members of the Capitol Police without regard to the age of such former members and former officers.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect any provision of law or any rule or regulation providing for the mandatory separation of members of the Capitol Police on the basis of age, or any provision of law or any rule or regulation regarding the calculation of retirement or other benefits for members of the Capitol Police.

(c) AUTHORIZING PREMIUM PAY TO ENSURE AVAILABILITY OF PERSONNEL.—

(1) IN GENERAL.—The Chief of the Capitol Police may provide premium pay to officers and members of the Capitol Police to ensure the availability of such officers and members for unscheduled duty in excess of a 40-hour work week, based on the needs of the Capitol Police, in the same manner and subject to the same terms and conditions as premium pay provided to criminal investigators under section 5545a of title 5, United States Code (subject to paragraph (2)).

(2) CAP ON TOTAL AMOUNT PAID.—Premium pay for an officer or member under this subsection may not be paid in a calendar year to the extent that, when added to the total basic pay paid or payable to such officer or member for service performed in the year, such pay would cause the total to exceed the annual rate of basic pay payable for level II of the Executive Schedule, as of the end of such year.

(d) INCREASE IN RATES APPLICABLE TO NEWLY-APPOINTED MEMBERS AND EMPLOYEES.—The Chief of the Capitol Police may compensate newly-appointed officers, members, and civilian employees of the Capitol Police at an annual rate of basic compensation in excess of the lowest rate of compensation otherwise applicable to the position to which the employee is appointed, except that in no case may such a rate be greater than the maximum annual rate of basic compensation otherwise applicable to the position.

(e) OVERTIME COMPENSATION FOR OFFICERS AND MEMBERS AT RANK OF LIEUTENANT OR HIGHER.—

(1) IN GENERAL.—The Chief of the Capitol Police may provide for the compensation of overtime work of officers and members of the Capitol Police at the rank of lieutenant and higher. Nothing in this subsection may be construed to affect the compensation of overtime work of officers and members of the Capitol Police at any rank not described in the previous sentence.

(2) TERMS AND CONDITIONS.—In providing for the compensation of overtime work under this subsection, the Chief shall provide the compensation in the same manner and subject to the same terms and conditions which are applicable to the compensation of overtime work of officers and members of the United States Secret Service Uniformed Division and the United States Park Police who serve at the rank of lieutenant and higher, in accordance with section 1 of the Act entitled "An Act to provide a 5-day week for officers and members of the Metropolitan Police force, the United States Park Police force, and the White House Police force, and for other purposes", approved August 15, 1950 (sec. 5-1304, D.C. Official Code).

(f) TRAINING PROGRAMS FOR PERSONNEL.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding at the end the following new section:

**"§4120. Training for officers, members, and employees of the Capitol Police**

"(a) The Chief of the Capitol Police may, by regulation, make applicable such provisions of this chapter as the Chief determines necessary to provide for training of officers, members, and employees of the Capitol Police. The regulations shall provide for training which, in the determination of the Chief, is consistent with the training provided by agencies under the preceding sections of this chapter.

"(b) The Office of Personnel Management shall provide the Chief of the Capitol Police with such advice and assistance as the Chief may request in order to enable the Chief to carry out the purposes of this section.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 41 of such title is amended by adding at the end the following:

"4120. Training for officers, members, and employees of the Capitol Police.".

(g) APPLICATION OF PREMIUM PAY LIMITS ON ANNUALIZED BASIS.—

(1) IN GENERAL.—Any limits on the amount of premium pay which may be earned by officers and members of the Capitol Police during emergencies (as determined by the Capitol Police Board) shall be applied by the Chief of the Capitol Police on an annual basis and not on a pay period basis.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to hours of duty occurring on or after September 11, 2001.

(h) CORRECTION OF DISPARITY WITHIN CLASSES.—

(1) IN GENERAL.—The Chief of the Capitol Police shall adjust the basic pay of members of the Capitol Police to the extent necessary to ensure that all members within the same rank who are within the same service class are paid the same annual rate of basic pay, except that no member of the Capitol Police may be subject to a reduction in the member's rate of basic pay as a result of this subsection.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to pay periods beginning on or after October 1, 2001.

(i) EFFECTIVE DATE; REGULATIONS.—

(1) EFFECTIVE DATE.—Except as otherwise provided, this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

(2) DEADLINE FOR REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Chief of the Capitol Police shall promulgate any regulations required to carry out this section.

SEC. 113. (a) CAPITOL POLICE BOARD; COMPOSITION; REDEFINING MISSION.—

(1) PURPOSE.—The purpose of the Capitol Police Board is to oversee and support the Capitol Police in its mission and to advance coordination between the Capitol Police and the Sergeants at Arms of the House of Representatives and the Senate, in their law enforcement capacities, and the Congress. Consistent with this purpose, the Capitol Police Board shall establish general goals and objectives covering its major functions and operations to improve the efficiency and effectiveness of its operations.

(2) COMPOSITION.—The Capitol Police Board shall consist of the Sergeant at Arms of the House of Representatives, the Sergeant at Arms of the Senate, the Chief of the Capitol Police, and the Architect of the Capitol. The Chief of Capitol Police shall serve in an ex-officio capacity and be a non-voting member of the Board.

(3) CHAIR POSITION.—The position of chair of the Capitol Police Board shall rotate between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms of the Senate every other year.

(b) INITIAL REVIEW AND REPORT.—Not later than 180 days after the date of the enactment of this Act, the Capitol Police Board shall—

(1) examine the mission of the Capitol Police Board and, based on that analysis, redefine the Capitol Police Board's mission, mission-related processes, and administrative processes;

(2) conduct an assessment of the effectiveness and usefulness of its statutory functions in contributing to the Capitol Police Board's ability to carry out its mission and meet its goals, including an explanation of the reasons for any determination that the statutory functions are appropriate and advisable in terms of its purpose, mission, and long-term goals; and

(3) submit to the Speaker and minority leader of the House of Representatives and the majority leader and minority leader of the Senate a report on the results of its examination and assessment, including recommendations for any legislation that the Capitol Police Board considers appropriate and necessary.

(c) EXECUTIVE DIRECTOR.—

(1) ESTABLISHMENT.—There shall be established in the Capitol Police an Executive Director for the Capitol Police Board to act as a central point for communication and enhance the overall effectiveness and efficiency of the Capitol Police Board's administrative activities.

(2) APPOINTMENT; COMPENSATION.—The Executive Director shall be appointed by the Chief of Police in consultation with the Sergeant at Arms of the House of Representatives and the Sergeant at Arms of the Senate. The Executive Director shall be paid at an annual rate of compensation equal to the annual rate of basic pay payable under level IV of the Executive Schedule.

(3) DUTIES.—The Executive Director shall be assigned to, and report to, the Chairman of the Board. The Executive Director shall assist the Capitol Police Board in developing, documenting, and implementing a clearly defined process for additional tasks assigned to the Capitol Police Board under this section, and shall perform any additional duties assigned by the Capitol Police Board.

(d) DOCUMENTATION.—

(1) FUNCTIONS AND PROCESSES.—The Capitol Police Board shall document its functions and processes, including its mission statement, policies, directives, and operating procedures established or revised under subsection (a)(1) or (b), and make such documentation available for examination to the Speaker and minority leader of the House of

Representatives, the majority leader and minority leader of the Senate, the Capitol Police, and the Comptroller General.

(2) MEETINGS.—The Capitol Police Board shall document Board meetings and make the documentation available for distribution to the Speaker and minority leader of the House of Representatives and the majority leader and minority leader of the Senate.

(e) ASSISTANCE OF COMPTROLLER GENERAL.—Upon request, the Comptroller General shall provide assistance to the Capitol Police Board in carrying out its responsibilities under this subsection.

(f) REFERENCES IN LAW; EFFECT ON OTHER LAWS.—(1) Any reference in any law or resolution in effect as of the date of the enactment of this Act to the "Capitol Police Board" shall be deemed to refer to the Capitol Police Board as composed under subsection (a)(2).

(2) Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of the Capitol Police Board or its individual members unless specifically provided herein.

SEC. 114. (a) Subsection (c) of the first section of Public Law 96–152 (40 U.S.C. 206–1) is amended to read as follows:

"(c) The annual rate of pay for the Chief of the Capitol Police shall be the amount equal to $1,000 less than the lower of the annual rate of pay in effect for the Sergeant-at-Arms of the House of Representatives or the annual rate of pay in effect for the Sergeant-at-Arms and Doorkeeper of the Senate.".

(b) Section 907(b) of the Emergency Supplemental Act, 2002 (40 U.S.C. 206 note) is amended to read as follows:

"(b) The annual rate of pay for the Assistant Chief of the Capitol Police shall be the amount equal to $1,000 less than the annual rate of pay in effect for the Chief of the Capitol Police.".

(c) The amendments made by subsections (a) and (b) shall apply with respect to the first pay period beginning on or after the date of the enactment of the Act.

### OFFICE OF COMPLIANCE

#### SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $2,059,000, of which $254,000 shall remain available until September 30, 2004.

#### ADMINISTRATIVE PROVISION

SEC. 115. (a) If any person files with the Office of Compliance or the Board of Directors of the Office of Compliance a written response to any decision or report of the Office or the Board (as the case may be), the Office or the Board shall include such response in its final publication of the decision or report, unless the person directs the Office or the Board to exclude the response from publication.

(b) This section shall apply with respect to decisions and reports issued during fiscal year 2003 or any succeeding fiscal year.

### CONGRESSIONAL BUDGET OFFICE

#### SALARIES AND EXPENSES

For salaries and expenses necessary for operation of the Congressional Budget Office, including not more than $3,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $32,390,000, of which not more than $100,000 shall remain available until expended for the acquisition and partial support for implementation of a Central Financial Management System: *Provided*, That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

#### ADMINISTRATIVE PROVISIONS

SEC. 116. The Director of the Congressional Budget Office may, by regulation, make applicable such provisions of section 3396 of title 5, United States Code, as the Director determines necessary to establish hereafter a program providing opportunities for employees of the Office to engage in details or other temporary assignments in other agencies, study, or uncompensated work experience which will contribute to the employees' development and effectiveness.

SEC. 117. The Director of the Congressional Budget Office is hereafter authorized to enter into agreements or contracts without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

### ARCHITECT OF THE CAPITOL

#### CAPITOL BUILDINGS AND GROUNDS

#### GENERAL ADMINISTRATION

#### SALARIES AND EXPENSES

For salaries for the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the general and administrative support of the operations under the Architect of the Capitol including the Botanic Garden; electrical substations of the Capitol, Senate and House office buildings, and other facilities under the jurisdiction of the Architect of the Capitol; including furnishings and office equipment; including not more than $5,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance, and operation of a passenger motor vehicle, $61,927,000, of which $6,450,000 shall remain available until September 30, 2007.

#### CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol, $32,062,000, of which $19,065,000 shall remain available until September 30, 2007: *Provided*, That of this amount, not more than $4,465,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor.

#### CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $8,125,000, of which $1,530,000 shall remain available until September 30, 2007: *Provided*, That of this amount, not more than $330,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor.

#### HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, $58,460,000, of which $23,110,000 shall remain available until September 30, 2007: *Provided*, That of this amount, not more than $10,020,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committee on Appropriations of the House of Representatives of the determination, the greater amount, and the Architect's reasons therefor.

#### CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $107,173,000, of which $66,450,000 shall remain available until September 30, 2007: *Provided*, That not more than $4,400,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 2003: *Provided further*, That of this amount, not more than $450,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor.

#### ADMINISTRATIVE PROVISIONS

SEC. 118. Notwithstanding any other provision of law: (a) section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) shall apply with respect to purchases and contracts for the Architect of the Capitol as if the reference to "$25,000" in clause (1) of such section were a reference to "$100,000"; and (b) the Architect may procure services, equipment, and construction for security related projects in the most efficient manner he determines appropriate.

SEC. 119. (a) Section 133(a) of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68; 115 Stat. 581), is amended—

(1) by adding at the end of paragraph (2) the following new subparagraph:

"(E) An individual who is covered by a collective bargaining agreement entered into by the Architect of the Capitol establishing terms and conditions of employment which include eligibility for life insurance, health insurance, retirement, and other benefits."; and

(2) by adding at the end the following new paragraph:

"(4) The Architect of the Capitol shall make employer contributions for benefits for employees of the Architect (including temporary employees) directly to any third party designated to receive such contributions on behalf of the employees under a collective bargaining agreement, participation agreement, or any other arrangement entered into by the Architect which provides for such contributions.”

(b) Any individual who exercised an option offered by the Architect of the Capitol under section 133(a)(2) of the Legislative Branch Appropriations Act, 2002, prior to the date of the enactment of this Act may revoke the option during the 90-day period which begins on the date of the enactment of this Act.

(c) The amendments made by subsection (a) shall take effect as if included in the enactment of section 133(a) of the Legislative Branch Appropriations Act, 2002.

### LIBRARY OF CONGRESS

### Congressional Research Service

### SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $86,241,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

### GOVERNMENT PRINTING OFFICE

### Congressional Printing and Binding

### (INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (section 902 of title 44, United States Code); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $90,143,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under section 906 of title 44, United States Code: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: *Provided further*, That notwithstanding the 2-year limitation under section 718 of title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

This title may be cited as the “Congressional Operations Appropriations Act, 2003”.

## TITLE II—OTHER AGENCIES

### BOTANIC GARDEN

### Salaries and Expenses

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $5,936,000, of which $120,000 shall remain available until September 30, 2007: *Provided*, That of this amount, not more than $120,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor: *Provided further*, That this appropriation shall not be available for any activities of the National Garden.

### LIBRARY OF CONGRESS

### Salaries and Expenses

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $358,797,000, of which not more than $6,500,000 shall be derived from collections credited to this appropriation during fiscal year 2003, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than $350,000 shall be derived from collections during fiscal year 2003 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: *Provided*, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $6,850,000: *Provided further*, That of the total amount appropriated, $10,886,000 is to remain available until expended for acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That of the total amount appropriated, not more than $12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices: *Provided further*, That of the total amount appropriated, $2,200,000 shall remain available until expended for the acquisition and partial support for implementation of an Integrated Library System (ILS): *Provided further*, That of the total amount appropriated, $9,600,000 shall remain available until expended for the purpose of teaching educators how to incorporate the Library's digital collections into school curricula and shall be transferred to the educational consortium formed to conduct the “Joining Hands Across America: Local Community Initiative” project as approved by the Library: *Provided further*, That of the amount appropriated, $500,000, shall remain available until expended, shall be transferred to the Abraham Lincoln Bicentennial Commission for carrying out the purposes of Public Law 106–173, of which amount $10,000 may be used for official representation and reception expenses of the Abraham Lincoln Bicentennial Commission: *Provided further*, That of the total amount appropriated, $5,250,000 shall remain available until expended for the acquisition and partial support for implementation of a Central Financial Management System: *Provided further*, That of the total amount appropriated, $10,000,000 shall remain available until expended for the purpose of developing a high-speed data transmission between the Library of Congress and educational facilities, libraries, or networks serving Western North Carolina.

### Copyright Office

### SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, $44,876,000, of which not more than $24,911,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2003 under section 708(d) of title 17, United States Code: *Provided*, That the Copyright Office may not obligate or expend any funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That not more than $6,191,000 shall be derived from collections during fiscal year 2003 under sections 111(d)(2), 119(b)(2), 802(h), and 1005 of such title: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than $31,102,000: *Provided further*, That not more than $100,000 of the amount appropriated is available for the maintenance of an “International Copyright Institute” in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than $4,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright delegations, visitors, and seminars.

### Books for the Blind and Physically Handicapped

### SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $56,522,000, of which $20,256,000 shall remain available until expended.

### Administrative Provisions

SEC. 201. Of the amounts appropriated to the Library of Congress in this Act, not more than $5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 202. (a) For fiscal year 2003, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed $109,929,000.

(b) The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(c) For fiscal year 2003, the Librarian of Congress may temporarily transfer funds appropriated in this Act under the heading "LIBRARY OF CONGRESS—SALARIES AND EXPENSES" to the revolving fund for the FEDLINK Program and the Federal Research Program established under section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106–481; 2 U.S.C. 182c): *Provided*, That the total amount of such transfers may not exceed $1,900,000: *Provided further*, That the appropriate revolving fund account shall reimburse the Library for any amounts transferred to it before the period of availability of the Library appropriation expires.

SEC. 203. NATIONAL DIGITAL INFORMATION INFRASTRUCTURE AND PRESERVATION PROGRAM.—The Miscellaneous Appropriations Act, 2001 (as enacted by section 1(a)(4) of Public Law 106–554, 114 Stat. 2763A–194), division A, chapter 9, under the heading "Library of Congress" "Salaries and Expenses" is amended by striking "March 31, 2003" and inserting in lieu thereof "March 31, 2005".

SEC. 204. Section 2(c)(3) of the History of the House Awareness and Preservation Act (2 U.S.C. 183(c)(3)) is amended by inserting "excerpts of" after "dissemination of".

### ARCHITECT OF THE CAPITOL

### LIBRARY BUILDINGS AND GROUNDS

### STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $35,319,000, of which $15,887,000 shall remain available until September 30, 2007 and $5,500,000 shall remain available until expended: *Provided*, That of this amount, not more than $2,958,000 may be used for studying, planning, designing, and architect and engineer services, except that this amount may be increased to a greater amount determined by the Architect of the Capitol to be necessary for such purposes if the Architect notifies the Committees on Appropriations of the House of Representatives and Senate of the determination, the greater amount, and the Architect's reasons therefor.

### GOVERNMENT PRINTING OFFICE

### OFFICE OF SUPERINTENDENT OF DOCUMENTS

### SALARIES AND EXPENSES

### (INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $29,661,000: *Provided*, That amounts of not more than $2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for 2001 and 2002 to depository and other designated libraries: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

### GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided*, That not more than $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than 12 passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 3,219 workyears (or such other number of workyears as the Public Printer may request, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate): *Provided further*, That activities financed through the revolving fund may provide information in any format.

### GENERAL ACCOUNTING OFFICE

### SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than $12,500 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with section 3324 of title 31, United States Code; benefits comparable to those payable under sections 901(5), 901(6), and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6), and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, $453,534,000: *Provided*, That not more than $2,210,000 of payments received under section 782 of title 31, United States Code, shall be available for use in fiscal year 2003: *Provided further*, That not more than $790,000 of reimbursements received under section 9105 of title 31, United States Code, shall be available for use in fiscal year 2003: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants: *Provided further*, That payments hereunder to the Forum may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

### PAYMENT TO THE RUSSIAN LEADERSHIP DEVELOPMENT CENTER TRUST FUND

For a payment to the Russian Leadership Development Center Trust Fund for financing activities of the Center for Russian Leadership Development, $13,000,000.

## TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 2003 unless expressly so provided in this Act.

SEC. 303. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the House of Representatives and Senate, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of the Congressional Accountability Act to pay awards and settlements as authorized under such subsection.

SEC. 306. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed $2,000.

SEC. 307. The Architect of the Capitol, in consultation with the District of Columbia, is authorized to maintain and improve the landscape features, excluding streets and sidewalks, in the irregular shaped grassy areas bounded by Washington Avenue, SW on the northeast, Second Street SW on the west, Square 582 on the south, and the beginning of the I-395 tunnel on the southeast.

SEC. 308. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 309. (a) IN GENERAL.—Section 313 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151), as enacted by reference in section 1(a)(2) of the Consolidated Appropriations Act, 2001, is amended—

(1) by redesignating subsections (c) through (h) as subsections (d) through (i); and

(2) by inserting after subsection (b) the following new subsection:

"(c) RUSSIAN EXCHANGE PROGRAM FOR AMERICAN LEADERSHIP.—

"(1) IN GENERAL.—In addition to the program established under subsection (b), the Center shall establish a program to carry out activities (including the awarding of grants) to enable emerging political leaders of the Federal Government and State and local governments to visit the Russian Federation to study the operation of political institutions, business organizations, and nongovernmental organizations of the Russian Federation.

"(2) ADMINISTRATION.—The provisions of paragraphs (3) and (4) of subsection (b) shall apply with respect to the program under this subsection in the same manner as such provisions apply to the program under subsection (b).".

(b) CONFORMING AMENDMENTS.—Section 313 of such Act (2 U.S.C. 1151) is amended—

(1) in subsection (b)(1), by striking the period at the end and inserting the following: ", and to establish and administer the program described in subsection (c).".; and

(2) in subsection (i)(2) (as redesignated by subsection (a)(1)), by striking "Subsection (g)" and inserting "Subsection (h)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon enactment of this Act.

SEC. 310. (a) The Librarian of Congress and the Director of the Congressional Research Service shall take such steps as may be necessary to ensure that all materials of the Congressional Research Service which are provided and available to Members of Congress and officers and employees of the House of Representatives and Senate at the United States Capitol and Congressional office buildings (including materials provided through electronic means) may be provided and available to such individuals in the same manner and to the same extent at all other locations where such individuals carry out their official duties.

(b) This section shall apply to materials of the Congressional Research Service which are provided and available at any time after the date of the enactment of this Act.

SEC. 311. (a) Each office in the legislative branch which is responsible for preparing any written statement furnished under part 3 of subchapter A of chapter 61 of the Internal Revenue Code of 1986 on behalf of an person shall make the statement available to the person in an electronic format (at the direction of the person) which will enable the person to provide the statement electronically to a tax preparer or other provider of financial services.

(b) Subsection (a) shall apply with respect to statements prepared for taxable years ending on or after December 31, 2002.

The CHAIRMAN. Are there any points of order to that portion of the bill?

### POINT OF ORDER

Mr. NEY. Mr. Chairman, I raise a point of order against section 110 on page 16, line 21 through page 21, line 17 of H.R. 5121 on the ground that this provision changes existing law in violation of clause 2 of House rule XXI and therefore is legislation included in a general appropriations bill.

The CHAIRMAN. Are there any Members that desire to be heard on the point of order?

Mr. MORAN of Virginia. Mr. Chairman, I would like to be heard on this point of order, because section 110 would improve the administration of the Capitol Police in a couple of ways. It eliminates the last vestiges of the old bifurcated payroll system from an earlier era in which some officers were paid on the House payroll and others on the Senate payroll in placing all Capitol Police officers under a single, unified payroll. That is what we are trying to do in this bill. It also provides for vesting administrative responsibility for the funds, for personnel and for other resources of the agency in the chief of the Capitol Police. If the gentleman is successful in striking the language in this bill, you will continue the current inefficient system in which some paychecks for Capitol Police officers are paid by the House administration office while other officers are paid out of the Senate disbursing office. You will have two payrolls which does not make sense given that we have one police force that protects both the House and Senate. This is a serious administrative burden for the House, the Senate and the Capitol Police which we are trying to correct in this bill.

Currently officers may be posted on the House end of the Capitol and then moved to the Senate on another shift. Yet that same officer will be paid out of one payroll office or the other. We are just trying to update, to modernize, to make more intelligent the system of compensation and the system of management so that the chief of the Capitol Police has more direct authority over his officers. That is why the language is in. This should not be controversial language. This is constructive language. I would urge the gentleman to withdraw his point of order.

The CHAIRMAN. Are there other Members who would like to speak to the point of order?

Mr. NEY. Mr. Chairman, I think this is in the best interests of the entire force. It is not a matter of what has been completely historical but having elected officials of the House and the Senate to have a say about payroll versus turning it over to completely unelected individuals within this Capitol.

I would ask for a ruling, Mr. Chairman.

The CHAIRMAN. The Chair is prepared to rule.

The general provision identified by the point of order—section 110 of the bill—proposes to convey statutory authorities, to establish new accounts in the Treasury, and to directly change sundry existing laws. As such it constitutes legislation, in violation of clause 2(b) of rule XXI. The point of order is sustained, and section 110 is stricken from the bill.

Are there further points of order?

### POINT OF ORDER

Mr. HERGER. Mr. Chairman, I raise a point of order against the provisions contained in title I, section 106, page 11, line 4 beginning with the word "Provided" through line 9 of this bill, H.R. 5121, on the grounds that this provision violates clause 2 of House rule XXI because it is legislation included in a general appropriations bill.

The CHAIRMAN. Are there Members who want to speak to the point of order?

Mr. MORAN of Virginia. Yes, I do, Mr. Chairman. We were hoping that this would not be struck. I know the gentleman listened to the debate on the rule. It can become a partisan and contentious issue which we would prefer to avoid. That is why we put this language in the committee. We do not want to be punitive. We do not even want to be particularly divisive. All we wanted to do is to say this increase, beyond the $6,377,000 that is going to the Joint Committee on Taxation, this increase of $590,000 is simply suspended until the Congress receives the report that was requested 3 years ago and from what we understand was completed 2 years ago. If this language is not struck, then there is no more debate, we conclude this bill, we get the report, the Joint Committee on Taxation gets its increase and we avoid a very contentious and perhaps embarrassing debate for some people. We are not going to be embarrassed about it because we know we are doing the right thing by simply getting the report that we are told was done. I guess I sound a little like I am suggesting that we try to save you from yourselves, those people who really want to have this debate. We are ready for the debate, but we also think we ought to say we told you so, that if we go forward in this manner, I will raise an amendment, offer my amendment, it is, of course, in order and we are going to have an extended debate and a contentious one.

I would really suggest to the gentleman to avoid that divisiveness. I know he wants to see the report as much as I do. It is done. The taxpayers of America paid for it. I know they would like to know who has denounced their U.S. citizenship and gone overseas to avoid paying U.S. taxes. I know we would both like to see that. Let us withdraw the point of order. Let us go ahead, suspend the money and then the Joint Committee can get all the money that they have asked for once they give us the report that was asked for 3 years ago.

The CHAIRMAN. Are there other Members who want to speak to the point of order? If not, the Chair is prepared to rule.

The proviso identified by the point of order subjects a portion of the accompanying appropriation to a legislative condition precedent. It therefore constitutes a violation of clause 2(b) of rule XXI.

The point of order is sustained, and the proviso is stricken from the bill.

No amendment shall be in order except the amendment printed in House Report 107–586 and pro forma amendments offered by the chairman and ranking minority member of the Committee on Appropriations, or their designees, for the purpose of debate.

The amendment printed in the report may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

It is now in order to consider the amendment printed in House Report 107–586.

### AMENDMENT OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN of Virginia:

Page 11, line 3, after the dollar amount, insert the following: "(reduced by $590,000)".

The CHAIRMAN. Pursuant to House Resolution 489, the gentleman from Virginia (Mr. MORAN) and the gentleman from North Carolina (Mr. TAYLOR) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

As my colleagues know, I am reluctant to offer this, but I see no other way to insist that this report be released. After all, it has been 3 years since the report was requested.

In 1999, to prevent action on the gentleman from New York (Mr. RANGEL)'s bill that would have restricted the ability of people to renounce their American citizenship and go overseas to avoid paying taxes, the chairman of the Committee on Ways and Means requested the Joint Committee on Taxation to do a study and report on that study the following year, 2000. We all know we do that a lot. If we do not want to face up to actions that many people feel necessary, we come up with a compromise. We say, "Well, let's do a study." And so that study was accepted by the gentleman from New York (Mr. RANGEL) but not forgotten. He was willing to have the study done, but he feels very strongly, and I know he is going to want to speak for himself, that some action needs to be taken. The report has never been provided, presumably because its conclusions are very disturbing. The gentleman from New York (Mr. RANGEL) has repeatedly requested the results of this report. The Joint Committee has refused to release it. These delays apparently have been efforts to protect wealthy expatriates. We have heard some debate excusing that decision to denounce their American citizenship and to move overseas in order to avoid paying their taxes to the United States Government. The gentleman from Georgia suggested this was understandable because they have lower rates of taxation. Let me just say to the gentleman, for those people who have moved to Bermuda or to Barbados or to Antigua or to any of these islands where the taxes, granted, are much lower, I doubt that those individuals if they are ever attacked are going to turn to the Bermuda navy to protect them, or the Antigua air force, or the Jamaican marines. We pay for what we get, the strongest military in the world, and we all ought to be willing to pay for it. We all ought to be willing to pay for the costs of this government that keeps this country as prosperous and strong and free as it is. But freedom and democracy does not come cheap. And it is wrong for these people to denounce their citizenship because they are so wealthy they do not want to pay their share of funding our American military, their share of funding the education of our workforce, their share of the roads and the transportation systems that provide the infrastructure for their businesses. It is wrong. And the Committee found the specifics apparently to be very disturbing as to who has done this and how much money is being avoided. Yet the majority seems unwilling to release this information so we can act in an informed way and take appropriate legislative action on behalf of the American people, on behalf of all the other American taxpayers who are having to pay more money because these people, these cheats, are willing to go overseas, denounce their citizenship and avoid the responsibility of paying their fair share of taxes. It is not right. We need to get this information, and it is time. Three years later, it is time to get this information.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. CRANE).

□ 1515

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment to strike **$595,000** in funding for the Joint Committee on Taxation, a committee on which I serve. A reduction in funding will place a terrible burden on Congress as it attempts to produce important and necessary changes to the Tax Code.

That said, there is no doubt in my mind that the current revenue estimating process is flawed. Estimates do not take into account the total effect of revenue changes on the economy, including wages, prices, and consumer spending. We are locked into a model of estimating that only tips its hat to our dynamic economy.

In response to my inquiry during a February hearing of the Committee on Ways and Means, the Treasury Secretary stated, "Since I have been at Treasury, we have been working hard on this, the subject of estimation and looking at ways that we can bring to the Congress and to the American people not just the static estimates of the past but, as you characterize it, dynamic estimates so that everyone will have an opportunity to see the difference and, as we go through time, we can see which estimates turn out to be more correct through this process."

In another hearing, the Director of the Office of Management and Budget, in commenting on the revenue estimating process, made the following observation: "We make the one assumption that we know is wrong. That is, that lower taxes have a zero effect, and honest people can differ about how big the effect of any given measure might be, but the answer we know is wrong is the one we use. And I am hopeful that some progress will be made."

This is not a criticism of the committee or its staff. Instead, it is a criticism of the process that we as Members of Congress have allowed to develop over the years to ensure that we do not get the most comprehensive revenue estimates.

Fundamental reform to the revenue-estimating process which I am developing must occur. A reduction in funding to the joint committee will only lead to more incomplete estimates.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself 1 minute, just to respond to the distinguished gentleman from Illinois on the Committee on Ways and Means. We want the Joint Committee on Taxation to perform its legitimate function. We wanted them to get all of the increase they asked for. What we wanted to do was simply suspend that increase until we get the report the Congress asked for. Chairman Bill Archer asked for it 3 years ago. It was due in the year 2000. We keep getting newspaper reports about what was in it, but apparently, people do not want to reveal what is in it.

Now, the majority, for some reason that eludes me, wants to help the committee avoid this being revealed to the public. It is the public's money. Every single taxpayer in America is paying more money because some of the wealthiest people who are earning their money in the United States are denouncing their citizenship and going overseas to these islands so that they do not have to pay their taxes. These no tax countries do not have any military, they do not have any infrastructure, they do not educate their people, and they live there because they can afford to because they are making money in the United States off the taxes that the American taxpayer is putting in to enable them to have an economy that is the strongest in the world. What parasites. They are safe and secure because the other American taxpayers are paying for their military that protects them. They make lots of money because of the investment other American taxpayers have made in America's infrastructure.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I take the floor as Chairman of the Committee on Ways and Means because the Joint Committee on Taxation is a bipartisan, nonpartisan research structure that is shared by both the House and the Senate. Some misstatements of fact have been made and I want to put it in its proper context.

If anyone does not think this is not a pure partisan political contest, they did not hear the gentleman from Virginia. They have decided this now is an issue that they can ride, and of all the people to make the statement is the gentleman from Virginia.

The chairman of the Joint Committee on Taxation is the United States Senator from Montana, the Democrat, Senator BAUCUS. The request that was made to release this statement cannot be a former Member of Congress; it has to be a current Member of Congress. That request was made by the gentleman from New York (Mr. RANGEL).

It has been said that the report has been completed. That simply is not true. How in the world could a report about ex-patriots started several years ago not be completed? The answer, very simple. The primary reason people give up their citizenship is not to pay taxes, but, more importantly, not to pay estate or death taxes.

Somebody may have noticed last year, the United States House of Representatives, the United States Senate changed the estate or death taxes. That is now the law of the land, a fundamentally different way that we are taxing death or estates. The committee had to go back and reevaluate the question of who was and who was not going to leave based upon a change in the law. It is the Joint Committee on Taxation, and the underlying tax structure changed, so they are not going to release a document based upon old law; they are going to offer a document on new law, and it is just about here.

So the statements saying it is finished are flat out not true. A Democrat asked for it, a Democrat is the chairman of the Joint Committee on Taxation, and is it not ironic that it is Democrats who are going to punish nonpartisan, bipartisan professionals who they argue they are supportive of in terms of working conditions and requirements by cutting their money.

Now, if my colleagues understand it is politics, they understand what this amendment is all about. Ironically, it was the gentleman from Virginia who offered the motion that was declared out of order, passed by a voice vote of the Committee on Appropriations, so the Committee on Appropriations knew what it was doing. It was violating the Rules of the House in its own measure, and now we are forcing him to offer an amendment and exposing the political nature of the amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. STARK), a distinguished member of the Committee on Ways and Means.

Mr. STARK. Mr. Chairman, I appreciate the gentleman yielding me this time. I was wondering if the distinguished chairman of the Committee on Ways and Means would indulge me for an inquiry which might put this to rest.

I must plead that I am not familiar with all of the details; I did not read the Forbes article, so I am not sure what is purported to be in the report. But it is my understanding that Members of the House and certainly members of the committee, which he and I are, have the right to go in and look at committee files. Is that the gentleman's understanding?

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, Members have a right to examine files. This is a report that is in progress. If the gentleman wishes to try to examine a report that is in progress, which clearly would not be conclusive, I think we can arrange that, if that is the concern that Members have.

Mr. STARK. Mr. Chairman, I think that if that were the case, and I do not know, somebody would have some idea, it is certainly not secret.

I yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I think the gentleman has an excellent idea, and I think, in fact, if the goal is to get to the bottom of where the committee is and where it is not, that would solve the problem, but to cut the money of these hard-working professionals is not the answer.

Mr. STARK. Mr. Chairman, reclaiming my time, as I say, that may very well be the solution to the gentleman's concern, that if Members were able to look at wherever the product is, it might satisfy the concerns that if there is something secret and untoward being held there, it might very well be the solution.

Mr. THOMAS. Mr. Chairman, if the gentleman will yield further, it is a fact that the report is not completed. The argument that it is completed is simply not so because of the change in the tax law. But if someone wants to look at what is going on, we would assume the proper approach would be to ask the people who are involved.

The current chairman is the chairman of the Finance Committee, MAX BAUCUS, I would tell my colleague from California, but I am quite sure that we can work it out if somebody really wants to look at the report rather than making some kind of a partisan gesture.

Mr. MORAN of Virginia. Mr. Chairman, as the person that represents the Committee on Ways and Means on the Republican side very well knows, there are more than 50 provisions in this bill that required a waiver of a point of order. This provision did not get that waiver and stands out by exception.

Now, he makes a point about observing the rules. The point is, from our perspective, this was an exception to the rule. Why? We had tried to work together, Republicans and Democrats; the gentleman from North Carolina (Mr. TAYLOR) and I have worked very well together. The gentleman is aware that he is the one that came in and said no, do not provide the waiver for this one issue on the study.

We do not want to punish the Joint Committee on Taxation employees. What we wanted to do was provide their entire increase. We are providing the base level that is currently funding their employees at $6.3 million, but the increase, let us just suspend it so we can get the report, because for 3 years, we have not gotten the report.

I do not know why the gentleman does not want that report, He has the ability to get that report. If he was interested in providing legislation to stop these people who are denouncing their citizenship to avoid taxes, he has the ability to get that legislation. It is only the gentleman from New York (Mr. RANGEL) that has had to continue putting on the pressure to get this information. The American people want this information. They deserve to get it.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I will yield every time the gentleman has a right to expect me to yield, so I am not yielding, I am going to respond to his points.

He has the opportunity and the responsibility to deal legislatively with the millions, tens of millions, probably hundreds of millions of dollars that are not being paid in to the American Treasury because there are some people, parasites, who will take advantage of our economy and take advantage of our military while making all kinds of money off the taxpayers' investments.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. MORAN) has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I would agree with the gentleman from Virginia on the point that he indicates there are parasites in the system and there are people who live off of others' hard-earned money by the way in which they conduct themselves.

I would tell the gentleman the reason we objected to legislating on an appropriations bill, which is what the gentleman was trying to do, is the gentleman does not let us appropriate on our legislative vehicles. So it seems reasonable that if we get to legislate and you appropriate, that we do not confuse the two.

Let me then also say that this report is coming out. If the gentleman's concern is getting this report out, the gentleman's report is going to be gotten out but, surely, someone would notice the fundamental tax change, at least the gentleman often mentions it on the floor about how big it is and how sweeping it is, and perhaps we should not have done it.

□ 1530

And here we are not even willing to take it into consideration as a reason why the professionals at the Joint Committee on Taxation have to go back and completely rewrite the report on expatriation because of the principal role of estate taxes.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Chairman, I would say to the gentleman from Virginia, I do not disagree with the gentleman's purpose here, but there seems to be either some misunderstanding or some misstatement of fact by somebody as to the status of the report.

I think the gentleman from California (Mr. STARK) said it correctly when he said that if the report is unfinished, indeed, and it is not a matter of somebody withholding a finished product, then maybe we could get to the bottom of it by inspecting the product in its current state.

I was prepared to debate this based on our information from the Joint Committee on Taxation that the report is indeed unfinished; that it was requested by Mr. Archer, and they began work on it. When Mr. Archer left, they stopped work on it. Then the gentleman from New York (Mr. RANGEL) just a few months ago requested that the report proceed, and indeed, they are proceeding. In fact, we are told that the Joint Committee on Taxation wrote the gentleman from Virginia (Mr. MORAN).

Mr. Chairman, I would ask that the gentleman withdraw his amendment and let us work together to get to the bottom of this. I think there is a misunderstanding.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Virginia. I consider myself a good friend of the gentleman from Virginia (Mr. MORAN), but he is wrong by offering this amendment today. We all feel we are supporters of our public employees.

Here is a situation: I, as a member of the Committee on Ways and Means, have a request in to the tax staff all the time, and sometimes they do not move fast enough, I think, or give me the response that I want; but I am not going to threaten their pay raise or threaten to take away their money, or to cut the number of staff in the Joint Committee on Taxation if they do not give me the result that I want.

The gentleman from California (Chairman THOMAS) and, of course, I assume the gentleman from Alabama (Chairman BACHUS), would say the same thing, the Democrat who is the Chairman of the Joint Committee on Taxation says the report is going through the process and we are going to receive it.

But if I am not going to get the answer I want when I request a revenue estimate on the proposal I have, whether it is to eliminate the marriage tax penalty or any other issue, I am not going to threaten the staff and threaten to take away their cost-of-living increase.

That is what this amendment does. If we adopt this amendment, we are taking away a cost-of-living increase for public servants, nonpartisan public servants.

I urge a "no" vote on this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I rise again in opposition to the Moran amendment. It is very creative. In fact, if we did this on everything we were unhappy with in this process, not only would we balance the budget, we would save the taxpayers billions of dollars.

Mr. Chairman, we hear there is a discrepancy in the report, but I think there has been a genuine effort on behalf of the majority to try to work out the time schedule and advance this report. Nobody is hiding anything. Nobody is shielding any report. In fact, we all want to see this very, very important information.

But I think, as the gentleman from Illinois just said, to cut salaries and budgets and use money as a fulcrum point against hard-working employees is unreasonable.

But if it is, in fact, reasonable under the gentleman's amendment, let us offer it on every appropriations bill, on every expenditure. In fact, let us reduce the spending in government because we are not satisfied, totally, with the reports. We could save billions of dollars by doing it.

This is not the appropriate time, not the appropriate place. We will get the report, and we will answer the charges. The Joint Committee on Taxation needs the funding. They should not have a punitive amendment on the floor today.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself the balance of my time.

Mr. RYAN of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Mr. Chairman, I think there is a misunderstanding. This is not about expatriates; it is about whether or not we are going to cut the Joint Committee on Taxation, a committee that is overworked right now. They take about 4,500 Member requests and process them. If we cut this back and deprive them of any cost-of-living adjustments, which Members of Congress get, we are doing a disservice to the revenue-estimating function of this Congress.

The study is not done yet. There is new tax policy to factor. They are going to get the study. We want to see the study. Let us not do this amendment and cut this vital funding, because if we do, Congress will not be well served in trying to do its job.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, it is unfortunate that this argument has occurred for this bill. I hope we can get some reconciliation in the future. But we do not need to cut $590,000 for this study and these employees.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

### RECORDED VOTE

Mr. MORAN of Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 213, not voting 15, as follows:

[Roll No. 320]

AYES—206

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell

Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shimkus
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—213

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCrery
McInnis
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Barrett
Berkley
Bonior
Carson (OK)
Clayton
Fossella
Hooley
Lowey
Mascara
McCarthy (NY)
McHugh
McKeon
Roukema
Traficant
Wicker

□ 1601

Messrs. TOM DAVIS of Virginia, JONES of North Carolina and EHLERS changed their vote from "aye" to "no."

Messrs. ANDREWS, BLUMENAUER, PETERSON of Minnesota, DELAHUNT, HILLIARD, BARCIA, HILLEARY, DUNCAN and HALL of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the final lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Legislative Branch Appropriations Act, 2003".

The CHAIRMAN. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILLMOR) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 489, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 365, nays 49, not voting 20, as follows:

[Roll No. 321]

YEAS—365

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Castle
Chambliss
Clay
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Granger
Graves
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moran (VA)

Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shaw
Sherman
Sherwood
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—49

Barr
Bartlett
Berry
Blagojevich
Chabot
Collins
Costello
Cox
Crane
Deal
Doggett
Duncan
Everett
Flake
Goode
Goodlatte
Green (TX)
Green (WI)
Hefley
Holt
Hulshof
Israel
Kennedy (MN)
Kerns
Kind (WI)
Lucas (KY)
Luther
Matheson
Miller, Jeff
Moore
Moran (KS)
Norwood
Paul
Petri
Phelps
Pickering
Roemer
Royce
Ryan (WI)
Schaffer
Sensenbrenner
Shadegg
Shays
Shimkus
Stearns
Tancredo
Taylor (MS)
Toomey
Turner

NOT VOTING—20

Barrett
Berkley
Bonior
Carson (OK)
Clayton
Dunn
Fossella
Graham
Hastings (FL)
Hooley
Lampson
Lowey
Mascara
McCarthy (NY)
McHugh
Pomeroy
Roukema
Traficant
Waters
Wicker

☐ 1821

Mr. EVERETT and Mr. BARTLETT of Maryland changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. POMEROY. Mr. Speaker, on rollcall No. 321, final passage of H.R. 5121, Legislative Branch Appropriations for Fiscal Year 2003, I was absent due to a meeting with a constituent.

Had I been present, I would have voted "yea".

Mr. LAMPSON. Mr. Speaker, on July 18, 2002, I missed rollcall vote No. 321. Had I been able to record my vote, I would have voted "yea" on rollcall vote No. 321.

## PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 19, 2002, TO FILE CONFERENCE REPORT ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight, Friday, July 19, 2002, to file a conference report on the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorists attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentleman from Florida?

There was no objection.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5059

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that the name of the gentleman from North Carolina (Mr. TAYLOR) be removed as a cosponsor of H.R. 5059.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 5120, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 488 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 488

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with "Provided" on page 12, line 19, through "2003" on line 23; beginning with "Provided" on page 74, line 15, through "law" on line 25; page 81, line 22, through page 82, line 7; page 102, line 19, through page 103, line 10. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. The Chairman of the Committee of the Whole shall accord priority in recognition to Representative Goss of Florida or his designee to offer the amendment printed in the report of the Committee on Rules accompanying this resolution, which may be offered only at the appropriate point in reading of the bill, shall be considered as read, and shall not be subject to amendment. All points of order against the amendment printed in the report are waived. Except as otherwise specified in this resolution, during consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN); pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, H. Res. 488 is an open rule providing for the consideration of H.R. 5120, the fiscal year 2003 Treasury, Postal Service appropriations bill. It provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, and it waives all points of order against consideration of the bill.

H. Res. 488 also waives points of order against provisions in the bill for failing to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill, except as specified in the resolution itself.

H. Res. 488 provides that the amendment printed in the Committee on Rules report accompanying the resolution may be offered only at the appropriate point in the reading of the bill, shall be considered as read, and shall not be subject to amendment. The rule provides that the Chairman of the Committee of the Whole shall accord priority in recognition of the gentleman from Florida (Mr. GOSS) or his designee to offer the amendment printed in the report.

The rule also waives all points of order against the amendment printed in the report. Further, the rule also authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Finally, the rule provides one motion to recommit with or without instructions.

Once H. Res. 488 is approved, the House can begin its consideration of fiscal year 2003 Treasury, Postal Service appropriations bill, which is the fifth regular appropriations bill to come to the House floor.

H.R. 5120 provides roughly $18.5 billion in funding for a variety of Federal departments and agencies. The committee included funding supporting State and local law enforcement efforts, enhancements in Federal information technology, and homeland security.

I urge my colleagues to adopt the rule so that the House can proceed with general debate and consideration of the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I want to thank my colleague from Georgia for yielding me the customary time, and I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong opposition to this rule. My colleagues should know from the very outset of this debate that the vote on this rule is about one simple issue: The issue of corporate accountability. Members must decide if they support giving billions of dollars of taxpayer money to corporations that dodge their taxes by running off to the Bahamas or to Bermuda.

During the Committee on Appropriations' markup of the Treasury, Postal appropriations bill, the gentlewoman from Connecticut (Ms. DELAURO) offered an amendment to prohibit government contracts from being awarded to companies that reincorporate overseas to avoid paying U.S. taxes. The Committee on Appropriations approved her amendment by a bipartisan vote of 41 to 17.

But the majority in the Committee on Rules, and I assume in consultation with the Republican leadership, has decided that they do not like the work done by the Committee on Appropriations on this particular issue. This rule leaves the DeLauro amendment vulnerable to a point of order, essentially stripping it from the bill. That is wrong, Mr. Speaker, and this rule should be defeated because of it.

The DeLauro amendment does not even seek to close the overseas loophole, which we should have done long ago and which Democrats have been trying to do for months. The gentleman from Massachusetts (Mr. NEAL) and the gentleman from Connecticut (Mr. MALONEY) introduced a bill to eliminate the loophole over 4 months ago. It has been languishing in this House ever since. That is why Members right now are signing a discharge petition to free the Neal-Maloney bill from legislative purgatory.

All the DeLauro amendment says is that companies who shirk their responsibilities should not be rewarded with billions of American taxpayer dollars. For the life of me, I cannot figure out what is so controversial about that.

Now, the majority will argue that they are merely using the regular order of the House; that there are jurisdictional issues between the Committee on Appropriations and the Committee on Government Reform.

□ 1630

Well, I find it extraordinary that the majority has suddenly found religion on the virtues of regular procedure, because for months we have watched them treat regular order like the skunk at the garden party. Major trade legislation has been written by a single Member and then shoved through the House without hearings or proper committee action. Please, do not suddenly proclaim the virtues of following the regular procedures of this House or about the sanctity of committee prerogatives.

Now confronted with an issue that they do not like and that scares the political wits out of them, the Republican majority hides behind a parliamentary smoke screen. Well, I can see through that smoke screen, my colleagues can see through it, and the American people can see through it.

Mr. Speaker, the Committee on Appropriations, to their credit, decided to act in an overwhelming bipartisan way. Sadly, the majority on the Committee on Rules is attempting to dismantle that bipartisan work, once again siding with the greediest and most self-serving of corporate interests.

The Republicans say this issue is complicated. Complicated? What is so complicated about it? What is so hard to understand? What do they not get? Is there ever a point when the leadership on the other side of the aisle says enough is enough?

We can give all of the speeches we want about how concerned we are, but talk is cheap. The time for action is now, not tomorrow, not next week, not after Labor Day, but now. Again, the DeLauro amendment is modest in its scope. It does not even try to close the loophole that allows companies to renounce their citizenship while continuing to reap the benefits that come with it.

All this amendment says is that those companies do not deserve to be rewarded with billions of dollars in government contracts. They do not deserve a pat on the back for bad behavior. If there are legitimate technical issues with the drafting of this amendment, they can be addressed in the conference committee. This issue is too important to keep sweeping it under the rug.

Mr. Speaker, the families in my district work hard and pay their taxes. The small businesses I represent in Worcester and Attleboro and Fall River pay their fair share. I do not believe that their hard-earned tax dollars should be funneled to corporations that skip out on their responsibilities. This is about fairness. It is about respecting the companies that actually play by the rules.

I say to my colleagues again, this issue is very clear. This vote is very simple. The vote on this rule is a vote up or down on whether these Cayman Island corporations that dodge their tax responsibilities deserve to receive billions of dollars in taxpayer money.

Let us draw the line in the sand against corporate misbehavior. Let us send a signal to the American people that we in this Chamber actually get it, that we are taking steps to fix the problem. No more stalling. I urge Members to vote "no" on this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I rise today advocating a vote against the previous question, and doing so in opposition to a Member pay raise. Today we are considering a bill that is vital for the continued operation of our government, the safety of our citizens, and the security of our economy. But hidden deep within it is another congressional pay raise.

Mr. Speaker, since this session of Congress began, the Dow has lost 15 percent of its value. The Nasdaq has lost almost a third of its value. Unemployment is up. Profits are down. Retirement accounts are down. People are hurting, and we in this Congress should not be raising our pay. We cannot afford it.

Last year's government surpluses are long gone. We are swimming in red ink. We are fighting a war. We should not be asking the taxpayers to pay us more. I urge Members to vote against the previous question.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY) because corporations are cheating the U.S. out of $4 billion in tax revenue by fleeing for international tax havens, and this government rewards these companies with billions of dollars in Federal contracts. This is wrong. This is unpatriotic, and this House should not run away from its responsibility to the fiscal health of this Nation by ignoring this issue.

PARLIAMENTARY INQUIRY

Mr. LINDER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman will state it.

Mr. LINDER. Mr. Speaker, do those 30-second editorials work against their time?

The SPEAKER pro tempore. They certainly do.

Mr. OBEY. Mr. Speaker, every week when I go home to my district and also here in my office, I talk to business people who work hard, who worry about their communities, their investors, and their workers. They try to produce a good product. They do their duty as citizens. They pay their fair share of taxes and they help pull the wagon, as a Senator from the other body often describes it. They help pull the wagon and meet their share of community and national responsibilities.

When they see corporations maneuver the Tax Code and avoid paying taxes by ostensibly moving their address while they do not move their operations, they move their address to exotic places such as Bermuda, they ask me, What in God's name are you guys doing? When are you going to put a stop to it? They resent carrying their fair share of the load while somebody else is ducking their responsibility to carry theirs.

So the DeLauro amendment which was offered in committee, which I was pleased to cosponsor, simply said, and it is an outrageous idea to some Members, I suppose, it simply said to these companies, Look, buster, if you are going to ignore your responsibilities to this society and the taxpayers who help see to it that you get police protection, the transportation system that you need to sell and move your products, if they see those folks abandoning their duty, they want us to do something about it. And most of all, they do not expect Uncle Sam to be Uncle Sucker by continuing to do business with the companies that refuse to pay taxes to the United States Government.

Now, the rule under which this bill is going to be considered will not protect the language of the DeLauro amendment, so there will be an easy way for this House to avoid bringing those companies to heel. That is why you are going to see a good many of us vote against the rule, because we believe that one of the first responsibilities of the most privileged of the taxpayers among us is to meet their own obligations to this society. It is unpatriotic for those companies to change their address in order to avoid pulling their fair share of the load, and it is outrageous that this Congress does not have enough anger and enough guts and enough determination to stand up to those actions and say enough is enough, buster, this is not going to happen any more.

We ought to be taking that stand immediately on this and every other appropriation bill so that no company that welches on their responsibility to this country can do a dime's worth of business with Uncle Sam. Until we take that position, these kinds of outrageous things are going to continue. I hope this House does the right thing on the rule.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I want to speak in favor of the rule and the bill itself. I want to say in this time of uncertainty when homeland security is foremost on everybody's mind and agenda, this bill is probably one of the more significant votes we will take this year.

I have often heard Members say I am not going to vote for Treasury-Postal Service because it is Washington, it is bureaucratic, it is something that does not affect my constituents back home; but I want to remind Members about some of the important government functions that are in this bill.

One of the examples is the Federal Law Enforcement Training Center, which is in New Mexico and Georgia which trains 71 law enforcement agencies in the government, the Drug Enforcement Agency, the Secret Service, the Capitol Hill police, who we know and love and work with every single day. All that training takes place because of the Federal Law Enforcement Training Center, which is in this bill. In these times of homeland security, just look at all of the other things.

I am going to sort of bounce around, but this bill affects the Treasury Department; Air Transportation Stabilization; the Bureau of Alcohol, Tobacco and Firearms; the Bureau of Engraving and Printing; counterterrorism funding; and the Financial Crimes Enforcement Network. Who would want to vote against that during these times?

The Internal Revenue Service, and I can see why people may not be too fired up about that, but, frankly, Mr. Speaker, we need to have the IRS. Continuing on, the Interagency Crime Drug Enforcement Agency, the Office of Inspector General, the U.S. Mint, the United States Secret Service.

Moving on, the White House is funded in this, and all of the security concerns of the White House to protect the President of the United States is in this bill. The list goes on and on, Mr. Speaker.

What I want to say, Is the rule perfect? No. In my 10th year in Congress, I can say that I have not seen a perfect rule yet. Despite the good work of our very capable Committee on Rules, it is not always the way I would write it.

Is the bill perfect? Certainly not. There again, there are things I would change if I were the only Member of this 435 body. But to nitpick this bill and to nitpick this rule at this time is not the best thing in the security interests of our country because this, as I said before, is probably one of the number one homeland security votes we will take this year.

Mr. Speaker, I am going to support the rule, and certainly I am going to support the bill.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, last week the Committee on Appropriations adopted a bipartisan amendment that I offered along with my colleague, the gentleman from Wisconsin (Mr. OBEY), to prohibit corporate expatriates from winning Federal Government contracts. This rule wrongly strikes the amendment from this legislation.

These are corporations that set up an operation overseas in order to avoid paying U.S. taxes. They enjoy all of the benefits of corporate citizenship in America. They look like U.S. companies. The principal market that their stock is traded on is in the United States. Their physical assets are protected by our police, our firemen, our Armed Forces. They just refuse to pay for the benefits as every other American citizen and company does.

My own State of Connecticut witnessed this firsthand when Stanley Works tried to incorporate itself in Bermuda. They go to Bermuda, Barbados, the Cayman Islands, Switzerland and Luxembourg. Companies who put profit before patriotism, they continue to enjoy one more benefit. They still win hefty Federal contracts. Corporate expatriates benefit from over $2 billion in lucrative government contracts. That is $2 billion of taxpayer money going to companies who avoid taxes here in the United States.

Mr. Speaker, that is wrong. The government should not be doing business with those who want all of the benefits of citizenship without any of the responsibilities that come along with it. Congress must not allow these companies to leave individual Americans stuck with the tax bill while they put profits over patriotism. All we are saying is pay American taxes on American profits.

The President has told us that we are at a wartime footing, and we are: $45 billion for defense; $38 billion we want to spend for homeland security. And when these companies leave the United States, average American taxpayers have to pick up the bill.

□ 1645

I urge my colleagues, stand up to these corporations who are unpatriotic. At a time in our lives when we are asking people to pull together to do what we need to do for America, they take their business offshore and will not pay the taxes that are owed to the American government. Oppose this rule. More importantly, it is about opposing these corporations who truly do not have the well-being of the American people at heart. When they are doing business and enjoying every single benefit, they should not have the benefit of Federal contracts.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I appreciate the gentleman's yielding time and I rise in opposition to the rule.

The gentleman from Virginia (Mr. MORAN) in the last rule talked about a missed opportunity. This is another missed opportunity. We say, all of us, most of the people that I have heard say that the act of moving overseas to avoid participating in supporting the government, our defense, our fight against terrorism, our homeland security is an act which they condemn. Each and every one of us have said that. The American public thinks that that is an unpatriotic effort. The average person in the street is not going to move to Bermuda. The average person in the street is not going to move to some far-off place so that they can avoid taxation.

The chairman of the Committee on Ways and Means in the debate on the last bill said, "Well, we're changing that. We're changing the death tax, which is why most people move overseas."

The average taxpayer, who does not have any liability for the death tax, has to pay a FICA tax, the average working guy, and 50 percent of them pay more FICA tax, Social Security tax, than they do income tax. They cannot move overseas to avoid that and, in fact, they do not. They pay their fair taxes. They do not want to pay more than their fair share, but they pay their fair share.

But what the gentlewoman from Connecticut is speaking to and what this amendment speaks to is saying that we are not going to tolerate in America people who earn their money here, become rich here, successful here, to move overseas to avoid participating in continuing to make this country strong and free. We ought not to miss that opportunity. I would tell my friends in this body that this amendment was adopted overwhelmingly and bipartisanly in the Committee on Appropriations.

Reject this rule. Adopt a new one. Let us pass the DeLauro amendment.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I rise in strong opposition to the proposed rule that will allow the DeLauro amendment on corporate expatriates to be struck on a point of order even though it passed the Committee on Appropriations by a decisive vote of 41–17. Why should we allow companies to move offshore to avoid Federal taxes but nonetheless receive the benefits of future government contracts? That is not right, Mr. Speaker.

It is unconscionable that the Committee on Rules would refuse to protect the DeLauro language from being struck on a point of order. If any Member of this House believes that companies who incorporate outside the United States to avoid taxes should nonetheless receive Federal contracts without limitation, then they should offer an amendment to strike the DeLauro language from this bill and we should debate and vote on that particular amendment.

Instead, the Committee on Rules proposes to protect Republican Members who oppose controlling this type of corporate abuse from casting the politically difficult vote that would be required if they offered an amendment to strike the DeLauro language. It is understandable why Members who want to allow corporations to continue this type of tax abuse would want to remain faceless and anonymous. What is not understandable, Mr. Speaker, is why any of us who want to pass a rule that would assist them in doing so. This rule is an act of cowardice.

As a member of the Subcommittee on Treasury, Postal Service and General Government of the Committee on Appropriations, I would like to be able to support the rule so that we could move to consideration of our bill that deals with so many extremely important issues, ranging from homeland security to tax collection, Federal employee benefits and election reform, but I cannot be a party to such fundamental unfairness.

I say to all the Members, if you truly believe that the DeLauro language is improper, offer an amendment to strike it and let us debate and vote on it. Defeat this rule.

Mr. LINDER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

The silence on the other side is deafening. I submit for insertion in the RECORD an editorial that appeared in today's New York Times entitled Congressional Cowardice.

The editorial referred to follows:

[From the New York Times, July 18, 2002]

### CONGRESSIONAL COWARDICE

While a panicky Congress has rushed in recent days to reform the business world, it has not entirely lost its well-developed instinct for catering to special interests. On two issues critical to cleaning up corporate malfeasance, Congress has opted to put the preferences of big business—and big campaign contributors—ahead of the public good.

The first involves the notorious Bermuda tax loophole that allows companies to avoid paying taxes by nominally moving their headquarters to Bermuda, even while they continue to operate from the United States. This is a blatant scam that should be eliminated. Closing the loophole would bring in an estimated $6.3 billion over 10 years.

Democrats and Republicans in the House have introduced dueling bills. The Republican version would temporarily close the tax loophole, but it is also larded with special-interest tax breaks that add up to almost 10 times the amount that would be realized from doing so. General Motors and Ford would be among the big winners under the Republican bill, which would make it easier to accumulate untaxed profits overseas.

Congress is also fearful of challenging corporate practices in the awarding of stock options, intimidated by the possibility that wealthy corporate executives will withhold campaign contributions from lawmakers who dare to tinker with the current system. Now that Coca-Cola and a few other companies are moving to reform the system themselves by counting stock options as an expense, Congressional action could speed the changeover to a more responsible approach.

Senator CARL LEVIN, Democrat of Michigan, introduced an amendment that would require the Financial Accounting Standards Board to review the issue within a year. It is likely that the standards board, which sets the rules for corporate accounting practices, will force companies to report options as expenses. But amid intense lobbying by corporations—particularly Silicon Valley companies, which rely heavily on options—the Levin amendment was blocked earlier this week.

The Senate majority leader, TOM DASCHLE, has promised an eventual vote on the Levin amendment. That is a good start, but some Democrats who normally support the leadership, like Senator JOSEPH LIEBERMAN of Connecticut, are opposed to expensing stock options. If the amendment fails to pass backers of tougher reform can add the Senate Democrats to the list of politicians caving in to pressure from big campaign contributors.

It is always troubling when special interests call the shots on Capitol Hill, but it is particularly disturbing that they are being allowed to hijack significant reform legislation. On matters like taxation, what's good for General Motors may not necessarily be good for the country.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, silence is the only defense that our Republican colleagues can offer on this rule because a vote for this rule is a vote for more permissiveness, to condone those corporations that abandon our country, and it is nothing but a vote in favor of the same kind of permissive atmosphere that has resulted in investors, retirees and the Federal Treasury all suffering as a result of ongoing corporate corruption.

Seven years ago, I stood here at this same podium to challenge the Gingrich "Contract on America" as protection for plutocrats. Today, little has changed, because our Republican colleagues through this rule are rushing to defend corporations who have fled to Bermuda and other isles in the Caribbean, maintaining that these tax dodgers deserve contracts with America.

If in a time of war these corporate citizens must put profits over patriotism and cash over country, then we need to talk to them in the only language that they understand and that is money. They add insult to injury by not only refusing to pay their fair share but for asking for your share that you contribute, turning around and asking for government business after they have refused to help finance the government and our national security and our schools and all of our other needs in this country.

I presented this same language in the Committee on Ways and Means on another bill and the Bush administration was there, just like our Republican colleagues, opposing that and defending these corporations that flee our country but ask for more money from the government. I believe we need to take a pro-business stance. We need to level the playing field so that the thousands of businesses that stay here and pay their fair share are not put at a competitive disadvantage by those who flee to other shores and still have a hand out asking for assistance to work on government business.

Do not support those that give up on America. Reject this rule.

Mr. LINDER. Mr. Speaker, I yield myself 30 seconds to note that the permissiveness that led to such problems in this country with WorldCom and Enron and others was the permissiveness of the 1990s, and we know who was in charge of the institutions of regulation during that time.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, in the 1,300 days that you have been Speaker, you will not let us vote on a balanced budget amendment to the Constitution, yet you have added through your leadership $511,040,208,939 to the Federal debt. That is more debt than was accumulated from the day this Republic started to 1975.

You will not give us an up-or-down vote on base closure. And now you will not give us an up-or-down vote on whether or not you want to reward your buddies who move their corporations overseas in a paper transaction, so while the average Joe in Mississippi pays his taxes, your big contributors do not have to pay theirs.

That is just one more reason why you should not be Speaker.

Mr. LINDER. Mr. Speaker, I continue to reserve my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me again remind my colleagues what this vote is about. Essentially this vote says that no government contract shall be awarded to corporate tax dodgers who go to Bermuda or the Cayman Islands in order to escape paying U.S. taxes.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. MCGOVERN. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, next week we are supposed to have completed the work on the new homeland security agency. Is the gentleman aware that there are lobby disclosure reports that have been filed right here in the Capitol by Pricewaterhouse Consulting which declared a new day in the Caribbean by calling itself "Monday," has fled, is not paying its fair share of taxes but has filed a lobby disclosure report that it is up here lobbying ultimately for business from the new homeland security agency that we were told, originally would cost no new dollars but now is apparently going to cost at least 3 billion new dollars? And apparently though they do not want to pay for our homeland security, they have already got their hand out looking for some business from the taxpayers with that new government agency.

Are you aware of that?

Mr. MCGOVERN. I thank the gentleman for making us all aware of that. I should also point out that since he brought up PricewaterhouseCoopers, on March 27, 2002, PricewaterhouseCoopers fled from New York for Bermuda, but this company continues to receive taxpayer dollars from the IRS, the Treasury Department, the GSA and the Postal Service, including three contracts worth up to $35.5 billion.

Mr. DOGGETT. Under the amendment that the gentleman is trying to get added that our colleagues, a vote in favor of this rule will be a vote to approve, of course, Pricewaterhouse, now called "Monday," and all of these other corporations that will not pay their fair share, if you vote for the rule, you are voting to do that, but under the amendment, the reasonable amendment that you are advancing, that the gentleman from Wisconsin (Mr. OBEY) and the gentlewoman from Connecticut (Ms. DELAURO) have advanced, we do not punish those corporations, we simply say, if I understand it correctly, that they would not be able to seek help from the government and do business with the government at taxpayer expense if they did not want to contribute to the cost of the government.

Mr. MCGOVERN. The gentleman is correct. The DeLauro amendment, which was approved by a bipartisan vote in the Committee on Appropriations, which the majority is now attempting to strip out of the bill, basically refuses to reward bad corporate behavior. A vote for this rule would strip out of the bill the DeLauro language which says that we will not give government contracts to corporate tax dodgers, plain and simple. That is what this debate is all about.

So if you vote for this rule, you are voting to strip out that provision from this bill.

Mr. DOGGETT. One of these companies, "Stanley Flees" is the way one of my neighbors refers to Stanley Tool Company that has left, moved its mailbox from Connecticut to Bermuda, they would be under this amendment in no way restricted from doing business with the government of their fellow citizens in Bermuda or if they moved to Luxembourg or Lichtenstein or one of these other tax havens, you would not restrict them from doing business there, would you?

Mr. MCGOVERN. The gentleman brings up Stanley Tools. I should also point out for my colleagues that that is a company that left the U.S. in 1997 to deprive the U.S. of $30 million every year. These funds could be used to pay for the salaries and other costs of the Secret Service as a result of the September 11 attacks.

We need to get serious about holding some of these corporations responsible. These corporations that open up these little tax havens in Bermuda or in the Cayman Islands and in other countries, they still take advantage of all the benefits of this country. They still enjoy all the benefits that this country has to offer, but they are not paying their fair share. In this time of war when we are all being asked to sacrifice, and everybody is sacrificing, I do not think it is too much to ask that these big corporate interests pay their fair share. That is what this is about, fairness.

Mr. DOGGETT. When I offered this same language in the Committee on Ways and Means, there was such concern by the chairman of that committee that he accepted the amendment. He did not want any Republican member on record against the amendment. Perhaps they will try to hide, saying this is a procedural vote, but there will probably not be another vote on the floor of this House other than this vote that is about to occur on which Members can so clearly record their views on whether they approve of corporations fleeing to Bermuda or Jamaica or Barbados.

□ 1700

I think there was a Beach Boys song about this some time back, but where they flee to one of these Caribbean islands that they will be able to still do business here on unfair competitive grounds against those companies that have stayed here. There will not be a clearer vote, will there, that we can foresee?

Mr. MCGOVERN. This vote is crystal clear; there is no confusion. A vote for this rule is a vote for rewarding corporate misbehavior, it is a vote to reward these corporations that dodge paying their fair share of U.S. taxes. There is no other way that this vote can be interpreted.

The Committee on Rules could have protected this language from a point of order like they do so many other provisions, not only in this bill, but in other bills, but they chose not to. I think it is unconscionable that after a strong vote in the Committee on Appropriations, that this language is being scuttled. I think it is wrong. I think the American people would be outraged over the fact that this language is being stripped from this bill.

Mr. DOGGETT. Mr. Speaker, if the gentleman will continue to yield, it is okay for these corporate executives to head off to the Caribbean Isles and get a tan, but not a tax break or a government contract. I certainly applaud the gentleman's leadership and his work to see that this is done.

It is not just corporations in the Northeast that have taken advantage of this loophole. We had one down in Houston, Texas that did the same thing, and it was the president of a competing company who recently wrote me to express his outrage, because he is loyal to this country. His workforce is here; his executive offices are here. He is willing to pay his fair share, but thinks it is mighty unfair that this Congress will not stand up and level the playing field and give his company the same fair basis for competing as those who fled and have decided they will not contribute their share of taxes.

I think it is also important to note that those who want to hide behind the fiction that this is just to avoid double taxation on foreign earnings need look no further than the prospectus on the Stanley Tool, or Stanley Flees, Company to note that they are planning to save much more in taxes than they pay in foreign taxes. I just really thank the gentleman for his leadership on this issue.

Mr. McGOVERN. Mr. Speaker, reclaiming my time, I appreciate the gentleman's remarks. As always, he says it like it is.

Mr. Speaker, again, I would like to say to my colleagues that this vote turns on a very simple issue: Do you believe that companies that incorporate in other countries to avoid U.S. taxes deserve billions of dollars in taxpayer money or not? I believe they do not. We are at war, Mr. Speaker. All of us need to contribute our fair share, and that includes big corporations. There has been a lot of rhetoric and a lot of talk about corporate responsibility and the need for Congress to act. Well, the time has come for this Congress to back up its rhetoric with real action.

Mr. Speaker, I urge my colleagues to vote "no" on this rule, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of this very fair and balanced rule which will allow us to proceed with the very important work that we have of appropriating the dollars that are necessary for our homeland security, among other things.

Let me say to my colleagues that as I have listened to this debate, I think that some might conclude that we are dealing with something other than an appropriations bill here. This is one of the 13 appropriations bills that must pass the House of Representatives and the Senate and get to the President's desk for signature. This is one of the most important. It is the Treasury-Postal appropriations bill. It deals with Customs, Secret Service; it deals with a wide range of very important issues that must be addressed.

Now, I sort of inferred from the debate that I was listening to that we were discussing a bill that will, at some point, possibly come from the Committee on Ways and Means. As I have listened to a number of my colleagues argue that this has to do with corporate greed and rewarding people who are less than patriotic, it is absolutely ridiculous.

If one looks at what has been described by even people on the other side of the aisle, Mr. Speaker, as a less than perfectly crafted amendment, this measure, as was pointed out to me by the chairman of the subcommittee just a few minutes ago, deals not with corporations, but with a subsidiary of that corporation here. So I think that the language in the amendment itself makes it very clear that the Committee on Ways and Means has to continue the work that it has already begun.

Now, when I listened to the gentleman from Massachusetts, Mr. Speaker, talk about the fact that if we vote for this rule, we are somehow voting to reward corporate greed and all of this sort of stuff, I cannot help but think about the fact that we have taken very strong and vigorous action here to deal with an issue that the President is outraged about and that both Republicans and Democrats are outraged about, and that happens to be corporate mismanagement and corruption that has taken place within the corporate community. We know it is there.

I will tell my colleagues, corporate CEOs, the President of the United States, Members of Congress, the American people are outraged at those who, in fact, have been responsible for wrongdoing. They need to be convicted, they need to do jail time. And guess what? By a vote of 391 to 28, we voted in this House 2 days ago to move ahead with language to do that. Back on April 24, just a few weeks after the President asked us, as a Congress, to step up to the plate and deal with the issue of corporate accountability, we passed a very good and a very strong bill in this House that will deal with the issue of transparency. I am very happy, while it took several months, the United States Senate has now acted and, just last night, the Speaker of the House appointed conferees who will be dealing with this issue.

So to somehow say that because we are proceeding with what is the proper order here; we are allowing committees of jurisdiction to deal with this very important question and doing it in a proper way is the right thing to do. Why? Because we do not want to jeopardize the free market process.

I will tell my colleagues that as angry as we are at those corporate CEOs who are responsible for wrongdoing, we do not want to penalize the job-creators in this country. We do not want to paint with a broad brush everyone who happens to believe in the free market process. That is why proceeding with the language that was proposed and passed in the Committee on Appropriations would be very irresponsible. I will tell my colleagues that even my very good friend from Maryland, who is the ranking minority member of this subcommittee, said that it is his intent to work with the Committee on Ways and Means to make sure that we craft the kind of language that is addressed here.

So even he is acknowledging that this kind of work needs to be done in the Committee on Ways and Means. So that is why we are doing exactly what the Framers of our Constitution wanted. They wanted this to be a deliberative body. We can act quickly when we need to, but let us do it through the legislative process itself. We need to support this rule. It is a very balanced measure; it is the right thing to do. Let us get our appropriations work done on this measure so that we can proceed with the proper homeland security that we need to ensure that we will never face the kind of threat again that we faced this past September 11.

Mr. Speaker, I congratulate the gentleman from Georgia (Mr. LINDER) for his fine work on this.

Mr. MALONEY of Connecticut. Mr. Speaker, I urge my colleagues to oppose the rule.

During committee consideration of this important legislation, my colleague from Connecticut added an amendment that would prohibit the awarding of Federal contracts to corporate expatriates who move their legal headquarters to a foreign tax haven. The rule before us today will allow my colleagues from the other side of the aisle to strip this provision from the underlying legislation.

I fail to see why the House would allow companies who abandon their corporate responsibilities to our country to continue to be awarded Federal contracts. Corporate expatriates benefit from over $2 billion in lucrative government contracts, from large consulting deals with U.S. government agencies, to equipping airport screeners, to helping the IRS collect taxes. They turn their backs on America at the same time that they reach their open hands out to America. Mr. Speaker, this is outrageous!

Because of the efforts to stifle consideration of this important issue on the floor of the House, I filed a discharge petition yesterday, and I urge those who have not already signed it to do so. To those who have signed it, thank you. The discharge petition will force a straight up or down vote on the Corporate Patriot Enforcement Act, H.R. 3884, introduced by myself and the gentleman from Massachusetts, Mr. NEAL.

Vote no on the resolution and tell tax evaders that they will no longer be able to feed at the Federal trough. If you leave this country to evade your tax obligations, you are no longer eligible to benefit from Federal contracts.

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition to this rule which prohibits important amendments from being fairly debated and voted on. However, I support the underlying bill and thank my colleagues on the subcommittee for continuing contraceptive coverage for all Federal employees. This important provision ensures that prescription contraceptives are covered by government employees' health plans, while it respects the rights of religious organizations.

Eighty-seven percent of Americans support access to birth control because it's smart policy. Though I support this language, I regret that it does not cover all necessary medical procedures. Similar women in the military, Federal employees, are prevented from access to coverage for abortion.

As the Nation's largest employer, I hope that the Federal Government will continue to work to consider all of the needs of its employees and their families.

Mr. LAFALCE. Mr. Speaker, I rise today to express very serious concerns about one provision in the legislation that affects the consumers of financial services.

I am troubled by the restrictions this bill places on the First Accounts grants program. The First Accounts program provides grants to financial institutions and community groups to help bring the millions of un-banked American families into the financial mainstream. This Treasury Appropriations legislation sets a completely arbitrary per account limit of $100 for these grants. If this restriction were in place in FY 2002, 13 of this year's 15 recipients would not have been eligible for grants.

One of the keys to the long-term economic security of lower- and middle-income families is easy access to affordable mainstream financial institutions and community oriented financial institutions. American families who operate outside of the financial services mainstream are forced to rely on high-cost alternative financial services companies, which often subject these families to predatory and abusive practices. Research suggests that once an un-banked family enters the door of a mainstream institution for account services, they often become customers of the institution for loans and other services, and they begin to save and accumulate assets. That is why we should support programs like the First Accounts program, which provides critical financial support for efforts to bring America's un-banked families into the financial mainstream.

There has been no evidence of abuse of First Account grants or other problems with the program that would justify the restrictive language of this bill. I hope that these restrictions will be eliminated before the legislation is sent to the President.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MATHESON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 258, nays 156, not voting 20, as follows:

[Roll No. 322]

YEAS—258

Ackerman
Akin
Andrews
Armey
Baca
Ballenger
Barcia
Barr
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capuano
Cardin
Clay
Clyburn
Combest
Condit
Conyers
Cox
Coyne
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Ehlers
Engel
Eshoo
Farr
Fattah
Filner
Foley
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goss
Granger
Green (TX)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hansen
Harman
Hastings (WA)
Hefley
Herger
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Honda
Horn
Houghton
Hoyer
Hunter
Hyde
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Johnson, Sam
Jones (OH)
Kanjorski
Kennedy (RI)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
Lampson
Lantos
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lofgren
Lucas (OK)
Manzullo
Markey
Matsui
McCarthy (MO)
McCrery
McDermott
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, Dan
Miller, George
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schakowsky
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Stark
Stenholm
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Towns
Velázquez
Visclosky
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—156

Abercrombie
Aderholt
Allen
Bachus
Baird
Baker
Baldacci
Baldwin
Bartlett
Berry
Blagojevich
Boozman
Boswell
Boucher
Brady (TX)
Bryant
Capito
Capps
Carson (IN)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Cooksey
Costello
Cramer
Davis (CA)
Davis, Jo Ann
DeFazio
DeMint
Deutsch
Duncan
Edwards
Emerson
English
Etheridge
Evans
Everett
Ferguson
Flake
Fletcher
Forbes
Ford
Gekas
Gibbons
Goode
Gordon
Graham
Graves
Green (WI)
Hall (TX)
Hart
Hayes
Hayworth
Hill
Hilleary
Holden
Holt
Hostettler
Hulshof
Inslee
Isakson
Israel
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind (WI)
Kucinich
LaHood
Langevin
Larsen (WA)
Latham
Leach
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Matheson
McCollum
McGovern
McIntyre
McKinney
Meehan
Mica
Miller, Jeff
Mink
Moore
Moran (KS)
Napolitano
Northup
Norwood
Nussle
Osborne
Ose
Otter
Paul
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pomeroy
Price (NC)
Ramstad
Riley
Rivers
Ross
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Schaffer
Schiff
Sensenbrenner
Shimkus
Shows
Shuster
Simmons
Smith (WA)
Snyder
Spratt
Stearns
Strickland
Stupak
Sullivan
Tanner
Taylor (MS)
Terry
Thune
Thurman
Tiahrt
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Vitter
Walden
Wamp
Wu

NOT VOTING—20

Barrett
Berkley
Bonior
Carson (OK)
Clayton
Crane
Ehrlich
Fossella
Hastings (FL)
Hooley
Lowey
Mascara
McCarthy (NY)
McHugh
McInnis
Miller, Gary
Roukema
Stump
Thomas
Traficant

□ 1740

Messrs. COOKSEY, LINDER, MORAN of Kansas, LEACH, SULLIVAN, JEFF MILLER of Florida, TIAHRT, GIBBONS, TANNER, PETRI, PETERSON of Pennsylvania, OSBORNE, RILEY, SIMMONS, SCHAFFER, BACHUS, Ms. NAPOLITANO, and Mrs. NORTHUP changed their vote from "yea" to "nay."

Ms. WOOLSEY, Mr. OWENS, Ms. PELOSI, and Messrs. DICKS, BROWN of Ohio, WELLER, ROHRABACHER, and WALSH changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 188, not voting 22, as follows:

[Roll No. 323]

AYES—224

Abercrombie
Akin
Andrews
Armey
Bachus
Baldacci
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berman
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (PA)
Brady (TX)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chambliss
Collins
Combest
Cooksey
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Fattah
Ferguson
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoeffel
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lofgren
Lucas (OK)
Manzullo
Matsui
McCrery
McDermott
McKeon
Menendez
Mica
Miller, Dan
Miller, Jeff
Mink
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Paul
Pence
Peterson (PA)
Petri
Pickering
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—188

Ackerman
Aderholt
Allen
Baca
Baird
Baker
Barcia
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brown (FL)
Brown (OH)
Bryant
Capps
Capuano
Cardin
Carson (IN)
Chabot
Clay
Clement
Clyburn
Coble
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Farr
Filner
Flake
Ford
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Jones (NC)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
LoBiondo
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
McCarthy (MO)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Payne
Pelosi
Peterson (MN)
Phelps
Pitts
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Turner
Udall (NM)
Velázquez
Visclosky
Waters
Waxman
Weiner
Wexler
Whitfield
Woolsey
Wu

NOT VOTING—22

Baldwin
Barrett
Berkley
Bonior
Carson (OK)
Clayton
Ehrlich
Evans
Fossella
Gordon
Hooley
Lowey
Mascara
McCarthy (NY)
McHugh
McInnis
Miller, Gary
Neal
Roukema
Smith (MI)
Stump
Traficant

□ 1752

Mr. BLUMENAUER changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 19, 2002, TO FILE PRIVILEGED RESOLUTION AND REPORT

Mr. HEFLEY. Mr. Speaker, as chairman of the Committee on Standards of Official Conduct and with the concurrence of the gentleman from California (Mr. BERMAN), the ranking minority member on the committee, I ask unanimous consent that the Committee on Standards of Official Conduct be permitted to submit a privileged resolution and report to the House by midnight, Friday, July 19, 2002.

The SPEAKER pro tempore (Mr. GOODLATTE). Is there objection to the request of the gentleman from Colorado?

There was no objection.

## PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO FILE REPORT ON H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence may have until midnight tonight, July, 18, 2002, to file a report on the bill, H.R. 4628, to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, community management account, the Central Intelligence Agency retirement and disability system, and for other purposes.

It is my expectation, Mr. Speaker, that the committee will file H.R. 4628 a little later today. Once the committee has filed the bill, I invite and encourage Members to come to H-405 in the Capitol to review the classified annex and allow committee staff to explain the provisions or answer any questions they may have about the bill.

This opportunity is offered to any Member of the House. It does not include staff. Members will be asked to sign the customary nondisclosure agreement prior to access to any classified annex. That is the routine. It has worked well over the years.

Members may call Mr. Bill McFarland of the Permanent Select Committee on Intelligence, the committee staff director of security, if they would like to review this material.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I thank the gentleman. I support the request for us to hear the bill, but could the gentleman tell the Members how long that privilege to go upstairs to room 405 to review the bill will last until.

Mr. GOSS. Mr. Speaker, I believe the answer to that question is until we take up the rule, and that will probably be later next week. So it should be a couple of days next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, I was unable to be present for rollcall votes 296 through 318. Had I been present, I would have voted "aye" on rollcall votes 296, 297, 298, 299, 300, 301, 304, 308, 309, 310, 311, 312, 313, 315, 316 and 318. I would have voted "no" on rollcall votes 302, 303, 305, 306, 307, 314 and 317.

## PERSONAL EXPLANATION

Mr. HOLT. Mr. Speaker, I was absent from the House on July 9 because of a personal emergency, a house fire, and was unable to vote. Had I been present, I would have voted "yes" on rollcall votes 285, 286 and 287.

Also, Mr. Speaker, I was unable to vote for rollcall vote 311. Had I been able to vote, I would have voted "yes" on rollcall No. 311.

## LEGISLATIVE PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I rise for the purpose of determining the schedule for next week, and I am pleased to yield to the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I thank the gentlewoman for yielding; and Mr. Speaker, I am pleased to announce that the House has completed its legislative business for the week.

The House will next meet for legislative business on Monday, July 22 at 12:30 p.m. for morning hour and 2 o'clock p.m. for legislative business. I will schedule a number of measures under suspension of the rules, a list of which will be distributed to Members' offices tomorrow. Recorded votes on Monday will be postponed until 6:30 p.m.

On Tuesday and the balance of the week, I have scheduled the following measures for consideration in the House.

For Tuesday, H.J. Res. 101, disapproving the extension of the trade act waiver authority with respect to Vietnam; on Tuesday, H.R. 5117, the Defense and Homeland Security Supplemental Appropriations Act Conference Report; and on Tuesday, complete consideration for H.R. 5120, the Treasury and Postal Operations Appropriations Act.

Mr. Speaker, on Wednesday, we would expect to do H.R. 4965, the Partial Birth Abortion Ban Act of 2002. We would also expect on Wednesday to do, or possibly Thursday to do, H.R. 4628, the Intelligence Authorization Act, and on Wednesday, we would expect to begin consideration of H.R. 5005, the Homeland Security Act of 2002.

I would like to thank the gentlewoman for yielding.

Ms. PELOSI. Mr. Speaker, reclaiming my time, I thank the distinguished gentleman. I just want to clarify certain things.

On Tuesday, Vietnam, the supplemental Treasury-Postal. On Wednesday, late-term abortion, intelligence and beginning of the Homeland Security Act.

What will be the procedure for the consideration of the homeland security legislation?

Mr. ARMEY. Mr. Speaker, if the gentlewoman would continue to yield, I thank the gentlewoman again for her inquiry. It would be our suggestion that pursuant to the colloquy that the gentlewoman and I had earlier related to the agreement between the Speaker and the minority leader to propose a rule to the Committee on Rules, it would be my hope that they could make their proposal in such time that the Committee on Rules could meet on Tuesday evening and issue a rule for consideration of that bill, that I would anticipate to be a fairly open rule.

□ 1800

And that having that rule for consideration and available on Wednesday, it would be my expectation that we could then have some way of measuring the coordination of the bill, but to have ample time on Wednesday, Thursday and even Friday, if it is necessary, to consider that bill and any amendments proposed thereto.

Ms. PELOSI. Mr. Speaker, I am pleased to hear the gentleman say that he anticipates that the rule will be an open rule so that we can have a debate on many of the issues of concern of many Members here on both sides of the aisle.

Mr. ARMEY. Let me just remind the gentlewoman, according to our colloquy, that this would be a proposal made to the Committee on Rules by the Speaker and the minority leader. I, for one, would not deign to speak for them. They clearly will speak for themselves. But that is my anticipation; that it would be one that would be more on the open side.

Ms. PELOSI. Mr. Speaker, as one who engaged in the colloquy at the time of consideration of our select committee, the anticipation was that the Speaker and the minority leader would agree to an open rule, and I look forward to that discussion.

Does the gentleman anticipate late nights next week? It sounds like it from this schedule, but I did not know if the gentleman had any insights he could share with us about the scheduling.

Mr. ARMEY. I thank the gentlewoman for her inquiry, and I especially want to say I appreciate the gentlewoman from California for all the late nights she has already worked this week. Unfortunately, I would have to advise the gentlewoman and the body that we should expect to work late nights Tuesday, Wednesday, and Thursday of next week.

Ms. PELOSI. Now, Mr. Leader, will we be perhaps working on Saturday of next week as well?

Mr. ARMEY. I thank the gentlewoman, and, again, if the gentlewoman will continue to yield, it is my most fervent hope not. But, obviously, the week before a recess period, a week that has under consideration extremely important work that will be of interest to the entire body, is a week in which we must recognize that possibility. While I do so, I do not anticipate that possibility.

Ms. PELOSI. Mr. Speaker, I just have one other concern that I wish to discuss with the distinguished majority leader.

As the gentleman knows, and we have discussed before, there is a crisis in our country, and it is the confidence in our markets that we want to restore. One way we can do that is by taking up the Sarbanes accounting reform bill and the conference report before going home for recess. I would hope that this bill would be coming to the floor next week.

Does the majority leader have any plans to bring the conference report to the floor?

Mr. ARMEY. Well, again, I want to thank the gentlewoman for that inquiry, and as the gentlewoman knows, we will always make available time on the floor for conference reports as soon as we can obtain them. I have had, just in the past hour, a very encouraging conversation with Chairman OXLEY about that conference. It meets tomorrow morning at 10:30.

It is clear that the conferees from both bodies are committed to getting this work done as quickly as possible, and I daresay we might hope and expect possibly to see that work. It will certainly be, I believe I am clear in my understanding, the desire of these conferees to complete that work as soon as possible. They are quite concerned and committed to it.

Ms. PELOSI. Of course, Mr. Speaker, one important option that we have, in order to restore confidence to the markets and diminish the crisis, is to bring the Sarbanes accounting reform bill directly to the floor for consideration. I hope that the majority leader will consider that option, because time is of the essence. We must move quickly.

As the gentleman knows, every day is a problem for America's families with their savings, hopes and aspirations for their children and the retirement of their parents. So I appreciate the gentleman saying it may be possible we would bring a conference report. I hope it is also possible we would bring the Sarbanes bill directly to the floor.

## ADJOURNMENT TO MONDAY, JULY 22, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. GOODLATTE). Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## GENERAL LEAVE

Mr. PENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the subject of the special order of the gentleman from Florida (Mr. BILIRAKIS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## ON THE CHIEF OF THE S.E.C.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, we usually do not think about The New York Times like we would The Onion, providing humor for America, but today there is an extraordinarily humorous story on the front page. It says, "Chief of S.E.C.," the Securities and Exchange Commission, "Is Set to Pursue Former Clients."

Now, let us think about that for a minute. This gentleman, who made a career out of lobbying for the securities industry and the accounting industry, opposing reforms, representing them in their misdeeds, is now going to pursue them. He is the best we can do in a country of 270 million people. The President cannot find anybody who knows about securities, who is not totally ethically and morally compromised from being the chief watchdog.

Here is the vision of Mr. Pitt as the pit bull. Of course, that is a toy poodle, but it says he is going to get tough. Well, if anyone believes that, I have several bridges I would like to talk to you about afterwards.

Now, here are some quotes from the story. This is Mr. Pitt talking to The New York Times. "This will inevitably sound self-serving, but the fact is it is an enormous advantage to the public to have somebody who knows about the securities business and the securities law as I do, and it would be unthinkable to deprive people of my expertise." That was Mr. Pitt.

So the man who represented these miscreants, the man who lobbied against the tougher rules for accounting firms, the man who has had to recuse himself as the chief law enforcement officer of the Securities and Exchange Commission appointed by George Bush, and basically George Bush has continually expressed his utmost faith in Mr. Pitt, he has had to, 29 times in 10 months, in enforcement actions, recuse himself.

That means that people did not pay fines or get prosecuted by the SEC. In one case, unfortunately, both Mr. Pitt and one other Bush appointee both had to recuse themselves. So only one commissioner, who is a Clinton holdover, was left. He voted to fine the company, Ernst & Young, but an administrative law judge threw it out because they had to have two votes. Well, they could not have two votes. Is this not a wonderful Catch 22? The agency that is supposed to get tough and clean this up cannot even vote to prosecute or fine people because they are so compromised, the appointees of President Bush are so compromised because these are their friends, they are their clients, they are their benefactors, and they have worked for them and represented them for years. It borders on being humorous.

But, actually, it is quite sad. It is quite sad for the millions of Americans who have lost money in their stock funds, their 401(k)s, their retirements; the thousands who have lost their jobs when these firms were bankrupted. It is an incredible tragedy. This is the best that President Bush can do. Tell me that out of a country of 270 million people the best he can find is someone who lobbied for and put in place the policies that brought about these scandals and this fraud on the American people. Since he knows how to trick people, how to defraud people, and how to, in fact, make sure there is no real regulation, he is the best man for the job.

He also said in one of his earliest speeches, he fully intended, as head of the SEC, to make it a place that was kinder and gentler for accountants. Does that sound like a pit bull? He went on to say that he thought a regulatory agency was best that regulated least. Does that sound like a pit bull? And he had to recuse himself 29 times from voting because these were his former clients. They are the people he goes to lunch with. They are the people he goes down to visit their $10 million, $20 million homes in Florida, that are exempt under the bankruptcy laws, even if they got the money by fraud, taking money from the stockholders, the pensioners and the employees who were defrauded.

We know in America we can do better than this, and President Bush should do better than this. Mr. Pitt should be removed and we should put in place at the Securities and Exchange Commission someone who will provide justice to American pensioners, stockholders, and employees.

## GEORGE WASHINGTON AND THE HAND OF PROVIDENCE IN AMERICA'S HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, in the next few moments this evening, I want to share a story about a remarkable act of providence in American history. By remarkable providence, I mean an example of one of those small twists and turns in history that could have turned out otherwise but did not. And as a function of that, in so many ways, we are gathered here today in a city that bears the name of a man named Washington.

It was the year 1755, 20 years before the American Revolution. The British were fighting the French over territory along the Ohio and Mississippi Rivers. And I think of a 23-year-old soldier who found himself in the midst of a conflagration.

The Americans were sided, Mr. Speaker, with the British, and most of the Indians sided with the French. Tensions grew, diplomatic solutions failed, so Great Britain sent 2,300 soldiers to join the rugged untrained American militias to fight the French.

A 23-year-old colonel led the Virginia militia, about 100 buckskins who had volunteered to fight. The British soldiers joined them, and over a thousand men made their way north toward Fort Duquesne, now known as the City of Pittsburgh. It was a long march in the summer, a few hundred miles along wooded paths. The Red Coats and militia could not have been more different; one orderly and disciplined, dressed in red wool and uniforms, another a ragtag bunch of young farmers, driven by passion, adventure, and a love of freedom. The differences would be important in what was about to confront them.

Seven miles from the fort on July 9, 1755, the soldiers were ambushed in a wooded ravine. They were trapped on every side. The French and Indians fired shots from behind rocks and deep in the woods from high in the trees and behind the brush. The British tried to line up in traditional military lines, shoulder to shoulder, but the shots came from behind them and above them. They were familiar with open field fighting, not ambushes deep in the woods.

Over 700 British and American troops died, compared to only 30 French and Indians. Eighty-six officers fought in the battle, according to historian David Barton, and only one of those officers remained unhurt after the ambush, and still bestride his horse. It was that 23-year-old American leader from the Virginia militia.

The colonel assembled what remained of his men and retreated to Fort Cumberland on the western side of Maryland. There he wrote a letter to his family explaining what had happened. He recounted the battle, the death of his men, the British officers, and how he had removed his jacket after the battle and found four bullet holes in it. Four horses had been shot out from underneath George Washington that day. Bullet fragments were in his hair. And he wrote a letter to his family that he was completely unharmed, and said, "By the all powerful dispensations of Providence I have been protected beyond all human probability or expectation."

Fifteen years later, in a time of peace, he would return to that same battlefield, and an Indian chief traveled a great distance to see him. That Indian chief had preyed upon those Virginia militiamen that day. He had ordered his men to shoot every officer. But as Washington would recount many times later in life, the Indian chief had sat him down and told him that he had come to meet him to pay homage "to the man who is a particular favorite of heaven; a man who could never die in battle."

Mr. Speaker, George Washington's life would lead him from those humble 23-year-old miraculous events in battle to greater things. He always understood throughout his life, with a deep Christian humility, that he was part of a grand design. A grand design for America.

□ 1815

A design yet to be fulfilled. That made him humble and grateful to be one such man that would shape the lives of millions to come. Like George Washington, I believe that every one of our lives is guided by that invisible hand, that everything happens for a reason. That in every moment from our greatest trials to our greatest triumphs, from small unanticipated events can come the great unimaginable feats of history, discovering land, freeing slaves, defeating tyranny, and maybe even defeating the mindlessness of terrorism. Behind each great turning point in history, I will always believe, as George Washington did, that there is a providential hand leading willing hearts.

## HONORING SYD FINLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, a few days ago a good friend of mine, Syd Finley, died at the Central DuPage Hospital in Winfield, Illinois. But before his death, his life personified that of a premier activist. He made effective use of himself to bring about positive and progressive change.

After graduating from high school and Knox College in Galesburg, Illinois, he began work as a recreational therapist for the State. He served in the military and fought in the Korean War and was awarded the Bronze Star with two oak leaf clusters, the Combat Medic Badge, United Nations Service Medal, National Defense Service Medal and the Merit Unit Citation.

In 1961, he was appointed Midwest director of the NAACP and moved his family from Galesburg to what was then segregated Wheaton. Real estate brokers only took him to the parts of town where African American families lived, and African American children were not bused to school like white children, and businesses would not consider hiring blacks.

Therefore, Syd started meeting with the school board and city council members. Mr. Finley's style of operating proved to be quite effective; and he not only brought about change in his neighborhood, but he also brought about change for thousands of others through his work at the NAACP.

Mr. Finley took his children to civil rights marches in Selma, St. Louis, Milwaukee, and Washington, D.C. As a leader of the NAACP's Fair Program in the 1980s, Mr. Finley got hundreds of people hired into management jobs at Fortune 500 companies and was appointed Illinois Governor Jim Thompson's Assistant for Minority Affairs.

Syd worked at Argonne National Laboratory from 1973 to 1980; and under his leadership, minority employment increased from 9 percent to 14 percent and female employment from 12 percent to 24 percent.

Mr. Finley joined Medical Management of America in 1994 and became vice president of Community and Media Relations for Doctor's Hospital of Hyde Park. He was a founder of the DuPage African Methodist Episcopal Church in 1979. He led a full and complete life.

He leaves to mourn and cherish his memory his wife, Mary Lou; three children, Sidney Finley, III; Robin Hines; and William Christopher Finley; two sisters, Dorothy Newman and Delores Ford; and two grandchildren.

Syd Finley was indeed a unique person and able to influence the thinking and behavior of others. He was an effective leader and a great American. We revere his life, mourn his passing, and shall cherish his memory.

## STOP MERCURY EMISSIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, the Great Lakes are under attack from many environmental threats, such as invasive species, PCB contamination, and other aquatic pollutants. In the next week, along with the gentleman from Michigan (Mr. UPTON), the gentleman from Michigan (Mr. STUPAK), and the gentleman from Wisconsin (Mr. KIND), I will be introducing the Great Lakes Mercury Reduction Act, which will prohibit the issuance of new permits under the Clean Air Act that will result in the deposition of any additional mercury into the Great Lakes.

Our legislation seeks to halt new mercury pollution sources that would deposit further amounts of mercury into the Great Lakes. Currently, the technology does not exist to stop mercury emissions from already-permitted sources. Therefore, we should not allow construction of new mercury pollution sources.

Our legislation will not affect existing sources already permitted under the Clean Air Act, but rather, will halt addition of new sources of mercury that will further degrade the Great Lakes with mercury pollution. Airborne mercury is the dominant source of mercury in the Great Lakes; and according to the Lake Michigan Federation, 1/70 of a teaspoon of mercury can contaminate a 25-acre lake. Mercury quickly bioaccumulates, contaminating the food chain and making the fish of the lakes inedible by humans.

The Federal Government must address mercury pollution, because sufficient reduction limits were not set in the Clean Air Act Amendments in 1990. The act only contained large general national emission numbers, and control studies monitoring the growing problems with mercury pollution. While the Clean Air Act required extensive studies of the potential dangers of mercury, it deferred much of the work on limiting mercury emissions to the States.

In 1997, the United States and Canada, as part of the Great Lakes Binational Toxics Strategy, met to address strategies for eliminating toxic substances in the Great Lakes. These talks resulted in each nation agreeing to address a number of toxic emissions, including mercury. According to this agreement, the United States will seek to reduce airborne emissions of mercury by 50 percent, and Canada by 90 percent by the year 2006.

President Bush and the Congress both made the elimination of mercury pollution an environmental priority of this Congress. In his Clear Skies Initiative, President Bush seeks to cut mercury emissions up to 69 percent and create the first-ever national cap for mercury emissions. Mercury emissions will be cut from current emissions from 48 tons to a cap of 26 tons in 2010, and 15 tons in 2018. Likewise, two similar proposals in Congress will seek to cap mercury emissions for the first time ever for air quality improvements.

In my district, Lake Michigan is the source of our drinking water, and the lake provides recreation in the summertime, and once provided fish for eating. We now know that Lake Michigan fish are harmful because of the toxins they contain. According to the EPA, each year over 3,000 pounds of mercury pollution are dumped into Lake Michigan, and 86 percent of that comes from direct atmospheric deposition. Recently, the North Shore Sanitary District obtained a permit from the Illinois Environmental Protection Agency to build a sludge sewage incinerator on the shores of Lake Michigan in Waukegan, Illinois. If construction commences, the mercury emitted from this sludge incinerator will be the first new source of mercury pollution in the Great Lakes in over a decade.

My top environmental goal in this Congress is to protect Lake Michigan and the Great Lakes. Earlier this year, I chaired the Nuclear Fuel Safety Caucus, which sought the safe removal of nuclear waste from key environmental ecosystems in the Great Lakes burdened with nuclear waste on our shores. The approval of the nuclear waste resolution in this Congress will make our 10th district nuclear free upon completion of the National Nuclear Waste Repository. But now, Congress must focus its attention on mercury pollution in the Great Lakes.

Airborne mercury pollution is an issue which the Federal Government has ignored in years past. Further mercury pollution of the Great Lakes will irreparably damage our fragile ecosystem.

I urge Members to support our bipartisan legislation. We joined in this effort to end mercury pollution in the Great Lakes just this week, but passage of our bill will go a long way to fulfilling our international commitments to our Canadian allies and fulfill the promise of President Bush's Clear Skies Initiative on mercury. But most importantly, Mr. Speaker, it will protect the mothers and children of the Midwest who are most at risk for mercury pollution.

### TURKISH INVASION OF CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, it is my distinct honor and privilege to commemorate the 28th anniversary of the 1974 illegal Turkish invasion of Cyprus. I have commemorated this day since I came to Congress; and unfortunately, each year the occupation continues.

PSEKA, the International Coordinating Committee Justice for Cyprus; the Cyprus Federation of America, an umbrella organization representing the Cypriot American community in the United States; SAE, the World Council of Hellenes Abroad; and the Federation of Hellenic Societies, are all primarily located in the 14th Congressional District, which I am fortunate to represent.

These individuals refuse to believe that peace will not come to Cyprus and have chosen to commemorate this event in very special ways.

On Saturday, July 20, and Sunday, July 21, in the spirit of remembrance and commemoration, a concert will be held on July 20 at the Summer Stage in Central Park, New York, with the participation of two artists from Greece, Dionyssios Savopoulos and Alkinoos Ioannides.

These remarkable performers have been strong advocates against the division of Cyprus and the human rights violations by the Turkish Army in Cyprus.

On July 21, memorial services will be held for the victims of the Turkish invasion and occupation of Cyprus at the Cathedral of Holy Trinity in Manhattan. His Eminence, Archbishop Demetrios, Primate of the Greek Orthodox Church in America, will officiate.

The fundamental fact is that the continued presence of Turkish troops represents a gross violation of human rights and international law. Since they invaded Cyprus in July, 1974, Turkish troops have continued to occupy 37 percent of Cyprus. This is in direct defiance of numerous United Nations resolutions and has been a major source of instability in the eastern Mediterranean.

The new peace initiatives embarked upon by Cyprus, Greece and Turkey continue to say there is hope. I support President Bush, like his predecessor, President Clinton, in saying that true human rights are the goal of the United States Government. A unified Cyprus would promote a stable Mediterranean, economic stability and justice with a comprehensive and fair settlement. Now is the time for a solution.

More than 20 years ago, the leaders of the Greek and Turkish Cypriot communities reached two high-level agreements which provided for the establishment of a bicommunal, bizonal federation. Even though these agreements were endorsed by the U.N. Security Council, there has been no action on the Turkish side to fill in the details or to reach a final agreement.

Instead, for the past 28 years, there has been a Turkish Cypriot leader presiding over a regime recognized only by Turkey and condemned as legally invalid by the U.N. Security Council. Cyprus has been divided by the Green Line, a 113-mile barbed wire fence that runs across the island. Greek-Cypriots are prohibited from visiting the towns and communities where their families have lived for generations.

With 35,000 Turkish troops illegally stationed on the island, it is one of the most militarized areas in the world. This situation has also meant the financial decline of the once-rich northern part of Cyprus to just one-quarter of its former earnings.

Perhaps the single most destructive element of Turkey's fiscal and foreign policy is its nearly 28-year occupation of Cyprus. We now have an atmosphere where there is no valid excuse for not resolving this long-standing problem. Cyprus is set for entrance into the European Union in 2004, and I am hopeful that this reality will act as a catalyst for a lasting solution of the Cyprus challenge. EU membership for Cyprus will clearly provide important economic, political, and social benefits for all Cypriots, both Greek and Turkish alike.

This is why both sides must continue to negotiate. There is also a new climate of cooperation between Turkey and Greece with many positive signs. More has been achieved in the past 2 years than in many years before.

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While the U.S., the EU, Greece and Cyprus have all acted to accommodate Turkish concerns, it is time for Turkey to complete the peace process in good faith. Make no mistake about it, if Turkey wants the Cyprus problem resolved, it will happen. Now is the time for a solution to the Cyprus problem. It will take diligent work by both sides, but with U.S. support and leadership, I am hopeful that we will reach a peaceful and fair solution soon. Twenty-eight years is too long to have a country divided, it is too long to be kept from your home, and it is too long to be separated from your family.

We have seen many tremendous changes around the world.

It is time for the Cypriots to live in peace and security, with full enjoyment of their human rights.

I am hopeful that their desire for freedom will one day be fulfilled.

In recognition of the spirit of the people of Cyprus, I ask my colleagues to join me in honoring the Cyprus Federation of America, and in solemnly commemorating the twenty-eighth anniversary of the invasion of Cyprus.

I hope that this anniversary will mark the advent of true freedom and peace for Cyprus.

## GENERAL LEAVE

Mrs. MALONEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Is there objection to the request of the gentlewoman from New York?

There was no objection.

## CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, as I have done every year and as the gentlewoman from New York just did, we usually do this together, I rise again today to reiterate my fierce objection to the illegal occupation of the island of Cyprus by Turkish troops and declare my grave concern for the future of the area. The island's 28 years of internal division make the status quo absolutely unacceptable.

In July 1974, Turkish troops captured the northern part of Cyprus, seizing over a third of the island. The Turkish troops expelled 200,000 Greek Cypriots from their homes and killed 5,000 citizens of the once peaceful island. Over a quarter of a century later, about 1,500 Greek Cypriots remain missing, including four Americans. The Turkish invasion was a conscious and deliberate attempt at ethnic cleansing. Turkey proceeded to install 35,000 military personnel. Today these troops, in conjunction with the United Nations peacekeeping forces, make the small island of Cyprus one of the most militarized areas in the world. Turkey is the only nation, Mr. Speaker, in the world which recognizes the Turkish Northern Republic of Cyprus.

Twenty-eight years later, the forced separation of these two communities still exists despite efforts by the United Nations and G–8 leadership to mend this rift between north and south. The U.N., with the explicit support of the United States, has sponsored several rounds of proximity talks between the President of the Republic of Cyprus, Mr. Glafcos Clerides, and Mr. Rauf Denktash, the self-proclaimed leader of the occupied northern part of the island.

In January 2002, direct negotiations between President Clerides and Mr. Denktash began. Thus far, these negotiations have not produced any breakthroughs. Regrettably, the progress on an agreement has been thwarted by the intransigent position taken by Mr. Denktash with the full backing of the Turkish government. However, it is encouraging that the two leaders are continuing their direct talks which maintains the possibility that a comprehensive settlement can still be reached.

The recent political events in Turkey and the decision to hold early elections in November of this year will have a direct effect on the outcome of the Cyprus negotiations. While we support the call for elections in Turkey and trust the democratic voice of the Turkish people, we hope that the Cyprus negotiations will not be undermined by election year politics. We hope that all parties running for Parliament will declare their support for a resolution of the Cyprus problem before the end of the year so that a united Cyprus can enter the EU.

Despite the division of the island constantly taking center stage, the Republic of Cyprus has flourished and grown as an economy and society. It is a Europe-oriented nation that is of strategic, economic and political importance to the region and to the rest of the world. Sadly, the people living in the northern part of the island continue to be mired in poverty as a direct result of their leadership's and Turkey's separatist policies. Cyprus is one of the leading candidate nations to join the EU in the next round of enlargement. European Union membership has the potential to act as a catalyst for resolving the problem of Cyprus which has been poisoning the relations among the parties to the conflict and their NATO allies and the United States.

It would also be in the best interest of Turkey to cooperate with the U.N. on Cyprus in order to advance its own membership in the European Union. Northern Cyprus will perhaps be the greatest beneficiary of Cypriot membership and resolution of the entire affair. It is currently in a state of economic distress which is being exacerbated by Turkish intransigence. Turkey spends more than $200 million annually to sustain northern Cyprus. With settlement on the matter of Cyprus, this huge financial obligation would be eliminated. By joining the rest of Cyprus, northern Cyprus would become part of an already progressive economy, eliminating its financial dependence on Turkey.

We are all standing at the threshold of an historic opportunity that will shape the futures of generations of Cypriots, Greeks and Turks. We have a responsibility to these ensuant generations to secure their futures by contributing to the efforts to create a peaceful world. It is precisely, Mr. Speaker, to express the above stated points that I have felt compelled to introduce House Concurrent Resolution 164, a bill which expresses the U.S.'s support for Cyprus' admission to the European Union according to the Helsinki Conclusions of 1999. These specifically state that while a solution to the political crisis in Cyprus is preferable prior to EU accession, it is not a precondition for entry.

Mr. Speaker, we have a moral and ethical obligation to use our influence as Americans, as defenders of democracy and as defenders of human rights to reunify Cyprus. There have been 28 years of illegitimate occupation, violence and strife. Let us not make it 29.

Mr. BAIRD. Mr. Speaker, I would like to thank the Co-Chairs of the Hellenic Caucus, Representatives MICHAEL BILIRAKIS and CAROLYN MALONEY for organizing this special order on Cyprus and for their leadership on this important issue.

Twenty-eight years ago, on July 20, 1974, Turkish troops advanced into the Republic of Cyprus and forcefully occupied the island. Today, Cyprus remains divided with heavily armed Turkish troops occupying approximately 37 percent of the Island. Over the past twenty-eight years there have been signs of hope only to be shattered by statements or displays of aggression resulting in increased tensions and little progress toward resolving the conflict over Cyprus. In 1999, the U.N. Security Council passed resolution 1251 calling for ". . . all States to respect the sovereignty, independence and territorial integrity of the Republic of Cyprus, and requesting them, along with the parties concerned, to refrain from any actions which might prejudice that sovereignty, independence and territorial integrity, as well as from any attempt at partition of the island or its unification with any other country."

The Republic of Cyprus has on many occasions offered an olive branch to end this conflict. The Republic of Cyprus has offered to demilitarize the entire island, and has canceled an order of a surface-to-air missile system. Turkey has rejected these overtures and in fact continues to upgrade its military presence on Cyprus.

Mr. Speaker, throughout its history the United States has stood firmly against the forces of oppression and aggression across the globe. We should continue to advocate and support a peaceful resolution to the problem in Cyprus. As a cosponsor of both H. Con. Res. 164 and 269, I urge the President to take steps to end the restrictions of freedoms on the enclaved people of Cyprus by the Turkish-Cypriots and to work with our allies to support Cyprus' efforts of accession to the European Union (EU).

It is my sincere hope that we will see significant progress toward a unified Cyprus obtained by peaceful means. This can only improve the economic and political stability of the region, which is undoubtedly in the national security and economic interests of the United States.

Mr. Speaker, let me close by thanking my colleagues in the Hellenic Caucus for their exceptional work. I look forward to working with all of them to ensure that some day soon, the unification, not the division of Cyprus, will be commemorated by this body.

Ms. ROS-LEHTINEN. Mr. Speaker, for too many years this Congress has been making its opinion known about the heinous reality that persists on the divided island of Cyprus. Twenty eight years ago this week, Cypriot citizens became refugees within their own country. Homeowners became homeless. Families were divided. Hundreds were killed or disappeared, as they ran for their lives. The divide that endures in Cyprus is one that becomes more evident with every anniversary of the Turkish occupation of the north.

Last night, in the Rayburn Building, I hosted a briefing and film viewing on Cyprus' reunification. That movie, Beyond Division: Reunifying the Republic of Cyprus, began with a very powerful quote which read, "My father says love your country. My country is divided into two. Which part should I love?" It is taken from a poem entitled Love Your Country by Neshe Yashin, a Turkish Cypriot who fled her birthplace in search of safety.

These words capture perfectly the history that plagued Cyprus. A fraternal, peaceful, and bi-communal society was divided and torn by a violent and foreign invasion. The end result was the alienation and isolation of neighbor from neighbor, family member from family member.

Mr. Speaker, I applaud the persistent efforts of my colleagues, MICHAEL BILIRAKIS and CAROLYN MALONEY, for calling this special order and arduously maintaining the plight of the people of Cyprus, particularly those who endure under Turkish control, in the minds of their fellow Members of Congress.

It is shameful that, as we stand here today marking this 28th anniversary of the Turkish invasion of Cyprus, Turkey has not only threatened to annex the north of the island, but has increased its military presence there. Last month's increase of 5,500 troops in the north bolsters the Turkish presence there to more than 40,000 soldiers—by some accounts the highest degree ever.

Twenty eight years ago, when Turkey invaded, 200,000 Greek Cypriots—victims of a policy of ethnic cleansing—were forced from their homes and became internally displaced people, essentially refugees in their own country. They were pushed out to accommodate over 80,000 settlers from mainland Turkey. The U.S. Committee for Refugees calls the internal displacement of people in Cyprus the "longest standing in the [European] region."

Furthermore, Turkish armed forces responsible for the disappearance of 1,463 Greek Cypriots, including four Cypriot-Americans, have remained protected by the impunity the Turkish government has afforded them, despite its obligations under the UN Declaration on the Protection of All Persons from Enforced Disappearances.

In addition, just over a year ago the European Court of Human Rights rendered a decision, finding Turkey guilty of violating 14 articles of the European Convention on Human Rights, and of being an illegal and illegitimate occupying force in Cyprus.

As Cyprus continues on its ensured path towards EU accession, it boggles the mind that Turkey—a NATO member—continues to occupy one-third of Cyprus. If a settlement to Cyprus is not reached by the end of the year, when the island is expected to join Europe, Turkey will be occupying European territory and hampering its chances of attaining that same status during its volatile economic and political crisis.

Mr. Speaker, the government of Turkey and Denktash are to be held responsible for the continual separation of the country of Cyprus. Despite the progress that has been made in the settlement talks that began in December of last year, they have halted development keeping the whole of the Cypriot community from a life of peace and freedom. However, hold-ups with the talks, increased deployment of Turkish troops to northern occupied Cyprus, and threats of annexation have proven futile in eroding international support of Cyprus' EU accession, settlement, or Clerides' government.

We cannot let this body forget the terror and fear that Turkey struck in every Cypriot's heart when they invaded in 1974. As the fifth round of the latest settlement talks commenced this week, we remain watchful, as well as hopeful, that peace may finally reach Cyprus and join both sides.

Mr. CROWLEY. Mr. Speaker, twenty-eight years ago this week, Turkey invaded Cyprus, violating international law and provoking an international outcry. Since June 1974, Turkey has occupied the northern third of this beautiful Mediterranean island—although no other country recognizes the occupation as legitimate. Cypriot President Glafcos Clarides and Turkish Cypriot Leader Rauf Denktash have re-engaged in peace talks aimed at reconciling the two communities of Cyprus since January. A resolution is not yet in sight, however, despite the incentive of accession to the European Union for both Turkey and Cyprus. We must now hope that a compromise will be reached soon, to ensure that Cyprus achieves its potential as a prosperous, progressive nation.

I was fortunate enough to visit Cyprus last summer. It was an eye-opening experience to be on the Green Line in Nicosia and then to walk a few blocks into the heart of a successful European Capital. This dramatic contrast—where conflict and normalcy can co-exist within a few city blocks—reinforces the need to find a solution to this dispute that removes hatred and division from the heart of Cyprus.

Today, Cyprus faces many challenges. The island is split across the middle by a barbed wire fence over one hundred miles long. Thirty-five thousand Turkish troops illegally occupy a third of the island, in what some consider one of the world's most militarized zones. Two hundred thousand Greek Cypriot refugees want to return to their homes in the north of the island but cannot as a result of the Turkish occupation.

Behind these disturbing statistics, there is a fundamental disagreement on the ultimate objective. Greek Cypriots seek a bi-zonal bi-communal federation—a solution endorsed by the United States, the European Union and the United Nations. The Turkish Cypriot leadership, however, seeks a loose confederation of two independent Cypriot states. Turkey has, to date, rejected the UN Security Council's resolutions, which call for the withdrawal of both Turkish troops and the 115,000 Turkish settlers introduced to the north since 1974. It is clear that consensus will not be easily reached, but the leadership of both sides must work diligently to implement a solution, as ordinary Cypriots on both sides of the barbed wire continue to suffer.

Congress must remain committed to helping the two sides settle this twenty-eight year old dispute.

First and foremost, the island must be reunited as a bi-zonal, bi-communal federal Cyprus on the basis of UN Security Council resolutions.

It is also crucial that the north of the island be de-militarized and that the two hundred thousand Greek Cypriot refugees be allowed to return safely to their homes.

In addition, the Turkish Cypriot leadership must address the plight of Greek Cypriots living in northern enclaves. During my trip last year, I attempted to visit Cypriots trapped in such enclaves, but was prevented from doing so by the Turkish Cypriot Authorities. I have co-sponsored House Concurrent Resolution 269, which calls for an end to restrictions on Greek Cypriots living in the North, because I believe that the human rights of this community must be respected by the Turkish Cypriot leadership.

Furthermore, the Administration should continue its annual allocation of $15 million to promote confidence-building measures aimed at bringing the Greek and Turkish Cypriot communities together. This small investment in peace will prove to yield enormous dividends.

And finally, I urge the Administration and my colleagues in Congress to continue to support Cyprus' accession to the European Union. EU membership will provide access to new markets and permit the free movement of goods and people. The European Council has made it clear that reunification will not be a precondition for accession; indeed, membership may even prove to be a catalyst toward the resolution of the Cypriot dispute. It is clearly in the interest of the Turkish Cypriot community to move forward in peace talks so the entire island can benefit from EU membership.

On this important anniversary, I urge all Cypriots to consider the merits of reunification, and I urge Congress and the Administration to remain committed to resolving this issue. The United States must continue to work with Greek Cypriots and Turkish Cypriots as they strive for peace, after twenty-eight years of conflict.

Mr. VISCLOSKY. Mr. Speaker, as a member of the Hellenic Caucus since its inception in 1995, I rise today to mark the 28th anniversary of Turkey's invasion, and subsequent occupation of, Cyprus.

In 1960, Cyprus gained its political independence from the British Empire. Fourteen short years later, however, this independence was shattered when 6,000 Turkish troops and 40 tanks invaded the north coast of Cyprus and proceeded to occupy nearly 40 percent of the island. The ensuing fighting killed thousands of Cypriots and forced hundreds of thousands from their homes. Today, there are 1,619 people still missing, five of whom are United States citizens.

Twenty-eight years after the invasion, we are gathering to remember those who died and to ensure that the world never forgets that Cyprus is a land divided. More than 35,000 Turkish troops continue to occupy Cyprus in violation of international law. A barbed wire fence cuts across the island, separating families from their property and splitting this once beautiful country in half.

Over the course of the 107th Congress, I have petitioned the Bush Administration to take positive steps to help end the occupation of Cyprus, requesting that both President Bush and Secretary of State Powell make the reunification of Cyprus a top priority.

Mr. Speaker, I am proud to join with my colleagues in standing up against Turkish oppression in Cyprus. I would especially like to extend my sincere thanks to the dedicated cochairs of the Hellenic Caucus, Rep. BILIRAKIS and Rep. MALONEY, for their tireless work to ensure that the people of Cyprus are not forgotten. Twenty-eight years is a long time to wait, but it is my sincere hope that our actions will help persuade Turkey to end its unlawful occupation of Cyprus.

Mr. HINCHEY. Mr. Speaker, I rise today to recognize one of the most egregious acts of the 20th century—the Turkish invasion of Cyprus. This Saturday, July 20, will mark the 28th anniversary of the invasion of Cyprus and the 28th year of Turkish occupation of northern Cyprus.

On July 20, 1974, 30,000 Turkish troops invaded northern Cyprus in flagrant violation of international law. More than 200,000 Greek Cypriots were forcibly expelled from their homes and nearly 5,000 were killed. The fates of more than 1,400 Greek Cypriots missing since the occupation remain uncertain. This tragedy is remembered by Greek Cypriots around the world as one of the blackest days in their people's history. I share the outrage of my Greek Cypriot friends and firmly believe Turkey must withdraw its troops from Cyprus and allow reunification to take place.

Unfortunately, Turkey has continued to pour salt on this deep wound. In 1983, again in flagrant violation of international law, Turkey unilaterally declared independence in the area of Cyprus under its military occupation. The UN Security Council, including the United States, condemned this declaration and called for Turkey's withdrawal. To date, Turkey is the only country in the world to recognize the so-called "Turkish Republic of Northern Cyprus." Turkey has also attempted to change the demographic structure of occupied Cyprus by transferring 115,000 Turkish settlers to northern Cyprus and allowing them to live in the homes of expelled Greek Cypriots.

Despite the occupation, Cyprus has achieved remarkable economic growth. It's people enjoy one of the world's highest standards of living and Cyprus is now a leading candidate for membership in the European Union. It is also a thriving democracy that maintains the highest regard for the rule of law and human rights.

In recent months, Turkey has issued threats in response to Cyprus' prospective EU entry. Most worrisome is Turkey's threat to annex the occupied areas of Cyprus. The world must not sit still for such dangerous saber rattling. Fortunately, it has not. The EU has stated that it will not be held hostage to such threats and Cyprus' movement toward EU membership continues. The U.S. has also stated emphatically that it opposes Turkish annexation and believes such threats are destabilizing. Unfortunately, Turkey has not backed off its threats and continues to take positions that fly in the face of the world community's aspirations for peace.

The U.N. Security Council has proposed a peace agreement that would create a single state with two politically equal communities in a bi-zonal and bi-communal federation. The Turkish Cypriot side, backed by Ankara, has rejected this internationally supported proposal. Cyprus supports this proposal and, notwithstanding Turkish opposition, it continues to make overtures in an attempt to resolve this longstanding conflict. The U.S. has supported Cyprus' peace aims but we must do more to press Turkey to allow peace negotiations to move forward.

Cyprus has been a reliable U.S. ally since its independence from Britain in 1960. Our countries share deep commitments to democracy, human rights, free markets and equal justice under law. Following September 11, Cyprus President Glafcos Clerides immediately condemned the terrorist attacks and offered his country's assistance in our efforts to fight terrorism.

This Saturday, at 5:30 a.m., sirens will be sounded across Cyprus to remember the moment when Turkish troops invaded their homeland. I urge my colleagues to take a moment this weekend to recognize the enormous injustice that has persisted in Cyprus at the hands of our NATO ally Turkey. The U.S. must do all it can to end this conflict and restore the right to live in a unified Cyprus for all Greek Cypriots.

Mr. GILMAN. Mr. Speaker, I wish to thank the gentleman from Florida, (Mr. BILIRAKIS), and the gentlewoman from New York, (Mrs. MALONEY), for organizing this special order on Cyprus, and providing us with the opportunity to reflect on the 28th anniversary of the Turkish invasion of Cyprus.

The Cyprus conflict remains one of longest lasting issues of concern to the international community that remains unresolved to this day. For years, Cyprus has been divided by a 113–mile barbed wire fence, in effect sealing off the residents of Cyprus one side from the other.

The presence of 35,000 Turkish troops on the island is unacceptable, and has contributed to a militarized atmosphere that is far from conducive to a life of peace and cooperation for all of its inhabitants. Overall, this conflict has been very costly for both the Greek and the Turkish Cypriot communities, resulting in untold human and economic losses.

Our goal must be to seek the reunification of Cyprus within the framework of a bi-zonal, bi-communal federation, guaranteeing freedom, human rights, and political equality for all of its citizens regardless of their backgrounds. I am encouraged by the UN-brokered efforts earlier this year that represented the first time that the two sides agreed to hold indirect talks since the 1974 invasion.

I applaud the personal efforts of the UN Secretary General, Kofi Annan, to advance the negotiating process, although I am disappointed that despite his visit to the island in May, the two sides failed to meet the June target date for an agreement.

As Cyprus prepares its candidacy for accession to the European Union in advance of the EU's December summit in Copenhagen, it has become increasingly essential that the two sides once again engage in serious negotiations with the goal of a political settlement of their differences and the ultimate unification of the island.

As we continue to press for peace, the US and the international community must pay heed to the anxieties and legitimate concerns of both Greek and Turkish Cypriots. Indeed, a political settlement of the Cyprus issue in accordance with United Nations resolutions would benefit all parties involved, as well as strengthening relations between Greece and Turkey, two of our key NATO allies.

The US must make it clear to Turkey that they stand to benefit, alongside Turkish Cypriot authorities, in promoting the UN's vision for a negotiated settlement to the Cyprus dispute in the near future. A solution to the conflict in Cyprus would promote regional economic opportunities, and would increase the likelihood for Turkish accession to the European Union where it would join Cyprus and much of the rest of Europe as the new century unfolds.

I am one of the few Members of Congress who was serving in the House 28 years ago and I very much regret that on this, the final opportunity I will have to participate on the House floor in a commemoration of this anniversary, the ugly scar that divides Cyprus has not yet been erased.

And yet, Mr. Speaker, I hope that soon, perhaps before the year is out, a breakthrough may yet occur. That is my hope for peace for the people of Cyprus.

## SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, I appreciate the opportunity to take just a few minutes and join my colleagues, and I wanted to talk about the issue of

Social Security and what we are facing with changes. I know that one of my colleagues soon, the gentlewoman from Ohio (Ms. KAPTUR), will be talking specifically about this and thought it might be appropriate to remind people of what some of the benefits of this program are to certain individuals and when it is done right, the significant opportunities that it presents not only to the individuals but for the gain for our country.

We want to produce productive citizens. That opportunity came for me when I was but a young kid. When my father died at my age of 12 years old, he was 54, leaving six children and a wife who did not have an opportunity for employment because she had very little or no education earlier in her own life. Had it not been for the support that our community gave us, this family, with the six kids, with one of them being in a wheelchair because of an illness that left her paralyzed, this family would not have been able to stay together. But through the support of Social Security, as long as we were students, up until the age of 21 years old at that time, we could get that help. It gave us the opportunity to stay together as a family. It gave us the opportunity to be able to get an education because otherwise we would have split up and more than likely have been spending our time earning a living so that those of us who needed to would be able just to survive.

Today, one of us is a very good physician in a State in the South, in Louisiana, another is retired from a major position in a pharmaceutical company, but my point is that all six of my mother's children became successful because of the assistance that our community gave us. And more importantly than anything, we have to realize that as these benefits come to people throughout our country, the benefits of Social Security, we cannot forget, we cannot pull the ladder up behind us and say it is not good for someone else. It made a difference for me. It helped me become the productive citizen that I believe that I am. And if we protect this, this wonderful institution, make sure that it is there for our kids and our grandkids and their children and on down the line as the security blanket that it can be and has been and hopefully will continue to be, then we can make a difference in the productivity of a lot of people in this country and give a great deal back to our Nation.

I look forward to listening to the remarks of other colleagues.

## CLOCKING REPUBLICAN RAID ON SOCIAL SECURITY TRUST FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I want to acknowledge the compelling story of this incredible Member of Congress from Texas, NICK LAMPSON, who placed on the RECORD the story of his family and what Social Security has meant not just to seniors but to the disability insurance program and the insurance program for widows caring for children or widowers and millions of people. We never really know if we will be the one out of five families struck in America with tragedy beyond our ability to control and whether we will have the insurance to weather bad times. And is it not a credit to his mother and their family that every one of those six children has matured into a productive and really priceless citizen for our country. We need more citizens like NICK LAMPSON in this Chamber. We would build a different and better country with that kind of sensitivity and understanding.

Mr. Speaker, I rise tonight to continue what has become my weekly tradition of clocking the Republican raid on the Social Security trust fund. Since early June, I have been coming down here showing how much money they are taking out of the Social Security trust fund and using for other purposes, such as huge tax cuts to the richest 1 percent of people in this country. When I started these remarks, they were borrowing, as of early June, $208 billion. Every single week they have dipped into it more. It went up to $212 billion, then $218 billion, then $223 billion. By July 9 they were at $235 billion. Then at $241 billion. The line of increase into the trust fund is every week growing at geometric proportions. That amounts to already $858 being taken out of your pocket as an American citizen from your Social Security payments.

What is the Republican House leadership doing about this? Nothing. This House leadership has simply refused to address the ongoing raid in the Social Security trust fund. In January of 2001, our Nation had finally, after a 12-year struggle, actually managed to balance the budget. And we had surpluses. People were saying that we would be able to pay off our accumulated debt by the year 2011. There was euphoria. Even on Wall Street they took down the debt clock. What I would like to say to all the Bush administration friends on Wall Street, you ought to put the debt clock back, because the party that represents your big business interests, they are just increasing the debt again. So why do you not put the debt clock up? I would actually go and put one of those hooks in the wall at Times Square myself if I could find out who had that old clock.

Not even 1½ years later, the Congressional Budget Office is projecting that under the Republican budget passed in March of this year, there will be a $1.8 trillion on-budget deficit over the next 10 years. I have been asking myself, why does the Republican leadership of this House love this red ink so much? They are taking money out of the Social Security trust fund in order to give these big tax cuts. I thought, well, maybe they love to issue Federal debt securities because who sells those debt securities? Twenty big bond houses on Wall Street make all the fees. They do not sell savings bonds to average Americans. Try to buy a savings bond and have it sent to your house. It will not happen. You have to go fill out a special form, then they send it over to whoever you say should be the recipient a month later. They have actually taken away the right of individual citizens to buy savings bonds conveniently in this country. They prefer to sell debt securities through the 20 bond houses on Wall Street because they make all the fees, which we pay for out of our tax dollars.

So instead of paying off the debt by 2011, under the Republican budget our publicly held debt is scheduled to increase by $2.8 trillion by fiscal year 2011 and they are covering it over right now by borrowing from what is left in the Social Security trust fund to cover the difference. The biggest reason for this radical reversal in our Nation's financial health is the Bush administration tax cut. How do you feel about $858 being taken out of your pocket and then given to a corporation like Enron this year which is going to take over $350 million in the form of a tax rebate because of the Bush administration tax bill?

Or how about this: Your money is going to the top 1 percent of the wealthiest people in this country who no longer have to pay an inheritance tax. They are taking your money. That is what is happening to the Social Security trust fund.

What is the effect on all of this? The Republicans said they voted. They voted seven times not to do this. It is true, they did vote. But they are not keeping their promise.

□ 1845

They told us they wanted to assure that not a penny of the Social Security surplus would be used for other programs. But, in fact, their promises have not met the true test of time.

So I would say I will be back next week. It is time for the Republicans to stop the raid on Social Security's trust fund, and we are going to stop them come November's election.

## TURKISH INVASION OF CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, tonight I want to join my colleagues on the House floor, the gentleman from Florida (Mr. BILIRAKIS) and the gentlewoman from New York (Mrs.

MALONEY), to remember a horrific act taken by Turkey against the citizens of Cyprus 28 years ago.

On July 28, 1974, the nation of Turkey violated international law when it brutally invaded the sovereign Republic of Cyprus.

Mr. Speaker, in the aftermath of September 11 and the horrific acts of terror that were inflicted upon thousands of innocent Americans in New York and Washington, it is important that this Congress and the American people recognize the events in Cyprus 28 years ago as an act of terror. Turkey illegally used American-supplied airplanes, bombs, and tanks in an act of terror against the people of Cyprus. This terror did not end with the invasion of the island. Instead, more than 200,000 people were forcibly displaced from their homes and a large number of Cypriot people who were captured during the invasion are still missing today.

Last year, the European Court of Human Rights rebuked the Turkish government when the court overwhelmingly found them guilty of massive human rights violations over the last 28 years in a scathing 146-page decision. In the case of Cyprus v. Turkey, the court concluded Turkey has not done enough to investigate the whereabouts of Greek-Cypriot missing persons who disappeared during life-threatening situations after the occupation. The court also found Turkey guilty of refusing to allow the return of any displaced Greek-Cypriots to their homes in Northern Cyprus. Families continue to be separated by the 113-mile barbed wire fence that runs across the island.

Mr. Speaker, it is expected that by the end of this year, Cyprus will be approved for accession into the European Union. The United States has strongly supported the Cyprus EU bid. EU membership will bring significant benefits to both the Greek-Cypriot and Turkish-Cypriot communities.

Last year, a bipartisan House Resolution was introduced in the House expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union, which will provide significant rights and obligations for all Cypriots, and for other purposes. I am hopeful that this Congress will approve that resolution as a strong sign of support for Cyprus's accession to the European Union.

Officials from the EU continue to reiterate that a peace settlement is not a precondition to Cyprus's accession to the European Union. Regardless of whether or not an agreement is reached, the entire island of Cyprus will be recognized as one country within the European Union. Ideally, a settlement will be reached later on this year.

Now, we know that hopes of a settlement continue, but at the end of discussions last month, the President of the Republic of Cyprus, Clerides, said the peace talks with Turkish Cypriot leader Denktash were at a deadlock and that large differences remain.

Mr. Speaker, the time has come for the Bush administration to apply pressure on the Turkish side and, in particular, on the Turkish government so that they can convince Turkish Cypriot leader Denktash to alter his current uncompromising stance. It is time for Denktash to negotiate in good faith in order to reach a comprehensive settlement within the framework provided for by the relevant United Nations Security Council's resolutions. These resolutions establish a bizonal, bicommunal federation with a single international personality and sovereignty and a single citizenship for all of Cyprus.

## FOOD CRISIS IN SOUTHERN AFRICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from California (Ms. WATERS) is recognized for 60 minutes as the designee of the minority leader.

Ms. WATERS. Mr. Speaker, I come this evening to talk about a very serious problem in this world. Last evening, I watched in horror as ABC, the Ted Koppel Show, depicted the food crisis in southern Africa. I watched as one woman was identified as having lost one of her twin babies to hunger, died from hunger, while the other baby was clinging to her breast, attempting to get milk that was not there. I watched as a man was shown sitting on the ground sifting dirt to eat, and the man said he was eating the dirt because it would fill up his stomach and help to do away with the hunger pains. I watched little children eating bugs and insects and others trying to find a morsel of some kind in the weeds. I watched all of this in horror because I have been working on this issue.

I have met with Mr. Natsios on two different occasions. I went to the Committee on International Relations, even though I am not a member of that committee, but I wanted to sit in on a hearing that was being held about the food crisis in southern Africa. Mr. Natsios was there. I heard him testify, I believe at that time, that he was on top of it. Mr. Natsios is in charge of USAID, and he said that they were on top of it, that they were in front of it, that they had organized the food that was to be shipped there, and that they were not worried about people dying, that we would not have the kind of devastation that we had seen during the starvation crisis in Ethiopia some years ago.

I was concerned about that, because at that time, I was getting information that people were already dying. But he said that he was on top of it. We had some of the agencies testifying there who are responsible for distribution of the food, but they seemed to talk in more cautious terms. They seemed to speak about this crisis with the hope that we would be able to keep people from starving and dying, but I did not hear the kind of confidence in their tone and in their voices that I was looking for. So I continued to monitor what was going on.

Just last week I went to a meeting that was held where all of the ambassadors from the countries that are in crisis attended. There was the ambassador from Lesotho, from Malawi, from Mozambique, from Swaziland and Zimbabwe and, again, Mr. Natsios from USAID was at that meeting. I challenged him about our actions in these countries, told him of my concern, and I said to him that I was proposing to put $200 million in the supplemental appropriations bill to make sure we would have enough money for the grain and for the corn, for the food that we were going to dispatch to these hungry countries and get ahead of the curve so that when the rains come in October, we would not have to be worried about the trucks not being able to get where they needed to go. I wanted to get ahead of starvation so that we could get the food to the villages, so that we could get the grain in the grain storehouses. I wanted to avoid precisely what I saw last evening. I did not want ever in my life again to see the kind of starvation, the kind of death, the kind of devastation that I have witnessed too many times as I have watched the stories coming back to us from poor countries across this world.

Mr. Speaker, I wanted the United States to be in the forefront of helping people in the world, and I want us to use the bully pulpit of this great Nation to say to other countries that can be of assistance that they must join.

The Super 8 powers of the world, with all of the resources, must join together to help the poor people of this world. This is how people define us. This is how people determine whether or not we are caring people. As a matter of fact, this is the best kind of diplomacy that we could ever employ. When we show that we care about people, that we are willing to stop little babies from starving to death, that we are willing to lend a helping hand, I think it does more for us than silly negotiations where people are not getting anywhere or getting people to believe much of anything.

Mr. Speaker, my grandmother always said; it is not what you say, it is what you do.

So I watched in horror last evening for precisely that which I was trying so hard to avoid.

It is not just I who was concerned about this issue. The gentlewoman from North Carolina (Mrs. CLAYTON), the gentleman from Massachusetts (Mr. MCGOVERN), and many others have begun to work on this in different ways. I know some people were trying to work over on the Committee on Agriculture. Some people have tried to work from within the Committee on International Relations, and we have gone to people sitting on the appropriate subcommittees of the Committee on Appropriations to talk with them about this issue. So I know a number of people have been trying.

So I certainly did not expect to see those images broadcast on ABC last evening. I certainly did not want to be told by a television program that people were already dying, and I did not want to see that the food is not getting up to the villages, and I did not want to see a woman who walked many miles to get a sack of grain that she placed on her head and walked back to her village with, only to have it distributed among all of the villagers, and she ended up with a 2-day supply, knowing that there would be no more food coming for another month or more. She will probably be dead by the time the next supply comes, and her babies will be dead.

We could have avoided this. We could avoid this by, number one, making sure that we do what we can to appropriate the dollars that we can afford to appropriate, that we talk with the other nations that should be contributing, that we give some leadership to this problem. We know that we need some more money and we have a supplemental appropriation that is coming up, and we know that we are placing money in that supplemental appropriations bill for any number of countries. We know and we understand that there will be money in there for Afghanistan, and it should be. We know that there will be money in there for Israel, and it should be. We know that there will be money in there for many countries, because there are emergencies in the world. But why we have not been able to get the support from this administration to make sure that we can meet the needs of the food crisis of these very, very poor countries, I will never understand.

As a matter of fact, when I said to Mr. Natsios at the last meeting that I wanted to know if he would support $200 million in the supplemental appropriation, he said flat out, no. And he followed it up with saying, you are not going to cause me to lose my job. Well, that simply means he does not have the support of this administration.

I did not wish to come to the floor to have to talk about this. I have tried in the best fashion possible to address this at every possible point that one can inject an issue like this in the Congress of the United States.

□ 1900

But Mr. Speaker, there is a food crisis and people are dying. The children of these countries are already dying. Southern Africa is facing its worst food crisis in nearly 60 years. Almost 13 million people in southern Africa are in danger of starvation. In Zambia, people have turned to some of the desperate measures that I have alluded to, and they are even eating potentially poisonous wild foods.

The crisis, as I have identified, very much affects the people of Lesotho, Malawi, Mozambique, Swaziland, and Zimbabwe. The effects of the food crisis has been exacerbated by the AIDS pandemic in sub-Saharan Africa. The AIDS pandemic has created many orphan children and left large numbers of African families with fewer productive family members to produce food or generate income with which to purchase food.

Furthermore, high rates of HIV infection have caused many Africans to have increased vulnerability to the effects of malnutrition and related diseases, such as cholera and malaria. The World Food Program estimates that 1.2 million metric tons of food assistance will be needed over the next 9 months to meet the minimum food consumption requirements of these six countries. Yet, as of July 12, the United States Government has provided a total of 132,710 metric tons, and that is about 11 percent of the need. Clearly, we can do more.

In the midst of this crisis, the administration is proposing to cut the total spending on food assistance programs by 18 percent. This would reduce food assistance from over $2 billion in fiscal year 2002 to less than $1.7 billion in fiscal year 2003.

There it is. This is what we did in 2001, $2,125,100,000; and in 2002, $2,021,500,000. But now, for 2003, we are only getting from the administration $1,652,000,000. This is unacceptable, and it is unexplainable. Furthermore, it is unconscionable.

On June 20, 2002, I sent a letter to the conferees on H.R. 4775, the Supplemental Appropriations Act for fiscal year 2002, asking them to provide an emergency supplemental appropriation of $200 million to respond to the food crisis in southern Africa. An emergency appropriation is essential to enable the United States Government to provide desperately needed assistance to millions of starving people.

Sixty-two Members of Congress signed my letter, but I have not heard anything. Today, I brought this up in a meeting that was being held, I believe it was a whip meeting this morning. Most of the people in that meeting were alarmed, and they said they did not know about it and immediately said they wanted to do something to help. I went to the conference committee immediately following the whip meeting this morning, and I gave the information out once again.

I have been told that, oh, I am a little bit late; that somehow, we cannot get back to that section, that we would have to take this up in the conference committee.

I am not late. I sent this letter in June to this conference committee.

I am not late. I had 62 Members of Congress sign this letter.

I am not late because I went to the Committee on International Relations over 2 months ago.

I am not late because I have been working on this issue long enough for this issue now to be taken up in the supplemental appropriations bill.

Why are we not getting a response? We are not getting a response because I suppose people just do not pay enough attention to countries that are not politically powerful. I suppose Africa is still at the bottom of the list.

I have lived long enough to see starvation on the continent. I have lived long enough to see 1 million people killed in a senseless war in Rwanda. I have lived long enough to watch this pandemic, where Africa is at the top of the world with HIV and AIDS infections.

I am watching as we have worked so hard over the years to get rid of apartheid in South Africa, and still there are Africans who have no place to live, who are living up in huts, and even last night as they showed the people of Malawi living in grass huts, one little space for families with children, with nothing but a few pots and pans and dirt floors.

Well, I said to myself a long time ago, I may be one person in the Congress of the United States, and I may not be able to get the assistance that Africa needs, I may not be able to convince my colleagues, I may not be able to get the appropriations, but I will never stop trying. I will never be quiet. I will never go away. I will never allow this kind of devastation to take place and pretend it is not happening.

The people of Africa, many of them in many of these places that I am talking about may be poor, uneducated, may not have anything, and do not know how to lobby these major countries of the world. They may not have representatives that are doing the best job. But that does not matter. Those of us who are here who claim to care about people, who claim to be about the business of humanitarian assistance to the least of these, must speak out. We must talk about this starvation. We must talk about this devastation.

Oh, yes, there are problems in Africa, and some of them are political. And, yes, they have, in some places in Africa, leaders who do not always do the right thing by their people. When we look at Zimbabwe and the problems they are having, there is a lot that we can criticize Mugabe for.

But the little people who are hungry and dying are also at the mercy of the leadership. They are not making the decisions. They cannot be blamed for the sins of Mugabe and anybody else. The babies do not deserve that. The families do not deserve that. We cannot punish the hungry and the weak and the ignorant and the uneducated and the poor because they happen to have leaders that perhaps we do not like. We cannot ignore these countries because they do not have the sophisticated lobbying power and the communications and the ability to get people to act.

I am challenging this administration to do the right thing. It is not enough to go to the big G–8 conference and stand with one leader from Africa, as was done recently, and talk about what we are going to do for Africa while we have a crisis going on. The proof of the pudding is in the eating: get the food to these six countries. Let us get some grain to the farmers, so they can plant the seeds, so they can get ahead of the famine. Let us give some support so they can dig the wells and have the irrigation.

Part of what is wrong now in these countries is the fact that there is a drought. They have been devastated, first by flood, then by drought.

Then, I want to know about the International Monetary Fund and why they told the leaders of Malawi to sell the grain to pay off their debt. I want to know why they are part of helping to drive this country into starvation.

There are a lot of powerful forces at work in the world. Whether we are talking about the World Bank or the IMF or any of these entities, they can find a way to lend money to major corporations to build pipelines in Africa so American corporations can get richer and richer; but they cannot find a way to irrigate the land and to help bring water in so that people can have crops during times of crisis. We have not found a way to give agricultural assistance so we can fertilize the land and we can have the people plant the seeds so they can produce the food that they will need. So we have a crisis and people are dying.

This administration must step forward and must provide some leadership; must use its prestige in the world to reach out to other countries and get them to do what they should be doing. I am going to talk about this ad nauseum. I am going to talk about it until I cannot talk about it anymore.

I want to say to my colleagues that we cannot sit back and watch these images of dying children continue to come on television and say that we are legislators doing our job on the domestic and the international agenda. I know that we can do better than this. I know that we know it is a crisis.

I know that Mr. Natsios now knows that he is not ahead of this problem. As a matter of fact, it is going to get worse. When the time comes, after the rains, when the trucks cannot get up into the villages, many, many people are going to die.

So I come this evening to share this information and to sound the alarm, and to alert all those within my voice to join me in urging and pressing this administration, to join me in getting my colleagues to move, to join me in making this Congress what it could be and what it should be.

I am very, very concerned, frustrated, and unhappy about what is going on; and I am not going to allow this frustration to cause me to walk away. Even though I will go to bed tonight dissatisfied, frustrated, and even upset, I am going to get up tomorrow morning and start all over again. I am going to get with my leadership again. I am going to talk with the leaders on the other side of the aisle. I am going to call Mr. Natsios and bug him one more time; and he is going to hear my sharp tones, as he did today, every day. I am going back to the supplemental conference committee. I am going to keep on working this at every turn until I can try and get a real response.

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## HOUSE BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the following titles:

January 23, 2002:

H.R. 2884. An act to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States, and for other purposes.

H.R. 3447. An act to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, to provide an additional basis for establishing the inability of veterans to defray expenses of necessary medical care, to enhance certain health care programs of the Department of Veterans Affairs, and for other purposes.

January 24, 2002:

H.R. 3392. An act to name the national cemetery in Saratoga, New York, as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes.

February 6, 2002:

H.R. 400. An act to authorize the Secretary of the Interior to establish the Ronald Reagan Boyhood Home National Historic Site, and for other purposes.

H.R. 1913. An act to require the valuation on nontribal interest ownership of subsurface rights within the boundaries of the Acoma Indian Reservation, and for other purposes.

February 12, 2002:

H.R. 700. An act to reauthorize the Asian Elephant Conservation Act of 1997.

H.R. 1937. An act to authorize the Secretary of the Interior to engage in certain feasibility studies of water resource projects in the State of Washington.

February 14, 2002:

H.J. Res. 82. Joint resolution recognizing the 91st birthday of Ronald Reagan.

March 9, 2002:

H.R. 300. An act to provide tax incentives for economic recovery.

March 11, 2002:

H.R. 2998. An act to authorize the establishment of Radio Free Afghanistan.

March 13, 2002:

H.R. 1892. An act to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked.

H.R. 3699. An act to revise certain grants for continuum of care assistance for homeless individual and families.

March 25, 2002:

H.R. 3986. An act to extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

March 27, 2002:

H.R. 2356. An act to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

April 4, 2002:

H.R. 1499. An act to amend the District of Columbia College Access Act of 1999 to permit individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school and individuals who attend private historically black colleges and universities nationwide to participate in the tuition assistance programs under such Act, and for other purposes.

H.R. 2739. An act to amend Public Law 107–10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes.

H.R. 3985. An act to amend the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955, to provide for binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community.

April 18, 2002:

H.R. 1432. An act to designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the "Major Lyn McIntosh Post Office Building".

H.R. 1748. An act to designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the "Tom Bliley Post Office Building".

H.R. 1749. An act to designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the "Herbert H. Bateman Post Office Building".

H.R. 2577. An act to designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the "Bob Davis Post Office Building".

H.R. 2876. An act to designate the facility of the United States Postal Service located in Harlem, Montana, as the "Francis Bardanouve United States Post Office Building".

H.R. 2910. An act to designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the "Norman Sisisky Post Office Building".

H.R. 3072. An act to designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the "Vernon Tarlton Post Office Building".

H.R. 3379. An act to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the "Raymond M. Downey Post Office Building".

May 13, 2002:

H.R. 2646. An act to provide for the continuation of agricultural programs through fiscal year 2007, and for other purposes.

May 7, 2002:

H.R. 861. An act to make technical amendments to section 10 of title 9, United States Code.

H.R. 4167. An act to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

May 14, 2002:

H.R. 3525. An act to enhance the border security of the United States, and for other purposes.

May 15, 2002:

H.R. 169. An act to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

May 17, 2002:

H.R. 495. An act to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the "Ron de Lugo Federal Building".

H.R. 819. An act to designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the "Donald J. Pease Federal Building".

H.R. 3093. An act to designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the "William L. Beatty Federal Building and United States Courthouse".

H.R. 3282. An act to designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the "Mike Mansfield Federal Building and United States Courthouse".

May 20, 2002:

H.R. 2048. An act to require a report on the operations of the State Justice Institute.

H.R. 2305. An act to authorize certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes.

H.R. 4156. An act to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

May 29, 2002:

H.R. 4592. An act to name the chapel located in the national cemetery in Los Angeles, California, as the "Bob Hope Veterans Chapel".

H.R. 4608. An act to name the Department of Veterans Affairs Medical and Regional Office Center in Wichita, Kansas, as the "Robert J. Dole Department of Veterans Affairs Medical and Regional Office Center".

May 30, 2002:

H.R. 1840. An act to extend eligibility for refugee status of unmarried sons and daughters of certain Vietnamese refugees.

H.R. 4782. An act to extend the authority of the Export-Import Bank until June 14, 2002.

June 10, 2002:

H.R. 3167. An act to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

June 12, 2002:

H.R. 3448. An act to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

June 18, 2002:

H.R. 1366. An act to designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the "Hector G. Godinez Post Office Building".

H.R. 1374. An act to designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building".

H.R. 3789. An act to designate the facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, as the "Teno Roncalio Post Office Building".

H.R. 3960. An act to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the "Joseph W. Westmoreland Post Office Building".

H.R. 4486. An act to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the "Clarence B. Craft Post Office Building".

June 19, 2002:

H.R. 4560. An act to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

June 25, 2002:

H.R. 3275. An act to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

June 28, 2002:

H.R. 327. An act to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine information collection and dissemination, and for other purposes.

## SENATE BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the Senate of the following titles:

February 8, 2002:

S. 1762. An act to amend the Higher Education Act to 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

S. 1888. An act to amend title 18 of the United States Code to correct a technical error in the codification of title 36 of the United States Code.

February 14, 2002:

S. 737. An act to designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the "Joseph E. Dini, Jr. Post Office".

S. 970. An act to designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the "Horatio King Post Office Building".

S. 1026. An act to designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the "Pat King Office Building".

March 12, 2002:

S. 1206. An act to reauthorize the Appalachian Regional Development Act of 1965, and for other purposes.

March 14, 2002:

S.J. Res. 32. Joint Resolution Congratulating the United States Military Academy at West Point on its bicentennial anniversary, and commending its outstanding contributions to the Nation.

March 19, 2002:

S. 1857. An act to encourage the negotiated settlement of tribal claims.

March 31, 2002:

S. 2019. An act to extend the authority of the Export-Import Bank until April 30, 2002.

May 1, 2002:

S. 2248. An act to extend the authority of the Export-Import Bank until May 31, 2002.

May 14, 2002:

S. 1094. An act to amend the Public Health Service Act to provide for research, information, and education with respect to blood cancer.

May 21, 2002:

S. 378. An act to redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the "Paul Simon Chicago Job Corps Center."

June 14, 2002:

S. 1372. An act to reauthorize the Export-Import Bank of the United States.

June 24, 2002:

S. 2431. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits.

June 28, 2002:

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. NADLER (at the request of Mr. GEPHARDT) for July 17 on account of family matters.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. HINCHEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. CROWLEY, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. BAIRD, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

The following Members (at the request of Mr. PENCE) to revise and extend their remarks and include extraneous material:

Mr. PENCE, for 5 minutes, today.

Mr. ROGERS of Michigan, for 5 minutes, July 22.

Mr. FOLEY, for 5 minutes, July 22.

Mr. FERGUSON, for 5 minutes, July 22.

Mr. TIAHRT, for 5 minutes, July 22.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. LAMPSON, for 5 minutes, today.

## ADJOURNMENT

Ms. WATERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until Monday, July 22, 2002, at 12:30 p.m., for morning hour debates.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8077. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clarified Hydrophobic Extract of Neem Oil; Pesticide Tolerance; Technical Correction [OPP-2002-0073; FRL-6835-1] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8078. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Cyhalofop-butyl; Pesticide Tolerance Technical Correction [OPP-2002-0087; FRL-7185-1] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8079. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting notification of the 2002 compensation program adjustments, including the Agency's current salary range structure and the performance-based merit pay matrix; to the Committee on Agriculture.

8080. A communication from the President of the United States, transmitting notification of the intention to reallocate funds within the Department of Defense previously transferred from the Emergency Response Fund; (H. Doc. No. 107—246); to the Committee on Appropriations and ordered to be printed.

8081. A letter from the Secretary, Department of Education, transmitting a report concerning surplus Federal real property disposed of to educational institutions, pursuant to 40 U.S.C. 484(o); to the Committee on Education and the Workforce.

8082. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule — Exemption From Control of Certain Industrial Products and Materials Derived From the Cannabis Plant [DEA-206] (RIN: 1117-AA55) received April 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8083. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination that State has Corrected the Rule Deficiencies and deferral of Sanctions, Ventura County Air Pollution Control District, State of California [CA 266-0358c, FRL-7235-7] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8084. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Idaho: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7239-7] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8085. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [FRL-7237-5] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8086. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan; Bay Area Air Quality Management District; South Coast Air Quality Management District [CA 243-0357a; FRL-7232-6] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8087. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-412, "Cable Television Reform Amendment Act of 2002" received July 18, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

8088. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-411, "Approval of the Franchise of Comcast Cablevision of the District to Provide Cable Service in the District of Columbia Act of 2002" received July 18, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

8089. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform.

8090. A letter from the Executive Director, Federal Labor Relations Authority, transmitting a copy of Fiscal Year 2001 inventory of commercial activities performed by Federal employees pursuant to the provisions of the Federal Activities Inventory Reform Act; to the Committee on Government Reform.

8091. A letter from the Deputy Director, Federal Mediation and Conciliation Service, transmitting the FY 2001 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

8092. A letter from the Deputy Archivist, National Archives and Records Administration, transmitting the Administration's final rule — NARA Regulations; Technical Amendments (RIN: 3095-AB15) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8093. A letter from the Deputy Archivist, National Archives and Records Administration, transmitting the Administration's final rule — National Historical Publications and Records Commission Grant Regulations (RIN: 3095-AA93) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8094. A letter from the Deputy Archivist, National Archives and Records Administration, transmitting the Administration's final rule — NARA Facilities; Addresses and Hours (RIN: 3095-AB08) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8095. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Prospecting for Minerals Other Than Oil, Gas, and Sulphur on the Outer Continental Shelf (RIN: 1010-AC48) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8096. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Document Incorporated by Reference-API RP 14C (RIN: 1010-AC93) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8097. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — New Mexico Regulatory Program [NM-042-FOR] received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8098. A letter from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting the Department's final rule — Law and Order on Indian Reservations (RIN: 1076-AE33) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8099. A letter from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting the Department's final rule — Distribution of Fiscal Year 2002 Indian Reservation Roads Funds (RIN: 1076-AE28) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8100. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL, and Port of Key West, Key West, Florida; Hutchinson Island Power Plant, St. Lucie, Florida, and Turkey Point Power Plant, Florida City, FL [COTP MIAMI-02-054] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8101. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations; Deerfield Beach Super Boat Race, Deerfield Beach, FL [CGD07-02-013] (RIN:

2115-AE46) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8102. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, mile 1069.4 Dania Beach, Broward County, FL [CGD07-01-143] (RIN: 2115-AE47) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8103. A letter from the Chairman, Interagency Coordination Committee on Oil Pollution Research, Department of Transportation, transmitting the Department's report on the Interagency Coordinating Committee on Oil Spill Pollution Research, pursuant to 33 U.S.C. 2761(e); to the Committee on Science.

8104. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Criteria for Submitting Supplemental Practice Expense Survey Data Under the Physician Fee Schedule [CMS-1223-IFC] (RIN: 0938-AL99) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 1070. A bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern and to authorize assistance for research and development of innovative technologies for such purposes; with an amendment (Rept. 107-587, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 4940. A bill to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes (Rept. 107-588). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 5055. A bill to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge (Rept. 107-589). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Permanent Select Committee on Intelligence. H.R. 4628. A bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; with an amendment (Rept. 107-592). Referred to the Committee of the Whole House on the State of the Union.

### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Science discharged from further consideration. H.R. 1070 referred to the Committee of the Whole House on the State of the Union.

## REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 1701. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes, with an amendment; referred to the Committee on Judiciary for a period ending not later than September 9, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1 (K), rule X (Rept. 107-590, Pt. 1).

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3215. A bill to amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes, with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than July 19, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X (Rept. 107-591, Pt. 1).

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1070. Referral to the Committee on Science extended for a period ending not later than July 18, 2002.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. RAHALL (for himself, Mr. KILDEE, Mr. GEORGE MILLER of California, Mr. FALEOMAVAEGA, Mr. PALLONE, Mr. UDALL of New Mexico, Mr. CARSON of Oklahoma, Ms. MCCOLLUM, Mr. KENNEDY of Rhode Island, and Mr. BALDACCI):

H.R. 5155. A bill to protect sacred Native American Federal lands from significant damage; to the Committee on Resources.

By Mrs. CUBIN:

H.R. 5156. A bill to amend the Outer Continental Shelf Lands Act to protect the economic and land use interests of the Federal Government in the management of outer continental shelf lands for energy-related and certain other purposes, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, Mr. BORSKI, Mr. ENGLISH, Mr. PITTS, Mr. OTTER, Mr. COBLE, Mr. KINGSTON, Mr. MCGOVERN, Mr. ACEVEDO-VILA, Mr. CRAMER, Mr. FRANK, Mr. THORNBERRY, Mr. DEFAZIO, Mr. FOLEY, Mr. COMBEST, Mr. HOLDEN, Mr. FORBES, Mr. SIMPSON, Mrs. BONO, Mr. LOBIONDO, Mrs. TAUSCHER, Mr. TAYLOR of Mississippi, Mrs. KELLY, Mr. CALVERT, Ms. WOOLSEY, Mr. BOYD, Mr. MALONEY of Connecticut, Mr. HALL of Texas, Mr. THOMPSON of California, Mr. GEKAS, Mr. LYNCH, Ms. HOOLEY of Oregon, Mr. BEREUTER, Mr. MANZULLO, Mr. GILCHREST, Mr. GOSS, and Mr. LEWIS of California):

H.R. 5157. A bill to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. THOMPSON of California (for himself, Mr. BROWN of Ohio, Mr. BLUMENAUER, Mr. HALL of Ohio, Ms. SLAUGHTER, Mr. FILNER, Mrs. THURMAN, Ms. MCKINNEY, and Mr. GEORGE MILLER of California):

H.R. 5158. A bill to establish a grant and fee program through the Environmental Protection Agency to encourage and promote the recycling of used computers and to promote the development of a national infrastructure for the recycling of used computers, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. JO ANN DAVIS of Virginia:

H.R. 5159. A bill to authorize States to regulate the receipt and disposal of out-of-State municipal solid waste; to the Committee on Energy and Commerce.

By Mr. GEPHARDT (for himself, Mr. SHOWS, Mr. HOLDEN, Mr. PHELPS, Ms. CARSON of Indiana, Mr. RANGEL, Mr. LAFALCE, Mr. CONYERS, Mr. GEORGE MILLER of California, Mr. MATSUI, Ms. LEE, Mr. DICKS, Mr. WAXMAN, Ms. SLAUGHTER, Mr. CARDIN, Mr. TIERNEY, Mr. LYNCH, Mr. BONIOR, Mr. BARRETT, and Mr. FRANK):

H.R. 5160. A bill to promote corporate responsibility; to the Committee on Financial Services, and in addition to the Committees on Ways and Means, the Judiciary, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEUTSCH (for himself and Ms. ROS-LEHTINEN):

H.R. 5161. A bill to provide for the transfer of certain real property by the Secretary of Housing and Urban Development; to the Committee on Government Reform.

By Mr. GUTIERREZ:

H.R. 5162. A bill to treat arbitration clauses which are unilaterally imposed on consumers as an unfair and deceptive trade practice and prohibit their use in consumer transactions, and for other purposes; to the Committee on Financial Services.

By Mr. HAYWORTH (for himself and Mr. PASTOR):

H.R. 5163. A bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; to the Committee on Resources.

By Mrs. MALONEY of New York (for herself, Mr. SERRANO, Mr. WEINER, and Mr. MCNULTY):

H.R. 5164. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to improve Federal response efforts after a terrorist strike or other major disaster affecting homeland security, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PLATTS (for himself, Mr. Jenkins, and Mr. Souder):

H.R. 5165. A bill to amend the Internal Revenue Code of 1986 to provide for an enhanced deduction for qualified residence interest on acquisition indebtedness for heritage homes; to the Committee on Ways and Means.

By Mr. PORTMAN (for himself, Mr. Armey, Mr. Crane, Mr. Houghton, Mr. Camp, Ms. Dunn, Mr. English, Mr. Watkins, Mr. Weller, Mr. Lewis of Kentucky, and Mr. Foley):

H.R. 5166. A bill to simplify the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 5167. A bill to amend title XVIII of the Social Security Act with respect to reform of payment for drugs and biologicals under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAYLOR of North Carolina:

H.R. 5168. A bill to provide a process for the establishment of the Blue Ridge National Heritage Area in the State of North Carolina, and for other purposes; to the Committee on Resources.

By Mr. FOSSELLA (for himself, Mrs. McCarthy of New York, Mr. Hinchey, Mr. Grucci, Mr. Gilman, Mr. Rangel, Mrs. Maloney of New York, Mr. Towns, Mr. Nadler, Mr. King, Mr. Quinn, Mrs. Kelly, Mr. Ackerman, Mr. Weiner, Mr. Houghton, Mr. Israel, Mr. Engel, and Mr. Boehlert):

H. Res. 492. A resolution expressing gratitude for the 10-month-long World Trade Center cleanup and recovery efforts at the Fresh Kills Landfill on Staten Island, New York, following the terrorist attacks of September 11, 2001; to the Committee on Government Reform.

By Mr. JEFFERSON:

H. Res. 493. A resolution providing for consideration of the bill (H.R. 664) to amend title II of the Social Security Act to provide that the reductions in Social Security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200; to the Committee on Rules.

By Mrs. MORELLA (for herself, Mr. Ehrlich, Mr. Gilchrest,. Mr. Tom Davis of Virginia, Mr. Wolf, Mr. Boehlert, Mr. Moran of Virginia, and Mr. Wynn):

H. Res. 494. A resolution honoring the United States Youth Soccer National Championships at the Maryland SoccerPlex in Germantown, Maryland; to the Committee on Government Reform.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

334. The SPEAKER presented a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 58 memorializing the United States Congress to enact legislation to ensure that deserving victims of asbestos exposure receive compensation for their injuries; to the Committee on the Judiciary.

335. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 16 memorializing the United States Congress to impose a quota on certain imported seafood such as shrimp; jointly to the Committees on Agriculture and Ways and Means.

336. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 69 memorializing the United States Congress to request that the United Nations consider the establishment in Hawaii, of a Center for the Health, Welfare, and Education of Children, Youth and Families for Asia and the Pacific; jointly to the Committees on International Relations and Energy and Commerce.

337. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 62 memorializing the United States Congress to convene a summit meeting to discuss a long range, strategic plan for future economic development of the utility, communication, and transportation industry in Louisiana; jointly to the Committees on Transportation and Infrastructure, Financial Services, and Energy and Commerce.

338. Also, a memorial of the Legislature of the State of Colorado, relative to Senate Joint Resolution No. 02-008 memorializing the United States Congress and President Bush for his decision to protect the United States steel industry and continue to express support for the federal Steel Revitalization Act of 2001 and the emergency measures that need to be taken to save the American Steel Industry; jointly to the Committees on Ways and Means, Financial Services, and Education and the Workforce.

339. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 127 memorializing the United States Congress to appropriate adequate financial impact assistance for health, education, and other social services for Hawaii's Freely Associated States citizens; jointly to the Committees on Agriculture, Ways and Means, Financial Services, and Energy and Commerce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. Sullivan.
H.R. 134: Mr. Matheson.
H.R. 168: Mr. Herger.
H.R. 257: Mr. Hyde and Mr. Graham.
H.R. 267: Mr. John.
H.R. 439: Mr. Underwood.
H.R. 488: Mr. Kennedy of Rhode Island.
H.R. 548: Mr. Tierney.
H.R. 632: Mr. Gonzalez, Mr. Stearns, and Mr. Fossella.
H.R. 690: Mr. Levin.
H.R. 699: Mr. Hilleary.
H.R. 737: Ms. McKinney.
H.R. 792: Mr. Nadler and Mr. Smith of New Jersey.
H.R. 951: Ms. Slaughter, Mr. Lipinski, and Mr. Walsh.
H.R. 1005: Mr. Phelps.
H.R. 1021: Mr. Shimkus.
H.R. 1155: Mr. Linder.
H.R. 1213: Mr. Bereuter.
H.R. 1233: Mr. Underwood.
H.R. 1360: Mr. Becerra and Mr. Carson of Oklahoma.
H.R. 1490: Ms. Rivers.
H.R. 1556: Mr. Skelton.
H.R. 1581: Mr. Putnam and Mr. Boswell
H.R. 1609: Mr. Frost and Mr. Skelton.
H.R. 1908: Mr. Bryant.
H.R. 2021: Mr. Peterson of Minnesota.
H.R. 2219: Mr. Bishop and Mr. Engel.
H.R. 2220: Mr. Baird.
H.R. 2316: Mr. Hefley.
H.R. 2320: Mr. Carson of Oklahoma.
H.R. 2462: Mr. Stupak.
H.R. 2748: Ms. Solis.
H.R. 2817: Mr. Phelps.
H.R. 2905: Mr. LoBiondo.
H.R. 3154: Mr. Smith of New Jersey.
H.R. 3183: Mr. Bonior.
H.R. 3246: Mr. McDermott.
H.R. 3320: Mr. Herger.
H.R. 3450: Mr. Cramer, Mr. Collins, Mr. Matheson, and Mr. Hilleary.
H.R. 3585: Mr. Levin.
H.R. 3645: Mr. Shows, Ms. Berkley, Mr. Pickering, and Mr. Rodriguez.
H.R. 3710: Mr. Snyder, Mr. Bryant, Mr. Jefferson, Mr. Larson of Connecticut, Mr. Rangel, and Mr. Owens.
H.R. 3747: Mr. George Miller of California.
H.R. 3770: Mr. Baldacci and Mr. English.
H.R. 3772: Ms. McKinney.
H.R. 3782: Ms. Harman and Ms. Millender-McDonald.
H.R. 3795: Mr. Evans and Mr. Abercrombie.
H.R. 3804: Mr. Hall of Ohio, Mr. Nadler, Ms. Norton, and Mr. Levin.
H.R. 3880: Mr. Sweeney.
H.R. 3884: Ms. Velázquez, Mr. Kucinich, Mr. Boswell, Mr. Ford, Mr. Rothman, and Mr. Thompson of Mississippi.
H.R. 3973: Mr. Fossella.
H.R. 3974: Mr. Rush.
H.R. 3992: Mr. Carson of Oklahoma.
H.R. 4010: Mr. Cooksey.
H.R. 4029: Mr. Underwood.
H.R. 4030: Mr. Whitfield.
H.R. 4058: Mr. Crowley and Mrs. Morella.
H.R. 4515: Mr. Frost.
H.R. 4555: Mr. Fossella and Ms. Brown of Florida.
H.R. 4599: Mr. Phelps and Ms. Norton.
H.R. 4600: Mrs. Kelly and Mrs. Cubin.
H.R. 4614: Mr. Wexler.
H.R. 4646: Mr. Deutsch and Mr. Schiff.
H.R. 4683: Ms. Baldwin, Mr. DeFazio, and Ms. Rivers.
H.R. 4691: Mr. Burton of Indiana, Mr. Petri, Mr. Oberstar, Mr. Cantor, Mr. Kennedy of Minnesota, Mr. Hoekstra, Mr. Schrock, and Mr. Tom Davis of Virginia.
H.R. 4697: Mr. Foley and Mr. Brown of Ohio.
H.R. 4720: Mr. Gordon.
H.R. 4738: Mr. Ehrlich, Mrs. Bono, and Mr. Whitfield.
H.R. 4740: Mr. Udall of New Mexico and Mr. Thompson of California.
H.R. 4742: Mr. Hoyer.
H.R. 4764: Mr. Phelps and Mr. Costello.
H.R. 4777: Mr. Quinn, Mr. Hill, and Ms. Millender-McDonald.
H.R. 4793: Mr. Cummings and Mr. Pascrell.
H.R. 4814: Mr. Acevedo-Vila.
H.R. 4843: Mr. Pence, Mr. Souder, Mr. Platts, Mr. Leach, Mr. Bryant, Mr. Davis of Illinois, Mr. Blagojevich, Mr. Manzullo, Mr. Hilleary, Mr. Burton of Indiana, and Mr. Price of North Carolina.
H.R. 4887: Mr. Kleczka and Mr. Deutsch.
H.R. 4904: Ms. Schakowsky, Mr. Bonior, and Mr. Rothman.
H.R. 4925: Mr. Maloney of Connecticut.
H.R. 4940: Mr. Udall of New Mexico, Mr. Gibbons, and Mr. Callahan.
H.R. 4950: Mr. Graham, Mr. Schrock, and Mr. Brown of South Carolina.

H.R. 4965: Mr. GANSKE, Mr. GOSS, Mr. PLATTS, and Mr. POMBO.

H.R. 5023: Ms. LEE, Mr. LANGEVIN, Mr. DOGGETT, Mr. FROST, Mr. FILNER, Mr. TIERNEY, Mr. LIPINSKI, Mr. WAXMAN, Ms. SCHAKOWSKY, Mr. BONIOR, and Mr. McGOVERN.

H.R. 5026: Mr. FOSSELLA.

H.R. 5031: Ms. LOFGREN and Mr. DEUTSCH.

H.R. 5033: Mr. SCHROCK, Mr. KELLER, Mr. GALLEGLY, and Mr. PETERSON of Pennsylvania.

H.R. 5055: Mr. PICKERING.

H.R. 5064: Mr. RILEY.

H.R. 5085: Mr. LEVIN and Mrs. JO ANN DAVIS OF VIRGINIA.

H.R. 5104: Ms. McKINNEY, Mr. KILDEE, Mr. McDERMOTT, and Mr. FROST.

H.R. 5107: Ms. McCARTHY of Missouri, Mr. ACKERMAN, Mr. ANDREWS, Mr. BARRETT, Ms. BERKLEY, Mr. BLAGOJEVICH, Mr. CLEMENT, Ms. DeLAURO, Mr. GILMAN, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FATTAH, Mr. FILNER, Mr. FORD, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HINCHEY, Mr. INSLEE, Mr. KENNEDY of Rhode Island, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. LIPINSKI, Ms. LOFGREN, Mr. LUTHER, Mrs. McCARTHY of New York, Mr. McNULTY, Mr. MEEKS of New York, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. UDALL of Colorado, Ms. VELÁZQUEZ, Ms. WATERS, and Mr. WEINER.

H.R. 5112: Mr. UNDERWOOD.

H.R. 5122: Mr. BURTON of Indiana.

H.R. 5147: Mrs. MYRICK, Mr. CANNON, Mr. MANZULLO, Mr. WAXMAN, Ms. McCARTHY of Missouri, Mr. REHBERG, Mr. WHITFIELD, Mr. ADERHOLT, and Mr. LEWIS of California.

H.J. Res. 105: Mr. BALLENGER.

H.J. Res. 106: Mr. AKIN, Mr. BALLENGER, and Mr. BARCIA.

H. Con. Res. 4: Mr. MALONEY of Connecticut.

H. Con. Res. 20: Mr. LYNCH, Mr. FILNER, and Mrs. BONO.

H. Con. Res. 164: Mr. FRANK.

H. Con. Res. 269: Ms. ESHOO, Mr. GEKAS, Mr. GILCHREST, Mr. GUTIERREZ, Mrs. MORELLA, Ms. RIVERS, and Mr. SNYDER.

H. Con. Res. 297: Mr. LARSON of Connecticut, Mrs. MORELLA, Mr. FROST, Mrs. MINK of Hawaii, Mr. ROHRABACHER, Mr. BARR of Georgia, and Mr. FOSSELLA.

H. Con. Res. 436: Ms. SOLIS.

H. Con. Res. 437: Mr. DICKS, Mr. ROHRABACHER, Mr. DEUTSCH, and Mr. ENGLISH.

H. Con. Res. 438: Mrs. JONES of Ohio, Mr. LEWIS of Georgia, and Mr. FRANK.

H. Con. Res. 439: Mr. WAXMAN, Mr. WALSH, Mrs. MORELLA, Mr. OBERSTAR, Mr. KOLBE, Mr. STARK, Mr. HOYER, Mr. DICKS, Mr. COMBEST, Mr. SKEEN, Mr. McDERMOTT, Mr. TANNER, Mr. NEAL of Massachusetts, Mr. BERMAN, and Ms. NORTON.

H. Con. Res. 442: Mr. SHUSTER, Mr. OTTER, Mr. ISAKSON, Mr. MORAN of Kansas, Mr. GRAVES, Mr. COBLE, Mr. EHLERS, Mr. REHBERG, and Mr. ROGERS of Michigan.

H. Res. 87: Mr. CUMMINGS.

H. Res. 117: Mr. McDERMOTT, Mr. DOGGETT, and Mr. INSLEE.

H. Res. 410: Mr. PLATTS.

H. Res. 453: Mr. DOYLE.

H. Res. 484: Mr. BISHOP, Mr. BOYD, Mr. DAVIS of Illinois, Mrs. MINK of Hawaii, Mr. ETHERIDGE, Mr. WEXLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LYNCH, and Mr. GREEN of Texas.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5059: Mr. TAYLOR of North Carolina.

## DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 8. July 17, 2002, by Mr. MALONEY of Connecticut on House Resolution 456, was signed by the following Members: James H., Maloney, Lois Capps, Nick Lampson, Shelley Berkley, Nancy Pelosi, Martin Frost, John B. Larson, Robert Menendez, Adam B. Schiff, Gergory W. Meeks, Ciro D. Rodriguez, Diane E. Watson, Richard E. Neal, Rosa L. DeLauro, Vic Snyder, Brad Carson, John Lewis, Max Sandlin, Benjamin L. Cardin, Hilda L. Solis, Louise McIntosh Slaughter, Collin C. Peterson, Bart Stupak, Barbara Lee, Stephen F. Lynch, Marcy Kaptur, Lynn C. Woolsey, Julia Carson, Susan A. Davis, Loretta Sánchez, Diana DeGette, Michael M. Honda, Patrick J. Kennedy, Martin T. Meehan, Dale E. Kildee, Bobby L. Rush, Dennis J. Kucinich, Bill Pascrell, Jr., Robert T. Matsui, Ron Kind, Peter A. DeFazio, Nydia M. Velázquez, Gary L. Ackerman, Ike Skelton, David D. Phelps, Thomas M. Barrett, Karen McCarthy, Tom Udall, Tom Sawyer, Janice D. Schakowsky, Lane Evans, Karen L. Thurman, Danny K. Davis, Jim McDermott, James R. Langevin, John F. Tierney, Grace F. Napolitano, Ruben Hinojosa, Juanita Millender-McDonald, Sherrod Brown, Steve Israel, Maurice D. Hinchey, James P. Moran, Thomas H. Allen, John W. Olver, Edward J. Markey, Rush D. Holt, Nita M. Lowey, Marion Berry, Major R. Owens, Jose E. Serrano, Frank Pallone, Jr., Michael R. McNulty, Zoe Lofgren, Eddie Bernice Johnson, Bob Filner, Robert E. Andrews, Edolphus Towns, Rick Larsen, Bill Luther, Xavier Becerra, Jim Turner, Mike Ross, Lynn N. Rivers, Bob Etheridge, Leonard L. Boswell, Joe Baca, Bernard Sanders, Carolyn B. Maloney, Anna G. Eshoo, Eva M. Clayton, Tom Lantos, Wm. Lacy Clay, Tammy Baldwin, Sheila Jackson-Lee, Dennis Moore, Ted Strickland, Robert Wexler, Steven R. Rothman, Joseph M. Hoeffel, Albert Russell Wynn, Carolyn C. Kilpatrick, Chet Edwards, John M. Spratt, Jr., Earl F. Hilliard, Anthony D. Weiner, Donald M. Payne, Cynthia A. McKinney, Carrie P. Meek, Sanford D. Bishop, Jr., Jim Matheson, Jay Inslee, Lucille Roybal-Allard, Mark Udall, Steny H. Hoyer, Nick J. Rahall II, Patsy T. Mink, Gene Taylor, Gary A. Condit, David R. Obey, Jim Davis, Brad Sherman, John J. LaFalce, Carolyn McCarthy, John Conyers, Jr., James P. McGovern, George Miller, Alcee L. Hastings, Corrine Brown, Tim Holden, James A. Barcia, Michael E. Capuano, David Wu, Bennie G. Thompson, James E. Clyburn, Jesse L. Jackson, Jr., Robert A. Brady, Robert E. (Bud) Cramer, Jr., Luis V. Gutierrez, Solomon P. Ortiz, William D. Delahunt, Jerry F. Costello, Bart Gordon, William J. Coyne, Chaka Fattah, William J. Jefferson, Michael F. Doyle, Charles B. Rangel, Melvin L. Watt, Darlene Hooley, Maxine Waters, Baron P. Hill, Mike Thompson, Barney Frank, Gene Green, Sam Farr, Eliot L. Engel, Fortney Pete Stark, John D. Dingell, Henry A. Waxman, Robert C. Scott, Silvestre Reyes, Robert A. Borski, Tony P. Hall, Howard L. Berman, Stephanie Tubbs Jones, Martin Olav Sabo, Harold E. Ford, Jr., Sander M. Levin, Betty McCollum, Ed Pastor, James L. Oberstar, Norman D. Dicks, Richard A. Gephardt, Peter Deutsch, Jerrold Nadler, Neil Abercrombie, Ellen O. Tauscher, Joseph Crowley, Lloyd Doggett, Mike McIntyre, Rod R. Blagojevich, and Elijah E. Cummings.

## DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 7, by Ms. THURMAN on House Resolution 425: Melvin L. Watt, and Martin Olav Sabo.

## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

### AGRICULTURE APPROPRIATIONS BILL

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 2: At the end of the bill, before the short title, insert the following new section:

SEC. ___. Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

### AGRICULTURE APPROPRIATIONS BILL

OFFERED BY: MS. WATERS

AMENDMENT NO. 3: In title V, in the item relating to "Public Law 480 Title II Grants" add at the end the following new paragraph:

"In addition for such purposes, to be used to provide seeds, tools, water control systems, and other agricultural inputs for small farmers in southern African countries affected by the current food crisis, including Lesotho, Malawi, Mozambique, Swaziland, Zambia, and Zimbabwe, $100,000,000: *Provided*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

### AGRICULTURE APPROPRIATIONS BILL

OFFERED BY: MS. WATERS

AMENDMENT NO. 4: In title V, in the item relating to "Public Law 480 Title II Grants" add at the end the following new paragraph:

"In addition for such purposes, $200,000,000: *Provided*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

### H.R. 5120

OFFERED BY: MR. FLAKE

AMENDMENT NO. 20: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ___. None of the funds made available in this Act may be used to enforce any restriction on remittances to nationals of Cuba covered by section 515.570(a)(1)(i), (a)(2), (b)(1)(i), or (b)(2) of title 31, Code of Federal Regulations.

### H.R. 5120

OFFERED BY: MR. MORAN OF VIRGINIA

AMENDMENT NO. 21: At the end of title VI (page ___, line ___), insert the following:

SEC. . None of the funds made available in this Act may be used by an executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.

# SENATE—*Thursday, July 18, 2002*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN F. KERRY, a Senator from the State of Massachusetts.

## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, our prayer is not to overcome Your reluctance to help us to know You and to do Your will, for You have created us to love, and serve, and obey Your guidance. Rather, our prayer is to lay hold of Your willingness to accomplish Your plans through us. You have told us to call on You, to trust You completely, to put You first in our priorities, and to express our devotion to You in our patriotism. Sometimes, pride blocks our response, and we find it difficult to turn the control of our lives over to You. When we are self-sufficient, we do not pray; when we are self-satisfied, we will not pray; and when we are self-righteous, we cannot pray. And yet, Father, when we are honest with ourselves, we know that, by ourselves, we are insufficient. We admit our profound need for Your presence, Your wisdom, and Your solutions to our problems. Continue to guide the discussion of the crucial issue of affordable prescription drugs for America. May this be a great day, lived to the fullest, trusting You each step of the way. Through our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JOHN F. KERRY led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 18, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN F. KERRY, a Senator from the State of Massachusetts, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. KERRY thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished assistant majority leader is recognized.

## SCHEDULE

Mr. REID. I thank the Chair. The Chair will announce very briefly that there will be a period for morning business until 10:30 a.m., at which time we will take up the military construction bill with 15 minutes of debate. All Members are advised this should be a busy day. We have many things we need to accomplish on legislation now before the Senate.

We have a number of other issues we need to have resolved. I have notified staff for the minority that I am going to again propound a unanimous consent request to appoint conferees on the terrorism insurance bill. We have been held up doing this for weeks and weeks. The business community is going deeper and deeper into trouble because of our not coming forward with legislation. We cannot do that until the minority allows us to appoint conferees.

Mr. President, the first half of the time under the order of last evening is under the control of the majority. Senator STABENOW is here, but also Senator SPECTER is here. Senator SPECTER has a conference at 10 o'clock. We are entitled to the time. If Senator STABENOW has a time situation, she should proceed. I do not know if she would have time to give the Senator from Pennsylvania 10 minutes or so. I know he asked for 15 minutes. Maybe that is a little too much.

Mr. President, will Senator STABENOW tell me how she feels?

Ms. STABENOW. Mr. President, I will be pleased to yield some time to my friend from Pennsylvania. I am not sure what he is asking for at this point. I need to preside at 10 a.m., and I know we have other colleagues coming, but I will be happy to yield.

Mr. REID. Mr. President, I ask unanimous consent that the order be changed and that the Republican time begin with Senator SPECTER now taking 15 minutes. Is that what he wants?

Mr. SPECTER. Mr. President, I will try to abbreviate my remarks.

Mr. REID. If the Senator can do it in 10 minutes, that will allow Senator STABENOW time to speak before she takes the chair.

Mr. SPECTER. I thank my distinguished colleague from Nevada, and I will endeavor to limit myself to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business according to the unanimous consent agreement just entered into, and time shall not extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 10 minutes each. The control will be as the distinguished acting majority leader just described.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair and the Senator from Michigan and the Senator from Nevada.

(The remarks of Mr. SPECTER pertaining to the introduction of S.J. Res. 41 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for a period of 10 minutes.

## PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I appreciate very much being recognized and having an opportunity this morning to speak regarding the situation I believe we are in and the challenges right now as they relate to moving forward on addressing prices and cost containment in the pharmaceutical industry.

We heard a lot of discussion yesterday. We had the opportunity to debate whether to open the border to Canada to have more competition between the prices that American companies charge in the United States and those in Canada. I was pleased we were able to move forward and come together on a plan to open the border, and now we place it in the hands of the Secretary of Health and Human Services to certify the difference in prices which we know are there and the fact that there is no safety risk, which we know is the case. So I look forward to moving ahead.

A lot came up during that debate and I did want to, as we set the stage to debate additional efforts today to lower prices, speak as to how I view the situation in our country right now with our most profitable industry. I welcome the fact that we have a very profitable, successful prescription drug industry. There are new lifesaving drugs being created that keep people out of

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the hospital and living longer. We celebrate that.

Over the last several years, we have seen more and more of a focus on selling and marketing and promotion than creating the next generation of lifesaving drugs. That is of great concern to me. When we talk about reducing prices, we hear that means reducing research and development. Yet there is nothing today that indicates that is factually accurate.

Yesterday, Family USA produced another study showing the companies are spending 2.5 times more on advertising, promotion, marketing and administration than they do on research and development. The blue on my chart is R&D and the gold is advertising and marketing. For each of the top drug companies, the gold line is much higher than the blue line. We know there is more being spent in this effort.

We also know when you look overall at the profits versus R&D, we see stark numbers. Merck is a successful company in the United States. Their profit was three times more than what they spent on R&D last year. I do not begrudge that profit margin, but if we are going to have the next generation of new lifesaving medications, we need to see that R&D is the focus and that prescriptions are affordable. If they are not affordable, they are not available. That is not acceptable. This is about trying to get some balance in the system. Pfizer had 1.5 times more in profit last year than what they spent on R&D. They spent more on advertising than on R&D.

In the context of what we are talking about right now with corporate responsibility, and companies where executives take the dollars and run, leaving the shareholders or employees holding the bag, my concern is that while we are talking about the need to stop prescription drug prices from rising three times the rate of inflation, which is the average right now—the average drug used by seniors last year went up three times the rate of inflation. Our seniors do not have insurance coverage and are paying the highest prices in the world—but these companies are making top profits in the world today, and we find astounding salaries in compensation for the CEOs. I do not begrudge it, but I do when our average senior is deciding this morning: Do I eat breakfast or do I take my medicine? Companies are saying, no, they cannot lower prices; they could not possibly have more competition, they cannot open to Canada, they cannot allow more generics on the market, they cannot possibly handle more competition, or lowering prices without cutting R&D.

I am offended when I look at the numbers, when we are seeing more on promotion and advertising, more on the sales machine than on research and developing new drugs, more in profits, way more in profits than R&D, and more in the compensation for those at the top.

I will not name individuals, but we see the five highest paid executives in the industry, and the top at Bristol-Myers, with a salary of almost $75 million last year in direct compensation, not counting unexercised stock options. Compare that to the average senior who is either not getting their medicine, cutting their pills in half, or taking them every other week; families who are struggling; small businesses whose premiums are skyrocketing and are having trouble affording health care for their employees because of 30 to 40 percent premium increases, mostly because of prescription drugs, and employees are told they cannot get a pay raise next year because the company has to cover more in medical premiums. I believe that company is sincere in having to struggle with those benefits, those prices.

Put that picture together with that of the drug companies, one of the most highly subsidized industries in the world: $23.5 billion we as taxpayers put into the National Institutes of Health this year. So the companies can take that basic research, and I support that—I would support more—they take that basic research, and they then develop their drugs. We give them tax credits and tax writeoffs to develop through research. We also give them tax writeoffs for their administration, their sales, their marketing. We give them a 20-year patent so they are protected from competition for their name brand so they can recover their costs for R&D. What do we get at the end? The highest prices in the world, and an effort to fight everything we are trying to do in the Senate—to increase competition and to lower prices and to provide Medicare benefit.

Then to add insult to injury, we see those at the top of the companies that who are fighting us earning $75 million a year, $40 million a year, $28 million, $23 million, $15 million a year. We see unexercised stock options. At the top is Merck, $93 million in unexercised stock options; $76 million; $60 million; $56 million; $46 million.

I could live on that. I think everybody within the sound of my voice together could live on that. I don't begrudge that. But I do begrudge people in that category heading companies that fight everything we do. They have put more money into their lobbying corporation than anybody else. For every one Senator there are six drug company lobbyists who spend their time more on sales and marketing than anything else.

Let me speak from the standpoint of our future health care discoveries. In Money and Investing, the Wall Street Journal, there was an article about a merger this week, and one of the disturbing parts of that was this:

After falling for 5 years, new drug applications to the Food and Drug Administration are expected this year to slide further. Through the first 5 months of this year, the FDA had received just two new applications for new drugs. Last year, total new drug applications dropped to 24, less than half the 53 received in 1996. Many in the industry say that past mergers may be among these reasons for these drops in new drug discoveries.

What I see is an effort more and more to focus on the fast, easy money, the quarterly report. Eighty percent of the new applications for patents now at FDA are not for new lifesaving discoveries that increase our longevity and deal with health challenges, but they are, instead, what are called "me too" drugs; 80 percent of the patents. A purple pill becomes a pink bill, a daily dose becomes a weekly dose, or maybe, to add insult to injury, the packaging changes.

I urge, as I draw to a conclusion, that as we look at the issues before the Senate on increasing competition and lowering prices, we do so understanding there is a lot of room to bring down prices without ever touching R&D. I argue we need to do everything possible to change the incentives to a longer view, to more research and development. This industry is out of whack, just as the other industries we were talking about, the system of accounting and auditing, the whole process that has now put us in a position where the incentives are to run right up to the line or over the line, to push for the quarterly profit statement, to look for the intermediate gain, the immediate cash rather than the long-term view.

Unfortunately, this is not a pair of shoes. It is not even a new car—and I want everybody to buy a new car. This is not an optional buy. This is lifesaving medicine. The research is heavily subsidized and paid for by taxpayers, and I think we deserve better. I think that is what this debate is about.

We want a healthy industry, we want R&D; but we want the American taxpayers to get their money's worth and be able to afford the medicines they have invested in and helped to create, medicines that will help them and their families be able to be healthy.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. CORZINE. Madam President, I ask to speak for 10 minutes in morning business.

The PRESIDING OFFICER (Mrs. STABENOW). The Senator has that right and is recognized for a period of 10 minutes.

Mr. CORZINE. Madam President, I rise today to support passage of a Medicare prescription drug benefit and express my strong belief that the time has come when a Medicare prescription drug benefit that provides affordable and meaningful coverage for all our Nation's seniors should be implemented. We have a historic opportunity to reform our Medicare programs and put in place something that I think we all know is necessary and important for our Nation's well-being.

I particularly also thank Senator STABENOW, the Presiding Officer, for her extraordinary leadership in raising the level of awareness, the level of concern and consideration, not only inside the Chamber but across the country. She has done a remarkable job of elevating the quality of debate on the subject.

Furthermore, and equally so, I thank my colleagues, Senator BOB GRAHAM, Senator KENNEDY, and Senator MILLER, for their efforts to bring forward a real and meaningful prescription drug program. It is one that I think all of us should get behind and support. It is measured but certain.

I have yet to speak out on specific programs. As the Chair knows, the industry which you just so eloquently spoke about is an important part of the community which I represent. It has been important, in my view, to find a response to this great need in our Nation that also does not undermine all the elements that I think make the industry so important to our Nation and so entrepreneurial. In fact, I think the Graham-Kennedy-Miller program has found that balance. It is for that reason I also want to make sure I am on record expressing my support.

All of us know it is time to act. We need to ensure that seniors can afford their prescription drugs. We have heard the refrain that we should not be forcing people into these hard choices, and it is a reality. Anyone who is in public life, who interfaces with our senior citizens around our country—just as much in New Jersey as anyplace else—knows that these are real world choices for people: Whether they can afford their lifesaving, quality-of-life-producing prescription drugs or whether they have to choose between that and other aspects of quality of life, including the simple things such as house and home, and their ability to have quality of life in general, which our Nation can afford, absolutely, including putting food on the table.

The fact is, this is a choice far too many of our seniors are having to make, and it is time for us to move to make these costly drugs available so our seniors can lead that independent, productive life that I think all of us hope for, for our families, our parents, and certainly we want for our generation as well.

That is why I support this bill. I will be very aggressive in getting out and trying to promote it, not only here in the Chamber but actually among those in the industry so we can move forward.

This effort truly does guarantee prescription drug coverage for every senior—it is universal—rather than relying on the private insurance industry to provide that coverage. That is what the alternative House bill is all about. I think many of us think that is going to leave a lot of folks out of the system.

The Democratic package also ensures that seniors will have coverage all year. It does not have to deal with so-called doughnut holes, or black holes, two-thirds of the calendar year where people are left out of any kind of coverage. That is certainly the case with the proposal that is coming out of the House, the Republican proposal.

Under that proposal, a senior would pay $400 a month for her or his prescriptions, but they would essentially be out of coverage for nearly two-thirds of the calendar year. I think that is a major flaw that needs to be addressed. I think it is very effectively done in the Graham-Kennedy proposal.

Furthermore, the Republican proposal threatens to undermine the private insurance market. This is really a perverse economic impact. Their proposal would have the effect of encouraging employers to drop prescription drug coverage from employer-provided health plans. In 10 minutes I am not going to go through this, but the fact is, individual workers facing catastrophic drug costs would not have their drugs provided by the Government if their employer paid for some portion of those drug costs. It is a really serious flaw about which I think almost anyone who has analyzed the proposal coming from the House is concerned. It needs to be addressed under any circumstances.

I also ask those who have criticized the cost of the Democratic package that they consider the high cost of not providing comprehensive drug coverage. They call that a cost-benefit analysis. It is well known that prescription drugs reduce the number of hospital admissions, surgical procedures, and doctor visits. They also can reduce costly admissions to nursing homes, helping seniors to stay home longer. Those are real savings that will come. I do not think we have fully appreciated that or explained those or factored those into our thinking.

Needless to say, this is not just about saving money, it is about improving the quality of life for our seniors, allowing them to lead longer, healthier, and more productive lives. This is reform that Medicare needs. It is one we cannot afford not to address, not to deal with, not to move on.

In my own State of New Jersey, we recognized this need about 25 years ago when we created a pharmaceutical benefit for seniors—probably the best in the Nation. By the way, we have to make sure that as we legislate here, we engineer this legislation in a way that it is supportive of the prescription drug program we have in New Jersey, which is designed to serve the low- and middle-income seniors in an extraordinary way.

But I have to say it is almost unconscionable that States such as New Jersey and Pennsylvania—I think it has a similar program—have stepped to the plate to provide this important health care benefit to seniors while the Federal Government has failed to do it. As a matter of fact, it makes New Jersey a magnet for seniors—a positive element in our society. But people have recognized this fundamental need and have voted with their feet with respect to the follow-through on this.

The Democratic plan will help States such as New Jersey expand, if we are careful about how we write this legislation, and improve that prescription drug program for everyone. By contrast, the Republican proposal does nothing. As a matter of fact, it will increase—if we are to meet the constraints that are put down in the bill—co-pays and coverage under our PAAD Program, which is what our benefit program is called. That is simply unacceptable and will require a lot of resistance from those of us who care about our seniors—in New Jersey specifically.

Last year, the Senate passed a Patients' Bill of Rights to ensure that Americans with private health insurance have access to prescription drugs and medical procedures they need to maintain their health. Should we not offer the same protection to our seniors, millions of whom currently lack access to essential medicines? It is a fundamental flaw of Medicare. It is one we need to deal with, particularly because Medicare was designed before the explosive growth of medications, so the use of medicines is not covered where they are now being applied.

We have an opportunity and a responsibility to correct this flaw by enacting a prescription drug benefit.

I want to work with my colleague in the Chair, my friend from New York, and all of those who truly care about making our society one where access to quality of life that America can offer is made available to all citizens. It is absolutely essential that we move forward.

Lastly, it concerns me that we are willing to spend $4 trillion to make last year's tax cuts permanent, which essentially goes to a lot of those people the Chair was talking about who are making $70 million and $40 million, the well off in our society, and we don't think we have the resources to pass a $100 billion prescription drug benefit for senior citizens in our Nation.

It is time for us to act. Those people have worked hard, paid their taxes, and supported our Nation in all kinds of ways. It is time to get a prescription drug benefit, get it through this Chamber, get it to the House and to the President's desk.

I thank the Chair. I look forward to working with you and all my colleagues to make sure this comes to pass as soon as possible.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I commend my colleague from New Jersey for his statement, which I think all of us recognize was arrived at after considerable study and thought since he does represent a State which has a concentration of our finest pharmaceutical companies. His statement today, which shows a balance and a very thoughtful approach to policies that affect us, is a great addition to this debate.

Madam President, I ask unanimous consent to speak for up to 12 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Thank you, Madam President.

Madam President, I wish to pick up on a comment that you made at the end of your remarks before assuming the Chair.

I, as all of our colleagues, deeply respect the leadership you have provided on this issue. You are down here on the floor day after day making the case on behalf of the need for prescription drug coverage and reform that would provide the lifesaving quality-of-life drugs to our seniors and open the doors to others who are not yet of Medicare eligibility but who have very high prescription drug costs.

At the end of your remarks you said this was connected to the debate that we finished last week concerning the serious issues about accounting and corporate governance to which we have to pay special attention. I agree with that. We may be debating prescription drug coverage, but it is in the larger context of what kind of country we want to be. What kind of values do we espouse? How are we going to ensure that people not only have the perception but the reality that our system works for everybody, not just for the rich and the powerful, not just for the big companies but for the small businesses and for the average citizen? There is a connection. I think that connection deserves to be drawn. I thank you for doing so.

The legislation we are discussing this week addresses not just a top health priority but a fundamental value of who we are as Americans. Will we or will we not provide access to affordable prescription drugs for our seniors? Will we or will we not make equivalent generic drugs available for all Americans? Simple question; complicated answer. That is what we are attempting to work out today.

The prescription drug issue is well known to any of us who have had to fill a prescription in the last several years. Prescription drug costs have been rising at an annual rate of 20 percent, far outpacing inflation and more than doubling in the last 5 years.

We set a goal a couple of years ago to double NIH funding within 5 years, but instead we have seen the doubling of drug industry costs.

Costs have increased for a number of reasons. People have begun to use more of these so-called lifestyle drugs in addition to the lifesaving drugs. Costs are also increasing because of drug company marketing efforts to shift patients away from older, less expensive drugs to newer, costlier, so-called "me too" drugs which have had an impact. "Me too" drugs are copycat drugs that actually do little or nothing more than the existing drugs we already have, but they are more expensive because they are new. It is like when you go to the supermarket and they say new and improved, new and different. These are new but not necessarily improved drugs. They are copycat drugs.

We have recently heard examples of Vioxx and Celebrex, expensive, new, heavily advertised drugs that doctors now tell us may be no better than the kinds of drugs you get across the counter for which you don't need a prescription.

Drug companies are also spending up to $13,000 per doctor annually trying to influence research results and prescribing patterns. Think about it. Every doctor in America has a $13,000 allocation from drug companies that flood his or her offices with salespeople with all kinds of inducements—with trips and dinners and the like in order to convince the doctor to use this different drug than the doctor has been using or to try the new and improved copycat drug. This is going on despite the ethics and gift guidelines that the American Medical Association has developed and that the pharmaceutical association—known as PhRMA—has agreed to follow.

Many of my physician constituents continue to complain to me that, despite these ethical guidelines, drug company representatives have attempted to circumvent and flout them.

With the multibillion-dollars that drug companies spend annually on drug promotion and on physicians, this shocks me, I have to tell you. I said to my staff: You have to go and triplecheck this. I couldn't believe it. But with the money they spend on drug promotion mostly directly to physicians, their spending exceeds the amount of money that we spend as a nation educating all medical students and medical residents in our Nation.

That just isn't right. We have a voluntary set of guidelines that are supposed to control it, but, unfortunately, as with a lot of human nature, those voluntary guidelines don't have enough teeth in them to make it happen.

I am also concerned about the erosion of privacy. Drug companies are doing everything they can to convince patients—that is you and me—to try the drug. In addition to convincing physicians with all of their money, they are spending a heck of a lot of money trying to convince us to try something.

A friend of mine said she didn't even know she had a problem until she saw an advertisement. And all of a sudden, she now thinks she has a problem. She talked to her doctor. Her doctor said she really didn't need it. She said: I am not sure. She said: Should I listen to the doctor or should I listen to the advertising? I said: For Heaven's sake, you wouldn't do that on anything else. Why would you do it on this?

Advertising really works. It gets into our psyche. It kind of convinces us of things and makes us feel that we are not doing what we should unless we go out and buy a new product. That is the same with new drugs.

The privacy aspect is different than going out and being convinced that you need a different car or that you should try a different detergent.

Under the Bush administration, privacy regulations previously issued by the Secretary of Health and Human Services have been changed. These changes make it easier for drug companies to acquire patient information about us and then to use that patient information they get from doctors, pharmacists, or health provider organizations without our full knowledge, and certainly without our prior consent.

Several weeks ago, we heard about a woman in Florida who received an unsolicited prescription drug, Prozac, in the mail. She believes her privacy was violated. I think she is right. It was violated. Can you imagine, all of a sudden, into your mailbox come drugs that you never asked for, that were never prescribed for you? I do not think any drug company should have access to a patient's records or be able to use that kind of intimate information without a patient's full agreement and consent.

So I worry about the combination of the Bush administration weakening privacy regulations and the drug companies using that information, which is extremely personal, to try to sell us something.

I do not have any argument with the lifesaving benefits that are provided to all of us because of the work done by pharmaceutical manufacturers. Their role in the American health system is not only vital but should be rewarded through exclusive patents on their discovery for the full patent term of up to 20 years, as set forth by one of our colleagues and a colleague from the House in the Hatch-Waxman bill passed years ago.

However, Hatch-Waxman represented a carefully crafted balance designed to make the American consumer—the

American patient—the ultimate beneficiary. On the one hand, Hatch-Waxman established full restoration of the monopoly patent time for a brand name drug as an incentive for real innovation. On the other hand, Hatch-Waxman ensured that after the monopoly term ended, the consumer would get the benefit of competition because there would no longer be an exclusive right to manufacture and market that drug.

We know the consumer will get benefits with lower drug prices and generic versions which are just as good as the brand name patented versions. Generic drugs share the same active ingredients as the brand name drugs but, as this chart shows, the generics are usually considerably less expensive. Generic drugs have also increased in price but at a much slower rate than brand name drugs have.

Generic drugs help keep prices down, particularly for our seniors. If you look at this next chart, it is a chart showing the costs that are involved in manufacturing and advertising drugs. It is very clear that the amount of money that is spent to market these drugs goes right into the cost of them. That $13,000 per doctor, that has to be paid by somebody, and we are the ones who end up paying for it.

It is important to protect innovation. Nobody wants to undermine innovation. But in recent years, drug companies have clearly taken advantage of these loopholes to keep generics off the market. What we have found is that the brand name manufacturers are frivolously listing patents not because the generics will infringe on the patents but simply to force generics to certify that those patents are invalid in order to get the lower priced generic drugs to market. The reason is that forcing this certification gives the brand name drug an automatic 2½-year extension, called a 30-month stay, on their monopoly, regardless of the merits of the patent.

Let me give you a few quick examples.

There is a medication called Pulmicort, which is an asthma medication. In addition to all the patents on the compound—in other words, the active ingredients that are in the drug that makes it work for asthma—in addition to all the patents on the compound, on its use, and on its formulation, they have a patent on the container, which is in what is called the Orange Book. The container may be a really nice container, it may look great inside your medicine chest, but when a generic company is seeking to make a pill for asthma, it is not trying to make the bottle, it is trying to make the pill. So a patent on the bottle should not prevent the generic version of the drug from coming to market.

In addition, we know that some drug companies make sweetheart deals with generic companies, literally paying them—I would say bribing them—to stay off the market, which under one of the loopholes in the current law means that other generics also have to stay out of the market.

So generic X comes and says, we are going to the market with this drug, and the big drug company says, we will pay you not to; and they say, OK, we will not. That means nobody can come with a competitive drug that will do the same thing at a lower price.

I support adequate patent terms for pharmaceutical manufacturers to conduct research and development, which all of us know is high risk and high stakes, but the best way to encourage that research and development is a prospective approach rather than a patent extension after the fact.

Companies, as we know, have been maneuvering at the 11th hour just as their patents are about to expire. This legislation, the underlying Schumer-McCain legislation, is intended to prevent that.

So let's do the right thing. Let's get our generic manufacturers a level playing field. Let's get a prescription drug benefit for our seniors. And let's send a message to America that we want to treat people fairly in this great country of ours.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMAS. Madam President, how much time is remaining on the division in morning business?

The PRESIDING OFFICER. Five minutes is remaining in morning business.

Mr. THOMAS. That is the share the Republicans have?

The PRESIDING OFFICER. That is the current share, yes.

Mr. THOMAS. I wish we could have divided the time up if we say we are going to.

The PRESIDING OFFICER. The Senator from Pennsylvania was accorded, I believe, 15 minutes.

Mr. THOMAS. And we were accorded 30 minutes, and we didn't get 30 minutes.

## PRESCRIPTION DRUGS

Mr. THOMAS. Madam President, I will take just a short time to talk a little bit about pharmaceuticals. Obviously, there are different ideas about that. Indeed, there should be. We are on the floor again, however, without having a committee suggestion to follow, so it will be difficult for us. But certainly we need to do that.

I suggest that the tripartisan bill that is before us is probably the one that is most likely to get support. Indeed, it is the only bipartisan plan in the Senate.

We truly talk about finding common ground traditionally between the views. I think that is a good idea. This bill reforms Medicare and provides prescription drug benefits which will ensure that seniors do have coverage.

The proposal, if it had been debated, I think would have come out of the committee as the one selected. The tripartisan bill spends about $330 billion over 10 years for drugs, which is more than some of the bills, but is considerably less than the one the Democrats have put forth. So this, perhaps, is a reasonable compromise between those proposals.

I think the Democrat bill is unofficially scored at $500 billion for 5 years, and then it expires. So I think that is one of the difficulties, the idea that it expires.

The tripartisan bill also spends $40 billion to make some long overdue changes in Part B and Part A so seniors will have health coverage. So there seems to be quite more available there than in the alternatives. I hope we do something.

Just to comment, one of the things that, of course, we are dealing with—we have talked about, and I think has merit—is the idea of reimportation. That is kind of what is on the floor at the moment. I think there is some merit in that. I do not believe it is the final solution. Indeed, as it gets into operation, we may find it more difficult than it has been.

I think the Cochran amendment, that was passed yesterday, is very useful in terms of safety as it relates to the bill. I do think we ought to go a bit further; that is, I think there ought to be some labeling so that consumers have the opportunity to choose whether or not they want to take on the reimported drugs that have gone through Canada, that may or may not have come from the United States in the beginning. So I do think perhaps we ought to consider the idea, which can be very simple, to have it labeled that it is imported from Canada so people can, in fact, make those kinds of choices.

Mr. President, since our time has been used, I will yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, may I ask what the parliamentary situation is at this time?

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5011, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. The Senator from Arizona controls 5 minutes of debate on this pending measure.

Mr. McCAIN. Mr. President, I ask to be recognized for my 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. McCAIN. Mr. President, I regret that the managers are not in the Chamber, but I will proceed with my statement.

Regretfully, I rise yet again to address the Senate on the subject of military construction projects added to an appropriations bill that were not requested by the Department of Defense and are strongly opposed by the Office of Management and Budget.

This bill contains over $1 billion in unrequested military construction projects and includes hundreds of millions of dollars for Army and Air Force infrastructure projects relating to Interim Brigade Combat Teams, IBCTs, and C–17 Globemaster aircraft beddown military construction projects that the Senate Armed Services Committee has neither approved nor authorized for this purpose.

There are 29 members of the Appropriations Committee. Only one committee member has not added projects to this appropriations bill. Those numbers, needless to say, go well beyond the realm of mere coincidence. Of 116 projects added to this bill, 91 projects, representing 80 percent of all projects, are in the States represented by the Senators on the Appropriation Committees, totaling over $728.1 million.

Every year, I come to the Senate floor to highlight programs and projects added to spending bills for primarily parochial reasons. While I recognize that many of the projects added to this bill may be worthwhile, the process by which they were selected is not.

By adding over $1 billion above the President's request, the Appropriations Committee is further draining away funds desperately needed for transformation. But such short-sightedness is pretty much the norm for Congress. Common-sense reforms—closing military bases, consolidating and privatizing depot maintenance, ending "Buy American" restrictions, and ending pork-barrel spending—that I have long supported would free up nearly $20 billion per year which could be used to begin our long-needed military transformation.

But all too often Congress fights these reforms because of home-State politics. As a result, the Defense Department looks elsewhere to find the resources. For example, according to a Baltimore Sun article, "Pentagon To Consider Large-Scale Troop Cuts," the Department is considering cutting nearly 100,000 troops "to free up money" for transformation. I would oppose this and we will debate this another day, but I certainly understand the pressure that Secretary Rumsfeld and the Joint Chiefs are under because of Congress' continuing parochialism as evidenced once again by the military construction bill before us.

Included in the Senate Appropriations Committee's report are the words: "The Committee strongly supports the authorization-appropriation process." That is news to many of my colleagues. If that statement is true why would over $550 million in military construction projects be added without prior Senate Armed Services Committee authorization. It could be that many of these projects would be acceptable after going through the normal, merit-based prioritization process. But the Appropriations Committee decided to do otherwise.

Two rather large additions—totaling $200 million—for large military construction projects for Interim Brigade Combat Teams, IBCTs, facilities and the C–17 Air Mobility Modernization Program are examples of the committee's disregard for the authorization process. The committee report justifies these add-ons on the grounds that "the war on terror has placed new demands on all elements of the military" and "military construction timetables developed prior to September 11 are no longer sufficient." War profiting is what it is all about. Because of this, the report continues, "the committee believes that it is imperative to accelerate the Army and Air Force transformation programs." There is no mention of Navy and Marine Corps transformation programs. The committee report leads one to ask how the Navy and Marine Corps got it right and the Army and Air Force missed the boat.

The committee's justification for adding $200 million for the IBCTs facilities and new hangars for C–17s, C–5s and C–130s under the Air Force Air Mobility Modernization program is at odds with the facts. The President's budget was sent to the House and the Senate in February—a full 5 months after September 11. Since September 11, the President and his Secretary of Defense have officially forwarded to Congress the Fiscal Year 2002 Supplemental Appropriations bill—which we have not passed—and recently a formal description of how the Defense Department will spend the $10 billion war reserve fund set-aside in the Defense Emergency Response Fund that the President requested for the war on terrorism. Let me ask: did anyone on the Appropriations Committee inform the President that his budget proposal was not "sufficient"? I know the answer is no.

Let me share some critical facts that were left out of the committee report related to the $200 million in additional funding added for these key programs. It is common knowledge that nearly all the IBCTs will initially be stationed in Alaska and Hawaii and will require a significant increase of infrastructure. General Shinseki has supported testing the IBCT concept in Alaska and Hawaii and then expanding the concept elsewhere. However, in putting together the Army budget, the Chief of Staff of the Army, the Secretary of the Army, and the Secretary of Defense weighed all the other Army priorities and decided that their were more critical funding issues than to accelerate an already robust IBCT program and adding $100 million more for facilities construction.

Likewise, other facts left out of the Appropriations report related to the $100 million in accelerated funding for the Air Force Air Mobility program should be known:

The Air Force did not request this funding;

The requirement for accelerating funding is not on the Air Force Chief of Staff's "Unfunded Requirements List";

Nor does it appear in the Secretary of Defense's Wartime Fiscal Year 2002 Emergency Supplemental Appropriations request;

Nor does the requirement to accelerate funding for C–17 hangars show up on the war reserve fund set-aside in the Defense Emergency Response Fund (DERF) that the President recently submitted to Congress as an Fiscal Year 2003 budget amendment for the Department of Defense for expenses relating to the war against terrorism; and

Moreover, over 80 percent of the total $1.6 billion military construction projects under the Air Force C–17 Air Mobility Modernization program will be built in just 4 states: surprise, surprise California, West Virginia, Alaska, and Hawaii—how surprising.

Funding $200 million for IBCTs and C–17, C–5 and C–130 hangars—as part of a larger 4-5 billion dollar program—was simply not authorized by the Armed Services Committee in its recently passed bill. I attended more than 10 hearings on Armed Services this year, and I cannot remember a single instance in which an argument was made in support of accelerating this funding.

Separately, I am at a loss as to the rationale for including in this bill certain site-specific earmarks and directive language. For example, in time-honored fashion, the Appropriations Committee continues to earmark projects under the heading "Unspecified Minor Construction." According to Title 10, Section 2805 of the United States Code, these "military construction projects are intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening." However, I believe that certain earmarks in this Appropriations bill are in violation of this statute, including provisions that would provide:

Up to $1.5 million in funding for a storage facility for military police emergency vehicles in Fort Wainwright, AK;

Up to $1.5 million in funding for a similar storage facility in Fort Richardson, AK;

$1.5 million in funding for a Kinetic Energy Missile Complex at the White Sands Missile Range in New Mexico;

$1.5 million in funding for a force protection facility at the Naval Air Station in Corpus Christi, TX;

$1 million in funding for a training facility at the Corpus Christi Army Deport in Texas;

$1.5 million in funding for a UAV facility at the Fallon Naval Air Station in Nevada;

$1 million in funding to replace and bury electrical infrastructure at Lackland Air Force Base in Texas;

$1.5 million in funding for a barracks for the Army National Guard in Chillicothe, OH;

$1.5 million in funding for Federal Scout Readiness Centers/Armories for the Army National Guard in Alakanuk, Quinhagak, and Kwigillingok, AK;

$1.5 million in funding for a maintenance facility for the Army National Guard at Fort Harrison in Montana;

Up to $2.5 million in funding for various facilities for the Army National Guard Weapons of Mass Destruction/Civil Support Teams;

Up to $1 million in funding for a warehouse for the Air Force Reserve at the Lackland Air Force Base in Texas;

$1 million in funding for a Multiple Threat Emitter System, MUTES, Facility for the Army National Guard at the Smoky Hill Range in Kansas;

$1.5 million in funding for a Bachelor Officer/Enlisted Quarters for the Army National Guard at Fort Meade in South Dakota; and

$1.5 million in funding for an ammunition supply plant for the Army National Guard at Camp Grafton in North Dakota.

I could go on and on. Without a doubt, each of these provisions unabashedly expands the definition of unspecified minor construction. Sadly, yet significantly, the American taxpayer is once again at the losing end of such reckless congressional action.

I also find objectionable language in this bill requiring that only American firms, or American firms in joint venture with host nation firms, be eligible for architecture and engineering contracts for all overseas projects exceeding $500,000. Similarly restrictive language bans the awarding of any contract over $1 million to any foreign contractor in U.S. territories and possessions in the Pacific, on Kwajalein Atoll, and in countries bordering the Arabian Sea. American firms are among the best in the world; advocating a level playing field for them to compete overseas is appropriate. However, it is both inappropriate and harmful to the best interests of our Armed Forces to mandate that construction projects overseas not be subject to the kind of competitive process that best serves the taxpayer and the service member by providing the best product at the lowest cost.

We are waging war against a new enemy and at the same time undertaking a long-term process to transform our military from its Cold War structure to a force ready for the challenges of tomorrow. A lack of political will had previously hamstrung the transformation process, but the President and his team have pledged to transform our military structure and operations to meet future threats.

The reorganization of our armed services was, of course, an extremely important subject before September 11, and it is all the more so now. The threats to the security of the United States, to the very lives and property of Americans, have changed in the last decade.

In the months ahead, no task before the administration and the Congress will be more important to require greater care and deliberation than making the changes necessary to strengthen our national defense in this new, uncertain era. Needless to say, this transformation process will require enlightened, thoughtful leadership, and not the pork-barreling of military funds if we are to best serve America in this time of rapid change in the global security environment.

I thank the President for this opportunity to address the Senate. I ask unanimous consent that the list of unrequested military construction projects that were added by the Appropriations Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In an effort to contain the wasteful spending inherent in member requested construction projects, I sponsored, and the Senate adopted, merit based criteria for evaluating member adds as a part of the fiscal year 1995 Defense Authorization Act. The criteria are: (1) The project is in the service's future years defense plan; (2) the project is mission essential; (3) the project can be put under contract in the current fiscal year; (4) the project does not conflict with base re-alignment proposals; and (5) the service can offset the proposed expenditure within that year's budget request.

FY2003 MILITARY CONSTRUCTION ADD-ONS

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|---|---|
| Alabama: | |
| Army: Fort Rucker Physical Fitness Center | $3.5 |
| UH-60 Parking Apron | 3.1 |
| Alaska: | |
| Army: Fort Richardson: Community Center | 15.0 |
| Air Force: Eielson AFB Blair Lakes Range Maintenance Complex | 19.5 |
| Arkansas: | |
| Defense-Wide: Pine Bluff Arsenal Non-Stockpile Ammunition Demolition Shop | 18.0 |
| Air National Guard, Little Rock AFB: Operations And Training Facility | 5.1 |
| California, Navy: | |
| Camp Pendelton Marine Corps Base: Child Development Center | 8.2 |
| Port Hueneme: Seabee Training Facility | 10.2 |
| Colorado: | |
| Defense-Wide, Pueblo Depot: Ammunition Demilitarization Facility (Phase IV) | 36.1 |
| Air National Guard: Buckley AFB Control Tower | 5.9 |
| Florida, Navy: Panama City Naval Surface Warfare Center: Special Operations Facility | 10.7 |
| Georgia, Air Force, Robins AFB: Corrosion Paint/De-paint Facility | 24.0 |
| Hawaii: | |
| Army: Pohakuloa Training Area Access Road (Saddle Road) Phase I | 13.0 |
| Navy: | |
| Ford Island Site Improvements (Utility System) | 19.4 |
| Marine Corps Base/OAHU Religious Ministry Facility (Chapel) | 9.5 |
| Idaho: | |
| Army National Guard, Gowen Field/Boise: Readiness Center | 1.5 |
| Air National Guard: Gowen Field/Boise Air Support Squadron | 6.7 |
| Iowa, Air National Guard, Des Moines: Airfield Facilities Upgrade | 9.2 |
| Kansas, Army: Fort Riley Combined Arms Collective Training Facility, PH 1 | 13.8 |
| Kentucky: | |
| Army, Fort Knox: Child Development Center | 6.8 |
| Defense-Wide, Bluegrass Army Depot: | |
| Ammunition Demilitarization Facility (Phase II) | 9.8 |
| Ammunition Demilitarization Support (Phase III) | 7.9 |
| Louisiana: | |
| Air Force: Barksdale AFB Parking Apron | 12.0 |
| Air National Guard: New Orleans Joint Reserve Base Belle Chasse Vehicle Maintenance Support Equipment Shop | 5.5 |
| Maine, Navy: Brunswick Naval Air Station Control Tower Upgrade | 9.8 |
| Maryland: | |
| Navy: Carderock (NSWC): National Maritime Technical Information Center | 12.9 |
| Defense-Wide, Aberdeen Proving Ground: Ammunition Demilitarization Facility (Phase V) | 29.1 |
| Massachusetts, Air Force: Fourth Cliff Recreation Area: Erosion Control/Retaining Wall | 9.5 |
| Michigan: | |
| Army National Guard: Joint/Multi-Unit Readiness Center, Phase 1 | 17.0 |

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|---|---|
| Air National Guard, Selfridge ANGB: Joint Dining Facility | 8.5 |
| Mississippi: | |
| Navy: | |
| Meridian Naval Air Station: Control Tower and Beacon Tower | 2.9 |
| Pascagoula Naval Air Station Bachelor Enlisted Quarters | 10.5 |
| Defense-Wide, Special Operations Command: Stennis Space Center, Land/Water Ranges | 5.0 |
| Missouri: | |
| Army National Guard, Fort Leonard Wood: Aviation Support Facility | 14.8 |
| Air National Guard, St. Louis/Lambert Field: Base Relocation/Facilities upgrade | 4.0 |
| Montana, Air National Guard: Gore Hill/Great Falls: Load Crew Training Facility | 3.5 |
| Nebraska, Air Force: Offutt AFB: Fire Crash/Rescue Station | 11.0 |
| Nevada, Air Force: Nellis AFB Land Acquisition | 19.5 |
| New Hampshire, Air National Guard: Pease Air Base Fire Station | 4.5 |
| New Jersey, Navy: Lakehurst Naval Air Warfare Center Structural and Aircraft Fire Rescue Station | 5.2 |
| New Mexico, Air Force: | |
| Holloman AFB: Survival Equipment Shop | 4.7 |
| Kirtland AFB: Visiting Airmen Quarters | 8.4 |
| New York, Air Force Reserve: Niagra Falls Air Reserve Station Visiting Airmen Quarters, Phase I | 9.0 |
| North Carolina, Air Force: Seymour Johnson: Fire/Crash Rescue Station | 10.6 |
| North Dakota, Air Force: Minot AFB Cruise Missile Storage Facility | 18.0 |
| Ohio, Air Force, Wright-Patterson AFB: | |
| After Graduate Education Facility | 13.0 |
| Consolidate Materials Computational Research Facility | 15.2 |
| Oklahoma: | |
| Army: Fort Sill Logistics Maintenance Facility, Phase I | 10.0 |
| Air Force: | |
| Altus AFB: Consolidate Base Engineer Complex, Phase I | 7.7 |
| Vance AFB: Road Repair (Elam Road) | 4.8 |
| Pennsylvania, Air National Guard, Pittsburgh: Squadron Operations and Support Facility | 7.7 |
| Rhode Island, Navy: Newport Naval Station: Consolidated Police/Fire/Security Facility | 9.0 |
| South Carolina: | |
| Air Force, Shaw AFB: Fighter Squadron Maintenance Facilities | 6.8 |
| Air National Guard, McEntire Air National Guard Base: Replace Operations and Training Facility | 10.2 |
| South Dakota: | |
| Air Force: Ellsworth AFB Operations Facility | 13.2 |
| Army National Guard, Camp Rapid: Barracks/Dining/Administration and Parking, Phase I | 10.6 |
| Texas: | |
| Navy: Ingleside Mine Warfare Training Center | 5.5 |
| Air Force: Goodfellow AFB: Wing Support Complex | 10.6 |
| Utah, Air Force: Hill AFB: Consolidated Software Support Facility | 16.5 |
| Vermont, Army National Guard: South Burlington Readiness Center, Phase I | 11.2 |
| Virginia, Navy: Norfolk Naval Shipyard: Ship Component Service Facility | 16.8 |
| Washington, Army National Guard: Spokane Readiness Center (Phase I) | 11.6 |
| West Virginia, Air National Guard: Martinsburg Airbase Site Improvement and Utilities | 12.2 |
| Wyoming, Air Force: Warren AFB Stormwater Drainage System | 10.0 |
| Worldwide Unspecified: | |
| Army: IBCT Transformation, various facilities | 100.0 |
| Air Force: C–17 Transformation, various facilities | 100.0 |
| Defense-Wide: | |
| Planning and Design: | |
| Tricare Management Activity | 3.0 |
| Special Operations Command | 0.1 |
| Undistributed | 8.6 |
| Base Realignment and Closure Account | 100.0 |

MINOR CONSTRUCTION

| | |
|---|---|
| Alaska: | |
| Army: | |
| Fort Wainwright: Military Police Emergency Storage Facility | 1.5 |
| Fort Richardson: Military Police Emergency Vehicle Storage Facility | 1.5 |
| Army National Guard: Federal Scout Readiness Centers | |
| Kansas, Air National Guard: Smoky Hill Range Threat Emitter System | 1.0 |
| Montana, Army National Guard: Fort Harrison Engineer Maintenance Facility Construction | 1.5 |
| Nevada, Navy: Fallon Naval Air Station: UAV Facility | 1.5 |
| New Mexico, Army: White Sands Missile Range: Kinetic Energy Missile Complex | 1.5 |
| North Dakota, Army National Guard: Camp Grafton Ammunition Supply Point Construction | 1.5 |
| Ohio, Army National Guard: Chillicothe Barracks Construction | 1.5 |
| South Dakota, Army National Guard: Fort Meade Bachelor Quarters | 1.5 |
| Texas: | |
| Army: Corpus Christi Army Depot: Training Facility | 0.9 |
| Navy: Corpus Christi: Force Protection Facility | 1.5 |
| Air Force: | |
| Laughlin AFB: Railroad Crossing Gates | 0.2 |
| Lackland AFB: Replace and Bury Electrical Infrastructure | 0.9 |
| Air Force Reserve: Lackland AFB Warehouse Renovations | 0.8 |
| Army National Guard Wide: Weapons of Mass Destruction Civil Support Teams Facilities | 2.5 |

PLANNING AND DESIGN

| | |
|---|---|
| Alabama, Army National Guard: Haleyville Joint Readiness Center Design | 1.1 |
| Alaska: | |
| Army, Donnelly Training Area: Training & UAV Maintenance Support Facility | 1.5 |
| Air Force, Elmendorf AFB: Wide-Body Aircraft Hangar | 2.7 |
| Army National Guard: Bethel Readiness Center Design | 0.5 |
| Air National Guard: Kulis ANG Base Pararescue Training Complex Design | 0.7 |
| California: | |
| Navy: North Island Naval Air Station | 0.4 |
| Air Force, Travis AFB: Replace C–5 Squadron Operations Facility/Aircraft Maintenance Facility | 0.9 |
| Connecticut, Army National Guard: New Haven Readiness Center Design | 1.4 |
| Delaware, Air Force, Dover AFB: Control Tower | 0.7 |
| Hawaii, Army National Guard: Barbers Point Naval Air Station Relocation Design | 2.0 |
| Massachusetts: | |
| Air Force, Otis ANG: Fire/Crash Rescue Station/Control Tower | 1.7 |
| Army Reserve: Hanscom AFB Armed Forces Reserve Center Design | 2.6 |
| Mississippi, Army National Guard: | |
| Clarksdale Readiness Center Design | 0.3 |
| Gulfport Munitions Complex Design | 0.7 |
| Missouri: | |
| Army, Forest Leonard Wood: WMD First Responder Training Facility | 0.5 |
| Army National Guard: | |
| St. Peters Readiness Center Design | 0.3 |
| Springfield Aviation Classification Repair Depot Design | 1.2 |
| Nevada: | |
| Army National Guard: Henderson Readiness Center Design | 0.9 |
| Air National Guard: Reno Security Complex Design | 0.9 |
| New York, Army National Guard: Fort Drum Equipment Maintenance Site Design | 1.5 |
| Pennsylvania, Army: Letterkenny Depot: Storage Igloo Upgrade | 0.4 |
| South Dakota, Army National Guard: | |
| Rapid City Readiness Center STARC Design | 1.2 |
| Pierre Organizational Maintenance Shop Consolidation Design | 0.3 |
| Texas: | |
| Army, Camp Bullis: Vehicle Maintenance Facility | 0.9 |
| Navy, NAS Kingsville: Replace Fuel Farm | 1.0 |
| Air Force, Brooks AFB: Tri-Service Research Facility | 1.0 |
| West Virginia, Air National Guard: Martinsburg Air National Guard Base, C–5 Support Facilities Design | 3.0 |
| Wisconsin, Army Reserve: Eau Claire Armed Forces Reserve Center Design | 0.9 |

*Total MILCON Members Add-Ons= $1.1 Billion*

Mr. McCAIN. Mr. President, I regret that at a time when our defense dollars need to be spent efficiently, we now continue the pork-barreling of the military construction appropriations bill.

I yield the floor.

Mr. WELLSTONE. Mr. President, the 2003 Military Construction Appropriations bill provides over $10 billion in funding for planning, design, construction, and improvements for military bases around the world. A long neglected priority, the bill would provide $4.2 billion for family housing, much of which is substandard right now. Many armed forces personnel have suffered a declining quality of life in recent years despite rising Pentagon budgets. The pressing needs of dedicated men and women in uniform and their families must be addressed, especially as they continue to be mobilized for duty in response to the attacks of September 11.

I want to highlight two provisions in this bill that are of particular importance to my home State of Minnesota.

For a very long time, I have said that there would be an increased reliance by the Defense Department on the National Guard as budget pressures and force structure realignments continued. Since the attacks on America on September 11, the men and women of the National Guard have flown air missions to secure our skies, and they have protected airports and other vulnerable public facilities. I am pleased that we were able to include in this bill $15 million for the Duluth Air National Guard Base for an airport maintenance facility at the 148th Fighter Wing, which will provide maintenance and repair of 15 F-16 fighter aircraft. Further, the bill contains $1.45 million for the Harden Naval Reserve Center in Duluth. I am pleased that these projects are receiving the funds they deserve, and I appreciate the opportunity to work in this area with my colleague from Minnesota, Senator DAYTON, who, as a member of the Armed Services Committee, is especially attentive to such needs. The bill goes far in addressing many vital national needs, and I am voting for it today.

The PRESIDING OFFICER. Who seeks time?

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise as the ranking Republican on the committee that has the bill before us for military construction, and I am pleased to have worked with Senator FEINSTEIN, chairman of the subcommittee, to bring out a bill that does address the priorities of the Defense Department.

I noticed that the Senator from Arizona targeted the Appropriations Committee, saying that a large percentage of the Appropriations Committee were taken care of, as if this were some pork-barrel spending.

The fact is, the Senate Armed Services Committee has authorized every project in this bill. We don't have projects in the appropriations bill that have not been authorized by a completely different committee that focuses totally on defense and has determined that these projects should be authorized.

I am very pleased to support this bill. It provides new mission facilities for the Department of Defense consistent with the Department's request. The priorities are articulated by the military departments. It also enhances quality of life for servicemembers and their families—a commitment we made to these people who are representing our country and fighting for our freedom on the plains of Afghanistan and in Kuwait today, based there for us. We are going to take care of them. Finally, it makes a significant downpayment on renewing the Department of Defense aging infrastructure.

Every project in the military construction appropriations bill is authorized in the Defense authorization bill, a completely separate bill. Two committees have looked at these priorities. Every project in the bill is on the Pentagon's future year defense plan, and every project the committee added was the base commander's highest priority.

The committee added funds to the military construction bill because we were concerned with the sharp drop in funding, particularly for the Guard and Reserve forces. That is where much of the funding we have added is focused. Our Guard and Reserve forces are fighting side by side with our active-duty forces in Afghanistan and providing the bulk of our homeland security forces here at home.

Adequate training and readiness facilities are essential for the Guard and Reserve, particularly during this time of increased demand on their skills and services. The bill provides greatly needed facilities for the Guard and Reserve and will help them prepare for and execute their missions.

The bill also provides funding for two key transformation initiatives in support of President Bush's strategic vision for transforming the Department of Defense: $100 million for Army transformation, and $100 million for Air Force mobility transformation.

Earlier this year, both the Army and the Air Force identified unfunded transformation military construction requirements to the Congress. Many of these requirements were refined after development and presentation of the 2003 President's budget, so we added them because they are critical to the Army and the Air Force to make them more mobile and capable to face the 21st century battle conditions.

The committee funded another initiative, the BRAC environmental cleanup initiative, which provides $100 million to accelerate the cleanup of dangerous environmental contaminants at closed and realigned bases throughout the Nation. Until the cleanup of these bases is completed, the properties cannot be returned to productive use in these communities.

In my own State of Texas, we have terrible environmental bills, both at the former Kelly Air Force Base in San Antonio and the former Navy Air Station in Dallas. There are reports like this across the country, and we are trying to address those concerns wherever they may be, so that these closed bases can be returned to productive use, as we have promised these communities they would be.

Mr. President, this is a good bill. It is a bill that stresses the priorities of the Department of Defense and the President. It also has added areas that were not able to be added earlier because the Department of Defense wasn't ready, and we certainly added more than the President's budget allowed for Guard and Reserve units.

I think the priorities are right, and I urge my colleagues to support this bill so we can get on with the business of revamping our aging military infrastructure and increasing the quality of life for those who are fighting for us as we speak on this floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, as chairman of the subcommittee, I thank the ranking member, the distinguished Senator from Texas, for her help on this bill. She has been a wonderful colleague with whom to work, and I am very grateful for that.

Mr. President, essentially, this bill, as Senator HUTCHISON said, provides $10.6 billion in new budget authority. That is a tenth of 1 percent over last year's appropriation. It is 10 percent over the President's appropriation. The reason for this is that the President cut the Guard and the Reserve 52 percent from last year's budget request. We do not believe they can sustain their infrastructure requirements with that kind of a funding shortfall.

As Senator HUTCHISON mentioned, every project is in the 5-year defense plan. Every project has been authorized. Every project is the base commander's priority. With respect to the transformation initiative, we didn't decide the locations, the services decided the locations. Both the Army and the Air Force have identified the locations for their transformation initiatives. The Army involved 13 active and Guard installations in six States, plus Germany. The Air Force's transformation involves 53 active, Guard, and Reserve bases in 32 States, plus Germany, Japan, and Puerto Rico.

The Appropriations Committee is not—and I stress that—attempting to divert funding from any of these planned locations or to influence where the money will go. These decisions have been and will be made by the services. The purpose of the transformation initiative is to accelerate the process. Infrastructure is a long lead time item, and we need to start investing more in this transformation infrastructure now to meet the service requirements.

Essentially, 53 percent of this bill is for military construction for the active and Reserve components. It is $610 million for the Guard and Reserve, $1.1 billion for barracks, $26 million for child development, $137 million for medical facility, and $159 million for chemical demilitarization. The remaining 40 percent—$4.23 billion—is for family housing, including new housing, housing improvements, and operation and maintenance of units.

At the BRAC cleanup, as Senator HUTCHISON stated, I can tell you that we have one closing base—McClellan Air Force Base—in northern California, where plutonium has badly contaminated the ground. Senator HUTCHISON, in her State, has toxic materials that are seeping into residential areas from

Kelly Air Force Base. There is no question in either of our minds that the BRAC rounds we have completed were not sufficiently funded with environmental remediation dollars. The proof is in the pudding, and that pudding is that many bases still cannot be transitioned into productive civilian use because of the absence of the ability to clean them up.

Mr. President, the MilCon bill is important to the men and women in uniform who serve our Nation at home and overseas. We believe it is a good bill, it is a bipartisan bill, and I strongly urge my colleagues to approve it.

How much time do I have left?

The PRESIDING OFFICER. The Senator has 40 seconds.

Mrs. FEINSTEIN. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas, 96, nays 3, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—96

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—3

Feingold
Kyl
McCain

NOT VOTING—1

Helms

The bill (H.R. 5011) was passed, as follows:

Mrs. FEINSTEIN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The Presiding Officer (Mr. BINGAMAN) appointed Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. REID, Mr. BYRD, Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, and Mr. STEVENS conferees on the part of the Senate.

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## PRESCRIPTION DRUGS

The PRESIDING OFFICER (Ms. LANDRIEU). The Senator from Missouri is recognized.

Mr. BOND. Madam President, I rise today to comment on the overall policies we are working on today. While this bill we are debating, the underlying bill, is a generic drug bill that came out of the Committee on Health, Education, Labor, and Pensions, we all know that ultimately we are going to be talking about Medicare and prescription drug coverage.

We all recognize the lack of prescription drug coverage demonstrates clearly Medicare has not kept up with the rapid advances in medical care, placing ultimately the health care security of too many seniors at risk.

When Medicare was created in 1965 to provide health care for our Nation's elderly and disabled, prescription drugs were not included as part of the program's benefits. At that time, that made sense because pharmaceuticals played an extremely minor role in the world of medicine. In the last 35 years, medical practice has changed dramatically and prescription drugs have become a vital part of health care. In the last decade or two, we have seen a pharmaceutical revolution. Hundreds of amazing new drugs have been developed to treat and manage all different kinds of diseases and medical conditions. Those of our population who suffer from these diseases have benefited greatly.

More and more these days prescription drugs are keeping Americans of all ages out of hospitals, enhancing the overall quality of life and, yes, keeping people alive. Hundreds of drugs that were unknown decades ago play a critical role keeping our seniors healthy, active, and alive. Yet many of our most vulnerable citizens are seniors who have trouble affording prescription drugs because their Government-provided Medicare coverage has failed to keep pace with medical progress.

In addition to being exposed financially to the cost of needed drugs, seniors without prescription drug insurance do not benefit from the lower prices that most third-party buyers—such as insurers, hospitals, and pharmacy benefit managers—are able to negotiate with pharmaceutical manufacturers. As a result, seniors without drug coverage must pay the highest retail price for needed medication.

That is a situation we must change. It is time to modernize our Medicare system and to add a prescription drug benefit to protect the health care security of our seniors. The Medicare Program needs to be updated to reflect the past 35 years of medical progress. The millions of Americans who rely on Medicare for their health care deserve no less.

Fortunately, over the past few years the debate in Washington has shifted from whether or not to provide a prescription drug benefit to how to best craft a program to provide seniors with the best prescription drug coverage possible. Now is the time to act to include prescription drugs as part of an overall health security package for our seniors.

An issue this important deserves debate and serious consideration. How can we consider a serious import issue such as this without the benefit and expertise of the Finance Committee? I have heard the structure and process of this debate described aptly as one of mutually assured destruction, or "mad." This issue is too important to too many seniors for this debate to be treated in this manner. Because of the terms of this debate, any drug proposal that passes ultimately must have strong bipartisan support, because 60 votes will be needed to pass it. Is that truly "mad"? I hope not. But I sense that, without the benefit of the Finance Committee working on this, we may be in a very difficult situation.

Some watching may ask how did we get into the situation where a prescription drug bill will require 60 votes to pass rather than a simple majority. The answer is simple. The first reason is because the majority leader has decided to bring a bill straight to the floor and bypass the committee process entirely. This is a troubling pattern. The farm bill, the energy bill, the trade bill all bypassed the committee structure—a mad process.

This action is troubling to me because I understand there was one proposal with the votes to pass in the Finance Committee, the so-called tripartisan bill. But the committee was not allowed to act on this important issue. That is a shame.

How in good conscience can we consider the largest addition to Medicare since its inception without the thoughtful input of the committee with jurisdiction over the Medicare Program? That does not make any sense. That is mad.

The second reason 60 votes are necessary is because we have no budget.

For the first time since 1974 we have no budget in the Senate. This is one of the consequences of not having passed, or even, for that matter, considered a budget on the floor. Because there is no budget, we are operating under the budget guidelines passed last year that would spend about $300 billion over 10 years to add a prescription drug benefit to Medicare. Therefore, any prescription drug plan brought to the floor must be within the $300 billion or it is subject to a budget point of order.

This is another problem with the scheme under which we are operating. We will be considering shortly the largest expansion of an entitlement program in the history of our Nation. We bypassed a committee, we have not had a hearing on it, we have not had a markup, the Congressional Budget Office has not scored it, and we will be bringing the bill straight to the floor. Mutually assured destruction. This is mad. It is a recipe for disaster and inaction.

What is most troubling to me is the real losers. If the Senate is unable to pass a prescription drug benefit, it will be our seniors. The seniors are the ones who will be forced to endure another year without the safety net that a Medicare prescription drug benefit could and should provide.

Enough about my concerns about the process. As we look forward to this debate, there are a number of fundamental principles that need to be outlined as we consider various prescription drug options. These are fundamental elements to any serious, responsible, bipartisan prescription drug benefit.

First and foremost, a prescription drug benefit must be permanent, it must be affordable, and it must be immediate. Seniors need help now. With the high cost of prescription drugs, they cannot continue without that assistance. They are hurting today. Seniors often make painful choices between buying food and buying prescription drugs. Seniors need action and results on this issue—not an election year issue in November. Seniors want, need, and, quite frankly, deserve the stability of a permanent drug benefit.

One of my most serious concerns with the majority leader's bill is the fact it will sunset after only a few years. A prescription drug benefit that sunsets after 2010, just a few years after it finally begins, is simply not good enough. Medicare is an entitlement program and seniors deserve permanent benefits they can count on today, tomorrow, 10, 12, 15 years from now. A hollow benefit, with temporary relief that sunsets after 5 or 6 years, does not provide adequate health care security for seniors.

Think about the lunacy of the situation we are in. We seem to be unintentionally on a track of telling seniors they had better die in 2010. We passed elimination of the death tax, but we did not make it permanent, so we tell seniors, you had better die in 2010 or the tax rates are going to jump back up and the death tax is going to spring from the grave. Now we are saying, you can be protected on prescription drugs through 2010, but you had better move on because in 2011 this program sunsets.

Somebody is not thinking. Somebody is not realizing what they are doing. Let's get serious. We need to make the death tax repeal permanent, and we need to make prescription drug benefits for seniors permanent.

Seniors should have the right, also, to choose the prescription drug plan that best meets their needs. They should not be told what they need by a politician or a Washington bureaucrat. I fear the majority leader's bill dictates a one-size-fits-all, Government-run benefit for all seniors and puts the Government in the position of determining what drugs would be covered under the plan. We must protect our seniors from a Government-run drug program that delays, restricts, or denies access to the newest and most effective drugs available on the market.

Seniors should have the right to choose a benefit that best meets their needs and does not restrict access to the newest and most effective drugs. I fear that the majority leader's bill leaves no room for innovation and flexibility in terms of plan design, no choice for seniors, and could limit access to breakthrough drugs. A prescription drug benefit must address the high cost of prescription drugs and attempt to restrain the skyrocketing cost of prescription drugs which cannot be sustained long term.

All existing drug benefits make manufacturers compete to reduce prices and pass along the savings from price competition as larger discounts and lower premiums for beneficiaries. That is the only proven way to keep a drug benefit affordable. The majority leader's bill locks in copayments and premiums for beneficiaries and prevents competition that could lower drug prices.

According to the Congressional Budget Office, bills that rely on public-private-sector partnerships and an element of competition, such as the tripartisan bill, will help manage the cost of drugs. Sadly, the CBO found that bills similar to the bill of the majority leader, because of the lack of competition and inflexibility of the benefit, would in fact increase drug costs. Given the current climate, I simply cannot support a plan that increases drug costs or one that sunsets at the end of 2010.

Finally, a prescription drug benefit should be fiscally responsible and sustainable long term. The best guess we have, without the CBO's scoring, is that the proposal by the majority leader and some of his colleagues would cost at least $600 billion over the next 8 years. In a time of deficit spending and a tight economy, such a benefit would ultimately require cuts in other fields, such as education, Social Security, or national defense, and place a heavy burden on the current generation receiving benefits, the generation paying for those benefits, and the next generation.

Seniors have a right to demand a drug benefit now, but I believe most of them will tell you they do not want to mortgage their grandchildren's future in the process. Seniors must be protected from catastrophic drug costs. No senior should face financial ruin because of an illness that triggers catastrophic drug costs. Our Nation's health care system has changed significantly since Medicare was first created. To make it effective, we must change Medicare as well.

We must work to bring affordable prescription drug coverage to every Medicare recipient. The Senate has the opportunity to pass a bipartisan—tripartisan permanent Medicare prescription drug plan this year. The House has already passed a bill. The President has indicated repeatedly that he wants a prescription drug benefit for America's seniors. With this kind of momentum, the time should be now. I hope we will move forward with an honest and open debate that will produce a responsible, bipartisan bill consistent with the principles I have outlined that fulfill Medicare's promise of health care security for all seniors.

I yield the floor.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Reid (for Stabenow) amendment No. 4305 (to amendment No. 4299), to clarify that section 1927 of the Social Security Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the Medicaid program.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I am going to send a modification to the desk very shortly, but I want to comment briefly on the statements of my friend from Missouri that were just made. He talked about lunacy of what is going on here. I will use his exact term—lunacy. Talk about the death tax, that is, the estate tax, at the same time you are talking about Medicare prescription drugs, the vast majority of people, the vast, vast majority—over 98 percent—of the people on Medicare have no relevance to the estate tax. Why he would bring up the estate tax at the same time we are talking about Medicare prescription drugs is beyond my ability to comprehend.

I would also say he talks about why we bring up some of these bills without going through the committee. We do not do that very often, but we have done it. When we were in the minority, it was done all the time. We have seen a number of these measures being brought up because of what has gone on after September 11.

Take terrorism insurance. We passed that. It was really good legislation. The President told us how much it was needed. It took us a long time to get the bill up because they objected to it. Now they will not let us go to conference on this bill. It is interesting to note, the majority leader said we should have a 3-to-2 ratio and we had a 3-to-2 ratio. They said no, we want 4-to-3 or we will not go to conference. We gave them 4-to-3, and they still won't go to conference. This is terrorism insurance. That is stopping construction projects in Nevada, in New York, I am sure in Louisiana, all over the country.

There are other examples, of course—the trade bill. The trade bill is something the President said he wanted. He wanted us to get it to the floor as quickly as we could. We did, and it passed. Only the last couple of days were we able to get conferees appointed.

The farm bill, that is pretty important legislation—the President signed that into law. The energy bill, we finally got conferees there. The President said that was an important bill.

I only mentioned a few of them—the trade bill, the farm bill, the energy bill, the terrorism bill. They couldn't be too bad. They passed the Senate by large margins in every case.

I hope people will understand that we are doing the best we can to work our way through a difficult situation in this country. We are making progress. We passed legislation in spite of the obstinacy we have had—not the least of which is the legislation on which the Senate is now working. We spent all day yesterday on importation. I think we should have been able to do more. I agree about the fact that we finally passed our first appropriations bill.

As I see down the hall, we are completing the very difficult conference on the supplemental. I should be there. I am a member of that committee. I hope to go there in a matter of a few minutes. Senators BYRD and STEVENS, chairman and ranking member of that committee, indicated to me that they expect to complete that conference in the next hour and a half. That will be by 12:30.

### AMENDMENT NO. 4305, AS MODIFIED

Mr. REID. Madam President, I have a modification at the desk. I call it up.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 4305), as modified, is as follows:

At the end, add the following:

**SEC. . CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.**

Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following:

"(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

"(1) directly entering into rebate agreements (on the State's own initiative or under a section 1115 waiver approved by the Secretary before, on, or after the date of enactment of this subsection), that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

"(2) making prior authorization: (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.".

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I would like to speak to my amendment which is now before us.

I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senators DORGAN, SCHUMER, FEINGOLD, TORRICELLI, CARNAHAN, LEVIN, JOHNSON, SNOWE, JEFFORDS and DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Thank you very much, Madam President.

Madam President, I am very pleased to offer this amendment which is a bipartisan amendment, and hopefully one that we will be able to pass, working together and moving forward on the issue of lowering prices of prescription drugs and also providing Medicare coverage for our seniors and the disabled.

This amendment addresses an issue that our States are facing, the question of allowing States to have the right to have flexibility to lower prices.

This is a simple amendment. It would give States the flexibility to set up programs to pass along negotiated Medicaid rebates and discounts to their citizens who do not have prescription drug coverage and are not covered by Medicaid. So the States will have the ability to negotiate and pass on those similar discounts to their citizens who are without coverage and who are not on Medicaid.

This is critical. States should have the ability to provide similar discounts to all of their uninsured citizens. Since Medicaid only covers low-income people, and lower and middle-income citizens, they do not have the ability to get the same negotiated discount. Some States are setting up programs to do that.

One of the biggest challenges, as you know, and as we all know—we will be debating it this week and next—is the challenge facing not only our citizens, our families, and our seniors but also the business community, which I have talked about frequently. Also, State governments are addressing this issue of the rising cost of prescription drugs and the implications to Medicaid.

In fact, the National Governors Association is meeting right now. Earlier in the week, I shared a newspaper article where all of the Governors of the United States were speaking about their biggest challenge. Their biggest challenge, according to the article, is the rising price of prescription drugs and the rising cost of Medicaid to the State budgets. This is a critical issue for them.

We know that from 2000 to 2001 prescription drug prices rose about 17 percent. This is not unusual. It has been that way every year. This is causing health care expenditures and health insurance premiums to go up for business, for States, for individuals, and most certainly for those who do not have any insurance and don't have the clout to negotiate a discount. Those citizens are paying retail, which, in fact, is the highest price in the world right now.

In an attempt to respond to the skyrocketing prices, 30 of our States have enacted laws with some type of prescription drug coverage for those without insurance. They are looking for ways to be innovative—to use what we often have heard on the floor from our colleagues—the innovations of the States, the laboratories of democracy, and the ideas that come from our States. About 30 of them are looking for ways to enact something that relates to prescription drug coverage—looking for ways to lower prices and expand coverage. That is according to the National Governors Association.

However, unfortunately, the drug companies' trade association—PhRMA—has mounted legal challenges against several of those States, including my own State of Michigan. They have been opposing State efforts to lower prescription drug prices and increase coverage for those without insurance.

Specifically, they filed lawsuits against Maine and Vermont for their programs because the drug lobby does not want them to extend the Medicaid discounts to those without insurance who are hard-working citizens. In fact, we know that a majority of the people without insurance in this country work in small businesses. They are working. Their small business is trying to get health care coverage for themselves and their workers. Those individuals have no access now to any kind of group purchasing power or to any kind of discount. States are trying to use their group purchasing power for Medicaid and extend that same discount—usually 15 to 20 percent—to their employees. Many work in small businesses and don't have any insurance.

While Maine's two programs have been upheld in court, Vermont's program has not. It was actually struck down by the courts. Both States are embroiled in a very lengthy appeals process.

Specifically, the Maine Rx program is now pending before the Supreme Court. The current administration is supporting Maine's right to implement their program.

I commend President Bush and the administration for siding with the State of Maine and their right to make decisions about their citizens and how to operate their businesses for their State.

In fact, the Solicitor General, Ted Olsen, filed a brief on behalf of the Federal Government urging the Supreme Court to allow Maine's Rx program to go forward without further delay.

I argue that this amendment, in fact, is supported by both parties, people on both sides, and that administration certainly has indicated—I have not heard directly regarding the amendment, but they certainly have indicated support for the program on which this amendment is based. I appreciate their leadership on this issue.

These legal challenges are very costly to taxpayers. They just deter other States from establishing other similar demonstration projects, such as the underlying generics bill. Unfortunately, the drug companies are trying to stop these kinds of innovations.

This amendment would, in fact, try to stop the drug companies from using the legal system to keep their prices high. We all know that they will dispatch their high-priced attorneys whenever they can to, unfortunately, keep their profits as high as possible.

Since the price of prescription drugs is soaring, States have the unfettered ability to pass on Medicaid rebates to their residents. They should have that ability to pass those rebates on to their residents.

I hope we will agree to this amendment because even if Congress passes a Medicare prescription drug program this year, it will be several years before it is fully phased in.

I hope and pray that we will come together and pass a Medicare prescription drug benefit. It is long overdue. But we know it will take several years to phase it in.

In the meantime, our States are struggling to help their citizens. I believe they need our support.

The Rx flexibility-for-States amendment would seek to remove the legal hurdles that are preventing States from providing lower priced prescription drugs to their citizens.

Specifically, States would be able to extend their Medicaid rebates and discounts for prescription drugs to non-Medicaid-eligible persons.

State governments are close to the people. I know our Presiding Officer was in the State government, as was I. We understand that States and local governments are on the front line hearing from people, and wanting to respond. We have States that are responding, and are being stopped through the legal system right now by the drug company lobby. The solution to higher prices, higher prescription drug prices, is not just in Washington. It is not just in the Senate, or in the House of Representatives. But it is in capitals all across the country where our Governors and our State legislators are working to respond to what is critically one of the most fundamental issues that families and seniors and businesses face to today, which is the explosion in health care costs, predominantly coming from the rising cost of prescription drugs.

Today we have a chance to send a very important message to our colleagues and to States across the country.

I ask my colleagues to join with us, on a bipartisan basis, as we have in this amendment, to adopt this amendment and to tell the States that we are standing with them as they fight to lower prices for their citizens and make lifesaving medicines available.

If we fail to pass this amendment, many States could be faced with legal challenges from PhRMA as they try to come up with programs to lower prescription drug prices. Right now, we have the ability to stop the dollars going into the lawsuits and redirect those to lowering prices and making prescription drugs available.

I invite and urge my colleagues to join with us. This is an opportunity for us to stand together in support of our State governments. Let the Governors know, this week, as they are meeting, that we understand what they are going through and we want to back them in their efforts to make sure that lifesaving medicines are available to their citizens.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I commend my friend and colleague from Michigan for this absolutely excellent amendment. I am hopeful we can get strong support for this amendment because it is so compelling in its logic and reason, and the result will be so important to our fellow citizens across the country.

Just to catch up to where we are, Madam President, the underlying bill, the Schumer-McCain legislation, tries to halt the gimmicking that the drug companies use to get around the Hatch-Waxman bill that was passed a number of years ago. They have gimmicked the rules, and they do it in ways that completely circumvent the spirit and the understanding of the law, in order to keep prices artificially high. And every family and every user of prescription drugs knows the challenges families are facing with high drug prices.

Under the McCain-Schumer legislation; we have tried to deal with that issue. I think we have dealt with it effectively. That is the matter that is before the Senate.

We had a good debate yesterday on different measures that continue to put downward pressure on the escalation of drug prices. I think we had a very good debate on that, both in support of the underlying legislation and in support of the Dorgan amendment, yesterday. Now we have the Stabenow amendment before us, which will, in a very important way, continue this effort to exert downward pressure on the prices of drugs in this country.

I am amazed at the opposition to this amendment. For a good part of the afternoon yesterday, we listened to talk about the free market system that urged us to get away from price controls and use the free market system. But when the States use the free market system, in order to bargain for the lowering of the prices, what happens? What is the reaction of the drug companies? The drug companies go ahead and sue the States to try to restrain them from using the free market system.

This isn't Government intervention, it is the States themselves, States that have Republican Governors and Democratic Governors. The States themselves are trying to use the States' power in order to get the best price for the neediest citizens in their States: the poorest individuals, the ones without insurance. And here comes PhRMA with their legal actions to make sure the States are not going to be able to do that.

When does that greed stop? When does that greed stop? When do they stop wringing the final few cents out of the poorest individuals in this country? That is what this is all about.

The States are trying to negotiate lower prices for the poorest individuals in these States, and PhRMA says no.

They gimmick and circumvent the clear spirit and language of the Hatch-Waxman law in order to perpetrate billions and billions of dollars of additional profits.

Then we hear a great deal of debate in this Chamber and much admonition from many of those who are opposed to the underlying legislation saying: Let's let the free market work.

We had hours and hours of discussion about price controls in Canada. We are not for price controls, as in Canada. We want the free market to work. But what is happening when the free market works in the State of Maine, the State of Florida, the State of Michigan, and other States? In comes PhRMA, and they say: No, we are not going to let it work. We want to stop them from doing it.

This is the same kind of action that is underlying the basic measure.

So I want to review, very briefly, the situation. I understand the problem we are looking at.

Under the terrible burden of skyrocketing drug prices, the State governments are trying to use their authority and bargaining power to help residents—and our constituents—obtain lower prices.

Already, 30 States have passed laws to extend drug coverage or lower prices. But PhRMA has done it again, suing the States to stop our "laboratories of democracy" from fighting the drug industry on behalf of American consumers.

The drug industry has sued the State of Maine. They have sued Vermont, Michigan, Illinois, and Florida. The drug industry is waging war against our Governors and our State legislatures in the courts.

The Stabenow amendment puts the question to the Senate: Will you stand with the States or will you stand with the drug industry for higher drug prices?

Many of my colleagues are former Governors themselves. I hope they take particular note that just yesterday the Nation's Governors issued a statement of solidarity with the administration in its legal fight with PhRMA over the Michigan Medicaid waiver that reduces the State's drug costs.

Let me read from the NGA statement of July 15, which quotes Michigan Governor Engler:

> The nation's governors are extremely disappointed with the course of action chosen by PhRMA. It is unfortunate that their organization feels compelled to use the court system to manipulate public policy.

That is a Republican Governor.

The Governors, the administration, and consumers all support State efforts to reduce drug prices. Now, with the Stabenow amendment, it is the Senate's turn.

The amendment is based on a simple but powerful idea: Extend the scope of an existing Federal law to help the States supplement the rebates we require under Medicaid.

Medicaid already collects "best price" rebates from the drug industry, thanks to a 1990 law we passed under the leadership of Senator David Pryor from Arkansas, a champion of lower drug prices.

I was always impressed by the work and the commitment of Dave Pryor and his strong desire for protecting the consumer. And this tradition follows with Mark Pryor in Arkansas today: they are strong protectors of consumers and lower drug prices.

The Stabenow amendment simply permits States to negotiate similar State rebates to help lower-income residents afford their drugs. All this amendment does is let the States use the same negotiating tools used today by the private sector to lower their drug bills. I do not see why those who otherwise support the free market would oppose this amendment.

We find out that large companies use their negotiating ability. HMOs use their ability. Why not permit the States to use their ability? But PhRMA says: No, we are not going to let them do that, particularly when they are using it for the lowest income citizens.

The amendment empowers the States to use the same tools and negotiations used by the private sector to lower its drug costs. If a drug company refuses to negotiate with a State, its drugs would still be available but would be subject to "prior authorization." This is precisely what the State of Michigan is doing. This is precisely why PhRMA is suing the administration. And this is precisely why the Stabenow amendment is needed.

Here is what the drug industry did when the State of Maine and the State of Vermont enacted State laws to lower drug prices.

Naturally, the industry sued the States. No surprise so far, given their abuses of the Hatch-Waxman Act. But then the drug industry instructed its front group, the so-called Citizens for Better Medicare, to run TV, radio, and print ads in Maine and Vermont attacking the laws. That is what the drug industry does to keep the prices sky high.

They sue our State governments and waste taxpayer dollars defending against their frivolous lawsuits. And they run attack ads.

Lest anyone question whether the so-called "Citizens for Better Medicare" is anything but a front group for the drug industry, let me quote the June 18 Wall Street Journal—

> [T]im Ryan, PhRMA's past marketing director, founded the grass-roots-sounding "Citizens for Better Medicare" at the behest and expense of major drug companies.

There it is. Enough is enough. The American public is sick and tired of the drug industry's abuses. Let's support the Stabenow amendment, and help our States lower drug prices for all Americans.

I see others who want to speak on this issue. I want to mention to our colleagues an excellent report being released today. It is a review of the impact of the three principal proposals that have been advanced on coverage. What this study does is take your State, the key features of each of the programs that have been advanced, the Republican House program, the Graham-Miller program, which I am proud to cosponsor, as well as the tripartite program. Then it takes the numbers of citizens who would be impacted, the number of elderly, senior citizens, and disabled on Medicare, and it runs through how each of these programs would impact the seniors in your State.

It reviews for each of the programs who would be affected, what the impact would be on each of the seniors in the State, who would benefit the most, and who would benefit the least.

We will be releasing this report this afternoon at 2 o'clock. We can say without question that in the review of all 50 States, their powerful, compelling, and overwhelming conclusion is that if you want to make drugs available, accessible, affordable, and dependable, there is one plan that stands out head and shoulders above all the others, and that is the one introduced by our friend from Florida, Senator GRAHAM.

There are others who wish to speak on this. I will come back and address it later.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I ask unanimous consent that following my remarks, the following Members be recognized to speak: Senator HATCH and Senator FRIST, in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Madam President, I rise in strong support and as a proud cosponsor of the Stabenow bill. It is worthy legislation. What I will do for a few minutes is talk about the underlying bill and the Stabenow bill and what they have in common.

The Senator from Massachusetts outlined it. These are free market approaches to lowering drug prices. The one, the Schumer-McCain bill, allows more competition. What could be more all-American than more competition.

The second, the Stabenow bill, allows people within the market to gather together in the form of their government and negotiate a lower price. We do this every day in America. That is what a corporation is in certain ways: That is what a union is in certain ways. Here we have the State doing the same thing.

As the Senator from Massachusetts said, there were some yesterday who talked about the Canadian bill and price controls. These are not price controls, but we just saw yesterday or 2 days ago Pfizer and Pharmacia merge. What were they trying to do? Well, in a free market way, they were trying to aggregate to increase their bargaining power. Doesn't it make sense to say that the citizens of Maine or Vermont or Massachusetts or Utah or New York can aggregate to equal that—well, they will never equal it, but at least to gain a little leg up on that bargaining power and get some help?

Both of these proposals are free market. There are some people whose view of the free market is to let big companies do whatever they want. I am a little worried that over at the FCC, the whole idea is, let us have one big communications empire. Actually, the free market needs some competition. But the free market has also said, as it has evolved since the Adam Smith days, that combinations to try and increase our bargaining power are legitimate, recognized ways that the free market works.

I see that my colleague from Utah is in the Chamber. I first want to pay him some tribute. I said this in committee a year or 2 years ago. I think Hatch-Waxman has been one of the greatest consumer advances we have done in the last quarter of the last century. When I said it, it was still the previous century. But he has done a great job there.

Our goal, in terms of the Schumer-McCain bill, is to restore the balance of Hatch-Waxman. The bottom line is a simple one: That in 1984, we had a very simple template. We said: God bless companies that come up with innovative drugs. They research them; they make a lot of mistakes. For every drug they bring to market, there are a lot of drugs that don't come to market. They need the help. They need a return. God bless them. Give them a return. They are creating a product that makes us all live better and longer.

But we also said that rate of return, that patent, which is what the patent really is, can't be unlimited. And so we said, after a period of time, 20 years after the patent was filed, others could come and produce the drug. It worked. Innovation, from the date Hatch-Waxman passed to the present, in the field of pharmaceuticals has been unparalleled. Lives have been saved. The people are living longer and better and healthier. We see that in our parents and our grandparents. It is amazing.

In the last 5 years, I believe Hatch-Waxman has steered off course. In fact, the whole pharmaceutical industry has steered off course. For people who make a wonderful product, they are evolving into an industry that is despised and hated.

They could say to themselves: It is only because these drugs cost a lot, and we can't help it because it costs a lot to research them.

I would say it is not that simple. I wish it were. They have evolved because, in a headlong rush to keep their profitability as high as it has been in the past, they are desperately clinging to extend patents longer than Hatch-Waxman ever intended. They end up hiring not just the best researchers anymore but the best lawyers.

A drug company should go to Harvard Medical School, not Harvard Law School, as it continues its work. But they have been spending much of their time and effort in coming up with schemes—that is what they are—to extend the patent beyond the time it should be extended.

What does that mean to the average citizen? It means a drug, instead of costing $25 a month, is going to cost $100 a month—vital drugs. If anything, they have pushed it further and further because so many of these blockbuster drugs, these wonderful drugs, are coming off patent shortly.

I know my colleague from Utah has a lot invested in Hatch-Waxman. I very much appreciate it. The little changes that we make, Senator MCCAIN and I, in our bill, just build on it and readjust it. But I think the view that Hatch-Waxman is just fine as it was in 1984 is off base. The statistics will show it. That is why this bill has such great support. I am certainly open and willing and eager to hear whatever suggestions my colleagues from Utah and Tennessee will make. But I will tell them this: The view that we should just go back to the old way in 1984 doesn't work.

Mr. KENNEDY. Will the Senator yield?

Mr. SCHUMER. I am happy to yield.

Mr. KENNEDY. We have before us the author of the amendment. Since the Senator has the floor, I would like to ask him a question or two.

Isn't it true that HMOs use their bargaining power to lower costs of prescription drugs today? HMOs all over the country have been doing that.

Mr. SCHUMER. Yes, all over.

Mr. KENNEDY. Isn't it true that insurance companies use their leverage and powers to get the lowest cost possible?

Mr. SCHUMER. Yes, and they are proud of it. They brag about it.

Mr. KENNEDY. What could be the possible logic in denying the people of the States, particularly the smaller States—or large States, for that matter—what is the logic of denying them their bargaining power? If we are going to let the HMOs and insurance companies do it, why not the States?

I am sure we will hear that it is because the States are a governmental power and therefore this is price control. As I understand it, if the drug company doesn't want to sell to them, they don't have to, do they?

Mr. SCHUMER. My colleague is exactly right. By the way, our Federal Government does the same thing in Medicare. They bargain with the drug companies for a lower cost for Medicare. Why can't the States do it for their citizens who are not under Medicare and Medicaid? My colleague from Massachusetts is right on the money.

Mr. KENNEDY. It seems we will hear that somehow the States can't bargain because they are a governmental institution. But the concept is very much the same. For the insurance industry, it is fine—it is a free market system; and for an HMO, it is fine—it is the free market system. But somehow for the State, it is government. Even though the pharmaceutical company is free to say: We don't like these negotiations; therefore, we won't sell to you. If all the pharmaceutical companies did that, obviously, the State would have to bargain in good faith. There is no indication that they are not bargaining in good faith.

As the Senator pointed out, there is no indication that these industries have been suffering adversely. They are one of the most profitable industries—and Lord only knows they are paying the highest salaries to their executives as well. But I am not as interested in that as in the concept of what we are talking about here.

Finally, if the Senator would agree, I am perplexed: We are not talking about bargaining for high income people in the State; we are talking about bargaining for the lowest income, the poorest of the poor, many of whom would not be able to have access to the prescription drugs unless this were offered. Why is that PhRMA says: No no, you can't do it; we are going to squeeze the very last dollar out of them?

Mr. SCHUMER. The Senator is literally on the money. The bottom line is that the Senator is exactly right. There is no difference, from an economic point of view, in a State getting together and bargaining for its people and an insurance company or HMO doing it. In fact, you can argue that the State has more legitimacy, being an elected body and representing the will of the whole people of Michigan, Maine, Massachusetts, or New York, No. 1.

No. 2, what about over in Europe or in Canada? They put on a price control. The pharmaceutical company still ends up selling the drug. Do you know what ends up happening? It is the American citizen who ends up paying for all the research, which does good around the whole world, for, say, Celebrex or Vioxx. Who pays the whole thing? Us.

Why shouldn't the American taxpayer and citizen, through his and her State government, be allowed to say we should not bear that whole cost ourselves?

That is the thrust of the amendment of the Senator from Michigan. It is free market. There is no lock-in. Just as Germany said, you can sell Vioxx for 3 pfennigs, and that is not worth it. The company doesn't have to sell it. It is the same exact thing here.

Mr. KENNEDY. Well, the point is that the State is not even doing it for all the citizens; it is not even doing it for all of them. They are doing it for the poorest of the poor. That is whom they are trying to bargain for in these circumstances. The drug industry is contesting that.

Let me, finally, ask my friend, Senator STABENOW, if she has a viewpoint on this matter. As I understand, this is not a partisan issue in any respect. I read Governor Engler's very strong comments about this where he was actually talking about manipulating public policy. He was using the word manipulate, suggesting that we have to manipulate public policy. The drug companies are manipulating public policy in their patent policy and in the collusion with the generics, which is being addressed by the Schumer proposal.

So we have a Republican Governor talking about manipulating public policy. I was interested in the fact that this should not be a partisan issue. The silence in support from the other side of the aisle is deafening with regard to the Stabenow amendment. I am hopeful there will be voices on the other side that will rise in support of this. To their credit, they supported the Schumer proposal in the committee. Five Republicans did. I hope we will hear those voices again.

I just say to the Senator, this isn't really a Democratic or Republican, or liberal or conservative issue. I find there are liberals and conservatives, Republicans and Democrats, as well as Republican and Democratic Governors who share the view of the Senator from Michigan and the Senator from New York. If the Senators would comment on that, I would appreciate it because it is an important issue.

Mr. HATCH. Madam President, I have one simple question.

Mr. SCHUMER. I am happy to yield to the gracious Senator from Utah for that.

Mr. KENNEDY. If they can answer my question, then I will be seated.

Mr. HATCH. If I may ask, how much longer does the Senator need?

Mr. SCHUMER. No more than 5 minutes longer. I thank the Senator. I will yield to the Senator from Michigan to answer these very worthy questions.

Ms. STABENOW. I thank both of my friends and colleagues, who are such champions on this underlying issue—the entire issue of Medicare and prescription drug coverage and lowering prices. In fact, as our leader, the Senator from Massachusetts, indicated, this is a measure that is a bipartisan amendment. We have Governors—frankly, the majority of Governors—Republicans and Democrats, who are struggling with this question of lowering prices and making prescription drugs and lower prices available to their citizens. So as the National Governors Association is meeting right now, they have said their biggest challenge is the price of prescription drugs and the explosion, in their budget, of Medicaid. They need to address these issues.

This amendment will support the Governors across the country. It is a bipartisan amendment. It is something supported across the country on a bipartisan basis. I am very hopeful that we will have colleagues' overwhelming vote on both sides of the aisle supporting the effort to say yes to this innovation of the States. This is not mandatory, it is purely based on States taking action on their own to decide if they would like to do this. If they do that through their State legislatures and the Governors on behalf of their people, this simply says that this is legal and that, hopefully, it will stop the suits PhRMA has been bringing against our State governments.

Mr. SCHUMER. I thank the Senator. She is on the money. It is voluntary. No State is forced to do this. But if the citizens of the States, through their elected representatives, both Republican and Democratic Governors, want to do this, they should be allowed. We should not be tied up in litigation for years while the prices go up and up and up.

I am fully supportive, again. To underline this, this is a free market policy. It is no different than what the insurance companies do, the HMOs, and God bless them. It is saying that people may aggregate. Are we going to have people opposing mergers of the big drug companies? No, we are not. They say they can do it better in a larger size. Why can't the average citizen do something in a larger size? That is what we are trying to do.

I am going to conclude with one little pitch today. I know my colleague from Utah has been patient, and I very much appreciate that. Whether it be the Schumer-McCain bill, generics, or this bill, these are reasonable and modest proposals. I say to my friends in the drug industry—again, I admire them; I think they have done a good job—please, you have become "Dr. No." Whenever that comes up, you say no. No change. You are willing to change it with your lawyers to extend the patents, with all these new ways you find around what we think the original intent of the Hatch-Waxman law was. Do not be Dr. No. Get with it. Go back and innovate. Go back and form new wonderful drugs and get your patent on those, but when people want to get together to lower those prices in a fair negotiation, when this Congress says we ought to prevent the lawyers from changing the original intent of Hatch-Waxman and drawing it off course, do not stand in the way.

In fact, I challenge PhRMA to come up with one constructive proposal to help people with the cost of drugs, not just to keep doing it the same way when we know there is an outcry. They know best what helps with innovation. Come up with a proposal. Do not go the way of the cigarette companies and spend all your life being sued. Do not go the way of the cigarette companies and become the object of scorn and hatred.

You make a wonderful product. You do something good. Support the bill of the Senator from Michigan. Support our bill or come up with some constructive proposals.

I will make one other point, Madam President, and then yield the floor. I went to PhRMA a year and a half ago. The Senator from Utah knows this because I informed him of the negotiations. I said: Let's sit down and figure out something. Let's get the generic industry and brand industry together to come up with a compromise to deal with some of the problems.

They listened politely, but, frankly, I do not think they thought our legislation had much of a chance for passage, and they said no.

Now we are knocking at the door. We are almost there, and it is not too late. It is not too late to come up with some answers that will solve our problems—the problems that the Senator from Michigan deals with in her legislation, and the problems that Senator McCAIN and I deal with in our legislation—and get something done. I think I speak for all of us that much rather than make speeches, much rather than win political victories, we want to get something done, and that is what we are here to do today.

In conclusion, I urge support for the Stabenow amendment to restore some bargaining power which is voluntary. Let a State's Governor, if they want, do this. Do not wait 5, 10 years until the litigation is finished—it will probably come out the same way—and give people a break. Let them be able to afford these wonderful medicines that we have, and at the same time allow the drug companies to continue on their path of real innovation as opposed to false innovation of patents, pill sizes, colors of bottles, and different applications.

Madam President, I yield the floor and once again thank my colleague from Utah for his courtesy.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Utah.

Mr. HATCH. Madam President, I rise to speak on the pending legislation, S. 812, the Greater Access to Pharmaceuticals Act. I did not realize the pioneer companies that have been referred to as PhRMA are as satanic as they have been represented to be on the floor today. One would think they are everything that is bad in this world and that they are the cause of all the high costs of drugs in our society; that they are not being fair to the generic companies that help bring drug prices down; that HMOs are the reason drug prices come down and that the States do not have the same type of market power. I heard all these things. I heard how terrible the research-based companies are. My goodness, I have never known that before. I am so happy to get this information.

I would like to cite a book called "The System." This book was written by Haynes Johnson and David S. Broder, hardly a conservative set of authors, but very intelligent, and highly respected journalists and authors. The book is an excellent account of the infamous and failed Clinton health care plan. History has a way of repeating itself. You can hear a theme on the floor over the last several days that comes right out of the Clinton play book.

On page 90 of that book, it says, in speaking about the political tactics to garner public support, a group of the President's political advisers have the following discussion, which sounds familiar to the way the debate is going on the floor of the Senate and elsewhere:

> In the campaign period, Fried recalled, Clinton's political advisers focused mainly on the message that for "the plain folks, it's greed—greedy hospitals, greedy doctors, greedy insurance companies. It was an us-versus-them issue, which Clinton was extremely good at exploiting.

That was Fried. Then they go on further, and I quote from the Broder and Johnson book:

> Clinton's political consultants—Carville, Begala, Grunwald, Greenberg—all thought "there had to be villains." Anne Wexler——

Who, of course, is not known for her Republican politics——

> remembered, It was a very alarming prospect for those of us looking long term at how to deal with this issue. But at that point, the insurance companies and the pharmaceutical companies became the enemy.

All this sounds familiar.

That is what has been going on here on the floor. Frankly, I do not think it is right. My experience has been there is no one single group who should be blamed for the high costs of pharmaceuticals. I do not want to blame the FDA because it takes up to 15 years and 5,000 different compound experimentations to get an approval of a drug and at a cost, according to some of the top authorities, of up to $800 million. That is 15 years out of the patent life. Frankly, one wonders why, with the few remaining years they have on patent life, drugs cost so much. I am not going to blame the FDA because their job is to protect Americans, but on the other hand, that is a long time, and I may talk a little bit about that today.

I am not going to blame the generic companies. They provide a tremendous amount of support for American people who need help. I believe in the generic industry. By and large, those companies are doing a great service, as we intended in the Hatch-Waxman bill.

By the way, without the pharmaceutical companies, the pioneer companies, there would not be any drugs for the generic companies to copy and reduce prices. So there has to be a delicate balance between the two, and that is what Hatch-Waxman is all about.

This underlying bill, of course, which for some reason is being debated before the Federal Trade Commission comes out with its comprehensive study and recommendations on the very issues addressed in the pending bill, which should occur before the end of next month—will change one of the most important consumer bills in history. I am not concerned just because it is my bill and Congressman WAXMAN's bill, but because without waiting for the FTC to give its recommendations, this underlying bill will change the Hatch-Waxman law before we have had a chance to hear from the FTC, FDA, other experts and interested parties. I do not think it is right to change the law until we have all the facts and understand better what this bill will do.

Hatch-Waxman, according to almost all authorities, has saved consumers $8 billion to $10 billion every year since 1984. It created the modern generic drug industry, but it also strengthened the PhRMA companies, the pioneer companies. Back then, they were spending about $3 billion a year on research and development. Today, it is over $30 billion a year. I think almost as satanic as they are portrayed on the floor by our friends on the other side, it seems to me they ought to be given a little bit of credit for some of the major therapeutical pharmaceuticals we have today.

Without them, we would not be where we are. We would not be the leaders in the world with pharmaceuticals, nor would we have the balance of trade surplus we get from the sale of American pharmaceuticals.

Let me comment on three aspects of the underlying legislation: Politics surrounding floor consideration; the process by which the bill moved to the floor; and finally, the substance of this bill.

At the outset of this debate, I congratulate and commend the original cosponsors of this legislation, our colleague from New York, my friend, Senator SCHUMER, and my colleague from Arizona, my friend, Senator MCCAIN. Even though I disagree with them on the way they resolved the key issues addressed in S. 812, and although the bill that emerged from the HELP Committee does not adhere to the original Schumer-McCain language in virtually every key policy area, they deserve recognition for their effort in highlighting issues, issues that are of concern to each of us to in this body: Access to prescription drug coverage and affordable prescription drug coverage.

As most of my colleagues know, I have a special interest in today's pending legislation. Throughout my career in the Senate, I have helped fashion a portfolio of legislation that facilitates our Nation's pharmaceutical research and development capacity. I am proud to have played a leadership role in crafting the law that the bill we are considering seeks to amend, the Drug Price Competition and Patent Term Restoration Act of 1984, known as the Hatch-Waxman bill. A key partner in this effort was my good friend from the House, HENRY WAXMAN. That a liberal member like Mr. WAXMAN and a conservative like ORRIN HATCH got together to write this law is but one sign of the bipartisan consensus that developed with respect to the 1984 law and that should be developed today.

Incidentally, on the House side of the Capitol, this law is often referred to as Waxman-Hatch and in the Senate the names are often reversed. This shorthand is only used because it is so time consuming to keep repeating the Drug Price Competition and Patent Term Restoration Act of 1984.

I have a lot of complaints about the process we followed to bring S. 812 to the floor, and despite my grave dissatisfaction over the process, I do want to recognize the efforts of Senators EDWARDS, COLLINS, KENNEDY, GREGG, and FRIST to make improvements to the substance of the bill. To be fair, there have been improvements in some critical areas of the legislation. As a general matter, in moving away from some key provisions of McCain-Schumer, the HELP Committee substitute is headed in the right direction.

Now, I hasten to add, though, that some new provisions were added to the bill during the markup process to make it impossible for me to support a bill that is so important to me—a bill that amends the law carrying my name, a law that has been shown to benefit millions of Americans every day.

Let me talk about the politics and process. Before I discuss the merits of the committee substitute for S. 812, I want to make a few comments concerning the politics and process whereby we find ourselves discussing these issues at this time.

One of the things about which I am most apprehensive in the current debate is the way the Drug Price Competition and Patent Term Restoration Act of 1984, a painstakingly crafted bill that passed with overwhelming bipartisan support in both the Senate and the House, now finds itself at ground zero in one of the most controversial and potentially divisive issues of this year, that is the debate over the Medicare drug benefit.

The Medicare drug benefit is certainly an issue that deserves the Senate's attention, and I am in one of the original tripartisan groups that I believe has come up with a nonpartisan bill that would solve the drug benefit problems for the American people, especially the poor.

I commend our colleagues in the House for successfully passing a prescription drug bill that promises to make a major expansion of Medicare benefits by providing an outpatient drug benefit. I think it is now time for the Senate to debate this issue, pass a bill, conference with the House, and present a bill for the President to sign into law. I am also, like I say, proud to be the cosponsor of the so-called tripartisan Medicare prescription drug benefit bill. I think Senators BREAUX, JEFFORDS, GRASSLEY, SNOWE, and I have put together a strong bill that our colleagues should, and I think will in the end, support.

I had hoped the tripartisan bill could have been the subject of a Finance Committee markup, as it deserved. I think it would be approved by the Finance Committee, which more than likely explains why we are on the floor today with S. 812. So as we enter this debate, let us be clear that the way the Senate Democratic leadership has chosen to structure the floor vehicle, it is very possible the partisan fervor that often accompanies Medicare legislation will spill over into the heretofore bipartisan consensus surrounding the 1984 Waxman-Hatch law. I hope not.

One of the things we did back in the 98th Congress in 1983 and 1984 was to take the time and effort to build a broad, bipartisan coalition for the Hatch-Waxman law. I hate to see us lose support as this body becomes caught up in the unavoidable election year politics of Medicare. Frankly, it is almost amusing how the Democratic leadership has structured the debate on the Medicare drug benefit. A bill that involves hundreds of billions of dollars and over a trillion dollars in some of the proposals will be debated as an amendment to the more modestly sized S. 812. Talk about the tail wagging the dog.

I hope if, as is well possible, we cannot achieve consensus on the Medicare drug debate, the inevitable ill feelings and political posturing do not create a poisonous atmosphere in which the broken tail of Medicare crushes the dog of Hatch-Waxman. Conventional wisdom has it that a large part of what is at stake in the legislation we will debate over the next number of days has to do with jockeying for political positioning over who is left holding the bag with the voters in the fall if we fail to enact a Medicare drug benefit before the November elections. That is why I hasten to add that I hope my colleagues will look at the tripartisan bill, which is nonpartisan, which basically can solve these problems for especially the poor in our society with regard to drug benefits and the cost of drugs.

I firmly believe the best thing the Senate can do for the American public is to lay aside, as best we can, the political infighting and genuinely try to strike an acceptable compromise on the Medicare drug bill.

Make no mistake about the fact that although S. 812 may be nominally the pending business before the Senate, the real matter we will be debating is the Medicare drug benefit. I would have greatly preferred to debate Hatch-Waxman amendments as a stand-alone bill in a less charged atmosphere. If we had to debate amending Hatch-Waxman with other legislation, probably my last choice would have been to lump it together with the politically volatile Medicare drug bill.

Then we have the ill-advised drug-reimportation bill, which has been added as an amendment to S. 812. This would have been my second to last choice to add to Hatch-Waxman. I laid out yesterday my concerns with that proposal. Suffice it to say, the reimportation language was a bad idea in the year 2000, and it is an even worse idea today, given the threats of our post-September 11 world.

While the regrettable encore appearance of this feel-good but ultimately downright dangerous drug reimportation legislation is deeply troubling to me, it is doubly troubling to me that it will now be linked to the 1984 Hatch-Waxman law because of the way the majority has chosen to proceed.

I recognize part of the reality of being on the minority side of the aisle is that we have to go with the flow as the majority leader calls up legislation that he desires or his side desires, and I understand that. As a coauthor of the legislation that S. 812 seeks to amend, I take exception to calling up a bill that opens up Hatch-Waxman in order to create a legislative vehicle that promises to throw into play every conceivable way to punish one of the great American success stories in innovation and in the pharmaceutical industry.

This, "everything but the kitchen sink," mentality, may be satisfying to some politically. But mark my words, it starts this body down a path that ultimately can only punish the American health care system. In my experience, delicate provisions and nuances of patent law, antitrust law, and FDA regulatory law are generally not best crafted in the elbows-flying, raw meat atmosphere of high-stakes election year politics such as we will have during the course of this debate, in addition to what I consider to be an unfavorable environment that will be created by the likely flood of major amendments not relevant to S. 812 or the underlying Waxman-Hatch law.

I must, also raise objection to the manner in which the bill so hastily was reported from the HELP Committee. Frankly, I am deeply disappointed in the way the HELP Committee has acted, although I guess we should not be altogether surprised given the perceived political advantages my friends across the aisle believe they have and that they have gained by calling up S. 812 as the backdrop—or should I say backstop—to debate pharmaceutical issues.

It is true that S. 812 was referred to the HELP Committee. It is true that the committee held a hearing on this bill on May 8. I testified at that hearing. I stated my reservations about the way the McCain-Schumer legislation acts to distort the original premise of the Drug Price Competition and Patent Term Restoration Act of 1984.

While I am heartened by the fact that the HELP Committee version of S. 812 that is pending before the Senate today resembles more closely the perspective of my testimony than the original Schumer-McCain language, I am troubled by the fact that we basically have a bill emanating from the HELP Committee that centers on patent law, civil justice reform, and antitrust policy. I object to this outcome, and I want to take a few moments to comment that the way the Judiciary Committee was effectively cut out of the process is a matter of great concern to me.

Even if three members of the Judiciary Committee serve on the HELP Committee and are highly involved in this effort, I am concerned that the recent actions of the HELP Committee with respect to this bill will come at the expense of the jurisdiction of the Judiciary Committee both today and into the future. This is wrong. The Judiciary Committee has a role to play in overseeing and legislating with respect to pharmaceutical patents and competition in the pharmaceutical marketplace. The process and timing that are being pursued can only undermine the appropriate role of the Judiciary Committee, a balanced committee.

The fact is, last year we held a hearing on competition in the pharmaceutical marketplace and reported Chairman LEAHY's bill, S. 754, the Drug Competition Act, which I support. I cooperated with Senator LEAHY in the development and refinement of his bill, S. 754, the Drug Competition Act. I voted to report the bill out of committee even though I had some reservations about some of the language, and I remain prepared to work on those concerns.

The fact is, the HELP Committee bill contains patent forfeiture provisions, similar in many respects to the concept once under discussion as Chairman LEAHY and I worked to refine S. 754. I ask why the HELP Committee adopts a policy of patent forfeiture not on the outside of its jurisdiction but already rejected by members of the Judiciary Committee. I emphasize that this is not a matter of public health policy but a patent law and civil justice reform, and so is within the province of the Judiciary Committee, not the HELP Committee.

I am mindful of the fact it was referred to the HELP Committee, but this body has a history of committees working in tandem on issues of mutual interest. In 1998, although the tobacco bill was referred to the Commerce Committee, the Judiciary Committee held 10 hearings on aspects of the legislation that touched upon our jurisdiction. We all know the long-awaited FTC study of the pharmaceutical industry that focuses precisely on the provisions of the law that the HELP Committee seeks to change today will be completed in a few short weeks. Why not wait for that? Why not get the best advice of the Federal Trade Commission? They have done an extensive review.

Whether we agree or disagree with the final outcome of that, we at least ought to get it before we try to wholesale change the law that has been called the best consumer piece of legislation in the last 50 years.

It is clear, to me, that consideration of this legislation would be more informed if we had the information that is about to be presented by the FTC to Congress and the public. We should ask the experts at FTC, DOJ, the Patent and Trademark Office, and Health and Human Services if their perspectives on the changes in the law are advisable. It would have been preferable to hear what the experts think of the HELP Committee language before it was brought to the floor. Whatever happened to holding a hearing on the actual language of an important bill?

The reality is, in the course of the markup, the HELP Committee virtually rewrote the major components of S. 812. Unfortunately, this sprint to the floor cannot foster the careful type of review and analysis that the Senate conducted in 1983 and 1984 when we passed the Drug Price Competition and Patent Term Restoration Act.

Despite my disappointment about the committee process on consideration of the Medicare drug benefit in the Finance Committee and the way the Judiciary Committee was bypassed from playing a role in shaping S. 812 before it reached the floor, I want to take some time to make a few remarks about the spending bill, the underlying bill, and how it might affect the law it would amend; that is, the Drug Price Competition and Patent Term Restoration Act of 1984.

It is useful to think about the words in the title of the law because they remind us that we had two distinct goals in writing the law—goals, by the way, which have been met. Attempts to change the law must also reach the critical test of these two goals: First, to provide incentives for the development of innovative pharmaceuticals—if we don't have that, we don't have anything; second, to promote widespread distribution of generic drugs by permitting a shortcut to regulatory approval, which Hatch-Waxman did.

There is evidence to conclude that the 1984 law has met with success in accomplishing both of these ends, much to the benefit of the American public. The 1984 law contains the incentives with respect to the intellectual market that have brought hundreds of therapeutic new drugs to the American public.

To mention a few of the drugs, these include products such as Vioxx to treat arthritis; the cholesterol drug, Lipitor; new medications that help millions of diabetics; and as recorded from Barcelona last week, a family of drugs to treat HIV infection and the complications of AIDS, two areas in which both the distinguished Senator from Massachusetts and I have spent a lot of time working together.

Private sector investment by research-based pharmaceutical firms increased from $3.6 billion in 1984 to over $30 billion this year. This substantial level of private sector applied research funding, coupled with the $27 billion invested by the taxpayers in the National Institutes of Health budget next year, helps explain why the unique public-private partnership that forms the U.S. Biomedical Research Enterprise has American scientists positioned to usher in a revolutionary new age of discovery in the biological sciences. We all should take pride in the fact that the United States leads the world in developing innovative medicines. Part of the reason for this leadership is the intellectual property protections contained in the 1984 statute.

The debate on the pending legislation centers on the price competition that occurs between generic and name brand drugs. But as we consider legislation that alters protection of the innovator firms' intellectual property, it is important not to lose sight of the importance of the fierce competition between the generic companies and the brand name companies. It is the competition for new drugs that creates advances in medicine and improves public health and ultimately provides blockbuster drugs for generics to copy and to put out at, hopefully, less cost.

As we debate how to see that the American public, particularly senior citizens, gains access to today's pharmaceutical products, during the golden eggs of our biomedical research establishment we must be mindful of the long-term health of the goose that produces these innovative drug products. Not only does the American public enjoy the benefits of the latest breakthrough medicines, but consumers also reap the savings associated with the use of generic drugs.

Since the 1984 Drug Price Competition and Patent Restoration Act, the share of the prescriptions written for generic drugs has more than doubled and has increased from somewhere less than 20 percent to almost 50 percent of all prescriptions written. And as we will hear in the debate that will take place over the next several days, everyone in Congress knows that senior citizens, particularly senior citizens, have a great interest in programs, such as the 1984 law that resulted in cutting the costs of drugs.

One undeniable bottom line measure of success of the Drug Price Competition and Patent Restoration Act of 1984 is the fact that according to the Congressional Budget Office, this law has contributed to annual consumer savings of $8 billion to $10 billion every year since 1984. I wish all our legislation would be as effective and as successful as this one.

It might prove useful to summarize briefly how the Drug Price Competition and Patent Term Restoration Act works. When you hear how the statute operates, you will understand that a central principle of this legislation is balance among the incentives of both the research-based firms, the pioneer firms, and the generic firms.

This balance is not on only a simple matter of fairness to both of these sectors of the pharmaceutical industry. Achieving a balance was critical to help ensure that both of these sectors would succeed because the bottom line of Hatch-Waxman is to help the American public receive both the latest in medical breakthroughs, and the more affordable generic drugs.

As we consider changes to Hatch-Waxman, we must be careful not to upset the balance because if we do, it is the American people who will suffer. Here is how the law works. In order for a drug to be marketed in the United States, a manufacturer must prove to the Food and Drug Administration that the drug is both safe and efficacious, effective. Drug discovery and development is an extremely time-consuming, expensive, and risky process.

As I have mentioned before, experts at the Tufts University Center for the Study of Drug Development have placed the costs of developing a major new drug at $800 million, when the opportunity costs of capital and the cost of failed drugs are factored into the rare, successful product.

During this debate, some will no doubt be tempted to characterize the drug industry as nothing more than a bunch of greedy, money-grubbing companies. In fact, for much of the last decade, it has been the most profitable sector of the U.S. Economy.

Nevertheless, as many analysts have noted, and was discussed by Senator WYDEN at the Commerce Committee hearing this past March, drug discovery is a highly speculative venture and there is currently an industry-wide slow down in the pipeline of products close to final FDA approval.

For every drug that succeeds in gaining FDA approval, more than 5000 compounds are screened and fall by the wayside during testing. Some of these compounds fall out in the lab; only about 250 of the original 5000 compounds will proceed to full-scale animal testing; and, of those 250 that enter animal testing, only 5 will make it to human clinical trials; and, finally, the great majority—4 out of the remaining 5 of drug product candidates—will fall out during the required 3 phases of human clinical testing.

The first phase of clinical testing usually entails about 30 patients. The goal of this phase is to assure that the compound under study is safe for human use. This is a very difficult hurdle as, for example, it can be expected that a compound that can eradicate cancerous cells will also likely be toxic to the surrounding healthy cells. It is no wonder that the pharmaceutical industry invests a higher percentage of its revenues into research than other industrial sectors. Are they given any credit for that on the floor over the last number of days? Give me a break. They certainly have not. In fact, they have been condemned in talk after talk as though they are the sole cause of the high cost of drugs.

In the second phase of clinical trials, efficacy is examined. This may involve several hundred patients and it may take several years to design, conduct, and analyze the trial.

If success is sustained through Phase II—and remember that experience teaches us that most of these costly trials will result in failure—an investigator may proceed to the third and final phase of human clinical testing in which the drug is administered to several hundred and sometimes several thousands of patients.

Phase III trials attempt to further evaluate safety and efficacy, fine tune dosing regimens, and uncover any propensity for adverse reactions among subgroups of the broad patient population taking the medicine.

Because they involve more patients and seek more precise information, Phase III trials are generally even more expensive and time consuming than the earlier phases of drug development. In order to gain FDA approval, the agency prefers to see two successful Phase III studies.

In addition to costing hundreds of millions of dollars to screen and test drug candidates, it also takes a great deal of time. It has been estimated by experts that it takes, on average, about 14 years to bring a drug from the lab through clinical testing and FDA review.

And all during this time the clock is ticking on the patents held on these drug candidates. For example, in the case of the anti-inflammatory drug, Daypro, the patent lapsed during the 21-year FDA review of the product.

While this case was clearly an outlier and FDA review time has improved somewhat over the last decade due to the user fee legislation, it remains true that the U.S. pharmaceutical industry is one of the most highly regulated sectors of the economy.

It is an expensive process, mainly an expensive regulatory process. If we could somehow find a way of cutting that down, then the cost of drugs would come down, too.

We passed a bill—it was another Hatch bill—called the FDA Revitalization Savings Act, in the early 1990s, that said we should create a central campus with state-of-the-art buildings and equipment and scientific facilities instead of the almost 40 different locations, some of them converted chicken coops, where they are conducting research today. The FDA has hardly hired a research scientist in the last 30 years. The reason is there is not the prestige in their eyes to work for the FDA for less money than they would get in the private sector.

NIH doesn't seem to have that problem because it is so prestigious to work there, even at the lesser salaries, that scientists flock to NIH. It is exciting, plus they have state-of-the-art buildings and equipment with which to work.

We need to do that. We need to stop blaming the pharmaceutical companies, the pioneer companies for all the problems here.

In recognition of the exacting and time-consuming nature of FDA review of safety and efficacy testing, the Drug Price Competition and Patent Term Restoration Act provided a number of incentives designed to help research based pharmaceutical companies.

The statute provides for partial restoration of pharmaceutical patents, but only under limited rules:

First, the law allows one day of patent term restoration for each two days spent in the human clinical trial phase.

This is known as the IND Phase. IND stands for the investigational new drug and refers to the exemption that FDA grants to allow the human clinical trials to proceed.

The law also allows day-for-day patent term restoration when the drug is in the final stage of FDA review. This is called the NDA phase. The NDA, or new drug application, is the formal application that contains the data demonstrating safety and efficacy. I should point out that given that each NDA contains data and records on thousands of patients, the NDA literally contains hundreds of thousands of pages of information. In some cases those millions of pages of information would fill this whole Chamber—that's how complicated it is. Yet, we hear badmouthing of the pioneer companies every day here on the floor. There are fair criticisms, but I don't think all the criticism has been fair.

There are two further limitations on the partial patent term restoration. First, when the one-for-two rule in the IND Phase is applied with the day-for-day rule during the final review of the new drug application, no patent may be restored more than 5 years. You should keep in mind that, as I said earlier, it takes about 14-years to bring a drug through pre-clinical studies through FDA approval.

Finally, even after this 5-year limitation kicks in there is another rule that prevents any patent from being restored such that it will have an effective patent life beyond 14 years.

The 5-year and 14-year limitation rules are sometimes referred to as the Hatch-Waxman caps.

So I just want to point out that you will hear a lot of talk during this debate about patent extensions, but what we are talking about is partial patent term restoration to offset part, and a relatively small part at that, of the time lost during the rigorous FDA review of safety and efficacy. You don't hear many comments about that from the critics the fact of the matter is, this is a long, arduous expensive time consuming, costly process. To blame the pharmaceutical companies for everything that is wrong is just not fair.

It is worth noting that the 14-year cap on effective patent life contained in the Waxman-Hatch Act stands in contrast to how other types of patents are treated with respect to administrative delays at the Patent and Trademark Office.

This is a somewhat complicated story but I think it bears discussion in order to place the Hatch-Waxman policies into context with subsequently enacted changes to the patent code.

Basically the GATT trade treaty required implementing legislation that mandated the United States to change its patent system from 17-years, measured from the date of approval to a new system of 20-years, measured from the of date of application with the Patent and Trademark Office.

There was concern by many intellectual property owners that this change in the law could actually decrease effective patent life due to administrative delays at PTO. As a result, a provision was included in the 1999 American Inventors Protection Act—a bill that passed with broad bipartisan support—that allowed patent term to be restored up to 17 years in cases where there was undue delay at the PTO.

The 17-year patent term floor in the American Inventors Protection Act extends to all types of patents and should be contrasted with the 14-year patent term ceiling contained in the Waxman-Hatch for pharmaceutical patents. Moreover, most patent applications are reviewed by PTO in one and one-half to two years, so that the effective patent life for most products is actually 18 to 18.5 years. When all is said and done, most patents run appreciably longer than patents related to drugs due to the 14-year Waxman-Hatch cap.

In addition to the partial patent term restoration provisions of the 1984 law, the statute provides that each FDA-approved new drug that consists of a new chemical entity receives 5 years of marketing exclusivity—not 18 years, which other manufacturers get, but 5 years of marketing exclusivity. In other words, we want to treat them at least somewhat fairly.

This 5-year marketing exclusivity provision means that FDA may not approve any generic drug for that time 5-year period regardless of whether the drug is protected by any patent.

The last major incentive on the R&D side of the ledger that I will discuss is the provision that entitles a pioneer drug firm that successfully undertakes a clinical trial yielding data that significantly improves, or modifies the use of an existing drug compound, to 3 years of marketing exclusivity.

As you can see, this is complex. But it works, and it has worked amazingly well. Our country has benefited from it. And it was bipartisan. Actually, you would have to say it was nonpartisan. That is what I would like to see in a full Medicare prescription drug bill. This 3-year incentive helps encourage incremental, but often vitally important improvements, to existing drugs and does not bar generic competition from the original approved uses of the drug once any patent or marketing exclusivity has expired.

I hope my colleagues can see that the 1984 law contains a powerful set of intellectual property incentives that help foster the necessary private sector investment in pharmaceutical R&D.

That is one reason our pharmaceutical companies have done so well. That is why we have such a good balance of trade. They have been among the most successful companies in our society up until now, and they are about to be stratified where they won't have the money to go through this $800 million and 5,000 misses to get one single drug, if they are lucky and then have just a few years of patent life. You wonder why drugs cost so much through that market exclusivity.

In parallel with the incentives I have just described for innovator firms, the Drug Price Competition and Patent Term Restoration Act provided the necessary regulatory regime that created the modern generic drug industry. Rather than unnecessarily squander societal resources by requiring the duplication of the expensive and time consuming process by which safety and efficacy is established for pioneer products, the law provided a shortcut through the FDA regulatory process.

That was one of the generic aspects of the law. The 1984 law, in essence, allows generic competitors to rely upon the proprietary safety and efficacy data generated by the pioneer firm and requires that the generic drug merely be shown to contain the same active ingredient and be absorbed by the human body in a bioequivalent fashion. This simple provision of law allowed generic firm to bring on high quality copies of the pioneer drugs for a fraction of the cost and, most importantly, to pass these savings onto consumers.

Their cost is less than 1 percent to put the drugs in the marketplace. I want it that way. We wanted it that way when we did the Hatch-Waxman bill.

Another key feature of the law is a unique change in the patent code designed to allow generic product to enter the market literally the day after the patents on a pioneer drug expire.

Upon first consideration this may not sound like a dramatic development in the law but it is. Here's why.

Let us start with the Constitutional basis for patent protection. Article I, Section 8 of the United States Constitution provides: "Congress shall have the power . . . to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

It is said that Thomas Jefferson had his hand in the drafting of the first patent statute enacted by Congress back in 1790 and that in his capacity of Secretary of State actually issued and signed some of the first patents issued by the United States federal government.

In areas such as pharmaceuticals, where it is relatively easy to copy pioneer products that require enormous R&D expenditures—I mentioned $800 million to find one drug—it is critical to have strong laws prohibiting the infringement of patents.

I should also like to add that a patent right is a negative right and does not automatically confer monopoly power; a patent only allows the patent owner the right to exclude others from utilizing the patented invention or process.

Section 271(a) of title 35 of the United States code contains the general rule against patent infringement. It says: " . . . whoever without authority makes, uses, offers to sell, or sells any patented invention . . . during the term of the patent . . . infringes the patent."

This is a tough provision and a good provision because it protects the rights of inventors, inventors of all products used, manufactured or sold in each of our states, who have made substantial investment in research and development.

In order to allow generic drug firms to enter the market the day the patent expired, the general rule of section 271(a) had to be modified. This is so because in order to get the drug through the truncated FDA review process and gear up production the generic firm has to make and use the patented drug, and this is important, while the pioneer drug is under patent protection.

I should also add that under the common law there is a research exception to the general rule against patent infringement so that academic researchers could be free to explore new areas of scientific inquiry.

During the course of the negotiations over the Waxman-Hatch law, a question arose in the courts with respect to whether this research exemption might carry over to the type of research activities necessary to develop a generic drug.

And right in the middle of these negotiations we got the answer when the precursor court to the Federal Circuit Court of Appeals issued its opinion in the case of Roche v. Bolar. The court held that the research exception did not extend to commercialization activities such as those necessary to prove bioequivalence.

The result was that the Drug Price Competition and Patent Term Restoration Act contains a legislative override of the court case. This provision, the so-called Bolar Amendment, creates a unique provision in patent law. Section 271(e) of title 35 contains the Bolar Amendment. Section 271(e)(1) says: "It shall not be an act of infringement to make [or] use . . . a patented invention . . . solely for uses reasonably related to the development and submission of information under a federal law which regulates the manufacture, use, or sale of drugs or veterinary biological products."

When considering the pending legislation, it is important to understand that in preparing an abbreviated new drug application, or an ANDA as they are called, the generic firm gets a head start over virtually all other types of generic manufacturers in that they are permitted to make and use—and thus violate—pioneer firms drug patents while these patents are still in effect.

That is a major change in patent law that we put into Hatch-Waxman to get the generic industry really going. And it helped to create the modern generic drug industry.

(Mr. EDWARDS assumed the Chair.)

Mr. HATCH. In the interest of accuracy, I must add a footnote. In the 1990 Supreme Court decision of Lilly v. Medtronic, the Court held in an opinion written by Justice Scalia that the Bolar amendment also applies to some other FDA-regulated industries such as medical devices. While you need to read the opinion for yourself to see how this not-so-obvious result was accomplished, as coauthor of the bill, I did take note of Justice Scalia's observation that:

> No interpretation we have been able to imagine can transform section 271(e)(1) into an elegant piece of statutory craftsmanship.

Mr. President, ouch!

But the Medtronic decision has only limited significance and it is still fair to say that the generic drug industry enjoys a head start that virtually no other type of generic manufacturers could even imagine—the ability to make and use on-patent products for commercial purposes. The head start granted to generic drug firms by the Bolar amendment was an integral part of the balance of the 1984 law and must be kept in mind when I next discuss the closely related patent challenge provisions of the bill.

But before I discuss these provisions, I want to first emphasize that the central feature of the Hatch-Waxman law thankfully remains unscathed by the pending legislation.

This is the policy tradeoff whereby part of the patent term lost by innovator drug firms during the extensive FDA review is restored while, at the same time, generic drug firms were permitted to rely upon the proprietary safety and efficacy data of innovator drug firms and enter the marketplace upon a showing that the generic copy of the drug is delivered to the patient in a bioequivalent manner.

And from the summary I have just provided, I think you get the idea that the Drug Price Competition and Patent Term Restoration Act of 1984 law is a complex piece of legislation. It took us 2 solid weeks, 18 hours a day, in my office. I was there every minute of those negotiations to get this negotiated between the PhRMA companies and the generic companies. I will also concede, as Justice Scalia has noted, that the statute does not read like a novel.

The 1984 law has been instrumental in delivering both new drugs and more affordable drugs, but this is not to say that such a complex piece of legislation cannot be improved to address unanticipated or unintended consequences as well as changes in the marketplace and science.

Before I discuss my views on the pending legislation, the HELP Committee substitute to S. 812, I would like to complete my summary of the Drug Price Competition and Patent Term Restoration Act by describing the patent challenge features of the statute. Perhaps no feature of Waxman-Hatch has generated as much controversy as the provisions relating to patent challenges. These are the least understood and, indeed, least appreciated provisions of the law. The guts of the HELP Committee substitute focus on these provisions.

I hope that everyone agrees that patents are critical to the drug development process because absent patent protection it would be relatively easy to copy virtually any drug. The challenge of drug development is not in the chemistry of manufacturing, but in conducting the extensive and expensive preclinical and clinical research that demonstrates safety and efficacy.

While patents are integral to drug development, consumers can benefit greatly from earlier price competition if it were determined that, for whatever reason, the underlying patents on a drug were invalid or not infringed.

At any rate, during the negotiations over the bill in 1984, a policy question arose regarding how best to guarantee that drug patents would be challenged and what to do in cases in which a challenge was successful.

We ultimately decided that a generic firm which successfully attacked the patents on a new drug would receive a period of 180-days of marketing exclusivity during which no other generic competitor could be approved by FDA.

The 1984 law contains an elaborate set of rules surrounding patent challenges. Here is how the system works.

From my earlier discussion, you will recall that all new chemical entities—even and especially drugs without any patent protection—receive a 5-year period of marketing exclusivity during which the generic drug firm may not rely upon the safety and efficacy data generated by pioneer drug firms.

And keep in mind that there may be no other industry in which generic competitors can rely upon pioneer manufacturers' proprietary information submitted for Federal approval purposes.

In any event, the law allows the generic drug firm to submit an abbreviated new drug application after 4 of the 5 year marketing exclusivity period has lapsed. When the generic drug application is submitted, the generic firm has to make one of four certifications with respect to each patent-related to the drug listed in the official FDA records called the Orange Book.

This chart sets out these choices.

First, that such patent information has not been filed.

Second, that such patent has expired.

Third, the date on which such patent will expire.

And fourth, and finally, that such patent is invalid or will not be infringed by the manufacturer's use or sale of the new drug for which the application is submitted.

It is the last certification, the so-called paragraph IV certification, that is the chief cause of the major problems the bill pending on the floor seeks to address.

As I have said many times over a number of years, by the way, and will say again here today, I acknowledge there are some problems with paragraph IV patent challenges.

These need to be corrected. I would like to shape legislation to correct them.

But it is also no secret that my preference was to address these problems in the course of a comprehensive review of the Drug Price Competition and Patent Term Restoration Act.

In fact, in the good old days when I was still chairman of the Senate Judiciary Committee and my friend from Vermont, Senator **JEFFORDS**, was the chairman of the HELP Committee, we were working together to conduct such a review.

But times have changed. What should not change is that this body should resist the pile-on mentality which villianizes an industry which is doing more to help millions and millions of Americans daily than any other industry we could imagine.

Before I close my remarks today, I will outline the types of issues that ought to be considered a more thorough review of the 1984 law than the pending bill contemplates.

In any event, to return to the paragraph IV litigation procedures, the filing of a generic drug application triggers a 45-day period during which the pioneer drug company or firm could initiate a lawsuit to determine whether its patents were valid or infringed. In order to give a court adequate time to familiarize itself with, and hopefully dispose of on the merits, the almost always complex issues attendant to patent litigation, the Waxman-Hatch law provides a statutory 30-month stay.

During this 30-month period FDA may not approve the generic drug application in dispute unless a court resolves the matter.

It is also true that this is a unique provision not available to other types of patent holders. However, this unique 30-month stay provision that benefits patent holders must be understood in context of the overall system of balances contained in the 1984 law, and, in particular, in connection with the operation of the Bolar amendment.

The Bolar provision, you will recall, has the laudable public purpose of trying to get the generic drug product onto the market the very day the patent expires.

As I explained earlier, in order to achieve this pro-consumer end, the patent code was amended to allow the generic firms to infringe patents.

But we must recognize that the reality of the Bolar amendment is that it takes away the customary rights of a patent holder to bring a patent infringement action the moment a generic drug manufacturer makes or uses a patented product. In this case, the commercial purpose consists of seeking FDA approval and gearing up production. It cannot be disputed that section 271(e) of the patent code—the Bolar amendment—places pharmaceutical patent holders in a disadvantageous position from which to defend themselves against challenges to its patents by generic drug challengers.

This is so because a second prong of the Bolar amendment, codified at section 271(e)(2) of the patent code, treats the somewhat artificial act of filing a generic drug application as an act of patent infringement, and it is at that point, and not before that point, that the patent holders can assert their normal patent rights through the courts.

It seems only fair to recognize the unique head start that the Bolar amendment allows to generic firms on the front end of the generic drug development by making available to pioneer firm patent holders the 30-month stay that allows the courts adequate time to delve into the merits of the challenged patents. Absent the Bolar amendment—and don't forget that this provision reversed the Federal Circuit Court of Appeals decision that decided against generic drug firms on the matter of patent infringement—the case for the 30-month stay would not be as strong.

In any event, during the course of the 30-month stay, it is hoped that an adjudication on the merits of the patent challenge will be completed. If at the end of the litigation the pioneer firm prevails, the generic drug applicant must wait until the patents expire before the FDA can approve its application and the generic product can be marketed. On the other hand, if the courts determine that the patents are invalid or the generic drug firm has successfully invented a way around the patents, the 1984 law grants an award of 180-days of marketing exclusivity. As I said earlier, this is to encourage vigorous patent challenges so that consumers can benefit from earlier access to cost-saving generic drugs.

I thought then, and think now, that it is sound public policy to contain an incentive to assure legal attacks on pioneer drug patents, and we all must recognize that such litigation is risky, complex, time-consuming, and costly.

Now that I have laid a foundation by discussing the basic provisions and policies of the Drug Price Competition and Patent Term Restoration Act, I want to add to the debate that was initiated yesterday by briefly describing the key problems that have been observed in recent years with respect to the 1984 law.

I first remind the Senate that in the next few weeks the Federal Trade Commission is expected to issue a comprehensive report that centers on what many believe are the two most important abuses of the current system: First, the manipulation of the patent system for the purpose of triggering multiple overlapping or late-in-the-process 30-month stays; and, second, collusive arrangements between pioneer and generic firms to game the Paragraph IV litigation in order to preclude the triggering of the 180-day marketing exclusivity clock so that no generic can reach the market in a timely fashion.

I am frustrated by the fact that the tactical choices of my colleagues across the aisle preclude us from debating this important legislation without the benefit of the FTC report.

I await with great interest the final version of the forthcoming comprehensive FTC report on the drug industry so we may get a more accurate picture of the number of instances in which drug firms have tried to game the system by listing a late-issued patents into the FDA Orange Book.

While my staff and the staffs of a few other Members have been briefed on the general findings of the FTC study, it was under the condition of confidentiality and with the understanding that the commissioners had not evaluated the data and given us their interpretations, conclusions, and recommendations.

Along the same lines, I would like to add that the FDA Chief Counsel, Dan Troy, convened a meeting in February of representatives of both the generic and pioneer drug firms.

Mr. Troy elicited information and debate on several maters, including a full and frank discussion of both the 30-month stay and the 180-day marketing exclusivity provisions of the 1984 law.

One of the many down sides of rushing this bill to the floor in this fashion was that it precluded members of several committees, including the Judiciary Committee, Commerce Committee, as well as HELP Committee, from first reviewing the comprehensive FTC study on the very issues that the pending legislation seeks to address.

We may have also missed out on a meaningful opportunity to have the usual give and take of a public hearing with the FTC and the FDA on these issues. We could have—and should have—taken the more routine and orderly path to legislation by holding a hearing to solicit the administration's detailed advice in crafting language, including soliciting their views on the language that arose just last Tuesday in the HELP Committee.

Yesterday, Senator GREGG read from the first, but no doubt not the last, missive from the administration commenting on this new language.

In any event, let me turn to the 30-month stay provision. It is my understanding that the FTC report will reveal that there have been several—perhaps about 10—cases of either multiple, consecutive 30-month stays or later-issued patents that resulted in surprise 30-month stays.

The facts matter.

We need to learn about these cases. We also have to keep matters in perspective. Although some in this debate suggest that there has been, and will continue to be, an epidemic of unjustified triggering of the 30-month stay, I am not sure that the evidence will support this charge.

We must take care not to overcorrect any problems based on anecdotal information.

But I will say this: the now famous case of the drug Buspar convinces me and many others that Congress should take action to address the problems associated with late-issued patents triggering new 30-month stays.

This was the case in which a patent on the metabolite of a drug was listed in the Orange Book just as the original patents on the drug were set to expire and generic were literally on the loading dock ready to be shipped.

I do, however, want to note for the record that in the case of Buspar the courts stepped in and the stay lasted only 4 months, not 30-months.

The HELP Committee bill would freeze those patents eligible for the 30-month stay to those patents filed with FDA within 30-days of approval of the New Drug Application. All other subsequently issued patents would be eligible for injunctive relief but would not be entitled to the longstanding protection afforded by the 30-month stay.

First, I commend Senators EDWARDS and COLLINS for overturning the McCain-Schumer language that completely—and unjustifiably—eliminated the 30-month stay. The Edwards-Collins amendment also is a great improvement over the language that Chairman KENNEDY circulated in the days before the markup.

The Kennedy language would have arbitrarily limited the types of patents eligible for the 30-month stay to drug substance patents and method of use patents.

By treating some patents as inferior to others, the Kennedy draft would have reversed a longstanding principle of Hatch-Waxman not to discriminate among types of patents.

The very purpose of the 30-month stay is to give the courts an adequate period of time to make an informed analysis of the complete patent portfolio surrounding a drug product.

The 30-month stay allows the time necessary to make fact-based determinations of the validity of the challenged patents as well as to determine if the generic challenger has successfully navigated the field of valid patents and produced a non-infringing version of the drug.

I know that Senator GREGG was working on a language that would have retained the 30-month stay for each patent recorded in the Orange Book prior to a generic drug challenger filed a marketing application with the FDA. I think that there is great merit in this approach.

The Hatch-Waxman law does not even allow generic drug applicants to file a generic drug application until four full years have elapsed after the NDA has been approved for a new chemical entity.

That is because, as I stated earlier, under the 1984 law, drugs consisting of new chemical entities—and these are likely to be the breakthrough products—automatically receive five years of marketing exclusivity before FDA can approve a generic copy of the drug. It seems reasonable to conclude that, at a minimum, all patents filed before a generic can first challenge a pioneer drug, that is, after four years have elapsed, should be accorded the protection of the 30-month rule.

For example, consider the hypothetical but not unrealistic case of an approved intravenous drug covered by pre-NDA issued patents on the compound and the method of use. In addition, assume the drug sponsor has applied for, but does not receive, a patent on the intravenous formulation until two years after the NDA is approved. While the Edwards-Collins language is barely one week old and I am still studying its implications, upon first consideration, I find it difficult to justify treating the post-NDA-issued formulation .patent differently than the earlier two patents. After all, a generic challenger—although free to infringe the patent under the Bolar amendment for the purpose of providing bioequivalence data and to prepare for full-scale production—cannot even contest any of the three patents for 2 years after the third patent issues.

That is because the filing of the generic drug application creates the artificial act of patent infringement required by the Bolar amendment that allows the Paragraph IV litigation to commence.

I emphasize the fact that the lawsuit may not begin at least until the four year statutory bar on submitting a generic drug application expires.

And if it makes sense to include all patents issued within the first four years during which no ANDA application and Paragraph IV challenge can be made, one can argue, as Senator GREGG has, and I suggested in my testimony before the HELP Committee in May, that it makes sense to freeze the patents listed in the Orange Book for the purpose of the 30-month stay on the day that any particular ANDA is submitted, whether or not it is filed on the first day of ANDA filing eligibility, or years later.

The McCain-Schumer proposal to do away with the 30-month stay altogether is dead.

The Kennedy proposal to allow only some types of patents to qualify for the 30-month stay is dead. Perhaps the governing principle should be one bite, and one bite only, of the 30-month apple and all we are debating is when, not whether, to cut off the availability of the stay. As I said last night, in some respects the Edwards-Collins language is a step in the right direction and this is one of those improvements.

We know that it currently takes, on average, about 18 months for FDA to complete its review of generic drug applications. I understand that it takes, on average, about two years to reach a district court decision in Paragraph IV patent challenge case. We also know that the generic have argued—and the Edwards-Collins amendment embraces—that it would be unfair to start the 180-marketing exclusivity clock—a matter that I will discuss latter in my remarks—until a final decision has been reached by an appellate court. This appellate review takes about another year, so the total litigation period of Paragraph IV cases is about 36 months.

I can understand why generic Paragraph IV challengers want to wait—the prospects of treble damages seems to me like a good reason for them to exercise caution—until an appellate court decides the merits of the patent challenge. Given the risk adverse behavior engendered by the threat of treble damages, I don't see why it is so absolutely critical in the first place to bifurcate the application of the 30-month rule at the time a new drug application is approved.

Perhaps the FTC study will unveil a pattern of cases in which courts have ultimately determined that frivolous, or at least invalid, patents were filed between the approval of the NDA and the first ANDA submissions. Perhaps not, only time will tell.

But frankly, this is an area where the actual data that presumably will be forthcoming in the FTC study will be extremely helpful. I will be greatly interested to know how the patent challenge cases would have broken down if the Edwards-Collins NDA-plus 30 day rule were applied retroactively. Stated another way, are there any significant differences in the outcome Paragraph IV challenge litigation between Orange Book patents listed before, and those patents listed after, 30-days after the NDA has been issued? It will be beneficial to get a sense on whether there is a pattern with respect to when invalid patents and patents that have been circumnavigated tend to be listed.

And as I said earlier, I think we would have all been better served if the Committees of jurisdiction had been afforded the opportunity to conduct hearings with the purpose of analyzing the actual language of the Edwards-Collins Substitute and with the hindsight provided by the FTC report, together with the expert advice and analysis of the FTC, other federal agencies, and other experts and interested parties.

We should all recognize that patent litigation is often, as in the case of pharmaceutical patents, inherently technical and complex.

For example, The Legal Times recently reported that the Federal Circuit has a reversal rate of 40 percent in certain patent cases. I am concerned that to the extent we adopt a policy that relies too heavily on simply throwing the matter of injunctive relief to federal district courts absent a period to allow the court to sufficiently .familiarize itself with the issues at hand not only disrupts a justified internal check and balance of Waxman-Hatch, but also may have the effect of creating uncertainty as the district courts wrestle with arcane matters of patent law.

While I can see how some enterprising generic firms and their attorneys might be able to turn this new and potentially unpredictable environment into leverage for settling patent challenges, I am not sure that this instability is either fair to pioneer drug firms or in the long run interests of the American public.

For now, I will listen carefully to the debate on this matter but, from what I now know, I am inclined to conclude that the Gregg proposal is preferable to the NDA-plus 30-day standard contained in the HELP-reported version of S. 812.

Moreover, as I stated earlier, I think a case can be made for making the 30-month stay available to all patents listed within four years after the NDA has been approved since no patent litigation can commence under the 1984 law until that time.

In short, while I am open to further debate and discussion on the matter, at this point I question whether the Edwards-Collins language unnecessarily cuts off the 30-month stay too early in the process?

I welcome the understandable and justified attempt to address the problem of late or even multiple 30-month stays that can occur when later-issued patents are entered into the Orange Book. As I said in my testimony in May, if there is a compelling case to keep the current policy of universal availability of the 30-month stay for all patent whenever listed, let's hear the arguments.

Once again, let me commend Senators EDWARDS and COLLINS for moving the Committee away from the these negative aspects of the McCain-Schumer and Kennedy proposals.

I am pleased that there appears to be something of a consensus on the importance of retaining the 30-month stay even though, for the reasons I have just described, I think we need further discussion of when the stay should be available and when it should not be operative.

Having addressed the general issue of the wisdom of retaining the 30-month stay, I would be remiss if I did not comment upon some aspects of the Edwards-Collins substitute that would also drastically affect patent litigation under the 1984 Waxman-Hatch law.

Mr. President, I speak now of the what I will call the file-it-or-lose-it and sue-on-it-or-lose-it provisions of the HELP Committee Substitute.

Mr. President this is a case of the HELP Committee trying to rewrite patent law and doing an absolutely horrible job at it to boot.

There are three very similar and very disturbing provisions that essentially say a pharmaceutical patent holder can effectively forfeit their rights by not filing patent information or a patent infringement action at a certain time.

The first of these provisions is found in Section 3 (a)(1) "(2)(F)" of the bill. This provision requires manufacturers of innovative new drugs to file certain patent-related information in the FDA Orange Book upon penalty of—and here's the rub—forfeiture of their patent enforcement rights.

A second provision of the bill, contained in Section 3(a)(2)(B) of the bill makes this filing requirement applicable to drugs approved prior to enactment of S. 812.

This provision says, in effect, that upon enactment of S. 812, every holder of a pre-enactment approved new drug application has 30 days to file all specified patent-related information in the FDA Orange Book or lose forever their rights to sue for patent infringement.

Talk about Draconian remedies for failing to file information with the government. This takes the cake! I should also point out that section (a)(1) "(2)(C)" of the bill significantly expands the type of patent information that must be filed, including requiring very precise claim by claim certifications of what each particular patent covers. I am concerned about the policy and potential effects of this language.

Given that forfeiture of patent rights is the penalty for the two file-it-or-lose-it provisions I just described, you should not be surprised to learn that the patent right forfeiture trifecta is completed in section 4(a)(2)(C) which contains a sue-on-it-or lose-it provision that appears to say that failure to defend against any Paragraph IV challenge waives your patent rights against all challengers for all time.

I was relieved to hear Senator KENNEDY state on the floor yesterday that this last provision was not intended to require forfeiture of patent rights as against all potential infringers. I take him at his word that this language will be clarified. But, once again, I must ask why we find ourselves on the floor with a poorly drafted patent provision that has not been vetted by the Judiciary Committee, the PTO, the White House or the patent bar or any number of other experts?

Nevertheless, I find these three provisions so troubling I hardly know where to start my criticism. Under the current law, failure to defend against a Paragraph IV challenge does not result in automatic forfeiture of patent rights.

Mr. President, my colleagues should know that under current law the penalty for not promptly defending against a Paragraph IV litigation challenge is waiver of the 30-month stay, not forfeiture of any patent rights.

It seems to me that the current law waiver of the 30-month stay against the particular litigant bringing a particular paragraph IV challenge is a proportionate response to the failure to defend against a particular lawsuit.

I think that both of the two file-it-or-lose-it provisions and the sue-on-it-or-lose provision simply go too far. I am not aware of any analogous provision in title 35, or in case law, but I am the first to admit that because this language is only a week old my study is not complete. I must question embracing the principle that if a patent holder, for whatever reason, fails to file information with the FDA that those rights should be automatically surrendered against any would-be patent infringers.

It seems to me that these provisions should be subjected to careful scrutiny under the takings clause before they are adopted. As well, the disadvantageous treatment accorded pharmaceutical patents under these three positions should be examined from the perspective of the TRIPS provisions of the GATT Treaty. That involves the Finance Committee as well.

We must not lose sight of the fact that patents are presumptively valid. We must not lose sight of the fact that the reason we have laws to protect intellectual property is because society benefits from advances in the arts and sciences, as the Constitution asserts.

If we expect to have breakthrough medicines, we better protect patents.

Why would we ever support a system in which the failure of a mail room clerk, even if underpaid and overworked, or the U.S. Postal Service could result in the forfeiture of rights stemming from literally hundreds of millions of dollars and precious human capital invested in cutting edge biomedical research?

Just this week, because of the anthrax problem, I received some Christmas presents. One can imagine what can happen on some of these patent cases.

Why shouldn't pharmaceutical product patent owners retain the same time-honored rights exercised by all other patent owners to decide how and when to respond to patent challenge litigation?

Mr. President, I must tell my friends on the HELP Committee that this member of the Judiciary Committee—the committee charged with overseeing the patent law, antitrust law, and the administration of civil justice—that I do not support the manner in which they have resolved significant matters of patent law, civil justice and antitrust policy.

In fact, when Judiciary Committee Chairman LEAHY and I were negotiating over the provisions of his bill, S. 754, the Drug Competition Act, at one point a Leahy staff draft contained a provision in some ways similar to the pending bill's file-it-or-lose-it and sue-on-it-or-lose-it provisions. Ultimately, that approach was rejected. And for good reason.

As many of my colleagues know, S. 754 requires the prompt reporting of any potentially anticompetitive agreements between brand name and generic drug firms to DOJ and FTC.

Basically, the Leahy staff proposal—I cannot say whether Chairman LEAHY was aware of all of the details of this particular provision—was that a drug company would surrender its patent rights if it did not promptly report to FTC and DOJ any potentially anticompetitive agreement with a generic drug firm.

Let me read the Leahy staff draft that was circulated to my staff last July.

It was contained in the enforcement section of the bill, and it said:

> Contract and Patent Enforceability—if any person, or any officer, director, partner, agent, or employee thereof, fails to comply with the notification requirement under section 5 of this Act, such failure shall render permanently unenforceable any agreement which was not filed with the Commission—[referring to the FTC] and the Attorney General, and [here comes the relevant language] shall also render permanently unenforceable any patent of the generic drug manufacturer or the brand name drug manufacturer that is the subject of the agreement.

I must give Senator LEAHY's staff a great deal of credit. One of them is Ed Barron, the deputy chief counsel of the Judiciary Committee Democratic staff. Ed is a level-headed, gifted lawyer and has been an asset to the Senate and the Judiciary Committee for many years.

As well, Susan Davies, a former Supreme Court clerk, is an extremely talented lawyer.

When they consulted with experts in the field and further studied the matter, they properly concluded that patent forfeiture was an improper response for a mere reporting failure—even if that unreported agreement was ultimately found to be violative of the Federal antitrust laws.

How does a patent law provision with civil justice reform implications aimed at an antitrust problem find its way in three places in a HELP Committee-reported bill, one year after the chairman and ranking Republican member of the Judiciary Committee considered and rejected the same basic policy in a bill that covers the same concerns as the pending legislation?

Mr. President, I am afraid that yet another casualty of the truncated process observed by the HELP Committee in its consideration of S. 812 can be seen in the last minute inclusion of the "file-it-or-lose-it" and "sue-on-it-or-lose-it" provisions of the pending bill. But this is exactly the kind of negative outcome that can occur when there is a markup on a Wednesday and untested language appears the day before.

The truth of the matter is that is exactly what took place last week in the HELP Committee.

While I have commended Senators EDWARDS and COLLINS for rejecting the key provisions of the McCain-Schumer bill, in the case of the "file-it-or-lose-it" and the "sue-on-it-or lose-it" provisions, I must commend Senator McCAIN and Senator SCHUMER for not including such troublesome language in the first place.

I urge all of my colleagues to think carefully about the precedent this body would be setting for patent and copyright owners if we follow the lead of the HELP Committee and retain this language.

At a minimum, I hope the Judiciary Committee will have a chance to hold a hearing on this novel language.

If the press of election year politics precludes the Senate Judiciary Committee from holding such a hearing, I would hope that the House Judiciary Committee will step up to the plate and fully vet this issue.

We need to hear from PTO and the patent bar on this issue.

We need to hear from the American Intellectual Property Law Association and the intellectual property groups on this issue.

This matter is far too important to be brushed aside in the rush of the HELP Committee to report a virtually complete substitute to S. 812—a substitute that suddenly springs forward last Tuesday, a day before the markup—a substitute that is then hastily plucked off the Senate calendar before, I believe, a committee report is even filed, and then rockets its way onto the floor as a straw man for the Medicare prescription drug debate.

I am dubious of the language in the bill that creates, I am told, perhaps for the first time in the Federal Food, Drug, and Cosmetic Act, a private right of action.

I am speaking of the provision in the Section 3(a), "(2)(E)" of the bill that creates what appears to be a new cause of action to attack patent listings.

Aside from setting an unwelcome foothold for trial lawyers to reach into the FDC Act, one must wonder how a provision that seems to create a parallel course of litigation to the well-established Paragraph IV patent contests simplifies or adds any measure of certainty to the patent challenge system? As the debate unfolds, I may have more to say on this matter and urge my colleagues to act to strike this language.

The last major area on which I wish to comment with respect to the pending legislation relates to the collusive agreements that have occurred in connection with the 180-day marketing exclusivity incentive of the 1984 law.

Mr. President, in closing, I have just discussed why I believe the pending bill's treatment of the 30-month stay is an improvement over the McCain-Schumer bill. For the reasons I have just discussed, I think the NDA plus 30-day rule goes too far. I come here today to give you my views on the 30-month stay issue and to see how the sponsors of the pending legislation respond to my arguments. If they say this is a nonnegotiable matter, that is one thing. If they are willing to modify the language, I will be willing to work with them on this. I would like to hear from them on this issue.

I have a number of other issues I will raise, but I want first to see whether there is a willingness to work with me in correcting what I consider to be inflexible language and to work with me in providing the flexibility to work on the 30-month stay, the file-it-or-lose-it or the sue-on-it-or-lose-it provisions, and the private right of action.

I have worked on many occasions with the Senator from Massachusetts. I have worked against him. I have worked with him. I know sometimes he adopts the no amendment strategy. The minute we yield the floor, I am raising the question of whether the sponsors are totally locked in on the language, and then I would like to hear what they have to say about the arguments I have made. This is too important an issue to play politics. We are talking about the health of the American public. I am willing to work to improve the bill. The language has improved as it has moved further away from the original Schumer-McCain language, but for the reasons I have described I think the language still needs some work.

I have a lot more to say, but I will end by rereading first an administration policy from the Executive Office of the President and then rereading a paragraph from this book.

In the Statement of Administration Policy, it says:

> However, the administration opposes S. 812 in its current form because it will not provide lower drug prices. S. 812 would unnecessarily encourage litigation around the initial approval of new drugs and would complicate the process of filing and protecting patents on new drugs. The resulting higher costs and delays in making new drugs available will reduce access to new breakthrough drugs. Moreover, this new cause of action is not necessary to address patent process abuses. Clearly, the bill would benefit from consideration by the Senate's experts on Hatch-Waxman law on the Judiciary Committee, the proper committee of jurisdiction for this bill.

Let me finally conclude where I began, and that was the book written by Haynes Johnson and David Broder, highly respected journalists, certainly not conservative journalists but journalists I respect, and they said this on page 90:

> In the campaign period, Fried recalled, Clinton's political advisers focused mainly on the message that for "the plain folks, it's greed—greedy hospitals, greedy doctors, greedy insurance companies. It was an us-versus-them issue, which Clinton was extremely good at exploiting." Clinton's political consultants—Carville, Begala, Grunwald, Greenberg—all thought "there had to be villains." Anne Wexler remembered—

Who is one of the leading Democrats in this town, one of the leading lobbyists in this town. I respect her greatly. She said—

> It was a very alarming prospect for those of us looking long term at how to deal with this issue. But at that point, the insurance companies and the pharmaceutical companies became the enemy.

All I ask in this debate is that we get rid of some of this rhetoric that the large pharmaceutical companies are a bunch of criminals and bad people who have run up the costs of drugs and who really do not play much of an important role in our society, and who literally are the reason we cannot get low-cost, affordable drugs to the American people.

During those 18 days or so, whatever it was, that we debated in my office and came up with the Hatch-Waxman Act, we had almost fist fights between the PhRMA companies, the pioneering companies, and the generic companies, but in the end we were able to bring them together. Neither side was totally happy, but I believe both sides have been totally happy with the Hatch-Waxman results over the last 18 years. To be honest, before we change something that has been so doggone effective and efficacious, I might add, to use an FDA term, it seems to me we ought to at least make sure we are doing it the right way.

I have a lot more to say, but I have spoken for a long time. I understand that. I apologize to my colleagues, but I will be back to discuss other issues such as the 180-day rule which is at the center of what are considered to be collusive deals between the generics and the pharmaceutical firms.

To me, these issues are important. I want to apologize to my colleagues for going on so long, but this is a very complex bill. There is no way it can be explained in a matter of a few minutes. I have only covered a small part of it, but I have covered some very important parts, and I think, and I hope, my colleagues will realize I have made a case that they really ought to give consideration to.

I do not have any political axes to grind. I like both sides of this business. I like the pharmaceutical companies that have done so much to come up with lifesaving drugs, and I love the generic firms that have done so much to duplicate those drugs at an almost nonexistent cost, compared to the $800 million to create those products, but that have gotten them out there in bioequivalent ways for the benefit of the American people.

They both deserve a great deal of credit. Neither one of them deserves to be torn down in the Senate. I think we can fix Hatch-Waxman in ways that will continue to give both of them the incentives to continue to provide a pipeline of very wonderful drugs, lifesaving drugs, for us, and at affordable prices ultimately. I hope my colleagues will listen to what I have to say. I do not have any desire to malign anybody, but I really believe what I have had to say today is important and that Hatch-Waxman is an important bill. I do not want to see it fouled up because we are unwilling to pay the price to do it right.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise to extend in many ways the comments made by the Senator from Utah. At the outset, I not only express my respect and admiration for his eloquent remarks, but also for the tremendous commitment he has shown on this particular issue over the last 20 years, especially with the Hatch-Waxman law which for the last 18 years has achieved so much for the benefit of the American people. The Senator from Utah has shown a commitment and has shown real foresight, in sponsoring and authoring—along with other colleagues in this body—the original Hatch-Waxman bill in his eloquent analysis of the legislation before us, as has been modified and improved markedly in the Health, Education, Labor, and Pensions Committee. He has also provided an excellent analysis of the underlying McCain-Schumer bill and some of the deficiencies he sees within this legislation.

After listening to his remarks, I think the underlying message was the real beauty in this legislation and in the original Hatch-Waxman legislation in achieving a sense of balance between the brand pharmaceutical companies and what they achieve through research and development, creativity and innovation, that balance with the growth and the appropriate incentives given to the generic community, where we know that cost-effectiveness has been demonstrated and needs to continue to be demonstrated as we move forward. We need to keep this in mind especially in this world with skyrocketing drug costs, which are putting the cost of pharmaceuticals out of the reach of seniors, of everyday Americans, and of individuals with disabilities.

Much of the discussion over the last 3 days has been on how best to provide seniors and individuals with disabilities in Medicare access to prescription drugs, and that debate will continue into next week.

Throughout this entire discussion is the whole issue of cost—what we need to do responsibly that can be sustained long term in terms of cost to make sure the cost of drugs are appropriate, reasonable, and not beyond the reach of Americans. The Hatch-Waxman law has had 18 years of balance, and now is the time to go back and readjust and make sure that balance is well situated for the next 5, 10, 15, or 20 years.

I heard the distinguished Senator from Utah say the legislation, as currently written—and recall he commended the various amendment processes in the HELP Committee to improve the bill—goes too far in correcting what is out of kilter today. That balance needs to be readjusted. The underlying legislation has many deficiencies that he believes, and I agree, should be addressed. I will walk through several of those from the perspective of having served on the Health, Education, Labor, and Pensions Committee.

The issue of cost is one that disturbs everyone. It is at the heart of the discussion on health care and on extending prescription drugs in an affordable way, in a bipartisan way, to seniors and individuals with disabilities. The cost is not just in the public sector but the private sector as well. The skyrocketing cost is driving people to the ranks of the uninsured.

As we look at the overall skyrocketing cost of health care, the cost of prescription drugs is increasing in a way that cannot be sustained over time. In the name of cost savings and in the name of reaching out and rallying support for particular pieces of legislation or amendments focusing on cost savings, never should we threaten public health, which we talked about yesterday. Furthermore, never should we threaten the research and innovation that has made us the envy of the world in terms of health care—the great breakthrough drugs, the investment in research and delivery, which eventually will deliver a cure for things which are not curable today, such as HIV/AIDS. That virus will kill somewhere around 60 million people over the next 20 years. We do not currently have a cure, however, I am confident a cure will be found by research and development from our pharmaceutical companies.

The Hatch-Waxman Act has served us very well. As the distinguished Senator from Utah said, generic drugs represented only about 20 percent of the market in 1984. Yet today, half of all drugs in this country are generic which, again, is a huge advance. At the same time, we have been able to see this rise in the generic industry, which I advocate because of the cost-effectiveness that is demonstrated there because of the balance we have. The brand name pharmaceutical companies have continued to invest in research and development. Over that same period of time since 1984, that research and development by the brand name pharmaceutical companies have increased not twofold, threefold or fivefold but have increased ninefold since 1984.

We have seen dramatic breakthroughs in pharmaceutical treatments for such areas as mental health, cancer, and heart disease. Costs have put drugs out of reach for too many Americans today, and we must address that. Over time, both the generic industry and the brand name pharmaceutical companies have, unfortunately, circumvented the intentions of Hatch-Waxman. That circumvention is clearly an abuse because it ultimately drives up the cost of health care, and it must be addressed. Adjustments are in order. What concerns me and what clearly concerns the original author of the Hatch-Waxman legislation, the Senator from Utah, is that this underlying legislation goes too far.

I will comment on several of the areas. First, I restate the legislation in the Senate today is currently much improved over the original Schumer-McCain legislation introduced last May. The original version of S. 812 took a heavy-handed approach to this very real problem. It would have dealt a serious blow to pharmaceutical research and innovation, which we all depend on as we look for potential cures and potential therapies in the future.

My colleagues, Senators EDWARDS, COLLINS, GREGG, HUTCHINSON and others should be commended for working with the chairman of the Health, Education, Labor, and Pensions Committee. Senators McCAIN and SCHUMER also worked to approve the legislation. Nevertheless, the bill before us has significant flaws. Let me briefly outline several of my concerns.

First, we are focused most importantly on cost savings, the driving force. Everyone knows the costs are too high. It is important for our colleagues to understand there has been no demonstration that the underlying legislation will actually save money, lower the overall burden of prescription drugs and generic drugs in the aggregate to either consumers or in the aggregate in terms of the overall health care dollar.

The intent of the authors has been clear—the goal of the legislation is to improve competition. If improving competition is achieved, and I have real questions about whether competition will be improved as written, I believe costs will decrease. It will speed cheaper generic drugs to the market, which is the intent of the authors of this legislation.

Part of the legislation discussed today is clearly being promoted because of the intent, or what the proponents say it would do, and that is to lower costs. The real question is, Does it? Is there any evidence that it will do so?

The Congressional Budget Office, to the best of my knowledge, has not scored this piece of legislation. By score, I mean it has not estimated the cost of this legislation. Neither this legislation nor the original bill introduced by Senators SCHUMER and McCAIN has been analyzed by the CBO.

As you listened to Senator HATCH's eloquent comments earlier and you listened to the complexities of this bill, I ask, Does this increased complexity and new cause of action actually contribute to increasing costs?

Lastly, I am not aware of any other estimates of potential savings by independent, nonpartisan experts that members of the Senate will have a chance to review before we go forward.

My second point refers to how best to curb abuses. The whole idea of curbing abuses is a common goal that we share in the underlying legislation, in the amendment process, and in the H.E.L.P. Committee. As Senator HATCH again spelled out in his comments, the Federal Trade Commission is currently conducting an extensive study of potential abuses in this area. As we discussed in the hearing several days ago and as Senator HATCH requested, the FTC is preparing a report regarding this area. It would be nice to have an objective body like the Federal Trade Commission present its data before we potentially complicate legislation over the next several days and weeks.

Unfortunately, we are not going to have that opportunity. It is too bad because as I understand it, the real problem is being made in terms of the Federal Trade Commission's ongoing study.

Current law, as we look at the 180-day exclusivity provision, provides an incentive for the first generic that challenges an innovator's original patent. It awards that generic company 180 days, or about 6 months, during which other generics may not be approved. The bill before the Senate, which is quite different than the original legislation, provides that if one generic loses that 180 days of exclusive rights, it can pass on to the next generic.

I am told the 180-day exclusivity rule has been the most frequently litigated area of the Hatch-Waxman legislation over the last several years.

I am concerned and again this understates the concern of Senator HATCH. The provisions in the proposed bill are overly complex and they might actually encourage even more litigation and promote even greater confusion in this area.

As Senator HATCH mentioned, during the Health, Education, Labor, and Pensions Committee's evaluation, we reached out to understand the language in this particular bill. I have to admit that the new bill's language was confusing to me, but at the end of our discussion, my interpretation as we listened to the proponents of the bill is that the 180-day exclusivity period would allow, theoretically, a rollover indefinitely.

If that is a correct interpretation, it could actually take longer for cheaper generic drugs to get to the market. While a generic drug would be cheaper during this 180-day period than a brand name drug, it certainly would be more inexpensive during the 60-day or 180-day exclusivity period, where it had absolutely no generic competition.

Last May, Senator HATCH and others were highly critical of a concept of rolling exclusivity when they testified before the Health, Education, Labor, and Pensions Committee. In fact, Senator HATCH testified and quoted former Acting Director of FDA's Office of Generic Drugs, Gary Buehler, as follows:

> We believe that rolling exclusivity would actually be an impediment to generic competition.

Senator HATCH further stated:

> If our goal is to maximize consumer savings . . . it is difficult to see how rolling exclusivity achieves this goal.

In fact, many experts believe and have expressed that the 180-day exclusivity period is no longer necessary today, and that if it were abolished, even more significant cost-savings could be achieved. Moreover, eliminating the 180-day provision altogether, in my opinion, could be the best way to curb abuses currently being investigated by the FTC—where brand companies and generic companies have allegedly entered into collusive and potentially anti-competitive agreements to prevent cheaper generic drugs from coming to market and benefitting consumers.

My main point is if we are going to act in the absence of the FTC report, which examines this very issue and their findings, we clearly should not add confusion to this area. We should not add provisions which would increase litigation or increase costs, and we should not add provisions that could exacerbate incentives for anticompetitive behavior by both generic and brand name drug companies. This is the area we need to fix.

If we are not ready to eliminate this 180-day rule or wait for the FTC report to help guide us on how we can make that ultimate decision and act responsibly, I believe what is called a "use it or lose it" policy would better discourage anti-competitive behavior. This so-called "use it or lose it" policy would take away incentives for generic companies to make their own potentially anti-competitive arrangements.

Senator GREGG initially proposed this "use it or lose it" policy during the Health, Education, Labor, and Pensions Committee consideration of this legislation. I believe this policy would clearly benefit consumers more than any form of "rolling" exclusivity. If we are going to act in the absence of the full report of the FTC, we ought to at least to do so in a straightforward way that promotes competition and that clearly helps consumers.

The third issue I would like to raise is the issue of bioequivalence. This is a particular issue that I introduced in the Health, Education, Labor, and Pensions Committee and spoke a little about on the floor two days ago. Again, it is an issue I want to put out to my colleagues for their consideration. The unintended consequence, in the way this legislation is written, is potentially harmful in a way that I will delineate.

The Hatch-Waxman law allows generic companies to market off-patent drugs if they are able to demonstrate this so-called bioequivalence. Bioequivalence simply means the active ingredient in a generic pharmaceutical or a generic drug is absorbed at the same rate and to the same extent as the brand drug.

The bill before us—and this is the key point—could significantly weaken this important patient protection by giving the Food and Drug Administration broad authority to significantly relax, to loosen, the statutory Hatch-Waxman bioequivalency standard. My concern is this potential loosening of the standards.

We all have agreed—at least in the Health, Education, Labor and Pension Committee discussions, including the proponents of the legislation—that the FDA has broad authority with regard to bioequivalence and that there has not been a successful challenge to the FDA bioequivalence standards as they exist today.

Based on existing statutory language the FDA has developed through the process of notice and comment—rulemaking specific bioequivalence test methods to address a range of products have been established over time. They have not been successfully challenged. As we discussed this in committee, the FDA has been uniformly successful in defending its bioequivalence methodology and its findings. In fact, we agreed in committee that the FDA's authority in this area has been repeatedly upheld. There has not been a reported case challenging the FDA's bioequivalence standards since the case was decided in FDA's favor back in 1997, five years ago.

Therefore, as we look at bioequivalence, I think it is unnecessary, imprudent, and unwise to include any bioequivalence language in this legislation. Nonetheless, the bill before us would deem FDA's regulations to be authorized under relevant provisions of the Food, Drug, and Cosmetic Act.

Again, my concern is that it could insulate the FDA from any potential challenge in this area.

The reason I keep bringing it to the floor and talking to my colleagues about this issue is because I hear a lot about it from the medical community, the scientific community, and the biological research and development community. Given the importance of the bioequivalence requirement in assuring the safety of generic drugs, I believe any loosening of standards is in the disinterest of the American people. Why? Because, once again, it goes back to safety and public health. Instead of moving forward, it is moving backwards.

There are many examples, but a typical example would be taking a blood thinner such as Coumadin. Coumadin is used all over the country. It is a tremendous drug and a very powerful drug. It is well known that one generic of Coumadin versus another versus yet another behaves in a different way, even if you prescribe the same dose in milligrams. The bioequivalence can be variable and might be tiny, 3 percent, 5 percent, 8 percent. But when the goal is thinning of the blood so you do not have another stroke or heart attack, when you go from one drug to another drug for whatever reason—it might be the pharmacy telling you to do it, it might be your health plan, it might be you who has chosen to do it—your blood might be thin one day and not thin the other, and you think you are taking the same drug.

That is what bioequivalency is—where there might be loosening of the current standard. The reason I say there might be loosening is because people who are a lot smarter than I who study the language tell me the language as written looks to be loosening.

Mr. GREGG. Mr. President, will the Senator yield for a question?

Mr. FRIST. I am happy to yield for the question.

Mr. GREGG. The Senator from Tennessee understands the issue better than anybody else, and certainly the points he makes are excellently made.

It was my understanding on this specific point of bioequivalency that the Senator had a commitment from a primary Democratic sponsor of the bill, Senator EDWARDS, that this would be worked out or straightened out before the bill came to the floor. Am I correct?

Mr. FRIST. Mr. President, in response to my distinguished colleague, this issue of having a general agreement that we would work out technical language, and then after 48 hours or 72 hours have the bill come to the floor without the opportunity, in a bipartisan way, to be able to access experts in the field, is what concerns me most. You can take an initial bill and improve it a little bit, and then you can leave something out and not reach bioequivalency. In response to the question is a particular instance where during the discussion, the mark-up, we said let's get together and make absolutely sure that we address it in a way so that standards are not being loosened; yet, the bill that comes to the floor does not have that guarantee in it.

Mr. DURBIN. Will the Senator yield for a question?

Mr. FRIST. Mr. President, let me continue. Let me answer one question, and then return to my comments. I would be happy to yield for a question.

Mr. DURBIN. The Senator from Tennessee is the expert. He is a cardiac heart surgeon who is recognized for what he has done before he came to the Senate. I will certainly bow to his educational and professional experience.

Talking about bioequivalency, is it not true that when it comes to the efficacy of a drug that we should also take that into consideration when we are dealing with women, children, or pregnant women? It is my understanding that all of these are relevant to the efficacy of drugs—bioequivalency.

Is it not correct that were it not for the congressional pressure and mandating the same pharmaceutical companies the Senator is speaking of they would not be engaged in clinical trials sufficient to make certain that the efficacy of drugs would be the same for women and men, and dosages for children?

The point I am making is the industry, itself, had to be pushed into a position to find exactly what was better for people in usual circumstances of life. Is that not a fact?

Mr. FRIST. Mr. President, I agree with my distinguished colleague that we need to do a much better job in pushing the pharmaceutical industry to make sure that when it comes to testing of drugs or investigating drugs that they are adequate, especially as you look at bioequivalency in a varied population.

In fact, in the HELP Committee, as my colleague knows, we have passed legislation and we will continue to work on legislation that says we need to do more in terms of testing to see what the bioequivalent standard is. What is called in my profession of medicine a "dose response" relationship is in populations—whether it varies by race, age, or gender—we need to do a lot more. We need to keep pushing there.

My concern with bioequivalence—we will agree, whichever population it is or whether clinical trials are being conducted—the way this language is written today allows a significant loophole for a lessening of the bioequivalent standards that we as the American people deserve. That is my concern.

As the Senator from New Hampshire addressed in his question to me, we are reaching out. Clearly, we are in the minority. We are not going to have the votes. But I am going to continue to reach out. And I think you will see that our side will continue to reach out in the interest of cost savings. We do not want to push so hard that we lower the standards for the safety of the American people who take these drugs. I do not care if the cost savings is $100, $50, or $5. If that drug is not bioequivalent—if the dose is too strong, then your blood will not clot properly and you can get a stroke from bleeding in the brain, or, if the dose is too weak, then your blood clots too easily and you can get a stroke from having a blood clot go to your brain—you have done a disservice to the American people.

As the Senator from New Hampshire just mentioned, I will continue to reach out on this particular issue of bioequivalence.

You heard Senator HATCH from Utah stress that we need to slow down a bit to make sure that your intent in having cost savings does not hurt the American people. That is really the issue.

I am not the expert. Of course, I have dealt with a lot of these drugs, and I know what it is like being told by a managed-care organization that you have to switch drugs. The fear I have is that the drug has not been tested in a certain population effectively. Again, it could be by race or gender or age. That concerns me. Therefore, I do not want any lowering of those standards by our Government.

The Biotechnology Industry Organization sent a letter to Senator KENNEDY dated July 15.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BIOTECHNOLOGY INDUSTRY
ORGANIZATION,
*July 15, 2002.*

Hon. EDWARD KENNEDY,
*U.S. Senate, Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR KENNEDY: This letter protests proposed legislation (the Edwards-Collins substitute) to alter the Hatch-Waxman Act of facilitate generic drug approvals. The substitute's proposed changes raise serious concerns for members of the Biotechnology Industry Organization (BIO). We urge you to reconsider these amendments and to work on a more considered basis on any effort to revise the carefully-balanced Hatch-Waxman system.

As you know, the Drug Price Competition and Patent Term Restoration Act of 1984 (the "Hatch-Waxman" Act) strikes a balance between promoting access to generic drugs and fairly protecting the legitimate rights of the patent holder. It proves an expedited path to market for generic drugs, while ensuring that innovators receive an adequate term of patent life to stimulate new drug development.

The initial purposes of proposed amendments to Hatch-Waxman were to prevent abuses and facilitate efficient market entry of generic products. The reported bill goes far beyond these purposes. Among other things, the reported bill would completely abolish patent rights if litigation is not initiated within 45 days of notice by a generic that it intends to challenge a patent, or if a new drug applicant failed to list its patent with the FDA within 30 days. It creates a private right or action for generic manufacturers to attempt to "correct" patent information filed on a listed drug. At least prior to committee consideration, the bill provided the FDA with broad authority to define and apply standards governing bioequivalence—the critical determination of safety and efficacy of a generic drug—without challenge (or even comment) from affected members of the public. If enacted, these proposals would significantly erode the measures included in Hatch-Waxman to ensure an effective patent incentive for new drug development, and would create undesirable precedents for sound science-based regulations of drug products in the United States.

Our specific concerns follow:

When it enacted the Hatch-Waxman Act, Congress recognized that patent disputes over drugs regulated by the abbreviated new drug procedure were inevitable. The abbreviated new drug system thus provides procedures to permit generic and pioneer manufacturers to resolve these disputes before the FDA grants marketing approval to a generic producer. Under its procedures, the FDA will not immediately approve an abbreviated new drug application if the ANDA applicant challenges a patent that has been identified as covering the drug (a so-called paragraph IV patent certification). Instead, the patent challenge triggers, by statute, an opportunity for the patent owner to initiate a legal proceeding to resolve the patent dispute. The initiation of a patent suit in response to the paragraph IV certification will trigger a 30-month stay of action by the FDA on the abbreviated new drug application. The patent challenge procedures and the stay of approval ensures that products that would clearly infringe the patent rights of the innovator will not enter the market.

The amendments approved by the HELP Committee convert these procedures—which were designed to enhance the ability of a patent owner to enforce its rights—into an all or nothing system that can eliminate the patent rights of our companies. Under the legislation, a patent owner who for any reason fails to initiate litigation against a generic drug applicant within 45 days of receiving notice under the ANDA procedure will be barred from enforcing patent rights in any forum against either the ANDA applicant or any party that manufactures, uses, sells or offers for sale the approved drug product. In addition, a new drug applicant—who may not even be the patent owner—who fails to list a patent with the FDA within 30 days of approval of a new drug application, or within 30 days of the grant of a patent if that occurs after the NDA is approved, is similarly barred from enforcement of patent rights on the drug against a generic manufacturer. Either of these events will completely abolish patent rights in new drugs or related technology.

The legislation also creates new opportunities for generic drug makers to harass our companies through unnecessary and pointless litigation. As proposed, our companies and their drug marketing partners would be required to list patents that pertain to an approved new drug. Failure to list patents would render our patent rights void. Notwithstanding this mandatory listing process, the legislation would create a private right of action to permit a generic manufacturer to challenge these mandatory patent listings. The legislation also would allow generic drug applicants to initiate this litigation regardless of whether our companies or their partners intend to assert their patent rights in the ANDA process. Plainly, the motivation to prevent improper listings of patents has been turned onto its head by these procedures.

Members of BIO thus unquestionably will be harmed by the Edward-Collins substitute. Many of our companies focus on improving currently marketed drugs regulated under the new drug and abbreviated new drug approval system. These innovations of our companies create new and better medicines for patients that are more effective, easier to administer and open up new opportunities for treating unmet medical needs. These technologies frequently—often by commercial necessity—are licensed to multiple drug manufacturers who have the resources to bring new drug products that use these technologies to market. Perversely, under the legislation approved by the HELP committee, if our companies elect to not aggressively enforce their patent rights by immediately suing every generic drug applicant, or if one of the marketing partners makes administrative errors in listing patents with the FDA, the patent rights of our companies will be forfeited. This forfeiture will occur without compensation, without a right of appeal and without any recourse. This provision is probably unconstitutional, and in any event is totally unconscionable.

Finally, as you know, as originally drafted, Section 8 of the bill would selectively codify certain regulations governing "bioequivalence" requirements and would legislatively shield the FDA from challenges to its actions in setting approval standards. We understand the purposes of Section 8 to be limited: to confirm the authority of the Food and Drug Administration to use testing methods other than those specifically set forth in current law to establish the bioavailability and bioequivalence of a generic drug, when the methods specified cannot be applied. Types of generic drugs to which alternative testing methods would be applied would include drugs intended to deliver the active moiety locally, such as topical preparations for the skin or oral dosage forms not intended to be absorbed.

As pointed out by Senator Frist during markup, section 8 as currently drafted goes far beyond the intended purposes of the provision. The draft proposal presented during markup would codify fifteen pages of FDA regulations governing "bioequivalence" requirements on both new drugs and generics and would legislatively shield the FDA from challenges to its actions in setting approval standards. In essence, the proposed changes would make it impossible for drug manufacturers, whether pioneer or generic, or members of the public, to challenge improper standards enacted by the agency on key approval criteria, or to challenge improper decisions made under valid authority. Moreover, the current regulations include several provisions in which FDA provides to itself unfettered discretion to create or define at will any standard "deemed adequate by FDA." This makes an otherwise legitimate challenge to an agency decision virtually impossible to sustain. Shielding the agency from actions to challenge its proper authority simply makes no sense, particularly when the consequences involve potential risks to patients and to public health.

We were assured by your staff that this provision would be narrowed to its intended scope, in consultation with BIO, prior to floor consideration, and we provided alternate language to your staff that would accomplish the intended purpose of section 8. We have been presented with another draft that would continue to codify all of FDA's bioequivalence regulations (including the ability to define at will any standard it deems adequate) but only preserves "existing" legislative authority to regulate biologics under the Federal Food, Drug and Cosmetic Act. This is simply unacceptable to BIO. At this stage we can only ask that the entire section 8 be deleted. We point out that FDA's authority to establish different standards for non-systemic drugs has been confirmed by the courts. See *Schering Corp.* v. *Food and Drug Administration*, 51 F. 3d 390 (3rd Cir., 1995).

Provisions in the draft that served as the basis for committee discussion were made available to the biotechnology industry less than two days prior to markup. These provisions would have an enormously negative impact on the property rights of the emerging biotechnology industry and completely upset the delicate balance between the interests of pioneer and generic companies crafted by the Hatch-Waxman law. They go far beyond the provisions of McCain-Schumer, which served as the basis for the Edwards-Kennedy redraft; the late release of the redraft made meaningful legal review and comment impossible.

We urge you not to rush this bill to the Senate floor. The implications of the changes being proposed by the Edwards-Collins substitute are far reaching and will significantly and adversely impact biotechnology companies. They would severely diminish the incentives of the patent system for our industry to develop newer, safer, easier to administer and more effective drugs that could help patients lead better lives. The changes being proposed, simply stated, will not yield better results for patients or the biotechnology industry.

Sincerely,

Carl B. Feldbaum,
*President.*

Mr. FRIST. Mr. President, I also ask unanimous consent to have a similar letter from the Massachusetts Biotechnology Council be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

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Massachusetts Biotechnology Council,
*Cambridge, MA, July 16, 2002.*

Hon. Edward M. Kennedy,
*Russell Senate Building,*
*Washington, DC.*

Dear Senator Kennedy, I request that you oppose S. 812, legislation to alter the Hatch-Waxman Act. The bill raises serious concerns for our Massachusetts Biotechnology Council membership. I urge you to work on a more considered basis on any effort to revise the carefully-balanced Hatch-Waxman system.

I understand that under the reported bill, a patent owner who for any reason fails to initiate litigation against a generic drug applicant within 45 days of receiving notice under the ANDA procedure will be barred from enforcing patent rights in any forum against either the ANDA applicant or any party that manufactures, uses, sells or offers for sale the approved drug product. In addition, a new drug applicant—who may not even be the patent owner—who fails to list a patent with the FDA within 30 days of approval of a new drug application, or within 30 days of the grant of a patent if that occurs after the NDA is approved, is similarly barred from enforcement of patent rights on the drug against a generic manufacturer. Either of these events will completely abolish patent rights in new drugs or related technology.

The legislation also creates new opportunities for generic drug makers to harass biotech companies through unnecessary and pointless litigation. The reported bill would create a private right of action to permit a generic manufacturer to challenge these mandatory patent listings. The legislation also would allow generic drug applicants to initiate this litigation regardless of whether our companies or their partners intend to assert their patent rights in the ANDA process.

The proposal would codify fifteen pages of FDA regulations governing "bioequivalence" requirements on both new drugs and generics and would legislatively shield the FDA from challenges to its actions in setting approval standards. In essence, the proposed changes would make it impossible for drug manufacturers, whether pioneer or generic, or members of the public to challenge improper standards enacted by the agency on key approval criteria, or to challenge improper decisions made under valid authority. Moreover, the current regulations include several provisions in which FDA provides to itself unfettered discretion to create or define at will any standard "deemed adequate by FDA." This makes an otherwise legitimate challenge to an agency decision virtually impossible to sustain. Shielding the agency from actions to challenge its proper authority simply makes no sense, particularly when the consequences involve potential risks to patients and to public health.

I urge you to oppose S. 812. The implications of the changes being proposed are far reaching and will significantly and adversely impact biotechnology companies. They would severely diminish the incentives of the patent system for our industry to develop newer, safer, easier to administer and more effective drugs that could help patients lead better lives. The changes, simply stated, will not yield better results for patients or the biotechnology industry.

Sincerely,

STEPHEN MULLONEY,
*Director of Government Relations and Communications, Massachusetts Biotechnology Council.*

Mr. FRIST. Mr. President, the Biotechnology Organization represents over 1,000 biotechnology companies and their members all over the country and in every State. California, Massachusetts, and Maryland have the highest concentration of biocompanies in the United States.

I think what people understand and what my colleagues understand is that the biofield is a fairly new field. When I was in medical school, these biotech companies were not out there. The drugs they are looking at today were nonexistent. For the most part, they are in their infancy today. Fifty years from now and looking back, we will see on the curve an increase that right now we are at the beginning of.

Of the 130 biotech drugs approved by the FDA, all were produced by fewer than 100 companies. As I just said, there are over 1,000 biotechnology companies that exist today. What that means is, if you have ten companies working at the early research stage to figure out what drug is going to cure HIV/AIDS, or reverse a certain case of emphysema or reverse that blood clot just about ready to cause a stroke in your brain, one company will ultimately produce an effective product. Many of these companies are small, emerging companies.

Look at Senator KENNEDY's language on bioequivalence. That is the language that will ultimately go into the bill.

These letters make clear the concerns raised by myself in committee and others during the Health, Education and Labor Committee markup. The bioequivalent language in the underlying bill has not been addressed.

You heard Senator HATCH's plea. Even if this bill sails through, please listen to us and allow us to participate in changing that language.

Let me just say that I also share the concerns of others about the codification in this bill.

Let me quote from their letter only three sentences. This is from the biocommunity.

> . . . section 8 as currently drafted goes well beyond the intended purpose of the provision. In essence, the proposed changes would make it impossible for drug manufacturers, whether pioneer or generic, or members of the public, to challenge improper standards enacted by the agency on key approval criteria, or to challenge improper decisions made under valid authority. Moreover, the current regulations include several provisions in which FDA provides to itself unfettered discretion to create or define at will any standard "deemed adequate by FDA." This makes an otherwise legitimate challenge to an agency decision virtually impossible to sustain. Shielding the agency from actions to challenge its proper authority simply makes no sense, particularly when the consequences involve potential risks to patients and to public health.

Bioequivalence—again, that is probably the last time I will be able to address this issue on the floor. It is a plea that we work together and come to an agreement so we do not accomplish a loosening of these standards.

The Senator from Utah also mentioned the 30-month stay provisions.

Let me just say that this 30-month stay provision has served a very important purpose. If you look back at the legislation, which is consistent with remarks from the Senator from Utah, you will see that the 30-month stay is part of the balancing act between the brand name pharmaceutical companies, which are heavily invested in R&D, and the cost-effective generic companies to achieve that balance, which we have seen is so important.

As I have said, it has been the magic over the last 16 to 18 years. We need to be very careful when we start tinkering with that and whether or not that goes too far in upsetting that balance.

I know and my colleagues know that there have been huge abuses by some brand name companies versus the generic companies in our discussions. They have filed what are late patents. They file late patents that may not represent significant medical advances. Their purpose is because they saw the law written this way as simply to extend that 30-month stay protection period. And they are protected. When you have that sort of protection, obviously, it affects prices throughout.

The legislation before us would treat patents, listed after a new drug application is approved, differently than patents listed when a new drug application is approved. Providing lower protections to patents at any point in time will have real implications in terms of innovation, in terms of incentives to innovate as you develop new formulations and new aspects of drugs.

There are a whole slew of examples where these patents that are issued, not early on but later, could involve an important innovation. I will not go through the examples here today, but we have talked about them in our Health, Education, Labor, Pension Committee.

So if you have a new drug here, a patent here, and you can improve on that drug later in the life cycle, that improvement needs to be protected in some way. Furthermore, you need to give a pharmaceutical company an incentive, which is what this patent protection is. That is what patents are all about: an incentive to look at a new formulation of that drug that could be important.

There was a question, a few minutes ago, about certain populations. For example, this applies very specifically to the pediatric population. If you have a drug that can either be injected or be applied intravenously inside a vein, and you have a patent on that drug, it would be nice to give somebody an incentive to make sure you can use that same drug in a liquid formulation, to give them some incentive to develop that liquid formulation. And it may come later in the cycle of that drug.

In fact, two weeks ago Dr. Tony Fauci of NIH was quoted in the New York Times about the importance of developing an oral formulation of a drug that was discovered as an injectable drug to treat HIV/AIDS. Forty million people in the world today with HIV/AIDS are struggling in countries, such as in Africa, where two out of three of these cases are today. Many of my colleagues, on both sides of aisle, are trying to figure out how we can link prevention, care, and treatment. The problem is, treatment today is just so expensive. So we want to incentivize people to take an injectable drug, which is very difficult to administer throughout Africa, and develop an oral formulation of that particular drug.

Dr. Tony Fauci talked about the importance of developing and patenting an oral formulation of this drug. Unfortunately, that is the kind of new patent, on a previously discovered drug, that would be afforded less protection under this bill. When you afford something with less protection, it is true that fewer companies, fewer people, are going to be interested in investing and figuring out that new formulation.

Again, because the distinguished Senator from Illinois mentioned the pediatric population, it brings to mind the fact that we worked very hard on what is called a pediatric exclusivity bill. We unanimously passed it in the Senate. It provides a market incentive for brand-name drug companies to test certain drugs in the pediatric population. Many of us were cosponsors of that bill, and it unanimously passed in this body. It provides a market incentive for brand-name drug companies to test certain drugs for pediatric use for which the FDA issues a written request.

We gave certain protections. Now, all of a sudden, we are saying: Well, maybe or maybe not in the pediatric population. Let's lower the protections that we are giving instead of increasing the protections—which was the intent of this body—and give less legal protection just because of the timing in which a patent was filed.

The issue is complex, as Senator HATCH has said. People say, you are being critical of it. You illustrate the problems. Are there better approaches? The answer is, yes, there are better approaches, to my mind, that I hope we will have the opportunity to debate.

One approach would be to not allow brand companies to automatically extend the 30-month stay for patents issued after the filing of what is called an abbreviated new drug application—what is called an ANDA—by a generic company.

Another alternative would be to allow an additional 30-month stay only for patents that were filed but not approved by the Patent and Trademark Office at the time of the NDA.

The impact of this would be to reduce incentives for brand companies to "game" the system, something that all of us want to avoid—companies coming in and trying to take advantage of whatever structure we set up.

The fifth point that I want to bring up, in the hopes that we will be able to come back in some form to be able to address these issues, is the broad bar on patent lawsuits. Senator HATCH also raised this point, for the record.

I am troubled by provisions in the bill that cause patent holders to lose their rights to sue for infringement of a patent if the patent holder does not meet certain requirements, including these timing requirements.

For example, a patent holder would lose its right to sue for infringement if it does not submit appropriate patent information to FDA within the specified deadline, or if it does not bring an infringement lawsuit within 45 days of receiving notice from the generic applicant that its patents are being challenged.

I believe this fundamental change, of which the Senator from Utah spoke, to the Hatch-Waxman law will force companies to bring more litigation, not less litigation. In our hearing, we kept saying that we want to see less litigation. It will force more companies to bring more litigation to avoid the risk that otherwise they will waive their rights for all time.

If they do not sue, they are going to waive those rights for the future. That is a concern to me, especially as we are looking to decrease the number of lawsuits and decrease overall cost.

In fact, as I understand it, this provision alters basic rights that go with a patent, rights that give brand-name drug companies the incentives, as I mentioned earlier, to improve upon existing products.

I have to ask: What happens if a patent owner does not have a good-faith basis to sue at some point in time, but later learns something that would give him reason to sue for infringement? The answer is that that patent holder is simply out of luck.

America's research institutions and academic medical centers would clearly suffer under the "list-it-or-lose it" or "sue-or-suffer" provisions of this bill. Under these provisions, NDA holders are required to file patents that meet listing criteria whether or not they own or have a license under those patents. Under the bill, patent owners will be lose their rights to enforce their patents if the NDA holder fails to list, and the patent owners can do nothing about that (only NDA holders, not patent owners, have the ability to list patents).

For example, suppose Harvard University owns a patent on a drug substance discovered by one of its academic researchers. Normally Harvard would license that patent to a brand name pharmaceutical company that would develop the drug and submit an application for approval to the FDA. Under the bill before us, if that brand name company failed to list the patent within the arbitrary 30 day period, Harvard, the patent owner, would irreparably forfeit its ability to enforce its valuable patent rights against any generic drug applicant forever.

This is true even if a company completely unrelated to Harvard develops a drug that might potentially be claimed in a Harvard patent. Under this approach, Harvard, which has not control over the timing of the listing, would suffer a complete loss of its patents rights against generics without any recourse or ability to remedy the situation. That is both arbitrary and punitive.

While we are acting, in large part, over these next several days out of concerns over health care costs, as I mentioned before, the Senate has no formal cost estimate from the Congressional Budget Office, the Office of Management and Budget, or really any other credible source.

I mention that only because the overall assumption—and what we would all like—is that whatever we pass here will ultimately bring costs down. But we do not have any outside independent evaluation of that.

While we are acting aggressively to curb past abuses, we do not have the benefit, as you have heard from Senator HATCH and myself today, of the ongoing information that is being compiled by the Federal Trade Commission. The FTC has been specifically charged with the investigation of potential abuses by brands and generics. I believe and I am confident this report will provide crucial additional information. As Senator HATCH has said: We just simply don't have the facts.

I look forward to working with my colleagues on these issues. Again, Senator HATCH and I have spent a long time outlining our concerns, in large part, because I do not think we are going to be in the climate—I know we are going to other very important amendments about extending prescription drug coverage to seniors—that each of these very technical issues are going to be able to be adequately debated, but also to write in language that would fulfill the intentions on the floor, and that we are going to reach out and hopefully have that opportunity to work together on these.

I will likely end up, for the reasons I have outlined, voting against this underlying base legislation, despite the good work and the incremental advantages that have been added to this bill by Senators COLLINS—and I mentioned most of them—EDWARDS, GREGG, HUTCHINSON, and many of my colleagues.

The bottom line is, the balance is critical. Balance has been achieved to a very successful degree, much better than I would think anybody would have anticipated in 1984 from the Hatch-Waxman legislation. It is the magic as to why it has worked. It is why we have seen this proliferation of generic drugs and, at the same time, preserving the innovation and research.

What I am afraid is that in the legislation as written, we have gone too far. Going too far could indeed have a detrimental impact on research and innovation and the public good, without providing the cost savings promised by its supporters.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that before I am recognized to speak, the Senator from Missouri be recognized for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

Mrs. CARNAHAN. I thank the Senator from Illinois.

Mr. President, over the next 2 weeks, the Senate will address an issue that Americans have come to understand far too well—the high price of prescription drugs. We need to do all we can to lower the price of prescription drugs for consumers.

Senator STABENOW's amendment is one example of a concrete action the Senate can take. Her amendment would give the State the flexibility to negotiate Medicaid drug discounts for non-Medicaid-eligible individuals. This amendment would help lower prices for all consumers. I am a cosponsor of the amendment and encourage my colleagues to support it.

We need to do much more. We need to pass the underlying Schumer-McCain legislation. Today, pharmaceutical companies are making historic profits while average Americans are paying historic prices. Let's look at those profits.

Earlier this year, Fortune magazine did a comparison of U.S. industries to see how profitable they were in the past year. The pharmaceutical industry ranked No. 1 in all three of Fortune's profitability measures. Almost 20 percent of its revenues were profits.

But now let's look at the prices. In 2001, the prices of the 50 prescription drugs used most often by seniors increased on the average by nearly three times the rate of inflation. For example, Lipitor, which is used to treat high cholesterol, rose 13.5 percent, more than five times the rate of inflation. Paxil, which is used to treat depression, rose 11.6 percent. And Celebrex, used to treat arthritis, rose 10.4 percent. For seniors who are living on a fixed income, the high price of prescription drugs means making tough choices every day between lifesaving medication and food and rent and heat.

The No. 1 issue which I hear about in Missouri from our seniors is prescription drugs. Whether people live in urban or rural or suburban areas, they are all feeling the pain of high prices.

Recently, I visited the Terrace Retirement Community in Columbia, MO. While I was there, I led a roundtable on the topic of prescription drugs. If you could have heard some of those stories. They were definitely heart wrenching.

One of the women I met that day in Columbia was Annie Gardner. She is an impressive 63-year-old mother of five children, but she suffers from diabetes and high blood pressure. Her hardship began after taking a buyout from her employer. In this transaction she lost her health insurance and was not able to afford insurance on the private market. This left her unable to afford her prescriptions. Often she had to ration them by taking half the prescribed amount so it would last longer.

Ms. Gardner knows how dangerous this can be because she is a licensed practical nurse and has been for 40 years. Later, she had to quit purchasing the drugs entirely because of other expenses, such as fixing her car and paying increased taxes on her home. Ms. Gardner and thousands like her make these tough life-threatening decisions every day. But no one should have to make those kinds of decisions.

Seniors are not the only ones who have been hit hard. For far too many families, the cost of prescription drugs is a budget buster. Working families without health insurance are paying the highest price of all because they do not get the benefits of the negotiated discounts. This issue also hits employers. They absorb the cost of high prescription drug prices in the health benefit packages they provide to their employees.

For example, last year General Motors spent $1.3 billion for prescription drugs for its employees and retirees. This problem has reached such a crisis that companies, including General Motors, have joined the Governors to form the Business for Affordable Medicine Coalition. Their key issue is the one we are debating today—closing the loopholes in the current law so that generic drugs can compete fairly with brand name drugs.

I am pleased that the Senate is considering ways to close these loopholes with the Greater Access to Affordable Pharmaceuticals Act. I applaud Senators SCHUMER and MCCAIN for authorizing this legislation. I, too, am proud to be a cosponsor of that bill.

It is imperative that we close these loopholes in current law that prevents generics from coming on the market. Generics cost on the average one-third the price of brand name drugs. Generics bring competition into the market and lowers the price for drugs for all Americans.

When a brand name drug is under patent, its manufacturer enjoys a monopoly. One company sells the drug; one company sets the prices. Now I support patents for drugs. Patents are there for a legitimate reason—to allow companies to recoup the cost of research and development that they invest in creating the drugs. But drug companies are abusing loopholes under the current law and extending their monopoly on prices sometimes for years at a time.

A 1-year delay in a generic coming to market can translate into hundreds of millions of dollars in profit for the brand name company. In 1984, Congress passed the Hatch-Waxman act. This act was intended to strike a balance, a balance between brand name drug companies being compensated for their investments and generic companies eventually having access to the market. But the original purpose of the law has been distorted.

The law is now being used to extend patent protections far beyond what Congress intended. Balance needs to be restored. American taxpayers deserve better than what they are getting.

Over the next 5 years, a remarkable 26.7 percent of the entire 2001 pharmaceutical market is scheduled to face exposure to generic competition. If generics are allowed to come on the market, it would mean more choices and lower prices.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I yield 5 additional minutes to the Senator from Missouri with the consent of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CARNAHAN. Generics can save consumers over 60 percent per prescription. Here are some examples of brand name drugs whose patents are supposed to expire in the next few years. Listen to the numbers on what consumers should be expected to save.

The patent on Claritin, an allergy medication, is scheduled to expire in December. Annual savings after the generic becomes available are expected to be over $500 million. The patent on Zocor, a cholesterol-lowering drug, is scheduled to expire in December 2005. The annual savings after the generic becomes available is expected to be about $735 million. The patent on Zoloft, a drug for depression, is scheduled to expire in December 2005. The annual savings after the generic becomes available is expected to be $577 million.

However, given the amount of money that is at stake, pharmaceutical companies have a lot of incentive to delay generics from coming on the market. Unfortunately, current law allows them to do this.

If we in this Congress have the courage to act, American consumers will save billions of dollars. If we don't, the money will go directly from the pocketbooks of American families and on to the profit statements of the drug companies.

Congress must move on yet another front. We will soon be considering a historic addition to the Medicare Program, a prescription drug benefit. The legislation I am supporting would create an affordable and accessible benefit administered through the Medicare Program.

This Senate plan is simple. Assistance begins with the first prescriptions. There are no gaps or limits on coverage, and seniors will pay $10 for generic drugs and $40 for brand name drugs. There is certainty and there is stability.

The House bill is the complete opposite. It is complicated. There is a $250 deductible before seniors get relief. There are months where seniors have to pay a premium, but they would not get assistance with their drug costs. Under the House plan, seniors will pay approximately a $35-a-month premium but still pay the full price at the drugstore.

The House Republican plan would require seniors to use drug HMOs to get their benefit. However, there are no guarantees that private plans would provide a benefit in all geographic areas, or that a plan would even stay in business.

Look at what has happened with Medicare+Choice, Medicare's HMO. Since 1998, nationwide, 2.2 million Medicare enrollees have lost

Medicare+Choice as an option because of plans withdrawn from the market. In Missouri, from 1998 to 2001, eight health plans stopped providing Medicare+Choice options in the State. Furthermore, some options are available in only urban centers and not in rural areas.

Why would we rely on this same type of system to give prescription drug coverage to rural areas?

To me, what the House passed is unacceptable. It is an incomplete benefit with absolutely no effort to lower drug prices. It is unacceptable for Missouri's seniors and unacceptable for American seniors. We must do better in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, I thank my colleague from Missouri. The Senator spelled out in amazing detail what this debate is about. We come to this floor understanding that a miracle has taken place in terms of health care in America within the lifetime of most of us. When this Senate considered the Medicare bill back in the 1960s, there was a very limited formula, a limited number of prescription drugs that were available, and they did not include in Medicare the coverage of prescription drugs.

Look at what has happened since then. There has been a massive investment by the Government, the taxpayers, and by private industry, and we have seen emerging from that brandnew pharmaceuticals that give us the hope of conquering diseases that have plagued mankind forever. This new formulary, ever-expanding, has created a new demand. Of course, it is a demand brought on by people who want to save their own lives as well as those of their family members. It is a demand that is monitored by doctors; a doctor will decide whether this particular drug is right for this patient at this moment.

But at the same time that this miraculous evolution was taking place, the cost of these pharmaceuticals was also rising geometrically, to the point that today many average Americans cannot afford the very prescription that their doctor believes will keep them healthy and out of the hospital. So many of them put off filling a prescription and maybe take half of what they are supposed to take or they have to make a sacrifice—whether it is food, shelter, or paying a utility bill—in order to pay for their drugs.

There has been a demand growing in America for the Congress to respond and to expand the Medicare Program again so we would include prescription drugs. That is something that is worthy and is supported by Democrats and Republicans and Independents.

When you come down to the specific challenge of making it work, one of the biggest problems you face is price. If the cost of prescription drugs continues to grow, as it has in the past, there is no way any of us in the Senate or in the House can devise a Government program to pay for it and to keep up with that cost. Last year, the cost of prescription drugs across America went up some 18 percent. You cannot create a Government program and fund it properly that will keep up with that kind of geometric growth in price.

So there are various ways we can address it. To the north of us, Canada has addressed it with a national health system. We can argue back and forth about whether doctors or hospitals should be Government employees, but when it comes to prescription drugs, what Canada said to the drug companies in America is: If you want to sell your product in Canada, we will bargain with you as to how much you will be paid. The American drug companies said: Fine, let's start the bargaining process. As a result of that bargaining process, there are dramatic differences in the price of drugs between the United States and Canada.

If you look at this chart and go through the drug names, you will recognize some of them. These are the drugs that you find advertised on television, on radio, in newspapers, and in magazines almost on a daily basis. Celebrex, for arthritis, goes for $135 for 90 doses in the United States. In Canada, the same drug, same dosage, and the same company, it is $83. Lipitor, for cholesterol, is $266 in the United States and $179 in Canada. Nexium, for ulcers—the little purple pill, I think it is—is $344 in the United States and $219 in Canada. Paxil, which we have seen ads for, is for depression and anxiety; it is $236 in the United States and $152 in Canada. The list goes on. There is Premarin, Prevacid, Vioxx, Zocor, Zoloft—all the names we are familiar with because of advertising.

The lesson to be learned is that when the Canadian Government said they were going to bargain for the good of people living in Canada, they started saving money for their people and their health system. What is missing in this picture? There is nobody in the U.S. who is bargaining for the American consumer.

Yesterday, on the floor of the Senate, my colleague from Pennsylvania, Senator SANTORUM, argued that is just a price Americans have to pay. It is our responsibility, as he argues, to subsidize the profitability and growth of American drug companies. The fact that these same drugs are costing a fraction—the exact same drugs—in countries around Europe, Canada, and Mexico, he believes is just part of their socialized Government-controlled system.

I can tell you from the U.S. consumer's point of view, it is cold comfort to be told that for a drug you have to pay 40, 50 percent more than someone living a few miles over the border in Canada because it is your burden to subsidize American pharmaceutical companies. But that is the argument being made by those who are opposing many of the issues before us today.

Now, Canada isn't the only entity bargaining with American drug countries. Mexico and a lot of European countries bargain and say: If you want to come into our health system and sell your drug in our country, we are going to reach an agreement as to what you can charge; otherwise, you are not welcome. Well, the companies, by and large, have all agreed to do exactly that—enter into this agreement and reduce drug costs in every country but the United States.

In the United States, there are certain elements within our society that have bargaining power with the drug companies. A couple of examples come to mind immediately. The Veterans Administration, on behalf of America's veterans and hospitals, bargain with drug companies to bring down the cost of drugs. I am glad. The veterans benefit from it. Indian Health Service, the same story; Public Health Service, the same story. Many States, through Medicaid, bargain in terms of bringing down the cost of drugs. When you look at it, private insurance companies reach these same bargains. They say to a drug company: If you want to have an eligible drug for the people we insure, we are going to bargain on a price that we think is acceptable. That bargaining takes place to the benefit of another group of Americans.

If you look at the population of this country, who is being left out in the cold? I will tell you. The first group you will notice is Medicare recipients, people over the age of 65. No one is bargaining for them. These people, retired and on fixed incomes, are paying the highest prices, not only in America but in the world, for drugs that are being made in the United States. High prices, of course, apply to many other families as well.

There are several ways we can approach this. We can decide that, as a society and as a government, we are going to negotiate on behalf of American consumers, the same way it is done in other countries around the world. Well, we have not quite reached that decision. Instead, we are trying to inch toward more competition and price justice. I salute the Schumer-McCain bill—the underlying bill—because this bill says we are going to try to make certain that generic drugs continue to play a major role in terms of providing the kinds of protections that Americans need.

Generic drugs have come a long way in America. We have seen, in a very short period of time, that they have become a substantial part of serving

America's health needs. Almost 40 percent of the drugs today are generic drugs.

What is the difference between a brand named drug and a generic drug? Well, by classic definition, a brand name drug is under patent protection exclusivity. Only one company can make that drug. But when the patent runs out, expires, other companies can move in and use the exact same formula, make the same drug, and the price drops dramatically.

I will give you an illustration of how it works. I doubt there is a person in America who hasn't heard of Claritin, made by the Scherling-Plough drug company. The ad shows people skipping through a field of wildflowers saying, I am not sneezing, so go to the doctor and tell him you need Claritin. Scherling-Plough spent more money advertising that drug than Pepsi-Cola spent advertising Pepsi in a given year or Anheuser-Busch spent advertising Budweiser. They wanted the Americans to develop an appetite for this drug Claritin. Then they got panicky because the patent was running out because then someone else could make a Claritin generic drug at a fraction of the cost. So they would come to Congress and try to find, at the midnight hour, a way to slip in an amendment to extend their patent another few months or years. We fought them back time and again.

And Scherling-Plough wasn't the only group trying to do that. What we have seen happen now is Claritin is coming off patent and the generic drugs are going to compete. Scherling-Plough is thinking: What are we going to do?

What did they do? They tweaked a molecule in Claritin and created a new allergy drug called Clarinex. Have you seen it on TV? It will soon be coming to a television near and dear to you. Now they want to create this appetite for Clarinex because it is back at the price they used to charge for Claritin. The odd thing is, if you had asked, many doctors from the start would have told you that over-the-counter drugs are as effective as Claritin or Clarinex will be ever be for most Americans.

The point I am making is, when you are talking about generic drugs, you are talking about affordable drugs for Americans. You are talking about giving them the same type of drugs, bioequivalent, as those under brand name and patents, and making certain they save money in the process. Senator SCHUMER and Senator MCCAIN are trying to eliminate some of the abuses as drugs come off patent and move toward generic so consumers can enjoy that benefit.

Yesterday, on the floor of the Senate, by a vote of 69 to 30, we adopted an amendment by Senator DORGAN. Senator DORGAN of North Dakota said he finds it strange that in Canada, the exact same drug made by the same American company subject to the same inspection sells for a fraction of the cost, and why shouldn't we be allowed to reimport these drugs from Canada for the benefit of American consumers?

They came here on behalf of the pharmaceutical industry and said it is an invitation to terrorism; you are going to bring in counterfeit drugs. One of my colleagues said he had a formula he was holding up that was made out of highway paint. I could not follow the debate very closely, but the suggestion is that drug that moved across the border is, all of a sudden, suspect when it comes back.

I wanted to ask the critics of the Dorgan amendment why, if we have busload after busload of Americans going into Canada buying these drugs, if there is such a danger, why have we not heard some scandalous report about people dropping dead on the buses or as soon as they got home? It has not happened. It will not happen.

In the Senate, by a vote of 69 to 30, we decided to create another opportunity, beyond generic drugs, for reimportation of drugs from Canada, with the approval of the Secretary of Health and Human Services in terms of their safety and the fact they save us money. That was a step forward.

Today, I am happy to be a cosponsor of an amendment presently before the Senate which, frankly, has not been discussed for about 3 hours. I have listened to the debate on the floor, and no one has discussed this amendment by Senator STABENOW.

The last two speakers on the Republican side, Senator HATCH and Senator FRIST, spoke to the generic drug part of the bill, but they are not addressing this bill which I think is a good one by Senator STABENOW.

What this bill says is that States across the Nation, such as Maine, Vermont, even the State of Illinois, can decide they want to try to bargain with the drug companies to bring down prices for everyone living in the State. What is wrong with that? If we are letting it be done in Canada and Mexico, the Veterans' Administration, private insurance companies, the Indian Health Service, why shouldn't a State try to find drug prices more affordable for the people living there? That is what the amendment says. It is as simple and straightforward as that. It is another opportunity for us to put some competition in drug pricing and to give consumers a break when it comes to paying for the pharmaceuticals they need to survive.

I think this amendment moves us in the right direction. It is sad that, once again, we are looking for another alternative to national action. That is what we need in this situation. We can think of a dozen different ways to reduce prices—by where you live, what State, whether you happen to be a veteran, whether you happen to have access to Canada. But shouldn't we as a nation address this in a straightforward fashion, understanding that the drug companies are in business to make a profit?

I will concede that point, but for the last 10 years, when one takes a look at the profitability of drug companies, one finds that it is about 19 percent a year on average. The median income and profitability of Fortune 500 companies during the same period of time is 3.3 percent. Drug companies are extremely profitable, and they are selling more and more drugs at higher prices and driving up that profitability.

We also believe that you should have enough money at a drug company to put money back into research—capital investment in research for new drugs. It is obvious. It is not only a question of making a profit, it is a question of finding that next generation of drugs to improve the lives of Americans. I think that is a very valid thing to do.

Senator STABENOW will not be offering the amendment I cosponsored with her that said those companies that are spending more money on advertising than they are on research ought to be held to only deducting the amount of money equivalent to what they spent on research for their advertising. I think that is reasonable, too. It calls the bluff of a lot of companies that say: We need to be more profitable for research. They need to be more profitable for more advertising, advertising creating many times a false appetite.

I stand today in support of this legislation on generic drugs. I believe it is a step in the right direction. The average price paid for a prescription for a brand name drug is about three times the amount of that paid for generics. The average consumer pays 238 percent more for brand name drugs, an average of $45.96.

Last year, 47 percent of all prescriptions were filled with generic drugs. Remember, the doctor makes the ultimate decision. If the doctor happens to believe a brand name drug is better for you or your family because of some situation, some peculiarity, that is the doctor's call, but having generic drugs available gives that doctor a choice and gives you a chance to find an affordable alternative for safe and efficacious treatment.

The underlying bill on generics is sound. I supported the reimportation amendment and stand in strong support of flexibility for States to act, which Senator STABENOW has submitted and which I am happy to cosponsor. Let us give to the States the opportunity to reduce prices so people can benefit from this competition and bargaining and still remain healthy.

Mr. SCHUMER. Will the Senator yield?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois may yield for a question.

Mr. DURBIN. I believe I have the floor, and I have agreed to yield to the Senator from New York.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. SCHUMER. Mr. President, I know the Senator from Iowa is in a hurry. Maybe I can ask unanimous consent I be recognized immediately after he finishes instead of yielding.

Mr. DURBIN. If the Senator from New York does not have a question, I will be happy to yield the floor.

The PRESIDING OFFICER (Mr. MILLER). Is there objection to the unanimous consent request?

Mr. REID. Mr. President, what was the unanimous consent request?

The PRESIDING OFFICER. The Senator from New York wishes to speak for 5 minutes immediately following the remarks of the Senator from Iowa. Is there objection? Without objection, it is so ordered. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am so glad we are in a position where we are able to discuss these very important prescription drug issues, including a prescription drug program for senior citizens as part of Medicare.

I am also glad that we are in a position on the floor of the Senate where we are divided in a traditional way, and in that traditional way, I do not mean just Republican and Democrat because too often that is overplayed.

We are divided between a group of Senators. First of all, I think we may not have 100 Senators who favor a prescription drug program for senior citizens, but I surely believe that we have 85 Senators who believe that we should have a prescription drug program for senior citizens as part of the modernization of Medicare.

Within that 85, I suggest we have some traditional division—division between those who have only confidence in the Government running the program and those, including myself, who have some confidence in the Government but not enough to believe that drug prices are going to be kept minimal through Government control so that we have confidence in the competition of the marketplace to reduce the price of drugs.

We are going to find over the next several days, as we continue to debate this legislation and hopefully bring it to culmination and pass a bill so we answer the concerns of our senior citizens who sometimes have to choose between food or medicine—and they should not have to make that choice—that we will have a prescription drug program as part of Medicare.

During that debate, I hope the American public listening will consider, do they have confidence in the Government running a program or in the private sector and the competition of the private sector keeping down prices?

Quite, frankly, I believe when the Government is involved, we are going to run up the price of drugs. I think I can give evidence from the Congressional Budget Office, the nonpartisan scoring arm of the Congress, to that effect. I can also give evidence that if we have a program for senior citizens that has competition in it—in other words different organizations competing for membership of seniors and, in turn, competing for the lowest possible price with the pharmaceuticals—we are going to bring down the price of pharmaceutical medicines.

Since 1965, the Medicare Program has provided lifesaving health care services to our Nation's seniors and disabled populations. Hundreds of millions of Americans have had their quality of life improved and their health protected because of this Medicare Program. So we must ensure that Medicare continues the exemplary service it has provided beneficiaries since its inception in 1965, and through these program changes, including prescription drugs, improve it vastly.

Unfortunately, we have a situation that this is necessary because Medicare has not kept up with the advances in medical treatment. Medical advances in delivering health care have moved us light-years beyond 1965, but the Medicare Program has not changed to reflect those health care advances. So in order to ensure that Medicare is meeting the needs of today's and tomorrow's seniors, the program needs to be brought into the 21st century.

Very few people drive 1965 automobiles today, but every senior citizen is using a 1965 model of Medicare. So that is why, after a year of work, I introduced, with Senators SNOWE, BREAUX, JEFFORDS, and HATCH, a bipartisan bill—or if you look at the political backgrounds of all five, a tripartisan bill. Our 21st Century Medicare Act, as we have named it, is designed to bring Medicare up to date by adding a comprehensive prescription drug program and by making other improvements in the program as well. The Congressional Budget Office has estimated our bill will cost $370 billion over 10 years.

Now there are other proposals. Senator DASCHLE, from the other side of the aisle, has a bill. As I understand it, it has not yet been scored by the Congressional Budget Office. How much does it cost? I have heard figures from introducers of that legislation, maybe $450 billion, maybe $600 billion. We need to know what these programs are going to cost before we vote for them.

I want to take a moment and walk my colleagues through the elements of the 21st Century Medicare Act. First, the prescription drug benefit adds a comprehensive, voluntary, and permanent drug benefit to Medicare. Our monthly premium is $24. It is the lowest premium of any comprehensive proposal before the Congress, as the authors of those proposals have expressed what their premium is. Our drug benefit is focused on providing money where it is needed most—to the low-income senior citizen who has to choose in some instances between food and medicine. They will no longer have to make that choice.

It also targets those who have very high out-of-pocket expenses. Some people might refer to that as catastrophic coverage. We have other names for it, but I think we know that we are trying to protect people where the sky is falling in on them because of the need for prescription drugs.

I will describe for seniors with low incomes what this would do, starting with those below 135 percent of poverty. That would be about a $12,000 yearly income individually, about $16,000 a year income for a couple. Medicare will first pay the entire amount of their monthly drug premiums, no out-of-pocket expenses for them buying into the program.

Secondly, Medicare will assist them in paying for drugs at every level of spending. They will pay only $1 to $2 for their prescriptions. On average, this group of low-income, older people will see a 98 percent reduction in their total drug costs, another example of one not having to choose between food or medicine because they are low-income.

Next we would look at seniors with incomes above 135 percent of poverty but below 150 percent of poverty. This includes individuals with income a little bit over $13,000 and couples with income of almost $18,000. These enrollees will receive Medicare assistance on a sliding scale based upon their income to help pay their monthly premium to get into the program, and also Medicare will assist them in paying for drugs at every level of expenditure. There is no gap for these beneficiaries below 150 percent poverty.

Let us look at those with incomes above 150 percent of poverty, which is above $18,000 for a couple. They will pay an average monthly premium of $24 for their immediate care drug benefit—again, the lowest of any premiums that have been announced by other authors that we know about. They will pay a $250 deductible, and after they have reached the deductible, Medicare will cover 50 percent of their drug costs up to the benefit level of $3,450 in total drug spending. Furthermore, Medicare will cover 90 percent of all drug costs after beneficiaries have paid $3,700 out of their pocket for drugs.

Let me say a bit more about our drug benefit for Medicare beneficiaries above 150 percent of poverty. That is the group I just described. First, I wish we did not have a gap in coverage between $3,450 and $3,700, but the problem is that we are working within a limited amount of money—$370 billion—which is about halfway between the President's program for seniors and, let us say, the other prominent plan before the Senate, the Democrat plan. We are about in the middle. We have adopted a policy of using funds to benefit the largest possible number of Medicare beneficiaries, particularly those with low incomes, as I have demonstrated.

So helping low-income people as opposed to doing more with incomes a little bit higher, it requires some sort of a trade-off, and we have opted to help lower income and to help less the further up the line one goes. It is important to point out and to stress that even with these trade-offs, fully 80 percent of all Medicare beneficiaries will spend less than the initial benefit limit or will have access to low-income protections and therefore will have no gap in the coverage. The percentage, again, is 80 percent.

In the jargon of Washington, DC—and I know our constituents get tired of hearing Washington talk; we need to talk Iowa talk, but for my colleagues, that means 80 percent of the seniors in America under our plan will not be touched by what we call the doughnut hole. For the 20 percent of enrollees exposed to this gap in coverage, our bill requires that Medicare drug plans pass negotiated drug discounts along to Medicare enrollees all the time. All of those enrollees will be able to purchase drugs at a reduced price.

Everyone is going to benefit from this legislation. Our bill may include this small doughnut hole, but proposals from the other side of the aisle seem to me to include a black hole since this drug benefit ends in 2010, leaving Medicare enrollees without any drug benefit whatever.

Again, when we talk about legislation, if it comes to an end, we say that is a sunset. It is my understanding that the proposal from the other side has a sunset; in other words, a time when the benefit will end unless Congress reenacts it. Seniors are not going to sunset. Seniors are going to continue to need prescription drugs after this other proposal sunsets.

One of the disputes is lack of understanding of our benefit delivery system. I heard my colleagues describe how we arrived at the approach to delivering drugs, as the tripartisan bill does. That reminds me, I want to say another thing because I think we forget how things get done. No Republican plan can get through the Senate. No Democratic plan can get through the Senate. A Republican plan can get through the House of Representatives because that is the way that system runs and the majority party rules with an iron hand. There is a Republican plan that got through the House. There is a Democrat plan in the House that obviously did not pass the House. We got the President's program that is obviously a Republican program because we have a Republican President. We have a Senate Democrat plan. We do not have a Senate Republican plan, but we have a Senate bipartisan plan. That is the only way we will get anything through the Senate, and that is a bipartisan approach.

Getting back to how did we settle upon our delivery system for the prescription drug program for Medicare, we have been working for several months, to my chagrin, too many months, with the CBO to work through policy and what a certain policy would cost and changing policy—not basic policy but fine-tuning our policy from time to time to fit the realities of what CBO says.

The CBO is important in this process. It is an independent, nonpartisan congressional staff office that analyzes legislative proposals for costs on the one hand and workability on the other hand. The CBO does not have any ax to grind. And they had better not. And we in Congress rely on that. They are the bible for a lot of decisions made, particularly budget decisions.

According to CBO, spending on drugs for seniors over the next decade will grow at an astronomical rate. Over the next 10 years, there will be a steep rise in the price of pharmaceuticals. The CBO said the only way to contain the cost of a drug benefit is to ensure that drugs are delivered efficiently. In turn, the CBO says the only way to have drugs delivered efficiently is to have true competition, two or more organizations competing with the drug prices to get the prices down, as opposed to the other program I am talking about that relies on a government-run program. I quote the CBO that a government-run program will not bring down the price of drugs but one where there is true competition. We have a delivery system based on true competition.

According to CBO, this requires that we must use private plans that assume a reasonable degree of risk; in other words, some risk on the organization to make sure it is efficiently run, to see there is competition, as opposed to a government-run program where risk in pricing of drugs is assumed by the government. What I mean by risk is, if they are efficient, they will make money and, if not, they will lose money. If they drive hard bargains with drug manufacturers, they will make money. If not, they will lose money.

A limited degree of risk is all the tripartisan bill requires. People will ask, What sort of risk do you have if there is going to be a 75-percent subsidy for the Medicare prescription drug plans in our program? Because the Federal Government is protecting that 75 percent. We are told by CBO that at 25-percent risk we will be assured this level of risk is high enough to promote sufficient drug coverage and low enough to assure that plans participate in a stable, reliable drug system. It is the optimal level of risk.

Insurers who are so unhappy with the House bill in 2000 have indicated they can live with the level of risk in our bill. They would be crazy not to participate.

Our opponents are saying if the Federal Government lays $340 billion on the table, by far the largest entitlement expansion ever, plans will not participate. Where do our opponents get that? Flatout, according to the CBO, they are wrong. CBO says the insurers themselves say they are wrong. Most importantly, common sense says they are wrong. Unfortunately for our opponents, no one has invented a prescription drug that gives you common sense.

We need to make the dollars we have go as far as we can. Whatever our individual thoughts, the CBO in this case is an arbiter, and they tell us our bill, the 21st Century Act, does that; in other words, it keeps the cost of medicine down, guarantees the participation of those agencies to deliver the drugs.

Now, I know the Presiding Officer is from a rural State. I will address the question of whether the system the bill will establish will work in rural areas. Even if you are from Atlanta, there are a lot of rural areas in Georgia, so you ought to be asking, will we take care of rural areas? If you are in Montana or North Dakota, it is probably even more of a concern. I represent a rural State—maybe not the most rural State—and I would not support a Medicare drug bill that would put the rural parts of our Nation in jeopardy of not receiving equal access to prescription drugs under the same conditions as people in New York City.

Our bill guarantees that every Medicare enrollee will have a choice of at least two Medicare drug plans, a minimum of two. The Government will establish service areas for plans to offer Medicare drug benefits. These service areas must be the size of a State at a minimum. They can be multistate but at least the size of a State.

I stress that because you hear from the other side that plans will cherry-pick. You are not going to cherry-pick in the State of Iowa. You have to serve Des Moines just as you have to serve Armstrong, IA.

Another point I want to make concerns pharmacists. Pharmacists play a very important role in prescription drug programs for seniors. Not only that, but as we have increasing use of drugs, and seniors taking multiple prescriptions, and the interaction of those, pharmacists are going to play an even more important role. They are going to be needed to protect—I don't know whether the word "protect" is right—but oversee, to some extent, when prescription drugs are given, how they interact. Maybe a doctor won't be on top of that. You might have a person who gets a prescription from two different doctors. Are they going to interact? The focal point for that determination might be the pharmacist—ought to be the pharmacist, and will be. So there is going to be an increasing need for pharmacists.

Another thing I want to point out about the legislation is our assurance that Medicare beneficiaries will have convenient access to a brick-and-mortar pharmacy. The standards outlining what is convenient will be determined by our Department of HHS. Furthermore, in developing convenient access standards, our Department is explicitly required to take into account Medicare beneficiaries in rural areas.

We ought to consider consumer protection, so I will address that as our bill does. Our drug benefit proposal puts into place important consumer protections for our Medicare enrollees.

By the way, one of the things I didn't say that the CBO said about ours, we will have 99 percent of the seniors taking advantage of this program. That is how high the enrollment is going to be.

First, in regard to consumer protections, all Medicare drug plans will be put through a comprehensive approval process to ensure they will deliver quality drug benefits to seniors. The new Medicare competitive agency in the Federal Department of Health and Human Services will have to review and approve the application of the plan before that plan can participate in the program.

Standardized information on each drug plan will be sent by Health and Human Services to all Medicare enrollees. If a Medicare drug plan wants to advertise for enrollees, all marketing material will have to be approved by HHS. All seniors will have access to necessary prescription drugs. Health and Human Services will determine therapeutic classes of drugs. Medicare drug plans will be required to offer drugs in all therapeutic classes.

If Medicare drug plans use formularies, they must establish a pharmacy and therapeutic committee to develop and review the formulary. Physicians and pharmacists must be represented on that committee. The P and T Committee shall base formulary decisions on scientific evidence and on standards of practice.

What I have outlined is a few ways in which our bill differs from Senator DASCHLE's bill. I would like to add a few more ways in which our bill differs as well.

First, Senator DASCHLE's plan is overly bureaucratic and I think extravagant, therefore it does nothing to curtail or even slow skyrocketing prescription drug costs. Why pass a bill if we are not going to do something to put the damper on the rapidly rising increases in the cost of drugs?

That is why it is essential that any new prescription drug benefit contain proper cost management controls that moderate growth in price while ensuring Medicare enrollees' access to prescription drugs.

While guaranteeing prescription drug coverage for all seniors, our proposal imposes reasonable cost-sharing obligations on beneficiaries and does promote competition among prescription drug plans which, as I have said so many times, will lead to a better overall effect on drug prices. That is a benefit to Medicare beneficiaries and to all Americans who are not even yet eligible for the Medicare Program because of age.

We have flexibility in Medicare drug benefits that we do not want to overlook because under Senator DASCHLE's plan, seniors face fixed copayments that, in many instances, mean they will actually pay more for drugs than they would under a system such as the one we propose, that gives prescription drug plans more flexibility to offer lower cost copayments.

I suggest that before the plan is finally put before the Senate by the other side—I will bet they will have that fixed because they have looked at our plan and they know we are more fair, particularly to low-income seniors, with our flexible drug benefit than what their fixed costs are.

Senator DASCHLE also writes into law the monthly premium seniors will pay for a drug benefit. But what happens if a plan has been efficient and wants to attract more Medicare enrollees by lowering their premium below that of other plans? Under Senator DASCHLE's approach, Congress would have to pass legislation for the plan to lower the premium. If you look at most of the problems we have with Medicare developing over the last 35 years, probably those coming directly from reimbursement of various health care providers, you will find that micromanagement of the Medicare Program by the Congress has led to most of the problems we have. So to the extent that we can have the marketplace be the disciplinarian in premium prices, copayments, in deductibles where catastrophic kicks in, et cetera, et cetera, we ought to allow that to happen.

We ought to look at what has benefited us as Senators and 10 million Federal employees or retirees or their families. You will see that competition among several of the Federal employee health benefits plans—they have, I don't know how many dozens of plans, but at least a couple of dozen plans, with competition among those plans, flexibility in those plans, the tailoring in those plans for particular interest groups of people in Federal employment, including Senators, they have been able to keep down the price of our Federal programs. That is directly related to the flexibility in the plans and the competition.

Why would you want to write into your plan a certain monthly premium?

Our plan then gives the freedom to offer premiums, copayments, and deductibles that are flexible, saving seniors money, or gives them more money.

We also have an enhanced Medicare fee-for-service option that is an improved and strengthened Medicare option—not one that seniors would have to take. If they are satisfied with the 1965 model, they can keep it with or without prescription drugs. If they would like to have a new and improved 21st century Medicare Program with or without prescription drugs—because prescription drugs are optional on all of these plans—we would give them the opportunity to do that. I will explain that.

None of the other proposals on the table do any of this. It creates the enhanced option. It is within the Medicare Program. It is a fee-for-service program. Let me be clear about the fact that it is delivered by the Federal Government just like Medicare. There has been some confusion on that point. It ought to be easily understood.

We think it is an option that many beneficiaries might find attractive. But the beauty of it is that we are not going to make that choice for them. It is voluntary. It is their choice.

Here is the bottom line. Beneficiaries, such as Medicare, have a right to keep it—keep it until you die. It is their choice. In fact, even future beneficiaries will always have this same choice under our plan—20-50. If you are 65 years old and you want the 1965 model of Medicare, choose it. But if it is 20-50, you are 65 years old and you want a 21st century model of Medicare, then you can choose the enhanced option.

I want to make it very clear that there is no sunset of the existing Medicare benefit package in our bill—like Senator DASCHLE's sunset in his drug benefit. We know on our side that senior citizens aren't going to sunset. They are going to be around forever.

In addition, Medicare enrollees can enroll in the Medicare drug benefit, whether they are in traditional Medicare fee-for-service, enhanced Medicare fee-for-service, or the Medicare+Choice.

Here is the choice that our bill offers seniors, if they want to take it.

Existing Medicare Part A and Part B focus on the coverage of routine, predictable medical expenses. But the enhanced option, which we are going to call Part E, focuses on preventive care and protection against devastating costs of serious illness. If beneficiaries prefer what they have now, for the third time, I say they can keep it. But if they like the idea of a better prevention and better insurance when they need it, then, for the third time, I say they can have the new, enhanced version.

On the subject of prevention, I would like to explain that we put a lot of emphasis on prevention. Medicare's current policy makes beneficiaries reluctant to seek out preventive services that may identify health problems and prevent more expensive care later. Part of that is because they have to pay a deductible.

Unlike many private health plans, Medicare today subjects people in this Part B to usually a 20-percent deductible.

For those who would elect the new, enhanced option, preventive benefits would not be subject to any deductible, or to any coinsurance.

That is an example of moving Medicare from 1965 to the 21st century.

I would like to highlight another improvement of enhanced option.

Medicare today has no limit on a beneficiary's expenses in a year, creating the potential for crippling costs in the event of a serious illness and maybe impoverishing some families. The bill would limit beneficiaries' exposure then to out-of-pocket costs for Medicare coverage services other than drugs to $6,000 per year. Beyond that amount, Medicare would pay 100 percent of any costs incurred by the beneficiaries.

In a given year, it is estimated that 2 to 3 percent of beneficiaries may have costs that reach above that level. Of course, if one looks at beneficiaries over multiple years, the likelihood of such expenses increases accordingly. If beneficiaries want the peace of mind that comes from such protection against serious illnesses, then for a fourth time, I say they have that choice.

Another issue our enhanced option addresses is the Medicare deductible structure. Under current law, the Part A deductible will be extremely high in the year 2005—$920 every time you go to the hospital—while the Part B deductible is going to stay at $100 per year. The enhanced option includes a unified deductible of $300 per year for all services.

Medicare's irrational two-deductible system is unheard of in the private insurance industry today. Beneficiaries are used to single deductibles from their prior employer-based plan. If they like what they had while they were working, then they have the option, as I say for the fifth time, of taking the enhanced option within Medicare.

Here is another benefit from the enhanced option. Because Medicare benefits have so many holes in contrast to private insurance, most beneficiaries are forced to carry supplemental coverage to fill in the gap. We call that Medigap. Reducing those gaps will make such supplemental coverage less necessary, but, more importantly, if they want to have it more affordable for the beneficiaries, our bill establishes such new more affordable Medigap plans.

By the way, those employers who offer supplemental coverage will also find it less costly to do so under the enhanced option since it will have fewer holes to fill.

Is the enhanced option a better deal? From an actuarial standpoint, the answer is definitely yes.

The Congressional Budget Office tells us it is a more valuable benefit, largely because of the serious illness protections that it offers our seniors. But not all seniors are actuaries. So we are leaving it up to the seniors to decide which of the two plans is a better deal.

We make a few changes also in Medicare+Choice improvement. Starting in 2005, our bill takes modest steps to improve the Medicare+Choice Program. Medicare+Choice has been a big disappointment in my home State of Iowa. Only 1 county out of 99 has it. But seniors elsewhere—particularly in the larger cities and in the Sun Belt—rely on it.

Our proposal keeps that option alive without throwing money at the program as we have so much in the past. Instead, we create a competitive bidding system under which Medicare+Choice plans will compete with each other but not with the Medicare fee-for-service programs for beneficiaries.

I want to emphasize that no one in the fee-for-service Medicare will be affected by this change. We have made this change because today's bureaucratic pricing system sets arbitrary and inaccurate rates, and that discourages Medicare+Choice plans from participating. Our approach to Medicare+Choice is based on a bipartisan model embraced by the Clinton administration, and will result in fairer and more accurate payments to Medicare+Choice.

Before I give up the floor, I would like to comment for a short period of time on some statements that were made yesterday regarding our tripartisan 21st Century Medicare Act by people on the other side of the aisle. I think in some ways the facts were not given straight. I would like to correct the RECORD for the benefit of my colleagues.

Yesterday, there was reference made to an assets test as if there is something wrong with it. There is nothing wrong with it. Public policy for low-income Medicare populations has included assets tests since 1987. Our policy here in the Congress for low-income Medicare populations has included an assets test since 1987.

I said it twice so people know that it is not something new being thrown out there.

Specifically, assets test policies were first included in Federal policy in the Omnibus Budget Reconciliation Act of 1986, which passed the Senate by a vote of 88 to 7 with help from people who, yesterday, were denigrating our plan, and voted for the 1986 plan.

Our bill includes an assets test similar to the 1999 President Clinton—remember he was a Democrat—Medicare bill.

Under current law, States have the flexibility to waive this assets test. Nine States and the District of Columbia have chosen to waive the test.

Our proposal allows assets test flexibility, found in current law, to be retained in the Medicare drug benefit program. The assets test ensures that seniors who need assistance the most are provided the most protection.

Also, let me clarify that current law specifically excludes from the assets test a person's home and the land the home is on, household goods, personal effects, including automobiles, the value of any burial space, and other essential property.

The people attacking our plan also attacked our plan yesterday because of the flexibility we have in it. So I want to respond to that.

Medicare enrollees deserve a quality drug benefit that meets their individual needs. The Daschle-Graham proposal does not allow any variation in cost sharing or premiums and is a one-size-fits-all plan which will fail to adapt to the needs of seniors, as we are now so far behind with the 1965 plan that was adopted in 1965.

It is also important that Medicare enrollees get quality drug benefits at the lowest possible price. The tripartisan plan strikes the right balance to ensure Medicare enrollees have access to prescription drugs they need at the best possible price.

Anyone wanting to offer a Medicare drug benefit will be required to receive the approval of Health and Human Services. This is not a checkoff approval process. There will be intensive interaction between any plan and the Government to ensure that Medicare enrollees are getting what they are paying for.

There are five separate places in our bill where the administrator is required to certify that a plan meets strict standards of actuarial equivalence. The plans will not be determining what is the equivalent standard benefit. The U.S. Government is going to make that determination. If a plan is not equivalent to the standard benefit, it is obvious the bid will be rejected, and should be.

In fact, the Congressional Budget Office has told us our standards of equivalence are strict enough that Medicare drug plans will have little room varying in premiums or cost sharing. In their words, that little room to vary is critical to the success of a Medicare prescription drug benefit and indicates how the tripartisan bill has found the right policy in Government assumption of risk—just enough—to make sure there is competition out there, to make sure plans are run efficiently, to make sure there is competition to drive down drug prices.

While the Democrat plan claims to include competition, I do not understand how Medicare plans will compete if they are required to offer identical premiums and identical cost sharing. If drug plans wanted to lower their cost sharing or lower their premiums in order to attract Medicare enrollees, the only way it could be done is for Congress to pass more legislation.

The tripartisan bill ensures the innovations of the private sector are not stifled by micromanagement, one-size-fits-all, Government-run drug benefits.

There is guaranteed access to the plan. We have had Members of the other side apparently unaware that the tripartisan bill guarantees access provisions. The tripartisan bill guarantees two Medicare prescription drug plans to every Medicare enrollee.

If the enrollee lives in an area where there is Medicare+Choice, the Medicare+Choice plans will not count towards the two-plan minimum.

The Medicare plans are not determining their own service areas. The Government will determine service areas, and the service areas must be at a minimum the size of a State.

The Government will be covering 75 percent of the value of the Medicare drug benefits, equalling $340 billion over the next 10 years. So anyone who says the plans will not participate is simply not operating with any common sense—$340 billion of encouragement to participate. This is a clear attempt, and a failing attempt, I believe, to paint the tripartisan bill not as what it is—something that five Senators have worked on for a year—but to paint it, instead, as the House Republican bill, which it is not.

Lastly, we have been attacked from the other side about the tripartisan's policy toward employers. The tripartisan bill gives employers a 100-percent subsidy to offer drug benefits to their retirees, as long as the retiree plan is, at a minimum, as generous as the standard Medicare benefit.

In contrast to the tripartisan plan, the Democrat plan only gives employers a two-thirds subsidy to retain their retiree prescription drug plan.

Listen, from the other side you heard that our plan does not take into consideration protecting retirees who already have a corporate retirement plan with health benefits in it, when we pay 100 percent of that. And what does the other side pay? Sixty-seven percent. The other side's plan forces a standard benefit on all Medicare beneficiaries. Will employers be forced to change their entire drug benefit structure in order to obtain the two-thirds subsidy? This could result in employers being forced to charge higher drug expenses for their retirees in order to receive the subsidy.

Mr. KENNEDY. Is the Senator willing to yield for a question?

Mr. GRASSLEY. I will try to answer your question.

Mr. KENNEDY. I was just wondering about the time that the Senator will use. We have several Senators indicating——

Mr. GRASSLEY. I will be done in 2 minutes.

Mr. KENNEDY. I thank the Senator.

Mr. GRASSLEY. Currently, employers receive no assistance whatsoever in paying the drug costs for their retirees. Our 100-percent subsidy plan will allow employers who are offering a drug benefit at least as generous as the standard benefit to receive the full value of the standard benefit.

Again, our policy targets dollars where they might do the most good. And an employer subsidy recognizes the value of employer-sponsored retiree drug benefits.

In closing, I will simply say something I said when I started. In the next 3 or 4 days, there will be a lot of debate on this subject. It is very important to have a lot of debate on this subject.

You are going to find strong advocates for plans where the advocates have great faith in Government-run price programs versus whether or not you ought to have competition from the private sector. Remember, CBO says that a Government-run program is going to raise the price of prescription drugs. The alternative is to have competition. The Congressional Budget Office says that is going to reduce the price of prescription drugs.

We should be in the business of having public policy that is going to give seniors the best medical care, including prescription drugs, based on the least cost to the Government, as well as the least cost to the senior citizen.

I yield the floor and I thank my colleagues.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized

Mr. KENNEDY. Mr. President, I know we have not had an agreement with regard to time, but we have had the opportunity to hear from that side of the aisle for about 2 hours 40 minutes of the last 3 hours. So I was going to see if we could recognize the Senator from New York. And although our leaders here don't frown on allocating the time and indicating individuals, the Senator from New Hampshire has been willing to agree to this proposal: The Senator from New York would go for 10 minutes, the Senator from Georgia 10 minutes, the Senator from New Jersey 10 minutes, and I need 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. SCHUMER. Mr. President, I have been waiting here patiently to speak for a particular reason. Earlier this afternoon, the administration came out with its Statement of Administration Policy on S. 812, the Greater Access to Affordable Pharmaceuticals Act sponsored by myself, Senator McCAIN, and 10 others.

I have rarely seen a piece of paper so far from reality and so far from the truth. Let me quote from it:

> . . . the Administration opposes S. 812 in its current form because it will not provide lower drug prices.

What planet are they on? What are they smoking? Generic drugs will not lower the cost of drugs? If you want to oppose the bill for one reason or another, fine. Here are some costs: Claritin, brand name $86; generic $33; Cipro, brand name $89; generic, $35; Zocor, high cholesterol, $116; generic, $45; Zoloft, $69; generic, $27; brand of Singulair, $84; generic, $32.

That doesn't lower costs? It has been estimated it will save the American people $70 billion. It has been estimated it will save our State governments hundreds of millions of dollars. And they say it doesn't lower cost. What kind of argument is that? We all know it will lower cost. If they want to come clean and say they don't want to alienate the pharmaceutical industry, fine. If they want to say there is a better plan and better scheme, fine. If they want to say, keep things status quo, fine. But it won't lower costs?

I think they have a lot of disagreement even from people normally on their side. Here are some of the groups that think it will lower costs: General Motors, Ford, Chrysler, UAW, AFL-CIO, Verizon, Wal-Mart, Kodak, Motorola, Caterpillar, Kmart, Georgia Pacific, Albertson's, UPS, Kellogg, Sysco. The list goes on and on. These companies are not usually supporters of the kind of legislation we are talking about. They are all for this. They are for it for one reason: lower cost. Their own health care plan costs are going through the roof. I am utterly amazed. I ask the administration to retract this statement or prove why they believe that moving to generic drugs is not going to lower cost.

They say a few other things, too, which shows you that they really don't know what the bill is. They say in their statement that this bill would encourage litigation around the initial approval of new drugs. The legislation does not allow litigation for the approval of new drugs. They don't know what the bill does.

Will it prevent unnecessary litigation when someone files a patent in the Orange Book that is frivolous? Yes. That is not about a new drug. In fact, when it comes to a new drug, that is one of the few places where, of course, the patent can be contested by our legislation. What our bill does is simply force them to play by the rules.

The administration says the bill would complicate the process of filing patents. Of course, our initial legislation was clean. There was an amendment to change it, mainly to get support from members of their party. But if what the administration means is that it will complicate the process, if that means it makes brand companies comply with the FDA's current rules, you bet it will complicate the process.

The FDA requires that brand companies only list patents in the Orange Book that cover the drug or cover that approved use of the drug. Now the FDA does not enforce this, so the brand companies don't play by the rules. Our bill requires them to do it.

I had hoped that when Senator McCAIN and I introduced this legislation—and my hopes were heightened when the legislation passed 16 to 5 and got half the members of the HELP committee from the Republican side—that we could have a debate and come to an agreement. The Senator from Utah, understandably, has pride of authorship. He may want to make some changes. But to just so baldly oppose a bill on specious grounds makes one wonder where the administration is coming from. Are they so afraid to offend PhRMA that they have to put out a statement that is just patently wrong?

We saw in the area of corporate litigation that the administration, which likes the American people to think it is moderate, is to the right of the Business Roundtable. We are finding the same thing here. We are finding that the administration, on the issue of drugs and the high price of prescription drugs, is to the right of much of corporate America.

Please, Mr. OMB Chairman, Mr. Vice President, work with us. We are not going to agree on everything, but work with us. This is a serious problem. If this memo is an indication that all we are going to get on the issue of reducing the cost of drugs and increasing the access of drugs is stonewalling, then it is a sad day for the American people.

We are going to fight hard for this legislation. The American people need this legislation. It needs to go beyond the original bill. That is why I have supported other amendments, and I hope the prescription drug plan offered by the Senators from Florida, Georgia, and Massachusetts prevails. But if even in this modest bipartisan step we get such stonewalling and such failure to grapple with the truth, then all those Americans who are paying such high prices for drugs are in trouble.

Mr. GREGG. Will the Senator yield for a question?

Mr. SCHUMER. I am happy to yield for a question.

Mr. GREGG. The Senator is probably not aware of this because this information has just been forwarded to me. I will actually have a paper on it. But there have been a lot of different representations as to how much the underlying bill would save. I have seen numbers that ran from $20 billion to $60 billion, and I believe the Senator mentioned it is actually a higher number.

We have just been advised by CBO that the underlying bill, the Edwards-Collins bill, will have $8 billion savings assigned to it by CBO. So as we debate this issue—I know some people are planning to use that savings to assist the major movement on the overall drug benefit—this is going to change the dynamics around here a little bit. But just so we are all playing off the same song sheet on savings, this bill is now scored by CBO as an $8 billion savings.

Mr. SCHUMER. If I could answer the question, which I know was meant to be a question, of the Senator from New Hampshire—the junior Senator from New Hampshire to correct the error of my ways—first, the $8 billion is the CBO estimate—I guess; I haven't heard it yet—but that is just for Medicare. The administration is saying it will not provide lower drug prices. The estimates are pretty widespread and pretty accepted that when you take not just the Medicare savings but the savings to every consumer who goes and buys the drug, the savings to all these companies that have their own health care plans, the savings to the States, it is going to be much more than that.

I am not debating how much right now. I don't know if that estimate is correct. It seems low to me. But let's assume it is. It is in direct contradiction to the Statement of Administration Policy that came out this morning which says: "will not provide lower drug prices," period—not "will not lower them enough," not "will not lower them for everybody." It says, unequivocally, no lower drug prices.

So I would like to thank my colleague from New Hampshire because even though he is making a different point, he makes mine. The administration seems so hardheaded against anything to change the status quo, even though the vast majority of Americans are unhappy with the status quo, that it leads them to make statements that are patently absurd on their face.

The PRESIDING OFFICER (Mr. KENNEDY). The Senator's time has expired.

The Chair recognizes the Senator from Georgia.

Mr. MILLER. Mr. President, I rise to urge the Senate to let us try to come together on a prescription drug bill in these next 2 weeks for the sake of America's seniors.

Our seniors are up against a rich and powerful drug industry—an industry that, obviously, will fight tooth and nail against anyone who seeks to meddle with its obscene profit margin or its astonishing salaries for its CEOs or its TV media blitz.

Our seniors cannot fight this battle alone. Goliath is too big. Congress must step in immediately and help America's elderly in their day-to-day life and death struggle with prescription drugs.

This Senate has already taken a very big step toward helping seniors get their medicine at lower prices by passing the reimportation amendment. Now it is time to give some more help. It is time to add a prescription drug benefit to Medicare.

I was very glad to hear this week that the Nation's largest advocacy group for seniors, AARP, has declared the Graham-Miller-Kennedy bill as the one that, in their opinion, offers the very best value for seniors.

Let me take just a few minutes to tell you why they think and why I think this bill is better than the rest.

First, we use a system that is now in place—a system that is now in place for most working Americans, a system that the Federal Government and most employers use right now for their own workers. This new benefit is too important to risk using an untried, experimental delivery system; but the competing bills do just that.

Under our bill, every beneficiary will know how much their premium will cost each month and how much they will have to pay for each drug they buy. We guarantee seniors an affordable premium, while the Republican bill allows private insurers to set the premium cost. That means insurers would be free to charge seniors whatever premium they want, whenever they want.

It is simply a fact that seniors who live in rural America are often older, often sicker. Under the Republican bill, insurers would be able to charge them even higher premiums than those who live in urban areas. That would hurt the very people I call my friends and neighbors back home, and that is unacceptable.

The private insurers that are the centerpiece of the Republican bill will make profits based on managing drug care for beneficiaries, just as HMOs make their profits on managing care. That would result—it could not help but result—in fewer drugs being available to our seniors. That is not the kind of benefit our seniors need. That is not the kind of benefit they deserve.

Our bill uses a system that is already up and running in every ZIP Code in the United States. We guarantee that services will be available to seniors 24 hours a day, 7 days a week, for any emergency that arises. The competing bills offer no such protection.

The Graham-Miller-Kennedy bill is also the best plan out there because it has no gaps in coverage. That is very important to me, and to AARP, and to every senior in this country. We help seniors pay for the very first drug they buy each year. That coverage continues with no interruption through the last day of each year. No other bill makes the same guarantee.

There are two gaps in the competing bills. First, under the House Republican plan, all seniors would have to pay a $250 deductible. That means they would pay premiums but would get no coverage for the first $250 of their drug bills. Then, once drug costs reached $2,000, coverage would be cut off altogether. Seniors would get no help from the program until their out-of-pocket spending hit the $4,800 mark.

During this huge gap in coverage, seniors would still be required to pay their monthly premium even though they were not receiving a single penny of benefits from the program. And every beneficiary would experience that first gap in coverage because every senior would have to spend $250 before they saw the first dollar of benefit.

Then, almost half of all the beneficiaries would fall into the second coverage gap. Sixty percent of them would never climb back out of that gap to receive coverage again. Let me say that again. Nearly two-thirds of seniors who ran up drug bills of $2,000 would never see another penny in benefits for the rest of the year.

Because of these gaps, the typical beneficiary—let's say an elderly woman whose prescriptions run $2,400 each year—would still have to cover 71 percent of her drug bill each year.

Beneficiaries with higher drug bills are even worse off. Take an elderly man whose drug expenses run $400 a month, or $4,800 each year. He would have to pay 85 percent of his drug costs each year under the Republican bill. That is not much of a lifesaver to be throwing a drowning man.

Once again, there are no gaps of any kind in the Graham-Miller-Kennedy bill. Coverage continues every day, every week, every month, all year long, regardless of how high a senior's drug bill is.

Once drug costs have reached $4,000, the Graham-Miller-Kennedy bill says that we will pick up the entire bill for the rest of the year. It is what our seniors need. It is the least they deserve.

Mr. President, the time has come. It is just like back in 49 B.C. when Caesar had to ask himself a question: "Do we cross this Rubicon?" Do we make the commitment? Do we take this risk? You know, we throw around the term "It's a matter of life or death" pretty lightly. Seldom is that really the case. But this time it really is.

Many seniors—our mothers, fathers, grandparents, and other loved ones—will live or they will die because of this vote. Are we going to pass a meaningful prescription drug benefit as we have been promising and talking about for years? Are we going to go home and face the seniors of this Nation without doing diddly squat?

We have had a lot of sound and fury in this Chamber. Will it signify nothing, just a big fat zero? It isn't enough to have just good intentions, Mr. President. The road to hell is paved with good intentions. It isn't enough to promise good deeds. We must do them.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, the Senate is engaged in probably the most important health care debate in a generation. If we succeed in establishing a pharmaceutical benefit for the American people, it will be the greatest contribution to health care since Medicare.

We are engaged in this debate in the middle of an economic and corporate crisis. It would not be honest or even productive to pretend that one event is taking place without the backdrop of the other.

It is an extraordinary time to be redesigning the delivery system of an industry while corporate America is going through a series of tumultuous events.

I have an amendment prepared that I will offer to this legislation that is the nexus between the two problems because the pharmaceutical industry requires a transparency and a proper accounting of itself in the delivery and pricing of its products, just as certainly a variety of other American industries have suffered from their failure to do the same.

I address specifically two persistent problems. First, when an American family goes to a pharmacy to buy a prescription product, they operate under the assumption that they are getting sound medical advice, that the prescription that is being offered to them is suited for their problem, their malady, it is priced properly, and a medical judgment is being made on the merits. That is the assumption of every American family. It may not always be sound.

Through the years, marketing techniques from sporting events and theater productions to expensive vacations and gifts have become part of the routine of marketing pharmaceutical products. American families and senior citizens are left not knowing whether a product is being prescribed because it is the best for their health or because the doctor is indebted to a marketer or a corporation.

The same could be true of a pharmacy. Of all the corporate governance issues in America that deserve transparency, nothing could be more fundamental than the relationship between an individual American family and the delivery of their health care. People want to know, people have a right to know, is a gift an incentive, part of the prescribing of a prescription drug, or is it the quality of the product? Has a doctor been convinced this is the right drug for your child, for your family, for your health, or is this simply part of a relationship with an undisclosed incentive?

Under the amendment that I will offer, any corporation providing a gift to a doctor or health care provider as part of marketing a pharmaceutical product will need to disclose it. The incentive can be provided, the gift can be provided, you can offer the vacation, but at least people have a right to know whether the sales of products are related to price, science, the merits, or the financial incentive to consume them.

Some will argue that such techniques are common in industry. It may be true, but it is one thing if a retailer is getting an incentive to sell you a shirt or an automobile manufacturer is getting a secret or private incentive to an automobile dealer. That might be business. It may or may not interfere with the right judgment of the proper pricing, but that is marketing.

It is something else when it interferes with the judgment of a doctor and the confidence in health care delivery upon which people have come to rely, a judgment that involves not simply price but the intangible of trust in a health care provider.

Second, the amendment expands to deal with pharmaceutical benefit managers, otherwise known as PBMs. PBMs are essentially health maintenance organizations designed to deal with the delivery of pharmaceutical products. They are the middlemen who have placed themselves between drug manufacturers, health plans, and pharmacies. If they operate properly, they negotiate better prices, provide service and delivery at a superior cost to a beneficiary. For most of the last 25 years, that is exactly how they have operated.

A problem has developed, much like the gift, the vacation offered for selling a pharmaceutical product, except it happens on a much larger scale.

Pharmaceutical benefit managers have an obligation to their clients, the people who have contracted with them to buy the best product at the best price. The best product is to be based on a medical judgment. The best price is what can be negotiated. But the law has allowed a practice that is as morally wrong as it is reprehensible.

Pharmaceutical benefit managers who allegedly represent their clients go to pharmaceutical companies and ask for rebates. That is a polite word for a kickback. The client, the senior citizen, the working person is left believing they are buying a pharmaceutical product represented to them because it will deal with their illness and has the best science and is at the best price.

What they do not know is the pharmaceutical benefit manager may be offering that product because they are getting hundreds of thousands of dollars or millions of dollars in a rebate. Indeed, nothing else would explain what has emerged.

Pharmaceutical benefit managers are far less inclined to ever recommend generic drugs. Indeed, at the moment, brand name drugs are offered only 46 percent of the time compared with 54 percent of the time by a local pharmacist. The cost of a brand name drug offered by a pharmaceutical benefit manager can be $47 compared with $37 at a local pharmacy. So people who believe they are in a benefit plan to negotiate a better price are paying more, and they are not only paying more, they may be directed to products that are offered not based on a medical judgment or on a cost basis but because of a secret rebate.

The chart on my left illustrates exactly the problem, in what is now a four-tiered system from manufacturer to senior citizen. The manufacturer may offer a rebate with the belief that it could lower price and make their product more available through pharmacies to senior citizens, and many of these rebates may be offered by pharmaceutical manufacturers with the belief that like the rebate from an automobile manufacturer to an auto dealer, it is making the product more available, but here is the problem. The law allows the pharmaceutical benefit manager to keep the money. It does not go to the pharmacy. It never reaches the senior citizen. It stays here. The pharmaceutical benefit managers are in a contractual relationship supposedly representing the senior citizen. They are supposed to be their advocate, getting their price. Instead, they are keeping the money.

The PRESIDING OFFICER (Mr. CORZINE). The Senator's time has expired.

Mr. TORRICELLI. Mr. President, I ask unanimous consent for 1 additional minute to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Under the amendment I am going to offer to this legislation in the coming days, as certainly as pharmaceutical companies will have to disclose any gifts they are giving, any incentives they are giving to doctors to influence their medical judgments, so, too, pharmaceutical manufacturers will have to disclose any rebates given to PBMs so the clients of the PBMs know what they are getting and can demand that those rebates be handed down to senior citizens at a lower price.

It is simply transparency. It is what every American is asking of every American corporation. We have a free enterprise system for people to price their products, but we do demand truth and honesty. This is a minimum of transparency that we can bring to the pharmaceutical industry in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I appreciate very much the Senator from Massachusetts withholding. The Republican leader is present, and I have a unanimous consent request that I would like to propound.

I ask unanimous consent that following the statement of the Senator from Massachusetts—he has 20 minutes. The Senator from Oklahoma, Mr. NICKLES, will speak for probably 20 minutes. Following that, Senator GREGG will speak for probably 5 or 10 minutes. Following those statements, we would vote on——

Mr. GREGG. Senator STABENOW would then have the right to close.

Mr. REID. I am going to do that before the vote. Following that, we would have a vote on or in relation to Senator STABENOW's amendment; that prior to the vote on Senator STABENOW's amendment, we would have 2 minutes for her to speak on behalf of her amendment, and Senator GREGG or his designee would speak 2 minutes in opposition to that amendment.

Mr. GREGG. Senator STABENOW would close?

Mr. REID. Yes. That upon disposition of Senator STABENOW's amendment No. 4305, Senator DORGAN's amendment No. 4299 be temporarily laid aside, and Senator GRAHAM be recognized to offer his prescription drug amendment; that immediately upon the reporting of his amendment, it be laid aside and Senator GRASSLEY, or his designee, be recognized to offer his prescription drug amendment; that the two amendments be debated concurrently; that no other amendments or motions be in order during the pendency of these amendments, except motions to waive as listed below; that on Tuesday, July 23, at 2:15 there be 30 minutes equally divided between Senators GRAHAM and GRASSLEY; that at 2:45 on that Tuesday, July 23, the Senate vote on waiving the Budget Act with respect to Senator GRAHAM's amendment; that immediately following that vote, the Senate vote on waiving the Budget Act for Senator GRASSLEY's amendment; that if either amendment successfully waives the Budget Act, it be further debatable and amendable; that if either fails to waive the Budget Act, it then be withdrawn; and that the preceding all occur without any intervening action or debate.

I further ask unanimous consent that when the Senate resumes consideration of Senator DORGAN's amendment that Senator GREGG or his designee be authorized to offer a second-degree amendment thereto and that upon disposition of Senator GREGG's amendment, Senator ROCKEFELLER be recognized to offer a second-degree amendment to Senator DORGAN's amendment.

The PRESIDING OFFICER. Is there objection?

The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, and I will not, will the Senator include that the allocation of time be equally divided on Monday and then Tuesday morning?

Mr. REID. That certainly is fair. We will equally divide the time.

Mr. NICKLES. Will the Senator yield?

Mr. REID. I would be happy to yield.

Mr. NICKLES. Is it correct there would be a budget point of order that would lie against both the Graham and Grassley amendments?

Mr. REID. The Senator is correct.

I ask that the request be amended so the time be designated, Senator KENNEDY, Senator GREGG, even though the amendments are those of other Senators. They are the managers of the bill and that is the way it should be.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Mississippi.

Mr. LOTT. Mr. President, while I object to the process under which this is being considered—I think we should have had this prescription drug issue go through the Finance Committee. We should have a normal debate, markup, and report out what would normally have been a bipartisan bill and probably a tripartisan bill. That is the way we should do business, and I predict right now that eventually the only way we are ever really going to get a real prescription drug result is we are going to have to go back and do that.

Having said that, the bill before us everybody understood was going to be a vehicle to which Senator DASCHLE and others would be able to add prescription drug amendments or bills. That is what has happened.

I think we will have sufficient time for debate later on tonight, on Friday, on Monday, on Tuesday morning, I presume, with the votes to occur one after the other on Tuesday afternoon. I think that is a fair way to proceed.

Right up until the last few moments, we are getting people inquiring about what happens then. Well, of course, if one of them does get 60 votes, as is in the agreement, we could go back and have additional debate and amendments, or if they do not, then other options are available, other amendments to the pending issue that is being set aside or other proposals with regard to a different approach to the prescription drug issue.

I know Senators HAGEL, ENSIGN, SMITH, ALLARD and GRAHAM are interested in the Hagel amendment, and perhaps other amendments on this side.

We also retain the right to move to commit this whole issue to the Finance Committee with instructions, and at some point it might wind up being the most reasonable and popular thing to do. But this is not cutting off other amendments, not cutting off this issue, just setting it aside. It is not blocking other options from being considered. The truth is, both sides have been working for the last couple of days to try to get to this point. So I think it is the fair way to proceed. Everybody will be heard. We will have a vote and then see where we are.

Mr. REID. I want to express the appreciation of the Democratic Senators to the two leaders. It was not easy to get where we are right now, and the reason I appreciate that—I think everyone does on this side; I am sure on their side—we have two big issues that will be debated for several days. This issue, prescription drugs, is why we are here—one of the main reasons we are here, I should say. This will give everyone a chance to listen to what others have to say.

There will be some who do not want either one of these; they want something else. But they have a right to vote accordingly.

I think we have made great progress. If I can get Senator GREGG's attention, Senator STABENOW asked if there would be a problem with her having 5 minutes, and the Senator from New Hampshire having 5 minutes immediately prior to the vote.

Mr. GREGG. That is no problem at all.

Mr. REID. I say to the Senators who are watching, this vote will probably occur around 5:30, give or take a few minutes.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized for 20 minutes.

Mr. KENNEDY. Mr. President, I yield myself 15 minutes.

I thank our leaders, Senator REID, Senator DASCHLE, and our Republican leaders, for this agreement we have entered into. This is a historic time. It will be the first time in over 5 years since there have been prescription drug amendments before the Senate.

I am a cosponsor of the Graham-Miller bill and later in this debate, either tomorrow, Monday or Tuesday, I will have an opportunity to go over why I think that measure is so compelling and deserves strong support.

We were reminded, once again, earlier in the afternoon, of the publication of a study that reviewed the different options that are before the Congress most actively; that is, the Republican proposal that passed the House of Representatives, the tripartite, and the Graham-Miller proposal. The study examined the impact of each of these proposals on individual States and what impact each would have on seniors and others that would benefit from the program. In every single instance, every single State, without a single exception, the one that was embraced by the seniors, the one that provided the greatest coverage for the seniors, was the Graham-Miller proposal.

We will have more of a chance to debate that over the next couple of days.

It is very important as we come to vote on the amendment of Senator STABENOW to realize what has happened in the last couple of days.

The focus of the underlying legislation—which was originally introduced by Senator SCHUMER, Senator MCCAIN, and then altered or adjusted by Senator EDWARDS and Senator COLLINS—basically addresses the egregious situation taking place today all over our country by unscrupulous brand name drug companies gimmicking the patent laws in order to take unfair advantage of consumers in this country and maintaining higher costs. They are doing it by extending the patent process with a phony regime called "evergreening" and also through collusion with certain generic drug companies. This practice is resulting in costs of billions of dollars to our seniors.

If there are people who are watching this Senate proceeding, if there are cancer patients and they have been paying higher prices for various prescription drugs dealing with breast cancer, the fact is the pharmaceutical companies delayed Taxol, the generic drug, for 19 months. That means consumers paid $1.2 billion more because of the delay of competition. If patients suffer from epilepsy, as a result of this system, those patients have paid $1.4 billion more than they otherwise would have paid. That has been true with various brand name drugs for depression, and it also includes blood pressure as well.

In all those areas, there has been a gimmicking of the system, which permitted those companies that had the patents for a period of time, and under the old Hatch-Waxman legislation were going to have their time expired and the generics would be on the market, to be able to compete, and would have saved the consumers billions of dollars. The actions of those brand name companies have been such as to result in higher prices.

That is the basic issue we have before the Senate, whether we will pass that legislation.

The Dorgan amendment was favorably considered in a vote yesterday. It will also have a dampening down in the increase of prices of prescription drugs. And American taxpayers are paying taxes, and those resources go to fund expanded NIH research, which I strongly support.

This is the time of the life sciences, and we will see unbelievable opportunities in the future in breakthroughs with prescriptions. It is an enormously important time. I believe we will see these breakthroughs in the life sciences, as in the physical sciences last century. We have seen what is happening with the analysis of DNA, and the sequencing of the human genome, and all the breakthroughs with unlimited possibilities, using the high technology available and the advancements in biology. The opportunities are virtually unlimited. It is an enormously exciting time.

That is why it is important to have a policy that will make available to all Americans these lifesaving prescription drugs reasonably.

We had the excellent presentation made by our friend and fellow colleague, Senator DORGAN. The vote was a clear indication that the Members of this body are prepared to see that prescription drugs that are FDA approved, produced in an FDA-approved laboratory, imported here with the safety provisions included in the Dorgan amendment, would be available to American citizens.

Today we have the Stabenow amendment. We have had limited debate on the merits of the amendment. I hoped we would have seen an acceptance of the Stabenow amendment. It makes eminently good sense. We have heard a great deal of debate and discussion about the free enterprise system. That is what the Stabenow amendment is all about.

It is the ability of the States to use their economic power in order to negotiate with the various drug companies to try to get the lowest possible price for the neediest individuals, the poorest people in the United States. And the drug companies say no. Yesterday they said: We want to play by the free market system; and now we have a free market system being utilized and they say: No, no, we want to play by our own rules. What does that mean? They have now taken the various States to task and said: We will not permit that because that is government interference in the free market system.

The fact is, what is being tried in the State of Maine and the other States is the same kind of market experience we have seen with an HMO when they negotiate with various brand name companies. It is the same kind of negotiations insurance companies have. It is routine, the same as major companies. General Motors does this when they buy prescription drugs. It is the same element, to use market forces to try to get the lowest possible prices. When they do not want to do that, and companies do want them to do it, there is no reason they have to sell. It is a free and open exchange.

That is not good enough. We have seen where the drug industry has sued the State of Maine, they have sued the State of Vermont, they have sued Michigan, they have sued Illinois, they have sued Florida. The drug industry is waging war against our Governors and our State legislatures to bring them into court.

From the NGA statement of July 15, I quote Michigan Republican Governor Engler:

> The nation's governors are extremely disappointed with the course of action chosen by PhRMA. It is unfortunate that their organization feels compelled to use the court system to manipulate public policy.

I will mention another feature of the attack by the industries on the States. This is what they are about. First of all, the industry sued the State. That probably is not any surprise, given their abuse of the Hatch-Waxman. The drug industry instructed its front group, the so-called Citizens for Better Medicare, to run television, radio, and prints ads in Maine and Vermont attacking the laws. That is what the drug industry does to keep the prices sky high. They sue our State governments, and waste taxpayers' dollars defending against frivolous suits, because the States have to defend themselves; they have to use tax dollars. And then they run attack ads.

Lest anyone question whether the so-called Citizens for Better Medicare is anything but a front group for the drug industry, let me quote the June 18 Wall Street Journal, Tim Ryan: PhRMA's past marketing director founded the grassroots sounding Systems for better Medicare at the expense of the major drug companies.

So it is a phony organization, but they use the phony organization to attack the public officials in those States for resisting their action.

Enough is enough. The American people are sick and tired of the drug industry's abuses.

I have an IG report from the HHS inspector general, who issued a report in August of last year which documents the fiscal crisis of sky-high drug prices. Here is the inspector general's conclusion about the current Medicaid discounts shared by the States and the Federal Government:

> We believe it is not a sufficient discount to ensure that a reasonable price is paid for drugs.

This is done under a Republican administration, a Republican IG, August of last year.

The Department of Health and Human Services, Office of IG, Medicaid pharmacy. This is what he says in paragraph 2:

> Although this discount averaged 10.31 percent nationally, we believe that it is not a sufficient discount to ensure that a reasonable price is paid for drugs.
>
> We believe that there is a critical need for States to better control the costs of their Medicaid drug program because expenditures are rising at a dramatic rate. Medicaid drug expenditures increased by slightly over 90 percent since our previous review in 1994.

I repeat, 90 percent. So says the IG report, a Republican HHS discussing what is happening in the States.

Then we have the Governors try to do something about it and PhRMA comes right in and says no.

Senator STABENOW's amendment will clarify that. It will support the Governors—support Republican Governors, support Democratic Governors—support the findings of a Republican IG to help deal with this issue.

Just in the last day we had a meeting of the Governors, actually, out in the State of Idaho. The Nation's Governors met out in Idaho and the Governors voiced their concern over the lawsuit that seeks to bar the States from dealing with the Medicaid cost-controlling measures.

This is the Governors saying just what Senator STABENOW has been saying, Republican and Democrat alike.

This is a serious amendment. Therefore, I am very hopeful it will be accepted.

Let me bring to the attention of the membership, something that has developed in my own State of Massachusetts, in the U.S. attorney's office. One of the developments in recent times is the development of a health fraud unit, which has been extremely active. I was talking to our U.S. attorney recently up there. We were discussing the situation about health care fraud. He mentioned to me this particular case.

Just last October, the Federal authorities secured the largest health care fraud settlement in history. Not surprisingly, it was against a drug company for overcharging taxpayers through Medicaid—just what we are trying to deal with here in the U.S. Senate. The Top Pharmaceuticals paid $875 million in criminal and civil fines for overcharging the States and the Federal Government for the cancer drug, Lupron. It is a life-or-death cancer drug, and here you have Top Pharmaceuticals found guilty of overcharging consumers and now having to pay the criminal fines and civil fines of $875 million. There are now class action litigations brought by consumer advocates in Boston to further recover the overpayments to this drug company.

We need to close ranks with our States, Republican and Democratic Governors alike—consumers against high drug prices. The Stabenow amendment is the right tool in the hands of the States to lower drug prices for low-income people and the uninsured.

I want to reiterate two facts. Who are the States looking out for? Are they trying to use their bargaining power in terms of a massive purchase of drugs for all the people in their States? No. They are trying to use it for the most needy people in their States in most instances—and I think in the State of Maine, in every instance—those who are uninsured, the poorest of the poor who cannot get insurance for one reason or another, or are not eligible for Medicaid, in order to get them lower costs. It is the poorest of the poor trying to get life-sustaining drugs, and PhRMA, the industry, is going after that and saying they do not want that to take place. They think that is un-American. They think it is price fixing and so forth.

We have seen, and I have certainly seen it in our committee because it was not believed we would get this legislation out of the committee because we heard the drug industry is strongly opposed to it—and we have certainly heard that from our friends on this side of the aisle—we understand that—they are opposed to it. They are opposed to the Schumer proposal. We understand that. They are opposed to the Dorgan proposal. We heard that yesterday. And they are opposed to the Stabenow proposal.

What we have not heard is what they are for. What we have not heard is what they would do. What we have not heard is their sense of outrage about these abuses. We have not heard that.

We have been here the better part of the day today, yesterday, the day before, and we have not heard that. That is a matter of deep concern to everyone on this side of the aisle. It is the reason the majority leader has brought this up to the Senate, on the floor of the Senate.

I heard my good friend—and he is my friend—the Senator from Tennessee, talk about the process and procedure, about whether we are circumventing the procedure in order to consider the legislation. Of course it did not bother him very much in May of 2000 when they brought up the energy bill, sponsored by Senator LOTT, without committee approval; or brought up, on March 20, a bill to eliminate the earnings test for individuals attaining retirement age, without committee approval. The list goes on. In June 1999, the Republicans brought up Social Security lockbox without committee approval. It didn't bother them at that time.

But what you did not hear about is a prescription drug program for the needy in this country. They were never willing to circumvent the rules to try to protect the seniors or try to get lower prices. No, there is no example for that. We have had legislation in the committees for over 5 years. This is the first time—the first time—the only time that we have had the opportunity to debate.

Next Tuesday will be the first time we have had the opportunity to vote. And people are complaining about process and procedure.

We know what happens. Every Member in this body knows what happens when you get back in those committee rooms, you get out in the corridors—we know what happens. That is the end of the legislation. That is the end of it. We all know it. But we know next Tuesday we are going to have a chance to vote on this. It will be the first time, and we would not have that opportunity unless Senator DASCHLE said: This is a matter of national priority. This is a matter of central concern. This is an issue that ought to be debated and discussed on the floor of the Senate. This is a moral issue of central concern to every family, young and old—not only those who take the drugs but the families who look at their parents and are concerned about whether they have the resources to purchase those drugs.

The parents themselves do not want to burden their children about their own kinds of conditions. They are proud men and women who want to live in dignity and who have paid a price for this Nation—fought in the wars, lifted the country out of the Depression.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. KENNEDY. The last 5 minutes has expired? I asked to be reminded when I used 15 minutes.

The PRESIDING OFFICER. The Senator can use that time now—5 minutes.

Mr. KENNEDY. The remaining time.

Mr. President, these are people who have built the country. Now we are asking whether they have paid into the system. I was here in 1965 when that commitment was made here on the floor of the Senate, Republicans and Democrats alike. The President who signed it—President Johnson as well—said:

> Look, play by the rules, pay under the system, and when you turn 65 you will have health security.

Everyone in this room understands it. This Chamber understands that we failed the elderly people on that promise. We provided physician services and hospitalization but not prescription drugs. That is a three-legged stool. If you only have two and you do not have the third, you do not have health security. Every family understands that, everyone except the Senate.

We are prepared to do something about it. Can you imagine if we had not provided hospitalization or physician services? We would certainly understand it. Would we not be debating that today? Does anybody believe it to be so? Does anybody believe this is not important?

Finally, I remind everyone in this body as we are coming in, and as I intend to remind them next week, every Member of this body has a prescription drug program.

Every Member of this body has a prescription drug program that is paid for by taxpayers by 80 percent. We understand that. Any Member of this body who wanted to go down to the clerk's office could go in there and say: Take my name off that. I don't want it. I don't believe as a matter of principle that we ought to have the Federal Government dealing with this policy.

Anyone could do that. I have checked on it. There isn't a single Member in here who has done that.

All we are trying to do with this particular proposal is to treat the American people the same way Republicans and Democrats and this President are being treated. Is that asking too much for this body to do? I don't believe so.

I withhold the remainder of my time.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, I rise in opposition to the Stabenow amendment. I will mention several reasons.

First and foremost, it is going to increase the price of Medicaid. I want to make sure our colleagues know that. I am going to say it about 10 times in the course of this debate. If we pass the Stabenow amendment, the price of Medicaid is going up. The price of drugs going into the Medicaid system is going up. That is just a fact that everybody should know.

If we think that we are going to pass this amendment and that this is a great deal for the State—I disagree. The States have to share in the cost of Medicaid, and the cost of Medicaid is going up.

I heard my good friend—he is my good friend—the Senator from Massachusetts say the Governors have united; we need to get cost controls on Medicaid.

This will mean a monumental increase in the cost of Medicaid. I think I can say that very plainly and very easily. I want to make sure everybody is aware of that.

Let me mention a couple of other reasons we should be opposed to this amendment.

Some people say "process." Did we have a hearing on this bill? No. Did we have a markup on this bill? No. Was one even requested? I don't think so. The Democrats are in control of the Senate. Senator BAUCUS is chairman of the Finance Committee. If he wanted to have a markup on this bill, he could have done that.

I see the sponsor of the legislation. I will ask her. Have we had a hearing on this bill, and have we had a markup on this bill in the Finance Committee?

Ms. STABENOW. Madam President, I think my friend from Oklahoma knows that in fact that did not have a hearing. That is not unusual. That happens sometimes in the process. I have only been here 1½ years. But there are many times when that has occurred. The Senator is correct. That has not occurred on this bill.

Mr. NICKLES. Let me ask another question. Is it not correct that your bill will increase the cost of drugs going into the Medicaid system?

Ms. STABENOW. I would argue that that is not the case, absolutely not. Under the program right now, States operate with companies, and I don't have any indication whatsoever that it is going to increase the cost of Medicaid. I certainly would have to object to that.

Mr. NICKLES. I will make the case that it does. I believe I will show that GAO happens to agree with me. GAO has studied this issue. They basically said it boils down to the fact that if everybody gets a discount, nobody gets a discount. That is the economics of it.

Right now, you have a system where Medicaid gets the best price. Medicaid gets the best price—lowest price—in the country. But if everybody gets it, nobody gets it. If everybody gets a 15-percent discount, that is the price. This is not a discount. That is exactly what we are doing here. You are going to increase the cost of Medicaid by not giving a discount. Does that mean everybody's drug costs are going down? Actually, no. It means the discount or the best price is going up.

Ms. STABENOW. Will the Senator yield?

Mr. NICKLES. I will not yield. I want to make a lot of comments, and I will be happy to discuss it. But I only have limited time. I want to make sure I make all of these points.

No. 1, this is an important issue. It hasn't had a hearing.

This committee is now controlled by the Democrats. It has been for a year and we haven't had a hearing. I don't know that one has been requested. I am on the committee, and I am on the subcommittee.

Some people say that is not insignificant, that we do a lot of things.

When you are talking about major issues—and we are talking about prescription drugs for all of our seniors—we should have a hearing on this. We should have a markup.

There happens to be, collectively, on the Finance Committee hundreds of years of experience dealing with Medicare, Medicaid, and prescription drugs. A lot of us are willing to put some input into it. That is the reason we have the committee process.

I am ashamed of the way the Senate is operating today in this fashion. We are taking probably the most important and most expensive piece of legislation considered in decades and it hasn't had a hearing, it hasn't had a markup, and it hasn't had a scoring by the Congressional Budget Office—none of the above—and yet we are in the process of marking it up. We are going to have votes on Tuesday on a proposal that nobody has a clue about how much it costs.

On one of these proposals, some say it will cost $500 billion. Others say it is closer to $800 billion. Although, they forgot to tell that it only lasts a few years, and it is sunset. Then we will stop paying for prescription drugs. No entitlement sunsets after a few years. If somebody thinks we are going to start paying for prescription drugs and then we are going to stop, that is more than hypothetical. That is misleading.

If we are talking about trying to put corporate officers in jail for misleading financial statements, we ought it be ashamed of what we are doing in the Senate. We are taking up the biggest expansion of an entitlement program, and no one has a clue about how much it costs. And we are going to say we are fiscally responsible? Shame on us. We do it without a hearing, without a markup, and without scoring from the Congressional Budget Office. That is a really poor way to legislate. That is the way you get things started, and you later say: Wow, I had no idea it would cost this much.

Let me be a little more specific about the amendment of my colleague and friends from Michigan.

Very seldom do we legislate by intervening ourselves before a case goes before the Supreme Court and say this is the way we mean for it to be. We usually let the Supreme Court make the decision. This issue is before the Supreme Court. The position of the Senator from Michigan lost at the district court level. Then she won at the circuit court level, which has now brought the case before the Supreme Court. But we are going to intervene before the Court and say: Oh, here is what we mean. Rewrite the law.

Basically, we are going to say: All right, under the Medicaid system, which gives a discount—the best price for Medicaid beneficiaries, low-income beneficiaries—we are going to say that is applicable to anybody the State deems eligible.

Guess what. A lot of States have programs for drugs that have no limitation on income.

Senator KENNEDY mentioned three times that we need this program. He said the Senator from Michigan is trying to help the neediest and the poorest of the poor.

I looked up in the State of Massachusetts. This drug program has no income limitation. You could be a billionaire in Massachusetts and you would be benefitting from this program. This has is no direct relationship to income.

In the State of New York, it is 419 percent of the poverty level. That is about $50,000 for a couple.

So this idea of saying this just applies to the neediest—no, this is hijacking. That happens to be the word used at the district court level—a program that was targeted to benefit the low-income people and say, wait a minute, we want it to apply to a lot of other people who do not need the income eligibility of Medicaid.

We are going to take a discount program that was designed and targeted to help low-income people and say it applies to a lot of people, let's make it apply to everybody.

Really, what you are talking about are price controls. But what you are talking about is saying, we are going to take a discount right now that is targeted towards low-income people, and we are going to spread it around to a lot of other people who aren't low-income, and who in some cases have unlimited income. Does that really make sense?

Let me give you an analogy. Maybe sometimes economics arguments are hard to follow, and maybe with prescription drugs it is harder than others. Let us take an example.

I see my good friend and colleague from New Hampshire. He is the former Governor of New Hampshire. As Governor, he purchased automobiles for the highway patrol and for the State police. My guess is that, as Governors, they get a good deal for the automobiles that are sold to the highway patrol and to the State police. He probably buys hundreds of them. Certainly, in a large State such as New York, or Michigan, they buy hundreds, and maybe thousands. So they get a good discounts. They get a better deal than the average consumer.

But if you are going to say, wait a minute, let us not just give this to the police, and a volume discount to the State, let us just give this to basically anybody in the State. That sounds pretty good, doesn't it? We are all going to get a good deal.

Guess what happens now. The price at which they were selling to the State before has just gone up.

In other words, if everybody gets the discount, nobody gets a discount. You are going to find out that the savings that the highway patrol had by buying several hundred vehicles just disappeared because they are not going to get any better deal than anybody else on the street.

That, in effect, is what is going to happen if we adopt the Stabenow amendment. This is a costly amendment if we are going apply this discount that Medicaid now gives on best price for Medicaid to every State program—and some State programs are quite generous. I mentioned for the State of New York it applies to individuals up to 419 percent of poverty; for a couple, incomes up to $50,000. In Massachusetts, there is no income limit.

So if you make it apply—incidentally, under this amendment, a Governor could say: For any drug sold in my State, I am going to have it come under this agreement because I want to offer low-priced drugs to anybody who comes in the State of Oklahoma. So if that is the State program, then every drug would fall under this program. So the net result is, everybody gets a discount. Let's break out the champagne. This is a great deal.

What you have done is, you have taken away—if that is the case—the discount for the low-income people on Medicaid and just taken it and spread it out to everybody else. Is that really what we want to do?

If we adopt the Stabenow amendment, I am just telling you right now, you are eliminating the discount, you are eliminating the low-targeted subsidy that we are now giving low-income people. So if everybody gets the discount, nobody gets the discount. You have just targeted and, quite frankly, greatly increased the cost of the Medicaid Program. You have increased the cost of what is targeted towards low-income people, the people who really need the help.

Keep in mind, this is not targeted to seniors. I have read the Stabenow amendment very closely, and it does not say anything about income limits. As a matter of fact, it says: Hey, you don't have to meet income limits in Medicaid. You don't have to meet eligibility. You don't have to be unemployed. You don't have to be uninsured to benefit under this amendment. It applies to almost everybody.

If the Governor and the legislature write a program broad enough, anybody can apply. Anybody would. So everybody gets a discount. How great is that? It means that nobody gets a discount. This is the impact of this amendment.

It is going to increase costs, as well as costs to the Federal Government. Maybe this thing will become law. Mark my words, we will just write it down. Today is July 18. DON NICKLES says if this amendment passes, you are going to see Medicaid costs go up. We will find out. Some of us will be here for a while. Sometimes we do things that have results. This will result in Medicaid costs going up.

So the very people we think we are trying to help—whoa, wait a minute, we are not helping Medicaid people; we are hurting Medicaid people because they will have to pay more for their drugs. They will lose their discount. This discount will be spread out amongst a lot of other people.

Let me make a couple other comments.

It not just me saying it. This is not my hypothetical situation: Well, DON NICKLES says: Wait a minute, this may backfire.

The General Accounting Office did a report. I will read part of this and then include it in the RECORD:

In an August 2000 report, the GAO determined:

> The larger the group that would be newly entitled to receive a federal price, the greater the incentive for drug manufacturers to raise that price. The Medicaid rebate experience suggests how federal and nonfederal drug price discounts could change if Medicare beneficiaries had access to the same price discounts available to federal purchasers. Following the enactment of the rebate program, discounts for outpatient drugs decreased significantly because manufacturers raised the prices they charge large private purchasers.

That is from the General Accounting Office. That is looking at the facts after we enacted the discount program some time ago. They are saying, if you expand that base of people eligible for a discount, costs are going to go up. It is just a fact.

The other thing is, the Stabenow amendment harms Medicaid beneficiaries. It will raise drug prices in Medicaid and raise Medicaid Program costs at a time when States can least afford it.

I will mention something from the administration. I have a note from them:

> The administration opposes any change in the Medicaid law that would increase Medicaid drug prices and reduce Medicaid coverage. This is what the Stabenow amendment would do. Medicaid law has always focused on what is best for Medicaid beneficiaries. The administration opposes changes in the Medicaid law that would harm Medicaid beneficiaries. The administration said this is what the Stabenow amendment would do. That is exactly what this amendment would do—exactly.

I do not find this to be rocket science. You just tell everybody they are going to be able to get a discount, then nobody gets a discount. Medicaid? Sorry, you are going to have to pay more. They do get a discount now. They do get the best price. They do get the lowest price of anybody in the country. But if you make that applicable to everybody in the country, then nobody gets it. That is what is going to happen.

I am just kind of against that people think: Oh, yeah, we will just do this, and this will save money. It is going to cost money. It is going to cost money from people who can least afford it. And it is going to greatly exacerbate the problems that many of our States right now are struggling with, and struggling with greatly. So I just wanted to mention that. I think it is important.

I will mention two or three things. Let's not increase the cost of Medicaid. That is what this amendment would do.

No. 2, let's not intervene in a case before the Supreme Court. That is pretty foolish.

How many of us really studied this case? How many of us have studied the Maine law? How many of us have studied the idea that: Oh, yes, we are going to say that this program, that was designed for Medicaid, should really be applicable to all programs?

Is that really a smart thing to do? Does it have some delusion or some negative impact on one small group if you say it applies to everybody? I think it is very shortsighted.

So I urge my colleagues to vote no on this amendment. And if, for whatever reason, this amendment is adopted, I will tell my friend and colleague from Michigan, I am going to offer an amendment, and the amendment is going to have the effect to guarantee that the amendment would not have an adverse impact on Medicaid.

My colleague stated, with assurances: Oh, I am sure it will not increase Medicaid costs. The administration says it would. GAO says it would. I think anybody who looks at it says it would. But if she is that confident, then I hope she will accept my amendment that says the proposal will not be effective if it is proven to have an adverse or increased cost in Medicaid drug prices.

I will have that amendment later should her amendment prevail. I hope it does not prevail. I think it is a mistake.

There is a reason we have a committee process. The reason we have a committee process is we have two different ideas on this and two different opinions. We could have experts come in and testify, and they could say exactly what they think the results would be of the Stabenow amendment.

We have not had that opportunity. I would love to have that. I will be happy to participate in a hearing on it next week, next month, 2 months from now, and find out what the experts think, the people who are in charge of CMS, the old HCFA. Let's see what they have to say. Let's see what other experts say.

Let's hear from Governors who not only have Medicaid that they are wrestling with, but other programs. Hey, there are some pluses and minuses in it for them. After all, they have to pay part of it.

Ms. STABENOW. Will my friend from Oklahoma yield for a question?

Mr. NICKLES. I will be happy to yield.

Ms. STABENOW. I am wondering if you are saying for the future, then, any amendment that comes to the floor that has not gone through a committee or subcommittee, you intend to oppose from here on out? Is that correct, for as long as you and I are here in the Senate, you would, in fact, oppose any amendment that comes before us that way?

Mr. NICKLES. I tell my friend and colleague, I think the committee process is being totally ignored by the present leadership in the Senate.

Ms. STABENOW. But does that mean you will, in the future—as opposed to what has happened in the past—object to anything that comes to the floor, any amendment that comes to the floor that has not gone through the committee process? I would be interested in knowing if, in fact, that is your position.

Mr. NICKLES. I would not go that far. But I tell my colleague, I will be happy to join her in requesting Senator BAUCUS to have a hearing on her proposal as soon as possible. Let's bring in the experts. Let's see what they have to say.

I am a little bit chapped at the fact that I had been in the Senate for about 16-some years before I even got on the Finance Committee, and now it is not working. It has the reputation of being one of the most powerful, great committees, and it does not meet.

The chairman of the committee does not call meetings on this. We have not had a markup on the prescription drug bill. I would liked to have input. I would like to be able to offer an amendment. And I would like to have testimony so we can find out what the substance of the proposal is, what the impact will be. How much will it cost States? How much will it increase Medicaid costs?

I heard somebody say: Well, we think it would increase Medicaid costs by $1 billion or a couple of billion dollars. I think it may be a lot more than that. But I would like to know. Well, we don't know. We have not had estimates. It would be nice to have CMS give us an estimate.

Have we had the chance to do that? No. Because we have not had a hearing. I don't believe a hearing was requested, but it should have been. And the chairman of the committee should have agreed.

I will just tell my colleague, I am happy to participate in a hearing so we can get the facts out. But to change a program totally, and say, OK, we are going to have price controls and discounts for one group, and now we are going to expand it for everybody, with these great savings, assuming that everybody is going to get the savings—the net result is, nobody is going to get the savings. Instead of everybody getting a discount, nobody is going to get a discount. And that is the unfortunate result.

Ms. STABENOW. Will the Senator yield?

Mr. NICKLES. No. I will not yield.

That is the unfortunate result of her amendment. It is just too bad that we bypassed the committee. I don't know why the chairman of the Finance Committee and the ranking member are not saying: Wait a minute, this might be a good proposal. Let's have a hearing on it. We will mark it up. We will consider it.

We haven't done that; again, for something that involves State after State, a Supreme Court decision that will be made in probably a few months. We are going to interject ourselves with a trivial amount of debate on the floor, and we will have Senators vote on it and probably not half a dozen Senators have looked at the amendment in any detail. That is not a good way to legislate.

I reserve the remainder of my time.

Mr. GRASSLEY. Mr. President, I do not support Senator STABENOW's amendment No. 4305 to S. 812 to amend section 1927 of the Social Security Act. As my colleague Senator NICKLES pointed out during debate, this amendment raises important policy and budgetary questions that have not yet been considered by the Senate during a hearing or a committee mark-up. The far-reaching nature of this amendment deserves serious consideration by Congress prior to a vote. Additionally, at present there are pending legal decisions related to matters addressed in this amendment, and I believe it is worthwhile to await the decision of the courts prior to enactment of this amendment. For these reasons, I do not support this amendment, but I reserve the right to re-evaluate the matter at a later date.

Mr. KENNEDY. Madam President, what is the order now? We were allocated time to different individuals, and then at the conclusion of that we were going to recognize the Senator from Michigan to make final comments. I think Senator GREGG is here.

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes and the Senator from Michigan has 5 minutes.

The Senator from New Hampshire.

Mr. GREGG. Madam President, it was my understanding that I had 5 minutes plus 7 minutes which would have been 12 minutes.

Mr. KENNEDY. That was my understanding as well. I think the Senator was recognized for 5 minutes and then when they extended the time of the Senator from Michigan, I think they extended the time of the Senator from New Hampshire as well. I would ask that he be accorded the 12 minutes.

The PRESIDING OFFICER. The Senator is recognized for 12 minutes.

Mr. GREGG. I understand there is a desire not to have us go to a vote until 5:40 or so. So there is extra time here. I would suggest that I take 12 minutes and the Senator from Michigan take 12 minutes, that we equally divide the time between now and 5:40, and then, at 5:40, proceed to a vote.

Mr. KENNEDY. That is satisfactory to me. I generally try to check with our leadership.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I think, for the benefit of the Members, the time for the vote will be at 5:40.

Mr. GREGG. Let me first associate myself with the excellent comments made by the Senator from Oklahoma who has made most of the points I would have made but made them with more energy and eloquence.

If you look at this proposal which has come forward, offered by the Senator from Michigan, essentially its outcome will be that the discounts allowed under Medicaid, which States get for their Medicaid recipients, which are significant discounts—nobody should underestimate, these are big discounts which drug companies that make your product are required to give to the States through the Medicaid process—those discounts under the proposal of the Senator from Michigan, those discounts will now be transferable to a whole new population of people, a very large, potentially very large population of people.

As the Senator from Oklahoma pointed out rather correctly, that population is not necessarily going to be means tested, not necessarily going to be of need. It could simply be a population which qualifies for this new discount under a State plan.

As a result, what you are going to do is end up for those drugs significantly reducing the revenues which flow to whoever produced that drug. What is the impact of that? Assuming that this is not a situation where the people who produced the drug are charitable organizations but are, rather, organizations which, in order to be able to produce that drug, had to go out and borrow money from somebody through the capital markets or through actual borrowing in order to be able to raise enough money to be able to bring that drug to market, remembering that the average cost to bring a drug to market in America today is somewhere between $500 million and $800 million and it takes somewhere between 10 and 12 years, assuming that this is not a charitable organization, then that company, in order to be successful, those people who invented that drug, who created that drug, who put their life into that drug for 12 years, managed to manufacture it after going through all the hurdles—and believe me, there are an unlimited number of hurdles, an incredible number of hurdles, at incredible expense, had to go out and line up their financing to do this—those people are going to have to raise the cost to somebody else. Because they still have to pay off the people who financed the drug. They have to give a reasonable return to the people who invested in that company or they are not going to be able to produce another drug. The drug that they produce may put them into bankruptcy for all intents and purposes, if they can't get a fair recovery on it.

What is the practical implication? Essentially what we are doing here is another example of saying: The big, bad, greedy drug companies, they can take the hit no matter what. They can take the hit. We have seen it happen out here on the floor. We have heard the argument from the other side. We can just do this because the big, bad drug companies are going to take the hit.

Let's remember what we are talking about. We are talking about one of the most important elements of our society, organizations which are producing products which are making American lives better, longer, and more healthy. Is it our goal to fundamentally undermine the capacity to do that? If we continue on this course—and this is obviously not the most extreme example of it, but this is a clear example of price controls and an attempt to drive down the return on the ability of somebody to produce a product, which saves lives—if we continue on this process, we are essentially going to be plucking the feathers, rather aggressively, of the guys who are laying the lifesaving drug.

In the end we are not going to have a whole lot of gooses or they are going to be geese that don't have enough ability to produce those lifesaving drugs anymore because they don't have any feathers left on their bodies. This is really pretty obvious, if you think about it logically.

Capital in a marketplace system—I understand this is an elementary concept which has escaped some people in the Government—flows where it gets a return. That is just simple fundamentals. By capital I mean money which allows people to invest in products, which creates jobs, and create items that give us as a nation a better chance to compete internationally but, more importantly, gives our American people a better standard of life.

Capital flows where it gets the best return. If you reduce radically or even if you reduce incrementally but in a way that is basically pyramiding on top of itself like straw on a camel's back, if you continue to reduce the ability of the people who are creating the new drugs which are saving lives to have a viable market to go into and get capital; in other words, to be able to go to somebody who is willing to lend them money or willing to invest in their business and expects a reasonable return, if you reduce their ability to get a reasonable return or to pay that debt, you inevitably reduce the amount of drugs coming to the marketplace that will benefit citizens.

In the process, you cut our productivity, cut our national competitiveness, and take what is a very vibrant part of our economy and undermine it.

I realize it is great politics to come to the floor of the Senate and claim that if we do this we will be helping the poor. We will be helping the indigent, helping people who need help. That is great politics. But if you are not producing the drugs, you are not helping anybody. If that lifesaving drug, that drug that is going to give people a better way of life, isn't going to come to market because the people who produce it can't get the money to make it because they can't go in the capital markets and get a decent return, then you are not helping anybody. It is a fraud to come to the floor and claim you are helping all these people. There was a statistic, which I found most interesting, cited today by a colleague on the other side of the aisle. They said that in the biotech industry today there are a thousand firms, but only a hundred of them have products on the market, and we are really excited to think the next 900 are going to come to market with their products.

Well, if we continue to pluck this goose, those 900 firms are not going to come to market with their products because they are not going to have the financial strength to survive the 9, 10, 11, 12 years it takes to get to market with their product. It takes money, cash, capital flowing into those companies—and paying the employees, by the way. It doesn't happen to go to somebody making a gazillion dollars; it goes to the employee. It takes money, cash, and capital to fund that period from the time you think of the product, from the time you invent that concept, from the time it germinates as an idea in some wonderful scientist's mind, to get it to the market, and $500 million to $800 million. So those 900 companies that are out there that don't have a product on the market, but if those products come to the market—this was their point—those products will save hundreds of thousands of lives.

Those products are not going to be there if we continue on this path of, every time we turn around, taking another nick—a fairly significant nick—out of the ability of those companies to be viable.

Are those companies evil and greedy because they want to bring to the marketplace something that is going to improve the lives, or extend the lives, and improve the quality of life of Americans—and, well, yes, be sold in Canada for less because they take advantage of all our research, in a very mercenary way, as does the rest of the world? No. They want to produce a product that is going to improve the quality of life of Americans; and they are willing to do it, willing to put at risk their time, effort, brain power, and their resources, including cash and capital.

But the argument on this floor is they are greedy, so let's just shut down their capacity to do that. And then, at the same time, we are out here claiming: But we are going to have a wonderful, viable drug industry in this country, and we are going to continue to be on the cutting edge.

Well, we are not. We cannot continue to say to people who are producing products you can't get a fair return on your product and expect that they are going to continue to produce their products.

This amendment is not overwhelmingly egregious, but it is one more straw on the back of the ability of the marketplace to move their capital into the production of quality health care products versus moving it into who knows what—software for video games or movies that are violent or whatever else for which the capital gets a better return.

The basic element of this amendment is that we are going to take a very limited program, which demands that people sell a product at significantly less than what the market will bear, and should bear, in order to give a reasonable return and demand that it be spread across a whole new population. And as a result, that population will get a lower cost drug, no question about it. But somebody else is going to have to pay more for the ones that come to market and are put under that system. It is like a balloon, when you squeeze it in one place, it pops out in another place. Other people—probably those on an insurance program—will pay more. So their insurance will go up and maybe they will become uninsured. We can also talk about that. More importantly, fewer people are going to be willing to pursue the path of producing quality drugs because you are not going to be able to go into the marketplace and get the capital to do it. That is what this debate comes down to—whether this feel good, "I care about everybody" concept that says that the way you feel good and you care is you basically say the drug companies are greedy, the production is greedy, the biotechs are greedy, and you drive their price down so they can no longer compete, but for a while at least people get a lower cost drug.

I will admit there will be a window where you will be successful. But 4 or 5 years from now, or 8 years or 10 years from now when that drug that might have addressed the issue of Alzheimer's, or of arthritis or addressed the issue of arteriosclerosis, multiple sclerosis, or any number of diseases, that drug didn't come to the market because the person who had the idea could not get the money in the capital market to finance the 8 to 12 years and the $500 million to $800 million to bring it to market because there was not a market that generated that kind of return. Have we done a lot of good for the American people then? I don't think so.

So as we move down this road, we have to be balanced. Good ideas may flow, things that seem appropriate to the moment. We can throw them out, but let's evaluate them in the context of what their ultimate outcome will be.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 seconds.

Mr. GREGG. Well, I may use all my 10 seconds. I will reserve that time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. It is difficult for me to know where to begin with all of this what I view as misinformation. I will at least clarify what I believe to be the facts regarding the situation in the bill and, beyond the bill, the general issue regarding the pharmaceutical industry.

I ask unanimous consent that Senators CLINTON and LEAHY be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I find it interesting, there is great concern about expanding discounts to people who are not on Medicaid. Do you know what is unfair in this country right now? The only people who pay retail, the only people who pay the highest prices in the world are people who are uninsured. No insurance company pays retail. Every insurance company, including Blue Cross Blue Shield, or any company, gets a discount. The States as well—when we buy for the VA hospital, the Federal Government—we negotiate a discount. Under Medicaid, we have given the States the ability to get what is, frankly, a modest discount—15 percent on brand name drugs, 11 percent on generics. So they don't pay retail. Nobody pays retail. Everybody gets a discount, except for one group—the uninsured in this country.

The majority of those using prescriptions who are uninsured are our senior citizens—the seniors and the disabled of this country. How unfair that we would think they, too, should get a discount. This amendment only affects those who are uninsured. Why? Because everybody else already gets a discount. So if you vote no on this, you are saying this system right now that allows States to get discounts under Medicaid, the Federal Government for the VA, Blue Cross Blue Shield, and every other system—our own insurance system as Federal employees, we don't pay retail—if you vote no, you are saying the only people who don't deserve a discount from retail are uninsured seniors and families. The folks who are not seniors—most of those who are uninsured work and they work for small businesses. Those small businesses are struggling every day to provide health care and they are seeing premiums go up 30 to 40 percent a year, and most of that is because of prescription drugs.

This is a modest amendment. This is an amendment that simply says our States that are struggling right now, both to pay for Medicaid and also to provide some kind of lower cost prescriptions for their citizens, mostly seniors who don't have insurance, ought to be able to use the creativity of a State, the great "laboratories of democracy" that I hear about all the time from my colleagues on the other side of the aisle—let them continue to do what they are doing, be creative to lower prices.

I might just quote something that was quoted earlier today by my colleague from Massachusetts, and that is my own Governor of the State of Michigan, who is leading the National Governors Association. We have meeting now Governors who are concerned about prescription drug costs and wanting to provide programs for their citizens, being sued, many of them, because they want to expand the discount for lower prices, to be creative like Maine and Vermont.

We had from Governor Engler:

> The Nation's Governors are extremely disappointed with the course of action chosen by PhRMA, said NGA chairman Michigan Governor John Engler. It is unfortunate that their organization feels compelled to use the court system to manipulate public policy. With pharmacy costs alone rising 15 to 20 percent each year, all purchasers, including the manufacturers themselves, are using tools that manage costs while maintaining quality and access to affordable pharmaceuticals.

That is about an optional program to say to the States: If you choose to be creative and use your leverage under Medicaid to expand a discount to people who do not get a discount, who are the only people who do not get a discount, who are the uninsured, mostly seniors, that you can do that.

I commend the administration because under this administration, the Bush administration, the Solicitor General, Theodore Olson, went to court in support of the Maine plan. He said in his brief:

> The initiative should be allowed to go forward without further intervention.

Olson argued:

> States enjoy a broad measure of flexibility in tailoring the scope and coverage of their Medicaid plans and that court review of Maine Rx was not warranted.

I commend him and the administration for stepping in on the side of States rights, which is what this is all about. This is about States rights. It is not about concerns about the pharmaceutical industry.

I understand they will fight everything, they have been fighting everything, they will continue to fight everything. There is no question about that. We fully expect their arguments to be put forward on this floor.

I wish to make two other points; that is, when we talk about the industry as a whole and the concern that maybe the uninsured would get the same discounts as people with insurance, and what that would do to the poor pharmaceutical companies, we need to look at what the real picture is today economically with this industry as we are concerned about making sure our seniors pay, when they walk into a local pharmacy, the highest prices in the world.

A study that was put out yesterday by Families USA shows some startling comparisons. We all want research. We want those new lifesaving drugs. Unfortunately, 80 percent of the new patents being approved by the FDA are "me too" drugs, not new lifesaving drugs, but we want those.

I am deeply concerned about the direction of the companies. The pharmaceutical company is more about being a sales machine, sales and marketing, quarterly reports and profits than about creating new lifesaving drugs, and that is of deep concern to me as to the future for all of us in health care.

A number of companies were outlined yesterday. As an example, Merck spends 5 percent on research and development; 15 percent profits last year, there were three times more profits than what was spent on R&D; and 13 percent was spent on advertising, marketing, and administration. It is almost three times as much on advertising and marketing and three times more in profits than they are spending on R&D.

Pfizer received 1½ times more in profits than they spent on research and development, more than two times more on advertising, marketing, and administration than on research and development. It is a pattern that continues. R&D is not the top expenditure of the companies today.

When we look at the individuals, it is difficult for me, representing the great State of Michigan where people work hard every day for a living, most people working hard for that paycheck, concerned about their kids, whether they are going to be able to send them to college, whether they can afford their health care, working hard every day, and then we hear we cannot possibly lower prescription drug prices, we cannot possibly even get them down to the rate of inflation—they are going up an average of three times the rate of inflation—we could not possibly give a 15-percent discount to uninsured seniors.

Then we look at the numbers, and we see astounding salaries in the drug companies. I mentioned this morning—not to be personal but this is public information—the comparisons are astounding. The former chairman and CEO of Bristol-Myers, $74.9 million last year in earnings and, in addition, $76.1 million in unexercised stock options.

We have been talking in this Chamber about corporate responsibility and integrity and, I would argue, morality. What is the morality of huge, tens of millions of dollars in salaries and huge amounts of profits, and when we say just get the prices in line so people can afford these new lifesaving drugs so they are not cutting the pills in half, taking them every other day—worst yet, not affording them at all—and we are told, no, nothing can be done, nothing can be done. They fight every single attempt to rein in prices or expand coverage.

This is a fundamental battle, I believe. I think we are needing to help an industry save itself and get back to its soul, which is research and development in new drugs, and to get back in touch with the American people.

I commend the States that are involved right now. They are close to the people. They are close to the people in their States and they know, they hear the stories every day, and they are trying to do something. They want us to act. I do not know if we are going to be able to get this all the way through. I certainly hope so, and I will do everything I can humanly do to work with my colleagues to make it happen.

In the meantime, the States are trying to help. We have 30 States that are doing something in the area of prescription drugs trying to help, and we have States being sued by the drug lobby because they are trying to help.

I will simply say, as we bring this debate to a close, that this is an amendment that does not force a State to do anything. It only affects the States that want to expand their drug discounts to those without coverage. It is an issue of flexibility.

The administration has gone on record in support of the Maine project which we use as an example of what can be done, and we appreciate that. It will stop unnecessary litigation. I know there is a great deal of concern by my colleagues about unnecessary litigation. It will allow States to stop spending money on litigation and put money in essential services, such as being able to make available prescription drugs to their citizens.

I hope my colleagues will join in support of this bipartisan—tripartisan—amendment this evening and send a message that we support our States and we support their right to be involved in putting together efforts to lower prices and make lifesaving medicine available to their citizens.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. STABENOW. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the cloture vote on Executive Calendar No. 825, Richard Clifton to be United States Circuit Court Judge, occur immediately following the disposition of Senator STABENOW's amendment. I further ask unanimous consent that following the confirmation of Judge Clifton, the Senate move to proceed to the nomination of Richard Carmona to be United States Surgeon General; that following the filing of cloture on the nomination, the Senate resume legislative session; that the live quorum for that cloture vote be waived, and that the cloture vote on the Carmona nomination occur on Tuesday, July 23, at 10:30 a.m.; and that the preceding all occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Madam President, there is also the possibility of a third vote this evening on confirmation following the two votes previously announced in this unanimous consent agreement.

### VOTE ON AMENDMENT NO. 4305, AS MODIFIED

Mr. REID. We are now ready to proceed to the Stabenow amendment. Have the yeas and nays been ordered on Stabenow?

Mr. GREGG. Yes.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 4305, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Ms. CANTWELL). Are there any other Senators in the chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—56

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Hutchinson
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith (OR)
Snowe
Specter
Stabenow
Torricelli
Voinovich
Wellstone
Wyden

NAYS—43

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Helms

The amendment (No. 4305), as modified, was agreed to.

Mr. DASCHLE. Madam President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Madam President; there are two additional votes. I ask unanimous consent that they be 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I would like everybody to stay right here. At the end of 10 minutes, we will go to a third vote. That will be the last vote for the week. I appreciate everybody's cooperation in staying here and voting, and staying here for the second of the two votes. Then we will be finished for the evening.

## EXECUTIVE SESSION

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## NOMINATION OF RICHARD R. CLIFTON, OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 825, the nomination of Richard R. Clifton, to be United States Circuit Judge for the Ninth Circuit.

Jeff Bingaman, Patrick Leahy, Daniel Inouye, Harry Reid, Tom Daschle, Dianne Feinstein, Orrin Hatch, Chuck Grassley, Michael B. Enzi, Craig Thomas, Christopher Bond, Jeff Sessions, Jon Kyl, Rick Santorum, Pat Roberts, Trent Lott.

The PRESIDING OFFICER. Under the previous order, the quorum call is waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 825, the nomination of Richard R. Clifton of Hawaii, to be United States Circuit Judge for the Ninth Circuit, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 97, nays 1, as follows:

[Rollcall Vote No. 183 Ex.]

YEAS—97

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchinson (AR)
Hutchison (TX)
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed (RI)
Reid (NV)
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—1

McCain

NOT VOTING—2

Harkin
Helms

The PRESIDING OFFICER. On this vote, the yeas are 97, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. LEAHY. With today's vote, the Senate will confirm its 11th judge to our Federal Courts of Appeals and our 59th judicial nominee since the change in Senate majority little more than one year ago. The Senate confirmed the first Court of Appeals judge nominated by President Bush on July 20 last year and now, less than one year later we are confirming the 11th. That is almost one per month.

By contrast, the Republican majority that preceded us averaged seven Court of Appeals confirmations every 12 months. During an entire session of Congress, 1996, the Republican majority allowed no circuit court nominees to be confirmed, not one. The Republican majority confirmed 46 Court of Appeals judges in 78 months. While they were in the majority vacancies on the Courts of Appeals more than doubled, going from 16 to 33. Since the change in majority the numbers are going in the right direction—vacancies are going down and confirmations have significantly increased. We would be doing even better with a little cooperation from the Administration and the Republican leadership, which created roadblocks to the consideration of all judicial nominations by the full Senate since May.

The nominee voted on today, Richard Clifton, was one of the 78 nominees to receive a hearing in the first year since the reorganization of the Judiciary Committee on July 10, 2001. In that period, we held more hearings for more circuit court nominees than in any of the prior six years of Republican control. In fact, we have had hearings for more judicial nominees in the past year than in 20 of the last 22 years under Republican or Democratic presidents. Those who wish to paint the Senate as obstructionist ignore the facts and the fair treatment by the Senate of President Bush's judicial nominees. They focus instead on the most controversial nominees who do take more time, rather than the vast majority who have received hearings and been confirmed in bipartisan votes of the Senate. They would rather use misleading percentage calculations that obscure the fact that the Democratic-led Senate is considering President George Bush's nominees at one of the fastest paces in recent history.

I commend Senators Inouye and Akaka for the statesmanship they have shown in connection with this nomination. I remember very well their important efforts to establish the Hawaii seat on the Ninth Circuit and to try to fill it with a qualified nominee. I voted with them and supported their effort to ensure that every State, even States as small as Hawaii and Vermont, are represented on our Courts of Appeals.

I recall the saga of the nomination of James Duffy to fill the Hawaii seat on the Ninth Circuit, how hard they worked to find a consensus nominee and how that nomination was stalled for years. Despite the "Well Qualified" rating he received from the ABA and the strong support of both his home-state Senators, Mr. Duffy never received a hearing or a vote. He was nominated at the beginning of 1999 and remained pending for over two full years until it was withdrawn by President Bush in March 2001 without any Senate action of any kind.

Despite that recent history, the Hawaii Senators support Mr. Clifton for that same vacancy. In contrast to the treatment that Mr. Duffy received, Mr. Clifton's nomination was scheduled for a hearing less than 60 days after his file and paperwork were completed. Mr. Duffy waited 791 days and never got a hearing. When partisan critics charge Democrats with tit-for-tat and seeking revenge, they ignore the facts. The confirmation of Richard Clifton is another example of Democrats treating President Bush's judicial nominees far better than Republicans treated President Clinton's.

Today's vote on Mr. Clifton's nomination should provide some relief to the Ninth Circuit, which has four vacancies that have been classified as "judicial emergency" vacancies by the U.S. Courts. Two of those vacancies are more than five years old. They date back to 1996 and 1997, and there were two outstanding nominees to those seats. I have mentioned the nomination of James Duffy. The other nominee was Barry Goode of California, whose nomination also languished for years without ever getting a hearing or a vote.

When Barry Goode was first nominated to a Ninth Circuit vacancy in 1998 it was already a judicial emergency. Both of his home-state Senators supported the nomination but the Republican leadership refused to act. Mr. Goode was nominated not once, not twice, but three times to the Ninth Circuit and he never was given the courtesy of a hearing or a vote during almost 1,000 days (998 days). In March of 2001, President Bush withdrew Mr. Goode's nomination but he has not nominated anyone to this judicial emergency vacancy. It remains one of a number of judicial emergency vacancies for which there is no nominee and one of the 43 judicial vacancies for which there is no nominee.

The Ninth Circuit vacancies are a prime and unfortunate legacy of the partisan obstructionist practices during the Republican control of the Senate. Some are now complaining that a few nominees are waiting a year for hearing. Even though the anniversary of the reorganized Judiciary Committee with a Democratic majority was July 10, and we have already held hearings for 16 Court of Appeals nominees among the 78 total judicial nominees who had hearings in our first year.

I also recall how all confirmations to the Ninth Circuit from California were stalled by the demands of a Republican Senator not from that State to be given the ability to name a Court of Appeals judge from his State. With the support of the Republican leadership in the Senate, that Republican Senator succeeded in getting President Clinton to accord him that prerogative in order to break that logjam.

Just as the May 9th hearing on Mr. Clifton's nomination was the first hearing on a Ninth Circuit nominee in two years, earlier this year we had the first hearing for a Sixth Circuit nominee, Judge Gibbons, in almost five years. Similarly, the hearing we held on the nomination of Judge Edith Clement to the Fifth Circuit last year was the first on a Fifth Circuit nominee in seven years and she was the first new appellate judge confirmed to that Court in six years. When we held a hearing on the nomination of Judge Harris Hartz to the Tenth Circuit last year, it was the first hearing on a Tenth Circuit nominee in six years and he was the first new appellate judge confirmed to that Court in six years. When we held the hearing on the nomination of Judge Roger Gregory to the Fourth Circuit last year, it was the first hearing on a Fourth Circuit nominee in three years and he was the first appellate judge confirmed to that court in three years.

Large numbers of vacancies continue to exist on many Courts of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session. Democrats have broken with that recent history of inaction.

I would like to commend in particular the Senators from Hawaii and also the members of the Judiciary Committee for their efforts to consider scores of judicial nominees for whom we have held hearings and on whom we have had votes during the last several months.

Mr. HATCH. Madam President, I rise to support the nomination of Richard R. Clifton to be U.S. Circuit Court Judge for the Court of Appeals for the Ninth Circuit. Before I speak directly about him and his nomination, however, I would like to take just a moment to make a few comments about the Ninth Circuit.

I think it's safe to say that everyone in the Senate agrees that the Ninth Circuit decision in Newdow v. U.S. Congress, striking down the Pledge of Allegiance as unconstitutional because it contains the phrase under God, was out of the mainstream of American jurisprudence. After all, the Senate voted 99 to 0 to reaffirm the reference to One Nation Under God in the pledge of allegiance—right after the decision was announced.

But to me, the decision was more than wrong. It was an outrageous example of judicial activism and overreaching—of inappropriate, results-oriented policymaking from the bench. And it is a clear example of how the Ninth Circuit is failing to serve the best interests of the western states of California, Arizona, Nevada, Idaho, Montana, Washington, Oregon, Alaska, and Hawaii.

The Ninth Circuit has 28 authorized judgeships. There are 23 active judges, and thus 5 vacancies. Seventeen of those 23 were appointed by Democrat Presidents—14 by President Clinton alone—and only 6 were appointed by Republicans.

The Administrative Office of United States Courts has labeled all five vacancies on the Ninth Circuit as "judicial emergencies" given the enormous per-judge caseload on the Ninth Circuit.

The Ninth Circuit takes several months longer than other circuits to dispose of cases. The average time from filing to disposition is approximately 14 months.

In addition, as is well known and has been widely observed, including by several Supreme Court Justices, the Ninth Circuit has often decided cases in a manner that is well outside the mainstream of American law and entirely inconsistent with binding Supreme Court precedent. In 1999–2000, the Supreme Court considered 10 Ninth Circuit cases and reversed 9 of them. In 1998–99, the Supreme Court considered 18 Ninth Circuit cases and reversed 14 of them. In 1997–98, the Supreme Court considered 17 Ninth Circuit cases and reversed 13 of them. And in 1996–97, in an extraordinary Term, the Supreme Court considered 28 cases from the Ninth Circuit and reversed 27 of them.

All of this makes clear why it is so important for the Senate to consider—and confirm—President Bush's nominees to the Ninth Circuit. We have two excellent candidates pending in the Judiciary Committee right now.

Judge Carolyn Kuhl has extensive experience in federal and state government, in the Executive and Judicial Branches, in public service and private legal practice. She has a superb legal background and broad experience that makes her ideally suited to be an excellent circuit judge. And the same goes for Jay Bybee, who currently serves as Assistant Attorney General for the Office of Legal Counsel at the U.S. Department of Justice. I urge the Judiciary Committee to hold hearings on these nominees without further delay.

Now, I would like to turn to the matter directly at hand, the confirmation of Richard R. Clifton to the Ninth Circuit Court of Appeals. Shortly following graduation from Yale Law School, Mr. Clifton moved to Hawaii to clerk for the Honorable Herbert Y.C. Choy of the U.S. Circuit of Appeals for the Ninth Circuit, the first and only Hawaiian to serve on that court. Notably, Mr. Clifton will be the second.

After his clerkship, Mr. Clifton joined the Honolulu law firm of Cades Schuttle Fleming & Wright, one of the oldest and largest firms in Hawaii. He has remained with that firm since then, becoming a partner in 1982. His practice has focused on business and commercial litigation, with an emphasis on complex litigation and appellate practice.

Mr. Clifton has ably handled cases in the areas of condemnation, tax law, securities transactions, class actions, debtor/creditor law, and trademarks.

Mr. Clifton is the sold male director with the Hawaii Women's Legal Foundation, a member of the Hawaii Women Lawyers, a member of the Hawaii Chapter of the American Judicature Society, and director of the Ninth Judicial Circuit Historical Society.

For approximately ten years, Mr. Clifton was an adjunct professor at the University of Hawaii William S. Richardson School of Law, where he taught appellate advocacy. He served as Chairman of Hawaii Public Radio for five years and remains a director and member of its executive committee. He has served as pro bono general counsel to the Hawaii Republican Party since 1991.

Mr. Clifton has a reputation for excellence. Among other honors, Mr. Clifton was named as one of the 18 finest lawyers in Hawaii for business litigation in 2001. He is widely respected by the legal community in Hawaii.

I proudly join my distinguished colleagues from Hawaii, Senators INOUYE and AKAKA, in supporting Mr. Clifton's nomination to the Ninth Circuit Court of Appeals, and I urge my colleagues to do the same. Richard Clifton will serve well on the federal bench in Hawaii.

Mr. AKAKA. Mr. President, I rise today in support of the nomination of Mr. Rick Clifton to the United States Court of Appeals for the Ninth Circuit.

I commend our Majority Leader, the Deputy Majority Leader, and the Chairman of the Judiciary Committee for the progress made on judicial nominations during the 107th Congress. Hawaii has waited a number of years for Senate confirmation of a Hawaii resident for a position on the U.S. Court of Appeals for the Ninth Circuit.

In 1995, I introduced legislation to require representation on the court from each State within the jurisdiction of the court. We have waited many years for this opportunity. I am pleased that Hawaii will finally have a Justice on the Ninth Circuit.

Rick Clifton has had a distinguished legal career. The Hawaii State Bar Association found him to be highly qualified for this position. A graduate of Princeton University, he received his juris doctorate from Yale Law School in 1975. Mr. Clifton has practiced law in Hawaii since 1975 and has been a partner with the law firm of Cades Schutte Fleming & Wright in Honolulu, HI, since 1982. He has extensive legal experience in civil litigation, primarily business and commercial litigation. I believe he will be an asset to the Court of Appeals for the Ninth Circuit and urge my colleagues to support his nomination.

The confirmation of Mr. Clifton will help to alleviate hardships confronting the Ninth Circuit brought about by four long-term vacancies on the Court. A number of these vacancies date back over five years, spanning a period where the previous Senate majority refused to act on these judicial emergencies despite President Clinton's nominations of several well-qualified individuals supported by their home-state Senators and local legal communities.

I congratulate and commend Chairman LEAHY for his leadership in working to confirm qualified nominees to the Federal bench and rectify the doubling in circuit court vacancies that occurred between 1995 and 2001. In this instance, the Judiciary Committee scheduled a hearing on Mr. Clifton's nomination less than 60 days after his file and paperwork were completed. As both Chairman and Ranking Member, Senator LEAHY has worked with Senator INOUYE and me to fill the Hawaii seat on the Ninth Circuit. I appreciate his commitment to ensure that every State is represented on our Courts of Appeals.

As the Chairman recently noted, Mr. Clifton's confirmation concludes a long and regrettable saga in confirming a qualified nominee from Hawaii. In 1999, the President nominated James Duffy of Hawaii to the Ninth Circuit. He was selected after an exhaustive screening process, following an admirable effort by the White House to consult widely with political, legal, and community leaders in Hawaii. Mr. Duffy was endorsed as "the best of the best" by the Hawaii State Bar Association. Despite his sterling reputation, the nomination languished for 791 days in the Judiciary Committee without ever receiving a hearing. Mr. Duffy is one of the well-qualified and talented men and women nominated by the President to the Ninth Circuit and other Courts of Appeals, individuals with bipartisan and home-state support whose nominations were never acted on by the Senate.

I mention this unfortunate chapter not to air past grievances, but to underscore the challenges facing the Chairman of the Judiciary Committee and the Majority Leader in bringing nominations before the Senate for action. In an exceptionally evenhanded manner, they have worked to overcome the partisanship and stalling practices that precipitated many of the judicial emergencies and vacancies some of our colleagues on the other side of the aisle have recently come to this floor to decry.

Today's confirmation vote for Mr. Clifton's nomination attests to the fairness that the Majority Leader and Senator from Vermont have restored to the judicial confirmation process in the past year. I thank them for their support.

Mr. LEAHY. Madam President, have the yeas and nays been ordered on the nomination?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit? The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 184 Ex.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)

Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—2

Helms
Voinovich

The nomination was confirmed.

## NOMINATION OF RICHARD R. CARMONA, OF ARIZONA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE

The PRESIDING OFFICER. Under the previous order, the clerk will report Executive Calendar No. 921.

The assistant legislative clerk read the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service.

The PRESIDING OFFICER. The majority leader is recognized.

### CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 921, the nomination of Richard H. Carmona, of Arizona, to be the Surgeon General of the Public Health Service.

Edward M. Kennedy, Debbie Stabenow, Tom Daschle, Harry Reid, Jack Reed, Richard J. Durbin, Barbara Mikulski, Patrick Leahy, Jean Carnahan, Tom Carper, Byron L. Dorgan, Paul Wellstone, Jon Corzine, Jeff Bingaman, Daniel Inouye, Kent Conrad.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

### AMENDMENT NO. 4309

(Purpose: To amend title XXIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program)

Mr. GRAHAM. Madam President, I send to the desk an amendment, which reflects the contents of S. 2625, the Medicare Outpatient Prescription Drug Act of 2002.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE, proposes an amendment numbered 4309.

Mr. GRAHAM. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

### AMENDMENT NO. 4310

(Purpose: To amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes)

Mr. HATCH. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. GRASSLEY, for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI, proposes an amendment numbered 4310.

Mr. HATCH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. GRAHAM. Madam President, this amendment represents the essence of S. 2625, which currently, in addition to those who cosponsored this amendment, has 29 other colleagues' sponsorship.

This legislation is designed to provide to American seniors affordable, comprehensive, and reliable universal prescription drug coverage. This coverage will be available to 39 million older Americans and disabled citizens who are covered by Medicare—citizens who voluntarily elect to participate in this new Medicare benefit. More than 2,750,000 of those 39 million live in my State of Florida and, as have citizens across America, been waiting year after year after year for Congress to finally deliver on the commitment that we have made to modernize Medicare through the provision of a prescription drug benefit.

When I made remarks on this issue on Tuesday of this week, I based those remarks on six principles that I believe should be the touchstone for an affordable, comprehensive universal prescription drug benefit for senior Americans. Let me briefly reiterate those six principles.

First, we must modernize the Medicare Program. We must bring Medicare into the 21st century. In my judgment, the provision of a prescription drug benefit is the single most important reform of the Medicare Program that we can make. Why is this benefit so central? Because in the 37 years since the Medicare Program was created, the practice of medicine has been fundamentally altered by the use of prescription drugs.

Prescription drugs have improved the quality of people's lives. They have reduced long recovery periods, and they sometimes can even avoid surgeries and disabling illnesses, such as strokes and heart attacks.

We must convert Medicare from a program which, since its inception in 1965, has focused on sickness. If you are sick enough to go to the doctor or to the hospital, Medicare will pay 77 percent, on average, of your costs. But if you want to maintain the highest level of health, which generally involves screening, early intervention, and prescription drugs to monitor the condition, Medicare will pay nothing.

Medicare must be converted from a sickness program to a wellness program if it is to serve the needs of senior Americans in the 21st century. That is the first principle.

The second principle is that beneficiaries must be provided with a real benefit. To be successful, this program must attract a wide variety of beneficiaries.

The program will be voluntary, so it must attract enrollment with reasonable and reliable prices and a benefit that pays off from day one. In this manner, we will be able to attract all seniors, from those who today have high drug needs to those who are healthy but might be concerned that they, too, could be struck down with a heart attack or other disabling condition.

If we are able to have a program that will attract that broad range of elderly in terms of their current state of health, then we will have a program that will be actuarially solid for years to come.

Seniors must be able to understand the benefit they receive. The coverage should be consistent, and seniors should receive that coverage without any unexpected gaps or omissions. In other words, it should operate as much as possible as the employer-provided coverage which they had during their working years.

The third principle is that beneficiaries must have choice. All Americans deserve choice in how they receive their health care. We must offer choice in who delivers their prescription drugs, which is why we must assure that each region of the country has an adequate number of providers of the prescription drug benefit. This will encourage competition, helping to keep costs down for seniors, as well as the taxpayers of the Medicare Program, and assure a sustainable prescription drug benefit for this and future generations of America's seniors.

Principle No. 4 is we must use a delivery system upon which seniors can rely. It must be a tried-and-true system, not an untested scheme that will turn older Americans into laboratory animals upon which to be experimented. We want to model our delivery system on what private sector plans have used and with what seniors are familiar.

Principle No. 5 is the program must be affordable. The reality is the majority of seniors live on fixed incomes. In my State of Florida, where many people have the idea that all or most of the seniors live at a level of luxury, the median income of our 2,750,000 seniors is $13,982 a year, and 770,000 seniors in our State live on incomes below 150 percent of poverty.

These fixed-income seniors need a prescription drug benefit that has a low premium, that does not require a deductible, has reasonable copayments that are easy to calculate, and will avoid wide variations from month to month in their coverage.

Finally, principle No. 6 is we must have a fiscally prudent program. We must find that balance between giving seniors what they need, that balance between a realistic assessment of what prescription drug costs are likely to be over the next 10 years for our seniors, and, finally, the balance of what our overall Federal budget will allow.

The Graham-Miller-Kennedy-Corzine amendment meets these six criteria. As a result, it has the support of the major organizations that represent America's seniors, including AARP.

I ask unanimous consent to print in the RECORD eight letters of support of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
NATIONAL HEADQUARTERS,
*Washington, DC, June 12, 2002.*

Hon. BOB GRAHAM,
Hon. ZILL MILLER,
*U.S. Senate, Washington, DC.*

DEAR SENATORS: We are pleased to restate our position on your revised Medicare prescription drug proposal. Action on a bipartisan prescription drug benefit is a top priority for AARP, our members and the nation.

Medicare beneficiaries have waited long enough for access to meaningful, affordable prescription drug coverage. We know from our membership that in order for a Medicare prescription drug benefit comprehensive coverage it must include:

An affordable premium and coinsurance;

Meaningful catastrophic stop-loss that limits out-of-pocket costs;

A benefit that does not expose beneficiaries to a gap in insurance coverage;

Additional assistance for low-income beneficiaries; and

Quality and safety features to curb unnecessary costs and prevent dangerous drug interactions.

AARP supports your initiative to incorporate these goals. We commend you for including key elements in your proposal that Medicare beneficiaries and our members have indicated they find valuable. For instance, your proposal includes a premium that many Medicare beneficiaries view as affordable and a benefit design that does not include a gap in insurance coverage. Your proposal also now includes co-payments specified as dollar amounts, an approach that our research shows our members prefer to coinsurance. In our view, this plan could provide real value to beneficiaries in protecting them against the high costs of prescription drugs.

It is important that any prescription drug benefit be made a permanent and stable part of Medicare, and we want to work with you to achieve this before enactment.

Thank you for your leadership on this issue. We look forward to working with you and your colleagues as the legislation moves forward. AARP will continue to urge Congress to work in a bipartisan manner to enact affordable, meaningful Medicare prescription drug coverage.

Sincerely,

WILLIAM D. NOVELLI,
*Executive Director and CEO.*

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GENERIC PHARMACEUTICAL
ASSOCIATION,
*Washington, DC, June 12, 2002.*

Hon. BOB GRAHAM,
*524 Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the Generic Pharmaceutical Association (GPhA), we would like to commend you and Senators Miller and Kennedy for your leadership in introducing legislation to create a Medicare prescription drug benefit for our nation's seniors. We agree with you that the passage and enactment of a voluntary Medicare prescription drug benefit is long overdue. We are strongly supportive of your innovative tiered co-pay structure, as well as the other provisions advocated by you and your colleagues, that are designed to increase the utilization of high-quality, affordable generic medicines.

Generic pharmaceuticals have a proven track record of substantially lowering drug costs. Studies have shown that for every 1 percent increase in generic drug utilization, consumer, business, and health plan purchasers save over $1 billion. The increased use of generics can play an invaluable role in helping Medicare, Medicaid, the Federal Employees Health Benefit Plan (FEHBP) and other Federal and private plans assure that beneficiaries have access to quality, affordable medications. A tiered co-pay system with a significant differential between brand and generic pharmaceuticals will ensure an appropriate incentive is in place for seniors to consider more cost-effective options when making choices about pharmaceutical therapies. We believe an explicit dollar co-pay will also provide seniors with the comfort of knowing they will pay a fixed cost to have their prescriptions filled.

With your leadership, the Graham/Miller/Kennedy bill employs a number of private sector best practices that are now widely used to assure access to cost-effective, quality affordable medications. These provisions not only encourage the appropriate and beneficial use of these products, but provide unbiased and greatly needed educational information to the public about the benefits of these medicines.

The Graham/Miller/Kennedy bill adheres to GPhA's principles for creating a Medicare prescription drug benefit and steers the Medicare reform debate down a prudent public policy path. We look forward to working with you, your cosponsors and with other Members of the House and Senate of both parties to further our common objective of providing our nation's nearly 40 million Medicare beneficiaries and the taxpayers who help support them with the most affordable and highest quality prescription drug benefit possible. If the rest of the Congress and the Administration follow your lead in recognizing the role generics must play in reaching this objective, we are confident we will achieve this goal.

Thank you again for your efforts. If we can be of any assistance to you, please do not hesitate to call.

Sincerely,

KATHLEEN JAEGER,
*President and CEO.*

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THE NATIONAL COUNCIL ON THE
AGING,
*Washington, DC, June 11, 2002.*

Hon. BOB GRAHAM,
*524 Hart Senate Office Building, Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the National Council on the Aging (NCOA)—the nation's first organization formed to represent America's seniors and those who serve them—I write to commend and thank you for your proposal to provide meaningful Medicare prescription drug coverage to America's seniors. The Medicare Outpatient Prescription Drug Act of 2002 is consistent with the principles supported by the vast majority of organizations representing Medicare beneficiaries. It provides the foundation for a vehicle that we hope can achieve bipartisan consensus on this issue this year.

NCOA is particularly pleased that your legislation would provide prescription drug coverage that is universal, voluntary, reliable, and continuous. Other proposals being offered include significant coverage gaps and would fail to solve the problem. Under such bills, a significant number of beneficiaries would not want to participate in the program, and many of those who do participate would continue to be forced to choose between buying food and essential medicines.

We commend many of the modifications you have made to your Medicare bill from last year. These improvements include a significantly lower premium, the option to provide a flat copayment, an earlier effective date, and assistance with the very first prescription. We believe these changes will make the coverage affordable and attractive to the vast majority of beneficiaries, which is so critical to making a voluntary prescription drug program work. While we have concerns about the need to reauthorize the program after 2010, we understand the budget trade-offs needed to provide meaningful and attractive coverage, and fully expect that the Congress would reauthorize the program.

NCOA is also pleased that your proposal does not include price controls and that the program would promote stability and efficiency through administration by multiple, competing Pharmacy Benefit Managers (PBMs), using management tools available in the private sector in which PBMs would be at risk for their performance, including effective cost containment.

NCOA deeply appreciates your efforts to move this critical debate in a direction that guarantees access to meaningful coverage—even in rural and frontier areas of the country—and responds in a constructive manner to many of the specific concerns that have been raised regarding other Medicare prescription drug proposals.

It is impossible to have real health security without coverage for prescription drugs. Prescription drug coverage is the number one legislative priority for America's seniors. Virtually every member of Congress has made campaign promises to try to pass a good prescription drug bill. The time has come to get serious and to work together to achieve consensus on the issues in controversy. Your proposal provides us with an excellent starting point.

NCOA looks forward to working on a bipartisan basis with you and other members of Congress to pass legislation this year that provides meaningful, continuous, affordable prescription drug coverage to all Medicare beneficiaries.

Sincerely,

JAMES FIRMAN,
*President and CEO.*

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FAMILIES USA,
*Washington, DC. June 13, 2002.*

Senator BOB GRAHAM,
*524 Hart Senate Office Building, Washington DC.*

DEAR SENATOR GRAHAM: We congratulate you and Senators Miller, Kennedy and Rockefeller on the introduction of your bill, "The Medicare Outpatient Prescription Drug Act," which provides prescription drug benefit for Medicare beneficiaries.

This is an issue of utmost important to all Americans who need prescription drugs, especially to seniors and people with disabilities. As you well know senors' ability to afford prescription drugs is a particularly difficult problem today. In our 2001 report entitled, "Enough to Make You Sick: Prescription Drug Prices for the Elderly, "we concluded that the 50 top drugs used by seniors rose 2.3 times the rate of inflation between 2000 and 2001. We are in the process of updating this report for last year, and our preliminary data shows that this devastating rate of price increases continues. Millions of seniors have limited income and no, or limited, drug coverage and will find themselves deciding whether to buy drugs or pay for other essentials.

Your bill addressees many important design issue that we care about in a Medicare prescription drug benefit. The benefit is universal, comprehensive, and is delivered through the Medicare program, ensuring that seniors know it will be available to them when it is needed. Low-income people get extra assistance. Also, there are provisions to assure that costs will be contained and quality maintained.

Please let us know how we can assist you to move this bill toward enactment so that all Medicare beneficiaries can have access to the prescription drugs they need.

Sincerely,

RONALD F. POLLACK,
*Executive Director.*

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NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
*Washington, DC. June 12, 2002.*

Senator BOB GRAHAM,
*Senate Hart Office Building 524, Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the millions of members and supporters of the National Committee to Preserve Social Security and Medicare, I write in support of your Medicare prescription drug legislation that will provide much needed relief to seniors. Your bill contains all of the elements that seniors need in a comprehensive drug benefit under Medicare, such as universal, voluntary, affordable, not means tested and most importantly, with a defined benefit, so that seniors can plan accordingly. Prescription drugs prices are increasing over 17% per year (faster than inflation) and seniors are spending more on out-of-pocket drug expenditures than ever. The time is now to enact a drug benefit that will provide the Medicare beneficiary with some assistance.

We are pleased that your plan would be available for seniors, no matter where they live. Our members have expressed to us that a prescription drug benefit must be affordable. We believe that a plan such as yours, with no annual deductible and a $4,000 cap on out of pocket expenditures, is reasonable and one that most seniors would be able to afford.

We applaud you for your leadership in this area. Please let me know how we can further support your efforts.

Sincerely,

BARBARA KENNELLY,
*President.*

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AFSCME®,
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
AFL–CIO,
*Washington, DC, June 12, 2002.*

Senator EDWARD KENNEDY,
Senator BOB GRAHAM,
Senator ZELL MILLER,
*U.S. Senate, Washington, DC.*

DEAR SENATORS: On behalf of the 1.3 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to express our support for the Medicare prescription drug benefit proposal you unveiled today.

AFSCME has long supported the creation of a Medicare prescription drug benefit that is comprehensive in coverage, affordable and voluntary for all Medicare beneficiaries. We believe that your proposal is a solid step forward in meeting these standards.

In particular, we applaud your proposal's provisions for continuous coverage. We believe that it is one of the most critical components of a meaningful prescription drug benefit. Beneficiaries must have coverage they can count on, with no gaps in coverage. Doing anything less would force our seniors to pay all prescription costs out of their own pocket when they will need the coverage the most.

Since Medicare was started over 35 years ago, many illnesses that were once only treatable in a hospital can now be effectively treated with prescription drugs. Adding a drug benefit to the program is the most urgently needed Medicare reform. We applaud you for not holding the prescription drug benefit hostage to force radical privatization proposals that would cut benefits and increase costs for retirees.

We look forward to working with you and the other sponsors of this important legislation. A Medicare prescription drug benefit is long overdue, and our nation's seniors deserve no less.

Sincerely,

CHARLES M. LOVELESS,
*Director of Legislation.*

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LEGISLATIVE ALERT

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
*Washington, DC, June 12, 2002.*

Hon. BOB GRAHAM,
*U.S. Senate, 524 Hart Senate Office Building, Washington, DC.*

DEAR SENATOR GRAHAM. On behalf of the 13 million members of the AFL–CIO, I am writing to commend you for your efforts to provide much-needed relief to Medicare beneficiaries. Your proposal to create a voluntary drug benefit within the Medicare program represents an encouraging and solid step toward enacting the one reform most urgently needed for Medicare.

Seniors need a real benefit that provides comprehensive, continuous and certain coverage. The Graham-Miller-Kennedy bill provides that benefit, giving seniors coverage they can count on. A Medicare drug benefit must also be affordable for beneficiaries. The $25 monthly premium and zero deductible in your proposal means seniors need only pay an affordable premium to begin getting coverage immediately. And no senior will have to pay more than $40 for the drugs they need and often will pay less.

In addition, your proposal would not put at risk those retires who currently have some prescription drug coverage through an employer. Retiree heath care is the primary source of prescription drug coverage for seniors, and your proposal rightly provides from relief for employers that choose to continue that coverage.

A proposal widely reported under consideration by House Republican leaders offers only unreliable, expensive and unworkable coverage through private plans, with an enormous gap in coverage that leaves seniors without any coverage at all for drug costs between $2000 and $4500. And the only relief for employers is if they drop the coverage they now offer. Such a proposal will not move us any closer to a real benefit.

As this debate moves forward, we want to work with you and your co-sponsors to enact the best possible Medicare drug benefit. We appreciate your role in advancing that process.

Sincerely,

WILLIAM SAMUEL, *Director,*
*Department of Legislation.*

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ALLIANCE FOR RETIRED AMERICANS,
*Washington, DC, June 12, 2002.*

Senator EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: On behalf of the over 2.7 million members of the Alliance for Retired Americans, I want to thank you for your tireless work on behalf of older and disabled Americans to create a Medicare prescription drug benefit program. I also want to express our views on the Medicare prescription drug legislation proposed by you and Senators Graham and Miller. The Alliance supports this proposal as a positive step forward in the effort to create a Medicare prescription drug benefit program.

The Alliance for Retired Americans believes that all older and disabled Americans need an affordable, comprehensive, and voluntary Medicare prescription drug benefit now. Such a benefit program should have low monthly premiums, annual deductibles, and be administered as part of the Medicare program. Your proposed legislation meets these Alliance principles. Unlike other proposals that would begin in 2005, your plan would start in 2004, which gives beneficiaries the coverage they need a full year earlier.

The Alliance will work to enact your legislation. During legislative deliberations, the Alliance will seek to improve benefits because we believe that an 80/20 co-insurance payment system, like the rest of Medicare, will provide the best benefits for older and disabled Americans. The Alliance also supports a $2,000 annual catastrophic cap. We will continue to work to improve any legislation that moves through Congress in order to reach these goals.

Older Americans will spend $1.8 trillion on prescription drugs during the next decade. The inflation rate for prescription drugs will continue at an annual double digit pace as well. Our members and indeed all Americans simply cannot afford these costs. We look forward to working with you and Senators Graham and Miller to enact a comprehensive Medicare prescription drug benefit as soon as possible.

Sincerely yours,

EDWARD F. COYLE
*Executive Director.*

Mr. GRAHAM. Madam President, what does our plan provide? Our plan will require of seniors who voluntarily elect to participate a $25 monthly premium to do so. There will be no deductible. There is an easy-to-understand copayment system, which is $10 per prescription for generic medication and $40 per brand name, medically necessary drug.

I will pause at this point and point out the connectedness of this plan and this structure of benefits to the underlying legislation we have been discussing throughout the week to make it easier for all Americans to gain access to generic drugs.

Our legislation has a strong incentive for the use of generic drugs by having the $10 copayment for generics, $40 for brand names. To the extent that more generics are available, which, of course, is the purpose of the underlying bill, we will reduce the cost of this program and make it even more affordable to senior Americans.

We set a maximum out-of-pocket expense of $4,000 per year. Above that, all of the senior's drug cost, including copayments, will be covered. This is the so-called catastrophic coverage.

Seniors with incomes below 135 percent of the poverty level will pay no premiums, and beneficiaries with incomes between 135 and 150 percent of poverty will pay reduced premiums. We want all senior Americans to be able to participate in this program.

Our plan uses the same delivery model that America's private insurance companies utilize. It happens to also be the same model used by the Federal Employees Health Benefits Plan, a plan that covers virtually everybody in this Chamber.

We use pharmacy benefit managers, or PBMs, to deliver and manage prescription drug benefits, just as they do in virtually every major private and public sector employee health insurance plan. PBMs are companies that negotiate with pharmaceutical companies to get discounted prices based on their volume purchase.

We would allow all seniors a choice of which PBM to join. This would give choice to seniors, and it would give them the opportunity to shop among the PBMs that are competing for their business so that they, the senior, can decide which PBM best meets their particular needs, including factors such as the availability of mail order delivery and access to local pharmacies.

PBMs would be accountable to the Medicare Program and to all taxpayers. They would be required to demonstrate their ability to keep costs down through effective purchasing practices and provide quality service in order to win and keep a Government contract.

CBO has given us an estimate of our plan today. CBO estimates that our plan through the year 2010 would cost $421 billion. Taking into account, in addition to the base cost, the benefits that would flow by the adoption of the underlying generic bill, that figure is reduced to $407 billion through the year 2010.

That date is important because part of our legislation is a required reauthorization by the Congress in 2010. In much the same way as we are now reauthorizing Welfare to Work after it has been in place for 6 years, we would require the reauthorization of this prescription drug benefit so we can take into account the experience we will have gained and make an assessment as to what kind of prescription drug benefit we want to carry into the future.

If the program is extended, then the 10-year cost of the plan through the year 2012 would be an additional $173 billion.

Because this prescription drug benefit would represent the largest expansion of the Medicare Program in its 37-year history, we believe it is important for Congress to review the program to see how well it is working and whether it has given seniors the coverage they need.

Madam President, our good friend and colleague from Utah has introduced legislation which has a similar objective to the one we are proposing; that is, to assure that seniors would have access to a comprehensive, universal, affordable prescription drug benefit.

I have comments to make about the plan which has been introduced. I will defer those comments, however, until Monday.

To conclude tonight, I want to say we are still hearing the background noise that all of this is theater, that there is no real commitment to passing a prescription drug benefit in the year 2002, as there was not in 2001, 2000, and on for the many years which seniors have been promised by different people seeking office that if elected they would deliver on a prescription drug benefit.

What we are committed to today—and I believe this feeling also carries to my good friend from Utah and those who have joined him in his legislation—is we are not interested in election year posturing. We want to actually accomplish a result. We want to be able to say to our senior Americans, we have turned the corner. No longer are you participating in a sickness program, but you are now participating in a program which has as its primary commitment assuring that all senior Americans can live in the highest state of good health.

Our Nation's seniors have waited too long for the help they need to purchase their prescription drugs. An unconscionable number of these people are forced every day to choose between filling a doctor's prescription for a needed medication and paying for other basic needs. These people are not numbers in a statistical database. They are not strangers. These people who have been waiting and waiting are our parents and our grandparents. They are our neighbors. They are the people we used to work with. They are our friends. They are the Americans of the great generation.

We now have a challenge, an opportunity, a responsibility to respond to this great need that they have of some assistance in paying for what has become the fastest growing segment of our health care costs—prescription drugs. If we do not act on the prescription drug benefit this year, I fear the American people will lose confidence in the Congress and our ability to make the tough choices necessary to address our country's priority domestic issues.

Certainly, I do not claim that our bill is perfect, but I do suggest that it is as good as our collective efforts have been able to make it at this point. I believe this amendment justifies the support of our colleagues, as it has already received the support of virtually every major organization which represents the interests of America's seniors.

So I look forward to a full discussion and debate in the best tradition of this great deliberative body. I hope at the end of that debate we not only will have a better understanding of the options before us, but we will have reached a conclusion that will command the votes of a sufficient number of Members of this Senate that we can tell our senior constituents we have heard their long call for assistance in paying the costs of increasingly expensive prescription drugs; that we understand the importance of that call, and that we are now responding to that call. That is the challenge and that is my hope of what will be the conclusion of this debate.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Utah.

Mr. HATCH. I want to express my appreciation to my colleague from Florida. He is an eminent member of the Senate Finance Committee. He is a very serious, reflective Member. He has worked hard to come up with his bill. I respect him for it, and I wish him well with it. However, I will say a few things about Senator GRAHAM's bill before I finish.

Tonight, I introduced an amendment that is called the tripartisan bill. I introduced it on behalf of Senator GRASSLEY for himself, Senators SNOWE, JEFFORDS, BREAUX, COLLINS, LANDRIEU, HUTCHINSON, DOMENICI, and myself. We believe this tripartisan bill is the only nonpartisan bill being considered by the Senate at this time. It is a very important effort by people of goodwill on both sides and, of course, the only Independent in the Senate.

I want to take this opportunity to talk a little bit about the tripartisan bill. Many of these points were raised two nights ago, when I spoke on the Senate floor about our tripartisan proposal. Tonight, I will raise them again because I believe that all of them are extremely important and worth listening to again.

While drafting this legislation, we tried to reach out to everyone who has an interest in this issue. We have taken this very seriously, and we have worked on it for well over a year. This has required many hours of meetings, among all of the sponsors of the bill and our staffs along with other interested parties. Let me assure everyone that this has been a unified effort, one which has required some give and take from all of us.

We have worked with CBO to come up with a cost-efficient solution. The Congressional Budget Office has told us that our bill will cost $370 billion over 10 years. As far as I know, the Daschle-Graham-Miller bill, S. 2625, does not have a CBO score, but I suspect that it is extremely expensive. The distinguished Senator may have some idea of what that score is because he has indicated that the amendment that he just introduced will cost around $600 billion, if I understand it, over 10 years. The prescription drug program in the Graham legislation would include a sunset at the end of 2010, which is one of the problems with this legislation.

On the other hand, there are no sunsets within our bill. Our tripartisan bill is a permanent solution, not a temporary solution. CBO informs us that once our bill is implemented, 99 percent of all seniors will have drug coverage. That would be truly remarkable. And that is CBO, not us.

Again, this is a nonpartisan approach to providing prescription drugs to Medicare beneficiaries. On the other hand, the Daschle-Graham-Miller bill sunsets after 2010. So in my opinion, that bill is only a temporary solution.

Does a temporary solution truly help seniors in the long run? I do not think it does. Our tripartisan bill provides all Medicare beneficiaries with affordable prescription drug coverage because we let competition determine the prices, not Government bureaucrats. That is how we keep prices of drugs down. It is not a good idea to let the Government set the price, which is what I predict will happen if the Daschle-Graham bill becomes law.

We also provide additional subsidies to low-income seniors so they, too, can afford to pay for their drugs. I find it absolutely appalling that there are people in our country who have to choose between buying food and eating, and having prescription drugs. The tripartisan group's goal is to put an end to that. Through our bill, we will provide additional assistance to those seniors who need it. For example, the 10 million beneficiaries with incomes below 135 percent of poverty will have 95 percent of their prescription drug costs covered by this plan with no monthly premium. They will not have to pay a monthly premium. In addition, these seniors are exempt from the deductible and will pay well under $5 for their brand name and generic prescriptions. Finally, these beneficiaries who reach the catastrophic coverage limit will have full protection against all drug costs, with no coinsurance.

The 11.7 million lower income beneficiaries with incomes below 150 percent of the poverty level are also exempt from the $3,450 benefit limit. Enrollees between 135 percent and the 150 percent of the Federal poverty level will also receive a generous Federal subsidy that on average lowers their monthly premium to anywhere between 0 and $24 a month. The beneficiary's monthly premium will be based on a sliding scale, according to his or her level of income.

It also cuts in half their annual drug bills. All other enrollees will have access to discounted prescriptions after reaching the $3,450 benefit limit and a critically important $3,700 catastrophic limit which protects seniors from high out-of-pocket costs. It is also important to note that 80 percent of Medicare beneficiaries will never experience a gap in coverage.

Let me take a few minutes before we finish this evening to talk about my views on S. 2625, the Daschle-Graham-Miller Medicare Outpatient Prescription Drug Act of 2002. I understand that a new Graham bill has been filed and we are currently reviewing the details. We have not been able to review it very thoroughly, but we have a quick preview of it, and perhaps I can express my thoughts this evening just so people will have something to consider over the weekend.

Again, I commend my good friend, a person I admire greatly, Senator BOB GRAHAM, for his bill. I know he has worked hard. I know he has tried his best. I know he is representing his people in Florida very well and he has worked long and hard on this issue. I respect him for that. I respect him personally. He knows that. He, like those in the Senate in the tripartisan group, has the same goal: To provide Medicare beneficiaries with prescription drug benefits. But that is where the similarities end.

My biggest concern with the new version of the Daschle-Graham bill is still the cost. My understanding is that this bill costs close to $600 billion, over a 10-year period. We all agree a Medicare drug proposal will cost a lot of money, but the Daschle-Graham-Miller bill is, in my opinion, too expensive to both current and future generations because of the magnitude of its costs.

And bear in mind, this bill is still not a permanent program. It sunsets. It sunsets after 2010, which makes it a less than 10 year benefit for approximately $600 billion. That is if I am right on the scoring. I believe having the sunset on such an important bill just to get a decent score from CBO is not being as fiscally responsible as I would like to be. I understand there is some window-dressing language that attempts to address the sunset, but to me that is all it is—window dressing.

Having said that, I am absolutely astounded that the AARP has come out and ask its members to support a bill that does not have a permanent benefit. That is just irresponsible on the part of the AARP. They are, in my opinion, not looking out for the best interests of seniors by asking their members to support this type of a bill. I am very disappointed in the AARP for making what I believe is a poor judgment call.

Again, one of my top concerns with the both versions of the Graham bill is the cost. It is not going to get better as drugs become more expensive and more and more baby boomers retire. I remind my colleagues, our Government is in a Federal deficit. Figures from last week reveal that the Federal deficit could be as high as $150 billion for fiscal year 2002. Passing a bill that I believe could cost well over $600 billion over 10 years is going to increase our deficit. That is, in my opinion, a step in the wrong direction.

The new Graham bill is still a one-size-fits-all bill that very well could lead to having the Federal Government set drug prices, although I know that is not the intention of my dear friend and colleague from Florida. That is, in my opinion, the wrong direction, as well. And why on earth should the Federal Government be making coverage decisions for seniors? I trust senior citizens to make their own decisions about their health coverage. Apparently, the authors of the Daschle-Graham-Miller bill do not agree and that is why they continue to put the Government in charge.

I look forward to the debate on Monday where we can discuss these issues more fully. If I am wrong on some of these suggested interpretations of my friend's bill, I would like him to set me straight on Monday when we debate this bill even further. I would like to know why anybody believes a sunset is necessary. That means the drug benefit ends. I hope we will have a CBO cost estimate we may review regarding the Graham legislation.

Again, I wish to point out that I continue to be concerned that under both versions of the Daschle-Graham legislation, the drug benefit is run by the

Federal Government. I don't think that is a good idea, to let the Government run a drug benefit because the Government will end up setting prices for drugs. Keep in mind, Canada sets prices for drugs, and where is their pharmaceutical industry today? They have to look to us because we do not set prices for drugs and we have a competitive system. Yes, some say it has flaws, but it is the best in the world, bar none. Frankly, with whatever flaws there are, we should be very proud of the system we have in our country.

In the tripartisan Medicare drug bill, we allow Medicare beneficiaries to make choices for themselves. They decide whether or not they want drug coverage. As I mentioned earlier, we allow Medicare beneficiaries to choose from at least two drug plans, and it maybe more, but at least two, competing plans, allowing them to select a plan that best suits their own personal needs.

Another difference between the Daschle-Graham bill and our Tripartisan bill is that we include reforms to the Medicare program and they do not. The current Medicare benefit package was established in 1965. While the benefits package has been modified occasionally, it now differs significantly from the benefits offered to those in private health plans. Our plan gives seniors a choice in their Medicare coverage seniors may remain in traditional Medicare or they may opt for the enhanced Medicare fee for service option which is similar to private health insurance. We do not force seniors to enter into the new enhanced fee for service plan. It is just an option. If beneficiaries want to stay in traditional Medicare that is fine.

We need to give seniors choices concerning their health care coverage. Seniors must be given improved health care choices through the Medicare program. It is extremely unfortunate that the Daschle-Graham-Miller bill does not recognize that the Medicare program needs to be improved so seniors can take advantage of the benefits that are offered by private health insurance. Keep in mind, our bill only costs $370 billion as scored by the Congressional Budget Office. Yet we still reform Medicare in addition to providing high quality prescription drugs to our people. There is nothing in the Daschle-Graham-Miller bill to improve the Medicare program. It just tacks on a prescription drug program and ignores the larger problem. Medicare beneficiaries deserve better.

Senator BREAUX deserves an awful lot of credit for our bill in this area. He has wanted to reform Medicare for a long time and has come close from time to time. This is the best opportunity to do it. I think he sees the value of what we have tried to do. He not only sees it, he helped implement it.

The larger problem is the overall Medicare benefits package which is outdated, inefficient and it does not provide seniors with decent health care options. Let me give you an example. Today, Medicare beneficiaries do not have any serious illness protection. Beneficiaries who are seriously ill end up paying a lot of money out of pocket for their health care coverage each year. In our Tripartisan legislation, if a beneficiary is covered under the new enhanced fee for service program, once that beneficiary reaches a catastrophic limit of $6000, the Medicare program pays 100 percent of any costs incurred by the Medicare beneficiary. I feel that is only fair. Those Medicare beneficiaries with serious health conditions should be offered a choice in benefit coverage so if they want serious, illness protection, they may have it. The Graham-Daschle-Miller bill does nothing to assist Medicare beneficiaries in these types of situations. The Daschle-Graham-Miller bill's answer is to provide seniors with a government-run prescription drug benefit that is extremely expensive, and, isn't even permanent. That just is not enough.

These issues that I have raised about the Daschle-Graham-Miller should have been debated by the Finance Committee. I admit the issues we have raised by the Tripartisan bill should have been debated by the Finance Committee. Who knows, maybe we could have come to some resolution. Maybe the authors of the Tripartisan bill and the Daschle-Graham-Miller bill could have come to some agreement through the Committee mark-up process. Maybe not. Sadly, we will never know because the majority leader wouldn't even give us an opportunity to mark-up a prescription drug bill in the Finance Committee.

I have been here for 26 years and, trust me, it is rare for the full Senate to be considering such an important bill before it is even considered by the Committee of jurisdiction. I am bitterly disappointed at how much the Senate has changed.

At the beginning of the 107th Congress, we all talked about working together in a bipartisan spirit because that is truly what the American people want from us. What happened to that bipartisan spirit? Why are we on the floor debating a bill that will affect the lives of over 33 million Medicare beneficiaries and millions of future beneficiaries without a Finance Committee mark-up? I just do not understand why members of the Finance Committee were not even given that opportunity and, in fact, completely excluded from the process, other than that we can file whatever bill we want to, which we have done.

I want to do everything I can to pass a Medicare prescription drug bill into law this year. But it appears that election year politics are more important than passing a well-thought out prescription drug bill which is extremely unfortunate.

I stand ready to work with my colleagues so that we can provide affordable prescription drug coverage to our Medicare beneficiaries this year. We need to have Medicare available for today's seniors, our children and our grandchildren. So let's stop playing politics and start working on getting a Medicare prescription drug bill signed into law this year. I have no doubt if the distinguished Senator from Florida and I could sit down together we could just work it out—I have no doubt about that. Unfortunately, it has gotten embroiled in some political aspects.

Again, I call attention to the tripartisan bill which has Democrats, Republicans, and the sole Independent. I believe that bill literally could provide an affordable drug benefit for Medicare beneficiaries, although it is still expensive. It could do what we really need to have done—not only on the prescription drug benefit aspect of this matter but also on the Medicare reform as well—and Medicare+Choice as well. To me, that is very important.

I look forward to working with my colleague from Florida and others on the floor and hope we can come to a resolution this year, so the millions of American citizens will have the benefits that we really should be delivering to them and which they need and which are right and just.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, as I indicated, I restricted myself this evening to discussing the essence of our proposal and what I think are the six principles against which every proposal should be evaluated. I defer until Monday a close evaluation of the legislation that has been introduced by our good friend from Utah and others. One of the things I do not want to do is to create a poisoned environment which will make it difficult, if not impossible, to do what I think seniors want, which is to arrive at a reasonable compromise that will provide them with a prescription drug benefit.

They have heard us too many times, as candidates, place in their living rooms on their television screens ads that pronounce our commitment to a prescription drug benefit for senior Americans.

Now is the time to deliver. I recognize that in a democracy that means we have to have at least a majority, and probably under the rules of the Senate not just a majority but three out of every five Senators be prepared to vote for a single piece of legislation.

Therefore, I reach my hand out across the aisle to two of my favorite colleagues, the Senator from Utah, who is now being joined by the Senator from Iowa, with whom I worked on many issues in the past, to say we look forward to engaging in that compromise.

I do want to have printed in the RECORD, and I ask unanimous consent to do so, the CBO estimate of our bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

*Democratic Drug Bill—Preliminary CBO Estimates*

[In billions of dollars]

| | |
|---|---|
| Full Score (2005–12) | |
| Gross estimate | 594 |
| Score with % drug reduction from GAAP[1] | 584 |
| Score with Federal GAAP savings[2] | 576 |
| Score with Contingency (2005–10) | |
| Gross estimate | 421 |
| Score with % drug reduction from GAAP[1] | 415 |
| Score with Federal GAAP savings[2] | 407 |

[1] CBO estimate of Democratic drug bill assuming lower drug prices for Medicare beneficiaries that would result from enactment of the GAAP bill (S. 812).

[2] Estimate of Democratic drug bill assuming lower drug prices for Medicare beneficiaries that would result from enactment of the GAAP bill (S. 812) and savings from lower costs associated with prescription drugs that the government currently pays for under the Medicaid, veterans, and other programs.

Mr. GRAHAM. Mr. President, the estimate of our bill is that, in conjunction with the underlying generic drug bill, if that passes and makes generic drugs more available, our bill, which would only charge a $10 copayment for generic drugs as opposed to a $40 copayment for brand name drugs—our bill would have a cost over the next 8 years of $407 billion—not $600 billion, or $800 billion, or, as some have even said, $1 trillion—and over the next 10 years would have a cost of $576 billion.

I might point out that this is the same program for 8 years that will cost $407 billion, and for 10 years will cost $576 billion.

That differential is a reflection of how significant two factors are: One, inflation of prescription drug costs; and, second, the change in the demographics of Medicare beneficiaries.

I happened to have been born in 1936. I was 65 years old on November 9 of last year. I belong to the second lowest birth rate year in the 20th century. Only 1933 had a lower birth rate than 1936. Therefore, there are not very many people my age. We are not putting a particular demand on Medicare or on the Social Security Program. But, in 10 years, it will be the people who were born in 1946—not 1936—which was the beginning of one of the greatest demographic revolutions in America or American history.

We are going to begin to feel the impact of that revolution at the outer years of the 10 years. We are now calculating the cost of this program. It is my judgment that it is critically important that we now get started on this prescription drug benefit so that we can learn as much as we possibly can about what the implications are of delivery systems, of methods of providing benefits, and how to attract healthy, older citizens to participate in a prescription drug benefit—all the things that will be critical to the long-term stability of a prescription drug benefit. We need to start that process today when the demand is relatively low—not 5 or 10 years from now when the demand will begin to rapidly escalate.

We have before us two different visions of how to get to the same destination. The Senator from Utah has outlined a number of issues of concern to him. I look forward to having a full debate on Monday. Hopefully, we can frame each one of these issues, such as the relative benefits of using the Medicare system as a means of delivering prescription drugs, or delivering it through subsidized private insurance policies—the relative benefits of having what I call a "defined benefit plan" where seniors would know what they are buying as opposed to a defined contribution plan where there would not be that assurance.

Those are all legitimate issues for us to debate.

I suggest to my colleagues that they might take the time over the weekend to read the letters of endorsement from groups such as the AARP, which clearly has no interest other than representing the best interests of their millions of members—most of whom are part of this 39 million Americans who are Medicare participants because they are over the age of 65. There is no reason to suspect their motives, or that they have some hidden agenda other than what they think is in the interest of senior Americans.

I recommend reading their rationale for reaching the conclusion of their support for our proposal.

I conclude tonight with a sense of optimism. We have gotten further this week than we have gotten in a decade in terms of closure on providing our older Americans with a key but missing part of their health care coverage; that is, assistance with their prescription drug costs.

I hope next week we can complete this by the passage of a prescription drug bill recognizing that we have to negotiate with the House, and then secure final passage, and hopefully gather in the Rose Garden where I suspect that the President will, with great enthusiasm, be there to sign this bill into law and provide what America's older citizens have so long sought, an affordable, comprehensive, and universally available prescription drug benefit.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am surely glad that this debate has begun. It is too bad we could not have started the debate on this bill on Monday or Tuesday of this week when the majority leader led us to believe that we would be doing nothing but prescription drugs until we got it done.

I am glad that we now have Senator GRAHAM's alternative before us.

I thank Senator HATCH, who took the position as manager, while I was on the CNN program just a few minutes ago, to introduce the tripartisan bill on my behalf. That bill is a comprehensive prescription drug bill that represents a year of hard work by dedicated members of the Finance Committee, the committee that has jurisdiction over Medicare.

We have Senator GRAHAM's bill that you have heard about tonight. Then we have this tripartisan bill. People wonder what the term "tripartisan" means. It means three Republicans, one Democrat, and one Independent in the Senate, but it also implies bipartisanship, or across-party cooperation that must be done to get any bill passed in the Senate.

Our legislation is called the 21st Century Medicare Act. It makes essential improvements to Medicare by adding the comprehensive prescription drug benefits, and a new Medicare fee-for-service option to the 1965 program. These are all the first improvements in Medicare since it was introduced in 1965.

As I indicated to you, I have been honored to work with a top-notch group of Senators on this bill. That tripartisan group is OLYMPIA SNOWE, a Republican; JOHN BREAUX, a Democrat; JIM JEFFORDS, an Independent; and ORRIN HATCH, a Republican. The group has dedicated countless hours to this effort.

I must express my disappointment that the Senate Finance Committee has not had an opportunity to consider legislation as part of the committee process. I trust that Senator GRAHAM of Florida will feel the same way. However, the bottom line is America's seniors have waited too long—and too long already—for Medicare prescription drug coverage.

The House has acted in their fashion. The Senate must act as well. We cannot afford to waste a single day.

I look forward to debating this important issue over the next few days and hope that the same bipartisan spirit of cooperation and compromise that guided the tripartisan group over the last year to write this bill will guide all Senators in this Chamber to an agreement that will give long overdue help to our seniors.

Since the tripartisan bill is now introduced, since we have the Democrat version, and Senator GRAHAM's bill is introduced, and since there is some misunderstanding of the differences between the two, I will take just a little bit of time to go over those. I also will take just a little bit of time to express some differences between the bill that passed the House of Representatives because some people have alluded to that bill as something just exactly like the tripartisan bill, which it is not.

In regard to differences between Senator GRAHAM'S proposal and the tripartisan proposal that I have offered, the first would be cost.

The sheer magnitude of Federal spending in the Senate Democrat bill—an amount that is obscured by a sunset provision that kills the benefit in 2010—threatens Medicare's long-term stability. As such, the Senate Democrat bill gives seniors temporary help, not a permanent entitlement.

By contrast, the Congressional Budget Office official estimate concluded that the tripartisan 21st Century Medicare Act totals $370 billion over 10 years, a figure that guarantees permanent, affordable drug coverage without breaking the Medicare bank.

There is also the issue of choice that separates the tripartisan plan from the Democrat plan. The Democrat plan relies on the Government to pick one standard prescription drug plan for over 40 million seniors with Medicare. The one-size-fits-all approach means seniors cannot shop for a prescription drug plan that best suits their needs.

Under the tripartisan 21st Century Medicare Act, seniors are guaranteed to have at least two competing prescription drug plans in their community, even in rural areas, using local pharmacies as well. Seniors will have the choice of picking plans on the basis of cost, benefits, and quality. All plans will be required to meet Federal quality standards and to provide a standard benefit package, or its actuarial equivalent, including a $3,700 cap on out-of-pocket drug expenses for seniors.

There is a difference in drug pricing. Because the Democrat plan is overly bureaucratic and excessively generous, that plan does nothing to curtail or even slow skyrocketing prescription drug costs. That is why it is essential that any new prescription drug benefit contain cost management controls that moderate growth in price.

While guaranteeing a comprehensive drug coverage for all citizens, the tripartisan 21st Century Medicare Act imposes reasonable cost-sharing obligations on beneficiaries and promotes competition among prescription drug plans. And with competition being promoted in the bill, that then leads to a better overall effect on drug prices. And that, again, is according to the nonpartisan Congressional Budget Office that does policy analysis and scoring for the Senate.

The other issue is affordability, affordability for seniors. Under the Senate Democrat plan, seniors face fixed copayment amounts that, in many instances, mean they will actually pay more for many of the most commonly prescribed drugs than they would under a system that gives prescription drug plans more flexibility to offer lower cost copayments.

That flexibility is a feature of the tripartisan 21st Century Medicare Act because it gives plans the freedom to offer copayments and deductibles that save seniors more money. Moreover, the tripartisan proposal has a lower average premium than the Democrat plan, and that would be $24. Again, this is according to a Congressional Budget Office estimate.

We have Medicare enhancements in the tripartisan bill that the Senate Democrat plan does not have because that plan leaves current Medicare as it is and simply dumps a massive entitlement expansion, which would be the prescription drug plan, into the old 1965 model.

The tripartisan 21st Century Medicare Act takes long overdue steps to strengthen and improve Medicare's basic benefit package. In addition to adding prescription drug coverage, the bill offers seniors a new enhanced option, including catastrophic protection and free—let me emphasize, free—preventive care; in other words, adopting the principle that an ounce of prevention is worth a pound of cure.

This entire enhanced option is voluntary. If seniors like what they have had since 1965, they do not have to sweat it. They do not have to do it. They can keep what they have. Even 50 years from now they will still have that same choice, but they can also have the enhanced coverage as well. So it is voluntary. And Medicare, as we know it today, will always remain available to seniors who prefer to keep what they have, if they like it.

Improvements are made to yet another coverage option. That coverage option exists today. Medicare+Choice plans are also included. Beneficiaries need not elect the enhanced option in order to have access to the drug benefit plan.

I will finish, then, with a short description of why what the House of Representatives passed has nothing to do with the tripartisan plan.

The tripartisan plan was adopted on principles and pricing and costs, the way the five of us decided to do it. For instance, the House bill has a higher average premium. This is according to the CBO estimate. The average premium under the House bill is $34 per month. The average premium under the tripartisan 21st Century Medicare Act is substantially more affordable, at just $24 per month.

We have a much better benefit. The House bill limits the initial prescription drug benefit to $2,000 before exposing seniors to a gap in coverage. The tripartisan 21st Century Medicare Act basic drug benefit is better and is richer than that in the House bill. Seniors will have drug coverage under the tripartisan plan worth 50 percent of their drug spending up to $3,450 after the deductible is met, and that is $1,450 more than what the House bill offers, even in its initial benefit.

We have greater protection for low-income seniors in this Senate version. The tripartisan 21st Century Medicare Act steps in to give more help to low-income seniors where the House bill does not. It provides full assistance with premiums and substantial assistance with cost sharing for seniors below 135 percent of poverty with no gaps in coverage. For seniors between 135 percent and 150 percent of poverty, assistance with premiums and cost sharing is provided on a sliding scale, also with no gaps in coverage. This critical additional coverage for our most vulnerable seniors is an important distinction that reflects the tripartisan commitment to universal, affordable drug coverage for all.

And then, lastly, I will speak about our enhanced option to which I have already referred. The House bill leaves the 1960s-style Medicare largely as it is today. It does provide $30 billion in additional funds to Medicare providers, but it does little to strengthen or improve Medicare's basic benefit package.

Rather than addressing provider payment issues, the tripartisan 21st Century Medicare Act addresses Medicare's benefit flaws. It offers seniors a voluntary enhanced option, including catastrophic protection, free preventive care, and better Medigap plans.

The new option would be offered alongside current fee-for-service Medicare and a strengthened Medicare+Choice. Seniors can keep what they have if they like it or choose the new option. In all three settings, access to affordable prescription drug coverage would be guaranteed.

I just mention the difference, that the House bill does not have a new and improved and modernized Medicare option that we have in the tripartisan bill.

(Mr. JEFFORDS assumed the Chair.)

Mr. GRASSLEY. Since the distinguished Senator from Vermont has now come to the chair to be the Presiding Officer of the Senate, it gives me an opportunity to say that this provision in the tripartisan bill, of improving Medicare, bringing Medicare from a 1965 model to a 21st century model, improving it beyond the prescription drug provisions, was very much a concern of the Senator from Vermont, the Independent member of the Senate, Mr. JEFFORDS. I thank him very much for his contribution to that.

It really has probably done as much for Medicare as the prescription drug provisions will, as we look to the day when we have baby boomers going into transition from their employer's health plans to Medicare. There will be a smooth transition if they choose the enhanced option; whereas all the other plans, including the Republican plan in the House of Representatives, including even the President's plan, Medicare will still be a 1965 model. And for baby boomers going from their modernized employer's health plan to the 1965 model of Medicare, if that is the only choice they had, it would not be a very good day for those baby boomers going into retirement.

It has been such a pleasure to work with Senator JEFFORDS on this whole package, but most importantly, to have his leadership on this part that deals with the enhanced option, the new and improved and strengthened Medicare.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD this letter to Mr. Carl Feldbaum of the Biotechnology Industry Organization.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, July 18, 2002.*

Mr. CARL B. FELDBAUM,
*President, Biotechnology Industry Organization, Washington, DC.*

DEAR MR. FELDBAUM: I was surprised to receive your letter of July 15, 2002, opposing S. 812. The Greater Access to Affordable Pharmaceuticals Act (the GAAP Act or Schumer-McCain). The record is abundantly clear that the pharmaceutical industry is exploiting loopholes in our Hatch-Waxman drug patent laws to block less costly generic drugs from coming to market. As our hearings revealed, these actions hurt millions of American patients who are burdened with rising health care costs.

The exciting new cures brought forward each day by America's biotech companies are paving the way for what I believe is the new century of the life sciences, and I remain a proud champion of the biotechnology industry in Massachusetts and across the nation. It is important, therefore, as an industry concerned about the health of all Americans, for BIO to acknowledge the harm to American patients and consumers caused by today's Hatch-Waxman abuses. Clearly, collusive agreements between brand-name companies and generic companies to block cheaper generic drugs from coming to market do not serve the public interest. Similarly, patients are harmed when generic drugs are stymied year after year by unfounded patent evergreening for brand name drugs. I would strongly encourage BIO to be part of the solution to these challenges.

The Schumer-McCain legislation addresses these abuses and restores the balance intended under the Drug Price Competition and Patent Term Restoration Act of 1984 (the Hatch-Waxman Act). As your letter expresses concerns about the legislation, this letter describes in further detail the Committee's intent in addressing them,. The issues you raised include incorrectly listed patents or patent information with the Food and Drug Administration (FDA), use of patents to trigger multiple thirty month stays that delay effective approval of generic drugs, collusive agreements between brand and generic pharmaceutical companies to block subsequent generic applicants from gaining effective approval of their drug products and litigation attacking FDA's bioequivalence regulations that have delayed entry of generic versions of drugs.

### THE 45 DAY PERIOD TO ASSERT PATENT RIGHTS

You express concern that a patent owner's rights will be forfeited under Schumer-McCain. I want to reassure BIO that this is not the case.

Section 4 of Schumer-McCain says that a patent owner that does not sue within 45 days of receiving notice that a generic drug applicant has challenged its patent will be barred from suing that generic drug later.

This provision provides the patent owner with the opportunity to protect its patent rights. It also clarifies those rights in relation to the generic drug product at issue if the patent is not defended, thereby enabling the generic drug product to be marketed immediately. The 45 day period may be thought of as a statute of limitations, and Congress has plenary authority to establish statutes of limitations for federally created rights such as patents. In addition, comparable periods of time for claiming or defending property rights have been upheld by the Supreme Court.

This provision does not eliminate the patent owner's rights against the generic drug applicant and its generic drug product. Rather, it specifies the time within which the patent owner must assert those rights against that applicant and its drug product.

I cannot overemphasize that the bar on enforcing the patent right under this 45 day rule applies only to the particular generic product of the particular generic company that has challenged the patent in its generic drug application. It does not affect the ability of the patent owner to enforce its rights with respect to any other generic company, or with respect to a licensee who strays beyond the bounds of a licensing agreement under which the patent owner has licensed use of the patent.

That being said, I also point out that the bar does protect downstream distributors of the particular generic drug product, such as wholesalers and pharmacies, as well as doctors and patients who will use the generic drug product for treatment.

### ENFORCEMENT OF THE PATENT LISTING REQUIREMENT

Seciton 3 of Schumer-McCain says that a patent owner cannot enforce its patent against a generic drug company, or a person who manufactures, develops, uses, offsets to sell, or sells a generic drug, if the patent owner has failed to list the patent information at FDA. This provision provides an effective enforcement tool for a current requirement.

Drug companies are required currently to list patents at FDA, and I am not aware of any complaints about this requirement from the brand pharmaceutical industry. We understand that now companies generally comply with this requirement because patents can trigger 30 month stays of the effective approval of generic drugs.

As you know, however, Section 4 of Schumer-McCain limits 30 month stays to one per generic application, and on only certain patents. The Committee's concern was that limiting 30 month stays in this way reduces the incentive to list patents. We therefore concluded that we needed to provide an effective incentive for compliance with the current requirement to list patents at FDA. Otherwise, we were concerned about increased abuses of the listing requirement.

Currently, under section 505(e)(4) of the Federal Food, Drug, and Cosmetic Act (the FFDCA), FDA can withdraw a drug from the market if the patent information is not filed after the agency gives written notice of failure to file the information. FDA has never used this enforcement tool, and it would not withdraw a drug from the market for this reason when the drug presumptively is being used safely for treatment of patients by health care providers. I believe that Section 3 of Schumer-McCain provides effective enforcement of the FDA listing requirement.

Your letter raises the real concern about situations in which a patent is not listed, or the information is incorrect, because of an oversight or a clerical error. But Schumer-McCain addresses this problem as well.

Section 3 of Schumer-McCain allows FDA to extend the date for listing patents if there are extraordinary or unusual circumstances. An honest administrative or clerical error is clearly such a circumstance. Because FDA publishes patent information immediately upon receipt, the drug company and the patent owner can promptly check that patent information is published and that it is correct. If there is an error, or a patent was not listed, the error can be spotted quickly and immediately corrected. Accordingly, Schumer-McCain allows patent owners to avoid the consequences of the inadvertent failure to list a patent with the FDA.

### THE CAUSE OF ACTION TO DELIST OR CORRECT A PATENT

Your letter also raised questions about the cause of action in Section 3 of Schumer-McCain to delist patents from FDA's Orange Book or to correct patent information. In particular, BIO is concerned that generic companies will bring these cases unnecessarily, to harass a drug company or patent owner. I do not believe that this will be the case.

A generic drug company must certify to the patents listed on a drug when it files a generic drug application. A generic company must do so even if it intends to seek the correction or delisting of a patent.

If a generic wants to delist a patent or correct information, it will likely chose to make a paragraph III certification to the patent, saying that the applicant does not contest the patent and requesting that its drug approval be made effective when the patent expires. The generic applicant will then sue to have the patent delisted or corrected.

If it wins, the patent is delisted, or the patent information is corrected so that the generic applicant may make a statement that the applicant is not seeking approval for a use claimed in the patent. In either case, no certification is necessary and the paragraph III certification essentially goes away.

Should the generic applicant lose a delisting case, however, it will have to recertify and challenge the patent under paragraph IV. This could trigger a 30 month stay, and at a minimum would delay the resolution of the patent issues involved. It is therefore my view that there are strong incentives for generic applicants to bring these delisting cases only when there is strong merit to the case. Because this is the case, it is difficult to argue that delisting cases will be either unnecessary or harassing.

To the contrary, in such cases, the delisting of a patent, or correction of patent information, serves a public good. This is because a patent to which other generic drugs would otherwise have to certify is instead either delisted or corrected so that no certification is necessary. In such cases, generic drugs may get more quickly to market, to the great benefit of consumers.

### BIOEQUIVALENCE

BIO requests that section 7 of Schumer-McCain be stricken in its entirety. I do not believe this provision raises the concerns that BIO thinks it does.

Section 7 allows FDA to amend its regulations, but it does not say that those amended regulations are legitimate exercises of authorities under the FFDCA. Only the current regulations are identified as continuing in effect as an exercise of authority under the FFDCA. Should FDA ever amend its bioequivalence regulations, they would be subject to judicial review under the Administrative Procedure Act.

Indeed, earlier drafts of section 7(a) covered the FDA's current regulations and successor regulations. But we did not intend to protect amended regulations from judicial review, so the language on successor regulations was removed.

Also, under section 7(a), the application of the current regulations in any particular case would be legitimate issues for judicial review under the Administrative Procedure Act. So FDA can be challenged if its application of those regulations will pose potential risks to patients or to public health.

Finally, BIO believes that section 7(c) is inadequate. This language, which we added in part in response to concerns from BIO, says that section 7 shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Federal Food, Drug, and Cosmetic Act. Any such authority shall be exercised under that Act as in effect on the day before the date of enactment of this Act.

This language is very similar to a statement that Senator Jeffords and I made on December 3, 1997, in a letter to Michael Friedman, then Lead Deputy Commissioner at FDA. It makes it clear that we are not changing FDA's authority under the FFDCA over biological products—in particular that we are not making changes to newly authorize the approval of generic biologics under the FFDCA. That was good enough in 1997 and should be good enough today.

I remain committed to the reforms of the Hatch-Waxman Act provided for in Schumer-McCain, just as I remain committed to a strong and vibrant biotechnology industry, both in Massachusetts and throughout the nation. I believe that the adjustments to the Hatch-Waxman Act found in Schumer-McCain correct imbalances in and will stop abuses of the generic drug approval process that have arisen in recent years. I do not believe that these reforms will adversely impact in any way a company or patent owner that diligently sees to its legal rights and obligations under Federal law.

I hope that this letter addresses your concerns, and I remain willing to work closely with my many friends in the biotechnology industry in Massachusetts and elsewhere as this legislation moves forward.

Sincerely,

EDWARD M. KENNEDY.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT REQUEST—H.R. 3210

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 252, H.R. 3210, the House-passed terrorism insurance bill; that all after the enacting clause be stricken, and that the text of S. 2600, as passed the Senate, be inserted in lieu thereof; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid on the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses; and that the chair be authorized to appoint conferees on the part of the Senate with the ratio of 4 to 3; all without intervening action or debate.

I have indicated I was going to propound this. I know there is no one present from the other side. I object on behalf of the minority, the Republicans. I do that with some reluctance because we have to move this legislation forward. It is important. I don't do this to embarrass anyone or to try to minimize what is taking place. In fact, it is just the opposite. We have to move forward on terrorism insurance.

I get calls in my office every day saying: Why can't you move this bill? The reason we can't move it is because we have an objection. I repeat what I said yesterday and the day before and the day before: We fought to get this bill on the floor. We were held up getting the bill on the floor. Once we got the bill passed, then we have fought to get conferees appointed.

The sad part about this is we were told initially: We don't like the ratio; the ratio is three Democrats to two Republicans.

We said: What do you want?

They told Senator DASCHLE: We want four Democrats, three Republicans.

We said: Fine, we will go for that.

They still won't let us clear this. It is my understanding the House is going out of session for the summer next Friday. So we have just a few days to do this. Everyone should understand why it is not being done.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I will put it back on my desk, and I will return with this in the future.

## TRIBUTE IN REMEMBRANCE OF DAVIS O. COOKE

Mr. THURMOND. Mr. President, I rise today to pay tribute to the late David O. Cooke, Defense Department Director of Administration and Management. I would like to offer my condolences to Mr. Cooke's three children, Michele, Lot and Davis, along with his other family members, friends, and coworkers. Mr. Cooke has truly imprinted an everlasting legacy on the American defense system and our great Nation. Although our Nation mourns for this tragic loss, we must remain strong in honoring such an outstanding individual. For six decades, David O. Cooke served the federal government distinguishing himself as one of the most exceptional and honorable civil servicemen of our time. He was truly a visionary, epitomizing the core values of exemplary public service. I ask unanimous consent to have printed in the Record an article from the Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 27, 2002]

### DAVID COOKE, 'MAYOR OF THE PENTAGON,' DIES

(By Graeme Zielinski)

David O. "Doc" Cooke, 81, the high-ranking administrative director who was known as the "Mayor of the Pentagon" for his work over six decades to keep the gargantuan complex humming, died June 22 at the University of Virginia Medical Center.

He died of injuries received June 6 in a car accident two miles north of Ruckersville, Va., when his vehicle veered off Route 29 and rolled over several times, Greene County Sheriff William Morris said yesterday. It wasn't known what caused the accident, Morris said.

Mr. Cooke had served at the Pentagon since the late 1950s and as its top civil servant had a hand in every major Defense Department reorganization during that time. He knew virtually every inch of the 20 miles of corridors in the building and was the department's highest-ranking career civil servant.

As Defense Department director of administration and management, he had a vast institutional memory and numerous friends spread throughout Washington's power structure. It meant that he had the ear and respect of flag officers, members of Congress and Cabinet officials—and not only because he dispensed office space and the Pentagon's 8,700 parking places.

In a 2001 edition of Government Executive Magazine, editor Timothy B. Clark called Mr. Cooke "a force for good in the federal government."

Mr. Cooke's many honors included seven awards of the Defense Medal for Distinguished Civilian Service. In 1999, he was given the President's Award for Distinguished Federal Service, the highest government service award.

Mr. Cooke called in some of his considerable chits in the late 1980s and early 1990s as he argued vociferously for a billion-dollar renovation of the Pentagon. Up until Sept. 11, it was scheduled for completion in 2004.

The hijacked airliner that slammed into the side of the building that day, killing 189 people, hit a wedge of the Pentagon that had undergone upgrading. Some of those features supported by Mr. Cooke have been credited with saving many lives.

"The steel that we used to strengthen the walls, the blast-resistant windows, the Kevlar cloth, all those things working together helped protect countless people," Walker Lee Evey, the program manager for the Pentagon renovation, said. "Doc Cooke strongly supported all of these."

Mr. Cooke also was a strong supporter of the government as an institution and was active in good-government groups and community service projects.

He served on the President's Interagency Council on Administrative Management and was a leader of the Combined Federal Campaign and an active member of the American Society for Public Administration.

In the early 1990s, he worked to create a Public Service Academy at Anacostia High School that has been credited with improving the school's graduation rates. He also was known in the Pentagon as a strong promoter of employment opportunities for minorities, women and disabled people.

Mr. Cooke was born and raised in Buffalo, where his parents were teachers. He began following their path, receiving a bachelor's degree from the New York State Teachers College at Buffalo and later a master's degree in political science from the State University of New York at Albany.

His teaching career was interrupted by World War II, when he served as an officer aboard the USS Pennsylvania, a battleship that saw action in the Pacific.

Mr. Cooke returned to teach high school in Buffalo in the late 1940s, but was recalled to the Navy during the Korean War. After getting his law degree from George Washington University in 1950, he served as a Navy attorney and instructor.

His Pentagon career began in 1958, when he was assigned as a civilian to a Defense Department reorganization sought by then-Secretary Neil McElroy.

Mr. Cooke retained his professorial ways throughout his career, but his humor often helped leaven the serious atmosphere in the Pentagon. Mr. Cooke was just as likely to quote a Greek philosopher as a pithy joke or homespun tale.

Evey, the Pentagon renovation manager, recalled an aside at a dedication ceremony last summer. "He said that he took it as a sign that the building needed to be renovated when the fungus on the wall took the shape of Elvis," he said.

Mr. Cooke was not laughing when he argued in the 1980s for the renovation and for the Pentagon to be transferred from under the auspices of the General Services Administration to the Defense Department. He said it was a crucial step in rehabilitating the world's largest office building.

Mr. Cooke would make routine trips to Capitol Hill with what he called his "horror board," a convincing collage of fallen asbestos or rotted piping from the Pentagon.

In 1998, Mr. Cooke testified before a federal grand jury about alleged leaks by then-Assistant Defense Secretary Kenneth Bacon of personnel information about Linda Tripp to a reporter. With characteristic good humor, he told reporters after he testified that Tripp's name came up "now and again."

Mr. Cooke was a presence on Sept. 11, rushing to aid rescue and recovery operations. In the months after the rebuilding began, the usually low-key administrator began making more public appearances, speaking in memory of the victims.

At a speech in November, he told an Albany, N.Y., crowd: "The damage to the building will be rebuilt. You'll never know the difference eventually."

His wife of 52 years, Marion McDonald Cooke, died in 1999.

Survivors include three children, Michele C. Sutton of Springfield and David Cooke and Lot Cooke, both of Fairfax; and four grandchildren.

## TRIBUTE TO DR. DONALD L. DURHAM

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize and say farewell to an outstanding leader, Dr. Donald L. Durham, upon his retirement from the Senior Executive Service as Deputy Director of the Naval Meteorology and Oceanography Command at the John C. Stennis Space Center. Throughout his career, Dr. Durham has served with distinction. It is my privilege to recognize his many accomplishments and to commend him for the superb service he has provided the Navy, the great State of Mississippi, and our Nation.

Dr. Durham received a Bachelor of Science Degree in Physics and Mathematics from Centre College, Danville, KY in 1964; a Master of Science Degree in Oceanography, Math, from Texas A&M University in 1967; and a PhD in Physical Oceanography, Geophysics and Math, from Texas A&M University in 1972.

Following his doctoral thesis, Dr. Durham joined the Army Corps of Engineers as a research oceanographer at its Waterways Experiment Station in Vicksburg, MS. In 1978, he joined the staff of the Naval Oceanographic and Atmospheric Research Laboratory, NOARL, at the John C. Stennis Space Center, MS as an oceanographer responsible for analyzing and assessing numerous Navy oceanographic research programs and special projects, including several environmental acoustic/oceanographic studies and tactical fleet exercises. From 1981–1986 at NOARL, Dr. Durham was Head of the Mapping, Charting and Geodesy, MC&G, Division, which was responsible for project management and technical performance of the integrated Navy Research Development, Test and Evaluation, RDT&E, program in MC&G.

In 1986, Dr. Durham joined the staff of the Naval Meteorology and Oceanography Command, Stennis Space Center, MS and served as Assistant Chief of Staff for Program Integration until his selection as Technical/Deputy Director on January 1, 1989. As Technical/Deputy Director, Dr. Durham was the senior civilian manager and top scientific advisor responsible for the planning, coordination, management, direction and administration of broad, multi-disciplinary scientific, engineering and technical programs of the command. Under his guidance, the command has made tremendous inroads in the fields of basic and applied Oceanography through the application of supercomputing technology, providing detailed environmental analysis that our naval forces could have only dreamed about a few years ago. His persistence towards achieving excellence in his field of expertise is highly commendable.

Dr. Durham's many awards include the Distinguished Executive Presidential Rank Award, Meritorious Executive Presidential Rank Award, DoD Secretary of Defense Meritorious Civilian Service Award, Secretary of Navy Distinguished Civilian Service Award, Department of the Navy Meritorious Civilian Service Award, three Army Corps of Engineers' Special Act/Service Awards, Presidential Letter of Commendation, two Navy Commendations for Special Achievement, Marine Technology Society Special Commendation Award, Defense Mapping Agency Research and Development Award, Kiwanis International Distinguished Service Award, Center College Distinguished Alumnus Award, Danville High School Distinguished Alumnus Award, Mississippi Academy of Sciences Research Award, Who's Who in the South and Southwest, International Who's Who of Professionals and the International Who's Who of Intellectuals. In addition, he has published over 50 professional papers, technical reports and presentations and served twice as guest editor for Marine Technology Society Journals. His professional affiliations include the Marine Technology Society, The Oceanography Society, The Society of Research Administrators, The Hydrographic Society of America, International Oceanographic Foundation, Mississippi Academy of Sciences and Sigma Xi. Also, he has served as Vice Chair and Chair of the Mississippi Science and Technology Commission; Member of Mississippi State University's External Research Advisory Council and Mississippi Economic Development Special Task Force; and board member of Mississippi Enterprise for Technology, Inc. and Mississippi Technology Alliance.

Throughout his very distinguished career, Dr. Durham has served our great Nation with pride and excellence. He has been an integral element of, and contributed greatly to, the best-trained, best-equipped, and best-prepared naval force in the history of the world. Dr. Durham's superb leadership, integrity, and limitless energy have had a profound impact on our Nation's Oceanography community and he will be greatly missed in the Navy's Senior Executive Service. Dr. Durham retires as an SES–5 on August 3, 2002. On behalf of my colleagues on both sides of the aisle, I wish Dr. Durham all the success in his future and thank him immensely for the invaluable 30-years of service he has provided to the United States of America.

## PEOPLE PEDALING PEACE

Mr. LEVIN. Mr. President, last month more than 25 cyclists made the 190-mile trip from Hampton, VA, to Washington, DC, to honor and remember victims of gun violence. According to the Brady Campaign to Prevent Gun Violence, the People Pedaling Peace cyclists rode not only in honor of the victims of gun violence, but they rode for stronger, more sensible gun safety laws in America.

Sandra and Mike McSweeney started People Pedaling Peace last year after their daughter, Stephanie, was killed while walking out of a roller rink in Hampton, VA. Money raised by this year's bike ride will be used to build a new playground in Stephanie's neighborhood so children can have a safe place to play. Elisha Encinias, a Columbine survivor who narrowly escaped the two gunmen in her classroom that tragic day in 1999, and Amber Hensley, who witnessed the 1999 rampage at Thurston High School in Springfield, OR, also joined in this year's bike trip. Unfortunately, the number of people like them is likely to grow. They represent only a small number of Americans who have lost family and friends to gun violence.

According to the Detroit Free Press, through July 14th of this year, 10 children under the age of 16 have been killed by gun fire and 25 children have been wounded by gunfire in metro Detroit. This past Sunday, a 3-year-old boy found a shotgun, picked it up, and it discharged. He wounded two other children, his 11-year-old sister and 9-year-old cousin. A week ago on Detroit's east side, an 11-year-old boy was accidentally shot in the chest by his 13-year-old neighbor after they found a handgun. Last month, a 14-year-old boy shot a 13-year-old girl while the two were arguing in a Detroit home. Thankfully, they all survived, but many have not. The need for sensible gun safety legislation and vigorous enforcement of our gun laws is desperately needed.

I know my colleagues will join me in recognizing the participants in the People Pedaling Peace bike ride and expressing our thoughts and prayers to family, friends, and communities across America that have been affected by gun violence. And I urge my colleagues to join me in supporting sensible gun safety legislation.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 13, 2001 in San Antonio, TX. A 39 year old man was attacked because he was thought to be a homosexual, according to police. The victim was attacked in a park by a man with a knife. The man held the victim in a bear hug before stabbing him in the chest with what was described as a three-inch Buck knife. The suspect was heard to call the victim anti-gay names as he stabbed him.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## DROUGHT EMERGENCY IN NORTH CAROLINA

Mr. EDWARDS. Mr. President, I rise today to draw attention to a dire situation in my state. North Carolina is in the midst of a severe drought, and there is no significant rainfall in sight.

North Carolinians are used to hot, dry summers. But the dry spell has lingered and transformed itself into one of the worst droughts in the state's history. The entire State is under drought condition and most areas are experiencing "extreme drought." A significant portion of the Piedmont is experiencing an "exceptional drought," according to the U.S. Geological Survey. In fact, the Piedmont is short almost a full year's worth of rain and the city of Greensboro has a little more than 100 days supply of water.

The damage estimates are already staggering. This drought has put many of our farmers on the edge of financial ruin. At a time of the year when you can drive down any rural North Carolina road and see lush, green crops ready for harvest, farmers are struggling to find enough water to save what hasn't already withered in the blazing sun. Farmers in more than half of North Carolina's 100 counties have already experienced more than 35 percent crop loss and it is still early in our growing season.

But it is not just North Carolina's farmers that are suffering. Small businesses are particularly impacted by the mandatory water restrictions. Believe it or not, drought is not a recognized disaster under the Small Business Administration's Disaster Assistance Program.

Of course, we can't make it rain. We can't cool the weather and slow the evaporation of our lakes and streams. But there are things we can do to help those impacted by this disaster. There are steps we should take immediately. I have asked Secretary Ann Veneman to certify our counties as disaster so our farmers can get the crop loss assistance it is clear they will so desperately need. I urge the administration to quickly act to help my farmers. President Bush is scheduled to travel to Greensboro, one of the most parched areas of North Carolina next week. I hope by then his administration will have recognized the dire conditions and approved my State's request for help.

In the meantime, I am proud to cosponsor the Small Business Drought Relief Act, S. 2734. This is a straightforward measure that will bring important relief to thousands of small business owners by expanding the Small Business Administration's definition of disaster to include droughts.

Another measure that I am supporting is the National Drought Preparedness Act of 2002, S. 2528. This measure creates a Federal drought preparedness and response policy, one that is so obviously needed. We in North Carolina know all too well the expertise and assistance the Federal Emergency Management Agency provides following a hurricane or tornado. We need that same clear, concise policy for droughts.

But these measures can't help with the impact this drought is having on my State right this moment. North Carolinians are doing their part. Under the leadership of Governor Easley, cities and towns are advancing reasonable water-use restrictions. Residents are conserving, and we are all hoping and praying for a good rain.

We need the administration to act quickly on the state's disaster requests. We need to get these residents the help they need.

## PESTICIDE HARMONIZATION ACT OF 2002

Mr. JOHNSON. Mr. President, I rise today to thank Senators CONRAD and ROBERTS for holding an important hearing today in the Senate Agriculture Production and Price Competitiveness Subcommittee concerning S. 532, the Pesticide Harmonization Act. It is my pleasure to cosponsor this important legislation.

Differences in the prices of agricultural pesticides, in the United States and Canada are one of the most important issues in bilateral trade discussions. Grains harvested in the United States compete on the open market against grains grown in Canada. Much of Canadian grain is treated with pesticides substantially less expensive than those used in the United States. I feel it is necessary for the United States to allow growers to access Canadian pesticides in order to remain competitive on the open market. I commend Senator DORGAN for his leadership on this issue, as lead sponsor of this legislation, which would allow U.S. farmers to access chemicals approved in the U.S. but sold at discounted rates in Canada.

Currently, farmers pay 117 to 193 percent higher pries in the U.S. than in Canada for virtually identical products. Canadian producers are applying less expensive pesticides to their crops and exporting their commodities to the U.S., where the same chemicals cannot be legally purchased at the Canadian reduced price by American producers. Our farmers are not allowed access to these pesticides, but must still compete with Canadian crops grown with these products.

American farmers are at a clear disadvantage to Canadian farmers due to the price differences in agricultural pesticides. This is another example of how NAFTA has put American producers at a disadvantage. I did not support or vote for NAFTA, even though supporters claimed that the trade agreement would create free, equal trade between the U.S., Canada and Mexico. In fact, NAFTA contributes to the present agricultural pesticide differential pricing problem. Allowing Canada to export millions of bushels of grain into the U.S. without restriction was intended to create equal trade, but has instead placed our agricultural industry at a disadvantage.

Furthermore, the agricultural disadvantage that hinders American farmers in this situation, benefits no one other than the pesticide industry. This industry sells the same product to Americans for twice the price that it is sold to the Canadians producers across the boarder.

S. 532 would eliminate the competitive advantage Canadian producers have over American producers by amending the Federal Insecticide, Fungicide, and Rodenticide Act. This legislation would permit a State to register a Canadian pesticide for distribution and use within that State if the pesticide is substantially similar or identical to one already registered in the U.S.

I am confident the time to act on this matter is now.

## THE NATIONAL FARMWORKER JOBS PROGRAM

Mr. CORZINE. Mr. President, I rise today to urge Congress to support full funding for the National Farmworker Jobs Program.

Zeroing out funding for the National Farmworker Jobs Program as proposed in the Bush Administration's Fiscal Year 2003 budget would be wrong for our country and wrong for New Jersey. Close to 600 migrant workers make Cumberland County in southwestern New Jersey their permanent residence, with another 6,500 migrant workers estimated to arrive in the county for farm work each year. If the proposed cut is ultimately enacted, I am convinced that the quality of life for these workers and workers throughout the State and country will fall substantially.

The National Farmworker Jobs Program was created in 1964 to address the specific problems migrant workers face. By the very nature of their employment, migrant workers often find themselves unemployed or underemployed, scraping by on an income well below the poverty line. Language and educational barriers often prevent these workers from receiving permanent employment or attaining economic self-sufficiency.

Because their work takes them across various State and municipal borders, only a national program can address the problems faced by the migrant farmworker population. The National Farmworker Jobs Program provides housing, healthcare, and childcare assistance to workers they can remain employed and provide for their families. Considering that many of these hardworking families are not fluent in English, obtaining these services would otherwise be a daunting if not impossible task.

The National Farmworker Jobs Program has assisted migrant workers with education and job training since its inception. It has also played an active role in job placement, minimizing the amount of time migrant workers remain unemployed. In the fiscal year ending June 30, 2000, 85 percent of the National Farmworker Jobs Program enrollees received services that enabled them to retain or enhance their agricultural employment or secure new jobs at better wages. And that is with a budget of just $80 million.

The National Farmworker Jobs Program services a vital social role, and I urge my colleagues to support it.

## HONORING GENERAL BENJAMIN O. DAVIS, JR.

Mr. EDWARDS. Mr. President, 2 weeks ago as America celebrated the birth of our Nation, one of its greatest military leaders passed away. General Benjamin O. Davis Jr., 89, the legendary commander of the Tuskegee Airmen, died at Army Reed Medical Center on the Fourth of July. Yesterday, General Davis was laid to rest in Arlington National Cemetery.

From his youth Davis knew that he wanted to become a pilot and serve his country. In 1932 he entered the U.S. Military Academy at West Point. Throughout his years at West Point he was shunned by his fellow cadets who refused to speak with him. Think of it, 4 years at one of the Nation's best institutions of higher education where no one spoke to you and you ate all of your meals alone. Davis once spoke of the intimidation and harassment he endured at the academy, saying, "I wasn't leaving, this is something I wanted to do and I wasn't going to let anybody drive me out." In 1936, Davis became the first African American in the 20th century to graduate from West Point.

After graduation Davis applied for the Army Air Corps but was rejected because of his race. He became professor of military science at the Tuskegee Institute in Alabama. In 1940, President Roosevelt issued an order allowing African Americans to fly for the military, and Davis immediately began his training at the Tuskegee Army Air Base. In 1942 he took command of the first all-black air unit, the 99th fighter squadron. Due to his excellent service in North Africa and Italy during World War II, he was promoted to colonel of the 322nd fighter group. As a colonel, Davis led 200 air combat missions. Davis would tell his men, "We are not out looking for glory. We're out to do our mission." During his first mission, his 38 pilots held off over 100 German fighters. Davis's fighter group boasted an inspiring 100-percent success rate. None of the bombers he protected was ever lost to enemy fire. Despite his success, he was not allowed to command white troops and was turned away from segregated officers' clubs.

After World War II, Davis led a fighter wing in the Korean War and, in 1953, was promoted to brigadier general, becoming the first black general in the Air Force. Over the next 13 years he would rise in rank to lieutenant general and serve as deputy-commander-in-chief of U.S. Strike Command. When Davis retired from the Air Force in 1970, he was the highest-ranking African American officer in the military.

After hanging up his uniform Davis continued serving our country. He supervised the Federal Air Marshal Program and, in 1971, was named Assistant Secretary of Transportation.

In 1998 President Clinton awarded Davis his fourth star. "One person can bring about extraordinary change" President Clinton said when speaking of the general. At the White House ceremony then-Defense Secretary William S. Cohen stated that "General Davis is often held up as a shining example of what is possible for African Americans. But today we honor him not only as a great African American. We honor him because like his father before him, he is a great warrior, a great officer, and a great American." Indeed like his father, General Benjamin Oliver Davis Sr., he served his country with great patriotism in the face of discrimination. His father was the first African-American general in the U.S. Armed Forces.

Even in his 80s, General Benjamin Oliver Davis Jr. still spoke with the strong, dignified and commanding manner he was known for during his professional career. Steve Crump, an Emmy-Award-winning journalist in Charlotte, NC who did a documentary on the Tuskegee Airmen, recalled a speech by General Davis to many of his fellow airmen. Crump said that the general's attendance was a surprise to the audience and that upon seeing him walk out on to the stage, they snapped to attention just as they had done more than 50 years earlier.

At Seymour Johnson Air Force Base in Goldsboro, NC there is a KC–135 tanker with a portrait of Davis on its nose. The aircraft is dedicated to all the Tuskegee Airmen.

One of the greatest of the greatest generation is gone. As those who passed on before him did, General Benjamin O. Davis, Jr. left us with a simple template on how to conduct ourselves in service to our country. Be of great courage, character and humility.

## ADDITIONAL STATEMENTS

### TRIBUTE TO LARRY BROWN

• Mr. SMITH of Oregon. Mr. President, ever since the days of the pioneers, when folks from miles around would gather to participate in community barn-raisings, the spirit of neighbor helping neighbor has been part of the Oregon story. That spirit is alive and well today, as in every Oregon community you can find individuals who give their time and their talent to make that community a better place in which to live, work, and raise a family. For the past 35 years, in the community of Grants Pass, that individual was Larry Brown, who passed away last week after a courageous fight against cancer.

Larry was a forester by profession, and served in leadership positions for the Southern Oregon Timber Industries Association, the Oregon Small Woodland Owners Association, and the Oregon Board of Forestry Forest Practices Commission.

Larry was not only dedicated to growing healthy trees, he was also dedicated to growing healthy children. He served 5 years on the Grants Pass School Board, and was a passionate advocate for programs benefitting youth during his many years of service and leadership in the Grants Pass Rotary Club.

Larry's love for his country could be seen in his 20 years of service in the Oregon National Guard. Larry retired from the National Guard as a major in 1982, and during his service he was awarded the Meritorious Service Medal and the Army Commendation Medal with 5 bronze oak leaf clusters.

Larry was also a passionate Republican. I am just one of many elected officials who was constantly calling on Larry to organize an event or a meeting. I knew that when I called on Larry, I was calling on someone who knew and loved his community, and who would get the job done right.

Oliver Wendell Holmes once said, "To live fully is to be engaged in the passions of one's time." There can be no doubt that Larry Brown lived a full life, because he truly made a difference in the passions of his time.

I extend my condolences to Larry's wife, Georgette, who continues the family tradition of public service through her service as Josephine County Clerk, and to his daughters Monique and Martie.

I am just one of many elected officials who relied on Larry's counsel, advice, and friendship.•

### HONORING MAJOR W. WHEELOCK

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to a man that has dedicated the last 7 years of his life to helping those less fortunate than himself, Major W. Wheelock.

Among his many accomplishments, Major Wheelock has most recently served as the President/CEO of Crotched Mountain foundation in Greenfield, New Hampshire and has previously served as Executive Vice President/Treasurer of Franklin Pierce College. Major Wheelock retired in June of this year. As part of his tireless service to others, Major participates in the River Mead Retirement Community as a board member; the Yankee Publishing, Inc. as a board member; New Hampshire 2002 Health and Educational Facilities Authority as Board Vice Chair; and New Hampshire Hospital Association as a Board Vice Chair.

The service Major Wheelock has provided Crotched Mountain School was doubtless a devotion to those that receive an education there. Crotched Mountain School provides outstanding rehabilitative programs for students with disabilities in Kindergarten through twelfth grade. His duty and service are apparent through his love and devotion for the students at Crotched Mountain.

More than doing an exceptional job, Major Wheelock is to be commended for his service to such a worthy organization. A man of better character, I rarely meet. It is an honor and privilege representing Major Wheelock in the U.S. Senate.•

### CELEBRATING THE LIFE AND ACHIEVEMENTS OF WILLIAM BATTERMAN RUGER

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the life of a dear friend William Ruger, one of the greatest gun designers and manufacturers in the nation.

Joining with Alexander McCormick Sturm in 1949 Ruger founded Sturm Ruger & Co., the largest firearms designer, manufacturer, and distributer in the United States. At the time Ruger's company produced more varieties of sport firearms than any other firm in the world. Turning out his first design in 1949, Ruger's pistol soon became one of America's favorite hand guns, still widely used by many gun owners today.

Ruger would soon design a light machine gun for the United States Army and would continue designing and patenting dozens of guns throughout the last 53 years. "Ruger was a true firearms genius who mastered the disciplines of inventing, designing, engineering, manufacturing and marketing better than anyone since Samuel Colt," said R.L. Wilson, a firearms historian and Ruger Biographer. "No one in the 20th century so clearly dominated the field or was so skilled at articulating the unique appeal of quality firearms for legitimate uses."

Recently as chairman emeritus Ruger oversaw the manufacturing of high-quality rifles, shotguns, pistols, and revolvers that law enforcement and sporting enthusiasts have come to expect. Ruger kept a watchful eye on the company as it prospered, building manufacturing facilities in a number of New Hampshire's towns providing work for many.

I have found great friendship with Ruger throughout the last years of his life and continue to admire and cherish the friendship that I have with his family. He was not only a great husband and father but a great businessman, American patriot, and friend.

It was an honor representing William Ruger in the U.S. Senate and remains a distinct privilege in serving his family.•

### THE MOUNT WASHINGTON HOTEL & RESORT CELEBRATES A CENTURY OF GRANDEUR

• Mr. SMITH of New Hampshire's. Mr. President, I rise today to congratulate The Mount Washington Hotel & Resort on 100 years of New England splendor.

Located in New Hampshire's White Mountains, The Mount Washington Hotel & Resort emanates the elegance and style of a bygone era. Beginning as a dream of Joseph Strickney in 1902, this superlative of Spanish Renaissance architecture quickly became the place to hobnob with poets, presidents and princes. Serving the wealthiest of patrons, The Mount Washington was the vacation resort of choice, finding appeal by epicureans of the era.

The picturesque National Historic Landmark was once the meeting place for more than 44 nations as they discussed the creation of the World Bank and International Monetary Fund in 1944. The formal signing of the Bretton Woods International Monetary Conference took place in the now historic Gold Room located off the Hotel Lobby.

Continuing the opulence and grandeur of the The Mount Washington Hotel & Resort was at the forefront as five entrepreneurs, Joel Bedor, Wayne Presby, Jere Eames, Robert Clement, and Bill Presby, rallied to purchase the property off the FDIC auction block in 1991. This would be the first time since Stickney that the property would be in the hands of New Hampshire owners.

One hundred years after the 250 master craftsmen began construction on the grand hotel of yesteryear, The Mount Washington Hotel & Resort carries on the timeless beauty and tradition of cordial service spanning the decades.

I recommend Joel Bedor, Wayne Presby, Jere Eames, Robert Clement, and Bill Presby on their commitment to preserving the glory and vintage of the early 1900's in The Mount Washington and for receiving the "Business of the Decade" award by Business New Hampshire Magazine.

It is truly an honor and privilege representing these fine men in the U.S. Senate.•

## HONORING NEW HAMPSHIRE REVENUE COMMISSIONER STANLEY ARNOLD

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to a colleague for his service to the citizens of New Hampshire, Mr. Stanley Arnold.

After 19 years of service to New Hampshire Stanley will be retiring in September 2002. His service as commissioner began in 1988 when appointed, by then Governor, John Sununu. Prior to becoming commissioner Stanley was an auditor in the Department of Revenue. Praised by Governor Jeanne Shaheen as, "Essential in difficult and complicated policy debates," . . . "Arnold has been a straight shooter through the five years that I have worked with him." Stanley has always strived to provide the best possible service to the people of the community.

Lauded as one of Governor Shaheen's most trusted advisers, Stanley increased use of technology and established a unit to focus on businesses not filing tax returns.

It is an honor to represent Mr. Stanley Arnold in the U.S. Senate.•

## LAUD FOR DR. JOAN LEITZEL

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the outstanding successes of a friend and colleague in the field of education, the President of the University of New Hampshire, Dr. Joan Leitzel.

As UNH's 17th President, Dr. Leitzel began her term by renovating buildings, adding a diverse program list and developing key buildings that provided needed space for classes and research. Thanks to Dr. Leitzel's work, the number of donors increased substantially to support the beloved University. Dr. Leitzel also increased enrollment for subsequent years.

A large portion of her success is attributed to her attention to the needs of New Hampshire's business by providing a quality professional workforce. By working with businesses in the area, Dr. Leitzel better prepares students for the competitive job market. Dr. Leitzel more than doubled research funding from $43 million in 1996 to $82 million in 2001 by making the research proposals more competitive. Greater funding from the state and forthcoming building projects help add to the University's prominence. It is so small accomplishment to steer a University to the level that has been reached under Dr. Leitzel.

I commend Dr. Joan Leitzel on receiving magna cum laude status for her leadership and for her many accomplishments that have put the University of New Hampshire on track to a successful future. I wish her all the happiness life can bring in her retirement.

It is an honor and privilege representing her in the U.S. Senate.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5093. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Financial Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. OXLEY, Mr. BAKER, Mr. ROYCE, Mr. NEY, Mrs. NELLY, Mr. COX, Mr. LAFALCE, Mr. FRANK, Mr. KANJORSKI, and Ms. WATERS:

That Mr. SHOWS is appointed in lieu of Ms. WATERS for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications, committed to conference.

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference: Mr. BOEHNER, Mr. SAM JOHNSON of Texas, and Mr. GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference: Mr. TAUZIN, Mr. GREENWOOD, and Mr. DINGELL.

From the Committee on the Judiciary, for consideration of section 105 and titles 8 and 9 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. CONYERS.

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. MCCRERY, and Mr. RANGEL.

At 5:13 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5121. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar.

H.R. 5093. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

H.R. 5121. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 5010: A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–213).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 293: A resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 862: A bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2395: A bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2513: A bill to asses the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAPO (for himself and Mr. CONRAD):

S. 2750. A bill to improve the provision of telehealth services under the medicare program, to provide grants for the development of telehealth networks, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU:

S. 2751. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to the Committee on Armed Services.

By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. GREGG, Mr. BREAUX, and Mr. FEINGOLD):

S. 2752. A bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. BOND, Mr. CLELAND, Ms. CANTWELL, Mr. BINGAMAN, and Mrs. CARNAHAN):

S. 2753. A bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Ms. COLLINS:

S. 2754. A bill to establish a Presidential Commission on the United States Postal Service; to the Committee on Governmental Affairs.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2755. A bill to require the Secretary of the Treasury to mint coins in commemoration of the opening of the National Constitution Center in Philadelphia, Pennsylvania, scheduled for July 4, 2003; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. SCHUMER, and Mrs. CLINTON):

S. 2756. A bill to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN:

S. 2757. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program; to the Committee on Finance.

By Mr. DODD (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. REED, Mr. BINGAMAN, Mrs. CLINTON, Mrs. MURRAY, and Mr. EDWARDS):

S. 2758. A bill entitled "The Child Care and Development Block Grant Amendments Act"; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HOLLINGS (for himself, Mr. LOTT, and Mr. BREAUX):

S. 2759. A bill to protect the health and safety of American consumers under the Federal Food, Drug, and Cosmetic Act from seafood contaminated by certain substances; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself and Mr. HARKIN):

S.J. Res. 41. A joint resolution calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 267

At the request of Mr. AKAKA, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 654, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 786

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 786, a bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes.

S. 1502

At the request of Mr. JEFFORDS, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1502, a bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs for COBRA continuation coverage, and for other purposes.

S. 1785

At the request of Mr. CLELAND, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1924

At the request of Mr. LIEBERMAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1945

At the request of Mr. JOHNSON, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 1945, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 1961

At the request of Mr. SMITH of New Hampshire, his name was withdrawn as a cosponsor of S. 1961, a bill to improve financial and environmental sustainability of the water programs of the United States.

S. 2027

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2027, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 2053

At the request of Mr. FRIST, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2053, a bill to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, and for other purposes.

S. 2085

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2085, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2119

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2233

At the request of Mr. THOMAS, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans.

S. 2239

At the request of Mr. SARBANES, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2239, a bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

S. 2268

At the request of Mr. MILLER, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

At the request of Mr. CRAIG, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2268, supra.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2531

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2531, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 2554

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2611

At the request of Mr. REED, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 2614

At the request of Mr. CORZINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2614, a bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident physicians to ensure the safety of patients and resident physicians themselves.

S. 2674

At the request of Mr. BROWNBACK, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2674, a bill to improve access to health care medically underserved areas.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2674, supra.

S. 2692

At the request of Mr. CORZINE, the names of the Senator from Missouri (Mrs. CARNAHAN) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2692, a bill to provide additional funding for the second round of empowerment zones and enterprise communities.

S. 2712

At the request of Mr. HAGEL, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2712, a bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S. 2721

At the request of Mr. SARBANES, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2721, a bill to improve the voucher rental assistance program under the United States Housing Act of 1937, and for other purposes.

S. 2734

At the request of Mr. KERRY, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Missouri (Mrs. CARNAHAN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. RES. 242

At the request of Mr. THURMOND, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

S. RES. 266

At the request of Mr. FRIST, his name was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day".

S. RES. 293

At the request of Mr. BIDEN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

AMENDMENT NO. 4305

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from New York (Mr. SCHUMER), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Missouri (Mrs. CARNAHAN), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. JOHNSON); the Senator from Maine (Ms. SNOWE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mrs. CLINTON) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of amendment No. 4305 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAPO (for himself and Mr. CONRAD):

S. 2750. A bill to improve the provision of telehealth services under the Medicare program, to provide grants for the development of telehealth networks, and for other purposes; to the Committee on Finance.

Mr. CRAPO. Mr. President, I am pleased to rise today to introduce, along with Senator CONRAD of North Dakota, legislation that would greatly enhance the use of telehealth technology to bring badly-needed health care services to rural and underserved areas throughout the country.

This bill would allow for greater reimbursement for telehealth services under Medicare and calls for a valuable investment in the development of new and more advanced telehealth networks in underserved areas. Telehealth is the future of rural health care. Access to quality health care in rural areas is at a critical stage. Today, many ill and disabled people must drive hundreds of miles, often in bad weather on dangerous roads, just to receive the most basic of health care. Access to specialists is even more prohibitive. However, by using much of the same technologies that we use to communicate with our constituents from here in Washington, we can bring quality health care, and specialty care, to their local health care provider.

I would like to thank Senator CONRAD, who has been a longtime supporter of telehealth services, for joining me in introducing this important legislation. Our bill would allow a wide variety of health care practitioners to provide telehealth services under Medicare. One of the biggest challenges for rural practitioners is obtaining the resources and infrastructure to provide technologically advanced telehealth services. Our bill would also provide valuable resources for the development of new telehealth networks in rural and underserved areas.

Technology in America is booming. We must embrace this technology as a cost-effective way to improve health care in rural and underserved areas. This legislation takes a large step in providing a modest investment toward the improvement of rural health care.

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By Mr. JEFFORDS (for himself, Mr. FRIST, Mr. GREGG, Mr. BREAUX, and Mr. FEINGOLD):

S. 2752. A bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality; to the Committee on Finance.

Mr. JEFFORDS. Mr. President, I appreciate the opportunity to speak today on an issue that has been and will continue to be important and vital to the health of all Medicare beneficiaries. Medicare's origins date back to 1965; since that time little has changed in the relationship between incentives to provide care and quality of care received. The current system does not reward or provide incentives for providing quality health care. Instead, what has evolved over the last years is a perplexing data base of well documented facts concerning quality and utilization. This information is very difficult to explain but hard to ignore. Why is it that the utilization of some surgical procedures varies tremendously from one part of the country to the next? Why is it that the cost of care per beneficiary varies from location to location without clear differences in outcomes, survival, or quality? Today, after much work with numerous health systems, patient advocacy organizations, and medical quality researchers, my colleagues Senators FRIST, GREGG, BREAUX and FEINGOLD and I are pleased to announce the introduction of legislation to create Medicare demonstration projects to address these issues.

The incentives, both financial and non-financial, to provide best healthcare to Medicare beneficiaries are complex and poorly understood. These incentives have historically been rooted in the longstanding Medicare fee-for-service payment model. In an effort to better align the incentives to provide care with best practice guidelines, appropriate utilization, adherence to best medical information, and best outcomes we have written legislation to address these issues through a Medicare demonstration project. This project will implement continuous quality improvement mechanisms that are aimed at integrating primary care, referral care, support care, and outpatient services. The bill will encourage patient participation in care decisions; strive to achieve the proper allocation of health care resources; identify the appropriate use of culturally and ethnically sensitive services in health care delivery; and document the financial effects of these decisions on the medical marketplace.

As we enter an era of rapidly increasing numbers of Medicare beneficiaries, it will be increasingly important that we re-evaluate the Medicare program to insure that the quality of care received is uniformly exceptional in its delivery and quality. It is appropriate that we continue to find better ways to insure that the norms of quality health care are established and followed. It is my sincere hope that my colleges will join me in this endeavor.

Mr. FRIST. Mr. President, I rise today to introduce the Medicare Quality Improvement Act—a bill to help revitalize the Medicare Program by providing for the alignment of payment and other incentives. I want to thank Senators JEFFORDS, GREGG, and BREAUX for their work in helping craft this crucial legislation.

To meet the needs of the 21st century health care system, it is critical that payment policies be aligned to encourage and support quality improvement efforts. Even among health professionals motivated to provide the best care possible, the structure of payment and other incentives may not facilitate the actions needed to systematically improve the quality of care, and may even prevent such actions. For example, redesigning care processes to improve follow-up for chronically ill patients through electronic communication may reduce office visits and decrease revenues for a medical group under some payment schemes.

Current payment practices are complex and contradictory; and although incremental improvements are possible, more fundamental reform will be needed. In this report, "Crossing the Quality Chasm," the Institute of Medicine encouraged the Centers for Medicare and Medicaid Services and the Agency for Healthcare Research and Quality to develop a research agenda to identify, test, and evaluate options for better aligning payment methods with quality improvement goals. The demonstration project authorized by this legislation is part of that larger research agenda—to help us understand the appropriate alight of payment and other incentives and improve the quality of health care in a way that will not increase the overall costs of Medicare.

We already have identified appropriate ways to align provider incentives. Research supported by the Robert Wood Johnson Foundation has noted at least 11 different incentive models—models that can be implemented by a wide variety of organizations and applied to a range of medical groups, providers, and health plans. In many circumstances, key components of these models have been implemented in several health care markets, and the research has shown that both financial and nonfinancial incentives, such as technical assistance, are important in motivating appropriate care. However, we do not know how these incentives might apply to Medicare, and that is why this demonstration is so vital.

It has been an honor and a pleasure to work closely with my distinguished colleagues on this bill, and I look forward to continuing to work with them and others as we move forward on the debate about how to more appropriately reform Medicare.

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By Mr. KERRY (for himself, Mr. BOND, Mr. CLELAND, Ms. CANTWELL, Mr. BINGAMAN, and Mrs. CARNAHAN:

S. 2753. A bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I am pleased today to introduce a critical piece of legislation intended to help small businesses receive their fair share of the Federal procurement pie and to ensure that they are being treated fairly within the Federal procurement system. I would like to thank my cosponsors, Senators BOND, CLELAND, CANTWELL, BINGAMAN and CARNAHAN for working with me and small business groups to craft this legislation, as well as Congressman ALBERT WYNN, for his partnership on this legislation. Congressman WYNN will soon be introducing companion legislation in the House.

In my time as Chairman of the Committee on Small Business and Entrepreneurship and previously as Ranking Member, two facts regarding small business procurement have made themselves very clear, small businesses are not getting their fair share of Federal procurement and there is no one in the entire Federal Government with the sole responsibility of advocating for small businesses, governmentwide, in the procurement process and ensuring that Federal agencies and large business prime contractors treat small businesses fairly. Some individuals are responsible for portions of this job, but no one performs this role as their primary job function or has the authority to do so solely.

I felt this was a glaring oversight and looked to the current make-up of the SBA to see if it could be rectified. My solution is a new position modeled along the Small Business Administration's, SBA, regulatory ombudsman, which could focus solely on procurement matters. A new ombudsman for small business procurement, or the Small and Disadvantaged Business Ombudsman, is needed to fill this role for procurement matters, just as the SBA's National Ombudsman does for regulatory issues. By creating a parallel position, each ombudsman can focus on his or her key mission, without detracting from either regulatory or procurement issues important to the small business community.

While no legislation alone can ever solve the complex problems faced by small businesses in today's Federal procurement environment, I believe the creation of a Small and Disadvantaged Business Ombudsman at the SBA will put us firmly on the right track and address several procurement issues raised through program oversight and communication with small business owners.

For example, small businesses frequently contact my office to report problems they are having with a prime contractor or a contracting agency. Too often, these businesses are afraid to come forward and make an official complaint for fear of being blackballed and denied future contracting opportunities. The SDB Ombudsman will provide one solution for these small businesses who fear being blacklisted by allowing them to submit confidential complaints. The SDB Ombudsman will have the responsibility of tracking these complaints and trying to rectify them.

The SDB Ombudsman will also work to change the culture at Federal procuring agencies by tracking and reporting on the training of procurement personnel and working to ensure that this training not only includes the "How to's" of small business participation, but also includes training on why small business participation is crucial to agency success and the national economy.

Until the Federal Government, at all levels, realizes the importance of doing business with small business, small business participation in Federal procurement will continue to decline, our Nation will lose its access to a wide range of small business suppliers, and small businesses across the country will continue to lose billions of dollars in procurement opportunities year after year. Of critical importance in the legislation is the first statutory consequence of an agency failing to meet its small business goals. Under the legislation, if an agency fails to meet any small business goal, the agency would be required to submit a report and an action plan to the SDB Ombudsman detailing why the agency failed to meet its small business goal or goals, and what the agency intends to do to remedy the situation.

The SDB Ombudsman will also be responsible for tracking compliance with Section (k) of the Small Business Act, which stipulates, in part, that the Director of the Office of Small and Disadvantaged Business Utilization at each Federal agency shall report to the head or deputy head of the agency. Late last year, with the support of Ranking Member BOND, I sent a letter to 21 Federal agencies to gauge compliance with this provision. Using a very lenient standard of compliance, I have concluded that at least nine of the Federal agencies surveyed are in violation of Section (k) of the Small Business Act. This is unacceptable.

On June 19, 2002, the Committee on Small Business and Entrepreneurship held a roundtable to discuss Federal procurement policies. The roundtable, title "Are Government Purchasing Policies Hurting Small Business?" was attended by a wide range of small business advocates, small business owners and government officials. One of the topics discussed during the roundtable was my draft proposal, the SDB Ombudsman Act, to create a new position at the SBA to monitor Federal agency compliance with certain provisions of the Small Business Act and serve as a focal point to assist small businesses that were treated unfairly in the Federal procurement process.

During the Roundtable, I asked the participants for their recommendations on how to improve the legislation to ensure that the SDB Ombudsman serves as the most effective advocate possible for small business. The Committee record was also kept open for two weeks so that participants could submit further comments.

I have now reviewed the Committee record and further submissions and am pleased to say that the responses were very positive. Several important suggestions were made to strengthen the Office of Small and Disadvantaged Business Utilization at each Federal agency as an important corollary to the creation of the SDB Ombudsman, since the SDB Ombudsman would be relying on each OSDBU to fulfill his or her statutory responsibilities.

Many other small businesses have come to the Committee on Small Business and Entrepreneurship and requested that we strengthen the OSDBUs at each agency as well. This legislation fulfills that request by including six new provisions.

First, the legislation clarifies that OSDBU Directors shall report to the highest level at each agency. In the study I mentioned previously, too often, an agency cited a bifurcated reporting system whereby the OSDBU Director reports to the head or deputy head on small business matters, but to other, lower-ranking personnel for budgetary or personnel matters. The Small Business Act does not envision such a system. Therefore, I felt it necessary to clarify, in no uncertain terms, that the OSDBU Director must report to the head or deputy head of his or her agency only, for all matters.

Second, the legislation requires that all OSDBU Directors now be career personnel. The Director's position is one of advocacy, which often entails challenging co-workers and political personnel, including superiors. Under current law, OSDBU Directors may be political appointees. While this has worked in some instances, I believe the small business community would be better served by career personnel with job protections.

Third, the legislation requires the OSDBU Director to be well-qualified in assisting small businesses with procurement matters. No one disputes the expertise of Federal procurement officials; however, procurement expertise does not always translate to small business procurement expertise. This provision will help ensure that small businesses are being served by those who understand their particular procurement needs.

Fourth, the legislation requires that, at major Federal agencies, the OSDBU Director have no job responsibilities outside the scope of the authorizing legislation. This provision was included because far too many agencies assign the OSDBU Director title to their procurement chief or another official with similar responsibilities, while the actual OSDBU program is run by someone else. This provision will stop this abuse.

Fifth, the legislation requires that a procurement chief not serve as the Director of the OSDBU program at a Federal agency. I firmly believe that the OSDBU Director's goal is fundamentally different from, and at times even opposed to, that of a chief procurement official who must be fair to all Federal contractors. An OSDBU Director's role is one of advocacy. He or she must take the side of small business, and no procurement chief can do this and perform both jobs fairly and effectively. While OSDBU Directors at major Federal agencies are barred from having additional responsibilities under this legislation, non-major Federal agency OSDBU Directors may. This provision will help ensure that at our non-major Federal agencies, the OSDBU Director can act fairly on behalf of small businesses.

Sixth, the legislation provides statutory authority for the OSDBU Council. Under the legislation, each OSDBU Director will have membership on the Council, which will meet at least once every two months. The Council's role is to discuss issues of importance to the OSDBUs and the small business community they serve. OSDBU Directors serving at major Federal agencies have as a part of their responsibilities an obligation, under this legislation, to attend Council meetings. This provision was included to once again prevent Federal agencies from circumventing the Small Business Act. Attendance at Council meetings will help ensure that Federal agencies are complying with the law and that OSDBU Directors are small business advocates, not simply procurement personnel with two hats.

One final note on the legislation is that the inclusion of a provision to increase the governmentwide small business prime contracting procurement goal from 23 percent to 30 percent has been retained, although it will now be phased in over three years: 26 percent in FY 2004, 28 percent in FY 2005 and 30 percent in FY 2006 and thereafter.

When I first made the suggestion that the small business procurement goal should be increased seven percentage points, my office received numerous calls, both in support of the increase and in opposition. Some even suggested raising the goal to a level of 40 percent. But, by and large, those in opposition pointed to one fact: The Federal Government has never achieved such a level of small business procurement participation. And while that is true, no one said that it was impossible. Given the disappointing achievement of the Federal Government on the current small business goal of 23 percent, I believe it is time to raise the bar.

When Congress enacted goals as part of the Small Business act, the goals were intended to be a minimum standard of achievement. For too long, the goals have been treated as a target for attainment, not a minimum level of acceptable small business participation. This too must change. Almost every year the Federal Government comes very close to hitting the small business prime contracting goal of 23 percent right on the head. Some years it does slightly better, and some years, unfortunately, it does slightly worse. However, this trend demonstrates one important principle, the government is firmly shooting for 23 percent, no more—no less.

By raising the statutory goal, it is my hope that the Federal Government will shoot for the higher target and succeed. But I ask my colleagues to look at this critically in that the goal for small business isn't so much being raised as the 77 percent of Federal procurement that now goes to large businesses, which represent only a tiny portion of all Federal contractors, is being reduced to 70 percent. So if the small business goal should increase to 30 percent, 70 percent of all Federal procurement will still be awarded to a relatively small number of all Federal contractors. Is this fair to small business? No. But it is an improvement.

I am pleased to say that my legislation is supported by groups representing primarily small businesses or small business contractors, such as the National Small Business United, NSBU, Women Impacting Public Policy, WIPP, and the Association of Small and Disadvantaged Business, as well as advocacy groups such as the Latin American Management Association, LAMA, the Minority Business Enterprise Legal Defense and Education Fund, MBELDEF, and the Veterans of Foreign Wars, VFW.

I thank them as well as the cosponsors of this legislation, Senators BOND, CLELAND, CANTWELL, BINGAMAN and CARNAHAN for their assistance, input and support, and I look forward to continuing to work with them on this and other important issues.

I ask unanimous consent that the text of the Small and Disadvantaged Business Ombudsman Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Small and Disadvantaged Business Ombudsman Act".

**SEC. 2. SBA SMALL AND DISADVANTAGED BUSINESS OMBUDSMAN FOR PROCUREMENT.**

Section 30 of the Small Business Act (15 U.S.C. 657) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period and adding a semicolon; and

(C) by adding at the end the following:

"(3) 'SDB Ombudsman' means the Small and Disadvantaged Business Ombudsman for Procurement, designated under subsection (e); and

"(4) 'Major Federal agency' means an agency of the United States Government that, in the previous fiscal year, entered into contracts with non-Federal entities to provide the agency with a total of not less than $200,000,000 in goods or services."; and

(2) by adding at the end the following:

"(e) SBA SMALL AND DISADVANTAGED BUSINESS OMBUDSMAN FOR PROCUREMENT.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Small and Disadvantaged Business Ombudsman Act, the Administrator shall designate a Small and Disadvantaged Business Ombudsman for Procurement (referred to in this section as the 'SDB Ombudsman').

"(B) QUALIFICATIONS.—The SDB Ombudsman shall be—

"(i) highly qualified, with experience assisting small business concerns with Federal procurement; and

"(ii) designated from among employees of the Federal Government, to the extent practicable.

"(C) LINE OF AUTHORITY.—The SDB Ombudsman shall report directly to the Administrator.

"(D) SENIOR EXECUTIVE SERVICE.—The SDB Ombudsman shall be paid at an annual rate not less than the minimum rate, nor more than the maximum rate, for the Senior Executive Service under chapter 53 of title 5, United States Code.

"(2) DUTIES.—The SDB Ombudsman shall—

"(A) work with each Federal agency with procurement authority to ensure that small business concerns are treated fairly in the procurement process;

"(B) establish a procedure for receiving comments from small business concerns and personnel of the Office of Small and Disadvantaged Business Utilization of each Federal agency regarding the activities of agencies and prime contractors that are not small business concerns on Federal procurement contracts; and

"(C) establish a procedure for addressing the concerns received under subparagraph (B).

"(3) ANNUAL REPORT.—

"(A) IN GENERAL.—No later than 1 year after the date of enactment of this subsection, and annually thereafter, the SDB Ombudsman shall provide a report to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate.

"(B) CONTENTS.—The report required under subparagraph (A) shall contain—

"(i) information from the Federal Procurement Data System pertaining to contracting and subcontracting goals of the Federal Government and each Federal agency with procurement authority;

"(ii) a copy of the report submitted to the SDB Ombudsman by each major Federal agency and an evaluation of the goal attainment plans submitted to the SDB Ombudsman pursuant to paragraph (5);

"(iii) an evaluation of the success or failure of each major Federal agency in attaining its small business procurement goals, including a ranking by agency on the attainment of such goals;

"(iv) a summary of the efforts of each major Federal agency to promote contracting opportunities for small business concerns by—

"(I) educating and training procurement officers on the importance of small business concerns to the economy and to Federal contracting; and

"(II) conducting outreach initiatives to promote prime and subcontracting opportunities for small business concerns;

"(v) an assessment of the knowledge of the procurement staff of each major Federal agency concerning programs that promote small business contracting;

"(vi) substantiated comments received from small business concerns and personnel of the Office of Small and Disadvantaged Business Utilization of each Federal agency regarding the treatment of small business concerns by Federal agencies on Federal procurement contracts;

"(vii) an analysis of the responsiveness of each Federal agency to small business concerns with respect to Federal contracting and subcontracting;

"(viii) an assessment of the compliance of each Federal agency with section 15(k) of the Small Business Act (15 U.S.C. 644(k); and

"(ix) a description of any discrimination faced by small business concerns based on their status as small business concerns or the gender or the social or economic status of their owners.

"(C) NOTICE AND COMMENT.—

"(i) IN GENERAL.—The SDB Ombudsman shall provide notice to each Federal agency identified in the report prepared under subparagraph (A) that such agency has 60 days to submit comments on the draft report to the SDB Ombudsman before the final report is submitted to Congress under subparagraph (A).

"(ii) INCLUSION OF OUTSIDE COMMENTS.—

"(I) IN GENERAL.—The final report prepared under this paragraph shall contain a section in which Federal agencies are given an opportunity to respond to the report contents with which they disagree.

"(II) NO RESPONSE.—If no response is received during the 60-day comment period from a particular agency identified in the report, the final report under this paragraph shall indicate that the agency was afforded an opportunity to comment.

"(D) CONFIDENTIALITY.—In preparing the report under this paragraph, the SDB Ombudsman shall keep confidential all information that may expose a small business concern or an employee of an Office of Small and Disadvantaged Business Utilization to possible retaliation from the agency or prime contractor identified by the small business concern, unless the small business concern or employee of the Office of Small and Disadvantaged Business Utilization consents in writing to the release of such information.

"(4) INTERAGENCY COORDINATION.—Each Federal agency, through its Office of Small and Disadvantaged Business Utilization, shall assist the SDB Ombudsman to ensure compliance with—

"(A) the Federal procurement goals established pursuant to section 15(g);

"(B) the procurement policy outlined in section 8(d), which states that small business concerns should be given the maximum practicable opportunity to participate in Federal contracts;

"(C) Federal prime contractors small business subcontracting plans negotiated under section 8(d)(4)(B);

"(D) the responsibilities outlined under section 15(k); and

"(E) any other provision of this Act.

"(5) GOAL ATTAINMENT PLAN.—If a major Federal agency fails to meet any small business procurement goal under this Act in any fiscal year, such agency shall submit a goal attainment plan to the SDB Ombudsman not later than 90 days after the end of the fiscal year in which the goal was not met, containing—

"(A) a description of the circumstances that contributed to the failure of the agency to reach its small business procurement goals; and

"(B) a detailed plan for meeting the small business procurement goals in the fiscal year immediately following the fiscal year in which the goal was not met.

"(6) EFFECT ON OTHER OFFICES.—Nothing in this section is intended to replace or diminish the activities of the Office of Small and Disadvantaged Business Utilization or any similar office in any Federal agency.

"(7) ADMINISTRATIVE RESOURCES.—To enable the SDB Ombudsman to carry out the duties required by this subsection, the Administrator shall provide the SDB Ombudsman with sufficient—

"(A) personnel;

"(B) office space; and

"(C) dedicated financial resources, which are specifically identified in the annual budget request of the Administration.".

**SEC. 3. OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.**

(a) DIRECTOR.—Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) is amended—

(1) in the first sentence, by inserting "(except for the Administration)" after "Federal agency";

(2) by striking paragraph (2), and inserting the following:

"(2) be well qualified, with experience assisting small business concerns with Federal procurement, and receive basic pay at a rate not to exceed the rate of pay for grade 15 of the General Schedule, under section 5332 of title 5, United States Code;";

(3) by striking paragraph (3) and inserting the following:

"(3) be appointed by the head of such agency, be responsible to, and report only to, the head or deputy head of such agency for policy matters, personnel matters, budgetary matters, and all other matters;";

(4) in paragraph (9), by striking ", and" and inserting a semicolon;

(5) in paragraph (10)—

(A) by striking "or section 8(a) of this Act or section 2323 of title 10, United States Code. Such recommendations" and inserting "section 8(a), or section 2323 of title 10, United States Code, which recommendations"; and

(B) by striking the period at the end and inserting a semicolon; and

(6) by striking the undesignated matter after paragraph (10) and inserting the following:

"(11) not concurrently serve as the chief procurement officer for such agency; and

"(12) if the officer is employed by a major Federal agency (as defined in section 30)—

"(A) have no other job duties beyond those described under this subsection;

"(B) receive basic pay at a rate equal to the rate of pay for grade 15 of the General Schedule, under section 5332 of title 5, United States Code; and

"(C) attend the meetings of the Office of Small and Disadvantaged Business Utilization Council.".

(b) OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION COUNCIL.—

(1) ESTABLISHMENT.—There is established an interagency council to be known as the "Office of Small and Disadvantaged Business Utilization Council" (in this subsection referred to as the "Council").

(2) MEMBERSHIP.—The Council shall be composed of—

(A) the Director of Small and Disadvantaged Business Utilization from each Federal agency;

(B) the Small and Disadvantaged Business Ombudsman for Procurement, as an ex officio member; and

(C) other individuals, as ex officio members, as the Council considers necessary.

(3) LEADERSHIP.—

(A) CHAIRPERSON.—The members of the Council shall elect a chairperson, who shall serve for a 1-year, renewable term.

(B) OTHER POSITIONS.—The members of the Council may elect other leadership positions, as necessary, from among its members.

(C) VOTING.—Each member of the Council, except for ex officio members, shall have voting rights on the Council.

(4) MEETINGS.—

(A) FREQUENCY.—The Council shall meet not less frequently than once every 2 months.

(B) ISSUES.—At the meetings under subparagraph (A), the Council shall discuss issues faced by each Office of Small and Disadvantaged Business Utilization, including—

(i) personnel matters;

(ii) barriers to small business participation in Federal procurement;

(iii) agency compliance with section 15(k) of the Small Business Act (15 U.S.C. 644(k)), as amended by this Act; and

(iv) any other matter that the Council considers necessary to further the mission of each Office of Small and Disadvantaged Business Utilization.

(5) FUNDING LIMITATION.—The Small Business Administration shall not provide the Council with financial assistance to carry out the provisions of this section.

**SEC. 4. GOVERNMENTWIDE SMALL BUSINESS GOAL.**

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended in the second sentence, by striking "23 percent of the total value of all prime contract awards for each fiscal year." and inserting "26 percent of the total value of all prime contract awards for fiscal year 2004, not less than 28 percent of the total value of all prime contract awards for fiscal year 2005, and not less than 30 percent of the total value of all prime contract awards for fiscal year 2006 and each fiscal year thereafter.".

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By Ms. COLLINS:

S. 2754. A bill to establish a Presidential Commission on the United States Postal Service; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce the "United States Postal Service Commission Act of 2002." This legislation will establish a Commission to examine the challenges facing the Postal Service and develop solutions to ensure its long term viability and increased efficiency.

The Postal Service's problems have reached a near crisis level. In 2000, the Postal Service lost nearly $200 million, while in 2001, this loss ballooned to $1.68 billion. Losses are projected to be $1.35 billion this year, despite the $675 million in appropriations from Congress to cover the unanticipated costs associated with the September 11 attacks and the anthrax incidents. The Postal Service is mandated by law to break even on its operating expenses and its capital needs, both of which continue to grow.

The Postal Service is also fast approaching its $15 billion statutory borrowing limit. Given its recent history of increasing rather than paying down its debt, increasing the Postal Service's debt ceiling is not the answer. In addition, the Postal Service's long term liabilities are enormous, to the tune of nearly $6 billion for Workers Compensation claims, a staggering $32 billion in retirement costs and perhaps as much as $45 billion to cover retiree health care costs. Meanwhile, on June 30, consumers experienced a third postal rate increase in just 18 months.

How could the Postal Service have landed in such dire straits? The Postal Service's problems stem from many causes. For example, the overall growth rate of mail has been declining since 1997, and first class mail volumes actually have declined over the past four years. This is particularly significant, as first class mail accounts for 48 percent of total mail volume. In addition, revenues from first class mail cover more than two-thirds of institutional costs, such as post offices. Shortfalls must be made up by decreasing costs, increasing volumes in other categories of mail or by increasing postal rates.

Some of this declining volume can be attributed to the increasing forms of electronic communication, particularly the Internet, which has revolutionized the way we communicate and transact business. For example, while financial statements, bills and bill payments constitute about half of first class mail revenue, or about $17 billion annually, electronic bill payment is quickly becoming a major means of doing business. It is estimated that 75 percent of banks will provide online banking services by 2003. This is in addition to other competing methods of communication such as faxes and telephones. In addition, filing tax returns, receiving Social Security payments, and many other transactions are also available electronically.

The Postal Service also faces significant labor-related costs. Indeed nearly 80 percent of its expenses are related to compensation and benefits. By comparison, 56 percent of FedEx's expenses and 42 percent of UPS's expenses are related to compensation and benefits.

The need to preserve a viable Postal Service is clear. Americans rely on affordable, reliable and universal mail delivery as their primary means of communication. The Postal Service delivers more than 200 billion pieces of mail each year to nearly 140 million addresses, which accounts for more than 40 percent of the world's mail. Moreover, 1.7 million new delivery points are added each year—roughly the equivalent of adding the number of addresses in Chicago. More than seven million Americans visit post offices each day.

In States with large rural areas, such as Maine, it is vital that postal services remain in place. If the Postal Service were no longer obligated to provide universal service and deliver mail to every customer, six days a week, the affordable communication link upon which many Americans rely would be jeopardized. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to these areas at rates that the Postal Service has been offering.

In addition to providing a critical service to consumers, the Postal Service is the eleventh largest enterprise in the Nation with $66 billion in annual revenues. This is more than Microsoft, McDonald's and Coca Cola combined. While the Postal Service itself employs more than 700,000 career employees, it is also the linchpin of a $900 billion mailing industry that employs nine million Americans in fields as diverse as direct mailing, printing and paper production.

Affordable postal rates are vital to the economic health of many companies, especially magazines, catalog houses and the service providers they use. The June 2002 rate hike alone represents a ten percent increase for periodicals, and a nine percent increase for catalogs. It is estimated that the combined effect of the past three rate increases, totaling 22 percent over just 18 months, have cost the magazine industry about $400 million.

In May I met with a group of about twenty Maine businessmen and women involved in the mailing industry, who described for me the impact that rising postal rates have on their businesses. One magazine publisher told me that postage represents ten percent of her costs. I was amazed to hear that one of the catalog busineses pays more for postage a year than it pays to any one of the companies that supply the raw materials for its products. It was also startling to hear from one printer that his postage costs have doubled over the last ten years.

Most of the people I met with are small business owners, and there are millions more across the country, all grappling with the same effects of rapidly rising postage costs.

At the request of the Senate Governmental Affairs Committee and House Committee on Government Reform, the Postal Service produced a comprehensive Transformation Plan, which it presented to Congress in April. The Plan addresses general measures that the Postal Service believes it needs to take to ensure its survival, but it fails to lay out specific steps the Postal Service will take and a timeline for action. It is also unclear whether these measures will result in the cost savings necessary to ensure the long-term survival of the Postal Service.

Many attempts have been made to reform the Postal Service over the years. My colleagues in the House of Representatives have tried for nearly eight years to pass postal reform legislation, but to no avail. Stakeholders have widely diverging views on what shape postal reform should take, if any. This lack of consensus on how or whether to deal with divisive issues has led only to stalemates in Congress.

To take a fresh look at these difficult issues, I rise today to introduce legislation establishing a Presidential Postal Commission charged with examining the problems that the Postal Service faces, and developing specific recommendations and legislative proposals that Congress and the Postal Service can implement. Precedent exists for such a commission. In the late 1960s, the Kappel Commission was formed to resolve the crisis situation that the former Postal Department then found itself in, train cars of undelivered mail, strikes, and a host of other problems. The Kappel Commission's efforts laid the groundwork for the Postal Service we have today, which has functioned admirably for many years but is now in serious trouble.

Mindful of the body of work that has been done in this area by my colleagues in the House and Senate, by the General Accounting Office, by the Postal Service itself and by others, I intend that this commission have a short life of one year, during which it will carry out its study and produce legislative proposals for consideration by the Administration and the Congress.

Finally, I intend that the commission consider all relevant aspects of the Postal Service. Everything should be put on the table and evaluated. We need to ensure that the Postal Service will stand up to the challenges it is facing today and will face tomorrow.

These and many more issues must be examined in depth, if we are to preserve this vital service upon which so many Americans rely for communication and for their livelihood. The Postal Service has successfully overcome numerous difficulties over its 226-year history, and has continued to deliver the mail faithfully. Yet it has reached a critical juncture and once again, it is time for a thorough evaluation of the Postal Service's operations and requirements.

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By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2755. A bill to require the Secretary of the Treasury to mint coins in commemoration of the opening of the National Constitution Center in Philadelphia, Pennsylvania scheduled for July 4, 2003; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SANTORUM. Mr. President I am pleased to introduce legislation along with my colleague Senator SPECTER to establish a one dollar silver coin that will benefit the National Constitution Center in Philadelphia, PA.

As the first national center of its kind in the country, the National Constitution Center will promote understanding of the United States Constitution and its values. The events of the past year in our nation as well as recent judicial rulings have brought increased attention to those principles and values that define and bind us as Americans. All would agree that the United States Constitution is central to defining our country, who we are, and how we live as Americans. Even as we often debate in the halls of Congress and the Supreme Court those policies and laws that best reflect the values and intent of the Constitution, we all recognize the freedoms and opportunity that this remarkable document secures for us.

The National Constitution Center has been an important project in Philadelphia with which Senator Specter and I have been involved. Construction began on September 17, 2000. When the Constitution Center is completed as expected on July 4, 2003, it will be a key feature of a revitalized Independence Mall where it will join Independence Hall and the Liberty Bell. The issuance of this coin would coincide with the opening of the Center.

I encourage all of my colleagues to support the National Constitution Center by cosponsoring this bill.

I ask unanimous consent that the text of the bill be printed in the record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Constitution Center Commemorative Coin Act of 2002".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) a Constitutional Convention was convened in the summer of 1787 in Philadelphia, Pennsylvania for the purposes of replacing the failed Articles of Confederation as a framework for governing the 13 American colonies newly independent from Great Britain;

(2) the United States Constitution produced by the Convention would set the United States of America on a unique course of experiment in self-government that would profoundly impact the United States and the world;

(3) in its deliberations and promotion through such literary works as The Federalist Papers, the United States Constitution drew upon the successes and failures of nations and peoples dating as far back as the city-state republics of ancient Greece in forming representative governments;

(4) the first 10 amendments to the Constitution, known as the Bill of Rights, comprise the best written set of legal protections

of the rights and dignity of the individual in the history of human civilization and continue to be the benchmark for nations' adherence to human rights standards;

(5) the principles of the United States Constitution have been enacted into the governing laws of numerous free countries around the globe, and are reflected in the founding documents of the United Nations;

(6) the United States Constitution created the framework for what is now the oldest representative democracy in the world;

(7) in its wisdom, the Constitutional Convention created a mechanism through which the United States Constitution can be perfected, as it has been 27 times to date, to better reflect its founding ideals, as well as to accommodate changing circumstances;

(8) the rights and freedoms secured to Americans by the United States Constitution have and continue to draw millions from around the globe to the shores of this Nation;

(9) all Americans should gain an understanding of and appreciation for the United States Constitution and the role this remarkable document plays in the freedoms and quality of life they enjoy;

(10) the National Constitution Center was established by the Constitution Heritage Act of 1988 (16 U.S.C. 407aa et seq.), which was signed into law by President Ronald Reagan on September 16, 1988, to provide for continuing interpretation of the Constitution and to establish a national center for the United States Constitution; and

(11) the National Constitution Center, located at the site of the birth of the Constitution, only steps away from the Liberty Bell and Independence Hall in the Independence National Historic Park in Philadelphia, Pennsylvania, is the only center in the world solely dedicated to promoting understanding of the Constitution and its values and ideals.

**SEC. 3. COIN SPECIFICATIONS.**

(a) $1 Silver Coins.—The Secretary of the Treasury (in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) Legal Tender.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

**SEC. 4. SOURCES OF BULLION.**

The Secretary may obtain silver for minting coins under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act, to the extent available, and from other available sources, if necessary.

**SEC. 5. DESIGN OF COINS.**

(a) Design Requirements.—

(1) In general.—The design of the coins minted under this Act shall be emblematic of the National Constitution Center in Philadelphia, Pennsylvania.

(2) Designation and inscriptions.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2003"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) Design Selection.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Constitution Center Coin Advisory Committee; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

**SEC. 6. ISSUANCE OF COINS.**

(a) Quality of Coins.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) Mint Facility.—Only 1 facility of the United States Mint may be used to mint coins under this Act.

(c) Period for Issuance.—The Secretary may issue coins minted under this Act beginning on January 1, 2003, and ending when the quantity of coins issued under this Act reaches the limit under section 3(a).

**SEC. 7. SALE OF COINS.**

(a) Sale Price.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) Bulk Sales.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) Prepaid Orders.—

(1) In general.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) Discount.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) Surcharges.—All sales of coins issued under this Act shall include a surcharge established by the Secretary, in an amount equal to not more than $10 per coin.

**SEC. 8. DISTRIBUTION OF SURCHARGES.**

(a) In General.—Subject to section 5134(f) of title 31, United States Code, the proceeds from the surcharges received by the Secretary from the sale of coins minted under this Act shall be paid promptly by the Secretary to the National Constitution Center.

(b) Use of Proceeds.—The proceeds received by the National Constitution Center under subsection (a) shall be used by the Center to promote a greater understanding of the Constitution and its values and ideals.

(c) Audits.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Constitution Center as may be related to the expenditures of amounts paid under subsection (a).

**SEC. 8. FINANCIAL ASSURANCES.**

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this Act, unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

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By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. SCHUMER, and Mrs. CLINTON):

S. 2756. A bill to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, I am very pleased to introduce the Champlain Valley National Heritage Act of 2002. I am joined by Senator LEAHY and Senators SCHUMER and CLINTON of New York. This bill will establish a National Heritage Partnership within the Champlain Valley. Passage of this bill will culminate a process to enhance the incredible cultural resources of the Champlain Valley.

The Champlain Valley of Vermont and New York has one of the richest and most intact collections of historic resources in the United States. Fort Ticonderoga still stands where it has for centuries, at the scene of numerous battles critical to the birth of our Nation. Revolutionary gunboats have recently been found fully intact on the bottom of Lake Champlain. Our cemeteries are the permanent resting place for great explorers, soldiers and sailors. The United States and Canada would not exist today but for events that occurred in this region.

We in Vermont and New York take great pride in our history. We preserve it, honor it and show it off to visitors from around the world. These visitors are also very important to our economy. Tourism is among the most important industries in this region and has much potential for growth.

The Champlain Valley Heritage Partnership will bring together more than one hundred local groups working to preserve and promote our heritage. Up to $2 million a year will be made available from the National Park Service though the Lake Champlain Basin Program to support local efforts to preserve and interpret our heritage and present it to the world. Most of the funding will be given to small communities to help preserve their heritage and develop economic opportunities.

This project has taken many years for me to bring to the point of introducing legislation. This has been time well spent working at the grass-roots level to develop a framework to direct federal resources to where it will do the most good. I am confident that we have found the best model. This will be a true partnership that supports each member but does not impose any new Federal requirements.

The Champlain Valley National Heritage Partnership will preserve our historic resources, interpret and teach about the events that shaped our Nation and will be an engine for economic growth. I am hopeful that this bill soon become law.

Mr. LEAHY. Mr. President, I am very pleased to join with my Senate colleagues from Vermont and New York as we introduce the Lake Champlain Heritage Act of 2002. With this legislation, we will take an important step in recognizing the importance of the Lake Champlain Valley in the history of America.

I want to thank Senator JEFFORDS and his staff for all the work they have put into this effort. I know that many hours have gone into the research, discussion and editing to get where we are today. I also want to thank Senators CLINTON and SCHUMER who are our valuable New York partners in all things related to Lake Champlain.

Over the July 4th recess, I was able to participate in the Lake Champlain Maritime Museum's opening of a new exhibit featuring artifacts recovered from the 1776 Revolutionary War Battle of Valcour. It was just 1 year ago that Senator CLINTON and I were at the site of the Battle to take part in the recovery and beginning of the conservation process of those artifacts.

The Valcour Bay Research Project followed the 1997 discovery of the missing American gunboat from the Battle. I bring this up because our purpose today as we introduce this legislation underscores to the rest of our Nation a message we Vermonters and New Yorkers have long proclaimed: the role of Lake Champlain in the cause of American independence cannot be overlooked.

The evidence of the struggle for this strategic waterway from the days of Native American excursions, through the colonial rivalry between Britain and France, our War of Independence, until the end of the War of 1812, constantly surrounds those of us who make our homes in this Valley.

This act is intended to advance the cultural heritage goals of "Opportunities for Action," the comprehensive plan developed under the Lake Champlain Special Designation Act by the Lake Champlain Basin Program with broad public input and support as well as with the involvement of local, State and Federal Governments.

We envision activities such as locally planned and managed heritage networks and programs, a management strategy for the Lake's underwater cultural resources and strengthening the links between cultural resources and economic development. This legislation will also help provide assistance as the 400th anniversary of Samuel De Champlain's arrival in the Valley is commemorated in 2009.

Today, we are taking a significant step in helping all Americans better appreciate the full history of the Lake Champlain Valley which holds such an extensive collection of historic sites and artifacts.

As Vermonters and New Yorkers the stewards of Lake Champlain, we have a serious responsibility to conserve this evidence for future generations. We believe that what we do here, how we manage the cultural heritage of the Valley, can contribute to the growing debate on how present generations can live and prosper on the same ground that we conserve as our natural and cultural heritage.

Our Vermont and New York Champlain Valley communities share this heritage and have helped us develop a vision to enhance the conservation, interpretation and enjoyment of our shared history and to make it more readily available to residents and visitors alike. We can help revitalize local economies and promote heritage tourism as we improve the stewardship of the Valley's cultural legacy by making additional resources available to communities and organizations through the Lake Champlain Basin Program.

I think it is most fitting that we have come here together to introduce this long-awaited bill, reasserting our partnership for Lake Champlain: Vermont and New York engaged in a cooperative effort to conserve, interpret, and honor our common heritage.

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By Mr. BIDEN:

S. 2757. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program; to the Committee on Finance.

Mr. BIDEN. Mr. President, today I am introducing a bill to add outpatient prescription drug coverage as a new and integral benefit under Part B of Medicare. Under this bill, like the rest of the services under Part B, Medicare will pick up 80 percent of the cost of prescription drugs. This would be the case until a beneficiary hits a $4000 annual out-of-pocket limit, at which point the government picks up 100 percent of drug costs. Moreover, beneficiaries will not have to pay increased monthly premiums or annual deductibles as a result of this new drug benefit.

Now, we have been discussing prescription drug coverage for seniors in this chamber for many years, and there have been numerous proposals brought forward. Some might ask, why do you feel the need to propose your own prescription drug plan; what is wrong with the many previous proposals.

Well, to my way of thinking, we have lost our focus on this issue. In developing a drug plan, we have concentrated too much on such things as budget allotments, philosophy of government, desires of committee chairs, election politics, and other related issues, while ignoring the one thing that really counts: what do the citizens of this country, the ones who are supposed to use this plan, really want? All of these prescription drug plans will be voluntary, and yet unless a plan is attractive enough to ensure the participation of close to 100 percent of those eligible, it probably won't work from an economic point of view. Those of us who were around in 1988 for the debates about catastrophic health care remember with great clarity the consequences of passing a health-related bill that the citizens don't want.

Frankly, I have some doubts about whether any of the prescription drug proposals to date provide what the citizens in Delaware or elsewhere really want. And I think I have a pretty good idea of what people want in a prescription drug plan, at least people in my home state of Delaware. I live in Delaware, and I commute back and forth on AMTRAK every day between Delaware and Washington DC. I have been a Senator for 30 years and people in Delaware know me well. They have no reluctance about walking up to me at the local diner, on the train, or at the drugstore, to give me a piece of their minds. And here is what Delawareans want in a prescription drug bill.

They want something simple and easily understandable. They don't want a plan with a lot of fine print, exclusions, complicated payment formulas, gaps in coverage, lengthy paragraphs filled with whereases and wherefores. They don't want to be in a state of constant anxiety because they really don't know what they have signed up for and what they are covered for. They don't want to have to spend hours on the phone listening to music while waiting for an insurance company clerk to answer the phone and try to explain what the benefits are. They don't want to spend a whole day filling out paperwork to try to get reimbursed for their expenses when they could just as well be playing with their grandchildren. They don't want to be caught in the middle of a fight between their drug insurance plan and their Medicare over who is going to pay for what.

They want a plan that provides meaningful and substantial financial help towards the cost of their medications. For most people I talk to, a cut in prescription drug costs from $5000 per year down to $4700 per year is not very helpful; they are still faced with choosing between paying for medications and paying for rent. With the increasing costs of prescription drugs these days, this is a criterion that is just as important to the middle class as it is to those with low incomes.

They want a plan that is stable, reliable, and predictable. They don't want to sign up with an insurance company and then have the company pull out of the state the following year. They don't want the specifics of their benefits to be changing every year. They want to know what they are getting.

They want a guarantee that a plan will be available to them. They don't want a guarantee that a plan will be available only if an insurance company decides it will offer a plan or if an insurance company decides they are a good risk.

They want a plan that is uniform, not one whose benefits change drastically if they happen to move a few miles. Delaware is a small state, and people who live or work in Delaware move back and forth across state lines with great frequency.

My prescription drug bill is focused on what consumers want, and it fulfills all of these requirements. People are already very familiar with Medicare Part B, so the addition of a prescription drug benefit will not add any confusion. People know that Medicare is stable, reliable, predictable, and the same all over the country. People know that Medicare Part B covers a substantial 80 percent of their medical expense. We know that people like Medicare Part B, since 94 percent of those eligible have voluntarily signed up for it. The addition of a new prescription drug benefit to Part B, without any change in monthly premiums or deductibles, is almost certain to increase the voluntary participation rate close to 100 percent.

Can we afford such a bill? Absolutely. It's just a matter of priorities and choices. And these choices simply reflect our values. My values tell me that providing life-saving prescription drugs to the seniors and disabled is a higher priority than, say, making permanent a tax cut for the well-to-do that they probably don't need and have not really requested.

Many of my colleagues in the Senate, and a large number of their staff, have been working enormously hard to develop a Medicare prescription drug bill that satisfies everybody's concerns. However, I am reminded of the statement by the noted British engineer Sir Alec Issigonis, who commented that "A camel is a horse designed by committee". If the public is expecting a horse, we better not end up with a camel.

Our current situation here in Congress brings to mind a story related by a local TV weatherman here in Washington, DC. This weatherman works in a very high tech underground office with fancy color radars, computers, split-second communications devices, and state of the art graphics. Yet before each broadcast, the weatherman goes upstairs and looks out the window to make sure it is not raining. I would ask my colleagues, as they work through their cost estimates, economic projections, and so forth in developing a prescription drug plan, to walk upstairs and look out the window. Policy makers must not work in protective isolation, in a vacuum; they need a strong dose of reality to inform their deliberations.

I believe that my bill provides the kind of prescription drug plan that Medicare beneficiaries in Delaware, and around the country, really want. I encourage my colleagues to keep the wants of their constituents foremost as they move to craft a vitally-needed prescription drug bill for Medicare beneficiaries.

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By Mr. DODD (for himself, Ms. SNOWER, Mr. JEFFORDS, Mr. REED, Mr. BINGAMAN, Mrs. CLINTON, Mrs. MURRAY, and Mr. EDWARDS):

S. 2758. A bill entitled "The Child Care and Development Block Grant Amendments Act"; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to join with my colleagues Senator SNOWE, Senator JEFFORDS, Senator REED, Senator BINGAMAN, Senator CLINTON, Senator MURRAY, and Senator EDWARDS today in introducing the new Access to High Quality Child Care Act.

On April 11, I introduced, S. 2117, which represented a bipartisan partnership with the Senate Finance Committee and Senate Health, Education, Labor, and Pensions, HELP, Committee to both improve the quality of child care and expand the availability of child care. The bill that we are introducing today further strengthens and improves that legislation.

Compared to S. 2117, the new legislation we are introducing today: further strengthens the coordination among agencies and outreach about the availability of child care assistance, so that the child care agency and TANF agency coordinate in providing information to eligible parents about the availability of child care assistance; includes a new section to improve parent access to the process of obtaining child care subsidies; strengthens accountability for the use of quality funds by requiring States to set State child care quality goals, set quantifiable measures for each goal; and requires States to describe their progress in meeting each goal in an annual report; strengthens provisions to improve the quality and availability of child care for infants and toddlers, child care for disabled children, and child care for children who need care during nontraditional hours; allows States to operate an At Home Infant Care program to improve the quality of care for infants, currently successful in Montana and Minnesota; consolidates the general quality setaside and the child care workforce development setaside under S. 2117 into one 10 percent quality setaside to be used by States to improve the quality of care that children receive, regardless of setting; consolidates data collection under current law to make data collection and reporting requirements easier for States while retaining useful information for policymakers; deletes the section on school readiness incentive grants under S. 2117, instead, replacing these grants with the text of S. 2566, the Early Care and Education Act authorized separately under Title III of this new legislation; shifts the text of the Child Care Centers in Federal Facilities Act and the Technical and Financial Assistance Grants Act under S. 2117 to Title II of the new bill as separate authorizations; adds the text of the Book Stamps Act to Title II as a separate authorization; and, authorizes $1 billion in FY2003 and such sums as necessary in the out years 2004–2007.

In short, the Access to High Quality Child Care Act is about putting "Development" back into the Child Care and Development Block Grant.

The fact is that 78 percent of school-age parents are working today; 65 percent of parents with children under 6 are working today; and, over half of mothers with infants are in the workforce today.

That means about 14 million children, including 6 million infants and toddlers, under the age of 5 are in some type of child care arrangement. Many of them are in child care every week for many hours.

While their parents work, children are being cared for in a variety of settings. Some of them are very good, but sadly, some of them are not. What we know is that 46 percent of kindergarten teachers report that half or more of their students enter kindergarten not ready to learn.

This new legislation that we are introducing today further strengthens our efforts to improve the quality of care to promote school readiness while expanding child care assistance to more working poor families.

We filed this legislation yesterday in the HELP Committee and will proceed to markup next Wednesday, July 24th. I urge my colleagues to join us in supporting this legislation that so many working families with children need.

I ask unanimous consent that summary of the legislation be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

### THE 2002 ACCESS ACT—THE ACCESS TO HIGH QUALITY CHILD CARE ACT BRIEF SUMMARY

Background: The Access to High Quality Child Care is about putting "Development" back into the Child Care and Development Block Grant. About 14 million children, including 6 million infants and toddlers, under the age of 5 are in some type of child care arrangement. Many of them are in child care every week for many hours. The fact is that 78% of school-age parents are working today; 65% of parents with children under 6 are working today; and, over half of mothers with infants are in the workforce today. While these parents work, their children are being cared for in a variety of settings—some of which are very good, but sadly, some of them are not. What we know is that 46% of kindergarten teachers report that half or more of their students enter kindergarten not ready to learn. This reauthorization bill is geared toward improving the quality of care to promote school readiness while expanding child care assistance to more working poor families.

Key Provisions: The Child Care and Development Block Grant is designed to give parents maximum choice among child care providers. The bill retains parental choice, but provides states with a number of ways to help child care providers improve the quality of care that they provide. The 2002 Access Act will: Strengthen the coordination among agencies and outreach about the availability of child care assistance; Promote greater coordination among federal, state, and local care and early childhood development programs, including the transition from early care programs to elementary school; Set aside 10% of CCDBG funds to improve the quality of child care for any of the following activities—initiatives to improve recruitment, education, and retention of child care staff; initiatives to improve the quality and availability of care for infants and toddlers, children with disabilities, or care during nontraditional hours; resource and referral services; training and technical assistance; grants or loans to improve provider compliance with state or local law; support for states to monitor compliance or other activities deemed by the state to improve the quality of care, including the provision of emergency child care.

Improve the accountability of the use of quality funds by requiring states to set quality improvement goals that are measurable to ensure that states are making progress in improving the quality of child care. Set aside 5% of CCDBG funds to help states increase the reimbursement rate for child care providers to ensure that parents have real choices among quality providers. Under current law, CCDBG payment rates are supposed to be sufficient "to ensure equal access for eligible children to comparable child care services in the state or substate area that are provided to children whose parents are not eligible to receive assistance". But, current low state reimbursement rates do not offer parents comparable care for their children.

Allow states to operate an at-home infant care program to promote the quality of care for infants.

The children of working parents need quality child care if they are to enter school ready to learn. Yet, 30 states require no training in early childhood development before a teacher walks into a child care classroom. 42 states require no training in early childhood development before a family day care provider opens its home to unrelated children. The 2002 Access Act will: Require states to set training standards, just as they are required to do now for health and safety under current law. Such training would go beyond CPR and first aid to include training in the social, emotional, physical, and cognitive development of children.

Exempt relatives from the training requirements, but through the quality funding in CCDBG states could partner with colleges and R&Rs to provide training to relatives and informal caregivers on a voluntary basis. Initial evaluations in Connecticut of such efforts show that relatives and informal caregivers are voluntarily participating and are feeling better about themselves and their interactions with the children have improved.

Reduce administrative barriers and improve coordination among agencies so that low income working parents can more easily access the process for obtaining and retaining child care assistance.

### SEPARATE AUTHORIZATIONS FOR QUALITY CHILD CARE INITIATIVES

Separate authorizations include the following measures: the Child Care Centers in Federal Facilities Act, the Technical and Financial Assistance Grants Act, the Book Stamps Act, and the Early Care & Education Act.

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By Mr. HOLLINGS (for himself, Mr. LOTT, and Mr. BREAUX):

S. 2759. A bill to protect the health and safety of American consumers under the Federal Food, Drug, and Cosmetic Act from seafood contaminated by certain substances; to the Committee on Health, Education, Labor, and Pensions.

Mr. HOLLINGS. Mr. President, I rise today as Chairman of the Commerce, Science and Transportation Committee to introduce the Seafood Safety Enforcement Act of 2002. I am pleased to be joined by the Republican minority leader, Senator TRENT LOTT, and by Senator JOHN BREAUX, both distinguished members of the Commerce Committee. This Act would ensure that imports of seafood into the United States are meeting the same food safety standards imposed on seafood that originates from the United States.

Shrimp and other seafood harvested and processed in the United States is some of the best quality seafood in the world. I know how hard the shrimpers in my State of South Carolina work to bring good, wholesome products to our tables. To preserve the quality of seafood, the United States has established rigorous food standards to protect the health and well-being of American consumers. As part of that approach, we have banned the use of certain harmful substances in food-producing animals due to the extreme hazards they pose to human health. While these standards also apply to imported foods that cross our borders, these protections cannot be enforced without adequate inspection and testing.

Unfortunately, not all countries are applying the same rigorous standards that the United States demands for our consumers. In the last few months, one of the banned substances, namely the antibiotic chloramphenicol, was detected in shrimp and other food product imported from several countries to the United States, the European Union and Canada. Shockingly these substances have not been detected by the inspectors for the federal Food and Drug Administration, FDA, the agency responsible for protecting U.S. consumers from adulterated food imports. Rather, these substances were detected in the United States by independent testing done by State authorities in Louisiana.

While these products are prohibited by law, FDA testing has never detected such substances in food imports. We were alarmed to discover that FDA currently tests only 1 to 2 percent of all food imports for compliance with food safety standards. This failure to detect such substances may be due not only to inadequate frequency of testing, but also may be attributed to inadequate testing methods employed by the FDA. While the testing protocol used in Europe and Canada can detect such substances to 0.3 parts per billion ppb, FDA until very recently used a technique that only measures up to 3 ppb, and now is using a test that only detects to 1 ppb.

It is vital that we close this inspection gap at our borders and ensure the safety of our food supply, while not placing unreasonable burdens on the men and women who are tasked with this huge inspection job. This bill would ensure that U.S. consumers are protected from serious health risks associated with harmful substances, while allowing the continued flow of imports that are shown to be free of these harmful substances. It would require FDA to ensure that imports suspected of containing such substances are demonstrated to meet food safety standards. Such demonstration would be made by the importer or exporter, and subject to FDA approval.

Due to the health threats posed by such substances in our food supply, and the national interest of having a uniform inspection and testing standard, federal action is appropriate. This bill provides the safety and security we seek, while not placing unreasonable burdens on our federal food safety inspection system.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2759

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Seafood Safety Enforcement Act".

### SEC. 2. FINDINGS.

(1) Chloramphenicol, a potent antibiotic, can cause severe toxic effects in humans, including hypo-aplastic anemia, which is usually irreversible and fatal. The drug is administered to humans only in life-threatening situations when less toxic drugs are not effective.

(2) Because of these human health impacts, chloramphenicol and similar drugs are not approved for use in food-producing animals in the United States. However, other countries have been found to use these drugs in the aquaculture of shrimp and other seafood, including Thailand, Vietnam, and China.

(3) The majority of shrimp consumed by the United States is imported. The nation imports 400,000 metric tons of shrimp annually, and the percentage of shrimp imports rises each year. Thailand and Vietnam are the top two exporters of shrimp to the United States, and China is the fifth largest exporter of shrimp to the United States.

(4) Upon detection of chloramphenicol in certain shipments of seafood from China and other nations, in 2002 the European Union and Canada severely restricted imports of shrimp and other food from these nations.

(5) The United States Food and Drug Administration inspects only 2 percent of all seafood imports into the United States and utilizes a testing procedure that cannot detect the presence of chloramphenicol below 1 part per billion. The European Union and Canada use testing protocols that can detect such substances to 0.3 parts per billion.

(6) While Food and Drug Administration import testing did not detect chloramphenicol in shrimp imported from these nations in 2002, independent testing performed by the state of Louisiana detected chloramphenicol at a level of over 2 parts per billion in crawfish imported from China.

(7) Imports of seafood from nations that utilize substances banned in the United States pose potential threats to United States consumers. Denial of entry to contaminated shrimp and other products to the European Union and Canada will likely redirect imports to the United States of contaminated products turned away from these countries.

(8) Immediate and focused actions must be taken by the Federal government to improve enforcement of food import restrictions of seafood imports in order to protect United States consumers and ensure safety of the food supply.

### SEC. 3. CONTAMINATED SEAFOOD.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by—

(1) striking all of the text in the third sentence of subsection (a) after "section 505," and inserting "or (4) such article is seafood that appears to bear or contain one or more substances listed in section 530.41(a) of title 21, Code of Federal Regulations, or (5) such article is seafood originating from an exporter or country that the Secretary has identified in guidance as a likely source of articles subject to refusal of admission under clause (4) of this sentence, then such article shall be refused admission, except as provided in subsection (c) of this section and, with respect to articles subject to clause (5) of this sentence, except as provided in subsection (b) of this section.";

(2) redesignating subsections (b) through (n) as subsections (c) through (o), respectively; and

(3) inserting after subsection (a) the following:

"(b)(1) Notwithstanding clause (5) of the third sentence in subsection (a) of this section, the Secretary may permit individual shipments of seafood originating in a country or from an exporter listed in guidance to be admitted into the United States if evidence acceptable to the Secretary is presented that the seafood in that shipment does not bear or contain a substance listed in section 530.41(a) of title 21, Code of Federal Regulations.

"(2) The Secretary may remove a country or exporter listed in guidance under clause (5) of the third sentence of subsection (a) of this section only if the country or exporter has shown to the satisfaction of the Secretary that each substance at issue is no longer sold for use in, being used in, or being used in a manner that could contaminate food-producing animals in the country at issue.".

### SEC. 4. GUIDANCE FOR REFUSING ENTRY OF SEAFOOD FROM A COUNTRY OR EXPORTER.

(a) Issuance of Guidance.—Upon a determination by the Secretary of Health and Human Services that, based on information acceptable to the Secretary, an exporter or country appears to be a source of articles subject to refusal under section 801(a)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)(4)), the Secretary shall issue guidance described in section 801(a)(5) of that Act.

(b) Determination Criteria.—In making the determination described in subsection (a), or any determination under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)), the Secretary may consider—

(A) the detection of substances described in section 801(a)(4) of that Act by the Secretary;

(B) the detection of such substances by a person commissioned to carry out examinations and investigations under section 702(a) of that Act;

(C) findings from an inspection under section 704 of that Act;

(D) the detection by other importing countries of such substances in shipments of seafood that originate from such country or exporter; and

(E) other evidence or information as determined by the Secretary.

(c) Annual Report.—The Secretary shall provide a report within 30 days after the end of each fiscal year to the Senate Committee on Health, Education, Labor, and Pensions and the House of Representatives Committee on Energy and Commerce setting forth the names of all countries and exporters for which the guidance described in subsection (a) was issued during that fiscal year.

(d) Rule of Construction.—Nothing in this Act, and no amendment made by this Act, shall be construed to limit the existing authority of the Secretary of Health and Human Services or the Secretary of the Treasury to consider any information or to refuse admission of any article under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)).

### SEC. 5. ISSUANCE OF TOLERANCES.

If, after the date of enactment of this Act, the Secretary of Health and Human Services intends to issue a tolerance under section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)) for any of the substances listed in section 530.41(a) of title 21, Code of Federal Regulations, then the Secretary shall notify the Senate Committee on Health, Education, Labor, and Pensions and the House of Representatives Committee on Energy and Commerce before issuing that tolerance. The Secretary shall include in the notification a draft of any changes in Federal statute law that may be necessary.

### SEC. 6. CONFORMING AMENDMENTS.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381), as amended by subsection (a), is amended by—

(1) striking "subsection (b)" in subsection (d), as redesignated by section 2(2) of this Act, and inserting "subsection (c)";

(2) striking "subsection (e)" in paragraph (1) of subsection (g), as redesignated by section 2(2) of this Act, and inserting "subsection (f)";

(3) striking "section 801(a)" in paragraph (1)(A)(i) of subsection (h), as redesignated by section 2(2) of this Act, and inserting "subsection (a) of this section";

(4) striking "section 801(a)" in paragraph (1)(A)(ii) of subsection (h), as redesignated by section 2(2) of this Act, and inserting "subsection (a) of this section";

(5) striking "section 801(d)(1);" in paragraph (1)(A)(iii) of subsection (h), as redesignated by section 2(2) of this Act, and inserting "subsection (e)(1) of this section;".

(6) striking "Subsection (b)" in paragraph (2) of subsection (k), as redesignated by section 2(2) of this Act, and inserting "Subsection (c)";

(7) striking "Subsection (b)" in paragraph (1) of subsection (l), as redesignated by section 2(2) of this Act, and inserting "Subsection (c)";

(8) striking "Subsection (b)" in subsection (m), as redesignated by section 2(2) of this Act, and inserting "Subsection (c)"; and

(9) striking "Subsection (b)" in paragraph (2)(B)(i) of subsection (n), as redesignated by section 2(2) of this Act, and inserting "Subsection (c)".

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By Mr. SPECTER (for himself and Mr. HARKIN):

S.J. Res. 41. A joint resolution calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed; to the Committee on Foreign Relations.

Mr. SPECTER. Mr. President, I sought recognition to introduce a joint resolution on behalf of Senator HARKIN and myself calling upon the Congress to consider, vote on, and enact a joint resolution authorizing the use of force by the U.S. Armed Forces against Iraq before such force is used.

This resolution takes no position as to whether the use of force should be authorized or it should not be authorized, but goes to the essential authority of the Congress under the Constitution to declare war.

The President's powers as Commander in Chief are reserved for an emergency where Congress does not have an opportunity to deliberate and decide. It is obvious that concerning the current situation with Iraq, there is ample time for a resolution of the issue by the Congress.

There have been repeated statements by the administration relating to military action against Saddam Hussein. It is known that Saddam has weapons of mass destruction, such as chemicals which he used against the Kurds, and there exists evidence of biological weapons that he possesses. The best thinking is Saddam does not now have nuclear bombs but is trying to acquire them.

The President of the United States, in his State of the Union speech, identified Iraq, along with Iran and North Korea, as the "axis of evil." Secretary of State Powell in congressional testimony then testified that the United States was not going to go to war against either Iran or North Korea, raising the inference that war against Iraq by negative implication was a distinct possibility.

There have been repeated requests for regime change by the administration. In lieu of the limited time, I will not enumerate them, although they are set forth in some detail in my prepared statement.

On February 13, 2002, I spoke on the floor calling for hearings by the Senate Foreign Relations Committee and/or the Senate Armed Services Committee, and by letters dated February 14, 2002, and March 12, 2002, wrote to the respective chairmen of those committees. I am glad to note that Senator BIDEN, chairman of the Foreign Relations Committee, has called for a September hearing on the Iraq issue.

The power of the Congress on the declaration of war has been eroded very materially, with the President taking unilateral action in Korea, Vietnam, Grenada, Lebanon, Panama, Somalia, and Kosovo. But in a situation where there is ample time for the Congress to deliberate and decide, the Congress should assert its constitutional authority.

Among the many issues regarding the separation of powers, none is more important than this basic power to declare war and the separate power which the President has as Commander in Chief which sometimes conflict, but not in the situation such as the one at hand where we have time to deliberate and decide.

Earlier this month, I conducted some 19 town meetings across my State of Pennsylvania and found a great deal of citizen concern. People are unaware of the details and would like to know more.

In my February 13, 2002 floor speech, I enumerated a number of issues which are worth repeating. First, hearings would identify with greater precision what Saddam has by way of weapons of mass destruction.

Secondly, we would get into the details as to what Saddam and Iraq have done by way of thwarting the United Nations from conducting inspections. Earlier this year, I met with Secretary General Kofi Annan to get a firsthand briefing and to press the U.N. to do everything it could to get those inspections.

Another issue which I think needs to be subjected to analysis and hearings and national debate is what the cost would be of toppling Saddam, including the cost in casualties.

Fourth, what will happen after a regime change? What will happen if, as and when Saddam goes?

There is also the critical issue as to what we may expect from Saddam by way of reprisal or by way of anticipatory action. We know that Saddam Hussein is ruthless. We have seen him use chemicals against his own people, the Kurds. We have his statement just yesterday on the 24th anniversary of the July revolution when Saddam came into power. It is a belligerent, bellicose statement.

I had an opportunity to meet with Saddam Hussein in January of 1990 at a meeting with Senator RICHARD SHELBY. There is no doubt in my mind, from that contact—a meeting of about an hour and a quarter—that we are dealing with someone who has a mindset and a determination, having invaded Kuwait, having acted against the Kurds, that should give us every reason to be concerned about what he may do in light of the administration's repeated statements about a regime change; a concern if there is action by the United States against Iraq that there may be retaliation against Israel or others in the Mideast.

Consideration by the Congress also would be very helpful in addressing the concerns which the international community has expressed on the unilateralism of President Bush and President Bush's administration. We have had instances of that: the International Criminal Court, Kyoto, the U.N.-Bosnia peacekeeping force, and others which I have enumerated in greater detail in the written statement which I will include at the conclusion of these remarks.

If there are Members of the Senate and House who come forward and support the President—people in this body with extensive experience in the field over many years, respected international reputations—I think that would give credence to a position that the President may wish to take and would allay some of the concerns internationally on unilateralism, and perhaps persuade some of our allies that this is the right course of conduct.

In considering what to do about Saddam, we have the example fresh in our mind of al-Qaeda and Osama bin Laden. We have learned that 20/20 hindsight always being very good that we should have acted against bin Laden before September 11. We had ample warning and ample cause to do so. Bin Laden was under indictment for killing Americans in Mogadishu in 1993. Bin Laden was under indictment for the East Africa Embassy bombings in 1998. We knew he was involved in the U.S.S. *Cole* terrorism. He had made pronouncements about a worldwide jihad. The United States and the United Nations made demands on the Taliban to turn over bin Laden, which were refused. So we had a right under international law to proceed against bin Laden.

There is obviously great concern about Saddam Hussein or what the future may hold if he goes unchecked. But these are all complicated issues. There ought to be full hearings. The American people ought to be informed. We have learned from the bitter experience of Vietnam what happens when there is military action where the American people are not supportive and the Congress is not supportive.

Obviously, in a representative democracy, the matter first comes to the Congress. There is the precedent of President George H.W. Bush in 1991, when the Congress authorized a resolution for the use of force. I know the Presiding Officer remembers it well, as do I. It was a historic debate, and has been so characterized by the media and other commentators. President Bush, in 1990, had originally said he did not need congressional authorization. Then Senator HARKIN took the floor on January 3, 1991, during a swearing-in ceremony, and procedurally the course that then followed, without going into great detail now, was that we had the debate on January 10, 11, and 12 and voted 52 to 47 in this body authorizing the use of force to repel Iraq from Kuwait. So that precedent is with us.

There is no doubt that Congress is reluctant to step into the breach and to take a position. I urged in 1998 that the Congress authorize the use of force before President Clinton moved in with the missile attacks against Iraq in December of 1998. My written statement goes into detail as to what I have done on this issue going back to 1983, when I conducted a debate with Senator Charles Percy on the question of Korea and Vietnam being a war, and the questioning of Justice Souter in 1990 on whether Korea was a war. There has been a reluctance on the part of Congress to step forward. If we do nothing and it all works out, everything is fine, the Congress is happy. If the President acts unilaterally and is wrong, he gets the blame and we do not get the blame.

I believe we have a responsibility to step forward. We have a responsibility institutionally under the Constitution to declare war, and we have a responsibility to acquaint the American people as to what is involved, and I think a responsibility to have this debate, to tell our European allies what our reasons are for what we may do.

If there is to be military action against Saddam and Iraq, there is no doubt it would be much stronger with a congressional resolution, which implicitly carries the support of the American people. I think the hearings which I have called for and the debate on the resolution will do a great deal to inform the American people and the people of the world as to what we are up to, and whatever justification it is we have.

I understand that my distinguished colleague, Senator HARKIN, will be a cosponsor of this resolution.

Repeated statements from the administration carry the strong suggestion that President Bush intends to take military action to change the regime of Saddam Hussein in Iraq. There are good reasons to be concerned about Saddam Hussein's developing weapons of mass destruction. Iraq's exclusion of UN inspectors raises the inference he has something to hide.

On February 13, 2002, in a Senate floor statement, I urged that the Senate Armed Services and/or Senate Foreign Relations Committee hold hearings as much as possible in public with some necessarily in closed sessions, to determine:

(1) The specifics on Iraq's weapons of mass destruction;

(2) Precisely what happened on the United Nations efforts to conduct inspections in Iraq and Iraq's refusals;

(3) What type of a military action would be necessary to topple Saddam, including estimates of U.S. casualties;

(4) What is anticipated in a change in regime in Iraq including Saddam's prospective replacement.

CONGRESSIONAL RECORD, S730–731, February 13, 2002.

On April 4, 2002, I met with United Nations Secretary General Kofi Annan urging the UN to press Iraq to submit to wide-open, including surprise inspections, to determine the facts on Iraq's possession and efforts to create weapons of mass destruction. Meetings between UN officials and Iraqi representatives on May 1 and 3, 2002 produced no results. Subsequent meetings between UN officials and Iraqi representatives in early July produced no results.

A ranking U.S. intelligence official advised that wide-open and surprise inspections in Iraq could provide reasonable assurances as to what Iraq has by way of possessing and/or developing weapons of mass destruction.

Presidents have acted unilaterally in the past half century in initiating military actions in Korea, Vietnam, Grenada, Lebanon, Panama, Somalia and Kosovo. In some of those situations where there was not time for the Congress to deliberate and decide on a declaration of war or an authorization for the use of force, it was appropriate for the President to utilize his authority as Commander-in-Chief in an emergency. There is now ample time for the Congress to hold hearings, deliberate and take whatever action Congress deems appropriate regarding Iraq.

There is a need for the American public to understand the issues involved in the use of military force against Iraq. There has been some public discussion, but relatively little. Congressional hearings would stimulate a national dialogue on the nation's op-ed pages, radio and television talk shows and in town halls across the country. I am glad to see that Senator JOSEPH R. BIDEN, Chairman of the Foreign Relations Committee, has announced his committee will hold hearings on Iraq in September.

In 19 town meetings, which I conducted across the Commonwealth of Pennsylvania this month, I heard considerable public concern and confusion over the President's intentions as to Iraq. Public support, reflected through the elected members of the House and Senate, is indispensable to successfully carry out an extensive military action. The United States learned a better lesson in Vietnam that a war cannot be successfully fought without public and congressional support.

Consideration by the Congress on these key issues would provide a basis for international understanding of our position and perhaps even support in some quarters. There is a world view that President Bush too often acts unilaterally on critical international issues such as the International Criminal Court, the UN/Bosnia peacekeeping force, the Kyoto Protocol, ABM Treaty withdrawal, and the Biological Weapons Convention. If congressional consideration was followed by the authorization for the use of force supported by thoughtful and experienced members of the House and Senate, the international community might well be reassured that the U.S. military action was not the decision of just one man, even though he is the President of the United States.

There is solid precedent for President George W. Bush to request congressional authority for the use of force against Iraq, just as President George H.W. Bush did in January, 1991. On December 21, 1990, and as late as January 9, 1991, President Bush was quoted as saying a congressional authorization was not necessary. See Weekly Compilation of Presidential Documents, January 14, 1991. Vol. 27, No. 2, pp. 24–25. Many Senators, including Claiborne Pell of Rhode Island, RICHARD LUGAR of Indiana, TOM HARKIN of Iowa, EDWARD M. KENNEDY of Massachusetts, JOSEPH R. BIDEN, Jr. of Delaware, Brock Adams of Washington and I sought to force debate on a resolution that would require congressional authorization for the use of force against Iraq. CONGRESSIONAL RECORD, S 48, January 4, 1991; CONGRESSIONAL RECORD, S119–120, January 10, 1991; see also New York Times, October 18, 1990, page A1, "Senators Demand Role in Approving Any Move on Iraq;" Washington Post, January 4, 1991, page A19, "Canceling Recess, Lawmakers Prepare to Debate War Powers."

On January 3, 1991, the date that Senators who were elected and re-elected the previous November took the oath of office, Senator Harkin successfully sought Senate debate and a vote on a use-of-force resolution. Senate Majority Leader George Mitchell scheduled Senate floor action for consideration of a resolution for the use of force on January 10, 1991. Following a Senate debate which was characterized as "historical" by the Washington Post, the Senate authorized the use of force against Iraq by a vote of 52 to 47. CONGRESSIONAL RECORD, S1018–1019, January 12, 1991. Similarly, the House of Representatives passed such a resolution by a vote of 250 to 183. CONGRESSIONAL RECORD, H1139–1140, January 12, 1991.

With the repeated public commentary on the President's plans to use force against Iraq, there has been public concern about what Saddam Hussein might do in anticipation or retaliation. Saddam is well known for his ruthlessness and his disdain for life by use of chemicals against his own people, the Kurds. Saddam is widely reported to have stockpiles of biological weapons. In a struggle for his own survival, why should we expect Saddam Hussein to refrain from using every weapon at his disposal against an announced attacker? A lengthy article in the New York Times on July 6, 2002 concerning U.S. plans for widespread inoculation for smallpox carried the implicit suggestion of a concern for a bioterrorism attack.

Consideration by Congress on a resolution for the use of force against Saddam would not impact on any potential element of surprise because there is no element of surprise left. The news media has been full of notice to Saddam of potential U.S. plans such as: The New York Times February 16, 2002, edition which quoted Vice President CHENEY as saying, "The President is determined to press on and stop Iraq . . . from continuing to develop weapons of mass destruction" and intends to use "the means at our disposal—including military, diplomatic and intelligence to address these concerns";

The Los Angeles Times on May 5, 2002, reported that the defense Intelligence Agency has produced an operational support study on Iraq including maps and data on geography, roads, refineries, communication facilities, security organizations and military deployments;

The Washington Post reported on May 24, 2002, General Tommy R. Franks, Commander of the U.S. Central Command, has briefed the President concerning troop levels necessary to invade Iraq and oust Saddam Hussein;

The New York Times on July 5, 2002, reported on an American military document calling for air, land and sea based forces to attack Iraq and topple Saddam Hussein;

The New York Times on July 9, 2002, quoted President Bush as saying on Iraq: "It's the stated policy of this government to have regime change and it hasn't changed. And we'll use all tools at our disposal to do so."

In considering a pre-emptive strike against Iraq, we should consider—not that it is determinative—the consequences of not acting against al-Qaeda and Osama bin Laden before September 11, 2001. We had reason in that situation to anticipate a terrorist attack and we had rights under international law to move against bin Laden and al-Qaeda in a pre-emptive strike before September 11, 2001.

Prior to September 11, Osama bin Laden was under U.S. indictment for killing Americans in Mogadishu in 1993. He was further under U.S. indictment for the attacks against American embassies in 1998. He was known to have been involved in the terrorist attack of the USS *Cole*. Osama bin Laden had spoken repeatedly and publicly about his intention to carry out a worldwide Jihad against the United States.

When the Taliban in control in Afghanistan refused to turn over bin Laden to the United States after demands by the United States and the United Nations, the United States had rights under international law to use military force against al-Qaeda and bin Laden.

With congressional hearings as a start, the American people should be informed about Iraq's threat and all our efforts to deal with this threat short of use of military force. We should do our utmost to organize an international coalition against Iraq, which President George Bush did in

1991, specifying as much of the evidence as possible in public congressional hearings in order to create American and worldwide public support for appropriate action. Such public hearings would be supplemented by classified information given to the leaders of the prospective coalition.

Article I, Section 8 of the United States Constitution provides that "Congress has the authority to declare war." Article 2 Section 2 of the United States Constitution provides that the President "shall be commander in chief of the army and navy of the United States. . . ."

In the past half century, there has been a consistent and considerable erosion of Congress' constitutional authority to declare war with a concomitant expansion of the President's powers as Commander-in-Chief. My concerns about the erosion of congressional authority to declare war first arose in 1951 when I was called to active duty in the United States Air Force after having received in R.O.T.C. commission as a second lieutenant upon graduation from the University of Pennsylvania. I was glad to serve state-side from July 29, 1951 to July 31, 1953 as a special agent in the Office of Special Investigations, noting that President Truman had acted on his authority as Commander-in-Chief to order a "police action" without congressional authorization.

Early in my Senate career, I participated extensively in floor debate on the War Powers Resolution concerning U.S. military action in Lebanon. On September 27, 1983, I questioned Senator Charles H. Percy, Chairman of the Foreign Relations Committee, as to whether Korea and Vietnam were wars. Senator Percy stated that both Korea and Vietnam were wars even though undeclared. CONGRESSIONAL RECORD, S. 12995, September 27, 1983.

In 1983, I prepared a legal document for a declaratory judgment action to take to the Supreme Court of the United States on the issue of the constitutionality of the War Powers Act and seeking a judicial determination of the respective authority of the President as Commander-in-Chief and the Congress to declare war. It was my thought that if the Congress and the President asked the Court to take jurisdiction and decide this issue, the Court might do so although even with such a joint request, the Supreme Court might be unwilling to be involved in the so-called "political thicket". The Reagan Administration was unwilling to join in such a request and congressional leaders were reluctant to do so although no final determination was made since the issue was rendered moot by the Reagan Administration's declination. Understandably, the parties preferred to leave the issue ambiguous with a resolution on a case-by-case basis in the political process without a finite judicial determination.

I pursued my inquiries by questioning Supreme Court nominees as to whether Korea was a war. In confirmation hearings for Justice David Souter on September 14, 1990, I questioned him as to whether Korea was a war, whether the Presidents exceeded their constitutional authority in military action in Korea and Vietnam and whether the War Powers Act was unconstitutional in violating presidential powers as Commander-in-Chief. Justice Souter declined to express an opinion stating, in effect, that there was no law to guide him in answering these questions. See Hearings Before the Committee on the Judiciary, United States Senate, 101st Cong., 2nd Sess., on the Nomination of David H. Souter to be Associate of the Supreme Court of the United States.

In the Fall of 1990 and in early January 1991, I joined other senators in successfully taking the position that the President needed congressional authorization for the use of military force against Iraq and the enforcement of UN Security Council Resolution 678. CONGRESSIONAL RECORD, S. 405–490, January 10, 1991.

I took up this question again on September 13, 1994, taking the position that the President did not have the constitutional authority to order an invasion of Haiti without prior congressional authorization. CONGRESSIONAL RECORD, S. 12760, September 13, 1994.

On June 5, 1995, I introduced S. Res. 128, which stated it was the sense of the Senate that no U.S. military personnel should be introduced into combat or potential combat situations in Bosnia without clearly defined objectives and sufficient resources to achieve those objectives. CONGRESSIONAL RECORD, S. 7703, June 5, 1995. That resolution noted that there was ample time for Congress to deliberate and decide that matter, stating that such a decision was a matter for the Congress and that there should be no further erosion of that authority by the Executive Branch.

On November 1, 1995, noting the military action in Somalia without congressional authority and the military action in Haiti without congressional authority, I urge the President to follow the precedent of the Gulf war and seek congressional approval for incursions into Bosnia since there was ample opportunity for Congress to consider and decide the issue. CONGRESSIONAL RECORD, S. 31102, November 1, 1995.

On September 17, 1996, I spoke on the Senate floor on the use of force with missile strikes against Iraq on September 3, 1996, noting that this was another example where the President did not seek congressional authorization or even consultation in advance of that military action. CONGRESSIONAL RECORD, S. 10624–10625, September 17, 1996.

When there was speculation about additional military action against Iraq in early 1998, I spoke on the Senate floor on February 12, 1998, noting that an air attack or a missile attack constituted acts of war which required congressional authority. CONGRESSIONAL RECORD, S. 791–792, February 12, 1998. The President then ordered missile strikes against Iraq in December 1998 without seeking congressional authority.

On February 23, 1999, during Senate debate on the President's use of force in Kosovo, I noted my concern that air strikes constituted acts of war which required authorization by Congress. CONGRESSIONAL RECORD, S. 1771–1773, February 23, 1999. I again noted the continuing erosion of constitutional authority and the need for Congress to debate, deliberate and decide these issues when there was ample time to do so. I noted the tendency on the part of Congress to sit back and avoid such tough decisions. If things go wrong, there is always the President to blame. If things go right, we have not impeded Presidential action.

On March 23, 1999, the Senate voted 58 to 41 to authorize air strikes in Kosovo after the President's request for such congressional action. CONGRESSIONAL RECORD, S. 3118, March 23, 1999. I voted in favor of air strikes even though I had concerns about the President's reliance on the "humanitarian catastrophe" which was a departure from recognized U.S. policy to use force where there was a vital U.S. national security interest. The House deadlocked 213 to 213 on the same vote to authorize force. CONGRESSIONAL RECORD, H. 2451–2452, April 28, 1999.

On May 24, 1999, I proposed an amendment to S. 1059—the Department of Defense Authorization bill—calling on the President to "seek approval from Congress prior to the introduction of ground troops from the United States Armed Forces in connection with the present operations against the Federal Republic of Yugoslavia or funding for that operation will not be authorized." CONGRESSIONAL RECORD, S. 5809–5811, May 25, 1999.

While supporting air strikes proposed by the President against the former Yugloslavia, I opposed any open-ended authorization, such as S.J. Res. 20, which would have "authorized [the President] to use all necessary force and other means in concert with United States allies to accomplish the United States and North Atlantic Treaty Organization objectives in the Federal Republic of Yugoslavia, Serbia and Montenegro". I thought the broad wording of that resolution constituted a blank check which was unwise. Instead, the President should seek specific congressional authority after specifying the objectives and the means for accomplishing those objectives.

There is an understandable reluctance on the part of Members of the House and Senate to challenge a President, especially a popular President, on his actions as Commander-in-Chief to protect U.S. national interests. The constitutional issues on separation of powers and the respective authority of the Congress vis-a-vis the President are obviously important. Of even greater importance, however, is the value of a united front with the President backed by congressional authorization and American public opinion on an issue where most, if not virtually all, of the international community is in opposition.

If the Congress sits back and does nothing and the President is right, then there is public approval. If the President turns out to be wrong, then it is his responsibility without blame being attached to the Congress. There is an added element that the President may, and probably does, know more than the Congress. Hearings, in closed session, could address that discrepancy in knowledge.

The current issue of Iraq is another chapter, albeit a very important chapter, in the ongoing effort to define congressional and Presidential authority on the critical constitutional doctrine of separation of powers. In the present case, there is ample time for Congress to deliberate and decide. With the stakes so high, Congress should assert its constitutional authority to make this critical decision.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

### JOINT RESOLUTION

CALLING FOR CONGRESS TO CONSIDER AND VOTE ON A RESOLUTION FOR THE USE OF FORCE BY THE UNITED STATES ARMED FORCES AGAINST IRAQ BEFORE SUCH FORCE IS DEPLOYED

Whereas Iraq has consistently breached its cease-fire agreement between Iraq and the United States, entered into on March 3, 1991, by failing to dismantle its weapons of mass destruction program, and refusing to permit monitoring and verification by United Nations inspections;

Whereas Iraq has developed weapons of mass destruction, including chemical and biological capabilities, and has made positive progress toward developing nuclear weapons capabilities;

Whereas in his January 29, 2002 "State of the Union" address the President characterized Iraq, Iran and North Korea as an "axis of evil";

Whereas the Secretary of State distinguished Iraq from Iran and North Korea in his testimony before the Senate Budget Committee on February 12, 2002, stating that "for several years now [it has been] a policy of the United States government that a regime change would be in the best interest of the region, [and] the best interest of the Iraqi people";

Whereas in his February 12, 2002 testimony, the Secretary of State specifically stated, "With respect to Iran and with respect to North Korea, there is no plan to start a war with these nations", raising the implication that the United States had a plan to start a war with Iraq;

Whereas, there have been repeated reports in the news media on U.S. plans to use force against Iraq and statements by the President and the Vice President on the intention of the United States to use force against Iraq:

(a) The *New York Times* February 16, 2002, quoting Vice President Cheney saying, "The President is determined to press on and stop Iraq . . . from continuing to develop weapons of mass destruction" and intends to use "the means at our disposal—including military, diplomatic and intelligence to address these concerns";

(b) *New York Times* on July 9, 2002 quoting President Bush on Iraq: "It's the stated policy of this government to have regime change and it hasn't changed. And we'll use all tools at our disposal to do so."

Whereas Congress has the exclusive authority to declare war under Article I, Section 8 of the United States Constitution;

Whereas, the President has authority under Article II, Section 2, of the United States Constitution as Commander-in-Chief, which authorizes him to take military action in an emergency when Congress does not have time to deliberate and decide on a declaration of war or the equivalent authorization for the use of force;

Whereas, within the past half century, Presidents have unilaterally initiated military actions in Korea, Vietnam, Grenada, Lebanon, Panama, Somalia and Kosovo;

Whereas, President George H.W. Bush, although initially stating publicly that he did not need congressional action, ultimately requested authorization from Congress, which was granted in January 1991, to use force against Iraq under circumstances similar to the present situation;

Whereas, there is adequate time for the Congress to deliberate and decide on the authorization to initiate military action against Iraq;

Whereas, if Congress takes no action in the current situation where there is adequate time to deliberate and decide, there will be a significant further, if not virtually complete, erosion of congressional authority under Article I, Section 8 of the United States Constitution.

Whereas, this resolution takes no position on whether such authorization should or should not be granted by Congress;

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That Congress consider and vote on a Resolution authorizing the use of force by the United States Armed Forces against Iraq before such force is deployed against Iraq.

## AMENDMENTS SUBMITTED & PROPOSED

SA 4307. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table.

SA 4308. Mr. TORRICELLI (for himself, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 812, supra; which was ordered to lie on the table.

SA 4309. Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE) proposed an amendment to the bill S. 812, supra.

SA 4310. Mr. HATCH (for Mr. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI)) proposed an amendment to the bill S. 812, supra.

SA 4311. Mr. REID (for Mr. WYDEN (for himself and Mr. ALLEN)) proposed an amendment to the bill S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology.

## TEXT OF AMENDMENTS

**SA 4307.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. LIMITATION ON PAYMENTS TO PROVIDERS UNDER A FEDERAL HEALTH CARE PROGRAM.**

(a) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128F the following new section:

**"SEC. 1128G. LIMITATION ON PAYMENTS TO PROVIDERS UNDER A FEDERAL HEALTH CARE PROGRAM.**

"(a) IN GENERAL.—No Federal funds shall be used to provide payments under a Federal health care program to any physician (as defined in section 1861(r)), practitioner (as described in section 1842(b)(18)(C)), or other individual who charges a membership fee or any other extraneous or incidental fee to a patient, or requires a patient to purchase an item or service, as a prerequisite for the provision of an item or service to the patient.

"(b) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this section, the term 'Federal health care program' has the meaning given that term under section 1128B(f) except that, for purposes of this section, such term includes the health insurance program under chapter 89 of title 5, United States Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to payments made on or after the date of enactment of this Act.

**SA 4308.** Mr. TORRICELLI (for himself, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 812. to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ___—GIFT AND REBATE DISCLOSURE**

**SEC. ___01. SHORT TITLE.**

This title may be cited as the "Gift and Rebate Disclosure Act of 2002".

### SEC. 02. DISCLOSURE BY PRESCRIPTION DRUG MANUFACTURERS, PACKERS, AND DISTRIBUTORS OF CERTAIN GIFTS.

Section 503 of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 353) is amended by adding at the end the following:

"(h)(1) Each manufacturer, packer, or distributor of a drug subject to subsection (b)(1) shall disclose to the Commissioner—

"(A) not later than June 30, 2004, and each June 30 thereafter, the value, nature, and purpose of any—

"(i) gift provided during the preceding calendar year to any covered health entity by the manufacturer, packer, or distributor, or a representative thereof, in connection with detailing, promotional, or other marketing activities; and

"(ii) cash rebate, discount, or any other financial consideration provided during the preceding calendar year to any pharmaceutical benefit manager by the manufacturer, packer, or distributor, or a representative thereof, in connection with detailing, promotional, or other marketing activities; and

"(B) not later than the date that is 6 months after the date of enactment of this subsection and each June 30 thereafter, the name and address of the individual responsible for the compliance of the manufacturer, packer, or distributor with the provisions of this subsection.

"(2) Subject to paragraph (3), the Commissioner shall make all information disclosed to the Commissioner under paragraph (1) publicly available, including by posting such information on the Internet.

"(3) The Commissioner shall keep confidential any information disclosed to or otherwise obtained by the Commissioner under this subsection that relates to a trade secret referred to in section 1905 of title 18, United States Code. The Commissioner shall provide an opportunity in the disclosure form required under paragraph (4) for a manufacturer, packer, or distributor to identify any such information.

"(4) Each disclosure under this subsection shall be made in such form and manner as the Commissioner may require.

"(5) Each manufacturer, packer, and distributor described in paragraph (1) shall be subject to a civil monetary penalty of not more than $10,000 for each violation of this subsection. Each unlawful failure to disclose shall constitute a separate violation. The provisions of paragraphs (3), (4), and (5) of section 303(g) shall apply to such a violation in the same manner as such provisions apply to a violation of a requirement of this Act that relates to devices.

"(6) For purposes of this subsection:

"(A) The term 'covered health entity' includes any physician, pharmaceutical benefit manager, hospital, nursing home, pharmacist, health benefit plan administrator, or any other entity authorized to prescribe or dispense drugs that are subject to subsection (b)(1), in the District of Columbia or any State, commonwealth, possession, or territory of the United States.

"(B) The term 'gift' includes any gift, fee, payment, subsidy, or other economic benefit with a value of $50 or more, except that such term excludes the following:

"(i) Free samples of drugs subject to subsection (b)(1) intended to be distributed to patients.

"(ii) The payment of reasonable compensation and reimbursement of expenses in connection with any clinical trial conducted in connection with a valid scientific study designed to answer specific questions about drugs, devices, new therapies, or new ways of using known treatments, or in connection with a clinical trial involving the compassionate use of an experimental drug or device as permitted under regulations promulgated by the Food and Drug Administration.

"(iii) Any scholarship or other support for medical students, residents, or fellows selected by a national, regional, or specialty medical or other professional association to attend a significant educational, scientific, or policy-making conference of the association.".

### SEC. 03. DISALLOWANCE OF DEDUCTION FOR PHYSICIAN GIFT EXPENSES OF PRESCRIPTION DRUG MANUFACTURERS.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end the following new section:

### "SEC. 280I. PHYSICIAN GIFT EXPENSES OF PRESCRIPTION DRUG MANUFACTURERS.

"(a) GENERAL RULE.—No deduction shall be allowed under this chapter for any physician gift expense paid or incurred by any prescription drug manufacturer.

"(b) PHYSICIAN GIFT EXPENSE.—For purposes of this section, the term 'physician gift expense' means any gift provided directly or indirectly to or for the benefit of a physician, including gifts of meals, sponsored teachings, symposia, and travel, but not including product samples.

"(c) PRESCRIPTION DRUG MANUFACTURER.—For purposes of this section, the term 'prescription drug manufacturer' means—

"(1) any person engaged in the trade or business of manufacturing or producing any prescription drug, and

"(2) any person who is a member of an affiliated group which includes a person described in paragraph (1).

For purposes of the preceding sentence, the term 'affiliated group' means any affiliated group as defined in section 1504 (determined without regard to paragraphs (3) and (4) of 1504(b))."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280I. Physician gift expenses of prescription drug manufacturers."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2001.

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**SA 4309.** Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY and Mr. CORZINE) proposed an amendment to the bill S. 812. to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

At the end, add the following:

## TITLE II—MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

### SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Medicare Outpatient Prescription Drug Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 201. Short title; table of contents.
Sec. 202. Medicare outpatient prescription drug benefit program.

"PART D—OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

"Sec. 1860. Definitions.
"Sec. 1860A. Establishment of outpatient prescription drug benefit program.
"Sec. 1860B. Enrollment under program.
"Sec. 1860C. Enrollment in a plan.
"Sec. 1860D. Providing information to beneficiaries.
"Sec. 1860E. Premiums.
"Sec. 1860F. Outpatient prescription drug benefits.
"Sec. 1860G. Entities eligible to provide outpatient drug benefit.
"Sec. 1860H. Minimum standards for eligible entities.
"Sec. 1860I. Payments.
"Sec. 1860J. Employer incentive program for employment-based retiree drug coverage.
"Sec. 1860K. Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.
"Sec. 1860L. Medicare Prescription Drug Advisory Committee.".
Sec. 203. Part D benefits under Medicare+Choice plans.
Sec. 204. Additional assistance for low-income beneficiaries.
Sec. 205. Medigap revisions.
Sec. 206. Comprehensive immunosuppressive drug coverage for transplant patients under part B.
Sec. 207. HHS study and report on uniform pharmacy benefit cards.
Sec. 208. GAO study and biennial reports on competition and savings.
Sec. 209. Expansion of membership and duties of Medicare Payment Advisory Commission (MedPAC).

### SEC. 202. MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM.

(a) ESTABLISHMENT.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

### "PART D—OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

"DEFINITIONS

"SEC. 1860. In this part:

"(1) COVERED OUTPATIENT DRUG.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'covered outpatient drug' means any of the following products:

"(i) A drug which may be dispensed only upon prescription, and—

"(I) which is approved for safety and effectiveness as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act;

"(II)(aa) which was commercially used or sold in the United States before the date of enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(III)(aa) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) for which the Secretary has not issued a notice of an opportunity for a hearing under section

505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

"(ii) A biological product which—

"(I) may only be dispensed upon prescription;

"(II) is licensed under section 351 of the Public Health Service Act; and

"(III) is produced at an establishment licensed under such section to produce such product.

"(iii) Insulin approved under appropriate Federal law, including needles and syringes for the administration of such insulin.

"(iv) A prescribed drug or biological product that would meet the requirements of clause (i) or (ii) except that it is available over-the-counter in addition to being available upon prescription.

"(B) Exclusion.—The term 'covered outpatient drug' does not include any product—

"(i) except as provided in subparagraph (A)(iv), which may be distributed to individuals without a prescription;

"(ii) for which payment is available under part A or B or would be available under part B but for the application of a deductible under such part (unless payment for such product is not available because benefits under part A or B have been exhausted), determined, except as provided in subparagraph (C), without regard to whether the beneficiary involved is entitled to benefits under part A or enrolled under part B; or

"(iii) except for agents used to promote smoking cessation and agents used for the treatment of obesity, for which coverage may be excluded or restricted under section 1927(d)(2).

"(C) Clarification regarding immunosuppressive drugs.—In the case of a beneficiary who is not eligible for any coverage under part B of drugs described in section 1861(s)(2)(J) because of the requirements under such section (and would not be so eligible if the individual were enrolled under such part), the term 'covered outpatient drug' shall include such drugs if the drugs would otherwise be described in subparagraph (A).

"(2) Eligible beneficiary.—The term 'eligible beneficiary' means an individual that is entitled to benefits under part A or enrolled under part B.

"(3) Eligible entity.—The term 'eligible entity' means any entity that the Secretary determines to be appropriate to provide eligible beneficiaries with covered outpatient drugs under a plan under this part, including—

"(A) a pharmacy benefit management company;

"(B) a retail pharmacy delivery system;

"(C) a health plan or insurer;

"(D) a State (through mechanisms established under a State plan under title XIX);

"(E) any other entity approved by the Secretary; or

"(F) any combination of the entities described in subparagraphs (A) through (E) if the Secretary determines that such combination—

"(i) increases the scope or efficiency of the provision of benefits under this part; and

"(ii) is not anticompetitive.

"(4) Medicare+choice organization; Medicare+choice plan.—The terms 'Medicare+Choice organization' and 'Medicare+Choice plan' have the meanings given such terms in subsections (a)(1) and (b)(1), respectively, of section 1859 (relating to definitions relating to Medicare+Choice organizations).

"(5) Prescription drug account.—The term 'Prescription Drug Account' means the Prescription Drug Account (as established under section 1860K) in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

"ESTABLISHMENT OF OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

"Sec. 1860A. (a) Provision of Benefit.—

"(1) In general.—Beginning in 2005, the Secretary shall provide for and administer an outpatient prescription drug benefit program under which each eligible beneficiary enrolled under this part shall be provided with coverage of covered outpatient drugs as follows:

"(A) Medicare+choice plan.—If the eligible beneficiary is eligible to enroll in a Medicare+Choice plan, the beneficiary—

"(i) may enroll in such a plan; and

"(ii) if so enrolled, shall obtain coverage of covered outpatient drugs through such plan.

"(B) Medicare prescription drug plan.—If the eligible beneficiary is not enrolled in a Medicare+Choice plan, the beneficiary shall obtain coverage of covered outpatient drugs through enrollment in a plan offered by an eligible entity with a contract under this part.

"(2) Voluntary nature of program.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program established under this part.

"(3) Scope of benefits.—The program established under this part shall provide for coverage of all therapeutic classes of covered outpatient drugs.

"(b) Access to Alternative Prescription Drug Coverage.—In the case of an eligible beneficiary who has creditable prescription drug coverage (as defined in section 1860B(b)(1)(F)), such beneficiary—

"(1) may continue to receive such coverage and not enroll under this part; and

"(2) pursuant to section 1860B(b)(1)(C), is permitted to subsequently enroll under this part without any penalty and obtain coverage of covered outpatient drugs in the manner described in subsection (a) if the beneficiary involuntarily loses such coverage.

"(c) Financing.—The costs of providing benefits under this part shall be payable from the Prescription Drug Account.

"ENROLLMENT UNDER PROGRAM

"Sec. 1860B. (a) Establishment of Process.—

"(1) Process similar to enrollment under part B.—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1837, including the deeming provisions of such section.

"(2) Requirement of enrollment.—An eligible beneficiary must enroll under this part in order to be eligible to receive covered outpatient drugs under this title.

"(b) Special Enrollment Procedures.—

"(1) Late enrollment penalty.—

"(A) Increase in premium.—Subject to the succeeding provisions of this paragraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary's initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in paragraph (2), the Secretary shall establish procedures for increasing the amount of the monthly part D premium under section 1860E(a) applicable to such beneficiary by an amount that the Secretary determines is actuarily sound for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled.

"(B) Periods taken into account.—For purposes of calculating any 12-month period under subparagraph (A), there shall be taken into account—

"(i) the months which elapsed between the close of the eligible beneficiary's initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

"(ii) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled.

"(C) Periods not taken into account.—

"(i) In general.—For purposes of calculating any 12-month period under subparagraph (A), subject to clause (ii), there shall not be taken into account months for which the eligible beneficiary can demonstrate that the beneficiary had creditable prescription drug coverage (as defined in subparagraph (F)).

"(ii) Application.—This subparagraph shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 60-day period that begins on the first day of the month which includes—

"(I) in the case of a beneficiary with coverage described in clause (ii) of subparagraph (F), the date on which the plan terminates, ceases to provide, or reduces the value of the prescription drug coverage under such plan to below the actuarial value of the coverage provided under the program under this part; or

"(II) in the case of a beneficiary with coverage described in clause (i), (iii), or (iv) of subparagraph (F), the date on which the beneficiary loses eligibility for such coverage.

"(D) Periods treated separately.—Any increase in an eligible beneficiary's monthly part D premium under subparagraph (A) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

"(E) Continuous period of eligibility.—

"(i) In general.—Subject to clause (ii), for purposes of this paragraph, an eligible beneficiary's 'continuous period of eligibility' is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and ends with the beneficiary's death.

"(ii) Separate period.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which the beneficiary attained age 65 shall be a separate 'continuous period of eligibility' with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this paragraph).

"(F) Creditable prescription drug coverage defined.—For purposes of this part, the term 'creditable prescription drug coverage' means any of the following:

"(i) Medicaid prescription drug coverage.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934 and through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

"(ii) PRESCRIPTION DRUG COVERAGE UNDER A GROUP HEALTH PLAN.—Prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined in section 1860J(e)(3)), but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

"(iii) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

"(iv) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans, and survivors and dependents of veterans, under chapter 17 of title 38, United States Code, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

"(2) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—

"(A) IN GENERAL.—The Secretary shall establish an applicable period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may enroll under this part without the application of the late enrollment procedures established under paragraph (1)(A).

"(B) OPEN ENROLLMENT PERIOD TO BEGIN PRIOR TO JANUARY 1, 2005.—The Secretary shall ensure that eligible beneficiaries are permitted to enroll under this part prior to January 1, 2005, in order to ensure that coverage under this part is effective as of such date.

"(3) SPECIAL ENROLLMENT PERIOD FOR BENEFICIARIES WHO INVOLUNTARILY LOSE CREDITABLE PRESCRIPTION DRUG COVERAGE.—The Secretary shall establish a special open enrollment period for an eligible beneficiary that loses creditable prescription drug coverage.

"(c) PERIOD OF COVERAGE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

"(2) OPEN AND SPECIAL ENROLLMENT.—Subject to paragraph (3), an eligible beneficiary who enrolls under the program under this part pursuant to paragraph (2) or (3) of subsection (b) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

"(3) LIMITATION.—Coverage under this part shall not begin prior to January 1, 2005.

"(d) TERMINATION.—

"(1) IN GENERAL.—The causes of termination specified in section 1838 shall apply to this part in the same manner as such causes apply to part B.

"(2) COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—

"(A) IN GENERAL.—In addition to the causes of termination specified in paragraph (1), the Secretary shall terminate an individual's coverage under this part if the individual is no longer enrolled in either part A or B.

"(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if later) under part B.

"(3) PROCEDURES REGARDING TERMINATION OF A BENEFICIARY UNDER A PLAN.—The Secretary shall establish procedures for determining the status of an eligible beneficiary's enrollment under this part if the beneficiary's enrollment in a plan offered by an eligible entity under this part is terminated by the entity for cause (pursuant to procedures established by the Secretary under section 1860C(a)(1)).

"ENROLLMENT IN A PLAN

"SEC. 1860C. (a) PROCESS.—

"(1) ESTABLISHMENT.—

"(A) ELECTION.—

"(i) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part but not enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization—

"(I) shall make an annual election to enroll in any plan offered by an eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides; and

"(II) may make an annual election to change the election under this clause.

"(ii) DEFAULT ENROLLMENT.—Such process shall include for the default enrollment in such a plan in the case of an eligible beneficiary who is enrolled under this part but who has failed to make an election of such a plan.

"(B) RULES.—In establishing the process under subparagraph (A), the Secretary shall—

"(i) use rules similar to the rules for enrollment, disenrollment, and termination of enrollment with a Medicare+Choice plan under section 1851, including—

"(I) the establishment of special election periods under subsection (e)(4) of such section; and

"(II) the application of the guaranteed issue and renewal provisions of subsection (g) of such section (other than paragraph (3)(C)(i), relating to default enrollment); and

"(ii) coordinate enrollments, disenrollments, and terminations of enrollment under part C with enrollments, disenrollments, and terminations of enrollment under this part.

"(2) FIRST ENROLLMENT PERIOD FOR PLAN ENROLLMENT.—The process developed under paragraph (1) shall—

"(A) ensure that eligible beneficiaries who choose to enroll under this part are permitted to enroll with an eligible entity prior to January 1, 2005, in order to ensure that coverage under this part is effective as of such date; and

"(B) be coordinated with the open enrollment period under section 1860B(b)(2)(A).

"(b) MEDICARE+CHOICE ENROLLEES.—

"(1) IN GENERAL.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall receive coverage of covered outpatient drugs under this part through such plan.

"(2) RULES.—Enrollment in a Medicare+Choice plan is subject to the rules for enrollment in such a plan under section 1851.

"PROVIDING INFORMATION TO BENEFICIARIES

"SEC. 1860D. (a) ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

"(2) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the open enrollment period described in section 1860B(b)(2)(A).

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The activities described in subsection (a) shall—

"(A) be similar to the activities performed by the Secretary under section 1851(d);

"(B) be coordinated with the activities performed by the Secretary under such section and under section 1804; and

"(C) provide for the dissemination of information comparing the plans offered by eligible entities under this part that are available to eligible beneficiaries residing in an area.

"(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1)(C) shall include a comparison of the following:

"(A) BENEFITS.—The benefits provided under the plan, including the prices beneficiaries will be charged for covered outpatient drugs, any preferred pharmacy networks used by the eligible entity under the plan, and the formularies and appeals processes under the plan.

"(B) QUALITY AND PERFORMANCE.—To the extent available, the quality and performance of the eligible entity offering the plan.

"(C) BENEFICIARY COST-SHARING.—The cost-sharing required of eligible beneficiaries under the plan.

"(D) CONSUMER SATISFACTION SURVEYS.—To the extent available, the results of consumer satisfaction surveys regarding the plan and the eligible entity offering such plan.

"(E) ADDITIONAL INFORMATION.—Such additional information as the Secretary may prescribe.

"(3) INFORMATION STANDARDS.—The Secretary shall develop standards to ensure that the information provided to eligible beneficiaries under this part is complete, accurate, and uniform.

"(c) USE OF MEDICARE CONSUMER COALITIONS TO PROVIDE INFORMATION.—

"(1) IN GENERAL.—The Secretary may contract with Medicare Consumer Coalitions to conduct the informational activities under—

"(A) this section;

"(B) section 1851(d); and

"(C) section 1804.

"(2) SELECTION OF COALITIONS.—If the Secretary determines the use of Medicare Consumer Coalitions to be appropriate, the Secretary shall—

“(A) develop and disseminate, in such areas as the Secretary determines appropriate, a request for proposals for Medicare Consumer Coalitions to contract with the Secretary in order to conduct any of the informational activities described in paragraph (1); and

“(B) select a proposal of a Medicare Consumer Coalition to conduct the informational activities in each such area, with a preference for broad participation by organizations with experience in providing information to beneficiaries under this title.

“(3) Payment to medicare consumer coalitions.—The Secretary shall make payments to Medicare Consumer Coalitions contracting under this subsection in such amounts and in such manner as the Secretary determines appropriate.

“(4) Authorization of appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary to contract with Medicare Consumer Coalitions under this section.

“(5) Medicare consumer coalition defined.—In this subsection, the term ‘Medicare Consumer Coalition’ means an entity that is a nonprofit organization operated under the direction of a board of directors that is primarily composed of beneficiaries under this title.

“PREMIUMS

“Sec. 1860E. (a) Annual Establishment of Monthly Part D Premium Rates.—

“(1) In general.—The Secretary shall, during September of each year (beginning in 2004), determine and promulgate a monthly part D premium rate for the succeeding year.

“(2) Amount.—The Secretary shall determine the monthly part D premium rate for the succeeding year as follows:

“(A) Premium for 2005.—The monthly part D premium rate for 2005 shall be $25.

“(B) Inflation adjustment of premium for 2006 and subsequent years.—

“(i) In general.—Subject to clause (ii), in the case of any calendar year beginning after 2005, the monthly part D premium rate for the year shall be the amount described in subparagraph (A) increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the percentage (if any) by which the amount of the average annual per capita aggregate expenditures payable from the Prescription Drug Account for the year (as estimated under section 1860J(c)(2)(C)) exceeds the amount of such expenditures in 2005.

“(ii) Rounding.—If the monthly part D premium rate determined under clause (i) is not a multiple of $1, such rate shall be rounded to the nearest multiple of $1.

“(b) Collection of Part D Premium.—The monthly part D premium applicable to an eligible beneficiary under this part (after application of any increase under section 1860B(b)(1)) shall be collected and credited to the Prescription Drug Account in the same manner as the monthly premium determined under section 1839 is collected and credited to the Federal Supplementary Medical Insurance Trust Fund under section 1840.

“OUTPATIENT PRESCRIPTION DRUG BENEFITS

“Sec. 1860F. (a) Requirement.—A plan offered by an eligible entity under this part shall provide eligible beneficiaries enrolled in such plan with—

“(1) coverage of covered outpatient drugs—

“(A) without the application of any deductible; and

“(B) with the cost-sharing described in subsection (b); and

“(2) access to negotiated prices for such drugs under subsection (c).

“(b) Cost-Sharing.—

“(1) Copayment structure for drugs included in the formulary.—

“(A) In general.—Subject to the succeeding provisions of this subsection, in the case of a covered outpatient drug that is dispensed in a year to an eligible beneficiary and that is included in the formulary established by the eligible entity (pursuant to section 1860H(c)) for the plan, the beneficiary shall be responsible for a copayment for the drug in an amount equal to the following:

“(i) Generic drugs.—In the case of a generic covered outpatient drug, $10 for each prescription (as defined in subparagraph (D)) of such drug.

“(ii) Preferred brand name drugs.—In the case of a preferred brand name covered outpatient drug (including a drug treated as a preferred brand name drug under subparagraph (C)), $40 for each prescription (as so defined) of such drug.

“(B) Reduction by eligible entity.—An eligible entity offering a plan under this part may reduce the applicable copayment amount that an eligible beneficiary enrolled in the plan is subject to under subparagraph (A) if the Secretary determines that such reduction—

“(i) is tied to the performance requirements described in section 1860I(b)(1)(C); and

“(ii) will not result in an increase in the expenditures made from the Prescription Drug Account.

“(C) Treatment of medically necessary nonformulary drugs.—The eligible entity shall treat a nonformulary drug as a preferred brand name drug under subparagraph (A)(ii) if such nonformulary drug is determined (pursuant to subparagraph (D) or (E) of section 1860H(a)(4)) to be medically necessary.

“(D) Prescription defined.—

“(i) In general.—Subject to clause (ii), for purposes of subparagraph (A), the term ‘prescription’ means—

“(I) a 30-day supply for a maintenance drug; and

“(II) a supply necessary for the length of the course that is typical of current practice for a nonmaintenance drug.

“(ii) Special rule for mail order drugs.—In the case of drugs obtained by mail order, the term ‘prescription’ may be for a supply that is longer than the period specified in clause (i) or (ii) (as the case may be) if the Secretary determines that the longer supply will not result in an increase in the expenditures made from the Prescription Drug Account.

“(2) Beneficiary responsible for negotiated price of nonformulary drugs.—In the case of a covered outpatient drug that is dispensed to an eligible beneficiary and that is not included in the formulary established by the eligible entity (pursuant to section 1860H(c)) for the plan (and not treated a preferred brand name drug under paragraph (1)(C)), the beneficiary shall be responsible for the negotiated price for the drug (as reported to the Secretary pursuant to section 1860H(a)(6)(A)).

“(3) Cost-sharing may not exceed negotiated price.—

“(A) In general.—If the amount of cost-sharing for a covered outpatient drug that would otherwise be required under this subsection (but for this paragraph) is greater than the applicable amount, then the amount of such cost-sharing shall be reduced to an amount equal to such applicable amount.

“(B) Applicable amount defined.—For purposes of subparagraph (A), the term ‘applicable amount’ means an amount equal to—

“(i) in the case of a drug included in the formulary (generic drugs and preferred brand name drugs, including a drug treated as a preferred brand name drug under paragraph (1)(C)), the negotiated price for the drug (as reported to the Secretary pursuant to section 1860H(a)(6)(A)) less $5; and

“(ii) in the case of a nonformulary drug, the negotiated price for the drug (as so reported).

“(4) No cost-sharing once expenses equal annual out-of-pocket limit.—

“(A) In general.—An eligible entity offering a plan under this part shall provide coverage of covered outpatient drugs without any cost-sharing if the individual has incurred costs (as described in subparagraph (C)) for covered outpatient drugs in a year equal to the annual out-of-pocket limit specified in subparagraph (B).

“(B) Annual out-of-pocket limit.—Subject to paragraph (5), for purposes of this part, the ‘annual out-of-pocket limit’ specified in this subparagraph is equal to $4,000.

“(C) Application.—In applying subparagraph (A)—

“(i) incurred costs shall only include costs incurred for the cost-sharing described in this subsection; but

“(ii) such costs shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs.

“(5) Inflation adjustment for copayment amounts and annual out-of-pocket limit for 2006 and subsequent years.—

“(A) In general.—For any year after 2005—

“(i) the copayment amounts described in clauses (i) and (ii) of paragraph (1)(A) are equal to the copayment amounts determined under such paragraph (or this paragraph) for the previous year—

“(I) increased by the annual percentage increase described in subparagraph (B); and

“(II) further adjusted to reflect relative changes in the composition of drug spending among the copayment structure under paragraph (1) to ensure that the percentage of drug spending that beneficiaries enrolled under this part are required to pay in the year is the same (as estimated by the Secretary) as the percentage required in the previous year; and

“(ii) the annual out-of-pocket limit specified in paragraph (4)(B) is equal to the annual out-of-pocket limit determined under such paragraph (or this paragraph) for the previous year increased by the annual percentage increase described in subparagraph (C).

“(B) Annual percentage increase specified in subparagraph (B).—The annual percentage increase specified in this subparagraph for a year is equal to the annual percentage increase in the prices of covered outpatient drugs (including both price inflation and price changes due to changes in therapeutic mix), as determined by the Secretary for the 12-month period ending in July of the previous year..

“(C) Annual percentage increase specified in subparagraph (C).—The annual percentage increase specified in this subparagraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered outpatient drugs in the United States for medicare beneficiaries, as determined by the Secretary for the 12-month period ending in July of the previous year.

“(D) Rounding.—If any amount determined under subparagraph (A) is not a multiple of

$1, such amount shall be rounded to the nearest multiple of $1.

"(c) ACCESS TO NEGOTIATED PRICES.—

"(1) ACCESS.—Under a plan offered by an eligible entity with a contract under this part, the eligible entity offering such plan shall provide eligible beneficiaries enrolled in such plan with access to negotiated prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that only partial benefits may be payable under the coverage with respect to such drugs because of the application of the cost-sharing under subsection (b).

"(2) MEDICAID RELATED PROVISIONS.—Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated under a plan under this part, the requirements of section 1927 shall not apply to such drugs. The prices negotiated under a plan under this part with respect to covered outpatient drugs, under a Medicare+Choice plan with respect to such drugs, or under a qualified retiree prescription drug plan (as defined in section 1860J(e)(3)) with respect to such drugs, on behalf of eligible beneficiaries, shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

### "ENTITIES ELIGIBLE TO PROVIDE OUTPATIENT DRUG BENEFIT

"SEC. 1860G. (a) ESTABLISHMENT OF PANELS OF PLANS AVAILABLE IN AN AREA.—

"(1) IN GENERAL.—The Secretary shall establish procedures under which the Secretary—

"(A) accepts bids submitted by eligible entities for the plans which such entities intend to offer in an area established under subsection (b); and

"(B) awards contracts to such entities to provide such plans to eligible beneficiaries in the area.

"(2) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this part.

"(b) AREA FOR CONTRACTS.—

"(1) REGIONAL BASIS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to paragraph (2), the contract entered into between the Secretary and an eligible entity with respect to a plan shall require the eligible entity to provide coverage of covered outpatient drugs under the plan in a region determined by the Secretary under paragraph (2).

"(B) PARTIAL REGIONAL BASIS.—

"(i) IN GENERAL.—If determined appropriate by the Secretary, the Secretary may permit the coverage described in subparagraph (A) to be provided in a partial region determined appropriate by the Secretary.

"(ii) REQUIREMENTS.—If the Secretary permits coverage pursuant to clause (i), the Secretary shall ensure that the partial region in which coverage is provided is—

"(I) at least the size of the commercial service area of the eligible entity for that area; and

"(II) not smaller than a State.

"(2) DETERMINATION.—

"(A) IN GENERAL.—In determining regions for contracts under this part, the Secretary shall—

"(i) take into account the number of eligible beneficiaries in an area in order to encourage participation by eligible entities; and

"(ii) ensure that there are at least 10 different regions in the United States.

"(B) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of coverage areas under this part shall not be subject to administrative or judicial review.

"(c) SUBMISSION OF BIDS.—

"(1) SUBMISSION.—

"(A) IN GENERAL.—Subject to subparagraph (B), each eligible entity desiring to offer a plan under this part in an area shall submit a bid with respect to such plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(B) BID THAT COVERS MULTIPLE AREAS.—The Secretary shall permit an eligible entity to submit a single bid for multiple areas if the bid is applicable to all such areas.

"(2) REQUIRED INFORMATION.—The bids described in paragraph (1) shall include—

"(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

"(B) a statement regarding the amount that the entity will charge the Secretary for managing, administering, and delivering the benefits under the contract;

"(C) a statement regarding whether the entity will reduce the applicable cost-sharing amount pursuant to section 1860F(b)(1)(B) and if so, the amount of such reduction and how such reduction is tied to the performance requirements described in section 1860I(b)(1)(C);

"(D) a detailed description of the performance requirements for which the payments to the entity will be subject to risk pursuant to section 1860I(b)(1)(C);

"(E) a detailed description of access to pharmacy services provided under the plan;

"(F) with respect to the formulary used by the entity, a detailed description of the procedures and standards the entity will use for—

"(i) adding new drugs to a therapeutic class within the formulary; and

"(ii) determining when and how often the formulary should be modified;

"(G) a detailed description of any ownership or shared financial interests with other entities involved in the delivery of the benefit as proposed under the plan;

"(H) a detailed description of the entity's estimated marketing and advertising expenditures related to enrolling eligible beneficiaries under the plan and retaining such enrollment; and

"(I) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

"(d) ACCESS TO BENEFITS IN CERTAIN AREAS.—

"(1) AREAS NOT COVERED BY CONTRACTS.—The Secretary shall develop procedures for the provision of covered outpatient drugs under this part to each eligible beneficiary enrolled under this part that resides in an area that is not covered by any contract under this part.

"(2) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure that each eligible beneficiary enrolled under this part that resides in different areas in a year is provided the benefits under this part throughout the entire year.

"(e) AWARDING OF CONTRACTS.—

"(1) NUMBER OF CONTRACTS.—The Secretary shall, consistent with the requirements of this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts to offer a plan in an area, unless only 1 bidding entity (and the plan offered by the entity) meets the minimum standards specified under this part and by the Secretary.

"(2) DETERMINATION.—In determining which of the eligible entities that submitted bids that meet the minimum standards specified under this part and by the Secretary to award a contract, the Secretary shall consider the comparative merits of each bid, as determined on the basis of the past performance of the entity and other relevant factors, with respect to—

"(A) how well the entity (and the plan offered by the entity) meet such minimum standards;

"(B) the amount that the entity will charge the Secretary for managing, administering, and delivering the benefits under the contract;

"(C) the performance requirements for which the payments to the entity will be subject to risk pursuant to section 1860I(b)(1)(C);

"(D) the proposed negotiated prices of covered outpatient drugs and annual increases in such prices;

"(E) the factors described in section 1860D(b)(2);

"(F) prior experience of the entity in managing, administering, and delivering a prescription drug benefit program;

"(G) effectiveness of the entity and plan in containing costs through pricing incentives and utilization management; and

"(H) such other factors as the Secretary deems necessary to evaluate the merits of each bid.

"(3) EXCEPTION TO CONFLICT OF INTEREST RULES.—In awarding contracts under this part, the Secretary may waive conflict of interest laws generally applicable to Federal acquisitions (subject to such safeguards as the Secretary may find necessary to impose) in circumstances where the Secretary finds that such waiver—

"(A) is not inconsistent with the—

"(i) purposes of the programs under this title; or

"(ii) best interests of beneficiaries enrolled under this part; and

"(B) permits a sufficient level of competition for such contracts, promotes efficiency of benefits administration, or otherwise serves the objectives of the program under this part.

"(4) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of the Secretary to award or not award a contract to an eligible entity with respect to a plan under this part shall not be subject to administrative or judicial review.

"(f) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The provisions of section 1851(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part C.

"(g) DURATION OF CONTRACTS.—Each contract awarded under this part shall be for a term of at least 2 years but not more than 5 years, as determined by the Secretary.

### "MINIMUM STANDARDS FOR ELIGIBLE ENTITIES

"SEC. 1860H. (a) IN GENERAL.—The Secretary shall not award a contract to an eligible entity under this part unless the Secretary finds that the eligible entity agrees to comply with such terms and conditions as the Secretary shall specify, including the following:

"(1) QUALITY AND FINANCIAL STANDARDS.—The eligible entity meets the quality and financial standards specified by the Secretary.

"(2) PROCEDURES TO ENSURE PROPER UTILIZATION, COMPLIANCE, AND AVOIDANCE OF ADVERSE DRUG REACTIONS.—

"(A) IN GENERAL.—The eligible entity has in place drug utilization review procedures to ensure—

"(i) the appropriate utilization by eligible beneficiaries enrolled in the plan covered by the contract of the benefits to be provided under the plan;

"(ii) the avoidance of adverse drug reactions among such beneficiaries, including problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse and misuse; and

"(iii) the reasonable application of peer-reviewed medical literature pertaining to improvements in pharmaceutical safety and appropriate use of drugs.

"(B) AUTHORITY TO USE CERTAIN COMPENDIA AND LITERATURE.—The eligible entity may use the compendia and literature referred to in clauses (i) and (ii), respectively, of section 1927(g)(1)(B) as a source for the utilization review under subparagraph (A).

"(3) ELECTRONIC PRESCRIPTION PROGRAM.—

"(A) IN GENERAL.—The eligible entity has in place, for years beginning with 2006, an electronic prescription drug program that includes at least the following components, consistent with national standards established under subparagraph (B):

"(i) ELECTRONIC TRANSMITTAL OF PRESCRIPTIONS.—Prescriptions are only received electronically, except in emergency cases and other exceptional circumstances recognized by the Secretary.

"(ii) PROVISION OF INFORMATION TO PRESCRIBING HEALTH CARE PROFESSIONAL.—The program provides, upon transmittal of a prescription by a prescribing health care professional, for transmittal by the pharmacist to the professional of information that includes—

"(I) information (to the extent available and feasible) on the drugs being prescribed for that patient and other information relating to the medical history or condition of the patient that may be relevant to the appropriate prescription for that patient;

"(II) cost-effective alternatives (if any) for the use of the drug prescribed; and

"(III) information on the drugs included in the applicable formulary.

To the extent feasible, such program shall permit the prescribing health care professional to provide (and be provided) related information on an interactive, real-time basis.

"(B) STANDARDS.—

"(i) DEVELOPMENT.—The Secretary shall provide for the development of national standards relating to the electronic prescription drug program described in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

"(ii) ADVISORY TASK FORCE.—In developing such standards, the Secretary shall establish a task force that includes representatives of physicians, hospitals, pharmacists, and technology experts and representatives of the Departments of Veterans Affairs and Defense and other appropriate Federal agencies to provide recommendations to the Secretary on such standards, including recommendations relating to the following:

"(I) The range of available computerized prescribing software and hardware and their costs to develop and implement.

"(II) The extent to which such systems reduce medication errors and can be readily implemented by physicians and hospitals.

"(III) Efforts to develop a common software platform for computerized prescribing.

"(IV) The cost of implementing such systems in the range of hospital and physician office settings, including hardware, software, and training costs.

"(V) Implementation issues as they relate to part C of title XI, and current Federal and State prescribing laws and regulations and their impact on implementation of computerized prescribing.

"(iii) DEADLINES.—

"(I) The Secretary shall constitute the task force under clause (ii) by not later than April 1, 2003.

"(II) Such task force shall submit recommendations to Secretary by not later than January 1, 2004.

"(III) The Secretary shall develop and promulgate the national standards referred to in clause (ii) by not later than January 1, 2005.

"(C) WAIVER OF APPLICATION FOR CERTAIN RURAL PROVIDERS.—If the Secretary determines that it is unduly burdensome on providers in rural areas to comply with the requirements under this paragraph, the Secretary may waive such requirements for such providers.

"(D) REFERENCE TO AVAILABILITY OF GRANT FUNDS.—Grant funds are authorized under section 399O of the Public Health Service Act to provide assistance to health care providers in implementing electronic prescription drug programs.

"(4) PATIENT PROTECTIONS.—

"(A) ACCESS.—

"(i) IN GENERAL.—The eligible entity ensures that the covered outpatient drugs are accessible and convenient to eligible beneficiaries enrolled in the plan covered by the contract, including by offering the services 24 hours a day and 7 days a week for emergencies.

"(ii) AGREEMENTS WITH PHARMACIES.—The eligible entity shall enter into a participation agreement with any pharmacy that meets the requirements of subsection (d) to dispense covered prescription drugs to eligible beneficiaries under this part. Such agreements shall include the payment of a reasonable dispensing fee for covered outpatient drugs dispensed to a beneficiary under the agreement.

"(iii) PREFERRED PHARMACY NETWORKS.—If the eligible entity utilizes a preferred pharmacy network, the network complies with the standards under subsection (e).

"(B) ENSURING THAT BENEFICIARIES ARE NOT OVERCHARGED.—The eligible entity has procedures in place to ensure that each pharmacy with a participation agreement under this part with the entity complies with the requirements under subsection (d)(1)(C) (relating to adherence to negotiated prices).

"(C) CONTINUITY OF CARE.—

"(i) IN GENERAL.—The eligible entity ensures that, in the case of an eligible beneficiary who loses coverage under this part with such entity under circumstances that would permit a special election period (as established by the Secretary under section 1860C(a)(1)), the entity will continue to provide coverage under this part to such beneficiary until the beneficiary enrolls and receives such coverage with another eligible entity under this part or, if eligible, with a Medicare+Choice organization.

"(ii) LIMITED PERIOD.—In no event shall an eligible entity be required to provide the extended coverage required under clause (i) beyond the date which is 30 days after the coverage with such entity would have terminated but for this subparagraph.

"(D) PROCEDURES REGARDING THE DETERMINATION OF DRUGS THAT ARE MEDICALLY NECESSARY.—

"(i) IN GENERAL.—The eligible entity has in place procedures on a case-by-case basis to treat a nonformulary drug as a preferred brand name drug under this part if the nonformulary drug is determined—

"(I) to be not as effective for the enrollee in preventing or slowing the deterioration of, or improving or maintaining, the health of the enrollee; or

"(II) to have a significant adverse effect on the enrollee.

"(ii) REQUIREMENT.—The procedures under clause (i) shall require that determinations under such clause are based on professional medical judgment, the medical condition of the enrollee, and other medical evidence.

"(E) PROCEDURES REGARDING APPEAL RIGHTS WITH RESPECT TO DENIALS OF CARE.—The eligible entity has in place procedures to ensure—

"(i) a timely internal review for resolution of denials of coverage (in whole or in part and including those regarding the coverage of nonformulary drugs as preferred brand name drugs) in accordance with the medical exigencies of the case and a timely resolution of complaints, by enrollees in the plan, or by providers, pharmacists, and other individuals acting on behalf of each such enrollee (with the enrollee's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare+Choice organizations under part C (and are not less favorable to the enrollee than such requirements under such part as in effect on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002);

"(ii) that the entity complies in a timely manner with requirements established by the Secretary that (I) provide for an external review by an independent entity selected by the Secretary of denials of coverage described in clause (i) not resolved in the favor of the beneficiary (or other complainant) under the process described in such clause, and (II) are comparable to the external review requirements established for Medicare+Choice organizations under part C (and are not less favorable to the enrollee than such requirements under such part as in effect on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002); and

"(iii) that enrollees are provided with information regarding the appeals procedures under this part at the time of enrollment with the entity and upon request thereafter.

"(F) PROCEDURES REGARDING PATIENT CONFIDENTIALITY.—Insofar as an eligible entity maintains individually identifiable medical records or other health information regarding eligible beneficiaries enrolled in the plan that is covered by the contract, the entity has in place procedures to—

"(i) safeguard the privacy of any individually identifiable beneficiary information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033);

"(ii) maintain such records and information in a manner that is accurate and timely;

"(iii) ensure timely access by such beneficiaries to such records and information; and "(iv) otherwise comply with applicable laws relating to patient confidentiality.

"(G) PROCEDURES REGARDING TRANSFER OF MEDICAL RECORDS.—

"(i) IN GENERAL.—The eligible entity has in place procedures for the timely transfer of records and information described in subparagraph (F) (with respect to a beneficiary who loses coverage under this part with the entity and enrolls with another entity (including a Medicare+Choice organization) under this part) to such other entity.

"(ii) PATIENT CONFIDENTIALITY.—The procedures described in clause (i) shall comply with the patient confidentiality procedures described in subparagraph (F).

"(H) PROCEDURES REGARDING MEDICAL ERRORS.—The eligible entity has in place procedures for—

"(i) working with the Secretary to deter medical errors related to the provision of covered outpatient drugs; and

"(ii) ensuring that pharmacies with a contract with the entity have in place procedures to deter medical errors related to the provision of covered outpatient drugs.

"(5) PROCEDURES TO CONTROL FRAUD, ABUSE, AND WASTE.—

"(A) IN GENERAL.—The eligible entity has in place procedures to control fraud, abuse, and waste.

"(B) APPLICABILITY OF FRAUD AND ABUSE PROVISIONS.—The provisions of section 1128 through 1128C (relating to fraud and abuse) apply to eligible entities with contracts under this part.

"(6) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—The eligible entity provides the Secretary with reports containing information regarding the following:

"(i) The negotiated prices that the eligible entity is paying for covered outpatient drugs.

"(ii) The prices that eligible beneficiaries enrolled in the plan that is covered by the contract will be charged for covered outpatient drugs.

"(iii) The management costs of providing such benefits.

"(iv) Utilization of such benefits.

"(v) Marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries.

"(B) TIMEFRAME FOR SUBMITTING REPORTS.—

"(i) IN GENERAL.—The eligible entity shall submit a report described in subparagraph (A) to the Secretary within 3 months after the end of each 12-month period in which the eligible entity has a contract under this part. Such report shall contain information concerning the benefits provided during such 12-month period.

"(ii) LAST YEAR OF CONTRACT.—In the case of the last year of a contract under this part, the Secretary may require that a report described in subparagraph (A) be submitted 3 months prior to the end of the contract. Such report shall contain information concerning the benefits provided between the period covered by the most recent report under this subparagraph and the date that a report is submitted under this clause.

"(C) CONFIDENTIALITY OF INFORMATION.—

"(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), information disclosed by an eligible entity pursuant to subparagraph (A) (except for information described in clause (ii) of such subparagraph) is confidential and shall only be used by the Secretary for the purposes of, and to the extent necessary, to carry out this part.

"(ii) UTILIZATION DATA.—Subject to patient confidentiality laws, the Secretary shall make information disclosed by an eligible entity pursuant to subparagraph (A)(iv) (regarding utilization data) available for research purposes. The Secretary may charge a reasonable fee for making such information available.

"(7) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The eligible entity complies with the requirements described in section 1860G(f).

"(8) RECORDS AND AUDITS.—The eligible entity maintains adequate records related to the administration of the benefits under this part and affords the Secretary access to such records for auditing purposes.

"(b) SPECIAL RULES REGARDING COST-EFFECTIVE PROVISION OF BENEFITS.—

"(1) IN GENERAL.—In providing the benefits under a contract under this part, an eligible entity shall—

"(A) employ mechanisms to provide the benefits economically, such as through the use of—

"(i) alternative methods of distribution;

"(ii) preferred pharmacy networks (pursuant to subsection (e)); and

"(iii) generic drug substitution;

"(B) use mechanisms to encourage eligible beneficiaries to select cost-effective drugs or less costly means of receiving drugs, such as through the use of—

"(i) pharmacy incentive programs;

"(ii) therapeutic interchange programs; and

"(iii) disease management programs;

"(C) encourage pharmacy providers to—

"(i) inform beneficiaries of the differentials in price between generic and brand name drug equivalents; and

"(ii) provide medication therapy management programs in order to enhance beneficiaries' understanding of the appropriate use of medications and to reduce the risk of potential adverse events associated with medications; and

"(D) develop and implement a formulary in accordance with subsection (c).

"(2) RESTRICTION.—If an eligible entity uses alternative methods of distribution pursuant to paragraph (1)(A)(i), the entity may not require that a beneficiary use such methods in order to obtain covered outpatient drugs.

"(c) REQUIREMENTS FOR FORMULARIES.—

"(1) STANDARDS.—

"(A) IN GENERAL.—The formulary developed and implemented by the eligible entity shall comply with standards established by the Secretary in consultation with the Medicare Prescription Drug Advisory Committee established under section 1860L.

"(B) NO NATIONAL FORMULARY OR REQUIREMENT TO EXCLUDE SPECIFIC DRUGS.—

"(i) SECRETARY MAY NOT ESTABLISH A NATIONAL FORMULARY.—The Secretary may not establish a national formulary.

"(ii) NO REQUIREMENT TO EXCLUDE SPECIFIC DRUGS.—The standards established by the Secretary pursuant to subparagraph (A) may not require that an eligible entity exclude a specific covered outpatient drug from the formulary developed and implemented by the entity.

"(2) REQUIREMENTS FOR STANDARDS.—The standards established under paragraph (1) shall require that the eligible entity—

"(A) use a pharmacy and therapeutic committee (that meets the standards for a pharmacy and therapeutic committee established by the Secretary in consultation with such Medicare Prescription Drug Advisory Committee) to develop and implement the formulary;

"(B) include—

"(i) all generic covered outpatient drugs in the formulary; and

"(ii) at least 1 but no more than 2 (unless the Secretary determines that such limitation is determined to be clinically inappropriate for a given therapeutic class) brand name covered outpatient drugs from each therapeutic class (as defined by the Secretary in consultation with such Medicare Prescription Drug Advisory Committee) as a preferred brand name drug in the formulary;

"(C) develop procedures for the modification of the formulary, including for the addition of new drugs to an existing therapeutic class;

"(D) pursuant to section 1860F(b)(1)(C), provide for coverage of nonformulary drugs at the preferred brand name drug rate when determined under subparagraph (D) or (E) of subsection (a)(3) to be medically necessary;

"(E) disclose to current and prospective beneficiaries and to providers in the service area the nature of the formulary restrictions, including information regarding the drugs included in the formulary and any difference in the cost-sharing for—

"(i) drugs included in the formulary; and

"(ii) for drugs not included in the formulary; and

"(F) provide a reasonable amount of notice to beneficiaries enrolled in the plan that is covered by the contract under this part of any change in the formulary.

"(3) CONSTRUCTION.—Nothing in this part shall be construed as precluding an eligible entity from—

"(A) educating prescribing providers, pharmacists, and beneficiaries about the medical and cost benefits of drugs included in the formulary (including generic drugs); or

"(B) requesting prescribing providers to consider a drug included in the formulary prior to dispensing of a drug not so included, as long as such a request does not unduly delay the provision of the drug.

"(d) TERMS OF PARTICIPATION AGREEMENT WITH PHARMACIES.—

"(1) IN GENERAL.—A participation agreement between an eligible entity and a pharmacy under this part (pursuant to subsection (a)(3)(A)(ii)) shall include the following terms and conditions:

"(A) APPLICABLE REQUIREMENTS.—The pharmacy shall meet (and throughout the contract period continue to meet) all applicable Federal requirements and State and local licensing requirements.

"(B) ACCESS AND QUALITY STANDARDS.—The pharmacy shall comply with such standards as the Secretary (and the eligible entity) shall establish concerning the quality of, and enrolled beneficiaries' access to, pharmacy services under this part. Such standards shall require the pharmacy—

"(i) not to refuse to dispense covered outpatient drugs to any eligible beneficiary enrolled under this part;

"(ii) to keep patient records (including records on expenses) for all covered outpatient drugs dispensed to such enrolled beneficiaries;

"(iii) to submit information (in a manner specified by the Secretary to be necessary to administer this part) on all purchases of such drugs dispensed to such enrolled beneficiaries; and

"(iv) to comply with periodic audits to assure compliance with the requirements of this part and the accuracy of information submitted.

"(C) ENSURING THAT BENEFICIARIES ARE NOT OVERCHARGED.—

"(i) ADHERENCE TO NEGOTIATED PRICES.—The total charge for each covered outpatient drug dispensed by the pharmacy to a beneficiary enrolled in the plan, without regard to whether the individual is financially responsible for any or all of such charge, shall not exceed the negotiated price for the drug (as reported to the Secretary pursuant to subsection (a)(5)(A)).

"(ii) ADHERENCE TO BENEFICIARY OBLIGATION.—The pharmacy may not charge (or collect from) such beneficiary an amount that exceed's the cost-sharing that the beneficiary is responsible for under this part (as determined under section 1860F(b) using the negotiated price of the drug).

"(D) ADDITIONAL REQUIREMENTS.—The pharmacy shall meet such additional contract requirements as the eligible entity specifies under this section.

"(2) APPLICABILITY OF FRAUD AND ABUSE PROVISIONS.—The provisions of section 1128 through 1128C (relating to fraud and abuse) apply to pharmacies participating in the program under this part.

"(e) PREFERRED PHARMACY NETWORKS.—

"(1) IN GENERAL.—If an eligible entity uses a preferred pharmacy network to deliver benefits under this part, such network shall meet minimum access standards established by the Secretary.

"(2) STANDARDS.—In establishing standards under paragraph (1), the Secretary shall take into account reasonable distances to pharmacy services in both urban and rural areas.

"PAYMENTS

"SEC. 1860I. (a) PROCEDURES FOR PAYMENTS TO ELIGIBLE ENTITIES.—The Secretary shall establish procedures for making payments to each eligible entity with a contract under this part for the management, administration, and delivery of the benefits under this part.

"(b) REQUIREMENTS FOR PROCEDURES.—

"(1) IN GENERAL.—The procedures established under subsection (a) shall provide for the following:

"(A) MANAGEMENT PAYMENT.—Payment for the management, administration, and delivery of the benefits under this part.

"(B) REIMBURSEMENT FOR NEGOTIATED COSTS OF DRUGS PROVIDED.—Payments for the negotiated costs of covered outpatient drugs provided to eligible beneficiaries enrolled under this part and in a plan offered by the eligible entity, reduced by any applicable cost-sharing under section 1860F(b).

"(C) RISK REQUIREMENT TO ENSURE PURSUIT OF PERFORMANCE REQUIREMENTS.—An adjustment of a percentage (as determined under paragraph (2)) of the payments made to an entity under subparagraph (A) to ensure that the entity, in managing, administering, and delivering the benefits under this part, pursues performance requirements established by the Secretary, including the following:

"(i) CONTROL OF MEDICARE AND BENEFICIARY COSTS.—The entity contains costs to the Prescription Drug Account and to eligible beneficiaries enrolled under this part and in the plan offered by the entity, as measured by generic substitution rates, price discounts, and other factors determined appropriate by the Secretary that do not reduce the access of such beneficiaries to medically necessary covered outpatient drugs.

"(ii) QUALITY CLINICAL CARE.—The entity provides such beneficiaries with quality clinical care, as measured by such factors as—

"(I) the level of adverse drug reactions and medical errors among such beneficiaries; and

"(II) providing specific clinical suggestions to improve health and patient and prescriber education as appropriate.

"(iii) QUALITY SERVICE.—The entity provides such beneficiaries with quality services, as measured by such factors as sustained pharmacy network access, timeliness and accuracy of service delivery in claims processing and card production, pharmacy and member service support access, response time in mail delivery service, and timely action with regard to appeals and current beneficiary service surveys.

"(2) PERCENTAGE OF PAYMENT TIED TO RISK.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the percentage (which may be up to 100 percent) of the payments made to an entity under subparagraph (A) that will be tied to the performance requirements described in paragraph (1)(C).

"(B) LIMITATION ON RISK TO ENSURE PROGRAM STABILITY.—In order to provide for program stability, the Secretary may not establish a percentage to be adjusted under this subsection at a level that jeopardizes the ability of an eligible entity to administer and deliver the benefits under this part or administer and deliver such benefits in a quality manner.

"(3) RISK ADJUSTMENT OF PAYMENTS BASED ON ENROLLEES IN PLAN.—To the extent that an eligible entity is at risk under this subsection, the procedures established under subsection (a) may include a methodology for risk adjusting the payments made to such entity based on the differences in actuarial risk of different enrollees being served if the Secretary determines such adjustments to be necessary and appropriate.

"(4) PASS-THROUGH OF REBATES, DISCOUNTS, AND PRICE CONCESSIONS OBTAINED BY THE ELIGIBLE ENTITY.—The Secretary shall establish procedures for reducing the amount of payments to an eligible entity under subsection (a) to take into account any rebates, discounts, or price concessions obtained by the entity from manufacturers of covered outpatient drugs, unless the Secretary determines that such procedures are not in the best interests of the medicare program or eligible beneficiaries.

"(c) PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS.—For provisions related to payments to Medicare+Choice organizations for the administration and delivery of benefits under this part to eligible beneficiaries enrolled in a Medicare+Choice plan offered by the organization, see section 1853(c)(8).

"(d) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

"EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE DRUG COVERAGE

"SEC. 1860J. (a) PROGRAM AUTHORITY.—The Secretary is authorized to develop and implement a program under this section to be known as the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide adequate prescription drug benefits to retired individuals by subsidizing, in part, the sponsor's cost of providing coverage under qualifying plans.

"(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription drug plan (as defined in subsection (e)(3)), a sponsor shall meet the following requirements:

"(1) ASSURANCES.—The sponsor shall—

"(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered by the sponsor is a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

"(B) guarantee that it will give notice to the Secretary and covered retirees—

"(i) at least 120 days before terminating its plan; and

"(ii) immediately upon determining that the actuarial value of the prescription drug benefit under the plan falls below the actuarial value of the outpatient prescription drug benefit under this part.

"(2) BENEFICIARY INFORMATION.—The sponsor shall report to the Secretary, for each calendar quarter for which it seeks an incentive payment under this section, the names and social security numbers of all retirees (and their spouses and dependents) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

"(3) AUDITS.—The sponsor and the employment-based retiree health coverage plan seeking incentive payments under this section shall agree to maintain, and to afford the Secretary access to, such records as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, the accuracy of incentive payments made, and such other matters as may be appropriate.

"(4) OTHER REQUIREMENTS.—The sponsor shall provide such other information, and comply with such other requirements, as the Secretary may find necessary to administer the program under this section.

"(c) INCENTIVE PAYMENTS.—

"(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall be entitled to have payment made by the Secretary on a quarterly basis (to the sponsor or, at the sponsor's direction, to the appropriate employment-based health plan) of an incentive payment, in the amount determined in paragraph (2), for each retired individual (or spouse or dependent) who—

"(A) was covered under the sponsor's qualified retiree prescription drug plan during such quarter; and

"(B) was eligible for, but was not enrolled in, the outpatient prescription drug benefit program under this part.

"(2) AMOUNT OF PAYMENT.—

"(A) IN GENERAL.—The amount of the payment for a quarter shall be, for each individual described in paragraph (1), $\frac{2}{3}$ of the sum of the monthly Government contribution amounts (computed under subparagraph (B)) for each of the 3 months in the quarter.

"(B) COMPUTATION OF MONTHLY GOVERNMENT CONTRIBUTION AMOUNT.—For purposes of subparagraph (A), the monthly Government contribution amount for a month in a year is equal to the amount by which—

"(i) $\frac{1}{12}$ of the amount estimated under subparagraph (C) for the year involved; exceeds

"(ii) the monthly Part D premium under section 1860E(a) (determined without regard to any increase under section 1860B(b)(1)) for the month involved.

"(C) ESTIMATE OF AVERAGE ANNUAL PER CAPITA AGGREGATE EXPENDITURES.—

"(i) IN GENERAL.—The Secretary shall for each year after 2004 estimate for that year an amount equal to average annual per capita aggregate expenditures payable from the Prescription Drug Account for that year.

"(ii) TIMEFRAME FOR ESTIMATION.—The Secretary shall make the estimate described in clause (i) for a year before the beginning of that year.

"(3) PAYMENT DATE.—The payment under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

“(d) Civil Money Penalties.—A sponsor, health plan, or other entity that the Secretary determines has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known to be false shall be subject to a civil monetary penalty in an amount up to 3 times the total incentive amounts under subsection (c) that were paid (or would have been payable) on the basis of such information.

“(e) Definitions.—In this section:

“(1) Employment-based retiree health coverage.—The term ‘employment-based retiree health coverage’ means health insurance or other coverage, whether provided by voluntary insurance coverage or pursuant to statutory or contractual obligation, of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

“(2) Employer.—The term ‘employer’ has the meaning given the term in section 3(5) of the Employee Retirement Income Security Act of 1974 (except that such term shall include only employers of 2 or more employees).

“(3) Qualified retiree prescription drug plan.—The term ‘qualified retiree prescription drug plan’ means health insurance coverage included in employment-based retiree health coverage that—

“(A) provides coverage of the cost of prescription drugs with an actuarial value (as defined by the Secretary) to each retired beneficiary that equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part; and

“(B) does not deny, limit, or condition the coverage or provision of prescription drug benefits for retired individuals based on age or any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

“(4) Sponsor.—The term ‘sponsor’ has the meaning given the term ‘plan sponsor’ in section 3(16)(B) of the Employer Retirement Income Security Act of 1974.

“(f) Authorization of Appropriations.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the program under this section.

### “PRESCRIPTION DRUG ACCOUNT IN THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

“Sec. 1860K. (a) Establishment.—

“(1) In general.—There is created within the Federal Supplementary Medical Insurance Trust Fund established by section 1841 an account to be known as the ‘Prescription Drug Account’ (in this section referred to as the ‘Account’).

“(2) Funds.—The Account shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, the account as provided in this part.

“(3) Separate from rest of trust fund.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplementary Medical Insurance Trust Fund.

“(b) Payments From Account.—

“(1) In general.—The Managing Trustee shall pay from time to time from the Account such amounts as the Secretary certifies are necessary to make payments to operate the program under this part, including payments to eligible entities under section 1860I, payments to Medicare+Choice organizations under section 1853(c)(8), and payments with respect to administrative expenses under this part in accordance with section 201(g).

“(2) Treatment in relation to part B premium.—Amounts payable from the Account shall not be taken into account in computing actuarial rates or premium amounts under section 1839.

“(c) Appropriations To Cover Benefits and Administrative Costs.—

“(1) In general.—Subject to paragraph (2), there are appropriated to the Account in a fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part in the year exceed the premiums collected under section 1860E(b) for the year.

“(2) Limitation.—

“(A) In general.—Except as provided in subparagraphs (B) and (C), no obligations shall be incurred, no amounts shall be appropriated, and no amounts expended, for expenses incurred for providing coverage of covered outpatient drugs after December 31, 2010.

“(B) Expenses for coverage prior to 2011.—The Secretary shall make payments on or after January 1, 2011, for expenses incurred to the extent such expenses were incurred for providing coverage of covered outpatient drugs prior to such date.

“(C) Legislation enacted that provides savings.—Amounts shall continue to be appropriated, and the Secretary shall continue to incur obligations and expend amounts, for expenses incurred for providing coverage of covered outpatient drugs after December 31, 2010, if legislation is enacted prior to January 1, 2011, which states that savings have been achieved equal to or greater than the difference between the full cost of the Medicare Outpatient Prescription Drug Act of 2002 over the period beginning October 1, 2004, and ending September 30, 2012, and the full cost of such Act over such period if this paragraph had not been included in such Act.

### “MEDICARE PRESCRIPTION DRUG ADVISORY COMMITTEE

“Sec. 1860L. (a) Establishment of Committee.—There is established a Medicare Prescription Drug Advisory Committee (in this section referred to as the ‘Committee’).

“(b) Functions of Committee.—On and after January 1, 2004, the Committee shall advise the Secretary on policies related to—

“(1) the development of guidelines for the implementation and administration of the outpatient prescription drug benefit program under this part; and

“(2) the development of—

“(A) standards for a pharmacy and therapeutics committee required of eligible entities under section 1860H(c)(2)(A);

“(B) standards required under subparagraphs (D) and (E) of section 1860H(a)(4) for determining if a drug is medically necessary;

“(C) standards for—

“(i) establishing therapeutic classes;

“(ii) adding new therapeutic classes to a formulary; and

“(iii) defining maintenance and nonmaintenance drugs and determining the length of the course that is typical of current practice for nonmaintenance drugs for purposes of applying section 1860F(b)(1);

“(D) procedures to evaluate the bids submitted by eligible entities under this part; and

“(E) procedures to ensure that eligible entities with a contract under this part are in compliance with the requirements under this part.

“(c) Structure and Membership of the Committee.—

“(1) Structure.—The Committee shall be composed of 19 members who shall be appointed by the Secretary.

“(2) Membership.—

“(A) In general.—The members of the Committee shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, attainments, and understanding of pharmaceutical cost control and quality enhancement, exceptionally qualified to perform the duties of members of the Committee.

“(B) Specific members.—Of the members appointed under paragraph (1)—

“(i) five shall be chosen to represent physicians, 2 of whom shall be geriatricians;

“(ii) two shall be chosen to represent nurse practitioners;

“(iii) four shall be chosen to represent pharmacists;

“(iv) one shall be chosen to represent the Centers for Medicare & Medicaid Services;

“(v) four shall be chosen to represent actuaries, pharmacoeconomists, researchers, and other appropriate experts;

“(vi) one shall be chosen to represent emerging drug technologies;

“(vii) one shall be closed to represent the Food and Drug Administration; and

“(viii) one shall be chosen to represent individuals enrolled under this part.

“(d) Terms of Appointment.—Each member of the Committee shall serve for a term determined appropriate by the Secretary. The terms of service of the members initially appointed shall begin on March 1, 2003.

“(e) Chairperson.—The Secretary shall designate a member of the Committee as Chairperson. The term as Chairperson shall be for a 1-year period.

“(f) Committee Personnel Matters.—

“(1) Members.—

“(A) Compensation.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(B) Travel expenses.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

“(2) Staff.—The Committee may appoint such personnel as the Committee considers appropriate.

“(g) Operation of the Committee.—

“(1) Meetings.—The Committee shall meet at the call of the Chairperson (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairperson after such consultation.

"(2) Quorum.—Ten members of the Committee shall constitute a quorum for purposes of conducting business.

"(h) Federal Advisory Committee Act.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

"(i) Transfer of Personnel, Resources, and Assets.—For purposes of carrying out its duties, the Secretary and the Committee may provide for the transfer to the Committee of such civil service personnel in the employ of the Department of Health and Human Services (including the Centers for Medicare & Medicaid Services), and such resources and assets of the Department used in carrying out this title, as the Committee requires.

"(j) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

(b) Exclusions From Coverage.—

(1) Application to part D.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by striking "part A or part B" and inserting "part A, B, or D".

(2) Prescription drugs not excluded from coverage if reasonable and necessary.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (H), by striking "and" at the end;

(B) in subparagraph (I), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(J) in the case of prescription drugs covered under part D, which are not reasonable and necessary to prevent or slow the deterioration of, or improve or maintain, the health of eligible beneficiaries;".

(c) Conforming Amendments to Federal Supplementary Medical Insurance Trust Fund.—Section 1841 of the Social Security Act (42 U.S.C. 1395t) is amended—

(1) in the last sentence of subsection (a)—

(A) by striking "and" before "such amounts"; and

(B) by inserting before the period the following: ", and such amounts as may be deposited in, or appropriated to, the Prescription Drug Account established by section 1860K";

(2) in subsection (g), by inserting after "by this part," the following: "the payments provided for under part D (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),";

(3) in subsection (h), by inserting after "1840(d)" the following: "and section 1860E(b) (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund)"; and

(4) in subsection (i), by inserting after "section 1840(b)(1)" the following: ", section 1860E(b) (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),".

(d) Conforming References to Previous Part D.—

(1) In general.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) Secretarial submission of legislative proposal.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this title.

### SEC. 203. PART D BENEFITS UNDER MEDICARE+CHOICE PLANS.

(a) Eligibility, Election, and Enrollment.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(1) in subsection (a)(1)(A), by striking "parts A and B" and inserting "parts A, B, and D"; and

(2) in subsection (i)(1), by striking "parts A and B" and inserting "parts A, B, and D".

(b) Voluntary Beneficiary Enrollment for Drug Coverage.—Section 1852(a)(1)(A) of the Social Security Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting "(and under part D to individuals also enrolled under that part)" after "parts A and B".

(c) Access to Services.—Section 1852(d)(1) of the Social Security Act (42 U.S.C. 1395w–22(d)(1)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) in the case of covered outpatient drugs (as defined in section 1860(1)) provided to individuals enrolled under part D, the organization complies with the access requirements applicable under part D.".

(d) Payments to Organizations for Part D Benefits.—

(1) In general.—Section 1853(a)(1)(A) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(A)) is amended—

(A) by inserting "determined separately for the benefits under parts A and B and under part D (for individuals enrolled under that part)" after "as calculated under subsection (c)";

(B) by striking "that area, adjusted for such risk factors" and inserting "that area. In the case of payment for the benefits under parts A and B, such payment shall be adjusted for such risk factors as"; and

(C) by inserting before the last sentence the following: "In the case of the payments under subsection (c)(8) for the provision of coverage of covered outpatient drugs to individuals enrolled under part D, such payment shall be adjusted for the risk factors of each enrollee as the Secretary determines to be feasible and appropriate to ensure actuarial equivalence.".

(2) Amount.—Section 1853(c) of the Social Security Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting "for benefits under parts A and B" after "capitation rate"; and

(B) by adding at the end the following new paragraph:

"(8) Capitation rate for part D benefits.—

"(A) In general.—In the case of a Medicare+Choice plan that provides coverage of covered outpatient drugs to an individual enrolled under part D, the capitation rate for such coverage shall be the amount described in subparagraph (B). Such payments shall be made in the same manner and at the same time as the payments to the Medicare+Choice organization offering the plan for benefits under parts A and B are otherwise made, but such payments shall be payable from the Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

"(B) Amount.—The amount described in this paragraph is an amount equal to $\frac{1}{12}$ of the average annual per capita aggregate expenditures payable from the Prescription Drug Account for the year (as estimated under section 1860J(c)(2)(C)).".

(e) Limitation on Enrollee Liability.—Section 1854(e) of the Social Security Act (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

"(5) Special rule for part D benefits.—With respect to outpatient prescription drug benefits under part D, a Medicare+Choice organization may not require that an enrollee pay any deductible or pay a cost-sharing amount that exceeds the amount of cost-sharing applicable for such benefits for an eligible beneficiary under part D.".

(f) Requirement for Additional Benefits.—Section 1854(f)(1) of the Social Security Act (42 U.S.C. 1395w–24(f)(1)) is amended by adding at the end the following new sentence: "Such determination shall be made separately for the benefits under parts A and B and for prescription drug benefits under part D.".

(g) Effective Date.—The amendments made by this section shall apply to items and services provided under a Medicare+Choice plan on or after January 1, 2005.

### SEC. 204. ADDITIONAL ASSISTANCE FOR LOW-INCOME BENEFICIARIES.

(a) Inclusion in Medicare Cost-Sharing.—Section 1905(p)(3) of the Social Security Act (42 U.S.C. 1396d(p)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by inserting "and" at the end; and

(C) by adding at the end the following new clause:

"(iii) premiums under section 1860E(a)."; and

(2) in subparagraph (B), by inserting "and cost-sharing described in section 1860F(b)" after "section 1813".

(b) Expansion of Medical Assistance.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) in clause (iii)—

(A) by striking "section 1905(p)(3)(A)(ii)" and inserting "clauses (ii) and (iii) of section 1905(p)(3)(A) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII),"; and

(B) by striking "and" at the end;

(2) by redesignating clause (iv) as clause (vi); and

(3) by inserting after clause (iii) the following new clauses:

"(iv) for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII) for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 120 percent but does not exceed 135 percent of such official poverty line for a family of the size involved;

"(v) for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) on a linear sliding scale based on the income of such individuals for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 135 percent but does not exceed 150 percent of such official poverty line for a family of the size involved; and".

(c) Nonapplicability of Resource Requirements to Medicare Part D Cost-Sharing.—Section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)) is amended by adding at the end the following flush sentence:

“In determining if an individual is a qualified medicare beneficiary under this paragraph, subparagraph (C) shall not be applied for purposes of providing the individual with medicare cost-sharing described in section 1905(p)(3)(A)(iii) or for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII).”.

(d) Nonapplicability of Payment Differential Requirements to Medicare Part D Cost-Sharing.—Section 1902(n)(2) of the Social Security Act (42 U.S.C. 1396a(n)(2)) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to the cost-sharing described in section 1860F(b).”.

(e) 100 Percent Federal Medical Assistance Percentage.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking “and” before “(4)”; and

(2) by inserting before the period at the end the following: “, and (5) the Federal medical assistance percentage shall be 100 percent with respect to medical assistance provided under clauses (iv) and (v) of section 1902(a)(10)(E)”.

(f) Treatment of Territories.—Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

“(3) Notwithstanding the preceding provisions of this subsection, with respect to fiscal year 2005 and any fiscal year thereafter, the amount otherwise determined under this subsection (and subsection (f)) for the fiscal year for a Commonwealth or territory shall be increased by the ratio (as estimated by the Secretary) of—

“(A) the aggregate amount of payments made to the 50 States and the District of Columbia for the fiscal year under title XIX that are attributable to making medical assistance available for individuals described in clauses (i), (iii), (iv), and (v) of section 1902(a)(10)(E) for payment of medicare cost-sharing described in section 1905(p)(3)(A)(iii) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII); to

“(B) the aggregate amount of total payments made to such States and District for the fiscal year under such title.”.

(g) Amendment to Best Price.—Section 1927(c)(1)(C)(i) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(i)) is amended—

(1) by striking “and” at the end of subclause (III);

(2) by striking the period at the end of subclause (IV) and inserting “; and”; and

(3) by adding at the end the following new subclause:

“(V) any prices charged which are negotiated under a plan under part D of title XVIII with respect to covered outpatient drugs, under a Medicare+Choice plan under part C of such title with respect to such drugs, or by a qualified retiree prescription drug plan (as defined in section 1860J(e)(3)) with respect to such drugs, on behalf of eligible beneficiaries (as defined in section 1860(2).”.

(h) Conforming Amendments.—Section 1933 of the Social Security Act (42 U.S.C. 1396u–3) is amended—

(1) in subsection (a), by striking “section 1902(a)(10)(E)(iv)” and inserting “section 1902(a)(10)(E)(vi)”;

(2) in subsection (c)(2)(A)—

(A) in clause (i), by striking “section 1902(a)(10)(E)(iv)(I)” and inserting “section 1902(a)(10)(E)(vi)(I)”; and

(B) in clause (ii), by striking “section 1902(a)(10)(E)(iv)(II)” and inserting “section 1902(a)(10)(E)(vi)(II)”;

(3) in subsection (d), by striking “section 1902(a)(10)(E)(iv)” and inserting “section 1902(a)(10)(E)(vi)”; and

(4) in subsection (e), by striking “section 1902(a)(10)(E)(iv)” and inserting “section 1902(a)(10)(E)(vi)”.

(i) Effective Date.—The amendments made by this section shall apply for medical assistance provided under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) on and after January 1, 2005.

### SEC. 205. MEDIGAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

“(v) Modernized Benefit Packages for Medicare Supplemental Policies.—

“(1) Revision of benefit packages.—

“(A) In general.—Notwithstanding subsection (p), the benefit packages classified as ‘H’, ‘I’, and ‘J’ under the standards established by subsection (p)(2) (including the benefit package classified as ‘J’ with a high deductible feature, as described in subsection (p)(11)) shall be revised so that—

“(i) the coverage of outpatient prescription drugs available under such benefit packages is replaced with coverage of outpatient prescription drugs that complements but does not duplicate the coverage of outpatient prescription drugs that is otherwise available under this title;

“(ii) the revised benefit packages provide a range of coverage options for outpatient prescription drugs for beneficiaries, but do not provide coverage for more than 90 percent of the cost-sharing amount applicable to an individual under section 1860F(b);

“(iii) uniform language and definitions are used with respect to such revised benefits;

“(iv) uniform format is used in the policy with respect to such revised benefits;

“(v) such revised standards meet any additional requirements imposed by the amendments made by the Medicare Outpatient Prescription Drug Act of 2002; and

“(vi) except as revised under the preceding clauses or as provided under subsection (p)(1)(E), the benefit packages are identical to the benefit packages that were available on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002.

“(B) Manner of revision.—The benefit packages revised under this section shall be revised in the manner described in subparagraph (E) of subsection (p)(1), except that for purposes of subparagraph (C) of such subsection, the standards established under this subsection shall take effect not later than January 1, 2005.

“(2) Construction of benefits in other medicare supplemental policies.—Nothing in the benefit packages classified as ‘A’ through ‘G’ under the standards established by subsection (p)(2) (including the benefit package classified as ‘F’ with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part D.

“(3) Guaranteed issuance and renewal of revised policies.—The provisions of subsections (q) and (s), including provisions of subsection (s)(3) (relating to special enrollment periods in cases of termination or disenrollment), shall apply to medicare supplemental policies revised under this subsection in the same manner as such provisions apply to medicare supplemental policies issued under the standards established under subsection (p).

“(4) Opportunity of current policyholders to purchase revised policies.—

“(A) In general.—No medicare supplemental policy of an issuer with a benefit package that is revised under paragraph (1) shall be deemed to meet the standards in subsection (c) unless the issuer—

“(i) provides written notice during the 60-day period immediately preceding the period established for the open enrollment period established under section 1860B(b)(2)(A), to each individual who is a policyholder or certificate holder of a medicare supplemental policy issued by that issuer (at the most recent available address of that individual) of the offer described in clause (ii) and of the fact that such individual will no longer be covered under such policy as of January 1, 2005; and

“(ii) offers the policyholder or certificate holder under the terms described in subparagraph (B), during at least the period established under section 1860B(b)(2)(A), a medicare supplemental policy with the benefit package that the Secretary determines is most comparable to the policy in which the individual is enrolled with coverage effective as of the date on which the individual is first entitled to benefits under part D.

“(B) Terms of offer described.—The terms described in this subparagraph are terms which do not—

“(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

“(ii) discriminate in the pricing of such policy because of health status, claims experience, receipt of health care, or medical condition; or

“(iii) impose an exclusion of benefits based on a preexisting condition under such policy.

“(5) Elimination of obsolete policies with no grandfathering.—No person may sell, issue, or renew a medicare supplemental policy with a benefit package that is classified as ‘H’, ‘I’, or ‘J’ (or with a benefit package classified as ‘J’ with a high deductible feature) that has not been revised under this subsection on or after January 1, 2005.

“(6) Penalties.—Each penalty under this section shall apply with respect to policies revised under this subsection as if such policies were issued under the standards established under subsection (p), including the penalties under subsections (a), (d), (p)(8), (p)(9), (q)(5), (r)(6)(A), (s)(4), and (t)(2)(D).”.

### SEC. 206. COMPREHENSIVE IMMUNOSUPPRESSIVE DRUG COVERAGE FOR TRANSPLANT PATIENTS UNDER PART B.

(a) In General.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)), as amended by section 113(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–473), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking “, to an individual who receives” and all that follows before the semicolon at the end and inserting “to an individual who has received an organ transplant”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to drugs furnished on or after the date of enactment of this Act.

### SEC. 207. HHS STUDY AND REPORT ON UNIFORM PHARMACY BENEFIT CARDS.

(a) STUDIES.—The Secretary of Health and Human Services shall conduct a study to determine the feasibility and advisability of establishing a uniform format for pharmacy benefit cards provided to beneficiaries by eligible entities under the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 202).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the results of the study conducted under subsection (a) together with any recommendations for legislation that the Secretary determines to be appropriate as a result of such study.

### SEC. 208. GAO STUDY AND BIENNIAL REPORTS ON COMPETITION AND SAVINGS.

(a) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study and analysis of the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 202), including an analysis of—

(1) the extent to which the competitive bidding process under such program fosters maximum competition and efficiency; and

(2) the savings to the medicare program resulting from such outpatient prescription drug benefit program, including the reduction in the number or length of hospital visits.

(b) INITIAL REPORT ON COMPETITIVE BIDDING PROCESS.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the results of the portion of the study conducted pursuant to subsection (a)(1).

(c) BIENNIAL REPORTS.—Not later than January 1, 2006, and biennially thereafter, the Comptroller General of the United States shall submit to Congress a report on the results of the study conducted under subsection (a) together with such recommendations for legislation and administrative action as the Comptroller General determines appropriate.

### SEC. 209. EXPANSION OF MEMBERSHIP AND DUTIES OF MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXPANSION OF MEMBERSHIP.—

(1) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking "17" and inserting "19"; and

(B) in paragraph (2)(B), by inserting "experts in the area of pharmacology and prescription drug benefit programs," after "other health professionals,".

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under paragraph (1)(A) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2004.

(b) EXPANSION OF DUTIES.—Section 1805(b)(2) of the Social Security Act (42 U.S.C. 1395b–6(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) PRESCRIPTION MEDICINE BENEFIT PROGRAM.—Specifically, the Commission shall review, with respect to the outpatient prescription drug benefit program under part D, the impact of such program on—

"(i) the pharmaceutical market, including costs and pricing of pharmaceuticals, beneficiary access to such pharmaceuticals, and trends in research and development;

"(ii) franchise, independent, and rural pharmacies; and

"(iii) beneficiary access to outpatient prescription drugs, including an assessment of out-of-pocket spending, generic and brand name drug utilization, and pharmacists' services.".

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**SA 4310.** Mr. HATCH (for Mr. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI)) proposed an amendment to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

At the end, add the following:

## DIVISION —21ST CENTURY MEDICARE ACT

### SEC. 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "21st Century Medicare Act".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term "BIPA" means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA; table of contents.

TITLE I—MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

Sec. 101. Medicare voluntary prescription drug delivery program.

"PART D—VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

"Sec. 1860D. Definitions; treatment of references to provisions in Medicare+Choice program.

"Subpart 1—Establishment of Voluntary Prescription Drug Delivery Program

"Sec. 1860D–1. Establishment of voluntary prescription drug delivery program.

"Sec. 1860D–2. Enrollment under program.

"Sec. 1860D–3. Election of a Medicare Prescription Drug plan.

"Sec. 1860D–4. Providing information to beneficiaries.

"Sec. 1860D–5. Beneficiary protections.

"Sec. 1860D–6. Prescription drug benefits.

"Sec. 1860D–7. Requirements for entities offering Medicare Prescription Drug plans; establishment of standards.

"Subpart 2—Prescription Drug Delivery System

"Sec. 1860D–10. Establishment of service areas.

"Sec. 1860D–11. Publication of risk adjusters.

"Sec. 1860D–12. Submission of bids for proposed Medicare Prescription Drug plans.

"Sec. 1860D–13. Approval of proposed Medicare Prescription Drug plans.

"Sec. 1860D–14. Computation of monthly standard coverage premiums.

"Sec. 1860D–15. Computation of monthly national average premium.

"Sec. 1860D–16. Payments to eligible entities offering Medicare Prescription Drug plans.

"Sec. 1860D–17. Computation of beneficiary obligation.

"Sec. 1860D–18. Collection of beneficiary obligation.

"Sec. 1860D–19. Premium and cost-sharing subsidies for low-income individuals.

"Sec. 1860D–20. Reinsurance payments for qualified prescription drug coverage.

"Subpart 3—Medicare Competitive Agency; Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund

"Sec. 1860D–25. Establishment of Medicare Competitive Agency.

"Sec. 1860D–26. Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.".

Sec. 102. Study and report on permitting part B only individuals to enroll in medicare voluntary prescription drug delivery program.

Sec. 103. Additional requirements for annual financial report and oversight on medicare program.

Sec. 104. Reference to medigap provisions.

Sec. 105. Medicaid amendments.

Sec. 106. Expansion of membership and duties of Medicare Payment Advisory Commission (MedPAC).

Sec. 107. Miscellaneous administrative provisions.

TITLE II—OPTION FOR ENHANCED MEDICARE BENEFITS

Sec. 201. Option for enhanced medicare benefits.

"PART E—ENHANCED MEDICARE BENEFITS

"Sec. 1860E–1. Entitlement to elect to receive enhanced medicare benefits.

"Sec. 1860E–2. Scope of enhanced medicare benefits.

"Sec. 1860E–3. Payment of benefits.

"Sec. 1860E–4. Eligible beneficiaries; election of enhanced medicare benefits; termination of election.

"Sec. 1860E–5. Premium adjustments; late election penalty.".

Sec. 202. Rules relating to medigap policies that provide prescription drug coverage; establishment of enhanced medicare fee-for-service medigap policies.

TITLE III—MEDICARE+CHOICE COMPETITION

Sec. 301. Annual calculation of benchmark amounts based on floor rates and local fee-for-service rates.
Sec. 302. Application of comprehensive risk adjustment methodology.
Sec. 303. Annual announcement of benchmark amounts and other payment factors.
Sec. 304. Submission of bids by Medicare+Choice organizations.
Sec. 305. Adjustment of plan bids; comparison of adjusted bid to benchmark; payment amount.
Sec. 306. Determination of premium reductions, reduced cost-sharing, additional benefits, and beneficiary premiums.
Sec. 307. Eligibility, election, and enrollment in competitive Medicare+Choice plans.
Sec. 308. Benefits and beneficiary protections under competitive Medicare+Choice plans.
Sec. 309. Payments to Medicare+Choice organizations for enhanced medicare benefits under part E based on risk-adjusted bids.
Sec. 310. Separate payments to Medicare+Choice organizations for part D benefits.
Sec. 311. Administration by the Medicare Competitive Agency.
Sec. 312. Continued calculation of annual Medicare+Choice capitation rates.
Sec. 313. Five-year extension of medicare cost contracts.
Sec. 314. Effective date.

## TITLE I—MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

### SEC. 101. MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.

(a) ESTABLISHMENT.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part F and by inserting after part C the following new part:

"PART D—VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

"DEFINITIONS; TREATMENT OF REFERENCES TO PROVISIONS IN MEDICARE+CHOICE PROGRAM

"SEC. 1860D. (a) DEFINITIONS.—In this part:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Medicare Competitive Agency as established under section 1860D–25.

"(2) COVERED DRUG.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'covered drug' means—

"(i) a drug that may be dispensed only upon a prescription and that is described in clause (i) or (ii) of subparagraph (A) of section 1927(k)(2); or

"(ii) a biological product or insulin described in subparagraph (B) or (C) of such section;

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

"(B) EXCLUSIONS.—

"(i) IN GENERAL.—The term 'covered drug' does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

"(ii) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered drug under this part shall not be so considered if payment for such drug is available under part A or B (or under part E for an eligible beneficiary who elects to receive enhanced medicare benefits under that part), but shall be so considered if such payment is not available because benefits under part A or B (or part E, as applicable) have been exhausted.

"(3) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual that is entitled to benefits under part A and enrolled under part B.

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means any risk-bearing entity that the Administrator determines to be appropriate to provide eligible beneficiaries with the benefits under a Medicare Prescription Drug plan, including—

"(A) a pharmaceutical benefit management company;

"(B) a wholesale or retail pharmacist delivery system;

"(C) an insurer (including an insurer that offers medicare supplemental policies under section 1882);

"(D) another entity; or

"(E) any combination of the entities described in subparagraphs (A) through (D).

"(5) INITIAL COVERAGE LIMIT.—The term 'initial coverage limit' means the limit as established under section 1860D–6(c)(3), or, in the case of coverage that is not standard coverage, the comparable limit (if any) established under the coverage.

"(6) MEDICARE+CHOICE ORGANIZATION; MEDICARE+CHOICE PLAN.—The terms 'Medicare+Choice organization' and 'Medicare+Choice plan' have the meanings given such terms in subsections (a)(1) and (b)(1), respectively, of section 1859 (relating to definitions relating to Medicare+Choice organizations).

"(7) MEDICARE PRESCRIPTION DRUG PLAN.—The term 'Medicare Prescription Drug plan' means prescription drug coverage that is offered under a policy, contract, or plan—

"(A) by an eligible entity pursuant to, and in accordance with, a contract between the Administrator and the entity under section 1860D–7(b); and

"(B) that has been approved under section 1860D–13.

"(8) PRESCRIPTION DRUG ACCOUNT.—The term 'Prescription Drug Account' means the Prescription Drug Account (as established under section 1860D–26) in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

"(9) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term 'qualified prescription drug coverage' means the coverage described in section 1860D–6(a)(1).

"(10) STANDARD COVERAGE.—The term 'standard coverage' means the coverage described in section 1860D–6(c).

"(b) APPLICATION OF MEDICARE+CHOICE PROVISIONS UNDER THIS PART.—For purposes of applying provisions of part C under this part with respect to a Medicare Prescription Drug plan and an eligible entity, unless otherwise provided in this part such provisions shall be applied as if—

"(1) any reference to a Medicare+Choice plan included a reference to a Medicare Prescription Drug plan;

"(2) any reference to a provider-sponsored organization included a reference to an eligible entity;

"(3) any reference to a contract under section 1857 included a reference to a contract under section 1860D–7(b); and

"(4) any reference to part C included a reference to this part.

"Subpart 1—Establishment of Voluntary Prescription Drug Delivery Program

"ESTABLISHMENT OF VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM

"SEC. 1860D–1. (a) PROVISION OF BENEFIT.—

"(1) IN GENERAL.—The Administrator shall provide for and administer a voluntary prescription drug delivery program under which each eligible beneficiary enrolled under this part shall be provided with access to qualified prescription drug coverage as follows:

"(A) MEDICARE+CHOICE PLAN.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall receive coverage of benefits under this part through such plan if such plan provides qualified prescription drug coverage.

"(B) MEDICARE PRESCRIPTION DRUG PLAN.—An eligible beneficiary who is enrolled under this part but is not enrolled in a Medicare+Choice plan that provides qualified prescription drug coverage shall receive coverage of benefits under this part through enrollment in a Medicare Prescription Drug plan that is offered in the geographic area in which the beneficiary resides.

"(2) VOLUNTARY NATURE OF PROGRAM.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program under this part.

"(3) SCOPE OF BENEFITS.—The program established under this part shall provide for coverage of all therapeutic classes of covered drugs.

"(4) PROGRAM TO BEGIN IN 2005.—The Administrator shall establish the program under this part in a manner so that benefits are first provided for months beginning with January 2005.

"(b) ACCESS TO ALTERNATIVE PRESCRIPTION DRUG COVERAGE.—In the case of an eligible beneficiary who has creditable prescription drug coverage (as defined in section 1860D–2(b)(1)(F)), such beneficiary—

"(1) may continue to receive such coverage and not enroll under this part; and

"(2) pursuant to section 1860D–2(b)(1)(C), is permitted to subsequently enroll under this part without any penalty and obtain access to qualified prescription drug coverage in the manner described in subsection (a) if the beneficiary involuntarily loses such coverage.

"(c) FINANCING.—The costs of providing benefits under this part shall be payable from the Prescription Drug Account.

"ENROLLMENT UNDER PROGRAM

"SEC. 1860D–2. (a) ESTABLISHMENT OF ENROLLMENT PROCESS.—

"(1) PROCESS SIMILAR TO PART B ENROLLMENT.—The Administrator shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1837, including the deeming provisions of such section.

"(2) CONDITION OF ENROLLMENT.—An eligible beneficiary must be enrolled under this part in order to be eligible to receive access to qualified prescription drug coverage.

"(b) SPECIAL ENROLLMENT PROCEDURES.—

"(1) LATE ENROLLMENT PENALTY.—

"(A) INCREASE IN PREMIUM.—Subject to the succeeding provisions of this paragraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary's initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in paragraph (2), the Administrator shall establish procedures for increasing the amount of the monthly beneficiary obligation under section 1860D–17 applicable to such beneficiary by an amount that the Administrator determines is actuarially sound for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled.

"(B) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under subparagraph (A), there shall be taken into account—

"(i) the months which elapsed between the close of the eligible beneficiary's initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

"(ii) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled.

"(C) PERIODS NOT TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—For purposes of calculating any 12-month period under subparagraph (A), subject to clauses (ii) and (iii), there shall not be taken into account months for which the eligible beneficiary can demonstrate that the beneficiary had creditable prescription drug coverage (as defined in subparagraph (F)).

"(ii) BENEFICIARY MUST INVOLUNTARILY LOSE COVERAGE.—Clause (i) shall only apply with respect to coverage—

"(I) in the case of coverage described in clause (ii) of subparagraph (F), if the plan terminates, ceases to provide, or reduces the value of the prescription drug coverage under such plan to below the actuarial value of standard coverage (as determined under section 1860D–6(f));

"(II) in the case of coverage described in clause (i), (iii), or (iv) of subparagraph (F), if the beneficiary loses eligibility for such coverage; or

"(III) in the case of a beneficiary with coverage described in clause (v) of subparagraph (F), if the issuer of the policy terminates coverage under the policy.

"(iii) PARTIAL CREDIT FOR CERTAIN MEDIGAP COVERAGE.—In the case of a beneficiary that had creditable prescription drug coverage described in subparagraph (F)(v) that does not provide coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)), the Administrator shall determine a percentage of the period in which the beneficiary had such creditable prescription drug coverage that will be taken into account under subparagraph (B) (and not considered to be such creditable prescription drug coverage under clause (i)).

"(D) PERIODS TREATED SEPARATELY.—Any increase in an eligible beneficiary's monthly beneficiary obligation under subparagraph (A) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

"(E) CONTINUOUS PERIOD OF ELIGIBILITY.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of this paragraph, an eligible beneficiary's 'continuous period of eligibility' is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and ends with the beneficiary's death.

"(ii) SEPARATE PERIOD.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which the beneficiary attained age 65 shall be a separate 'continuous period of eligibility' with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this paragraph).

"(F) CREDITABLE PRESCRIPTION DRUG COVERAGE DEFINED.—For purposes of this part, the term 'creditable prescription drug coverage' means any of the following:

"(i) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), and through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)).

"(ii) PRESCRIPTION DRUG COVERAGE UNDER A GROUP HEALTH PLAN.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined in section 1860D–20(f)(1)), but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)).

"(iii) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)).

"(iv) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans, and survivors and dependents of veterans, under chapter 17 of title 38, United States Code, but only if the coverage provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Administrator) to the beneficiary equals or exceeds the actuarial value of standard coverage (as determined under section 1860D–6(f)).

"(v) PRESCRIPTION DRUG COVERAGE UNDER MEDIGAP POLICIES.—Subject to subparagraph (C)(iii), coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)).

"(2) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—In the case of an individual who is an eligible beneficiary as of January 1, 2005, the Administrator shall establish procedures under which such beneficiary may enroll under this part during the open enrollment period without the application of the late enrollment procedures established under paragraph (1)(A). For purposes of the preceding sentence, the open enrollment period shall be the 7-month period that begins on April 1, 2004, and ends on November 30, 2004.

"(3) SPECIAL ENROLLMENT PERIOD FOR BENEFICIARIES WHO INVOLUNTARILY LOSE CREDITABLE PRESCRIPTION DRUG COVERAGE.—

"(A) ESTABLISHMENT.—The Administrator shall establish a special open enrollment period (as described in subparagraph (B)) for an eligible beneficiary that loses creditable prescription drug coverage.

"(B) SPECIAL OPEN ENROLLMENT PERIOD.—The special open enrollment period described in this subparagraph is the 63-day period that begins—

"(i) in the case of a beneficiary with coverage described in clause (ii) of paragraph (1)(F), the date on which the plan terminates, ceases to provide, or substantially reduces (as defined by the Administrator) the value of the prescription drug coverage under such plan;

"(ii) in the case of a beneficiary with coverage described in clause (i), (iii), or (iv) of paragraph (1)(F), the date on which the beneficiary loses eligibility for such coverage; or

"(iii) in the case of a beneficiary with coverage described in clause (v) of paragraph (1)(F), the date on which the issuer of the policy terminates coverage under the policy.

"(c) PERIOD OF COVERAGE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

"(2) OPEN AND SPECIAL ENROLLMENT.—

"(A) OPEN ENROLLMENT.—An eligible beneficiary who enrolls under the program under this part pursuant to subsection (b)(2) shall be entitled to the benefits under this part beginning on January 1, 2005.

"(B) SPECIAL ENROLLMENT.—Subject to paragraph (3), an eligible beneficiary who enrolls under the program under this part pursuant to subsection (b)(3) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

"(3) LIMITATION.—Coverage under this part shall not begin prior to January 1, 2005.

"(d) TERMINATION.—

"(1) IN GENERAL.—The causes of termination specified in section 1838 shall apply to this part in the same manner as such causes apply to part B.

"(2) COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A OR B.—

"(A) IN GENERAL.—In addition to the causes of termination specified in paragraph (1), the Administrator shall terminate an individual's coverage under this part if the individual is no longer enrolled in both parts A and B.

"(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if earlier) under part B.

"(3) PROCEDURES REGARDING TERMINATION OF A BENEFICIARY UNDER A PLAN.—The Administrator shall establish procedures for determining the status of an eligible beneficiary's enrollment under this part if the beneficiary's enrollment in a Medicare Prescription Drug plan offered by an eligible entity under this part is terminated by the entity for cause (pursuant to procedures established by the Administrator under section 1860D–3(a)(1)).

"ELECTION OF A MEDICARE PRESCRIPTION DRUG PLAN

"SEC. 1860D–3. (a) IN GENERAL.—

"(1) PROCESS.—

"(A) ELECTION.—

"(i) IN GENERAL.—The Administrator shall establish a process through which an eligible beneficiary who is enrolled under this part but not enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization that provides qualified prescription drug coverage—

"(I) shall make an election to enroll in any Medicare Prescription Drug plan that is offered by an eligible entity and that serves the geographic area in which the beneficiary resides; and

"(II) may make an annual election to change the election under this clause.

"(ii) CLARIFICATION REGARDING ENROLLMENT.—The process established under clause (i) shall include, in the case of an eligible beneficiary who is enrolled under this part but who has failed to make an election of a Medicare Prescription Drug plan in an area, for the enrollment in the Medicare Prescription Drug plan with the lowest monthly premium that is available in the area.

"(B) REQUIREMENTS FOR PROCESS.—In establishing the process under subparagraph (A), the Administrator shall—

"(i) use rules similar to the rules for enrollment, disenrollment, and termination of enrollment with a Medicare+Choice plan under section 1851, including—

"(I) the establishment of special election periods under subsection (e)(4) of such section; and

"(II) the application of the guaranteed issue and renewal provisions of section 1851(g) (other than clause (i) and the second sentence of clause (ii) of paragraph (3)(C), relating to default enrollment); and

"(ii) coordinate enrollments, disenrollments, and terminations of enrollment under part C with enrollments, disenrollments, and terminations of enrollment under this part.

"(2) FIRST ENROLLMENT PERIOD FOR PLAN ENROLLMENT.—The process developed under paragraph (1) shall ensure that eligible beneficiaries who enroll under this part during the open enrollment period under section 1860D–2(b)(2) are permitted to elect an eligible entity prior to January 1, 2005, in order to ensure that coverage under this part is effective as of such date.

"(b) ENROLLMENT IN A MEDICARE+CHOICE PLAN.—

"(1) IN GENERAL.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization that provides qualified prescription drug coverage shall receive access to such coverage under this part through such plan.

"(2) RULES.—Enrollment in a Medicare+Choice plan is subject to the rules for enrollment in such plan under section 1851.

"PROVIDING INFORMATION TO BENEFICIARIES

"SEC. 1860D–4. (a) ACTIVITIES.—

"(1) IN GENERAL.—The Administrator shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

"(2) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—The activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the first enrollment period described in section 1860D–3(a)(2).

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The activities described in subsection (a) shall—

"(A) be similar to the activities performed by the Administrator under section 1851(d);

"(B) be coordinated with the activities performed by—

"(i) the Administrator under such section; and

"(ii) the Secretary under section 1804; and

"(C) provide for the dissemination of information comparing the plans offered by eligible entities under this part that are available to eligible beneficiaries residing in an area.

"(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1)(C) shall include a comparison of the following:

"(A) BENEFITS.—The benefits provided under the plan and the formularies and appeals processes under the plan.

"(B) QUALITY AND PERFORMANCE.—To the extent available, the quality and performance of the eligible entity offering the plan.

"(C) BENEFICIARY COST-SHARING.—The cost-sharing required of eligible beneficiaries under the plan.

"(D) CONSUMER SATISFACTION SURVEYS.—To the extent available, the results of consumer satisfaction surveys regarding the plan and the eligible entity offering such plan.

"(E) ADDITIONAL INFORMATION.—Such additional information as the Administrator may prescribe.

"BENEFICIARY PROTECTIONS

"SEC. 1860D–5. (a) DISSEMINATION OF INFORMATION.—

"(1) GENERAL INFORMATION.—An eligible entity offering a Medicare Prescription Drug plan shall disclose, in a clear, accurate, and standardized form to each enrollee at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such plan. Such information includes the following:

"(A) Access to covered drugs, including access through pharmacy networks.

"(B) How any formulary used by the entity functions.

"(C) Copayments, coinsurance, and deductible requirements.

"(D) Grievance and appeals procedures.

"(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an individual eligible to enroll in a Medicare Prescription Drug plan, the eligible entity offering such plan shall provide the information described in section 1852(c)(2) to such individual.

"(3) RESPONSE TO BENEFICIARY QUESTIONS.—An eligible entity offering a Medicare Prescription Drug plan shall have a mechanism for providing specific information to enrollees upon request, including information on the coverage of specific drugs and changes in its formulary on a timely basis.

"(4) CLAIMS INFORMATION.—An eligible entity offering a Medicare Prescription Drug plan must furnish to enrolled individuals in a form easily understandable to such individuals an explanation of benefits (in accordance with section 1806(a) or in a comparable manner) and a notice of the benefits in relation to initial coverage limit and annual out-of-pocket limit for the current year, whenever prescription drug benefits are provided under this part (except that such notice need not be provided more often than monthly).

"(5) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The provisions of section 1851(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part C.

"(b) ACCESS TO COVERED DRUGS.—

"(1) ACCESS TO NEGOTIATED PRICES FOR PRESCRIPTION DRUGS.—An eligible entity offering a Medicare Prescription Drug plan shall issue such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860D–6(e) for the purchase of prescription drugs for which coverage is not otherwise provided under the Medicare Prescription Drug plan.

"(2) ASSURING PHARMACY ACCESS.—

"(A) IN GENERAL.—An eligible entity offering a Medicare Prescription Drug plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Administrator and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D–7(f) that ensure such convenient access. Such standards shall take into account reasonable distances to pharmacy services in both urban and rural areas.

"(B) USE OF POINT-OF-SERVICE SYSTEM.—An eligible entity offering a Medicare Prescription Drug plan shall establish an optional point-of-service method of operation under which—

"(i) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

"(ii) the plan may charge beneficiaries through adjustments in copayments any additional costs associated with the point-of-service option.

The additional copayments so charged shall not count toward the application of section 1860D–6(c).

"(3) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If an eligible entity offering a Medicare Prescription Drug plan uses a formulary, the following requirements must be met:

"(A) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The eligible entity must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least one practicing physician and at least one practicing pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a practicing physician or a practicing pharmacist (or both).

"(B) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

"(C) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (although not necessarily for all drugs within such categories and classes).

"(D) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

"(E) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

"(F) APPEALS AND EXCEPTIONS TO APPLICATION.—The eligible entity must have, as part of the appeals process under subsection (e)(3), a process for timely appeals for denials of coverage based on such application of the formulary.

"(c) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

"(1) IN GENERAL.—An eligible entity shall have in place the following with respect to covered drugs:

"(A) A cost-effective drug utilization management program, including incentives to reduce costs when appropriate.

"(B) Quality assurance measures to reduce medical errors and adverse drug interactions, which—

"(i) shall include a medication therapy management program described in paragraph (2); and

"(ii) may include beneficiary education programs, counseling, medication refill reminders, and special packaging.

"(C) A program to control fraud, abuse, and waste.

"(2) MEDICATION THERAPY MANAGEMENT PROGRAM.—

"(A) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to assure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered outpatient drugs under the prescription drug plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

"(B) ELEMENTS.—Such program may include—

"(i) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

"(ii) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

"(iii) detection of patterns of overuse and underuse of prescription drugs.

"(C) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed and practicing pharmacists and physicians.

"(D) CONSIDERATIONS IN PHARMACY FEES.—The eligible entity offering a Medicare Prescription Drug plan shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

"(3) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—The eligible entity offering a Medicare Prescription Drug plan shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

"(d) GRIEVANCE MECHANISM.—An eligible entity shall provide meaningful procedures for hearing and resolving grievances between the eligible entity (including any entity or individual through which the eligible entity provides covered benefits) and enrollees in a Medicare Prescription Drug plan offered by the eligible entity in accordance with section 1852(f).

"(e) COVERAGE DETERMINATIONS, RECONSIDERATIONS, AND APPEALS.—

"(1) IN GENERAL.—An eligible entity shall meet the requirements of section 1852(g) with respect to covered benefits under the Medicare Prescription Drug plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

"(2) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a Medicare Prescription Drug plan offered by an eligible entity that provides for tiered cost-sharing for covered drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

"(3) APPEALS OF FORMULARY DETERMINATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), consistent with the requirements of section 1852(g), an eligible entity shall establish a process for individuals to appeal formulary determinations.

"(B) FORMULARY DETERMINATIONS.—An individual who is enrolled in a Medicare Prescription Drug plan offered by an eligible entity may appeal to obtain coverage for a covered drug that is not on a formulary of the eligible entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

"(f) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—An eligible entity shall meet the requirements of section 1852(h) with respect to enrollees under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to enrollees under part C.

"(g) UNIFORM PREMIUM.—An eligible entity shall ensure that the monthly premium for a Medicare Prescription Drug plan charged under this part is the same for all eligible beneficiaries enrolled in the plan.

"PRESCRIPTION DRUG BENEFITS

"SEC. 1860D–6. (a) REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of this part and part C, the term 'qualified prescription drug coverage' means either of the following:

"(A) STANDARD COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Standard coverage (as defined in subsection (c)) and access to negotiated prices under subsection (e).

"(B) ACTUARIALLY EQUIVALENT COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Coverage of covered drugs which meets the alternative coverage requirements of subsection (d) and access to negotiated prices under subsection (e), but only if it is approved by the Administrator, as provided under subsection (d).

"(2) PERMITTING ADDITIONAL PRESCRIPTION DRUG COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B) and section 1860D–13(c)(2), nothing in this part shall be construed as preventing qualified prescription drug coverage from including coverage of covered drugs that exceeds the coverage required under paragraph (1).

"(B) REQUIREMENT.—An eligible entity may not offer a Medicare Prescription Drug plan that provides additional benefits pursuant to subparagraph (A) in an area unless the eligible entity offering such plan also offers a Medicare Prescription Drug plan in the area that only provides the coverage of prescription drugs that is required under subsection (a)(1).

"(3) COST CONTROL MECHANISMS.—In providing qualified prescription drug coverage, the entity offering the Medicare Prescription Drug plan or the Medicare+Choice plan may use cost control mechanisms that are customarily used in employer-sponsored health care plans that offer coverage for prescription drugs, including the use of formularies, tiered copayments, selective contracting with providers of prescription drugs, and mail order pharmacies.

"(b) APPLICATION OF SECONDARY PAYOR PROVISIONS.—The provisions of section 1852(a)(4) shall apply under this part in the same manner as they apply under part C.

"(c) STANDARD COVERAGE.—For purposes of this part and part C, the term 'standard coverage' means coverage of covered drugs that meets the following requirements:

"(1) DEDUCTIBLE.—

"(A) IN GENERAL.—The coverage has an annual deductible—

"(i) for 2005, that is equal to $250; or

"(ii) for a subsequent year, that is equal to the amount specified under this paragraph for the previous year increased by the percentage specified in paragraph (5) for the year involved.

"(B) ROUNDING.—Any amount determined under subparagraph (A)(ii) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(2) LIMITS ON COST-SHARING.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the initial coverage limit under paragraph (3)) that is equal to 50 percent or that is actuarially consistent (using processes established under subsection (f)) with an average expected payment of 50 percent of such costs.

"(3) INITIAL COVERAGE LIMIT.—

"(A) IN GENERAL.—Subject to paragraph (4), the coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes (above the annual deductible)—

"(i) for 2005, that is equal to $3,450; or

"(ii) for a subsequent year, that is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

"(B) ROUNDING.—Any amount determined under subparagraph (A)(ii) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(4) LIMITATION ON OUT-OF-POCKET EXPENDITURES BY BENEFICIARY.—

"(A) IN GENERAL.—Notwithstanding paragraph (3), the coverage provides benefits with cost-sharing that is equal to 10 percent after the individual has incurred costs (as described in subparagraph (C)) for covered drugs in a year equal to the annual out-of-pocket limit specified in subparagraph (B).

"(B) ANNUAL OUT-OF-POCKET LIMIT.—

"(i) IN GENERAL.—For purposes of this part, the 'annual out-of-pocket limit' specified in this subparagraph—

"(I) for 2005, is equal to $3,700; or

"(II) for a subsequent year, is equal to the amount specified in the subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

"(ii) Rounding.—Any amount determined under clause (i)(II) that is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(C) Application.—In applying subparagraph (A)—

"(i) incurred costs shall only include costs incurred for the annual deductible (described in paragraph (1)), cost-sharing (described in paragraph (2)), and amounts for which benefits are not provided because of the application of the initial coverage limit described in paragraph (3); and

"(ii) such costs shall be treated as incurred only if they are paid by the individual (or by another individual, such as a family member, on behalf of the individual), under section 1860D–19, or under title XIX and the individual (or other individual) is not reimbursed through insurance or otherwise, a group health plan, or other third-party payment arrangement for such costs.

"(5) Annual percentage increase.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered drugs in the United States for beneficiaries under this title, as determined by the Administrator for the 12-month period ending in July of the previous year.

"(d) Alternative Coverage Requirements.—A Medicare Prescription Drug plan or Medicare+Choice plan may provide a different prescription drug benefit design from the standard coverage described in subsection (c) so long as the Administrator determines (based on an actuarial analysis by the Administrator) that the following requirements are met and the plan applies for, and receives, the approval of the Administrator for such benefit design:

"(1) Assuring at least actuarially equivalent coverage.—

"(A) Assuring equivalent value of total coverage.—The actuarial value of the total coverage (as determined under subsection (f)) is at least equal to the actuarial value (as so determined) of standard coverage.

"(B) Assuring equivalent unsubsidized value of coverage.—The unsubsidized value of the coverage is at least equal to the unsubsidized value of standard coverage. For purposes of this subparagraph, the unsubsidized value of coverage is the amount by which the actuarial value of the coverage (as determined under subsection (f)) exceeds the actuarial value of the amounts associated with the application of section 1860D–17(c) and reinsurance payments under section 1860D–20 with respect to such coverage.

"(C) Assuring standard payment for costs at initial coverage limit.—The coverage is designed, based upon an actuarially representative pattern of utilization (as determined under subsection (f)), to provide for the payment, with respect to costs incurred that are equal to the sum of the deductible under subsection (c)(1) and the initial coverage limit under subsection (c)(3), of an amount equal to at least such initial coverage limit multiplied by the percentage specified in subsection (c)(2).

Benefits other than qualified prescription drug coverage shall not be taken into account for purposes of this paragraph.

"(2) Limitation on out-of-pocket expenditures by beneficiaries.—The coverage provides the limitation on out-of-pocket expenditures by beneficiaries described in subsection (c)(4).

"(e) Access to Negotiated Prices.—

"(1) Access.—

"(A) In general.—Under qualified prescription drug coverage offered by an eligible entity or a Medicare+Choice organization, the entity or organization shall provide beneficiaries with access to negotiated prices (including applicable discounts) used for payment for covered drugs, regardless of the fact that no benefits may be payable under the coverage with respect to such drugs because of the application of the deductible, any cost-sharing, or an initial coverage limit (described in subsection (c)(3)).

"(B) Medicaid related provisions.—Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated under a Medicare Prescription Drug plan under this part, the requirements of section 1927 shall not apply to such drugs. The prices negotiated under a Medicare Prescription Drug plan with respect to covered drugs, under a Medicare+Choice plan with respect to such drugs, or under a qualified retiree prescription drug plan (as defined in section 1860D–20(f)(1)) with respect to such drugs, on behalf of eligible beneficiaries, shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

"(2) Cards or other technology.—In providing the access under paragraph (1), the eligible entity or Medicare+Choice organization shall issue a card or use other technology pursuant to section 1860D–5(b)(1).

"(f) Actuarial Valuation; Determination of Annual Percentage Increases.—

"(1) Processes.—For purposes of this section, the Administrator shall establish processes and methods—

"(A) for determining the actuarial valuation of prescription drug coverage, including—

"(i) an actuarial valuation of standard coverage and of the reinsurance payments under section 1860D–20;

"(ii) the use of generally accepted actuarial principles and methodologies; and

"(iii) applying the same methodology for determinations of alternative coverage under subsection (d) as is used with respect to determinations of standard coverage under subsection (c); and

"(B) for determining annual percentage increases described in subsection (c)(5).

"(2) Use of outside actuaries.—Under the processes under paragraph (1)(A), eligible entities and Medicare+Choice organizations may use actuarial opinions certified by independent, qualified actuaries to establish actuarial values, but the Administrator shall determine whether such actuarial values meet the requirements under subsection (c)(1).

"REQUIREMENTS FOR ENTITIES OFFERING MEDICARE PRESCRIPTION DRUG PLANS; ESTABLISHMENT OF STANDARDS

"Sec. 1860D–7. (a) General Requirements.—An eligible entity offering a Medicare Prescription Drug plan shall meet the following requirements:

"(1) Licensure.—Subject to subsection (c), the entity is organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a Medicare Prescription Drug plan.

"(2) Assumption of financial risk.—

"(A) In general.—Subject to subparagraph (B) and section 1860D–20, the entity assumes financial risk on a prospective basis for the benefits that it offers under a Medicare Prescription Drug plan and that is not covered under such section or section 1860D–16.

"(B) Reinsurance permitted.—The entity may obtain insurance or make other arrangements for the cost of coverage provided to any enrolled member under this part.

"(3) Solvency for unlicensed entities.—In the case of an eligible entity that is not described in paragraph (1) and for which a waiver has been approved under subsection (c), such entity shall meet solvency standards established by the Administrator under subsection (d).

"(b) Contract Requirements.—The Administrator shall not permit an eligible beneficiary to elect a Medicare Prescription Drug plan offered by an eligible entity under this part, and the entity shall not be eligible for payments under section 1860D–16 or 1860D–20, unless the Administrator has entered into a contract under this subsection with the entity with respect to the offering of such plan. Such a contract with an entity may cover more than 1 Medicare Prescription Drug plan. Such contract shall provide that the entity agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(c) Waiver of Certain Requirements in Order To Ensure Beneficiary Choice.—

"(1) In general.—In the case of an eligible entity that seeks to offer a Medicare Prescription Drug plan in a State, the Administrator shall waive the requirement of subsection (a)(1) that the entity be licensed in that State if the Administrator determines, based on the application and other evidence presented to the Administrator, that any of the grounds for approval of the application described in paragraph (2) have been met.

"(2) Grounds for approval.—The grounds for approval under this paragraph are the grounds for approval described in subparagraphs (B), (C), and (D) of section 1855(a)(2), and also include the application by a State of any grounds other than those required under Federal law.

"(3) Application of waiver procedures.—With respect to an application for a waiver (or a waiver granted) under this subsection, the provisions of subparagraphs (E), (F), and (G) of section 1855(a)(2) shall apply.

"(4) References to certain provisions.—For purposes of this subsection, in applying the provisions of section 1855(a)(2) under this subsection to Medicare Prescription Drug plans and eligible entities—

"(A) any reference to a waiver application under section 1855 shall be treated as a reference to a waiver application under paragraph (1); and

"(B) any reference to solvency standards were treated as a reference to solvency standards established under subsection (d).

"(d) Solvency Standards for Non-Licensed Entities.—

"(1) Establishment and publication.—The Administrator, in consultation with the National Association of Insurance Commissioners, shall establish and publish, by not later than January 1, 2004, financial solvency and capital adequacy standards for entities described in paragraph (2).

"(2) Compliance with standards.—An eligible entity that is not licensed by a State under subsection (a)(1) and for which a waiver application has been approved under subsection (c) shall meet solvency and capital adequacy standards established under paragraph (1). The Administrator shall establish certification procedures for such eligible entities with respect to such solvency standards in the manner described in section 1855(c)(2).

"(e) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an entity is licensed in accordance with subsection (a)(1) or has a waiver application approved under subsection (c) does not deem the eligible entity to meet other requirements imposed under this part for an eligible entity.

"(f) OTHER STANDARDS.—The Administrator shall establish by regulation other standards (not described in subsection (d)) for eligible entities and Medicare Prescription Drug plans consistent with, and to carry out, this part. The Administrator shall publish such regulations by January 1, 2004.

"(g) PERIODIC REVIEW AND REVISION OF STANDARDS.—The Administrator shall periodically review the standards established under this section and, based on such review, may revise such standards if the Administrator determines such revision to be appropriate.

"(h) RELATION TO STATE LAWS.—

"(1) IN GENERAL.—The standards established under this part shall supersede any State law or regulation (including standards described in paragraph (2)) with respect to Medicare Prescription Drug plans which are offered by eligible entities under this part—

"(A) to the extent such law or regulation is inconsistent with such standards; and

"(B) in the same manner as such laws and regulations are superseded under section 1856(b)(3).

"(2) STANDARDS SPECIFICALLY SUPERSEDED.—State standards relating to the following are superseded under this section:

"(A) Benefit requirements.

"(B) Requirements relating to inclusion or treatment of providers.

"(C) Coverage determinations (including related appeals and grievance processes).

"(3) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to—

"(A) premiums paid to the Administrator for Medicare Prescription Drug plans under this part; or

"(B) any payments made by the Administrator under this part to an eligible entity offering such a plan.

### "Subpart 2—Prescription Drug Delivery System

### "ESTABLISHMENT OF SERVICE AREAS

"SEC. 1860D–10. (a) ESTABLISHMENT.—

"(1) INITIAL ESTABLISHMENT.—Not later than April 15, 2004, the Administrator shall establish and publish the service areas in which Medicare Prescription Drug plans may offer benefits under this part.

"(2) PERIODIC REVIEW AND REVISION OF SERVICE AREAS.—The Administrator shall periodically review the service areas applicable under this section and, based on such review, may revise such service areas if the Administrator determines such revision to be appropriate.

"(b) REQUIREMENTS FOR ESTABLISHMENT OF SERVICE AREAS.—

"(1) IN GENERAL.—The Administrator shall establish the service areas under subsection (a) in a manner that—

"(A) maximizes the availability of Medicare Prescription Drug plans to eligible beneficiaries; and

"(B) minimizes the ability of eligible entities offering such plans to favorably select eligible beneficiaries.

"(2) SERVICE AREA MAY NOT BE SMALLER THAN A STATE.—A service area established under subsection (a) may not be smaller than a State.

### "PUBLICATION OF RISK ADJUSTERS

"SEC. 1860D–11. (a) PUBLICATION.—Not later than April 15 of each year (beginning in 2004), the Administrator shall publish the risk adjusters established under subsection (b) to be used in computing—

"(1) under section 1860D–16(a) the amount of payment to Medicare Prescription Drug plans in the subsequent year; and

"(2) under section 1853(k)(2) the amount of payment to Medicare+Choice organizations that offer qualified prescription drug coverage in the subsequent year.

"(b) ESTABLISHMENT OF RISK ADJUSTERS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall establish an appropriate methodology for adjusting the amount of payment to Medicare Prescription Drug plans computed under section 1860D–16(a) to take into account, in a budget neutral manner, variation in costs based on the differences in actuarial risk of different enrollees being served.

"(2) CONSIDERATIONS.—In establishing the methodology under paragraph (1), the Administrator may take into account the similar methodologies used under section 1853(a)(3) to adjust payments to Medicare+Choice organizations (with respect to enhanced medicare benefits under part E).

### "SUBMISSION OF BIDS FOR PROPOSED MEDICARE PRESCRIPTION DRUG PLANS

"SEC. 1860D–12. (a) IN GENERAL.—Each eligible entity that intends to offer a Medicare Prescription Drug plan in a year (beginning with 2005) shall submit to the Administrator, at such time and in such manner as the Administrator may specify, such information as the Administrator may require, including the information described in subsection (b).

"(b) INFORMATION DESCRIBED.—The information described in this subsection includes information on each of the following:

"(1) A description of the benefits under the plan (as required under section 1860D–6).

"(2) Information on the actuarial value of the qualified prescription drug coverage.

"(3) Information on the monthly premium to be charged for all benefits, including an actuarial certification of—

"(A) the actuarial basis for such premium; and

"(B) the portion of such premium attributable to benefits in excess of standard coverage; and

"(C) the reduction in such bid and premium resulting from the payments associated with section 1860D–16(c) and payments provided under section 1860D–20.

"(4) The service area for the plan.

"(5) Such other information as the Administrator may require to carry out this part.

"(c) OPTIONS REGARDING SERVICE AREAS.—

"(1) IN GENERAL.—The service area of a Medicare Prescription Drug plan shall be either—

"(A) the entire area of 1 of the service areas established by the Administrator under section 1860D–10; or

"(B) the entire area covered by the medicare program.

"(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed as prohibiting an eligible entity from submitting separate bids in multiple service areas as long as each bid is for a single service area.

### "APPROVAL OF PROPOSED MEDICARE PRESCRIPTION DRUG PLANS

"SEC. 1860D–13. (a) IN GENERAL.—The Administrator shall review the information filed under section 1860D–12 and shall approve or disapprove the Medicare Prescription Drug plan. The Administrator may not approve a plan if—

"(1) the plan and the entity offering the plan comply with the requirements under this part; and

"(2) the premium accurately reflects both (A) the actuarial value of the benefits provided, and (B) the payments associated with the application of 186D–16(c) and the payments under section 1860D–20 for the standard benefit.

"(b) NEGOTIATION.—In exercising the authority under subsection (a), the Administrator shall have the same authority to negotiate the terms and conditions of the premiums submitted and other terms and conditions of proposed plans as the Director of the Office of Personnel Management has with respect to health benefits plans under chapter 89 of title 5, United States Code.

"(c) SPECIAL RULES FOR APPROVAL.—The Administrator may approve a Medicare Prescription Drug plan submitted under section 1860D–12 only if the benefits under such plan—

"(1) include the required benefits under section 1860D–6(a)(1); and

"(2) are not designed in such a manner that the Administrator finds is likely to result in favorable selection of eligible beneficiaries.

"(d) ASSURING ACCESS.—

"(1) NUMBER OF CONTRACTS.—The Administrator shall, consistent with the requirements of this part and the goal of containing costs under this title, approve at least 2 contracts to offer a Medicare Prescription Drug plan in an area.

"(2) GUARANTEEING ACCESS TO COVERAGE.—In order to assure access under paragraph (1) in an area and consistent with paragraph (3), the Administrator may provide financial incentives (including partial underwriting of risk) for an eligible entity to offer a Medicare Prescription Drug plan in that area, but only so long as (and to the extent) necessary to assure the access guaranteed under paragraph (1) in that area.

"(3) LIMITATION ON AUTHORITY.—In exercising authority under this subsection, the Administrator—

"(A) shall not provide for the full underwriting of financial risk for any eligible entity;

"(B) shall not provide for any underwriting of financial risk for a public eligible entity with respect to the offering of a nationwide prescription drug plan; and

"(C) shall seek to maximize the assumption of financial risk by an eligible entity.

"(4) REPORTS.—The Administrator shall, in each annual report to Congress under section 1860D–25(c)(1)(D), include information on the exercise of authority under this subsection. The Administrator also shall include such recommendations as may be appropriate to limit the exercise of such authority, including minimizing the assumption of financial risk.

"(e) ANNUAL CONTRACTS.—A contract approved under this part shall be for a 1-year period.

### "COMPUTATION OF MONTHLY STANDARD COVERAGE PREMIUMS

"SEC. 1860D–14. (a) IN GENERAL.—For each year (beginning with 2005), the Administrator shall compute a monthly standard coverage premium for each Medicare Prescription Drug plan approved under section 1860D–13.

"(b) REQUIREMENTS.—The monthly standard coverage premium for a Medicare Prescription Drug plan for a year shall be equal to—

“(1) in the case of a plan offered by an eligible entity that provides standard coverage or an actuarially equivalent coverage and does not provide additional prescription drug coverage pursuant to section 1860D–6(a)(2), the monthly premium approved for the plan under section 1860D–13 for the year; and

“(2) in the case of a plan offered by an eligible entity that provides additional prescription drug coverage pursuant to section 1860D–6(a)(2)—

“(A) an amount that reflects only the actuarial value of the standard coverage offered under the plan; or

“(B) if determined appropriate by the Administrator, the monthly premium approved under section 1860D–13 for the year for the Medicare Prescription Drug plan that (as required under subparagraph (B) of such section)—

“(i) is offered by such entity in the same area as the plan; and

“(ii) does not provide additional prescription drug coverage pursuant to such section.

### “COMPUTATION OF MONTHLY NATIONAL AVERAGE PREMIUM

“SEC. 1860D–15. (a) COMPUTATION.—

“(1) IN GENERAL.—For each year (beginning with 2005) the Administrator shall compute a monthly national average premium equal to the average of the monthly standard coverage premium for each Medicare Prescription Drug plan (as computed under section 1860D–14).

“(2) WEIGHTED AVERAGE.—The monthly national average premium computed under paragraph (1) shall be a weighted average, with the weight for each plan being equal to the average number of beneficiaries enrolled under such plan in the previous year.

“(b) SPECIAL RULE FOR 2005.—For purposes of applying this section for 2005, the Administrator shall establish procedures for determining the weighted average under subsection (a)(2) for 2004.

### “PAYMENTS TO ELIGIBLE ENTITIES OFFERING MEDICARE PRESCRIPTION DRUG PLANS

“SEC. 1860D–16. (a) PAYMENT OF PREMIUMS.—For each year (beginning with 2005), the Administrator shall pay to each entity offering a Medicare Prescription Drug plan in which an eligible beneficiary is enrolled an amount equal to the full amount of the monthly premium approved for the plan under section 1860D–13 on behalf of each eligible beneficiary enrolled in such plan for the year, as adjusted using the risk adjusters that apply to the standard coverage published under section 1860D–11.

“(b) PAYMENT TERMS.—Payment under this section to an entity offering a Medicare Prescription Drug plan shall be made in a manner determined by the Administrator and based upon the manner in which payments are made under section 1853(a) (relating to payments to Medicare+Choice organizations).

“(c) PAYMENTS TO MEDICARE+CHOICE PLANS.—For provisions related to payments to Medicare+Choice organizations offering Medicare+Choice plans that provide qualified prescription drug coverage, see section 1853(k)(2).

“(d) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

### “COMPUTATION OF BENEFICIARY OBLIGATION

“SEC. 1860D–17. (a) BENEFICIARIES ENROLLED IN A MEDICARE PRESCRIPTION DRUG PLAN.—In the case of an eligible beneficiary enrolled under this part and in a Medicare Prescription Drug plan, the monthly beneficiary obligation for enrollment in such plan in a year shall be determined as follows:

“(1) MEDICARE PRESCRIPTION DRUG PLAN PREMIUMS EQUAL TO THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium approved by the Administrator under section 1860D–13 for a Medicare Prescription Drug plan for the year is equal to the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the eligible beneficiary in that year shall be an amount equal to the applicable percent (as defined in subsection (c)) of the amount of the monthly national average premium.

“(2) MEDICARE PRESCRIPTION DRUG PLAN PREMIUMS THAT ARE LESS THAN THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium approved by the Administrator under section 1860D–13 for the Medicare Prescription Drug plan for the year is less than the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the eligible beneficiary in that year shall be an amount equal to—

“(A) the applicable percent of the amount of the monthly national average premium; minus

“(B) the amount by which the monthly national average premium exceeds the amount of the premium approved by the Administrator for the plan.

“(3) MEDICARE PRESCRIPTION DRUG PLAN PREMIUMS THAT ARE GREATER THAN THE MONTHLY NATIONAL AVERAGE.—If the amount of the monthly premium approved by the Administrator under section 1860D–13 for a Medicare Prescription Drug plan for the year exceeds the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the eligible beneficiary in that year shall be an amount equal to the sum of—

“(A) the applicable percent of the amount of the monthly national average premium; plus

“(B) the amount by which the premium approved by the Administrator for the plan exceeds the amount of the monthly national average premium.

“(b) BENEFICIARIES ENROLLED IN A MEDICARE+CHOICE PLAN.—In the case of an eligible beneficiary that is receiving qualified prescription drug coverage under a Medicare+Choice plan, the monthly obligation for such coverage shall be determined pursuant to section 1853(k)(3).

“(c) APPLICABLE PERCENT DEFINED.—For purposes of this section, except as provided in section 1860D–19 (relating to premium subsidies for low-income individuals), the term ‘applicable percent’ means 55 percent.

### “COLLECTION OF BENEFICIARY OBLIGATION

“SEC. 1860D–18. (a) COLLECTION OF AMOUNT IN SAME MANNER AS PART B PREMIUM.—The amount of the monthly beneficiary obligation (determined under section 1860D–17) applicable to an eligible beneficiary under this part (after application of any increase under section 1860D–2(b)(1)(A)) shall be collected and credited to the Prescription Drug Account in the same manner as the monthly premium determined under section 1839 is collected and credited to the Federal Supplementary Medical Insurance Trust Fund under section 1840.

“(b) INFORMATION NECESSARY FOR COLLECTION.—In order to carry out subsection (a), the Administrator shall transmit to the Commissioner of Social Security—

“(1) at the beginning of each year, the name, social security account number, and annual beneficiary obligation owed by each individual enrolled in a Medicare Prescription Drug plan for each month during the year; and

“(2) periodically throughout the year, information to update the information previously transmitted under this paragraph for the year.

“(c) COLLECTION FOR BENEFICIARIES RECEIVING QUALIFIED PRESCRIPTION DRUG COVERAGE UNDER A MEDICARE+CHOICE PLAN.—For provisions related to the collection of the monthly beneficiary obligation for qualified prescription drug coverage under a Medicare+Choice plan, see section 1853(k)(4).

### “PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME INDIVIDUALS

“SEC. 1860D–19. (a) IN GENERAL.—

“(1) FULL PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME BELOW 135 PERCENT OF FEDERAL POVERTY LINE.—In the case of a subsidy-eligible individual (as defined in paragraph (3)) who is determined to have income that does not exceed 135 percent of the Federal poverty line—

“(A) section 1860D–17 shall be applied—

“(i) in subsection (c), by substituting ‘0 percent’ for ‘55 percent’; and

“(ii) in subparagraphs (A) and (B) of subsection (a)(3), by substituting “the amount of the premium for the Medicare Prescription Drug plan with the lowest monthly premium in the area that the beneficiary resides” for “the amount of the monthly national average premium”, but only if there is no Medicare Prescription Drug plan offered in the area in which the individual resides that has a monthly premium for the year that is equal to or less than the monthly national average premium (as computed under section 1860D–15) for the year;

“(B) the annual deductible applicable under section 1860D–6(c)(1) in a year shall be reduced to an amount equal to 5 percent of the annual deductible otherwise applicable under such section for that year;

“(C) section 1860D–6(c)(2) shall be applied by substituting ‘2.5 percent’ for ‘50 percent’ each place it appears;

“(D) such individual shall be responsible for cost-sharing for the cost of any covered drug provided in the year (after the individual has reached such initial coverage limit and before the individual has reached the limitation under section 1860D–6(c)(4)(A)), that is equal to 50 percent; and

“(E) section 1860D–6(c)(4)(A) shall be applied by substituting ‘0 percent’ for ‘10 percent’.

In no case may the application of subparagraph (A) result in a monthly beneficiary obligation that is below zero.

“(2) SLIDING SCALE PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME BETWEEN 135 AND 150 PERCENT OF FEDERAL POVERTY LINE.—

“(A) IN GENERAL.—In the case of a subsidy-eligible individual who is determined to have income that exceeds 135 percent, but is less than 150 percent, of the Federal poverty line—

“(i) section 1860D–17 shall be applied—

“(I) in subsection (c), by substituting ‘subsidy percent’ for ‘55 percent’; and

“(II) in subparagraphs (A) and (B) of subsection (a)(3), by substituting “the amount of the premium for the Medicare Prescription Drug plan with the lowest monthly premium in the area that the beneficiary resides” for “the amount of the monthly national average premium”, but only if there is no Medicare Prescription Drug plan offered in the area in which the individual resides that has a monthly premium for the year that is equal to or less than the monthly national average premium (as computed under section 1860D–15) for the year; and "(ii) such individual shall be responsible for cost-sharing for the cost of any covered drug provided in the year (after the individual has reached such initial coverage limit and before the individual has reached the limitation under section 1860D–6(c)(4)(A)), that is equal to 50 percent.

In no case may the application of clause (i) result in a monthly beneficiary obligation that is below zero.

"(B) SUBSIDY PERCENT DEFINED.—For purposes of subparagraph (A)(i), the term 'subsidy percent' means a percent determined on a linear sliding scale ranging from 0 percent for individuals with incomes at 135 percent of such level to 55 percent for individuals with incomes at 150 percent of such level.

"(3) DETERMINATION OF ELIGIBILITY.—

"(A) SUBSIDY-ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, subject to subparagraph (D), the term 'subsidy-eligible individual' means an individual who—

"(i) is enrolled under this part, including an individual receiving qualified prescription drug coverage under a Medicare+Choice plan;

"(ii) has income that is less that 150 percent of the Federal poverty line; and

"(iii) meets the resources requirement described in section 1905(p)(1)(C).

"(B) DETERMINATIONS.—The determination of whether an individual residing in a State is a subsidy-eligible individual and the amount of such individual's income shall be determined under the State medicaid plan for the State under section 1935(a). In the case of a State that does not operate such a medicaid plan (either under title XIX or under a statewide waiver granted under section 1115), such determination shall be made under arrangements made by the Administrator.

"(C) INCOME DETERMINATIONS.—For purposes of applying this section—

"(i) income shall be determined in the manner described in section 1905(p)(1)(B); and

"(ii) the term 'Federal poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(D) TREATMENT OF TERRITORIAL RESIDENTS.—In the case of an individual who is not a resident of the 50 States or the District of Columbia, the individual is not eligible to be a subsidy-eligible individual but may be eligible for financial assistance with prescription drug expenses under section 1935(e).

"(b) RULES IN APPLYING COST-SHARING SUBSIDIES.—

"(1) ADDITIONAL BENEFITS.—In applying subparagraphs (B) and (C) of subsection (a)(1) and clauses (ii) and (iii) of subsection (a)(2)(A), nothing in this part shall be construed as preventing an eligible entity offering a Medicare Prescription Drug plan or a Medicare+Choice organization offering a Medicare+Choice plan in which qualified drug coverage is provided from waiving or reducing the amount of the deductible or other cost-sharing otherwise applicable pursuant to section 1860D–6(a)(2).

"(2) LIMITATION ON CHARGES.—In the case of an individual receiving cost-sharing subsidies under subparagraphs (B) and (C) of subsection (a)(1) or under clauses (ii) and (iii) of subsection (a)(2)(A), the eligible entity offering a Medicare Prescription Drug plan or the Medicare+Choice organization offering a Medicare+Choice plan in which qualified drug coverage is provided may not charge more than the deductible or other cost-sharing required pursuant to such subsection.

"(c) ADMINISTRATION OF SUBSIDY PROGRAM.—The Administrator shall provide a process whereby, in the case of an individual eligible for a cost-sharing under subparagraphs (B) and (C) of subsection (a)(1) or under clauses (ii) and (iii) of subsection (a)(2)(A) and who is enrolled in a Medicare Prescription Drug plan or is enrolled in a Medicare+Choice plan under which qualified prescription drug coverage is provided—

"(1) the Administrator provides for a notification of the eligible entity or Medicare+Choice organization involved that the individual is eligible for a cost-sharing subsidy and the amount of the subsidy under such subsection;

"(2) the entity or organization involved reduces the cost-sharing otherwise imposed by the amount of the applicable subsidy and submits to the Administrator information on the amount of such reduction; and

"(3) the Administrator periodically and on a timely basis reimburses the entity or organization for the amount of such reductions.

The reimbursement under paragraph (3) may be computed on a capitated basis, taking into account the actuarial value of the subsidies and with appropriate adjustments to reflect differences in the risks actually involved.

"(d) RELATION TO MEDICAID PROGRAM.—

"(1) IN GENERAL.—For provisions providing for eligibility determinations, and additional financing, under the medicaid program, see section 1935.

"(2) MEDICAID PROVIDING WRAP AROUND BENEFITS.—The coverage provided under this part is primary payor to benefits for prescribed drugs provided under the medicaid program under title XIX.

"REINSURANCE PAYMENTS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE

"SEC. 1860D–20. (a) REINSURANCE PAYMENTS.—

"(1) IN GENERAL.—The Administrator shall provide in accordance with this section for payment to a qualifying entity (as defined in subsection (b)) of the reinsurance payment amount (as defined in subsection (c)), which in the aggregate is 30 percent of the total payments made by a qualifying entity for standard coverage under the respective plan, for excess costs incurred in providing qualified prescription drug coverage for qualifying covered individuals (as defined in subsection (g)(1)).

"(2) BUDGET AUTHORITY.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Administrator to provide for the payment of amounts provided under this section.

"(b) QUALIFYING ENTITY DEFINED.—For purposes of this section, the term 'qualifying entity' means any of the following that has entered into an agreement with the Administrator to provide the Administrator with such information as may be required to carry out this section:

"(1) An eligible entity offering a Medicare Prescription Drug plan under this part.

"(2) A Medicare+Choice organization that provides qualified prescription drug coverage under a Medicare+Choice plan under part C.

"(3) The sponsor of a qualified retiree prescription drug plan (as defined in subsection (f)).

"(c) REINSURANCE PAYMENT AMOUNT.—

"(1) IN GENERAL.—Subject to subsection (d)(2), the reinsurance payment amount under this subsection for a qualifying covered individual for a coverage year (as defined in subsection (g)(2)) is equal to the sum of the following:

"(A) For the portion of the individual's gross covered drug costs (as defined in paragraph (3)) for the year that exceeds the amount specified in paragraph (2), but does not exceed the initial coverage limit, an amount equal to 50 percent of the allowable costs (as defined in paragraph (3)) attributable to such gross covered drug costs.

"(B) For the portion of the individual's gross covered drug costs for the year that exceeds the annual out-of-pocket threshold specified in section 1860D–6(c)(4)(B), an amount equal to 80 percent of the allowable costs attributable to such gross covered drug costs.

"(2) AMOUNT SPECIFIED.—The amount specified under this paragraph—

"(A) for 2005, is equal to $2,000; and

"(B) for a subsequent year, is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in section 1860D–6(c)(5).

"(3) ALLOWABLE COSTS.—For purposes of this section, the term 'allowable costs' means, with respect to gross covered drug costs (as defined in paragraph (4)) under a plan described in subsection (b) offered by a qualifying entity, the part of such costs that are actually paid (net of average percentage rebates) under the plan, but in no case more than the part of such costs that would have been paid under the plan if the prescription drug coverage under the plan were standard coverage.

"(4) GROSS COVERED DRUG COSTS.—For purposes of this section, the term 'gross covered drug costs' means, with respect to an enrollee with a qualifying entity under a plan described in subsection (b) during a coverage year, the costs incurred under the plan (including costs attributable to administrative costs) for covered drugs dispensed during the year, including costs relating to the deductible, whether paid by the enrollee or under the plan, regardless of whether the coverage under the plan exceeds standard coverage and regardless of when the payment for such drugs is made.

"(d) ADJUSTMENT OF REINSURANCE PAYMENTS TO ASSURE 30 PERCENT LEVEL OF PAYMENT.—

"(1) ESTIMATION OF PAYMENTS.—The Administrator shall estimate—

"(A) the total payments to be made (without regard to this subsection) during a year under subsections (a) and (c); and

"(B) the total payments to be made by qualifying entities for standard coverage under plans described in subsection (b) during the year.

"(2) ADJUSTMENT.—The Administrator shall proportionally adjust the payments made under subsections (a) and (c) for a coverage year in such manner so that the total of the payments made under such subsections for the year is equal to 30 percent of the total payments described in subparagraph (A)(ii).

"(e) PAYMENT METHODS.—

"(1) IN GENERAL.—Payments under this section shall be based on such a method as the Administrator determines. The Administrator may establish a payment method by which interim payments of amounts under this section are made during a year based on the Administrator's best estimate of amounts that will be payable after obtaining all of the information.

"(2) SOURCE OF PAYMENTS.—Payments under this section shall be made from the Prescription Drug Account.

"(f) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN DEFINED.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified retiree prescription drug plan’ means employment-based retiree health coverage (as defined in paragraph (3)(A)) if, with respect to a qualifying covered individual who is covered under the plan, the following requirements are met:

“(A) ASSURANCE.—The sponsor of the plan shall annually attest, and provide such assurances as the Administrator may require, that the coverage meets or exceeds the requirements for qualified prescription drug coverage.

“(B) AUDITS.—The sponsor (and the plan) shall maintain, and afford the Administrator access to, such records as the Administrator may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, and the accuracy of payments made.

“(2) LIMITATION ON BENEFIT ELIGIBILITY.—No payment shall be provided under this section with respect to an individual who is enrolled under a qualified retiree prescription drug plan unless the individual—

“(A) is covered under the plan; and

“(B) was eligible for, but was not enrolled in, the program under this part.

“(3) DEFINITIONS.—As used in this section:

“(A) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term ‘employment-based retiree health coverage’ means health insurance or other coverage of health care costs for individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

“(B) SPONSOR.—The term ‘sponsor’ means a plan sponsor, as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

“(g) GENERAL DEFINITIONS.—For purposes of this section:

“(1) QUALIFYING COVERED INDIVIDUAL.—The term ‘qualifying covered individual’ means an individual who—

“(A) is enrolled in this part and in a Medicare Prescription Drug plan;

“(B) is enrolled in this part and in a Medicare+Choice plan that provides qualified prescription drug coverage; or

“(C) is eligible for, but not enrolled in, the program under this part, and is covered under a qualified retiree prescription drug plan.

“(2) COVERAGE YEAR.—The term ‘coverage year’ means a calendar year in which covered drugs are dispensed if a claim for payment is made under the plan for such drugs, regardless of when the claim is paid.

### “Subpart 3—Medicare Competitive Agency; Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund

### “ESTABLISHMENT OF MEDICARE COMPETITIVE AGENCY

“SEC. 1860D–25. (a) ESTABLISHMENT.—By not later than March 1, 2003, the Secretary shall establish within the Department of Health and Human Services an agency to be known as the Medicare Competitive Agency.

“(b) ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—

“(1) ADMINISTRATOR.—

“(A) IN GENERAL.—The Medicare Competitive Agency shall be headed by an Administrator (in this section referred to as the ‘Administrator’) who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary.

“(B) COMPENSATION.—The Administrator shall be paid at the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(C) TERM OF OFFICE.—The Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of an Administrator's term of office, that Administrator may continue in office until the entry upon office of such a successor. An Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(D) GENERAL AUTHORITY.—The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

“(E) RULEMAKING AUTHORITY.—The Administrator may prescribe such rules and regulations as the Administrator determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Administrator shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

“(F) AUTHORITY TO ESTABLISH ORGANIZATIONAL UNITS.—The Administrator may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Administrator considers necessary or appropriate, except that this subparagraph shall not apply with respect to any unit, component, or provision provided for by this section.

“(G) AUTHORITY TO DELEGATE.—The Administrator may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Administrator may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

“(2) DEPUTY ADMINISTRATOR.—

“(A) IN GENERAL.—There shall be a Deputy Administrator of the Medicare Competitive Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

“(B) COMPENSATION.—The Deputy Administrator shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(C) TERM OF OFFICE.—The Deputy Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of a Deputy Administrator's term of office, such Deputy Administrator may continue in office until the entry upon office of such a successor. A Deputy Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(D) DUTIES.—The Deputy Administrator shall perform such duties and exercise such powers as the Administrator shall from time to time assign or delegate. The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator and, unless the President designates another officer of the Government as Acting Administrator, in the event of a vacancy in the office of the Administrator.

“(3) SECRETARIAL COORDINATION OF PROGRAM ADMINISTRATION.—The Secretary shall ensure appropriate coordination between the Administrator and the Administrator of the Centers for Medicare & Medicaid Services in carrying out the programs under this title.

“(c) DUTIES; ADMINISTRATIVE PROVISIONS.—

“(1) DUTIES.—

“(A) GENERAL DUTIES.—The Administrator shall carry out parts C and D, including—

“(i) negotiating, entering into, and enforcing, contracts with plans for the offering of Medicare+Choice plans under part C, including the offering of qualified prescription drug coverage under such plans; and

“(ii) negotiating, entering into, and enforcing, contracts with eligible entities for the offering of Medicare Prescription Drug plans under part D.

“(B) OTHER DUTIES.—The Administrator shall carry out any duty provided for under part C or D, including demonstration projects carried out in part or in whole under such parts, the programs of all-inclusive care for the elderly (PACE program) under section 1894, the social health maintenance organization (SHMO) demonstration projects (referred to in section 4104(c) of the Balanced Budget Act of 1997), and through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of an interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

“(C) NONINTERFERENCE.—In carrying out its duties with respect to the provision of qualified prescription drug coverage to beneficiaries under this title, the Administrator may not—

“(i) require a particular formulary or institute a price structure for the reimbursement of covered drugs;

“(ii) interfere in any way with negotiations between eligible entities and Medicare+Choice organizations and drug manufacturers, wholesalers, or other suppliers of covered drugs; and

“(iii) otherwise interfere with the competitive nature of providing such qualified prescription drug coverage through such entities and organizations.

“(D) ANNUAL REPORTS.—Not later than March 31 of each year, the Administrator shall submit to Congress and the President a report on the administration of the voluntary prescription drug delivery program under this part during the previous fiscal year.

“(2) STAFF.—

“(A) IN GENERAL.—The Administrator, with the approval of the Secretary, may employ, without regard to chapter 31 of title 5, United States Code, other than sections 3110 and 3112, such officers and employees as are necessary to administer the activities to be carried out through the Medicare Competitive Agency. The Administrator shall employ staff with appropriate and necessary expertise in negotiating contracts in the private sector.

“(B) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

“(i) IN GENERAL.—The staff of the Medicare Competitive Agency shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 (other than section 5101) and chapter 53 (other than section 5301) of such title (relating to classification and schedule pay rates).

“(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(C) LIMITATION ON FULL-TIME EQUIVALENT STAFFING FOR CURRENT CMS FUNCTIONS BEING TRANSFERRED.—The Administrator may not employ under this paragraph a number of full-time equivalent employees, to carry out functions that were previously conducted by the Centers for Medicare & Medicaid Services and that are conducted by the Administrator by reason of this section, that exceeds the number of such full-time equivalent employees authorized to be employed by the Centers for Medicare & Medicaid Services to conduct such functions as of the date of enactment of this Act.

"(3) REDELEGATION OF CERTAIN FUNCTIONS OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES.—

"(A) IN GENERAL.—The Secretary, the Administrator, and the Administrator of the Centers for Medicare & Medicaid Services shall establish an appropriate transition of responsibility in order to redelegate the administration of part C from the Secretary and the Administrator of the Centers for Medicare & Medicaid Services to the Administrator as is appropriate to carry out the purposes of this section.

"(B) TRANSFER OF DATA AND INFORMATION.—The Secretary shall ensure that the Administrator of the Centers for Medicare & Medicaid Services transfers to the Administrator such information and data in the possession of the Administrator of the Centers for Medicare & Medicaid Services as the Administrator requires to carry out the duties described in paragraph (1).

"(C) CONSTRUCTION.—Insofar as a responsibility of the Secretary or the Administrator of the Centers for Medicare & Medicaid Services is redelegated to the Administrator under this section, any reference to the Secretary or the Administrator of the Centers for Medicare & Medicaid Services in this title or title XI with respect to such responsibility is deemed to be a reference to the Administrator.

"(d) OFFICE OF BENEFICIARY ASSISTANCE.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Medicare Competitive Agency an Office of Beneficiary Assistance to carry out functions relating to medicare beneficiaries under this title, including making determinations of eligibility of individuals for benefits under this title, providing for enrollment of medicare beneficiaries under this title, and the functions described in paragraph (2). The Office shall be a separate operating division within the Administration.

"(2) DISSEMINATION OF INFORMATION ON BENEFITS AND APPEALS RIGHTS.—

"(A) DISSEMINATION OF BENEFITS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries, by mail, by posting on the Internet site of the Medicare Competitive Agency, and through the toll-free telephone number provided for under section 1804(b), information with respect to the following:

"(i) Benefits, and limitations on payment (including cost-sharing, stop-loss provisions, and formulary restrictions) under parts C and D.

"(ii) Benefits, and limitations on payment under parts A, B, and E, including information on medicare supplemental policies under section 1882.

Such information shall be presented in a manner so that medicare beneficiaries may compare benefits under parts A, B, D, and E, and medicare supplemental policies with benefits under Medicare+Choice plans under part C.

"(B) DISSEMINATION OF APPEALS RIGHTS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries in the manner provided under subparagraph (A) a description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original medicare fee-for-service program under parts A and B (including beneficiaries who elect to receive enhanced medicare benefits under part E), the Medicare+Choice program under part C, and the voluntary prescription drug delivery program under part D.

"(3) MEDICARE OMBUDSMAN.—

"(A) IN GENERAL.—Within the Office of Beneficiary Assistance, there shall be a Medicare Ombudsman, appointed by the Secretary from among individuals with expertise and experience in the fields of health care and advocacy, to carry out the duties described in subparagraph (B).

"(B) DUTIES.—The Medicare Ombudsman shall—

"(i) receive complaints, grievances, and requests for information submitted by a medicare beneficiary, with respect to any aspect of the medicare program;

"(ii) provide assistance with respect to complaints, grievances, and requests referred to in clause (i), including—

"(I) assistance in collecting relevant information for such beneficiaries, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, Medicare+Choice organization, an eligible entity under part D, or the Secretary; and

"(II) assistance to such beneficiaries with any problems arising from disenrollment from a Medicare+Choice plan under part C or a prescription drug plan under part D; and

"(iii) submit annual reports to Congress, the Secretary, and the Medicare Competitive Policy Advisory Board describing the activities of the Office, and including such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

"(C) COORDINATION WITH STATE OMBUDSMAN PROGRAMS AND CONSUMER ORGANIZATIONS.—The Medicare Ombudsman shall, to the extent appropriate, coordinate with State medical Ombudsman programs, and with State- and community-based consumer organizations, to—

"(i) provide information about the medicare program; and

"(ii) conduct outreach to educate medicare beneficiaries with respect to manners in which problems under the medicare program may be resolved or avoided.

"(e) MEDICARE COMPETITIVE POLICY ADVISORY BOARD.—

"(1) ESTABLISHMENT.—There is established within the Medicare Competitive Agency the Medicare Competitive Policy Advisory Board (in this section referred to as the 'Board'). The Board shall advise, consult with, and make recommendations to the Administrator with respect to the administration of parts C and D, including the review of payment policies under such parts.

"(2) REPORTS.—

"(A) IN GENERAL.—With respect to matters of the administration of parts C and D, the Board shall submit to Congress and to the Administrator such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of such parts, including the stability and solvency of the programs under such parts and the topics described in subparagraph (B). Each such report shall be published in the Federal Register.

"(B) TOPICS DESCRIBED.—Reports required under subparagraph (A) may include the following topics:

"(i) FOSTERING COMPETITION.—Recommendations or proposals to increase competition under parts C and D for services furnished to medicare beneficiaries.

"(ii) EDUCATION AND ENROLLMENT.—Recommendations for the improvement of efforts to provide medicare beneficiaries information and education on the program under this title, and specifically parts C and D, and the program for enrollment under the title.

"(iii) QUALITY.—Recommendations on ways to improve the quality of benefits provided under plans under parts C and D.

"(iv) DISEASE MANAGEMENT PROGRAMS.—Recommendations on the incorporation of disease management programs under parts C and D.

"(v) RURAL ACCESS.—Recommendations to improve competition and access to plans under parts C and D in rural areas.

"(C) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

"(3) DUTY OF ADMINISTRATOR.—With respect to any report submitted by the Board under paragraph (2)(A), not later than 90 days after the report is submitted, the Administrator shall submit to Congress and the President an analysis of recommendations made by the Board in such report. Each such analysis shall be published in the Federal Register.

"(4) MEMBERSHIP.—

"(A) APPOINTMENT.—Subject to the succeeding provisions of this paragraph, the Board shall consist of 7 members to be appointed as follows:

"(i) Three members shall be appointed by the President.

"(ii) Two members shall be appointed by the Speaker of the House of Representatives, with the advice of the chairman and the ranking minority member of the Committees on Ways and Means and on Energy and Commerce of the House of Representatives.

"(iii) Two members shall be appointed by the President pro tempore of the Senate with the advice of the chairman and the ranking minority member of the Committee on Finance of the Senate.

"(B) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education and experience in health care benefits management, exceptionally qualified to perform the duties of members of the Board.

"(C) PROHIBITION ON INCLUSION OF FEDERAL EMPLOYEES.—No officer or employee of the United States may serve as a member of the Board.

"(5) COMPENSATION.—Members of the Board shall receive, for each day (including travel time) they are engaged in the performance of the functions of the Board, compensation at rates not to exceed the daily equivalent to the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(6) TERMS OF OFFICE.—

"(A) IN GENERAL.—The term of office of members of the Board shall be 3 years.

"(B) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

"(i) one shall be appointed for a term of 1 year;

“(ii) three shall be appointed for terms of 2 years; and

“(iii) three shall be appointed for terms of 3 years.

“(C) Reappointments.—Any person appointed as a member of the Board may not serve for more than 8 years.

“(D) Vacancy.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

“(7) Chair.—The Chair of the Board shall be elected by the members. The term of office of the Chair shall be 3 years.

“(8) Meetings.—The Board shall meet at the call of the Chair, but in no event less than 3 times during each fiscal year.

“(9) Director and staff.—

“(A) Appointment of director.—The Board shall have a Director who shall be appointed by the Chair.

“(B) In general.—With the approval of the Board, the Director may appoint, without regard to chapter 31 of title 5, United States Code, such additional personnel as the Director considers appropriate.

“(C) Flexibility with respect to compensation.—

“(i) In general.—The Director and staff of the Board shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 and chapter 53 of such title (relating to classification and schedule pay rates).

“(ii) Maximum rate.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(D) Assistance from the Administrator.—The Administrator shall make available to the Board such information and other assistance as it may require to carry out its functions.

“(10) Contract authority.—The Board may contract with and compensate government and private agencies or persons to carry out its duties under this subsection, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

“(f) Funding.—There is authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (including the Prescription Drug Account), such sums as are necessary to carry out this section.

“PRESCRIPTION DRUG ACCOUNT IN THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

“Sec. 1860D–26. (a) Establishment.—

“(1) In general.—There is created within the Federal Supplementary Medical Insurance Trust Fund established by section 1841 an account to be known as the ‘Prescription Drug Account’ (in this section referred to as the ‘Account’).

“(2) Funds.—The Account shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, the Account as provided in this part.

“(3) Separate from rest of trust fund.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplementary Medical Insurance Trust Fund.

“(b) Payments From Account.—

“(1) In general.—The Managing Trustee shall pay from time to time from the Account such amounts as the Secretary certifies are necessary to make payments to operate the program under this part, including payments to eligible entities under section 1860D–16, payments under 1860D–19 for low-income subsidy payments for cost-sharing, reinsurance payments under section 1860D–20, and payments with respect to administrative expenses under this part in accordance with section 201(g).

“(2) Transfer to parts A and B trust funds for Medicare+Choice payments.—The Managing Trustee shall establish procedures for the transfer of funds from the Account, in an amount determined appropriate by the Secretary, to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in order to reimburse such trust funds for payments to Medicare+Choice organizations for the provision of qualified prescription drug coverage pursuant to section 1853(k).

“(3) Transfers to Medicaid account for increased administrative costs.—The Managing Trustee shall transfer from time to time from the Account to the Grants to States for Medicaid account amounts the Secretary certifies are attributable to increases in payment resulting from the application of a higher Federal matching percentage under section 1935(b).

“(4) Treatment in relation to part B premium.—Amounts payable from the Account shall not be taken into account in computing actuarial rates or premium amounts under section 1839.

“(c) Deposits Into Account.—

“(1) Medicaid transfer.—There is hereby transferred to the Account, from amounts appropriated for Grants to States for Medicaid, amounts equivalent to the aggregate amount of the reductions in payments under section 1903(a)(1) attributable to the application of section 1935(c).

“(2) Appropriations to cover benefits and administrative costs.—There are appropriated to the Account in a fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the amount by which—

“(A) the payments and transfers made from the Account under subsection (b) in the year; exceed

“(B) the premiums collected under section 1860D–18 and 1853(k)(4) (for beneficiaries receiving qualified prescription drug coverage under a Medicare+Choice plan).”.

(b) Conforming Amendments to Federal Supplementary Medical Insurance Trust Fund.—Section 1841 (42 U.S.C. 1395t) is amended—

(1) in the last sentence of subsection (a)—

(A) by striking “and” before “such amounts”; and

(B) by inserting before the period the following: “, and such amounts as may be deposited in, or appropriated to, the Prescription Drug Account established by section 1860D–26”;

(2) in subsection (g), by inserting after “by this part,” the following: “the payments provided for under part D (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),”;

(3) in subsection (h), by inserting after “1840(d)” the following: “and section 1860D–18 (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund)”; and

(4) in subsection (i), by inserting after “section 1840(b)(1)” the following: “, section 1860D–18 (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),”.

(c) Conforming References to Previous Part D.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

**SEC. 102. STUDY AND REPORT ON PERMITTING PART B ONLY INDIVIDUALS TO ENROLL IN MEDICARE VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.**

(a) Study.—The Administrator of the Medicare Competitive Agency (as established under section 1860D–25 of the Social Security Act (as added by section 301(a))) shall conduct a study on the need for rules relating to permitting individuals who are enrolled under part B of title XVIII of the Social Security Act but are not entitled to benefits under part A of such title to buy into the medicare voluntary prescription drug delivery program under part D of such title (as so added).

(b) Report.—Not later than January 1, 2004, the Administrator of the Medicare Competitive Agency shall submit a report to Congress on the study conducted under subsection (a), together with any recommendations for legislation that the Administrator determines to be appropriate as a result of such study.

**SEC. 103. ADDITIONAL REQUIREMENTS FOR ANNUAL FINANCIAL REPORT AND OVERSIGHT ON MEDICARE PROGRAM.**

(a) In General.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

“(l) Combined Report on Operation and Status of the Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (Including the Prescription Drug Account).—In addition to the duty of the Board of Trustees to report to Congress under subsection (b), on the date the Board submits the report required under subsection (b)(2), the Board shall submit to Congress a report on the operation and status of the Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under section 1841, including the Prescription Drug Account within such Trust Fund, (in this subsection referred to as the ‘Trust Funds’). Such report shall include the following information:

“(1) Overall spending from the general fund of the treasury.—A statement of total amounts obligated during the preceding fiscal year from the General Revenues of the Treasury to the Trust Funds, separately stated in terms of the total amount and in terms of the percentage such amount bears to all other amounts obligated from such General Revenues during such fiscal year, for each of the following amounts:

“(A) Medicare benefits.—The amount expended for payment of benefits covered under this title.

“(B) Administrative and other expenses.—The amount expended for payments not related to the benefits described in subparagraph (A).

“(2) Historical overview of spending.—From the date of the inception of the program of insurance under this title through the fiscal year involved, a statement of the total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph.

“(3) 10-year and 50-year projections.—An estimate of total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph, required to be obligated for payment for benefits covered under this title for each of the 10 fiscal years succeeding the fiscal year involved and for the 50-year period beginning with the succeeding fiscal year.

“(4) Relation to other measures of growth.—A comparison of the rate of growth of the total amounts referred to in paragraph (1), separately stated for the amounts described in subparagraphs (A) and (B) of such paragraph, to the rate of growth for the same period in—

“(A) the gross domestic product;

“(B) health insurance costs in the private sector;

“(C) employment-based health insurance costs in the public and private sectors; and

“(D) other areas as determined appropriate by the Board of Trustees.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning on or after the date of enactment of this Act.

(c) Congressional Hearings.—It is the sense of Congress that the committees of jurisdiction of Congress shall hold hearings on the reports submitted under section 1817(l) of the Social Security Act (as added by subsection (a)).

**SEC. 104. REFERENCE TO MEDIGAP PROVISIONS.**

For provisions related to medicare supplemental policies under section 1882 of the Social Security Act (42 U.S.C. 1395ss), see section 202.

**SEC. 105. MEDICAID AMENDMENTS.**

(a) Determinations of Eligibility for Low-Income Subsidies.—

(1) Requirement.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)—

(i) by striking “and” at the end of paragraph (64);

(ii) by striking the period at the end of paragraph (65) and inserting “; and”; and

(iii) by inserting after paragraph (65) the following new paragraph:

“(66) provide for making eligibility determinations under section 1935(a).”.

(2) New section.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following new section:

“SPECIAL PROVISIONS RELATING TO MEDICARE
PRESCRIPTION DRUG BENEFIT

“Sec. 1935. (a) Requirement for Making Eligibility Determinations for Low-Income Subsidies.—As a condition of its State plan under this title under section 1902(a)(66) and receipt of any Federal financial assistance under section 1903(a), a State shall—

“(1) make determinations of eligibility for premium and cost-sharing subsidies under (and in accordance with) section 1860D–19;

“(2) inform the Administrator of the Medicare Competitive Agency of such determinations in cases in which such eligibility is established; and

“(3) otherwise provide such Administrator with such information as may be required to carry out part D of title XVIII (including section 1860D–19).

“(b) Payments for Additional Administrative Costs.—

“(1) In general.—The amounts expended by a State in carrying out subsection (a) are, subject to paragraph (2), expenditures reimbursable under the appropriate paragraph of section 1903(a); except that, notwithstanding any other provision of such section, the applicable Federal matching rates with respect to such expenditures under such section shall be increased as follows:

“(A) For expenditures attributable to costs incurred during 2005, the otherwise applicable Federal matching rate shall be increased by 20 percent of the percentage otherwise payable (but for this subsection) by the State.

“(B) For expenditures attributable to costs incurred during 2006, the otherwise applicable Federal matching rate shall be increased by 40 percent of the percentage otherwise payable (but for this subsection) by the State.

“(C) For expenditures attributable to costs incurred during 2007, the otherwise applicable Federal matching rate shall be increased by 60 percent of the percentage otherwise payable (but for this subsection) by the State.

“(D) For expenditures attributable to costs incurred during 2008, the otherwise applicable Federal matching rate shall be increased by 80 percent of the percentage otherwise payable (but for this subsection) by the State.

“(E) For expenditures attributable to costs incurred after 2008, the otherwise applicable Federal matching rate shall be increased to 100 percent.

“(2) Coordination.—The State shall provide the Secretary with such information as may be necessary to properly allocate administrative expenditures described in paragraph (1) that may otherwise be made for similar eligibility determinations.”.

(b) Phased-In Federal Assumption of Medicaid Responsibility for Premium and Cost-Sharing Subsidies for Dually Eligible Individuals.—

(1) In general.—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting before the semicolon the following: “, reduced by the amount computed under section 1935(c)(1) for the State and the quarter”.

(2) Amount described.—Section 1935, as added by subsection (a)(2), is amended by adding at the end the following new subsection:

“(c) Federal Assumption of Medicaid Prescription Drug Costs for Dually-Eligible Beneficiaries.—

“(1) In general.—For purposes of section 1903(a)(1), for a State for a calendar quarter in a year (beginning with 2005) the amount computed under this subsection is equal to the product of the following:

“(A) Standard prescription drug coverage under medicare.—With respect to individuals who are residents of the State and are entitled to benefits with respect to prescribed drugs under the State plan under this title (including such a plan operating under a waiver under section 1115)—

“(i) the total amount of payments made (or not collected from the individuals) in the quarter under section 1860D–19 (relating to premium and cost-sharing prescription drug subsidies for low-income medicare beneficiaries) that are attributable to such individuals; and

“(ii) the actuarial value of standard coverage (as determined under section 1860D–6(f)) provided for all such individuals.

“(B) State matching rate.—A proportion computed by subtracting from 100 percent the Federal medical assistance percentage (as defined in section 1905(b)) applicable to the State and the quarter.

“(C) Phase-out proportion.—The phase-out proportion (as defined in paragraph (2)) for the quarter.

“(2) Phase-out proportion.—For purposes of paragraph (1)(C), the ‘phase-out proportion’ for a calendar quarter in—

“(A) 2005 is 90 percent;

“(B) 2006 is 80 percent;

“(C) 2007 is 70 percent;

“(D) 2008 is 60 percent; or

“(E) a year after 2008 is 50 percent.”.

(c) Medicaid Providing Wrap-Around Benefits.—Section 1935, as added by subsection (a)(2) and amended by subsection (b)(2), is amended by adding at the end the following new subsection:

“(d) Additional Provisions.—

“(1) Medicaid as secondary payor.—In the case of an individual who is enrolled under part D of title XVIII and entitled to medical assistance for prescribed drugs under this title, medical assistance shall continue to be provided under this title for prescribed drugs to the extent payment is not made under the Medicare Prescription Drug plan or the Medicare+Choice plan selected by the individual to receive part D benefits.

“(2) Condition.—A State may require, as a condition for the receipt of medical assistance under this title with respect to prescription drug benefits for an individual eligible to enroll in part D, that the individual elect to enroll under such part.”.

(d) Treatment of Territories.—

(1) In general.—Section 1935, as added by subsection (a)(2) and amended by subsections (b)(2) and (c), is amended—

(A) in subsection (a) in the matter preceding paragraph (1), by inserting “subject to subsection (e)” after “section 1903(a)”;

(B) in subsection (c)(1), by inserting “subject to subsection (e)” after “1903(a)(1)”; and

(C) by adding at the end the following new subsection:

“(e) Treatment of Territories.—

“(1) In general.—In the case of a State, other than the 50 States and the District of Columbia—

“(A) the previous provisions of this section shall not apply to residents of such State; and

“(B) if the State establishes a plan described in paragraph (2) (for providing medical assistance with respect to the provision of prescription drugs to medicare beneficiaries), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be increased by the amount specified in paragraph (3).

“(2) Plan.—The plan described in this paragraph is a plan that—

“(A) provides medical assistance with respect to the provision of covered drugs (as defined in section 1860D(a)(2)) to low-income medicare beneficiaries; and

“(B) assures that additional amounts received by the State that are attributable to the operation of this subsection are used only for such assistance.

“(3) Increased amount.—

“(A) In general.—The amount specified in this paragraph for a State for a year is equal to the product of—

“(i) the aggregate amount specified in subparagraph (B); and

“(ii) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

“(B) Aggregate amount.—The aggregate amount specified in this subparagraph for—

“(i) 2005, is equal to $20,000,000; or

“(ii) a subsequent year, is equal to the aggregate amount specified in this subparagraph for the previous year increased by the annual percentage increase specified in section 1860D–6(c)(5) for the year involved.

“(4) REPORT.—The Secretary shall submit to Congress a report on the application of this subsection and may include in the report such recommendations as the Secretary deems appropriate.”.

(2) CONFORMING AMENDMENT.—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting “and section 1935(e)(1)(B)” after “Subject to subsection (g)”.

(e) AMENDMENT TO BEST PRICE.—Section 1927(c)(1)(C)(i) (42 U.S.C. 1396r–8(c)(1)(C)(i)) is amended—

(1) by striking “and” at the end of subclause (III);

(2) by striking the period at the end of subclause (IV) and inserting “; and”; and

(3) by adding at the end the following new subclause:

“(V) any prices charged which are negotiated under a Medicare Prescription Drug plan under part D of title XVIII with respect to covered drugs, under a Medicare+Choice plan under part C of such title with respect to such drugs, or under a qualified retiree prescription drug plan (as defined in section 1860D–20(f)(1)) with respect to such drugs, on behalf of eligible beneficiaries (as defined in section 1860D(a)(3).”.

### SEC. 106. EXPANSION OF MEMBERSHIP AND DUTIES OF MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXPANSION OF MEMBERSHIP.—

(1) IN GENERAL.—Section 1805(c) (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking “17” and inserting “19”; and

(B) in paragraph (2)(B), by inserting “experts in the area of pharmacology and prescription drug benefit programs,” after “other health professionals,”.

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under paragraph (1)(A) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2004.

(b) EXPANSION OF DUTIES.—Section 1805(b)(2) (42 U.S.C. 1395b–6(b)(2)) is amended by adding at the end the following new subparagraph:

“(D) VOLUNTARY PRESCRIPTION DRUG DELIVERY PROGRAM.—Specifically, the Commission shall review, with respect to the voluntary prescription drug delivery program under part D, competition among eligible entities offering Medicare Prescription Drug plans and beneficiary access to such plans and covered drugs, particularly in rural areas.”.

### SEC. 107. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) ADMINISTRATOR AS MEMBER OF THE BOARD OF TRUSTEES OF THE MEDICARE TRUST FUNDS.—Sections 1817(b) and 1841(b) (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking “and the Secretary of Health and Human Services, all ex officio,” and inserting “the Secretary of Health and Human Services, and the Administrator of the Medicare Competitive Agency, all ex officio,”.

(b) INCREASE IN GRADE TO EXECUTIVE LEVEL III FOR THE ADMINISTRATOR OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—

(1) IN GENERAL.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

“Administrator of the Centers for Medicare & Medicaid Services.”.

(2) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking “Administrator of the Health Care Financing Administration.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on March 1, 2003.

## TITLE II—OPTION FOR ENHANCED MEDICARE BENEFITS

### SEC. 201. OPTION FOR ENHANCED MEDICARE BENEFITS.

(a) ESTABLISHMENT.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 101, is amended by inserting after part D the following new part:

“PART E—ENHANCED MEDICARE BENEFITS

“ENTITLEMENT TO ELECT TO RECEIVE ENHANCED MEDICARE BENEFITS

“SEC. 1860E–1. (a) IN GENERAL.—The Secretary shall establish procedures under which each eligible beneficiary shall be entitled to elect to receive enhanced medicare benefits under this part instead of the benefits under parts A and B.

“(b) ENHANCED MEDICARE BENEFITS TO BE AVAILABLE IN 2005.—The Secretary shall establish the procedures under subsection (a) in a manner such that enhanced medicare benefits are first provided for months beginning with January 2005.

“(c) PRESERVATION OF ORIGINAL MEDICARE FEE-FOR-SERVICE BENEFITS.—Nothing in this part shall be construed to limit the right of an individual who is entitled to benefits under part A or enrolled under part B to receive benefits under such part if an election to receive enhanced medicare benefits under this part is not in effect with respect to such individual.

“SCOPE OF ENHANCED MEDICARE BENEFITS

“SEC. 1860E–2. (a) IN GENERAL.—Except for the modifications described in the succeeding provisions of this section, enhanced medicare benefits shall be identical to the benefits that are available under parts A and B.

“(b) UNIFIED DEDUCTIBLE.—

“(1) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part—

“(A) the amount otherwise payable under part A and the total amount of expenses incurred by an eligible beneficiary during a year which would (except for this section) constitute incurred expenses from which benefits payable under section 1833(a) are determinable, shall be reduced under sections 1813(b) and 1833(b) by the amount of the unified deductible under paragraph (2); and

“(B) the eligible beneficiary shall be responsible for the payment of such amount.

“(2) AMOUNT OF UNIFIED DEDUCTIBLE.—

“(A) IN GENERAL.—The amount of the unified deductible under this subsection shall be—

“(i) for 2005, $300; or

“(ii) for a subsequent year, the amount specified in this subparagraph for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

“(B) ROUNDING.—If any amount determined under subparagraph (A) is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

“(3) APPLICATION.—The unified deductible under this subsection for a year shall be applied—

“(A) with respect to benefits under part A, on the basis of the amount that is payable for such benefits without regard to any other copayments or coinsurance and before the application of any such copayments or coinsurance;

“(B) with respect to benefits under part B, on the basis of the total amount of the expenses incurred by an eligible beneficiary during a year which would, except for the application of the deductible, constitute incurred expenses from which benefits payable under section 1833(a) are determinable, without regard to any other copayments or coinsurance and before the application of any such copayments or coinsurance; and

“(C) instead of the deductibles described in sections 1813(b) and 1833(b).

“(c) SERIOUS ILLNESS PROTECTION.—

“(1) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part, if the amount of the out-of-pocket cost-sharing of such beneficiary for a calendar year equals or exceeds the serious illness protection threshold for that year—

“(A) the beneficiary shall not be responsible for additional out-of-pocket cost-sharing incurred during that year; and

“(B) the Secretary shall establish procedures under which the Secretary shall pay on behalf of the beneficiary the amount of the additional out-of-pocket cost-sharing described in subparagraph (A) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in such proportion as the Secretary determines appropriate.

“(2) SERIOUS ILLNESS PROTECTION THRESHOLD.—

“(A) IN GENERAL.—The amount of the serious illness protection threshold under this subsection shall be—

“(i) for 2005, $6,000; or

“(ii) for a subsequent year, the amount specified in this subparagraph for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

“(B) ROUNDING.—If any amount determined under subparagraph (A) is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

“(3) OUT-OF-POCKET COST-SHARING DEFINED.—In this subsection, the term ‘out-of-pocket cost-sharing’ means, with respect to an eligible beneficiary, the amount of costs incurred by the beneficiary that are attributable to deductibles, coinsurance, and copayments imposed under part A or B (as modified by this part), without regard to whether the beneficiary or another person, including a State program or other third-party coverage, has paid for such costs.

“(d) ENHANCED HOSPITAL BENEFITS.—

“(1) ELIMINATION OF DURATIONAL LIMITS ON INPATIENT HOSPITAL SERVICES.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part—

“(A) there shall be no spell of illness limit or lifetime limit on inpatient hospital services under subsections (a)(1) and (b)(1) of section 1812 during the period in which the election of the beneficiary to receive enhanced medicare benefits under this part is in effect; and

“(B) section 1812(c) shall not be applied during such period.

“(2) REVISION OF INPATIENT HOSPITAL COINSURANCE.—

“(A) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part, after the application of the unified deductible under subsection (b), instead of imposing any coinsurance under the second sentence of section 1813(a)(1), the amount payable under part A for inpatient hospital services or inpatient critical access hospital services furnished to the eligible beneficiary during any year, shall be reduced by the amount of the inpatient hospital copayment specified in subparagraph (B) for each period of hospitalization and the beneficiary shall be responsible for payment of such amount for each such period.

“(B) AMOUNT OF INPATIENT HOSPITAL COPAYMENT.—

“(i) IN GENERAL.—The amount of the inpatient hospital copayment under this paragraph shall be—

“(I) for 2005, $400; or

“(II) for a subsequent year, the amount specified in this clause for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

“(ii) ROUNDING.—If any amount determined under clause (i) is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

“(C) PERIOD OF HOSPITALIZATION DEFINED.—In this subsection, the term ‘period of hospitalization’ means the period that begins on the date that the eligible beneficiary is admitted to the hospital and ends on the date on which the beneficiary has not been hospitalized for a 72-hour period.

“(D) COLLECTION OF COPAYMENTS.—For purposes of section 1866(a)(2)(A), hospitals shall substitute the imposition of the inpatient hospital copayment under this paragraph for the hospital coinsurance described in the second sentence of section 1813(a)(1).

“(e) ELIMINATION OF COST-SHARING FOR PREVENTIVE HEALTH CARE ITEMS AND SERVICES.—

“(1) IN GENERAL.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part, the unified deductible under subsection (b) and deductibles and the coinsurance otherwise applicable under subsections (a) and (b) of section 1833 shall not be applied with respect to expenses incurred for any preventive health care items and services (and no charges may be imposed under section 1866(a)(2) where such deductibles and coinsurance are not imposed).

“(2) PREVENTIVE HEALTH CARE ITEMS AND SERVICES DEFINED.—In this subsection, the term ‘preventive health care items and services’ means any of the following health care items and services:

“(A) Screening mammography under section 1861(s)(13).

“(B) Screening pap smear and screening pelvic examinations under section 1861(s)(14).

“(C) Bone mass measurement under section 1861(s)(15).

“(D) Prostate cancer screening tests under section 1861(s)(2)(P).

“(E) Colorectal cancer screening under section 1861(s)(2)(R).

“(F) Blood testing strips, lancets, and blood glucose monitors for individuals with diabetes under section 1861(n).

“(G) Diabetes outpatient self-management training services under section 1861(s)(2)(S).

“(H) Pneumococcal, influenza, and hepatitis B vaccines and administration under section 1861(s)(10).

“(I) Screening for glaucoma under section 1861(s)(2)(U).

“(J) Medical nutrition therapy services under section 1861(s)(2)(V).

“(f) SIMPLIFICATION OF COST-SHARING.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part, the following cost-sharing rules shall apply:

“(1) MODIFICATION OF SKILLED NURSING FACILITY COST-SHARING.—Instead of the coinsurance established under section 1813(b) for extended care services, under section 1888(e)—

“(A) the payment amount under paragraph (1)(B) of such section shall be equal to the amount otherwise provided minus the amount described in subparagraph (B); and

“(B) the eligible beneficiary shall be responsible for a copayment amount for each of the 100 days of care for which payment is made on behalf of an eligible beneficiary under that section equal to—

“(i) for 2005, $60; and

“(ii) for a subsequent year, the amount specified in this subparagraph for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

If any amount determined under this subparagraph is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

“(2) APPLICATION OF HOME HEALTH SERVICE COINSURANCE.—

“(A) IN GENERAL.—The amount of the payment otherwise made under section 1895 for home health services (other than such services for which payment is made under section 1834(a)) shall be reduced by the amount described in clause (ii).

“(B) COPAYMENT AMOUNT.—

“(i) IN GENERAL.—Subject to clause (ii), the eligible beneficiary shall be responsible for a copayment amount for each of the first 5 visits during an episode of care for which payment is made on behalf of an eligible beneficiary under section 1895 equal to—

“(I) for 2005, $10; and

“(II) for a subsequent year, the amount specified in this clause for the preceding year increased by the percentage increase in the per capita actuarial value of benefits under parts A and B for such subsequent year.

If any amount determined under this clause is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

“(ii) ANNUAL LIMIT.—For each year in which an election to receive enhanced medicare benefits under this part is in effect, the eligible beneficiary shall not be responsible for the payment of any copayment amount under this subparagraph after the date on which the amount of payments made as a result of the application of this paragraph equals $300.

“(3) BLOOD DEDUCTIBLE.—The Secretary shall not apply the deductible under sections 1813(a)(2) and 1833(b) for blood or blood cells furnished to an eligible beneficiary during the period in which an election of the beneficiary to receive enhanced medicare benefits under this part is in effect.

“PAYMENT OF BENEFITS

“SEC. 1860E–3. Payment for enhanced medicare benefits on behalf of an eligible beneficiary who has elected to receive such benefits under this part shall be made in the same manner as payment for such benefits would have been made under parts A and B, subject to the modifications described in section 1860E–2, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in such proportion as the Secretary determines appropriate.

“ELIGIBLE BENEFICIARIES; ELECTION OF ENHANCED MEDICARE BENEFITS; TERMINATION OF ELECTION

“SEC. 1860E–4. (a) ELIGIBLE BENEFICIARY DEFINED.—For purposes of this part, the term ‘eligible beneficiary’ has the meaning given that term in section 1860D(a)(3).

“(b) ELECTION OF ENHANCED MEDICARE BENEFITS.—

“(1) ELECTION BY INDIVIDUALS WHO BECOME ELIGIBLE BENEFICIARIES AFTER JANUARY 1, 2005.—

“(A) INITIAL ELECTION.—Any individual whose initial election period begins after September 30, 2004, shall be deemed to have elected to receive enhanced medicare benefits under this part as of the date on which such individual first becomes entitled to benefits under part A or eligible to enroll for benefits under part B, whichever is later, unless that individual affirmatively elects (in such form and manner as the Secretary may specify) to receive benefits under parts A and B.

“(B) INITIAL ELECTION PERIOD.—For purposes of this paragraph, the term ‘initial election period’ means, with respect to an individual, the period that begins on the first day of the third month before the month in which such individual first becomes entitled to benefits under part A or eligible to enroll for benefits under part B, whichever is later, and ends 7 months later.

“(C) EFFECT OF ELECTION.—If an individual makes an election under subparagraph (A) and such individual is not entitled to benefits under part A or enrolled for benefits under part B at the time of such election, such individual shall be deemed—

“(i) to have elected to enroll for benefits under such part under section 1818 or 1837 (as appropriate) if such individual is eligible to enroll for benefits under such section, as of the date of such election; or

“(ii) if such individual is not eligible to enroll for benefits under section 1818 or 1837, to have elected to enroll under part B as of the first date on which the individual is eligible to enroll under such part.

“(2) SPECIAL ELECTION PERIODS.—The Secretary shall establish special election periods for individuals under this part who have elected not to make an election (or to be deemed to have made such an election) under this part that are similar to the special enrollment periods under section 1837(i) for individuals described in such section.

“(3) TRANSITIONAL ELECTION FOR INDIVIDUALS WHO BECOME ELIGIBLE BENEFICIARIES ON OR BEFORE JANUARY 1, 2005.—

“(A) IN GENERAL.—In the case of an individual who is an eligible beneficiary as of January 1, 2005, the Secretary shall establish procedures under which such beneficiary may affirmatively elect to receive enhanced medicare benefits under this part during the 7-month period that begins on April 1, 2004, and ends on November 30, 2004, for such election to take effect on January 1, 2005.

“(B) EFFECT OF MEDICARE+CHOICE ENROLLMENT.—If an eligible beneficiary enrolls in a Medicare+Choice plan under part C during November 2004, such individual shall be deemed to have elected to receive enhanced medicare benefits under subparagraph (A).

“(4) CHANGES IN ELECTION.—

“(A) IN GENERAL.—An individual who has elected (or is deemed to have elected) to receive enhanced medicare benefits under this part under paragraph (1), (2), or (3) may change such election during an annual, coordinated election period and such election shall take effect on January 1 of the subsequent year. In no case shall such a change of election take effect on a date other than on January 1 of a year (unless the election is automatic pursuant to a termination resulting from a loss or termination of coverage under part A or part B).

"(B) Annual, coordinated election period.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 2005), the month of November preceding such year.

"(5) Procedures.—The Secretary shall establish procedures for the termination and reinstatement of an election under this section.

"(c) Coverage Terminated by Termination of Coverage Under Part A or B.—

"(1) In general.—The Secretary shall terminate an individual's coverage under this part if the individual is no longer enrolled in both parts A and B.

"(2) Effective date.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if earlier) under part B.

"PREMIUM ADJUSTMENTS; LATE ELECTION PENALTY

"Sec. 1860E–5. (a) General Rule of No Change in Amount of Premiums.—Except as provided in this section, an election to receive enhanced medicare benefits under this part shall not affect the amount of any premium charged under part A or B.

"(b) Late Election Penalty.—

"(1) In general.—In the case of an eligible beneficiary who does not elect to receive enhanced medicare benefits under this part during an election period described in paragraph (1), (2), or (3) of section 1860E–4(b) of that beneficiary, reinstates such an election under the procedures established under paragraph (5) of such section, or otherwise does not have such an election continuously in effect from the first date on which such election could be in effect, the premium otherwise imposed under part B (taking into account any late enrollment penalty under section 1839(b)) shall be increased during the period in which such individual has an election to receive enhanced medicare benefits under this part in effect by an amount that the Secretary determines is actuarially sound (based on the financial impact on the program under this part of the late election of the beneficiary or of the reinstatement of an election of the beneficiary) for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have elected to receive enhanced medicare benefits under this part but did not elect to receive such benefits.

"(2) Procedures.—In applying the late election penalty under paragraph (1), the Secretary shall establish procedures for applying the penalty under this subsection that are similar to the procedures for applying the late enrollment penalty under section 1839(b).

"(c) Late Reversal of Election Penalty.—

"(1) In general.—In the case of an eligible beneficiary who has elected to receive enhanced medicare benefits under this part and terminates such election under the procedures established under section 1860E–4(b)(5) on a date that is more than 1 year after the date on which such beneficiary first elected to receive enhanced medicare benefits under this part, the premium otherwise imposed under part B (taking into account any late enrollment penalty under section 1839(b)) shall be increased during the period in which such individual is enrolled under such part by an amount that the Secretary determines is actuarially sound based on the financial impact on the program under this part of the reversal of the election of the beneficiary.

"(2) Procedures.—In applying the late reversal of election penalty under paragraph (1), the Secretary shall establish procedures for applying the penalty under this subsection that are similar to the procedures for applying the late enrollment penalty under section 1839(b).".

(b) Providing Information to Beneficiaries.—During 2004, the Secretary shall provide for an extensive, national educational and publicity campaign to inform eligible beneficiaries (and prospective eligible beneficiaries) regarding the enhanced medicare benefits to be made available under part E of title XVIII of the Social Security Act (as added by subsection (a)).

(c) Conforming Adjustments to Part A and B Premiums.—

(1) Effect of part E on part A premium.—Section 1818(d)(1) (42 U.S.C. 1395i–2(d)(1)) is amended by adding at the end the following new sentence: "In making the estimate under the previous sentence, the Secretary shall take into account the effect of elections to receive enhanced medicare benefits under part E on the amounts paid from such Trust Fund.".

(2) Effect of part E on part B premium.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(A) in paragraph (1)—

(i) by inserting "(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)" after "age 65 and over"; and

(ii) by inserting "(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)" after "age 65 and older";

(B) in paragraph (2), by inserting ", as adjusted under section 1860E–5" before the period at the end;

(C) in paragraph (3)—

(i) by inserting "(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)" after "age 65 and over"; and

(ii) by inserting "(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)" after "age 65 and older"; and

(D) in paragraph (4)—

(i) in the first sentence, by inserting "(including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)" after "under age 65"; and

(ii) in the second sentence, by striking "under age 65 which" and inserting "under age 65 (including eligible beneficiaries who elect to receive enhanced medicare benefits under part E)".

(d) Clarification of Application of Exclusions From Coverage to Part E.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by inserting "(including for enhanced medicare benefits under part E)" after "for items or services".

### SEC. 202. RULES RELATING TO MEDIGAP POLICIES THAT PROVIDE PRESCRIPTION DRUG COVERAGE; ESTABLISHMENT OF ENHANCED MEDICARE FEE-FOR-SERVICE MEDIGAP POLICIES.

(a) Rules Relating to Medigap Policies That Provide Prescription Drug Coverage.—Section 1882 (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

"(v) Rules Relating to Medigap Policies That Provide Prescription Drug Coverage.—

"(1) Prohibition on sale, issuance, and renewal of policies that provide prescription drug coverage to part D enrollees.—

"(A) In general.—Notwithstanding any other provision of law, on or after January 1, 2005, no medicare supplemental policy that provides coverage of expenses for prescription drugs may be sold, issued, or renewed under this section to an individual who is enrolled under part D.

"(B) Penalties.—The penalties described in subsection (d)(3)(A)(ii) shall apply with respect to a violation of subparagraph (A).

"(2) Issuance of substitute policies if the policyholder obtains prescription drug coverage under part D.—

"(A) In general.—The issuer of a medicare supplemental policy—

"(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as 'A', 'B', 'C', 'D', 'E', 'F' (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)), or 'G' (under the standards established under subsection (p)(2)) and that is offered and is available for issuance to new enrollees by such issuer;

"(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

"(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy during the open enrollment period established under section 1860D–2(b)(2) and who submits evidence that they meet the requirements under subparagraph (B) along with the application for such medicare supplemental policy.

"(B) Individual described.—An individual described in this subparagraph is an individual who—

"(i) enrolls in the medicare prescription drug delivery program under part D; and

"(ii) at the time of such enrollment was enrolled and terminates enrollment in a medicare supplemental policy which has a benefit package classified as 'H', 'I', or 'J' (including the benefit package classified as 'J' with a high deductible feature, as described in section 1882(p)(11)) under the standards referred to in subparagraph (A)(i) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

"(C) Enforcement.—The provisions of subparagraph (A) shall be enforced as though they were included in subsection (s).

"(3) Notice required to be provided to current policyholders with prescription drug coverage.—

"(A) In general.—No medicare supplemental policy of an issuer shall be deemed to meet the standards in subsection (c) unless the issuer provides written notice during the 60-day period immediately preceding the period established for the open enrollment period established under section 1860D–2(b)(2), to each individual who is a policyholder or certificate holder of a medicare supplemental policy issued by that issuer that provides some coverage of expenses for prescription drugs (at the most recent available address of that individual) of—

"(i) the ability to enroll in a new medicare supplemental policy pursuant to paragraph (2); and

"(ii) the fact that, so long as such individual retains coverage under such policy, the individual shall be ineligible for coverage of prescription drugs under part D and ineligible to elect to receive enhanced medicare benefits under part E.

"(B) COORDINATION.—The notice provided under subparagraph (A) shall be coordinated with the notice required under subsection (v)(4)(A)(i).

"(4) CLARIFICATION REGARDING ONE-TIME AVAILABILITY OF A GUARANTEED ISSUE POLICY FOR BENEFICIARIES WHO LOSE COVERAGE UNDER A MEDICARE+CHOICE PLAN OF JANUARY 1, 2005, BECAUSE THEY ELECT NOT TO RECEIVE ENHANCED PART E BENEFITS.—In the case of a beneficiary who is enrolled in a Medicare+Choice plan as of December 31, 2004, will not be eligible to be enrolled under such plan as of January 1, 2005, because the beneficiary has elected not to receive enhanced medicare benefits under part E—

"(A) such beneficiary shall be deemed to be described in subsection (s)(3)(B)(ii); and

"(B) for purposes of (s)(3)(E)(ii), the date of the termination of coverage shall be January 1, 2005.".

(b) ESTABLISHMENT OF ENHANCED MEDICARE FEE-FOR-SERVICE MEDIGAP POLICIES.—Section 1882 (42 U.S.C. 1395ss), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(w) ENHANCED MEDICARE FEE-FOR-SERVICE SUPPLEMENTAL POLICIES.—

"(1) ADDITIONAL BENEFIT PACKAGES.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—In addition to the benefit packages classified under the standards established by subsection (p)(2), there shall be established benefit packages that may only be purchased by beneficiaries who have elected to receive enhanced medicare benefits under part E that—

"(I) complement but do not duplicate enhanced medicare benefits described in section 1860E–2;

"(II) do not provide for coverage of the unified deductible under section 1860E–2(b);

"(III) subject to clause (ii), do not provide coverage for more than 50 percent of the amount of coinsurance and copayments applicable under section 1860E–2;

"(IV) do not provide for coverage of expenses for prescription drugs;

"(V) provide a range of coverage options for beneficiaries; and

"(VI) use uniform language, definitions, and format with respect to the coverage provided under a policy.

"(ii) ONE PACKAGE REQUIRED TO COVER ALL COST-SHARING.—

"(I) IN GENERAL.—One of the benefit packages established under clause (i) shall include coverage of all coinsurance and copayments applicable under section 1860E–2.

"(II) AVAILABILITY LIMITED TO BENEFICIARIES THAT ENROLLED IN PART E DURING CERTAIN PERIODS.—The benefit package that includes the coverage described in subclause (II) shall only be made available to beneficiaries who elect to receive enhanced medicare benefits under part E during the beneficiary's initial election period (as defined in paragraph (1)(B) of section 1860D–4(b)), during a special election period described in paragraph (2) of such section, or during the transitional election period under paragraph (3) of such section.

"(B) MANNER OF ESTABLISHMENT.—The benefit packages established under this section shall be established in the manner described in subparagraph (E) of subsection (p)(1), except that for purposes of subparagraph (C) of such subsection, the standards established under this subsection shall take effect not later than January 1, 2005.

"(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in this subsection shall be construed to affect the benefit packages classified as 'A' through 'J' under the standards established by subsection (p)(2) (including the benefit packages classified as 'F' and 'J' with a high deductible feature, as described in subsection (p)(11)).

"(3) GUARANTEED ISSUANCE AND RENEWAL OF ENHANCED MEDICARE FEE-FOR-SERVICE SUPPLEMENTAL POLICIES.—The provisions of subsections (q) and (s), including provisions of subsection (s)(3) (relating to special enrollment periods in cases of termination or disenrollment), shall apply to medicare supplemental policies established under this subsection in a similar manner as such provisions apply to medicare supplemental policies issued under the standards established under subsection (p).

"(4) OPPORTUNITY OF CURRENT POLICYHOLDERS TO PURCHASE ENHANCED MEDICARE FEE-FOR-SERVICE SUPPLEMENTAL POLICIES.—

"(A) REQUIREMENTS FOR ISSUERS OF POLICIES WITH RESPECT TO CURRENT POLICYHOLDERS.—No medicare supplemental policy of an issuer with a benefit package that is established under paragraph (1) shall be deemed to meet the standards in subsection (c) unless the issuer does all of the following:

"(i) NOTICE TO CURRENT POLICYHOLDERS.—Provide written notice during the 60-day period immediately preceding the period established under section 1860E–4(b)(1), to each individual who is a policyholder or certificate holder of a medicare supplemental policy issued by that issuer (at the most recent available address of that individual) of the offer described in clause (ii) and of the fact that, so long as such individual retains coverage under such policy, the individual shall be ineligible to elect enhanced medicare benefits under part E.

"(ii) OFFER FOR CURRENT POLICYHOLDERS.—Offer the policyholder or certificate holder under the terms described in subparagraph (C), during at least the period established under section 1860E–4(b)(1), a medicare supplemental policy established under paragraph (1) with the benefit package that the Secretary determines is most comparable to the policy in which the individual is enrolled with coverage effective as of the effective date of the election of the individual under part E.

"(iii) OFFER FOR INDIVIDUALS COVERED UNDER POLICIES ISSUED BY OTHER ISSUERS IF THAT ISSUER IS NOT GOING TO OFFER ENHANCED MEDICARE FEE-FOR-SERVICE SUPPLEMENTAL POLICIES.—Offer an individual described in subparagraph (B), under the terms described in subparagraph (C), and during at least the period established under section 1860E–4(b)(1), a medicare supplemental policy established under paragraph (1) with the benefit package that the Secretary determines is most comparable to the policy in which the individual is enrolled with coverage effective as of the effective date of the election of the individual under part E.

The notice provided under clause (i) shall be coordinated with the notice required under subsection (v)(3)(A).

"(B) INDIVIDUAL DESCRIBED.—An individual described in this subparagraph is an individual who is a policyholder or certificate holder of a medicare supplemental policy issued by an issuer who is not going to offer a policy with a benefit package established under paragraph (1).

"(C) TERMS OF OFFER DESCRIBED.—The terms described in this subparagraph are terms which do not—

"(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

"(ii) discriminate in the pricing of such policy because of health status, claims experience, receipt of health care, or medical condition; or

"(iii) impose an exclusion of benefits based on a preexisting condition under such policy.

"(5) PROHIBITION OF SALE OF ENHANCED POLICIES TO ORIGINAL MEDICARE FEE-FOR-SERVICE ENROLLEES; PROHIBITION OF SALE OF ORIGINAL POLICIES TO ENHANCED MEDICARE FEE-FOR-SERVICE ENROLLEES.—

"(A) PROHIBITION.—No person may sell, issue, or renew a medicare supplemental policy with—

"(i) a benefit package established under this subsection to an individual who has not elected to receive enhanced medicare benefits under part E; or

"(ii) a benefit package classified as 'A' through 'J' under the standards established by subsection (p)(2) (including the benefit packages classified as 'F' and 'J' with a high deductible feature, as described in subsection (p)(11)) to an individual who has elected to receive enhanced medicare benefits under part E.

"(B) PENALTY.—Any person who violates the provisions of subparagraph (A) shall be subject to a civil money penalty in an amount that does not exceed $25,000 (or $15,000 in the case of a seller who is not an issuer of a policy) for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(6) OTHER PROHIBITIONS AND PENALTIES.—Each penalty under this section shall apply with respect to policies established under this subsection as if such policies were issued under the standards established under subsection (p), including the penalties under subsections (a), (d), (p)(8), (p)(9), (q)(5), (r)(6)(A), (s)(4), and (t)(2)(D).".

## TITLE III—MEDICARE+CHOICE COMPETITION

### SEC. 301. ANNUAL CALCULATION OF BENCHMARK AMOUNTS BASED ON FLOOR RATES AND LOCAL FEE-FOR-SERVICE RATES.

(a) ANNUAL CALCULATION OF BENCHMARK AMOUNTS BASED ON FLOOR RATES AND LOCAL FEE-FOR-SERVICE RATES.—Section 1853(a) (42 U.S.C. 1395w–23(a)) is amended by adding at the end the following new paragraph:

"(4) ANNUAL CALCULATION OF BENCHMARK AMOUNTS.—For each year, the Secretary shall calculate a benchmark amount for each Medicare+Choice payment area for each month for such year with respect to coverage of enhanced medicare benefits under part E equal to the greatest of the following amounts:

"(A) MINIMUM AMOUNT.—$\frac{1}{12}$ of the annual Medicare+Choice capitation rate determined under subsection (c)(1)(B) for the payment area for the year; or

"(B) LOCAL FEE-FOR-SERVICE RATE.—The local fee-for-service rate for such area for the year (as calculated under paragraph (5)).".

(b) ANNUAL CALCULATION OF LOCAL FEE-FOR-SERVICE RATES.—Section 1853(a) (42 U.S.C. 1395w–23(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(5) ANNUAL CALCULATION OF LOCAL FEE-FOR-SERVICE RATES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the term 'local fee-for-service rate' means the amount of payment for a month in a Medicare+Choice payment area for benefits under this title and associated claims processing costs for an individual who has elected to receive enhanced medicare benefits under part E (but, if the Medicare+Choice plan offers prescription drug coverage, excluding any costs associated with part D), and not enrolled in a Medicare+Choice plan under this part. The Secretary shall annually calculate such amount in a manner similar to the manner in which the Secretary calculated the adjusted average per capita cost under section 1876, except that such calculation shall include in such amount, to the extent practicable, any amounts that would have been paid under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.

"(B) REMOVAL OF MEDICAL EDUCATION COSTS FROM CALCULATION OF LOCAL FEE-FOR-SERVICE RATE.—

"(i) IN GENERAL.—In calculating the local fee-for-service rate under subparagraph (A) for a year, the amount of payment described in such subparagraph shall be adjusted to exclude from such payment the payment adjustments described in clause (ii).

"(ii) PAYMENT ADJUSTMENTS DESCRIBED.—

"(I) IN GENERAL.—Subject to subclause (II), the payment adjustments described in this subparagraph are payment adjustments that the Secretary estimates were payable during each month for direct graduate medical education costs under section 1886(h).

"(II) TREATMENT OF PAYMENTS COVERED UNDER STATE HOSPITAL REIMBURSEMENT SYSTEM.—To the extent that the Secretary estimates that the amount of the local fee-for-service rates reflects payments to hospitals reimbursed under section 1814(b)(3), the Secretary shall estimate a payment adjustment that is comparable to the payment adjustment that would have been made under clause (i) if the hospitals had not been reimbursed under such section.

"(C) SPECIAL RULE FOR RURAL AREAS.—

"(i) IN GENERAL.—Subject to clause (ii), in calculating the local fee-for-service rates under subparagraph (A) for a year, the Secretary shall calculate such costs for rural areas (as defined in section 1886(d)(2)(D)) of a State as if each rural area were part of a single Medicare+Choice payment area.

"(ii) LIMITATION.—Payment amounts determined under subparagraph (A) may not be less than the amounts that would have been paid if clause (i) did not apply.".

(c) CPI INCREASES IN FLOOR PAYMENT RATES.—Section 1853(c)(1)(B) (42 U.S.C. 1395w-23(c)(1)(B)) is amended—

(1) in clause (iv), by striking "and each succeeding year," and inserting ", 2003, and 2004,"; and

(2) by adding at the end the following new clause:

"(v) For 2005 and each succeeding year, the minimum amount specified in this clause (or clause (iv)) for the preceding year increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(d) FURNISHING OF CLAIMS DATA BY VA AND DOD.—Upon the request of the Secretary of Health and Human Services, the Secretary of Veterans Affairs and the Secretary of Defense shall provide such claims data as the Secretary of Health and Human Services may require to determine the amount that would have been paid under the medicare program under title XVIII of the Social Security Act if individuals entitled to benefits under such program had not received services from facilities of the Department of Veterans Affairs or the Department of Defense for purposes calculating the amounts under section 1853(a)(5) of such Act (as added by subsection (b)) and section 1853(c)(8) of such Act (as added by section 312(b)).

### SEC. 302. APPLICATION OF COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY.

Section 1853(a)(3) is amended to read as follows:

"(3) COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY.—

"(A) APPLICATION OF METHODOLOGY.—The Secretary shall apply the comprehensive risk adjustment methodology described in subparagraph (B) to 100 percent of the amount of the plan bids under section 1853(d)(1) and the weighted service area benchmark amounts calculated under section 1853(d)(3).

"(B) COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY DESCRIBED.—The comprehensive risk adjustment methodology described in this subparagraph is the risk adjustment methodology that would apply with respect to Medicare+Choice plans offered by Medicare+Choice organizations in 2004, except that if such methodology does not apply to groups of beneficiaries who are aged or disabled and groups of beneficiaries who have end-stage renal disease, the Secretary shall revise such methodology to apply to such groups.

"(C) UNIFORM APPLICATION TO ALL TYPES OF PLANS.—Subject to section 1859(e)(4), the comprehensive risk adjustment methodology established under this paragraph shall be applied uniformly without regard to the type of plan.

"(D) DATA COLLECTION.—In order to carry out this paragraph, the Secretary shall require Medicare+Choice organizations to submit such data and other information as the Secretary deems necessary.

"(E) IMPROVEMENT OF PAYMENT ACCURACY.—Notwithstanding any other provision of this paragraph, the Secretary may revise the comprehensive risk adjustment methodology described in subparagraph (B) from time to time to improve payment accuracy.".

### SEC. 303. ANNUAL ANNOUNCEMENT OF BENCHMARK AMOUNTS AND OTHER PAYMENT FACTORS.

Section 1853(b) (42 U.S.C. 1395w-23(b)), as amended by section 532(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188; 116 Stat. 696), is amended—

(1) in the heading, by striking "PAYMENT RATES" and inserting "PAYMENT FACTORS";

(2) by striking paragraph (1) and inserting the following:

"(1) ANNUAL ANNOUNCEMENT.—Beginning in 2004, at the same time as the Secretary publishes the risk adjusters under section 1860D–11, the Secretary shall annually announce (in a manner intended to provide notice to interested parties) the following payment factors:

"(A) The benchmark amount for each Medicare+Choice payment area (as calculated under subsection (a)(4)) for the year.

"(B) The factors to be used for adjusting payments under the comprehensive risk adjustment methodology described in subsection (a)(3)(B) with respect to each Medicare+Choice payment area for the year.";

(3) in paragraph (3), by striking "monthly adjusted" and all that follows before the period at the end and inserting "each payment factor described in paragraph (1)"; and

(4) by striking paragraph (4).

### SEC. 304. SUBMISSION OF BIDS BY MEDICARE+CHOICE ORGANIZATIONS.

Section 1854(a) (42 U.S.C. 1395w-24(a)), as amended by section 532(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188; 116 Stat. 696), is amended to read as follows:

"(a) SUBMISSION OF BIDS BY MEDICARE+CHOICE ORGANIZATIONS.—

"(1) IN GENERAL.—Not later than the second Monday in September (or July 1 of each year before 2002) and except as provided in paragraph (3), each Medicare+Choice organization shall submit to the Secretary, in such form and manner as the Secretary may specify, for each Medicare+Choice plan that the organization intends to offer in a service area in the following year—

"(A) notice of such intent and information on the service area of the plan;

"(B) the plan type for each plan;

"(C) if the Medicare+Choice plan is a coordinated care plan (as described in section 1851(a)(2)(A)) or a private fee-for-service plan (as described in section 1851(a)(2)(C)), the information described in paragraph (2) with respect to each payment area;

"(D) the enrollment capacity (if any) in relation to the plan and each payment area;

"(E) the expected mix, by health status, of enrolled individuals; and

"(F) such other information as the Secretary may specify.

"(2) INFORMATION REQUIRED FOR COORDINATED CARE PLANS AND PRIVATE FEE-FOR-SERVICE PLANS.—For a Medicare+Choice plan that is a coordinated care plan (as described in section 1851(a)(2)(A)) or a private fee-for-service plan (as described in section 1851(a)(2)(C)), the information described in this paragraph is as follows:

"(A) INFORMATION REQUIRED WITH RESPECT TO BENEFITS UNDER PART E.—Information relating to the coverage of benefits under part E as follows:

"(i) The plan bid, which shall consist of a dollar amount that represents the total amount that the plan is willing to accept (after the application of the comprehensive risk adjustment methodology under section 1853(a)(3)) for providing coverage of the benefits under part E to an individual enrolled in the plan that resides in the service area of the plan for a month.

"(ii) For the supplemental benefits package offered (if any)—

"(I) the adjusted community rate (as defined in subsection (g)(3)) of the package;

"(II) the Medicare+Choice monthly supplemental beneficiary premium (as defined in subsection (b)(2)(C));

"(III) a description of any cost-sharing; and

"(IV) such other information as the Secretary considers necessary.

"(iii) The assumptions that the Medicare+Choice organization used in preparing the plan bid with respect to numbers, in each payment area, of enrolled individuals and the mix, by health status, of such individuals.

"(B) INFORMATION REQUIRED WITH RESPECT TO PART D.—If the Medicare+Choice organization elects to offer prescription drug coverage, the information required to be submitted by an eligible entity under section 1860D–12, including the monthly premiums for standard coverage and any other qualified prescription drug coverage available to individuals enrolled under part D.

"(3) REQUIREMENTS FOR MSA PLANS.—For an MSA plan described in section 1851(a)(2)(B), the information described in this paragraph is the information that such a plan would have been required to submit under this part if the 21st Century Medicare Act had not been enacted.

"(4) REVIEW.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall review the adjusted community rates (as defined in section 1854(g)(3)), the amounts of the Medicare+Choice monthly basic and supplemental beneficiary premiums filed under this subsection and shall approve or disapprove such rates and amounts so submitted. The Chief Actuary of the Medicare Competitive Agency shall review the actuarial assumptions and data used by the Medicare+Choice organization with respect to such rates and amounts so submitted to determine the appropriateness of such assumptions and data.

"(B) EXCEPTION.—The Secretary shall not review, approve, or disapprove the amounts submitted under paragraph (3).".

**SEC. 305. ADJUSTMENT OF PLAN BIDS; COMPARISON OF ADJUSTED BID TO BENCHMARK; PAYMENT AMOUNT.**

(a) IN GENERAL.—Section 1853 (42 U.S.C. 1395w–23) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) SECRETARY'S DETERMINATION OF PAYMENT AMOUNT FOR ENHANCED MEDICARE BENEFITS.—

"(1) ADJUSTMENT OF PLAN BIDS.—The Secretary shall adjust each plan bid submitted under section 1854(a) for the coverage of benefits under part E using the comprehensive risk adjustment methodology applicable under subsection (a)(3) based on the assumptions described in section 1854(a)(2)(A)(iii) that the plan used with respect to numbers of enrolled individuals.

"(2) DETERMINATION OF WEIGHTED SERVICE AREA BENCHMARK AMOUNTS.—The Secretary shall calculate a weighted service area benchmark amount for enhanced medicare benefits under part E for each plan equal to the weighted average of the benchmark amounts for enhanced medicare benefits under such part for the payment areas included in the service area of the plan using the assumptions described in section 1854(a)(2)(A)(iii) that the plan used with respect to numbers of enrolled individuals.

"(3) DETERMINATION OF PLAN BENCHMARK.—The Secretary shall calculate the plan benchmark amount by adjusting the weighted service area benchmark amount determined under paragraph (1) using—

"(A) the comprehensive risk adjustment methodology applicable under subsection (a)(3); and

"(B) the assumptions contained in the plan bid that the plan used with respect to numbers of enrolled individuals.

"(4) COMPARISON TO BENCHMARK.—The Secretary shall determine the difference between each plan bid (as adjusted under paragraph (1)) and the plan benchmark amount (as determined under paragraph (3)) for purposes of determining—

"(A) the payment amount under paragraph (5); and

"(B) the part E premium reductions and Medicare+Choice monthly basic beneficiary premiums.

"(5) DETERMINATION OF PAYMENT AMOUNT.—The Secretary shall determine the payment amount for plans as follows:

"(A) BIDS THAT EQUAL OR EXCEED THE BENCHMARK.—The amount of each monthly payment to a Medicare+Choice organization with respect to each individual enrolled in a plan shall be the plan benchmark amount.

"(B) BIDS BELOW THE BENCHMARK.—The amount of each monthly payment to a Medicare+Choice organization with respect to each individual enrolled in a plan shall be the plan benchmark amount reduced by 25 percent of the difference between the bid and the benchmark amount and further reduced by the amount of any premium reduction elected by the plan under section 1854(d)(1)(A)(i).

"(6) FACTORS USED IN ADJUSTING BIDS AND BENCHMARKS FOR MEDICARE+CHOICE ORGANIZATIONS AND IN DETERMINING ENROLLEE PREMIUMS.—Subject to paragraph (7), the Secretary shall use, for purposes of adjusting plan bids and calculating plan benchmarks under this subsection—

"(A) with respect to benefits under part E—

"(i) the benchmark amount for the Medicare+Choice payment area announced under section 1854(a)(1)(A); and

"(ii) the health status and other demographic adjustment factors for the Medicare+Choice payment area announced under section 1854(a)(1)(B); and

"(B) if the Medicare+Choice organization elects to offer prescription drug coverage, the risk adjusters published under section 1860D–11 applicable with respect to such coverage.

"(7) ADJUSTMENT FOR NATIONAL COVERAGE DETERMINATIONS AND LEGISLATIVE CHANGES IN BENEFITS.—If the Secretary makes a determination with respect to coverage under this title or there is a change in benefits required to be provided under this part that the Secretary projects will result in a significant increase in the costs to Medicare+Choice organizations of providing benefits under contracts under this part (for periods after any period described in section 1852(a)(5)), the Secretary shall appropriately adjust the benchmark amounts or payment amounts (as determined by the Secretary). Such projection and adjustment shall be based on an analysis by the Chief Actuary of the Competitive Medicare Agency of the actuarial costs associated with the new benefits.".

(b) CONFORMING AMENDMENT.—Section 1853(c)(7) (42 U.S.C. 1395w–23(c)(7)) is repealed.

**SEC. 306. DETERMINATION OF PREMIUM REDUCTIONS, REDUCED COST-SHARING, ADDITIONAL BENEFITS, AND BENEFICIARY PREMIUMS.**

(a) CALCULATION OF BENEFICIARY PREMIUMS.—Section 1854 (42 U.S.C. 1395–24) is amended by—

(1) redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) inserting after subsection (c) the following new subsection:

"(d) DETERMINATION OF PREMIUM REDUCTIONS, REDUCED COST-SHARING, ADDITIONAL BENEFITS, AND BENEFICIARY PREMIUMS.— .

"(1) BIDS BELOW THE BENCHMARK.—

"(A) IN GENERAL.—If the Secretary determines under section 1853(d)(4) that the plan benchmark amount exceeds the plan bid, the Secretary shall require the plan to return 75 percent of such excess to the enrollee in the form of, at the option of the organization offering the plan—

"(i) subject to subparagraph (B), a monthly medicare premium reduction for individuals enrolled in the plan;

"(ii) a reduction in the actuarial value of plan cost-sharing for plan enrollees;

"(iii) subject to subparagraph (C), such additional benefits as the organization may specify; or

"(iv) any combination of the reductions and benefits described in clauses (i) through (iii).

"(B) LIMITATION ON PREMIUM REDUCTIONS.—The amount of the reduction under subparagraph (A)(i) with respect to any enrollee in a Medicare+Choice plan—

"(i) may not exceed the premium described in section 1839(a)(3), as adjusted under section 1860E–5; and

"(ii) shall apply uniformly to each enrollee of the Medicare+Choice plan to which such reduction applies.

"(C) REQUIREMENT OF ENROLLMENT IN PART D TO RECEIVE PRESCRIPTION DRUG BENEFITS.—An organization may not specify any additional benefit that provides for the coverage of any prescription drug (other than that required under part E).

"(2) BIDS ABOVE THE BENCHMARK.—If the Secretary determines under section 1853(d)(4) that the plan bid (as adjusted under section 1853(d)(1)) exceeds the plan benchmark amount (determined under section 1853(d)(3)), the amount of such excess shall be the Medicare+Choice monthly basic beneficiary premium (as defined in section 1854(b)(2)(A)).".

(b) CONFORMING PART E PREMIUM REDUCTION AMENDMENTS.—

(1) ADJUSTMENT AND PAYMENT OF PART E PREMIUMS.—Section 1860E–5 (as added by section 201) is amended—

(A) in subsection (a), by inserting ", except as reduced by the amount of any reduction elected under section 1854(d)(1)(A)(i)" before the period at the end; and

(B) by adding at the end the following new subsection:

"(c) MEDICARE+CHOICE PREMIUM REDUCTIONS.—In the case of an individual enrolled in a Medicare+Choice plan, the Secretary shall reduce (but not below zero) the amount of the monthly beneficiary premium to reflect any reduction elected under section 1854(d)(1)(A)(i). Such premium adjustment may be provided in such manner as the Secretary may specify.".

(2) TREATMENT OF REDUCTION FOR PURPOSES OF DETERMINING GOVERNMENT CONTRIBUTION UNDER PART E.—Section 1844(c) (42 U.S.C. 1395w) is amended by striking "section 1854(f)(1)(E)" and inserting "section 1854(d)(1)(A)(i)".

(c) SUNSET OF SPECIFIC REQUIREMENTS FOR ADDITIONAL BENEFITS.—Section 1854(g) (as redesignated by subsection (a)(1)) is amended—

(1) in paragraph (1)(A), by striking "Each Medicare+Choice organization" and inserting "For years before 2005, each Medicare+Choice organization"; and

(2) in paragraph (2), by striking "A Medicare+Choice organization" and inserting "For years before 2005, a Medicare+Choice organization".

(d) LIMITATION ON ENROLLEE LIABILITY.—

(1) FOR BENEFITS UNDER PART E.—Section 1854(f)(1) (as redesignated by subsection (a)(1)) is amended to read as follows:

"(1) FOR ENHANCED MEDICARE BENEFITS.—The sum of—

"(A) the Medicare+Choice monthly basic beneficiary premium (multiplied by 12) and the actuarial value of the deductibles, coinsurance, and copayments (taking into account any reductions in cost-sharing described in subsection (d)(1)(A)(ii)) applicable on average to individuals enrolled under this part with a Medicare+Choice plan described in subparagraph (A) or (C) of section

1851(a)(2) of an organization with respect to required benefits described in section 1852(a)(1)(A) and any additional benefits described in subsection (a)(2)(A)(iii) for a year; must equal

"(B) the actuarial value of the deductibles, coinsurance, and copayments that would be applicable on average to individuals who have elected to receive enhanced medicare benefits under part E if they were not members of a Medicare+Choice organization for the year (adjusted as determined appropriate by the Secretary to account for geographic differences and for plan cost and utilization differences).".

(2) FOR SUPPLEMENTAL BENEFITS.—Section 1854(f)(2) (as so redesignated) is amended to read as follows:

"(2) FOR SUPPLEMENTAL BENEFITS.—If the Medicare+Choice organization provides to its members enrolled under this part in a Medicare+Choice plan described in subparagraph (A) or (C) of section 1851(a)(2) with respect to supplemental benefits relating to benefits under part E described in section 1852(a)(3)(A), the sum of the Medicare+Choice monthly supplemental beneficiary premium (multiplied by 12) charged and the actuarial value of its deductibles, coinsurance, and copayments charged with respect to such benefits for a year must equal the adjusted community rate (as defined in subsection (g)(3)) for such benefits for the year.".

(e) PREMIUMS CHARGED; PREMIUM TERMINOLOGY.—Section 1854(b) (42 U.S.C. 1395w–24) is amended to read as follows:

"(b) MONTHLY PREMIUMS CHARGED.—

"(1) IN GENERAL.—

"(A) COORDINATED CARE AND PRIVATE FEE-FOR-SERVICE PLANS.—The monthly amount of the premium charged to an individual enrolled in a Medicare+Choice plan (other than an MSA plan) offered by a Medicare+Choice organization shall be equal to the sum of the following:

"(i) The Medicare+Choice monthly basic beneficiary premium (if any).

"(ii) The Medicare+Choice monthly supplemental beneficiary premium (if any).

"(iii) The Medicare+Choice monthly obligation for qualified prescription drug coverage (if any).

"(B) MSA PLANS.—The rules under this section that would have applied with respect to a MSA plan if the 21st Century Medicare Act had not been enacted shall continue to apply to MSA plans after the date of enactment of such Act.

"(2) PREMIUM TERMINOLOGY.—For purposes of this part:

"(A) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly basic beneficiary premium' means, with respect to a Medicare+Choice plan, the amount required to be charged under subsection (d)(2) for the plan.

"(B) MEDICARE+CHOICE MONTHLY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term 'Medicare+Choice monthly obligation for qualified prescription drug coverage' means, with respect to a Medicare+Choice plan, the amount determined under section 1853(k)(3).

"(C) MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The term 'Medicare+Choice monthly supplemental beneficiary premium' means, with respect to a Medicare+Choice plan, the amount required to be charged under subsection (f)(2) for the plan, or, in the case of a MSA plan, the amount filed under subsection (a)(3).

"(D) MEDICARE+CHOICE MONTHLY MSA PREMIUM.—The term 'Medicare+Choice monthly MSA premium' means, with respect to a Medicare+Choice plan, the amount of such premium filed under subsection (a)(3) for the plan.".

(f) CONFORMING AMENDMENTS.—

(1) Section 1851(d)(2)(D) (42 U.S.C. 1395w–21(d)(2)(D)) is amended by inserting "and Medicare+Choice monthly obligation for qualified prescription drug coverage" after "Medicare+Choice monthly basic and supplemental beneficiary premiums".

(2) Section 1851(g)(3)(B)(i) (42 U.S.C. 1395w–21(g)(3)(B)(i)) is amended by striking "any Medicare+Choice monthly basic and supplemental beneficiary premiums" and inserting "any Medicare+Choice monthly basic beneficiary premium, Medicare+Choice monthly obligation for qualified prescription drug coverage, Medicare+Choice monthly supplemental beneficiary premium,".

(3) Section 1852(c)(1)(F) (42 U.S.C. 1395w–22(c)(1)(F)) is amended to read as follows:

"(F) SUPPLEMENTAL BENEFITS.—Supplemental benefits available from the organization offering the plan, including the supplemental benefits covered and the Medicare+Choice monthly supplemental beneficiary premium for such benefits.".

(4) Section 1853(f)(1) (as redesignated by section 305(1)) is amended by striking "(as defined in section 1854(b)(2)(C))" and inserting "(as defined in section 1854(b)(2)(D))".

(5) Section 1854(c) (42 U.S.C. 1395w–24(c)) is amended by striking "The Medicare+Choice monthly basic and supplemental beneficiary premium" and inserting "The Medicare+Choice monthly basic beneficiary premium, the Medicare+Choice monthly obligation for qualified prescription drug coverage, or the Medicare+Choice monthly supplemental beneficiary premium".

(6) Section 1854(e) (as redesignated by subsection (a)(1)) is amended by inserting "and the Medicare+Choice monthly obligation for qualified prescription drug coverage" after "Medicare+Choice monthly basic and supplemental beneficiary premiums".

(7) Section 1859(c)(4) (42 U.S.C. 1395w–28(c)(4)) is amended to read as follows:

"(4) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM; MEDICARE+CHOICE MONTHLY OBLIGATION FOR QUALIFIED PRESCRIPTION DRUG COVERAGE; MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The terms 'Medicare+Choice monthly basic beneficiary premium', 'Medicare+Choice monthly obligation for qualified prescription drug coverage', and 'Medicare+Choice monthly supplemental beneficiary premium' are defined in section 1854(b)(2).".

### SEC. 307. ELIGIBILITY, ELECTION, AND ENROLLMENT IN COMPETITIVE MEDICARE+CHOICE PLANS.

(a) ELIGIBILITY.—Section 1851(a)(3) is amended to read as follows:

"(3) MEDICARE+CHOICE ELIGIBLE INDIVIDUAL.—In this title, the term 'Medicare+Choice eligible individual' means an individual who—

"(A) is entitled to benefits under part A and enrolled under part B; and

"(B) has elected to receive enhanced medicare benefits under part E.".

(b) ELECTIONS.—

(1) IN GENERAL.—Section 1851(a)(1)(A) is amended by inserting "(including through the election of enhanced medicare benefits under part E) and, if elected by the beneficiary and offered by the Medicare+Choice plan, through the voluntary prescription drug delivery program under part D" after "parts A and B".

(2) DEFAULT ELECTION.—Section 1851(c)(3) (42 U.S.C. 1395w–21(c)(3)) is amended by inserting "to receive enhanced medicare benefits under part E of the" after "deemed to have chosen".

(3) COVERAGE ELECTION PERIODS.—Section 1851(e)(1) (42 U.S.C. 1395w–21(e)(1)) is amended by striking "entitled to benefits under part A and enrolled under part B" and inserting "eligible to elect to receive enhanced medicare benefits under part E".

(4) GUARANTEED ISSUANCE AND RENEWAL.—Section 1851(g)(3)(C) (42 U.S.C. 1395w–21(g)(3)(C)) is amended—

(A) in clause (i), by inserting "elected to receive enhanced medicare benefits under part E of the" after "deemed to have"; and

(B) in clause (ii), by striking "deemed to have chosen to change coverage to" and inserting "deemed to have elected to receive enhanced medicare benefits under part E through the".

(5) EFFECT OF ELECTION OF MEDICARE+CHOICE PLAN OPTION.—Section 1851(i) (42 U.S.C. 1395w–21(i)) is amended—

(A) in paragraph (1)—

(i) by striking "1853(g), 1853(h)" and inserting "1853(h), 1853(i)"; and

(ii) by inserting "(as modified under part E)" after "parts A and B"; and

(B) in paragraph (2), by striking "1853(e), 1853(g), 1853(h)" and inserting "1853(f), 1853(h), 1853(i)".

(c) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

(1) GENERAL INFORMATION ON BENEFITS.—Section 1851(d)(3) (42 U.S.C. 1395w–21(d)(3)) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) BENEFITS UNDER ENHANCED MEDICARE FEE-FOR-SERVICE PROGRAM OPTION.—A general description of the enhanced medicare benefits covered under the original medicare fee-for-service program under parts A and B for individuals who have elected to receive such benefits under part E, including—

"(i) covered items and services;

"(ii) beneficiary cost-sharing, such as deductibles, coinsurance, and copayment amounts; and

"(iii) any beneficiary liability for balance billing.";

(B) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) OUTPATIENT PRESCRIPTION DRUG COVERAGE BENEFITS.—For Medicare+Choice eligible individuals who are enrolled under part D, the information required under section 1860D–4 if the Medicare+Choice organization elects to offer prescription drug coverage."; and

(D) in subparagraph (D) (as redesignated by subparagraph (B)), by inserting "(with the enhanced medicare benefits under part E)" after "the original medicare fee-for-service program".

(2) INFORMATION COMPARING PLAN OPTIONS.—Section 1851(d)(4) (42 U.S.C. 1395w–21(d)(4)) is amended—

(A) in subparagraph (A), by adding at the end the following new clause:

"(ix) For Medicare+Choice eligible individuals who are enrolled under part D, the comparative information described in section 1860D–4(b)(2) if the Medicare+Choice organization elects to offer prescription drug coverage."; and

(B) in subparagraph (D), by inserting "with respect to eligible beneficiaries who elect to receive enhanced medicare benefits under part E" after "under parts A and B".

### SEC. 308. BENEFITS AND BENEFICIARY PROTECTIONS UNDER COMPETITIVE MEDICARE+CHOICE PLANS.

(a) Basic Benefits.—Section 1852(a) (42 U.S.C. 1395w–22(a)(1)(A)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) those items and services (other than hospice care) for which benefits are available under parts A and B to individuals residing in the area served by the plan and who have elected to receive enhanced medicare benefits under part E;";

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) if the Medicare+Choice organization elects to offer prescription drug coverage, prescription drug coverage under part D to individuals who are enrolled under that part and who reside in the area served by the plan; and"; and

(D) in subparagraph (C) (as redesignated by paragraph (2)), by striking "1854(f)(1)(A)" and inserting "1854(d)(1)";

(2) in paragraph (2), by striking "parts A and B (including any balance billing permitted under such parts" and inserting "part E (including any balance billing permitted under such part";

(3) in paragraph (3), by adding at the end the following new subparagraph:

"(D) Requirement of enrollment in part D to receive prescription drug benefits.—Notwithstanding the preceding provisions of this paragraph, the Secretary may not approve any supplemental health care benefit that provides for the coverage of any prescription drug (other than that required under part E)."; and

(4) in paragraph (5), by striking "Health Care Financing Administration" and inserting "Medicare Competitive Agency" in the flush matter following subparagraph (B).

(b) ESRD Antidiscrimination.—Section 1852(b)(1) (42 U.S.C. 1395w–22(b)(1)) is amended to read as follows:

"(1) Beneficiaries.—A Medicare+Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part, for individuals permitted to be enrolled with the organization under this part, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.".

(c) Disclosure Requirements.—Section 1852(c)(1)(B) (42 U.S.C. 1395w–22(c)(1)(B)) is amended by striking "section 1851(d)(3)(A)" and inserting "subparagraphs (A) and (B) of section 1851(d)(3)".

(d) Assuring Access to Services in Medicare+Choice Private Fee-For-Service Plans.—Section 1852(d)(4)(A) is amended by striking "part A, part B, or both, for such services, or" and inserting "part E for such services (and, if the Medicare+Choice organization elects to offer prescription drug coverage, that are not less than the payment rates provided under part D for such services for Medicare+Choice eligible individuals enrolled under that part); or".

(e) Information on Beneficiary Liability for Medicare+Choice Private Fee-For-Service Plans.—Section 1852(k)(2)(C)(i) (42 U.S.C. 1395w–22(k)(2)(C)(i)) is amended by striking "parts A and B" and inserting "part E, under part D for individuals enrolled under that part (if the Medicare+Choice organization elects to offer prescription drug coverage),".

### SEC. 309. PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS FOR ENHANCED MEDICARE BENEFITS UNDER PART E BASED ON RISK-ADJUSTED BIDS.

(a) In General.—Section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)) is amended to read as follows:

"(1) Monthly payments.—Under a contract under section 1857 and subject to subsections (f), (h), and (j) and section 1859(e)(4), the Secretary shall make, to each Medicare+Choice organization, with respect to coverage of an individual for a month under this part in a Medicare+Choice payment area, separate monthly payments with respect to—

"(A) enhanced medicare benefits under part E in accordance with subsection (d); and

"(B) if the Medicare+Choice organization elects to offer prescription drug coverage, benefits under part D in accordance with subsection (k) for individuals enrolled under that part.".

(b) Conforming Amendment.—Section 1853(g)(1)(A) (42 U.S.C. 1395w–23(g)(1)(A)) is amended by inserting "as part of the enhanced medicare benefits elected under part E of" before "the original medicare fee-for-service program option".

### SEC. 310. SEPARATE PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS FOR PART D BENEFITS.

(a) In General.—Section 1853 (42 U.S.C. 1395w–27) is amended by adding at the end the following new subsection:

"(k) Availability of Prescription Drug Benefits.—

"(1) Scope of prescription drug benefits.—

"(A) Availability of standard coverage.—If a Medicare+Choice organization elects to offer prescription drug coverage under a Medicare+Choice plan, such organization shall make such coverage (other than that required under part E) available to each enrollee under that plan who is also enrolled under part D that includes only standard coverage and that meets the requirements of this subsection.

"(B) Additional qualified prescription drug coverage.—In addition to the standard coverage option made available to each enrollee under paragraph (1), a Medicare+Choice plan may make available to each enrollee that is also enrolled under part D, other qualified prescription drug coverage (other than that required under part E) that meets the requirements of this subsection under a Medicare+Choice plan offered under this part.

"(C) Requirement of enrollment in part D to receive prescription drug benefits.—A Medicare+Choice organization may not provide for the coverage of any prescription drugs (other than that required under part E) to an enrollee unless that enrollee is also enrolled under part D.

"(2) Payment of full amount of premium to organizations for qualified prescription drug coverage.—For each year (beginning with 2005), the Secretary shall pay to each Medicare+Choice organization offering a Medicare+Choice plan that provides qualified prescription drug coverage in which a Medicare+Choice eligible individual is enrolled, an amount equal to the full amount of the monthly premium submitted under section 1854(a)(2)(B) on behalf of each such individual enrolled in such plan for the year, as adjusted using the risk adjusters that apply to the standard coverage under section 1853(b)(4)(B).

"(3) Amount of Medicare+Choice monthly obligation for qualified prescription drug coverage.—In the case of a Medicare+Choice eligible individual receiving qualified prescription drug coverage under a Medicare+Choice plan, the obligation for qualified prescription drug coverage of such individual in a year shall be determined as follows:

"(A) Premiums equal to the monthly national average.—If the amount of the monthly premium for qualified prescription drug coverage submitted under section 1854(a)(2)(B) for the plan for the year is equal to the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the individual in that year shall be an amount equal to the applicable percent (as defined in section 1860D–17(c)) of the amount of the monthly national average premium.

"(B) Premiums that are less than the monthly national average.—If the amount of the monthly premium for qualified prescription drug coverage submitted under section 1854(a)(2)(B) for the plan for the year is less than the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the individual in that year shall be an amount equal to—

"(i) the applicable percent (as defined in section 1860D–17(c)) of the amount of the monthly national average premium; minus

"(ii) the amount by which the monthly national average premium exceeds the amount of the premium submitted under section 1854(a)(2)(B).

"(C) Premiums that are greater than the monthly national average.—If the amount of the monthly premium for qualified prescription drug coverage submitted under section 1854(a)(2)(B) for the plan for the year exceeds the monthly national average premium (as computed under section 1860D–15) for the year, the monthly obligation of the individual in that year shall be an amount equal to the sum of—

"(i) the applicable percent (as defined in section 1860D–17(c)) of the amount of the monthly national average premium; plus

"(ii) the amount by which the premium submitted under section 1854(a)(2)(B) exceeds the amount of the monthly national average premium.

"(4) Collection of Medicare+Choice monthly obligation for qualified prescription drug coverage.—The provisions of section 1860D–18, including subsection (b) of such section, shall apply to the amount of the monthly premium required to be paid by a Medicare+Choice eligible individual receiving qualified prescription drug coverage under a Medicare+Choice plan (as determined under paragraph (3)) in the same manner as such provisions apply to the monthly beneficiary obligation required to be paid by an eligible beneficiary enrolled in a Medicare Prescription Drug plan.

"(5) Compliance with additional beneficiary protections.—With respect to the offering of qualified prescription drug coverage by a Medicare+Choice organization under a Medicare+Choice plan, the organization and plan shall meet the requirements of section 1860D–5, including requirements relating to information dissemination and grievance and appeals, in the same manner as they apply to an eligible entity and a Medicare Prescription Drug plan under part D. The Secretary shall waive such requirements to the extent the Secretary determines that such requirements duplicate requirements otherwise applicable to the organization or plan under this part.

"(6) Coverage of prescription drugs for enrollees in plans that do not offer prescription drug coverage.—If an individual who is enrolled under part D is enrolled in a Medicare+Choice plan that does not offer prescription drug coverage, such individual shall be permitted to enroll for prescription drug coverage under such part in the same manner as if such individual was not enrolled in a Medicare+Choice plan.

"(7) AVAILABILITY OF PREMIUM SUBSIDY AND COST-SHARING REDUCTIONS FOR LOW-INCOME ENROLLEES.—For provisions—

"(A) providing premium subsidies and cost-sharing reductions for low-income individuals receiving qualified prescription drug coverage through a Medicare+Choice plan, see section 1860D–19; and

"(B) providing a Medicare+Choice organization with insurance subsidy payments for providing qualified prescription drug coverage through a Medicare+Choice plan, see section 1860D–20.

"(8) QUALIFIED PRESCRIPTION DRUG COVERAGE; STANDARD COVERAGE.—For purposes of this part, the terms 'qualified prescription drug coverage' and 'standard coverage' have the meanings given such terms in paragraphs (9) and (10), respectively, of section 1860D.".

(b) SANCTIONS FOR IMPROPER PRESCRIPTION DRUG COVERAGE.—Section 1857(g)(1) (42 U.S.C. 1395w–27(g)(1)) is amended—

(1) in subparagraph (F), by striking "or" after the semicolon at the end;

(2) in subparagraph (G), by adding "or" after the semicolon at the end; and

(3) by adding at the end the following new subparagraph:

"(H) charges any individual an amount in excess of the Medicare+Choice monthly obligation for qualified prescription drug coverage under section 1853(k)(3), provides coverage for prescription drugs that is not qualified prescription drug coverage (as defined in section 1853(k)(7)), offers prescription drug coverage, but does not make standard prescription drug coverage available (as defined in such section), or provides coverage for prescription drugs (other than those covered under part E) to an individual who is not enrolled under part D;".

### SEC. 311. ADMINISTRATION BY THE MEDICARE COMPETITIVE AGENCY.

On and after January 1, 2005, the Medicare+Choice program under part C of title XVIII of the Social Security Act shall be administered by the Medicare Competitive Agency in accordance with subpart 3 of part D of such title (as added by section 101), and, in accordance with section 1860D–25(c)(3)(C) of such Act (as added by section 101), each reference to the Secretary made in this title, or the amendments made by this title, shall be deemed to be a reference to the Administrator of the Medicare Competitive Agency.

### SEC. 312. CONTINUED CALCULATION OF ANNUAL MEDICARE+CHOICE CAPITATION RATES.

(a) CONTINUED CALCULATION.—

(1) IN GENERAL.—Section 1853(c) (as amended by subsection (b)) is amended by adding at the end the following new paragraph:

"(7) TRANSITION TO MEDICARE+CHOICE COMPETITION.—

"(A) IN GENERAL.—For each year (beginning with 2005) payments to Medicare+Choice plans shall not be computed under this subsection, but instead shall be based on the payment amount determined under subsection (d).

"(B) CONTINUED CALCULATION OF CAPITATION RATES.—For each year (beginning with 2004) the Secretary shall calculate and publish the annual Medicare+Choice capitation rates under this subsection and shall use the annual Medicare+Choice capitation rate determined under subsection (c)(1)(B) for purposes of determining the benchmark amount under subsection (a)(4).".

(2) CONFORMING AMENDMENT.—Section 1853(c)(1) (42 U.S.C. 1395w–23(c)(1)) is amended by striking "For purposes of this part, subject to paragraphs (6)(C) and (7)," and inserting "For purposes of making payments under this part for years before 2004 and for purposes of calculating the annual Medicare+Choice capitation rates under paragraph (7) beginning with such year, subject to paragraph (6)(C)," in the matter preceding subparagraph (A).

(b) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES IN CONTINUED CALCULATION.—Section 1853(c) (42 U.S.C. 1395w–23(c)), as amended by subsection (a)(1), is amended by adding at the end the following new paragraph:

"(8) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—For purposes of determining the blended capitation rate under subparagraph (A) of paragraph (1) and the minimum percentage increase under subparagraph (C) of such paragraph for a year, the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in such rate, to the extent practicable, the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.".

### SEC. 313. FIVE-YEAR EXTENSION OF MEDICARE COST CONTRACTS.

(a) IN GENERAL.—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of BIPA (114 Stat. 2763A–568), is amended by striking "2004" and inserting "2009".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

### SEC. 314. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 306(b)(1)(B), section 313(b), and subsection (b), the amendments made by this title shall apply to plan years beginning on and after January 1, 2005.

(b) MEDICARE+CHOICE MSA PLANS.—Notwithstanding any provision of this title, the Secretary shall apply the payment and other rules that apply with respect to an MSA plan described in section 1851(a)(2)(B) of the Social Security Act (42 U.S.C. 1395w–21(a)(2)(B)) as if this title had not been enacted.

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**SA 4311.** Mr. REID (for Mr. WYDEN (for himself and Mr. ALLEN) proposed an amendment to the bill S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology; as follows:

On page 26, line 19, after the period, insert "In completing the report, representatives of the commercial wireless industry shall be consulted, particularly to the extent that the report addresses commercial wireless systems.".

On page 26, strike lines 22 and 23, and insert the following:

(1) developing a system of priority access for certain governmental officials to existing commercial wireless systems, and the impact such a priority access system would have on both emergency communications capability and consumer access to commercial wireless services;

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Production and Price Competitiveness be authorized to conduct a hearing on July 18, 2002 in SR–3328A at 2:00 p.m. The purpose of this hearing will be to discuss S. 532, the Pesticide Harmonization Act.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 18, 2002, at 11 a.m. on examining Enron: Enron Energy Services and its role in the western state electricity crisis.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 18, 2002, at 2:30 p.m. on the nomination of Frederick Gregory to be Deputy Administrator of NASA, Kathie Olsen and Richard Russell to be Associate Directors of OSTP.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Thursday, July 18, 2002, at 2:30 p.m. in SD–366. The purpose of this hearing is to receive testimony on the following bills:

S. 1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, and for other purposes;

S. 1943, to expand the boundary of the George Washington Birthplace National Monument, and for other purposes;

S. 2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area;

S. 2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado, and for other purposes; and

H.R. 1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, July 18, 2002, at 10:00 a.m. to conduct a hearing to hear from the following nominees: John S. Bresland to be a Member of the Chemical Safety and Hazard Investigation Board, and Carolyn W. Merritt to be a Member and Chair of the Chemical Safety and Hazard Investigation Board.

The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, July 18, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on a bill to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

I also ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, July 18, 2002, at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 2065, a bill to Ratify an Agreement to Regulate Air Quality on the Southern Ute Indian Reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 18, 2002 at 10:00 a.m., in SD–226.

#### TENTATIVE AGENDA

I. Bills.—S. 486, Innocence Protection Act [Leahy/Smith]; H.R. 3375, Embassy Employee Compensation Act [Blunt]; S. 862, State Criminal Alien Assistance Program Reauthorization Act of 2001 [Feinstein/Kyl/Durbin/Cantwell]; S. 2395, Anticounterfeiting Amendments of 2002 [Biden/Hatch/Leahy/Feinstein/DeWine]; S. 2513, DNA Sexual Assault Justice Act of 2002 [Biden/Cantwell/Specter/Clinton/Carper].

II. Resolutions.—S. Res. 293, A resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country. [Biden/Kohl].

The PRESIDING OFFICER. Without objection, it is so ordered.

### SPECIAL COMMITTEE ON AGING

Ms. STABENOW. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, July 18, 2002 from 9:30 a.m.–12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Ms. STABENOW. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 18, 2002 at 10:00 a.m. and 2:30 p.m. to hold a closed hearing on the Joint Inquiry into the events of September 11, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON CONSUMER AFFAIRS, FOREIGN COMMERCE AND TOURISM

Ms. STABENOW. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs, Foreign Commerce and Tourism of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 18, 2002, at 9:30 a.m., on perspective on improving corporate responsibility.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mrs. CLINTON. Madam President, I ask unanimous consent that Suzanne Johnson, a legislative fellow in my office, be permitted on the Senate floor throughout the debate on S. 812, and other prescription drug issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Madam President, I ask unanimous consent that Dr. Howard Forman, from my office, be granted floor privileges for the duration of debate on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SCIENCE AND TECHNOLOGY EMERGENCY MOBILIZATION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 459, S. 2037.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2037) to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike all after the enactiing clause and insert the part printed in italic]

S. 2037

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Science and Technology Emergency Mobilization Act".*

***SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.***

*(a) FINDINGS.—The Congress finds the following:*

*(1) In the aftermath of the terrorist attacks of September 11, 2001, many private-sector technology and science experts provided valuable assistance to rescue and recovery efforts by donating their time and expertise. However, many who wished to help had significant difficulty determining how they could be most useful. They were hampered by the lack of any organizational structure to harness their abilities and coordinate their efforts.*

*(2) A prompt and well-coordinated volunteer base of technology and science expertise could help save lives, aid rescue efforts, and rebuild critical technology infrastructures in the event of a future major terrorist attack, natural disaster, or other emergency. Technology and science expertise also could help minimize the vulnerability of critical infrastructure to future attacks or natural disasters.*

*(3) Police, fire personnel, and other local emergency responders frequently could benefit from timely technological assistance, and efforts to organize a system to assist in locating the desired help should be expedited.*

*(4) Efforts to develop and deploy innovative new technologies for use by government emergency prevention and response agencies would be improved by the designation of a clear contact point within the federal government for intake and evaluation of technology ideas.*

*(5) The creation of compatible communications systems would strengthen emergency response efforts of police, fire, and other emergency response personnel to communicate effectively with each other and with their counterparts from nearby jurisdictions. Some programs, such as the Capital Wireless Integrated Network (CapWIN), have made significant progress in addressing the issue of interoperable communications between emergency service providers in particular urban areas and the Federal government has sought to address the issue through the Public Safety Wireless Networks program. Relatively few States and localities, however, have achieved a sufficient level of communications interoperability.*

*(b) PURPOSE.—The purpose of this Act is to reinforce, focus, and expedite ongoing efforts to mobilize America's extensive capability in technology and science in responding to the threats posed by terrorist attacks, natural disasters, and other major emergencies, by creating—*

*(1) a national emergency technology guard or "NET Guard" that includes—*

*(A) rapid response teams of volunteers with technology and science expertise, organized at the local level; and*

*(B) opportunities for NET Guard volunteers to assist with non-emergency tasks related to local preparedness and prevention, including reducing the vulnerability of government information technology systems;*

*(2) a national clearinghouse for innovative civilian technologies relating to emergency prevention and response; and*

*(3) a pilot program to assist state efforts to achieve the interoperability of communications systems used by fire, law enforcement, and emergency preparedness and response agencies.*

### SEC. 3. ESTABLISHMENT OF NATIONAL EMERGENCY TECHNOLOGY GUARD.

*(a) In General.—Not later than 1 year after the date of enactment of this Act, the President shall designate an appropriate department, agency, or office to compile and maintain a repository database of nongovernmental technology and science experts who have offered, and who can be mobilized, to help Federal agencies counter terrorism.*

*(b) Net Guard Disaster Response Teams.—*

*(1) Certification procedures.—The President shall also designate an appropriate department, agency, or office (which may be the department, agency, or office designated under subsection (a)) to develop a procedure to encourage groups of volunteers with technological or scientific expertise to team with individuals from State and local governments, local emergency response agencies, and nongovernmental emergency aid, assistance, and relief organizations.*

*(2) Team formation.—The department, agency, or office designated under paragraph (1) may develop and implement a system for facilitating the formation of local teams of such volunteers by helping individuals that wish to participate in such teams to locate and contact one another.*

*(3) Criteria for certification.—The department, agency, or office designated under paragraph (1) shall establish criteria for the certification of such teams, including—*

*(A) the types of expertise, capabilities, and equipment required; and*

*(B) minimum training and practice requirements, including participation in not less than 2 emergency drills each year.*

*(4) Certification and credentials.—The department, agency, or office designated under paragraph (1) shall—*

*(A) certify any group of individuals requesting certification as a NET Guard disaster response team that complies with the procedures established under paragraph (1) and meets the criteria established under paragraph (3);*

*(B) issue credentials and forms of identification as appropriate identifying each such team and its members; and*

*(C) suspend, withdraw, or terminate certification of and recover credentials and forms of identification from any NET Guard disaster response team, or any member thereof, when the head of the entity designated deems it appropriate.*

*(5) Compensation; per diem, travel, and transportation expenses.—The department, agency, or office designated under paragraph (1) may authorize the payment to a member of a NET Guard disaster response team, for the period that member is engaged in performing duties as such member at the request of the United States—*

*(A) compensation as employees for temporary or intermittent services as experts or consultants under section 3109 of title 5, United States Code; and*

*(B) travel or transportation expenses, including per diem in lieu of subsistence, as provided by section 5703 of title 5.*

*(c) Additional Authorities.—The head of the department, agency, or office designated under paragraph (1) may—*

*(1) activate NET Guard disaster response teams in an emergency (as defined in section 102(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(1)) or a major disaster (as defined in section 102(2) of that Act);*

*(2) provide for access by team members to emergency sites; and*

*(3) assign, on a voluntary basis, NET Guard volunteers to work, on a temporary basis on—*

*(A) the development and maintenance of the database described in subsection (a) and the procedures for access to the database; and*

*(B) such other technology related projects to improve emergency preparedness and prevention as may be appropriate.*

### SEC. 4. CENTER FOR CIVILIAN HOMELAND SECURITY TECHNOLOGY EVALUATION.

*(a) In General.—The President shall establish a Center for Civilian Homeland Security Technology Evaluation within the Executive Branch to evaluate innovative technologies relating to security and emergency preparedness and response and to serve as a national clearinghouse for such technologies.*

*(b) Function.—The Center shall—*

*(1) serve as a principal, national contact point for the intake of innovative technologies relating to security and emergency preparedness and response;*

*(2) evaluate promising new technologies relating to security and emergency preparedness and response;*

*(3) assure persons and companies that have submitted a technology receive a timely response to inquiries;*

*(4) upon request by Federal agencies consult with and advise Federal agencies about the development, modification, acquisition, and deployment of technology relating to security and emergency preparedness and response; and*

*(5) provide individuals and companies that have submitted information about a technology the ability to track, to the extent practicable, the current status of their submission online.*

*(c) Model.—The Center may be modeled on the Technical Support Working Group that provides an interagency forum to coordinate research and development of technologies for combating terrorism.*

*(d) Internet Access.—*

*(1) In general.—The President shall create an online portal accessible through the FirstGov Internet website (www.firstgov.gov), or any successor to such website, to provide individuals and companies with innovative technologies a single point of access to the Center and a single point of contact at each Federal agency participating in the Center.*

*(2) Functions.—The Center portal shall—*

*(A) provide individuals and companies with an online opportunity to obtain information about various open solicitations relevant to homeland security and points of contact for submission of solicited and unsolicited proposals; and*

*(B) include safeguards to ensure that business proprietary information is protected and that no personally identifiable information is accessible to unauthorized persons.*

*(e) Procurement Not Conditioned on Submission.—Nothing in this section requires a technology to be submitted to, or evaluated by, the Center in order to be eligible for procurement by Federal agencies.*

### SEC. 5. COMMUNICATIONS INTEROPERABILITY PILOT PROJECTS.

*(a) In General.—The President shall establish within an appropriate department, agency, or office a pilot program for planning or implementation of interoperable communications systems for appropriate emergency response agencies.*

*(b) Grants.—The head of the department, agency, or office in which the program is established under subsection (a) shall make grants of $5,000,000 each to 7 different States for pilot projects under the program.*

*(c) Criteria; Administrative Provisions.—The head of the department, agency, or office in which the program is established under subsection (a), in consultation with other appropriate agencies, shall prescribe such criteria for eligibility for projects and for grantees, including applications, fund use assurance and accounting, and reporting requirements as the head of the entity deems appropriate. In prescribing such criteria, the head of the department, agency, or office shall consult with the administrators of existing projects designed to facilitate public safety communications interoperability concerning the best practices and lessons learned from such projects.*

### SEC. 6. REPORTS.

*(a) Wireless Communications Capabilities for First Responders.—Within 1 year after the date of enactment of this Act, the President shall designate an appropriate department, agency, or office to submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives setting forth policy options for ensuring that emergency officials and first responders have access to effective and reliable wireless communications capabilities. The report shall include an examination of the possibility of—*

*(1) developing a system of priority access to existing commercial wireless systems;*

*(2) designating national emergency spectrum to be held in reserve for public safety and emergency purposes; and*

*(3) creating a specialized public safety communications network or networks for use with wireless devices customized for public safety use.*

*(b) In-Kind Donations.—Within 1 year after the date of enactment of this Act, the Federal Emergency Management Agency, in consultation with other appropriate Federal agencies, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report on the barriers to acceptance by Federal agencies of in-kind donations of technology and services during emergency situations.*

### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

*(a) National Emergency Technology Guard.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 and 2004 to carry out section 3.*

*(b) Pilot Programs.—There are authorized to be appropriated to the department, agency, or office in which the program is established under section 5(a) $35,000,000 for fiscal year 2003 to carry out section 5 of this Act, such sums to remain available until expended.*

*(c) Report.—There are authorized to be appropriated to the department, agency, or office designated in section 6(a) $500,000 for fiscal year 2003 to carry out section 6(a) of this Act.*

### SEC. 8. EMERGENCY RESPONSE AGENCIES.

*In this Act, the term "emergency response agency" includes agencies providing any of the following services:*

*(1) Law Enforcement services.*

*(2) Fire services.*

*(3) Emergency Medical services.*

*(4) Public Safety Communications.*

*(5) Emergency Preparedness.*

Mr. WYDEN. Mr. President, as America mobilizes to protect itself from terrorism, a key weapon in its defensive arsenal is its great technological prowess. From high-tech "cyber attacks" to more conventional threats, many of the solutions for reducing America's vulnerabilities at home will be rooted in technology. And much of the country's science and technology expertise resides outside the government in the dynamic arena of private sector entrepreneurship.

Therefore, it is essential to ensure that America's antiterrorism efforts tap the tremendous science and technology talents of the private sector. To that end, the Science and Technology Emergency Mobilization Act will help forge strong partnerships between the government and private sector science and technology experts, in order to provide the best protection and response for the American people.

The legislation the Senate is approving today has been in the works since shortly after September 11. The Subcommittee on Science and Technology held a series of hearings in 2001–2002 on the best way to mobilize science and technology experts, drawing on first-hand accounts of those who sought to offer help in the aftermath of the terrorist attacks. The subcommittee's ranking Republican, Senator ALLEN, joined me as a cosponsor and helped to draft the bill. House Science Committee Chairman BOEHLERT participated as well, making this a bipartisan and bicameral effort. The bill also bears the imprint of various executive branch agencies: we worked very closely with the Office of Management and Budget, the Office of Science and Technology Policy, the Commerce Department's Technology Administration, FEMA, and NIST to shape the original legislation into a finely-turned and targeted bill. On May 17, it was approved by the Commerce Committee without dissent.

The legislation provides for the creation of a database of private sector science and technology experts whom government officials may call upon in emergencies. It provides for the creation of National Emergency Technology Guard, NET Guard, teams of volunteers with technology and science expertise, organized in advance and available to be mobilized on short notice, similar to existing urban search and rescue teams.

It also calls for the creation of a Center for Civilian Homeland Security Technology Evaluation, modeled on the existing Technical Support Working Group, to serve as a single point of contact and clearinghouse for innovative technologies relating to emergency prevention and response. The center will have an online portal, so that the numerous small businesses that have been struggling to negotiate the maze of bureaucracy will finally have a way to get their bright technology ideas into the right hands. In addition, the legislation provides for pilot projects to improve the interoperability of communications systems used by fire, law enforcement, and emergency preparedness and response agencies.

The legislation does not create a large bureaucracy, nor does it seek to micromanage; instead, it gives the President flexibility to decide where within the executive branch the different functions set forth in the bill should be placed. This is particularly important in light of the pending proposals for reorganizing the Federal Government's homeland security functions. This bill is flexible enough to fit comfortably within whatever structure is ultimately adopted.

I express my appreciation to Senator ALLEN for his efforts on the bill; to the distinguished chairman of the Commerce Committee, Senator HOLLINGS, for his help and support as the bill was considered by the committee; and to Mitch Daniels, Director of the Office of Management and Budget, for mobilizing his staff to work with us on the fine points of the legislation. I also thank all the private sector organizations and individuals who provided important advice throughout the process, and in particular those who have expressed formal support for the legislation, including Intel, Microsoft, America Online, Oracle, the National Association of Manufacturers, and the Biotechnology Industry Organization.

Mr. ALLEN. Mr. President, today I rise to thank my colleagues for their unanimous support of S. 2037, the Science and Technology Emergency Mobilization Act. I also thank Senator WYDEN for his leadership and continued tenacious work on pushing this important measure through the Senate.

S. 2037 highlights the vital role technology and innovation play in our Nation's war to protect our homeland from terrorism. As this body has highlighted time and time again, new technologies are being developed every day that can help save lives and improve the ability of our firefighters, police, and first responders to react quickly and effectively to a catastrophic event.

As our Nation becomes more dependent upon technology in nearly every aspect of our lives, the level of vulnerability to technological disruptions rises accordingly. We all saw with the problems following the attacks of September 11, the promptness and quality of the technological response to terrorist attacks or natural disasters could mean the difference between life and death.

S. 2037, the Net Guard bill, will play a major role in preventing many of the problems that occurred during the attacks against New York and the Pentagon. September 11 taught us two things: (1) how much technological improvements are needed for State, local, and Federal services, and (2) the depth of the reservoir of American goodwill to provide solutions.

S. 2037 will call upon the ideas of the best and the brightest minds in the American technology workforce to act as an all-volunteer force to help restore communications and infrastructure operations after a major national disaster. Like all Americans, I was heartened by the volunteer efforts of companies, like Verizon, Intel, IBM, Accenture, and Cingular Wireless, that volunteered both staff and equipment to restore communications in New York and the Washington, DC area.

This bill will simply add structure to private sector efforts and encourages the participation of the Nation's science and technology experts to respond to national emergencies. Additionally, this bill creates a "virtual technology reserve" consisting of a database of private-sector expertise and equipment that can be called upon, at any moment, by emergency officials during a crisis situation.

I believe the all-volunteer teams of science and technology personnel in conjunction with the virtual technology reserve that are created by this legislation will help many Americans by restoring vital services in times of need.

There are many enterprises and commercial applications that can be adapted to meet the Government's needs, however currently there is no central location for evaluation or mechanism for recommendation within the Government. I, along with other Senators, receive volumes of information from numerous companies on their different products and ideas regarding the defense of our homeland. As public servants we want to be sure the Government has the necessary structure and process in place to test and apply new technologies to meet our homeland security needs.

S. 2037 establishes of a Center for Civilian Homeland Security Technology Evaluation and an online, Internet portal within the Executive Branch. This Center will perform the important task of matching the inventions of the private sector to the needs of our Nation's homeland defense. Additionally, the Internet portal will provide individuals and companies with a single point to access the center and a single point of contact at each federal agency participating in the Center for Civilian Homeland Security.

Mr. President, I am glad to see the Senate come together and pass this important legislation and again thank my colleague from Oregon for his leadership. I have truly enjoyed working with him for the successful passage of this positive, constructive utilization of the advances in technology to improve the security of Americans.

Mr. REID. Mr. President, Senators WYDEN and ALLEN have an amendment at the desk, and I ask unanimous consent that the amendment be considered and agreed to, the motion to reconsider be laid upon the table, the committee substitute amendment, as amended, be agreed to, the bill, as amended, be read the third time and passed, and the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD as if read, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4311) was agreed to, as follows:

(Purpose: To ensure that private sector input is considered in the wireless communications capabilities policy options report required by section 6)

On page 26, line 19, after the period, insert "In completing the report, representatives of the commercial wireless industry shall be consulted, particularly to the extent that the report addresses commercial wireless systems.".

On page 26, strike lines 22 and 23, and insert the following:

(1) developing a system of priority access for certain governmental officials to existing commercial wireless systems, and the impact such a priority access system would have on both emergency communications capability and consumer access to commercial wireless services;

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2307), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

## BORN-ALIVE INFANTS PROTECTION ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 323, H.R. 2175.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2175) to protect infants who are born alive.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2175) was read the third time and passed.

## RECOGNIZING THE ACCOMPLISHMENTS OF IGNACY JAN PADEREWSKI

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 296 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 296) recognizing the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th anniversary of the return of his remains to Poland.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD as if read at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 296) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 296

Whereas Ignacy Jan Paderewski, born in Poland in 1860, was a brilliant and popular pianist who performed hundreds of concerts in Europe and the United States during the late 19th and early 20th centuries;

Whereas Paderewski often donated the proceeds of his concerts to charitable causes;

Whereas, during World War I, Paderewski worked for the independence of Poland and served as the first Premier of Poland;

Whereas in December 1919, Paderewski resigned as Premier of Poland, and in 1921 he left politics to return to his music;

Whereas the German invasion of Poland in 1939 spurred Paderewski to return to political life;

Whereas Paderewski fought against the Nazi dictatorship in World War II by joining the exiled Polish Government to mobilize the Polish forces and to urge the United States to join the Allied Forces;

Whereas Paderewski died in exile in America on June 29, 1941, while war and occupation imperiled all of Europe;

Whereas by the direction of United States President Franklin D. Roosevelt, Paderewski's remains were placed along side America's honored dead in Arlington National Cemetery, where President Roosevelt said, "He may lie there until Poland is free.";

Whereas in 1963, United States President John F. Kennedy honored Paderewski by placing a plaque marking Paderewski's remains at the Mast of the Maine at Arlington National Cemetery;

Whereas in 1992, United States President George H.W. Bush, at the request of Lech Walesa, the first democratically elected President of Poland following World War II, ordered Paderewski's remains returned to his native Poland;

Whereas June 26, 1992, the remains of Paderewski were removed from the Mast of the Maine at Arlington National Cemetery, and were returned to Poland on June 29, 1992;

Whereas on July 5, 1992, Paderewski's remains were interned in a crypt at the St. John Cathedral in Warsaw, Poland; and

Whereas Paderewski wished his heart to be forever enshrined in America, where his lifelong struggle for democracy and freedom had its roots and was cultivated, and now his heart remains at the Shrine of the Czestochowa in Doylestown, Pennsylvania: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist; and

(2) acknowledges the invaluable efforts of Ignacy Jan Paderewski in forging close Polish-American ties, on the 10th Anniversary of the return of Paderewski's remains to Poland.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore and upon the recommendation of the Republican Leader, pursuant to Public Law 98–183, as amended by Public Law 103–419, reappoints Russell G. Redenbaugh of Pennsylvania to the United States Commission on Civil Rights.

## ORDERS FOR FRIDAY, JULY 19, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, July 19; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 11:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees; further, that the cloture vote scheduled for 10:30 a.m. on Tuesday, July 23, occur at 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. REID. Mr. President, tomorrow there is as much time as Senators may want to talk about the pending amendments or any topic related to this bill. The leader has said we will convene in the afternoon on Monday. There are no votes on Monday. If Senators want to talk about the pending amendments or the bill tomorrow, there will be available as many hours as Senators wish to speak, and then all day Monday. These are two very important amendments, and people should feel inclined to talk about them if they desire. We cannot have anyone carping and saying: I did not have time to talk. Senators have all the time that can possibly be needed to talk about these two important amendments.

There will be no rollcall votes tomorrow or Monday. As I indicated in the request the Chair has granted, we will vote at 10:45 a.m. on Tuesday.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the

Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:03 p.m., adjourned until Friday, July 19, 2002, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate July 18, 2002:

### DEPARTMENT OF TRANSPORTATION

ROGER P. NOBER, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2005, VICE WILLIAM CLYBURN, JR., TERM EXPIRED.

### DEPARTMENT OF THE TREASURY

PAMELA F. OLSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE MARK A. WEINBERGER, RESIGNED.

### THE JUDICIARY

S. JAMES OTERO, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE RICHARD A. PAEZ, ELEVATED.

ROBERT G. KLAUSNER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE WILLIAM D. KELLER, RETIRED.

ROBERT A. JUNELL, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE HIPOLITO FRANK GARCIA, DECEASED.

JAMES E. KINKEADE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS, VICE JOE KENDALL, RESIGNED.

WILLIAM E. SMITH, OF RHODE ISLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND, VICE RONALD R. LAGUEUX, RETIRED.

### IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER SECTION 211, TITLE 14, U.S. CODE:

*To be commander*

GEORGE H. TEUTON, 4988

*To be lieutenant*

BLAKE L. NOVAK, 5248

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. CHARLES F. WALD, 1222

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203.

*To be colonel*

FREDERIC A. MARKS, 2079

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

MEREDITH L. *ADAMS, 9432
JAMES W. BARBER, 0277
CRAIG T. *BARD, 7892
PAUL O. *BEGNOCHE, 5518
MARY ANN BEHAN, 0980
DANNY L. *BLAKE, 0412
DUANE M. *BRAGG, 3514
MICHAEL S. BURKE, 3168
RICHARD E. CUTTS, 3455
JOHN H. *DANIELS, 2008
GREGORY B. *DEWOLF, 6486
ANNETTE I. *DORRIS, 1488
BRENT A. *EPLING, 5157
MATTHEW B. *ESCHER, 5682
CHARLES B. *FARLEY, 9049
LOUIS A. *FERRUCCI JR., 0110
KEVIN M. *FRANKE, 5234
DAVID V. *GILL, 9792
MATTHEW A. *GRINSTAFF, 4208
CHARLES A. *GROH, 7025
SEAN A. *HOLLOWAY, 4108
JAMES M. *HUGHES, 2546
KARL D. *HUTH, 0005
GENE C. *KRAFT, 4316
BARNA C. *LAMBERT, 1508
DWIGHT E. *LISLE, 5219
CHRISTOPHER P. MARCUS, 8979
RODNEY K. *MCCURDY, 8285
RICK A. *MOORE, 9411
STEPHEN M. MOUNTS, 9535
ERICH P. *MURRELL, 5279
CHRISTOPHER A. *PHILLIPS, 5476
STEPHEN D. *SPEECE, 3163
MICHAEL C. *SUMNER, 4647
CATHERINE A. *TARABINI, 4725
STEVEN P. *VANDEWALLE, 0010
CHRISTOPHER L. *VROOMAN, 4778
EDWIN W. *WRIGHT, 1239

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

SARA K. *ACHINGER, 9414
MARK E. *ALLEN, 8464
BRUCE A. *BARNARD, 6295
TERESA H. *BARNES, 6422
GREGORY A. *BAXLEY, 6964
NOAH J. *BLEDSTEIN, 4865
ROBERT F. *BOOTH, 8941
JEFFREY *BRANSTETTER, 0900
ROBIN L. *BRODRICK, 7069
LEONARD L. *BURRIDGE, 3767
ROBERT C. *BURTON, 1023
CYNTHIA *BUXTON, 9033
CHRISTOPHER L. COLCLASURE, 0066
CHRISTA S. *COTHREL, 7060
MICHELLE S. *CRAMER, 3346
RONALD S. *CRAMER, 4418
DAVID M. *CUNNINGHAM, 8525
GORDON P. *DAVIS, 5530
KIM M. *DIPPOLITO, 0918
BRETT W. *DOWNEY, 3026
JEFFREY A. *FERGUSON, 6542
DAVID J. R. *FRAKT, 6612
PETER *GALINDEZ JR., 7819
FRANK T. *GIAMBATTISTA, 8276
MICHAEL W. *GOLDMAN, 0872
SHANNON R. *HANSCOM, 3150
KRISTINE R. *HOFFMAN, 6594
DARREN C. *HUSKISSON, 4313
KYLE R. *JACOBSON, 7534
DIANA L. *JOHNSON, 1696
JOSHUA E. *KASTENBERG, 6631
MARCI A. *LAWSON, 2691
MICHAEL A. *LEWIS, 1052
TRACEY Y. *MADSEN, 9248
BRYAN T. MARTIN, 3347
TODD E. MCDOWELL, 2914
MARTIN T. *MITCHELL, 6595
KYLE W. *NOLTE, 9120
RICHARD S. *PAKOLA, 9295
IRA *PERKINS, 0082
CHARLES L. *PLUMMER, 1440
TERESA L. *REED, 8557
NATALIE D. *RICHARDSON, 5242
TAMAIRA *RIVERA, 1532
THOMAS A. *ROGERS JR., 0744
DEREK S. *SHERRILL, 9178
JOHN D. SMITH, 7612
HUGH A. *SPIRES JR., 0366
MICHAEL A. *SUMNER, 1569
ERIK A. *TROFF, 1079
RACHEL E. VANLANDINGHAM, 4594
REBECCA R. *VERNON, 2209
STACIE A. *VEST, 8005
MATTHEW S. *WARD, 4967
PATRICK J. *WELLS, 9401
ERIC J. *WERNER, 4000
LYNNE A. *WHITTLER, 1865
JONATHAN P. *WIDMANN, 2165
CHARLES E. *WIEDIE JR., 0551

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

CHRISTOPHER R. *ABRAMSON, 8302
ORLANDO A. ACOSTA, 1662
BRIAN E. *ADAMCIK, 1999
ANDREW J. ADAMS, 7167
DAVID E. *ADAMS, 9598
DENNIS P. *ADAMS, 9300
SHAWN J. *ADKINS, 5368
MICHAEL P. AERSTIN, 3152
THANOON J. *AGHA, 7020
LATHEEF N. *AHMED, 2579
MARK J. *AHRENS, 3299
RICKY L. *AINSWORTH, 1795
SUSAN M. *AIROLA, 8536
ANTHONY J. AJELLO JR., 3160
MICHAEL J. *AKOS, 5632
KRISTINA M. *ALBERTWYMS, 4931
CHARLYNN M. *ALDERMAN, 8278
PATRICK L. *ALDERMAN, 9705
JOSE M. *ALEMAN, 8287
LEWIS E. ALFORD III, 7224
DAVID T. *ALLEN, 7461
THADDEUS P. ALLEN, 0150
WALTER C. ALLEN II, 2117
NATHAN A. ALLERHEILIGEN, 1678
MATTHEW W. ALLINSON, 4888
CHARLES R. ALMQUIST, 5256
CLIFFORD G. *ALTIZER, 3019
RAYMOND ALVES II, 3574
KELLY JAY *AMEDEE, 7146
CHRISTOPHER C. *AMENTA, 9000
STEVEN C. AMMONS, 9566
DAVID J. *ANASON, 8176
KEVIN P. *ANCHOR, 8850
CORNELIUS T. *ANDERSON, 9483
DAGVIN R. M. ANDERSON, 5448
DOUGLAS C. *ANDERSON, 2886
LEIGHTON T. ANDERSON JR., 1733
MICHAEL A. *ANDERSON, 2119
MONTE D. ANDERSON, 3076
ROBERT E. *ANDERSON JR., 2313
STEVEN E. ANDERSON, 2260
THEODORE J. ANDERSON, 7103
TIMOTHY W. ANDERSON, 1528
JOSE ZL *ANDIN, 0254
MICHAEL S. *ANGLE, 1122
STEVEN E. *ANKERSTAR, 4890
CHRISTOPHER T. ANTHONY, 5134
WILLIAM B. *APODACA, 1170
JOHN E. *ARD, 5377
JASON R. ARMAGOST, 5374
JOHN H. *ARMSTRONG JR., 2244
JONATHAN D. ARNETT, 8296
CHARLES F. *ARNOLD JR., 5205
JOSEPH E. *ARTHUR, 8028
REGINALD E. G. *ASH III, 8035
JOEL E. ATKINSON, 7871
TAFT O. AUJERO, 1108
SCOTT J. BABBITT, 0710
LESLIE P. BABICH, 3076
JEREMY O. BAENEN, 5479
MARK E. *BAER, 6866
FRED P. *BAIER, 5558
ROBERT D. *BAIER, 5488
CHARLES P. *BAILEY JR., 4381
DARRIN E. *BAILEY, 3407
JAMES B. *BAILEY JR., 2679
RICHARD J. BAILEY JR., 2223
BRANDON E. BAKER, 7302
CRAIG R. BAKER, 4552
GILBERT W. BAKER, 3250
JESSICA *BAKER, 0632
JOHN P. *BAKER, 3559
RICHARD W. *BAKER, 3842
JONATHAN P. *BAKONYI, 9239
RUSSELL L. *BALL, 1547
MICKEY L. BALLARD, 3406
THOMAS C. *BALLARD, 3073
DAVID BALLEW, 8776
KEITH W. BALTS, 0238
ANTHONY E. BAMSEY, 4199
MARTIN J. *BANGERT, 5048
DAVID D. BANHOLZER, 8080
ERIC J. BARELA, 8483
ALEXANDER J. *BARELKA, 1792
MICHAEL D. BARG, 8646
MATTHEW A. BARKER, 6864
GARY A. *BARLET, 0581
GEOFFREY C. *BARNES, 0391
DANIEL J. *BARONE, 8692
MARK A. BARONI, 8321
FRANKLIN D. *BARROW, 5892
STEPHEN P. BARROWS, 2051
DEREK S. BARTHOLOMEW, 0909
ROBERT A. *BASKETTE, 4826
SAMUEL D. *BASS, 7221
ANDREW J. BATES, 6936
TIMOTHY D. *BATSON, 7591
LOREN E. *BATTELS JR., 0124
ROBERT G. *BATTEMA, 9497
JOSEPH T. *BATTLE JR., 4166
KURT P. *BAUER II, 8438
JONATHAN M. BAUGHMAN, 9655
STEPHEN J. BAUMGARTE, 4092
STEPHEN C. *BAXTER, 8071
JOSEPH G. *BEAHM JR., 9288
DONALD C. *BEAL, 0034
CATHY *BEASLEY, 8276
DAVID L. BEAVER, 6392
MATTHEW R. BECKLEY, 7636
ANDREA D. BEGEL, 1143
ANDREW J. *BELANGER, 1136
DEAN C. *BELLAMY, 2046
KELLY S. *BELLAMY, 8356
ALFRED P. *BELLO III, 2691
KYLE G. *BELLUE, 9810
CHRISTOPHER *BEMBENICK, 5564
ROBERT J. *BEMENT, 9446
MICHAEL R. *BENHAM, 2507
VERONICA P. *BENNET, 5223
JAMES S. *BENOIT, 7204
LYNN *BENTLEY III, 1067
RICHARD F. *BENZ, 2369
DANIELLE E. BERNARD, 8081
JESSICA ANNE BERTINI, 5390
GREG D. BIGLEY, 4877
PETER M. BILODEAU, 9794
CHRISTOPHER D. *BIRKHEAD, 8780
JERRY W. *BISHOP JR., 0126
FREDERICK C. *BIVETTO, 9907
SHAWN L. BLACK, 6094
DOUGLAS F. BLACKLEDGE, 2784
BARRY A. BLANCHARD, 2266
CHRISTOPHER J. *BLANEY, 9525
THOMAS R. *BLAZEK, 0665
JENNIFER A. BLOCK, 4350
JAMES A. BLOIR, 5606
THEODORE B. BLOOMER, 1980
STEPHEN J. *BLOSE, 1329
GREGORY D. *BLOUNT, 6986

TRACY A. *BOBO. 2166
JAMES E. *BODDY JR.. 2682
RON W. *BODINE. 5079
DEAN G. BOERRIGTER. 9868
EDMUND J. BOHN. 6794
ERIC J. *BOLLINGER. 7030
PETER J. *BOLLINGER. 1068
ROBERT P. *BONGIOVI. 6760
NICOLE A. BONTRAGER. 8473
BRENT M. *BOOKER. 9806
EUGENE A. BOOTH JR.. 1312
RALPH W. *BOOTH. 6964
DONALD J. *BORCHELT. 9279
JAMES B. *BORDERS. 8660
BRETT J. *BORGHETTI. 5743
OLEG BORUKHIN. 6838
WILLIAM K. BOSCH. 6193
SCOTT L. BOUSHELL. 0504
PAUL S. BOVANKOVICH. 4460
SCOTT R. *BOWEN. 9084
CORY W. BOWER. 2511
ANDREW S. *BOYD. 2182
MARK H. BOYD. 3155
CHERRYL A. *BOYETTE. 7987
ROOSEVELT F. BOYLAND JR.. 1967
ANDREW J. BRACKEN. 3571
ERIC D. *BRADSHAW. 7413
DANIEL M. *BRANAN. 8898
DANIEL E. *BRANT. 3082
TROY A. J. BRASHEAR. 1967
JAMES A. *BRAUNSCHNEIDER. 0949
FREDERICK C. BRAVO. 2448
PAUL D. *BRAWLEY JR.. 4863
PATRICK R. *BREAUX. 8146
STEVEN J. BREEZE. 5684
JASON M. *BRENNEMAN. 2901
JOSEPH D. BREWER. 9612
JOHN A. *BREWSTER. 0698
ALEXANDER W. BRID. 3665
YUSEF D. BRIDGES. 5225
LARA C. *BRINSON. 6129
RICHARD S. *BRISCOE. 1518
KERRY D. *BRITT. 0982
EDWARD S. BRODERICK JR.. 7434
KEVIN W. *BROOKS. 0975
ERIC D. *BROWN. 6304
HAL D. BROWN. 8449
NICOLE R. *BROWN. 5102
ROBERT G. *BROWN. 8912
SCOTT M. *BROWN. 1502
DAVID F. *BROWNING. 6342
KENNETH W. *BROWNING. 1919
DENISE M. BRUCE. 8774
BRIAN R. *BRUCKBAUER. 8225
NEAL W. *BRUEGGER. 0325
MARY J. *BRUNE. 1459
MICHAEL A. BRUZZINI. 6077
JOHN N. *BRYAN. 2562
ALBERT D. BRYSON. 3218
BRIAN G. *BUCK. 9765
JOHN S. *BULLDIS. 3762
RICHARD K. *BULLOCK. 3759
LANCE R. BUNCH. 1100
DONALD D. *BUOL. 7318
JEFFREY S. BURDETT. 5521
CHRISTOPHER W. *BURELLI. 9019
JOSHUA C. BURGESS. 3040
MICHAEL D. *BURK. 6272
STEVEN J. BURNS. 5573
BRIAN J. *BURNSIDE. 7605
ALVIN F. *BURSE. 9011
DEANNA M. BURT. 8952
ANGELA J. *BURTH. 3970
THOMAS F. BURTSCHI. 4354
FREDERICK E. *BUSH III. 9362
VIVIAN *BUSH. 4171
BRENT B. BUSS. 9590
RICHARD D. *BUTLER. 4774
WADE C. BUXTON. 4852
STEVEN M. *BUZON. 3271
CHRISTINE M. *BYERS. 7762
CHRISTOPHER L. BYROM. 2064
DENNIS O. *BYTHEWOOD. 5904
STEVEN R. CABOSKY. 8755
WILLIAM M. *CAHILL. 7470
JOHN D. *CAIN. 9855
PAUL D. CAIRNEY. 9640
LLENA C. *CALDWELL. 0442
PHILIP M. *CALI. 8642
KENNETH D. CALLAHAN. 3466
JAMES H. CAMARENA. 6575
JEFFREY B. *CAMPBELL. 7895
JEFFREY S. CAMPBELL. 5220
MICHAEL G. *CANCELLIER. 7605
JIMMY R. *CANLAS. 4467
MONTE R. CANNON. 3520
TODD D. *CANTERBURY. 9540
CHRISTOPHER E. *CANTRELL. 4313
ANTHONY B. CAPOBIANCO II. 2238
CHRISTOPHER P. CAPUTO. 9968
MICHAEL R. CARDOZA. 5612
SCOTT H. CARDOZO. 1966
JOEL L. CAREY. 1142
LANCE A. *CARMACK. 5870
STEVEN C. *CARMICAL. 6274
DENNIS F. *CARON. 6059
BRIAN L. CARR. 2135
KELVIN B. *CARR. 5771
ERIN Y. *CARRAHER. 7968
STEPHEN T. CARSON. 6344
BRENDA P. *CARTIER. 1884
ALAN M. *CARVER. 7013
KENNETH R. CARYER. 3757
DONALD *CASNE. 1577
EUGENE G. CASSINGHAM. 8481
ELIZABETH A. CASSTEVENS. 9245
DEAN J. CATALANO. 8522
GREGORY T. *CATARRA. 9974
JOHN M. *CATES. 6025
JOSEPH R. CDEBACA. 7873
BRYAN K. CESSNA. 2514
MICHAEL W. *CEULE. 3868
TIMOTHY P. *CHAMERNIK. 0785
JACK G. *CHARLESWORTH. 8807
HASTINGS M. CHASE. 5862
ROBERT M. *CHAVEZ. 9302
SAMUEL J. CHESNUT IV. 2364
JASON J. E. *CHILDS. 7384
VINCENT J. CHIOMA. 2540
DAVID B. CHISENHALL JR.. 9301
DAVID P. *CHRISMAN. 0814
KENT A. *CHRISTEN. 0673
TERRY L. CHRISTIANSEN. 9711
ROWENA *CHRISTIE. 0512
CHAD L. *CHRISTOPHERSON. 4663
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JAMES N. *GIBBS III, 9410
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PEDRO I. GONZALEZ, 8246
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KEVIN D. *GREENE, 4156
PAUL D. GREENLEE, 7701
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MICHAEL G. *GRESHAM, 1532
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KEVIN R. HAFF, 7701
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DIANA L. *HAJEK, 6686
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CHARLES T. *HALEY III, 8237
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MICHAEL *SCHLOTTERBACK, 4828
THOMAS L. *SCHMIDT, 3194
STANTON P. *SCHNEIDER, 3342
THOMAS E. *SCHOCK, 0867
JOHN P. SCHOEPPNER III, 9913
BRIAN K. *SCHOOLEY, 2198

FRANK D. SCHORZMAN, 4171
STACIE M. SCHORZMAN, 7195
BRYAN J. *SCHRASS, 4524
SCOTT M. *SCHROFF, 7073
JAY H. SCHUELER, 1650
ADRIAN C. SCHUETTKE, 6857
THERESE A. *SCHULER, 2659
TIMOTHY M. *SCHULTEIS, 2214
SARAH J. *SCHULTZ, 8300
TAMARA BARBARA *SCHWARTZ, 3535
DEREK M. *SCOTT, 4822
PAUL J. SCOTT, 3947
DAVID A. SEARLE, 4095
PATRICIA K. *SEINWILL, 1955
DAVID A. SEITZ, 8033
DAVID J. *SELNICK, 3516
KATHRYN H. *SEVERSON, 1930
TRISHA M. *SEXTON, 0022
DAVID A. *SHAFER, 5365
GREGORY T. SHAFFER, 0706
THOMAS B. *SHANK, 3696
RONALD B. *SHANKLAND JR., 6733
CHRISTOPHER M. *SHEARER, 3552
ROBERT K. *SHEEHAN, 2161
JAMES R. SHELL II, 5213
SCOTT A. *SHEPARD, 9766
RYAN C. *SHERWOOD, 7458
JAMES S. SHIGEKANE, 0344
SCOTT S. *SHIGETA, 0162
MICHAEL D. *SHILLING, 2332
DONNA D. SHIPTON, 7561
JOHN W. *SHIRLEY, 3473
LISA C. *SHOEMAKER, 8369
KENNETH A. SHUGART JR., 6615
DAVID A. *SHULTZ, 7304
VINCENT J. *SIERRA, 0122
DAVID K. *SIEVE, 0845
GUILLERMO E. *SILVA, 9813
FRANCISCO O. *SIMAS, 8954
CHARLES T. SIMMONS, 9779
ERIK L. SIMONSEN, 3282
ANTHONY G. SIMPSON, 9583
DANIEL L. SIMPSON, 2196
RAY L. *SIMPSON, 6869
RODNEY *SINGLETON, 2915
DOUGLAS S. SIRK, 1848
TERRY C. *SISSON, 9537
JAMES B. SKIPWORTH, 6755
ANGELA K. SLAGEL, 2414
JOSEPH *SLAVINSKY, 6461
BEVERLY S. *SLOAN, 2452
JEREMY T. SLOANE, 3858
CHARLES L. SMITH III, 9078
CHRISTOPHER M. SMITH, 8204
DAVID C. *SMITH, 4524
DAVID W. SMITH, 1588
JASON A. SMITH, 0932
JEFFREY T. *SMITH, 6116
KENNETH A. *SMITH, 2920
KEVIN D. *SMITH, 7022
LESLIE T. SMITH JR., 6287
MARK D. SMITH, 6215
MATTHEW D. SMITH, 0507
MATTHEW T. *SMITH, 7992
MICHAEL R. *SMITH, 8842
RANDALL E. *SMITH, 9466
RICHARD L. *SMITH, 7641
ROBERT E. SMITH II, 8431
STEPHEN F. SMITH JR., 5296
WILLIAM G. SMITH, 9960
DAVID B. *SMUCK, 8054
DAVID W. *SNODDY, 6547
ROBERT D. *SNODGRASS, 1403
LISA M. *SNOW, 2614
MATTHEW O. SNYDER, 6936
JULIE M. *SOLBERGSHAFFORD, 3252
FREDRICK L. *SONNEFELD, 2280
PANUK P. *SOOMSAWASDI, 4201
STEPHEN T. *SORENSEN, 8196
JEFFREY A. *SORRELL, 7143
GREGORY J. SOUKUP, 3566
WILLIAM A. SPANGENTHAL, 0352
JEFFERY B. *SPANN, 4888
ALAN N. *SPARKS, 4201
KENNETH S. SPEIDEL, 6760
KIMBERLY C. ST JOHN KEYS, 2112
MATTHEW I. *STAHL, 2945
TREVOR D. STAIGER, 4206
JEFFREY W. STAMP, 3618
JASON T. STANLEY, 5603
BILLY L. B. STARKEY, 2675
MICHAEL B. B. STARR, 7841
KENNETH W. *STAUFFER, 3152
WILLIAM N. STEELE III, 2238
MITCHELL J. *STEFANISH, 1743
AARON W. STEFFENS, 5201
CONRAD R. STEGEMAN, 0235
MARK A. STEGER, 9887
CINDY D. STEIN, 3161
ANDREW J. STELMACK, 5602
RONALD D. STENGER, 8839
RODNEY A. STEPHAN, 6510
MARK A. STEPHENS, 1711
MICHAEL D. *STEPHENS, 5285
MICHAEL J. *STETINA, 0564
LAWRENCE J. *STETZ, 9348
TODD A. *STEVENS, 1280
LISA Y. STEVENSON, 3576
MICHAEL S. STEVENSON, 9725
PHILLIP A. *STEWART, 2239
STEVEN A. STOLLY, 7019
EARL W. *STOLZ II, 2377
DAVID A. *STONE, 1551
TIMOTHY M. STONG, 5606
STEVEN J. *STORCH, 3166
WILLIAM M. *STOWE III, 6722
DANIEL M. STRACENER, 4042
MARK E. *STRATTON, 7242
PHILLIP G. *STRATTON, 7174
WILLIAM J. STRAUS III, 9992
SUZANNE M. STREETER, 8164
KRISTIN M. STREUKENS, 2692
SCOTT L. *STROHECKER, 6825
BERNARD J. STROUTH, 0423
GENA R. STUCHBERY, 3000
STEVE S. SUGIYAMA, 4881
CHRISTOPHER P. *SULLIVAN, 0689
JIMMIE E. *SULLIVAN JR., 0753
SHANE T. *SULLIVAN, 9189
TROY L. SULLIVAN III, 4197
WILLIAM S. *SULLIVAN, 2490
BRIAN A. *SUNDERMEYER, 3639
TIMOTHY J. SUNDVALL, 7870
JONATHAN A. *SUTHERLAND, 9193
DAVID K. SUTTON, 1797
RICHARD C. *SUTTON, 2139
THOMAS T. *SWAIM, 2232
JENNIFER E. SWAIN, 4608
DAVID J. SWANKE, 2097
SCOTT R. SWANSON, 8484
TIMOTHY J. *SWEENEY, 5972
ZACHARY S. *SWEENEY, 0492
DOUGLAS H. *SWIFT, 4230
CARRIE R. *SYCK, 5720
DAVID H. *TABOR, 2151
RANDALL A. *TABOR, 4416
JAMES W. TANIS, 0017
DAVID A. *TAYLOR, 3721
FRED D. TAYLOR, 7252
JAMES M. *TAYLOR, 6228
JOHN D. TAYLOR, 1074
ROBERT M. TAYLOR II, 6499
CHRISTINE A. TEDROW, 2778
MARK A. *TEDROW, 7373
RAYMUND MICHAEL *TEMBREULL, 0487
MICHAEL E. TENNEY, 7054
RONALD J. TEWKSBURY II, 2729
CRAIG G. THEISEN, 1826
ALLAN P. *THILMANY, 3232
ANTHONY L. *THOMAS, 9169
GREGORY D. THOMAS, 0616
JOHN J. *THOMAS, 0724
JOHN N. *THOMAS, 0840
SPENCER S. *THOMAS, 3986
IAN O. THOMPSON, 9392
NEAL R. THOMPSON, 2703
PHILLIP J. THOMPSON, 9823
SCOTT T. THOMPSON, 0241
DANIEL M. THORN, 2664
DENNIS R. *THORNE, 5717
BRIAN C. *TICHENOR, 2824
SEAN P. *TIERNAN, 3474
KENT J. *TIFFANY, 3528
DARREN W. *TILLMAN, 1032
JASON A. *TIMM, 7140
ROBERT M. TOBLER, 9357
JOHN T. *TODD, 9103
PAUL A. *TOMBARGE, 5323
DAVID R. *TONI, 8271
STEPHON J. TONKO, 4478
THOMAS D. TORKELSON, 3294
STEPHEN B. *TORRES, 5471
KELVIN J. *TOWNSEND, 9946
TIMOTHY J. TOWNSEND II, 6539
BRIAN M. TOY, 7316
MICHAEL J. TRAVIS, 2029
EDWARD D. V. *TREANOR, 6607
JOSEPH M. *TRECHTER, 9117
STERLING E. TREE, 3059
BRIAN H. *TRENHOLM, 7892
ROBERT B. *TREPTON, 3757
ROBERT W. *TRIPLETT, 4957
GEORGE E. *TROMBA, 6569
DAVID C. *TRUCKSA, 4890
PETER A. *TSCHOHL, 1270
CLAUDE K. *TUDOR JR., 8459
DANIEL H. *TULLEY, 6654
DAVID P. TUPAJ, 5126
MICHAEL E. *TURBYFILL, 4600
ERIC S. *TURNER, 4927
JEFFERSON E. *TURNER, 5035
CHRISTAN L. *TUTTLE, 0996
JAMES R. TWIFORD, 9431
ROBERT T. *TYNAN, 8485
MICHAEL D. TYYNISMAA, 8720
ERIC A. UJFALUSY, 1101
AARON L. *ULLMAN, 9499
JOHN R. *UNDERHILL, 5646
SHAWN C. *UNDERWOOD, 9655
SAMUEL B. *URSO III, 4611
DAVID A. *VALENTINE, 3051
ANTHONY E. VALERIO, 7163
JAMES P. *VALLEY, 2494
WENDY R. *VAN EYK, 2410
TODD C. *VANDYKE, 3125
JEFFREY *VANSANFORD, 4828
DEREK D. VARBLE, 9445
RUBEN C. *VARGAS, 7166
CARLOS A. *VECINO, 5341
PETER C. VEHLOW, 6381
ROBERT J. *VERCHER, 4975
JAMES K. *VICKERS, 0935
JESSE E. VICKERS, 3155
ROBERT A. VICKERS, 2050
ORLANDO E. *VILCHES, 6488
JEFFREY A. VISH, 4414
CHRISTOPHER L. *VOEHL, 4110
SCOTT J. *VOLK, 0325
JOHN C. VOORHEES, 0931
WILLIAM E. *WADE JR., 3539
MICHAEL V. WAGGLE, 9343
SAMUEL D. *WAGNER, 4879
RALPH J. WAITE IV, 0898
TODD S. WALDVOGEL, 2391
JEFFREY R. *WALES, 9995
ALEXANDER W. *WALFORD, 8797
BRIAN P. WALKER, 0797
MARK M. *WALLACE, 7398
MATTHEW V. *WALLACE, 0477
JENNIFER L. WALLER, 3844
KARL C. *WALLI, 2511
JOERG D. *WALTER, 2469
MARK D. *WALTERS, 0927
EDWINA M. WALTON, 2164
ROBERT W. *WANNER, 9175
DAVID J. *WAPELHORST, 0892
BRADLEY J. WARD, 9257
DONNA M. WARD, 4746
SCOTT C. WARD, 6721
SCOTT L. *WARD, 0005
JEFFREY S. WARDELL, 5454
JAMES E. H. WARMA, 7775
JEFFREY E. WARMKA, 9314
RONALD B. WARREN, 9785
MICHAEL P. *WATERS, 7642
MARY MELISSA N. *WATKINS, 9279
AARON C. WATSON, 9358
ERIK D. *WEAVER, 3938
GAIL M. *WEAVER, 7281
TERI J. *WEAVER, 3064
ANDREW G. *WEBSTER, 6370
RICKY A. *WEDDLE, 5524
SCOTT D. *WEENUM, 7354
CHRISTOPHER M. *WEGNER, 2295
THEODORE G. WEIBEL, 9800
TROY B. *WEINGART, 5138
MICHAEL T. WEISS, 3218
MICHAEL R. *WELBORN, 0270
KEITH A. *WELCH, 8637
JULIE L. *WENDE, 5024
BRADLEY R. WENSEL, 6490
EDWARD J. WERNER, 6560
KEVIN G. WESTBURG, 3438
DANIEL J. *WHANNELL, 3023
MICHAEL D. WHEELER, 4581
TERENCE D. *WHEELER, 7938
VICTOR B. *WHEELER, 6986
WESLEY L. *WHITAKER, 3643
CHAD H. WHITE, 8728
CRYSTAL A. *WHITE, 2031
GARY L. *WHITE, 1389
JASON D. WHITE, 4566
SAMUEL G. WHITE III, 9080
STEVEN D. *WHITE, 4007
TED N. *WHITE, 7042
TODD A. *WHITE, 1501
EVAN L. *WHITEHOUSE, 8359
BRENT R. *WHITNEY, 0933
JAMES T. *WICKTOM, 7815
SCOTT D. WIERZBANOWSKI, 9204
MARA C. *WIGHT, 6345
LANCE R. WIKOFF, 9180
JOHN T. WILCOX II, 7544
DAVID P. *WILDER, 3622
VICTOR D. *WILEY, 3409
RICHARD *WILGOS, 0507
SHANE C. *WILKERSON, 8530
BRETT D. *WILKINSON, 3861
JON C. *WILKINSON, 1748
CHRISTOPHER S. WILKOWSKI, 4563
BENJAMIN G. WILLIAMS, 9708
CHARLES L. *WILLIAMS, 3555
DARRELL L. *WILLIAMS, 9197
KENT A. *WILLIAMS, 6825
PAUL N. WILLIAMS, 6185
RASHEAD J. WILLIAMS, 8679
STEVEN D. WILLIAMS, 2122
MARK L. WILLIAMSON, 9234
DARRYL M. *WILLIS, 0592
DANIEL L. *WILSON, 2513
JACQUE J. WILSON, 0675
JACQUELINE R. *WILSON, 8382
JOEL B. *WILSON, 4066
JOHN H. WILSON, 4069
KEVIN A. WILSON, 1731
WILLIAM V. WINANS, 4806
RANDOLPH L. *WINGE, 2531
JENNIFER L. *WINSLOW, 4212
LYNN H. WINWARD, 3185
GARY L. WITOVER, 0949
MARK D. WITZEL, 9140
JASON D. WOLF, 3412
PATRICK F. WOLFE, 0259
TIMOTHY A. *WOLIVER, 6094
STUART L. *WOLTHUIS, 8080
ANN *WONGJIRU, 6299
ZUN YING *WOO, 8749
BRIAN S. *WOOD, 6203
CAROLYN L. WOOD, 5521
MARK A. *WOODARD, 0374
BOBBY C. *WOODS JR., 9194
JAMES J. *WOODS JR., 6363
RANDAL W. *WORKMAN, 4413
CHRISTOPHER A. WORLEY, 1365
DALE W. *WRIGHT, 3270
DONALD L. *WRIGHT JR., 8196

JENNIFER L. WRYNN, 1115
TINA M. *WYANT, 5672
MARK A. *WYATT, 8513
HERBERT D. *WYMS, 6628
DIANA J. *WYRTKI, 8359
SCOTT D. YANCY, 6035
DAVID J. *YAO, 6334
CULLA L. YARBOROUGH, 8087
ROBERT L. YARBROUGH JR., 5324
WALTER K. *YAZZIE, 0036
MATTHEW H. YETISHEFSKY, 0956
DAVID T. YOUNG, 0611
THOMAS R. *YOUNG, 0461
THEODORE T. *YUN, 6827
KENNETH J. *YUNEVICH, 9137
ROBERT L. ZABEL JR., 4428
TIMOTHY A. ZACHARIAS, 2198
DENNIS K. ZAHN, 9337
JAMES C. *ZEGEL, 9363
MATTHEW S. *ZICKAFOOSE, 4229
DAVID Q. *ZIEGLER, 6699
SEAN E. ZORTMAN, 2672
MATTHEW E. ZUBER, 0755
PAUL M. *ZULUAGA, 4651
ANNAMARIE *ZURLINDEN, 2429

## IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

WILLIAM A. BENNETT, 2216
RUTH M. HARRIS, 4937
MURTY SAVITALA, 7912
CHARLES B. TEMPLETON, 0117

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

JOHN W. BAILEY, 3874
VINCENT J. DEMAGGIO, 6902
REYNOLD N. HOOVER, 9679
THEODORE D. JOHNSON, 0232
ANTHONY P. LIBRI JR., 0867
DANIEL N. RODECK, 2993
MARVIN R. SCHLATTER, 7821
JAMES R. SMITH II, 0328
JOYCE L. STEVENS, 9764

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

ALONZO C. CUTLER, 6560

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

DOMINIC D. ARCHIBALD, 9006
DAVID N. BLACKORBY, 8651
JAMES T. KEEFNER, 4151
PAUL J. PENA, 1936
EDWARD J. ROUGEMONT, 9902
MICHAEL A. SAINZ, 7960
RICHARD L. THOMAS, 3659

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

RICKY W. BRANSCUM, 1922
MICHAEL T. HAMIL, 4230
RAYMOND L. HULINGS, 8450
JEFFERY D. KINARD, 7057
KENNETH D. LEE, 6094
RICHARD N. MEADOWS, 7324
JERRY E. REEVES, 0285
FREDERICK O. STEPAT, 9592

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

CURTIS W. ANDREWS, 6511
RUFINO I BETANCOURT, 8399
JAMES E. GRAYSON JR., 1309
WILLIAM J. HORAM, 8207
TERRY A. JOHNSON, 3095
MARTIN E. KIDNER, 6820
DAVID F. SCHMIDT, 3959
DANNY K. SPEIGNER, 8891
THOMAS F. STEPHENSON, 4772

## CONFIRMATION

Executive nomination confirmed by the Senate July 18, 2002:

THE JUDICIARY

RICHARD R. CLIFTON, OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

# EXTENSIONS OF REMARKS

## IN SUPPORT OF PEACE ON THE 28TH BLACK ANNIVERSARY OF THE TURKISH INVASION OF CYPRUS

### HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. GEKAS. Mr. Speaker, 28 years ago this week, Turkish troops illegally invaded the nation of Cyprus seizing control of one third of the island and forcing tens of thousands of Greek Cypriots out of their homes. In 1983, the Turkish Republic of Northern Cyprus established itself through a declaration of independence and to this day is recognized only by the Turkish government. Today, 35,000 Turkish soldiers are stationed on the island occupying the lands of Greek Cypriots and guarding the 113-mile, fenced border. Many consider this border to be one of the most heavily militarized regions in the world.

This atrocious affront to the sovereignty of Cyprus has received generous attention from the international community and, in particular, the United Nations, however, it has resulted in little action taken by Turkey. I am heartened by this year's talks between the President of Cyprus, Glafcos Clerides, and the Turkish Cypriot leader, Rauf Denktash, as they indicate a strong interest to find a peaceful and final solution to this decades old conflict.

Potential membership in the European Union has been the strongest catalyst for peace between the two parties since the initial invasion of Cyprus. Both Cyprus and Turkey are vying for inclusion in the E.U., but because of certain requirements for membership, their requests may not be granted unless they first focus their attention to the forcibly divided nation. With this new motive for a solution, I have increased hope that this ancient part of our world will once again see harmony within its borders.

The Greek and Turkish Cypriot leadership have a long, tough road ahead of them for a diplomatic solution, but they have come a long way. With continued support from the U.S., the U.N., and now the E.U., I believe that freedom and peace are attainable for the people of Cyprus.

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## PAYING TRIBUTE TO RUBY MARTINEZ

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. McINNIS. Mr. Speaker, today I stand before you to celebrate the life and mourn the loss of Ruby Martinez. Mrs. Martinez, a former Councilwoman and Mayor of Boone, Colorado, selflessly committed years towards the development and betterment of her community. After a long battle with cancer, she passed away on June 30, 2002. As we mourn her loss, I would like to pay tribute to her life before this body of Congress and this Nation.

At the early age of fourteen, Ruby Martinez began striving for success when she began working the fields to raise money so that she could attend Catholic school. Although her graduation led her to a job in the larger city of Colorado Springs, she selflessly returned to Boone to care for her ailing grandmother who had suffered from a stroke. Her civil involvement began through calling local officials with the intent of organizing local volunteer programs to help the less fortunate and actively address the town's issues and concerns.

Once her tenure as Mayor commenced, she created several agencies to improve the lives of her constituents with the Housing and Urban Development agency, which repaired homes for owners who could not find the means to do so themselves. She actively served as a board member of the Pueblo Community Health Board, the Pueblo Chemical Depot Reuse Commission and Chemical Demilitarization Authority, the Sheriff's Advisory Board, and she was the founding member of the Boone-Avondale citizens Alliance.

Mr. Speaker, I stand before you today to pay tribute to the memory of an exemplary citizen in the State of Colorado. Ruby Martinez was a vibrant woman who achieved much success and was a beacon of inspiration to her entire community. I join her family and a grateful community today in the mourning of her loss.

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## WHOSE DEFINITION OF "FAIRNESS"?

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. BEREUTER. Mr. Speaker, this Member wishes to commend to his colleagues an editorial from the July 12, 2002, edition of the Omaha World-Herald entitled "'Fairness' to be wary of."

As the editorial stresses, the International Criminal Court (ICC) will place U.S. policymakers and military personnel in a precarious position whereby practically any random nongovernmental organization (NGO) could bring esoteric charges against them. Indeed, the editorial highlights the story of a Croatian advocacy group which has brought charges against former President Clinton for his support for military actions in Croatia. These charges, which were presented in the special tribunal on the Balkans, were not presented due to any specific infraction but because the advocacy group believes that all sides of the issue should be reviewed for the sake of "evenhanded justice."

Mr. Speaker, the ICC is likely to consume vast resources on similar baseless cases and charges rather than focusing on the gross infractions of basic international rules of engagement. It is appropriate for this body and for the Administration to adamantly oppose U.S. participation in the new court.

[From the Omaha World-Herald, July 12, 2002]

"FAIRNESS" TO BE WARY OF

Critics have scoffed at the insistence by the Bush administration and Congress that U.S. military personnel abroad be protected from indictment by international tribunals. Such courts, the critics claim, are intended only for prosecution of major war criminals. The indictment of U.S. policy-makers and soldiers, they say, isn't very likely.

Recent events, however, have shown that U.S. concerns are justified. The Washington Times reported this week that a special tribunal investigating war crimes in the Balkans is examining whether charges are warranted against former President Bill Clinton and his aides for U.S. support of a Croatian military offensive in 1995.

An advocacy group in Croatia sparked the court's action. The activists told the tribunal that if it indicts a former Croatian general accused of slaughtering Serbian civilians during that campaign, it should also indict American officials in the interests of what it called "evenhanded justice."

This isn't the first time U.S. officials have come under scrutiny by that court. Previously, the prosecutor for the tribunal had investigated whether NATO had violated international law during its 1999 bombing campaign in Yugoslavia. The prosecutor filed no indictments, saying she wouldn't have been able to collect sufficient evidence to bring charges against high-level officials.

In light of those facts, the Bush administration has been amply justified in refusing to seek congressional approval for a new entity, the International Criminal Court; which began operation last week and seeks global jurisdiction: (To keep United Nations peacekeeping on track in the Balkans, the Bush administration compromised this week on the immunity question, while still refusing to endorse the court. The compromise should provide sufficient de facto protection for troops.)

Supporters of the new court say it is a vehicle for trying only the most brutal of international war criminals. But such claims lack credibility when a similar international court is dutifully conducting an investigation—out of "fairness"—of possible war crimes by a former U.S. president.

On balance, we think it's a good idea to have specially appointed courts consider war-crimes matters for individual military conflicts. But the International Criminal Court has been granted too much authority, and the Balkans tribunal has shown a troubling lack of proportion by taking seriously calls for indictments against high U.S. officials.

American leaders are right to be wary about the potential for abuse.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September- 30, 1996, and for other purposes:

Mr. CASTLE. Mr. Speaker, I rise today in support of the Slaughter-Dicks-Horn-Johnson-Morella Amendment to increase funding for the National Endowment for the Arts and the National Endowment for the Humanities. The arts and humanities are important both socially and economically to our nation as a whole.

Studies have shown students benefit from exposure to both the arts and humanities. They gain not only a better cultural appreciation but are able to translate their positive experiences into skills that are essential for their academic future and their future in the American workforce.

Arts and humanities funding are increasingly allocated to state agencies for grant programs that reach out to underprivileged and smaller suburban and rural areas that do not have the benefits of big city art programs. In correlation, seventy-nine percent of businesses believe it is important to have an active cultural community in the locale in which they operate. Businesses in Delaware work hand in hand with the arts and humanities communities. This partnership makes my state a stronger community than it otherwise would be.

I have witnessed in Delaware firsthand how rewarding arts and humanities programs can be to our nation's youth. For example, the Possum Point Players in Georgetown, Delaware, is funded through the NEA's Challenge America Program. This organization provides positive alternatives for youth in Sussex County high schools through the creation of theater programs for rural and low-income students. Many of these students would not have the opportunity to participate in such programs without the Challenge America Program. These students have a better chance to increase their SAT scores, develop increased self-confidence, and are more likely to create multiple solutions to problems and work collaboratively with one another.

Furthermore, the Delaware Humanities Forum, through NEH funding, has played an essential role in bringing humanities to all corners of the state with programs available for schools, businesses, and other community groups. Each year the Humanities Forum presents an annual living history event bringing education and entertainment together. Past events have centered around the old west and the gilded age in American history.

It is important for us to remember, the collective benefits gained by not only our districts but also by the nation as a whole and that is why I rise today in strong support of increased funding for the NEA and the NEH.

## TRIBUTE TO MIKE BENNETT

### HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. SCHAFFER. Mr. Speaker, it is an honor to rise today to express gratitude and pay tribute to one of Colorado's outstanding public servants, Mike Bennett, who is stepping down this month as Chief of Staff to U.S. Senator WAYNE ALLARD. Mike is a true professional who has performed his duties with the highest degree of excellence. His leadership in Washington on behalf of Colorado will be greatly missed but always appreciated.

Over the past 11 years, Mike Bennett has served our country with distinction, carrying out both his personal and professional life with dignity, respect and dedication. Beginning first as then-Congressman ALLARD's District Director, Mike later served as Senator ALLARD's Administrative Assistant until his promotion to Chief of Staff in 1999.

Prior to his public service, Mike Bennett was President of First National Bank of Brighton, Colorado, and the Valley Bank of Lyons. Mike served as a member of the Board of Directors of Valley Bank of Brighton from 1984 to 1996. His banking career from 1977 to 1990 also included positions at the Farmers State Bank of Yuma, the Byers State Bank, and Valley Bank of Frederick.

A constituent of the Fourth Congressional District in Colorado, Mike Bennett not only makes his community proud but also his state and country. He has taken the responsibilities and standards of his job to a higher level, and I applaud him now before the House. On behalf of the citizens of Colorado, I ask the House to join me in extending congratulations to Mike Bennett for his commendable accomplishments.

## PAYING TRIBUTE TO DEAN DOWSON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. MCINNIS. Mr. Speaker, I am honored to take this opportunity to recognize Dean Dowson of Lakewood Colorado, for his accomplishments and achievements towards the betterment of his community. Dean has contributed greatly to the city of Lakewood, Colorado and is well known as a pillar of the Lakewood business community.

In May of 2002 Dean was awarded the "Minuteman Award" from the American International Automobile Dealers Association (AIADA), for outstanding political and legislative involvement. He has actively involved himself with Members of Congress, and has pioneered many efforts of the AIADA. Dean has exhibited an unparalleled commitment to his work and has become a pivotal part of the AIADA, aiding an organization that uplifts and reinforces the economy. He has truly excelled in many facets of his job, and continues to improve.

Mr. Speaker, it is my pleasure to stand this evening and honor Dean Dowson before this body of Congress and this nation. Thank you Dean for every minute of time you selflessly spent building a strong foundation in our community. Congratulations on your award and good luck in your future endeavors!

## TRIBUTE TO ALEX REZA

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. BERMAN. Mr. Speaker, I rise today to recognize a good friend and an outstanding educator, Alex Reza. In May 2002, Alex retired after 34 years of service with the Los Angeles Unified School System.

Alex was one of the founders of the Mexican-American Studies curriculum at San Fernando High School where he has taught since 1968. He has a unique ability to clearly communicate history and make it relevant and understandable generation after generation. Known for his infectious passion when it comes to civil rights, Alex has made it a priority to ensure that his students learned about civil rights and labor leaders such as Cesar Chavez, Martin Luther King, and Walter Reuther.

A charismatic leader, Alex always manages to enlist numerous faculty, students and community members in his many initiatives and projects. His accomplishments and successes are legion. He helped found the Cesar Chavez March, co-sponsored the San Fernando High School chapter of MEChA (a national Chicano organization), and volunteered in the fund raising campaign for the Cesar Chavez Memorial. In recognition of his service to his community, Alex received the first Cesar Chavez Service Award in the City of San Fernando.

Alex's integrity, enthusiasm and strong consensus building abilities have made him a role model to many and an inspiration to many more. Over the years I have witnessed firsthand Alex's genuine concern for youth and their surrounding communities. I have met many of his former students whose interest in history, government and politics were inspired by his enthusiasm. In fact, three of those students now serve on my staff.

Lawyers, doctors, activists and leaders, including the President of the Los Angeles City Council, proudly count themselves as alumni of Alex Reza's classroom. Alex has created a living legacy through his students and in turn, he has earned the respect of his colleagues and his community.

Over the years, even though I never had the privilege of being a student in Alex's class, I've grown to trust his advice and counsel. In 2000, I designated him as my elector in the Presidential primary. He represented me well, and served with enthusiasm and professionalism.

Mr. Speaker, it is my distinct pleasure to ask my colleagues to join me in saluting my good friend, Alex Reza, for his extraordinary service to the hundreds of students he has inspired in his distinguished career.

## IN MEMORY OF ADM ROBERT L.J. LONG

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of ADM Robert L.J. Long of Annapolis, MD.

ADM Long was born in Kansas City, MO, on May 29, 1920, son of Trigg Allen and Margaret (Franklin) Long. He attended Paseo High School, Kansas City Junior College, and Washington University in St. Louis, MO.

ADM Long was a 1943 graduate of the U.S. Naval Academy at Annapolis. He served his country in the Pacific during World War II on the battleship *Colorado*. He was awarded the Bronze Star Medal with Combat "V", for meritorious service as Plotting Room Officer during operations against enemy Japanese forces in the Philippine Islands and the Ryukyu Islands.

ADM Long went on to serve the U.S. Navy in many other capacities including commander of the Atlantic Fleet Submarine Force and Vice Chief of Naval Operations in 1972, and commander in chief of all U.S. military forces in the Pacific from 1979 until his retirement in 1983.

After his retirement, ADM Long became a board member of Northrop Grumman Corporation and Hudson Industries. He was also principal executive of President Ronald Reagan's fact-finding committee that investigated the 1983 bombing of the Marine barracks in Beirut.

Mr. Speaker, ADM Long was a valuable leader in the U.S. Navy. He was a role model for younger people interested in military service. I know the Members of the House will join me in extending heartfelt condolences to his family: his wife, Sara, and his three sons, Charles Allen, William Trigg, and Robert Helms Long.

## NATIVE AMERICAN SACRED LANDS ACT

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. RAHALL. Mr. Speaker, this body, the United States House of Representatives, is housed in a testament to freedom, a symbol of government, a monument of national historical and cultural significance. Throughout the halls of the United States Capitol there are statues of our founders, our heroes, our history. For the past 200 years, legislators have sweat blood and tears debating the laws of our great country.

In fact, many would argue the United States Capitol is sacred.

But there are many places across this country, no less sacred than the building behind me, that are being desecrated as we speak. It is inconceivable to imagine an oil rig plopped in the middle of the Sistine Chapel. But in fact that is the very problem facing Native American sacred lands today.

For example, the proposed site for a 1,600-acre, open-pit gold mine in Indian Pass, California, is a place where "dream trails" were woven. The Bush Administration revoked a Clinton-era ruling that said mining operations would cause irreparable harm to these ancestral lands, an extremely sacred place to the Quechan Indian tribe. Now the tribe is left fighting for its religious and cultural history.

Long before my ancestors arrived on these shores, American Indians were the first stewards of this land. They respected the earth, water and air. They understood you take only what you need and leave the rest. They demonstrated you do not desecrate that which is sacred.

Most Americans understand a reverence for the great Sistine Chapel, or even the United States Capitol. But often non-Indians have difficulty giving that same reverence to a mountain, valley, stream or rock formation.

Recently Indian Country attained a victory in Valley of Chiefs, Montana. The oil company which sought to drill in this valley of peace agreed to transfer its oil leases to the National Trust for Historic Preservation.

But we cannot fight to preserve Native American sacred lands on a case by case basis. Valley of Chiefs serves as a wake-up call for action, for the pressing need to protect bona fide Native American sacred sites wherever they may lie on the public domain.

That is why today I am introducing the Native American Sacred Lands Protection Act. Joining me in the introduction of this legislation are DALE KILDEE of Michigan, GEORGE MILLER of California, ENI FALEOMAVAEGA of American Samoa, FRANK PALLONE of New Jersey, TOM UDALL of New Mexico, BRAD CARSON of Oklahoma, BETTY MCCOLLUM of Minnesota, PATRICK KENNEDY of Rhode Island and JOHN BALDACCI of Maine.

First, the bill would enact into law a 1996 executive order designed to protect sacred lands: Specifically, it ensures access and ceremonial use of sacred lands and mandates all federal land management agencies take the necessary steps to prevent significant damage to sacred lands.

Second, our bill gives Indian Tribes the ability to petition the government to place federal lands off-limits to energy leasing or other incompatible developments when they believe those proposed actions would cause significant damage to their sacred lands.

This is an extremely important provision. The tribes would no longer have to depend on the good graces of federal bureaucrats to protect these lands. Rather, the tribes themselves could initiate those protections.

If you look to our national parks, forests and monuments and you see the commitment to preserve many of our country's natural treasures. The Federal Government has put its full weight behind protecting these lands, and we can do the same for Indian Country.

At a time when the Bush Administration is promoting increased energy development, we must enact comprehensive legislation that prohibits the loss of further Native American sacred lands. We must not stand idly by as these unique places are wiped off the face of the earth.

We commend this legislation to the House of Representatives.

## CONDEMNATION OF TERRORIST BOMBINGS IN ISRAEL

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. GILMAN. Mr. Speaker, The two simultaneous barbarous homicide bombing attacks that struck Tel Aviv last night, claiming the lives of 3 innocent civilians, took place in the immediate aftermath of Tuesday's terrorist ambush of an Israeli bus carrying civilians outside the Jewish community of Immanuel, claiming the lives of 8 Israelis, including an unborn baby. This attack took the lives of three members of the same family. The military wing of Yasir Arafat's Fatah movement, the Al Aqsa Martyr's Brigade, has taken responsibility for this attack.

As President Bush stated in his June 24 address on the Middle East, as long as Israelis continue to be victimized by terrorists, Israel will continue to defend itself. Any hope that the Palestinian Authority was serious about rejecting terrorism and undergoing serious reform, thereby creating the environment demanded by the President for peace talks to be able to proceed, has been dashed.

Yasir Arafat, and his close associates, who rule tyrannically over their own people while trafficking with terrorists targeting Israel, constitute the root cause of the Middle East violence, as well as the major obstacles to peace. These attacks were designed to coincide with a renewed diplomatic process, specifically the meeting of the Middle East "quartet" in New York, which is composed of the United States, the European Union, the United Nations and Russia.

Mr. Speaker, Israel must and will continue to defend itself and its citizens. Israel's military operation in the territories in recent weeks have resulted in the arrests of numerous terrorists, and has undoubtedly prevented countless acts of terror planned against Israeli civilians. Israel's security cannot be entrusted to anyone but Israel. Accordingly, we must support Israel's right to defend itself in the face of these continuing terrorist threats.

We must also make it clear to the Palestinian Authority that their insincere condemnations will not suffice. Those who cavort with terror, those who provide financial support to terrorist groups, and those who knowingly and willingly harbor such organizations while taking no actions against them, are enemies not just of Israel, but of the United States and the rest of the civilized world. They must be treated accordingly.

## PAYING TRIBUTE TO DONALD GETZ

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. MCINNIS. Mr. Speaker, I would like to pay tribute to the life and memory of Donald L. Getz, who has contributed selflessly to the betterment of his community and our society.

It is my pleasure to applaud Donald's hard work and to honor his achievements before this body of Congress.

Donald was born in October 17, 1931 in Brighton, Colorado where he spent most of his childhood and adolescent years. He was a tremendous athlete, who guided his high school football and basketball teams to the state championship in 1949. Donald enlisted in the United States Navy in 1951, and served this country proudly during the Korean War. His humanitarian efforts during the war earned him respect and honor during his tour of duty. After his service, he returned to Colorado and worked in the trucking. Donald excelled in every aspect of his life, and used his hard work and determination to open the Anchor Bar and Café with his wife in 1974. He operated this very successful business until 1989 when he retired.

Donald was known for his dedication to his family and is survived by his wife Pat and their three children: Gregory, Todd, and Jill. Donald had two wonderful great grandchildren Katie and Nathan who were his pride and joy. Although his community mourns the loss of a great charitable man, they celebrate his great accomplishments and achievements.

Mr. Speaker it is a pleasure to praise the accomplishments to an outstanding individual. I am sure his legacy will live on in the hearts of his community and family. Donald Getz was a man of character and compassion and I take this moment to applaud his character and determination before this distinguished body.

## PERSONAL EXPLANATION

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. BEREUTER. Mr. Speaker, on July 17, 2002, an event at the White House to which this Member was invited caused this Member to unavoidably miss 4 roll call votes on H.R. 5093, a bill to provide FY2003 appropriations for the Department of the Interior. Had this Member been present, he would have voted in the following manner:

Rollcall vote number 315—"no" (the amendment offered by the gentlelady from California, Mrs. Capps); Rollcall vote number 316—"aye" (the amendment offered by the gentleman from Oregon, Mr. Blumenauer); Rollcall vote number 317—"aye" (the amendment offered by the gentleman from Arizona, Mr. Shadegg); and Rollcall vote number 3 18—"aye" (final passage of H.R. 5093).

## SHANE BENNETT

### HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor Shane Bennett, a courageous Sheriff's Deputy from my district who gave his life so that others may live.

In the months since September 11, we have seen countless acts of bravery performed by our military, law enforcement officers and firefighters. Shane Bennett added his name to the list of those who paid the ultimate price to protect the people of this country.

Officer Bennett, a resident of Montgomery, Texas, in the 8th Congressional District, was a nine-year veteran of the Harris County Sheriff's Department. Killed June 12 in a shootout after he responded to a home invasion, Officer Bennett saved the lives of a Houston man, his stepdaughters and his 3-month-old grandson.

Shane Bennett left behind his wife of six years, Teresa, and their 20-month-old daughter Alyssa.

The bravery that this young man displayed isn't the only character trait that describes his life. At his funeral, he was described as "caring, loving and compassionate." Teresa described him as "one of the most perfect people you will ever meet."

The sacrifice Shane displayed was not only evident in his final moments on this earth but countless times during his life. When he and Teresa first learned they were pregnant, he quit riding motorcycles because he didn't want to get in an accident. He always wanted his little girl to have her daddy.

When Alyssa was born, he took a month off of work to spend time with her and help his wife.

Teresa also recalls that he never hesitated to help friends and neighbors in need, either. "He would do anything for anybody," Teresa said. This was evident in Shane's last selfless act before he died.

Friends and colleagues remembered Shane as "everybody's friend" and that he was proud to be a sheriff's deputy. Harris County Sheriff's Deputy Bobby Davison said, "He was always there for his partners. Always there to back you up. He always had a smile on his face."

Mr. Speaker, the world would be a better place with more people like Shane Bennett, loving husband and father and a role model for law enforcement officers everywhere.

## CONGRATULATIONS TO MONICAL'S PIZZA CORPORATION

### HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. WELLER. Mr. Speaker, I rise today to honor the Monical's Pizza Corporation for receiving the 2002 Employer of Choice Award from the National Restaurant Association Educational Foundation. Monical's Pizza Corporation (Monical's,) is located in Bradley, Illinois and is within my 11th Congressional District.

The Employer of Choice Awards are a component of the Industry of Choice Program. The initiative identifies critical areas to he be addressed in the restaurant and food service industry to improve retention and operating performance. The winners of the award are recognized for their "best practices" and are held up as models for others to follow.

Monical's employs 950 people in over 50 locations located throughout Central Illinois with three in Indiana and one in Wisconsin. In 1997, Harry Bond, President of Monical's, began restructuring the company based on Harvard Business School's "Service Profit Chain". The "Service Profit Chain" is based on the idea of employee and guest satisfaction as the key to success and continued growth. Team leaders, support staff, restaurant managers as well as employees, have embraced the guest, and employee focused idea. Monical's has one of the lowest turnover rates in the industry. Many of their employees have been with them for over two decades.

According to President Harry Bond, "The company is constantly striving to improve planning and operations with the help of team members and their ideas. The best ideas come from our own staff. Monical's believes in hiring the best people and keeping them happy and productive."

Mr. Speaker, I urge this body to identify and recognize other companies in their own districts whose actions have so greatly benefitted and strengthened America's communities and workforce.

## TRIBUTE TO THE HIGH SCHOOL BOY'S ATHLETIC TEAMS IN PITTSBURG, KANSAS

### HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. RYUN of Kansas. Mr. Speaker, I rise today to recognize the accomplishments of the high school boy's athletic teams in Pittsburg, Kansas.

Last fall, the St. Mary's-Colgan Panthers began their school year by taking the state championship in football. They followed that by winning the state basketball championship in double overtime.

The eyes of people all over Kansas turned to this small school recognizing their amazing accomplishment. The Panthers then attempted to complete the trifecta with a baseball championship. They finished the state baseball tournament a respectable second.

However, the Panthers already had a rich baseball tradition, including state championships in four of the past six years.

As a former Olympian, I can appreciate the hard work, perseverance and grit that it takes to reach this level of athletic achievement.

I want to add my congratulations to this outstanding school and let them know that I, along with the rest of Kansas, eagerly anticipate their next season.

## PAYING TRIBUTE TO BOB WALLACE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. McINNIS. Mr. Speaker, tonight I rise to pay tribute to the accomplishments of Bob Wallace. It is a great pleasure of mine to honor his hard work and determination, which led to the establishment of the Wallace Oil Company in 1962. Mr. Wallace contributed selflessly to the betterment of his community, which is why he is deserving of our admiration.

Bob Wallace graduated from Regis College in Denver, where he was an All-American on the school's basketball team. Following his graduation, he spent 15 months in the Air Force, where he was stationed at Tinker Air Force Base in Oklahoma and was ranked as an All-American in the 1952 AAU Tournament. Mr. Wallace later participated in the Phillips company basketball team, the '66ers,' where he played at least 60 games a season.

Mr. Wallace created the Wallace Oil Company in 1962 from nothing more than $15,000 in savings and a loan of $10,000. After fifty years of devotion and hard work, Bob is officially retiring as an independent distributor, although he frequently consults with his sons who now own the company.

Mr. Speaker, I stand before you to offer my appreciation to Mr. Wallace for being an outstanding inspiration for the Wallace Oil Company. I wish him the best with all of his future endeavors and applaud the many efforts he has made over the years to provide leadership and guidance to the La Junta community—he is an invaluable citizen! I wish Bob the best of luck in his future endeavors.

## H.R. 4691

### HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. PITTS. Mr. Speaker, last week, the Health Subcommittee held a hearing on the Abortion Non-Discrimination Act, H.R. 4691. The bill clarifies existing federal conscience protections that prohibit discrimination against health care entities that object to participating in abortion. This bill has the support of both faith-based and secular health care providers.

At the hearing, the subcommittee heard testimony from Karen Vosburgh, who serves on the board of Valley Hospital in Palmer, Alaska. Valley Hospital is a private non-sectarian hospital. But in 1997, the Alaska Supreme Court held that Valley Hospital was a "quasi-public hospital" and ordered it to open its doors for elective second trimester abortions.

Most hospitals do not participate in abortions. According to the Alan Guttmacher Institute, 86% of all hospitals choose not to get involved in abortions. These are religious hospitals of all denominations, non-religious private hospitals, and even public hospitals. There is a reason why: abortion is not health care. It is elective surgery that takes the life of an unborn child.

Abortion advocates are trying to force hospitals to perform abortions against their will. This is wrong. No hospital should be forced to take the life of an unborn child against its will. Religiously-affiliated hospitals and hospitals that simply don't want to offer the elective procedure shouldn't have to.

I hope the Congress acts quickly to pass the Abortion Non-Discrimination Act, and I urge my colleagues to co-sponsor this legislation. I submit for the record a list of supporting organizations, and letters we have received from two of these organizations: the Catholic Health Association, and the Association of American Physicians and Surgeons.

THE CATHOLIC HEALTH ASSOCIATION
OF THE UNITED STATES,
*June 17, 2002.*

HON. MICHAEL BILIRAKAS,
*Chairman, Subcommittee on Health, Committee on Energy and Commerce, Washington, DC.*

DEAR CONGRESSMAN BILIRAKAS: On behalf of the Catholic Health Association of the United States (CHA) I am writing to express our support for H.R. 4691, the Abortion Non-Discrimination Act. Provisions in this legislation would provide Catholic Health providers safeguards to continue operating in a manner consistent with their moral beliefs and principles.

Increasingly, Catholic and other faith-based health care providers have come under attack for not offering so-called "reproductive health servicer (e.g.—abortions, etc). In recent years, we have seen orchestrated campaigns to force Catholic health providers to offer services that conflict with our values and moral principles. These campaigns have led to legislation in several states and localities that could force Catholic hospitals to close or substantially reduce their services to the community. These threats continue and fundamentally affect the ability of Catholic Providers to deliver services to their communities.

In several states and for certain federal programs, Catholic and other faith-based providers have been able to secure "conscience clause" protection against mandatory provisions of objectionable services. Unfortunately, these approaches are often inadequate and require "year after year" reauthorization. They fail to provide permanent protection and assurances the Catholic providers can continue to operate unencumbered.

In addition to supporting H.R. 4691, CHA supports legislative efforts to establish a permanent and comprehensive federal conscience clause. We look forward to working with you and the Committee to achieve these ends.

Sincerely,
REV. MICHAEL D. PLACE, STD,
*President and Chief Executive Officer.*

ORGANIZATIONS SUPPORTING THE ABORTION NON-DISCRIMINATION ACT (ANDA) H.R. 4691/S. 2008

Americans United for Life
Association of American Physicians and Surgeons
Catholic Health Association
Catholic Medical Association
Christian Coalition
Christian Legal Society
Christian Medical Association
Christus Medicus
Concerned Women for America
Democrats for Life of America
Eagle Forum
Ethics & Religious Liberty Commission, Southern Baptist Convention
Family Research Council
Feminists for Life of America
Focus on the Family
Lutherans for Life
National Council of Catholic Women
National Organization of Episcopalians for Life
National Right to Life Committee
Presbyterians Pro-Life
Seamless Garment Network
Seventh Day Adventists, World Headquarters
Susan B. Anthony List
Traditional Values Coalition
United States Conference of Catholic Bishops

## HONORING ANDREA MYSLENSKI

### HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. MANZULLO. Mr. Speaker, I rise today to recognize Andrea Myslenski, a special young girl in my Congressional district who suffers from a very rare and serious disease, "Post Viral Dysautonomia." This is a condition that affects the autonomic nervous system and renders her very tired and unable to go to school or have the normal social life of a 15-year old girl. Andrea was home tutored due to Dysautonomia the second half of eighth grade. She completed all of her work and was awarded the Presidential Award for academic achievement. Andrea began 9th grade with the hope of completing the school year, but a virus caused a relapse of Dysautonomia. She was unable to attend school in October, 2001, and home tutored for the rest of the school year.

Dysautonomia is manifested by symptoms of fatigue, weakness, forgetfulness, brain fog, and mood swings, etc. It has been a very trying time for the family. Perhaps one of the biggest challenges was actually making a definitive diagnosis of Dysautonomia. It took several visits to multiple doctors before a definitive diagnosis was made, making it quite apparent why it is called an "invisible disease."

Mr. Speaker, I wish to extend my support to Andrea and many children like her that suffer from Dysautonomia. It is my hope that we become educated about this disease and become strong supporters for the research and treatment of this invisible illness. I am proud to have Andrea as a member of my district and hope that one day a cure for this disease will be found.

## COMMENDING THE U.S.-ASIA INSTITUTE

### HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. OXLEY. Mr. Speaker, I would like to bring to the attention of the House of Representatives the work of the U.S.-Asia Institute, which plays an important role in improving understanding between the United States and China. This nongovernmental organization promotes an ongoing exchange of views between policy makers in the U.S. and China.

Since 1985, a principal vehicle for furthering this dialogue has been the congressional staff delegation visits to the People's Republic of China organized by the U.S.-Asia Institute and hosted by the Chinese People's Institute of Foreign Affairs. These official visits serve to increase awareness, knowledge, and understanding of U.S. and Chinese policies. The 50th delegation will travel to China in August 2002.

To commemorate this milestone, the U.S.-Asia Institute is hosting special events in Washington, D.C. in July 2002. The Chinese People's Institute of Foreign Affairs will reciprocate by hosting special events in Beijing in August 2002.

Since its inception, this program has hosted more than 400 congressional staff members who have traveled throughout China—from Heihe in the north on the Russian border to Hainan Island in the south; from the dynamic coastal cities of Shanghai and Guangzhou to the remote city of Urumqi, an oasis on the ancient Silk Road; from Tibet to Kunming to Beijing and other places in between. Over 150 congressional office and committee staff members have benefited from fact-finding and the opportunity to discuss in depth issues of mutual interest to our great nations. The progress of the U.S.-Sino relationship rests on dialogue and engagement, and this program provides participants with an unparalleled first-hand view of China, its culture, its government, and its people.

In recognition of a program that promotes understanding, goodwill, and trade between the people of China and the United States, I commend the U.S.-Asia Institute and the Chinese People's Institute of Foreign Affairs for their work and hope that this long-standing partnership will continue for many years to come.

## UKRAINIAN LEADERSHIP PROGRAM

### HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. HINCHEY. Mr. Speaker, I rise today to thank Chairman TAYLOR and Ranking Member MORAN for their diligent work in putting together the FY03 Legislative Appropriations bill. I am particularly pleased that the Committee Report for this bill calls for a study by the Librarian of Congress to determine the feasibility of establishing a Ukrainian Leadership Program (ULP).

The ULP would target young Ukrainian leaders from local and regional governments and give them the opportunity to travel to the United States and meet with federal officials in Washington. The Ukrainian officials would also travel to various congressional districts and meet with local officials. While in local communities, these young leaders would meet with farmers, bankers, educators, and business people. In these meetings, the Ukrainians will be able to observe the critical functions that these groups serve in a democracy. The Ukrainian American community will be actively involved in its implementation and providing logistical support thus reducing the cost to the U.S. government.

The ULP will provide the next generation of local leaders with a better understanding of the relationships between the federal and local governments and the constituencies they represent. These young officials would be able to return to Ukraine with greater knowledge of the inner workings of democracy. This knowledge is critical to implementing further democratic reforms in Ukraine.

Ukraine is at a crossroads. While it has taken great strides towards democracy since its independence in 1991, reforms have slowed over the last few years. As the sixth most populous nation in Europe, the Ukrainian people are people eager for reform. The U.S. can help ensure that democratic reforms are successful by supporting Ukraine's young leaders.

This bill takes a significant step towards the realization of the ULP. We all recognize the large task of establishing such a program. With this study in hand, Congress will have road map with which to move forward on this issue.

The ULP has the support the Ukrainian American community and the young leaders in Ukraine. This step that the Committee has taken is appreciated around the world. Again, I'd like to thank Chairman TAYLOR and Ranking Member MORAN for their hard work on this issue. I look forward to the report and working with my colleagues on this issue.

## BIRTHDAY WISHES FOR MRS. SUE SHAFFER

### HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to offer best wishes and birthday greetings for a good friend of mine, Mrs. Sue Shaffer, Chairwoman of the Cow Creek Nation. We've worked together for years on issues of importance to tribal governments across the nation. Whenever I speak with tribal leaders around the nation and with lawmakers here in our nation's Capitol about Indian Country, I talk about success stories like those of the Cow Creek Band.

Sue represents the spirit of achievement that so embodies the history of the Cow Creek people. Fighting against a federal government that was at times hostile and at other times indifferent towards them, the people of Cow Creek worked hard from the first treaty with the United States in 1853 until their restoration in 1982 to make a great community for themselves. They've purchased land for themselves and have developed a great business enterprise through the Seven Feathers Casino and other diverse business interests.

Mr. Speaker, what they've done for their community and for all of the non-tribal members they employ is great, and it's in no small part due to the leadership of Chairwoman Shaffer. I'm proud to recognize her as a leader in Indian Country and as a respected Chairwoman in her tribe, but I'm most proud to call her my friend. Thank you for all you've done, Sue. Have a happy 80th birthday and I wish you many more.

## HONORING JEANNIE SWEENEY AMBROSE FOR HER COMMITMENT TO VETERANS IN HER COMMUNITY

### HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. DOYLE. Mr. Speaker, I rise today to honor United States Air Force Captain Jeannie Sweeney Ambrose, a Vietnam veteran and fellow Pittsburgh Irish-American. Captain Ambrose has served seven years on active service with the Air Force as a nurse and has dedicated much of her life to caring for and honoring all veterans.

Born in Ireland, Captain Ambrose immigrated to the United States in the early 1960s and joined the Air Force after becoming a United States citizen. Captain Ambrose served a tour in Vietnam at Camrahn Bay in a MASH unit, where in her time off, she volunteered her skills as a midwife for impoverished Vietnamese civilians. Following her Vietnam tour, she continued to serve our country in an Air Force Hospital in London where she met her husband, Eddie Ambrose, who has also served his country as a C–131 pilot in Europe.

In addition to compassionately caring for our soldiers during the Vietnam War, Captain Ambrose continues her work of honoring veterans through her poems. Every Memorial Day, veterans gather to hear her touching rendition of a poem she wrote, Flanders Field. Captain Ambrose's efforts on behalf of those who have served our country should be recognized, thus I have included one of her poems "Take My Hand" so that my colleagues in Congress and all Americans may share in her compassionate views. I believe that by honoring Captain Ambrose, we are recognizing not only her efforts, but also the efforts and importance of nurses who serve during wartime.

As a son of a World War II veteran, I would like to extend my gratitude to Captain Jeannie Sweeney Ambrose for her kindness and compassion towards our servicemen and women. She is to be commended for her efforts on behalf of Pittsburgh veterans.

TAKE MY HAND

(By Jeannie Sweeney Ambrose)

Here—take hold of my hand, Lad,
I'll try to kill the pain,
You've had your share of fighting this day,
We'll get you well and home again.

Here—take hold of my hand, Lad,
Don't go away from me now,
I'll stop the blood and fix your wounds
But you must stay with me and fight the pain.

Here—take hold of my hand, Lad,
I can't lose more of you now,
We've all come so far, the lot of us,
And I've got to get you to your home again.

Ah—Lad, you must not quit on me now,
I'll not let you go, you hear,
Come, fight with me just once more,
Your mom must not be left to cry.

He had looked at me with one brief smile,
And had asked me my name.
I said call me Jeannie, or call me your mom,
Today it will all be the same.

My lad squeezed my hand one more time,
He smiled and then he died,

I closed my eyes to remember his face, and said,
I'll see you each year as we call out the names.

Ah Lad, I still see your face,
And all those we tried to save,
Your face and smile were all we had,
To help get us through those days.

I still remember those lads, they were
Our country's best
They had fought and died for all of us,
In a land so far, far away,
Now they were all gone, now all at rest.

My lads are here and everywhere today,
We must never forget what they gave,
They cannot smile or laugh at war anymore,
But then neither can we who stay.

Ah Lad, if I could just hold your hand once more,
It would help me remember this day,
I cannot forget their faces anymore,
Nor the reasons they died in such pain.

I go to the Wall each year to find my lads,
There are so many of them now,
The Wall grows warm under my hand
As I find and touch their names.
Here Lads, hold my hand,
We're all together again.

## WILLIAM BATTERMAN RUGER

### HON. JOHN E. SUNUNU

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. SUNUNU. Mr. Speaker, I rise today to express my condolences to the family of William B. Ruger who passed away on July 6 at his home in Prescott, Arizona, and to celebrate the life of this true American original—inventor, manufacturer and business owner.

Although he was not New Hampshire born, Bill Ruger embodied the best of the Granite State. He blazed his own trail, and in the process, turned his name into a recognizable symbol of ingenuity and workmanship.

A native of Brooklyn, Bill Ruger was interested in firearms for virtually his entire life. He received his first rifle from his father at age 12, and as a teenager, read and studied as much as he could on firearms; the history of firearms, their design and how they are manufactured. Bill carried his passion for firearms to the University of North Carolina where as a student he turned a vacant room into a machine shop. His interest in firearms was so keen that while in his early 20's, Bill developed the preliminary plans for a light machine gun for use by the Army.

After two years at North Carolina, Bill left to work at what he loved. He took a job in a gun factory and eventually opened his own business as a toolmaker; a business which did not succeed. Still, during that time, Bill kept experimenting with firearm designs, eventually perfecting a design for a .22 caliber pistol.

In 1949, with a $50,000 investment from his partner, Alexander Sturm, Bill Ruger founded a firearm manufacturing business in a "little red barn" in Southport, Connecticut. As business increased, Sturm, Ruger and Company expanded, opening new plants including a plant in Newport, New Hampshire in 1963 to produce its own firearms components instead of paying others to do the same. Today, Sturm, Ruger and Company is world-renowned for its more than 50 models of revolvers, police sidearms, target pistols, rifles and shotguns, and has developed a reputation for quality in specialized castings for products in the aerospace field, the automobile industry, medicine and the sport of golf. The company has grown to become America's largest firearms manufacturer and one of New Hampshire's largest employers; all under the watchful eye of Bill Ruger.

Bill Ruger valued his employees and their craftsmanship and would never sell a product he would not have been proud to own himself. This attention to excellence is a fact to which generations of firearms owners, police officers and military personnel will attest.

Beyond the success Bill Ruger enjoyed as a firearms manufacturer, he had many other pursuits and interests including his collection of antique firearms, 19th Century Western American art, and antique automobiles and was particularly known as a generous and charitable man who gave of himself and his finances.

The foundation of his life, though, was his family—his son, William Ruger Jr., who now heads the family business; his daughter, Carolyn Vogel; his six grandchildren, and 10 great-grandchildren. Each held a special place in his heart, as did the memory of his lovely wife, Mary Thompson Ruger, who passed away in 1994, and that of his late son, James Thompson ("Tom") Ruger.

In New Hampshire, Bill Ruger's legacy will remain for decades to come. He was an American original, and those of us fortunate enough to have been able to know Bill will truly miss him.

## NEW ALLIES, OLD FORMULA

### HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. DICKS. Mr. Speaker, I rise to express my deep concern about the undemocratic and totalitarian actions of the President of Kazakhstan, Nursultan Nazarbayev. He has recently banned several opposition parties, arrested and exiled their leaders, and has made the formation of new parties virtually impossible. He has shut down many newspapers and television stations in Kazakhstan, preventing its citizens from having a free press. Furthermore, President Nazarbayev has reportedly placed $1 billion dollars of oil revenue into a secret Swiss bank account.

This behavior should not be tolerated and I believe it is important at this time to focus international attention on this situation. President Nazarbayev needs to allow for all legitimate opposition parties and their leaders to run for public office and allow for all exiled political leaders to return to Kazakhstan. He must also allow for a free press, the foundation of any democracy. President Nazarbayev should be held accountable for widespread corruption, including the placement of government funds into secret Swiss bank accounts. I am asking that we insert into the RECORD a July 12th editorial written by the Washington Post Editorial Board which more fully describes the injustices currently occurring in Kazakhstan. [the article follows]

[The Washington Post—Friday, July 12, 2002]

NEW ALLIES, OLD FORMULA

As the United States rushed to strengthen ties to the countries of Central Asia after Sept. 11, one question that quickly arose was whether the new military agreements and economic packages would serve only to bolster the repressive rule of the region's autocrats or whether U.S. influence would also be used to bring about political and economic reform. Some 10 months later the first answers are in, and they are at best mixed. The region's most repressive ruler, Islam Karimov of Uzbekistan, has also proved to be the one most eager to forge a close relationship with Washington; consequently, his government has responded to concerted pressure from the Bush administration with a few modest concessions and promises of more. Elsewhere, however, a couple of new allies may have concluded that their new utility as U.S. security partners empowers them to repress their domestic opponents all the more forcefully.

Nursultan Nazarbayev, the president of Kazakhstan, certainly seems untroubled by any imperative to accept Western norms of democracy or human rights. Though his huge, oil-rich country once appeared to be leading the former Soviet republics of the region in reforming the old system, it has, since Sept. 11, moved steadily in the opposite direction. Mr. Nazarbayev, a former member of the Soviet Politburo who took over Kazakhstan when it became independent and has ruled it ever since, did not take kindly to the formation of an opposition party by former government officials late last year. He arrested and tried several of its leaders, and recently he had his rubber-stamp parliament pass a new law making the legal formation of such parties virtually impossible. The president also did not like reading reports in the Kazakh media about a secret Swiss bank account in which he deposited $1 billion in oil revenue. A score of newspapers and an equal number of television stations have been forced to shut down in recent months, and a number of journalists have been attacked or threatened.

Mr. Nazarbayev has arrogantly dismissed U.S. complaints about his behavior, just as he has waved off suggestions that he consider allowing more democracy. Instead, he seems to be modeling himself on the longtime U.S. allies in the Persian Gulf. Rather than reform, he signs drilling and pipeline deals that will allow his country to rake in billions in oil income; rather than respect human rights, he offers cooperation with the U.S. military. Just this week his government formalized an agreement with the Bush administration that will allow emergency landings and refuelings for U.S. military planes at Almaty's international airport.

Bush administration officials say they understand that accepting a relationship on such terms is more than a political embarrassment. "Authoritarian governments and largely unreformed economies," Deputy Assistant Secretary of State Lynn Pascoe told a recent congressional hearing, "create the conditions of repression and poverty that could well become the breeding grounds for further terrorism." The question, then, is how to break the old model that Mr. Nazarbayev would renew. As in the Persian Gulf, admonitions from ambassadors, and even rhetoric from the White House, will not be enough; Mr. Nazarbayev must understand that his country's relationship with the United States depends on political change. Does the Pentagon really need another landing arrangement in Central Asia? If such agreements were withheld—or frozen—Mr. Nazarbayev and other Central Asian dictators would be quick to get the message.

## CONDOLENCES TO FAMILY AND FRIENDS OF SAMATHA RUNNION

### HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. ROYCE. Mr. Speaker, I rise today to offer my condolences to the family and friends of Samatha Runnion, and to all those who have been affected by her tragic murder.

Samantha was abducted from her home in Stanton, California, on Monday, July 15. She was sexually assaulted and murdered, and her body was found the next day in Cleveland National Forest.

President George W. Bush has called on Attorney General John Ashcroft and FBI Director Robert Mueller to order that all federal resources necessary be made available to the Orange County sheriff's office. Rewards totaling more than $100,000 have been offered by British Petroleum, which employs Samantha's mother, the Coalition of Police and Sheriffs in Santa Ana and others.

What happened to Samantha is deeply disturbing. Why does something like this have to happen to an innocent child? We shouldn't have to keep children off the streets. They should be allowed to go out and play, without fear of such horrendous acts. Parents shouldn't have to worry about their children disappearing the moment they turn their backs.

Sadly, the television has recently been strewn with alarming news of missing children like Samantha, Elizabeth Smart, Jahi Turner, and others. We hope that justice will be served, but even finding those accountable gives just a slightly cathartic feeling after such a huge loss. Our hearts go out to Samantha's family, the families of these other children, and anyone else feeling the pain of losing a child.

## "WATCH WHAT WE DO, NOT WHAT WE SAY"

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. CONYERS. Mr. Speaker, over the past few months, we have seen one revelation after another about the conflicts of interest rampant among figures of the Bush Administration, from the President and Vice President, themselves, to senior officials in key agencies. We have had a veritable cornucopia of conflicts. Almost every day, the media has uncovered a new one. It reminds me of a prophetic invitation made by John Mitchell, President Nixon's first Attorney General. Before we learned the scope of Watergate, Mitchell asked the American people to:

#### WATCH WHAT WE DO—NOT WHAT WE SAY

Well we watched what Mr. Mitchell did, as he requested. And John Mitchell went to jail. His advice seems particularly pertinent these days. Practically every senior official of the Bush Administration has made pious speeches about the importance of business ethics, professional integrity and scrupulous avoidance of conflict of interest. That's what they have said.

But when we examine what they have done, the chasm between their sermons and their actions is striking. That sharp contrast angers ordinary citizens who have been laid off, or seen their nest egg investments evaporate, or their pensions become worthless. Why should they be angry? Let me count the ways.

#### DEPUTY ATTORNEY GENERAL LARRY THOMPSON

The head of the President's so-called "Swat Team" on corporate crime is Deputy Attorney General Larry Thompson. He already has rejected my call, months ago, for him to recuse himself from the Department's decisions in the Enron scandal. I did so because Thompson had received benefits from—and might be receiving a pension from—a law firm that has substantially represented Enron. That raised a serious possibility that he could not vigorously pursue the case against Enron. At the least, I asked him to explain his decision if he did not recuse himself.

Now Thompson has pledged to the public that he will hunt down corporate criminals "with vigor and aggressive manner." Yet Thompson was on the board of Providian Financial Corporation and chaired its compliance and audit committee, at a time when—to put it very charitably—Providian was not only unscrupulously enticing and exploiting the poorest class of debtors, but also inflating earnings by excessive charges and by shady lender practices that violated federal and state consumer protection rules. Thompson's spokesman has claimed that he only learned of these practices when regulators made inquiries. His spokesman actually claimed that Thompson was owed applause for helping to settle the claims. Well I'm sorry, Mr. Speaker, but if he was chairman of Providian's compliance committee and was unaware his corporation was badly out of compliance, then I have to wonder if he's fit to manage the Department of Justice.

It's bad enough for someone with the sensitivities Thompson should have, that Providian's growth relied on pursuing customers with poor credit card histories, who have difficulty obtaining further credit, misled them into accepting excessive interest rates and hidden charges, and denied the customary grace period for delinquent credit card payments. Apparently, Thompson, and other executive insiders, dumped large blocks of stock knowing that the reported revenues were overstated because of these unlawful practices. And worse still—just like the Enron officials Thompson is supposed to be investigating—the Providian executives sold their company stock while recommending purchase of large holdings of that stock to the employees 401 K plan. It is true that Thompson would have had to sell his shares in the company in connection with his nomination; but there is no suggestion yet that he was going to act any differently than his Providian colleagues, even before his nomination.

#### ARMY SECRETARY THOMAS WHITE

Thomas White was Vice President of Enron's Energy Services Unit, one of the company's components engaged in its most egregious accounting practices. In 1981, between June and October he unloaded over $12 million worth of Enron stock. Investigators are assessing whether he violated insider trading laws. In addition he first hid the full number of contacts he had with Enron officials after he had assumed federal office. Then he admitted to having 84 phone calls with company officials in his first 10 months as Army Secretary. He also failed to comply with the ethics laws in divesting himself in a timely manner of all of his Enron shares and options. As in Larry Thompson's case, if White's dubious claims are true that he was unaware of the corporation's phony accounting, it is hard to have confidence in his ability to manage operations and procurement involving billions of dollars.

In sum, I cannot put his offensive situation any better than a New York Times Editorial that said: "Army Secretary Thomas White has repeatedly pledged that, if questions stemming from his ties to Enron became too much of a distraction, he would resign. They now have and he should."

#### PRESIDENT BUSH

The numerous serious questions raised about President's Bush's relationship with Harken Energy while he served on its board have been widely reported in the press. These principally include the circumstances under which he received several loans to purchase company stock; and under which he sold stock with knowledge of negative business news that was about to be made public. Obviously such serious charges require a thorough airing. In the meanwhile, the public will have to make its own judgment as to whether the President's corporate experience makes it inappropriate for him to so sternly lecture the private sector on the importance of the highest ethical standards for American business.

#### VICE PRESIDENT CHENEY

A major Securities and Exchange Commission investigation is underway of oil services giant Halliburton Corporation. Among other activities at issue are Halliburton accounting practices, which were parallel to those of other corporations now under current public scrutiny. Vice President CHENEY was not merely a vice president or division chief at Halliburton, Mr. Speaker, he was the CEO. He was in charge. Polls have shown that 53 percent of the American people believe he is either lying or hiding something about his involvement in Halliburton's questionable corporate practices. This is hardly surprising since the Nation is already suspicious about Mr. CHENEY's refusal to make public his secret meetings with oil industry executives lobbying his energy policy task force behind the scenes. Yet the Vice President refuses to disclose his records regarding his role in these Halliburton transactions. He won't even talk about this troubling matter, even though there is no law, regulation or rule that he has been able to cite that would prevent him from doing so.

The Vice President says that whenever the SEC asks him for information, he will cooperate fully. . . But that raises a catch 22 problem because the head of the SEC, Chairman Harvey Pitt, himself has two conflicts of interest that are equally serious

HARVEY PITT

First, as is now widely known, Mr. Pitt for years was private lapdog of almost every major accounting firm and numerous banking clients. His bona fides to conduct vigorous investigation of past wrongdoing and oversight of future conduct are highly suspect. This is especially disturbing because his one year "probation period" under the Ethics Law is about to end. He then will be free even to participate in cases involving his former clients. To be sure, in recent weeks, Chairman Pitt has missed no opportunity to proclaim how tough he plans to be on corporate criminals. But last fall, he was telling people that what the private sector needed was a "kinder, gentler SEC." This year he strongly lobbied for the far weaker Oxley bill to regulate corporate misbehavior, rather than the tough Sarbanes bill that passed the Senate unanimously last week.

Second, it will not be credible to the American public that Mr. Pitt will really pull out all the stops to investigate wrongdoing by the Halliburton and Harken corporations and "let the chips fall where they may" regarding any culpable involvement of the President or the Vice President. As James Madison sagely advised over two hundred years ago, "If men were angels," we would need no government watchdogs. Even if we were convinced that Mr. Pitt is an honorable man, none of us are angels. It is too much to expect that he will supervise investigations which may involve his bosses, President Bush and Vice President CHENEY, without being influenced one iota by their relationship to him. The inherent conflict is just too great.

Therefore, I call on Chairman Pitt to appoint a widely respected Special Counsel to the SEC, clearly independent of Pitt's chain of command authority, to conduct those investigations, as well as any investigation involving Pitt's former clients. Should he and the Department of Justice determine he lacks full authority to do so, then I call on them to present to the House and Senate the necessary legislation to provide that authority, so that we may enact it expeditiously.

Mr. Speaker, I agree with President Bush and the other outspoken Administration officials that it is essential to restore public confidence in American corporate ethics, investor markets and the operation of our free market system. Appointing a Special Counsel for the SEC to pursue these sensitive cases will help us start to do so right away.

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## CHAMPION OF HOUSING

### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mrs. MYRICK. Mr. Speaker, I rise today to pay tribute to a great leader and a pillar of the community, Rollan Jones.

Founder and Chairman of the Board of R-Anell Housing Group in Denver, North Carolina, Rollan was known as a driving force in the manufactured housing industry until his death on May 29, 2002. His vision and his determination were contributing factors to the growth of manufactured housing in North Carolina and the Southeast. In his 46 years in the manufactured housing industry, he gained expertise in every facet of the business, from production line to Chairman of the Board.

His accomplishments as an innovator and leader in the manufactured housing industry were nationally recognized with his induction into the Hall of Fame in 1994. He was also a founding member and past President of the North Carolina Manufactured Housing Institute, James E. Lavasque Award recipient, and served on the MHI Board of Directors for ten years.

Rollan is credited with pioneering many of the manufacturing processes and technologies in use today. Noted as a champion of design, materials, workmanship and service, he established the core principles required to make R-Anell Housing Group an industry benchmark.

He will be remembered through the countless lives he touched, the friends, family and acquaintances he held so important, and his habit of lending a hand wherever it was needed. In all of his glory, through his tireless efforts in the housing industry, somehow Rollan found the time to be a FINE fisherman as well. He will be sorely missed.

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## GENERAL BENJAMIN O. DAVIS, JR.

### HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. BISHOP. Mr. Speaker, I rise today in memory of General Benjamin O. Davis Jr., who departed this life on July 4th, after a distinguished career as our country's first black Air Force general officer.

He will be remembered in history for his command of the Tuskegee Airmen—that amazing squadron that flew more than 10,000 sorties over North Africa and Europe during World War II and never lost a plane! Even more than that, his colleagues in the military recognize him as a truly great leader and warrior throughout his 34 years of uniformed service to his country. And, perhaps most of all, General Davis is known by all as an exemplary public servant and model citizen whose extraordinary success and many contributions have played a big part in turning the tide against official racism. As former Defense Secretary William Cohen has said, he proved that blacks and whites cannot only serve together, they can succeed together.

General Davis, we salute you, Sir, for your great and distinguished service to our great nation.

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## RECOGNIZING REAR ADMIRAL ROLAND KNAPP

### HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. DICKS. Mr. Speaker, I rise today to recognize an outstanding naval officer, Rear Admiral Roland Knapp, from Gig Harbor, Washington. Admiral Knapp has served with considerable distinction and dedication for the past 33 years, and I would like to take this opportunity in the House of Representatives to thank him for his service and his contributions to the defense of our great nation.

On July 26, Admiral Knapp will retire from the Navy after 33 years of active service, and he will leave command of the Navy's Executive Office for Aircraft Carriers here in Washington, DC.

During his tenure as Commander of the Navy's Aircraft Carriers Office, Admiral Knapp has overseen the christening of USS *Ronald Reagan*, our newest nuclear aircraft carrier, the complex refueling overhaul of the USS *Nimitz* and the contract awarding of CVN–77. He has also been responsible for all aircraft carrier acquisition and life cycle support programs the past 2½ years. During this tenure his command worked with the fleet to ensure our "in-service" carrier force was maintained at the highest possible levels of readiness. Their brilliant dedication to our force was visibly evident during the recent sustained combat-operations conducted during Operation "Enduring Freedom." In addition, Admiral Knapp has ensured the success of our aircraft carrier programs well into the future through his numerous innovative business practices as well as merging the latest technological advances into our carrier fleet.

Mr. Speaker, I am proud to recognize Admiral Knapp and his wife Jean for their honorable service to our nation. I Join my colleagues in the House today in wishing them continued success and the traditional naval wish of "Fair winds and Following seas" as Admiral Knapp closes out his distinguished military career.

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## HONORING PORT CHICAGO ANNIVERSARY

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. GEORGE MILLER of California. Mr. Speaker, this week we commemorate the 58th anniversary of the July 17, 1944 disaster that caused the largest Home Front loss of life during World War II: the massive explosion at the Port Chicago Naval Magazine near Concord, California.

Fifty eight years ago this week, 320 sailors, Marines, Coast Guardsmen, Merchant Mariners, and workers were killed in the gigantic explosion of armaments being loaded aboard ships bound for the Pacific theater. Most of the men, who served as munitions loaders, were black. Commanded exclusively by white officers, they were given little training or equipment to assist them in the dangerous and ultimately fatal job of loading high explosives. For years, the exact nature of the explosives they loaded remained secret, concealing the fact that the dangers and the need for training—had been significantly underestimated.

Several days after the explosion—after they had tended the wounded and picked up the shredded remains of their colleagues—the surviving black sailors were ordered back to load more ships without any further training, and before it was even established what had caused the cataclysmic loss of life. Several hundred refused, and ultimately, 50 were tried for mutiny and convicted.

Over the past decade and a half, there has been a great movement to clear the names of these men, who were loyal, brave and dedicated sailors serving a nation that segregated them, exposed them to unreasonable dangers, and railroaded them into prison on trumped up mutiny charges. Over a half century later, the terrible mistreatment of these sailors calls out for justice.

When we began the effort to inform the American people about Port Chicago, it was an almost forgotten chapter in American military and social history. Now, a decade and a half later, there are books, articles, documentaries that have ran repeatedly on cable television, and even a full length television movie. While we have not cleansed the convictions from the records of all the men, the conviction was removed from one record because of congressionally mandated review, and Freddie Meeks, one of the few sailors remaining alive, received a full presidential pardon.

Today, the Port Chicago Naval Magazine National Memorial at the site of the explosion commemorates the men who lost their lives on July 17, 1944, and all those who served at that base. That Memorial, which I was honored to sponsor, was dedicated on the 50th anniversary of the explosion.

For those interested in learning more about this historic story, there are also numerous web pages, including:

*www.portchicagomunity.com;*
*www.cccoe.k12.ca.us/pc/;*
*www.historychannel.com/exhibits/portchicago/;*
*www.ibiblio.org/hyperwar/USN/fax/PC/;*
*www.history.navy.mil/faqs/faq80-1.htm;*
*www.history.navy.mil/faqs/faq80-4.htm;*
*www.nps.gov/poch/index.htm.*

This year, a team of very talented young people from Bakersfield High School in Bakersfield, California produced an outstanding documentary that won the statewide History Day competition and was submitted to the national competition. I congratulate Dan Ketchell and his entire team, for their outstanding work on the Port Chicago film.

And the Port Chicago story has changed lives. I have been to many of the annual services held at the Port Chicago chapel, and have spoken with the men and women who lost parents, brothers, and other relatives in the explosion: many who never knew the full story of how their loved one perished until reading the story of Port Chicago in a news story or seeing one of the films. And then they came to the site of the explosion, perhaps saw their relative's name engraved on the marker, and understood something about their family they never really knew before. One daughter of a victim from Texas, Raye Adkins, who was born after her father's death and was named for him, has dedicated herself to researching the families of the victims.

One year ago, several dozen Members of the Congress joined me in sending a letter to President Bush, asking that he examine the Port Chicago case and the impressive record developed in conjunction with the Meeks pardon. We asked him to use his Executive powers to grant clemency to all the sailors prosecuted for protesting the racism under which they were forced to live and work, even as they served their nation during a war against racism and persecution. I am so pleased that the members of Alpha Kappa Alpha, a sorority with more than 140,000 members throughout the nation, has sent dozens upon dozens of names on a petition to the President urging him to accede to this request for his intervention.

The Port Chicago story lives on as an increasingly fascinating piece of U.S. history and as a moving tribute to the men who served and died that terrible night 58 years ago. I know the Members of the House of Representatives join me in honoring all the men of Port Chicago for their selfless service, their courage and their sacrifice.

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## SPECIAL BIRTHDAY TRIBUTE TO MS. IDA HILL-MOORE

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Ms. LEE. Mr. Speaker, I rise to pay a special birthday tribute to Ms. Ida Hill-Moore, who will be celebrating her 80th birthday on Saturday, July 20th.

Ms. Hill-Moore was born in Columbia, South Carolina and raised in Detroit, Michigan. She attended Detroit Public schools, after which she attended many institutions of higher education.

Ida Hill-Moore has dedicated her life to her family and friends in all of the communities in which she has lived. She loved her two sons, John and Jeffery, very dearly. Sadly, both have passed away.

In 1957, Ms. Hill-Moore moved to Los Angeles, California, where she worked for the Los Angeles Police Department. Afterward, she worked for the prestigious Los Angeles County Museum. Ms. Hill-Moore has a long history of civic duty and continues to remain active in her community. She has served as a Member of the Conference of Concerned Citizens, and she is the current President of Angeles Place residential home.

I am proud to join Ms. Hill-Moore's family and friends as we celebrate her commitment and dedication to her family, friends and humanity itself. Today, I wish you a very happy birthday.

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## RECOGNIZING THE SAN GABRIEL/POMONA VALLEY C.O.P.E. OF THE LOS ANGELES COUNTY FEDERATION OF LABOR FOR OVER 50 YEARS OF SERVICE AND LEADERSHIP

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Ms. SOLIS. Mr. Speaker, I rise today to honor the San Gabriel/Pomona Valley Council on Political Education (C.O.P.E.) for more than 50 years of leadership and service to the Southern California community.

The San Gabriel/Pomona Valley C.O.P.E. has championed the rights of working men and women throughout the community. Through its large network of dedicated union members and their families, C.O.P.E. has actively worked to improve wages, working conditions, health care, education, and the overall quality of life of every worker.

Much of the success of the San Gabriel/Pomona Valley C.O.P.E. is attributed to the efforts of its membership and the tremendous commitment of its leadership. Today, I would like to recognize the service of past leaders that played an important role in the organization's well-being, namely: Arnold F. Hackman, Meat Cutters Local Union #439; Dallas Jones, formerly of the Los Angeles County Firefighters Local #1014 and now serving as Director of the Governor's Office of Emergency Services for the State of California; William R. Lathrop, United Food & Commercial Workers Union #1167; Jesse Martinez, United Brotherhood of Carpenters and Joiners of America, Local #1976, #309, and #409; Joseph R. Rocha, Laborers International Union of North America Local #1082; Herb Schisler, Los Angeles County Firefighters AFL–CIO Local #1014; and John M. Wolsdorf, hitemational Brotherhood of Electrical Workers AFL–CIO Local #1710.

Therefore, I ask my colleagues to join me in congratulating the San Gabriel/Pomona Valley C.O.P.E. for their work and contributions to this great nation.

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## COMMENDING THE COMMUNITY OF LAMAR COUNTY, TEXAS, ON THE PURCHASE OF THE OLD PARIS POST OFFICE

### HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. SANDLIN. Mr. Speaker, I rise today to celebrate the vision and leadership of the leaders of Lamar County, Texas, the commitment of its citizens and the recognition of the success that can occur when the federal and local governments work together for the common good.

Tomorrow, on July 19, 2002, the Lamar County Commissioners Court will save a building in Paris, Texas, that reflects the history of this community. Further, the Court will give the building new life and a new public purpose.

In a matter of hours, Lamar County will approve the purchase of the historical Paris Post Office from the United States Postal Service. This building will be used for courtrooms, office space, and other public purposes. The building will be a center of justice and local government for generations to come.

Our nation is a nation of laws. Our constitution is strong, enduring and based on principles of right and wrong. We believe in freedom, justice and certain unalienable rights that are extended to all people. Many of these issues are considered daily in courthouses all across America.

A courthouse is more than bricks and mortar. A courthouse is a physical testament to the commitment of the American people to the principles we hold dear. Times change. Society changes. Other buildings may come and go.

But a court house remains—visible, strong, and permanent. A courthouse reassures our citizens that our law is here today, was here yesterday and will be here tomorrow.

In addition to being used a courthouse, this historic building will provide the citizens of Paris and Lamar County with additional public space to be used in a way that is deemed appropriate by the community and its leaders. Those uses may change from year to year. This is as it should be. A building such as this recognizes both the stability of our society and the changing needs of that society.

I think it is entirely fitting and proper that the United States House of Representatives recognize and commend Lamar County Judge M.C. Superville, and County Commissioners Michael R. Blackburn, Rodney C. Pollard, Carl L. Steffey, and Jackie Wheeler for their vision in making this opportunity available to the citizens of Lamar County.

The acquisition of this facility by Lamar County is an excellent example of what can be accomplished when we all work together. I appreciate the commitment of the local citizens and the generous attitude of the United States Postal Service. Both were necessary to complete this project.

As a result of their efforts, the public has been well served.

## REGARDING H.R. 5067, TO PROVIDE HEALTH CARE COVERAGE FOR CHILDREN AND PREGNANT WOMEN FROM MICRONESIA WHO RESIDE IN THE U.S.

### HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mrs. MINK of Hawaii. Mr. Speaker, Micronesians residing in the U.S. are classified as lawful non-immigrants and are unable to obtain federal health care services. They cannot obtain Medicaid benefits even though they are members of our local communities and pay taxes.

Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palua have made sacrifices for the U.S. The U.S. tested a total of 67 atomic and hydrogen bombs between 1946 and 1958 at the Bikini and Enewetak atolls in the Marshall Islands. The effects of these tests are still felt throughout the region.

Additionally, the Compact of Free Association prevents other countries from entering into military alliances with the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. Such military alliances could threaten the security of our nation. Between 1918 and 1941, foreign powers did occupy these islands. And as history will recall, many World War II battles were fought in the islands fortified and occupied by Japan. The Compact prevents this from happening again.

In the Compact, the U.S. government promised to assist Micronesians in exchange for their continued sacrifices. The U.S. agreed to foster economic development and help these countries become self-sufficient.

This same treaty allows Micronesians to freely migrate to the U.S. According to the 2000 Census, 115,247 Micronesians are living in the U.S. Most Micronesians do not become citizens, yet they become members of our communities. They are here legally. They pay taxes, attend our schools, and join our military. They work with and for us. Nevertheless, the federal government denies Medicaid health care benefits to noncitizens and lawful non-immigrants.

My bill, H.R. 5067, will give Micronesian children and pregnant women legally residing in the U.S. access to Medicaid and the State Children's Health Insurance Program (SCHIP). Micronesians should be covered because it is in the interest of our nation to improve the public's health, which includes basic health care for poor children and pregnant women regardless of their nationality or citizenship status.

I urge my colleagues to cosponsor H.R. 5067 and help the U.S. fulfill its commitment to our neighbors and coworkers from Micronesia. They made sacrifices to ensure the security of our nation. It is time for our nation to fulfill its promises.

## FAITH UNITED METHODIST CHURCH CENTENNIAL ANNIVERSARY

### HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. LAMPSON. Mr. Speaker, I am here today to bear witness to the 100th Anniversary of the Faith United Methodist Church in Dickinson, Texas. This extraordinary religious community traces its roots back more than a century to the establishment of the Warren Chapel in the town of Dickinson in 1901. Six years later, the Methodist community in League City founded their own chapel in 1907. These two communities, separated by a mere seven miles shared both the trials and the joys of life together and in June of 1967, the two congregations merged to form the Faith United Methodist Church.

On September 7, this community will commemorate its Centennial with the unveiling of a Texas historical marker celebrating 100 years of faith and community. I ask you to join me in recognizing this remarkable congregation's faith and sense of community that has passed the test of time and remains a shining example of America's strength and unity.

## PROTECT CONSUMERS' RIGHT TO TAKE COMPANIES TO COURT WHEN DISAGREEMENTS ARISE

### HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. GUTIERREZ. Mr. Speaker, today I am introducing the "Consumer Fairness Act of 2002," a bill to address arbitration clauses that are unilaterally imposed on consumers as unfair and deceptive trade practices and prohibit their use in consumer transactions.

Increasingly, companies such as banks and credit card companies, computer makers, insurance firms and car dealers are requiring customers to waive their right to sue when a disagreement occurs. Furthermore, these mandatory arbitration clauses are usually not clearly disclosed in agreements and contracts.

Requiring consumers, as a mandatory condition of providing a service or selling a good, to waive his or her right to pursue a grievance through the United States justice system is problematic for several reasons.

Arbitration can cost more than pursuing a case in court, with fees that often run into the thousands of dollars.

Arbitration limits the evidence that can be used.

Arbitration usually does not allow for appeals.

To address these problems, this Act would prohibit companies from using clauses in contracts and sales agreements that require consumers to agree, in advance, to submit any disagreements to arbitrators. Such clauses ban consumers from suing a company and participating in class action lawsuits. This legislation protects consumers' right to sue and clarifies that consumers can choose to resolve their disputes with companies through arbitration.

Mr. Speaker, I urge my colleagues to support this much-needed legislation for all consumers in America.

## RECOGNIZING McQUADE CHILDREN'S SERVICES

### HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mrs. KELLY. Mr. Speaker, I rise today to recognize McQuade Children's Services, located in New Windsor, NY, for its dedicated service to special needs children of the Hudson Valley. On Sunday, July 21, McQuade Children's services celebrates its 140th birthday.

McQuade's service to Hudson Valley residents dates back to 1862, when it was founded as a home for orphaned or abandoned children. Established by the Newburgh Union Female Guardian Society as the "Home for the Friendless," it was renamed in 1945 to commemorate the life of Dr. Milton Ash McQuade.

Dr. McQuade was an ear, nose and throat specialist who himself was abandoned at a church doorstep as a baby and raised by the Reverend McQaude and his wife. Dr. McQuade emigrated from Canada to Newburgh, NY in 1914 to establish a medical practice and throughout the years, supported the Home and provided free medical care to the children. Upon his death in 1928, Dr. McQuade dedicated much of his estate to the Home, enabling it to continue to provide services throughout difficult times such as the Great Depression.

Today, McQuade Children's Services provides quality care in a variety of settings to

300 children and their families. Its mission, however, has remained one of providing an accepting, nurturing environment for children. Putting "Children First" is not just a pledge taken annually by staff, but a philosophy that is truly internalized by all those who help McQuade's succeed.

The services available to children are vast and varied, ranging from therapeutic residential care to special education. McQuade's facilities and programs include: a boys and girls Residential Treatment Center, the Kaplan School for special education, Diagnostic Assessment Centers, and community programs focused on family counseling and independent living skills. Teaching responsibility and imparting values to children, McQuade's staff works tirelessly to provide social, academic, physical and spiritual growth.

McQuade's numerous success stories are a testament to its importance to the Hudson Valley community. The McQuade staff and volunteers share an unparalleled commitment to improving the lives of children in need. Once again, I commend McQuade Children's Services for providing quality care to children for well over a century and I look forward to celebrating their 140th anniversary this coming Sunday, July 21, 2002.

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## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

### HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Ms. WATERS. Mr. Chairman, the United States government has a history of leasing lands belonging to Indian tribes and individual Indians. The government has been receiving grazing, timber and mineral royalties from the lease of these lands—royalties that the government was supposed to hold in trust for the rightful owners of the lands.

Unfortunately, the United States government has admitted that it mismanaged these trust funds for decades and lost the money of our nation's first peoples. Federal courts have ruled that the government owes Indians an historical accounting of all Indian trust funds going back to the date the funds were deposited.

This bill includes provisions to restrict the ability of the Federal government to provide an accounting of Indian trust funds. The bill even presumes that all trust fund records prior to 1985 were correct. These provisions defy court decisions and have no place in an appropriations bill.

I urge my colleagues to strike these unjust provisions and let Native Americans know what happened to their money.

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## INTRODUCTION OF THE MEDICARE MARKET ACQUISITION DRUG PRICE

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. STARK. Mr. Speaker, I rise today to introduce the Medicare Market Acquisition Drug Price Act of 2002. This bill would correct a long-standing and well-documented problem with the way Medicare pays for the few outpatient prescription drugs it covers today. This bill would save taxpayers billions of dollars, without compromising Medicare beneficiaries' access to cancer treatment or other services. Congress should enact this bill immediately.

This problem must be resolved—this year—whether or not we succeed in creating a new Medicare prescription drug benefit. Due to pharmaceutical industry efforts, this problem was not addressed in the prescription drug legislation recently introduced and passed by the House Republican leadership. Despite their neglect of the issue, I believe there is bipartisan consensus that Medicare should not continue to pay exorbitant prices for prescription drugs. I urge my colleagues to join me in supporting this bill.

Medicare currently pays for only a limited number of outpatient drugs, generally ones that a patient cannot self-administer, such as chemotherapy drugs. Medicare spends over $5 billion every year on these drugs. Under current rules, Medicare vastly over-pays for these drugs, because it bases payments on the artificially high "average wholesale price" (AWP) reported by the drug's manufacturer—regardless of the actual price a provider pays for the drug. There is abundant evidence that drug manufacturers have boosted their own drug sales and increased their profits, at great taxpayer expense, by manipulating the AWP of their drugs. Simply put, drug manufacturers report inflated prices, sell providers the drugs for much less, and then encourage providers to bill Medicare for the maximum allowable amount—95 percent of the inflated AWP reported by the manufacturer.

This bill offers a straightforward solution to this problem. It would require Medicare payments to be based on the actual market prices at which manufacturers sell their drugs. This price, called the average acquisition price, would be verifiable. The Secretary would have the authority to audit drug companies' reports. Drug companies would be subject to steep fines for deliberately filing false or incomplete information.

Mr. Speaker, the current Medicare AWP rules are a sham and must be changed. Consider the following:

The General Accounting Office has described the AWP as "neither 'average' nor 'wholesale;' it is simply a number assigned by the product's manufacturer." The GAO found that Medicare's payments for physician-administered outpatient drugs were at least $532 million higher than providers' potential acquisition costs in 2000. Similarly, the GAO found that Medicare paid at least $483 million more for supplier-billed drugs than suppliers' potential acquisition costs in 2000. Some drugs were available at prices averaging just 15 percent of the manufacturer's reported AWP, while Medicare continued to pay 95 percent of AWP.

The Office of the Inspector General at the Department of Health and Human Services found that Medicare could save $761 million per year by paying the actual wholesale prices available to physicians and suppliers for just 24 of the outpatient drugs currently covered by Medicare.

Numerous states, consumer groups, and private health plans have sued drug manufacturers for fraudulently inflating Medicare drug prices.

These suits follow on the heels of a record Medicare and Medicaid fraud settlement by TAP Pharmaceutical Products. In October 2001, TAP pleaded guilty to a charge of conspiracy to violate federal law. TAP agreed to pay $875 million—the largest criminal fine ever levied by the government for health care fraud—to settle the suit, in which the government alleged the company artificially inflated the AWP of the company's prostate cancer drug Lupron.

Drug manufacturers have resisted efforts to investigate this problem. For example, last summer the GAO continued its investigation into AWP on Congress' behalf and requested drug price information from many manufacturers. One pharmaceutical company, Pfizer, refused to comply with GAO's request until this January, when GAO subpoenaed the company's CEO, Henry McKinnell.

Mr. Speaker, the problem is well known. The solution is straightforward. Both the GAO and the OIG have recommended that we revise Medicare's drug payment policies to reflect actual market prices, accounting for rebates and other discounts available from manufacturers. That is exactly what this bill does.

Manufacturers would be required to report the actual average market acquisition prices for their drugs as a condition for Medicare coverage of those drugs. Each manufacturer would have to certify the accuracy of its reports and the Secretary of HHS would be empowered to audit price information to verify the accuracy of the reports. Drug manufacturers would be subject to unlimited civil monetary penalties for filing false reports and would be subject to a penalty of $100,000 for each day they fail to provide timely information.

The bill is also carefully crafted to ensure that the reimbursement revisions will not adversely impact Medicare beneficiaries' access to care. First, to ensure these drugs are available in areas of the country where providers must purchase covered drugs at prices above the average, the actual reimbursement level to providers would be set 5 percent above the average acquisition price. Second, Medicare would pay dispensing fees to reflect differences in the costs of dispensing different drugs and biologics. Third, the bill would ensure continued access to cancer treatment. Oncologists have argued that inflated AWP reimbursements are necessary to compensate for the administration of cancer medicines. This bill would correct this anomaly by revising Medicare payments for oncology services to appropriately account for these indirect costs, in accordance with GAO recommendations.

Mr. Speaker, I sincerely hope that Congress will act to provide a meaningful Medicare prescription drug benefit this year. On top of the many other serious concerns I have with the drug benefit passed by the Republican leadership, I am deeply disappointed that it did not address the abuses of the current AWP system. We must not shirk our responsibility to ensure that Medicare properly pays for the limited outpatient prescription drugs it already covers. There is no need for taxpayers to continue to fill pharmaceutical companies' coffers with the ill-gotten gains of the current AWP system. I hope all of my colleagues will join me in passing this important legislation.

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## HONORING HISPANIC CITIZENS—9TH DISTRICT OF TEXAS

### HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. LAMPSON. Mr. Speaker, I rise today to honor local Hispanic citizens from the 9th District of Texas who were chosen for their work in the community. While the dedication of Hispanic leaders is well-known throughout the United States, local citizens, right here in the Southeast Gulf Coast region, are just as important to ensuring equal rights and economic progress for all Texans.

Last month I asked members of the communities in the 9th District to nominate individuals for my "Henry B. Gonzalez Latino Leadership Award," named in honor of the late Congressman Henry B. Gonzalez, that gives special recognition to those who have worked selflessly, often without recognition, and made contributions both in the Hispanic community and the broader society as well. Recipients were chosen because they embodied a giving and sharing spirit, and had made a contribution to our nation.

While their efforts may not make the headlines every day, their service and dedication to our country is nevertheless vital to our entire region. This region of Southeast Texas is not successful in spite of our diversity; we are successful because of it.

Please join me in recognizing and congratulating these leaders for their work and commitment to their communities and to Southeast Texas. It is leaders like these men and women that continue to be a source of pride for Texas. The winners of this years Henry B. Gonzalez Latino Leadership Award" are:

Alice Flores, Elias de la Cerda, Jr., Ruben F. DeHoyos, John J. DeLeon, Joe Escobedo, Jr., Ella Flores, Roberto C. Flores, Robert D. Gallegos, Tina Garcia, Manuel Guajardo, Manuel R. Gonzalez, Elida Saenz Matthews, Eugenia Rios, Elisa Vasquez, Gilbert Zamora, Jr., Manuel Urbina II, Gilbert Hinojosa, Joseph Cantu, Gregory Flores, Carlos Hernandez, and Jesus Abrego.

Mr. Speaker, the recipients of the "Henry B. Gonzalez" award are dedicated and hardworking individuals who have done so much for their neighbors and for this nation as a whole. Today, I stand to recognize their spirit and to say that I am honored to be their Representative.

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## THE IMPORTANCE OF PUBLIC TRANSIT

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. RAHALL. Mr. Speaker, I am pleased to submit a statement made by Mrs. Faye Thompson of Wayne County, West Virginia before the U.S. Senate Committee on Banking, Housing and Urban Affairs, Subcommittee on Housing and Transportation, on the importance of public transit. Mrs. Thompson is a member of the Wayne County, West Virginia Community Service Organization, Inc. Board of Directors.

Public transit is a vital transportation link for people in rural areas, who do not own their own cars, or cannot find someone to drive them to medical appointments, etc.

In her testimony, Mrs. Thompson told how she went to work as a social worker for the Department of Health and Human Services after her three sons became old enough to go to school. Mrs. Thompson worked with low-income families and said that "one of the biggest obstacles of obtaining services was the lack of transportation." During those years, Wayne County had no public transportation.

At the time, Mrs. Thompson had her own car, and was able to drive anywhere she wanted to go, at any time.

Later in life, Mrs. Thompson's husband passed away. Then she was told she needed to have both knees replaced. Her two older sons live out of state, and her youngest son worked full-time, and was unable to drive her to physical therapy sessions.

Suddenly, Mrs. Thompson realized she was no longer independent and that she was now one of the people who need public transportation. But unlike the earlier years, when she worked to help low-income families who had no access to public transportation, Wayne County now offered public transportation.

As Mrs. Thompson said, "Thanks to public transportation, I was able to obtain the medical services that I needed."

Mrs. Thompson was able to look at how tough it was, years ago, for low-income families in Wayne County to be without public transit, and look at how much easier it was for her, while in rehabilitation, to receive physical therapy because she could rely on public transit.

Mrs. Thompson noted that "Wayne X-Press Public Transit System in Wayne, West Virginia provides transportation services to people for medical appointments, to jobs, job interviews, job training, social activities, senior citizen centers, Adult Day treatment programs, general education training, parenting classes, etc."

She described public transit as "the lifeline for the public."

As a Member of Congress representing the Third Congressional District of West Virginia, I have been working to help low-income, rural West Virginians to enhance their quality of life by providing transportation to medical care, educational facilities and jobs.

Public transit helps to create and build jobs, which is a boost to the economy. We must maintain and expand public transit programs. When we reauthorize the surface transportation legislation in the 108th Congress, I will work to continue to strengthen and expand public transit programs, to ensure "the lifeline for the public" continues.

FORT GAY, WEST VIRGINIA
*July 16, 2002*

UNITED STATES SENATE,
*Banking, Housing, and Urban Development, Subcommittee on Housing and Transportation, Washington, DC.*

MR. CHAIRMAN AND COMMITTEE MEMBERS: It is an honor to be with you here today to talk about something that is dear to my heart. First, let me tell you something about myself. My late husband and I raised three sons, and that was an experience in itself. After my children got into school, my husband who was employed by the Norfolk and Western Railroad went to work and I started back to school to become an elementary school teacher in a one room schoolhouse in rural Appalachia, West Virginia.

I saw the many challenges of the rural Appalachian people, so I changed careers and became a Social Worker for the Department of Health and Human Resources in rural West Virginia. Throughout my career, I worked with low income families and one of the biggest obstacles of obtaining services was the lack of transportation. At that time there was no public transportation in Wayne County. Throughout my twenty-two years in my career there was always a need for individuals to access, services. Throughout my life I have been a very independent person as you can see, raising a family, starting not just one career but two in my life, and having the priviledge of having my own transportation. Most of us take for granted picking up our car keys, going out of the house, and going anywhere we want to go.

Even though I have always recognized the need for rural transportation. I never thought that it would be something that I would need. After my husband passed away, I lived alone in my home. I then downsized to an apartment. I was still able to go to my homemaker meetings, church activities, Board Member meetings, volunteer work, and continued to meet my friends for lunch and social activities. My physician informed me that I was going to have to have both of my knees replaced. He stated that after my surgery and rehabilitation that I would need to go to physical therapy three times a week for several weeks. My two eldest sons both live out of state and my youngest son works full-time, therefore was unable to take me to my therapy sessions. I then realized that I was one of the people who needed transportation. I was no longer independent and this was quite a shock to me. Thanks to Public Transportation I was able to obtain the medical services that I needed.

Being a member of Wayne County Community Service Organization, Inc. Board of Directors, I can sit here today in front of you and let you know how important the Public Transit System is to the people. How it enables them to access needed services. Wayne X-Press Public Transit System in Wayne, West Virginia provides transportation services to people for medical appointments, to jobs, job interviews, job training, social activities, senior citizen centers, Adult Day treatment programs, general education training, parenting classes, etc. I'm here today to ask you distinguished ladies and gentlemen to continue funding for Public Transit Systems. Why, because it is the lifeline for the public. So I invite all of you to

Wayne County, West Virginia to "hop aboard" the Wayne X-Press.

FAYE THOMPSON

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

### HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes:

Ms. WATERS. Mr. Chairman, I rise to support the Capps amendment to prohibit the use of funds for new oil drilling on 36 leases off the coast of California.

Oil spills would devastate the sensitive marine environment of California's coast. The Santa Barbara oil spill in 1969 dumped over four million gallons of oil into the sea, killed thousands of animals, blackened beaches and decimated the local marine environment. The coast took years to recover.

California's economy depends upon the health of its coasts. Tourism brings in nearly $30 billion a year to our state, and the fishing industry is also important to our economy. California cannot afford the risks of offshore oil drilling.

The people of California are strongly opposed to offshore oil drilling. Leases off the coasts of Florida, Alaska and North Carolina have already been terminated. It is time to terminate the California leases as well and respect the will of California's people.

I urge my colleagues to support the Capps amendment.

## ARGENTINA MUST TAKE ACTION AGAINST TERRORISTS WHO CARRIED OUT THE 1994 AMIA BOMBING

### TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. LANTOS. Mr. Speaker, eight years ago today—on July 18, 1994, a car bomb exploded at the AMIA Jewish Community Center in Buenos Aires, Argentina, leaving eighty-five people dead and leveling the building. Now, eight years later, the trial of a handful of suspected accessories to the crime has only barely begun, and the masterminds behind the horrific attack are still unidentified and at-large.

While we recognize that Argentina is currently struggling with serious political and economic crises, the government of President Duhlade must remain focused on the investigation of the AMIA bombing and the trial of the accused. The resolution of this case is critical to demonstrate that Argentine society fully embraces the rule of law and is moving toward the fulfillment of justice. The AMIA case presents Argentina with the opportunity to send a message to the world that terrorism does not pay and that known terrorists will be prosecuted.

Mr. Speaker, the trial has been long in coming and has faced many obstacles, some of which Fernando de la Rua and current President Eduardo Duhlade have addressed. There is speculation about why the case was not tried and closed years ago.

First, fifteen of the twenty suspects are former Buenos Aires police officers who have been linked to a ring of automobile thieves. Although these are not the individuals who ordered and carried out the attacks, they may have supplied the vehicle used for the bombing, knowing that it was to be used in an attack on the Jewish Community Center. The most prominent of these suspects are former senior police commander Juan Jose Rebelli and local stolen-car dealer Alberto Telleldin. Both were formally charged with multiple homicides in July 1999 in connection to the bombing and are currently standing trial.

Second, the physical evidence from the bombing was handled extremely poorly. Most of the evidence from the crime scene, including personal identification and the remains of the victims, was stuffed haphazardly into bags and abandoned at an open dump for three years before being tossed into the Rio de la Plata. One investigator estimates that less than five percent of the material evidence remains today. Also, a renovation project to make the courtroom large enough to accommodate the anticipated press consumed many months.

After the public trial began on September 24, 2001, the prosecution's case has plodded through a seemingly interminable procession of witnesses. Over 1500 witnesses were called to testify in the trial. Yet, there still has been no clear identification of those responsible for the AMIA bombing. The main question of the trial remains whether the police who were involved with selling the vehicle knew that it would be used for the bombing. So far, the police have denied all charges of wrongdoing.

A number of other anti-Semitic incidents since the 1994 bombing indicate the importance of a prompt and decisive resolution in the AMIA bombing case. After the AMIA Jewish community center was rebuilt, several telephoned bomb threats against the new building, as well as against a Jewish country club and a Jewish theater, have been received. Once again, no one has claimed responsibility, no evidence has been found, and the Argentine authorities have not produced results from their formal investigations into these bomb threats. In August 1999, two Jewish families were threatened with unidentified bomb threats. One month later, unidentified individuals fired gun shots at a Jewish school. There have been no developments in the investigations of either of these cases as well.

Mr. Speaker, Argentina faces numerous challenges today, including pursuing both the domestic and international dimensions of the AMIA bombing case. Some of these investigative leads may take Argentine prosecutors to the highest reaches of their society and to state sponsors of terrorism in the Middle East. We in the United States Congress must continue to demonstrate our support for the efforts of non-governmental organizations, such as B'nai B'rith, which are actively working to bring complete closure to the AMIA bombing and other cases of anti-Semitism.

Mr. Speaker, resolution of the AMIA bombing is an integral part of our fight against terrorism. It is essential that the government of Argentina know and understand that the United States government continues to expect appropriate action against all of those who were responsible for perpetrating this outrageous crime.

## CONTINUING CRISIS IN FOSTER CARE

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. GEORGE MILLER of California. Mr. Speaker, today the ACLU and several child advocacy groups brought a suit requesting the court to hold accountable those county and state officials responsible for oversight of California's foster care system. Plaintiffs charged that negligence, mismanagement, and abuse and neglect of children are routinely committed by the very state agency charged with protecting children and ensuring their safety and well-being.

In the following article in today's Los Angeles Times, one of the plaintiffs reports that the suit will demand all appropriate mental health services; multidisciplinary assessments of the needs of each child; case plans; and providers to ensure that no child will be neglected. Judging from recent news reports, this same lawsuit could be brought against most state child welfare agencies.

The federal child welfare law that I authored in 1980 requires States to comply with a number of core requirements intended to protect children placed in foster care as a condition of receiving Federal foster care funds. Yet twenty years after enactment of P.L. 96–272, many of the same shortcomings as prompted the passage of the law are affecting hundreds of thousands of children in foster care placements, raising serious questions about the diligence of the states and the federal government in enforcing the law and protecting the children.

The situation described in the Times article is not unique to California, which has had a very troubled history in foster care for decades. In Florida, in the District of Columbia, in New York, and in many other jurisdictions, allegations about inappropriate services, improper placements, inadequate staff training and compensation coupled with massive caseloads and staff turnover are commonplace. And yet the Congress has not taken a broad look at how best to assist in the improvement of accountability and services in the nation's foster care system.

The time has come for a broad review that brings together experts and practitioners and advocates to help shape a thoughtful critique of current practice and make recommendations for the federal, state and local governments. This is not only a family crisis and a children's crisis; it is a fiscal crisis, because we are spending billions of dollars a year on a system that, despite efforts at reform, continues to fail the children in its custody. The article follows:

[From the Los Angeles Times, July 18, 2002]

### A FOSTER-CARE TRAGEDY WORTHY OF DICKENS

(By Lew Hollman)

Los Angeles has a foster-care system driven by what is available, not what is needed. Children receive too few services too late. Thousands are shuttled to ineffective and expensive institutional care. They are poorly monitored, with no consistent, individualized care. Not surprisingly, many deteriorate in county care, populating our jails, homeless shelters and mental wards after they "age out" of a failed system. Many never overcome the effects of the abuse or neglect they have suffered.

At a time when funds for children's services are ever more scarce, we are paying more for less in terms of healthy outcomes. Millions of federal dollars are at risk because of our inability to meet reasonable guidelines for stable placements—through family reunification, adoption or long-term foster care. More important, the children whom the system is intended to protect are being irreparably harmed.

This is not a problem that can be solved simply by changing the person at the top, as L.A. County has done twice in recent years. It requires a philosophical change at all levels—from a system based on what services are available to a system based on earlier intervention and individualized needs.

A suit will be filed today on behalf of foster children put at risk by a failed system. It will demand a wider array of mental health services available under Medi-Cal; multidisciplinary assessments of the needs of each child based on all relevant information; continuity in services and plans for each child; and the development of services and providers to ensure that no child will be rejected.

MacLaren Children's Center in El Monte, the county's emergency shelter for abused and neglected children, is an apt symbol of our failed system. Designated a short-term shelter, it has become instead the county's warehouse for the unwanted. Once a home for wayward girls, it retains its foreboding atmosphere. Such control as exists—in many instances, poor management has led to children being abused, often by other residents—is prison-like.

Some MacLaren residents languish for months beyond the ostensible 30-day limit. Many more are constantly "recycled" as foster homes reject them, adding to the trauma that brought the children to the county's care. One plaintiff, removed from her home as a result of sexual and physical abuse by her stepfather, was moved by the county 28 times between the ages of 9 and 13. Another is in a locked facility because of the healthy impulse to find a better life elsewhere. In less than three years, she was moved 25 times.

When Dickensian stories like these are related to the uninformed, they are greeted with incredulity. It is often assumed that lack of resources must be the problem. Of course, no one desires these rootless sojourns through impersonal care. And our society could, no doubt, better invest in the needs of its children. But lack of money is not at the root of these problems.

Inertia and lack of accountability are the culprits. The county has become increasingly defensive about releasing cost estimates.

According to a recently released Los Angeles Grand Jury report, however, costs during the 2001–2002 fiscal year at MacLaren approximated $757 per day for each child—more than $276,000 per year. Group-care facilities, recognized as contrary to the interests of most children, were estimated to cost about $33,000 annually per child five years ago. By contrast, children at risk who can be assisted without removal from the home costs less than $5,000 a year, and foster home and kinship placements less than $10,000 a year.

Medi-Cal, through the early and periodic screening, diagnosis and treatment program and other federal programs, can pay for many of the intensive services that children need. True case management would ensure the effective use of such services to enable children to remain in—or quickly return to—their homes, be freed for adoption or settled in long-term foster care.

The county recognizes the penny-wise, pound-foolish nature of the system. In addition to grand jury reports, state audits, independent evaluations and testimony before the Board of Supervisors, it brought its own expert in to evaluate and make recommendations in 1998.

Dr. Robert F. Cole, an independent expert nationally recognized for his work with disturbed children, centered his recommendations on an "integrated delivery system," such as "wrap-around" care, that would coordinate services and deliver them in a family-like environment, or the child's home, whenever possible.

A successfully tested method, the wrap-around concept is used in other counties in California and in other states, where it has reduced costs and improved the outcomes of children in foster care. The goal is for caseworkers, therapists, health providers and schools to work together to ensure children prompt and stable placements and the early development of a long-term plan to see children reunited with their families, adopted or placed in long-term foster care.

Two years after his initial report, Cole praised the county for being poised to implement coordinated services for foster children. But in that time, the county had contracted with only two providers for wrap-around care, serving two children each. Although additional foster care providers have been found since 2000, wrap-around care and other types of intensive care are virtually unavailable in a system providing services to more than 50,000 children a year, with slightly less than 38,000 in county custody. Half of those in custody are estimated to have serious emotional problems. Those problems will become increasingly difficult and expensive to treat if effective care is not provided.

The U.S. Supreme Court has held that due process under the Constitution requires the government to protect from harm any child it takes into its custody.

The Constitution is violated when children deteriorated in county care or are subjected to policies—such as 25 different placements in less than three years—that no disinterested professional would countenance. Federal Medicaid laws are broken when needed medical services for children are not provided.

The lawsuit to be filed today will ask the court to cut the knot of inertia and hold accountable the county and the state officials responsible for oversight.

# SENATE—*Friday, July 19, 2002*

The Senate met at 9:30 a.m. and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, our morning prayer is like being amazed by deposits in our checking account from unexpected sources. We are astounded by Your goodness. You know what we will need for today and You deposit the required amounts of insight, discernment, and vision in our minds. You fill the wells of our hearts to overflowing with the added courage and determination that are necessary for the demands of today. Even now, we feel the fresh strength of Your Spirit energizing our bodies. We should not be surprised. You have promised that,

"*As your days, so shall your strength be*".—(Deuteronomy 33:25).

Bless the women and men of this Senate and all who work with and for them that this will be a day in which we draw on Your limitless resources for dynamic leadership. You are our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, July 19, 2002.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. AKAKA thereupon assumed the Chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business, not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time to be equally divided between the two leaders or their designees.

In my capacity as the Senator from the State of Hawaii, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S. 2760 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

### 21ST CENTURY MEDICARE ACT OF 2002

Mr. ENZI. Mr. President, since I still have time remaining under morning business, I will comment on another issue that I am sure will be commented on throughout the day and later next week. Later this morning I will be at a conference meeting on the accounting reform bill. I have had a considerable role in that process and will be doing that when we get to the actual debate on this bill. I see that as a top priority as well.

Today I rise in support of the tripartisan 21st Century Medicare Act, which was introduced on July 15 by Senators GRASSLEY, SNOWE, JEFFORDS, BREAUX, and HATCH. This bill is a giant step forward for seniors in this country and it demonstrates a sincere commitment to future beneficiaries, by taking steps to preserve, improve, and modernize the Medicare Program. No other proposal before the Senate can deliver on such a promise.

Some of them have not been introduced yet. In fact, we have been a little disappointed that bills have not been introduced so that a more direct discussion can be done on that.

I should say, not only no other proposal is before the Senate, no other proposal that is being talked about out there can deliver on the promise that this bill does.

This bill very likely has the support of the majority of the Senate. Of course, we would need a supermajority, or support of 60 Members, to adopt the bill. It raises a very important and interesting question. It is a budget question, because the score of the tripartisan bill exceeds by $70 billion the $300 billion Congress reserved last year for Medicare; there is a budget point of order that can be raised against the bill.

Essentially, if a Senator votes against removing or bypassing the budget point of order, they will be saying this bill costs taxpayers too much, so I will not support it. But what is really interesting is that many of those who oppose this bill are actually supporting a proposal that is significantly more costly to the taxpayers. So I suggest people take a look to see who votes against this bill on the basis it exceeds the amount of money we have set aside by $70 billion and then perhaps votes for a bill that is $700 billion, $800 billion, $900 billion—or a trillion dollars—perhaps twice or three times the cost of this bill.

My point is a number of my colleagues could find themselves in the position of voting against one bill because it costs too much only to turn around and support a competing bill that is two or three times more costly.

Beyond cost to taxpayers, there are other important policy differences between the two Medicare drug benefit proposals. I believe the most important is that the tripartisan bill stretches Federal dollars further than any other proposal and provides a permanent, comprehensive drug benefit that's affordable for seniors and taxpayers. This is a critical achievement.

And, the bill does even more. It provides seniors with the option of an expanded fee-for-service plan, including drug coverage, that will serve as the first modernization of the scope of benefits under Medicare since the program was created almost 40 years ago.

Lastly, while Medicare managed care plans—known as Medicare Plus Choice plans—are not serving Wyoming, millions of seniors across the country made the "choice" to enroll in those plans, and this bill makes long overdue improvements to how those plans compete for seniors' business. My colleagues from more populous and urban states undoubtedly know that seniors who have Medicare Plus Choice plans as an option now want to keep that option and want to see it expanded and improved.

All of this sounds like a lot. And it is. But I won't stand here and tell my constituents in Wyoming that this is everything they might dream of in a prescription drug benefit. It is a giant step forward and it will absolutely reduce the drug costs seniors bear today. It won't make those costs disappear, but it will dramatically reduce them. And, it's a benefit we can afford to enact for seniors today and keep our promise to implement it in 2005. The proponents of the Daschle bill are also making seniors promises about a great new drug benefit. Except we can't afford it, so it's a hollow promise.

The opponents of the tripartisan bill will say that our bill doesn't provide a real benefit to seniors. Well, here's the skinny on our bill and what it will save seniors in out-of-pocket costs. The Congressional Budget Office (CBO) determined that Medicare beneficiaries will spend an average of $3,059 per year on drugs in 2005. If enacted, this bill would cut those costs by 53%—a savings of over $1600. That is real money. CBO also determined that the bill would cut costs for lower-income beneficiaries at or below 135% of poverty by 98%, a savings of $2,988! The estimated out-of-pocket cost per prescription among the 50 most-prescribed medications would be $21. And, every beneficiary would have at least 2 drug plans to choose from when selecting the plan that best fits their health care needs.

The Democrat bill, on the other hand, has a statutorily prescribed cost sharing for all drugs that the government decides to include in the plan, and every senior must participate in that one-size-fits-all plan. That's a concerning and very significant difference from the tripartisan bill. All of us in this body have numerous choices of health plans both at and above the standard benefit package under the Federal Employees Health Benefit Program. I do not believe seniors should be—by law—without a choice in their own health coverage. Unlike the tripartisan bill, the Daschle bill completely misses the opportunity to improve Medicare through expanded choices for seniors when selecting the right drug coverage.

To restate another distinction I raised earlier, the tripartisan bill has been officially scored by the CBO to cost $370 billion over 10 years. The sponsors of the Daschle bill have not provided us with an official score, but the unofficial scores are as high as $1 trillion over 10 years. More importantly, the drug benefit is not permanent under the Daschle bill. It would sunset in the year 2010. That is to hold costs down as much as possible. There are rumors of a 4th iteration of the bill that would not sunset the benefit, but that bill has not been introduced and will be much more costly.

Since I'm talking about the cost of the Daschle bill to taxpayers, I would be remiss if I did not talk about the cost of the bill to seniors themselves. Because the bill would cement in Federal law fixed co-payment amounts for all drugs, seniors will actually pay more for certain drugs than they would if the bill allowed drug plans to offer lower co-payments. The CBO analysis and score of the tripartisan bill proves that it employs this logic and essentially proved that drugs will be provided in a more cost-effective way under the tripartisan model.

I have mentioned it before, but I just want to say again that, in addition to the very high profile issue of needing to provide a drug benefit, Medicare has many other shortcomings. It is crying out for updating and improvements. No one in this chamber can possibly be satisfied with the program's status quo. Every day—literally—I either meet with or hear from my constituents who interact with the Medicare program or beneficiaries. They are all complaining, and rightly so. The program was created with the best of intentions. But since that day some 40 years ago, the rest of the health care world has evolved and improved, from standards of care to technology to disease management. Not to mention how providers are reimbursed and empowered in the delivery of health care services. I question whether any of this progress has penetrated the morass of the Medicare program. In fact, all I seem to hear from my constituents is that things are pretty bad with Medicare right now. That is before the new program is started.

I am astonished that only one of the two major bills—the tripartisan bill—tries to address the other problems with Medicare. The foundation of the program desperately needs reinforcement; simply building on its weak foundation the way the Daschle bill does is dangerous and falls short of our obligation to do our best for seniors where all of their health care is concerned. Where the tripartisan bill has an enhanced fee-for-service option and improvements to the existing Medicare Plus Choice option, the Daschle bill is eerily silent. Such an absence of reform will only cost seniors more money in patch jobs down the road.

I guess I have come full circle. This debate is all about giving seniors additional coverage options and saving them money. Many seniors currently lack drug coverage. All of the bills will give them coverage and cost them less out-of-pocket than what they pay right now. But only the tripartisan bill will give them flexibility in their coverage choices and buy them and taxpayers the most that a dollar will buy. That takes competition and modernization. The tripartisan bill has both. The Daschle bill prohibits competition in its statutory language and does not entertain even modest improvements to the rest of the Medicare program.

The choice is clear to me and, I imagine, will be crystal clear to the American people. For that reason, Mr. President, I would ask unanimous consent that I be added as a cosponsor of the 21st Century Medicare Act.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

Mr. ENZI. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I ask unanimous consent that I be allowed to speak for 20 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE SENATE HAS NOT PASSED A BUDGET

Mr. ALLARD. Mr. President, I wish to express to the Senate my sincere disappointment that we have not passed a budget. It has been 27 years since we have had this budget process in place in the Senate. This is the first time we have not had a budget plan passed out of the Senate.

If we are going to begin to talk about the need for various programs, it would certainly be helpful if we had some idea of where our limits were. I happen to believe we need to work to eliminate our deficit spending. We need to work to make sure we are trying to hold down the growth in our total debt.

## MEDICARE PRESCRIPTION DRUG BENEFIT

Mr. ALLARD. Mr. President, I think it is vitally important that the Senate pass a Medicare prescription drug benefit plan now. Our seniors need it, our seniors have been waiting for years for it, and our seniors deserve it now.

Medicare is a health care entitlement program for the elderly. Since Medicare was established in 1965, Congress has considered adding a prescription drug benefit to the program. In the 106th Congress, the Senate got serious about enacting a benefit but was unsuccessful in their efforts.

I hope the Senate is successful now. I am concerned, however, that the legislative process has been derailed. The majority leader decided to bring to the floor S. 812, the Greater Access to Affordable Pharmaceuticals Act. This legislation did not proceed through the Committee on Finance. In order for a revenue measure to not face a Budget Act point-of-order, legislation must proceed through the Committee on Finance. S. 812 did not. As a result, the Senate is left with assuming budget points-of-order against any and all revenue legislation as we continue debate this week.

This is unacceptable. Seniors need drug coverage now. But the Senate majority has stalled the process. I hope seniors across the United States realize what has happened. This faulty procedure is robbing seniors of their drug benefit, which Congress and the President support but which the Senate is denying. Politics is superseding policy and that is simply unacceptable.

Because S. 812 did not proceed through the Committee on Finance, next week the Senate will take up the Graham-Miller, tripartisan, Hagel-Ensign, and Smith-Allard amendments in an attempt to provide a prescription drug benefit. We can only hope that the Senate will waive the budget point-of-order raised against these measures.

I have serious concerns about the legislation introduced by Senators GRAHAM and MILLER. Graham-Miller would be a temporary drug benefit, without secure financing. Graham-Miller would raise drug prices significantly, and Graham-Miller would not be able to be implemented as proposed. Graham-Miller would have an immeasurable and possibly unlimited cost.

Senator GRAHAM's bill does not even have a CBO score. That is another concern I have. Preliminary estimates are that it would cost at least $400 billion to $800 billion over only 6 years. With two-thirds of seniors already obtaining their prescription drugs independent of Government, the Graham plan, frankly, is too generous at a time when Social Security solvency is at risk. According to CBO, Medicare beneficiaries will utilize $1.8 trillion worth of drugs over the next 10 years. But $1.1 trillion of this $1.8 trillion will be paid by third parties, such as employers, States, and Medicare+Choice plans. Drug benefit proposals should focus on reducing the $700 billion that will be paid by beneficiaries, not shifting the remaining $1.1 trillion to the Federal budget. Seniors and taxpayers need a plan that provides a benefit that does not blanket seniors with costs completely covered and that does not break the Nation's bank. Graham-Miller's cost alone is reason to oppose it.

Other Senate drug proposals are less expensive. The tripartisan 21st Century Medicare Act of 2002, introduced by Senators GRASSLEY, SNOWE, BREAUX, JEFFORDS, and HATCH, is estimated to cost about $350 billion from the years 2005 to 2012. For days, weeks, and months, the Senate Finance Committee members and staff have worked tirelessly to write a bill that expands drug plan options for seniors and refines and enhances Medicare+Choice, Medigap, and other programs. This tripartisan bill will establish a universal, voluntary prescription drug benefit with affordable premiums and special protections for low-income seniors. The tripartisan bill would add a new voluntary fee-for-service option to fit modern health benefit packages, and it will strengthen another drug option under Medicare+Choice.

I am pleased that this tripartisan group of Republican, Democrat, and Independent Senators have joined together to provide a Medicare prescription drug benefit. The tripartisan plan expands drug options for seniors so they can choose a plan that fits their needs.

I also laud the work of Senators HAGEL, ENSIGN, GRAMM, and LUGAR who introduced the Medicare Prescription Drug Discount and Security Act. The Hagel-Ensign plan would offer beneficiaries a voluntary drug discount card that they could use to purchase prescription drugs. The bill would cover catastrophic drug costs for beneficiaries under 600 percent of the Federal poverty level, so that seniors making less than about $53,000 will pay no more than $1,500 to $5,500 in out-of-pocket expenses. The bill also does not require monthly premiums, deductibles, or benefit caps. This bill is fiscally responsible, costing about $150 billion over 10 years. I commend Senators HAGEL and ENSIGN for their work in offering this voluntary plan for seniors who need it most.

Senator SMITH and I also have introduced an amendment to S. 812 that would provide a Medicare prescription drug benefit. Under our plan, the voluntary Medicare prescription drug plan, a Medicare beneficiary already enrolled in Medicare Parts A and B will have the option of choosing a new, voluntary prescription drug plan called Rx Option. This would cover 50 percent of their prescription drug costs toward the first $5,000 worth of prescriptions that the senior purchases.

Currently, Medicare Part A has a $812 deductible and Part B has a $100 deductible. The Smith-Allard plan would create one deductible for Part A and Part B of $675 that would apply to all hospital costs, doctor visits, and prescription drug costs. Once this $675 deductible is met by the Medicare recipient, Medicare will pay 50 percent of the cost toward the first $5,000 worth of prescription drugs that the senior purchases.

In addition, there is no benefit premium that would be required. Our plan is revenue-neutral. It is voluntary and will lower Medigap premiums by $550 per year.

According to the National Bipartisan Commission on the Future of Medicare, the Federal Government pays about $1,400 more per senior if the senior has a Medigap plan that covers his Part A and Part B deductibles. This generally is attributed to the fact there is overutilization of hospital and doctor visits by the senior because no deductible is required under Medigap, and seniors are more inclined to visit the hospital or doctor without having to pay a deductible.

The Smith-Allard plan would require seniors pay a deductible. As a result, Medigap utilization will decrease and savings are achieved. In other words, there is an incentive created for the senior to go to the doctor when he needs to and not simply because it cost him nothing.

The Smith-Allard plan would work as a stand-alone drug benefit or as a complementing, additional drug benefit in conjunction with the other drug options about which I talked earlier. Our plan has a number of features that both the Graham-Miller plan and the House-passed Medicare Modernization and Prescription Drug Act do not have.

I would like to take a minute to go over a chart I put together on Smith-Allard. This is the Smith-Allard proposal as compared to current law, as compared to the Democrat plan referred to as Graham-Kennedy, and as compared to the House GOP plan for prescription drugs.

This is assuming the senior has Medigap supplemental insurance. Under current law, there is no deductible with the doctor or the hospital when they have Medigap insurance coverage.

With the Smith-Allard plan, there would be a $675 deductible that would combine for both Part A and Part B of Medicare. Under the Democrat plan, there is no deductible, and in the House plan there is no deductible.

The prescription drug deductible is not covered in current law. It is combined in the Smith-Allard plan. There is no deductible in the Democrat plan and the House plan.

The average supplemental insurance premium under current law is $1,611. Under the Smith-Allard plan, this comes to $1,061. This remains the same under both the Graham-Kennedy and House GOP plan.

Prescription drug premium: Under current law, there is no coverage. Under the Smith-Allard plan, the prescription drug premium would be zero. Under the Democrat plan, the monthly charge that is talked about as $25 a month, this amounts to a $300-a-year premium, and the House GOP plan, which is $30 a month, amounts to an annual premium of $420.

Total annual premiums and deductible: Under current law, we stay at the $1,611 level. Under the Smith-Allard plan, it is $1,736. Under the Democrat plan, the Graham-Kennedy proposal, it is $1,911. And the House GOP plan is $2,281.

Let's look at the 10-year cost to the Medicare Program. Obviously, we do not have anything under current law. The Smith-Allard plan would remain at zero. The 10-year cost of the Medicare Program to the taxpayer is zero.

The Graham-Kennedy plan gets up to $600 billion, and some estimates are running between $400 billion and $800 billion; $600 billion is the number we use on this chart.

The House GOP plan comes in at $350 billion. Some are estimating $370 billion currently.

Who provides the drug benefit? Under current law, it is not covered. Under the Smith-Allard plan, Medicare provides that drug benefit. In the Graham-Kennedy bill, Medicare provides it. And under the House GOP, it is provided by the private insurance industry.

What is the comparison of drug coverage? Currently, there is no coverage. In the Smith-Allard plan, there is 50 percent coverage of all drugs up to $5,000. In the Graham-Kennedy plan, the senior pays $10 for generic drugs and $40 for brand name drugs. Then in the House GOP, there is 20 to 30 percent coverage up to $1,000 the senior pays, and then 50 percent between $1,000 and $2,250, and 100 percent over the $2,250, up to $5,000.

Let's look at the catastrophic coverage under these various plans. Under the Smith-Allard proposal, it is optional. Seniors can decide whether they want to take it or not. Coverage could be provided with savings if they decide to take that optional provision. In the Graham-Kennedy plan, it is over $4,000, and in the House GOP plan, it is over $5,000.

The nice thing about the Smith-Allard plan and one reason I am presenting it to the Senate today and have introduced the legislation with Senator SMITH is because it provides another option, and it is compatible with these other drug plans, particularly the first one we talked about, the tripartisan plan, with an Independent, Democrats, and Republicans supporting the plan. Our bill is very compatible with that kind of a plan.

The amendment I will be offering with Senator SMITH is simply to provide seniors with an option so that as we move forward with this, it may be they do not want to pay the $25-a-month premium or the $30-a-month premium. They can say: I will offset that by increasing my deductibles in Part A and Part B on Medicare. I think it is the kind of choice we ought to offer seniors. It will balance any of the plans that happen to pass the Senate, and we ought to pass it in the Senate in order to give seniors some choice.

I am pleased the Senate is working to pass a prescription drug benefit for Medicare's 40 million enrollees. The Senate should be pleased that many Members have worked hard in recent years to add a drug benefit. We should be pleased that we are debating various proposals now. But our efforts are in vain if we do not pass a drug benefit this year. Our efforts are in vain, I repeat, if we do not pass a drug benefit this year. I urge my colleagues to set aside politics and pass a Medicare prescription drug benefit now.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask unanimous consent to speak until the hour of 11:20 a.m. in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMERICA'S SENIORS NEED PRESCRIPTION DRUG COVERAGE

Mr. KYL. Mr. President, I want to talk about the delivery of prescription drugs to America's seniors. It is a subject that Senators have been talking about pretty much all week long, but people tuning in might wonder whether we are really making any progress toward getting a bill passed. That is what I would like to address this morning.

For quite a long time now, we have appreciated the fact that when Medicare was created, treating people with medications was not the preferred or first or primary method of treatment. So much of what Medicare covers today is the cost of invasive surgery, and the cost of just about every other kind of treatment except treatment through the use of medication or prescription drugs. Over the last 25 years, it has become increasingly common for physicians first to treat with medications, if possible. It seems second nature to us now. When Medicare was first established, that was not the case. As a result, most prescription drugs were not covered as part of Medicare.

Over the years, people learned how to receive supplemental drug coverage through Medigap insurance and other ways to pay for prescription drugs, but the combination of the fact that Medicare itself did not set out to cover those drugs and, second, that the cost of drugs has obviously increased over the years has made it more difficult for some seniors to be able to pay for their prescription drugs, especially since, again, this is what their physicians are prescribing as the best way to treat them in many cases.

Add to that the fact that people are, fortunately, living longer today, but that the longer one lives, the more likely they are going to need to take various kinds of drugs, and we have a situation in which clearly it is time for Congress to respond with an inclusion of a Medicare drug benefit for all of America's seniors. We have been working on that now for quite a long time.

I find it interesting that on the Republican side there are three or four very good, somewhat different, ways of approaching this because Members on our side have been working hard to try to fashion a set of benefits we can afford and which will also provide the kind of care we want for our senior citizens, and now we have a number of options.

I sit on the Finance Committee. Last year, when Senator GRASSLEY chaired the Finance Committee, we began working legislation through the Finance Committee to try to bring to the Senate floor so we could provide a prescription drug benefit to Medicare. Then the control of the Senate changed.

Toward the end of last year, Republican members continued to meet and, in fact, began reaching across the aisle to meet with the Democratic members of the Finance Committee and also with the Independent Member of the Senate, Senator JEFFORDS, who had left the Republican Party and caucused with the Democrats but is identified as an Independent, and over the months, representatives of the Republican Party, the Democratic Party, and Senator JEFFORDS have come together on an approach that has now acquired the name, the tripartisan approach—because it is not just the two parties but, it is actually three parties—an approach that actually will deliver a very good prescription drug benefit to our seniors and a plan that actually is unique among all of the different ideas that have been brought to the floor because it can actually pass the Senate.

It has more than 51 votes in the full Senate, we believe, and it could pass the Finance Committee. Senator BREAUX is one of the leaders in this coalition, and he has been a leader in the Finance Committee in support of this. So a great deal of work has been done to try to develop the kind of reform that is necessary to provide prescription drugs to our seniors.

Then why the discussion on the Senate floor and what is going to happen next week? Well, at the early part of next week, we are finally going to have a chance to vote on some alternatives. There will be at least two. One will be this tripartisan plan I mentioned that has been offered by Senators GRASSLEY, HATCH, SNOWE, JEFFORDS, BREAUX, and others, and the other will be a competing plan brought by some members of the Democratic Party, led by BOB GRAHAM from the State of Florida. The two proposals approach the prescription drug issue in fairly different ways. I am hoping we will have a good debate about the difference between those two approaches.

There are also approaches from other Republican colleagues who are even more different and in some ways provide a very direct benefit to seniors at a much lower cost than either of the two bills I just described. The problem is that at the end of next week, it is doubtful the Senate will have passed any of these bills.

How can that be if, as I said, there is majority support at least for one of the bills? I fear the problem is a political one, that there are some people who would rather have an issue than a bill, a problem rather than a solution, because of course the problem can continue to be talked about in a campaign context. I would rather have a bill that provides the benefit we can all take credit for, but if politics is the primary motivation, then clearly doing something is a good way to appeal to voters. But of course the whole point is it is the right thing to do.

It is past time that we provided a drug benefit to our seniors. Why is it that my prediction is what it is? Ordinarily, if the Finance Committee brought a bill to the floor, we would vote on it and the majority would prevail. It either wins or it loses. But in this case, even though the Finance Committee has been working very hard under the chairmanship of Senator BAUCUS's and Senator GRASSLEY's leadership on the Republican side, we are close to being able to mark up the bill in the Finance Committee and bring it to the floor. It is clear that the Senate majority leader has, according to Senator BAUCUS, indicated the bill would have to be acceptable to him in order for it to come out of the Finance Committee and brought to the floor. That was not the case with the so-called tripartisan bill. The legislation that has been brought to the floor by the majority leader is not legislation that would have come out of the Finance Committee.

Why is that important? Because a point of order lies against legislation that does not come out of committee. In practical terms, that means you have to have 60 votes on the Senate floor to pass it.

What has been set up is a process that is set up to fail. By not allowing the Finance Committee to bring its bill to the floor and be voted on by a majority of 51, we are setting up a requirement that any bill has to pass with 60 votes because it did not come out of committee; 60 votes will be very difficult to achieve because the Senate is divided roughly 50/50 among the two parties.

We have different approaches to this solution, this problem. The only bill that likely would pass is the so-called tripartisan compromise. But if it has to have 60 votes, that is a stretch, as well. I am not sure we can get 60 votes.

At the end of the day, by virtue of the process that has been created, we are not likely to end up with any legislation at the end of next week. Then what will we do? Point fingers: It is your fault. No, it is your fault.

The bottom line will be that the American people end up the losers. Our seniors will not have a prescription drug benefit because the Senate decided to operate in a way that guaranteed that conclusion.

The House of Representatives has passed a bill that is a good bill. It is not exactly what I would do, but it is a good start. The Senate should act in the same way.

Let me describe a little bit about what this tripartisan bill does. Even though it is not a bill I would have written, I am willing to support it, primarily because it does have a number of good ideas, and it can be passed and we can move on, get a bill to conference and to the President for signature to begin providing Medicare drug benefits for our seniors.

The tripartisan plan is a comprehensive plan. It is a permanent plan with respect to providing drugs to all Medicare beneficiaries. It also has another feature that the other plans, by and large, do not, in that it provides reforms of Medicare that will ensure that as the program continues on out into the future, it will actually work. The problem with both Social Security and Medicare today is without serious modernizations neither one can provide the benefits that have been promised. Those are commitments that we should be ensuring we can keep.

Under this plan, Medicare beneficiaries will have a new drug benefit option. They can keep their current Medicare plan and do nothing, or they can buy into the new drug plan provided for them. If they sign up for the new plan, it is completely voluntary on their part. If they sign up for the new plan, they will have choices so that they can pick what best suits them. They would pay a premium that is estimated to be about $24 a month, very similar to the monthly premium seniors now pay for Medicare Part B. They would be able to choose between competing plans. The plans would compete for their business and therefore would offer the best possible arrangements for each individual senior. The plans generally would have an annual deductible of $250. This is similar to the Part B deductible seniors now pay which is currently $100.

A key difference is after $3,700 in out-of-pocket drug spending by the beneficiary, the Government would pay 90 percent of the costs, and the beneficiary would only pay 10 percent. As Medicare beneficiaries know, traditional fee-for-service Medicare does not have this type of important stop-loss coverage for the benefits it provides; stop-loss meaning after you pay a certain amount you do not have to pay anymore, the Government would begin paying the bulk at that point. It is important to protect the beneficiaries from high drug costs, particularly those who have a significant illness, or a longstanding illness that will require them to pay for drugs over a long period of time.

Another important aspect of the proposal is it is affordable. The CBO has estimated the cost, what we call scoring, will be $370 billion over 10 years. Given it is estimated the alternative offered by the House Democrats cost in the neighborhood of $800 billion to $900 billion over 10 years, and the Graham-Miller proposal will cost almost $600 billion over 10 years, we clearly have an inability to fund that kind of a program. I believe the tripartisan plan is a much more affordable and practical plan.

In an artificial attempt to keep down their costs, the Graham-Miller plan sunsets after just 6 years. The proponents of this plan claim the reason they sunset their legislation after 6 years, in the year 2010, is they want the ability to look to see whether changes are necessary. The fact is, it is a very expensive plan, about $600 billion over 10 years, if enacted on a permanent basis, making it undesirable from a political point of view. That is one of the reasons that plan should not be supported.

Let me also say we can examine legislation at any time, whether or not it sunsets, and we can review legislation every year and propose amendments to it. We do not need to sunset this legislation.

I mentioned the fact that traditional fee-for-service Medicare does not have the stop-loss provision so people can continue to pay for high-cost drugs on and on. Under the tripartisan plan, beneficiaries will have a chance to join this new fee-for-service option instead of joining Medicare Part A and Part B, as they do now. It would have a combined deductible, instead of two separate deductibles that beneficiaries have to deal with today.

Additionally, it would eliminate the beneficiary cost sharing for preventive benefits, such as breast cancer screening, prostate cancer screening, and screening for glaucoma. This allows Medicare beneficiaries to receive these benefits without having to pay a so-called copay.

One of the important aspects of the new option is the ultimate $6,000 stop-loss coverage, especially important if a Medicare beneficiary has a long hospital stay. As I said, there are those who have serious illnesses that simply cannot afford to pay more than that. This new option is a complete benefits package as opposed to just a prescription drug package. Instead of just trying to address the issue of providing drugs, the tripartisan bill puts it into a new option in the traditional Medicare Program that currently exists so people will know what they have a comprehensive plan. They can make an intelligent choice and know that it is all there for them together.

I will comment on another important part of the plan, and that is that it uses the current market system that seniors are familiar with to deliver the benefits. The alternative is a strictly Government plan that has to be run by Government bureaucrats. They will make the rules. They would establish exactly what the benefits are over time and what the costs of those are. By using the market that is currently used, there is competition to provide the product that is the best for seniors at the lowest cost, so that seniors' needs will actually keep the costs down and keep the benefit structure positive, as opposed to the Government bureaucrats making those decisions.

The tripartisan plan includes coverage for drugs within all therapeutic categories and classes, and provides timely appeals if there is any denial of drug coverage in a particular case. This allows the beneficiary to continue to have access to the needed drug and to call on outside experts to review any decision that would deny them those drugs.

The plans that participate in the program will have to meet access and quality standards that are decided by the Department of Health and Human Services, including pharmacy access standards. We want to make sure in the rural areas Medicare beneficiaries have access to pharmacies they can go to and get good advice. In rare cases, where beneficiaries may not have a choice of at least two of these plans, the legislation guarantees they would have an option of a fallback plan.

Providing affordable drug coverage is the goal of the tripartisan plan. That is why it subsidizes private plans to provide this drug benefit. Using this delivery method, as I said before, will both provide competition to hold down the costs and maintain the kind of program benefit that seniors are used to at the present time.

The CBO has told the authors of the tripartisan plan that using this delivery method not only ensures Medicare beneficiaries access to the new drug plans but also the most effective use of taxpayer dollars. We know the plan will become more expensive over time. Seniors care just as much about taxes as anyone else and they want to know it is affordable. The more affordable it is, the more likely they can expand the benefit to seniors. So that is in their interests, as well.

In contrast, the Graham-Miller plan uses government contractors to administer their drug benefit. These contractors would have little interest in holding down the cost of prescription drugs for Medicare beneficiaries. We all know what the ultimate result of this would be: the federal government would establish price controls on prescription drugs to hold down the costs. This would have a devastating impact on prescription drugs. Let me offer a real life example of what will happen here.

In some major cities today you have price controls, or rent controls on housing. We all know what happens when you have these rent controls. The bottom line is the prices either go up or the conditions of the tenements go down because the people who own them are no longer in a position to continue to upgrade them because they cannot make a profit on them.

What happens is that a severe shortage of housing is created and most people who do not have access to rent controlled housing have to pay very large amounts just to live in a small apartment. We are familiar with this in the area of housing.

The same thing would happen with respect to drugs. If you use the alternative plan, which will ultimately lead to an attempt by the Government to control the prices—whenever you try to control the price of something, you get less of it. That is exactly what would happen here. People who do not have access will pay extremely high costs. Just as there is no incentive to build new rental housing units in areas with price controls, there will be no incentive to create new prescription drugs. After all, if you cannot make a profit with a new drug that you create, why would you go to the effort and expend the money to try to develop that new drug and put it on the market? It is just not worthwhile to spend the amount of money necessary to create a product when you cannot even cover the costs when you sell it.

If we just think about price controls, if they had existed on prescription drugs over the last 20 years, you are probably not likely to have seen the creation of the fantastic new drugs we all have the benefit of today—to control cholesterol levels, like Lipitor; to help people with allergies; to help people with diabetes; and the list goes on. This could be the result of the Democratic alternative which would try to impose price controls without providing an incentive to create these new drugs. Over time, that will result in inferior medical care because fewer and fewer drugs are being brought to market that will help seniors as well as everyone else.

This is another reason we should support the tripartisan plan that essentially builds on the system we have today, that gives seniors at least two types of choices. Medicare beneficiaries can either continue in the existing Medicare system or get to choose the new options. If you get into the new options, you are going to have at least two plans to choose from. So there is a lot of choice at the same time that it is also very similar to the current system private employees and federal workers have to receive their health care.

Let me finally talk about how much the Government is paying Medicare providers to serve Medicare beneficiaries. It is a very serious concern. At some point we are going to have to deal with it. In the House of Representatives there was, I think, $30 billion added to their prescription drug benefit legislation to ensure that physicians and hospitals and other providers would receive the money they need literally to stay in business.

We have emergency rooms around the country that are closing because they are not being paid. It is going to be necessary for us to provide some supplemental funding to the hospitals and other health care providers literally to continue to provide the benefits we are promising through programs such as Medicare and Medicaid. If there are not doctors and hospitals to serve people, we can pass all the laws we want, but it is not going to do people any good. So we are going to have to address this issue, whether it is on this legislation or legislation down the road.

My colleagues may appreciate that by Federal law, under the Medicare Program, physicians will receive a 17-percent cut over the next 4 years in what Medicare pays them to see a Medicare patient. Since private plans frequently base their reimbursements on what the Government Medicare plan reimburses, the effect is, for virtually all physicians, that they are seeing this kind of drastic cut in what they are reimbursed, either by the Government—which provides about 50 percent of the health care—or by the private plans, which provide the remainder.

According to a March 12, 2002, New York Times story, 17 percent of family doctors are not taking new Medicare patients because of this problem. They are simply not getting paid enough to cover their overhead costs.

Last year, Senators JEFFORDS and BREAUX and I introduced legislation that would have partially fixed this problem. This legislation now has 80 cosponsors in the Senate. That means virtually everybody in the Senate has said we need to adopt this legislation. It would help to fix this problem of declining reimbursements for providers.

Additionally, Home health care agencies will be taking a 15-percent reduction in payments starting October 1, skilled nursing facilities will experience a 17-percent cut in some of their Medicare rates, and these are just a few of the examples of payment reductions. So we are not going to be able to provide quality care under Medicare if we are not able to sustain the experts who are providing that care today.

I am looking forward to working with my colleagues to ensure that through the reimbursements we will add, whether in this legislation or some other legislation this year, we will be able to provide that supplemental help to them until we are able to straighten out the payment formulas under which Congress reimburses the hospitals and other providers that are providing care called for by Medicare.

Let me summarize the point about the difference between the two prescription drug proposals and how we are likely to pass a drug bill that will actually be signed into law. If we had been able to pass a bill out of the Finance Committee, we would only have to have a bare majority—51 votes. The tripartisan bill has support on both sides of the aisle, Democrat and Republican as well as Senator JEFFORDS, another cosponsor, to be able to pass. We could actually get together with the House of Representatives, make the changes, the compromises between the House bill that has already been passed and this bill, and get it to the President for his signature, and by the beginning of the fiscal year we could actually be implementing a new drug for our seniors that they do not currently have.

But because that does not fit in with the plans of the majority leader, we are now in a situation where any bill that is brought here is going to have to have 60 votes to pass. Because of the realities of the political environment in which we operate, it is unfortunately the case that it is going to be very difficult to get 60 votes for any plan.

The one that has the best chance is the tripartisan plan that I alluded to earlier. It is not the bill I would have written, but I am willing to support it because it is a good proposal that has the best chance we have to actually get something passed and deliver a real benefit to our seniors. We will have time to work the issues in the conference committee. We will have time to continue to modify the legislation after it is passed and signed into law. But we have to act, and every year we do not act is a year in which more and more seniors are denied the benefit that they need, that their physicians are prescribing for them and, unfortunately, many of them cannot afford.

It seems to me we should put ideologies and politics aside and try to do something good for the seniors of our country and lay those differences aside to the extent that we can actually pass a bill. It is a good bill. It is a very good bill in terms of providing the benefits. It is costly, but with the reforms in Medicare that are included within it, I think over time we will be able to afford these costs. After all, it is a commitment that we should be satisfying for our seniors.

I urge my colleagues, when the time comes early next week, to lay aside partisan differences, to support the tripartisan bill, the only bill that has a chance of succeeding here, and move on with the political process so we can work with the House of Representatives, pass it on to the President, who I am quite sure will sign it, and begin providing a prescription drug benefit to our seniors.

Going all the way back to when Medicare was created, we treated people differently. Today we know medications are the primary method of treatment. We have to recognize that here in the Senate, something that all seniors understand very well. Let's recognize the reality, let's provide this drug benefit and really keep faith with the seniors we represent.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. LINCOLN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

## PRESCRIPTION DRUGS

Mrs. LINCOLN. Mr. President, in all the rhetoric and grandstanding about who has the best prescription drug plan, I truly do not want us to forget who we are trying to help.

I cannot possibly forget the 436,000 Medicare beneficiaries in Arkansas who struggle every single day to pay for the prescription drugs to control blood pressure, their heart, and help them cope with chronic diseases.

Yes, some seniors are eligible for Medicaid. Some have Medigap. But most of them fall through the cracks. In Arkansas, we don't have the tools that other States might have to help our seniors pay for their prescription drugs. Medicare+Choice has left our State. Medigap plans cost a lot more than the national average—almost 20 percent higher, to be exact, a year.

Employer-sponsored retiree health plans are extremely rare. On top of that, 60 percent of our seniors live in rural areas. So how do our seniors afford their prescription drugs, which rise in cost absolutely every year? The sad fact is, they don't.

The best way to combat this problem is add a prescription drug benefit to the Medicare Program. That is why I am so disappointed that neither of the Medicare prescription drug plans we will consider this next week seem to have the 60 votes they need to pass.

I am disappointed we are at a standstill in the Senate, and I am disappointed we have been unable to forge a compromise in the Senate Finance Committee. As a member of that committee, I would prefer to be debating these plans in that committee. However, I understand that the urgency of the issue and the timing of the Senate schedule has brought us here today.

In years past, I have been a cosponsor of Senator BOB GRAHAM's Medicare prescription drug bill. My colleague from Florida has invested a tremendous amount of time and effort in designing a benefit that senior citizens desire. And he has done well. My constituents have told me how much they like the benefit package and the extra assistance for low-income beneficiaries. They like that the premium will be guaranteed at $25 a month and will not vary State by State or region by region. This is good because in States such as Arkansas, we usually—almost always—get the short end of the stick when that happens. They like that the benefit is stable and universal and that it does not have a gap in coverage and is straightforward and simple.

Although I favor this plan, I did not cosponsor the bill this year in the hopes that I could help my colleagues on the Finance Committee forge a compromise that would work for seniors and that would have enough votes to pass the Senate. Unfortunately, that effort seems to have failed. I commend my chairman, Senator BAUCUS, for his efforts to try to shape a compromise between these two competing plans that we have before us today.

I also thank my friend from Louisiana, Senator JOHN BREAUX. Senator BREAUX, through serving on the National Bipartisan Commission on the Future of Medicare in 1997 and shaping the debate in Congress, has played a leading role in the national effort to improve the Medicare Program.

I appreciate the many meetings we have had on this issue and hope we have the ability to continue to work in that bipartisan fashion, working to forge compromises as we move forward on the Senate floor, as well as in conference.

I also want to recognize the tremendous amount of staff work that has been done, particularly and especially by my staff, Elizabeth MacDonald, all of the staff on the Finance Committee, as well as the Members who have had plans.

However, despite the changes Senator BREAUX, Senator GRASSLEY, and others have made to the tripartisan bill, I believe the bill still fails to offer an acceptable model to deliver prescription drugs to seniors in rural States such as Arkansas.

I cannot in good conscience vote for a plan that relies on the untried, untested delivery system laid out in the tripartisan plan. The private insurer model will require significant taxpayer subsidies to attract insurers into a drug-only insurance market, something we have never tried before. The insurance companies have told me they are hesitant to assume the risk for this type of plan unless they are heavily subsidized; and I do not think this is a proper use of our taxpayers' dollars. Nor can I support a plan that does not entitle seniors to any particular drug benefit but, rather, only a suggested benefit.

Consider for a moment the story of Mrs. Mildred Owens of Havana, AR. Mildred is 70 years old, and she worked for 35 years before retiring 5 years ago. Now widowed, Mildred receives about

$830 a month in Social Security and about $125 a month in retirement.

Mildred takes prescription drugs which cost about $200 a month. After paying her Medicare premium and drug expenses, she has spent well over 27 percent of her income. She said that she and her two sisters, Evalee and Betty, who each make about $600 a month, do not even go to the doctor anymore because they cannot even afford the prescription drugs the doctor would prescribe. Sometimes Mildred and her sisters must rely on their children to help pay for some of their medications.

If the tripartisan plan were law and if Mildred and her sisters asked me what their monthly premium was going to be and what their benefits would be for prescription drug coverage under Medicare, I would have to say to them, actually, I do not know; I cannot give you a specific; we will have to wait and see what actually happens in our area. Mildred may, in fact, end up paying a different premium for prescription drugs than her friends pay in California or Florida or New York or other States. Yet they both paid taxes into Medicare all of their lives and therefore should be entitled to the same Medicare benefit.

The point is, we do not know yet what private plans might offer in different regions of the country. We do not know what their benefits would be. We do not know if private plans would want to participate. We do not know how much they would charge for it. And there is absolutely no guarantee that seniors would be able to depend on the same plan or benefit structure from year to year. These are just too many unknowns, and for seniors, nothing is more frightening than the unknown.

Why do we want to force our parents and grandparents into an untested delivery system that is unlike any other system in American health care as we know it?

Why should seniors in rural Arkansas, who are older and sicker and more likely to use prescription drugs, be in the dark about what their premiums will be until the Federal Government entices the private insurers to compete in their area of the country?

Why should we risk forcing them to pay higher premiums than those in urban areas?

Show me where it has worked. I ask my colleagues: Show me a study, show me a demonstration project. If the sponsors of the tripartisan plan are so confident that their delivery model will work, then I propose a compromise that could garner the 60 votes needed to pass a Medicare prescription drug plan.

Let's put a demonstration project in the home State of the bill's chief architects and use the Graham delivery model in Arkansas and the rest of the country so that we can be assured of what we are going to get until we know what works. Let's see if this untested delivery model works in a few States before we take it nationwide and put everyone at risk.

Why subject our seniors to a vast social experiment? Why should we subsidize private insurance companies when we should instead empower our seniors with the ability to afford the prescription drugs they need?

I am also concerned that the tripartisan bill has a gap in coverage, albeit a much smaller one than originally proposed. How can I tell seniors in my State that they will not receive any coverage for their drug costs between $3,451 and $5,300?

Although the tripartisan plan says it only contains a gap of $250, in reality it is actually a gap of $1,850 because the first threshold includes the combined expenditures of seniors and the Government, while the second only refers to the senior's out-of-pocket expenses.

How can I explain to Mildred Owens that no other American but Medicare beneficiaries will have this gap in coverage? Members of Congress and Federal employees do not face a gap in prescription drug coverage, nor do non-Federal retirees or employees. This gap in coverage for seniors who use more prescription drugs than any other population group in our country is not only unfair, it is simply unreasonable.

Further, this gap in coverage is opposed by the AARP, which counts about 350,000 Arkansans in their nationwide membership. AARP has surveyed their membership on the value of a prescription drug benefit and has identified five characteristics that any prescription drug benefit must include in order to attract the enrollees it needs. One of those characteristics is a benefit that does not expose beneficiaries to a gap in insurance coverage.

Mr. President, I ask unanimous consent to print a letter from the Arkansas AARP State chapter in the RECORD that shows how the tripartisan bill fails to meet the kitchen-table test that their Members will likely use when determining if the drug benefit is a good buy.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
*Washington, DC, July 12, 2002.*

Hon. BLANCHE L. LINCOLN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR LINCOLN: Medicare beneficiaries cannot wait any longer for protection against the increasing cost of prescription drugs. The 439,000 Medicare beneficiaries in Arkansas need an affordable prescription drug benefit enacted into law this year.

Currently, about 13 million Medicare beneficiaries nationwide lack prescription drug coverage for the entire year and about 16 million lack coverage for some point during the year. State pharmacy assistance programs often provide some prescription drug benefits to low to moderate-income beneficiaries. However, as you know, Arkansas does not even have such a program to help meet the needs of low-income beneficiaries in the state.

The prescription drug legislation recently passed by the House of Representatives begins to move the Medicare program one step closer to providing millions of older Americans and people with disabilities with some help against the rising costs of prescription drugs. But more needs to be done.

We know from our membership that they will assess the value of a prescription drug benefit by adding up the premium, coinsurance and deductible to determine if it is a good buy. We believe that in order for a voluntary Medicare prescription drug benefit to pass this "kitchen table test" and attract enough enrollee it should:

Provide an affordable benefit as a permanent part of Medicare's benefit package;

Keep the monthly premium to no more than $35;

Ensure reasonable and stable cost-sharing for beneficiaries;

Ensure that there are no gaps in coverage that leave beneficiaries vulnerable;

Be voluntary and available to all beneficiaries no matter where they live;

Help to bring down the soaring costs of prescription drugs; and

Protect low-income beneficiaries.

It is critical that the Senate pass a Medicare prescription drug bill this month that meets these goals. The 205,000 AARP households in Arkansas are counting on your support for a prescription drug benefit at least as good as the Graham-Miller proposal.

If you have any questions please call one of us or have your staff call David Certner, Director of our Federal Affairs Department, at (202) 434-3750.

Sincerely,

WILLIAM D. NOVELLI,
*Executive Director and CEO.*
CECIL MALONE,
*AARP Arkansas State President.*
MARIA REYNOLDS-DIAZ,
*AARP Arkansas State Director.*

Mrs. LINCOLN. Mr. President, I am also hopeful that a compromise on the Medicare prescription drug benefit is imminent. I am ever optimistic that we can all agree on a good basic solution at the end of the day. We must not fall into the trap of all talk and no action once again. For the almost 4 years I have served in the Senate, I have continually gone home to my State of Arkansas, talked to seniors across our great State, and assured them that the Senate would act on a prescription drug package.

I can no longer in good faith continue to simply talk about the benefit that is so needed. Our parents and our grandparents are depending on us. It would be a national tragedy to let them all down.

We have talked and talked about it for years. Let us act this year and in this session. Let us not adjourn until we pass a Medicare prescription drug benefit that is meaningful and affordable for all seniors across this great country, no matter where they live.

## ADDITIONAL STATEMENTS

### FIFTIETH ANNIVERSARY OF THE ESTONIAN AMERICAN NATIONAL COUNCIL

● Ms. MIKULSKI. Mr. President, today I pay tribute to the 50th anniversary of the Estonian American National Council. On July 19, 1952, Estonian Americans founded this Council to preserve the Estonian cultural heritage. For 50 years, it has provided an independent voice for the Estonian people in their successful campaign for human rights and democracy in their homeland.

The Estonian American National Council combined the strong spirits of America and Estonia in its fight for Estonian independence. Forcibly annexed and occupied by the Soviet Union in 1940, Estonians could not speak freely for themselves in their own homeland. But as the leader of the free world, the United States never recognized the Soviet Union's oppressive regimes in Estonia or its Baltic neighbors, Latvia, and Lithuania. So with the start of the cold war, Americans of Estonian descent established their own organization.

Half a century later, I visited Estonia. I was so happy to see the tremendous strides the country was making toward developing its democratic and market-based systems. Estonia is proving its abilities through high-tech initiatives in everything from cellular phones to paperless government. I also appreciate the Baltic States' renewed senses of culture while respecting the rights of Russian-speaking minorities.

As a founding member of the Senate Baltic Freedom Caucus, I applaud the work of the Estonian American National Council, a critical member of the Joint Baltic American National Committee. Together, America, Estonia and the other Baltic States are doing all they can in the war against terrorism. With America's support, Estonia, Lithuania, and Latvia are already contributing to our mutual security by developing modern armed forces, air surveillance systems, and participating in peacekeeping activities. I believe Estonia and its Baltic partners will make a wonderful contribution to NATO.

Since Estonia achieved independence in 1991, the Estonian American National Council has been instrumental in bringing America and Estonia together to make both countries more secure. The council has funded scholarships, schools, cultural activities, youth programs and exchange missions that have enhanced the ties that it began to build between America and Estonia many years ago. I am proud of the partnerships Maryland had built with Estonia through our National Guard and their Armed Forces, and the trade between our great cities and ports.

Everywhere I look, America's interest in strengthening its ties with Estonia and the other Baltic States is growing. I congratulate the council on its 50th anniversary, and I send my best wishes to the Estonia American community in Maryland and nationwide. You can count on me to continue to help promote a closer and more comprehensive relationship between the United States and Estonia. I ask my colleagues to join me in congratulating the Estonian American National Council on its contributions to America and Estonia for the last 50 years.●

### LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 17, 1997, in Chicago, IL. Two minors pushed a gay man down a flight of stairs because of his sexual orientation. The assailants used anti-gay obscenities during the attack.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5118. An act to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes; to the Committee on the Judiciary.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-8005. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Report on Federal Agencies' Use of the Physicians' Comparability Allowance (PCA) Program for 2002; to the Committee on Governmental Affairs.

EC-8006. A communication from the Chair of the Board of Directors, Corporation for Public Broadcasting, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-8007. A communication from Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-8008. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-404, "Tax Clarity and Recorder of Deeds Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-8009. A communication from the Chairman of the Broadcasting Board of Governors, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-8010. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Sunscreen Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment" (RIN0910-AA01) received on July 16, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-8011. A communication from the Director, Corporation Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on July 16, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-8012. A communication from the Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a vacancy in the position of Inspector General, received on June 26, 2002 referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Health, Education, Labor, and Pensions; and Governmental Affairs.

EC-8013. A communication from the Chief of the Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Import Restrictions Imposed on Pre-Classical and Classical Archaeological Material Originating in Cyprus" (RIN1515-AC86) received on July 16, 2002; to the Committee on Finance.

EC-8014. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Rev. Proc. 96-13" (Rev. Proc. 2002-52) received on July 14, 2002; to the Committee on Finance.

EC-8015. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Affairs, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals: Rules of Practice—Effect of Procedural Defects in Motions for Revision of Decisions on the Grounds of Clear and Unmistakable Error" (RIN2900-AK74) received on July 14, 2002; to the Committee on Veterans' Affairs.

EC-8016. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Affairs, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Adjudication; Fiduciary Activities—Nomenclature Changes" (RIN2900–AL10) received on July 14, 2002; to the Committee on Veterans' Affairs.

EC–8017. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Affairs, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Policy Regarding Participation in Natural Practitioner Data Bank" (RIN2900–AJ76) received on July 14, 2002; to the Committee on Veterans' Affairs.

EC–8018. A communication from the Director, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled "Hazard Communication (HazCom)" (RIN1219–AA47) received on July 14, 2002; to the Committee on Energy and Natural Resources.

EC–8019. A communication from the Assistant Secretary, Land and Minerals Management, Engineering and Operations Division, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Prospecting for Minerals Other Than Oil, Gas, and Sulphur on the Outer Continental Shelf" (RIN1010–AC48) received on July 16, 2002; to the Committee on Energy and Natural Resources.

EC–8020. A communication from the Assistant Secretary, Land and Minerals Management, Engineering and Operations Division, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Document Incorporated by Reference—API RP 14C" (RIN1010–AC93) received on July 16, 2002; to the Committee on Energy and Natural Resources.

EC–8021. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 2001 Annual Report of the Office of Surface Mining (OSM); to the Committee on Energy and Natural Resources.

EC–8022. A communication from the Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "TRICARE Partial Implementation of Pharmacy Benefits; Implementation of National Defense Authorization Act for Fiscal Year 2001" (RIN0720–AA62) received on July 16, 2002; to the Committee on Armed Services.

EC–8023. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on outreach to Gulf War veterans, the revision of Physical Evaluation Board criteria and the review of records and re-evaluation of the ratings of previously discharged Gulf War veterans for calendar year 2001; to the Committee on Armed Services.

EC–8024. A communication from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report relative to initiating a standard cost comparison of the Aircraft Maintenance and Support Activities at Edwards Air Force Base, California; to the Committee on Armed Services.

EC–8025. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, transmitting, pursuant to law, reports that set out the current amount of outstanding contingent liabilities of the United States for vessels insured under the authority of title XII of the Merchant Marine Act of 1936, and for aircraft insured under the authority of chapter 433 of Title 49, United States Code; to the Committee on Armed Services.

EC–8026. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, transmitting, pursuant to law, the annual report detailing test and evaluation activities of the Foreign Comparative Testing (FCT) Program for Fiscal Year 2001; to the Committee on Armed Services.

EC–8027. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port Chicago Zone, Lake Michigan" ((RIN2115–AA97)(2002–0142)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8028. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Seabrook Nuclear Power Plant, Seabrook, NH" ((RIN2115–AA97)(2002–0136)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8029. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; High Interest Vessel Transits, Narragansett Bay, Providence River, and Tounton River, Rhode Island" ((RIN2115–AA97)(2002–0137)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8030. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port of Detroit Zone, Selfridge Air National Guard Base, Lake St. Clair" ((RIN2115–AA97)(2002–0138)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8031. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Annual Fireworks Event in the Captain of the Port Milwaukee Zone" ((RIN2115–AA97)(2002–0139)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8032. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan" ((RIN2115–AA97)(2002–0132)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8033. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Waters Adjacent to San Onofre, San Diego County, CA" ((RIN2115–AA97)(2002–0133)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8034. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Ports of Houston and Galveston, TX" ((RIN2115–AA97)(2002–0134)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8035. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; St. Croix, U.S. Virgin Islands" ((RIN2115–AA97)(2002–0135)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8036. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Missouri River, Mile Marker 646.0 to 645.6, Fort Calhoun, Nebraska" ((RIN2115–AA97)(2002–0153)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8037. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Upper Mississippi River, Mile Marker 507.3 to 506.3, Left Descending Bank, Cordova, IL" ((RIN2115–AA97)(2002–0152)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8038. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; San Francisco Bay, San Francisco, CA" ((RIN2115–AA97)(2002–0151)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8039. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port Toledo Zone, Lake Erie" ((RIN2115–AA97)(2002–0164)) received on July 16, 2002 ; to the Committee on Commerce, Science, and Transportation.

EC–8040. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Pelican Island Causeway, Calveston Channel, TX" ((RIN2115–AE47)(2002–0068)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8041. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Beaufort Water Festival July 12th Fireworks Display, Beaufort River, Beaufort, SC" ((RIN2115–AE46)(2002–0025)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8042. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; High Interest Vessels—Boston Harbor, Waymouth Fore River, and Salem Harbor, Massachusetts" ((RIN2115–

AA97)(2002–0141)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8043. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Ontario, Oswego, NY" ((RIN2115–AA97)(2002–0154)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8044. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston Marine Inspection Zone and Captain of the Port Zone" ((RIN2115–AA97)(2002–0140)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8045. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Sag Harbor Fireworks Display, Sag Harbor, NY" ((RIN2115–AA97)(2002–0143)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8046. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Chicago River" ((RIN2115–AE47)(2002–0066)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8047. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Lady's Island Bridge, Atlantic Intracoastal Waterway (AIWW), Beaufort, SC" ((RIN2115–AE47)(2002–0067)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8048. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Huron, Harbor Beach, MI" ((RIN2115–AA97)(2002–0147)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8049. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Ohio River Miles 355.5 to 356.5, Portsmouth, Ohio" ((RIN2115–AA97)(2002–0148)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8050. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port Hueneme Harbor, Ventura County, CA" ((RIN2115–AA97)(2002–0149)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8051. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Missouri River, Mile Marker 532.9 to 532.5, Brownsville, Nebraska" ((RIN2115–AA97)(2002–0150)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8052. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Boston and Salem Harbors, MA" ((RIN2115–AA97)(2002–0145)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8053. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL, and Port of Key West, Key West, FL; Hutchinson Island Power Plant, St. Lucie, FL, and Turkey Point Power Plant, Florida City, FL" ((RIN2115–AA97)(2002–0144)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8054. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Seafair Blue Angels Performance, Lake Washington, WA" ((RIN2115–AA97)(2002–0146)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8055. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Deerfield Beach Super Boat Race, Deerfield Beach, FL" ((RIN2115–AE46)(2002–0026)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8056. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Michigan, Point Beach Nuclear Power Plant" ((RIN2115–AA97)(2002–0157)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8057. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revise Options for Responding to Notices of Violations" ((RIN2115–AG15)(2002–0001)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8058. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Saint Lawrence River, Massena, NY" ((RIN2115–AA97)(2002–0155)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8059. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Michigan, Kewaunee Nuclear Power Plant" ((RIN2115–AA97)(2002–0156)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8060. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; New York Marine Inspection Zone and Captain of the Port Zone" ((RIN2115–AA97)(2002–0161)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8061. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Cruise Ships, Port of San Diego, CA" ((RIN2115–AA97)(2002–0160)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8062. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Calvert Cliffs Nuclear Power Plant, Chesapeake Bay, Calvert County, MD" ((RIN2115–AA97)(2002–0159)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8063. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Ontario, Rochester, NY" ((RIN2115–AA97)(2002–0158)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8064. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Inner Harbor Navigation Canal, LA" ((RIN2115–AE47)(2002–0071)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8065. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Sanibel Causeway Bridge, Okeechobee Waterway, Punta Rassa, FL" ((RIN2115–AE47)(2002–0070)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8066. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Commercial Boulevard Bridge (SR 870), Atlantic Intracoastal Waterway, Mile 1059.0, Lauderdale-by-the-Sea, Broward County, FL" ((RIN2115–AE47)(2002–0069)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8067. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Wearing of Personal Flotation Devices (PFDs) by Certain Children aboard Recreational Vessels" ((RIN2115–AG04)(2002–0003)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8068. A communication from the Chief, Regulations and Administrative Law, United

States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Wearing of Personal Flotation Devices (PFDs) by Certain Children aboard Recreational Vessels" ((RIN2115–AG04)(2002–0002)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8069. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Gary Air and Water Show, Lake Michigan, Gary, IN" ((RIN2115–AA97)(2002–0163)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, without amendment:

S. Res. 304. An original resolution encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENZI (for himself, Mr. LIEBERMAN, Mr. ALLEN, Mrs. BOXER, Mr. BURNS, Mr. FRIST, and Mr. ENSIGN):

S. 2760. A bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD:

S. 2761. A bill to amend the Internal Revenue Code of 1986 to provide that reimbursements for costs of using passenger automobiles for charitable and other organizations are excluded from gross income, and for other purposes; to the Committee on Finance.

By Mr. THOMAS (for himself, Mr. ENZI, and Mr. HAGEL):

S. 2762. A bill to amend the Internal Revenue Code of 1986 to provide involuntary conversion tax relief for producers forced to sell livestock due to weather-related conditions or Federal land management agency policy or action, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. HUTCHINSON, and Mr. KOHL):

S. 2763. A bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. MILLER:

S. 2764. A bill to eliminate the Federal quota and price support programs for tobacco, to compensate quota holder and active producers for the loss of tobacco quota asset value, to establish a permanent advisory board to determine and describe the physical characteristics of domestic and imported tobacco, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 304. An original resolution encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002; from the Committee on Appropriations; placed on the calendar.

## ADDITIONAL COSPONSORS

### S. 486

At the request of Mr. LEAHY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

### S. 668

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 668, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

### S. 2047

At the request of Mr. BREAUX, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 2047, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

### S. 2076

At the request of Mr. JOHNSON, his name was withdrawn as a cosponsor of S. 2076, a bill to prohibit the cloning of humans.

### S. 2194

At the request of Mrs. FEINSTEIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

### S. 2268

At the request of Mr. MILLER, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

### S. 2667

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2667, a bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

### S. 2684

At the request of Mrs. CLINTON, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2684, a bill to amend the Atomic Energy Act of 1954 to establish a task force to identify legislative and administrative action that can be taken to ensure the security of sealed sources of radioactive material, and for other purposes.

### S. 2727

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2727, a bill to provide for the protection of paleontological resources on Federal lands, and for other purposes.

### S. 2736

At the request of Mr. HAGEL, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2736, a bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

### S. CON. RES. 128

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 128, a concurrent resolution honoring the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

### AMENDMENT NO. 4305

At the request of Ms. STABENOW, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 4305 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. LIEBERMAN, Mr. ALLEN, Mrs. BOXER, Mr. BURNS, Mr. FRIST, and Mr. ENSIGN):

S. 2760. A bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, I rise today to introduce the Enzi-Lieberman-Allen-Boxer amendment on stock options. Our bipartisan amendment helps solve many of the perceived problems with the issuance of stock options by giving the SEC a broad mandate to look into and analyze numerous issues concerning stock options, including disclosure, corporate governance, and the benefits and detriments of expensing stock options.

After its analysis, the SEC will be required to furnish recommendations, if any, for changes in corporate America's uses of stock options, and we envision that being done through FASB. We are not trying to tell FASB, the Federal Accounting Standards Board, how to do their work; we are trying to provide them with more information so they can make a consideration of that issue again.

I and the other original cosponsors of this bill have sent a letter to Chairman Harvey Pitt and the other Commissioners on the SEC asking them to initiate on their own the action items outlined in our bill and to make recommendations on these issues in the next 60 days. I hope they take such initiative.

Mr. President, I ask unaimous consent the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, July 19, 2002.*

Hon. HARVEY L. PITT, Chairman,
Hon. ISAAC C. HUNT, Jr., Commissioner,
Hon. CYNTHIA A. GLASSMAN, Commissioner,
Mr. ROBERT K. HERDMAN, Chief Accountant,
*Securities and Exchange Commission, Washington, DC.*

DEAR CHAIRMAN PITT, COMMISSIONERS HUNT AND GLASSMAN, AND MR. HERDMAN: We are writing to request that the Securities and Exchange Commission (SEC) analyze and propose recommendations, if needed, on issues regarding stock options. We have introduced legislation mandating such action by the Commission, but ask that you proceed before this legislation is enacted.

The legislation is the Stock Option Fairness and Accountability Act. This legislation focuses on key issues regarding stock options, which include stock option pricing models; disclosure to investors and shareholders; shareholder approval of stock option plans; and restrictions on senior management sale of stock. The bill also mandates a review of the benefits and detriments of any new options expensing rules on the productivity and performance of companies and start-up enterprises, the recruitment retention of skilled workers, and employees at various income levels, with particular focus on the effect on rank-and-file employees and the income of women.

It is our view the debate on stock options has focused narrowly on the accounting of stock options, and failed to focus on other critical stock option policy issues. We seek to broaden the debate to ensure that Congress, the Commission, and other relevant agencies take action to eliminate any problems which might exist with stock options, while ensuring their benefits are retained.

We believe options should be preserved and protected because, when they are properly structured, they are incentives for productivity and growth. In most instances, they reflect America's best business values—the willingness to take business risks, the vision to develop new entrepreneurial companies and technologies, a way to broaden ownership and participation among employees, and a strong performance incentive for both management and employees. We should focus on strengthening stock option incentives and enabling them to yield even greater economic growth dividends for our economy.

In general, we believe the Senate should not be legislating detailed accounting or regulatory standards regarding stock options or other accounting issues. These are issues best left to the SEC and its expert staff. The Financial Accounting Standards Board (FASB) has independent authority to set accounting standards, and should continue to do so. That is why our legislation and this letter request that the Commission address all of these issues and make recommendations.

Regarding shareholder approval of stock option plans, a Special Committee of New York Stock Exchange recommended shareholder approval of all stock option plans, while the NASDAQ has recommended shareholder approval of any plan that includes officers and directors. We want the SEC to examine whether these measures are adequate, and whether any additional accountability to shareholders is needed.

Current disclosure requirements for stock options exist which focus on the potential cost of stock options when they are exercised, the potential dilution of earnings per share, and other issues. We believe the SEC should look at whether these disclosure rules should be strengthened in order to provide investors and shareholders more accurate and complete information.

We understand that restricting the sale of stock acquired through stock option plans is a complex and controversial issue. We ask you to review whether a need exists for imposition of a holding period for senior executives and whether the benefits of such a rule would outweigh the costs. Should you recommend such a rule, we suggest you also review whether any exemptions are necessary, given individuals may have a legitimate need to sell stock to raise cash to pay taxes on their options or for personal emergencies. We urge you to also consider whether a holding period might impose a special burden on small companies and start-up enterprises, where stock options form a greater proportion of employee compensation.

We appreciate the assistance of the Commission addressing these vital issues and promptly making recommendations. We believe we have presented you with a comprehensive agenda of stock option policy issues, which will ensure positive action is taken to restore investor and shareholder confidence, calm and markets, and prevent perceived problems associated with stock options. We look forward to receiving a response with your recommendations and plan for action within 60 days.

Sincerely,
Senator Mike Enzi, Senator Joseph Lieberman, Senator Barbara Boxer, Senator Conrad Burns, Senator John Ensign, Senator George Allen, Senator Bill Frist.

Mr. ENZI. How did we get here, to this point of perhaps possibly legislating on stock options? The debate on stock options became heated over the last few months, following the accounting debacles of Enron, WorldCom, and Global Crossing. I think we can all agree that the use of stock options did not cause the demise of these companies, but nevertheless their use by these and other companies has become increasingly scrutinized during the current accounting debate and evidence of top executive abuse.

What initially raised everyone's attention to stock options was Enron. As we all know, Enron's executives and employees were issued numerous stock options. It is now clear that months before Enron filed for bankruptcy, executives who were aware of the true condition of the company, exercised millions of dollars of their options. Now, Enron employees—kept in the dark on company finances—are left with worthless Enron stock and retirement savings. While these Enron executives absconded with money from the sell of stock options, we all know the financial collapse of Enron had little to do with its accounting procedures on stock options. Enron went bankrupt. Nevertheless, concerns about stock option use by corporations have become magnified.

We all know that when properly used, stock options can be a marvelous opportunity for all employees. In addition, small businesses and startup companies use stock options as an incentive and sometimes the only means to attract qualified employees.

There have been many suggestions on what will stop future Enrons, and included in that debate has been a discussion on improving the accounting practices and other issues concerning stock options. Some members have come up with some creative and not so creative ideas on how to improve their use.

Some have not considered how their ideas will affect rank-and-file employees, while others have kept that as their primary consideration. Some members have proposed setting a new expensing standard or directing the Federal Accounting Standards Board to take some specific action in setting new expensing rules. But, these amendments have pre-ordained what the solution to stock options will be.

Members promoting these amendments are furnishing their own conclusions. They mandate either codification of new expensing rules, or direct the Federal Accounting Standards Board, known as FASB, to require stock option expensing at the time of grant or exercise. This is a conclusion some of us do not believe should be made by non-experts in Congress, without careful analysis.

Our bipartisan amendment is different. It doesn't preordain what the solution to stock options will be. Instead, it directs the SEC to analyze the treatment of stock options in several categories, not just stock option expensing, and lend its superior expertise in furnishing a report and making useful recommendations.

This is a smart amendment because 99 non-accountant Senators, and one accountant Senator, all without expertise in securities accounting and law, have no business making a definitive decision on what the answer to stock option problems should be. Instead, the SEC should analyze the problem and make recommendations on what is needed.

Let me get to the specifics of our amendment. First, it requires an analysis of the accounting treatment of employee stock options, including the accuracy of available stock option pricing models. What are these models?

Currently, companies estimate the value of granted stock options using something called the Black-Scholes model. This is because they do not know what the future value of their stock will be when the options are actually exercised and sold. So they make an educated guess with the Black-Scholes model.

However, many believe the current practice of using the Black-Scholes method to value stock options, as currently used on footnotes, is fatally flawed. This method will be just as flawed if it must be used for expensing stock options at the time of grant. This amendment directs the SEC to look at the accuracy of this and other pricing models.

Second, our amendment directs the SEC to analyze the adequacy of current disclosure requirements to investors and shareholders on stock options. The SEC needs to determine whether better disclosure provisions would solve the current, perceived problem with stock option reporting. The SEC can study what further disclosure and transparency provisions, if any, would be useful.

We do not know what the SEC's recommendations might be. They might include a recommendation for user-friendly disclosure in clear, plain English with graphs and charts, which are comparable with other company disclosures. They might recommend increased quarterly reporting on certain information.

Even high profile financial celebrities have differing view on expensing and disclosure. Like me, Secretary O'Neill has advocated fuller disclosure as a means to cure the present perceived problems with the information provided to investors and shareholders in footnotes on company financial statements, rather than expensing. Others, like Warren Buffet, have said fuller disclosure and transparency will not cure these problems, and Congress should do something about expensing. Alan Greenspan believes expensing of stock options at the time of grant is needed, but that Congress should not be the one deciding this or setting accounting standards.

Given these differing views by financial heavy weights like Secretary O'Neill, Greenspan and Buffett, it makes sense to let the SEC analyze this issue and make the determination of what, if any, disclosure improvements are necessary, taking into account the effect on all affected parties—companies, shareholders, investors, and rank-and-file employees.

Next, our amendment would direct the SEC to analyze the adequacy of corporate governance requirements on stock options, including the usefulness of having shareholders approve stock option plans.

Previously, I advocated shareholder approval of stock option issuance to top corporate executives to prevent them from abusing stock options. Now, I and others of us are leaving it to the SEC to determine whether this will prevent stock option abuse.

Our bipartisan amendment also requires an analysis of the need, if any, for stock holding period requirements for senior executives. Some Senators have advocated a holding period during which top executives cannot sell their stock options. One suggestion was that a 90-day cooling off period occur before a top executive can sell his stock. Another suggestion was that these executives could not sell their stock until they left the company and a two-year period expired.

These suggestions pose a dramatic solution which needs more study by the SEC. These are not provisions to be taken lightly, nor drafted hurriedly by Senators. This type of amendment could possibly help prevent abuses, or have the opposite effect of chilling the future use of stock options entirely. Because I do not know what the effect of this will be and whether it will prevent executive fraud and abuse, I am at least willing to let the SEC study it to see if there is any merit to it.

And finally, our amendment directs the SEC to look at the benefit and detriment of any new options expensing rules. So, instead of Senators, who have little knowledge of securities accounting, making an accounting decision on stock option expensing, we are leaving it in the hands of the SEC to see how expensing will affect all segments related to stock options.

Our bipartisan amendment directs the SEC to look at the benefit and detriment of stock option expensing on companies and start-up enterprises. Specifically, it requires the SEC to look at what stock options expensing would do to the productivity and performance of all sizes of companies, and start-up enterprises.

I am particularly concerned about the effect of expensing stock options on small companies and start-up enterprises. Many small businesses and start-up companies cannot afford to offer the salaries larger companies give, so they offer stock options as an incentive to attract highly-skilled employees. In addition, our amendment would require the SEC to look at the benefits and detriments of stock option expensing on the recruitment and retention of skilled workers.

Currently, employees who risk working for start-up companies have the ability to make much more money than through traditional methods of payment by salaries or wages. Those who stay with the company tend to have a vested interest in the company through the issuance of stock options. Stock options may be the very reason that some employees start with a company and stay with it. We are asking the SEC to look at the issue of what effect stock option expensing will have on future recruitment and retention of employees.

Finally, and most importantly, our amendment asks the SEC to look at the benefits and detriments of stock options on employees at all income levels, with particular emphasis on rank-and-file employees.

These are some of the questions the SEC needs to look at and make a recommendation on.

Whatever we do, we need to make sure the cure is not worse than the disease. We should not rush to pass something just for the sake of legislating on stock options. Let us step back and see what recommendations the SEC makes. Then, with cooler heads, perhaps we can prevail in getting rules and regulations on stock options which are truly needed, and not merely an overreaction to the current atmosphere of Enron.

I would hate to see any hastly decision chill the ability of companies to issue stock options to millions of rank-and-file employees. Or chill new start-up companies' use of stock options to attract employees. At the same time, we have to stop future abuses by corporate executives who thumb their noses while plundering companies resources.

For these reasons, I ask you to vote in favor of the Enzi-Lieberman-Allen-Boxer Amendment.

By Mr. FEINGOLD:

S. 2761. A bill to amend the Internal Revenue Code of 1986 to provide that reimbursements for costs of using passenger automobiles for charitable and other organizations are excluded from gross income, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I am pleased to offer legislation today that will increase the mileage reimbursement rate for volunteers.

Under current law, when volunteers use their cars for charitable purposes, the volunteers may be reimbursed up to 14 cents per mile for their donated services without triggering a tax consequence for either the organizations or the volunteers. If the charitable organization reimburses any more than that, they are required to file an information return indicating the amount, and the volunteers must include the amount over 14 cents per mile in their taxable income. By contrast, the mileage reimbursement level currently permitted for businesses is 36.5 cents per mile.

At a time when government is asking volunteers and volunteer organizations to bear a greater burden of delivering essential services, the 14 cents per mile limit is posing a very real hardship.

I have heard from a number of groups in Wisconsin in recent weeks on the need to increase this reimbursement limit. One organization, the Portage County Department on Aging, explained just how important volunteer drivers are to their ability to provide services to seniors in that county. The Department on Aging reported that last year 54 volunteer drivers delivered meals to homes and transported people to medical appointments, meal sites, and other essential services. The Department noted that their volunteer drivers provided 4,676 rides, and drove nearly 126,000 miles. They also delivered 9,385 home-delivered meals, and nearly two-thirds of the drivers logged more than 100 miles per month in providing these needed services. Altogether, volunteers donated over 5,200 hours last year, and as the Department notes, at the rate of minimum wage, that amounts to over $27,000, not including other benefits.

The senior meals program is one of the most vital services provided under the Older Americans Act, and ensuring that meals can be delivered to seniors or that seniors can be taken to meal sites is an essential part of that program. Unfortunately, Federal support for the senior nutrition programs has stagnated in recent years. This has increased pressure on local programs to leverage more volunteer services to make up for lagging federal support. The 14 cent per mile reimbursement limit, though, increasingly poses a barrier to obtaining those contributions. Portage County reports that the many of their volunteers cannot afford to offer their services under such a restriction. And if volunteers cannot be found, their services will have to be replaced by contracting with a provider, greatly increasing costs to the Department, costs that come directly out of the pot of funds available to pay for meals and other services.

By contrast, businesses do not face this restrictive mileage reimbursement limit. The comparable mileage rate for someone who works for a business is currently 36.5 cents per mile. This disparity means that a business hired to deliver the same meals delivered by volunteers for Portage County may reimburse their employees over double the amount permitted the volunteer without a tax consequence.

This doesn't make sense.

Morever, the 14 cent per mile volunteer reimbursement limit is outdated. According to the Congressional Research Service, Congress first set a reimbursement rate of 12 cents per mile as part of the Deficit Reduction Act of 1984, and did not increase it until 1997, when the level was raised slightly, to 14 cents per mile, as part of the Taxpayer Relief Act of 1997.

The bill I am introducing today raises the limit on volunteer mileage reimbursement to the level permitted to businesses. It is essentially the same provision passed by the Senate as part of a tax bill passed in 1999 that was vetoed by President Clinton. At the time of the 1999 measure, the Joint Committee on Taxation, JCT, estimated that the mileage reimbursement provision would result in the loss of $1 million over the five year fiscal period from 1999 to 2004. The revenue loss was so small that the JCT did not make the estimate on a year by year basis.

Though the revenue loss is small, I have also included an offset to make the measure deficit neutral by including a provision that would impose a civil penalty of up to $5,000 on failure to report interest in foreign financial transactions. That provision was recently included in the CARE Act legislation by the Senate Finance Committee.

I urge my colleagues to support this measure. It will help ensure charitable organizations can continue to attract the volunteers that play such a critical role in helping to deliver services and it will simplify the tax code both for non-profit groups and the volunteers themselves.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2761

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139 the following new section:

**"SEC. 139A. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.**

"(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that such reimbursement would be deductible under this chapter if section 274(d) were applied—

"(1) by using the standard business mileage rate established under such section, and

"(2) as if the individual were an employee of an organization not described in section 170(c).

"(b) NO DOUBLE BENEFIT.—Subsection (a) shall not apply with respect to any expenses if the individual claims a deduction or credit for such expenses under any other provision of this title.

"(c) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a)."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139 and inserting the following new item:

"Sec. 139A. Reimbursement for use of passenger automobile for charity.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 2. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.**

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

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By Mrs. FEINSTEIN (for herself, Mr. HUTCHINSON, and Mr. KOHL):

S. 2763. A bill to respond to the illegal production distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the "CLEAN-UP Meth Act," a bill to address illegal and environmentally disastrous methamphetamine production.

I am pleased to submit this bill on behalf of myself, Senator HUTCHINSON of Arkansas, and Senator KOHL.

Essentially, this bill would help our Federal, State and local governments combat methamphetamine on a number of levels, from production to cleanup, prosecution to prevention.

The legislation would accomplish this with two key components: First, the bill would allocate $125 million for important training and cleanup efforts, including training local law enforcement to effectively clean up meth lab and dump sites. And second, we would make it much harder for meth dealers to get the precursor pseudoephedrine products necessary to make this illegal drug.

Once predominantly found in the American Southwest, methamphetamine's presence now stretches from coast to coast. Once predominantly found in rural areas, its harmful effects now extend from our smallest towns to our biggest cities.

For instance, the number of clandestine meth labs discovered in North Carolina has doubled every year for the past four years.

In New Orleans, police in the Jefferson district seized a total of 828 grams of methamphetamine in all of the year 2000. Last year, they seized more than ten times that amount, 9,003 grams, with a street value of more than $1 million.

I'm sorry to say that my home State of California has been referred to as the "Colombia of meth production." In fact, our State is known as the "source country" for the drug, producing roughly 80 percent of the Nation's methamphetamine supply. According to the DEA, 1,847 clandestine meth labs were found last year in California alone.

Each of these 1,847 labs in California, and each of the labs scattered around this Nation near schools, on farms, in trailer parks and in quiet suburban neighborhoods, creates a whole host of dangers and toxic waste.

The actual production of methamphetamine is harmful in a number of ways. First, the hazardous chemicals used in meth production are toxic, and long-term exposure is damaging. Furthermore, the materials can also be explosive and dangerous. Production using these volatile materials has resulted in countless accidents, houses and even apartment buildings burned to the ground, explosions that scatter chemicals and flames, and chemical reactions that cause untold damage to the individuals involved in meth production or simply living in the same household, individuals that, too often, include children.

Meth production also poses risks to the health of the surrounding public and environment. According to the National Drug Intelligence Center, NDIC, for every pound of meth produced, five to seven pounds of hazardous waste results from the production as well. Meth producers dump this waste anywhere and everywhere, from nearby ditches to public lands, from pits dug in the middle of a farm to rivers and lakes.

One private contractor hired to clean up meth-related hazardous dump sites in California responded to more than 500 calls in 2000 alone. And one of those dump sites was located along the banks of the California Aqueduct, which is a direct source of water for Los Angeles.

NDIC investigators have found also found toxic chemicals discarded into household drains and storm drains. And the precursors used to make meth, and the toxic byproducts, may last for years in the soil. Decontaminating these sites is what makes clean-up so expensive, with costs ranging from $5,000 to $150,000 per site. State police in Baltimore, MD claim that its costs taxpayers nearly $75,000 each time a meth lab must be cleaned up. According to the DEA, that agency spent more than $22 million cleaning up 6,609 labs nationwide.

These extraordinary costs simply cannot be maintained on the local level without Federal support. These costs are proof of why Federal funding for such valuable efforts is necessary.

So the first thing this legislation would do is help law enforcement as well as the public pay these important costs, by providing millions to help clean-up labs and train law enforcement authorities to properly and safety do this important work.

Specifically, the CLEAN-UP Meth bill would provide: $15 million for clean-up and remediation of meth contaminated lands managed by the Departments of Agriculture or Interior; $15 million for Department of Agriculture grants to State and local governments and to private persons to clean up meth contaminated lands; $20 million for OSHA grants to local law enforcement agencies for training and equipment for the safe identification, handling, clean-up and disposal of meth labs; and $10 million for Department of Labor grants to local law enforcement agencies to help them comply with Federal laws regarding cleanup and disposal of meth labs.

Second, this legislation includes resources to help State and local officials prosecute meth offenses, educate the public, and study the effects of meth use.

Methamphetamine is so prevalent partly because it is simple to make and is profitable. Producers of meth range from people with advanced chemistry degrees to those who are self-taught. Recipes are easily available in books as well as over the Internet.

The drug does not have to be smuggled in across secured international borders. Fifty percent of the Nation's consumed methamphetamine is produced right here in our country. In fact, the basic ingredients can be found in your local pharmacy. These relatively inexpensive materials can be used to create a drug that fetches much higher prices. For example, ounce quantities are worth between $1,500 and $2,000 and can be sold to individual users for about $100 a gram in crystallized powder form that can be smoked, snorted, swallowed or turned into liquid and injected. According to the Office of National drug Control Policy, ONDCP, methamphetamine users spent nearly $6 billion on the drug in 1999.

Methamphetamine is also highly addictive. Known on the street as crank, speed, ice and zip, methamphetamine is cheaper than cocaine, more addictive than crack and causes more brain damage than heroin or alcohol. A single dose of this "poor man's cocaine" can keep a person awake for three to four days at a time and has been associated with paranoia and often violence. In California's Central Valley, methamphetamine has become the drug of choice and a principal cause of crime.

I firmly believe that law enforcement officials cannot effectively fight this drug and its harmful effects unless we provide them with the proper resources. Already this year, police in Oklahoma City have seized 115 meth labs. Law enforcement officials there have attributed these seizures to the support from Federal grants.

Keith Cain, a sheriff in Daviess County, KY also claims that Federal funding has proved to be crucial to the war against meth. According to Cain, "Without that money, we would not have been able to be as proactive as we've been."

Last year, the federally funded Central Valley High-Intensity Drug Trafficking project to restrict the supply of the chemical agents used in making the deadly drug was showing impressive results. A team of specialists from local drug units, the California Highway Patrol, DEA and FBI averaged one bust a week of the clandestine "super labs" that had made the Central Valley the national center for the production of methamphetamine. These triumphs were the direct result of federal funding and proof that allocating Federal resources is imperative to progress.

However, since September 11, agents have been removed from the project and transferred to anti-terrorism work. The lack of drug enforcement resources has created a strain on the project and threatens the progress it has had combating methamphetamine.

It would be a tragedy to California and the country if we lost all of the progress this program and others like it have made in the war on meth simply due to a lack of resources. Programs like this one have proven to be effective and need our continued support.

Our bill would provide: $20 million for training of State and local prosecutors and law enforcement agents for prosecution of meth offenses, $5 million of which will be dedicated for rural communities and $2 million to reimburse the DEA for existing training programs; $10 million additional for training at the DEA's Clandestine Laboratory Training Facility in Quantico, VA; $2 million for the Department of Justice for the collection, aggregation and dissemination of meth lab seizure stats by the El Paso Intelligence Center, EPIC.

Third, we address the problems of our children. Raids and seizures of clandestine meth labs have been instrumental to the war on meth and have uncovered a number of alarming issues, but none more troubling than the effect meth production has on the children of meth dealers and their friends.

Drug rings and meth trafficking organizations found throughout the American West have been linked to Mexican drug traffickers as well as white supremacist groups. Last year, for instance, law enforcement authorities in Los Angeles County uncovered a sophisticated meth trafficking ring that includes suspects with tattoos of Nazi swastikas and belong to a local gang called the "Untouchables." During police raids of their meth labs and headquarters, agents seized nearly $500,000 in cash and more than 100 high-powered weapons, including assault rifles and a grenade launcher.

Earlier this year, Central Valley investigators raided a methamphetamine super-lab in a farmhouse on the outskirts on Merced, CA. Inside, investigators found vats of toxic chemicals, large supplies of pseudoephedrine used in producing meth and three illegal firearms.

Yet, the most disturbing part of this story is that while the manufacturers were engaged in the potentially explosive process of extracting pure methamphetamine, four small children watched television in the next room. The children were taken to a local hospital and tested positive for methamphetamine contamination.

I would like to say that this is a rare case. However, this story is no exception. In 2001, 1,989 children were found in clandestine meth labs, materials storage sites and dump sites across the country.

The CLEAN-UP Meth Act would provide $2.5 million for grants to states for treatment of children suffering adverse health impacts from meth-related exposure.

The bill also includes $20 million for the development of anti-methamphetamine education programs in our nation's schools. Informing and educating our children on the dangers of this drug is the first step in reducing the number of new users of methamphetamine.

In addition to the funding provisions of the bill, which were introduced by Representative OSE in the House, this legislation also contains language to close the "Blister Pack Loophole" in current law, which currently allows meth dealers to purchase unlimited quantities of pseudoephedrine products, generally cold and sinus medication, as long as it is packaged in blister packs, those tin foil and plastic packages most of us buy these days, which require that each pill be separate rather than simply poured into a bottle.

Our current law limits retail sales of bottled pseudoephedrine to just 9 grams, because we found several years ago that meth dealers would go into a pharmacy, a Costco or other large store, sweep the shelves clean of cold medicine, bring the bottles back to the lab, cut off the tops of the bottles without even bothering to unscrew the caps instead, and pour the pills out as the first step to making meth.

When we passed the 9 gram threshold, and before that the 24-gram threshold, for bottled pills, I made the case that if limits were placed on bottles only, meth dealers would simply start buying blister-packed pills instead. At the time, some argued that blister packs were simply too unwieldy for meth manufacturers to bother with, the process of popping individual pills out of each blister would be too time consuming. But we had evidence from California that dealers were already using these blister packs, so as a compromise we asked the DEA to conduct a nationwide study of whether blister packs posed a problem. Well, guess what, they do.

According to the report we requested from the DEA, which was finalized late last year, blister packaged pseudoephedrine products seized at clandestine methamphetamine laboratories and other locations, such as dumpsites, have involved seizures of over a million tablets. The seizure of so many blister packaged pseudoephedrine products shows convincingly that blister packaging is not a deterrent to ordinary, over-the-counter pseudoephedrine use in clandestine methamphetamine laboratories.

Indeed, the report even includes information about automated machines whose sole purpose is to remove pills from blister packs on a massive scale. These machines have been found in meth labs, along with hundreds, even thousands, of empty blister packs.

So clearly, what we argued in 1999, and in 1996, is true. Meth manufacturers are using blister packs, and something must be done to stop them as best we can.

In order to address this problem, DEA recommended in the report it released late last year that the blister pack loophole be closed, and that the current retail sales limit of 9 grams for bottled pseudoephedrine be extended to blister packed products as well. And that is what this bill would do.

The meth problem is not just a California problem, or a New York problem, or even an Iowa problem. The meth problem is a national problem, with tragic consequences across this great country. Without a continuing, nationwide, relentless effort on the part of the Federal Government, this problem will continue to grow and to infect our children and our communities with the scourge of methamphetamine production and use.

I believe DEA Director Hutchinson put it best this spring when he argued in support of Federal efforts to crack down on meth. "It clearly impacts every one of our districts, every segment of our society and every age group."

I urge my colleagues to support this legislation and join the latest step towards progress in our war against methamphetamine.

Mr. KOHL. Mr. President, I rise in support of the CLEAN-UP Meth Act of 2002. I am pleased to join my fellow cosponsors, Senators FEINSTEIN and HUTCHINSON in introducing this legislation.

Methamphetamine is a plague in Wisconsin that affects not only the people who purchase and use it, their families and friends, but also the law enforcement officials who are involved in cleaning up the abandoned meth laboratories. These home grown meth labs inflict significant damage to the environment unlike other illicit drugs. The labs contaminate the environment and threaten those who discover and break down the labs, are exposed to t4he precursor chemicals and clean up the polluted environment.

The meth scourge is growing every day. In 1998, Wisconsin State authorities seized only two methamphetamine labs. By 2001, that number had increased to 52 and shows no signs of abating. Its appearance in the last few years in the western part of Wisconsin, trafficked from Minnesota and Iowa, has created a dramatic new problem for law enforcement. And, production in the State has grown dramatically in the last four years.

The amount of methamphetamine produced in Wisconsin is also growing by leaps and bounds. In 1999, State drug task forces seized 1.6 kilograms of methamphetamine. In 2000, the number increased to 2.5 kilograms. Finally, in 2001, the amount of methamphetamine seized in Wisconsin skyrocketed to 20.9 kilograms, an increase of 13 fold in only two years.

The existence of a significant and growing meth problem comes as no surprise to us. In fact, with the assistance of Wisconsin's Department of Narcotics Enforcement, we have attempted to fight the spread of meth for the past several years. We have augmented DEA's representation in Wisconsin, specifically adding new agents in the western part of the state to work in conjunction with state drug officials. We have secured 'DEA mobile drug teams to traverse the northwestern part of the State where much of the meth can be found. We have also secured millions of dollars in the appropriations process to aid in prevention and clean up efforts in western Wisconsin.

Unfortunately, this has not stemmed the spread of meth. We fear to consider how much worse the problem would be if it were not for the efforts of our state and local law enforcement officials.

We must do more. The legislation we introduced today is another weapon in the battle against the spread of meth. The bill authorizes more funding for the education, prevention and clean up of methamphetamine.

Educating more people about the dangers of meth and assisting in safe environmental cleanup are important, long-term approaches to the meth problem. There is, however, something that can be done immediately to make it more difficult for meth producers to manufacture the drugs.

We need to make it more difficult for meth producers to get access to the precursor chemicals they use to produce methamphetamine. That means closing a loophole in the law that currently makes it too easy for meth producers to get pseudophedrine. Pseudophedrine is the central ingredient in both methamphetamine and most major cold medicines sold over the counter.

To combat the sale of pseudophedrine to meth producers, Congress passed the Comprehensive Methamphetamine Control Act of 1996. This limited the amount of pseudophedrine or ephedrine that any one person could purchase at one time. Yet, Congress did not proscribe the purchase of pseudophedrine in so-called "blister packs." The pharmaceutical industry argued that it is sufficiently difficult to remove each pill from a blister pack, that the sale of pseudophedrine in that form need not be limited. Only the sale of pseodphedrine in bottles where it would be easy for meth producers to access large quantities needed to be restricted.

As it turns out, the meth producers adapted their behavior to take advantage of the loophole in the law by finding a way to make the blister packaged pseudophedrine economical to purchase. They did so with the advent of presses that simply punctured all of the blister packs—therefore removing the type of packaging as an impediment to their access to the pseudophedrine.

The DEA conducted a study on the use of blister packs and found that among the refuse left at meth labs are more and more blister packs. This demonstrates, in the DEA's view, that the blister pack loophole needs to be closed. We agree with their recommendation and therefore recommend limiting the amount of pseudophedrine that can be purchased by any one person at any one time.

Closing this loophole in the law governing the manufacture of meth is one more weapon in the battle against the drug. Combined with education, prevention and greater resources for law enforcement throughout Wisconsin, we can stem the tide of this scourge before it does even more damage.

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By Mr. MILLER:

S. 2764. A bill to eliminate the Federal quota and price support for tobacco, to compensate quota holders and active producers for the loss of tobacco quota asset value, to establish a permanent advisory board to determine and describe the physical characteristics of domestic and imported tobacco, and for other purposes; to the Committee on Finance.

Mr. MILLER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2764

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TERMINATION OF CURRENT TOBACCO PROGRAMS

Sec. 101. Termination of tobacco production adjustment programs.
Sec. 102. Termination of tobacco price support program.
Sec. 103. Geographical restrictions on expansion of tobacco production.
Sec. 104. Continued availability of Federal crop insurance.

TITLE II—PAYMENTS TO TOBACCO QUOTA HOLDERS AND PRODUCERS

Sec. 201. Definitions.
Sec. 202. Payments to tobacco quota holders.
Sec. 203. Transition payments for active producers of quota tobacco.

TITLE III—TOBACCO QUALITY BOARD

Sec. 301. Definitions.
Sec. 302. Establishment of Board.
Sec. 303. Duties.
Sec. 304. Administration.

TITLE IV—TOBACCO PRODUCT MANUFACTURER AND IMPORTER USER FEES

Sec. 401. User fee.
Sec. 402. Allocation of user fees.

TITLE V—FDA REGULATION OF TOBACCO PRODUCTS

Sec. 501. Findings.

Subtitle A—FDA Jurisdiction Over Tobacco Products

Sec. 511. Definition of tobacco product.
Sec. 512. Tobacco products.
Sec. 513. Conforming and technical amendments.

Subtitle B—Cigarette Labeling and Advertising

Sec. 521. Definition of cigarette.
Sec. 522. Cigarette label and advertising warnings.

Subtitle C—Smokeless Tobacco Labels and Advertising Warnings

Sec. 531. Smokeless tobacco labels and advertising warnings.

Subtitle D—Administration

Sec. 541. FTC jurisdiction not affected.

## TITLE I—TERMINATION OF CURRENT TOBACCO PROGRAMS

### SEC. 101. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) TOBACCO CONTROL.—The Act of April 25, 1936 (commonly known as the Tobacco Control Act; 7 U.S.C. 515 et seq.), is repealed.

(b) COMMODITY HANDLING ORDERS.—Section 8c(2)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(2)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "tobacco,".

(c) PROCESSING TAX.—Section 9(b) of the Agricultural Adjustment Act (7 U.S.C. 609(b)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (2), by striking "tobacco,"; and

(2) in paragraph (6)(B)(i), by striking ", or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum,".

(d) BURLEY TOBACCO IMPORT REVIEW.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,".

(f) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking "tobacco,";

(3) in paragraph (7), by striking the following:

"Tobacco (Flue-cured), July 1—June 30;

"Tobacco (other than Flue-cured), October 1–September 30;";

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking "and tobacco";

(6) in paragraph (12), by striking "tobacco,";

(7) in paragraph (14)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(10) by striking paragraph (17); and

(11) by redesignating paragraph (16) as paragraph (15).

(g) PARITY PAYMENTS.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking "rice, or tobacco," and inserting "or rice,".

(h) MARKETING QUOTAS.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(i) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "tobacco,".

(j) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking “rice, or tobacco” and inserting “or rice”; and

(2) in the first sentence of subsection (b), by striking “rice, or tobacco” and inserting “or rice”.

(k) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking “rice, or tobacco” each place it appears in subsections (a) and (b) and inserting “or rice”; and

(2) in subsection (a)—

(A) in the first sentence, by striking “all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,”; and

(B) in the last sentence, by striking “$500;” and all that follows through the period at the end of the sentence and inserting “$500.”.

(l) REGULATIONS.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking “peanuts, or tobacco” and inserting “or peanuts”.

(m) EMINENT DOMAIN.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking “cotton, and tobacco” and inserting “and cotton”; and

(2) by striking subsections (d), (e), and (f).

(n) BURLEY TOBACCO FARM RECONSTITUTION.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking “(a)”; and

(B) in paragraph (6), by striking “, but this clause (6) shall not be applicable in the case of burley tobacco”; and

(2) by striking subsections (b) and (c).

(o) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the Act of April 16, 1955 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(p) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act of July 12, 1952 (7 U.S.C. 1315), is repealed.

(q) TRANSFER OF ALLOTMENTS.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(r) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking “tobacco and”.

(s) TOBACCO FIELD MEASUREMENT.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

(t) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (u).

(u) CROPS.—This section and the amendments made by this section shall apply with respect to the 2003 and subsequent crops of the kind of tobacco involved.

### SEC. 102. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking “tobacco (except as otherwise provided herein), corn,” and inserting “corn”;

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking “, except tobacco,”; and

(B) by striking “and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;”; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking “tobacco,”.

(d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting “(other than tobacco)” after “agricultural commodities” each place it appears.

(f) TRANSITION PROVISIONS.—

(1) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the date of enactment of this Act.

(2) TOBACCO STOCKS AND LOANS.—The Secretary of Agriculture shall promulgate regulations that require—

(A) the orderly disposition of quota tobacco held by any producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of quota tobacco; and

(B) the repayment of all tobacco price support loans or surrender of collateral by the associations not later than 1 year after the date of enactment of this Act.

(3) SPECIAL RULES FOR TERMINATION OF NO NET COST FUNDS AND ACCOUNTS.—Notwithstanding any other provision of law, on the repeal by subsection (b) of the authority under section 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2) for the establishment of the No Net Cost Tobacco Funds and Accounts, respectively—

(A) any obligation of a tobacco producer, purchaser, or importer to make payments into the Fund or Account shall terminate; and

(B) any amounts in the Fund or Account shall be disposed of in the manner prescribed by the Secretary of Agriculture, except that—

(i) to the extent necessary, the amounts shall be applied or used for the purposes prescribed by that section; and

(ii) if any funds remain, the Secretary shall transfer the funds to the Secretary of Health and Human Services for use in accordance with section 402.

(g) CROPS.—This section and the amendments made by this section shall apply with respect to the 2003 and subsequent crops of the kind of tobacco involved.

### SEC. 103. GEOGRAPHICAL RESTRICTIONS ON EXPANSION OF TOBACCO PRODUCTION.

(a) PURPOSES.—The purposes of this section are—

(1) to provide an orderly economic transition from the marketing of tobacco based on quotas and price support; and

(2) to address the economic dislocation, and the resulting impact on interstate commerce, that the termination of the tobacco program might cause for producers of certain agricultural communities.

(b) DEFINITIONS.—In this section:

(1) MARKETING QUOTA.—The term “marketing quota in the 2002 marketing year” means a quota established for the 2002 marketing year pursuant to part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) (as in effect before the amendment made by section 101(h)) and related provisions of law, as in effect for that marketing year.

(2) MARKETING YEAR.—The term “marketing year” means—

(A) in the case of Flue-cured tobacco, July 1 through June 30; and

(B) in the case of each other kind of tobacco, October 1 through September 30.

(c) PENALTY APPLICABLE TO TOBACCO GROWN IN NONQUOTA COUNTIES AND STATES.—The marketing in the 2003 or subsequent marketing years of a kind of tobacco that was subject to a marketing quota in the 2002 marketing year shall be subject to a penalty equal to 100 percent of the total amount received for the marketing of the tobacco, unless the Secretary of Agriculture determines that the tobacco was grown in a county in which the kind of tobacco was grown pursuant to a marketing quota in the 2002 marketing year.

### SEC. 104. CONTINUED AVAILABILITY OF FEDERAL CROP INSURANCE.

Nothing in this title affects the eligibility of a tobacco producer to obtain crop insurance for a crop of the producer under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

## TITLE II—PAYMENTS TO TOBACCO QUOTA HOLDERS AND PRODUCERS

### SEC. 201. DEFINITIONS.

In this title:

(1) ACTIVE PRODUCER OF QUOTA TOBACCO.—The term “active producer of quota tobacco” means a person that was the actual producer of tobacco marketed under a marketing quota for the 2001 tobacco marketing year, as determined by the Secretary.

(2) QUOTA TOBACCO.—The term “quota tobacco” means a kind of tobacco that is subject to a farm marketing quota or farm acreage allotment for the 1999, 2000, 2001, and 2002 tobacco marketing years under a marketing quota or allotment program established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) (as in effect before the amendment made by section 101(h)).

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(4) TOBACCO QUOTA HOLDER.—The term “tobacco quota holder” means an owner of a farm on January 1, 2002, for which a tobacco farm marketing quota or farm acreage allotment for quota tobacco was established with respect to the 2002 tobacco marketing year under a marketing quota program established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) (as in effect before the amendment made by section 101(h)).

### SEC. 202. PAYMENTS TO TOBACCO QUOTA HOLDERS.

(a) PAYMENT REQUIRED.—The Secretary shall make payments to each eligible tobacco quota holder for the termination of tobacco marketing quotas and related price support under the amendments made by title I, which shall constitute full and fair compensation for any losses relating to the termination of the quotas and support.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is a tobacco quota holder.

(2) ADMINISTRATION.—The application shall be submitted within such time, in such form,

and in such manner as the Secretary may require.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall establish a base quota level applicable to each eligible tobacco quota holder, as determined under subsection (b).

(2) POUNDAGE QUOTAS.—For each kind of tobacco for which a marketing quota is expressed in pounds, the base quota level for each tobacco quota holder shall be equal to the basic tobacco marketing quota under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) (as in effect before the amendment made by section 101(h)) for the 1998 marketing year for quota tobacco on the farm owned by the tobacco quota holder.

(3) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—For each kind of tobacco for which there is a marketing quota or allotment on an acreage basis, the base quota level for each tobacco quota holder shall be the quantity obtained by multiplying—

(A) the basic tobacco farm marketing quota or allotment for the 1998 marketing year established by the Secretary for quota tobacco on the farm owned by the tobacco quota holder; by

(B) the average county production yield per acre for the county in which the farm is located for the kind of tobacco for the 1998 marketing year.

(d) PAYMENT.—The Secretary shall make payments to each eligible tobacco quota holder under subsection (b) in an amount obtained by multiplying—

(1) $8 per pound; by

(2) the base quota level established for the quota holder under subsection (c).

(e) TIME FOR PAYMENT.—The payments to eligible tobacco quota holders required under this section shall be made in 5 equal installments during fiscal years 2003, 2004, 2005, 2006, and 2007.

(f) RESOLUTION OF DISPUTES.—Any dispute regarding the eligibility of a person to receive a payment under this section, or the amount of the payment, shall be resolved by the county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) for the county or other area in which the farm owned by the person is located.

(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

### SEC. 203. TRANSITION PAYMENTS FOR ACTIVE PRODUCERS OF QUOTA TOBACCO.

(a) TRANSITION PAYMENTS REQUIRED.—The Secretary shall make transition payments under this section to eligible active producers of quota tobacco.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a transition payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is an active producer of quota tobacco.

(2) ADMINISTRATION.—The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

(c) PRODUCTION BASE.—

(1) IN GENERAL.—The Secretary shall establish a production base applicable to each eligible active producer of quota tobacco, as determined under subsection (b).

(2) QUANTITY.—The production base of a producer shall be equal to the quantity, in pounds, of quota tobacco subject to the basic marketing quota produced and marketed by the producer under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) (as in effect before the amendment made by section 101(h)) for the 2001 marketing year.

(d) PAYMENT.—The Secretary shall make payments to each eligible active producer of quota tobacco, as determined under subsection (b), in an amount obtained by multiplying—

(1) $4 per pound; by

(2) the production base established for the active producer under subsection (c).

(e) TIME FOR PAYMENT.—The payments to eligible active producers of quota tobacco required under this section shall be made in 5 equal installments during fiscal years 2003, 2004, 2005, 2006, and 2007.

(f) RESOLUTION OF DISPUTES.—Any dispute regarding the eligibility of a person to receive a payment under this section, or the amount of the payment, shall be resolved by the county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) for the county or other area in which the farming operation of the person is located.

(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

## TITLE III—TOBACCO QUALITY BOARD

### SEC. 301. DEFINITIONS.

In this title:

(1) BOARD.—The term "Board" means the Tobacco Quality Board established under section 302.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

### SEC. 302. ESTABLISHMENT OF BOARD.

(a) IN GENERAL.—The Secretary shall establish a permanent advisory board within the Department of Agriculture to be known as the Tobacco Quality Board.

(b) NOMINATION AND APPOINTMENT.—The Board shall consist of 11 members, of which—

(1) 5 members shall be appointed by the Secretary from nominations submitted by representatives of tobacco producers in the United States;

(2) 5 members shall be appointed by the Secretary from nominations submitted by representatives of tobacco product manufacturers in the United States; and

(3) 1 member shall be an officer or employee of the Department of Agriculture appointed by the Secretary, who shall serve as Chairperson of the Board.

(c) TERMS.—

(1) CHAIRPERSON.—The Chairperson of the Board shall serve at the pleasure of the Secretary.

(2) OTHER MEMBERS.—Other members of the Board shall serve for 2-year terms, except that of the members first appointed to the Board, 2 producer representatives and 2 manufacturer representatives shall have initial terms of 1 year, as determined by the Secretary.

### SEC. 303. DUTIES.

The Board shall—

(1) determine and describe the physical characteristics of tobacco produced in the United States and unmanufactured tobacco imported into the United States;

(2) assemble and evaluate, in a systematic manner, concerns and problems with the quality of tobacco produced in the United States, expressed by domestic and foreign buyers and manufacturers of tobacco products;

(3) review data collected by Federal agencies on the physical and chemical integrity of tobacco produced in the United States and unmanufactured tobacco imported into the United States, to ensure that tobacco being used in domestically-manufactured tobacco products is of the highest quality and is free from prohibited physical and chemical agents;

(4) investigate and communicate to the Secretary—

(A) conditions with respect to the production of tobacco that discourage improvements in the quality of tobacco produced in the United States; and

(B) recommendations for regulatory changes that would address tobacco quality issues; and

(5) carry out such other related activities as are assigned to the Board by the Secretary.

### SEC. 304. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall provide the Board with (as determined by the Secretary)—

(1) a staff that is—

(A) experienced in the sampling and analysis of unmanufactured tobacco; and

(B) capable of collecting data and monitoring tobacco production information; and

(2) other resources necessary for the Board to perform the duties of the Board under this title.

(b) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

## TITLE IV—TOBACCO PRODUCT MANUFACTURER AND IMPORTER USER FEES

### SEC. 401. USER FEE.

(a) IN GENERAL.—

(1) ASSESSMENT.—The Secretary of Health and Human Services shall assess an annual user fee, calculated in accordance with this section, on each tobacco product manufacturer and tobacco product importer that sells tobacco products in domestic commerce in the United States.

(2) COMMENCEMENT.—The assessments shall commence during calendar year 2003, based on domestic sales of tobacco products during fiscal year 2003.

(b) BASE AMOUNT OF USER FEE FOR EACH CLASS OF TOBACCO PRODUCT.—The base amount of the user fee shall be—

(1) for cigarette manufacturers and importers, $2,116,252,000;

(2) for small cigar manufacturers and importers, $1,051,000;

(3) for large cigar manufacturers and importers, $164,274,000;

(4) for snuff manufacturers and importers, $9,920,000;

(5) for chewing tobacco manufacturers and importers, $2,275,000;

(6) for pipe tobacco manufacturers and importers, $1,505,000; and

(7) for roll-your-own tobacco manufacturers and importers, $3,231,000.

(c) DETERMINATION OF ANNUAL USER FEE FOR EACH CLASS OF TOBACCO PRODUCT.—The total user fee to be assessed on, and paid by, the manufacturers and importers of each class of tobacco product in each calendar year, as allocated pursuant to subsection (d), shall be the amount obtained by multiplying—

(1) the base amount for that class of tobacco product provided under subsection (b); by

(2) a fraction—

(A) the numerator of which is the total volume of domestic sales of that class of tobacco product during the fiscal year ending on September 30 of that calendar year; and

(B) the denominator of which is the total volume of domestic sales of that class of tobacco product during fiscal year 2003.

(d) ALLOCATION OF TOTAL USER FEE AMOUNTS BY MARKET SHARE—

(1) DEFINITION OF MARKET SHARE.—In this subsection, the term "market share" means the share of each manufacturer or importer of a class of tobacco product (expressed as a decimal to the fourth place) of the total volume of domestic sales of the class of tobacco product during the calendar year immediately preceding the calendar year of an assessment under this section.

(2) ALLOCATION.—The amount of the user fee for each class of tobacco product to be paid by each manufacturer or importer of the class of tobacco product under subsection (a) shall be determined for each calendar year by multiplying—

(A) the market share of the manufacturer or importer, as calculated with respect to the calendar year, of the class of tobacco product; by

(B) the total user fee amount for the calendar year, as determined under subsection (c), for the class of tobacco product.

(e) DETERMINATION OF VOLUME OF DOMESTIC SALES.—

(1) IN GENERAL.—The calculation of the volume of domestic sales of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary of Health and Human Services based on certified reports submitted by the manufacturers and importers pursuant to subsection (f).

(2) MEASUREMENT.—For purposes of the calculations under this subsection and the certifications under subsection (f) by the Secretary of Health and Human Services, the volumes of domestic sales shall be measured by—

(A) in the case of cigarettes, the numbers of cigarettes sold; and

(B) in the case of each other class of tobacco products, such unit as is specified by regulation by the Secretary.

(f) CERTIFICATION OF VOLUME OF DOMESTIC SALES.—

(1) IN GENERAL.—Each manufacturer and importer of tobacco products shall submit for each year a certified report to the Secretary of Health and Human Services setting forth for each class of tobacco products marketed or imported the total, for the preceding year, of domestic sales of the tobacco products by the manufacturer and importer, respectively, to wholesalers and retailers and directly to consumers.

(2) DEADLINE.—The certified report shall be submitted to the Secretary of Health and Human Services not later than March 1 of the year after the year for which the certified report is made.

**SEC. 402. ALLOCATION OF USER FEES.**

(a) IN GENERAL.—The user fees collected pursuant to section 401 and any funds transferred to the Secretary of Health and Human Services by the Secretary of Agriculture pursuant to section 102(f)(3)(B)(ii) shall be available, without further appropriation, in accordance with, and for the purposes described in, this section, to remain available until expended.

(b) FUNDING FOR FDA REGULATION OF TOBACCO PRODUCTS.—The Secretary of Health and Human Services shall make 15 percent of the user fee amounts collected pursuant to section 401 for each year available to the Secretary, acting through the Commissioner of Food and Drugs, for the regulation of tobacco products under chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.).

(c) FUNDING FOR OTHER TOBACCO-RELATED PROGRAMS.—The Secretary of Health and Human Services shall use the remaining 85 percent of the user fee amounts collected each year pursuant to section 401 and any amounts transferred to the Secretary of Health and Human Services by the Secretary of Agriculture pursuant to section 102(f)(3)(B)(ii)—

(1) to reimburse the Commodity Credit Corporation for the expenditures made by the Commodity Credit Corporation under title II; and

(2) if any funds remain after carrying out paragraph (1), to fund any other program that relates to tobacco products.

## TITLE V—FDA REGULATION OF TOBACCO PRODUCTS

### SEC. 501. FINDINGS.

Congress finds that—

(1) the use of tobacco products by the children of the United States is a pediatric disease of epic proportions that results in new generations of tobacco-dependent children and adults;

(2) a consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects;

(3) nicotine is addictive;

(4) virtually all new users of tobacco products are under the minimum legal age to purchase tobacco products;

(5) tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents;

(6) since past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of tobacco products are needed;

(7) Federal and State governments have lacked the legal and regulatory authority and resources to address comprehensively the public health and societal problems caused by the use of tobacco products;

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight;

(9) under article I, section 8 of the Constitution, Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes;

(10) the sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affect interstate commerce because tobacco products are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis;

(11) the sale, distribution, marketing, advertising, and use of tobacco products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products;

(12) it is in the public interest for Congress to adopt comprehensive public health legislation because of—

(A) the unique position of tobacco in the history and economy of the United States; and

(B) the need to prevent the sale, distribution, marketing and advertising of tobacco products to persons under the minimum legal age to purchase tobacco products;

(13) the public interest requires a timely, fair, equitable, and consistent result that will serve the public interest by restricting throughout the United States the sale, distribution, marketing, and advertising of tobacco products only to persons of legal age to purchase tobacco products;

(14) public health authorities estimate that the benefits to the United States of enacting Federal legislation to accomplish the goals described in this section would be significant in human and economic terms;

(15) reducing the use of tobacco by minors by 50 percent would prevent well over 60,000 early deaths each year and save up to $43,000,000,000 each year in reduced medical costs, improved productivity, and the avoidance of premature deaths;

(16)(A) advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products, resulting in increased use of tobacco products by youth; and

(B) past efforts to oversee those activities have not been successful in adequately preventing the increased use;

(17) tobacco advertising increases the size of the market consumption of tobacco products and the use of tobacco by young people;

(18) children—

(A) are more influenced by tobacco advertising than adults; and

(B) smoke the most advertised brands;

(19) tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market;

(20) advertising restrictions will have a positive effect on the smoking rates of young people;

(21) restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people; and

(22) it is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

## Subtitle A—FDA Jurisdiction Over Tobacco Products

### SEC. 511. DEFINITION OF TOBACCO PRODUCT.

Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(ll) TOBACCO PRODUCT.—

"(A) IN GENERAL.—The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption.

"(B) INCLUSIONS.—The term 'tobacco product' includes any component, part, or accessory of a tobacco product.

"(C) EXCLUSIONS.—The term 'tobacco product' does not include any raw material, other than tobacco, used in manufacturing a component, part, or accessory of a tobacco product.".

### SEC. 512. TOBACCO PRODUCTS.

The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX (21 U.S.C. 391 et seq.) as chapter X;

(2) by redesignating sections 901 through 907 (21 U.S.C. 391 through 397) as sections 1001 through 1007, respectively; and

(3) by inserting after chapter VIII (21 U.S.C. 381 et seq.) the following:

## "CHAPTER IX—TOBACCO PRODUCTS

### "SEC. 901. DEFINITIONS.

"In this title:

"(1) BRAND.—The term 'brand' means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of those attributes.

"(2) CIGARETTE.—The term 'cigarette' has the meaning given the term in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332).

"(3) COMMERCE.—The term 'commerce' has the meaning given the term in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332).

"(4) CONSTITUENT.—The term 'constituent' means, with respect to cigarettes, any element of mainstream or sidestream smoke.

"(5) DISTRIBUTOR.—

"(A) IN GENERAL.—The term 'distributor' means, with respect to a tobacco product, any person that furthers the distribution of cigarette or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the place of business of a person that sells or distributes the product to individuals for personal consumption.

"(B) EXCLUSION.—The term 'distributor' does not include a common carrier.

"(6) INGREDIENT.—

"(A) IN GENERAL.—The term 'ingredient' means, with respect to cigarettes or smokeless tobacco products, any substance, chemical, or compound (other than tobacco, water, or reconstituted tobacco sheet made wholly from tobacco) added, or specified for addition, by a manufacturer to the tobacco, paper, or filter of a cigarette, or to the tobacco of a smokeless tobacco product.

"(B) INCLUSIONS.—The term 'ingredient' includes, with respect to cigarettes or smokeless tobacco products, flavorants, processing aids, casing sauces, preservatives, and combustion modifiers.

"(7) MANUFACTURER.—

"(A) IN GENERAL.—The term 'manufacturer' means any person that manufactures a tobacco product intended to be sold in the United States.

"(B) INCLUSIONS.—The term "manufacturer" includes an importer, or other first purchaser for resale in the United States, of—

"(i) a tobacco product manufactured outside of the United States; or

"(ii a tobacco product manufactured in the United States but not intended for sale in the United States.

"(8) NICOTINE.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

"(9) PACKAGE.—The term 'package' means—

"(A) a pack, box, carton, or container of any kind; or

"(B) if no other container is used, any wrapping (including cellophane) in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers.

"(10) RETAILER.—The term 'retailer' means any person that—

"(A) sells cigarettes or smokeless tobacco to individuals for personal consumption; or

"(B) operates a facility at which self-service displays of tobacco products are permitted.

"(11) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any product that—

"(A) consists of cut, ground, powdered, or leaf tobacco; and

"(B) is intended to be placed in the oral or nasal cavity.

### "SEC. 902. FDA JURISDICTION OVER TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, except to the extent that—

"(1) the tobacco product is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or 201(h)(2)); or

"(2) a health claim is made for the tobacco product under section 201(g)(1)(C) or 201(h)(3), except that this paragraph shall not apply to a reduced exposure tobacco product or a reduced risk tobacco product covered by section 913.

"(b) APPLICABILITY.—This chapter shall apply to—

"(1) all tobacco products subject to part 897 of title 21, Code of Federal Regulations and any successor regulations; and

"(2) any other tobacco product that the Secretary by regulation determines to be subject to this chapter.

"(c) SCOPE.—

"(1) OTHER PRODUCTS.—Nothing in this chapter affects the authority of the Secretary over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter of this Act.

"(2) LEAF TOBACCO.—

"(A) DEFINITION OF CONTROLLED BY.—In this paragraph, the term 'controlled by' means, when used with respect to a tobacco product manufacturer, that the tobacco product manufacturer—

"(i) is a member of the same controlled group of corporations (as that term is used in section 52(a) of the Internal Revenue Code of 1986); or

"(ii) is under common control (within the meaning of the regulations promulgated under section 52(b) of that Code).

"(B) NONAPPLICABILITY.—This chapter shall not apply to—

"(i) leaf tobacco that is not in the possession of a manufacturer; or

"(ii) a producer of leaf tobacco, including a tobacco grower, tobacco warehouse, and tobacco grower cooperative.

"(C) ENTRY ONTO FARMS.—An officer or employee of the Food and Drug Administration shall not have any authority to enter onto a farm owned by a producer of leaf tobacco without the written consent of the producer.

"(D) DUAL CAPACITY AS LEAF TOBACCO PRODUCER AND MANUFACTURER.—Notwithstanding any other provision of this subparagraph, if a producer of leaf tobacco is also a tobacco product manufacturer or is controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer.

"(E) REGULATIONS ON LEAF TOBACCO PRODUCTION.—Nothing in this chapter grants the Secretary authority to promulgate regulations on any matter that involves the production of leaf tobacco or a producer of leaf tobacco, other than activities by a manufacturer affecting production.

### "SEC. 903. ADULTERATED TOBACCO PRODUCTS.

"(a) CONTAMINATED SUBSTANCES.—A tobacco product shall be deemed adulterated if the tobacco product—

"(1) consists in whole or in part of any filthy, putrid, or decomposed substance; or

"(2) is otherwise contaminated by any poisonous or deleterious substance that may render the tobacco product more injurious to health.

"(b) UNSANITARY CONDITIONS.—A tobacco product shall be deemed adulterated if the tobacco product has been prepared, packed, or held under unsanitary conditions under which the tobacco product may have been contaminated with filth, or under which the tobacco product may have been rendered more injurious to health.

"(c) CONTAINERS.—A tobacco product shall be deemed adulterated if the container of the tobacco product is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents more injurious to health.

"(d) PERFORMANCE STANDARDS.—A tobacco product shall be deemed adulterated if the tobacco product is, purports to be, or is represented as a tobacco product that is subject to a performance standard established under section 908 unless the tobacco product is in all respects in conformity with the standard.

"(e) PREMARKET APPROVAL.—A tobacco product shall be deemed adulterated if the tobacco product—

"(1) is required by section 911(b) to have premarket approval;

"(2) is not exempt under section 907(f); and

"(3) does not have an approved application in effect.

"(f) MANUFACTURING PRACTICES.—A tobacco product shall be deemed adulterated if the methods used in, or the facilities or controls used for, the manufacture, packing, or storage of the tobacco product are not in conformity with applicable requirements under section 907(e)(1) or an applicable condition prescribed by an order under section 907(e)(2).

"(g) INVESTIGATIONAL USE.—A tobacco product shall be deemed adulterated if—

"(1) the tobacco product is a tobacco product for which an exemption has been granted under section 907(f) for investigational use; and

"(2) the person that is granted the exemption or any investigator that uses the tobacco product under the exemption fails to comply with a requirement prescribed by or under section 907(f).

"(h) IMPORTED CIGARETTES.—A tobacco product shall be deemed adulterated if the tobacco product is imported, or offered for import, into the United States in violation of section 5754 of the Internal Revenue Code of 1986 or title VIII of the Tariff Act of 1930 (19 U.S.C. 1681 et seq.).

### "SEC. 904. MISBRANDED TOBACCO PRODUCTS.

"(a) FALSE LABELING.—A tobacco product shall be deemed misbranded if the labeling of the tobacco product is false or misleading.

"(b) MISLABELED PACKAGES.—

"(1) IN GENERAL.—Subject to paragraph (2), a tobacco product in package form shall be deemed misbranded unless the tobacco product bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

"(2) ADMINISTRATION.—In carrying out paragraph (1)(B), the Secretary shall (by regulation)—

"(A) permit reasonable variations; and

"(B) establish exemptions for small packages.

"(c) INFORMATION.—A tobacco product shall be deemed misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling with such conspicuousness (as compared with other words, statements, or designs in the labeling) and in such terms as to render the information likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

"(d) ESTABLISHED NAME.—A tobacco product shall be deemed misbranded if—

"(1) the tobacco product has an established name; and

"(2) the label of the tobacco product does not bear, to the exclusion of any other nonproprietary name, the established name of the tobacco product prominently printed in type, as required by the Secretary by regulation.

"(e) DIRECTIONS.—A tobacco product shall be deemed misbranded if the Secretary has promulgated regulations requiring that the labeling of the tobacco product bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless the labeling of the tobacco product conforms in all respects to the regulations.

"(f) PROCESSING.—A tobacco product shall be deemed misbranded if—

"(1) the tobacco product was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 906(b);

"(2) the tobacco product was not included in a list required by section 906(i);

"(3) a notice or other information with respect to the tobacco product was not provided as required by section 906(i) or 906(j); or

"(4) the tobacco product does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 906(e) as the Secretary by regulation requires.

"(g) FALSE ADVERTISING.—In the case of any tobacco product distributed or offered for sale in any State, a tobacco product shall be deemed misbranded if—

"(1) the advertising of the tobacco product is false or misleading; or

"(2) the tobacco product is sold, distributed, advertised, or promoted in violation of section 916 or regulations prescribed under section 907(d).

"(h) REQUIRED STATEMENTS.—In the case of any tobacco product distributed or offered for sale in any State, a tobacco product shall be deemed misbranded unless the manufacturer, packer, or distributor of the tobacco product includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to the tobacco product—

"(1) a true statement of the established name of the tobacco product (as required under subsection (d)), printed prominently; and

"(2) a brief description of—

"(A) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(B) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that the action is necessary to protect the public health, a full description of the components of the tobacco product or the formula showing quantitatively each ingredient of the tobacco product, to the extent required in regulations which shall be promulgated by the Secretary after an opportunity for a hearing.

"(i) MANDATORY DISCLAIMERS.—In the case of any tobacco product distributed or offered for sale in any State, a tobacco product shall be deemed misbranded unless the manufacturer, packer, or distributor of the tobacco product includes in all advertisements the information required by section 917(c).

"(j) PERFORMANCE STANDARDS.—A tobacco product shall be deemed misbranded if the tobacco product is a tobacco product subject to a performance standard established under section 908, unless the tobacco product bears such labeling as may be prescribed in the performance standard.

"(k) NOTICE.—A tobacco product shall be deemed misbranded if there is a failure or refusal—

"(1) to comply with any requirement prescribed under section 905 or 909; or

"(2) to furnish any material or information required by or under section 910.

"(l) LABELING.—A tobacco product shall be deemed misbranded if the tobacco product is not in compliance with—

"(1) the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.); or

"(2) the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.).

"(m) PRIOR APPROVAL OF STATEMENTS ON LABEL.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product.

"(2) ADVERTISEMENT CONTENT.—In the case of matters specified in this section or covered by regulations promulgated under this section—

"(A) no regulation promulgated under this subsection may require prior approval by the Secretary of the content of any advertisement; and

"(B) no advertisement of a tobacco product, published after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, shall be subject to sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

"(3) LABELING.—This subsection does not apply to any printed matter that the Secretary determines to be labeling (as defined in section 201).

**"SEC. 905. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.**

"(a) REQUIREMENT.—Not later than 180 days after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, each tobacco product manufacturer or importer of tobacco products, or their agents, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances, and compounds that are, as of that date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities and research findings conducted, supported, or possessed by the manufacturer (or agents) on the health, behavioral, or physiological effects of tobacco products, their constituents, ingredients, and components, and tobacco additives described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents) that relate to the issue of whether a reduction in risk to health from tobacco products can occur on the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

"(b) ANNUAL SUBMISSION OF INFORMATION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update the information on an annual basis in accordance with a schedule determined by the Secretary.

"(c) TIME FOR SUBMISSION.—

"(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002—

"(A) the manufacturer of the tobacco product shall provide the information required under subsection (a); and

"(B) the tobacco product shall be subject to the annual submission requirement under subsection (b).

"(2) MODIFICATION OF EXISTING PRODUCTS.—Not later than 60 days after the date of an action described in this paragraph, a tobacco product manufacturer shall advise the Secretary of the action in writing, and reference the action in submissions made under subsection (b), if the manufacturer—

"(A) adds to the tobacco product a new tobacco additive;

"(B) increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form; or

"(C) eliminates a tobacco additive from the tobacco product.

**"SEC. 906. ANNUAL REGISTRATION.**

"(a) DEFINITIONS.—In this section:

"(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term 'manufacture, preparation, compounding, or processing' includes (consistent with section 902(c)(2)) repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture of the tobacco product to the place of business of the person that makes final delivery or sale to the ultimate consumer or user.

"(2) NAME.—The term 'name' includes—

"(A) in the case of a partnership, the name of each partner; and

"(B) in the case of a corporation—

"(i) the name of each corporate officer and director; and

"(ii) the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year, each person that owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of 1 or more tobacco products shall register with the Secretary the name, places of business, and all such establishments of the person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—On first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in an establishment owned or operated in any State by a person, the person shall immediately register with the Secretary the person's name, place of business, and the establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Each person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment that person owns or operates in any State and at which the person begins the manufacture, preparation, compounding, or processing of 1 or more tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation—

"(1) prescribe a uniform system for the identification of tobacco products; and

"(2) require that persons that are required to list the tobacco products under subsection (i) shall list the tobacco products in accordance with the system.

“(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—On request, the Secretary shall make available for inspection any registration filed under this section.

“(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—

“(1) IN GENERAL.—Each establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704.

“(2) ADMINISTRATION.—Each such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary—

“(A) at least once during the 2-year period beginning with the date of registration of the establishment under this section; and

“(B) at least once in every successive 2-year period thereafter.

“(h) FOREIGN ESTABLISHMENTS.—

“(1) REGISTRATION.—Any establishment within any foreign country engaged in the manufacture of a tobacco product that is imported, or offered for import, into the United States shall register with the Secretary the name and place of business of the establishment and the name of the United States agent for the establishment.

“(2) REGISTRATION INFORMATION.—Any establishment required to be registered under paragraph (1) shall—

“(A) provide to the Secretary the information required by subsection (i); and

“(B) comply with any other requirement of this section that is applicable to domestic manufacturers.

“(3) INSPECTIONS.—Any establishment required to be registered under paragraph (1) shall—

“(A) be subject to inspection under section 704; and

“(B) be inspected under that section by 1 or more officers or employees designated by the Secretary at least once during—

“(i) the 2-year period beginning on the date of the registration of the establishment under paragraph (1); and

“(ii) each 2-year period thereafter.

“(4) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with officials of foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether tobacco products manufactured by an establishment required to be registered under paragraph (1), if imported or offered for import into the United States, shall be refused admission under section 801(a).

“(i) REGISTRATION INFORMATION.—

“(1) PRODUCT LIST.—Each person that registers with the Secretary under subsection (b), (c), or (d) shall, at the time of registration under any of those subsections, file with the Secretary a list of all tobacco products that—

“(A) are being manufactured, prepared, compounded, or processed by the person for commercial distribution; and

“(B) have not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before the time of registration.

“(2) CONTENTS OF LIST.—The list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

“(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 908 or that is subject to section 911—

“(i) a reference to the authority for the marketing of the tobacco product; and

“(ii) a copy of all labeling for the tobacco product;

“(B) in the case of any other tobacco product contained in an applicable list—

“(i) a copy of all consumer information and other labeling for the tobacco product;

“(ii) a representative sampling of advertisements for the tobacco product; and

“(iii) on request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

“(C) if the registrant filing a list has determined that a tobacco product contained in the list is not subject to a performance standard established under section 908, a brief statement of the basis on which the registrant made the determination, if the Secretary requests such a statement with respect to the particular tobacco product.

“(3) SEMIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person that registers with the Secretary under this subsection shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

“(A)(i) A list of each tobacco product introduced by the registrant for commercial distribution that has not been included in any list previously filed by the person with the Secretary under this subparagraph or paragraph (1).

“(ii) A list under this subparagraph shall list a tobacco product by the established name of the tobacco product and shall be accompanied by the other information required by paragraphs (1) and (2).

“(B) If, since the date the registrant last made a report under this paragraph, the person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1)—

“(i) notice of the discontinuance;

“(ii) the date of the discontinuance; and

“(iii) the identity of the established name of the tobacco product.

“(C) If, since the date the registrant reported under subparagraph (B), a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which a notice of discontinuance was reported, notice of the resumption, the date of the resumption, the identity of the tobacco product by established name, and other information required by paragraphs (1) and (2), unless the registrant has previously reported the resumption to the Secretary under this subparagraph.

“(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

“(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—Each person that is required to register under this section and that proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed in the United States as of the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002 (as defined by the Secretary by regulation) shall, at least 90 days before making the introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

“(1) the basis for the person's determination that the tobacco product is substantially equivalent (as defined in section 911) to a tobacco product commercially marketed in the United States as of the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002 that is in compliance with the requirements of this Act; and

“(2) action taken by the person to comply with the requirements under section 908 that are applicable to the tobacco product.

### “SEC. 907. GENERAL PROVISIONS CONCERNING CONTROL OF TOBACCO PRODUCTS.

“(a) IN GENERAL.—

“(1) APPLICABLE REQUIREMENTS.—Any requirement established by or under section 903, 904, 906, or 910 that is applicable to a tobacco product shall apply to the tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 908, section 911, or subsection (d).

“(2) INAPPLICABLE REQUIREMENTS.—Any requirement established by or under section 903, 904, 906, or 910 that is inconsistent with a requirement imposed on the tobacco product under section 908, section 911, or subsection (d) shall not apply to the tobacco product.

“(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—

“(1) APPLICATION.—This subsection applies to—

“(A) each notice of proposed rulemaking under this section or section 908, 909, 910, or 911;

“(B) any other notice that is published in the Federal Register with respect to any other action taken under any such section and that states the reasons for the action; and

“(C) each publication of findings required to be made in connection with rulemaking under any such section.

“(2) INFORMATION.—Each notice and publication described in paragraph (1) shall set forth—

“(A) the manner in which interested persons may examine data and other information on which the notice or findings are based; and

“(B) the period within which interested persons may present their comments on the notice or findings (including the need for the notice or findings) orally or in writing, which period shall be not less than 60 days, and not more than 90 days, unless the period is extended by the Secretary by a notice published in the Federal Register stating good cause for the extension.

“(c) LIMITED CONFIDENTIALITY OF INFORMATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 704, 905, 906, 908, 909, 910, 911, or 913, or under subsection (e) or (f), that is exempt from disclosure under section 552(a) of title 5, United States Code, by reason of section 552(b)(4) of that title shall be considered confidential and shall not be disclosed.

“(2) EXCEPTIONS.—Information described in paragraph (1) may be disclosed—

“(A) to other officers or employees that are carrying out this chapter; or

“(B) when relevant in any proceeding under this chapter.

“(d) RESTRICTIONS.—

“(1) IN GENERAL.—The Secretary may by regulation require that a tobacco product be restricted to sale or distribution on such conditions (including restrictions on the access to, and the advertising and promotion of, the tobacco product) as the Secretary may prescribe in the regulation if the Secretary determines that the regulation would be appropriate for the prevention of, or decrease in, the use of tobacco products by children under the age at which tobacco products may be legally purchased.

"(2) PRESCRIPTIONS.—No condition under paragraph (1) may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(3) LABELS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may by regulation prescribe.

"(4) FACE-TO-FACE TRANSACTIONS.—No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets.

"(e) GOOD MANUFACTURING PRACTICES.—

"(1) METHODS, FACILITIES, AND CONTROLS.—

"(A) IN GENERAL.—The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), and packing, and storage of a tobacco product conform to current good manufacturing practice for an agricultural product, as prescribed in the regulations, to ensure that the public health is protected and that the tobacco product is in compliance with this chapter.

"(B) ADMINISTRATION.—The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make the recommendation of the advisory committee with respect to a proposed regulation under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection—

"(I) take into account the differences in—

"(aa) the manner in which the different types of tobacco products have historically been produced;

"(bb) the financial resources of the different tobacco product manufacturers; and

"(cc) the state of their existing manufacturing facilities; and

"(II) provide for a reasonable period of time for the manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) IN GENERAL.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from the requirement.

"(B) CONTENT.—The petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to ensure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(C) ADVISORY COMMITTEE.—

"(i) REFERRAL.—The Secretary may refer to an advisory committee any petition submitted under subparagraph (A).

"(ii) RECOMMENDATIONS.—The advisory committee shall report the recommendations of the advisory committee to the Secretary with respect to a petition referred to the advisory committee within 60 days after the date of the petition's referral.

"(iii) DEADLINE FOR APPROVAL OR DENIAL.—The Secretary shall by order either approve or deny the petition not later than 60 days after the later of—

"(I) the date on which the petition was submitted to the Secretary under subparagraph (A); or

"(II) the day after the date on which the petition was referred to an advisory committee.

"(D) GROUNDS FOR APPROVAL.—The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with the requirement is not required to ensure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to ensure that the tobacco product will be in compliance with this chapter.

"(E) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to ensure that the tobacco product will be in compliance with this chapter.

"(F) HEARING.—After the issuance of an order under subparagraph (C) with respect to a petition, the petitioner shall have an opportunity for an informal hearing on the order.

"(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation.

"(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations with respect to tobacco products, and may obtain tobacco products for research, testing, and demonstration purposes, without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

**"SEC. 908. PERFORMANCE STANDARDS.**

"(a) IN GENERAL.—

"(1) FINDING.—

"(A) REQUIREMENT.—The Secretary may adopt a performance standard for a tobacco product if the Secretary finds that the performance standard is appropriate for the protection of the public health.

"(B) BASIS.—The finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(i) the increased or decreased likelihood that existing users of tobacco products will stop using tobacco products; and

"(ii) the increased or decreased likelihood that those individuals who do not use tobacco products will start using tobacco products.

"(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

"(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction of nicotine yields of the tobacco product;

"(ii) for the reduction or elimination of other harmful constituents or harmful components of the tobacco product; or

"(iii) relating to any other requirement under subparagraph (B);

"(B) shall, if necessary for the protection of public health, include—

"(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the performance characteristics of the tobacco product; and

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) demonstrate that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(C) shall not render the tobacco product unacceptable for adult consumption.

"(3) PERIODIC REEVALUATION OF PERFORMANCE STANDARDS.—

"(A) IN GENERAL.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether the standards should be changed to reflect new medical, scientific, or other technological data.

"(B) TESTER.—The Secretary may provide for testing under paragraph (2) by any person.

"(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

"(A) use available personnel, facilities, and other technical support of other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who, in the Secretary's judgment, can make a significant contribution.

"(b) ESTABLISHMENT, AMENDMENT, OR REVOCATION OF STANDARDS.—

"(1) NOTICE.—

"(A) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

"(B) ESTABLISHMENT OR AMENDMENT.—A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

‘‘(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

‘‘(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

‘‘(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

‘‘(C) Revocation.—A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary for the protection of the public health.

‘‘(D) Administration.—The Secretary shall—

‘‘(i) consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of the demand; and

‘‘(ii) issue the standard, if the Secretary determines that the standard would be appropriate for the protection of the public health.

‘‘(E) Comment period.—In issuing a standard under this subsection, the Secretary shall provide for a comment period of not less than 60 days.

‘‘(2) Promulgation.—

‘‘(A) In general.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) with respect to a performance standard and after consideration of the comments and any report from an advisory committee, the Secretary shall—

‘‘(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

‘‘(ii) publish a notice terminating the proceeding for the development of the standard, together with the reasons for the termination.

‘‘(B) Effective date.—

‘‘(i) In general.—Subject to clauses (ii) and (iii), a regulation establishing a performance standard shall set forth the 1 or more dates on which the standard takes effect.

‘‘(ii) Earliest effective date.—No such regulation may take effect before the date that is 1 year after the date of the publication of the regulation unless the Secretary determines that an earlier effective date is necessary for the protection of the public health.

‘‘(iii) Basis.—The 1 or more effective dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

‘‘(3) Powers reserved to congress.—Congress expressly reserves the power to make a decision establishing a performance standard—

‘‘(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products; or

‘‘(B) requiring the reduction of nicotine yields of a tobacco product to zero.

‘‘(4) Amendment; revocation.—

‘‘(A) In general.—On the Secretary's own initiative or on petition of an interested person, the Secretary may, by regulation promulgated in accordance with paragraphs (1) and (2)(B), amend or revoke a performance standard.

‘‘(B) Interim effectiveness.—The Secretary may declare a proposed amendment of a performance standard to be effective on and after the publication of the amendment in the Federal Register and until the effective date of any final action taken on the amendment, if the Secretary determines that making it so effective is in the public interest.

‘‘(5) Reference to advisory committee.—

‘‘(A) In general.—In the case of a proposed regulation for the establishment, amendment, or revocation of a performance standard, the Secretary—

‘‘(i) on the Secretary's own initiative, may refer to an advisory committee, for a report and recommendation, any matter involved in the proposed regulation that requires the exercise of scientific judgment; and

‘‘(ii) on the request of an interested person that demonstrates good cause for referral and that is made before the expiration of the period for submission of comments on a proposed regulation, shall refer to an advisory committee, for a report and recommendation, any matter described in clause (i).

‘‘(B) Information.—If a proposed regulation is referred to the advisory committee under this paragraph, the Secretary shall provide the advisory committee with the data and information on which the proposed regulation is based.

‘‘(C) Report and recommendation.—Not later than 60 days after the referral of a proposed regulation, the advisory committee shall—

‘‘(i) conduct an independent study of the data and information furnished to the advisory committee by the Secretary and other data and information before the advisory committee; and

‘‘(ii) submit to the Secretary a report and recommendation with respect to the proposed regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation.

‘‘(D) Copy.—A copy of the report and recommendation shall be made public by the Secretary.

**‘‘SEC. 909. NOTIFICATION AND OTHER REMEDIES.**

‘‘(a) Notification.—

‘‘(1) Conditions.—The Secretary may issue an order described in paragraph (2) if the Secretary determines that—

‘‘(A) a tobacco product that is introduced or delivered for introduction into interstate commerce for commercial distribution presents a risk of substantial harm to the public health that exceeds the risks posed by similar tobacco products marketed before the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002; and

‘‘(B)(i) notification under this subsection is necessary to eliminate the unreasonable risk of the harm; and

‘‘(ii) no more practicable means is available under the provisions of this chapter (other than this section) to eliminate the risk.

‘‘(2) Order.—If the Secretary makes a determination described in paragraph (2), the Secretary may issue such order as may be necessary to ensure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons that should properly receive the notification in order to eliminate the risk.

‘‘(3) Means.—The Secretary may order notification by any appropriate means, including public service announcements.

‘‘(4) Consultation.—Before issuing an order under this subsection, the Secretary shall consult with the persons that are to give notice under the order.

‘‘(b) No Exemption From Other Liability.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law.

‘‘(c) Recall Authority.—

‘‘(1) In general.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of the tobacco product.

‘‘(2) Hearing.—The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of the tobacco product.

‘‘(3) Vacation of order.—If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

‘‘(4) Amendment of order to require recall.—

‘‘(A) In general.—Except as provided in subparagraph (C), if, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall amend the order to require a recall.

‘‘(B) Timetable.—The Secretary shall specify a timetable during which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

‘‘(C) Contents.—An amended order under subparagraph (A)—

‘‘(i) shall not include recall of a tobacco product from individuals; and

‘‘(ii) shall provide for notice to persons subject to the risks associated with the use of the tobacco product.

‘‘(D) Notification by retailers.—In providing the notice required by subparagraph (C)(ii), the Secretary may use the assistance of retailers and other persons that distribute the tobacco product.

‘‘(E) Notification by secretary.—If a significant number of persons described in subparagraph (D) cannot be identified, the Secretary shall notify the persons under section 705(b).

‘‘(3) Remedy not exclusive.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a).

**‘‘SEC. 910. RECORDS AND REPORTS ON TOBACCO PRODUCTS.**

‘‘(a) In General.—Each person that is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require to ensure that the tobacco product is not adulterated or misbranded and to otherwise protect public health.

“(b) Administration.—Regulations promulgated under subsection (a)—

“(1) may require a tobacco product manufacturer or importer to report to the Secretary in any case in which the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that 1 of the marketed tobacco products of the manufacturer or importer may have caused or contributed to a serious, unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

“(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

“(3) shall not impose requirements that are unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with the requirements and the need for the protection of the public health and the implementation of this chapter;

“(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under the regulations for submission of a report or information to the Secretary state the reason or purpose for the request and identify, to the maximum extent practicable, the report or information;

“(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of the report or information and identify to the maximum extent practicable the report or information; and

“(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless disclosure is necessary—

“(A) to protect the medical welfare of an individual;

“(B) to determine risks to public health of a tobacco product; or

“(C) to verify a record, report, or information submitted under this chapter.

“(c) Medical Ethics and Patient Interests.—

“(1) In general.—In promulgating regulations under this section, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients.

“(2) Confidentiality.—The prohibitions of subsection (b)(6) shall continue to apply to records, reports, and information concerning any individual that has been a patient, irrespective of whether or when the individual ceases to be a patient.

“(d) Reports of Removals and Corrections.—

“(1) In general.—Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken, or removal from the market of a tobacco product undertaken, by the manufacturer or importer if the removal or correction was undertaken—

“(A) to reduce a risk to health posed by the tobacco product; or

“(B) to remedy a violation of this chapter caused by the tobacco product that may present a risk to health.

“(2) Record.—A tobacco product manufacturer or importer of a tobacco product that undertakes a corrective action or removal from the market of a tobacco product that is not required to be reported under this subsection shall keep a record of the correction or removal.

“(3) Previous report.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

**“SEC. 911. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.**

“(a) Definition of Substantially Equivalent.—

“(1) In general.—In this section and section 906(j), the term ‘substantially equivalent’ or ‘substantial equivalence’ mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has determined that—

“(A) the tobacco product has the same characteristics as the predicate tobacco product; or

“(B) the tobacco product has different characteristics, and the information for the tobacco product submitted contains information, including clinical data if considered necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under the applicable section because the product could not reasonably be expected to increase the health risks to consumers compared to a conventional tobacco product that is commercially marketed in the United States and that is in compliance with the requirements of this Act.

“(2) Definition of characteristics.—In subparagraph (A), the term ‘characteristics’ means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

“(3) Inapplicable tobacco products.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

“(b) Requirement for Premarket Approval.—

“(1) In general.—Approval under this section of an application for premarket approval for any tobacco product, other than a reduced exposure tobacco product or a reduced risk tobacco product under section 913, that is not commercially marketed in the United States as of the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002 shall be required unless—

“(A) the manufacturer has submitted a report under section 906(j); and

“(B) the Secretary has not suspended the distribution of the product under this paragraph.

“(2) Suspension of distribution.—Not later than 90 days after the submission of a report under section 906(j), the Secretary may by order suspend the distribution of the tobacco product that is the subject of the report if the Secretary determines that there is a reasonable likelihood that the tobacco product is not substantially equivalent to a tobacco product that is—

“(A) commercially marketed in the United States as of the date of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002; and

“(B) in compliance with the requirements of this Act.

“(3) Failure to issue order.—If the Secretary fails to issue an order within the 90-day period described in paragraph (2), the tobacco product that is the subject of the report shall be deemed to be substantially equivalent to a predicate tobacco product.

“(4) Final agency action.—

“(A) In general.—Subject to subparagraph (B), the issuance of an order under this paragraph shall constitute final agency action for purposes of section 702 of title 5, United States Code.

“(B) Rescission or modification.—The Secretary may rescind or modify an order issued under this subsection at any time.

“(c) Health Information.—

“(1) In general.—As part of a submission under section 906(j) with respect to a tobacco product, the person required to file a premarket notification under section 906(j) shall provide an adequate summary of any health information relating to the tobacco product or state that the information will be made available on request by any person.

“(2) Administration.—Any summary under paragraph (1) respecting a tobacco product shall—

“(A) contain detailed information regarding data concerning adverse health effects; and

“(B) be made available to the public by the Secretary not later than 30 days after the date of issuance of a determination that the tobacco product is substantially equivalent to another tobacco product.

“(3) Requirements.—The communication that the product is a reduced exposure tobacco product or a reduced risk tobacco product shall comply with requirements prescribed by the Secretary relating to the communication.

“(4) Prior approval.—The Secretary may require prior approval of the communication in each case in accordance with section 913.

“(d) Application.—

“(1) Contents.—An application for premarket approval shall contain—

“(A) full reports of all information, published or known to, or that should reasonably be known to, the applicant, concerning investigations that have been made to show the health risks of the tobacco product and whether the tobacco product presents greater risk than other tobacco products;

“(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of the tobacco product;

“(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, the tobacco product;

“(D) an identifying reference to any performance standard under section 908 that would be applicable to any aspect of the tobacco product, and either adequate information to show that the aspect of the tobacco product fully meets the performance standard or adequate information to justify any deviation from the standard;

“(E) such samples of the tobacco product and of components of the tobacco product as the Secretary may reasonably require;

“(F) specimens of the labeling proposed to be used for the tobacco product; and

“(G) such other information relevant to the subject matter of the application as the Secretary may require.

“(2) Reference to advisory committee.—On receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

“(A) on the Secretary’s own initiative, may refer the application to an advisory committee for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation; or

"(B) on the request of an applicant, shall refer the application to an advisory committee in accordance with subparagraph (A).

"(e) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) IN GENERAL.—As promptly as practicable, but not later than 180 days, after the date of receipt of an application under subsection (d), the Secretary, after considering the report and recommendation submitted under subsection (d)(2), shall—

"(i) issue an order approving the application, if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) applies; or

"(ii) deny approval of the application, if the Secretary finds (and sets forth the basis for the finding as part of or accompanying the denial) that 1 or more grounds for denial specified in paragraph (2) apply.

"(B) SALES RESTRICTIONS.—An order approving an application for a tobacco product may require as a condition to the approval that the sale and distribution of the tobacco product be restricted, but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation promulgated under section 907(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, on the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to the tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting the tobacco product to be marketed would pose no greater risk to the public health than currently marketed tobacco products;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of the tobacco product do not conform to the requirements of section 907(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading; or

"(D)(i) the tobacco product is not shown to conform in all respects to a performance standard in effect under section 908, compliance with which is a condition to approval of the application; and

"(ii) there is a lack of adequate information to justify the deviation from the standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, to the extent that the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to make the application approvable (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

"(4) BASIS FOR ACTION.—

"(A) IN GENERAL.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) that is sufficient to evaluate the tobacco product, the Secretary may authorize that the determination under paragraph (2)(A) be made on the basis of the evidence.

"(f) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, on obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds that—

"(A) the continued marketing of the tobacco product poses greater risks to the public health than other available products;

"(B) the application contained or was accompanied by a false or misleading statement of a material fact;

"(C) the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 910;

"(ii) has refused to permit access to, or copying or verification of, the records as required by section 704; or

"(iii) has not complied with the requirements of section 906;

"(D) on the basis of new information before the Secretary with respect to the tobacco product, evaluated, together with the evidence before the Secretary when the application was approved, whether the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of the tobacco product do not conform with the requirements of section 907(e) and were not brought into conformity with the requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated, together with the evidence before the Secretary when the application was approved, whether the labeling of the tobacco product, based on a fair evaluation of all material facts, is false or misleading and was not corrected within a reasonable time after receipt of written notice from the Secretary of the fact; or

"(F) on the basis of new information before the Secretary, evaluated, together with the evidence before the Secretary when the application was approved, whether the tobacco product is shown to conform in all respects to a performance standard that is in effect under section 908, compliance with which was a condition to approval of the application, and whether there is a lack of adequate information to justify the deviation from the standard.

"(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date on which the holder receives notice of the withdrawal, obtain review of the order in accordance with subsection (e).

"(3) TEMPORARY SUSPENSION.—

"(A) IN GENERAL.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section.

"(B) WITHDRAWAL OF APPLICATION.—If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw the application.

"(g) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

**"SEC. 912. JUDICIAL REVIEW.**

"(a) DEFINITION OF RECORD.—In this section, the term 'record' means—

"(1) all notices and other matter published in the Federal Register with respect to a regulation or order reviewed;

"(2) all information submitted to the Secretary with respect to—

"(A) a regulation or order;

"(B) proceedings of any panel or advisory committee with respect to the regulation or order; and

"(C) any hearing held with respect to the regulation or order; and

"(3) any other information identified by the Secretary, in the administrative proceeding held with respect to the regulation or order, as being relevant to the regulation or order.

"(b) PETITION.—

"(1) IN GENERAL.—Not later than 30 days after the date of promulgation of a regulation under section 908 establishing, amending, or revoking a performance standard for a tobacco product, or a denial of an application for approval under section 911(c), any person adversely affected by the regulation or order may file a petition with the United States Court of Appeals for the District of Columbia, or for the circuit in which the person resides or has the person's principal place of business, for judicial review of the regulation or order.

"(2) COPY OF PETITION.—A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose.

"(3) RECORD OF PROCEEDINGS.—

"(A) FILING.—The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order.

"(B) RATIONALE.—Each record or order shall contain a statement of the reasons for the issuance of the order and the basis, on the record, for the issuance of the order.

"(c) ADDITIONAL FINDINGS BY SECRETARY.—

"(1) IN GENERAL.—The court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions if the petitioner—

"(A) applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed; and

"(B) demonstrates to the satisfaction of the court that—

"(i) the additional data, views, or arguments are material; and

"(ii) there were reasonable grounds for the petitioner's failure to adduce the data, views, or arguments in the proceedings before the Secretary.

"(2) MODIFICATION.—The Secretary—

"(A) may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken; and

"(B) shall file with the court—

"(i) the modified or new findings;

"(ii) the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed; and

"(iii) the return of the additional data, views, or arguments.

"(d) STANDARD OF REVIEW.—

"(1) IN GENERAL.—On the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction—

"(A) to review the regulation or order in accordance with chapter 7 of title 5, United States Code; and

"(B) to grant appropriate relief, including interim relief, as provided in that chapter.

"(2) STANDARD.—A regulation or order described in paragraph (1) or (2) of subsection (a) shall not be affirmed if the regulation or order is found to be unsupported by substantial evidence on the record taken as a whole.

"(e) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States on certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(f) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedy provided by law.

"(g) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review under this section or under any other provision of law or a regulation or order issued under section 907, 908, 909, 910, 911, or 914, each such regulation or order shall contain a statement of—

"(1) the reasons for the issuance of the regulation or order; and

"(2) the basis, in the record of the proceedings held in connection with the issuance of the regulation or order, for the issuance of the regulation or order.

### "SEC. 913. REDUCED EXPOSURE AND REDUCED RISK TOBACCO PRODUCTS.

"(a) DEFINITIONS OF REDUCED EXPOSURE AND REDUCED RISK TOBACCO PRODUCTS.—In this section, the terms 'reduced exposure tobacco product' and 'reduced risk tobacco product' mean a tobacco product designated by the Secretary as a reduced exposure tobacco product or a reduced risk tobacco product, respectively, under subsection (b).

"(b) DESIGNATION.—

"(1) IN GENERAL.—A product may be designated by the Secretary as a reduced exposure tobacco product or a reduced risk tobacco product if the Secretary finds that the product is demonstrated to significantly reduce harm to individuals caused by a tobacco product in accordance with the standards provided under subparagraph (B), based on an application submitted by the manufacturer of the product (or other responsible person) that—

"(A)(i) demonstrates, through appropriate chemical and biological testing (including testing on animals and short-term human testing), that use of the product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of another tobacco product in the same or different category as the subject tobacco product; or

"(ii) contains scientific evidence showing that use of the product results in a substantially lower potential risk to health in 1 or more specific respects than use of another tobacco product in the same or different category as the proposed reduced exposure tobacco product or the reduced risk product; and

"(B) if required by the Secretary, includes studies of the long-term health effects of the product.

"(2) CONSULTATION ON PROTOCOLS.—If studies are required under paragraph (1), the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

"(3) BASIS FOR FINDING.—

"(A) REDUCED EXPOSURE TOBACCO PRODUCTS.—The Secretary shall designate a tobacco product as a reduced exposure tobacco product if the Secretary determines, based on such information as may be submitted by the applicant and other available information, that—

"(i) the product substantially reduces exposure to 1 or more tobacco toxicants; and

"(ii) independent scientific experts have found or predict, through clinical or epidemiological studies, a measurable reduction in the morbidity or mortality associated with the use of the product compared with the use of other tobacco products (whether in the same or a different category) commercially marketed in the United States.

"(B) REDUCED RISK TOBACCO PRODUCTS.—The Secretary shall designate a tobacco product as a reduced risk tobacco product only if the Secretary determines, based on such information as may be submitted by the applicant and other available information, that—

"(i) the product meets the criteria established under subparagraph (A); and

"(ii) there is sufficient evidence that the product can reasonably be expected to reduce the risk of 1 or more specific diseases or other adverse health effects, as compared with the use of other tobacco products (whether in the same or a different category) commercially marketed in the United States.

"(4) MARKETING REQUIREMENTS.—A tobacco product may be marketed and labeled as a reduced exposure tobacco product or a reduced risk tobacco product if the tobacco product—

"(A) has been designated by the Secretary under paragraph (1);

"(B) bears a label statement prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

"(C) complies with—

"(i) requirements prescribed by the Secretary relating to marketing and advertising of the product to ensure that neither the marketing nor the labeling is false or misleading; and

"(ii) other provisions of this chapter, as prescribed by the Secretary.

"(c) REVOCATION OF DESIGNATION.—At any time after the date on which a tobacco product is designated as a reduced exposure tobacco product or a reduced risk tobacco product under this section, the Secretary may, after providing an opportunity for an informal hearing, revoke the designation if the Secretary determines, based on information not available at the time of the designation, that—

"(1) the finding made under subsection (b)(1) is no longer valid; or

"(2) the product is being marketed in violation of subsection (b)(3).

"(d) LIMITATION.—A tobacco product that is designated as a reduced exposure tobacco product or a reduced risk tobacco product that is in compliance with subsection (b) shall not be regulated as a drug or device.

"(e) DEVELOPMENT OF REDUCED EXPOSURE AND RISK TOBACCO PRODUCT TECHNOLOGY.—A tobacco product manufacturer shall provide written notice to the Secretary on the development or acquisition by the manufacturer of any technology that would reduce exposure to 1 or more tobacco toxicants, or the risk of a tobacco product to the health of the user, for which the manufacturer is not seeking designation as a reduced exposure tobacco product or a reduced risk tobacco product under this section.

"(f) POSTMARKET SURVEILLANCE.—

"(1) DISCRETIONARY SURVEILLANCE.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a reduced exposure tobacco product or a reduced risk tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

"(2) SURVEILLANCE APPROVAL.—

"(A) IN GENERAL.—Each tobacco product manufacturer required to conduct a surveillance of a reduced exposure tobacco product or a reduced risk tobacco product under paragraph (1) shall, not later than 30 days after receiving notice that the manufacturer is required to conduct the surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance.

"(B) BASIS.—The Secretary, not later than 60 days after the receipt of the protocol, shall determine if—

"(i) the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct the surveillance; and

"(ii) the protocol will result in collection of useful data or other information necessary to protect the public health.

"(C) REVIEW.—The Secretary may not approve such a protocol until the protocol has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

### "SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) ADDITIONAL REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act prohibits a State or political subdivision of a State from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

"(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement that is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, labeling, good manufacturing standards, or reduced exposure tobacco products or reduced risk tobacco products.

"(B) SALE, DISTRIBUTION, OR USE.—Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product, including requirements relating to the access to, and the advertising and promotion of, a tobacco product.

"(b) PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product modifies or otherwise affects any action or the liability of any person under the product liability law of any State.

### "SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall promulgate regulations that require that retail establishments for which the predominant business is the sale of tobacco products to comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

### "SEC. 916. ACCESS AND MARKETING RESTRICTIONS.

"(a) DEFINITIONS.—In this section:

"(1) Adult.—The term 'adult' means any person who is older than the minimum age at which it is legal to purchase or possess (whichever minimum age is older) tobacco products.

"(2) Adult-only facility.—

"(A) In general.—The term 'adult-only facility' means a facility or restricted area (whether open-air or enclosed) where the operator ensures or has a reasonable basis to believe (such as by checking identification as required under State law, or by checking the identification of any person appearing to be under the age of 27) that only adults are present.

"(B) Temporary adult-only facility.—A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility, if the operator ensures or has a reasonable basis to believe that only adults are present during the event or time period in question.

"(3) Brand name.—

"(A) In general.—The term 'brand name' means a brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any domestic brand of tobacco products.

"(B) Exclusion.—The term 'brand name' shall not include the corporate name of any tobacco product manufacturer that does not, after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, sell a brand of tobacco products in the United States that includes the corporate name.

"(b) Cigarette and Smokeless Tobacco Product Requirements.—

"(1) Minimum sales age.—No retailer may sell a tobacco product to any person younger than 18 years of age.

"(2) Proof of age.—

"(A) In general.—Except as provided in subparagraph (B), each retailer shall verify by means of photographic identification containing the bearer's date of birth that no person purchasing the product is younger than 18 years of age.

"(B) Maximum age.—No such verification is required for any person over the age of 26.

"(3) Enforcement by states.—

"(A) In general.—The Secretary may enter into an agreement with a State if—

"(i) the State has in effect a State law that is at least as restrictive as this subsection under which the State agrees to enforce the State law in a manner reasonably designed to prevent the violation of the State law; and

"(ii) the Secretary provides a grant to the State for the purpose of enforcing the State law.

"(B) Authority of secretary.—No action taken by the Secretary under subparagraph (A) limits the authority of the Secretary under this subsection.

"(4) Mail order sales.—Not later than 2 years after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, the Secretary shall submit to Congress a report describing the extent, if any, to which individuals younger than 18 years of age are obtaining tobacco products through the mail.

"(c) Minimum Package Size Requirements.—

"(1) Minimum number of cigarettes.—No manufacturer, distributor, or retailer may sell or cause to be sold, or distribute or cause to be distributed, any cigarette package that contains fewer than 20 cigarettes.

"(2) Opening tobacco product packages.—No retailer may break or otherwise open any tobacco product package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than—

"(A) the quantity in the minimum cigarette package size provided under paragraph (1); or

"(B) any quantity of another tobacco product that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

"(d) Prohibition on Youth Access to Free Samples.—

"(1) Definition of free sample.—In this subsection, the term 'free sample' does not include a tobacco product that is provided to an adult in connection with—

"(A) the purchase, exchange or redemption for proof of purchase of any tobacco product (including a free offer in connection with the purchase of a tobacco product, such as a 2-for-1 offer); or

"(B) the conducting of consumer testing or evaluation of a tobacco product with persons who certify that they are adults.

"(2) Prohibition.—No manufacturer, distributor, or retailer may distribute or cause to be distributed any free sample of a tobacco product, except in an adult-only facility.

"(e) Vending Machines, Self-Service Displays, Mail-Order Sales, and Other Impersonal Modes of Sale.—

"(1) Definition of self-service display.—In this subsection, the term 'self-service display' means any display located in an area in which the customer has access to the tobacco products without the aid of a sales clerk.

"(2) Requirement.—Except as provided in paragraph (3), a retailer may sell a tobacco product—

"(A) only in a direct, face-to-face exchange between the retailer and the consumer; and

"(B) not through a method of sale such as a vending machine or self-service display.

"(3) Permitted methods.—The following methods of sale of tobacco products shall be permitted under this subsection:

"(A) Mail-order sales, excluding mail-order redemption of coupons and distribution of free samples through the mail.

"(B) Vending machines that are located in an adult-only facility.

"(f) Prohibition on Youth Targeting.—

"(1) Definition of youth.—In this subsection, the term 'youth' means any person or persons under 18 years of age.

"(2) Prohibition.—No manufacturer, distributor, or retailer may take—

"(A) any action, directly or indirectly, to target youth in the advertising, promotion, or marketing of tobacco products; or

"(B) any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth smoking.

"(g) Prohibition on Use of Cartoons.—

"(1) Definition of cartoon.—In this subsection:

"(A) In general.—The term 'cartoon' means any drawing or other depiction of an object, person, animal, or creature, or any similar caricature, that satisfies any of the following criteria:

"(i) The use of comically exaggerated features.

"(ii) The attribution of human characteristics to animals, plants, or other objects, or the similar use of anthropomorphic technique.

"(iii) The attribution of unnatural or extrahuman abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds, or transformation.

"(B) Inclusion.—The term 'cartoon' includes a drawing or other depiction of the character popularly known as 'Joe Camel'.

"(C) Exclusions.—The term 'cartoon' does not include any drawing or other depiction that, on July 1, 1998, was in use in the United States in any manufacturer's corporate logo or in any manufacturer's tobacco product packaging.

"(2) Prohibition.—No manufacturer, distributor, or retailer may use or cause to be used any cartoon in the advertising, promoting, packaging, or labeling of tobacco products.

"(h) Prohibition on Outdoor Advertising.—

"(1) Definitions.—In this subsection:

"(A) Outdoor advertising.—

"(i) In general.—The term 'outdoor advertising' means advertising through—

"(I) billboards;

"(II) signs and placards in arenas, stadiums, shopping malls, and video game arcades (regardless of whether located in the open air or enclosed); and

"(III) any other advertisements placed—

"(aa) outdoors; or

"(bb) on the inside surface of a window facing outward.

"(ii) Exclusions.—The term 'outdoor advertising' does not include—

"(I) an advertisement on the outside of a tobacco product manufacturing facility;

"(II) an individual advertisement that—

"(aa) does not occupy an area larger than 14 square feet;

"(bb) is not placed in such proximity to any other such advertisement so as to create a single mosaic-type advertisement larger than 14 square feet;

"(cc) does not function solely as a segment of a larger advertising unit or series; and

"(dd) is placed on the outside of any retail establishment that sells tobacco products (other than solely through a vending machine), on the outside (but on the property of) any such establishment, or on the inside surface of a window facing outward in any such establishment; or

"(III) an advertisement inside a retail establishment that sells tobacco products (other than solely through a vending machine) that is not placed on the inside surface of a window facing outward.

"(B) Video game arcade.—The term 'video game arcade' means an entertainment establishment primarily consisting of video games (other than video games intended primarily for use by persons 18 years of age or older) or pinball machines.

"(2) Prohibition.—No manufacturer, distributor, or retailer may place or cause to be placed any outdoor advertisement for tobacco products.

"(i) Prohibition on Transit Advertisements.—

"(1) Definition of transit advertisement.—In this subsection:

"(A) In general.—The term 'transit advertisement' means—

"(i) advertising on or within a private or public vehicle; and

"(ii) an advertisement placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar location.

"(B) Exclusion.—The term 'transit advertisement' does not include any advertisement placed in, on, or outside the premises of any retail establishment that sells tobacco products (other than solely through a vending machine), unless the individual advertisement—

"(i) occupies an area larger than 14 square feet;

"(ii) is placed in such proximity to any other such advertisement so as to create a single mosaic-type advertisement larger than 14 square feet; or

"(iii) functions solely as a segment of a larger advertising unit or series.

"(2) PROHIBITION.—No manufacturer, distributor, or retailer may place or cause to be placed any transit advertisement advertising tobacco products.

"(j) PROHIBITION ON ADVERTISING IN YOUTH-ORIENTED PUBLICATIONS.—

"(1) DEFINITION OF YOUTH-ORIENTED PUBLICATION.—In this subsection, the term 'youth-oriented publication' means a newspaper, magazine, periodical, or other publication—

"(A) at least 15 percent of the total readership of which is comprised of readers younger than 18 years of age, as measured by competent and reliable survey evidence; or

"(B) that is read by 2,000,000 or more persons younger than 18 years of age, as measured by competent and reliable survey evidence.

"(2) PROHIBITION.—No manufacturer, distributor, or retailer shall advertise a tobacco product in any youth-oriented publication, regardless of whether the publication has periodic or limited distribution.

"(k) PROHIBITION ON TOBACCO PRODUCT BRAND NAME SPONSORSHIPS.—

"(1) IN GENERAL.—No manufacturer, distributor, or retailer may sponsor or cause to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event, using the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, that used for any brand of cigarettes or smokeless tobacco.

"(2) EXCEPTIONS.—Nothing in this subsection prevents a manufacturer, distributor, or retailer from sponsoring or causing to be sponsored any athletic, musical, artistic, or other social or cultural event, or team or entry, in the name of the corporation that manufactures the tobacco product, if—

"(A) both the corporate name and the corporation were registered and in use in the United States before January 1, 2001; and

"(B) the corporate name does not include any brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, that used for any brand of cigarettes or smokeless tobacco.

"(3) ADULT-ONLY FACILITIES.—This subsection shall not apply to any event sponsored in an adult-only facility.

"(l) PROHIBITION ON TOBACCO BRAND NAME MERCHANDISE.—

"(1) IN GENERAL.—No manufacturer may market, distribute, offer, sell, license or cause to be marketed, distributed, offered, sold, or licensed (including by catalog or direct mail), any apparel or other merchandise that bears the brand name of a tobacco product, other than items the sole function of which is to advertise tobacco products or written or electronic publications.

"(2) EXCEPTIONS.—Nothing in this subsection shall—

"(A) prohibit the distribution to any manufacturer's employee who is an adult of any item described in paragraph (1) that is intended for the personal use of the employee;

"(B) require any manufacturer to retrieve, collect, or otherwise recover any item that, before the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, was marketed, distributed, offered, sold, licensed, or caused to be marketed, distributed, offered, sold, or licensed by the manufacturer;

"(C) apply to coupons or other items used by adults solely in connection with the purchase of tobacco products; or

"(D) apply to apparel or other merchandise used within an adult-only facility that is not distributed (by sale or otherwise) to any member of the general public.

"(m) PROHIBITION ON GIFTS TO UNDERAGE PERSONS BASED ON PROOFS OF PURCHASE.—

"(1) IN GENERAL.—No manufacturer, distributor, or retailer may provide or cause to be provided to any person, without sufficient proof that the person is an adult, any item in exchange for the purchase of tobacco products, or the furnishing of credits, proofs-of-purchase, or coupons with respect to such a purchase.

"(2) PROOF OF AGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), a driver's license or other government-issued identification (or legible photocopy of the license or identification), the validity of which is certified by the person to whom the item is provided, shall by itself be deemed to be a sufficient form of proof of age.

"(B) RETAILERS.—In the case of items provided (or to be redeemed) at retail establishments, a manufacturer shall be entitled to rely on verification of proof of age by the retailer, if the retailer is required to obtain verification under applicable Federal, State, or local law.

"(n) PROHIBITION ON NON-TOBACCO PRODUCT BRAND NAMES.—

"(1) DEFINITION OF OTHER VALUABLE CONSIDERATION.—In this subsection, the term 'other valuable consideration' does not include an agreement between 2 entities that enter into an agreement for the sole purpose of avoiding infringement claims.

"(2) PROHIBITION.—Except as provided in paragraph (3), no manufacturer may, pursuant to any agreement requiring the payment of money or other valuable consideration, use or cause to be used as a brand name of any tobacco product—

"(A) any nationally recognized or nationally established brand name or trade name of any non-tobacco item or service; or

"(B) any nationally recognized or nationally established sports team, entertainment group, or individual celebrity.

"(3) NONAPPLICABILITY.—Paragraph (2) shall not apply to any tobacco product brand name in existence as of July 1, 1998.

"(o) LIMITATION ON THIRD PARTY USE OF TOBACCO BRAND NAMES.—

"(1) IN GENERAL.—No manufacturer may license or otherwise expressly authorize any third party to use or advertise any brand name of a tobacco product in a manner prohibited by this chapter if used or advertised by the manufacturer itself.

"(2) EXCEPTIONS.—Nothing in this subsection requires any manufacturer to retrieve, collect, or otherwise recover any item that, before the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, was marketed, distributed, offered, sold, licensed, or caused to be marketed, distributed, offered, sold, or licensed by the manufacturer.

"(p) PROHIBITION ON PRODUCT PLACEMENT IN CERTAIN MEDIA.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no manufacturer may make, or cause to be made, any payment or other consideration to any other person or entity to use, display, make reference to, or use as a prop any tobacco product, tobacco product package, advertisement for a tobacco product, or any other item bearing a brand name in any motion picture, television show, theatrical production or other live performance, live or recorded performance of music, commercial film or video, or video game (collectively referred to in this subsection as 'media').

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) media the audience or viewers of which are within an adult-only facility, if the media are not visible to persons outside the adult-only facility;

"(B) media not intended for distribution or display to the public; or

"(C) instructional media concerning non-conventional tobacco products or tobacco products designated as reduced exposure tobacco products or reduced risk tobacco products viewed only by or provided only to consumers who are adults.

"(q) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply beginning on the date that is 180 days after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002.

"(2) VENDING MACHINES; SPONSORSHIPS.—Subsections (e) and (k) shall apply beginning on the date that is 1 year after the date of enactment of that Act.

**"SEC. 917. MANDATORY DISCLOSURES.**

"(a) DISCLOSURE OF INGREDIENTS TO THE PUBLIC.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, except as otherwise provided in this subsection, the Secretary shall promulgate regulations requiring the disclosure to the public on a brand-by-brand basis of the common or usual name of each ingredient of a tobacco product in descending order of predominance by weight.

"(2) SPICES, FLAVORINGS, AND COLORINGS.—A manufacturer may elect to designate spices, flavorings, and colorings under paragraph (1) without naming each spice, flavoring, or coloring.

"(3) OTHER LAWS.—Any ingredient that has been disclosed to the public pursuant to any other law (including regulations) with respect to a particular brand may be required to be disclosed for the brand pursuant to this subsection.

"(4) INCIDENTAL ADDITIVES.—The regulations required by this subsection shall provide that incidental additives that are present in a tobacco product at insignificant levels and that do not have any technical or functional effect in the finished tobacco product shall be exempt from disclosure.

"(5) SMALL QUANTITIES.—The requirement of this subsection to disclose ingredients in descending order of predominance shall not apply to ingredients in quantities of 2 percent or less by weight if a listing of the ingredients is placed at the end of the ingredients statement following an appropriate quantifying statement, such as 'contains      percent or less of     ', or 'less than      percent of     '.

"(6) MEANS OF DISCLOSURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any disclosure required pursuant to this subsection may be required by appropriate means.

"(B) LISTING OF INGREDIENTS.—Notwithstanding any other provision of this Act, the

Secretary shall not require the listing of any ingredient of a tobacco product on any package or in any advertisement.

"(b) DISCLOSURE OF PERCENTAGE OF DOMESTIC AND FOREIGN TOBACCO.—Not later than 1 year after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, the Secretary shall promulgate regulations that require that each package of a tobacco product disclose, with respect to the tobacco contained in that brand—

"(1) the percentage of tobacco that is domestic tobacco; and

"(2) the percentage of tobacco that is foreign tobacco.

"(c) MANDATORY DISCLAIMER.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any tobacco product advertising that includes a term classifying a brand of tobacco product according to the tar yield or the yield of the brand to consumers of any substance, including terms such as 'light' or 'low tar', shall also include the following disclaimer: '[Brand] not shown to be less hazardous than other [type of tobacco product]'.

"(2) FILTERED.—This section shall apply to the use of the terms 'filtered' or 'filter'.

"(3) TOBACCO PRODUCT PACKAGES.—A disclaimer described in paragraph (1) shall not be required on any tobacco product package.

"(4) USE OF TERMS.—Not later than 1 year after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, the Secretary shall promulgate regulations relating to the use of the terms described in paragraph (1) to ensure that the terms are not false or misleading.

"(5) REDUCED EXPOSURE AND REDUCED RISK TOBACCO PRODUCTS.—The Secretary may modify or waive any requirement under this subsection with respect to any product that has been designated by the Secretary as a reduced exposure tobacco product or a reduced risk tobacco product under section 913.

**"SEC. 918. REGULATORY RECORD.**

"(a) IN GENERAL.—Notwithstanding subchapter II of chapter 5 of title 5, United States Code, in promulgating regulations under this chapter, the record developed and used by the Secretary for the purposes of promulgating subparts (B) and (D) of the regulations relating to the sale, distribution, and use of tobacco products on or about August 28, 1996, as reflected in articles IV and VI of the preamble to the 1996 Food and Drug Administration Tobacco Rule (including public comments, Food and Drug Administration documents, and any other information generated or compiled for purposes of promulgating the regulations), shall be deemed to have the same legal status as if the record had been developed under a rulemaking proceeding conducted pursuant to section 907(d)(1).

"(b) OTHER RESPECTS.—In all other respects (including the issue of whether the regulations conform to section 907(d)(1)), the procedural requirements of this chapter and subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the 'Administrative Procedure Act') shall apply to this chapter.

**"SEC. 919. REGULATION REQUIREMENT.**

"(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 2 years after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, the Secretary, acting through the Commissioner of Food and Drugs, shall promulgate regulations under this Act that meet the requirements of subsection (b).

"(b) CONTENTS OF RULES.—

"(1) IN GENERAL.—The rules promulgated under subsection (a) shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health.

"(2) CONSTITUENTS.—The constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate.

"(3) ADMINISTRATION.—The rules may require that tobacco product manufacturers, packagers, or importers make—

"(A) the disclosures relating to tar and nicotine through labels or advertising; and

"(B) the disclosures regarding other smoke constituents or ingredients that the Secretary determines are necessary to protect the public health.

"(c) AUTHORITY.—The Secretary, acting through the Commissioner of Food and Drugs, shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.".

**SEC. 513. CONFORMING AND TECHNICAL AMENDMENTS.**

(a) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(1) in subsections (a), (b), (c), (g), (h), and (k), by inserting "tobacco product," after "device," each place it appears;

(2) in subsection (e), by striking "515(f), or 519" and inserting "515(f), 519, or 910";

(3) in subsection (j), by striking "708, or 721" and inserting "708, 721, 904, 905, 906, 907, 908, 909, 910, 911, or 913";

(4) by striking subsection (p) and inserting the following:

"(p) The failure—

"(1) to register in accordance with section 510 or 906;

"(2) to provide any information required by section 510(j), 510(k), 906(i), or 906(j); or

"(3) to provide a notice required by section 510(j)(2) or 906(j)(2).";

(5) in subsection (q)—

(A) by striking paragraph (1) and inserting the following:

"(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 907(f), or 909;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 905, 907(f), or 910; or

"(C) to comply with a requirement under section 522."; and

(B) in paragraph (2), by striking "device," and inserting "device or tobacco product,";

(6) in subsection (r), by inserting "or tobacco product" after "device" each place it appears; and

(7) by adding at the end the following:

"(bb) The sale of a tobacco product in violation of a no-tobacco-sale order issued under section 303(g)(3).".

(b) PENALTIES.—Section 303(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(g)) is amended—

(1) by striking "(g)(1)(A) Except" and inserting the following:

"(g) CIVIL PENALTIES.—

"(1) IN GENERAL.—

"(A) PENALTY.—Except";

(2) in paragraph (1)(A), by inserting "or tobacco products" after "devices";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(4) by inserting after paragraph (2) the following:

"(3) NO-TOBACCO-SALE ORDERS.—

"(A) IN GENERAL.—If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet, the Secretary may impose a no-tobacco-sale order on the person prohibiting the sale of tobacco products in the outlet.

"(B) CIVIL PENALTIES.—A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(5) in paragraph (4) (as redesignated by paragraph (3))—

(A) in subparagraph (A)—

(i) in the first sentence, by striking "assessed" the first place it appears and inserting "assessed, or a no-tobacco-sale order may be imposed,"; and

(ii) in the second sentence, by striking "penalty" and inserting "penalty, or on whom a no-tobacco-order is to be imposed,";

(B) in subparagraph (B)—

(i) by striking "(B) In" and inserting the following:

"(B) ADMINISTRATION.—

"(i) FACTORS.—In"

(ii) by inserting after "penalty" the following: "or the period to be covered by a no-tobacco-sale order,"; and

(iii) by adding at the end the following:

"(ii) NO-TOBACCO-SALE ORDERS.—A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order."; and

(C) by adding at the end the following:

"(D) COMPROMISE, MODIFICATION, OR TERMINATION OF NO-TOBACCO-SALE ORDERS.—The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(6) in paragraph (5) (as redesignated by paragraph (3))—

(A) in the first sentence—

(i) by striking "(3)(A)" and inserting "(4)(A)"; and

(ii) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears; and

(B) in the second sentence, by inserting before the period at the end the following: ", or on which the no-tobacco-sale order was imposed, as the case may be"; and

(7) in paragraph (6) (as redesignated by paragraph (3)), by striking "paragraph (4)" each place it appears and inserting "paragraph (5)".

(c) SEIZURE.—Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" before "(D)"; and

(B) by inserting before the period at the end the following: ", and (E) Any adulterated or misbranded tobacco product";

(2) in the first sentence of subsection (d)(1), by inserting "tobacco product," after "device,"; and

(3) in subsection (g), by inserting "or tobacco product" after "device" each place it appears.

(d) EXAMINATIONS AND INVESTIGATIONS.—Section 702(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(a)) is amended—

(1) by striking the section heading through "(a) The Secretary" and inserting the following:

**"SEC. 702. EXAMINATIONS AND INVESTIGATIONS.**

"(a) IN GENERAL.—

"(1) AUTHORITY.—The Secretary"; and

(2) by adding at the end the following:

"(2) TOBACCO PRODUCTS.—In the case of a tobacco product, to the maximum extent practicable, the Secretary shall contract with States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.''.

(e) RECORDS OF INTERSTATE SHIPMENT.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(1) by inserting ''tobacco products,'' after ''devices,'' each place it appears; and

(2) by inserting ''tobacco product,'' after ''device,'' each place it appears.

(f) FACTORY INSPECTION.—Section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) is amended—

(1) in subsection (a)(1), by inserting ''tobacco products,'' after ''devices,'' each place it appears; and

(2) in subsection (b), by inserting ''tobacco product,'' after ''device,''.

(g) PUBLICITY.—Section 705(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 375(b)) is amended in the first sentence by inserting ''tobacco products,'' after ''devices,''.

(h) PRESUMPTION.—Section 709 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) is amended by inserting ''tobacco product,'' after ''device,''.

(i) IMPORTS AND EXPORTS.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting ''tobacco products,'' after ''devices,'';

(B) in the second sentence, by striking ''subsection (i) of section 510'' and inserting ''section 510(i) or 906(j)''; and

(C) by striking ''drugs or devices'' each place it appears and inserting ''drugs, devices, or tobacco products''; and

(2) in subsection (e)(1), by inserting ''tobacco product,'' after ''device,''.

(j) FOOD AND DRUG ADMINISTRATION.—Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (as redesignated by section 512(2)) is amended by striking ''and devices'' and inserting ''devices, and tobacco products''.

(k) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (a), other than the amendment to section 301(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(b)) made by subsection (a)(1), shall take effect only on the promulgation of final regulations by the Secretary of Health and Human Services—

(1) defining the term ''repeated violation'', as used in section 303(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(g)) (as amended by subsection (b)), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with repeated violations at a particular retail outlet unless the Secretary has provided notice of previous violations at the outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, the outlet will not be considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

### Subtitle B—Cigarette Labeling and Advertising

### SEC. 521. DEFINITION OF CIGARETTE.

Section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(C) any tobacco product, in any form (including Bidi and Kretek cigarettes), if—

''(i) the tobacco in the product—

''(I) is heated or burned; and

''(II) is functional in the product; and

''(ii) the product, because of the appearance of the product, the type of tobacco used in the filler, or the packaging and labeling of the product, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.''.

### SEC. 522. CIGARETTE LABEL AND ADVERTISING WARNINGS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

**''SEC. 4. LABELING.**

''(a) LABEL REQUIREMENTS.—

''(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, 1 of the following labels:

''WARNING: Cigarettes are addictive.

''WARNING: Tobacco smoke can harm your children.

''WARNING: Cigarettes cause fatal lung disease.

''WARNING: Cigarettes cause cancer.

''WARNING: Cigarettes cause strokes and heart disease.

''WARNING: Smoking during pregnancy can harm your baby.

''WARNING: Smoking can kill you.

''WARNING: Tobacco smoke causes fatal lung disease in non-smokers.

''WARNING: Quitting smoking now greatly reduces serious risks to your health.

''(2) FORMAT.—

''(A) LOCATION.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping.

''(B) PERCENTAGE OF PANELS.—Except as provided in subparagraph (C), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package.

''(C) TEXT.—

''(i) IN GENERAL.—Except as provided in clause (ii), the word 'WARNING' shall appear in capital letters and all text shall be in conspicuous and legible 17-point type.

''(ii) SMALLER TYPE SIZE.—If the text of the label statement would occupy more than 70 percent of the area of a panel, the text may be in a smaller conspicuous and legible type size, if at least 60 percent of the area of the panel is occupied by required text.

''(iii) CONTRAST.—The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

''(D) FLIP-TOP BOXES.—

''(i) IN GENERAL.—For any cigarette brand package manufactured or distributed before January 1, 2000, that employs a flip-top style (if the packaging was used for that brand in commerce before June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if the area is less than 25 percent of the area of the front panel.

''(ii) PACKAGES.—Except as provided in clause (i), the provisions of this subsection shall apply to the package.

''(3) FOREIGN DISTRIBUTION.—This subsection does not apply to a tobacco product manufacturer or distributor of cigarettes that does not manufacture, package, or import cigarettes for sale or distribution within the United States.

''(4) TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.—

''(A) IN GENERAL.—The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b), or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand.

''(B) METHOD.—Any such disclosure shall—

''(i) be in accordance with the methodology established under the regulations;

''(ii) conform to the type size requirements of subsection (b); and

''(iii) appear within the area specified in subsection (b).

''(C) CONSISTENCY WITH FTC REPORTING REQUIREMENTS.—Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

''(D) SMOKE CONSTITUENTS.—

''(i) IN GENERAL.—In addition to the disclosures required by subparagraph (A), the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent.

''(ii) CONDITIONS.—Any disclosure under this subparagraph may be required if the Secretary determines that disclosure would—

''(I) be of benefit to the public health; or

''(II) otherwise increase consumer awareness of the health consequences of the use of tobacco products.

''(iii) FACE OF CIGARETTE PACKAGE OR ADVERTISEMENT.—No disclosure shall be required under this subparagraph on the face of any cigarette package or advertisement.

''(iv) OTHER MEANS.—Nothing in this section prohibits the Secretary from requiring disclosure under this subparagraph through a cigarette or other tobacco product package or advertisement insert, or by any other means, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

''(b) ADVERTISING REQUIREMENTS.—

''(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless the advertising for the cigarette bears, in accordance with this section, 1 of the labels specified in subsection (a)(1).

''(2) FORMAT.—

''(A) IN GENERAL.—Each label statement required by subsection (a) in cigarette advertising shall comply with the standards set forth in this paragraph.

“(B) Press and poster advertisements.—In the case of a press or poster advertisement, each such statement and (if applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

“(i) comprise at least 20 percent of the area of the advertisement; and

“(ii) appear in a conspicuous and prominent format and location at the top of each advertisement within the border area.

“(C) Revision of type sizes.—The Secretary may revise the required type sizes in the border area in such manner as the Secretary determines appropriate.

“(D) Text.—

“(i) In general.—The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type.

“(ii) Contrast.—The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4).

“(E) Border.—The label statement shall be enclosed by a rectangular border that is—

“(i) the same color as the letters of the statement; and

“(ii) the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statement.

“(F) Typeface.—The text of the label statement shall be in a typeface pro rata to the following requirements:

“(i) 45-point type for a whole-page broadsheet newspaper advertisement.

“(ii) 39-point type for a half-page broadsheet newspaper advertisement.

“(iii) 39-point type for a whole-page tabloid newspaper advertisement.

“(iv) 27-point type for a half-page tabloid newspaper advertisement.

“(v) 31.5-point type for a double page spread magazine or whole-page magazine advertisement.

“(vi) 22.5-point type for a 28-centimeter-by-3-column advertisement.

“(vii) 15-point type for a 20-centimeter-by-2-column advertisement.

“(G) Language.—

“(i) In general.—Except as provided in clauses (ii) and (iii), the label statements shall be in English.

“(ii) Non-english publications.—In the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statement shall appear in the predominant language of the publication.

“(iii) Non-english advertisements.—In the case of any other advertisement that is not in English, the statement shall appear in the same language as that principally used in the advertisement.

“(3) Adjustments by secretary.—

“(A) In general.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code—

“(i) adjust the format and type sizes for the label statements required by this subsection;

“(ii) adjust the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures; or

“(iii) establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

“(B) Location.—

“(i) In general.—The text of any such label statements or disclosures adjusted under this paragraph shall be required to appear only within the 20 percent area of cigarette advertisements required under paragraph (2).

“(ii) Regulations.—The Secretary shall promulgate regulations that provide for adjustments in the format and type sizes of any text required to appear in the 20 percent area to ensure that the total text required to appear by law will fit within the area.

“(4) Marketing requirements.—

“(A) In general.—The label statements specified in subsection (a)(1) shall be randomly displayed—

“(i) in each 12-month period, in as equal a number of times as is practicable on each brand of the product; and

“(ii) in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) Quarterly rotation.—The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) Approval of plan.—The Secretary shall review each plan submitted under subparagraph (B) and approve the plan if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) ensures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(c) Change in Required Statements.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by this section (subject to the limitation on proportional size of the warning contained in subsections (a)(2) and (b)(2)), or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of cigarettes or smokeless tobacco products.”.

## Subtitle C—Smokeless Tobacco Labels and Advertising Warnings

### SEC. 531. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

**“SEC. 3. SMOKELESS TOBACCO WARNING.**

“(a) General Rule.—

“(1) Labels.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, 1 of the following labels:

“WARNING: This product can cause mouth cancer.

“WARNING: This product can cause gum disease and tooth loss.

“WARNING: This product is not a safe alternative to cigarettes.

“WARNING: Smokeless tobacco is addictive.

“(2) Format.—

“(A) Location.—Each label statement required by paragraph (1) shall be located on the 2 principal display panels of the package.

“(B) Percent of panel.—Each label statement shall comprise at least 25 percent of each display panel.

“(C) Text.—

“(i) In general.—Except as provided in clause (ii), under the plan submitted under subsection (b)(3), each label statement shall be—

“(I) in 17-point conspicuous and legible type; and

“(II) in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion.

“(ii) Smaller type.—If the text of a label statement would occupy more than 70 percent of the warning area of a package, the text may appear in a smaller type size, if least 60 percent of the warning area is occupied by the label statement.

“(3) Concurrent introduction.—The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of the products.

“(4) Foreign distribution.—This subsection does not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

“(b) Required Labels.—

“(1) In general.—It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless the advertising for the product bears, in accordance with this section, 1 of the labels specified in subsection (a)(1).

“(2) Standards.—

“(A) In general.—Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph.

“(B) Press and poster advertisements.—For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

“(i) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

“(ii) the word ‘WARNING’ shall appear in capital letters and each label statement shall appear in conspicuous and legible type.

“(C) Text.—The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

“(3) Marketing requirements.—

“(A) In general.—The label statements specified in paragraph (1) shall be randomly displayed—

“(i) in each 12-month period, in as equal a number of times as is practicable on each brand of the product; and

“(ii) in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) Quarterly rotation.—The label statements specified in paragraph (1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) APPROVAL OF PLAN.—The Secretary shall review each plan submitted under subparagraph (B) and approve the plan if the plan, as determined by the Secretary—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) ensures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by this section (subject to the limitations on proportional size of the warning required under this section), or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

### Subtitle D—Administration

**SEC. 541. FTC JURISDICTION NOT AFFECTED.**

(a) IN GENERAL.—Except as otherwise expressly provided in this Act or an amendment made by this Act, nothing in this Act or an amendment made by this Act limits or diminishes the authority of the Federal Trade Commission to enforce the laws under the jurisdiction of the Commission with respect to the advertising, sale, or distribution of tobacco products.

(b) ENFORCEMENT BY FTC.—Any advertising that violates this Act or an amendment made by this Act shall be considered—

(1) an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)); and

(2) a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 304—ENCOURAGING THE SENATE COMMITTEE ON APPROPRIATIONS TO REPORT THIRTEEN FISCALLY RESPONSIBLE, BIPARTISAN APPROPRIATIONS BILLS TO THE SENATE NOT LATER THAN JULY 31, 2002

Mr. BYRD submitted the following resolution; from the Committee on Appropriations; which was placed on the calendar.

S. RES. 304

*Resolved*, That the Senate encourages the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002.

## HONORING INVENTION OF MODERN AIR CONDITIONING

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 413 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con Res 413) honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 413) was agreed to.

The preamble was agreed to.

## HONORING THE INVENTION OF MODERN AIR CONDITIONING

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 128 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 128) honoring the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mrs. LINCOLN. I ask unanimous consent that the concurrent resolution be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 128) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 128

Whereas on July 17, 1902, Dr. Willis H. Carrier submitted designs to a printing plant in Brooklyn, New York, for equipment to control temperature, humidity, ventilation, and air quality, marking the birth of modern air conditioning;

Whereas air conditioning has become an integral technology enabling the advancement of society through improvements to the Nation's health and well-being, manufacturing processes, building capacities, research, medical capabilities, food preservation, art and historical conservation, and general productivity and indoor comfort;

Whereas Dr. Carrier debuted air conditioning technology for legislative activity in the House of Representatives Chamber in 1928, and the Senate Chamber in 1929;

Whereas the air conditioning industry now totals $36,000,000,000 on a global basis and employs more than 700,000 people in the United States; and

Whereas the year 2002 marks the 100th anniversary of modern air conditioning: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress honors the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

## ORDER FOR RECORD TO REMAIN OPEN UNTIL 1:30 P.M.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the RECORD remain open until 1:30 p.m. for the submission of statements and introduction of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR MONDAY, JULY 22, 2002

Mrs. LINCOLN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m., Monday, July 22; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 812, with the time until 6 p.m. equally divided between the two managers or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mrs. LINCOLN. Mr. President, no rollcall votes will occur on Monday. The next rollcall vote will occur on Tuesday morning at approximately 10:45 a.m.

## ADJOURNMENT UNTIL MONDAY, JULY 22, 2002, AT 2 P.M.

Mrs. LINCOLN. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:12 p.m., adjourned until Monday, July 22, 2002, at 2 p.m.

# HOUSE OF REPRESENTATIVES—*Friday, July 19, 2002*

## CONFERENCE REPORT ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

Pursuant to the order of the House of Thursday, July 18, 2002, Mr. YOUNG of Florida submitted the following conference report and statements on the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes:

### CONFERENCE REPORT (H. REPT. 107–593)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) "making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:*

### *TITLE I—SUPPLEMENTAL APPROPRIATIONS*

### *CHAPTER 1*

### *DEPARTMENT OF AGRICULTURE*

### *OFFICE OF THE SECRETARY*

*(INCLUDING TRANSFERS OF FUNDS)*

*For an additional amount for "Office of the Secretary", $18,000,000, to remain available until expended: Provided, That the Secretary shall transfer these funds to the Agricultural Research Service, the Animal and Plant Health Inspection Service, the Agricultural Marketing Service, and/or the Food Safety and Inspection Service: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *AGRICULTURAL RESEARCH SERVICE*

*SALARIES AND EXPENSES*

*For an additional amount for "Salaries and Expenses", $8,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

*BUILDINGS AND FACILITIES*

*For an additional amount for "Buildings and Facilities", $25,000,000, to remain available until expended.*

### *COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE*

*EXTENSION ACTIVITIES*

*For an additional amount for "Extension Activities", $6,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *ANIMAL AND PLANT HEALTH INSPECTION SERVICE*

*SALARIES AND EXPENSES*

*For an additional amount for "Salaries and Expenses", $33,000,000, to remain available until September 30, 2003: Provided, That this amount shall include assistance in state efforts to prevent and control transmissible spongiform encephalopathy, including chronic wasting disease and scrapie, in farmed and free-ranging animals: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *FOOD SAFETY AND INSPECTION SERVICE*

*For an additional amount for "Food Safety and Inspection Service", $13,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *NATURAL RESOURCES CONSERVATION SERVICE*

*WATERSHED AND FLOOD PREVENTION OPERATIONS*

*For an additional amount for "Watershed and Flood Prevention Operations", for emergency recovery operations, $144,000,000, to remain available until expended: Provided, That of this amount, $50,000,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $50,000,000 shall be available only to the extent an official budget request, that includes designation of $50,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *RURAL DEVELOPMENT*

*RURAL COMMUNITY ADVANCEMENT PROGRAM*

*For an additional amount for "Rural Community Advancement Program" for emergency purposes for grants and loans as authorized by 7 U.S.C. 381E(d)(2), 306(a)(14), and 306C, $20,000,000, with up to $5,000,000 for contracting with qualified organization(s) to conduct vulnerability assessments for rural community water systems, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *RURAL UTILITIES SERVICE*

*LOCAL TELEVISION LOAN GUARANTEE PROGRAM ACCOUNT*

*(INCLUDING RESCISSION)*

*Of funds made available under this heading for the cost of guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $20,000,000 are rescinded.*

*For an additional amount for "Local Television Loan Guarantee Program Account", $8,000,000, to remain available until expended.*

### *FOOD AND NUTRITION SERVICE*

*SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)*

*For an additional amount for "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)", $75,000,000, to remain available until September 30, 2003: Provided, That of the amounts provided under this heading, the Secretary shall allocate funds, notwithstanding section 17(i) of the Child Nutrition Act of 1966, as amended, in the manner and under a formula the Secretary deems necessary to respond to caseload requirements.*

*FOOD STAMP PROGRAM*

*(RESCISSION)*

*Of funds which may be reserved by the Secretary for allocation to State agencies under section 16(h)(1) of the Food Stamp Act of 1977 to carry out the Employment and Training program, $24,000,000 are rescinded and returned to the Treasury.*

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### FOOD AND DRUG ADMINISTRATION

### SALARIES AND EXPENSES

*For an additional amount for "Food and Drug Administration, Salaries and Expenses", $17,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### GENERAL PROVISIONS—THIS CHAPTER

*SEC. 101. Of the funds made available for the Export Enhancement Program, pursuant to section 301(e) of the Agricultural Trade Act of 1978, as amended by Public Law 104–127, not more than $33,000,000 shall be available in fiscal year 2002.*

*SEC. 102. ASSISTANCE TO AGRICULTURAL PRODUCERS WHO HAVE USED WATER FOR IRRIGATION FROM THE RIO GRANDE. (a) IN GENERAL.—The Secretary of Agriculture shall use $10,000,000 of the funds of the Commodity Credit Corporation to make a grant to the State of Texas, acting through the Texas Department of Agriculture, to provide assistance to agricultural producers in the State of Texas with farming operations along the Rio Grande who have suffered economic losses during the 2001 crop year due to the failure of Mexico to deliver water to the United States in accordance with the Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, and Supplementary Protocol signed November 14, 1944, signed at Washington on February 3, 1944 (59 Stat. 1219; TS 944).*

*(b) AMOUNT.—The amount of assistance provided to individual agricultural producers under this section shall be proportional to the amount of actual losses described in subsection (a) that were incurred by the producers.*

*SEC. 103. Not later than 14 days after the date of enactment of this Act, the Secretary of Agriculture shall carry out the transfer of funds under section 2507(a) of the Food Security and Rural Investment Act of 2002 (Public Law 107–171).*

*SEC. 104. (a) RESCISSION.—The unobligated balances of authority available under section 2108(a) of Public Law 107–20 are rescinded prior to the end of fiscal year 2002.*

*(b) APPROPRIATION.—There is appropriated to the Secretary of Agriculture an amount equal to the unobligated balance rescinded by subsection (a) for expenses through fiscal year 2003 under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1721–1726a) for commodities supplied in connection with dispositions abroad pursuant to title II of said Act.*

*SEC. 105. Section 416(b)(7)(D)(iv) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(iv)) is amended by striking "subsection." and inserting in lieu thereof the following: "subsection, or to otherwise carry out the purposes of this subsection.".*

*SEC. 106. Notwithstanding any other provision of law and effective on the date of enactment of this Act, the Secretary may use an amount not to exceed $12,000,000 from the amounts appropriated under the heading "Food Safety and Inspection Service" under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387) to liquidate over-obligations and over-expenditures of the Food Safety and Inspection Service incurred during previous fiscal years, approved by the Director of the Office of Management and Budget based on documentation provided by the Secretary of Agriculture.*

## CHAPTER 2

## DEPARTMENT OF JUSTICE

### GENERAL ADMINISTRATION

### SALARIES AND EXPENSES

*For an additional amount for "Salaries and Expenses" for expenses resulting from the September 11, 2001, terrorist attacks, $6,750,000: Provided, That such sums as are necessary shall be derived from the Working Capital Fund for the development, testing, and deployment of a standards-based, integrated, interoperable computer system for the Immigration and Naturalization Service ("Chimera system"), to be managed by Justice Management Division: Provided further, That of the amounts made available under this heading, $1,000,000 shall only be for the Entry Exit System, to be managed by the Justice Management Division: Provided further, That none of the funds appropriated in this Act, or in Public Law 107–117, for the Immigration and Naturalization Service's Entry Exit System may be obligated until the INS submits a plan for expenditure that (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including OMB Circular A–11, part 3; (2) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (3) is reviewed by the General Accounting Office; and (4) has been approved by the Committees on Appropriations: Provided further, That funds provided under this heading shall only be available for obligation and expenditure in accordance with the procedures applicable to reprogramming notifications set forth in section 605 of Public Law 107–77: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $1,000,000 shall be available only to the extent an official budget request that includes designation of the $1,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

### (RESCISSION)

*Of the amounts made available under this heading in Public Law 107–77, $7,000,000 are rescinded.*

### SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

*For an additional amount for "Salaries and Expenses" for emergency expenses resulting from the September 11, 2001, terrorist attacks, $37,900,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### FEDERAL PRISONER DETENTION

### (RESCISSION)

*Of the amounts made available under this heading in Public Law 107–77, $30,000,000 are rescinded.*

### ASSETS FORFEITURE FUND

### (RESCISSION)

*Of the unobligated balances available under this heading, $5,000,000 are rescinded.*

### FEDERAL BUREAU OF INVESTIGATION

### SALARIES AND EXPENSES

*For an additional amount for "Salaries and Expenses" for emergency expenses resulting from the September 11, 2001, terrorist attacks, $175,000,000, to remain available until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $165,000,000 shall be available only to the extent that an official budget request that includes designation of the $165,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### IMMIGRATION AND NATURALIZATION SERVICE

### SALARIES AND EXPENSES

### ENFORCEMENT AND BORDER AFFAIRS

*For an additional amount for "Salaries and Expenses, Enforcement and Border Affairs" for emergency expenses resulting from the September 11, 2001, terrorist attacks, $81,250,000, to remain available until expended, of which $25,000,000 shall only be available for fleet management: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $46,250,000 shall be available only to the extent that an official budget request that includes designation of the $46,250,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### CONSTRUCTION

*For an additional amount for "Construction" for emergency expenses resulting from the September 11, 2001, terrorist attacks, $32,100,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### FEDERAL PRISON SYSTEM

### BUILDINGS AND FACILITIES

### (RESCISSION)

*Of the amounts made available under this heading in Public Law 107–77 for buildings and facilities, $5,000,000 are rescinded.*

### OFFICE OF JUSTICE PROGRAMS

### JUSTICE ASSISTANCE

### (INCLUDING RESCISSION)

*For an additional amount for "Justice Assistance" for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and section 1014 of the USA PATRIOT Act (Public Law 107–56) and for other counter-terrorism programs, including first responder training and equipment to respond to acts of terrorism, including incidents involving weapons of mass destruction or chemical or biological weapons, $151,300,000, to remain available until expended: Provided, That no funds* under this heading shall be used to duplicate the Federal Emergency Management Agency Fire Grant program: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Of the amounts made available under this heading for the Office of the Assistant Attorney General for Office of Justice Programs, $600,000 are rescinded.

#### COMMUNITY ORIENTED POLICING SERVICES

For an amount to establish the Community Oriented Policing Services' Interoperable Communications Technology Program in consultation with the Office of Science and Technology within the National Institute of Justice, and the Bureau of Justice Assistance, for emergency expenses for activities related to combating terrorism by providing grants to States and localities to improve communications within, and among, law enforcement agencies, $50,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## DEPARTMENT OF COMMERCE AND RELATED AGENCIES

## RELATED AGENCIES

### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for emergency expenses for increased security requirements, $1,100,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## DEPARTMENT OF COMMERCE

### BUREAU OF THE CENSUS

#### PERIODIC CENSUSES AND PROGRAMS

#### (RESCISSION)

Of the amounts made available under this heading in prior fiscal years, excepting funds designated for the Suitland Federal Center, $11,300,000 are rescinded.

### NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

#### SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for "Scientific and Technical Research and Services" for emergency expenses resulting from new homeland security activities and increased security requirements, $37,100,000, of which $20,000,000 is for a cybersecurity initiative: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $33,100,000 shall be available only to the extent an official budget request that includes designation of the $33,100,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

#### OPERATIONS, RESEARCH, AND FACILITIES

#### (INCLUDING RESCISSION)

For an additional amount for "Operations, Research, and Facilities" for emergency expenses resulting from homeland security activities, $4,800,000, of which $2,000,000 is to address critical mapping and charting backlog requirements and $2,800,000 is for backup capability for National Oceanic and Atmospheric Administration critical satellite products and services, to remain available until September 30, 2003: Provided, That $2,800,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $2,800,000 shall be available only to the extent an official budget request that includes designation of the $2,800,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Of the unobligated balances remaining under this heading as provided by section 817 of Public Law 106–78, $8,100,000 are rescinded.

#### PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction" for emergency expenses resulting from homeland security activities, $7,200,000 for a supercomputer backup, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### FISHERIES FINANCE PROGRAM ACCOUNT

Funds provided under the heading, "Fisheries Finance Program Account" for the direct loan program authorized by the Merchant Marine Act of 1936, as amended, are available to subsidize gross obligations for the principal amount of direct loans not to exceed $5,000,000 for Individual Fishing Quota loans, and not to exceed $19,000,000 for Traditional loans.

### DEPARTMENTAL MANAGEMENT

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for emergency expenses resulting from new homeland security activities, $400,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## THE JUDICIARY

### SUPREME COURT OF THE UNITED STATES

#### CARE OF THE BUILDING AND GROUNDS

For an additional amount for "Care of the Building and Grounds" for emergency expenses for security upgrades and renovations of the Supreme Court building, $10,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for emergency expenses to enhance security and to provide for extraordinary costs related to terrorist trials, $7,115,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $3,972,000 shall be available only to the extent that an official budget request that includes designation of the $3,972,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## DEPARTMENT OF STATE AND RELATED AGENCY

## DEPARTMENT OF STATE

### ADMINISTRATION OF FOREIGN AFFAIRS

#### DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", for emergency expenses for activities related to combating international terrorism, $47,450,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for "Educational and Cultural Exchange Programs", for emergency expenses for activities related to combating international terrorism, $15,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $5,000,000 shall be available only to the extent an official budget request that includes designation of the $5,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", for emergency expenses for activities related to combating international terrorism, $210,516,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $10,000,000 shall be available only to the extent an official budget request that includes designation of the $10,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

### INTERNATIONAL ORGANIZATIONS AND CONFERENCES

#### CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to International Organizations", for emergency expenses for activities related to combating international terrorism, $7,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities" to make United States peacekeeping payments to the United Nations at a time of multilateral cooperation in the war on terrorism, $23,034,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## RELATED AGENCY

### BROADCASTING BOARD OF GOVERNORS

### INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", for emergency expenses for activities related to combating international terrorism, $7,400,000, to remain available until September 30, 2003: Provided, That funds appropriated by this paragraph shall be available notwithstanding sections 308(c) and 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for "Broadcasting Capital Improvements" for emergency expenses for activities related to combating international terrorism, $7,700,000, to remain available until expended: Provided, That funds appropriated by this paragraph shall be available notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

## RELATED AGENCIES

## DEPARTMENT OF TRANSPORTATION

### MARITIME ADMINISTRATION

### MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

### (RESCISSION)

Of the unobligated balances available under this heading, $5,000,000 are rescinded.

### SECURITIES AND EXCHANGE COMMISSION

### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to respond to increased needs for enforcement and oversight of corporate finance, $30,900,000 from fees collected in fiscal year 2002, to remain available until expended.

In addition, for an additional amount for "Salaries and Expenses" for emergency expenses resulting from the September 11, 2001, terrorist attacks, $9,300,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 201. Funds appropriated by this Act for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, as amended.

SEC. 202. Section 286(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1356(e)(3)) is amended—

(1) by striking "is authorized to" and inserting "shall"; and

(2) by striking "authorization" and inserting "requirement".

SEC. 203. (a)(1) During fiscal year 2002 and each succeeding fiscal year, notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crimes associated with the terrorist acts of September 11, 2001, to watch trial proceedings in the criminal case against Zacarias Moussaoui, the trial court in that case shall order, subject to paragraph (3) and subsection (b), closed circuit televising of the trial proceedings to convenient locations the trial court determines are reasonably necessary, for viewing by those victims.

(2)(A) As used in this section and subject to subparagraph (B), the term "victims of crimes associated with the terrorist acts of September 11, 2001" means individuals who—

(i) suffered direct physical harm as a result of the terrorist acts that occurred in New York, Pennsylvania and Virginia on September 11, 2001 (hereafter in this section "terrorist acts") and were present at the scene of the terrorist acts when they occurred, or immediately thereafter; or

(ii) are the spouse, legal guardian, parent, child, brother, or sister of, or who as determined by the court have a relationship of similar significance to, an individual described in subparagraph (A)(i), if the latter individual is under 18 years of age, incompetent, incapacitated, has a serious injury, or disability that requires assistance of another person for mobility, or is deceased.

(B) The term defined in paragraph (A) shall not apply to an individual who participated or conspired in one or more of the terrorist acts.

(3) Nothing in this section shall be construed to eliminate or limit the district court's discretion to control the manner, circumstances, or availability of the broadcast where necessary to control the courtroom or protect the integrity of the trial proceedings or the safety of the trial participants. The district court's exercise of such discretion shall be entitled to substantial deference.

(b) Except as provided in subsection (a), the terms and restrictions of section 235(b), (c), (d) and (e) of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 10608(b), (c), (d), and (e)), shall apply to the televising of trial proceedings under this section.

SEC. 204. Title II of Public Law 107–77 is amended in the second undesignated paragraph under the heading "Department of Commerce, National Institute of Standards and Technology, Industrial Technology Services" by striking "not to exceed $60,700,000 shall be available for the award of new grants" and inserting "not less than $60,700,000 shall be used before October 1, 2002 for the award of new grants".

SEC. 205. None of the funds appropriated or otherwise made available by this Act or any other Act may be used to implement, enforce, or otherwise abide by the Memorandum of Agreement signed by the Federal Trade Commission and the Antitrust Division of the Department of Justice on March 5, 2002.

SEC. 206. Public Law 106–256 is amended in section 3(f)(1) by striking "within 18 months of the establishment of the Commission" and inserting "by June 20, 2003".

SEC. 207. The American Section, International Joint Commission, United States and Canada, is authorized to receive funds from the United States Army Corps of Engineers for the purposes of conducting investigations, undertaking studies, and preparing reports in connection with a reference to the International Joint Commission on the Devils Lake project mentioned in Public Law 106–377.

SEC. 208. Section 282(a)(2)(D) of the Agricultural Marketing Act of 1946 is amended to read as follows:

"(D) in the case of wild fish, is—

"(i) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

"(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and".

SEC. 209. Of the amounts appropriated in Public Law 107–77, under the heading "Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities", for coral reef programs, $2,500,000, for a cooperative agreement with the National Defense Center of Excellence for Research in Ocean Sciences to conduct coral mapping in the waters of the Hawaiian Islands and the surrounding Exclusive Economic Zone in accordance with the mapping implementation strategy of the United States Coral Reef Task Force.

SEC. 210. In addition to amounts appropriated or otherwise made available by this Act or any other Act, $11,000,000 is appropriated to enable the Secretary of Commerce to provide economic assistance to fishermen and fishing communities affected by Federal closures and fishing restrictions in the New England groundfish fishery, to remain available until September 30, 2003.

SEC. 211. In addition to amounts appropriated or otherwise made available by this Act or any other Act, $5,000,000 shall be provided for a National Oceanic and Atmospheric Administration cooperative research program in Massachusetts, New Hampshire, Maine and Rhode Island, to remain available until expended: Provided, That of this amount $500,000 shall be for the cost of a reduction loan as authorized under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936, (46 U.S.C. App. 1279g) to carry out a New England groundfish fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)) that shall—

(1) permanently revoke all fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program; and

(2) ensure that vessels removed under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations.

SEC. 212. Of the amounts appropriated in Public Law 107–77, under the heading "Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities", for Oregon groundfish cooperative research, $500,000 shall be for the cost of a reduction loan as authorized under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) to carry out a West Coast groundfish fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and

*Management Act (16 U.S.C. 1861a(b)) that shall—*

*(1) permanently revoke all fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program; and*

*(2) ensure that vessels removed under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations.*

*SEC. 213. Amounts appropriated by title V of Public Law 107–77 under the heading "NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION" (115 Stat. 795) shall remain available until expended.*

## *CHAPTER 3*

## *DEPARTMENT OF DEFENSE*

## *MILITARY PERSONNEL*

### *MILITARY PERSONNEL, AIR FORCE*

*For an additional amount for "Military Personnel, Air Force", $206,000,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

## *OPERATION AND MAINTENANCE*

### *OPERATION AND MAINTENANCE, ARMY*

*For an additional amount for "Operation and Maintenance, Army", $209,000,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $102,000,000 shall be available only to the extent that an official budget request, that includes designation of $102,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *OPERATION AND MAINTENANCE, NAVY*

*For an additional amount for "Operation and Maintenance, Navy", $48,750,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $12,250,000 shall be available only to the extent that an official budget request, that includes designation of $12,250,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *OPERATION AND MAINTENANCE, AIR FORCE*

*For an additional amount for "Operation and Maintenance, Air Force", $65,510,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $24,510,000 shall be available only to the extent that an official budget request, that includes designation of $24,510,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *OPERATION AND MAINTENANCE, DEFENSE-WIDE*

*For an additional amount for "Operation and Maintenance, Defense-Wide", $721,975,000, to remain available for obligation until September 30, 2003, of which $390,000,000 may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations for logistical and military support provided to United States military operations in connection with the Global War on Terrorism: Provided, That such payments may be made in such amounts as the Secretary may determine in his discretion, based on documentation determined by the Secretary to adequately account for the support provided, in consultation with the Director of the Office of Management and Budget and 15 days following notification to the appropriate Congressional committees: Provided further, That such determination shall be final and conclusive upon the accounting officers of the United States: Provided further, That amounts for such payments shall be in addition to any other funds that may be available for such purpose: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### *DEFENSE EMERGENCY RESPONSE FUND*

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for the "Defense Emergency Response Fund", $11,901,900,000, to remain available for obligation until September 30, 2003, of which $77,900,000 shall be available for enhancements to North American Air Defense Command capabilities: Provided, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; the Defense Health Program; Overseas Humanitarian, Disaster, and Civic Aid; and working capital funds: Provided further, That notwithstanding the preceding proviso, $120,000,000 of the funds provided in this paragraph are available for transfer to any other appropriations accounts of the Department of Defense, for certain classified activities, and notwithstanding any other provision of law and of this Act, such funds may be obligated to carry out projects not otherwise authorized by law: Provided further, That any funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That during the current fiscal year, upon a determination by the Secretary of Defense that funds previously made available to the "Defense Emergency Response Fund" are required to meet other essential operational or readiness requirements of the military services, the Secretary may transfer up to $275,000,000 of funds so required to the appropriate funds or appropriations of the Department of Defense, 15 days after notification to the congressional defense committees: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $601,900,000 shall be available only to the extent that an official budget request that includes designation of $601,900,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

## *PROCUREMENT*

### *OTHER PROCUREMENT, ARMY*

*For an additional amount for "Other Procurement, Army", $79,200,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### *AIRCRAFT PROCUREMENT, NAVY*

*For an additional amount for "Aircraft Procurement, Navy", $22,800,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### *PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS*

*For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $262,000,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### *OTHER PROCUREMENT, NAVY*

*For an additional amount for "Other Procurement, Navy", $2,500,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### *PROCUREMENT, MARINE CORPS*

*For an additional amount for "Procurement, Marine Corps", $3,500,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### *AIRCRAFT PROCUREMENT, AIR FORCE*

*For an additional amount for "Aircraft Procurement, Air Force", $118,000,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $25,000,000 shall be available only to the extent that an official budget request, that includes designation of $25,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *PROCUREMENT OF AMMUNITION, AIR FORCE*

*For an additional amount for "Procurement of Ammunition, Air Force", $115,000,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### *OTHER PROCUREMENT, AIR FORCE*

*For an additional amount for "Other Procurement, Air Force", $747,840,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $104,425,000, to remain available for obligation until September 30, 2004: Provided, That funds may be used to purchase two vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles, but not to exceed $175,000 per vehicle: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $4,925,000 shall be available only to the extent an official budget request, that includes designation of $4,925,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $8,200,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $9,000,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $198,400,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $137,600,000 shall be available only to the extent that an official budget request, that includes designation of $137,600,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $67,000,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. (a) The appropriation under the heading "Research, Development, Test and Evaluation, Navy" in the Department of Defense Appropriations Act, 2002 (Public Law 107–117) is amended by adding the following proviso immediately after "September 30, 2003": ": Provided, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique requirements of the Special Operations Forces". (b) The amendment made by subsection (a) shall be effective as if enacted as part of the Department of Defense Appropriations Act, 2002.

SEC. 302. During the current fiscal year, the restrictions contained in subsection (d) of 22 U.S.C. 5952 and section 502 of the Freedom Support Act (Public Law 102–511) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such restrictions is important to the national security interests of the United States.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414): Provided, That any funds appropriated or transferred to the Central Intelligence Agency for agent operations or covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2003.

SEC. 304. (a) Funds appropriated to the Department of Defense for fiscal year 2002 for operation and maintenance under the heading "Chemical Agents and Munitions Destruction, Army", may be used to pay for additional costs of international inspectors from the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons, pursuant to Articles IV and V of the Chemical Weapons Convention, for inspections and monitoring of Department of Defense sites and commercial sites that perform services under contract to the Department of Defense, resulting from the Department of Defense's program to accelerate its chemical demilitarization schedule.

(b) Expenses which may be paid under subsection (a) include—

(1) salary costs for performance of inspection and monitoring duties;

(2) travel, including travel to and from the point of entry into the United States and internal United States travel;

(3) per diem, not to exceed United Nations rates and in compliance with United Nations conditions for per diem for that organization; and

(4) expenses for operation and maintenance of inspection and monitoring equipment.

SEC. 305. (a)(1) In fiscal year 2002, funds available to the Department of Defense for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(2) The provision shall also apply to unexpired balances and assistance previously provided from prior years' Acts available for purposes identified in subsection (a)(1).

(3) The authority in this section is in addition to authorities currently available to provide assistance to Colombia.

(b) The authorities provided in subsection (a) shall not be exercised until the Secretary of Defense certifies to the Congress that the provisions of section 601(b) of this Act have been complied with.

(c) Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246, as amended, shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this chapter, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 306. In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117), $75,000,000, to remain available until September 30, 2003, is hereby appropriated to the Department of Defense under the heading "Chemical Agents and Munitions Destruction, Army" for Research, development, test and evaluation, for the purpose of accelerating chemical agent destruction at Department of Defense facilities: Provided, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

### (RESCISSIONS)

SEC. 307. Of the funds available in Department of Defense Appropriations Acts or otherwise available to the Department of Defense, the following funds are hereby rescinded, from the following accounts in the specified amounts:

"Other Procurement, Air Force", 2001/2003, $12,500,000;

"Missile Procurement, Air Force", 2002/2004, $11,600,000;

"Other Procurement, Air Force", 2002/2004, $52,500,000;

"Procurement, Defense-Wide", 2002/2004, $30,000,000; and

"Research, Development, Test and Evaluation, Air Force", 2002/2003, $56,500,000.

SEC. 308. During the current fiscal year and hereafter, section 2533a of title 10, United States Code, shall not apply to any transaction entered into to acquire or sustain aircraft under the authority of section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284).

SEC. 309. The Secretary of the Army shall obligate and expend the $2,000,000 appropriated for the Army by Public Law 107–117 for procurement of smokeless nitrocellulose under Activity 1, instead of under Activity 2, Production Base Support Industrial Facilities, for the purpose of preserving a commercially owned and operated capability of producing defense grade nitrocellulose at the rate of at least 10,000,000 pounds per year in order to preserve a commercial manufacturing capability for munitions precursor supplies for the High Zone Modular Artillery Charge System and to preserve competition in that manufacturing capability.

SEC. 310. Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall obligate, from funds made available in title II of division A of Public Law 107–117 under the heading "Operation and Maintenance, Defense-Wide" (115 Stat. 2233), $4,000,000 for a grant to support the conversion of the Naval Security Group, Winter Harbor (the naval *base on Schoodic Peninsula), Maine, to utilization as a research and education center for Acadia National Park, Maine, including the preparation of a plan for the reutilization of the naval base for such purpose that will benefit communities in the vicinity of the naval base and visitors to Acadia National Park and will stimulate important research and educational activities.*

*SEC. 311. Of the amount available for fiscal year 2002 for the Army National Guard for operation and maintenance, $2,200,000 shall be made available for the Army National Guard for information operations, information assurance operations, and training for such operations.*

### *(RESCISSION)*

*SEC. 312. Of the funds provided under the heading, "Emergency Response Fund", in Public Law 107–38 that were not subject to subsequent enactment and not subject to the restrictions of the fifth proviso of that Act, and subsequently transferred to "Defense Emergency Response Fund", $224,000,000 of unobligated amounts are hereby rescinded.*

### *(RESCISSION)*

*SEC. 313. Of the unobligated funds available in titles III and IV of the Department of Defense Appropriations Act, 2002, $226,000,000, reflecting savings from revised economic assumptions, shall be rescinded within 15 days of enactment of this Act: Provided, That this reduction shall be applied on a pro-rata basis to each appropriations account in said titles, and to each line item, program element, project, subproject, and activity within each such account.*

## *CHAPTER 4*

## *DISTRICT OF COLUMBIA*

### *FEDERAL FUNDS*

### *FEDERAL PAYMENT TO THE CHILDREN'S NATIONAL MEDICAL CENTER*

*For a Federal payment to the Children's National Medical Center in the District of Columbia for implementing the District Emergency Operations Plan, $10,000,000, to remain available until September 30, 2003, of which $8,000,000 shall be for the expansion of quarantine facilities, and $2,000,000 shall be for the establishment of a decontamination facility for children and families: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA*

*For a Federal payment to the District of Columbia to implement the District Emergency Operations Plan, $23,000,000, to remain available until December 1, 2003, of which $12,000,000 is for public safety expenses related to security events in the District of Columbia: Provided, That the Chief Financial Officer of the District of Columbia shall provide a report, within 15 days of an expenditure, to the Committees on Appropriations of the House of Representatives and Senate, detailing any expenditure of these funds: Provided further, That $5,000,000 is for the Unified Communications Center: Provided further, That $6,000,000 is for the construction of containment facilities and other activities to support the regional Bioterrorism Hospital Preparedness Program at the Washington Hospital Center: Provided further, That beginning October 1, 2002, the Chief Financial Officer of the Washington Hospital Center shall provide quarterly reports to the Committees on Appropriations of the House of Representatives and Senate, detailing the expenditure of these funds: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY*

*For a Federal payment to the Washington Metropolitan Area Transit Authority, $8,000,000, to remain available until September 30, 2003, to contribute to the creation of a regional transportation back-up operations control center: Provided, That the General Manager of the Washington Metropolitan Area Transit Authority shall submit a plan for the future financing of a regional transportation back-up operations control center no later than February 5, 2003 to the Committees on Appropriations of the House of Representatives and Senate: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS*

*For a Federal payment to the Metropolitan Washington Council of Governments, $1,750,000, to remain available until September 30, 2003, for support of the Regional Incident Communication and Coordination System, as approved by the Council: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *FEDERAL PAYMENT TO THE WATER AND SEWER AUTHORITY OF THE DISTRICT OF COLUMBIA*

*For a Federal payment to the Water and Sewer Authority of the District of Columbia for emergency preparedness, $1,250,000, to remain available until September 30, 2003, for remote monitoring of water quality: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *FEDERAL PAYMENT FOR FAMILY COURT ACT*

### *(INCLUDING RESCISSION)*

*Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 STAT. 929), $700,000 made available for the Mayor of the District of Columbia are rescinded.*

*For a Federal payment to the Mayor of the District of Columbia for carrying out the District of Columbia Family Court Act of 2001, $700,000, to remain available until September 30, 2003, of which $200,000 shall be for completion of a plan by the Mayor on integrating the computer systems of the District of Columbia government with the Family Court of the Superior Court of the District of Columbia: Provided, That $500,000 of such amount provided to the Mayor shall be for the Child and Family Services Agency to be used for social workers to implement Family Court reform: Provided further, That the availability of these funds shall be subject to the reporting and availability requirements under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 929).*

### *DISTRICT OF COLUMBIA FUNDS*

### *OPERATING EXPENSES*

### *DIVISION OF EXPENSES*

*The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia.*

*For public safety expenses related to security events in the District of Columbia, $12,000,000, to remain available until December 1, 2003.*

*For construction of containment facilities and other activities to support the regional Bioterrorism Hospital Preparedness Program at the Washington Hospital Center, $6,000,000, to remain available until December 1, 2003.*

*For the Unified Communications Center, $5,000,000, to remain available until December 1, 2003.*

*For carrying out the District of Columbia Family Court Act of 2001, $700,000, to remain available until September 30, 2003.*

### *GOVERNMENTAL DIRECTION AND SUPPORT*

*The paragraph under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 933) is amended by striking: "Provided further, That not less than $353,000 shall be available to the Office of the Corporation Counsel to support increases in the Attorney Retention Allowance:" and inserting: "Provided further, That not less than $353,000 shall be available to the Office of the Corporation Counsel to support attorney compensation consistent with performance measures contained in a negotiated collective bargaining agreement:".*

### *PUBLIC SAFETY AND JUSTICE*

### *(RESCISSION)*

*Notwithstanding any other provision of law, of the local funds appropriated under this heading to the Department of Corrections for support of the Corrections Information Council in the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 935), $100,000 are rescinded.*

### *CORRECTIONS INFORMATION COUNCIL*

*For operations of the Corrections Information Council, $100,000 from local funds.*

### *PUBLIC EDUCATION SYSTEM*

### *(RESCISSION)*

*Notwithstanding any other provision of law, of the local funds appropriated under this heading for public charter schools for the fiscal year ending September 30, 2002, in the District of Columbia Appropriations Act, 2002, (Public Law 107–96; 115 Stat. 935), $37,000,000 are rescinded.*

### *HUMAN SUPPORT SERVICES*

*For an additional amount for "Human Support Services", $37,000,000 from local funds: Provided, That $11,000,000 shall be for the Child and Family Services Agency to address increased adoption case rates, higher case loads* *for adoption and emergency group home utilization: Provided further, That $26,000,000 shall be for the Department of Mental Health to address a Medicaid revenue shortfall.*

### REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

*Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 940), $7,950,000 are rescinded.*

### CERTIFICATES OF PARTICIPATION

*For principal and interest payments on the District's Certificates of Participation, issued to finance the One Judiciary Square ground lease underlying the building located at One Judiciary Square, $7,950,000 from local funds.*

## ENTERPRISE AND OTHER FUNDS

### WATER AND SEWER AUTHORITY

*The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia.*

*For remote monitoring of water quality, $1,250,000, to remain available until September 30, 2003.*

## GENERAL PROVISIONS—THIS CHAPTER

*SEC. 401. The District of Columbia may use up to 1 percent of the funds appropriated to the District of Columbia under the Emergency Supplemental Act, 2002, (Public Law 107–117; 115 Stat. 2230), to fund the administrative costs that are needed to fulfill the purposes of that Act. The District may use these funds for this purpose as of January 10, 2002.*

*SEC. 402. Section 16(d)(2) of the Victims of Violent Crime Compensation Act of 1996 (sec. 4–515(d)(2), D.C. Official Code), as amended by the District of Columbia Appropriations Act, 2002, (Public Law 107–96; 115 Stat. 928) is amended to read as follows: "(2) 50 percent of such balance shall be transferred from the Fund to the Mayor and shall be used without fiscal year limitation for outreach activities designed to increase the number of crime victims who apply for such direct compensation payments.".*

*SEC. 403. (a) Notwithstanding any other provision of law, the positive fund balance of the general fund of the District government which remained at the end of fiscal year 2000 (as reflected in the complete financial statement and report on the activities of the District government for such fiscal year under section 448(a)(4) of the District of Columbia Home Rule Act) shall be used during fiscal year 2002 to provide the minimum balances required for fiscal year 2002 for the emergency reserve fund under section 450A of the District of Columbia Home Rule Act and the contingency reserve fund under section 450B of such Act.*

*(b) To the extent that the amount of the positive fund balance described in subsection (a) exceeds the amount required to provide the minimum balances in the reserve funds described in such subsection, the District government shall use the excess amount—*

*(1) to address potential deficits in the budget of the District government for fiscal year 2002, subject to the same conditions applicable under section 202(j)(3) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 to the obligation and expenditure of the budget reserve and cumulative cash reserve under such section; or*

*(2) if the Chief Financial Officer of the District of Columbia certifies that the excess amount is available and is not required to address potential deficits in the budget of the District government for fiscal year 2002, for Pay-As-You-Go Capital Funds.*

*(c) To the extent that the excess amount described in subsection (b) is used to address potential deficits in the budget of the District government for fiscal year 2002, such amount shall remain available until expended.*

*(d)(1) The item relating to "District of Columbia Funds—Operating Expenses—Repayment of Loans and Interest" in the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 940) is amended by striking "That any funds set aside" and all that follows through "That for equipment leases," and inserting "That for equipment leases,".*

*(2) Section 159(c) of the District of Columbia Appropriations Act, 2001 (Public Law 106–522; 114 Stat. 2482), as amended by section 133(c) of the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 956) is amended by striking paragraph (3).*

*SEC. 404. The Chief Financial Officer of the Washington Metropolitan Area Transit Authority may use up to $2,400,000 from funds appropriated under Public Law 107–117 under the account, "Federal Payment to the Washington Metropolitan Area Transit Authority", that contains funds for protective clothing and breathing apparatus activities, for employee and facility security and completion of the fiber optic network project.*

*SEC. 405. The District of Columbia Courts may expend up to $3,000,000 to carry out the District of Columbia Family Court Act of 2001 from the "Federal Payment to the District of Columbia Courts" account: Provided, That such funds may be transferred to the "Federal Payment to the District of Columbia Courts" account from the "Federal Payment for Family Court Act" account in reimbursement for such obligations and expenditures as are necessary to implement the District of Columbia Family Court Act of 2001 for the period from October 1, 2001 to September 30, 2002, once funds in the "Federal Payment for Family Court Act" account become available.*

*SEC. 406. Section 11–908A(b)(4) of the District of Columbia Code (as added by Public Law 107–114) is amended by striking "section 11–1501(b)" and inserting "section 433 of the District of Columbia Home Rule Act".*

*SEC. 407. (a) Under the heading, "Federal Payment to the Thurgood Marshall Academy Charter School" provided under Public Law 107–96, strike "Anacostia" and insert "Southeast, Washington, D.C.".*

*(b) Under the heading, "Federal Payment to Southeastern University" provided under Public Law 107–96, strike everything after "a public/private partnership" and insert in lieu thereof, "to plan a two year associate degree program.".*

*SEC. 408. Section 119 of the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 950) is amended as follows:*

*(1) In the heading, by inserting "AND OTHER FUNDS" after "GRANTS".*

*(2) In subsection (a), by inserting "and other funds" after "other grants".*

*(3) By amending subsection (b) to read as follows:*

*"(b) REQUIREMENTS.—*

*"(1) CHIEF FINANCIAL OFFICER REPORT AND COUNCIL APPROVAL FOR GRANTS.—*

*"(A) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—*

*"(i) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and*

*"(ii) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.*

*"(B) For purposes of subparagraph (A)(ii), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—*

*"(i) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under subparagraph (A)(i); or*

*"(ii) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under subparagraph (A)(i).*

*"(2) CERTIFICATION OF CHIEF FINANCIAL OFFICER AND NOTIFICATION OF COMMITTEES FOR OTHER FUNDS.—No funds which are not grants may be accepted, obligated, or expended pursuant to subsection (a)—*

*"(A) unless the Chief Financial Officer of the District of Columbia certifies that the funds are available and are not required to address potential deficits; and*

*"(B) until the expiration of the 14-day period which begins on the date the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate of the acceptance, obligation, and expenditure of such funds.".*

*(4) In subsection (c)—*

*(A) by striking "under subsection (b)(2) of this section" and inserting "or other funds under this section";*

*(B) by inserting "or other funds" after "or other grant"; and*

*(C) by striking "such paragraph" and inserting "this section".*

*(5) In subsection (d), by inserting "and other funds" after "and other grants".*

*SEC. 409. Effective June 30, 2002, the authority which the Chief Financial Officer of the District of Columbia exercised with respect to personnel, procurement, and the preparation of fiscal impact statements during a control period (as defined in Public Law 104–8) shall remain in effect through July 1, 2003 or until such time as the District of Columbia Fiscal Integrity Act becomes effective, whichever occurs sooner.*

## CHAPTER 5

## DEPARTMENT OF DEFENSE—CIVIL

### DEPARTMENT OF THE ARMY

### CORPS OF ENGINEERS—CIVIL

### OPERATION AND MAINTENANCE, GENERAL

*For an additional amount for "Operation and Maintenance, General" for emergency expenses, $108,200,000, to remain available until September 30, 2003: Provided, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That funds made available under this heading in this Act and in Public Law 107–117 may be used to fund measures and activities undertaken by the Secretary of the Army, acting through the Chief of Engineers, to protect and secure any infrastructure owned or operated by, or on behalf of, the U.S. Army Corps of Engineers, including administrative buildings and facilities; and, in addition, $32,000,000, to remain available until expended: Provided, That using the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to repair, restore, and clean-up Corps' projects and facilities and dredge navigation channels, restore and clean out area streams, provide emergency streambank protection, restore other crucial public infrastructure (including sewer and water facilities), document flood impacts and undertake other flood recovery efforts deemed* necessary and advisable by the Chief of Engineers: Provided further, That $10,000,000 of the funds provided shall be for Southern West Virginia, Eastern Kentucky, and Southwestern Virginia: Provided further, That the remaining $22,000,000 shall be available for Western Illinois, Southern Indiana, Eastern Missouri, and the Upper Peninsula of Michigan.

## DEPARTMENT OF THE INTERIOR

### BUREAU OF RECLAMATION

### WATER AND RELATED RESOURCES

For an additional amount for "Water and Related Resources", $7,000,000, to remain available until expended: Provided, That $3,000,000 is for the drilling of emergency wells in Santa Fe, New Mexico: Provided further, That $4,000,000 is to be used for the lease of up to 38,000 acre-feet of emergency water for the Rio Grande in New Mexico, in compliance with the existing biological opinion.

## DEPARTMENT OF ENERGY

## ENERGY PROGRAMS

### SCIENCE

For an additional amount for "Science" for emergency expenses necessary to support safeguards and security activities, $24,000,000: Provided, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## ATOMIC ENERGY DEFENSE ACTIVITIES

### NATIONAL NUCLEAR SECURITY ADMINISTRATION

### WEAPONS ACTIVITIES

### (INCLUDING RESCISSION)

For an additional amount for "Weapons Activities" for emergency expenses, $158,050,000: Provided, That $138,650,000 shall be available only to the extent that an official budget request for $138,650,000 that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Of the funds appropriated under this heading in Public Law 107–66 and prior Energy and Water Development Appropriations Acts, $14,460,000 of unexpended balances are rescinded.

### DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for "Defense Nuclear Nonproliferation" for emergency activities necessary to support the safeguarding of nuclear material, $100,000,000, to remain available until December 31, 2002.

### OFFICE OF THE ADMINISTRATOR

For an additional amount for "Office of the Administrator" for emergency expenses, $1,750,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

### DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

### (INCLUDING RESCISSION)

For an additional amount for "Defense Environmental Restoration and Waste Management" for emergency expenses necessary to support safeguards and security activities, $56,000,000: Provided, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Of the funds appropriated under this heading in Public Law 107–66 and prior Energy and Water Development Appropriations Acts, $15,540,000 of unexpended balances are rescinded.

### DEFENSE FACILITIES CLOSURE PROJECTS

For an additional amount for "Defense Facilities Closure Projects" for emergency expenses necessary to support safeguards and security activities, $14,000,000: Provided, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### OTHER DEFENSE ACTIVITIES

For an additional amount for "Other Defense Activities" for emergency expenses necessary to support energy security and assurance activities, $7,000,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 501. The amounts invested by the non-Federal interests in the biomass project at Winona, Mississippi, before the date of enactment of this Act shall constitute full satisfaction of the cost-sharing requirement under section 3002 of the Energy Policy Act of 1992 (42 U.S.C. 13542).

SEC. 502. Section 1 of Public Law 105–204 (112 Stat. 681) is amended—

(1) in subsection (b), by striking "until the date" and all that follows and inserting "until the date that is 30 days after the date on which the Secretary of Energy awards a contract under subsection (c), and no such amounts shall be available for any purpose except to implement the contract."; and

(2) by striking subsection (c) and inserting the following:

"(c) CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code), the Secretary of Energy shall—

"(A) not later than 10 days after the date of enactment of this paragraph, request offerors whose proposals in response to Request for Proposals No. DE–RP05–010R22717 ('Acquisition of Facilities and Services for Depleted Uranium Hexafluoride (DUF6) Conversion Project') were included in the competitive range as of January 15, 2002, to confirm or reinstate the offers in accordance with this paragraph, with a deadline for offerors to deliver reinstatement or confirmation to the Secretary of Energy not later than 20 days after the date of enactment of this paragraph; and

"(B) not later than 30 days after the date of enactment of this paragraph, select for award of a contract the best value of proposals confirmed or reinstated under subparagraph (A), and award a contract for the scope of work stated in the Request for Proposals, including the design, construction, and operation of—

"(i) a facility described in subsection (a) on the site of the gaseous diffusion plant at Paducah, Kentucky; and

"(ii) a facility described in subsection (a) on the site of the gaseous diffusion plant at Portsmouth, Ohio.

"(2) CONTRACT TERMS.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code) the Secretary of Energy shall negotiate with the awardee to modify the contract awarded under paragraph (1) to—

"(A) require, as a mandatory item, that groundbreaking for construction occur not later than July 31, 2004, and that construction proceed expeditiously thereafter;

"(B) include as an item of performance the transportation, conversion, and disposition of depleted uranium contained in cylinders located at the Oak Ridge K–25 uranium enrichment facility located in the East Tennessee Technology Park at Oak Ridge, Tennessee, consistent with environmental agreements between the State of Tennessee and the Secretary of Energy; and

"(C) specify that the contractor shall not proceed to perform any part of the contract unless sufficient funds have been appropriated, in advance, specifically to pay for that part of the contract.

"(3) CERTIFICATION OF GROUNDBREAKING.—Not later than 5 days after the date of groundbreaking for each facility, the Secretary of Energy shall submit to Congress a certification that groundbreaking has occurred.

"(d) FUNDING.—

"(1) IN GENERAL.—For purposes of carrying out this section, the Secretary of Energy may use any available appropriations (including transferred unobligated balances).

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in addition to any funds made available under paragraph (1), such sums as are necessary to carry out this section.".

## CHAPTER 6

## BILATERAL ECONOMIC ASSISTANCE

### FUNDS APPROPRIATED TO THE PRESIDENT

### UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

### CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For an additional amount for "Child Survival and Health Programs Fund" for emergency expenses for activities related to combating HIV/AIDS, tuberculosis, and malaria, $200,000,000, to remain available until June 30, 2003: Provided, That such activities should include maternal health and related assistance in communities heavily impacted by HIV/AIDS: Provided further, That additional assistance should be provided to prevent transmission of HIV/AIDS from mother to child: Provided further, That of the funds appropriated under this heading in this Act, not less than $100,000,000 should be made available for a further United States contribution to the Global Fund to Fight AIDS, Tuberculosis, and Malaria: Provided further, That the cumulative amount of United States contributions to the Global Fund may not exceed the total resources provided by other donors and available for use by the Global Fund as of December 31, 2002: Provided further, That of the *funds appropriated under this heading, up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the United States Agency for International Development" for costs directly related to international health: Provided further, That funds appropriated by this paragraph shall be apportioned to the United States Agency for International Development, and the authority of sections 632(a) or 632(b) of the Foreign Assistance Act of 1961, or any similar provision of law, may not be used to transfer or allocate any part of such funds to any agency of the United States Government: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.*

### *INTERNATIONAL DISASTER ASSISTANCE*

*For an additional amount for "International Disaster Assistance" for emergency expenses for activities related to combating international terrorism, including repairing homes of Afghan citizens that were damaged as a result of military operations, $134,000,000, to remain available until September 30, 2003.*

*In addition, for an additional amount for "International Disaster Assistance" for assistance for the West Bank and Gaza, $50,000,000, to remain available until September 30, 2003: Provided, That none of the funds appropriated by this Act may be obligated or expended with respect to providing funds to the Palestinian Authority: Provided further, That the entire amount provided under this heading in this Act is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $144,000,000 shall be available only to the extent an official budget request, that includes designation of $144,000,000, including $50,000,000 for the West Bank and Gaza, as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT*

*For an additional amount for "Operating Expenses of the United States Agency for International Development" for emergency expenses for activities related to combating international terrorism, $7,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

## *OTHER BILATERAL ECONOMIC ASSISTANCE*

### *ECONOMIC SUPPORT FUND*

*For an additional amount for "Economic Support Fund" for emergency expenses for activities related to combating international terrorism, $665,000,000, to remain available until June 30, 2003: Provided, That of the funds appropriated by this paragraph that are made available for assistance for Pakistan, $1,000,000 should be made available for programs and activities which support the development of independent media in Pakistan: Provided further, That of the funds appropriated by this paragraph, $10,000,000 should be made available for the establishment of a pilot academic year international youth exchange program for secondary school students from countries with significant Muslim populations: Provided further, That funds made available pursuant to the previous proviso shall not be available for a country in which a similar academic year youth exchange program is currently funded by the United States: Provided further, That of the funds appropriated by this paragraph, $200,000,000 shall be made available for assistance for Israel, all or a portion of which may be transferred to, and merged with, funds appropriated by this Act under the heading "NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS" for defensive, non-lethal anti-terrorism assistance in accordance with the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $200,000,000 shall be available only to the extent an official budget request, that includes designation of $200,000,000 for Israel as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That funds appropriated under this heading, and funds appropriated under this heading in prior Acts that are made available for the purposes of this paragraph, may be made available notwithstanding section 512 of Public Law 107–115 or any similar provision of law: Provided further, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph.*

### *ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION*

*For an additional amount for "Assistance for the Independent States of the Former Soviet Union" for emergency expenses for activities related to combating international terrorism, $110,000,000, to remain available until June 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph.*

## *DEPARTMENT OF STATE*

### *INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT*

*For an additional amount for "International Narcotics Control and Law Enforcement" for emergency expenses for activities related to combating international terrorism, $117,000,000, to remain available until September 30, 2003: Provided, That funds appropriated under this heading should be made available to train and equip a Colombian Armed Forces unit dedicated to apprehending the leaders of paramilitary organizations: Provided further, That of the funds appropriated by this paragraph, not to exceed $6,000,000 may be made available for assistance for the Colombian Armed Forces for purposes of protecting the Cano Limon pipeline: Provided further, That prior to the obligation of funds under the previous proviso, the Secretary of State shall submit a report to the Committees on Appropriations describing: (1) the estimated oil revenues collected by the Government of Colombia from the Cano Limon pipeline for the preceding 12 months; (2) the amounts expended during such period by the Government of Colombia and private companies owning a financial interest in the pipeline for primary health care, basic education, micro-enterprise and other programs and activities to improve the lives of the people of Arauca department; (3) steps that are being taken to increase and expand support for these programs and activities; and (4) mechanisms that are being established to adequately monitor such funds: Provided further, That of the funds appropriated by this paragraph, not to exceed $4,000,000 should be made available for law enforcement training for Indonesian police forces: Provided further, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $3,000,000 shall be available only to the extent an official budget request, that includes designation of $3,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *MIGRATION AND REFUGEE ASSISTANCE*

*For an additional amount for "Migration and Refugee Assistance" for emergency expenses for activities related to combating international terrorism, $40,000,000, to remain available until June 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS*

*For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for emergency expenses for activities related to combating international terrorism, $88,000,000, to remain available until September 30, 2003: Provided, That of the funds appropriated by this paragraph, not to exceed $12,000,000 should be made available for assistance for Indonesia: Provided further, That of the funds appropriated by this paragraph, up to $1,000,000 may be made available for small arms and light weapons destruction in Afghanistan: Provided further, That of the funds appropriated by this paragraph, up to $1,000,000 may be made available for the Nonproliferation and Disarmament Fund: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $5,000,000 shall be available only to the extent an official budget request, that includes designation of $5,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That funds appropriated by this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.*

## *MILITARY ASSISTANCE*

## *FUNDS APPROPRIATED TO THE PRESIDENT*

### *FOREIGN MILITARY FINANCING PROGRAM*

*For an additional amount for "Foreign Military Financing Program" for emergency expenses for activities related to combating international terrorism, $387,000,000, to remain available until June 30, 2003: Provided, That funds* *made available by this Act for assistance for the Government of Uzbekistan may be made available if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America": Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $30,000,000 shall be available only to the extent an official budget request, that includes designation of $30,000,000 for the Philippines as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph: Provided further, That funds appropriated under this heading, and funds appropriated under this heading in prior Acts that are made available for the purposes of this paragraph, may be made available notwithstanding section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 or any similar provision of law: Provided further, That not to exceed $2,000,000 of the funds appropriated in this paragraph may be obligated for necessary expenses, including the purchase of passenger motor vehicles for use outside of the United States, for the general cost of administering military assistance and sales.*

#### *PEACEKEEPING OPERATIONS*

*For an additional amount for "Peacekeeping Operations" for emergency expenses for activities related to combating international terrorism, $20,000,000, to remain available until June 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That funds appropriated by this paragraph shall be available only for Afghanistan, and may be made available notwithstanding section 512 of Public Law 107–115 or any similar provision of law.*

## *EXPORT AND INVESTMENT ASSISTANCE*

### *EXPORT-IMPORT BANK OF THE UNITED STATES*

#### *(RESCISSION)*

*Of the funds appropriated under the heading "Export-Import Bank of the United States" that are available for tied-aid grants in title I of Public Law 107–115 and under such heading in prior Acts making appropriations for foreign operations, export financing, and related programs, $50,000,000 are rescinded.*

## *BILATERAL ECONOMIC ASSISTANCE*

### *FUNDS APPROPRIATED TO THE PRESIDENT*

#### *(RESCISSION)*

*Of the funds appropriated to carry out the provisions of parts I and II of the Foreign Assistance Act of 1961, the Support for East European Democracy (SEED) Act of 1989, and the FREEDOM Support Act, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as contained in Public Law 106–113) and in prior Acts making appropriations for foreign operations, export financing, and related programs, $60,000,000 are rescinded: Provided, That not more than a total of $25,000,000 may be rescinded from funds appropriated under the heading "Development Assistance" in said Acts: Provided further, That no rescission may be made from funds appropriated to carry out the provisions of section 104(c) of the Foreign Assistance Act of 1961.*

## *MULTILATERAL ECONOMIC ASSISTANCE*

### *FUNDS APPROPRIATED TO THE PRESIDENT*

### *INTERNATIONAL FINANCIAL INSTITUTIONS*

#### *(RESCISSION)*

*The unobligated balances of funds provided in Public Law 92–301 and Public Law 93–142 for maintenance of value payments to international financial institutions are rescinded.*

## *GENERAL PROVISIONS—THIS CHAPTER*

*SEC. 601. (a) COUNTER-TERRORISM AUTHORITY.—*

*(1) In fiscal year 2002, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.*

*(2) This provision shall also apply to unexpired balances and assistance previously provided from prior years' Acts available for the purposes identified in paragraph (1).*

*(3) The authority in this section is in addition to authorities currently available to provide assistance to Colombia.*

*(b) In order to ensure effectiveness of United States support for such a unified campaign, prior to the exercise of the authority contained in subsection (a), the Secretary of State shall report to the Committees on Appropriations that—*

*(1) the newly elected President of Colombia has—*

*(A) committed, in writing, to establish comprehensive policies to combat illicit drug cultivation, manufacturing, and trafficking (particularly with respect to providing economic opportunities that offer viable alternatives to illicit crops) and to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations;*

*(B) committed, in writing, to implement significant budgetary and personnel reforms of the Colombian Armed Forces; and*

*(C) committed, in writing, to support substantial additional Colombian financial and other resources to implement such policies and reforms, particularly to meet the country's previous commitments under "Plan Colombia"; and*

*(2) no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available for Colombia under this chapter.*

*(c) The authority provided in subsection (a) shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.*

*(d) Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246, as amended, shall be applicable to funds made available pursuant to the authority contained in subsection (a).*

#### *DONATED SHIPMENT OF HUMANITARIAN ASSISTANCE OVERSEAS*

*SEC. 602. During fiscal year 2002, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961, funds may be made available to non-governmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas.*

#### *REPORTS ON AFGHANISTAN SECURITY AND DELIVERY OF ASSISTANCE*

*SEC. 603. The President shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate two reports setting forth a strategy for meeting the security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government. The first report, which should be transmitted no later than 30 days after enactment of this Act, should report on the strategy for meeting the immediate security needs of Afghanistan. The second report, which should be transmitted no later than 90 days after enactment of this Act, should report on a long term strategy for meeting the security needs of Afghanistan and should include a reassessment of the strategy to meet the immediate security needs if they have changed substantially.*

## *CHAPTER 7*

## *DEPARTMENT OF THE INTERIOR*

### *BUREAU OF LAND MANAGEMENT*

#### *MANAGEMENT OF LANDS AND RESOURCES*

*For an additional amount for "Management of Lands and Resources", $658,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *UNITED STATES FISH AND WILDLIFE SERVICE*

#### *RESOURCE MANAGEMENT*

*For an additional amount for "Resource Management", $1,038,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

#### *CONSTRUCTION*

*For an additional amount for "Construction", $3,125,000, to remain available until expended, for facility and safety improvements related to homeland security: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the* *request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### NATIONAL PARK SERVICE

#### OPERATION OF THE NATIONAL PARK SYSTEM

*For an additional amount for "Operation of the National Park System", $1,173,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

#### CONSTRUCTION

*For an additional amount for "Construction", $17,651,000, to remain available until expended: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### UNITED STATES GEOLOGICAL SURVEY

#### SURVEYS, INVESTIGATIONS, AND RESEARCH

*For an additional amount for "Surveys, Investigations, and Research", $26,000,000, to remain available until expended, of which $20,000,000 is for high resolution mapping and imagery of the Nation's strategic cities, and of which $6,000,000 is for data storage infrastructure upgrades and emergency power supply system improvements at the Earth Resources Observation Systems Data Center: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### BUREAU OF INDIAN AFFAIRS

#### OPERATION OF INDIAN PROGRAMS

#### (INCLUDING RESCISSION OF FUNDS)

*For an additional amount for "Operation of Indian Programs", $134,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

*Of the funds provided under this heading in Public Law 107–20 for electric power operations and related activities at the San Carlos Irrigation Project, $10,000,000 are rescinded.*

*Funds provided under this heading in Public Law 107–20, for electric power operations and related activities at the San Carlos Irrigation Project, and remaining within the account may be used for unanticipated trust reform projects and costs related to the ongoing Cobell litigation or other litigation concerning the management of Indian trust funds: Provided, That funds made available herein may, as needed, be transferred to or merged with any account funded in the Interior and Related Agencies Appropriations Act to reimburse costs incurred for these litigation activities.*

### DEPARTMENTAL OFFICES

### DEPARTMENTAL MANAGEMENT

#### SALARIES AND EXPENSES

*For an additional amount for "Salaries and Expenses", $905,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

## DEPARTMENT OF AGRICULTURE

### FOREST SERVICE

#### WILDLAND FIRE MANAGEMENT

*For an additional amount to cover necessary expenses for wildfire suppression operations, $50,000,000, to remain available until expended: Provided, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for wildfire suppression: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

#### CAPITAL IMPROVEMENT AND MAINTENANCE

*For an additional amount for "Capital Improvement and Maintenance", $3,500,000, to remain available until expended, for facility enhancements to protect property from acts of terrorism, vandalism, and theft: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

## RELATED AGENCY

### SMITHSONIAN INSTITUTION

#### SALARIES AND EXPENSES

*For an additional amount for "Salaries and Expenses", of the Smithsonian Institution, $10,000,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

#### CONSTRUCTION

*For an additional amount for "Construction", $2,000,000, to remain available until expended, for planning, design, and construction of an alcohol collections storage facility at the Museum Support Center: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### GENERAL PROVISIONS—THIS CHAPTER

*SEC. 701. Within 10 days of enactment of this Act, funds appropriated to the Forest Service under the heading "Wildland Fire Management" in Public Law 107–63 for the following purposes: $5,000,000 for research activities and $10,000,000 for capital improvement and maintenance of fire facilities, shall be released and made available for immediate obligation. These funds are not available for transfer for purposes other than those described in this section.*

*SEC. 702. None of the funds appropriated in this or any other Act, except funds appropriated to the Office of Management and Budget, shall be available to study the transfer of any research activities from the Smithsonian Institution to the National Science Foundation.*

*SEC. 703. In fiscal year 2002 and thereafter, the Secretary of the Interior may charge reasonable fees for services provided at Midway Atoll National Wildlife Refuge, including fuel sales, and retain those fees, to be credited to the United States Fish and Wildlife Service, "Resource Management" account and remain available until expended for operation and maintenance of infrastructure and staffing required for non-refuge specific needs, including meeting the terms necessary for an airport operating certificate and the purchase of fuel supplies.*

*SEC. 704. The Department of the Interior and Related Agencies Appropriations Act, 2002 (Public Law 107–63), under the head "Minerals Management Service, Royalty and Offshore Minerals Management" is amended by striking the word "and" immediately following the word "points," in the sixth proviso, and by inserting immediately after the word "program" in the sixth proviso ", or under its authority to transfer oil to the Strategic Petroleum Reserve,", and by inserting at the end of the sixth proviso immediately preceding the colon, the following, "and to recover MMS transportation costs, salaries and other administrative costs directly related to filling the Strategic Petroleum Reserve".*

*SEC. 705. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are fighting fires. The Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or* *omissions of American firefighters engaged in firefighting in a foreign country. When an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country. Neither the sending country nor any organization associated with the firefighter shall be subject to any action whatsoever pertaining to or arising out of fighting fires.*

*Sec. 706. (a) Findings.—Congress finds that—*

*(1) forest health conditions within the Beaver Park Area and the Norbeck Wildlife Preserve within the Black Hills National Forest are deteriorating and immediate action to treat these areas is in the public interest;*

*(2) the existing settlement agreement in Biodiversity Associates v. Laverty, Civil Action No. 99–N–2173, filed in the United States District Court for the District of Colorado on September 12, 2000, (referred to in this Act as the "Settlement") prevents timely action to reduce the risk of wildfire in the Beaver Park Roadless Area;*

*(3) pending litigation (Sierra Club v. U.S. Forest Service, Civ. No. 94–D–2273 (D. Colorado)) prevents timely action to reduce the risk of wildfire in the Norbeck Wildlife Preserve;*

*(4) existing administrative and legal processes cannot address the fire danger in time to enable the Secretary of Agriculture to take action to reduce the danger;*

*(5) immediate action to address the fire danger in an environmentally responsive manner is supported by the State, local counties, local industry users, and some environmental groups;*

*(6) the addition of 3,600 acres to the Black Elk Wilderness in the Black Hills National Forest is in the public interest;*

*(7) the State of South Dakota, Lawrence, Meade and Pennington County fire officials are encouraged to identify "fire emergency zone" areas in which public safety may require a moratorium on issuance of new building permits, and identify the changes in conditions (including the adoption of fire-safe building standards) that may be needed to end these moratoria; and*

*(8) the State of South Dakota is encouraged to take actions as necessary to create a defensible fuel zone within state lands south and southwest of Sturgis.*

*(b) Purposes.—The purposes of this Section are—*

*(1) to authorize and direct the Secretary of Agriculture (in this Section referred to as the "Secretary") to undertake actions to address promptly the risk of fire and insect infestation; and*

*(2) to designate an addition to the existing Black Elk Wilderness Area in the Black Hills National Forest.*

*(c) Fire and Beetle Risk Reduction in Existing Timber Sale Analysis Areas.—*

*(1) In general.—Subject to paragraph (2), the Secretary is authorized to treat additional timber within or outside the existing cutting units for the Piedmont, Kirk, Redhill, Cavern, Deadman, Danno and Vanocker timber sales and within the analysis areas for these sales as is necessary to reduce beetle infestation and fire hazard;*

*(2) Criteria.—In implementing additional treatments within the timber sale analysis areas referred to in paragraph (1), the Secretary shall use in order of priority the following criteria:*

*(A) Areas within ¼ mile of private properties where private property owners have taken or are taking actions to treat their lands.*

*(B) Stands that are a fire hazard or insect infested, and are near private lands or in proximity to communities.*

*(C) Areas that have the highest intensity or concentration of insect infestation that will move to other areas.*

*(D) Stands that are a fire hazard or insect infested, and are near areas of high resource value where retaining green trees is important, such as goshawk nests, sensitive landscapes, recreation areas, and developments.*

*(E) Stands that are a high fire hazard or insect infested, and are within skidding distance of existing roads.*

*(F) Concentrations of insect infested trees.*

*(G) Stands with the highest density that are most susceptible to insect attack and are in close proximity to infested trees.*

*(3) Additional criteria.—In carrying out this subsection, the Secretary shall ensure that—*

*(A) any additional treatment for the Cavern, Kirk, and Piedmont sales shall comply with provisions 6c, d and e of the Settlement;*

*(B) any additional treatment for the Deadman and Vanocker sales, shall be consistent with the Black Hills Forest Plan, including the "Phase I Amendment"; and*

*(C) any additional treatment for the Redhill and Danno sales shall comply with the provisions of 7b, c, and g of the Settlement.*

*(4) Skid trails.—Notwithstanding the Settlement, the Secretary may authorize access by skid trails to the additional treatment areas referred to in this subsection to remove or treat infested stands, except that the skid trails otherwise restricted by the settlement shall be restored to pre-existing conditions upon completion of treatment activities.*

*(5) Completion of treatment activities.—The Secretary shall request timber purchasers to give priority to completing treatment within the Piedmont, Kirk, Redhill, Cavern, Deadman, Danno, and Vanocker timber sale areas to address fire issues and beetle outbreaks.*

*(d) Other Treatments.—*

*(1) Buffer zones.—The Secretary is authorized to reduce risk to private property adjoining the Black Hills National Forest by treating insect infested trees, dead trees, and downed woody materials on National Forest System lands in T5N, R5E, BHM, Section 35, and T4N, R5E, BHM, Sections 1, 2 and 12 within 200 feet of adjacent private property. The treatments shall comply with the goshawk nest protections and snail protections in provisions 6c and 7g of the Settlement.*

*(2) Additional treatments.—The Secretary is authorized to treat for insects and fuel reduction National Forest System lands within ¼ mile of private property and other non-National Forest System lands near the community of Sturgis, and shall include, where feasible, the following locations:*

*(A) in T5N, R5E, BHM within ¼ mile of the exterior boundary of the Black Hills National Forest in—*

*(i) Section 35;*

*(ii) Section 27;*

*(iii) Section 21;*

*(iv) Section 20; and*

*(v) Section 18.*

*(B) in T5N, R4E, BHM—*

*(i) Section 13;*

*(ii) Section 11;*

*(iii) Section 2;*

*(iv) Section 3; and*

*(v) Section 4.*

*(3) Fuel breaks.—The Secretary shall establish 400-foot fuel breaks as depicted on the map entitled "Beaver Park Fuel Breaks and Fuel Treatment Areas," dated June 11, 2002. In establishing the fuel breaks, the Secretary—*

*(A) shall not enter any 30-acre area around historic or active goshawk nest sites identified in Exhibit B1 of the Settlement; and*

*(B) shall use best efforts to retain the largest green trees and large snags.*

*(4) Limitation.—Treatment actions outside of the Beaver Park Roadless Area authorized by subsection (c) and subsection (d)(1), (2), and (3) shall be limited to no more than 8,000 acres of National Forest System land, pending the issuance of a decision on the proposed Elk Bugs and Fuel project.*

*(5) Forbes gulch.—To reduce concentrated heavy fuels, the Secretary is authorized to treat not more than 700 acres within the area identified as Forbes Gulch on the map referred to in paragraph (3). Such treatments shall not involve commercial timber sales or road construction, except that the Secretary may permit firewood cutters to remove the timber without construction of any roads. In carrying out the treatments authorized by this paragraph, the Secretary—*

*(A) may use the Forbes Gulch unclassified road for motorized equipment and vehicles to facilitate ingress and egress of equipment and personnel and may maintain this road to minimum standards necessary for safety and resource protection;*

*(B) may utilize helicopters to fly in heavy equipment (such as industrial chippers and small tractors) to assist with the project;*

*(C) shall use best efforts to retain the largest green trees and large snags;*

*(D) may construct two 10-acre safety zones; and*

*(E) shall reduce the stand structure to no less than 40 square feet basal area per acre of live trees, if available.*

*(e) Fire Suppression Access in the Beaver Park Roadless Area.—*

*(1) Pre-suppression plan.—The pre-suppression plan for the Beaver Park Roadless Area provided for in the Settlement may provide for actions authorized by this section, and shall be completed as soon as practicable.*

*(2) Improved access.—The Secretary is authorized to provide for improved fire equipment access at the perimeter of the Beaver Park Roadless Area by improving classified Forest Roads 139.1, 169.1b, 169.1d, and 139.1b. Such improvements shall be the minimum necessary for crews, equipment and single axle wildfire trucks and may include removing selected trees along roads, constructing pull-outs and turn-arounds, smoothing road surfaces in rough spots, and straightening some corners.*

*(3) Forbes gulch unclassified road.—To protect public safety and reduce fire risks, the Secretary shall prohibit public access year-long on the Forbes Gulch unclassified road. The Secretary shall conduct a roads analysis process as provided in Forest Service Manual 7710 and the necessary level of analysis and documentation pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) (in this Section referred to as "NEPA") before making a decision to open to public motor vehicle use the Forbes Gulch unclassified road identified on the map entitled "Beaver Park Fuel Breaks and Fuel Treatment Areas," dated June 11, 2002. Except as provided in subsection (d)(5) and until a decision is issued, the Secretary shall not maintain the Forbes Gulch unclassified road and shall prohibit public access on the road.*

*(4) Helispots.—If sufficient openings for helispots are not available in the Beaver Park Roadless Area, the Secretary is authorized to construct two 5-acre helispots within the Area to transport firefighters and fire equipment into and out of the area.*

*(5) Easements.—To facilitate firefighter access into, and escape routes from, Beaver Park Roadless Area, the Secretary shall attempt to acquire easements from the exterior Forest Service boundary to I–90 on the eastern side of Beaver Park Roadless Area, at a minimum, along Tilford Gulch, Forbes Gulch, Pleasant Valley and Bulldog Gulch.*

*(f) Needles Timber Sale Area.—*

*(1) Needles timber sale.—The Needles Timber Sale shall proceed after the Secretary makes*

*modifications in implementation of the Decision Notice to further benefit game animals and birds, as reflected in the memorandum known as the "Burns/Carter memorandum" dated November 10, 1999, and maintained in the Black Hills National Forest Supervisor's office. The standards to which any road is constructed for the timber sale shall be the minimum necessary to access and remove timber.*

*(2) RESEARCH COMMITTEE.—By December 1, 2003, the Secretary shall select a committee composed of research scientists who are federal employees to recommend an old growth research area within the Needles area (outside the Needles Timber Sale cutting units). By December 1, 2004, the committee shall make its recommendation to the Secretary. The committee's recommendation shall be subject to public notice, review and comment.*

*(g) GRIZZLY TIMBER SALE.—The Grizzly Timber Sale shall proceed after the Secretary makes modifications in implementation of the Decision Notice to further benefit game animals and birds, as reflected in the memorandum known as the "Burns/Carter memorandum" dated November 10, 1999, and maintained in the Black Hills National Forest Supervisor's office. The standards to which any road is constructed for the timber sale shall be the minimum necessary to access and remove timber.*

*(h) NORBECK.—The Secretary is authorized to use the full spectrum of management tools including prescribed fire and silvicultural treatments to benefit game animal and bird habitat in meeting the purposes of the Norbeck Organic Act. The management actions required by subsections (f)(1) and (g) are deemed consistent with the Norbeck Organic Act (16 U.S.C. 675-678b).*

*(i) NORBECK MEMORANDUM OF UNDERSTANDING.—By December 1, 2003, the Secretary shall propose a Memorandum of Understanding with the South Dakota Department of Game, Fish and Parks to, at a minimum, adopt procedures to monitor the effects of management activities, consult on habitat management, concur on program areas of responsibility, and review and recommend as needed any changes to Norbeck Wildlife Preserve direction contained in the 1997 Revised Forest Plan and future plan amendments and revisions. The basis of the MOU will be the guidelines set forth in the May 21, 2002 memo by SDF&P.*

*(j) PROCESS.—Due to the extraordinary circumstances present here, actions authorized by this section shall proceed immediately and to completion notwithstanding any other provision of law including, but not limited to, NEPA and the National Forest Management Act (16 U.S.C. 1601 et seq.). Such actions shall also not be subject to the notice, comment, and appeal requirements of the Appeals Reform Act, (16 U.S.C. 1612 (note), Pub. Law No. 102-381 sec. 322). Any action authorized by this Section shall not be subject to judicial review by any court of the United States. Except as provided by this Section the Settlement remains in full force and effect.*

*(k) EFFECT OF ACTIONS.—Except for those actions required by subsections (f)(1) and (g), the Secretary shall disclose the effect of actions authorized by this Section in the proposed Elk Bugs and Fuels project cumulative effects analysis for past, present, and reasonably foreseeable future actions. The decision for the Elk Bugs and Fuels project shall be issued not later than July 1, 2003.*

*(l) RESEARCH NATURAL AREA.—Except as provided in this Section, the Secretary shall undertake no additional ground disturbing or vegetation removal activities within the Beaver Park Roadless Area until completion of the Phase II amendment to the Black Hills National Forest Plan. The Secretary shall analyze the Beaver Park Roadless Area for suitability as a Research Natural Area, as required by the Settlement. The Secretary shall not consider any of the actions authorized or required by this section to affect the suitability of the Beaver Park Roadless Area for designation as a Research Natural Area.*

*(m) ROADLESS CHARACTER.—The actions authorized by this section will not affect the determination of the Beaver Park Roadless Area's wilderness capability, wilderness suitability, and/or roadless character.*

*(n) WILDERNESS DESIGNATION.—Section 103 of Public Law 96-560 is amended by—*

*(1) inserting "(1)" after "National Wilderness Preservation System:"; and*

*(2) adding before ": Provided, That" the following: "; and (2) certain lands in the Black Hills National Forest, South Dakota, which comprise approximately three thousand six hundred acres, as generally depicted on a map entitled 'Black Elk Wilderness Addition-Proposed,' dated June 13, 2002, and which shall constitute an addition to the existing Black Elk Wilderness".*

*(o) REPORTING.—The Secretary shall report to the Congress on the implementation of this section on or by November 30, 2002, June 30, 2003, and November 30, 2003.*

## *CHAPTER 8*

## *DEPARTMENT OF LABOR*

### *OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION*

### *SALARIES AND EXPENSES*

*Of the funds provided under this heading in Public Law 107-116 for Occupational Safety and Health Administration training grants, not less than $3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2002 to September 30, 2003, provided that a grantee has demonstrated satisfactory performance.*

## *DEPARTMENT OF HEALTH AND HUMAN SERVICES*

### *HEALTH RESOURCES AND SERVICES ADMINISTRATION*

### *HEALTH RESOURCES AND SERVICES*

*The matter preceding the first proviso under this heading in Public Law 107-116 is amended—*

*(1) by inserting "IV," after "titles II, III,"; and*

*(2) by striking "$311,978,000" and inserting "$315,333,000".*

*The matter under this heading in Public Law 107-116 is amended by striking "$4,000,000 is for the Columbia Hospital for Women Medical Center in Washington, D.C. to support community outreach programs for children" and inserting "$4,000,000 is for the All Children's Hospital, St. Petersburg, Florida to support development of a pediatric clinical research center program".*

### *CENTERS FOR DISEASE CONTROL AND PREVENTION*

### *DISEASE CONTROL, RESEARCH, AND TRAINING*

*For an additional amount for the Centers for Disease Control and Prevention, "Disease Control, Research, and Training", $1,000,000: Provided, That the entire amount is designated as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *NATIONAL INSTITUTES OF HEALTH*

### *BUILDINGS AND FACILITIES*

### *(INCLUDING RESCISSION)*

*Of the funds provided under this heading in Public Law 107-116, $30,000,000 are rescinded.*

*Under this heading in Public Law 107-116, "$26,000,000" is deleted and "$36,600,000" is inserted.*

### *ADMINISTRATION FOR CHILDREN AND FAMILIES*

### *CHILDREN AND FAMILIES SERVICES AND PROGRAMS*

*For an additional amount for "Children and Families Services Programs" for carrying out section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416), $500,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *OFFICE OF THE SECRETARY*

### *PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND*

*For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Public Health and Social Services Emergency Fund" for baseline and follow-up screening and clinical examinations, long-term health monitoring and analysis for the emergency services personnel, rescue and recovery personnel, $90,000,000, to remain available until expended, of which no less than $25,000,000 shall be available for current and retired firefighters: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

## *DEPARTMENT OF EDUCATION*

### *SCHOOL IMPROVEMENT PROGRAMS*

*The matter under this heading in Public Law 107-116 is amended by inserting before the period, ": Provided further, That of the amount made available under subpart 8, part D, title V of the ESEA, $2,300,000 shall be available for Digital Educational Programming Grants".*

*Of the funds provided under this heading in Public Law 107-116 to carry out the Elementary and Secondary Education Act of 1965, $832,889,000 shall be available to carry out part D of title V, and up to $11,500,000 may be used to carry out section 2345.*

*In the statement of the managers of the committee of conference accompanying H.R. 3061 (Public Law 107-116; House Report 107-342), in the matter relating to the Fund for the Improvement of Education under the heading "School Improvement Programs"—*

*(1) the provision specifying $200,000 for Fresno At-Risk Youth Services and the provision specifying $225,000 for the Fresno Unified School District shall be applied by substituting the following for the two provisions: "Fresno Unified School District, Fresno, California, in partnership with the City of Fresno, California, for activities to address the problems of at-risk youth, including afterschool activities and a mobile science unit, $425,000";*

*(2) the provision specifying $250,000 for the Wellington Public School District, Wellington,*

KS, shall be deemed to read as follows: "Wellington Public School District, Wellington, KS, for after school activities, $250,000";

(3) the provision specifying $200,000 for the Vermont Higher Education Council shall be deemed to read as follows: "Vermont Higher Education Consortium to develop universal early learning programs to ensure that at least one certified teacher will be available in center-based child care programs, $200,000";

(4) the provision specifying $250,000 for Education Service District 117 in Wenatchee, WA, shall be deemed to read as follows: "Education Service District 171 in Wenatchee, WA, to equip a community technology center to expand technology-based training, $250,000";

(5) the provision specifying $1,000,000 for the Electronic Data Systems Project shall be deemed to read as follows: "Washington State Department of Education for an electronic data systems project to create a database that would improve the acquisition, analysis and sharing of student information, $1,000,000";

(6) the provision specifying $250,000 for the YMCA of Seattle-King-Snohomish County shall be deemed to read as follows: "YWCA of Seattle-King County-Snohomish County to support women and families through an at-risk youth center and other family supports, $250,000";

(7) the provision specifying $50,000 for Drug Free Pennsylvania shall be deemed to read as follows: "Drug Free Pennsylvania to implement a demonstration project, $50,000";

(8) the provision specifying $20,000,000 for the Commonwealth of Pennsylvania Department of Education shall be deemed to read as follows: "$20,000,000 is included for a grant to the Commonwealth of Pennsylvania Department of Education to provide assistance, through subgrants, to low-performing school districts that are slated for potential takeover and/or on the Education Empowerment List as prescribed by Pennsylvania State Law. The initiative is intended to improve the management and operations of the school districts; assist with curriculum development; provide after-school, summer and weekend programs; offer teacher and principal professional development and promote the acquisition and effective use of instructional technology and equipment";

(9) the provision specifying $1,000,000 for State of Louisiana for Louisiana Online shall be deemed to read as follows: "Online Louisiana, Inc., New Orleans, LA, for a K–12 technology initiative, $1,000,000";

(10) the provision specifying $150,000 for the American Theater Arts for Youth, Inc., Philadelphia, PA, for a Mississippi Arts in Education Program shall be deemed to read as follows: "American Theater Arts for Youth, Inc., for a Mississippi Arts in Education program, $150,000";

(11) the provision specifying $340,000 for the Zero to Five Foundation, Los Angeles, California, shall be deemed to read as follows: "Zero to Five Foundation, Los Angeles, California, to develop an early childhood education and parenting project, $340,000";

(12) the provision specifying $900,000 for the University of Nebraska, Kearney, Nebraska, shall be deemed to read as follows: "University of Nebraska, Kearney, Nebraska, for a Minority Access to Higher Education Program to address the special needs of Hispanic and other minority populations from grades K–12, $900,000";

(13) the provision specifying $25,000 for the American Theater Arts for Youth for an Arts in Education program shall be deemed to read as follows: "American Theater Arts for Youth, Inc., in Philadelphia, Pennsylvania, for an Arts in Education program, $25,000";

(14) the provision specifying $50,000 for the Lewiston-Auburn College/University of Southern Maine shall be deemed to read as follows: "Lewiston-Auburn College/University of Southern Maine CLASS program to prepare teachers to meet the demands of Maine's 21st century elementary and middle schools, $50,000"; and

(15) the provision specifying $500,000 for the Prairie Lakes Education Cooperative in Madison, South Dakota to advance distance learning for Native Americans in BIA and tribal schools shall be deemed to read as follows: "Sisseton-Wahpeton School Board in Agency Village, South Dakota to advance distance learning for Native American students, $500,000".

### STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student Financial Assistance" for Pell Grants, $1,000,000,000, to remain available through September 30, 2003.

### HIGHER EDUCATION

In the statement of the managers of the committee of conference accompanying H.R. 3061 (Public Law 107–116; House Report 107–342), in the matter relating to the Fund for the Improvement of Postsecondary Education under the heading "Higher Education"—

(1) the provision for Nicholls State University, Thibodaux, LA, shall be applied by substituting "Intergenerational Program and Advanced Technology Program" for "International Program";

(2) the provision specifying $1,000,000 for the George J. Mitchell Scholarship Research Institute shall be deemed to read as follows: "George J. Mitchell Scholarship Research Institute in Portland, Maine, for an endowment to provide scholarships that allow students attending public schools in Maine to continue their education, $1,000,000";

(3) the provision specifying $10,000,000 for the Shriver Peace Worker Program, Inc. shall be deemed to read as follows: "Shriver Peace Worker Program, Inc. to establish the Sargent Shriver Peace Center, which may include establishing an endowment for such center, for the purpose of supporting graduate research fellowships, professorships, and grants and scholarships for students related to peace studies and social change, $10,000,000"; and

(4) the provision specifying $1,000,000 for Cleveland State University shall be deemed to read as follows: "Cleveland State University, College of Education, Cleveland, Ohio, for a K–16 Urban School Leadership initiative, $1,000,000".

### EDUCATION RESEARCH, STATISTICS, AND ASSESSMENT

The matter under this heading in Public Law 107–116, is amended by inserting before the period the following new proviso: ": Provided further, That $5,000,000 shall be available to extend for one additional year the contract for the Eisenhower National Clearinghouse for Mathematics and Science Education authorized under section 2102(a)(2) of the Elementary and Secondary Education Act of 1965, prior to its amendment by the No Child Left Behind Act of 2001, Public Law 107–110".

### GENERAL PROVISIONS—THIS CHAPTER

SEC. 801. The Elementary and Secondary Education Act of 1965 is hereby amended in section 8003 by amending subsection (b)(2)(D)(ii)(III) to read as follows: "For a local educational agency that does not qualify under (B)(i)(II)(aa) of this subsection and has an enrollment of more than 100 but not more than 1,000 children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.25.".

SEC. 802. The Elementary and Secondary Education Act of 1965 is hereby amended in section 8003(b)(1) by adding the following as subparagraph (G):

"(G) Beginning with fiscal year 2002, for the purpose of calculating a payment under this paragraph for a local educational agency whose local contribution rate was computed under subparagraph (C)(iii) for the previous year, the Secretary shall use a local contribution rate that is not less than 95 percent of the rate that the LEA received for the preceding year.".

SEC. 803. Amounts made available in Public Law 107–116 for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, and the Department of Education, shall be reduced by $45,000,000: Provided, That this provision shall not apply to the Food and Drug Administration and the Indian Health Service: Provided further, That not later than 15 days after the enactment of this Act, the Director of the Office of Management and Budget shall report to the House and Senate Committees on Appropriations the accounts subject to the reductions and the amount to be reduced in each account.

SEC. 804. (a) Section 487 of the Public Health Service Act (42 U.S.C. 288) is amended by striking "National Research Service Awards" or "National Research Service Award" each place either appears and inserting in lieu thereof "Ruth L. Kirschstein National Research Service Awards" or "Ruth L. Kirschstein National Research Service Award" as appropriate.

(b) The heading for Section 487 of the Public Health Service Act (42 U.S.C. 288) is amended to read as follows: "Ruth L. Kirschstein National Research Service Awards".

(c) Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to "National Research Service Awards" shall be considered to be a reference to "Ruth L. Kirschstein National Research Service Awards".

SEC. 805. None of the funds provided by this or any other Act may be used to enforce the amendments made by section 166 of the Community Renewal Tax Relief Act of 2000 in Alaska, including the imposition of any penalties.

SEC. 806. In the statement of the managers of the committee of conference accompanying the fiscal year 2001 Labor, Health and Human Services, and Education appropriations bill (Public Law 106–554; House Report 106–1033), the provision specifying $464,000 for the Bethel Native Corporation worker demonstration project shall be deemed to read as follows: "for the Alaska CHAR vocational training program, $100,000 and $364,000 for the Yuut Elitnaurviat People's Learning Center in Bethel, Alaska for vocational training for Alaska Natives".

SEC. 807. Notwithstanding any other provision of law, from September 1 through September 30, 2002, the Secretary of Education may transfer to Program Administration an amount necessary to offset any reduction pursuant to section 803 of this Act but not to exceed $5,000,000 from funds made available in the Department of Education Appropriations Act, 2002, that the Secretary determines are not needed to fully fund all qualified grant applications and would otherwise lapse at the end of fiscal year 2002: Provided, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any such transfer.

## CHAPTER 9

## LEGISLATIVE BRANCH

## HOUSE OF REPRESENTATIVES

### SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the House of Representatives, $1,600,000, as follows:

### COMMITTEE EMPLOYEES

### STANDING COMMITTEES, SPECIAL AND SELECT

For an additional amount for salaries and expenses of standing committees, special and select, authorized by House resolutions, $1,600,000:

Provided, That such amount shall remain available for such salaries and expenses until December 31, 2002.

### JOINT ITEMS

### CAPITOL POLICE BOARD

### CAPITOL POLICE

### GENERAL EXPENSES

For an additional amount for the Capitol Police Board for necessary expenses of the Capitol Police, including computer equipment and services, training, communications, uniforms, weapons, and reimbursement to the Environmental Protection Agency, Hazardous Substance Superfund for additional expenses incurred for anthrax investigations and cleanup actions, $16,100,000, to remain available until expended, to be disbursed by the Capitol Police Board or their delegee.

### LIBRARY OF CONGRESS

### COPYRIGHT OFFICE

### SALARIES AND EXPENSES

For an additional amount for "Copyright Office, Salaries and expenses", $7,500,000, to remain available until expended.

### ADMINISTRATIVE PROVISIONS

SEC. 901. The amount otherwise made available under section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58) for fiscal year 2002 to any Senator from the Senators' Official Personnel and Office Expense Account shall be increased by the amount (not in excess of $20,000) which the Senator certifies in a written request to the Secretary of the Senate made not later than September 30, 2002, as being necessary for the payment or reimbursement of expenditures incurred or obligated during fiscal year 2002 that—

(1) are otherwise payable from such account, and

(2) are directly related to responses to the terrorist attacks of September 11, 2001, or the discovery of anthrax in the Senate complex and the displacement of Senate offices due to such discovery.

SEC. 902. (a) Chapter 9 of the Emergency Supplemental Act, 2002 (Public Law 107–117; 115 Stat. 2315), is amended—

(1) in section 901(a), by striking "buildings and facilities" and insert "buildings and facilities, subject to the availability of appropriations,".

(b) Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a), is amended by redesignating the subsection (b) added by section 903(c)(2) of the Emergency Supplemental Act, 2002, as subsection (c).

(c) The amendment made by this section shall take effect as if included in the enactment of the Emergency Supplemental Act, 2002.

SEC. 903. (a) Chapter 9 of the Emergency Supplemental Act, 2002 (Public Law 107–117; 115 Stat. 2315), is amended—

(1) in section 903(a), by striking "buildings and facilities" and insert "buildings and facilities, subject to the availability of appropriations,".

(b) Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a), is amended by redesignating the subsection (b) added by section 903(c)(2) of the Emergency Supplemental Act, 2002, as subsection (c).

(c) The amendment made by this section shall take effect as if included in the enactment of the Emergency Supplemental Act, 2002.

SEC. 904. Nothing in section 1535 of title 31, U.S.C. (commonly referred to as the "Economy Act"), or any other provision of such title may be construed to prevent or restrict the Chief Administrative Officer of the House of Representatives from placing orders under such section during any fiscal year in the same manner and to the same extent as the head of any other major organizational unit with an agency may place orders under such section during a fiscal year.

SEC. 905. (a) The Architect of the Capitol is authorized, subject to the availability of appropriations, to acquire (through purchase, lease, or otherwise) buildings and facilities for use as computer backup facilities (and related uses) for offices in the legislative branch.

(b) The acquisition of a building or facility under subsection (a) shall be subject to the approval of—

(1) the House Office Building Commission, in the case of a building or facility acquired for the use of an office of the House of Representatives;

(2) the Committee on Rules and Administration of the Senate, in the case of a building or facility acquired for the use of an office of the Senate; or

(3) the House Office Building Commission in the case of a building or facility acquired for the use of any other office in the legislative branch as part of a joint facility with (1) above, or the Committee on Rules and Administration of the Senate, in the case of a building or facility acquired for the use of any other office in the legislative branch as part of a joint facility with (2) above.

(c) Any building or facility acquired by the Architect of the Capitol pursuant to subsection (a) shall be a part of the United States Capitol Grounds and shall be subject to the provisions of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946.

(d) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 906. (a) There is hereby established in the Treasury of the United States an account for the Architect of the Capitol to be known as "Capitol Police Buildings and Grounds" (hereinafter in this section referred to as the "account").

(b) Funds in the account shall be used by the Architect of the Capitol for all necessary expenses for the maintenance, care, and operation of buildings and grounds of the United States Capitol Police.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year. Any amounts provided to the Architect of the Capitol prior to the date of the enactment of this Act for the maintenance, care, and operation of buildings of the United States Capitol Police during fiscal year 2002 shall be transferred to the account.

SEC. 907. (a) Subject to the approval of the House Office Building Commission and the Senate Committee on Rules and Administration, the Architect of the Capitol is authorized to acquire (through purchase, lease, transfer from another Federal entity, or otherwise) real property, subject to the availability of appropriations and upon approval of an obligation plan by the Committees on Appropriations of the House and Senate, for the use of the United States Capitol Police.

(b) Any real property acquired by the Architect of the Capitol pursuant to subsection (a) shall be a part of the United States Capitol Grounds and shall be subject to the provisions of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

## CHAPTER 10

## DEPARTMENT OF DEFENSE

### MILITARY CONSTRUCTION

### MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $7,250,000, to remain available until September 30, 2006: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

### MILITARY CONSTRUCTION, DEFENSE-WIDE

### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military Construction, Defense-wide", $21,500,000, to remain available until September 30, 2006: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

### GENERAL PROVISION—THIS CHAPTER

SEC. 1001. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection, the Secretary shall notify the appropriate committees of Congress of the following:

(1) the determination to use such amounts for the project; and

(2) the estimated cost of the project and the accompanying Form 1391.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term "appropriate committees of Congress" has the meaning given that term in section 2801(4) of title 10, United States Code.

## CHAPTER 11

## DEPARTMENT OF TRANSPORTATION

### OFFICE OF THE SECRETARY

### TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

### (LIMITATION ON OBLIGATIONS)

Under this heading in Public Law 107–87, as amended by section 1106 of Public Law 107–117, delete "$116,023,000" and insert "$128,123,000".

### TRANSPORTATION SECURITY ADMINISTRATION

### (INCLUDING TRANSFER OF FUNDS)

For additional amounts for emergency expenses to ensure transportation security, $3,850,200,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of *the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That of the amounts provided under this head, $1,030,000,000 shall, immediately upon enactment of this Act, be transferred to Federal Emergency Management Agency "Disaster Relief" for emergency expenses to respond to the September 11, 2001 terrorist attack on the United States: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That of such amount, $480,200,000 shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress: Provided further, That of the total amount provided herein, the following amounts are available for obligation only for the specific purposes below:*

*(1) Physical modification of commercial service airports for the purpose of installing checked baggage explosive detection systems, including explosive trace detection systems, $738,000,000;*

*(2) Port security activities, $125,000,000, of which $105,000,000 shall be distributed under the same terms and conditions as provided for under Public Law 107–117 and of which $20,000,000 shall be used for developing and conducting port incident training and exercises;*

*(3) Grants and contracts to enhance security for intercity bus operations, $15,000,000;*

*(4) Grants, contracts and interagency agreements for the purpose of deploying Operation Safe Commerce, $28,000,000;*

*(5) Procurement of air-ground communications systems and devices for the Federal air marshal program, $15,000,000;*

*(6) Grants and contracts for radiation detection system test and evaluation, $4,000,000;*

*(7) Grants to airport authorities for pilot projects to improve airport terminal security, $17,000,000;*

*(8) Grants and contracts for security research, development, and pilot projects, $10,000,000; and*

*(9) Replacement of magnetometers at airport passenger screening locations in commercial service airports, $23,000,000:*

*Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time permanent positions.*

### U.S. COAST GUARD

#### OPERATING EXPENSES

*For an additional amount for "Operating Expenses" for emergency expenses for homeland security and other purposes, $200,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That of such amount, $11,000,000 shall be available only to the extent an official budget request that includes designation of the $11,000,000 as an emergency requirement as defined in such Act is transmitted by the President to the Congress.*

#### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

*For an additional amount for "Acquisition, Construction, and Improvements" for emergency expenses for homeland security and other purposes, $328,000,000, to remain available until September 30, 2004, of which $38,100,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment; $200,000,000 shall be available to acquire new aircraft and increase aviation capability; $27,729,000 shall be available for other equipment; and $62,171,000 shall be for shore facilities and aids to navigation facilities: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That of such amount, $262,000,000 shall be available only to the extent an official budget request that includes designation of the $262,000,000 as an emergency requirement as defined in such Act is transmitted by the President to the Congress.*

### FEDERAL AVIATION ADMINISTRATION

#### OPERATIONS

#### (INCLUDING TRANSFER OF FUNDS)

*For an additional amount for "Operations", $42,000,000, for security activities at Federal Aviation Administration facilities: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That an additional $33,000,000 may be derived by transfer from "Facilities and Equipment (Airport and Airway Trust Fund)".*

#### FACILITIES AND EQUIPMENT

#### (AIRPORT AND AIRWAY TRUST FUND)

*For an additional amount for "Facilities and Equipment", $7,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

#### GRANTS-IN-AID FOR AIRPORTS

#### (AIRPORT AND AIRWAY TRUST FUND)

*For an additional amount to enable the Federal Aviation Administrator to compensate airports for the direct costs associated with new, additional, or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, notwithstanding any other provision of law, $150,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### FEDERAL HIGHWAY ADMINISTRATION

#### FEDERAL-AID HIGHWAYS

#### EMERGENCY RELIEF PROGRAM

#### (HIGHWAY TRUST FUND)

*For an additional amount for "Emergency Relief Program", as authorized by 23 U.S.C. 125, for emergency expenses to respond to the September 11, 2001, terrorist attacks on New York City, $167,000,000 for the State of New York, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That notwithstanding 23 U.S.C. 120(e), the Federal share for any project on a Federal-aid highway related to the New York City terrorist attacks shall be 100 percent: Provided further, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than $100,000,000 for those projects: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

#### FEDERAL-AID HIGHWAYS

#### (HIGHWAY TRUST FUND)

#### (RESCISSION)

*Of the funds apportioned to each state under the programs authorized under sections 1101(a)(1), 1101(a)(2), 1101(a)(3), 1101(a)(4) and 1101(a)(5) of Public Law 105–178, as amended, $320,000,000 are rescinded.*

#### FEDERAL-AID HIGHWAYS

#### EMERGENCY RELIEF PROGRAM

#### (HIGHWAY TRUST FUND)

*For an additional amount for the "Emergency Relief Program", as authorized by section 125 of title 23, United States Code, $98,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

#### BORDER ENFORCEMENT PROGRAM

#### (HIGHWAY TRUST FUND)

*For necessary expenses of the Border Enforcement Program to respond to the September 11, 2001, terrorist attacks on the United States, $19,300,000, to be derived from the Highway Trust Fund, of which $4,200,000 shall be to implement section 1012 of Public Law 107–56 (USA Patriot Act); $10,000,000 shall be for drivers' license fraud detection and prevention, the northern border safety and security study, and hazardous material security education and outreach; and $5,100,000 shall be for the purposes of coordinating drivers' license registration and social security number verification: Provided, That in connection with such commercial drivers' license fraud deterrence projects, the Secretary may enter into such contracts or grants with the American Association of Motor Vehicle Administrators, States, or other persons as the Secretary may so designate to carry out these purposes: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

#### HAZARDOUS MATERIALS SECURITY

#### (HIGHWAY TRUST FUND)

*For necessary expenses to implement the hazardous materials safety permit program pursuant to 49 U.S.C. 5109, $5,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:*

Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

### FEDERAL RAILROAD ADMINISTRATION

#### GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the National Railroad Passenger Corporation for expenses to ensure the continuation of rail passenger operations, $205,000,000.

### FEDERAL TRANSIT ADMINISTRATION

#### CAPITAL INVESTMENT GRANTS

For an additional amount for "Capital Investment Grants" for emergency expenses to respond to the September 11, 2001, terrorist attacks in New York City, $1,800,000,000, to remain available until expended to replace, rebuild, or enhance the public transportation systems serving the Borough of Manhattan, New York City, New York: Provided, That the Secretary may use up to 1 percent of this amount for oversight activities: Provided further, That these funds are subject to grant requirements as determined by the Secretary to ensure that eligible projects will improve substantially the mobility of commuters in Lower Manhattan: Provided further, That the Federal share for any project funded from this amount shall be 100 percent: Provided further, That these funds are in addition to any other appropriation available for these purposes: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 1101. Notwithstanding any other provision of law, projects and activities designated on pages 82 through 92 of House Report 107–308 shall be eligible for fiscal year 2002 funds made available for the program for which each project or activity is so designated and projects and activities on pages 116 and 117 shall be awarded those grants upon receipt of an application.

SEC. 1102. Section 335 of Public Law 107–87 is amended by inserting "and the Transportation Security Administration" after "the Federal Aviation Administration"; by inserting ", aviation security" after "air navigation", and by inserting "and the TSA for necessary security checkpoints" after the word "facilities".

SEC. 1103. Title II of Division C of Public Law 105–277 is amended by striking "of more than 750 gross registered tons" in each place it appears, and inserting in lieu thereof, "of more than 750 gross registered tons (as measured under Chapter 145 of Title 46) or 1,900 gross registered tons as measured under Chapter 143 of that Title)".

SEC. 1104. Section 354 of Public Law 106–346 (114 Stat. 1356A–35) is amended by inserting "or Nail Road" after "Star Landing Road".

SEC. 1105. Notwithstanding any other provision of law, $2,750,000 of amounts made available for "Intelligent Transportation Systems" in Public Law 107–87 and Public Law 106–346 shall be made available for activities authorized under section 5118 of Public Law 105–178.

## CHAPTER 12

## DEPARTMENT OF THE TREASURY

### FEDERAL LAW ENFORCEMENT TRAINING CENTER

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for expenses of expanded law enforcement training workload resulting from the September 11, 2001 terrorist attacks against the United States, $15,870,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

### FINANCIAL MANAGEMENT SERVICE

#### SALARIES AND EXPENSES

#### (RESCISSION)

Of the unobligated balance as of June 30, 2002, of the funds made available for "Financial Management Service, Salaries and Expenses" in chapter 10 of title II of Public Law 107–20, $14,000,000 are rescinded.

### UNITED STATES CUSTOMS SERVICE

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $39,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

### INTERNAL REVENUE SERVICE

#### INFORMATION SYSTEMS

#### (RESCISSION)

Of the available balances under this heading, $10,000,000 are rescinded.

#### BUSINESS SYSTEMS MODERNIZATION

For an additional amount for "Internal Revenue Service, Business Systems Modernization", $14,000,000, to remain available until September 30, 2003. Such additional amount may not be obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for the expenditure of such additional amount that complies with the requirements as specified in clauses (1) through (6) under such heading in Public Law 107–67.

### UNITED STATES SECRET SERVICE

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for expenses related to the September 11, 2001 terrorist attacks against the United States, $28,530,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## POSTAL SERVICE

### PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for "Payment to the Postal Service Fund" for emergency expenses to enable the Postal Service to protect postal employees and postal customers from exposure to biohazardous material and to sanitize and screen the mail, $87,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

### OFFICE OF ADMINISTRATION

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $3,800,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### OFFICE OF MANAGEMENT AND BUDGET

#### SALARIES AND EXPENSES

#### (RESCISSION)

Of the funds made available under this heading in Public Law 107–67, $100,000 are rescinded.

#### ELECTION ADMINISTRATION REFORM AND RELATED EXPENSES

#### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the implementation of an Act authorizing funds for the improvement of election administration and related expenses, $400,000,000, to remain available until expended: Provided, That such amounts shall not be available for obligation until the enactment of such Act: Provided further, That upon enactment of such Act, the Director of the Office of Management and Budget shall transfer such amounts to the Federal entities authorized by such Act to expend funds for the designated purposes: Provided further, That, within 15 days of such transfers, the Director of the Office of Management and Budget shall notify Congress of the amounts transferred to each authorized Federal entity: Provided further, That the entities to which the amounts are transferred shall use the amounts to carry out the applicable provisions of such Act: Provided further, That the transfer authority provided in this paragraph shall be in addition to any other transfer authority provided in this or any other Act: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## INDEPENDENT AGENCIES

### FEDERAL ELECTION COMMISSION

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $750,000 for unanticipated costs associated with implementing the Bipartisan Campaign Reform Act.

### GENERAL SERVICES ADMINISTRATION

#### REAL PROPERTY ACTIVITIES

#### FEDERAL BUILDINGS FUND

For an additional amount for "Federal Buildings Fund" for building security emergency expenses resulting from the September 11, 2001, terrorist attacks on the United States, $21,800,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 1201. None of the funds appropriated in this or any other Act may be used to transfer *the functions, missions, or activities of the United States Customs Service to the Department of Justice.*

*SEC. 1202. (a) The Federal Law Enforcement Training Center may, for a period ending not later than 5 years after the date of the enactment of this Act, appoint and maintain a cadre of up to 250 Federal annuitants—(1) without regard to any provision of title 5, United States Code, which might otherwise require the application of competitive hiring procedures; and (2) who shall not be subject to any reduction in pay (for annuity allocable to the period of actual employment) under the provisions of section 8344 or 8468 of such title 5 or similar provision of any other retirement system for employees. A reemployed Federal annuitant as to whom a waiver of reduction under paragraph (2) applies shall not, for any period during which such waiver is in effect, be considered an employee for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or such other retirement system (referred to in paragraph (2)) as may apply.*

*(b) No appointment under this section may be made which would result in the displacement of any employee.*

*(c) For purposes of this section—*

*(1) the term "Federal annuitant" means an employee who has retired under the Civil Service Retirement System, the Federal Employees' Retirement System, or any other retirement system for employees;*

*(2) the term "employee" has the meaning given such term by section 2105 of such title 5; and*

*(3) the counting of Federal annuitants shall be done on a full time equivalent basis.*

*SEC. 1203. Notwithstanding any other provision of law, hereafter, for purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), the Eisenhower Exchange Fellowship Program shall be deemed an executive agency for the purposes of carrying out the provisions of 20 U.S.C. 5201, and the employees of and participants in the Eisenhower Exchange Fellowship Program shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.*

## *CHAPTER 13*

## *DEPARTMENT OF VETERANS AFFAIRS*

### *VETERANS BENEFITS ADMINISTRATION*

### *COMPENSATION AND PENSIONS*

*For an additional amount for "Compensation and pensions", $1,100,000,000, to remain available until expended.*

### *VETERANS HEALTH ADMINISTRATION*

### *MEDICAL CARE*

*For an additional amount for "Medical care", $417,000,000, to remain available until September 30, 2003: Provided, That the funds provided herein be allocated using the VERA methodology: Provided further, That for the purposes of enabling the collection from third-party insurance carriers for non-service related medical care of veterans, all Department of Veterans Affairs healthcare facilities are hereby certified as Medicare and Medicaid providers and the Centers for Medicare and Medicaid Services within the Department of Health and Human Services shall issue each Department of Veterans Affairs healthcare facility a provider number as soon as practicable after the date of enactment of this Act: Provided further, That nothing in the preceding proviso shall be construed to enable the Department of Veterans Affairs to bill Medicare or Medicaid for any medical services provided by the Veterans Health Administration or to require the Centers for Medicare and Medicaid Services to pay for any medical services provided by the Department of Veterans Affairs: Provided further, That $275,000,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $275,000,000 shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

## *DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT*

### *PUBLIC AND INDIAN HOUSING*

### *HOUSING CERTIFICATE FUND*

### *(RESCISSION)*

*Of the unobligated balances remaining from funds appropriated to the Department of Housing and Urban Development under this heading or the heading "Annual contributions for assisted housing" or any other heading for fiscal year 2002 and prior years, $388,500,000 is hereby rescinded: Provided, That this rescission shall apply first to such unobligated balances under this heading or the heading "Annual contributions for assisted housing": Provided further, That any unobligated balances governed by reallocation provisions under the statute authorizing the program for which the funds were originally appropriated may be available for this rescission subject to the first proviso.*

### *COMMUNITY PLANNING AND DEVELOPMENT*

### *COMMUNITY DEVELOPMENT FUND*

*For an additional amount for the "Community development fund" for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $783,000,000, to remain available until expended: Provided, That the State of New York, in cooperation with the City of New York, shall, through the Lower Manhattan Development Corporation, distribute these funds: Provided further, That such funds may be used for assistance for properties and businesses (including the restoration of utility infrastructure) damaged by, and for economic revitalization directly related to, the terrorist attacks on the United States that occurred on September 11, 2001, in New York City and for reimbursement to the State and City of New York for expenditures incurred from the regular Community Development Block Grant formula allocation used to achieve these same purposes: Provided further, That the State of New York is authorized to provide such assistance to the City of New York: Provided further, That in administering these funds and funds under section 108 of title I of the Housing and Community Development Act of 1974, as amended, used for economic revitalization activities in New York City, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the use of such funds or guarantees: Provided further, That such funds shall not adversely affect the amount of any formula assistance received by the State of New York, New York City, or any categorical application for other Federal assistance: Provided further, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974, as amended, no later than 5 days before the effective date of such waiver: Provided further, That the Secretary shall notify the Committees on Appropriations on the proposed allocation of any funds and any related waivers pursuant to this section no later than 5 days before such allocation: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

*The referenced statement of the managers under the heading "Community development block grants" in title II of Public Law 105–276 is deemed to be amended by striking "$250,000 for renovation, accessibility, and asbestos remediation for the Wellstone Neighborhood Center, Wellstone, Missouri" and insert in lieu thereof "$250,000 for the St. Louis Economic Council for design, infrastructure and construction related to the Enterprise Center-Wellstone in Wellstone, Missouri".*

*The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 106–377 is deemed to be amended by striking "$2,000,000 is for the Louisville Community Development Bank for the Louisville Neighborhood Initiative" and inserting "$2,000,000 for neighborhood revitalization activities in Louisville, Kentucky, as follows: $170,000 to the Christian Church Homes of Kentucky for facility upgrades at Chapel House, $500,000 to the Louisville Medical Center Development Corporation for expansion of a research park, $400,000 to the Louisville Science Center for construction of a permanent exhibition, $150,000 to the New Zion Community Development Foundation for renovation of a facility, $400,000 to the Presbyterian Community Center for construction of a facility, $180,000 to the St. Stephen Family Life Center for renovation of a facility, and $200,000 to the United Crescent Hill Ministries for renovation of a facility".*

*The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 106–377 is deemed to be amended by striking "$1,000,000 for the Community Action Agency of Southern New Mexico, Inc. for construction of a regional food bank and supporting offices" and insert in lieu thereof "$1,000,000 for the Community Action Agency of Southern New Mexico for construction, purchase, or renovation and the equipping of a regional food bank and supporting offices".*

*The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 107–73 is deemed to be amended by striking "$400,000 to the City of Reading, Pennsylvania for the development of the Morgantown Road Industrial Park on what is currently a brownfields site" and insert in lieu thereof "$400,000 for the City of Reading, Pennsylvania for the development of the American Chain and Cable brownfield site".*

*The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 107–73 is deemed to be amended by striking "$750,000 for the Smart Start Child Care Center and Expertise School of Las Vegas, Nevada for construction of a child care facility" and insert in lieu thereof "$250,000 for the Smart Start Child Care Center of Las Vegas, Nevada for construction of a child care facility and $500,000 for Expertise, Inc. of Las Vegas, Nevada for job training".*

*The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 107–73 is deemed to be amended by striking "$3,000,000 for the Louisville Community Development Bank for continuation of the Louisville Neighborhood Initiative" and inserting "$3,000,000 for neighborhood revitalization activities in Louisville, Kentucky, as follows: $250,000 to the Bridgehaven Mental Health Agency for planning and development of a facility, $600,000 to the Cable Life*

*Community Enrichment Corporation for construction of a facility, $350,000 to Catholic Charities for renovation of a facility, $500,000 to the Center for Women and Families for an affordable housing program, $100,000 to the Clifton Cultural Center for renovation of a historic building, $200,000 to Harrods Creek Community Development for construction of a facility, $200,000 to the James Taylor Memorial Home for facility improvements, $600,000 to the Kentucky Art and Craft Foundation for renovation of a facility, and $200,000 to the Shelby Park Neighborhood Association for facility construction".*

*The referenced statement of the managers under the heading "Community development block grants" in title II of Public Law 106–74 is deemed to be amended with respect to the amount made available for the City of Hollister, California by striking "to the City of Hollister, California for the construction of a new fire station" and inserting "to the Monterey County, California Economic Development Agency for a mobile animal slaughter processing unit".*

*The unobligated amount appropriated in the third paragraph under the heading "Community development block grants" in chapter 8 of title II of the Emergency Supplemental Act, 2000 (Public Law 106–246; 114 Stat. 565), as subsequently made available under the heading "Community development fund" in chapter 13 of Division A of the Miscellaneous Appropriations Act, 2001 (H.R. 5666 (excluding section 123), 106th Congress, as enacted into law by Public Law 106–554; 114 Stat. 2763D–42), for a grant to the County of Richmond, North Carolina, shall remain available until September 30, 2003, for development and construction of the Richmond County Industrial Park.*

*The referenced statement of the managers under this heading in title II of Public Law 106–377 is deemed to be amended by striking "$300,000 for Upper Darby Township, Pennsylvania to assist residents with homes that are sinking due to soil subsidence" and insert in lieu thereof "$300,000 for Upper Darby Township, Pennsylvania to assist residents with homes that are sinking due to soil subsidence and for the development of a recreation area, including parking, at Shadeland Avenue".*

*The referenced statement of the managers under this heading in Public Law 107–73 is deemed to be amended by striking "$150,000 to Winchester County, Virginia for the historic restoration of the Winchester County Courthouse" and inserting "$150,000 to Frederick County, Virginia for the historic restoration of the Old Frederick County Courthouse in Winchester, Virginia".*

*The referenced statement of the managers under this heading in Public Law 107–73 is deemed to be amended with respect to the amount made available for Family Focus by striking "Family Focus" and inserting "the Weissbourd-Holmes Family Focus Center" and by striking "Evansville" and inserting "Evanston".*

*The referenced statement of the managers under this heading in Public Law 107–73 is deemed to be amended by striking "$100,000 for Morristown Neighborhood House for the infrastructure improvements to the Manahan Village Resident Center Childcare facility in Morristown, New Jersey" and inserting "$100,000 to the Somerset Valley YMCA Childcare Center in Somerset County, New Jersey for capital improvements".*

*The referenced statement of the managers under this heading in Public Law 107–73 is deemed to be amended by striking "$600,000 to the Reuben Lindh Family Services in Minneapolis, Minnesota for facilities rehabilitation" and inserting in lieu thereof "$350,000 to the Plymouth Christian Youth Center in Minneapolis, Minnesota for facilities rehabilitation and $250,000 to Migizi Communications in Minneapolis, Minnesota to repair and renovate its Family Education Center".*

#### *HOME INVESTMENT PARTNERSHIPS PROGRAM*

#### *(RESCISSION)*

*Of the funds made available under this heading in Public Law 107–73, $50,000,000 are rescinded from the Downpayment Assistance Initiative.*

### *Housing Programs*

#### *RENTAL HOUSING ASSISTANCE*

#### *(RESCISSION)*

*The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 2002 by not more than $300,000,000 in uncommitted balances of authorizations of contract authority provided for this purpose in appropriations acts: Provided, That up to $300,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall be rescinded in fiscal year 2002.*

## *INDEPENDENT AGENCIES*

## *DEPARTMENT OF HEALTH AND HUMAN SERVICES*

### *National Institutes of Health*

#### *NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES*

*For an additional amount for "National Institute of Environmental Health Sciences", $8,000,000, to remain available until September 30, 2003, to carry out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 in response to the September 11, 2001, terrorist attacks on the United States: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *Agency for Toxic Substances and Disease Registry*

#### *TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH*

*For an additional amount for "Toxic substances and environmental public health", $11,300,000, to remain available until September 30, 2003, of which $1,800,000 is for additional expenses incurred in response to the September 11, 2001, terrorist attacks on the United States, and of which $9,500,000 is to enhance the States' capacity to respond to chemical terrorism events: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balance Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *Environmental Protection Agency*

#### *SCIENCE AND TECHNOLOGY*

*For an additional amount for "Science and technology", $50,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

#### *ENVIRONMENTAL PROGRAMS AND MANAGEMENT*

#### *(TRANSFER OF FUNDS)*

*Of the amount appropriated under this heading in title III of Public Law 107–73 to develop engineering plans for addressing the wastewater infrastructure needs in Rosman, North Carolina as identified in project number 67, $400,000 shall be transferred to the "State and tribal assistance grants" account to remain available until expended for grants for wastewater and sewer infrastructure improvements in the Town of Rosman, North Carolina.*

#### *STATE AND TRIBAL ASSISTANCE GRANTS*

*The referenced statement of the managers under this heading in Public Law 106–377 is deemed to be amended by striking everything after "$1,000,000" in reference to item 91 and inserting "to the Northern Kentucky Area Development District for Carroll County Wastewater Infrastructure Project ($500,000), City of Owenton Water Collection and Treatment System Improvements and Freshwater Intake Project ($400,000), Grant County Williamstown Lake Expansion Project ($50,000), and Pendleton County Williamstown Lake Expansion Project ($50,000)".*

*The referenced statement of the managers under this heading in Public Law 107–73 is deemed to be amended by striking everything after "for" in reference to item number 202 and inserting "storm water infrastructure improvements".*

*Grants appropriated under this heading in Public Law 107–73 for drinking water infrastructure needs in the New York City watershed shall be awarded under section 1443(d) of the Safe Drinking Water Act, as amended.*

*The referenced statement of the managers under this heading in Public Law 106–377 is deemed to be amended by striking everything after "$2,000,000" in reference to item number 168 and inserting "for the Town of Wallace, North Carolina for a regional wastewater infrastructure improvement project ($1,000,000), and for the Town of Cary, North Carolina for wastewater infrastructure improvements including the treatment of biosolids ($1,000,000).".*

*The referenced statement of managers under this heading in Public Law 107–73 is deemed to be amended in item 19 by inserting the words "water and" after the word "for".*

*The referenced statement of the managers under this heading in Public Law 107–73 is deemed to be amended by striking everything after "sewer" in reference to item number 183 and inserting "and drinking water upgrade project in Anaconda, Montana".*

*The referenced statement of the managers under this heading in Public Law 107–73 is deemed to be amended by striking "the City of Florence, Montana" in reference to item number 184 and inserting "the Florence County Water and Sewer District".*

### *Federal Emergency Management Agency*

#### *DISASTER RELIEF*

*For an additional amount for "Disaster relief" for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States in carrying out the Robert T.*

*Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), and the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), $2,650,700,000, to remain available until expended: Provided, That in administering the Mortgage and Rental Assistance Program for victims of September 11, 2001, the Federal Emergency Management Agency will recognize those people who were either directly employed in the Borough of Manhattan or had at least 75 percent of their wages coming from business conducted within the Borough of Manhattan as eligible for assistance under the program, as they were directly impacted by the terrorist attacks: Provided further, That FEMA shall provide compensation to previously denied Mortgage and Rental Assistance Program applicants who would qualify under these new guidelines: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

### *DISASTER ASSISTANCE FOR UNMET NEEDS*

*For an additional amount for "Disaster assistance for unmet needs", $23,200,000, to remain available until September 30, 2004, for use by the Director of the Federal Emergency Management Agency (Director) only for disaster relief, long-term recovery, and mitigation in communities affected by Presidentially-declared natural disasters designated during fiscal year 2002, only to the extent funds are not made available for those activities by the Federal Emergency Management Agency (under its "Disaster relief" program) or the Small Business Administration: Provided, That in administering these funds the Director shall allocate these funds to States to be administered by each State in conjunction with its Federal Emergency Management Agency Disaster Relief program: Provided further, That each State shall provide not less than 25 percent in non-Federal public matching funds or its equivalent value (other than administrative costs) for any funds allocated to the State under this heading: Provided further, That the Director shall allocate these funds based on the unmet needs arising from a Presidentially-declared disaster as identified by the Director as those which have not or will not be addressed by other Federal disaster assistance programs and for which it is deemed appropriate to supplement the efforts and available resources of States, local governments and disaster relief organizations: Provided further, That the Director shall establish review groups within the Federal Emergency Management Agency to review each request by a State of its unmet needs and certify as to the actual costs associated with the unmet needs as well as the commitment and ability of each State to provide its match requirement: Provided further, That the Director shall publish a notice in the Federal Register governing the allocation and use of the funds under this heading, including provisions for ensuring the compliance of the States with the requirements of this program: Provided further, That 10 days prior to distribution of funds, the Director shall submit a list to the House and Senate Committees on Appropriations setting forth the proposed uses of funds and the most recent estimates of unmet needs: Provided further, That the Director shall submit quarterly reports to said Committees regarding the actual projects and needs for which funds have been provided under this heading: Provided further, That to the extent any funds under this heading are used in a manner inconsistent with the requirements of the program established under this heading and rules issued pursuant thereto, the Director shall recapture an equivalent amount of funds from the State from any existing funds or future funds awarded to the State under this heading or any other program administered by the Federal Emergency Management Agency: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE*

*For an additional amount for "Emergency management planning and assistance" for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $447,200,000, to remain available until September 30, 2003, of which $150,000,000 is for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.); $54,200,000 for the existing national urban search and rescue system; and $50,000,000 for interoperable communications equipment: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $221,800,000 shall be available only to the extent an official budget request, that includes designation of the $221,800,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

### *CERRO GRANDE FIRE CLAIMS*

*For an additional amount for "Cerro Grande fire claims", $61,000,000 for claims resulting from the Cerro Grande fires, to remain available until September 30, 2003: Provided, That up to 5 percent of the amount made available under this heading may be used for administrative costs: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

## *NATIONAL SCIENCE FOUNDATION*

### *EDUCATION AND HUMAN RESOURCES*

*For an additional amount for "Education and human resources" for emergency expenses to respond to emergent needs in cyber security, $19,300,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

## *GENERAL PROVISIONS—THIS CHAPTER*

*SEC. 1301. Notwithstanding the first paragraph of the item in title II of Public Law 107–73 relating to "Federal housing administration, Mutual mortgage insurance program account", during fiscal year 2002, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act shall not exceed a loan principal of $165,000,000,000.*

*SEC. 1302. Notwithstanding the first paragraph of the item in title II of Public Law 107–73 related to "Federal housing administration, General and special risk program account", any amounts made available for fiscal year 2002 for the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974), shall be available to subsidize total loan principal, any part of which is to be guaranteed, of up to $23,000,000,000.*

*SEC. 1303. The Secretary of Housing and Urban Development shall begin to enter into new agreements and contracts pursuant to the Asset Control Area Demonstration Program as provided in section 602 of Public Law 105–276 not later than September 15, 2002: Provided, That any agreement or contract entered into pursuant to such program shall be consistent with the requirements of such section 602: Provided further, That the Department shall develop proposed regulations for this program not later than September 15, 2002.*

*SEC. 1304. The Secretary of Housing and Urban Development shall submit a report every 90 days to the House and Senate Committees on Appropriations on the status of any multifamily housing project (including all hospitals and nursing homes) insured under the National Housing Act that has been in default for longer than 60 days. The report shall include the location of the property, the reason for the default, and all actions taken by the Secretary and owner with regard to the default, including any work-out agreements, the status and terms of any assistance or loans, and any transfer of an ownership interest in the property (including any assistance or loans made to the prior, current or intended owner of the property or to the local unit of government in which the property is located). The initial report shall be submitted no later than September 16, 2002.*

*SEC. 1305. For purposes of facilitating the sale of Stafford Apartments (FHA Project No: 052–44163) for use as student housing—*

*(1) the Secretary of Housing and Urban Development shall renew the section 8 contract that was associated with such property and that expired during fiscal year 2001 at rent levels not to exceed market rents as determined by the Secretary, subject to annual operating cost adjustment factor increases, and subject to such other conditions as the Secretary may determine appropriate, and the renewal of such contract shall be deemed to have taken effect as of October 1, 2001;*

*(2) prior to sale of this property for student housing, any funds remaining in the property's residual receipts and reserve for replacement accounts shall be used in connection with the relocation of tenants under this section, and any remaining amounts shall be returned to the Secretary;*

*(3) subject to the concurrence by the Secretary with the relocation plan for current tenants, the payment in full of mortgages on this property insured pursuant to sections 236(j) and 241(a) of the National Housing Act and the resultant termination of the insurance contracts associated with those mortgages, the payment in full of the loan on this property made pursuant to section 201 of the Housing and Community Development Amendments of 1978, and, as of the date of sale, the termination of any assistance under section 236(f)(2) of the National Housing Act and section 8 of the United States Housing Act of 1937 and the return to the Secretary of any such assistance that has not been expended, such property may be sold for use as student housing, notwithstanding any federal use restrictions required pursuant to Section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a) and section 250 of the National Housing Act (12 U.S.C. 1715z–15);*

*(4) upon the concurrence by the Secretary of such relocation plan and the sale of such property for use as student housing, all of the tenants of such property shall be relocated and*

*shall receive, subject to the availability of funds, tenant-based assistance under section 8(o) of the United States Housing Act of 1937, notwithstanding any rights of such tenants to elect to remain in such property pursuant to section 8(t) of such Act (42 U.S.C. 1437f(t)) or to receive enhanced voucher assistance under such section; and*

*(5) the provisions of this section shall only remain effective for 24 months from the date of enactment of this section.*

### *CHAPTER 14*

### *GENERAL PROVISIONS*

*SEC. 1401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.*

*SEC. 1402. Notwithstanding any other provision of law, all adjustments made pursuant to section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 to the highway category and to section 8103(a)(5) of the Transportation Equity Act for the 21st Century for fiscal year 2003 shall be deemed to be zero. This section shall apply immediately to all reports issued pursuant to section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2003, including the discretionary sequester preview report.*

### *FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES*

### *(RESCISSIONS)*

*SEC. 1403. (a) Of the funds available to the agencies of the Federal Government from prior Appropriations Acts, $350,000,000 are hereby rescinded: Provided, That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: Provided further, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the executive branch, including the Office of the President.*

*(b) Within 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section: Provided, That the Office of Management and Budget shall also include with such listing an explanation of the methodology used to identify the offices, accounts, and amounts to be reduced.*

*SEC. 1404. Any amount appropriated in this Act for which availability is made contingent by a provision of this Act on designation by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be available for obligation unless all such contingent amounts are designated by the President, within 30 days of enactment of this Act, as such emergency requirements.*

## ***TITLE II—AMERICAN SERVICE- MEMBERS' PROTECTION ACT***

***SEC. 2001. SHORT TITLE.***

*This title may be cited as the "American Servicemembers' Protection Act of 2002".*

***SEC. 2002. FINDINGS.***

*Congress makes the following findings:*

*(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the "Rome Statute of the International Criminal Court". The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.*

*(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.*

*(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.*

*(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: "We are left with consequences that do not serve the cause of international justice."*

*(5) Ambassador Scheffer went on to tell the Congress that: "Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.".*

*(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, "I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied".*

*(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.*

*(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.*

*(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.*

*(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to "determine the existence of any .... act of aggression" would contravene the charter of the United Nations and undermine deterrence.*

*(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.*

***SEC. 2003. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.***

*(a) AUTHORITY TO INITIALLY WAIVE SECTIONS 5 AND 7.—The President is authorized to waive the prohibitions and requirements of sections 2005 and 2007 for a single period of 1 year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—*

*(1) notifies the appropriate congressional committees of the intention to exercise such authority; and*

*(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—*

*(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:*

*(i) covered United States persons;*

*(ii) covered allied persons; and*

*(iii) individuals who were covered United States persons or covered allied persons; and*

*(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.*

*(b) AUTHORITY TO EXTEND WAIVER OF SECTIONS 5 AND 7.—The President is authorized to waive the prohibitions and requirements of sections 2005 and 2007 for successive periods of 1 year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—*

*(1) notifies the appropriate congressional committees of the intention to exercise such authority; and*

*(2) determines and reports to the appropriate congressional committees that the International Criminal Court—*

*(A) remains party to, and has continued to abide by, a binding agreement that—*

*(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:*

*(I) covered United States persons;*

*(II) covered allied persons; and*

*(III) individuals who were covered United States persons or covered allied persons; and*

*(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and*

*(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).*

*(c) AUTHORITY TO WAIVE SECTIONS 4 AND 6 WITH RESPECT TO AN INVESTIGATION OR PROSECUTION OF A NAMED INDIVIDUAL.—The President is authorized to waive the prohibitions and requirements of sections 2004 and 2006 to the degree such prohibitions and requirements would*

*prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—*

*(1) notifies the appropriate congressional committees of the intention to exercise such authority; and*

*(2) determines and reports to the appropriate congressional committees that—*

*(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 2005 and 2007 is in effect;*

*(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;*

*(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and*

*(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:*

*(i) Covered United States persons.*

*(ii) Covered allied persons.*

*(iii) Individuals who were covered United States persons or covered allied persons.*

*(d) Termination of Waiver Pursuant to Subsection (c).—Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections 2004 and 2006 shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 2005 and 2007 expires and is not extended pursuant to subsection (b).*

*(e) Termination of Prohibitions of This Title.—The prohibitions and requirements of sections 2004, 2005, 2006, and 2007 shall cease to apply, and the authority of section 2008 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.*

### ***SEC. 2004. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.***

*(a) Application.—The provisions of this section—*

*(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and*

*(2) shall not prohibit—*

*(A) any action permitted under section 2008; or*

*(B) communication by the United States of its policy with respect to a matter.*

*(b) Prohibition on Responding to Requests for Cooperation.—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.*

*(c) Prohibition on Transmittal of Letters Rogatory From the International Criminal Court.—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.*

*(d) Prohibition on Extradition to the International Criminal Court.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.*

*(e) Prohibition on Provision of Support to the International Criminal Court.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.*

*(f) Prohibition on Use of Appropriated Funds To Assist the International Criminal Court.—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.*

*(g) Restriction on Assistance Pursuant to Mutual Legal Assistance Treaties.—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters; multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.*

*(h) Prohibition on Investigative Activities of Agents.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.*

### ***SEC. 2005. RESTRICTION ON UNITED STATES PARTICIPATION IN CERTAIN UNITED NATIONS PEACEKEEPING OPERATIONS.***

*(a) Policy.—Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.*

*(b) Restriction.—Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.*

*(c) Certification.—The certification referred to in subsection (b) is a certification by the President that—*

*(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;*

*(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or*

*(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.*

### ***SEC. 2006. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.***

*(a) In General.—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.*

*(b) Indirect Transfer.—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.*

*(c) Construction.—The provisions of this section shall not be construed to prohibit any action permitted under section 2008.*

### ***SEC. 2007. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE TO PARTIES TO THE INTERNATIONAL CRIMINAL COURT.***

*(a) Prohibition of Military Assistance.—Subject to subsections (b) and (c), and effective 1 year after the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute; no United States military assistance may be provided to the government of a country that is a party to the International Criminal Court.*

*(b) National Interest Waiver.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines*

*and reports to the appropriate congressional committees that it is important to the national interest of the United States to waive such prohibition.*

*(c) ARTICLE 98 WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal court from proceeding against United States personnel present in such country.*

*(d) EXEMPTION.—The prohibition of subsection (a) shall not apply to the government of—*

*(1) a NATO member country;*

*(2) a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand); or*

*(3) Taiwan.*

### SEC. 2008. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.

*(a) AUTHORITY.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.*

*(b) PERSONS AUTHORIZED TO BE FREED.—The authority of subsection (a) shall extend to the following persons:*

*(1) Covered United States persons.*

*(2) Covered allied persons.*

*(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.*

*(c) AUTHORIZATION OF LEGAL ASSISTANCE.—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—*

*(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);*

*(2) exculpatory evidence on behalf of that person; and*

*(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.*

*(d) BRIBES AND OTHER INDUCEMENTS NOT AUTHORIZED.—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).*

### SEC. 2009. ALLIANCE COMMAND ARRANGEMENTS.

*(a) REPORT ON ALLIANCE COMMAND ARRANGEMENTS.—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—*

*(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and*

*(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.*

*(b) DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Not later than 1 year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).*

*(c) SUBMISSION IN CLASSIFIED FORM.—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.*

### SEC. 2010. WITHHOLDINGS.

*Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.*

### SEC. 2011. APPLICATION OF SECTIONS 2004 AND 2006 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.

*(a) IN GENERAL.—Sections 2004 and 2006 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.*

*(b) NOTIFICATION TO CONGRESS.—*

*(1) IN GENERAL.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 2004 or 2006, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.*

*(2) EXCEPTION.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.*

*(c) CONSTRUCTION.—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.*

### SEC. 2012. NONDELEGATION.

*The authorities vested in the President by sections 2003 and 2011(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President by section 2005(c)(3) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.*

### SEC. 2013. DEFINITIONS.

*As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:*

*(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.*

*(2) CLASSIFIED NATIONAL SECURITY INFORMATION.—The term "classified national security information" means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.*

*(3) COVERED ALLIED PERSONS.—The term "covered allied persons" means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.*

*(4) COVERED UNITED STATES PERSONS.—The term "covered United States persons" means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.*

*(5) EXTRADITION.—The terms "extradition" and "extradite" mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.*

*(6) INTERNATIONAL CRIMINAL COURT.—The term "International Criminal Court" means the court established by the Rome Statute.*

*(7) MAJOR NON-NATO ALLY.—The term "major non-NATO ally" means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.*

*(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.*

*(9) PARTY TO THE INTERNATIONAL CRIMINAL COURT.—The term "party to the International*

Criminal Court" means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) ROME STATUTE.—The term "Rome Statute" means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) SUPPORT.—The term "support" means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) UNITED STATES MILITARY ASSISTANCE.—The term "United States military assistance" means—

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

### SEC. 2014. REPEAL OF LIMITATION.

The Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117) is amended by striking section 8173.

### SEC. 2015. ASSISTANCE TO INTERNATIONAL EFFORTS.

Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Queda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

## TITLE III—OTHER MATTERS

### SEC. 3001. AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (title II of Public Law 98–67; 19 U.S.C. 2703(b)(2)(A)) is amended—

(1) in clause (i), by adding at the end the following:

"Apparel articles shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States."; and

(2) in clause (ii), by adding at the end the following:

"Apparel articles shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.".

(b) ANDEAN TRADE PREFERENCE ACT.—Any duty free or other preferential treatment provided under the Andean Trade Preference Act to apparel articles assembled from fabric formed in the United States shall apply to such articles only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled if the fabrics are knit fabrics, is carried out in the United States. Any duty-free or other preferential treatment provided under the Andean Trade Preference Act to apparel articles assembled from fabric formed in the United States shall apply to such articles only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled if the fabrics are woven fabrics, is carried out in the United States.

(c) EFFECTIVE DATE.—Subsection (b) and the amendments made by subsection (a) shall take effect—

(1) 90 days after the date of the enactment of this Act, or

(2) September 1, 2002,

whichever occurs first.

### SEC. 3002. RURAL SERVICE IMPROVEMENT.

(a) SHORT TITLE.—This title may be cited as the "Rural Service Improvement Act of 2002".

(b) FINDINGS.—Congress makes the following findings:

(1) The State of Alaska is the largest State in the Union and has a very limited system of roads connecting communities.

(2) Alaska has more pilots per capita than any other State in the Union.

(3) Pilots flying in Alaska are often the most skilled and best-prepared pilots in the world.

(4) Air travel within the State of Alaska is often hampered by severe weather conditions and treacherous terrain.

(5) The United States Government owns nearly ⅔ of Alaska's landmass, including large tracts of land separating isolated communities within the State.

(6) Such Federal ownership has inhibited the ability of Alaskans to build roads connecting isolated communities.

(7) Most communities and a large portion of the population within the State can only be reached by air.

(8) The vast majority of food items and everyday necessities destined for these isolated communities and populations can only be transported through the air.

(9) The Intra-Alaska Bypass Mail system, created by Congress and operated by the United States Postal Service under section 5402 of title 39, United States Code, with input from the Department of Transportation, connecting hundreds of rural and isolated communities within the State, is a critical piece of the Alaska and the national transportation system. The system is like a 4-legged stool, designed to—

(A) provide the most affordable means of delivering food and everyday necessities to these rural and isolated communities;

(B) establish a system whereby the Postal Service can meet its obligations to deliver mail to every house and business in the United States;

(C) support affordable and reliable passenger service; and

(D) support affordable and reliable nonmail freight service.

(10) Without the Intra-Alaska Bypass Mail system—

(A) it would be difficult and more expensive for the Postal Service to meet its obligation of delivering mail to every house and business in the United States; and

(B) food, medicine, freight, and everyday necessities and passenger service for these rural and isolated communities would cost several times the current level.

(11) Attempts by Congress to support passenger and nonmail freight service in Alaska using the Intra-Alaska Bypass Mail system have yielded some positive results, but some carriers have been manipulating the system by carrying few, if any, passengers and little nonmail freight while earning most of their revenues from the carriage of nonpriority bypass mail.

(12) As long as the Federal Government continues to own large tracts of land within the State of Alaska which impede access to isolated communities, it is in the best interest of the Postal Service, the residents of Alaska and the United States—

(A) to ensure that the Intra-Alaska Bypass Mail system remains strong, viable, and affordable for the Postal Service;

(B) to ensure that residents of rural and isolated communities in Alaska continue to have affordable, reliable, and safe passenger service;

(C) to ensure that residents of rural and isolated communities in Alaska continue to have affordable, reliable, and safe nonmail freight service;

(D) to encourage that intra-Alaska air carriers move toward safer, more secure, and more reliable air transportation under the Federal Aviation Administration's guidelines and in accordance with part 121 of title 14, Code of Federal Regulations, where such operations are supported by the needs of the community; and

(E) that Congress, pursuant to the authority granted under Article I, section 8 of the United States Constitution to establish Post Offices and post roads, make changes to ensure that the Intra-Alaska Bypass Mail system continues to be used to support substantial passenger and nonmail freight service and to reduce costs for the Postal Service.

(c) SELECTION OF CARRIERS OF NONPRIORITY BYPASS MAIL TO CERTAIN POINTS IN ALASKA.—

(1) DEFINITIONS.—Section 5402 of title 39, United States Code, is amended—

(A) by striking subsection (e);

(B) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively; and

(C) by inserting before subsection (b), as redesignated, the following:

"(a) In this section—

"(1) the term 'acceptance point' means the point at which nonpriority bypass mail originates;

"(2) the terms 'air carrier', 'interstate air transportation', and 'foreign air transportation' have the meanings given such terms in section 40102(a) of title 49, United States Code;

"(3) the term 'base fare' means the fare paid to the carrier issuing the passenger ticket or carrying nonmail freight which may entail service being provided by more than 1 carrier;

"(4) the term 'bush carrier' means a carrier operating aircraft certificated within the payload capacity requirements of subsection (g)(1)(D)(i) on a city pair route;

"(5) the term 'bush passenger carrier' means a passenger carrier that meets the requirements of subsection (g)(1)(D)(i) and provides passenger service on a city pair route;

"(6) the term 'bush route' means an air route in which only a bush carrier is tendered nonpriority bypass mail between the origination point, being either an acceptance point or a hub, as determined by the Postal Service, and the destination city;

"(7) the term 'city pair' means service between an origin and destination city pair;

"(8) the term 'composite rate'—

"(A) means a combination of mainline and bush rates paid to a bush carrier for a direct flight from an acceptance point to a bush destination beyond a hub point; and

"(B) shall be based on the mainline rate paid to the hub, plus the lowest bush rate paid to bush carriers in the State of Alaska for the distance traveled from the hub point to the destination point;

"(9) the term 'equitable tender' means the practice of the Postal Service of equitably distributing mail on a fair and reasonable basis between those air carriers that offer equivalent services and costs between 2 communities in accordance with the regulations of the Postal Service;

"(10) the term 'existing mainline carrier' means a mainline carrier (as defined in this subsection) that on January 1, 2001, was—

"(A) certified under part 121;

"(B) qualified to provide mainline nonpriority bypass mail service; and

"(C) actually engaged in the carriage of mainline nonpriority bypass mail through scheduled service in the State of Alaska;

"(11) the term 'mainline carrier' means a carrier operating aircraft under part 121 and certificated within the payload capacity requirements of subsection (g)(1)(D)(ii) on a given city pair route;

"(12) the term 'mainline route' means a city pair in which a mainline carrier is tendered nonpriority bypass mail;

"(13) the term 'new', when referencing a carrier, means a carrier that—

"(A) meets the respective requirements of clause (i) or (ii) of subsection (g)(1)(D), depending on the type of route being served and the size of aircraft being used to provide service; and

"(B) began providing nonpriority bypass mail service on a city pair route in the State of Alaska after January 1, 2001;

"(14) the term 'part 121' means part 121 of title 14, Code of Federal Regulations;

"(15) the term 'part 135' means part 135 of title 14, Code of Federal Regulations;

"(16) the term 'scheduled service' means—

"(A) flights are operated in common carriage available to the general public under a published schedule;

"(B) flight schedules are announced in advance in systems specified by the Postal Service, in addition to the Official Airline Guide or the air cargo equivalent of that Guide;

"(C) flights depart whether full or not; and

"(D) customers contract for carriage separately on a regular basis;

"(17) the term 'Secretary' means the Secretary of Transportation;

"(18) the term '121 bush passenger carrier' means a bush passenger carrier providing passenger service on bush routes under part 121;

"(19) the term '121 mainline passenger carrier' means a mainline carrier providing passenger service through scheduled service on routes under part 121;

"(20) the term '121 passenger aircraft' means an aircraft flying passengers on a city pair route that is operated under part 121;

"(21) the term '121 passenger carrier' means a passenger carrier that provides scheduled service under part 121;

"(22) the term '135 bush passenger carrier' means a bush passenger carrier providing passenger service through scheduled service on bush routes under part 135; and

"(23) the term '135 passenger carrier' means a passenger carrier that provides scheduled service under part 135.".

(2) REQUIREMENTS FOR SELECTION.—Section 5402(g)(1) of title 39, United States Code, is amended—

(A) in the matter preceding subparagraph (A), by inserting after "in the State of Alaska," the following: "shall adhere to an equitable tender policy within a qualified group of carriers, in accordance with the regulations of the Postal Service, and";

(B) in subparagraph (C) by striking "to the best" and all that follows before the semicolon; and

(C) in subparagraph (D) by inserting "with at least 3 scheduled (noncontract) flights per week between two points" after "scheduled service".

(3) APPLICATION OF RATES.—Section 5402(g)(2) of title 39, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end the following:

"(C) shall offer a bush passenger carrier providing service on a route in the State of Alaska between an acceptance point and a hub not served by a mainline carrier the opportunity to receive equitable tender of nonpriority bypass mail at mainline service rates when a mainline carrier begins serving that route if the bush passenger carrier—

"(i) meets the requirements of paragraph (1);

"(ii) provided at least 20 percent of the passenger service (as calculated in subsection (h)(5)) between such city pair for the 6 months immediately preceding the date on which the bush carrier seeks such tender; and

"(iii) continues to provide not less than 20 percent of the passenger service on the city pair while seeking such tender;

"(D) shall offer bush passenger carriers and nonmail freight carriers the opportunity to receive equitable tender of nonpriority bypass mail at mainline service rates from a hub point to a destination city in the State of Alaska if the city pair is also being served by a mainline carrier and—

"(i) for a passenger carrier—

"(I) the carrier meets the requirements of paragraph (1);

"(II) the carrier provided at least 20 percent of the passenger service (as calculated in subsection (h)(5)) on the city pair route for the 6 months immediately preceding the date on which the carrier seeks such tender; and

"(III) the carrier continues to provide not less than 20 percent of the passenger service on the route; or

"(ii) for a nonmail freight carrier—

"(I) the carrier meets the requirements of paragraph (1); and

"(II) the carrier provided at least 25 percent of the nonmail freight service (as calculated in subsection (i)(6)) on the city pair route for the 6 months immediately preceding the date on which the carrier seeks such tender;

"(E)(i) shall not offer equitable tender of nonpriority mainline bypass mail at mainline rates to a bush carrier operating from an acceptance point to a hub point in the State of Alaska, except as described in subparagraph (C); and

"(ii) may tender nonpriority bypass mail at bush rates to a bush carrier from an acceptance point to a hub point in the State of Alaska if the Postal Service determines that—

"(I) the bush carrier meets the requirements of paragraph (1);

"(II) the service to be provided on such route by the bush carrier is not otherwise available through direct mainline service; and

"(III) tender of mail to such bush carrier will not decrease the efficiency of nonpriority bypass mail service (in terms of payments to all carriers providing service on the city pair route and timely delivery) for the route;

"(F) may offer tender of nonpriority bypass mail to a passenger carrier from an acceptance point to a destination city beyond a hub point in the State of Alaska at a composite rate if the Postal Service determines that—

"(i) the carrier provides passenger service in accordance with the requirements of subsection (h)(2);

"(ii) the carrier qualifies under subsection (h) to be tendered nonpriority bypass mail out of the hub point being bypassed;

"(iii) the tender of such mail will not decrease efficiency of delivery of nonpriority bypass mail service into or out of the hub point being bypassed; and

"(iv) such tender will result in reduced payments to the carrier by the Postal Service over flying the entire route; and

"(G) notwithstanding subparagraph (F), shall offer equitable tender of nonpriority bypass mail in proportion to passenger and nonmail freight mail pools described in this section between qualified passenger and nonmail freight carriers on a route from an acceptance point to a bush destination in the State of Alaska at a composite rate if—

"(i)(I) for a passenger carrier, the carrier receiving the composite rate provided 20 percent of the passenger service on the city pair route for the 12 months immediately preceding the date on which the carrier seeks tender of such mail; or

"(II) for a nonmail freight carrier, the carrier receiving the composite rate provided at least 25 percent of the nonmail freight service for the 12 months immediately preceding the date on which the carrier seeks tender of such mail; and

"(ii)(I) nonpriority bypass mail was being tendered to a passenger carrier or a nonmail freight carrier at a composite rate on such city pair route on January 1, 2000; or

"(II) the hub being bypassed was not served by a mainline carrier on January 1, 2000.

The tender of nonpriority bypass mail under subparagraph (G) shall be on an equitable basis between the qualified carriers that provide the direct service on the city pair route and the qualified carriers that provide service between the hub point being bypassed and the destination point, based on the volume of nonpriority bypass mail on both routes.".

(4) SELECTION OF CARRIERS TO HUB POINTS.—Section 5402(g) of title 39, United States Code, is amended by adding at the end the following:

"(4)(A) Except as provided under subparagraph (B) and paragraph (5), the Postal Service shall select only existing mainline carriers to provide nonpriority bypass mail service between an acceptance point and a hub point in the State of Alaska.

"(B) The Postal Service may select a carrier other than an existing mainline carrier to provide nonpriority bypass mail service on a mainline route in the State of Alaska if—

"(i) the Postal Service determines (in accordance with criteria established in advance by the Postal Service) that the mail service between the acceptance point and the hub point is deficient and provides written notice of the determination to existing mainline carriers to the hub point; and

"(ii) after the 30-day period following issuance of notice under clause (i), including notice of inadequate capacity, the Postal Service determines that deficiencies in service to the hub point have not been eliminated.

"(5)(A) The Postal Service shall offer equitable tender of nonpriority bypass mail to a new 121 mainline passenger carrier entering a mainline route in the State of Alaska, if the carrier—

"(i) meets the requirements of subsection (g)(1)(D)(ii); and

"(ii) has provided at least 75 percent of the number of insured passenger seats as the number of available passenger seats being provided by the mainline passenger carrier providing the greatest number of available passenger seats on that route for the 6 months immediately preceding the date on which the carrier seeks tender of such mail.

"(B) A new 121 mainline passenger carrier that is tendered nonpriority mainline bypass mail under subparagraph (A)—

*"(i) shall be eligible for equitable tender of such mail only on city pair routes where the carrier meets the conditions of subparagraph (A);*

*"(ii) may not count the passenger service provided under subparagraph (A) toward the carrier meeting the minimum requirements of this section; and*

*"(iii) shall provide at least 20 percent of the passenger service (as determined for bush passenger carriers in subsection (h)(5)) on such route to remain eligible to be tendered nonpriority mainline bypass mail.*

*"(C) Notwithstanding subparagraph (A) and paragraph (1)(B), a new 121 mainline passenger carrier, otherwise qualified under this subsection, may immediately receive equitable tender of nonpriority mainline bypass mail to a hub point in the State of Alaska if the carrier meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1) and subsection (h)(2)(B) and—*

*"(i) all qualified 121 mainline passenger carriers discontinue service on the city pair route; or*

*"(ii) no 121 mainline passenger carrier serves the city pair route.*

*"(D) A carrier operating under a code share agreement on the date of enactment of the Rural Service Improvement Act of 2002 that received tender of nonpriority mainline bypass mail on a city pair route in the State of Alaska may count the passenger service provided under the entire code share arrangement on such route if the code share agreement terminates. That carrier shall continue to provide at least 20 percent of the passenger service (as determined for bush passenger carriers in subsection (h)(5)) between the city pair as a 121 mainline passenger carrier while seeking such tender.*

*"(6)(A) Notwithstanding paragraph (1)(B), passenger carriers providing essential air service under a Department of Transportation order issued under subchapter II of chapter 417 of title 49, United States Code, shall be tendered all nonpriority mail, in addition to all nonpriority bypass mail, by the Postal Service to destination cities in the State of Alaska served by the essential air service flights consistent with that order unless the Postal Service finds that an essential air service carrier's service does not meet the needs of the Postal Service.*

*"(B) Service provided under this paragraph, including service provided to points served in conjunction with service being subsidized under the Essential Air Service contract, may not be applied toward any of the minimum eligibility requirements of this section.".*

*(5) SELECTION OF CARRIERS TO BUSH POINTS.—Section 5402 of title 39, United States Code, is amended by adding at the end the following:*

*"(h)(1) Except as provided under paragraph (7), on a city pair route in the State of Alaska, the Postal Service shall offer equitable tender of 70 percent of the nonpriority bypass mail on the route to all carriers providing scheduled passenger service in accordance with part 121 or part 135 that—*

*"(A) meet the requirements of subsection (g)(1);*

*"(B) provided 20 percent or more of the passenger service (as calculated in paragraph (5)) between the city pair for the 12 months preceding the date on which the 121 passenger aircraft or the 135 passenger carrier seek tender of nonpriority bypass mail; and*

*"(C) meet the requirements of paragraph (2).*

*"(2) To remain eligible for equitable tender under this subsection, the carrier or aircraft shall—*

*"(A) continue to provide not less than 20 percent of the passenger service on the city pair route for which the carrier is seeking the tender of such nonpriority bypass mail;*

*"(B)(i) for operations under part 121, operate aircraft type certificated to carry at least 19 passengers;*

*"(ii) for operations under part 135, operate aircraft type certificated to carry at least 5 passengers; or*

*"(iii) for operations under part 135 where only a water landing is available, operate aircraft type certificated to carry at least 3 passengers;*

*"(C) insure all available passenger seats on the city pair route on which the carrier seeks tender of such mail; and*

*"(D) operate flights under its published schedule.*

*"(3)(A) Except as provided under subparagraph (E), if a 135 passenger carrier serves a city pair route in the State of Alaska and meets the requirements of paragraph (1) or (2) when a 121 passenger carrier becomes qualified to be tendered nonpriority bypass mail on such route with a 121 passenger aircraft in accordance with paragraphs (1) and (2), the qualifying 135 passenger carriers on that route shall convert to operations with a 121 passenger aircraft within 5 years after the 121 passenger aircraft begins receiving tender on that route in order to remain eligible for equitable tender under paragraph (1). The 135 carrier shall—*

*"(i) begin the process of conversion not later than 2 years after the 121 passenger aircraft begins carrying nonpriority bypass mail on that route; and*

*"(ii) submit a part 121 compliance statement not later than 4 years after the 121 passenger aircraft begins carrying nonpriority bypass mail on that route.*

*"(B) Completion of conversion under subparagraph (A) shall not be required if all 121 passenger carriers discontinue the carriage of nonpriority bypass mail with 121 passenger aircraft on the city pair route.*

*"(C) Any qualified carrier operating in the State of Alaska under this section may request a waiver from subparagraph (A). Such a request, at the discretion of the Secretary, may be granted for good cause shown. The requesting party shall state the basis for such a waiver.*

*"(D) If after 6 years and 3 months following the date of enactment of the Rural Service Improvement Act of 2002, a 135 passenger carrier is providing service on a city pair route in the State of Alaska and a 121 passenger aircraft becomes eligible to receive tender of nonpriority bypass mail on the route, that 135 passenger carrier shall convert to operations under part 121 within 12 months of the 121 passenger carrier being tendered nonpriority bypass mail. The Postal Service shall not continue the tender of nonpriority bypass mail to a 135 passenger carrier that fails to convert to part 121 operations within 12 months after the 121 passenger carrier being tendered such mail under this paragraph.*

*"(E) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing the next highest level of passenger service on such route.*

*"(4) Qualification for the tender of mail under this subsection shall not be counted toward the minimum qualifications necessary to be tendered nonpriority bypass mail on any other route.*

*"(5)(A)(i) In this section, the percent of passenger service shall be a percentage calculated using data collected under subsection (k).*

*"(ii) To ensure accurate reporting of market share the Postal Service shall compare the resulting percentage under clause (i) to the lesser of—*

*"(I) the amount of the passenger excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for passengers actually flown by a carrier from the origination point to the destination point, divided by the value of the total passenger excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all passenger carriers providing service from the hub point to the bush destination point; or*

*"(II) the amount of half of the passenger excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for passengers actually flown by a carrier on the city pair route, divided by the value of the total passenger excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all passenger carriers providing service between the origination point and the destination point.*

*"(B) For the purposes of calculating passenger service as described under subparagraph (A), a bush passenger carrier providing intervillage bush passenger service may include the carriage of passengers carried along any point of the route between the route's origination point and the final destination point. Such calculation shall be based only on the carriage of passengers on regularly scheduled flights and only on flights being flown in a direction away from the hub point. Passenger service provided on chartered flights shall not be included in the carrier's calculation of passenger service.*

*"(6)(A) The Secretary shall establish new bush rates for passenger carriers operating in the State of Alaska receiving tender of nonpriority bypass mail under this subsection.*

*"(B) The Secretary shall establish a bush rate based on data collected under subsection (k) from 121 bush passenger carriers. Such rates shall be paid to all bush passenger carriers operating on city pair routes in the State of Alaska where a 121 bush passenger carrier is tendered nonpriority bypass mail.*

*"(C) The Secretary shall establish a bush rate based on data collected under subsection (k) from 135 bush passenger carriers. Such rates shall be paid to all bush passenger carriers operating on bush city pair routes in the State of Alaska where no 121 bush passenger carrier is tendered nonpriority bypass mail.*

*"(D) The Secretary shall establish a bush rate based on data collected under subsection (k) from bush passenger carriers operating aircraft on city pair routes where only water landings are available. Such rates shall be paid to all bush passenger carriers operating on the city pair routes in the State of Alaska where only water landings are available.*

*"(7) The percentage rate in paragraph (1) shall be 75 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.*

*"(i)(1) Except as provided under paragraph (7), on a city pair route in the State of Alaska, the Postal Service shall offer equitable tender of 20 percent of the nonpriority bypass mail on such route to those carriers transporting 25 percent or more of the total nonmail freight (in revenue or weight as determined by the Postal Service), for the 12 months immediately preceding the date on which the freight carrier seeks tender of such mail.*

*"(2) To remain eligible for equitable tender under this subsection, a freight carrier shall continue to provide not less than 25 percent of the nonmail freight service on the city pair route for which the carrier is seeking tender of such mail.*

*"(3) If a new freight carrier enters a market, the freight carrier shall meet the minimum requirements of subsection (g)(1) and shall operate for 12 months on a city pair route in the State of Alaska before being eligible for equitable tender of nonpriority bypass mail on that route.*

*"(4) If no carrier qualifies for tender of nonpriority bypass mail on a city pair route in the*

*State of Alaska under this subsection, such mail to be divided under this subsection, as described in paragraph (1), shall be tendered to the nonmail freight carrier providing the highest percentage of nonmail freight service (in terms of revenue or weight as determined by the Postal Service as calculated under paragraph (6)) on the city pair route. If no nonmail freight carrier is present on a city pair route in the State of Alaska to receive tender of nonpriority bypass mail under this paragraph, the nonpriority bypass mail to be divided under paragraph (1) shall be divided equitably among carriers qualified under subsection (h).*

*“(5) Qualification for the tender of mail under this subsection shall not be counted toward the minimum qualifications necessary to be tendered nonpriority bypass mail on any other route.*

*“(6)(A) In this subsection, the percent of nonmail freight shall be calculated as a percentage, using the data provided pursuant to subsection (k), by dividing the revenue or weight (as determined by the Postal Service) of nonmail freight earned by or carried by a carrier from the transport of nonmail freight from an origination point to a destination point by the total amount of revenue or weight of nonmail freight earned by or carried by all carriers from the transport of nonmail freight from the origination point to the destination point.*

*“(B) To ensure accurate reporting of market share the Postal Service shall compare the resulting percentage under subparagraph (A) to the lesser of—*

*“(i) the amount of the freight excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for nonmail freight actually flown by a carrier from the origination point to the destination point, divided by the value of the total nonmail freight excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all nonmail freight carriers providing service from the origination point to the destination point; or*

*“(ii) the amount of half of the nonmail freight excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for nonmail freight actually flown by a carrier on the city pair route, divided by the value of the total nonmail freight excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all nonmail freight carriers providing service on the city pair route.*

*“(7) The percentage rate in paragraph (1) shall be 25 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.*

*“(j)(1) Except as provided by paragraph (3), there shall be equitable tender of 10 percent of the nonpriority bypass mail to all carriers on each city pair route in the State of Alaska meeting the requirements of subsection (g)(1) that do not otherwise qualify for tender under subsection (h) or (i).*

*“(2) If no carrier qualifies under this subsection with respect to a city pair route, the 10 percent of nonpriority bypass mail allocated under paragraph (1) shall be divided evenly between the pools described under subsections (h) and (i) to be equitably tendered among qualified carriers under such subsections, such that—*

*“(A) the amount of nonpriority bypass mail available for tender among qualified carriers under subsection (h) shall be 75 percent; and*

*“(B) the amount of nonpriority bypass mail available for tender among qualified carriers under subsection (i) shall be 25 percent.*

*“(3)(A) Except as provided by subparagraph (B), the percentage rate under paragraph (1) shall be 0 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.*

*“(B) The percentage rate under paragraph (1) shall remain 10 percent for equitable tender for 6 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002 for a nonpriority bypass mail carrier on bush routes in the State of Alaska originating from the main hub of the carrier designated under subparagraph (C), if the carrier seeking the tender of such mail—*

*“(i) meets the requirements of subsection (g)(1);*

*“(ii) is not qualified under subsection (h) or (i);*

*“(iii) operates routes originating from the main hub of the carrier designated under subparagraph (C); and*

*“(iv) has invested at least $500,000 in a physical hanger facility prior to January 1, 2002 in such a hub city.*

*“(C) For purposes of subparagraph (B), a carrier may designate only one hub city as its main hub and once such designation is transmitted to the Postal Service it may not be changed. Such selection and transmission must be transmitted to the Postal Service within 6 months of the date of enactment of the Rural Service Improvement Act of 2002. A carrier attempting to receive tender of nonpriority bypass mail under this subsection shall not be eligible for such tender after the carrier becomes qualified for tender of nonpriority bypass mail under subsection (h) or (i) on any route. The purchase of another carrier's hanger facility after such date of enactment shall not be considered sufficient to meet the requirement of subparagraph (B)(iv).*

*“(k)(1) At least once every 2 years, in conjunction with annual updates, the Secretary shall review the need for a bush mail rate investigation. The Secretary shall use show cause procedures to speedily and more accurately determine the cost of providing bush mail service. In determining such rates, the Secretary shall not take into account the cost of passenger insurance rates or premiums paid by the passenger carriers or other costs associated with passenger service.*

*“(2) In order to ensure sufficient, reliable, and timely traffic data to meet the requirements of this subsection, the Secretary shall require—*

*“(A) the monthly submission of the bush carrier's data on T–100 diskettes, or any other suitable form of data collection, as determined by the Secretary; and*

*“(B) the carriers to retain all books, records, and other source and summary documentation to support their reports and to preserve and maintain such documentation in a manner that readily permits the audit and examination by representatives of the Postal Service or the Secretary.*

*“(3) Documentation under paragraph (2) shall be retained for 7 years or until the Secretary indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of shall be retained.*

*“(4) Carriers qualified to be tendered nonpriority bypass mail shall submit to the Secretary the number and type of aircraft in the carrier's fleet, the level of passenger insurance covering its fleet, and the name of the insurance company providing such coverage.*

*“(5) Not later than 30 days after the last day of each calendar month, carriers qualified or attempting to be qualified to be tendered nonpriority bypass mail shall report to the Secretary the excise taxes paid by city pair to the Department of the Treasury and the weight of and revenue earned by the carriage of nonmail freight. Final compiled data shall be made available to carriers providing service in the hub.*

*“(l) No qualified carrier may be tendered nonpriority bypass mail under subsections (h) and (i) simultaneously on a route unless no other carrier is tendered mail under either subsection.*

*“(m)(1) Carriers qualifying for tender of nonpriority bypass mail under subsections (h) and (i) simultaneously shall be tendered such mail under subsection (h).*

*“(2) A carrier shall be tendered nonpriority bypass mail under subsection (i) if that carrier—*

*“(A) was qualified under both subsections (h) and (i) simultaneously; and*

*“(B) becomes unqualified under subsection (h) but remains qualified under subsection (i).*

*“(n)(1) A carrier operation resulting from a merger or acquisition between any 2 carriers operating between points in the State of Alaska shall have the passenger and nonmail freight of all such merged or acquired carriers on the applicable route counted toward meeting the resulting carrier's minimum requirements to receive equitable tender of nonpriority bypass mail on such route for the 12-month period following the date of the merger or acquisition.*

*“(2) After the 12-month period described under paragraph (1), the carrier resulting from the merger or acquisition shall demonstrate that the carrier meets the minimum passenger or nonmail freight carriage requirements of this section to continue receiving tender of such mail.*

*“(o) In addition to any penalties applied to a carrier by the Federal Aviation Administration or the Secretary, any carrier that significantly misstates passenger or nonmail freight data required to be reported under this section on any route, in an attempt to qualify for tender of nonpriority bypass mail, shall receive—*

*“(1) a 1-month suspension of tender of nonpriority bypass mail on the route where the data was misstated for the first offense;*

*“(2) a 6-month suspension of tender of nonpriority bypass mail on the route where the data was misstated for the second offense;*

*“(3) a 1-year suspension of tender of all nonpriority bypass mail in the entire State of Alaska for the third offense in the State; and*

*“(4) a permanent suspension of tender of all nonpriority bypass mail in the entire State of Alaska for the fourth offense in the State.*

*“(p)(1) The Postal Service or the Secretary, in carrying out subsection (g)(2), (h), or (i), may deny equitable tender to an otherwise qualified carrier that does not operate under this section in good faith or under the intent of this section.*

*“(2) The Postal Service or the Secretary may waive any provision of subsection (h) or (i), if the carrier provides substantial passenger or nonmail freight service on the route in the State of Alaska where the carrier seeks tender of nonpriority mail and nonpriority bypass mail.*

*“(3) To ensure adequate competition among passenger carriers on a mainline route in the State of Alaska the Postal Service or the Secretary may waive the requirements of subsection (g)(1)(D), (g)(2)(E), (g)(4), or (g)(5), or any provision of subsection (h) if a 121 bush passenger carrier seeks tender of nonpriority bypass mail on a mainline route in the State of Alaska not served by a 121 mainline passenger carrier and the 121 bush passenger carrier provides substantial passenger service on the route. Waivers provided for under this paragraph shall be granted only in extreme cases of lack of competition and only to extent that are absolutely necessary to meet the minimum needs of the community. Waivers granted under this subsection shall cease to be valid once a qualified mainline passenger carrier begins providing service and seeks tender of nonpriority bypass mail in accordance with this section on the city pair route. The receipt of waivers and subsequent operation of service on a city pair route under this subsection shall not be counted towards meeting the requirements of any part of this section for any other city pair route.*

*“(4) In granting waivers for or denying tender to carriers under this subsection, the Postal*

*Service or the Secretary shall consider in the following order of importance—*

*"(A) the passenger needs of the destination to be served (including amount and level);*

*"(B) the nonmail freight needs of the destination to be served;*

*"(C) the amount of nonpriority bypass mail service already available to the destination;*

*"(D) the mail needs of the destination to be served;*

*"(E) the savings to the Postal Service in terms of payments made to carriers;*

*"(F) the amount or level of passenger service already available to the destination; and*

*"(G) the amount of nonmail freight service already available to the destination.*

*"(q) The Secretary shall make a regular review of carriers receiving, or attempting to qualify to receive, equitable tender of nonpriority bypass mail on a city pair route in the State of Alaska. If the Secretary suspends or revokes an operating certificate, the Secretary shall notify the Postal Service. Upon such notification, the Postal Service shall cease tender of mail to such carrier until the Secretary certifies the carrier is operating in a safe manner. Upon such receipt, the carrier shall demonstrate that it otherwise meets the minimum carriage requirements of this section before being tendered mail under this section.*

*"(r) The Postal Service shall have the authority to tender nonpriority bypass mail to any carrier that meets the requirements of subsection (g)(1) on any city pair route in the State of Alaska on an emergency basis. Such emergency tender shall cease when a carrier qualifies for tender on such route under the terms of this section.*

*"(s) Notwithstanding any other provision of law, and except for written contracts authorized under subsections (b), (c) and (d), tender by the Postal Service of any category of mail to a carrier for transportation between any two points in the State of Alaska shall not give rise to any contract between the Postal Service and a carrier, nor shall any such carrier acquire any right in continued or future tender of such mail by virtue of past or present receipt of such mail. This subsection shall apply to any case commenced before, on, or after the date of enactment of this subsection.".*

*(d) ACTIONS OF AIR CARRIERS TO QUALIFY.—Beginning 6 months after the date of enactment of this Act, if the Secretary determines, based on the Secretary's findings and recommendations of the Postal Service, that an air carrier being tendered nonpriority bush bypass mail is not taking actions to attempt to qualify as a bush passenger or nonmail freight carrier under section 5402 of title 39, United States Code (as amended by this title), the Postal Service shall immediately cease tender of all nonpriority bypass mail to such carrier.*

*(e) TECHNICAL AND CONFORMING AMENDMENTS.—*

*(1) TITLE 39.—Section 5402 of title 39, United States Code, is amended—*

*(A) in subsections (b) through (e) (as redesignated by this title) and subsection (j) by striking "Secretary of Transportation" each place it appears and inserting "Secretary"; and*

*(B) in subsection (f)—*

*(i) by striking "subsections (a), (b), and (c)" and inserting "subsections (b), (c), and (d)"; and*

*(ii) by striking "subsection (d)" and inserting "subsection (e)".*

*(2) TITLE 49.—Section 41901(a) of title 49, United States Code, is amended by striking "5402(d)" and inserting "5402(e)".*

*(f) REPORTS TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Postal Service and the Secretary of Transportation shall submit a report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on the progress of implementing this title.*

*(g) EFFECTIVE DATES.—*

*(1) IN GENERAL.—Except as provided under paragraph (2), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.*

*(2) SELECTION OF CARRIERS.—The amendment made by subsection (c)(5) shall take effect 15 months after the date of enactment of this Act.*

*(h) In publishing the Act in slip form and in the United States Statutes at Large pursuant to section 112, of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end an appendix setting forth the text of the bill referred to in subsection (a).*

**Sec. 3003.** *AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. In subsection (e)(4) of the Alaska Native Claims Settlement Act created by section 702 of Public Law 107–117—*

*(1) paragraph (B) is amended by—*

*(A) striking "subsection (e)(2)" and inserting in lieu thereof "subsections (e)(1) or (e)(2)"; and*

*(B) striking "obligations under section 7 of P.L. 87–305" and inserting in lieu thereof "small or small disadvantaged business subcontracting goals under section 502 of P.L. 100–656, provided that where lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit"; and*

*(2) paragraph (C) is amended by striking "subsection (e)(2)" and inserting "subsection (e)(1) or (e)(2)".*

*This Act may be cited as the "2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States".*

And the Senate agree to the same.

C.W. BILL YOUNG,
RALPH REGULA,
JERRY LEWIS,
HAROLD ROGERS,
JOE SKEEN,
FRANK R. WOLF,
SONNY CALLAHAN,
JAMES T. WALSH,
CHARLES H. TAYLOR,
DAVID L. HOBSON,
ERNEST J. ISTOOK,
HENRY BONILLA,
JOE KNOLLENBERG,
DAVID R. OBEY,
JOHN P. MURTHA,
NORMAN D. DICKS,
MARTIN OLAV SABO,
STENY H. HOYER,
ALAN B. MOLLOHAN,
MARCY KAPTUR,
PETER J. VISCLOSKY,
NITA M. LOWEY,
JOSÉ E. SERRANO,
JOHN W. OLVER,
*Managers on the Part of the House.*

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
PATRICK J. LEAHY,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
HERB KOHL,
PATTY MURRAY,
BYRON L. DORGAN,
DIANNE FEINSTEIN,
RICHARD J. DURBIN,
TIM JOHNSON,
MARY L. LANDRIEU,
JACK REED,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CHRISTOPHER S. BOND,
MITCH MCCONNELL,
CONRAD BURNS,
RICHARD C. SHELBY,
JUDD GREGG,
ROBERT F. BENNETT,
BEN NIGHTHORSE CAMPBELL,
LARRY CRAIG,
KAY BAILEY HUTCHISON,
MIKE DEWINE,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes, submit the following joint statements to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House in the report accompanying H.R. 4775 (H. Rept. 107–480) which is not changed by the Senate in the report accompanying S. 2551 (S. Rept. 107–156), and Senate Report language which is not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report languages emphasis, is not intended to negate the language referred to above unless expressly provided herein.

## Title I—Supplemental Appropriations

## CHAPTER 1

## DEPARTMENT OF AGRICULTURE

### OFFICE OF THE SECRETARY

The conference agreement provides an additional $18,000,000 for the Office of the Secretary, as proposed by the Senate, with a contingent emergency designation. The House bill did not include funding for this account.

### AGRICULTURAL RESEARCH SERVICE

### SALARIES AND EXPENSES

The conference agreement provides an additional $8,000,000 for the Agricultural Research Service, instead of $16,000,000 as proposed by the Senate, with a contingent emergency designation. The funds shall be used as follows: $2,000,000 for transmissible spongiform encephalopathy, including chronic wasting disease; $3,000,000 for plant genome sequencing; and $3,000,000 for cattle genome sequencing. The House bill did not include funding for this account.

### BUILDINGS AND FACILITIES

The conference agreement provides an additional $25,000,000 for the ARS Buildings and Facilities account instead of $50,000,000 as proposed by the Senate, without an emergency designation. The House bill did not include funding for this account. The conference agreement provides funding for continued facility consolidation and modernization at Ames, Iowa.

### COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

### EXTENSION ACTIVITIES

The conference agreement provides an additional $6,000,000 appropriation for the Cooperative State Research, Education, and Extension Service for one-time costs, instead of

$16,000,000 as proposed by the Senate, with a contingent emergency designation. The House bill did not include funding for this account.

### ANIMAL AND PLANT HEALTH INSPECTION SERVICE

#### SALARIES AND EXPENSES

The conference agreement provides an additional appropriation of $33,000,000 for the Animal and Plant Health Inspection Service for one-time costs, instead of $10,000,000 as proposed by the House and $60,000,000 as proposed by the Senate, with a contingent emergency designation. The conferees direct that these funds be used as follows: $15,000,000 for cooperative agreements with States to prevent and control transmissible spongiform encephalopathy, including chronic wasting disease and scrapie, in farmed and free-ranging animals; $10,000,000 for emergency preparedness; $4,000,000 for physical and operational security; and $4,000,000 for equipment needs and smuggling interdiction.

### FOOD SAFETY AND INSPECTION SERVICE

The conference agreement provides an additional $13,000,000 for FSIS, instead of $15,000,000 as proposed by the Senate, and $2,000,000 as proposed by the House, with a contingent emergency designation. The conferees direct that the funds be used for nonrecurring costs associated with the import information system and enhanced international oversight activities. The conferees expect that sufficient funds, up to $10,750,000, be directed toward the purchase of information technology system equipment and services so that FSIS can better communicate with other agencies to identify entry and assess risk of imported products.

### NATURAL RESOURCES CONSERVATION SERVICE

#### WATERSHED AND FLOOD PREVENTION OPERATIONS

The conference agreement provides an additional $144,000,000 for Watershed and Flood Prevention Operations, of which $50,000,000 is designated as a contingent emergency, instead of $100,000,000, of which $27,000,000 is designated as an emergency, as proposed by the Senate. The House bill did not include funding for this account. The conferees direct that these funds be used for recovery activities related to disasters that have been identified with priority given to those events occurring in fiscal year 2002.

### RURAL DEVELOPMENT

#### RURAL COMMUNITY ADVANCEMENT PROGRAM

The conference agreement provides an additional $20,000,000 for the Rural Community Advancement Program, instead of $25,000,000 as proposed by the Senate, with a contingent emergency designation. The House bill did not include funding for this account.

### RURAL UTILITIES SERVICE

#### LOCAL TELEVISION LOAN GUARANTEE PROGRAM ACCOUNT

#### (INCLUDING RESCISSION)

The conference agreement provides a rescission of $20,000,000 for the Local Television Loan Guarantee Program as proposed by the Senate. The House bill did not include this rescission.

The conference agreement provides an additional $8,000,000 for the Local Television Loan Guarantee Program account, instead of $20,000,000 as proposed by the Senate, without an emergency designation. The House bill did not include funding for this account.

### FOOD AND NUTRITION SERVICE

#### SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The conference agreement provides an additional $75,000,000 for the Women, Infants, and Children Program (WIC), to remain available until September 30, 2003, without an emergency designation. These funds are provided to finance rising participation and other increased costs. These funds are to be distributed in the manner and formula that the Secretary deems necessary to respond to caseload requirements, notwithstanding section 17(i) of the Child Nutrition Act of 1966, as amended. The conferees direct that these funds be made available to the States for identified needs as quickly as possible. Further, the conferees request a report from the Secretary within 60 days of enactment, describing the process and formula by which these funds were distributed.

#### FOOD STAMP PROGRAM

#### (RESCISSION)

The conference agreement rescinds $24,000,000, instead of $33,000,000 as proposed by the Senate. The House bill did not include a rescission for this account.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### FOOD AND DRUG ADMINISTRATION

#### SALARIES AND EXPENSES

The conference agreement provides $17,000,000, to remain available until expended, for Food and Drug Administration, Salaries and Expenses, instead of $18,000,000 as proposed by the House, with a contingent emergency designation. The Senate bill did not include funding for this account. The conference agreement provides for non-recurring costs related to safety activities in the area of medical devices and radiological health, as a consequence of the events of September 11, 2001, such as further work on safety standards for radiation scanners, development and marketing of decontamination devices and enhanced review of imported medical devices. In addition, the conferees note that the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107-188, enacted on June 12, 2002, imposes new requirements on the FDA to protect our Nation's food and drug supplies. The conferees direct that the funds provided in this Act be additional available for non-recurring costs related to those responsibilities.

#### GENERAL PROVISIONS—THIS CHAPTER

House Section 101.—The conference agreement includes a limitation (Section 101) of $33,000,000 for the Export Enhancement Program in fiscal year 2002, instead of a limitation of $28,000,000 as proposed by the House. The Senate bill did not include this limitation.

Senate Section 101.—The conference agreement includes $10,000,000 (Section 102) as proposed by the Senate, without an emergency designation, for agriculture assistance to producers along the Rio Grande who have suffered economic losses during the 2001 crop year due to the failure of Mexico to deliver water to the United States in accordance with water utilization treaties. The House bill contained no similar provision.

Senate Section 102.—The conference agreement includes a provision (Section 103) that the Secretary shall carry out the transfer of $200,000,000 under section 2507(a) of the Food Security and Rural Investment Act of 2002 (P.L. 107-171) not later than 14 days after the enactment of this Act, as proposed by the Senate. The House bill contained no similar provision.

Senate Section 103.—The conference agreement does not include Sense of the Senate language regarding compensation for losses related to avian influenza. The conferees are aware of substantial losses to poultry producers in Virginia, West Virginia, and other states due to the spread of this disease; that these outbreaks are having a detrimental effect on U.S. trade; and that elimination of entire flocks, regardless of pathogen level, is necessary in many cases for disease containment. The conferees expect the Secretary to expeditiously use resources of the Commodity Credit Corporation to compensate producers for losses related to avian influenza and to promote the timely containment of this disease. The House bill contained no similar provision.

Senate Section 104.—The conference agreement does not include Sense of the Senate language regarding the use of surplus non-fat dry milk for assistance in areas suffering from HIV/AIDS. The conferees are aware that more than 1 billion pounds of non-fat dry milk are currently in Commodity Credit Corporation (CCC) inventory, for which storage costs are accruing. The conferees also note the human suffering in many nations resulting from the spread of HIV/AIDS and strongly encourage the Secretary to utilize CCC surplus commodities, including non-fat dry milk, to support programs that provide relief to those suffering from this disease, and for other humanitarian purposes. The House bill contained no similar provision.

Senate Section 105.—The conference agreement includes a provision (Section 104) that rescinds, prior to the end of fiscal year 2002, and reappropriates funds made available under section 2108(a) of P.L. 107-20, instead of a Senate provision that rescinds these funds upon the enactment of this Act. The House bill contained no similar provision.

Senate Section 106.—The conference agreement includes a provision (Section 105) as proposed by the Senate, that allows monetized commodities to be used to carry out the purposes of section 416(b)(7)(D)(iv) of the Agricultural Act of 1949. The House bill contained no similar provision.

Senate Section 107.—The conference agreement includes a provision (Section 106) that allows the Secretary of Agriculture to use an amount not to exceed $12,000,000 from amounts previously appropriated to the Food Safety and Inspection Service under P.L. 106-387 to liquidate over-obligation and over-expenditures of the Food Safety and Inspection Service incurred during previous fiscal years. The House bill contained no similar provision.

## CHAPTER 2

## DEPARTMENT OF JUSTICE

### GENERAL ADMINISTRATION

#### SALARIES AND EXPENSES

The conference agreement includes $6,750,000 for General Administration, of which $1,000,000 is provided as a contingent emergency requirement. Of the total amount, $5,750,000 is for continued implementation of IDENT/IAFIS fingerprint systems. The Justice Department is directed to continue to provide updates to the Committees on Appropriations as requested regarding the progress of this initiative. The conferees believe that the Department has provided sound oversight of this system, which will link the Federal Bureau of Investigation (FBI) and Immigration and Naturalization Service (INS) fingerprint databases. The conferees believe that this same integrated oversight should be applied to the development of the INS Entry Exit program and the "Chimera" system, which will improve data management and information technology infrastructure.

The conferees are very concerned that the cost estimates for the Entry Exit System continue to change, that the uses for which funding is requested continue to change, and that the Department of Justice and the Administration have not yet articulated to the Congress the policies that this proposed new system would support. Better planning and interagency coordination will be necessary to create an effective Entry Exit system that will alert Federal law enforcement when would-be terrorists try to gain entry to or leave the U.S. The recommendation includes $1,000,000 for the Entry Exit System, as proposed in the House bill, to be managed by the Justice Management Division (JMD). This funding, together with $13,300,000 provided to the INS in P.L. 107–117, shall be used by JMD to continue efforts to plan the Entry Exit System. The Department is directed to consult with the Committees on Appropriations prior to obligating these funds to ensure that this system links existing law enforcement and intelligence databases and takes advantage of existing infrastructure and programs already in operation at ports of entry, such as the Dedicated Commuter Lanes program. JMD should also seek input from the appropriate Executive Branch agencies to coordinate with other law enforcement, border security, and intelligence community information systems. Further, given the importance of and uncertain total resource requirements of this program, the Conferees will request that the General Accounting Office provide oversight and input to JMD regarding every aspect of program development, including information technology plans, infrastructure needs, and staffing.

The conference agreement also includes language that funds shall derived from the Working Capital Fund to develop a plan regarding the INS "Chimera" system for review by the Committees on Appropriations, as directed in the Senate report. This project shall also be managed by JMD. The conference agreement also adopts Senate direction regarding a briefing on lessons learned on the implementation of the Trilogy program. Centralizing the management and implementation of these systems will ensure that they will be interoperable and accessible by other relevant Federal agencies.

Serious concerns remain regarding how counterterrorism activities are coordinated within the Justice Department. In recent months, Justice has expanded the number of Joint Terrorism Task Forces, and created the National Security Coordinating Council, Regional Terrorist Task Forces, Anti-Terrorism Task Forces and the Foreign Terrorist Tracking Task Force. However, Justice has not successfully articulated how these effort enhance existing counterterrorism activities or improve coordination among Federal, State and local agencies.

The Deputy Attorney General (DAG), as the chair of the National Security Coordination Council, has been designated as the lead official coordinating the Justice Department's activities relating to combating domestic terrorism. The DAG is directed to submit to the Committees on Appropriations a strategic plan for a coordinated Justice Department effort in this regard. Further, the DAG is directed to submit a detailed Justice Department counterterrorism budget summary by program no later than 90 days after the enactment of this bill and simultaneously with the President's annual budget request thereafter. The DAG is also directed to report quarterly on actual expenditures pursuant to the plan. The budget summary and expenditure report should begin with the fourth quarter of fiscal year 2002.

The conference agreement does not include the Senate language creating Principal Associate Deputy Attorney General for Combating Terrorism.

### LEGAL ACTIVITIES

#### SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

#### (RESCISSION)

The conference agreement includes a rescission of $7,000,000 from the unobligated balances available in the "Salaries and Expenses, United States Attorneys" account provided in P.L. 107–77.

#### SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

The conference agreement includes $37,900,000 for the U.S.Marshals Service to address increased security requirements associated with terrorist and other high threat trials. The conferees direct the U.S. Marshals Service to submit a spending plan for these funds by August 15, 2002.

### FEDERAL PRISONER DETENTION

#### (RESCISSION)

The conference agreement includes a rescission of $30,000,000 from available unobligated balances in the Federal Prisoner Detention account.

### ASSETS FORFEITURE FUND

#### (RESCISSION)

The conference agreement includes a rescission of $5,000,000 from the Assets Forfeiture Fund Super Surplus.

### FEDERAL BUREAU OF INVESTIGATION

#### SALARIES AND EXPENSES

The conference agreement includes $175,000,000 for the Federal Bureau of Investigation (FBI) "Salaries and Expenses" account, including $165,000,000 as a contingent emergency requirement.

Of the total amount, $12,500,000 is provided for additional cybercrime, counterterrorism, and counterintelligence analytical support staff. This increase will ensure that there are more support staff to analyze the large volume of information that FBI agents are collecting as part of their terrorism investigations. The conference agreement also includes $20,000,000 for the Drug Enforcement Administration's (DEA) Special Operations Division, to be transferred expeditiously from the FBI to the DEA in accordance with the previously established MOU; $10,000,000 for the Foreign Terrorist Tracking Task Force; and $2,000,000 for language translation services.

The conferees remain concerned with the FBI's information technology infrastructure. A robust information technology infrastructure is essential to the FBI's ability to securely manage complex investigations; combat terrorism and cybercrime; and collect and disseminate intelligence. Therefore, the conference agreement includes funds about the request to speed implementation of information technology enhancements. Funding includes $8,000,000 for Trilogy contractor support; $40,121,000 for investigative data warehousing; $18,435,000 for information assurance; $7,500,000 for collaborative capabilities; $7,500,000 for FBI HQ continuity of operations; $8,000,000 for digital storage and retrieval of documents related to counterterrorism investigations; $6,444,000 for mainframe upgrades; $4,000,000 for data mining and visualization; and $19,400,000 for the National Infrastructure Protection Center Special Technologies and Applications Unit. The FBI shall brief the Committees on Appropriations prior to obligation of these funds to ensure that these information technology investments are integrated with activities of the Joint Terrorism Task Forces, the Foreign Terrorist Tracking Task Force, Trilogy, and the FBI's Information Assurance Program.

The conference agreement also provides, as directed in the Senate report, $8,000,000 for white collar crime squads and $3,100,000 for Computer Analysis and Response Team equipment. This funding will provide the FBI with technical resources to combat corporate corruption and the growing threat of cyber crime.

In addition, the conferees direct the FBI to use $44,713,000 expected to be carried over from funds provided in P.L. 107–117 to establish additional Legal Attaché offices and provide for information infrastructure enhancements for Legal Attaché offices. The FBI shall submit to the Committees a list of proposed new Legal Attaché offices no later than August 16, 2002. As directed in the Senate report, this list should also include a review of and sight-sizing proposal for existing offices to ensure that resources are deployed to the highest priority locations. The proposal should be coordinated with the State Department and other relevant Federal agencies, such as the National Security Council, to ensure that FBI plans and activities are consistent with other diplomatic and foreign policy overseas presence priorities.

### IMMIGRATION AND NATURALIZATION SERVICE

#### SALARIES AND EXPENSES

#### ENFORCEMENT AND BORDER AFFAIRS

The conference agreement includes $81,250,000 for the Immigration and Naturalization Service "Salaries and Expenses" account, including $46,250,000 as a contingent emergency requirement. The conferees are concerned that INS and Department of Justice management have not provided effective oversight to ensure that the User Fee account remains solvent, and are therefore providing a one-time appropriation of $25,000,000 to ensure that sufficient staff are hired and information technology enhancements are provided as directed in the fiscal year 2002 Appropriations Act. To support the INS homeland security mission with regard to enforcing deportation orders, $25,000,000 is provided for the Absconder Initiative. To address chronic vehicle shortfalls, $25,000,000 is provided for fleet management. The conferees note that the Congress provides base funding every year to the INS for both new and replacement vehicles, and the INS is expected to use these appropriations for both new and replacement vehicles instead of redirecting these resources to other areas. The conferees direct the INS to submit a spending plan prior to obligating any of the funding provided under this heading.

To improve retention of Border Patrol Agents and Immigration Inspectors, the conference agreement includes $6,250,000 for pay upgrades for Border Patrol Agents and Immigration Inspectors for the remainder of fiscal year 2002. The conferees are concerned that the Administration has failed to address law enforcement pay equity issues in a comprehensive manner, and expects it to develop and quickly implement an equitable pay scale to ensure fair compensation for the Nation's Federal law enforcement officers.

#### CONSTRUCTION

The conference agreement includes $32,100,000 as a contingent emergency requirement for the Immigration and Naturalization Service "Construction" account, to remain available until expended. The INS is directed to submit a proposed allocation to the Committees prior to obligating any of this funding.

### FEDERAL PRISON SYSTEM

### BUILDINGS AND FACILITIES

### (RESCISSION)

The conference agreement includes a rescission of $5,000,000 from the unobligated balances available in the "Federal Prison System, Buildings and Facilities" account.

### OFFICE OF JUSTICE PROGRAMS

### JUSTICE ASSISTANCE

### (INCLUDING RESCISSION)

The conference agreement includes $151,300,000 as a contingent emergency requirement for equipment, training and exercises for State and local first responders as authorized by the USA PATRIOT Act. Since fiscal year 1998, this program has provided funding and support to all types of first responders, including fire, emergency medical services, hazardous material response, and law enforcement. The following table outlines the funding provided in the conference agreement:

| | |
|---|---|
| Equipment | $95,000,000 |
| Prepositioned Equipment | (20,000,000) |
| Electronic Dissemination of Terrorist Threat Information | (10,000,000) |
| Equipment Formula Grants | (65,000,000) |
| Security Clearances | 1,300,000 |
| Training | 41,000,000 |
| Exercises | 14,000,000 |
| Total | 151,300,000 |

*Prepositioned Equipment.*—The conference agreement includes $20,000,000 for prepositioned equipment and adopts, by reference, the Senate report language on this matter.

*Electronic Dissemination of Terrorist Threat Information.*—The conference agreement includes $10,000,000 to enhance the Department's electronic dissemination of terrorism-related threat information to State and local communities as proposed in the House bill. The conferees direct the Office of the Deputy Attorney General, in coordination with the Department's Chief Information Officer, the Federal Bureau of Investigation and the Office of Justice Programs, to report to the Committees on Appropriations by September 1, 2002, outlining the Department's efforts to ensure State and local communities are properly informed. The report shall include: (1) a spending plan for the $10,000,000 provided by this Act; (2) a description of the funding used to operate each of the electronic systems the Department uses to communicate with State and local communities, including but not limited to RISS, LEO, NLETS, the Emergency Fire Services Information Sharing and Analysis Center, the Southwest Border Anti-Drug Information System, the National Sheriffs Association's multi-State information sharing system, and the Real-time Analytical Intelligence Database; (3) a description of how the Department's various communication systems interact to ensure information in each system is up to date and accurate; (4) a description of the Department's plans to eliminate or consolidate systems while making them all interoperable; (5) a description of the future year costs of the Department's communication systems; (6) a description of how the Department communicates with local officials that are not connected to at least one of the Department's various systems; (7) a description of the FBI's National Intel Share Project and how this project will utilize RISS, LEO and other systems; (8) a description of whether its necessary for State and local communities to develop their own information systems; and (9) a description of how the Department will work with State and local governments that have developed local information sharing systems to ensure they are interoperable with the Department's information systems.

*Equipment Formula Grants.*—The conference agreement includes $65,000,000 for equipment grants and adopts, by reference, language in the Senate report regarding the refinement of the Office of Domestic Preparedness' grant making process to expedite and facilitate the delivery of funds and services. The conferees also adopt, by reference, language in the Senate report regarding matching requirements.

The conferees adopt, by reference, language in the Senate report requiring the IAB to submit a report regarding equipment standards, and language in the House report regarding State and local coordination in the development and implementation of Statewide strategic plans.

*Security Clearance.*—The conference agreement includes $1,300,000 for security clearances for State and local first responders as described in the Senate report.

*Training.*—The conference agreement includes $41,000,000 for first responder training, including $5,000,000 for the development of standards as described in the House report and $36,000,000 to establish a competitive discretionary training grant program.

The conferees recognize the critical need for State and local first responders to receive training to counter weapons of mass destruction (WMD) and terrorism threats. This new competitive discretionary grant program is to be designed and implemented by the Office of Domestic Preparedness (ODP). The conferees direct ODP to develop and submit proposed guidelines for the program to the Committees on Appropriations no later than 45 days after enactment of this Act. The conferees expect that these proposed guidelines should at a minimum allow State and local agencies, non-profit organizations, and universities to be eligible for grants, including former and current ODP grant recipients. The conferees expect the grant approval process to include a review of training curricula and materials to ensure that grantees are using the latest WMD and counterterrorism training techniques. ODP will need adequate resources to implement this new program, therefore the conferees direct that the current hiring freeze be lifted and the Office be fully staffed within available resources.

The conferees adopt, by reference, language in the Senate report regarding a report on the coordination of Federal training. The conferees expect the report to be submitted no later than January 31, 2002.

*Exercise.*—The conference agreement includes $14,000,000 for exercises, including $4,000,000 for TOPOFF II as proposed in the Senate report.

*CapWIN.*—The Federal government is the largest single employer in the Washington D.C. metro area and the conferees are committed to the safety of Federal employees. The conferees are concerned that in the event of another terrorist attack in the Washington, DC area the Executive Branch should have a communications system in place that will inform all of the Federal agencies in the metropolitan area of threat and public health information along with evacuation procedures.

Public Law 107-117 provided $20,000,000 for the Capitol Wireless Integrated Network (CapWIN). This system will integrate law enforcement, fire, emergency medical, transportation, and hazmat information from Maryland, Virginia, the District of Columbia, and certain Federal agencies. This system will ensure that responders from various jurisdictions are able to communicate in the field and through the use of mobile computing will also greatly enhance the amount of information available to all types of responders both in the field and at emergency operations centers.

The conferees direct the Office of Justice Programs, in consultation with the Office of Personnel Management (OPM) and the General Services Administration, to evaluate whether CapWIN can be expanded to include Federal agencies located in the Washington, DC metro area to ensure that in the event of a terrorist attack Federal agencies are able to maintain communications with Executive Branch leaders. The conferees believe the expansion of CapWIN to Federal agencies will enhance agencies' abilities to share electronic information. The conferees understand that, once developed, CapWIN should not require a significant investment of resources for Federal agencies to access. it.

The conferees direct the Department of Justice, in consultation with the OPM, to submit a report to the Committee on Appropriations, no later than December 1, 2002, on the status of expanding CapWIN to Federal agencies within the Washington, DC metro area. The report shall include an implementation plan, including funding required and procedures for use of the system in the event of a terrorist attack. The report should also include alternatives, if the expansion of CapWIN is not the appropriate solution to allow Federal agencies to communicate in a crisis situation.

The conference agreement rescinds $600,000 from funds available to the Office of the Assistant Attorney General for Office of Justice Programs, $1,400,000 less than the rescission proposed in the Senate bill. The conference agreement does not include the $2,000,000 rescission proposed in the Senate bill from funds available to the Office of Congressional and Public Affairs.

### CRIME VICTIMS FUND

The conference agreement adopts, by reference, language in the House report under this heading.

### COMMUNITY ORIENTED POLICING SERVICES

The conference agreement includes $50,000,000 as a contingent emergency requirement for a new Office of Community Oriented Policing Services (COPS) Interoperable Communications Technology program, to be designed and implemented by the COPS Office, in consultation with the Office of Science and Technology (OS&T) of the National Institute of Justice, and the Bureau of Justice Assistance (BJA). The conferees seek to utilize the expertise of all three organizations so as to create a grant program that is highly responsive to the immediate needs of the State and local law enforcement community and that takes full advantage of the expertise and lessons learned from OS&T and BJA research and development in the field of interoperable law enforcement communications, particularly project AGILE. In addition, the conferees are aware that the Office of Domestic Preparedness and the National Institute of Standards and Technology (NIST) have significant experience in law enforcement communications, and recommend that the COPS Office seek guidance from these agencies when designing and implementing this program.

This program should address the critical need of law enforcement to improve cross-jurisdictional communication and information sharing. The conferees direct the COPS Office to develop and submit proposed guidelines for the program to the Committees on Appropriations no later than 45 days after enactment of this Act. Consistent with the COPS Office's existing grant programs, the COPS Interoperable Communications Technology program should include a 25 percent local match requirement. The conferees are aware that the Federal Emergency Management Administration (FEMA) has a similar program designed for Fire Departments and EMS and therefore COPS should consult with FEMA to ensure that these programs are providing compatible communications equipment that will allow interoperability among all first responders in a given jurisdiction. The conferees urge that grants under these programs be used, whenever possible, to purchase cost effective cross band repeaters or other frequency or band patching solutions to allow agencies to make existing communications systems interoperable. Because of the complexities associated with these systems, the conferees provide $3.00,000, within available amounts, to be transferred to the Bureau of Justice Assistance to provide technical assistance, utilizing OS&T's expertise, to grantees regarding the implementation of the equipment.

The conferees understand and support the need for minimum standards for law enforcement communications technology. Therefore, OS&T should assist the COPS Office in incorporating existing minimum standards into the formulation of this grant program. The conferees also provide, within available amounts, $5,000,000 to be transferred to NIST to continue the efforts of the Office of Law Enforcement Standards (OLES) regarding the development of a comprehensive suite of minimum standards for law enforcement communications.

The conferees direct that the current hiring freeze in the COPS Office be lifted and the Office be fully staffed within available resources to support the implementation of this new program. In addition, the conferees are aware that a number of cross band repeaters have been distributed by the Federal government to local jurisdictions throughout the United States. The conferees direct that NIJ provide an inventory no later than January 1, 2003, regarding the locations of all of these systems.

## DEPARTMENT OF COMMERCE AND RELATED AGENCIES

## RELATED AGENCIES

### Office of the United States Trade Representatives

#### SALARIES AND EXPENSES

The conference agreement includes $1,100,000 as a contingent emergency appropriation for increased security costs.

## DEPARTMENT OF COMMERCE

### Bureau of the Census

#### PERIODIC CENSUSES AND PROGRAMS

#### (RESCISSION)

The conference agreement includes a rescission of $11,300,000 from amounts made available under this heading in prior fiscal years, except funds designated for the Suitland Federal Center.

### National Institute of Standards and Technology

#### SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

The conference agreement includes $37,100,000 under this heading, of which $33,100,000 is provided as a contingent emergency requirement. Of the total amount provided, $20,000,000 is included to further develop the overall Federal Government information technology (IT) security framework, including baseline minimum IT security benchmarks or criteria. No funding is provided to develop technology-specific requirements for the use of specific hardware or software or to develop cyber-security technologies that may compete against those developed by industry.

In addition, $2,000,000 is included to strengthen security and surveillance at the NIST neutron reactor, $1,000,000 is provided for the development of standards for the accuracy of biometric identification systems as authorized by Public Law 107-56 and Public Law 107–173, $4,000,000 is provided for standards, technology and practices for buildings and emergency responders to develop and implement cost-effective safety and security for buildings, and $10,100,000 is included for standards development for chemical/biological/nuclear/radioactive explosive threat detection equipment and biomedical recognition equipment to support homeland security activities.

### National Oceanic and Atmospheric Administration

#### OPERATIONS, RESEARCH, AND FACILITIES

#### (INCLUDING RESCISSION)

The conference agreement includes $4,800,000 in this account, including $2,800,000 as a contingent emergency requirement. Of the total amount provided, $2,800,000 is for critical satellite products and services under the National Environmental Satellite Data Information Service and $2,000,000 is for critical mapping and charting backlog requirements redirected from New York, Virginia, and Alaska as a result of the September 11th attacks.

The conference agreement includes, by reference, language in the House report regarding tornadoes.

The conference agreement also includes a rescission of $8,100,000 from unobligated balances remaining under this heading provided by Section 817 of Public Law 106–78.

#### PROCUREMENT, ACQUISITION AND CONSTRUCTION

The conference agreement includes $7,200,000 as a contingent emergency requirement for a supercomputer backup capability for the National Weather Service.

#### FISHERIES FINANCE PROGRAM ACCOUNT

The conference agreement includes language relating to loan program levels under the fisheries finance program.

### Departmental Management

#### SALARIES AND EXPENSES

The conference agreement includes $400,000 as an emergency requirement for increased guard and protection services, as requested.

### The Judiciary

### Supreme Court of the United States

#### CARE OF THE BUILDING AND GROUNDS

The conference agreement includes $10,000,000 as an emergency requirement to address the Supreme Court buildings's perimeter security needs. The conferees direct the Architect of the Capitol to submit a spending plan for this funding no later than September 15, 2002. The conferees adopt, by reference, language in the House report regarding the coordination of the Court's security efforts with other security enhancements being implemented in the U.S. Capitol complex.

### United States Court of Appeals for the Federal Circuit

#### SALARIES AND EXPENSES

The conference agreement adopts, by reference, language in the House report under this heading. The required report should be submitted no later than September 1, 2002.

### Courts of Appeals, District Courts, and Other Judicial Services

#### SALARIES AND EXPENSES

The conference agreement includes $7,115,000, including $3,972,000 as a contingent emergency requirement, for the increased costs associated with terrorist-related trials. Of the total amount provided, $5,200,000 is for perimeter security enhancements such as protective window film, for courts with upcoming terrorist trials, as described in the House and Senate reports. In addition, $1,915,000 is provided to fund the costs associated with closed circuit transmission of the Moussaoui trial to victims of the September 11th attacks. The conferees adopt, by reference, language in the Senate report regarding a report on the court security radio conversion program.

*Courtroom Technologies.*—The conferees support the Federal Judiciary and Department of Justice courtroom technologies programs. The Federal Judiciary's courtroom technology program includes the installation of video evidence presentation systems, video conferencing systems, and electronic methods of taking the record in new and existing Federal courtrooms, as well as the procurement of portable suites of computers and audio/visual equipment for use in courtrooms without permanent equipment. The conferees understand that these technologies can reduce trial time, lower litigation costs and enhance the understanding of information.

The conferees also understand that Department of Justice attorneys have developed a similar low cost, portable suite of computers and audio/visual equipment for the courtroom that enhances the presentation of information to juries on complex issues such as how a cyber attack is launched.

The conferees direct the Administrative Office of the U.S. Courts and the Executive Office of United States Attorneys (EOUSA) to provide a report to the Committees on their plans to expand the use of courtroom technologies in Federal courtrooms. The report should describe the courts' plans to expand installation of courtroom technologies in new and existing courtrooms and to use of portable courtroom technologies. The report should compare the costs and benefits of each program. The report should also describe how the Federal Judiciary and the EOUSA are coordinating their programs to ensure that duplicative equipment is not purchased. The conferees expect the report to be submitted no later than September 1, 2002.

## DEPARTMENT OF STATE AND RELATED AGENCY

## DEPARTMENT OF STATE

### Administration of Foreign Affairs

#### DIPLOMATIC AND CONSULAR PROGRAMS

The conference agreement includes $47,450,000 in this account as an emergency appropriation. This amount includes $20,300,000 for costs of opening and securing diplomatic posts in Kabul, Afghanistan, and Dushanbe, Tajikistan. The conferees direct the Department to submit bimonthly reports on the planned and actual obligation and expenditure of this funding through completion of the projects.

The conference agreement also includes $1,000,000 for domestic preparedness needs, $3,000,000 for chemical/biological emergency supplies, $1,600,000 for increased domestic guard requirements, $550,000 for immunization requirements, and $11,000,000 for mail and pouch processing requirements. The conferees note that $10,000,000 was provided for security upgrades of mail and pouch facilities in Public Law 107-38. Should additional funding beyond the total of $21,000,000 be required for this purpose, the conferees expect the Department to submit a reprogramming from funding provided for other purposes.

The conference agreement also includes in this chapter a public diplomacy initiative to engage foreign Arab and Muslim publics totaling $40,100,000, including $10,000,000 under this account. The conference agreement includes, by reference, language in the Senate report regarding the American Corners initiative. Funding is included under this account, as follows, for public diplomacy programs and activities:

| | |
|---|---|
| Broadcast Rights | $1,150,000 |
| Crimes Against Humanity Programs | 1,000,000 |
| Regional Office—Cairo | 1,500,000 |
| Iran-Iraq Programs | 1,000,000 |
| Translations | 150,000 |
| Democratization | 1,050,000 |
| English Teaching Support | 2,550,000 |
| Educational Reform (Gulf & S Asia) | 500,000 |
| American Studies (NEA region) | 600,000 |
| Educational Reform Small Grants | 500,000 |
| Total | 10,000,000 |

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

The conference agreement includes $15,000,000, including $5,000,000 as a contingent emergency requirement, for a public diplomacy exchange initiative for foreign Arab and Muslim publics. This initiative includes funding, as follows, for educational and cultural exchange themes and programs to increase mutual understanding with Arab and Muslim audiences worldwide:

| | |
|---|---|
| Values/Religious Tolerance | $2,100,000 |
| English Language Programs | 4,000,000 |
| American Studies | 1,000,000 |
| Youth Exchanges | 1,000,000 |
| Media Training Exchanges | 500,000 |
| US/Afghan Women's Council | 2,400,000 |
| Fulbright Exchanges | 4,000,000 |
| Total | 15,000,000 |

The conferees agree that Fulbright Exchanges funded in this Act will focus on the themes of values/religious tolerance, American studies, media training and US/Afghan women's issues. The conference agreement also includes, by reference, language in the House report regarding the allocation of this funding for countries not already covered under the Freedom Support Act.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

The conference agreement includes $210,516,000, including $10,000,000 as a contingent emergency requirement. This includes $130,516,000 for the construction and renovation of diplomatic facilities in Kabul, Afghanistan, and $80,000,000 for Dushanbe, Tajikistan. The amount provided above the request reflects adjusted Department estimates for the Kabul project, as described in the Senate report. The conferees direct the Department to submit bimonthly reports on the planned and actual obligation and expenditure of this funding through completion of the projects. In addition the conferees direct that the bimonthly reports on the Kabul, Afghanistan, facility contain detailed information, including cost estimates, on compound security.

The conferees also direct the Department to submit a report on, and justification of, proposed staffing levels at both posts before the obligation of funds, as described in the House report. The conferees intend that the amount provided for facilities in Kabul will support the collocation of all agencies at post on a secure compound.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

The conference agreement does not include additional funding requested under this account. The conferees direct the Department to use available funding in this account for the purposes described in the request.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The conference agreement includes $7,000,000 as an emergency requirement for anticipated United Nations assessments to support a United Nations mission in Afghanistan.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The conference agreement includes $23,034,000 as an emergency requirement for increased assessments for the United Nations peacekeeping mission in the Democratic Republic of the Congo (MONUC). The conference agreement provides for estimated additional fiscal year 2002 assessments based on the current force level and does not assume any increase or decrease to that level, nor any change in the mandate of the mission. Should actual assessments for MONUC exceed the increased funding level, the Department may propose to reprogram funds from allocations for other missions.

## RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

The conference agreement includes $7,400,000 as an emergency requirement for operational costs to continue surrogate radio broadcasting by Radio Free Europe/Radio Liberty to the people of Afghanistan in languages spoken in Afghanistan. The Broadcasting Board of Governors (BBG) shall provide the Committees on Appropriations quarterly status reports on ongoing broadcasting initiatives in the Middle East, Afghanistan and Africa, with the first such report due no later than October 15, 2002. In addition, the conferees expect the BBG to carry VOA Farsi and Radio Free Europe/Radio Liberty's Radio Free Iraq broadcasts on the medium-wave transmitter located in Kuwait until such time as alternative AM transmission capabilities with equivalent power and reach are in place. The conferees note that the BBG, to date, has not submitted such an alternative proposal to the Committees on Appropriations.

BROADCASTING CAPITAL IMPROVEMENTS

The conference agreement includes $7,700,000 for the "Broadcasting Capital Improvements" account, for capital requirements associated with installation of a medium wave transmission facility to support the Arabic broadcasting initiative, as described in the House report.

## RELATED AGENCIES

## DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

(RESCISSION)

The conference agreement includes a rescission of $5,000,000 from unobligated balances under this heading.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $40,200,000 for the Securities and Exchange Commission, including $9,300,000 as a contingent emergency requirement. The total amount is $20,200,000 above the request, and $10,900,000 above the level provided in the House and Senate bills.

The conferees are concerned that the Administration has not requested sufficient resources for the Commission to adequately protect investors from corporate abuses. In order to address this concern, the conferees have provided more that double the Administration's request. The conference agreement includes $25,000,000 for 125 additional staff including associated pay parity costs, and $5,900,000 to allow the Commission to begin to address critical information technology needs such as an integrated document management system, automated analytical tools, and E-Filing. In addition, $9,300,000 is provided for recovery costs for the New York Regional Office where office space was destroyed in the September 11th attacks.

GENERAL PROVISIONS

Sec. 201.—The conference agreement includes modified language waiving a provision of existing law requiring authorizations to be in place for the State Department prior to the expenditure of any appropriated funds.

Sec. 202.—The conference agreement includes language amending existing law regarding the collection of immigration inspection fees.

Sec. 203.—The conference agreement includes language authorizing the closed circuit televising of the Moussaoui trial for victims of the September 11, 2001, attacks.

Sec. 204.—The conference agreement includes language requiring that funds provided in fiscal year 2002 for a certain grant program be used before the end of the current fiscal year.

Sec. 205.—The conference agreement includes language prohibiting the use of funds in this or any other act to carry out a certain memorandum of agreement between the Federal Trade Commission and the Department of Justice. The conference agreement adopts by reference the semi-annual reporting requirement included in the Senate report.

Sec. 206.—The conference agreement includes modified language extending the statutory deadline for submission of the final report and recommendations of the Ocean Policy Commission.

Sec. 207.—The conference agreement includes language authorizing the International Joint Commission to receive funds from the U.S. Army Corps of Engineers for purposes related to a certain project.

Sec. 208.—The conference agreement includes language clarifying the definition of wild fish in the Agricultural Marketing Act of 1946, as amended.

Sec. 209.—The conference agreement includes language clarifying Congressional intent regarding a cooperative agreement.

Sec. 210.—The conference agreement includes language providing economic assistance to certain fishermen and fishing communities. The conference agreement includes, by reference, language in the Senate report regarding the allocation, by State, of this funding.

Sec. 211.—The conference agreement includes modified language and funding for a cooperative research program and a capacity reduction loan program for the New England groundfish fishery.

Sec. 212.—The conference agreement includes modified language designating previously appropriated funding for the costs of a capacity reduction loan program for the West Coast fishery.

Sec. 213.—The conference agreement includes language amending Public Law 107–77 under the heading "National Veterans Business Development Corporation" to make fiscal year 2002 appropriations available until expended.

## CHAPTER 3

## DEPARTMENT OF DEFENSE—MILITARY

Chapter 3 of the conference agreement recommends $14,352,900,000 for the Department of Defense, instead of $15,769,462,000 as proposed by the House and $14,022,000,000 as proposed by the Senate to support the global war on terrorism. This amount includes $14,966,000,000 in new budget authority, and $613,100,000 in offsets (rescissions) from existing appropriations.

The following table provides details of the emergency supplemental appropriations in this chapter.

[In thousands of dollars]

| | Budget request | House | Senate | Conference |
|---|---|---|---|---|
| Military Personnel: | | | | |
| Military Personnel, Air Force | 206,000 | 206,000 | 206,000 | 206,000 |
| Operation and Maintenance: | | | | |
| O&M, Army | 107,000 | 226,000 | 107,000 | 209,000 |
| O&M, Navy | 36,500 | 53,750 | 36,500 | 48,750 |
| O&M, Air Force | 41,000 | 60,500 | 41,000 | 65,510 |
| O&M, Defense-Wide | 739,000 | 751,975 | 739,000 | 721,975 |
| Defense Emergency Response Fund | 11,300,000 | 12,693,972 | 11,300,000 | 11,901,900 |
| Total, O&M | 12,223,500 | 13,786,197 | 12,223,500 | 12,947,135 |
| Procurement: | | | | |
| Other Procurement, Army | 79,200 | 79,200 | 79,200 | 79,200 |
| Aircraft Procurement, Navy | 22,800 | 22,800 | 22,800 | 22,800 |
| Proc of Ammunition, Navy and MC | 262,000 | 262,000 | 262,000 | 262,000 |
| Other Procurement, Navy | 2,500 | 2,500 | 2,500 | 2,500 |
| Procurement, Marine Corps | 3,500 | 3,500 | 3,500 | 3,500 |
| Aircraft Procurement, Air Force | 93,000 | 129,500 | 93,000 | 118,000 |
| Procurement of Ammunition, Air Force | 115,000 | 115,000 | 115,000 | 115,000 |
| Other Procurement, Air Force | 752,300 | 735,340 | 752,300 | 747,840 |
| Procurement, Defense-Wide | 99,500 | 104,425 | 99,500 | 104,425 |
| Total, Procurement | 1,429,800 | 1,454,265 | 1,429,800 | 1,455,265 |
| Research, Development, Test and Evaluation: | | | | |
| RDTE, Army | 8,200 | 8,200 | 8,200 | 8,200 |
| RDTE, Navy | 19,000 | 9,000 | 19,000 | 9,000 |
| RDTE, Air Force | 60,800 | 99,800 | 60,800 | 198,400 |
| RDTE, Defense-Wide | 74,700 | 72,000 | 74,700 | 67,000 |
| Total, RDTE | 162,700 | 189,000 | 162,700 | 282,600 |
| General Provisions: | | | | |
| MH–47 | — | 93,000 | — | — |
| Chemical Demilitarization | — | 100,000 | — | 75,000 |
| Rescissions | — | −59,000 | — | −613,100 |
| Total General Provisions | — | 134,000 | — | −538,100 |
| Grand Total | 14,022,000 | 15,769,462 | 14,022,000 | 14,352,900 |

### MILITARY PERSONNEL

The conference agreement recommends $206,000,000 as proposed by the House and the Senate for functions funded in title I, Military Personnel, of the Department of Defense Appropriations Act, as follows:

[In thousands of dollars]

| Program | Request | House | Senate | Conference |
|---|---|---|---|---|
| Military Personnel, Air Force Personnel Readiness | 206,000 | 206,000 | 206,000 | 206,000 |

### OPERATION AND MAINTENANCE

The conference agreement recommends $1,045,235,000 for functions funded in title II, Operation and Maintenance, of the Department of Defense Appropriations Act, instead of $1,092,225,000 as proposed by the House, and $923,500,000 as proposed by the Senate, as follows:

[In thousands of dollars]

| Program | Request | House | Senate | Conference |
|---|---|---|---|---|
| Operation and Maintenance, Army: | | | | |
| C3I Classified | 101,800 | 103,800 | 101,800 | 103,800 |
| C3I Site R | 5,200 | 5,200 | 5,200 | 5,200 |
| Operations in Bosnia and Southwest Asia | 0 | 117,000 | 0 | 100,000 |
| Operation and Maintenance, Navy: | | | | |
| C3I Classified | 36,500 | 53,750 | 36,500 | 48,750 |
| Operation and Maintenance, Air Force: | | | | |
| C3I Classified | 32,000 | 51,500 | 32,000 | 56,510 |
| Weapons and Munitions—UAV | 9,000 | 9,000 | 9,000 | 9,000 |
| Operation and Maintenance, Defense-Wide: | | | | |
| C3I Classified | 283,600 | 296,575 | 283,600 | 296,575 |
| C3I Homeland Security IT | 32,000 | 32,000 | 32,000 | 32,000 |
| C3I White House Communications | 3,400 | 3,400 | 3,400 | 3,400 |
| Coalition Support | 420,000 | 420,000 | 420,000 | 390,000 |

### OPERATION AND MAINTENANCE, DEFENSE-WIDE

The conference agreement provides $390,000,000 for reimbursements to Pakistan, Jordan, and other key cooperating countries for the cost of goods, services, or use of facilities provided in direct support of United States military forces in connection with the global war on terrorism. The conferees expect the Secretary of Defense to establish financial management guidelines and documentation requirements providing assurance that these reimbursements are fully justified. The conferees expect that the first "15-day" written notification submitted to the congressional committees will include a detailed description of the financial management guidelines and documentation requirements established by the Secretary under the authority provided, and an explanation as to the adequacy of this documentation in ensuring that taxpayer interests are adequately protected.

DEFENSE EMERGENCY RESPONSE FUND

The conference agreement recommends $11,901,900,000 for the incremental costs of military operations and mobilization to conduct the global war on terrorism, instead of $12,693,972,000 as proposed by the House, and $11,300,000,000 as proposed by the Senate, as follows:

[In thousands of dollars]

| | *Conference Amount* |
|---|---|
| Military Personnel, Army: | |
| Active and Reserve Pays and Allowances | 1,389,700 |
| Mobilization Costs | 245,000 |
| Military Personnel, Navy: | |
| Active and Reserve Pays and Allowances | 414,200 |
| Mobilization Costs | 285,000 |
| Military Personnel, Marine Corps: | |
| Active and Reserve Pays and Allowances | 206,800 |
| Mobilization Costs | 2,000 |
| Military Personnel, Air Force: | |
| Active and Reserve Pays and Allowances | 1,848,500 |
| Mobilization Costs | 268,000 |
| Operation and Maintenance, Army: | 705,000 |
| Personnel Support Operations Costs | 348,600 |
| Airlift and Sealift | 1,034,400 |
| Operation and Maintenance, Navy: | |
| Flying Hours | 140,000 |
| Ship Operations | 225,000 |
| Ship Maintenance | 412,000 |
| U.S.S. Scranton DMP | 90,000 |
| Aircraft Maintenance | 137,000 |
| Combat Support Forces | 150,000 |
| Operational Support Costs | 367,000 |
| Operation and Maintenance, Marine Corps: | |
| Combat Support Force Operations | 51,000 |
| Operation and Maintenance, Air Force: | |
| Operations and Personnel Support | 1,323,200 |
| Transportation and Airlift Costs | 626,800 |
| Operation and Maintenance, Defense-Wide: | |
| SOCOM and Homeland Defense | 1,010,900 |
| Veterans' Task Force | 0 |
| Classified | 120,000 |
| Overseas Humanitarian, Disaster and Civic Aid: | |
| Demining and Unexploded Ordnance Activities | 10,000 |
| Procurement of Weapons and Tracked Combat Vehicles, Army: | |
| Sniper Rifles, Modified Magazines | 4,000 |
| Procurement of Ammunition, Army: | |
| Small Caliber Ammunition | 62,800 |
| Other Procurement, Army: | |
| Site R Short Range Air Defense | 33,200 |
| Mine Clearing Equipment | 9,000 |
| Aircraft Procurement, Navy: | |
| J–52 Engines | 9,000 |
| EA–6B Center and Outer Wing Repairs | 60,000 |
| Spares | 27,000 |
| Shipbuilding and Conversion, Navy: | |
| Incremental Cost of Maintenance Availability | 59,000 |
| Other Procurement, Navy: | |
| Site R Costs, Spare Parts, and Guantanamo Bay Operations | 36,000 |
| Procurement of Ammunition, Air Force: | |
| Sensor Fuzed Weapon | 8,000 |
| Other Procurement, Air Force: | |
| NORAD Radio and Communications Upgrades | 4,000 |
| Research, Development, Test and Evaluation, Air Force: | |
| Global Hawk Deployment | 36,000 |
| Defense Health Program: | |
| Guard and Reserve Medical Costs | 143,800 |

The conferees have agreed to provide $672,000,000 over the amounts requested by the President in order to address existing shortfalls in military personnel funding, including those associated with the mobilization of Guard and Reserve personnel and other personnel-related costs including "stop-loss". In addition, based on more current execution data, the conference agreement adjusts the budget request by realigning an additional $128,000,000 to personnel requirements from operational costs, bringing the total provided for additional military personnel expenses to $800,000,000.

The conference agreement reallocates $201,000,000 from funds requested for SOCOM logistical support to the military services that the providing the support. The recommendation also realigns $100,000,000 from the Defense Health Program to other requirements based on the Department's reporting of lower than expected expenditures for medical services provided to reservists called to active duty.

The conferees agree with funding directives in House of Representatives Report 107–480 with respect to body armor; Naval Air Station, North Island historical facility renovation; NAIC Threat Representation and Validation project; and Predator B flying hours. Further, the conferees agree with the quarterly reporting requirements for Defense Emergency Response Fund (DERF) obligations as directed by the House, and with the Senate's directive that the Department of Defense notify the Committees on Appropriations prior to transferring DERF funds to appropriations accounts or for purposes or amounts other that those specified in the table above.

REALIGNMENT OF DERF FUNDS FOR FISCAL YEAR 2002 FUNDING SHORTFALLS

The Department of Defense has identified $500,000,000 previously made available to the Defense Emergency Response Fund (in Public Laws 107–38 and 107–117) that are not being obligated by the military services as quickly as originally anticipated. The categories to which these funds had been allocated are as follows:

[In thousands of dollars]

| | |
|---|---|
| Increased situational awareness | 153,823 |
| Enhanced force protection | 161,150 |
| Increased worldwide posture | 49,407 |
| Initial crisis response | 125,620 |
| Airport and border security | 10,000 |

Given that funds previously made available to the DERF were for near term, extraordinary costs of the war on terrorism that would be obligated and expended quickly, it is clear that these funds are for relatively lower priority activities. In order to help offset the additional funding for military personnel and other time-sensitive, mobilization-related costs provided in the conference agreement, the conferees recommend a general provision (section 312) rescinding $224,000,000 of these funds. As for funds which remain from those cited above, the conferees direct that they be realigned to address additional fiscal year 2002 military personnel and other high priority operational and readiness funding requirements that will not be fully covered by the funding in this measure. The conference agreement includes authority for the Secretary of Defense to make such transfers, 15 days after notification to the congressional defense committees.

PROCUREMENT

The conference agreement recommends $1,455,265,000 for functions funded in title III, Procurement, of the Department of Defense Appropriations Act, instead of $1,454,265,000 as proposed by the House, and $1,429,800,000 as proposed by the Senate, as follows:

[In thousands of dollars]

| Program | Request | House | Senate | Conference |
|---|---|---|---|---|
| Other procurement, Army: | | | | |
| C3I Classified | 10,400 | 10,400 | 10,400 | 10,400 |
| C3I Site R | 68,800 | 68,800 | 68,800 | 68,800 |
| Aircraft Procurement, Navy: | | | | |
| C3I Classified | 8,000 | 8,000 | 8,000 | 8,000 |
| C3I White House Communications | 14,800 | 14,800 | 14,800 | 14,800 |
| Procurement of Ammunition, Navy and Marine Corps: | | | | |
| Weapons and Munitions—JDAM | 262,000 | 262,000 | 262,000 | 262,000 |
| Other Procurement, Navy: | | | | |
| C3I Classified | 2,500 | 2,500 | 2,500 | 2,500 |
| Procurement, Marine Corps: | | | | |
| C3I Classified | 3,500 | 3,500 | 3,500 | 3,500 |
| Aircraft Procurement, Air Force: | | | | |

[In thousands of dollars]

| Program | Request | House | Senate | Conference |
|---|---|---|---|---|
| Weapons and Munitions—UAV | 93,000 | 0 | 0 | 0 |
| Global Hawk Replacement Vehicle | 0 | 35,000 | 35,000 | 35,000 |
| Backfill for Cameras P1 and P2 | 0 | 13,000 | 0 | 13,000 |
| Sensor Packages/High Band Subsystem Dev | 0 | 0 | 13,000 | 0 |
| Predator Accelerated Production | 0 | 45,000 | 37,000 | 37,000 |
| Predator Ground Station Retrofit | 0 | 0 | 8,000 | 8,000 |
| F-15 VHF Radios | 0 | 36,500 | 0 | 25,000 |
| Procurement of Ammunition, Air Force: | | | | |
| Weapons and Munitions—JDAM | 115,000 | 115,000 | 115,000 | 115,000 |
| Other Procurement, Air Force: | | | | |
| C3I Classified | 752,300 | 735,340 | 752,300 | 747,840 |
| Procurement, Defense-Wide: | | | | |
| C3I Classified | 46,900 | 51,825 | 46,900 | 51,825 |
| C3I White House Communications | 14,800 | 14,800 | 14,800 | 14,800 |
| Weapons and Munitions—Helicopter Weapons | 3,500 | 3,500 | 0 | 3,500 |
| Weapons and Munitions—APQ Radar Overheat Mitigation | 3,300 | 3,300 | 3,300 | 3,300 |
| Weapons and Munitions—MH-60 Enhancement | 8,600 | 8,600 | 0 | 8,600 |
| Weapons and Munitions—Cas Suite | 2,200 | 2,200 | 0 | 2,200 |
| SOF Small Arms and Weapons | 0 | 0 | 2,200 | 0 |
| Rotary Wing Upgrades | 0 | 0 | 12,100 | 0 |
| SOCOM Standard Ammo/Non-Standard Ammo/SOAR | 20,200 | 20,200 | 20,200 | 20,200 |

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement recommends $282,600,000 for functions funded in title IV, Research, Development, Test and Evaluation, of the Department of Defense Appropriations Act, instead of $189,000,000 as proposed by the House, and $162,700,000 as proposed by the Senate, as follows:

[In thousands of dollars]

| Program | Request | House | Senate | Conference |
|---|---|---|---|---|
| Research, Development, Test and Evaluation, Army: | | | | |
| Weapons and Munitions—Hemostatic Dressing | 8,200 | 8,200 | 8,200 | 8,200 |
| Research, Development, Test and Evaluation, Navy: | | | | |
| C3I Classified | 10,000 | 0 | 10,000 | 0 |
| C3I White House Communications | 9,000 | 9,000 | 9,000 | 9,000 |
| Research, Development, Test and Evaluation, Air Force: | | | | |
| C3I Classified | 37,800 | 99,800 | 37,800 | 175,400 |
| Weapons and Munitions—UAV | 23,000 | 0 | 23,000 | 23,000 |
| Research, Development, Test and Evaluation, Defense-Wide: | | | | |
| C3I Classified | 74,700 | 52,000 | 74,700 | 52,000 |
| Remote CB Agent Vapor Detection System | 0 | 20,000 | 0 | 15,000 |

### CRUSADER NEXT GENERATION ARTILLERY SYSTEM

The conferees strongly oppose the process employed by the Defense Department in proposing to terminate the Crusader artillery system. The usual practice for making a policy decision of this type would be for the Executive Branch to propose it in the initial President's budget submission to allow Congress sufficient time to hold hearings and fully scrutinize its merits. This process was not followed in the case of the Crusader. Instead, after requesting $475,609,000 in the fiscal year 2003 President's Budget, a budget amendment was submitted on May 29, 2002 to immediately terminate the Crusader program. This proposal gave the Congress virtually no time to properly examine the merits of the Administration's proposal.

The conferees recognize that the proposed termination of the Crusader system may present a higher degree of risk for Army soldiers, given that the precision munitions and rocket systems proposed as alternatives to the Crusader's capabilities are unproven from technical, cost, and tactical perspectives. However, the conferees have concluded that since the Army has reported to the Congress on its plans to exclude the Crusader from its Objective Force, and since the Army has chosen to accelerate the fielding of the Future Combat System to the 2008 timeframe, the justification for the Crusader has diminished significantly.

The Army's deficiency in heavy artillery capability cannot continue to be deferred irrespective of the development of precision guided munitions. The gap left by the termination of the Crusader artillery system must be filled.

The conferees believe it is imperative that the Army accelerate its plan to develop a next generation artillery cannon for the Objective Force to take full advantage of the $2 billion investment in state-of-the-art artillery technology developed under the Crusader program. The conferees direct the Army to enter into a follow-on contract immediately to leverage Crusader technology to the maximum degree possible in order to develop and field a next generation Non-Line of Sight (NLOS) Cannon artillery system in the 2008 timeframe.

Finally, the conferees direct the Army to carefully review its requirements for this Objective Force NLOS Cannon artillery system to ensure that the desire for high mobility and speed of deployment is properly balanced against future needs of lethality and combat overmatch.

### UNDERSEA WARFARE SUPPORT EQUIPMENT

The conferees direct that of the funds provided in the fiscal year 2002 Defense Appropriations Act under "Research, Development, Test and Evaluation, Navy" for Fleet Telecommunications (tactical), $2,000,000 shall be reallocated as follows: $1,000,000 shall be transferred to "Other Procurement, Navy" Undersea Warfare Support Equipment only to procure new improvements to the AN/SLQ 25A system and $1,000,000 shall be reprogrammed within "Research, Development, Test and Evaluation, Navy" to Surface Ship Torpedo Defense, to implement the following revised funding profile for the Tripwire Torpedo Defense program: $7,350,000 for onboard sensors and signal processing, $400,000 for distributed engineering center, $2,500,000 for anti-torpedo torpedo, $1,650,000 for associated components, and $1,500,000 for winch redesign and integration.

### REMOTE CHEMICAL AND BIOLOGICAL AGENT VAPOR DETECTION SYSTEM

The conferees agree with the House language concerning the remote chemical and biological agent vapor detection system and recommend $15,000,000 for this purpose.

### CLASSIFIED PROGRAMS

The recommendations of the conferees regarding classified programs are summarized in a classified annex accompanying this statement.

## GENERAL PROVISIONS—THIS CHAPTER

The conferees agree to retain section 301, as proposed by the House and Senate, which permits funds in "Research, Development, Test and Evaluation, Navy" be used for the Special Operations Forces requirements related to the V-22 aircraft.

The conferees agree to delete language proposed by the House concerning obligation of funds in the Defense Cooperation Account to be transferred to other appropriations accounts.

The conferees agree to retain section 302, as proposed by the Senate, and delete language as proposed by the House, which allows the Defense Department to continue to provide assistance to Russia and the Former Soviet Union states provided the President certifies that it is important to the national security interests of the United States.

The conferees agree to delete language as proposed by the Senate which authorizes the use of funds for military construction projects.

The conferees agree to delete language as proposed by the Senate which permits the Secretary of Defense to waive current restrictions on the establishment of a field operating agency.

The conferees agree to retain section 303, as proposed by the House and Senate concerning funds for intelligence related programs.

The conferees agree to delete language as proposed by the House which changes the deadline for submitting a request for multiple reprogrammings to the Congress.

The conferees agree to retain section 304, as proposed by the House and Senate which makes funds available for the payment of certain expenses for international inspectors.

The conferees agree to retain and amend section 305, as proposed by the House which allows broader authority to the Department of Defense for assistance to Colombia.

The conferees agree to delete language as proposed by the House providing $93,000,000 to acquire three MH-47 helicopters for the Special Operations Command. The conferees do not agree to include this provision because the specific airframes that were to be procured through this effort are no longer available. However, the conferees concur with the direction provided in House Report 107-480 requiring the Secretary of Defense to provide a report to the defense committees not later than 30 days after enactment of this act outlining the Department's plans to acquire additional MH-47 helicopters to meet urgent mission requirements of the Special Operations Command.

The conferees agree to retain and amend section 306, as proposed by the House which provides $75,000,000 for the purpose of accelerating chemical agent destruction at Department of Defense facilities in Aberdeen, Maryland; Newport, Indiana; and Pine Bluff, Arkansas.

The Conferees agree to retain and amend section 307, as proposed by the House to rescind $163,100,000 instead of $59,000,000. The specific programs and the amounts rescinded are as follows:

| | *(Rescissions)* |
|---|---|
| 2001 Appropriations: | |
| Other Procurement, Air Force | $12,500,000 |
| 2002 Appropriations: | |
| Missile Procurement, Air Force | 11,600,000 |
| Other Procurement, Air Force | 52,500,000 |
| Procurement, Defense-Wide | 30,000,000 |
| Research, Development, Test and Evaluation, Air Force | 56,600,000 |

The conferees agree to retain and amend section 308, as proposed by the House which states that section 2533a of title 10 does not apply to transactions entered into under section 8159 of Public Law 107-117.

The conferees agree to delete language as proposed by the House which provides authority for the Secretary of Defense to use funds available in the "Defense Emergency Response Fund" to reimburse cooperating nations for logistical and military support provided to the United States military in connection with the war on terrorism.

The conferees agree to retain section 309, as proposed by the Senate which provides direction on the execution of $2,000,000 provided for procurement of smokeless nitrocellulose.

The conferees agree to retain section 310, as proposed by the Senate supporting the conversion of the Naval Security Group, Winter Harbor, Maine.

The conferees agree to retain section 311, as proposed by the Senate which directs that $2,200,000 in "Operation and Maintenance, Army National Guard" be used for information operations, information assurance operations and related training.

The conferees agree to include a new general provision, section 312, which rescinds $224,000,000 from funds previously made available in the Defense Emergency Response Fund.

The conferees agree to include a new general provision, section 313, which rescinds $226,000,000 from fiscal year 2002 defense appropriations resulting from revised economic assumptions regarding inflation.

## CHAPTER 4

### DISTRICT OF COLUMBIA

### FEDERAL FUNDS

The conferees recognize that security in the nation's capital is the combination of efforts by local and Federal government agencies and regional authorities, providing transportation, public works, and other services. A high degree of coordination among these entities is required to enhance and maintain security. In addition, the investments made in this region to address critical infrastructure must also be coordinated. The conferees encourage the Administration to assess the needs of the national capital region, set funding priorities, and make recommendations through the President's fiscal year 2004 budget, and, if necessary, through any supplemental budget requests.

### FEDERAL PAYMENT TO THE CHILDREN'S NATIONAL MEDICAL CENTER

The conferees provide a Federal payment of $10,000,000 to the Children's National Medical Center instead of $13,770,000 as proposed by the Senate. The House bill contained no similar provision. Included in this amount is $8,000,000 for the expansion of quarantine facilities and $2,000,000 for the construction of a decontamination facility for children and families.

### FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

The conferees provide a Federal payment of $23,000,000 to the District of Columbia to implement the District Emergency Operations Plan instead of $24,730,000 as proposed by the Senate. The House bill contained no similar provision. Included in this amount is $12,000,000 to reimburse the District for overtime expenses related to providing security at events associated with Federal government activities. Also included in this amount is $5,000,000 for the Unified Communications Center and $6,000,000 for construction of containment facilities and other activities to support the regional Bioterrorism Hospital Preparedness Program at the Washington Hospital Center.

### FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

The conferees provide a Federal payment of $8,000,000 to the Washington Metropolitan Area Transit Authority instead of $25,000,000 as proposed by the Senate. The House bill contained no similar provision. This funding is to contribute to the creation of a regional transportation back-up operations control center. Funding of this center is primarily a regional responsibility; therefore the conferees direct the General Manager of the Washington Metropolitan Area Transit Authority to submit by February 5, 2003 a plan for how this project will be financed. If it is determined that sufficient local funds cannot be dedicated to this project, the General Manager shall submit a plan that details how the agency proposes to expend the funds provided in this Act. The conferees do not intend to provide additional Federal funding for this project.

The conferees note that a number of the largest mass transit systems around the country have modified their vending systems to both accept and dispense the Sacajawea "Golden Dollar" coins. This is a coin which was created by an Act of Congress and which depicts an important Native American woman from American history. Regrettably, many mass transit systems around the country, including in the Nation's Capital, have declined to modify their vending systems to make use of the coin. These transit systems have thus far missed a chance to educate the millions of Americans who annually use transit systems about both the Golden Dollar coin as well as this important American. As we approach the bicentennial celebration of Lewis and Clark's "Corps of Discovery," the conferees direct the Washington Metropolitan Area Transit Authority to report the Committees on Appropriations of the House of Representatives and Senate by February 1, 2003 on its efforts to make its vending machines "Golden Dollar" capable.

### FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

The conferees provide a Federal payment of $1,750,000 to the Metropolitan Washington Council of Governments as proposed by the Senate. The House bill contained no similar provision. This funding is to acquire the technology to support the Regional Incident Communication and Coordination System as approved by the Council.

### FEDERAL PAYMENT TO THE WATER AND SEWER AUTHORITY OF THE DISTRICT OF COLUMBIA

The conferees provide a Federal payment of $1,250,000 to the Water and Sewer Authority of the District of Columbia instead of $3,000,000 as proposed by the Senate. The House bill contained no similar provision. This funding is for remote monitoring of water quality, including the ability to identify biological or chemical agents.

### FEDERAL PAYMENT FOR FAMILY COURT ACT

### (INCLUDING RESCISSION)

The conferees rescind $700,000 of funds made available for the Mayor of the District of Columbia. The House and Senate bills contained no similar provision.

From rescinded funds referenced in the paragraph above, the conferees provide a Federal payment of $700,000 to the Mayor of the District of Columbia Family Court Act. These funds are available for the same purposes and subject to the same reporting and availability requirements that were identified under this heading in the District of Columbia Appropriations Act, 2002. The House and Senate bills contained no similar provision.

### DISTRICT OF COLUMBIA FUNDS

### OPERATING EXPENSES

### DIVISION OF EXPENSES

Language is included under "District of Columbia Funds" to allow the District government to obligate and spend the Federal payments appropriated earlier in this chapter to the District government's general fund.

### GOVERNMENTAL DIRECTION AND SUPPORT

The conferees include a provision as proposed by both the House and the Senate that amends language contained in the District of Columbia Appropriations Act, 2002 to allow the funds provided to the Office of the Corporation Counsel to be used to support attorney compensation consistent with performance measures contained in a negotiated collective bargaining agreement.

### PUBLIC SAFETY AND JUSTICE

### (RESCISSION)

The conferees rescind $100,000 of the Department of Corrections funds for support of the Corrections Information Council as proposed by the Senate. The House bill contained no similar provision.

### CORRECTIONS INFORMATION COUNCIL

From funds rescinded under Public Safety and Justice, the conferees provide $100,000 for operations of the Corrections Information Council as proposed by the Senate. The House bill contained no similar provision.

#### PUBLIC EDUCATION SYSTEM

#### (RESCISSION)

The conferees rescind $37,000,000 of the Charter School surplus as proposed by both the House and the Senate. This surplus resulted from a lower than projected student enrollment.

#### HUMAN SUPPORT SERVICES

From funds rescinded under the public education system, the conferees provide $11,000,000 for the Child and Family Services Agency and $26,000,000 for the Department of Mental Health, as proposed by both the House and the Senate.

#### REPAYMENT OF LOANS AND INTEREST

#### (RESCISSION)

The conferees rescind $7,950,000 from repayment of loans and interest as proposed by both the House and the Senate.

#### CERTIFICATES OF PARTICIPATION

From funds rescinded under repayment of loans and interest, the conferees provide $7,950,000 to be used for certificates of participation as proposed by both the House and the Senate.

#### ENTERPRISE AND OTHER FUNDS

#### WATER AND SEWER AUTHORITY

Language is included to allow the District government to obligate and spend the Federal payments appropriated earlier in this chapter to the District government's general fund.

#### GENERAL PROVISIONS, THIS CHAPTER

Sec. 401. Use of Emergency Supplemental Funds for Administrative Costs. The conferees include a provision as proposed by both the House and the Senate that allows the District of Columbia to use up to 1 percent of the funds appropriated to the District of Columbia under the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117) to fund the administrative costs that are needed to fulfill the purposes of that Act.

Sec. 402. Crime Victims Compensation Fund. The conferees include a provision as proposed by both the House and the Senate that amends language contained in the District of Columbia Appropriations Act, 2002 to clarify that the D.C. Courts are allowed to transfer 50 percent of the fund balance from the Crime Victims Compensation Fund to the District's newly established Crime Victims Fund for outreach activities.

The Mayor of the District of Columbia shall expend these funds in accordance with the plan to provide crime victims assistance, required in Section 403 of the Consolidated Appropriations Act (P.L. 106–554; 114 Stat. 2763A–188) and submitted to Congress on September 21, 2001. In addition, the Chief Financial Officer of the District of Columbia shall certify expenditures of these funds in accordance with the requirements set forth in the fiscal year 2002 District of Columbia Appropriations Act Conference Report (House Report 107–321).

Sec. 403. Reserve Fund. The conferees include a provision as proposed by both the House and the Senate that allows any funds not required to meet the seven percent cash reserve balance to be used to address potential deficits in addition to Pay-As-You-Go Capital Funds.

Sec. 404. Washington Metropolitan Area Transit Authority. The conferees include a provision as proposed by the Senate that allows the Washington Metropolitan Area Transit Authority to reprogram up to $2,400,000 from funds appropriated under Public Law 107–117 for protective clothing and breathing apparatus activities to employee and facility security and completion of the fiber optic network project. The House bill contained no similar provision.

Sec. 405. Transfer Authority for the District of Columbia Courts. The conferees modify a provision proposed by the Senate to allow the District of Columbia Courts to expend up to $3,000,000 to carry out the District of Columbia Family Court Act of 2001. The provision also allows the Family Court Act funds to be used to reimburse the D.C. Courts for these expenditures now that the Family Court Act funds have become available. The House bill contained no similar provision.

Sec. 406. Technical Correction to the District of Columbia Family Court Act of 2001. The conferees include a provision as proposed by the Senate that makes a technical correction to the District of Columbia Family Court Act of 2001 related to residency requirements of Family Court Act judges. The House bill contained no similar provision.

Sec. 407. Technical Corrections to the District of Columbia Appropriations Act of 2002. The conferees include a provision as proposed by the Senate that makes two technical corrections in the District of Columbia Appropriations Act, 2002 (Public Law 107–96). The House bill contained no similar provision.

Sec. 408. Administrative Provision. The conferees modify a provision proposed by both the House and the Senate that amends language contained in the District of Columbia Appropriations Act, 2002 (Public Law 107–96) to allow grants to be accepted after 14 calendar days of receipt by the Council of the District of Columbia (barring no written notice of disapproval by a Council member) instead of requiring the Council to pass a law to approve every grant notification submitted for approval. The provision also allows the District to expend other funds if the Chief Financial Officer certifies that the funds are available and are not required to address potential deficits and with prior notification to the Committees on Appropriations of the House of Representatives and Senate of the acceptance, obligation, and expenditure of such funds.

Sec. 409. Chief Financial Officer. The conferees modify a provision proposed by the Senate that extends the Chief Financial Officer's personnel, procurement, and preparation of fiscal impact statement authorities from June 30, 2002 through July 1, 2003. The House bill contained no similar provision.

Insurance Procurement. The conferees do not include a provision as proposed by the Senate to allow the government of the District of Columbia to procure insurance for property damage and tort liability. The House bill contained no similar provision. The District of Columbia received a favorable decision from the General Accounting Office on June 3, 2002 regarding the purchase of commercial insurance against catastrophic risks; therefore this language is no longer needed.

## CHAPTER 5

### DEPARTMENT OF DEFENSE—CIVIL

### DEPARTMENT OF THE ARMY

#### CORPS OF ENGINEERS—CIVIL

#### OPERATION AND MAINTENANCE, GENERAL

The conference agreement includes a total of $140,200,000 for Operation and Maintenance, General.

Of the total, $108,200,000 is for emergency expenses at Corps of Engineers projects and facilities. The entire amount has been designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. The availability of these funds is contingent on receipt of a budget request from the President designating the requested funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

In addition, the conference agreement includes language which would permit these funds and funds appropriated under Public Law 107–117 to be used at any facility owned or operated by, or on behalf of, the Corps of Engineers, including administrative buildings and facilities.

The conference agreement also includes $32,000,000 for repair, restoration and cleanup of Corps projects and facilities, dredging of navigation channels, restoration and clean out of area streams, emergency streambank protection, restoration of other crucial public infrastructure, documenting flood impacts, and undertaking other flood recovery efforts deemed necessary and advisable by the Chief of Engineers. Of the total, $10,000,000 is for Southern West Virginia, Eastern Kentucky, and Southwestern Virginia; and $22.0000.000 is for Western Illinois, Southern Indiana, Eastern Missouri,and the Upper Peninsula of Michigan.

### DEPARTMENT OF THE INTERIOR

#### BUREAU OF RECLAMATION

#### WATER AND RELATED RESOURCES

The conference agreement includes $7,000,000 for the Water and Related Resources account of the Bureau of Reclamation Of the total, $3,000,000 is for the drilling of emergency wells in Santa Fe, New Mexico, and $4,000,000 is for the lease of up to 38,000 acre-feet of emergency water for the Rio Grande in New Mexico in compliance with the existing biological opinion. Section 504 of the Senate bill included $3,000,000 for the drilling of emergency wells in Santa Fe.

### DEPARTMENT OF ENERGY

#### ENERGY PROGRAMS

#### SCIENCE

The conference agreement provides $24,000,000 for Science to enhance safeguards and security of nuclear and other materials at Department of Energy Science laboratories instead of $29,000,000 as proposed by the House and no funding as proposed by the Senate. These funds are available for obligation through September 30, 2002.

The availability of these funds is contingent upon receipt of a budget request from the President designating the fund as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

### ATOMIC ENERGY DEFENSE ACTIVITIES

#### NATIONAL NUCLEAR SECURITY ADMINISTRATION

#### WEAPONS ACTIVITIES

#### (INCLUDING RESCISSION)

The conference agreement provides $158,050,000 for Weapons Activities instead of $125,400,000 as proposed by the House and $181,650,000 as proposed by the Senate. These funds are available for obligation through September 30, 2002.

The recommendation includes $19,400,000 for nuclear weapons incident response and emergency response activities as requested by the Administration.

Additional funding of $18,000,000 has been provided for secure transportation of nuclear weapons and materials.

For counter-terrorism activities and preparedness, $33,500,000 has been provided for operation and/or construction activities on various projects at the National Center for Combating Terrorism.

Safeguards and security.—Additional funding of $87,150,000 has been provided for increased safeguards and security needs at the Department's nuclear weapons facilities. Despite the lack of a request from the Administration for these activities, the conference agreement has provided funding for explosive detection equipment, protective force support, hardened perimeter barriers, consolidation of special nuclear materials, and complex-wide security improvements. Of these funds, $25,000,000 is provided for cyber-security activities.

Of the additional funding provided for increased safeguards and security needs, a minimum of $12,600,000 is provided for the Pantex Plant in Texas and $25,100,000 for the Y-12 Plant in Tennessee.

The conferees direct that the funding provided for safeguards and security be used only for its stated purpose and not as an indirect source for other site services or activities, especially those unrelated to safeguards and security.

Funding of $19,400,000 has been designated by the President as an emergency requirement. The availability of the remaining $138,650,000 is contingent upon receipt of a budget request from the President designating the funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

### (RESCISSION)

The conference agreement includes a rescission of $14,460,000 of funds appropriated to the National Nuclear Security Administration (not including the nuclear nonproliferation and naval reactors programs) in Public Law 107–66 and prior Energy and Water Development Appropriations Acts.

### DEFENSE NUCLEAR NONPROLIFERATION

The conference agreement includes $100,000,000 for Defense Nuclear Nonproliferation as proposed by the Senate instead of $5,000,000 as proposed by the House. The funds are available for obligation through December 31, 2002.

Funding of $35,000,000 is provided for nonproliferation and verification and development to develop sensors and other technologies to prevent nuclear and other deadly materials from entering this country, detect these substances elsewhere in the nation, and enhance preparedness in the event of an attack. Of these funds, not less than $20,000,000 is provided to accelerate and expand the nuclear and radiological national security program.

Funding of $30,000,000 is provided for the International Materials Protection, Control and Accounting program to plan and initiate nuclear materials protection and control activities in countries other than the former Soviet Union and to accelerate current programs in Russia.

Funding of $15,000,000 is provided for the Arms Control program. Of this amount, $6,000,000 is to implement the U.S.-DPRK Agreed Framework; $4,000,000 is for additional International Atomic Energy Agency (IAEA) safeguards and nonproliferation support for specific countries under safeguards; and $5,000,000 is for nuclear materials security programs in IAEA member countries.

*Elimination of Weapons-Grade Plutonium Production.*—Funding of $10,000,000 is provided to accelerate the transfer of the Elimination of Weapons-Grade Plutonium Production in Russia program to the Department of Energy from the Department of Defense by the Administration for fiscal year 2003. The total estimated cost of this program is almost $500,000,000, and the current completion date of 2006 may be difficult to achieve.

The conferees note that this is a very complicated program to implement, involving substantial contributions by and coordination with the Russian Government. Accordingly, the conferees direct the Administrator of NNSA to require the application of the Department's established directives or project management, to include acquisition planning, alternative analysis, and critical decision approvals of these products at the level prescribed by the Department's directives, before expenditure of funds appropriated for this program can begin.

The conferees are aware that the Department allowed its contractor to initiate program activities in advance of receiving funds for this program. None of the funds provided in this Act may be used to repay expenses incurred by the Department or its contractors for activities conducted prior to enactment of this Act.

*Return of Domestic Sealed Sources.*—The conference agreement provides $10,000,000 to accelerate the recovery of excess radioactive materials in the United States through the Department's Offsite Source Recovery program. With this funding, it should be possible to compress the recovery schedule to 18 months for over 5000 excess sealed sources. The conferees direct the Secretary to submit to the House and Senate Committees on Appropriations by October 31, 2002, a program plan detailing the activities, with costs, schedules and deliverables, to be accomplished in this program.

### OFFICE OF THE ADMINISTRATOR

The conference agreement provides $1,750,000 for the Office of the Administrator as proposed by the Senate instead of no funding as proposed by the House. The funds are available for obligation through September 30, 2002.

The availability of these funds is contingent upon receipt request from the President designating the funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

### ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

### DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

### (INCLUDING RESCISSION)

The conference agreement provides $56,000,000 for Defense Environmental Restoration and Waste Management to enhance safeguards and security at several Department of Energy environmental management cleanup sites instead of $67,000,000 as proposed by the House and $40,000,000 as proposed by the Senate. These funds are available for obligation through September 30, 2000.

The following sites should be provided priority in the distribution of this additional funding: the Savannah River Site in South Carolina, the Hanford site in Richland, Washington; the Idaho site; and the Oak Ridge site in Tennessee.

The availability of these funds is contingent upon receipt of a budget request from the President designating funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

### (RESCISSION)

The conference agreement includes a rescission of $15,540,000 of funds appropriated for Defense Environmental Restoration and Waste Management activities in Public Law 107–66 and prior Energy and Water Development Appropriation Acts.

### DEFENSE FACILITIES CLOSURE PROJECTS

The conference agreement provides $14,000,000 for Defense Facilities Closure Projects to enhance safeguards and security at several closure sites instead of $16,600,000 as proposed by the House and no funding as proposed by the Senate. These funds are available for obligation through September 30, 2002.

The availability of these funds is contingent upon receipt of a budget request from the President designating funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

### OTHER DEFENSE ACTIVITIES

The conference agreement provides $7,000,000 for Other Defense Activities for critical energy security and assurance activities as proposed by the House and the Senate and the same as the budget request. These funds are available for obligation through September 30, 2002.

The entire amount has been designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

### GENERAL PROVISIONS—THIS CHAPTER

Sec. 501. The conference agreement includes a provision proposed by the Senate regarding a biomass project in Winona, Mississippi.

Sec. 502. The conference agreement includes a provision proposed by the Senate requiring the Secretary of Energy to award a contract for two depleted uranium hexafluoride facilities.

Provisions not adopted.—The conference recommendation modifies a provision proposed by the Senate to rescind $30,000,000 from various Department of Energy accounts. The conference agreement provides alternative funding sources for this rescission.

The conference recommendation does not include a provision proposed by the Senate providing $3,000,000 for the Bureau of Reclamation to drill five wells in New Mexico. Funding for this activity has been included in the Bureau of Reclamation, Water and Related Resources appropriation account.

## CHAPTER 6

### REPORTING AND NOTIFICATIONS

The managers direct the Administration to submit a financial plan to the Committees on Appropriations regarding the use of funds appropriated in this chapter within 30 days of the enactment of this Act. Further, the managers direct the Department of State and the United States Agency for International Development to implement programs, projects and activities recommended in this chapter consistent with the budget justification material submitted to the Congress, as modified by the conference agreement. Any proposed changes in funding for programs, projects, and activities shall be reported to the Committees on Appropriations in conformance with regular notification procedures.

### EMERGENCY DESIGNATIONS

The conference agreement includes an emergency designation pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for each of the appropriations paragraphs recommended in this chapter. Appropriations that exceed the President's request include a requirement for an emergency designation by the President for the amount of the appropriation that differs from the request. The requirement for a Presidential designation of emergency spending applies to all funds appropriated under headings for which there is no official budget request.

## BILATERAL ECONOMIC ASSISTANCE

### Funds Appropriated to the President

### United States Agency for International Development

### CHILD SURVIVAL AND HEALTH PROGRAMS FUND

The conference agreement appropriates, subject to the regular notification procedures of the Committee on Appropriations, $200,000,000 to remain available until June 30, 2003, for emergency expenses for activities related to combating AIDS, tuberculosis, and malaria. Additional assistance to be provided for mother-to-child transmission of HIV/AIDS and for maternal health and other assistance to communities significantly affected by HIV/AIDS.

The conference agreement provides that not less than $100,000,000 under this heading in this Act should be made available for the Global Fund to Fight AIDS, Tuberculosis, and Malaria (Global Fund). Language similar to the House bill also provides that the cumulative amount of funds made available in this or prior Acts under this heading and under the heading "Child Survival and Disease Programs Fund" for the Global Fund may not exceed the total resources provided by all donors to the Global Fund for calendar year 2002.

In addition, the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and shall be available only to the extent an official budget request that includes designations of the entire amount of the request as an emergency requirement as defined in said Act is transmitted by the President to the Congress.

### INTERNATIONAL DISASTER ASSISTANCE

The conference agreement appropriates $184,000,000, instead of $190,000,000 as proposed by the House and $150,000,000 as proposed by the Senate. These funds include up to $134,000,000 for activities in Afghanistan, including repairs of houses damaged during military operations, and $50,000,000 for activities in the West Bank and Gaza. Funds are available for obligation until September 301 2003, as proposed by the House instead of March 31, 2003, as proposed by the Senate.

The managers note that while the situation of women in Afghanistan has improved since the Taliban era, serious obstacles, including illiteracy, joblessness, violence against women, lack of access to health care, and lack of clearly defined rights continue to hinder the progress of Afghan women. The managers understand the difficulties inherent in implementing assistance programs in Afghanistan but are nonetheless concerned about the slow pace and relatively small amount of assistance devoted specifically to improving the lives and opportunities of Afghan women. The Afghan Ministry of Women's Affairs is uniquely positioned to become the primary center of capacity to carry out women-focused development in Afghanistan, and the managers commend USAID for the support it has given to the Ministry thus far. The managers strongly recommend that not less than $2,500,000 from this account be provided to enable the Ministry to establish multi-service women's centers throughout Afghanistan for the purpose of implementing programs to improve women's and girl's health and expand economic opportunities through vocational and literacy training.

The conference agreement includes $50,000,000 for humanitarian assistance for the West Bank and Gaza, which must be designated by the President as emergency spending. The House bill and the Senate amendment included similar provisions, except that the House bill would have appropriated these funds under "Economic Support Fund" and transferred them to "International Disaster Assistance". In addition, the conference agreement includes language that prohibits the obligation or expenditure of funds to the Palestinian Authority. The managers direct that all funds appropriated under this heading in the Act for the West Bank and Gaza shall be made available for humanitarian assistance only through nongovernmental organizations.

### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The conference agreement appropriates $7,000,000 as proposed by the House instead of $5,000,000 as proposed by the Senate. These funds would be used to implement programs recommended elsewhere in this chapter, and for security costs in Afghanistan and Pakistan.

An additional $6,000,000 for operating expenses is available by transfer from funds appropriated under the heading "Child Survival and Health Programs Fund" for the management and oversight of programs funded under this heading in this Act and in P.L. 107-115.

The managers are concerned that insufficient consideration has been given to the provision of interim secure housing and office facilities for the staff who will manage programs in Afghanistan that are funded in this and prior appropriations Acts. Not less than five days prior to the transmittal of the report on Afghanistan security required under section 603 of the Act, the Under Secretary of State for Management and the Administrator of the United States Agency for International Development are to consult with the Committees regarding the Department's plans for interim and permanent facilities for United States personnel in Kabul, Afghanistan.

## OTHER BILATERAL ECONOMIC ASSISTANCE

### ECONOMIC SUPPORT FUND

The conference agreement appropriates $665,000,000 instead of $660,000,000 as proposed by the House and $700,000,000 as proposed by the Senate. (The House bill included a total of $710,000,000 in this account, but $50,000,000 of those funds were proposed for transfer to "International Disaster Assistance" for the West Bank and Gaza. This issue is addressed under "International Disaster Assistance".) Funds may remain available for obligation until June 30, 2003.

The conference agreement does not include language in the Senate amendment that would have provided that $50,000,000 should be made available for the Middle East Economic Initiative (MEEI). The House bill did not address this matter. The managers agree the initiative should receive an allocation of not to exceed $25,000,000. Funding priorities should include education, commercial law reform, trade technical assistance, and civil society and rule of law programs. Within the funds made available for the MEEI, the managers strongly support the funding of additional scholarships for foreign students at American educational institutions in the Middle East, including scholarships for students from central Asia.

The conference agreement includes $200,000,000 for anti-terrorism assistance for Israel as proposed by the House and Senate, which must be designated by the President as emergency spending. It also includes language proposed by the Senate that would authorize the transfer of all or a portion of these funds to "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for defensive, non-lethal anti-terrorism assistance. The managers strongly support the expeditious programming of these funds in order to assist the State of Israel in its response to international terrorism.

The conference agreement includes language similar to that in the Senate amendment that would require that the Committees on Appropriations be informed 15 days prior to the obligation of funds provided under this heading in this Act. The House bill did not address this matter.

The conference agreement does not include Senate language providing $3,500,000 for programs and activities that provide professional training for journalists from the Middle East. The House bill did not address this matter. The managers recognize the importance of such programs and encourage the United States Agency for International Development and the Department of State to provide up to $1,000,000 for such activities.

The conference agreement provides that $10,000,000 under this heading should be made available for the establishment of a pilot academic year international youth exchange program for secondary school students from countries with significant Muslim populations, modeled after the Future Leaders Exchange involving students from the former Soviet republics. The Senate amendment had earmarked $20,000,000 for this purpose. The House bill did not address this matter.

The conference agreement includes language that provides that $1,000,000 should be provided for programs and activities that support the development of independent media in Pakistan. The Senate amendment would have mandated $3,500,000 for such programs and activities. The House bill did not address this matter.

### ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

The conference agreement provides that funds shall remain available for obligation until June 30, 2003.

The conference agreement does not include Senate language not in the House bill that would have limited assistance to certain specified countries.

The conference agreement does not include Senate language providing that not less than $7,000,000 shall be made available for the development of democratic institutions and the protection of human rights, which amount shall be administered by the Bureau of Democracy, Human Rights, and Labor, Department of State. However, it is the manager's understanding based on information provided by the Coordinator of Assistance to Europe and Eurasia that not less than $10,000,000 will be made available for democracy and human rights programs in Central Asia. The managers expect that within 30 days of enactment of this Act, the Coordinator will provide the Committees on Appropriations with a comprehensive report on the democracy and human rights programs and activities to be conducted in Central Asia with funds appropriated by this Act, including a schedule for the obligation and disbursement of funds.

The managers commend USAID's Central Asia mission for its focus on economic growth, education, and health in Central Asia, and expect that a significant amount of the additional resources provided in this Act will be allocated to these sectors. Because of the special needs in the region, emphasis should be placed on microcredit and clean water programs.

The conference agreement includes language similar to that in the Senate amendment that would require that the Committees on Appropriations be informed 15 days prior to the obligation of funds provided under this heading in this Act. The House bill did not address this matter.

### DEPARTMENT OF STATE

#### INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The conference agreement appropriates $117,000,000 instead of $120,000,000 as proposed by the House and $104,000,000 as proposed by the Senate. These funds would remain available for obligation until September 30, 2003, as proposed by the House instead of March 31, 2003, as proposed by the Senate.

The conference agreement provides that funds appropriated under the heading "International Narcotics Control and Law Enforcement" should be made available to train and equip a Colombian Armed Forces unit dedicated to apprehending the leaders of paramilitary organizations. The language differs slightly from that included in the Senate amendment, which was included under the heading "Foreign Military Financing". The House bill did not address this matter.

The conference agreement does not include Senate language providing $2,500,000 for training, equipment, and other assistance for park rangers for the Colombian National Park Service. However, the managers are aware of Colombia's extraordinary system of national parks and reserves and of the grave threats to these areas posed by coca farmers, illegal loggers, and armed conflict. The managers recognize the substantial environmental and eco-tourism importance of these parks and reserves. The managers intend to provide assistance to the Colombia National Park Service to help protect these areas with funding in fiscal year 2003 from the Andean Counterdrug Initiative.

The conference agreement includes language similar to that in the Senate amendment that not to exceed $4,000,000 should be available for police training in Indonesia. The House bill did not address this matter.

The conference agreement includes language similar to that in the Senate amendment that would require that the Committees on Appropriations be informed 15 days prior to the obligation of funds provided under this heading in this Act. The House bill did not address this matter.

The conference agreement provides that $6,000,000 under this heading may be made available for assistance for the Colombian Armed Forces for purposes of protecting the Cano Limon pipeline. The managers are aware that the majority of people living in Arauca department, where the Cano Limon pipeline is located, remain impoverished despite the extraction of oil worth billions of dollars from that area. The conference agreement provides that prior to the obligation of funds for purposes of protecting the pipeline, the Secretary of State shall submit a report describing oil revenues by the Government of Colombia from the pipeline during the preceding 12 months, amounts expended by the government and private oil companies with a financial interest in the pipeline for programs to improve the lives of the people in Arauca, steps being taken to increase and expand such programs, and mechanisms being established to monitor such funds. The contents of the report will be considered by the Committees on Appropriations in connection with the fiscal year 2003 budget.

#### MIGRATION AND REFUGEE ASSISTANCE

The conference agreement appropriates $40,000,000 instead of $10,000,000 as proposed by the House and $50,000,000 as proposed by the Senate. The conference agreement provides that funds shall remain available for obligation until June 30, 2003 instead of September 30, 2003 as proposed by the House and March 31, 2003 as proposed by the Senate.

The managers recognize the troubling situation facing many internally displaced persons (IDPs) in Colombia. It is the manager's understanding that the number of IDPs is multiplying as the civilian population bears much of the burden of the civil strife. Therefore the managers recommend that of the funds appropriated under this heading or under the heading "International Narcotics Control and Law Enforcement" in this chapter, up to $10,000,000 may be made available to the State Department for emergency IDP needs.

The conference agreement does not include language in the Senate amendment that would subject the funds to the regular notification procedures of the Committees on Appropriations. The House bill did not address this matter.

#### NONPROLIFERATION, ANTI-TERRORISM, DEMINING, AND RELATED PROGRAMS

The conference agreement appropriates $88,000,000 instead of $83,000,000 as proposed by the House and $93,000,000 as proposed by the Senate. These funds would remain available for obligation until September 30, 2003, as proposed by the House instead of March 31, 2003, as proposed by the Senate.

The conference agreement includes language similar to that in the Senate amendment that provides that not to exceed $12,000,000 should be made available for assistance for Indonesia. However, it does not include Senate language relating to the purposes of the funds or language that would have prohibited funds for assistance for members of "Brimob" Mobile Police Brigade units. This language has not been included since the Department of State has assured the managers that no funds will be provided for assistance for these units, or for Kopassus units of the Indonesian military. The House bill did not address this matter.

The conference agreement provides that up to $1,000,000 may be made available for the Nonproliferation and Disarmament Fund (NDF). The Senate amendment would have mandated this level of funding. The House bill did not address this matter.

The conference agreement provides that up to $1,000,000 may be made available for small arms and light weapons destruction in Afghanistan. The Senate amendment would have mandated $2,000,000 for this activity. The House did not address this matter.

The conference agreement does not include Senate language not in the House bill that would have required the allocation of not less than $10,000,000 for humanitarian demining activities. However, the managers strongly support humanitarian demining and direct that not less than $4,000,000 be allocated for these activities.

The conference report includes Senate language requiring that funds provided under this heading in this Act shall be subject to the regular notification procedures of the Committee on Appropriations. The House bill did not address this matter.

The managers request that prior to the obligation of funds for Antiterrorism Assistance Mobile Emergency Training Teams, the Department of State inform the Committees on Appropriations of the amount of such funds that would be made available for administrative costs. In addition, the managers request a report from the Department of State within 60 days of enactment of this Act on the degree to which the Terrorist Interdiction Program (TIP) cooperates with other agencies of the United States Government to ensure there is no duplication of effort. The report should specify the current and projected resource levels for programs in all agencies that have complementary programs. A classified annex to the report should be provided if deemed necessary.

### MILITARY ASSISTANCE

#### FUNDS APPROPRIATED TO THE PRESIDENT

#### FOREIGN MILITARY FINANCING PROGRAM

The conference agreement appropriates $387,000,000 instead of $366,500,000 as proposed by the House and $347,500,000 as proposed by the Senate. Funds may remain available for obligation until June 30, 2003. In addition, the conference agreement includes House language to provide the Department of Defense with the authority to use $2,000,000 requested by the President for the general costs of administering overseas military assistance programs. The Senate amendment did not address this matter.

The managers direct that a total of $55,000,000 shall be made available for assistance for the Philippines, an increase of $30,000,000 above the budget request. The increase must be designated by the President as an emergency.

The conference agreement does not include Senate language not in the House bill that would have limited assistance to certain specified countries.

The conference agreement includes language similar to that in the Senate amendment that would require that the Committees on Appropriations be informed 15 days prior to the obligation of funds provided under this heading in this Act. The House bill did not address this matter.

The conference agreement does not include Senate language exempting only Afghanistan from the provisions of section 512 of the Foreign Assistance Act or any similar provision of law. All funds appropriated under this heading would be exempt from this provision of law, as proposed by the House.

The conference agreement includes language similar to that in the Senate amendment that provides that funds in this Act may be made available for the Government of Uzbekistan if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America". The House did not address this matter.

Funds requested for assistance for Colombia for protection of the Cano Limon pipeline are included under the heading "International Narcotics Control and Law Enforcement".

#### PEACEKEEPING OPERATIONS

The conference agreement provides that funds appropriated under this heading may be available for obligation until June 30, 2003. In addition, the conference agreement includes Senate language not in the House bill that limits the assistance provided in this paragraph to Afghanistan.

### RESCISSIONS

The conference agreement includes a rescission of $60,000,000 from funds appropriated to carry out the provisions of parts I and II of the Foreign Assistance Act of 1961, the Support for East European Democracy (SEED) Act of 1989, and the FREEDOM Support Act, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as contained in Public Law 106–113) and in prior Acts making appropriations for foreign operations, export financing, and related programs. Of these funds, not more than a total of $25,000,000 may be rescinded from funds appropriated under the heading "Development Assistance." In addition, no rescission may be made from funds appropriated for health and disease programs pursuant to section 104(c) of the Foreign Assistance Act of 1961. It is the intention of the managers that no rescission be derived from activities earmarked or subject to minimum funding levels.

The House bill would have rescinded $60,000,000 from funds appropriated to "Development Assistance" and "Economic Support Fund". The Senate bill would have rescinded $25,000,000 from funds appropriated to "Economic Support Fund." This rescission was addressed in section 604 of the Senate amendment.

The conference agreement also contains Senate language requiring a rescission of $50,000,000 from funds under the heading "Export-Import Bank of the United States" that are available for tied-aid grants. The House bill did not address this matter. This rescission was addressed in section 604 of the Senate amendment.

The conference agreement also contains Senate language requiring a rescission of unobligated balances totaling $159,000,000 from certain funds available to International Financial Institutions. The House bill contained the same rescission, with certain technical differences.

### GENERAL PROVISIONS—THIS CHAPTER

Under section 601, the conference report includes language that provides that fiscal year 2002 funds, unexpired balances, and assistance provided from prior years' Acts shall be available to support a unified campaign against narcotics trafficking and designated terrorist organizations, and to take actions to protect human health and welfare.

The new authorities provided are intended to be used against terrorist organizations identified by the State Department. However, the managers recognize that in certain emergency situation, such as kidnappings, the use of United States assets may be required to protect human health and welfare before the affiliation of the perpetrators has been determined. The managers expect this authority will be continued in fiscal year 2003 unless the new government of Colombia fails to make good faith efforts to fulfill the commitments made in subsections (b) and (c). The managers also intended these authorities to continue to be in effect in the event a continuing resolution is necessary for a portion of fiscal year 2003.

The conference report requires the Secretary of State to report that the newly elected President of Colombia has made several commitments, in writing, regarding policies, budgetary reforms, and the allocation of Colombian financial resources. The managers expect the Secretary to provide copies of these written commitments to the Committees on Appropriations.

Although section 603 of the House bill requiring a report on Andean security strategy is not included in the conference report, the managers are concerned that the Administration has inadequately articulated clear objectives of U.S. policy in Colombia, what actions would be required, and what it would cost to achieve those objectives. Therefore, the managers direct that within 90 days of enactment of this Act, the Secretary of State, in consultation with the Secretary of Defense, submit a report to the Committees on Appropriations, describing in detail—(1) the President's policy toward Colombia; the objectives of that policy; the actions required by and the expected financial costs to the United States, Colombia, and any other country or entity to achieve those objectives; and the expected time schedule for achieving those objectives; (2) specific benchmarks for measuring progress toward achieving the objectives of the President's policy; (3) the expected reduction, if any, in the amount of cocaine and heroin entering the United States as a result of the President's Andean Counterdrug Initiative within the expected time schedule; and (4) the mission and objectives of United States Armed Forces personnel and civilian contractors employed by the United States in connection with such assistance, and the threats to their safety in Colombia.

Under section 603, the conference agreement includes a general provision similar to section 606 of the Senate amendment regarding Afghanistan security and the delivery of assistance. The conference agreement requires the President to transmit two reports, the first on immediate security needs, and the second on long-term security needs.

The conference agreement does not include Senate language that would have earmarked $34,000,000 for the United Nations Population Fund (UNFPA). The managers note that $34,000,000 was provided for this purpose in P.L. 107–115, and are concerned that the funds have not yet been made available for obligation. The managers note that a Presidential determination regarding UNFPA activities in China, together with the accompanying State Department report on its investigation of those activities in China, has not been made or transmitted to Congress, contrary to written assurances by the Director of the Office of Management and Budget.

## CHAPTER 7

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### MANAGEMENT OF LANDS AND RESOURCES

The conference agreement provides $658,000 for Management of Lands and Resources as proposed by the House. The Senate had proposed funding the repayment of Bureau law enforcement costs under Departmental Management.

### United States Fish and Wildlife Service

#### RESOURCE MANAGEMENT

The conference agreement provides $1,038,000 for Resource Management, instead of $1,443,000 as proposed by the House and $412,000 as proposed by the Senate. The amount recommended includes the $1,412,00 for continuity of operations as proposed by both the Houses and Senate and $626,000 for the repayment of law enforcement costs. The Senate had proposed funding the repayment of service law enforcement costs under Departmental Management.

#### CONSTRUCTION

The conference agreement provides $3,125,000 for construction as proposed by the Senate instead of no funding as proposed by the House.

### National Park Service

#### OPERATION OF THE NATIONAL PARK SYSTEM

The conference agreement provides $1,173,000 for Operation of the National Park System as proposed by the House. The Senate had proposed funding the repayment of Service law enforcement costs under Departmental Management.

#### CONSTRUCTION

The conference agreement provides $17,651,000 for Construction as proposed by the Senate instead of $25,700,000 as proposed by the House.

### United States Geological Survey

#### SURVEYS, INVESTIGATIONS, AND RESEARCH

The conference agreement provides $26,000,000 as proposed by the House and $25,700,000 as proposed by the Senate. The conference agreement conforms to the Senate recommendation except the $776,000 for an improved backup power system is not included.

### Bureau of Indian Affairs

#### OPERATION OF INDIAN PROGRAMS

#### (INCLUDING RESCISSION OF FUNDS)

The conference agreement provides $134,000 for the Operation of Indian Programs as proposed by the House. The Senate had proposed funding the repayment of Bureau law enforcement costs under Departmental Management. The conference agreement also rescinds $10,000,000 in excess funds from the San Carlos Irrigation project as proposed by the Senate instead of a rescission of $5,000,000 as proposed by the House. The conference agreement also includes language as proposed by the House redirecting excess funds (after the rescission) from the San Carlos Irrigation Project for trust reform costs related to the ongoing Cobell and other litigation related to management of Indian trust funds.

### Departmental Offices

### Departmental Management

#### SALARIES AND EXPENSES

The conference agreement provides $905,000 for Salaries and Expenses as proposed by the House instead of $7,030,000 as proposed by the Senate.

## DEPARTMENT OF AGRICULTURE

### Forest Services

#### WILDLAND FIRE MANAGEMENT

The conference agreement provides $50,000,000 as an emergency contingent appropriation for Wildland Fire Management instead of no funds as proposed by both the House and the Senate

#### CAPITAL IMPROVEMENT AND MAINTENANCE

The conference agreement provides $3,500,000 for Capital Improvement and Maintenance as proposed by the Senate instead of no funding as proposed by the House.

## RELATED AGENCY

### Smithsonian Institution

#### SALARIES AND EXPENSES

The conference agreement provides $10,000,000 for Salaries and Expenses instead of $11,000,000 as proposed by the House and no funding as proposed by the Senate.

#### CONSTRUCTION

The conference agreement provides $2,000,000 for Construction as proposed by both the House and the Senate.

### GENERAL PROVISIONS, THIS CHAPTER

Section 701 retains the text of House section 701 mandating the release of previously appropriated emergency firefighting funds to the Forest Service.

Section 702 retains the text of House section 702 providing that no funds, except funds appropriated to the Office of Management and Budget, can be spend to study the transfer of research functions from the Smithsonian Institution to the National Science Foundation.

Section 703 modifies the text of House section 703 dealing with the collection and retention of fees at Midway Atoll National Wildlife Refuge. The modification allows the Secretary of the Interior to charge reasonable fees for services provided at Midway Atoll National Wildlife Refuge, including fuel sale, and retain those fees for operation and maintenance of infrastructure and staff required for non-refuge specific needs, including, but not limited to, activities and equipment required for airport operating certification and the purchase of fuel. The Fish and Wildlife Service currently has an airport operating certificate as provided in 49 U.S.C. 44706. The Service should continue to maintain certification and recoup costs from organizations that directly benefit from airfield certification, as well as charging fees for services. The Service also should establish cooperative agreements to facilitate continued airfield operations.

Section 704 retains the text of Senate section 701 providing authority to the MMS to recover transportation and administrative costs associated with filling the Strategic Petroleum Reserve.

Section 705 makes a technical modification to the text of House section 704 dealing with reciprocal authority for treatment of foreign and U.S. firefighters. The Senate addressed this issue in section 702. The balance of Senate section 702, dealing with the Black Hills National Forest, is addressed in section 706.

Section 706 replaces the text of Senate section 702 dealing with the Black Hills National Forest. The managers have agreed to bill language, which allows the Forest Service to undertake actions to address promptly the risk of fire and insect infestation in the Black Hills National Forest, SD. IN addition, the language designates a small addition to the existing lack Elk Wilderness area on the forest.

The conference agreement does not include language proposed by the House in section 705 prohibiting the Department of Defense from being held responsible for civilian water consumption that is outside the boundaries of a military installation and beyond the direct authority and control of the Secretary of Defense for purposes of the Endangered Species Act.

## CHAPTER 8

## DEPARTMENT OF LABOR

### EMPLOYMENT AND TRAINING ADMINISTRATION

### TRAINING AND EMPLOYMENT SERVICES

The conference agreement deletes funding provided in both bills for Training and Employment Services. The House bill had provided $300,000,000 and the Senate bill provided $400,000,000. The conferees have decided that these funds should be considered during the regular fiscal year 2003 appropriations process.

The conferees understand that the Department is cutting its support for capacity building efforts of national community based organizations. The conferees urge the Department to reconsider its support for these organizations in this fiscal year. Heretofore, the Committee have provided considerable latitude to the Department in the allocation of capacity building funds. However, this may need to be reconsidered in the fiscal year 2003 appropriations process.

The conferees note that young adults, age 16 to 24 have been disproportionately affected by the decline in total employment over the past year. Therefore, the conferees strongly urge that special attention be given to the employment needs of young adult dislocated workers in utilizing available funds for dislocated worker assistance.

The conferees were pleased to learn from the Secretary that the Administration has established an interagency effort to address our nation's nursing shortage. The shortage is especially critical in rural America and within various ethnic minority populations. The Department is strongly urged to work with nursing programs that work with these affected populations and, in particular, to ensure that summer employment opportunities exist for nursing students.

The conferees concur with language contained in the Senate report directing the Department to award a grant for the New Mexico Telecommunications Call Center Training Consortium.

### COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

The conferees direct the Department of Labor to implement the grantee responsibility tests under Section 514(d) of the Older Americans Act and to conduct a grant competition for only those Title V funds administered by national grantees that fail to be deemed responsible. The conferees further direct the Department to implement corrective action, as set forth in Section 514(e) of the Older Americans Act, for any national grantee failing to meet established performance measures. The conferees expect the Department to also implement performance measures and competition for states as authorized under Section 514(f) of the Act.

### PENSION BENEFIT GUARANTY CORPORATION

The conferees express deep concern regarding actions taken by the Pension Benefit Guaranty Corporation (PBGC) on June 14, 2002 to terminate pension plans in advance of a plant shutdown in order to avoid paying "shutdown" benefits that had been negotiated between a company and its workers. This policy shift was made without advance notice to the parties involved. Furthermore, this policy adjustment is a significant change in the practice that the PBGC had engaged in over the past eight years. The action taken by the PBGC will result in disparate treatment of workers in similar situations, with workers in a plant that shutdown prior to June 14, 2002 receiving "shutdown" benefit and workers in a plant that shutdown after June 14, 2002 not receiving "shutdown" benefits. The conferees strongly urge the PBGC to reconsider its action to terminate several pension plans on June 14, 2002.

### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

### SALARIES AND EXPENSES

The conference agreement includes a provision proposed by the Senate to direct the allocation of funds within the funds provided in Public Law 107–116 to extend funding for Institutional Competency Building training grants for the period September 30, 2002 through September 30, 2003, but specifies not less than $3,200,000 for this purpose, instead of $4,275,000 as proposed by the Senate. The House bill contains no similar provisions. The conference agreement deletes language proposed by the Senate to restore $1,000,000 for Institutional Competency Building training grants which commenced in September 2000, for program activities ending September 30, 2002. It also deletes, without prejudice, language proposed by the Senate specifying that $5,900,000 be used to extend funding for targeted training grants for the period September 30, 2002 through September 30, 2003; this bill language is no longer necessary, since the conferees understand that the Labor Department intends to provide second-year funding to all targeted training grants which commenced in September 2001 for program activities for the period of September 30, 2002 to September 30, 2003, provided that a grantee has demonstrated satisfactory performance.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HEALTH RESOURCES AND SERVICES ADMINISTRATION

### HEALTH RESOURCES AND SERVICES

The conference agreement includes bill language proposed by both the House and Senate to revise the funding earmarked for the construction and renovation of health care facilities within the total funding previously appropriated for the account, with one additional bill language provision that changes the grantee for a $4,000,000 project within the Maternal and Child Health grant program from Columbia Hospital for Women Medical Center, Washington, D.C. to All Children's Hospital, St. Petersburg, Florida.

The conferees make the following modification to the report language in the House and Senate bills. The funds available in Public Law 107–116 to carry out Section 417C of the Public Health Service Act (42 U.S.C. 285a–9) are to be used for grants for education, prevention and early detection of radiogenic cancers and diseases, of which $1,000,000 shall be available to enter into a contract or cooperative agreement with the National Research Council to conduct a study under which the Council shall: (1) provide technical assistance to the Health Resources and Services Administration (HRSA) and its grantees on improving accessibility and quality of medical screening, education and referral services; (2) report to HRSA on the most recent scientific information related to radiation exposure and associated cancers or other diseases, with recommendations for improving services for exposed persons; and (3) review and make recommendations on whether other classes of individuals or additional geographic areas should be covered under the Radiation Exposure Compensation Act (RECA) program. The Council shall provide semi-annual interim reports to HRSA including technical assistance provided, study findings, and recommendations. The final report will be completed and presented by HRSA to Congress by June 30, 2005.

With respect to the $4,000,000 All Children's Hospital provision, the conferees clarify that the project is to be completed by September 30, 2005.

### CENTERS FOR DISEASE CONTROL AND PREVENTION

### DISEASE CONTROL, RESEARCH AND TRAINING

The conference agreement provides $1,000,000 in supplemental funds for the Centers for Disease Control and Prevention. This is $314,000,000 below the amount provided by the Senate and the same as provided by the House. Funds are provided as a contingent emergency appropriation.

The conference agreement includes $1,000,000 to accelerate and expand work related to prion diseases, the same as provided by the House. The Senate bill included no funds for this purpose.

The conferees concur in language included in the House report concerning the inclusion of all relevant Centers in the development and implementation of the health-tracking network.

### NATIONAL INSTITUTES OF HEALTH

### OFFICE OF THE DIRECTOR

The conferees endorse the report language included in the House report recommending that the Director allocate up to $500,000 from the funding provided in this account in Public Law 107–116 for the Foundation for the National Institutes of Health (NIH). The Senate report did not include similar language.

### BUILDINGS AND FACILITIES

### (INCLUDING RESCISSION)

The conference agreement includes a rescission of $30,000,000, as proposed by the House and Senate, to be taken from the two sources identified in the House and Senate reports. The conference agreement also includes bill language to clarify the original intent of the conferees to provide in Public Law 107–116 $36,600,000 within this account for the John Edward Porter Neuroscience Research Center, as requested by the Administration in justification materials accompanying the budget request. This funding would support both Phase I of the project and the design of Phase II.

The conference agreement does not include $72,000,000 in emergency funding for NIH campus security enhancements as proposed in the Senate bill. The House bill did not include a similar provision.

### CENTERS FOR MEDICARE AND MEDICAID SERVICES

### PROGRAM MANAGEMENT

The conference agreement does not include the provision in the Senate bill specifying $1,000,000 for the Johns Hopkins School of Medicine for a study of chest oscillation therapy for chronic obstructive pulmonary disease. Neither the Administration's request or the House bill included the provision.

The conferees agree to the House report language regarding the Medicare appeals process established by the Benefits Improvement and Protection Act of 2000 with the following modification. The requested report should address the costs of implementing the appeals process and the Department's plans for that implementation.

The conferees have been very pleased with the efforts of CMS under its demonstration authority to address the extraordinary adverse health status of Native Hawaiians in Waimanalo, Hawaii. The conferees urge an additional focus upon American Samoan residents in that geographical area utilizing the expertise of the Waimanalo Health Center and its Mauli Ola Program.

### ADMINISTRATION FOR CHILDREN AND FAMILIES

### CHILDREN AND FAMILIES SERVICES PROGRAMS

The conference agreement includes $500,000 for the domestic violence hotline as proposed by the House. The Senate bill contained no similar provision. These funds are provided on an emergency contingent basis.

### OFFICE OF THE SECRETARY

### PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The Conference agreement includes $90,000,000 within the Public Health and Social Services Emergency Fund for the CDC to support the protection, monitoring and study of the health of emergency services personnel and rescue and recovery personnel exposed to environmental contaminants in the wake of the terrorist attacks of September 11, 2001 at the World Trade Center in New York City. This is the same amount as provided in the Senate bill. The House bill included no similar provision. These funds are provided on an emergency contingent basis.

The Conferees concur in the guidance included in the Senate report, with the further understanding that activities undertaken are to include clinical examination and evaluation as appropriate. The conferees request an implementation plan to be provided to both Committees within six months of the enactment of this Act, and annual reports thereafter on accomplishments, funds obligated, funds expended, and remaining balances.

## DEPARTMENT OF EDUCATION

### SCHOOL IMPROVEMENT PROGRAMS

The conference agreement includes language relating to the expenditure of funds for digital programming in the Ready to Teach program as proposed by the Senate. The House bill contained no similar language.

The conference agreement includes a technical correction relating to the amounts of funding available for the Fund for the Improvement of Education and the Cooperative Civic Education program as proposed by both the House and the Senate.

The conference agreement also includes technical corrections to various projects.

### STUDENT FINANCIAL ASSISTANCE

The conference agreement includes $1,000,000,000 to help relieve a shortfall in the Pell grant program and provides that these funds shall be available until September 30, 2003, as proposed by the House. The Senate bill provided $1,000,000,000 for the same purpose but designated that amount as an emergency.

### HIGHER EDUCATION

The conference agreement includes technical corrections to various projects as proposed by the House and the Senate.

### EDUCATIONAL RESEARCH, STATISTICS, AND ASSESSMENT

The conference agreement includes a technical correction allowing the contract for the Eisenhower National Clearinghouse for Mathematics and Science Education to be continued for one additional year. The House bill contained no similar language.

### GENERAL PROVISIONS

Section 801. The conference agreement includes a permanent change to section 8003 of the Elementary and Secondary Education Act of 1965, as amended, that modifies the number of students required in a portion of the payment formula for heavily impacted districts as proposed by the Senate. The House bill contained no similar provision.

Section 802. The conference agreement includes a permanent change to section 8003(b)(1) of the Elementary and Secondary Education Act of 1965, as amended, that modifies the provision on determining a school district's local contribution rate as proposed by the Senate. The House bill contained no similar provision.

Section 803. The conference agreement includes the $45,000,000 rescission in administrative and related expenses in the Department of Labor, Health and Human Services, and Education included in the Senate bill, amended to remove the language requiring that the reduction be done on a pro-rata basis. The House bill contained no similar provision. Specific rescission amounts are to be determined and distributed by the Office of Management and Budget. The conferees direct the Office of Management and Budget to distribute this administrative reduction in such a way that reductions-in-force and furloughs of departmental personnel do not occur.

Section 804. The conferees have included bill language from the Senate bill identifying the "National Research Service Awards" program as the "Ruth L. Kirschstein National Research Service Awards" program. This action is being taken to honor the career of Dr. Ruth L. Kirschstein. A native of Brooklyn, New York, Dr. Kirschstein received a B.A. degree magna cum laude in 1947 from Long Island University. In 1951, she received her M.D. from Tulane University School of Medicine.

From 1957 to 1972, Dr. Kirschstein performed research in experimental pathology at the Division of Biologics Standards (now the Center for Biologics Evaluation and Research, Food and Drug Administration). During that time, she helped develop and refine tests to assure the safety of viral vaccines for such diseases as polio, measles and rubella. Her work on polio led to the selection of the Sabin vaccine for public use.

Since 1974, Dr. Kirschstein has been serving in leadership positions at the National Institutes of Health (NIH). When she first began her service to NIH, she served as Director of the National Institute of General Medical Sciences. She held this position for 14 years. From 1990 to 1991, Dr. Kirschstein also served as Acting Associate Director of the NIH on research on women's health.

Dr. Kirschstein served as Acting Director of the National Institutes of Health between January 2000 and May 2002. Prior to that post, Dr. Kirschstein served as the Deputy Director between 1993 and 1999.

Dr. Kirschstein has received many honors and awards, including the Presidential Meritorious Executive Rank Award, 1980; election of the Institute of Medicine, 1982; a doctor of science degree from Mr. Siani School of Medicine, 1984; the Presidential Distinguished Executive Rank Award, 1983; an honorary doctor of laws degree from Atlanta University, 1985; an honorary doctor of science degree from the Medical College of Ohio, 1986; an honorary doctor of humane letters from Long Island University, 1991; and election as a fellow of the American Academy of Arts and Sciences, 1992. In 2001, she received honorary degrees from Spelman College and from Georgetown University Medical School.

Dr, Kirschstein has been both a visionary and a leader during her service at NIH and has helped to make it the world's premier biomedical research agency. In particular, Dr. Kirschstein led the cutting edge of two of the most important research trends of this generation. She played a pivotal role in launching the Human Genome Project. She is also credited with providing early and crucial support to women's health studies, services and programs for the NIH and pioneering the NIH Office of Women's Health Research.

While serving as Acting Director of NIH, Dr. Kirschstein has worked with Congress to achieve a doubling of the NIH budget. Through her leadership, commitment, contributions and unselfish service to the biomedical research community and NIH, Dr. Kirschstein continues to serve her nation. The conferees believe the naming of the National Research Service Awards as the Ruth L. Kirschstein National Research Service

Awards is a fitting tribute to her outstanding service to this country.

Section 805. The conference agreement includes a provision proposed by the Senate that exempts Alaska from section 166 of the Community Renewal Tax Relief Act of 2000. The House bill contained no similar provision.

Section 806. The conference agreement includes a provision proposed by the Senate to reallocate funds provided for a Labor project in the FY2001 bill. The House bill contained no similar provision.

Section 807. The conference agreement includes a provision allowing the Secretary of Education to transfer lapsing funds at the end of fiscal year 2002 to program administration in an amount not to exceed any reduction pursuant to section 803 of this Act, but not more than $5,000,000. Neither the House nor Senate bills contained this provision.

The conference agreement does not include a permanent change to the Higher Education Amendments of 1998 regarding the Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders program as proposed by the Senate. The House bill contained no similar provision.

The conference agreement does not include language specifying a new distribution of Title I funds within the New York City public school system as proposed by the Senate. The House bill contained no similar provision.

## CHAPTER 9

## LEGISLATIVE BRANCH

### HOUSE OF REPRESENTATIVES

The conference agreement provides $1,600,000 for Standing Committees, Special and Select for the Permanent Select Committee on Intelligence.

### JOINT ITEMS

### CAPITOL POLICE BOARD, GENERAL EXPENSES

The conference agreement provides $16,100,000 for general expenses for the United States Capitol Police. Of this amount, $12,500,000 is provided for reimbursement to the Environmental Protection Agency for anthrax investigations and cleanup to the Capitol Complex.

### LIBRARY OF CONGRESS

### COPYRIGHT OFFICE

### SALARIES AND EXPENSES

The conference agreement provides an additional direct appropriation of $7,500,000, as requested, to offset the decreased level of receipts resulting from months of mail suspension.

### ADMINISTRATIVE PROVISIONS—THIS CHAPTER

Sec. 901. The conferees have included an administrative provision regarding Senators' Official Personnel and Office Expense Account.

Sec. 902 and Sec. 903. The conferees have included two provisions making a technical correction regarding a House item and a Senate item to P.L. 107–117.

Sec. 904. A provision has been included providing Economy Act authorization to the CAO of the House of Representatives.

Sec. 905. The conferees have included a provision authorizing the Architect of the Capitol to procure space for an alternate computer facility for the legislative branch.

Sec. 906. A provision has been included which establishes an account for the Architect of the Capitol to be titled "Capitol Police Buildings and Grounds."

Sec. 907. A provision has been included authorizing the Architect of the Capitol to acquire Property for the use of the Capitol Police.

## CHAPTER 10

## DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

### MILITARY CONSTRUCTION, AIR FORCE

The conference agreement includes $7,250,000 for this account instead of $8,505,000 as proposed by the House. The reduced amount is based on the Air Force's revised execution strategy for the projects provided in the House passed bill. The Senate did not have a similar provision. Included in the account are the following projects:

| Location/Installation | Project title | Cost |
|---|---|---|
| Diego Garcia | Communications Switching Facility. | $3,450,000 |
| Diego Garcia | Stuffing/Unstuffing Pad | 3,200,000 |
| Worldwide Various | Planning and Design | 600,000 |
| Total |  | 7,250,000 |

These funds are designated as contingent emergency requirements.

### MILITARY CONSTRUCTION, DEFENSE-WIDE

### (INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $21,500,000 for this account as proposed by the House. The Senate did not include a similar provision. Of this amount, $19,600,000 is provided for construction of a Joint Operations Complex at Fort Bragg, North Carolina. The remaining $1,900,000 is provided for planning and design of the project.

These funds are designated a contingent emergency requirements.

## GENERAL PROVISIONS—THIS CHAPTER

The conference agreement includes one general provision.

The conference agreement includes a provision, Section 1001, as proposed by the Senate, which allows funds made available in this Act to be used for military construction projects with a requirement to provide Congress a 15-day prior notification. The House did not include a similar provision.

## DEPARTMENT OF TRANSPORTATION

### OFFICE OF THE SECRETARY

### SALARIES AND EXPENSES

### TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

### (LIMITATION ON OBLIGATIONS)

The conference agreement increases the fiscal year 2002 obligation for the Transportation Administrative Service Center from $116,023,000 to $128,123,000 to accommodate additional security needs of the Department, as proposed by the House. The Senate bill also increased the limitation, but in a general provision. The conferees do not concur with language included in the Senate report on the simultaneous termination of visas and drivers' licenses.

### TRANSPORTATION SECURITY ADMINISTRATION

### (INCLUDING TRANSFER OF FUNDS)

The recommendation includes $3,850,200,000 for activities of the Transportation Security Administration (TSA), instead of $3,850,000,000 as proposed by the House and $4,702,525,000 as proposed by the Senate. Of the total, the bill provides that $480,200,000 is designated as a contingent emergency appropriation, and $1,030,000,000 is to be transferred to the Federal Emergency Management Agency (FEMA) for reimbursement of "bridge loans" made to TSA out of Emergency Response Fund resources previously set-aside for FEMA activities in New York City. Funds are available until expended, as proposed by the Senate, instead of until September 30, 2003, as proposed by the House.

The conference agreement includes, and the bill specifies, additional funding for critically-needed transportation security improvements which were not included in the request, as follows:

| *Activity* | *Amount* |
|---|---|
| Modifications of airports to install checked baggage explosive detection systems, including trace detection systems | $225,000,000 |
| Grants to port authorities and other entities for security enhancements and port incident training at U.S. ports | 125,000,000 |
| Procurement of air-ground communications systems for federal air marshals | 15,000,000 |
| Intercity bus security | 15,000,000 |
| Operation safe commerce | 28,000,000 |
| Airport terminal security | 17,000,000 |
| Radiation detection system test and evaluation | 4,000,000 |
| Security research and development and pilot projects | 10,000,000 |

*TSA reprogramming procedures.*—The conferees are concerned that, including funds in this bill, $6,200,000,000 is being provided to TSA in fiscal year 2002, with no reprogramming guidelines or clearly-defined programs, projects, and activities (PPAs) established or proposed by the administration. TSA's budget requests include a mixture of operating and capital expenses, which would normally involve separate appropriations with strict controls over transfers. In addition, TSA's budget information has sometimes been contradictory, and has not been submitted in a common format allowing useful budgetary comparisons or an appropriate level of detail to be used for reprogramming controls. Consequently, the conferees direct TSA to follow the existing reprogramming procedures for the Department of Transportation. These guidelines establish the following minimum thresholds for reporting proposed funding shifts to Congress:

Proposed actions involving funding shifts of more than 15 percent of new budget authority for the benefiting or providing PPA, or $1,000,000, whichever is less; or

Proposed actions of any size that deviate from high priority Congressional interests and requirements, as reflected in report language and documented in DOT's annual Base for Reprogramming Actions.

To implement these procedures, a list of PPAs must be developed against which the reprogramming thresholds apply. To establish this, the conferees direct TSA to provide a fiscal year 2002 reprogramming baseline to the House and Senate Committees on Appropriations no later than August 9, 2002. This document shall serve as the baseline document for future reprogrammings, and shall include, at a minimum, the following PPAs:

Third Party Screening Contracts, National Guard Costs, State and Local Law Enforcement Officers, Intelligence Office Costs;

ACS Field Staff Salary and Benefits and Other Costs, ACS Research/IPT Staff Salary and Benefits and Other Costs, ACS Security Specialists Salary and Benefits and Other Costs, Explosive Detection Research and Development, Human Factors Research, Aircraft Hardening and Airport Security Technology Research, Other Research, Research Pilot and Demonstration Projects;

Frontline Passenger Screener Salary and Benefits and Other Costs, Supervisor Passenger Screener Salary and Benefits and Other Costs;

Frontline Passenger Screener Salary and Benefits and Other Costs, Supervisor Passenger Screener Salary and Benefits and Other Costs;

TSA Cargo Inspectors Salary and Benefits and Other Costs;

Law Enforcement Officer Salary and Benefits; Law Enforcement Officer Other Costs, Law Enforcement Supervisor Salary and Benefits, Law Enforcement Supervisor Other Costs;

Federal Air Marshal Salary and Benefits, Federal Air Marshal Other Costs, Federal Air Marshal Supervisor Salary and Benefits, Federal Air Marshal Supervisor Other Costs;

Federal Security Director Salaries and Benefits and Other Costs, Airport Management and Staff Salaries and Benefits, Airport Management and Staff Other Costs, Headquarters Salary and Benefits, Headquarters Other Costs;

Passenger Screener Hiring Contracts, Passenger Screener Training Contracts, Baggage Screener Hiring Contracts, Baggage Screener Training Contracts; and

EDS/ETD Site Survey, EDS Integrator, Next Generation EDS, CAPPS-II Data Integration, Maintenance for Leased Screening, Start-Up and Administrative Support, Planning and Deployment, Equipment Implementation, EDS Purchase, EDS Installation, ETD Purchase, ETD Installation, Checkpoint Equipment, Equipment Maintenance, Information Technology Projects, Time and Attendance and Property Inventory Systems, Credentialing Project.

*TSA performance goals and performance reporting.*—The Senate directed TSA to publish, on its website, monthly statistics for each airport regarding compliance with the ten minute wait time goal. Rather than reporting on a single goal, the conferees agree that TSA should track and publish information on a wide variety of goals, so this new agency's growth and overall performance can be closely monitored by the Congress, taxpayers, and the traveling public. Therefore, the conferees direct TSA, as soon as possible, to begin reporting on the wait time goals on its website as proposed by the Senate. The conferees also direct that TSA begin reporting on its website, or under separate cover to the Congress as security concerns dictate, monthly performance information for each of the following measures:

Percent of commercial airports with permanent federal security directors on the job;

Percent of airports with TSA conducting passenger and baggage screening;

Percent of required EDS and ETD systems deployed;

Percent of airports utilizing the CAPPS II system;

Percent of commercial aircraft with phase II cockpit doors installed;

Average wait time at passenger screening checkpoint for federalized airports;

Number of complaints per 1,000 passengers for federalized airports;

Security cost per originating passenger for federalized airports; and

Percent of major ports with port vulnerability assessments completed.

Where applicable, this information should be presented on an airport-by-airport or airline-by-airline basis, and the TSA should include in its reports the specific information on the wait time goal proposed by the Senate. While the conferees acknowledge that appropriate goals for TSA will change after the agency's start-up period, it is critical to begin developing a baseline of performance information against which future budget requests may be evaluated and management oversight directed.

*Status reports on hiring and salary costs.*—The Aviation and Transportation Security Act provided TSA with broad flexibility to set pay rates for its employees outside the federal general schedule. While this provision was intended to allow the agency flexibility in establishing its workforce, the conferees are concerned that some positions are being hired at rates, which are above those for similar positions in other federal agencies. To monitor these expenses, TSA is directed to begin submitting to the House and Senate Committees on Appropriations, on a monthly basis, a report on the number of employees the agency has on board for each of the agency's job series. This report should include, at a minimum: (1) a description of each job series; (2) the number of individuals employed in each job series; (3) the total annual salary cost, average and median salary costs, and standard deviation for salary distributions for each job series; and (4) the degree to which the agency has fulfilled the diversity goals as articulated by the Under Secretary in testimony. Every two months, the report should include a comparison of average salary costs and the percentage change for each job series during the two month period. It is expected that the same data will be provided regarding federal air marshals, even if such data is transmitted separately due to security considerations.

*Contract oversight.*—TSA is currently budgeting over $3,000,000,000 for start-up contract costs in fiscal year 2002. These include contracts for recruiting, hiring, and training TSA's workforce; purchasing and deploying equipment; and administrative support. Given that TSA is exempt from most federal acquisition requirements and is undergoing rapid growth, the conferees are concerned that contracts may be let and managed without sufficient internal controls to monitor contractor performance and guard against waste, fraud, and abuse. Accordingly, the conferees direct that, for each contract the agency enters into, TSA shall set aside one percent of the total contract costs for contract oversight activities. These activities should include, but are not limited to: (1) overseeing contractor and subcontractor performance with respect to cost, schedule, and quality; (2) monitoring billings; (3) providing for independent cost audits by the Defense Contract Audit Agency; and (4) overseeing the volume of undefinitized contract actions and the timely definitization of contracts. TSA is directed to report to the House and Senate Committees on Appropriations at the beginning of each fiscal quarter on the number and dollar amount of all contracts let, including task orders placed under existing contracts, the dollars allocated for contract oversight and the nature of oversight activities undertaken. At the time this information is submitted to Congress, TSA should also provide such information to the Department of Transportation Inspector General for his review and analysis. At the request of the Committees on Appropriations, the Inspector General has been conducting a review of TSA's budget and financial management. Because this information has been useful in determining appropriate funding levels for TSA, the IG is directed to continue its efforts and report to the Appropriations Committees as necessary.

*Veteran's preference in hiring.*—Within the next two months, TSA plans to hire over 40,000 people. The Aviation and Transportation Security Act requires that "the Under Secretary shall provide a preference for the hiring of an individual as a security screener if the individual is a member or a former member of the armed forces". The conferees are concerned that with the initial TSA screener hiring, veterans who "passed" the TSA test were offered jobs 83% of the time, while non-veterans who "passed" the TSA test were offered jobs 88% of the time. The conferees direct the Inspector General to review TSA's implementation of the veterans preference requirement and submit a report to the House and Senate Committees on Appropriations by August 31, 2002.

*DOT credentialing project.*—Recently the Transportation Security Administration announced the establishment of the DOT credentialing project. This project's major goal is the development and provision of a standardized transportation worker identification card (TWIC) for all personnel—government, commercial, non-profit and others—requiring access to secure facilities in any mode of transportation nationwide. TSA's view is that such a system must include a single type of card with access to a single, secure network of databases. This project is much larger in scope than envisioned at the time the fiscal year 2003 budget request was submitted. The conferees have several concerns with this project as currently proposed:

TSA appears to have selected a particular type of identification card, with inadequate justification or consultation with Congress or affected industries concerning the cost or requirements.

Security vulnerabilities of the system have not been adequately explained;

TSA has not explained the program's costs or how such a large effort, spanning several industries, will be financed; and

The agency has provided no details on how much funding is included in the fiscal year 2002 or 2003 budgets for this effort or details on anticipated pilot projects at airports.

Given the inadequate planning and consultation on this effort, the conferees direct TSA not to obligate further funding for this effort except through existing reprogramming procedures which require written notification to the Congress and approval of the expenditure. The conferees will work with TSA in development of the fiscal year 2003 Department of Transportation and Related Agencies Appropriations Act to resolve these issues.

*Airport modifications to install explosive detection systems.*—The conferees have provided a total of $738,000,000 for the costs of the physical modification of commercial service airports for the purpose of installing explosive detection systems. The amount provided is $225,000,000 more than the level requested by the Administration. The conferees note that a number of airports, including Seattle-Tacoma International Airport, are in the process of constructing new terminal facilities at precisely the same time that the new explosive detection systems must be installed. In the case of the South Terminal Expansion Project (STEP) at Seattle-Tacoma International Airport, the sudden requirement to install explosive detection systems has triggered dramatic cost increases in the project due to the requirement to redesign and reconfigure the terminal in mid-construction. As such, the conferees direct that, in allocating the resources provided over and above the Administration's request for EDS installation, the Under Secretary be attentive to the needs of the South Terminal Expansion Project and other airport projects in a similar circumstance. The conferees understand that Anchorage International Airport and Kansas City International Airport may be in similar circumstances.

*Radiation detection system test and evaluation.*—The conferees are aware of emerging technologies designed to detect the illicit trafficking of radioactive material. U.S. and international agencies are currently utilizing portable radiation search tools (PRST) for these purposes, and the conferees believe this technology holds great promise in protecting our nation's ports and waterways. The conference agreement includes $4,000,000 to the Transportation Security Administration, in coordination with the Coast Guard and the Department of Energy, for testing, evaluation, and procurement of PRST to determine the viability of this technology in providing effective detection of this specific nuclear threat.

*Threat image projection x-ray systems.*—The conferees continue to support x-ray training systems known as "threat image projection" (TIP) systems, which have already been deployed at major airports. TSA has recognized that TIP-ready x-ray screening systems can significantly strengthen checkpoint security by enhancing screener performance, through continuous analysis and training. The conferees encourage TSA to continue the acquisition and deployment of TIP-ready x-ray systems at all commercial service airports.

*Port security grants.*—The conference agreement includes $125,000,000 for port security grants, instead of $75,000,000 as proposed by the House and $200,000,000 as proposed by the Senate. The bill specifies that $20,000,000 is provided to develop and conduct emergency incident response training and exercises at ports. The conferees do not agree with the Senate's proposal to limit grant awards to applications already submitted. Instead, the conference agreement assumes that grants will be awarded in as wise and expeditious a manner as possible, using merit-based criteria.

*Pulsed Fast Neutron Analysis (PFNA).*—The conferees believe that the Pulsed Fast Neutron Analysis technology shows extraordinary promise as a higher speed alternative to existing technologies for detecting explosives and other contraband in checked baggage. The conferees direct the Under Secretary to use funds provided for security research and development and pilot projects to demonstrate and test the efficacy of the PFNA technology for this application in the field.

*Biometrics.*—The conferees expect the Under Secretary to use funds provided for security research and development and pilot projects to demonstrate the use of biometric technology to improve security.

*Reconciliation of aviation security costs and responsibilities.*—The conferees direct that final report of the Under Secretary and the DOT General Counsel regarding aviation security costs and responsibilities be submitted to the House and Senate Committees on Appropriations no later than August 15, 2002.

## U.S. COAST GUARD

### OPERATING EXPENSES

The conference agreement includes $200,000,000, to be available until September 20, 2003, instead of $210,000,000 as proposed by the House and $318,400,000 as proposed by the Senate. Of the total, $11,000,000 is designated as a contingency emergency appropriation. Increases above the requested amount are as follows:

| *Activity* | *Amount* |
|---|---|
| Maintain reserves | $4,000,000 |
| Port vulnerability assessments | 6,000,000 |
| PACAREA ship refueling capability | 1,000,000 |

*Pacific Area ship refueling capability.*—The conferees concur in the House proposal to provide $1,000,000 to address at-sea refueling needs for drug interdiction activities in the Eastern Pacific. These funds are specifically to be under the control of the Commander, Joint Interagency Task Force (JIATF)—East for the immediate procurement of at-sea refueling capability to extend the range and endurance of drug interdiction assets in that region.

### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conference agreement includes $328,000,000 instead of $78,000,000 as proposed by the House and $347,700,000 as proposed by the Senate. Funds are available until September 30, 2004, as proposed by the Senate. Of the total, $262,000,000 is designated as a contingent emergency appropriation. The conference agreement includes the following funding:

| | |
|---|---|
| Vessels: | |
| Boarding and escort patrol boats (CPBs) | $36,000,000 |
| 87 foot coastal patrol boat small boat replacement | 2,100,000 |
| Subtotal | 38,100,000 |
| Aircraft: Priority initiatives | 200,000,000 |
| Other equipment: | |
| Ports and waterways safety systems | 22,929,000 |
| Cutter defense messaging system replacement | 4,800,000 |
| Subtotal | 27,729,000 |
| Shore facilities: | |
| Homeland security shore infrastructure support | 8,171,000 |
| Station Oak Island, NC fire damage repair/rebuild | 4,000,000 |
| Priority initiatives | 50,000,000 |
| Subtotal | 62,171,000 |

*Boarding and escort patrol boats.*—The bill includes $36,000,000 for procurement of additional 87-foot Barracuda class coastal patrol boats. Along with the 110-foot Island class, these boats are the backbone of Coast Guard's homeland defense in our ports, waterways, and territorial waters. The conferees believe these additional homeland security assets are needed as a top priority.

*Ports and waterways safety systems.*—The conference agreement includes $22,929,000 to upgrade the port surveillance and vessel tracking capability in the high-value ports of New York, New York; Houston-Galveston, Texas; and Port Arthur, Texas.

*Priority initiatives.*—The conference agreement includes $250,000,000 for critical acquisition, construction, and improvement activities, including $200,000,000 for aircraft and $50,000,000 for shore facilities. The conferees direct that none of these funds may be obligated until submission of a report to the House and Senate Committees on Appropriations on the specific line items and activities to be funded and the rationale for each proposed expenditure.

## FEDERAL AVIATION ADMINISTRATION

### OPERATIONS

The conference agreement includes $42,000,000 instead of $100,000,000 as proposed by the Senate. Funds are designated as a contingent emergency appropriation. The House bill included no similar appropriation. In addition, the conferees agree to language allowing the FAA to transfer up to $33,000,000 from unobligated balances of "Facilities and equipment" to this appropriation, instead of $25,000,000 as proposed by the House. The conferees believe the combined resources of $75,000,000 provide herein will accommodate the agency's highest priority operating needs for the balance of fiscal year 2002, including payroll and overtime costs for air traffic controllers and space rental requirements. These accounts were depleted earlier this year to address unbudgeted security initiatives. This transfer shall be subject to the Congressional reprogramming procedures.

*Controller shortage, Newark International Airport.*—The conferees agree to direct FAA to submit the report on air traffic controller shortages at Newark International Airport as included in section 1007 of the Senate bill. As specified in that section, the report is due thirty days after enactment of this Act. The Administrator shall submit such report to the House and Senate Committees on Appropriations and the authorizing committees of jurisdiction.

### FACILITIES AND EQUIPMENT

### (AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes $7,500,000 instead of $15,000,000 as proposed by the Senate. These funds are designated as a contingent emergency, and are for rehabilitation of ARSR-4 long range radar systems, which are being kept in service due to security concerns since the terrorist attacks of September 11, 2001. The House bill included no similar appropriation.

### GRANTS-IN-AID FOR AIRPORTS

### (AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes $150,000,000, instead of $200,000,000 as proposed by the House and $100,000,000 as proposed by the Senate. These funds are to enable the Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001. The conferees agree with direction of the Senate regarding the distribution of these funds. Funds are to be derived from the airport and airway trust fund as proposed by the Senate, instead of from the general fund as proposed by the House, and are designated as a contingent emergency appropriation.

## FEDERAL HIGHWAY ADMINISTRATION

### FEDERAL-AID HIGHWAYS

### EMERGENCY RELIEF PROGRAM

### (HIGHWAY TRUST FUND)

As proposed by both the House and the Senate, the conference agreement included $167,000,000 from the highway trust fund to fully fund the restoration and reconstruction of Federal-aid highways-eligible state and local roads in New York City damaged by the September 11th terrorist attacks. It also waives the local match for these funds and exempts these projects from the $100,000,000 per-disaster cap in emergency relief funding.

The conference agreement also includes $98,000,000, designated as a contingent emergency appropriation from the highway trust fund, for nationwide needs of the emergency relief program instead of $120,000,000 as proposed by the Senate. The House provided no similar appropriation. This funding level fully satisfies FHWA's estimates of emergency relief needs, as of June 11, 2002, for states and territories, as shown in the table below, In addition, the estimates include $12,000,000 for repair of the I-40 Bridge in Oklahoma. The conferees expect emergency relief amounts needed for federal land highway management agencies will be addressed in the $100,000,000 authorization that will be available on October 1, 2002.

| *State/territory* | *Emergency Relief Needs Estimate* |
|---|---|
| Alabama | $1,871,000 |
| American Samoa | 1,278,000 |
| Arizona | 1,066,000 |
| Arkansas | 13,950,000 |
| Colorado | 2,530,000 |
| Guam | 672,000 |
| Minnesota | 678,000 |
| Missouri | 2,475,000 |
| New Jersey | 11,704,000 |
| New York | 309,000 |
| North Dakota | 12,470,000 |
| Ohio | 2,551,000 |
| Oklahoma | 13,415,000 |
| Oregon | 399,000 |
| Pennsylvania | 1,138,000 |
| Puerto Rico | 1,315,000 |
| South Dakota | 717,000 |
| Texas | 12,813,000 |
| Virginia | 684,000 |
| Washington | 13,411,000 |
| West Virginia | 2,357,000 |

### FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

The conference agreement includes a rescission of $320,000,000 in unspent contract authority available to the states under the five core formula highway programs as proposed by the Senate. The House included no such rescission. This rescission will have no impact on fiscal year 2002 highway construction activities, because such funds are above annual limitations on obligations and are therefore not available for obligation during fiscal year 2002.

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

### BORDER ENFORCEMENT PROGRAM

(HIGHWAY TRUST FUND)

The conference agreement includes $19,300,000 for the new border enforcement program within the Federal Motor Carrier Safety Administration, as proposed by both the House and Senate. Of the amount provided, $4,200,000 is to fund the implementation of section 1012 of the USA PATRIOT Act, which includes up to 34 additional federal personnel; $8,000,000 is for driver's license fraud detection and prevention projects, including $800,000 for a contract effort to develop a unique identifier for commercial drivers' licenses; $2,000,000 is to develop a hazardous material security and education outreach program and to conduct a northern border safety and security study; and $5,100,000 is for coordinating state drivers' license registration and social security number verification.

Consistent with both House and Senate language, the conferees direct the Texas Department of Transportation to consult with the City of Laredo and consider their concerns regarding site selection for a cross-border inspection facility. The conferees reinforce that federal safety requirements must be met in any site selection decision. The conferees also agree with language proposed by the Senate that under no circumstances should the FMCSA approve a site for such an inspection facility if the location compromises the ability to enforce all statutory and regulatory safety requirements, including those enacted as part of the Department of Transportation and Related Agencies Appropriations Act, 2002.

### HAZARDOUS MATERIALS SAFETY PERMITS

(Highway Trust Fund)

As proposed by the House, the conference agreement includes $5,000,000 from the highway trust fund to implement the permit program required by law for those motor carriers transporting the most dangerous hazardous materials. The Senate included no such appropriation. Funds are designated as a contingent emergency appropriation. The conferees extended the implementation date of the permit program to December 1, 2002. The conferees also expect the Research and Special Programs Administration to share data on hazardous materials registrations with the Federal Motor Carrier Safety Administration on a monthly basis.

The conferees are aware of several commercially-available technologies that could potentially enhance the security of hazardous materials transportation. FMCSA, FHWA, and DOT's Intelligent Transportation Systems Joint Program Office are conducting operational tests of technology to prevent unauthorized drivers from operating a vehicle, systems for detecting a vehicle that is off-route, and systems to remotely shut off the vehicle engine. The conferees direct FMCSA to submit a report to the House and Senate Committees on Appropriations no later than December 1, 2002 that evaluates the potential of these technologies.

## FEDERAL RAILROAD ADMINISTRATION

### GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

The conference agreement includes $205,000,000 for operating assistance to the National Railroad Passenger Corporation (Amtrak) instead of the $55,000,000 as proposed by the Senate. The House bill contained no similar appropriation. These are for necessary expenses to operate the railroad through the remainder of this fiscal year. On June 28, 2002, Amtrak entered into an agreement with the Department of Transportation through which Amtrak received a direct loan of $100,000,000, which the agreement contemplates will be repaid by Amtrak's fiscal year 2003 appropriation. As part of that agreement, Amtrak agreed to provide the DOT with certain operational and financial data. Such data includes: All revenue and expenses associated with rail operations by route; budgeted and actual expenditures for all capital investments; monthly performance reports; a report on Amtrak's operating relationships with commuter rail systems; and an inventory and valuation of Amtrak's assets as well as a timetable for obtaining an updated valuation of those assets.

The conferees expect Amtrak to transmit this information to the House and Senate Committees on Appropriations at the same time as it is transmitted to the Department of Transportation.

The agreement between Amtrak and DOT also calls on Amtrak's management to present to Amtrak's Board of Directors a prioritized list of expense reduction options totaling at least $100,000,000 for fiscal year 2003—expense reductions that the Board of Directors must apply to critical maintenance needs throughout the Amtrak system. The conferees direct that this list of expense reductions, as well as a list of such critical maintenance projects, be provided to the House and Senate Committees on Appropriations no later than August 31, 2002—the date stipulated in the Amtrak-DOT agreement.

## FEDERAL TRANSIT ADMINISTRATION

### CAPITAL INVESTMENT GRANTS

As proposed by both the House and Senate, the conference agreement provides $1,800,000,000 in capital investment grants to replace, rebuild, or enhance mass transportation systems serving the Borough of Manhattan, New York City, New York.

## RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

### RESEARCH AND SPECIAL PROGRAMS

The conference agreement includes no funding to relocate and upgrade the Department's crisis management center into a new transportation information operations center (TIOC), instead of $2,100,000 proposed by the House under the Transportation Security Administration and $3,500,000 proposed by the Senate. Because of the recent announcement to establish a new, cabinet-level Department of Homeland Security, and the possible transfer of TSA and the Coast Guard to that department, the conferees have deferred funding for this item pending a final determination regarding DOT's restructured role in security and crisis management.

## GENERAL PROVISIONS—THIS CHAPTER

The conference agreement amends the House provision that makes certain projects and activities contained in the fiscal year 2002 Department of Transportation and Related Agencies Appropriations Act eligible to receive fiscal year 2002 funds. The amendment expands the provision to include activities of the Job Access and Reverse Commute program. The Senate proposed no similar provision.

The conference agreement includes language proposed by the Senate, instead of language proposed by the House, regarding TSA's payment for rental space at airports.

The conference includes language proposed by the Senate regarding the calculation of tonnage for shipbuilding purposes. The House bill contained no similar provision.

The conference agreement includes the Senate provision clarifying the alignment of a highway project in Mississippi made eligible for enhancement funding in the fiscal year 2001 Department of Transportation and Related Agencies Appropriations Act. The House proposed no similar provision.

The conference agreement includes the Senate provision that redirects $2,750,000 in previously appropriated intelligent transportation system program funds to the Drexel University Intelligent Infrastructure Institute for purposes authorized in the Transportation Equity Act for the 21st Century. The House proposed no similar provision.

In addition to the location correction for the I–74 Mississippi River Bridge project in Illinois proposed by the House, the conferees include a location correction for another project contained in the conference agreement accompanying the fiscal year 2002 Department of Transportation and Related Agencies Appropriations Act. The designation "GSB-88 Emulsified binder treatment research, Alabama", under the transportation and community and system preservation pilot program, should read "GSB–88 Emulsified binder treatment research, Tennessee".

## CHAPTER 12

## DEPARTMENT OF THE TREASURY

### FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

The conferees agree to provide $15,870,000 as proposed by the House.

### FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

The conferees agree to rescind $14,000,000 of Public Law 107–20 as proposed by the House in section 1201 of the House bill instead of $14,000,000 of Public Law 107–67 as proposed by the Senate. The conferees have no objection to any remaining unobligated balances from Public Law 107–20 being used for computer security.

### UNITED STATES CUSTOMS SERVICE

#### SALARIES AND EXPENSES

The conferees agree to provide $39,000,000 instead of no funding as proposed by the House and $59,000,000 as proposed by the Senate. This funding is provided for startup costs, including staffing and technology, for the Container Security Initiative (CSI). The conferees did not include funding, as proposed by the Senate, for monitoring and investigating importation of products made with forced labor, nor did they include a provision proposed by the Senate authorizing the Customs Service to reimburse State and local law enforcement agencies for assistance along the Northern Border.

#### PRISON LABOR

The conferees note that the United States Customs Service has the responsibility for monitoring and investigating the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code.

The manufacture of goods made using prison, forced, or indentured labor continues to be an unfair trading practice used by a large number of countries despite the long-standing prohibition on importation of these goods into the United States. The use of forced labor by other countries hurts fair-trading U.S. businesses and defrauds U.S. consumers. The conferees are particularly concerned about countries that refuse to enforce their own laws that prohibit the exportation of forced labor-made goods to the United States, and those countries, such as China, that have not fulfilled their obligations under existing bilateral agreements with the United States pertaining to the inspection of suspected forced labor facilities by appropriate U.S. officials.

The conferees strongly urge the Customs Service to require importers to provide certification to establish that goods entering U.S. ports were made by legitimate foreign companies that do not use prison, forced, or indentured labor. Furthermore, the conferees strongly urge the Customs Service to use fully its authority to block the importation of goods that are suspected to have been made using forced labor, especially in cases in which the United States has requested of a foreign country an inspection of a specific factory or other facility, but the requested inspection has not taken place in a timely manner.

### INTERNAL REVENUE SERVICE

#### INFORMATION SYSTEMS

#### (RESCISSION)

The conferees agree to rescind $10,000,000 as proposed by the Senate instead of no rescission as proposed by the House.

### INTERNAL REVENUE SERVICE

#### BUSINESS SYSTEMS MODERNIZATION

The conferees agree to provide $14,000,000 as proposed by the House in section 1201 of the House bill instead of no rescission as proposed by the Senate.

### UNITED STATES SECRET SERVICE

#### SALARIES AND EXPENSES

The conferees agree to provide $28,530,000 instead of $46,750,000 as proposed by the House and $17,200,000 as proposed by the Senate. The funding includes $17,224,000 to fund the costs of establishing and expanding electronic crimes task forces, as authorized under the USA PATRIOT Act of 2001, $7,491,000 for 51 positions required for additional protective details pursuant to Executive Order, and $3,815,000 in support of the workforce stabilization and retention initiative.

### POSTAL SERVICE

#### PAYMENT TO THE POSTAL SERVICE FUND

The conferees agree to provide $87,000,000 for emergency expenses of the Postal Service as proposed by both the House and Senate.

### EXECUTIVE OFFICE OF THE PRESIDENT

#### OFFICE OF ADMINISTRATION

The conferees agree to provide $3,800,000 for emergency expenses of the Office of Administration, instead of $5,000,000 as proposed by the Senate and no funding as proposed by the House. The conferees have denied funding for additional space requirements, travel support and support staff. The conferees agree not to include a provision, as proposed by the Senate, that funds provided to the Office of Administration may not be obligated until the Senate confirms a Director for Homeland Security.

#### OFFICE OF MANAGEMENT AND BUDGET

#### (RESCISSION)

The conferees agree to rescind $100,000, instead of $750,000 as proposed by the House and no rescission as proposed by the Senate.

### ELECTION ADMINISTRATION REFORM AND RELATED EXPENSES

The conferees agree to provide $400,000,000 for election administration reform, instead of $450,000,000 as proposed by the House and the Senate. The conferees agree make these funds available to the appropriate Federal entities upon enactment of legislation for election administration reform; these funds are provided to the Office of Management and Budget, as proposed by House, and with technical modifications, instead of being provided to the Office of Justice Programs, as proposed by the Senate.

### FEDERAL ELECTION COMMISSION

#### SALARIES AND EXPENSES

The conferees agree to provide $750,000 as proposed by the House instead of no funding as proposed by the Senate.

## INDEPENDENT AGENCIES

### GENERAL SERVICES ADMINISTRATION

#### FEDERAL BUILDINGS FUND

The conferees agree to provide $21,800,000 instead of $51,800,000 as proposed by both the House and the Senate.

### GENERAL SERVICES ADMINISTRATION

#### POLICY AND OPERATIONS

The conferees agree to provide no funding as proposed by the House instead of $2,500,000 as proposed by the Senate.

## GENERAL PROVISIONS, THIS CHAPTER

Section 1201. The conferees agree to include a provision prohibiting the use of funds to transfer the functions, missions, or activities of the United States Customs Service to the Department of Justice.

Section 1202. The conferees agree to include a provision granting the Federal Law Enforcement Training Center the authority to hire federal retirees for a period of up to five years.

Section 1203. The conferees agree to include a provision deeming the Eisenhower Exchange Fellowship Program to be an executive agency for certain purposes, modified from Section 1101 of the Senate to make the provision permanent.

The conferees agree not to include a provision related to Alaska Mail Delivery; this provision is included as a new Title in this Act.

The conferees agree not to include a provision establishing the position of Director of Homeland Security, as proposed by the Senate.

The conferees agree not to include Section 1201 as proposed by the House regarding a rescission of funds from the Financial Management Service and an appropriation of funds to the Internal Revenue Service.

## CHAPTER 13

## DEPARTMENT OF VETERANS AFFAIRS

### VETERANS BENEFITS ADMINISTRATION

#### COMPENSATION AND PENSIONS

The conferees have provided $1,100,000,000 for compensation and pensions as proposed by the Senate. The House did not include funding for this account.

### VETERANS HEALTH ADMINISTRATION

#### MEDICAL CARE

The conferees have provided $417,000,000 for medical care as proposed by the House and the Senate.

The conferees have included language proposed by the House directing VA to distribute all of the funds to the VISNs according to VERA and directing the Centers for Medicare and Medicaid Services (CMS) to issue each VA health care facility a provider number, which in no way obligates CMS to reimburse VA for services. The Senate made no similar provisions.

The conferees reiterate report language proposed by the House prohibiting the funds to be used for any purpose other than direct health care services for priority 1–6 veterans and language proposed by the Senate directing the Secretary to report to the Committees on Appropriations on measures taken to ensure accurate workload and resource needs estimates in future budget justifications.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### PUBLIC AND INDIAN HOUSING

#### HOUSING CERTIFICATE FUND

#### (RESCISSION)

The conference agreement rescinds $388,500,000 from unobligated balances remaining available in the House Certificate Fund, instead of $300,000,000 as proposed in the House and Senate bills. Modified language is included, similar to language proposed by the House, allowing the Department to apply the rescission against the Section 8 program or any other program in the Department, instead of limiting the rescission to only the Section 8 program as proposed in the Senate bill. The conference agreement does not include language proposed by the House bill prohibiting the rescission of any funds governed by statutory reallocation provisions, but instead includes language to allow the rescission to be applied against any program. Should the amounts available in the Section 8 program be insufficient to meet the required rescission, the Department is directed to notify the Committee of its plan to meet the rescission target, with such notification being provided at least seven days prior to implementation of the rescission.

### COMMUNITY PLANNING AND DEVELOPMENT

#### COMMUNITY DEVELOPMENT FUND

The conference agreement includes an emergency appropriation of $783,000,000 for assistance to properties and businesses, including restoration of damaged infrastructure, and for economic revitalization activities in the areas of New York City affected by the September 11, 2001 terrorist attacks, instead of $750,000,000 as proposed by the House and Senate.

The conferees recognize the tremendous human losses suffered by those businesses located in the World Trade Center, particularly those firms which suffered the greatest loss of life in the attacks. Because of the conferees' strong desire to support the redevelopment of the areas of New York City affected by the attacks and to encourage those businesses most devastated by the attacks to remain in New York City, the conferees have provided a $33,000,000 increase over the request. The conferees expect that these additional funds will be made available to assist those firms located in New York City at the time of the terrorist attacks which suffered a disproportionate loss of its workforce and who intend to re-establish their operations in New York City.

The conferees concur with the language included in the House report encouraging the Lower Manhattan Development Corporation to consider the needs of utility companies and other institutions affected by the World Trade Center attacks.

The conference agreement includes modified language, similar to language proposed by the House and Senate, making technical corrections to specific grants funded in prior appropriations Acts.

#### HOME INVESTMENT PARTNERSHIPS PROGRAM

#### (RESCISSION)

The conference agreement rescinds $50,000,000 from fiscal year 2002 funds made available contingent upon enactment of an authorization, as proposed by the Senate. The House did not include a similar rescission.

### Housing Programs

#### RENTAL HOUSING ASSISTANCE

#### (RESCISSION)

The conference agreement rescinds $300,000,000 from contract authority in excess of amounts required to subsidize mortgage payments pursuant to section 236 of the National Housing Act, as proposed by the House.

Language proposed by the Senate is not included directing the Department to use the excess contract authority to implement a rehabilitation grant program. The House did not include a similar provision.

## INDEPENDENT AGENCIES

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

The conferees have provided $8,000,000 to undertake and continue research and worker training programs related to the September 11, 2001 terrorist attacks as proposed by the House. Of this amount, the conferees agree that $4,000,000 is available for the research program and $4,000,000 is available for worker training.

### Agency for Toxic Substances and Disease Registry

#### TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

The conferees have provided $11,300,000 for direct and indirect costs of the Agency associated with the terrorist attacks of September 11, 2001 as well as for further efforts of the Agency to respond to chemical terrorism events, as proposed by the House. Of this amount, the conferees agree that $1,800,000 is to reimburse ATSDR for additional direct and indirect costs related to the events of September 11, 2001 which were not assumed in the fiscal year 2002 appropriation.

The conferees further agree that $9,500,000 is expected to be used to enhance the capacity of the States to respond to chemical terrorism events. In this regard, the conferees note that these and similar expenses are expected to be "one time only" costs of the Agency to assist the States and are not to become recurring costs in support of new State personnel.

### Environmental Protection Agency

#### SCIENCE AND TECHNOLOGY

The conference agreement provides $50,000,000 to perform security vulnerability assessments of small and medium sized drinking water systems instead of $100,000,000 as proposed by the Senate and no funds as proposed by the House.

#### ENVIRONMENTAL PROGRAMS AND MANAGEMENT

#### (TRANSFER OF FUNDS)

The conferees have included language which transfers $400,000 appropriated in fiscal year 2002 from the Environmental Programs and Management account to the State and Tribal Assistance Grants account for wastewater and sewer infrastructure improvements in the Town of Rosman, North Carolina.

#### HAZARDOUS SUBSTANCE SUPERFUND

The conferees have included $12,500,000 for reimbursement to the Environmental Protection Agency for costs associated with the investigation and cleanup of Anthrax within the United States Capitol and Congressional building complex and the Legislative Branch appropriations in this legislation as proposed by the House instead of providing this reimbursement directly to the EPA as proposed by the Senate.

#### STATE AND TRIBAL ASSISTANCE GRANTS

The conferees have included bill language making technical corrections to seven specific grants provided in fiscal years 2001 and 2002 instead of five such corrections as proposed by the House and one such correction as proposed by the Senate.

### Federal Emergency Management Agency

#### DISASTER RELIEF

The conferees have agreed to provide $2,650,700,000 in emergency funding for disaster relief, instead of $2,750,000,000 as proposed by the House and $2,660,000,000 as proposed by the Senate. The amount appropriated includes a reduction of $99,300,000 from the original supplemental request. The conferees have also agreed to retain the House Language that provides for the funds to be used to carry out the Federal Fire Prevention and Control Act of 1975. Additionally, the conferees agree to include language proposed by the Senate which will establish criteria for the Mortgage and Rental Assistance Program for victims of September 11, 2001 and directs compensation for applicants who had previously been denied benefits. The conference agreement does not include House language with regard to the Texas Medical Center.

For the purposes of the September 11, 2001 attack on the World Trade Center, measures taken by eligible private non-profit colleges and universities to protect the health and safety of students and faculty residing in areas affected by the disaster will be eligible for reimbursement.

The conferees agree that FEMA is directed to provide compensation to the New York city School system for costs stemming from the September 11, 2001 terrorist attacks for activities including additional classroom instruction time, mental health, trauma counseling, and other support services; guidance and grief counseling; clean-up and structural inspections and repairs of school facilities; and student relocations, lost textbooks and perishable food.

The conferees agree with the direction contained in House Report 107–480 with regard to the FEMA Inspector General review of FEMA's statutory authorities and identification of any gaps in coverage which may exist in dealing with disasters such as the terrorists attacks of September 11, 2001.

#### DISASTER ASSISTANCE FOR UNMET NEEDS

The conferees have agreed to provide $23,200,000 for disaster assistance for unmet needs, instead of $23,320,000 as proposed by the House. The Senate did not include any funding for this program. The amount will be available to address unmet needs arising from Presidentially-declared disasters occurring in fiscal year 2002.

#### EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

The conferees have agreed to provide $447,200,000 for emergency management planning and assistance instead of $151,700,000 as proposed by the House and $745,000,000 as proposed by the Senate. Of the amount provided, $221,000,000 is contingent emergency funding. The amount provided includes $100,000,00 for State and local all hazards operational planning; $150,000,000 for the fire grant program as authorized by the Federal Fire Prevention and Control Act of 1974, as amended; $25,000,000 for Citizen Corps; $56,000,000 for emergency operations centers; $5,000,000 for development of mutual aid agreements; $7,000,000 for procurement of secure communications equipment; $54,200,000 for upgrading existing Urban Search and Rescue Teams; and $50,000,000 for interoperable communications equipment for fire-fighters and emergency medical services. With regard to the amounts listed above, FEMA is directed to notify the Committees on Appropriations of the House and Senate of any funding changes between $500,000 and $1,000,000. Any change in excess of $1,000,000 may be made only upon prior approval of the Committees. The conferees direct FEMA to provide a spending plan prior to obligation of any funds for State and local all hazards operational planning.

The conferees urge that grants under the interoperable communications equipment programs be used to purchase cost effective solutions which allow entities to make existing communications interoperable such as cross band repeaters, frequency band patching and other network level solutions. In addition, equipment provided under these programs should be compatible with public safety analog ANSI/TIA–603 and/or digital radio ANSI/TIA–102 Standards.

#### CERRO GRANDE FIRE CLAIMS

The conferees agree to provide $61,000,000 in contingent emergency appropriations for claims resulting from the Cerro Grande fire. The conferees have included bill language which makes up to 5% of the funds available for administrative purposes. The conferees do not anticipate a need for additional funding and expect FEMA and the Cerro Grande Fire Claims Office to expedite all claims.

### National Science Foundation

#### EDUCATION AND HUMAN RESOURCES

The conferees have provided $19,300,000 for the Federal Cyber Service: Scholarships for Service program as proposed by the Senate instead of no funds as proposed by the House.

In light of the apparent need for increased Federal personnel with enhanced information infrastructure skills, significant appropriations have been provided to "jump start" the program. With these supplemental funds, this new program has been provided in excess of $30,000,000 for fiscal year 2002. At the same time, however, the fact remains that the Administration has yet to develop and forward to the Congress a comprehensive, short- or long-term plan relative to this program. Prior to September 16, 2002, the NSF is directed to provide to the Committees on Appropriations a report detailing how this program will significantly increase the number of federal cyber security personnel and the expected, long-term costs of the program. In developing this report, NSF should consult with other federal agencies that have experience in running scholarships-for-service programs. This should include, but not be limited to, the Departments of Education and Health and Human Services.

### GENERAL PROVISIONS—THIS CHAPTER

The conference agreement includes a provision increasing the fiscal year 2002 total loan guarantee limitation to $165,000,000,000 for the Federal Housing Administration (FHA) single family mortgage insurance program as proposed by the House. The Senate did not include a similar provision.

The conference agreement includes a provision increasing the fiscal year 2002 total loan guarantee limitation to $23,000,000,000 for the FHA general and specialized risk mortgage insurance programs as proposed by the House. The Senate did not include a similar provision.

The conference agreement includes language, modified from language included in the Senate bill, directing the Department of Housing and Urban Development to resume the Asset Control Area Demonstration Program (ACA) by September 15, 2002. Language also is included requiring that any agreement or contract conform with applicable statutory requirements. In April 2002, the Department issued a moratorium on new agreements and contracts, including renewals of expiring contracts, pending a review of the program and development of appropriate program management tools and regulations to correct deficiencies identified by the Inspector General. These deficiencies were largely the result of the Department's failure to manage the program consistent with the law. While the conferees understand that such actions were necessary to correct these deficiencies, the conferees are concerned that the moratorium could be unduly punitive to those participants whose programs have met the ACA demonstration program objectives. The conferees believe it is important that the Department expeditiously resolve this matter and resume the program in areas that further the objectives of the program. The House did not include a similar provision.

The conference agreement includes modified language, similar to language included in the Senate bill, directing the HUD Secretary to provide quarterly reports on the status of certain defaulted FHA-insured multifamily housing projects. The House did not include a similar provision.

The conference agreement includes language, modified from language included in the Senate bill, to remove the use restrictions on a property in Baltimore, Maryland, only for the purposes of converting the property to student housing, subject to certain requirements. These requirements include the full payment of any outstanding mortgage balances and any outstanding loan, and the use of residual receipts and replacement reserves to pay for relocation of current tenants with any excess to be returned to the Department of Housing and Urban Development. Should the property not be converted to student housing, the use restrictions would remain in effect. The House bill did not include a similar provision.

### CHAPTER 14

### General Provisions—This Title

The conference agreement includes a provision as proposed by both the House and the Senate that limits the availability of funds provided in this Act.

The conference agreement includes the House provision that fully offsets the revenue aligned budget authority reduction required by TEA–21 in fiscal year 2003 by raising the highway category guarantee and providing an additional $4,369,000,000 in federal-aid highway obligation limitation, for a total obligation limitation of $27,653,143,000. The Senate bill included a provision directing that the federal-aid highway obligation limitation in fiscal year 2003 be at least $27,746,000,000 and not more than $28,900,000,000.

The conference agreement deletes a provision proposed by the House to require the United States Government to take all steps necessary to guarantee the full faith and credit of the Government.

The conference agreement does not include the provision contained in the House bill reclassifying certain counties in Pennsylvania and New York for purposes of reimbursement under the Medicare program. The conferees express in the strongest terms their request that the authorizing committees of jurisdiction, the Senate Finance Committee and the House Ways and Means Committee, develop legislation as soon as possible to address the geographic inequities that exist nationwide in Medicare reimbursements because of the wage indices used.

The conference agreement includes a provision rescinding $350,000,000 of previously appropriated funds made available for administrative and travel expenses in all federal agencies and offices. The provision specifies that individual rescissions to implement this reduction shall be applied on a pro rata basis to each office, agency, and Department in the executive branch that is funded in Appropriations Acts. The Director of the Office of Management and Budget shall provide a report to the Committees on Appropriation within 30 days after the date of enactment of this Act describing: (1) the amount rescinded in each office, agency, and Department; and (2) the methodology used to identify the offices, accounts, and amounts to be rescinded. Neither the House nor the Senate bill included a similar provision.

The conference agreement modifies language proposed in Title II of the Senate bill relating to the availability of emergency appropriations in this Act. The conference agreement provides that any amount in this Act for which availability is made contingent upon an emergency designation by the President shall not be available unless all such contingent amounts are designated by the President. The designation must be made within 30 days of enactment of this Act.

The conference agreement deletes a provision as proposed in Title II of the Senate bill relating to a sense of the Senate on the reorganization of the FBI.

### TITLE II

### American Service Members' Protection Act

The conference agreement includes the American Service Members' Protection Act as proposed by the House and the Senate. The conference agreement also includes a provision, as proposed by the Senate, relating to assistance to international efforts to bring certain individuals to justice.

### TITLE III

### Other Matters

The conference agreement includes a provision as proposed by the House relating to adjustments to the Caribbean Basin Economic Recovery Act with respect to textiles.

The conference agreement includes a provision relating to mail delivery in Alaska, as proposed by the Senate, with technical modifications. The House bill included a related provision as section 1406.

The conference agreement includes a provision, as proposed by the Senate, relating to amendments to the Alaska Native Claims Settlement Act. The House bill contained no similar provision.

### CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2002 recommended by the Committee of Conference, with comparisons to the fiscal year 2002 budget estimates, and the House and Senate bills for 2002 follow:

[In thousands of dollars]

| | |
|---|---|
| Budget estimates of new (obligational) authority, fiscal year 2002 | $29,512,519 |
| House bill, fiscal year 2002 | 28,775,894 |
| Senate bill, fiscal year 2002 | 32,614,644 |
| Conference agreement, fiscal year 2002 | 30,010,699 |
| Conference agreement compared with: | |
| Budget estimates of new (obligational) authority, fiscal year 2002 | +498,180 |
| House bill, fiscal year 2002 | +1,234,805 |
| Senate bill, fiscal year 2002 | −2,603,945 |

C.W. Bill Young,
Ralph Regula,
Jerry Lewis,
Harold Rogers,
Joe Skeen,
Frank R. Wolf,
Sonny Callahan,
James T. Walsh,
Charles H. Taylor,
David L. Hobson,
Ernest J. Istook,
Henry Bonilla,
Joe Knollenberg,
David R. Obey,
John P. Murtha,
Norman D. Dicks,
Martin Olav Sabo,
Steny H. Hoyer,
Alan B. Mollohan,
Marcy Kaptur,
Peter J. Visclosky,
Nita M. Lowey,
José E. Serrano,
John W. Olver,
*Managers on the Part of the House.*

Robert C. Byrd,
Daniel K. Inouye,
Ernest F. Hollings,
Patrick J. Leahy,
Tom Harkin,
Barbara A. Mikulski,
Harry Reid,
Herb Kohl,
Patty Murray,
Byron L. Dorgan,
Dianne Feinstein,
Richard J. Durbin,
Tim Johnson,

MARY L. LANDRIEU
JACK REED,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CHRISTOPHER S. BOND,
MITCH MCCONNELL,
CONRAD BURNS,
RICHARD C. SHELBY,
JUDD GREGG,
ROBERT F. BENNETT,
BEN NIGHTHORSE CAMPBELL,
LARRY CRAIG,
KAY BAILEY HUTCHISON,
MIKE DEWINE,
*Managers on the Part of the Senate.*

# SENATE—*Monday, July 22, 2002*

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. BYRD).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Your Presence surrounds us, Your love affirms us, Your strength sustains us, Your courage empowers us, Your guidance directs us, and Your joy uplifts us. Thank You for this new day in which we can love You by serving our Nation in the U.S. Senate. Give us a renewed conviction that we are here by Your appointment. As You have placed us in positions of responsibility, You will provide us with exactly what we need in each hour this day. We commit the day to You and look expectantly for Your interventions and inspiration. You are the source of our vision, hope, and perseverance. Bless the Senators and all of us who work with and for them. Remind us that we are all working for You and for Your best for our Nation. You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable ROBERT C. BYRD led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada, the Democratic whip, is recognized.

## SCHEDULE

Mr. REID. Mr. President, the time until 6 p.m. will be divided between the two managers. There will be no rollcall votes today. We will, however, vote tomorrow morning, at 10:45, on a nomination from the White House.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 812, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

> Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.
>
> Graham amendment No. 4309, to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the Medicare program.
>
> Hatch (for Grassley) amendment No. 4310, to amend title XVIII of the Social Security Act to provide for a Medicare voluntary prescription drug delivery program under the Medicare program, and to modernize the Medicare program.

The PRESIDENT pro tempore. Under the previous order, the time until 6 p.m. shall be equally divided between the two managers or their designees.

## NURSE REINVESTMENT ACT

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 306, H.R. 3487.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> The bill (H.R. 3487) to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

There being no objection, the Senate proceeded to consider the bill.

Ms. MIKULSKI. Mr. President, I am proud to rise in support of final passage of the Nurse Reinvestment Act. This bill addresses the critical nursing shortage in our country by getting behind the nurses who take care of us every day. It provides incentives to encourage people to enter the nursing profession and make it a career. This legislation is based on the Nurse Reinvestment Act, S. 1864, that I sponsored with Senators TIM HUTCHINSON, JOHN KERRY, and JIM JEFFORDS.

Since the Senate passed the Nurse Reinvestment Act in December of last year, there is new information showing that the nursing shortage has become even more severe. In Maryland, almost 16 percent of nursing jobs are unfilled, up from 3.3 percent in 1997. There are over 2,000 registered nurse vacancies in Maryland hospitals. Since the average age of a Maryland nurse is 47 years, we face the possibility that the shortage will soon get worse if young nurses do not enter and stay in the profession.

The nursing shortage is not unique to Maryland. It is nationwide. In 2001, the average American hospital vacancy rate was 13 percent for registered nurses. The average age of an American nurse is 44 years, with many retiring in their fifties or working part time due to the physical demands of the job. At the same time, the labor force is shrinking and baby boomers will soon retire and place additional demands on our health care system.

The nursing shortage can have grave consequences on patient care. A recent study published in the New England Journal of Medicine found that nursing shortages in hospitals are associated with a higher risk of complications and even death. It is our duty to take steps to make sure our health care system is staffed with enough qualified nurses.

Nurses care for Americans from the cradle to the grave. We depend on them to care for our parents, our children, our siblings and sometimes ourselves. We turn to them in hospitals, nursing homes, community health centers, hospices, and for home health. These organizations truly could not exist without nurses.

This bill is a significant step in addressing the nursing shortage. It helps men and women obtain the education they need to become nurses, provides training and career ladder programs to help nurses advance in the profession, and helps ensure that there are enough nursing faculty to teach more nursing students. Highlights of this bill include:

National Nurse Service Corps To Serve in Areas With Critical Nurse Shortages:

The bill creates a scholarship program, which provides scholarships for nursing education in exchange for at least two years of full time service, or the equivalent amount of part time service, in a facility with a critical shortage of nurses; and

The bill extends the Loan Repayment Program for nurses: nurses have their nursing education loans paid back in exchange serving as a nurse for at least two years in a facility with a critical shortage of nurses.

Public Service Announcements To Recruit Nurses and Promote Nursing:

The legislation creates State and national public service announcements to promote nursing, encourage people to enter the nursing profession, and inform the public of financial assistance for nursing education programs.

Building Career Ladders and Retaining Quality Nurses:

The bill provides grants to improve nurse education, practice, and retention including:

Career ladder programs with schools of nursing and health care facilities to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

encourage individuals to pursue additional education and training to enter and advance within the nursing profession, including certified nurse assistants, CNAs;

Internship and residency programs that encourage mentoring and the development of specialties;

Retention programs that enhance collaboration among nurses and other health care professionals and promote nurse involvement in organizational and clinical decisionmaking.

Geriatric Education To Train Individuals To Care for the Elderly:

The bill creates a program to award grants to train and educate individuals in providing geriatric care to the elderly.

Financial Help to Recruit Faculty To Teach in Nursing Schools:

The legislation provides loans for graduate-level education in nursing—cancels up to 85 percent of the loan and interest, in exchange for teaching at a school of nursing, to help ensure that we have enough faculty at our nursing schools.

This bill is about nursing education, but it is also about empowerment. We can empower people to improve their lives and go into a career that saves lives.

The bill will empower the single mom stuck in a dead end retail job to get a nursing degree at the local community college to forge a better life for herself and her family. She can receive a scholarship that enables her to work around the needs of her family by going to nursing school either full or part-time. She would also have the opportunity to receive additional training or assistance in getting her bachelor's degree in nursing. A mentoring program could help her advance in her profession and help keep her in the profession. She could even get a master's degree and teach nursing at her local community college, while most of her loans for her advanced degree are cancelled.

This bill also addresses the health care needs of a growing population in our country: the elderly. This bill provides training for individuals involved in caring for the elderly by funding schools of nursing, health care facilities, programs leading to CNA certification, and partnerships of these to provide education and training in geriatric care for the elderly. Our population is aging—more than 70 million Americans will be over age 65 by 2030. Their care will be improved by nurses and other health care professionals who are specifically trained to care for the unique health needs of older Americans.

As a senior member of the Appropriations Committee, I will fight for funding for the Nurse Reinvestment Act. We are putting these important programs on our law books to address the nursing shortage. We must put these same priorities in our federal checkbook.

This bill gets behind our Nation's nurses. It will improve patient care by bringing more nurses to communities across the country. I thank my colleagues for their support of this important legislation. I also want to acknowledge and thank Senators KENNEDY, GREGG, HUTCHINSON, KERRY, JEFFORDS, FRIST, and CLINTON for their hard work in moving this legislation. I ask unanimous consent that the accompanying statement of managers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The following is a statement of congressional intent with respect to the Nurse Reinvestment Act.

### I. FUNDING METHODOLOGY

During the last reauthorization of Title VIII in 1998, Congress required the Secretary of Health and Human Services to determine a funding methodology to be used for fiscal year 2003 and thereafter to determine the appropriate amounts to be allocated to three important programs within the Nursing Workforce Development activities—advanced nursing education, workforce diversity, and nurse education and practice. In developing this methodology, Congress outlined a series of factors that should be considered and required a report describing the new methodology as well as the effects of the new methodology on the current allocations between those three important programs.

Given that the new funding methodology was to take effect in fiscal year 2003, Congress requested that the contract for the funding methodology be completed by February 1, 2002, and that the report to Congress regarding that methodology arrive no later than 30 days after the completion of the development of the methodology. Although Congress has not yet received the report, George Mason University has been working on this contract, and they have described the new funding methodology on their website. This methodology states that advanced nursing education should receive 31.5 percent of the funds (a 46 percent decrease from fiscal year 2001 allocations), workforce diversity should receive 31.5 percent of the funds (a 25% increase over fiscal year 2001 allocations), and nurse education and practice should receive 37 percent of the funds (a 20 percent increase over fiscal year 2001 allocations).

Because Congress expected the funding methodology to be completed by the beginning of fiscal year 2003, current law does not state how the funds should be allocated if no funding methodology was available. Therefore, the discretion is left to the Secretary. Due to that discretion, it is the Congress' intent that the Secretary allocate funds in a manner that would most appropriately address any current or impending nursing shortage while minimizing disruption and report such allocations to the appropriate committees of Congress, along with a justification for those allocations. Further, given that Congress has requested a new funding methodology for fiscal year 2003, the Secretary is now requested to provide an update on the development of that methodology and the expected timeline for implementation.

### II. AUTHORIZATIONS UNDER THE NURSE REINVESTMENT ACT

Throughout the bill, the legislation authorizes the appropriation of such sums as may be necessary to accomplish the objective of the legislation. It is Congress' belief that the current nursing shortage is a significant national problem that has a major negative impact on the delivery of high-quality health care in the United States. It is Congress' belief that funds should be appropriated for the initiatives authorized by this legislation at a lever that is commensurate with the significance of this problem.

The legislation authorizes the appropriation of such sums as may be necessary in order to accomplish the objectives of the legislation to allow flexibility in providing funding to respond to the ongoing needs of the programs authorized by the legislation. Although the legislation does not authorize the appropriation of specific dollar amounts, it is Congress' belief that the investment of significant new resources, beyond those already provided under Title VIII of the Public Health Service Act, will be required in order to alleviate the current nursing shortage.

### III. LOAN REPAYMENT AND SCHOLARSHIPS

The Congress intends that nurses fulfilling their service requirement under the Loan Repayment Program or the Scholarship Program under section 846 be able to fulfill their service requirement in a nurse-managed health center with a critical shortage of nurses.

The Congress further intends that, in determining the placement of nurses under section 103 of the bill, the Health Resources and Services Administration is not expected to follow the placement requirements outlined under the National Health Service Corps.

### IV. NURSE EDUCATION, PRACTICE, AND RETENTION GRANTS

#### *A. Intent of Legislation*

The legislation adds a number of new programs to section 831, and it is Congress' intent to ensure that these programs are actually funded and implemented. Therefore, Congress expects that the Secretary will seek to fund worthy applications received under the Section 831 authorities that have been added, while assuring the existing priorities indicated under section 831 also continue.

Congress anticipates that the use of funds under 831(c)(2) will directly affect nurses in their workplaces and will be monitored for demonstrable improvement in the areas of nurse retention and patient care.

#### *B. Background*

In authorizing section 831(c)(2), Congress did so with the evidence of the efficacy of magnet hospitals in mind. The concept of magnet hospitals dates back to the country's last nursing shortage in the 1980's. At the time, nursing professional organizations and other experts noticed that despite the nationwide nurse shortage, certain hospitals were able to successfully attract and retain professional nurses, behaving as nursing "magnets." A study of these hospitals showed that they shared a number of characteristics, each of which contributed to making these "magnet hospitals" attractive workplaces for nurses. Many of these attributes have been mentioned in section 831(c)(2). Currently hospitals can receive a magnet designation from the American Nurse Credentialing Center, and extensive research on magnet-designated facilities shows that nurses in these hospitals show an average length of employment twice that of nurses in non-magnet hospitals, and magnet hospital nurses consistently report greater job satisfaction. Research has demonstrated that magnet hospitals also show lower mortality rates, shorter lengths of stay, and higher patient satisfaction.

### V. NURSE FACULTY LOAN PROGRAM

The purpose of the nurse faculty loan program is to encourage individuals to pursue a master's or doctoral degree to teach at a school of nursing in exchange for cancellation of educational loans to these individuals.

Michael Bilirakis, Lois Capps, Billy J. Tauzin, John D. Dingell, Richard Burr, Sherrod Brown, Ed Whitfield, Eliot L. Engel, Robert L. Ehrlich, Henry A. Waxman, Barbara A. Mikulski, Tim Hutchinson, John F. Kerry, James M. Jeffords, Judd Gregg, Bill Frist, M.D., Edward M. Kennedy, Susan M. Collins, Hilliary Rodham Clinton.

Mr. KENNEDY. Mr. President, today the Senate considers long-needed legislation to address the worsening crisis in nursing care across the country. We all know the importance of nurses in delivering good health care. A nurse is often the first person that patients see after waking in the morning and the last person they see at night. Nurses are the backbone of an effective health care system—yet the nation now faces a crisis in nursing due to the shortages of trained nurses. The Nurse Reinvestment Act we are considering today takes significant steps to address the shortage by improving nurse training, reducing the barriers to a nursing education through loan repayment programs and scholarships, and improving working conditions.

The bill we consider today owes much to the skill and dedication of many of our colleagues on both sides of the aisle and on both sides of the Capitol. The legislation contains major provisions to improve nurse training sponsored by our colleague from Maryland, Senator MIKULSKI, who has been tireless in her support for nurses. Her energy and skill were indispensable in the Senate's approval of this important legislation earlier this year. She is a champion for nurses, and this bill is a fitting tribute to her dedication.

The legislation we consider today also owes a great deal to the commitment of our colleagues, Senator KERRY and Senator JEFFORDS. In the legislation they introduced in the Senate last year, they outlined a vision for a National Nurse Service Corps to serve in areas with a nursing shortage. This proposal is part of the legislation we are considering today. The provisions on the National Nurse Service Corps will provide scholarships and loan repayment agreements for nursing students who agree to practice nursing in areas with a critical shortage of nurses. This corps of nurses can be effective in easing the most critical shortages that exist in so many communities.

The challenge we face is clear. It is becoming increasingly difficult for hospitals and other health facilities to obtain the nurses they need to properly care for patients. Today, about 125,000 nurse positions remain vacant. This shortage will become more severe in the years ahead as nurses reach retirement and as the demand for nursing care increases because of the nation's aging population. A major part of the problem is that nurses often leave the practice of nursing because of poor working conditions.

Senator CLINTON has sponsored important provisions in the bill to improve working conditions for nurses and improve the retention of trained nurses. Her proposals will provide effective incentives for hospitals to involve nurses in clinical decision-making and to improve communication among nurses and other health professionals. A clear example of the benefits of these programs is shown by the success of hospitals designated as "magnets" for quality nurses. These leading institutions provide higher quality patient care because they are successful in retaining trained nurses. The source of their success is very clear—they value the professional role of nurses in patient care.

I also commend the distinguished ranking member of our committee, Senator GREGG, and the distinguished ranking member of our subcommittee, Senator FRIST, as well as many other members of our committee for their contributions to this legislation. This legislation will also attract more students to the practice of nursing through public service announcements, advertisements and outreach programs to demonstrate the value of a career in nursing to young persons in all parts of the country.

Nurses have an indispensable role in our health care system. They are the ones who provide much of the direct care to patients and monitor how patients are recovering. Studies confirm that nursing care is critical to improving patient outcomes, and that a shortage of nurses can hurt patient care.

We cannot have a quality health care system without quality care by nurses. The legislation the Senate considers today will alleviate the severe shortage the nation faces in trained nurses. It will improve the quality of care for millions of patients in communities throughout the Nation. I thank my colleagues for their dedication to this important issue, and I urge the Senate to approve this needed legislation.

Mr. KERRY. Mr. President, I am extremely pleased that the Senate is considering final passage of the Nurse Reinvestment Act, a bill I originally introduced with my colleague, Senator JEFFORDS, in April of 2001. I commend the chairman of the Senate Health, Education, Labor and Pensions Committee, my colleague from Massachusetts, Senator KENNEDY, for his efforts in seeing this legislation through the Senate. In addition, I wish to recognize the invaluable contributions Senators MIKULSKI, HUTCHINSON, FRIST, GREGG and CLINTON made to the final version of the legislation that is before us today. This legislation is important for nurses and patients, and essential to ensuring that our health care system can function at its best. Upon passage, the Nurse Reinvestment Act will increase the number of nurses in our country, and also ensure that every nurse in the field has the skills he or she needs to provide the quality care patients deserve. I congratulate all of my colleagues for their work on this measure and for the contribution it will inevitably make to the health our nation.

The Nurse Reinvestment Act is long overdue. Our country is facing a severe nursing workforce shortage. Every type of community—urban, suburban and rural—is touched by it. No sector of our health care system is immune to it. Across the country, hospitals, nursing homes, home health care agencies and hospices are struggling to find nurses to care for their patients. Patients seeking care have been denied admission to facilities and told that there were "no beds" for them. Often there are beds, just not the nurses to care for the patients who would occupy them.

Our nation has suffered from nursing shortages in the past. However, this shortage is particularly severe because we are losing nurses at both ends of the pipeline. Over the past five years, enrollment in entry-level nursing programs has declined by 20 percent. Lured to the lucrative jobs of the new economy, high school graduates are not pursuing careers in nursing in the numbers they once had. Consequently, nurses under the age of 30 represent only 10 percent of the current workforce. By 2010, 40 percent of the nursing workforce will be over the age of 50, and nearing retirement. If these trends are not reversed, we stand to lose vast numbers of nurses at the same time that they will be needed to care for the millions of baby boomers enrolling in Medicare.

The Nurse Reinvestment Act will support the recruitment of new students into America's nursing programs by funding national and local public service announcements to enhance the profile of the nursing profession and encourage students to commit to a career in nursing. In addition to recruiting new nurses, our legislation will reinvest in nurses who are already practicing by providing them with education and training at every step of the career ladder and at every health care facility in which they work. It will ensure that nurses can obtain advanced degrees, from a B.S. in Nursing to a PhD in Nursing. It will place nurses in internships and residencies where they can receive the specialized clinical training they need to respond to the complex health care needs of today's patients. Our bill will also help train nurses in geriatrics to ensure that our health care providers are prepared to care for the needs of our nation's growing senior population.

Finally, the Nurse Reinvestment Act will create, for the first time in history, a National Nurse Service Corps. Like the National Health Service Corps, the NNSC will administer scholarships to and repay the loans of students who commit to working in a health care facility that is experiencing a shortage of nurses. In urban, suburban and rural communities across the country, where facilities turn away patients due to staff shortages, the NNSC will send qualified nurses to serve and provide the care that patients deserve.

Our country boasts the best health care system in the world. But, that health care system is being jeopardized by the shortage plaguing our nursing workforce. Indeed, state-of-the-art medical facilities are no use if their beds go unfilled and their floors remain empty because the nurses needed to staff them are not available. The Nurse Reinvestment Act will not only increase the numbers of new nurses in our country, but also ensure that every nurse has the skills he or she needs to provide the high quality care that makes our health care system the best in the world. I urge my colleagues to join me and the bill's cosponsors in supporting final passage of this important legislation.

I thank the Chair.

Mr. JEFFORDS. Mr. President, I am especially pleased on this day that we are considering final passage of a long-awaited Nurse Reinvestment Act. When we pass this measure, it will represent a good day for the future of the nursing profession in America and an equally good day for the future of quality patient care. I want to take this opportunity to speak about this legislation, and to congratulate and complement my fellow Members of Congress who worked so hard to see this effort through. Back in April of 2001, together with my good friend from Massachusetts, Senator KERRY, I was proud to sponsor the innovative set of solutions to the nursing shortage set out in our Nurse Reinvestment Act. Since that time, with extraordinary contributions on behalf of Senator HUTCHINSON and Senator MIKULSKI, as well as the cooperative spirit of our colleagues in the House, I believe that we have produced a piece of legislation that we can all be proud of. Today we have before us a measure that represents a truly bipartisan and bicameral effort to address a very serious nursing shortage in the United States.

As I have stated before, we are facing a looming crisis in this country. The size of our nursing workforce remains stagnant, while the average age of the American nurse is on the rise. Over the past 5 years, enrollment in entry-level nursing programs has declined by 20 percent. Nurses under the age of 30 represent only 10 percent of the current workforce. By 2010, 40 percent of the nursing workforce will be over the age of 50, and nearing retirement. In Vermont, we are facing an even greater crisis. Only 28 percent of nurses are under the age of 40 and Vermont schools and colleges are producing 31 percent fewer nurses today than they did just 5 years ago.

We have a compelling need to encourage more Americans to enter the nursing profession and to strengthen it so that more nurses choose to stay in the profession. All facets of the health care system will have a role to play in ensuring a strong nursing workforce. Nurses, physicians, hospitals, nursing homes, academia, community organizations and State and Federal Governments all must accept responsibility and work towards a solution. Part of the responsibility to launch that effort begins with us today as we vote affirmatively for this legislation.

The Nurse Reinvestment Act expands and improves the Federal Government's support of "pipeline" programs, which will maintain a strong talent pool and develop a nursing workforce that can address the increasingly diverse needs of America's population. The Nurse Reinvestment Act provides for a comprehensive public awareness and education campaign on a national, State and local level. The campaign will help to bolster the image of the profession and highlight the advantages and rewards of nursing, attract more nurses to the workforce, and lead current nurses to take advantage of career development opportunities.

This legislation creates a National Nursing Service Corps Scholarship Program that will provide scholarships to individuals to attend schools of nursing in exchange for a commitment to serve 2 years in a health care facility determined to have a critical shortage of nurses. This scholarship program is designed to recruit both full-time and part-time nursing students, and to complement the existing loan repayment program.

The Nurse Reinvestment Act also provides for nurse education, practice, and retention grants. Specifically, the grants will be focused on internship and residency programs that encourage mentoring, development of specialties, and increased education in the area of new technologies like distance learning. It provides for career ladder grants to promote advancement for nursing personnel, including professional nurses, advanced education nurses, licensed practical nurses, certified nurse assistants, and home health aides. In addition, these grants aim to improve retention by enhancing collaboration among nurses and other health care professionals and by promoting nurse involvement in organizational and clinical decision-making.

The legislation before us today goes even further by emphasizing preparation for the aging baby boomer population. With this legislation, we create a new program that provides for grants to train and educate individuals in providing geriatric care for the elderly. We also create a nurse faculty loan program in order to ensure that we have enough faculty to teach the nurses that we will so direly need in the years to come. The faculty loan program will allow for up to 85 percent loan cancellation for students in advanced degree programs who agree to serve as a faculty member at a school of nursing.

Once again, I want to applaud my colleagues Senator KERRY, Senator MIKULSKI and Senator HUTCHINSON for their tireless work on the Nurse Reinvestment Act and for the work of their staffs. In particular, I want to recognize the efforts of Kelly Bovio in Senator KERRY's office, Kate Hull in Senator HUTCHINSON's office and Rhonda Richards with Senator MIKULSKI. This effort was also advanced with the help of Sarah Bianchi, Jackie Gran, Brian Hickey, and David Bowen who are members of Senator KENNEDY's staff, Christina Ho of Senator CLINTON's staff, Steve Irizarry with Senator GREGG and Shana Christrup with Senator FRIST. Finally, in my own office, I want to note the efforts of Philo Hall, Angela Mattie, Eric Silva and Sean Donohue for their work throughout this process.

Adequate health care services cannot survive any further diminishing of the nursing workforce. Today, we are taking a positive step forward to address the problem before us. I urge my colleagues to join me and the bill's cosponsors in support of this measure, and I trust that this Nurse Reinvestment Act will be given top priority when it comes time to adequately fund the programs set out in it.

Thank you, Mr. President.

Mr. HUTCHINSON. Mr. President, today is a day of great significance and a turning point for the future of nursing in our country. We are about to pass the final version of the Nurse Reinvestment Act, after months of negotiations between the House of Representatives and the Senate. Eighteen months ago, I held the first hearings in the Senate examining the severity of the nursing shortage and its impact on our health care delivery system. I subsequently worked with Senator MIKULSKI to introduce S. 721, the Nurse Education and Employment Development Act, which served as a basis for the legislation the Senate is about to pass today.

Nurses are the foundation of our Nation's health care system. Our nation has one of the best health care systems in the world. The quality of health care that we have come to expect is a direct result of the hard work and commitment of nurses. However, the profession as a whole is shrinking. Nurses and nurse faculty are retiring or leaving the profession, perhaps for a better paying job, and fewer new nurses are there to replace them. According to recent surveys, working nurses are on average 45 years old. Less than 10 percent of the nurse workforce is under age 30, and just about 5 percent of the workforce consists of men.

The Bureau of Labor Statistics predicts that over 560,000 new nursing jobs will be created in the next decade due to continued demand for health care services and the retirement of the Baby Boomers. During this same time period, over 440,000 nursing jobs will open due to nurses retiring from the profession. Despite this incredible need, overall enrollments in Registered Nurse programs reached a high of nearly 270,000 in 1993, and have declined by over 50,000 by 1999. In Arkansas, nursing enrollments have declined by over 40 percent over the last decade. Unless this trend is reversed by encouraging more people to enter the field of nursing and developing a diverse workforce, studies indicate that by the year 2020, 20 percent of nursing needs will go unmet.

The provisions of the Nurse Reinvestment Act, all of which reflect those contained in the original legislation introduced by Senator MIKULSKI and myself, aim to attract and retain more nurses and to ensure quality care.

First, the legislation establishes a National Nurse Service Corps, which consists of scholarships and expanded loan repayments for nurses who agree to serve for at least two years in a health care facility with a critical shortage of nurses. Hospitals, nursing homes, home health agencies, and health centers are all experiencing shortages of qualified health care personnel. Up to 168,000 hospital positions are unfilled today, and 75 percent, or 126,000, of those vacancies are Registered Nurse positions. Of the 106,982 direct care nursing positions now vacant in nursing homes, 16,196 are Registered Nurse jobs. The goal of the National Nurse Service Corps is to inspire individuals to obtain nursing education at all levels and to fill the need.

Compassion, intellect and courage are all terms that come to mind when I think of the nursing profession. Unfortunately, negative stereotypes, that nursing is only for women, or that nursing just involves changing bedpans, have invaded our culture. The Nurse Reinvestment Act provides for a national awareness campaign, through public service announcements, to show all Americans, men, women, and young children, how rewarding and noble a career in nursing can be and about opportunities for assistance in obtaining a nursing education.

In the areas of training and recruitment, the Nurse Reinvestment Act compromise retains the Senate provision relating to geriatric training for nurses, a critical provision in light of the growing number of older patients with complex medical histories and multiple chronic conditions. Provisions to encourage mentoring and specialty training through internships and residencies, career ladder programs to encourage nursing professionals of all levels to seek further education and professional development, and grants for nurse retention activities, all have been incorporated into the existing structure of Title VIII in the Public Health Service Act.

With all of the new measures in the Nurse Reinvestment Act to recruit and train nurses, it is essential to have adequate nurse faculty to teach these students. The shortage of nurse faculty is especially evident in my home state of Arkansas and the surrounding southern region. In 1999, 153 eligible nursing students in Arkansas were turned away because of inadequate faculty to teach them. Eighty-six schools of nursing in the southern region have reported insufficient faculty. Compounding this problem is the increasing number of nurse faculty retirements. In the 2000, 2001 academic year, 144 nurse educators retired in the southern region alone, 784 more nurse educators are expected to retire in this region between 2002 and 2006.

Our schools of nursing must have the capacity to teach new nurses in order to overcome the nursing shortage. I am therefore extremely pleased that the Nurse Reinvestment Act final compromise includes a modified nurse faculty development provision which provides loans to nurses pursuing their masters and doctoral degrees and provides for loan cancellation up to 85 percent upon service as a nurse educator at a school of nursing.

In all, the Nurse Reinvestment Act is a solid step forward in addressing the nursing shortage in our country. I urge my colleagues to support this legislation, so we can send it to President Bush for signature.

Mr. FRIST. Mr. President, I rise today to applaud the passage of the Nurse Reinvestment Act—the culmination of work to directly address the nursing shortage. This bill, which has combined portions of S. 726—the Nursing Employment and Education Development, NEED, Act and S. 706—the Nurse Reinvestment Act outlines a comprehensive approach to the nursing shortage by focusing on recruitment, education and retention of nurses. I want to thank Senators HUTCHINSON, KERRY, JEFFORDS, and MIKULSKI for their leadership in this issue.

This crucial legislation provides for public service announcements at both the State and Federal level to educate the public about the advantages and rewards of nursing. Additionally, this important legislation assists us with training future nurses and future nursing needs by establishing a focus on geriatric nursing, establishing a faculty loan program, and focusing on nursing mobility through the development of career ladders. Finally, this bill focus as new resources on retaining nurses to the profession by establishing a National Nurse Service Corps and by increasing the emphasis on retention within basic nurse education grants.

We are in the midst of a nursing shortage. Not only are fewer people entering and staying in the nursing profession, but we are losing experienced nurses at a time of growing need. Today, nurses are needed in a greater number of settings, such as nursing homes, extended care facilities, community and public health centers, professional education, and ambulatory care centers. Nationwide, health care providers, ranging from hospitals and nursing homes to home health agencies and public health departments, are struggling to find qualified nurses to provide safe, efficient, quality care for their patients.

Though we have faced nursing shortages in the past, this looming shortage is particularly troublesome because it reflects two trends that are occurring simultaneously: (1) a shortage of people entering the profession and, (2) the retirement of nurses who have been working in the profession for many years. Over the past 5 years, enrollment in entry-level nursing programs has declined by 20 percent, mirroring the declining awareness of the nursing profession among high school graduates. Consequently, nurses under the age of 30 represent only 10 percent of the current workforce. By 2010, 40 percent of the nursing workforce will be older than 50 and nearing retirement. If these trends are not reversed, we stand to lose vast numbers of nurses at the very time they will be needed to care for the millions of baby boomers reaching retirement age. Therefore, we need to focus on both recruitment to and retention within the nursing profession.

Further, greater efforts must be made to recruit more men and minorities to this noble profession. Currently, only 10 percent of the registered nurses in the United States are from racial or ethnic minority backgrounds, even though these individuals comprise 28 percent of the total United States population. In 2000, only 5.9 percent of the registered nurses were men. We must work to promote diversity in the workforce, not only to increase the number of individuals within the profession, but also to promote culturally competent and relevant care.

Even if nursing schools could recruit more students to deal with the shortage, many schools could not accommodate higher enrollments because of faculty shortages. There are nearly 400 faculty vacancies at nursing schools in this country. And, an even greater faculty shortage looms in the next 10–15 years as many current nursing faculty approach retirement and fewer nursing students pursue academic careers. Therefore, the faculty develop piece within this legislation is crucial to dealing with this shortage.

Further, in examining any nursing shortage, we must recognize the potential effects of this looming shortage on patient outcomes. A recent study by Jack Needleman, Peter Buerhaus, and others, found a direct link between nurse staffing levels and five inpatient outcomes—urinary tract infections, pneumonia, length of stay, upper gastrointestinal bleeding, and shock. To provide an appropriate emphasis on patient outcomes, we have increased the emphasis on examining patient outcomes within this legislation.

Additionally, shortages of nurse aides parallel the trends seen in relationship to nurses. Nurse aides are primarily employed in nursing home settings, and some studies have suggested that the average turnover rate for nurse aides is 100 percent. This high turnover rate directly affects both health care costs and patient care quality. Provider costs related to high turnover include recruitment, selection, and training of new staff; use of temporary staff; overtime for current staff; initial reduction of efficiency of new staff; and decrease in nurse aide moral and group productivity. A recent report from the Centers for Medicare and Medicaid Services found a direct relationship between nurse aid staffing levels and quality of resident care. To ensure the appropriate emphasis on nurse aides, we ensured that, where feasible, these facilities and providers were covered within the bill.

It has been an honor and a pleasure to work closely with my distinguished colleagues in both the House and Senate, and I look forward to continuing to working with them as we advocate for funding for these particular provisions and ensure that they are appropriately implemented.

Mrs. CLINTON. Mr. President, I am proud that the House and the Senate have worked out the differences between the two versions of the Nurse Reinvestment Act that we passed last year. I am also proud that today, the Senate will pass this agreed-upon legislation with unanimous support, and I look forward to subsequent action by the House so that this bill can be swiftly signed into law. I thank Senators MIKULSKI, HUTCHINSON, KERRY, JEFFORDS, and KENNEDY for their leadership. Many on the House side have also worked hard on this legislation, including Representatives BILIRAKIS, CAPPS, and others.

We have all heard a great deal about the workforce shortage from nurses in New York and across the Nation. Around the country, nurses are facing an emergency of their own.

The number of undergraduate nursing program graduates in New York State has dropped each academic year since 1996, and this pattern is evident everywhere.

The Nurse Reinvestment Act we are passing today contains scholarships, public service announcements, and other provisions to encourage people to enter the profession, as well as nurse faculty provisions too, so that colleges of nursing have the personnel equipped to help train new nurses entering the pipeline.

But the current nursing shortage problem exists not only because fewer individuals are entering the nursing profession, but also because the healthcare industry is having trouble retaining the nurses already on staff. Fifty percent of nurses say that they have recently considered leaving their jobs for reasons other than retirement, and approximately half a million licenses nurses are not currently practicing nursing. Many of the nurses who have considered leaving the profession cite their low level of overall job satisfaction.

But there are some health care facilities that are taking action and having an effect on retention and nurse satisfaction.

During the last nursing shortage, researchers found some hospitals experienced low turnover and low vacancies. They found these hospitals shared certain characteristics. They were structured along participatory, collaborative, and patient-centered lines and, as a result, act as "magnets" that attract and retain nurses.

The American Nurse Credentialing Center developed a credentialing program to designate facilities as magnet facilities if they met certain criteria. And over the years, these magnet facilities have continued to demonstrate results. The average length of employment for registered nurses in magnet hospitals is 8.35 years, which is twice the length of employment in hospitals generally, and magnet hospital nurses consistently report greater job satisfaction, fewer needlestick injuries, and lower burnout rates than other nurses.

But the beneficiaries of this legislation are not just hospitals and nurses, but patients as well. Magnet hospitals report lower mortality rates, higher patient satisfaction, and greater cost-efficiency, with patients experiencing shorter stays in hospitals and intensive care units.

That is why last year I introduced the bipartisan Nurse Retention and Quality Care Act with my colleague, Senator GORDON SMITH of Oregon, to provides grants to health care organizations to implement these magnet hospital principles that improve nurse retention.

The Nurse Reinvestment Act, which we are passing today, adds for the first time some recognition of the importance of retention in addressing nursing issues, as well, and specifically mentions the magnet principles of collaboration, nurse involvement in decisionmaking, and orientation toward patient outcomes. I look forward to action by the House and the President to assure that this bill becomes law.

On September 11, and since, our nurses have been on the front lines of the battle against terrorism and bioterrorism. Today, they continue to defend America. I am pleased to be celebrating our work together to help hospitals, nurses, and patients, through this bill, which we will work together to fund.

Mr. REID. Senators MIKULSKI, HUTCHINSON of Arkansas, and others have a substitute amendment at the desk, and I ask that the amendment be considered and agreed to; the motion to reconsider be laid upon the table; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table; and that any statements be printed in the RECORD, with no intervening action or debate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 4312) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 3487), as amended, was read the third time and passed.

## CORPORATE AMERICA

Mr. REID. Mr. President, flying back here last night from Nevada, I spoke with two flight attendants. Usually they talk to me about working conditions, air marshals, or something dealing with their job. But they were concerned about corporate America. They talked to me two separate times. In effect, they said: This is a disgrace. I hope, Senator, you are doing something about it.

This morning when I was at the doctor's office, I had another conversation about the problems in corporate America. Because of my light complexion and having been raised in the desert sun, I on occasion have had a dermatologist take little things off my face, and today was one of those occasions. While I was waiting for the physician, a nurse approached me, and said: Senator, I hope you do something about what is going on in America today. These scandals in the corporations are outrageous.

Everyone in America is concerned. I was in Nevada this weekend, and five or six different people came to me on different occasions, talking not about the things I would normally expect upon returning to Nevada, but about corporate America and what is going on.

We are debating a bill that directly deals significantly with corporate America: Pharmaceutical companies. We have been told in the debate the average CEO of a pharmaceutical company in America makes $27 million a year. Pretty good change.

This debate deals with generics, it deals with prescription drugs, it deals with patents on medicines, but it also deals with corporate America.

In response to the crisis of confidence that has plagued American investors, the Senate has responded forcefully. The majority, the Democrats, have led the way by drafting important legislation to close loopholes and bring about more corporate accountability. The Senate unanimously passed an accounting reform bill that protects investors and punishes corporate criminals. The Republican leadership in the House led an effort to pass a watered-down version that does not go nearly far enough. I am encouraged by reports that many in the House support the stronger policies the Senate passed, and I hope the legislation that comes out of the conference is one that has the Senate's mark on it. I am looking for the President to come forward and support our position.

Over the weekend, again, he said, please, give us a bill before the August recess. What bill does he want? Does he want the nothing bill the House has, or is he willing to come forward and talk about the Sarbanes version of the legislation, which is strong legislation, which would restore confidence, so that flight attendants and nurses are not worried about corporate America?

Nevadans are significantly impacted by the downturn in the financial markets. People in Nevada count on their investments to help meet their current daily expenses and plan for the future. That is the way it is all over America. Nevada's high quality of life has attracted many retirees. But many have seen their life savings evaporate as stock prices fall. As accounts have dwindled in the last 4 or 5 days we have heard people saying they wished they had never gone into the stock market. They are checking out. Nevada workers nearing retirement face uncertainty about their ability to stop working because they no longer can afford to do so.

We have seen the cartoons around the country asking why this person is working so long, and the cartoons indicate: I invested in the stock market, and I have to work until I'm in my nineties.

College plans for students in Nevada are now in jeopardy because family savings have disappeared.

The collapse of Enron—taking just that one scandal, because there are many others—has had a ripple effect that has caused economic difficulties and threatened the health of Nevada generally. The State public employees retirement pension fund lost almost $23 million invested in Enron. That is a lot of money for a small State such as Nevada. Thousands of Nevada's dedicated public servants who worked hard and saved and invested responsibly have seen their investments erode to satisfy the greed of corporate fat cats.

In addition, look at the trauma center at the University Medical Center in Las Vegas. Las Vegas is now a major metropolitan area. About 1.5 million or 1.6 million people live and work in that area. The one trauma center where they took care of the accident cases and took care of the indigent patients, basically, in Nevada—it serves a huge number of people; it is one of the busiest in the country—has been forced to close temporarily and faces a very unsure future.

Why? Because of corporate America. This is linked to the Enron scandal because the Medical Center's insurer, St. Paul, lost $108 million invested in Enron. That is five times as much as the total cost for medical malpractice payouts in Nevada. As a result, St. Paul has raised premiums for malpractice insurance to such an extent that many doctors have elected simply to leave the State.

We have one physician who is going into long-haul truck driving. And many doctors have elected not to work at the trauma center.

Going to a little different subject, it is hard to comprehend that these insurance companies get away with as much as they do. There is no other business in America that can meet—not secretly—and fix prices. Because of the McCarran-Fergusson legislation passed during the Depression, insurance companies are not bound by the Sherman Antitrust Act. They can meet to set prices to run people out of business. It is not against the law, civilly or criminally.

I am deeply concerned about the problems caused by scandals in corporate America and their far-reaching effects. I want to make sure the President responds appropriately, or tries to. Unfortunately, the administration so far has not provided the reassurance the public seeks. It fails to demonstrate leadership on this issue.

Let me be clear, the crisis in investor confidence is in danger of spreading. I don't know what is going to happen today, but I saw an hour ago the Dow was down 258 points again today. Maybe it will have a rally in the next hour or 2 and be fine, but that is what I saw.

The crisis in investor confidence is in danger of spreading, potentially crushing consumer confidence and reducing consumer spending, and that is all we have going. If we reduce consumer spending, that would be devastating in the country. The climate of scandal is linked to the administration in this way. I think how the President responds also is important. I do not think he has responded appropriately.

He has given a speech. You could see the stock market dropping as he was speaking. That is what the TV stations did. As he is speaking about consumer confidence, the stock market is reeling backwards.

Among the steps the President must take to resolve the crisis in the financial markets and to restore confidence is to replace, in my opinion, key members of his administrative team who cannot be effective in bringing about necessary changes. In Government, we not only have to do what is right but what looks right. We have to not only do what is right, but what appears to be right.

The Securities and Exchange Commission is the main regulator of America's financial markets. The President chose Harvey Pitt, who aggressively defended the big accounting firms and corporate America and represented the lobbying group for the big accounting firms, while he being confirmed as Chairman of the SEC, the agency that is charged with investigating the same accounting firms involved in the scandals that rocked the stock market and hurt millions of America's investors. It is trite, but it seems to me it is installing the fox to protect the hen house.

Mr. Pitt set the wrong tone from the beginning, suggesting he would have the SEC be "kinder and gentler." Kinder and gentler? One of his former clients is Arthur Andersen, a firm implicated in so many unfolding scandals that major magazines have reported they no longer have anyone working there.

Is Mr. Pitt really the right person to investigate Andersen, implement charges, oversee them and enforce regulations? Those flight attendants I met last night, and the nurse today, I think would say: He wants a kinder, more gentle SEC? I don't think so.

He has already had to recuse himself from more than two dozen SEC investigations, but he did not see anything wrong with meeting privately with the incoming chairman of KPMG, another former client, when his firm was under investigation for its accounting work with Xerox.

The SEC needs a new leader, somebody free from conflict of interest, who recognizes how damaging even the appearance of conflict of interest is at this sensitive time for America's financial well-being. Neither the American public nor responsible business leaders have confidence in Mr. Pitt's ability to serve effectively.

The Wall Street Journal, among other respected voices in the financial community, has expressed the need for a replacement. You cannot say the

Wall Street Journal is some left-leaning, left-wing organization opposed to business. Quite the contrary. But they say he should be replaced.

A growing number of my colleagues in Congress, both Democrats and Republicans, have indicated it is time for him to go. So I join with them in calling on Mr. Pitt to resign or for President Bush to replace him. It would send a strong message to Wall Street, to the people who work for the corporations in Wall Street, the people who earn a living making that stock as valuable as it is.

I am also troubled by the Secretary of the Army, Thomas White, who testified before the Commerce Committee last week about his role as vice chairman of Enron Energy Services. Those who observed his testimony can only be disturbed by his performance. Memos written by Enron lawyers in the year 2000 suggest that the division of Enron led by Secretary White at the time overstated the demand for power so that another division could benefit from artificially higher prices. As a result, Enron raked in obscene profits while consumers paid billions of dollars in excess.

It was all phony accounting, a manipulation, by an organization led by the Secretary of the Army.

Enron's manipulation of California's energy markets affected the entire western United States. It affected Nevada adversely, driving Nevada's utilities to the brink of bankruptcy and forcing consumers to pay skyrocketing rates.

Secretary White received approximately $50 million while at Enron—he, personally—and he made an additional $12 million after he joined the Bush administration by selling Enron stock following 77 phone calls to his former colleagues at the company.

During the questioning by Senator BOXER and others he claimed: Well, I was just seeing how my friends were doing.

He made $12 million, made 77 phone calls. It just doesn't look right.

The New York Times reported that last December the Army, which of course reports to Secretary White, granted a sweetheart deal to KBR, a division of Vice President CHENEY's former employer Halliburton, "despite being a reputed bill-padder and the target of a criminal investigation."

I don't know what Secretary White's total involvement in these dealings might be. I hope neither he nor any of the administration officials being investigated is guilty of any criminal wrongdoing. But it is obvious that he cannot be an effective leader if he doesn't have the confidence of the American public, the airline steward or stewardess or the nurse. It would be in the best interests of our country and the administration if he resigned.

We in Government not only have to avoid what is wrong but also what looks wrong. With the Secretary of Army it looks wrong. With the head of the SEC, Harvey Pitt, it just doesn't look right.

The PRESIDENT pro tempore. The senior Senator from Utah, Mr. HATCH, is recognized.

### THE ECONOMY

Mr. HATCH. Mr. President, I have been listening to the assistant majority leader. I was very interested in his remarks. This President has been in office less than a year and a half. It does seem to me that the problems we have in America are problems for everybody—not one party and not one President. They are problems for all of us.

I have to say I think this President is doing everything he possibly can to try to stabilize this economy and get us through these difficulties. Certainly the economy is doing well. We have 3-percent productivity growth, which is better than the whole time between 1980 and 1995. There are a number of other things which show that we have a strong economy.

But this underlying illness that afflicts the stock market is hurting everybody. I suspect part of that comes from what has gone on over the last 10 years or so and not just in the last year and a half. There has been a lack of confidence in our business community because of those who have been committing these heinous acts of misrepresentation and fraud in some of these major corporations in America. There have been relatively few. And I see that other corporations are scrupulously going over their books to make sure they are toeing the line in meeting the needs of the American stock market.

I suspect we are going to come through this within the next couple of weeks, and when people start to realize that our economy is good and that we are going to come through this, we will be OK. But I think it may be a little unfair to suggest that it is basically all this President's fault or that it is all one party's fault. We all have things we could have done better. We all have some responsibility.

I believe our current President is doing an excellent job. As everybody knows, I stood up for the prior President when I thought he was right.

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## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT—Continued

Mr. HATCH. Mr. President, today we are discussing the Medicare prescription drug bill, which is basically the two bills we will be voting on tomorrow.

I rise this afternoon to take the opportunity to share my thoughts on Medicare drug coverage. Today and tomorrow, we will be debating two Medicare prescription drug bills—the Medicare Outpatient Prescription Drug Act of 2002, introduced by Senators GRAHAM, MILLER, KENNEDY and CORZINE, and the 21st Century Medicare Act introduced by the Senate tripartisan group which includes Senators GRASSLEY, JEFFORDS, BREAUX, SNOWE, and myself.

There is no question that all of us have the same goal in mind—to provide beneficiaries with Medicare prescription drug coverage, this year. But, unfortunately, we do not agree on how this coverage should be provided. Senators GRAHAM and MILLER believe it should be provided through the Federal Government. On the other hand, the Senate tripartisan members believe drug coverage should be provided through the private market.

During the next day and a half, you will hear about the merits of both bills. You will also hear criticisms of both bills. While these matters certainly need to be debated by the Senate, both of these bills, which will impact the lives of millions of Americans, should have been considered by the Senate Finance Committee before being debated on the Senate floor. I have heard my colleagues on the other side of the aisle saying that the Senate Finance Committee has debated this issue for the last 5 years and the American people are tired of waiting for the Senate Finance Committee to act. I take issue with that argument. Actually, we have had 37 years to fix Medicare. We just celebrated its 37th birthday. And don't forget what happened when we passed a Medicare prescription drug benefit the last time. We repealed it the very next year. So we need to proceed with caution and consider any prescription drug bill very carefully before passing such a measure by the U.S. Senate. We do not want to make the same mistake twice.

Let me just say that making any changes to the Medicare program is not an easy task. I have been in the Senate for over 26 years and I find the Medicare program to be one of the most complicated programs in the Federal Government. There was a recent quote by former Secretary of State Madeleine Albright in the Washington Post, July 20, 2002, where she said, "being Secretary of State is the best job in the world. Better than being President, because you don't have to deal with Medicare."

I think she may have hit the nail right on the head.

The point I am trying to make is simple. We need to spend quality time drafting and debating a Medicare prescription drug benefit. We should not be considering such important legislation on the Senate floor without the Senate Finance Committee having a mark-up. That is just not right and it is downright irresponsible.

We should have let the Finance Committee do its job. But as I said all last week, politics is dictating policy. So here we are, debating one of the most important issues of the 107th Congress without even a Finance Committee hearing on the legislation being considered by the Senate today and tomorrow.

I am extremely disappointed in the way this has been handled by the Democratic leadership. I believe that the Finance Committee members could have approved a bill out in the Committee. It just wasn't the bill that the Democratic leadership wanted to have passed out of Committee.

On that point, I truly believe that we could have reached a consensus in the Finance Committee if we had been given a chance. When Senator KENNEDY and I authored the Children's Health Insurance Program in 1997, there were not more different Members of the Congress. But we did it, and we got the bill through the Congress and had our CHIP bill signed into law in 1997 as part of the Balanced Budget Act.

In fact, it was the glue that held the first balanced budget act in over 40 years. It was the glue that got that CHIP bill signed into law as part of that particular act.

Senator KENNEDY and I reached consensus. Where there is a will, there is a way.

The same thing could happen with the Medicare prescription drug legislation. But there must be a willingness to get something done this year. And I am sensing that there is a lot of political game playing on this issue which says to me that there is not a willingness to get something signed into law this year.

Our tripartisan bill has the votes to pass both the Senate Finance Committee and the Senate. But we will not be given the opportunity to bring our bill before the Senate Finance Committee because, in my opinion, the majority leader does not want our bill to pass the Senate Finance Committee. Again, that is just a shame that we have to resort to such political game playing on an issue so important to our seniors and to our country. We finally have a bill that can be approved by the Committee and the majority leader refuses to have it go through the proper channels. Let me just say that I am extremely disappointed by his decision. I, for one, am still willing to do the work to get a Medicare prescription drug bill signed into law this year. I only hope that the majority leader is willing to work with us.

We have talked a lot about both bills in the last week and, at this time, I would like to talk about the tripartisan Medicare prescription bill. It is the only bill with support of both Democrats and Republicans being considered in the Senate. It provides Medicare beneficiaries three key elements—affordable drug coverage, choice in health coverage, and quality health care. All three elements are important and all three elements are included in this bill.

According to CBO, spending on drugs for seniors over the next decade will grow at an astronomical rate. CBO says that the only way to contain the cost of a drug benefit is to ensure that drugs are delivered efficiently. In turn, CBO says that the only way to have drugs delivered efficiently is to have true competition.

True competition, according to CBO, requires two things:

No. 1. Private plans that assume at least a limited degree of risk—that is, if they are efficient, they will make money, and if not, they will lose money.

No. 2. That those plans be able to compete by varying the premium they charge, and varying the benefits they offer. The tripartisan bill allows plans to vary both premiums and benefits.

CBO says that if all plans offer the same premium and same benefits, as under the Democratic leadership bill, that is simply not true competition. Accordingly, the CBO score of any such approach will be extraordinarily high.

Some have suggested a dual system, with competitive and non-competitive plans operating side-by-side. Unfortunately, CBO has made it clear that it would give such dual systems the same high score as a totally non-competitive system, because all plans would choose to be non-competitive. A dual system simply doesn't achieve cost containment and is also flawed because it is government run.

Our tripartisan drug plan is a voluntary and permanent program. It does not sunset like the Graham bill. In addition, all Medicare beneficiaries may participate—those in traditional Medicare, Medicare+Choice or the new enhanced Medicare fee-for-service program.

The monthly premiums are $24 per month, which is the lowest premium amount of any drug plan that has been introduced in the Congress, and one that I think would be more acceptable to our people out there rather than causing us to run into the difficulties we had when we had to repeal the catastrophic bill a number of years ago.

The deductible will be $250 and the beneficiary coinsurance, except for the low-income seniors, is 50 percent once they reach the deductible and up to $3450 in drug expenditures. Our drug plans are based on actuarial equivalence, which means that we permit Medicare drug coverage to respond to consumers' demands. These actuarial equivalent plans will meet consumers' needs. The Government will determine which plans are actuarially equivalent, and, CBO has determined that the five standards that the plans must meet in order to be actuarial equivalent reduces a lot of variation between the standard benefit.

The five standards for actuarial equivalence are:

No. 1, the Medicare benefits administrator must approve any actuarially equivalent coverage, and may terminate or disapprove any benefit design intended to discourage enrollment of high risk individuals.

No. 2, the actuarial coverage value of the total alternate coverage for the entire benefit must be equal to the standard benefit.

No. 3, the unsubsidized value of alternate coverage must equal the unsubsidized value—that is, 35 percent which is subsidized—of the standard coverage.

No. 4, the alternate coverage must be based on actuarially representative patterns of utilization to provide payment, with respect to costs incurred that are equal to the initial coverage limit under the standard benefit.

No. 5, catastrophic protection must equal the precise dollar amount, which is $3,700, the same as the standard benefit package.

So the arguments that our bill allows plans to raise the deductible to $500 or that our premium would be significantly higher than $24 per month are just wrong.

In 2005, when the drug plan is first established, Medicare beneficiaries have a 7-month open enrollment period from April 1 through November 30.

Every senior would have a choice between two prescription drug plans, and that includes rural areas across the country. This is required by the legislation, and the Congressional Budget Office agrees that there will be two plans in each coverage area. These coverage areas could be nationwide but they must be, at minimum, at least the size of a State. Before being offered to seniors, the drug plans must be certified by the Department of Health and Human Services. Seniors will receive information about the available prescription drug plans each year before selecting their coverage.

The drug benefit begins in January 2005. CBO estimates that 93 percent of Medicare beneficiaries will participate in the Medicare prescription drug program, 6 percent will keep their current prescription drug coverage and 1 percent will not be eligible because they do not participate in Medicare Part A and/or Part B.

An actuarially sound penalty would be imposed on seniors who decide to participate in the drug plan once the enrollment period is over. This is almost identical to Senator BOB GRAHAM's late enrollment penalty.

The Government will be covering 75 percent of the value of the Medicare drug benefit equaling $340 billion over the next 10 years, providing a tremendous incentive for plans to participate. The tripartisan bill allows private sources of drug coverage to supplement the new Government coverage by providing a strong base benefit—50 percent drug coverage after a $250 deductible up to $3,450 and price discounts on all drug purchases. The result is that 80 percent of beneficiaries in 2005 will not have drug spending beyond that basic benefit.

We also include low-income protections in our legislation by providing low-income seniors with additional subsidies so they, too, can afford to pay for their drugs. The tripartisan group's goal was to put an end to people having to choose between buying food and buying their medicine by providing additional help to those seniors who need it.

For example, the 10 million beneficiaries with incomes below 135 percent of poverty will have 80 to 95 percent of their prescription drug costs covered by this plan with no monthly premiums. These seniors are exempt from the deductible and will pay well under $5 for their brand name prescriptions and/or their generic prescriptions. And beneficiaries at this income level who reach the catastrophic coverage limit will have full protection against all drug costs with no coinsurance.

The 11.7 million lower income beneficiaries with incomes below 150 percent of the poverty level are also exempt from the $3,450 benefit limit. Those beneficiaries between 135 percent and 150 percent of the Federal poverty level will also receive a more generous Federal subsidy that; on average, lowers their monthly premium to anywhere between zero and $24 a month on a sliding scale. This also reduces their annual drug expenses by more than half.

All other Medicare beneficiaries will have access to discounted prescriptions after reaching the $3,450 benefit limit, and the critically important $3,700 catastrophic benefit, which protects seniors from high, out-of-pocket drug costs.

I now want to take some time to discuss the Medicare coverage provisions in the tripartisan legislation.

Under our bill, we offer two choices for Medicare coverage, traditional Medicare and a new, enhanced fee-for-service plan which offers benefits similar to those provided in private health insurance. Medicare beneficiaries may choose one or the other. If a beneficiary wishes to remain in traditional Medicare, he or she may do so. If a beneficiary opts for the enhanced fee-for-service plan, then changes his or her mind and wants to go back to traditional Medicare, that is fine, too. For the first year, beneficiaries may go back to traditional Medicare without a penalty. Afterward, an actuarially fair penalty will be imposed on them for switching back and forth. This is similar to the penalties for late enrollment into the Medicare Part B program under current law. But no one is stuck in one coverage plan. Beneficiaries may change their minds and switch back to traditional Medicare if they are not happy with the enhanced fee-for-service plan.

Now, I would like to take just a few minutes to discuss the details of the new, enhanced fee-for-service option with my colleagues.

As far as enrollment is concerned, the rules for the enhanced fee-for-service benefit, Medicare Part E, are modeled on current Medicare enrollment policies. Those who are already enrolled in Medicare Part A and Part B as of 2005 will stay in traditional Medicare unless they decide to enroll in the enhanced fee-for-service option. Those who become eligible for Medicare in 2005 or later will automatically be enrolled in the enhanced fee-for-service option unless they indicate that they want to be enrolled in the traditional Medicare program. All beneficiaries will have a 7-month period to make their initial coverage decision. This is similar to Medicare Part B.

In addition, beneficiaries will be given information about the coverage options included under the enhanced fee-for-service option. This information will compare the benefits under the traditional Medicare program to the benefits provided under the enhanced fee-for-service option. That way, Medicare beneficiaries will be able to make a coverage decision that really is best for them.

Benefits covered under the Medicare enhanced fee-for-service option include better hospital inpatient cost-sharing. Instead of the current extremely high Medicare Part A hospital deductible, which will be $920 in the year 2005, and high copayments for long hospital stays, the Medicare enhanced fee-for-service option offers a single hospital copayment of $400 per admission. This is similar to the benefits provided to individuals through private health insurance. In addition, it avoids penalizing those who are ill enough to have long hospital stays. It is also simpler and more rational than the current system and all other plans on the table, including the Graham plan. The enhanced fee-for-service option also replaces the current limits on hospital coverage with 365 days per year, lifetime coverage.

I would like to give you an example of how this would work.

Beneficiaries who are hospitalized have to pay an extraordinarily high Part A deductible of $812 in 2002, rising to $920 in 2005. Unlike private health plans, Medicare today imposes its Part A cost-sharing per spell of illness, not per year. As a result, beneficiaries could be exposed to the deductible, copayments and coverage limits repeatedly in a single year. I just don't think that is fair to the beneficiary who is a victim of frequent hospitalizations within a year.

Under current law, after the Part A deductible, $812 in 2002 per spell of illness, is satisfied, there are copayments for those who have long hospital stays. In 2002, $0 for days 1 through 60; $203 per day for days 61–90; $406 per day for days 91–150 this specific coverage, for days 91 through 150, is available only once per lifetime.

In other words, Medicare provides no coverage at all for inpatient care beyond 150 days per spell of illness. And, for additional hospitalizations after the first one per lifetime, inpatient hospital coverage ends after the 90th day. Our enhanced fee for service option would change that, once and for all. The $400 copayment per hospital admission would replace both the Part A per spell of illness deductible and the copayments imposed on beneficiaries after being hospitalized longer than 60 days.

As far as preventive benefits are concerned, for those who choose the enhanced fee-for-service option, preventive benefits would not be subject to any deductibles or coinsurance. Currently, Medicare imposes deductibles and coinsurance, usually around 20 percent, on most preventive benefits. We in the tripartisan group believe that the current Medicare policy on preventive benefits makes beneficiaries reluctant to seek out preventive services that may identify health problems and prevent more expensive care later.

Therefore, the enhanced fee-for-service option eliminates all copayments and deductibles on Medicare preventive benefits.

The enhanced fee-for-service option also includes a unified deductible of $300 per year for all services. Today, in the current Medicare program, the Part A deductible in 2002 is $812 per spell of illness. In 2005, it will be much higher, $920 per spell of illness, while the Medicare Part B deductible will still be only $100 per year.

The enhanced fee-for-service option offers seniors a choice: their current coverage that emphasizes protection against relatively predictable and routine Part B costs, or new coverage that emphasizes protection against unpredictable but potentially devastating Part A costs in the event of serious illness. Seniors would have a choice, which they do not have today.

Medicare's irrational, two-deductible system is unheard of in private insurance. Beneficiaries are used to a single deductible from their prior employer-based plans. It is true that in a given year, relatively few beneficiaries use Part A hospital services.

However, the picture changes if one looks across multiple years. A recent survey found that 17 percent of beneficiaries were hospitalized each year. Over a 6-year period, more than half, 56.4 percent, were hospitalized and 36 percent were hospitalized more than once. These hospitalizations may result in ruinously high out-of-pocket costs for seniors, and the enhanced fee-for-service option offers protection against such costs for those who choose this coverage plan.

In addition, the enhanced fee-for-service option would protect seniors with serious illness. Today, Medicare has no limit on a beneficiary's out-of-pocket expenses in a year, creating the potential for crippling costs in the event of serious illness. Our tripartisan bill would limit beneficiaries' exposure to out-of-pocket costs for Medicare-covered services, other than prescription drugs, to $6000 per year. Beyond $6000, Medicare would pay 100 percent of any costs incurred by the beneficiary.

In a given year, it is estimated that 2 to 3 percent of Medicare beneficiaries may have costs that reach $6000. If beneficiaries want peace of mind that would come from such catastrophic protections included in the enhanced fee-for-service option, they should have that choice.

Contrary to popular belief, Medicare supplemental policies do not offer catastrophic protection. The standardized Medigap plans fill in the cost-sharing in the existing Medicare benefit package, but they do not offer serious illness protection. Since virtually all employer-sponsored health plans offer serious illness protection, it is something that many beneficiaries have come to expect.

In addition to those with serious illnesses, this protection would also benefit those with severe, chronic conditions, which are inadequately covered by Medicare today. All spending by or on behalf of the beneficiary, including by third parties, such as Medicaid, employers, or Medigap plans would count toward the serious illness threshold of $6000. This differs from the drug benefit stop-loss because CBO indicated that counting only a beneficiary's own spending toward the Part E limit would reduce participation in the enhanced fee for service option a concern that CBO did not have about the drug benefit in the tripartisan bill.

As far as home health benefits and skilled nursing facilities are concerned, those who choose the enhanced fee for service option would have to make home health copayments of $10 per visit, on only the first five visits of a 60-day episode. A Medicare beneficiary would only have to pay $300 in home health copayments per year. Home health care is one of the only Medicare benefits for which there is no beneficiary cost-sharing. Medicare's average payment per home health care episode is $2300, so a maximum total copayment of $50 per episode would cover only about 2 percent of the program costs, in contrast to the typical 20 percent cost-sharing on Medicare Part B benefits.

Both CBO and Med PAC indicate that even a modest copayment is critical to making beneficiaries consider cost when deciding whether or not to use home health care. CMS projects a 12 percent growth in home health care spending in 2003, even if the 15 percent cut scheduled in current law takes place. Beneficiaries with serious enough conditions to need more than five visits per episode receive those additional visits without additional cost-sharing. Those who cannot afford these modest copayments are protected, because current law includes cost-sharing protections for the low-income beneficiaries, Medicaid eligible and QMBs are maintained.

For skilled nursing facilities, the enhanced fee for service option would include a copayment of $60 per day for the first 100 days. Under Medicare today, beneficiaries currently pay copayments beginning on day 21 of a skilled nursing facility stay. Medicare imposes no cost-sharing for the early days of a skilled nursing facility stay, days 1 through 20, and then Medicare imposes very high beneficiary cost-sharing for longer stays. In 2005, when our bill goes into effect, those copayments will be $115 per day for days 21 through 100.

As a result, Medicare's current skilled nursing facility cost-sharing unfairly penalizes those who are sick enough to need a longer stay, while allowing those who aren't as sick to have free days of care, with no incentive to consider costs. Influenced by the 20 days of free care, then prohibitive cost-sharing policy, the average length of stay in a skilled nursing facility is approximately 24 to 26 days, according to CMS.

We believe that since skilled nursing facilities already collect copayments beginning on day 21 of the beneficiary's stay, these facilities will already have administrative structures for cost sharing in place.

To be honest, I am not enthusiastic about imposing home health or skilled nursing facilities copayments on Medicare beneficiaries. But, as I said earlier, this legislation required a lot of give and take from all of us. If Medicare beneficiaries do not want to make home health or skilled nursing facility copayments, they may stay in the traditional Medicare program. If they go into the enhanced fee for service option and don't like the coverage because they end up having to make copayments for home health care or skilled nursing facilities, they may switch back to traditional Medicare. It is that simple. We are not imposing copayments on anyone who does not want them. The enhanced fee for service option is just that a coverage option.

These are some of the key elements of the new, Medicare enhanced fee for service option that our bill will provide to Medicare beneficiaries. I hope that my explanation cleared up any questions that my colleagues may have had on this component of the tripartisan bill.

Our tripartisan bill also includes provisions concerning the Medicare+Choice program. In 2005, our legislation takes modest steps to improve Medicare+Choice plan participation by introducing a competitive bidding system under which the plans will compete with each other, but not with the government-run, fee-for-service program, for beneficiaries. This competitive approach to Medicare+Choice payments, based on a bipartisan model supported by the Clinton administration, will result in fairer and more accurate payments to plans. Today's bureaucratic pricing system sets arbitrary and inaccurate rates that discourage plan participation.

At this point, I would like to take a few minutes to rebut some of the arguments my friend and colleague Senator KENNEDY made against our bill last week on the Senate floor. He obviously has not read our bill very carefully. I wish he had taken the time to read the tripartisan legislation before making statements that were not completely true on the Senate floor about our bill. Now, there is some confusion about our bill and I would like to set the record straight, once and for all.

First, Senator KENNEDY criticized our plan's assets test for low-income beneficiaries. Our tripartisan plan provides additional subsidies for low-income seniors which everyone agrees is only fair. I believe I am correct in saying that everyone, on both sides of the aisle, believes that additional subsides for our low-income seniors is completely justified. My good friend is trying to make it appear that we are picking and choosing which seniors would be eligible for this additional assistance. Nothing is further from the truth.

I want to be clear that we have done nothing different on this issue than what has been the accepted practice and policy for many years when it comes to programs that provide assistance to those with lesser means. In fact, the tripartisan bill adopted an assets test similar to the Medicare bill proposed by President Clinton in 1999.

Under current law, Medicaid includes an assets test. States have the flexibility to waive the assets test at their discretion.

Our tripartisan proposal ensures that the flexibility found in current law is retained in the Medicare drug benefit program. The assets test ensures the seniors who need the most assistance are provided with the most protection. We want to provide the most generous assistance to those who truly need it.

Also, let me clarify that current law specifically excludes from the assets test an individual's home and its land; household goods; personal effects, including automobiles; the value of any burial space; and other essential property. So I hope this clarifies any questions that Senators may have had on the tripartisan proposal's assets test. Hopefully, I have made it clear to my colleagues that the tripartisan bill adopted a widely accept and common practice for determining which lower income seniors are eligible for higher subsidy for their prescription drug benefits.

Another issue raised by my good friend, Senator KENNEDY, is the design of the tripartisan proposal's prescription drug benefit. He wanted to know how our prescription drug benefit design permits creation of competitive plans that would provide quality coverage to all Medicare beneficiaries.

Let me explain why we took this approach. First, we believe that Medicare beneficiaries deserve a quality drug benefit that meets their individual needs. The Graham-Miller proposal does not allow any variation in cost-sharing or premiums and is a "one-size-fits-all" plan which, in my opinion, will fail to address the individual prescription drug needs of seniors.

So, with that in mind, it is important that Medicare beneficiaries are provided a quality drug benefit at an affordable price. Our tripartisan plan strikes the right balance to give Medicare beneficiaries access to prescription drugs they need at the lowest possible price. Any plan that wants to offer a Medicare drug benefit will be required to receive the approval of HHS according to strict standards specified in law. This approval process will be an interaction between any prospective plan and the Federal Government to ensure that Medicare enrollees receive the best quality coverage possible at an affordable price.

There are five strict standards of actuarial equivalence in our bill which the CMS Administrator is required to certify that a plan meets before the plan is offered to Medicare beneficiaries. The plans themselves will not be determining what is actuarially equivalent; only the Federal Government will make that determination. If the Government determines that a plan is not equivalent to the standard benefit, its proposal will be rejected and it will not be permitted to participate in the Medicare drug benefit. End of Story. In fact, CBO has told us that our standards of equivalence are strict enough that Medicare Drug Plans will have little room to vary premiums or cost-sharing. That little room to allow some variation, however, is critical to the success of a Medicare prescription drug benefit.

Under the Graham-Miller bill, Medicare drug plans operating in the same area will be forced to charge the same monthly premium and the same cost-sharing. While Senator GRAHAM claims that his proposal includes competition, I do not understand how Medicare plans will compete if they are required to offer identical premiums and identical cost-sharing across the country. If drug plans wanted to lower their cost-sharing or lower their premium in order to attract Medicare enrollees, Congress would have to pass legislation.

On the other hand, the tripartisan bill ensures that the innovation of the private sector is not stifled by a micro-managed, "one-size-fits-all" drug benefit run by the Federal Government.

Another issue raised by my friend Senator KENNEDY is whether or not the prescription drug benefit under our proposal guarantees that seniors will have access to benefits. Let me assure you that if this were not true, I would not be standing here today, speaking in favor of this legislation.

Let me clarify that the tripartisan bill guarantees two Medicare prescription drug plans to every Medicare beneficiary. If the beneficiary lives in an area where there are Medicare+Choice plans, then even more choice will be available as the presence of drug coverage under Medicare+Choice does not count as one of the two choices that would be guaranteed in law under our plan.

The Medicare prescription drug plans are not determining their own service areas. The Federal Government will make that determination. And let me emphasize that the service areas must be—at a minimum—the size of a state. The government will be covering 75 percent of the value of the Medicare drug benefit equaling $340 billion over the next 10 years.

The last issue that my good friend from Massachusetts raised is whether or not employers will be encouraged to continue to provide retiree health benefits with prescription drug coverage. I believe that we have worked hard to protect both employers and retirees on this issue. The tripartisan bill provides employers the same full subsidy to offer drug benefits to their retirees as any other qualified provider of prescription drug benefits.

The Graham-Miller legislation provides a disincentive for employers to continue offering retiree health coverage for prescription drugs by giving employers only two-thirds of the value of the government drug benefit to retain their retiree coverage. So in other words, the Graham-Miller plan would encourage employers to end their coverage of prescription drugs in order to encourage their retirees to enroll in the Government plan and receive the full Government subsidy.

I do not understand how my friend can make the argument that our plan is bad for employers. Currently, employers receive no assistance whatsoever in paying for drug costs for their retirees. Employers today are paying the full price and taking all of the risk for covering retiree prescription drug costs.

The subsidy policy in the tripartisan proposal will allow employers who are offering a drug—benefit at least as generous as the standard benefit—to receive the full value of the standard benefit.

Again, our policy targets dollars where they might do the most good, and our employer subsidies recognize the value of employer-sponsored retiree drug coverage.

I would like to take some time to share my thoughts on the Graham-Miller Medicare outpatient prescription drug amendment which was offered at the end of last week.

As I have said throughout this debate, Senator GRAHAM deserves a lot of credit for his hard work and dedication to this issue. His staff, too, has worked long and hard on this issue. Senator GRAHAM, like those of us in the Senate tripartisan group, has the same goal—to pass Medicare prescription drug legislation into law this year.

I have had a chance to review Senator GRAHAM's amendment over the weekend and I would like to raise some issues regarding his new legislation. I understand that the Congressional Budget Office has scored his legislation as costing close to $600 billion over 10 years. While GRAHAM says that any potential saving from the underlying legislation should be counted against the cost of his amendment, I disagree. We do not know whether or not the underlying bill will be approved as proposed, amended or defeated altogether. Therefore, we obviously cannot assume any savings from that bill when discussing either Medicare prescription drug amendment—the Graham amendment or the tripartisan amendment.

Quite honestly, I am still extremely worried about the expense of the Graham-Miller legislation. In fact, I believe that the true 10 year cost of the Graham-Miller drug benefit could be closer to $1 trillion.

Another concern is that this bill is not a permanent program. It sunsets after 2010 and, quite frankly, I believe that having a sunset in such an important bill just to get a decent score from CBO is fiscally irresponsible. The way I read the Graham-Miller bill, it is a temporary benefit, which lasts for 6 years. On page 78 and 79 of the Graham-Miller amendment, it states that "no obligations shall be incurred . . . and no amounts expended, for expenses incurred for providing coverage of covered outpatient drugs after December 31, 2010." That is a mouthful to read. But the translation from Government-speak is simple: no funding at all, zero, for the Medicare drug benefit after 2010.

I also read in the Graham-Miller bill that there is an attempt to provide prescription drug coverage after the Medicare prescription drug program sunsets. On page 79, the amendment states that "the Secretary shall make payments on or after January 1, 2001, for expenses incurred to the extent such expenses were incurred for providing coverage of covered outpatient drugs prior to such date."

I think what the sponsor of this legislation is attempting to do, although I am really not sure, is say if there is additional, left-over money from the drug benefit, that money may be used to provide drug coverage after December 31, 2010. That language is very confusing to me. Like I said the other night, it seems more like window dressing to me than an actual extension of the sunset.

I am interested in Senator GRAHAM's comments on this specific provision and the broader issue of why he and his bill cosponsors believe that a sunset is necessary in the first place. I just think it is plain wrong to give Medicare beneficiaries a Medicare drug benefit and then take it away six years later. I cannot believe that the AARP would actually tell its members to call their members of Congress to express support for this bill. I cannot figure out how a temporary Medicare drug benefit helps seniors in the long run.

Another serious concern I have about the Graham-Miller legislation is that the drug benefit is run by the Federal Government. I do not think it is a good idea to let the Government set the price for drugs which is exactly what will happen if the Graham-Miller bill becomes law. And that will be catastrophic, in my opinion.

The Graham-Miller bill has a one-size-fits-all drug plan that is offered to Medicare beneficiaries. That approach will lead us down a dangerous path. I have said this more than once but I am going to say it again, before you know it, the Federal Government, not the private market, will be setting drug prices, mark my words. And I do not believe it is a good idea for the federal government to be making coverage decisions for seniors—I trust senior citizens to make their own decisions about their health coverage. Apparently, the authors of the Graham-Miller bill do not agree and that is why they put the Government in charge.

If you do not believe me, read the language on page 41 of the bill. It states that if only one drug plan meets all the conditions set by the Secretary of Health and Human Services, and the Secretary can set any conditions he pleases, then the Secretary can simply decide that Medicare beneficiaries will get coverage through that one prescription drug plan. Period.

And while there are laws to protect Medicare beneficiaries, and in fact all Americans, against the government doing something that arbitrary, the bill waives all of those laws. Let me summarize for my colleagues what is included in the Graham-Miller legislation on this topic.

Page 42, line 18 through 21 reads as follows:

> In awarding contracts under this part, the Secretary may waive conflict of interest laws generally applicable to federal acquisitions * * *

In other words, not only is there no judicial or administrative review of the Secretary's decisions allowed at all, but even the Government's conflict of interest laws are waived.

The other primary difference between the Graham-Miller bill and our tripartisan bill is that we include reforms to the Medicare program and they do not. Keep in mind our bill is $370 billion in contrast to their proposed $600 billion bill. The current Medicare benefit package was established in 1965. While the benefits package has been modified occasionally, it now differs significantly from the benefits offered to those in private health plans.

We need to give seniors choices concerning their health care coverage. It is extremely unfortunate that the Graham-Miller bill does not recognize that the Medicare program needs to be improved so seniors can have similar benefits offered by private health insurance. There is nothing in the Graham-Miller bill to improve the Medicare program. It just tacks on a prescription drug program and ignores the larger problem—the overall Medicare benefits package which is outdated and inefficient. Medicare beneficiaries, in my opinion, deserve better. We do not shove the larger issue under the rug in our bill.

Another serious concern I have about the Graham-Miller legislation is that only two brand-name drugs are covered in each therapeutic drug class, and, plans are permitted to cover just one drug.

For all other drugs, "the beneficiary shall be responsible for the negotiated price of the treatment" which means in plain English, no coverage at all.

Let me give an example.

Let's say Bob, a Medicare beneficiary in his early 70s, takes Mevacor to lower his cholesterol. His new Government prescription drug plan only covers Lipitor.

Bob's wife, Bev, takes Celebrex for her arthritis. Her Government drug plan only covers prescription strength Advil.

What happens to Bob and Bev? They are both out of luck because their Government drug plan does not cover the prescription drugs that they have been taking for their chronic health conditions.

Even worse, according to CBO, the Graham bill does not lower drug prices for drugs that are not covered. Unless a beneficiary is awfully lucky to be on the one or at most two brand name drugs that the government plan decides to cover, he or she will get nothing.

I think of people suffering from depression. There are a number of antidepressant drugs, and they all work in just a little bit different way. Where Prozac may not work, Zoloft might, or Paxil might work, or some other antidepressant drug. Why should they be limited to only two drugs when the two they are limited to might not be helpful to them? It just does not make sense to me.

If a Medicare beneficiary believes that he or she needs a specific prescription drug, not the one or two drugs that the Government plan decides to cover, the beneficiary may be able to get coverage if the beneficiary and his or her physician go through a "medical necessity" certification process. This certification process is then followed by an internal and external appeals process—and guess what—all run by the Government.

I simply do not believe that Medicare beneficiaries want the Government to make drug coverage decisions for them. Supporters of the Graham-Miller legislation say, "Don't worry, trust the Government, you will have choices of drug coverage." Tell that to Bob and Bev who will not have their prescriptions covered through this Government-run plan or to somebody suffering from depressive illness where the two drugs that are in the Government plan are not the ones that help them. Or in any number of other illustrations where you have a whole variety of drugs but you are limited to two. When the Government says "trust us," it is time to pay attention.

In addition, the way I read the Graham-Miller legislation, the Secretary of HHS is given the authority not only to decide what constitutes therapeutic classes but also the ability to determine when such a drug fits into such a class. I do not understand why the sponsors of this legislation believe the Secretary of HHS should be making such important decisions. In addition, why should the Secretary of HHS, instead of physicians and pharmacists, be given authority to decide what constitutes preferred and non-preferred classes of drugs and, on top of that, determine when a particular brand name drug fits into such a class? It does not make any sense.

Because the Graham-Miller amendment now does not cover non-preferred drugs, at all, I am deeply concerned about the impact this could have on Medicare beneficiaries with cancer or AIDS or other chronic illnesses that require many prescriptions. I have a feeling that people with chronic or terminal illnesses will be getting the short end of the stick if the Graham-Miller bill is signed into law.

Furthermore, how are the doctors, who may know that one drug may be much more beneficial than another drug, protected? How are the doctors protected from medical liability under those circumstances? Already we are finding that obstetricians in Nevada can no longer get insurance coverage for medical malpractice, and that is going to happen all over the country if they do not watch it because litigation is driving these costs higher and higher.

If a doctor cannot prescribe what is necessary for the patient, that doctor is subject to medical liability even though the Government is the one dictating what two drugs should be provided. By the way, that is under the Graham-Miller bill.

These issues that I have raised about the Graham-Miller should have been debated by the Finance Committee. Who knows, maybe we could have come to the same resolution, but I doubt it. We could have come to some resolution and it would be better than what is in the Graham-Miller bill. Maybe the authors of the tripartisan bill and the Graham-Miller bill could have come to the same agreement through the committee markup process. Maybe not. Sadly, we will never know because politics, not policy, is more important.

Last Thursday night, I asked what happened to the bipartisan spirit that we all talked about at the beginning of the Congress. This legislation is not being considered in a bipartisan manner and, in fact, the way this entire debate has been handled has really created some hard feelings, especially among members of the Senate Finance Committee. Why are we on the floor debating a bill that will affect the lives of millions of Medicare beneficiaries and millions of future beneficiaries without a Finance Committee markup? I do not understand why members of the Finance Committee were completely excluded from the process other than whatever little they can do on the Senate floor.

I want to do everything I can to pass a Medicare prescription drug bill into law this year. But it appears that election year politics are more important than passing a well-thought out prescription drug bill.

I stand ready to work with my colleagues, like Senator BOB GRAHAM, so that we pass an affordable prescription drug benefit for our Medicare beneficiaries this year. I think he and Senator MILLER are trying to the best they can, and I have respect for both of them, but I believe their bill falls far short of the tripartisan bill and has a lot less chance of bringing us together than the tripartisan bill does. I truly believe that we can work something out that will be approved by the Senate before we adjourn in the fall. This is an important issue, too important to politicize so we should stop playing politics, once and for all. Let the Finance Committee do its work so the Senate can pass a Medicare prescription drug bill which can be signed into law this year.

I yield the floor.

THE PRESIDING OFFICER (Mr. JOHNSON). The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 2767 are located in today's RECORD under "Statements on Introduced bills and Joint Resolutions.")

Mr. HATCH. I yield 15 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I rise today to speak in support of the Medicare Prescription Drug Discount and Security Act of 2002, coauthored by myself and Senator HAGEL with the help of Senator GRAMM. This legislation provides an overdue and much needed prescription drug benefit to the Medicare Program.

We are going to be voting on two different bills tomorrow; following that, we will be taking up our legislation. We bring this legislation to the attention of our colleagues. We need to offer a responsible solution to make medicine more affordable for those seniors who need it the most. This offers immediate help to our Nation's seniors in the form of a bill that is voluntary, reliable, and it gives seniors options. It complements, rather than replaces, the private prescription drug coverage that two-thirds of retirees have now.

Many seniors like their current prescription drug plans and should not be forced to abandon them. The cost of prescription drugs is a major concern for many of my constituents, especially those who rely on only their Social Security benefits for their total income.

Let's look at a typical senior. We will call her Mary. Mary has worked hard her entire life, makes $55,000 a year, and is about to retire in 2004—coincidentally, the same time our program goes into effect.

Mary has never been much of a saver, so she will be relying almost solely on her monthly Social Security check to make ends meet. She can expect to get about $1,300 per month in benefits. Mary has diabetes and has to take six different prescription drugs every day to keep her healthy. The total cost of these drugs per month comes to about $475, about one-third of her income. Considering her other expenses, such as rent, food, and other monthly bills, Mary needs some help paying for her prescription drugs. The bottom line is Mary should never have to compromise her health by having to choose between buying prescription drugs or buying food for her table.

Our legislation provides immediate, affordable, and permanent help so that seniors like Mary never have to make that choice. This legislation has two parts:

First, all seniors would be protected from unlimited out-of-pocket drug expenses by instituting caps on their private expenditures. Once those caps are reached, the Federal Government would step in and cover the rest of the cost, minus a small copayment.

Second, all non-Medicaid seniors could enroll in a discount drug card program that would give them access to privately negotiated discounts on prescription drugs.

Let me now focus on the heart of our plan which protects seniors from unlimited out-of-pocket expenses, with the greatest protection going to those who need it most. Negotiated discounts on prescription drugs would be worked out through the private market, while Medicare would pay for drug costs after out-of-pocket expenditure caps have been met. This means, to our friend Mary, saving hundreds, possibly thousands, of dollars every year on prescription drug costs.

In this chart, we see how our plan works as far as the various income categories are concerned. Mary fits in the category below 200 percent of poverty. For an individual who makes less than $17,720 a year, which is about 50 percent of the senior population today, we cap their out-of-pocket expenses at $1,500. After they have paid $1,500 out-of-pocket, the Government will then pay for the rest of their prescription drug expenses.

Now remember, before they even start paying toward that cap, they have the prescription drug discount card. That saves them money, as well, on their prescriptions.

Continuing with the catastrophic coverage, if an individual's income is between 200 percent and 400 percent of poverty, they are capped at $3,500. If their income is between 400 percent and 600 percent of poverty, they are capped at $5,500. For seniors above 600 percent of poverty, individuals would be covered after they pay what is equal to 20 percent of their annual income.

The Hagel-Ensign plan has no monthly premium. It was said earlier that the tripartisan plan has the lowest monthly premium of any of the plans out there. Well, our plan has no monthly premium. What we do require is a $25 annual fee which is waived for those below 200 percent of poverty. Our $25 premium is used strictly for administrative costs.

Additionally, participants would also pay a small copayment of no more than 10% per prescription after they reach their out-of-pocket limit. We believe the copayment system is important because it not only keeps costs low by forcing pharmaceutical benefit managers to compete for business, but more importantly to the consumer, in this case the senior buying prescription drugs, back into the accountability loop.

The second part of our plan, the discount drug card program, works according to practical principles. According to a study conducted by the Lewin Group, one of the country's most respected health care actuaries, this approach would achieve significant discounts from full retail price between 30 percent and 39 percent. Here is how it works:

First of all, the card is completely voluntary, for both seniors and drug manufacturers. Drug manufacturers, through pharmacy benefit managers, would compete for business on the basis of their discounts and services, ultimately offering seniors the lowest price for their prescriptions. Seniors could choose from among any number of competing drug card plans. If they became dissatisfied with their plan, they could enroll in a different plan the following year. The Federal Government would not be fixing or negotiating prices for prescription drugs. The program simply allows seniors, such as Mary, to receive the same kind of privately negotiated discounts on drugs that are available to those enrolled in private health insurance plans.

Our plan also encourages the use of generic drugs whenever possible, in a couple of different ways. It requires the drug discount card issuer to include incentives in its program to use generic drugs whenever possible.

Mr. President, could you remind me when there is about 3 minutes to go?

The PRESIDING OFFICER. The Chair will do so.

Mr. ENSIGN. It also requires that each beneficiary who buys a drug through the discount card program be made aware of generic drug alternatives at the time they purchase the drug.

It is crucial to make prescription drugs affordable for seniors, which our program clearly does. However, it is also important to make sure Medicare's prescription drug program is affordable to the American taxpayer, which our plan also does.

According to actuarial analysis, our proposal would cost approximately $150 billion over ten years. We are waiting for the final score from CBO, but that is where we believe our plan will come in. This is markedly less than any of the other plans out there, even the tripartisan plan. It is less than half of what the tripartisan plan would be.

We must not only enact a responsible outpatient prescription drug program for our seniors, we must also do so without bankrupting the overall Medicare system.

Another reason our program is the best fit for seniors is that it takes effect at the earliest date. Our program takes effect on January 1, 2004, a full year earlier than any of the other plans. Our program is also permanent, unlike some of the other proposals which sunset after a period of time. So, our plan is an immediate step that can be taken to help seniors until comprehensive Medicare reform can be enacted.

I want to now compare our plan to the tripartisan plan and to the major Democrat plan that Senators MILLER and GRAHAM have proposed. These are real life examples.

James is a 68-year-old, has an income of $16,000 per year, and is being treated for diabetes. He is taking these six different medications. His total monthly costs for these prescription drugs are around $478. His total annual costs are more than $5,700. Under the Graham-Miller approach, James would pay $2,940 out of his pocket. Under the tripartisan plan, he would pay $2,341.65 per year. Under the Hagel-Ensign plan, he would pay about $1,923.65 per year.

As you can see, the Hagel-Ensign proposal would save James over $1,000 annually when compared to the Graham-Miller proposal, and over $400 annually when compared to the tripartisan proposal.

Example No. 2: Doris is a 75-year-old, has an income of $17,000 per year, and is being treated for diabetes, hypertension, and high cholesterol. She takes Lipitor, Glucophage, Insulin, Coumadin, and Monopril every day. Her monthly cost is about $300, or about $3,650 per year.

Under the Graham-Miller proposal, her out-of-pocket expenses would be $2,220.00; under the tripartisan plan, $2,086.36; and under our plan, about $1,714.84.

The Hagel-Ensign proposal would save Doris over $500 annually when compared to the Graham-Miller proposal, and over $300 annually when compared to the tripartisan proposal. For those who are the sickest, who need the help the most, the Hagel-Ensign plan actually benefits them more than any other plan.

In comparing our plan to others—just to point out what other people may point out as a supposed weakness of our plan—for those who pay $1,000 or $1,200 per year for drug costs, the other plans will help them more, and we readily admit that. But for a majority of the senior population who has high drug costs and needs help paying those costs, we think our plan works best.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. ENSIGN. Betty is 66 years old, has an annual income of $15,500, and is being treated for breast cancer. She is still receiving low-dose radiation therapy and taking the following 6 medications: morphine sulfate, Paxil, Dexamethasone, Aciphex, Trimethobenzamide and Nolvadex. Her total monthly cost comes to around $670 and annually to about $8,000. Once again, to compare the plans with real life examples: under the Graham-Miller approach, she will pay $3,180.00 per year; under the tripartisan plan, she will pay $2,570.00 per year; under our plan, she will pay $2,152.00. So our plan is less, once again, than either of the other two major competing plans.

Under our bill, those who need it the most will get the most help. For those moderate- and low-income seniors, our plan will benefit them the most, and—we cannot emphasize this enough—our plan is the most responsible to the taxpayer. We cannot afford to say to the young people in America, you are going to be paying for this huge prescription drug program that probably will not be there for you in the future, but you have to pay for it anyway. We have to think about the next generation, so we must enact a plan that is fiscally responsible.

Our proposal says that we are going to give seniors—those who truly need it—the help that they need and ultimately deserve. But to the taxpayer, we are also saying we are going to be responsible to you.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time—how much time remains between now and 6 o'clock?

The PRESIDING OFFICER. The majority has 92 minutes, the minority has 50 minutes.

Mr. KENNEDY. We have 90 minutes. I thank the Chair.

Mr. President, tomorrow in the early afternoon the Senate will have an opportunity to vote on which vision is the best vision for our seniors and for others who need prescription drugs. This will be the first opportunity we have had in the Senate to take that vote.

The absence of a prescription drug benefit from the Medicare Program is a glaring failure of the Medicare Program that every family understands in America today. It is not the fact that we have not had prescription drug programs that have been advanced to the Senate—we have. But they have been kept bottled up in the committees over the period of recent years.

I introduced, more than 5 years ago, prescription drug coverage into the committee. It was referred to the Committee on Finance, and it never saw the light of day.

We heard last week, and have heard now that somehow the majority leader has circumvented the Finance Committee and now we have the legislation out here. I applaud his efforts. So should all seniors applaud those efforts. We hear now the committee was prepared to move—but we waited and waited.

Our friends on the other side of the aisle had control of the Senate for 4 of the last 5 years. They controlled the Finance Committee for 4 of the last 5 years, and we never had an opportunity to have a debate on the issue of prescription drugs. Now we do. Now we will have a vote.

I think it is important for the American people to understand that we have been denied that opportunity for the past 5 years. Now we will have that opportunity. It is a tribute to leadership of Senator DASCHLE, who understands the importance of this issue to families in this country. We are enormously grateful to him for his leadership, and we are extremely hopeful that we will have a strong vote tomorrow that will reflect what is in the best interests of our seniors.

I was here in 1965 when we actually passed Medicare. We passed physicians' services and hospitalization but not prescription drugs. Now we all know that if the Medicare Program had been considered on the floor of the U.S. Senate, we would have included prescription drugs. It is as important as physicians' services and hospitalization. It is perhaps even more important in a number of different instances.

The fact remains that this is going to become even more important because we are now in the life sciences century. We are going to see extraordinary breakthroughs. We now see the mapping of the human genome and progress in so many important areas of research. It is virtually unlimited in what we will be able to achieve over a period of years.

It should be important to find ways of taking the progress being made in the labs and getting it to the patients who need it. They need it today. And we have a program that will do it.

I have listened with interest to those who support the Republican proposal, as they outlined at least what they consider to be the advantages of the Republic proposal and the disadvantages of our proposal. I hope in the 50 minutes they have remaining today or in the time prior to the vote tomorrow they will cite at least one, two, three, or four senior citizen groups that support their program. Because there are not any. Do we understand that? There are not any. The senior citizen groups that know the importance of prescription drugs have gone through these various programs in careful detail for those they are representing. And do you know what? They endorse the Graham-Miller proposal. They are behind the Graham-Miller proposal. They support it completely and wholeheartedly.

They appreciate the fact that our Republican friends over here are at least giving lip service to a prescription drug program. But if we are talking about which particular version is best for senior citizens, there is no competition. There is no question about it. You never heard in the earlier claims this afternoon the senior citizen groups that support their program because they are not there. This is one of the key reasons this is so important, and—I am hopeful—what this tomorrow vote is about.

I listened to my friend and colleague from Utah talk about premiums. On page 26 of the Graham-Miller proposal, our premium is listed at $24; for 2005, $25. I searched all weekend to find out where the $24 premium was in their bill that they have been talking about for the past few days. You can't find it in there. It is an estimate.

Ours is printed right here. Every senior citizen knows what that premium is going to be.

Theirs is an estimate. They all say: We have one that is $24—lower than the Miller program. But that is an estimate of what they are going to charge the insurance companies over a period of time. That is the difference.

I want to take just a few minutes to review with our colleagues what this program does not do and why the seniors have been so distressed about their program.

Actually, between 2005 and 2012 the seniors in this country are going to spend $1.6 trillion on prescription drugs. Their program is $330 or $340 billion. It is a lot of money. But if you figure that out, that is only about 20 cents on the dollar.

They are trying to say they are really going to be able to do something for the seniors. It just doesn't measure up.

I want to take a few moments of the Senate's time to go through the facts of the program itself. This chart over here is the Republican program, and this line is the percent of seniors. The next line is the drug costs; beneficiary payments; Medicare benefits; and then the percent of costs paid by the senior citizen. That is what we are concerned about.

The fact is, to address the extraordinary escalation of the costs of prescription drugs, we have an underlying proposal which will create momentum to get a handle on that escalation of prescription drugs—the excellent proposal introduced by our colleagues, Senators SCHUMER and MCCAIN. It was reported out of our committee with bipartisan support, which we welcome.

But 18 percent of seniors spend $250; the beneficiary payments will be $538. That is what they are going to pay in terms of their premium and their deductible in order to sign up for this program. For 18 percent of our senior citizens, they turn out to be losers, because 100 percent is going to be paid by senior citizens.

We take what the premiums are going to be, estimated by the Republicans, and also add the deductibles and the copays. You have another 18 percent that spend $1,000. Again, you add up the premium, deductibles, and copays. It will be $913 and beneficiary payments of $87. The senior citizen, 91 percent—some help and assistance.

Together, 36 percent of all the seniors, and one part of them, are going to pay 100 percent. They are not going to get any help, and the other group will pay 91 percent of the cost.

You come down here to the $2,000. This is where you really begin to get some help. The seniors are still going to spend 71 percent. If you come into the $3,000 to $4,000 range, 23 percent, they are going to be spending 67 percent.

Finally, 7 percent at the very high end. They will still be paying 74 percent.

These are the figures that are the expression of the program advanced by the Republicans. If you are a senior citizen and are hard-pressed today, you will find that your help and assistance in this program is a lot of rhetoric and very little action. That is what the result will be.

This is why, perhaps more than any other reason, seniors do not support the Republican proposal. And there are features in the Republican proposal that we find absolutely extraordinary.

I have heard a great deal from those on the Republican side talking about how this is going to help really the poorest of the poor of the seniors. We know the extraordinary average income is maybe $14,000. You can mention the handful of people who we read about who are billionaires. But the fact is, when you are talking about a group of our fellow citizens, the people who fought in the wars and brought us through the Depression, you are talking about this group here—basically, about $14,000 in income.

What is really in the Republican program are assets tests for the very, very poor. We heard from the other side, well, if they really fall down to 135 percent of poverty, they are going to have their premiums taken care of, and they won't have to worry about anything else. Right? Wrong. Wrong. Wrong. They will get them taken care of, if they don't have anything more than $4,000 in savings because we have an assets test, a pauperization test, for our seniors.

If they have more than $2,000 in furniture and personal property—maybe a wedding ring, an heirloom, something that has been passed on—if it is worth more than $2,000, they are in real trouble. If they have burial assets of more than $1,500, it counts against them, and if they have a car worth more than $4,500.

What do we have for $4,500 for our seniors in our part of the world, the Northeast, where it is cold in the wintertime; or how about in other parts of the country, where it is steaming hot in the summertime? Do we want them to risk their car breaking down, as they are trying to get their prescription drugs?

Go down to most of the car lots and find out what you can get for $4,500 and how dependable that car would be, whether you would want your mother or grandmother riding around in it in the cold of the winter or the heat of the summer, wondering if they can get to their destination.

If there are any more of those values, it adds up. And when it hits $4,000, they are excluded from the program.

Think of the demeaning aspects of this for our senior citizens, who are part of the greatest generation, who fought in World War II and lifted this country out of the Depression. They are in their golden years and have a few bucks—not very many—and they have to go down and fill out that form in order to qualify. It seems to me that is such a demeaning requirement.

I am surprised. I am surprised that our Republican friends have included that—saving the few bucks that it would—in their particular program. I am deeply surprised.

Our seniors deserve much better treatment. There are ways of making an evaluation as to what the assets are. No one is talking about trimming on this. We do not want people to trim—and they should not trim—but there are better ways of doing it than this particular way.

Finally, because of the time, I will mention one other feature that I am very perplexed about. I do not understand why they developed this kind of program. Their program is going to effectively take 3.5 million senior citizens who are now receiving a good drug program through their employers and drop them back to this program, which will provide a lesser benefit than they are now receiving, by and large, from their employers. This aspect of their program is very different from the Graham-Miller which would help and assist the small businesses and the medium-sized businesses continue to fund a good program.

I yield myself 3 more minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. KENNEDY. According to the CBO—this isn't our estimate; it is a CBO estimate—3.5 million seniors who are getting decent drug coverage through employers will be dropped from the list.

They wonder why the senior groups are not in support of this.

This is an enormously important debate and discussion that we will have. We will have an opportunity to have an expression on the proposal. As Senator Graham and Senator Miller have pointed out, we have what is called the first-dollar coverage. We do not have the doughnut, the loophole, that exists there. It will be within the ability of our seniors. It will be dependable. It will be affordable. It will be reliable. And it will be built upon existing programs, programs which have the confidence of our seniors and on which they can rely. It will be a very effective program. It will meet the kind of human needs that we believe our seniors need and deserve.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, before I yield to Senator Domenici, let me say, I do not know where he is getting his figures. But we take care of low-income senior citizens. We have 100 percent of subsidy for those under 135 percent of poverty or less. For those up to 150 percent, that subsidy ranges from 100 percent down to 75 percent. And everybody above 150 percent has a subsidy of 75 percent.

On the assets test, they are not quite accurate. I will not go into the differences right now. But we will go into them later.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. HATCH. No. I yield to the distinguished Senator from New Mexico.

Mr. KENNEDY. He does not choose to yield—on my time—to explain it?

Mr. HATCH. I will be happy to.

First of all, let's take the car benefit of $4,500. If it is necessary for medicine or for daily use or for their job, they could own a Rolls Royce according to our bill. But the fact of the matter is, no car would be taken from them. Now, if it isn't essential for that, then it would be limited to $4,500.

Mr. KENNEDY. We are not talking about taking the car from them. We are talking about disqualifying them for all of the funds over $4,500.

Mr. HATCH. They would not be disqualified.

Mr. KENNEDY. Excuse me, Senator. Excuse me, Senator. For money over the $4,500—up to $4,000—the value of the car and above that, it works to disqualify them from the coverage.

Mr. HATCH. If the car is necessary for daily use, if it is necessary for their job or if it is necessary for a medical purpose——

Mr. KENNEDY. What about personal property?

Mr. HATCH. For personal property, we have——

Mr. KENNEDY. I will go back. You yielded the time. I will go back. And I hope you have read your book because——

Mr. HATCH. I have read it. And you are misrepresenting what is in our bill.

Mr. KENNEDY. You included the assets test. And it is just as I identified it.

Mr. GRAMM. Will the Senator yield? Senator Hatch, will you yield?

Mr. HATCH. Let me——

Mr. GRAMM. Just 1 minute.

Mr. HATCH. One minute.

Mr. GRAMM. I am a little bit perplexed. Senator Kennedy is going on and on about the assets test for Medicaid, when he helped write the bill.

I would say, Senator, if you are so unhappy about it, why did you write it that way?

Mr. KENNEDY. Senator, I am trying to get it out.

Mr. GRAMM. Hold it. I am on my 1 minute.

Mr. KENNEDY. OK.

Mr. GRAMM. We are not talking about Medicaid here. The Senator is talking about the assets test under Medicaid. I was not here when all that happened. It seems to me that it is an interesting point to make, but to suggest that has something to do with the Republican plan—it is a wonderful speech, and I am sure everybody enjoyed it, but it has little to do with the subject we are talking about. It has little to do with the Senator's plan. I am not for his plan, but I think to try to say that somehow it is responsible for the assets test in Medicaid just doesn't make any sense.

The PRESIDING OFFICER. The Senator has used 1 minute.

Mr. HATCH. Mr. President, it has everything to do with the Social Security Act, which none of us on the floor, except for Senator Kennedy, I guess, had anything to do with.

Now, it is nice to moan and grown about these figures, but he is wrong.

Mr. KENNEDY. Will the Senator yield on my time?

Mr. HATCH. On your time, I am happy to.

Mr. KENNEDY. If the Senator would refer to page 71, line 14, and I would ask the Senator from Texas to refer to those as well: "Meets the resource requirements described in 1905." That is the assets test, included in the prescription drug program which we will be voting on tomorrow.

Thankfully, we dropped that from the Graham proposal. It is in the Republican proposal, that provision, on page 71, lines 14 and 15.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I can see why some seniors would want a trillion-dollar program—no question about it—as long as they think it is free. But it isn't going to be free. Neither is their program going to be free. We have to face some realities around here. Ours is $370 billion. That is a lot of money. We do more with ours than they do with theirs in their alleged $600 billion price tag. The fact of the matter is, that 75 percent of everybody's prescription drug coverage will be covered by our bill.

I yield 10 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Senator. If I can get through sooner, I will.

First, I want to make sure everybody knows what bill I am talking about. I hear the word "Republican." I am for a bill that has as cosponsors Senator Breaux, who is a Democrat, Senator Jeffords, who is an Independent, and Senators Snowe, Hatch, and Grassley, who are Republicans. That is the bill I am for, and that is the bill I am going to be talking about.

I rise as a cosponsor of the bill that is being called the 21st Century Medicare Act, a bill which will provide our Nation's seniors with a much needed prescription benefit. I believe this bill is the best hope we have for enacting a prescription drug benefit into law this year.

If there are those who do not want a law, because they do not think they are going to get what they want this year, that is another story. Either of the other two might suffice, but it won't become law.

This bill has a chance because it is similar yet less funding than the House bill, similar in the way it is structured and the like. I believe it could get out of conference, and the seniors could have something that would be worthwhile.

It isn't the highest benefit, and certainly, if you are expressing a wish, you would like the highest benefit. But I would like to discuss with you the fact that the seniors of this country are somewhat worried about the young people who are going to be paying the bills for a long time. They are somewhat concerned about whether we can afford at this particular time the benefit that one party is talking about versus another.

If we pass the bill I am talking about, I believe it will reach agreement in conference with the House and we can send it to the President. Then finally, after years of talking, our seniors will get a prescription drug benefit they need.

The tripartisan bill provides a generous prescription drug benefit that will help all of our seniors with their drug costs. It does so in a responsible manner. In the budget resolution I put together with other Members of the Senate last year, the only budget resolution currently in effect in the Senate—in other words, that is the budget resolution that assumes we can afford the things that are enumerated in it, Senators GRASSLEY, SNOWE, GORDON SMITH, and others on that committee called the Committee of the Budget—set aside $300 billion over a 10-year period for Medicare modernization and a prescription drug benefit. This $300 billion was to cover the period from 2002 until 2011.

The tripartisan bill is estimated to cost about $370 billion over a 10-year period from 2003 to 2012.

We are debating a prescription drug amendment with costs based on the Congressional Budget Office current projections. Yet we are enforcing points of order from a budget resolution that is based on the Congressional Budget Office projections for last year.

Now, as we are all aware, the budget situation has changed dramatically over the past year. As a matter of fact, when we said it will be prudent and good for America to spend $300 billion, we were in the black. It was one of those years when we actually had money in the bank, were applying money to the debt, and it looked as if the American economy and our fiscal policy would be sound and strong.

As I stand here and speak, we have gone from that position to a debt in the budget of $165 billion. It will be there for anywhere from 3 to 5—maximum 8 or 9 years—if we do things right.

The attacks on our Nation, the war on terror, the economic slowdown have all resulted in a reduction of these surplus projections. Yet the Senate leadership has been unwilling or unable to produce a budget resolution for this year; that is, the Democrats will have us operate, including passing a Medicare Program, without a budget.

We don't know, with an official stamp of approval, what the budget is going to look like for the next 8 or 10 years, but here we are passing a Medicare Program that in one instance is two and a half times the amount we said was fiscally prudent for all Americans, not just the seniors, just 2 years ago when we were running a budget that was in the black.

An updated budget resolution could have an update on our spending estimates, and we would be debating these prescription drug amendments to the current Medicare Program in a more honest and transparent way.

Last year during the debate on the budget resolution, every Senator in this Chamber voted for funding of either $300 billion or $311 billion over 10 years. Those were the two chances to vote. They voted on them, every single one. They said, with a better American fiscal policy, they were more concerned about the future than they are now with a debt, and they all voted on between 300 and 311. The Democrat proposal, I believe, is up around $600 billion.

I don't believe, had we been voting on a budget instead of saying we don't need a budget, let's don't vote on one, had we been voting on one, the Senate would have put a budget before us on Medicare that would have been far less than $600 billion, if you are required to get a majority of the Senators as you would on a budget.

Here again, it has worked to the American people's disadvantage. By not having a budget resolution, we are probably going to overspend or we are going to kill the chance to get a Medicare prescription drug benefit package out of both Houses and before the President to sign.

From my standpoint, we can continue to argue and make like we are going to give the seniors the best program; that is, the most costly one, not the middle of the road one which we can really afford, and then we say, of course, the seniors want it. But if you presented to the seniors of America all the other problems we have in the next decade and asked them which they would want—do you want to say the one just for us or do you want to say one that would be good for everybody, I believe the triparty one before us will be good for everyone. But most importantly, from the practical, not political standpoint, you will get a prescription drug benefit program this year, effective next year, under the plan that is before you that is called triparty. You won't, if you proceed with the idea that the Democrats have the best plan and the bipartisan, triparty one should not be considered because it doesn't provide as much money.

I believe the seniors of this country want a plan that will pass, that can become law now. I believe they want one that is good for America, not just good for them. I believe they want one that is fiscally sound.

We are all worried about the American economy. The man who knows most about it says the one thing we ought to be frightened about is spending too much money while we are in this rather fragile situation. Yet we are here arguing that the plan we ought to vote on is the one that spends the most money. It seems to me that the House will stand in the way of that program. The President won't have to pass on it, and we will get nothing. We will have a vote. Those who are for the Democratic plan can go home and say: We voted for the most expensive one, the one we think will give the seniors the most. Whether it ever becomes law or not, we voted for it. We will put that up on a television screen. We voted for it.

Somebody is going to be asking: What happened to the law? Well, it never passed. Why didn't it pass? Because the House wouldn't approve it, because many Republicans and some Democrats wouldn't approve it. You got nothing.

That is what I think the end product is going to be—nothing. We ought to sit down and think about which plan would be adequate and which plan might, in fact, become law this coming year for the seniors.

Mr. HATCH. Mr. President, I yield 10 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank the Senator for yielding.

I remind my colleagues that the best chance we have had to give prescription drug benefits to seniors occurred on March 16, 1999. We had a Bipartisan Commission on Medicare. JOHN BREAUX was the chairman of that Commission. We had set the Commission up by law. The leadership in the House and the Senate appointed members, and President Clinton appointed members. We met that day to vote on a plan that would have reformed Medicare.

One of the incentives to induce people to move out of the current Medicare system, where there are no incentives to contain cost, where Medicare pays for a walker three times as much as the Veterans Administration pays—not an agency especially noted for its efficiency, was to give them prescription drugs.

When the roll was called, the four Clinton appointees—Altman, Tyson, Vladeck, and Watson—all voted no. And while we had a majority, 10 of 17, to make an official recommendation, we had to have 11. On that day, March 16, our chance of modernizing Medicare and providing prescription drugs died on a straight vote, where every Clinton appointee voted no.

Then we started a process of bidding. I really believe much of this is more about the next election than it is about Medicare and the next generation. I want to remind people of this bidding. I say to Senator HATCH that the bill he supports would have outbid the Democrats last year, but it will not outbid them this year.

In 1999, Bill Clinton said that if you gave him $168 billion, he would provide a Medicare prescription drug program second to none. Then, in the year 2000, Senator Robb's bill bid that up to $242 billion, and last year, the Baucus amendment to the budget called for $311 billion. I have quotes that go on for 4 pages, where every member of the Democrat leadership says: If you will give us $311 billion, we can provide a fine prescription drug benefit. Now, this year, they are saying that $370 billion—which we do not have—will not do it and that what is being offered by this tripartisan group is chintzy, when, in fact, it provides more money than the Democrats were asking for last year.

This year, the Democrat's budget proposal provided $500 billion, and the Graham-Kennedy plan—which doesn't start until 2004 and ends 7 years later to try to hold down costs—costs up to $600 million. If you funded it for the whole 10 years, it would almost certainly cost a trillion dollars.

How did this cost explode? Well, it exploded because each year the two political parties bid against each other for votes, and the Democrats are never outbid. As Senator KENNEDY said, groups are for his plan because whatever it takes to get them to be for it is what he is going to offer. The current offer, on a 10-year basis, is really about a trillion dollars. There is only one problem: We don't have any money.

Let me say this about the plan that has been offered by the Democrats. Let me make it clear that this is Graham from Florida, not Gramm from Texas. Currently, we are spending about 2 percent of gross domestic product on Medicare. Because we have not reformed and modernized Medicare and because its costs are exploding, by 2030 that number is going to be 4 percent. Under current law, we will have to double the payroll tax, from 15 percent of income to 30 percent of income in 2030, to pay for Medicare and Social Security.

The Graham-Kennedy plan, which Senator KENNEDY was talking about, would raise that to 6 percent of gross domestic product and raise that payroll tax to a figure approaching 45 cents out of every dollar earned by every working American making a moderate income level. Does anybody really believe that people can pay those taxes? I don't think so. But when Senator KENNEDY is touting endorsements, those are not endorsements from people who are going to be paying for the program; they are from organized groups that claim to represent people who are going to be benefitting from the program.

The Kennedy bill, when you have it for 10 years, is a trillion dollars. We don't have a penny, much less a trillion dollars, in terms of funding this new benefit. We are going to have to double the payroll tax to pay for the program we have right now. The tripartisan plan is superior to that program because the Kennedy plan relies on the same inefficient Medicare Program run by a bureaucracy that tries to hold down cost with Government regulation. At least the tripartisan plan tries to bring in competition and efficiency.

The problem is, when you fill up this so-called donut in the tripartisan plan—where the government provides a benefit up to a point, and then there is a gap where you pay $1,850 alone, before you get the Government benefit again. When you fill all that up, the tripartisan bill costs somewhere between $700 billion and $800 billion over a 10-year period. I think, in the end, that is unaffordable.

I am supporting the Hagel-Ensign bill for two reasons: One, we can afford it. It is within the budget we have, which is $300 billion. It is the only plan that is going to be offered where a budget point of order cannot be raised against it because it spends too much money. On the other two plans, a budget point of order can and will be raised.

There is another point of order because it didn't come through the Finance Committee, but that was a decision made by the Democrat leadership to not bring it through the Finance Committee.

The second advantage of the Hagel-Ensign plan is it is efficient. It helps the people who need the help most; that is, people with moderate incomes and very high drug bills. What the Hagel-Ensign bill basically says is, after you spend roughly $100 a month, and you have a moderate income, you are going to get Government help in buying your pharmaceuticals, and you are going to then pay only a very nominal copayment. That is help that people can understand. It doesn't start in 2005; it starts sooner in 2004 and doesn't end in 2012, it goes on forever.

As your income goes up and you are able to pay more for pharmaceuticals, the amount you have to spend before you get Government assistance goes up. That is a perfectly rational policy because what is a crisis to one family is not a crisis to another.

Finally, immediately, under the Hagel-Ensign plan, you have a choice among companies with which you will contract that will go out and try to buy your pharmaceuticals at the lowest possible cost. Estimates have been made by outside groups that this, by itself, could cut prescription drug costs by as much as 40 percent.

So under the Hagel-Ensign plan, you have a plan that, A, is within budget, costing less than $300 billion; and B, gives a lot of help to low or moderate income people who have high drug bills. If you have higher income and low drug bills, you don't get any help.

Senator KENNEDY would say: But it doesn't help all Americans. That is true, it doesn't; it doesn't help all Americans. It will not help Gates or Perot, but they don't need help. It will help people with moderate incomes and very high drug bills, and those are the people we need to help.

Is the Chair telling me my time is up?

The PRESIDING OFFICER (Mr. KENNEDY). Regrettably.

Mr. GRAMM. We are going to be in session next year, and we can build on this beginning. I urge my colleagues, if the Kennedy bill does not get the budget point of order waived, and if the tripartisan bill doesn't get the budget point of order waived, please look at the Hagel-Ensign bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise in support of the Graham-Miller legislation that is on the floor today. I note that Senator DASCHLE deserves great credit. For years, many of us have been trying to bring a prescription drug bill to the floor of the Senate, and we have been blocked. We would be blocked year after year if Senator DASCHLE had not become majority leader in the Senate this past year. We have an opportunity for a bipartisan debate and hopefully the successful passage of legislation will at last break the blockade that has been imposed against us for so long relative to providing prescription drugs under Medicare.

I believe the contrast is absolutely stark between what we have an opportunity to pass in the Graham-Miller legislation versus what our friends on the Republican side have been proposing as an alternative.

I think it profoundly says a great deal when we find out who are the supporters of the legislation on our side versus who supports the legislation of the other side of the aisle.

We are talking about an expansion of Medicare. We are not talking on our side about some form of privatization of the Medicare Program, some form of taxpayer subsidy to the insurance industry in the hopes that somehow the insurance industry will come up with stand-alone prescription drug policies which they will then offer and somehow people will find ways, then, to buy those policies.

We are talking about an actual strengthening of the Medicare system, an effort that is supported by AARP, by the National Committee for the Preservation of Social Security and Medicare, and by Families USA. Senior citizen groups across the board are in support of our legislation.

Who supports the alternative? The pharmaceutical industry. What does that tell you? What does that tell you about price control? What does that tell you about who is going to benefit by these alternative pieces of legislation?

On our side, we are talking about a Medicare prescription drug coverage with a defined benefit. Every American of Medicare eligibility age will know precisely what the premium is in a voluntary program. If they choose to undertake this program—they certainly do not have to, but if they choose to take this program, they will know precisely what the premium is, they will know precisely what the benefit is, they will know precisely how the program works, and it will not depend on whether they live in Sioux Falls, SD, or Los Angeles or New York or anywhere else.

Every American will have the same program, and it will not be dependent upon whether the insurance industry happened to decide to come into their State or into their community. In my home State of South Dakota, the insurance companies increasingly are leaving the State and leaving people in very rural areas with too few options. That is not where we want to be with prescription drugs.

Every American deserves to have a strong Medicare Program, and I know there are those on the other side who have ideological qualms. They do not like the idea of more Government, so they would rather privatize Medicare and rather go in the direction of taxpayer subsidies to the insurance industry to the applause of the pharmaceutical industry but not to the applause of American seniors who want a stronger Medicare Program as the underlying basis for prescription drug coverage.

We talk about whether this would contain prescription drug costs. In our underlying bill, we have the generic incentives and promotion which will be enormously helpful. We have also passed by a large margin a very closely monitored and controlled reimportation provision. Also within the underlying Graham-Miller bill under Medicare, there would be opportunities to negotiate and use the leverage of that huge population base for negotiated prices, keeping in mind that the citizens of no other industrialized nation pay anything close to what American citizens pay for the cost of prescription drugs.

If you go to Canada, Mexico, Britain, France, Scandinavia, or Germany, it does not matter, you pay less than half what American citizens are expected to pay.

It is long overdue that we have a component in this prescription drug bill that not only affords every Medicare-eligible individual a cost-effective, efficient way of gaining prescription drugs, but it holds those costs down and that, in fact, is why the pharmaceutical industry has objected so much to what we are trying to do and is so supportive of what the other side is trying to do because they know that the effective way of cutting costs, which indeed comes from massive profiteering that has been going on in recent years, will take place in our version. It will not take place in the version coming from the other side.

It always stuns me somewhat, I have to say, that those who talk about the cost of these programs and who preach the loudest about fiscal responsibility when it comes time to figure out how we can best serve the Medicare-eligible citizens of our nation in the most effective and efficient way, do not seem to be bothered when it comes time to propose follow-on tax cuts, primarily for the billionaires of this society, to cost in excess of what we are talking about for a Medicare drug coverage program.

It seems to me we have some priorities we need to sort out in this institution. We need to talk about how to effectively make sure that every senior gets the drugs they need.

I talk to many, far too many, people as I go across my State of South Dakota—one of the lowest per capita income States in the America—who literally are choosing between groceries and prescription drugs. They are cutting pills in half and not renewing their prescriptions, and then they show up in emergency rooms with an acute illness and the taxpayer picks up the cost.

How much better for the long-term cost, how much better for the dignity of these people to keep them healthy in the first place with a prescription drug regime that they and their physician have chosen which can be secured through Medicare and not at the whim of the insurance industry and not to the applause of the pharmaceutical industry but to the applause of the senior citizens organizations. How much better would it be to follow that road in terms of the reforms we need to be doing this week.

I know this is going to be a difficult debate because of the parliamentary rules that may require 60 votes to pass legislation. I do not know if we have the 60 votes or not. It is certainly my hope that we will because the problems this Nation faces, the problems that my senior citizens in South Dakota face are not Republican or Democrat problems. They transcend that. They are the problems of our entire society in my State and across this Nation. They deserve to be dealt with aggressively and effectively, and we have that opportunity with the Graham-Miller legislation and the underlying generic legislation before the Senate today.

Mr. President, there will be few more important votes in terms of domestic policy that this Senate will take anytime during the 107th Congress. It is my hope that politics can be laid aside, that ideological qualms about opposition to Medicare and Social Security that some have can be set aside, and recognize that Medicare is, indeed, the commonsense vehicle for trying to address cost containment and access to prescription drugs in a uniform, consistent way across this Nation; that opposition can be set aside, and we will, in fact, have the bipartisan support this legislation deserves to have and that at long last the gridlock, the obstructionism that has gone on for so many years can be broken and we can go home to our respective States at the conclusion of this debate knowing that we have done the right thing; we have done the good thing.

I have always believed the best politics is good government; that is, doing the right thing for people. If this body supports this underlying legislation, it will be a cause of great celebration. Everyone can get whatever credit they choose to have, but it will be the right thing for America and the right thing for our seniors.

I thank the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to the comments of the distinguished Senator from Massachusetts earlier and the distinguished Senator from South Dakota. I mentioned in the early debate, on the first day of debating these matters, the book "The System," written by Haynes Johnson and David S. Broder. It is a failure of the Clinton health care program in part.

It is very interesting what they say in this book. Neither Haynes Johnson nor David Broder would be considered leading conservative spokespeople.

The PRESIDING OFFICER. Is the Senator yielding himself time?

Mr. HATCH. Yes, I am.

The PRESIDING OFFICER. Such time as he may consume?

Mr. HATCH. I am.

Neither of them would be considered conservative journalists. This is what they wrote on page 90 of "The System," which was published in 1996:

> In the campaign period, Fried recalled, Clinton's political advisers focused mainly on the message that for "the plain folks, it's greed—greedy hospitals, greedy doctors, greedy insurance companies. It was an us-versus-them issue, which Clinton was extremely good at exploiting."
>
> Clinton's political consultants, Carville, Begala, Grunwald, Greenberg, all thought

"there had to be villains." Anne Wexler remembered, "It was a very alarming prospect for those of us looking long term at how to deal with this issue. But at that point, the insurance companies and the pharmaceutical companies became the enemy.

That is what is being done here today.

The main difference between the two programs is that ours lives within at least some budget constraints. It is more than what the Democrats would have taken last year, $311 billion. This is $370 billion. No. 2, we provide some element of private sector competition so there will be competition in this matter. That is driving costs down. No. 3, we provide there will be a system that will work because one can have more than one program instead of a one-size-fits-all program. No. 4, we are not going to get to price controls by the Federal Government, which would destabilize research and development of pharmaceuticals in this country. To hear some people on the other side, it is the big bad pharmaceutical companies that are causing these problems.

Actually, I think if we look at our system, both the generic and the pioneer companies, the research companies, we have a pretty great system that is producing the greatest therapeutic drugs in the world today. The reason we do is that we do not have price controls.

Where is the pharmaceutical system in Canada? Where is it in many other parts of the world where they have price controls? They do not have it. We do. We have the greatest system in the world.

I think Haynes Johnson and David Broder are right on: "When you cannot win the debate, start knocking the big companies; speak for "the little people," as they have said. And this has been the tenor of this debate so far.

I frankly think we ought to talk about living within the budget, doing the best we can, having a system that works, that has some element of competition in it, that does not set price controls over drugs so that it ruins our domestic companies and research and development plans, so we can ultimately get drugs into generic form so that we can save money. That is what is really involved.

I yield such time as she may consume to the distinguished Senator from Maine, Ms. SNOWE.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. How much time is remaining, Mr. President, on our side?

The PRESIDING OFFICER. Twenty-two and a half minutes.

Ms. SNOWE. Mr. President, first, I express my appreciation to the Senator from Utah, who has done a yeoman's effort on behalf of this legislation, working in this past year to develop what has been known as the tripartisan legislation to develop a prescription drug benefit program.

I am pleased we are able to finally begin the debate on this most critical issue. It is obviously a significant issue to seniors. I hope everybody understands that we, in attempts to draft this tripartisan legislation, had hoped to avoid developing a polarizing and politicizing of this issue before the Senate. I regret that the regular process of the committee has been bypassed because I think in so doing there was an obvious attempt to try to avoid building the consensus that is essential to passing this kind of legislation.

Obviously, through the disruption of this process, we are here today, and I hope this process does not give anybody the excuse or the rationale to vote against a prescription drug bill because I think in the final analysis each of us will be accountable for our failure to do so in this institution.

We have a chance—just maybe this is our year—to pass a Medicare prescription drug benefit after all. There is only one plan thus far that has bipartisan and tripartisan support. Senator BREAUX, Senator JEFFORDS, Senator GRASSLEY, Senator HATCH, members of the Finance Committee, and I began this effort more than a year ago in an attempt to draft a compromise proposal that bridges the differences between two sides in this debate, hoping to avoid the kind of scenario that has now unfolded on the floor. That is why we undertook this effort to craft this tripartisan solution, when partisan differences threaten to undermine any possibility of enacting a prescription drug benefit. We believed then, as we do now, that as seniors cannot afford to put off their illnesses, we cannot put off a solution to this problem. So we crossed the political divide to develop an innovative program that could become the basis for action.

As I said, we had hoped we could start that process within the committee that could give us the best hope for developing and forging a consensus on this issue. We worked closely with the Congressional Budget Office for forecasting an accurate estimate of the cost of our legislation, working hand in hand with them up until the final days in introducing this legislation, to ensure that we had a stable, efficient, competitive program that would provide choices to the seniors in this country and at the same time give them the maximum benefits under any kind of prescription drug benefit that we could include as part of the Medicare Program.

I have personally been working on this issue for the last 4 or 5 years, imploring Members of this Senate to pass a prescription drug benefit. It has been 4 long years. We have made some progress certainly in terms of estimating the cost and providing the type of appropriations that would be essential to supporting a generous prescription drug benefit.

In 1999, as a member of the Senate Budget Committee, I worked with Senator DOMENICI, Senator WYDEN, and Senator SMITH of Oregon to include a reserve fund. At that time, then-President Clinton provided $28 billion in his budget. We went further and provided $40 billion to set aside for a prescription drug benefit over 5 years. Then we decided last year we would go to $300 billion because the prescription drug costs go up each and every year, as we well know. So on both sides of the political aisle, there was agreement again and the Budget Committee set aside $300 billion for a reserve fund. It was also acknowledged time and again in floor debate that $300 billion was where we needed to be to provide strong coverage for seniors in Medicare for a prescription drug benefit.

So now we are at the stage of $370 billion, the tripartisan proposal, and approximately $600 billion in the proposal offered by Senator GRAHAM from Florida.

Everybody recognizes we need to enact a prescription drug program as part of Medicare. It is long overdue. Frankly, I do not think there is any difficulty in developing the policy, if there is the political will to do it. That is the big question—whether we have the desire to enact this kind of coverage for seniors in this country.

We have two competing plans. I hope we can avoid a process that is designed to create a political showdown. I hope we are not going to go down that path this week, irrespective of the fact we have two votes tomorrow, one on each plan. Is that where it is going to end or is that where it is going to begin?

I hope this is not about this election. I hope it is for the determination to do what we ought to do, and that is to design a program for prescription drug benefit coverage. It will not happen without bipartisanship and tripartisanship. That is what we did through the legislation we introduced and have been working on for more than a year.

I would rather not spend my time talking about process. The process becomes important when we bypass the conventional means of consideration: Draft and amend legislation in order to create a consensus on a bill before it reaches the floor; at least it attempts to do what was done on the tax bill last year. No one could have predicted what the outcome would be in the committee, let alone on the floor, but it was through the amendment process, through debate and deliberation that we finally reached a consensus that yielded the 62–38 vote.

We are in danger of not completing prescription drugs because of the process of cloaking political motives. We are looking at the procedural gymnastics that have occurred in this legislation. We could almost write the headlines: The Senate fails to muster

60 votes for a prescription drug plan; issue put off for another year.

Is that what Members want? I do not want the Senate described in those terms. I do not want this issue put off another year. We have been putting it off year after year after year. I want to make headway, not headlines. That is why it is important people understand what is going on. I am the last person who wants to talk about inside the beltway gobbledygook, about the process. I am interested in talking about the truth and what deserves our attention in terms of policy differences, not designing the next political stroke.

It is a disservice to the more than 40 million Medicare beneficiaries that see their prescription drug costs rise every year to the tune of 17 and 18 percent in annual costs just over the last 4 years. That is why we try to work on developing a middle ground approach and analyzing what could be the best plan, under the circumstances, to maximize the benefit, particularly those in the low-income scale, from all ranges of the political spectrum that could offer a comprehensive drug benefit that is affordable, comprehensive and available to all seniors, that provides the most in terms of benefits to low-income seniors and those especially without drug coverage.

It must be a fully funded, permanent part of Medicare that does not threaten the stability or the solvency of the Medicare Program for future generations. We offer in our plan the lowest premium of any plan introduced, $24 a month. It provides a 75 percent Federal subsidy. That is more than Federal employees have under their current health care coverage. That yields $340 billion in Federal support over the next 10 years.

People suggest the private sector will not be engaged in this process when the Federal Government provides an overall 75 percent Federal subsidy.

Seniors above 150 percent will see an annual savings on their prescription drugs of more than $1,600, which is a 53 percent savings. Those below 135 percent will see 98 percent savings on their prescription drugs. Ninety-nine percent of Medicare beneficiaries will be covered under our program; 93 percent estimated by CBO will participate in this program, and 6 percent will remain with their current coverage. That is extraordinary. Eighty percent will not even hit our benefit limit of $3,450.

We eliminate the so-called doughnut, the gap in coverage between the $3,450 benefit limit and catastrophic coverage of $3,700; 11.7 million beneficiaries with incomes below 150 percent are exempt from the benefit limit of $3,450. There are 10 million Medicare beneficiaries with incomes under 135 percent who will see 80 to 98 percent of prescription drug costs covered by this plan with no monthly premium, no deductible, and have average coinsurance of $1 to $2 per prescription and will have no cost beyond the catastrophic level. All other enrollees above 150 percent of the income level will have access to discounted prescription drugs after reaching the $3,450 benefit limit.

Everybody under Medicare will be protected against catastrophic costs. The drug benefit will be offered by the private drug plans. They accept part of the risk for managing this prescription drug program with the Federal Government accepting most of the risk. Seniors will have clout. They can vote with their feet. If they do not like the plan, they can select another plan. We believe, and CBO agrees, that the real competition will hold down drug costs and make this benefit more affordable for seniors and taxpayers.

Creating a new prescription drug benefit is absolutely essential to be part of our Medicare Program. AARP said in their testimony before the Senate Finance Committee, we need to have a dependable drug plan. That is exactly what we are providing. It is permanent and it is fully funded. That is a big difference from a plan that is sunsetted. I do not know how you explain to seniors in this country that the good news is you will have a prescription drug program starting in 2005, but the bad news is it expires in 2010. That is exactly the scenario established by the Graham-Daschle-Kennedy bill, which simply rides off into the sunset. It certainly will not be a happy new year on December 31, 2010 for any senior citizen who uses prescription drug coverage to learn their benefit has disappeared over the horizon—it is gone.

Is that the kind of stability, certainty, and predictability we want to give our seniors when it comes to one of the most vital benefits we could provide and need to provide?

You might wonder why it sunsets under the Graham legislation in 2010. That is a very good question. The answer is because they ran out of money. They knew if they continued, the sticker shock of their plan and the impact of their program, already facing serious financial concerns, would cause more than a few to raise strenuous objections because of the ultimate impact it could have on the solvency of the Medicare Program.

Seniors have said they have two major priorities. One, they want to make sure the program is universal; two, it has the lowest monthly premium and at the same time it does not affect the financial stability of the future for Medicare.

That is a question about the choice we have tomorrow. Are we serious about providing a prescription drug benefit to seniors that will be sunsetted in 2010? That is a significant question that each Member must address in casting his or her vote in the Senate with the two competing plans. The plan we have offered was consistent with the priorities of seniors in this country, indeed the priorities of AARP, the major representative of seniors in America, that they wanted a dependable prescription drug benefit as part of Medicare. We offer it. It is fully funded, and it is part of Medicare in perpetuity.

There are other problems we have to address when we are looking at the Graham proposal. One is the issue of the nonpreferred drugs. In the original plan that was offered by Senator GRAHAM, there were the preferred drugs and the nonpreferred drugs. In fact, the copayments are lower under our plan. For the top 50 preferred drugs, we have lower copays under 39.

To put it the other way around the Graham proposal is higher on all but 11 of the top 50 preferred drugs—higher in copayments.

In the original Graham plan, there were the nonpreferred drugs. Again, we were lower in copayments in all categories except 1 out of the top 50.

Now, under the newly revised plan, none of the nonpreferred drugs is even covered—none, not one.

You might ask, what does that mean? That means it won't be available for seniors. That means, by virtue of the fact that the nonpreferred drugs are not covered under the Graham-Daschle-Kennedy plan, they are not going to be available to seniors. They will not have choices in the types of plans that include both the preferred and the nonpreferred. It means if your doctor prescribes a different brand prescription and it is not on the preferred list, you are out of luck because under Senator GRAHAM's proposal they will cover generics and only two brand names in every therapeutic category.

So here are a few examples of how the Government's strict limits on drug coverage under the Graham-Daschle-Kennedy plan would interfere with the drugs your doctor prescribes. The examples are taken from drug classes in the "Physicians Desk Reference" explicitly described in the bill as a model for determining the therapeutic classes in which only one or, at most, two drugs will be covered.

Let's take high cholesterol as an example. If you take Advicor, Baycol, Colestid, Lipitor, Mevacor, Pravachol, Tricor, WelChol, Zocor, or other drugs to lower cholesterol, and the Government plan says Lescol, you get no coverage at all. And even if you take Lescol XL, the more convenient extended-release form, then you get no coverage at all.

What about treatment for arthritis? Well, if you take Bextra, Cataflam, Celebrex, Clinoril, Feldene, Lodine, Lodine XL, Relafen, Tolectin, Tolectin SR, Trilisate, Vioxx, Voltaren, or Voltaren-SR for your arthritis, and the Government plan covers prescription-strength Advil, then you get no coverage at all, none.

You have high blood pressure? Well, if you take Accupril, Adalat, Aldoclor, Aldomet, Altace, Captopril, Cardizem, Cardura, Catapres, Corzide, Cozaar, Diovan, Diuril, Hyzaar, Lotensin, Maxzide, Minipress, Norvasc, Procardia, Tenormin, Toprol-XL, Univasc, Vasotec, Zebeta, Zestril, or any of dozens of other effective medications for high blood pressure that work best for you, and the Government plan covers Accuretic, then you get no coverage at all.

So it is far more restrictive than what the private sector offers today. Most private sector plans and the Federal employees plan would never consider being so restrictive as to provide no coverage at all for nonpreferred or off-formulary drugs. Moreover, to restrict covered drugs to no more than two in each class of drugs—generally these plans do the opposite, by providing some coverage for off-formulary drugs through tiered copays or off-formulary incentives.

What happens if I really need it? What happens if the doctor thinks that is the only option, the only drug that is going to be best for your treatment? It would require an explicit review and approval from the Secretary of Health and Human Services, right here in the plan that is offered by Senator **GRAHAM**, in order for the Government plan to offer a lower copayment or to provide coverage on additional drugs. Beyond these strict limits, the Secretary must determine that it will not result in an increase in expenditures by the Government.

Since when do we essentially decide we would rather have the Secretary of Health and Human Services writing prescriptions for American seniors? But that is what this comes down to.

Mr. HATCH. Will the Senator yield on that point?

Ms. SNOWE. I am delighted to yield to the Senator from Utah.

Mr. HATCH. Is the Senator saying that they claim for $600 billion, even in a bill that is sunsetted so they can keep the cost that low, that all of those drugs indicated on your chart in red letters "not covered" are drugs they do not cover?

Ms. SNOWE. That is correct.

Mr. HATCH. Yet in this $370 billion program that we have devised, all of those in yellow are covered?

Ms. SNOWE. That is correct. In fact, in our copays, on those that are covered, the top 50, we are lower or, the converse, in Senator **GRAHAM**'s legislation their copays will be higher in 39 out of the 50 categories in terms of copayments. Then in the nonpreferred drugs, they are not even covered, and they are covered under our legislation because plans will be designed to include choices.

Mr. HATCH. I take it they are spending $600 billion or more—almost double what we spend—and not getting nearly the delivery of the drug as in the system we would give to the seniors. It seems to me it is pretty tough to be for the $600 billion program under those circumstances.

Ms. SNOWE. I would say to the Senator, that is correct. Obviously, the Government is going to make the determinations in terms of the types of drugs to be used, but the legislation already starts off in a very restrictive fashion. As a result, it will deny seniors their choices—not to mention that the whole program sunsets in 2010.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. SNOWE. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I want to take a moment this afternoon to share a part of a letter I received from an 84-year-old gentleman in my home State of Washington. He writes to me:

> My income is limited to Social Security and a small amount of interest generated from the proceeds of the sale of my home. That doesn't leave much for anything but the basics. The highest of my monthly bills is for prescription drugs, the cost of which has skyrocketed for the past few years. Because Medicare provides nothing towards the exorbitant cost of these drugs—which are mostly for my heart—I pay upwards of $250 a month out of pocket.
>
> If Congress does nothing else this coming session, please let it be relief from the expense of the drugs I have to take to survive.

That is why I rise today in support of Medicare prescription drug benefits. This is an issue that Congress has talked about for years. It is a major challenge for seniors and the disabled every time they have to fill a prescription. And everyone agrees that we need to do something about it.

We have a bill that will address this problem in a responsible way, and I am in the Chamber today to help move it forward. I am very proud to be a cosponsor of the Graham-Miller-Kennedy bill, the Medicare Outpatient Prescription Drug Act of 2002.

This is not a new issue for me or for the people of my home State of Washington. Over the years, I have held many roundtable discussions in my home State where I have listened to doctors, seniors, the disabled, industry leaders, and health care providers. Like many people in my State, I am frustrated that it has taken us this long to finally reach this point in this critical debate.

Unfortunately, as we all know, the attacks of September 11 and the problems in our economy have delayed this critical discussion until now. During my time in the Senate, I have been very proud to work on prescription drug coverage, from helping to draft the MEND Act in the 106th Congress to working on the Budget Committee over the past 3 years to provide funding for prescription drugs.

In this Congress, I have been very proud to work with my Democratic colleagues to help ensure that the Graham-Miller-Kennedy bill meets our priorities of providing an affordable, voluntary, comprehensive, reliable benefit that is part of Medicare.

Health care has changed dramatically since Medicare was created, and it is time we update the Medicare Program to meet today's needs.

Decades ago, there was no big prescription drug issue. Back then, it was because prescription drugs played much less of a role in our health care. Today, prescription drugs are a key part of our health care. They help to prevent disease, and they help patients live longer.

As a result of these changes in health care, seniors now rely on prescription drugs more than ever. The average Medicare beneficiary fills 19 to 24 prescriptions each year.

Clearly, prescription drugs are more effective—and coverage is more needed—than ever before.

Unfortunately, it is getting more expensive—and more difficult—for seniors to get the medicine they need. Some seniors have drug coverage through their employers, but that number is shrinking. As costs rise, employers are cutting back on coverage.

In 1994, 40 percent of firms offered health benefits to their retirees. But by 2001, only 23 percent offered health benefits to their retirees.

Of those on Medicare, 38 percent have no drug coverage throughout the year. And even those seniors who are lucky enough to have coverage have seen increased premiums, deductibles, co-pays and greater restrictions. For those on Medicare, out-of-pocket payments for prescriptions—in just a two-year period from 2000–2002—have grown from an average of $813 to more than $1,000.

The lack of coverage—and the growing costs—are impacting health care today. Right now, an estimated 10–13 million seniors not have any prescription drug coverage.

To meet this need it has become critical that we update the program that seniors and the disabled rely on for their medical care. Updating Medicare is something we need to do very carefully. Back in 1997—when I first joined the Senate's HELP Committee—we faced the challenge of reforming and revitalizing the Food and Drug Administration's drug and device approval process. There were several competing demands we had to balance. On one hand, patients want new drugs and devices approved and available as soon as possible. On the other hand, the FDA has a responsibility to protect the public's health. We had to balance those two competing demands. And I am pleased that in the end—after months of debate—we passed a good bill that struck the right balance.

I mention that example to remind us that there are several competing demands when it comes to prescription drugs for seniors.

The first consideration is affordability. We can have the best prescription drugs in the world, but if seniors can't afford them, they are of little use. So affordability is key. But price is not the only consideration.

A second concern is safety and effectiveness.

We have worked hard over the years to make sure that our drug supply is safe. It is one of the FDA's most important responsibilities. I am proud of the way generic drugs have lowered the cost and improved access for so many Americans. But I also recognize that, if the drug isn't safe, or if it's not the medicine a patient needs, the cost savings are meaningless.

Another concern is innovation. Here in the United States, we have access to the most innovative, cutting-edge medicines. We don't want artificial limits on drug distribution that would delay innovations.

Finally, I believe that a prescription drug benefit must be a seamless part of Medicare. Just like care from a doctor or a hospital visit, prescription drugs are one of the key ways we provide health care today, and it should be treated like that under Medicare.

With all those considerations in mind, I am proud to support the Graham-Miller-Kennedy bill. It is the only plan that strikes the right balance. It is the only plan that delivers on the promise of a real prescription drug benefit for everyone on Medicare. It provides a comprehensive, affordable, and reliable prescription drug benefit. It provides coverage for every prescription without any deductible or coverage gap. It offers predictable, affordable co-payments, and it protects seniors from catastrophic expenses.

Second, it's affordable. It has a fixed monthly premium of just $25. It covers all drug expenses after a senior has spent $4,000 in out-of-pocket expenses. And because there is no deductible, it will help seniors with their very first prescription.

I am also proud that this bill goes to great lengths to help those with low incomes. For example, there is no premium or cost-sharing for beneficiaries with incomes below 135 percent of poverty. For those between 135–150 percent of poverty, there are reduced premiums. That will make a difference for the 168,000 Washington seniors who are below 150 percent of poverty.

Finally, this drug benefit is reliable. It will give seniors the security that comes from knowing that they can get the medicine they need. Seniors will know they are getting the same coverage—for the same price—no matter how sick they are, and no matter where they live.

The Graham-Miller-Kennedy bill is comprehensive, affordable and reliable. The other bills would leave a lot of Washington State seniors behind. Low-income seniors would in fact do far worse under the House and Senate Republican bills.

The Senate Republican bill has a $250 deductible. Our bill has no deductible. Under the Senate Republican bill, there is a big "benefit hole" for seniors who spend—out of their own pocket—between $3,451 to $5,300 on prescription drugs.

In Washington State, 212,000 people will fall into that benefit hole—paying premiums and high drug costs—without receiving any benefits. Under the House Republican plan, that benefit hole affects even more people—340,000 in Washington state alone.

There are many other problems with the House and Senate Republican bills—from the very limited stop-loss to the asset tests. And both these plans rely on private insurance companies to provide the benefit. If private insurance companies are not willing to participate, there is no coverage.

Those of us in Washington state have seen the private insurance market shrink in recent years, so that does not give us a lot of confidence in trusting the private sector to solve the problem.

Before I close, I want to mention that we have other parts of Medicare we need to fix. Over the past few months, I have worked with a number of my colleagues to address the regional inequities in Medicare. Even though all seniors pay the same rate into the Medicare system, their access to health care depends on where they live. If they live in Washington state, they have fare less access to healthcare. That is because Washington state ranks 42nd in the Nation in Medicare reimbursements per beneficiary. I have been working with leaders in my state on the issue, and I'm continuing to raise the ideas and the MediFair proposal with my colleagues here in the Senate.

I am proud that the Graham-Miller-Kennedy bill does not base benefits on the same flawed formula that has created regional inequities in Medicare reimbursements. I hope we can move forward on both issues—addressing the fairness sin Medicare payments and providing prescription drugs.

Today, we have the opportunity to help the more than 700,000 people in Washington state whoa re enrolled in Medicare. We know that prescription drugs are more effective—and more important for good health care—than ever before. But seniors don't have access to them because of rising costs and shrinking coverage.

The Graham-Miller-Kennedy bill will provide a prescription drug benefit that's part of Medicare and that is comprehensive, affordable and reliable. I urge my colleagues to help us pass this critical legislation.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise this afternoon to join my colleagues and the growing chorus requesting that the Senate move expeditiously to pass a universal, voluntary, and affordable prescription benefit plan under Medicare.

I am a proud cosponsor of the Graham-Miller-Kennedy proposal, which I think is the right approach to provide a voluntary, universal, and affordable prescription drug benefit for our seniors.

In 1964, Congress took the bold step to enact a health insurance program that guaranteed coverage for all seniors and disabled persons in the country. That boldness has been justified over the last decade because it has improved materially the health of seniors, and, indeed, this development has improved their economic standing as well. But it is time for their Congress to bring that Medicare Program into the 21st century.

Back in 1964, the key elements of health care for seniors and for all Americans was access to hospitals and access to doctors. Medicare provided for both.

Today, there is a third critical element. That element is pharmaceutical benefits. Thus, we must bring the Medicare Program that has served us so well over these last several decades into this new century by providing a prescription drug benefit for our seniors.

Today, Medicare beneficiaries account for 14 percent of the population, but they account for 43 percent of the Nation's spending on prescription drugs.

You can see that the population most affected by the use of pharmaceuticals and the rising costs of pharmaceuticals is seniors. Another reason why we have to move quickly and expeditiously to provide assistance under the Medicare Program.

Today, the Medicare Program covers approximately 39 million Americans, about 170,000 of my fellow Rhode Islanders. It is a program that is integral to the health and economic security of our seniors and to all of our families. For this system to go forward, it has to be strengthened by pharmaceutical benefits.

I would like to talk briefly about some of the trends we have seen with respect to prescription drug benefits, to highlight the strengths of the Graham-Miller-Kennedy proposal, and to contrast this proposal with competing proposals: the House version and the tripartite package that is before us in the Senate.

Before I do that, I want to commend majority leader DASCHLE for bringing this matter to the floor. This is an issue which every senior and every family in this country is acutely aware of and who have called for our attention to it for many, many years.

This is not something new. There was at least rhetorical consensus in the last election when both sides claimed they were for the inclusion of a prescription drug benefit under Medicare. We have reached the point where words have led to action on this floor. I thank the majority leader for forging that action as we debate this issue today.

I think it is also appropriate that this legislation has been brought together with another bill, the Schumer-McCain legislation that was modified in the HELP Committee by Senators COLLINS and EDWARDS, which provides benefits, we hope, to the entire population of this country when they purchase pharmaceuticals, because it will hasten the introduction of generic drugs into the marketplace while preserving the integrity of our intellectual property system.

These two bills together—a prescription drug benefit for seniors from the Medicare system, and strengthening and speeding access to generic drugs in the country—I think are appropriate responses to the legitimate, persistent, and long-standing demands of the American public.

Last year—if we look at the spending on pharmaceuticals—out-of-pocket spending on prescription drugs was estimated to be $848 a year among Medicare beneficiaries. Nine percent of them, however, spent more than $2,500 a year. This is an extraordinary amount of money for people who are living on fixed incomes. You do not have to talk to too many seniors before you hear their legitimate complaints, that they often have to choose between buying their prescriptions or paying their rent.

Today, we had an event in Providence, RI, where we had seniors and physicians talk about that issue. A physician who joined us was very eloquent on this subject, pointing out that often his patients will tell him the choice they face is either filling their prescriptions or paying the telephone bill that month. That is a choice many seniors have to make. Frankly, many of them will choose to have the telephone—for an emergency, for a lifeline, for communication with their families—and they will forgo the prescriptions.

The doctor spoke of one case—one among many—where he was treating an elderly person, a woman, for high blood pressure, and she could not afford the full range of drugs he prescribed. So he tried to make do with whatever was in his supply cabinet: the samples he got from pharmaceutical companies. This caused, of course, a situation where they were frequently changing prescriptions; and even then she could not fill all the prescriptions because of her economic circumstances.

The high blood pressure was treated on an ad hoc basis. Sometimes she could take her medicine because she could afford it; sometimes she could not. And what happened? The lady suffered a devastating stroke. Ironically, today that doctor can prescribe and ensure she gets the full complement of pharmaceuticals because she is disabled and her health care is paid for through the Medicaid Program as a disabled citizen. That is not right, and it does not make any sense. If that woman had been covered by the provisions of the Graham-Miller-Kennedy bill, she could have purchased those medicines that would have, hopefully, prevented her stroke.

That is just one example, but we see it time and time again. Seniors are under tremendous financial and economic strain, as prescription drug costs go up and up and up.

I spoke to another senior this morning: 70 years old, still working, and working primarily to pay for her prescriptions. She said she went back to a druggist the other day and was told her drug cost over $100. She cannot afford it.

These are the realities that seniors face throughout the country. The bill Senators GRAHAM, MILLER and their colleagues have proposed—and one I proudly support—will address those concerns. They will provide a prescription drug benefit that is voluntary, a benefit that will require a $25 monthly premium, and no deductible. It will require the senior to pay $10 for generic prescriptions, $40 for a preferred brand name prescription, and $60 for a nonpreferred brand name prescription—simple, direct, well defined, the essence of what I believe we should do to help seniors.

The bill sets forth a clearly defined framework for what a Medicare recipient would expect to receive in benefits. The assistance is there from the very first prescription. There is no deductible. There are no gaps or limits in coverage. There is a catastrophic cap on out-of-pocket expenditures above $4,000. And there are additional subsidies for individuals with incomes below 150 percent of poverty—simple, direct, well defined, the essence of what we should do.

It is a program that will not be administered at the discretion of private health insurance. It will be a Medicare program, available to every American, no matter where they live, something I think should be inherent in any drug proposal we make here on the floor of the Senate.

In contrast, the House bill and other Senate proposals do not provide reliable drug coverage as part of Medicare's defined benefit package. These alternative bills have no defined benefit, no guaranteed premiums, no standard copayments or cost-sharing. And because the plans rely on private insurance companies and HMOs, the actual benefit a person receives could vary, depending on where that person lives.

As we have experienced with the Medigap and the Medicare HMO market, private insurers are not capable, often, of providing stable, predictable coverage that older Americans and the disabled need and deserve. I hear regularly from constituents who are confused and upset by the constant changes in premiums, copayments, and benefits under these plans. And I suspect the same confusion will result if these pharmaceutical plans are administered exclusively by private insurers.

So I believe we should move forward, very deliberately and very quickly, to adopt the version proposed by my colleague from Florida, Senator GRAHAM.

Again, in contrast to the Graham bill, the House-passed bill would require a monthly premium of $34, but the first $250 in drug costs must be assumed entirely by the beneficiary. You would be paying a premium, and yet you would be getting nothing for the first $250 in costs.

For the next level, from $251 to $1,000, you would only pay 20 percent. But then, if you went over $1,000, you, the beneficiary, would have to pay 50 percent of the cost. And what, to me, is the most astounding aspect of this House proposal is, once a patient spends up above $2,000, they would have to pay the entire cost of their prescriptions until $4,800. Just at the point where these pharmaceutical costs were accumulating, a beneficiary would have to pay all of the costs and still the premium.

This bill and its counterpart, the tripartisan bill in the Senate, I think, are not sufficient to meet the task before us. I urge my colleagues—all of my colleagues—to support strenuously the Graham-Miller-Kennedy bill and provide seniors and the disabled with a real pharmaceutical benefit.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will ask that we have a brief quorum call and that the time not be charged to either side. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. MURRAY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, if I could inquire about the parliamentary situation or the time situation, how much time is left on this side of the aisle on this debate?

The PRESIDING OFFICER. No time remains on that side.

Mr. LOTT. How much time on the other side?

The PRESIDING OFFICER. Forty-two minutes.

Mr. LOTT. Madam President, I yield myself time that I might need under leader time. But for the information of the Senators who are here, I don't believe it will exceed more than about 10 minutes or so.

The PRESIDING OFFICER. The Senator has that right.

Mr. LOTT. Madam President, I know there has already been a good debate on this very important issue today. I do sincerely hope that we can produce a result that will provide prescription drug coverage for our low-income elderly, sick people who need this help. Certainly, from personal experience, I know of low-income elderly who need the help. My concern, though, is we do it in such a way that the costs are not so extreme that they wind up causing serious problems with our Medicare funds. In short, we don't want to blow a hole in the Medicare fund and cause all kinds of problems as a result of our good intentions. That is my first concern with the Graham-Kennedy proposal.

I know it has been difficult to get a cost analysis. I am still not quite sure exactly what the cost has been estimated on this proposal, although I understand it is in the range of $600 billion over a 10-year period. I understand the plan perhaps may be defined as only covering 8 years, which doesn't begin until 2004, so it is pretty hard to match apples and apples. But over a 10-year period, I think it would probably wind up being at least $600 billion.

The cost factor is something we have to be aware of in all these different plans.

The other thing that bothers me is the universal coverage aspects. Regardless of income, you are going to get subsidized prescription drugs if you are, I guess, in a certain age category. That is my understanding. That is one of the fundamental differences. I have always said we should target sick low-income elderly or certainly, low-income elderly. But even using those three words produces a different number of people. We would have to think about that very carefully.

But the idea that we would be providing subsidized prescription drugs to people who have income in retirement of $50,000, $60,000, I guess any amount, is a major concern I have.

I am also disturbed about new revelations that I have discovered in the Graham-Kennedy amendment over the weekend. We had an earlier version that has been changed. Everybody is entitled to do that up until the time the different proposals were offered. But there are some critical changes that have been made, I presume, to reduce, at least to some degree, the cost estimates on this proposal. There are some details embedded in this plan that will have critical repercussions on the lives and health of 40 million seniors if the amendment were ever to become law.

There are two critical differences that I want to point out today between the Graham-Kennedy amendment and Senator GRAHAM's original bill, S. 2625. When you look at what those two apparently small changes actually mean in the operation of the prescription drug benefit, I believe you will want to oppose the Graham amendment in its current form.

In the first change, which is on page 30 of the amendment, it has to do with copayments for brand name drugs that are not on the health plan's approved list. First, it would help if we review the original language in the Graham bill and what it had to say about the copayments. The original Graham bill said if you used a generic drug, you would face a copayment of $10 per prescription; that is, if you use a generic drug.

If you use a brand name drug that was part of the so-called formulary—I will call it the approved list—you would face a copayment of $40 per prescription. And if you used, under diagnosis by a doctor, a brand name drug that was not part of your plan's formulary or approved list, you would face a copayment of $60 per prescription. So we had copayments for prescriptions of $10, $40, and $60.

The current language, which has been changed in the Graham-Kennedy amendment, changes the last part. It changes the copayment for the brand name drug, which is not part of your health plan's approved list. The amendment now says that your prescription drug plan will not cover any brand name drug that is not on your health plan's approved list. In that case, you have to pay the full price of the drug. Here is the key language on page 30 of the amendment. We have it blown up here so Members can see it, even though they don't have it available to them to read out of the bill:

> Beneficiary responsible for negotiated price of nonformulary drugs: In the case of a covered outpatient drug that is dispensed to an eligible beneficiary and that is not included in the formulary established by the eligible entity for the plan, the beneficiary shall be responsible for negotiated price for the drug.

Now, you got it right. The new plan does not cover brand name drugs, unless they are on your drug plan's approved list. You, the Medicare recipient, would have to pay for the drug out of your own pocket. Well, you might say that should not be too big a problem. But let's get into it a little deeper and you will see what is a further change in the bill and how the two of them tie together and cause problems.

The other shoe drops on pages 61 and 62 of the Graham-Kennedy amendment. Let's look at the legislative language in this case:

> The eligible entity (health plan) shall include at least one, but not more than 2, brand name covered outpatient drugs for each therapeutic class as a preferred brand name drug in the formulary [or the approved list].

That means that under the current plan in the Democrat proposal, your health plan cannot include more than two name brand drugs for arthritis. Your plan cannot include more than two brand name broad antibiotic drugs, or not more than two brand name narcotic pain killers, or antiseizure drugs, or diabetic drugs, or hypertension drugs. In any case, it is no more than two.

So look at what happens when you combine what you see on page 30 with what you see on page 62. If you need a name brand drug and if that brand name drug is not on the list of two on your approved list, then you are out of luck. Your new wonder drug plan here from the Democrats doesn't cover that drug. You would have to pay the full cost out of your pocket. So here is what that would lead to. Suppose you use an antihistamine every day and your health plan chooses to cover Allegra or Zyrtec, but not Claritin because it is limited to only two brand name antihistamine drugs. If you prefer Claritin because it clears up your symptoms better—just today, I was talking to an elderly person who was having problems, and I asked that person what they were taking because it obviously wasn't working. They told me it was one of the two that I mentioned here. I suggested maybe he try a Claritin D, since it seems to work better for me; certain drugs may work differently on different people, and doctors prescribe different brand name drugs. If the one you need the most is Claritin, which is not on the list, but these other two are—and you also have the Claritin reditabs—then you would have to pay $68 more per prescription to get the drug that has been prescribed to you, which is your choice, or the one you need.

Now, that, of course, is a concern if you are in that category. It gets even worse if you look at other examples. For instance, antiarthritics. Suppose you need Celebrex but your health plan, limited to only two drugs, chooses Vioxx or Enbrel. As many seniors with arthritis know, arthritis drugs are very particular. What works for one senior citizen doesn't necessarily work for another. The Graham amendment limits your health plan to two of these four drugs. So if you need Celebrex, you could be out of luck, and you would then have to pay about $90 per prescription out of your pocket in order to get this particular arthritis drug.

And then it can go into other areas, too; for instance, antidepressants. Under the Graham amendment, only two antidepressants would be covered. If you needed one not on the list, you would have to pay the cost out of your own pocket. It could be—in the case of Prozac—$110 to get the particular drug that you might need.

Madam President, that is the plan we have before us. One thing that bothers me about it, too, is who decides exactly what two would be on this approved list? Is it going to be a board? What would be the criteria in deciding what two drugs would be on the list? This is a solution that I think causes a real problem. Some people say just take a generic. Substitute in a different brand name drug, they will argue. But sometimes you just cannot do it. Many times, drugs have specific effects on different people. So I think this is a major flaw that has been created by limiting or dropping out the $60 copayment per prescription, and then coming up with the two-drug limit.

I was going over this information this afternoon and I wanted Senators to know about this change. I know that everybody is trying to work toward the right end result and with good intentions. But I do think that what is happening is you have limited choices and you guarantee that many seniors who need these specific drugs—Prozac is as good an example as you are going to find, where you would have to come up with a significant cost—$110—for the drugs.

Before you vote tomorrow afternoon, I urge my colleagues to look at the changes that have been made. I presume they were made because of the cost impact. But you need to also look at what the medical impact is—the result of the decision that has been made. I urge my colleagues to vote against it on this basis, as well as on many others.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I yield 30 minutes to the Senator from Florida, and I think I still have 12 minutes or so remaining?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Florida is recognized.

Mr. GRAHAM. Madam President, I hope the minority leader might be able to stay on the floor so he would not run the risk of being unable to sleep tonight, as he tosses and turns, concerned about the fact that we have provided, as almost every private health care plan does provide, for a specific formulary as to what will get the benefit of the preferred $40 deductibles.

At an appropriate time in my remarks, I am going to go into this in more detail, and I will also direct the Senator's attention to other language in the pages from which he was quoting, which indicates that we are sensitive to exactly the concerns he has expressed; we have, in fact, provided a means by which other drugs that are found to be clinically necessary would be added to the list of those which could be secured at the $40 copayment level.

I think the Senator from Mississippi will find many of the remarks I am about to make to be informative, insightful, possibly requiring a reassessment of position and hopefully tomorrow at 2:30 p.m. to see him march proudly to the front of the Chamber and cast a vote in favor of the Graham-Miller-Kennedy bill. We would be honored to have that vote and would even keep the list of potential cosponsors open for his possible signature.

One of our colleagues has specifically asked that I request unanimous consent that he be added as a cosponsor: Senator AKAKA. I make such a request on his behalf.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I thank the Chair.

Last Thursday, the 18th of July, Senators KENNEDY, MILLER, CORZINE, and I offered this amendment to provide affordable, comprehensive, and reliable prescription drug coverage for the 39 million older Americans and disabled citizens who are currently covered by Medicare.

I have an interest in all Americans who will benefit by the adoption of this proposal. I have a particular interest in the 2,750,000 of these Americans who call their home Florida.

I do not wish to repeat the remarks I made last Thursday, so let me just recap some of the principles that we think are important and should be the touchstone in evaluating any plan that is proposed for prescription drugs.

We believe these principles include: a modernization of the Medicare Program; providing beneficiaries with real benefit; giving to the beneficiaries real choices; using a delivery system that seniors can rely upon and is affordable for the beneficiaries; and a program which is fiscally prudent.

I also outlined last Thursday our specific proposal and indicated how it complied with those principles of a prescription drug program for Medicare.

What does our proposal provide? We guarantee a universal benefit to all seniors, no matter where they live; that if they determine it is in their interest to voluntarily elect to participate in the prescription drug plan, they would pay $25 per month for that participation. Having done so, assistance would begin with the very first prescription. There is no deductible. They would pay a predictable copayment. For the year 2005, the first year that this program would be operational, the seniors would never pay more than $10 for a generic drug and $40 for a medically necessary brand-name drug.

Medicare beneficiaries can also rest easy knowing that they would never pay more than $4,000 in a year for their prescriptions. Seniors with incomes below $13,290 for an individual and for couples below $17,910 annual, if that is your income, then you would receive additional assistance, including the waiver of copayments for those who are below 135 percent of poverty.

We would also be able to guarantee that this benefit would be available to all seniors because we use a system to deliver the drug benefit that is as tried and true as the 37-year-old Medicare Program itself. It is the same system that you and I and all Members of the U.S. Congress use to receive their prescription drugs through the Federal Employees Health Benefits Program.

We rely on pharmacy benefit managers, or PBMs, to deliver and manage our drug benefit. PBMs are private commercial companies that negotiate with the pharmaceutical companies to get discounted prices. These companies are currently providing drug benefits through public and private employer plans in every zip code in America, and they would work as well for our seniors as they do for Federal employees, private sector employees, and Members of Congress.

What I wish to do this afternoon is focus first on what I think are some of the key concerns raised by the Republican plan and then respond to some of the questions which have been raised, such as the questions raised by the Senator from Maine, who is in the Chamber now, and the Senator from Mississippi.

These key problems raised about the Republican plan include its reliance on a yet-to-be-created delivery system, the gaps in coverage, and their test of beneficiaries' assets, which will make it difficult, if not impossible, for many of our low-income seniors to get the drugs they need because even though they will qualify for special assistance based on their income, they will be rejected because they have too many assets.

Let me discuss each of these principal flaws in some detail.

Our Republican colleagues have criticized our proposal for being an integral part of the Medicare Program. Instead, they would use the prescription drug benefit to begin privatizing the Medicare Program; they would give the important task of delivering prescription drugs to private drug HMOs.

I have grave doubts about the private insurance model for prescription drugs for the very basic reason that it has never been done this way. There is no place we can turn to say: How has a private insurance subsidized plan for only prescription drugs worked? If there is such a plan, if there is someplace that we can turn to inform our judgment on this, I would ask for the name of the company, its address, and its telephone number so we might call and ask some of the questions that concern us about how such a plan would work.

I am afraid we will find there is no name, there is no address, and there is no telephone number. Private insurance plans have had every opportunity to offer drug-only insurance plans, and yet not one has stepped forward to do so.

Private insurers simply have no interest in providing drug-only benefits. Why are they not interested in drug-only benefits? Let me use an analogy to the private insurance market as it relates to casualty insurance.

Most of us who own a home have insurance on that home to cover risks, such as fire or windstorm damage. You can call State Farm and ask whether it would offer a kitchen-only casualty insurance policy, or would it offer a policy that would only cover that back room which is next door to an old and frail tree that might blow over in a storm and fall on the rear of the house. The answer to that is obviously no. State Farm and any other casualty insurance company would consider insuring your whole house, but they are not going to insure a specific room and particularly a room that is probably more vulnerable than other parts of the house.

This is exactly what is being asked of insurance companies as it relates to offering a prescription drug-only plan. Prescription drugs happen to be the fastest growing segment of total health care costs in America. When Medicare was established in 1965, the average older American spent $65 on prescription drugs. I am not talking about $65 a week or $65 a month. I am saying $65 a year was the average amount that seniors spent on prescription drugs.

That number has increased by a factor of 35 in the history of Medicare, the fastest growing segment of health care in America. That is why insurance companies have been unwilling to offer a prescription drug-only private insurance policy.

This is what we are going to require as the model for delivery under the Republican proposal.

About a year ago, I invited a group of chief executive officers of pharmaceutical companies to come into my office to talk about the various plans and specifically the method of distributing prescription drugs. I asked these executives a fairly simple question: How do your employees get their prescription drugs? Do they get them through a drug-only private insurance plan? Do you rely on drug HMOs for your employees, for you and your family to get these drug benefits?

The answer from each of the CEOs was the same. No.

Why not, I asked.

The answer was: No such plan exists.

So I asked this question: Why do we want to impose this untried system on our Nation's seniors? Why should they be the guinea pigs in some vast theoretical laboratory experiment of a plan that has never been tried?

I am particularly concerned about how the Republican HMO drug plan will work in rural areas of which, in my State, in the State of the Presiding Officer, in virtually every State, is a significant amount of our population. We have to look no further than the Medicare+Choice system—these are the full Medicare HMOs—to see how rural areas would likely fair.

According to the Congressional Research Service, 94 percent of Medicare beneficiaries in rural areas have no access to Medicare HMOs. Why is this the case? In significant part, it is because rural beneficiaries on the whole tend to be older and sicker than other senior Americans. Therefore, it is more difficult for a private insurance plan to spread its risk. Most of the beneficiaries served in rural areas are considered high-risk beneficiaries. A likely result of the prescription drug model that relies on drug HMOs is that seniors in rural areas will pay higher premiums than beneficiaries in urban areas, if they are able to get any coverage at all.

In addition to questioning whether a drug benefit would actually be available if we rely on drug HMOs as proposed by our Republican colleagues, I have great doubts about the affordability of any benefit that is offered. Why is that? Because the drug HMOs get all the choices when it comes to the benefit they would offer.

We cannot tell our seniors what the Republican prescription drug benefit is. No place in their bill does it tell us what premium the seniors will be charged. It does not say what the deductibles and coinsurance levels will be. They are only "suggestions."

My Republican colleagues talk about providing choices. What they do not tell us is they give all the choices to the private insurance companies. Under the Republican plan, our seniors will pay different premiums depending on where they live. Under the Republican plan, the drug HMOs determine what the premiums will be, not the Medicare Program.

If it is not troubling enough that the insurance industry would be making these choices about what the premium is, what the deductible is, what the cost sharing will be, consider this: The Republican plan would spend precious resources to lure private insurers into the market. Instead of using these resources, Federal dollars, Federal taxpayer dollars, to ensure an affordable drug benefit for all seniors, they would use them to induce private drug HMOs to participate in the system.

My concerns about the Republican plan are not based on speculation but on lessons learned in Nevada, which began offering seniors a drug benefit. The Nevada plan, while it has significant differences, is the closest example we have to the Republican plan that will be voted on tomorrow. We know from Nevada's experience that what seniors want is an affordable drug benefit, not a requirement that they analyze multiple and confusing plans with different premiums, deductibles, and cost sharing.

Let me give this piece of history: When the State of Nevada originally offered seniors a multiple choice plan of drug benefits, how many seniors in Nevada signed up for the plan? The answer is 124. That was the total number of seniors in a relatively large State in our Nation who wanted to sign up for this multiple benefit plan. When the program was restructured and seniors were given one defined benefit plan, when they knew what they were going to get, how many people enrolled? Over 6,000.

We also know from Nevada's experience that private insurers will not participate in the Republican model unless there are high profits to be made, dollars that could have been used to make the benefit more comprehensive or more affordable. In order to get a private insurer to participate, the State of Nevada had to pay the plan $106.54 per member per month, even though the member's actual drug cost averaged only $37.64 per month. That is a difference of nearly $69 per member per month, $69 that could have been used to offer a better benefit, cover more seniors, give an earlier catastrophic benefit.

Even after adjusting for administrative and other costs, the State calculated that the private plan had a profit of $1 million over a 6-month period to serve a mere 3,000 beneficiaries.

My Republican colleagues would repeat this mistake but on a massive scale. Rather than assuring that the money is spent on a drug benefit and is used to maximize drug coverage for seniors, the Republican bill would allow the money to be siphoned off to induce insurance companies to participate when they have indicated by their past behavior they do not want to participate.

I also have grave doubts that seniors would get the drugs they need if they were to adopt the Republican proposal. Under their approach, the fewer drugs used by seniors, the higher the profits for private insurers.

We hear a lot about the idea of transferring risk, insurance risk, to the private insurance companies, and because they will be responsible for this risk, therefore they will be more aggressive in containing costs. I find it a little disingenuous that this plan, which is supported by almost all the major pharmaceutical companies, has as one of its recommendations to be adopted that it is going to be more effective in containing costs.

We have all heard the argument of the fox in the chicken coup. I think we have an example of that with the pharmaceutical company saying they support the plan with the principal benefit being its capacity to reduce pharmaceutical costs.

Private insurance companies, in my judgment, have exactly the opposite goal. They are likely to want to restrict the drugs that the senior wants and needs because that is the way they can maximize their own profits. We need to listen to what our seniors have to say about privatizing Medicare before we go down this path.

In 2001, a senior lady from Cincinnati, speaking before one of our major senior groups, said the problem with privatizing Medicare is these insurance companies will make the rules and you will live by the rules. You will not have any representative if you go to an insurance company and tell them you do not like the way they are doing something. Do you think they are really going to care?

It is not just the delivery model, however, which worries me. It is also the benefit design in the Republican plan. In fact, the phrase "truth in advertising" should apply. If we are going to pass the Republican bill, we better be prepared to tell the truth. We better be prepared to tell seniors that they will face an enormous gap in the benefit, a gap which some people have referred to as the doughnut hole.

This is Freda and Coleman Moss of Tampa, Florida. Freda is 80 years old. Coleman is 84. Freda has had serious health problems. She spends, on average, $7,800 on prescription drugs every year. Under the Republican plan, from about mid-June until the end of September, roughly a third of the year, she will be getting no help at all. The reason is that the Republican plan has this gaping gap in coverage. During that period when she is getting no benefits at all, however, her monthly premiums are not suspended; she continues to write that check out every month for monthly premiums. But while she is in the gap, the doughnut hole, she will get no benefit. How could this be?

The Republicans insist the doughnut hole is so small, they would like to call it a bagel hole. Let's call it what it is: It is a gimmick. It is a gimmick which helps to lower the cost of their bill at the expense of seniors getting the drugs they need.

It is important to understand what is really going on in the gap. They say this little bagel hole of a gap is only between $3,450 and $3,700, or $250. Is that really the size of the gap?

Madam President, we will now talk a little arithmetic. If anyone would like to settle back and relax, this is a good time. Let's look at how the Republican plan works.

Beneficiaries have to reach a point where the total spending—the spending of you, as the beneficiary, the Federal Government, and any other source—reaches a level of $3,450. Once you reach that point, you receive no assistance for your prescription drugs until you spend, out of your own pocket, $3,700.

How does the math work? To get to the $3,450 level, the out-of-pocket expenditures by the beneficiary will be, first, a $250 deductible. You have to pay that before you get any assistance. Then, between $250 and $3,450, you pay half and the Federal Government pays half. You pay $1,600 and the Federal Government also pays $1,600. By the time the combined expenditures reach $3,450, you pay $1,850 out of your pocket—the deductible plus the $1,600.

In order to get out of this doughnut hole, you have to have total expenditures out of your pocket of $3,700 or an additional $1,850 beyond the $1,600 you already paid. So you will have to pay a total of $3,700 before you escape what is not a bagel hole, what is not even a doughnut hole, what is really a Grand Canyon of a gap. That is devastating.

Let us consider the case of Freda. After spending $250 for the deductible, she would pay 50 percent for each prescription drug prescription until the total drug cost was $3,450. Freda would spend $1,600 in addition to the deductible, for a total of $1,850 from her own pocket. Freda already spent a lot of money. But guess what is coming. While she is in the gap, she pays 100 percent for every prescription to get her from a total of $1,850 that she has already spent to the $3,700 she needs to get to cross the Grand Canyon and remove herself from the gap. That means she will have to spend $1,850.

During this period of time, she is paying for all of her prescription drug costs, paying her monthly premiums. The gap is confusing. But one thing is certain: It is no small amount. Most years, Freda would pay 50 percent of her prescription until about June 15. This is out of the $7,800 which is her average annual prescription drug cost. Then for 3 months—assuming she could, in fact, afford to pay 100 percent for the drugs she needs and would not have to cut down on prescription drugs in order to afford food, rent, and the other necessities of life—she would be paying that next $1,850 out of her pocket. It is a big assumption that she will be able to do that.

Freda and Coleman Moss have a monthly income of $1,038. Freda would have to spend 65 percent of the total income she and her husband share during these 3 months she is in the gap in order to pay for prescription drugs alone. It is not hard to imagine Freda would not be able to get the drugs she needed during the time she was in the gap.

This gap is bad medicine for Freda Moss. It is bad medicine for America's seniors. The gap is a gimmick that lowers the cost of the Republican plan at Freda Moss's expense. I am not going to inflict this gap on Freda Moss, on Coleman Moss, or any of the other 816,000 Floridians who would fall every year into this benefit gap.

To my colleagues on the other side of the aisle, I say, let's be truthful about what we are doing to our seniors. If you think it is too expensive to offer the plan you are offering, be honest. Raise the monthly premiums. Increase the $250 deductible. Increase the percentage of coinsurance that the senior has to pay. But do not hide it in the middle of the benefit program to tell Freda Moss: From June 15 until the end of September, you have to pay 100 percent of your prescription drug costs. The fact is, she cannot afford to pay 100 percent of her prescription drug costs.

The third key fault in the Republican plan is the assets test.

I ask Senator KENNEDY for an additional 10 minutes.

Mr. KENNEDY. We will do 20 minutes evenly divided.

Mr. GRAHAM. Senator KENNEDY has talked extensively about the assets test, so I mention it briefly.

It is a mirage to tell low-income seniors they are going to get access to the benefits of reduced or, in some cases, no copayments because of their limited income when we then impose, for the first time in the history of Medicare, an assets test that says if you own something as basic as a $1,500 burial fund, so she might be buried next to your loving spouse, that makes you ineligible to get any of the low-income benefits.

It has been estimated that one-third of the 11 million seniors who would otherwise qualify for some special assistance because of their low income would be denied that assistance because they would not comply with the assets test.

I will briefly touch on some of the criticisms the Republicans have made about our plan: First, the plan is too costly; that we cannot in our rich society afford to provide to our older citizens what is now a fundamental part of a comprehensive health care program. I do not believe that is the America we live in today.

The Republicans have thrown around some numbers as to what our bill will cost. Let me say that we have a CBO number, a Congressional Budget Office number, which they do not have in their plan. It is that, assuming that the underlying generic drug bill is passed, which will encourage generic drug use, our plan for the first 8 years will cost $407 billion and for the full 10 years will cost $576 billion. Is this a cheap proposal? The answer is: No. A cheap proposal means meager benefits, less than universal coverage, less than comprehensive coverage. That will not do for America's seniors.

But rather than looking at the cost of our drug proposal in isolation, let's put it in context. What are we currently paying? What percentage of the cost are we paying for all the other health care benefits that seniors receive through Medicare? The answer is approximately 77 percent. That is what we are paying for doctor care, hospitalization, all the things that Medicare covers. If we were to cover 77 percent of prescription drugs, this plan would not be costing $594 billion over the next 10 years. It would cost more than $1 trillion over the next 10 years.

We also maybe should look at ourselves. We are all participants in the Federal Employees Health Benefits Plan. If we were to give seniors the same benefits that we get as Members of the Senate, with an average income that is 10 times what the average income of senior Americans is today, this plan would cost $750 billion. We are talking about, over 10 years, $596 billion.

The reality is that the benefits of prescription drugs do not come cheap. The cost of prescription drugs is the fastest growing component of every health care plan, the private sector, the public sector, and it will be a significant part of any decent Medicare prescription drug benefit. That is what the debate that we had last week was all about.

Are we going to pass generic drug, patent reform, reimportation, State group purchasing—all of which are designed to give to all Americans, including senior Americans, greater access and affordability to a very expensive part of our national budget today, prescription drugs? The reality is the plan that our Republican colleagues have offered will cover less than 25 percent of seniors' drug costs. That is based on the latest estimate that their plan will cost, in the range for prescription drugs, of $330 billion to $340 billion. And the total drug expenditures by seniors over the next 10 years will be $1.3 trillion.

Our plan would provide almost twice the amount of coverage as the Republican proposal. It would provide $594 billion of the $1.3 trillion that seniors are going to spend on prescription drugs in the next 10 years.

In my opinion, as costly as this is, it is not an extravagant benefit. It is far less than the 77 percent that we are covering for other medical services, and it will provide critical assistance to our seniors.

It has been argued that seniors would pay more in copayments. The reality is seniors prefer to have their drugs acquired through a known amount per prescription, rather than through the unknown of a percentage of an unknown actual amount.

If seniors go to the doctor and get a prescription, they are unlikely to know what that prescription is going to cost. But they do know if it is a generic drug it is going to cost them $10, and if it is a brand drug it will cost them $40. They like that degree of reliability and security.

It has been said that this is a Government-run price control system. This is not a new argument. It is not an argument about prescription drugs through Medicare. This goes to the heart of whether America should have a Medicare Program at all. This debate was ongoing before Medicare was adopted. It was an argument which kept Medicare from being adopted for many years. And it has been an argument that has continued since Medicare was established in 1965. We should not forget that Republicans voted against the creation of the Medicare Program in 1965, and they have made their thoughts about Medicare very clear since then.

Just listen to some quotes by prominent Republican leaders. In 1995, then-majority leader of the Senate, Senator Bob Dole, said:

> I was there fighting the fight, voting against Medicare in 1965 because we knew it wouldn't work.

Former Republican Speaker Newt Gingrich, speaking on Medicare in 1995, said:

> Now we didn't get rid of it in round 1 because we don't think that it's politically smart and we don't think that's the right way to go through a transition. But we believe it is going to wither on the vine because we think people are voluntarily going to leave it.

Republican House majority leader DICK ARMY said Medicare was "a program I would have no part of in a free world."

He deeply resents the fact that "when I am 65 I must enroll in Medicare."

Somebody should tell him that Part B of Medicare, as well as this drug benefit, are voluntary. If he chooses not to enroll, that is his election.

I have news for my Republican colleagues. The Medicare program, as it is administered, has worked. Let me tell you a few of the successes.

Since its creation, Medicare has provided health care coverage for more than 93 million elderly and disabled. Medicare has made a dramatic difference in the number of seniors with health insurance. In 1964, the year before Medicare, half the seniors were uninsured.

Today, 97 percent of seniors have health insurance. Medicare has lifted countless seniors out of poverty, has expanded access to high-quality care for minority seniors, has improved the quality of life for seniors by providing access to procedures such as cataract surgery, hip replacement, cardiac bypass surgery, and organ transplant.

We have the Medicare Program in part to thank for increasing the average life expectancy available to Americans. A 65-year-old woman who is entering Medicare today will live 20 percent longer than her counterpart who became 65 in 1960.

It is Medicaid, making the miracles of modern medicine accessible and affordable, not private insurance, that made these advances possible. It wasn't private insurance plans that stepped to the plate in 1965 to provide health insurance coverage for seniors. In fact, they didn't want to cover seniors. That was why Medicare was established.

I wish I had time to go into more detail on some of the reactions of seniors toward these plans and why virtually every major senior group has supported our plan. I wish I had greater opportunity to respond specifically to the concerns of the Senator from Mississippi, and hope I will have such an opportunity before we vote. But let me just conclude.

This debate is not about programs. This is not about charts. This plan is about human beings, our parents and our grandparents. It is about working Americans who are paying the cost for their elderly family members' prescription.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Mr. President, I appreciate your indulgence and my colleagues' indulgence. I hope tomorrow we will grasp the rare opportunity we have to give greater security and comfort to our senior citizens by their knowledge that they will now have affordable and accessible opportunities to experience the miracles that prescription drugs make available, and that they will be there for them in a reliable manner, in a manner with which they are familiar—tried, tested, and assured.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I believe I have 12 minutes remaining. I welcome the opportunity to inquire of my friend and colleague. I have a question or two about the legislation and some of the points that were raised earlier this evening.

I believe all of us who have listened to the Senator from Florida commend him for a superb presentation. I particularly welcome the final comments he made with regard to what this debate is really all about: It is about real people. It is about a great generation. It is about seniors who have made a difference in building this Nation, who fought in the wars, who fought in World War II, who brought us out of the Depression, and who really made this country great. The Senator brought us back to that element. I certainly welcome it.

All of us will be voting tomorrow, and hopefully we will keep that in mind.

We heard earlier in the debate and the discussion that the proposal of the Senators from Florida and Georgia misleads the seniors of this country because it is going to sunset in several years. Therefore, we are misleading our seniors by promising them one thing today that after a period of years, by 2010, will not be available to them.

I am wondering if the Senator would agree with me that if we had an authorization on Medicare back in 1965—say it was 6 or 7 years, and we came back to debate that—we certainly would have gotten a prescription drug benefit for seniors in this country much earlier than we are now able to, if we hopefully can get this passed. Does the Senator not agree with me that we would have assured some action? Will the Senator not agree with me that in 7 or 8 years we will have the opportunity to find out what needs to be done with this program to make it fairer and more effective for the seniors, and that this would be a welcome opportunity to do so?

We should embrace this concept rather than retreat from it. I would be interested in the Senator's reaction.

Mr. GRAHAM. Mr. President, one of the enigmas about Medicare and why it has fallen so far behind other major health care plans, such as the one that the Senator and the Senator from Maine and I participate in, along with Federal employees—one of the reasons is the system was established in 1965 and has not been forced to defend itself by making those changes which are required to continue to be a modern health care system.

It is not only the absence of prescription drugs but the whole array of preventive measures. You would be shocked and appalled to know that, for instance, illnesses such as prostate and various forms of cancer for females, as well as colon cancer, have only in the last few years been added to the list of preventive services available through Medicare, and that a long, long list of items continue to be uncovered.

If we had had a requirement that forced us to periodically look at this program as we, for instance, are now looking at Welfare to Work, which in 1996 said after 6 years it had to be reexamined and reauthorized—we are going to do so, and I think it will be a better program because it wasn't on autopilot. It had some real thoughtful considerations, analyses and improvements.

Mr. KENNEDY. I couldn't agree with the Senator more.

Let me get to the issue of cost of the program. I have listened with great interest to the debate from the other side about their $24 monthly premium. Yet, I have great difficulty in reviewing their proposal and finding where that $24 is even mentioned. Of course, it is not mentioned, because it is an estimate, as they indicated. But the premium is written right into the law on page 26 of the Senator's bill. Then on page 28, the cost of generics, $10, is listed and then the cost for the preferred, $40, is listed. It is written right into that bill.

Has the Senator, in his examination of the alternative, seen any statement or indication of that kind of precision reflected in the Republican bill?

Mr. GRAHAM. The answer is no. It is because they start from a fundamentally different position. Our bill is what would be described as a "defined benefit." You know what you are going to get, and you can rely on it.

The Republican bill is a defined contribution. The Federal Government will subsidize private insurance companies, if some can be found that would be willing to provide a prescription drug-only benefit. Therefore, it is going to be up to the insurance companies to say what the monthly premium and the deductible will be.

This is a chart which talks about what the costs would be for some of the major brand-name drugs. We can tell you with precision what they will be under our plan. A whole period of question marks are under the Republican plan because the insurance company can say we may cover 50 percent of the cost, or we may only cover 40 percent of the cost, or we may only cover 25 percent of the cost. It is up to the insurance plan.

Mr. KENNEDY. So they have no idea today. It will be left up to the insurance companies. They will make that decision.

This is an estimate—and a favorable estimate—that they are making on this side; whereas under the Graham proposal, it is explicit.

I would like to move on to another area that was talked about by the Senator from Mississippi and others regarding the formulary issue.

Let me see if I understand what is in the Graham proposal. In the Graham proposal, it says that all generics included in the therapeutic class must be on the formulary, and at least one brand-name drug but no more than two in the therapeutic class must be in the formulary. It is designed, obviously, to obtain the deepest discounts. That is obvious. But if you need a drug that is not in the therapeutic class, you can still get it at a formulary price, as I read on page 29 of the Graham bill.

I thought the Senator from Mississippi missed this element. It says: The eligible entity shall treat a nonformulary drug as a preferred brand-name drug, if such nonformulary drug is determined to be medically necessary. The cost of that drug would then be $40. If it is medically necessary under the Graham proposal, seniors will be able to get it.

This is what was missing from the debate and discussion with our friend from Mississippi earlier.

Mr. GRAHAM. There are two rates. One is what I would call the retail rate, and the second is the wholesale rate. Insofar as the overall expenditures for individuals, if it is determined that individual requires a specific drug, which is not on the formulary, and it is medically necessary for that individual, then that particular drug will be treated as a preferred drug. Therefore, the maximum amount of copayment would be $40.

But, on the wholesale level, if you would turn to page 62 of our legislation, it says that at least one but no more than two brand-name drugs shall be included for each therapeutic class unless—this is line 2 through 4—the Secretary of the Department of Health and Human Services determines that such limitation is clinically inappropriate for a given therapeutic class.

If the Secretary of HHS determines that, let us say in the area of antidepressants, there needs to be more than two in order to be clinically appropriate, he or she has the authority to order that there will be whatever number of drugs within that therapeutic class are required.

Let me point out, as the Senator already knows, that because of the defined contribution nature of the Republican plan, there is no assurance that even two drugs in any therapeutic class will be offered under their plan. As I understand it, the insurance companies, rather than the Department of Health and Human Services, will determine what the therapeutic classes will be.

So one insurance company may say, we will use a very broad definition of therapeutic class, another may use a narrower definition, and, therefore, affect the number of drugs that are realistically available.

Mr. KENNEDY. Does the Senator agree with me that there is no requirement for a generic formulary in their proposal whatsoever?

Mr. GRAHAM. Again, it is a leap of faith as to what you are going to have, whereas ours is a defined benefit.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. We had additional time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Both times? I had 22 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. May I have 2 more minutes, just on this point. I ask unanimous consent for that, and the same additional time for the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Just so we understand this, on page 37 of the tripartisan bill, in the formulary determinations, they say:

> An individual who is enrolled in a Medicare Prescription Drug plan offered by an eligible entity may appeal to obtain coverage for a covered drug that is not on a formulary of the eligible entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

But there is no price limit on this, as I understand it. There is no price mentioned in here, in contrast to the Senator's provisions that have been included in his legislation.

His legislation provides what is medically necessary and then goes on to indicate what the costs will be, to ensure that they are reasonable. In the other bill, seniors may have the ability to get what is medically necessary, but there is no indication about what the cost would be, as I understand it.

Mr. GRAHAM. That is true, I say to the Senator. What you have just said contributes to a recent poll, done by the Kaiser Family Foundation in May of this year, which asked Americans: Which kind of plan did they want?

For Republicans in America, 58 percent said they wanted a defined benefit plan; only 33 percent wanted the Republican plan as is offered today. Among Democrats, 71 percent wanted a defined benefit and 23 percent preferred the Republican plan. Among Independents, 72 percent—even more than Democrats—wanted to have a defined benefit plan delivered by Medicare as a means by which they would get their prescription drug benefit.

Mr. KENNEDY. I thank the Senator. That is why I agree with the Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. That is why we have such strong support from seniors and why it is justified.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I thank my friend and colleague from Maine.

Mr. President, I ask that she be entitled to whatever additional time she needs.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Ms. SNOWE. Mr. President, I just want to make several comments in response to some of the issues we have discussed today regarding the two competing plans.

What is most important about this debate is that we have the ability to discuss the programmatic differences in policies that each of our approaches have taken with respect to delivering this prescription drug benefit plan.

First and foremost, I should say that the plan we are offering is a tripartisan plan. It was crafted by Senators BREAUX, JEFFORDS, HATCH, GRASSLEY, and myself as members of the Senate Finance Committee, primarily designed to overcome many of the partisan differences that might exist on this issue and, hopefully, to bridge the gap so that we have the opportunity to pass a prescription drug benefit this year.

I heard mention the issue about a doughnut that exists in our bill; that is, the gap between the benefit limit of $3,450 and $3,700.

First of all, 80 percent of those seniors who would be participating in this program—80 percent of the Medicare beneficiaries—would not even reach the benefit limit of $3,450.

In fact, I recall back in 1999, President Clinton proposed a drug benefit that provided for an initial benefit of $2,000. We are at $3,450. He had a much greater gap in coverage between that initial coverage of $2,000 and a catastrophic benefit, which was about a $3,000 gap. We are talking about $3,450, and a catastrophic benefit threshold of $3,700. But what could be a greater gap than having this most critical benefit to seniors sunset in the year 2010? In 2010 it expires. According to the legislation: No obligation shall be incurred, no amounts shall be appropriated, no amounts expended for expenses incurred for providing coverage of covered outpatient drugs after December 31, 2010.

The legislation goes on to say, provided, of course, the actual spending does not incur, so there is leftover you can use for a prescription drug benefit or the program itself results in lower expenditures. Nevertheless, it would require, in order to extend that most important benefit of prescription drug coverage, additional action by the Congress, obviously, to provide for the funding of that program. So it expires.

The second gap in coverage provided in this legislation offered by Senator GRAHAM is the fact there is a major omission of coverage for brand-name prescription drugs. There are more than 2,400 that exist. The Senator's legislation is limiting to, at most, two brand-name drugs in each therapeutic class.

So it is going to be very limiting at best because it will deny a senior the ability to have access to an alternative medication if it is not called for under this legislation. It either has to be generic or one of the two prescribed brand names.

As I mentioned earlier, there are many alternatives in a brand name category. Whether it is for arthritis or cholesterol or blood pressure, there are many options.

I heard it suggested, if it is defined as medically necessary, then it goes through a major process. It has to go through the Secretary of Health and Human Services. There has to be an internal/external appeals process, so there will be a review process underway.

I can imagine there would be quite a lineup if there were a number of views that would be required of the Secretary to make exceptions to this legislation.

So there will be a whole process that would be required in order to allow somebody to take a prescribed medication that has not already been stipulated under law, according to this legislation. That is very explicit in this particular proposal. I think we want to provide coverage similar to what Members of Congress and Federal employees currently enjoy: options, choices, competition, variation.

Frankly, the preference of variation is important because it then allows a plan, for example, to use innovation, providing for a certain type of drug or all generics, providing lower premiums than what we stipulate into law.

In our proposal we do have a standard benefit package described.

But what we also say is, we allow flexibility to design plans that can offer even a lower deductible than $250, even a lower premium than $24 a month. We want to vest that type of flexibility into the design of a plan that could provide the maximum amount of benefits to those seniors who need this type of coverage. There is no such thing as a one-size-fits-all.

The point is, in the proposal we have crafted, there is a standard benefit. In fact, the Congressional Budget Office has indicated that our standards of equivalence are strict enough that the Medicare drug plans will have very little room to vary from premiums of cost sharing. But they have the flexibility to design an even lower benefit in terms of deductibles or premiums. And don't we want to allow seniors to have the benefit of that reduced price? That is a result of competition.

That is why the Congressional Budget Office has indicated that prices for prescription drugs could actually increase under the Graham proposal, upwards of as much as 8 percent, if not higher, because there is no competition. As a result, there is no drive, no incentive to allowing for lower cost, because there are no competing plans. In a sense, the Government is delivering the plan through a pharmacy benefit manager, so restrictive that it does not allow for competing prices, and there is no incentive for keeping the prices of prescription drugs down. That is a major difference between our two plans. We want to offer the most choices, the most comprehensive, because we have preferred and nonpreferred drugs, lower copays in most all of the categories.

We have the lowest premium per month. We have the maximum amount of benefits to low-income seniors. We cover the donor for under 150 percent of the poverty level or below for seniors. We provide catastrophic at $3,700 a month. It is a permanent, fully funded part of the Medicare Program.

I hope Members of the Senate will consider very carefully the policy and programmatic differences that do exist between our two plans. They are very distinct.

I know it has been suggested that our system is untried. That is not true. We benefit from a system that is comparable to what we have designed in the tripartisan proposal, and it offers the maximum choices to our seniors.

We think it is important to create as a permanent part of the Medicare Program.

To provide for any limitation of that type is doing a disservice to our seniors. It is giving them a false hope to say that your benefit expires in 7 years, unless, of course, future Congresses decide to make a change. So we are predicating their future, their health care, on whether or not a future Congress might decide to extend that program. I really don't think that is the type of precedent we want to take. We have never created a temporary benefit under the Medicare Program—never. We have never created a temporary benefit, and we should not start now.

I know there has been some question about the assets test included in the tripartisan proposal. First of all, this assets test was not something that was newly created. It is included in the Medicaid Program. Yes, this assets test is used for some Medicare beneficiaries, the dual eligibles, the qualified Medicare beneficiaries, QMBs, and specified low-income Medicare beneficiaries. So an assets test was included in our legislation that is the equivalent of the assets test in the Medicaid Program that was supported by this Senate back in 1987 and 1986 with overwhelming support. So this is not unprecedented. It is not unusual. It includes the same type of waivers that are included in the current Medicaid Program.

I welcome the debate that has developed between the two competing proposals regarding prescription drugs. It is my sincere hope that we will have the ability to work through our differences beyond the threshold of tomorrow, the 60 votes. I hope, again, that this system and this process are not designed for failure, that neither side gets the 60 votes and, therefore, we move on to other issues and we defer this to another year. It has happened far too often.

This benefit is long overdue for our Nation's seniors. We negotiated this compromise in good faith, in the hopes that we could have worked through with our colleague from Florida, who I know has worked very hard, who is very genuine in his interest in developing a prescription drug benefit for Medicare beneficiaries—I would have hoped we could have worked through the process in committee, but that was not to be. So we are at a point now of whether we can reconcile our differences to move beyond the 60 votes and be able to work through the various amendments and reach a conclusion.

The seniors of this country deserve that. I honestly don't understand why we can't at this point in time agree to pass a prescription drug benefit program for Medicare beneficiaries. Our compromise wasn't designed to be an all or nothing or lines drawn in the sand. It was really an attempt in good faith, in the spirit of consensus building and compromise, because you can't do it without the other side of the aisle; there is no way you can possibly do it. That is why we started more than a year ago to develop this tripartisan proposal with the hope that we could have made this a reality for our Nation's seniors.

I urge my colleagues to give very serious consideration to what we have provided in this particular proposal for our seniors. Hopefully, we can come together and pass this legislation that is such an urgent need for the more than 44 million Medicare beneficiaries.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators permitted to speak therein for a period not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### THE KETCHIKAN VENEER PLANT

• Mr. MURKOWSKI. Mr. President, today I offer my congratulations and state my full support for the actions taken this week by the Ketchikan Gateway Borough in acquiring the idle veneer plant at Ward Cove. At a time when the regional economy is reeling from a long series of blows that go back to 1993 when the first pulp mill closed, the Ketchikan Borough showed exceptional leadership by stepping to the plate to retain this vital manufacturing facility in the community.

The importance of encouraging an increase in healthy wood products manufacturing facilities in Southeast Alaska cannot be overemphasized. Such plants are vital necessities for Southeast Alaska to have good, year-round, family wage jobs providing the economic backbone to its communities. Proof of this is readily seen in the current jobs picture. As a consequence of the Clinton Administration's actions, Alaska's 2 pulp mills and several sawmills were forced to cease operation, costing the region more than 3,500 direct timber jobs in the last 10 years. Add to that the loss of countless indirect jobs and you have a formula for economic disaster.

With Ketchikan's action, we now enter a new era. Its leadership will help Southeast Alaska embark on a much-needed recovery phase in which real jobs for real people can bring new life back to litigation-weary communities. I congratulate Ketchikan and pledge to help in any way I can.

A critical component of making the veneer plant a viable operation will be economic timber supply. A spate of lawsuits by environmental groups has artificially driven down the supply of timber and has even stopped timber sale planning on the Tongass. As quickly as possible, the Borough needs to conclude an agreement with a company to operate the veneer mill and together we must address the supply issue with the U.S. Forest Service.

To that end, I am calling today for the Alaska Regional Forester, Denny Bschor, to meet in a timely manner with Borough officials to reach an agreement to ensure a stable and sufficient supply of economic timber to enable the veneer plant and the sawmills of Southeast Alaska to succeed. The new Bush Administration owes Ketchikan a commitment to bargain in good faith to help the community succeed in rejuvenating its economy.

The Regional Forester has the statutory authority to offer timber under 10 year contracts, and I urge the Forest Service to conclude agreements using that authority. Furthermore, I call on all Alaskans to join me in supporting a 10 year sale for Ketchikan in recognition of the community's substantial leadership in restoring the regional economy.

The biggest impediment to making timber available is the plethora of lawsuits that have been systematically leveled against the agency. Those lawsuits, if not resolved soon, will result in more mill closures and further unemployment. The recent court injunctions on timber sales that have already passed environmental review highlight the need for longer term agreements.

The Tongass National Forest is fully capable of supporting the level of harvest needed to supply the region's mills without affecting the other legitimate uses of the forest. Less than 400,000 acres, only 2.4 percent of the Tongass, have been harvested since industrial harvest began in the 1950s. Moreover, each year about 800 million board feet of timber is lost to natural tree mortality on the Tongass. That is nearly 4 times the maximum annual harvest under the current management plan and 16 times the amount cut last year.

Under the Tongass plan, an average of less than one-half of 1 percent of the Tongass can be harvested in any given year. If offered in economic packages, that small part of the available resource can be sufficient for the needs of the existing industry. There is simply no reason the Forest Service should not make sufficient economic volume available to run a veneer mill and provide logs to the sawmills of South East Alaska. This action is essential to the operation of the veneer mill and sawmills, providing jobs and protecting families.●

## RECOGNIZING MONTANA'S LOCAL BROADCASTERS

● Mr. BURNS. Mr. President, I rise today to recognize the important role that Montana's local broadcast stations play in informing and serving their communities.

Local broadcast stations across the country serve their communities in as many different ways as there are communities. A recent study by the National Association of Broadcasters found that American local broadcast stations gave almost 10 billion dollars in community service last year. In Montana, it is estimated that local radio and television stations contributed 78 million dollars. These impressive numbers represented stations' Public Service Announcements, donated airtime, money raised for local and national charities and non-profits, and other community work. Montanans are fortunate to be served by stations that are so dedicated to their communities.

Today, I would like to recognize two of those stations for their outstanding service.

In Helena, KMTX–FM provided more than $15,000 to the Federal Emergency Management Agency's "Project Impact." This program works to promote local, grassroots initiatives that make American communities more disaster resistant. KMTX was so supportive that the station's general manager, Kevin Shaalure, was awarded the Outstanding Project Impact Media Individual. The local manager for Project Impact said, and I quote: "Kevin and KMTX embraced Project Impact from the start, working to give preparedness a high profile."

Montanans have a long tradition of helping those who are less fortunate and Montana broadcast stations exemplify this effort. KDBM–AM in Dillon, MT, collected 600 coats for area students in 2001 through its annual Coats for Kids drive. With collection boxes placed throughout Dillon and in neighboring Twin Bridges, the station encouraged its listeners to drop off coats, gloves, hats, and anything else to help keep local children warm. The coats were then distributed by school teachers to students and by the local Women's Resource Center, the Pioneer Youth Home and the food pantry.

I am proud of my local Montana stations. The United States system of free, over-the-air local broadcasting is the envy of the world and these stations show why. To them I offer my sincere congratulations.●

## TRIBUTE TO COL. GERARD W. SCHWARTZ

● Mr. HATCH. Mr. President, I wish to recognize and pay tribute to Col. Gerard W. Schwartz, former Chief of Staff of the Army Review Board Agency, who will retire on October 1. Colonel Schwartz's career spans three decades in which he distinguished himself as an outstanding soldier and leader.

A Utah native, Colonel Schwartz graduated from Weber State College and began his career in the Army as an enlisted soldier. Working his way up through the ranks, he earned his commission as a lieutenant of the Ordnance Corps through Officer Candidate School. During his career, he served in positions of increasingly greater responsibility, from battalion level through the Secretary of the Army. He has successfully trained and led America's soldiers at home and overseas.

Colonel Schwartz served in the Army during our operations in Grenada, Panama, Somalia, Haiti, Iraq and Afghanistan. His contributions during this period contributed immeasurably to the successes achieved by our forces and will have a lasting effect on the Army in the years to come. Most recently, he served the Secretary of the Army as the Director of the Military Review Board that administers a number of boards available to current and former members of the Army. He made sure that each board was administered with justice, equity and compassion as expected by the Congress. His character, mature judgment, wisdom, and amiable demeanor have earned him the respect and confidence of his subordinates, fellow officers and the General Officers he served with during his illustrious career.

Throughout his career, Col. Gerard Schwartz has demonstrated his profound commitment to our nation, his selfless service to the Army, a deep concern for soldiers and their families, and a relentless commitment to excellence. Colonel Schwartz is a consummate professional whose performance, in over three decades of service, has exemplified the courage, competency, and integrity that our nation expects from its Army officers.

I ask my Colleagues to join me in thanking Colonel Schwartz for his honorable service to the people and the U.S. Army. We wish the Colonel and his family Godspeed and all the best in the future.●

## CONGRATULATIONS ODYSSEY OF THE MIND FROM YARDLEY, PA

● Mr. SANTORUM. Mr. President, I rise today to recognize the accomplishments of a very bright and focused group of students: the William Penn Middle School Odyssey of the Mind Team from Yardley, PA. This team of seven children has returned from competition boasting first place out of nearly 700 teams from across the country and around the world. Their perfect score reflects their top performance in all categories of competition, and their exhibition of exceptional creativity has earned them the Ranatra Fusca Award for which the team's name will be placed on a trophy at the Smithsonian Institute.

Odyssey of the Mind is a creative problem-solving program for children of all ages, from kindergarten through college. Through regional, State, country, and international competition, participant groups spend the better part of a year working on a solution to one of five problems as devised by the program. Contestants compete with students of similar age and must meet a number of criteria which include: limiting expenses to a strict budget, building mechanical creations to accomplish specific tasks, writing and staging an original performance, and earning points from the judges based on their solution to the problem they have chosen, style in solving the problem, and their ability to spontaneously answer a problem on the day of competition.

Recycling trash and other discarded materials to build a set and costumes for their performance and to engineer a vaccuuming contraption and a water quality enhancer, the Yardley team focused on the issue of environmental preservation. With a theme based on "The Wizard of Oz," the characters of the team's sketch worked on cleaning up an imaginary environment found under a child's bed. The vision of Katie Barberides, Colleen Considine, Andrew Ettenger, Jamie Hale, Greg Plumb, Brianna Pollock, and Evan Verdini was awarded a perfect score from the judges on the three scored fronts. These seven critical thinkers clinched first place at the World Finals in their division, participants under 15 years of age.

I invite my Senate colleagues to join me in congratulating these young intellectuals on their enthusiasm for creative learning and the hard work they put into this problem-solving program. They represent the American spirit of ingenuity and should be very proud of their individual and team accomplishments. I wish them the best of luck in their future endeavors, and I hope they continue to enjoy learning skills through other innovative opportunities.●

## LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 23, 1993 in Brooklyn, NY. An Irish Gay and Lesbian Organization leader was stabbed. The assailant, a minor, yelled an anti-gay slur during the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

## CYPRUS 28 YEARS OF OCCUPATION

• Mr. REED. Mr. President, I rise to call attention to the 28th anniversary of the Turkish invasion and occupation in the Republic of Cyprus.

In 1974, the Turkish Government sent 35,000 Turkish troops in two separate actions into Cyprus, obstensibly to put down a coup attempt against Cyprus President Makarios and to protect Turkish Cypriots. However, after taking over 36 percent of the northern part of the island, Turkish troops remained. This led to the Turkish Cypriots declaring their own government, the Turkish Republic of Northern Cyprus; a government only Turkey recognizes.

Since then, the United Nations has maintained a buffer zone between the two land areas. The U.N. Secretary General has called Cyprus "one of the most militarized regions of the world." Despite the U.N.'s presence and numerous attempts at settlement, there have been many tragic results of the Turkish intervention: nearly 200,000 Greek Cypriots have been displaced, over 1,000 Greek Cypriots and 4 Americans remain unaccounted for, over 400 Greek Cypriots remain enclaved in the occupied area, and the Turkish troop presence continues. For this and other reasons, I was proud to cosponsor S.C.R. 28, calling for a U.S. effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

We should be heartened that it appears that the settlement process may be making some progress. Talks between Cyprus President Clerides and Turkish Cypriot Leader Denktash began in January of 2002 under the auspices of the U.N., and although they missed the June deadline for settlement, they have continued their dialog.

The U.S. must remain committed to the settlement process. A durable, comprehensive settlement that addresses the legitimate concerns of both sides and promotes regional stability would benefit Cyprus, the region, and U.S. interests. Cyprus is an important partner and friend of the U.S. Most recently Cyprus has cooperated in the fight against terrorism since September 11 and was of enormous help when it agreed to allow the 13 Palestians in Bethlehem to stopover temporarily on their final destination in the EU.

On the anniversary of the day Cyprus was divided we must renew our efforts to promote measures aimed at reunification and designed to reduce tensions and promote peace between the two communities.•

## TRIBUTE TO ALPHA COMPANY, 1ST BATTALION, 141ST INFANTRY

• Mr. HUTCHINSON. Mr. President, it is my distinct honor and privilege to recognize the Texans from San Antonio. Alpha Company, 1st Battalion, 141st Infantry, commanded by CPT Scott M. MacLeod, distinguished themselves as a premier force protection unit in providing flawless security for one of the U.S. Army's chemical munitions stockpiles. Captain MacLeod's Texas Army National Guard Unit was federalized in October 2001 and has provided force protection to a homeland security mission at Pine Bluff Arsenal, the only active Army installation within the State of Arkansas.

Soldiers of Alpha Company, 1st Battalion, 141st Infantry headquartered in San Antonio, TX, along with other elements of the 141st Infantry Brigade were mobilized as part of President Bush's homeland defense initiative and the war on terrorism. Under the professional and effective leadership of CPT Scott MacLeod, First Lieutenant Joaquin Campos and First Sergeant Jose Villarreal, the Chemical Site Defense Force surpassed their mission requirements from predeployment, through deployment, to postdeployment. During predeployment, these citizens quickly and selflessly assumed their role as full-time soldiers, and while deployed these soldiers braved the elements 24 hours a day, 7 days a week. All the while, the unit's morale remained high, and after 1 year, several soldiers volunteered for another year. This impressive accomplishment is particularly noteworthy since these citizen-soldiers were given a critical and extremely grueling assignment that kept them away from home for an entire year. When called on by their Commander in Chief, this proud group of Texans came to Arkansas, carved out defensive positions in the Arkansas wilderness, and put forth an inexhaustible effort toward the defense of our homeland. They literally have lived up to their motto, "Remember the Alamo."

It is with great pride that I have risen today to pay tribute to the more than 130 soldiers who make up the Texans from the Alamo. They have selflessly put their private lives on hold to answer the call of duty. Their presence at the Pine Bluff Arsenal has been a powerful deterrent to domestic terrorism and contributed immeasurably toward the domestic assurance of peace. The people of Arkansas are grateful for each soldier's dedication, and we are extremely proud to have had these great Americans as guests in our State over the last year. Alpha Company's remarkable performance in this critically important mission reflects great credit on the State of Texas and the U.S. Army.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

## PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIERRA LEONE AND LIBERIA FROM JANUARY 18, THROUGH JULY 17, 2002—PM 105

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to Sierra Leone and Liberia that was declared in Executive Order 13194 of January 18, 2001, and expanded in scope in Executive Order 13213 of May 22, 2001.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 22, 2002.*

## MESSAGE FROM THE HOUSE

At 4:31 p.m. a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1209) to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4687. An act to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

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## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–8070. A communication from the General Counsel, General Accounting Office, transmitting, pursuant to law, the Counsel's opinion of July 10, 2002 concluding that the Office of Management and Budget and the Air Transportation Safety Board violated the Antideficiency Act in January 2002 relative to apportionment of Budget Authority for America West Airlines; to the Committee on Appropriations.

EC–8071. A communication from the Acting Chief of Staff, National Indian Gaming Commission, transmitting, pursuant to law, the report of a rule entitled "Minimum Internal Control Standards" (RIN3141–AA24) received on July 18, 2002; to the Committee on Indian Affairs.

EC–8072. A communication from the Director, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 2002–2007; to the Committee on Energy and Natural Resources.

EC–8073. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Registration and Reregistration Application Fees" (RIN117–AA34) received on July 18, 2002; to the Committee on the Judiciary.

EC–8074. A communication from the President, American Academy of Arts and Letters, transmitting, pursuant to law, the report of activities during calendar year 2001; to the Committee on the Judiciary.

EC–8075. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Untreated Citrus from Mexico Transiting the United States" (Doc. No. 01–073–2) received on July 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8076. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Israel Because of BSE" (Doc. No. 02–072–1) received on July 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8077. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 and Food Stamp Provisions of the Balanced Budget Act of 1997" (RIN0584–AC45) received on July 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8078. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Obstetric and Gynecology Devices; Effective Date of Requirement for Premarket Approval for Glans Sheath Devices" (Doc. No. 99N–0922) received on July 17, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8079. A communication from the Director, Office of Safety Standards, Office of Maritime Safety Standards, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Occupational Safety and Health Standards for Shipyard Employment, Technical Amendments" received on July 17, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8080. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Persons Aging with Hearing and Vision Loss and Evaluation for the Changing Universe of Disability and Systems Change Activities" received on July 18, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8081. A communication from the Associate General Counsel, Central Intelligence Agency, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Inspector General, received on July 16, 2002; to the Select Committee on Intelligence.

EC–8082. A communication from the Associate General Counsel, Central Intelligence Agency, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Acting General Counsel, received on July 16, 2002; to the Select Committee on Intelligence.

EC–8083. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Subcontract Commerciality Determinations" (DFARS Case 2000–D028) received on July 7, 2002; to the Committee on Armed Services.

EC–8084. A communication from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report relative to a cost comparison to reduce the cost of the Aircraft Maintenance and Supply function at Eglin Air Force Base (AFB), Florida; to the Committee on Armed Services.

EC–8085. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the Board's report under the Government in the Sunshine Act for calendar year 2001; to the Committee on Governmental Affairs.

EC–8086. A communication from the Chairman of the Tennessee Valley Authority, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 2001; to the Committee on Governmental Affairs.

EC–8087. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001, through March 31, 2002; to the Committee on Governmental Affairs.

EC–8088. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–8089. A communication from the Chairman of the Counsel of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–412, "Cable Television Reform Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–8090. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–411, "Approval of the Franchise of Comcast Cablevision of the District to Provide Cable Service in the District of Columbia Act of 2002"; to the Committee on Governmental Affairs.

EC–8091. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the rule entitled "10 CFR Parts 20, 32, and 35, RIN 3150–AF74, Medical Use of Byproduct Material"; to the Committee on Environment and Public Works.

EC–8092. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Program of Delegation; Minnesota" (FRL7248–9) received on July 17, 2002; to the Committee on Environment and Public Works.

EC–8093. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; VOC RACT Order and Regulation" (FRL7243–2) received on July 17, 2002; to the Committee on Environment and Public Works.

EC–8094. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Arizona—Maricopa County PM–10 Nonattainment Areas; Serious Area Plan for Attainment of the PM–10 Standards" (FRL7141–3) received on July 17, 2002; to the Committee on Environment and Public Works.

EC–8095. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Beach Guidance and Required Performance Criteria for Grants" received on July 17, 2002; to the Committee on Environment and Public Works.

EC–8096. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Listing of Substitutes in the Foam Sector" (FRL7247–5) received on July 17, 2002; to the Committee on Environment and Public Works.

EC–8097. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Underground Injection Control Program Revision; Aquifer Exemption Determination for Portions of the Lance Formation Aquifer in Wyoming" (FRL7247–7) received on July 17, 2002; to the Committee on Environment and Public Works.

EC–8098. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District" (FRL7247–8) received on July 17, 2002; to the Committee on Environment and Public Works.

EC–8099. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Zinc Fertilizers Made from Recycled Hazardous Secondary Materials" (FRL8248–3) received on July 17, 2002; to the Committee on Environment and Public Works.

EC–8100. A communication from the Inspector General of the Environmental Protection Agency, transmitting, pursuant to law, the Annual Superfund Report for Fiscal Year 2001; to the Committee on Environment and Public Works.

EC–8101. A communication from the Chairman of the Medicare Payment Advisory Commission, transmitting, pursuant to law, a report on conducting Medicare demonstrations relative to Medicare's potential use of consumer coalitions—community-based, non-profit coalitions that provide information or negotiate on behalf of Medicare beneficiaries; to the Committee on Finance.

EC–8102. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Real Estate Mortgage Investment Conduits" (RIN1545–AW98; TD9004) received on July 18, 2002; to the Committee on Finance.

EC–8103. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Utilities—Investment Credit on Transition Property" (UIL 49.05–10) received on July 18, 2002; to the Committee on Finance.

EC–8104. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Internet Corporation and Subs. v. Commissioner" received on July 18, 2002; to the Committee on Finance.

EC–8105. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—August 2002" (Rev. Rul. 2002–48) received on July 18, 2002; to the Committee on Finance.

EC–8106. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Relief from Joint and Several Liability" (RIN1545–AW64) received on July 18, 2002; to the Committee on Finance.

EC–8107. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8108. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed Manufacturing License Agreement with Germany and Turkey; to the Committee on Foreign Relations.

EC–8109. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8110. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8111. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8112. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8113. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for India; to the Committee on Foreign Relations.

EC–8114. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8115. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8116. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8117. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8118. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8119. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8120. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8121. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8122. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8123. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–8124. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; North Pacific Ocean, Gulf of the Farallones, Offshore of San Francisco, CA" ((RIN2115–AA97)(2002–0126)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8125. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port Houston-Galveston Zone" ((RIN2115–AA97)(2002–0128)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8126. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA" ((RIN2115–AA97)(2002–0129)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8127. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Passaic River, NJ" ((RIN2115–AE47)(2002–0062)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8128. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Three Mile Creek, Alabama" ((RIN2115–AE47)(2002–0060)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8129. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Right to Appeal; Director, Great Lakes Pilotage" ((RIN2115–AG11)(2002–0002)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8130. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Hampton River, NH" ((RIN2115–AE47)(2002–0064)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8131. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Atlantic Intracoastal Waterway, Mile 1074.0 at Hallandale Beach, Broward County, FL" ((RIN2115–AE47)(2002–0063)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8132. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Eastchester Greek, NY" ((RIN2115–AE47)(2002–0065)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8133. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Temporary Requirements for Notification of Arrival in U.S. Port" ((RIN2115–AG24)(2002–0002)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8134. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Erie, Perry, Ohio" ((RIN2115–AA97)(2002–0130)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8135. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Carquinez Strait, Vallejo and Crockett, CA" ((RIN2115–AA97)(2002–0123)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8136. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Portland Harbor, Oilrig Construction Project" ((RIN2115–AA97)(2002–0122)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8137. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Swimming Across San Juan Harbor, San Juan, Puerto Rico" ((RIN2115–AA97)(2002–0120)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8138. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Bonfouca Bayou, LA" ((RIN2115–AE47)(2002–0061)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8139. A communication from the Chairman, Commission on the Future of the United States Aerospace Industry, transmitting, pursuant to law, a interim report that provides preliminary findings and recommendations on three issues the Commission believes require immediate Administration and Congressional attention; to the Committee on Commerce, Science, and Transportation.

EC–8140. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Pelagic Longline Gear Restrictions, Seasonal Area Closure, and Other Sea Turtle Take Mitigation Measures" (RIN0648–AN75) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8141. A communication from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Notice of Open Meeting: Science Advisory Board (SAB) July 9, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8142. A communication from the Chief for Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of Fishery for Loligo Squid" received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8143. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna; Retention Limit Adjustments" (I.D. 053102B) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8144. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement a Charter Vessel/Headboat Permit Moratorium Amending the Reef Fish Fishery Management Plan of the Gulf of Mexico (Amendment 20) and Coastal Migratory Pelagic Fishery Management Plan of the South Atlantic and Gulf of Mexico (Amendment 14)" (RIN0648–AO62) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8145. A communication from the Attorney/Adviser, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Fifth Percentile Female Test Dummy; Response to Petitions for Reconsideration" (RIN2127–AI01) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8146. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century, the report of a study of recent changes in flight patterns of aircraft using the Sky Harbor Airport in Phoenix, Arizona; to the Committee on Commerce, Science, and Transportation.

EC–8147. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfishery; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustment; Pacific Halibut Fisheries; CORRECTION" received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8148. A communication from the Chairman, Federal Maritime Commission, Bureau of Consumer Complaints and Licensing, transmitting, pursuant to law, the report of a rule entitled "Financial Responsibility Requirements for Nonperformance of Transportation—Discontinuance of Self-Insurance and the Sliding Scale, and Guarantor Limitations" (FMC Doc. No. 02–07) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8149. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Domestic Fisheries Division, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment #1-Commercial and Recreational Inseason Adjustment From Cape Falcon to Humug Mountain, OR" (I.D. 040902H) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8150. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Financial Assistance for Research and Development Projects to Assess the Potential Suitability of Non-native Oysters in Chesapeake Bay" (RIN0648–ZB19) received on July 18, 2002; to the Committee on Commerce , Science, and Transportation.

EC–8151. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure for the Mothership Sector" received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8152. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson Act Provisions; Foreign Fishing; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures" (RIN0648–AN82) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8153. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Protection of Naval Vessels" (RIN2115–AG33) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8154. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Frequency of Inspection, Hull Examination Alternative for Certain Passenger Vessels, and Underwater

Surveys for Passenger Vessels" ((RIN2115–AF73)(2002–0001)) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8155. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Basic Rates and Charges on Lake Erie and the Navigable Waters from Southeast Shoal to Port Huron, MI" (RIN2115–AG46) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8156. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Areas; Savannah River, GA" ((RIN2115–AE84)(2002–0010)) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8157. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Temporary Requirements for Notification of Arrival in U.S. Port" ((RIN2115–AG24)(2002–0003)) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8158. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan" ((RIN2115–AF38)(2002–0002)) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8159. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Commercial Driver's License Standards, Requirements and Penalties; Commercial Driver's License Program Improvements and Noncommercial Motor Vehicle Violations" (RIN2126–AA60) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8160. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hybrid III Type 6-Year-Old Size Test Dummy; Final Rule; Response to Petitions for Reconsideration" (RIN2127–AI00) received on July 18, 2002; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with amendments:

S. 434: A bill to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands. (Rept. No. 107–214).

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, with amendments:

S. 2074: A bill to increase, effective as of December 1, 2002, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans. (Rept. No. 107–215).

By Mr. HARKIN, from the Committee on Appropriations, without amendment:

S. 2766: An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–216).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VOINOVICH:

S. 2765. A bill to amend chapter 55 of title 5, United States Code, to exclude availability pay for certain Federal law enforcement officers from the limitation on premium pay, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HARKIN:

S. 2766. An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. AKAKA:

S. 2767. A bill to enhance agricultural biosecurity in the United States through increased prevention, preparation, and response planning; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HAGEL (for himself and Mr. ENZI):

S. 2768. A bill to provide to agricultural producers emergency livestock assistance and assistance for control of grasshoppers and Mormon crickets, with offsets; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN (for himself and Ms. STABENOW):

S. 2769. A bill to amend the Internal Revenue Code of 1986 to prevent the continued use of renouncing United States citizenship as a device for avoiding United States taxes; to the Committee on Finance.

By Mr. DODD (for himself, Mr. WARNER, Mr. LIEBERMAN, Mr. SCHUMER, Mr. BIDEN, Mr. TORRICELLI, Mr. GRASSLEY, Mr. DAYTON, Mr. DURBIN, and Mrs. CLINTON):

S. 2770. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas; to the Committee on Governmental Affairs.

By Mr. JEFFORDS:

S. 2771. A bill to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAPO:

S. Con. Res. 129. A concurrent resolution expressing the sense of Congress regarding the establishment of the month of November each year as "Chronic Obstructive Pulmonary Disease Awareness Month"; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 233

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 233, a bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.

S. 486

At the request of Mr. LEAHY, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 999

At the request of Mr. BINGAMAN, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1339

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1377

At the request of Mr. SMITH of Oregon, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1377, a bill to require the Attorney General to establish an office in the Department of Justice to monitor acts of inter-national terrorism alleged to have been committed by Palestinian individuals or individuals acting on behalf of Palestinian organizations and to carry out certain other related activities.

### S. 1785

At the request of Mr. CLELAND, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Alabama (Mr. SESSIONS), the Senator from North Dakota (Mr. CONRAD), and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

### S. 1806

At the request of Mr. REED, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1806, a bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy.

### S. 2059

At the request of Ms. MIKULSKI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2059, a bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants.

### S. 2215

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

### S. 2480

At the request of Mr. LEAHY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

### S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

### S. 2528

At the request of Mr. DOMENICI, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

### S. 2544

At the request of Mr. LEVIN, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 2544, a bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern, to authorize assistance for research and development of innovative technologies for such remediation, and for other purposes.

### S. 2554

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

### S. 2602

At the request of Mrs. CLINTON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2602, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependency and indemnity compensation.

### S. 2613

At the request of Mr. LIEBERMAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

### S. 2672

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2672, a bill to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

### S. 2712

At the request of Mr. HAGEL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2712, a bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

### S. 2727

At the request of Mr. AKAKA, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2727, a bill to provide for the protection of paleontological resources on Federal lands, and for other purposes.

### S. 2729

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2729, a bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

### S. 2734

At the request of Mr. KERRY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

### S. 2742

At the request of Mrs. HUTCHISON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2742, a bill to establish new nonimmigrant classes for border commuter students.

### S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Georgia (Mr. CLELAND), the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. EDWARDS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Wisconsin (Mr. KOHL), the Senator from West Virginia (Mr. BYRD), the Senator from Maryland (Mr. SARBANES), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Georgia (Mr. MILLER), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Mississippi (Mr. COCHRAN), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

### AMENDMENT NO. 4308

At the request of Mr. TORRICELLI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 4308 intended to be proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

### AMENDMENT NO. 4309

At the request of Mr. GRAHAM, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 4309 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. VOINOVICH:

S. 2765. A bill to amend chapter 55 of title 5, United States Code, to exclude availability pay for certain Federal law enforcement officers from the limitation on premium pay, and for other purposes; to the Committee on Governmental Affairs.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2765

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Law Enforcement Officers Pay Equity and Reform Act of 2002".

### SEC. 2. LIMITATION ON PREMIUM PAY.

(a) IN GENERAL.—Section 5547 of title 5, United States Code, is amended—

(1) in subsection (a), by striking "5545a,";

(2) in subsection (c), by striking "or 5545a"; and

(3) in subsection (d), by striking the period and inserting "or a criminal investigator who is paid availability pay under section 5545a.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1114 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1239).

### SEC. 3. SEPARATE PAY, EVALUATION, AND PROMOTION SYSTEM FOR FEDERAL LAW ENFORCEMENT OFFICERS.

(a) STUDY.—Not later than 6 months after the date of the enactment of this Act, the Office of Personnel Management shall study and submit to Congress a report which shall contain its findings and recommendations regarding the need for, and the potential benefits to be derived from, the establishment of a separate pay, evaluation, and promotion system for Federal law enforcement officers. In carrying out this subsection, the Office of Personnel Management shall take into account the findings and recommendations contained in the September 1993 report of the Office entitled "A Plan to Establish a New Pay and Job Evaluation System for Federal Law Enforcement Officers".

(b) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—If, after completing its report under subsection (a), the Office of Personnel Management considers it to be appropriate, the Office shall implement, within 12 months after the date of the enactment of this Act, a demonstration project to determine whether a separate system for Federal law enforcement officers (as described in subsection (a)) would result in improved Federal personnel management.

(2) APPLICABLE PROVISIONS.—Any demonstration project under this subsection shall be conducted in accordance with the provisions of chapter 47 of title 5, United States Code, except that a project under this subsection shall not be taken into account for purposes of the numerical limitation under section 4703(d)(2) of such title.

(3) PERMANENT CHANGES.—Not later than 6 months before the demonstration project's scheduled termination date, the Office of Personnel Management shall submit to Congress—

(A) its evaluation of the system tested under the demonstration project; and

(B) recommendations as to whether or not that system (or any aspects of that system) should be continued or extended to other Federal law enforcement officers.

(c) FEDERAL LAW ENFORCEMENT OFFICER DEFINED.—For purposes of this section, the term "Federal law enforcement officer" means a law enforcement officer as defined by section 8331 or 8401 of title 5, United States Code.

### SEC. 4. REPORT ON FEDERAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Office of Personnel Management shall submit a report to Congress on the definition of a Federal law enforcement officer for purposes of pay and benefits under the provisions of title 5, United States Code.

(b) RECOMMENDATIONS.—The report under subsection (a) shall include recommendations of applying pay and benefit provisions (including retirement under chapters 83 and 84 of title 5, United States Code, and premium pay under subchapter V of chapter 55 of that title) to Federal employees who are not defined as law enforcement officers under those provisions.

### SEC. 5. EMPLOYEE EXCHANGE PROGRAM BETWEEN DEPARTMENT EMPLOYEES AND EMPLOYEES OF STATE AND LOCAL GOVERNMENTS.

(a) DEFINITIONS.—In this section:

(1) EMPLOYING AGENCY.—The term "employing agency" means the Federal, State, or local government agency with which the participating employee was employed before an assignment under the Program.

(2) PARTICIPATING EMPLOYEE.—The term "participating employee" means an employee who is participating in the Program.

(3) PROGRAM.—The term "Program" means the employee exchange program established under subsection (b).

(b) ESTABLISHMENT.—The President shall establish an employee exchange program between Federal agencies that perform law enforcement functions and agencies of State and local governments that perform law enforcement functions.

(c) CONDUCT OF PROGRAM.—The Program shall be conducted in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(d) QUALIFICATIONS.—An employee of an employing agency who performs law enforcement functions may be selected to participate in the Program if the employee—

(1) has been employed by that employing agency for a period of more than 3 years;

(2) has had appropriate training or experience to perform the work required by the assignment;

(3) has had an overall rating of satisfactory or higher on performance appraisals from the employing agency during the 3-year period before being assigned to another agency under this section; and

(4) agrees to return to the employing agency after completing the assignment for a period not less than the length of the assignment.

(d) WRITTEN AGREEMENT.—An employee shall enter into a written agreement regarding the terms and conditions of the assignment before beginning the assignment with another agency.

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By Mr. AKAKA:

S. 2767. A bill to enhance agricultural biosecurity in the United States through increased prevention, preparation, and response planning; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, I rise today to address the threat of bioterrorist attacks on American agriculture. Agricultural activity accounts for approximately 13 percent of the U.S. gross domestic product and nearly 17 percent of domestic employment.

Agriculture is vital to the health and well-being of citizens in Hawaii and every State of the Union. Hawaii generates more than $1.9 billion in agricultural sales, and agriculture directly or indirectly employs 38,000 people who provide Hawaiian agricultural products to domestic and foreign markets, especially to our trading partners in Canada and Japan.

While Hawaii's agricultural economy was once dominated by sugarcane and pineapple, Hawaiian exports now include specialty exotic fruits, coffee macadamia nuts, vegetables, flowers, and nursery products. Virtually all of these crops are vulnerable to pests and diseases that are difficult to control when they are accidentally introduced to the islands.

I am no stranger to the need to protect American agriculture from the menace of alien pests and diseases. Throughout my tenure on the House Agriculture Appropriations Subcommittee, I was proud to support important U.S. Department of Agriculture, USDA, programs such as the Animal and Plant Health Inspection Service, APHIS. APHIS serves as an agricultural disease watchdog at our borders and around our farms and plays a vital role in preventing the introduction of agricultural pests and diseases to Hawaii. As a Member of the Senate, my appreciation of these programs continues.

A single outbreak of a highly contagious livestock illness such as foot and mouth disease, FMD, could cost the U.S. economy over $10 billion. The 2001 FMD outbreak in Great Britain cost over $7 billion. In 2000, the Banana Bunchy Top Virus threatened the Island of Hawaii's $10 million banana industry. More recently, the state has seen an outbreak of the Papaya Ringspot Virus, which threatens a commodity that earned $16 million in 2000. An outbreak of FMD in Hawaii would threaten a $28 million milk industry and nearly $25 million worth of cattle and hogs.

These figures do not take into account the indirect effects on Hawaii's economy if harsh restrictions were placed on travel in rural areas. During the 2001 outbreak of FMD in the United Kingdom, such travel restrictions were imposed to stop the spread of the disease. The cost to businesses directly affected by tourism was nearly as high as the cost to agriculture and the food chain. Clearly, the potential for disruption of our food supply and our economy would be devastating.

My concerns are not unique to Hawaii. We must protect all of American agriculture, which is why I am introducing the Agriculture Security Preparedness Act of 2002. Federal agencies today are not as well prepared as they should be to respond to an agricultural disease emergency.

My bill provides the USDA with the resource and the response mechanisms to protect American farmers, ranchers, and consumers from agroterrorism. An agricultural disease outbreak, whether of natural or deliberate origin, will require coordinated efforts by the USDA, the Federal Emergency Management Agency, FEMA, the Environmental Protection Agency, EPA, and the Departments of Health and Human Services, HHS, Transportation, DOT, and Justice, DOJ. This measure would give the USDA the needed authority and resources to cooperate and coordinate efforts with other federal agencies that have a stake in a rapid and effective response to agricultural disease events.

My legislation improves the government's preparedness and response to outbreaks of foreign and emerging agricultural diseases by: Improving coordination between USDA and FEMA on preparedness and mitigation planning for agricultural disease emergencies; improving coordination between the USDA and the DOJ to review whether state and local laws might impede the rapid and effective implementation of emergency response measures; improving coordination between the USDA, and EPA, and regional and local disaster preparedness officials, to consider the potential environmental impacts of agricultural emergency response measures; establishing a public health liaison within the HHS to coordinate emergency response efforts with the USDA and the animal health and emergency management communities; and establishing clear guidelines for the DOT and USDA to enforce restrictions on interstate transportation in the event of an agricultural disease outbreak.

The National Research Council report "Making the Nation Safer: the Role of Science and Technology in Countering Terrorism," released in June, mirrors several other key provisions in my legislation. It calls for: Stronger ties to the intelligence community to identify specific threats to American agriculture; increased laboratory capacity for rapidly processing large volumes of clinical samples; development of rapid and sensitive disease diagnostic tools; development of improved livestock vaccines; the use of statisticians and computer models to understand the transmission of agricultural diseases during outbreaks; addressing environmental concerns for the disposal of contaminated crops and livestock; methods and standards for decontaminating areas where agricultural disease outbreaks occur; and communication and public awareness campaigns about the importance of research for protecting American agriculture.

My legislation complements P.L. 107–188, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, which was signed into law on June 12, by increasing the USDA's ability to develop the resources and response mechanisms to contain and eradicate agricultural diseases when they are discovered on U.S. soil.

By enacting this bill, we can help safeguard American consumers and American agriculture against threats to our food supply and economy. The money and effort spent on protection from agroterrorism should be viewed as a general investment against the routine threats of disease agents and pests that infest crops and livestock. I urge my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2767

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agriculture Security Preparedness Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—PREVENTION

Sec. 101. Inclusion of agroterrorism in terrorist acts involving weapons of mass destruction.
Sec. 102. Legal framework for agroterrorism.
Sec. 103. Study on feasibility of establishing a national agroterrorism and ecoterrorism incident clearinghouse.
Sec. 104. International agricultural disease surveillance.
Sec. 105. Agricultural inspections.
Sec. 106. On-farm and on-ranch biosecurity.

TITLE II—PREPAREDNESS AND MITIGATION

Sec. 201. Interagency coordination.
Sec. 202. Planning.
Sec. 203. Exercises and training.
Sec. 204. Communication with the public.
Sec. 205. Vaccine development and disease research.
Sec. 206. Diagnostic and laboratory capacity.

TITLE III—RESPONSE AND RECOVERY

Sec. 301. Implementation of Federal, State, and local response plans.

## SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGRICULTURAL DISEASE EMERGENCY.—The term "agricultural disease emergency" means a plant or animal disease outbreak that requires prompt action in order to prevent injury or damage to people, plants, livestock, property, the economy, or the environment, as determined by the Secretary pursuant to section 415 of the Plant Protection Act (7 U.S.C. 7715) or section 10407(b) of the Animal Health Protection Act (7 U.S.C. 8306(b)).

(3) AGRICULTURE.—The term "agriculture" includes the science and practice of activity relating to food, feed, and fiber production, processing, marketing, distribution, use, and trade, and also includes family and consumer sciences, nutrition, food science and engineering, agricultural economics and other social sciences, forestry, wildlife, fisheries, aquaculture, floraculture, veterinary medicine, and other environmental and natural resource sciences.

(4) AGROTERRORISM.—The term "agroterrorism" means the commission of an agroterrorist act.

(5) AGROTERRORIST ACT.—The term "agroterrorist act" means a criminal act to cause or attempt to cause damage to or destruction or contamination of a crop, livestock, farm or ranch equipment, material, or other property, or a person engaged in agricultural activity, committed with the intent to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion.

(6) BIOSECURITY.—The term "biosecurity" means protection from the risks posed by biological, chemical, or radiological agents to plant and animal health, the agricultural economy, the environment, and human health, including the exclusion, eradication, and control of biological agents that cause agricultural diseases.

(7) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(8) ECOTERRORISM.—The term "ecoterrorism" means the use of force or violence against a person or property to intimidate or coerce all or part of a government or the civilian population, in furtherance of a social goal in the name of an environmental cause.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) ZOONOTIC AGENT.—The term "zoonotic agent" means any bacterium, virus, parasite, or other biological entity that is naturally transmissible from animals to humans.

## TITLE I—PREVENTION

### SEC. 101. INCLUSION OF AGROTERRORISM IN TERRORIST ACTS INVOLVING WEAPONS OF MASS DESTRUCTION.

It is the sense of Congress that, to formulate and encourage international consensus regarding intentional acts against agriculture and to facilitate disarmament negotiations and international sanctions against weapons of mass destruction, the United Nations Security Council should include agroterrorism in the definition of a terrorist act involving a weapon of mass destruction.

### SEC. 102. LEGAL FRAMEWORK FOR AGROTERRORISM.

Section 2332a(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the comma at the end and inserting "; or"; and

(3) by inserting after paragraph (3) the following:

"(4) against private property, including property used for agricultural or livestock operations.".

### SEC. 103. STUDY ON FEASIBILITY OF ESTABLISHING A NATIONAL AGROTERRORISM AND ECOTERRORISM INCIDENT CLEARINGHOUSE.

Not later than 240 days after the date of enactment of this Act, the Attorney General, in conjunction with the Secretary, shall submit to Congress a report on the feasibility and estimated cost of establishing and maintaining a national agroterrorism incident clearinghouse to gather information for use in coordinating and assisting investigations on incidents of—

(1) agroterrorism committed against or directed at—

(A) any animal or plant enterprise; or

(B) any person, because of any actual or perceived connection of the person with, or support by the person of, agriculture; and

(2) ecoterrorism.

### SEC. 104. INTERNATIONAL AGRICULTURAL DISEASE SURVEILLANCE.

Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall submit to the appropriate committees of Congress a report on measures taken by the Secretary to—

(1) streamline the process of notification by the Secretary to Federal agencies in the event of outbreaks of agricultural diseases in foreign countries; and

(2) cooperate with representatives of foreign countries, international organizations, and industry to devise and implement methods of sharing information on international plant and animal disease outbreaks and unusual agricultural activities.

### SEC. 105. AGRICULTURAL INSPECTIONS.

The Secretary shall—

(1) cooperate with appropriate Federal intelligence officials to improve the ability of the Department to identify agricultural products, livestock, and other goods imported from suspect locations recognized by the intelligence community as having—

(A) experienced agricultural terrorist activities or unusual agricultural disease outbreaks; or

(B) harbored agroterrorists;

(2) use the information collected under paragraph (1) to establish inspection priorities;

(3) not later than 240 days after the date of enactment of this Act, develop a plan to increase the laboratory capacity of the Department and the effectiveness of the Department in detecting the presence of pathogens and disease in agricultural products; and

(4) not later than 1 year after the date of enactment of this Act, submit to the appropriate committees of Congress a report that provides a description, and an estimate of the costs, of the plan developed under paragraph (3).

### SEC. 106. ON-FARM AND ON-RANCH BIOSECURITY.

(a) BIOSECURITY GUIDELINES.—

(1) IN GENERAL.—Not later than 240 days after the date of enactment of this Act, in consultation with associations of agricultural producers and taking into consideration the research conducted under subtitle N of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3351 et seq.), the Secretary shall—

(A) develop guidelines—

(i) to improve monitoring of vehicles and materials entering or departing farm or ranch operations; and

(ii) to control human traffic onto farm or ranch operations; and

(B) disseminate the guidelines to agricultural producers through agricultural educational seminars and biosecurity training sessions.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection—

(i) $5,000,000 for fiscal year 2003; and

(ii) such sums as are necessary for each fiscal year thereafter.

(B) EDUCATION PROGRAM.—Of the amounts made available under subparagraph (A), the Secretary may use such sums as are necessary to establish in each State an education program to distribute the biosecurity guidelines developed under paragraph (1).

(b) BIOSECURITY GRANT PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 240 days after the date of enactment of this Act, the Secretary shall develop a pilot program to provide incentives, in the form of grants or low-interest loans, in an amount not to exceed $10,000, for agricultural producers to restructure farm and ranch operations (based on the biosecurity guidelines developed under subsection (a)(1)) to—

(A) control access to farms or ranch property by persons intending to commit an agroterrorist act;

(B) prevent the introduction and spread of agricultural diseases; and

(C) take other measures to ensure biosecurity.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes the implementation of the program; and

(B) makes recommendations on expansion of the program.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) $5,000,000 for fiscal year 2003; and

(B) such sums as are necessary for each of fiscal years 2004 through 2007.

## TITLE II—PREPAREDNESS AND MITIGATION

### SEC. 201. INTERAGENCY COORDINATION.

(a) AGRICULTURAL DISEASE EMERGENCY MANAGEMENT LIAISON.—The Director of the Federal Emergency Management Agency shall establish a senior level position to serve, as a primary responsibility, as a liaison for agricultural disease emergency management between—

(1) the Federal Emergency Management Agency;

(2) the Department;

(3) the emergency management community; and

(4) the affected industries.

(b) TRANSPORTATION.—The Secretary of Transportation, in consultation with the Secretary of Agriculture and the Director of the Federal Emergency Management Agency, shall—

(1) publish in the Federal Register proposed guidelines for restrictions on interstate transportation of an agricultural commodity or product in response to an agricultural disease emergency created by a foreign or emerging disease affecting the agricultural commodity or product;

(2) provide for a comment period for the proposed guidelines of not less than 90 days;

(3) establish the final guidelines, taking into consideration any comments received under paragraph (2); and

(4) provide the guidelines to officers and employees of—

(A) the Department;

(B) the Department of Transportation; and

(C) the Federal Emergency Management Agency.

(c) ANIMAL HEALTH CARE LIAISON.—The Secretary of Health and Human Services shall establish within the Department of Health and Human Services a senior level position to serve, as a primary responsibility, as a liaison between the Department of Health and Human Services, the Department of Agriculture, the animal health community, the emergency management community, and industry.

(d) REGIONAL, STATE, AND COUNTY PREPARATION.—The Administrator, in consultation with the Secretary, shall cooperate with regional, State, and local disaster preparedness officials to include consideration of potential environmental impacts of response activities when planning responses to agricultural disease emergencies.

### SEC. 202. PLANNING.

(a) FEDERAL RESPONSE PLAN.—Not later than 180 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency, in consultation with the Secretary, shall examine, and revise as necessary, the Emergency Support Functions of the Federal Response Plan, to include the economic, environmental, and medical impacts of naturally-occurring agricultural disease outbreaks and agroterrorist acts in emergency response planning activities.

(b) LOCAL RESPONSE PLANNING.—The Secretary shall cooperate with State agriculture officials, State and local emergency managers, representatives from State land grant colleges, research universities, agricultural producers, and agricultural trade associations to establish local response plans for foreign or emerging agricultural disease emergencies.

(c) ANIMAL CARE.—

(1) IN GENERAL.—The Director of the Federal Emergency Management Agency, in consultation with the Secretary, shall establish a program to provide grants to small communities to facilitate the participation of State and local animal health care officials in community emergency planning efforts.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 2003.

(d) MODELING AND STATISTICAL ANALYSES.—

(1) IN GENERAL.—In consultation with the Steering Committee of the National Animal Health Emergency Management Systems and other stakeholders, the Secretary shall conduct a study—

(A) to determine the best use of epidemiologists, computer modelers, and statisticians as members of the emergency response task forces that handle foreign or emerging agricultural disease emergencies; and

(B) to identify the types of data that are not collected but that would be necessary for proper modeling and analysis of agricultural disease emergencies.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report that describes the results of the study to—

(A) the Director of the Federal Emergency Management Agency; and

(B) the heads of other appropriate governmental agencies involved in agricultural disease emergency response planning.

(e) GEOGRAPHIC INFORMATION SYSTEM GRANTS.—

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to States to develop capabilities to use geographic information systems and statistical models for epidemiological assessments in the event of agricultural disease emergencies.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) $2,500,000 for fiscal year 2003; and

(B) such sums as are necessary for each fiscal year thereafter.

### SEC. 203. EXERCISES AND TRAINING.

(a) BEST PRACTICES.—The Director of the Federal Emergency Management Agency, in consultation with the Secretary, shall—

(1) establish a task force, consisting of agricultural producers and State and local emergency response officials, to identify best practices for State regional agricultural disaster exercise programs; and

(2) distribute to States and localities a report that describes the best practices.

(b) EXERCISES.—On the basis of the identified best practices, the Secretary shall design and distribute packages of exercises for training, in the form of printed materials and electronic media, for distribution to State and local emergency managers and State agriculture officials.

### SEC. 204. COMMUNICATION WITH THE PUBLIC.

(a) EDUCATION.—The Secretary, in consultation with agricultural producers and trade associations, shall develop a national education campaign—

(1) to demonstrate the contribution of agriculture to the well-being of people and economic prosperity of the United States;

(2) to improve the public image of agriculture in the United States;

(3) to increase public awareness about the potential for negative economic and social effects that could result from foreign or emerging agricultural diseases; and

(4) to increase public awareness of the benefits of animal and plant health research for preventing and responding to agroterrorism.

(b) OUTREACH.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency and the Secretary of Health and Human Services, shall establish, as part of agroterrorism preparedness efforts, a program to encourage regional emergency management planners to—

(1) develop cooperative relationships with agricultural producers, trade associations, and local groups that promote plant and animal health issues to explain to the public the nature of potential agroterrorist threats and the reasons why certain response measures need to be taken; and

(2) prepare information in the form of brochures, pamphlets, literature packets, CD ROMs, or other similar forms, for distribution to the public in the event of a foreign or emerging agricultural disease emergency.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for fiscal year 2004 and each fiscal year thereafter to carry out this section.

### SEC. 205. VACCINE DEVELOPMENT AND DISEASE RESEARCH.

(a) IN GENERAL.—In carrying out the foreign or emerging diseases and pests program of the Department, the Secretary shall establish a program to provide grants to colleges and universities to identify and develop—

(1) rapid diagnostic tests to identify plant and animal diseases;

(2) improved vaccines for animal diseases;

(3) new diagnostic techniques to be used in distinguishing between animals that test positive for exposure to an infectious foreign or emerging animal disease as a result of vaccination and those that test positive as a result of having contracted the disease; and

(4) techniques to disinfect areas where outbreaks of plant or animal diseases occur.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2003; and

(2) such sums as are necessary for each fiscal year thereafter.

### SEC. 206. DIAGNOSTIC AND LABORATORY CAPACITY.

(a) RESEARCH ON DISEASE DIAGNOSTIC KITS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, the Administrator of the United States Agency for International Development, and representatives of foreign countries, shall seek collaborative agricultural research opportunities in foreign countries in which foreign or emerging agricultural diseases are endemic, to test the performance of disease diagnostic kits and disinfection techniques that, because of low or no known incidence of those agricultural diseases in the United States, have not been adequately tested.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to expand overseas research collaboration activities of the Department, including research on foreign and emerging plant and animal diseases—

(A) $25,000,000 for fiscal year 2003; and

(B) such sums as are necessary for each fiscal year thereafter.

(b) ANIMAL DISEASE DIAGNOSTIC LABORATORIES.—The Secretary of Health and Human Services shall include animal disease diagnostic laboratories in the Laboratory Response Network of the Centers for Disease Control and Prevention.

(c) CLINICAL SAMPLE SCREENING.—Not later than 180 days after the date of enactment of this Act, the Secretary and the Secretary of Health and Human Services shall jointly—

(1) conduct a study to identify means of expanding laboratory capabilities to screen and handle large quantities of veterinary and human clinical samples for foreign or emerging zoonotic agents in the event of an agricultural emergency; and

(2) submit to the appropriate committees of Congress a report on the results of the study.

(d) STUDY ON FEASIBILITY OF ESTABLISHING A NATIONAL PLANT DISEASE LABORATORY.—Not later than 270 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the feasibility of establishing a national plant disease laboratory, based on the model of the Centers for Disease Control and Prevention, with the primary task of—

(1) integrating and coordinating a nationwide system of independent plant disease diagnostic laboratories, including existing plant clinics maintained by land grant colleges and universities; and

(2) increasing the capacity, technical infrastructure, and information sharing capabilities of laboratories described in paragraph (1).

## TITLE III—RESPONSE AND RECOVERY

### SEC. 301. IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL RESPONSE PLANS.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—Not later than 240 days after the date of enactment of this Act, the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall establish a grant program to facilitate the establishment of regional agricultural emergency response networks.

(2) DUTIES.—The regional networks established under paragraph (1) shall serve as the basis for coordination by Federal, State, and local officials and industry representatives in the event of a foreign or emerging agricultural disease emergency.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) $50,000,000 for fiscal year 2003; and

(B) such sums as are necessary for each fiscal year thereafter.

(b) REVIEW OF LEGAL AUTHORITY.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall conduct a review of State and local laws relating to agroterrorism and biosecurity to determine—

(A) the extent to which those laws facilitate or impede the implementation of current or proposed response plans with respect to agricultural emergencies;

(B) whether an injunction issued by a State court could—

(i) delay the implementation of a Federal response plan; or

(ii) affect the extent to which an infectious plant or animal disease spreads; and

(C) the types and extent of legal evidence that may be required by State courts before a response plan may be implemented.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the appropriate committees of Congress a report that describes the results of the review conducted under paragraph (1) (including any recommendations of the Attorney General).

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By Mr. HAGEL (for himself and Mr. ENZI):

S. 2788. A bill to provide to agricultural producers emergency livestock assistance and assistance for control of grasshoppers and Mormon crickets, with offsets; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2768

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Livestock Assistance Act of 2002".

### SEC. 2. ASSISTANCE FOR LIVESTOCK PRODUCERS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation in an amount equal to $620,000,000 to make and administer payments for livestock losses using the criteria established to carry out the 1999 Livestock Assistance Program (except for application of the national percentage reduction factor) to producers for 2001 and 2002 losses in a county that has received an emergency designation by the President or the Secretary in calendar year 2001 or 2002.

(b) PREVENTION OF DOUBLE PAYMENTS.—If a producer is on a farm located in a county that received an emergency designation described in subsection (a) in each of calendar years 2001 and 2002, the producer may receive payments under this section for losses associated with the declaration in either calendar year 2001 or calendar year 2002, but not both.

### SEC. 3. CONTROL OF GRASSHOPPERS AND MORMON CRICKETS.

(a) IN GENERAL.—The Secretary shall use $14,000,000 of the funds of the Commodity Credit Corporation to control grasshoppers and Mormon crickets on Federal, State, and private land during fiscal years 2002 and 2003, in accordance with section 417 of the Plant Protection Act (7 U.S.C. 7717).

(b) FEDERAL COST SHARE OF TREATMENT.—Section 417(d) of the Plant Protection Act (7 U.S.C. 7717(d)) is amended—

(1) in paragraph (2), by inserting "(or, in the case of costs incurred during fiscal years 2002 and 2003, 66.67 percent)" after "50 percent"; and

(2) in paragraph (3), by inserting "(or, in the case of costs incurred during fiscal years 2002 and 2003, 66.67 percent)" after "33.3 percent".

**SEC. 4. OFFSETS.**

(a) LOAN RATES.—Section 1202 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7932) is amended—

(1) in subsection (a), by striking "2002 AND 2003 CROP YEARS.—For purposes of the 2002 and 2003 crop years," and inserting "2002 CROP YEAR.—For purposes of the 2002 crop year,"; and

(2) in subsection (b), by striking "2004 THROUGH 2007 CROP YEARS.—For purposes of the 2004 through 2007 crop years," and inserting "2003 THROUGH 2007 CROP YEARS.—For purposes of the 2003 through 2007 crop years,".

(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—

(1) ALLOCATION OF FUNDING.—Section 1240B(g) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(g)) is amended by striking "For each of fiscal years 2002 through 2007, 60 percent" and inserting "For fiscal year 2002 and each of fiscal years 2004 through 2007, 60 percent, and for fiscal year 2003, 100 percent,".

(2) FISCAL YEAR 2003 FUNDING.—Section 1241(a)(6)(B) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(6)(B)) is amended by striking "$700,000,000" and inserting "$420,000,000".

(c) DESERT TERMINAL LAKES.—

(1) IN GENERAL.—Section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is repealed.

(2) RESCISSION.—Funds transferred under that section (as in effect before the amendment made by paragraph (1)) are rescinded.

**SEC. 5. REGULATIONS.**

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of this Act and the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

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By Mr. DODD (for himself, Mr. WARNER, Mr. LIEBERMAN, Mr. SCHUMER, Mr. BIDEN, Mr. TORRICELLI, Mr. GRASSLEY, Mr. DAYTON, Mr. DURBIN, and Mrs. CLINTON):

S. 2770. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas; to the Committee on Governmental Affairs.

Mr. DODD. Mr. President, I rise today to introduce legislation that is important to Federal law enforcement officers and the people they protect across America. I am joined today by Senator WARNER, Senator LIEBERMAN, Senator SCHUMER, Senator BIDEN, Senator TORRICELLI, Senator GRASSLEY, Senator DAYTON, Senator DURBIN, and Senator CLINTON.

The legislation that we are offering will amend the Federal Law Enforcement Pay Reform Act of 1990 to ensure that the government treats Federal law enforcement officers fairly. This bill will partially increase the locality pay adjustments paid to Federal agents in certain high cost areas. These areas have pay disparities so high they are negatively affecting our Federal law enforcement officers, since locality pay adjustments have either not been increased since 1990, or have been increased negligibly.

All over America, Federal law enforcement personnel are enduring tremendous stress associated with our Nation's effort to protect citizens from the threat of terrorism. Unfortunately, that stress has been compounded by ongoing pressing concerns among many such personnel about their pay. I have heard from officers who have described long commutes, high personal debts, and in some cases, almost all-consuming concerns about financial insecurity. Many of these problems occur when agents or officers are transferred from low-cost parts of the country to high-cost areas. I have been told that some federal officers are forced to separate from their families and rent rooms in the cities to which they have been transferred because they cannot afford to rent or buy homes large enough for a family.

An agent in the San Francisco area recently wrote to me to explain how hard it is to live on the wages currently paid to federal officers in that area. This agent, a military veteran who continues to serve the public, wrote: "I have been with the federal government for 15 years now and never thought that I would be forced to live in a trailer park." This agent further explained that she and her husband, who is still in the military, cannot afford to buy even a small condominium on their government salaries. They can only barely afford to pay the mortgage on the trailer they purchased for $25,000.

Unfortunately, the rise in the cost of living in many cities across America has outstripped our Federal pay system. I recognize that this is a problem for other Federal employees and I am prepared to work with my colleagues to address this larger issue. The cost of living has also had a very negative impact on non-federal employees as well and I have consistently worked to ensure that all working Americans enjoy a truly livable wage. The legislation that we are introducing today in no way suggests that the needs of other workers should be ignored, but it acknowledges that as we continue to ask federal law enforcement personnel to put in long hours and remain on heightened alert, we must provide them with a salary sufficient to allow them to focus on their vital work without nagging worries about how to provide their families with the essentials of food, clothing, and shelter.

The Federal Law Enforcement Officers Association, representing more than 19,000 Federal agents, along with the Fraternal Order of Police, National Association of Police Organizations, National Troopers Coalition, National Organization of Black Law Enforcement Executives, International Brotherhood of Police Organization, and the Police Executive Research Forum have endorsed this legislative proposal. The proposed legislation will increase the pay of federal law enforcement personnel in the following metropolitan areas by the following percentages:

| | *Percentage* |
|---|---|
| San Francisco—Oakland—San Jose | 14.02 |
| San Diego, CA | 9.58 |
| Houston—Galveston—Brazoria | 12.94 |
| Miami—Ft. Lauderdale | 9.34 |
| LA—Riverside—Orange Cty | 11.14 |
| Cincinnati—NO KY—IN | 8.76 |
| NYC—NO NJ—SO CT | 10.44 |
| Seattle—Tacoma—Bremerton | 8.90 |
| Chicago—Gary—Kenosha | 10.76 |
| Philadelphia—Wilmington—SO NJ | 9.03 |
| Detroit—Ann Arbor—Flint | 10.57 |
| Portland—Salem | 9.26 |
| Hartford, CT | 9.67 |
| Minneapolis—St. Paul | 8.65 |
| Boston (MA–NJ–ME–CT–RI) | 8.43 |
| Sacramento—Yolo | 8.42 |
| Denver—Boulder—Greeley | 9.74 |
| Washington—Baltimore | 8.53 |

In these difficult time we must remain committed to recruiting, hiring, and retaining law enforcement officers of the highest caliber. However, we must also recognize that the federal government is in competition with State and local police departments that often pay more and provide better standards of living.

I urge all of my colleagues to join us in this effort. I hope that we can quickly pass this important legislation because it will improve the lives of the men and women who are dedicated to protecting and in so doing it will improve the nation's domestic security.

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By Mr. JEFFORDS:

S. 2771. A bill to amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2771

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "John F. Kennedy Center Plaza Authorization Act of 2002".

### SEC. 2. JOHN F. KENNEDY CENTER PLAZA.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended—

(1) by redesignating sections 12 and 13 as sections 13 and 14, respectively; and

(2) by inserting after section 11 the following:

### "SEC. 12. JOHN F. KENNEDY CENTER PLAZA.

"(a) Definitions.—In this section:

"(1) Air right.—The term 'air right' means a real property interest conveyed by deed, lease, or permit for the use of space between streets and alleys within the boundaries of the Project.

"(2) Center.—The term 'Center' means the John F. Kennedy Center for the Performing Arts.

"(3) Green space.—The term 'green space' means an area within the boundaries of the Project or affected by the Project that is covered by grass, trees, or other vegetation.

"(4) Plaza.—The term 'Plaza' means improvements to the area surrounding the John F. Kennedy Center building that are—

"(A) carried out under the Project; and

"(B) comprised of—

"(i) transportation elements (including roadways, sidewalks, and bicycle lanes); and

"(ii) nontransportation elements (including landscaping, green space, open public space, and water, sewer, and utility connections).

"(5) Project.—

"(A) In general.—The term 'Project' means the Plaza project, as described in the TEA–21 report, providing for—

"(i) construction of the Plaza; and

"(ii) improved bicycle, pedestrian, and vehicular access to and around the Center.

"(B) Inclusions.—The term 'Project'—

"(i) includes—

"(I) planning, design, engineering, and construction of the Plaza;

"(II) buildings to be constructed on the Plaza; and

"(III) related transportation improvements; and

"(ii) may include any other element of the Project identified in the TEA–21 report.

"(6) Secretary.—The term 'Secretary' means the Secretary of Transportation.

"(7) TEA–21 report.—The term 'TEA–21 report' means the report of the Secretary submitted to Congress under section 1214 of the Transportation Equity Act for the 21st Century (20 U.S.C. 76j note; 112 Stat. 204).

"(b) Responsibilities of the Secretary.—

"(1) In general.—The Secretary shall be responsible for the Project and may carry out such activities as are necessary to construct the Project, other than buildings to be constructed on the Plaza, substantially as described in the TEA–21 report.

"(2) Planning, design, engineering, and construction.—The Secretary shall be responsible for the planning, design, engineering, and construction of the Project, other than buildings to be constructed on the Plaza.

"(3) Agreements with the board and other agencies.—The Secretary shall enter into memoranda of agreement with the Board and any appropriate Federal or other governmental agency to facilitate the planning, design, engineering, and construction of the Project.

"(4) Consultation with the board.—The Secretary shall consult with the Board to maximize efficiencies in planning and executing the Project, including the construction of any buildings on the Plaza.

"(5) Contracts.—Subject to the approval of the Board, the Secretary may enter into contracts on behalf of the Center relating to the planning, design, engineering, and construction of the Project.

"(c) Responsibilities of the Board.—

"(1) In general.—The Board may carry out such activities as are necessary to construct buildings on the Plaza for the Project.

"(2) Receipt of transfers of air rights.—The Board may receive from the District of Columbia such transfers of air rights as are necessary for the planning, design, engineering, and construction of the Project.

"(3) Construction of buildings.—The Board—

"(A) may construct, with nonappropriated funds, buildings on the Plaza for the Project; and

"(B) shall be responsible for the planning, design, engineering, and construction of the buildings.

"(4) Acknowledgment of contributions.—

"(A) In general.—The Board may acknowledge private contributions used in the construction of buildings on the Plaza for the Project in the interior of the buildings, but may not acknowledge private contributions on the exterior of the buildings.

"(B) Applicability of other requirements.—Any acknowledgment of private contributions under this paragraph shall be consistent with the requirements of section 4(b).

"(d) Responsibilities of the District of Columbia.—

"(1) Modification of highway system.—Notwithstanding any State or local law, the Mayor of the District of Columbia, in consultation with the National Capital Planning Commission and the Secretary, shall have exclusive authority, as necessary to meet the requirements and needs of the Project, to amend or modify the permanent system of highways of the District of Columbia.

"(2) Conveyances.—

"(A) Authority.—Notwithstanding any State or local law, the Mayor of the District of Columbia shall have exclusive authority, as necessary to meet the requirements and needs of the Project, to convey or dispose of any interests in real estate (including air rights and air space (as that term is defined by District of Columbia law)) owned or controlled by the District of Columbia.

"(B) Conveyance to the board.—Not later than 90 days after the date of receipt of notification from the Secretary of the requirements and needs of the Project, the Mayor of the District of Columbia shall convey or dispose of to the Board, without compensation, interests in real estate described in subparagraph (A).

"(3) Agreements with the board.—The Mayor of the District of Columbia shall have the authority to enter into memoranda of agreement with the Board and any Federal or other governmental agency to facilitate the planning, design, engineering, and construction of the Project.

"(e) Ownership.—

"(1) Roadways and sidewalks.—Upon completion of the Project, responsibility for maintenance and oversight of roadways and sidewalks modified or improved for the Project shall remain with the owner of the affected roadways and sidewalks.

"(2) Maintenance of green spaces.—Subject to paragraph (3), upon completion of the Project, responsibility for maintenance and oversight of any green spaces modified or improved for the Project shall remain with the owner of the affected green spaces.

"(3) Buildings and green spaces on the plaza.—Upon completion of the Project, the Board shall own, operate, and maintain the buildings and green spaces established on the Plaza for the Project.

"(f) National Highway Boundaries.—

"(1) Realignment of boundaries.—The Secretary may realign national highways related to proposed changes to the North and South Interchanges and the E Street approach recommended in the TEA–21 report in order to facilitate the flow of traffic in the vicinity of the Center.

"(2) Access to center from I–66.—The Secretary may improve direct access and egress between Interstate Route 66 and the Center, including the garages of the Center.".

### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of the John F. Kennedy Center Act (as redesignated by section 2) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) John F. Kennedy Center Plaza.—There is authorized to be appropriated to the Secretary of Transportation for capital costs incurred in the planning, design, engineering, and construction of the project authorized by section 12 (including roadway improvements related to the North and South Interchanges and construction of the John F. Kennedy Center Plaza, but not including construction of any buildings on the plaza) $400,000,000 for the period of fiscal years 2003 through 2010, to remain available until expended.".

### SEC. 4. CONFORMING AMENDMENTS.

(a) Selection of Contractors.—Section 4(a)(2) of the John F. Kennedy Center Act (20 U.S.C 76j(a)(2)) is amended by striking subparagraph (D) and inserting the following:

"(D) Selection of contractors.—In carrying out the duties of the Board under this Act, the Board may—

"(i) negotiate, with selected contractors, any contract—

"(I) for planning, design, engineering, or construction of buildings to be erected on the John F. Kennedy Center Plaza under section 12 and for landscaping and other improvements to the Plaza; or

"(II) for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts; and

"(ii) award the contract on the basis of contractor qualifications as well as price.".

(b) Administration.—Section 6(d) of the John F. Kennedy Center Act (20 U.S.C. 76l(d)) is amended in the first sentence by striking "section 12" and inserting "section 14".

(c) Definitions.—Section 14 of the John F. Kennedy Center Act (as redesignated by section 2) is amended by adding at the end the following: "Upon completion of the project for establishment of the John F. Kennedy Center Plaza authorized by section 12, the Board, in consultation with the Secretary of Transportation, shall amend the map that is on file and available for public inspection under the preceding sentence.".

## SUBMITTED RESOLUTIONS

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### SENATE CONCURRENT RESOLUTION 129—EXPRESSING THE SENSE OF CONGRESS REGARDING THE ESTABLISHMENT OF THE MONTH OF NOVEMBER EACH YEAR AS "CHRONIC OBSTRUCTIVE PULMONARY DISEASE AWARENESS MONTH"

Mr. CRAPO submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. Con. Res. 129

Whereas chronic obstructive pulmonary disease (referred to in this concurrent resolution as "COPD") is primarily associated with emphysema and chronic bronchitis, conditions with which 3,000,000 and 9,000,000 people in the United States, respectively, have been diagnosed;

Whereas COPD is progressive and irreversible;

Whereas as COPD progresses, the airways and alveoli in the lungs lose elasticity and the airway walls collapse, closing off smaller airways and narrowing larger ones;

Whereas symptoms of COPD include chronic coughing, chest tightness, shortness of breath, increased effort to breathe, increased mucus production, and frequent clearing of the throat;

Whereas risk factors for COPD include long-term smoking, a family history of COPD, exposure to air pollution or secondhand smoke, and a history of childhood respiratory infections;

Whereas more than half of all people who suffer from COPD report that their condition limits their ability to work, sleep, and participate in social and physical activities;

Whereas more than half of all people who suffer from COPD feel they are not in control of their breathing, panic when they cannot catch their breath, and expect their condition to worsen;

Whereas 16,000,000 people in the United States have been diagnosed with some form of COPD and an estimated 16,000,000 people in the United States with COPD are undiagnosed;

Whereas nearly 107,000 people died in the United States of COPD in 1998, making COPD the fourth leading cause of death in the United States;

Whereas COPD accounted for 13,400,000 office visits to doctors in 1997 and 668,362 hospitalizations in 1998;

Whereas COPD costs the economy of the United States an estimated $30,400,000,000 a year;

Whereas in 1997, 24 States experienced death rates from COPD which were between 41 and 61 deaths per 100,000 people; and

Whereas too many people with COPD are not diagnosed or are not receiving adequate treatment: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that—

(1) November of each year should be established as "Chronic Obstructive Pulmonary Disease Awareness Month" to raise public awareness about the prevalence of chronic obstructive pulmonary disease and the serious problems associated with the disease; and

(2) the President should issue a proclamation calling on the people of the United States to observe the month with appropriate programs and activities.

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## AMENDMENTS SUBMITTED AND PROPOSED

SA 4312. Mr. REID (for Ms. MIKULSKI (for himself, Mr. HUTCHINSON, Mr. KERRY, Mr. JEFFORDS, Mr. GREGG, Mr. FRIST, Mr. KENNEDY, Ms. COLLINS, Mrs. CLINTON, Mr. ROBERTS, Mr. WELLSTONE, Mr. ENZI, Mr. BIDEN, Mr. WARNER, Mr. CORZINE, Mr. LUGAR, Mr. LEAHY, Mr. GRAHAM, Ms. CANTWELL, Mrs. LINCOLN, Mr. BAUCUS, Mr. JOHNSON, Mr. HARKIN, Mr. LEVIN, Mr. INOUYE, Mr. TORRICELLI, Mr. DOMENICI, Mrs. MURRAY, Mr. DODD, Mr. DASCHLE, Mrs. CARNAHAN, Mr. SMITH of Oregon, Mr. REED, Mr. BREAUX, Mr. BOND, Mr. DAYTON, Mr. DEWINE, Mr. SARBANES, Mr. ALLEN, Mr. CHAFEE, Mr. HAGEL, Mr. SANTORUM, Mr. BAYH, Mr. ROCKEFELLER, Mr. CLELAND, Mr. SMITH, of New Hampshire, and Mr. INHOFE)) proposed an amendment to the bill H.R. 3487, to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

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## TEXT OF AMENDMENTS

**SA 4312.** Mr. REID (for Ms. MIKULSKI (for himself, Mr. HUTCHINSON, Mr. KERRY, Mr. JEFFORDS, Mr. GREGG, Mr. FRIST, Mr. KENNEDY, Ms. COLLINS, Mrs. CLINTON, Mr. ROBERTS, Mr. WELLSTONE, Mr. ENZI, Mr. BIDEN, Mr. WARNER, Mr. CORZINE, Mr. LUGAR, Mr. LEAHY, Mr. GRAHAM, Ms. CANTWELL, Mrs. LINCOLN, Mr. BAUCUS, Mr. JOHNSON, Mr. HARKIN, Mr. LEVIN, Mr. INOUYE, Mr. TORRICELLI, Mr. DOMENICI, Mrs. MURRAY, Mr. DODD, Mr. DASCHLE, Mrs. CARNAHAN, Mr. SMITH of Oregon, Mr. REED, Mr. BREAUX, Mr. BOND, Mr. DAYTON, Mr. DEWINE, Mr. SARBANES, Mr. ALLEN, Mr. CHAFEE, Mr. HAGEL, Mr. SANTORUM, Mr. BAYH, Mr. ROCKEFELLER, Mr. CLELAND, Mr. SMITH of New Hampshire, and Mr. INHOFE)) proposed an amendment to the bill H.R. 3487, to amend the Public Health Service Act with respect to health professions program.

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Nurse Reinvestment Act".

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—NURSE RECRUITMENT

Sec. 101. Definitions.
Sec. 102. Public service announcements regarding the nursing profession.
Sec. 103. National Nurse Service Corps.

TITLE II—NURSE RETENTION

Sec. 201. Building career ladders and retaining quality nurses.
Sec. 202. Comprehensive geriatric education.
Sec. 203. Nurse faculty loan program.
Sec. 204. Reports by General Accounting Office.

### TITLE I—NURSE RECRUITMENT

#### SEC. 101. DEFINITIONS.

Section 801 of the Public Health Service Act (42 U.S.C. 296) is amended by adding at the end the following:

"(9) AMBULATORY SURGICAL CENTER.—The term 'ambulatory surgical center' has the meaning applicable to such term under title XVIII of the Social Security Act.

"(10) FEDERALLY QUALIFIED HEALTH CENTER.—The term 'Federally qualified health center' has the meaning given such term under section 1861(aa)(4) of the Social Security Act.

"(11) HEALTH CARE FACILITY.—The term 'health care facility' means an Indian Health Service health center, a Native Hawaiian health center, a hospital, a Federally qualified health center, a rural health clinic, a nursing home, a home health agency, a hospice program, a public health clinic, a State or local department of public health, a skilled nursing facility, an ambulatory surgical center, or any other facility designated by the Secretary.

"(12) HOME HEALTH AGENCY.—The term 'home health agency' has the meaning given such term in section 1861(o) of the Social Security Act.

"(13) HOSPICE PROGRAM.—The term 'hospice program' has the meaning given such term in section 1861(dd)(2) of the Social Security Act.

"(14) RURAL HEALTH CLINIC.—The term 'rural health clinic' has the meaning given such term in section 1861(aa)(2) of the Social Security Act.

"(15) SKILLED NURSING FACILITY.—The term 'skilled nursing facility' has the meaning given such term in section 1819(a) of the Social Security Act.".

#### SEC. 102. PUBLIC SERVICE ANNOUNCEMENTS REGARDING THE NURSING PROFESSION.

Title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.) is amended by adding at the end the following:

### "PART H—PUBLIC SERVICE ANNOUNCEMENTS

#### "SEC. 851. PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—The Secretary shall develop and issue public service announcements that advertise and promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals to enter the nursing profession.

"(b) METHOD.—The public service announcements described in subsection (a) shall be broadcast through appropriate media outlets, including television or radio, in a manner intended to reach as wide and diverse an audience as possible.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.

#### "SEC. 852. STATE AND LOCAL PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—The Secretary may award grants to eligible entities to support State and local advertising campaigns through appropriate media outlets to promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals from disadvantaged backgrounds to enter the nursing profession.

"(b) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to acquire local television and radio time, place advertisements in local newspapers, or post information on billboards or on the Internet in a manner intended to reach as wide and diverse an audience as possible, in order to—

"(1) advertise and promote the nursing profession;

"(2) promote nursing education programs;

"(3) inform the public of financial assistance regarding such education programs;

"(4) highlight individuals in the community who are practicing nursing in order to recruit new nurses; or

"(5) provide any other information to recruit individuals for the nursing profession.

"(c) LIMITATION.—An eligible entity that receives a grant under subsection (a) shall not use funds received through such grant to advertise particular employment opportunities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.".

**SEC. 103. NATIONAL NURSE SERVICE CORPS.**

(a) LOAN REPAYMENT PROGRAM.—Section 846(a) of the Public Health Service Act (42 U.S.C. 297n(a)) is amended—

(1) in paragraph (3), by striking "in an Indian Health Service health center" and all that follows to the semicolon and inserting "at a health care facility with a critical shortage of nurses"; and

(2) by adding at the end the following: "After fiscal year 2007, the Secretary may not, pursuant to any agreement entered into under this subsection, assign a nurse to any private entity unless that entity is nonprofit.".

(b) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—Section 846 of the Public Health Service Act (42 U.S.C. 297n) is amended—

(1) in the heading for the section, by striking "LOAN REPAYMENT PROGRAM" and inserting "LOAN REPAYMENT AND SCHOLARSHIP PROGRAMS";

(2) by redesignating subsections (d), (f), (g), and (h) as subsections (f), (h), (i), and (g), respectively;

(3) by transferring subsections (f) and (g) (as so redesignated) from their current placements, by inserting subsection (f) after subsection (e), and by inserting subsection (g) after subsection (f) (as so inserted); and

(4) by inserting after subsection (c) the following subsection:

"(d) SCHOLARSHIP PROGRAM.—

"(1) IN GENERAL.—The Secretary shall (for fiscal years 2003 and 2004) and may (for fiscal years thereafter) carry out a program of entering into contracts with eligible individuals under which such individuals agree to serve as nurses for a period of not less than 2 years at a health care facility with a critical shortage of nurses, in consideration of the Federal Government agreeing to provide to the individuals scholarships for attendance at schools of nursing.

"(2) ELIGIBLE INDIVIDUALS.—In this subsection, the term 'eligible individual' means an individual who is enrolled or accepted for enrollment as a full-time or part-time student in a school of nursing.

"(3) SERVICE REQUIREMENT.—

"(A) IN GENERAL.—The Secretary may not enter into a contract with an eligible individual under this subsection unless the individual agrees to serve as a nurse at a health care facility with a critical shortage of nurses for a period of full-time service of not less than 2 years, or for a period of part-time service in accordance with subparagraph (B).

"(B) PART-TIME SERVICE.—An individual may complete the period of service described in subparagraph (A) on a part-time basis if the individual has a written agreement that—

"(i) is entered into by the facility and the individual and is approved by the Secretary; and

"(ii) provides that the period of obligated service will be extended so that the aggregate amount of service performed will equal the amount of service that would be performed through a period of full-time service of not less than 2 years.

"(4) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of subpart III of part D of title III shall, except as inconsistent with this section, apply to the program established in paragraph (1) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Scholarship Program established in such subpart.".

(c) PREFERENCE.—Section 846(e) of the Public Health Service Act (42 U.S.C. 297n(e)) is amended by striking "under subsection (a)" and all that follows through the period and inserting "under subsection (a) or (d), the Secretary shall give preference to qualified applicants with the greatest financial need.".

(d) REPORTS.—Subsection (h) of section 846 of the Public Health Service Act (42 U.S.C. 297n) (as redesignated by subsection (b)(2)) is amended to read as follows:

"(h) REPORTS.—Not later than 18 months after the date of enactment of the Nurse Reinvestment Act, and annually thereafter, the Secretary shall prepare and submit to the Congress a report describing the programs carried out under this section, including statements regarding—

"(1) the number of enrollees, scholarships, loan repayments, and grant recipients;

"(2) the number of graduates;

"(3) the amount of scholarship payments and loan repayments made;

"(4) which educational institution the recipients attended;

"(5) the number and placement location of the scholarship and loan repayment recipients at health care facilities with a critical shortage of nurses;

"(6) the default rate and actions required;

"(7) the amount of outstanding default funds of both the scholarship and loan repayment programs;

"(8) to the extent that it can be determined, the reason for the default;

"(9) the demographics of the individuals participating in the scholarship and loan repayment programs;

"(10) justification for the allocation of funds between the scholarship and loan repayment programs; and

"(11) an evaluation of the overall costs and benefits of the programs.".

(e) FUNDING.—Subsection (i) of section 846 of the Public Health Service Act (42 U.S.C. 297n) (as redesignated by subsection (b)(2)) is amended to read as follows:

"(i) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of payments under agreements entered into under subsection (a) or (d), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003 through 2007.

"(2) ALLOCATIONS.—Of the amounts appropriated under paragraph (1), the Secretary may, as determined appropriate by the Secretary, allocate amounts between the program under subsection (a) and the program under subsection (d).".

## TITLE II—NURSE RETENTION

**SEC. 201. BUILDING CAREER LADDERS AND RETAINING QUALITY NURSES.**

Section 831 of the Public Health Service Act (42 U.S.C. 296p) is amended to read as follows:

**"SEC. 831. NURSE EDUCATION, PRACTICE, AND RETENTION GRANTS.**

"(a) EDUCATION PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities for—

"(1) expanding the enrollment in baccalaureate nursing programs;

"(2) developing and implementing internship and residency programs to encourage mentoring and the development of specialties; or

"(3) providing education in new technologies, including distance learning methodologies.

"(b) PRACTICE PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities for—

"(1) establishing or expanding nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities;

"(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, the homeless, and victims of domestic violence;

"(3) providing managed care, quality improvement, and other skills needed to practice in existing and emerging organized health care systems; or

"(4) developing cultural competencies among nurses.

"(c) RETENTION PRIORITY AREAS.—The Secretary may award grants to and enter into contracts with eligible entities to enhance the nursing workforce by initiating and maintaining nurse retention programs pursuant to paragraph (1) or (2).

"(1) GRANTS FOR CAREER LADDER PROGRAMS.—The Secretary may award grants to and enter into contracts with eligible entities for programs—

"(A) to promote career advancement for nursing personnel in a variety of training settings, cross training or specialty training among diverse population groups, and the advancement of individuals including to become professional nurses, advanced education nurses, licensed practical nurses, certified nurse assistants, and home health aides; and

"(B) to assist individuals in obtaining education and training required to enter the nursing profession and advance within such profession, such as by providing career counseling and mentoring.

"(2) ENHANCING PATIENT CARE DELIVERY SYSTEMS.—

"(A) GRANTS.—The Secretary may award grants to eligible entities to improve the retention of nurses and enhance patient care that is directly related to nursing activities by enhancing collaboration and communication among nurses and other health care professionals, and by promoting nurse involvement in the organizational and clinical decisionmaking processes of a health care facility.

"(B) PREFERENCE.—In making awards of grants under this paragraph, the Secretary shall give a preference to applicants that have not previously received an award under this paragraph.

"(C) CONTINUATION OF AN AWARD.—The Secretary shall make continuation of any award under this paragraph beyond the second year of such award contingent on the recipient of such award having demonstrated to the Secretary measurable and substantive improvement in nurse retention or patient care.

"(d) OTHER PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities to address other areas that are of high priority to nurse education, practice, and retention, as determined by the Secretary.

"(e) PREFERENCE.—For purposes of any amount of funds appropriated to carry out this section for fiscal year 2003, 2004, or 2005 that is in excess of the amount of funds appropriated to carry out this section for fiscal year 2002, the Secretary shall give preference to awarding grants or entering into contracts under subsections (a)(2) and (c).

"(f) REPORT.—The Secretary shall submit to the Congress before the end of each fiscal year a report on the grants awarded and the contracts entered into under this section. Each such report shall identify the overall number of such grants and contracts and provide an explanation of why each such grant or contract will meet the priority need of the nursing workforce.

"(g) ELIGIBLE ENTITY.—For purposes of this section, the term 'eligible entity' includes a school of nursing, a health care facility, or a partnership of such a school and facility.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.".

**SEC. 202. COMPREHENSIVE GERIATRIC EDUCATION.**

(a) COMPREHENSIVE GERIATRIC EDUCATION.—Title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.) (as amended by section 102) is amended by adding at the end the following:

### "PART I—COMPREHENSIVE GERIATRIC EDUCATION

**"SEC. 855. COMPREHENSIVE GERIATRIC EDUCATION.**

"(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities to develop and implement, in coordination with programs under section 753, programs and initiatives to train and educate individuals in providing geriatric care for the elderly.

"(b) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds under such grant to—

"(1) provide training to individuals who will provide geriatric care for the elderly;

"(2) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(3) train faculty members in geriatrics; or

"(4) provide continuing education to individuals who provide geriatric care.

"(c) APPLICATION.—An eligible entity desiring a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(d) ELIGIBLE ENTITY.—For purposes of this section, the term 'eligible entity' includes a school of nursing, a health care facility, a program leading to certification as a certified nurse assistant, a partnership of such a school and facility, or a partnership of such a program and facility.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.".

(b) TECHNICAL AMENDMENT.—Section 753(a)(1) of the Public Health Service Act (42 U.S.C. 294c) is amended by striking ", and section 853(2)," and inserting ", and section 801(2),".

**SEC. 203. NURSE FACULTY LOAN PROGRAM.**

Part E of title VIII of the Public Health Service Act (42 U.S.C. 297a et seq.) is amended by inserting after section 846 the following:

"NURSE FACULTY LOAN PROGRAM

"SEC. 846A. (a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with any school of nursing for the establishment and operation of a student loan fund in accordance with this section, to increase the number of qualified nursing faculty.

"(b) AGREEMENTS.—Each agreement entered into under subsection (a) shall—

"(1) provide for the establishment of a student loan fund by the school involved;

"(2) provide for deposit in the fund of—

"(A) the Federal capital contributions to the fund;

"(B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such school;

"(C) collections of principal and interest on loans made from the fund; and

"(D) any other earnings of the fund;

"(3) provide that the fund will be used only for loans to students of the school in accordance with subsection (c) and for costs of collection of such loans and interest thereon;

"(4) provide that loans may be made from such fund only to students pursuing a full-time course of study or, at the discretion of the Secretary, a part-time course of study in an advanced degree program described in section 811(b); and

"(5) contain such other provisions as are necessary to protect the financial interests of the United States.

"(c) LOAN PROVISIONS.—Loans from any student loan fund established by a school pursuant to an agreement under subsection (a) shall be made to an individual on such terms and conditions as the school may determine, except that—

"(1) such terms and conditions are subject to any conditions, limitations, and requirements prescribed by the Secretary;

"(2) in the case of any individual, the total of the loans for any academic year made by schools of nursing from loan funds established pursuant to agreements under subsection (a) may not exceed $30,000, plus any amount determined by the Secretary on an annual basis to reflect inflation;

"(3) an amount up to 85 percent of any such loan (plus interest thereon) shall be canceled by the school as follows:

"(A) upon completion by the individual of each of the first, second, and third year of full-time employment, required by the loan agreement entered into under this subsection, as a faculty member in a school of nursing, the school shall cancel 20 percent of the principle of, and the interest on, the amount of such loan unpaid on the first day of such employment; and

"(B) upon completion by the individual of the fourth year of full-time employment, required by the loan agreement entered into under this subsection, as a faculty member in a school of nursing, the school shall cancel 25 percent of the principle of, and the interest on, the amount of such loan unpaid on the first day of such employment;

"(4) such a loan may be used to pay the cost of tuition, fees, books, laboratory expenses, and other reasonable education expenses;

"(5) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the 10-year period that begins 9 months after the individual ceases to pursue a course of study at a school of nursing; and

"(6) such a loan shall—

"(A) beginning on the date that is 3 months after the individual ceases to pursue a course of study at a school of nursing, bear interest on the unpaid balance of the loan at the rate of 3 percent per annum; or

"(B) subject to subsection (e), if the school of nursing determines that the individual will not complete such course of study or serve as a faculty member as required under the loan agreement under this subsection, bear interest on the unpaid balance of the loan at the prevailing market rate.

"(d) PAYMENT OF PROPORTIONATE SHARE.—Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

"(e) REVIEW BY SECRETARY.—At the request of the individual involved, the Secretary may review any determination by a school of nursing under subsection (c)(6)(B).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.".

**SEC. 204. REPORTS BY GENERAL ACCOUNTING OFFICE.**

(a) NATIONAL VARIATIONS.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a survey to determine national variations in the nursing shortage at hospitals, nursing homes, and other health care providers, and submit a report, including recommendations, to the Congress on Federal remedies to ease nursing shortages. The Comptroller General shall submit to the Congress this report describing the findings relating to ownership status and associated remedies.

(b) HIRING DIFFERENCES AMONG CERTAIN PRIVATE ENTITIES.—The Comptroller General of the United States shall conduct a study to determine differences in the hiring of nurses by nonprofit private entities as compared to the hiring of nurses by private entities that are not nonprofit. In carrying out the study, the Comptroller General shall determine the effect of the inclusion of private entities that are not nonprofit in the program under section 846 of the Public Health Service Act. Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report describing the findings of the study.

(c) NURSING SCHOLARSHIPS.—The Comptroller General of the United States shall conduct an evaluation of whether the program carried out under section 846(d) of the Public Health Service Act has demonstrably increased the number of applicants to schools of nursing and, not later than 4 years after the date of the enactment of this Act, submit a report to the Congress on the results of such evaluation.

## NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, July 24, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 1344, a bill to Encourage Training to Native Americans Interested in Commercial Vehicle Driving Careers.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, July 25, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on the July 2, 2002 Report of the U.S. Department of the Interior to the Congress on the Historical Accounting of Individual Indian Money Accounts.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 30, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills:

S. 2016, to authorize an exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes;

S. 2565, to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River Valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes;

S. 2587, to establish the Joint Federal and State Navigable Waters Commission for Alaska;

S. 2612, to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes; and

S. Con. Res. 107, expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment", as signed August 2001, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National Prescribed Fire Strategy that minimizes risks of escape.

Becausae of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office building, Washington, DC 20510.

For further information, please contact David Brooks or Kira Finkler of the Committee staff at (202) 224-4103.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, July 31, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 934, to require the Secretary of the Interior to construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the Rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system, and for other purposes;

S. 1577, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes;

S. 1882, to amend the Small Reclamation Projects Act of 1956, and for other purposes;

S. 2556, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; and

S. 2696, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patty Beneke at (202) 224–5451 or Mike Connor at (202) 224–5479 of the Committee staff.

## PRIVILEGE OF THE FLOOR

Mr. AKAKA. Mr. President, I ask unanimous consent that privilege of the floor be granted to Peter Dees and Brett Freedman, congressional fellows in my subcommittee office, throughout the duration of my comments on the introduction of the Agriculture Security Preparedness Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT REQUEST—H.R. 3210

Mr. REID. Mr. President, I indicated last Thursday that I would return with a unanimous consent request dealing with appointing conferees to the terrorism insurance bill. We fought for weeks to get to the bill. We finally got to the bill, and we passed it. Now we have been working for weeks to try to get a conference.

The President said this bill is important. He said: You have to do something on this bill. We finally passed something. Now we cannot get a conference. This all appears foolish.

Some will remember that Senator DASCHLE said he wanted the ratio on the conference committee to be 3 to 2. The minority said make it 4 to 3. Senator DASCHLE said, OK, we will make it 4 to 3—so we could get it to conference. Still no conference. The last I heard, there were two people who wanted the third slot, so they are fighting over that. I don't know what the reason is. It is very important that we move on with this legislation.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 252, H.R. 3210, the terrorism insurance bill; that all after the enacting clause be stricken and the text of S. 2600, as passed in the Senate, be inserted in lieu thereof; the bill, as amended, be read the third time and passed, and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, with a ratio of 4 to 3, all without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Ms. SNOWE. Mr. President, I object on behalf of the leadership.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, as I said, I will place this in my desk, and I will be back tomorrow to do it again.

This legislation is not good for the country. I hope that we can have cooler heads prevail and that we can go ahead with the conference. I understand the House is going out for the summer recess this Friday. If the President wants this by the August recess, he had better get to it and ask those folks to allow us to proceed with a conference.

## MEASURE READ THE FIRST TIME—H.R. 4687

Mr. REID. Mr. President, it is my understanding that H.R. 4687, just received from the House, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency measured response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request on behalf of a number of colleagues.

The PRESIDING OFFICER. Objection is heard.

## ORDERS FOR TUESDAY, JULY 23, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until tomorrow at 9:45 a.m., Tuesday, July 23; that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 10:45 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee, and the second half of the time under the majority leader or his designees; that following the disposition of the nomination, the Senate resume legislative session and the time until 12:30 p.m. be equally divided between the two leaders or their designees; further, that the Senate recess from 12:30 until 2:15 p.m. for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. REID. Mr. President, the Senate will vote on cloture on the Surgeon General nomination at 10:45 tomorrow morning. We expect to complete consideration of the nomination shortly after that vote, and we expect to resume consideration of the prescription drug bill, with the time until 12:30 p.m. equally divided between the managers of the bill.

The Senate will vote in relation to the two pending prescription drug amendments at approximately 2:45 tomorrow afternoon.

## ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:58 p.m., recessed until Tuesday, July 23, 2002, at 9:45 a.m.

## NOMINATIONS

Executive nominations received by the Senate July 22, 2002:

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. ROBERT R. DIERKER, 7380

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. PAUL T. MIKOLASHEK, 2507

### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

GEN. JAMES L. JONES JR., 2699

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF NAVAL PERSONNEL, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5141:

*To be vice admiral*

REAR ADM. GERALD L. HOEWING, 6618

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant colonel*

KURT R.L. PETERS, 8130

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

WILLIAM W. CROW, 6862

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S. CODE, SECTION 531:

*To be lieutenant*

JOEL C. SMITH, 0115

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

JOSEPH R. BECKHAM, 4394

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 1211:

*To be lieutenant commander*

MICHAEL E. MOORE, 1745

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

CHARLES W BROWN, 3894
BRAUNA R CARL, 0156
JOHN M DANIELS, 1903
AMY E DERRICK, 5631
TERRENCE L DUDLEY, 5980
BRADLEY A FAGAN, 1995
CHRISTINA S HAGEN, 8474
KENNETH C MARSHALL, 7431
PATRICK W MCNALLY, 9097
JOHN F SHARPE, 3671
TANYA L WALLACE, 3907

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

TODD E BARNHILL, 9717
DAVID S BROWN, 3884
JAMES A BUCHANAN, 8868
MARK D BUTLER, 3297
BRUCE W FORD, 1822
CHRISTOPHER L GABRIEL, 6877
PAULA E HILDEBRAND, 5825
JIMMY D HORNE JR., 8843
MATTHEW J MOORE, 0442
TIMOTHY M RAGLIN, 9118
JUSTIN M REEVES, 6781
JOHN W SIMMS, 5094
NEIL T SMITH, 3461
TIMOTHY B SMITH, 3071
VICTORIA L TABER, 6029
DOMINICK A VINCENT, 9642

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

COLLEEN M BARIBEAU, 9919
STEPHANE C BLAIS, 1701
ROSETTA BUTLER, 5416
SHARON L GRAHAM, 3320
MOLLY A HARRINGTON, 3112
OUDREY HERVEY, 5914
WILLIAM K JAMES, 4334
JOANNE L KINS, 9620
MARY K KORTZ, 1521
HEATHER P MAY, 6172
HELEN L MILLER, 4674
MANUEL C MONTEHERMOSO, 5295
RICHARD OBREGON, 5744
STEVEN R SORCE, 5322
LYNDA M WHITTLE, 9408
KIM C WILLIAMS, 9912

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

VINCENT A AUGELLI, 7361
WILLIAM M CARTER, 6930
KEVIN P CHRISTIE, 5022
VITTERIO J CRISP, 3494
MARISA A DECILLIS, 2746
CATHERINE W DONALDSON, 9866
MICHELLE L GLENN, 5721
BARBARA J GUTSCH, 3042
WILLIAM K HAM, 9362
WYATTE B JONESCOLEMAN, 9229
GARY C KYTE, 7004
STEVEN M LEDOUX, 8134
ADAM C LYONS, 8364
BRADLEY F MAAS, 5892
SUSAN C MCGOVERN, 5435
RHONDA T ONIANWA, 3844
BRYAN T SCHLOTMAN, 3545
JULIE R SCHUCHMANN, 3497
SATISH SKARIAH, 8798
PETER J SZCZEPANKIEWICZ, 5735
WILLIAM R WAGGONER, 6128
WARREN YU, 1573
REESE K ZOMAR, 3020

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

ANGEL BELLIDO, 9838
JOSEPH R BLANK, 2775
ALLEN C BLAXTON, 7787
KENNETH J BROWN JR., 4425
JEFFREY J CHOWN, 4729
WILLIAM F CONROY, 0636
GERALD A COOK, 5284
CHRISTOPHER J COUCH, 4212
DUANE L DECKER, 8919
ALLEN R FORD, 9315
LOUIS P GONCALVES, 9968
TYRONE W GORRICK, 4980
CHRISTOPHER HAMMOND, 9523
JOSEPH A HENRY, 9836
BRIAN J LAUER, 5529
RODOLFO E MARTINEZ, 1243
MICHAEL H MCCURDY, 2836
MARK E NIETO, 6575
JEFFREY J PRONESTI, 1180
DAVID R SCALF, 2077
TIMOTHY G SHINN, 7161
JOEL R TESSIER, 1070
WALTER J WINTERS, 8810

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

MICHAEL P BANASZEWSKI, 2225
CLAUDIO C BILTOC, 5014
BENJAMIN T BURING, 9253
EUGENE F BUSTAMANTE, 4138
PHILIP N CAMPBELL, 9807
ANTHONY J CHERRY, 1987
ANDREW N COREY, 9258
MATTHEW G DISCH, 9921
ROBERT S FAGAN, 0785
JEFFREY S FREELAND, 1534
VINCENT C GIAMPIETRO, 4356
MELVIN GRIFFIN, 2833
EMILY P HAMPTON, 1839
JASON D HANEY, 5956
BRIAN D HOFFER, 9042
KYLE I HOLSTINE, 5991
MATTHEW F HOPSON, 0201
TRACY E JARVIS, 2897
DONALD R JONES JR., 2724
OTIS L LEAKE, 6153
KEITH W MALY, 9954
PATTI J MOYER, 3694
ELIAS OXENDINE, 4267
EDWARD J PADINSKE, 2609

WILLIAM D J PHARIS, 3111
CHAD E PIACENTI, 5813
ADAM D PORTER, 0478
STEVEN G PRENTISS, 3051
TODD PRUETT, 6269
PAUL P RYNNE, 6818
TROY A SHOULDERS, 5982
MIRIAM K SMYTH, 0931
BENJAMIN A SNELL, 0385
OSCAR TEQUIDA, 3640
MATTHEW A VERICH, 2112
DARREN S WILLIAMS, 9455
THOMAS P WYPYSKI, 1097
BRIAN S ZITO, 0437

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

STUART R BLAIR, 1692
ALEXANDER BULLOCK III, 6762
WILLIAM D CARROLL, 4736
KATHERINE M DOLLOFF, 1509
KEVIN R GALLAGHER, 3985
ANDREW S GIBBONS, 6995
LYNN A GISH, 5449
TRENT R GOODING, 4765
CHRISTOPHER J HANSON, 4127
WILLIAM L HARDMAN, 3640
JAMES W HARRELL, 3181
LAURA M HARTMAN, 0429
ANDREW P JOHNSON, 2446
JAY H JOHNSON, 6102
BRIAN L KELLY, 3889
JAMES A KNOLL, 3465
RYAN J KUCHLER, 3059
DANIEL L LANNAMANN, 7404
BRIAN D LAWRENCE, 2276
DAVID W LIDDY, 4756
JOHN L LOWERY, 0281
PETER M LUDWIG, 7664
CHARLES R MARSHALL, 8549
RICHARD J MCCONNELL, 7744
PATRICK M MCDERMOTT, 1914
STEPHEN R MEADE, 6146
BRIAN A METCALF, 7570
RONNIE L MOON, 4308
ELIZABETH S OKANO, 7066
ERIK D OLLER, 7230
JOSEPH R PRISELLA, 7588
JOSEPH PROBST, 5704
JACK S RAMSEY JR., 6787
CHRISTOPHER G RILEY, 9379
JOHN P ROBINSON II, 1104
MICHAEL J ROBISON, 3692
MARIA E SILSDORF, 8818
KEVIN R SMITH, 7159
TIMOTHY C SPICER, 9157
SCOTT W STETSON, 2456
JOHN D STEVENS, 5543
DOUGLAS L SWISHER, 4323
MICHAEL E TAYLOR, 8480
STEPHEN D TOMLIN, 4437
CRAIG A WILGENBUSCH, 9454
JON E WITHEE, 5239

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

WILLIAM L ABBOTT, 0499
ALLEN D BALABIS, 4531
DAVID R BALLANCE, 0389
ROBERT L BARKSDALE, 2915
DONALD L BARNHART, 4083
DAVID W BIBBS, 1412
MICAL L BINDSCHATEL, 2568
JAMES B BLEAKLEY, 6972
BRIAN L BODOH, 8760
DANNY E BOUCHARD, 7669
ROGER J BROUILLET, 3123
ALEX S BROWN, 0678
DAVID W BROWNELL, 2642
RODNEY J BURLEY, 4568
ROBERT G BYRD, 7080
LAWRENCE C CALLAHAN, 3164
DENNIS L CAMERON, 4652
ROBERT A CARMAN, 1451
TERRY V CARROLL, 6361
COLIN M CASWELL, 5477
DOUGLAS B CHANDLER, 1013
JERRY D CHASE, 1314
DAVID A CHRISTOPHERSON, 1496
CRAIG T COLEMAN, 5005
JON T CORSON, 8003
JAMES D DANNELS JR., 9476
JAMES D DARBY, 3672
GEORGE D DAVIS III, 7635
DAVID A DEARMAN, 2991
JOHN F DEDITIUS, 6556
MARK P DITTIG, 5779
JOHN M DOGGETT, 3719
MATHIS DORF, 7118
ELLEN H DUFFY, 8314
ROBERT A DUNCAN, 1993
DAVID A DYMARCIK, 5486
GREGORY T ECKERT, 1658
WILLIAM C ECKES, 2142
DION J EDON, 8052
ROBERT R FARMER, 3017
ROBIN J FARRIS, 7994
GLENN W FORD, 5712
VINCENT W FRESCHI, 0952
DONALD R GATEWOOD, 9156
RICKY L GILBERT, 9823
CLAY K GLASHEEN, 1609
MICHAEL J GLENN, 9126
HILTON J GLYNN, 1998
HENRY K GREEN, 2959
JEFFERY N HANSON, 4517
WILLIAM B HAYS JR., 4172
DENNIS L HENDRIX, 0127
DENNIS J HENMAN, 7136
EDISON L HENRY, 9513
CARL E HOILMAN, 2897
JOSEF S HORAK, 1594
JEFFREY M HORTON, 5425
BILLY R HYLES, 0186
DERRICK L JACKSON, 1279
WILLIAM R JOHNSON, 5800
BRIAN W JONES, 3895
MICHAEL J JONES, 5092
MARK H JORDEN, 0562
HERBERT G KAATZ, 5240
ARLEN D KEMP, 9953
JAMES E KENNEY JR., 5624
DONALD J KOBIEC, 4752
ERICH F LAH, 2397
MICHAEL D LANTHORN, 8033
MICHAEL LAPRADE, 6060
BRIAN R LEE, 2386
ERIC C LEWIS, 0376
GREGORY P LIED, 0113
ANNE E MACFARLANE, 3909
CRAIG T MAJOR, 3068
ANTHONY J MARINELLI, 7119
GARY D MARTIN, 1686
MARTIN P MCCABE, 3424
DANIEL MCGUINNESS, 2690
ROSARIO D MCWHORTER, 0146
DARRELL E MERON, 1073
MARK A MESKIMEN, 8634
MARK E MILLER, 1937
PHILLIP G MILLER, 6715
WILLIAM F MILLER, 4461
RICHARD J MORAWSKI, 3987
JOHN B MORRISON, 7584
STEVEN B MULESKI, 2171
JIMMIE B NEWTON JR., 0006
STEVEN M NICKERSON, 5458
MARK C NISBETT, 7125
SCOTT E NORR, 6627
KEVIN R OLSON, 1575
VINCENT ORTIZ, 6020
BOBBY W OZLEY, 5498
WILLIAM A PAETZ, 2085
DAVID J PARKS, 2916
JAMES M PARTICKA, 2434
RALPH G PAYTON, 2856
RUSSELL L PEACOCK, 3617
LEONARD J PERRIER JR., 8901
JEFFERY D POST, 7764
DAVID L POWELL, 8264
IAKOPO POYER, 0272
WILLIAM M PRESCOTT, 8122
DUNCAN L PRESTON, 2707
THOMAS PRUSINOWSKI, 8385
HARRY S PUTNAM, 1070
ANTONIO C RAMOS, 7559
KEITH W RANSOM, 4143
LEITH E REGAN, 4560
JAMES D RHOADS, 7111
JAMES A ROBERTS, 6807
MARK H ROBERTSON, 8388
STEPHEN P RODES, 1096
JAMES N ROSENTHAL, 9668
DANIEL M ROSSLER, 0295
DOCE D SALAZAR, 8548
CAROL J SCHRADER, 7867
WILLIAM J SCOGGIN, 7766
MICHAEL A SCOTT, 8654
RICHARD W SHARP, 4470
JAMES D SHAW, 9274
GERALD A SHEALEY, 7753
RICHARD T SHELAR, 3847
SCOTT D SILK, 8692
MICHAEL A SIMMONS, 0313
CAREY J SIMS, 1593
REMBRANDT V SMITH, 3487
ROBERT E SMITHBERGER, 4109
THOMAS G SPANGLER, 0950
CLETUS STRAUSBAUGH, 7591
HILARY STROSE, 5684
MARK G SUCHSLAND, 0222
TIMOTHY J SULLIVAN, 5215
CHARLES D SWILLEY, 2059
GREGORY A TESCHNER, 4052
MCDONALD THOMAS, 6829
EDWARD S THOMPSON, 9965
DENNIS B TROUT, 3790
LAUREN L TROYAN, 6893
JAMES P TURNER, 5754
MATTHEW W VINCENT, 6724
MARY M WADSWORTH, 4653
SCOTT A WALKER, 7903
JOHN A WARDEAN, 7056
DAVID S WARNER, 0959
BRYAN F WATTS, 8046
CARVILLE C WEBB, 4488
CHARLES W WEBB, 1770
RAY R WETMORE JR., 5738
SHAWN T WHALEN, 8037
DONALDSON E WICKENS, 1979
JURGEN H WIESE, 0400
WILLIAM A WILLIAMS, 6545
JEFFREY N WOOD, 8504
ALLEN W WOOTEN, 0402
RYSZARD W ZBIKOWSKI, 4782

# House of Representatives—*Monday, July 22, 2002*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*July 22, 2002.*

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the House will stand in recess until 2 p.m.

Accordingly (at 12 o'clock and 31 minutes p.m.) the House stood in recess until 2 p.m.

□ 1400

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. STEARNS) at 2 p.m.

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God and provider of all good gifts, whenever Your people assemble to pray, we praise You as the source of all we have and are. Preserve in the Members of Congress grateful hearts for all You have given them and this Nation. With this gracious attitude, the tasks You set before Your people can be accomplished with humility. Decisions can be made with confidence in Your guiding wisdom. Accomplishments, though limited in our eyes, can be to Your honor and glory, and bring the world closer to attaining the goals of Your Kingdom here on Earth.

As Your conscientious and grateful servants we pray now and forever. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Wisconsin (Mr. SENSENBRENNER) come forward and lead the House in the Pledge of Allegiance.

Mr. SENSENBRENNER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Evans, one of his secretaries.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, July 19, 2002.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER, Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on July 19, 2002 at 2:09 p.m.

That the Senate passed without amendment H.R. 2175.

That the Senate passed without amendment H. Con. Res. 413.

Appointment: U.S. Commission on Civil Rights.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## BOMBING IN AFGHANISTAN

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, news accounts indicate that hundreds upon hundreds of innocent Afghans have been killed by mistakes by U.S. war planes. Stop the bombing. We have no quarrel with the Afghan people. The Taliban are overthrown. Al Qaeda has fled. bin Laden has vanished, and yet the bombs still drop indiscriminately. Is there any American who has not been shaken at the mere thought of the horror of U.S. war planes bombing a wedding celebration in the village of Kakrak killing dozens of civilians? Whatever moral authority our Nation has had at the beginning of the conflict is rapidly being lost. This act does not represent America. Democracy does not wed terror. This act must not be cloaked in the irresponsible and inhuman euphemism of "collateral damage." Stop the bombing. Let an international police force continue in Afghanistan. Let the humble people of Afghanistan be spared friendly fire issued from the skies. Enough of the bombing of villages to save the villages. Stop the bombing.

## CORPORATE GREED

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, a scandal-weary American people awoke this morning to more unpleasant news. WorldCom, an employer of 60,000 people, $107 billion in assets, announced that it would seek bankruptcy court protection.

Millions of Americans have watched their retirement accounts evaporate because of fraud, rampant greed, and misgovernance in some of America's largest corporations. Ordinary investors and Wall Street alike have demanded stronger oversight of the accounting industry, rules that prohibit accounting firms from consulting the companies they audit, new authorities for Federal prosecutors to investigate and to punish corporate criminals, and a requirement that top executives personally certify the accuracy of their companies' financial statements.

Legislation that would make these needed reforms passed the other body unanimously last week. Throughout the 1990s, Republicans rushed to unravel regulations and block needed reforms and helped creates the permissive regulatory environment that has led to recent corporate scandals. Now the Republican leadership has stubbornly refused to bring meaningful accounting reform to the floor. Why, Mr. Speaker?

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on motions to suspend the rules ordered prior to 6:30 p.m. may be taken today. RECORD votes on remaining motions to suspend the rules will be taken tomorrow.

## EXTENSION OF IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4558) to extend the Irish Peace Process Cultural and Training Program.

The Clerk read as follows:

### H.R. 4558

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM.**

Section 2 of the Irish Peace Process Cultural and Training Program Act of 1998 (8 U.S.C. 1101 note) is amended—

(1) in subsection (a)(2)(A) by striking "3" and inserting "4";

(2) in subsection (a)(3) by striking "3" and inserting "4";

(3) in subsection (d)(1) by striking "2005," and inserting "2006,"; and

(4) in subsection (d)(2) by striking "2005," and inserting "2006,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4558, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4558 amends the Irish Peace Process Cultural and Training Program Act of 1998, which established a cultural training program for disadvantaged individuals to assist the Irish peace process. The program creates 12,000 3-year nonimmigrant visas of the Q classification for adults between the ages of 18 and 35 who live in disadvantaged areas in northern Ireland and the border counties of the Irish Republic. The program enacted in 1998 is set to sunset on October 1, 2005. This bill extends it for 1 year to 2006.

The purpose of the visa is to provide practical training, employment, and the experience of co-existence and conflict resolution in a diverse society and a strong economy such as ours. After trainees return home, they can provide the critical skill base needed to attract private investment in their local economies. The program currently operates in Washington, D.C.; Colorado Springs; Boston; and Pittsburgh. Because the program has been so successful, it also began in Syracuse, New York, within the past few months.

The program got off to a late start due to funding trouble. As such, H.R. 4558 would extend the program for 1 year to make up for the delay so that additional young people can take advantage of this successful program and become peacemakers for Northern Ireland.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from Ohio (Mr. BROWN) will manage the time on his side of the aisle.

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

This appears to be a very worthwhile bill, as it amends the Irish Peace Process Cultural and Training Program Act of 1998 to extend through fiscal year 2006. The Irish Peace Process Cultural and Training Program provides for admission into the U.S. each fiscal year of up to 4,000 young disadvantaged aliens from designated counties in Northern Ireland and the Republic of Ireland. These youths suffer from sectarian violence and high unemployment.

The need for these programs is highlighted by the recent outbreak of violence in the country. The Guardian newspaper reports today that a young 20-year-old Catholic man was shot dead in north Belfast. This shooting is a continuation of a series of shootings. Earlier, a 19-year-old Protestant man was shot in the groin in Ardoyne close to the site of last year's loyalist picket at Holy Cross School. The shootings followed a series of violent clashes in north Belfast over the weekend in which an elderly disabled man narrowly escaped death when a petrol bomb was thrown into his home as he slept. Officials and residents are concerned that the renewed attacks will escalate violence in the country.

Hopefully, Mr. Speaker, this program will help put an end to such violence. This program helps these young people develop job and conflict resolution skills in a diverse and peaceful environment so they can return to their homes better able to contribute toward economic regeneration and a lasting peace in Ireland. America's vibrant Irish community welcomes this. I think it is a good idea.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. WALSH).

Mr. WALSH. Mr. Speaker, today I rise in support of H.R. 4558, a bill to extend the Irish Peace Process Cultural and Training Program. This legislation would simply extend the current program for 1 year and allow another group of participants from Northern Ireland and the border counties to enter into the program in fiscal year 2003. I would like to thank the gentleman from Pennsylvania (Mr. GEKAS), who has been such a wonderful advocate for this bill and also the gentleman from Wisconsin (Mr. SENSENBRENNER), who, despite an incredibly heavy workload in the Committee on the Judiciary, fast-tracked this bill. We are very grateful to both of them. As chairman of the bipartisan Friends of Ireland Caucus here in the House, I believe this is a vital program in support of the Northern Ireland peace process; and I thank the committee for their prompt consideration.

Imagine a program where young people are able to leave Irish neighborhoods of hardship and strife to experience life in a multicultural, multireligious, and diverse Nation. Upon return, they share what they have learned with their peers and build a better life for themselves and their families, a life of greater acceptance of difference without hate. This was the idea of the Irish Peace Process Cultural and Training Program, which began in 1998.

The original legislation, H.R. 4293, creates 12,000 3-year nonimmigrant visas, Q classification, for adults between the ages of 18 and 35 who live in disadvantaged areas in Northern Ireland and the border counties of the Republic of Ireland. It aims to assist the region in its transition to a peacetime economy. As a low-cost, low-risk, high-return investment in peace, it affords people an opportunity to obtain valuable job skills and the experience of working in the world's greatest economy. After their visit, they return home to provide the crucial skill base needed to attract private investment in their local communities.

Signed into law by President Clinton on October 30, 1998, the legislation directs the Secretary of State and the

Attorney General to establish a program for young people who are residents of these areas to, quote, "develop job skills and conflict resolution abilities."

Since its inception, this program has already allowed about 500 young people ages 18 to 35 to immerse themselves in the culture in United States hub cities, including Colorado Springs; Washington, D.C.; Boston; Pittsburgh; and, most recently, my home, Syracuse. When the program was created, the Congress had no idea how many visas would be required. We had no accurate way to gauge interest among young people in those areas. However, the program is working; and I am anxiously awaiting a review by the Immigration and Naturalization Service and the State Department next spring when the first group of participants return to their home country.

Mr. Speaker, current regulations state that INS may only admit 4,000 aliens per year under this program for a maximum of 36 months and only during the years 2000, 2001, and 2002. This legislation would simply allow another group of participants in fiscal year 2003 to obtain a 3-year Q–2 visa and enter into the program. This is understood by the State Department as well as the Ireland and Northern Ireland governments. If approved, they are expecting about 250 additional visas will be issued next year.

☐ 1415

Mr. Speaker, whenever Members of Congress visit Ireland and Northern Ireland, we are thanked for the support Congress has given to the peace process and reminded of the need to maintain our involvement. We have seen firsthand benefits of private and public investment in these distressed areas that have suffered the most from the violence over the last 30 years.

The peace process in Northern Ireland is a great story, but it is an ongoing story and needs leadership from within and support from outside. This program is part of our ongoing commitment to a process that would have been impossible without U.S. involvement.

The visa program will leverage existing and future private investment at a time of fiscal austerity. This program is a relatively inexpensive way to promote peace, reconciliation and stability. I believe this program serves as a model for future efforts to bring peace and resolve conflicts in other hot spots around the world.

Mr. Speaker, I urge the adoption of H.R. 4558.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 4558 an extension of the Irish Peace Process Cultural Training program sponsored by my friend and colleague the gentleman from New York. Mr. WALSH, who chairs the Congressional Friends of Ireland.

Today, in the north of Ireland the institutions established by the Good Friday Accord are up and running. They are serving the people very well in a shared governance scheme supported by the two governments in the region, by our nation, and most of the people in both the north and south.

Now that we have changed their means of governance, we must also help change hearts and minds in the long divided Irish society, where sadly some elements of sectarianism still exist.

During this past summer we witnessed nearly nightly violence in some of the interfaced areas in the inner city of Belfast, where some Catholics and Protestants have yet to learn to live together side by side.

Mr. Walsh's plan, extended by H.R. 4558, has provided for young people from the north and the border counties in the south to come to our nation. Here they can learn new skills and at the same time also learn to live and work together in peace and harmony in multicultural societies, such as ours.

These new job skills and cultural experiences that they learn here and take back to Ireland, are just what Northern Ireland needs today.

While the shared governance scheme has changed the institutions, we also must help change mind sets and develop new outlooks and opportunities for the young people of the region. Mr. Walsh's program meets those two vital needs, and is a long term and insightful solution for what next needs to be done in Northern Ireland.

On a recent Codel to Ireland, I am informed, the Walsh visa program won high praise from some members of the Irish Dail and the Northern Ireland assembly. These are people on the ground who know the challenges and what can and needs to be done by our nation to cement the peace.

I urge all of our colleagues who are for the future of Northern Ireland and especially its young people to vote for H.R. 4558. It is yet another commitment from our nation to the people of Northern Ireland, especially the young, who are its future.

There is no turning back from the Good Friday accord as the important and well meaning IRA apology of last week made clear. We are at the dawn of a new beginning in that long troubled region. H.R. 4558 is a vital part of our contribution to that new and hopeful future, and I urge its adoption.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4558.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## CHILD STATUS PROTECTION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1209) to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Child Status Protection Act".*

***SEC. 2. USE OF AGE ON PETITION FILING DATE, PARENT'S NATURALIZATION DATE, OR MARRIAGE TERMINATION DATE, IN DETERMINING STATUS AS IMMEDIATE RELATIVE.***

*Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by adding at the end the following:*

*"(f) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—*

*"(1) AGE ON PETITION FILING DATE.—Except as provided in paragraphs (2) and (3), for purposes of subsection (b)(2)(A)(i), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which the petition is filed with the Attorney General under section 204 to classify the alien as an immediate relative under subsection (b)(2)(A)(i).*

*"(2) AGE ON PARENT'S NATURALIZATION DATE.—In the case of a petition under section 204 initially filed for an alien child's classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the child's parent being lawfully admitted for permanent residence, if the petition is later converted, due to the naturalization of the parent, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i), the determination described in paragraph (1) shall be made using the age of the alien on the date of the parent's naturalization.*

*"(3) AGE ON MARRIAGE TERMINATION DATE.—In the case of a petition under section 204 initially filed for an alien's classification as a family-sponsored immigrant under section 203(a)(3), based on the alien's being a married son or daughter of a citizen, if the petition is later converted, due to the legal termination of the alien's marriage, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i) or as an unmarried son or daughter of a citizen under section 203(a)(1), the determination described in paragraph (1) shall be made using the age of the alien on the date of the termination of the marriage.".*

***SEC. 3. TREATMENT OF CERTAIN UNMARRIED SONS AND DAUGHTERS SEEKING STATUS AS FAMILY-SPONSORED, EMPLOYMENT-BASED, AND DIVERSITY IMMIGRANTS.***

*Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by adding at the end the following:*

*"(h) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—*

*"(1) IN GENERAL.—For purposes of subsections (a)(2)(A) and (d), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using—*

*"(A) the age of the alien on the date on which an immigrant visa number becomes available for*

*such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien's parent), but only if the alien has sought to acquire the status of an alien lawfully admitted for permanent residence within one year of such availability; reduced by*

*"(B) the number of days in the period during which the applicable petition described in paragraph (2) was pending.*

*"(2) PETITIONS DESCRIBED.—The petition described in this paragraph is—*

*"(A) with respect to a relationship described in subsection (a)(2)(A), a petition filed under section 204 for classification of an alien child under subsection (a)(2)(A); or*

*"(B) with respect to an alien child who is a derivative beneficiary under subsection (d), a petition filed under section 204 for classification of the alien's parent under subsection (a), (b), or (c).*

*"(3) RETENTION OF PRIORITY DATE.—If the age of an alien is determined under paragraph (1) to be 21 years of age or older for the purposes of subsections (a)(2)(A) and (d), the alien's petition shall automatically be converted to the appropriate category and the alien shall retain the original priority date issued upon receipt of the original petition.".*

### SEC. 4. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ASYLUM.

*Section 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(3)) is amended to read as follows:*

*"(3) TREATMENT OF SPOUSE AND CHILDREN.—*

*"(A) IN GENERAL.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.*

*"(B) CONTINUED CLASSIFICATION OF CERTAIN ALIENS AS CHILDREN.—An unmarried alien who seeks to accompany, or follow to join, a parent granted asylum under this subsection, and who was under 21 years of age on the date on which such parent applied for asylum under this section, shall continue to be classified as a child for purposes of this paragraph and section 209(b)(3), if the alien attained 21 years of age after such application was filed but while it was pending.".*

### SEC. 5. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ADMISSION AS REFUGEE.

*Section 207(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)) is amended—*

*(1) by striking "(2)" and inserting "(2)(A)"; and*

*(2) by adding at the end the following:*

*"(B) An unmarried alien who seeks to accompany, or follow to join, a parent granted admission as a refugee under this subsection, and who was under 21 years of age on the date on which such parent applied for refugee status under this section, shall continue to be classified as a child for purposes of this paragraph, if the alien attained 21 years of age after such application was filed but while it was pending.".*

### SEC. 6. TREATMENT OF CLASSIFICATION PETITIONS FOR UNMARRIED SONS AND DAUGHTERS OF NATURALIZED CITIZENS.

*Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:*

*"(k) PROCEDURES FOR UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a petition under this section initially filed for an alien unmarried son or daughter's classification as a family-sponsored immigrant under section 203(a)(2)(B), based on a parent of the son or daughter being an alien lawfully admitted for permanent residence, if such parent subsequently becomes a naturalized citizen of the United States, such petition shall be converted to a petition to classify the unmarried son or daughter as a family-sponsored immigrant under section 203(a)(1).*

*"(2) EXCEPTION.—Paragraph (1) does not apply if the son or daughter files with the Attorney General a written statement that he or she elects not to have such conversion occur (or if it has occurred, to have such conversion revoked). Where such an election has been made, any determination with respect to the son or daughter's eligibility for admission as a family-sponsored immigrant shall be made as if such naturalization had not taken place.*

*"(3) PRIORITY DATE.—Regardless of whether a petition is converted under this subsection or not, if an unmarried son or daughter described in this subsection was assigned a priority date with respect to such petition before such naturalization, he or she may maintain that priority date.*

*"(4) CLARIFICATION.—This subsection shall apply to a petition if it is properly filed, regardless of whether it was approved or not before such naturalization.".*

### SEC. 7. IMMIGRATION BENEFITS FOR CERTAIN ALIEN CHILDREN NOT AFFECTED.

*Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is amended by adding at the end the following new clause:*

*"(iii) Nothing in the amendments made by the Child Status Protection Act shall be construed to limit or deny any right or benefit provided under this subparagraph.".*

### SEC. 8. EFFECTIVE DATE.

*The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to any alien who is a derivative beneficiary or any other beneficiary of—*

*(1) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) approved before such date but only if a final determination has not been made on the beneficiary's application for an immigrant visa or adjustment of status to lawful permanent residence pursuant to such approved petition;*

*(2) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) pending on or after such date; or*

*(3) an application pending before the Department of Justice or the Department of State on or after such date.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1209.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1209, the Child Status Protection Act, is the good work of the Subcommittee on Immigration, Border Security and Claims chairman, the gentleman from Pennsylvania (Mr. GEKAS), and the ranking member, the gentlewoman from Texas (Ms. JACKSON-LEE.) It passed the House by a vote of 416 to 0 in June of 2001. Today we take up the bill as amended by the Senate.

Aliens residing in the United States who are eligible for permanent resident status may adjust their status with the INS. However, INS processing delays have caused up to a 3-year delay for adjustment. For alien children of U.S. citizens, this delay in processing can have serious consequences, for once they turn 21 years of age they lose their immediate relative status. An unlimited number of immediate relatives of U.S. citizens can receive green cards every year. However, there are a limited number of green cards available for the adult children of citizens.

If a U.S. citizen parent petitions for a green card for a child before the child turns 21 but the INS does not get around to processing the adjustment of status application until after the child turns 21, the family is out of luck. The child goes to the end of the long waiting list. The child is being punished because of INS ineptitude, which we have heard much about, and it is not right. H.R. 1209 corrects this outcome by providing that a child shall remain eligible for immediate relative status as long as an immigrant visa petition was filed for him or her before turning age 21.

The Senate passed H.R. 1209 with a few appropriate additions, and the motion today is to concur in those additions. The Senate bill addresses three other situations where alien children lose immigration benefits by "aging out" as a result of INS processing delays.

Case number one: Children of permanent residents. Under current law, when a child of a permanent resident turns 21, he or she goes from the second preference A waiting list to the second waiting list B waiting list, which is much longer.

Case number two: Children of family and employer-sponsored immigrants and diversity lottery winners. Under current law, when an alien receives permanent residence as a preference visa recipient or a winner of the diversity lottery, a minor child receives permanent residence at the same time. After the child turns 21, the parent would have to apply for the child to be put on the second preference B waiting list.

Case number three: Children of asylees and refugees. Under current law, when an alien receives asylum or is granted refugee status, a minor child receives permanent residence at the same time as the parent. After the child turns 21, the parent would have to apply for him or her to be put on the second preference B waiting list.

The Senate amendment also fixes a troubling anomaly in our immigration laws. Under current law, when a permanent resident naturalizes who has sponsored adult sons and daughters for preferential visas, they move from the second preference B category to the first preference category. Normally, the wait for a first preference visa is much shorter than the wait for second preference B visa. However, currently this is not the case for sons and daughters of immigrants from the Philippines. For complicated factors, the line actually gets longer for sons and daughters when the parent naturalizes. Immigrants are in effect being penalized for becoming citizens, and we don't want that.

The Senate amendment provides a simple fix by allowing an adult son or daughter to decline to be transferred from the second preference B category to the first preference category when a parent naturalizes.

This bill is a fine example of how we and the other body can work together in a collaborative fashion. Bringing families together is a prime goal of our immigration system. H.R. 1209 facilitates and hastens the reuniting of legal immigrants' families. It is family-friendly legislation that is in keeping with our proud traditions. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentlewoman from Texas (Ms. JACKSON-LEE) will control the time.

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank you for your kindness, and I might also acknowledge the gentleman from Ohio (Mr. BROWN) for his kindness. Traveling sometimes causes one to be delayed.

Mr. Speaker, let me rise to support what I think is a very special and important piece of legislation that has come about from the Committee on the Judiciary in a bipartisan manner, the Child Status Protection Act of 2001, H.R. 1209.

I would ask my colleagues to enthusiastically support this legislation, which was originally cosponsored by the subcommittee chairman, the gentleman from Pennsylvania (Mr. GEKAS), and myself, and it is a culmination of a bipartisan agreement of both the House and the Senate that addresses the status of unmarried children of U.S. citizens who turn 21 while in the process of having an immigrant visa petition adjudicated. The age and marital status of the offspring of U.S. citizens determine whether they are eligible for immigrant status as an immediate relative or under the family-first preference category.

As has been noted throughout our debates on the floor of the House, we are interested in and encouraged by the interest of immigrants in this country to access legalization, to become American citizens, to be part of the great values and the great beliefs of this Nation.

H.R. 1209 would protect the status of children of United States citizens who "age out" while awaiting the processing and adjudication of immediate relative petitions.

The child of a U.S. citizen is eligible for admission as an immediate relative. Immediate relatives of U.S. citizens are not subject to any numerical restrictions. That is, visas are immediately available to them under the statute, subject only to the processing time required to adjudicate the immediate relative visa petition.

Obviously, the parent and child relationship is very important. The benefits that come from the parent-child relationship or relative relationship is very important, the ability to be able to go to school, to a place of higher education, to receive other governmental benefits. Thus, the only wait that such children are required to endure is the time it takes to process their paperwork. We want to see that completed.

Under current law, once children reach the age of 21 and above, they are no longer considered immediate relatives under the INA. That means that they "age out." Thus, instead of being entitled to admission without numerical limitation, the U.S. citizen's sons or daughters are placed in the back of the line for one of the INS's backlogged family preference categories of immigrants. That means they have already been standing in line for maybe 2, 3, 4 years. They may have been 17 or 16 or 19, and they have then aged out. By putting them behind a long list of individuals then complicates further the situation of the benefits that they might receive and also the relationship being established as an American citizen.

This can be particularly difficult when there are just over 23,000 family-first preference visas available each year to the adult unmarried sons and daughters of citizens, many of whom are coming over to the country for the first time. Some of these that will be impacted by this law are already here waiting to access citizenship. The waiting list at times has been in excess of over 90,000 people. It is not uncommon for people to wait on this waiting list for 4 years.

The Senate expanded this bill to cover other situations where alien children lose immigration benefits by aging out as a result of INS processing delays. The Senate amendment expands age-out protection to cover the following:

Children of permanent residents. Under current law, there is a group that is waiting in permanent residence, and we have expanded that. Children of family and employer-sponsored immigrants and diversity lottery winners, which allows those who are under visas such as H1(b), which is very helpful. Children of asylees and refugees. Under current law, when an alien receives asylum or is granted refugee status, a minor child receives permanent residence at the same time as the parent. After the child turns 21, the parent would have to apply for him or her to be put on the second preference B waiting list.

I have a dilemma in my own district with where a family of nine is now in detention because the only citizen they have in their family is a 9-year-old child, which shows that, in many instances, sometimes there are difficulties in families, good families, trying to access legalization. This family has been in the country for 9 years. This legislation does not apply to that, but it shows that where we can correct situations to bring families together, this is extremely important.

So the Senate has brought about an opportunity to correct or expand upon what was not done in the House. I believe this is an important bill that helps those who are aging out and brings families together. I hope my colleagues will support this legislation enthusiastically.

Mr. Speaker, "The Child Status Protection Act" we are considering today, originally sponsored by Subcommittee Chairman GEORGE GEKAS and myself, is the culmination of a bipartisan agreement of both the House and the Senate, that addresses the status of unmarried children of U.S. citizens who turn 21 while in the process of having an immigrant visa petition adjudicated. The age and marital status of the offspring of U.S. citizens determine whether they are eligible for immigrant status as "immediate relatives" or under the "family first preference category".

H.R. 1209 would protect the status of children of United States citizens who "age-out" while awaiting the processing and adjudication of immediate relative petitions.

The "child" of a U.S. citizen is eligible for admission as an "immediate relative." "Immediate relatives" of U.S. citizens are not subject to any numerical restrictions. That is, visas are immediately available to them under the statute, subject only to the processing time required to adjudicate the immediate relative visa petition. Thus, the only wait that such children are required to endure is the time it takes to process their paperwork.

Under current law once children reach 21 years of age, they are no longer considered immediate relatives under the INA. Thus, instead of being entitled to admission without numerical limitation, the U.S. citizen's sons or daughters are placed in the back of the line for one of the INS's backlogged family preference categories of immigrants. This can be particularly difficult when there are just over 23,000 family-first preference visas available each year to the adult, unmarried sons and daughters of citizens and a waiting list which at times has been in excess of over 90,000 people. It is not uncommon for people to wait on this waiting list for years.

The Senate expanded the bill to cover other situations where alien children lose immigration benefits by "aging-out" as a result of INS processing delays. The Senate amendment expands age-out protection to cover:

### CHILDREN OF PERMANENT RESIDENTS

Under current law, when a child of a permanent resident turns 21, he or she goes from the second preference "A" waiting list to the second preference "B" waiting list, which is much longer.

### CHILDREN OF FAMILY AND EMPLOYER-SPONSORED IMMIGRANTS AND DIVERSITY LOTTERY WINNERS

Under current law, when an alien receives permanent residence as a preference-visa recipient or a winner of the diversity lottery, a minor child receives permanent residence at the same time. After the child turns 21, the parent would have to apply for him or her to be put on the second preference "B" waiting list.

### CHILDREN OF ASYLEES AND REFUGEES

Under current law, when an alien receives asylum or is granted refugee status, a minor child receives permanent residence at the same time as the parent. After the child turns 21, the parent would have to apply for him or her to be put on the second preference "B" waiting list.

The Senate amendment also fixes an anomaly in our immigration laws. Under current law, when a permanent resident naturalizes who has sponsored adult sons and daughters for preference visas, they move from the second preference "B" category (for the adult sons and daughters of permanent residents) to the first preference category (for the adult sons and daughters of citizens).

Normally, the wait for a first preference visa is much shorter than the wait for a second preference "B" visa. However, currently this is not the case for the sons and daughters of immigrants from the Philippines. The line actually gets longer for the sons and daughters when the parent naturalizes. This outcome is caused by two factors: (1) no one country can receive more than a certain percentage of visas in family-preference categories, and (2) there is a relatively higher demand among naturalized citizens from the Philippines for preference visas for their adult sons and daughters than there is among permanent residents from the Philippines. In any event, it is certainly unfortunate that immigrants are in effect being penalized for becoming citizens. The Senate amendment provides relief by allowing an adult son or daughter of a naturalized citizen who has already been sponsored for permanent residence to choose not to be transferred from the second preference "B" category to the first preference category.

This bill will solve the "age out" problem without displacing others who have been waiting patiently in other visa categories by allowing the child to use the date at the time the date of the parent's application. I would like to thank our Subcommittee Chairman, Congressman GEORGE GEKAS and Chairman SENSENBRENNER for moving this matter through the Congress. I look forward to further bi-partisan agreements in the future.

Mr. GEKAS. Mr. Speaker, I introduced H.R. 1209, the "Child Status Protection Act", in March of 2001 along with SHEILA JACKSON LEE. I was moved by stories of the children of U.S. citizens, constituents of my own and of other members, who were being punished because of the inability of the INS to process applications for adjustment of status to permanent residency in a timely manner.

I am gratified to see us today on the verge of passing this bill for a second time and sending it to President Bush for his signature. I want to thank Senator DIANNE FEINSTEIN for all her help in getting this bill passed by the Senate and for her efforts to make it even better.

Aliens who are eligible to receive an immigrant visa and who are in the United States are eligible to adjust to permanent resident status with the INS. However, the adjustment of status process has become a black hole. Almost a million adjustment of status applications are pending and the consequent processing delay can last up to three years. For the children of U.S. citizens, such delay can have major consequences.

An unlimited number of visas are available each year for the minor children of U.S. citizens, who are considered immediate relatives. However, a finite number of visas are available for the adult children of U.S. citizens.

The date at which the age of a child is measured is the date their adjustment of status application is processed—not the date that an immigrant visa petition was filed on their behalf. Thus, with the INS taking up to three years to process applications, children who were under 21 when their petitions were filed may find themselves over 21 by the time their applications are processed. When a child of a U.S. citizen "ages out" by turning 21, the child automatically shifts from the immediate relative category to the family first preference category. This puts him or her at the end of long waiting list for a visa.

Because demand for first preference visas far exceeds the number of visas available each year, petitions are processed in the order they were filed. For applicants from most countries, the wait for a family first preference visa is about seven years, but for applicants from Mexico or the Philippines, the wait can be much longer. This is in addition to the time it takes INS to process the adjustment of status application.

H.R. 1209, "the Child Status Protection Act", allows the children of U.S. citizens whose visa petitions were filed before they reached 21, but turn 21 before their adjustment of status applications are processed, to adjust status without having to wait for years. Pursuant to the bill, they will still be considered minor children of U.S. citizens, thus avoiding the first preference backlog.

This bill protects the children of American citizens whose opportunity to receive a visa quickly has been lost because of INS delays. It will also apply to those rare cases where a child "ages out" overseas during the usually more expeditious State Department visa processing.

The bill was modified in the Senate to provide relief to other children who lose out when the INS takes too long to process their adjustment of status applications—such as the children of permanent residents and of asylees and refugees. I want to commend Senator FEINSTEIN for these changes.

The bill will also benefit Philippine immigrants who become naturalized citizens. For some of them, naturalization now means that they will have to wait longer to reunite with their adult children. Our complex immigration laws and the law of supply and demand currently lead to the odd result that the waiting list is longer for the adult child of a naturalized citizen from the Philippines than for the adult child of a permanent resident from the Philippines. As a result, Filipino permanent residents with adult children are being punished for becoming citizens of the United States. H.R. 1209 sets things right by simply allowing the adult children to choose to stay in the shorter line.

I urge my colleagues to support H.R. 1209.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1209.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

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## CONFERRING HONORARY CITIZENSHIP ON THE MARQUIS DE LAFAYETTE

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 13) conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as Marquis de Lafayette, as amended.

The Clerk read as follows:

### S.J. RES. 13

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette, is proclaimed posthumously to be an honorary citizen of the United States of America.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S.J. Res. 13.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Joint Resolution 13 confers honorary U.S. citizenship on the Marquis de Lafayette in recognition of his many contributions to and sacrifices for the cause of American independence and his lifelong crusade for the principles of representative government.

American citizenship is the highest honor that we as a country can confer upon the citizen of another country. The granting of honorary citizenship is the admission and welcoming of that person into our national family.

□ 1430

The granting of honorary U.S. citizenship has only been given to individuals four times in our history.

The Marquis de Lafayette's role in the fight for this country's freedom justifies adding the Marquis to this select group of individuals.

This resolution acknowledges the many efforts made by the Marquis de Lafayette that are the basis for granting him honorary United States citizenship.

Although the Marquis de Lafayette was granted citizenship by Maryland and Virginia before the Constitution was adopted, it has been determined that citizenship conferred by those States did not confer U.S. citizenship on the Marquis.

Because of the many ways in which the Marquis played a major role in the creation of our great Nation, it is appropriate to bestow the rare distinction of honorary U.S. citizenship upon the Marquis de Lafayette.

No other foreign national involved in this country's independence contributed so much to the cause. The Marquis de Lafayette certainly deserves this tribute for his role in creating a free America.

Unfortunately, the resolution passed by the Senate states the Marquis's name incorrectly. This motion that I have made amends the joint resolution to grant honorary citizenship to the real Marquis de Lafayette and, thus, the resolution must go back to the other body for its consideration. I hope that the other body will move quickly and not cause any further delay in granting this much overdue honor to the Marquis de Lafayette. I urge the House to pass this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just under a month ago, we celebrated our Independence Day, when many Americans begin to turn their attention to, again, the values of this country and the privileges of this country. I took the opportunity again to reflect upon the Declaration of Independence and to read about the original signers of that document. It was interesting to note that most of those who signed, or many of those who signed, ultimately lost their status and wealth, their land, some of whom lost their life or their freedom by being incarcerated in prison, some never to see their family members again. So S.J. Resolution 13 is worthy of the support of my colleagues in honor of the Marquis de Lafayette.

So I rise today to support this measure conferring honorary citizenship of the United States on this important historic figure. Known as Marquis de Lafayette or General Lafayette, he was a soldier for America's freedom. He gave up a lot: his comfort in France, his royal birthplace, to help young America battle for independence. He did something he did not have to do as the original signers of the Declaration of Independence did as well. So he made a great sacrifice for this Nation.

In 1777, Lafayette, with a crew of adventurers, set sail for America to fight in the revolution against the British. Lafayette joined the ranks as a major general and was assigned to the staff of George Washington. He served with distinction, leading American forces to several victories. On a return visit to France in 1779, Lafayette persuaded the French government to send aid to the Americans. After the British surrender at Yorktown, Lafayette returned to his home in Paris. He had become a hero to the new Nation. At home, he cooperated closely with Ambassadors Benjamin Franklin and then Thomas Jefferson on behalf of American interests.

The United States has conferred honorary citizenship on four other occasions in more than 200 years of its independence, and honorary citizenship is and should remain an extraordinary honor not lightly conferred, not frequently granted. Whereas the Marquis de Lafayette voluntarily put forth his own money, gave aid to the United States, and risked his life for the freedom of Americans, I believe this distinction is warranted. Particularly in this time, we all realize how grateful we are for being born in a country that values freedom so greatly, and for those who fought for that freedom, to make this Nation an ongoing process in greater freedom for all of its diverse members is a tribute.

The sentiment that Marquis de Lafayette had toward America is one Americans should have. Humanity has won its battle. Liberty now has a country.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Speaker, I wish to thank the chairman and the ranking member and all of the members of the Committee on the Judiciary for their effort on behalf of S.J. Resolution 13.

Inspired by our cause for independence, the Marquis de Lafayette left his aristocratic life in France to come to revolutionary America. He landed in Charleston, South Carolina, and he was only 20 years old. One month later in Philadelphia, he volunteered to serve in the continental Army at his own expense. Congress gave him the rank of major general.

Two months after his commission, Lafayette was wounded at the Battle of Brandywine. He spent the winter with George Washington at Valley Forge. The following summer, he served with distinction at the Battle of Monmouth, and then at the battle of Newport in Rhode Island.

After going to France for 2 years, he returned to America in 1780 and was an invaluable aide-de-camp as General Washington and the French Commander-in-Chief planned a joint campaign. In 1781, Lafayette served in Virginia, concluding with our victory at Yorktown. He went back to France.

Then in 1824, Lafayette returned to America and received a hero's welcome wherever he went. He spent over a year touring all 24 States of the Union.

Many of my colleagues have noticed the portrait on the wall here in the House. It commemorates Lafayette's speech to an 1824 Joint Session of Congress, the first such address by a foreigner. In November of that year, Lafayette stayed with President Thomas Jefferson at Monticello in the fifth district of Virginia. At a banquet at the University of Virginia held in the Dome Room of UVA's Rotunda, the Marquis was seated between former presidents Jefferson and James Madison. There proclaimed Jefferson, referring to the American revolution, "I merely held the nail; Lafayette drove it."

I take these comments to mean that while Jefferson was a crucial figure in defining the ideals of representative democracy, Lafayette was a crucial figure in making our democracy politically possible through securing France's help and winning our independence from Great Britain.

Let us now return Lafayette's inestimable favor. Let us concur on the Marquis de Lafayette honorary citizenship of the United States of America.

Mr. Speaker, I urge my colleagues to vote in favor of S.J. Resolution 13.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it gives me great pleasure to yield such time as he might consume to the gentleman from American Samoa (Mr. FALEOMAVEAGA). We appreciate his friendship and that of the independent islands which he is representing.

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentlewoman for yielding me this time. I certainly want to commend our distinguished chairman of the Committee on the Judiciary, as well as the gentlewoman from Texas, for their management of this legislation. I support the proposed resolution.

How ironic, Mr. Speaker, that we find here in this hallowed Chamber only two paintings of two distinguished individuals that have had some bearing in terms of what we are discussing, the revolution and the leadership of George Washington. If I am correct, Mr. Speaker, I believe the other painting that we see here in the gallery is the Marquis de Lafayette, and I think it bears an understanding of how distinguished this Frenchman was by demonstrating his leadership, his courage, and his commitment to our freedoms as a former colony of the British empire.

I think we have to have a sense of perspective too in terms of the fact that the French and the British were fighting over the colonial abilities of themselves in terms of what we were to do, and I wonder, sometimes, if maybe the French government really had a love or a greater hatred for the British than they did for the colonialists.

But I do want to honor the Marquis de Lafayette and all that my good friend, the gentleman from Virginia (Mr. GOODE) had spoken about in terms of his history and his commitment to democracy. I just wish that perhaps in these days, the Marquis de Lafayette would come and help me with the fact that the French government had conducted 200 nuclear testings in the South Pacific that has drastically affected the environment in this region of the world. I wonder that despite the fact that 60 percent of the French people were even against nuclear testing, for which President Chirac has simply broken the moratorium and given greater pain and feelings of misunderstanding of the people of the Pacific.

Yes, I do honor the Marquis de Lafayette for what he has done for our Nation, and for that I want to again thank the gentlewoman from Texas for giving me this opportunity to pay tribute to this gentleman, and I support the resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let me thank the distinguished gentleman from American Samoa. I think his tribute to the Marquis de Lafayette is to be appreciated, as well as his concerns that have been expressed.

Let me say to the distinguished chairman of the Committee on the Judiciary, as I mentioned last week when we were on the floor together, let me make it very clear that I support enthusiastically this resolution, and distinguished gentleman from Virginia for putting it forward. I think it is important that as this bill deals with citizenship, just to indicate to this House as we begin to finish our work before a work recess, that there is unfinished business, and I hope that we can attend to it perspectively, without disrespect to the present legislation as I rise to support it.

I believe it is important, however, that we find a way to move 245(i) on, because we have come to this floor and we have modified the status of children waiting to access citizenship through their parents. We need to continue moving forward on family reunification and not use the tragedies of September 11 and the terrorism that we have experienced to deal with real immigration issues.

I would also hope that one of the groups that we have looked at and maybe looked over that we can try to address their concerns, and that is the Haitians, that we can provide legislation to address their status. Also, I believe that if we did a cultural bill similar to that done in Ireland, that it would be extremely helpful. We need peace in Haiti, one of the countries that has the greatest turmoil that is right outside of our border here in the Western Hemisphere.

So I hope that we will have the opportunity to do that as we move forward on the Homeland Security Department. I also hope that we will have an opportunity to focus on making sure that the resources of the immigration services and enforcement are all kept intact so that we do not lose sight of diminishing the role that they play in this country, the good role that they play in this country.

With that, I would ask my colleagues to support S.J. Resolution 13.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I am really sorry that the gentlewoman from Texas and the gentleman from American Samoa have brought extraneous issues into the debate on whether or not we should give honorary citizenship to the Marquis de Lafayette.

This is really something that is very unique. It probably came about as a result of an anomaly in our citizenship laws that have been overlooked for over 200 years, because both Virginia and Maryland, prior to the adoption of the Constitution, granted the Marquis honorary citizenship. I think many people had assumed that that grant before the Constitution was adopted would have sufficed to make sure that his honorary citizenship was valid in the newly United States of America. Unfortunately, it was not, and that is why we are here today.

One of the reasons why we have 50 stars in the upper left-hand corner of our flag rather than the union jack was because of the efforts that the Marquis made not only militarily during the Revolutionary War, but in securing the France of Louis the 16th to be on the side of the American colonists in their fight against Great Britain. Without his efforts, both on the ground on this side of the Atlantic and diplomatically in Paris, the revolution may very well have not succeeded.

So today should be the Marquis de Lafayette's day. I think that we should have an overwhelming vote in favor of this resolution.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in support of S.J. Res. 13 conferring honorary U.S. citizenship on Paul Yves Roch Gilbert du Motier.

Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette, risked his life and financial security for the freedom of Americans. By an Act of Congress, the Marquis de Lafayette was voted to the rank of Major General, and during the Revolutionary War, General Lafayette was wounded at the Battle of Brandywine, demonstrating bravery that forever endeared him to American soldiers. General Lafayette then provided his devotion to our country further by securing the help of France in the United States' colonists' fight against Great Britain, a turning point in the war of independence.

For his unmatched dedication, General Lafayette was the first foreign dignitary to address Congress, an honor accorded to him upon his return to the United States in 1824. A portrait of our honored friend hangs in front of us today in the House Chamber—the only portrait of a non-American citizen in the Capitol. Mr. Speaker, I rise today to ask my colleagues to join me in supporting the Honorable Senator from Virginia's effort to confer honorary citizenship on a great friend of America, General Lafayette.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 13, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution, as amended, was passed.

The title of the Senate joint resolution was amended so as to read: "Joint Resolution conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.".

A motion to reconsider was laid on the table.

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□ 1445

## JUDICIAL IMPROVEMENTS ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3892) to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3892

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Improvements Act of 2002".

### SEC. 2. JUDICIAL DISCIPLINE PROCEDURES.

(a) IN GENERAL.—Part I of title 28, United States Code, is amended by inserting after chapter 15 the following new chapter:

## "CHAPTER 16—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

"Sec.
"351. Complaints; judge defined.
"352. Review of complaint by chief judge.
"353. Special committees.
"354. Action by judicial council.
"355. Action by Judicial Conference.
"356. Subpoena power.
"357. Review of orders and actions.
"358. Rules.
"359. Restrictions.
"360. Disclosure of information.
"361. Reimbursement of expenses.
"362. Other provisions and rules not affected.
"363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit.
"364. Effect of felony conviction.

### "§351. Complaints; judge defined

"(a) FILING OF COMPLAINT BY ANY PERSON.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

"(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

"(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term 'chief judge'). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

"(d) DEFINITIONS.—In this chapter—

"(1) the term 'judge' means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

"(2) the term 'complainant' means the person filing a complaint under subsection (a) of this section.

### "§352. Review of complaint by chief judge

"(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

"(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

"(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

"(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

"(1) dismiss the complaint—

"(A) if the chief judge finds the complaint to be—

"(i) not in conformity with section 351(a);

"(ii) directly related to the merits of a decision or procedural ruling; or

"(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

"(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

"(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events. The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

"(c) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

"(d) REFERRAL OF PETITIONS FOR REVIEW TO PANELS OF THE JUDICIAL COUNCIL.—Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

### "§353. Special committees

"(a) APPOINTMENT.—If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—

"(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

"(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

"(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

"(b) CHANGE IN STATUS OR DEATH OF JUDGES.—A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

"(c) INVESTIGATION BY SPECIAL COMMITTEE.—Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

### "§354. Action by judicial council

"(a) ACTIONS UPON RECEIPT OF REPORT.—

"(1) ACTIONS.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—

"(A) may conduct any additional investigation which it considers to be necessary;

"(B) may dismiss the complaint; and

"(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

"(2) DESCRIPTION OF POSSIBLE ACTIONS IF COMPLAINT NOT DISMISSED.—

"(A) IN GENERAL.—Action by the judicial council under paragraph (1)(C) may include—

"(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

"(ii) censuring or reprimanding such judge by means of private communication; and

"(iii) censuring or reprimanding such judge by means of public announcement.

"(B) FOR ARTICLE III JUDGES.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—

"(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

"(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

"(C) FOR MAGISTRATE JUDGES.—If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

"(3) LIMITATIONS ON JUDICIAL COUNCIL REGARDING REMOVALS.—

"(A) ARTICLE III JUDGES.—Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

"(B) MAGISTRATE AND BANKRUPTCY JUDGES.—Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

"(4) NOTICE OF ACTION TO JUDGE.—The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

"(b) REFERRAL TO JUDICIAL CONFERENCE.—

"(1) IN GENERAL.—In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

"(2) SPECIAL CIRCUMSTANCES.—In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge appointed to hold office during good behavior may have engaged in conduct—

"(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

*"(B) which, in the interest of justice, is not amenable to resolution by the judicial council, the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.*

*"(3) NOTICE TO COMPLAINANT AND JUDGE.—A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.*

**"§355. Action by Judicial Conference**

*"(a) IN GENERAL.—Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.*

*"(b) IF IMPEACHMENT WARRANTED.—*

*"(1) IN GENERAL.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.*

*"(2) IN CASE OF FELONY CONVICTION.—If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.*

**"§356. Subpoena power**

*"(a) JUDICIAL COUNCILS AND SPECIAL COMMITTEES.—In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).*

*"(b) JUDICIAL CONFERENCE AND STANDING COMMITTEES.—In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.*

**"§357. Review of orders and actions**

*"(a) REVIEW OF ACTION OF JUDICIAL COUNCIL.—A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.*

*"(b) ACTION OF JUDICIAL CONFERENCE.—The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).*

*"(c) NO JUDICIAL REVIEW.—Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.*

**"§358. Rules**

*"(a) IN GENERAL.—Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.*

*"(b) REQUIRED PROVISIONS.—Rules prescribed under subsection (a) shall contain provisions requiring that—*

*"(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;*

*"(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and*

*"(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.*

*"(c) PROCEDURES.—Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.*

**"§359. Restrictions**

*"(a) RESTRICTION ON INDIVIDUALS WHO ARE SUBJECT OF INVESTIGATION.—No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.*

*"(b) AMICUS CURIAE.—No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.*

**"§360. Disclosure of information**

*"(a) CONFIDENTIALITY OF PROCEEDINGS.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—*

*"(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;*

*"(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or*

*"(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.*

*"(b) PUBLIC AVAILABILITY OF WRITTEN ORDERS.—Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.*

**"§361. Reimbursement of expenses**

*"Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.*

**"§362. Other provisions and rules not affected**

*"Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.*

**"§363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit**

*"The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.*

**"§364. Effect of felony conviction**

*"In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, that judge shall not hear cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.".*

*(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by inserting after the item relating to chapter 15 the following new item:*

**"16. Complaints against judges and judicial discipline .......................... 351".**

**SEC. 3. TECHNICAL AMENDMENTS.**

*(a) RETIREMENT FOR DISABILITY.—(1) Section 372 of title 28, United States Code, is amended—*

*(A) in the section caption by striking "**; judicial discipline**"; and*

*(B) by striking subsection (c).*

*(2) The item relating to section 372 in the table of sections for chapter 17 of title 28, United States Code, is amended by striking "; judicial discipline".*

*(b) JUDICIAL CONFERENCE.—Section 331 of title 28, United States Code, is amended in the fourth undesignated paragraph by striking "section 372(c)" each place it appears and inserting "chapter 16".*

*(c) JUDICIAL COUNCILS.—Section 332 of title 28, United States Code, is amended—*

*(1) in subsection (d)(2)—*

*(A) by striking "section 372(c) of this title" and inserting "chapter 16 of this title"; and*

*(B) by striking "372(c)(4)" and inserting "353"; and*

*(2) by striking the second subsection designated as subsection (h).*

*(d) RECALL OF BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 375(d) of title 28,*

*United States Code, is amended by striking "section 372(c)" and inserting "chapter 16".*

*(e) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 604 of title 28, United States Code, is amended—*

*(1) in subsection (a)(20)—*

*(A) in subparagraph (B), by striking "372(c)(11)" and inserting "358"; and*

*(B) in subparagraph (C), by striking "372(c)(15)" and inserting "360(b)"; and*

*(2) in subsection (h)—*

*(A) in paragraph (1), by striking "section 372" each place it appears and inserting "chapter 16"; and*

*(B) in paragraph (2), by striking "section 372(c)" and inserting "chapter 16".*

*(f) COURT OF APPEALS FOR VETERANS CLAIMS.—Section 7253(g) of title 38, United States Code, is amended—*

*(1) in paragraph (1)—*

*(A) by striking "section 372(c)" and inserting "chapter 16"; and*

*(B) by striking "such section" and inserting "such chapter";*

*(2) in paragraph (2)—*

*(A) in the first sentence, by striking "paragraphs (7) through (15) of section 372(c)" and inserting "sections 354(b) through 360"; and*

*(B) in the second sentence, by striking "paragraph (7) or (8) of section 372(c)" and inserting "section 354(b) or 355"; and*

*(3) in paragraph (3)(B), by striking "372(c)(16)" and inserting "361".*

The SPEAKER pro tempore (Mr. STEARNS). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3892 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3892 constitutes a noncontroversial fine-tuning of an existing statute, the Judicial Conduct and Disability Act of 1980, which permits individuals to file complaints against Federal judges for inappropriate behavior.

The legislation before us will reorganize the 1980 act by recodifying it as a new chapter of title 28, United States Code, thereby making it easier to locate and use. The bill will also clarify the responsibilities of a circuit chief judge in making the initial evaluations of a complaint, will specifically empower a judicial council to refer a complaint to a smaller panel for greater scrutiny. These changes will not only assist the Federal judiciary in discharging its responsibilities under the 1980 act, they will enable an individual to understand more fully the reasoning behind the disposition of a complaint.

Mr. Speaker, the Committee on the Judiciary believes that the 1980 act works well in most instances but could work better. We have developed this bill with full participation of the minority, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3892, the Judicial Improvements Act of 2002. H.R. 3892 makes slight modifications to existing Federal judicial misconduct statutes. These statutes govern the methods and procedures through which a complaint against a Federal judge is filed and evaluated.

H.R. 3892 improves the statutes of both the judiciary and the complainant. H.R. 3892 clarifies how chief judges should evaluate complaints while enabling a complainant to receive a fair and expeditious review of his or her complaint. Specifically, H.R. 3892 accomplishes four primary goals. H.R. 3892 creates a new chapter to house the misconduct statutes, better organized and more convenient than before. Second, it recognizes the authority of a chief judge to conduct a limited inquiry into a complaint against a Federal judge to evaluate the merit of the complaint. Third, H.R. 3892 specifies additional valid criteria for a dismissal of a complaint. Finally, it permits a subset of the judicial council to evaluate a complainant's appeal rather than the full council.

I believe that is the right direction to assist our Federal judiciary, which I know wants to be on top of the rules and in front of the rules, to do their jobs and to monitor their own conduct.

Mr. Speaker, I rise in support of H.R. 3892, the Judicial Improvements Act of 2002.

H.R. 3892 makes slight modifications to existing federal judicial misconduct statutes. These statutes govern the methods and procedures through which a complaint against a federal judge is filed and evaluated.

H.R. 3892 improves these statutes for both the judiciary and the complainant. H.R. 3892 clarifies how chief judges should evaluate complaints, while enabling a complainant to receive a fair and expeditious review of his or her complaint.

Specifically, H.R. 3892 accomplishes four primary goals.

First, H.R. 3892 creates a new chapter to house the misconduct statutes, better organized and more convenient than before.

Second, it recognizes the authority of a chief judge to conduct a limited inquiry into a complaint against a federal judge, to evaluate the merit of the complaint.

Third, H.R. 3892 specifies additional valid criteria for a dismissal of a complaint.

Finally, it permits a subset of the judicial council to evaluate a complainant's appeal, rather than the full council.

This legislation is the outcome of the Subcommittee on Courts, the Internet, and Intellectual Property oversight hearing held in November 2001 on judicial misconduct and recusal.

The reorganization and clarifications in this bill were discussed and supported by the witnesses at that hearing. H.R. 3892 was subsequently marked up at both the Subcommittee and Committee levels with the full support of the Members.

This legislation helps the judiciary to police itself more effectively, and does not impose any additional restrictions or external oversight.

With that, I would ask my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the chairman has done a thorough job of describing the bill, so I will not rehash his comments. I would say, however, that the bill was a bipartisan effort in the making, and I especially want to thank the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the House Committee on the Judiciary; the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member; and the distinguished gentleman from California (Mr. BERMAN), who is the ranking member on the subcommittee of jurisdiction, for their contributions and cooperations.

In addition to our work on H.R. 3892, the gentleman from California (Mr. BERMAN) and I have undertaken two other projects to help improve the ethical standing of the judiciary. We have written to the Chief Justice asking that the judicial conference consider implementing certain administrative changes that should improve the operations of the courts; and we have, furthermore, requested that the Federal Judicial Center conduct a study of complaint dispositions throughout the various circuits. Combined with H.R. 3892, I believe that these efforts will assist Federal judges in discharging their ethical responsibilities while better informing the Congress as to the effectiveness of the judicial misconduct statute which we are amending today.

Finally, Mr. Speaker, I would be remiss if I failed to mention the diligent work of the following people who were incredibly helpful in the drafting of H.R. 3892: Mr. Arthur Hellman of the Pittsburg School of Law, Mr. Mike Remington, the former chief counsel on the Subcommittee on the Courts, the Internet and Intellectual Property, Sandy Strokoff of the Legislative Counsel's Office, as well as the Honorable William Osteen, United States District Judge from the middle district of North Carolina who appeared as a witness, and who by the way, Mr. Speaker, is one of my constituents.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know that the gentleman from California (Mr. BERMAN) would want me to thank the gentleman for his hard work on this legislation and to, as well, acknowledge the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) for their work on this legislation.

Mr. Speaker, I do want to note, I want to indicate that this legislation is the outcome of the Subcommittee on Courts, the Internet and Intellectual Property oversight hearing that was held November 2001 on judicial misconduct and recusal.

The reorganization and clarifications in this bill were discussed and supported by the witnesses at the hearing, and H.R. 3892 was subsequently marked up at both the subcommittee and committee levels with the full support of the Members. This legislation helps the judiciary to police itself more effectively and does not impose additional restrictions or external oversight.

Our committee, though this is not the Subcommittee on Courts for the Committee on the Judiciary, and I understand the committee that deals with commercial administrative law has had it brought to its attention issues dealing with ALJ's as it relates to the responsibility they have, in particular, dealing with Social Security Administration issues. This kind of even-handed legislation and oversight hearings are the kind that I think will give us guidance on how to deal with the administrative law judges, and I would look forward in the time to come that we would have that opportunity. I support this legislation, and I ask my colleagues to vote in favor of H.R. 3892.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3892, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## RUSSIAN RIVER LAND ACT

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3048) to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska, as amended.

The Clerk read as follows:

H.R. 3048

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Russian River Land Act".*

***SEC. 2. FINDINGS AND PURPOSES.***

*(a) FINDINGS.—Congress makes the following findings:*

*(1) Certain lands adjacent to the Russian River in the area of its confluence with the Kenai River contain abundant archaeological resources of significance to the Native people of the Cook Inlet Region, the Kenaitze Indian Tribe, and the citizens of the United States.*

*(2) Those lands at the confluence of the Russian River and Kenai River contain abundant fisheries resources of great significance to the citizens of Alaska.*

*(3) Cook Inlet Region, Inc., an Alaska Native Regional Corporation formed under the provisions of the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et. seq.) (hereinafter in this Act referred to as "ANCSA"), has selected lands in the area pursuant to section 14(h)(1) of such Act (43 U.S.C. 1613(h)(1)), for their values as historic and cemetery sites.*

*(4) The United States Bureau of Land Management, the Federal agency responsible for the adjudication of ANCSA selections has not finished adjudicating Cook Inlet Region, Inc.'s selections under section 14(h)(1) of that Act as of the date of the enactment of this Act.*

*(5) The Bureau of Indian Affairs has certified a portion of Cook Inlet Region, Inc.'s selections under section 14(h)(1) of ANCSA as containing prehistoric and historic cultural artifacts, and meeting the requirements of section 14(h)(1) of that Act.*

*(6) A portion of the selections under section 14(h)(1) of ANCSA made by Cook Inlet Region, Inc., and certified by the Bureau of Indian Affairs lies within the Chugach National Forest over which the United States Forest Service is the agency currently responsible for the administration of public activities, archaeological features, and natural resources.*

*(7) A portion of the selections under section 14(h)(1) of ANCSA and the lands certified by the Bureau of Indian Affairs lies within the Kenai National Wildlife Refuge over which the United States Fish and Wildlife Service is the land managing agency currently responsible for the administration of public activities, archaeological features, and natural resources.*

*(8) The area addressed by this Act lies within the Sqilantnu Archaeological District which was determined eligible for the National Register of Historic Places on December 31, 1981.*

*(9) Both the Forest Service and the Fish and Wildlife Service dispute the validity and timeliness of Cook Inlet Region, Inc.'s selections under section 14(h)(1) of ANCSA.*

*(10) The Forest Service, Fish and Wildlife Service, and Cook Inlet Region, Inc., determined that it was in the interest of the United States and Cook Inlet Region, Inc., to—*

*(A) protect and preserve the outstanding historic, cultural, and natural resources of the area;*

*(B) resolve their disputes concerning the validity of Cook Inlet Region, Inc.'s selections under section 14(h)(1) of ANCSA without litigation; and*

*(C) provide for the management of public use of the area and protection of the cultural resources within the Sqilantnu Archaeological District, particularly the management of the area at the confluence of the Russian and Kenai Rivers.*

*(11) Legislation is required to enact the resolution reached by the Forest Service, the Fish and Wildlife Service, and Cook Inlet Region, Inc.*

*(b) PURPOSE.—It is the purpose of this Act to ratify an agreement between the Department of Agriculture, the Department of the Interior, and Cook Inlet Region, Inc.*

***SEC. 3. RATIFICATION OF AGREEMENT BETWEEN THE UNITED STATES FOREST SERVICE, UNITED STATES FISH AND WILDLIFE SERVICE, AND COOK INLET REGION, INC.***

*(a) RATIFICATION OF AGREEMENT.—*

*(1) IN GENERAL.—The terms, conditions, covenants, and procedures set forth in the document entitled "Russian River Section 14(h)(1) Selection Agreement", which was executed by Cook Inlet Region, Inc., the United States Department of Agriculture, and the United States Department of the Interior on July 26, 2001, (hereinafter in this Act referred to as the "Agreement"), are hereby incorporated in this section, and are ratified, as to the duties and obligations of the United States and the Cook Inlet Region, Inc., as a matter of Federal law.*

*(2) SECTION 5.—The ratification of section 5 of the Agreement is subject to the following conditions:*

*(A) The Fish and Wildlife Service shall consult with interested parties when developing an exchange under section 5 of the Agreement.*

*(B) The Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a copy of the agreement implementing any exchange under section 5 of the Agreement not less than 30 days before the exchange becomes effective.*

*(3) AGREEMENT CONTROLS.—In the event any of the terms of the Agreement conflict with any other provision of law, the terms of the Agreement shall be controlling.*

*(b) AUTHORIZATION OF ACTIONS.—The Secretaries of Agriculture and the Interior are authorized to take all actions required under the terms of the Agreement.*

***SEC. 4. AUTHORIZATION OF APPROPRIATION.***

*(a) IN GENERAL.—There is authorized to be appropriated to the Department of Agriculture, Office of State and Private Forestry, $13,800,000, to remain available until expended, for Cook Inlet Region, Inc., for the following:*

*(1) Costs for the planning and design of the Joint Visitor's Interpretive Center.*

*(2) Planning and design of the Sqilantnu Archaeological Research Center.*

*(3) Construction of these facilities to be established in accordance with and for the purposes set forth in the Agreement.*

*(b) LIMITATION ON USE OF FUNDS.—Of the amount appropriated under this section, not more than 1 percent may be used to reimburse the Forest Service, the Fish and Wildlife Service, and the Kenaitze Indian Tribe for the costs they incur in assisting Cook Inlet Region, Inc. in the planning and design of the Joint Visitor's Interpretive Center and the Sqilantnu Archaeological Research Center.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate your ability to pronounce the name of my good friend from American Samoa.

This legislation, H.R. 3048, introduced by myself, ratifies a land settlement at Russian River on the Kenai Peninsula in Alaska.

Section 14(h)(1) of the Alaska Native Claims Settlement Act authorized ANCSA corporations to make selections of cultural sites within their region.

Cook Inlet Region, Inc., selected historical sites and cemetery sites 26 years ago. Initially, the U.S. Fish and Wildlife Service and U.S. Forest Service, which jointly managed the land at issue, contested CIRI's selections. Not only is the area surrounding the confluence of the Russian and Kenai Rivers rich in archeological and cultural features, but it is also the site of perhaps the most heavily used public sports fishery in Alaska.

For the past 3 years, CIRI has been negotiating with Fish and Wildlife and the Forest Service for lands surrounding the confluence of the Russian and Kenai Rivers. On July 26, 2001, all three parties reached an agreement which allows the public to maintain the right to fish the waters at the confluence of the two rivers. Without Federal legislation, this agreement could not be ratified. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly would like to commend the distinguished gentleman from Alaska (Mr. YOUNG) not only as a former chairman of our Committee on Resources but now as chairman of the distinguished Committee on Transportation and Infrastructure.

I am pleased to rise in support of H.R. 3048, in support of the legislation introduced by my good friend, the gentleman from Alaska (Mr. YOUNG).

Mr. Speaker, this legislation is intended to resolve a longstanding dispute over ownership of lands at the junction of the Russian and Kenai Rivers in Alaska. It accomplishes that goal by ratifying an agreement negotiated between the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the Cook Inlet Region, Incorporated, or CIRI. CIRI is one of the regional corporations formed under the Alaska Native Claims Settlement Act of 1971 to manage lands and financial assets for its Alaska Native shareholders.

Asserting claims under the authority of section 14(h)(1) of the settlement act, CIRI sought title to 2,000 acres of public lands at the conflux of the two rivers. This area was considered by CIRI to qualify as a historic site under the settlement act. But it also is one of the most popular recreational fishing areas in Alaska.

Both the Forest Service and the Fish and Wildlife Service opposed outright the conveyance to CIRI of these lands from the Chugach National Forest and the Kenai National Wildlife Refuge.

As an alternative to prolonged and uncertain litigation, the three parties reached an agreement on July of 2001 which seeks to fairly balance and accommodate CIRI's interests in the cultural history and archeological assets as well as the public interest in the recreational and fish and wildlife resources of this area.

Under the agreement, the Forest Service will convey to CIRI fee title to two parcels of land totaling only 62 acres. The Fish and Wildlife Service will also convey to CIRI the archeological and cultural resources from some 502 acres to the Kenai Refuge lands.

In addition, CIRI will develop a visitors center and other facilities on the 42-acre parcel. The bill provides for an appropriation of $13.8 million to support that endeavor to showcase the native history of this region.

Mr. Speaker, in return for those assets and financial assistance, CIRI agrees to relinquish its section 14(h)(1) claims allowing the majority of the lands at issue to remain in public ownership as part of the national forest and national wildlife refuge. The right of public access to continue fishing in the Kenai and Russian Rivers and to make use of the campgrounds is also maintained.

Finally, the agreement authorizes, but does not require, an exchange of additional lands between CIRI and the Fish and Wildlife Service. Any such exchange would be of equal value and affect no more than 3,000 acres of the Kenai Refuge boundaries.

While such preauthorization of the exchange that could affect refuge wilderness boundaries is unusual and not unprecedented, in this case we have been assured by the Fish and Wildlife Service that any agreed-to exchange of lands would clearly be in the best interest of the Kenai Refuge and the public.

It is our understanding that if the Service desires to acquire lands from the CIRI which would have higher value for implementing the Kenai Peninsula Brown Bear Conservation Strategy than would any lands conveyed from the refuge to CIRI in exchange, we expect the service will consult with the committee in the development of any exchange using this authority and have added language to the bill concerning the public process and submission for any proposed exchange to the committee prior to final approval.

□ 1500

In closing, Mr. Speaker, I congratulate the gentleman from Alaska for bringing this bill before us today. I also applaud CRI, the Forest Service and the Fish and Wildlife Service for their work on the agreement. This is a consensus-based and creative solution to a complex land management problem.

I urge the passage of this legislation, and on behalf of the gentleman from West Virginia (Mr. RAHALL), the ranking member of this party on this side of the aisle and the members of the committee, I urge my colleagues to support passage of this legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3048, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2037. An act to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology.

S. Con. Res. 128. Concurrent resolution honoring the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3487. An act to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

## MOUNT NAOMI WILDERNESS BOUNDARY ADJUSTMENT ACT

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4870) to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4870

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Mount Naomi Wilderness Boundary Adjustment Act".*

***SEC. 2. BOUNDARY ADJUSTMENTS.***

*(a) LANDS REMOVED.—The boundary of the Mount Naomi Wilderness is adjusted to exclude the approximately 31 acres of land depicted on the Map as "Land Excluded".*

*(b) LANDS ADDED.—Subject to valid existing rights, the boundary of the Mount Naomi Wilderness is adjusted to include the approximately 31 acres of land depicted on the Map as "Land Added". The Utah Wilderness Act of 1984 (Public Law 98-428) shall apply to the land added to*

*the Mount Naomi Wilderness pursuant to this subsection.*

**SEC. 3. MAP.**

*(a) DEFINITION.—For the purpose of this Act, the term "Map" shall mean the map entitled "Mt. Naomi Wilderness Boundary Adjustment" and dated May 23, 2002.*

*(b) MAP ON FILE.—The Map shall be on file and available for inspection in the office of the Chief of the Forest Service, Department of Agriculture.*

*(c) CORRECTIONS.—The Secretary of Agriculture may make technical corrections to the Map.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill was sponsored by the gentleman from Utah (Mr. HANSEN), the chairman of the Committee on Resources. Mount Naomi is located in the Wasatch-Cache National Forest near Logan, Utah in the gentleman from Utah's (Mr. HANSEN) district.

It is a beautiful area composed of approximately 44,523 acres, making it one of the largest wilderness areas in the State of Utah. It is the host of many different families of both plants and animals and undoubtedly deserves wilderness protection.

Mount Naomi was designated a wilderness area by the Utah Wilderness Act of 1984. However, some complications have arisen because of the close proximity of the wilderness boundary to Logan City limits. Management and maintenance problems have been reported by the Forest Service and Logan City.

Within the southwest corner of the wilderness boundary, lying adjacent to Logan City limits, is a utility corridor with several lines, including power, communication and water lines. This utility corridor existed prior to the designation of the wilderness area. Because no motorized or mechanized equipment is allowed to operate within the wilderness area, maintenance of these facilities is difficult, if not impossible, to conduct.

A simple adjustment of the wilderness boundary would provide a commonsense solution to both the utility corridor's maintenance and the Forest Service's management problems.

This legislation would adjust the wilderness boundary to exclude the 31-acre parcel that houses the utility corridor. The new boundary would follow the natural contour lines of Mount Naomi.

To compensate for this adjustment, and prevent a net loss of wilderness, the Forest Service has identified a separate 31-acre parcel with wilderness characteristics to the southern boundary of the wilderness area to be added. This adjustment would thus provide a manageable, natural boundary for the wilderness area.

This legislation has support from the local Forest Service, Logan City and Cache County, and is the smallest area needed to accomplish this purpose.

Additionally, a small portion of the Bonneville Shoreline Trail has been proposed within the 31-acre area adjacent to the Logan City limits. This portion of the trail would connect with a number of other trails in the Bonneville Shoreline Trail system and provide outstanding recreational opportunities to thousands of people each year. When completed, the trail system will travel along the shoreline of the ancient Lake Bonneville, which stretches from northern Utah to southern Utah, near present-day Cedar City.

This trail system has been incredibly popular for hikers, mountain bikers and equestrian traffic. This is the only portion of this trail system that lies within the wilderness area.

This is good legislation. I want to compliment the gentleman from Utah (Mr. HANSEN) on proposing it and urge all my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, I thank my good friend from Alaska for his management of this proposed legislation.

Mr. Speaker, the legislation before us today is sponsored by the gentleman from Utah (Mr. HANSEN), the honorable chairman of our Committee on Resources.

The bill would remove from wilderness designation some 31 acres of land in one section and would add 31 acres to another portion of the Mount Naomi Wilderness Area. I understand the legislation was requested by the city of Logan, Utah, to facilitate the development of the 90-mile nonmotorized Bonneville Shoreline Trail used by pedestrians and cyclists. The proposed trail crosses the Mount Naomi wilderness area where mountain biking is not allowed.

The Subcommittee on Forests and Forest Health held a hearing concerning this legislation. There was no opposition to it. It is my understanding also, Mr. Speaker, that the administration also supports this legislation.

I urge my colleagues to support this bill.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 4870, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## CALIFORNIA FIVE MILE REGIONAL LEARNING CENTER TRANSFER ACT

Mrs. CUBIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3401) to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3401

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the "California Five Mile Regional Learning Center Transfer Act".*

**SEC. 2. LAND CONVEYANCE AND SPECIAL USE AGREEMENT, FIVE MILE REGIONAL LEARNING CENTER, CALIFORNIA.**

*(a) CONVEYANCE.—The Secretary of Agriculture shall convey to the Clovis Unified School District of California all right, title, and interest of the United States in and to a parcel of National Forest System land consisting of 27.10 acres located within the southwest 1/4 of section 2, township 2 north, range 15 east, Mount Diablo base and meridian, California, which has been utilized as the Five Mile Regional Learning Center by the school district since 1989 pursuant to a special use permit (Holder No. 2010–02) to provide natural resource conservation education to California youth. The conveyance shall include all structures, improvements, and personal property shown on original map #700602 and inventory dated February 1, 1989.*

*(b) SPECIAL USE AGREEMENT.—As soon as practicable after the date of the enactment of this Act, the Secretary shall enter into negotiations with the Clovis Unified School District to enter into a new special use permit for the approximately 100 acres of National Forest System land that, as of the date of the enactment of this Act, is being used by the school district pursuant to the permit described in subsection (a), but is not included in the conveyance under such subsection.*

*(c) REVERSION.—In the event that the Clovis Unified School District discontinues its operation of the Five Mile Regional Learning Center, title to the real property conveyed under subsection (a) shall revert back to the United States.*

*(d) COSTS AND MINERAL RIGHTS.—The conveyance under subsection (a) shall be for a nominal cost. Notwithstanding such subsection, the conveyance does not include the transfer of mineral rights.*

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wyoming (Mrs. CUBIN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very glad to be working with the gentleman from American Samoa (Mr. FALEOMAVAEGA).

H.R. 3401, introduced by the gentleman from California (Mr. RADANOVICH), my colleague and chairman of the Subcommittee on National Parks, Recreation and Public Lands, provides for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District.

The bill authorizes also a new special use permit for the continued use of unconveyed lands used by the center.

The regional learning center is an outdoor education center that serves several thousand elementary school students throughout the State of California, and I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to offer my commendation to the gentlewoman from Wyoming whom I have had the privilege of working closely with on a couple of pieces of legislation on national parks.

Mr. Speaker, this bill was introduced by the gentleman from California (Mr. RADANOVICH), the distinguished chairman of the Subcommittee on National Parks, Recreation and Public Lands.

Mr. Speaker, H.R. 3401 directs the Forest Service to convey approximately a 27.10-acre administrative site on the Stanislaus National Forest in California to the Clovis Unified School District, or CUSD. The parcel contains the Five Mile Regional Learning Center, which since 1989 has been operating under a special use permit by the school district as a conservation education center.

The learning center serves approximately 14,000 students and is in need of significant repair. While the Clovis Unified School District is willing to put up $5 million toward capital improvement, it could only secure funding for district-owned properties. The bill also mandates that the Secretary negotiate a special use permit for approximately 100 acres for the school district to use in its educational programs. The school district currently has a special use permit covering 120 acres. The bill includes a reversionary clause as well.

Mr. Speaker, the administration values this land at approximately $1 to $2 million. Although we generally do not support the conveyance of Federal lands for little or no consideration, this conveyance is to a school district to foster environmental education. The Clovis Unified School District is also willing to make capital improvements or investment of some $5 million and requires title to do so, when the Forest Service is apparently unable to maintain the property.

I would like to thank the gentleman from California (Mr. RADANOVICH), the chairman of the Subcommittee on National Parks, Recreation and Public Lands, for working with us on this side of the aisle, the minority, to address concerns with the reversionary clause and clarifying that were the land to revert to the United States, the learning center would be liable for any hazardous substances present on the property since 1989.

Again, Mr. Speaker, I commend the gentlewoman for her management of this bill.

Mr. RADANOVICH. Mr. Speaker, there has been some concern regarding the provision regarding the reversionary interest in the land and the potential liabilities to the Government. I would like to clarify the issue for the record. It is our intent that the California Five Mile Regional Learning Center shall be liable for any contamination of the property by hazardous substances since it commenced occupancy in 1989. In the event that the property reverts back to the United States under section 2(c) of the Act, the Center or its successors shall continue to be liable for environmental contamination under existing law, and the Secretary shall require environmental remediation in such event before retaking possession.

Mr. FALEOMAVAEGA. Mr. Speaker, I do not have additional speakers, and I yield back the balance of my time.

Mrs. CUBIN. Mr. Speaker, having no other requests for time, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the bill, H.R. 3401, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## REASONABLE RIGHT-OF-WAY FEES ACT OF 2002

Mrs. CUBIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3258) to amend the Federal Lands Policy and Management Act of 1976 to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of rights-of-way granted, issued, or renewed under such act to prevent unreasonable increases in certain costs in connection with the deployment of communications and other critical infrastructure, as amended.

The Clerk read as follows:

H.R. 3258

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Reasonable Right-of-Way Fees Act of 2002".*

***SEC. 2. CLARIFICATION OF FAIR MARKET RENTAL VALUE DETERMINATIONS FOR PUBLIC LANDS AND FOREST SERVICE RIGHTS-OF-WAY.***

*(a) LINEAR RIGHTS-OF-WAY UNDER FEDERAL LAND POLICY AND MANAGEMENT ACT.—Section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) is amended by adding at the end the following new subsection:*

*"(k) DETERMINATION OF FAIR MARKET VALUE OF LINEAR RIGHTS-OF-WAY.—(1) Effective upon the issuance of the rules required by paragraph (2), for purposes of subsection (g), the Secretary concerned shall determine the fair market rental for the use of land encumbered by a linear right-of-way granted, issued, or renewed under this title using the valuation method described in paragraphs (2), (3), and (4).*

*"(2) Not later than one year after the date of enactment of the Reasonable Right-of-Way Fees Act of 2002, and in accordance with subsection (k),. the Secretary of the Interior shall amend section 2803.1–2 of title 43, Code of Federal Regulations, as in effect on the date of enactment of such Act, to revise the per acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone. The Secretary of Agriculture shall make the same revisions for linear rights-of-way granted, issued, or renewed under this title on National Forest System lands.*

*"(3) The Secretary concerned shall update annually the schedule revised under paragraph (2) by multiplying the current year's rental per acre by the annual change, second quarter to the second quarter (June 30 to June 30) in the Gross National Product Implicit Price Deflator Index published in the Survey of Current Business of the Department of Commerce, Bureau of Economic Analysis.*

*"(4) Whenever the cumulative change in the index referred to in paragraph (3) exceeds 30 percent, or the change in the 3-year average of the 1-year Treasury interest rate used to determine per acre rental fee zone values exceeds plus or minus 50 percent, the Secretary concerned shall conduct a review of the zones and rental per acre figures to determine whether the value of Federal land has differed sufficiently from the index referred to in paragraph (3) to warrant a revision in the base zones and rental per acre figures. If, as a result of the review, the Secretary concerned determines that such a revision is warranted, the Secretary concerned shall revise the base zones and rental per acre figures accordingly.".*

*(b) RIGHTS-OF-WAY UNDER MINERAL LEASING ACT.—Section 28(l) of the Mineral Leasing Act (30 U.S.C. 185(l)) is amended by inserting before the period at the end the following: "using the valuation method described in section 2803.1–2 of title 43, Code of Federal Regulations, as revised pursuant to section 504(k) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(k))".*

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wyoming (Mrs. CUBIN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA), each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I know many of my colleagues, especially from the West, are strong advocates of fair and reasonable Federal land rights-of-way fees.

This Nation's system of roadways and railways was born of effective partnerships in planning and construction between the Federal Government and private industry. Today, we face the challenge of expanding the next generation of technology and energy infrastructures to the underserved areas of the country and bringing commercial benefits to citizens set apart by geographic, economic and digital divides.

I serve as a member of the House Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet. As such, I have been exploring ways to facilitate the expansion of telecommunications infrastructure in my home State of Wyoming.

In doing so, I became aware of a significant Federal obstacle to infrastructure development nationwide. Recent applications of the Federal Land Policy and Management Act, which I will call FLPMA, have resulted in exorbitant increases in fees to cross Federal lands. Telecommunications providers, particularly those building the next generation of fiber optic broadband infrastructure, have been specifically targeted for these fee increases, while other infrastructure providers have been put on notice of changes to come.

FLPMA requires that private users of public lands pay a fair price for that privilege, a policy that protects the value of our Federal lands, helps ensure that those resources continue to be available to and accommodating of a number of a multitude of compatible uses.

Recent interpretations of FLPMA, however, have motivated policies which reach way beyond the value of Federal lands, attempting to associate the right of way to cross Federal lands with the revenues generated by the use of telecommunications technologies.

In the exercising of our public trust, the Federal Government protects and preserves the public interest in our Federal lands. I am confident, however, that there is little public interest in turning our Federal lands into toll booths or roadblocks on the information superhighway or along the path of any of our Nation's critical infrastructures.

In 1999 and 2000, revisions to the right-of-way rental fee schedules by the Bureau of Land Management and the U.S. Forest Service led to some fiber optic telecommunications companies receiving fee increases of 100 to 150 times their previous annual bills.

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Congress put a temporary halt to these interim revisions to existing right-of-way regulations in the fiscal year 2001 appropriations bill.

As the agent situation proceedings toward the rulemaking process required to change existing right-of-way fees, it is important that their responsibilities regarding the determination and collection of right-of-way fees be clear and that we avoid a reiteration of the previous misguided proposals.

A permanent solution must be found. H.R. 3258, the Reasonable Right-of-Way Fees Act, is that solution. H.R. 3258 clarifies the responsibilities we have to protect the value of Federal lands, explicitly limiting fees we charge for rights-of-way to the value of those lands.

As a representative of the most rural State in the country, I recognize the tremendous value the vast open spaces of our rural West has, including the lands managed by the Federal Government. These lands should not become an obstacle to infrastructure development. Charging fair market value for the use of Federal lands does not mean a share in the revenues associated with the facilities crossing Federal lands.

H.R. 3258 was introduced to help guarantee that Federal lands will continue to be protected as valuable national resources and ensures that these lands will not present unnecessary obstacles to infrastructure deployment and improvement.

During the Committee on Resources's legislative hearing on H.R. 3258, the BLM witness testified that the methodology laid out in the bill may be too prescriptive and would mandate the BLM and other agencies do more than one appraisal when determining the rental fee right-of-way for an individual. During the Committee on Resources' consideration of H.R. 3258, I offered an amendment in the nature of a substitute that simply codified the existing BLM regulations.

These regulations, which were promulgated in 1987, lay out a formula for the right-of-way fee schedule based solely on the value of the land. This methodology will prevent the spikes and fluctuations many telecommunications and pipeline companies found when the BLM and Forest Service valued the right-of-way by the revenue generated by the products that crossed Federal lands.

The substitute that was accepted by the committee will ensure a fair return to the Federal Government by directing the Secretaries of the Interior and Agriculture to annually assess the changes in the land values and predicate the fee schedule formula on those land value increases.

We all know that land values typically will increase over time. They do not, however, increase by uncontrollable increments like a throughput valuation that had been used does.

H.R. 3258 is endorsed by, among others, the TelROW Coalition, which represents the interests of telecommunications companies providing services throughout the country.

I want to thank the Departments of the Interior and Agriculture for their help in providing guidance on this complicated issue and for their instruction memorandum issued to field officials ensuring that the right-of-way rental fees will be based solely on land values.

Mr. Speaker, I look forward to the House's swift passage of this bill and prompt consideration by the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to thank the gentlewoman for being the primary sponsor of this proposed legislation.

The Federal Lands Policy Management Act requires those seeking a right-of-away across Forest Service or BLM land to pay a fee based on the fair market value of that right-of-way. Despite this requirement, however, investigations conducted by the Department of the Interior's Inspector General and the General Accounting Office have provided ample evidence that the right-of-way fees currently being charged by the agencies are far below fair market value.

Mr. Speaker, States, local governments, and private individuals all charge significantly more than the Federal Government for the rights-of-way across lands they own. In particular, the Inspector General report estimated that the fees charged by the BLM were as much as $50 million below fair market value. This undercharging means that large corporations who stand to make vast profits on the use of public lands are not being required to pay the American people a fair rate of return for that privilege.

As a result, Mr. Speaker, we share the desire of the gentlewoman from Wyoming (Mrs. CUBIN) to correct this problem. While we had some concerns regarding the multiple appraisal approach contained in the bill as introduced, in working with the gentlewoman from Wyoming we feel we have agreed on an approach that will address this problem more effectively.

Mr. Speaker, as amended, H.R. 3258 will require the agencies to review their existing fee schedules, and the land valuations which underlie them, to ensure that they represent current values. In addition, this measure will ensure that, once these new fees have been promulgated, they will be adjusted annually for inflation.

This approach, Mr. Speaker, may not be perfect, but it certainly is an improvement over the status quo and should move us closer to a system that adequately compensates the taxpayers for the use of their lands.

I would like to once again thank the gentlewoman from Wyoming for her willingness to work with us on this side of the aisle, and I urge the adoption of this proposed bill.

Mrs. CUBIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the bill, H.R. 3258, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

> "A bill to amend the Federal Land Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of certain rights-of-way granted, issued, or renewed under these Acts.".

A motion to reconsider was laid on the table.

## FLIGHT 93 NATIONAL MEMORIAL ACT

Mrs. CUBIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3917) to authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes, as amended.

The Clerk read as follows:

### H.R. 3917

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Flight 93 National Memorial Act".*

***SEC. 2. FINDINGS AND PURPOSES.***

*(a) FINDINGS.—Congress finds the following:*

*(1) Passengers and crewmembers of United Airlines Flight 93 of September 11, 2001, courageously gave their lives, thereby thwarting a planned attack on our Nation's Capital.*

*(2) In the months since the historic events of September 11, thousands of people have visited the Flight 93 site, drawn by the heroic action and sacrifice of the passengers and crew aboard Flight 93.*

*(3) Many are profoundly concerned about the future disposition of the crash site, including grieving families of the passengers and crew, the people of the region who are the current stewards of the site, and a broad spectrum of citizens across the United States. Many of these people are forming the Flight 93 Task Force as a broad, inclusive organization to provide a voice for all interested and concerned parties.*

*(4) The crash site commemorates Flight 93 and is a profound symbol of American patriotism and spontaneous leadership of citizen-heroes. The determination of appropriate recognition at the crash site of Flight 93 will be a slowly unfolding process in order to address the interests and concerns of all interested parties. Appropriate national assistance and recognition must give ample opportunity for those involved to voice these broad concerns.*

*(5) It is appropriate that the crash site of Flight 93 be designated a unit of the National Park System.*

*(b) PURPOSES.—The purposes of this Act are as follows:*

*(1) To establish a national memorial to honor the passengers and crew of United Airlines Flight 93 of September 11, 2001.*

*(2) To establish the Flight 93 Advisory Commission to assist with consideration and formulation of plans for a permanent memorial to the passengers and crew of Flight 93, including its nature, design, and construction.*

*(3) To authorize the Secretary of the Interior (hereinafter referred to as the "Secretary") to coordinate and facilitate the activities of the Flight 93 Advisory Commission, provide technical and financial assistance to the Flight 93 Task Force, and to administer a Flight 93 memorial.*

***SEC. 3. MEMORIAL TO HONOR THE PASSENGERS AND CREWMEMBERS OF FLIGHT 93.***

*There is established a memorial at the September 11, 2001, crash site of United Airlines Flight 93 in the Stonycreek Township, Somerset County, Pennsylvania, to honor the passengers and crew of Flight 93.*

***SEC. 4. FLIGHT 93 ADVISORY COMMISSION.***

*(a) ESTABLISHMENT.—There is established a commission to be known as the "Flight 93 Advisory Commission" (hereafter in this Act referred to as the "Commission").*

*(b) MEMBERSHIP.—The Commission shall consist of 15 members, including the Director of the National Park Service, or the Director's designee, and 14 members appointed by the Secretary from recommendations of the Flight 93 Task Force.*

*(c) TERM.—The term of the members of the Commission shall be for the life of the Commission.*

*(d) CHAIR.—The members of the Commission shall select the Chair of the Commission.*

*(e) VACANCIES.—Any vacancy in the Commission shall not affect its powers if a quorum is present, but shall be filled in the same manner as the original appointment.*

*(f) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members, but not less often than quarterly. Notice of the Commission meetings and agendas for the meetings shall be published in local newspapers in the vicinity of Somerset County and in the Federal Register. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).*

*(g) QUORUM.—A majority of the members serving on the Commission shall constitute a quorum for the transaction of any business.*

*(h) NO COMPENSATION.—Members of the Commission shall serve without compensation, but may be reimbursed for expenses incurred in carrying out the duties of the Commission.*

*(i) DUTIES.—The duties of the Commission shall be as follow:*

*(1) Not later than 3 years after the date of the enactment of this Act, the Commission shall submit to the Secretary and Congress a report containing recommendations for the planning, design, construction, and long-term management of a permanent memorial at the crash site.*

*(2) The Commission shall advise the Secretary on the boundaries of the memorial site.*

*(3) The Commission shall advise the Secretary in the development of a management plan for the memorial site.*

*(4) The Commission shall consult and coordinate closely with the Flight 93 Task Force, the Commonwealth of Pennsylvania, and other interested parties, as appropriate, to support and not supplant the efforts of the Flight 93 Task Force on and before the date of the enactment of this Act to commemorate Flight 93.*

*(5) The Commission shall provide significant opportunities for public participation in the planning and design of the memorial.*

*(j) POWERS.—The Commission may—*

*(1) make such expenditures for services and materials for the purpose of carrying out this Act as the Commission considers advisable from funds appropriated or received as gifts for that purpose;*

*(2) subject to approval by the Secretary, solicit and accept donations of funds and gifts, personal property, supplies, or services from individuals, foundations, corporations, and other private or public entities to be used in connection with the construction or other expenses of the memorial;*

*(3) hold hearings, enter into contracts for personal services and otherwise;*

*(4) do such other things as are necessary to carry out this Act; and*

*(5) by a vote of the majority of the Commission, delegate such of its duties as it determines appropriate to employees of the National Park Service.*

*(k) TERMINATION.—The Commission shall terminate upon dedication of the completed memorial.*

***SEC. 5. DUTIES OF THE SECRETARY.***

*The Secretary is authorized to—*

*(1) provide assistance to the Commission, including advice on collections, storage, and archives;*

*(2) consult and assist the Commission in providing information, interpretation, and the conduct of oral history interviews;*

*(3) provide assistance in conducting public meetings and forums held by the Commission;*

*(4) provide project management assistance to the Commission for planning, design, and construction activities;*

*(5) provide programming and design assistance to the Commission for possible memorial exhibits, collections, or activities;*

*(6) provide staff assistance and support to the Commission and the Flight 93 Task Force;*

*(7) participate in the formulation of plans for the design of the memorial, to accept funds raised by the Commission for construction of the memorial, and to construct the memorial;*

*(8) acquire from willing sellers the land or interests in land for the memorial site by donation, purchase with donated or appropriated funds, or exchange; and*

*(9) to administer the Flight 93 memorial as a unit of the National Park System in accordance with this Act and with the laws generally applicable to units of the National Park System such as the Act of August 25, 1916 (39 Stat. 585).*

***SEC. 6. CLARIFICATION OF PASSENGERS AND CREW.***

*For the purposes of this Act, the terrorists on United Airlines Flight 93 on September 11, 2001, shall not be considered passengers or crew of that flight.*

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wyoming (Mrs. CUBIN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is truly an honor for me to manage this bill introduced by the gentleman from Pennsylvania (Mr. MURTHA). He certainly is a statesman in this body, and it is an honor for me to be able to work with him on this issue.

H.R. 3917 would establish a national memorial in Somerset County, Pennsylvania, at the site where United Airlines Flight 93 crashed on September 11. The legislation would designate the memorial as a unit of the National

Park System, while also establishing a 15-member advisory commission comprised of various stakeholders, including the family members of victims, rescue workers, landowners, locally elected officials, and other important stakeholders to advise the Secretary of the Interior regarding the design, construction, and long-term management of the memorial. The commission would then dissolve upon the dedication of the memorial.

Mr. Speaker, I am sure that I speak for every Member of this body when I express my deep gratitude for the heroic efforts of the crew and the passengers that fought to keep Flight 93 from carrying out their intended act of terrorism on this Nation's capital.

As thousands and thousands of people have visited the crash site in Pennsylvania to pay their respects and to reflect upon what took place that day, it has become even more clear that this deep gratitude is shared by all Americans.

I believe that this is an appropriate way of honoring these heroes and keeping their memory alive. Thousands and thousands of future Americans will no doubt visit this site and reflect upon the courage of those who were first to begin to fight back against America's attackers in its war on terrorism.

While the establishment of this memorial does depart from the normal process of studying a potential site prior to its establishment, and allowing the passage of time in order to permit history to make its judgment about the historical significance of a particular site, we share the opinion expressed by the National Park Service that this site is so clearly nationally significant and important to contemporary America that recognition now is totally appropriate.

Mr. Speaker, this legislation is supported on both sides of the aisle, as well as by the administration; and I urge support for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is proposed by my good friend, the distinguished gentleman from Pennsylvania (Mr. MURTHA), the ranking member of the Subcommittee on Defense of the Committee on Appropriations.

Mr. Speaker, with all of the bills we have considered relating to the events of September 11 of last year, we would like to first say our thoughts and prayers continue to go out to those affected by the events of that awful day. While we as a Nation have attempted to go on with our lives, the tragedy and loss of that day will never be forgotten or taken out of our hearts and minds.

The scope and severity of that terrible tragedy make it difficult to know how best to memorialize those who were lost, but the legislation of the gentleman from Pennsylvania focuses on memorializing the heroism of those aboard United Flight 93 and the tragedy of their loss. These are the events which mostly affected the families he represents, and we fully support this legislation.

Mr. Speaker, I had the recent privilege of accompanying the gentleman from Pennsylvania (Mr. WELDON), another colleague from Pennsylvania, with eight other Members of Congress to visit Uzbekistan, where we do the majority of our major staging area for our troops in going and fighting the war in Afghanistan. What struck me, Mr. Speaker, was that one of the units there, an Air Force unit, had a slogan. They took this slogan from the last words that were given by one of the gentlemen on board this Flight 93, and it was simply this: "Let's roll." This Air Force unit had adopted this slogan, "Let's Roll," to honor the heroes of Flight 93.

For all I know, Mr. Speaker, many of us in this body, Members and staff, may not be here if it had not been for the heroic acts of those passengers willing to sacrifice their lives so that we and the many of us here might live. I hope we will never forget that.

We want to continue working with all our colleagues regarding appropriate reactions to the events of September 11. It is our hope that over time we may gain the wisdom and perspective to devise a memorial or series of memorials that will tell the story of these attacks; of the people who are lost, their families, and our resulting efforts to end the threat of terrorism in such a way that future generations will never forget these events. Better yet, Mr. Speaker, perhaps such a memorial could in some small way reduce the chance that any future generation will have to endure such a tragedy.

I want to say for the RECORD, Mr. Speaker, that I commend the gentleman from Pennsylvania, as the dean of the great State of Pennsylvania's delegation, and will support him in whatever way he sees fit on how we might best honor those heroes of United Flight 93.

Mr. Speaker, I reserve the balance of my time.

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume, and I rise now to speak on behalf of our friend and colleague, the gentleman from Pennsylvania (Mr. SHUSTER), who has worked very hard getting this bill to this point.

He is stuck in traffic right now, and so I just wanted to rise to let the body know that he is in great support of this bill, has done a great job in getting it through the committee, has addressed all of the concerns that anyone has had, and he is very much committed to getting this memorial built, and hoping that in doing so will bring some comfort to the families of those people that died, as the gentleman from American Samoa (Mr. FALEOMAVAEGA), has just expressed for us.

Mr. Speaker, I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I am honored to yield such time as he may consume to the gentleman from Pennsylvania (Mr. MURTHA), the primary sponsor of this proposed bill.

Mr. MURTHA. Mr. Speaker, I want to express my appreciation to the gentlewoman from Wyoming for her eloquent statement, as well as the gentleman from American Samoa.

Mr. Speaker, the gentleman from California (Mr. LEWIS), chairman of the Subcommittee on Defense, and I were both in the Capitol on September 11. We saw the crash on television of the World Trade Center, and we evacuated the Capitol before we marked up our bill. We then went outside and saw the plume of smoke from the Pentagon and heard that there was a plane, of course, coming towards the Capitol, which was the reason we evacuated it.

□ 1530

We heard a sonic boom which we thought was an explosion.

The next morning, we drove to the site, and the plane had completely incinerated. On the way back I heard the reports of the telephone calls between the passengers and the people at home. Of course, in those reports, there was an immediate idea that these people were going to bring that plane down so the same tragedy would not occur that occurred in New York and at the Pentagon.

Imagine this, we have been taught if a plane is hijacked, we sit passively and wait until they land the plane. We do not take any action. That was the way we were supposed to respond. They got the reports from the families, and they realized this was a different situation entirely. Of course, the terrorists miscalculated, thinking that the United States was soft, thinking the United States was all kinds of adjectives that they have used against this great country. They found out that the people on board were not going to give up easily. They made an instantaneous decision. They brought that plane down, missing Johnstown by a few seconds, missing an airport by a few seconds, and missing an elementary school by a few seconds. The people in Shanksville, Somerset County, reacted almost instantaneously. Within 5 or 6 minutes, volunteer firemen were at the site.

The next day when I got there at 7 or 8 in the morning, the FBI was there. They had taken charge because it was a criminal investigation, volunteer firemen were there, State police were there, and they had it under control. All that was left was the rubble from the airplane. The tail had completely collapsed into the center and the nose section of the airplane.

When I think of the great courage that these people displayed in this action, it makes me realize what the terrorists did not realize, that this was one of the most heroic acts, and it defined the United States at a time in our history, that we are not going to sit back and allow terrorism to destroy this great country. Those folks took action and we are proud of them.

Let me say in addition to them, I have talked to the families, and the families at first felt it ought to be a memorial and bury the remains someplace else. But then they realized that 90 percent of the remains are there.

I appreciate what the committee has done. As the gentlewoman from Wyoming (Mrs. CUBIN) said, normally these things take years before we determine what needs to be done. This was obvious that it needed some fast action, and the families who have been so good, the fact that they realized that their loved ones were heroes, and they want to say how much they would appreciate this. I told them that we will try to get it done this summer, and we have done it. I appreciate what Members have done because this is an extraordinary action by the Congress to get something like this done so quickly. I represent the area this year, because of reapportionment, the gentleman from Pennsylvania (Mr. SHUSTER) will represent it next year. Both of us appreciate the action of the committee.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, let me say it is really impressive that the gentleman has gotten this job accomplished in this length of time. It is very important that Americans, and also people around the world know that America is standing together regarding that for which those brave men and women gave their lives. Indeed, they sacrificed themselves to make sure that further disaster did not take place on that day.

The further irony is that the Appropriations Subcommittee on Defense, which handles national defense, was meeting that morning. We usually have our people meet about 9:30 for rolls and coffee, because we want them to be at the meeting at 10, but we were there early and witnessed these planes flying into the World Trade Center. None of us knew what was going on in Pennsylvania. Indeed, I am not sure that we would have gotten notice if the terrorists had been successful. They could have had, as their target, the White House, or they could have had the symbol of this country's freedom, the Capitol of the United States. If that was the case, we might very well have been struck.

We abandoned our work and left the Capitol, as everybody else did. But, indeed, if the terrorists had been successful, we might not have had a chance. Literally, those brave men and women set the stage that day for the President of the United States to declare war on terrorism.

Together we stand firm to fight for that battle, for the very civilization we believe so much in is at stake, and I believe the freedom of the world may very well be at stake. I congratulate the gentleman from Pennsylvania (Mr. MURTHA) who is a fantastic partner in our business, in defense appropriations. But more importantly, this symbol will be there forever, and it is a reflection of what we are willing to give that freedom might live.

Mr. MURTHA. Mr. Speaker, reclaiming my time, from Pennsylvania to California to Wyoming to American Samoa, this is a piece of legislation that will be remembered long after we are gone, and a monument to some real heroes of this great country, which defines what America is all about.

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentleman from California (Mr. LEWIS), the chairman of the Appropriations Subcommittee on Defense, and the dean of the Pennsylvania delegation, the gentleman from Pennsylvania (Mr. MURTHA) for their eloquent remarks in reference to this legislation.

I would be remiss if I do not thank the gentlewoman from Wyoming (Mrs. CUBIN), and even though she has yielded her time, I would be happy to yield to the gentlewoman.

Mrs. CUBIN. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentlewoman from Wyoming.

Mrs. CUBIN. Mr. Speaker, I thank the gentleman for yielding, and just say how much I have enjoyed working with the gentleman for the past 8 years now. He is a gentleman, a statesman, and always interested in what is best for the United States and for American Samoa, and I am very grateful.

Mr. FALEOMAVAEGA. Mr. Speaker, it is my sincere hope that this legislation will be taken in the most expedient manner, not only from this Chamber, but certainly from the other body, so we can make the most appropriate arrangements. Again, I thank the gentleman from Pennsylvania (Mr. MURTHA) for his remarks and personal experience relative to what happened to United Flight 93.

Mr. Speaker, there was no question where that plane was headed towards. It was headed towards Washington, D.C. It could have been any one of us here. It could have been our office buildings that flight was headed for. Again, I thank the gentleman whose last words before communications cut out, he simply said, "Let's roll." I want to pay that special tribute and honor to that gentleman, and all of the passengers on Flight 93 as to that act of heroism as to why we are alive today.

Mr. HOLT. Mr. Speaker, I am pleased to join with my colleagues in support of this legislation to establish a memorial for the brave men and women of Flight 93, who perished in the terrorist attacks of September 11. All Americans should honor these brave Americans. And this legislation is one important way to see that all Americans remember their tremendous courage and sacrifice.

Earlier this year, I carried through legislation to honor one Flight 93 hero, Todd Beamer, of Cranbury New Jersey, in my district.

The band of passengers on Flight 93 who fought the hijackers, saved hundreds, perhaps thousands of lives that would have been taken if that plane reached the hijackers' intended target. And it is worth nothing that none of those people whose lives were saved know who they are. They will never know. But all Americans can be grateful.

The memory of the people on board Flight 93 reminds us that this is not the last time that America will need heroes. The survival of American ideals depends day in and day out on ordinary Americans stepping out of their ordinary lives to do extraordinary things, courageous things.

It is appropriate, I think, that people will be able to find inspiration as they look at this memorial and pause for a moment to reflect on the essence of America, what we can extract from these American's heroism. While we are designating a memorial to these passengers, they have left their own lasting memorial for us all, by their example.

I take great pride in joining with my colleagues in supporting this important bill.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 3917, the Flight 93 National Memorial Act. This important measure would pay tribute to the passengers of Flight 93. These brave men and women made the ultimate sacrifice in an effort to protect their countrymen. It is only fitting that we establish a lasting memorial to these brave individuals.

As we debate this measure, in this most revered of halls, I cannot help but contemplate the possibility that Flight 93 was headed to a target here in the Nation's Capitol—quite possibly right here to the Capitol itself. We will, however, never know for sure where that doomed flight was headed. We will never know, because men and women, put love of country ahead of self preservation. These were not super heros, but individuals just like you and me. Individuals with families and loved ones anxiously awaiting their return, who put aside their own desires and stood up to combat terrorism and save countless lives.

Mr. Speaker, shortly after the tragic events of September 11th, I had the opportunity to attend a memorial service for the passengers of Flight 93 in my home state of Pennsylvania. I was moved by the outpouring of support for the families of those who died. I knew immediately that this was indeed hallowed ground.

Already thousands of visitors have flooded to Pennsylvania to pay their respects to these brave men and women and many more are expected to come. We must provide the American people with a proper place to both bring their grief as well as for them to pay honor and tribute to those who gave so much.

The legislation before us today lays out a fair and balanced approach for construction of a memorial for these brave individuals. The legislation calls for the creation of the Flight 93 Advisory Commission which would be composed of representatives from the families of victims, the local community, the state of Pennsylvania and the United States Government. The Commission would then submit their recommendations to the Secretary of the Interior.

Mr. Speaker, we have all been inspired by the many heros who have emerged in the wake of September 11th. The passengers aboard Flight 93 are certainly heroes. These brave men and women put the love of their country before themselves and are responsible for saving the lives of many. It is only proper that we construct a memorial where all Americans can come and honor these immensely courageous individuals. I urge passage of the Flight 93 Memorial Act.

**Mrs. ROUKEMA.** Mr. Speaker, I rise today in support of this resolution that honors the great bravery, courage, and patriotism of the crew and passengers aboard United Airlines Flight 93, including my constituent Jeremy Glick of West Milford, New Jersey. Though we may never know what took place in the final minutes on that flight, we can be certain that because of Jeremy's actions, along with other passengers and crew members, lives were saved. Not only do the passengers and crew of Flight 93 deserve the highest of honors and a permanent place in our Nation's memory, but they also deserve our immense gratitude.

Aboard the fated flight which crashed in Pennsylvania, Jeremy Glick was one of the heroes who bravely and selflessly sacrificed his own life after providing important details about the terrorists' actions over his cell phone. We know that Jeremy helped to take down the terrorists, armed only with a plastic dinner knife. As United Flight 93 crashed prematurely in Pennsylvania, Air Force One changed its route and the White House and Capitol Building were evacuated. The potential destruction and loss of more innocent lives were averted in part because of Jeremy's heroic actions. I am overwhelmed by his selfless defense of civilian lives and his country. Such patriotism and valor demands our recognition and our thanks

Out of this tragedy, our Nation has emerged stronger and prouder than ever. Our spirit is inspired by the stories of the brave men and women of that day—true heroes of our country. This is what this monument will stand for—their memory and stories that inspire us, now and for years to come. The Flight 93 memorial will allow generation after generation to remember and honor Jeremy and all those on the flight for their exceptional bravery, valor, and patriotism.

Shortly before September 11th, Jeremy's wife Lyzebth gave birth to a beautiful daughter, Emerson. The photos of Jeremy and Emerson move me immensely as I witness the love and pride in Jeremy's eyes for his daughter. Emerson will see these same photos one day, and know of the love her father had for her. Let us, as a Congress and as a country, allow her to know the tremendous service her father did for America on September 11th.

Although there are no flags or pieces of legislation that can relieve the sorrow of the families of these victims, I hope that they will take comfort in the fact that their loved ones will not be forgotten. I urge my colleagues to join me in commemorating the lives of the crew and passengers of United Flight 93 with this national memorial in Somerset County, Pennsylvania.

**Mr. FALEOMAVAEGA.** Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the bill, H.R. 3917, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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## LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT OF 2001

**Mrs. CUBIN.** Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2990) to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2990

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the “Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2001”.*

***SEC. 2. AUTHORIZATION OF ADDITIONAL PROJECTS UNDER THE LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT ACT OF 2000.***

*Section 4(a) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) is amended by adding at the end the following:*

*“(5) In the United Irrigation District of Hidalgo County, Texas, a pipeline and pumping system as identified in the Sigler, Winston, Greenwood, Associates, Incorporated, study dated January 2001.*

*“(6) In the Cameron County, Texas, Irrigation District No. 2, proposed improvements to Canal C, as identified in the February 8, 2001, engineering report by Martin, Brown, and Perez.*

*“(7) In the Cameron County, Texas, Irrigation District No. 2, a proposed Canal C and Canal 13 Inner Connect, as identified in the February 12, 2001, engineering report by Martin, Brown, and Perez.*

*“(8) In Delta Lake Irrigation District of Hidalgo and Willacy Counties, Texas, proposed water conservation projects, as identified by the AW Blair Engineering report of February 13, 2001.*

*“(9) In the Hidalgo and Cameron County, Texas, Irrigation District No. 9, a proposed project to salvage spill water using automatic control of canal gates as identified in the AW Blair Engineering report dated February 14, 2001.*

*“(10) In the Brownsville Irrigation District of Cameron County, Texas, a proposed main canal replacement as outlined in the Holdar-Garcia & Associates engineering report dated February 14, 2001.*

*“(11) In the Hidalgo County, Texas, Irrigation District No. 16, a proposed off-district pump station project as identified by the Melden & Hunt, Incorporated, engineering report dated February 14, 2001.*

*“(12) In the Hidalgo County, Texas, Irrigation District No. 1, a proposed canal replacement of the North Branch East Main, as outlined in the Melden & Hunt, Incorporated, engineering analysis dated February, 2001.*

*“(13) In the Donna (Texas) Irrigation District, a proposed improvement project as identified by the Melden & Hunt, Incorporated, engineering analysis dated February 13, 2001.*

*“(14) In the Hudspeth County, Texas, Conservation and Reclamation District No. 1, the Alamo Arroyo Pumping Plant water quality project as identified by the engineering report and drawings by Gebhard-Sarma and Associates dated July 1996 and the construction of a 1,000 acre-foot off-channel regulating reservoir for the capture and conservation of irrigation water, as identified in the engineering report by AW Blair Engineering dated June 2002.*

*“(15) In the El Paso County, Texas, Water Improvement District No. 1, the Riverside Canal Improvement Project Phase I Reach A, a canal lining and water conservation project as identified by the engineering report by AW Blair Engineering dated June 2002.*

*“(16) In the Maverick County, Texas, Water Improvement and Control District No. 1, the concrete lining project of 12 miles of the Maverick Main Canal, identified in the engineering report by AW Blair Engineering dated June 2002.*

*“(17) In the Hidalgo County, Texas, Irrigation District No. 6, rehabilitation of 10.2 miles of concrete lining in the main canal between Lift Stations Nos. 2 and 3 as identified in the engineering report by AW Blair Engineering dated June 2002.*

*“(18) In the Hidalgo County, Texas, Irrigation District No. 2, Wisconsin Canal Improvements as identified in the Sigler, Winston, Greenwood & Associates, Incorporated, engineering report dated February 2001.*

*“(19) In the Hidalgo County, Texas, Irrigation District No. 2, Lateral ‘A’ Canal Improvements as identified in the Sigler, Winston, Greenwood & Associates, Incorporated, engineering report dated July 25, 2001.”.*

***SEC. 3. AMENDMENTS TO THE LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT ACT OF 2000.***

*The Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3065 et seq.) is further amended as follows:*

*(1) Section 3(a) is amended in the first sentence by striking “The Secretary” and all that follows through “in cooperation” and inserting “The Secretary, acting through the Bureau of Reclamation, shall undertake a program under cooperative agreements”.*

*(2) Section 3(b) is amended to read as follows:*

*“(b) PROJECT REVIEW.—Project proposals shall be reviewed and evaluated under the guidelines set forth in the document published by the Bureau of Reclamation entitled ‘Guidelines for Preparing and Reviewing Proposals for Water Conservation and Improvement Projects Under P.L. 106–576’, dated June 2001.”.*

*(3) Section 3(d) is amended by inserting before the period at the end the following: “, including operation, maintenance, repair, and replacement”.*

*(4) Section 3(e) is amended by striking “the criteria established pursuant to this section”*

*and inserting "the guidelines referred to in subsection (b)".*

*(5) Subsection (f) of section 3 is amended by striking "to prepare" and all that follows through the end of the subsection and inserting "to have the Secretary prepare the reports required under this section. The Federal share of the cost of such preparation by the Secretary shall not exceed 50 percent of the total cost of such preparation.".*

*(6) Section 3(g) is amended by striking "$2,000,000" and inserting "$8,000,000".*

*(7) Section 4(b) is amended—*

*(A) in the first sentence by striking "costs of any construction" and inserting "total project cost of any project"; and*

*(B) in the last sentence by inserting "the actual" before "funds".*

*(8) Section 4(c) is amended by striking "$10,000,000" and inserting "$47,000,000 (2001 dollars)".*

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wyoming (Mrs. CUBIN) and the gentleman from Texas (Mr. ORTIZ) each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2990, the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2001, will amend Public Law 106–576. This legislation adds 14 new water conservation projects, increases study authorizations from $2 million to $8 million, and increases facility construction authorizations from $10 million to $47 million.

The Rio Grande has been severely impacted, as have most areas in the west, by drought conditions during the last decade. Many of these drought conditions are the worse that have ever been seen, at least recorded. These droughts conditions have made it difficult to supply Rio Grande water to the 7 million people who depend on it. Implementation of significant improvements to irrigation canal delivery systems, aggressive water conservation programs, and improved water management are critical needs that must be taken seriously. H.R. 2990 will work within the existing framework of Public Law 106–576 to address these critical needs.

Mr. Speaker, I reserve the balance of my time.

Mr. ORTIZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, let me thank my colleagues on the Committee on Resources, particularly the gentleman from California (Mr. CALVERT) who has been a local hero back home in South Texas for his interest and work on this bill. South Texas also would like to thank the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) for their attention to our situation and understanding, and their willingness to move this urgent bill forward. I also want to thank the staff. We had an opportunity to travel to my district, and we had hearings.

The South Texan who deserves great credit for House consideration today is the gentleman from Texas (Mr. BONILLA), our distinguished appropriations cardinal whose personal involvement in this legislation has been pivotal to our success today. The gentleman from Texas (Mr. BONILLA) and I co-chair the House Border Caucus, and he is an important player for all of us when it comes to issues affecting the southwest border.

Mr. Speaker, nature, or El Nino or La Nina, has played a cruel joke on Texas. After a decade of drought in South Texas, Mother Nature dumped between 30 and 40 inches of rain on central Texas which caused a lot of flooding and a lot of damage, none of which made its way to our reservoirs in South Texas.

The Lower Rio Grande Valley Water Conservation and Improvement Act of 2001 will authorize $47 million to be managed by the State of Texas to improve the irrigation system in the South Texas area. The bill specifies water transportation and conservation activities. It also begins to implement some of the water conservation measures considered in the development of the State of Texas water plan.

We have been hit hard by at least 6 years of drought, and have raced to find ways to conserve this amount of water. We have to save as much as we can. This bill is an outgrowth of a very serious international treaty violation by Mexico. In 1944, the United States and Mexico signed a water treaty to share the waters of the Rio Grande, the Colorado, and their tributaries.

□ 1545

Under the treaty, the United States delivers 1.5 million acre-feet of water to Mexico from the Colorado while Mexico delivers 350,000 acre-feet of water to the United States from tributaries and reservoirs of the Rio Grande. I represent the Texas border communities at the downstream of the river. The last drop and the last stop of water is in my district.

There is very little that we can do to help south Texas water users today. But passing this bill to authorize improvements to the existing irrigation systems in the area will help conserve the tiny bit of water that we do now have. The gentleman from California (Mr. CALVERT) led the Committee on Resources in a hearing in south Texas. He saw and heard firsthand the need that we have to improve the existing infrastructure in south Texas. Californians, and others from the American Southwest, have a special understanding of water needs and droughts; and we will be standing together with our colleagues from California as we try to mitigate the circumstances we now find ourselves in.

I and all south Texas water users are deeply grateful to all the players in the House who have heard our plea for help and have stepped up to the plate to do what we need to do to make this horrible situation a little better. I want to thank my good friend, the gentlewoman for Wyoming, for being a lot of help in contributing to the passage of this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise today in strong support of H.R. 2990. I want to thank the gentleman from California (Mr. CALVERT), subcommittee chairman; the gentleman from Utah (Mr. HANSEN), the full committee chairman; as well as the gentleman from West Virginia (Mr. RAHALL); the gentlewoman from Wyoming (Mrs. CUBIN); the gentleman from Texas (Mr. SMITH); and the gentleman from Texas (Mr. ORTIZ) for all of their help in moving our legislation to the House floor.

South Texas has reached a crisis stage. A decade-long drought combined with a 1.5 million acre-feet water debt owed by Mexico has left our water reservoirs dangerously low at only 25 percent of capacity. As a result, south Texas farmers have lost much of their crops. Our farmers are unable to plant new ones and are losing their farms because bank loans are being called. The sustainable growth of the region is in jeopardy.

Agriculture has long been a cornerstone of the south Texas economy, and the devastating effects of the drought upon farmers are rippling throughout the entire economy in our country. Economists have estimated that the water shortage has cost the Texas economy almost $1 billion in the last 10 years, and costs are now mounting at a pace of more than $400 million annually. This means that south Texas has lost thousands of jobs and millions of dollars in economic activity. Given our chronic double-digit unemployment rate along the border, these are simply jobs that we cannot afford to lose. The agricultural and economic losses are not the only areas in which the drought has had a serious negative effect.

The environmental negative impact has been felt as well. The Rio Grande River no longer flows into the Gulf of Mexico, which has adversely impacted a number of economically and ecologically important marine species. It is quite clear that the drought, compounded by Mexico's refusal to comply with the terms of the 1944 water treaty, is having a devastating effect upon all aspects of our community. We must continue our efforts to press Mexico to deliver the water that is owed us, but we must also be more efficient in transporting what little irrigation water we have.

In conclusion, Mr. Speaker, I want to say that in his most recent agreement with Mexico, the President has promised to fund water conservation projects in Mexico and the U.S. The projects authorized in our bill, H.R. 2990, are the type of conservation projects that will go a long way towards helping us modernize our antiquated water delivery systems on the U.S. side of the border. Currently, we lose up to 35 percent of our water to evaporation and to seepage. This legislation would allow the Bureau of Reclamation to conduct these planned projects that would significantly improve conservation of our scarce water resources.

Specifically, this bill authorizes $47 million in new funding for water conservation and infrastructure improvement projects along the Texas/Mexico border from Brownsville to McAllen to Laredo to El Paso, Texas.

These are badly needed financial resources that will be an important investment in the future of the South Texas border region.

In closing, let me say that after holding several hearings, including field hearings in Weslaco and Brownsville, Texas, this bill was approved unanimously by both the Subcommittee on Water and Power and the full Committee on Resources. I urge my colleagues to support H.R. 2990.

Mrs. CUBIN. Mr. Speaker, I yield myself such time as I may consume.

I would just like to point out how cruel at times Mother Nature can be. There is flooding in Texas at the same time very nearby there is a drought that has been going on for 6 years. I also want everyone to know that we are very aware that there is a drought all the way across the West. The drought conditions in my own State of Wyoming are the worst that we have ever seen. It is that way throughout the West. Now that we are faced with the wildfires that we have, the drought becomes all the more significant in environmental issues and in the health of our public lands.

This is just the beginning. I believe that the Congress will be here to help other people in other States with the drought. But this particular bill is very important because it involves an international treaty and it involves water that is available, but we simply have to be able to save and use in a more efficient way the water that is there. In my own State, it is lack of water. Period. But the Congress will be there to help those people as this session goes on.

Mr. Speaker, I want to thank the gentleman from Texas (Mr. ORTIZ) and add my support and the committee's support for his hard work, for the field hearings that they have had. This bill has been vetted extremely well through the House. It does deserve to be passed. We do need to start dealing with the issues of the drought.

Mr. Speaker, I reserve the balance of my time.

Mr. ORTIZ. Mr. Speaker, I yield myself such time as I may consume.

This is truly a very bipartisan bill. We ask Members to vote for this bill. It is very important. It will help those people who have lost a lot of money in south Texas because they have not been able to irrigate and grow a crop.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I rise today in strong support of H.R. 2990, the Lower Rio Grand Valley Water Resources Conservation and Improvement Act, legislation sponsored by our colleagues along the U.S.-Mexico border, the gentleman from Texas (Mr. HINOJOSA), the gentleman from Texas (Mr. BONILLA), the gentleman from Texas (Mr. GONZALEZ), the gentleman from Texas (Mr. ORTIZ), the gentleman from Texas (Mr. REYES), and the gentleman from Texas (Mr. RODRIGUEZ).

The legislation will authorize 14 irrigation improvement projects necessary for the continued viability and prosperity of farmers throughout the lower Rio Grand region. Eight of these projects will improve irrigation in Hidalgo County; three will help Cameron County; others will help Maverick County, El Paso County, and Hudspeth County.

Farmers in the lower Rio Grand Valley are being hit hard by both an international dispute over water obligations with Mexico and a serious 8-year drought, the longest on record in the valley region. For anyone needing proof for this desperation of valley farmers, I advise them to visit the mouth of the Rio Grand River where the flow has ceased to reach the Gulf of Mexico twice in the last 2 years and often only manages a trickle. The land in the lower Rio Grande Valley is among the most fertile, producing cotton, grains, vegetables, citrus, including the legendary pink grapefruit.

However, without water, farmers have accumulated billions in losses and tens of thousands of jobs have been lost. While drought has and always will challenge farmers, those in the lower Rio Grande Valley have had more than 1.5 million acre feet of water, or an incredible 488 billion gallons of water, withheld from them by the Mexican state of Chihuahua since 1992. At the same time, the state of Chihuahua has used this U.S. water to produce crops of their own in the desert. This violation of the 1944 U.S.-Mexico treaty regarding the Rio Grande and Colorado Rivers is admitted by the Mexican authorities and no party claims that the U.S. has ever failed in its reciprocal obligation to provide water to Mexico from the Colorado River.

While I consider Mexico to be a friend and strong ally of the United States, I have consistently argued that the State Department needs to resolve this issue of great importance to the economy of the lower Rio Grande Valley before moving on to other more controversial foreign policy issues between the United States and Mexico.

The matter of Mexico's adherence to the 1944 treaty and mounting water debt should be the Bush administration's top bilateral priority with respect to Mexico. Unfortunately, the administration's efforts to date have been deficient, as has been shown by the recent signing of the wholly inadequate water deal known as Minute 308.

A minute is a clarification to an existing treaty but is not a formal amendment. Signed by the representatives of the United States and Mexican governments to the International Boundary and Water Commission on June 28, 2002, Minute 308 calls for improved water infrastructure in Mexico and the U.S., but it makes no meaningful attempt to address the mounting water debt that Mexico is accumulating.

Farmers in the lower Rio Grande Valley, while welcoming any attention to this issue, have overwhelmingly rejected Minute 308 as close to useless. I am disappointed that the U.S. representatives to the commission, who were in direct communication with high ranking administration officials, would not force stronger action.

With each passing day of inadequate administration action, the risk increases that this mounting debt will not be repaid, and more and more Texas farmers watch as their crops wither and die under the hot Texas sun.

Mr. Speaker, the twin factors of drought and politics have hit valley farmers hard. All are praying simultaneously for a good rain and a resolution of the dispute before the latest deadline of September 30, 2002. Even if this deadline is met, it will be too late for many. In the meantime, valley farmers will be encouraged that this House is coming to their aid by increasing the irrigation opportunities in the region throughout this legislation before us today. However, the administration needs to hear our debate today and to make sure that we have some water to use in these important projects.

I want to thank the gentleman from Texas (Mr. HINOJOSA) for introducing this legislation. I encourage my colleagues to vote "yes" in suspending the rules and passing H.R. 2990, the Lower Rio Grande Valley Water Resources Conservation and Improvement Act.

Mr. RODRIGUEZ. Mr. Speaker, I rise this evening to offer my full support for passage of H.R. 2990, the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2001. This bill would authorize additional projects critical to the improvement of water quality and infrastructures in South Texas while encouraging the federal government to focus more resources on the border region.

South Texas faces a grave water crisis. Even as counties to the north suffer from flooding that has caused millions of dollars in damage to businesses and homes, the border region suffers from a terrible lack of water. It is evident that we need to take a long, hard look at our water management practices and find new ways to improve our water resources.

In the Lower Rio Grande Valley of Texas, communities continue to battle with an eight-year drought. The land is parched. The crops have died. The Rio Grande River has literally stopped flowing into the Gulf of Mexico. How can I express the seriousness of the situation to my colleagues? The lack of water in South Texas has all but destroyed the way of life for the farmers and ranchers of the region.

During this same time period, Mexico has accumulated a substantial water deficit. Under terms of the 1944 U.S.-Mexico Water Treaty, Mexico now owes us close to 1.7 million acre-feet of water. This is water that could have provided enormous relief to South Texas. Farmers and water district managers had held out hope that Mexico would release a portion of water owed so they could make it through the summer.

We were recently informed that the Administration had struck a deal with Mexico for the release of a mere 90,000 acre-feet. As South Texans have said, this is too little water, too late. To add insult to injury, the agreement gives Mexico access to substantial loans without requiring a firm payment schedule for water still owed. While we need substantial investment on both sides of the border to improve our water resources, we need Mexico to meet its treaty obligations to offer immediate relief to the parched lands of the Texas Valley.

We have a real opportunity to provide some needed relief today. HR 2990 will direct badly needed resources to South Texas to improve water quality and infrastructure. I ask for my colleagues support of this important bill.

Mr. ORTIZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CUBIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the bill, H.R. 2990, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mrs. CUBIN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous materials in the RECORD on the six bills just considered: H.R. 4870, H.R. 3258, H.R. 3401, H.R. 3048, H.R. 2990, and H.R. 3917.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wyoming?

There was no objection.

## VETERANS HEALTH CARE AND PROCUREMENT IMPROVEMENT ACT OF 2002

Mr. MORAN of Kansas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3645) to amend title 38, United States Code, to provide for improved procurement practices by the Department of Veterans Affairs in procuring health-care items, as amended.

The Clerk read as follows:

H.R. 3645

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Care and Procurement Improvement Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
Sec. 3. Limitation on use of local contracts for Department of Veterans Affairs procurement of health-care items.
Sec. 4. Enhancements to enhanced-use lease authority.
Sec. 5. Eligibility for Department of Veterans Affairs health care of certain additional Filipino World War II veterans residing in the United States.
Sec. 6. Outpatient dental care for all former prisoners of war.
Sec. 7. Improved accountability of research corporations established at Department of Veterans Affairs medical centers.
Sec. 8. Department of Defense participation in Revolving Supply Fund purchases.
Sec. 9. Name of Department of Veterans Affairs outpatient clinic, New London, Connecticut.

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**SEC. 3. LIMITATION ON USE OF LOCAL CONTRACTS FOR DEPARTMENT OF VETERANS AFFAIRS PROCUREMENT OF HEALTH-CARE ITEMS.**

(a) IN GENERAL.—Section 8125 is amended to read as follows:

**"§ 8125. Procurement of health-care items**

"(a) Except as provided in subsection (b), any procurement of a health-care item by the Department shall be made through the use of a Federal Supply Schedule contract, or a national contract, that meets the requirements of subsection (d).

"(b)(1) Subsection (a) does not apply to a procurement of a health-care item in any of the following cases:

"(A) A procurement that is necessary to meet a current or near-term medical emergency at a medical center.

"(B) A procurement that is for a health-care item that is not listed in the Federal Supply Schedule or as part of a national contract and for which there is a valid clinical need.

"(C) A procurement that is for a specialized health-care item not listed in the Federal Supply Schedule or as part of a national contract and that is to meet the special needs of an individual patient who has one of the special needs identified in section 1706(b) of this title and who has a valid clinical need for the item.

"(D) A procurement that is part of an approved sharing agreement between the Department of Defense and the Department of Veterans Affairs with demonstrable cost-per-item savings for a health-care item listed on the Federal Supply Schedule or a national contract.

"(E) A procurement that supports a prime contract or a subcontract with a small business concern qualifying for a procurement preference program under section 8 or 15 of the Small Business Act (15 U.S.C. 637, 644).

"(2) A procurement may be made as authorized under subparagraph (B) of paragraph (1) only if the procurement is specifically authorized in advance in writing by the Secretary. The authority of the Secretary under the preceding sentence may only be delegated to the Deputy Secretary or to an official of the Veterans Health Administration not below the level of a Deputy Under Secretary (or equivalent) acting jointly with a procurement executive of the Department not below the level of an Associate Deputy Assistant Secretary.

"(c) In the case of an emergency procurement of a health-care item as authorized by subsection (b)(1)(A), the quantity of the item procured may not exceed the quantity of that item that is the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(d) A contract meets the requirements of this subsection if the contract includes—

"(1) provisions referred to as 'preaward and postaward audit clauses'; and

"(2) a provision referred to as a 'price reduction clause'.

"(e)(1) The Secretary shall establish procedures to assure compliance by each Department medical facility with the provisions of this section and with applicable Federal and Department procurement regulations.

"(2) The procedures established by the Secretary under paragraph (1) shall be designed to maximize health-care item variety and the use of the Federal Supply Schedule.

"(3) The Secretary shall establish and enforce procedures limiting the standardization of items at the local, regional, or national level to provide special patient populations (as identified in section 1706(b) of this title) with the range and types of health-care items required to meet their clinical and quality-of-life needs.

"(4) The Advisory Committee on Prosthetics and Special-Disabilities Programs established under section 543 of this title shall review the procedures established under paragraph (3), including the implementation of those procedures, and shall advise the Secretary when those procedures are not effectively enforced by the Department.

"(f)(1) The Secretary shall establish annual goals for Department medical centers for the purchase of health-care items from Federal Supply Schedule and national contracts meeting the requirements of subsection (d). Such goals shall be designed to maximize the percentage of such purchases that are made through such contracts.

"(2) The Secretary shall establish goals for the Department for procurements from small business concerns qualifying for a procurement preference program under section 8 or 15 of the Small Business Act (15 U.S.C. 637, 644). Such goals shall be no less than the national goal for each such procurement preference program under either of those sections.

‘‘(3) Achievement of the goals established under this subsection shall be an element in the performance standards for employees of the Department who have the authority and responsibility for achieving those goals.

‘‘(g) A provision of law that is inconsistent with any provision of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for the Department.

‘‘(h)(1) Not later than December 31 each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the procurement of health-care items during the preceding fiscal year. Each such report shall include, for the year covered by the report, the following:

‘‘(A) The total dollar amount of all items listed in Federal Supply Classification (FSC) Group 65 or 66 and the total dollar value of the exceptions to subsection (a) under each of subparagraphs (A), (B), (C), (D), and (E) of subsection (b)(1), shown by medical facility.

‘‘(B) A detailed explanation for exceptions to subsection (a), including—

‘‘(i) the rationale for use of emergency procurement at Department medical facilities;

‘‘(ii) the rationale for approval of requests under subsection (b)(1)(B) for procurement of items not listed on the Federal Supply Schedule or on national contracts; and

‘‘(iii) exceptions granted for special health-care needs of veterans with disabilities described in section 1706(b) of this title.

‘‘(C) Analysis of sharing agreements between the Department and the Department of Defense to indicate the basic written sharing initiative and the division of financial responsibility between the two Departments.

‘‘(D) The stated goal under each procurement preference program, together with an assessment of the performance of the Department toward achievement of that goal, especially with respect to the goal for contracting with businesses that are owned by veterans with service-connected disabilities.

‘‘(2) The Advisory Committee on Prosthetics and Special- Disabilities Programs of the Department shall submit comments on each report under paragraph (1) before the report is submitted under that paragraph, and the Secretary shall include those comments in the report as submitted.

‘‘(i) For the purposes of this subsection:

‘‘(1) The term ‘health-care item’ includes any item other than services listed in, or (as determined by the Secretary) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65 or 66.

‘‘(2) The term ‘national contract’ means a contract for procurement of an item that is entered into by the National Acquisition Center of the Department or another Department procurement activity, as authorized by the Secretary, that is available for use by all Department medical facilities.

‘‘(3) The term ‘valid clinical need’ means in the professional judgment of an appropriate clinician. Such term applies to health care items, prosthetic appliances, sensory or mobility aids and supplies that are prescribed by a physician for special patient populations such as veterans with spinal cord dysfunction, blindness, amputations, and other veterans included in section 1706(b) of this title.

‘‘(4) The term ‘Federal Supply Schedule contract’ means a contract that is awarded and administered by the National Acquisition Center of the Department under a delegation of authority from the Administrator of the General Services Administration.

‘‘(5) The term ‘emergency procurement’ means a procurement necessary to meet an emergency need affecting the health or safety of a person being furnished health-care services by the Department.’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 30, 2003, and shall apply to procurements by the Secretary of Veterans Affairs after that date.

### SEC. 4. ENHANCEMENTS TO ENHANCED-USE LEASE AUTHORITY.

(a) INCREASED FLEXIBILITY UNDER ENHANCED-USE LEASES.—Section 8162(a)(2)(B) is amended—

(1) by striking ‘‘proposed by the Under Secretary for Health’’ and inserting ‘‘proposed by one of the Under Secretaries’’; and

(2) by striking ‘‘to the provision of medical care and services’’ and inserting ‘‘to the programs and activities of the Department’’.

(b) NOTIFICATION OF PROPERTY TO BE LEASED.—Section 8163 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking ‘‘designate a property to be leased under an enhanced-use lease’’ and inserting ‘‘enter into an enhanced-use lease with respect to certain property’’; and

(B) by striking ‘‘before making the designation’’ and inserting ‘‘before entering into the lease’’;

(2) in subsection (b), by striking ‘‘of the proposed designation’’ and inserting ‘‘to the congressional veterans' affairs committees and to the public of the proposed lease’’; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ‘‘designate the property involved’’ and inserting ‘‘enter into an enhanced-use lease of the property involved’’; and

(ii) by striking ‘‘to so designate the property’’ and inserting ‘‘to enter into such lease’’;

(B) in paragraph (2), by striking ‘‘90-day period’’ and inserting ‘‘45-day period’’;

(C) in paragraph (3)—

(i) by striking ‘‘general description’’ in subparagraph (D) and inserting ‘‘description of the provisions’’; and

(ii) by adding at the end the following new subparagraph:

‘‘(G) A summary of a cost-benefit analysis of the proposed lease.’’; and

(D) by striking paragraph (4).

(c) DISPOSITION OF LEASED PROPERTY.—Section 8164 is amended—

(1) in subsection (a)—

(A) by striking ‘‘by requesting the Administrator of General Services to dispose of the property pursuant to subsection (b)’’ in the first sentence; and

(B) by striking the third sentence;

(2) in subsection (b)—

(A) by striking ‘‘Secretary and the Administrator of General Services jointly determine’’ and inserting ‘‘Secretary determines’’; and

(B) by striking ‘‘Secretary and the Administrator consider’’ and inserting ‘‘Secretary considers’’; and

(3) in subsection (c), by striking ‘‘90 days’’ and inserting ‘‘45 days’’.

(d) USE OF PROCEEDS.—Section 8165 is amended—

(1) in subsection (a)—

(A) by striking ‘‘(1)’’ after ‘‘(a)’’;

(B) by inserting after ‘‘of this title’’ the following: ‘‘, except that any funds received by the Department under an enhanced-use lease in support of the Veterans Benefits Administration or the National Cemetery Administration and remaining after any deduction from such funds under subsection (b) shall be credited to applicable appropriations of that Administration’’; and

(C) by striking paragraph (2);

(2) in subsection (b), by adding at the end the following new sentence: ‘‘The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases.’’; and

(3) by striking subsection (c).

(e) CLERICAL AMENDMENTS.—(1) The heading of section 8163 is amended to read as follows:

**‘‘§ 8163. Hearing and notice requirements regarding proposed leases’’.**

(2) The item relating to section 8163 in the table of sections at the beginning of chapter 81 is amended to read as follows:

‘‘8163. Hearing and notice requirements regarding proposed leases.’’.

### SEC. 5. ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE OF CERTAIN ADDITIONAL FILIPINO WORLD WAR II VETERANS RESIDING IN THE UNITED STATES.

(a) ELIGIBILITY FOR HEALTH CARE.—The text of section 1734 is amended to read as follows:

‘‘(a) The Secretary shall furnish hospital and nursing home care and medical services to any individual described in subsection (b) in the same manner, and subject to the same terms and conditions, as apply to the furnishing of such care and services to individuals who are veterans as defined in section 101(2) of this title. Any disability of an individual described in subsection (b) that is a service-connected disability for purposes of this subchapter (as provided for under section 1735(2) of this title) shall be considered to be a service-connected disability for purposes of furnishing care and services under the preceding sentence.

‘‘(b) Subsection (a) applies to any individual who is a Commonwealth Army veteran or new Philippine Scout and who—

‘‘(1) is residing in the United States; and

‘‘(2) is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.’’.

(b) LIMITATION.—The amendment made by subsection (a) shall take effect on the date on which the Secretary of Veterans Affairs submits to the Committees on Veterans' Affairs of the Senate and House of Representatives and publishes in the Federal Register a certification that sufficient resources are available for the fiscal year during which the certification is submitted to carry out section 1734 of title 38, United States Code, as amended by such amendment, during that fiscal year at those facilities of the Department of Veterans Affairs where the majority of veterans described in subsection (b) of such section will receive hospital and nursing home care and medical services authorized by subsection (a) of such section.

### SEC. 6. OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.

Section 1712(a)(1)(F) is amended by striking ‘‘and who was detained or interned for a period of not less than 90 days’’.

### SEC. 7. IMPROVED ACCOUNTABILITY OF RESEARCH CORPORATIONS ESTABLISHED AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.

(a) AUDITS AND IMPROVED ANNUAL REPORT.—Subsection (b) of section 7366 is amended to read as follows:

‘‘(b)(1) Not later than March 1 each year, each such corporation shall submit to the

Secretary a report concerning the preceding calendar year. Each such annual report shall include the following:

"(A) A detailed statement of the corporation's operations, activities, and accomplishments during the preceding calendar year.

"(B) A description of each research project or activity for which funds were provided by the corporation during that year or for which funds were provided by the corporation during a preceding year and that is ongoing during the year covered by the report, including, for each such project or activity, the title of the project or activity and a description of the purpose of the project or activity.

"(C) A statement of the amount of funds controlled by the corporation as of the first day, and as of the last day, of the year covered by the report and a statement of the amount of funds received, shown by source, during the year.

"(D) An itemized accounting of all disbursements made during the year.

"(E) The most recent audit of the corporation under paragraph (2).

"(F) Such other information as may be necessary to enable the Secretary to prepare the annual report to congressional committees required under section 7367 of this title.

"(2) A corporation with a balance of funds under its control in excess of $300,000 at any time during a calendar year shall obtain an audit of the corporation for that year. Any other corporation shall obtain an independent audit of the corporation at least once every three years. The report on any such audit shall specifically state whether the corporation audited made any payment, or provided any travel, during the period covered by the audit to a member of the board of directors of the corporation and, if so, the amount and recipient of any such payment or travel.

"(3) Any audit under paragraph (2) shall be performed by an independent auditor and shall be performed in accordance with generally accepted Government auditing standards and in accordance with Office of Management and Budget Circular A-133.

"(4) The Inspector General of the Department shall each year review the most recent audit under paragraph (2) of not less than 10 percent of the corporations described in the first sentence of paragraph (2) and not less than 10 percent of the corporations described in the second sentence of that paragraph. As part of such review, the Inspector General shall determine whether the audit was carried out in accordance with generally accepted Government auditing standards, as required by paragraph (3).".

(b) ANNUAL REPORT OF SECRETARY.—(1) Subchapter IV of chapter 73 is amended—

(A) by inserting after subsection (c) of section 7366 the following:

**"§ 7367. Annual report to congressional committees";**

and

(B) in the text immediately following the section heading inserted by subparagraph (A)—

(i) by striking "(d)" and inserting "(a)";

(ii) by inserting after the first sentence the following new sentence: "Each such report shall be based on the annual reports submitted by the corporations to the Secretary under section 7366(b) of this title and shall be submitted not later than May 1 of the year following the year covered by such reports."; and

(iii) by striking "The report shall" and inserting the following:

"(b) Each such report shall".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7366 the following new item:

"7367. Annual report to congressional committees.".

(c) EXTENSION OF AUTHORITY TO ESTABLISH RESEARCH CORPORATIONS.—Section 7368 is amended by striking "December 31, 2003" and inserting "December 31, 2006".

**SEC. 8. DEPARTMENT OF DEFENSE PARTICIPATION IN REVOLVING SUPPLY FUND PURCHASES.**

(a) ENHANCEMENT OF DEPARTMENT OF DEFENSE PARTICIPATION.—Section 8121 is amended—

(1) by redesignating subsection (b) and (c) as subsections (d) and (e), respectively;

(2) by designating the last sentence of subsection (a) as subsection (c); and

(3) by inserting after paragraph (3) of subsection (a) the following new subsection:

"(b) The Secretary may authorize the Secretary of Defense to make purchases through the fund in the same manner as activities of the Department. When services, equipment, or supplies are furnished to the Secretary of Defense through the fund, the reimbursement required by paragraph (2) of subsection (a) shall be made from appropriations made to the Department of Defense, and when services or supplies are to be furnished to the Department of Defense, the fund may be credited, as provided in paragraph (3) of subsection (a), with advances from appropriations available to the Department of Defense.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to funds appropriated for a fiscal year after fiscal year 2002.

**SEC. 9. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, NEW LONDON, CONNECTICUT.**

The Department of Veterans Affairs outpatient clinic located in New London, Connecticut, shall after the date of the enactment of this Act be known and designated as the "John J. McGuirk Department of Veterans Affairs Outpatient Clinic". Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the John J. McGuirk Department of Veterans Affairs Outpatient Clinic.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. MORAN) and the gentleman from Mississippi (Mr. SHOWS) each will control 20 minutes.

The Chair recognizes the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3645 was introduced by the gentleman from Illinois (Mr. EVANS) earlier this year. I would like to take this time to commend the gentleman from Illinois as well as our chairman, the gentleman from New Jersey (Mr. SMITH), and the gentleman from California (Mr. FILNER), the ranking member of our Subcommittee on Health, which I am privileged to chair. In addition, I would like to thank the gentleman from Indiana (Mr. BUYER), chairman of the Subcommittee on Oversight and Investigations and the gentleman from Connecticut (Mr. SIMMONS) for their work on this bill.

Introduced by the gentleman from Illinois (Mr. EVANS), H.R. 3645 represents an important reform to the manner in which the VA obtains medical supply items for VA health care, and it is a good-government measure. On June 26 of this year, the VA Subcommittee on Health held a legislative hearing to explore the merits of this bill. As a result of our hearing and subsequent meetings with veterans' organizations, changes were made to the bill to ensure that the VA may continue to obtain specialized health care items that severely disabled veterans require. These changes are addressed in section 3 of the bill.

Also, Mr. Speaker, several other measures were incorporated into this legislation. To summarize, the VA Subcommittee on Health held a hearing on June 13 regarding access to VA health care to Filipino veterans of World War II who now reside in this country. These veterans fought alongside our troops in the Philippines and deserve access to VA health care. Section 5 of the amendment includes the health care-related provisions of H.R. 4904, a bill that the gentleman from California (Mr. FILNER) introduced that would extend these services to our World War II allies who served in the Commonwealth Army of the Philippines. The VA Subcommittees on Health and Oversight and Investigations held a joint hearing on May 16 to address our concerns about activities of the research and education corporations that aid the VA in conducting outside funded research and provide certain health education funding for VA clinicians.

As a result of issues arising at that hearing, the gentleman from Indiana (Mr. BUYER) introduced H.R. 5084, the contents of which are now included in section 7 of this bill.

Mr. Speaker, the VA also requested the inclusion of three additional provisions, provisions to streamline the procedures for awarding enhanced-use leases of certain VA real properties, to expand dental care for all former prisoners of war, and to authorize the VA Secretary to permit the Department of Defense to use the VA supply fund to obtain medical supply items for DOD health care facilities. These provisions are part of this bill in sections 4, 6 and 8, respectively.

Finally, the gentleman from Connecticut (Mr. SIMMONS) introduced a bill, H.R. 3418, to name the New London, Connecticut, VA clinic in honor of the late John McGuirk, a prominent World War II veteran from New London. The gentleman from Connecticut's bill, cosponsored by the entire Connecticut delegation, is in full compliance with our committee's policy for naming VA facilities and is included as an amendment to this legislation. Last week, our Subcommittee on Health met and marked up this bill and the full committee did so later in the week as well.

Mr. Speaker, H.R. 3645 is a good bill. I urge its support.

Mr. Speaker, I reserve the balance of my time.

Mr. SHOWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased that H.R. 3645, as amended, is being considered by the House today. In addition to providing needed reforms to VA procurement, it also authorizes medical care for veterans and expedites the process for enhanced use lease of VA assets.

I sincerely appreciate the cooperation of the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) on this bill. I also want to thank the chairman and ranking member of the Subcommittee on Health, the gentleman from Kansas (Mr. MORAN) and the gentleman from California (Mr. FILNER), for their assistance and valuable contributions.

H.R. 3645 was introduced to reform VA procurement for medical and surgical supplies. For too long, VA has not leveraged its enormous purchasing power to obtain the best possible prices. Unfortunately, VA has also failed to include price reduction provisions in procurement contracts and did not consistently conduct pre- and post-award audits.

The procurement reform provisions in the Veterans Health Care Procurement Reform and Improvement Act of 2002 are about good government, obtaining the best prices for medical and surgical supplies used to provide VA medical care and saving taxpayer dollars. Additionally, I also recognize the persistence of the gentleman from California (Mr. FILNER) to win health care benefits for certain Filipino veterans. I have long supported his efforts and am pleased that the health benefits he has advocated are included in the legislation before us today.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN of Kansas. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Mississippi for his remarks and also agree with him about the importance of this legislation, particularly the good-government aspects that the gentleman from Illinois (Mr. EVANS), our ranking member, has pursued by introduction of this bill, and also the Filipino veteran issue that the gentleman from California (Mr. FILNER), the ranking member of the Subcommittee on Health, who is en route back to Washington today from California, his effort over many years to try to address the issues of the Filipino veterans.

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And finally I thank the gentleman from Connecticut (Mr. SIMMONS) for his effort to recognize one of his outstanding World War II veterans from Connecticut. So this legislation really is a result of a bipartisan effort and a number of Members' special interests in issues that affect veterans not only in our country but especially in their own districts.

Mr. CUNNINGHAM. Mr. Speaker, I rise in support of H.R. 3645 and thank you for the opportunity to speak about this bill. While this issue, as a matter of national honor, is one of the most important subjects that we will discuss this session, It does not capture the headlines and few Americans are even aware of it. Yet it requires no debate to determine the only honorable and right course of action.

When we went to war in 1941, the people of the Philippines, then an American Commonwealth, went with us. Under Executive Order by President Roosevelt, the 4000,000 men of the Philippines military were called on to join our forces under General Douglas MacArthur. They faithfully fought with us throughout the war. They walked side by side with us during the Bataan Death March, dying at a rate exceeding that of the American troops., After the war, we passed legislation that denied these brave men status as US veterans, denying them access to veterans' benefits. I am proud to count myself among the many that fee this was wrong and not worthy of our Nation's honor.

I believe that a promise made is a debt unpaid, and it is far past the proper time to correct this longstanding wrong. While passage of H.R. 3645 does not correct the entire problem it is a step in the right direction. This bill will take the step of extending VA benefits to the 11,000 Filipino WWII veterans that are living in the United States. I hope we will eventually extend this benefit to the 34,000 veterans that chose to stay in the Philippines. With passage of this bill, we will be closer to this goal. Failure to take action is a stain on our national character. As Americans we can and must set a higher standard.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3645, the Veterans Health-Care Items Procurement Reform and Improvement Act of 2002. I urge my colleagues to lend their support to this measure.

This legislation reforms the Department of Veterans Affairs (VA) programs and policies that procure certain health-care items used by the VA to care for veterans; address specialized accountability; and strengthens reporting for exceptions made to the reformed policies.

The measure also streamlines the procedures that govern the VA's use of enhance-use lease authority and provide the VA additional flexibility to enhance use of VA properties in complementary activities. The largest VA facility near my congressional district, located in Montrose, NY, has been taking advantage of enhance-lease authority for several years. The primary goal of enhance leasing should be to promote tenants and projects that will complement existing VA medical services. The language in this portion of H.R. 3645 should help ensure that the needs of veterans come first with any future enhanced leasing that occurs at the Montrose Medical Center.

I am especially pleased to note the provision that provides hospital and nursing home care and medical services to certain Filipino World War II veterans of the Philippines Commonwealth army and former Philippines "New Scouts" who now permanently reside in the United States. The inclusion of this section marks another milestone in our long-standing effort to extend overdue recognition and benefits to Filipino veterans of World War II. As a leader in the fight to restore these benefits over the past ten years, I am grateful my colleagues from California, congressmen FILNER and CUNNINGHAM for their work within the Veterans Affairs Committee to see that this section was adopted.

Finally, H.R. 3645 expands eligibility for outpatient dental care for all former prisoners for VA research and education corporations established at VA medical centers.

Mr. Speaker, this is a good bill that provides numerous benefits to those who served their country in the Armed Forces. I urge my colleagues to support its passage.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong support of H.R. 3645, the Veterans Health-Care Items Procurement Reform and Improvement Act of 2002.

The bill includes provisions to expand health care benefits for World War II Filipino veterans residing in the U.S. The bill moves us one step closer to restoring the veterans' benefits taken away from Filipino soldiers who fought for the U.S. military during the Second World War.

Before World War II, the Philippines had been a U.S. possession for 42 years. Located off the coast of mainland Asia, Filipinos found themselves a short distance from the hostilities that would soon draw the whole world into a war to avenge the bombing of Pearl Harbor, and the atrocities in the European Theater.

The U.S. asked the Philippines to help America fight the long and difficult battles to come. When President Roosevelt issued Military Order No. 1 on July 26, 1941, nearly 200,000 Filipinos responded. They responded without hesitation to defend their homeland and to answer the call for help.

From 1941 to 1945, Filipino soldiers fought alongside American soldiers. They defended Bataan and Corregidor, which helped ensure General MacArthur's ultimate victory. Thousands of Filipino prisoners of war endured the infamous Bataan Death March, and many more died in prisons.

When the Filipino soldiers with America in its struggle to defend freedom, the members of the Commonwealth Army expected to receive their benefits at the end of the war. When the Philippines was forced to form guerrilla forces during the Japanese occupation, these brave soldiers also expected to receive their benefits.

After the war, the U.S. Congress established the New Philippine Scouts by enacting the Armed Forces Voluntary Recruitment Act (Public Law 79–190) in October 1945. From 1945 through 1946, the New Philippine Scouts helped defend the Philippines as the nation worked to rebuild itself.

President Roosevelt promised that Filipino veterans would become U.S. citizens and thus have the same benefits given to all other U.S. veterans. In October 1945 General Omar Bradley, Administrator of the Veterans Administration, reaffirmed that they were to be treated like all other American veterans and would receive full benefits. But the U.S. Congress broke this promise to the Commonwealth Army and the recognized guerrilla forces by enacting the Rescission Act (Public Law 79–301). Congress broke the promise to New Philippine Scouts when it passed the Second Rescission Act (Public Law 79–391).

The Rescission Acts stated that the World War II service of Filipinos shall not be deemed to be service in the military or national forces of the U.S. or any component thereof. Exceptions only were given to those who died, were maimed, or were separated from active service due to physical disability.

Since passing the Rescission Acts, the U.S. government has done little to recognize the service of World War II Filipino soldiers. In the 1948 (PL 80–865), 1963 (PL 88–40), 1973 (PL 93–82), and 1981 (97–72), the U.S. Congress passed legislation to help the Philippine government provided limited medical care at special VA facilities in Manila.

The equality movement has made significant strides during the last 12 years. In 1990, Public Law 101–649 made certain Filipino veterans who served during World War II eligible for U.S. citizenship. Under this law, over twenty eight thousand veterans became naturalized citizens and seventeen thousand moved to U.S.

In 1999 Congress passed Public Law 106–169. It expanded U.S. income-based Social Security disability benefits to certain World War II veterans, including Filipino veterans of World War II who served in the organized military forces of the Philippines.

The following year, Congress passed two laws for Filipino veterans. Public Law 106–377 allowed Commonwealth Army Veterans and veterans of the recognized guerrilla forces to receive disability compensation at the full statutory rate and visit VA medical facilities for those disabilities, if they are permanent legal residents.

Public Law 106–419 provided full burial benefits for Commonwealth Army Veterans and veterans of the recognized guerrilla force if they are permanent residents of the U.S. and met certain other entitling conditions.

Even after passing multiple bills to correct the injustice of the Rescission Acts, there is still much work to do to help Filipino veterans legally residing in the U.S. New Philippine Scouts are denied most non-health care benefits and all health care benefits for non-service connected injuries. The surviving spouses of veterans from the Commonwealth Army and the guerrilla forces do not receive full dependency and indemnity compensation rates.

I sponsored H.R. 594 in the 107th Congress to amend the Social Security Act and allow World War II Filipino veterans to obtain health care benefits through Medicare. Under my bill, qualified World War II Filipino veterans living in the U.S. would be entitled to Medicare Part A benefits and the option to enroll in Part B. With the current veterans' health care system (TRICARE) using Medicare as a primary insurer, my bill would have provided a ready basis for providing full health care benefits to all surviving World War II Filipino veterans living in the U.S.

Congressman FILNER introduced H.R. 4904 on June 11, 2002. I am an original cosponsor of this bill. H.R. 4904 will provide VA medical care to World War II Filipino veterans who live in the U.S. and are U.S. citizens or legal permanent residents. It will provide the full dependency and indemnity compensation (DIC) rates to surviving spouses of Filipino veterans, and the bill includes benefits for New Philippine Scouts.

During a hearing before House Veterans' Affairs Subcommittee on Benefits, Veterans Administration Secretary Anthony Principi stated his support for H.R. 4909 and agreed to act on its provisions as soon as it is signed by the President.

The key provisions of H.R. 4904 have been incorporated into H.R. 3645, the bill that is before us today. H.R. 3645 provides hospital, nursing home, and medical services to certain Filipino World War II veterans of the Philippines Commonwealth Army and former Philippines New Scouts who now permanently reside in the U.S.

I am disappointed that the bill does not include the more comprehensive language offered by Congressman FILNER in committee. His amendment would have raised the unfair compensation rate of New Scouts who live in the U.S. New Filipino Scouts receive half the normal rate because they originally lived in the Philippines. This must change because many New Scouts moved to U.S. after Congress passed Public Law 106–419. I look forward to working with my colleagues to address this injustice in future legislation.

I urge my colleagues to vote for H.R. 3645 so we can get this bill to the President's desk before the end of the year. Fewer than 14,000 Filipino veterans live in the U.S. and that number is rapidly falling. Every day will lose more and more of these brave veterans. The Veterans Administration estimates that the Filipino population will decrease by one-third by 2010.

For more than fifty years Filipino veterans have been denied the veterans' benefits they earned during World War II. Now is the time to fulfill our obligation to these brave veterans. They are entitled to VA health care benefits the same as any other veteran.

Mr. SIMMONS. Mr. Speaker, I rise today in support of H.R. 3645, the "Veterans Health-Care Items Procurement Reform and Improvement Act of 2002." I would also like to take a moment and praise the hard work of the Veterans' Affairs Committee and staff for their endless support of veterans throughout the years.

Included in this bill is legislation (H.R. 3418) I introduced earlier this year to name the U.S. Department of Veterans Affairs Community Based Outreach Clinic (CBOC), located on the grounds of the United States Coast Guard Academy in New London, CT, the "John J. McGuirk Department of Veterans Affairs Outpatient Clinic."

John J. McGuirk was a devoted patriot, a dedicated sailor and a great American. Working his way across the South Pacific as an enlisted salvage diver in the United States Navy during World War II, John McGuirk began his life long commitment to his nation and fellow veterans.

Following his honorable discharge from the Navy, he served veterans across Connecticut. Whether it was finding a pair of crutches, gaining access for disabled veterans to vote or working with the VA Healthcare system to expand availability—John gave it his all.

John saw first hand the extensive hardships placed on veterans as they traveled from all over the state to West Haven, CT to see VA physicians. John felt that veterans should not travel such distances to get proper treatment and worked tirelessly to open a VA clinic in Southeastern Connecticut. The VA opened a Veterans Outreach Clinic in New London with the willing help of the Coast Guard Academy, enabling veterans access to heathcare services.

On behalf of the Members of the Connecticut delegation, Disabled Veterans of America, Paralyzed Veterans of America, American Legion, Veterans of Foreign wars, AMVETS and the United States Coast Guard Academy, I ask that all Members of Congress support this bill and honor the memory of John J. McGuirk.

Mr. EVANS. Mr. Speaker, H.R. 3645, the Veterans Health Care and Procurement Improvement Act of 2002, as reported, deserves the support of every Member of this House. When enacted, H.R. 3645 will improve the delivery of important benefits to veterans, expedite the process associated with enhanced use of VA assets and improve the cost-effectiveness of VA procurement of medical and surgical items resulting in wiser and more effective use of taxpayer dollars to provide medical care to our Nation's veterans. Other key provisions of this bill add or strengthen benefits for certain Filipino veterans or for U.S. former prisoners of war.

As the author of H.R. 3645, I appreciate and recognize the cooperation and assistance provided by the Chairman of our Committee, CHRIS SMITH, in guiding H.R. 3645 through Committee consideration. I am also grateful to the Chairman and Ranking Member of our Health Subcommittee, JERRY MORAN and BOB FILNER, for their conscientious efforts to improve H.R. 3645. Their contributions are both welcome and appreciated. I also appreciate the work and contributions of other Members and staff from both sides of the aisle.

Last year, VA reportedly spent approximately $1.5 billion on medical supplies and prosthetics. The Department of Veterans Affairs (VA) Office of Inspector General has repeatedly documented inefficient and wasteful procurement of medical supplies and prosthetics by VA. Sporadic and uncoordinated purchasing practices do not allow VA to leverage its significant purchasing power to obtain the best prices for the government. The result is chronic over spending for items VA could buy at lower costs; diminished accountability for items purchased locally; and limited availability of cost effective health-care items.

The procurement reforms in H.R. 3645 will unquestionably result in procurement cost savings for VA when fully implemented. The Congressional Budget Office agrees this provision will save scarce VA and taxpayer dollars.

Last May, VA's Office of the Inspector General (VA IG) published an evaluation of VA purchasing practices that found a pressing need for reform. That evaluation identified numerous deficiencies in current purchasing practices and linked the cause of deficiencies to an earlier decision not to require health-care item purchases from the cost-effective Federal Supply Schedule (FSS). By eliminating the mandate for FSS procurements, VA decentralized the contracting and procurement process. This provided a financial incentive for many vendors of health-care items to remove their products from the FSS and to seek product sales in generally more profitable local markets.

The VA IG found that local-market purchases had proliferated, often under contracts without the advantage of audit requirements or most-favored customer pricing for the government. Some much ballyhooed success in local purchases of health-care items were overshadowed by many other, less efficient, local contracts.

In June 2001, Secretary Principi created an internal task force to evaluate the procurement system and recommend improvements. Earlier this year, in May 2002, VA issued the Procurement Reform Task Force Report. The report recognized the need for a hierarchical approach to purchasing by using supply schedules or blanket purchase agreements to procure most of its medical supplies. The approach would share some of the characteristics from the oft-praised approach VA takes to purchasing pharmaceuticals. The approach used for the National Drug Formulary ensures that VA closely assesses all the medications within a drug class and makes educated purchases for its facilities based on both the price and the quality of each pharmaceutical in that class. The savings from the National Drug Formulary approach is now estimated at over $200 million annually.

While VA supports the goal of procurement reform, it wants to use its own unidentified means to ensure that it makes better use of its purchasing power. My concern is that VA will slow walk its own effort through by allowing the vital savings that would accrue to its financially ailing health care system to slip through its fingers. Mr. Speaker, I believe the time for enacting needed VA procurement reform legislation is now.

As I noted before, H.R. 3645 contains numerous provisions. One of these provisions authorizes health care benefits to Filipino veterans. While this provision has long-standing bipartisan support, it has been championed by one Member, BOB FILNER. At BOB'S request, as then Chairman of the Oversight and Investigations Subcommittee, I conducted a hearing near San Diego on the importance of providing Filipino veterans health care services. I commend the dogged determination of the Ranking Member of the Health Subcommittee, BOB FILNER, for his work in attempting to win health and benefits parity for certain Filipino veterans. I have long supported his efforts and am pleased the health benefits are included in the legislation.

Mr. Speaker, again, I thank Chairman SMITH and the Chairman and Ranking Member of the Health Subcommittee for a true collaboration on the measure before us today. This measure reflects the best of the bipartian tradition of the House Committee on Veteran' Affairs. I urge all Members to support H.R. 3645, as amended.

Mr. MORAN of Kansas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kansas (Mr. MORAN) that the House suspend the rules and pass the bill, H.R. 3645, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## ARLINGTON NATIONAL CEMETERY BURIAL ELIGIBILITY ACT

Mr. MORAN of Kansas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4940) to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4940

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Arlington National Cemetery Burial Eligibility Act”.

**SEC. 2. PERSONS ELIGIBLE FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.**

(a) IN GENERAL.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 2412. Arlington National Cemetery: persons eligible for burial**

“(a) PRIMARY ELIGIBILITY.—The remains of the following individuals may be buried in Arlington National Cemetery:

“(1) Any member of the Armed Forces who dies while on active duty.

“(2)(A) Any retired member of the Armed Forces.

“(B) Any member or former member of a reserve component of the Armed Forces—

“(i) who served on active duty;

“(ii) who was honorably discharged from such active duty service;

“(iii) who, at the time of death, was under 60 years of age; and

“(iv) who, but for age, would have been eligible at the time of death for retired pay under chapter 1223 of title 10.

“(3) Any former member of the Armed Forces separated for physical disability before October 1, 1949, who—

“(A) served on active duty; and

“(B) would have been eligible for retirement under the provisions of section 1201 of title 10 (relating to retirement for disability) had that section been in effect on the date of separation of the member.

“(4) Any former member of the Armed Forces whose last active duty military service terminated honorably and who has been awarded one of the following decorations:

“(A) Medal of Honor.

“(B) Distinguished Service Cross, Air Force Cross, or Navy Cross.

“(C) Distinguished Service Medal.

“(D) Silver Star.

“(E) Purple Heart.

“(5) Any former prisoner of war who dies on or after November 30, 1993.

“(6) Any member of a reserve component of the Armed Forces who dies in the performance of duty while on active duty for training or inactive duty training.

“(7) The President or any former President.

“(b) ELIGIBILITY OF FAMILY MEMBERS.—The remains of the following individuals may be buried in Arlington National Cemetery:

“(1) The spouse, surviving spouse (which for purposes of this paragraph includes any remarried surviving spouse, section 2402(5) of this title notwithstanding), minor child, and, at the discretion of the Superintendent, unmarried adult child of a person listed in subsection (a), but only if buried in the same gravesite as that person.

“(2)(A) The spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces on active duty if such spouse, minor child, or unmarried adult child dies while such member is on active duty.

“(B) The individual whose spouse, minor child, and unmarried adult child is eligible under subparagraph (A), but only if buried in the same gravesite as the spouse, minor child, or unmarried adult child.

“(3) The parents of a minor child or unmarried adult child whose remains, based on the eligibility of a parent, are already buried in Arlington National Cemetery, but only if buried in the same gravesite as that minor child or unmarried adult child.

“(4)(A) Subject to subparagraph (B), the surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces who was lost, buried at sea, or officially determined to be permanently absent in a status of missing or missing in action.

“(B) A person is not eligible under subparagraph (A) if a memorial to honor the memory of the member is placed in a cemetery in the national cemetery system, unless the memorial is removed. A memorial removed under this subparagraph may be placed, at the discretion of the Superintendent, in Arlington National Cemetery.

“(5) The surviving spouse, minor child, and, at the discretion of the Superintendent, unmarried adult child of a member of the Armed Forces buried in a cemetery under the jurisdiction of the American Battle Monuments Commission.

“(c) DISABLED ADULT UNMARRIED CHILDREN.—In the case of an unmarried adult child who is incapable of self-support up to the time of death because of a physical or mental condition, the child may be buried under subsection (b) without requirement for approval by the Superintendent under that subsection if the burial is in the same gravesite as the gravesite in which the parent, who is eligible for burial under subsection (a), has been or will be buried.

“(d) FAMILY MEMBERS OF PERSONS BURIED IN A GROUP GRAVESITE.—In the case of a person eligible for burial under subsection (a) who is buried in Arlington National Cemetery as part of a group burial, the surviving spouse, minor child, or unmarried adult child of the member may not be buried in the group gravesite.

“(e) EXCLUSIVE AUTHORITY FOR BURIAL IN ARLINGTON NATIONAL CEMETERY.—(1) Eligibility for burial of remains in Arlington National Cemetery prescribed under this section is the exclusive eligibility for such burial.

“(2)(A) In the case of an individual not otherwise eligible for burial under subsection (a) whose acts, service, or contributions to the Armed Forces are so extraordinary as to justify burial in Arlington National Cemetery, the President may deem such individual eligible for burial under subsection (a).

“(B) If the President deems an individual eligible for burial in Arlington National Cemetery under subparagraph (A), the Secretary of the Army shall immediately notify the chairmen and the ranking members of the Committee on Veterans' Affairs of the Senate and House of Representatives.

"(C)(i) Except as provided in clause (ii), the authority under subparagraph (A) may not be delegated.

"(ii) The President may only delegate the authority under subparagraph (A) to the Secretary of the Army.

"(f) Application for Burial.—(1) A request for burial of remains of an individual in Arlington National Cemetery shall be made to the Secretary of the Army or to any other Federal official that the Secretary of the Army may specify.

"(2) The Secretary, or other Federal official, may not consider a request referred to in paragraph (1) that is made before the death of the individual for whom burial in Arlington National Cemetery is requested.

"(3) The President, or the Secretary, as the case may be, may not consider a request to deem an individual eligible for burial in Arlington National Cemetery under subsection (e)(2) that is made before the death of the individual for whom burial in Arlington National Cemetery is requested.

"(g) Register of Buried Individuals.—(1) The Secretary of the Army shall maintain a register of each individual buried in Arlington National Cemetery and shall make such register available to the public.

"(2) With respect to each such individual buried on or after January 1, 2002, the register shall include a brief description of the basis of eligibility of the individual for burial in Arlington National Cemetery.

"(h) Definitions.—For purposes of this section:

"(1) The term 'retired member of the Armed Forces' means—

"(A) any member of the Armed Forces on a retired list who served on active duty and who is entitled to retired pay;

"(B) any member of the Fleet Reserve or Fleet Marine Corps Reserve who served on active duty and who is entitled to retainer pay; and

"(C) any member of a reserve component of the Armed Forces who has served on active duty and who has received notice from the Secretary concerned under section 12731(d) of title 10, of eligibility for retired pay under chapter 1223 of title 10, United States Code.

"(2) The term 'former member of the Armed Forces' includes a person whose service is considered active duty service pursuant to a determination of the Secretary of Defense under section 401 of Public Law 95–202 (38 U.S.C. 106 note).

"(3) The term 'Superintendent' means the Superintendent of Arlington National Cemetery.".

(b) Publication of Updated Pamphlet.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall publish an updated pamphlet describing eligibility for burial in Arlington National Cemetery. The pamphlet shall reflect the provisions of section 2412 of title 38, United States Code, as added by subsection (a).

(c) Clerical Amendment.—The table of sections at the beginning of chapter 24 of title 38, United States Code, is amended by adding at the end the following new item:

"2412. Arlington National Cemetery: persons eligible for burial.".

(d) Technical Amendment.—Section 2402(5) of title 38, United States Code, is amended by inserting ", except section 2412(b)(1) of this title," after "which for purposes of this chapter".

(e) Conforming Repeal.—Section 1176 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 38 U.S.C. 2402 note) is repealed.

(f) Effective Date.—(1) Except as provided in paragraph (2), section 2412 of title 38, United States Code, as added by subsection (a), shall apply with respect to individuals dying on or after the date of the enactment of this Act.

(2) In the case of an individual buried in Arlington National Cemetery before the date of the enactment of this Act, the surviving spouse of such individual is deemed to be eligible for burial in Arlington National Cemetery under subsection (b) of such section, but only in the same gravesite as such individual.

**SEC. 3. PERSONS ELIGIBLE FOR PLACEMENT IN THE COLUMBARIUM IN ARLINGTON NATIONAL CEMETERY.**

(a) In General.—Chapter 24 of title 38, United States Code, is amended by adding after section 2412, as added by section 2(a) of this Act, the following new section:

**"§ 2413. Arlington National Cemetery: persons eligible for placement in columbarium**

"The cremated remains of the following individuals may be placed in the columbarium in Arlington National Cemetery:

"(1) A person eligible for burial in Arlington National Cemetery under section 2412 of this title.

"(2)(A) A veteran whose last period of active duty service (other than active duty for training) ended honorably.

"(B) The spouse, surviving spouse, minor child, and, at the discretion of the Superintendent of Arlington National Cemetery, unmarried adult child of such a veteran.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 24 of title 38, United States Code, is amended by adding after section 2412, as added by section 2(c) of this Act, the following new item:

"2413. Arlington National Cemetery: persons eligible for placement in columbarium.".

(c) Conforming Amendment.—Section 11201(a)(1) of title 46, United States Code, is amended by inserting after subparagraph (B), the following new subparagraph:

"(C) Section 2413 (relating to placement in the columbarium in Arlington National Cemetery).".

(d) Effective Date.—Section 2413 of title 38, United States Code, as added by subsection (a), and section 11201(a)(1)(C), as added by subsection (c), shall apply with respect to individuals dying on or after the date of the enactment of this Act.

**SEC. 4. MONUMENTS IN ARLINGTON NATIONAL CEMETERY.**

(a) In General.—Chapter 24 of title 38, United States Code, is amended by adding after section 2413, as added by section 3(a) of this Act, the following new section:

**"§ 2414. Arlington National Cemetery: authorized headstones, markers, and monuments**

"(a) Gravesite Markers Provided by the Secretary.—A gravesite in Arlington National Cemetery shall be appropriately marked in accordance with section 2404 of this title.

"(b) Gravesite Markers Provided at Private Expense.—(1) The Secretary of the Army shall prescribe regulations for the provision of headstones or markers to mark a gravesite at private expense in lieu of headstones and markers provided by the Secretary of Veterans Affairs in Arlington National Cemetery.

"(2) Such regulations shall ensure that—

"(A) such headstones or markers are of simple design, dignified, and appropriate to a military cemetery;

"(B) the person providing such headstone or marker provides for the future maintenance of the headstone or marker in the event repairs are necessary;

"(C) the Secretary of the Army shall not be liable for maintenance of or damage to the headstone or marker;

"(D) such headstones or markers are aesthetically compatible with Arlington National Cemetery; and

"(E) such headstones or markers are permitted only in sections of Arlington National Cemetery authorized for such headstones or markers as of January 1, 1947.

"(c) Monuments.—(1) No monument (or similar structure as determined by the Secretary of the Army in regulations) may be placed in Arlington National Cemetery except pursuant to the provisions of this subsection.

"(2) A monument may be placed in Arlington National Cemetery if the monument commemorates—

"(A) the service in the Armed Forces of the individual, or group of individuals, whose memory is to be honored by the monument; or

"(B) a particular military event.

"(3) No monument may be placed in Arlington National Cemetery until the end of the 25-year period beginning—

"(A) in the case of commemoration of service under paragraph (1)(A), on the last day of the period of service so commemorated; and

"(B) in the case of commemoration of a particular military event under paragraph (1)(B), on the last day of the period of the event.

"(4) A monument may be placed only in those sections of Arlington National Cemetery designated by the Secretary of the Army for such placement.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 24 of title 38, United States Code, is amended by adding after section 2413, as added by section 3(b) of this Act, the following new item:

"2414. Arlington National Cemetery: authorized headstones, markers, and monuments.".

(c) Effective Date.—The amendment made by subsection (a) shall apply with respect to headstones, markers, or monuments placed in Arlington National Cemetery on or after the date of the enactment of this Act.

**SEC. 5. PUBLICATION OF REGULATIONS.**

Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall publish in the Federal Register any regulation proposed by the Secretary to carry out sections 2 through 4.

**SEC. 6. APPLICATION OF DEPARTMENT OF VETERANS AFFAIRS BENEFIT FOR GOVERNMENT MARKERS FOR MARKED GRAVES OF VETERANS AT PRIVATE CEMETERIES TO VETERANS DYING ON OR AFTER SEPTEMBER 11, 2001.**

(a) In General.—Subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 115 Stat. 994; 38 U.S.C. 2306 note) is amended by striking "the date of the enactment of this Act" and inserting "September 11, 2001".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of such section 502.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. MORAN) and the gentleman from Mississippi (Mr. SHOWS) each will control 20 minutes.

The Chair recognizes the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the American people, Arlington National Cemetery is a special place honoring our military heroes. This national shrine has a fascinating history that began even before the land began to be used as a national cemetery near the end of the Civil War. Arlington mansion was originally the home of Martha Washington's grandson, George Washington Parke Curtis. His son-in-law, Robert E. Lee, lived there prior to the Civil War, and when the Civil War began, the Federal Government confiscated the estate for use as a fortification to protect Washington, D.C.

As the decades passed, famous military leaders were buried in Arlington. President Taft was buried there, and the cemetery's prestige continued to grow. With the Arlington burial of President Kennedy in 1963, the cemetery became one of the most visited places in the Washington area, and the pressure increased for interments in its limited space. Arlington's interment rate rose so quickly that if burial eligibility had not been restricted, the cemetery would have been full by 1968. Arlington today has a capacity of 243,373 gravesites, with only about 32,000 gravesites remaining as available.

All national cemeteries except Arlington are under the jurisdiction of the Department of Veterans Affairs. As a result of its unique history, Arlington is under the jurisdiction of the U.S. Army.

Mr. Speaker, unlike all other national cemeteries, Arlington's eligibility is governed by Army regulations, not by statute. Our country is again in a war we did not seek. Our troops are in distant lands answering the September 11 attack by terrorists who threaten our freedom and our way of life. And I believe the time is right for Congress to codify the eligibility for burial in our preeminent military cemetery. Mr. Speaker, our bill to codify eligibility should not be taken as an implicit dissatisfaction with the Army's stewardship of Arlington. We think the Army is doing a very good job and we have every confidence in the Army's ability to run and manage Arlington in the future.

Mr. Speaker, H.R. 4940 is similar to measures that have already passed the House in the previous two Congresses. However, there are a couple of important differences between the Arlington National Cemetery Burial Eligibility Act and those two previous measures. Our friend and the former chairman of the Committee on Veterans' Affairs, the gentleman from Arizona (Mr. STUMP), included a provision authorizing the President to waive the strict criteria set out in the bill to allow burial at Arlington National Cemetery of persons whose acts, service, or contributions to the Armed Forces are so extraordinary as to justify burial at this hallowed ground.

In addition, H.R. 4940 contains provisions that the House approved last year in separate legislation that our full committee chairman, the gentleman from New Jersey (Mr. SMITH), offered following the tragedies of September the 11th. Those provisions contained in H.R. 3423 and included again now in H.R. 4940 would change the burial eligibility in two respects for members of our reserve forces. First, it would extend burial eligibility to reservists and Guardsmen who, but for their age, would have qualified for retirement pay and therefore have been eligible for Arlington. Such was the case with Captain Charles Burlingame, the pilot on the American Airlines flight 77 that crashed into the Pentagon. Fortunately, he was granted a waiver and was given the honors he had earned, but should other families be in such a position, this change would ensure that they would not have to seek waivers in their time of grief.

The second provision would authorize burial for reservists and Guardsmen who die in the performance of training duties. This provision recognizes that much of our Nation's defense is dependent upon reserve forces who must continually update their skills. Members of the Armed Forces who die in service to our Nation, regardless of the technicalities of their duty status, deserve the same burial honors. The balance of this bill is very similar to previous measures sponsored by the gentleman from Arizona (Mr. STUMP) codifying eligibility of veterans and family members in a manner consistent with the existing Army burial regulations.

Mr. Speaker, I urge all of my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHOWS. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I want to thank the chairman, the gentleman from New Jersey (Mr. SMITH), and the ranking member, the gentleman from Illinois (Mr. EVANS), as well as the chairman of the Subcommittee on Benefits, the gentleman from Idaho (Mr. SIMPSON) for moving forward with consideration of H.R. 4940.

This legislation was introduced by the former chairman of the House Committee on Veterans' Affairs, the gentleman from Arizona (Mr. STUMP). He has worked tirelessly to codify eligibility for burial at Arlington National Cemetery. This bill is similar to other measures which have passed the House in prior sessions of Congress. To address the increasing demand for burial space at Arlington National Cemetery, the Arlington National Cemetery Burial Eligibility Act would clarify and codify the requirements for burial in what is considered by many to be our most revered national cemetery.

A manager's amendment to the bill will change the effective date for providing a suitable marker to honor the graves of those who are buried in marked as opposed to unmarked graves. Under Public Law 107–103, veterans who die after December 27, 2001, may receive an appropriate Government marker to recognize their service to our Nation. Under the manager's amendment, markers may be provided to veterans who died on or after September 11, 2001. It is only fitting that this honor be provided to those brave American veterans who lost their lives in the terrorist attack on the United States. I support this bill and I urge my colleagues to vote in favor of the bill as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN of Kansas. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. JEFF MILLER).

Mr. JEFF MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from New Jersey (Chairman SMITH) and the ranking member, the gentleman from Illinois (Mr. EVANS) for bringing this bill to the floor today, in addition to their steadfast commitment to our military veterans.

I would also like to recognize and thank the gentleman from Arizona (Chairman STUMP) for his continued commitment to preserving the original intent of Arlington National Cemetery as a national military cemetery, as well as unwavering support for our men and women in uniform.

Mr. Speaker, H.R. 4940, the Arlington National Cemetery Burial Eligibility Act, would codify eligibility criteria for burial at Arlington in order to ensure it remains the premier resting place for those who dedicated their lives to our Armed Forces.

The bill incorporates the provisions of previous Arlington bills which have passed this House in both the 105th and 106th Congress. The bill also incorporates language included in H.R. 3423, introduced by Chairman SMITH, which passed the House last December.

H.R. 4940 contains a significant change to the Arlington bills approved in the House in the past two Congresses. Today's bill includes language extending to the President the authority to grant a burial waiver to an individual who does not otherwise meet the military service criteria for burial, but has made extraordinary contributions to our Armed Forces.

The final section of the bill would make retroactive to September 11, 2001, VA's authority to provide a bronze marker to those families who request a government headstone or marker for the already-marked grave of a veteran interred at a private cemetery. Previous language authorizing this bronze marker was considered by the House last year, and is now incorporated in Public Law 106–103. That particular provision went into effect in December

27, 2001, and I would like to recognize the gentleman from Illinois (Mr. SHIMKUS) for his work on this issue.

Mr. Speaker, I urge my colleagues to support H.R. 4940 and look forward to working with the other body to ensure that this bill becomes law this year.

Mr. SHOWS. Mr. Speaker, I yield 6 minutes to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I thank the gentleman from Mississippi for his work on this issue, and the gentleman from Kansas also.

Mr. Speaker, I rise in opposition to this bill, but let me say from the very beginning that I have no expectation of this bill being defeated today. It will pass overwhelmingly, as it has twice before in the last two sessions. But I continue to believe there are problems with this bill that jeopardize it being taken up by the Senate, as has happened with the last two versions.

What problem are we trying to solve here? What problem led to this bill being brought up in the first place? It is not September 11 and the events of September 11.

The first version of this passed in 1999 on the House floor. As you all may recall, in a very ugly incident, we had an ambassador who passed away who had qualified as a veteran under the Army regulations that govern Arlington. His family requested that he be buried at Arlington, and he was. It turned out that his record as a Merchant Marine that qualified him as a veteran status could not be verified.

I think the conclusion of most people who have looked at these facts, without question, is that for years this man had been telling, unfortunately, stories that were not true about his past record with the Merchant Marine. He was subsequently exhumed from Arlington at the family's request and no longer resides at Arlington. That is the incident that led to these discussions and these bills.

In my opinion, as the gentleman from Kansas indicated, the Army has ably handled the management of this very special resting place very ably by regulation. But, in my opinion, in attempting to solve this problem, the underlying bill creates new problems and changes the nature of Arlington National Cemetery as the final resting place of the honored dead of a nation of citizen soldiers, people who not only served their Nation as soldiers in the military, but later in other ways served their Nation honorably and well.

What are the problems with the bill? There are three. First of all, both the bill and current regulation provide for the President to be listed in the bill. The President can be buried and former Presidents buried at Arlington.

Other positions under current law are also eligible. So if there is a person who is a veteran who has been subsequently vice president, or who is a veteran and subsequently a member of the Supreme Court, or is a veteran and a member of the House or Senate who served their country, they also can be buried in Arlington.

Under this bill, even if the Vice President or the Chief Justice of the Supreme Court or the Speaker of the House are veterans, they are not eligible for burial at Arlington, even if they are veterans.

Then you say but there is a waiver provision in this bill. Let us discuss the waiver provision, which I think is the second problem with this bill.

Under current regulations, if a person does not qualify under the regulations for burial at Arlington, the family can request a waiver from the current regulations. It specifically talks about providing information about military service and/or service to the Nation. Those exact words, "service to the Nation."

Under the language of this bill, H.R. 4940, the President can only issue a waiver if the person has provided acts, service and contributions to the armed services, to the Armed Forces, not to the Nation, not to the United States, not in defense of the United States, but only to the Armed Forces. Even the President would not have the authority under this bill to grant a waiver in extraordinary circumstances in which somebody may have died in service to their Nation, but not in service to the Armed Forces. I think that is a tremendous oversight.

The third problem. On page 13 of the bill there is a limitation placed in the bill on monuments. It specifically states that there can only be monuments placed in Arlington to a military event or to specific military groups and individuals.

That sounds all right. What is wrong with that? Well, if you go out to Arlington, you can find monuments out there that under this bill that we are considering today would not be allowed. What are they? One is to the Challenger disaster, in which we lost an entire space shuttle crew in a very dramatic and heroic moment for this country. Those people are heroes. Under the language of this bill, that monument should not have been there.

□ 1615

Another one, there is a monument at Arlington to the dead of the Pan Am flight that was bombed over Lockerbee, Scotland. The monument is 272 stones, I believe it was provided by the people of Lockerbee, is my recollection, one stone for each of the dead in that plane. One of those stones is for a young 18-year-old from my town of Little Rock, Arkansas.

Now, by putting this kind of restriction that says only for military events, in my view, it is too limiting.

The one issue in this bill that I agree with is the portion that deals with the Reserve component. However, my understanding is that the Army deals with these on a case-by-case basis, and has issued waivers in the past, and I am told that they would certainly be willing to relook at their regulations and do this by regulatory change rather than by statute. The problem with setting these things into statute is that once we run into these problems, once events or people or extraordinary people come along and pass away that we would like to put into Arlington, but they do not qualify because of statutory change, even the President would not have the authority to waive it.

So I commend the people who sponsored this bill for their patriotism, for their support of the Arlington National Cemetery. I speak today knowing that this bill will pass overwhelmingly again, but it did not get consideration by the Senate in the past because of problems. While it has been changed and the language has been improved, in my view, there are still serious problems with this bill that I hope the folks who participate, both on the House side and on the Senate side, will look at and either seek to improve or discard the statutory change and consider working with the Army on regulatory changes.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 4940, the Arlington National Cemetery Burial Eligibility Act. I urge my colleagues to lend their support to this measure.

This legislation H.R. 4940 will codify existing regulatory eligibility criteria for in-ground burial at Arlington National Cemetery.

It also provides the President with the authority to grant a waiver for burial at Arlington in the case of an individual not otherwise eligible for burial under the military service criteria outlined above but whose acts, service, or contributions to the Armed Forces are so extraordinary as to justify burial at Arlington. Additionally, the measure allows the President to delegate the waiver authority only to the Secretary of the Army.

H.R. 4940 also codifies existing regulatory eligibility for interment of cremated remains in the Columbarium at Arlington. Generally, this includes all veterans with honorable service and their dependents. Finally the measure clarifies that only memorials honoring military service may be placed at Arlington and sets a 25-year waiting period.

Mr. Speaker, in recent years there has risen a valid concern that the remaining available space at Arlington National Cemetery has been filling up too fast. This bill is the latest in a natural progression of legislation that Congress has taken to address this problem. It seeks to balance the demand for burial with the limited space available in a manner which preserves the memory and accomplishments of those interred there in the past.

Accordingly, I urge my colleagues to support this measure.

Mr. REYES. Mr. Speaker, I rise today in support of H.R. 4940, the Arlington Cemetery Burial Eligibility Act. I would like to thank Chairman CHRIS SMITH and Ranking Member LANE EVANS, as well as MIKE SIMPSON, the

Chairman of our Subcommittee, for moving forward with consideration of H.R. 4940. While I am aware of concerns that the bill may exclude certain high government officials from burial at Arlington, I support this measure to codify the requirements for burial in order to conserve the limited space available at this hallowed ground.

I also support the manager's amendment to permit veterans who were buried in marked graves at private cemeteries to qualify for a government marker if they died after September 11, 2001.

This amendment would make a provision of Public Law 107–103, applicable to veterans who die between September 11, 2001 and December 26, 2001. The marker will recognize the veteran's service to our Nation. It is only fitting that this honor be extended those brave American veterans who lost their lives in the terrorist attack on the United States.

I support this bill and urge my colleagues to vote in favor of the bill as amended.

Mr. SHIMKUS. Mr. Speaker, this bill makes several important changes that will honor our veterans. It rightfully expands eligibility requirements for burial at Arlington Cemetery. It also includes provisions from my bill, the "Captain Jack Punches Memorial Act" which honors our veterans who died during the September 11th attacks by allowing them to have both a private grave marker—and—a VA furnished marker to honor their service. This is a benefit already afforded to veterans who died on or after December 27, 2001.

I introduced this legislation in honor of Captain Jack Punches, a retired Navy pilot who worked in military intelligence and was at his desk when terrorists crashed a hijacked jet into the building.

Punches grew up in Tower Hill, Illinois—and his mother (Ruth Godwin) still resides in Ramsey. Captain Punches was buried in a private cemetery, and his family wanted to have a private marker as well as a VA marker to commemorate his long service to our country. Due to a quirk in the law, Punches did not qualify for a newly enacted benefit that would entitle him to both headstones.

This legislation will allow veterans, who like Captain Punches gave their lives during September 11th to be properly honored for their service.

I would like to thank Chairman SMITH and Chairman SIMPSON for all of their help with this legislation. I hope that the Senate will act quickly so that this bill will be signed into law by September 11, 2002.

Mr. SHOWS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MORAN of Kansas. Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Kansas (Mr. MORAN) that the House suspend the rules and pass the bill, H.R. 4940, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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## ARLINGTON NATIONAL CEMETERY MEMORIAL HONORING WORLD WAR II VETERANS WHO FOUGHT IN BATTLE OF THE BULGE

Mr. MORAN of Kansas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5055) to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge.

The Clerk read as follows:

H. 5055

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION OF PLACEMENT OF MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING WORLD WAR II VETERANS WHO FOUGHT IN THE BATTLE OF THE BULGE.**

(a) IN GENERAL.—The Secretary of the Army is authorized to place in Arlington National Cemetery a memorial marker honoring veterans who fought in the battle in the European theater of operations during World War II known as the Battle of the Bulge.

(b) APPROVAL OF DESIGN AND SITE.—The Secretary of the Army shall have exclusive authority to approve an appropriate design and site within Arlington National Cemetery for the memorial authorized under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. MORAN) and the gentleman from Mississippi (Mr. SHOWS) each will control 20 minutes.

The Chair recognizes the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, several years ago, the House adopted a resolution honoring those valiant Americans who survived the last desperate battle in the European theater during World War II, the Battle of the Bulge. Many of the members of our committee and Members of Congress have relatives who fought in this epic struggle. A group of survivors of this most heroic battle have asked Congress to enact legislation to enable them to replace the modest plaque at Arlington National Cemetery commemorating this battle with a more appropriate memorial. The cost of the memorial will be borne by that organization.

Mr. Speaker, over 600,000 American troops participated in this action and more than 81,000 were wounded or killed. In scope and number of participants, no American engagement in our storied history was more costly or massive.

The historic significance of the Battle of the Bulge cannot be overstated. If the American and Allied lines had broken, if our frost-bitten GIs fighting and dying in the cold December and January of 1944 and 1945 failed to rally from the ferocity of the initial German assault, or if the weather had not improved enough for our air superiority to turn the tide of battle, World War II could have been prolonged for months or even years. The shape of Europe could have been dramatically different and countless additional Jews, Catholics, Slavs, Gypsies and other political prisoners would surely have died in Nazi death camps.

To put the sheer number of troops involved in the Battle of the Bulge into perspective, remember that there were three armies and six corps, the equivalent of 31 divisions, on the U.S. side alone. Compare these World War II figures to the fact that today, the entire U.S. Army is comprised of 12 active duty divisions and 20 reserve divisions.

One of the most decisive battles in the war in Europe, the Battle of the Bulge, began December 16, 1944 when the German Army, in an effort to trap the allied forces in Belgium and Luxembourg, launched an attack against what were perceived as a weak line of American and allied troops. Their goal was to split the allied forces in Belgium and Luxembourg and race to the coast toward Antwerp. Adolf Hitler and his generals knew that the German Air Force could not maintain regional air superiority, so they were banking on bad weather and relatively green and fatigued American troops who were greatly outnumbered.

At the outset of the battle, the German troops forming three armies numbered approximately 200,000 versus 83,000 Americans. Their goal was to capture bridges over the Meuse River, and in the first 48 hours of the attack, and then press on to Antwerp. At the time of their initial attack, the Germans had more than 30 infantry and seven panzer divisions, with nearly 1,000 tanks and almost 2,000 guns deployed along a front of 60 miles. Five more divisions were soon to follow with at least 450 more tanks.

Although the Americans were caught by surprise, they fought back in those first days of attack in December, holding the line in the north while the Germans pushed through the middle of the bulge toward the Meuse River. One incident, which particularly hardened the Americans and allied forces as to the intent of the German Army, was the Malmedy Massacre, in which 86 American POWs were murdered by the Germans as they moved forward to capture the Meuse River. The same German unit, which was responsible for this infamous massacre, eventually killed at least 300 American POWs and over 100 unarmed Belgian civilians. These incidents only solidified the realization in the minds of the American men on the ground that fighting the Germans down to their last round of ammunition was their only hope.

As I mentioned, the American armies had more than 81,000 casualties, and of these, 19,000 men were killed in action. The British had 1,400 casualties and 200 killed. Both sides lost as many as 800 tanks each, and the Germans lost 1,000 planes. All told, the battle was three times the size of Gettysburg when accounting for the number of American service men and women who participated.

Let me take a moment to thank Stan Wojtusik, National Vice President of Military Affairs for the Veterans of the Battle of the Bulge; and Mrs. Edith Nowels, a constituent of the chairman of the committee, who lives in New Jersey, for all of their hard work in helping put this legislation together. Edith Nowels' brother, Bud Thorne, was killed in action during the battle. Bud, after his death, was awarded the Medal of Honor and was one of 17 recipients of the highest combat medal for this particular battle. Eighty-six servicemen were also awarded the Distinguished Service Cross for their valor during the battle.

According to the citation presented to his family, Corporal Thorne singlehandedly destroyed a German tank and, in the words of the citation, "displayed heroic initiative and intrepid fighting qualities, inflicted costly casualties on the enemy and ensured the success of his patrol's mission by the sacrifice of his life."

For Bud Thorne and tens of thousands of other Americans killed and wounded, and the hundreds of thousands who fought alongside, I ask my colleagues to give their full support to this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHOWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5055, a bill to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge.

I am proud to be here as a member of the House Committee on Veterans' Affairs to share my continued support for H.R. 5055 with my colleagues in Congress.

As a young man growing up in Mississippi, my life in public service, and advocacy for veterans was indisputably inspired by two great World War II veterans, and one reason I wanted to be on the Committee on Veterans' Affairs, my father, Clifford Shows and Sonny Montgomery. Both men, as many did, put their lives on the line to protect, defend, and advance ideals of democracy and our American way of life, by serving in the United States military. Both did so honorably and proudly, despite the mortal risks that faced them. Indeed, my father was taken as a POW at the Battle of the Bulge.

The Battle of the Bulge, fought in the twilight months of World War II, was where Hitler launched his great offensive to defeat the allied forces. The surprise attack, launched through the Belgian Forest, Ardennes, on December 16, 1944, was the largest land battle of the entire war.

My father was one of hundreds of thousands of men who fought for freedom and their own personal survival in this critical battle. He remembers well the conditions his company endured that December. Simple words describe their collective experiences. He said it was rough, hard, and cold. They had no food. They had no place to stay but on the ground where they fought, on the ground where their friends perished. Then, on December 19, my father's troop was captured in an open field surrounded by German troops and forced into Germany, the very Nation of Nazis which was their mission to destroy. For 10 days and 11 nights they were forced to alternate between marching on foot and being locked up in boxcars. For 3 straight days and nights, they were forced to remain in those cars. You cannot imagine the conditions or the hopelessness of being imprisoned by the Germans on Christmas Day.

I cannot imagine the suffering my father endured during his 5 months as a POW.

By the time the fighting ended on January 25, 1945, there were over 100,000 Germans and 81,000 Americans captured, wounded or killed. The German objective had failed, and the best they had accomplished was temporarily achieving a "bulge" in the American line of defense. As Sir Winston Churchill noted, "It was without any doubt the greatest American battle of the Second World War," and it will, I believe, always be considered as a great American victory.

Today, we honor my father and thousands of other men that fought that bloody battle for our freedom. On the Committee on Veterans' Affairs alone, the gentleman from Arkansas (Mr. SNYDER), the gentleman from Texas (Mr. REYES) and the gentleman from Arizona (Mr. STUMP) all have family members who also fought so bravely during the severe conditions of that brutal battle. The valiant service rendered by those brave men was not done for any personal reward, just for knowing they had done their part to keep American democracy strong. Our Nation's veterans are our heroes.

Our Nation's veterans are our heroes. They have shaped and sustained our Nation with courage, sacrifice, and faith. They have earned our respect and deserve our gratitude. Today, we honor the Battle of the Bulge heroes by creating a permanent new memorial at Arlington National Cemetery, our military's most hallowed ground.

I am proud that the chairman and ranking member have introduced this legislation, and I am confident we will pass this legislation today. It is the right thing to do.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN of Kansas. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. JEFF MILLER).

Mr. JEFF MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding me this time. I will not take 3 minutes today, but I do associate myself with the gentleman's comments and the gentleman's apt portrayal of the infamous Battle of the Bulge, the largest land battle of the Second World War. As has already been pointed out to this Chamber today, Winston Churchill called it "the greatest American battle" of that war.

I strongly support the Battle of the Bulge survivors' request for a new memorial that recognizes the scope of this battle, and I urge all of my colleagues to support H.R. 5055. I appreciate the chairman and the ranking member for their leadership on this bill.

Mr. SHOWS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend our colleagues for bringing this very important resolution to the floor. As I was listening to the debate on the suspensions upstairs, I was personally at first pleased, saddened, a whole mixture of emotions to hear that there was going to be a tribute to those who fought at the Battle of the Bulge, because I cannot remember a time in my whole childhood or growing up that that was not a source of sadness and pride to our family.

□ 1630

My father's brother, John D'Alesandro, died at the Battle of the Bulge; and it was a source of great sadness for our family, for his children. But then the good news was that he received the Purple Heart. Well, that was a scary notion to a child all those years growing up. The Purple Heart? What did that mean? But it meant a wonderful thing about his bravery. So to think that all these many years later when all of us thought that we had to keep the memory alive because of our personal relationship, that this Congress would come here today to recognize those many, many, many people who fought so bravely, who have protected our freedom, who made the supreme sacrifice and those who were willing to make that sacrifice.

I greatly thank our colleagues for what they are doing today, and I can speak firsthand for what it means to so many families across America.

Mr. SHOWS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 5055 to authorize a memorial in Arlington National Cemetery Honoring the World War II veterans who fought in the Battle of the Bulge. I urge my colleagues to join in supporting its passage.

The Battle of the Bulge is one of the most famous battles in American military history. In the weeks leading up to the Christmas of 1944, it appeared to the Western Allies that victory over the German Army was near at hand. Since the Allied Landings of D-Day, the German forces were pushed back across the French countryside. By autumn, the Allies had liberated significant portions of Belgium and the Netherlands. It appeared that one final push was all that was needed to force a total collapse of German resistance on the western front and lead to the invasion of the German homeland.

What the Allied commanders were not aware of was the fact that the German dictator was planning one final, desperate offensive. For weeks the German military had been building up its limited stocks of fuel and ammunition. By mid December 1944, they were prepared to launch one final offensive through the Ardennes Forest, in the hopes of splitting the Allied lines and driving to the English Channel.

The German attack came as a near total surprise, and achieved initial success. Poor weather prevented Allied air superiority from being brought to bear, and the German panzers took full advantage of the respite. Yet, in the end, the offensive failed.

The offensive failed because American soldiers shook off their initial shock and fought with a stubborn tenacity to prevent a German breakthrough. The Allied lines gave way, hence the "Bulge" description, but refused to break. After several days, the weather cleared, and the overwhelming Allied advantage in tactical air power could finally be brought to bear in a concentrated counterattack.

This resolution permits the placement of a marker honoring those veterans who fought in the Battle of the Bulge in Arlington National Cemetery. These veterans put up a tenacious defense, in horrible conditions, against an enemy with superior armored forces. Their success in halting the German Ardennes offensive preserved the Allied lines, and helped to maintain the pressure on Germany's military. After the Battle of the Bulge, the German effort on the western front was finished. Within six months, Germany had surrendered.

The efforts of our veterans in the Battle of the Bulge, like those of all Americans who fought against tyranny in World War II, deserve our recognition and respect. I urge my colleagues to join in supporting this measure, which honors the contributions of the veterans of the Bulge to the Ultimate victory of freedom over tyranny during the Second World War.

Mr. REYES. Mr. Speaker, I rise in strong support of H.R. 5055. This measure authorizes the placement in Arlington National Cemetery of a memorial to honor our brave World War II veterans who fought in the Battle of the Bulge. In particular I thank Chairman CHRIS SMITH and Ranking Member LANE EVANS, as well as MIKE SIMPSON, the Chairman of our Benefits Subcommittee for their strong support for this important bill.

Mr. Speaker, my father-in-law, Victor Gaytan, fought at the Battle of the Bulge. I am very pleased this memorial will honor him and his comrades who fought bravely during that difficult battle.

As Field Marshal Montgomery said, the Battle of the Bulge "was definitely one of the most difficult in which I have been able to participate and the stakes were considerable." Arlington is a fitting place to honor these brave veterans, those that returned as my father-in-law did, as well as those who made the ultimate sacrifice.

I am pleased to support this measure. I urge all members to support the bill.

Mr. MORAN of Kansas. Mr. Speaker, I urge my colleagues to support this measure.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Kansas (Mr. MORAN) that the House suspend the rules and pass the bill, H.R. 5055.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MORAN of Kansas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5055, H.R. 3645, and H.R. 4940.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

## AMERICAN 5-CENT COIN DESIGN CONTINUITY ACT OF 2002

Mr. KING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4903) to amend title 31, United States Code, to specify that the reverse of the 5-cent piece shall bear an image of Monticello, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4903

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "American 5-Cent Coin Design Continuity Act of 2002".

**SEC. 2. DESIGNS ON THE 5-CENT COIN COMMEMORATING THE BICENTENNIAL OF THE LOUISIANA PURCHASE.**

(a) IN GENERAL.—Subject to subsection (b) and after consulting with the Coin Design Advisory Committee and the Commission of Fine Arts, the Secretary of the Treasury may change the design on the obverse and the reverse of the 5-cent coin for coins issued in 2003, 2004, and 2005 in commemoration of the bicentennial of the Louisiana Purchase.

(b) DESIGN SPECIFICATIONS.—

(1) OBVERSE.—If the Secretary of the Treasury elects to change the obverse of 5-cent coins issued during 2003, 2004, and 2005, the design shall include an image of President Thomas Jefferson in commemoration of his role with respect to the Louisiana Purchase and the commissioning of the Louis and Clark Expedition to explore the newly acquired territory.

(2) REVERSE.—If the Secretary of the Treasury elects to change the reverse of the 5-cent coins issued during 2003, 2004, and 2005, the design selected shall commemorate the Louisiana Purchase.

(3) OTHER INSCRIPTIONS.—5-cent coins issued during 2003, 2004, and 2005 shall continue to meet all other requirements for inscriptions and designations applicable to circulating coins under section 5112(d)(1) of title 31, United States Code.

**SEC. 3. DESIGNS ON THE 5-CENT COIN SUBSEQUENT TO THE COMMEMORATION OF THE BICENTENNIAL OF THE LOUISIANA PURCHASE.**

(a) IN GENERAL.—Section 5112(d)(1) of title 31, United States Code, is amended by inserting after the 4th sentence the following new sentences: "The obverse of any 5-cent coin issued after December 31, 2005, shall bear an image of Thomas Jefferson. The reverse of any 5-cent coin issued after December 31, 2005, shall bear an image of the home of Thomas Jefferson at Monticello.".

(b) DESIGN CONSULTATION.— The 2d sentence of section 5112(d)(2) of title 31, United States Code, is amended by inserting ", after consulting with the Coin Design Advisory Committee and the Commission of Fine Arts," after "The Secretary may".

**SEC. 4. COIN DESIGN ADVISORY COMMITTEE.**

(a) IN GENERAL.—Subchapter III of chapter 51 of title 31, United States Code, is amended by inserting after section 5136 (as amended by section 5 of this Act) the following new section:

**"§ 5137. Coin Design Advisory Committee**

(a) ESTABLISHMENT.—There is hereby established the Coin Design Advisory Committee (in this section referred to as the "Advisory Committee").

"(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 9 members, as follows:

"(A) The Chief of Staff to the Secretary of the Treasury.

"(B) 4 persons appointed by the President—

"(i) 1 of whom shall be appointed for a term of 4 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience as a nationally or internationally recognized curator in the United States of a numismatic collection;

"(ii) 1 of whom shall be appointed for a term of 4 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their experience in the medallic arts or sculpture;

"(iii) 1 of whom shall be appointed for a term of 3 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in American history; and

"(iv) 1 of whom shall be appointed for a term of 2 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in numismatics.

"(C) 1 person appointed by the Speaker of the House of Representatives from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, including staff employees of the House of Representatives, who shall serve at the pleasure of the Speaker.

"(D) 1 person appointed by the minority leader of the House of Representatives from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, including staff employees of the House of Representatives, who shall serve at the pleasure of the minority leader.

"(E) 1 person appointed by the majority leader of the Senate from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, including staff employees of the Senate, who shall serve at the pleasure of the majority leader.

"(F) 1 person appointed by the minority leader of the Senate from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, including staff employees members of the Senate, who shall serve at the pleasure of the minority leader.

"(2) Continuation of service.—Each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

"(3) Vacancy.—

"(A) In general.—Any vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made.

"(B) Acting officials may serve.—In the event of a vacancy in a position described in paragraph (1)(A), and pending the appointment of a successor, or during the absence or disability of any individual serving in any such position, any individual serving in an acting capacity in any such position may serve on the Advisory Committee while serving in such capacity.

"(4) Chairperson.—The Chairperson of the Advisory Committee shall be the person serving in the position described in paragraph (1)(A) (or serving in an acting capacity in such position).

"(5) Pay and expenses.—Members of the Advisory Committee shall serve without pay for such service but each member of the Advisory Committee shall be reimbursed from the United States Mint Public Enterprise Fund for expenses incurred in connection with attendance of such members at meetings of the Advisory Committee.

"(6) Meetings.—The Advisory Committee shall meet, not less frequently than quarterly, at the call of the chairperson or a majority of the members.

"(7) Quorum.—7 members of the Advisory Committee shall constitute a quorum.

"(c) Duties of the Advisory Committee.—The duties of the Advisory Committee are as follows:

"(1) Advise the Secretary of the Treasury on any design proposals relating to circulating coinage and numismatic items, including congressional gold medals.

"(2) Advise the Secretary of the Treasury with regard to any other proposals or issues relating to any items produced by the United States Mint that the Secretary may request of the Advisory Committee.

"(d) Administrative Support Services.—Upon the request of the Advisory Committee, the Director of the United States Mint shall provide to the Advisory Committee the administrative support services necessary for the Advisory Committee to carry out its responsibilities under this section.

"(e) Annual Report.—

"(1) Required.—Not later than January 30 of each year, the Advisory Committee shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) Contents.—The report required by paragraph (1) shall describe the activities of the Advisory Committee during the preceding year and the reports and recommendations made by the Advisory Committee to the Secretary of the Treasury.

"(f) Federal Advisory Committee Act Does Not Apply.—The Federal Advisory Committee Act shall not apply with respect to the Committee, except that each meeting of the Advisory Committee shall be open to the public following publication of a notice of the meeting in the Federal Register.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KING) and the gentleman from New York (Mr. ISRAEL) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. KING).

### GENERAL LEAVE

Mr. KING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and to insert extraneous material on the bill, H.R. 4903.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge passage of H.R. 4903, the Keep Monticello on the Nickel Act, introduced by the distinguished gentleman from Virginia (Mr. CANTOR) with the bipartisan sponsorship of the Virginia delegation.

As the gentleman from Virginia (Mr. CANTOR) will describe in more detail, the bill allows for the redesign of the 5-cent coin for the years 2003, 2004, and 2005 to recognize the importance of the Louisiana Purchase and the Lewis and Clark expedition that began 200 years ago next year.

The bill specifies that all redesigned coins shall bear the image of Thomas Jefferson on the face or obverse and that in 2006 and thereafter the coin bear the image of Jefferson on the obverse and of his home, Monticello, on the reverse. The images of Jefferson may be different and the view of Monticello that returns to the coin might differ from the current one.

Mr. Speaker, the bill also contains numerous other provision which the gentleman from Virginia (Mr. CANTOR) will describe.

Mr. Speaker, I reserve the balance of my time.

Mr. ISRAEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am honored to manage time on the Keep Monticello on the Nickel Act, legislation that preserves the portrait of Monticello on the nickel.

All Americans are familiar with the role that Thomas Jefferson played in our Nation's founding. Jefferson was the third President of the United States, the author of the Declaration of Independence, and the founder of the University of Virginia. One of the foremost intellectuals in American history, Jefferson produced many of his finest writings at Monticello, his picturesque mansion outside of Charlottesville; and it is appropriate that we preserve the mansion on our Nation's coinage.

Our distinguished colleague from Virginia (Mr. CANTOR) has put forward a plan to mint to commemorate the plans of Lewis and Clark for 3 years and revert to the Monticello for 2006. That is a reasonable compromise. We support the Cantor legislation. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. KING. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. CANTOR), the sponsor of the legislation.

Mr. CANTOR. Mr. Speaker, I rise today to speak in favor of H.R. 4903 that would authorize the U.S. Mint to redesign the nickel for 3 years to recognize the Lewis and Clark expedition and to ensure Monticello, the Virginia estate of Thomas Jefferson, has its place on the reverse side of the nickel after 2005.

Additionally, Mr. Speaker, the bill would authorize and establish a Citizen's Coin Design Advisory Committee that would report directly to the Secretary of the Treasury. The purpose of this committee would be to advise the Secretary on the design or redesign of coins and metals providing a broad range of input from professional and citizen representatives.

Mr. Speaker, I introduced this legislation after representatives from the Mint came to my office and informed me that the imagine of Thomas Jefferson's Monticello would be removed from the reverse side of the nickel and would be replaced by the image of a Native American and an eagle facing westward to recognize the 200th anniversary of the Lewis and Clark expedition. The Treasury Department has the authority to change the nickel once every 25 years. It was the intent that this new design be presented as the replacement for Monticello.

I learned further that this new design was chosen internally at the U.S. Mint with no input from Congress or the American people. Even more striking, I was shocked to learn that the Mint planned to announce this redesign in just 10 days from our meeting.

As a proud Virginian and American, I was concerned about the Mint's plan because Jefferson's beloved Monticello represented so much to the people of the Commonwealth of Virginia and, for that matter, to all Americans. I also feared that the new design and the process by which it was conceived was reminiscent of the failed Sacagawea one-dollar coin experience.

Monticello is the autobiographical masterpiece of Thomas Jefferson or as he called it, his "essay in architecture," and is recognized as an international treasure. Monticello, "little mountain" in Italian, is the only home in America on the World Heritage List of Sites that must be protected at all costs. It is there that Jefferson assumed his place in history, shaping, debating, and producing his prolific writings on the topics of liberty, democracy, and equality for all.

In America after September 11 we all know that these are the very principals that are under attack by the radical terrorists and their global organizations.

H.R. 4903 authorizes the U.S. Mint to implement an interim design change on the reverse side of the nickel for the years 2003, 2004, and 2005 in order to recognize the 200th anniversary of the Lewis and Clark expedition. In 2006, Monticello will once again resume its place on the 5-cent piece. Additionally, so that the American people will not experience another Sacagawea debacle, my bill provides a mechanism to ensure public input to this or any redesign of our coinage.

The bill creates a nine-member coin design advisory committee which will make recommendations to the Secretary of the Treasury as to the appropriate designs for the Lewis and Clark series. It will review all designs or redesigns of circulating and commemorative coins and of Congressional Gold Medal ideas that the Mint is assigned with. This committee will be made up of a coin collector, an internationally recognized coin museum curator, an expert in American history, and either a sculptor or a medallic artist, all appointed by the President, as well as four persons named by the leadership of the House and the Senate.

This committee will be able to provide the Secretary of the Treasury with a broad range of expertise and input to ensure that any redesign or circulating coinage as well as the design for commemorative coins or Congressional Gold Medals be artistically appropriate and consistent with broad American themes and values.

Mr. Speaker, this bill represents a positive step forward, and I urge my colleagues to support H.R. 4903 today.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in strong support of H.R. 4903, the Keep Monticello on the Nickel Act. for nearly 65 years, the image of Thomas Jefferson's Monticello has graced our Nation's nickel. This legislation, introduced by my friend and colleague from the Commonwealth of Virginia, Mr. CANTOR, is a win-win. It ensures that Monticello has a permanent home on the five-cent piece, and also recognizes the need for a fair and open process to evaluate other commemorative coinage efforts, such as the one honoring the bicentennial of the Louisiana Purchase and the Lewis and Clark expedition.

Mr. Speaker, as you know, Thomas Jefferson was the author of the Declaration of Independence and the Statute of Virginia for Religious Freedom, the third president of the United States and the founder of the University of Virginia. He voiced the aspirations of a new America as no other individual of his era. From his home in Monticello, Jefferson served his country for over five decades.

Monticello is more than a classic piece of architecture; its significance even supercedes the fact that it is the only house in the United States on the United Nation's prestigious World Heritage List of sites. It is more: a symbol of Jefferson's age of optimism, of all that was and is great about America. It is, quite simply, Jefferson's autobiographical masterpiece.

Mr. CANTOR's legislation strikes a reasonable balance. It provides for nickel redesigns in 2003 and 2004 to commemorate both the Louisiana Purchase and the Lewis and Clark expedition, returning Monticello to the reverse side of the coin in 2005. The legislation also establishes a Congressionally-appointed advisory board, whose responsibility it will be to advise the Secretary of the Treasury on any proposed changes to U.S. coins.

I join my fellow Members of the Virginia Delegation in urging all Members to support H.R. 4903, to allow for a three-year recognition of one of Jefferson's greatest accomplishments, the Louisiana Purchase, before returning to the foundation of all of his successes, Monticello.

Mr. ISRAEL. Mr. Speaker, I yield back the balance of my time.

Mr. KING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. KING) that the House suspend the rules and pass the bill, H.R. 4903, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "To ensure continuity for the design of the 5-cent coin, establish the Coin Design Advisory Committee, and for other purposes.".

A motion to reconsider was laid on the table.

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## TRUE AMERICAN HEROES ACT OF 2002

Mr. KING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5138) to posthumously award Congressional gold medals to government workers and others who responded to the attacks on the World Trade Center and the Pentagon and perished and to people aboard United Airlines Flight 93 who helped resist the hijackers and caused the plane to crash, to require the Secretary of the Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11, 2001, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5138

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "True American Heroes Act of 2002".

### TITLE I—MEDALS FOR RESPONDERS AND RESISTERS

**SEC. 101. CONGRESSIONAL GOLD MEDALS FOR GOVERNMENT WORKERS WHO RESPONDED TO THE ATTACKS ON THE WORLD TRADE CENTER AND PERISHED.**

(a) PRESENTATION AUTHORIZED.—In recognition of the bravery and self-sacrifice of officers, emergency workers, and other employees of State and local government agencies, including the Port Authority of New York and New Jersey, and of the United States Government and others, who responded to the attacks on the World Trade Center in New York City, and perished in the tragic events of September 11, 2001 (including those who are missing and presumed dead), the Speaker of the House and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design for each such officer, emergency worker, employee, or other individual to the next of kin or other personal representative of each such officer, emergency worker, employee, or other individual.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike gold medals with suitable emblems, devices, and inscriptions to be determined by the Secretary to be emblematic of the valor and heroism of the men and women honored.

(c) DETERMINATION OF RECIPIENTS.—The Secretary of the Treasury shall determine the number of medals to be presented under this section and the appropriate recipients of the medals after consulting with appropriate representatives of Federal, State, and local officers and agencies and the Port Authority of New York and New Jersey.

(d) DUPLICATIVE GOLD MEDALS FOR DEPARTMENTS AND DUTY STATIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall strike duplicates in gold of the gold medals struck pursuant to subsection (a) for presentation to each of the following, for permanent display in the respective offices, houses, stations, or places of employment:

(A) The Governor of the State of New York.

(B) The Mayor of the City of New York.

(C) The Commissioner of the New York Police Department, the Commissioner of the New York Fire Department, the head of emergency medical services for the City of New York, and the Chairman of the Board of Directors of the Port Authority of New York and New Jersey.

(D) Each precinct house, fire house, emergency response station, or other duty station or place of employment to which each person referred to in subsection (a) was assigned on September 11, 2001, for display in each such place in a manner befitting the memory of such persons.

(e) DUPLICATE BRONZE MEDALS.—Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under subsection (a) at a price sufficient to cover the costs of the bronze medals (including labor, materials, dies, use of machinery, and overhead expenses) and the cost of the gold medal.

(f) USE OF THE UNITED STATES MINT AT WEST POINT, NEW YORK.—It is the sense of the Congress that the medals authorized under this section should be struck at the United States Mint at West Point, New York, to the greatest extent possible.

### SEC. 102. CONGRESSIONAL GOLD MEDALS FOR PEOPLE ABOARD UNITED AIRLINES FLIGHT 93 WHO HELPED RESIST THE HIJACKERS AND CAUSED THE PLANE TO CRASH.

(a) CONGRESSIONAL FINDINGS.—The Congress finds as follows:

(1) On September 11, 2001, United Airlines Flight 93, piloted by Captain James Dahl, departed from Newark International Airport at 8:01 a.m. on its scheduled route to San Francisco, California, with 7 crew members and 38 passengers on board.

(2) Shortly after departure, United Airlines Flight 93 was hijacked by terrorists.

(3) At 10:37 a.m. United Airlines Flight 93 crashed near Shanksville, Pennsylvania.

(4) Evidence indicates that people aboard United Airlines Flight 93 learned that other hijacked planes had been used to attack the World Trade Center in New York City and resisted the actions of the hijackers on board.

(5) The effort to resist the hijackers aboard United Airlines Flight 93 appears to have caused the plane to crash prematurely, potentially saving hundreds or thousands of lives and preventing the destruction of the White House, the Capitol, or another important symbol of freedom and democracy.

(6) The leaders of the resistance aboard United Airlines Flight 93 demonstrated exceptional bravery, valor, and patriotism, and are worthy of the appreciation of the people of the United States.

(b) PRESENTATION OF CONGRESSIONAL GOLD MEDALS AUTHORIZED.—In recognition of heroic service to the Nation, the Speaker of the House and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design for each passenger or crew member on board United Airlines Flight 93 who is identified by the Attorney General as having aided in the effort to resist the hijackers on board the plane to the next of kin or other personal representative of each such individual.

(c) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (b), the Secretary of the Treasury shall strike gold medals of a single design with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(d) DUPLICATE MEDALS.—Under such regulations as the Secretary of the Treasury may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medals struck under subsection (b) at a price sufficient to cover the cost of the bronze medals (including labor, materials, dies, use of machinery, and overhead expenses) and the cost of the gold medals.

### SEC. 103. CONGRESSIONAL GOLD MEDALS FOR GOVERNMENT WORKERS WHO RESPONDED TO THE ATTACKS ON THE PENTAGON AND PERISHED.

(a) PRESENTATION AUTHORIZED.—In recognition of the bravery and self-sacrifice of officers, emergency workers, and other employees of the United States Government, who responded to the attacks on the Pentagon Washington, D.C. and perished in the tragic events of September 11, 2001 (including those who are missing and presumed dead) the Speaker of the House and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design for each such officer, emergency worker, or employee to the next of kin or other personal representative of each such officer, emergency worker, or employee.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike gold medals of a single design with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) DETERMINATION OF RECIPIENTS.—The Secretary of the Treasury shall determine the number of medals to be presented under this section and the appropriate recipients of the medals after consulting with the Secretary of Defense and any other appropriate representative of Federal, State, and local officers and agencies.

### SEC. 104. NATIONAL MEDALS.

The medals struck under this title are national medals for purposes of chapter 51 of title 31, United States Code.

## TITLE II—SPIRIT OF AMERICA COMMEMORATIVE COINS

### SEC. 201. FINDINGS.

The Congress finds as follows:

(1) On September 11, 2001, the United States suffered the worst act of terrorism in its history.

(2) The more than 6,000 people who lost their lives as a result of the terrorist attacks that occurred in New York City, at the Pentagon, and in Pennsylvania on September 11, 2001, will not be forgotten.

(3) Hundreds of emergency personnel responded heroically to the crisis and lost their lives as a result.

(4) People from everywhere in the United States responded to the crisis with an outpouring of support for the victims of the terrorist attacks and their families.

(5) The civilized world stands with strength and fortitude in opposition to the cowardly terrorist attacks against the United States that occurred on September 11, 2001.

(6) It is essential to remember not only the tragedy of the attacks, but also the strength and resolve demonstrated by the people of the United States in the aftermath of the attacks.

(7) The minting of coins in commemoration of the Spirit of America will pay tribute to the countless heroes who risked their lives during the terrorist attacks and in their aftermath so that others may live and to a united people whose belief in freedom, justice, and democracy has never swayed.

### SEC. 202. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—In commemoration of the Spirit of America, the Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall mint and issue the following coins:

(1) $50 GOLD COINS.—Such number of 50 dollar coins as the Secretary determines under subsection (b), which shall—

(A) weigh 1 ounce;

(B) have a diameter of 1.287 inches; and

(C) contain 91:67 percent gold and 8.33 percent alloy.

(2) $1 SILVER COINS.—Such number of 1 dollar coins as the Secretary determines appropriate to meet demand, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Such number of half dollar coins as the Secretary determines appropriate to meet demand, which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) NUMBER OF GOLD COINS.—

(1) IN GENERAL.—The number of gold coins minted and issued under this title shall equal the sum of 25,000 and the number determined under paragraph (2).

(2) DETERMINATION OF NUMBER.—The Secretary, in consultation with the Attorney General of the United States and the Governors of New York, Pennsylvania, and Virginia shall determine the number of innocent individuals confirmed or presumed to have been killed as a result of the terrorist attacks against the United States that occurred on September 11, 2001, and shall identify such individuals. The Secretary, under subsection (a)(1), shall mint and issue a number of 50 dollar coins equal to the number of such individuals.

(c) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(d) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

(e) SOURCES OF BULLION.—For the purpose of minting coins under this title, the Secretary may only use metals that are from natural deposits in the United States or any territory or possession of the United States.

(f) SPECIAL TREATMENT UNDER EXIGENT CIRCUMSTANCES.—

(1) FINDINGS.—The Congress finds as follows:

(A) The limitations contained in paragraphs (1) and (2)(A) of section 5112(m) of title 31, United States Code, and section 5134(f)(1)(B) of such title have well served, and continue to serve, their purpose of bringing greater stability to the markets for commemorative coins, maximizing demand and participation in such programs, and ensuring that such programs have a broad base of private support and are not used as the primary means of fundraising by organizations that are the recipients of surcharges.

(B) The shocking circumstances of September 11, 2001, the broad base of public interest in showing the Spirit of America and participating in the raising of funds for the victims of the crimes committed on that date, and the importance of implementing this coin program as quickly as possible, notwithstanding the fact that 2 commemorative coin programs are already in effect for 2001 and 2002, justify exempting the coins produced under this title from such limitations.

(2) EXEMPTION.—Paragraphs (1) and (2) of section 5112(m) of title 31, United States Code, and section 5134(f)(1)(B) of such title shall not apply to coins authorized under this title.

### SEC. 203. DESIGN OF COINS.

(a) IN GENERAL.—The design of the coins minted under this title shall be emblematic of the tragic events that occurred at the Pentagon, in New York City, and in Pennsylvania, on September 11, 2001.

(b) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this title there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the date "September 11, 2001" (and such coin shall bear no other date); and

(3) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) SELECTION.—The design for the coins minted under this title shall be selected by the Secretary after consultation with the Commission of Fine Arts.

**SEC. 204. STRIKING AND ISSUANCE OF COINS.**

(a) Quality of Coins.—

(1) In general.—Except as provided under paragraph (2), coins minted under this title shall be issued in uncirculated quality.

(2) Gold coins.—50 dollar coins minted under section 202(a)(1) shall be issued only in proof quality.

(b) Mint Facility.—

(1) In general.—Except as provided under paragraph (2), only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this title.

(2) Clad coins.—Any number of facilities of the United States Mint may be used to strike the half dollar coins minted under section 202(a)(3).

(c) Period for Issuance.—The Secretary—

(1) shall commence issuing coins minted under this title as soon as possible after the date of the enactment of this Act; and

(2) shall not issue any coins after the end of the 1-year period beginning on the date such coins are first issued.

**SEC. 205. SALE OF COINS.**

(a) Sale Price.—The coins issued under section 202(a) (other than the 50 dollar gold coins referred to in subsection (d)) shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharges required by section 206(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) Bulk Sales.—The Secretary shall make bulk sales of the coins issued under section 202(a) at a reasonable discount.

(c) Prepaid Orders.—The Secretary shall accept prepaid orders received before the issuance of the coins minted under section 202(a). The sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) Gold Coins.—Notwithstanding section 204(c)(2), the Secretary shall issue a 50 dollar coin minted under section 202(a)(1) for presentation free of charge to the next of kin or personal representative of each individual identified under section 202(b). The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of such gold coins.

**SEC. 206. SURCHARGES ON SALE OF COINS.**

(a) Assessment.—Any sale by the Secretary of a coin minted under this title shall include a surcharge of an amount determined by the Secretary to be sufficient to cover the cost of the gold coins minted under section 202(a)(1) (including labor, materials, dies, use of machinery, overhead expenses, and shipping) for presentment in accordance with section 205(d), which charge may not be less than—

(1) $100 per coin for the 50 dollar gold coins;

(2) $10 per coin for the 1 dollar coin; and

(3) $5 per coin for the half dollar coin.

(b) Distribution of Excess Proceeds.—Any proceeds from the surcharges received by the Secretary from the sale of coins issued under this title in excess of the cost of producing all coins issued under this title (including coins issued for individuals identified pursuant to section 202(b)(2)) shall be—

(1) used to cover the costs incurred in the production of gold medals under title I that have not been recovered from the sale of duplicate bronze medals under such title; and

(2) with respect to any amount remaining after the costs described in paragraph (1) are covered, transferred to any fund for victims of the tragedies of September 11, 2001, that the Secretary of the Treasury and the Attorney General jointly determine to be appropriate.

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to the rule, the gentleman from New York (Mr. KING) and the gentleman from New York (Mr. ISRAEL) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. KING).

GENERAL LEAVE

Mr. KING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KING. Mr. Speaker, I yield myself such time as I may consume.

At the outset, let me commend the gentlewoman from New York (Mrs. MALONEY), also the gentleman from New York (Mr. ENGEL), the gentleman from Florida (Mr. STEARNS), the gentleman from Colorado (Mr. TANCREDO), the gentlewoman from New Jersey (Mrs. ROUKEMA), and the gentleman from Oklahoma (Mr. WATTS), all of whom are cosponsors of this legislation.

Mr. Speaker, the legislation we are bringing up today is our attempt to honor those men and women who laid down their lives in the line of duty at the World Trade Center, at the Pentagon, and in bringing down Flight 93 on September 11. No one is ever going to forget where they were or forget what they were doing on those terrible days of September 11, when we saw the terrible attack on the World Trade Center, the attack on the Pentagon. We saw Flight 93 being brought down and then the rescue efforts that began over the subsequent days.

Mr. Speaker, this legislation today will award Congressional Gold Medals to all of those Government workers who laid down their lives in the line of duty at the World Trade Center, including, of course, the 343 New York City firefighters, the Port Authority police, the New York City police, the New York State court officers who laid down their lives carrying out the greatest rescue mission in the history of this country. Twenty-five thousand people were rescued that day from the World Trade Center.

In addition, it will award Congressional Gold Medals to those who died in the line of duty at the Pentagon carrying out rescue operations, and in addition to that, those who were determined by the Attorney General to have been responsible for thwarting the terrorists on Flight 93 and bringing that flight down before it could actually strike here in Washington, either at the Capitol or the White House or wherever the target was intended to be.

In addition to that, Mr. Speaker, there were others who were not uniform officers, who were not government employees, who also became part of the rescue operation that day. For instance, there were construction workers who were not even working in the World Trade Center who rushed into the building that day to carry out a rescue operation. One, just for the purposes of the RECORD, will be Charles Costello of Elevator Constructors Local 1, who again raced into the building as part of the rescue operation and was killed, not a government worker but yet a hero who laid down his life in the line of duty.

In addition to that, we had a number of paramedics and six EMT, six, I believe, who were not government workers but were either hospital employees or members of volunteer ambulance corps. These men and women also laid down their lives and should be recognized.

In addition to that, Mr. Speaker, the bill includes legislation initially introduced by the gentleman from New York (Mr. ENGEL) and the gentleman from Florida (Mr. STEARNS) which brings about coins, which they can explain in greater detail, but commemorative coins which will describe for all time the terrible tragedy of that day, but also the glory of that day, and I am sure the gentleman from New York (Mr. ENGEL) will discuss that, and the gentleman from New York (Mr. ISRAEL), in greater detail.

That is an integral part of this bill because a similar bill to this was enacted last December. It did encounter some questions in the Senate, and it is our sincere hope that by making the changes we have made today, by melding together two different pieces of legislation, uniting them as one, that it will make it easier for the bill to be passed by the Senate so that it can be presented to the President to be signed prior to September 11.

Mr. Speaker, the events of September 11 were the first great battle and the first great war of the 21st century, and the American people have responded in a way that surpasses what anyone could have ever hoped for, could have ever dreamt of, but the reality is that would not have happened if there was not such tremendous courage shown on the day of September 11 itself when the rescue workers came forward, when those who worked in the buildings, all of whom were heroes in their own right, did what had to be done.

This was America at its best, and by adopting this legislation, both as far as the gold medals and as far as the commemorative coins, Mr. Speaker, it will be our way as a Congress of showing the dedication that we have to those men and women who lost their lives on

September 11. Also, Mr. Speaker, it will be a source of some consolation and solace to the survivors of those poor brave men and women who died that day.

It is a small step. I think it will mean a lot to those families if they can see the unity that we feel, the sense of dedication that we in the Congress feel toward honoring and commemorating all those men and women.

Mr. Speaker, I reserve the balance of my time.

Mr. ISRAEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague and friend from Long Island for bringing this important resolution to the floor today. I have two daughters and they do not like it much when I talk about them publicly, but in the wake of September 11, both of them asked me many questions. They asked me why I was attending so many memorial services and funerals. They asked why did this have to happen. They asked why did some people die and not others. That is a question that we have been asking ourselves every day since September 11. It is a question that we will continue to ask ourselves every day in the future, and each of us has our own answers inspired by our own faiths and beliefs and experiences.

We may not know why except for this. For the fire and rescue workers who died that day, it was their job to save lives. When everyone was running away from danger, they rushed towards it. Aboard a jet over Pennsylvania, a group of ordinary citizens banded together to force their plane down to save our Capitol but to end their own lives. They were heroes. Why did they do it?

They knew that the terrorists were not simply trying to end our lives. They were seeking to end our way of life. They knew that those terrorists wanted to bring that plane down on the Capitol itself, destroying not only the dome of this building but the very foundation of our democracy, and rather than fleeing danger, they accepted it to save a way of life, to save our way of life, and we all know what that way of life is, one Nation under God, indivisible, with liberty and justice for all.

Mr. Speaker, what was built by Washington and Adams and Jefferson has been saved by the heroes that we recognize today, people like Ray Downey of Deer Park and Glen Pettit of Ronkonkoma and John Viggiano of West Islip and 100 others in my district on Long Island who lost their lives.

Every day, firefighters across this land risk their lives to protect us. We are right to honor them with the Congressional Gold Medal and coins mined by the United States Mint, a coin that will include the phrase "In God We Trust."

I want to again thank the gentleman for bringing this to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. KING. Mr. Speaker, I yield such time as he may consume to the gentleman from Staten Island, New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I thank the gentleman for yielding me the time. I also commend him for his leadership on this initiative, and I think it is going, as he said, to serve well for those thousands who lost their lives on September 11.

In particular, I would like to commend my colleagues, the gentleman from New York (Mr. RANGEL) and the gentleman from New York (Mr. ISRAEL), for their leadership in paying honor to so many who lost their lives.

Earlier today, I heard, I think, a right discussion to bring attention to the Battle of the Bulge, and we heard some Members come forward to express decades later how this country honors those who have sacrificed. In a way, this is a similar attempt to do the same thing. We are attempting to honor hundreds, if not thousands, of people who were either doing their job on September 11, who were on their way to rescue, which was and is the largest rescue effort in the history of the United States.

We had firemen rushing to these burning buildings who never escaped. Some were on the job. Rescue 5 on Staten Island, all but one of their people who rushed into that fire died, people like Mike Esposito, whom I grew up with, and so many of his colleagues. Their families are still looking for closure, and we are trying to help.

People who were not even working that day, a guy, Stephen Siller on his way to play golf with his brothers, like he did on a regular basis, heard the call, saw the burning buildings, rushed into the trade center never to come out.

Some firefighters on the job for just a few days, one of their first calls was the trade center, young guys with families, never to return.

Then we had those who were just doing an honest day's work, young people like Jason DeFazio, married to my cousin, newlyweds, about to raise a family. He was doing his job, a good kid. He will not ever see the light of day again.

The way this all comes about is because people like the gentleman from New York (Mr. KING) and the people he represents, and the gentleman from New York (Mr. RANGEL) and the gentleman from New York (Mr. ISRAEL) and so many other of us in this House who represent more than Staten Island, where alone over 200 people were killed on September 11, and what this Congress fortunately is doing today in a small but I think symbolic and significant way is saying they are heroes, and the gold medal represents that.

It will not bring back the loved ones, no, but I think it sends a signal to those families, people that live just a few blocks from me, Captain Marty Egan and his wife Diane live just a couple of blocks away. I hope Diane, when she gets this gold medal, understands that the entire Nation, through its elected representatives, says, Diane, your husband was a hero, or again, to people like my cousin who lost their young husband and in a similar sort of way with some hard evidence that this country, through its representatives, says thank you.

Mr. Speaker, I think that this is highly appropriate, and I again commend the gentlemen and ladies who made this possible and a way to say thanks to so many people who lost their lives on September 11.

Mr. ISRAEL. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank my friend from New York for yielding to me and, Mr. Speaker, I rise in strong support of H.R. 5138, the True American Heroes Act.

This is a combination of two bills, one originally sponsored by myself and the gentleman from Oklahoma (Mr. WATTS) and the other one by the gentleman from New York (Mr. KING) and the gentlewoman from New York (Mrs. MALONEY). I want to thank the gentleman from New York (Mr. KING) for his many courtesies as subcommittee chairman in helping to combine the bills and to get these bills through.

Contained within the legislation is the bill I coauthored with the gentleman from Oklahoma (Mr. WATTS) which we called the Spirit of America Commemorative Coin. This honors the memory of all the victims of the terrible tragedy of September 11.

For all Americans, September 11 is seared into our memories. As the gentleman from New York (Mr. KING) mentioned, we will always remember where we were on that day and where we were when we heard about the tragedies. We were scared together, we cried together and we were inspired together. We watched with horror as men with hatred in their hearts turned airplanes into weapons of mass destruction.

I was in New York City that day and I remember standing in disbelief. We watched with immense sorrow the destruction of a great American icon, and we watched with pride the men and women of the New York Fire Department, Police Department, Port Authority, EMTs, Iron Workers and other volunteers rush to the World Trade Center to try and save lives. Many of them, as, of course, was mentioned by the gentleman from New York (Mr. FOSSELLA), lost their lives in doing so.

The Nation went through the same roller coaster of emotions as the Pentagon was attacked, and we did it again as we learned of the heroism and the bravery of the passengers of Flight

93 who most assuredly saved countless more lives here in Washington, D.C.

I can only hope that for most Americans life has settled into a new routine. However, for those of us in New York, there is still a gaping hole in our city and in our hearts.

I remember going to the World Trade Center site with President Bush the Friday after September 11, and I remember standing there and thinking I cannot believe this is New York City, I cannot believe this is the area that I passed through hundreds and hundreds and hundreds of times before. It just seemed like some kind of a burned-out, bombed-out, ravaged zone which, of course, it was. But I could not believe that this was New York City.

□ 1700

However, we New Yorkers are tough; and we have started to heal. But we are committed to remembering those who suffered so much, and the Spirit of America Coin Act is part of that remembrance. Each family who lost a loved one will be presented with a gold version of this coin and the American people will be able to purchase a gold, silver, or clad version to help in their remembrance.

Our original bill had called for the front side of the coin to bear an image of the Pentagon and the U.S. flag and the back side of the coin a picture of the World Trade Center. Though the new bill does not include these direct requirements, the bill still requires "The design of the coins minted under this title shall be emblematic of the tragic events that occurred at the Pentagon, in New York City, and in Pennsylvania on September 11th, 2001." And I would hope that the Mint will be very cognizant of what more than 290 Members of this body endorsed.

We had more than 290 cosponsors of this bill, the majority of the House; and many of these sponsors personally met with me on the floor of this House to discuss this bill. So I would hope the Mint would take into account the fact that we would like to have the Pentagon and the American flag on one side of this coin and the World Trade Center on the other side of the coin. I plan on working closely with the U.S. Mint as they develop the design for this important coin. They must take into account the wishes of this Congress, and it must stand out as a great tribute to the spirit of America.

I am so pleased to say that bringing this bill to the floor has truly been a nonpartisan effort. Again, I want to thank the gentleman from New York (Mr. KING). I owe great thanks to the gentleman from Oklahoma (Mr. WATTS), the gentleman from Florida (Mr. STEARNS), and the gentlewoman from New Jersey (Mrs. ROUKEMA), who helped with the original bill. I thank the gentlewoman from New York (Mrs. MALONEY) as well; the chairman, the gentleman from New York (Mr. KING); and the ranking member of the subcommittee and authors of the medal portion of this bill. I also want to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE) for their assistance in this effort. And, finally, Mr. Speaker, I want to thank all of the staff who spent so many hours working on this legislation, in particular my legislative director, Pete Leon.

Mr. Speaker, this legislation is a fitting tribute to the men and women who lost their lives on September 11. None of us who represent districts in downstate New York were spared constituents, unfortunately, who lost their lives. Many of us attended many funerals for these constituents. I want to particularly site Christian Regenhard, who was a young firefighter in my district, who rushed into the World Trade Center to try to save lives. His mother, Sally Regenhard, has been a friend of mine for many, many years; and Christian, unfortunately, lost his life at the World Trade Center.

I want to also mention the Richman and Zucker families from Riverdale in my district. None of us escaped the personal feelings of constituents and friends and loved ones and family who lost their lives in the World Trade Center and, of course, as well as the Pentagon and in Pennsylvania. I urge all my colleagues to support the passage of this bill, and I commend all my colleagues on both sides of the aisle for making this truly a team effort.

Mr. ISRAEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank my colleague for yielding me this time; and particularly I am pleased to join my colleague, the gentleman from New York (Mr. KING), in support of the True American Heroes Act. Actually, I just am coming in from New York, having toured yet again Ground Zero.

This legislation combines a bill that the gentleman from New York (Mr. KING) and I were able to get through the House last December that would present gold medals to emergency rescuers who perished at the World Trade Center with legislation put forth by the gentleman from Oklahoma (Mr. WATTS) and the gentleman from New York (Mr. ENGEL) to create a Spirit of America coin, as well as suggestions for honoring rescuers at the Pentagon and the brave passengers who wrestled Flight 93 to the ground in Pennsylvania.

More than 10 months after September 11, the pain from that day has not begun to fade for my constituents in New York. While we have cleaned up the site and begun to focus on rebuilding, no New Yorker can walk past a firehouse or see a police car race through the city without being reminded of this incredible horror that happened and the incredible heroism displayed by 343 firefighters, 37 Port Authority police, and 23 New York City police who gave their lives to save the lives of others.

In my own district, 25 different fire stations lost people in the attack. One firehouse in my district on Roosevelt Island had the special operations unit, and it lost 10 men. The loss was so great from this facility and others because of a duty change which was in progress, so men who were finishing a shift grabbed their equipment and headed to the scene. As a result, twice as many perished as would have otherwise.

At Ground Zero, on September 12, we heard estimates that as many as 20,000 people had perished. We now know that thanks to the heroic work of the rescue workers the death toll was under 3,000 because these rescue workers charged up into the towers to save as many strangers as they could. From the moment the plane struck the towers, from all over the city and surrounding areas rescuers poured out of firehouses and precinct houses and reacted without regard for their own safety. They were cops, firemen, EMTs, and other public servants.

This legislation lets us honor these men and women who died so that others could live. Thousands of families are missing members after 10 months, but perhaps the best reason to pass this bill is that tens of thousands of families are not. As New York and the world watched in horror as the planes struck and the towers were engulfed, these individuals honored by this bill thrust themselves toward danger without a second thought. They are true American heroes.

In the past, the Congressional Gold Medal has been awarded to honor contributions to America for outstanding individuals and groups. The True American Heroes Act will award Congressional Gold Medals to brave rescuers who perished in the attack. What better way to pay tribute than to award these families the most distinguished honor bestowed by Congress.

This legislation also designates that the individual precinct houses, firehouses, and emergency response stations that lost people in the attack will receive copies of the gold medal.

As you pass the firehouses and precincts in New York, the emotion of this tragedy is still overpowering. This legislation will ensure that we will forever have public displays around the city to preserve the memory of those rescuers who made the ultimate sacrifice.

The offices of the Mayor, the Governor of New York, and the head of the Port Authority will also be awarded copies of the medals. As we all know, the head of the Port Authority himself, my friend Neil Levin, was lost in the attack. Neil was serving as the executive director of the Port Authority, the agency that ran the World Trade Center for 28 years.

In addition to the gold medals, the U.S. Mint will make bronze reproductions of the medals available to the general public. The bill also awards medals to the exceptional brave passengers who battled the hijackers of Flight 93. They saved an untold number of lives and, quite possibly, the very building in which we are now standing.

Finally, the bill is much improved with language provided by the gentleman from Oklahoma (Mr. WATTS) and my fellow colleague, the gentleman from New York (Mr. ENGEL). Together, they worked over the past 10 months to create an official U.S. Mint coin to commemorate September 11. This Spirit of America Coin is a highly appropriate remembrance for this solemn occasion. I thank them for their important contributions to the legislation.

I also thank very much my colleague and counterpart, the chairman of the Subcommittee on Domestic Monetary Policy, Technology, and Economic Growth, the gentleman from New York (Mr. KING), who has worked on this legislation tirelessly; and we all owe a deep debt of gratitude to him.

New York is thankful to all of the Members of this House who have responded to the City of New York in its time of need. We thank you so much for the 20-plus billion dollars in rescue aid and rebuilding aid; and we thank you, hopefully, for your support for this legislation.

Mr. KING. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, Mr. Speaker, let me again thank the gentlewoman from New York (Mrs. MALONEY) for the tremendous cooperation she has given throughout this process. We also thank the gentleman from New York (Mr. ENGEL) for working so closely with us and combining the two pieces of legislation. I want to thank the gentleman from New York (Mr. FOSSELLA) for his very moving remarks here today, and, of course, the gentleman from New York (Mr. ISRAEL) for the job he has done today and for the terrific job he has done since September 11 in working with the many victims' families in his district and working closely with me with the victims' compensation fund.

I would also like to say on a personal note, Mr. Speaker, in my own district there were more than 150 constituents who were killed on September 11. There were a number of friends and neighbors. I would like to point out just several in my own community. Firefighter Tim Haskell and his brother, Fire Captain Tom Haskell.

Also, I would like to point out Police Lieutenant John Perry, who, ironically, was actually putting in his retirement papers at the moment that the World Trade Center was hit. He took his papers back, went across the street, took part in the rescue effort and was killed.

I would also like to commend firefighters Michael Boyle and David Arce, both of whom were very active in my campaigns and worked with me for many years. They, though, are just typical of so many of the firefighters, police officers, and civilians who died that day doing what they were paid to do, to save others, to do their job, and to really symbolize the very best of America.

So on that note, Mr. Speaker, I strongly urge the House to adopt this legislation as a fitting tribute to those who died that day and also as a fitting tribute to the survivors who are carrying the fight forward; and also, I think, as a symbol of the unity that our country has shown since September 11 in working with the President and both parties, in a bipartisan way, standing together to win the war against terrorism.

So, again, I urge adoption of the legislation. I certainly hope that it will be passed readily in the other body so that it can be signed by the President by September 11 as a fitting tribute to what occurred on September 11 as far as those who demonstrated such bravery, and the country itself for the way it showed such resolve and unity.

Mr. Speaker, I yield back the balance of my time.

Mr. ISRAEL. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from New York (Mr. KING) and the gentleman from New York (Mr. FOSSELLA), the gentlewoman from New York (Mrs. MALONEY), and the gentleman from New York (Mr. ENGEL) for their bipartisanship work on this bill.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of the True American Heroes Act. The men and women who died on September 11th serving our country by saving lives deserve not only our immense gratitude, but also the highest of honors. Today, we look to pass important legislation to recognize—and remember—these true American heroes.

In our darkest hours on September 11th, the heroes in our midst shined brighter than ever. We know some heroic endeavors that were undertaken from stories about cell phone calls and from eyewitness accounts.

Let us recognize the men and women who served us in our most horrific hours in several ways. First, the True American Heroes Act awards the heroes of Flight 93 and the rescue workers who were killed in the Pentagon and World Trade Center Congressional Gold Medals. These medals express the public gratitude of the Nation for their extraordinary actions.

Additionally, this bill incorporates part of a bill I introduced allowing the families of the victims to have a tangible expression of the Nation's gratitude with the Spirit of America coin. This coin will commemorate the spirit and the lives of those who were killed at the World Trade Center, the Pentagon, and aboard Flight 93.

I would like to recognize several of these outstanding individuals.

### UNITED AIRLINES FLIGHT 93

The True American Heroes Act awards Congressional Gold Medals to all passengers on United Airlines Flight 93. One of my constituents, Jeremy Glick called his wife Lyzbeth from that flight, alerting her that his plane had been hijacked. Jeremy was part of the fearless effort by passengers and crew to stop the terrorists from taking the plane into the heart of Washington, DC.

From his cell phone conversation, we know that Jeremy along with other passengers and crew chose to fight the terrorists who had commandeered the plane. At 10:37 a.m., United Flight 93 crashed in Pennsylvania, just minutes after the White House and the Capitol Building had been evacuated.

Always a hero to his wife, his family and his friends, Jeremy Glick became a hero to the Nation that day. Today, this House formally recognizes his contribution and all of the heroes aboard Flight 93.

### THE FALLEN HEROES OF THE WORLD TRADE CENTER AND PENTAGON RESCUE EFFORTS

This bill also recognizes the bravery of the many firefighters, police officers, and rescue workers who died in Lower Manhattan and the Pentagon. The families of these heroes too will be awarded a Congressional Gold Medal for their loved one's actions. Many of these men and women were from the 5th District. For example:

Dana Hannon of Wyckoff, New Jersey, was a 29-year-old, newly-engaged member of the New York City Engine Company #28, who responded to the reports of a plane crash at the north and south towers of the World Trade Center.

Paul Laszczynski of Paramus was a Port Authority police officer who was honored for his action during the first attack on the World Trade Center. He and a colleague carried a wheelchair-bound victim down 77 floors to safety after the bombing in 1993.

Joe Navas of Paramus was a 44-year-old Port Authority police officer. In his hometown of Paramus he volunteered as a Little League Coach for his two boys. His wife and family had to learn about his earlier heroic exploits by reading it in the Bergen Record.

The example set by these outstanding individuals is not unique. Our fire departments and emergency services are the first on the scene to fires, motor vehicle accidents, natural disasters, hazardous waste spills, and, yes, even terrorist attacks.

And they never draw attention to themselves. In their minds, they are "just doing their jobs. . . ." That Tuesday, their work and their courage brought them into the building lobbies as people flooded out into the streets. These men and women ran up the stairs while instructing people to immediately get down those same stairs and outside. They ran to help as others ran to safety. Their efforts will never be forgotten, especially by those who were saved.

### TRUE AMERICAN HEROES

Mr. Speaker, the men and women that we honor today died fighting selflessly against those who hate all that our country stands for.

But our country's strength goes beyond these men and women.

This bill also honors with commemorative coins all those who were killed in the World Trade Center and the Pentagon—the men and women who were simply doing their jobs. These men and women were citizens and workers who played an integral role in our country's financial markets and national defense. As proud Americans in their work, they were killed for what they stood for. But their spirit will triumph overall. As President Reagan said in his first Inaugural Address, "we must realize that no arsenal, or no weapon in the arsenals of the world, is so formidable as the will and moral courage of free men and women. It is a weapon our adversaries in today's world do not have. It is a weapon that we as Americans do have.

In the days immediately following September 11th, I spoke with many people who lost friends, coworkers, or even casual acquaintances in the World Trade Center. They wanted to do so much to help, and also wanted something to share in the memory of their friends. This legislation makes the Spirit of America coins available to all Americans. The inspiration and spirit of those who died that day will reach beyond the families and across America with a physical reminder of these heroes of September 11th.

Although these medals and coins will not relieve the sorrow of the families of these victims, I hope that they will take comfort in the fact that their loved ones will not be forgotten. I strongly urge my colleagues to support this legislation.

God Bless America.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 5138, the True American Heroes Act which will bestow Congressional Gold Medals to government workers who selflessly responded to the terrorist attacks in New York and Washington on September 11, 2001 and were killed as a result of their heroics. This Resolution also requires the Secretary of the Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11th.

On that tragic day in September, our Nation witnessed the best and the worst of humanity. The despicable and cowardly terrorist acts were valiantly countered with the incredible heroism and courage of not only our firefighters, law enforcement officers, and emergency personnel but also our fellow citizens.

Accordingly, it is incumbent upon our Nation to appropriately honor these departed heroes. Bestowing the Congressional Gold Medals on these deserving men and women is a fitting tribute to their memory and their contribution to our Nation's freedom. Accordingly, I urge my fellow colleagues to support this important measure.

Mr. STEARNS. Mr. Speaker, I want to thank my colleague for bringing this bill to the floor. The bill before us posthumously awards Congressional Goal Medals to government workers and others who responded to the attacks on the World Trade Center and the Pentagon and perished and to people aboard United Airlines Flight 93 who helped resist the hijackers. Last year, I introduced a similar bill for the crew and passengers of Flight 93, and since have worked with Mr. ENGEL on his Spirit of America Coin Bill to award to families who lost loved ones in the attacks. I especially want to thank Mr. ENGLE and his staff for their tireless effort on that piece of legislation.

Earlier today, we passed a bill to create a memorial for Flight 93. It is widely presumed that the terrorists who took control of United Airlines Flight 93 intended to use the aircraft as a weapon and crash it into the United States Capitol Building in Washington, DC. From what we have been able to find out, upon learning from cellular phone conversations with their loved ones, that 3 hijacked aircraft were used as weapons against the World Trade Center and the Pentagon, the passengers and crew of United Airlines Flight 93 recognized the potential danger and took heroic and noble action to ensure that the aircraft they were aboard could not be used as a weapon. In the ultimate act of selfless courage and supreme sacrifice, the crew and passengers of United Airlines Fight 93 fought to recapture the flight from the terrorists and prevented further catastrophic loss of life.

This same selfless act was demonstrated by the emergency workers, and other employees of State and local government agencies, including the Port Authority of New York and New Jersey, and of the United States Government who gave their lives in responding to the attacks, working to save the lives of others.

I am pleased that we have the bill before us today that not only honors those who gave their lives, with a Congressional Gold Medal, but also provides the opportunity for all Americans, with the authorization of a Spirit of America Coin, to hold the tragic events of September 11 as a reminder of the sacrifices made my not only those who serve and protect our country, but to all citizens who live in—and believe—in this country that is freedom.

As President Lincoln stated in his Gettysburg Address, "We here highly resolve that the dead shall not have died in vain, that the Nation, under God, shall have a new birth of freedom; and that government of the people, by the people, and for the people, shall not perish from the Earth."

I thank my colleagues for bringing this legislation to the floor and urge its adoption.

Mr. ISRAEL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from New York (Mr. KING) that the House suspend the rules and pass the bill, H.R. 5138, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## MAKING IN ORDER ON TUESDAY, JULY 23, 2002, OR ANY DAY THEREAFTER, CONSIDERATION OF HOUSE JOINT RESOLUTION 101, DISAPPROVING EXTENSION OF WAIVER AUTHORITY OF SECTION 402(c) OF TRADE ACT OF 1974 WITH RESPECT TO VIETNAM

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time on July 23, 2002, or any day thereafter, to consider in the House the joint resolution (H.J. Res. 101) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; that the joint resolution be considered as read for amendment; that all points of order against the joint resolution and against its consideration be waived; that the joint resolution be debatable for 1 hour equally divided and controlled by the chairman of the Committee on Ways and Means (in opposition to the joint resolution) and a Member in support of the joint resolution; that consistent with sections 152 and 153 of the Trade Act of 1974, the previous question be considered as ordered on the joint resolution to final passage without intervening motion; and that the provisions of sections 152 and 153 of the Trade Act of 1974 shall not otherwise apply to any joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam for the remainder of the second session of the 107th Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompanying H.R. 4775; that all points of order against the conference report and against its consideration be waived; and that the conference report be considered as read when called up.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## HONORING CORINNE "LINDY" CLAIBORNE BOGGS ON OCCASION OF 25TH ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN'S CAUCUS

Mr. LINDER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 439) honoring Corinne "Lindy" Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

The Clerk read as follows:

H. CON. RES. 439

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress honors

Corinne "Lindy" Claiborne Boggs for her extraordinary service to the people of Louisiana and the United States, recognizes that her role in founding the Congressional Women's Caucus has improved the lives of families throughout the United States, and commends her bipartisan spirit as an example to all elected officials.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. LINDER) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. LINDER).

□ 1715

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to recognize and honor one of the most influential and respected women in the history of American politics, former Congresswoman Lindy Boggs of Louisiana.

Assuming the seat held by her late husband, then House Majority Leader Hale Boggs in 1973, Lindy Boggs once considered herself to be "a bridge between the old and new, liberals and conservatives, whites and blacks, men and women, Republicans and Democrats." This assertion, given by the long-time Secretary for the Congressional Women's Caucus and the longest serving female Member of Congress from the South, in my opinion, exemplifies what the spirit of public service ought to be.

Mr. Speaker, it is said that behind every great man stands a great woman, but I believe that great women stand not only behind great men, but beside them. And in a large number of cases, in front of them. Lindy Boggs certainly stands out as one of the most respected and successful women in the history of this country. Her 17 years of service to the people of Louisiana, her representation of the women of America, her grace, and her presence have earned her an esteemed place not only in the annals of Congress, but in the history of this country.

As such, Mr. Speaker, I rise to salute this devoted mother, wife, Member of this body, and Ambassador of the people of the United States to the Holy See, and thank her for setting an example not only to the Members of this body, but to the people of this great Nation.

In addition, I would like to take this opportunity to join my colleagues and rise in celebration of the 25th anniversary of the founding of the Congressional Women's Caucus. On April 19, 1977, 15 Members of Congress met in what was formally known as the Congresswoman's Reading Room to establish one of the most influential and respected organizations within the House since then. Originally known as the Congresswomen's Caucus, this group has successfully fought for a number of important issues affecting the millions of women across this country, including pension reform, welfare reform, increased child support enforcement, and better awareness and stiffer penalties for domestic violence.

Though we rise today to celebrate 25 years of service by the Congressional Women's Caucus, I believe that changes brought on by this group have only just begun. As such, on behalf of the American people, I thank all of the members of the Congressional Women's Caucus for the hard work and dedication to make our country a better place. I am proud to stand beside each and every one of them as we work together to lead this country now and into the future.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to associate myself with the remarks of the gentleman from Georgia (Mr. LINDER) and thank the gentleman for his leadership in bring this resolution to the floor in honor of Lindy Boggs. This is an occasion to remember and reflect upon both Lindy Boggs and the role of the Congressional Women's Caucus on women's issues, and the role they both have played in coordinating and communicating and legislating for women's interests in the formation of public policy.

It is, at the same time, a celebration of Lindy Boggs herself. Lindy Boggs was or has become a stateswoman in the finest tradition of women in politics. She took the political reins when the responsibility fell to her, even though it was not her initial calling. Then she served in the House for nearly 2 decades. Lindy Boggs was a teacher by training, but she came from a long tradition of political service by members of her family. When she was in the Congress, she was given the task and the formidable responsibility of arranging for the bicentennial of the Congress itself. She chaired the Joint Committee on Bicentennial arrangements in the 94th Congress, and the Commission on the Bicentenary of the United States House of Representatives from the 95th through the 101st Congresses.

She led the 1976 Democratic Convention which nominated Jimmy Carter, President of the United States, and was the first woman to chair a national party convention. She was an author, a political wife, mother, and a gentlewoman who influenced the formation of national policy with a gentle hand.

When she retired from this body, she was chosen to serve as the United States Ambassador to the Vatican from 1997 to 2001.

Mr. Speaker, when one looks at the life of Lindy Boggs, one is impressed by the number of firsts that accompany her service. The first woman to be elected to the House of Representatives from Louisiana. That is not so unusual today. The first woman to serve as a regent of the Smithsonian Institute. No one would be surprised at having a woman regent today. She was the first woman to reside over a national convention. That would be routine at Democratic and Republican conventions today. The first woman to receive the Congressional Medal from Veterans of Foreign Wars.

Women may be new to the military and the rolls they have today, but Lindy Boggs broke yet another military tradition. She was the first woman to receive a Tulane University Distinguished Outstanding Alumni Award, the first woman to serve as Ambassador to the Holy See. These firsts have now become part of American life and the American tradition. When we consider that a woman of our time broke these barriers, we must have no small amount of respect.

H–235 where the women of the House come to lounge is named the Lindy Claiborne Boggs Congressional Reading Room. We do not name rooms after ordinary people, and the naming of this room in 1962 as the Congressional Women's Reading Room is significant because H–235 is a very special room. It was the original Speaker's office used by Henry Clay and James Pope. It was the place where we are often reminded that John Quincy Adams was taken and died after suffering from a stroke. Lindy Boggs' picture was hung there.

In the years since the Congressional Caucus on Women'S Issues was formed, America has changed more profoundly than in any other way. The Women's Caucus as we are called, accepts some responsibility for those changes. America is different in each and every way. Some of these ways had nothing to do with legislation. Much of them depended upon the leadership of Members of Congress willing to give women's issues great priority, to give them priority over other issues. As a result of women's leadership, much of the great legislation of the last 25 years that benefit women and their families has been passed.

Today it is routine to see women walking onto factory floors or driving buses or building things. That was not routine when the Congressional Women's Caucus was formed in 1977. Women now are partners in law firms. They serve on corporate boards and are CEOs. They are doctors of every kind; and yes, they serve as Chairs in this House and in very responsible positions in the cabinet of the United States. Women have improved the quality of the recruits of the Armed Services. If there were no women in the Armed Services, much that we do every day and much of what we depend on every day would not be done nearly as well.

None of this has happened because of women in the House of Representatives alone; but no one believes that women in the House of Representatives have made no difference on these great advances for women. To give Members some idea of just how important the work of Lindy Boggs and the women who began the Congressional Women's Caucus has been, I would name only a few of the most important pieces of legislation that have passed this House since the Women's Caucus was formed: The Family Medical and Leave Act, the Pregnancy Discrimination Act, the Child Support Enforcement Act, the Breast and Cervical Cancer Mortality Prevention Act, the Mammography Quality Standards Act. The list is very long indeed.

In honoring Lindy Boggs, we honor the women who have served in the Congress before and since Lindy Boggs served. It is very appropriate to take note, as she is one of the most distinguished women ever to serve in this body in over 200 years.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. VITTER), the sponsor of this resolution.

Mr. VITTER. Mr. Speaker, I am honored and humbled to stand as an author of H. Con. Res. 439 as a small commemoration to a woman who has given her State and country so much, and that is Lindy Boggs.

Louisiana has a rich and colorful history. We have had fierce debates in our State over the politics of north Louisiana versus south Louisiana, Catholics versus Protestants, the LSU Tigers versus the Tulane Green Wave, but we all agree that Louisiana is proud to be home of a true national gem that we call Lindy, and I am proud to have authored this resolution that honors her work, her legacy, and her life.

Marie Corinne Morrison Claiborne Boggs is beloved throughout Louisiana, but has an impact on events that affect the entire country and indeed the world. She arrived in Washington at 24 years of age as the wife of a newly elected congressman, Hale Boggs, and the mother of young children. She returns this week to receive the Freedom Award from the Capitol Historical Society.

In the meantime, she has served as a congresswoman, as an ambassador, as a chair of political conventions, as someone who has contributed so much to her State and country. In doing so, she pioneered new frontiers for women and has created a true legacy of service, patriotism, and honor.

As a congressional spouse, Lindy managed her husband's campaign and congressional office. She chaired the inaugural balls of Presidents Kennedy and Johnson. She accomplished this while raising three wonderful children. She was truly Hale's helpmate, soulmate, and they were a wonderful team that worked together to form a formidable duo. If Hale and Lindy could not convince and charm someone, it could not be done.

When tragedy struck in 1972, Lindy found herself widowed and Hale's work left undone, so she stepped in where she saw a need and became a pioneer. She won the special election in 1973 to Hale's old seat and became the first woman from Louisiana to be elected to Congress. She retired from Congress in 1991 after many years of exemplary service, but she did not retire from life, she continued to be very active, most notably, going to the Vatican to serve as ambassador to the Holy See.

As we gather to honor Lindy Boggs, I find myself truly awed by the respect and admiration that she garners from such a vast array of people. A friend not only to presidents and the Pope, but really a friend to us all, particularly those of us in Louisiana. Louisiana is proud of Lindy Boggs, a true national gem.

Ms. NORTON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for yielding me this time, and commend the gentlewoman from the District of Columbia (Ms. NORTON), the gentleman from Georgia (Mr. LINDER), and the gentleman from Louisiana (Mr. VITTER) for their leadership in bringing this important resolution to the floor.

It is an exciting day for those of us who have served with Lindy Boggs. I am pleased to be part of this effort to honor an outstanding woman who has been such an important role model for many of us, and for so many women in political life, Ambassador Lindy Boggs.

Mr. Speaker, how appropriate that the gentlewoman from the District of Columbia (Ms. NORTON) should be managing this bill on the Democratic side. She would have a full appreciation of what Ambassador Lindy Boggs has contributed because of the considerable record of the gentlewoman from the District of Columbia (Ms. NORTON) in all of these areas. Her appreciation is heightened and her recognition all the more important, and I thank the gentlewoman from the District of Columbia (Ms. NORTON) on behalf of all of the women in the Congress. There could not be a better manager of this bill.

□ 1730

As the gentlewoman from the District of Columbia (Ms. NORTON) mentioned, Lindy Boggs had a career of firsts. To name a few, of course as has been said, first woman to be elected to the House from Louisiana, first woman to chair a Democratic National convention, and the first woman to serve as ambassador to the Holy See. And what a great ambassador she was indeed.

Each one of these firsts helped clear the path for women to take on leadership roles and to make their voices heard. I have no doubt if we asked Lindy Boggs about her life of public service, we would not hear about all of those firsts. We would hear about the accomplishments that went with them. What Lindy Boggs cared about were those accomplishments, not what she symbolized but what she had done. The gentlewoman from the District of Columbia (Ms. NORTON) mentioned that there is a room named for Lindy Boggs in the Capitol and she said that rooms in the Capitol are not named for ordinary people, only extraordinary ones. Indeed, they are not even named for women. So this is quite a spectacular source of comfort to women who visit the Capitol that this room is named for Lindy Boggs, and a historic and wonderful room it is at that.

We talk about her accomplishments. The list is long, and certainly time prevents me from going into everything; but I associate myself with some of the accomplishments mentioned by the gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman. She was instrumental in ensuring that women had access to credit. She fought for civil rights, pay equity for women, protection of the exploited and assistance to the underprivileged. Her leadership of the Women's Caucus created a powerful bipartisan force for creating policy on issues of concern to not just women but all Americans, issues like Social Security, pensions, and education.

Her most important, I think she would say, contribution was raising her children. Her son's statement, Tom Boggs' statement about her is great. He said it best at a family celebration when he toasted her as mother, campaign manager, mother, consummate hostess, mother, civil rights advocate, mother, congresswoman, grandmother, convention chairman, mother, congresswoman, mother, author, mother, great grandmother, ambassador, mother.

To that I would add one more: teacher. She taught us all when we served with her in the Congress. She taught so many of us here not about the ins and outs and the arcane goings on of this august body. She taught us not only about the issues and how to get things done but she taught us what mattered and how to do it in a way that would reap benefits not only for our issues but for our future service here.

Two of those lessons are two that I would like to convey. When I think of Lindy, I always think of them; and when I employ these lessons, I always think of Lindy. She passed them on. She said Hale used to always say never fight any fight as if it is your last fight. No matter how right you think you are, no matter how involved you are with the issue, no matter how passionate, no matter how angry, no matter what, you always have to take off the gloves and shake hands when it is over, go to your respective corners and come out for another fight another day, but to always treat people as the resource that we are to each other, people here to work for the American people and not to fight to the end on any issue.

And her second piece of advice she gave me long before I came to Congress, but I pass it on with attribution to her all the time, to a group of women gathered, she said know thy power, know thy power. Women, children, workers, people, we should all know our power because this Congress will always respond to the wishes of the American people, and women out there and people out there just have to make their voices heard and their concerns heard, and they can see how powerful they are.

I wish to say that it is easy to get caught up in Potomac fever and believe that power resides here, but she knew and taught us and reminded us constantly that power resided with the people. Thanks to Lindy Boggs, the power is increasingly in the hands of women as well as men, and for that and for much more we are very grateful to her.

I am proud to have this opportunity to join in honoring Lindy Boggs. Everyone who has ever served with her had the privilege of calling her colleague. Every person in America has been blessed by her service to our country. Yes, she is a gem and she truly deserves the title "The Gentlewoman from Louisiana."

I thank my colleagues for the opportunity to honor Lindy Boggs today.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER) and the gentlewoman from the District of Columbia (Ms. NORTON). It is my privilege to rise today and join many a colleague to express my feelings about Lindy Boggs. I especially appreciate the gentleman from Georgia's (Mr. LINDER) bringing this matter before us today and giving us this opportunity.

Let me say the last time that Lindy and I were together in a social way was during the time when she served as ambassador to the Holy See, a fabulous experience for a woman of her background and experience and talent; but it was most interesting to me over that luncheon to watch Lindy, for it was very clear to those who know her at all to know that she was missing something that day and the feeling one got was that she was missing the House.

It was my honor to serve with Lindy for a number areas in the House of Representatives. Almost all those years we shared committees together within the appropriations process. She worked long and hard in the legislative branch as well as that subcommittee that deals with housing programs and veterans, those programs within our Committee on Appropriations that serve people in many ways the most. Lindy, above and beyond all else, was a woman of the House who cared most about the institution that is the Congress. While the gentlewoman from the District of Columbia (Ms. NORTON) is my Congresswoman, she and I share the fact that Lindy Boggs represents the best of what we would hope to be as we serve here in the House of Representatives.

Lindy Boggs, with almost every breath during the years she served here, wanted to reflect the best of the House of Representatives, for she cared about this institution. It was her energy that was applied to try to make sure that it did the utmost on behalf of this institution as it continues to serve our people and our freedom well.

Lindy, I look forward to seeing you on Wednesday when people will, in a formal way, address many of your accomplishments. Today it is a privilege of mine to just say a few words about a great friend from the House of Representatives.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman for his remarks, and I appreciate that the gentleman never forgets that he spends more time in Washington than he does in his home district because the House meets here and not in California. I know that Lindy Boggs would especially appreciate the words of the gentleman who served with Lindy Boggs and who serves in such a bipartisan fashion to this day with us all.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. I thank the gentleman from Georgia for yielding me this time.

Mr. Speaker, on this 25th anniversary of the founding of the Congressional Women's Caucus, I rise along with my colleagues to congratulate its founder, the first woman elected to the U.S. House of Representatives to have served in such a high distinction, Corinne "Lindy" Claiborne Boggs. The first woman to chair a national political convention and the first to be elected as ambassador to the Vatican, Lindy Boggs broke the glass ceiling and helped pave the way for the many numbers of women who today humbly serve in our United States Congress.

During the 101st Congress, I had the great privilege of serving alongside Lindy Boggs as she assumed the responsibility of compiling photographs and brief biographies of the 129 women who had served in the House and Senate as of that time. To date, the published volume, which is entitled "Women in Congress, 1917 to 1990," proudly marks Congress' anniversary as it highlights the progress and the contributions made by women to the history of our Nation. That book, "Women in Congress," remains a historical resource which has inspired many readers across America to seek careers in public service.

Through the bipartisan caucus that Lindy Boggs helped found, she remained committed to empowering women and improving the lives of our families. With her leadership, she helped shepherd vital pieces of legislation and helped to create the Select Committee on Children, Youth and Families, proving her dedication to the once underprivileged of our society. Today, the Women's Caucus continues to make history, helping to enact legislation imperative to the lives of women such as the Breast and Cervical Cancer Treatment Act and the Violence Against Women Act.

Mr. Speaker, that is why I rise today to thank Corinne "Lindy" Claiborne Boggs, for which the Ladies' Reading Room is named and which is expertly directed by my good friend Susan Dean, for her vision, for Lindy's diligence and for making the women of this legislative body very proud.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

The gentlewoman from Florida emphasized that the Women's Caucus is a bipartisan caucus. I would like, myself, to reiterate that emphasis. It is, I think, not unusual that the name of Lindy Boggs would be associated with a bipartisan caucus in this House. The Women's Caucus for all of its accomplishments pursues those accomplishments in a bipartisan fashion. That is not always easy, but the fact is that we have found in the caucus that the great majority of the issues that come naturally to us are issues that are of their very nature bipartisan. It was my great privilege to chair the Congressional Caucus on Women's Issues during one Congress. I must say that I think that Lindy Boggs would be especially proud that the caucus that she helped found has maintained its strong bipartisan focus and because of that focus has become one of the strongest caucuses in the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding this time to me, and I certainly thank him and the gentleman from Louisiana (Mr. TAUZIN), the authors of this resolution, for bringing it before the House. I certainly rise in support of H. Con. Res. 439, to honor Lindy Boggs on this 25th anniversary of the Congressional Caucus on Women's Issues. As has been mentioned over and over again, and very appropriately so, this is and always has been a bipartisan group of people who have come together to do what they can for what is in the best interests of women, children, and all of our society.

On April 15, 1977, 15 Congresswomen held the first meeting of the Congresswomen's Caucus. These women met to discuss Social Security and pension reform, child care and job training. They also prioritized securing government contracts for women-owned businesses. It has gone on and on. It has increased its numbers. We named the Congresswomen's Reading Room for Lindy Boggs. How appropriate, because of her strength, her courage, her caring and her fairness.

In 1993, 24 newly elected Congresswomen dubbed the year the Year of the Woman; and the following year, in the 104th Congress, I was privileged to cochair the Women's Caucus that Lindy was one of the founders of. She was the first woman elected to the U.S. House of Representatives from Louisiana, and in 1976 she was the first woman to chair a national political convention.

You may all know the history, that she was only 24 years of age when she came to Washington from Louisiana with her newly elected husband, Congressman Hale Boggs. She emerged as an influential force in American politics, running her husband's congressional campaigns and managing his Capitol Hill office. Simultaneously she raised three children who would come into prominence in their own right. In the words of her youngest child, NPR and ABC-TV's Cokie Roberts, "Politics is our family business." And it is so true. The members of the family, one who is now deceased who was very prominent in politics, Tommy Boggs, and Cokie Roberts all care about family. They care about family, they care about education, and they care about very strong values. Lindy Boggs can be very proud of what she has done to create that environment.

□ 1745

Backtracking, in 1972, Congressman Boggs disappeared in a small plane over Alaska, and Lindy ran for his seat and won. She served in Congress for nine terms, from 1976 to 1990. I was fortunate to serve with her from the time I was elected in 1987 until she left and retired in 1990.

She served on the Committee on Appropriations, she was instrumental in creating the Select Committee on Children, Youth and Families, and chaired the Crisis Intervention Task Force. She spearheaded all kinds of legislation to help the American public on issues ranging from civil rights to credit access and government service and pay equity for women.

I always found her to be a mentor, one that I could go to, and I think others felt the same way, too, when I wanted to seek some advice. She was always understanding, and always had some very gentle but strong advice to offer.

Lindy Boggs has since served as a board member or director of the National Archives, the Botanical Gardens and the U.S. Capitol Commission, and in 1994, she published her autobiography, Washington through a Purple Veil, Memoirs of a Southern Woman.

I also visited with her on two occasions when she became Ambassador to the Holy See. She was the typical Lindy Boggs; receptive, open, very caring about her responsibility, professional, with those who were there to visit.

So I support this resolution honoring Lindy Boggs and the Congressional Caucus on Women's Issues on its 25th anniversary. Bipartisanship has always been a key to the Caucus' success. We find the issues we can share our support for and we bring our efforts together to improve the lives of women and families.

Again, Mr. Speaker, I congratulate Lindy Boggs for the great service she has rendered. May the Congressional Caucus for Women's Issues thrive and continue.

Ms. NORTON. Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), I suspect a longtime friend of the Boggs family.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased today that we are taking a moment to honor Lindy Boggs and the work she did in this Chamber and throughout her lifetime for our Nation, for our State, and for so many in this House who were privileged to know her and work with her. It is indeed amazing that it is already 25 years since she participated so mightily in the establishment of the Congressional Caucus on Women's Issues, and we celebrate that anniversary today in the same moment we honor her for her work and enduring character and enduring spirit.

I wanted to speak for a second as dean of the Louisiana delegation about Lindy Boggs, the person. The women of this Chamber have a lot of debt to Lindy Boggs. She broke so many glass ceilings in her life and she opened so many doors that had remained closed before. She was such an instrument of advancing the cause of women in this Nation in her incredibly quiet, genteel and classy way. But the men of this Chamber owe a great deal to Lindy Boggs, too, particularly the members of the Louisiana delegation.

I came to know Lindy as the spouse of Congressman Hale Boggs, who was such a powerful figure in this Chamber and lost his life campaigning for a colleague in Alaska. We never found Hale Boggs. We just know that we lost him, and Lindy Boggs had to pick up the pieces of her life and her career in the face of that awful tragedy. But she not only picked up the pieces of his career, but established her own and became a legend in Louisiana for amazing service to our State as a Congresswoman.

On a personal level, Lindy Boggs was something very special for all the members of our delegation. I believe all of you who serve in this body know of which I speak when I say that there are times when the stresses of the job we have undertaken, that we have undertaken in many cases in spite of the demands of family and friends and work and all the other things that intrude upon our work here in Congress, those pressures and those incredible hours and those incredible problems of travel back and forth to the district that we all undertake in service to our country sometimes erode your sense of who you are and what you are and sometimes become very almost unbearable in the light of all the claims upon your life as a Member of Congress. Your children need you, your friends need you, the folks at home need you, and your colleagues and their work here need you. Eventually at some point in your career, you need some very special person to set it all right and sit down with you and give you focus again.

Lindy Boggs always did that for our delegation. I can remember so many times when a member of our delegation was in that moment of stress when it all seemed too much, and it all seemed too difficult, and it all seemed almost unbearable, and Lindy Boggs was there to put it all in perspective and remind them why they knocked on doors and why they worked so hard to get here and what service to this country was all about and what it was to sacrifice sometimes in order to do this job good and to do it well, and to be respectful of all the obligations imposed upon a Member of this body.

Lindy Boggs was such a class act as a Congresswoman. She remains such a class act as a person. She remains someone all of us in our delegation continually look up to with admiration and respect and honor and great affection.

She went on, as you know, to serve as Ambassador to the Vatican and to serve our country in that incredibly important function, representing our Nation to a foreign nation. She did so with, again, that special style that was only Lindy's, that special ability to charm anyone, anywhere in this world, and to make them want to pay attention to her and to listen to her and to take her into account.

She had so many gifts, and this beautiful family she raised with so much talent is just one of the many gifts that she has given this body and this world and this country.

For all of you who look back over those 25 years and think how far this body has come, how much we have changed in those 25 years, let me perhaps close with one most important thought for the women of this body: Lindy Boggs opened not only doors for you, but she opened a lot of eyes to men in this body about women's issues. She taught us so much. She made us all much more sensitive to the concerns of women, not only in this body, but in this country. And to all of you who remember her, as I do, with such love and affection on this 25th anniversary of this institution of the Congressional Caucus on Women's Issues that she was so mightily responsible for, we say thank you again, Lindy. Thank you for being a part of this body, thank you for giving so much of your life to this country in so many different ways. Thank you for being that personal nurturing spirit that you were for our delegation in so many tough moments, and thank you for all you did for women's issues in this country.

Lindy Boggs, we love you, and this body stands in awe of you, and we honor you today because you deserve no less than the highest honor this body could ever afford anyone in this country, who has done so much and given so much and has been such a great lady as yourself.

The SPEAKER pro tempore (Mr. TERRY). The time of the gentleman from Georgia (Mr. LINDER) has expired. The gentlewoman from the District of Columbia has 5 minutes remaining.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Lindy Boggs makes us use the words eloquence, intelligence and excellence in the same sentence. I think that is why 11 years after she left this House she continues to draw people to this floor when we speak her name. That, in and of itself, speaks volumes of the lasting contributions and the significance of the contributions Lindy Boggs has made.

If I may be so presumptuous as to speak on behalf of the women who serve in the Congress, we are especially grateful to today honor a woman whom we regard as one of the seers, one of the great mentors of the House.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, in closing, let me just say that I have met Lindy Boggs personally on one occasion in the Ambassador's residence in Rome when she was an Ambassador to the Holy See. Knowing of her remarkable history, her remarkable contributions to this country, I only left that meeting saying, gee, what a nice lady. I hope someone says that about me sometime, what a nice person. All of us have made contributions one way or another, but she was a lovely lady.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to honor Corinne Lindy Claiborne Boggs, a pioneer for all women in the U.S. Congress. As the first woman from Louisiana to be elected to the U.S. House of Representatives and as a founder of the Congressional Women's Caucus, Lindy Boggs helped pave the path for all women Members of Congress who have followed in her footsteps.

When Lindy Boggs was elected to Congress in 1973, there were only 15 other women in the House of Representatives. Today there are 62 women in the House, and for the first time ever, a woman holds the second highest position in the Democratic party. Lindy Boggs is a model and inspiration for all of us who dedicate our lives to public service. She was the first woman to chair a national political convention in 1976 and served as the Ambassador to the Vatican under President Clinton from 1997 to 2000.

I am proud to walk the same halls and work in the same Chamber where Lindy Boggs broke down so many barriers and led the way for so many to follow. I commend her for her leadership, spirit, and vision, and urge my colleagues to support H. Con. Res. 439 Honoring Corrine "Lindy" Claiborne Boggs on the Occasion of the 25th Anniversary of the Founding of the Congressional Women's Caucus.

Mr. HOYER. Mr. Speaker, I rise today in strong support of H. Con. Res. 439, which pays tribute to my friend, Corinne "Lindy" Claiborne Boggs, on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

Lindy Boggs is an outstanding individual whose service in the U.S. House of Representatives has made a lasting and positive contribution to this great institution. Her dedication to public service, especially in improving the lives of women, children and the underprivileged, has touched the lives of many—and is a testimony to her impeccable character.

I had the distinct honor of serving on the Appropriations Committee with Lindy after I was elected to Congress—and I can truly say she is one of the most proactive and effective Members I have had the privilege of serving with in Congress.

Lindy's remarkable career is one of many firsts. In 1973, she became the first women elected to the United States House of Representatives from Louisiana. And by the end of her tenure in 1991, she became the longest serving Congresswoman from the South.

Lindy was the first woman to chair a national political convention, leading the Democratic convention of 1976 that nominated President Jimmy Carter.

Her dedication to the advancement of women led her to help found the Congressional Women's Caucus in 1977, which is still active today as an instrumental bipartisan force in Congress that promotes key legislation to advance the rights of women.

She was a leader in creating the Select Committee on Children, Youth and Families, and chaired the Crisis Intervention Task Force.

Since retiring from Congress, Lindy served as United States Ambassador to the Holy See from 1997–2001. Her life long dedication to public service exemplifies the devotion, integrity and leadership that have characterized her personal, family and political lives through the years.

I am proud to stand with my colleagues in support of H. Con. Res. 439, in tribute to Lindy Boggs. Her valuable contributions in Congress and her fierce advocacy of women's rights are an inspiration to all of us.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to join in celebrating the contributions of Corrine "Lindy" Claiborne Boggs on the Occasion of the 25th Anniversary of the Founding of the Congressional Women's Caucus.

I was one of only 16 women Members of the House of Representatives in March 1973, when Lindy began her tenure after winning a special election to fill the seat of her beloved husband, Congressman Hale Boggs. Fourteen of the women Members were Democrats and two were Republicans.

Lindy knew how to be an effective legislator from the start. She already knew a great many of the Members and was knowledgeable about House procedure and protocol. In 1976, she became the first woman to chair a national political convention, presiding over the nomination of President Jimmy Carter.

In 1977, Lindy and 14 other women representatives held the first meeting of the Congresswomen's Caucus in the Congresswomen's Reading Room. From the beginning, the focus of the caucus was on issues with special relevance to women, since our representation among the general Membership of the Congress was so small. The Caucus was a bipartisan organization from its inception, showing that Democratic and Republican Congresswomen could work together on issues to improve the lives of women and their families.

In 1981, the name of the Caucus was changed to the Congressional Caucus on Women's Issues and membership was opened to male members of Congress. In 1990, we voted to name the Congresswoman's reading room the Corrine "Lindy" Boggs Congressional Reading Room in recognition of Lindy's years of service as Caucus Secretary, her example of bipartisanship, and her efforts to "fix up" our little space.

Lindy served nine terms in Congress, including service on the Appropriations Committee. She was instrumental in creating the Select Committee on Children, Youth and Families and chaired the Crisis Intervention Task Force. Lindy decided not to run for Congress in 1990.

Lindy was appointed U.S. Ambassador to the Holy See (Vatican) by President Clinton and served in that capacity from 1997 to 2001.

I join my colleagues in thanking Lindy for her years of outstanding public service to the people of Louisiana and to our nation. Her role as a founding member of the Congressional Women's Caucus has helped to make the concerns and voices of women heard throughout our government.

Mr. HOLT. Mr. Speaker, I am very pleased to join with my colleagues in support of this legislation to honor Corrine "Lindy" Boggs for her years of service to the House and to the nation.

We in central New Jersey have a close relationship with the Boggs family that many of my colleagues may not know about and we have a special affection for Lindy Boggs who has spent so much time in our area.

In 1983, Princeton elected as mayor Barbara Boggs Sigmund, Rep. Bogg's daughter. Barbara Boggs Sigmund was a Southern belle whose charm and grace and style and courage made her one of the most beloved politicians of modern New Jersey history. Lindy Boggs often has listed "mother" as one of her accomplishments—with offspring like Barbara, Cokie and Tom it's no wonder.

Barbara Boggs Sigmund played in the halls of Congress as a child, worked as a letter writer for President John F. Kennedy and danced with President Lyndon Johnson at her wedding. She is remembered for working up to the final day of an 8-year battle with the cancer that took her life at age 51 in 1990.

In 1972 Sigmund launched her political career with a winning campaign for a seat on the Princeton Borough council. In three years she was a Mercer County freeholder as we call county councilors in New Jersey. As a council member she convinced New Jersey government to "Save the Dinky," the single-car train that links the Borough to the Princeton Junction station a mile outside town. She has also established Womanspace, a shelter for battered women. Later as Mayor, she joined with Mercer County Executive Bill Mathesius, a Republican, to promote "smart growth" in New Jersey. Barbara was reelected, and entered the Democratic gubernatorial primary in 1989.

"Barbara had a blend of personal charm and chutzpah that nobody could stop," a former colleague said after Sigmund's death. She was a omen in the mold of her colleague Lindy.

Barbara Boggs Sigmund, like her distinguished parents, made public service their calling. We in central New Jersey are better for the commitment of Lindy Boggs and her entire family. I join with my colleagues in honoring these distinguished Americans.

Ms. SHEILA JACKSON-LEE of Texas. Mr. Speaker, today we are here to support the passage of H. Con. Res. 439, which seeks to honor Congresswoman Corinne "Lindy" Boggs of Louisiana, the first woman to be elected to the House from that State.

Corinne "Lindy" Boggs was elected to represent Louisiana in a special election held after the devastating disappearance of her husband's plane in 1972.

Before her stint in the House, Boggs diligently served as the president of the Women's National Democratic Club, the Democratic Wives' Forum, and the Congressional Club. She chaired the inaugural committees for President Kennedy in 1961 and President Johnson in 1965. She also served as the first female Regent of the Smithsonian.

After filling the seat of her late husband, Corinne "Lindy" Boggs helped to found the Congressional Women's Caucus and served as longtime Caucus secretary.

On this historic 25th anniversary of the founding of the Congressional Women's Caucus, we look to honor one of the original members, Corinne "Lindy" Claiborne Boggs.

The Women's Caucus is a bipartisan group committed to improving the lives of women and families, putting their partisan differences aside. The Women's Caucus supports initiatives that impact women and families. Originally established on April 19, 1977, the Women's Caucus has successfully fought for fair credit practices, tougher child support enforcement, retirement income security, and equitable pay.

The Caucus has a long list of accomplishments in the 107th Congress including, but not limited to, the Pregnancy Discrimination Act, the Civil Rights Restoration Act, the Women's Business Ownership Act, and the Family and Medical Leave Act.

Caucus members have championed women's issues around the world reaching from Egypt to China. At the U.N. world conferences on women and children, the Caucus brought to the U.N.'s attention the plight of refugees.

Few of these accomplishments would have been possible without the insightful and trailblazing leaders of women such as Corinne "Lindy" Claiborne Boggs. She served nine terms in the House before retiring in 1990. In 1997, Boggs was nominated by President Clinton to be the U.S. ambassador to the Vatican City.

Boggs has served this House and country well, now we have the opportunity to show our gratitude.

Ms. KAPTUR. Mr. Speaker, I rise this evening to honor Ambassador and Congresswoman Corinne "Lindy" Claiborne Boggs, a great and timeless leader and lady of this House.

I had the privilege of serving with Lindy Boggs from the time I arrived in Congress in 1983 until her congressional retirement in 1991. As a member of the Banking Committee and the Appropriations Committee, she championed many causes including equal credit for women, civil rights, and community development.

Lindy was instrumental in founding the Women's Caucus in 1977 when there were only 15 women in the House. She served as Caucus Secretary. Throughout her congressional career, she was dedicated to improving the lives of women and families.

So, as we celebrate the 25th anniversary of the founding of the Women's Caucus, it is only fitting that we honor Lindy's lifelong achievements. Her portrait hangs in the Women's Reading room now renamed The Corinne Lindy Claiborne Bogg Room for years hence.

Lindy has the distinction of being the first woman elected to the House of Representatives from the state of Louisiana and the first woman to chair a national political convention, leading the Democratic National Convention that nominated former President Jimmy Carter in 1976.

She was also America's distinguished Ambassador to the Holy See during the Clinton Administration, the first woman ever appointed to this post.

On April 19, 1977, fifteen Congresswomen held the first meeting of the Women's Caucus. At the time there were a total of 18 female members of the House of Representatives and 2 female Members of the Senate. Twenty five years later, we have 62 female members of the House of Representatives and 13 female members of the Senate. Our progress is slow but steady, a testament to a nation that has expanded liberty for all people since our founding.

With growing strength in numbers, Lindy's bipartisan spirit lives on today. The Congressional Women's Caucus continues to carry the torch for equitable pay, women's health, and child welfare under the leadership of Congresswoman Juanita Millender-McDonald of California and Congresswoman Judy Biggert of Illinois.

Lindy's spirit of bipartisanship has served as the key to the Caucus's strength and success, and I am honored to be a co-sponsor of this resolution. As a member of this people's House and the Women's Caucus for the past 20 years, I extend my sincere admiration and deepest appreciation to Corinne "Lindy" Claiborne Boggs for there extraordinary service to the people of the United States and the world and her unwavering dedication to the establishment of the Congressional Women's Caucus. Onward and godspeed to Lindy and her beautiful family.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. LINDER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 439.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LINDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. LINDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 439.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

## RECOGNIZING CONTRIBUTIONS OF PAUL ECKE, JR., TO POINSETTIA INDUSTRY

Mr. PUTNAM. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 471) to recognize the significant contributions of Paul Ecke, Jr., to the poinsettia industry, and for other purposes.

The Clerk read as follows:

### H. RES. 471

*Resolved*, That the House of Representatives—

(1) recognizes Paul Ecke, Jr.'s legendary energy, generosity, integrity, optimism, determination, and love of people which have enabled him to develop the poinsettia industry as well as to touch and improve the lives

of children and adults all over the world through his extraordinary contributions; and

(2) extends its condolences to the Ecke Family and to the floral industry on the death of Paul Ecke, Jr., who was a philanthropist, and advocate for education, and a warm, loving, and brilliant human being.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. PUTNAM) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. PUTNAM).

GENERAL LEAVE

Mr. PUTNAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 471.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider H. Res. 471, important legislation introduced by our distinguished and decorated colleague, the gentleman from California (Mr. CUNNINGHAM).

This resolution recognizes the significant contributions of Paul Ecke, Jr., to the horticultural industry and in particular the poinsettia industry.

The poinsettia is named after Joel Roberts Poinsett, the United States Ambassador to Mexico from 1825 to 1829. Ambassador Poinsett, who collected the flower while serving as Ambassador and sent them to his greenhouse in South Carolina, brought the first poinsettia to the United States.

Since then, the poinsettia has grown to become synonymous with the Christmas holiday season. For more than 150 years, December 12 has been traditionally recognized as National Poinsettia Day. That date marks the death of Ambassador Poinsett.

Mr. Speaker, I ask that all Members support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Paul Ecke, Jr., revolutionized the way poinsettias are bred, produced and sold in the United States, making it the best selling potted flowering plant in the United States and the world.

The poinsettia, which is native to Central America, flourished in Southern Mexico, where the Aztec Indians used it decoratively, for medicine, and for dye for textiles. The poinsettia was first brought to the U.S. by Joel Roberts Poinsett, the U.S. Ambassador to Mexico from 1825 to 1829.

Ecke Ranch, established by Paul Ecke, Sr., and subsequently owned and developed by Paul Ecke, Jr., created a worldwide poinsettia market. In 2001, poinsettias contributed $250 million in sales at the wholesale level to the United States economy, and many times that amount to the economies of countries around the world.

☐ 1800

This resolution recognizes Paul Ecke, Jr.'s integrity and determination and love of people which have enabled him to develop the poinsettia industry and extends condolences to his family on his death.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CUNNINGHAM), the distinguished and decorated top gun in the House; it is a pleasure to be his wing man.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, Paul Ecke, Jr., was not a Congressman, he was not a Senator, but most of the Members in this House, and the other body as well, have benefited not only from Paul Ecke, Jr., but his entire family.

I rise in tribute to Paul Ecke, Jr., who passed away at the age of 76. I do so for my San Diego colleagues who are on a plane unable to make it here tonight, and also former member Ron Packard.

I rise today to pay tribute to the life and accomplishments of my friend, Paul Ecke, Jr., and also my constituent. Paul was a devoted husband and father, a leader in the San Diego community, and a force in the poinsettia industry. While his leadership and the business made him an international figure, it was his warm heart and caring personality that made him a community leader and friend. The entire Ecke family has dedicated themselves to children, education, and the betterment of San Diegoans.

Since I came to Congress, Paul and I have worked together on issues important to our community of San Diego and to the flower industry worldwide. Paul's boundless leadership and generosity was evident in his support of local charities. The Magdalena Ecke YMCA, which was named after his mother; the San Diego Museum of Natural History, which he dedicated personal time in the overseeing of; the California State University at San Marcos, and the Del Mar Fair Grounds. In addition, Paul's industry has given America the world's poinsettia for holidays. Eighty percent of the world's poinsettias are licensed to the Ecke ranch, not a small accomplishment.

I will never forget the first time I met Paul. He came to meet me in my home when I was a candidate for United States Congress. He walked in my living room, he picked up a basket of silk flowers from my coffee table and immediately threw them in the garbage. He told me that he would replace it with something better, and later that day, he sent me an arrangement of real flowers. Paul was a man who noticed every detail and never hesitated to tell you what he was thinking, and who always followed through with his promises.

Paul's life exemplified commitment and service to his community, and he leaves behind a legacy for his family, his friends, and fellow Americans to follow.

Together with poinsettias, Paul Ecke leaves a legacy of philanthropy. His generosity extended not only just to the YMCA, but his father had the Paul Ecke Elementary School named after him, so we can see the entire family has been involved in education.

Paul Ecke, Sr., who died in 1991, developed the first poinsettia cultivar from a wildflower native to Mexico so that it could be successfully grown in an indoor potted plant. Over the years, the family marketed the plant so it could become synonymous with the Christmas holidays. Today, the family employs 300 people in Encinitas and 1,000 in Mexico.

As a member of the YMCA Board of Directors for many years, Ecke, Jr.'s signature fund raiser was a holiday poinsettia ball and annual benefit that would raise $75,000 minimum a year for scholarships for children of low-income families to use at the YMCA. From 1992 to 2000, Ecke, Jr. was a member of the Del Mar Board. During his tenure, the fair flower show expanded to a nationally recognized event. Paul Ecke, Jr.'s son, Paul Ecke, III, now runs the business and told me the motto of the Ecke family house was "We never give up." Paul Ecke, III said that he showed us by example that you do not lie, you do not cheat, and you do not steal, and that you are fair.

Paul Ecke, Jr., joined the Navy and served in the Pacific aboard USS *Knapp*. He was called back to duty in 1951 to serve as an ensign aboard the USS *Perkins* in the China Sea during the Korean War. Even then, his green thumb was irrepressible. Paul Ecke, Jr. told me a story about his father, that the guns had shook the ship so much that the Captain's flowerpots had jiggled all the dirt out. Paul Ecke, Jr. got the captain to go to the North Korean shore and gather more earth so that the flowers could grow on the USS *Perkins*. He was a horticulturist.

Paul Ecke, Jr. earned a degree in horticulture from Ohio State University in 1949. From there, Ecke, Jr. pioneered the use of greenhouses to grow his flowers. He was responsible for the construction of the Floral Trade Center in Carlsbad. If any of the Members have ever attended the flower gathering once a year held over in the Cannon Building, it was Paul Ecke, Jr.

who organized the entire event and gave flowers out to every Member of Congress and lady that wanted them, and most of the men as well, for their ladies.

Yes, Paul was a giant man. He was not a Congressman. He was not a Senator. We will miss him.

Mr. Ecke is survived by his wife, Maureen; daughter, Sara Ecke May of Greensboro, North Carolina; daughter Lizbeth Ecke; son of Paul Ecke, III, and 7 grandchildren. May God bless Paul Ecke, Jr.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

In addition to the other fine things that have been said about Paul Ecke, Jr., he also led the horticulture industry's successful effort to include for the first time significant research funding for floral and nursery crops in the research budget of the United States Department of Agriculture. We extend our condolences to the Ecke family and to the floral industry on the death of Paul Ecke, Jr., who was a philanthropist, an advocate for education, and a warm and loving human being.

Mr. STENHOLM. Mr. Speaker, I rise to join my colleagues in their tribute to Paul Ecke, Jr. and the Ecke family for their contributions to the floral and horticulture industries in this country and particularly for their devotion to the cultivation and improvement of the poinsettia plant.

This is a case where the impact one family has had on an industry cannot go unmentioned, and the unfortunate passing of Paul Ecke, Jr., gives us the opportunity to pay tribute to him and to his father.

Their ingenuity and hard work have made poinsettias a holiday tradition and the largest selling potted plant in this country. It is also an amazing feat when one thinks that over 80 percent of all poinsettia plants grown in the world can trace their origin to the Ecke Ranch.

Paul Ecke, Jr., was a tireless worker on behalf of the entire floriculture industry and his efforts will truly be missed. I send my condolences to his family and to his industry.

Mr. PUTNAM. Mr. Speaker, I urge all Members to support this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Florida (Mr. PUTNAM) that the House suspend the rules and agree to the resolution, H. Res. 471.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## EXPRESSING GRATITUDE FOR THE 10-MONTH-LONG WORLD TRADE CENTER CLEANUP AND RECOVERY EFFORTS AT THE FRESH KILLS LANDFILL ON STATEN ISLAND, NEW YORK, FOLLOWING THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001

Mr. PUTNAM. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 492) expressing gratitude for the 10-month-long World Trade Center cleanup and recovery efforts at the Fresh Kills Landfill on Staten Island, New York, following the terrorist attacks of September 11, 2001.

The Clerk read as follows:

### H. RES. 492

*Resolved*, That the House of Representatives thanks and pays tribute to all those whose 10 months of efforts at Fresh Kills Landfill on Staten Island, New York, to clean up the debris from the site of the World Trade Center, and to recover the remains and effects of the victims, following the terrorist attacks of September 11, 2001, helped to bring healing and closure to the victims' families and loved ones, to New York, and to the Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. PUTNAM) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. PUTNAM).

### GENERAL LEAVE

Mr. PUTNAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 492.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 492 is being introduced by our distinguished colleague from the State of New York (Mr. FOSSELLA). This resolution honors the more than 1,000 workers who worked day and night for 10 months at the Fresh Kills Landfill on Staten Island, sifting through over 1.5 million tons of debris from the World Trade Center site, searching for human remains and personal items.

Mr. Speaker, following the unthinkable horror of last September 11, a reality emerged that rivaled the gravity of the tragedy itself, that the debris from the site would have to be hauled away and painstakingly sifted for the remains of those killed in the tragedy. Tons of concrete, steel, and other material had to be carried away by the truckload, and dedicated men and women from New York City, State, and Federal agencies contracted to completing this seemingly endless and compassionate work.

Mr. Speaker, I thank the gentleman from New York for introducing this measure that honors those wonderful Americans that performed this backbreaking labor for months on end. For this reason, I urge all Members to support the adoption of House Resolution 492.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the debris from the cleanup of the terrorist attacks on the World Trade Center towers were taken to the Fresh Kills Landfill on Staten Island, New York for cleanup and investigation. Over a 10-month period following September 11, 2001, more than 1,000 workers at the landfill, around the clock, tirelessly and carefully sifted through all 1.62 million tons of debris from the World Trade Center site, searching for remains, personal effects, and evidence from what is now considered to be history's largest crime scene.

These workers came from 28 New York City, State, and Federal agencies to participate in these cleanup and recovery efforts. They recovered approximately 20 percent of all of the victim remains following the towers' collapse, as well as more than 54,000 personal items. The remains of 188 of the 1,215 World Trade Center victims whose remains have been identified and returned to their families were recovered at the landfill. The actions of these workers brought peace to the hundreds of friends and families that were touched by this horrific attack against the United States.

This resolution pays tribute to the workers who helped clean up the debris of the World Trade Center site and recovered the remains and effects of the victims. I urge my colleagues' support for this resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield such time as he may consume to the gentleman from Staten Island, New York (Mr. FOSSELLA), the sponsor of this measure.

Mr. FOSSELLA. Mr. Speaker, I thank the gentleman from Florida for yielding me this time, and I thank the gentleman from Missouri for his words.

This was said last week at the closing ceremony of the Fresh Kills Landfill: "As grass grows green again on Fresh Kills, teach us that life, not death, has triumphed." That was the Reverend Jack Ryan who spent, it seemed like almost every day for the last 10 months, up at the landfill that has been mentioned by my colleagues, where more than 1,000 workers and volunteers really did the Lord's work, trying to help some families come to closure. As was mentioned, 54,000 personal items, such things as wedding rings or wallets, identifications, pictures, and the like were recovered and given to many of the families. The gentleman from Missouri (Mr. CLAY) mentioned that 188 of the victims were identified from the work at Fresh Kills.

Over the past 10 months, I visited the landfill many times and witnessed for myself the work which has taken a physical and an emotional toll on the men and women there. But they never stopped pushing themselves. They never stopped, because they knew what they were doing was making a positive difference in the lives of people who suffered greatly. They brought peace of mind and a sense of healing to many, and a grateful Nation offers its thanks to these tireless and dedicated workers.

Many of the workers sustained personal losses themselves on September 11 and were perhaps searching and working to find any remnant that would help bring their own loved one to rest. They were working in honor of their own family, friend, or coworkers; others simply worked for our country and to provide some element of closure to fellow Americans.

The sacrifice of all of these workers and their willingness to give of themselves to help others has shown that the best attributes of mankind may emerge, even as a result of the worst mankind can do. Through their efforts, people such as Police Investigator James Luongo, the coordinator of the recovery effort at Fresh Kills, FBI Special Agent Richard Marx, Firefighter John Tedesco, Port Authority Police Lieutenant Brian Tierney, Dominick Bilotto of the New York City Sanitation Department, and hundreds like them gave families such as Bill and Camille Doyle some comfort by returning their 25 year-old son, Joseph's, driver's license and credit cards which were retrieved at Fresh Kills.

For now, it is all the Doyles have of their son, a driver's license and credit cards. But even for that, they are extremely thankful to those who worked at the landfill.

I think a clear demonstration of how much their work at Fresh Kills means to the people of Staten Island, New York City, the State, and the Nation is illustrated by the actions of a Staten Islander, Daya Madison of St. George who, on the day of the closing ceremony, stood at the foot of the road leading out of the landfill, holding up the same signs she has held up at the site for almost 10 months straight, wishing the workers well and thanking them.

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As a Nation, we must remember that while over 1,200 families, 1,200, have had the remains of their loved ones returned to them. There are over 1,600, 1,600 families who lost a loved one on that unimaginable day of September 11 at the Trade Center who have not recovered anything. These families do not have a grave site to visit, ashes to scatter or something of their loved one to lay to rest. Almost a year later these families are still hoping and praying every day that their loved one will be identified and returned to them.

We must also remember to keep these families in our hearts and prayers. For over 50 years the Fresh Kills Landfill in Staten Island served as a dumping ground for New York City, now and forever more will serve as a hallowed ground; and we will always remember how the good in people was exhibited there.

It is often said that closure does not have an end and we do not necessarily move on, but move forward. These workers at Fresh Kills Field should forever remain proud in knowing that they helped many more than they will ever know to move forward. Again, as Father Ryan said, "As grass grows green again on Field Kills, teach us that life not death has triumphed."

Mr. PUTNAM. Mr. Speaker, I thank the gentleman from New York (Mr. FOSSELLA) for bringing this measure to the House's attention. I urge adoption of this measure.

Mr. ISRAEL. Mr. Speaker, I rise to join my friend from Staten Island in recognizing the heroes who worked outside the view of cameras over the last year.

The people who worked at Fresh Kills had a terrible task. More than 1,000 workers toiled at the landfill, 24 hours a day, 7 days a week. They sifted through all 1.62 million tons of debris from the World Trade Center site. They sifted through a national tragedy, looking for the remains of national heroes.

They searched for body parts, personal items, and evidence from what is history's largest crime scene. These workers recovered approximately 20 percent of all the victim remains. 188 of the 1,215 World Trade Center victims whose remains have been identified and returned to their families were recovered at the landfill.

More than 54,000 personal items were recovered: wedding rings, photographs, driver licenses, keys; reminders of lives lived and tragically cut short.

These workers helped the victims' families by giving the families something to hold. These items could never replace the lost ones, but could help give some closure and peace. On July 15, 2002, the cleanup and recovery operations at Fresh Kills Landfill came to a somber conclusion.

We will however, be eternally grateful to the workers at Fresh Kills. We know it wasn't an easy job. But these workers lived up to the best ideals of service by helping so many families.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Florida (Mr. PUTNAM) that the House suspend the rules and agree to the resolution, H. Res. 492.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. PUTNAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## WILLIAM C. CRAMER POST OFFICE BUILDING

Mr. PUTNAM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5145) to designate the facility of the United States Postal Service located at 3135 First Avenue North in St. Petersburg, Florida, as the "William C. Cramer Post Office Building".

The Clerk read as follows:

H. R. 5145

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WILLIAM C. CRAMER POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 3135 First Avenue North in St. Petersburg, Florida, shall be known and designated as the "William C. Cramer Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the William C. Cramer Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. PUTNAM) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. PUTNAM).

### GENERAL LEAVE

Mr. PUTNAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5145, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5145, introduced by our colleague from the State of Florida (Mr. YOUNG), the distinguished chairman of the Committee on Appropriations, designates a post office at 3135 First Avenue North in St. Petersburg as the William C. Cramer Post Office Building. Members of the entire House delegation from the great State of Florida are co-sponsors of this legislation.

In 1951, Republicans in the Florida legislature were still a rarity; but as Pinellas County sent up an entirely GOP delegation to the 1951 session, there were enough to justify electing a minority leader for the first time. They elected freshman William C. Cramer as the minority leader who, along with two other members of this Pinellas County delegation, made up the entire Republican conference.

It is worth noting under his leadership they soon doubled their numbers to six in the 1954 election.

Mr. Speaker, this post office will recognize former Congressman Bill Cramer for his 16 years of service to the people of Florida. Bill Cramer represented Floridians in the Republican Party of Congress as the ranking member on the House Committee on Public Works, the Subcommittee on Roads and the Committee on Federal Aid Highway Investigation. Prior to his elective service, he also served in the Navy reserves in Europe during World War II.

Mr. Speaker, Bill Cramer is a friend and mentor who served our Nation with great honor and distinction in this House. The enactment of this legislation will leave in St. Petersburg, the hometown he so dearly loved and served, a lasting tribute to his service, his patriotism, and his devotion to our Nation. I thank the distinguished chairman from Florida (Mr. YOUNG), who is unfortunately unable to be with us today, for introducing this measure. I urge all Members to support the adoption of H.R. 5145.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join my colleague in the consideration of H.R. 5145, a bill to designate a facility of the U.S. Postal Service after William C. Cramer.

H.R. 5145 was introduced by the gentleman from Florida (Mr. YOUNG) on July 16, 2002, and enjoys the support and co-sponsorship of the entire Florida congressional delegation. William Cramer was born in Denver, Colorado, and at the age of 3 moved with his parents to St. Petersburg, Florida, where he attended public schools. After serving as a lieutenant in the Naval Reserve and the State House of Representatives, William Cramer was elected to the U.S. House of Representatives in 1955, and served until January 1971. He is currently retired and a resident of St. Petersburg, Florida.

Mr. Speaker, I urge the swift passage of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from the greater Orlando, Florida area (Mr. MICA).

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to come before you in support of this legislation that will name a Federal facility in honor of William C. Cramer, a former Member of this distinguished body.

I have had the opportunity over the past 3 decades to know, and the opportunity to work with, the opportunity to admire Bill Cramer as he is affectionately known. Congressman Cramer, as we have heard, was one of the leaders in Republican-elected service in the State of Florida at a time when all the Republicans in the State legislature could meet in one phone booth and still have plenty of room left over. He not only led the beginning of a two-party system in the Florida legislature when he was first elected to Congress, he was the first and only Republican elected since the Civil War, one lone Republican member of the delegation; and today we have 15 of 23 due to his great legacy of service.

I had the opportunity to work for Bill Cramer as a young man in his campaign for the United States Senate in 1970. Much of what I have learned in campaigns and much of what I learned about elected service comes from the model provided by Bill Cramer. Bill Cramer served in this House and also served as an inspiration for me to become involved in the Committee on Transportation and Infrastructure. He was one of the leading Republican members of its predecessor, the Committee on Public Works, and served with distinction.

Bill Cramer's service is an example of the legacy that we can leave here, not just in words, but also in changing the infrastructure and the opportunity and lives of so many people.

If you go through central Florida and look at the intrastate and the infrastructure projects from end to end, many of them show the handy work of this great leader who we are here to honor. Bill Cramer will be celebrating his 80th birthday; and it could not be more fitting to have any facility named for any individual I know of than the distinguished former gentleman from this body, the Honorable William C. Cramer.

Mr. PUTNAM. Mr. Speaker, I thank the gentleman from Florida (Mr. MICA), who has taken up the mantle of leadership from Mr. CRAMER as the lead advocate for Florida's infrastructure needs.

Mr. Speaker, I urge adoption of this measure.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. PUTNAM) that the House suspend the rules and pass the bill, H.R. 5145.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## SENSE OF CONGRESS THAT FEDERAL LAND MANAGEMENT AGENCIES IMPLEMENT WESTERN GOVERNORS ASSOCIATION "COLLABORATIVE 10-YEAR STRATEGY FOR REDUCING WILDLAND FIRE RISKS TO COMMUNITIES AND THE ENVIRONMENT"

Mr. POMBO. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 352) expressing the sense of Congress that Federal land management agencies should fully implement the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National Prescribed Fire Strategy that minimizes risks of escape, as amended.

The Clerk read as follows:

H. CON. RES 352

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of Congress that—

(1) in the interest of protecting the integrity and posterity of United States forests and wildlands, wildlife habitats, watersheds, air quality, human health and safety, and private property, the Forest Service and other Federal land management agencies should—

(A) fully support the "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" as prepared by the Western Governors' Association, the Department of Agriculture, the Department of the Interior, and other stakeholders, to reduce the overabundance of forest fuels that place these resources at high risk of catastrophic wildfire;

(B) use an appropriate mix of fire prevention activities and management practices, including forest restoration, thinning of at-risk forest stands, grazing, selective tree removal, and other measures to control insects and pathogens, removal of excessive ground fuels, and prescribed burns;

(C) increase the role for private, local, and State contracts for fuel reduction treatments on Federal forest lands and adjoining private properties; and

(D) pursue more effective fire suppression on Federal forest lands through increased funding of mutual aid agreements with professional State and local public fire fighting agencies;

(2) in the interest of forest protection and public safety, the United States Department of Agriculture and the Department of the Interior should immediately prepare for public review a national assessment of prescribed burning practices on public lands to identify alternatives that will achieve land management objectives to minimize risks associated with prescribed fire; and

(3) results from the national assessment of prescribed burning practices on public lands as described in paragraph (2) should be incorporated into any regulatory land use planning programs that propose the use of prescribed fire as a management practice.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, citizens in the West are bracing this year in fear of catastrophic fires. The summer is not even over, and we have seen 3.6 million acres burn on State, Federal, and private lands. These catastrophic fires are so intense the fire literally destroys every sign of life and can rage for thousands of acres.

But this is not a new phenomenon or a 1-year event. During the wildfire season, 81,681 fires burned 3.5 million acres that killed 15 firefighters and threatened rural communities nationwide. Congress must take action. Our current Federal strategy to handle catastrophic wildfire is not adequately addressing a looming crisis. The Federal Government must take action to prevent loss of wildlife habitat and to protect rural communities.

This is why I am here today offering H. Con. Res. 352 before the House of Representatives. This wildfire resolution expresses the sense of the U.S. Congress to fully implement the Western Governors Association collaborative 10-year strategy for reducing wild land fire risk to communities and the environment and to prepare a national prescribed fire strategy to minimize risk of escape.

America needs to know Congress understands the forest health crisis is causing these fires and that Congress is taking action. It is important to keep in mind our forests are in constant transformation. A particular forest now will look much different in 10 years and in about 50 years will not look like the same forest. Sometimes a forest can get overpopulated with trees. Some of these trees become diseased, creating enormous amounts of dry timber fuel to spur a catastrophic fire. Reducing forest density and improving the ability of healthy forests to survive expansive wildfires must become the number one priority of Federal forest managers. It is time for Members of Congress to make the tough decisions necessary to end catastrophic losses of wildlife habitat, forest resources, and, most importantly, human lives on all Federal forest lands.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Con. Res. 352, a resolution expressing the sense of Congress that Federal land management agencies should fully support the collaborative 10-year strategy for reducing wild land fire risk to communities and the environment as prepared by the Western Governors Association, the Department of Agriculture, and the Department of Interior and other stakeholders.

Mr. Speaker, the risk of wild land fires to the 192 million Forest Service acres is higher today than ever before. The potential for loss of life and property is also increased in areas where more people are building homes within the wild land urban interface.

□ 1830

The local communities situated near our unmanaged national forests experience firsthand the ecosystem problems resulting from fires that cannot be controlled. As we consider H. Con. Res. 352, 29 forest fires are burning in our Western states and six of these fires are out of control. Our efforts to extinguish these fires are stretched to the limit because more than one area in the West is experiencing incidents that have the potential to exhaust all agency fire resources.

I applaud President Bush for providing the necessary emergency funds to fight these fires. However, we must continue to think of long-term solutions with four essential goals in mind: The prevention and suppression of wildfires, the reduction of hazardous fuels, the restoration of fire-adapted ecosystem, and the promotion of community assistance. As we focus on these goals, Mr. Speaker, we must encourage the Federal agencies involved to work with the governors in their efforts to deal with the wildland fire and hazardous fuel situation.

The Western Governors 10-year Comprehensive Strategy Implementation Plan provides Federal land management agencies with a plan to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire. In addition, the plan provides a national assessment of prescribed burning practices to minimize risks of escape.

I urge my colleagues to support passage of H. Con. Res. 352.

Mr. Speaker, I reserve the balance of my time.

Mr. POMBO. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. GOODLATTE), chairman of the subcommittee.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding and I commend him for his leadership in bringing this important resolution before the House. I strongly support it and was pleased to cooperate in seeing it move through the Committee on Agriculture, and I urge my colleagues to adopt it here.

The gentleman is quite correct. We are not facing an ordinary situation here. These are not natural forest fires, and as a result, this resolution would clearly establish Congress' commitment and support for a proactive forest management strategy.

The strategy cannot simply be to let these fires burn. They consume the entire forest from the ground to the top of the tallest and oldest and most extensive trees. They leave behind bare mineral soil, dead trees and vegetation, hot running streams and rivers, and the threat of more devastation from massive mudslides. The historic efforts of managing fire suppression will only lead to an increase in the forest health crises and the probability of more catastrophic wildfires like the ones we are experiencing today. We must actively manage by focusing on forest health and if we want to protect our firefighters, our communities, or forests, we must work to create healthy, sustainable ecosystems through good stewardship. Healthy forests burn more predictably and can be more easily controlled when necessary.

The Western Governors Association comprehensive strategy does this very thing. It calls for moving quickly to plan programs that will reduce hazardous fuels and implementing restoration efforts on fire-ravaged landscapes.

Therefore, I strongly urge my colleagues to support House Concurrent Resolution 352, to reinforce Congress' commitment to the health of our forests.

Mr. POMBO. Mr. Speaker, I yield as much time as he may consume to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I rise in strong support of this resolution. We are in the midst of what could be the most costly and destructive fire season for which records have been kept. More than 3½ million acres have burned so far this year, almost 2½ times the 10-year average, and close to a million acres more than at this time in 2000 which was then the worst fire season in 50 years.

It is an ominous glimpse of what the future holds if Congress and the administration do not make a dramatic commitment and take immediate steps to manage our forests aggressively to protect public health and safety. Our forests are incredibly unhealthy and literally choking from an unnatural accumulation of forest fuels. Some areas are up to 10 times denser than historically. Because of this dangerous buildup of trees, instead of the healthy fires that clean up the forest floor, we are now seeing wildfires of catastrophic size and intensity that cannot be controlled, threatening entire communities, lives and property, and leaving charred forests that will not recover for a century or more. These fires are not natural. They are not inevitable. They are not environmentally healthy. They are a very serious threat to public health and safety.

According to the Forest Service's own estimates, the number of acres at risk for such catastrophic fire events has grown to alarming proportions. Today close to 80 million acres of our Federal forest lands are threatened and, Mr. Speaker, this devastating fire season is further proof that time is quickly running out.

The 1999 GAO, Government Accounting Office, report that provided the first insight into the extent of our forest health crises also predicted that the window for taking effective action is quickly closing. They indicated that we have only 10 to 25 years within which to take action before these fires become widespread. We are not going to prevent forest fires, but by implementing a fire protection and fuel reduction strategy, setting aggressive goals, and giving land managers the tools and flexibility they need, we can reduce their size and intensity and give our firefighters a fighting chance. Congress approved such a plan in 1998. The Herger-Feinstein Quincy Library Group Forest Recovery Act, which this House passed by the overwhelming margin of 429 to 1, requires implementation of a locally developed bipartisan pilot project based on a system of environmentally sensitive fuel breaks and thinning that would reduce the risk of fire and protect communities. It would protect wildlife and enhance their habitat. With a $3 return for every $1 expended and $2.1 billion in economic benefit for rural communities, it is proof that there are win-win, cost-effective fire protection solutions out there that are ripe for immediate implementation.

Mr. Speaker, this resolution is a critical step toward giving this emergency and the need for solutions the urgency and the serious attention they deserve. I urge my colleagues to support it.

Mr. STENHOLM. Mr. Speaker, I yield back the balance of my time.

Mr. FLAKE. Mr. Speaker, I rise in support of this resolution. Fires continue to blaze through the western portion of our country. Aided by drought the damage stretches into a million acres and billions of dollars.

More than 22,000 communities across the country and over 211 million acres of federal lands are currently at risk to these severe wildfires. In Arizona alone, over a half a million acres of land burned with more than 400 homes and other structures. Nearly 33,000 people were evacuated.

The key to reducing risk of these catastrophic wildfires is to actively manage forests not just in the interface but landscape wide to ensure forests can withstand drought, insects and disease. Reaching the appropriate tree density and promoting native mixes of species ensures less severe burns than what we have seen ravage the west already this year.

This is not a commercial logging or timber issue. This is an issue of keeping the forests healthy and well maintained through thinning, logging and prescribed burns. Policies that slow down this process coupled with appeals that further halt necessary treatments must be stopped. Without these changes, we will see more years similar to this one where the fire year is shaping up as the most devastating on record. Some 2.7 million acres have already burned, nearly three times the average acreage for this time of year.

We still have time. The fire season is in its early stages. Thinning and forest management practices necessary to ensure our forests are able to survive future catastrophic wildfires must begin without further delay.

In a 1999 report, the General Accounting Office report to the U.S. House of Representatives, entitled "Western Forests: A Cohesive Strategy Is Needed To Address Catastrophic Wildfire Threats," was published in 1999. The GAO reported that "the most extensive and serious problem related to the health of national forests in the interior West is the over-accumulation of vegetation, which has caused an increasing number of large, intense, uncontrolled and catastrophically destructive wildfires. According to the U.S. Forest Service, 39 million areas on national forests in the interior West are at high risk of catastrophic wildfire."

The Western Governors Association (WGA) signed it "Collaborative 10-year Strategy for Reducing Wild Fire Risks to Communities and the Environment" in 2001. The plan emphasizes preventing catastrophic blazes instead of just fighting them.

I encourage Congress to support the plans of the 10-year strategy. I encourage the immediate implementation of practices we know will aide in preventing future fires that burn thousands of acres of land and homes.

Mr. POMBO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 352, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the bill was amended so as to read:

> "Concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" as prepared by the Western Governors' Association, the Department of Agriculture, the Department of the Interior, and other stakeholders, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a national assessment of prescribed burning practices to minimize risks of escape.".

A motion to reconsider was laid on the table.

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## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H. Con. Res. 439, by the yeas and nays;

H. Con. Res. 492, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote.

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## HONORING CORINNE "LINDY" CLAIBORNE BOGGS ON OCCASION OF 25TH ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN'S CAUCUS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 439.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. LINDER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 439, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 56, as follows:

[Roll No. 324]

YEAS—378

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Bartlett
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Boehlert
Boehner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Burton
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Castle
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Forbes
Ford
Fossella
Frank
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)

Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—56

Abercrombie
Bachus
Barrett
Barton
Becerra
Blagojevich
Blunt
Bonilla
Bonior
Borski
Brady (TX)
Bryant
Callahan
Calvert
Carson (OK)
Clement
Conyers
Cox
Coyne
Cramer
Crane
Davis (FL)
Dooley
Emerson
Fletcher
Foley
Frelinghuysen
Gutierrez
Hall (OH)
Hansen
Hastings (FL)
Hilleary
Hinchey
Johnson, Sam
Jones (OH)
Kilpatrick
Lewis (GA)
Maloney (CT)
McCrery
McKeon
Meek (FL)
Millender-McDonald
Miller, Dan
Murtha
Myrick
Phelps
Riley
Rush
Schaffer
Sessions
Stump
Tancredo
Taylor (NC)
Tierney
Traficant
Young (FL)

□ 1901

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FOLEY. Mr. Speaker, on rollcall No. 324, I was with the DEA Administrator, Asa Hutchinson, and missed the vote.

Had I been present, I would have voted Yea.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

## EXPRESSING GRATITUDE FOR THE 10-MONTH-LONG WORLD TRADE CENTER CLEANUP AND RECOVERY EFFORTS AT THE FRESH KILLS LANDFILL ON STATEN ISLAND, NEW YORK, FOLLOWING THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 492.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. PUTNAM) that the House suspend the rules and agree to the resolution, H. Res. 492, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 375, nays 0, not voting 59, as follows:

[Roll No. 325]

YEAS—375

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Bartlett
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
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Miller, Dan
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So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, district business prevents me from being present for legislative business scheduled for today, Monday, July 22, 2002. Had I been present, I would have voted "aye" on the following roll call votes: H. Con. Res. 439, Honoring Corinne "Lindy" Claiborne Boggs on the Occasion of the 25th Anniversary of the Founding of the Congressional Women's Caucus (Roll Call No. 324); and H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York Following the Terrorist Attacks of September 11, 2001 (Roll Call No. 325).

## AMENDMENT PROCESS FOR H.R. 5005, HOMELAND SECURITY ACT OF 2002

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, today a Dear Colleague letter will be sent to all Members informing them that the Committee on Rules will meet this week to grant a rule that may limit the amendment process for H.R. 5005, the Homeland Security Act of 2002. The Select Committee on Homeland Security is expected to file its report early Wednesday morning.

Any Member who wishes to offer an amendment to the Homeland Security Act of 2002 should submit 55 copies of the amendment and one copy of a brief explanation of the amendment by 12 noon on Wednesday, July 24, to the Committee on Rules in room H-312 in the Capitol. Members should draft their amendments to the text of the bill as reported by the Select Committee on Homeland Security, which will be made available later today on the majority leader's Web site as well as the Committee on Rules website.

Members should use the Office of Legislative Counsel to ensure their amendments are properly drafted, and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

## FREEDOM PROMOTION ACT OF 2002

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3969) to enhance United States public diplomacy, to reorganize United States international broadcasting, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3969

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Freedom Promotion Act of 2002".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—UNITED STATES PUBLIC DIPLOMACY

Sec. 101. Findings and purposes.
Sec. 102. Public diplomacy responsibilities of the Department of State.
Sec. 103. Annual plan on public diplomacy strategy.
Sec. 104. Public diplomacy training.
Sec. 105. United States Advisory Commission on Public Diplomacy.
Sec. 106. Library program.
Sec. 107. Sense of Congress concerning public diplomacy efforts in sub-Saharan Africa.
Sec. 108. Funding and authorization of appropriations.

TITLE II—UNITED STATES EDUCATIONAL AND CULTURAL PROGRAMS OF THE DEPARTMENT OF STATE

Sec. 201. Establishment of initiatives for predominantly Muslim countries.
Sec. 202. Database of alumni of American and foreign participants in exchange programs.
Sec. 203. Report on inclusion of freedom and democracy advocates in educational and cultural exchange programs.
Sec. 204. Fulbright-Hays authorities.
Sec. 205. Supplemental authorization of appropriations.
Sec. 206. Supplemental authorization of appropriations for the National Endowment for Democracy.

TITLE III—REORGANIZATION OF UNITED STATES INTERNATIONAL BROADCASTING

Sec. 301. Establishment of United States International Broadcasting Agency.
Sec. 302. Authorities and functions of the agency.
Sec. 303. Role of the secretary of State.
Sec. 304. Administrative provisions.
Sec. 305. Broadcasting Board of Governors and International Broadcasting Bureau.
Sec. 306. Transition.
Sec. 307. Conforming amendments.
Sec. 308. References.
Sec. 309. Broadcasting standards.
Sec. 310. Authorization of appropriations.
Sec. 311. Effective date.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Affairs and the Committee on Appropriations of the Senate.

(2) DEPARTMENT.—The term "Department" means the Department of State.

(3) SECRETARY.—The term "Secretary" means the Secretary of State.

### TITLE I—UNITED STATES PUBLIC DIPLOMACY

**SEC. 101. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States possesses strong and deep connections with the peoples of the world separate from its relations with their governments. These connections can be a major asset in the promotion of United States interests and foreign policy.

(2) Misinformation and hostile propaganda in these countries regarding the United States and its foreign policy endanger the interests of the United States. Existing efforts to counter such misinformation and propaganda are inadequate and must be greatly enhanced in both scope and substance.

(3) United States foreign policy has been hampered by an insufficient consideration of the importance of public diplomacy in the formulation and implementation of that policy and by the underuse of modern communication techniques.

(4) The United States should have an operational strategy and a coordinated effort regarding the utilization of its public diplomacy resources.

(5) The development of an operational strategy and a coordinated effort by United States agencies regarding public diplomacy would greatly enhance United States foreign policy.

(6) The Secretary of State has undertaken efforts to ensure that of the new job positions established at the Department of State after September 30, 2002, a significant proportion of the positions is for public diplomacy.

(b) PURPOSES.—It is the purpose of this Act to enhance in scope and substance, redirect, redefine, and reorganize United States public diplomacy.

**SEC. 102. PUBLIC DIPLOMACY RESPONSIBILITIES OF THE DEPARTMENT OF STATE.**

(a) IN GENERAL.—The State Department Basic Authorities Act of 1956 (22 U.S.C. 265 et seq.) is amended by inserting after section 56 the following new section:

**"SEC. 57. PUBLIC DIPLOMACY RESPONSIBILITIES OF THE DEPARTMENT OF STATE.**

"(a) IN GENERAL.—The Secretary of State shall make public diplomacy an integral component in the planning and execution of United States foreign policy. The Department of State, in coordination with the United States International Broadcasting Agency, shall develop a comprehensive strategy for the use of public diplomacy resources and assume a prominent role in coordinating the efforts of all Federal agencies involved in public diplomacy. Public diplomacy efforts shall be addressed to developed and developing countries, to select and general audiences, and shall utilize all available media to ensure that the foreign policy of the United States is properly explained and understood not only by the governments of countries but also by their peoples, with the objective of enhancing support for United States foreign policy. The Secretary shall ensure that the public diplomacy strategy of the United States is cohesive and coherent and shall aggressively and through the most effective mechanisms counter misinformation and propaganda concerning the United States. The Secretary shall endeavor to articulate the importance in American foreign policy of the guiding principles and doctrines of the United States, particularly freedom and democracy. The Secretary, in coordination with the Board of Governors of the United States International Broadcasting Agency, shall develop and articulate long-term measurable objectives for United States public diplomacy. The Secretary is authorized to produce and distribute public diplomacy programming for distribution abroad in order to achieve public diplomacy objectives, including through satellite communication, the Internet, and other established and emerging communications technologies.

"(b) INFORMATION CONCERNING UNITED STATES ASSISTANCE.—

"(1) IDENTIFICATION OF ASSISTANCE.—In cooperation with the United States Agency for International Development (USAID) and other public and private assistance organizations and agencies, the Secretary shall ensure that information concerning foreign assistance provided by the United States Government, United States nongovernmental organizations and private entities, and the American people is disseminated widely and prominently, particularly, to the extent practicable, within countries and regions that receive such assistance. The Secretary shall ensure that, to the extent practicable, projects funded by the United States Agency for International Development (USAID) that do not involve commodities, including projects implemented by private voluntary organizations, are identified as being supported by the United States of America, as American Aid or provided by the American people.

"(2) REPORT TO CONGRESS.—Not later than 120 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate on efforts to disseminate information concerning assistance described in paragraph (1) during the preceding fiscal year. Each such report shall include specific information concerning all instances in which the United States Agency for International Development has not identified projects in the manner prescribed in paragraph (1) because such indentification was not practicable. Any such report shall be submitted in unclassified form, but may include a classified appendix.

"(c) AUTHORITY.— Subject to the availability of appropriations, the Secretary may contract with and compensate government and private agencies or persons for property and services to carry out this section.".

(b) ESTABLISHMENT OF PUBLIC DIPLOMACY RESERVE CORPS.—

(1) The Secretary of State shall establish a public diplomacy reserve corps to augment the public diplomacy capacity and capabilities of the Department in emergency and critical circumstances worldwide. The Secretary shall develop a detailed action plan for the temporary deployment and use of the corps to bolster public diplomacy resources and expertise. To the extent considered necessary and appropriate, the Secretary may recruit experts in public diplomacy and related fields from the private sector and utilize the expertise of former employees of the Department in implementing this subsection.

(2) While actively serving with the reserve corps, individuals are prohibited from engaging in activities directly or indirectly intended to influence public opinion within the United States to the same degree that employees of the Department engaged in public diplomacy are so prohibited.

(c) TECHNOLOGY AND EQUIPMENT UPGRADES.—

(1) The Secretary shall establish a fully capable multimedia programming and distribution capacity including satellite, Internet, and other services, and also including the capability to acquire and produce audio and video feeds and Internet streaming to foreign news organizations. The technology and equipment upgrades under the first sentence shall be fully implemented within 2 years of the date of the enactment of this Act.

(2) To the extent practicable, activities under this subsection shall utilize the facilities of the United States International Broadcasting Agency established by title III for the purpose of furthering the public diplomacy objectives of the Department of state as enunciated in this section. The Secretary shall reimburse the reasonable expenses of the United States International Broadcasting Agency which are incurred as a result of the Department's use of the Agency's facilities.

(d) FUNCTIONS OF THE UNDER SECRETARY FOR PUBLIC DIPLOMACY.—

(1) Section 1(b)(3) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)(3)) is amended by striking "formation" and all that follows through the period at the end and inserting "formation, supervision, and implementation of United States public diplomacy policies, programs, and activities, including the provision of guidance to Department personnel in the United States and overseas who conduct or implement such policies, programs, and activities. The Under Secretary for Public Diplomacy shall assist the United States Agency for International Broadcasting in presenting the policies of the United States clearly and effectively, shall submit statements of United States policy and editorial material to the Agency for broadcast consideration in addition to material prepared by the Agency, and shall ensure that editorial material created by the Agency for broadcast is reviewed expeditiously by the Department.".

(2) The Under Secretary for Public Diplomacy, in carrying out the functions under the last sentence of section 1(b)(3) of the State Department Basic Authorities Act of 1956 (as added by paragraph (1), shall consult public diplomacy officers operating at United States overseas posts and in the regional bureaus of the Department of State.

### SEC. 103. ANNUAL PLAN ON PUBLIC DIPLOMACY STRATEGY.

The Secretary of State, in coordination with all appropriate Federal agencies, shall prepare an annual review and analysis of the impact of public diplomacy efforts on target audiences. Each review shall assess the United States public diplomacy strategy worldwide and by region, including the allocation of resources and an evaluation and assessment of the progress in, and barriers to, achieving the goals set forth under previous plans submitted under this section. On the basis of such review, the Secretary of State, in coordination with all appropriate Federal agencies shall develop and submit to the appropriate congressional committees an annual plan for the implementation of a public diplomacy strategy which specifies goals, agency responsibilities, and necessary resources and mechanisms for achieving such goals during the next fiscal year. The plan may be submitted in classified form.

### SEC. 104. PUBLIC DIPLOMACY TRAINING.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Foreign Service should recruit individuals with expertise and professional experience in public diplomacy.

(2) Ambassadors should have a prominent role in the formulation of public diplomacy strategies for the countries and regions to which they are assigned and be accountable for the operation and success of public diplomacy efforts at their posts.

(3) Initial and subsequent training of Foreign Service officers should be enhanced to include information and training on public diplomacy and the tools and technology of mass communication.

(b) PERSONNEL.—

(1) In the recruitment, training, and assignment of members of the Foreign Service, the Secretary shall emphasize the importance of public diplomacy and of applicable skills and techniques. The Secretary shall consider the priority recruitment into the Foreign Service, at middle-level entry, of individuals with expertise and professional experience in public diplomacy or mass communications, especially individuals with language facility and experience in particular countries and regions.

(2) The Secretary of State shall seek to increase the number of Foreign Service officers proficient in languages spoken in predominantly Muslim countries. Such increase shall be accomplished through the recruitment of new officers and incentives for officers in service.

### SEC. 105. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

(a) STUDY AND REPORT BY UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.—Section 604(c)(2) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469(c)) is amended to read as follows:

"(2)(A) Not less often than every two years, the Commission shall undertake an indepth review of United States public diplomacy programs, policies, and activities. Each study shall assess the effectiveness of the various mechanisms of United States public diplomacy, in light of factors including public and media attitudes around the world toward the United States, Americans, and United States foreign policy, and make appropriate recommendations.

"(B) A comprehensive report of each study under subparagraph (A) shall be submitted to the Secretary of State and the appropriate congressional committees. At the discretion of the Commission, any report under this subsection may be submitted in classified form or with a classified appendix.

(b) INFORMATION AND SUPPORT FROM OTHER AGENCIES.—Upon request of the United States Advisory Commission on Public Diplomacy, the Secretary of State, the Director of the United States International Broadcasting Agency, and the head of any other Federal agency that conducts public diplomacy programs and activities shall provide information to the Advisory Commission to assist in carrying out the responsibilities under section 604(c)(5) of the United States Information and Educational Exchange Act of 1948 (as amended by subsection (a)).

(c) ENHANCING THE EXPERTISE OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.—

(1) QUALIFICATIONS OF MEMBERS.—Section 604(a)(2) of the United States Information and Educational Exchange Act of 1948 (22

U.S.C. 1469(a)(2)) is amended by adding at the end the following: "At least 4 members shall have substantial experience in the conduct of public diplomacy or comparable activities in the private sector. No member shall be an officer or employee of the United States.".

(2) APPLICATION OF AMENDMENT.—The amendments made by paragraph (1) shall not apply to individuals who are members of the United States Advisory Commission on Public Diplomacy on the date of the enactment of this Act.

### SEC. 106. LIBRARY PROGRAM.

The Secretary of State shall develop and implement a demonstration program to assist foreign governments to establish or upgrade their public library systems to improve literacy and support public education. The program should provide training in the library sciences. The purpose of the program shall be to advance American values and society, particularly the importance of freedom and democracy.

### SEC. 107. SENSE OF CONGRESS CONCERNING PUBLIC DIPLOMACY EFFORTS IN SUB-SAHARAN AFRICA.

(a) FINDINGS.—The Congress makes the following findings:

(1) A significant number of sub-Saharan African countries have predominantly Muslim populations, including such key countries as Nigeria, Senegal, Djibouti, Mauritania, and Guinea.

(2) In several of these countries, groups with links to militant religious organizations are active among the youth, primarily young men, promoting a philosophy and practice of intolerance and radical clerics are effectively mobilizing public sentiment against the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary should include countries in sub-Saharan Africa with predominantly Muslim populations in the public diplomacy activities authorized by this Act and the amendments made by this Act.

### SEC. 108. FUNDING AND AUTHORIZATION OF APPROPRIATIONS.

(a) LIMITATION ON USE OF FUNDS.—Of the amounts authorized to be appropriated for each of the fiscal years 2002 and 2003 for the Diplomatic and Consular Programs of the Department of State, $297,759,000 for the fiscal year 2002 and $305,693,000 for the fiscal year 2003 shall be available only for public diplomacy programs and activities as carried out prior to the Foreign Affairs Reform and Restructuring Act of 1998, other than programs of educational and cultural exchange.

(b) AUTHORIZATION OF APPROPRIATIONS FOR IMPROVEMENTS IN PUBLIC DIPLOMACY PROGRAMS.—

(1) In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $20,000,000 for each of the fiscal years 2002 and 2003 for Diplomatic and Consular Programs of the Department of State which shall be available only for improvements and modernization of public diplomacy programs and activities of the Department of State as carried out prior to the Foreign Affairs Reform and Restructuring Act of 1998, other than programs of educational and cultural exchange.

(2) LIMITATIONS.—

(A) TRANSLATION SERVICES.—Of the amounts authorized to be appropriated by paragraph (1), $4,000,000 for each of the fiscal years 2002 and 2003 is authorized to be appropriated only for translation services available to public affairs officers in overseas posts.

(B) BROADCAST SERVICES.—Of the amounts authorized to be appropriated by paragraph (1), $7,500,000 for each of the fiscal years 2002 and 2003 is authorized to be appropriated only for the Office of Broadcast Services to carry out section 102(c).

## TITLE II—UNITED STATES EDUCATIONAL AND CULTURAL PROGRAMS OF THE DEPARTMENT OF STATE

### SEC. 201. ESTABLISHMENT OF INITIATIVES FOR PREDOMINANTLY MUSLIM COUNTRIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Surveys indicate that, in countries of predominantly Muslim population, opinions of the United States and American foreign policy among the general public and select audiences are significantly distorted by highly negative and hostile beliefs and images and that many of these beliefs and images are the result of misinformation and propaganda by individuals and organizations hostile to the United States.

(2) These negative opinions and images are highly prejudicial to the interests of the United States and to its foreign policy.

(3) As part of a broad and long-term effort to enhance a positive image of the United States in the Muslim world, a key element should be the establishment of programs to promote a greater familiarity with American society and values among the general public and select audiences in countries of predominantly Muslim population.

(b) ESTABLISHMENT OF INITIATIVES.—The Secretary of State shall establish the following programs with countries with predominantly Muslim populations as part of the educational and cultural exchange programs of the Department of State for the fiscal years 2002 and 2003:

(1) JOURNALISM PROGRAM.—A program for foreign journalists, editors, and postsecondary students of journalism which, in cooperation with private sector sponsors to include universities, shall sponsor workshops and professional training in techniques, standards, and practices in the field of journalism to assist the participants to achieve the highest standards of professionalism.

(2) ENGLISH LANGUAGE TEACHING.—The Secretary shall establish a program to provide grants to United States citizens to work in middle and secondary schools as English language teaching assistants for not less than an academic year. If feasible, the host government or local educational agency shall share the salary costs of the assistants.

(3) SISTER CITY PARTNERSHIPS.—The Secretary shall expand and enhance sister-city partnerships between United States and international municipalities in an effort to increase global cooperation at the community level. Such partnerships shall encourage economic development, municipal cooperation, health care initiatives, youth and educational programs, disability advocacy; emergency preparedness, and humanitarian assistance.

(4) YOUTH AMBASSADORS.—The Secretary shall establish a program for visits by middle and secondary school students to the United States during school holidays in their home country for periods not to exceed 4 weeks. Participating students shall reflect the economic and geographic diversity of their countries. Activities shall include cultural and educational activities designed to familiarize participating students with American society and values. To the extent practicable, such visits shall be coordinated with middle and secondary schools in the United States to provide for school-based activities and interactions. The Secretary shall encourage the establishment of direct school-to-school linkages under the program.

(5) FULBRIGHT EXCHANGE PROGRAM.—The Secretary shall seek to substantially increase the number of awards under the J. William Fulbright Educational Exchange Program to graduate students, scholars, professionals, teachers, and administrators from the United States who are applying for such awards to study, teach, conduct research, or pursue scholarship in predominantly Muslim countries. Part of such increase shall include awards for scholars and teachers who plan to teach subjects relating to American studies.

(6) HUBERT H. HUMPHREY FELLOWSHIPS.—The Secretary shall seek to substantially increase the number of Hubert H. Humphrey Fellowships awarded to candidates from predominantly Muslim countries.

(7) LIBRARY TRAINING EXCHANGE PROGRAM.—The Secretary shall develop an exchange program for postgradute students seeking additional training in the library sciences and related fields.

(c) GENERAL PROVISION.—Programs established under this section shall be carried out under the provisions of the United States Information and Educational Exchange Act of 1948 and the Mutual Educational and Cultural Exchange Act of 1961.

### SEC. 202. DATABASE OF ALUMNI OF AMERICAN AND FOREIGN PARTICIPANTS IN EXCHANGE PROGRAMS.

To the extent practicable, the Secretary of State, in coordination with the heads of other agencies that conduct international exchange and training programs, shall establish and maintain a database listing all American and foreign alumni of such programs in order to encourage networking, interaction, and communication with alumni.

### SEC. 203. REPORT ON INCLUSION OF FREEDOM AND DEMOCRACY ADVOCATES IN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the Congress a report concerning the implementation of section 102 of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996. The report shall include information concerning the number of grants to conduct exchange programs to countries described in such section that have been submitted for competitive bidding, what measures have been taken to ensure that willingness to include supporters of freedom and democracy in such programs is given appropriate weight in the selection of grantees, and an evaluation of whether United States exchange programs in the countries described in such section are fully open to supporters of freedom and democracy, and, if not, what obstacles remain and what measures are being taken to implement such policy.

### SEC. 204. FULBRIGHT-HAYS AUTHORITIES.

Section 112(d) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by striking "operating under the authority of this Act and consistent with" and inserting "which operate under the authority of this Act or promote".

### SEC. 205. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS.

In addition to such amounts as are otherwise authorized to be appropriated, for each of the fiscal years 2002 and 2003 there are authorized to be appropriated $35,000,000 for educational and cultural exchange programs of the Department of State.

### SEC. 206. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL ENDOWMENT FOR DEMOCRACY.

In addition to amounts otherwise authorized to be appropriated for the fiscal years

2002 and 2003, there are authorized to be appropriated $5,000,000 for the fiscal year 2002 and $5,000,000 for the fiscal year 2003 for the National Endowment for Democracy to fund programs that promote democracy, good governance, the rule of law, independent media, religious tolerance, the rights of women, and strengthening of civil society in countries of predominantly Muslim population within the jurisdiction of the Bureau of Near Eastern Affairs of the Department of State.

### SEC. 207. SENSE OF THE CONGRESS CONCERNING EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM FOR FOREIGN JOURNALISTS.

It is the sense of the Congress that the Secretary of State should work toward the establishment of a program for foreign journalists from regions of conflict that will provide professional training in techniques, standards, and practices in the field of journalism.

## TITLE III—REORGANIZATION OF UNITED STATES INTERNATIONAL BROADCASTING

### SEC. 301. ESTABLISHMENT OF UNITED STATES INTERNATIONAL BROADCASTING AGENCY.

(a) In General.—Section 304 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203) is amended to read as follows:

**"SEC. 304. ESTABLISHMENT OF UNITED STATES INTERNATIONAL BROADCASTING AGENCY.**

"(a) Establishment.—There is established as an independent agency in the executive branch the United States International Broadcasting Agency (hereinafter in this Act referred to as the 'Agency').

"(b) Board of Governors of the Agency.—

"(1) Head of agency.—The Agency shall be headed by the Board of Governors of the United States International Broadcasting Agency (hereinafter in this Act referred to as the 'Board of Governors').

"(2) Authorities and functions.—The Board of Goverors shall—

"(A) carry out the authorities and functions of the Agency under section 305; and

"(B) be responsible for the exercise of all authorities and powers and the discharge of all duties and functions of the Agency.

"(3) Composition of the board of governors.—

"(A) The Board of Governors shall consist of 9 members, as follows:

"(i) Eight voting members who shall be appointed by the President, by and with the advice and consent of the Senate.

"(ii) The Secretary of State who shall also be a voting member.

"(B) The President shall appoint one member (other than the Secretary of State) as Chair of the Board of Governors, subject to the advice and consent of the Senate.

"(C) Exclusive of the Secretary of State, not more than 4 of the members of the Board of Governors appointed by the President shall be of the same political party.

"(4) Term of office.—The term of office of each member of the Board of Governors shall be three years, except that the Secretary of State shall remain a member of the Board of Governors during the Secretary's term of service. The President shall appoint, by and with the advice and consent of the Senate, board members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until a successor has been appointed and qualified. When there is no Secretary of State, the Acting Secretary of State shall serve as a member of the board until a Secretary is appointed.

"(5) Selection of board of governors.—Members of the Board of Governors appointed by the President shall be citizens of the United States who are not regular full-time employees of the United States Government. Such members shall be selected by the President from among Americans distinguished in the fields of mass communications, print, broadcast media, or foreign affairs.

"(6) Compensation.—Members of the Board of Governors, while attending meetings of the board or while engaged in duties relating to such meetings or in other activities of the board pursuant to this section (including travel time) shall be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. While away from their homes or regular places of business, members of the board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently. The Secretary of State shall not be entitled to any compensation under this title, but may be allowed travel expenses as provided under this subsection.

"(7) Decisions.—Decisions of the Board of Governors shall be made by majority vote, a quorum being present. A quorum shall consist of 5 members.

"(8) Immunity From civil liability.—Notwithstanding any other provision of law, any and all limitations on liability that apply to the members of the Board of Governors also shall apply to such members when acting in their capacities as members of the boards of directors of RFE/RL, Incorporated and Radio Free Asia.

"(c) Director.—

"(1) Appointment.—The Board of Governors shall appoint a Director of the Agency. The Director shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5313 of title 5, United States Code. The Director may be removed through a majority vote of the Board.

"(2) Functions and duties.—The Director shall have the following functions and duties:

"(A) To exercise the authorities delegated by the Board of Governors pursuant to section 305(b).

"(B) To carry out all broadcasting activities conducted pursuant to this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

"(C) To examine and make recommendations to the Board of Governors on long-term strategies for the future of international broadcasting, including the use of new technologies.

"(D) To review engineering activities to ensure that all broadcasting elements receive the highest quality and cost-effective delivery services.

"(E) To procure supplies, services, and other personal property to carry out the functions of the Agency.

"(F) To obligate and expend, for official reception and representation expenses, such amounts as may be made available through appropriations.

"(G) To provide for the use of United States Government transmitter capacity for relay of broadcasting by grantees.

"(H) To procure temporary and intermittent personal services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for positions classified above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code.

"(I) To procure for the Agency, pursuant to section 1535 of title 31, United States Code goods and services from other departments or agencies.

"(J) To the extent funds are available, to lease space and acquire personal property for the Agency.

"(d) Inspector General Authorities.—

"(1) In general.—The Inspector General of the Department of State shall exercise the same authorities with respect to the Agency as the Inspector General exercises under the Inspector General Act of 1978 and section 209 of the Foreign Service Act of 1980 with respect to the Department of State.

"(2) Respect for journalistic integrity of broadcasters.—The Inspector General of the Department of State and the Foreign Service shall respect the journalistic integrity of all the broadcasters covered by this title and may not evaluate the philosophical or political perspectives reflected in the content of broadcasts.".

(b) Retention of Existing Board Members.—The members of the Broadcasting Board of Governors appointed by the President pursuant to section 304 of the United States International Broadcasting Act of 1994 on the day before the effective date of this title and holding office as of that date may serve the remainder of their terms of office as members of the Board of Governors established under subsection (b) without reappointment, or if their term has expired may serve until a successor is appointed and qualified.

### SEC. 302. AUTHORITIES AND FUNCTIONS OF THE AGENCY.

Section 305 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204) is amended to read as follows:

**"SEC. 305. AUTHORITIES AND FUNCTIONS OF THE AGENCY.**

"(a) The Agency shall have the following authorities and functions:

"(1) To supervise all broadcasting activities conducted pursuant to this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

"(2) To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all such activities within the context of the broad foreign policy objectives of the United States and the guiding principles and doctrines of the United States, particularly freedom and democracy.

"(3) To develop strategic goals after reviewing human rights reporting and other reliable assessments to assist in determining programming and resource allocation.

"(4) To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 303.

"(5) To review, evaluate, and determine, at least annually, after consultation with the Secretary of State, the addition or deletion of language services.

"(6) To make and supervise grants for broadcasting and related activities in accordance with sections 308 and 309.

"(7) To allocate funds appropriated for international broadcasting activities among the various elements of the Agency and grantees, subject to the limitations in sections 308 and 309 and subject to reprogramming notification requirements in law for the reallocation of funds.

“(8) To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.

“(9) To submit to the President and the Congress an annual report which summarizes and evaluates activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act, placing special emphasis on the assessment described in paragraph (2).

“(10) To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the Agency and by grantees and the steps the Agency has taken to reduce unnecessary overhead costs for each of the broadcasting services.

“(11) To utilize the provisions of titles III, IV, V, VII, VIII, IX, and X of the United States Information and Educational Exchange Act of 1948, and section 6 of Reorganization Plan Number 2 of 1977, as in effect on the day before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998, to the extent the Director considers necessary in carrying out the provisions and purposes of this title.

“(12) To utilize the authorities of any other statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding that had been available to the Director of the United States Information Agency, the Bureau, or the Board before the effective date of title XIII of the Foreign Affairs Consolidation Act of 1998 for carrying out the broadcasting activities covered by this title.

“(b) DELEGATION OF AUTHORITY.—The Board of Governors may delegate to the Director of the Agency, or any other officer or employee of the United States, the authorities provided in this section, except those authorities provided in paragraph (1), (2), (4), (5), (6), (7), or (9) of subsection (a).

“(c) BROADCASTING BUDGETS.—Director and the grantees identified in sections 308 and 309 shall submit proposed budgets to the Board. The Board shall forward its recommendations concerning the proposed budget for the Board and broadcasting activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act to the Office of Management and Budget.”.

### SEC. 303. ROLE OF THE SECRETARY OF STATE.

Section 306 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6205) is amended to read as follows:

### “SEC. 306. ROLE OF THE SECRETARY OF STATE.

“To assist the Agency in carrying out its functions, the Secretary of State shall provide such information and guidance on foreign policy and public diplomacy issues to the Agency as the Secretary considers appropriate.”.

### SEC. 304. ADMINISTRATIVE PROVISIONS.

The United States International Broadcasting Act of 1994 is amended by striking section 307 and inserting the following new section:

### “SEC. 307. ADMINISTRATIVE PROVISIONS.

“(a) OFFICERS AND EMPLOYEES.—The Board of Governors may appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Agency. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation shall be fixed in accordance with title 5, United States Code.

“(b) EXPERTS AND CONSULTANTS.—The Board of Governors, as may be provided in appropriation Acts, may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(c) ACCEPTANCE OF VOLUNTARY SERVICES.—

“(1) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, the Board of Governors may accept, subject to regulations issued by the Office of Personnel Management, voluntary services if such services—

“(A) are to be uncompensated; and

“(B) are not used to displace any employee.

“(2) TREATMENT.—Any individual who provides voluntary services under this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code (relating to compensation for injury) and sections 2671 through 2680 of title 28, United States Code (relating to tort claims).

“(d) DELEGATION.—Except as otherwise provided in this Act, the Board of Governors may delegate any function to the Director and such other officers and employees of the Agency as the Board of Governors may designate, and may authorize such successive redelegations of such functions within the Agency as may be necessary or appropriate.

“(e) CONTRACTS.—

“(1) IN GENERAL.—Subject to the Federal Property and Administrative Services Act of 1949 and other applicable Federal law, the Board of Governors may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Board of Governors may determine necessary or appropriate to carry out functions of the Board of Governors or the Agency.

“(2) APPROPRIATION AUTHORITY REQUIRED.—No authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts.

“(f) REGULATIONS.—The Director may prescribe such rules and regulations as the Board of Governors considers necessary or appropriate to administer and manage the functions of the Agency, in accordance with chapter 5 of title 5, United States Code.

“(g) SEAL.—The Director shall cause a seal of office to be made for the Agency of such design as the Board of Governors shall approve. Judicial notice shall be taken of such seal.”.

### SEC. 305. BROADCASTING BOARD OF GOVERNORS AND INTERNATIONAL BROADCASTING BUREAU.

The Broadcasting Board of Governors and the International Broadcasting Bureau are abolished.

### SEC. 306. TRANSITION.

(a) TRANSFER OF FUNCTIONS.—Except as otherwise provided in this title or an amendment made by this title, all functions that on the day before the effective date specified in section 311 are authorized to be performed by the Broadcasting Board of Governors and the International Broadcasting Bureau and any officer, employee, or component of such entities, under any statute, reorganization plan, Executive order, or other provision of law, are transferred to the Agency established under this title effective on that date.

(b) DETERMINATION OF CERTAIN FUNCTIONS.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under this title.

(c) TRANSITION PROVISIONS.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Board of Governors may, for purposes of performing a function that is transferred to the Agency by this title, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of that function on the day before the effective date specified in section 310.

(2) AUTHORITIES TO WIND UP AFFAIRS.—

(A) The Director of the Office of Management and Budget may take such actions as the Director of the Office of Management and Budget considers necessary to wind up any outstanding affairs of the Broadcasting Board of Governors and the International Broadcasting Bureau associated with the functions that are transferred pursuant to subsection (a).

(B) The Director of the Office of Management and Budget may take such actions as the Director of the Office of Management and Budget considers necessary to wind up any outstanding affairs of the Broadcasting Board of Governors and the International Broadcasting Bureau associated with the functions that are transferred pursuant to subsection (a).

(3) TRANSFER OF ASSETS.—Any property, records, unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to the Agency by this Act are transferred on the effective date specified in section 310.

### SEC. 307. CONFORMING AMENDMENTS.

(a) UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994.—The United States International Broadcasting Act of 1994 is amended as follows:

(1) Section 308 (22 U.S.C. 6207) is amended—

(A) in subsection (a)—

(i) by striking “The Board” and inserting “The Agency”; and

(ii) in paragraph (1) by striking “Broadcasting Board of Governors” and inserting “Board Governors of the International Broadcasting Agency”;

(B) in subsection (b)—

(i) by striking paragraph (2);

(ii) by striking “(1)”; and

(iii) by striking “Board” both places it appears and inserting “Agency”;

(C) in subsections (c), (d), (g), (h), and (i) by striking “Board” each place it appears and inserting “Agency”;

(D) in subsection (g)(4) by striking “International Broadcasting Bureau” and inserting “Agency”; and

(E) in subsections (i) and (j) by striking “and the Foreign Service” each place it appears.

(2) Section 309 (22 U.S.C. 6208) is amended—

(A) in subsection (c)(1) by striking “Board” both places it appears and inserting “Agency”;

(B) by striking subsection (e);

(C) in subsections (f) and (g) by striking “Board” each place it appears and inserting “Agency”; and

(D) in subsection (g) by striking “Chairman of the Board” and inserting “Agency”.

(3) By striking section 311 (22 U.S.C. 6210).

(4) In section 313 (22 U.S.C. 6212) by striking “Board” and inserting “Agency”.

(5) In section 314 (22 U.S.C. 6213) by striking paragraph (2).

(6) By striking section 315.

(b) CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT OF 1996.—Section 107 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6037) is amended in subsections (a) and (b) by striking "International Broadcasting Bureau" each place it appears and inserting "United States International Broadcasting Agency".

(c) RADIO BROADCASTING TO CUBA ACT.—The Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) is amended as follows:

(1) In section 3 (22 U.S.C. 1465a) as follows:

(A) In the section heading by striking "BROADCASTING BOARD OF GOVERNORS" and inserting "UNITED STATES INTERNATIONAL BROADCASTING AGENCY".

(B) In subsection (a) by striking "the 'Board')" and inserting "the 'Agency')".

(C) In subsections (a), (d), and (f) by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency".

(3) In section 4 (22 U.S.C. 1465b) as follows:

(A) In the first sentence by striking "The" and all that follows through "Bureau" and inserting: "The Board of Governors of the United States International Broadcasting Agency shall establish within the Agency".

(B) In the third sentence by striking "Broadcasting Board of Governors" and inserting "Board of Governors of the United States International Broadcasting Agency".

(C) In the fourth sentence by striking "Board of the International Broadcasting Bureau" and inserting "Board of Governors of the United States International Broadcasting Agency".

(4) In section 5 (22 U.S.C. 1465c) as follows:

(A) In subsection (b) by striking "Broadcasting Board of Governors" and inserting "Board of Governors of the United States International Broadcasting Agency".

(B) By striking "Board" each place it appears and inserting "Advisory Board".

(5) In section 6 (22 U.S.C. 1465d) as follows:

(A) In subsection (a) by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency" and by striking "Board" and inserting "Board of Directors of the United States International Broadcasting Agency".

(B) In subsection (b) by striking "Board" and inserting "United States International Broadcasting Agency".

(6) In section 7 (22 U.S.C. 1465e) by striking "Board" in subsections (b) and (d) and inserting "United States International Broadcasting Agency".

(7) In section 8(a) (22 U.S.C. 1465f(a)), by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency".

(d) TELEVISION BROADCASTING TO CUBA ACT.—The Television Broadcasting to Cuba Act (22 U.S.C. 1465aa note) is amended as follows:

(1) Section 243(a) (22 U.S.C. 1465bb) is amended by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency".

(2) Section 244 (22 U.S.C. 1465cc) is amended as follows:

(A) In subsection (a) by amending the third sentence to read as follows: "The Board of Governors of the United States International Broadcasting Agency shall appoint a head of the Service who shall report directly to the Board of Governors.".

(B) In subsection (b) by striking "Board" and inserting "United States International Broadcasting Agency".

(C) In subsection (c) by striking "The Board" and inserting "The Agency" and by striking "Board determines" and inserting "Board of Governors of the United States International Broadcasting Agency determines".

(3) In section 246 (22 U.S.C. 1465dd) by striking "United States Information Agency" and inserting "United States International Broadcasting Agency" and by striking "Board" and inserting "Board of Governors of the United States International Broadcasting Agency".

(e) UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948.—The United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.) is amended—

(1) in section 505 (22 U.S.C. 1464a), by striking "Broadcasting Board of Governors" each place it appears and inserting "United States International Broadcasting Agency"; and

(2) in section 506(c) (22 U.S.C. 1464b(c))—

(A) by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency"; and

(B) by striking "Board" and inserting "Agency".

(e) FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended—

(1) in section 202(a)(1) (22 U.S.C. 3922(a)(1)), by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency";

(2) in section 210 (22 U.S.C. 3930), by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency";

(3) in section 1003(a) (22 U.S.C. 4103(a)), by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency"; and

(4) in section 1101(c) (22 U.S.C. 4131(c)), by striking "Broadcasting Board of Governors," and inserting "the United States International Broadcasting Agency,".

(f) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—The State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended—

(1) in section 23(a) (22 U.S.C. 2695(a)), by striking "Broadcasting Board of Governors," and inserting "United States International Broadcasting Agency,";

(2) in section 25(f) (22 U.S.C. 2697(f)—

(A) by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency"; and

(B) by striking "the Board and the Agency" and inserting "their respective agencies";

(3) in section 26(b) (22 U.S.C. 2698(b))—

(A) by striking 'Broadcasting Board of Governors," and inserting "United States International Broadcasting Agency"; and

(B) by striking "the Board and the Agency" and inserting "their respective agencies"; and

(4) in section 32 (22 U.S.C. 2704), by striking "Broadcasting Board of Governors" and inserting "United States International Broadcasting Agency".

(g) TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended—

(1) by striking "Director of the International Broadcasting Bureau.".

(2) by adding at the end the following: "Director, United States International Broadcasting Agency.".

### SEC. 308. REFERENCES.

Except as otherwise provided in this title or an amendment made by this title, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Broadcasting Board of Governors and the International Broadcasting Bureau or any other officer or employee of the Broadcasting Board of Governors or the International Broadcasting Bureau shall be deemed to refer to the United States International Broadcasting Agency or the Board of Governors of the United States International Broadcasting Agency established under this title.

### SEC. 309. BROADCASTING STANDARDS.

Section 303(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6202(a)) is amended—

(1) in paragraph (6) by striking "and";

(2) in paragraph (8) by striking the period and inserting "; and"; and

(3) by adding after paragraph (8) the following new paragraph:

"(9) seek to ensure that resources are allocated to broadcasts directed at people whose governments deny freedom of expression or who are otherwise in special need of honest and professional broadcasting, commensurate with the need for such broadcasts.".

### SEC: 310. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to such amounts as are otherwise authorized to be appropriated for the fiscal year 2003, there are authorized to be appropriated $135,000,000 for the fiscal year 2003 for the Broadcasting Board of Governors to expand television and radio broadcasting to countries with predominantly Muslim populations and to support audience development.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

### SEC. 311. EFFECTIVE DATE.

Except as otherwise provided, this title and the amendments made by this title shall take effect on the last day of the 6-month period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

### GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3969, the Freedom Promotion Act of 2002. As Americans, we are justly proud of our country. If any Nation has been a greater force for good in the long and tormented history of this world, I am unaware of it. We have guarded whole continents from conquests, showered aid on distant lands, sent thousands of youthful idealists to remote and often inhospitable areas to help the world's forgotten.

Why then when we read or listen to descriptions of Americans in foreign press, do we so often seem to be entering a fantasyland of hatred?

□ 1915

Much of the popular press overseas, often including the government-owned media, daily depict the United States as a force for evil, accusing this country of an endless number of malevolent plots against the world. As we battle the terrorists who masterminded the murder of thousands of Americans, our actions are widely depicted in the Muslim world as a war against Islam. Our efforts at self-defense, which should be supported by every decent person on this planet, instead spark riots that threaten governments that dare to cooperate with us.

How is it that the country that invented Hollywood and Madison Avenue has such trouble promoting a positive image of itself overseas? Over the years, the images of mindless hatred directed at us have become familiar fixtures on our television screens. All this time, we have heard calls that "something must be done." Clearly, whatever has been done has not been enough.

I believe that the problem is too great and too entrenched to be solved by tweaking an agency here or reshuffling a program there. We must rethink our entire approach and seek out new perspectives and methods. We must both address our immediate needs and also lay the groundwork for long-term changes, changes that must include utilizing the full range of modern media and tapping into the private sector's vast expertise in the creation and promotion of compelling messages and images.

To begin this process, with the assistance of my cosponsors, the gentleman from California (Mr. LANTOS) and the gentleman from California (Mr. BERMAN), I have introduced the bipartisan bill now before us, H.R. 3969, the Freedom Promotion Act of 2002. This legislation is designed to meet a number of pressing needs by reorienting and reinvigorating our approach to public diplomacy.

The bill is divided into three titles. The major provisions of title I elevate the role and prominence of public diplomacy in the State Department's programs and decision-making and include a requirement that the Secretary of State prepare an annual strategic plan for the use of public diplomacy along with an operational plan for its implementation. Title II establishes a series of initiatives focused on the Muslim world, the goal of which is to increase those people's direct contact with the American people for the purpose of enhancing their understanding of the United States and its values. Title III reorganizes our international broadcasting operations in order to ensure greater clarity and responsibility in decisionmaking. All sources agree that the current organizational structure produces great confusion. Our purpose, however, is not merely to rationalize decisionmaking but to create the conditions needed to design and implement fundamental reforms throughout our broadcasting efforts.

Mr. Speaker, these are the broad goals of this legislation. I have prepared a section-by-section description of the bill that I insert in the RECORD.

### LEGISLATION SUMMARY

#### TITLE I: DEPARTMENT OF STATE

Specific authorizing language. The legislation gives shape to the direction and manner in which public diplomacy is carried out by defining the statutory authorization; defines the role of the Secretary of State in public diplomacy more specifically in terms of standards, technologies, and target audiences:

Requires the Secretary of State to ensure that there is a "cohesive and coherent" strategy to "aggressively . . . counter misinformation and hostile propaganda concerning the United States."

In coordination with the reconstituted International Broadcasting Agency, the Secretary of State "shall develop and articulate long-term measurable objectives for United States public diplomacy.

Mandates development of an annual strategic communications plan by the Department of State to advance U.S. foreign policy goals including a tactical communications plan for implementation at the embassy level. The development of this plan must be coordinated with the many federal agencies active in international programs. Although the State Department is not given operational control over programs and activities conducted by other agencies, it is designated as the lead agency.

Under Secretary of State for Public Diplomacy—Created in 1999 with the consolidation of the Department of State and the United Information Agency (USIA), the Under Secretary is given new authority over public diplomacy directors serving in the department's six regional bureaus to improve coordination of public diplomacy activities.

The legislation creates a firewall around the budget for public diplomacy and authorizes an additional $70 million for exchange and cultural programs and $40 million for other public diplomacy programs over two years.

The legislation also provides $7.5 million annually to the Office of Broadcast Services at the Department of State to accelerate its outreach to the world. A key objective is to equip the State Department with the requisite facilities, including studios and satellite capability, to enable it to act as a command center for a public diplomacy operations globally and in real time.

Development of programming. The State Department is authorized to develop programming in coordination with U.S. Agency for International Development for foreign audiences separate from the renamed International Broadcasting Agency. State is encouraged to work with foreign television broadcasters and other media to produce and distribute programming.

Establishment of the Public Diplomacy Reserve Corps. Includes a database of eligible experts in foreign policy and mass communication for temporary assignments to augment the Department during "emergency and critical circumstances worldwide."

Enhanced training in media and advocacy skills for the Foreign Service and Ambassadors. The Foreign Service is encouraged to recruit individuals with experience in public diplomacy and to emphasize to all incoming officers that public diplomacy is an important part of their job. Training for Ambassadors and Foreign Service officers should include a component on public diplomacy and the tools and technology of mass communication. In particular, Ambassadors should take a prominent role in the formulation of public diplomacy strategies for the country and regions to which they are assigned and be formally held accountable for the operation and success of the public diplomacy efforts at their posts.

Translation services. To assist Public Affairs Offices in embassies worldwide, the legislation adds an additional $4 million annually for document translation services.

Mandates in-depth research on public and media attitudes in regions chosen at the discretion of the Department of State. This includes a requirement that analyses of the comparative effectiveness of the various efforts undertaken in the area of public diplomacy be provided annually, including the use of the private sector in the U.S. and overseas.

Alumni program. A database of international alumni of U.S. exchange programs will be created in order to expand and utilize the connections established.

American Library initiative. A demonstration program will examine the most effective way to augment resources in local public library systems to improve literacy and to "familiarize participants with American values and society, particularly the importance of freedom and democracy."

Reform of the U.S. Advisory Commission on Public Diplomacy. Mandates a comprehensive biennial study by the Commission of the State Department's public diplomacy and requires that at least four of the seven Commission members have "substantial experience in the conduct of public diplomacy or comparable activities in the private sector."

#### TITLE II: INITIATIVES AIMED AT THE MUSLIM WORLD

Youth Ambassadors—Authorizes a summer youth exchange program for young individuals from countries with a predominantly Muslim population. (Short-term exchanges of 3–4 weeks in length) to familiarize participants with the United States.

Jouralism program—Authorizes an initiative to work with foreign journalists to increase their familiarity with appropriate practices and techniques and to enhance international standards of quality and objectivity. This program will be established and operated in cooperation with private sector sponsors, including universities and exchange programs.

English language training. Creates a pilot program to increase English language skills by sending Americans to middle schools in the Muslim world to provide English language instruction.

Sister Cities Initiative: Authorizes funds for an expanded "sister cities" program to increase the number of US-sister city partnerships in countries with a predominantly Muslim population. (Currently there are 42 such partnerships). These partnerships are aimed at community level development and volunteer action and include non-federal support.

Fulbright Exchange Programs: Requires new emphasis on exchanges of U.S. professionals seeking to study, teach, conduct research or pursue scholarship in predominately Muslim countries.

National Endowment for Democracy: Provides an additional $10 million over two years to fund programs "that promote democracy, media, religious tolerance, the rights of women and strengthening of civil society" in predominately Muslim countries.

TITLE III: INTERNATIONAL BROADCASTING

Establishment of the International Broadcasting Agency—The legislation reorganizes U.S. international broadcasting programs, now headed by a part-time Board of Broadcasting Governors, into an agency headed by a director appointed by the Board. The reorganization is designed to ensure accountability by an identified decision maker while causing minimal disruption to broadcasting operations and preserving the strengths of the Board. The present Board of Governors will be reconstituted as the Board of International Broadcasting of the U.S. International Broadcasting Agency and will retain operational control of grants to entities including Radio Liberty, Radio Free Asia, and Radio Free Europe.

Development of television services to the Middle East and elsewhere. The legislation provides an initial $135 million to the Board of International Broadcasting (formerly known as the BBG) to expand television and radio broadcasting to countries with predominately Muslim populations, in order to dramatically expand access to mass audiences of uncensored news and entertainment.

There is a manager's amendment that includes a few changes from the bill as reported. We have made a number of accommodations to the concerns expressed by the State Department and others, and the bill now enjoys State Department support. These changes include reducing the authorization for the 2003 fiscal year for State Department's operating account for public diplomacy programs; providing a 2-year authorization for the initiatives focused on countries with predominantly Muslim populations for the 2002 and 2003 fiscal years; and adding a sense of Congress to establish a training program for journalists from regions of conflict.

The measures in this bill are long overdue, but they represent only the first steps in what must become an ongoing effort to ensure that the truth about our country rises above the cacophony of hate and misinformation that often passes for discourse in many areas of the world. Our goal should not merely be to talk to the governments and elites of the world but to engage people at all levels and in every country and do so on a permanent basis. We must do so not as an adjunct to our foreign policy but as a central component of that policy.

America's story is a compelling one, but it is up to us to tell it. We have much to do, but we must never forget that beyond the islands of hatred populated by vocal enemies, there is an enormous reservoir of good will and that legions of silent allies await.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume. I rise in strong support of H.R. 3969, the Freedom Promotion Act of 2002.

Let me begin, Mr. Speaker, by applauding Chairman Hyde for his tireless work on this bill. It is his push, his creativity, and his efforts that have brought this bill into introduction, through passage in committee and now to the floor. He has a strong personal commitment to enhancing our public diplomacy programs and he is showing tremendous leadership on that critical issue. I would also like to commend my ranking member, the gentleman from California (Mr. LANTOS), for his great dedication to public diplomacy. As both of these distinguished Members are well aware, winning the information war is critical to winning the war on terrorism. Helping prevent one key element in the prevention of future terrorist attacks must be the enhancement of international understanding of U.S. policies and values and a response to the hateful anti-American propaganda that often fuels terrorism. This can only be done through strong public diplomacy, including expanded international broadcasting and enhanced educational and cultural exchanges, particularly in the Middle East and in other countries with large Muslim populations.

Mr. Speaker, in the struggle against international terrorism, the United States must not be afraid to proclaim the universal values we espouse, democracy, free markets, human rights and social justice. These ideals represent the strongest weapons in America's arsenal and are the ultimate guarantors of our victory in this struggle. Disseminating these values more broadly and more effectively is the purpose and the promise of this legislation.

This compromise bill represents the best in bipartisanship in pursuit of U.S. national security interests. In the Committee on International Relations, we worked together to craft an amendment that streamlines the management of our international broadcasting operations while at the same time maintaining a bipartisan board as a firewall to shield broadcasting from inappropriate political influence. This structure is key to preserving journalistic integrity and the credibility of our broadcasts.

We also adopted important amendments to increase funding for the National Endowment for Democracy's activities in the Middle East, to more systematically advertise our foreign assistance to overseas audiences, and to ensure that the predominantly Muslim countries of Africa are not overlooked.

Finally, we adopted an amendment that I offered with the gentleman from Virginia (Mr. CANTOR) to provide additional resources for a 24-hour Arabic language satellite television service in the Middle East, as well as new television services and expanded radio broadcasts to countries with large Muslim populations in Central, South and East Asia. It is critical that we offer people in these countries a balanced alternative to al-Jazeera and other media sources that have contributed to growing anti-Americanism in the Muslim world.

Mr. Speaker, Congress has a responsibility to ensure that the brave men and women fighting for freedom in Afghanistan and beyond are the best trained, best equipped, and best led in the world. We also have a duty to provide our diplomatic corps and our broadcasting personnel, who are on the front lines of our public diplomacy efforts, with the same moral and material support. The funds authorized in this bill are a drop in the bucket compared to the amount we have already spent in the war on terrorism, but they will make a difference in our public diplomacy efforts.

Mr. Speaker, in the wake of last September's horrific events, this Chamber has united to take bold and courageous action in support of our war against international terrorism. The legislation before us is an integral part of that war effort and deserves the same strong bipartisan show of support.

I urge all my colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

I would not want this opportunity to pass without commending my friend and colleague, the gentleman from California (Mr. BERMAN), who has made his usual indispensable contribution to good legislation. He is a very valuable and contributing Member. I am delighted to have him as an active cosponsor on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I rise in support of the Freedom Promotion Act. This important legislation is designed to enhance public diplomacy in countries with predominantly Muslim populations.

During the 1990's, the United States fought in four military conflicts in support of countries with majority Muslim areas. We liberated Kuwait, saved 250,000 people in Somalia, ended the Bosnia genocide, and halted Milosevic's ethnic cleansing in Kosova. With that record, it is almost inconceivable to me that we need to enhance our nation's image in the Middle East and other areas with large Muslim populations. Nevertheless, for a variety of reasons we do. This bill is an important first step toward telling the world the story of America and the values for which we stand.

I particularly support this legislation because it includes my amendment authorizing funding for the promotion of democracy, good governance, the rule of law, independent media, religious tolerance, the rights of women, and strengthening civil society in Middle Eastern states. For too long, America has tolerated Arab dictatorships because of our need for secure oil supplies. September 11th demonstrated that our country needs true friends in the region—democracies which respect the rights of their people—not petty autocracies which trample civil and political rights to perpetuate their rule. The funding to promote democracy in the Middle East will be coordinated by the National Endowment for Democracy, which does such excellent work around the world to promote America's democratic values.

My amendment passed prior to the recent release of the Arab Human Development Report 2002 written by Arab scholars and experts with the support of the United Nations Development Program. Yet, this report, which found a "freedom deficit" in the Arab world, only adds to the importance of democracy promotion in the Middle East. As stated in a July 7 New York Times Editorial, "For too long, America embraced corrupt and autocratic Arab leaders, asking only that they accommodate Western oil needs and not make excessive trouble for Israel. As a result, too many young Arabs now identify the United States more readily with repressive dictators it supports in the Middle East than with the tolerant democracy it practices at home." My amendment is designed to turn back that tide.

Once again, I strongly support H.R. 3969, the Freedom Promotion Act and urge my colleagues to support the bill.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 3969, the Freedom Promotion Act.

Mr. Speaker, Chairman HYDE has crafted a superb bill and I am proud of him and of our Committee. The bill, as our Committee report states, is intended to "enhance in scope and substance, redirect, redefine, and reorganize United States public diplomacy." It is clear that we have not been getting the desired results from our public diplomacy efforts. Even with the major reorganization of the last decade, our efforts have not met the challenge of the post-September 11 world.

The team assembled by the President, including Under Secretary Beers and, of course, Secretary Powell, a most formidable communicator in his own right, are working overtime. But they need the tools and resources that this bill provides them.

I am especially interested in the special authorities for outreach to the Muslim world that are incorporated in this bill. The governments of too many Muslim states have been directing the energies of their people at the United States, or at Israel, in the search for an excuse for mismanagement at home. We need to tell our story and deflect this improperly-placed blame, which can only lead to hatred, terrorism, and war.

Mr. Speaker, I applaud the work of Chairman HYDE and my colleagues and urge them to support the bill.

Mr. SCHIFF. Mr. Speaker, I rise today in support of H.R. 3969, the Freedom Promotion Act of 2002. I would like to thank Chairman HYDE and Ranking Member Lantos of the House International Relations Committee for their leadership on this very important issue.

Mr. Speaker, American leadership and generosity have made the United States the leading international donor. Each year, the United States provides billions of dollars in foreign aid. Unfortunately, despite our efforts to improve the daily lives of people around the world, anti-American sentiment exists and is—quite alarmingly—on the rise. Often, the recipients of our aid do not know that it comes from the United States.

I was pleased to offer an amendment to H.R. 3969 during the International Relations Committee markup ensuring that the positive work and support the United States provides to troubled regions around the world be properly identified. U.S. assistance funded by the American taxpayer should be clearly identified, and the extent of American generosity for purposes of poverty reduction and development should be well known.

Foreign aid is a potentially powerful tool in our public diplomacy campaign. Broadcasting this fact abroad can help in building support for U.S. foreign policy and generate good will. Directing the Secretary of State to take advantage of this untapped resource, and requiring him to report to Congress on his efforts to do so, ensures that U.S. foreign assistance becomes an integral component of public diplomacy.

My amendment to H.R. 3969 was only the first step in the effort to effectively promote U.S. assistance abroad. Now more than ever, this bill is vital to shaping an effective foreign policy that ensures America's security interests in the aftermath of September 11, and advances America's enduring principles of justice, democracy and human rights.

Thank you and I urge an 'aye' vote.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the bill, H.R. 3969, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT REGARDING AMENDMENT PROCESS FOR H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GOSS. Mr. Speaker, today a Dear Colleague will be sent to all Members informing them that the Committee on Rules will meet this week to grant a rule for H.R. 4628, the Intelligence Authorization Act for fiscal year 2003, which may require that amendments be printed in the CONGRESSIONAL RECORD prior to their consideration on the floor.

The Intelligence Authorization Act is tentatively scheduled for floor debate on Wednesday, July 24. In order for an amendment to be in order on the floor, it would need to be submitted to the CONGRESSIONAL RECORD by the end of legislative business on Tuesday, July 23.

Amendments should be drafted to the text of the bill as reported by the Permanent Select Committee on Intelligence, which was filed on Thursday, July 18.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

## SENSE OF THE HOUSE REGARDING IMPLEMENTATION OF MANDATORY STEROID TESTING PROGRAM FOR MAJOR LEAGUE BASEBALL

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 496) expressing the sense of the House of Representatives that Major League Baseball and the Major League Baseball Players Association should implement a mandatory steroid testing program.

The Clerk read as follows:

H. RES. 496

*Resolved*, That it is the sense of the House of Representatives that—

(1) Major League Baseball and the Major League Baseball Players Association should implement a mandatory steroid testing program; and

(2) such a program would send a clear message to our Nation's children that steroids are dangerous, illegal, and morally offensive to our country's competitive spirit and one of our most cherished sports.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H. Res. 496 which expresses the sense of the House of Representatives that Major League Baseball and the Major League Baseball Players Association should implement a mandatory steroid testing program.

Baseball is our national pastime. I am a lifelong fan and proudly hang pictures of my beloved Pittsburgh Pirates in my office and now have season tickets to Tampa Bay Devil Rays games. As a fan, I know that whether professional players like it or not, they are heroes to many of our children.

Recently, many players have made outstanding achievements on the baseball field. Unfortunately, this has coincided with disturbing reports of widespread steroid abuse. Unless we do something to change the culture in major league baseball, children might believe that steroid use is not only permissible but also desirable and can help an individual perform at a higher level than they could without drugs. In fact, some reports already indicate that steroid use is rising in children.

As a baseball fan, I am concerned about the integrity of the game that I love. As a grandparent, I am determined to ensure that my grandchildren grow up in an environment where dangerous performance-enhancing drugs are not a part of sports. This resolution, Mr. Speaker, is a positive step in that direction. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

After years of rumors and whispering, numerous current and former baseball players have recently alleged that a substantial number of major league players are using, or have used, illegal anabolic steroids to enhance their performance on the field. Steroids cause long-term damage to the heart and liver, can cause strokes in otherwise healthy people, and can cause career-ending injuries because a player's muscles become too strong for their joints and their ligaments and their tendons.

Recent allegations have placed the number of players using steroids at widely varying percentage. One former player alleged 85 percent of major league players have taken steroids at some point during their careers. But even if the correct number, say, is only 5 percent, it would mean that dozens of cheaters are sullying the sport, jeopardizing their own health, and putting enormous pressure on other players to use performance-enhancing drugs.

Unlike the use of illegal recreational drugs, the use of steroids can actually and obviously make you a better ball player. So if a player chooses not to use steroids, not to break the rules, he may be placing himself at a competitive disadvantage.

□ 1930

Technically, there is a commissioner's ban on steroid use. Without any form of drug testing, this ban is meaningless.

In light of the recent allegations, both the union and the owners have agreed to make this issue a negotiating point during their upcoming labor negotiations. In past negotiations, the players' union cited privacy concerns about drug testing. These are legitimate concerns, Mr. Speaker, and reasonable people can disagree about how to test players for steroid use. However, the other major sports leagues in this country have successfully instituted drug testing policies that are supported by both the owners and the players.

While baseball has many big issues on the agenda for its upcoming negotiations, the league should also make time to find a mutually agreeable way to test its players for steroids. The continuing use of these illegal drugs is bad for the players who use them, bad for the players who do not use them, and bad for baseball.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the sponsor of this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman very much for yielding me time, and I thank him for his efforts in bringing this resolution to the floor.

I rise in strong support of H. Res. 496 and urge its unanimous adoption.

I am not an expert on baseball, though I have played the game enthusiastically at many periods in my life. I am not an expert on baseball's contract disputes either. If this were merely an issue between the players' union and owners, I would not have introduced this resolution. But I am an expert on kids, and I know that children look for heroes and emulate their heroes.

Nearly three million children worldwide play Little League baseball, and these children look up to the players of the big leagues. Yet baseball's failure to test for steroids, coupled with media reports of steroid abuse in baseball, tells young people that drug use is not only permissible, but desirable. This is exactly the wrong message to be sending to our children, but it is getting through.

Recent studies have shown an alarming increase in steroid use among children. One report said steroid use by high school boys was as high as 12 percent. I am here today because Major League Baseball needs to step up to the plate and put an end to steroid use for the sake of our children, if not for the sake of the game.

Steroids are dangerous drugs with deadly consequences, such as heart attack, stroke, and liver cancer. It is dead wrong to send the message to our children that steroids can be used safely, when they are dangerous to a person's health. It is dead wrong to send the message to our kids that it is okay to cheat, and using steroids is cheating at sports.

It is time for our Nation's most popular national pastime to send the right message to our Nation's wonderful kids. Instituting mandatory, random drug testing, as football and basketball have already done, is the only way to signal that steroids have no place in professional sports and no place in our kids' lives.

The Members of the House of Representatives represent more than 250 million Americans. Passing this resolution will send a wake-up call to baseball that they need to clean up their act.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to my friend, the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong support of this resolution urging mandatory steroid testing in Major League Baseball. I rise as a Member of this body, but, more importantly, as a father and as a huge baseball fan, particularly of the New York Mets, which, I will take this opportunity to add, play much better in the second half than in the first half.

Mr. Speaker, all around us people are losing faith in their politicians, their corporations and their retirements. We cannot let them lose faith in America's national pastime, baseball. We cannot allow the clouds of doubt and skepticism to hang over every at-bat by every 40-home-run hitter.

Mr. Speaker, I grew up on Long Island worshipping Tom Seaver and Jerry Koosman and Tommy Agee and Cleon Jones and Art Shamsky. I started, I am very proud to announce, the Ron Swaboda fan club in my neighborhood. I was the only member of the Ron Swaboda fan club in my neighborhood, but that is what young people are supposed to do. Instead, according to one report, 12 percent of high school boys are taking steroids.

Baseball should be a field of dreams, and not a den of drugs. This should not be just another collective bargaining issue, because baseball is not just another business, like Enron or WorldCom. Baseball is special and has a special historic obligation to lead by example, to tell people who are young that you do not have to enhance your performance by using drugs that are dangerous, illegal and morally offensive; that you can excel the good old-fashioned way, with hard work.

The only way that baseball can send a serious message that it will not tolerate steroids is to institute mandatory drug testing for steroids. I take this position as a Member of Congress, as a father, and as a very proud fan of the New York Mets, much to the consternation of my constituents on Long Island.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. OSBORNE), our own coach.

Mr. OSBORNE. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise to support H. Res. 496, sponsored by the gentlewoman from Connecticut (Mrs. JOHNSON). I really appreciate her leadership on this particular issue.

As other speakers have mentioned, there are a number of former major league baseball players who have indicated that steroid abuse is widespread.

Some have said 50 percent, some 60 percent. I do not know what the exact figure is, but the perception is certainly there.

I guess recent records would lend some credibility to these allegations, because in the first 125 years of major league baseball, we had two players who hit 60 home runs or more. In the last 4 years, we have had three players who have hit over 70 home runs. Home run production has skyrocketed. Strength, size, speed has always increased. So, again, we do not know the exact figures, we do not know the exact facts, but, obviously, there is something going on here that is a matter of concern.

I think the perception of steroid abuse is damaging, because the National Football League, as has been pointed out, the National Basketball Association, the Olympics and intercollegiate athletics have tested for steroids for a number of years. It is hard to understand why all of these people would test and be very much against steroids, while Major League Baseball seems to turn their head. I cannot really understand that.

I know the intercollegiate athletic scene the best. For an average top football player in an intercollegiate athletic institution, you will find that the NCAA will test twice a year, the conference will come in and test twice a year, and the school will test two to three times a year. All of these are random, unannounced tests. When that happens, you will find that steroids abuse goes down and practically disappears, because, if it is an oil-based steroid, it is detectable for up to 12 months, and if it is a water-based steroid, it is detectable for 3 to 4 weeks. So with that frequency of testing, it is almost impossible to dodge the bullet, to use steroids and get away with it. So we think this has worked very well.

In the late '70s and early '80s occasionally you would hear rumors about this guy or that guy using steroids. He would gain weight and get stronger. We had the testing capability from the middle '80s on. From that time forward, we have seen practically no steroid abuse among NCAA athletes, at least in the football arena. Of course, if a person is caught using steroids, they are suspended automatically for at least 1 year.

There are three damaging issues regarding steroids. As has been mentioned earlier, there are severe health implications, heart disease, cancer, it caps growth of young people. But an adjunct to this is psychological. Steroids greatly increase aggression. There is something called "steroid rage," where someone is irrationally angry all of a sudden. This is something that can be caused by steroids. Suicide rates generally go up with those using steroids, and certain psychotic events occasionally occur as well.

Secondly, as has been mentioned earlier, there is the issue of competitive advantage. The thing I would like to mention is if you are a player and you are in a league where you think 30, 40, 50, 60 percent of your colleagues are using steroids, you may not want to use steroids, but you feel you have to use steroids in order to be competitive. If you can play in the league 2 more years, that may be several million dollars. If you can raise your home run average by 10 a year, your batting average by 15 percent, that also translates into huge contract increases. So I think we will find it is sort of a situation that to be competitive, you have to keep ratcheting up the steroid abuse.

The last thing I would mention, the reason I have really gotten behind this resolution is the fact that there is no question that young people look up to athletes, and if they see that home run production skyrocketing, if they see these guys getting bigger and stronger and faster and it seems as though the league is turning their head, we are sending a very powerful message to these young people that it is okay to do what you can get by with.

As the gentleman from New York (Mr. ISRAEL) mentioned earlier, we really have had a crisis of confidence in so many areas of our society, whether it be the clergy, whether it be politics, whether it be business, and we really cannot afford to have this crisis of confidence spread and affect our young people and particularly the game of Major League Baseball, so I urge support of the resolution and want to thank the gentlewoman from Connecticut (Mrs. JOHNSON) for her work in this area.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in favor of House Resolution 496, expressing the sense of Congress that Major League Baseball should implement a mandatory steroid drug testing program and ban the use of the drug from the sport.

I really do not have much to add from the very compelling speeches that we have heard here, but I am a mother of three actual high school athletes, and I would like to talk about how I think professional ballplayers' use and abuse of steroids has become a children's health issue.

Mr. Speaker, recent studies have shown that steroid use among student athletes is on the rise. Some studies have suggested as many as 12 percent of high school athletes use steroids. I believe that is a frightening statistic: Other surveys have indicated that student athletes are either unaware or unconvinced of the harmful effect of steroid use. Amazingly, among high school seniors, disapproval of steroids has dropped from 1997, where 91 percent of high school seniors disapproved, to less than 86 percent in the year 2001, while the belief that steroids pose a great risk has fallen from 67 percent to 59 percent in the year 2001.

These numbers are very troubling. Kids are learning that steroids are acceptable and not dangerous, and from who are they learning this? They are learning from those whose athletic performance is the highest standard, those who are the role models, the professional athlete.

Either the youth of America is ignorant, or not concerned about the side effects that have been mentioned here today, stunted growth, infertility, loss of hair, increased risk of stroke, heart disease and liver cancer. More than ever, kids are emulating what they see professionals doing, and that is using and abusing steroids to enhance their athletic performance.

Mr. Speaker, the fact that our children are copying this destructive behavior should be appalling.

There is no doubt that parents, teachers and coaches need to take a tough stance on this issue. All of us have a responsibility for our children's health. But it is absolutely crucial that we have the help of professional sports players and Major League Baseball to send a strong and clear example that steroids have no place in America's athletics.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the resolution, H. Res. 496.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

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## SENSE OF CONGRESS REGARDING OVARIAN CANCER

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 385) expressing the sense of the Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and groups and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

The Clerk read as follows:

H. CON. RES. 385

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the Congress that—

(1) the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health—

(A) should conduct or support research on the effectiveness of the medical screening technique of using proteomic patterns in blood serum to identify ovarian cancer, including the effectiveness of using the technique in combination with other screening methods for ovarian cancer; and

(B) should continue to conduct or support other promising ovarian cancer research that may lead to breakthroughs in screening techniques;

(2) the Secretary should submit to the Congress a report on the research described in paragraph (1)(A), including an analysis of the effectiveness of the medical screening technique for identifying ovarian cancer; and

(3) if the research demonstrates that the medical screening technique is effective for identifying ovarian cancer, Federal health care programs and group and individual health plans should cover the technique.

The SPEAKER pro tempore (Mr. GRUCCI). Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 385 and to include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 385, which expresses the support of the Congress for research on tests to screen for ovarian cancer.

Ovarian cancer ranks fifth in cancer deaths among women. Approximately 50 percent of the women in the United States diagnosed with ovarian cancer die as a result of the cancer within 5 years. The sooner ovarian cancer is diagnosed and treated, the better a woman's chance for recovery, since ovarian cancer is readily treatable when it is detectable before it has spread beyond the ovaries.

If diagnosed and treated while the cancer is still limited to the ovary, the 5-year survival rate is 95 percent. However, only 25 percent of all ovarian cancers are found at this early stage, primarily because ovarian cancer is hard to detect early. Women with ovarian cancer often do not display symptoms until the disease is in an advanced stage. Without a reliable, easy-to-administer screening tool, we will continue to lose the battle to detect and treat this cancer in its early stages.

This resolution expresses the sense of the Congress that the National Institutes of Health should conduct or support research on the effectiveness of screening technologies to detect ovarian cancer. The resolution also requests that the Secretary of Health and Human Services submit to Congress a report on this research, including an analysis on the effectiveness of these screening techniques.

Finally, the resolution states that if the research demonstrates that the screening technique is effective for identifying ovarian cancer, Federal health programs and health plans should cover this new diagnostic test.

It is important for women to get tested yearly for ovarian cancer. Effective screening techniques coupled with yearly exams will ultimately save lives. Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to thank the gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from New York (Mr. ISRAEL) for their efforts to address the need for continued research in ovarian health screening and subsequent coverage of proven testing methods by insurers.

Ovarian cancer, the deadliest of the gynecologic cancers, is the fourth leading cause of cancer deaths among American women. It is estimated there will be over 23,000 new cases that get diagnosed, approximately 14,000 deaths from ovarian cancer just in this year alone in the U.S. There is no sound screening test to accurately detect ovarian cancer in its early stages like a pap smear for the detection of cervical cancer or a mammogram to detect breast cancer. While the 5-year survival rate for women in the advanced stages of ovarian cancer is only 15 to 20 percent, for women in stage I of the disease, the 5-year survival rate approaches 90 percent.

This resolution encourages the development of an effective screening tool for ovarian cancer and promotes insurance coverage of effective screening tests. The Subcommittee on Health under the Committee on Energy and Commerce marked up this bill last week in committee. We passed it unanimously by voice vote. I urge my colleagues to support the resolution.

Mr. BILIRAKIS. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there are times when we can make a difference and sometimes it is the difference between life and death, and today is one of those days. We are considering a resolution that could begin a process that will save the lives of thousands of American women with ovarian cancer and women all over the world over the next several years.

The resolution before us, which I introduced with the gentlewoman from Connecticut (Ms. DELAURO), distinguished colleague, calls on the National Institutes of Health to conduct a complete multi-institutional trial of a potentially huge breakthrough in the early detection of ovarian cancer.

My colleagues have heard the statistics. About 75 percent of women diagnosed with ovarian cancer receive that diagnosis in the advanced stages of the disease when survival rates are only 20 percent. Ovarian cancer is the deadliest of gynecologic cancers. It is the fifth leading cause of cancer deaths among American women. One out of every 57 women are diagnosed with ovarian cancer. Last year nearly 14,000 women in America died from ovarian cancer.

The statistics are alarming, but we can do something about them tonight. Thanks to Peter Levine and Dr. Ben Hitt, a reliable method of early detection may be near and that early detection takes the survival rate from 20 percent to 95 percent. This is something that saves lives. These are statistics that we can improve.

The resolution calls for a full field test of the new ovarian cancer early detection process, and if that full trial of the simple blood test for ovarian cancer proves effective, I am going to fight to require that the blood test be given to all women as part of their annual gynecological exam and that Medicare/Medicaid and private insurance fully cover the procedure. It is a tough approach, but the time to act is now. In this case we can do something about the statistics. We can do something to save thousands of lives. We can make a difference.

Our Nation has found the resolve and the resources to tackle the most difficult problems on earth, to produce the most advanced technology, to produce the most sophisticated weapons we need to protect our national security, and now we have an opportunity, using a simple stick upon a finger, to protect the health security of nearly 14,000 women. Now is the time for us to find the resolve and the resources to protect our people and our women from the ravages of ovarian cancer.

Mr. Speaker, I want to thank the leadership of the Committee on Commerce for their bipartisan support. I want to thank the leadership of the entire Congress for their bipartisan support for this legislation that does put women ahead of politics. I urge my colleagues to support this important resolution.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Ms. DELAURO), who has been one of the sponsors of this bill and has been a leader in all kinds of issues regarding women's health.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

I stand here today in thanks to the gentleman from New York (Mr. ISRAEL), and I want to express how proud I am to join with him on this resolution. I will explain why to my colleagues.

So many people here know about my own set of health circumstances. Sixteen years ago, I was diagnosed with ovarian cancer. There is a moment when they tell you that you have cancer in which you go blank. You are not quite listening to anything that the doctor is telling you; you are only trying to figure out whether or not you are going to live or you are going to die.

Ovarian cancer is a stealth disease. It does not know a political party; it does not know age; it does not know religious background; it just strikes. What is often the case is that women do not know they have ovarian cancer until the late stages, and that is often too late. By some, I say random luck, but I always view that someone was watching over me; I was diagnosed with ovarian cancer in the first stage so that it was treatable, though 16 years ago we did not have all of the new technology and this wonderful opportunity that we have to see expanded research by looking at blood samples and determining from the protein in those blood samples whether or not you have ovarian cancer. But it was random, and no one should live or die by randomness.

We have an opportunity with this resolution to move forward in that early detection of ovarian cancer, and in these last 16 years, we have been unable to come forward with a screen, something like a mammogram which has been so helpful in determining the early stages of breast cancer so that we can save lives. That is what this resolution is about. It is about saving women's lives, because almost 14,000 women will die this year with ovarian cancer. If we had that screen, we could save 90 percent of them. They could go and be with their families, with their husbands, with their children, and have good lives.

I know my colleagues will do the right thing on this resolution. Let us take advantage of modern technology, of biomedical research, and let us bring hope to the women of this country and their survival. I say "thank you" from the bottom of my heart to STEVE ISRAEL, who asked me to join him on this resolution, and I say "thank you" to God every day for giving me my life back and my opportunity to serve in this institution, because this is the institution that can make things happen. We can save lives with this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to support H. Con. Res. 385 which expresses the sense of Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective.

Experts estimate that more than 23,000 cases of ovarian cancer will be diagnosed this year with an estimated 13,900 women dying this year alone. While this is a sad reality, it is even more disturbing when we consider that ovarian cancer is a very treatable disease when it is detected early, but only 25 percent of ovarian cancer cases in the United States are diagnosed in the early stages. The vast majorities of cases are not diagnosed until the cancer has spread beyond the ovaries, often because symptoms are easily confused with other diseases and because reliable easily administered screening tools do not exist. Ovarian cancer is the deadliest of all gynecologic cancers, and is the fourth leading cause of cancer death among women in the United States.

We all know about the remarkable scientific advances that are made each day. Today, people worried about certain illnesses may soon know for certain if they are at risk. Diseases that were once considered incurable are not preventable. Every day we are exploring new frontiers of the landscape of life and claiming new scientific victory. We are able to operate on infants still in the womb, extend the lives of heart patients with artificial hearts, and predict the development of disease through genetic coding. But there is a sad side of this story. There are diseases that do not receive the research attention that is necessary for advancement in treating and curing them. Ovarian cancer is one of those diseases.

That is why we must actively support all promising new developments in research. Scientists from the Food and Drug Administration and the National Cancer Institute reported in the February edition of The Lancet that patterns of protein found in patients' blood serum may reflect the presence of ovarian cancer. In the study, scientists used serum proteins to detect ovarian cancer, even at its earliest stages. Using a test that can be completed in 30 minutes with blood from a finger prick researchers were able to differentiate between serum samples taken from patients with ovarian cancer and those from unaffected patients. This test was one step in a long journey. Additional, multi-institutional trials must be completed before the scientific community can agree that this is a reliable tool. That is why this resolution is so critical. We must push to make this test available to women. Saving at least one of the 13,900 who will die has to be our motivation.

Currently, 50 percent of women diagnosed with ovarian cancer die from it within five years. When the disease is diagnosed in advanced stages, the chance of five-year survival is only 25 percent. Sadly, the situation for African American women is even more dismal. Among African American women, only 48 percent survive five years or more. Overcoming such persistent and perplexing health disparities and promoting health for all Americans must be a priority. That is why supporting research on medical screening techniques to identify ovarian cancer must rank as a priority for the Department of Health and Human Services.

Early detection of this disease is the best way to save women's lives. The Department of Health and Human Service has done remarkable work researching deadly disease like cancer, Alzheimer's, diabetes and AIDS and giving hope to so many patients through this research. This resolution asks the Secretary of Health and Human Services to focus research on this unrecognized threat to the lives of women. Specifically, the Secretary should focus research on the effectiveness of the medical screening technique of using proteomic patterns in blood serum to identify ovarian cancer.

Our scientists have tackled some of the most difficult problems known to man and have the potential to solve some of the most challenging health problems in the world. We must resolve to put all our resources behind their efforts particularly for diseases that affect populations that persistently experience health disparities.

I support this legislation and thank the sponsor Mr. ISRAEL and Ms. ROSA DELAURO who is a living testimony to how we can get results from good health care—because she is a survivor of ovarian cancer.

Mr. DINGELL. Mr. Speaker, I commend the House for taking up this resolution raising the importance of ovarian cancer research and screening.

Despite the severe consequences it poses to women's health, ovarian cancer is still under-recognized and under-researched. According to the American Cancer Society, more than 23,000 new cases of ovarian cancer will be diagnosed this year alone. An estimated 13,900 women will die of ovarian cancer in 2002, accounting for more deaths than any other cancer of the female reproductive system, and ranking as the fifth leading cause of cancer deaths in women.

Ovarian cancer is highly treatable when discovered in its earliest, most treatable stages. Unfortunately, it is seldom discovered until it has spread. Only 78 percent of ovarian cancer patients survive one year and just over 50 percent survive five years after diagnosis.

Currently, no simple standardized tests exist to detect ovarian cancer the way mammography can reliably check for breast cancer. This is why it is essential that Congress commit itself to research in the early detection of ovarian cancer.

The good news is that since 1991, the ovarian cancer incidence rate has been on the decline. The best way to ensure the continuation of these waning numbers is to invest in improved testing and research. With multiple means of early detection on the horizon, it is essential that we address this important issue as soon as possible. I urge my colleagues to join me in support of this resolution.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to ask all of my colleagues to vote for H. Con. Res. 385, which calls upon the Secretary of Health and Human Services to conduct or support research on certain tests to screen for ovarian cancer and to ensure that

Federal health care plans and group and individual health plans cover the tests if they are demonstrated to be effective. I am a proud cosponsor of this important legislation.

As many of my colleague know, increasing research funding for ovarian cancer, especially for development of an early detection test, has been among my top legislative priorities for the past decade. My bill, H.R. 326, the Ovarian Cancer Research and Information Amendments Act, has 142 co-sponsors. I have introduced a similar bill in each Congress, beginning in 1991.

I was thrilled to learn in February of this year of a blood test developed by Correlogic Systems Inc. of Bethesda, Maryland which has been studied by researchers at the National Cancer Institute and the Food and Drug Administration. In the study, scientists used a protein pattern they developed to classify 116 blood samples that were known to include 50 cancerous samples and 66 noncancerous samples. The test correctly identified the 50 cancerous samples and correctly identified 95 percent of the control sample as noncancerous.

It is urgent that large-scale testing of this technology be begun as soon as possible. As this test only requires a blood test, it will at last enable the widespread screening needed to identify this disease in its earliest and most curable stage. In particular, we should make the test available as soon as possible to those with increased risk factors for ovarian cancer.

Approximately 23,000 women in the United States are expected to be diagnosed with ovarian cancer this year and some 14,000 women will die from the disease. Ovarian cancer is the most lethal cancer of the female reproductive system, primarily because it is so difficult to detect in its early stages. While survival rates are quite high if the disease is found before it spreads beyond the ovaries, the five-year survival rate drops to 28 percent for women who are diagnosed and treated in the later stages of the disease. Only 25 percent of ovarian cancer cases are caught in the earliest stage. This test could change these frightening statistics and lead to the declines in mortality we've seen since widespread use of early detection tests for cervical and breast cancer.

I commend Representatives ISRAEL and DELAURO for introducing this bill and urge all of my colleagues to support it.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 385.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

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## NURSE REINVESTMENT ACT

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3487) to amend the Public Service Act with respect to health professions programs regarding the field of nursing.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Nurse Reinvestment Act".*

### *SEC. 2. TABLE OF CONTENTS.*

*The table of contents for this Act is as follows:*

*Sec. 1. Short title.*
*Sec. 2. Table of contents.*

*TITLE I—NURSE RECRUITMENT*

*Sec. 101. Definitions.*
*Sec. 102. Public service announcements regarding the nursing profession.*
*Sec. 103. National Nurse Service Corps.*

*TITLE II—NURSE RETENTION*

*Sec. 201. Building career ladders and retaining quality nurses.*
*Sec. 202. Comprehensive geriatric education.*
*Sec. 203. Nurse faculty loan program.*
*Sec. 204. Reports by General Accounting Office.*

## *TITLE I—NURSE RECRUITMENT*

### *SEC. 101. DEFINITIONS.*

*Section 801 of the Public Health Service Act (42 U.S.C. 296) is amended by adding at the end the following:*

*"(9) AMBULATORY SURGICAL CENTER.—The term 'ambulatory surgical center' has the meaning applicable to such term under title XVIII of the Social Security Act.*

*"(10) FEDERALLY QUALIFIED HEALTH CENTER.—The term 'Federally qualified health center' has the meaning given such term under section 1861(aa)(4) of the Social Security Act.*

*"(11) HEALTH CARE FACILITY.—The term 'health care facility' means an Indian Health Service health center, a Native Hawaiian health center, a hospital, a Federally qualified health center, a rural health clinic, a nursing home, a home health agency, a hospice program, a public health clinic, a State or local department of public health, a skilled nursing facility, an ambulatory surgical center, or any other facility designated by the Secretary.*

*"(12) HOME HEALTH AGENCY.—The term 'home health agency' has the meaning given such term in section 1861(o) of the Social Security Act.*

*"(13) HOSPICE PROGRAM.—The term. 'hospice program' has the meaning given such term in section 1861(dd)(2) of the Social Security Act.*

*"(14) RURAL HEALTH CLINIC.—The term 'rural health clinic' has the meaning given such term in section 1861(aa)(2) of the Social Security Act.*

*"(15) SKILLED NURSING FACILITY.—The term 'skilled nursing facility' has the meaning given such term in section 1819(a) of the Social Security Act.".*

### *SEC. 102. PUBLIC SERVICE ANNOUNCEMENTS REGARDING THE NURSING PROFESSION.*

*Title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.) is amended by adding at the end the following:*

## *"PART H—PUBLIC SERVICE ANNOUNCEMENTS*

### *"SEC. 851. PUBLIC SERVICE ANNOUNCEMENTS.*

*"(a) IN GENERAL.—The Secretary shall develop and issue public service announcements that advertise and promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals to enter the nursing profession.*

*"(b) METHOD.—The public service announcements described in subsection (a) shall be broadcast through appropriate media outlets, including television or radio, in a manner intended to reach as wide and diverse an audience as possible.*

*"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.*

### *"SEC. 852. STATE AND LOCAL PUBLIC SERVICE ANNOUNCEMENTS.*

*"(a) IN GENERAL.—The Secretary may award grants to eligible entities to support State and local advertising campaigns through appropriate media outlets to promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals from disadvantaged backgrounds to enter the nursing profession.*

*"(b) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to acquire local television and radio time, place advertisements in local newspapers, or post information on billboards or on the Internet in a manner intended to reach as wide and diverse an audience as possible, in order to—*

*"(1) advertise and promote the nursing profession;*

*"(2) promote nursing education programs;*

*"(3) inform the public of financial assistance regarding such education programs;*

*"(4) highlight individuals in the community who are practicing nursing in order to recruit new nurses; or*

*"(5) provide any other information to recruit individuals for the nursing profession.*

*"(c) LIMITATION.—An eligible entity that receives a grant under subsection (a) shall not use funds received through such grant to advertise particular employment opportunities.*

*"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.".*

### *SEC. 103. NATIONAL NURSE SERVICE CORPS.*

*(a) LOAN REPAYMENT PROGRAM.—Section 846(a) of the Public Health Service Act (42 U.S.C. 297n(a)) is amended—*

*(1) in paragraph (3), by striking "in an Indian Health Service health center" and all that follows to the semicolon and inserting "at a health care facility with a critical shortage of nurses"; and*

*(2) by adding at the end the following: "After fiscal year 2007, the Secretary may not, pursuant to any agreement entered into under this subsection, assign a nurse to any private entity unless that entity is nonprofit.".*

*(b) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—Section 846 of the Public Health Service Act (42 U.S.C. 297n) is amended—*

*(1) in the heading for the section, by striking "LOAN REPAYMENT PROGRAM" and inserting "LOAN REPAYMENT AND SCHOLARSHIP PROGRAMS";*

*(2) by redesignating subsections (d), (f), (g), and (h) as subsections (f), (h), (i), and (g), respectively;*

*(3) by transferring subsections (f) and (g) (as so redesignated) from their current placements, by inserting subsection (f) after subsection (e), and by inserting subsection (g) after subsection (f) (as so inserted); and*

*(4) by inserting after subsection (c) the following subsection:*

*"(d) SCHOLARSHIP PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall (for fiscal years 2003 and 2004) and may (for fiscal years thereafter) carry out a program of entering into contracts with eligible individuals under which such individuals agree to serve as nurses for a period of not less than 2 years at a health care facility with a critical shortage of nurses, in consideration of the Federal Government agreeing to provide to the individuals scholarships for attendance at schools of nursing.*

*"(2) ELIGIBLE INDIVIDUALS.—In this subsection, the term 'eligible individual' means an*

*individual who is enrolled or accepted for enrollment as a full-time or part-time student in a school of nursing.*

*"(3) SERVICE REQUIREMENT.—*

*"(A) IN GENERAL.—The Secretary may not enter into a contract with an eligible individual under this subsection unless the individual agrees to serve as a nurse at a health care facility with a critical shortage of nurses for a period of full-time service of not less than 2 years, or for a period of part-time service in accordance with subparagraph (B).*

*"(B) PART-TIME SERVICE.—An individual may complete the period of service described in subparagraph (A) on a part-time basis if the individual has a written agreement that—*

*"(i) is entered into by the facility and the individual and is approved by the Secretary; and*

*"(ii) provides that the period of obligated service will be extended so that the aggregate amount of service performed will equal the amount of service that would be performed through a period of full-time service of not less than 2 years.*

*"(4) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of subpart III of part D of title III shall, except as inconsistent with this section, apply to the program established in paragraph (1) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Scholarship Program established in such subpart.".*

*(c) PREFERENCE.—Section 846(e) of the Public Health Service Act (42 U.S.C. 297n(e)) is amended by striking "under subsection (a)" and all that follows through the period and inserting "under subsection (a) or (d), the Secretary shall give preference to qualified applicants with the greatest financial need.".*

*(d) REPORTS.—Subsection (h) of section 846 of the Public Health Service Act (42 U.S.C. 297n) (as redesignated by subsection (b)(2)) is amended to read as follows:*

*"(h) REPORTS.—Not later than 18 months after the date of enactment of the Nurse Reinvestment Act, and annually thereafter, the Secretary shall prepare and submit to the Congress a report describing the programs carried out under this section, including statements regarding—*

*"(1) the number of enrollees, scholarships, loan repayments, and grant recipients;*

*"(2) the number of graduates;*

*"(3) the amount of scholarship payments and loan repayments made;*

*"(4) which educational institution the recipients attended;*

*"(5) the number and placement location of the scholarship and loan repayment recipients at health care facilities with a critical shortage of nurses;*

*"(6) the default rate and actions required;*

*"(7) the amount of outstanding default funds of both the scholarship and loan repayment programs;*

*"(8) to the extent that it can be determined, the reason for the default;*

*"(9) the demographics of the individuals participating in the scholarship and loan repayment programs;*

*"(10) justification for the allocation of funds between the scholarship and loan repayment programs; and*

*"(11) an evaluation of the overall costs and benefits of the programs.".*

*(e) FUNDING.—Subsection (i) of section 846 of the Public Health Service Act (42 U.S.C. 297n) (as redesignated by subsection (b)(2)) is amended to read as follows:*

*"(i) FUNDING.—*

*"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of payments under agreements entered into under subsection (a) or (d), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003 through 2007.*

*"(2) ALLOCATIONS.—Of the amounts appropriated under paragraph (1), the Secretary may, as determined appropriate by the Secretary, allocate amounts between the program under subsection (a) and the program under subsection (d).".*

## *TITLE II—NURSE RETENTION*

### **SEC. 201. BUILDING CAREER LADDERS AND RETAINING QUALITY NURSES.**

*Section 831 of the Public Health Service Act (42 U.S.C. 296p) is amended to read as follows:*

### **"SEC. 831. NURSE EDUCATION, PRACTICE, AND RETENTION GRANTS.**

*"(a) EDUCATION PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities for—*

*"(1) expanding the enrollment in baccalaureate nursing programs;*

*"(2) developing and implementing internship and residency programs to encourage mentoring and the development of specialties; or*

*"(3) providing education in new technologies, including distance learning methodologies.*

*"(b) PRACTICE PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities for—*

*"(1) establishing or expanding nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities;*

*"(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV–AIDS, substance abusers, the homeless, and victims of domestic violence;*

*"(3) providing managed care, quality improvement, and other skills needed to practice in existing and emerging organized health care systems; or*

*"(4) developing cultural competencies among nurses.*

*"(c) RETENTION PRIORITY AREAS.—The Secretary may award grants to and enter into contracts with eligible entities to enhance the nursing workforce by initiating and maintaining nurse retention programs pursuant to paragraph (1) or (2).*

*"(1) GRANTS FOR CAREER LADDER PROGRAMS.—The Secretary may award grants to and enter into contracts with eligible entities for programs—*

*"(A) to promote career advancement for nursing personnel in a variety of training settings, cross training or specialty training among diverse population groups, and the advancement of individuals including to become professional nurses, advanced education nurses, licensed practical nurses, certified nurse assistants, and home health aides; and*

*"(B) to assist individuals in obtaining education and training required to enter the nursing profession and advance within such profession, such as by providing career counseling and mentoring.*

*"(2) ENHANCING PATIENT CARE DELIVERY SYSTEMS.—*

*"(A) GRANTS.—The Secretary may award grants to eligible entities to improve the retention of nurses and enhance patient care that is directly related to nursing activities by enhancing collaboration and communication among nurses and other health care professionals, and by promoting nurse involvement in the organizational and clinical decisionmaking processes of a health care facility.*

*"(B) PREFERENCE.—In making awards of grants under this paragraph, the Secretary shall give a preference to applicants that have not previously received an award under this paragraph.*

*"(C) CONTINUATION OF AN AWARD.—The Secretary shall make continuation of any award under this paragraph beyond the second year of such award contingent on the recipient of such award having demonstrated to the Secretary measurable and substantive improvement in nurse retention or patient care.*

*"(d) OTHER PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities to address other areas that are of high priority to nurse education, practice, and retention, as determined by the Secretary.*

*"(e) PREFERENCE.—For purposes of any amount of funds appropriated to carry out this section for fiscal year 2003, 2004, or 2005 that is in excess of the amount of funds appropriated to carry out this section for fiscal year 2002, the Secretary shall give preference to awarding grants or entering into contracts under subsections (a)(2) and (c).*

*"(f) REPORT.—The Secretary shall submit to the Congress before the end of each fiscal year a report on the grants awarded and the contracts entered into under this section. Each such report shall identify the overall number of such grants and contracts and provide an explanation of why each such grant or contract will meet the priority need of the nursing workforce.*

*"(g) ELIGIBLE ENTITY.—For purposes of this section, the term 'eligible entity' includes a school of nursing, a health care facility, or a partnership of such a school and facility.*

*"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.".*

### **SEC. 202. COMPREHENSIVE GERIATRIC EDUCATION.**

*(a) COMPREHENSIVE GERIATRIC EDUCATION.—Title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.) (as amended by section 102) is amended by adding at the end the following:*

## *"PART I—COMPREHENSIVE GERIATRIC EDUCATION*

### **"SEC. 855. COMPREHENSIVE GERIATRIC EDUCATION.**

*"(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities to develop and implement, in coordination with programs under section 753, programs and initiatives to train and educate individuals in providing geriatric care for the elderly.*

*"(b) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds under such grant to—*

*"(1) provide training to individuals who will provide geriatric care for the elderly;*

*"(2) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;*

*"(3) train faculty members in geriatrics; or*

*"(4) provide continuing education to individuals who provide geriatric care.*

*"(c) APPLICATION.—An eligible entity desiring a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.*

*"(d) ELIGIBLE ENTITY.—For purposes of this section, the term 'eligible entity' includes a school of nursing, a health care facility, a program leading to certification as a certified nurse assistant, a partnership of such a school and facility, or a partnership of such a program and facility.*

*"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.".*

*(b) TECHNICAL AMENDMENT.—Section 753(a)(1) of the Public Health Service Act (42 U.S.C. 294c) is amended by striking ", and section 853(2)," and inserting ", and section 801(2),".*

### **SEC. 203. NURSE FACULTY LOAN PROGRAM.**

*Part E of title VIII of the Public Health Service Act (42 U.S.C. 297a et seq.) is amended by inserting after section 846 the following:*

*"NURSE FACULTY LOAN PROGRAM*

*"SEC. 846A. (a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with any school of nursing for the establishment and operation of a student loan fund in accordance with this section, to increase the number of qualified nursing faculty.*

*"(b) AGREEMENTS.—Each agreement entered into under subsection (a) shall—*

*"(1) provide for the establishment of a student loan fund by the school involved;*

*"(2) provide for deposit in the fund of—*

*"(A) the Federal capital contributions to the fund;*

*"(B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such school;*

*"(C) collections of principal and interest on loans made from the fund; and*

*"(D) any other earnings of the fund;*

*"(3) provide that the fund will be used only for loans to students of the school in accordance with subsection (c) and for costs of collection of such loans and interest thereon;*

*"(4) provide that loans may be made from such fund only to students pursuing a full-time course of study or, at the discretion of the Secretary, a part-time course of study in an advanced degree program described in section 811(b); and*

*"(5) contain such other provisions as are necessary to protect the financial interests of the United States.*

*"(c) LOAN PROVISIONS.—Loans from any student loan fund established by a school pursuant to an agreement under subsection (a) shall be made to an individual on such terms and conditions as the school may determine, except that—*

*"(1) such terms and conditions are subject to any conditions, limitations, and requirements prescribed by the Secretary;*

*"(2) in the case of any individual, the total of the loans for any academic year made by schools of nursing from loan funds established pursuant to agreements under subsection (a) may not exceed $30,000, plus any amount determined by the Secretary on an annual basis to reflect inflation;*

*"(3) an amount up to 85 percent of any such loan (plus interest thereon) shall be canceled by the school as follows:*

*"(A) upon completion by the individual of each of the first, second, and third year of full-time employment, required by the loan agreement entered into under this subsection, as a faculty member in a school of nursing, the school shall cancel 20 percent of the principle of, and the interest on, the amount of such loan unpaid on the first day of such employment; and*

*"(B) upon completion by the individual of the fourth year of full-time employment, required by the loan agreement entered into under this subsection, as a faculty member in a school of nursing, the school shall cancel 25 percent of the principle of, and the interest on, the amount of such loan unpaid on the first day of such employment;*

*"(4) such a loan may be used to pay the cost of tuition, fees, books, laboratory expenses, and other reasonable education expenses;*

*"(5) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the 10-year period that begins 9 months after the individual ceases to pursue a course of study at a school of nursing; and*

*"(6) such a loan shall—*

*"(A) beginning on the date that is 3 months after the individual ceases to pursue a course of study at a school of nursing, bear interest on the unpaid balance of the loan at the rate of 3 percent per annum; or*

*"(B) subject to subsection (e), if the school of nursing determines that the individual will not complete such course of study or serve as a faculty member as required under the loan agreement under this subsection, bear interest on the unpaid balance of the loan at the prevailing market rate.*

*"(d) PAYMENT OF PROPORTIONATE SHARE.—Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.*

*"(e) REVIEW BY SECRETARY.—At the request of the individual involved, the Secretary may review any determination by a school of nursing under subsection (c)(6)(B).*

*"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.".*

***SEC. 204. REPORTS BY GENERAL ACCOUNTING OFFICE.***

*(a) NATIONAL VARIATIONS.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a survey to determine national variations in the nursing shortage at hospitals, nursing homes, and other health care providers, and submit a report, including recommendations, to the Congress on Federal remedies to ease nursing shortages. The Comptroller General shall submit to the Congress this report describing the findings relating to ownership status and associated remedies.*

*(b) HIRING DIFFERENCES AMONG CERTAIN PRIVATE ENTITIES.—The Comptroller General of the United States shall conduct a study to determine differences in the hiring of nurses by nonprofit private entities as compared to the hiring of nurses by private entities that are not nonprofit. In carrying out the study, the Comptroller General shall determine the effect of the inclusion of private entities that are not nonprofit in the program under section 846 of the Public Health Service Act. Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report describing the findings of the study.*

*(c) NURSING SCHOLARSHIPS.—The Comptroller General of the United States shall conduct an evaluation of whether the program carried out under section 846(d) of the Public Health Service Act has demonstrably increased the number of applicants to schools of nursing and, not later than 4 years after the date of the enactment of this Act, submit a report to the Congress on the results of such evaluation.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3487, the Nurse Reinvestment Act.

Over the past several weeks, both the Senate and the House have worked to reach agreement on legislation that will help alleviate the national nursing shortage. We have all heard about issues with recruitment and retention of nursing staff across the nursing continuum. Our health and long-term care systems rely heavily on the services of these dedicated health care professionals. Nurses provide critical medical services necessary to ensure quality health care. Our legislation provides new authority to the Secretary of Health and Human Services to ensure that we will have an adequate supply of qualified nurses in our health care system.

□ 2000

To address the nursing shortage, this legislation focuses on two key areas. The first one pertains to the recruitment of new nurses, which means we must encourage more young people to choose this challenging and fulfilling career. This legislation directs the Secretary of Health and Human Services to create public service announcements designed to promote nursing and nursing education programs. Secondly, this legislation focuses on the training of those in the profession by building on the recruitment theme.

The compromise bill we are considering today expands title 8 of the Public Health Service Act to include scholarships for students entering the nursing profession. In exchange, students must enter a commitment to serve in a health facility determined to have a critical shortage of nurses.

Third, H.R. 3487 focuses on the retention of the talented workforce that is in the system today. To aid in the retention of qualified nurses, the legislation provides the HHS Secretary with authority to expand on career ladder programs that promote career advancement of nurses within the profession. The bill also allows grants to enhance the nursing workforce by initiating and retaining nurse retention programs. Moreover, this legislation authorizes grants for programs that will train and educate individuals in providing care for elderly, which may be critical with our aging baby boom population.

Our efforts to recruit and retain qualified nursing professionals will be in vain if we do not also address our system for educating nurses. If we are successful in recruiting nurses to the profession, we will need to build up our Nation's capacity to educate nurses. To this end, the bill establishes a faculty loan cancellation program to encourage people to complete advanced education and treat future nurses. Under this program, Ph.D. and master's nursing students will be eligible to receive loans if they agree to teach in a nursing schooling upon completion of their degree. For every year up to 4 years that a loan recipient teaches, he or she will have an increasing portion of their loan canceled.

Nurses are invaluable, Mr. Speaker, to the success and quality of our health care system. The legislation helps ensure that our Nation will have a well-trained supply of nurses on which to rely. Again, this legislation, and I am very proud to say this, was put together with a bipartisan effort of the House and the Senate. And I would certainly be remiss if I did not mention the gentlewoman from California (Mrs. CAPPS), who is a nurse herself who has lived these particular problems and she has been a pusher, I guess is the best way I can put it, on this; and we are very, very grateful to her for this and to her staff.

I would like to thank my colleagues for their hard work and dedication to this issue, and I would also add thanks to the gentleman from Maryland (Mr. EHRLICH), the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from Tennessee (Mr. BRYANT), and the gentlewoman from New York (Mrs. KELLY). There are so many from the other side of the aisle and our side who have been so helpful because of the great interest in trying to solve this particular problem.

I would like to take a moment to thank some of the staff who worked on this bill. Please forgive me if I miss anyone in this process. I would like to recognize a few people. First, Anne Esposito, who recently left my staff, was instrumental in obtaining House passage of the bill. John Ford, Jeremy Sharp, and Katie Porter on the minority were also most helpful, as were Steve Tilton, Erin Ockunzzi, Cheryl Jaeger, and Pat Morrisey from my staff. I thank each of them for their hard work on this legislation. I know that we all should feel awfully proud and awfully good about having passed this or at least brought it to this particular point.

I urge my colleagues to join me in support of H.R. 3487, the Nurse Reinvestment Act.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are three nurses in the House of Representatives, the gentlewoman from New York (Mrs. MCCARTHY), the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), and the gentlewoman from California (Mrs. CAPPS).

Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Mrs. CAPPS), who, as a registered nurse and a member of the Subcommittee on Health of the Committee on Energy and Commerce, has been the driving force and turned this dream into a reality and, as the gentleman from Florida (Mr. BILIRAKIS) has said, has simply not let up on this issue.

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I rise in strong support of the Nurse Reinvestment Act, and I urge my colleagues to vote for this important legislation.

Mr. Speaker, I want to thank the gentleman from Florida (Mr. BILIRAKIS) for putting up with me, the gentleman from Louisiana (Mr. TAUZIN), and especially ranking members, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN), and all of the staff for the hard work put into this bill. I will mention by name as well: Katie Porter, John Ford, Steve Tilton, Cheryl Yaeger, and from my office, Jeremy Sharp.

Together we have crafted good legislation that will help us deal with the nursing shortage.

This bill marks a major commitment by the Congress to end the shortage of nurses. The bill is based on legislation that I introduced in April of last year, H.R. 1436, and represents a major step forward in nursing education. I am grateful for the support of 238 co-sponsors of that bill and the nursing and public health groups that helped us move it forward.

The Nurse Reinvestment Act will authorize new scholarships for prospective nurses to complete their education more quickly and join the workforce. These scholarships will enable a broader range of people to find their way into a very rewarding career, one that will always be in demand, no matter the strength or weakness of the economy.

The bill also authorizes grants to train all levels of the nursing workforce in geriatric care. This will better prepare our nurses to deal with the coming retirement of the baby boom generation. And the bill addresses the shortages of nursing faculty by providing loan assistance to nurses who want to teach.

It also expands current nursing programs to include career ladder grant programs and nursing retention programs. These new programs will help make the nursing profession more attractive to potential nurses and to provide for more upward mobility.

And, finally, the legislation will authorize public service announcements to educate the public about the need for more nurses, the opportunities available for educational assistance, and the rewards of this kind of caregiving career. One of the major problems nursing faces is the perception that it is an unappealing career and women's work. These PSA's will help us counter that impression and explain the value and the benefits of a career in nursing.

Mr. Speaker, I am, as my colleague mentioned, one of three nurses currently serving in Congress. Before I was elected to the House of Representatives, I served the people of Santa Barbara County as a public health nurse for 20 years. I do know first hand the challenges facing our hospitals and health care providers and the consequences if we fail to meet them. Nurses are the backbone of our public health system. As we struggle to prepare our Nation for everyday public health emergencies, and extraordinary events like bio-terrorism, we certainly cannot afford to be without enough nurses. September 11 and the anthrax letters remind us that our safety and well-being depends in part on the ability of our hospitals to care for us and our loved ones. Having enough nurses is a critical component of that care. Nurses are the first line of defense in all these scenarios. They will be the ones treating the victims of biological and conventional terror attacks, and right now we do not have enough of them.

Data on the nursing workforce shows that staffing shortages are increasing and recruiting new registered nurses is becoming progressively more difficult. We already today need 125,000 RN's to fill existing vacancies according to the American Hospitals Association; and by 2010, 40 percent of the RN workforce will be over 50 years old. In contrast, the number of RN's under 35 has fallen to just a little over 18 percent. Simply put, there are not enough new nurses joining the workforce to replace those expected to retire in the next 10 years, and this problem will be compounded by the 78 million baby boomers retiring and needing more health care.

Congress needs to act on this problem quickly. We need to pass the Nurse Reinvestment Act, and then we need to appropriate sufficient funds to the program it creates. This bill represent several good steps toward a comprehensive solution toward the nursing shortage; but if we do not fund it, it will be of little help.

Funding for nursing education programs right now is around $100 million. We certainly have to increase our commitment to nursing. To be sure, there is much more that we will need to do. But this is an excellent start, and I am pleased that we have finally come to this point. So I urge all of my colleagues to support nurses and vote for the Nurse Reinvestment Act.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must say that last evening, late last night about 11:15, 11:30, my favorite uncle, my wife's and mine, passed away with leukemia. And during these last few weeks when he was in the hospital in Tarpon Springs, Florida, my hometown; and afterwards with the hospice people at his home for 3 or 4 days, well, the dedication of nurses was just there and I do not think I told any of them; but I wanted to tell them about this piece of legislation, but they were awfully busy.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. EHRLICH), who is a member of the committee.

Mr. EHRLICH. Mr. Speaker, I rise in support of H.R. 3487, as amended. We have already heard this bill is absolutely critical. In Maryland, our health care facilities are now reporting a shortage of 2,000 nurses statewide. This shortage directly affects the quality of care Marylanders receive in hospitals, in community health centers, in doctors' offices, and even their homes. This act spurs both nurse recruitment to attract more young people into the profession, as well as nurse retention to hold on to experienced nurses.

As we have heard, this legislation contains provisions for public service announcements to advertise and promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals to enter this critical profession. It also establishes a scholarship program for students who want to become nurses but may not be able to afford nursing school.

The act creates a scholarship program to help individuals who agree to serve at least 2 years at a health care facility in a nurse shortage area. To improve retention, the bill gives the Secretary of Health and Human Services the authority to provide grants for nurse education practices and retention grants. These grants may go to programs to help train nurses in specialty areas, serve underserved populations such as the elderly and substance abusers, and work for a higher nursing degree, among other nurse-retention programs.

Mr. Speaker, this act gives the Health Resources and Services Administration the authority to offer loan repayment opportunities for nurses to gain advance degrees in order to become nursing faculty. Faculty who serve 4 years in nurse-shortage areas will have 85 percent of their school loans repaid for them.

I would like to thank the chairman. We could not do this without the gentleman from Florida (Mr. BILIRAKIS). His leadership has been terrific, and he has been as dogged as the gentlewoman from California (Mrs. CAPPS). I also want to thank the gentlewoman from New York (Mrs. KELLY), my colleague and friend, for her hard work on this; the gentleman from Ohio (Mr. BROWN); and, of course, the man who makes it all possible, the chairman of the committee, the gentleman from Louisiana (Mr. TAUZIN). But without the gentleman from Florida (Mr. BILIRAKIS), we would not be standing here today. I know the gentlewoman from California (Mrs. CAPPS) agrees with that thought.

Mr. Speaker, this investment in the nursing workforce improves our Nation's health delivery system, and it is crucial to the health and public safety of all Americans. I congratulate everybody associated with the bill. It will be signed by the President. It is good policy. It is a bipartisan bill. I look forward to its enactment into law.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MCCARTHY), who also is a registered nurse.

Mrs. MCCARTHY of New York. Mr. Speaker, I was a nurse for over 30 years before I came to Congress and the gentlewoman from California (Mrs. CAPPS) and I talk about it. We are still nurses. We just happen to have a side job as being a Congressperson. That is the way we look at it here. That is why I take the nursing shortage very personally; and also why, last December when we passed a version of the Nurse Reinvestment Act, I was happy that we started looking at the issue because it is an important issue to all of us. But we still need to do more for our nurses. That is why I and the gentlewoman from California (Mrs. BONO) introduced H.R. 4654, the Nurse Retention and Quality of Care Act. This is a bill that provides $20 million in grant monies to hospitals to help them become magnet hospitals.

On Long Island where I live, we have an RN vacancy rate of 8 percent and an 16 percent LPN vacancy rate. In addition, 126,000 nurses are needed nationwide.

One solution to keep and retain nurses immediately would be to help hospitals obtain magnet hospital status. Magnet hospitals are hospitals that have reorganized care to be more hands-on, team-oriented, patient-centered, and as a result are attracting more nurses.

I and the gentlewoman from California (Mrs. BONO) wanted to give hospitals a chance to become better workplaces for health care professionals. Even in times of nursing shortages, magnet hospitals enjoy low turn-over and job satisfaction. The average length of employment for registered nurses in magnet hospitals is 8 years, twice the length of employment in non-magnet hospitals. Magnet hospitals give our nurses the ability to make their own schedules, which, by the way, is one of the biggest contentions with nurses in hospitals today. In addition, nurses are on all administration boards and continued education for all levels of nursing are provided.

As a result, magnet hospitals report lower mortality rates, higher patient satisfaction and greater cost efficiency.

□ 2015

The patients experience shorter stays in hospital and intensive care units. Best of all, nurses are enjoying their jobs again.

The nurses I spoke to at my Long Island magnet hospitals say that their quality of life has dramatically improved due to the changes made, and I think this is something that we are starting to really address now. With this particular bill, we are looking at all of the aspects of what our nurses are facing on a daily basis. We have sicker patients in the hospitals today. The job has gotten harder and harder. Higher tech has come in, but yet there is one thing all nurses have in common, and this is the compassion to take care of the people. That is why we went into nursing in the first place.

Mr. Speaker, I rise today thrilled that the Nurse Reinvestment Act now includes our magnet hospital language, and it has truly become a bill that will help all nurses, but this is a win-win situation. Not only is it good for our nurses and our hospitals, but it really is good for our patients, and again, that comes back down to those that need us the most, especially when they are sick.

I commend my colleagues in both Houses for their diligent work negotiating for a better bill and urge all Members to support this important piece of legislation.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I rise in strong support of the Nurse Reinvestment Act. This is a substantial step in addressing the growing shortage of nurses currently being experienced by health care facilities nationwide. I thank the gentleman from Florida (Mr. BILIRAKIS), the Subcommittee on Health chairman, and the gentlewoman from California (Mrs. CAPPS), for their hard work in bringing this legislation to the floor.

As a professional patient advocate, I hope that this measure will increase the number of health professionals available to care for the growing number of patients we have, the growing number, as well as being more ill when they are in the hospital.

The bill contains practical and creative solutions to eliminating the nursing shortage. It focuses on recruitment, retention, career enhancement and faculty development. The Nurse Reinvestment Act will provide a framework for increasing awareness about opportunities in the nursing profession, growing enrollment in nursing schools, and providing staff coverage for areas experiencing acute shortages.

Funding for outreach and public awareness campaigns will help us tap into new communities, seeking those people who may not traditionally have considered health care as a career. The National Nurse Service Corps expanded loan repayment assistance and a scholarship program contained in this bill will further entice prospective students to serve in areas where the need is the greatest.

We hope that nurses currently practicing will find this legislation provides funding for the development of internships, residency and mentoring programs, and education and new emerging technologies. Nurses also should be encouraged to seek specialty training and other opportunities to enhance their skills as a result of this bill.

An especially important component of the bill is a provision to ensure that nursing schools have adequate faculty. A loan forgiveness program will be available for nurses pursuing advanced education who will teach in nursing schools.

In short, the bill will help make sure that the classroom seats in our Nation's nursing schools are filled and that practicing nurses remain in the field and pursue higher skill levels. This will help relieve the nursing shortage that we are experiencing. Nurses are stretched too thin, and we need to get more nurses on the hospital floors to provide much-needed care for patients.

It is a good step. It is a first step in helping America continue to have caring and outstanding medical nursing care. I urge all of my colleagues to support this measure and help strengthen our Nation's health care workforce.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to first of all commend and congratulate the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) for their outstanding leadership on health issues, and I also want to commend the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) for the leadership that they provide. I could not let this opportunity go by without coming over to congratulate and commend the gentlewoman from California (Mrs. CAPPS) for the outstanding leadership she has provided on this issue as well as so many others.

I was listening to the debate and was thinking of Loyola University, Rush-Presbyterian St. Luke's, University of Illinois, Cook County Hospital, Mount Sinai Hospital, Westside Veterans Administration, Heinz, Northwestern, Mercy Hospital, Malcolm X College, the Chicago Rehabilitation Institute, all of which have nursing schools and nursing programs in my congressional district, all who lament the fact that we do not have enough nurses, in many instances, to fill some of the classes.

This deal will create an opportunity for many institutions not to find it necessary to import nurses. There is a wealth of talent, individuals around who with a little nudging and a little help will choose nursing as a career. This is an opportunity. It is a great one.

Again, I commend the gentlewoman from California (Mrs. CAPPS) and all of those who have made it happen.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 4 minutes.

I want to thank the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Florida (Mr. BILIRAKIS) for their fine work and for working with the gentleman from Michigan (Mr. DINGELL), the gentlewoman from California (Mrs. CAPPS) and with me on the issue of the nurse shortage and their commitment to send a bill to the President's desk.

Special thanks to staff members Steve Tilton and Cheryl Jaeger, and Katie Porter in my office and John Ford, and Jeremy Sharp for the work they did on this legislation.

Nurses are the heart of our health care system. They have the most contact with patients. With the threat and reality of bioterrorism, they are on the front lines treating exposure to biological and chemical agents as well as a surge of "worried well" patients. They make a functioning health care system an effective health care system, and to be sure, they do not receive nearly enough gratitude.

There is not a Member in this House or Senate who does not recognize the severity of the nursing shortage. While the facts to substantiate the shortage are glaring, the solutions are far less clear. The House and Senate each passed legislation that reflected their sincere and strong commitment to tackling the problem. Both bodies put in a tremendous amount of work to reach a compromise between the two bills, and I am pleased in joining with my colleagues with the end result.

This bill is not intended to provide all the answers. Its modest but critical purpose is to alleviate the nursing shortage by jump-starting recruitment and fostering retention.

Under recruitment, our bill will establish public service announcements and expands the current loan repayment programs to include scholarships.

Under retention, our bill will help schools of nursing to train nurses in geriatric care. It also establishes a career ladder grant program and a faculty loan cancellation program. It provides resources to health care facilities to improve their staff management.

While this bill will not cure the shortage, it is also much more than a bandaid. The bill will provide substantial authority and ultimately resources to interest men and women in becoming nurses and furthering their careers in nursing and improving the quality of their work environment. It sends a strong message to nurses that we value their hard work, we recognize their inherent value in the delivery of quality health care in this country, and we are committed to helping them in their efforts to help others.

Mr. Speaker, I ask the House to support this legislation.

Mr. BENTSEN. Mr. Speaker, I rise today in strong support of the conference report for H.R. 3487, the Nurse Reinvestment Act. As the representative for Texas Medical Center, the home of four nursing schools, I strongly believe that we need to provide sufficient federal funding for nursing education and retention programs. In a time when many of our nation's hospitals are facing nursing shortages, this legislation is an important first step in our effort to recruit and train more nurses to meet patient needs.

This bill will expand a nurse loan repayment program to include scholarship for needy students. In exchange for this scholarship assistance, nurses will be required to serve for a period of time in health care facilities that face a critical shortage of nurses. The requirement to serve will vary according to the amount of assistance each nursing student receives.

This legislation will also provide resources to nursing schools to train nurses of all levels to care for an aging population. As a larger portion of our population reaches retirement age, there will be an increased need for skilled nurses. Nursing schools will be allowed to develop new curricula, faculty development, and offer continuing education classes.

Another important provision included in this bill will provide grants to nursing schools for Faculty Loan Programs. Nursing schools will offer loans to advanced degree students with the expectation that these advanced trained nurses will join the faculty to teach new nurses. In our local area, there is shortage of both trained nurses and trained faculty members. I believe we need both more nursing teachers and students in order to increase the supply of nurses.

This measure would also expand current basic nursing training programs to provide grants to establish career ladder programs. With these programs, health care facilities would be able to offer new opportunities for nurses to increase their responsibilities and career opportunities. If nurses believe that they can achieve advancement in their careers, they will be more likely to be attracted to this profession.

Finally, this bill provides for public service announcements to promote the nursing professions. With more information, it is hoped that more people will enter the nursing field when they realize that it is a vital part of our health care profession. With nurses, our health care facilities can provide quality care to patients. All of these programs are necessary to ensure that tomorrow's nurses will be trained to care for all Americans.

Mr. Speaker, I urge my colleagues to support this effort to increase nursing education and recruitment programs.

Ms. DELAURO. Mr. Speaker, I rise in strong support of the bipartisan Nurse Reinvestment Act, and I thank the gentlewoman from California for her commitment to addressing our Nation's nursing shortage. She has worked so hard to ensure this body could take the first steps in addressing the concerns of nurses and the issues which have plagued the nursing profession.

In my home state of Connecticut, more than 3,200 nurses have left the State or given up their licenses since 1996. Nurse vacancy rates are up 50 percent since that time, and the number of newly licensed nurses is down 25 percent from 4 years ago.

Further, the average age of licensed nurses in my state is 45, compared to the national average of 42. There is a widening gap between the increasing need for nursing care and the number of women and men who will be there to provide the care that their patients need. These statistics only begin to indicate the severity of our nursing shortage, one that mirrors what is happening nationally.

Nurses play a critical role and are often underappreciated in our health care system. Anyone who has spent time in any hospital knows how hard nurses work and the high quality of care that they provide. Congress needs to support nurses, just as they support our loved ones and us when we need it the most. The Nurse Reinvestment Act is that first step to achieve these goals.

This bill would establish nurse scholarships in exchange for requiring those nurses to serve facilities with critical shortages. It would provide resources to schools of nursing to train nurses of all levels to care for an older population. The Nursing Reinvestment Act would also provide incentives and grant programs to ensure that nurses stay in the profession and have opportunities to move up the career ladder. It establishes public service announcements to change age-old stereotypes about the nursing profession and improve recruiting.

I am proud that nurses have been the driving force behind this bill. Together, they played a large role in developing the legislation and fighting for its passage. They were out on the front lines. They know better than anyone the challenges that nurses face day in and day out, and their experience and ideas informed this bipartisan effort and built a strong piece of legislation.

Again, I would like to thank my colleague, Mrs. CAPPS, for all of her hard work on this bill, and I urge my colleagues to support this bill so that we may meet this urgent need as soon as possible.

Mr. DINGELL. Mr. Speaker, I rise in support of the Nurse Reinvestment Act. This bill is a solid down payment in our effort to address severe shortages in the nursing profession. This is not the first nursing shortage we have seen, but I am dedicated to finding a real solution so that it may be our last. Nurses are the unsung heroes in health care, and today they need our help.

As is the case with any bill of importance, much of the credit goes to our colleagues who are willing to do the hard work. None has worked harder on behalf of the nursing professions than my friend and colleague, Representative CAPPS. She has been tireless and today her efforts pay off. I congratulate her on a job well done. Of course, we would not be here without bipartisan support and cooperation. I thank the Chairman of the Health Subcommittee, Representative BILIRAKIS, Subcommittee Ranking Member BROWN, and Chairman TAUZIN.

The national nursing shortage reached crisis level in 1999 and experts are predicting that by 2008, the nation will be short 450,000 nurses. This shortage of nurses has dramatic detrimental repercussions for American citizens. When there are too few nurses at bedsides, patients are significantly more likely to suffer serious complications, according to one study published recently in the New England Journal of Medicine.

So far, my home state of Michigan has fared better than many other states against the national nursing shortage because so many Canadian nurses have crossed the Ambassador Bridge and Detroit-Windsor Tunnel for U.S. nursing jobs. Metro Detroit hospitals import 15 to 20 percent of their nursing staff from Canada. A study by the University of Detroit-Mercy, however, reports that by 2008, Michigan will need 1.4 million registered nurses, but only 656,000 will be available.

The bill before us today seeks to rectify these problems and reverse their implications. The Nurse Reinvestment Act establishes nurse scholarships to provide educational scholarships in exchange for commitment to serve in a public or private non-profit health facility determined to have a critical shortage of nurses. H.R. 3487 further establishes nurse retention and patient safety enhancement grants to assist health care facilities to retain nurses and improve patient care delivery through more collaboration between nurses and other health care professionals.

H.R. 3487 establishes comprehensive geriatric training grants for nurses, it establishes faculty loan cancellation programs to allow nurses full-time study and rapid completion of advanced degree studies, and it establishes a career ladder grant program to assist individuals in the nursing workforce to obtain more education. Finally, the Nurse Reinvestment Act will help us recruit more nurses through public service announcements and other educational programs. These will inform the public about nursing as a profession and career and will tell potential nurses about the resources available to them if they choose to enter this wonderful profession.

I salute the efforts of Representative CAPPS and my other colleagues that have brought us this far and I urge my colleagues to join me in support of this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRUCCI). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3487.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

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## EXPRESSING SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 188) expressing the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners, as amended.

The Clerk read as follows:

H. CON. RES. 188

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of Congress that—

(1) the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners, and its representatives in the United States should cease their harassment of citizens and residents of the United States who practice Falun Gong and cease their attempts to put pressure on officials of State and local governments in the United States to refuse or withdraw support for the Falun Gong and its practitioners;

(2) the United States Government should use every appropriate public and private forum to urge the Government of the People's Republic of China—

(A) to release from detention all Falun Gong practitioners and put an end to the practices of torture and other cruel, inhumane, and degrading treatment against them and other prisoners of conscience; and

(B) to abide by the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights by allowing Falun Gong practitioners to pursue their personal beliefs; and

(3) the United States Government should investigate allegations of illegal activities in the United States of the Government of the People's Republic of China and its representatives and agents, including allegations of unlawful harassment of United States citizens and residents who practice Falun Gong and of officials of State and local governments in the United States who support Falun Gong, and should take appropriate action, including but not limited to enforcement of the immigration laws, against any such representatives or agents who engage in such illegal activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentlewoman from California (Ms. WATSON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

### GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

In the past 3 years there has been a systematic escalation of horrific attacks launched by Chinese authorities against Falun Gong practitioners. The deplorable action by the Chinese authorities has included the brutal torture of followers, particularly women, who have been arrested, gang-raped and brutally beaten.

In one instance, a 19-year-old woman who was arrested in Tiananmen Square died 13 days later while still in police custody. Her face and lips were severely swollen, both ears were plugged with blood-soaked cotton, and her nose had collapsed as a result of repeated beatings.

Another woman and her 8-month-old son were tortured to death while in police custody. Her neck and knuckle bones were broken, and her skull was sunken in. Her infant son's ankles had deep bruises from being hung upside down by handcuffs. There were bruises on the baby's head and blood in his nose.

Since the crackdown officially began on July 21, 1999, many Falun Gong followers have been suspended or expelled from school. They have been demoted or dismissed from their employment. They have been held in prison. They have been sent to labor camps and psychiatric hospitals, all because they chose to live by the strength of their convictions and refused to renounce their religious beliefs.

Thus, as a human being and a refugee of another Communist regime who oppresses its people and also has a policy of intolerance, I was compelled to act. I filed House Concurrent Resolution 188, which is supported by over 100 of our colleagues in this House. This resolution calls on the Chinese leadership to stop its persecution of Falun Gong practitioners. It further directs the agencies of our United States Government to use every appropriate public and private forum to press the Chinese authorities to release all Falun Gong religious prisoners and to immediately stop the use of torture against the Falun Gong and other prisoners of conscience.

Since the resolution was passed by our Committee on International Relations last July, this situation for the Falun Gong has worsened, and the determination of the PRC to suppress the Falun Gong at all costs has become increasingly evident. Secret documents issued by the PRC and unveiled by human rights organizations in May of this year underscored that Falun Gong practitioners and instigators should be cracked down to a greater degree, and this is their exact quote, "As soon as they are discovered, they should first be arrested and then the formalities be dealt with."

The PRC's persecution of the Falun Gong in China constitutes the most deplorable and inhumane behavior. Disturbingly, these practices are now being employed in the United States against the Falun Gong. Falun Gong practitioners here in the United States are the victims of death threats, of car bombs, of vandalism against their homes, of cyber attacks and harassment.

Given the increased evidence linking Chinese officials to this wave of persecution, Mr. Speaker, it is imperative that we in the United States act swiftly and decisively to address this serious matter. We must send a clear message to the PRC that such behavior will not be tolerated in this country and that violators will be held accountable for their actions, and that is what the manager's amendment seeks to accomplish.

In addition to technical changes, the manager's amendment includes two substantive changes to the bill introduced. The new whereas clause underscores the victimization of U.S. citizens and permanent residents who are subjected to arbitrary detention, imprisonment and torture by the PRC, and the new resolve clause calls on the United States Government to investigate reports of persecution of American citizens and residents by PRC officials and agents in the U.S.

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It calls on the U.S. Government to investigate harassment of U.S. State and local officials in an attempt to intimidate the State and local officials into withdrawing support for the Falun Gong; and it further calls on the United States Government to take appropriate action to address this illegal and unacceptable behavior.

Mr. Speaker, it has been said that the only thing necessary for the triumph of evil is for good men and women to do nothing. Therefore, I call on my colleagues to render their support to the Falun Gong and other victims of oppression in China, and to vote for the manager's amendment to House Concurrent Resolution 188.

Mr. Speaker, I reserve the balance of my time.

Ms. WATSON of California. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this resolution.

Mr. Speaker, I would like to thank the gentlewoman from Florida (Ms. ROS-LEHTINEN), the distinguished Chair of the House Subcommittee on International Operations and Human Rights, for bringing this important resolution to the floor.

Mr. Speaker, since the Chinese Government launched its brutal campaign against Falun Gong practitioners over 3 years ago, the U.S. Congress has been joined by human rights' groups and the State Department in condemning this campaign of terror and intimidation. I have been visited at my district office by the distinguished Chinese ambassador who feels that the Falun Gong is a threat to the orderly process of government in China. I had questions at the time that they came; but I listened diplomatically, I responded in a very diplomatic way, but I disagreed.

Unfortunately, these calls for fair and decent treatment of the Falun Gong has fallen on deaf ears in Beijing. Since 1999, over 250 Falun Gong practitioners have been killed by the Chinese Government. Many of those killed refused to break their links to the Falun Gong and have paid the ultimate price as a result. Thousands more Falun Gong adherents arrested in cities and villages throughout China have been subjected to brutal mistreatment, rape, and torture by their jailers. As we speak today, thousands of Chinese citizens remain behind bars or locked away in mental hospitals because they refuse to break from the Falun Gong.

Mr. Speaker, it is hard to fathom the reasons for the Chinese Government's decision to declare Falun Gong an evil cult and to launch a brutal crackdown on its adherents. And maybe there is good reason. However, as I can see it, Falun Gong's only apparent crime is its ability to organize and attract followers in a country in which the government wishes to have a monopoly on organization and ideology.

Prior to the Chinese Government's edict of July 21, 1999, to smash the Falun Gong, its adherents organized the largest peaceful public demonstration in China since the democracy movement in 1989. These peaceful protests have continued to today, despite the repression. We often see a few lone Falun Gong practitioners on the nightly news, bravely unfurling banners in Tiananmen Square, only to be hauled off into police vans a few seconds later.

To counteract these brave acts, the Chinese Government has embarked on an intense media campaign both in China and abroad to defame Falun Gong as a cult, thereby designating Falun Gong for particularly harsh treatment under the PRC's anticult agenda. Falun Gong supporters, largely silent and intimidated in China, have sought legal refuge abroad and in any place they can from these human rights' violations. There have been numerous civil complaints filed in U.S. Federal courts for the violations of the Torture Victim Protection Act, the Alien Tort Claims Act, and other crimes against humanity. Lawsuits have also been filed claiming that PRC embassies and consulates have been responsible for harassment here in the United States.

The Congressional Human Rights Caucus recently heard testimony from local government officials, including some from my own home State of California, that they have been subject to pressure from Chinese diplomats to renounce proclamations of support for Falun Gong by local city councils. I, myself, as I said, have been pressured. Mr. Speaker, it is important that the United States Congress strongly condemn such outrageous behavior and stand with local officials in the United States who wish to speak out for human rights in China.

Mr. Speaker, I urge all my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I am very pleased to yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, it is a great honor to join with my colleagues tonight on a matter of principle. And my colleague who just spoke certainly has spoken for all of us in the points that she has made, and I hope that the words that I am going to utter now also maintain what one would say is bipartisan. But it is not actually a bipartisan spirit; it is an American spirit. It has nothing to do with politics and nothing to do with anything but a belief in human beings and a belief that we care and a demonstration that we care about people.

Mr. Speaker, the Falun Gong, if anyone has ever met anybody in the Falun Gong, they know how easy it is to really care about these people, because they have such wonderful hearts. Here we have people who practice meditation and yoga, and they have committed themselves to treating other people with kindness and trying to be honest. For that, they have made themselves a target of one of the most brutal regimes on this planet.

How could anyone do anything other than sympathize with people like the Falun Gong? They are so demonstrative, and they are so exemplary of the oppressed people of the world. Not all oppressed people in the world have such good hearts and are kind and practice yoga and meditation, but they are all oppressed. And the fact that we have a regime that can be so brutal with these pacifists indicates just how immoral and horrifying the Communist regime in Beijing actually is.

As we have heard, tens of thousands of these pacifistic people, these spiritual people, have been arrested. Thousands of them have been tortured. Hundreds have died in captivity. Let us think about it: hundreds of these people, people with good souls, kindhearted people who are dedicated pacifists have died in captivity, thousands have been tortured; and tens of thousands have been thrown into jail.

This is not, however, unique for Communist China. Let us remember what has been going on in Tibet for these last few decades. In fact, one of the Dalai Lama's religious followers was just let out, I think after 19 years in prison. Again, tens of thousands of people in Tibet have been thrown into prison and tortured, if not hundreds of thousands. These are horrendous crimes against civilization that have been committed against the people of Tibet, like the Falun Gong.

And how about Christian churches in China? The People's Republic of China says if you do not register, if you are a religious organization, you must register and let us know exactly the names of everyone involved in your organization. Sounds like what the Nazis did to the Jews prior to World War II. And guess what? If you refuse to register, then those people, in what they call underground churches, are rounded up and they too are put into the laogai prison system along with the Tibetans, along with the Falun Gong representatives.

And what happens in the laogai prison system? What happens in the laogai prison system is that people are used as slave labor, and we end up having products sent to the United States that, oh yes, we can be guaranteed that none of them come from that prison camp; but what we cannot be guaranteed of is that the parts that are made in the laogai prison system do not end up in the factories that make the products that give us such a great deal at the supermarket and at the Wal-Mart stores throughout our country.

No. What has happened, unfortunately, while all this repression and bloodshed and brutality, and I might add a massive build up in their military has been going on, America has been conducting business as usual with the Communist regime in Beijing. Business as usual. And that is the United States Congress has passed time and time again bills providing Most Favored Nation Status, or as they call it, normal trade relations, for the same Communist China that is committing these violent crimes, these ugly crimes against humanity.

I do not think we should have business as usual with any thug regime, whether it be Fidel Castro, which our colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), knows the brutality of that regime firsthand, or whether it be Communist China or whether it be Kazakhstan, which I read in the paper today that we have developed a close relationship with the gangster thug that runs that country. Let us not have business as usual with countries that are run by gangsters.

Yes, let us have free trade, but let us have free trade between free people. What happens instead, what controls the agenda here in our relationships with these regimes around the world? Instead, it is our big business community, with their dreams of huge profits in dealing with someone who has a monopoly control of a country, like these gangster regimes have; cutting one deal, and thus they can have all the profit they want because they have no labor problems and they have no competition.

No, that dream is not the dream of the American people. The American people's dreams come on July 4, when we talk about individual rights being granted by God to all of God's children throughout the world. We, as free people, should be siding with the oppressed people of the world and not those gangster regimes that stand for everything that America is supposed to be against. But, of course, our big businessmen are over there making a huge profit.

They are making a big profit by setting up companies over there, I might add, manufacturing units. What is ironic about all of this is that I talked to a big business company the other day, a pharmaceutical industry; and I said, by the way, I remember when you built your plant over in China 10 years ago. How are you doing over there? And he said, well, we are not doing too good; but we are not losing as much money as the rest of those people who invested over there.

The irony of this is that we have big business, with their dreams of huge profits, directing our policy, while they themselves are getting taken to the cleaners for investing in a regime that has no respect for the rule of law. And they also know that without the IMF loan guarantees and subsidies that we provide them by granting Most Favored Nation Status, without that they would not have invested over there in the first place. Now we see a Frankenstein monster that has been created by the actions of our own government, by kowtowing to business interests that are being totally unrealistic about the threat of Communist China and a business community that has no respect for our traditions of liberty and justice.

Unfortunately, this administration, as I read today, to top it all off, as we are talking about the Falun Gong, this administration is considering closer military ties to the People's Republic of China. What a disgrace that is. When we talk about bipartisanship here in Congress, let us note that I attacked the last administration for trying to do that. Not trying to, but implementing a policy of closer military ties, and I cannot stand silently while this administration goes down that same path.

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Mr. Speaker, America should side with those in China who long for freedom. We should side with the goodhearted people of China who want to have yoga and meditation and treat people kindly. Those are our allies, not those who carry guns and building the weapons systems, and putting their boots in the face of their fellow Chinese.

We need to let the people of the world know that the United States is not the friend of totalitarian regimes, of gangsters who beat people up and slaughter them and refuse to allow the people of their country to control their destiny through the ballot box. Many people of the world think that is what they think the United States is all about, because that is what they see in their own country. Our only hope is that the young people of China, Burma, Kazakhstan or Cuba, that they understand that we are on their side and that the United States of America is a country that believes in treating people decently, and those people who are treating them in such a harsh manner and destroying their families and torturing them, that has nothing to do with the United States of America.

When they see our flag, they should think this is not for repression. Those people who see our flag should think, they are on our side.

Mr. Speaker, let us pass this resolution siding with the Falun Gong, and help those who are suffering so much in China and throughout the world. We should let them know that our world stands for freedom and liberty and justice, and that we have made mistakes. We have not gone so far and it is not past time for us to reclaim our proper role in this world, which is the role of the champion of the oppressed and the hope for all mankind.

We can make it real when we talk about the Falun Gong and the oppression in Tibet, the repression in Cuba and Kazakhstan and elsewhere, by making sure that the business community does not dictate to us the short term profit goals as being the goals of the United States of America. Our goals are much, much higher than that. Our goals are a united humanity, united behind the principles that were laid down in 1776.

We fell short of those goals for a long time, but now we must stand together on both sides of the aisle to see that we stand for those higher values.

Ms. WATSON of California. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in support of H. Con. Res. 188, the resolution sponsored by the gentlewoman from Florida (Ms. ROS-LEHTINEN), and I thank the gentlewoman from California (Ms. Watson) for yielding me time to express my concerns regarding the persecution of Falun Gong practitioners by the Chinese government. Three years ago, the Chinese government began its brutal crackdown against Falun Gong practitioners in China. People have been killed, imprisoned, and beaten for expressing their peaceful beliefs, and we know this is absolutely unacceptable.

Across America, many local United States officials have responded by sponsoring resolutions affirming the right of Falun Gong practitioners to enjoy freedom of speech. They have done this in their particular community across America. And much to our outrage, these local officials have been pressured by Chinese officials demanding that they recant their support for Falun Gong practitioners. In a Democratic Nation, the value of free speech and freedom of religion means that this is absolutely unacceptable to us. The gentlewoman from Florida (Ms. ROS-LEHTINEN) touches briefly in this issue in H. Con. Res. 188, and later this week, I will be introducing a resolution which focuses solely on Chinese efforts to interfere with local American officials.

Mr. Speaker, I ask Members to ask themselves how do they feel about the Chinese governments telling the mayors and city councils in their districts who to support, who to allow to demonstrate and speak and, what to do in general? I urge all Members to support H. Con. Res. 188, and to cosponsor my resolution that directly addresses China's attempts to stifle democracy right here in America.

Ms. WATSON of California. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from California (Ms. WATSON) for yielding me this time, and for her leadership on this issue, and thank the gentlewoman from Florida (Ms. ROS-LEHTINEN) for this legislation, H. Con. Res. 188, and ask my colleagues to support it.

I begin my remarks by asking the question, How long? How long, and when will this persecution end? That is the underlying underpinnings of this resolution. How long can the world stand by when those who are part of the Falun Gong are persecuted and beaten every day in China? It is interesting when we begin to debate issues of human rights as relates to China. There is always a dilemma. China our friend, China our business and trading partner. But I believe it is imperative that the United States looks internally on its own history and assesses times when it needs to be corrected and its treatment of individuals remedied, such as passing the hates crime legislation and civil rights legislation, and to ask our friends as well to address the terrible and violent acts that are going on against those who simply want to be peaceful practitioners, who want to be in peace.

In Houston as I pass the Chinese council office, I have worked with them. I have been able to support issues that they are concerned about. But every time I pass, there are those who are there protesting quietly and silently, but in pain over the treatment of those who practice Falun Gong. They are there every day. They are there so Americans can see that they are in pain and they need help.

This resolution will be both instructive, and it helps to craft America's foreign policy, that we cannot leave our human rights at home. It is imperative that we stand for what we believe in this country's right and as we look at our friends overseas, that we do not step away from our values. It is important to allow those to practice their faith, and to acknowledge that we have the right to free expression.

I realize that China is not governed by our Bill of Rights or our Constitution. I also realize that China has represented over and over again that they are fearful of the Falun Gong because they may be distracting people away from the government policies that China operates under the particular structure of government, the communist system of government, but China wants us to applaud and encourage its participation in the World Trade Organization and to be an equal partner in trade.

China welcomes our university professors and exchange programs. There is one in my own community with the University of Houston, and I applaud those cultural exchanges. But it warrants that we speak loudly about the abuse, and this community of people who simply ask to be left alone to practice their particular beliefs, have not been left alone in peace. Their human rights are violated, have been violated, are being violated, and will continue to be violated.

H. Con. Res. 188 puts on record this body's opposition to this violent treatment. It stands for what we believe in. It crafts and states that we are believers in human rights and that we will seek to promote human rights all over the world, even in place of having a trading partner that does not look askance at us for speaking our values and from our heart.

I applaud the strong people who are part of the Falun Gong and ask them to remain strong so we will be able to answer the question how long. Now is the time to change the ways and the attitudes. We must preserve their dignity and their life. I ask my colleagues to enthusiastically support this resolution; but as I do so, I ask the administration to enthusiastically embrace this legislation and to ask the leaders of the Chinese government to cease and desist, or else suffer penalties that we in America will stand by because we stand by human rights.

Ms. WATSON of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Falun Gong is based on the principles of truthfulness, of compassion and forbearance. It is about spirituality and peace. Yet for this, as we have heard tonight, practitioners are subjected to the most cruel, inhumane and degrading treatment imaginable at the hands of the Chinese authorities. Young or old, male or female, adult or child, the Chinese authorities show no regard for human life, no mercy, and no remorse. And now the PRC is seeking to extend its rein of terror over the Falun Gong to the United States. The persecution of the Falun Gong must end, and it must end now. I ask my colleagues to vote yes on the manager's amendment to H. Con. Res. 188.

Mr. WOLF. Mr. Speaker. I rise in support of this resolution that calls on the People's Republic of China to cease its persecution of Falun Gong practitioners, and I want to thank Rep. Ros-Lehtinen for introducing this legislation.

Falun Gong practitioners in China continue to suffer at the hands of China's officials. The State Department's most recent annual human rights report cited that thousands of organizers and adherents of the banned Falun Gong movement continue to be held in reeducation-through-labor camps or in prison.

The report says that over 200 Falun Gong practitioners died in detention as a result of torture or mistreatment. It is incredible to think that the Chinese Government tortured and killed over 200 Falun Gong practitioners—200 men and women—for practicing their religious belief.

As evidenced by the $83 billion trade deficit the U.S. has with China, the Chinese government has not been afraid to manufacture more products for sale overseas. The Chinese authorities are not afraid of making money or of selling products, but they seem to fear any organized religion in their country.

According to the Cardinal Kung Foundation, there are at least 12 Roman Catholic bishops in Chinese prisons under house arrest or in hiding.

Numerous Protestant House Church leaders and worshipers in China have been imprisoned and detained.

Large numbers of Muslims from the Uighur people group in China are in prison because of their faith. Young Muslim Uighur boys and girls are not even allowed to enter a mosque until they are 18-years-old.

The Chinese government has imprisoned hundreds of Tibetan Bhuddist monks and nuns because of their faith.

It is time for the state-sponsored and state-led persecution of believers in China to stop. It is time for the innocent to stop suffering and for believers in China to be allowed to worship freely, without fear of imprisonment.

I support this legislation that calls on the people's Republic of China to stop its persecution and urges the U.S. government to use every appropriate forum, public and private, to speak out against these human rights abuses.

Ms. SCHAKOWSKY. Mr. Speaker, I rise to call attention to the persecution of Falun Gong practitioners in China. Falun Gong is based on three principles: Truth, Compassion, and Tolerance. Falun Gong practitioners participate in five simple yet powerful exercises that they believe refines their inner strength by reaching for excellent health and higher spirituality. That is why I am baffled as to why the Chinese Government, which supported the spread of Falun Gong in the early 1990s, is so against such a peaceful and humble religion. I was shocked when I read reports of Falun Gong practitioners being beaten, imprisoned, and even tortured. This abuse is not isolated within the borders of China. There have been recent reports of Falun Gong practitioners in the United States being attacked. These incidents have even affected constituents in my district and these abuses must come to an end across the globe.

It pains me to see innocent people being attacked for their beliefs. As we enter this new century, we have so much opportunity to make this world a better place to live for all and it is our responsibility to work toward that goal. I ask my colleagues to support House Concurrent Resolution 188, which strongly urges the Government of the People's Republic of China to cease its persecution of Falun Gong practitioners because supporting this resolution is supporting the true essence of freedom.

Mr. GILMAN. Mr. Speaker, I would like to commend the gentlelady from Florida (Ms. ROS-LEHTINEN) for bringing this important resolution before us today.

China's continued persecution of Falun Gong practitioners for merely practicing their religion is deeply appalling. After 3 years of intense repression marked by propaganda campaigns, beatings, and imprisonment, thousands of Falun Gong practitioners remain in "reeducation-through-labor camps" or in prison without the benefit of formal judicial process. Furthermore, since October 2000, when China's President Jiang Zemin declared that Falun Gong was bent on "overthrowing the Chinese government, and undermining socialism" and vowed to crush the spiritual practice, over 400 Falun Gong practitioners died in detention as a result of torture or mistreatment.

China's suppression of Falun Gong is systematic and thorough. The are seeking to destroy the religion and the practitioners. Just as the British felt threatened by the peaceful non-violent protests of Mahatma Ghandi, the Chinese regime fears the popular appeal of this movement and views it as a threat to its domination over Chinese society at large.

Accordingly, I urge my colleagues to support H. Con. Res. 188 expressing the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners.

If the regime in Beijing wants to take its place among civilized nations, it must end its repression and persecution of the Falun Gong and other religions, and end it now.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H. Con. Res. 188, expressing the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners. Ms. ROS-LEHTINEN, I commend you for introducing this legislation and for the leadership you have shown as Chair of the Subcommittee on International Operations and Human Rights in speaking out against human rights abuses throughout the world.

Members of Congress need to be aware of the brutal suppression of human rights and religious freedoms being carried out by the People's Republic of China. From forced abortion and labor camps, to the imprisonment and sometimes even execution of brave Chinese who dare to stand up for their faith or political beliefs, Jiang Zemin's regime is one of the worst violators of human rights in the world.

While Christians, Tibetan Buddhists, and Muslim Uighurs are all being persecuted for their faith, the suffering of peaceful Falun Gong practitioners has been especially intense. In 1999, China's dictators launched a brutal campaign to completely eradicate Falun Gong from their country through whatever means necessary, claiming that Falun Gong was a threat to "social order" in China. The reason behind this campaign of brutality is clear: by the mid to late 1990s, the number of Falun Gong practitioners began to exceed the number of members of the Communist Party. Like all dictators and totalitarian terror systems, the PRC fears and hates what it cannot control. So it sought to destroy and intimidate those who practice Falun Gong.

Falun Gong is not a religion, per se, but rather more like a philosophy. Based on the principles of Truthfulness, Compassion, and Tolerance, Falun Gong uses a series of five physical and mental exercises to assist its members purify themselves spiritually and peacefully resolve conflicts. Whatever one may say about the merits of their beliefs, the evidence is very clear that Falun Gong practitioners are peaceful individuals who want to be left alone to practice their beliefs as they see fit.

To carry out the task of smashing those who practice Falun Gong, the Beijing dictatorship created "610" offices throughout China to oversee and direct the persecution of Falun Gong through brainwashing, torture, and murder.

The State Department Human Rights Report for 2001 has several pages detailing and documenting the plight of the Falun Gong. We know at least 250 Falun Gong have died as a result of torture thus far. Other estimates place the true body count much higher. Bodies of the tortured victims are often cremated immediately to conceal evidence of torture. The report indicated that Falun Gong adherents sent to mental health institutions have been administered psychiatric drugs and electric shock treatments by Chinese authorities.

Tens of thousands of Falun Gong practitioners are held in labor camps, prisons, and mental hospitals, where they are forced to endure torture brainwashing sessions. Chinese-American permanent residents are not spared in the PRC's disgusting torture and brainwashing campaign.

One American permanent resident, Ms. Teng Chunyan, was arrested in May 2000 and sent to prison for three years solely on account of her beliefs. She was sent to Beijing "re-education center" in June 2000. The PRC—in a move that most American POWs from Korea and Vietnam would immediately see through and recognize—put Ms. Teng on public display on November 20, 2001 after its "re-education" center had thoroughly broken and brainwashed this poor woman.

In the macabre display gleefully published by the Chinese embassy—which I will include for the public record—Ms. Teng disavowed her affiliation to the Falun Gong and stated that "I have never been abused since my detention and have not seen any sign of beating or admonishment here. Police in the center are very polite and kind. . . . The re-education center is more comfortable than my home and I am gaining weight here." American POWs who endured horrible torture at the hands of Communists would recognize these kinds of forced statements immediately as a pathetic farce. We might never know what kinds of terrible things were done to Ms. Teng and her family to get her to make these kinds of statements under duress. This is just one example of how China uses its state controlled media to inundate the public with anti-Falun Gong propaganda.

As my colleagues know, a sizable number of Falun Gong practitioners reside here in the United States. They attempt to raise awareness about the horrors their fellow believers are subject to through meeting with government officials and through holding peaceful protests. Just this past weekend Falun Gong members gathered on the Mall to pass out literature and inform Americans of the great suffering those in their faith are enduring. When Jiang Zemin and other state leaders responsible for this purge are visiting foreign countries, Falun Gong members travel overseas to protest and raise awareness of the brutal persecution.

In response, China's persecution against the Falun Gong has moved outside of China's own borders. A few weeks ago, Falun Gong practitioners—U.S. citizens—were denied visas to travel to Iceland during Jiang Zemin's visit to that country. An Icelandic newspaper known as "The Morgunblad" wrote that it "has reliable sources that Chinese authorities have demanded from the Icelanders that Falun Gong members not be in the country during the visit." They even reportedly demanded that no Falun Gong protesters be seen from the Saga Hotel where Jiang Zemin was staying.

Persecution of Falun Gong in China is horrific enough itself. The fact that China is now exporting its repression to weaker foreign nations under the guise of "safety" and "public order" is even worse. We must not forget that Iceland has been a strong democratic ally of the United States and a founding member of NATO. The fact that peaceful American citizens attempting to travel to a fellow NATO nation were detained and harassed, had their names placed on an Icelandic government "blacklist" and their tickets revoked, presumably at the behest of thugs in Beijing, is an outrage and must not be tolerated. The cancer of China's repression is spreading all over the world. The PRC is not content to beat and torture and silence those inside its own borders. Now it is seeking to bully other nations into doing its bidding. When will this country wake up and stand up to this kind of nonsense?

I call upon all members of this body to support H. Con. Res. 188. I call on the administration to step up its efforts to speak up for the Falun Gong and out against the actions of the Chinese government immediately.

### TENG CHUNYAN: I AM PLEASED TO SHAKE OFF THE SPIRITUAL SHACKLE OF THE FALUN GONG CULT (11/20/01)

"I hope that my experience help transform those obsessed Falun Gong followers," said Teng Chunyan on November 20 surrounded by media at a Beijing-based re-education center. With her short hair neatly combed and eyebrows noticeably trimmed, the confident 38-year-old woman looked at least ten years younger than her age.

"The reeducation center is more comfortable than my home and I am gaining weight here," said Teng smiling shyly. The beaming Teng, who has received systematic training in Chinese herbal medicine, cannot be compared with the Falun Gong devotee she once was.

Teng came to China from the U.S. many times between February and May of last year to collect information on the Chinese Government's handling of Falun Gong issues for Beijing branches of foreign news agencies and introduced Falun Gong followers to foreign reporters. Teng was born in Harbin, capital of northeast China's Heilongjiang Province and went to the United States in 1990. She was detained by police when she tried to enter China via the Luohu Port in Shenzhen in May 2000 and was sentenced to a 3-year term of imprisonment according to Chinese law.

Her belief in the Falun Gong cult began to waver after she was sent to a Beijing-based re-education center in June 2000. Recalling her former devotion to Falun Gong, Teng said that persuasion from family members and friends could not lessen her blind enthusiasm for the cult. "I completely rejected contacts with the outside world and only believed in the Falun Gong cult and its propaganda which is flooded on the cult web site," Teng said.

Teng started to doubt the credibility and motives of the cult web site when she found that her re-education center roommate Yao Jie, who was reported dead by the web site because of her conversion, was actually living a normal life. "What helped to change your belief in Falun Gong?" asked a reporter. "Truth can never be concealed for long. I saw with my own eyes police patiently helping educate Falun Gong followers and trying their best to save lives of believers who tried to commit suicide," said Teng.

Teng has also talked with many former Falun Gong followers and was deeply impressed with their experiences. "My personal experiences made me reconsider the so-called facts published by the cult and I completely changed my mind," said Teng. When asked about her conversion process, Teng said: "true belief conversion can never be forced." "I am pleased to shake off the spiritual shackle of the Falun Gong cult and return to a normal life."

Teng Chunyan is now an active member of the re-education center dancing troupe and is busy preparing for an upcoming art performance organized by the center. "I have never been abused since my detention and have not seen any sign of beating or admonishment here. Police in the center are very polite and kind," said Teng.

Jin Hua, vice director of the re-education center, said that police in the center are required to treat every Falun Gong follower in the center equally, and discrimination is absolutely forbidden. Jin said: "We encourage Falun Gong followers to communicate with their family members. "They can write to or call their family members as well as meet with relatives once a month."

The 75-year-old father of Teng Chunyan came from Heilongjiang Province last week to visit her and was relieved to see his daughter regaining energy and vigor. "I am happy now," Teng said. "Justice will finally defeat evil."

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### STATEMENT OF TRACY ZHAO FALUN GONG PRACTITIONER AND FORMER DETAINEE IN CHINA MARCH 2, 2000

#### HEARING ON "HUMAN RIGHTS IN CHINA AND TIBET"

Good afternoon everyone. I would like to thank the members of this committee for the opportunity to speak at this hearing today. I hope that my testimony will help shed some light on what is happening right now in China regarding the suppression of Falun Gong and the persecution of innocent Chinese citizens.

Before I begin, I would like to briefly introduce myself. My name is Tracy Zhao. I was born and raised in Beijing, China. Currently, I am an American citizen residing in Queens, New York. I am 30 years old and work as a flight attendant. I am also a Falun Gong practitioner.

Falun Gong, also known as Falun Dafa, is a spiritual practice based on ancient Chinese principles. It has five sets of traditional exercises and teaches practitioners to follow the universal virtues of "Truth, Compassion, and Tolerance." It has attracted millions of people all over the world, because of the positive effects it has on people's overall health and well-being.

In early February of this year, I traveled to Beijing with a number of other practitioners. I was interested to see what it was like for Falun Gong practitioners in China. I had heard stories through news reports and friends, but I wanted to get a first-hand look at what was really going on. I had no intention of participating in any protests, nor was I there to cause trouble. I simply wished to observe the situation first-hand.

Shortly before midnight on February 4th, which was the night before the Chinese New Year, I arrived at Tiananmen Square. I saw many policemen beating and kicking Falun Dafa practitioners, and dragging them into police vans. Many policemen were without coats and were sweating profusely from beating people. The practitioners were trying to peacefully practice their meditative exercises as a way to appeal to the government to allow them their constitutional right to freedom of belief, assembly, and speech.

I quickly took out a camera to take a picture. The flash caught the attention of the police and three of them immediately pushed me into the police van without asking me any questions. We were all taken to the nearby police station. There were hundreds of practitioners being held there. Some were bleeding in the face; others had bruises or black eyes. There were children in detention, too.

These Falun Gong practitioners had not committed any criminal acts but had only been exercising their constitutional rights. The Chinese government claims it is a country ruled by law, but it often violates its own laws. In the early hours of February 5th, around 1,200 practitioners, including myself, were taken to the Dong Cheng detention center on the outskirts of Beijing. For 24 hours there was no water or heat. Each of us received only two pieces of Chinese bread for food. And we were not allowed to use the bathroom.

After 24 hours, the police questioned me and I told them I was an American citizen. They did not believe me and sent me to a prison cell. There were 15 other people there. Six of them were practitioners and they told me they had been secretly tried and had been sentenced for up a year. All they had done was go to the government office of appeals to offer their personal testimony to the government on how Falun Gong had improved their health and made them better people. They were arrested the moment they got there.

The Premier of China has recently urged the Government Offices of Appeals to improve their operating procedures, so that the offices would become better places for citizens to voice their concerns without fear of retribution. But for Falun Gong practitioners, walking into these offices is more like walking directly into prison.

Every practitioner in my cell had been abused at some point by the prison guards and policemen. In prison, we were given two meals a day, and it was always two pieces of Chinese bread with cabbage soup. At night all of us slept on one big wooden platform, with one blanket for two people and no pillows. It was very crowded: In the entire time I was there, we weren't allowed to take any showers. None of the practitioners were allowed any contact with the outside, nor were family or relatives allowed to visit. And the families usually also faced huge fines.

In one instance a female practitioner was trying to do the meditative exercises. But each time she started, a prison guard kicked her to the ground. This scene repeated itself many times until she had been kicked into a corner. The guard finally left her alone, and she finished her exercises.

While I was in prison, the police interrogated me and threatened that if I didn't answer all their questions I would be kept in prison forever. Finally, with the assistance of the U.S. Embassy and reports made by the international media, I was released and deported on February 12th, the eighth day of my detainment. I was not allowed to make any contact with anyone the entire time.

Since the ban on Falun Gong was announced on July 20th, 1999, the brutality with which this "ban" has been enforced has continued to escalate. It is reported that more than 5,000 practitioners, including the elderly, pregnant women, and young children have been sent to labor camps without proper legal procedures—without trial, legal representation, or due process.

In addition, more than 300 practitioners have been tried in secret and jailed with sentences of up to 18 years. In November, an internal government report stated that in Beijing alone, more than 35,000 practitioners have been detained, with many being under extremely inhumane conditions. So far, 11 people are known to have died while in police custody, while countless others remain unaccounted for.

Unfortunately, as I mentioned before, the scope and severity of this persecution continues to escalate. For example, in January of this year the Hong Kong-based Information Center of Human Rights and Democratic Movement in China discovered that some Falun Gong practitioners were now being held in mental hospitals where they were being injected with various drugs and were subject to other tortures. This situation has been reported in the world news by CNN, AP, and Agency France Press, to name a few. All this is ironic in light of the fact that The People's Daily, the state-owned paper, published a report just last May stating that Falun Gong is a 'beneficial practice' with no political motives that can help people improve their health. This was prior to the current crackdown.

Other television programs drew similar conclusions back then as well. Despite the overwhelming brutality currently happening in China, I would like to make it clear that Falun Gong practitioners are not against the Chinese government, nor do they seek any particular political change or reform. What they ask is that they regain the basic human rights to freedom of assembly and freedom of belief, which are protected under China's own constitution as well as under the UN Declaration of Human Rights that China has signed.

In short, we seek your help to open a dialogue with the Chinese government so as to peacefully resolve this crisis. On behalf of tens of millions of Falun Gong practitioners around the world, we want to thank Congressman Chris Smith for introducing House Resolution 218 that condemns China's brutal persecution of Falun Gong practitioners in China. This House Resolution 218 was unanimously passed on November 18, 1999. I would like to personally thank the United States government for the many steps it has taken thus far to encourage the Chinese government to end this persecution, and I hope you will continue to support a peaceful resolution. Thank you.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PLATTS). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 188, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIERRA LEONE AND LIBERIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–249)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to Sierra Leone and Liberia that was declared in Executive Order 13194 of January 18, 2001, and expanded in scope in Executive Order 13213 of May 22, 2001.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 22, 2002.*

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## OVARIAN CANCER RESEARCH FUNDING AND NURSE REINVESTMENT ACT PASSED IN HOUSE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, two very important legislative initiatives passed today, and I would like to acknowledge the importance of H. Con. Res. 385. This bill expresses the Congress that the Secretary of Health and Human Services should conduct research on certain tests to screen for ovarian cancer. Out of the work of the gentleman from New York (Mr. ISRAEL) and the great leadership of the gentlewoman from Connecticut (Ms. DELAURO), a survivor of this cancer, it is very important for women who suffer from this, as well as those not yet diagnosed, to realize this legislation will help, I believe, in bringing down the numbers of those who are not able to survive with this disease.

Experts estimate that more than 23,000 cases of ovarian cancer will be diagnosed this year with an estimated 13,000 dying. This legislation will help us focus on research for ovarian cancer, and I believe it is an important initiative.

Mr. Speaker, I would like to add my applause for the Nurse Reinvestment Act for 2002 sponsored by the gentlewoman from California (Mrs. CAPPS) for the important resources it will bring to improving the professional development of nurses around the Nation, but also recruiting nurses. In my community as we speak, the Black Nurses Association will be meeting in Houston, Texas. They have been on the forefront of increasing the professional development of nurses, and providing opportunities for recruiting nurses, compensation for nurses, and the respect for nurses. The Nurses Reinvestment Act will give us the opportunity to increase the nursing population, or those who are seeking to train as nurses, increasing the professionalism of nurses, and thank them for providing good health care in America.

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## GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the subject of the DeLay and the Leach Special Orders today.

The SPEAKER pro tempore (Mr. PLATTS). Is there objection to the request of the gentleman from Iowa?

There was no objection.

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## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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## ACKNOWLEDGING THE INVALUABLE CONTRIBUTIONS OF SUSAN B. HIRSCHMANN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DELAY) is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, this evening I'm taking the opportunity to speak for a few moments about someone very special to me and the whole Whip Team.

I want to speak about the enormous contribution my Chief-of-Staff Susan Hirschmann has made by building the most effective staff on Capitol Hill, assisting the leadership of our House Republican Majority, and struggling tremendously hard day after day to advance our conservative, constitutional principles.

As a Member of Congress, I've found that one of the most critical factors determining our ability to effect the political process is determined by the qualities and convictions held by the men and women we hire.

Fortunately, in Susan, I found a leader with the courage to stand firm for our principles, the vision and creativity to develop effective solutions, and the heart and humor to hold together my committed and boisterous staff.

Different observers bring different interpretations about what, precisely, it is that constitutes true leadership but I know it when I see it and this much I know; only a strong leader can command the Whip Team. I've been truly fortunate to have Susan as my right hand for the past five years.

Over the years, we've won a lot of battles, we've lost a few battles, but I can't think of single occasion when be backed down from a struggle involving our core principles with a chance for victory still within site.

That's a testament to Susan's passion, determination, and strategic vision. I'm gratified to have shared so many close votes with her and pleased that our team has been able to prevail so many times.

So, Mr. Speaker, let me close by reiterating the extent of my gratitude for all the sacrifices that Susan Hirschmann made for me, our party, and our country.

We've accomplished some amazing things for the American people.

And I'm deeply grateful for everything that she's given up to build my staff into the most determined, passionate, and effective organization in Washington. We'll all miss her laughter, her wisdom, and her leadership. We'll send her off with every good wish for future happiness, success and fulfillment.

Mr. HILLEARY. Susan B. Hirschmann is known throughout official Washington, D.C. and beyond as an intelligent, hard charging, political powerhouse who has made a tremendous contribution to the Republic through her work on Capitol Hill to influence and steer federal public policy in a conservative direction. Her reputation is well deserved.

In seven and a half years as a Member of the House of Representatives, I have met no one for whom I have more respect and admiration than Susan Hirschmann. I am proud and honored to be able to call her my friend. She will be sorely missed by all of us who work with her in the House, but we all wish her well as she seeks new challenges.

I had the great fortune to hire Susan Hirschmann to serve as my Chief of Staff during my first term in office. She was, and is, the best of the best. Because of her I was the envy of my 1994 freshman class. The question most frequently asked of me by my colleagues in Congress during my first term was, "How did you get Susan Hirschmann to be your Chief of Staff?" I knew I needed someone with ample knowledge of Washington to supplement my lack of D.C. experience. Susan not only met that need, she was also the most talented person around. On behalf of myself, and the approximately 600,000 good folks who live in the 4th Congressional District of Tennessee, I thank you for the time you gave us.

As anyone on Capitol Hill knows, Susan went on to become Majority Whip TOM DELAY's Chief of Staff. In that position, she has played no small role in helping TOM to become the most effective Whip the House has ever seen.

Susan embodies a rare combination of wit, wisdom, tenacious work ethic and political savvy, along with a personal touch. She is loyal to her friends and a formidable and feared foe to her enemies. With regard to her personal touch, she has shown tremendous kindness to me and so many others over the years, the most notable of which for me was an introduction several years ago to my future wife, Meredith.

Thank you, Susan, for your warm friendship and for the service you have rendered to our nation, the Congress and to so many of us individually. May God's blessings be with you and your husband, David, wherever life takes you.

Mr. CANTOR. Mr. Speaker, I rise tonight to pay tribute to a great American, and a great leader. Susan Hirschman is an unsung hero here in these hallowed halls of Congress.

Susan has dedicated her life to common sense conservative principles upon which America was founded. Like other great leaders, Susan is a principled and determined advocate, seemingly never missing an opportunity to advance her cause.

I met Susan shortly before being sworn into office, and since then, I have benefited often from her wise counsel on a myriad of topics.

Anyone spending just a short time here in Washington knows what an important role staff plays in facilitating the work of this House. As Chief of Staff to the Majority Whip, Susan takes her responsibilities seriously. She has ensured an effective Whip operation, and I know she will be sorely missed by leadership.

Susan also took a keen interest in the success of the Freshman class. Frankly, I believe her guidance and input has contributed greatly to the development of countless members of our class. And we too will feel the loss of her departure.

I know that Susan Hirschman and her husband David are one of a kind—a dynamic duo made for success. They are natural born leaders, and I am proud to call them friends.

I wish Susan and David the best of luck as Susan prepares to enter the next chapter of her career. God bless.

Ms. PRYCE of Ohio. Mr. Speaker, I rise tonight to pay tribute to Susan Hirschmann—an amazing member of the Majority Whip's staff who is leaving the House of Representatives after serving the public and this institution for 10 years.

It is difficult to sum up who Susan Hirschmann is or to overstate her impact on this institution.

Susan is many things to many people, and she is always there for Members whatever their need. Whether you are in need of a meal, a sounding board, or a project for your district—Susan is there and she delivers!

There's no doubt in my mind that Susan's savvy and intellect is at the foundation of most successes of our Republican majority. She is not just a leadership staffer, she is a leader. And, for women who want to be power brokers in Washington, I can't think of a better role model.

While Susan's credentials as a conservative Republican are sterling, she doesn't discriminate on ideology. For one, she knows that every Member represents a vote. But, she is more than a vote counter. She respects the House as an institution and she's always looking out for the team, and that means understanding and caring about the Members.

I want to take this opportunity to thank Susan: for listening—even when the message is tough to hear, for offering her sage advice, for telling it like it is, for getting the job done—no matter the obstacles, for being an inspiration to women, and most importantly, for her friendship.

Mr. CHAMBLISS. Mr. Speaker, I rise tonight to say thank you to Susan Hirschmann for her tremendous leadership and her service to their institution. She has been an asset to this House and to the Majority Whip's Office now for 10 years.

As a freshman member in 1994 Susan was a guide to this member who was still learning the rules! Susan has continued to provide counsel and guidance on the many occasions that I have gone to her in my 8 years in the House.

Susan, you will be missed by the institution and by me, personally. Best wishes to you and David in all future endeavors.

Mr. TIAHRT. Mr. Speaker, it is with great reluctance that I wish Susan Hirschmann farewell. We all know how important staff is to the legislative process. As the Majority Whip's Chief of Staff Susan has not only served Mr. DELAY but the House and the American people as well. Her drive has helped us pass many important pieces of legislation. Her dedication to the work we do here led her to stay much longer than she wanted. Susan had planned to leave before this year, but after the events of September 11th, realized that she needed to stay to help guide the House through a crucial period in our nation's history. Susan was and is the "go to" person. Whether it was advice, counsel or moving legislation, she was consistently effective.

I thank her husband David for the long hours she has put into serving Majority Whip DELAY and the House.

Thank you Susan. Best wishes in your future endeavors. We're going to miss you.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. LEACH. Mr. Speaker, I ask unanimous consent to speak in lieu of the gentleman from Texas (Mr. DELAY).

The SPEAKER pro tempore. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

## HONORING JOHN B. ANDERSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. LEACH) is recognized for 5 minutes.

Mr. LEACH. Mr. Speaker, I rise today to join my colleagues in honoring an icon of American politics, John B. Anderson. John is someone about whom the traditional appellation we apply to one another here could not ring more true. He is indeed a "gentleman from Illinois."

A member of what commentators are calling "the greatest generation" of Americans, John was born in Rockford and, after graduating from the University of Illinois, began his public service as did so many of that generation by enlisting in the field artillery during World War II. As part of democracy's greatest Army, he saw extensive combat in France and Germany.

After the war, John joined many of his comrades in returning to school, receiving his JD from the University of Illinois and an LLM from Harvard. A member of the Foreign Service from 1952 to 1955, he served on the staff of the United States High Commissioner for Germany. John's first elective office was that of State's attorney for Winnebago County, Illinois. In 1960, John was elected to Congress, where he represented Illinois' 16th Congressional District with great distinction and signal independence for 10 terms. While a Member of the House, he served on the Rules Committee and, indicative of the esteem in which he was held by his colleagues, for a decade as chairman of the House Republican Conference.

While in Congress, John was an unabashed progressive, championing civil rights legislation, advocating open housing and nondiscrimination measures, and promoting campaign finance reform. With Mo Udall, a colleague John and many of us admired greatly, John helped secure passage by the House of the landmark conservation measure setting aside 125 million acres in Alaska, 67 million dedicated to wilderness.

In 1980, John challenged the political establishment by running as an independent for President. He ran a spirited, issue-oriented campaign, which in the end garnered over 6 million votes. Since leaving public office, John has taught political science as a visiting professor at some of the Nation's most prestigious colleges and universities and for the past 16 years has taught courses in the electoral process and constitutional law at Nova-Southeastern University Law School in Fort Lauderdale, Florida.

True to form, John remains an active challenger to the political status quo. He is a frequent lecturer and commentator on issues of electoral reform, United Nations reform, foreign affairs and American politics. He currently chairs the Center for Voting and Democracy.

In February, John turned 80. Keke, his wife of almost 50 years, whose Greek spontaneity provides such a warm complement to John's Scandinavian reserve, their five children and nine grandchildren, along with friends and admirers from across the country, celebrated that milestone and the wonderful career it encompasses last week here in Washington.

A soldier, a diplomat, a legislator, a teacher, a big "R" Republican and small "d" democrat, John Anderson epitomizes the very best in the American political tradition. His congressional career stands as an ornament to the House he served with such progressive vision. His Presidential race remains a model of decency and commitment, a beacon of reasoned positiveness in an era of social division. His service to the public provides the younger generations he continues to instruct living proof of the value of a principled life.

It is a privilege to honor John B. Anderson. This gentleman from Illinois is an inspiration to us all.

Mr. LAFALCE. Mr. Speaker, I had the honor to serve in the House of Representatives for six years with John Anderson, from my arrival in the House in 1975 thru the end of his tenth term in 1981.

John Anderson is probably best known for his 1980 run for President as an independent candidate. he garnered 5.7 million votes in his candidacy. While that campaign marked the end of his electoral career, he has remained active in the political arena.

Even though he ran for the Presidency more than 20 years ago, he is still recognized by many, including persons who were too young to vote in 1980. When people tell him that he looks like the John Anderson who ran for President, he tells them "that's what my wife tells me every morning." John has been married to his wife Keke for almost 50 years, so she should know.

Mr. Anderson, who turned 80 this year, is active with the Center for Voting and Democracy and the World Federalist Association. He is a distinguished visiting professor at Nova-Southeastern University Law School in Fort Lauderdale, Florida. Students there benefit from his insights in courses in the electoral process and constitutional law. He has previously taught political science as a visiting professor at numerous universities, including Bryn Mawr College, Brandeis University, Stanford University, Oregon State University and the University of Illinois.

It is not surprising that teaching law comes naturally to John Anderson. He received a J.D. degree from the University of Illinois, a LL.M. degree from Harvard University and honorary doctorates of law from Wheaton College and Trinity College. In addition, he served as the State's Attorney for Winnebago County, Illinois from 1956 to 1960, prior to his election to Congress.

As a Member who will be leaving Congress at the end of this session, I look forward to staying active in the public policy arena. John Anderson, with his nearly quarter of a century of activity following his departure from the House of Representatives, provides me with a shining example of what can be accomplished after leaving this House.

Mr. UDALL of New Mexico. Mr. Speaker, first, I want to thank my colleague and friend, Mr. LEACH of Iowa, for organizing this fitting tribute to a true American legend. I am proud to rise today to add my voice in paying tribute to one of the visionary leaders of the people's House. John Anderson never lost sight of who he represented in Congress and his approach to his duties is something we all can learn from.

John Anderson has been a lot of things. He has been a Republican. He has been an Independent. He has been a distinguished member of this body for 20 years, a Presidential candidate, and a respected law professor. He has fought for electoral reform, U.N. reform and human rights. He has been a friend: to my uncle, Mo Udall, to many other former and current Members of Congress, and to the people of Illinois and the entire United States.

But there are some things John Anderson has never been. He has never been one to blindly accept the status quo. He has never been a man who got stuck in the rigidity of party politics. Perhaps most importantly, he has never been a man to give up; and today, John Anderson is still fighting for what he believes in and teaching a new generation of leaders to do the same.

I remember John Anderson as the man who stood with my uncle to put millions of acres of pristine Alaskan wilderness under federal protection. It's a sad irony that as we celebrate his 80th birthday, many in this Congress want to open up this national treasure to oil exploration. I'm quite certain that had John Anderson's voice been heard here in Congress we might have had a different result.

I remember him as the brave fighter for campaign finance reform who could not reconcile the tremendous power of wealthy special interests with his vision of this republic. I am happy that we have finally passed meaningful campaign finance reform legislation this year, and that John Anderson was able to celebrate with us.

Even when he was in the House, John always put principle ahead of party. He did so when he supported partial public financing of elections; he did so when be became one of the first Congressmen to call for a balanced national energy policy; and he did so again when he publicly questioned the Nixon Administration's illegal expansion of the war in Southeast Asia.

I particularly want to draw attention to John's strong support of campaign finance reform. For me, that's the issue where John showed real courage and leadership. Not only was John's work on this issue a break from party politics, it laid the groundwork for later, more successful efforts to try to get money out of politics. The important work done in this Congress to reform the Nation's election laws was made possible in large partly by the brave stand taken by John Anderson and those like him decades ago.

John once said that when big money rules, ordinary voters get left in the cold. And he saw the fight against money in politics as no less than a crusade to purify and strengthen the institution of government so that ordinary people could once again have their voices heard by those who represent them. But John didn't just talk about reform; John crossed party lines to support the Mo Udall Public Financing bill and other reform proposals during this tenure in the House.

Today, John is still working to reform our system of elections. While he is now calling for more dramatic changes in the way we elect our officials, he has never lost sight of the need to free our system of the pernicious influence of money.

Again, I am proud to be here to honor John Anderson. He was—and still is today—a true American leader. All of us here in this body owe him our admiration and gratitude for his years of public service—both in elected politics and in his private life. Thank you John Anderson.

## AFRICAN FOOD CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, last week I was here on this floor for an hour speaking of the crisis in southern Africa, speaking about the famine, speaking about southern Africa's plight. Approximately 13 million people in southern Africa are in danger of starvation. Last week, I talked about the fact that people were resorting to eating whatever they could find, dirt, bugs, weeds, whatever could fill their stomachs. I talked about the depiction of this famine on ABC last week. I raised the question of why it has taken us so long to respond to what is now impending death in these six nations. I have asked over and over again for this issue to be addressed in the Congress of the United States.

On July 18, the Secretary-General of the United Nations launched the consolidated national appeals for the humanitarian crisis in southern Africa. The United Nations is requesting $611 million for immediate food, medicine, and other emergency assistance to respond to this crisis. This assistance is needed within the next 2 months. It cannot wait until next year.

In the midst of this crisis, the administration is proposing to cut total funding for food assistance programs by 18 percent. This would reduce food assistance funds from over $2 billion in fiscal year 2002 to less than $1.7 billion in fiscal year 2003. This lower level of funding would have to provide for the continuing needs of Afghanistan as well as the emerging famine in southern Africa.

On June 20, 2002, I sent a letter to the conferees on H.R. 4775, the Supplemental Appropriations Act for Fiscal Year 2002, asking them to provide an emergency supplemental appropriation of $200 million to respond to the food crisis in southern Africa. This letter explained that an emergency appropriation is essential to enable the United States Government to provide desperately needed assistance to millions of starving people. Sixty-two Members of Congress signed my letter. Unfortunately, the conference committee reported the conference report for the supplemental appropriations act last Friday and provided not one dime, no additional assistance, for southern Africa. This conference report is scheduled to come to the House floor tomorrow. I urge my colleagues to recommit this conference report to the conference committee with instructions to add at least $200 million for famine relief for southern Africa.

According to Mr. Kenzo Oshima, the United Nations Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, there still is an opportunity to avert famine and save lives, but this window is closing rapidly. We cannot afford to wait until fiscal year 2003. We cannot even wait until Congress returns in September. We must recommit the conference report with instructions to add immediate funding for famine relief. The people of southern Africa need our help now.

Mr. Speaker, today's Wall Street Journal includes an article on the United Nations' appeal for humanitarian assistance for the people of southern Africa. I submit this article for the CONGRESSIONAL RECORD.

Mr. Speaker, we can wait and wait and wait and then all feel very sorry when we see dying people in southern Africa depicted on television in the next few months. Or we can do something about it now. I would ask my colleagues to please join me and recommit the conference report so that we can add the needed $200 million to avoid this devastation, this famine in southern Africa.

### U.N. WARNS WEST TO ACT TO HELP SOUTHERN AFRICA AVOID FAMINE

(BY MICHAEL M. PHILLIPS)

WASHINGTON.—Nearly 13 million people in southern Africa face imminent starvation unless the U.S. and other wealthy nations contribute more than $600 million in food, medicine and other emergency assistance over the next two months, the United Nations warned.

Drought conditions have left six nations struggling to meet their food needs, but a bad situation has been turned into an impending disaster by the repressive policies of Zimbabwean President Robert Mugabe, the U.N. said.

"It is not inevitable that people should die in substantial numbers," said Ross Mountain, the U.N.'s assistant emergency-relief coordinator.

So far, donor nations have pledged roughly $170 million of the $611 million the U.N. says it needs by September if a famine is to be averted in Malawi, Mozambique, Lesotho, Swaziland, Zambia and Zimbabwe. The U.S. has pledged $98 million of that for food aid, and Mr. Mountain was in Washington to plead for more in meetings with the U.S. Agency for International Development and the National Security Council.

The brewing famine is the worst the region has seen since a drought 10 years ago threatened 18 million people, the U.N. said. But today's situation may prove even more disastrous. One difference, the U.N. said, is that now the working populations of the countries involved have been gutted by AIDS. In Zimbabwe, for instance, HIV infects 35% of pregnant women, and many households are now headed by children or grandparents.

Zimbabwe's government has pushed the region closer to the edge of catastrophe through policies that have devastated local food production and prevented private food aid from entering the country, the U.N. said. Mr. Mugabe, who kept power through an election widely criticized as rigged, has distributed white-owned commercial farms among his supporters—a politically popular but economically disastrous move in the view of the U.S., U.N., and other foreign entities. The government has barred food imports that don't go through official channels, the U.N. said.

The crisis "is very much complicated in the case of Zimbabwe by a number of policy decisions that have turned that country from one of the grain baskets of Africa into one of the basket cases of Africa," Mr. Mountain said.

Zimbabwe needs about half of the assistance the U.N. is requesting.

Sign Chavbonga, press counselor at the Zimbabwean Embassy in Washington, said the food situation is serious, but denied that government policies have worsened the effects of the drought. He said World Food Program aid is starting to reach drought-stricken areas.

## THE HIGH COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise once again to talk about the high cost of prescription drugs, more importantly, the price that Americans pay versus what people in most of the rest of the industrialized world pay for exactly the same drugs.

This particular chart is one that I have used many times here on the House floor and at town hall meetings back in my district. They are beginning to get dated and a little bit frayed, but I want to talk about some of the prices that Americans pay, and what we have listed here is roughly about a dozen of the most commonly prescribed drugs.

One that we have learned an awful lot about last fall when we had the anthrax scare here in Washington, and unfortunately four of our postal workers lost their lives to anthrax, we learned a lot about Cipro. Cipro is a drug made by a German drug manufacturer called Bayer. We in the United States know it as a company that became famous making aspirin, Bayer Aspirin; but it is a German company, and they make a lot of other pharmaceuticals. But I wanted to point out to my colleagues what we pay for a 30-day supply on average for Cipro is about $88. It is $87.99 to be exact. That same drug in Europe sells for an average of about $40.75, less than half the price for exactly the same drug.

I will say that Tommy Thompson, our Secretary of Health and Human Services, did a good job; he negotiated a very good price on the millions of capsules that we bought at the time that we were concerned about anthrax, and we still are concerned about anthrax, and he got a much better price than that, but this is what the average consumer would pay. A drug like Claritin, which is a very commonly prescribed drug this time of year for allergies that people have, in the United States the average price is $89. That same drug on average sells in Europe for $18.75. A drug that my father uses, my 84-year-old, soon to be 85-year-old, father takes a drug called Coumadin. Many seniors take Coumadin. It is a blood thinner and one of the most commonly prescribed drugs. A 30-day supply if you have to go down to your local pharmacy and pay for it yourself sells for about $64.88. That exact same drug made in the same plant under the same FDA approval sells in Europe for about $15.80. And so the list goes.

I am not here tonight to beat up on the pharmaceutical industry. It is really not so much shame on them, because they are only doing what any free market company would do and, that is, to exploit a market opportunity that they have.

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So it is not shame on them. They have done a great job of developing many drugs that not only save lives but improve the quality of lives not only for Americans but for people around the world. The problem is that the way we have set this system up, because we do not require competition, we have created a monster and the monster is that we are paying literally all of the costs for the research for the rest of the world.

More importantly, there are estimates that at least 60 percent of the drug companies' profits come at the expense of American consumers.

I happen to believe that Americans ought to pay their fair share for prescription drugs. We are a very wealthy country. God has blessed this country. We are the most productive country in the world, and therefore we probably should pay more than the developing countries in Europe, but I do not think that American consumers should have to subsidize the starving Swiss. Let me say too, Mr. Speaker, these are not my prices. I did not make up this chart. These are from a group called the Life Extension Foundation which for more than a decade has been studying the differences between what Americans pay for prescription drugs and what the rest of the world pays. I also want to point out a chart, because what we are seeing is an incredible inflation rate in the cost of prescription drugs, and what you see here from the latest estimates we have for 2001, prescription drugs went up in the United States about 19 percent. The average Social Security cost-of-living adjustment was a little less than 3½ percent. One does not have to have a degree in statistics to realize that this is unsustainable. We cannot live with this system. So some of us have come together and tried to put together a program that we think will work, and what we are going to be introducing is a bill here in the next several days that will make it very clear that Americans do have access to these drugs at world market prices and it is a simple bill that simply says if it is an FDA-approved drug made in an FDA-approved facility that both consumers and their pharmacists can import those drugs or reimport those drugs into American markets.

And how much can we save? Let me give you an idea. We estimate that you can save at least 35 percent on the drugs coming in, the same drugs made in the same FDA-approved facilities as opposed to what you will pay for them here in the United States. And to put a pencil to that, our own accounting experts, the people at the Congressional Budget Office, estimate that seniors alone over the next 10 years will spend over $2 trillion on prescription drugs. Two trillion dollars times 35 percent is $700 billion that we can save.

I hope my colleagues will join me in supporting this very important legislation which will give Americans access to world market drugs at world market prices.

## TRIBUTE TO U.S. MARINE LANCE CORPORAL PETER ORLANDO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes.

Mr. MEEHAN. Mr. Speaker, I rise to pay tribute to my friend, 20-year-old United States Marine Lance Corporal Peter Orlando, who died on Saturday in service to our country. Peter Orlando was a lifelong resident of my hometown of Lowell, Massachusetts, who joined the United States Marine Corps 2 years ago. He valiantly served his country as part of our forces of Operation Enduring Freedom, deployed on a supply ship off the coast of Bahrain in the Persian Gulf. Peter was currently training at Camp Lejeune in North Carolina in preparation for continuing desert warfare training later this month in California.

Peter was a member of the 3rd Battalion 2nd Marines, 2nd Marine division, since December of 2000 after graduating from boot camp at Parris Island. Peter was assigned to the battalion's combined antiarmor platoon within the weapons company. He served as a machine gunner.

In June of this year, Peter had returned to the United States after a 6-month deployment in Okinawa. While deployed to Okinawa, Peter had further deployed to Bahrain from January to April of this year. There he participated at shipboard security operations in support of Operation Southern Watch and Enduring Freedom.

Peter was an expert rifleman and was a recipient of the Armed Forces Expeditionary Medal, the Sea Service Deployment Ribbon, and the National Service Medal. Peter's death during a military training exercise was a tragic and devastating loss to his loving family, to his community, and to his country. His death touched me personally as well. I got to know Peter when he was 9 or 10 years old. He became involved in my first campaign for Congress in 1992. I remember Peter walking the mile or so from his home in the Centerville area of Lowell to our campaign headquarters. I remember his useful enthusiasm as a volunteer, his constant zeal. He was always campaigning, no matter where he was. Over the decade that followed, I kept in touch with Peter and was proud that from time to time he would call me for advice or my view on something that he was doing. Every Saturday when I would go to the Double Tree Hotel in Lowell for breakfast with community leaders, I would meet his mother and she would tell me how Peter was doing and where Peter was, wherever he was around the world.

He was a 2000 graduate of Lowell High School, after which Peter enlisted in the armed services, a career that I was very, very proud of him for entering. I remember one time he said to me "I am going to enter the service, which do you think I should enter?" I said, "Well, I hear the Marines is the toughest." He said, "Yeah, that is the one for me. I have brothers who are also Marines."

And I was extremely proud to hear of his plans to reenlist for another 4 years, his resolve, like that of our Nation, strengthened by the cowardly attacks on our country on September 11.

Peter is survived by his loving mother, Audrey, and 10 siblings: Lisa, Karyn, Christine, Heidi, Allyson, Gino, Anthony, Joseph, Maria, and Sara, as well as of many nieces and nephews. Yes, Peter was a United States Marine, but first and foremost he was a loving son, brother, uncle, a young man who was committed to his family, a legacy where he will always be remembered by not only his family but to those he touched and to those who loved him from his hometown of Lowell.

Peter Orlando served his family, his community, and his country proudly and faithfully, and I salute him today in the United States House of Representatives and say to you, Peter Orlando, today, thank you for your service to our country, and tonight from the floor of the House, Peter, you are my hero.

## FOOD CRISES IN SOUTHERN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I want to share with my colleagues and put into the RECORD a continuous issue that I have been trying to bring before the Congress and others, as you have heard the gentlewoman from California (Ms. WATERS) as well speak of. The issue is Southern Africa, and many of those countries have reached proportion of their citizens suffering from hunger and malnutrition to the extent of being a famine. Whether it is in Malawi or Swaziland or Zambia or Zimbabwe, Lesotho, all of those countries now suffer for one reason or another in terms of having food insecurity. It is either the drought that is there or mismanagement of their government or conflict in the area. It is currently said, and I have some figures up here, that right now we know more than 7 million people now are starving. Hunger is over a long period of time, and as people call it a slow burn, if we do not see them dying in the streets, we do not get the impression that they are suffering. Right now we know they are dying from it. It is a slow death. We do not feel the urgency but it is an urgency. What makes this a travesty is that it is an urgency, an emergency that we can do something about. We can actually intervene and make a difference. We can provide food and stop the starvation and possibly stop the death, but if we do nothing, we allow the starvation to continue and we allow other issues to develop. Indeed, if we do nothing right now, rather than in Zimbabwe having 6,000 people who are now starving, you will have more than 7,000 people who are. In other words, right now we could intervene and make a difference. In that region, more than 7 million people right now. We could intervene and move that from starvation to maybe food insecurity, but if we do nothing, we can be assured that it is our cavalier attitude or our disregard that it is not our problem but their problem.

I want to suggest to you that our security is in fact dependent on others having a sense of humanity and a state of living because it does threaten our security when free regions of the world are so destabilized that they care nothing about their lives or anyone else's life, that indeed threatens their security. So there is something we can do. We certainly can intervene and provide some food. Let me suggest that the United States is indeed doing some things. The World Food Program, which this country funds, is involved in there. Right at the bottom there it tells the number of families that are being fed now because the program that we support is providing that, but they would say that we need to do a lot more if we are going to make a difference in that program.

So we get a sense of the region. It shows on the map, the darker shading of the map is an indication where more than 100,000 people are right now suffering. And so we see that whole region, the deepness of the orange and the yellow indicates the severity. The light yellow is less than 10,000 people are suffering. The dark brown is where you have more than 100,000 people. That whole region is again for many reasons but mainly drought. They are not producing as much maize as they usually do. So the immediate response is to provide the food.

We will be considering a supplementary budget and usually supplementary budgets are to respond to emergencies here in the United States or abroad as it is related to our vested interest. I submit that supporting people who live in Africa or any part of this world that are suffering from malnutrition or starving from lack of food is in the Nation's self-interest. Why is that? One of the reasons we do that is because part of our foreign policy is to ensure there is a civility and a stable market in a region that adds to the democratization of that country. You cannot have a country with democratization when, indeed, kids are starving. I think that picture says it all, that we have an opportunity to make a difference. We do not want to see kids actually dead in the street. There should be enough of our conscience to know that people are hungry.

Mr. Speaker, I submit into the RECORD the overview from the FAO which describes in detail the situations in all six of the countries in Southern Africa which speaks to the severity.

### HIGHLIGHTS

In southern Africa, a food crisis looms over several countries following sharp falls in maize production in 2001 and unfavourable harvest prospects this year. Acute food shortages have emerged in Malawi, Zimbabwe and Zambia, where food reserves have been depleted and food prices have soared, undermining access to food for large sections of their populations. In Malawi, maize production declined by over 33 percent last year mainly due to excessive rains and floods, coupled with reduced and late delivery of agricultural inputs. The strategic grain reserve has been depleted and importation of maize is seriously constrained by transport bottlenecks. As a result, maize prices have risen by over 300 percent since July last year. The Government has declared a state of emergency and appealed to the international community for food assistance. In Zimbabwe, maize production in 2001 dropped by 28 percent compared to the previous year and was well below average, due to a combination of reduced plantings, dry spells and excessive rains. Maize stocks have been depleted and imports are severely constrained by a shortage of foreign exchange. The Government has appealed for international assistance. In Zambia, maize production in 2001 declined by a quarter from the previous year mainly due to excessive rains and flooding, coupled with drought in southern parts. As in Malawi, importation of maize is seriously constrained by transport bottlenecks. The Government has also appealed for assistance. The food situation is also serious in the southern provinces of Mozambique, and for vulnerable rural populations in Lesotho, Swaziland and Namibia affected by poor harvests last year. The situation is set to worsen in several countries in 2002/03 due to anticipated further falls in production this year.

In eastern Africa, the overall food supply situation has improved considerably compared to last year mainly due to favourable weather conditions. Grain surpluses in many areas have resulted in record low prices, severely affecting farm incomes and raising concerns over possible reductions in plantings next season. Nevertheless, acute food shortage persist in most pastoral areas of Somalia, Kenya and Ethiopia due to continuing drought conditions. In Eritrea, despite an improved harvest, large numbers of internally displaced people and refugees returning from Sudan depend on food assistance. For the subregions as a whole, nearly 11 million people affected by drought and/or conflict continue to depend on food assistance.

In the Great Lakes region, civil strife continues to undermine the food security of millions of people. In the Democratic Republic of Congo, the food situation of over 2 million internally displaced people continues to be of serious concern. Access to this population remains problematic, particularly in rebel-held areas where provision of relief assistance is hampered by insecurity. Elsewhere in the Great Lakes region, the food supply situation has significantly improved in Rwanda and Burundi following two successive good harvests. However, in the latter country the security situation remains volatile in some provinces, with frequent surges in violence displacing rural populations and disrupting food production.

In western Africa, the food outlook for 2002 is generally favourable, following above-average to record harvests in the Sahelian countries and satisfactory crops elsewhere. However, the food supply situation is tight in Mauritania where the harvest was below average. The situation was worsened by unseasonable heavy rains and floods last January that left hundreds of people homeless and killed an estimated 120,000 livestock. In Liberia, a resurgence of civil strife has led to fresh population displacements, with thousands of people fleeing their homes to seek elsewhere in the country or in neighboring countries. In Sierra Leone, despite an improvement in the security situation, full recovery in food production is unlikely in the immediate term. These two countries will continue to rely on international food assistance for some time to come.

Sub-Saharan Africa's cereal import requirements are set to remain high in 2002, reflecting mainly the anticipated sharp drop in cereal production in southern Africa. For 2001/02, cereal import requirements of sub-Saharan Africa have been estimated at 15.9 million tonnes, including 1.7 million tonnes of food aid.

### PART I: OVERVIEW

The food outlook for sub-Saharan Africa in 2002 is generally mixed. In eastern and western Africa better cereal harvests have improved the overall food outlook, while in southern Africa the outlook is bleak due to a sharp drop in the 2001 maize harvests coupled with anticipated falls in this year's cereal production in nearly all the countries of the sub-region.

### SEVERE FOOD SHORTAGES EMERGE IN SOUTHERN AFRICA

The tight food supply situation in most countries of southern Africa, following sharp falls in cereal production in 2001 due to prolonged dry spells, floods and disruption of farming activities, is set to deteriorate with the anticipated fall in cereal production for the second year running. In February 2002, FAO's Global Information and Early Warning System issued a Special Alert warning of impending serious food shortages threatening the lives of some 4 million people in the sub-region.

In Zimbabwe, the food supply situation is extremely tight as a result of the poor cereal harvest last year, delays in importing maize and the general economic and financial crisis prevailing in the country. Against Government plans since November 2001 to import 200,000 tonnes of maize, only 80,000 tonnes had arrived in the country by late March, mainly due to the country's severe shortage of foreign exchange. The Government has appealed for international food assistance. WFP has pledged close to US$60 million to provide 94,000 tonnes of cereals to some 558,000 rural and urban people facing acute food shortages until November 2002. However, by late March pledges covered 30 percent of the requirement and only 5,000 tonnes had arrived to the country.

The outlook for the country's food security is bleak. The 2002 maize harvest is expected to be poor as last year due to reduced plantings and severe dry weather. The depletion of official maize reserves and the continuing deterioration of the economic situation point to a looming food security crisis in 2002/03. An FAO/WFP Crop and Food Supply Assessment Mission is scheduled to visit the country from 23 April to 11 May 2002 to assess the food situation and estimate food import requirements, including food aid needs, for 2002/03 marketing year (April/March).

In Malawi, the Government has declared a state of emergency in the country and has appealed to the international community for food assistance to avert famine. This is the result of a poor harvest in 2001, the depletion of the strategic grain reserve and late planting of maize imports. Deaths by starvation and acute nutritional problems have been reported. Against planned maize imports by the Government of 150,000 tonnes only 83,000 tonnes had arrived in the country by the end of March, mainly due to transport constraints. Prices of maize have increased several fold, curtailing access to food for large sections of the population. WFP is distributing relief food to the most affected households.

Prospects for this year's cereal harvest have deteriorated following a prolonged dry spell, with maize production likely to be reduced for the second consecutive year. Widespread consumption of maize in green form due to severe hunger will also reduce domestic maize supply in 2002/03 marketing year (April/March). An FAO/WFP Crop and Food Supply Assessment Mission will visit the country from 22 April to 10 May 2002 for the same purpose as for Zimbabwe.

In Zambia, the food supply situation is also extremely tight as a result of a poor cereal crop last season and delays in importing maize. Out of planned imports of 150,000 tons of maize, only about 60 percent is expected to have arrived in the country by the end of April, the close of the current marketing year. Prices of maize meal are at extremely high levels, seriously restricting access to food for large sections of the population. The Government has appealed for international food assistance for 2 million people in districts declared to be in a state of emergency. WFP started relief food distribution in late January, and pledges until the end of March covered 60 percent of the requirement. However, only some 20,000 tonnes are expected to be distributed before the next harvest.

Prospects for this year's cereal harvest are poor. A prolonged dry spell in the southern parts since late January is reckoned to have seriously reduced yields over large growing areas. An FAO/WFP Crop and Food Supply Assessment Mission is scheduled to visit the country from 6 to 24 May 2002.

In Mozambique, the food situation continues to be serious in the southern provinces of Maputo, Gaza and Inhambane, where the 2001 cereal harvest was significantly reduced. Emergency food assistance is being provided to 172,000 vulnerable people in these provinces. Recent estimates indicate that as a result of a severe dry spell, 40,000 households have lost over 60 percent of the expected production. This will be the third consecutive reduced harvest for these provinces.

An FAO/WFP Crop and Food Supply Assessment Mission is scheduled to visit the country from 22 April to 10 May 2002.

In Lesotho, the food supply situation is also tight due to reduced cereal production in 2001 and commercial imports falling short of requirements. Food reserves are at a minimum and food shortages are being experienced by vulnerable households affected by last year's poor harvest. Relief agencies are distributing food to 36,000 most affected people. The situation is likely to worsen with the deterioration of prospects for the 2002 cereal harvest, following persistent heavy rains in recent months. Production is forecast to be below average for the third consecutive year. An FAO/WFP Crop and Food Supply Assessment Mission is scheduled to visit the country from 25 April to 4 May 2002.

In Swaziland, prospects for this year's cereal harvest have deteriorated as a result of a severe mid-season dry spell that adversely affected yields. This would be the third consecutive year of a below-average harvest. The food supply situation is very tight, reflecting last year's poor harvest and imports falling short of requirements. The Government is providing some food relief to vulnerable households most affected by successive poor harvests. An FAO/WFP Crop and Food Supply Assessment Mission is scheduled to visit the country from 15 to 24 April 2002.

Elsewhere in the sub-region, the food situation remains precarious in Angola, due to the long-running civil conflict, and in Namibia due to a reduced harvest last year. In Madagascar, marketing of food and non-food commodities is being adversely affected by the current political crisis. By contrast, prospects for the 2002 maize crop in South Africa, the largest producer and exporter in the sub-region, are favourable and production is anticipated from last year's below average level.

### IMPROVED FOOD SUPPLY SITUATION IN EASTERN AFRICA BUT DIFFICULTIES PERSIST IN PARTS

Despite improved cereal harvests in 2001/02 in most parts in eastern Africa, the effects of recent devastating droughts and past or ongoing conflicts continue to undermine the food security of an estimated 11 million people.

In Eritrea, despite a strong recovery in grain production during the 2001 main cropping season, the food situation of large numbers of people affected by the recent war with neighbouring Ethiopia and drought remains precarious. Overall, nearly 1.3 million people continue to depend on emergency food assistance. Continuing drought conditions in parts of Anseba, Debub, Northern Red Sea, and Southern Red Sea zones, are also cause for concern.

In Ethiopia, a bumper main season grain harvest late last year preceded by a favourable short rains ("belg") crop have significantly improved the food supply outlook for 2002. An FAO/WFP Crop and Food Supply Assessment Mission in December 2001 forecast a main season ("meher") cereal and pulse harvest of 12.3 million tonnes, about 9 percent above the average for the previous five years. Consequently, cereal market prices have fallen sharply in main producing areas, resulting in severe financial difficulties for farmers. However, despite the satisfactory harvest, an estimated 5.2 million people face severe food shortages and need food assistance. Unseasonable migration of people and livestock is reported in the pastoral areas in the south-eastern parts due to persistent drought.

In Kenya, overall food supply has improved considerably following favourable rains in major cereal producing areas. However, a sharp decline in maize prices is negatively impacting on farmers' incomes. In northern and eastern areas, hopes of recovery for pastoralists from the effects of the recent devastating drought have once again been dashed by insufficient rains during the current season.

In Somalia, despite the recently harvested better than expected secondary ("Deyr") season. cereal crop, up to 500,000 people are threatened by severe food shortages. Poor 2001 main ("Gu") season crops coupled with slow recovery from a succession of droughts in recent years and long-term effects of years of insecurity have undermined households' ability to withstand shocks. The continuing ban on livestock imports from eastern Africa by countries along the Arabian Peninsula has sharply reduced foreign exchange earnings and severely curtailed the country's import capacity.

In Sudan, food supply is generally adequate following a good 2001 main season cereal crop in both southern and northern parts of the country. Bumper harvests in central and north-eastern parts have led to a sharp decline in prices, adversely affecting farmers. By contrast, several zones in southern Sudan, particularly in Western and Eastern Eqatoria and Bahr el Ghazal, face severe food shortages mainly due to population displacement and insecurity. In addition, parts of Greater Darfur and Kordofan in western Sudan have suffered crop failures due to erratic rainfall. Large numbers of people in these areas are expected to depend on emergency food assistance until the next harvest.

In Tanzania, the food supply situation is generally stable. However, prices of maize continue to rise in the south due to increased, largely informal, exports to neighbouring countries (Malawi, Zambia, Democratic Republic of Congo) which are facing serious food shortages. Price increases are also observed in the east coast and northern parts due to reduced "vuli" season harvests.

In Uganda, the overall food supply situation is favourable following recent good harvests and improved pastures. However, food difficulties persist in parts of Katakwi and Moroto Districts, due to localised drought conditions and/or insecurity.

### FOOD SITUATION IN DRC REMAINS PRECARIOUS WHILE OUTLOOK IMPROVES ELSEWHERE IN THE GREAT LAKES REGION

In the Democratic Republic of Congo, economic and agricultural activities continue to be disrupted by the persistent civil war and consequent population displacements. The food and nutritional situation of over 2 million internally displaced people, particularly in north-eastern parts, and of over 330,000 refugees from neighbouring countries, is cause for serious concern. It has been estimated that about 64 percent of the people in the eastern provinces are undernourished. Overall, poverty is reported to have reached very high levels, with 16 million people or one-third of the country's population estimated to be seriously food insecure. While access to government-controlled regions has improved as a result of simplification of procedures, for international agencies, distribution of humanitarian assistance in rebel-held areas remains constrained by insecurity and violence.

In Burundi, the overall food situation has improved following a satisfactory 2002 first season harvest, particularly of non-cereal crops. This reflects a relatively better security situation in most of the country and generally favourable weather during the growing season. Prices of staples in the main provincial markets have declined significantly compared to their levels a year ago. However, production was constrained by insecurity in eastern provinces and parts of Bujumbura Rural.

Despite the peace agreement reached in mid-2000, the security situation remains volatile in these provinces. Heavy fighting between government forces and rebel groups in March resulted in the displacement of large numbers of people, and it is estimated that as many as 80,000 civilians have been displaced since January 2002.

In Rwanda, the overall food supply situation has improved significantly as a result of a one-third increase in the 2002 first season harvests. Markets are well supplied with food staples.

Food prices, which were at their lowest levels since 1994, declined further with the arrival of the new harvest into the markets last January and have since then stabilized. Nevertheless, despite the satisfactory food supply situation, many households remain food insecure, particularly in the provinces of Gikongoro, Butare and Gisenyi.

### OVERALL FOOD SUPPLY SITUATION SATISFACTORY IN WESTERN AFRICA BUT DIFFICULTIES PERSIST IN PARTS

In the nine Sahellan countries, the 2001 aggregate cereal production has been estimated at a record 11.7 million tonnes, some 26 percent higher than in 2000 and about 20 percent above the average of the previous five years. Records crops were harvested in Burkina Faso, Gambia and Niger, while Chad, Mali and Senagal harvested above average crops. Production in Cape Verdi was lower than in the previous year but above average. However, in early January, unseasonably heavy rains and cold weather affected parts of the subregion, causing some loss of life and leaving thousands of people homeless, especially in Senegal and Mauritania.

Following the good harvests, the food outlook for 2002 is generally favourable. Households are expected to replenish their stocks, which had been depleted in some countries. However, access to food for some sections of the population may be difficult as above-normal grain in prices have been reported in some countries due to flooding or drought. In Mauritania, a joint FAO/CILSS Crop Assessment Mission in October 2001 estimated aggregate cereal production in 2001 at some 160,000 tonnes, lower than the previous year and below average. This decrease was mostly due to inadequate availability of irrigation water. The resulting tight food supply situation has been worsened by the unseasonably heavy rains and cold weather in January which affected the regions of Brakna, Trarza and Corgol, causing casualties and leaving thousands of people homeless and more than 120,000 head of livestock dead. Prices of cereals, which were already higher than a year ago, have risen considerably in most local markets.

In Liberia, the 2001 paddy crop is estimated slightly above the 144,000 tonnes produced in the previous year, reflecting generally favourable weather. However, the general security situation has deteriorated in recent months compelling the Government to declare a state of emergency on 8 February 2002. About 60,000 IDPs have been reported around Monrovia and in Bong County nearby, while at least 12,000 Liberian refugees have been registered at the Sierra Leone border town of Jendema. With frequent eruptions of violence and resulting displacement of the farming population, Liberia will continue to depend on international food assistance for the foreseeable future. WFP is currently assisting 75,000 IDPs throughout the country.

In Sierra Leone, cereal production in 2001 has been estimated at 348,000 tonnes, higher than the previous year, reflecting increased plantings by returning refugees and farmers previously displaced, as well as improved conditions for the distribution of agricultural inputs. The security situation is reported to be relatively clam. Over 47,000 ex-combatants, including hundreds of child soldiers, have handed in their weapons, and on 18 January the President declared the end of the disarmament process. However, Sierra Leone will continue to depend on international food assistance for some time until full recovery in food production can be realized.

In Guinea, the overall food supply situation is favourable following satisfactory harvests in 2000 and 2001. Aggregate 2001 cereal production is officially estimated at 1,026,000 tonnes, slightly lower than in the previous year but above average. Markets are well supplied, except in the south-east where recurrent rebel incursions from Sierra Leone continue to disrupt agricultural activities. The presence of a large refugee population and the persistent instability in neighbouring countries have exacted a heavy toll on the country. Armed clashes in and around the country have resulted in increasing numbers of internally displaced people. A UN Consolidated Inter-Agency Appeal was launched on 26 November 2001 to assist the country cope with the serious humanitarian situation.

Elsewhere in western Africa, the food supply situation is satisfactory, notwithstanding localized food deficits, such as in northern Ghana.

### UPDATE ON FOOD AID PLEDGES AND DELIVERIES

With improved cereal harvests in parts, cereal import requirements in Sub-Saharan Africa in 2001/02 are expected to be lower than last year but still remain high. This reflects mainly the anticipated poor crop in southern Africa in 2002 coupled with last year's significantly reduced crop. GIEWS latest estimates of 2001 cereal production and 2001/02 import and food aid reuirqements are summarized in Table 1. Total food aid requirement is estimated at 1.7 million tonnes, about some 36 percent less than in 2000/01. Cereal food aid pledges for 2001/02, including those carried over from 2000/01, amount to 0.9 million tonnes of which 0.8 million tonnes have so fare been delivered.

### AREAS OF PRIORITY ACTION

The serious food supply situation in several countries of southern Africa gives cause for serious concern. Food production is anticipated to decline for the second consecutive year, mainly due to adverse weather. In eastern Africa, despite improved food supply prospects, the effects of recent severe droughts, coupled with conflicts in parts, are still being felt, with nearly 11 million people in need of food assistant. Furthermore, civil strife continues to disrupt food production in Angola, Burundi, Democratic Republic of Congo, Guinea, Liberia, Sierra Leone, Somolia and Sudan, necessitating good assistance for the affected populations.

Against this background, the attention of the international community is drawn to the following priority areas requiring action:

First, high priority should be given to food assistance for southern African countries facing a looming food crisis, particularly Malawi, Zambia and Zimbabwe, but also Mozambique, Lesotho and Swaziland.

Second, continued food assistance is needed for populations in several countries of Sub-Saharan Africa affected by conflict and adverse weather, including Angola, Burundi, DR Congo, Eritea, Ethiopia, Kenya, Guinea, Liberia, and Sierra Leone, Somalia and Sudan.

Third, donors are urged to give priority to local purchases and triangular transactions wherever possible for their food aid programmes in Sub-Saharan Africa in order to support domestic food production.

□ 2130

## NATIONAL DNA DATABASE LEGISLATION

The SPEAKER pro tempore (Mr. PLATTS). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I appreciate the time that I have to address a very important matter. It can be classified similar to a movie that got the attention of many Americans some years ago called Network. One of the principal actors took to a tall building and raised its window and shouted, "I can't take it anymore." For some reason, that struck a chord in America. Whatever that issue was, it may not have been what the movie was discussing, but it raised the level of one's ability to protest: "I can't take it anymore."

Mr. Speaker, I cannot take the murderous acts that are being perpetrated on our children, one after another. Some, of course, we do not know their end and we hope that our prayers will bring them home. But we realize that we have a crisis of sorts. Even though we can find evidence that the numbers of missing children, exploited children may be going down, one child is one too many. I share with my colleagues just a picture of a loving mother and her baby. It could be a loving father, a loving grandmother, a loving grandfather, but it shows the vulnerability of a child.

We have in this country become maybe jaded. One child after another, Samantha Runnion being the last, most vicious and violent exhibition of the lowest grade of individual, a 5-year-old playing with her friend in front of her house being snatched away, snatched away screaming and kicking and pleading for her life. Then, to find this child's nude body only a day later, knowing that she had been sexually assaulted and strangled. I cannot take it anymore, and none of us in this Congress and none of us in this land should take this abuse of our children.

Elizabeth Smart, Laura Ayala in my own community, a 13-year-old just trying to get a newspaper for her homework, maybe less than 50 feet away from a store and being snatched away, newspaper scattered, sandals left in place, no sign of her. Mother grieving, family grieving; the vulnerability of our children. Danielle Van Dam, Rilya Wilson, 5 years old, missing for a year before the children's protective services in Florida even wanted to say anything. Danielle Van Dam's trial going on now with all kinds of circus defenses by the defendant. They have every right to have their day in court.

But, Mr. Speaker, we have a crisis, I believe. In a 1999 report authored about children as victims, it states, "Although the U.S. violent crime rate has been decreasing since 1994, homicide remains a leading cause of death for young people. Juveniles are twice as likely as adults to be victims of serious violent crimes and 3 times as likely to be victims of assault. Many of these victims are quite young. Law enforcement data indicates that 1 in 18 victims of violent crime is under the age of 12. In one-third of the sexual assaults reported to law enforcement, the victim is under the age of 12. In most cases involving serious violent crime, juvenile victims know the perpetrator, who is not the stereotypical stranger, but a family member or acquaintance."

But, there are strangers, because in the case dealing with some of these victims, the perpetrator said, particularly in the Danielle Van Dam case, "I am looking for my dog." Children are vulnerable. They are caring, they are loving.

We must find a way, yes, to penalize those who come before the system, but we also have to express our outrage that anyone with such vial behavior would be accepted by society, and we must provide resources so that these individuals can be caught quickly. It is important to know that the average victim of abduction and exploitation is an 11-year-old girl who meets her abductor within a quarter of a mile from home, like Laura Ayala going to get a newspaper.

Only 22 States sex offender registries collect and maintain DNA samples as part of the registration. Only 22 States have a DNA registry that can be utilized for sex offenders. Research on sex offenders found that over a 4- to 5-year period, 13.4 percent recidivated with another sexual offense, and 12.2 percent recidivated with a nonsexual offense, violent offense, and 36.6 percent recidivated with any other offense. One offense is one too many for me. A long-term follow-up on a study of child molesters in Canada found that 42 percent were reconvicted of a sexual or violent crime during the 15- to 30-year follow-up period.

Mr. Speaker, it is important that we do something. This week, I am going to file legislation to instruct the Attorney General to establish a national DNA database only for sex offenders and violent offenders against children. It was noted at the scene where Samantha Runnion lost her life that a lot of DNA evidence was there. I can imagine that this happens in crime scene after crime scene. With only 22 States even bothering to have a collection of DNA data, this legislation is needed, Mr. Speaker.

I am sorry to express this outrage as I close, but it is because of the loving relationship and the love we have for our children that outrage is befitting and we must legislatively do something. The Attorney General must establish this national database of DNA samples to be able to help find these horrible people, these sex offenders who would do harm to our children, now and immediately.

## DYING FROM DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, in newspapers all across this great Nation today, the headline ran that yet another company had declared bankruptcy. This time it was WorldCom, and this time it was the largest bankruptcy in American history. Just a month ago it was Enron. A little time before that, it was Global Crossing. But in every instance, there was a common pattern, and that is little folks lost everything they owned because the big shots at the top lied to them about how broke their companies were.

I say this because I think the same thing is happening with our Nation in that the little folks, the average Joes like the great young marine whom the gentleman from Massachusetts (Mr. MEEHAN) just told us about who lost his life in training at Camp Lejuene. The folks who serve us in the Coast Guard, the Navy, the Army, the folks who serve us every day, I think they are being cheated because the big shots are lying to them about just how broke this country is and just how broke their policies are making us.

The gentleman from Illinois (Mr. HASTERT) became the Speaker of the House on January 6 of 1999. On that day, our Nation's debt was $5,615,428,551,461.33. He has been Speaker now for about 1,300 days, and in that 1,300 days, we have voted to take care of rhinoceroses, we have named no telling how many post offices after great Americans, we honored the great Lindy Boggs today. But the Speaker somehow could not find time for this body to vote on what I think is the most important rule of all, and that is that one generation does not burden another generation with its bills. That is precisely what has been going on in this country, particularly since 1988.

Mr. Speaker, prior to that time, we went all the way from when George Washington was President to 1988 and the Nation borrowed about $1 trillion. That got us through American revolution, the War of 1812, the Spanish American War, the Civil War, the war with Mexico, World War I, World War II, Korea and Vietnam, and it borrowed about $1 trillion. The debt payment on that was fairly low, the amount of interest payment on that.

Something changed during 1988. Somehow the mentality that says we are going to lower taxes, we are going to spend more money and we are going to stick our kids with the bill, and as long as they do not know about it; it is sort of like those little folks who own stock, only this time the little folks own stock in America and the big shots are bankrupting their country.

Mr. Speaker, in the 1,300 days that you would not give us a vote on a Balanced Budget Amendment, our debt has increased by $511,040,208,939. Now, what does that mean? I mean some people say well, big debt is okay, because that means that is taxes I did not have to pay. Wrong. This is the equivalent of one generation going out and buying a car and saying, I do not care how much it costs because my kid is going to pay for it when they get to be 30 or 40, plus interest, so I do not care.

I am going to go find the fanciest house in my home county and I do not care how much it costs because I am going to stick my grandkids with the bill. It is wrong. No parent would do that, no grandparent would do that, yet it is precisely what the political leadership of this country has been doing and, in the past 12 months, they made it worse. Because just like the folks at Enron and Global Crossing, they looked the American people in the eye and they lied to them about just how broke this country is.

Remember the quote from the President of the United States, from the Speaker, from the gentleman from California (Mr. THOMAS): "We are awash in money." No, we were not. We were awash in debt. Because a year ago right now when those three people were saying that our Nation was $5,726,814,835,287 in debt. Just like anybody else who borrows money, we have to pay interest on that debt. And the biggest expense of this Nation is not defense, it is not health care, it is not taking care of veterans, it is not educating kids, and it is not building highways; it is squandering money on interest on the debt. We get nothing for it, and it costs us $1 billion a day down the rathole, and it is only getting worse.

Not only are they stealing from the average Joe, but they are taking from the Social Security Trust Fund. We now owe the citizens of this great country $1,300,000,000,000 of Social Security that has been taken from the Social Security Trust Fund and used for other purposes. There is not a penny there. There is no lock box. From the Medicare trust fund they have stolen another $271 billion, that is a thousand times a thousand times a thousand times 271. Yet, they had the nerve to look us in the eye and say, Washington is awash in money.

For my military retirees, we owe them $168 billion, a thousand times a thousand times a thousand times 168. For our Nation's civil service, the Capitol Hill policemen who are guarding this building right now, the FBI agents, the Customs agents, people who go out and protect our children, people who are looking for our children who have been kidnapped, they pay out of their own pockets into their retirement fund. It is supposed to be set aside for their retirement. We owe them $540 billion.

Mr. Speaker, it is time that this body got a chance to vote on a Balanced Budget Amendment to the Constitution so that these shenanigans come to an end before this country dies the way Enron and Global Crossing and now WorldCom did, that the country dies from its own debts.

□ 2145

## CORPORATE GREED

The SPEAKER pro tempore (Mr. PLATTS). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, I intend this evening to spend a little time with you talking about a subject which, of course, is on the minds of many people across this country, and I want to look into it in some depth tonight so we can have an idea of where the problem rests, with what individuals the problem rests, and I intend to name these individuals by name, and what are some of the solutions.

I think as Members of Congress, when we are elected to public office, we have an obligation not only to discuss the problems, but really our primary purpose in being elected back here is to try to come up with some solutions. It is always easy, always easy to determine about what the problem is. Sometimes it is easier than others. But what is more difficult is to come up with a solution. When we have tough problems back here, it requires that we cross the aisle. It requires that we take a nonpartisan approach, that we be as bipartisan as we can to come up with a solution that works for the American people.

My topic this evening is corporate greed. And I can tell you that on one side of the aisle, and this is the last point that I will be as pointed here as I am going to be right now, but on the Democratic side of the aisle, including the minority leader, the gentleman from Missouri (Mr. GEPHARDT), says they are looking at this corporate greed as an opportunity to gain 40 seats. That is what they say. We are going to take 40 seats as a result of this corporate greed. What I am urging the gentleman and his followers over there to do is quit talking about the type of political gain you can get out of this. Do not talk about that while the house is burning. What I suggest you do is work with us, all of us together, seize upon this problem, and work out a solution before this begins to spin out of control.

We have a stock market out there that is in trouble. And if you look at the fundamentals of that stock market, that stock market should not be in trouble. We have inventories that are down. We have corporate profits that are coming up. Our unemployment rate is staying low. Our inflation rate is staying low. There is a lot of good, promising signs that our recovery in this economy is forthcoming, that it is in progress. But we can shoot ourselves in the foot, and that is exactly what is happening when the likes of the gentleman from Missouri (Mr. GEPHARDT) come out here and say this is our opportunity to use it to our political advantage to gain 40 seats.

But that talk aside, the problem that is happening to the retired people out there that were depending upon their retirement from some of these corrupt corporations, the employees that have lost their jobs out there by the tens of thousands because of corrupt CEOs, that is what the issue is. The American people, not for one moment the gentleman from Missouri (Mr. GEPHARDT) believes that the issue here should be a decision between what we are going to do in November with political congressional seats. They do not want that. They want to figure out how they are going to keep their jobs and what is going to happen to the rascals, and rascals is only a friendly word to use for these CEOs that have allowed corporate greed to overtake their ethics and moral standards of this country.

These people are worse than bank robbers. Remember, a bank robber is generally a poor person robbing from a rich institution. The case I will talk about this evening are rich individuals in rich institutions robbing from the poor people. That is worse than a bank robber; and yet the gentleman from Missouri (Mr. GEPHARDT) and the Democrats decide that instead of trying to solve this problem and go after these people, to go after the Republican House seats.

I am asking you to put it aside for a minute and join us as a team, all of us as a team, Democrats and Republicans, unaffiliated. As a team we need to address the corporate greed that has overtaken some of our chief executive officers. There are solutions out there, and there are solutions that can occur with bipartisan support. This House, under the leadership of the Speaker of the House, and, frankly, under the demands of the President of the United States will this week in my opinion, pass legislation that will be effective to help address this problem. But we can only do it if the gentleman from Missouri (Mr. GEPHARDT) and the more radical Democrats put aside their partisanship and work towards the solution of getting our hands on these corporate CEOs and these corporations that are making their money by misleading, by breaching their fiduciary duties to the people that are really their owners.

I think it is helpful, and some of you have heard my comments in the last couple of weeks on the same topic, I do not mean to be repetitive, but I think it is important that we repeat some of the basics of corporations in this country so we have an idea, an understanding of what we are dealing with today.

Remember that corporations are not a body in themselves. They are not a human body, obviously. They are a structure that we made up in this country under our system. And corporations are a systemic model, so to speak, of how to carry out business that represents the interests of numerous individuals.

Keep in mind that not all corporations are bad. In fact, most corporations do a pretty good job. We have a lot of wonderful products in this country that are the results of corporations, both small corporations and big corporations. The mainstay of this economy is not the big corporations like the Enrons or the Global Crossings or the Adelphia Cable Company or the Tycos or the K-Marts. The mainstay is small business and there are a lot of small businesses in this country that are corporations. You can go down town anywhere USA and you will find them that have incorporated, and they have the local drug store on the corner or they have a little taxi cab service and they have incorporated or maybe a little airport charter store and they have incorporated. It would be a mistake, you cannot throw all corporations into the same net as the Enron Corporation. But you have to take the Enrons and the Worldcoms and the Tycos and the K-Marts and the corporations like that that have done bad and do something about it. You have to march them to jail. You have to bring discipline into the process.

Corporate structure in this country will only work as long as you have integrity as a part of the foundation. Of course, you have to have the other fundamentals. You have to have a legal structure. You have to have profit. But you have to have that integrity, and that integrity is a part of checks and balances that makes sure that the corporations, as Adam Smith would say, do not get out of hand; that we do not end up with a monolithic society where monopolies control everything.

Let us talk about the corporate structure and what responsibilities there are for the various people involved in the corporate structure. Now, this little diagram I put together, this probably would not pass in a classroom setting in Harvard Business School, but it is something I think we can all work with. And I think it is something that we can understand as I go through my discussion this evening.

The corporation. Remember, the very basic part of the corporation are the owners of the corporation, the owners of the business and that is what it is. It is a business, and it does not have to be a lots of owners. My wife, for example, her family are ranchers and they have a small ranch. And they probably have, I do not know, maybe 10 shareholders, maybe eight shareholders in their corporation. So we are not necessarily talking about large corporations. But for the benefit of this evening's discussion, let us talk about this structure. Here are your shareholders.

Now, a corporation like Enron or a good corporation that seems to be viable, IBM or Coke or some of these others, General Electric, General Motors, they have millions of shareholders. They have millions of owners. And, obviously, because even the largest owner, for example, of General Motors may only own a fraction of 1 percent, what these shareholders have done is they are you and I, there are more people in America today that are shareholders than at any time in the history of this country. And that is good. That is real good.

The problem is that if we do not reinstill the high level of standards of integrity and moral character in these corporations, we will see this large number of everyday Americans who are shareholders begin to reduce itself, and that hurts the system.

The more people we can get involved in the investment and in the business of our country, the better it is for the country. The better it is for the business. The better it is for the individuals. So shareholders are really the foundation in the corporation. They pool their money together so that they can build a business. And that is exactly what has happened.

Now, the shareholders are represented by a number of different people and different people have different duties to the shareholders. Again, keep in mind the shareholders are the owners. For example, here, the shareholders elect a board of directors.

Now, what is a board of directors? A lot of people will tell you that the chief executive officer, which in the old days was called the president of the corporation, that the president of the corporation was really the person who ran that corporation. That is not true. The chief executive officer and, remember, that president and chief executive officer, for the purpose of my discussion this evening, these terms are synonymous. You can trade them off. So we will talk CEOs.

The CEO of that corporation is not the top individual of that corporation. He or she answers to the board of directors and answers to the shareholders. And here in this particular case, this is the fundamental structure, you have the shareholders who elect the board of directors. This is an election year; and they elect these board of directors to represent their interests, the interests of the shareholders. They do not elect this board of directors to represent the interests of the chief executive officer. The chief executive officer is simply a tool in the operation of this corporation.

Now, this sounds a little mundane; but you have to have a pretty good understanding of this to figure out where this fraud is taking place, why the checks and balances in our corporate structure in this country have broken down, what we need to do to bring back solutions.

Let us talk about some of those checks and balances. We know that the shareholders elect a board of directors to represent the shareholders, to help provide a vision. And a lot of times the board of directors, you have two different types of boards, you have two different types of board members. You have an inside director on the board. An inside director is somebody who is employed with the company, and in almost all of the companies that I am aware of, the chief executive officer is also a member of the board of directors. But because the chief executive officer is employed by the corporation, he or she is considered to be an inside director.

An outside director is someone who is not employed by the corporation, but, rather, has some type of business, theoretically, some type of business expertise outside the corporation that can bring that expertise to the corporation to benefit the corporation in guidance and to represent the shareholders.

So, first of all, you have the shareholders. They elect the board of directors to represent them and then the board of directors to run the corporation hires the chief executive officer, and that is this box right here. Now, the chief executive officer represents, runs the day-to-day operations of the corporation. And, remember, the chief executive officer is not the top official in the company. The chief executive officer has to answer to a board of directors. The board of directors has a responsibility to be sure that the chief executive officer is carrying out his or her duties.

On top of that, the board of directors has a fiduciary duty to the shareholders to be sure that their chief executive officer meets the kinds of standards and is able to run the corporation.

Now, the CEO, we have a little box right here to my left that I call "insiders." You hear a lot lately, and we will go over some of the corporations, you hear a lot lately about insiders, people inside the corporation who get special knowledge, who know when the stock is going to go up or down; and they have a special advantage, and they have an advantage over somebody outside the corporation, especially on a publicly traded corporation.

Well, we know that, and the Security Exchange Commission, and in this country it has been the law for a long time, there are certain rules that insiders have to follow. They cannot deal stock, for example. Generally, they cannot buy or sell stock based on inside knowledge on a public corporation. They have got to be able to disclose that kind of thing. It is very obvious that fraud has been committed.

Take the example of ImClone. ImClone is the one that you probably better know as the corporation matter that is involving Martha Stewart. There you have insiders of the corporation who know that a particular drug was not going to receive approval by the Federal Drug Administration. They also knew that as soon as word got out to the shareholders, to the people for whom they worked, that as soon as word got out the value of that share would collapse. So what did the insiders do? They went and sold their stock, and they called their buddies like Martha Stewart and others and made sure they could also sell their stock before the general knowledge within the corporation became known. That is what is called inside knowledge.

The same thing with K-Mart Corporation. The same thing with Adelphia Cable. The same thing with TYCO. The same thing with Enron Corporation. That is an example we have had around for several months. WorldCom. Scott Sullivan who, by the way, has a $19 million home down in Florida that he is living in, a lot of it is based on insider knowledge. The same thing with Global Crossing. Gary Winnick out in Bel Air, California, building a $90 million home.

These people are robber barons. They were trading on inside knowledge because they are insiders. And, unfortunately, in many of those cases, the board of directors, who had a fiduciary responsibility to oversee these people, in many cases did not oversee them. They joined the robber barons. They help rob the shareholders of value.

□ 2200

Not just the shareholders, but the responsibility to the public at large, and instead of coming out with a better product, like a good toothpaste or a better car, instead of doing that, they decided that in the short run, it would be better to cheat the people, cheat the shareholders. I can tell my colleagues anytime we have a chief executive officer like Gary Winnick with Global Crossing, like the Adelphia Cable Company and the Regis family there, or the Enron corporation with Andrew Fastow, who paid himself $30 million, where was the board of directors? Take a look at Kmart, the Charles Conaway, Bernie Ebbers, I have got a bunch of names I can give my colleagues here. Conseco, Steve Hilbert.

Any time we see a problem with the chief executive officer of whether they are overpaid or whether they are improperly using inside knowledge, whether they have improperly disclosed inside knowledge, we will find two things. One, they are doing it for their own self-enrichment, to make themselves wealthier, as demonstrated by the Scott Sullivans of Florida, by the way he is protected from bankruptcy by a $20 million home, or Gary Winnick with a 90-million-plus home in Bel Air, California. We will see, number one, it is self-enrichment, and two, we will find negligence on the board of directors.

Can my colleagues tell me that the board of directors for Enron Corporation, for example, were carrying out their fiduciary duties in representing the shareholders and allowed Andrew Fastow to go out there and create several satellite companies? And just to be a little sarcastic, I guess, or a little smartie, he named them after Star Wars characters, and then paid himself $30- or $40- or $50 million on top of the money that he paid to his buddies.

I mean anytime we find a bad CEO, we are going to find generally a bad board of directors. I am not talking about a bad CEO who misreads the market. I am talking about a CEO that has got a problem with morality, that has got a problem with honesty, that fudges the figures, like Scott Sullivan or Bernie Ebbers, that moves expenses, capitalizes them instead of expenses, and I know that is kind of an accounting term, but these kind of things are fundamental to a board of directors. They know what is going on. If they do not know what is going on, they are breaching their duties.

Let us go on. So this is what we would call basically the insiders of the corporation, the board of directors, the CEO and so on. They reach outside the corporation generally for two separate functions. One of them is outside auditing. A good chief executive officer looks at the outside auditor, and of anybody they want to be honest with them, if they are a good chief executive officer, the one group of people they especially want to be straightforward with them and not hide anything are the outside auditors because they are the ones who can tell them whether their strategy is working or not. They are the ones who can tell them, hey, the company, the business is going in the wrong direction; hey, our productivity is down; hey, you have got too much expense over here, you are not expensing properly over here. The auditors should be noncompromised.

We have seen what has happened over time and, of course, the perfect example there is Arthur Andersen Corporation. It is an auditing firm, and what happens? Unfortunately, there were a lot of good employees with Arthur Andersen and there were a lot of people who retired from that company who saw their entire retirements eliminated because of the misbehavior by a few of the employees of this corporation, but those particular employees, the auditors, the accountants, they got too cozy with the management.

What happened in Enron's case? They had their auditors who are supposed to be at arm's length, are supposed to give an honest assessment of the status of the corporation, and we can look at it. It happened in Global Crossing. It happened with Kmart. It happened with Sunbeam. It happened with ImClone, Xerox Corporation, where the auditors who were supposed to give an independent and frank assessment of the corporation, they did not do it, and then Enron Corporation, what happened is the auditors, they were auditors by day, consultants by night.

What do I mean by that? Arthur Andersen Corporation, for example, with Enron would collect maybe $14 million a year to do auditing, but they also collected $40 or $50 or $60 million a year to do consulting. Do my colleagues think that when they give the CEO bad news that they are going to want to give him the bad news if they have a consulting arm of their corporation that makes a lot more money off him? Too cozy.

There is a solution to that, and that is we require auditors to stick to the business that they are there for. They are not in the consulting business. They are not there to self-enrich themselves at the expense of the shareholders or at the expense of the employees, and of anybody, any classification on my chart that is the most unfortunate group of people, it is the employees. They are the ones who got hit the hardest. They are the ones who risked their jobs. In many cases, tens of thousands lost their jobs, and it is pretty upsetting when we see people who did not have meager retirements, had those retirements wiped out, while Gary Winnick of Global Crossing lives in a $90 million mansion in Bel Air or Andrew Fastow in Dallas today, as I am speaking right now, sitting in a multimillion dollar home, or Scott Sullivan down there with the WorldCom, Scott Sullivan. He is still building his $20 million home.

These people have betrayed not just the shareholders but they have also betrayed the very people that worked so hard for them, and this is where accountability comes in. These people should have been revealed very early on. None of these little cooking-the-book maneuvers, none of this fraud that took place, none of this deceit to the board of directors or even with the board of directors to the shareholders, none of this should have occurred had the auditors been on their toes, had the auditors done what they were supposed to be doing.

In the case, for example, of Enron, Arthur Andersen did not do what they were supposed to be doing. In fact, they cozied up to the management because they could self-enrich themselves. That is what we are seeing happening here.

By the way, we are not seeing poor people, hardworking poor people that are enriched by this. We are seeing in a lot of cases people that are already wealthy and have to become wealthier. We see these people, the wealthiest people of the company, robbing the least fortunate people of the company. Let me continue on here.

We have got to fix the auditing and, of course, the most obvious thing for auditing is to draw what they call a Chinese wall. We draw a wall between the auditing aspect of a company and the consulting. There is a need for consulting, corporate consulting, but in my opinion, it should not have anything at all to do with the auditing branch. Audits should be separate. The auditor should not be allowed to have any type of conflict of interest with the corporation. They should not be allowed to own stock in the corporation that they are auditing. They should not even get a free cup of coffee from the corporation that they are auditing. They should not announce their arrival. They should go in, they should do their work, they should summarize their results outside the corporate offices.

Arthur Andersen actually had offices set up in the Enron office building. They mingled, had coffee, ate lunch, played golf, went to the theater and did investments with the very people they were supposed to keep an eye on. There is a saying, when the cat is away, the mice will play, and that is exactly what happened.

One of our checks-and-balances on these corporations were bad, and let me say, again, not all of them were bad. We have a lot of good companies out there that produce a lot of good products that treat their employees right, and we have a lot of people who have jobs and we want to preserve their jobs. Jobs are very important, but the fact is, here, the cat, the auditor, went away and what happened? The mice did play. So we have got to work on that.

Legal counsel, we have got legal counsel out there. I used to practice law. I know what they have to do. I know what the code of ethics is. That attorney with Tyco, and I can give my colleagues his name, general counsel, Mark Belnick, gave himself a $20 or $30 million bonus. Every corporation has to give public reports if they are public corporations, and these are supposed to be readable. They are supposed to be honest. And what did the attorney with Tyco Corporation do, Mark Belnick? He is an attorney. He has certain standards he is expected to meet to pass the bar, to be allowed to enter the bar of the State in which he was working.

What did he do? He paid himself a $20 or $30 million bonus, of course, at the expense of the employees, and by the way, at the expense of the retired employees who have now had their pensions wiped out, and the shareholders. Not only did he do that, he made sure it was broken up in such a way it did not have to show up in the public report. Why this person still has a license to practice law is beyond me. I think he resides in New York State. Why New York State, their bar in that State, has not already called him in front of the bar to yank his license, I do not know.

Those are the things that our society, those are the things that we have got to get serious about, and it requires a bipartisan effort. We have got to hit this corruption hard and quick. The corruption is not widespread. The perception is that the corruption is widespread out there, and it will become very widespread if we allow it to continue without punishment.

These chief executive officers, these lawyers, these auditors that are not performing to the standards that are expected of them, need to be punished very quickly. We cannot allow them to go unscathed. We cannot allow the Scott Sullivan in Florida to go ahead and finish his $20 million home or Gary Winnick with Global Crossing who now lives in a $90 million, can my colleagues imagine a $90 million dollar home? Do we think he got that $90 million because he figured out a cure for cancer? Do we think he made his $90 million house because he invented a new seat belt? Do we think he got $90 million because he came up with a drug that would cure the common cold? Do we think he lives in a $90 million house because he came up with a textbook that would help our students in elementary school or some type of computer programming that would help our young people learn better? No, he did not get it that way. He got it because he breached the trust of his corporation. He breached the trust of his employees. Gary Winnick paid himself out of Global Crossing. I think he walked away with $790 million. Show me anybody in our society worth $790 million.

Or take a look at Kmart Corporation, what those guys did, the executives of Kmart Corporation and Charles Conaway.

Charles Conaway, the chief executive officer, they made themselves loans from Kmart. Kmart is not a bank. I do not think I have to tell anybody in here Kmart is not a bank, but these chief executive officers treated it like their own bank, and Conaway, for example, loaned himself from the corporation money and then a week before he took the corporation into bankruptcy, he went ahead and had the loan forgiven, had the loan forgiven, and we see that incident time and time and time again.

I have a whole packet here of the names of these individuals, and I am going to go through a couple of examples, for example, of inside knowledge here in a moment. The point is that we have to have auditors to do their jobs and we have to have attorneys who are legal counsel, that attorney, who know what their role is. Their role is not self-enrichment in the corporation. Sure, they should be paid for their services, but they were not brought into that corporation to make themselves millionaires.

This is exactly what happened in Tyco, for example. Tyco, of course, was tied in with Dennis Kozlowski, and my colleagues may remember Dennis. He is the guy that is worth three or $400 million and decided to cheat the State of New York by not paying sales tax on a few art pictures. Not much money relative to how much money he was worth.

So what happens? I tell my colleagues, whenever we see this kind of cancer, whenever we see this in a corporation, it spreads. When we have the Dennis right here and the legal counsel in that particular case, both of them corrupt, what happens? Take a look. We better look at the books of that corporation real carefully.

Let me go on here for a few moments. The management team. The management team. How could a management team at Enron Corporation that in any way whatsoever was looking out for the interest of the shareholders or living up to its civic responsibilities in the community, oh, sure they went out and put their name on the football stadium, and, sure, they went out and donated to charities, and, sure, they paid their board of directors a lot of money, but the way they did that was through fraud. It is very simple. It is not a complicated case. Do not let them tell you that this brings up the debate of whether or not this fraud should or should not occur.

The reality is we do not allow somebody like Andy Fastow to go out and pay himself $30 million to live in multimillion dollar homes to run these corporations that the board of directors now claims they did not know anything about. We do not care whether they knew about it or not. It was their job to know about it and they are responsible at any one of these levels, at the management team, at the CEO, at the board of directors, at the auditing, at the legal counsel. That is where the buck ought to stop.

□ 2215

The buck stops here. Any one of those you could put that plaque on their desk.

Well, let us talk now about the bottom bracket I have here, the employees. In all this corporate fraud that we have heard about and these chief executives, like Ken Lay, and Sam Waksal, or Frank Walsh, or Charles Conaway, or Bernie Ebbers, or Scott Sullivan, in all of this the attention is focused on them. You know where the attention should be focused? You know what we should do with that $90 million house of Gary Winneck's in Bel Air? We ought to take that house and make it into apartments and let the employees at WorldCom live there for free that had their retirements wiped out.

And Enron Corporation. Now, you may say, wait a minute, Enron was not that old, or WorldCom was not that old, so how could people lose their retirement; how could people have been working for that company for so long? Well, what happens is WorldCom bought other companies, smaller companies that had employees who had worked there for a long time. They merged these companies together. Do you think any of these retired employees are living in a house like that right now? Do you think they got a square deal?

This home is Scott Sullivan's home. If you want to see it, you can see it down in Florida. Why is it built in Florida? Because he can exempt it from the bankruptcy law. I hate to tell Mr. Sullivan this, but it is not going to be exempt from criminal indictments. I hope the U.S. Attorney and the IRS and the INS, and all the people that have jurisdiction over this matter, look at this very carefully. This home ought to be given to the retired people of WorldCom who have lost their entire retirement. Even if it only gives them back a few cents on the dollar, at least there is some equity in that.

Where is the equity in a home like that for an individual who has run a corporation into the ground not because they misjudged the product, not because the economy went south on them, but because they committed fraud, because they wanted to enrich themselves.

Take a look at Gary Winneck's home. This is a $20 million home. Gary Winneck of Global Crossing has a $90 million home, five times the size of that home. That is what we ought to do with these homes, take them back. We need to grab those assets that were taken improperly from the corporation and return them to the people of the corporation, to the shareholders. Most importantly to try to provide some justice to the retired employees and the employees that lost their jobs.

Over the weekend, WorldCom Corporation went into bankruptcy. How many people do you think today working for WorldCom, that still have their job today, are sitting around relaxed in their front room tonight, wondering about their job security? You think they are relaxed about that? They are probably sick at their stomachs. Will I have my job tomorrow?

They would have their jobs tomorrow, and I hope they do have their jobs tomorrow, if we had had some integrity in the board room, if we would have had some integrity in the management. WorldCom is an excellent example. Tens of thousands of people, current employees, are worried whether they are going to have a job tomorrow. The head of it, Bernie Ebbers, made sure before the corporation went into a bankruptcy he got a $408 million loan from the board of directors. Now, tell me those board of directors are watching with the fiduciary responsibility on behalf of the employees by loaning Bernie Ebbers, the chief executive officer, $408 million.

All of these people that are losing their jobs, these are jobs that did not need to be lost. These are people they were not engaged in the fraud. They were not engaged in self-enrichment. They showed up at work every day at 8, went home at 5, 6, 7. A lot of them put their heart and soul into the company. And a lot of the retired employees cannot rebuild. They are in their 60s. They cannot rebuild. Who is speaking for those people?

That is what we have to keep in mind when we take this legislation through. When these individuals are prosecuted, like the Rigas family, with Adelphia Cable, the Rigas family bought their own professional sports team, they took $3.5 billion out of the corporation. We have to make sure that we reach back out and pull that back in, if for no other reason than to help the employees and the retired employees of that company. They deserve more than they have gotten.

Well, let me go on. I want to talk jump back up here, because I think it is a good time to go over an inside deal. What I am talking about, when I talk about an inside deal is, remember that I said earlier an inside deal is where you have people inside the corporation, inside the house, so to speak, who have information that people outside the house do not have. Well, the people outside the house are supposed to get it on somewhat of an equal basis so that you have a square deal, so that you have an equal playing field.

Here is a good example of a corporation that did a lot of inside dealing, and I think the facts are going to bear out that it involves an awful lot of people, including one well-known individual by the name of Martha Stewart. December 4. Let us look at this. Here is the company, ImClone Systems, Incorporated. What did ImClone do? ImClone's stock went through the roof because ImClone, the President and CEO of ImClone came out and said they thought they had a cure for cancer. The president was Sam Waksal. The president came out, or the CEO, and led people to believe they had a cure for cancer. They thought they did when they went to the FDA, the Federal Drug Administration.

They also buddied up with the stock broker, the analyst that was figuring out whether this was a good buy for the buying public. An analyst is supposed to be an outside person. In several of these cases, including WorldCom, you will find out that the outside analyst, a guy named Grubman, and by the way there is an article on the front page of the Wall Street Journal about him today, is supposed to be an outside consultant, but he was actually attending board meetings, yet he was supposed to give some kind of independent analysis.

Well, what happened here is the stock was hot because they thought they had a drug that could cure cancer. Well, around December 4, 2001, the Food and Drug Administration officials informed ImClone that the drug was not going to get certified; that they did not believe that the trial tests indicated that the drug really was effective as a treatment against cancer.

Now, what do you think is going to happen to the value of the stock when word gets out on the street that the drug is not going to work. Of course the stock is going to good through the floor. But the chief executive officer, the CEO and the other top executives of this company, they found out 2 or 3 days, in fact, several days, they got the hint around December 4 that this drug may not be approved.

Now look what happens from September 6 to the 11. All of a sudden the executive officials, as if they got some kind of hunch that fell out of the air, as if they are brilliant strategists, instead of sharing that information with the general public, instead of sharing that information with their employees who had worked so hard for them, instead of following the Securities and Exchange Commission regulations of how this information is disseminated out there; they start selling their stock.

From December 6 through December 11, they unload over $5 million in stock. Now, they would like you to think it was a coincidence. December 26, the CEO finds out that, in fact, the FDA is not going to approve the drug and they are going to make the announcement on December 27 or December 28, 2 days later. He immediately transfers $5 million in stock to his daughter. Then what happens? On December 27, he contacts his daughter and she starts selling the stock, because they know the announcement is coming the next day.

Then her broker, who is in all of this, happens to also be Martha Stewart's broker, and he contacts Martha Stewart. There is a message that is left for Martha Stewart, and that message is right here: ImClone is going to start trading downward. Now, this broker's name is a guy named Peter Bacanovic, B-A-C-A-N-O-V-I-C, and Bacanovic, it seems, would be the pronunciation, but Peter, we will call him. Peter would like us to think he had this instinct the stock was going to go down.

Now, Peter, by the way, was a very close friend and used to work for this corporation and was very tight with the CEO. In other words, every angle you look at any large sale of stock during that period of time by the chief executive officers or the broker or the Martha Stewart, every one of them smacks of inside information. Every one of them.

The conflicts are overwhelming in what happened in this particular company. And who got cheated here? The people that got cheated here are the people that did not know. And under our system of corporate governance, we are supposed to have an equal playing field. We are supposed to have a square deal. But that is not what happened. That is a result of inside information. Inside trading information.

That is why we here in Congress, on a bipartisan basis, and not following the focus of the gentleman from Missouri (Mr. GEPHARDT), whose primary focus is to gain 40 seats from the Republicans, our primary focus should be to save these jobs. My primary focus here is to stop this inside trading. My primary focus here is to restore corporate governance credibility. We have lots of people in this country that are shareholders and they are shareholders because they have some faith that these kind of deals should not go on, like what went on with ImClone.

And they are not alone. It went on in Global Crossing, it went on in Enron, obviously, it went on with Kmart, Xerox, WorldCom, Sunbeam, Conseco. These shareholders want to know that there is something to clean it up if it goes on and that there is checks and balances, like an independent auditor, unlike the demonstration of Arthur Andersen, that can go in there and tell you it is not happening; that the standards and the credibility of the corporation are intact. That is why I am calling upon my colleagues to act swiftly and firmly to stop this before it spins out of control.

As I said earlier in my comments, this is not typical of the average business in this country. Remember, most corporations in this country, by and large, are small businesses, and these small businesses are mom and pop operations and they run good businesses. And the American economic machine is dependent on these businesses. So we cannot just throw out all business. And it would be wrong for us to say all business is bad. It would be like saying all Catholic priests are bad because you have to get rid of a few bad apples.

But the fact is if you have a bad apple in the bushel, you better find out where that apple is and you better get rid of it because it ruins the other apples in the bushel over time. This is the opportunity we are presented with today. Our opportunity today is to take these corporations and ensure that we go back to where we are supposed to go. We have plenty of examples, and I want to show a few of them.

Here are a few examples. Commonly known names. These companies have bad apples in the bushels. They have bushels of apples that we have to go through and get rid of the bad apples. Let us start with Tyco. That is where the chief executive officer tried to cheat New York State out of sales tax on a few pieces of art and paid himself hundreds of millions of dollars from the corporation.

His lawyer, who was supposed to be kind of a check and balance here, his lawyer paid himself $30 million. And this lawyer's name was Mark Belnick. Mark paid himself $30 million in this corporation and then he structured the payments from that corporation in such a way that it would be concealed from the reports that they gave to the public. In other words, he kept two sets of books, one set to enrich himself, the other set for the public to take a look at.

Now, WorldCom. We know all about WorldCom.

□ 2230

It declared bankruptcy this weekend. How many thousands have lost their jobs? And what is happening to the chief executive officers there?

Bernie Ebbers made sure before he resigned, he made sure they agreed to pay him $1.5 million a year for the rest of his life. That is on top of the $408 million loan. The board of directors of that corporation, theoretically representing the interests of the shareholders and the interests of the employees, gave Bernie Ebbers a $408 million loan. How many corporations in the world have ever loaned their chief executive officer anything close to that?

K-Mart's chief executive officer was Charles Conaway before they took that company into bankruptcy, and a lot of Members have been in K-Mart. There are a lot of hard-working people, and they do not make big wages. Those people barely get by on the wages that they make. But at the top, that is not the case. Those executives enriched themselves by giving themselves loans from the corporation. But these loans were a little peculiar. The chief executive officer knew what the definition of a loan was, and that is what you pay it. But they wanted to keep the money. So right before they took K-Mart into bankruptcy, they passed a board proclamation forgiving the loans.

Xerox Corporation, they overstate their earnings. They cook the books.

Arthur Andersen, these are supposed to be the CPAs. That is supposed to be the check and balance in the system. They end up cozying up to the chief executive officer and getting a share of the deal, and it compromises them. It compromises them to the point that things that should have been caught and avoided a long time ago by the auditors were not.

We always deal with greed. It is human nature. I do not care what country, what religion it is, you always deal with greed as a fact of human nature. As a check and balance we know that, we know that. That is why we have auditors. I can tell Members, we are going to get people like the Andy Fastows or the Scott Sullivans of WorldCom, but we expect the auditors to catch that.

As I look back at these corporate problems, which as I said earlier are limited in nature, but it can spread very, very quickly. If I were to look at one place, the first fire call that came in, the first fire truck that should have picked up the problem, I keep looking at the auditors. I am severely and deeply disappointed by the auditing industry in general, by the accounting industry in general. Remember, Arthur Andersen is not the lone one. In Enron, Waste Management, WorldCom, Sunbeam, Adelphia, Conseco, every one had different auditing firms.

The auditing and the accounting industry has got to clean house, and they have to do it themselves and do it quickly. I do not think that auditors should be consultants. I do not think consultants should be the auditors. We have to have that separation. But the fact that the first people that should have picked this up were the auditors and it did not happen, that is an important check and balance. That is Arthur Andersen.

Enron is pretty self-explanatory: self-enrichment. A board of directors that has conflicts as far as the eye can see. We have private, secret companies that are paying $30 million to people like Andrew Fastow over a 6-month period, and his buddies made $5 to $10 million a month in little side deals he feeds them. Where does that money come from? Not because Enron figured out a better way to deliver electricity or natural resources for minerals or developed a better product or mouse trap, as the old saying goes, because Enron allowed this fraud to go on; and they were abetted in the fraud by legal counsel and Arthur Andersen.

What happens to these people? This is how we solve that problem. They go to jail and when they go past go, they do not collect their money. That is the only way we are going to get this message across. There are other solutions, and I have mentioned a couple.

One, the auditors should not be allowed to consult and the consultants should not be allowed to be doing the auditing. But there are some others. We have to look at the board of directors and what kind of conflicts of interest the board has with the company. Enron is a good example, or WorldCom.

We have a director at WorldCom who uses a corporate jet. Let me tell Members about a corporate jet. If it is a jet of medium size, let us say it seats 8 to 10 passengers, that jet probably costs $15 million to $20 million, probably costs the corporation, even if it is just sitting, the expenses probably run $100,000 a month; so on a $15 to $20 million jet, it is probably around a million dollars a year.

WorldCom on its board of directors makes a deal with one of the board members. We will rent this jet to you, and we have to be fair because that jet does not belong to me, Bernie Ebbers; it belongs to the corporation and that jet is used to move people around. So we cannot just let you use the jet. We are going to lease you the jet. The board of directors, just to make it convenient, we will park the jet on a full-time basis at an airport closest to where you live. It costs about $100,000 a month to have this jet; we will lease it to you for $1 a year. That is what happened at WorldCom.

Mr. Speaker, we have to have some different standards for our board of directors. Board of directors should not have things that the common sense, the prudent man, the reasonable-man standard would say look, that smells. That is not ethical. Common sense would say it is just not right.

I would assume that today in corporate boards throughout America, probably throughout the free world, as well as the executive officers, are probably taking a pretty harsh look at how they handle these issues.

I can tell Members there was an interesting editorial the other day in the Denver Business Journal. They wrote about me saying a staunch Republican standing up on business discussing WorldCom and the comments I make.

Mr. Speaker, I used to be a police officer, and there used to be a saying out in the police business. The worst thing for good cops is a bad cop, and it is the same thing here. The worst thing for good business is a corrupt business person, somebody who cheats. That is the worst thing we can get. The worst thing for a sport is somebody who cheats. In the short run, your favorite team wins because somebody cheated; but over the long run it hurts the sport and the people participating in it and the people who have participated in it like the retired employees.

What else can we do. Clearly, our board meetings should not be open to the stock analysts. The stock analysts, and we can take a look at the stock analysts with WorldCom. We can look at Grubman that is on the front page of today's Wall Street Journal, or the stock analysts which worked with ImClone, that is the one that Martha Stewart is involved with, those people were like they were brothers and sisters with the corporate board. They were like they were hatched in the CEO's office. Those people are supposed to be independent.

We heard about some of them. They stand in front of the TV and say, What a wonderful stock. I will give you a little advice, buying public. If you want to ensure your retirement and retire early, buy this stock on its way up. Off the TV camera, they have them sending e-mails, this stock is a sucker. Boy, does this stock stink. Corporations across the country have to move quickly to put a stop to that kind of thing.

Does more regulation help? Generally, I am not too sold on more regulation, but I think this has taught us in the government some lessons. We have to tighten up some areas. We should require that options are expensed. Right now, stock options are not. We should require, I think, for example, that auditing and consulting should not be done by the auditing firm. There should be a separation.

But the regulation, the loopholes we can close, and we will close a number of them this week thanks to the leadership, and help from both Democrats and Republicans and President Bush, we are going to close some of those loopholes this week. But that is only part of the formula. The other two things for this to work is the industry itself. Business itself, whether it is a mom and pop or a Xerox, they have got to have a self-cleansing. They have to get that bad apple out of the bushel, and they have to do it now.

The third thing we have to do, and I will conclude with this, but the third thing that we have got to do is we have got to punish those who have enriched themselves at the expense of others. We cannot allow, for example, Gary Winnick to live in his $90 million home after he took $790 million out of the company. We should not allow Scott Sullivan to bathe in his private pool at his $20 million home he is right now building at the expense of WorldCom employees, at the expense of WorldCom investors and mutual funds across the country.

We should take the ill-gotten gains, and that is the buzz word. We must act. Our U.S. Attorney's office should act. The IRS should act. The Security and Exchange Commission should act, and I am confident that they all are; but they must act with haste. They must move quickly, firmly, and constitutionally. I am not saying that we infringe on legal rights.

But look at ImClone. There is so much evidence that we need to punish the people. We cannot have a repeat sequence of this. We have to let people know if you are going to lie to the employees and cheat them out of their retirements and cook the books, if you are going to misuse corporate assets and self-enrich yourself, it is not tolerable. We need to go after that kind of behavior.

Mr. Speaker, I know that some of my comments appear repetitive, but I am worried about this. There is no reason that our stock market should be dropping like it is. The fundamentals are pretty solid. Our recovery will not be a big boom economy because the recession was not that deep of a recession. The techie stuff, the telecom, that bubble burst; but we are still on the way to a recovery. This market is overselling right now, and one of the factors why it is overselling is because we have to figure out the integrity on corporate governance. It is not the kind of thing that is going to be solved by the gentleman from Missouri (Mr. GEPHARDT) claiming that he is going to take 40 seats from the Republicans, and that is why they love this issue and why they are going to focus on it.

It is going to be solved by a bipartisan effort from both sides of the aisle along with the Senate and the President by saying here are the regulatory things that need to take place; business, here is what we expect you to do in order to restore credibility to the market. That is what will help stabilize our stock market. In the end, an honest business person is a winner for everybody. We have to remember that because the backbone of our economy is small business and most of what we deal with is small business, not the ones that I just talked about. Let us get rid of the big bad apples in the bushel so the rest of the apples are as good as we know they can be.

□ 2245

## MARKET DIVE AND ITS EFFECT ON THE ECONOMY

The SPEAKER pro tempore (Mr. OSBORNE). Under the Speaker's announced policy of January 3, 2001, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 60 minutes as the designee of the minority leader.

Ms. NORTON. Mr. Speaker, I listened attentively to the remarks of the gentleman from Colorado. I was certainly in agreement with much of what he had to say. What amazed me was how much of his remarks were devoted to things that the Congress cannot do anything about. You can preach to the board of directors and you can talk about bad apples all you want to, but this is the Congress of the United States. We are empowered to take action against the fraud and abuse that is driving our market down. Only near the end of his remarks did the gentleman even mention pending legislation. If a Member of the House gets up on the floor, you would think he would discuss what it is we are going to do about it. Most of the remarks of the gentleman were devoted to some awfully bad apples, some folks who the President has said should go to jail, Democrats have said should go to jail, Republicans have said should go to jail. But if this problem was only about locking up a few crooks, the market would not be responding the way it is. It is about corporate greed, to be sure, and the gentleman was very correct in focusing on the manifestation of that greed. But there are some questions that the public, far more pointed questions that the public is asking the Congress now.

Where was the Congress when Arthur Levitt tried to bar consultants from auditing the companies that paid them to consult? The gentleman railed about this matter, but did not tell you that it was Congress that kept Arthur Levitt from, in fact, going forward with a regulation that would have barred precisely that problem which has led to so much of the abuses we are seeing now.

Where was Congress when President Clinton vetoed H.R. 2491, a veto that was overridden by the Republican Congress allowing corporations to raid workers' pension funds by significantly lowering the safeguards that were put in place in 1990 by the Democratic Congress?

What can Congress do? Congress can look at, and correct, the aura of corporate deregulation of the 1990s led by the Republicans in the House. In 1995, the Private Securities Litigation Reform Act, that is a fancy name for a provision, a law, which makes it harder for shareholders to bring securities fraud suits. In the name of reining in the lawyers, what the Republicans did in 1995 was to rein in the shareholders who now have a harder time going to court to sue for the very abuses that are driving the market down as I speak.

So if we are going to talk about what is happening out there, by all means let us call out names for the bad apples that are running all around corporate America today, but let us be clear that this problem is far more systemic than a bad CEO here or a terrible accountant there.

Today, of course, WorldCom went where everybody knew it was going, down and out, and it took a lot of good folks with them, meaning a lot of average Americans, a lot of workers. I know about the workers because here in the Washington area is perhaps the largest number of WorldCom workers in any one spot, 6,000 workers, lots of whom will not have jobs much longer. Some of them will because some of these businesses are, in fact, going to stay up and running and WorldCom at some point will stabilize. The market was down 235 points. We should be grateful for small favors. It was 400 points on Friday. But in a real sense, my friends, the instability is worse than the dive. What is panicking investors is the sense that this thing has gone wild and is out of control, out of control of us, yes, and that we do not know how to stabilize and restore confidence in our economy.

There is only one way to do it. If we deregulated too much, did not regulate enough, there is a bill pending before us, not the weak sister passed by the House, but the Sarbanes bill which the President has said he would sign which passed the Senate of the United States, listen to me, 97-to-nothing. The gentleman talked about bipartisanship. That, my friend, is bipartisanship. A bill that passes by that margin is not about to give in when it comes over to this part of the House. The American people want us to put this matter to rest before we march out of this Chamber at the end of this week for August recess. The biggest bankruptcy in history surely should be enough to make us do just that. Bigger than Enron. Twice as big as Enron.

But, Mr. Speaker, I do not conceive the problems we have in quite the same way as is being discussed by the pundits and, for that matter, by the gentleman who preceded me. It is not about corporate misconduct alone. It is not about income restatements alone, even though the combination of the corporate misconduct and the restatements of earnings, meaning that the earnings are not nearly what we said they were when we put out our last statement, those two factors, the restatements, the misconduct, seem to be in the driver's seat of the economy now, driving it as productivity is not driving it, driving it as nothing else is driving it. But the market decline is so serious and is so unpredictable that it could take us into a longer recession if we do not get a grip. One way to get a grip is to pass the Sarbanes bill out of here before the end of the week.

I want to focus this evening on the effect on the national economy in a number of different ways of the market dive, of the instability on the average American. I suspect that all over America, these cable shows, these news reports about the market are bringing two reactions, confusion and panic. I want to do what I can to help break this down, at least as I see it. We had best be very careful. The latest measure shows that most Americans have now switched to saying that the country is on the wrong track. On the wrong track is not your usual kind of poll: Are you for it or against it? Is it doing right or doing wrong? It is used to measure such things as confidence in the economy, and when people check off the box saying that the country is on the wrong track, they are checking off several different other boxes as well. They are checking off the box that says I'm going to stop spending; this, even though the economy is growing. I'm going to stop spending. I'm going to go away for a while. I'm going to flee the market. This is serious. Because the economy we have experienced over the last dozen or more years, to the extent that it was a good economy was driven by consumer spending. Consumer spending drives, what is it, two-thirds of a good economy in this country. So when people say it is on the wrong track, we have got to work together. Here is where I am at one with the gentleman from Colorado. We have got to work together to restore this confidence and not bickering over whether the Senate bill, a very strong bill, supported across this country in most press reports, or the House bill which, to be fair, came out very quickly before this market had turned down as badly as it has. There is every reason for Republicans to say, look, it has gotten worse, I now know why the Senate bill which was passed later in the midst of this problem is stronger. Let's wipe this thing away. Let's follow what the gentleman says and use bipartisanship in the name of true recovery of the market and of the economy.

This is no longer a story, however, about the market. It is a story about what is happening to the American economy. It is no longer even a story about restoring confidence in the market, as important an element of the story as that is. It is a story now also about the dollar, which has dropped. It is a story about the loss of confidence in corporate governance itself, those who stand above and are supposed to see that the corporation does right, many of whom are supposed to come from the outside of the corporation. It is a story about phony accounting practices. It is also a story about the growth of the deficit. We got another shock last week when the deficit figures came out 56 percent above what had been projected. That is not a matter of miscalculation or mistake. There is something terribly wrong here. The reason for this huge rise in the deficit is that we are experiencing the sharpest decline in receipts by our government since 1955. Today, the deficit is $165.5 billion. Last year it was a $124 billion surplus. When you see that kind of turn-on-its-head phenomenon from surplus to deficit, it is time to start paying attention. This is all part of the same picture, my friends, the same economy, the same problem.

The causes of this deficit, of course, are not alone what has happened recently here with the market. The deficit comes from spending for the war, from spending for recession, it comes from corporate and market decline. But those who can count agree that the greatest cause was the $1.35 trillion tax cut. That is all in the same equation I have just enumerated.

We are focused today on corporate fraud and abuse as part of the problem, because it is so clearly a part of the problem that Congress can fix. Mere mortals cannot fix market economies. They do have minds of their own. But there are certain things you can do to help correct flaws that are there because men and women have put them there, and abuse is an example of such a flaw. Anytime we see the nouveau companies like Enron and WorldCom, on the one hand, and the old giants like Johnson & Johnson and Xerox on the other, we know that we have an across-the-board problem, we have a culture that has accepted certain practices as normal when the average person would regard them as abusive. That is why to characterize this as just some rich guys buying houses is to greatly detract from what at least the Congress can do. I cannot go out and get all of these guys now. Most of them will not go to jail. We are only now changing the law that might put some of them in jail. But I can do something about the system that gave them a license to steal. That is our job as Members of Congress.

I want to focus on who is losing. There has been too little talk about who exactly is losing. If hundreds of companies have done, quote, restatements of earnings, what that means is that your profits in your 401(k) have been erased. What your earnings were as stated 6 months ago turn out to be far greater on paper than the company now comes forward and says they are. Last year, investors lost $30 billion, that is billion with a "B," because of restatements of financial statements alone. Erased. As I speak, there are people sitting down with their 401(k) looking at the result of corporations cutting corners, hyping profits, now restating and downgrading people's portfolios.

□ 2300

What we have got to ask ourselves is what does this mean to the average person? And let us indicate who the average person is. At one point we would say the average person is a worker. Today the average person is a worker and an investor. The average person, average person, is in the market. The average person has lost by what has happened in the last several weeks because more than 93 percent of stocks have lost value. Forty percent of the market are simply mutual fund investors. That is pension funds. When an average Joe out there reads that the drop in the NASDAQ is the worst since the Great Depression, what he is hearing is that the average person has lost money, and a lot of money. Every time the market precipitously drops or goes up and down and back as it did today, it went wild today and ended way down, every time that happens, part of somebody's pension or life savings is gone.

The ultimate insult is those who lose their jobs and their savings, like folks at Enron who lost their job and had invested in their company and so lost their savings as well. The Sarbanes bill would help to get at that unjust enrichment if the conferees over here listen. I cannot help but wonder where Mr. and Mrs. America would be if they had privatized Social Security. I mean if they were sitting with a privatized Social Security account today, where in the world would they be? It is one thing to have invested some of their disposable income in the market that goes down. It is another thing to have been encouraged by the President and the Republican Congress to invest part of their Social Security and be left without that, the ultimate fail-safe. If this episode does not kill privatization of Social Security, then it is immortal.

The value of the average stock dropped 11 percent during the last quarter. That means that the average person probably lost at least that much. Do not look at the 401(k) before going to bed at night. This thing is going to get better. I support entirely what the President is doing to try to encourage people to match up an economy that is growing with what they hear about what is happening to individual stocks and to believe in the American economy. So the whole notion of thinking that this economy is going south and is going to stay there for a long time is, I think, tragically mistaken. One thing we do not want to do is to panic ourselves down and panic ourselves needlessly. We want to understand what is happening, do not want to soft-pedal it. Most people cannot just run out of the market now. If they run out of the market now, they often do not have any other place to go. We take our losses. I think the advice that most analysts are giving, which is stay in there for the long haul if one possibly can, is something most people should do.

So I have not lost my faith in the American economy, but I know good and well that the only way to restore the faith of the American people in the American economy is for this body to do what it can to help restore that confidence. So far we have not done that.

Look at what is happening at the top of corporate America while the investors, the workers, are being wiped out at the bottom. Twenty years ago corporate executives received 40 times what employees earned. Today it is 500 times what employees earn. I mean they can lose a lot of money and still be in good shape compared with somebody with a pension fund or a 401(k). I must say that I think this reflects in part on the decline in union membership. I think that if the average worker had a union leader who could sit there and say, look, your salary is 500 times what this worker's salary is, there would be less of a disparity between workers and CEOs, and we have the greatest disparity in the world. We also have the greatest disparity not coincidentally between the rich and the poor. Some of them have golden parachutes. They are routine in corporate America, but what has really gotten the average person, the average investor who turns out to be an average worker, outraged is that one can get these golden parachutes when one leaves the company, regardless of the condition of many companies. These are the same executives who are responsible for the accounting tricks and the aggressive accounting, as it is called, that has led one former Republican chair of the SEC to predict that there will be hundreds upon hundreds of companies that will do corporate restatements. That means everybody should get ready to understand that there is less in our little old portfolio than we thought. Some of these executives have been particularly brazen, hiding debt, as with Enron, to make profits look greater.

I know a little bit about corporate governance. Before I came to Congress, I served on the boards of three Fortune 500 companies, proudly so. I must say that in each of them, usually the only inside member of the board was a CEO. These were companies which just as a matter of good corporate governance almost exclusively relied on outside members for their boards. One would think that that would be one thing a CEO would want. They would want somebody on the inside to pull their coattail if things were looking a little strange. Very often we cannot see this from the inside. We get too ensconced with it. Virtually all of the board members were outside board members. I was not on an audit committee. We met almost every month. There were a couple of months in the summer where we did not meet. I came to Congress, elected in 1990. Of course I had to give up all corporate boards, but I was on corporate boards during the flamboyant 1980s which in their own way reflected some of what is happening today. These were very conservative companies in the way they were governed.

I have seen it from the inside. It does not have to be this way. It does not have to be the way it has been in the last couple of years.

So here I stand, a Member of Congress. I think the average investor, the average worker I have been talking about has a right to say to me so what are you going to do about it? I dissent from the view that this has been about corporate greed alone. As I have said when I began these remarks, that would be easy to deal with. If somebody steals my pocketbook and I catch him, I lock him up. My pocketbook is going to be in better shape the next time. This is about corporate greed. Corporate greed was given a license to steal because nobody was watching the store in the way they should have been, and we of the Congress of the United States are deeply implicated in that problem. Inadequate regulation, inadequate laws, repeal and relaxing of many regulations and laws in the 1990s, some at the direction of the Congress of the United States.

□ 2310

So we better fix it, because we are part of why it is broken.

I will not go line by line down the bill, the strong bill that has been passed in the Senate; but let me give some illustrations of what it would do that I think the average American in a second would want us to do. It extends the statute of limitations so that defrauded investors can seek redress before all the cash is gone. The House bill does not do that; it would eliminate that provision. It requires corporate wrongdoers, the abusers themselves, to give up their ill-gotten gains. That is not in the House bill. You walk out on the street in any city and tell folks that that is not in the House bill, they will tell you to get back in Congress until it gets in there. Even with it in the bill, billions of dollars of lost savings are gone forever; at least we ought to make sure that it never happens again.

Another favorite of mine is a whole new loophole that would be opened if we went with the House bill instead of the Senate bill. Do we really want to permit foreign accounting firms to be exempted from the oversight board, the Oversight Accounting Board? Would that not be a loophole that one could drive a Mack truck through, since this is one world?

Not only are corporations global, so are accounting firms global. We certainly do not want a U.S. accounting firm to do business through foreign operations and, therefore, avoid all of the regulations and the law that we are putting in place. That is what will happen if the House version rather than the Senate version becomes law. If we cannot fix the economy, we can fix some of the abuses. We can fix those abuses if the Sarbanes bill becomes the bill of the Congress of the United States.

Mr. Speaker, as I have been speaking about the average worker who is today the average investor, because one way or another, the average worker is in this market, either through their pension or through their 401(k), one has to be awfully poor and jobless not to be in the market one way or the other.

But there are people who are wondering whether or not the effect that this period of abuse has had on markets has now also affected jobs. People are beginning to use the words again, words that we heard about a decade ago, "jobless recovery." The words "jobless recovery" ought to be an oxymoron. I thought recovery was all about getting people employed again. But that is not what is happening, and that is what is scary.

We now are seeing, for example, in June, the long-term jobless rate rose for the third month in a row. We are told that the unemployment rate is 5.7 percent, that is 8.4 million people. But the true jobless rate is more than 9 percent in May, if we count 1.5 million people who are marginally attached or discouraged because they have looked for so long for jobs; they have just given up.

Now, some of the reason we are told for the unemployment is that employers are doing more work through greater productivity. They are using machines; they are using computers. We have a wonderfully productive economy. I agree. This is not all due to the failure of the economy to recover. But I do know this: we are not sharing the gains in productivity with workers, and the reason I know this is I have looked at the average hourly earnings and found that they are still 5 percent below the rate workers earned in 1973. We are talking 25 years ago. So no matter how we look at it, workers are getting the short end, and that is something which, when paired with what has happened to these same workers as investors, is dangerous for the economy and is dangerous for this Congress.

The analysts have looked at the recessions in recent years, in 1982, in 1980, in 1975 and noted that if we looked at the first year of recovery from those recessions, job development and increase was 2.4 million. They count March 2001 as the beginning of this recession, and there is no analyst that thinks we will get to 2 million jobs in the first year after this recession. That is why at least some are saying it is a jobless recovery. I step forward to say I hope that is not the case. This is what I care most about. I think the only thing as bad as losing your savings is losing your job.

Most people will not believe that there is a recovery at all unless they see that their neighbor, who lost their job, got their job back. They did not lose theirs, but as long as their neighbor is still out of work or going back only on a temporary job, they are not going to go out and spend any money. That, of course, feeds on itself and keeps the market down. That does not help anything, and that does not help anybody; and we have to help change that in this Congress, yes, by working together. The way to work together is a bill on the table. Let us pick it up off of the table and pass it and see if we do not get an immediate reaction from the market.

We are on track, according to all of the figures, to recover at below the average employment rate. Now, one does not have to be an economist to know that employment is a lagging indicator. From the point of view of the employer, one can understand that. He does several things as he sees the economy recovering, and about the last thing he does is to hire back his workers. He uses all kinds of other ways to get his work out, including the encouragement to improve your own productivity so you need fewer workers. But ultimately, the test of a recovery, the test of a good economy is that people are working. There is no way to get around that test. We can talk like an economist and say oh, it is fine, the economy is doing just great; but if people are out of work, we will never convince them of that; and we should not be able to.

We have to get people back to work. If unemployment is 5.7 percent for the population at large, do understand that that it is twice that for people of color, because that is the way it goes in this country; and over 10 percent unemployment is crisis in minority communities. Jobs count, and yet we hear so little about jobs. Jobs are not unrelated to the market, and the market can recover all it wants to; but if there is joblessness, there is no recovery.

When we had the booming 1990s, there were both jobs and a market; yes, an overvalued market, but by no means was it simply overvalued. It was a time of great innovation, the birth of the Internet and the spread of computers, so there was a very good reason why there were jobs and why there was a good market at the same time.

Consumer spending is the engine of this economy. People do not spend money when they do not have jobs or when their neighbors do not have jobs, or when they think there is still high unemployment, which is a signal to them: it may get you, so do not spend money. That stops the economy, at least an economy like ours, two-thirds of which is driven by spending by consumers.

□ 2320

I am discouraged by the payroll increases in the last month, couple of months, a paltry 60,000. We need a 150,000 to 200,000 payroll increases per month to bring unemployment down. It will not be helped by the WorldCom layoffs and the IBM layoffs and the layoffs we have been seeing left and right just to compound the matter and make things worse.

We have a horrific situation that Congress has not even paid the least attention to and that is the state of unemployment insurance. Unemployment is just that, insurance. When you have insurance that means you have to pay your premium. So a worker has to pay into the unemployment insurance funds. And the employer better pay into the unemployment insurance funds, or they both are in grave trouble. But only 40 percent of workers actually receive benefits from unemployment insurance even though they paid into the funds. How would you like those apples? You lost your job, no fault of our own. XYZ is doing layoffs because of restatements. Got to let some workers go to get back to some sense of stability, and you say, well, goodness, while I am looking at least I have unemployment. You better watch out. Lots of folks do not get unemployment.

There is a huge change that Congress has failed to update, a change in your economy, a change in who goes to work. Many people are part-time workers, especially women who have small children. They cannot get unemployment insurance in many States, yet the family bought a house last year precisely because that mother could go to work part time because her children are now in elementary school. Some States do not count recent earnings but have to go back a quarter or two. And you have got to meet the earnings threshold as of that quarter in order to get unemployment insurance. Where does this come from?

It made perfect sense in the 1950's when it was normal for there to be a mother at home and at that point half of the unemployed got benefits. But what has happened since is that you have got changes that the unemployment laws simply have not accommodated, at least the changes have not accommodated at least to the changes we are seeing in the workforce itself. There are more single parents working, more two-income couples who structure their work day around children and child care. But all of that may mean that if you lose your job, you cannot get unemployment insurance.

I bet many did not know that if you cannot work nights or weekends because you have children at home, you cannot get unemployment insurance in ten States. What is this? Is the family-oriented Congress going to let this stand? How much longer? What are we going to do with TANF workers, former welfare recipients who took these low-wage part-time jobs to get off of welfare are now going to be the very first to go and cannot get unemployment benefits? Why are we not giving some priorities to straightening out this antiquated system that is causing so much hardship?

I want to call out the name of some of the States that are worse on unemployment insurance, have obsolete requirements that nobody in even a 20th-century or late-20th-century economy would abide. These are folks that need to change their own unemployment laws; and we, of course, need to make changes that only we can make. Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, South Carolina, Tennessee, Texas, Virginia. I have not counted them, but it is getting to be almost half the States have unemployment insurance laws that unfairly, unfairly hurt working families who have paid into the unemployment insurance fund. That is a crime, particularly when we consider what is happening to the market today.

More than 2 million unemployed workers are likely to exhaust their unemployment benefits in the first 6 months of this very year. That is a pending crisis that needs immediate attention. Mr. Speaker, I am concerned at the effects that the market crash is having across the board on our economy, and I have tried to speak to that profound spreading infectious effect.

I note that the market is marvelous in its capacity for self-correction. The problem is it overcorrects or undercorrects very often. You see some correction from companies themselves. There are companies that are stepping forward, for example, to expense their own stock options, Coca-Cola, the Washington Post right here in the District of Columbia. But we have a problem that cannot be blinked. When you have a double-digit decline in stocks, traditionally, there is almost a formula that is been at work and the first 6 months, normally recovery there is a double-digit increase. We are not having that increase.

All of this speaks to the need to pass a bill before we leave here. When you see an old-line company that no one has said has been engaged in any malfeasance, like GE, posts a 14 percent increase, and yet the stock shows only a minor increase itself, less than 4 percent, you know that there is no confidence in the market, that people do not know whether even a company with that reputation can be believed. We have got to put something behind such companies so that when people read those statements they say, I think those statements are probably right because the Congress has passed a bill that makes them sign on the dotted line and is going to send people to jail if they are not right, because the Congress has shored up all the loopholes.

So I think now I can look at those statements and understand that that is probably more or less what is in my portfolio. I can begin gradually to reinvest in the markets. We can do that much. We cannot make people invest. We cannot tell people what to do. I do not know what to tell people to do, and I do not know any analysts that are telling people what to do except the same old thing that they tell us, do not run from the market; stay the course. That is having no effect on investors. They are running as fast as they can.

□ 2330

The President asked people to stay the course. That is his job, and he is doing his job by saying to people do not run, stay put, and they are running, anyway. So what is missing? What is missing is something to back that up. We and we alone can back that up. There is nobody in power to do it under the law. There is no other body that can do it. We cannot do it State by State. It can only be done by the Congress of the United States.

No, I do not think this is a matter of bad apples alone. I do not spend much time on the President and whether he sold stock or bought stock in ways that, at least today, we say should not be done. I just do not spend a lot of time on that, on whether he borrowed money. I do not even spend a lot of time on the Vice President's problem with Halliburton. I do not think this is the problem.

I think the problem is systemic. I do not think the problem is the President and what he did, which probably was not illegal, or Halliburton and the Vice President, and I certainly do not think he intended to do anything illegal. I just do not think that is the problem.

I think the problem is that we have taken the covers off of corporate America and found that they were doing anything they wanted to do because nobody was acting like the cop. Somebody has to be the cop. It was not the auditors, it was not the board of directors, and it was not the Congress of the United States. We do not have to be a bad cop. We do not have to engage in police brutality, but somebody has got to stand up there and say what is wrong and what is right, and say if a person does not do what is right, then there is a sanction. If the auditors do not do it, if the board of directors does not do it, then the law will make that person do it.

That, Mr. Speaker, is all I think the public has a right to. It is what we have not given them yet. This is Monday. There is still time. We are rushing with homeland security. Important as that is, I do have no hesitation to say, it is not nearly as important to meet the deadline of Friday for the Sarbanes bill. That is what is important. If we get away from here on Friday, that market continues to do what it is doing today and there is nobody here to do anything about it, there is a price we ought all to pay if we get away from here and it continues to be out of control, then at least we can say we have done all we can do.

Capitalism and marketing economies have their own mind. They work in mysterious ways, and they are not subject to the command of man or woman all of the time.

So I say to my good friends and colleagues that I have come to the floor today because I did not believe it was appropriate to discuss this matter only as one of the individuals without understanding where this greed comes from, that the culture of greed comes because we have allowed it to grow. We cannot stand away from our own responsibility here. We have got to pass laws that say that we at least have shored up the system and instructed it to do right by putting in place laws that put a person at risk if they do not do right.

When I go home, I go up the street. When my colleagues go home, they will be going far away. I ask my colleagues not to go one step away from this place without leaving our economy in order to the best of their ability. Pass the bill that is before us. Pass the Sarbanes bill. Let us not quibble about the details. If we make mistakes with the bill in one fashion or another, there will be time to correct them. There will be no time to correct what happens to the economy if we leave this place and the economy, with a mind of its own, goes its own way and its own way turns out to be a way not in keeping with what is best for the people we represent.

I believe that the signs and the message from the market have been clear. I ask only that we reply in a way that is appropriate to the moment.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Ms. KILPATRICK (at the request of Mr. GEPHARDT) for today on account of official business in the district.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WATERS) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. ISRAEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MEEHAN, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Ms. HOOLEY of Oregon, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. CAMP, for 5 minutes, today.

Mr. CANTOR, for 5 minutes, today.

Mr. CRENSHAW, for 5 minutes, today.

Mr. WOLF, for 5 minutes, July 27.

Mr. KINGSTON, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. LEACH, for 5 minutes, today.

## ADJOURNMENT

Ms. NORTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 36 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, July 23, 2002, at 9 a.m., for morning hour debates.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8105. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Hazelnuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2001–2002 Marketing Year [Docket No. FV02–982–1 FIR] received July 9, 2002; to the Committee on Agriculture.

8106. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs [FV–02–709] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8107. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Oxadixyl; Tolerance Revocations [OPP–2002–0047; FRL–7180–4] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8108. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Subcontract Commerciality Determinations [DFARS Case 2000–D028] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8109. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Ocean Transportation by U.S.-Flag Vessels [DFARS Case 2000–D014] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8110. A letter from the Deputy Secretary, Department of Defense, transmitting the Department's report to Congress on Physician participation in TRICARE in rural states; to the Committee on Armed Services.

8111. A letter from the Director, Defense Procurement, Department or Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Utilization of Indian Organizations and Indian-Owned Economic Enterprises [DFARS Case 2000–D024] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8112. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Board's semiannual Monetary Policy Report, pursuant to P.L. 106–569; to the Committee on Financial Services.

8113. A letter from the Vice Chairman, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the Grand Duchy of Luxembourg pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

8114. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting copy of the Corporation's Annual Report for calendar year 2001, pursuant to 12 U.S.C. 1827(a); to the Committee on Financial Services.

8115. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Assessments on Security Futures Transactions and Fees on Sales of Securities Resulting from Physical Settlement of Security Futures Pursuant to Section 31 of the Exchange Act [Release No. 34–46169; File No. S7–14–02] (RIN: 3235–AI49) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8116. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Sunscreen Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment [Docket No. -78N–0038] (RIN: 0910–AA01) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8117. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District [CA 264–0354a; FRL–7234–5] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8118. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District, El Dorado County Air Pollution Control District [CA247-033a; FRL-7220-8] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8119. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Fairbanks Carbon Monoxide Nonattainment Area, Alaska [Docket No: AK-02-003; FRL-7240-8] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8120. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Finding of State Implementation Plan Inadequacy; Arizona — Salt River Monitoring Site; Metropolitan Phoenix PM-10 Nonattainment Area [AZ-076-SIP; FRL-7238-8] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8121. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Georgia: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7241-4] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8122. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry [FRL-7240-5] (RIN: 2060-AE78) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8123. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the United Arab Emirates for defense articles and services (Transmittal No. 02-30), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8124. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 02-38), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8125. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Oman for defense articles and services (Transmittal No. 02-34), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8126. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Singapore for defense articles and services (Transmittal No. 02-32), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8127. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Netherlands for defense articles and services (Transmittal No. 02-42), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8128. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to The Republic of Korea for defense articles and services (Transmittal No. 02-43), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8129. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Australia for defense articles and services (Transmittal No. 02-45), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8130. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Czech Republic for defense articles and services (Transmittal No. 02-48), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8131. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Poland for defense articles and services (Transmittal No. 02-49), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8132. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services (Transmittal No. 02-50), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8133. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

8134. A letter from the Chief Executive Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8135. A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report on activities of the Inspector General for the period October 1, 2001, through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

8136. A letter from the Deputy Archivist, National Archives and Records Administration, transmitting the Administration's final rule — Debt Collection (RIN: 3095-AA77) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8137. A letter from the Deputy Archivist, National Archives and Records Administration, transmitting the Administration's final rule — Nixion Presidential Materials; Reproduction (RIN: 3095-AB07) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8138. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period April 1, 2002 through June 30, 2002 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 107—247); to the Committee on House Administration and ordered to be printed.

8139. A letter from the Principal Deputy Director, Office of Hearings and Appeals, Department of the Interior, transmitting the Department's final rule — Rules Applicable Indian Affairs Hearings and Appeals (RIN: 1090-AA70) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8140. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure for the Mothership Sector [Docket No. 020402077-2077-01; I.D. 052802F] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8141. A letter from the Deputy Assistant Administratorfor Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery [Docket No. 020409080-2134-03; I.D. 052402C] (RIN: 0648-AP78) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8142. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment #1-Commercial and Recreational Inseason Adjustments From Cape Falcon to Humbug Mountain, OR [Docket No. 010502110-1110-01; I.D. 040902H] received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8143. A letter from the Secretary, Department of Transportation, transmitting the Department's bill entitled, "To help the National Railroad Passenger Corporation continue operations through Fiscal Year 2002"; to the Committee on Transportation and Infrastructure.

8144. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Ocean Dumping; Site Designation [FRL-7241-2] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8145. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Allocation of Fiscal Year 2002 Youth and the Environment Training and Employment Program Funds — received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8146. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency's, transmitting the Agency's final rule — Supplemental Allocation of Fiscal Year 2002 Operator Training Grants for Wastewater Security — received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8147. A letter from the Clerk of the House of Representatives, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to Rule XXVII, clause 1, of the House Rules; (H. Doc. No. 107—248); to the Committee on Standards of Official Conduct and ordered to be printed.

8148. A letter from the Acting Director, Financial Management and Assurance, General Accounting Office, transmitting a report entitled, "Congressional Award Foundation's Fiscal Years 2001 and 2000 Financial Statements," pursuant to 2 U.S.C. section 807(a); jointly to the Committees on Education and the Workforce and Government Reform.

8149. A letter from the Comptroller General, General Accounting Office, transmitting the financial audit of the Federal Deposit Insurance Corporation Funds' 2001 and 2000 Financial Statements, pursuant to 12 U.S.C. 1827; jointly to the Committees on Government Reform and Financial Services.

8150. A letter from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's report entitled "Annual Report on the Federal Work Force FY 2000," pursuant to 42 U.S.C. 2000e—4(e); jointly to the Committees on Government Reform and Education and the Workforce.

8151. A letter from the Acting Director, Financial Management and Assurance, General Accounting Office, transmitting a report entitled, "Financial Audit: Capitol Preservation Fund's Fiscal Years 2001 and 2000 Financial Statements," pursuant to 40 U.S.C. 188a—3; jointly to the Committees on House Administration and Government Reform.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Pursuant to the order of the House on July 18, 2002 the following reports were filed on July 19, 2002]*

Mr. YOUNG of Florida: Committee of Conference. Conference report on H.R. 4775. A bill making supplemental appropriations for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–593). Ordered to be printed.

Mr. HEFLEY: Committee on Standards of Official Conduct. House Resolution 495. Resolution in the Matter of James A. Traficant, Jr. (Rept. 107–594). Referred to the House Calendar.

*[Filed on July 19, 2002]*

Mr. SENSENBRENNER: Committee on the Judiciary. Senate Joint Resolution 13. An act conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette; with amendments (Rept. 107–595). Referred to the Committee of the Whole House on the State of the Union.

*[Filed on July 22, 2002]*

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3951. A bill to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes; with amendments (Rept. 107–516 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4558. A bill to extend the Irish Peace Process Cultural and Training Program (Rept. 107–596 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3917. A bill to authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes; with an amendment (Rept. 107–597). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. House Concurrent Resolution 419. Resolution requesting the President to issue a proclamation in observance of the 100th Anniversary of the founding of the International Association of Fish and Wildlife Agencies (Rept. 107–598). Referred to the House Calendar.

Mr. HANSEN: Committee on Resources S. 356. An act to establish a National Commission on the Bicentennial of the Louisiana Purchase (Rept. 107–599). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New Jersey: Committee on Veterans' Affairs. H.R. 3645. A bill to amend title 38, United States Code, to provide for improved procurement practices by the Department of Veterans Affairs in procuring health-care items; with an amendment (Rept. 107–600). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 4888. A bill to reauthorize the Mammography Quality Standards Act, and for other purposes, with amendments (Rept. 107–601). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. House Joint Resolution 101. Resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam, adversely; (Rept. 107–602). Referred to the Committee of the Whole House on the State of the Union.

### DISCHARGE OF COMMITTEE

*[The following action occurred on July 19, 2002]*

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. H.R. 1462 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Energy and Commerce discharged from further consideration. H.R. 3215 referred to the Committee of the Whole House on the State of the Union.

*[The following action occurred on July 22, 2002]*

Pursuant to clause 2 of rule XII the Committee on International Relations discharged from further consideration. H.R. 4558 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 4558. Referral to the Committee on International Relations extended for a period ending not later than July 22, 2002.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. DUNCAN, and Mr. DEFAZIO):

H.R. 5169. A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 5170. A bill to amend title XVIII of the Social Security Act to require home health agencies participating in the Medicare Program to conduct criminal background checks for all applicants for employment as patient care providers; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 5171. A bill to amend title XVIII of the Social Security Act to require the preparation of audit reports based upon the financial auditing of Medicare+Choice organizations and to make such reports available to the public; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAIRD:

H.R. 5172. A bill to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System; to the Committee on Resources.

By Mr. CAMP:

H.R. 5173. A bill to amend title 38, United States Code, to provide for certain servicemembers to become eligible for educational assistance under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DUNN (for herself, Mr. NEAL of Massachusetts, and Mrs. THURMAN):

H.R. 5174. A bill to amend the Internal Revenue Code of 1986 to provide incentives to small businesses to provide health insurance to their employees; to the Committee on Ways and Means.

By Mr. FATTAH (for himself and Mr. BRADY of Pennsylvania):

H.R. 5175. A bill to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the "Robert A. Borski Post Office Building"; to the Committee on Government Reform.

By Mr. GIBBONS (for himself and Mr. CANNON):

H.R. 5176. A bill to provide an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer Record, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYWORTH:

H.R. 5177. A bill to provide for the use and distribution of the funds awarded to the Gila River Pima-Maricopa Indian Community under United States Court of Federal claims Docket Nos. 236-C, 236-D, 236-N, and 228, and for other purposes; to the Committee on Resources.

By Mr. SHOWS (for himself and Mr. KANJORSKI):

H.R. 5178. A bill to amend section 507(a) title 11 of the United States Code to increase, with respect to priority of payment, the aggregate amount of the claims of employees for compensation and benefits; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself, Mr. OSBORNE, Mr. WATTS of Oklahoma, Mr. KIND, Mr. SIMMONS, Mr. FOLEY, Mr. ISRAEL, Mr. CAMP, Mr. HOLDEN, Mr. GEKAS, Mr. CULBERSON, Mr. MCINNIS, Mr. HOUGHTON, Mr. BOSWELL, Mr. BOEHLERT, Mr. CASTLE, and Ms. PRYCE of Ohio):

H. Res. 496. A resolution expressing the sense of the House of Representatives that Major League Baseball and the Major League Baseball Players Association should implement a mandatory steroid testing program; to the Committee on Energy and Commerce. considered and agreed to.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. LUCAS of Oklahoma.

H.R. 97: Mr. JONES of North Carolina, Mr. HILLEARY, and Mr. JENKINS.

H.R. 152: Mr. PAUL.

H.R. 267: Ms. SLAUGHTER.

H.R. 285: Mr. KILDEE.

H.R. 326: Mr. HONDA.

H.R. 536: Mr. HOLT.

H.R. 633: Mr. FATTAH, Mr. ETHERIDGE, Mr. STARK, and Mr. LARSEN of Washington.

H.R. 781: Mr. CARSON of Oklahoma.

H.R. 854: Mr. LATHAM and Ms. KILPATRICK.

H.R. 898: Ms. WOOLSEY.

H.R. 1144: Ms. MCKINNEY.

H.R. 1177: Mr. STUPAK.

H.R. 1184: Ms. ROS-LEHTINEN, Mr. BERRY, Mr. HASTINGS of Florida, Mr. STARK, Mr. BALDACCI, Mr. WELDON of Pennsylvania, and Mr. BRADY of Pennsylvania.

H.R. 1452: Mr. SERRANO.

H.R. 1604: Mr. LATHAM.

H.R. 1808: Mr. SERRANO.

H.R. 1841: Mrs. JO ANN DAVIS of Virginia, Mr. MOLLOHAN, Ms. SLAUGHTER, Mr. DICKS, Mr. MALONEY of Connecticut, Mr. PHELPS, Ms. LEE, Ms. MCCARTHY of Missouri, Mr. UDALL of New Mexico, and Mr. MOORE.

H.R. 1862: Mr. KENNEDY of Rhode Island and Mr. ROSS.

H.R. 1904: Mr. SERRANO.

H.R. 2057: Mr. DEUTSCH.

H.R. 2098: Mr. BERMAN and Ms. ROS-LEHTINEN.

H.R. 2117: Mr. REYES and Mr. MOLLOHAN.

H.R. 2160: Mr. FROST and Mr. OBERSTAR.

H.R. 2161: Mr. ROSS.

H.R. 2287: Mr. FILNER.

H.R. 2349: Mr. DOGGETT.

H.R. 2588: Mr. TOWNS.

H.R. 2622: Mr. LINDER.

H.R. 2692: Mr. SCOTT.

H.R. 2874: Mrs. THURMAN.

H.R. 3154: Ms. SCHAKOWSKY.

H.R. 3337: Mrs. MCCARTHY of New York and Ms. LOFGREN.

H.R. 3368: Mr. PHELPS, Mr. BROWN of Ohio, and Ms. LOFGREN.

H.R. 3413: Mr. LEVIN.

H.R. 3414: Mr. TIERNEY.

H.R. 3430: Mr. BALDACCI and Mr. PAUL.

H.R. 3569: Mr. MATHESON.

H.R. 3670: Mr. CONYERS.

H.R. 3710: Mr. DEUTSCH, Mrs. MALONEY of New York, Ms. BERKLEY, Mr. FROST, Mr. RAMSTAD, and Mr. SESSIONS.

H.R. 3729: Mr. BENTSEN.

H.R. 3814: Ms. ROYBAL-ALLARD.

H.R. 3831: Mr. LAMPSON

H.R. 3834: Mr. SKELTON.

H.R. 3884: Ms. WATERS, Mr. HILLIARD, Mr. BRADY of Pennsylvania, Mr. DAVIS of Florida, Mr. BLAGOJEVICH, Mr. DICKS, Mr. WEINER, Ms. SANCHEZ, Ms. KILPATRICK, Mr. ANDREWS, and Mr. SPRATT.

H.R. 3897: Mr. WILSON of South Carolina, Mr. GREEN of Texas, and Ms. BALDWIN.

H.R. 3912: Mrs. MEEK of Florida.

H.R. 3974: Ms. ROYBAL-ALLARD.

H.R. 4011: Mr. NADLER and Mr. PAYNE.

H.R. 4018: Mr. OBEY and Mr. HILLEARY.

H.R. 4026: Mr. PAYNE.

H.R. 4037: Mr. SIMMONS.

H.R. 4075: Mr. Frost and Mr. Pascrell.

H.R. 4643: Mr. Honda.

H.R. 4658: Mr. McInnis.

H.R. 4720: Mr. Taylor of North Carolina.

H.R. 4738: Mr. Norwood, Mr. Ganske, and Mr. Bass.

H.R. 4760: Mr. Ross.

H.R. 4777: Mr. Kucinich and Ms. Lee.

H.R. 4785: Mr. Payne.

H.R. 4798: Mr. Underwood.

H.R. 4799: Ms. Slaughter and Mr. Honda.

H.R. 4852: Mr. Mica.

H.R. 4872: Mr. Wilson of South Carolina.

H.R. 4888: Mr. Oberstar.

H.R. 4902: Mr. Leach.

H.R. 4904: Mr. Payne.

H.R. 4965: Mr. Nussle and Mr. Wolf.

H.R. 4967: Mr. Baldacci and Mr. Rodriguez.

H.R. 5022: Mr. DeFazio, Mr. Ramstad, Mr. Peterson of Minnesota, Mr. Hinchey, and Mr. Osborne.

H.R. 5029: Mrs. Bono, Mr. Towns, Ms. McKinney, Mr. McGovern, and Ms. Schakowsky.

H.R. 5030: Mr. Jones of North Carolina.

H.R. 5033: Mr. DeLay.

H.R. 5035: Mr. Bryant and Mr. Gordon.

H.R. 5078: Mr. Payne and Ms. Kilpatrick.

H.R. 5091: Mr. Evans.

H.R. 5102: Mr. Peterson of Pennsylvania.

H.R. 5107: Mr. Thompson of California, Mrs. Davis of California, and Mr. Markey.

H.R. 5111: Mr. Pickering.

H.R. 5132: Mr. McHugh and Mr. Snyder.

H.R. 5137: Mr. Abercrombie.

H.R. 5166: Mr. Cooksey and Mr. Otter.

H.J. Res. 92: Mr. Horn.

H. Con. Res. 238: Mr. Coble.

H. Con. Res. 287: Mr. Hastings of Florida.

H. Con. Res. 385: Mr. Neal of Massachusetts.

H. Con. Res. 406: Mr. Gilman, Ms. Lofgren, Mr. Kind, Mr. Herger, and Mr. Cunningham.

H. Con. Res. 411: Mr. Goode and Mr. Schrock.

H. Con. Res. 437: Ms. Harman, Mr. Aderholt, and Mr. Ford.

H. Con. Res. 438: Mr. Meehan, Ms. Norton, and Mr. Frost.

H. Con. Res. 439: Mr. Udall of New Mexico, Mr. Cardin, Mr. Dingell, Mr. Pickering, Ms. Slaughter, Mr. Sabo, Mrs. Northup, Mr. Owens, Mr. Frank, Mr. Obey, Mr. Frost, Mr. Ney, Ms. Kilpatrick, Mrs. Capps, Mr. Foley, Mrs. Myrick, Mrs. McCarthy of New York, Mrs. Clayton, Mrs. Johnson of Connecticut, and Mr. Kleczka.

H. Res. 410: Ms. Schakowsky and Mr. Allen.

H. Res. 478: Mr. Gutknecht.

H. Res. 484: Mr. Levin, Mr. Price of North Carolina, and Mr. Gordon.

H. Res. 487: Mr. Skelton, Mr. McGovern, Mr. Saxton, Ms. Norton, Mr. Frost, Ms. McKinney, Mr. McKeon, Mr. Rangel, Mr. Hansen, Mrs. Tauscher, Mr. Wilson of South Carolina, Mr. DeMint, Mr. Kingston, and Ms. Woolsey.

H. Res. 492: Mr. Walsh, Mrs. Lowey, Mr. Sweeney, Mr. Meeks of New York, and Mr. McNulty.

H. Res. 494: Mr. Udall of Colorado.

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## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4628

Offered By: Mr. Roemer

Amendment No. 1: At the end of title III (page 21, after line 11), insert the following new section:

**SEC. 311. REPORT ON ESTABLISHMENT OF A CIVILIAN LINGUIST RESERVE CORPS.**

(a) Report.—The Secretary of Defense, acting through the Director of the National Security Education Program, shall prepare a report on the feasibility of establishing a Civilian Linguist Reserve Corps comprised of individuals with advanced levels of proficiency in foreign languages who are United States citizens who would be available upon a call of the President to perform such service or duties with respect to such foreign languages in the Federal Government as the President may specify. In preparing the report, the Secretary shall consult with such organizations having expertise in training in foreign languages as the Secretary determines appropriate.

(b) Matters considered.—

(1) In general.—In conducting the study, the Secretary shall develop a proposal for the structure and operations of the Civilian Linguist Reserve Corps. The proposal shall establish requirements for performance of duties and levels of proficiency in foreign languages of the members of the Civilian Linguist Reserve Corps, including maintenance of language skills and specific training required for performance of duties as a linguist of the Federal Government, and shall include recommendations on such other matters as the Secretary determines appropriate.

(2) Consideration of use of defense language institute and language registries.—In developing the proposal under paragraph (1), the Secretary shall consider the appropriateness of using—

(A) the Defense Language Institute to conduct testing for language skills proficiency and performance, and to provide language refresher courses; and

(B) foreign language skill registries of the Department of Defense or of other agencies or departments of the United States to identify individuals with sufficient proficiency in foreign languages.

(3) Consideration of the model of the reserve components of the armed forces.—In developing the proposal under paragraph (1), the Secretary shall consider the provisions of title 10, United States Code, establishing and governing service in the Reserve Components of the Armed Forces, as a model for the Civilian Linguist Reserve Corps.

(c) Completion of Report.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the report prepared under subsection (a).

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Defense $300,000 to carry out this section.

H.R. 4628

Offered By: Mr. Roemer

Amendment No. 2: At the end (page 30, after line 7), add the following new title:

**TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.**

**SEC. 601. ESTABLISHMENT OF COMMISSION.**

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

**SEC. 602. PURPOSES.**

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks against the United States that occurred on September 11, 2001;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(4) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

**SEC. 603. COMPOSITION OF THE COMMISSION.**

(a) Members.—Subject to the requirements of subsection (b), the Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) Qualifications.—

(1) Political party affiliation.—Not more than 5 members of the Commission shall be from the same political party.

(2) Nongovernmental appointees.—No member of the Commission shall be an officer or employee of the Federal Government or any State or local government.

(3) Other qualifications.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(c) Chairperson; Vice Chairperson.—

(1) In general.—Subject to the requirement of paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) Political party affiliation.—The Chairperson and Vice Chairperson shall not be from the same political party.

(d) Initial Meeting.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(e) Quorum; Vacancies.—After its initial meeting, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

**SEC. 604. FUNCTIONS OF THE COMMISSION.**

(a) In General.—The functions of the Commission are to—

(1) investigate the relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) SCOPE OF INVESTIGATION.—For purposes of subsection (a)(1), the term "facts and circumstances" includes facts and circumstances relating to—

(1) intelligence agencies;

(2) law enforcement agencies;

(3) diplomacy;

(4) immigration, nonimmigrant visas, and border control;

(5) the flow of assets to terrorist organizations;

(6) commercial aviation; and

(7) other areas of the public and private sectors determined relevant by the Commission for its inquiry.

**SEC. 605. POWERS OF THE COMMISSION.**

(a) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this title—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(b) SUBPOENAS.—

(1) SERVICE.—Subpoenas issued under subsection (a)(2) may be served by any person designated by the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(c) CLOSED MEETINGS.—Notwithstanding any other provision of law which would require meetings of the Commission to be open to the public, any portion of a meeting of the Commission may be closed to the public if the President determines that such portion is likely to disclose matters that could endanger national security.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department, agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this title. Each such department, agency, or instrumentality shall, to the extent authorized by law, furnish such information directly to the Commission upon request.

(f) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(g) GIFTS.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, accept, use, and dispose of gifts or donations of services or property.

(h) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(i) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

**SEC. 606. STAFF OF THE COMMISSION.**

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(b) STAFF.—The Chairperson, in consultation with the Vice Chairperson, may appoint additional personnel as may be necessary to enable the Commission to carry out its functions.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual appointed under subsection (a) or (b) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(d) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(e) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

**SEC. 607. COMPENSATION AND TRAVEL EXPENSES.**

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

**SEC. 608. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

**SEC. 609. REPORTS OF THE COMMISSION; TERMINATION.**

(a) INITIAL REPORT.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing—

(1) such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members; and

(2) such findings, conclusions, and recommendations regarding the scope of jurisdiction of, and the allocation of jurisdiction among, the committees of Congress with oversight responsibilities related to the scope of the investigation of the Commission as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a final report containing such updated findings, conclusions, and recommendations described in paragraphs (1) and (2) of subsection (a) as have been agreed to by a majority of Commission members.

(c) NONINTERFERENCE WITH CONGRESSIONAL JOINT INQUIRY.—Notwithstanding subsection (a), the Commission shall not submit any report of the Commission until a reasonable period after the conclusion of the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks against the United States which occurred on September 11, 2001.

(d) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

**SEC. 610. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

H.R. 5120

OFFERED BY: MR. WAMP

AMENDMENT NO. 22: Page 19, line 1, after the aggregate dollar amount insert "(decreased by $10,000,000)".

Page 19, line 19, after the aggregate dollar amount insert "(increased by $10,000,000)".

# EXTENSIONS OF REMARKS

## CONGRATULATING DETROIT RED WINGS FOR WINNING 2002 STANLEY CUP CHAMPIONSHIP

SPEECH OF

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 15, 2002*

Mr. CAMP. Mr. Speaker, today I rise to congratulate the 2002 Detroit Red Wings who have won the most coveted trophy in professional sports.

This legislation, introduced by Representative CAROLYN KILPATRICK, congratulates the Detroit Red Wings for winning the 2002 Stanley Cup Championship. I am pleased to report to my colleagues that I, along with the entire Michigan House delegation, have signed on as an original cosponsor of this measure.

The 2002 Stanley Cup Champion Detroit Red Wings are considered by many to be one of the greatest hockey teams. This Red Wings team was led by nine future Hall of Famers including, the best captain, defenseman, coach and goalie. After dominating the National Hockey League in the 1990s by winning two Stanley Cup Championships and dubbing Detroit "Hockeytown," the Red Wings have captured their third Stanley Cup in 6 years. The championship work ethic and perseverance displayed by the Red Wings reflects the values of the people of Michigan.

The 2002 Red Wings are a symbol of team effort. Comprised of a diverse mix of experienced veterans, inexperienced youth, future Hall of Famers, Olympians, North Americans and Europeans, the Red Wings always put the team and their ultimate goal before individual achievement. The Red Wings, who started the 2001–2002 season with the highest expectations, were led by their selfless captain Steve Yzerman. Yzerman, who always exemplified team unity, led the Red Wings to the Stanley Cup despite being nearly crippled by a knee injury.

Not only have the Red Wings displayed excellence on the ice, but also in their communities, often volunteering their time to make significant contributions to those who are less advantaged. Unlike many professional athletes today, the Red Wings have welcome the time of "role model." The Red Wings are an example of what can be achieved through hard work and team effort. Congratulating them with this Congressional Resolution is just one way we can pay tribute to their accomplishments and I urge support for the bill.

## PERSONAL EXPLANATION

### HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. FOSSELLA. Mr. Speaker, I am not recorded on rollcall Nos. 319, 320, 321, 322, and 323. I was unavoidably detained and was not present to vote. Had I been present, I would have voted "yes" on rollcall Nos. 319, 320, 321, and 323. I would have voted "no" on rollcall No. 322.

## TRIBUTE TO NAPOLEON BANK

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. SKELTON. Mr. Speaker, let me take this means to recognize the 100th anniversary of the Napoleon Bank of Napoleon, MO. This bank has given diligent service to eastern Jackson County and western Lafayette County citizens since 1902.

Napoleon Bank was founded in 1902 by local stockholders who felt that the area in and around Napoleon needed a bank. After the founding of the Napoleon Bank, John Strodtman was named its first president.

Since 1902, Napoleon Bank has outgrown its original placement and has had several additions, including five since 1966.

Mr. Speaker, the citizens of Napoleon can be proud of the 100-year history of the Napoleon Bank. I know the Members of the House will join me in congratulating Napoleon Bank on a century of the fine service.

## IN COMMEMORATION OF THE 28TH ANNIVERSARY OF THE TRAGIC INVASION AND OCCUPATION OF CYPRUS BY TURKISH ARMED FORCES

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. MENENDEZ. Mr. Speaker, I rise today to join the Cyprus Federation of America, Inc., in remembering the 28th anniversary of the tragic invasion and occupation of Cyprus by Turkish armed forces. To commemorate this anniversary, a concert was held at the Summer Stage in Central Park on Saturday, July 20, 2002, featuring two exemplary artists from Greece, Dionyssios Savopoulos and Alkinoos Ionnides. On Sunday, July 21, 2002, memorial services were held for the victims of the Turkish invasion and occupation of Cyprus at the Cathedral of Holy Trinity in New York City.

On July 20, 1974, Turkey invaded the sovereign Republic of Cyprus and placed 37 percent of its territory under military occupation. Over the past 28 years, hundreds of thousands of Greek Cypriots have been expelled from their homes and forced to live as refugees in a homeland ravaged by ethnic strife and human rights abuses. This illegal occupation persists today, infringing upon principles of national sovereignty and violating the Cypriots' natural right of self-determination.

Today, I ask my colleagues to join me in solemnly commemorating the 28th anniversary of the invasion of Cyprus. I further ask you to stand firmly with the people of Cyprus in their quest to cast aside the chains of oppression and restore their fundamental rights of self-determination and self-government. To our friends engaged in the struggle for freedom in Cyprus, I offer the words of the American patriot Thomas Paine: "Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph." Let us hope that this anniversary will herald the coming of a glorious triumph for the Cypriot people after decades of injustice and for the cause of freedom throughout the world.

## TRIBUTE TO MR. GILES H. MILLER, JR.

### HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. CANTOR. Mr. Speaker, I have known few people who represent the terms "service to others" and "good citizenship," better than Mr. Giles H. Miller, Jr.

Mr. Miller was born in Lynchburg, VA, July 26, 1903. He was admitted to VMI in August 1920, graduating in June 1924. He received many honors while in attendance there. In more recent years, Mr. Miller has been president of its board of visitors, formed the Miller Basketball Scholarship Program, received its Keydet Board Spirit Award, served as trustee of the VMI Foundation, became an honorary coach, was chairman of the VMI Flying Squadron, and received VMI's Distinguished Service Award. He is presently the senior living alumnus of VMI.

Mr. Miller became a resident of Culpeper, VA in 1930, and has selflessly served that community for over 70 years. He became president of the Culpeper National Bank, as well as it chairman of the board, was elected to the Culpeper Town Council and subsequently received its 20 Year Town Council Award. He assisted in the organization of the Culpeper Host Lions' Club as its first president, represented Culpeper as director of the Maryland and Virginia Milk Coop, served two terms as president of the Culpeper Chamber

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of Commerce, served on Culpeper's 250th Anniversary Committee, and with the assistance of others, obtained a new weight room at Culpeper County High School, resulting in what is now called the Giles H. Miller, Jr. Training Center, and was honored at "Miller's Day" at Broman Field, Culpeper County High School, for his service. Mr. Miller was a Director of the Federal Reserve Bank of Richmond and the chairman of the first board of the Culpeper Memorial Hospital, now Culpeper Regional Hospital, and has acted as chairman of its fund drive. In fact, Mr. Speaker, Mr. Miller was instrumental in bringing the Federal Reserve to Culpeper, as well as the Culpeper Memorial Hospital. Today, at the entrance of the Emergency Room of the Hospital, hangs a large bronze plaque, depicting Mr. Miller's likeness, which reads "Giles H. Miller, Jr., Ambulatory Service Center, In Recognition of Outstanding Leadership and Support of Culpeper Memorial Hospital."

Mr. Miller has received numerous awards, including, but certainly not limited to, Outstanding Citizen of the Year in Culpeper, was honored by resolution of the Virginia General Assembly for his service to VMI, Culpeper and the Commonwealth of Virginia, was presented a certificate as a member of the Culpeper School Board Selection Committee, received the Culpeper Colonel Award from the Board of Supervisors, was honored with a Certificate of Appreciation from Keep Virginia Beautiful, having served as its president, and received the Good Scout Award from the Boy Scouts of America.

Mr. Speaker, these few paragraphs do not begin to relate the accomplishments of this outstanding gentleman, known affectionately as Mr. VMI and Mr. Culpeper. He has been a friend to so many, has supported numerous causes and inspired others his entire life. On the occasion of his 99th birthday, I hope you will join me in recognizing Mr. Miller's positive influence and many contributions to the community of Culpeper, the Seventh District of Virginia and the Commonwealth of Virginia.

## STOP HATE

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. RANGEL. Mr. Speaker, Dr. Martin Luther King, Jr. once said, "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly." Dr. King was referring to the struggles of African Americans to achieve basic civil rights and equality of opportunity in the civil rights movement of the 1960's and this same sentiment is applicable today. I come to the floor of the House of Representatives today in support of H. Res. 393. Concerning the rise in anti-Semitism in Europe because I believe it is time for us to speak out against this rise to expose and combat it.

The rise of anti-Semetic sentiment in Europe over the last 18 months is abominable, and detestable. The attacks on Jewish people and Jewish institutions are upsetting and should be the source of great concern by us all.

Anti-Semitism is just a fancy name for stupidity and ignorance. It is imperative that a goal of the governments in Europe be to eradicate sentiments and expressions of hate against any culture anywhere in their nations.

I stand in support of this bill, H. Res. 393, to express my belief that if we don't stop the spread of anti-Semitism in Europe we as Americans are as accountable as the arsonists who burned down the Or Aviv synagogue in Marseilles, France on March 31, 2002.

Individuals who harbored feelings of hate toward Americans and our way of life attacked the United States of America. That attack, September 11th, has permanently scarred us as a country. I believe that there is a direct correlation between anti-Semitism and terrorism.

It is therefore our duty, as Americans not to stand silent while our brethren across the pond allow for the spread of this form of terrorism.

To quote the great Dr. King again "Nothing in the world is more dangerous than sincere ignorance and conscientious stupidity." It is therefore our responsibility to pressure the European governments to root out anti-Semitism. I agree with my colleague, Congressman JOSEPH CROWLEY; who authored the resolution, "the governments of Europe should make a concentrated effort to cultivate an atmosphere of cooperation and reconciliation among the Jewish and non-Jewish residents of Europe".

If we do not stop the spread of anti-Semitism in the streets of Germany, in the stadiums of Italy, in the Cafe in France, then what stops this hate from arriving here in the institutions of the United States of America?

## THE MONTGOMERY GI BILL ENHANCEMENT ACT

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. CAMP. Mr. Speaker, I was recently contacted by one of my constituents who has dedicated his life to defending our Nation. His honorable service covers 19 plus years in the Air Force but he is denied the opportunity to participate in the Montgomery GI bill. Today, I am introducing the Montgomery GI Enhancement Act of 2002 to correct the unfair restrictions that are preventing some of our career servicemembers from using educational opportunities that they deserve.

Education assistance has been a cornerstone of military benefits for over 50 years. Congress recognized that military service often prevented young people from attending school and attaining higher levels of education. In 1944, Congress passed the original education bill for servicemembers, the Servicemen's Readjustment Act. This World War II era legislation provided billions of dollars in education and training incentives for veterans and active duty personnel. The Nation has reaped many times that amount in return investment from a well-trained workforce and a more productive society.

Building on the success of the original GI bill, Congress has passed several other pieces of legislation expending veterans' educational benefits. The Veterans' Educational Assistance Program, VEAP, was enacted in 1976 as a recruitment and retention tool for the post-Vietnam era. This was the first program requiring payment contributions from military personnel while they were on active duty and was available to people who entered active duty between December 31, 1976, and July 1, 1985.

In 1984, Congress passed the All Volunteer Force Educational Assistance Program; more commonly call the Montgomery GI Bill, MGIB. This expanded program provided better benefits that offered under VEAP and last year Congress passed legislation to boost MGIB by a record 46 percent over 2 years. With the enactment of this legislation, an estimated 409,000 veterans and servicemembers will receive assistance under MGIB for education and training in 2003.

In 1996, Congress passed Public Law 104–275, allowing VEAP participants to transfer their education accounts to MGIB and 41,041 veterans and servicepersons took advantage of the opportunity. The opportunity to convert to MGIB is very important because the benefits available are much greater. Unfortunately, those individuals who were on active duty before 1985 and did not participate in VEAP were not eligible to sign-up for MGIB, leaving a gap in available coverage for certain career military personnel. Congress has voted several times in the last decade to allow VEAP participants opportunities to transfer to MGIB, but there has not been an opportunity for those who did not have VEAP accounts to sign up for the new program, excluding them from taking advantage of great educational benefits.

This unjust situation can easily be remedied. My legislation provides a one-year open enrollment period for individuals falling into this gap to attain the benefits that they deserve. This is a matter of equity. We cannot neglect our career military personnel; they have served bravely and honorably for decades and their experiences are crucial to the security of our Nation. Now is the opportunity to ensure that they are provided for and have the same benefits that are available to other members of the Armed Forces.

## COMMENDING JUANITA JOHNSON-CLARK

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. ANDREWS. Mr. Speaker, I want to commend Juanita Johnson-Clark as she retires after 25 years of public service in Camden County. While I must be in Washington, DC during a ceremony in her honor, I want to recognize her achievement here in the House of Representatives.

Juanita Johnson-Clark's had work at the Camden County Department of Health and

Human Services has benefited scores of people in South Jersey. I especially comment her important work to help people with substance abuse problems. I wish her continued success with whatever she chooses to pursue during this new phase of her life.

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## HONORING DR. BRUCE TARTER

### HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mrs. TAUSCHER. Mr. Speaker, as we mark the end of Dr. C. Bruce Tarter's tenure as the Director of Lawrence Livermore National Laboratory, I would like to take this opportunity to celebrate his career and honor his accomplishments. During his more than 30 years with Livermore Laboratory he has served in capacities that truly span the broadest possible range, beginning with a summer internship as a graduate student, and culminating with his appointment as Director. During his tenure at the lab, Dr. Tarter has been steadfast in his commitment to apply science and technology to the important problems of our time, as well as establishing strong institutional ties with the University of California.

Dr. Tarter received his bachelor's degree from the Massachusetts Institute of Technology and his Ph.D. from Cornell University. His formal career with Livermore lab began in 1967 as a staff member in the Theoretical Physics Division, where he was widely recognized as a future leader. Within the decade he was promoted to head of Theoretical Physics, where he advanced his belief that Livermore should use world-class science and technology of our national priorities.

It was also during this time that Dr. Tarter became a leader in solidifying the Livermore Laboratory and University of California relationship. Throughout the 1980s Dr. Tarter was a major player in the creation of the Laboratory Institutes, notably the Institute of Geophysics and Planetary Physics, the Center for Accelerator Mass Spectrometry, and the Institute for Scientific Computing Research. These institutes, created under Director Roger Batzel, have become important tools for the laboratory interacting with the university community.

To guarantee the laboratory ability to use science and technology to solve the major problems of our day, Dr. Tarter has long been a champion of building the world's best supercomputers at Livermore. He has worked to ensure that these supercomputers are used for cutting-edge fundamental supercomputing, as well as critical national security computing.

His leadership in these areas and others propelled him to the ranks of senior management in 1989, as associate director physics, during the waning days of the Cold War. Realizing that the political climate demanded a sharpened focus on weapons and space-age technology, he expanded the position to include weapons physics and space technology, leading to the Clementine mission to the moon. He also headed a broadly based environmental program in global climate and other environmental research.

In addition to his work at Livermore Laboratory, Dr. Tarter has served in a number of other outside professional capacities. These include a 6-year-period with the Army Science Board; service as an Adjunct Professor at the University of California at Davis; and membership on the California Council on Science and Technology, the University of California President's Engineering Advisory Council, the Laboratory Operations Board, Pacific Council on International Policy, Nuclear Energy Research Advisory Committee, and the Council on Foreign Relations. He is a fellow of the American Physical Society and received the Roosevelt Gold Medal Award for Science in November 1998.

Since being named director of Lawrence Livermore National Laboratory in 1994, Dr. Tarter has remained dedicated to the themes developed throughout his career and has continued to adapt to changes in both science and the world at large. Under his stewardship the laboratory has been a principal contributor to the Department of Energy's programs to maintain the U.S. nuclear weapons stockpile without testing underground testing and to reduce the international dangers posed by weapons of mass destruction.

Commenting on the Laboratory's mission, Dr. Tarter has said that these efforts have "set the base for major national security program accomplishments in the future." While Dr. Tarter is stepping down as director of Livermore Lab, and his official leadership will be missed, we are grateful that he will remain on staff at Livermore, no doubt continuing to lead in his field. Always forward-looking and full of boundless energy, Bruce would never want me to speculate about his legacy, and I don't need to—his record speaks for itself. Congratulations, Bruce, and on behalf of my colleagues and the American people, thank you.

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## LINDH PLEA BARGAIN REASONABLE

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. BEREUTER. Mr. Speaker, this Member wishes to commend to his colleagues an editorial from the July 17, 2002, edition of the Omaha World Herald entitled "Justice for Lindh."

As the editorial notes, the plea bargain agreement in the case of the "American Taliban" John Walker Lindh is appropriate because it will allow the U.S. Government to shield sensitive information from public release and to perhaps garner additional information through the debriefings in which Lindh has agreed to participate.

Mr. Speaker, this Member does not want to provide false hope that Lindh will be able to provide extensive insights on the operations of the Taliban in Afghanistan. However, this member strongly supports efforts to continue to investigate all available resources in an effort to paint the most complete picture possible of the terrorists' operations.

Furthermore, this Member would commend to his colleagues the editorial from the July 18, 2002, edition of the Lincoln Journal-Star entitled "Lindh's dad just keeps bile flowing." It correctly blasts Frank Lindh's ludicrous statements comparing his son, John Walker Lindh, with South African anti-apartheid leader Nelson Mandela. Clearly, Frank Lindh does not grasp the full scope of his son's decision to take up arms with the Taliban and the consequences of that decision.

[From the Omaha World-Herald, July 17, 2002]

JUSTICE FOR LINDH

The plea bargain arranged between the U.S. government and John Walker Lindh is a reasonable deal for both sides. Moreover, it offers Lindh, the notorious "American Taliban" captured in Afghanistan last November, an opportunity to atone for his crimes against his native land.

Critics will say—and their view-point is entitled to respect—that the punishment isn't harsh enough. Lindh betrayed his country. True enough. But consideration must also be given to how much damage his enlistment with anti-Western forces actually did to America.

By all evidence, it wasn't much. The young Californian wound up as a grunt—a low-level foot soldier—who apparently never fired a shot at anyone. All parties agree that he was never in direct combat against Americans.

However, it is assuredly also true that he was part of a vicious foreign regime that for years lent aid and comfort to al-Qaida. For that alone, we'd be content to see him serve the maximum of 20 years to which he has been sentenced.

This outcome serves U.S. interests well on at least two counts. First, it allows the government to avoid airing sensitive information that might have become public if it had pressed its case vigorously at trial. Second, Lindh has committed himself to cooperate fully, answering truthfully any questions government investigators come up with. He also has agreed to take lie-detector tests to help assure that he stays on the straight and narrow.

How much is his information worth? That's hard to say, and may never become publicly known. His involvement was so far removed from that of the Sept. 11 hijackers that it seems doubtful he can shed much new light on their operation.

Still, he was a low-level operative with the Taliban's de facto government. He may be able to offer names not previously known to investigators. At a minimum, he probable can describe some levels of the organization's decision-making processes, methods of passing along orders and so on. If the Taliban and al-Qaida soldiers being held at the Guantanamo naval base are remaining as tight-lipped as some news reports have suggested, then Lindh's knowledge has real potential to add to the pool of what's known about these thugs.

From Lindh's standpoint, if he serves the whole sentence, he will emerge from prison having endured about as many years behind bars as he spent as a free American. He'll be 41—still young enough to live something like a real life in his remaining years, especially starting from the advantages that probably will be afforded by his family's wealth.

John Walker Lindh knowingly made himself into a turncoat, whether out of studied enmity or sheltered naivete. No matter—his acts were a danger to the land that nurtured him. His punishment will address that. Now he has a chance to make amends. We hope he'll approach that task with contrition and dedication. It's about time he did something right.

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[From the Lincoln Journal-Star, July 18, 2002]

LINDH'S DAD JUST KEEPS BILE FLOWING

From an objective perspective, the 20-year sentence and plea bargain for John Walker Lindh may very well be reasonable.

But it would be a lot easier to accept if his father would just shut up.

Frank Lindh said he compared his son to Nelson Mandela, "another good man," who spent 26 years in prison.

John Walker Lindh is no Nelson Mandela.

Mandela is a hero, a political prisoner who courageously stood for freedom and dignity against the apartheid government of South Africa.

Lindh chose to carry an AK-47 and grenades in the service of one of the most repressive regimes on the planet.

Neither is Lindh quite the friend of America that his father tried to portray. "Never, in all the interrogations . . . did John ever say anything against the United States. Not one word. John loves America, and we love America," his father told reporters. "God bless America."

Before Lindh was facing life in prison he had considerable criticism for the United States. "What has America ever done for anybody?" he asked in a February 2000 note to his mother, urging her to move to Britain after his parents separated. Lindh told his mother. "I don't really want to see America again."

In truth, now that the shock of discovering the dirty, bearded American Taliban in Afghanistan has worn off, Lindh seems more pitiable than threatening.

Lindh said he never fired a gun or tossed a grenade. The government had no evidence to the contrary.

Lindh seems more like the "poor fellow who obviously . . . has been misled" described by President George W. Bush than Abdul Hamid, the holy warrior whom Lindh aspired to be.

What Lindh—known as Johnny Jihad to would-be humorists—actually might have done or not done while in the service of the Taliban probably will remain a mystery. Facts other than Lindh's own statements are in short supply.

Under the circumstances, putting the 21-year-old behind bars for 20 years arguably fits the crime. The government had some legitimate reasons to accept the agreement. Lindh has agreed to share information about his tour of duty with the Taliban. The agreement also shields the government from having to reveal details about its effort to root out the Taliban in the war against terrorism.

And if Frank Lindh can just keep quiet, some of the anger and bitterness Americans feel toward his son might subside by the time he gets out prison in 2023.

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## TRIBUTE TO REX AND ANN THOMAS

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. JEFF MILLER of Florida. Mr. Speaker, I rise today to recognize the family of Rex and Ann Thomas. For eight generations this farming family has symbolized the tradition of the American family and our community values.

The Thomas family can trace their roots in America back to the early 1700's where their family homestead in North Carolina. The Thomas family remained in North Carolina until the death of William Elias Thomas, who died in the Civil War. His wife, Mary, went south with six of her nine children settling in Alabama. Their grandson, Charles Thomas married Blanche Stevens and moved to Santa Rosa County, FL, to farm new land and raise six children. Upon the retirement of Charles Thomas, he handed the farm over to his two sons, James and John Rex.

Rex Thomas' passions in life were his family and agriculture. Rex farmed from the time of his father's retirement; he also worked in other areas of the agricultural world. This included farm equipment sales, the management of granaries, and the ownership of his farm supply business.

Ann Thomas, with the help of her sons Dale and Richard, farms around 660 acres of row crops and hay while running the farm supply business. John Rex Thomas Jr. lives with his family in Texas, but can be seen helping out around the farm whenever he is home. Lowell, Rex and Ann's second son, can also be seen driving a truck or tractor whenever help is needed.

The Thomas family has been blessed throughout the years by having strong family values. Whether they are watching their grandchildren's T-ball games, enjoying family gatherings or at a local church function, Rex and Ann Thomas like to be surrounded by as many family and friends as possible.

On behalf of the U.S. Congress, I would like to recognize this special family for the example they have set in their community. I offer my sincere thanks for all that they have done for northwest Florida.

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## CYPRUS

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mrs. MALONEY of New York. Mr. Speaker, we are approaching a solemn time in the calendar of Cypriots. Twenty-eight years ago, on July 20, 1974, the Turkish armed forces invaded Cyprus, in a tragic an brutal disregard for the human rights of Cypriots. Since the devastating attack on Cyprus in 1974, 37 percent of Cyprus has remained under Turkish rule.

This year, PSEKA (the International Coordinating Committee Justice for Cyprus), the Cyprus Federation of America (an umbrella organization representing the Cypriot American Community in the United States), SAE (the World Council of Hellenes Abroad) and the Federation of Hellenic Societies are commemorating the anniversary of the invasion with a series of special events in New York. They have chosen to hold these events in New York City out of respect for the terrible tragedy that occurred here on 9/11 and in support of New York, which bore the brunt of the terrorist attack on America. The largest Hellenic Cypriot community outside of Cyprus is located in the 14th Congressional District of New York, which I am fortunate to represent.

In a spirit of remembrance and commemoration, a concert will be held on July 20, 2002 at the SummerStage in Central Park, New York, with the participation of two exemplary artists from Greece, Dionyssios Savopoulos and Alkinoos Ioannides. These remarkable performers have been strong advocates against the division of Cyprus and the human rights violations perpetrated by the Turkish army in Cyprus.

On July 21, 2002, memorial services will be held for the victims of the Turkish invasion and occupation of Cyprus at the Cathedral of Holy Trinity in Manhattan. His Eminence, Archbishop Demetrios, Primate of the Greek Church of America, will officiate.

The occupation of Cyprus has had a devastating impact on the people of Cyprus. Families have been separated, parents have lost the right to bequeath land that has been in their families for generations, churches have been desecrated and historical sites destroyed. More than 1,500 Greek Cypriots, including four American citizens, were missing after the invasion and we still do not know what happened to many of them. By commemorating the tragic anniversary of the invasion of Cyprus, we keep alive the memory of those who perished and those who have suffered under occupation.

After twenty-eight years of occupation, all Cypriots deserve to live in peace and security, with full enjoyment of their human rights. I am hopeful that their desire for freedom will one day be fulfilled.

In recognition of the spirit of the people of Cyprus, I ask my colleagues to join me in honoring PSEKA, the Cyprus Federation of America, SAE and the Federation of Hellenic Societies and in solemnly commemorating the twenty-eighth anniversary of the invasion of Cyprus. I hope that this anniversary will make the advent of true freedom and peace for Cyprus.

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## JAN NOWAK SAYS, "THANK YOU, AMERICA"

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. LANTOS. Mr. Speaker, I want to do two things today. First, I want to pay tribute to Jan Nowak, who like me is an American by choice. Second, I want to call to the attention of my colleagues in this House an outstanding article by Mr. Nowak that appeared in the Washington Post earlier this month.

Jan Nowak is a Polish patriot and an American patriot. He was born in Poland, was a Ph.D. student in economics at Poznan University, and was drafted into the Polish army in 1939 as his native land was threatened by Adolf Hitler's Nazi Germany. Jan was captured by German troops, but he successfully escaped from a German prison camp. During World War II, he became a critical link between the underground fighting against the Germans in Poland and the Polish government-in-exile which was forced to flee to London. He recounted his experiences during this time in his autobiography Courier from Warsaw.

Jan was in Poland at the time of the Warsaw Uprising of 1944. In that heroic but tragic battle, the Soviet army stood just east of Warsaw poised to march into the Polish capital, but Stalin did not order his troops to assist the heroic Polish partisans as they fought a losing battle against the Nazi German forces. The city of Warsaw was largely destroyed and much of the partisan movement was killed by the Nazis. This eliminated Polish leadership in Poland and made it much easier for the Soviet Union to impose a communist regime at the end of the war. During the Warsaw Uprising, Nowak ran the radio station "Lightening" to keep Poles informed of partisan activities, and he managed to escape from the German forces as they destroyed Warsaw.

Mr. Speaker, in 1951 with Central and Eastern Europe under Soviet dominance, the United Sates established Radio Free Europe (RFE) to provide information and democratic ideas to the peoples of these communist countries. Jan Nowak was asked to direct the Polish Service of RFE. He continued in that key position of responsibility for 25 years—until his retirement in 1976.

Following his retirement from RFE, Jan Nowak came to Washington, where he served as a consultant on Central and Eastern Europe to the National Security Council staff of Presidents Ronald Reagan and George H. W. Bush. He has continued to promote freedom and democracy in Poland, and he has been one of the most visible and vocal leaders of the Polish community in the United States. Certainly one of the highlights of his recent activity in behalf of Polish democracy—and one that Jan most enthusiastically welcomed—was Poland's admission to NATO in 1999. A reflection of his continued vigor and involvement in Polish-American issues was his attendance at the state dinner last week in connection with the visit to the United States of Polish President Aleksander Kwasniewski.

Jan recently celebrated his 89th birthday, and he has decided to return to Poland—though he will retain his American citizenship. We will certainly miss his wisdom and energy on issues involving Central and Eastern Europe, but we wish him well as he changes his residence.

Mr. Speaker, on the occasion of his departure from the United States and on the occasion of the celebration of American Independence on July 4th, The Washington Post published an article by Jan Nowak—"Thank You, America." The Post not only published Jan's article, it editorially commented on his "Fourth of July thank-you note to the United States for its support of freedom in his native Poland during his nine decades."

As the Post editorial observed, the consistent and steadfast American commitment to freedom and democracy in Central and Eastern Europe—for which Jan Nowak expresses eloquent thanks to the American people—must continue to be an integral part of our nation's foreign policy. We must pursue democracy and respect for human rights with the same tenacity in Saudi Arabia and Kazakhstan and Indonesia and China in the current century as we did in Poland and Hungary and Czechoslovakia throughout the Cold War of the last century.

Mr. Speaker, I ask that Jan Nowak's excellent article be placed in the RECORD, and I urge my colleagues to join me in thanking Mr. Nowak for his great contribution to democracy and respect for human rights in the United States, in Poland, and throughout the world.

[From the Washington Post, July 3, 2002]

### THANK YOU, AMERICA

(By Jan Nowak)

This July 4, many Americans may feel baffled and disappointed by the waves of anti-Americanism sweeping through countries that, not too long ago, were either saved or helped by the United States. Allies such as France and Great Britain and former enemies such as Germany and Japan benefitted greatly from America's generosity and support in their time of need, as did Belgium, Holland, Italy, Russia, Poland, South Korea, the Philippines, Taiwan and others. Without the United States, some of these countries might no longer exist.

Those of us who remember and remain grateful should no longer remain silent. For people like me—and there are millions of us—this Fourth of July is a good opportunity to say, "Thank you, America." My old country, Poland, is a good example. I was born 89 years ago on the eve of World War I in Warsaw, when Poles were forced to live under the despotic rule of the Russian czars. In 1917 Woodrow Wilson made the restoration of Polish independence one of his 14 conditions for peace. If it had not been for Wilson, Poland might have disappeared forever from the map of Europe. The United States did not have any strategic or economic interests in this remote eastern part of the European continent. But thanks to America, the ambitions of the Hohenzollern empire to dominate all of Europe were thwarted.

The war in Poland did not end in 1918, however. For six more years, the wheels of war rolled over the Polish countryside as Poles fought to repel the invasions of the Red Army. The country was left in ruins. Food was scarce. The undernourished population was hit by epidemics of typhoid and Spanish flu.

I belong to the generation of children of this era, the early 1920s, who were saved by the benevolent intervention of the United States, in the person of the future president Herbert Hoover. As a private citizen, Hoover organized the emergency supplies of food, medicine and clothing that saved a starving and sick nation. I still remember the tin boxes inscribed "American Relief Committee for Poland."

The Polish state survived, but with no economic resources, no reserves of gold or foreign currencies. Roaring inflation had brought the country to the verge of collapse. The United States came forward once again, providing the Dillon loans, which helped stabilize the Polish economy.

Following the surrender of France in 1940, Hitler was only one step from victory. The United States, by joining Great Britain as it faced alone the greater might of Nazi Germany, and at enormous sacrifice of young American lives, saved European civilization and its values. It is known that Hitler's postwar plans called for elimination of Poland's educated classes, while the rest of the population was to become slave workers.

Once again, the United States saved the lives of millions. I am grateful to have been one of them.

Tragically, the defeat of Nazi Germany did not bring freedom to the nations of east and central Europe. Hitler's tyranny was replaced by Stalin's terror. It was the United States that contained the Soviet Union's drive for domination of Europe. It understood before others that the Cold War would be a struggle for human minds.

One of its major weapons in this war was the skillful use of radio. As a former radio operator with the Polish underground and later a broadcaster with the BBC foreign service, I was recruited in the early 1950s to start the Polish service of Radio Free Europe (RFE). No country but the United States would launch or could have launched such an ambitious undertaking, broadcasting from dawn to midnight.

RFE destroyed the monopoly of the Communist public media and frustrated the efforts of the Soviet Union to isolate the satellite countries from the outside world. Citizens of these countries had only to tune in to the RFE frequency to learn what their governments were attempting to hide from them. People were able to get the information they needed to form their own views, even if they could not speak them. Their minds remained free.

Workers' strikes were banned under communism. So when Polish shipyard workers in Gdansk, led by Lech Walesa, defiantly called a strike in August 1980, the government immediately ordered a news blackout. But within hours, the whole country knew of the workers' resistance and related developments from RFE broadcasts. Because the Communists feared a general strike might follow, they quickly agreed to a compromise settlement with the shipyard workers. Solidarity was born.

The following year, however, the Communist leader, Gen. Wojciech Jaruzelski, sought to destroy the movement by imposing martial law. The United States responded by applying a sophisticated carrot-and-stick policy in which Jaruzelski was never forced into a position where he had nothing to lose and nothing to gain. Economic sanctions were imposed, but economic assistance was promised. The patient and consistent application of this policy over the next eight years resulted in the survival of Solidarity, which emerged triumphant in 1989.

News of this victory spread rapidly to East Berlin, Prague, Budapest, Bucharest and Sofia, as well as Moscow, through the broadcasts of RFE, Radio Liberty, RIAS (Radio in the American Sector, Berlin) and the Voice of America. The overthrow of Poland's Communist dictatorship inspired millions throughout the Soviet orbit, unleashing an avalanche that brought down the Berlin Wall and led to the reunification of Germany, the self-liberation of the nations of east-central Europe and eventually the disintegration of the Soviet Union.

Poland formed the first non-communist government in the former Soviet empire. But the nation's economy remained a disaster area. Again the United States came to the rescue. Poland's first democratic government and the nation's economy were saved by U.S. leadership in proposing and aggressively promoting an emergency international financial assistance package.

In the spring of 1998, I watched from the public gallery of the U.S. Senate as it ratified the admission into NATO of Poland, Hungary and the Czech Republic. For the first time in its history, my old country was not only free but also secure.

Thank you, America.

## CYPRUS

SPEECH OF

### HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. ROTHMAN. Mr. Speaker, I rise today in remembrance of the 28th Anniversary of the Turkish Invasion of Cyprus and to commemorate this tragedy for the Greek Cypriot people.

It was over a quarter of a century ago that Turkey illegally invaded the island of Cyprus and created one of the most militarized zones in the world on one-third of the island. This invasion resulted in the death of 5,000 Greek Cypriots, and in the expulsion of 200,000 Greek Cypriots from their homes. More than 1,400 people have been missing and unaccounted for since the invasion, including Americans of Cypriot descent. Today, we mourn the deaths of these innocent people and condemn the 28-year occupation of Cyprus by Turkey.

While we honor those who lost their lives in this tragedy, we also must look to the future when the Turkish military forces will withdraw completely and unconditionally from Cyprus, and a bi-zonal and bi-communal republic with respect for sovereignty, independence and territorial integrity can be established. This year marked a turning point in the quest for the independence of Cyprus when both the Greek Cypriot and Turkish Cypriot leadership began direct talks. It is my sincere hope that the division of Cyprus will be rectified by these leaders in the near future.

Nevertheless, it is the obligation of the U.S. Congress to renounce the violence that separated the island nation of Cyprus, and to affirm that the reunification of the island nation is a priority for this Congress and the international community. On this anniversary of the Turkish invasion of Cyprus, we mourn the losses of the past 28 years, and we continue to encourage the restoration of fundamental freedoms to the people of Cyprus.

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## TRIBUTE TO FORMER GUAM SENATOR ELIZABETH PEREZ ARRIOLA

### HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. UNDERWOOD. Mr. Speaker, the island of Guam bids farewell to an esteemed public servant who has committed her life to the people of Guam. The Honorable Elizabeth Perez Arriola, a member of the 17th through the 22nd Guam Legislatures, passed away on June 26, 2002, at the age of 73.

A woman who earned respect and admiration throughout the region, Senator Arriola represented the best the island of Guam has to offer in terms of the strong but gentle leadership role of women in Chamorro society. Graduating as class salutatorian from George Washington High School in Mangilao, she went on to earn a Bachelor of Arts degree from Rosemont College in Rosemont, Pennsylvania. She later acquired special training through leadership management workshops at Boston University in Massachusetts.

Among the honors she acquired early in her career included election to the Who's Who Among Students in American Colleges and Universities. She was also named Honorary Citizen of Palmetto State, South Carolina, and was selected as the Most Inspirational Woman at a Women's Conference in 1977. Beck was the first chairperson of the Women's Democratic Party of Guam, as well as a Charter member and former Vice President of the American Association of University Women. She also had the honor and privilege of being the first female lector at St. Peter's Basilica in Rome, during the Beatification of Padre Luis Diego de San Vitores in October 1986.

Senator Arriola's career with the Government of Guam began when she was elected to the 17th Guam Legislature. For two consecutive terms, in the 17th and 18th Guam Legislatures, she held the post of legislative secretary. Throughout her twelve years as a senator she held memberships in the Committees on Rules; Education; General Governmental Operations; Welfare and Ecology; Federal, Foreign and Legal Affairs; Ethics and Standards; Economic Development; and Ways and Means. She also chaired the Committee on Youth, Senior Citizens and Cultural Affairs.

It was as a senator that she greatly demonstrated her dedication to the island, her family and, as a devout Roman Catholic, her faith. As the wife and mother of eight children, she relied upon distinctive experiences and abilities as she performed her official responsibilities. She was known for her tough stances against gambling and abortion and introduced legislation addressing a wide range of issues affecting the island and its culture focusing special concern on those affecting women, youth and senior citizens.

Her membership in the Guam Legislature enabled her to bring further prestige for Guam. She served as Vice President of the Association of Pacific Island Legislatures (APIL) and was a member of the Commerce and Labor Committee on the State Federal Assembly of the National Conference of State Legislatures (NCSL). She also served the Health Task Force as well as the Economic Development and International Trade Committee of the Western Legislative Conference (WLC).

Beck Arriola's community and civic affiliations and activities included memberships in Beauty World Guam, Ltd and the Soroptimist International of Guam. She was also a former president of the Kundirana Guam Charity Association and the charter president and executive advisor of St. Dominic's Senior Care Volunteers Association. She was a worthy regent of the Catholic Daughters of America and a board member of the Guam Lytico and Bodig Association. She also served as executive director of the Guam Museum Board of Trustees.

She leaves behind a great legacy of service and accomplishments. She was a well loved role model. She leaves behind not only a husband and family, but a proud and grateful island. I join her husband, former Speaker Joaquin Arriola, her children, Vincent, Franklin, Michael, Joaquin Jr., Anthony, Jacqueline, Anita and Lisa, her many grandchildren, and the people of Guam in celebrating her life, honoring her achievements and mourning the loss of a wife, mother, community leader, and fellow public servant. Adios, Beck.

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## THE SCOURGE OF HUNGER AND MALNUTRITION

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to call attention to a brewing crisis in southern Africa that threatens the lives of millions of men, women, and children. The scourge of hunger and malnutrition is far too common around the world, yet there is compelling evidence that we should be particularly concerned about what is taking place in six different countries.

The World Food Program reports that many families in the region have resorted to eating such foods as unripe melons and poisonous berries just to have something to fill the stomach. The numbers are staggering—7 million people require immediate assistance, and this number is expected to rise to 13 million by the end of this year. When people are so desperate to eat that they harvest their unripe crops and consume their seed corn, it is time that the world takes notice and lends a hand.

Mr. Speaker, the causes for the worst food crisis in southern Africa in more than a decade are many. Irregular rains and prolonged drought have upset the rhythm of the planting season and destroyed crops. The HIV/AIDS crisis has seriously harmed the productive capacity of many families since in some areas up to 20 percent of the adult population is infected with the virus. The frailty caused by pre-existing malnutrition has exacerbated the effects of hunger and disease. And corrupt governments have sometimes disrupted food production and distribution.

As the breadbasket of the world, it is imperative that United States increase our efforts to provide immediate assistance to the millions of starving people in southern Africa. Mr. Speaker, we also must address the root causes of this crisis. We need to promote more efficient farming methods, such as improved irrigation and new agricultural technologies. We need to encourage good governance and political stability in the region. And we need to address the HIV/AIDS crisis in the region. But for now, we must do what we can in the short term so that we can save as many of these people as possible.

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## RECOGNITION OF CAPTURE OF MEMBERS OF NOVEMBER 17 TERRORISTS GROUP

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. ANDREWS. Mr. Speaker, I rise today to commend the Greek authorities and the Greek people for their successful apprehension of several members of the November 17 terrorist group, including the group's mastermind Alexandros Yiotopoulos. This terrible organization has group operated with impunity underground for more than a quarter of a century and inflicted egregious harm on both Greek people and the United States. They are behind the killings of 23 people, including Richard Welch, the CIA station chief in Athens in 1975. I understand that three of the captured members have already confessed to the killings, including the murders of military attaches from the United States and Britain. This is just one-step in our march towards victory in the war on terrorism but it is an important step, I applaud the efforts of the Greek authorities and the vigilance of the Greek people.

## PERSONAL EXPLANATION

### HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. MASCARA. Mr. Speaker, on July 15, 2002, 1 was unavoidably absent for personal reasons and missed rollcall votes numbered 296, 297, and 298. For the record, had I been present I would have voted "yea" on all three votes.

## A SPECIAL TRIBUTE TO FARMWORKER APPRECIATION DAY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. GILLMOR. Mr. Speaker, it is with a great deal of pride that I rise to pay a very special tribute to an outstanding event taking place in my district in Northwest Ohio. On Saturday, August 3, 2002, people from across the district will gather in Fremont to celebrate Farmworker Appreciation Day.

Mr. Speaker, there is no question that farming is the backbone of our nation. From the earliest days of our nation's history, hardworking men and women have taken to the fields to plant and harvest crops and raise livestock in order to feed their families, their neighbors, and their fellow countrymen.

Farming is an honorable profession that takes a great deal of skill, patience, and hard work. Those hardworking men and women who work on our nation's farms deserve much credit for helping to make our lands productive.

Through the arduous process of working and cultivating the soil, these farmworkers help prepare the ground, plant the crops, and harvest the food we need to live. The life of a farmworker is a tough lifestyle. Like the farmer, the farmworker must endure the ever-changing seasons from the harshest winters to the sun-drying, waterless droughts to rain-soaked days that lead to disastrous floods. Farmworkers watch the fields as thunderous storms race across them damaging the crops from which they make their living. However, through it all, farmworkers continue to the fields to do their work.

Mr. Speaker, agriculture is vitally important to the Fifth District of Ohio as we are home to nineteen percent of all of Ohio's farmland. We know that the economy of our part of Ohio depends on farming and a big factor in our prosperity is due to the tireless efforts of farmworkers who bring in the crops. I can think of no better way to celebrate the contributions of these individuals than to take part in Farmworker Appreciation Day.

Mr. Speaker, I would ask my colleagues to join me in paying special tribute to farmworkers by helping me to proclaim August 3, 2002, as Farmworker Appreciation Day. We thank them for all they have done and wish them the very best for the future.

## IN SUPPORT OF THE FLIGHT 93 NATIONAL MEMORIAL ACT (H.R. 3917) AND THE TRUE AMERICAN HEROES ACT (H.R. 5138)

### HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. TAUSCHER. Mr. Speaker, I rise in strong support of the Flight 93 National Memorial Act, H.R. 3917; and the True American Heroes Act, H.R. 5138. These two pieces of legislation will serve as the first steps toward finalizing a tribute to our nation's citizens whom, on September 11, 2001, represented the true American spirit through their heroic efforts.

No one will ever forget the events of September 11, 2001 that devastated our nation. Three of the four planes hijacked that unforgettable morning crashed into the World Trade Center and the Pentagon, leaving thousands dead.

Many believe terrorists were going to use the fourth plane as a weapon to crash into the United States Capitol Building. But the passengers and flight crew made the decision to take down the plane that morning in Stonycreek Township, Pennsylvania after learning from cellular phone conversations with loved ones of the fates of the three other hijacked aircraft. As a result, countless innocent lives were saved , including our own, and the fate of our nation's Capitol was changed.

This was the ultimate act of bravery and sacrifice from the passengers and crew of United Flight 93, and those who enter our nation's Capitol each day should cherish their valiance.

Several residents of California, including two of my own constituents—Tom Burnett and Hilda Marcin—were on United Flight 93. Citizens around the country have asked for the United States government to recognize the bravery and sacrifice of these passengers and the others that perished in these tragic events, by awarding a gold medal to a representative on their behalf.

The Congressional Gold Medal is considered the nation's highest civilian award given by Congress to recognize a lifetime contribution or a singular achievement. I believe that everyone on United Flight 93, as well as police officers, emergency workers and other employees at the Pentagon and World Trade Center should be recognized for their efforts and sacrifice to save the lives of so many others. I would like to see all of these extraordinary individuals commemorated for such bravery. This medal is the least we can do in Congress to remember the courage of our fellow citizens.

In the months following the horrific attacks, thousands of people from around the world have remembered the final moments of the heroes of Flight 93 at the crash site itself, in Stonycreek Township, Pennsylvania. Serving as a place where families and friends of the passengers and flight crew can grieve for their loved ones, the symbolism of this area will be etched in the memories of those who visit to pay their tributes. Like Pearl Harbor, Oklahoma City, New York City and Washington, this is another piece of U.S. soil that now bears the markings of our nation's history.

It is time that we ensure protection of the site by placing it under jurisdiction of the National Park System, so that an appropriate memorial can be created, following the recommendations of the Flight 93 Task Force.

There may never be answers for all the questions that surround the events of September 11, 2001 or closure for all of those around the world who suffered the loss of loved ones in this tragedy.

But it is in our power to make sure that we appropriately honor our fellow Americans, who not only saved our lives and so many others, but also protected our nation's symbol of democracy and freedom—our United States Capitol—by passing these landmark pieces of legislation. I urge my colleagues to support these two bills and yield back the balance of my time.

## SPECIAL ORDER ON CYPRUS

SPEECH OF

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. LANGEVIN. Mr. Speaker, today I join with my colleagues on the Hellenic Caucus to mark the 28th anniversary of the Turkish invasion of Cyprus. I thank Mrs. Maloney and Mr. Bilirakis for their ongoing leadership in the Hellenic Caucus and for organizing events such as today's, which draw much-needed attention to issues of importance to the Hellenic community.

Two days from now will be the 28th anniversary of the invasion. On July 20, 1974, Turkish troops seized control of northern Cyprus, establishing an occupation that exists to this day. The invasion and occupation caused the deaths of 5,000 Cypriots and the expulsion of 200,000 Greek Cypriots from their homes. To add insult to injury, Turkey promoted an independence declaration in the controlled area, drawing the condemnation of the. United States and the United Nations Security Council.

Our Nation's top foreign policy priorities must include the reunification of Cyprus. One of my first acts as a Member of Congress was to join many of my colleagues in sending a letter to President Bush requesting that his administration immediately address this matter and work toward a peaceful solution. The United States holds a unique position of trust with both Greece and Turkey, and must use its influence to encourage the Turkish-Cypriots to continue negotiations, so that Cyprus may once again be whole.

This year, the United Nations has redoubled its efforts to encourage unification negotiations between the Republic of Cyprus and the Turkish Cypriots, with Secretary General Kofi Aman visiting the island in May to meet with government leaders. Unfortunately, UN negotiators, as well as other international observers, have noted that Turkish Cypriot leader Rauf Denktash has shown little interest in negotiating a settlement, while noting that Cypriot President Glafcos Clen'des has shown far more flexibility. The United States must remain engaged in negotiations in Cyprus to promote a lasting settlement to this ongoing problem.

Cyprus, like the United States, shares a commitment to democracy, human fights, and the concept of equal justice under the law. The nation's economic growth and high standard of living make it a prime candidate for membership in the European Union. I am a proud cosponsor of H. Con. Res. 164, which supports the accession of Cyprus to the European Union, as it would greatly contribute to the diversity and shared history of the EU. Membership would provide Cyprus with greater opportunities to contribute to the international community and could also serve as a catalyst for settlement of the unification problem.

On this important anniversary, we mourn those who lost their lives in the Turkish invasion of Cyprus. However, we can also look forward to a time when Cyprus is again unified and able to reach its fullest potential in the international arena. The United States has stood beside her in the past, and we will undoubtedly maintain this strong relationship for years to come.

Again, I thank my colleagues on the Hellenic Caucus for addressing this important matter, and I yield back the balance of my time.

## PERSONAL EXPLANATION

### HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. MASCARA. Mr. Speaker, on July 16, 2002, I was unavoidably absent for personal reasons and missed rollcall votes numbered 299 through 308. For the record, had I been present I would have voted "yea" on rollcall votes 299, 300, 301, 302, 304, 306, and 308, and I would have voted "nay" on rollcall votes 303, 305, and 307.

## PERSONAL EXPLANATION

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mrs. JONES of Ohio. Mr. Speaker, please be advised that I will not be voting on Monday, due to a commitment in my District. Had I been present, the record would reflect that I would have voted on:

(1) H.R. 1209—Child Status Protection Act, "yea";

(2) H.R. 4558—To Extend The Irish Peace Process Cultural And Training Program, "yea";

(3) S.J. Res. 13—Conferring Honorary Citizenship On the Marquis de Lafayette, "yea";

(4) H.R. 3892—Judicial Improvements Act, "yea";

(5) H.R. 4870—Mount Naomi Wilderness Boundary Adjustment Act, "yea";

(6) H.R. 1401—California Five Mile Regional Learning Center Transfer Act, "yea";

(7) H.R. 3048—Russian River Land Act, "yea";

(8) H.R. 3258—Reasonable Right-of-Way Fees Act, "yea";

(9) H.R. 3917—Flight 93 National Memorial Act, "yea";

(10) H.R. 2990—Lower Rio Grande Valley Water Resources Improvement Act, "yea";

(11) H.R. 4940—Arlington National Cemetery Burial Eligibility Act, "yea";

(12) H.R. 5055—Authorizing The World War II Battle Of The Bulge Memorial, "yea";

(13) H.R. 3645—Veterans Health-Care Items Procurement Improvement Act, "yea";

(14) H.R. 5138—True American Heroes Act, "yea";

(15) H.R. 4901—Keep Monticello On The Nickel Act, "yea";

(16) H. Con. Res. 439—Honoring Corinne "Lindy" Claiborne Boggs On The Occasion Of The 25th Anniversary Of The Founding Of The Congressional Women's Caucus, "yea";

(17) H. Res. 471—Recognizing The Contributions Of Paul Ecke, Jr. To The Poinsettia Industry, "yea";

(18) H. Res. 492—Expressing Gratitude For The World Trade Center Cleanup And Recovery Efforts At The Fresh Kills Landfill On Staten Island, NY, Following The Terrorist Attacks Of September 11, 2001, "yea";

(19) H.R. 5145—William C. Cramer Post Office Building, "yea";

(20) H. Con. Res. 352—Sense Of Congress That Federal Land Management Agencies Should Implement The Western Governor's Association "Collaborative 10-year Strategy For Reducing Wildland Fire Risks To Communities And The Environment", "yea";

(21) H. Res. ____—Sense Of The House That Major League Baseball And The Players Association Should Implement A Mandatory Steroid Testing Program, "yea";

(22) H. Con. Res. 385—Sense Of Congress The Secretary Of Health And Human Services Should Conduct Research On Certain Tests To Screen Ovarian Cancer, "yea";

(23) H. Con. Res. 188—Sense Of Congress That The Government Of The People's Republic Of China Should Cease Its Persecution Of Falun Gong Practitioners, "yea";

(24) H.R. 3487—Nurse Reinvestment Act, "yea";

(25) H.R. 3969—Freedom Promotion Act, "yea."

## A SPECIAL TRIBUTE TO THE COMMUNITY OF WEST LEIPSIC, OHIO ON THE OCCASION OF ITS SESQUICENTENNIAL ANNIVERSARY CELEBRATION

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. GILLMOR. Mr. Speaker, it is my distinct privilege to stand before my colleagues in the House to pay special tribute to a special community in Ohio's Fifth Congressional District. On August 17 and 18, 2002, the community of West Leipsic, Ohio is celebrating a truly monumental event—its Sesquicentennial Anniversary.

Mr. Speaker, West Leipsic, Ohio is one of a number of wonderful communities in Northwest Ohio. West Leipsic is located in the heart of the Fifth Congressional District in Putnam County. Throughout its long and traditional-filled history, West Leipsic has established itself as a model community.

We, in Ohio's Fifth Congressional District, are blessed to have such warm communities, like West Leipsic. The folks who live in West Leipsic are truly some of the most terrific people. They are good friends and neighbors, colleagues and coworkers, and, together, they form a close-knit family all sharing a common-bond centered around their dedication to their community.

Over the years I have served in elected office, I have had the good fortune to travel to West Leipsic many times. Each time I visit, I am greeted by friendly people who truly know how to make you feel at home. In West Leipsic, and towns all across the Fifth District, being there is just like being at home.

Mr. Speaker, the individuality of the American culture, the freedom of the American spirit, is embodied in West Leipsic, Ohio. The community of West Leipsic, for one-hundred fifty years, has certainly been a model after which other communities can pattern themselves. As we begin this Sesquicentennial Anniversary Celebration of West Leipsic, Ohio, I would urge my colleagues to join me in this special tribute. It is my hope that the next century and a half will be just as joyous as the first.

## TRIBUTE TO MR. KONRAD K. DANNENBERG

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. CRAMER. Mr. Speaker, I rise today to recognize a great member of the North Alabama community, Mr. Konrad K. Dannenberg. On August 6th, Mr. Dannenberg will celebrate his 90th birthday. Throughout his ninety years, Mr. Dannenberg has been a leader in our nation's space program, retiring from Marshall

Space Flight Center in 1973 as Deputy Director of Program Development's Mission and Payload Planning Office. Today, Mount Hope Elementary School in Mt. Hope, Alabama is honoring Mr. Dannenberg for his service to their school, the North Alabama community, and the nation.

Konrad Dannenberg, born in Weissenfels, Germany, worked with Wernher von Braun in Peenemunde, Germany and came to the United States after World War II under "Project Paperclip". He later helped develop and produce the Redstone and Jupiter missile systems for the Army Ballistic Missile Agency at Redstone Arsenal. In 1960, he joined NASA's Marshall Space Flight Center as Deputy Manager of the Saturn program, where he received the NASA Exceptional Service Medal.

Mr. Dannenberg is a Fellow of the American Institute of Aeronautics and Astronautics and was past president of the Alabama/Mississippi Chapter. He was the recipient of the 1960 DURAND Lectureship and the 1995 Hermann Oberth Award. Additionally, the NASA Alumni League, the Hermann Oberth Society of Germany, and the L–5 Society (now the National Space Society) have the benefit of Mr. Dannenberg's membership. In 1992, the Alabama Space and Rocket Center created a scholarship in his name to allow one student to attend a Space Academy session.

Mr. Speaker, as you can tell, during Mr. Dannenberg's career, he was a valuable player in the advancement of our space program and was appreciated by co-workers and important organizations throughout the industry. Following his retirement, he has remained a major influence in the North Alabama community and still serves as a consultant for the Alabama Space and Rocket Center in Huntsville. I want to congratulate Mr. Konrad Dannenberg on his 90th birthday and thank him for the important contributions he has made to our community in North Alabama and the entire United States.

## PERSONAL EXPLANATION

### HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. MASCARA. Mr. Speaker, on July 17, 2002, I was unavoidably absent for personal reasons and missed rollcall votes numbered 309 through 318. For the record, had I been present I would have voted yea on rollcall votes 309, 310, 311, 312, 313, 315, and 318, and would have voted nay on rollcall votes 314, 316, and 317.

## PERSONAL EXPLANATION

### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mrs. LOWEY. Mr. Speaker, during an absence last week, I regrettably missed Rollcall votes 319–323. Had I been present, I would have voted in the following manner: Rollcall No. 319: "nay"; Rollcall No. 320: "yea"; Rollcall No. 321: "yea"; Rollcall No. 322: "yea"; Rollcall No. 323: "nay".

## PROTECT CHINA'S WORKERS

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Ms. SCHAKOWSKY. Mr. Speaker, I rise to call attention to the suffering of the working class in China. I recently read an article, "Worked Till They Drop" by Philip P. Pan, in the Washington Post on May 13th, 2002, and it shocked me. According to the Washington Post, 19-year-old Li Chunmei died due to work exhaustion. She had been on her feet for nearly 16 hours that day, running back and forth carrying toy parts from machine to machine. Later that evening, she had complained that she was very tired and hungry. During the night, her roommates had awakened to the sounds of violent coughing and tracked the source of the sound to find Ms. Chunmei curled-up on the bathroom floor, coughing up blood. They immediately called an ambulance, but she died before it had arrived.

Cases of guolaosi, meaning "over-work death", are never documented but many local journalists estimate that dozens occur in the Pearl River Delta area alone, the manufacturing region north of Hong Kong where Ms. Chunmei's factory, Kaiming Industrial, is located. What is sad is that nothing is being done about these horrible deaths. The majority of these workers are young men and women who travel many miles from their poor villages to earn a living in China's factory towns. Many of them never finish school, being taken out by their parents to help work on the farm or in the family business. By the age of 15, most of these youths are urged by their parents to seek employment in a factory to support the family.

These young migrant workers are considered second class citizens in China's industrial cities, receiving less access to the weak courts and trade unions. Many do not even know the Chinese word for labor union! The factories, many of them backed by foreign investment, that they work in are drab, concrete dormitories. Life inside can be compared to the feudal system. An average day begins around 8:00 a.m. and can last until 2 a.m. Breaks are rare. The conditions that these poor souls have to work in are tragic as well. In most of these factories there is no air conditioning, with the temperature climbing above 90 degrees at times, and the air is full of fibers. The average salary for a runner, which was Ms. Chunmei's position, is about 12 cents an hour and, even during the busy season, one might earn as little as $65 a month, with no money received for overtime work. Moreover, benefits are non-existent and managers tend to make deductions from the workers' salaries for items never received. Managers also tend to impose arbitrary fines on the workers, which include penalties for spending more than five minutes in the bathroom and wasting food during meals.

When these young workers try to complain about these conditions to their supervisors or government officials, they are told to return to their jobs or they will be fired or even arrested. Local officials often overlook labor rights and safety violations, eager to take bribes and generate tax revenue. The concept of subcontracting further complicates the situation, as many foreign investors rely on these contractors to carry out their operations. It is due to this complicated web that overseas corporations avoid responsibility for the rights of China's working class.

In the case of Li Chunmei, it took her father 28 days to get someone to take responsibility for what had happened to his daughter. He was lead on a wild goose chase when finally the police concluded that Li Chunmei died because of an illness and that her death was non-work related. Her poor father could do nothing about the ruling and now the family again is struggling to make ends meet, this time with empty hearts that money will never be able fill.

Mr. Speaker, I have attached excerpts from this piece but I strongly urge my colleagues to read this article in its entirety. This is an issue that we can no longer ignore. As China and the U.S. improve trade relations, we must continue to press China to improve its labor, environment, and human rights record in general. Let us do all we can to help these young individuals, before we read of another Li Chunmei.

EXCERPTS FROM: "WORKED TILL THEY DROP" BY PHILIP P. PAN, WASHINGTON POST, MAY 13TH 2002

"On the night she died, Li Chunmel must have been exhausted. Co-workers said she had been on her feet for nearly 16 hours, running back and forth inside the Bainan Toy Factory, carrying toy parts from machine to machine. When the quitting bell finally rang shortly after midnight, her young face was covered with sweat."

". . . Her roommates had already fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth. Someone called an ambulance, but she died before it arrived."

"The exact cause of Li's death remains unknown. But what happened to her last November in this industrial town in southeastern Guangdon province is described by her family, friends and co-workers as an example of what China's more daring newspapers call guolaosi. The phrase means "over-work death," and usually applies to young workers who suddenly collapse and die after working exceedingly long hours, day after day."

"These new workers are younger, poorer, and less familiar with the promises of labor rights and job security that once served as the ideological bedrock of the ruling Communist Party. They are more likely to work for private companies, often backed by foreign investment, with no socialist tradition of cradle-to-grave benefits. The young migrants are also second-class citizens, with less access to weak courts and trade unions that sometime temper market forced as China's economy changes from socialist to capitalist. Most of all, they are outsiders, struggling to make a living far away from home."

"Li was a runner . . . always on her feet . . . 'She had the worst job, and the bosses were always telling her to go faster,' said one worker on Li's assembly line . . . 'There were no breaks, and there was no air conditioning.' He added that the air was full of fibers, and with the heat from the machines, sometimes temperatures climbed above 90 degrees."

"Runners required no special skills, and were paid the least, about 12 cents per hour, workers said. During the busy season, including extra pay for overtime, Li could cam about $65 a month. But there were deductions. Workers said the company withheld about $12 a month for room and board and charged them for benefits they never received. For example, workers said they paid for the temporary residence permits they needed to live and work in Songgang legally, but never received them. Managers also had the power to impose arbitrary fines, including penalties for spending more than five minutes in the bathroom, wasting food during meals and failing to meet production quotas, workers said."

Another colleague, Zhang Fayong, recalled that Li once purchased a new dress, then refused to wear it. She said Li was amazed she had spent money on it, and afraid she somehow might ruin it. After her death, her father found the dress among her belongings, folded and wrapped in plastic, he said. He also found a stack of laminated snapshots, taken at local photo parlors for 50 cents apiece . . . They show Li with her friends . . . She looks surprisingly young, just a teenager with long black hair, holding flowers, or saluting, or sitting with an ID tag pinned to her blouse . . . She was smiling in only one picture."

"Immediately after learning of his daughter's death, Li Zhimin traveled to Songgang. For 28 days, he said, he tried to get someone to take responsibility of what happened . . . Finally, police gave him a letter that said a district medical examiner had concluded Li Chunmel 'suddenly died because of an illness while she was alive.' There were no other details, and the local labor bureau declared her death 'non-work-related' . . . Li said he was unhappy with the finding, but was helpless to do anything about it."

## A SPECIAL TRIBUTE TO FARMWORKER APPRECIATION DAY

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. GILLMOR. Mr. Speaker, it is with a great deal of pride that I rise to pay a very special tribute to an outstanding event taking place in my district in Northwest Ohio. On Saturday, August 3, 2002, people from across the district will gather in Liberty Center to celebrate Farmworker Appreciation Day.

Mr. Speaker, there is no question that farming is the backbone of our nation. From the earliest days of our nation's history, hardworking men and women have taken to the fields to plant and harvest crops and raise livestock in order to feed their families, their neighbors, and their fellow countrymen.

Farming is an honorable profession that takes a great deal of skill, patience, and hard work. Those hardworking men and women who work on our nation's farms deserve much credit for helping to make our lands productive.

Through the arduous process of working and cultivating the soil, these farmworkers help prepare the ground, plant the crops, and harvest the food we need to live. The life of a farmworker is a tough lifestyle. Like the farmer, the farmworker must endure the ever-changing seasons from the harshest winters to the sun-drying, waterless droughts to rain-soaked days that lead to disastrous floods. Farmworkers watch the fields as thunderous storms race across them damaging the crops from which they make their living. However, through it all, farmworkers continue to the fields to do their work.

Mr. Speaker, agriculture is vitally important to the Fifth District of Ohio as we are home to nineteen percent of all of Ohio's farmland. We know that the economy of our part of Ohio depends on farming and a big factor in our prosperity is due to the tireless efforts of farmworkers who bring in the crops. I can think of no better way to celebrate the contributions of these individuals than to take part in Farmworker Appreciation Day.

Mr. Speaker, I would ask my colleagues to join me in paying special tribute to farmworkers by helping me to proclaim August 3, 2002, as Farmworker Appreciation Day. We thank them for all they have done and wish them the very best for the future.

## CONGRATULATING LUIS RAUL AND OLGA CERNA-BACA ON THEIR 50TH WEDDING ANNIVERSARY

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. GILMAN. Mr. Speaker, I rise today to honor the 50th wedding anniversary of my good friends, loyal patriots, and loving parents and grandparents, Luis Raul and Olga Cerna-Baca. As family and friends gather to celebrate this joyous occasion, I too would like to recognize them at this special time

Fifty years ago, in New Orleans, Louisiana, while studying English, Luis Raul Cerna-Baca, 33, married a lovely young woman of 17, named Olga Augello. Together, they raised five children, Luis Raul, Juan Francisco, Oscar, Maria Cecilia, and Olga, and were blessed with nine grandchildren.

Their life together serves as a reminder to us all of love, family, civic duty, charity, and the determination of the human spirit. Their work on behalf of human rights and justice for the people of Nicaragua has earned them international recognition and the respect of the people of Nicaragua, the United States, and throughout our global community.

Love has flourished between these two hearts, but not without dedication and hard work. Following their hearts throughout their 50-year journey has led to happiness and a loving life together. However, their love story is one that is still in progress and I can attest firsthand that their love for each other has grown even stronger through the years and serves as an inspiration to us all.

This celebration of 50 years is a remarkable accomplishment and is to be commended by all of us. It is a great honor to provide a tribute for a loving couple who have committed themselves to each other for so many years.

Accordingly, on behalf of the Congress of the United States, permit me to rise to extend our congratulations to Luis Raul and Olga Cerna-Baca on their 50th Wedding Anniversary and to wish them many more years of good health and happiness together.

## SALUTING THE LATE VICE-ADMIRAL THOMAS J. KILCLINE

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. WOLF. Mr. Speaker, I would like to take this opportunity to honor the life of Vice Admiral Thomas J. Kilcline, who passed away on July 11 at the age of 76. He was a resident of McLean in northern Virginia.

Admiral Kilcline was a decorated naval officer who served his country for four decades. After graduating from the Naval Academy in 1949, he quickly became a distinguished naval aviator, flying in Korea and commanding a tactical carrier-based squadron in Vietnam. Rising through the ranks, he became commander of the Naval Base at Subic Bay in the Philippines and later commander of U.S. Naval Forces in the Philippines.

He also spent time as the head of naval officer distribution in the Bureau of Naval Personnel. He managed flight test programs at the Navy's test center at Patuxent River in Maryland and later was the program manager in charge of the acquisition of RA5C aircraft in Washington, D.C. Many members may remember him in his position as the Navy's chief of legislative affairs from 1978–81. Ultimately, he ascended to become the commander of Naval Air Forces in the U.S. Atlantic Fleet.

After retiring from the Navy in August of 1983, Admiral Kilcline served as the national president of The Retired Officers Association for nearly 10 years. At the time of his passing, he was a member of the Board of Directors for Alloy Surfaces, Inc. and Kilgore Flares, two defense-related companies. Additionally, he and his wife were active members of Saint John's Catholic Church in McLean, Virginia, and the Cursillo Movement.

Tom Kilcline and his devoted wife of 52 years, Dornell, were the parents of four children and the grandparents of seven.

Thomas J. Kilcline was a true American patriot who served his country with distinction. On behalf of the entire House, we extend our deepest condolences to his family, to his friends, and to the thousands of Navy personnel who were fortunate enough to have known and worked with him.

## PERSONAL EXPLANATION

### HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. MASCARA. Mr. Speaker, on July 18, 2002, I was unavoidably absent for personal reasons and missed rollcall votes numbered 319 through 323. For the record, had I been present I would have voted "yea" on rollcall votes 320, 321, and 322, and would have voted nay on rollcall votes 319 and 323.

## CONGRATULATING ELIZABETH MOORE-STUMP

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. FILNER. Mr. Speaker, I rise today to honor Elizabeth Moore-Stump, who has devoted 33 years of her life to public service. Elizabeth is the daughter of the late Elizabeth Thorton Moore and the late great world-boxing champion, Archie Moore.

Elizabeth received her degree in Social Welfare at San Diego State University and used it to help her beloved city. In 1966, Elizabeth began her career in public service working for the State of California Department of Rehabilitation. Her professional career with the City of San Diego included the Regional Youth Employment Program (RYEP), Community Relations and Community Services departments, and culminated with her appointment in 1985 by the City Manager to the newly established Management Assistant position of Equal Opportunity Program Coordinator. Elizabeth left the City of San Diego in 1989 to join the San Diego Unified Port District and establish their first Equal Opportunity Management department. In 1999, she was appointed Senior Director of Administrative Services and the District Clerk.

Besides working as a public servant for San Diego, Elizabeth has also devoted a lot of her time to various community activities. She served from 1976 to 1983 as a board member of the San Diego Urban League. Since 1987, she has been on the board of the Catholic Charities of San Diego, and starting in 1990 has been a member of the San Diego Police Department's Crisis Intervention Team. Beginning in 1998, Elizabeth has been a member of the Airport Minority Advisory Council (AMAC). AMAC is a national aviation trade association established to promote equal opportunities in employment and contracting within the nation's airport system. After serving as AMAC's Secretary and Vice-Chair, she was elected President and Chairperson.

Mr. Speaker, I know Elizabeth will continue to serve her community and I join Elizabeth's friends and family in thanking her for all that she has done for the City of San Diego.

## RECOGNIZING PAM MUICK, EXECUTIVE DIRECTOR, SOLANO LAND TRUST

### HON. MIKE THOMPSON

OF CALIFORNIA

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. THOMPSON of California. Mr. Speaker, we rise today to recognize Pam Muick who is leaving as Executive Director of the Solano Land Trust after six years of dedicated service to her community.

During her tenure, thousands of acres of farmland and open space have been preserved in Solano County to be enjoyed by people for generations to come. Some of the acquisitions she brokered include:

The 1,500 acre Jepson Prairie Preserve, which has a world-wide reputation as an oasis for native California plants, spring wildflowers, rare and endangered species and vernal pools;

The 1,500 acre Lynch Canyon Preserve, which is a working cattle ranch with hiking trails and panoramic views of Mount St. Helena, the Napa Valley, Mount Tamalpais, San Francisco Bay, Mount Diablo, Suisun Bay and the Sacramento River Delta;

The 1,000 acre King-Sweet Ranch located between the cities of Fairfield, Benicia and Vallejo that will eventually become the cornerstone of a regional park system in Solano County; and

The 4,000 acre McCormack and Perry-Anderson Conservation Easement in the Montezuma Hills.

In addition to these contributions, Dr. Muick has distinguished herself through her contributions to the development of a countywide Agricultural Easement Plan and countywide Open Space Plan for Solano County.

She has also provided invaluable assistance in expanding the docent program at Rush Ranch, which each year gives more than 1,500 school children the opportunity to learn about the customs and lives of the Native Americans who were the original inhabitants of this land.

Mr. Speaker, it is appropriate that we recognize Ms. Muick today for her innumerable contributions to her community and that we wish her well in her new position as Executive Director of the California Native Plant Society.

## CORPORATE FRAUD AND THE ECONOMY, "LET'S ROLL!"

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. CONYERS. Mr. Speaker, let's roll!

Earlier today this distinguished body of lawmakers passed H.R. 3917, a measure which acknowledged the bravery of the passengers of Flight 93. As you know, on September 11, 2001, Flight 93 was captured by terrorists who intended to use that aircraft as a weapon of mass destruction. They failed because the American people resisted and said, "Let's roll!" The terrorists that took over Flight 93 were selfish individuals acting without morality, accountability, or shame. Their actions attempted to rob Americans of their security and cast a dark cloud over the future. When faced with that crisis, the passengers of Flight 93 declared, "Let's Roll!"

Well Mr. Speaker, we are once again faced with the actions of selfish individuals that are acting without morality, accountability, or shame. These individuals have managed to rob the American people of their financial security, thereby casting a dark cloud over the future. This time corporate greed, as opposed to an aircraft, is the weapon of mass destruction. We cannot stand by idly while the U.S. economy is robbed for personal gain, American lives are destroyed, investor confidence plummets, and a dark cloud is placed over the retirement plans of millions. Mr. Speaker, let's roll!

Among other things, corporate executives have overstated the profits of their companies by billions of dollars. This fraud has caused stock prices to plummet and wiped out the savings of hardworking Americans that invested in these companies as they prepared for retirement.

Why would a company find it so easy to overstate their profits? How is it possible to tell such a monumental lie and get away with it? If the average citizen were to overstate their income, the Internal Revenue Service would come after them looking for its share; many Americans have discovered that the IRS can be a relentless creditor. That fact alone is enough to keep the average American honest. However, our biggest corporations and corporate executives are not concerned. They have been allowed to self-regulate, thereby evading tax laws and creating a work ethic that is devoid of ethics and thrives on greed.

Big businesses have not been concerned with their overstatement of profits because they were not making the requisite tax payments and did not believe they would be caught. Consequently, they felt free to lie and evade tax laws without shame or remorse. These companies are apparently indifferent to the public needs that tax revenue is needed to support. They do not seem to care if the elderly are not able to receive prescription drugs and good health care; they do not seem to care if roads and sidewalks are poorly maintained; they do not seem to care if highways and bridges are overcrowded; and they do not seem to care if public schools are understaffed and inadequately supplied. One reason they probably do not seem to care is because they have the tacit assistance of key leadership in the Republican party as they short change the national purse and rob the American public.

For example, last year the President urged, and Republicans passed, a so-called tax cut that in reality gave each American a three hundred-dollar advance that had to be repaid on April 15th, but created even more opportunities for corporations to reduce their tax bill thereby pocketing billions of dollars that could have helped to keep the U.S. economy thriving. It is the big corporations that received real reductions. For those that assert that the American people saved a few dollars, you need only check the balance of pension plans nationwide to realize that the public was indeed taxed in a very big way!

Conversely, when faced with the possibility of paying taxes big corporations have been able to merely shift company assets to offshore tax havens where U.S. tax laws do not apply. Democrats in the House have proposed legislation that would put an end to such corporate abuses but the Republican leadership refused to take up these issues. Consequently, Americans get ripped off three times. They are robbed of their pension and retirement funds, and the US economy is robbed of corporate tax revenue and the shortfall is made-up by robbing social security funds.

Well the stuff is hitting the fan. Now that the extent of corporate fraud is coming to light, now that Americans have seen their 401K plans disappear, now that the "Kenny Boys" of corporate America have been able to cast a cloud over the future of millions of hard-working Americans, the public is once again ready to resist and declare, "Let's roll" . . . Republicans, however, are urging baby steps.

The Senate passed a strong bill, S. 2673 "The Public Company Accounting Reform and Investor Protection Act" (the Sarbanes Bill) by a unanimous vote of 97-0. This bill is a bill for those that are tired of being robbed by corporate America and are ready to roll. Among other things, by defining new corporate crimes, creating independent oversight, protecting whistle blowers, banning insider loans, extending the statute of limitations, and holding CEO's personally accountable, the Sarbanes bill sends a clear message to big business that further abuses will not be tolerated. Democrats in the House, including myself have been pushing for similar reforms, but the Republican leadership in the House is afraid to roll.

It's true that Republicans in the House have requested longer criminal penalties, but those penalties apply to a shorter range of crimes. They have not embraced new laws against destroying documents or tampering with evidence; they have not embraced new laws which would extend the statute of limitations for bringing cases of corporate fraud; they have not embraced measures that would end conflicts of interest and require greater accountability; they have not embraced measures that would protect whistle blowers and give honest Americans a chance to come forward without fear of retaliation. All they have done is request more years for a narrow range of crimes and they do this with the knowledge that the Attorney General has not bought any criminal charges, against any CEO involved in any of the numerous fraud cases that have surfaced. Millions have suffered because of corporate fraud and the Attorney General is merely watching from the sidelines.

Mr. Speaker I urge this Congress to raise the bar on corporate accountability, and deal a strong blow against corporate fraud. This is a real crisis, we cannot afford to merely give a superficial finger wag as the "Kenny Boys" of corporate America ride off into the sunset with rich indifference. Millions of Americans are struggling to replace their future after being robbed by corporate greed. If my Republican colleagues in the House really want to restore investor confidence and protect the financial security of the American people, the solution is clear, we can not take baby steps . . . Let's roll!

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 23, 2002 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### JULY 24

9 a.m.

Small Business and Entrepreneurship

To hold a Business meeting to markup pending legislation.

SR–428A

9:30 a.m.

Veterans' Affairs

To hold hearings to examine mental health care issues.

SR–418

Health, Education, Labor, and Pensions

Business meeting to consider S.2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S.2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S.2499, to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food; S.1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; proposed legislation authorizing funds for the Child Care and Development Block Grant; and the nominations of Edward J. Fitzmaurice, Jr., of Texas, and Harry R. Hoglander, of Massachusetts, each to be a Member of the National Mediation Board.

SD–430

Governmental Affairs

Business meeting to reconsider the Committees action of 5/22, with respect to ordering favorably reported, with amendments S.2452, to establish the Department of National Homeland Security and the National Office for Combating Terrorism; and to consider the nominations of James E. Boasberg, to be an Associate Judge of the Superior Court of the District of Columbia; Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency; and Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

SD–342

10 a.m.

Indian Affairs

To hold hearings on S.1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.

SR–485

Appropriations

Business meeting to markup an original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003.

S–128, Capitol

Joint Economic Committee

To hold hearings to examine the measuring of economic change. 311, Cannon Building

10:30 a.m.

Environment and Public Works

Foreign Relations

To hold joint hearings to examine implementation of environmental treaties.

SD–406

2:30 p.m.

Banking, Housing, and Urban Affairs

Housing and Transportation Subcommittee

To hold oversight hearings to examine management challenges of the Department of Housing and Urban Development.

SD–538

Judiciary

Crime and Drugs Subcommittee

To hold hearings to examine corporate responsibility, focusing on criminal sanctions to deter wrong doing.

SD–226

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine women in science and technology.

SR–253

3 p.m.

Energy and Natural Resources

To hold hearings to examine issues surrounding the Federal Energy Regulatory Commission.

SD–366

4 p.m.

Appropriations

Transportation Subcommittee

Business meeting to markup proposed legislation making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003.

SD–116

#### JULY 25

9:30 a.m.

Armed Services

To hold hearings to examine the national security implications of the Strategic Offensive Reductions Treaty.

SD–106

Commerce, Science, and Transportation

To hold hearings to examine aviation security transition.

SR–253

10 a.m.

Intelligence

To hold joint closed hearings with the House Permanent Select Committee on

Intelligence to examine events surrounding September 11, 2001.

S–407, Capitol

Environment and Public Works

Business meeting to consider S.1602, to help protect the public against the threat of chemical attack; S.1746, to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; S.1850, to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup; proposed legislation authorizing funds for the John F. Kennedy Center Plaza; and the nominations of John S. Bresland, of New Jersey, to be a Member, and Carolyn W. Merritt, of Illinois, to be Chairperson and Member, each of the Chemical Safety and Hazard Investigation Board; and John Peter Suarez, of New Jersey, to be Assistant Administrator for Enforcement and Compliance of the Environmental Protection Agency.

SD–406

Judiciary

To hold oversight hearings to examine the Department of Justice.

SD–226

Indian Affairs

To hold hearings to examine the July 2, 2002 Report of the Department of the Interior to Congress on historical accounting of Individual Indian Money Accounts.

SR–485

Health, Education, Labor, and Pensions

To hold hearings to examine violence against women in the workplace, focusing on the extent of the problem and government and business responses.

SD–430

10:30 a.m.

Foreign Relations

Business meeting to consider the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980 (Treaty Doc.96-53); Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 (Treaty Doc.105-32); Treaty Between the Government of the United States of America and the Government of Niue on the Delimitation of a Maritime Boundary, signed in Wellington, May 13, 1997 (Treaty Doc.105-53); S.Res.296, recognizing the accomplishment of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th Anniversary of the return of his remains to Poland; S.Res.300, encouraging the peace process in Sri Lanka; and pending nominations.

SD–419

2 p.m.

Appropriations

Business meeting to markup proposed legislation making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003; and proposed legislation making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003.

S–128, Capitol

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S.2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands.

SD–366

### JULY 26

9:30 a.m.

Armed Services

To hear and consider the nominations of Lt. Gen. James T. Hill, USA, for appointment to the grade of general and assignment as Commander in Chief, United States Southern Command; and Vice Adm.

Edmund P. Giambastiani Jr., USN, for appointment to the grade of admiral and assignment as Commander in Chief, United States Joint Forces Command.

SR–222

10 a.m.

Health, Education, Labor, and Pensions

Children and Families Subcommittee

To hold hearings to examine birth defect screening.

SD–430

### JULY 29

2:30 p.m.

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine certain measures to strengthen multilateral nonproliferation regimes.

SD–342

### JULY 30

9:30 a.m.

Governmental Affairs

Investigations Subcommittee

To resume hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.

SD–342

10 a.m.

Indian Affairs

To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Taks Force; and to be followed by S.2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.

SR–485

### JULY 31

10 a.m.

Indian Affairs

To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.

SR–485

Governmental Affairs

Oversight of Government Management, Restructuring and the District of Columbia

Subcommittee

To hold hearings to examine consumer safety and weight loss supplements, focusing on the extent of the use of supplements for weight loss purposes, the validity of claims currently being made for and against weight loss supplements, and the structure of the current federal system of oversight and regulation for dietary supplements.

SD–342

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S.934, to require the Secretary of the Interior to construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the Rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system; S.1577, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act; S.1882, to amend the Small Reclamation Projects Act of 1956; S.2556, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; and S.2696, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project.

SD–366

### AUGUST 1

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.

SR–485

2 p.m.

Indian Affairs

To hold oversight hearings to examine problems facing Native youth.

SR–485

## CANCELLATIONS

### JULY 24

9:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

10 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to examine competition and the cable industry.
SR–253

## POSTPONEMENTS

### JULY 31

9:30 a.m.
Finance
To hold hearings to examine the Report of the President's Commission to Strengthen Social Security.
SD–215

# SENATE—*Tuesday, July 23, 2002*

The Senate met at 9:45 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Power to equalize the pressures of life, we need You! The day stretches out before us. There is more to do than time will allow; there are more people to see than the schedule can accommodate; there are more problems to solve than we have strength to endure. Life becomes a pressure cooker. Thank You for this moment of prayer in which Your peace equalizes our pressure. We press on with the duties of this day knowing that there is enough time today to do what You want us to do. There is no panic in heaven; may there be none in our hearts. Give us the gift of a productive day. You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JACK REED led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 23, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. REED thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

## SCHEDULE

Mr. REID. Mr. President, there will be a period for morning business until 10:45 a.m., with the first half of the hour under the control of the Republican leader or his designee, and the second half of the hour under the control of the majority leader or his designee.

At 10:45 a.m., the Senate will vote on the cloture motion on the nomination of Richard Carmona to be Surgeon General of the United States. We hope to voice vote the nomination shortly after the cloture vote.

Upon disposition of the nomination, the Senate will resume consideration of the prescription drug bill, with the time until 12:30 p.m. divided between the two leaders or their designees. The Senate will recess, as we do on every Tuesday, from 12:30 p.m. to 2:15 p.m. for our weekly party conferences.

At 2:15 p.m. today, the Senate will resume consideration of the prescription drug bill, with 30 minutes of closing debate on the pending Graham and Grassley prescription drug amendments, prior to two rollcall votes beginning at 2:45 p.m. first on a motion to waive the Budget Act with respect to the Graham amendment, and second on a motion to waive the Budget Act with respect to the Grassley amendment.

## MEASURE PLACED ON CALENDAR—H.R. 4687

Mr. REID. Mr. President, I understand H.R. 4687 is at the desk and due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask that H.R. 4687 be read a second time, and I object to any further proceedings.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The assistant legislative clerk read as follows:

> A bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:45 a.m. with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee. Under the previous order, the second half of the time shall be under the control of the majority leader or his designee.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent to use some of the time for the Republican side.

The ACTING PRESIDENT pro tempore. The Senator has that right. The Senator from Wyoming.

## PRESCRIPTION DRUGS

Mr. THOMAS. Mr. President, we are moving on today, I am pleased to note, to deal with this business of pharmaceuticals. It is a very important issue, one that we have struggled with for some time. I am not particularly impressed with the system we have used. I am afraid it pretty much spells out the fact that it is going to be very difficult for us to come together with any real meaningful legislation with regard to pharmaceuticals. There are a couple of reasons for that. I think we could have done it a little differently.

One, of course, is we do not have a budget. We have not brought up a budget resolution. So the question of funding always comes up. That is the reason for the votes this morning to try and waive a point of order on the budget. Not only does it affect this issue, of course, but the effect is that it is irresponsible not to have a budget for this coming year and be able to have the protections that a budget provides.

We have been talking a long time about the failure of business to do things properly. This is certainly a failure, it seems to me, of the Congress not to have a budget resolution. We have not had it brought up.

The other problem is we are dealing with the very broad subject of pharmaceuticals, which does not have before it a proposition that has been treated by the committee. Obviously, almost all the issues that come before the full Senate—and certainly there are those that are difficult issues—have gone through the committee, and much of the venting, much of the argument, much of the discussion has been done in the committee, and then the committee has come forth with a majority vote.

This is the second time recently we have had bills come to the floor that are complicated and difficult without having had their exposure in the Senate committee.

The energy bill, which we are still involved with, which was on the floor for several weeks, was pulled from the committee. It was not allowed to come through with a committee recommendation, and the same thing with the Finance Committee. So we find ourselves in a very difficult position.

Nevertheless, that is where we are. We have several propositions before us. One is the Graham-Kennedy-Daschle bill, which was in the committee but apparently would not have received a majority vote in the committee, so it therefore was not brought to a vote. This creates a very large increase of Government bureaucracy and basically ultimately sets price controls in pharmaceuticals, has fairly restrictive formulas for the majority of managed-care companies.

The Graham bill has plans to cover at least one name brand drug but not more than two in each therapeutic class. Pharmaceuticals is a difficult issue: How to provide them in terms of distribution; are they a part of this case in the Graham bill; and will they really become part of Medicare?

The competing bill, they have done more in the private sector, and it is separate somewhat. It is a real tough job to encourage people to do it as economically as can be done. How will generics become hopefully more used and useful than they have in the past and therefore reduce some of the costs? How is the distribution done so consumers have some choices in terms of not only brands that are available to them but, frankly, some of us are concerned in States where we have low population whether or not there will be opportunities for consumers to have some choices, whether they will be able to use the local drugstore, or whether they will all have to be mail-in kinds of things.

So it is a tough decision. There are differences in the two proposals. One will be a part of Medicare and will be handled by the Government. The other will be a private sector delivery system that will be set up.

In the case of the Government system, of course, whoever does the distribution will not have to make any particular choices with regard to costs or helping to reduce them. But on the other hand, in the private sector the more they can make it economical, the more profitable it will be.

So I am hopeful as we go through this, we can seek to set forth the best proposition that is possible, at the same time taking into account spending, and the spending in the two bills are quite different. The Democrat bill, the Graham bill, over a period of 7 years, is basically twice as expensive as the other bill. It costs in the area of $600 billion. The other one is very expensive as well, about $330 billion over the course of 10 years. So either one is going to be very expensive, but one quite less expensive than the other. Certainly we need to take a look at the expenses.

The tripartisan plan seems truly to find some common ground between traditional Democrat and Republican views, and that is useful. It reforms Medicare. It provides a prescription drug benefit to ensure that seniors do have coverage more similar to employee-sponsored plans that, of course, we have been accustomed to in the past.

I hoped this proposal could have been debated more—I have already mentioned that—in committees. It spends $330 billion over 10 years to provide prescription drugs for seniors. Even at that, whoever thought we would be talking about something in the area of $330 billion? Nevertheless, that is the case. It is a compromise between various proposals.

In addition to simply the drug benefits, it spends $40 billion to make some overdue changes in Medicare Parts A and B, which need to be done. We have not made changes in Medicare for some time. The prices and payments have caused it to be difficult for people to get services. It tends to bring the Medicare into the 21st century. It does spend $370 billion over 10 years to make those changes, but I think it is a reasonable proposal. It has a monthly premium, which I think is reasonable if they are going to have these kinds of services. It has an annual deductible which, again, is not unusual in terms of insurance payments of these kinds. I think first dollar payments are very important in terms of any insurance program. It has a benefit cap. The Government pays 50 percent for seniors with drug costs up to $3,400. It has catastrophic coverage beginning at $3,700. Seniors will then be responsible for only 10 percent of the cost above that.

So it is a tough program. It is one of the programs, however, that does deal with seeking to solve the problem without excessive expenditure. Low-income assistance below the 150 percent Federal poverty level is good for the entire structure. There is no so-called doughnut, middle ground, for low-income seniors, and that is good. This is the program that provides assistance, of course, to all seniors, and for their drug costs. It gives them access to discounted drug prices, and seniors generally now are the only group who pay full retail prices for drugs.

So I am hopeful as we go into this afternoon's program, even though under the circumstances of bringing these bills this way without having a budget we will have to have 60 votes to get one passed, I hope we will give some thought to the only one that is indeed bipartisan, in fact, tripartisan, in nature, so we have the best opportunity of finding success in the Government to provide pharmaceutical and drug coverage to seniors, something that almost everyone agrees needs to be done.

The question is how it is best done, and how we deal with the costs, the distribution; what ought to be the difference in access between low-income and those who are not; what we do to make some improvements in Medicare. This seems to be the proposition before the Senate that can provide for these benefits.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, our time is very short this morning, so I will be brief. Let me discuss the key criteria Senators should consider.

First, is the drug coverage permanent and dependable? Under the tripartisan amendment, drug coverage would be a permanent part of the Medicare entitlement, for the 21st Century.

Under the Graham amendment, however, that coverage disappears into a black hole. The benefit expires the very same year the baby boomers begin to retire. In my view, it's terribly irresponsible to pull a "bait and switch" on people who depend on Medicare. How will my colleagues explain to seniors in 2010 that they are out of luck because of a gimmick they used to hide the true cost of their proposal? I ask the Senate to support permanent, dependable drug coverage.

The Graham amendment seriously restricts Medicare enrollees who want access to brand-name drugs. Its restrictive policy will result in long lines for ground-breaking drugs. Why? Because Senator GRAHAM requires Medicare enrollees to wade through a bureaucratic appeals process in order to get needed drugs that are off the formulary. And it's not a short list—their formulary denies access to at least 90 percent of brand-name drugs!

We've heard a lot about gaps in coverage. Mr. President, here's the biggest gap of all: the gap between the large number of brand name drugs beneficiaries may need, and the paltry number Medicare would cover under the Graham amendment. Of the 2,400 brand name drugs approved by FDA, less than 10 percent would be covered. What a gap in coverage.

Our amendment, on the other hand, sets policies to ensure that Medicare enrollees get the drugs they need. We do not limit them to an arbitrary number of drugs in each class, as Senator GRAHAM does. We support making generic drugs an option, with lower cost-sharing, but we don't think depriving seniors of access to brand-name drugs is the way to go about it. So that is a key difference.

Our opponents have talked a great deal about the fact that less than 20 percent of beneficiaries would face a gap in coverage under the tripartisan amendment. But compare that number with the number of beneficiaries who would experience a gap in coverage under their amendment. Under the Graham amendment, fully 100 percent of enrollees would lack full access to brand-name drugs in Medicare. When you lay the two gaps against one another, isn't it clear that their gap, which will affect all enrollees, is the worse one?

Our bill also delivers a cost-effective, quality benefit. CBO says that the only way to contain the cost of a drug benefit is to ensure that drugs are delivered efficiently.

In turn, CBO says that the only way to have drugs delivered efficiently is to have true competition among private plans that stand to make money if they drive hard bargains with drug manufacturers. That's what our amendment offers.

Now, our opponents have gone on and on about private plans not being willing to deliver a drug benefit. Well, they too rely on a private sector delivery system, although it is non-competitive and thus is so expensive.

We have worked hard to ensure our delivery system works. Our opponents say that insurers will refuse to participate, even though the government lays $340 billion on the table and bears 75 percent of the economic risk, and even though CBO projects it to work everywhere in the country. But what happens in the off-chance that private plans won't want to participate?

Well, here's what will happen. The government has a duty—mandated in our bill—to do what it takes to ensure a drug benefit for every last Medicare beneficiary. If insurers won't participate at the level of competition we expect, the Secretary must adjust the competition bar downward until they will participate.

At a last resort, we would end up with a Graham-type delivery model in which pharmacy benefit managers are simply government contractors, bearing only minimal performance risk. Put another way, our Plan B is Senator GRAHAM's approach. So why are our opponents so afraid of that?

Under no circumstances will our bill allow any senior, anywhere, to go without access to a drug plan. It's an ironclad guarantee, and it's right there in our bill.

Now, the Senator from Massachusetts has repeatedly objected to the asset test for the low-income benefit in our bill, as if it's something new. What a red herring! There has been asset testing for low-income Medicare populations since 1987, under the Qualified Medicare Beneficiary program and the Specified Medicare Beneficiary programs. And Senator KENNEDY and his Democratic colleagues voted for it overwhelmingly. There's nothing but politics behind those objections.

Another thing the tripartisan amendment offers is an enhanced option in Medicare. The enhanced option will add protection against the devastating costs of serious illness, and make preventive benefits free to help seniors avoid serious illness in the first place. And it is completely voluntary—seniors get to choose, and they don't need to take it in order to get drug coverage.

What does the Graham amendment have to offer beyond drugs? Nothing. Why would anyone want to deny Medicare beneficiaries the choice of free preventive benefits and better protection against serious illness? I will let the other side answer that.

The choice is clear. The Graham amendment offers drug coverage that swiftly disappears into a black hole, and it has the biggest gap of coverage of all. The tripartisan amendment is the right prescription for 21st century medicare. Because that is the biggest gap of coverage of all. The tripartisan plan is the right prescription for 21st century Medicare.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, in the last 2 weeks the Senate has taken up two of the most important issues facing the American people. First, we took on the issue of corporate governance. We passed a tough, new regulatory framework to deal with the cronyism and corruption in America's private sector. Now we are moving on to deal with prescription drugs for seniors.

I have talked to many seniors in my State. They are really worried. They are worried about corporate scandals and they are worried about the impact these scandals are having on the market. They are watching the Dow Jones go down along with their life savings. While they see their life savings evaporating, they also see the cost of their prescription drugs going up. These two issues are linked. The crisis in corporate governance and the crisis in our markets, and also the whole issue of making affordable prescription drugs available to seniors, are linked together.

Seniors now are talking about their own lives and times and families. The two things they do not want to worry about at this point in their lives are outliving their savings and the rising cost of prescription drugs. With the evaporation of their savings and the escalation of the cost of prescription drugs, they are really scared.

We have faced many fears in the United States of America this year. We salute our military and others who are working on homeland defense. But we really need to provide another defense, a defense against the fear of outliving your savings and not being able to afford the prescription drugs you need. In my State, my constituents are fairly conservative investors. They put money in CDs. I don't mean the kind that are rock and roll recordings, I mean certificates of deposit. Or they put money into conservative mutual funds. We had many of those family funds run right in Maryland.

What did they see? They saw as Greenspan lowered interest rates, it meant a lower return on their conservative investments. Again, what is happening in the stock market, they see the downside of the Dow Jones and no one is trusting the numbers and no one is trusting the CEOs.

Because of what was happening to the cost of prescription drugs, many families got help from their adult children. But their own adult children are worried about the loss of jobs and the loss of economic security as well. What we see in the private sector is that it is being squeezed in terms of the benefits it had hoped to provide.

In my own State, what we see is that American manufacturing, such as the American automobile industry, is competing against Japanese companies that do not have to pay for prescription drug benefits because they have a national health care system. Steel in my State is in bankruptcy because of predatory foreign competition. It is struggling to keep its promises to workers and retirees, providing pensions and health care.

I even see it as someone who appropriates funds for the veterans health care system. More and more veterans who do not have service-connected disabilities are turning to VA because of the prescription drug benefit. The collapse of the system in which they were able to afford that benefit is having them turn to other systems.

We need a prescription drug benefit, and we need it now.

Considering the possibility of passing a prescription drug benefit, it has to be a meaningful benefit, not just slogans and sound bites. Seniors need a benefit they can count on, and it needs to follow these criteria. First, any benefit we pass has to be voluntary. It must be run by Medicare, not by insurance companies that simply gatekeep, that privatize profits and socialize risks.

The second thing is the benefit must be the same for all seniors, no matter where they live. No benefit should vary from State to State.

Then, who should decide what medications a senior gets? The decision should be made by the doctor, not an insurance gatekeeper. Of course, it needs to be affordable to seniors and also to the taxpayer.

I believe the Democratic plan, the Graham-Miller plan, which I support, meets these criteria. It answers the questions that seniors ask me as I am out and about talking to them.

Who runs it? Our plan is run by Medicare.

Is it available anywhere I live? Our plan says yes.

Who decides what medicines I get? Your doctor.

Is it affordable? You bet. There is no deductible; premiums are $25; copays are defined, specific, and reasonable; catastrophic drug costs are covered if you have to spend more than $4,000 on prescription drugs.

This is what our plan is. It is voluntary. It is available anywhere. It is going to be run by Medicare, not by insurance companies. The other plans fail those criteria and therefore I believe fail seniors. The Republican and tripartisan plans do not provide a benefit under Medicare. They turn it over to the insurance companies. Remember them? They are the same people who brought us Medicare+Choice, and they pulled out, leaving seniors without coverage throughout my State. People had signed up believing it was going to be a benefit, but after they squeezed their profits, they dumped the seniors. We cannot have the same experience in this bill.

Another problem is the benefit will not be the same for all seniors. It will vary according to different plans and different States. If in fact it is going to be a Federal program, it should be uniform and available in every State.

Who decides the prescription drugs? Once again, insurance companies will be the gatekeepers, not doctors, and their decisions will be based on profits, not patient care.

These plans will not be affordable for seniors. They are going to have a high deductible, copayments that fluctuate, and also an enormous, huge gap in coverage. The tripartisan plan—on which I know there was serious effort—leaves people without a drug coverage between the costs of $3,400 to $5,000 a year. For $1,500, you are on your own.

These plans raise more questions than they answer. How would a senior know what he or she is getting? How would they know what is covered? Who will make sure that insurance companies stick by the plans they offer? And how do seniors pay for their medicine in the gap months? America's seniors need their questions answered. They deserve more than that. They deserve—and they need—a real benefit under Medicare.

I know the Presiding Officer could tell me stories he hears in his own State of Rhode Island. I hear them wherever I go in my home State. I hear them from seniors, and I hear them from their families. When you listen to the families, you hear heart-wrenching stories. With the collapse of manufacturing in my State, it is even worse. The fact is that the farmers in my State are facing drought and will have to turn to Federal assistance. The fact is that watermen, who are out there on the Chesapeake Bay during this heat trying to forage for crabs, are foraging for their health care. We have to help meet those needs.

I held a hearing earlier this year on the healthcare benefits of steelworker retirees where I heard from retired steelworkers and their widows. If steel goes under, these people will lose their prescription drug coverage.

I was particularly touched by a story from a steel-widow—Gertrude Misterka. She has diabetes, high blood pressure, high cholesterol, asthma, and periodic chest pains.

She asked her pharmacist how much her medications would cost her without her retiree coverage. He told her—about $5,800. Gertrude may lose her health care from Beth Steel. Under the Republican and the Tripartisan plan, assuming she could get coverage from a Maryland insurer, she'd pay a $250 deductible and up to $33 in monthly premiums. That is $646 a year, before buying a single pill, and, she could still have no coverage for total drug costs between $3,450 and $5,300.

How does that help her? She needs a benefit that she can count on. Beth Steel and other American manufacturing companies need the Federal Government to offer a Medicare benefit so their workers are taken care of.

By passing a Medicare prescription drug benefit Congress will deliver real security to America's senior. Retirement security means more than pension security. Seniors need healthcare security to be at ease in their retirements.

Congress created Medicare as a promise to our seniors. It guaranteed meaningful healthcare coverage. Medicare kept seniors healthy and relieved their fears of being bankrupt by huge hospital bills. But Medicare didn't keep up with medical advances. To be a meaningful safety net, Medicare must include a prescription drug benefit. To be a meaningful benefit, Congress can't leave it up to insurance companies. Promises made to our seniors must be promises kept.

I really hope we will pass a senior prescription drug benefit that is meaningful, affordable, available nationwide, and that we do it now. Truly honor your father and mother. It is a great Commandment to live by, and it is a great Commandment to govern by.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to join with my colleague from Maryland who spoke so eloquently about the need for real Medicare prescription drug coverage. I thank her for her leadership for our seniors over the years, both in Maryland and around the country. I join her today, and I would like to start by sharing some additional stories, some voices from Michigan.

I have been inviting people to join me in a prescription drug peoples' lobby. The idea of the people's lobby is to counter the huge special interest lobby in the form of the prescription drug lobby that we see every single day. We know there are six drug company lobbyists or more for every Member of the Senate. Yet what we are doing here is so important to people—businesses, farmers, seniors, families—and their voices need to be heard in this debate. I am very confident, if their voices are heard, the right thing will be done.

So I would like to share a story from Christopher Hermann from Dearborn Heights, MI. He writes now as a member of our People's Lobby:

> I am a Nurse Practioner providing primary care to Veterans. I am receiving many new patients seeking prescription assistance after they have been dropped by traditional plans and can no longer afford medications. Many of them have more than $1,000/month in prescription costs.
>
> The Vets are lucky! We can provide the needed service. Their spouses and neighbors are not so lucky.
>
> I also have such a neighbor. "Al" is 72, self-employed all his life with hypertension. When he runs out of his meds due to lack of money, his blood pressure goes so high, he has to go to the emergency room and be admitted to prevent a stroke. I provide assistance through pharmaceutical programs, but this is not guaranteed each month. We either pay the $125.00 per month for his medications, or Medicare pays $5,000.00 plus each time he is admitted. It's pretty simple math to me.

I would agree with Mr. Hermann that it is pretty simple math, that what we are talking about is saving dollars in the long run by helping people stay out of the hospital and remain healthy. It is important that it be a real program that is defined, that folks can count on every month.

Let me also share a story from Debbie Ford from Clio, MI, who called my office. Her 72-year-old mother cannot afford a supplemental, so the family pays for her prescriptions. This is a very common story, as I know the Presiding Officer knows. She is the widow of an ironworker whose pension continued for only 10 years. She gets what assistance she can—food assistance, energy credits—but no medication assistance. Her Social Security disability is $800 a month. She has resorted to pill splitting and borrowing medication from others who have prescription coverage.

This is the greatest country in the world. This is the United States. We should have folks having to either split pills or borrow medication in order to get what they need to live.

Let me also share something from Myra McCoy of Detroit, MI. She says:

> I receive disability due to a number of medical problems; it is not a choice for me. My poor health has been the hardest thing I have ever had to deal with in my life and it

started at age 35, my whole life over. I have lost so much and the depression has made it so bad, I'm in so much debt for medication, I have a second mortgage I can't afford because of my medication.

I've been robbing Peter to pay Paul for medication and trying not to lose my mind in the process. It is hard to talk about this even after ten years. I hope something can be done about the high cost of medication.

We do live in a time of damaged care, if I could work again I would just to cut the cost of my medication. I would like to know what has to happen to make sure all people get treated fairly!

I thank Myra for sharing this as a part of the People's Lobby.

Now is the time to get it right, to make it fair, to make prices affordable for everybody, and to have a real plan.

What do we have in front of us? We have two kinds of plans: One passed by the House, a similar one called the tripartisan plan supported by my good friend from Vermont and Senator BREAUX from Louisiana, joining with the Republicans in this plan; and then we have a separate plan which is being supported by the Democrats in the Senate.

What are the differences? What does it mean to the people I have been talking about today, and so many others?

The question is, Which plan guarantees seniors a defined benefit and premium? They know they receive the benefit, and they know what the premium will be every month. This is a pretty important issue to folks—to have a regular benefit, and they know what it is, they know what it will cost.

The Democratic plan will provide that. The other plans—Republican or tripartisan—will not.

Seniors receive the same benefit regardless of where they live. That is a very important issue. Whether you are in the upper peninsula of Michigan or the southwestern tip of Benton Harbor, St. Joe or Detroit or Saginaw or Bay City or Alpena, it should not matter where you live, you should be able to have the predictability of knowing the same plan exists with the same premium for you. The Democratic plan does that. The other plan in front of us does not.

Seniors are guaranteed affordable coverage throughout the whole year. People debating this issue have talked about the so-called doughnut hole. People probably think we are debating breakfast or something, but the reality is, there is a gap in every plan, except the Graham-Miller-Kennedy plan, supported by the majority.

For the other plans, you would be paying all year but there would be part of the year—in some cases a majority of the year—where you would not receive any help, even though you have to continue to pay. I do not think that is a very good idea.

The plan that we have in front of us, the Graham-Miller-Kennedy plan, would guarantee people that if they pay all year, they get coverage all year.

Another important principle: Seniors are guaranteed access to local pharmacies and needed prescriptions. Under our plan, yes; under the other plan in front of us, no.

And then, finally, seniors retain their existing retiree coverage. This is very important. I have a lot of retirees in Michigan, retired autoworkers and others, who have coverage and we want to make sure they can keep their coverage. Our plan would say yes to that; the other plan would say no.

On the last point, let me share that the Congressional Budget Office has estimated that a similar provision to the one that is in the tripartisan plan, a similar provision that was in the House plan would prompt about one-third of the employers to drop retiree coverage. This translates into about 3.6 million seniors who would lose their coverage. That is not a good deal.

What we have in front of us is an optional plan, optional under Medicare, so you can get the full clout of Medicare and get a group discount. People are covered all year. It is affordable. It is reliable. It has a premium of $25 a month. It is clear. Every month you pay you are getting help with your bill. It is a very clear, straightforward effort to make sure that low-income seniors are fully covered, without out-of-pocket expenses.

And we make sure that we keep intact Medicare because one of the real concerns I have, in the long run, is that by forcing seniors to retain coverage through private drug-only insurance plans or HMOs—such as the tripartisan plan does—I am concerned that ultimately we are moving to a privatization of Medicare. It certainly is a step in that direction, which would be certainly something that I would strongly, strongly oppose.

So I say to people today—even though we are voting today—if there are not the votes for either of the two plans in front of us, we are going to be continuing to work in a direction to get the kind of plan that we need.

I urge people across the country to get involved and go to a Web site that has been set up—fairdrugprices.org—to sign a petition, to get involved, to share their story, to make their voice heard in this debate.

There is nothing more important than the debate in front of us—to the economy, to the cost of business, to the out-of-pocket expenses for our seniors and for our families.

It needs to be done right. We have the right plan. I urge my colleagues to support the Graham-Miller-Kennedy plan. If, in fact, that is not adopted, I urge that we keep these principles in whatever plan that we are able to construct.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak for not more than 10 minutes.

The ACTING PRESIDENT pro tempore. There are 8 minutes available.

Mr. GRASSLEY. He may have all of that 8 minutes and whatever else the Senate wants to do for another 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

Mr. JEFFORDS. Mr. President, I will proceed for 8 minutes. I first commend all of our colleagues who have devoted so much effort and leadership on the issue we have the privilege of debating today.

It is largely through their collective efforts that we have the chance to provide our seniors with the most significant expansion of the Medicare program in over 35 years an opportunity to provide them with the most important weapon in our healthcare arsenal prescription medicines.

This is an opportunity that we cannot let political differences block from going into law this year.

Many of our colleagues have come to the Senate floor during this debate and voiced either opposition or support for the two amendments that we will vote on today.

Our colleagues from both sides of the aisle have made pointed criticisms and voiced their strong objections over specific provisions in both of these measures.

There are honest differences and disagreements over the details of how we should develop this Medicare prescription drug expansion.

However, it is important that we recognize something that few have mentioned, and that is, there is extraordinary agreement that we should create this benefit.

We are not debating the question of whether but instead, the question of how to best provide medicines for our seniors. Senators from across the political spectrum, liberal to conservative, Republican, Democrat and Independent have declared their support for providing prescription drugs.

We should not let this opportunity pass today because we may not see it again for a very long time.

Today, we will have the opportunity to vote on two approaches for creating this new entitlement.

One approach has been offered by my friends, Senator GRAHAM and Senator MILLER, and others; and it is an approach with merit and one that I gave serious consideration to supporting.

The other measure is one that many have come to call the Tripartisan Medicare bill. It is called the Tripartisan bill because it was developed by Senators who are Republican, a Democrat and myself, the lone independent in the U.S. Senate.

But that is a bit of a misnomer, because it is not about being tripartisan—or even nonpartisan.

This proposal should not be about politics. It is about providing older Americans with the medicines they need through the best Medicare program we can afford. We can only do that by finding a measure that at least 60 of our colleagues can support. We have to get 60 votes to get it out of here.

I am very proud to join my colleagues here today in support of the tripartisan bill, the 21st Century Medicare Act. Senators GRASSLEY, SNOWE, BREAUX, HATCH, and I have dedicated ourselves to this effort.

We have had many policy discussions over the course of the last year and each have made their particular contributions to the underlying bill. I am honored to be a part of this outstanding group of legislators.

I believe our bill is the best opportunity we have to enact a modernized and strengthened Medicare program that will for first time provide a meaningful and affordable prescription drug benefit for all of our seniors.

This measure guarantees the promised care of the original Medicare program created in the mid-1960s and it delivers the benefits of today's modern health care system.

These are the key provisions of the 21st Century Medicare Act.

First, our legislation preserves the traditional Medicare program for our seniors today and tomorrow.

Our bill does not weaken traditional Medicare, make it more expensive or less available.

If the traditional Medicare program is what seniors want then it will be there for them plain and simple—guaranteed.

Second, we create an all new voluntary enhanced fee-for-service part to the Medicare program that provides new benefits such as disease prevention screenings and coverage for catastrophic health care costs while continuing all of the services available under traditional Medicare.

Our enhanced Medicare program protects our sickest seniors from the high costs of repeated hospitalizations that Medicare doesn't pay for at this time. Our enhanced Medicare would establish a single, $300 deductible that will save seniors hundreds of dollars in high hospitalization costs.

In addition to better benefits for our sickest seniors, the enhanced Medicare plan provides better disease prevention benefits so our healthy seniors can remain healthy. These benefits, which are not now provided under traditional Medicare, include: tests to detect breast, prostrate, and other cancers early when they are most treatable; adult vaccines that prevent a host of diseases; tests to predict the loss of bone mass before people break their hips and other bones; and, medical nutritional therapy to make sure seniors are getting the nutrition they need to keep them healthy.

Finally, the 21st Century Medicare Act ensures that seniors will have access to prescription drug coverage no matter where they live. I know my colleagues will spend the rest of today praising or criticizing the details of each other's proposal for providing the prescription drug benefit, but I want to be straight to the point: our plan is comprehensive, affordable and sustainable into the future. Is it perfect? No, it probably isn't perfect, but it is a good solid plan that will provide seniors with a significant drug benefit at an affordable cost.

Yesterday, Senator SNOWE, my good friend and co-sponsor of the 21st Century Medicare Act, pointed out that this language is not a line drawn in the sand. I agree with her. It is a legislative proposal that was developed, like the one our colleagues, Senators GRAHAM and MILLER have proposed, in a good faith effort. I think all of the principal cosponsors of these bills and many of our other colleagues are willing, and can agree to further refine this measure during a conference with the House, but let's get them out of here.

Over the next hours there will be detailed descriptions of competing ideas and competing proposals debated here on the Senate floor, and I look forward to that debate. I have examined the proposals that are being proposed and this is what I found that is unique about our 21st Century Medicare Act. It strengthens Medicare by building on programs where patients and their doctors can choose the best course of treatment and it ensures that a better Medicare will be there for today's seniors.

It improves Medicare by providing a comprehensive prescription drug benefit and new voluntary disease-prevention benefits that will help seniors live longer, healthy lives. And, it guarantees that the benefits of today will be there for seniors tomorrow.

I am very proud to join my colleagues Senators GRASSLEY, SNOWE, BREAUX and HATCH in support of the 21st Century Medicare Act. This legislation is the result of over a year of concentrated effort and it includes in it provisions that should garner the support of a wide majority of our colleagues.

I look forward to working with all of my colleagues to resolve our differences and enact this quality health care program and prescription drug benefit for our seniors. I urge my colleagues to begin that effort with their support of the 21st Century Medicare Act.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CLELAND. Mr. President, I ask unanimous consent that I be allowed to speak for 7½ minutes and then my colleague from Missouri, Senator CARNAHAN, be allowed to speak for 7½ minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CLELAND. Mr. President, I come to the floor this morning to share the story of Betty Almeida, a gentle southern lady of 75 years and a life-long resident of Atlanta, who just last week came face to face with the hard reality that she can no longer afford the medications she needs. Betty called my office shortly after visiting her local pharmacy, where she had discovered that the cost of the two medications her doctor prescribed for her was simply too much for her to afford. She had been following the prescription-drug debate in Congress for some time, but last week, with a new sense of urgency, she called me to plead for swift action.

Betty had been retired for a year when she learned she had a heart condition. Unable to afford the medications she needed to keep her condition under control, she came out of retirement and went back to work just to earn money to pay for her prescription drugs. For a while, that arrangement, though a hardship, enabled Betty to earn just enough to pay for her medicine. But recently, after Betty underwent a surgical procedure to remove a blockage from her heart, her doctor prescribed two new medications: one to treat an irregular heartbeat and one to lower her cholesterol to a safe level. Thank God these wonderful, life-saving drugs exist. But when Betty approached the pharmacy counter last week hoping to buy them, she was asked for $197 for the cholesterol-lowering drug and almost $150 for the other. Fortunately, it was Senior Citizens Day, so Betty was able to make use of a $5 discount. Still, the combined cost of the two medications—nearly $350—was far beyond what Betty could afford. And so, as she stood at the counter, Betty faced a choice: which condition would she treat? Her doctor told her she needed to treat both, but Betty couldn't afford to do that, so she had to choose. Which did she need more: a regular heartbeat, or safe cholesterol levels that would prevent future blockages?

The time to pass a prescription drug benefit for seniors like Betty is now. Actually, the time was yesterday, but it would be an act of gross negligence on the part of the Congress—and a violation of a promise—if we fail this year to bring Betty and so many others the help they desperately need. The Graham-Miller-Cleland bill has received high marks from the AARP and will, if passed, bring meaningful relief to Betty. Forced to choose, Betty elected to forego the cholesterol-lowering medication because of its $200 cost. Under the prescription drug program established by the Graham-Miller-Cleland bill, Betty would pay just $40 for the $200 drug—one-fifth the cost. There would be no deductible to meet first, and there would be no gap in coverage. Over the course of a year, Betty would pay $4,200 just for the two heart drugs I mentioned without coverage. Under the Graham-Miller-Cleland bill, her annual out-pocket-expenses on medications, even after factoring in the $25 monthly premium, would be just $1,260—a 70 percent reduction in yearly costs. Under the House bill, however, Betty's annual out-of-pocket expenses for just those two drugs would be $3,500—her savings, just 17 percent.

For Betty, and for the millions like her, I urge my colleagues in this body and in the House to pass the Graham-Miller-Cleland Medicare prescription drug benefit without delay. Anything less is unacceptable.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, Senator CLELAND asked for 7½ minutes and time for the Senator from Missouri, and that is fine. To be fair, we should also give the minority 7½ minutes. I ask unanimous consent that they be given 7½ minutes and that the vote occur at or around 11 o'clock, whenever that time runs out.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mrs. CARNAHAN. Mr. President, next week marks the 37th anniversary of the day the Medicare program was signed into law. President Johnson traveled to Independence, MO to sign the bill in the presence of Harry S. Truman, who began the fight for the Medicare program in 1945. I am sure that our effort today to add a prescription drug benefit to Medicare is the type of common sense measure that President Truman would understand. Without this benefit, the Medicare program does not provide seniors with the security and protection its Founders intended.

If you have expensive and debilitating surgery, Medicare will pick up virtually the whole cost. But Medicare will not pay a single penny for prescription drugs that would cure your condition and make the surgery unnecessary. That does not make sense.

So today the Senate has an historic opportunity. People such as Annie Gardner from Columbia, MO will be watching us closely. She is an impressive 63-year-old, retired, mother of five adult children. But she suffers from diabetes and high blood pressure. She lost her health insurance and then could not afford her prescriptions. First she rationed her prescriptions by taking half the prescribed amount, even though she knew, as a former nurse, that this was a dangerous practice. Later she had to quit purchasing the drugs entirely because of other expenses, like fixing her car and paying increased taxes on her house.

In 21st century America, no one should have to make this type of choice. Today we have the chance to make Medicare the kind of program that we all want it to be. But we have before us two very different plans.

In my view, the benefit plan proposed by my colleagues BOB GRAHAM and ZELL MILLER is the superior choice. Their bill would create a benefit program that seniors could afford and could count on regardless of where they live.

Assistance begins with the very first prescription and is the same all year long. Senior will pay a monthly premium and then $10 for generic drugs and $40 for brand name drugs. There are no gaps or limits on the coverage. And once you hit the catastrophic cap of $4,000, you do not pay another dime for prescription drugs.

The alternative plan before the Senate is riddled with complexities and gaps. Before getting any benefits, seniors pay a $250 deductible. After that, seniors must pay 50 percent of the cost of their prescriptions. And then, once seniors have paid $3,451 on drugs—which is a great deal of money for virtually all seniors in Missouri—the coverage simply stops. But seniors still have to continue paying their monthly premium. The coverage does not start up again until seniors have laid out $5,300.

Under this plan, seniors will be paying a different amount almost every month. Some months they will get coverage—others they will not. I do not believe this is what seniors want from a prescription drug benefit.

The same flaws occur in the alternative plan for the treatment of low income seniors. But our plan would give low income seniors assistance with copayments and premiums, and 220,000 senior citizens in Missouri would qualify for this assistance. But under the alternative plan, low income seniors will have to pass rigorous assets test.

Mr. President, the reason we are passing a drug benefit is so seniors do not have to sell the family possessions to pay for their prescriptions. I cannot understand why the alternative plan would require low-income seniors to sell off assets to qualify for additional help.

My other concern is that seniors be guaranteed access to a benefit no matter where they live. Under the Graham-Miller plan, all seniors, regardless of whether they live in a rural or urban area, would have guaranteed access to a reliable, affordable benefit administered by the Medicare program.

We all know that the Medicare system is not perfect, but it is reliable, has always been there for our seniors, and always will be there in the future.

The alternative plan we are voting on today, however, creates a risky structure that does not guarantee that all seniors will be able to access the benefit.

Seniors in rural areas would have the greatest risk of being left empty-handed. How do I know this? Because the Republican plan gives government subsidies to drug HMOs to administer the benefit. This is the same system that Medicare+Choice runs on.

Seniors in rural Missouri know that Medicare+Choice programs have shut down all over the state. We do not want the same thing to happen to the prescription drug benefit. Our seniors deserve a dependable benefit, under Medicare, available to all.

Today is the day when we can put this program in place. We have a choice between an affordable, secure, and reliable benefit that will work for seniors—and a confusing plan that will not provide security and stability.

Mr. President, the Irish poet, Seamus Heaney, wrote that:

> Once in a lifetime, the longed for tidal wave of justice can rise up . . . and hope and history rhyme.

Today we have a chance to perfect the Medicare Program, and I pray we have the courage to seize the moment.

I yield the floor.

## PROTECTING WOMEN'S RIGHTS AND HEALTH IN AFGHANISTAN

Mr. REID. Mr. President, under the Taliban regime in Afghanistan, women were forbidden to work or attend school. They weren't allowed to leave their homes unless they were accompanied by a male relative. For example, women who laughed out loud or wore shoes that made clicking noises could be beaten. There were many other examples of how women were so poorly treated.

After the fall of the Taliban, we heard encouraging news from Afghanistan. Women could go back to work and to school. They were no longer forced to wear burqas; that was a matter of choice.

A recent report from the United Nations found that now nearly 3 million Afghan children are attending school, and 30 percent of these kids are girls.

In fact, women took part in last month's Loya Jirga, a national conference to choose an interim government, and four women were appointed to positions in the interim Afghan Government.

Earlier today, I had the pleasure of meeting these courageous women. I met them in the Senate. Habibha Surrabi is Minister of Women and Refugee Affairs in Afghanistan. She was a professor of pharmacy at Kabul University, but was forced to flee when the Taliban took over in 1996. In Pakistan, she worked for refugee organizations where she focused on the rights of women, education, human rights, health care, and sanitation.

After September 11, President Bush promised not only to fight al-Qaida in Afghanistan but here in Washington to work to restore peace and democracy in that war-torn country. The President promised promoting women's rights in Afghanistan would be an important part of that mission.

Although the Taliban has been routed and al-Qaida is on the run, Afghanistan is far from peaceful today. Some say the country is on the verge of a civil war as rival warlords battle for control of the countryside.

Vice President Haji Abdul Qadir was assassinated 2 weeks ago. The international group, Human Rights Watch, reported local warlords are forcing young men to serve in their militias against their will. The United Nations has halted its return of refugees to parts of Afghanistan because of the increased violence.

On top of threats to their safety, families suffer from sabotage and from shortages of food, water, and health care because warlords are disrupting humanitarian aid deliveries. These humanitarian aid deliveries are essential. If they cannot be made, then the country cannot proceed.

Unfortunately, the gains Afghan women appeared to be making after the fall of the Taliban in many instances are simply an illusion. Afghan women continue to feel unsafe and most are afraid to remove their burqas. Many of the women who participated in the Loya Jirga a matter of weeks ago have been threatened and intimidated. Violence against women remains pervasive. They have no recourse or protection.

Aid workers, foreigners, and Afghan women and children have been targeted for robberies, assaults, and rapes. I was told by the Minister of Women and Refugee Affairs with whom I met earlier today about some brutal things that have taken place in that country, such as a 14-year-old girl raped. I have it in my mind and it is hard to get it out. Women's rights in Afghanistan will not be secure if there is no law or order.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. REID. I ask unanimous consent I be extended an additional 3 minutes and that same time be extended to the Republicans.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, the rights of women in Afghanistan will not be secure if there is no law and order in Afghanistan. Afghanistan's new government does not have the resources, no matter what their will, to combat warlord infighting, banditry, and lawlessness while trying to reestablish institutions of a civil society that were destroyed by the Taliban.

Interim President Karzai has requested international troops to help maintain order across the country. We have countries that are willing to come in and help. They have been told by our country that they should not come. Afghan women say they feel safer when international peacekeeping troops are present. That is obvious.

United Nations Secretary Kofi Annan has called for more peacekeepers, and there has been a call by both parties for more peacekeepers in Afghanistan. Yet the Bush administration has not yet committed to increasing the number of troops engaged—in fact, they have pushed against it—in peacekeeping, and they also refuse to allow the International Security Assistance Force, ISAF, to operate outside Kabul. We need these troops. We need this presence outside Kabul. Afghan is more than Kabul. It is a country that has great traditions and has a tradition of peace, except for the past 20 years. It can be reestablished.

When President Bush began military operations in Afghanistan, he promised Afghanistan would have a stable, democratically elected government that can govern in peace. We should not be skeptical of his promises. He should follow through on the promises he made. President Bush owes that to the American people, but especially to the people of Afghanistan. We cannot let the people of Afghanistan down again, and we cannot allow either our allies or enemies to believe America does not stand by its promises.

Today I call on the President of the United States to expand the International Security Assistance Force immediately to stop the violence, allow humanitarian aid to reach impoverished areas, and protect Afghan women and children. They need our help, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have a Republican member who wishes to speak. I wonder if I can get a Democratic member to speak. If not, I will go ahead. Is there anyone waiting to speak on the Democratic side? If they are, I do not want to lose the time.

Mr. REID. How much time do the Republicans have now?

The ACTING PRESIDENT pro tempore. The Republicans have 10 minutes.

Mr. GRASSLEY. I will proceed, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

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## PRESCRIPTION DRUGS

Mr. GRASSLEY. Mr. President, I wish to speak once again, before the vote this afternoon at 2:45 p.m., on the Graham prescription drug bill and point out that that bill sunsets in the year 2010. Also, it omits coverage of most drugs. First of all, the fact the bill sunsets on December 31, 2010, ought to be an overriding factor of how people vote on this amendment.

Pages 78 and 79 of the bill say "drug coverage must stop after December 31, 2010." That is section 1860(k), for people who want to look it up and verify what I am saying.

The Graham-Miller-Kennedy bill would not provide, if enacted, a permanent Medicare prescription drug benefit.

In the tripartisan bill, we are talking about a plan that is permanent. There is no sunset because we know that senior citizens on December 31, 2010, are not going to sunset themselves. They are going to need prescription drugs on January 1, 2001, just as much as they did on December 31, 2010.

We have a bipartisan program that is permanent and continues drug coverage in the future. Why? Because prescription drugs ought to be a part of Medicare as much in the year 2002 as hospitalization was a very important part of Medicare in 1965.

Medicare beneficiaries should understand that there is no guarantee that a prescription drug plan being offered by Senators GRAHAM, MILLER, and KENNEDY, will continue to cover their drug expenses after 2010.

Some refer to this as a sunset, but I wish to make clear, as this chart points out very well, that this is just one very obvious big black hole in this program that will sunset in the year 2010. Sunsetting a Medicare Program seems to be a very strange thing to do. Medicare is an entitlement program. Dependability has been one of its central features. So why should a new drug benefit be any different than any other program that we have—hospitalization, doctor care, or other provisions in Medicare that we have had since 1965.

There is no need to speculate as to why the sponsors sunset their program in 2010. It is a device to make the costs of the bill appear lower than it otherwise would be. In other words, it is a mere gimmick.

I point out another very crucial flaw with the Graham amendment and restrictive formularies that might keep beneficiaries from getting help with their medications that they and their doctor prefer. If we look at the tripartisan plan, any drug that is available, generic or patent that is available, what the doctor and what the patient decide is best for them is going to be available. There is a lower copay for generic drugs. We want to promote generic drugs over patented drugs if that is possible, but for sure we should not in any way limit the availability of drugs as is being done under the Democrat plan.

We have a poster that shows that 100-percent brand name drugs, albeit approved by the FDA, are going to be available under the program we have in the tripartisan bill, but only 10 percent of the brand name drugs are covered by the Graham-Daschle-Kennedy plan, a Government-run process certain to be time consuming and bureaucratic. If a beneficiary wants to appeal the fact that the drug they want and their doctor wants for them is not available under the Kennedy plan, it is possible to go through a Government appeal process to get the preferred drug covered.

Why should we put people to that test of bureaucratic decisionmaking when we have other programs that are available to make the drug that the doctor wants and thinks best for that patient? We do have that in the tripartisan plan. Controls on the pharmacy that can participate in the program, surely this is the biggest gap in coverage.

In any case, the important point is it is going to take another act of Congress to continue the program once it sunsets in the year 2010. Once a program like this sunsets, it could be difficult to pass legislation which would be required to extend it. I do not think that is a particularly good deal for our seniors. Having a drug benefit that disappears into a black hole is a terrible idea, as sunsetting is equivalent to disappearing into a black hole.

I would like to have Senators who are still in doubt about how they are going to vote this afternoon look at the tripartisan 21st century Medicare amendment as a reasonable alternative because it is bipartisan, because it is middle ground between the least expensive and the most expensive plans. It is not a big cost to Medicare, and it is something that brings permanency and that is predictable well into the future for Medicare. That is what we should have, and that is what we have in the tripartisan drug plan.

Any Senators on my side of the aisle who want to speak should get here soon.

I reserve the remainder of my time.

Mr. FEINGOLD. Mr. President, I rise today in strong support of a comprehensive and affordable prescription drug benefit for America's seniors. At the same time, we must modernize the entire Medicare benefits package by promoting regional equity in Medicare spending to ensure access to Medicare's basic services.

The absence of affordable prescription drug coverage for most seniors is devastating, and we must address this issue with the same vigor that our predecessors in Congress brought to their effort to enact the original Medicare program.

The addition of a prescription drug benefit will be the largest expansion of the Medicare program since it was initiated in 1965. But we should not simply add a benefit, we must get it right.

Congress must pass an attractive benefit with an affordable premium and a provision on catastrophic costs that is an insurance policy for all Medicare beneficiaries. While I recognize that the cost of any new benefit will be shared with Medicare beneficiaries, any deductibles or co-payments must be low enough to ensure significant participation in the program.

I am very encouraged that my colleagues from Florida and Georgia have recognized the importance of a comprehensive benefit through the Medicare program. It is affordable, comprehensive, and reliable. I am particularly supportive of their effort to fund a defined benefit with no deductible.

While I am certainly open to working with my colleagues on the benefit structure, I am very concerned about proposals to enact this benefit outside the Medicare program that would amount to a privatized benefit. Past efforts to offer privatized benefits outside the Medicare benefit structure have simply not worked in Wisconsin.

The Medicare+Choice program has offered very few choices to most Wisconsin seniors. While the structures of some of the private Medicare prescription drug benefits are plainly different from the Medicare+Choice program, I remain concerned that states like Wisconsin will end up with few choices. As with Medicare HMOs in the Medicare+Choice program, Wisconsin seniors will likely be faced with little choice with Medicare prescription drug HMOs.

We must also harness the purchasing power of the Medicare program to ensure that the Federal Government gets a fair price for the prescription drug program. That's the reason why I support the Hatch-Waxman reforms in the underlying bill.

By closing a series of loopholes in the original Hatch-Waxman law, these reforms will increase competition by preventing brand-name pharmaceutical firms from blocking generic drugs from entering the market. While I strongly support the original Hatch-Waxman law because it promoted competition and consumer choices, the reforms in the underlying bill will modernize the law and strengthen competition in the marketplace.

If we simply allow pharmaceutical companies to dictate the price of prescription drugs to consumers, the cost of the prescription drug benefit will skyrocket out of control. I am not advocating price controls. But we must ensure that taxpayers and Medicare beneficiaries get a fair price.

And I have further concerns on behalf of American taxpayers, as each of the proposals we are likely to consider actually digs our deficit hole deeper at a time when our budget deficit already is getting worse every day.

In its recently released mid-session review of the budget, the Office of Management and Budget estimates that the budget deficit for the current fiscal year, the one ending on September 30, will be a whopping $165 billion, and that includes the Social Security Trust Fund balances.

If you look at the real budget deficit—the one that does not use the Social Security Trust Funds to help mask our fiscal problems—the figure is $322 billion.

The projected $322 billion deficit for this year is just shy of the $340 billion deficit that we faced when I was first elected to the U.S. Senate in 1992.

We spent the balance of the last decade climbing out of that deficit hole, and in the end, thanks to the virtuous cycle of fiscally responsible budget policies and a growing economy, we were able to balance our books and actually began to pay down some of the massive Federal debt that was racked up during the 1980s and early 1990s.

But in the course of a little over a year, thanks in large part to the fiscally reckless tax cut enacted last year, the administration and Congress have squandered what was achieved during the previous eight years.

Even OMB's estimate of the real deficit over the next five years is over $1 trillion! And that estimate may be based on overly optimistic assumptions.

It is against that backdrop that we are now considering Medicare prescription drug proposals.

There is no doubt that we need to modernize Medicare by adding a prescription drug benefit. I strongly favor such a reform. But we should find offsets to fund a drug benefit.

It would be far better if we pay for this new program. Unless we pay for this needed reform, it will always be at risk of being severely cut back or even eliminated. Medicare beneficiaries can not rely on any drug benefit enacted under such circumstances, and we will do a disservice to them if we do so.

We must enact a real prescription drug benefit, one that provides meaningful help to seniors, and one which beneficiaries will know will be there for them when they really need it, not placed on the budget chopping block the instant it is enacted.

Congress could achieve some of these cost savings by modernizing other aspects of the Medicare program. For example, I am hopeful that the Senate will consider proposals to modernize the underlying Medicare program to promote regional fairness among Medicare beneficiaries.

We must address Medicare's discrimination against Wisconsin's seniors and health care providers. The Medicare program should encourage the kind of high-quality, cost-effective Medicare services that we have in Wisconsin. By encouraging this high-quality, low-cost care, we may well achieve cost savings to the program and offset part of the cost of a prescription drug benefit.

To give an idea of how inequitable the distribution of Medicare dollars is, imagine identical twins over the age of 65. Both twins worked at the same company all their lives, at the same salary, and paid the same amount to the Federal Government in payroll taxes, the tax that goes into the Medicare Trust Fund. But if one twin retired to New Orleans, LA, and the other retired in Madison, WI, they would have vastly different health care options under the Medicare system. The twin in Louisiana would get much more.

For example, in most parts of Louisiana, the first twin would have a wide array of options under Medicare. The high Medicare payments in those areas allow Medicare beneficiaries to choose between an HMO or traditional fee-for-service plan, and, because area health care providers are reimbursed at such a high rate, those providers can afford to offer seniors a broad range of health care services. The twin in Madison would not have the same access to care. Because of low Medicare payments in Madison, there is no option to choose an HMO, and there are fewer health care agencies that can afford to provide care under the traditional fee-for-service plan.

How can two people with identical backgrounds, who paid the same amount in payroll taxes, have such different options under Medicare? They can because the distribution of Medicare dollars among the 50 States is grossly unfair to Wisconsin, and much of the Upper Midwest. Wisconsinites pay payroll taxes just like every American taxpayer, but the Medicare funds we get in return are much less than what other states receive.

The low payment rates received in Wisconsin are in large part a result of our historic high-quality, cost-effective practice of health care. In the early 1980s, Wisconsin's lower-than-average costs were used to justify lower payment rates. Since that time, Medicare's payment policies have only widened the gap between low- and high-cost states.

I have introduced a package of legislation that will take us a step in the right direction by reducing the inequities in Medicare payments to Wisconsin's hospitals, physicians, and skilled nursing facilities. At the same time, my proposals would establish pilot programs to encourage high-quality, cost-effective Medicare practices. My proposal would reward providers who deliver higher quality at lower cost. It would also require that the pilot states create plans to increase the amount of providers providing high-quality, cost-effective care to Medicare beneficiaries.

Congress must modernize Medicare and add a prescription drug benefit. It should do so in a fiscally-responsible manner. And it must also restore basic equity to the Medicare program and stop penalizing higher quality providers of Medicare services.

The issue before us is an important one. And it is important enough to do it right.

Mr. THOMPSON. Mr. President, I rise today to discuss the important issue of adding a prescription drug benefit to the Medicare program. As a part of the debate on this drug pricing bill, we are considering amendments to provide Medicare beneficiaries with coverage for their prescription drug costs. This would be the largest expansion of any Federal entitlement program since Congress enacted Medicare in 1965. And as I listen to the debate, I am concerned that this body is ignoring some very serious issues, namely the cost of what we are doing and whether we can afford to take this action given the current budget situation.

I think each of us here today would agree that the Medicare program is outdated. If we were creating this program from scratch right now, there is no question that we would include coverage for prescription drugs. Medicines have become integral to the treatment of disease, in many cases replacing costly surgical procedures. However, in our desire to address one serious flaw in Medicare, I am concerned that we are missing the broader questions of the impact of our actions on future generations of taxpayers and on the sustainability of the Medicare program. We cannot legislate in a vacuum.

I want to begin my remarks by reminding my colleagues of the demographic time bomb we are facing in this country. The first wave of the 76 million baby boomers will begin retiring in 2008. Between now and 2035, the number of Americans over the age of 65 will double. We will go from having 3.4 workers to support Medicare and Social Security beneficiaries today to 2.3 workers by 2026. Not only is the over-65 population growing rapidly, but they are living longer. Increased life expectancy is a good thing, but it also has serious implications for the Federal budget and entitlement spending.

According to the Medicare Trustees' most recent report to Congress, the Medicare Part A Trust Fund is scheduled to be in a cash deficit beginning in 2016 and will go bankrupt in 2030. Spending on Medicare Part B, which covers outpatient services, is growing at a faster rate than our economy. Over the next 10 years, the Medicare trustees estimate that Part B spending will increase on average by 6.1 percent each year, compared to a growth rate in the economy of 5.1 percent per year. The Congressional Budget Office projects that Federal expenditures on Medicare, Social Security and Medicaid combined will grow from the current 7.8 percent of GDP to 14.7 percent of GDP in 2030. I think it's important to remember that the Federal Government has generally taken no more than 20 percent out of the economy in taxes to fund the government. Entitlement spending is moving dangerously close to that limit.

David Walker of the General Accounting Office testified before the Senate Budget Committee earlier this year, and he warned us that by 2030, absent any changes to Social Security and Medicare, there will be virtually no money left for discretionary spending such as national defense, education or law enforcement. This estimate does not take into consideration any new spending Congress may authorize, such as adding a Medicare prescription drug benefit or increasing Medicare payments to health care providers. As inadequate as the current Medicare program may be, it is not sustainable even in its current form.

In addition, I feel compelled to offer additional context to this debate. We all know that our world and budget situation have changed dramatically over the past 10 months. The latest projections from the Office of Management and Budget are that our deficit this year could reach $165 billion. In addition, the requirements of protecting our Nation and combating terrorism have placed urgent new claims on Federal resources.

In fiscal year 2002, we will spend at least $29.2 billion on homeland security. The supplemental appropriations bill would spend an additional $5.8 billion, bringing the total to nearly $38 billion. The President's budget request for fiscal year 2003 proposes spending of $37.7 billion for homeland security. This amount is double what we were spending on homeland security items prior to the September 11 attacks. The Brookings Institute recently recommended funding of $45 billion for fiscal year 2003 on homeland security.

We are also in the process of considering the President's proposal to create a new Department of Homeland Security. The cost of creating this new department could be another billion dollars. The truth is that we just don't have a good notion of how much homeland security spending will cost in the coming years, but we know that the costs will be tremendous, and we know that we must spend whatever it takes.

On top of these security-related claims on our Federal resources, we need to remember that a majority of Congress just voted to increase spending on farmers by $90 billion above the current level over the next 10 years. I opposed that legislation, because I believe much of that money would be better spent on other priorities, including a prescription drug benefit. And let us not forget that we voted in May to create a new, $20 billion federal health care entitlement for workers displaced by trade. These things add up. We're spending money we no longer have.

I do believe that Congress should address the needs of the one-third of seniors who have no prescription drug coverage now. But when I look at the cost of adding a prescription drug benefit, it is clear to me that there is just no inexpensive way to provide seniors with a meaningful drug benefit. CBO projects that seniors' spending on prescription drugs over the next 10 years will be $1.8 trillion. That is 21 percent higher than CBO's 10-year estimate from last year. Although two-thirds of that increase is due to the changing budget window, dropping the low-cost year, 2002, and adding the higher cost year, 2012, this projection still concerns me.

The various Medicare prescription drug proposals we are debating have 10-year cost estimates ranging from a low of $150 billion for the Hagel/Ensign, bill to $370 billion for the tripartisan bill, to as much as $600 billion for the Graham/Kennedy bill. Can we really rely on the accuracy of these numbers?

Last year's budget resolution set aside $300 billion over 10 years for Medicare modernization and a prescription drug benefit. My colleagues on the other side of the aisle strongly supported that $300 billion number as sufficient to pay for a Medicare drug benefit. If we were to trend that $300 billion forward one year, we would be looking at a $350 billion drug package. This year, the budget resolution that was reported by the Senate Budget Committee, but never passed by the full Senate, contains $500 billion over 10 years for a Medicare prescription drug benefit and for increased Medicare provider payments and for providing health coverage to the uninsured. How is it that we are even considering a $600 billion bill that would only provide prescription drug coverage?

I am firmly in the camp of those who believe that we should not add a prescription drug benefit to Medicare without also making much-needed changes to strengthen the program. The Medicare and Social Security Trustees advise us that we can make relatively small changes now to put the Medicare and Social Security programs on sound financial footing for the future. But, the longer we wait, the harder it will be. This debate over a Medicare prescription drug benefit provides us with an excellent opportunity to begin taking steps that will make Medicare sustainable over the long term.

I want to commend the members of the tri-partisan group for their efforts to put us on the path toward a strengthened Medicare program. They have worked hard for more than a year to craft their bill to provide a reasonable and permanent drug benefit, unlike the proposal of my colleague from Florida. And, they have drafted the only proposal that makes any meaningful improvements to the Medicare program. I believe that the tri-partisan proposal would provide greater security for today's seniors and for tomorrow's seniors. The new fee-for-service plan, Medicare Part E, would make the transition to Medicare more seamless for those Americans who are beginning to age into the Medicare program by providing them with a benefit that more closely resembles the private health plan they are used to. The tri-partisan bill would also provide seniors with protection from unusually high health care costs for the first time.

I am deeply disappointed that the Finance Committee has not been given the opportunity to mark up either the tri-partisan bill or any other Medicare prescription drug bill. It is a shame that the Majority Leader has decided once again to by-pass the committee process, which might have yielded a product that could garner the 60 votes needed to pass a Medicare prescription drug benefit. Even more important is that we would not be in the current parliamentary situation of needing 60 votes to waive a budget point of order on these bills if the Senate had passed a budget this year.

In the likely event that neither of two comprehensive prescription drug proposals garners 60 votes, then I would hope we could at least pass the Hagel/Ensign proposal. The Hagel/Ensign amendment would provide the neediest seniors with assistance with their prescription drug costs. It would allow all seniors to benefit from group discounts. And, it would provide all seniors with protection from unusually high drug costs. These benefits could be implemented immediately, and the proposal would buy us time to find bipartisan consensus on an affordable, comprehensive Medicare prescription drug benefit.

I hope we can carry forward the spirit of the tri-partisan group and work together to address the needs of our seniors who lack prescription drug coverage, bring Medicare into the 21st century and set it on sound financial footing, and do so while recognizing the new budget world in which we live.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CARNAHAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, I yield back our 3 minutes.

The PRESIDING OFFICER. All time is yielded back.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## EXECUTIVE SESSION

## NOMINATION OF RICHARD H. CARMONA, OF ARIZONA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, AND SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the cloture vote on Executive Calendar No. 921, which the clerk will report.

The bill clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Executive Calendar No. 921, the nomination of Richard H. Carmona, of Arizona, to be the Surgeon General of the Public Health Service:

Edward M. Kennedy, Debbie Stabenow, Tom Daschle, Harry Reid, Jack Reed, Richard J. Durbin, Barbara Mikulski, Patrick Leahy, Jean Carnahan, Tom Carper, Byron L. Dorgan, Paul Wellstone, Jon Corzine, Jeff Bingaman, Daniel Inouye, Kent Conrad.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 921, the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

The yeas and nays resulted—yeas 98, nays 0; as follows:

[Rollcall Vote No. 185 Exe.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin

Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—2

Helms
Specter

The PRESIDING OFFICER. On this vote, the yeas are 98, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Arizona.

Mr. McCAIN. Thank you, Madam President. It is my understanding we are now in postcloture debate time; is that correct?

The PRESIDING OFFICER. The Senator is correct.

### THE ANDEAN TRADE PREFERENCE ACT

Mr. McCAIN. Madam President, I want to take a few minutes to talk about the failure of the Congress to enact the Andean Trade Preference Act, the importance of this issue in our hemisphere, and the absolute criticality of us acting before we go out for the August recess on the Andean Trade Preference Act.

Madam President, America is facing a crisis in its relations with our Latin neighbors. Political instability and a fierce backlash against free market reforms are hobbling friendly democratic governments across the region, with consequences that clearly endanger the democratic and free market tide that has swept the continent in the past decade. Yet partisan wrangling over other issues has prevented Congress from renewing the Andean Trade Preference Act, even though both Houses have approved it. It is time to stop the politics and send the President an Andean trade bill, immediately.

Madam President, wrongly, the Andean Trade Preference Act has been linked to the larger issues of trade adjustment authority and other trade issues. I do not know why that is the case.

Mr. REID. Parliamentary inquiry, Madam President.

Mr. McCAIN. Madam President, I have the floor.

Mr. REID. Would my friend yield——

The PRESIDING OFFICER. The Senator declines the inquiry.

Mr. REID. Will my friend yield for a question then?

Mr. McCAIN. What is that?

Mr. REID. The question I have——

Mr. McCAIN. Do I have the floor, Madam President?

The PRESIDING OFFICER. The Senator from Arizona has the floor and may decline to yield for an inquiry.

Mr. McCAIN. I decline to yield.

I remind my colleagues that only a few years ago we in Washington were congratulating ourselves on living in a hemisphere that, with the exceptions of Cuba and Haiti, had embraced freedom and free markets after long years of military rule and statist economic policies.

Although there remained deep poverty, aggressive free market reforms were seen as the best way to improve the welfare of people across Latin America.

Mr. REID. Madam President, regular order.

Mr. McCAIN. Expanded trade policies, including the Andean Trade Preference Act and America's vision of a hemispheric trade area——

Mr. REID. I ask the Chair to call for the regular order.

Mr. McCAIN. Lent momentum to the Latin reform agenda, which produced real gains in people's daily lives and provided a critical base for the consolidation of democratic institutions and free markets.

The PRESIDING OFFICER. The Senator from Nevada is calling for the regular order in debate. Under cloture, debate must be germane.

Mr. McCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Arizona should confine his remarks to the question before the body.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent the Senator from Arizona be extended up to 15 minutes to speak on any subject he desires.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. McCAIN. I thank my colleague from Nevada. I intend to be brief.

I do believe this is an important issue. The other body is going out at the end of this week—in just 3 days. Unless we act on the Andean Trade Preference Act, it will have significant consequences, both socio and economic, in our hemisphere.

I thank my colleague from Nevada for allowing me this time.

Today, as we look south, the picture is altogether more bleak, and deeply troubling in the eyes of both Americans and the people of Latin America. Free market reforms are undergoing a crisis of legitimacy as a result of political mismanagement, corruption and cronyism, and because many of the easy reforms have already been made. It is fair to place part of the blame on a failure of national leadership in parts of Latin America. But almost every government in the hemisphere has been democratically elected, and will be held democratically accountable. What is more worrisome, and within our power to change, is Washington's hands-off policy toward some of the very partners we touted only a few years ago as a symbol of Latin America's success, their policy accomplishments made possible with the support of the United States.

Today, as our friends in the Andean region grapple with the problems of poverty, terrorism, drug trafficking, and the forces of political extremism, leaders in Washington squabble over unrelated issues that hold up speedy passage of the Andean Trade Preference Expansion Act. This trade measure is not controversial. Were it to face an up-or-down vote, it would probably garner 90 votes of support. But a political decision made with no consideration of the plight of our Andean partners—to bundle the noncontroversial ATPA into a trade package including trade promotion authority and trade adjustment assistance—is having stark consequences in Latin America at exactly the same time as the backlash against reformist economic Ecuador, Colombia, and Peru.

In Bolivia, the president of the country's coca-growers' association, an avid opponent of free market policies, won enough votes in the next presidential election to force a runoff against a more mainstream candidate, in defiance of all pollsters' predictions. In Colombia, a new President with a historic mandate for change needs our support against the narcoterrorists that threaten his government; strangely, we provide the aid his government needs But not the trade that is so important to his people, and that costs America nothing. In Ecuador, political instability grows as the spillover from Colombia's war and the depth of poverty threaten state institutions. In Peru, a democratically elected president who, as an opposition leader, stood down a dictatorship has been forced by popular pressure to fire the very reformers within his cabinet who hold the key to his country's development. America is not to blame for every setback on the road to free market, democratic governance in Latin America. But we are to blame when we abdicate our responsibility to advance our interests and support our friends with the trade preferences that they believe to be critical to their economic future.

Madam President, on Friday the New York Times ran a front-page story highlighting the growing political instability that increasingly haunts Latin American leaders who understand that their country's development hinges on a reform agenda supported by the United States. The article traces a political rift over free-market reforms that runs straight down the continent, from Venezuela to Argentina, and whose consequences threaten to upend the extraordinary progress

Latin American reformers have made since they ended the era of military dictatorship and statist economics. I ask unanimous consent the Times article be printed in the Record, as well as an opinion piece by John Walters, our drug czar, entitled "Just Say Yes to ATPA."

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, July 19, 2002]

### Still Poor, Latin Americans Protest Push for Open Markets

(By Juan Forero)

The protest that shook this colonial city last month was very much like others in Latin America recently. There were Marxists shouting 60's-era slogans, and hard-bitten unionists. But there was also Fanny Puntaca, 64, a shopkeeper and grandmother of six. Though she had never before protested, Ms. Puntaca said, she could not bear to see a Belgian company buy what she called "our wealth"—the region's two state-owned electrical generators. So armed with a metal pot to bang, she joined neighbors in a demonstration so unyielding that it forced President Alejandro Toledo to declare a state of emergency here, suspend the $167 million sale and eventually shake up his cabinet. "I had to fight," Ms. Puntaca said proudly. "The government was going to sell our companies and enrich another country. This was my voice, my protest."

Across Latin America, millions of others are also letting their voices be heard. A popular and political ground swell is building from the Andes to Argentina against the decade-old experiment with free-market capitalism. The reforms that have shrunk the state and opened markets to foreign competition, many believe, have enriched corrupt officials and faceless multinationals, and failed to better their lives.

Sometimes-violent protests in recent weeks have detailed the sale of state-owned companies worth hundreds of millions of dollars. The unrest has made potential investors jittery and whipsawed governments already weakened by recession. The backlash has given rise to leftist politicians who have combined pocketbook issues and economic nationalism to explosive effect. Today the market reforms ushered in by American-trained economists after the global collapse of Communism are facing their greatest challenge in the upheavals sweeping the region. "The most worrying reading is that perhaps we have come to the end of an era," said Rafael de la Fuente, chief Latin American economist for BNP Paribas in New York. "That we are closing the door on what was an unsuccessful attempt to orthodox economic reforms at the end of the 90's."

For a time the policies worked, and many economists and politicians say they still do. The reforms increased competition and fueled growth. Stratospheric inflation rates fell back to earth. Bloated bureaucracies were replaced with efficient companies that created jobs. The formula helped give Chile the most robust economy in Latin America. In Mexico exports quintupled in a dozen years. In Bolivia, poverty fell from 86 percent of the population in the 70's to 58.6 percent today.

Still, the broad prosperity that was promised remains a dream for many Latin Americans. Today those same reforms are equated with unemployment and layoffs from both public and private companies, as well as recessions that have hamstrung economies. "We privatized and we do not have less poverty, less unemployment," said Juan Manuel Guillen, the mayor of Arequipa and a leader in the antiprivatization movement here. "On the contrary. We have more poverty and unemployment. We are not debating theoretically here. We are looking at reality." Indeed, 44 percent of Latin Americans still live in poverty, and the number of unemployed workers has more than doubled in a decade. Tens of millions of others—in some countries up to 70 percent of all workers—toil in the region's vast informal economy, as street vendors, for instance, barely making ends meet. Economic growth has been essentially flat for the last five years.

Popular perceptions—revealed in street protests, opinion polls and ballot boxes—are clearly shifting against the economic prescriptions for open markets, less government and tighter budgets that American officials and international financial institutions have preferred. A regional survey supported by the Inter-American Development Bank found last year that 63 percent of respondents across 17 countries in the region said that privatization had not been beneficial. "It's an emotional populist attitude people have," said Larry Birns, director of the Council on Hemispheric Affairs, a Washington-based policy analysis group. "It may not be reasoned, but it's real, and it's explosive and it's not going to be easily contained by coming up with arguments that free trade is the wave of the future."

In Brazil, South America's largest country and its economic engine, revulsion with American-led market orthodoxy has fueled strong support for the labor leader Luiz Inacio da Silva, known as Lula, who is now the front-runner in the October presidential election, to the chagrin of worried financial markets. In Paraguay protests last month blocked the $400 million sale of the state phone company by President Luis Gonzalez Macchi, whose government has been dogged by a dismal economy and corruption charges. This week deadly demonstrations led the president to declare a state of emergency. In Bolivia the country's political landscape was redrawn this month when Evo Morales, an indigenous leader who promised to nationalize industries, finished second among 11 candidates for president. This spring, the sale of 17 electricity distributors in Ecuador fell through in the face of political resistance, a blow to a country that has adopted the dollar as its currency and is heavily dependent on foreign investment. Meanwhile, in Venezuela, President Hugo Chavez's left-leaning government has been intent on scaling back reforms, exacerbating the divisions that led to his brief ouster in April. The backlash in many of these countries gathered momentum with the economic meltdown in Argentina, which forced a change of presidents after widespread rioting in December.

While the causes are multifold, many Argentines blame the debacle on a combination of corrupt politicians and the government's adherence to economic prescriptions from abroad that have left the country with $141 billion in public debt, the banking system in ruins and one in five people unemployed. Argentines now look for possible salvation from Elisa Carrio, a corruption fighter in Congress who has been scathing in her criticism of the International Monetary Fund. She is now the early favorite in the upcoming presidential election. "This has created the backlash because now there's a debate all around Latin America," said Pedro Pablo Kuczynski, Peru's former economy minister and a favorite of Wall Street who resigned under pressure last week. "Everywhere you look people say, 'The guys followed the model and they're in the soup. So obviously the model does not work.'"

The backlash comes as foreign direct investment in Latin America has fallen steeply, dropping from $105 billion in 1999 to $80 billion in 2001. A big reason for the decline is that many big-ticket sales of state companies to private investors have already been completed. But economists like Mr. Kuczynski, who say market reforms must continue for capital-poor Latin economies to progress, are worried. Bolivia, for instance, was an early convert along with Chile in the 1990's to what is called the neoliberal model. It reined in loose monetary policies and shrank the government by unloading dozens of state-owned companies to private international investors. The results, particularly in taming inflation and reducing poverty, were impressive.

But in one of Latin America's poorest nations, it is hard for Bolivian officials to talk about progress to the wide portion of the population that continues to live in grinding poverty and feels that entitlements the government once provided in the form of subsidized rates for water and electricity have been stripped away. The better services that have accompanied the sale of state enterprises have left many indifferent, particularly in impoverished areas where residents have invested their own money and sweat to string up electrical lines or put in water pipes and drainage. "Clearly if you're poor and have no water, sewage and live in a rural area, having three long distance telephone companies when you have no phone lines doesn't make a bean of difference," Bolivia's president, Jorge Quiroga, acknowledged in an interview.

In Peru the resistance to privatization and market reforms is especially pronounced and, for its government, puzzling. Unlike most of Latin America, the economy here has steadily grown since Mr. Toledo's election in June 2001 as the government has continued sales of assets begun during the decade-long rule of Alberto K. Fujimori. Government officials say the program has been successful. Phone installation, which used to take years and cost $1,500 or more, now costs $50 and takes a day or two. Electrical service, once shoddy and limited, has spread across the country. The privatization of mines, which is nearly complete, has improved efficiency and output so much that employment in that sector and related activities has increased to more than 60,000 today from 42,000 in 1993. But government belt-tightening also led to widespread layoffs. Mr. Toledo's government has been hit hard by protests and popular discontent, much of it fueled by its inability to alleviate poverty. Many have blamed the privatizations, seeing them as a vestige of the corruption-riddled presidency of Mr. Fujimori, who is now in exile in Japan.

Here in Arequipa, where the economy was already limping, when word came that the government was about to sell the two state-owned electric companies, Egasa and Egesur, people recalled that Mr. Toledo had campaigned on a pledge never to sell the companies to private owners. It did not matter that the government promised Arequipa half the sale price, and that the investor, the Brussels-based Tractebel S.A., would invest tens of millions of dollars more to improve services. The promises were not believed. Soon the workers federation, neighborhood organizations and university students organized protests, suspecting that higher electricity costs and layoffs were on the way. "Thanks to our fight, our perseverance, the government backed down," Alejandro Pacheco, a leader in the protests here, told a roomful of supporters this week. "Now we need to do this in the rest of Peru."

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[From the Hill, Mar. 20, 2002]

### Just Say Yes To ATPA

(By John Walters)

It is rare when an easy-to-understand, bipartisan foreign policy initiative that is embraced by all the countries involved and lauded by the Federal Government for its effectiveness is developed and passed into law. It is rarer still when such an initiative is allowed to simply slip away due to legislative indifference or neglect. Yet that could be the fate of one of our most effective South American policy initiatives.

On December 4, 2001 the Andean Trade Preferences Act (ATPA) expired. Although the House has voted to extend ATPA, the Senate has not yet acted. There is a temporary duty deferral in place, but if it is allowed to expire without being reauthorized, thousands of people in the Andean region will suffer—and we will have needlessly lost a valuable tool in our ongoing anti-drug efforts.

ATPA simultaneously furthers two important policy goals: stimulating legitimate economic growth while destabilizing the drug trade. To make progress in the fight against illegal drug production we must provide alternative and expanded job opportunities to support economic growth and democratic institutions in the Andean region. For the past ten years, ATPA has been a powerful trade tool in the fight against illicit drug production and trafficking by successfully helping our Andean allies (Colombia, Bolivia, Ecuador and Peru) develop legitimate commercial exports as alternatives to the illegal drug industry—an industry that supplies Colombia's leading terrorist group, the FARC, with an estimated $300 million a year.

ATPA's benefits to the region's development are indisputable. In 1991, the last full year before ATPA was implemented, the United States imported $12.7 billion in total commodities from the Andean nations. In 2000, the U.S. imported $28.5 billion in total commodities from these nations, a 125 percent increase. One of the great successes tied to ATPA is the Andean region's development of a robust flower industry—an industry that is especially important because of the large number of economically distressed people it employs. There are often as many as ten employees per hectare of flower-producing land involved in cultivating the flowers for export. ATPA has also generated significant job opportunities in other industries, such as fruits and vegetables, jewelry, and electronics. These new jobs draw workers who otherwise might have been drawn to drug-producing narco-terrorist groups for employment.

Our economy has realized direct benefits from this program as well. Under ATPA, U.S. exports to the Andean region have soared, growing by nearly 65 percent to a total of $6.3 billion in 1999.

Now that the House has voted, the Senate should act quickly. The passage of ATPA reiterates our commitment to helping the Andean region develop economic alternatives to drug crop production. We know that drug production in this region is tied to our country's demand for these poisonous substances. But as we work to cut the demand for drugs in the United States, we must support our southern neighbors in their efforts to build their economies and promote democracy.

Last week the House also passed H. Res. 358, which expressed the support of Congress for the democratically elected government of Colombia and its efforts to counter terrorism. I applaud their actions and wholeheartedly agree that we must actively support our neighbors in Colombia and the Andean region. ATPA is a direct and tangible way for the United States to demonstrate this support.

Letting ATPA lapse would not just be a missed economic opportunity; it would be a threat to regional stability. Our goal is to help these countries create an economic and social environment in which legitimate industry, rather than narcotics cultivation and trafficking, is the norm. We have the opportunity to help our neighbors build and expand their economies and democratic institutions. Renewing ATPA is a top regional priority and a top anti-drug priority. I urge the Senate to act quickly.

Mr. McCAIN. Renewing the Andean Trade bill is the most immediate action we could take to remind our partners in the region of our commitment to reform and free markets. Unfortunately, Congress' inaction on ATPA is rightly viewed by our friends in the region as a symbol of America's unfortunate disregard for their plight in this difficult time. It is time we paid attention. I urge immediate action from the conferees to the trade bill to separate out and pass ATPA. This issue is critical to American leadership and economic growth in the Andean region, as its leaders will tell anyone who listens. America has too much at stake to turn our back on our Andean partners, who confront threats from terrorists, drugs, and poverty that threaten their governments and their people's future. Our friends in Peru, Colombia, Ecuador, and Bolivia cannot wait much longer.

Madam President, I do not want to hold up the progress of the Senate on this important prescription drug bill. But I think it is generally regarded as factual that we will probably not provide trade promotion authority or trade adjustment authority to the President of the United States before the other body goes out at the end of this week. That would be a terrible mistake.

I will come to the floor on Wednesday or Thursday and ask consent that we move, take up, and pass the Andean Trade Preference Act. I believe that is probably the only way we will get this done before the Congress goes out for the August recess.

We have a serious situation in our hemisphere from Mexico to the Tierra del Fuego. Argentina, once the fifth largest economy in the world, is facing an economic crisis of incredible proportions. Venezuela is in a chaotic socioeconomic situation. Peru, Bolivia, and Ecuador are all in various stages of extreme difficulties. Colombia is in the midst of a civil war which at least, if they are not losing, they are probably not winning either.

This is a modest proposal. I have been visited by the leaders of these countries, and they say the following: We do not want aid, but we do want trade.

This is a trade agreement that was made by the first Bush administration. It should clearly be passed. It would get 90 votes in this body if it were up by itself. We should address it, move it forward, and do these nations a small favor. We could pay a very heavy penalty in terms of socioeconomic difficulties in our own hemisphere if we do not act quickly on this issue.

Mr. NICKLES. Will the Senator yield?

Mr. McCAIN. I am glad to yield.

Mr. NICKLES. Madam President, I wish to be associated with my friend and colleague from Arizona and thank him for his tenacity in raising this issue. The Senate is being very irresponsible in not passing the Andean Trade Preference Act.

I thank the Senator from Arizona. I will be happy to join him in making that unanimous consent request and ask that our colleagues join us in helping these four allies. I appreciate our friend from Arizona bringing the matter to the attention of the Senate.

Mr. McCAIN. I thank my friend from Oklahoma. I hope we won't have to do it. We owe it to these very great allies of ours in a very difficult time to act before we go out. The other body goes out at the end of this week.

I thank my colleague from Nevada for his indulgence. I thank my colleagues for their indulgence, and I yield the remainder of my time.

Mr. KENNEDY. Madam President, I commend our Senate leadership for moving so promptly to the consideration of the nomination of Dr. Richard Carmona to be Surgeon General of the United States.

Today, the U.S. Senate is in the midst of an historic health care debate. So it is appropriate that we consider at this time a nominee to this position of such crucial importance to the public health.

The Surgeon General is our Nation's doctor. He is our country's principal official on health care and health policy issues. He is the leader of the Public Health Service and the Service's Commissioned Corps, one of the seven uniformed services of the United States.

In fact, almost exactly 204 years ago, the Public Health Service was created on July 16, 1798. President John Adams signed a law creating what was then called the Merchant Hospital Service for the care of sick or injured merchant seamen. Boston was the site of the first such facility, but the Service soon extended through the Great Lakes, the Gulf of Mexico and to the Pacific.

As our country grew in the 19th century, so did the Service. It was Service physicians who inspected the immigrants who arrived at Ellis Island. Even then, the Surgeon General was at the head of national disease prevention campaigns against cholera, tuberculosis, and smallpox.

When the Service was renamed the Public Health Service in 1912, it was the Surgeon General who was at the forefront in combating the great influenza epidemic of 1918. At a time when modern medicine was in its infancy, this epidemic took more than 600,000 lives, the worst epidemic in American history.

I raise this history to make a simple point. The Surgeon General has been, and continues to be, one of the most important jobs in our National Government. Our Nation has faced extraordinary public health threats in the past, and today, the challenges are just as grave.

Once, the threat was cholera. Today, it is AIDS. Smallpox threatened our cities in the 19th century. Today, it is bioterrorism. It will be the Surgeon General who will continue to promote and protect the health of all Americans.

Over the years, our country has been blessed with courageous and outspoken Surgeons General. They did not allow politics to blunt their work to alert the public to health threats. By speaking the truth about public health, they enabled millions of our fellow citizens to live longer, fuller lives.

We remember Dr. David Satcher's work on mental health and against the tobacco industry, and Dr. C. Everett Koop's historic leadership on AIDS. There is Dr. Julius Richmond's pioneering work on Head Start and, of course, Dr. Luther Terry's landmark report on smoking.

These are big shoes to fill. But today, our country needs another such champion of public health. We need a strong and independent Surgeon General who will put public health first, and leave politics and ideology well behind.

In this new century of the life sciences, the Surgeon General must help us take the breakthroughs at the lab bench and ensure they improve the lives of all Americans. He must lead our country in preventing tobacco use by our children and youth, expanding access to health care, ending disparities in health care among our nation's communities, improving childhood immunization rates, preparing for the threat of bioterrorism, and preventing the spread of the AIDS epidemic.

These are heavy responsibilities, and they demand an individual of extraordinary expertise and experience, who has demonstrated a strong commitment to improving the public health.

Dr. Carmona comes to us with an impressive background. He has taken on many important responsibilities. He is a trauma surgeon, a decorated police officer, a former health care administrator, and a former Green Beret. He is a father of four children. In addition to his heroic service in the Army and as a law enforcement officer, Dr. Carmona made his professional mark in the fields of trauma care and bioterrorism preparedness.

The Committee carefully considered Dr. Carmona's nomination. In both his oral testimony and in response to written questions from the Committee, he satisfactorily addressed all the tough questions that would be expected for someone nominated to this important position.

Dr. Carmona impressed us with his commitment to preventive health, and made particularly clear his intention to aggressively oppose tobacco use by our children and youth and to combat the HIV/AIDS epidemic.

Dr. Carmona is a trauma surgeon and nurse by training. But he has assured us that he will also listen to, and learn from, the greater public health community. There is an army of health professionals and educators in our country eager to help him do his job. Theirs is an army waiting to be led in the campaign for better health.

I would close by noting that Dr. Carmona is endorsed by the National Safe Kids Campaign, the National Alliance for the Mentally Ill, the American Medical Association, the American Dental Association, and the National Hispanic Medical Association.

For these reasons, I support Dr. Carmona to be Surgeon General of the United States, and encourage my colleagues to vote in favor of his nomination.

Mr. KYL. Madam President, I rise in support of the nomination of Dr. Richard Carmona to be Surgeon General. He is clearly the person we need at this critical time for this position.

Dr. Carmona is exceptionally qualified for this important position. The President has announced that the new Surgeon General will address a number of important health issues, among them, helping America prepare to respond to major public health emergencies, such as bioterrorism.

Dr. Carmona's education and extensive career in public service have prepared him to lead ably on all health issues facing Americans today. He received his medical education from the University of California at San Francisco and a Masters of Public Health at the University of Arizona. He is currently a Clinical Professor of Surgery, Public Health, and Family and Community Medicine at the University of Arizona, as well as Chairman of the State of Arizona Southern Regional Emergency Medical System. Dr. Carmona has published numerous scholarly articles on such varied subjects as emergency care, trauma care and responses to terrorism.

He is also currently a Deputy Sheriff in the Pima County Sheriff's Department SWAT team and the National Association of Police Organizations named him the Nation's Top Cop in 2000.

Dr. Carmona has also been an administrator of a community hospital. Additionally, he was a Special Forces Medic and served in Vietnam, where he received the Bronze Star, two Purple Hearts, and a Combat Medical Badge.

As you can tell, Dr. Carmona not only has the medical experience to be Surgeon General, but also other expertise that will be necessary for the Surgeon General position at this crucial time. Unfortunately, one of the key areas Dr. Carmona will be involved in is bioterrorism. He will provide valuable leadership in helping to prepare the United States for possible future attacks. It is very important for America to be able to turn to trusted leaders if such a terrible event should occur and Dr. Carmona has the experience and skills necessary to respond to such events.

I have no doubt that Dr. Carmona will be an excellent Surgeon General and help our nation deal not only with bioterrorism, but other pressing issues such as alcohol and drug abuse, and overcrowding in hospital emergency rooms. Dr. Carmona will also be able to bring guidance in these other critical areas. His experience in trauma care will help guide him in dealing with the multitude of problems that are affecting hospital emergency rooms. I urge every Senator to support his confirmation.

Mr. DOMENICI. Madam President, I rise today in support of Dr. Richard Carmona, the President's nominee to be the Surgeon General of the United States.

The job of Surgeon General is a challenging and evolving one. The traditional requirements of disease prevention and health promotion continue to be vitally important. We must have a Surgeon General who is qualified and prepared to address these issues.

However, in this post-September 11 world, being the chief Public Health Officer also involves addressing the very real threat of bioterrorism. Therefore, it is imperative that our Surgeon General have the background and ability to deal with this new threat.

Fortunately, the President selected a candidate for this position who is uniquely qualified to address all of these requirements of the job. I won't attempt to recite all of his numerous accomplishments and qualifications, but I would like to briefly touch on a few, simply to illustrate why I believe this is the right man at the right time for this job.

Dr. Carmona's educational background, with a medical degree and a Masters in Public Health, provides a solid foundation. It is his experience, however, that solidifies his qualification for this position.

Dr. Carmona has a tremendous amount of hands-on experience as a trauma surgeon, professor, and medical director of the Arizona Department of

Public Safety Air Rescue Unit. His experience as a professor at the University of Arizona has given him the opportunity to teach about public health, surgery, and family and community medicine. As a result, he has spent a great deal of time dealing with those more traditional aspects of the job.

As for the more recent responsibilities that come with being named Surgeon General, Dr. Carmona has been working on the issue of bioterrorism since the mid-1990's. He has worked to develop seminars on bioterrorism for medical students. Furthermore, he recognizes the importance of coordinating the schools of public health with other local agencies to prevent and respond to potential threats.

While I could spend much more time touting the qualifications of Dr. Carmona, I will instead end by saying I am thankful that this remarkable American has answered the President's call to serve.

As a New Mexican, I am pleased to extend a neighborly welcome to someone else from the great Southwest. As a U.S. Senator, I am proud to cast my vote to confirm him as the Surgeon General of the United States.

Mr. McCAIN. Madam President, I rise in strong support of the nomination of Dr. Richard Carmona to be Surgeon General of the United States.

Dr. Carmona's inspiring story is the living embodiment of the American dream. A high school dropout, Richard Carmona first served our nation with the Special Forces in Vietnam, where he became a decorated Green Beret. Upon his return, he obtained his high school equivalency and became the first member of his family to graduate from college. He went on to become a nurse and later enrolled in medical school, specializing in trauma surgery.

When he graduated, Dr. Carmona relocated in Tucson, Arizona, and established southern Arizona's first trauma center. Later he continued his education, obtaining a master's degree in public health from the University of Arizona, where he now serves as a member of the faculty. As a professor, Dr. Carmona shares his knowledge and experience in clinical surgery, public health and community medicine with our nation's future doctors.

Always in pursuit of more challenges, in 1986, Dr. Carmona joined the Pima County Sheriff's Department as a surgeon and a part-time SWAT team leader. Today, Dr. Carmona is a celebrated Deputy Sheriff. In fact, he has received the honor of "Top Cop" from the National Association of Police Organizations, and is one of the most decorated policemen in Arizona.

In addition to his service, Dr. Carmona is a motivating community leader. He has stressed the importance of local preparedness, and warned of the dangers of a biological assault long before September 11. After the terrorist attacks, Dr. Carmona recognized the psychological impact of the events on Tucson residents, and coordinated a team of mental health experts to assist them in dealing with the associated trauma. Due to his bioterrorism experience, he was also put in charge of implementing southern Arizona's bioterror and emergency preparedness plans.

Although Arizona will surely miss this phenomenal man, and I know he will miss Arizona, in Richard Carmona, our nation will gain an invaluable leader. With his military and law enforcement background, coupled with his demonstrated commitment to public health and community preparedness, Dr. Carmona is extraordinarily, perhaps uniquely qualified to address the needs of our nation as Surgeon General.

I urge all of my colleagues to favorably support this outstanding nominee.

The PRESIDING OFFICER. Is there further debate on the nomination? If not, without objection, the nomination is confirmed.

The nomination was confirmed.

Mr. KENNEDY. I ask unanimous consent that the motion to reconsider the vote by which the nomination was confirmed be laid upon the table, and the President be immediately notified of the action.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from Oklahoma.

## PRESCRIPTION DRUGS

Mr. NICKLES. Madam President, how much time remains on both sides on this issue?

The PRESIDING OFFICER. Forty-six minutes.

Mr. NICKLES. Does that include 46 minutes prior to the lunch break? Is it 23 minutes a side?

The PRESIDING OFFICER. It is evenly divided.

## A PRESCRIPTION DRUG BENEFIT

Mr. NICKLES. I will be brief and yield myself 5 minutes.

Madam President, I hope this week the Senate will be able to pass a positive prescription drug proposal. It may be mission impossible. I wish that was not the case.

If we would have done it the ordinary way, the regular way, the way we have handled almost all Medicare bills in the last 20-some years, every single one except for one, it would have gone through the Finance Committee and been reported out with bipartisan support. Frankly, that bill would have been the basis, the foundation for reporting a bill that would eventually become law.

Unfortunately, we were not allowed to do that in this case. This particular bill happens to be probably the most important and the most expensive expansion in Medicare history, more expensive than any other changes and amendments we have made to Medicare since its creation in 1965. Yet we haven't had a hearing in committee on this proposal or the other proposals. We haven't had a markup. We had some bipartisan meetings, but we didn't have a chance to have a bipartisan markup. Maybe it is because it was likely that the product to be reported wouldn't have been what the majority leader wanted. It would have been a majority of the members of the Finance Committee.

I am very troubled by what we see in the Senate time and time again. If we have a committee that may not report something that the majority leader wants, we don't let the committee work. That happened earlier this year when we had a very extensive, expensive energy bill. Twenty-one members of the Energy Committee didn't get to offer an amendment. Now we have 19 members of the Finance Committee who have not reviewed this product or didn't have a markup on this product.

We are going to be voting at 2:45 on a bill that was introduced by Senator GRAHAM and Senator KENNEDY and Senator DASCHLE and others. It is 107 pages. The committee has not reviewed this. We didn't have a hearing on it.

I guess we now have somewhat of a scoring by the Congressional Budget Office, and they say it is $594 billion over the next 10 years. We find out it doesn't go 10 years. This is a benefit that is started but stopped. It doesn't start until the year 2005, but it stops in the year 2010. So we are going to pay part of your prescription drugs, but we are going to stop after a few years.

I find that to be very hypothetical at best. In fact, it wouldn't happen. Once you start an entitlement program, you never stop it, especially one that would be as popular as this.

But what are we starting? Some of us were estimating that the Democrat proposal, as originally outlined—I say "the Democrat proposal"; Senator GRAHAM and some Democrats are supporting other proposals, but the Graham-Kennedy-Daschle proposal was going to be a lot more expensive than $600 billion.

Keep in mind the budget we passed with bipartisan support last year called for $300 billion. Keep in mind the President requested $190 billion. Yet now we find one at 600. I thought it would be more expensive. The reason why it is not is because they decided to ration prescription drugs.

If our colleagues would look on page 62, it says:

The eligible entity [health plan] shall . . . include . . . at least 1 but no more than 2 brand name covered outpatient drugs from each therapeutic class as a preferred brand name drug in the formulary.

In other words, you can come up with one, maybe two drugs in each therapeutic class. For arthritis there must be a dozen drugs. For blood pressure there must be at least eight or nine or ten brand name drugs. Only one or two are going to get payment. The rest of it, you are on your own. If you are not the Government-chosen drug, I am sorry patients, you don't get any help from the Federal Government. You don't get any help from this new drug benefit. You are out of luck. You are on your own.

The beneficiary is responsible for the negotiated price of the nonformulary drug:

In the case of a covered outpatient drug that is dispensed to an eligible beneficiary, that is not included in the formulary established by the eligible entity for the plan, the beneficiary shall be responsible for the negotiated price for the drug.

In other words, beneficiary, you pay 100 percent. You choose or take the Government-selected drug, which would be a very small percent. Maybe that would cover about 10 percent of eligible drugs in the entire population. If you don't get that drug, you are out of luck. You are responsible for 100 percent.

I could go on and on. We are limited on time. I have several speakers on our side who wish to address this. This is one of many serious mistakes that are in this bill. It is one of the mistakes we made by following the process of not marking it up in committee. I am sure if it had been discussed in the Finance Committee, we would have modified it. Unfortunately, we didn't have that chance.

If I thought this were going to pass, we would be talking about it a lot more because it has several fatal flaws that would be very injurious to America's health. It would mean rationing of prescription drugs; certainly something that we don't want to do.

I urge my colleagues to vote no on the Graham-Daschle-Kennedy amendment at 2:45.

I yield the floor.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Graham Amendment No. 4309, to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program.

Hatch (for Grassley) Amendment No. 4310, to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the Medicare program, and to modernize the Medicare program.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I point out to my friend from Oklahoma that there are no provisions in his bill that are going to require the insurance companies to provide more than two drugs in any therapeutic group in a formulary. There is none. What is beyond that is what the cost will be.

In our bill, if the doctor recommends that a patient have a particular brand name drug that is not on the formulary, the patient can have it. We write in our bill how much that patient will pay, which is $40. But there is no such provision in the bill the Senator is talking about.

The Senator cannot show in his bill what the premiums are, what the cost is for premiums, deductibles, or the copay. It is going to be what the insurance company wants to do. It is a blank check for the insurance companies. There is no provision in there that indicates what the costs will be. That is the big difference.

Under the Graham proposal, which was spelled out in great detail last evening by Senator GRAHAM and others, beneficiaries will be able to get that off-formulary drug, and the price will be $40.

On page 29:

Treatment of medically necessary nonformulary drugs will be whatever is medically necessary.

Madam President, I withhold the remainder of my time.

Mr. NICKLES. Madam President, I believe under the unanimous consent request, we had Senator GREGG managing the time. Senator GRASSLEY will manage the remainder of the time.

Mr. KENNEDY. I yield 15 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I was listening to the comments made by my friend from Oklahoma. It is too bad he wasn't here in 1965 because he could have joined the chorus of voices on that side of the aisle that argued against Medicare. He would have fit right in. If you read the debate, it is almost like listening to it again. So it is too bad my friend wasn't here in 1965. He could have led the charge against Medicare.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. I only have 10 minutes.

Mr. NICKLES. I was wondering why you were guessing what I might have done in 1965.

Mr. HARKIN. I am just taking it from your approach here because you want to basically—what the Senator is saying is he wants to turn this over to the insurance companies. A lot of people wanted to do that in 1965, to turn Medicare over to the insurance companies.

Mr. NICKLES. If the Senator will yield further——

Mr. HARKIN. I will yield when I get done.

Mr. NICKLES. I would appreciate it, if my colleague is questioning my motives——

Mr. HARKIN. The point is, the Senator from Oklahoma and other people on that side are saying turn it over to the insurance companies. He talks about rationing, but what the Republicans want to do is give private insurers a free ride, charge seniors whatever they want, and then they will be able to tell them what drugs they take. That is what the insurance companies do now anyway.

Look at the debate on Medicare. Turn it over to the insurance companies. You can just go back to 1935 and look at the debate on Social Security. We have heard the same echoes all the time down through the years that we cannot do this. Well, it is time we do it. It is time we make good on the promise to 44 million Americans who rely on Medicare.

The choice is very clear: You either do it under Medicare, which is proven and has a proven track record; it cuts out all of the middlemen in the middle ground and gets the drugs right to seniors, or you can go in the other direction and say we will do it through the insurance companies, which is exactly what the bill on the Republican side proposes to do.

I know a little bit about this personally. My father was quite old when I was born. When I was in high school, my father was already in his late sixties, and he had worked just enough quarters to qualify for Social Security. He worked most of his life in coal mines, but during the war and right after the war he worked enough just to qualify for Social Security. But he would get sick every winter. We didn't have drug coverage. He would go to the hospital, and thank God for the Sisters of Mercy, who would take care of him and send him back home again. I happened to be in the military in 1965 when Medicare passed. I came home on leave and saw my father, and he had his Medicare card. Head held high, he could go in and be taken care of without relying on charity. But the one thing that was missing was prescription drugs.

My father is long gone, but for others since that time, the one thing that is missing is prescription drugs. I have never been able to understand why it is that if you get sick and you go to the hospital, Medicare pays for all your drugs, but if you want to stay healthy, stay at home, Medicare won't pay for your drugs. That has never made sense to me. It seems to me you would want to get the drugs to the elderly to keep them as healthy as possible, to keep them at home, so they don't go to the hospital.

My friend from Oklahoma mentioned rationing. We hear rationing, rationing. I say to my friend, go to Iowa right now and talk to the low-income elderly in Iowa. Here is their rationing. They cannot pay for their prescription drugs.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. They cut them in half, or they decide whether or not to pay their heating bills in the winter or take their drugs; and when they have to cut back on their drugs, they get sicker and sicker, and they go to the hospital, and of course then Medicare pays for all their drugs.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. I said I will yield when I get through with my statement.

So the Graham-Miller proposal is the one that does it through Medicare. It is the one on which seniors can rely, and it is rock solid.

This is the proposal the Republicans have right here on this chart.

For example, they say, under their plan, a senior with $1,000 in drug care costs still pays $913. That is 91 percent that they still have to pay. And 18 percent of seniors have drug costs of about $250. Under this, they would pay everything. Eighteen percent have drug costs of $1,000. Under the Republican proposal, they would pay 91 percent, $913. Seventeen percent of seniors have $2,000 in drug costs a year. Under the Republican proposal, they would pay $1,413, or 71 percent. Twenty-three percent of seniors—about one out of four—have $4,000 a year in drug costs. Under the Republican bill, they would pay $2,688 out of pocket, or 67 percent. If they have $5,000 in drug costs, they are going to pay 74 percent out of pocket. What kind of insurance is that, where you are paying 91 percent, 71 percent, 67 percent, or 74 percent out of your own pocket? Would you buy insurance like that?

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. Would you buy any kind of insurance—say a homeowners policy, and if your house burned down, you would pay 91 percent? Or if your car gets wrecked and it has to be fixed up, you would pay 71 percent of the fees. What kind of insurance proposal is that?

It is nonsense, not insurance. It is just another rip-off for the drug companies. Again, this does not provide adequate coverage and it doesn't contain costs.

Two weeks ago, I had a roundtable discussion in Iowa with insurers, business leaders, and consumers about drug costs. They were united in saying that not only are rising drug costs hurting seniors, they are a growing problem for employers trying to maintain affordable health insurance for workers. It is a problem for younger workers, feeling the pinch of higher health insurance premiums and cost sharing as a result. These Iowans were adamant, saying that any bill we pass has to have some new tools to hold down the rising drug prices.

Only the Graham-Miller bill makes progress toward cost containment. It includes a bipartisan plan that will close the loopholes that have allowed drug companies to block lower cost generics from coming on the market. It addresses the issue of the 30-month rollover that they get all the time. The bill on that side doesn't do that. It is crucial because generic drugs cost a fraction of what the name brand equivalent costs, and they are just as safe and effective. But only the Graham-Miller bill addresses that issue of bringing generics on the market and providing for that competition with brand names.

The Graham-Miller bill has the Stabenow amendment, which will allow States to provide the discounts they get through Medicaid to others in the State, including seniors.

There is also the important Dorgan amendment, which says drugs could be reimported from Canada by pharmacists. If you want to know how important this is, talk to my friend Marie, a 67-year-old retired nurse from Council Bluff. She dedicated 43 years of her life to helping others. She told me she is lucky compared to her friends because she is only on three medications. She recently got an advertisement from a drug company in Canada that would sell her drugs to her for less. She did some research and got a prescription from her doctor. She is saving over $80 a month right now.

She has a friend who takes tamoxifen, an anticancer drug for breast cancer. She tried buying her tamoxifen from the Canadian company. In the United States, it cost her $319 for a 3-month supply. It cost her $37 from Canada.

The problem with that is that individuals are doing that, and they are leaving out their local pharmacists. It is vitally important for the elderly to have communication and a relationship with their local pharmacist to make sure they are taking the right drugs and the right dose.

While I think it is fine for seniors to get their drugs from Canada reimported, we have to make sure local pharmacists can do the same thing. Let them reimport the drugs from Canada at that same price. The Republican bill does not do that, but the Graham-Miller bill does.

Today we have a chance to pass a bill that will contain costs, that will provide affordable and reliable prescription drug coverage without gaping holes. We have the chance to make sure we bring generics on the market sooner to provide competition and to let our pharmacists reimport drugs from Canada at a cheaper price for our consumers.

All of that is in the Graham-Miller-Kennedy amendment, not in the Grassley-Breaux-Jeffords, et al, amendment. If you want good coverage, if you want to close the loopholes, vote for the Graham-Miller bill and not the fake substitute on the other side.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator's time has expired.

Who yields time? The Senator from Iowa.

Mr. GRASSLEY. Madam President, I yield 1 minute to the Senator from Oklahoma, and then I would like to immediately yield 9 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Madam President, I do not intend to object. If the Senator from Oklahoma should be provocative, which for a moment or two he might be, I hope I can yield a moment to the Senator from Iowa just to be quiet, calm and reserved, and then go to the 9 minutes for Senator BREAUX.

The PRESIDING OFFICER. The provocation standard is recognized. The Senator from Oklahoma.

Mr. KENNEDY. Do we have that understanding?

Mr. GRASSLEY. I agree.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, people are entitled to their own opinion, but they are not entitled to their own facts. The tripartisan bill—and I will let Senator GRASSLEY and Senator BREAUX and others defend it—says for people with incomes less than 150 percent of poverty, the Federal Government, or this new plan, will pick up 95 percent of the drug—95 percent.

Under the Democrat proposal, if you do not have the Government-chosen plan or prescription drug, you get zero. Zero. Not 9 percent, not 50 percent.

The chart the Senator from Iowa has is incorrect. Under the basic plan, if you have an income above 150 percent of poverty—in other words, above $20,000 for a couple—the Federal Government picks up half the prescription drug cost up to $3,450—half, 50 percent—and you choose your drug, not the Government choosing the drug. There is a big basic difference in this plan. You get to choose the drugs, not the Federal Government.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I ask for 1 minute to respond.

Mr. KENNEDY. I yield 1 minute.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I heard the Senator from Oklahoma. Talk about a Harry Houdini magic trick and trying to pull a funny curtain over issues. If you are below 150 percent of poverty, then it picks up 95 percent, but what he is not telling you is there is an assets test.

Take someone in Iowa who has an automobile worth $4,500. We need cars in Iowa. We do not have mass transportation. If you have a $4,500 car, you are not eligible for less than 150 percent of poverty. That is the assets test. If you have a burial plot worth $1,500, then you are out of the 150-percent poverty test; $2,000 worth of furniture, you are out. They are not telling you that. Have him stand up and tell you about the assets test and tell my elderly in Iowa, many who are below 150 percent of poverty, that they cannot have a $4,500 car, that they cannot have a $1,500 burial plot, that they cannot even have $2,000 worth of furniture in their house. If they do, they do not qualify. Go ahead and tell them that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. WELLSTONE. Madam President, with my colleague's indulgence, I ask unanimous consent that I follow the Senator from Louisiana for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. I thank the Chair. Madam President, I thank my colleague for yielding me time.

On this amendment, on the argument in which the two colleagues were engaged, there is already an assets test for Medicare. The assets test is part of the concept of delivering health care in this country. If someone has low income but has assets—a house in Florida, a large bank account, investments in stock—those assets are always considered to determine whether a person is eligible for Medicaid. We have all supported that. It is not new.

The purpose of my taking the limited time that I have is not to criticize the other approach because our approach cannot be good just because the others are deficient. The tripartisan plan should be able to stand on what it stands for, not because the Graham plan is deficient in any particular area. So I am not going to spend my time talking about any perceived deficiencies in their plan but rather explain what we have presented to the Senate.

Legislating is the art of the possible. It is not trying to get something done that cannot happen. There are a number of proposals trying out how we are going to do what everybody thinks we should do, and that is an attempt to provide some reform to Medicare and at the same time do what we should have done in 1965, and that is to cover prescription drugs under Medicare.

Prescription drugs today are equally as important as a hospital bed was in 1965. Mostly that is on what Medicare tried to focus. It should cover prescription drugs, we all agree. There are various proposals as to how we should do that, ranging from $150 billion over 10 years, the Hagel proposal from the Republican side; the House has a plan for about $350 billion which includes provider givebacks; the Graham proposal is $594 billion dollars; our proposal is Medicare reform and a prescription drug plan that is about $370 billion, which I think fits between the various proposals.

Every one of us should remember from where the money is coming. The money on any plan is coming from the Social Security trust fund. Our plan, the Graham plan, the Hagel plan—all of it is taking the money for the people today out of the trust fund for Social Security for our children and our grandchildren. That is from where it is coming.

I can say I want $1 trillion, but from where is it coming? We have to be realistic in these economic times to recognize there is not a whole lot of money floating around that we can do with what we think is appropriate without doing grave damage to the Social Security trust fund for our children and our grandchildren.

What we have tried to do in the tripartisan approach is to figure out what is a good drug delivery system and what is an affordable price. I mentioned the price we have is about $370 billion, which includes about $30 billion for reforming Medicare, which desperately needs reforming.

The model we have used is to ask: What has worked? One approach that has worked is the health care plan I have as a Senator—it is a pretty good plan; we wrote it—as do about 9 million other Federal employees. It is contained in the Federal Employees Health Benefits Plan that we get every year. We get to choose our drug plan or our health plan. We have private contractors come in and say: This is what we can offer to provide you health care at this price.

What we have tried to do in the tripartisan plan is say let's combine the best of what Government can do with the best of what the private sector can do. Some of my colleagues on this side of the aisle would say the private sector should do everything—keep the Government out of it. Some on my side of the aisle will say we need to have a Government-run program because nothing else is going to work.

The truth is, the best of what both can do needs to be combined, and that is exactly what the tripartisan plan has attempted to do. We combine the best of what Government can do, i.e., helping to raise the money to pay for it; No. 2, supervising it to make sure nobody in the private sector tries to scam it; to have Government controls and Government approvals over all segments of participation, and then what the private sector can do is bring about innovation and bring about competition to help keep costs down. So that is the proposal we have before the Senate.

Some have said that is not going to work because the big insurance companies are somehow going to try to rip off the beneficiaries in this country. Well, there are insurance companies right now that provide Medicare to beneficiaries, which is supervised by the Federal Government. Blue Cross and Aetna regularly provide all of the benefits, the hospitals and doctor coverage, under a contract with the Federal Government.

What we are saying is have the same type of delivery system for prescription drugs but have the plans have some of the risks. We are talking about Blue Cross and Blue Shield, Aetna and Merck-Medco, national operations that are big boys in this business. Under the Graham plan, they say we are going to have a management contract with them, but if they overshoot their costs and their costs are more than they say they are going to be, the taxpayer is going to pay the difference. The difference in our plan says these guys are big players and if they say they can provide prescription drugs for $100 per beneficiary, and it ends up costing $102, they are going to have to assume the risk. They are going to have to eat their mistake, not the taxpayers of this country.

Why is that important? It is important because if they know they are on the hook for some of the risk, they are going to have an incentive to negotiate the best possible price with the pharmaceutical companies in order to make sure the price they say they can do it for is, in fact, that price or even less. They will then have an incentive.

What kind of an incentive does a provider have if they know when they bid costs more than that, the taxpayer is going to pick up the cost? That is exactly what the other approach does and why I think the approach, by saying these companies should have some of the risk, not all of it, but they ought to have enough risk to make sure they negotiate and compete, and that is one of the differences in our plan.

All of this is done under the supervision of the Health and Human Services Secretary to make sure the plans they present do not try to scam the beneficiaries, do not try to cherry-pick only the healthiest. The Government can do that, and in our plan the Government does that.

One of the other concerns I have had is that people have said it is not going to work in rural areas; Medicare+Choice does not work in rural areas. And that is true. One of the reasons is that Medicare+Choice has to do a lot more than just provide prescription drugs. They have to have a hospital in a rural area, doctors, emergency rooms, ambulance services, all the things that are necessary to create a health care system in a rural area. As the Presiding Officer knows, that is a very difficult challenge.

If only prescription drugs are being delivered, that infrastructure is not needed. The only thing that is needed is a doctor to write a prescription and a drugstore to fill it, or a mailbox if one chooses to do it by mail order. The entire infrastructure is not needed as it is under Medicare+Choice.

What we say in the bill very clearly is that every administrator shall, consistent with the requirements, approve at least two contracts to offer a Medicare prescription drug plan in an area. What that means is that every person, even in the most rural part of America, has to have at least two people or two companies offering prescription drugs to the people in that area. If only one bids, the Government can make the assumption of the risk even greater until one gets at least two plans to compete. If one ends up with only one, the Government will be the one that provides the other alternative.

So rural areas are protected. Can't we tighten that up? I am certainly willing to try and do it. I think we state very clearly that every part of the country has to have at least two plans offered to them on a competitive basis. That is what the law would be. The Government has to make sure that there are two plans, and if someone does not get two plans, then the Government will come in and offer the prescription drugs to the people in the area.

Under the Federal Employees Health Benefits Plan, pick the most rural part of New York or the most rural part of Montana and there is a Federal employee who probably works in one of those counties that has Federal health insurance. They get it in the most rural part of this country, under a system that utilizes private contractors to provide it. They get their prescription drugs under the Federal Employees Health Benefits Plan.

The other part is that people have said there is too much flexibility in our plan. Every plan that everybody gets, including mine, has flexibility of choice. We can pick the plan that is actuarially equivalent and pick the one that makes the most sense for us.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 9 minutes.

Mr. BREAUX. I would conclude by saying I think we have offered something that is possible, that is doable and that we can actually adopt. I think that is a good suggestion this body ought to take under consideration.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, Eli Lilly has a discount card. It is called Lilly Answers. The card is supposed to give low-income seniors a 30-day supply of any Lilly drug for a $12 fee. Sounds like a great deal, but when one reads the fine print, it turns out that a lot of drugs are excluded.

Noland Decks from Winona sent me this letter about his sister:

> I am writing to relate to you the prescription medicine situation for my sister, Hazel Decks, who has Parkinson's disease. Her income is such that she has qualified for the Lilly Answers program which is supposed to give her a one month supply of Permax for $12. When I approached the pharmacy to get her prescription refilled, I was informed that Eli Lilly has chosen to exclude this medication from the program, in spite of the fact that the bottle says it is manufactured by Lilly. I contacted Lilly and could find no one who would explain why. I now believe that they will not allow it because it is too expensive. The 30 day supply costs Hazel $375.

For Parkinson's medication. I had two parents with Parkinson's disease.

> Her Social Security check is $479 a month.

I give this example because in 5 minutes I cannot even begin to cover the ground, but there are about three or four thoughts that come to mind as we come close to a vote. First, I do not think, based upon what we have seen in the last month or two, anybody any longer would believe that the Arthur Andersens of this world should be writing any kind of reform legislation when it comes to securities reform, when it comes to protecting investors and consumers. I do not believe that hardly anybody in the Senate would argue that when it comes to a clean air bill or a clean water bill that environmental polluters should write that legislation.

So it is, I do not believe that the pharmaceutical companies ought to be writing a prescription drug benefit plan. I think it is a mistake.

What are the differences? I will not go through all the numbers. Everybody has heard the numbers. To me, the differences are as follows: In the Graham-Kennedy-Miller plan, at least there is a defined benefit. Does it sound familiar, a "defined benefit"? Not defined contribution. Senior citizens' prescription drug coverage is part of Medicare. It is a defined benefit. They know what they are going to be eligible for and they are going to have the coverage.

The competing proposal basically has the Federal Government farming out a subsidy to private health insurance plans, Medicare managed-care plans, and basically saying we hope to give enough of a subsidy that they then will provide the benefit. It is a suggested benefit. It is not a defined benefit. There is no security for senior citizens with this alternative.

For my own part, I will go one step further. When there is too high a deductible or there is a doughnut hole where a lot of seniors are worried about what they are going to do about these expenses as they run up $2,000, $3,000, $4,000 a month, that is the other big issue. We do not want to have a huge gap where people get no coverage, and that is exactly what is in the competing proposal.

Finally, I say to all of my colleagues, which is a different point, but I get a chance to say this, I want to see us do better on discounts and cost containment. I want to see us for sure support the Schumer-McCain amendment on generic drugs. I want to make sure this reimportation from Canada actually is put into effect—it looks like the administration does not want to—because of the huge discount for senior citizens and other seniors as well. I would personally like to see the Federal Government become a bargaining agent for 40 million Medicare recipients, and in the Graham-Kennedy-Miller bill there is allowance for the different managers around the country, benefit managers to do that work getting discounts. I want to see the States building on the Stabenow amendment and see States able to recoup some of the savings they get from exacting a discount for people with no coverage now and adding that on to medical assistance.

Colleagues, what is going on is there are quite a few Senators in good faith—I don't assume bad faith—who do not believe there is a major government role here. They do not believe this ought to be part of Medicare. They are not quite sure they believe in Medicare, though it has been an enormously successful program. We should extend prescription drug benefits to Medicare and make it a clear, defined benefit that is affordable for senior citizens. That is the right thing to do.

I yield the floor.

Mr. FRIST. Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator from Tennessee has 5 minutes and 40 seconds.

Mr. FRIST. And the other side?

The PRESIDING OFFICER. Three minutes 55 seconds.

Mr. FRIST. I yield myself 3 minutes.

Madam President, soon we will vote on one of the most important matters facing the Nation—whether to provide within Medicare a prescription drug benefit. In order to strengthen Medicare, we must include affordable prescription drug coverage as part of the package. Too many seniors today find prescription drugs unaffordable. The high cost of prescription drugs serves as a barrier between seniors and the health care security they deserve—which this body has promised them.

There is only one proposal that accomplishes the goal of modernizing Medicare and including a prescription drug benefit within Medicare: that is the tripartisan bill. Senator SNOWE, a Republican, BREAUX, a Democrat, JEFFORDS, an Independent, HATCH, a Republican, GRASSLEY, a Republican, COLLINS, a Republican, and LANDRIEU, a Democrat, collectively have sponsored this bill which reduces the cost of prescription drugs and provides a stable and sustainable prescription drug benefit. The word "sustainable" is critical.

The tripartisan bill provides low-income seniors and those with initially high drug costs special additional coverage in order to give them security. It expands and improves Medicare benefits under the traditional Medicare fee-for-service program that seniors and individuals with disabilities are comfortable with and understand today. It begins the critical element of instilling competition as we seek to add a new benefit—which means prudent decisionmaking will be made. The tripartisan bill is designed to be permanent, sustainable, affordable and responsible. Even though the cost—$370 billion—goes beyond what was intended in the initial budget, I believe it is a reasonable first step.

In closing, the tripartisan bill is not perfect, but it is clearly more responsible than the alternative bill. Many think $370 billion, the cost of this bill, is high. And it is high, especially since it is not coupled with as much reform as I think will be required to ultimately strengthen Medicare. Additionally, the bill lacks some of the necessary reforms that are needed to make Medicare truly sustainable—considering that the number of seniors will double in the next 30 years. Finally, the bill is not immediate, but neither is the alternative bill.

The time to help seniors is now. We must act now, act responsibly, and implement a plan that can be sustained. I will support the tripartisan bill because it provides the best and only real opportunity for progress this year on this important issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. EDWARDS. Madam President, I yield myself 3½ minutes.

This debate taking place in the Senate is about people's lives. We have senior citizens who desperately need a prescription drug benefit. This is what they want. They want one that is affordable and reliable. It is no more complicated than that.

The Graham-Miller bill meets that criteria. Unfortunately, the bill from the other side does not for at least two major reasons. It turns the prescription drug benefit over to private insurance companies. The insurance companies themselves have said this will not work. It will not work because they are in the business of making a profit. They will only go to the markets where it is profitable. That means there will be millions of senior citizens around this country with no access to a prescription drug benefit.

Second, it has an enormous gap in coverage. For those who have $400 a month in prescription drug costs, there will be 3 or 4 months toward the end of the year where they will get no coverage at all, no help for their prescription drugs, although every month they are writing a premium check. That makes no sense. Those problems are taking care of in the Graham-Miller bill.

In addition, we have to bring the cost of prescriptions under control. That is why, no matter what, we have to pass the underlying bill that gets generics in the marketplace, stops the frivolous use of patents to keep generics out of the marketplace so we can have competition and bring down the cost of prescription drugs for everyone.

Second, to allow, in a safe fashion approved by the FDA, for drugs from Canada at lower cost to be brought into the United States so folks can buy at a lower cost.

Third, to allow States to make prescription drugs available to the uninsured at the same cost of those of us with health insurance and those in the Medicaid Program pay, to make the same cost available to them that is available to everyone else so they are not taken advantage of.

Those things will help make this prescription drug benefit affordable.

Last, in addition to all of that, this has to be considered in the context of a responsible fiscal budget, in order to get this country back on the path to fiscal discipline. In January of 2001, there was a $5.6 trillion projected surplus; $5 trillion of it is gone. Why? The biggest single reason is because of a tax cut proposed by the President that has now been passed and signed into law.

To get this country back on the path to fiscal discipline, which it so desperately needs to be able to afford a prescription drug benefit, we ought to do at least three things; First, we ought to have pay-as-you-go rules apply in this Congress; Second, we ought to follow spending caps; Third, we ought to do something about the top layer of the tax cut for the 1 percent of Americans, the highest earning, richest people in America, scheduled to go into effect in the year 2004, to ask them to give up that tax cut in order to help their fellow Americans, in order to help us get back on the path to fiscal discipline and operate this Federal Government and this Federal budget in a responsible way.

The American people want us to do all these things. Give them a real prescription drug benefit, one that is affordable, one that is reliable, one they know they can depend on to bring down the cost of prescription drugs and find a way to pay for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield myself such time as I may consume of the remaining 2 minutes and 40 seconds.

First, I am happy to hear the Senator from North Carolina mention the prescription drug program has to be within the context of a fiscally sound budget process. I agree with that. But I think that is very much an argument for a piece of legislation that is permanent as the tripartisan plan is, as opposed to a sunsetted provision coming from the other side of the aisle that is $370 billion as opposed to $595 billion, the latter being the figure from the other side of the aisle. Just basically getting more for your money in the sense that CBO has scored the tripartisan program as the only program that brings down drug prices because of competition and the efficiency with which they are delivered as opposed to the program on the other side of the aisle that is very much a partisan plan as opposed to our bipartisan plan that drives up the price of drugs according to the CBO, which is our nonpartisan scoring arm.

Also, for the benefit of the Senator from Massachusetts who is still here and my colleague from the State of Iowa who is not here, I go back to the assets test. I think they think they have something. But the point of the matter is, they do not. We have heard these repeated objections to the assets test for low-income benefits in our bill as if it is something new. That is a red herring. There has been an assets test for low-income Medicare populations since 1987, and I happen to know that these programs passed by overwhelming margins—under the qualified Medicare beneficiary program as one example, as a specified Medicare beneficiary program as a second—and these programs have passed overwhelmingly with the support of my Democrat friends on the other side of the aisle.

I think that is injecting an argument into the program that is not legitimate. Current law excludes from the test the home and property it is on, a car that is necessary. I can also say it happened to be in the 1999 Clinton Medicare bill—that included an assets test as well.

The PRESIDING OFFICER. The time of the Senator has expired.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the parliamentary situation? What is pending?

AMENDMENTS NOS. 4309 AND 4310

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes for debate, to be equally divided between the Senator from Massachusetts, Mr. KENNEDY, and the Senator from New Hampshire, Mr. GREGG.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, on behalf of Senator KENNEDY, whom I do not see in the Chamber yet, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am going to vote for the Graham-Miller amendment because it is, to my mind, the best proposal before us. It will provide affordable prescription drug coverage throughout the country. I think that is the best policy.

But it now appears there may not be enough votes for that amendment. The same, I might add, is also true of the Grassley amendment, which embodies the so-called tripartisan approach.

If that turns out to be the case, we will be at a stalemate. At that point, we will have to decide whether there is some way to resolve our remaining differences so we can write a prescription drug bill that can pass.

With that in mind, I would like to briefly discuss the three key remaining differences.

The first, and probably most significant, is referred to as the delivery model. That may sound like some kind of technical jargon, but it is actually a very important matter and will determine whether we are passing some theoretical, pie-in-the-sky prescription drug benefit that works on paper but fails out in the real world or whether we are passing one that will really get prescription drugs to seniors at affordable prices.

There are two approaches.

Under the Graham-Miller approach, prescription drugs will simply be added to the existing Medicare Program, with some new incentives for efficient administration.

Under the Grassley approach, in contrast, prescription drugs will be provided through a new, market-based system that relies on private insurance companies.

People may ask: Why not try something new? What is wrong with a new market-based system?

Simply this: The new system is untested and may leave seniors without adequate coverage, especially in rural States such as my State of Montana.

Let me explain. Montana seniors, like those living in other rural areas, lack the rich retiree coverage options their urban counterparts enjoy. There just are not as many large companies offering benefits to retired workers in my State of Montana as there are in other parts of the country.

We also do not have any Medicare+Choice plans offering free or low-cost drugs to beneficiaries as in places such as Florida or some other parts of the country. In addition, our Medigap rates are higher than the national average and Medicaid coverage is lower.

On top of all that, we have been burned in the past by the promises of competition and efficiency. Rural areas often get the short end of the stick when we deregulate and leave people at the complete mercy of market forces that favor highly-populated areas. Consider airline deregulation, managed care, and energy deregulation, to name a few.

I don't want to overstate the case. I'm not saying that a new approach is absolutely unworkable. But I am not willing to buy a pig in a poke. I want a reasonable assurance that a private insurance model will work.

I know that many other Senators share my concern. How can we address this concern? Is there another way, another idea? There may be.

In essence, we would shift to a new, market-oriented system but do it gradually, with plenty of safeguards to make sure that it really works, especially in rural areas and other underserved areas.

The resulting system might not be quite as efficient as some would like but in exchange, it is more stable than it otherwise would be under the private model.

The second key difference, between the two main proposals, is how much to spend on a prescription drug benefit. Clearly, we are talking about a big investment of government dollars, and even at the amounts we are considering here, we won't buy a benefit that will meet seniors' expectations.

The proposals that include a so-called doughnut, or coverage gap, give pause for concern, simply because during some parts of the year, seniors would not receive any assistance. I don't want to belabor the point, as I know many others have talked about this problem over the past few days.

To my mind, the Graham-Miller bill is right about on target, and I hope that those who support the Grassley approach can, in the spirit of compromise, agree to devote some further resources to helping our seniors.

The final key difference involves what is referred to as "Medicare reform." That means making additional changes to the Medicare system, beyond those necessary to provide a prescription drug benefit.

With due respect to the proponents of reform, I believe that we should keep our eye on the ball. We have limited resources. Many of the reforms are untested and, in some cases, risky. We will have other opportunities to consider broader changes to the Medicare program.

In light of this, I suggest that we defer the debate about additional reforms until a later date, and concentrate on prescription drug coverage.

Those are the key differences. Delivery model, spending, and other reforms.

Are they significant? They certainly are.

Can they be resolved? If we roll up our sleeves and put the interests of seniors ahead of politics or theory, we will get it done.

I yield the floor and encourage my colleagues in the next several days to work to find a compromise that gets the large vote and protects our seniors.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield 3 minutes to the Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, the moment is at hand when the Senate will determine the fate of prescription drug coverage for our Nation's seniors. I hope we will not allow a 60-vote threshold to stand between us and the possibility of passing a meaningful benefit for our Nation's seniors. That would be doing a tremendous disservice to those seniors who desperately need prescription drug coverage. I hope we will avoid the procedural gymnastics and do what is right.

The tripartisan plan is the only plan that has across-the-aisle political support. We worked on this endeavor for more than a year. I hope Members of the Senate will give it serious consideration.

The facts speak for themselves on the tripartisan plan. Our plan is permanent. It does not sunset as the Graham proposal that sunsets after 2010. The language is right in the legislation. We have never, ever added a temporary benefit to the Medicare Program in its 37-year history, and we should not start now. It is providing a false hope to seniors who need this type of coverage. They should not have to beat the clock when it comes to their own health care. I guess you had better not get sick after 2010 because that benefit will expire.

The tripartisan plan is universal, applying to seniors no matter where they live in America, with the lowest premium offered of any bill either in the House or the Senate, thanks to a 75-percent Federal subsidy, which is higher than what Federal employees get under their health care coverage. Our opponents' plan not only creates a higher premium, but they also increase the prices of prescription drugs. That is not our projection; it is the projection of the Congressional Budget Office that estimates it could be anywhere as high as 15 percent, but at least 8 percent, in driving up the cost of prescription drugs.

It is also estimated under the tripartisan plan that 99 percent of seniors will participate, and 80 percent of those who do will never reach our benefit limit of $3,450.

I remind Members that we have a catastrophic benefit of $3,700 to protect people's out-of-pocket costs that are very high. Seniors in our plan will pay less on copayments, less on copayments under our plan for 39 out of the top 50 prescribed drugs for seniors. And we cover all drugs—brand name, generics—unlike the plan offered by the Senator from Florida, Mr. GRAHAM who leaves out most of the brand name prescriptions. In fact, only 10 percent of the brand name drugs will be covered under that legislation. Under the tripartisan plan, seniors will have access to all drugs.

I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. That is an important feature because by excluding most of the brand names from coverage, that means you are denying seniors access to the most innovative and cutting-edge therapies available. That is not the kind of coverage we want to provide because that is a huge gap in coverage.

Finally, I hope we will not allow this issue to die today here on the floor. I appeal to my colleagues to do everything they can to prevent killing this legislation. We need to get something done. These votes today are going to be very important in determining who wants the politics or who wants the issue.

We want progress. The best way to get progress on this most vital issue to our Nation's seniors is by supporting the tripartisan plan that has bipartisan support in the Senate.

I hope Members of this body will support this plan that will do more to help our Nation's seniors in providing them a much-deserved prescription drug benefit.

I yield the floor.

Mr. LEAHY. Mr. President, in recent days the Senate has begun to consider a number of proposals designed to help Americans afford their needed prescription drugs, not the least of which is to create a Medicare prescription drug benefit. This is an important debate, and one that has been a long time in coming to the floor of the Senate. Now we have the opportunity to not just talk about creating a Medicare drug benefit but to prove to our Nation's seniors and disabled that we stand by our word. The amendment offered by Senators GRAHAM, MILLER, and others is the best proposal before us, and it is one that I urge my colleagues to support.

I am pleased to be an original cosponsor of this piece of legislation because it is the only one that would create a new, voluntary prescription drug benefit within the Medicare Program that all beneficiaries would be eligible for. Under the Graham-Miller proposal, Medicare beneficiaries will receive assistance starting from the moment they buy their first prescription drug. There is no deductible and there is no gap in coverage, ensuring that no senior will be left stranded without the drugs they need. Beneficiaries would be responsible for copayments of $10 for generic drugs and $40 for medically necessary preferred brand name drugs until they have reached $4,000 of out-of-pocket spending, at which point Medicare pays all expenses. This bill provides low-income seniors and those with disabilities with extra assistance by covering the premiums and copays for those living below 135 percent of poverty, and giving premium assistance to those between 135 and 150 percent of poverty. In my State of Vermont, 28,000 of our 87,000 Medicare beneficiaries have incomes less than 150 percent of poverty and thus will qualify for this extra assistance available under the Graham-Miller proposal.

This amendment will help our seniors get the drugs they need, no matter where they live, what their income, or how sick they are. I urge my colleagues to support this important measure that will put affordable prescription drugs within the grasp of some of our most vulnerable Americans.

Mr. AKAKA. Mr. President, I rise today as a cosponsor of the Graham-Miller-Kennedy amendment that would establish a guaranteed Medicare prescription drug benefit for all seniors.

Approximately 19 million seniors in the United States have little or no prescription drug coverage. Prescription drugs are the largest out-of-pocket health care cost for seniors. Many who cannot afford drug coverage often do not take the drugs their doctors prescribe, and one in eight senior citizens is sometimes forced to choose between buying food and buying medicine. While numerous seniors live on modest fixed incomes, prescription drug costs have increased by more than 10 percent a year since 1995. Medicare needs a voluntary prescription drug benefit so seniors have the same protection against the high cost of prescription drugs as they have for hospital care.

The Graham-Miller-Kennedy amendment is the most comprehensive Medicare prescription drug benefit proposed in the Senate thus far. It provides coverage to all seniors regardless of their health or income. In Hawaii, 159,000 senior citizens and disabled Medicare beneficiaries would be eligible for coverage under the Outpatient Prescription Drug Act, 41,000 low-income seniors in Hawaii would qualify for additional assistance under the plan.

Affordable premiums and copayments are key components of the Graham-Miller-Kennedy plan. For example, if a senior spends $4,000 on prescription drugs, she would reach the catastrophic limit and all additional drug expenses would be covered under this proposal. Seniors will not lose their current employer retirement coverage and will not have to rely on the public benefits provided by the plan. There also would not be a asset test required for participation in the Graham-Miller-Kennedy program.

The competing amendment proposed by the Senator from Iowa is well intended, but the Grassley amendment would not provide adequate coverage for seniors. The Grassley amendment would result in 26,000 seniors in Hawaii losing their existing retirement coverage, 47,000 seniors and disabled Medicare beneficiaries in Hawaii would fall into the benefit hole and would have to continue paying premiums and paying higher drug costs while not receiving any benefits. The Grassley amendment would also include a means test to qualify for additional assistance that would prevent seniors with assets greater than $4,000 from qualifying for additional assistance.

Today, the Senate has a historic opportunity to provide seniors with the missing piece of health care coverage that is urgently needed. We must ensure that all seniors are provided with an affordable and comprehensive prescription drug benefit for all seniors. I urge my colleagues to support the plan which does this, the Medicare Outpatient Prescription Drug Act.

Mr. VOINVICH. Mr. President, I rise to speak in favor of the tripartisan prescription drug proposal before the Senate. I applaud the efforts of Senators GRASSLEY, BREAUX, HATCH, SNOWE, and JEFFORDS, in developing this legislation.

Their work is the culmination of a year's effort to bridge the gap between the Medicare of 1965 and the Medicare for today and the future. As my colleagues know, when Medicare was enacted in 1965, Congress made a commitment to our Nation's seniors and disabled to provide for their health security. Unfortunately, that security is on shaky ground because Medicare has not kept up with the evolving nature of health care. The delivery of health care has vaulted ahead so dramatically 37 years after the inception of Medicare, that this system which was once sufficient is now anticipated and ineffective.

For example, conditions that used to require surgery or inpatient care can now be treated on an outpatient basis with prescription drugs. It is time for Medicare to reflect the realities of today's health care delivery system. The vast majority of my colleagues will agree when I say providing prescription drug coverage through Medicare is the next logical step towards modernizing the program. The best way to deliver such a benefit, however, is a point on which a number of my colleagues on the other side of the aisle disagree. My colleagues from the Finance Committee have found a solution that is a good compromise and is result that can be agreed to by both Democrats and Republicans. In fact, I would venture to say that the tripartisan proposal has the support of a majority of Senators.

Unfortunately, a simple majority will not suffice. As my colleagues know, we are working under the fiscal year 2002 budget resolution, which set aside $300 billion for a prescription drug benefit. Because we never voted on a fiscal year 2003 budget resolution, the first time the Senate has not done so since 1974, we have no choice but to stay within the parameters of 2002 funding levels. The fact of the matter is we have stacked the deck against passing any sort of meaningful benefit that costs over $300 billion, regardless of whether the majority of Senators support the proposal.

Regardless, the bar has been raised to pass prescription drug coverage, which clearly indicates that any bill that passes through this body will have to be bipartisan in nature—or tripartisan in this case. The tripartisan bill is the only measure we have before the Senate that bridges both parties and is a benefit that can pass.

We cannot delay any further. Each year we delay means another year our Nation's seniors will be forced to do without. already we have heard too often of seniors that have had to choose between food and prescription drugs. I, for one, am ready to go to my constituents in Ohio and say we were able to move past partisanship and provide real security for their health. The tripartisan proposal does that. We must act now, and we must act responsibly.

It is vital that we pass a prescription drug benefit this year, and it is vital that we pass one that is fiscally responsible. Ideally, the Federal Government would able to pay for every pill ever needed for every senior. Unfortunately, we live in the real world and are subject to limited resources. I would like to take a few moments to shed some light on our Government's current fiscal condition. Last year, the Congressional budget Office predicted a unified budget surplus of $313billion or fiscal year 2002. As my colleagues know, this rosy budgetary picture is no longer the case. Recent budget projections show that the Federal Government is in much worse fiscal condition than we thought. These new projections show that the Federal Government will spend the entire Social Security surplus in both the current fiscal year and in fiscal year 2003 and we will be borrowing $52 billion this year and $194 billion in 2003.

With this in mind, it is imperative that we act not only to provide Medicare benefits for today's beneficiaries, but also for the baby boomers who will arrive in 2011. If we do not act responsibly in providing a benefit, we will end up writing IOUs not only for Social Security, but for this benefit as well. The tripartisan proposal strikes a balance between providing seniors and the disabled access to needed prescription drugs today and doing so in a fiscally sensible way that will allow benefits to extend to future generations.

I cannot say the same for the Graham-Miller bill. Top the best of my knowledge, I cannot definitively state what the Graham-Miller bill will cost. My colleagues on the other side claim that their bill will cost $450 billion over 6 years. Then, after 6 years, as their bill is currently written, the benefit would sunset.

However, let us make the assumption that the Graham-Miller bill passed and their benefit did not sunset. What would that mean for the American people? I have a sneaking suspicion that $450 billion will somehow become $800 billion or as much as $1 trillion over 10 years. This is on top of the estimated $3.6 trillion it will cost the Federal Government to provide basic Medicare services for seniors and the disabled. As I see it, under the Graham-Miller bill, the American people get stuck between choosing cyanide and hemlock.

Senator GRASSLEY and the others in the tripartisan group have put before the Senate a proposal that would cost $370 billion as scored by CBO. The natural question that I think the American people would like to know is what does $370 billion buy? In my opinion, $370 billion provides a real prescription drug benefit that is affordable to both the beneficiaries and the Federal Government.

Under the tripartisan proposal, premiums would be $24 a month, an amount that is lower than the Graham-Miller bill. After a $250 deductible, the Government would cover half of all prescription drug costs up to $3,450.

Now, my colleagues on the other side of the aisle will claim that the so-called doughnut hole after $3,450 will be the financial ruin of every senior. The truth is that the vast majority of seniors, 80 percent, would never even hit that hole. Moreover, the hole exists only until the beneficiary accrues another $250 in costs, at which time the government would pay for 90 percent of all remaining drug costs.

While this benefit will greatly help seniors throughout the Nation, there are still some seniors for whom the $24 per month premium and additional cost-sharing is still too high. For those individuals, the tripartisan bill provides protections that will allow access to prescription drugs. For those seniors under 135 percent of poverty, the tripartisan plan would provide a full subsidy for monthly premiums. In addition, the Government would cover 95 percent of their prescription drug costs to the initial benefit limit and 100 percent above the stop-loss limit. And for those seniors between 135 and 150 percent of the poverty level, the tripartisan proposal would provide assistance with their monthly premiums on a sliding scale. In addition, these individuals would pay no more than 50 percent of their drug costs once the $250 deductible has been reached.

When we talk about dollars being spent, we should also point out to seniors that they will receive more bang for their buck under the tripartisan proposal. Seniors will not just receive direct assistance from the government to cover their prescription drug bills. Rather, under the tripartisan plan, competing pharmaceutical delivery plans will be forced to provide the best value on prescription drug prices in order to attract beneficiaries to their respective plans. To the advantage of both Medicare beneficiaries and the Federal Government, this competition will decrease the price of prescription drugs and permit all parties to stretch their dollars further. For example, the same dollar that today would buy one day's dose of Lipitor, might purchase 2 days' worth of the drug when competing plans vie for consumers as they would under the tripartisan plan.

This body has been playing this political posturing game for too long. I am tired of explaining partisanship as the excuse for why this body has not passed a prescription drug benefit and has forced the least of our brothers and sisters to choose between food and prescription drugs. I am pleased that the Senate will have the opportunity to show the American people, especially our Nation's seniors and disabled, whether we are serious about enacting legislation to provide a prescription drug benefit this year.

The tripartisan bill has support from both sides of the aisle. The House has passed their measure. The President is ready and willing to sign a bill into law this year. The burden is squarely on the Senate's shoulders. All eyes are on us. I am confident that we will have more than 50 votes in favor of the tripartisan plan. I hope that those that are considering voting against this proposal have a very good reason for not supporting it, because the people in their State will be asking them the question: Why didn't you support a plan that gets the job done in a fiscally responsible way.

So while seniors wait for a prescription drug benefit, I will continue to work to educate seniors about generic drugs. I have been working on this issue for some time, providing funds at the Food and Drug Administration for consumer education and working with other non-profits to educate our seniors about the availability and efficacy of generics.

In the meantime, I urge my colleagues to waive the budget point of order on the tripartisan amendment so that Medicare can move forward into the 21st century and so that seniors and the disabled are able to have access to affordable prescription drugs.

Ms. COLLINS. Mr. President, as an original cosponsor of the tripartisan 21st Century Medicare Act, I rise in support of this amendment to make affordable prescription drug coverage available to all of our Nation's seniors.

Prescription drugs are as important to a Medicare beneficiaries' health today as a hospital bed was in 1965, when the program was created, and I have long been a supporter of providing a prescription drug benefit as part of our efforts to strengthen Medicare. With recent advances in research, prescription drugs can literally be a lifeline for patients whose drug regimen protects them from becoming sicker and reduces the need to treat serious illness through hospitalization and surgery. Soaring prescription drug costs, however, have placed a tremendous financial burden on the millions of Medicare beneficiaries who must pay for these drugs out of their pockets.

More and more, I am hearing disturbing accounts of older Americans who are running up huge, high-interest credit card bills to buy medicine they otherwise couldn't afford. Even more alarming are the accounts of patients who are either skipping doses to stretch out their pill supplies or being forced to choose between paying the bills or buying the prescription drugs that keep them healthy. It is therefore critical that we bring Medicare into line with most private sector insurance plans and expand the program to include prescription drugs.

The tripartisan plan that is before us today will provide an affordable and sustainable prescription drug benefit that will be available to all seniors. Moreover, unlike the alternative bill, our plan will make the drug benefit a permanent part of Medicare and is fully funded at $370 billion over 10 years.

Under the tripartisan bill, all seniors will have the choice of at least two prescription drug plans, regardless of where they live. This will enable them to select the kind of prescription drug coverage that they need. Moreover, the coverage under these plans will be comprehensive. Seniors will have access to every drug, from the simplest generic to the most advanced, innovative therapy.

Our plan is also affordable and has the lowest monthly premium—$24—of any of the comprehensive prescription drug proposals that are on the table. Not only does our plan offer a lower premium, but it also offers lower copays for most drugs than the amendment proposed by the Senator from Florida. As the senior Senator from Maine pointed out on the floor the other day, seniors will pay more for most of the top 50 drugs under the Democrats' bill than they will under the tripartisan plan. For example, the copayment for Glucophage, which is used in the treatment of Type 2 diabetes, would be $40 under the Graham-Kennedy bill, and only $31 under the tripartisan plan.

In fact, our plan is such a good deal that the Congressional Budget Office tells us that just about everyone will take it. According to the CBO, 93 percent of seniors will enroll in our program, while 6 percent will elect to retain their current prescription drug coverage. This means that 99 percent of all seniors will have prescription drug coverage once our plan is implemented.

No one should have to choose between paying their bills and buying their pills. That is why our bill provides additional subsidies to low-income seniors. For example, the 10 million seniors nationwide, including 65,000 Mainers, with incomes below 135 percent of poverty will have 98 percent of their prescription drug costs covered by Medicare with no monthly premiums and no gap in coverage.

In addition, these low-income seniors will not be subject to any deductible, and they will pay an average copayment of just $1 and $2 for each prescription. This is comparable to the copays required under Maine's Medicaid Program, which requires beneficiaries to pay $2 for each generic drug and $3 for each brand name drug.

The 10,000 Maine seniors with incomes between 135 percent and 150 percent of poverty will also receive generous subsidies under our plan. All seniors with incomes below 150 percent of poverty will be exempt from the benefit limit. As a consequence, 80 percent of Medicare beneficiaries will never experience any gap in coverage under our plan. Seniors with incomes below 150 percent of poverty will also receive a subsidy that lowers their monthly premiums to anywhere between zero and $24 a month, based on a sliding scale according to income.

My biggest concern about the amendment offered by my colleague from Florida is the cost. My understanding is that this plan will cost anywhere between $600 billion and $1 trillion over the next ten years. This is simply too heavy a financial burden for both current and future generations to shoulder, particularly given our mounting Federal deficit.

Moreover, despite its tremendous cost, the alternative plan promises only temporary help, not a permanent solution. Their plan sunsets after 6 years, and makes no provision for a drug benefit after 2010. In other words, their plan ends just as the tidal wave of baby boomers is preparing to retire.

The tripartisan plan also includes other improvements to the Medicare Program that are not included in the Graham-Kennedy proposal. The current Medicare benefit package, which was established in 1965, now differs dramatically from the benefits offered under most private health plans. Our bill would provide a new, enhanced fee-for-service option for Medicare beneficiaries that more closely mirrors private health plans. For example, it would cover more preventive services than traditional Medicare at little or no cost. It would also provide protection against catastrophic medical costs for those seniors with serious health problems. The traditional Medicare Program provides no such catastrophic protection.

No one would be forced to enter this new plan. It is simply another option. If seniors want to stay in the traditional Medicare Program, that is fine, and they will still be eligible for the new prescription drug coverage.

Access to affordable prescription drugs is perhaps the most important issue facing our Nation's seniors today. It is therefore my hope that the Senate will stop playing politics so that we can pass a meaningful Medicare prescription drug bill this year. The 21st Century Medicare Act is the only legislation before the Senate that has not just bipartisan, but tripartisan support. Moreover, it has the support of 12 of the 21 members of the Senate Finance Committee, which has jurisdiction over Medicare. That is not to say that I think the tripartisan plan is perfect. I do not, for example, like the copayments imposed on home health care in the new fee-for-service option, and I would, of course, prefer a plan that had no gaps in coverage.

The tripartisan plan does, however, provide a major improvement in coverage, and I believe that it is the only proposal that gives our seniors any real hope of getting an affordable Medicare prescription drug benefit this year.

Since the cost of providing a meaningful drug benefit will only increase as time passes, it is all the more important that we act now. I therefore urge all of my colleagues to join me in supporting this tripartisan amendment.

Mr. REED. Mr. President, I would like to take a few minutes before we vote later today on the Graham amendment and the Grassley amendment to describe some of the grave concerns I have with the tripartisan amendment sponsored by Senators GRASSLEY, JEFFORDS and BREAUX.

The tripartisan Senate bill offers the following "benefits" to seniors: an expected monthly premium of $24; a beneficiary must cover the first $250 in drug costs; then half of his or her drug costs are covered between $251 and $3,450; at that point the beneficiary is then responsible for all drug expenses between $3,451–$5,300;

Moreover, the plan claims to offer assistance for low-income beneficiaries. What is not mentioned is that a strict asset test would prevent 40 percent of low-income seniors from even qualifying for this subsidy. A car, a wedding ring, or a burial plot over a certain value would render a beneficiary completely ineligible.

The purpose of insurance is to provide protection against certain costs. The kind of insurance some of my colleagues in the Senate have proposed would leave those seniors and persons with disabilities holding the bag when their drug expenditures are highest. Under the tripartisan plan, beneficiaries could still be required to pay thousands of dollars in drug expenditures.

This proposal would create a serious lapse in what is supposed to be a safety net for our most vulnerable citizens, only paying a quarter of an average Rhode Islander's prescription drug costs.

When a person breaks an arm, Medicare pays for the whole cast, not half. A prescription drug benefit should pay for all of your benefits.

There are other nonprescription-drug-related provisions contained in the tripartisan bill that are also of great concern, particularly Title II, the "Option for Enhanced Medicare Benefits" section. To me, the provisions outlined in this section of the bill are a direct affront on the Medicare Program as we know it. It seeks to create a new Medicare option that combines both Part A and Part B with a combined premium.

Under this option, a beneficiary would pay more upfront, out-of-pocket costs, such as a $10 co-payment for the first five home health visits and $60 per day for the first 100 days in a skilled nursing facility. In return, the beneficiary would pay nothing for preventive health services such as mammography and cancer screening and would receive protection against catastrophic health care costs.

This new Medicare benefit option would reverse the universal nature of our current program by creating a new line of services for those who can pay more. During the Balanced Budget Act debate of 1997, I fought against the addition of copayments for home health and other essential services because they threaten the access of low-income beneficiaries to those services.

This new enhanced benefit option would create a two-tiered system of the haves and the have-nots. Since there is no premium assistance for low-income beneficiaries who may wish to enroll in the enhanced benefit option, only more wealthy beneficiaries would be able to afford it. And since it requires beneficiaries to pay a greater share of their upfront costs, it would divert healthier, younger beneficiaries from the traditional program. This adverse selection would ultimately result in higher costs for those who remain in the traditional Part A and Part B program.

The sponsors and supporters of the tripartisan Senate bill have argued that even though our Nation's most vulnerable citizens deserve a Medicare prescription drug benefit they can depend on, the proposal offered by Senators GRAHAM, MILLER, and KENNEDY is simply too expensive. I would like to take a moment to highlight for my colleagues a recent report by the Center on Budget and Policy Priorities that I believe adds an important perspective to that point of debate.

The report compared the cost of last year's tax cuts with the costs of two prescription drug proposals for the Medicare population. The estimated 10-year cost of the first plan being roughly $350 billion and the second $700 billion for the same period. The report found that when the tax cut is fully in effect, the cost of the tax cut for just the top 1 percent of the population would exceed the entire difference in cost between the two prescription drug proposals.

I voted against the President's tax cut because I felt that it failed to leave room for critical immediate needs such as a prescription drug benefit, nor did it allow us to adequately address the long-term solvency of Social Security and Medicare.

Once Congress enacts a Medicare prescription benefit, it will be difficult to modify or significantly alter it. If we are going to enact a benefit, we must pass a solid, reliable benefit that will continue to meet the needs of Medicare beneficiaries in years to come. And if resources are the issue, many Members have already stated clearly that there is a way to address that issue, either through the reserve fund set aside in last year's budget or by other means.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield myself 4 minutes, after I ask unanimous consent that Senator DAYTON be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I rise to respond to criticisms raised about the availability and cost of drugs under the Democratic proposal. The minority leader has distributed a memo in which he cites selected provisions of our bill to come to a false conclusion about the access seniors would have to prescription drugs. I want to set the record straight.

Under the Democratic proposal, all medically necessary drugs would be available to our seniors at a rate of no more than $40 per prescription for the year 2005—all medically necessary drugs, not just the drugs that are on the preferred list.

The sections of the amendment Senator LOTT chose to omit make clear that every senior would have access to any drug that is medically necessary for that senior. Seniors are further protected because the Medicare Program would assure that the definition of a class of drugs is clinically appropriate. To the contrary, the Republican bill allows the drug HMOs to define the classes of drugs and, further, on page 32 of their amendment, clarifies that not all drugs within a class would have to be covered.

Senator LOTT may want to take a closer look at the Republican language given his concerns in this area.

Under the Democratic proposal, seniors will know in advance exactly how much they will pay for any drug. In 2005, they will never pay more than $10 for a generic and $40 for a medically necessary brand name drug.

Under the Republican plan, there is no way of knowing how much a senior would pay for a specific drug because there is no defined benefit in the Republican plan. Who makes the decisions? The drug HMOs make the decision. They choose how much the beneficiaries will pay, what the deductibles will be, and how much they will pay for each prescription in coinsurance. It could be 50 percent, which is what their charts say. It could be 80 percent. It will be determined not by the seniors, not by Medicare, but by the drug HMO.

I urge my colleagues to consider carefully the differences between the Democratic and Republican bills. Our bill uses the Medicare Program, a tried and true delivery system, to provide prescription drugs to our seniors. The Republican bill privatizes Medicare and requires seniors to get their drugs from a drug HMO—if they can find one in their State.

Our bill assures that seniors in rural America are guaranteed the same benefits provided to senior Americans elsewhere in this country. The Republican bill abandons rural Americans. Our bill gives seniors an affordable drug benefit and guaranteed prices. The Republican bill lets private insurers decide what drugs are covered and how much seniors will pay for each prescription.

Our bill uses every taxpayer dollar, every dollar paid by the beneficiary in monthly premiums to lower the cost of prescription drugs for seniors. The Republican bill uses taxpayer dollars and premium dollars to lure uneager private insurers into a market for which today there is no private insurance being offered.

Our bill is a bill for seniors. The Republican bill is a bill for drug companies and private insurers. The differences between the bills will make a very real difference in the ability of our seniors to afford the prescription drugs they need, and enjoy the improved health that those drugs will bring.

I urge my colleagues to support the Graham-Miller-Kennedy Medicare prescription drug benefit. In the event that none of the proposals that will be voted on this afternoon garner the necessary votes to move forward, I urge my colleagues to roll up their sleeves and begin work immediately on a proposal that can be adopted this year.

The outcomes of the votes today should not be viewed as a trumpet of defeat, but as an even more urgent call to find a proposal this year, in 2002, that will bring our seniors the drugs they need, the drugs that we have promised, the drugs a compassionate America will provide to this, our greatest generation.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield 3 minutes to the Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the distinguished Senator and say how much I have enjoyed working with him on the tripartisan group.

The Senate will be faced, in a few moments, with an interesting proposition. We will have Graham legislation that will not get the requisite number of votes to proceed. And we will be faced with the tripartisan proposal to see if we have an opportunity to proceed with that legislation. That will be the second and final vote, I take it, today on this issue. At least, I think it will be.

I don't think the Senate and this Congress can go back this year and tell our constituents that we didn't do prescription drugs because it is the other party's fault. I don't think the Republicans can say they didn't bring back prescription drugs because it is the Democratic Party's fault, and I don't think we will get very far saying we didn't have a prescription drug plan because the Republicans would not support ours. I think the seniors are wising up and know that this blame game is no longer going to help them one bit. You cannot take an excuse to the drugstore and buy prescription drugs. What the seniors need is both sides to come together and create a program that would work. Our tripartisan bill is somewhere between the two versions that I have described—the Hagel bill at $150 billion, and the Graham bill at about $594 billion. All of that comes out of the Social Security trust fund money. We have tried to be responsible in how much we can spend to make sure we have a sufficient number of votes to actually pass something and also create a delivery system that can work.

What we have suggested is that for people in the Medicare Program, just like those of us in the Federal Employees Health Benefits Plan—the program that we have drug coverage under and all of our insurance—that private companies compete for the right to sell us that coverage. They compete for the right to sell us prescription drugs. The company that can do it the cheapest is the one, in most cases, from which we purchase the plan. That is what we are suggesting.

We are also suggesting that these companies are big people, big players. There are PBMs like Merck-Medco or Aetna or Blue Cross. These companies are used to assuming risk. That is their business. Why should we say we are going to get companies to deliver the product, but if they underestimate how much it is going to cost, the taxpayers are going to cover their loss? Our bill says if these companies bid $100 to provide prescription drugs for seniors, and it costs them $102, then that is their responsibility. That is the risk they have to assume. Why should the taxpayers say: Look, we don't care how much it actually costs, the taxpayer will pick up the difference no matter what.

Regarding rural areas, our legislation says there will be at least two competing plans in every area of the United States. The Government will ensure that there are at least two competing plans. It is not like an HMO. Here you had to have a hospital and doctors and emergency rooms. The only thing you need to deliver drugs in a rural area is a drugstore to have the prescription filled and a doctor to write the prescription. We guarantee that every part of the country will have at least two competing plans.

What do we do if neither side has 60 votes? Do we give up? I suggest we try to find common ground. I think we can do that and we will continue to work in that regard.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The minority has 5 minutes 45 seconds. The majority has 4 minutes 45 seconds.

Mr. GRASSLEY. Mr. President, I yield 3 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, just a few years ago, when President Clinton was President, he was asking for a drug benefit program of $168 billion. Last year, the Democrats wanted a $311 billion program. This year it is $600 billion. Frankly, I think it is a lot more than that because they have written in a sunset provision that actually helps to reduce the cost of that program, but also makes the program temporary.

I have to say that some of the things I find objectionable about the Graham approach is that the bill sets up a Government formulary that allows only two drugs for each illness. Because of that, it means that literally dozens of drugs that may be prescribed by doctors will have to be purchased by the patients themselves.

I might also add that it means a situation of price controls without question. Countries that set price controls on prescription drugs have been unable to duplicate the success of the United States in developing new pharmaceuticals.

Our tripartisan plan provides a permanent benefit, not a temporary one like Graham-Miller does. It gives beneficiaries choice in Medicare coverage, drug coverage, and options to select any prescription they want. It is affordable. Our plan costs $370 billion over 10 years. The Graham plan costs $600 billion over 10 years. Our plan, in addition, includes Medicare reforms. The Graham-Miller plan does not. Our plan is not run by the Government, but by the private sector, and it depends on private competition. It trusts seniors to make their own decisions and choices. The Graham-Miller bill does not. Ours is affordable, it creates competition, and there are no price controls on drugs. We take care of the poorest of the poor and we do it within reasonable budgetary limits.

Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield 4 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. MILLER. Mr. President, first I want to quickly make a point about a matter that has been raised on the provision in the Graham-Miller-Kennedy bill that says we take a second look at this legislation after a few years. That is not a weakness. It is one of its strengths, and it is nothing new. That is what we did with welfare reform, and that is what we did with the farm bill.

I submit to the Chair, if we had that provision in the original Medicare bill, we probably would have had a prescription drug benefit years ago.

Back in April, right after the Easter recess, I came to the Senate floor and talked about the urgency of passing a prescription drug bill. I spoke then of my 88-year-old Uncle Hoyle who lives next door to me in the mountains of North Georgia. He has been like a father to me in many ways. Once a very strong mountain man, Uncle Hoyle now suffers from diabetes, prostate cancer, recently had angioplasty, and also suffers from a kidney infection. Although he still makes a great garden—and I had tomatoes and corn out of it this last week—that once strong body is growing frail. I cannot get Uncle Hoyle, or millions like him, off my mind.

Many—too many—refuse to see these elderly waiting, waiting for someone, anyone, to knock on that screen door and say, as John Prine sings: "Hello in there."

The elderly are waiting for something else, too. They are waiting for us to do something about their health needs. So far, they have waited in vain, each day growing older, growing weaker. Now it comes down to us on this July afternoon 2002.

If we do not do something, you know who we are going to be like? If we do not do something, we are going to be like those who pass by that man in the ditch on the side of the road in that Biblical story of the Good Samaritan: Passed him by, tried not to look at him, refused to help him. We will be no better than they were and should be remembered in the same negative way.

We must come to the aid of our seniors by adding a meaningful prescription drug benefit to Medicare. The Graham-Miller-Kennedy bill would do just that. I believe and, more importantly, the AARP believes that our bill offers the best value for seniors. We deliver our prescription drug benefit through the tried and tested Medicare system. We provide extra help for our neediest seniors. We guarantee coverage 24 hours a day in every corner of this country, including that tiny rural town that the Presiding Officer knows, where I and my Uncle Hoyle live.

Remember what FDR once said: Try something; if it doesn't work, try something else. But for God's sake, try something. That is what I am trying to say. I want Uncle Hoyle and all those millions like him in this land of plenty who played by the rules, raised their families, and worked hard to have some hope and dignity in their twilight years.

Is that really too much to ask? Mr. President, I do not think so.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Iowa be granted 3 additional minutes and the Senator from Massachusetts, the manager of the bill, be given 3 additional minutes prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, soon we will cast what could be our final votes on a new Medicare prescription drug benefit. I am deeply disappointed with the process that brought us to this point, a process that ignored the good bipartisan will on the Finance Committee in favor of politics and partisanship that has seemed to dominate the debate on the floor of the Senate.

However, I continue to believe that our bill, the Tripartisan 21st Century Medicare Act, represents the broadest and best approach to providing prescription drug coverage.

Our work on this bill over the course of a full year involved fine Senators from every party. I have never been prouder to work in a bipartisan manner than with my colleagues Senator HATCH, Senator BREAUX, Senator SNOWE, and Senator JEFFORDS on probably the most important change in Medicare in the 37-year history of that legislation.

Together the five of us, bipartisan or tripartisan, whatever one wishes to call it, consulted stakeholders of all political persuasions and the Congressional Budget Office as we developed our policies over the last year. At every step of the way, we faced tradeoffs and made compromises, all in the spirit of cooperation, with the common goal of getting something done that could actually work without breaking the Medicare bank.

Our bill reflects the best of what good bipartisan cooperation can do. It offers seniors affordable coverage on a permanent basis. It does not sunset, and it does not take brand name drugs away from our seniors. It improves and enhances other unfair aspects of the Medicare Program, and it does it all on a voluntary basis. It does so at a total cost that reasonable people from both parties should be able to support—$370 billion over 10 years.

I urge my colleagues to remember that anything that comes to the floor on a purely partisan basis, such as the Graham-Kennedy bill before us right now, is destined to failure, and I remind everyone again that nothing ever passes this body on a partisan basis alone. Around here, it takes bipartisanship to make things happen, and apparently the Democrat leadership is not interested in making things happen for our senior citizens.

Our bill is built on a bipartisan foundation. Had it been given a chance to be debated in the Senate Finance Committee, it could no doubt have been improved further still, but we were denied that chance all because the other side did not want real debate. They wanted a real issue instead.

I urge my colleagues, especially those on the other side of the aisle, to listen closely when Senators claim to care about bipartisanship. Our bill is the only bipartisan prescription bill in all of Washington, DC, this year. It deserves consideration of the full Finance Committee, but since we have been denied that right by the Democratic leadership, it deserves your vote today.

The bill, other than the tripartisan bill before us, is without a doubt a program for big Government. Rather than allow prescription drug plans to design cost savings and innovative benefits that best suit seniors' needs, the Graham-Kennedy bill requires Federal bureaucrats to set up 10 regional drug formularies, basically deciding which prescription drugs seniors can and cannot access.

Under Graham-Kennedy, plans would not compete with one another. It would not be allowed to deviate from a regional drug formula, thus restricting seniors' choices. Plans would be further restricted from offering more than two brand name drugs in a therapeutic class.

This approach puts control squarely in the hands of bureaucrats in Government, and we know from experience that exclusive Government control over medicine has not worked well. The Government has lagged many years behind the private sector in covering immunizations, physicals, mammograms, and other preventive care in Medicare.

By contrast, the Tripartisan 21st Century Medicare Act approach puts control in the hands of our senior citizens. The bill guarantees multiple plans will compete in each region of the country, giving seniors a choice to pick the plan that best suits their needs and the right to get out of plans that do not meet their needs.

The tripartisan bill also does not restrict plans from offering more drug choices and better overall drug coverage. Under the tripartisan bill, private plans compete for seniors, not Government bureaucrats. What if the specific drug a senior relies on is not on the regional Government formulary? The Graham-Kennedy bill forces seniors to go through multiple layers of bureaucratic red tape to convince the Government to give them the drugs that their doctors think they need.

The tripartisan bill lets seniors and their doctors decide what drugs they should receive.

Take your choice. We have it within the next 5 minutes. I hope you will vote for the tripartisan plan.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Will the Chair let me know when there are 15 seconds remaining?

The PRESIDING OFFICER. The Chair will so advise the Senator.

Mr. KENNEDY. Mr. President, this vote is one of the most important any of us will ever cast. It is a vote about our national character and national priorities.

It is a vote about the quality of our society. But most of all it is a vote about senior citizens and disabled Americans and their right to live in dignity.

Medicare is a solemn promise between Government and the individual. It says, "Play by the rules, contribute to the system during your working years, and you will be guaranteed health security in your retirement years." Because of Medicare, the elderly have long had insurance for their hospital bills and doctors bills. But the promise of health security at the core of Medicare is broken every day because Medicare does not cover the soaring price of prescription drugs.

Today, we have the opportunity and the duty to mend the broken promise of Medicare. It is time to pass a Medicare prescription drug benefit. It is time for Congress to listen to the American people instead of the powerful special interests.

When I first came to the Senate, I was privileged to participate in the debates that led to Medicare's passage.

Then, as now, there were two plans before us. One plan was the solid, dependable, comprehensive Medicare program that became law. The other was little more than a political fig leaf for the elections. One plan was supported by all the organizations representing senior citizens and working families. The other plan was supported only by the powerful special interests. That is the same situation we face today.

Senators GRAHAM, MILLER, and I have offered a solid, affordable Medicare prescription drug benefit that offers senior citizens and disabled Medicare beneficiaries the protection they need at a price they can afford. There is no deductible, there are no gaps, there are no loopholes. The benefit and the premium are both guaranteed in the law itself. Low income senior citizens get special assistance.

But the other side has taken a different approach. Their plan is not affordable, not adequate, and not Medicare.

Under their plan, benefits are so inadequate that senior citizens will still be forced to choose between food on the table and the medicines they need to survive. There is a high deductible and a large coverage gap. Whether the senior citizen has large drug needs or more modest ones, the program only pays a small fraction of the cost of needed medicine—leaving the elderly to shoulder the rest or go without.

Special help for the low income elderly is conditioned on a cruel and intrusive assets test.

Instead of guaranteeing benefits for senior citizens, their program provides subsidies for insurance companies—and allows them to set the premium and determine the benefits that the elderly can receive.

And to reduce the cost of their plan, they have set it up in such a way that it actually encourages employers to drop the good retirement coverage that more than ten million senior citizens now enjoy.

According to the Congressional Budget Office, under the Republican plan one-third of these retirees—three and one-half million—would actually lose the good coverage they have today and be forced into the inferior Republican plan.

From the AARP to the Leadership Council of Aging Organizations to the National Committee to Preserve Social Security and Medicare, virtually every organization representing senior citizens and the disabled supports our amendment. Not a single legitimate organization of senior citizens or the disabled supports their proposal.

We are proud that our Democratic leader brought this matter to the floor of the Senate. This is the time for us to act.

The PRESIDING OFFICER. The Senator from Massachusetts has 15 seconds remaining.

Mr. KENNEDY. Senior citizens and their children and their grandchildren understand that affordable, comprehensive prescription drug coverage under Medicare should be a priority. Let's listen to their voices instead of those of the powerful special interests. Let's pass a Medicare prescription drug benefit worthy of the name.

Every single member of this body has a good prescription drug benefit. Let's do the same for the American citizens. That is what our program does.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I think the time has expired.

The PRESIDING OFFICER. The Senator from Iowa has 45 seconds.

Mr. GRASSLEY. Mr. President, I yield back the remainder of our time.

Mr. President, I make a point of order that the Graham amendment, No. 4309, violates section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. CARPER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 47, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—52

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—47

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. Under the previous order, the amendment is withdrawn.

### VOTE ON AMENDMENT NO. 4310

The PRESIDING OFFICER. The question now occurs on the Grassley amendment No. 4310.

The majority leader.

Mr. DASCHLE. Mr. President, I make a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, pursuant to section 904 of the Budget Act, I move to waive the point of order for the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 51, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—48

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hatch
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Landrieu
Lott
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—51

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Hagel
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Lincoln
Lugar
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller

Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. Under the previous order, the amendment is withdrawn.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORZINE). Is there objection?

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate considers the Hagel amendment, it be considered under the following time limitations: During today's session there be 90 minutes under the control of Senator HAGEL or his designee and 30 minutes under the control of Senator KENNEDY or his designee; that upon the use or yielding back of the time, the amendment be set aside to recur when the Senate resumes consideration on Wednesday, July 24; and there be additional time of 120 minutes prior to the vote in relation to the amendment controlled as follows: 60 minutes under the control of Senator HAGEL or his designee and Senator KENNEDY or his designee; that upon the use of the time, the Senate vote in relation to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, before Senator HAGEL begins the debate, we hope to get from the House today the supplemental appropriations bill. After Senator HAGEL and Senator KENNEDY finish debate time today, we will begin the debate on the supplemental appropriation.

Based on the unanimous consent agreement just entered, I have the authority of the majority leader to announce there will be no more rollcall votes tonight.

I have been asked we have a consent request on the supplemental. The time, of course, is not running against the Senator's amendment.

Senator HAGEL has been his usual courteous self. He has been very patient in waiting for us to write this agreement. We have known his was going to be the next amendment for some time, and it is unfortunate it has taken so long to get to where we are.

Mr. President, I ask unanimous consent that at the conclusion of the Hagel amendment debate today, and notwithstanding receipt of the conference report to accompany H.R. 4775, the supplemental appropriations bill, there be 2 hours 40 minutes for debate with respect to the conference report, with the time divided as follows: 60 minutes each for the chairman and ranking member of the committee; 30 minutes under the control of Senator WELLSTONE, and 10 minutes under the control of Senator REID of Nevada or his designee; that on Wednesday, July 24, the Senate proceed to the consideration of the conference report at 10:30 a.m. with the time until 11 a.m. equally divided and controlled by Senators BYRD and STEVENS or their designee; that at 11 a.m., without further action or debate, the Senate vote on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

### AMENDMENT NO. 4315 TO AMENDMENT NO. 4299

(Purpose: To provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs)

Mr. HAGEL. Mr. President, I call up amendment No. 4315, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Nebraska [Mr. HAGEL], for himself, Mr. ENSIGN, Mr. LUGAR, Mr. GRAMM, Mr. INHOFE, and Mr. GREGG, proposes an amendment numbered 4315 to amendment No. 4299.

Mr. HAGEL. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. HAGEL. Mr. President, we have spent 4 days debating and voting on two Medicare prescription drug proposals, the Graham-Miller-Kennedy bill and the so-called tripartisan bill. I have worked with Senators ENSIGN, LUGAR, PHIL GRAMM, INHOFE, SANTORUM, and GREGG to introduce relevant, straightforward, realistic legislation to add a prescription drug benefit to our Medicare Program.

Our legislation would create a permanent Medicare prescription drug program that would be available to all Medicare beneficiaries beginning January 1, 2004. We keep it affordable to both beneficiaries and taxpayers. We do it without creating a new Federal Government bureaucracy. The program is not perfect. None of the Medicare prescription drug bills we have considered have been perfect.

This bill accomplishes a very important goal. This bill gives seniors the peace of mind that comes with knowing they have security from extremely high drug costs, catastrophic costs that ruin families.

Why are we engaged in this debate?

Medicare was created, as we all know, in 1965—and it is a 1965 model. Preventive health care, like diet, lifestyle, and exercise, was not emphasized in 1965. Prescription drugs were not as widely prescribed or used. Research had not developed the kind of lifestyles and life expectancies and quality of life we now enjoy—prescription drugs, pharmaceutical research, being the core of that development.

Seniors needed protection, in 1965, from high hospital costs for inpatient services, and we gave them that protection. It came through Medicare Part A hospital insurance.

In 2000, the average American spent $435 a year on prescription drugs. Today, Medicare beneficiaries need protection from unlimited out-of-pocket prescription drug costs.

John C. Rother, policy director of AARP, was quoted today in the New York Times as saying:

> Another possibility is for Medicare to provide catastrophic coverage for prescription drug expenses over a certain threshold, perhaps $4,000 to $6,000 a year, with no premium. This could be combined with additional help for low-income beneficiaries and a government-authorized drug discount card.

So reported the New York Times today as a quote from Mr. Rother, the policy director of AARP. What Mr. Rother states is exactly what this bill does.

How would this program work? There are two major components to our bill. First, all participating beneficiaries would be protected from unlimited out-of-pocket drug expenses through a cap on their private expenditures. The annual out-of-pocket limit would depend on their income. That would go as follows: For annual income levels below 200 percent of poverty, the annual expense would be no more than $1,500. That is a little more than a $100-a-month cap on out-of-pocket expenses. For those with annual income levels 200 percent to 400 percent of poverty, it would be capped at $3,500—no more, regardless of the need. For those incomes between 400 percent and 600 percent of poverty, out-of-pocket expenses would be capped at $5,500—no more. And for those who wanted to subscribe—this is a voluntary program, open to all Medicare beneficiaries—with incomes above 600 percent of poverty, their out-of-pocket expenses would be capped at 20 percent of their income.

Again, to give some relevancy to help understand those numbers, the 2002 Federal poverty level is $8,860 for an individual and $11,940 per couple. Beneficiaries with the lowest incomes would have their out-of-pocket expenses on prescription drugs limited, as I said, to about $100 a month. And almost half of all Medicare beneficiaries live on incomes lower than 200 percent of poverty.

The second part of our program would be that every beneficiary would be able to choose to enroll or not to enroll in a discount drug card program, giving them access to privately negotiated discounts on prescription drugs.

Who would administer this program? The Secretary of Health and Human Services would administer the program through the Centers for Medicare and Medicaid Services, CMMS. The Secretary would negotiate with private companies to deliver the benefits. What that means is no new Federal bureaucracy, no new Government program to administer these benefits.

I would like to point out that two-thirds of all seniors already have some type of private prescription drug coverage that they like and want to keep. Seniors would not be forced to drop supplemental coverage, and employers would be encouraged to retain and even improve existing coverage under our plan.

Our bill would allow employer-sponsored plans—all employer-sponsored plans: Medicare supplemental plans, Medicare+Choice plans—pharmaceutical benefit managers—PBMs—pharmacists, and even States working with private companies to deliver the benefits.

By structuring our program this way, we do not create an expensive and new, expansive Government bureaucracy or the subsequent redtape that follows. We would use the market system in place.

These private market tools, such as consumer choice and competition to control costs without limiting innovation, are critical to the future development and innovation of prescription drugs.

How would seniors participate? Seniors would enroll with an approved provider and pay an annual fee of $25, which would be waived for beneficiaries with incomes less than 200 percent of poverty, individuals with incomes of less than $17,720. Once beneficiaries had met their out-of-pocket limit on prescription drug expenses, they would pay a small copayment of no more than 10 percent of the cost of each prescription drug. Seniors would not have to pay monthly premiums for deductibles.

When would the program start? Our program would take effect January 1, 2004. Other bills that were considered would not have taken effect until 2005 or even later. And our benefit is permanent; we do not sunset the program.

Why do we structure the program this way? Any realistic Medicare prescription drug proposal must not only be affordable for seniors, but it must also be affordable to the taxpayers, future generations of Americans who are going to have to pay for this program. Why is that important? It is very important because if we begin a program and obligate and commit the next generations of Americans to this program, then we owe them. We have a responsibility of giving them all the facts and structuring a program that is accountable and responsible.

Let's examine something carefully. Projected Federal deficits now are seen for at least the next 2 years and probably longer. So as opposed to a couple of years ago when we looked out onto the horizon and saw surpluses as far as the eye could see, we are now in a different dynamic, a different environment. No one really knows how long we will be in deficit, so any new Federal program and entitlement that is added, someone must pay for that.

We are not operating under a new budget resolution, so, as of October 1, we will no longer be subject to budget caps. The two previous prescription drug bills we debated did not attain the 60 votes needed today in order to overcome a point of order raised because both violated the budget resolution cap of spending no more than $300 billion over the next 10 years. That was an important point. Both of the bills we debated that did not attain those 60 votes needed were in excess of the $300 billion cap that the Budget Committee of the Senate, this Senate, this body, voted for last year. But after October 1, there are no caps because we are not operating under a budget.

Finally, the underlying Medicare Program is still in danger of becoming insolvent. Let me pass on an interesting number. When Medicare was passed in 1965, Part A hospital costs for 1990 were projected to be $9 billion. In 1990, Medicare Part A actually spent $67 billion.

So from the projection, in 1965, out 25 years, as to how much Medicare Part A would cost, all the actuaries said then—all the smart people, all the medical care people—we would be spending, including inflation, and the rates of increase in costs—all the dynamics that are part of health care—$9 billion in 1990 when, in fact, we spent $67 billion in 1990.

We should pay attention to this number. I do not know of a Federal program—especially entitlement programs—that did not go far beyond any projections, partly because we always, for the political benefit, understate the numbers. But the numbers I have just recited are real numbers.

We ask, why should we be concerned about costs? I see a lot of young people sitting in the galleries. You better be concerned about some costs. You better be very concerned about what we do on prescription drugs because if we do not pay attention, and we are not concerned and enact an accountable, responsible, affordable program, I do not know how you are going to afford it—because you are going to pay for it. You will be paying for my prescription drug costs.

So we must act in a responsible, accountable way. Each of us who has the high privilege of serving in this body is but a passing, fleeting steward of your interests and the interests of this country. That is our highest responsibility.

According to a preliminary actuarial analysis—we are getting CBO scores on our amendment—our proposal would cost less than $200 billion over the next 10 years. In fact, the numbers are coming in at around $160 billion. That stays within the $300 billion budget resolution that this body, this Senate, voted for last year. The Congressional Budget Office will give us those exact numbers by the end of the day.

We have a tremendous opportunity to pass a responsible bill, to provide all Medicare beneficiaries with a permanent prescription drug benefit that would start January 1, 2004. We have that now within our grasp.

The debate we have had over the last 4 days has been good debate, relevant debate, important debate. All sides, all perspectives have had an opportunity to lay this out, as we should, as we are embarking upon this great new entitlement program. And we need this program. Make no mistake, this program is necessary. We need to deal with this issue.

This amendment that we offer today is not perfect. However, what we offer today is a real-world solution to a real-world problem.

Our amendment will give beneficiaries the protection they need most. And we focus on those who need it most, those who are without prescription drug insurance, those who are at the bottom of the social-economic ladder, those who have to make hard choices about their lives.

We can do this. We must do this. But it must be in a way that is accountable and responsible.

As the New York Times editorial phrased it this morning:

> The most important short-term priority should be the needs of the fairly narrow, and politically uninfluential, band of Americans who have very low incomes and very high drug prices.

They have said it accurately. They have stated it correctly. They have focused on those who need it most. This amendment does that.

Mr. President, I am grateful for an opportunity to propose this amendment and debate it. We will have a vote on it tomorrow. I know a number of my colleagues wish to speak on this amendment.

So I yield the floor to my cosponsor on this amendment, who has worked long, hard, diligently, and understands the issue as well as anyone in the Senate. I am very proud we have teamed up, along with a number of our other colleagues, to present something we think is important for our country that is workable, doable, and responsible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the co-author of this amendment, the Senator from Nebraska, for the great work he has done; and, by the way, that both of our staffs have done in coming up with an amendment that we think is fiscally responsible and that meets the needs of those seniors who need it the most.

We have heard a lot of examples during the House debate, and during the Senate debate, about those seniors who are having to choose between paying rent and paying for prescription drugs, or paying their food bills and being able to pay their drug bills. We have heard about a lot of heartbreaking stories. Those are real stories that are out there. We have those stories in my home State of Nevada. We get letters from those people all the time.

I got an e-mail a few weeks ago from a lady who sent this e-mail at 11:20 p.m. West Coast Time. She was up thinking—and probably looking through her medical bills—and just crying out for help, asking if I would be willing to take a moral stand to help seniors who need the help the most? Our amendment does exactly that. It helps those seniors who need help the most.

But this morning, I was also thinking about our responsibility to our children and the next generation of young people coming up who are going to be working for a living and paying taxes.

Will Medicare and Social Security be there for them? Will this country be there for them? Somebody has to pay for all of these programs that we are talking about.

People have not wanted to means test Medicare and Social Security because they believed that they have earned this benefit, that they have paid in for this benefit.

Realistically speaking, this new prescription drug benefit would not been earned by anybody that is going to get it, at least early on. Frankly, it is a straight giveaway to seniors. It is taking it out of the pocket of younger people who are paying into the system now and putting it into the pocket of older people who, while they were working and paying taxes, paid for a Medicare program that did not have a prescription drug benefit

All of us feel a great responsibility to our parents and our grandparents, to take care of them in their golden years. But we must do this in a way that does not put such a burden on young people in our society that they cannot prosper.

Why should their tax rates have to be so high just because we in the Senate wanted to get reelected, so we voted for things that just kept spending these young people's money? Ultimately, they will have no choice but to pay high taxes because politicians pay attention to the senior citizens because senior citizens vote. We need to pay strict attention to what we are doing here and whose money we are doing it with.

Once we add a benefit to Medicare, we will not be cutting that benefit in the future. So whatever we do, we better do in a fiscally responsible fashion.

Senator HAGEL and the rest of the team that has put this amendment together believes that we have done exactly that: We have provided help to those seniors who need it, but we have done it in a fiscally responsible manner.

I want to talk a little bit about the amendment and how it works. Senator HAGEL has covered some of this, but I want to reemphasize a couple points and to use a chart for those who need to see it. I am kind of a visual learner and need a chart to understand things sometimes, to actually be able to see the numbers on a piece of paper so I can put them in my head.

The way our bill works, first of all, is that we cap—this is catastrophic coverage—we cap the amount of out-of-pocket, expenses a senior citizen is going to have to pay. We do that based on income. The people who are have the lowest income get the most help. It goes up from there based on your income level. That seems to make sense if you think about it. Should a person like Ross Perot, who would qualify for this benefit, get the same help as somebody who makes $15, $16, $17,000 a year—a senior citizen? Should they get the same level of help? I think most people would say they should not get the same level of help.

Our bill says that if you are lower income, you are going to get more help. It also says that the sicker you are, the more help you get because those seniors who are very sick or who have a chronic condition such as heart disease, diabetes—and we will talk about a few examples later—pay much more per year in prescription drug costs and our plan limits their out-of-pocket spending. Those are the people our bill actually helps more than the leading Democrat proposal or the so-called tripartisan proposal.

For people who make $17,720 or less a year, up to 200 percent of poverty and below, we cap their out-of-pocket expenses at $1,500. This is a little over half of the seniors in this country. If you make between $17,721 and $35,440 per year, your out-of-pocket expenses are capped at $3,500, and it scales up from there.

Once again, our program is completely voluntary. I have heard that in 1987 the Senate passed, and actually enacted into law in 1988, a catastrophic drug benefit plan. We hear people—and I am not sure if they were referring to our plan or not—saying seniors opposed the 1988 plan so much, that they repealed it the next year. They were not opposed to it because of the catastrophic coverage, they were opposed to it because one, they were forced to join; and, two, their Medicare premiums went up. Ours is a voluntary program, and it only has an annual enrollment fee of $25 per year. That is strictly to take care of administrative costs. We figure about $25 per year is what is necessary to handle these costs per enrollee.

When you pay that fee and sign up for the program, you will get a drug discount card. You will be able to sign up for various plans in the area, and pharmaceutical benefit managers will have a list of pharmacies that are participating. They will have a formulary or a list of drugs that are offered. You will go through those, and you will say: I have this disease, or, I like that particular formulary; maybe I will get together with some of my fellow seniors or I will get together with my doctor and say, Which one of these plans do you recommend? Then you will sign up for that plan that best meets your needs. It is the competition between the plans and the volume buying that will allow the average senior to save somewhere between 25 and 40 percent on the drugs they buy with this drug discount card.

Right upfront, they save 25 to 40 percent. Then, we cap their out-of-pocket expenses. So it is a two-pronged approach. We believe that because the senior pays initially out of pocket—about $100, $120 a month for the low-income seniors—that they will shop for their drugs and take advantage of the lower prices that are being offered as a result of competition between the participating entities.

I want to give a couple of real-life examples of those cases we always hear about—those cases that tug at our heartstrings.

James is a 68-year-old man who has an income of about $16,000 per year. He is being treated for diabetes. These are the various medications he is taking: Glucophage, Glyburide, Neurontin, Protonix, Lescol, and Zoloft. He has monthly prescription drug costs of $478.04, and a yearly cost of $5,736.48—so James is paying out of his own pocket over $5,700 right now. Medicare doesn't cover anything.

To compare the various plans, first of all, under the Graham-Miller plan, James' out-of-pocket expenses would be $2,940.00. Under the tripartisan plan, he would pay $2,341.65. Under the Hagel-Ensign plan, he would pay $1,923.65. So for the low- to moderate-income person who has a serious disease, the Hagel-Ensign plan gives that person more help than any of the other bills. And example after example has been heard on this floor about has been this type of a case.

If you don't like this one, we will give you the next one. Doris is a 75-year-old and has an income of around $17,000 a year. She suffers from diabetes, hypertension, and high cholesterol, which is not unusual for a senior. Her medications are Lipitor, Glucophage, Insulin, Coumadin, and Monopril, for a total cost of $304.03 a month, and $4,648.36 a year.

Once again, here is how Doris would fare under the various plans Under the Graham-Miller plan, the leading Democrat plan, she would pay $2,220.00 a year out of pocket; under the tripartisan plan, she would pay $2,086.36 a year; and, under our plan, she would pay $1,714.84 a year. Once again, this person does better under the Hagel-Ensign plan more so than either of the other two plans which were voted on and failed to get the 60-vote point of order.

To reemphasize, the plan we have all worked on together, including Senator GRAMM of Texas, provides a Medicare prescription drug benefit in a much more fiscally responsible way and takes into account future generations.

There is a third example I want to talk about. Betty, who is a 66-year-old, has an income of $15,500 per year. She is being treated for breast cancer. She is still receiving low-dose radiation therapy with Nolvadex. Her medication profile is as follows: Morphine, Paxil, Dexamethasone, Aciphex, Trimethobenzamide, and Nolvadex—monthly total of $668.33 and $8,019.96 per year.

These are three real-life cases from Nevada. The names have been changed to protect their privacy.

Betty's medications, under the three different proposals, once again: Under the Graham-Miller plan, the leading Democrat plan, she would pay $3,180.00 out-of-pocket expense; under the tripartisan plan, $2,570.00; and under the Hagel-Ensign plan, $2,152.00 out-of-pocket expense.

The person who is the sickest, who is moderate to low income, is the person our plan benefits more than any of the other plans. That is why we think our plan is superior, because when we hear about people, when they go on the talk shows, when they talk in front of seniors groups, when we are hearing all these horror stories, these last three examples are the type of people about whom they are talking.

So if my colleagues really want to help those seniors who need it the most, they should support our plan. The other thing is—and I will conclude with this—that we have had two other plans voted down today. The two plans that were voted down, because they did not get the 60-vote point of order, are pretty much dispensed with at this point. Senators should ask themselves if they want to get a bill done this year. If they do, this is your best chance of doing it.

If we pass this plan in a bipartisan fashion, lay aside the politics—and we said we are going to put seniors ahead of politics, and ahead of being a Republican, or ahead of being a Democrat—we can pass a plan now. We should put seniors ahead of a political issue in this November's election. This Hagel-Ensign bill is the bill that offers that opportunity for people.

So I encourage my colleagues to support our bill. It will be voted on tomorrow. We have a great chance and a great opportunity for the American people, and especially for those seniors and disabled people who are on Medicare, to really get the help that they need.

Mr. President, I ask unanimous consent to add Senator ALLARD as a cosponsor of amendment No. 4315.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I am not going to speak very long, but I know my colleagues, the Senator from Nebraska and the Senator from Nevada, put forward their plan. I thought I would make a few points in regard to it. I commend them for their effort. They are trying to do something that is extremely difficult. They are trying to be both responsible in a plan in terms of how much they will provide, in terms of helping people who need help, but at the same time, they are trying to be as fiscally, I guess they would say responsible—I would say as minimal as possible. I would say, yes, if you just look at the plan and say which one should cost the least, the Hagel-Ensign plan is there.

If you look at all the other things we do in the budget and then say we don't have any money for this, repeal of the estate tax comes to mind, which I believe both of my colleagues have supported—and most have supported—and ask if it is an either/or proposition if you want to be fiscally responsible, which would people choose? A more generous plan. I think that cost us $600 billion in the President's budget to make that permanent. Putting together a generous plan and not repealing the estate tax, or repealing the estate tax and having this minimal plan, my guess is that 80 or 90 percent of the American people would reject the plan put forward by my colleagues from Nebraska and Nevada.

I guess if I had to think of the rubric of the plan, they are trying to be compassionate conservatives. It is a hard thing to do, a difficult thing to do. I respect their real effort to do it.

If my colleagues think this is a generous or adequate plan, it clearly is not. In fact, some have argued that this would be a step backward. That is not CHUCK SCHUMER, Democrat of New York, but it is AARP. I will read some excerpts from the AARP letter on this plan sent to Senator HAGEL on July 23. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> DEAR SENATOR HAGEL: Enacting a comprehensive prescription drug benefit in Medicare this year remains the top priority for AARP. Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries. Our members were promised in the last election that a comprehensive drug benefit would be a priority, and we are counting on you to make good on that promise this year.
>
> We appreciate the intent of your bill, S. 2736, the "Medicare Rx Drug Discount and Security Act of 2002," to provide a prescription drug discount card and stop-loss protection to Medicare beneficiaries. However, in addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches. We believe Congress should focus its efforts on enactment of a more comprehensive drug benefit this year.
>
> In addition to the timing of your proposal, AARP has concerns about the approach taken in your bill, including:
>
> Catastrophic coverage—While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the program. This would set an extremely dangerous precedent in Medicare. Further, the stop-loss levels set in the bill do not provide enough protection for lower income beneficiaries. A low-income couple could spend 25 percent of their income just for drugs before this plan offered assistance. Thirdly, there are a number of issues involved in using tax returns to determine program eligibility levels, and we believe other options should be explored.
>
> Discount card—While AARP supports the use of a discount card program as a building block for a Medicare prescription drug benefit, your proposal lacks the necessary specifications to guaranty the level of discount, what level of discount would be passed to beneficiaries, and the degree of consumer protections required of plans.
>
> Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries and we look forward to working with you on legislation that our members can support.
>
> Sincerely,
>
> WILLIAM D. NOVELLI,
> *Executive Director and CEO.*

Mr. SCHUMER. Let me quote from the letter to Senator HAGEL:

> Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries.

AARP goes on to say that while they appreciate the intent of S. 2736—this is their quote—they are

> . . . concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful, comprehensive approaches.

That is exactly the problem. I think when seniors from one end of this country to the other hear the exact specifics of the Hagel plan, they are going to be shocked. I think they even probably think that the most generous of the plans—the Graham-Miller-Kennedy plan—doesn't go far enough in terms of help that they need. To hear this one—and I will get into some of the details—I think they would say: Gee whiz, what the heck did they do? If we went home and said we passed a prescription drug benefit and passed the Hagel-Ensign bill, most of our constituents would say—correctly—no, you didn't, and don't you claim that you did because you are not helping the vast majority of people who desperately need the help.

I will go on with the AARP letter. They are worried about the catastrophic nature of the Hagel-Ensign bill. Quoting them:

> While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the problem. This would set up an extremely dangerous precedent in Medicare.

That is exactly right. Anybody who thinks this bill is helping middle-class people hasn't read it. The vast majority of our constituents who struggle with the cost of drugs, who may be making $20,000 or $25,000 and paying a couple thousand dollars—not $6,000, but $2,000—are left out in the cold by this bill. They are far more typical than the examples my good colleague from Nevada has brought up in his chart.

So to think that this is comprehensive, to think that it covers most, is wrong. We do have a choice. It is a value choice. How much are we willing to spend to help people? You cannot have it both ways. You cannot say we are passing a comprehensive prescription drug benefit and not spend the money for it. These drugs are wonderful, but they are expensive, and you cannot avoid that conundrum. You have to decide which side of the fence you are on.

With some regret, and I say it in admiration for their bold essay, the Hagel-Ensign amendment says we are on the side not of providing broad, comprehensive coverage but, rather, doing a little bit. And, again, as I said, put into the context of all the other things we spend money on, put in the context of the desire on the other side to continue with tax cuts, which takes their budget and puts it in a warped and pretzel-like way, it is not what the American people want.

So I am going to conclude with this quote:

> Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries, and we look forward to working with you on legislation that our members can support.

What AARP said to my colleagues I say as well. Let me just go over some of these things. This is the Hagel bill. Senior citizens with an income of $9,000—in parts of my State, that is not enough to pay rent, we would make that senior citizen with a $9,000 income pay $1,500 before the benefit outlined in the Hagel-Ensign bill—before they got any help at all. Now, is that fair? Is that right? Even taking the basic philosophy of Hagel-Ensign—and I disagree with it, but I respect it, helping the very poor who need the help—when you have a $9,000 income in most parts of America, you cannot afford to pay $1,500 in prescription drugs. You will never get there. That will be 17 percent of somebody's income. That is wrong.

Now, my friend from Nevada took one side of the line. I am going to take the other side of the line. He used a $17,000 example. Let's say you go to $18,000 in income. Nobody is rich on $18,000, whether you live in Nebraska, Nevada, or in Manhattan. It is harder in Manhattan than anywhere else. Your standard of living is different with the same income level there.

Listen to this: A senior making $18,000 would have to pay $3,500 before they receive any help. That is not the kind of benefit the American people are asking for whether they be senior citizens or younger people with parents. That is 20 percent of their income. If your income is $18,000, you pay $3,500 first? What they would say in New York is: Forget about it. What they would say to the rest of the country is: Please go back and try to do a little better.

Even a senior citizen with an income of $35,000—once you are at $35,000 and you are a senior citizen, hopefully your kids are out of the house and you are not doing that badly, although, again, in parts of New York, $35,000 does not stretch too far when you have an average rental payment of $1,000 a month or $800 a month. That eats a lot of it, and then you take taxes and other expenses. That person would have to pay $5,500, 16 percent of their income, before they got any help.

My guess is that 98 percent of all senior citizens at that level of income—hardly a very high level—would not qualify for this program at all. The number who pay that huge amount for prescription drugs—and that is the amount they would need before the program begins—is small.

I would not call this insurance. I would not call it Medicare. If it would become law, poor senior citizens would still be choosing between food on the table and the medicines they need to survive. That senior citizen who is making $9,000 and paying $1,500 for their much-needed prescription drugs is still choosing between food on the table and medicine.

Middle-class senior citizens who are willing to pay a little more in copayments and monthly payments would not get a benefit that they would find worthwhile at all. It would not affect most of them.

To all of my colleagues, this bill is more fiscally tight, stingier, if you will, than the House Republican bill. It is more inadequate than either of the two bills voted for in the Senate. I do not know a single organization of the elderly or the disabled that supports it, and I do not believe it deserves the support of the Senate.

The fight for a real Medicare prescription drug benefit does not end today. In fact, I argue that we made some progress today. Fifty-two votes for the Graham-Miller-Kennedy bill is a lot of progress, and, in fact, should we adjust the Budget Act next year, that 52 votes might be adequate to actually pass the bill. Once we forget these notions of spending money on things that virtually nobody wants, except a small rarefied few, we will be able to do it.

We made progress today. I am not despairing. I compliment the Senator from Georgia, as well as the Senator from Florida and the Senator from Massachusetts, who will be here shortly, for putting together a proposal that I think does much more of both: It is still fiscally within our means but really is broad and comprehensive and deals with people's needs.

To vote for Hagel-Ensign I think would be a cop-out. In fact, the argument was made by my friends—again, I salute the sincerity of their effort; I really do. This is an honest proposal and I thank them for that, but they admitted themselves: We will not do much after this.

I would rather go back to the drawing board and try to pass something that far better meets the American people's needs, such as the bill proffered by the Senators from Florida, Georgia, and Massachusetts. I urge my colleagues to defeat this amendment, and let's keep working on this issue until we get it right.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I am not going to get into an argument with our dear friend from New York. I will say, I think in New York if you make $9,000 a year, you qualify for Medicaid. So you are completely covered.

I also have to say, if we are going to take the approach the Senator from New York takes, and that is "how much are they willing to spend to help you," then we get into a debate not about what works, not about what is feasible, not about what we can afford, but who is willing to spend more money?

In truth, we have already been in that debate. I want to show my colleagues this, because this is frightening to me.

In 1999, just before he left office, President Clinton proposed a comprehensive drug benefit—let me start earlier. We had, through a legislative act of Congress, a bipartisan commission appointed with Senator BREAUX as chairman. I was on that commission. Part of what we did is we put together a proposal to modernize Medicare through the use of competitive marketplace forces.

For example, if you have a cane with four little legs on it and you buy it through Medicare, the average Medicare cost is $40. The VA, which has never been thought of as the world's most efficient buyer, buys it for $15. The Breaux commission put together a proposal to modernize Medicare and to use some of those savings to help people get coverage for pharmaceuticals, and the way they got it was opting into a more cost-effective system.

That proposal actually saved money because reforms in Medicare save more money than providing the pharmaceuticals cost within this more competitive environment.

President Clinton, who had us all down to the White House, looked us in the eye and said: Don't let this process fail because of you. I was one of the members of this commission. President Clinton looked us right in the eye and said: Don't let it fail because of you. And then all four of his appointees voted no at the last minute. We needed 11 out of the 17 to make a recommendation to Congress, and we only got 10.

At that point, incredibly, providing pharmaceuticals not only did not cost money, it was part of a reform program where the savings we would have gotten with Medicare reform would have paid for the pharmaceutical benefit.

That is where the debate started, and we failed to act because of one vote on the bipartisan commission, when all four of the President's appointees voted no. In fact, they had a press conference at the White House denouncing the plan before we had the vote.

At that point, at the end of his administration, President Clinton said: We can have a comprehensive benefit for $168 billion. That was in 1999 just as President Clinton was ending his term.

Then Congress in 2000 had a proposal. Former Senator Robb from Virginia was the author of that proposal, and it cost $242 billion. If you went back and looked at that debate, everybody who was for that plan said: We can solve this problem. If you will just give us $242 billion, we can solve the problem.

Then you will remember the budget debate we had last year, the Baucus amendment. I could quote 20 Democrat Senators who said: We can provide all the benefits we need for $311 billion.

I could quote Senator BAUCUS, I could quote the distinguished majority leader, but it is never fair using people's words against them. I do not do it, but I could.

In the budget debate last year, $311 billion would have done everything we wanted to do. This year in the budget we said: No, that is not enough. That is being tight fisted with the elderly. We do not want $311 billion. In the budget we said $500 billion. The budget did not pass, but that is what the budget had.

Now we come to the floor with a proposal that says: We cannot spend $500 billion; that is being tight fisted with our seniors. How dare we to have thought of $311 billion? What was wrong with Senator Robb's tightness at $242 billion? Was Bill Clinton a person who did not love the elderly at $168 billion? What a heartless man he was. Today, we said: No, it is going to take $600 billion—not $311 billion but $600 billion.

Mr. SCHUMER. Will my colleague yield?

Mr. GRAMM. Let me finish this point, and I will be happy to yield.

Mr. SCHUMER. I thank the Senator.

Mr. GRAMM. The $600 billion would not pay for a real program. It starts in 2005. It ends in 2010. So if one does not live until 2005, they get no benefits; if they live past 2010, they get no benefits—and it still cost $600 billion.

Now, where do we think we are going? Where does all of this end? We are asking people to look and see who cares the most. And you can measure that by how much money they are willing to spend.

Where does this end? Will it not go on forever? I am going to yield to the Senator, but let me make this point to sort of bring it together.

Forget this red in the chart. That was about this bill that I was talking about when I made the chart. Just look at the yellow on this chart. I want to try to impress this one figure on people's minds. Today, Medicare, which has an unfunded liability in present value terms of $17 trillion—when you discount it above the present value of the revenues we are going to collect, today it is taking 2 percent of the economy. If we do not pass any drug benefit and we just leave Medicare as it is, by 2030 it is going to take 4 percent of the economy. Today the payroll tax for Medicare and Social Security is 15.3 percent. If left unchanged, meaning we do not cut it and we do not increase it, the payroll tax will have to more than double by 2030 to over 30 cents out of every dollar earned by every worker to pay for Social Security and Medicare. That is without a prescription drug benefit.

Some people estimate that if the bill had been adopted that we sustained a point of order against today, this would go not from 2 percent of the economy to 4 percent but from 2 percent to 6 percent. We would literally be looking at over 40 cents out of every dollar earned by every worker to pay for Social Security and Medicare.

I understand all of these people who want these benefits are writing these letters saying we do not love them enough—that $170 billion is not enough. They say these people who want to spend $600 billion love us more. Of course, they are going to love us even more next year with $900 billion. There will be lots of love next year.

The point is, does anybody care if young workers 28 years from today are paying 40 cents out of every dollar they earn on Medicare and Social Security? How much love can we afford? That, I think, is a critical point.

So I beg my colleagues, let us not get in the business where we measure a program simply by how much it costs.

Others I am sure want to speak, but I am going to talk about how this program gets you a lot for every dollar you spend. I am happy to yield.

Mr. SCHUMER. I thank my colleague.

First, our colleague from Texas has been on the floor a whole lot lately on all of the various issues which we have been debating. He has always been a great warrior and a great debater, but since he announced his retirement, he is a happier warrior. Every argument he makes, he has a twinkle in his eye. I compliment him for that. It is a pleasure to listen to him, as much as I disagree with him. I do not know if this would happen to the rest of us if we also announced we would not be here, we would be much happier in our arguments, but I want to make three points and ask them to form the question.

First, I ask my colleague from Texas if he knew that the Medicare level in New York is $599, which is $7,200 a year. I ask him if he knew that.

Mr. GRAMM. If I were from New York, I would be trying to change that.

Mr. SCHUMER. Well, we will, maybe with the help of the Senator from Texas. In any case, that person in the example does not qualify.

The second question I ask my colleague is this. I like his chart. It sort of fits my argument because that last number is $600 billion. As I understand it, if we did not make the estate tax repeal permanent, something my colleague from Texas has fought very long and hard over, that would be about $670 billion, as I understand it. That is how much it would cost over the same 10-year period. So we are not talking about the ability of the Government to pay this; we are talking about size of government. That is one of the great debates we have. But it is not that my colleague says we cannot afford it; rather, he is using it for different purposes.

At least to me, when I go from one end of my State to the other, the number of people who ask for estate tax repeal is much smaller than the number who ask for a comprehensive prescription drug plan for Medicare.

So I ask my colleague, aside from the ideological and philosophical argument about size of government and all of that—on which we have had nice debates on both the floor and in our various committees that we share—but certainly within the contemplation of my good friend from Texas, if we did not take that money for estate tax reduction, we could put it into this program; am I right about that? This is a simple value choice.

Mr. GRAMM. I am going to answer that point. Was there a third point?

Mr. SCHUMER. Yes. The third point is this: When we compared the programs, the $168 billion, the $242 billion, and the $311 billion, that was apples and oranges, as I understand it. The benefit I remember from the Robb program that my friend from Texas pointed out did not have the same level of benefit, the same generosity of benefit, as the plan proffered by the Senators from Florida, Georgia, and Massachusetts. So we are really comparing apples and oranges.

It is not that anybody thought the original plans did everything, it was just the amount of money they were willing to spend, and in fact, as I recall it, the Robb plan was sort of objective because people thought for the amount of money it cost compared to the amount of benefit, it was not quite worth it, at least in political terms, using politics in the finer sense in terms of people's value choices.

Those are my three questions to my colleague, and I welcome the answers he will give with the same twinkle in his eye.

Mr. GRAMM. Let me begin with No. 3 first. We are comparing apples and apples. In 2001, in the political bidding war we were in then, $311 billion represented a sufficient number of apples to engage successfully in the bidding contest. Today, it is $600 billion and heading up. My point is that, beginning with the chairman of the Finance Committee and the majority leader, we had Members saying last year that $311 billion would provide a wonderful program. The problem is, this year it is $600 billion, and that is a wonderful program. And it is not apples and oranges, it is a lot more apples.

Secondly, I think where my colleague is leading on the death tax thing is kind of a circular argument. If you are willing to take away people's money, the only limit you get as to how much you can spend on Medicare or anything else is the amount of money that can be extracted without destroying the productivity of society.

The point I had made earlier was that you are already committed under the existing program to take 30 cents out of every dollar everybody earns to pay for Social Security and Medicare. If you adopted your program, by some estimates you would be paying 40 cents out of every dollar that people earn, and the question is: Is that something that the economy can bear, and is that fair to young people?

In terms of the death tax, we have a very different view of the death tax. Nobody in my family ever paid any death tax, and nobody ever bequeathed anybody anything because they did not have anything. But when somebody works a lifetime to build up a farm or a family business, the view of the Senator is that that belongs to the Government and my view is it belongs to the people who build it up. They build it up for their family, and it is not right for us to force their family to sell off their business or sell off their farm or sell off their life's work to give the Government 55 cents out of every dollar they earn.

It is a perfectly legitimate position to say they ought to have to do that, but it is not something of which I am supportive. I think it is fundamentally wrong.

There are other people who want to speak.

Mr. SCHUMER. I am not yielding but thanking him for the answers.

Mr. GRAMM. Let me also say one thing that has happened about which I am worried. Many of my Democrat colleagues, knowing that this tax cut that we adopted is temporary—because of this quirk in the budget, unless something changes it goes away in 10 years—almost seem determined to spend and spend and spend until we have to take the tax cut away.

I remind my colleagues, throughout American history the highest sustainable tax rate that we have been able to sustain over long periods of time was taking 19 cents, on average, of every dollar created in the economy. When we adopted the tax cut last year, the Government was taking 22 cents out of every dollar produced in the economy. That was a record high that only had one year higher. That was 1944 at the peek of the war effort. I hope people do not believe we should go back to a 22-percent tax burden.

The final point I make, the Senator acts as if death taxes would pay for Medicare. We all know Medicare is funded by payroll taxes. If you are working in some factory somewhere—I don't imagine you are watching this debate, but if you are and say you are taking a coffee break and this is the only thing they have on in the factory—don't think that some rich guy is going to be forced to sell off his farm to pay for your Medicare. You are going to have to pay for it with higher payroll taxes. Don't be confused.

Now, I have talked longer than I had intended. Let me make a couple of points. First, I read a quote, from John C. Rother, policy director of AARP. In recognizing that the two big plans would be defeated, he said: Another possibility is for Medicare to provide catastrophic coverage for prescription drug expenses over a certain threshold.

And he notes also that we could have a Government-authorized discount card.

Now, let me make my points about this bill and stop. First, I had virtually nothing to do with writing this bill. Two Senators have been principal authors of it. I recognized, in simply looking at it, that it was the best plan around. They came up with it.

Why is it the best plan around? First, it is within budget. Now, it is hardly some insignificant amount of money. Somewhere between $140 and $170 billion is what this costs. That is a lot of money.

What it does is provides the most help to people who fall into two categories: A, you don't have very much income; and B, you have high drug bills. I submit those are the people who need the help the most.

The problem with the other two proposals—let me make my criticism bipartisan—the problem with the other two proposals is that they spend 80 percent of their money helping people who don't need help. When you take the view that the Government ought to have a program that pays at least 25 percent of the drug bill for Bill Gates and Ross Perot—that it is not a universal program unless they are covered—you are going to end up spending huge amounts of money paying for people who don't need the help. You end up paying for the roughly two-thirds of people who already have health insurance for pharmaceuticals, because you substitute the taxpayer for the private insurance policy they already have as part of their retirement program.

The point I am trying to make is you are spending 80 cents on people who either almost have the benefit or don't need it to get 20 cents on the target to people who do need it.

The advantage of the Hagel-Ensign bill is that it puts every dollar on the target. This is what it says. Again, you can spend more money; God knows you can spend more money. But just listen to what it does. Let me take a retired couple. If their income is $23,000, they would have to pay roughly $100 a month in drug bills themselves, but at slightly above $100 a month this program kicks in and they get full payment except, possibly, a very small, little copayment per prescription.

Now, our colleague from New York said a huge number of seniors, 80 percent I think he said, would reject this program. I don't believe it. My mama's drug bill is $400 a month. She does not want help in 2005. She does not know if she will be alive in 2005. She wants help now.

The advantage of this program is that it provides help right now. What it would mean in her case is she would have to pay a little over $100 a month and now she is paying $400 a month.

Now, if your income goes up, then the deductible goes up. For example, if you are making $46,000 a year, your deductible is $3,500. If you are retired, most retirees who make $46,000 a year own their own home. What this bill says is, if your expenses on pharmaceuticals get up really high, the Government is going to come in and help you. If you make $69,000, you have to spend $5,500 to get the payment by the Government. So it is tied to your income.

And for Bill Gates and people who are very wealthy, they have to spend 20 percent of their income on pharmaceuticals. Bill Gates will never get a benefit and he shouldn't. He doesn't need it, and he doesn't want it. He might not even take it.

That is not the only help you get, by the way, because immediately this program would let private companies contract through Medicare to represent Medicare beneficiaries in negotiating for their pharmaceuticals. So each of these companies would compete in buying the drugs you buy. You would buy from whoever could sell them to you the cheapest, and it is estimated that they would save you somewhere between 25 percent and 40 percent of the cost of your drug bill.

In my mama's case, this would mean spending much less than $400 a month—it is estimated that these companies, because they have more buying power, would get the best price. She goes to the same pharmacy because it is the one convenient to her house. These companies could go all over the country to find her drugs and buy them the cheapest. They could save her $100 on average just simply by being competitive.

Remember I told you about the cane with four legs on it—Dr. FRIST, you have seen them—lots of people have them in hospitals. Medicare pays $40 for that cane on average. The VA buys that cane for $15 because they go out and engage in competitive bidding. These companies would do the same thing. Then, anything above $100 per month, the Federal Government would pay.

If you said to my mother and anybody else's mother: Would you rather have the Government pay the whole thing? The answer would be yes. She would rather the Government pay the whole thing. But the point is, this is a reasonable, responsible program that would help real people.

Finally, Senator ENSIGN has presented three or four times—you can never do it enough—cases of people who have real high drug bills, and remarkably he has shown that his program is cheaper for them than these very expensive programs. Before somebody runs down here to the floor to answer me and says: How is it possible? We spend $600 billion and Senator ENSIGN spends $170 billion and you are saying it is cheaper? You are saying it is cheaper under Senator ENSIGN's program. How can that be when he doesn't spend as much money?

The answer is very simple. He doesn't cover everybody. If you do not have high pharmaceutical bills—and in any given year a substantial number of seniors do not—and if you do not have moderate income, he helps you get competitive purchase of your drugs, which saves you between 25 percent and 40 percent. But the Government does not pay if you do not fall in this category of people. You don't get help under those circumstances.

Now you say everybody should get help. The point is, this bill helps the people who need the help the most. This is a good proposal.

I remind my colleagues, we are at an impasse here. There are some people already talking about spending more money to break the logjam. The logical thing to do now, if we want to act this year, is to take this proposal and adopt it. That will help people who need the help most and help them now. Then we can come back next year. We can look at the budget situation, we can see where we are, and in the process we can supplement this if we want to.

Let me give you one example because Senator ENSIGN has done it better than I could possibly do it. This is somebody who lives in Nevada. He calls her Betty Smith. She is 66 years old. She has an income of $15,000 per year. She is being treated for a whole bunch of things.

Her drug bill is $8,000 a year. My mother's drug bill is $4,600 a year and, thank God, she doesn't have these kinds of problems. So it is easy to believe an $8,000 bill.

Here is the point. Look at the Hagel-Ensign bill under exactly this situation. Your income is $15,500 and you are being treated for breast cancer and you are taking all these drugs and you have a $8,000 bill, so you are spending over half of your income on drugs. This is literally somebody. We all talk about this cliche of people being forced to choose between medicine and food. I hope her children are helping her. If they aren't, they ought to be. But she would literally—if she didn't have any children, didn't have anybody helping her—she would literally be choosing between eating and drugs.

Now, here are the three bills. Two of them we voted on, and one we are about to vote on. The point that Senator ENSIGN has made is that under the bill that costs $600 billion and covers everybody, this lady would have to pay $3,180 a year. Under the tripartisan bill, she would have to pay $2,570 a year. But under the Hagel-Ensign bill, she would pay $2,152. In other words, for a lady who is very sick and who has a very moderate income, she would be better off under this plan.

But for people who say how is that possible when it only spends $170 billion, the way it is possible is it is focused to help exactly people like this lady. It does not take the view that we have to provide the Government program for everybody. It just helps people who need the help. And it provides this system of competitive purchase for everybody.

So, I urge my colleagues, do not get into this business about saying this cannot be as good as that because that costs so much more money. Some of the best things in life are not necessarily the most expensive. Remember, we are going to have to pay for it. Not "we" being Members of the Senate. We are not going to pay for it. We don't pay for anything. We are going to be covered by the Government insurance program when we get out of here. But that blue collar worker on that assembly line is going to have to pay for it.

I congratulate my colleagues. This bill ought to be adopted. There is a budget point of order against it but not because it is over budget. It is because we wrote in the budget that the bill had to come out of the Finance Committee. The Finance Committee refused to report a bill, so no bill could come out of the Finance Committee. So every bill had a budget point of order. If it had gone through the Finance Committee, no point of order would have lied against this bill. However, if the Graham-Kennedy bill had gone through the Finance Committee, two points of order would still have lied against it, a section 302 and a section 311 point of order, as well as the tripartisan bill.

But this bill is not subject to a point of order because it spends too much money. It is subject to a point of order because the Finance Committee was not allowed to do its job.

So I hope people will look at this and decide we can help a lot of people, and we can do it right now. The purchasing discounts would start immediately. We do not have to wait until 2005. And this is something we can afford. We could come back and do more next year if we had the money.

I appreciate my colleagues listening, and I commend this program to them.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BROWNBACK. Mr. President, I ask the sponsor of the amendment to yield to me 10 minutes to debate the issue.

Mr. HAGEL. I yield to the Senator from Kansas 10 minutes off our time, Mr. President.

Mr. NELSON of Florida. Might I inquire of the Chair how much time is remaining on this side?

The PRESIDING OFFICER. Sixteen and a half minutes.

Mr. NELSON of Florida. Mr. President, I would like to be recognized at the appropriate time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I thank my colleague from Nebraska for allowing me the time and for his proposal. I think it is an outstanding proposal and one that we can do and one that we can afford and one that can provide benefits to some people who really need this help and need it now. It is something I think we could build on in the future.

Remember now, we are talking about a group of people who do not have pharmaceutical benefits and need them, people with low income but above Medicaid; low income, and this is taking a big portion of their income. They have to have these pharmaceutical drug benefits. They need it. Here is a proposal where we can do it.

If I can just make an observation at the outset: This process cries to go back to the Finance Committee and come out of the Finance Committee. This has not been taken through the Finance Committee. It clearly should have been. This is the largest—this will be the largest new entitlement program that I will have voted on since I have been in the Congress, either the House or the Senate, by far. I think at the end of the day, when the dollars are tallied up, you are looking at a multitrillion-dollar program because once we start a benefit, we do not stop it. This is something that we will start, and will do, and it is going to continue for a number of years. It is something we need to do.

But if you are going to start, at the end of the day, a trillion-dollar program in all probability, you need to take it through the right process. It needs to come through the committee that looks at the numbers and figures out how to pay for it.

To just pass a benefit and say we are going to do it, and we will figure out how to pay for it after the bills come due, is the height of irresponsibility on our part.

I have two charts. I do not want to overburden everyone with lines on a chart, but I want to point out, this is where we are today with these various proposals. This black line represents the total income for Medicare. I call this chart "The Great Medicare Accounting Scandal" because I do not think we are accounting for the real cost of these programs.

We are being critical of people—and rightfully so—in corporate America for not accounting for real costs and for sliding things around saying: Well, OK, we will capitalize this, but it should have been a direct expenditure and expense. We are criticizing them—and rightfully so—for doing that.

What are we doing here? What are we doing here on our accounting? The black line is the amount of money we have coming into Medicare. The red line is the Graham-Kennedy benefit proposal. You can see, in year 1 of the benefit, in the year 2005, the expenditures are more than the income we have coming in from Medicare. In the first year out of the box, you are spending more money than you have coming in in Medicare. That does not count the accumulation that you are going to have up until 2010, when the program, theoretically, ends. But, of course, it does not.

We do not terminate benefit programs. It is going to continue past 2010, into 2011, which is the first year the baby boomers start retiring. So you have this group of soon-to-be seniors—72 million baby boomers—in America. Count myself amongst them. That is kind of the big lump in the python coming through, the pig in the python, in the demographic charts in the United States, starting in 2011, where the program is supposed to end in 2010. Of course, it isn't going to happen.

On this chart, where would this red line be in the year 2011, when you start getting this large group of retirees coming into the system? It is going to be much higher and be an accounting scandal for us.

So how are you going to pay for this? You are either going to cut benefits, which I do not think we are going to do, you are going to raise payroll taxes, which I would think would be the wrong thing to do—we already load so much on people working in the system—or are you going to try to take this from somewhere else in the system, or raise the deficit? Probably you are going to do all of those things, other than cutting benefits. But we are not talking about that in this system right now.

Look here, on this chart, at the various other proposals that we have.

The purple line shows the total expenditures today, without a benefit. The Hagel-Ensign proposal is shown by the green line.

Of the proposals that are coming forward—and I think we need to have a prescription drug benefit—this is the most responsible one that we can handle and that we can do. And we, clearly, should do something.

The process cries out for us, right now, to do something now and not just to have something for campaigns. Here is the Democrat proposal. Here is the Republican proposal. But you cannot take those as prescription drugs. That is not income to you. You cannot eat promises. That is what we have sitting out there now. And that is where it seems the debate is heading, unless we can take it back to the Finance Committee and have a legitimate process, one where we would come out with a benefit that people can afford and need to have today.

This one has been a very disappointing discussion, to me, in the sense that there is a clear compromise that sits out there that is available to do, and we could cobble together different proposals of any of these bills and figure out how to make it work, and get a bipartisan proposal that we would all support, that would include a prescription drug benefit.

That sits out there to be had. That can take place. Instead, we are just saying, no, we are going to take it through this different process. We are going to bypass the Finance Committee on the most expensive entitlement program that I will have voted on as a Member of this body. We are going to bypass the normal process. We will just have a political debate on it that I do not think is edifying for the body and is not the right way to go.

On the particular proposal, the Hagel-Ensign proposal, of which I am pleased to support, I also note that it is supported by AARP. Unlike my colleague from New York, who said the AARP does not support it, in today's New York Times, John Rother, policy director of AARP, said this:

> Another possibility is for Medicare to provide catastrophic coverage for prescription drug expenses over a certain threshold, perhaps $4,000 to $6,000 a year, with no premium. This could be combined with additional help for low-income beneficiaries and a government-authorized drug discount card.

That is not my speech supporting Hagel-Ensign. That is from the policy director of AARP in the New York Times today. He is saying: Look, you have the parties. Each have a proposal. They are at a standoff on this proposal. What could we get done so we can move this forward for the benefit of seniors in America? And he describes the Hagel-Ensign proposal. That is what we should do.

That is the type of proposal we need to move forward. It would be an appropriate proposal for us to move forward, so we can provide a benefit, we can get it done now, and provide it to people who need it now. They do not need promises. They need action by us. And they could have the action. This is something we need to do, and we need to do it this way today.

This chart shows the various lines depicting where the assets in the proposals go. You can see the current projected Medicare trust fund assets, and also the projected Medicare trust fund assets under Graham-Kennedy. You can see where we are taking this proposal. This line is going south, fast, if you get a benefit that you cannot afford.

I ask a rhetorical question of all my colleagues: Would we rather encounter the first wave of baby boomer retirees with $660 billion in the Medicare trust fund or would we rather encounter retirees having spent all but $250 billion? That is what these lines point out.

We know we have the baby boomer generation hitting in 2011. They start jumping into the retirement pool in 2011. We want to face them with some money built up at that point in time and still have a prescription drug benefit like what is in Hagel-Ensign, or even the tripartisan bill. We can get there with more assets in the bank and still provide today a prescription drug benefit for those who need it today. And they need it today.

I really think we should set our Republican and Democrat caps aside and say we can provide this to people who need it today. For the 27 percent of the public who do not have a prescription drug benefit of some type, who are in a low-income category, who need this, we provide a discount drug card or discount card, such as in the Hagel-Ensign proposal. We do that today and still save some money for when the baby boomers start retiring in 2011.

I hope we will all look at that and say that is the right thing to do, to provide that benefit. It is the responsible thing to do. And as we look to our future, it is the right thing for workers coming up in this system so that they are not stuck with this huge lug on their shoulders when the baby boomers retire.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. BROWNBACK. Thank you, Mr. President, very much. And I thank my colleague from Nebraska for yielding time to me.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I rise to speak in opposition to the amendment. I want the Senator from Nebraska to know of my personal affection and respect for him. There are certain people in a body to whom you just naturally gravitate and you naturally like, and he is certainly one of them.

I rise in opposition, not because he does not have an excellent, substantive proposal, but I would offer my objection as has been articulated by the AARP today in a letter to Senator HAGEL in which they state:

In addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches.

That is what I want to discuss today. What this Nation is begging for is a comprehensive approach, not a piecemeal approach. What the senior citizens of this Nation are yearning for is that we modernize Medicare to provide a prescription drug benefit.

If any of us were designing a Medicare system, which is a health insurance system for senior citizens, funded by the Federal Government, if we were devising it today in the year 2002 instead of the year 1965, when it was enacted, would we include prescription drug benefits? The answer to that is, obviously, yes.

Medicare was set up in 1965 when the condition of health care was centered around acute care in hospitals. But with the miracles of modern medicine, with the advent of prescription drugs that can increase the quality of our lives, that can take care of chronic ailments and that, indeed, add to what we would say, in the street vernacular, is preventive maintenance, then, clearly, if we were designing a health insurance system funded by the Federal Government for senior citizens today it would clearly include prescription drugs.

That is the question that is before this body. But because of the rules of the Senate, we have to get 60 votes in order to pass anything here which, with competing plans, makes it very difficult.

Although I think the Senator from Nebraska has some excellent ideas, it is injected in this debate at the wrong time because in the words of the AARP, as articulated in their letter today:

> We are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful, comprehensive approaches.

We have to keep trying. We have just been unable to get the 60 votes on two different substantive approaches to prescription drugs in the votes that occurred earlier today. We have to keep trying to forge a compromise. The compromise is not this scaled-down version.

I wish to speak about the substantive alternatives that are here. One of the alternatives, as suggested by what has been voted out of the other body, the House of Representatives, utilizes the private sector and private sector insurance companies in which they offer the prescription drug benefit.

I had a little bit of experience as the elected insurance commissioner of Florida for 6 years before coming here. I point out that you can get some glimpse of the enthusiasm of insurance companies to offer this prescription drug benefit if you look to the States.

For example, 4 years ago, the State of Nevada passed a prescription drug benefit. It was to be offered by private insurance companies. Within 2 years after the passage of that law, not one insurance company had come forth to offer that prescription drug benefit.

On the basis of that experience, that is certainly not what we want to be offering to senior citizens of our country on something that is so important to them, a benefit that would be illusory, that would not be there. That is why we ought, in whatever compromise we strike, to come closer to the Graham-Miller approach, which is a substantial reworking of Medicare, and the prescription drug benefit becomes a part of Medicare. Then it is my hope, once we can find that illusive consensus, we can go on and add additional improvements.

The health care providers of this country are hurting because they are not getting reimbursed for their Medicare procedures at a rate that is commensurate with what they should be reimbursed. One of the items we are going to discuss—and hopefully we would be able to take this base bill and amend it—is an increase of those Medicare reimbursements so that we are taking care of the Medicare beneficiaries, the senior citizens, and we are also helping those who are providing the services, the health care providers, by increasing their Medicare reimbursement.

When we do that, I hope we will also look at some of the practices that because doctors are getting squeezed, in large part squeezed by insurance companies, sometimes regular insurance companies, some called HMOs, which are insurance companies, and because doctors are getting squeezed, they are trying to find ways to keep their income up.

Lo and behold, down in my State of Florida, there is a group of doctors now saying to all of their patients: We are not going to see you anymore unless you pay us an entrance fee of $1,500 per patient per year. But by the way, we still want to take your Medicare reimbursement.

That is simply the beginning of the end for Medicare, because the logical extension of that is that only those who are wealthy enough to afford that entrance fee—in the case of Florida, $3,000 per year per couple—are going to get the access to the doctor they want, that doctor who is being reimbursed by the Federal Government for the services performed for those senior citizens.

That is wrong. It should be changed. It ought to be illegal and yet the Department of HHS has said it is not illegal. So we are going to have to change the law so that a doctor cannot receive reimbursement from Medicare if they are saying to those patients: I will not see you unless you pay me $1,500 a year as an entrance fee into concierge care.

I hope we strike the major compromise, that it is closer to the Graham-Miller bill, that we address Medicare reimbursements because the doctors and other health care providers need it, and that we add the amendment I just talked about which would prevent doctors from limiting patients to seeing them unless they pay an entrance fee while at the same time getting their Medicare reimbursement.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, could the Chair tell me how much time this side has remaining?

The PRESIDING OFFICER. Twelve minutes fifty seconds.

Mr. HAGEL. And how much time does the other side have remaining?

The PRESIDING OFFICER. Five minutes fifty-seven seconds.

Mr. HAGEL. I thank the Chair.

Mr. President, I allocate 5 minutes of our remaining time to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I know time is now precious and we are down to a few minutes. I will skip a lot of things I was going to say since there has been a lot of redundancy.

My good friend from New York was on the floor and was talking about the relative significance of the inheritance tax and how it wasn't really all that meaningful. I am sure the occupant of the chair would agree because he was one of the rare Democrats who stood up and said we should repeal that unfair tax on money that has already been spent. Also, with the farm crisis we have had out West in my State, I have yet to find one person out there who wasn't more concerned about losing his farm because of the very unfair death tax than even the farm bill. But that is not what we are here to talk about.

I think something the Senator from Texas, Mr. GRAMM, said has to be repeated over and over; that is, this Hagel-Ensign bill is a lot less expensive and does a better job, but there is one major reason. We have a saying out in Oklahoma that "if it ain't broke, don't fix it." That is exactly what the situation is.

We have a lot of people who don't need additional coverage now. If they don't need it, why provide it? Why get into some very large program?

Now, we have had two programs that have been rejected today. The first would not do for seniors what it said it would do, and it would have cost a lot more than we can afford, and it would not have included a lot of the drugs the seniors need. That program, as well as costing too much and not covering enough medications, would sunset in 2010. That means in 2010, people who have been relying on the Medicare prescription drug benefit would have had their coverage taken away. We know better than that.

I remember one of the best speeches that should be required reading for all young people, called "A Rendezvous With Destiny," by Ronald Reagan. He said:

> The closest thing to immortality on the face of this earth is a Government benefit or program once started.

We all know that is the way it would work out and we would end up with some very large, spiraling cost program that we could not get rid of. It is not responsible, reasonable, and it is not the best we can do for seniors. I am glad it did not pass.

Then we were given a chance to consider a second option, the tripartisan plan. I thought it was too expensive, but I supported it. It is very much like what the House passed. It is something we can go to conference on and have something effective come out of it. Once a person's drug costs reach a higher fixed limit, the Government would have paid 90 percent of the additional cost. Many colleagues supported it, as I did; but it was defeated.

Now we have a chance to give seniors a real prescription drug benefit. This legislation is a responsible, long-term, comprehensive plan which truly takes into account the needs and the situation of individual seniors. Several fellow cosponsors have already spoken to the specifics of the plan, such as low premiums, low overall costs on catastrophic coverage. I will tell you what it means to the people who sent us here.

Senator GRAMM talked about some individuals without identifying them. I will identify the people. The Hendersons are from Okmulgee County, a short distance from where I live in Oklahoma. I told them I was going to use their case. They wrote me to tell me about their struggle with prescription drugs. They had a unique problem—one was a heart problem and one was a cancer problem. The Hendersons have a yearly household income of $24,000 and they spend $9,000 of that on prescription drugs in a single year. The Hendersons' income falls between the 200 percent and 400 percent above the national poverty level. That national poverty level for couples is $11,940 a year.

Under our bill, an out-of-pocket limit on the cost of prescription drugs for people with a similar income to the Hendersons is set at $3,500. If they were between 100 and 200 percent of poverty, that would come down to $1,500. But in the case of the Hendersons, they would have to pay that maximum, and then a copay of 10 percent of the cost of these drugs. Calculate that out. While the remaining cost of the Hendersons' drugs is $5,500, their copays would be no more than $550, and under this bill the Hendersons would pay a total of $4,050 a year for prescription drugs, when they are now paying $9,000 a year. This bill cuts their drug costs by more than half.

The Hendersons, under the Democrat plan, would have faced uncertainty on three fronts: First of all, uncertainty about which drugs were covered, since only two drugs in each therapeutic class would be covered; secondly, uncertainty about how much the prescriptions would cost since the $10, $40, and $60 copayments in the plan were virtually done away with through amendments; and, three, uncertainty about how long their benefits would last even if it didn't sunset. They would not know this. Uncertainty is there.

I believe the Hagel plan is real assistance, and I strongly support it. I believe this is the alternative that is left and the most responsible one.

I thank the Chair.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I yield myself 4 minutes.

Madam President, first of all, I want to speak to my colleague from Oklahoma. My mother grew up in Oklahoma, and I have a great affinity for that State. I have a lot of relatives there.

But I was quite surprised to hear the comment that "if it ain't broke, don't fix it," when we are referring to Medicare. When we look at the Medicare system and the inability to cover prescription drugs for our seniors, when we look at the explosion in the price of the prescription drugs, I would say it is very tough to find a system that is more broken than our inability today to provide low-cost prescription drugs, whether it be through Medicare or whether it be a small business or a farmer trying to get coverage for their family. This system is broken. That is why we are here. It needs to be fixed.

I rise in opposition to the Hagel amendment. I appreciate the desire of my colleagues to find an alternative, but I certainly am concerned that this does not begin to address what it is that seniors in this country are needing or asking them to do. There seems to have been a lot of confusion about where AARP is regarding this issue. So I will read a letter sent to the author of the amendment on July 23—today—which says:

> DEAR SENATOR HAGEL: Enacting a comprehensive prescription drug benefit in Medicare this year remains the top priority for AARP. Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries. Our members were promised in the last election that a comprehensive drug benefit would be a priority, and we are counting on you to make good on that promise this year.
>
> We appreciate the intent of your bill, S. 2736, the "Medicare Rx Drug Discount and Security Act of 2002," to provide a prescription drug discount card and stop-loss protection to Medicare beneficiaries. However, in addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches. We believe Congress should focus its efforts on enactment of a more comprehensive drug benefit this year.
>
> In addition to the timing of your proposal, AARP has concerns about the approach taken in your bill, including:
>
> Catastrophic coverage—While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the program. This would set an extremely dangerous precedent in Medicare. Further, the stop-loss levels set in the bill do not provide enough protection for lower income beneficiaries. A low-income couple could spend 25 percent of their income just for drugs before this plan offered assistance. Thirdly, there are a number of issues involved in using tax returns to determine program eligibility levels, and we believe other options should be explored.
>
> Discount card—While AARP supports the use of a discount card program as a building block for a Medicare prescription drug benefit, your proposal lacks the necessary specifications to guaranty the level of discount, what level of discount would be passed to beneficiaries, and the degree to consumer protections required of plans.
>
> Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries and we look forward to working with you on legislation that our members can support.

This is signed by the executive director and CEO of AARP. I simply wanted to enter that into the RECORD to make it clear that AARP joins us in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. HAGEL. Madam President, I ask unanimous consent that Senators FRIST and NICKLES be added as cosponsors of amendment No. 4315. I yield the remainder of our time to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Madam President, how much time remains on our side?

The PRESIDING OFFICER. Six minutes twenty-four seconds.

Mr. FRIST. And the time on the other side?

The PRESIDING OFFICER. One minute.

Mr. FRIST. Madam President, will you notify me when I have 1 minute remaining.

I rise in support of the Hagel-Ensign Medicare Prescription Drug Discount and Security Act of 2002. I do so after a long day of debate, discussion, and votes on bills which attempt to reach out with affordable prescription drug coverage for our seniors.

Over the course of the day's debate, we have touched upon what matters most to seniors. That is what I want to address in the next 3 or 4 minutes.

What do seniors who are listening today—38 million Medicare potential recipients who are seniors today and another 5 or 6 million individuals with disabilities—what do they want regarding prescription drug coverage? I think it is three things. The first issue is that seniors want security. They want peace of mind. When you are 65, 70, 75, 80 years of age, the most frightening thought is that in those final years of your life you develop something—whether it is heart disease, chronic lung disease, emphysema, or lymphoma—and all of a sudden you face high prescription drug costs which are skyrocketing. We know this is an issue—we have been talking about that all week long. In essence, paying for prescription drugs bankrupts you in terms of what you can afford and, even worse than that, what your children may be able to afford. The beauty of this particular bill is that it addresses that peace of mind, that security.

The second issue I hear as I talk to seniors as I travel around Tennessee, and it has been discussed a lot on the floor today, is that, with regard to prescription drugs, seniors want help now. They listen to the debate, and both of the bills discussed earlier today have some very good, substantive issues to them, are comprehensive, and each have pluses and minuses. But the defect that both bills have that the Hagel-Ensign bill does not have is this bill takes effect, in essence, right now. That is what seniors want.

Seniors who are listening may think: Why talk about a bill taking place in 2006 or 2005? I do not even know if I am going to be around 3 or 2 years from now. What they really want is help now. Those who need it want it now. The message they tell me is to do it now. Again, the Hagel-Ensign bill takes effect next year, not 2 years and not 3 years from now.

The third factor this bill does is it addresses prescription drugs in a responsible way. We are not in a world today or in a country today where you can just throw unlimited money and say it will be taken care of by the next generation or by my family 5 years from now. This is especially true when we have a doubling of the number of seniors, the demographic change, the move of the baby boomers coming online in 2008 and 2010. Seniors tell me, whatever you do, do it responsibly. Do it in a way that is just not over a 3-year period, 4-year period and it disappears, you take the benefit away or raise taxes exorbitantly. Do it in a way that can be sustained over time. Do it responsibly.

That is what the Hagel-Ensign bill does. One of the most beautiful aspects of this bill is that we can do it now, and we can do it responsibly. We talk big figures. The dollar figure was $160 billion. It is a lot of money, but it is not the $800 billion or the $1 trillion or even the $370 billion of the tripartisan plan. It takes effect now, giving peace of mind in capping how much money a senior is going to have to pay out of pocket if there is a catastrophe or if a senior develops a disease which requires the miracle medications that are out there today, and it does it in a responsible way.

How does the bill work? We have been through the details. The first issue I mentioned was peace of mind, security, and savings. Instead of what seniors are doing now—going to a pharmacy, placing a prescription on the table, and paying a retail price that nobody in this body, most employer-sponsored plans do not have to—they will be able to go in to a pharmacy with a card that they put on the table and take advantage of mass negotiations.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. FRIST. I thank the Chair.

Madam President, seniors can take this card in and get discounts, resulting in savings to seniors right now.

Catastrophic coverage gives security, peace of mind. Using marketplace tools is important as we look ahead because it takes advantage of the marketplace in negotiating discounts that are not available today.

Madam President, I close with the statement that I believe the Hagel-Ensign bill brings to a head much of the discussion today in that it reaches out and gives seniors the security they want. It does it now. It does it in a way that is responsible. It is affordable for seniors, affordable for taxpayers, and is permanent.

Madam President, I yield the floor.

Ms. STABENOW. Madam President, can you give us an indication of the time remaining to each side?

The PRESIDING OFFICER. The Senator from Michigan controls 1 minute. The Senator from Nebraska controls 5 seconds.

Ms. STABENOW. Does the Senator from Nebraska wish to take his 5 seconds?

Mr. HAGEL. I want the Senator from Michigan to have my 5 seconds.

Ms. STABENOW. I was looking forward to what the Senator might say in 5 seconds.

Mr. HAGEL. Madam President, the Senator from Michigan has a more difficult case to make. She needs more time.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I will simply say in closing that AARP, representing seniors, and other senior organizations across this country do not believe this, in fact, is a good deal. There is no question they want action now, but it has to be real and meaningful.

Discount cards are available now. In many cases, they do not work at all or they are very limited. It is important we be responsible.

I would argue there is a broader responsibility in the Senate. When we debate whether or not the tax cut geared to the wealthiest individuals in the country will be extended another 10 years, we are debating an amount of money that is more than four times any comprehensive Medicare plan that we will have before us.

This is a question of priorities. It is a question of what we believe, as Americans, should be our values and how we act on those in terms of our priorities, and I argue that doing the right thing with the real Medicare benefit is what our seniors are asking for and it is what they deserve. I urge my colleagues to vote no on the Hagel amendment.

The PRESIDING OFFICER. All time has expired.

The Senator from West Virginia.

## A TRUE COMMITMENT TO HOMELAND SECURITY

Mr. BYRD. Madam President, the Senate will soon have before it the fiscal year 2002 supplemental appropriations conference report. This legislation provides for the defense of this Nation, both at home and abroad.

Specifically, the bill provides $14.4 billion for the Department of Defense. It allocates $5.5 billion to New York to complete the promise made to provide $20 billion to help recover from the terrorist attacks on September 11. Another $1 billion is for Pell grants, $417 million for veterans' medical care, $400 million for election reform grants, and $2.1 billion for foreign affairs.

The bill also provides $205 million for Amtrak. Amtrak is an integral piece of the Nation's transportation network. For many rural communities, Amtrak represents the only public transportation connection to the rest of the Nation. But without the funding contained in this bill, that connection is in danger of being severed. Because of growing financial pressures, Amtrak needs an infusion of funding soon or else it faces bankruptcy. The $205 million included in this supplemental appropriations bill will stave off bankruptcy and give the passenger railroad, which is under new management, time to craft sound plans for the future.

Most importantly, this bill provides $6.7 billion for homeland security, including $3.85 billion for the Transportation Security Administration. That is why this funding bill is so important. This funding will take steps now—without delay—to plug the holes in our Nation's defenses here at home. Congress has not hesitated when it comes to funding homeland security efforts. In two supplemental bills—the one approved shortly after the attacks and the one before the Senate today—Congress has invested $15 billion to protect Americans from another terrorist attack and to better respond should, God forbid, another attack occur.

The funding initiatives shaped by Congress have helped to hire more border patrol agents, increase the scrutiny of cargo shipments at our seaports, and accelerate the purchase of vaccines against smallpox. We have funded critical training and equipment purchases for local police, fire, and medical personnel. We have helped to train doctors and local health departments to detect and treat a biological or chemical weapons attack.

The money allocated in December has helped to hire more than 2,200 INS border agents and Customs inspectors on the northern and southern borders. The INS is now implementing a system for tracking foreign students in this country—a system funded in the first supplemental bill. The Nation's police, fire and medical personnel are getting better training and equipment for detecting and responding to potential biological, chemical or nuclear attacks. The FBI is hiring hundreds of new agents. 750 more food inspectors and investigators are being hired. The number of ports with Food and Drug Administration investigators is being doubled. 324 additional protective personnel are being hired to protect our nuclear weapons complex, and additional resources are being spent on efforts to destroy or secure nuclear materials overseas.

The legislation that will soon be before the Senate today will accomplish even more. It will accelerate the purchase of bomb-detecting machines at airports and provide much-needed resources at the local level. The funding will strengthen port and border security; tighten protections at our nuclear facilities; and better ensure the safety of food and drinking water supplies.

The legislation provides $701 million for first responder programs, $343 million above the President's request. This conference report, which will be voted on tomorrow morning, includes $150 million for firefighters, with the funds going directly to the local fire departments. In the spring, when the firefighter grants that Congress allocated in the $40 billion supplemental were made available, more than 18,000 fire departments across the country applied for assistance totaling more than $3 billion. Yet only $360 million was available to meet the demand. The administration did not request any additional funding for this program. However, the need is clear. Our first responders want to be prepared to respond to attack; Congress and the President need to provide the necessary resources so those first responders will be ready.

And in this supplemental bill, State and local governments will receive $100 million to improve interoperability of communications equipment for fire, police, and emergency medical technicians. The inability of local police and fire departments to communicate with each other when responding to the World Trade Center attack has been identified as a major Achilles' heel in a defense of our homeland. The funding in this legislation will help to eliminate that inability and to develop uniform standards for interoperable State and local law enforcement, firefighting and emergency medical communications equipment. The administration requested no funding for this important need.

Another $54 million, $22 million above the President's request, will strengthen the Federal Emergency Management Agency's search and rescue teams. Currently, there are 28 FEMA search and rescue teams around the country that can be deployed to major disasters to assist local first responders in search and rescue operations. This funding will be used to upgrade equipment and training for responding to events involving a biological, chemical, radiation or nuclear attack.

One of the major weaknesses in our homeland security is the virtually nonexistent protections at the Nation's ports. Cargo containers are piled up by the thousands at ports, depots, and huge outdoor warehouses. American ports are home to oil refiners, chemical plants, and nuclear facilities. A hijacked vessel that crashes into a port could be used to ignite volatile fuels or gases and produce an explosion that equals one caused by hundreds, maybe thousands of tons of dynamite. American ports receive 16,000 cargo containers per day and 6 million containers each year, but less than five percent of those containers are inspected. That means a terrorist has at least a 95 percent chance of sneaking weapons of mass destruction into the United States. That is not acceptable.

Congress, through this supplemental legislation, provides $739 million for port security programs, $465 million above the President's request. This conference report includes $125 million for port security grants through the Transportation Security Administration. Last fall, Congress approved $93 million of unrequested funds for port security grants. DOT received $692 million of applications for the $93 million we provided. The administration did not request additional funding for this purpose.

Another $528 million in this bill is for the Coast Guard for port and maritime security, $273 million above the President's request. Increased funds would be used to expedite vulnerability assessments at our Nation's ports, rather than follow the administration's slower plan to do the assessments over the next 5 years. The money would add two new maritime safety and security teams; purchase a total of 6 homeland security response boats; and expand aviation assets as well as the shore facilities to support them. Another $39 million would help the Customs Service to target and inspect suspect shipping containers at overseas ports before they reach American ports. The administration requested no funds for these activities.

Another major concern is the security of the Nation's nuclear facilities. The U.S. Department of Energy needs funds for this effort, but the Office of Management and Budget chose not to forward the Department's request to Congress. This legislation recognizes the need, heeds the warnings, and provides $235 million to improve security of the nuclear weapons stockpile, national nuclear labs, and nuclear weapons plants. Funds are included to establish a "911" system for local first responders to call when confronted with nuclear hazards, enhanced funding for the National Center for Combating Terrorism, expansion of radiological search teams, and establishment of a National Capital Area Response Team at Andrews Air Force Base.

Just a few weeks ago, the White House warned of a possible terrorist attack on the Nation's banking system. It was a vague threat, but the potential for a terrorist organization to use computers and technology to short-circuit our financial system is clear. That is why this conference report includes $147 million—$128 million above the administration's request—for cyber security to help deal with the threat to Federal and private information systems.

Our long and porous land borders represent a daunting challenge in terms of homeland security. The Immigration and Naturalization Service and the Customs Service are already hiring more than 2,200 agents and inspectors with the funding Congress allocated in December. This legislation on which we will vote tomorrow, takes the next step, providing $120 million for border security, including $32 million for Immigration and Naturalization Service construction to improve facilities on our Nation's borders and $25 million for better equipment.

When it comes to security at the Nation's airports, no one should doubt Congress' commitment. I note that, earlier today, the U.S. Secretary of Transportation testified at a hearing and charged that Congress is hamstringing his new Transportation Security Administration. Secretary Mineta has complained about a lack of flexibility in Congressional funding. Before the Transportation Secretary takes shots at Congress, I wish he would consider the facts. I hope that he will. This legislation provides $3.85 billion for the Transportation's Security Administration. The conference report provides $471 million for unrequested airport security efforts, including $150 million to ensure that all small and medium airports have funds to implement the FAA's new airport security guidelines and that large airports have some additional funding to meet those requirements. $225 million is provided above the President's request for explosives detection equipment and $42 million is provided to improve the security of the FAA air traffic control system. In light of the recent tragedies at the Los Angeles International Airport, when a man walked to an airline ticket counter and started shooting, Congress provides $17 million to improve airport terminal security. In addition, $15 million is provided for improved air to ground communications for the air marshals. If there is a problem on a plane, the security personnel on the ground need to know about it.

The Transportation Secretary has charged that less flexibility translates into less security at our airports. Well, last fall, when Congress approved the $40 billion emergency supplemental, we gave the administration flexibility. The President had the authority to allocate $20 billion and he gave $1.3 billion to the Transportation Security Administration. But did that flexibility lead to efficient government? Not necessarily. The Transportation Secretary, while pointing a finger at Congress, ignores the fact that his hand-picked Under Secretary of Transportation Security promptly spent $418,000 to refurbish his personal office in what I am told is a beautiful mahogany. That must be one of the most stunning offices in the entire Department of Transportation. I would suggest that the Secretary's finger pointing be flexible, and that he turn his finger to his own department. Try that, Mr. Secretary. He cannot in good conscience charge Congress with the inefficient operations of the Transportation Security Administration when is own personnel have wasted money and opportunity, missed their own internal deadlines for improving airport security, and failed to provide adequate budget information to Congress. Instead of looking for someone to blame for failures, the Transportation Secretary should be working internally to fashion a much more efficient and responsive Transportation Security Administration.

Another area of focus for this Congress is nuclear non-proliferation. We have heard a great deal of discussion about the potential for a "dirty bomb"—a small nuclear device no larger than a briefcase that, if exploded, can contaminate a broad area with radiation for many years. The best way to stop a dirty bomb is to minimize the opportunity for terrorists to get their hands on nuclear material. This supplemental bill includes $100 million to protect fissile material abroad, purchase radiation detectors, and establish international standards for securing fissile material.

The Department of Defense will receive, through this legislation, $14.4 billion for its activities around the world. There can be no doubt as to the commitment of Congress to the men and women in the Armed Forces. We will always ensure that they have the resources and equipment necessary to fulfill their mission to protect American interests throughout the world.

However, the Secretary of Defense, in the Administration's supplemental request, asked for authorities that are currently invested in other Cabinet secretaries and in the Congress. The Defense Secretary asked for the authority to spend $100 million in foreign countries as he sees fit. Congress said no. The Defense Secretary asked for the authority to pay bounties for the death of those he deems to be terrorists. Congress said no. The Defense Secretary asked for the authority to spend $30 million to indigenous groups around the world who arguably are assisting in the war on terrorism. Congress said no.

The Framers of the Constitution crafted a delicate balance between the legislative, executive, and judicial branches of the Federal Government. These new authorities for the Secretary of Defense would jeopardize that balance. Congress should not give this Secretary—or any other Secretary—extraordinary authority for the sole purpose of making the Secretary's job easier.

If the President signs this bill, he will have 30 days to decide whether to designate over $5.1 billion as an emergency. If he does not make the emergency designations, the funds cannot be spent. Within the $5.1 billion, there is nearly $2.5 billion for homeland security. If the President does not make the emergency designation, he will block nearly $2.5 billion in homeland security investments, many of which I have just outlined. Firefighters. Police officers. Port security. Border security. Airport security. Search and rescue teams. Food safety. Drinking water safety. All these and more are involved. I hope that the President will join with Congress in this bipartisan approach to homeland security. I hope that he will declare these items to be an emergency, and make these important investments immediately to protect the American people from terrorist attacks.

In addition, if the President decides not to make the emergency designation, he also will block funding for the National Guard and Reserves. He will block funding for election reform. He will block funding for combating AIDS, tuberculosis, and malaria overseas. He will block flood prevention and mitigation; embassy security; aid to Israel and disaster assistance to Palestinians; wildfire suppression; emergency highway repairs; and veterans health care.

These critical appropriations for the American people have been delayed for months, sometimes as a result of administration intervention. The time has come for its speedy passage and the President's signature.

The Senate Appropriations Committee held 5 days of hearings on this bill and benefited greatly by hearing testimony from our Nation's first-responders, terrorism experts, mayors, Governors and Cabinet officials—from seven departments and from the Director of FEMA. We have produced a fair and balanced bill that fills many of the gaps in our homeland defense that were identified in our hearings.

I want to thank, once again, my friend and the Ranking Member of the Appropriations Committee, the Senior Senator from Alaska, Senator TED STEVENS, for his cooperation, for his leadership along the way in the conduct of the hearings, the markup of the bill, in the debate on the floor. I also want to thank our House counterparts, Appropriations Committee Chairman C.W. "BILL" YOUNG and Ranking Member DAVID OBEY for their cooperation and commitment to completing action on the legislation. I would be recreant if I did not thank the staffs who have worked so hard to finish this bill. On the Republican side, I thank Steve Cortese and Andy Givens and all of the professional and subcommittee staffs. On the Democratic side, I thank the Committee Staff Director, Terry Sauvain, my Deputy Staff Director Charles Kieffer, Edie Stanley, and Nancy Olkewicz, and all of the professional and subcommittee staffs for their long, long, long hours and days and weekends. Their tireless efforts have resulted in legislation, this legislation that we will vote on tomorrow, legislation that will help to protect American lives.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before the President pro tempore of the Senate leaves the floor, I would like to say on behalf of the people of Nevada and the country how much we appreciate the work he did on homeland security.

Knowing the Congress has gone to the effort—and the Senator from West Virginia held hearings and called in Cabinet members to find out what was needed by each entity—and then the disappointment was, as far as I am concerned, when we got the supplemental request from the President, these matters were not found.

I say to the Senator from West Virginia, based on information obtained about how this should be obtained, by having congressional oversight hearings to determine what was needed, and then move forward together so people in West Virginia, Washington, and around the rest of the country are going to receive as a result of the action that will be taken by the Senate tomorrow, I hope there are no games played.

When the bill goes to the President, I hope he doesn't play around and try to send us a message about vetoing the bill.

This is so important for the country. We would not have this legislation but for the Senator from West Virginia. Of course, I have to include Senator STEVENS, who was very deliberate and sat through those hearings, as did the Senator from West Virginia. This is a bipartisan bill. A large chunk of it is based on the needs of this country for homeland security.

Mr. BYRD. Madam President, I thank the very distinguished Democratic whip for his observations.

Senator REID is a member of the Appropriations Committee in the Senate. So he partook of the action on this bill all along the way. He was present in the hearings that this Appropriations Committee held early in the year on this bill. I believe it was April.

This bill is not the first occasion in which the Senate Appropriations Committee has taken the lead in acting to strengthen our homeland security. This committee led the way last year.

The Appropriations Committee in the Senate appropriated $4 billion above the President's request last year. Of course, I know we are accused of spending money, but that is the money we are spending for the security of the American people for their homeland, their homes, their schools, their churches, and their children. That is the money we are spending. Last year we exceeded the President's request for homeland security by $4 billion. That was done in a bipartisan fashion. It wasn't done just by Democrats on the committee. But the Republican members of that committee joined all the way. The President threatened last year to veto that bill.

Does the Senator remember that? The President said last year he would veto that bill because it contained $4 billion more than he requested last year.

This year that bill came to the floor with the solid support of the Republicans and Democrats on that committee. It was unanimously supported. It increased the homeland security part above the President's request by $3 billion.

As we have gone through the process—it was a long, dragged-out effort when it came to working with the other body on the conference. We finally had to yield and come down from the $3 billion to $1.4 billion in additional money over the President's request for homeland security.

Again, all the way, I am proud to say, we have a bipartisan group in that committee that walks step by step and shoulder to shoulder to my colleague, Senator STEVENS, and I. We don't have any quarrels. We don't have any differences. We don't have any partisan discussions. We don't have any partisan bickering, nor do the members on the committee.

The distinguished Senator from Utah, Mr. BENNETT, is a member of that committee. I served with his father. I believe his father sat right here. I believe his father sat right there in that chair when the son, in whom his father was well pleased, was around these premises and knew a great deal about the Congress and worked in the Congress. He worked in his precincts.

We don't have any middle aisle in our committee. It was a joint effort on the part of Republicans and Democrats in close ranks and voting to support moneys for the security of the American people. These are moneys that are in this conference report.

When it comes to homeland defense, this Appropriations Committee has been right out front. I am very proud of the way we have been able to do our work and work together. It has been a long time since this committee started on this bill. I guess the budget was sent up here last February. It has been all that long time.

Here we are in July with the conference report that we will be voting on tomorrow morning.

I thank the distinguished Senator.

I yield the floor.

## CHANGES TO THE 2002 APPROPRIATIONS COMMITTEE ALLOCATIONS AND THE BUDGETARY AGGREGATES

Mr. CONRAD. Mr. President, section 314 of the Congressional Budget Act, as amended, requires that chairman of the Senate Budget Committee to adjust the budgetary aggregates and the allocation for the Appropriations Committee by the amount of appropriations designated as emergency spending pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. The conference report to H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, provides $29.886 billion in designated emergency funding 2002 for a variety of activities, including homeland security and the war on terrorism, which is estimated to result in $7.783 billion in outlays in 2002.

Pursuant to section 302 of the Congressional Budget Act, I hereby revise the 2002 allocation provided to the Senate Appropriations Committee in the concurrent budget resolution in the following amounts.

TABLE 1.—REVISED ALLOCATION FOR APPROPRIATIONS COMMITTEE, 2002

[In millions of dollars]

| | Budget authority | Outlays |
|---|---|---|
| Current Allocation: | | |
| General Purpose Discretionary | 704,240 | 692,717 |
| Highways | 0 | 28,489 |
| Mass Transit | 0 | 5,275 |
| Conservation | 1,760 | 1,473 |
| Mandatory | 358,567 | 350,837 |
| Total | 1,064,567 | 1,078,791 |
| Adjustments: | | |
| General Purpose Discretionary | 29,886 | 7,783 |
| Highways | 0 | 0 |
| Mass Transit | 0 | 0 |
| Conservation | 0 | 0 |
| Mandatory | 0 | 0 |
| Total | 29,886 | 7,783 |
| Revised Allocation: | | |
| General Purpose Discretionary | 734,126 | 700,500 |
| Highways | 0 | 28,489 |
| Mass Transit | 0 | 5,275 |
| Conservation | 1,760 | 1,473 |
| Mandatory | 358,567 | 350,837 |
| Total | 1,094,453 | 1,086,574 |

Pursuant to section 311 of the Congressional Budget Act, I hereby revise the 2002 budget aggregates included in the concurrent budget resolution in the following amounts.

TABLE 2.—REVISED BUDGET AGGREGATES, 2002

[In millions of dollars]

| | Budget authority | Outlays |
|---|---|---|
| Current allocation: Budget Resolution | 1,680,564 | 1,645,999 |
| Adjustments: Emergency Spending | 29,886 | 7,783 |
| Revised allocation: Budget Resolution | 1,710,450 | 1,653,782 |

Prepared by SBC Majority staff on 7–23–02.

The PRESIDING OFFICER. The Senator from Nevada.

## UNANIMOUS CONSENT REQUEST—H.R. 3210

Mr. REID. Madam President, when I today read Congress Daily, as I often do, I was stunned. I was stunned as a result of what the President said in his radio address.

I have to acknowledge that I didn't wait around and listen to it Saturday. But I read about it here.

Let me read what the President said on Saturday. I say this with total sincerity. I am so disappointed in the President. I am sure others think that what he has done is hypocrisy. I will not use that word.

I am just terribly disappointed in the President.

This is what he said. The headline is:

> BUSH URGES CONGRESS TO SEND HIM TERRORIST REINSURANCE BILL.
>
> President Bush made another plug for enactment of a terrorism reinsurance bill, noting in his radio address over the weekend, "Until Congress sends a bill to my desk, some buildings will not be able to get coverage against terrorist attacks, and many new buildings will not be built at all. Commercial development is stalling, and workers are missing out on those jobs. This year alone, the lack of terrorism insurance has killed or delayed more than $8 billion in commercial property financing. Congress should pass a terrorism insurance bill without unnecessary measures."

Can you imagine giving an address to the American people about Congress needing to do something on terrorism insurance?

Rather than wasting time on the radio address, why doesn't he call the Republican leadership in the Senate and ask: Why don't you let us go to conference?

Almost everything we have done with this terrorism insurance, we have had to fight the minority every step of the way. We fought to get it on the floor. We tried to do it even last year, right after the events of September 11, and we were stopped from doing so.

I have been on this floor maybe 10 or 12 times offering a unanimous consent request that we be allowed to go forward with the conference.

Just to remind everybody, we were told by the leadership that all we needed to do is change the ratio. Senator DASCHLE—and he has that right—decided the ratio should be 3 to 2. We were told: Make it 4 to 3, and we will go right to conference. That was weeks ago. We changed: OK, if that is what you want, then we will be happy to do that. We changed it to 4 to 3.

Then we are told: Well, there are two people in the minority who want that third spot, and they can't work that out.

So, as a result of that, as the President has indicated, there is no question about it, there is work being held up in Nevada and all over the country because they cannot get terrorism insurance. We cannot go to conference because you will not let us.

Last week, we were told: Give us 24 hours to resolve this. I have said here, for this unanimous consent agreement that I have been seeking for several days: I will put it in my desk and do it again. No more. No more. This is the last. As far as I am concerned, terrorism insurance is dead.

The industry, obviously, does not care enough to put enough pressure on the minority so that we can go to conference. If the role were reversed, and we, the Democrats, were holding up the appointing of conferees on a terrorism insurance bill, our phones would be ringing. We would have petitions. We would have demonstrations. But because it is the insurance industry, which is a little closer to the minority than we are, nothing happens. Day after day after day goes on, and I guess they expect me and Senator DASCHLE to come and offer this unanimous consent request.

No more. They can do it. In the meantime, terrorism insurance is dead. Nothing is going to happen. The House is going out Thursday.

So, as far as I am concerned, this bill is dead. I am not putting the unanimous consent request in my desk anymore; I am putting it in the garbage can. And we will wait and see what happens.

I think it is too bad. But maybe there has been something that has happened in the last few hours that will change their minds. Maybe my statement now will change their minds.

So I ask unanimous consent—I better take it out of the garbage so I can read it; and then I will put it right back, as soon as I finish—that the Senate proceed to the immediate consideration of Calendar No. 252, H.R. 3210, the House-passed terrorism insurance bill; that all after the enacting clause be stricken, and the text of S. 2600, as passed in the Senate, be inserted in lieu thereof, the bill, as thus amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with the ratio of 4 to 3, all without intervening action or debate.

The PRESIDING OFFICER (Mr. DAYTON). Is there objection?

The Senator from Utah.

Mr. BENNETT. Mr. President, reserving the right to object, let me say to my friend from Nevada that his words are well-taken. His passion is understood. At least as far as I am concerned, his determination to get this bill through is fully shared.

However, on behalf of the ranking member of the Banking Committee, Senator GRAMM, and reserving his rights, as I am sure the Senator from Nevada has from time to time reserved the rights of some of his colleagues, I must object.

The PRESIDING OFFICER. Objection is heard.

## UNANIMOUS CONSENT REQUEST—H.R. 3694

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 381, H.R. 3694, and that the Jeffords-Reid-Smith-Inhofe amendment, which is at the desk, be considered and agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Utah.

Mr. BENNETT. Mr. President, I am told that the amendment is still under review on this side of the aisle; therefore, I must again object.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, I thank the Senator from Utah. He is absolutely correct. I, on an occasion or two, have represented Senators here, doing things that sometimes I did not personally agree with. But I do hope that we can move forward on both matters.

I was serious about everything that I said on the terrorism insurance bill. On the matter dealing with highway funding, it is very important we get this done for a lot of different reasons. One reason is to prepare for the bill that is coming up next year, of which everyone has an interest. It is the bill we do every 5 or 6 years to fund highway projects around the country. It is money that collected during the 5-year period from the gas taxes. We need to make sure we have the ability to meet as many of the demands of the country as we can.

So I appreciate the Senator working on his side to get that cleared.

I have another unanimous consent request.

## UNANIMOUS CONSENT AGREEMENT—H.R. 4775

Mr. REID. Mr. President, I ask unanimous consent that the previous order with respect to the conference report accompanying H.R. 4775, the supplemental appropriations bill, be modified to provide that the debate time commence at the conclusion of the debate with respect to the Hagel amendment to S. 812; with the debate time on the conference report remaining as provided for under the previous order; that upon the use of the time, without further intervening action or debate, the Senate proceed to vote on adoption of the conference report; that upon disposition of the conference report, there be 5 minutes for debate prior to a vote in relation to the Hagel amendment, with the time equally divided and controlled between Senators Hagel and Kennedy or their designees, provided further that the previous provisions relating to the Hagel amendment remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Mr. President, I am happy to say on this occasion there is none.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, debate will begin on the Hagel amendment at 11 a.m. Under the previous order, there will be 2 hours of debate. At 1 p.m., the Senate will take up the supplemental conference report with 30 minutes of debate. The first vote tomorrow will be at 1:30, approximately, to be followed by a vote with respect to the Hagel amendment. There will be two votes then at 1:30 tomorrow.

I appreciate everyone working with us. We will be able to get a lot of work done in committees. The Appropriations Committee—Senator BYRD's committee—is reporting out, I think, four appropriations bills tomorrow morning.

We have a lot to do. This will allow us to do that without being broken up for votes.

## MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in November 2000 in Bloomington, MN. Cecil John Reiners, 57, attacked a Hispanic man for speaking Spanish at work. Witnesses told police that Reiners, the business owner, was upset when a 23 year-old employee was speaking Spanish with two others at a break table. Reiners went to the warehouse with a wood post and severely beat the victim, who was treated for severe skull fractures and clots at the hospital. "All I wanted was for that Mexican to leave my property," Reiners said. Mr. Reiners was later convicted of felony first-degree assault in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## CIVILIZATION NEED NOT DIE

Mr. MURKOWSKI. Mr. President, in the more than 10 months since the attacks of September 11, 2001, all of us have been trying to bring context and understanding to the new world challenges we are confronting. It is at times such as this that the Senate needs wisdom and clarity to bring such context to our times.

Often in the past, the Senate turned to one of its most distinguished colleagues for vision and wisdom. That person, Daniel Patrick Moynihan, understood history and the actors and actions that make history.

Recently, I came across the Harvard University commencement speech that our former colleague, Senator Moynihan, gave this year, on the 58th anniversary of D-Day. I think all of my colleagues will benefit from reading Pat's remarkable speech, for it gives historical context to the times in which we are living.

I, for one, miss hearing Pat's insights into life. All of us who served with Pat are better Senators because of the wisdom he imparted to all of us.

I ask unanimous consent that former Senator Pat Moynihan's Harvard commencement speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### COMMENCEMENT ADDRESS, JUNE 6TH, 2002

(By Daniel Patrick Moynihan)

A while back it came as something of a start to find in The New Yorker a reference to an article I had written, and I quote, "In the middle of the last century." Yet persons my age have been thinking back to those times and how, in the end, things turned out so well and so badly. Millions of us returned from the assorted services to find the economic growth that had come with the Second World War had not ended with the peace. The Depression had not resumed. It is not perhaps remembered, but it was widely thought it would.

It would be difficult indeed to summon up the optimism that came with this great surprise. My beloved colleague Nathan Glazer and the revered David Riesman wrote that America was "the land of the second chance" and so indeed it seemed. We had surmounted the depression; the war. We could realistically think of a world of stability, peace—above all, a world of law.

Looking back, it is clear we were not nearly so fortunate. Great leaders preserved—and in measure extended—democracy. But totalitarianism had not been defeated. To the contrary, by 1948 totalitarians controlled most of Eurasia. As we now learn, 11 days after Nagasaki the Soviets established a special committee to create an equivalent weapon. Their first atomic bomb was acquired through espionage, but their hydrogen bomb was their own doing. Now the Cold War was on. From the summer of 1914, the world had been at war, with interludes no more. It finally seemed to end with the collapse of the Soviet Union and the changes in China. But now . . .

But now we have to ask if it is once again the summer of 1914.

Small acts of terror in the Middle East, in South Asia, could lead to cataclysm, as they did in Sarajevo. And for which great powers, mindful or not, have been preparing.

The eras are overlapping.

As the United States reacts to the mass murder of 9/11 and prepares for more, it would do well to consider how much terror India endured in the second half of the last century. And its response. It happens I was our man in New Delhi in 1974 when India detonated its first nuclear device. I was sent in to see Prime Minister Indira Gandhi with a statement as much as anything of regret. For there was nothing to be done; it was going to happen. The second most populous nation on earth was not going to leave itself disarmed and disregarded, as non-nuclear powers appeared to be. But leaving, I asked to speak as a friend of India and not as an official. In twenty years time, I opined, there would be a Moghul general in command in Islamabad, and he would have nuclear weapons and would demand Kashmir back, perhaps the Punjab.

The Prime Minister said nothing; I dare to think she half-agreed. In time, she would be murdered in her own garden; next, her son and successor was murdered by a suicide bomber. This, while nuclear weapons accumulated which are now poised.

Standing at Trinity Site at Los Alamos, J. Robert Oppenheimer pondered an ancient Sanskrit text in which Lord Shiva declares, "I am become Death, the shatterer of worlds." Was he right?

At the very least we can come to terms with the limits of our capacity to foresee events.

It happens I had been a Senate observer to the START negotiations in Geneva, and was on the Foreign Relations Committee when the treaty, having been signed, was sent to us for ratification. In a moment of mischief I remarked to our superb negotiators that we had sent them to Geneva to negotiate a treaty with the Soviet Union, but the document before us was a treaty with four countries, only two of which I could confidently locate on a map. I was told they had exchanged letters in Lisbon [the Lisbon Protocol, May 23, 1992]. I said that sounded like a Humphrey Bogart movie.

The hard fact is that American intelligence had not the least anticipated the implosion of the Soviet Union. I cite Stansfield Turner, former director of the CIA in Foreign Affairs, 1991. "We should not gloss over the enormity of this failure to forecast the magnitude of the Soviet crisis . . . The corporate view missed by a mile."

Russia now faces a near-permanent crisis. By mid-century its population could well decline to as few as 80 million persons. Immigrants will press in; one dares not think what will have happened to the nuclear materials scattered across 11 time zones.

Admiral Turner's 1991 article was entitled "Intelligence for a New World Order." Two years later Samuel Huntington outlined what that new world order—or disorder—would be in an article in the same journal entitled "The Clash of Civilizations." His subsequent book of that title is a defining text of our time.

Huntington perceives a world of seven or eight major conflicting cultures, the West, Russia, China, India, and Islam. Add Japan, South America, Africa. Most incorporate a major nation-state which typically leads its fellows.

The Cold War on balance suppressed conflict. But the end of the Cold War has brought not universal peace but widespread violence. Some of this has been merely residual proxy conflicts dating back to the earlier era. Some plain ethnic conflict. But the new horrors occur on the fault lines, as Huntington has it, between the different cultures.

For argument's sake one could propose that Marxism was the last nearly successful effort to Westernize the rest of the world. In 1975, I stood in Tiananmen Square, the center of the Middle Kingdom. In an otherwise empty space, there were two towering masts. At the top of one were giant portraits of two hirsute 19th century German gentlemen, Messrs. Marx and Engels. The other displayed a somewhat Mongol-looking Stalin and Mao. That wasn't going to last, and of course, it didn't.

Hence Huntington: "The central problem in the relations between the West and the rest is . . . the discordance between the West's—particularly America's—efforts to promote universal Western culture and its declining ability to do so."

Again there seems to be no end of ethnic conflict within civilizations. But it is to the clash of civilizations we must look with a measure of dread. The Bulletin of the Atomic Scientists recently noted that "The crisis between India and Pakistan, touched off by a December 13th terrorist attack on the Indian Parliament marks the closest two states have come to nuclear war since the Cuban Missile Crisis." By 1991, the minute-hand on their doomsday clock had dropped back to 17 minutes to midnight. It has since been moved forward three times and is again seven minutes to midnight, just where it started in 1947.

The terrorist attacks on the United States of last September 11 were not nuclear, but they will be. Again to cite Huntington, "At some point . . . a few terrorists will be able to produce massive violence and massive destruction. Separately, terrorism and nuclear weapons are the weapons of the non-Western weak. If and when they are combined, the non-Western weak will be strong."

This was written in 1996. The first mass murder by terrorists came last September. Just last month the vice president informed Tim Russert that "the prospects of a future attack . . . are almost certain. Not a matter of if, but when." Secretary Rumsfeld has added that the attack will be nuclear.

We are indeed at war and we must act accordingly, with equal measures of audacity and precaution.

As regards precaution, note how readily the clash of civilizations could spread to our own homeland. The Bureau of the Census lists some 68 separate ancestries in the American population. (Military gravestones provide for emblems of 36 religions.) All the major civilizations. Not since 1910 have we had so high a proportion of immigrants. As of 2000, one in five school-age children have at least one foreign-born parent.

This, as ever, has had bounteous rewards.. The problem comes when immigrants and their descendants bring with them—and even intensify—the clashes they left behind. Nothing new, but newly ominous. Last month in Washington an enormous march filled Pennsylvania Avenue on the way to the Capitol grounds. The marchers, in the main, were there to support the Palestinian cause. Fair enough. But every five feet or so there would be a sign proclaiming "Zionism equals Racism" or a placard with a swastika alongside a Star of David. Which is anything but fair, which is poisonous ad has no place in our discourse.

This hateful equation first appeared in a two-part series in Pravda in Moscow in 1971. Part of Cold War "agit prop." It has since spread into a murderous attack on the right of the State of Israel to exist—the right of Jews to exist!—a world in which a hateful Soviet lies has mutated into a new and vicious anti-Semitism. Again, that is the world we live in, but it is all the more chilling when it fills Pennsylvania Avenue.

It is a testament to our First Amendment freedoms that we permit such displays, however obnoxious to our fundamental ideals. But in the wake of 9/11, we confront the fear that such heinous speech can be a precursor to violence, not least here at home, that threatens our existence.

To be sure, we must do what is necessary to meet the threat. We need to better understand what the dangers are. We need to explore how better to organize the agencies of government to detect and prevent calamitous action.

But at the same time, we need take care that whatever we do is consistent with our basic constitutional design. What we do must be commensurate with the threat in ways that do not needlessly undermine the very liberties we seek to protect.

The concern is suspicion and fear within. Does the Park Service really need to photograph every visitor to the Lincoln Memorial? They don't, but they will. It is already done at the Statue of Liberty. In Washington, agencies compete in techniques of intrusion and exclusion. Identity cards and X-ray machines and all the clutter, plus a new life for secrecy. Some necessary; some discouraging. Mary Graham warns of the stultifying effects of secrecy on inquiry. Secrecy, as George Will writes, "renders societies susceptible to epidemics of suspicion."

We are witnessing such an outbreak in Washington just now. Great clamor as to what the different agencies knew in advance of the 9/11 attack; when the President was briefed; what was he told. These are legitimate questions, but there is a prior issue, which is the disposition of closed systems not to share information. By the late 1940s the Army Signal Corps had decoded enough KGB traffic to have a firm grip on the Soviet espionage in the United States and their American agents. No one needed to know about this more than the President of the United States. But Truman was not told. By order, mind, of Omar Bradley, Chairman of the Joint Chiefs of Staff. Now as then there is police work to be done. But so many forms of secrecy are self-defeating. In 1988, the CIA formally estimated the Gross Domestic Product of East Germany to be higher than West Germany. We should calculate such risks.

The "What-ifs" are intriguing. What if the United States had recognized Soviet weakness earlier and, accordingly, kept its own budget in order, so that upon the breakup of the Soviet Union a momentous economic aid program could have been commenced? What if we had better calculated the forces of the future so that we could have avoided going directly from the "end" of the cold War to a new Balkan war—a classic clash of civilizations—leaving little attention and far fewer resources for the shattered Soviet empire?

Because we have that second chance Riesman and Glazer wrote about. A chance to define our principles and stay true to them. The more then, to keep our system open as much as possible, without purposes plain and accessible, so long as we continue to understand what the 20th century has surely taught, which is that open societies have enemies, too. Indeed, they are the greatest threat to closed societies, and, accordingly, the first object of their enmity.

We are committed, as the Constitution states, to "the Law of Nations," but that law as properly understood. Many have come to think that international law prohibits the use of force. To the contrary, like domestic law, it legitimates the use of force to uphold law in a manner that is itself proportional and lawful.

Democracy may not prove to be a universal norm. But decency would do. Our present conflict, as the President says over and again, is not with Islam, but with a malignant growth within Islam defying the teaching of the Q'uran that the struggle to the path of God forbids the deliberate killing of noncombatants. Just how and when Islam will rid itself of current heresies is something no one can say. But not soon. Christianity has been through such heresy—and more than once. Other clashes will follow.

Certainly we must not let ourselves be seen as rushing about the world looking for arguments. There are now American armed forces in some 40 countries overseas. Some would say too many. Nor should we let ourselves be seen as ignoring allies, disillusioning friends, thinking only of ourselves in the most narrow terms. That is not how we survived the 20th century.

Nor will it serve in the 21st.

Last February, some 60 academics of the widest range of political persuasion and religious belief, a number from here at Harvard, including Huntington, published a manifesto: "What We're Fighting For: A Letter from America."

It has attracted some attention here; perhaps more abroad, which was our purpose. Our references are wide, Socrates, St. Augustine, Franciscus de Victoria, John Paul II, Martin Luther King, Jr., Alexander Solzhenitsyn, the Universal Declaration of Human Rights.

We affirmed "five fundamental truths that pertain to all people without distinction," beginning "all human beings are born free and equal in dignity and rights."

We allow for our own shortcomings as a nation, sins, arrogance, failings. But we assert we are no less bound by moral obligation. And finally, . . . reason and careful moral reflection . . . teach us that there are times when the first and most important reply to evil is to stop it.

But there is more. Forty-seven years ago, on this occasion, General George C. Marshall summoned our nation to restore the countries whose mad regimes had brought the world such horror. It was an act of statesmanship and vision without equal in history. History summons us once more in different ways, but with even greater urgency. Civilization need not die. At this moment, only the United States can save it. As we fight the war against evil, we must also wage peace, guided by the lesson of the Marshall Plan—vision and generosity can help make the world a safer place.

Thank you.

## ADDITIONAL STATEMENTS

### SUSAN G. KOMEN BREAST CANCER FOUNDATION

• Mrs. HUTCHISON. Mr. President, I am pleased to pay tribute to the Susan G. Komen Breast Cancer Foundation, which is celebrating its 20th anniversary. The organization literally grew from a shoebox full of names in Dallas, TX, to the Nation's largest private source of funding for breast cancer research and community-based outreach programs.

Our current U.S. Ambassador to the Republic of Hungary, the Hon. Nancy Brinker, is the founder of the Komen Foundation. As a founding member of the organization, I can recall the very first meeting we held in Nancy's living room. She is a woman of conviction, with talent and energy to match. While it is too soon to tell, I believe the establishment and launching of the Komen Foundation will be Nancy Brinker's most remarkable legacy to humankind.

When her older sister Suzy died of breast cancer at the age of 36, Nancy set out to keep the promise she had made to Suzy: to do everything in her power to eradicate breast cancer as a life-threatening disease. Today, 20 years after the Komen Foundation's inception, we recognize the "Power of Promise" Nancy made that day.

I am proud to have worked for the Komen Foundation in the Senate, and mark today's celebration by noting the truly great things people can do when they answer a call, see a need, and set out to make things different.

Twenty years ago, breast cancer was a term rarely spoken in public, and a subject that almost never appeared in newspapers or magazines. There were no self-help books and those who survived the disease did not readily share their stories. What is worse, breast cancer was viewed as a certain death sentence. Few treatment options existed at the time, and those that did were drastic and disfiguring.

At its inception, the Komen Foundation began to educate people and help them recognize the seriousness of breast cancer in. our society. People began giving of themselves as volunteers and as financial donors so that research into new breast cancer treatments, screening, and educational outreach efforts could be funded.

The Komen Foundation boasts over 100 affiliate groups in cities across the U.S., three European affiliates and a cadre of 75,000 dedicated volunteers, many of whom are survivors. In the past two decades, the Foundation has raised more than $450 million for research, education, screening and treatment programs—many of which reach into traditionally medically underserved areas. The Komen Race for the Cure had over 112 races this year with 1.2 million runners and walkers participating. Each race event is an occasion of hope and survivor pride for participants and their supporters.

On the 20th Anniversary of the Komen Foundation, let us all renew our promise in the fight against breast cancer so that one day we will have something miraculous to celebrate: the end of breast cancer as a life-threatening disease.●

## CONGRATULATING MONTANA WRESTLERS

• Mr. BAUCUS. Mr. President, today I rise to congratulate the outstanding wrestlers from my home State of Montana who won the Amateur Athletic Union Grand Nationals Wrestling Championships in Shreveport, LA, this past June. This was the first year in which Montana has sent an organized team to the competition, and on behalf of all Montanans, I want to say how proud we are of these athletes and their historic success.

In order to win the title, Team Montana, competed in Greco-Roman, Freestyle and Sombo disciplines, which are the three international disciplines of wrestling. Led by Stan Moran of Wolf Point, MT, the team was composed of athletes 5–35 years old, including World Champion Josh Charette; World Silver medalist Rob Charette; and World Bronze medalist Stan Moran, Jr. This is Josh Charette's third consecutive World Open Championship. Josh is currently representing Montana at the Olympic Training Center in the Judo discipline, where he is preparing for the 2004 Olympic Games in Athens.

Although these outstanding athletes are in the spotlight, I also want to take a moment to comment on the strength of the wrestling community in Montana. Whether it is this recent success at the AUU Grand Nationals Wrestling Championships or the success of Montana State University—Northern's wrestling program, Montana's entire wrestling community has a record that it can be very proud of. I know that such success comes only with focus and determination, and I want to commend the families, coaches, and wrestlers who have fostered an environment of excellence.

Again, I applaud these Montana wrestlers for their hard work and dedication to their respective disciplines. I wish them continued success in all their endeavors.●

## GREAT LAKES SCIENCE CENTER

• Mr. LEVIN. Mr. President, I am proud to congratulate the Great Lakes Science Center on 75 years of service to Michigan and the Great Lakes region. This center provides the scientific information needed for restoring, enhancing, managing, and protecting wildlife and their habitat in the Great Lakes, Despite the importance of the Great Lakes, too few resources are devoted to researching and monitoring the ecosystem health. However, the Great Lakes Science Center has been at work for nearly eight decades—through the rise and fall of numerous species like lake trout, alewife, white fish, and sturgeon.

After the collapse of the cisco fishery in Lake Erie in 1925, the Great Lakes Science Center, which was then called the Great Lakes Biological Laboratory, was created to study the causes of this collapse. Though the fisheries in the Great Lakes continued to suffer, it was not until 1950 that biological research was truly supported. At that time the Great Lakes were experiencing one of the worst disasters possible—the invasion of sea lamprey. The sea lamprey, which moved into the Great Lakes through the Welland Canal and spread throughout the Great Lakes, destroyed the lake trout and lake whitefish commercial fisheries. After testing over 4,000 chemicals, the Great Lakes Science Center found the compound that is still being used today to destroy the lamprey.

In 1965, the center moved to its newly constructed headquarters on the North Campus of the University of Michigan at Ann Arbor. The center has been active in all areas of Great Lakes research including algal blooms, invasive species, near-shore habitat, fishery genetics and DDT levels in fish. The work of the dedicated staff has helped bring back the sturgeon and lake trout.

Today, the Great Lakes Science Center has 107 staff members, 5 field stations, 1 vessel base, and 3 vessel base-field station combinations throughout the Great Lakes. I am proud of the long and distinguished history of the Great Lakes Science Center, and I wish all of the researchers at the Science Center great success for the next 75 years.●

## MESSAGE FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2990. An act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes.

H.R. 3048. An act to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska.

H.R. 3258. An act to amend the Federal Lands Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of rights-of-way granted, issued, or renewed under these Acts.

H.R. 3401. An act to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, and for other purposes.

H.R. 3645. An act to amend title 38, United States Code, to provide for improved procurement practices by the Department of Veterans Affairs in procuring health-care items.

H.R. 3892. An act to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes.

H.R. 3917. An act to authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes.

H.R. 3969. An act to enhance United States public diplomacy, to reorganize United States international broadcasting, and for other purposes.

H.R. 4558. An act to extend the Irish Peace Process Cultural and Training Program.

H.R. 4870. An act to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes.

H.R. 4903. An act to ensure the continuity for the design of the 5-cent coin, establishing the coin Design Advisory Committee, and for other purposes.

H.R. 4940. An act to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes.

H.R. 5055. An act to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge.

H.R. 5145. An act to designate the facility of the United States Postal Service located at 3135 First Avenue North in St. Petersburg, Florida, as the "William C. Cramer Post Office Building".

H.R. 5338. An act to posthumously award congressional gold medals to government workers and others who responded to the attack on the World Trade Center and the Pentagon and perished and to people aboard United Airlines flight 93 who helped resist the hijackers and caused the plane to crash, to require the Secretary of the Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11, 2001, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 352. Concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" as prepared by the Western Governor's Association, the Department of Agriculture, the Department of the Interior, and other stakeholders, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a national assessment of prescribed burning practices to minimize risks of escape.

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

H. Con. Res. 439. Concurrent resolution honoring Corinne "Lindy" Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

The message further announced that the House has agreed to the amendment of the Senate to the bill, H.R. 3487, to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

The message also announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 13. A joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2990. An act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3048. An act to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; to the Committee on Energy and Natural Resources.

H.R. 3258. An act to amend the Federal Lands Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of rights-of-way granted, issued, or renewed under these Acts; to the Committee on Energy and Natural Resources.

H.R. 4301. An act to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3645. An act to amend title 38, United States Code, to provide for improved procurement practices by the Department of Veterans Affairs in procuring health-care items; to the Committee on Veterans' Affairs.

H.R. 3892. An act to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes; to the Committee on the Judiciary.

H.R. 3917. An act to authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3969. An act to enhance United States public diplomacy, to reorganize United States international broadcasting, and for other purposes; to the Committee on Foreign Relations.

H.R. 4558. An act to extend the Irish Peace Process Cultural and Training Program; to the Committee on Foreign Relations.

H.R. 4870. An act to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4903. An act to ensure the continuity for the design of the 5-cent coin, establishing the Coin Design Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4940. An act to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5055. An act to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge; to the Committee on Veterans' Affairs.

H.R. 5145. An act to designate the facility of the United States Postal Service located at 3135 First Avenue North in St. Petersburg, Florida, as the "William C. Cramer Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5338. An act to posthumously award congressional gold medals to government workers and others who responded to the attacks on the World Trade Center and the Pentagon and perished and to people aboard United Airlines Flight 93 who helped resist the hijackers and caused the plane to crash, to require the Secretary of the Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11, 2001, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 352. Concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" as prepared by the Western Governor's Association, the Department of Agriculture, the Department of the Interior, and other stakeholders, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a national assessment of prescribed burning practices to minimizes risks of escape; to the Committee on Agriculture, Nutrition, and Forestry.

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2002" (Rept. No. 107-217).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2489: A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*Steven Robert Blust, of Florida, to be a Federal Maritime Commissioner for a term expiring June 30, 2006.

*Kathie L. Olsen, of Oregon, to be an Associate Director of the Office of Science and Technology Policy.

*Richard M. Russell, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

*Frederick D. Gregory, of Maryland, to be Deputy Administrator of the National Aeronautics and Space Administration.

*Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 2003.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

*Coast Guard nominations beginning George H. Teuton and ending Blake L. Novak, which nominations were received by the Senate and appeared in the Congressional Record on July 18, 2002.

(*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ALLEN:

S. 2772. A bill to ensure continuity for the design of the 5-cent coin, establishing the Coin Design Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. BROWNBACK):

S. 2773. A bill to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the high Plains Aquifer and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROBERTS (for himself, Mr. ALLARD, Mr. MILLER, Mr. CRAIG, and Mr. CRAPO):

S. 2774. A bill to transfer to the Secretary of Homeland Security the functions of the Secretary of Agriculture relative to agricultural import and entry inspection activities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. CLINTON:

S. 2775. A bill to amend title XVI of the Social Security Act to provide that annuities paid by States to blind veterans shall be disregarded in determining supplemental security income benefits; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2776. A bill to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MILLER:

S. Con. Res. 130. A concurrent resolution expressing the sense of Congress that the Federal Mediation and Conciliation Service should exert its best efforts to cause the Major League Baseball Players Association and the owners of the teams of Major League Baseball to enter into a contract to continue to play professional baseball games without engaging in a strike, a lockout, or any coercive conduct that interferes with the playing of scheduled professional baseball games; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 2

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 2, a bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

S. 346

At the request of Mr. MURKOWSKI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 346, a bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into two circuits, and for other purposes.

S. 446

At the request of Mr. CRAPO, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 446, a bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes.

S. 812

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

S. 1020

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1020, a bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to medicare beneficiaries residing in rural areas.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 2047

At the request of Mr. BREAUX, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2047, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

S. 2250

At the request of Mr. CORZINE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2250, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 2394

At the request of Mrs. CLINTON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2394, a bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients.

S. 2480

At the request of Mr. KYL, his name was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

At the request of Mr. LEAHY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2480, supra.

S. 2512

At the request of Mr. HARKIN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2562

At the request of Mr. REID, the name of the Senator from New York (Mr.

SCHUMER) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2574

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2574, a bill to amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act.

S. 2608

At the request of Mr. HOLLINGS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2608, a bill to amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development.

S. 2615

At the request of Mr. MURKOWSKI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2615, a bill to amend title XVII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals.

S. 2663

At the request of Mr. BREAUX, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2674

At the request of Mr. BROWNBACK, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2729

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2729, a bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

S. 2734

At the request of Mr. KERRY, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Nevada (Mr. REID), the Senator from Nevada (Mr. ENSIGN), the Senator from Missouri (Mr. BOND) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. 2736

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 2736, a bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

S. 2761

At the request of Mr. FEINGOLD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2761, a bill to amend the Internal Revenue Code of 1986 to provide that reimbursements for costs of using passenger automobiles for charitable and other organizations are excluded from gross income, and for other proposes.

S. RES. 239

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S, Res. 239, a resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the S.S. Henry Bacon, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

S. RES. 293

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. CON. RES. 119

At the request of Mr. BURNS, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. Con. Res. 119, a concurrent resolution honoring the United States Marines killed in action during World War II while participating in the 1942 raid on Makin Atoll in the Gilbert Islands and expressing the sense of Congress that a site in Arlington National Cemetery, near the Space Shuttle Challenger Memorial at the corner of Memorial and Farragut Drives, should be provided for a suitable monument to the Marine Raiders.

S. CON. RES. 121

At the request of Mr. HUTCHINSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Con. Res. 121, a concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community , migrant, public housing, and homeless health centers.

AMENDMENT NO. 4304

At the request of Mr. ALLARD, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of amendment No. 4304 intended to be proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

AMENDMENT NO. 4309

At the request of Mr. DAYTON, his name was added as a cosponsor of amendment No. 4309 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

AMENDMENT NO. 4310

At the request of Mr. ALLARD, his name was added as a cosponsor of amendment No. 4310 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. BROWNBACK):

S. 2773. A bill to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill that has significance for the entire Great Plains region of our Nation. The High Plains Aquifer, which is comprised in large part by the Ogallala Aquifer, extends under eight states: Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming. It is experiencing alarming declines in its water levels. This aquifer is the source of water for farmers and communities throughout the Great Plains region. The legislation I am introducing today is intended to ensure that sound and objective science is available with respect to the hydrology and geology of the High Plains Aquifer.

This bill, the "High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling and Monitoring Act," would direct the Secretary of the Interior to develop and carry out a comprehensive hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer. The Secretary is directed to work in conjunction with the eight High Plains Aquifer States in carrying out this program. The U.S. Geological Survey and the States will work in cooperation to further the goals of this program, with half of the available funds directed to the State component of the program.

I have appreciated the input and assistance of many in the High Plains Aquifer States in putting this legislation together. Last session, I introduced two bills relating to the High

Plains Aquifer. One of these bills, S. 1537 would have established a mapping and monitoring program for the High Plains Aquifer. The bill I am introducing today revises and refines that program based on input from several of the State geologists and water management agency officials who would be involved in implementing the program. Their assistance has been invaluable. As we conduct hearings on this legislation, I hope to receive further comment from them on the legislation, and I look forward to continuing to work with them as we proceed with this important legislation.

The second bill that I introduced last session, S. 1538, proposed that the Secretary of Agriculture provide incentive payments through the Farm Program to producers who were willing to conserve water by converting to less water-intensive crops or to dryland farming. In addition, the bill would have provided assistance to producers to make their irrigation systems more water efficient. I am pleased that the recently-enacted Farm Security and Rural Investment Act of 2002 establishes a ground and surface water conservation program which incorporates several of the concepts contained in S. 1538. It is to be funded in the amount of $25 million for fiscal year 2002, $45 million for fiscal year 2003, and $60 million for each of fiscal years 2004 through 2007.

The Conference Report for the 2002 Farm Bill makes clear that "highest priority" is to be accorded the High Plains region in the funding and implementation of this program. I expect that the new program will yield substantial benefits to the High Plains region in addressing ground water depletion by providing cost-share payments, incentive payments, and loans to producers to improve irrigation systems, enhance irrigation efficiencies, convert to the production of less water-intensive crops or dryland farming, improve water storage through measures such as water banking and groundwater recharge, mitigate the effects of drought, and institute other measures as determined by the Secretary.

A reliable source of groundwater is essential to the well-being and livelihoods of people in the Great Plains region. Local towns and rural areas are dependent on the use of groundwater for drinking water, ranching, farming, and other commercial uses. Yet many areas overlaying the Ogallala Aquifer have experienced a dramatic depletion of this groundwater resource. The problem we are confronting is that the aquifer is not sustainable, and it is being depleted rapidly. This threatens the way of life of all who live on the High Plains. The bill I am introducing today would help ensure that the relevant science needed to address this problem is available so that we will have a better understanding of the resources of the High Plains Aquifer. I ask that my colleagues join me in supporting this legislation.

I ask unanimous consent that the text of the bill and the section-by-section be printed in the RECORD.

I also ask unanimous consent that a letter from the State Geologist of Kansas, written on behalf of the State geological surveys of the eight High Plains Aquifer States, endorsing the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2773

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling and Monitoring Act".

**SEC. 2. DEFINITIONS.**

For the purposes of this Act:

(1) ASSOCIATION.—The term "Association" means the Association of American State Geologists.

(2) DIRECTOR.—The term "Director" means the Director of the United States Geological Survey.

(3) FEDERAL COMPONENT.—The term "Federal component" means the Federal component of the High Plains Aquifer Comprehensive Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program described in section 3(c).

(4) HIGH PLAINS AQUIFER.—The term "High Plains Aquifer" is the groundwater reserve depicted as Figure 1 in the United States Geological Survey Professional Paper 1400–B, title "Geohydrology of the High Plains Aquifer in Parts of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming."

(5) HIGH PLAINS AQUIFER STATES.—The term "High Plains Aquifer States" means the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas and Wyoming.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) STATE COMPONENT.—The term "State component" means the State component of the High Plains Aquifer Comprehensive Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program described in section 3(d).

**SEC. 3. ESTABLISHMENT.**

(a) PROGRAM.—The Secretary, working through the United States Geological Survey, and in cooperation with the State geological surveys and the water management agencies of the High Plains Aquifer States, shall establish and carry out the High Plains Aquifer Comprehensive Hydrogeolgoic Characterization, Mapping, Modeling and Monitoring Program, for the purposes of the characterization, mapping, modeling, and monitoring of the High Plains Aquifer. The program shall undertake on a county-by-county level or at the largest scales and most detailed levels determined to be appropriate on a state-by-state and regional basis: (1) mapping of the hydrogeological configuration of the High Plains Aquifer; and (2) with respect to the High Plains Aquifer, analyses of the current and past rates at which groundwater is being withdrawn and recharged, the net rate of decrease or increase in High Plains Aquifer storage, the factors controlling the rate of horizontal and vertical migration of water within the High Plains Aquifer, and the current and past rate of loss of saturated thickness within the High Plains Aquifer. The program shall also develop, as needed, regional data bases and groundwater flow models.

(b) FUNDING.—The Secretary shall make available fifty percent of the funds available pursuant to this Act for use in carrying out the State component of the program, as provided for by subsection (d),

(c) FEDERAL PROGRAM COMPONENT.—

(1) PRIORITIES.—The program shall include a Federal component, developed in consultation with the Federal Review Panel provided for by subsection (e), which shall have as its priorities—

(A) coordinating Federal, State, and local, data, maps, and models into an integrated physical characterization of the High Plains Aquifer;

(B) supporting State and local activities with scientific and technical specialists; and

(C) undertaking activities and providing technical capabilities not available at the State and local levels.

(2) INTERDISCIPLINARY STUDIES.—The Federal component shall include interdisciplinary studies that add value to hydrogeologic characterization, mapping, modeling and monitoring for the High Plains Aquifer.

(d) STATE PROGRAM COMPONENT.—

(1) PRIORITIES.—The program shall include a State component which shall have as its priorities hydrogeologic characterization, mapping, modeling, and monitoring activities in areas of the High Plains Aquifer that will assist in addressing issues relating to groundwater depletion and resource assessment of the Aquifer. Priorities under the State component shall be based upon the recommendations of State panels representing a broad range of users of hydrogeologic data and information, which shall be appointed by the Governor of the State or the Governor's designee.

(2) AWARDS.—Twenty percent of the Federal funds available under the State component shall be equally divided among the State geological surveys of the High Plains Aquifer States to carry out the purposes of the program provided for by this Act. The remaining funds under the state component shall be competitively awarded to State or local agencies or entities in the High Plains Aquifer States, including State geological surveys, State water management agencies, institutions of higher education, or consortia of such agencies or entities. Such funds shall be awarded by the Director only for proposals that have been recommended by the State panels referred to in subsection (d)(1), subjected to independent peer review, and given final recommendation by the Federal Review Panel established under subsection (e). Proposals for multi-state activities must be recommended by the State panel of at least one of the affected States.

(e) FEDERAL REVIEW PANEL.—

(1) ESTABLISHMENT.—There shall be established a Federal Review Panel to evaluate the proposals submitted for funding under the State component under subsection (d)(2) and to recommend approvals and levels of funding. In addition, the Federal Review Panel shall review and coordinate the Federal component priorities under subsection (c)(1), Federal interdisciplinary studies under subsection (c)(2), and the State component priorities under subsection (d)(1).

(2) COMPOSITION AND SUPPORT.—Not later than three months after the date of enactment of this Act, the Secretary shall appoint

to the Federal Review Panel: (1) two representatives of the Untied States Geological Survey, at least one of which shall be a hydrologist or hydrogeologist; and (2) three representatives of the geological surveys and water management agencies of the High Plains Aquifer States from lists of nominees provided by the Association and the Western States Water Council, so that there is representation of both the State geological surveys and the State water management agencies. Appointment to the Panel shall be for a term of three years. The Director shall provide technical and administrative support to the Federal Review Panel. Expenses for the Federal Review Panel shall be paid from funds available under the Federal component of the program.

(f) LIMITATION.—The United States Geological Survey shall not use any of the Federal funds to be made available under the State componeht for any fiscal year to pay indirect, servicing, or program management charges. Recipients of awards granted under subsection (d)(2) shall not use more than eighteen percent of the Federal award amount for any fiscal year for indirect, servicing, or program management charges.

**SEC. 4. PLAN.**

The Secretary, acting through the Director, shall, with the participation and review of the Association, the Western States Water Council, the Federal Review Panel, and the State panels, prepare a plan for the High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program. The plan shall address overall priorities for the program and a management structure and program operations, including the role and responsibilities of the United States Geological Survey and the States in the program, and mechanisms for identifying priorities for the Federal component and the State component.

**SEC. 5. REPORTING REQUIREMENTS.**

(a) REPORT ON PROGRAM IMPLEMENTATION.—One year after the date of enactment of this Act, and every two years thereafter through fiscal year 2011, the Secretary shall submit a report on the status of implementation of the program established by this Act to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the Governors of the High Plains Aquifer States.

(b) REPORT ON HIGH PLAINS AQUIFER.—One year after the date of enactment of this Act and every year thereafter through fiscal year 2011, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the Governors of the High Plains Aquifer States on the status of the High Plains Aquifer, including aquifer recharge rates, extraction rates, saturated thickness, and water table levels.

(c) ROLE OF FEDERAL REVIEW PANEL.—The Federal Review Panel shall be given an opportunity to review and comment on the reports required by this section.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2011 to carry out this Act.

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### SECTION-BY-SECTION HIGH PLAINS AQUIFER HYDROGEOLOGIC CHARACTERIZATION, MAPPING, MODELING AND MONITORING ACT

SEC. 1. SHORT TITLE

SEC. 2. DEFINITIONS

Defines the High Plains Aquifer States as the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas and Wyoming.

SEC. 3. ESTABLISHMENT

(a) Program. Directs the Secretary of the Interior, working through the U.S. Geological Survey, in cooperation with the State geological surveys and the water management agencies of the High Plains Aquifer States, to establish and carry out the High Plains Aquifer Comprehensive Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program. The program is to undertake on a county-by-county level or at the most detailed level that is appropriate, mapping of the hydrogeological configuration of the High Plains Aquifer and analyses of several aspects of the hydrology and hydrogeology of the Aquifer, as specified.

(b) Funding. Requires the Secretary to make available fifty percent of the funds available pursuant to the Act for use in carrying out the State component of the program.

(c) Federal Program Component.

(1) Priorities. The program is to include a Federal component, developed in consultation with the Federal Review Panel, which shall have as priorities coordinating data, maps and models into an integrated physical characterization of the High Plains Aquifer, supporting State and local activities with scientific and technical specialists, and undertaking activities not available at State and local levels.

(2) Interdisciplinary Studies. The Federal component is to include interdisciplinary studies.

(d) State Program Component.

(1) Priorities. The program is to include a State component which shall have as priorities characterization, mapping, modeling, and monitoring activities that will assist in addressing issues relating to groundwater depletion and resource assessment of the Aquifer. Priorities are to be based on recommendations of State panels representing a broad range of users of data and information, which shall be appointed by the Governor of the State or the Governor's designee.

(2) Awards. Twenty percent of the funds available in the State component shall be equally divided among the State geological surveys of the High Plains Aquifer States. The remaining amounts shall be competitively awarded by the Director of the U.S. Geological Survey to State or local agencies or entities in the High Plains Aquifer States for proposals that have been recommended by the State panels, subject to independent peer review, and given final recommendation by the Federal Review Panel.

(e) Federal Review Panel.

(1) Establishment. Establishes a Federal Review Panel to evaluate proposals submitted for funding under the State component, to review and coordinate Federal component priorities, Federal interdisciplinary studies, and State component priorities.

(2) Composition and Support. The Secretary of the Interior is to appoint to the Federal Review Panel two representatives of the U.S. Geological Survey (at least one of which shall be a hydrologist or a hydrogeologist) and three representatives of the geological surveys and water management agencies of the High Plains Aquifer States from lists of nominees provided by the Association of American State Geologists and the Western States Water Council. There is to be representation of both the State geological surveys and the State water management agencies.

(f) Limitation.

The U.S. Geological Survey is not to use any of the Federal funds made available for the State components to pay indirect, servicing or program charges. Recipients of awards granted under subsection (d)(2) shall not use more than eighteen percent of the Federal award amount for indirect, servicing, or program management charges.

SEC. 4. PLAN

The Secretary, with the participation and review of the Association of American State Geologists, the Western States Water Council, the Federal Review Panel and the State panels, is directed to prepare a plan for the program.

SEC. 5. REPORTING REQUIREMENTS

(a) Report on Program Implementation. The Secretary is to submit a report one year after the date of enactment of this Act and every two years thereafter, on the status of implementation of the program to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House, and the Governors of the High Plains Aquifer States.

(b) Report on High Plains Aquifer. One year after the date of enactment the Act and every year thereafter, the Secretary is to submit a report to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House, and the Governors of the High Plains Aquifer States, on the status of the High Plains Aquifer.

(c) Role of Federal Review Panel. The Federal Review Panel will be given an opportunity to review and comment on the reports.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated such sums as may be necessary to carry out the Act for fiscal years 2003 through 2011.

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KANSAS GEOLOGICAL SURVEY,
OFFICE OF THE DIRECTOR,
*Lawrence, KS, July 18, 2002.*

Hon. JEFF BINGAMAN,
*Hart Senate Office Building, Washington, DC.*

DEAR SENATOR BINGAMAN: I am writing on behalf of the geological surveys of the eight High Plains states to endorse your proposed legislation. "High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling, and Monitoring Act."

This act will authorize scientific and technical analyses critical to extending and conserving the life of the nation's single largest groundwater resource. It is particularly noteworthy that the act is written to facilitate and ensure cooperation and collaboration among all of the affected geological surveys, state water agencies, and the local water user communities.

The High Plains aquifer is a complex system of geologic materials that vary vertically and across the region in its thickness, water storage and transport capacity, and ability to be recharged. Eight state geological surveys and the U.S. Geological Survey formed the High Plains Aquifer Coalition two years ago to advance the understanding of the subsurface distribution, character, and nature of the High Plains Aquifer that comprises the geologic deposits in the eight-state Mid-continent region. The distribution, withdrawal, and recharge of groundwater, and the interaction with surface waters are profoundly affected by the geology and the natural environment of the High Plains Aquifer in all eight states—New Mexico; Texas, Oklahoma, Colorado, Kansas, Nebraska, South Dakota, and Wyoming. The geological surveys, in consultation with the state and local water agencies and groups, have agreed on the need for comprehensive understanding of the subsurface configuration and hydrogeology of the High Plains Aquifer. This information is needed to provide state, regional, and national policymakers with the earth-science information required to make informed decisions regarding urban and agricultural land use, the protection of aquifers and surface waters, and the environmental well being of the citizens of this geologically unique region.

Water contained in the High Plains Aquifer must be considered a finite resource and thus warrants a different management approach than that used for more robust or readily recharged aquifers. Your proposed legislation addresses this issue in an effective and logical manner, and we believe it will receive broad support.

The "High Plains Aquifer Characterization, Mapping, Modeling, and Monitoring Act" is a necessary first step in a comprehensive program to adequately address issues of conservation, education, and agricultural economics in the High Plains Aquifer. We applaud your vision and leadership in introducing this legislation.

Sincerely,

M. Lee Allison,
State Geologist and Director,
*Kansas Geological Survey Coordinator, High Plains Aquifer Coalition.*

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By Mr. BINGAMAN:

S. 2776. A bill to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased today to introduce legislation to protect several important archaeological sites in the Galisteo Basin in New Mexico. This bill identifies approximately two dozen sites in northern New Mexico which contain the ruins of pueblos dating back almost 900 years. When Coronado and other Spanish conquistadores first entered what is now New Mexico in 1541, they encountered a thriving Pueblo culture with its own unique tradition of religion, architecture and art, which was influenced through an extensive trade system. We know that these sites remain occupied up through the Pueblo revolt in 1680. After that, the sites were deserted, although we still don't know why they were abandoned, after over 700 years of continuous use.

Through these sites, we now have the opportunity to learn more not only about the history and culture of these Pueblos, but also about the first interaction between European and Native American cultures. The Cochiti Pueblo, in particular, is culturally and historically tied to these sites, which have tremendous historical and religious significance to the Pueblo. I am grateful for the continued support of the Pueblo de Cochiti for this legislation. This bill has strong local support, including the Santa Fe Board of County Commissioners, the City of Santa Fe, and the Archdiocese of Santa Fe. I would also like to thank the Archaeological Conservancy for its efforts over the past several years to identify and protect many of these sites, and in helping with this legislation.

Many of these archaeological sites are on Federal land administered by the Bureau of Land Management. BLM archaeologists have already provided extensive background research on many of these sites, and I was pleased that the agency supported a similar bill I introduced in the previous Congress.

Many of the archaeological sites identified in the bill are on non-Federal land. I would like to emphasize that the bill only authorizes voluntary participation, and there is no restriction or other limitation imposed on these lands. Because this is a sensitive issue, I have added language to this year's bill to explicitly state that the Secretary of the Interior has no authority to administer sites on non-Federal lands except to the extent provided for in a cooperative agreement entered into between the Secretary and the landowner. Similarly, the Secretary's authority to acquire lands is limited to willing sellers only.

In the three years since I first introduced this proposal, many irreplaceable archaeological resources have been lost, whether by vandalism, erosion, or other means. Enactment of the Galisteo Basin Archaeological Sites Protection Act will allow us to take the first steps necessary to protect these resources and to allow for improved public understanding and interpretation of these sites.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2776

*Be it enacted in the Senate and the House of Representatives in the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Tis Act may be cited as the "Galisteo Basin Archaeological Sites Protection Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) Findings.—The Congress finds that—

(1) the Galisteo Basin and surrounding area of New Mexico is the location of many well preserved prehistoric and historic archaeological resources of Native American and Spanish colonial cultures;

(2) these resources include the largest ruins of Pueblo Indian settlements in the United States, spectacular examples of Native American rock art, and ruins of Spanish colonial settlements; and

(3) these resources are being threatened by natural causes, urban development, vandalism, and uncontrolled excavations.

(b) Purpose.—The purpose of this Act is to provide for the preservation, protection, and interpretation of the nationally significant archaeological resources in the Galisteo Basin in New Mexico.

**SEC. 3. ESTABLISHMENT OF GALISTEO BASIN ARCHAEOLOGICAL PROTECTION SITES.**

(a) In General.—The following archaeological sites located in the Galisteo Basin in the State of New Mexico, totaling approximately 4,591 acres, are hereby designated as Galisteo Basin Archaeological Protection Sites:

| Name | Acres |
|---|---|
| Arroyo Hondo Pueblo | 21 |
| Burnt Corn Pueblo | 110 |
| Chamisa Locita Pueblo | 16 |
| Comanche Gap Petroglyphs. | 764 |
| Espinoso Ridge Site | 160 |
| La Cienega Pueblo & Petroglyphs. | 126 |
| La Cienega Pithouse Village. | 179 |
| La Cieneguilla Petroglyphs/Camino Real Site. | 531 |
| La Cieneguilla Pueblo | 11 |
| Lamy Pueblo | 30 |
| Lamy Junction Site | 80 |
| Las Huertas | 44 |
| Pa'ako Pueblo | 29 |
| Petroglyph Hill | 130 |
| Pueblo Blanco | 878 |
| Pueblo Colorado | 120 |
| Pueblo Galisteo/Las Madres. | 133 |
| Pueblo Largo | 60 |
| Pueblo She | 120 |
| Rote Chert Quarry | 5 |
| San Cristobal Pueblo | 520 |
| San Lazaro Pueblo | 360 |
| San Marcos Pueblo | 152 |
| Upper Arroyo Hondo Pueblo. | 12 |
| Total Acreage | 4,591 |

(c) Availability of Maps.—The archaeological protection sites listed in subsection (b) are generally depicted on a series of 19 maps entitled "Galisteo Basin Archaeological Protection Sites" and dated July, 2002. The Secretary shall keep the maps on file and available for public inspection in appropriate offices in New Mexico of the Bureau of Land Management and the National Park Service.

(d) Boundary Adjustments.—The Secretary may make minor boundary adjustments to the archaeological protection sites by publishing notice thereof in the Federal Register.

**SEC. 4. ADDITIONAL SITES.**

(a) In General.—The Secretary of the Interior (in this Act referred to as "Secretary") shall—

(1) continue to search for additional Native American and Spanish colonial sites in the Galisteo Basin area of New Mexico; and

(2) submit to Congress, within three years after the date funds become available and thereafter as needed, recommendations for additions to, deletions from, and modifications of the boundaries of the list of archaeological protection sites in section 3 of this Act.

(b) Additions Only By Statute.—Additions to or deletions from the list in section 3 shall be made only by an Act of Congress.

**SEC. 5. ADMINISTRATION.**

(a) In General.—(1) The Secretary shall administer archaeological protection sites located on Federal land in accordance with the provisions of this Act, the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), and other applicable laws in a manner that will protect, preserve, and maintain the archaeological resources and provide for research thereon.

(2) The Secretary shall have no authority to administer archaeological protection sites which are on non-Federal lands except to the extent provided for in a cooperative agreement entered into between the Secretary and the landowner.

(3) Nothing in this Act shall be construed to extend the authorities of the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Repatriation Act to private lands which are

designated as an archaeological protection site.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Within three complete fiscal years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, a general management plan for the identification, research, protection, and public interpretation of—

(A) the archaeological protection sites located on Federal land; and

(B) for sites on State or private lands for which the Secretary has entered into cooperative agreements pursuant to section 6 of this Act.

(2) CONSULTATION.—The general management plan shall be developed by the Secretary in consultation with the Governor of New Mexico, the New Mexico State Land Commissioner, affected Native American pueblos, and other interested parties.

**SEC. 6. COOPERATIVE AGREEMENTS.**

The Secretary is authorized to enter into cooperative agreements with owners of non-Federal lands with regard to an archaeological protection site, or portion thereof, located on their property. The purpose of such an agreement shall be to enable to the Secretary to assist with the protection, preservation, maintenance, and administration of the archaeological resources and associated lands. Where appropriate, a cooperative agreement may also provide for public interpretation of the site.

**SEC. 7. ACQUISITIONS.**

(a) IN GENERAL.—The Secretary is authorized to acquire lands and interests therein within the boundaries of the archaeological protection sites, including access thereto, by donation, by purchase with donated or appropriated funds, or by exchange.

(b) CONSENT OF OWNER REQUIRED.—The Secretary may only acquire lands or interests therein within the consent of the owner thereof.

(c) STATE LANDS.—The Secretary may acquire lands or interests therein owned by the State of New Mexico or a political subdivision thereof only by donation or exchange, except that State trust lands may only be acquired by exchange.

**SEC. 8. WITHDRAWAL.**

Subject to valid existing rights, all Federal lands within the archaeological protection sites are hereby withdrawn—

(1) from all forms of entry, appropriation, or disposal under the public land laws and all amendments thereto;

(2) from location, entry, and patent under the mining law and all amendments thereto; and

(3) from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

**SEC. 9. SAVINGS PROVISIONS.**

Nothing in this Act shall be construed—

(1) to authorize the regulation of privately owned lands within an area designated as an archaeological protection site;

(2) to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of privately owned lands; or

(3) to modify, enlarge, or diminish any authority of Federal, State, tribal, or local governments to manage or regulate any use of land as provided for by law or regulation.

(4) to restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

## STATEMENTS ON SUBMITTED RESOLUTIONS

### SENTE CONCURRENT RESOLUTION 130—EXPRESSING THE SENSE OF CONGRESS THAT THE FEDERAL MEDIATION AND CONCILIATION SERVICE SHOULD EXERT ITS BEST EFFORTS TO CAUSE THE MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION AND THE OWNERS OF THE TEAMS OF MAJOR LEAGUE BASEBALL TO ENTER INTO A CONTRACT TO CONTINUE TO PLAY PROFESSIONAL BASEBALL GAMES WITHOUT ENGAGING IN A STRIKE, A LOCKOUT OR ANY COERCIVE CONDUCT THAT INTERFERES WITH THE PLAYING OF SCHEDULED PROFESSIONAL BASEBALL GAMES

Mr. MILLER submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions.

S. CON RES. 130

Whereas major league baseball is a national institution and is commonly referred to as "the national pastime";

Whereas major league baseball and its players played a critical role in restoring America's spirit following the tragic events of September 11, 2001;

Whereas major league baseball players are role models to millions of young Americans; and

Whereas while the financial issues involved in this current labor negotiation are significant, they pale in comparison to the damage that will be caused by a strike or work stoppage: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that the Federal Mediation and Conciliation Service, on its own motion and in accordance with section 203(b) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(b)), should immediately—

(1) proffer its services to the Major League Baseball Players Association and the owners of the teams of Major League Baseball to resolve labor contract disputes relating to entering into a collective bargaining agreement; and

(2) use its best efforts to bring the parties to agree to such contract without engaging in a strike, a lockout, or any other coercion that interferes with the playing of scheduled professional baseball games.

Mr. MILLER. Mr. President, today I share with my colleagues a resolution that calls on the Federal Mediation and Conciliation Service to exert its best efforts to cause the Major League Baseball Players Association and the owners of the teams of Major League Baseball to enter into a contract to continue to play professional baseball games without engaging in any coercive conduct that interferes with the playing of scheduled professional baseball games.

Folks don't agree on much around this place. But, I think we can all agree that baseball as we've known it, is in deep trouble.

Billion dollar owners and multi-million dollar players refusing to come together and do what's right for the game.

Steroid use rampant, according to an article in Sports Illustrated.

And the best Senator DORGAN could get out of a June hearing from the Players Association Executive Director was for him to say "We'll have a frank and open discussion" on the topic.

But the big problem is that the player's labor contract expired last year and the negotiations on a new deal are going nowhere.

There have been eight different labor agreements and each time there was a work stoppage.

The last time the owners and players tried to renew their contract back in 1994, it took a 232-day shutdown of the game, including canceling the World Series for the first time in 90 years, to finally get an agreement.

Hall of Famer and U.S. Senator JIM BUNNING has an op-ed piece in this morning's New York Times. He writes, "The last strike nearly killed the game. I am afraid the next one will."

There are many problems. Only five out of thirty teams made a profit last season. That means 25 ended up in the red. The extreme ran from the Yankees collecting $217.8 million and the Montreal Expos $9.8 million.

The average player today, the average player, makes more than $2 million a year.

Ever since Abner Doubleday invented the game, a game is played until one team wins. That was part of the enchantment of the game: theoretically it could go on forever. Unless, that is, a commissioner calls it off and goes to dinner.

Ever since baseball was declared as entertainment instead of a business in a 1922 Supreme Court decision that gave the owners exemptions from laws against collusion and other monopolistic activities, we have probably been headed to this day. These anti-trust exemptions give owners tremendous power and any proposals to change it, like Rep. JOHN CONYERS tried to do not too long ago, have gone nowhere.

And, we're not proposing that today. I'm not even sure I'm for that. I happen to think that it would kill the minor leagues.

And right now, these 160 teams are playing some of the purest baseball being played today.

So what do we do? Here's how I see it.

What would any of us do if we saw a loved one, someone you grew up with and loved like a member of your family, with a pistol in his hand, loaded with the safety off and aimed at their temple?

What if you had only a few seconds before that close personal friend blew his brains out? I'd try to stop him. And I think you would too. I'd lurch for the pistol and try to take it away from him by whatever force necessary. I'd do just about anything to save his life.

I could go on with this analogy, but I think you get the picture.

For sixty summers I've followed the game of baseball. I live for the early days of February when the catchers and pitchers report for spring training.

And when the World Series ends in the late fall, I might as well be hibernating in a cave during the winter, or serving in the Senate, because my life is so empty.

But, I digress. Back to saving the life of that good friend about to blow his brains out.

That's what this resolution attempts to do.

Its purpose is to inject the Federal Government, with all its persuasive powers, into this dispute. Hopefully, with the end result of preventing the baseball players from striking and shutting down major league baseball.

I want to save this game for those who love it as I do and for those who will come after us. I do not want to see our national pastime become our national once-upon-a-time.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4313. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table.

SA 4314. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4309 proposed by Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE) to the bill (S. 812) supra; which was ordered to lie on the table.

SA 4315. Mr. HAGEL (for himself, Mr. ENSIGN, Mr. LUGAR, Mr. GRAMM, Mr. INHOFE, Mr. SANTORUM, Mr. GREGG, Mr. FRIST, and Mr. NICKLES) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra.

## TEXT OF AMENDMENTS

**SA 4313.** Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —IMMUNOSUPPRESSIVE DRUG COVERAGE**

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Immunosuppressive Drug Coverage Act of 2002".

**SEC. 02. PROVISION OF APPROPRIATE COVERAGE OF IMMUNOSUPPRESSIVE DRUGS UNDER THE MEDICARE PROGRAM.**

(a) CONTINUED ENTITLEMENT TO IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPIENTS.—

(1) IN GENERAL.—Section 226A(b)(2) of the Social Security Act (42 U.S.C. 426–1(b)(2)) is amended by inserting "(except for coverage of immunosuppressive drugs under section 1861(s)(2)(J))" after "shall end".

(2) APPLICATION.—In the case of an individual whose eligibility for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) has ended except for the coverage of immunosuppressive drugs by reason of the amendment made by paragraph (1), the following rules shall apply:

(A) The individual shall be deemed to be enrolled in part B of the original medicare fee-for-service program under title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for purposes of receiving coverage of such drugs.

(B) The individual shall be responsible for the full part B premium under section 1839 of such Act (42 U.S.C. 1395r) in order to receive such coverage.

(C) The provision of such drugs shall be subject to the application of—

(i) the part B deductible under section 1833(b) of such Act (42 U.S.C. 1395l(b)); and

(ii) the coinsurance amount applicable for such drugs (as determined under such part B).

(D) If the individual is an inpatient of a hospital or other entity, the individual is entitled to receive coverage of such drugs under such part B.

(3) ESTABLISHMENT OF PROCEDURES IN ORDER TO IMPLEMENT COVERAGE.—The Secretary of Health and Human Services shall establish procedures for—

(A) identifying beneficiaries that are entitled to coverage of immunosuppressive drugs by reason of the amendment made by paragraph (1); and

(B) distinguishing such beneficiaries from beneficiaries that are enrolled under part B of title XVIII of the Social Security Act for the complete package of benefits under such part.

(4) TECHNICAL AMENDMENT.—Subsection (c) of section 226A (42 U.S.C. 426–1), as added by section 201(a)(3)(D)(ii) of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1497), is redesignated as subsection (d).

(b) EXTENSION OF SECONDARY PAYER REQUIREMENTS FOR ESRD BENEFICIARIES.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding at the end the following new sentence: "With regard to immunosuppressive drugs furnished on or after the date of enactment of the Immunosuppressive Drugs Coverage Act of 2002, this subparagraph shall be applied without regard to any time limitation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of enactment of this Act.

**SEC. 03. PLANS REQUIRED TO MAINTAIN COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

(a) APPLICATION TO CERTAIN HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

**"SEC. 2707. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

"A group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide coverage of immunosuppressive drugs that is at least as comprehensive as the coverage provided by such plan or issuer on the day before the date of enactment of the Immunosuppressive Drug Coverage Act of 2002, and such requirement shall be deemed to be incorporated into this section.".

(2) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

(b) APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

**"SEC. 714. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

"A group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide coverage of immunosuppressive drugs that is at least as comprehensive as the coverage provided by such plan or issuer on the day before the date of enactment of the Immunosuppressive Drug Coverage Act of 2002, and such requirement shall be deemed to be incorporated into this section.".

(2) CONFORMING AMENDMENTS.—

(A) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(B) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Coverage of Immunosuppressive drugs.".

(c) APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Coverage of immunosuppressive drugs.";

and

(2) by inserting after section 9812 the following:

**"SEC. 9813. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

"A group health plan shall provide coverage of immunosuppressive drugs that is at least as comprehensive as the coverage provided by such plan on the day before the date of enactment of the Immunosuppressive Drug Coverage Act of 2002, and such requirement shall be deemed to be incorporated into this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2003.

**SA 4314.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4309 proposed by Mr. GRAHAM (for himself and Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

Strike paragraph (2) of section 1860K(c) of the Social Security Act (as proposed to be added by section 202(a) of the amendment) and insert the following:

"(2) Budget neutrality.—Notwithstanding any other provision of this Act, this title, and the amendments made by the Medicare Outpatient Prescription Drug Act of 2002, shall take effect on the date of enactment of an Act that raises Federal revenues or reduces Federal spending by an amount sufficient to offset the Federal budgetary cost of implementing this title.".

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**SA 4315.** Mr. HAGEL (for himself, Mr. ENSIGN, Mr. LUGAR, Mr. GRAMM, Mr. INHOFE, Mr. SANTORUM, Mr. GREGG, Mr. FRIST, and Mr. NICKLES) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

Strike the last word, and insert the following:

## TITLE —VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM

### SEC. 00. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Medicare Rx Drug Discount and Security Act of 2002".

(b) Table of Contents.—The table of contents of this title is as follows:

Sec. 00. Short title; table of contents.
Sec. 01. Voluntary Medicare Outpatient Prescription Drug Discount and Security Program.

"Part D—Voluntary Medicare Outpatient Prescription Drug Discount and Security Program

"Sec. 1860. Definitions.
"Sec. 1860A. Establishment of program.
"Sec. 1860B. Enrollment.
"Sec. 1860C. Providing enrollment and coverage information to beneficiaries.
"Sec. 1860D. Enrollee protections.
"Sec. 1860E. Annual enrollment fee.
"Sec. 1860F. Benefits under the program.
"Sec. 1860G. Requirements for entities to provide prescription drug coverage.
"Sec. 1860H. Payments to eligible entities for administering the catastrophic benefit.
"Sec. 1860I. Determination of income levels.
"Sec. 1860J. Appropriations.
"Sec. 1860K. Medicare Competition and Prescription Drug Advisory Board.".
Sec. 02. Administration of Voluntary Medicare Outpatient Prescription Drug Discount and Security Program.
Sec. 03. Exclusion of part D costs from determination of part B monthly premium.
Sec. 04. Medigap revisions.

### SEC. 01. VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.

(a) Establishment of Program.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part D as part E; and

(2) by inserting after part C the following new part:

"Part D—Voluntary Medicare Outpatient Prescription Drug Discount and Security Program

"DEFINITIONS

"Sec. 1860. In this part:

"(1) Covered outpatient drug.—

"(A) In general.—Except as provided in this paragraph, the term 'covered outpatient drug' means—

"(i) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

"(ii) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section,

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

"(B) Exclusions.—

"(i) In general.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

"(ii) Avoidance of duplicate coverage.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered if payment for such drug is available under part A or B for an individual entitled to benefits under part A and enrolled under part B.

"(C) Application of formulary restrictions.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully appealed under section 1860D(a)(4)(B).

"(D) Application of general exclusion provisions.—A prescription drug discount card plan or Medicare+Choice plan may exclude from qualified prescription drug coverage any covered outpatient drug—

"(i) for which payment would not be made if section 1862(a) applied to part D; or

"(ii) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860D(a)(4).

"(2) Eligible beneficiary.—The term 'eligible beneficiary' means an individual who is—

"(A) eligible for benefits under part A or enrolled under part B; and

"(B) not eligible for prescription drug coverage under a State plan under the medicaid program under title XIX.

"(3) Eligible entity.—The term 'eligible entity' means any—

"(A) pharmaceutical benefit management company;

"(B) wholesale pharmacy delivery system;

"(C) retail pharmacy delivery system;

"(D) insurer (including any issuer of a medicare supplemental policy under section 1882);

"(E) Medicare+Choice organization;

"(F) State (in conjunction with a pharmaceutical benefit management company);

"(G) employer-sponsored plan;

"(H) other entity that the Secretary determines to be appropriate to provide benefits under this part; or

"(I) combination of the entities described in subparagraphs (A) through (H).

"(4) Out-of-pocket expenses.—The term 'out-of-pocket expenses' means only those expenses for covered outpatient drugs that are incurred by the eligible beneficiary using a card approved by the Secretary under this part that are paid by that beneficiary and for which the beneficiary is not reimbursed (through insurance or otherwise) by another person.

"(5) Poverty line.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(6) Secretary.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services.

"ESTABLISHMENT OF PROGRAM

"Sec. 1860A. (a) Provision of Benefit.—The Secretary shall establish a Medicare Outpatient Prescription Drug Discount and Security Program under which the Secretary endorses prescription drug card plans offered by eligible entities in which eligible beneficiaries may voluntarily enroll and receive benefits under this part.

"(b) Endorsement of Prescription Drug Discount Card Plans.—

"(1) In general.—The Secretary shall endorse a prescription drug card plan offered by an eligible entity with a contract under this part if the eligible entity meets the requirements of this part with respect to that plan.

"(2) National plans.—In addition to other types of plans, the Secretary may endorse national prescription drug plans under paragraph (1).

"(c) Voluntary Nature of Program.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program under this part.

"(d) Financing.—The costs of providing benefits under this part shall be payable from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"ENROLLMENT

"Sec. 1860B. (a) Enrollment Under Part D.—

"(1) Establishment of process.—

"(A) In general.—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Except as otherwise provided in this subsection, such process shall be similar to the process for enrollment under part B under section 1837.

"(B) Requirement of enrollment.—An eligible beneficiary must enroll under this part in order to be eligible to receive the benefits under this part.

"(2) Enrollment periods.—

"(A) In general.—Except as provided in this paragraph, an eligible beneficiary may not enroll in the program under this part during any period after the beneficiary's initial enrollment period under part B (as determined under section 1837).

"(B) SPECIAL ENROLLMENT PERIOD.—In the case of eligible beneficiaries that have recently lost eligibility for prescription drug coverage under a State plan under the medicaid program under title XIX, the Secretary shall establish a special enrollment period in which such beneficiaries may enroll under this part.

"(C) OPEN ENROLLMENT PERIOD IN 2003 FOR CURRENT BENEFICIARIES.—The Secretary shall establish a period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may—

"(i) enroll under this part; or

"(ii) enroll or reenroll under this part after having previously declined or terminated such enrollment.

"(3) PERIOD OF COVERAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided under section 1838, as if that section applied to the program under this part.

"(B) ENROLLMENT DURING OPEN AND SPECIAL ENROLLMENT.—An eligible beneficiary who enrolls under the program under this part under subparagraph (B) or (C) of paragraph (2) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

"(4) PART D COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B OR ELIGIBILITY FOR MEDICAL ASSISTANCE.—

"(A) IN GENERAL.—In addition to the causes of termination specified in section 1838, the Secretary shall terminate an individual's coverage under this part if the individual is—

"(i) no longer enrolled in part A or B; or

"(ii) eligible for prescription drug coverage under a State plan under the medicaid program under title XIX.

"(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of—

"(i) the termination of coverage under part A or (if later) under part B; or

"(ii) the coverage under title XIX.

"(b) ENROLLMENT WITH ELIGIBLE ENTITY.—

"(1) PROCESS.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part shall make an annual election to enroll in a prescription drug card plan offered by an eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides.

"(2) ELECTION PERIODS.—

"(A) IN GENERAL.—Except as provided in this paragraph, the election periods under this subsection shall be the same as the coverage election periods under the Medicare+Choice program under section 1851(e), including—

"(i) annual coordinated election periods; and

"(ii) special election periods.

In applying the last sentence of section 1851(e)(4) (relating to discontinuance of a Medicare+Choice election during the first year of eligibility) under this subparagraph, in the case of an election described in such section in which the individual had elected or is provided qualified prescription drug coverage at the time of such first enrollment, the individual shall be permitted to enroll in a prescription drug card plan under this part at the time of the election of coverage under the original fee-for-service plan.

"(B) INITIAL ELECTION PERIODS.—

"(i) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who is entitled to benefits under part A or enrolled under part B as of November 1, 2003, there shall be an initial election period of 6 months beginning on that date.

"(ii) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who is first entitled to benefits under part A or enrolled under part B after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

"(C) ADDITIONAL SPECIAL ELECTION PERIODS.—The Administrator shall establish special election periods—

"(i) in cases of individuals who have and involuntarily lose prescription drug coverage described in paragraph (3);

"(ii) in cases described in section 1837(h) (relating to errors in enrollment), in the same manner as such section applies to part B; and

"(iii) in the case of an individual who meets such exceptional conditions (including conditions provided under section 1851(e)(4)(D)) as the Secretary may provide.

"(D) ENROLLMENT WITH ONE PLAN ONLY.—The rules established under subparagraph (B) shall ensure that an eligible beneficiary may only enroll in 1 prescription drug card plan offered by an eligible entity for a year.

"(3) MEDICARE+CHOICE ENROLLEES.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization must enroll in a prescription drug discount card plan offered by an eligible entity in order to receive benefits under this part. The beneficiary may elect to receive such benefits through the Medicare+Choice organization in which the beneficiary is enrolled if the organization has been awarded a contract under this part.

"(4) CONTINUOUS PRESCRIPTION DRUG COVERAGE.—An individual is considered for purposes of this part to be maintaining continuous prescription drug coverage on and after the date the individual first qualifies to elect prescription drug coverage under this part if the individual establishes that as of such date the individual is covered under any of the following prescription drug coverage and before the date that is the last day of the 63-day period that begins on the date of termination of the particular prescription drug coverage involved (regardless of whether the individual subsequently obtains any of the following prescription drug coverage):

"(A) COVERAGE UNDER PRESCRIPTION DRUG CARD PLAN OR MEDICARE+CHOICE PLAN.—Prescription drug coverage under a prescription drug card plan under this part or under a Medicare+Choice plan.

"(B) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), or through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

"(C) PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined by the Secretary), but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

"(D) PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)) and if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

"(E) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

"(F) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

For purposes of carrying out this paragraph, the certifications of the type described in sections 2701(e) of the Public Health Service Act and in section 9801(e) of the Internal Revenue Code of 1986 shall also include a statement for the period of coverage of whether the individual involved had prescription drug coverage described in this paragraph.

"(5) COMPETITION.—Each eligible entity with a contract under this part shall compete for the enrollment of beneficiaries in a prescription drug card plan offered by the entity on the basis of discounts, formularies, pharmacy networks, and other services provided for under the contract.

"PROVIDING ENROLLMENT AND COVERAGE INFORMATION TO BENEFICIARIES

"SEC. 1860C. (a) ACTIVITIES.—The Secretary shall provide for activities under this part in the manner described in (and in coordination with) section 1851(d) to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding enrollment under this part and the prescription drug card plans offered by eligible entities with a contract under this part.

"(b) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in subsection (a) shall ensure that eligible beneficiaries are provided with such information at least 60 days prior to the first enrollment period described in section 1860B(c).

"ENROLLEE PROTECTIONS

"SEC. 1860D. (a) REQUIREMENTS FOR ALL ELIGIBLE ENTITIES.—Each eligible entity shall meet the following requirements:

"(1) GUARANTEED ISSUANCE AND NONDISCRIMINATION.—

"(A) GUARANTEED ISSUANCE.—

"(i) IN GENERAL.—An eligible beneficiary who is eligible to enroll in a prescription drug card plan offered by an eligible entity under section 1860B(b) for prescription drug coverage under this part at a time during which elections are accepted under this part with respect to the coverage shall not be denied enrollment based on any health status-related factor (described in section 2702(a)(1) of the Public Health Service Act) or any other factor.

"(ii) MEDICARE+CHOICE LIMITATIONS PERMITTED.—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(i), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of election) shall apply to eligible entities under this subsection.

"(B) NONDISCRIMINATION.—An eligible entity offering prescription drug coverage under this part shall not establish a service area in a manner that would discriminate based on health or economic status of potential enrollees.

"(2) GRIEVANCE MECHANISM, COVERAGE DETERMINATIONS, AND RECONSIDERATIONS.—

"(A) IN GENERAL.—With respect to the benefit under this part, each eligible entity offering a prescription drug card plan shall provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the eligible entity provides covered benefits) and enrollees with prescription drug card plans of the eligible entity under this part in accordance with section 1852(f).

"(B) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—Each eligible entity shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug card plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

"(C) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a prescription drug card plan offered by an eligible entity that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

"(3) APPEALS.—

"(A) IN GENERAL.—Subject to subparagraph (B), each eligible entity offering a prescription drug card plan shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

"(B) FORMULARY DETERMINATIONS.—An individual who is enrolled in a prescription drug card plan offered by an eligible entity may appeal to obtain coverage under this part for a covered outpatient drug that is not on a formulary of the eligible entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

"(4) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each eligible entity offering a prescription drug discount card plan shall meet the requirements of the Health Insurance Portability and Accountability Act of 1996.

"(b) DISCLOSURE OF INFORMATION.—

"(1) INFORMATION.—

"(A) GENERAL INFORMATION.—Each eligible entity with a contract under this part to provide a prescription drug discount card plan shall disclose, in a clear, accurate, and standardized form to each eligible beneficiary enrolled in a prescription drug discount card program offered by such entity under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such prescription drug coverage.

"(B) SPECIFIC INFORMATION.—In addition to the information described in subparagraph (A), each eligible entity with a contract under this part shall disclose the following:

"(i) How enrollees will have access to covered outpatient drugs, including access to such drugs through pharmacy networks.

"(ii) How any formulary used by the eligible entity functions.

"(iii) Information on grievance and appeals procedures.

"(iv) Information on enrollment fees and prices charged to the enrollee for covered outpatient drugs.

"(v) Any other information that the Secretary determines is necessary to promote informed choices by eligible beneficiaries among eligible entities.

"(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an eligible beneficiary, the eligible entity shall provide the information described in paragraph (3) to such beneficiary.

"(3) RESPONSE TO BENEFICIARY QUESTIONS.—Each eligible entity offering a prescription drug discount card plan under this part shall have a mechanism for providing specific information to enrollees upon request. The entity shall make available, through an Internet website and, upon request, in writing, information on specific changes in its formulary.

"(c) ELIGIBLE ENTITIES OFFERING A DISCOUNT CARD PROGRAM.—If an eligible entity offers a discount card program under this part, in addition to the requirements under subsection (a), the entity shall meet the following requirements:

"(1) ACCESS TO COVERED BENEFITS:—

"(A) ASSURING PHARMACY ACCESS.—

"(i) IN GENERAL.—The eligible entity offering the prescription drug discount card plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Secretary and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D(a)(2) that ensure such convenient access.

"(ii) USE OF POINT-OF-SERVICE SYSTEM.—Each eligible entity offering a prescription drug discount card plan shall establish an optional point-of-service method of operation under which—

"(I) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

"(II) discounts under the plan may not be available.

The additional costs resulting from the inapplicability of discounts under subclause (II) shall not be counted as out-of-pocket expenses for purposes of section 1860F(b).

"(B) USE OF STANDARDIZED TECHNOLOGY.—

"(i) IN GENERAL.—Each eligible entity offering a prescription drug discount card plan shall issue (and reissue, as appropriate) such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860F(a) for the purchase of prescription drugs for which coverage is not otherwise provided under the prescription drug discount card plan.

"(ii) STANDARDS.—The Secretary shall provide for the development of national standards relating to a standardized format for the card or other technology referred to in clause (i). Such standards shall be compatible with standards established under part C of title XI.

"(C) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If an eligible entity that offers a prescription drug discount card plan uses a formulary, the following requirements must be met:

"(i) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The eligible entity must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least 1 physician and at least 1 pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a physician or a practicing pharmacist (or both).

"(ii) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

"(iii) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (although not necessarily for all drugs within such categories and classes).

"(iv) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

"(v) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

"(vi) GRIEVANCES AND APPEALS RELATING TO APPLICATION OF FORMULARIES.—For provisions relating to grievances and appeals of coverage, see paragraphs (2) and (3) of section 1860D(a).

"(D) FRAUD, ABUSE, AND WASTE CONTROL.—The committee shall establish a program to control fraud, abuse, and waste.

"(2) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

"(A) IN GENERAL.—Each eligible entity offering a prescription drug discount card plan may have in place with respect to covered outpatient drugs—

"(i) an effective cost and drug utilization management program, including medically appropriate incentives to use generic drugs and therapeutic interchange, when appropriate; and

"(ii) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in subparagraph (B).

Nothing in this section shall be construed as impairing an eligible entity from applying cost management tools (including differential payments) under all methods of operation.

"(B) MEDICATION THERAPY MANAGEMENT PROGRAM.—

"(i) In general.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to ensure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered outpatient drugs under the prescription drug discount card plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

"(ii) Elements.—Such program may include—

"(I) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

"(II) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

"(III) detection of patterns of overuse and underuse of prescription drugs.

"(iii) Development of program in cooperation with licensed pharmacists.—The program shall be developed in cooperation with licensed pharmacists and physicians.

"(iv) Considerations in pharmacy fees.—Each eligible entity offering a prescription drug discount card plan that includes a medication therapy management program shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

"(C) Treatment of accreditation.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to prescription drug discount card plans under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

"(i) Paragraph (1) (including quality assurance), including any medication therapy management program under paragraph (2).

"(ii) Subsection (c)(1) (relating to access to covered benefits).

"(iii) Subsection (g) (relating to confidentiality and accuracy of enrollee records).

"(D) Public disclosure of pharmaceutical prices for equivalent drugs.—Each eligible entity offering a prescription drug discount card plan shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered outpatient drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

"ANNUAL ENROLLMENT FEE

"Sec. 1860E. (a) Amount.—

"(1) In general.—Except as provided in subsection (c), enrollment under the program under this part is conditioned upon payment of an annual enrollment fee of $25.

"(2) Annual percentage increase.—

"(A) In general.—In the case of any calendar year beginning after 2004, the dollar amount in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount; multiplied by

"(ii) the inflation adjustment.

"(B) Inflation adjustment.—For purposes of subparagraph (A)(ii), the inflation adjustment for any calendar year is the percentage (if any) by which—

"(i) the average per capita aggregate expenditures for covered outpatient drugs in the United States for medicare beneficiaries, as determined by the Secretary for the 12-month period ending in July of the previous year; exceeds

"(ii) such aggregate expenditures for the 12-month period ending with July 2003.

"(C) Rounding.—If any increase determined under clause (ii) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

"(b) Collection of Annual Enrollment Fee.—

"(1) In general.—Unless the eligible beneficiary makes an election under paragraph (2), the annual enrollment fee described in subsection (a) shall be collected and credited to the Federal Supplementary Medical Insurance Trust Fund in the same manner as the monthly premium determined under section 1839 is collected and credited to such Trust Fund under section 1840.

"(2) Direct payment.—An eligible beneficiary may elect to pay the annual enrollment fee directly or in any other manner approved by the Secretary. The Secretary shall establish procedures for making such an election.

"(c) Waiver.—The Secretary shall waive the enrollment fee described in subsection (a) in the case of an eligible beneficiary whose income is below 200 percent of the poverty line.

"BENEFITS UNDER THE PROGRAM

"Sec. 1860F. (a) Access to Negotiated Prices.—

"(1) Negotiated prices.—

"(A) In general.—Subject to subparagraph (B), each prescription drug card plan offering a discount card program by an eligible entity with a contract under this part shall provide each eligible beneficiary enrolled in such plan with access to negotiated prices (including applicable discounts) for such prescription drugs as the eligible entity determines appropriate. Such discounts may include discounts for nonformulary drugs. If such a beneficiary becomes eligible for the catastrophic benefit under subsection (b), the negotiated prices (including applicable discounts) shall continue to be available to the beneficiary for those prescription drugs for which payment may not be made under section 1860H(b). For purposes of this subparagraph, the term 'prescription drugs' is not limited to covered outpatient drugs, but does not include any over-the-counter drug that is not a covered outpatient drug.

"(B) Limitations.—

"(i) Formulary restrictions.—Insofar as an eligible entity with a contract under this part uses a formulary, the negotiated prices (including applicable discounts) for nonformulary drugs may differ.

"(ii) Avoidance of duplicate coverage.—The negotiated prices (including applicable discounts) for prescription drugs shall not be available for any drug prescribed for an eligible beneficiary if payment for the drug is available under part A or B (but such negotiated prices shall be available if payment under part A or B is not available because the beneficiary has not met the deductible or has exhausted benefits under part A or B).

"(2) Discount card.—The Secretary shall develop a uniform standard card format to be issued by each eligible entity offering a prescription drug discount card plan that shall be used by an enrolled beneficiary to ensure the access of such beneficiary to negotiated prices under paragraph (1).

"(3) Ensuring discounts in all areas.—The Secretary shall develop procedures that ensure that each eligible beneficiary that resides in an area where no prescription drug discount card plans are available is provided with access to negotiated prices for prescription drugs (including applicable discounts).

"(b) Catastrophic Benefit.—

"(1) In general.—Subject to paragraph (4) (relating to eligibility for the catastrophic benefit) and any formulary used by the prescription drug card program in which the eligible beneficiary is enrolled, the catastrophic benefit shall be administered as follows:

"(A) Beneficiaries with annual incomes below 200 percent of the poverty line.—In the case of an eligible beneficiary whose modified adjusted gross income (as defined in paragraph (4)(E)) is below 200 percent of the poverty line, the beneficiary shall not be responsible for making a payment for a covered outpatient drug provided under this part to the beneficiary in a year to the extent that the out-of-pocket expenses of the beneficiary for such drug exceed $1,500, unless the Secretary implements cost-sharing (as authorized under this part).

"(B) Beneficiaries with annual incomes between 200 and 400 percent of the poverty line.—In the case of an eligible beneficiary whose modified adjusted gross income (as so defined) equals or exceeds 200 percent, but does not exceed 400 percent, of the poverty line, the beneficiary shall not be responsible for making a payment for a covered outpatient drug provided under this part to the beneficiary in a year to the extent that the out-of-pocket expenses of the beneficiary for such drug exceed $3,500, unless the Secretary implements cost-sharing (as authorized under this part).

"(C) Beneficiaries with annual incomes between 400 and 600 percent of the poverty line.—In the case of an eligible beneficiary whose modified adjusted gross income (as so defined) equals or exceeds 400 percent, but does not exceed 600 percent, of the poverty line, the beneficiary shall not be responsible for making a payment for a covered outpatient drug provided under this part to the beneficiary in a year to the extent that the out-of-pocket expenses of the beneficiary for such drug exceed $5,500, unless the Secretary implements cost-sharing (as authorized under this part).

"(D) Beneficiaries with annual incomes that exceed 600 percent of the poverty line.—In the case of an eligible beneficiary whose modified adjusted gross income (as so defined) equals or exceeds 600 percent of the poverty line, the beneficiary shall not be responsible for making a payment for a covered outpatient drug provided under this part to the beneficiary in a year to the extent that the out-of-pocket expenses of the beneficiary for such drug exceeds 20 percent of that beneficiary's income, unless the Secretary implements cost-sharing (as authorized under this part).

"(2) Annual percentage increase.—

"(A) In general.—In the case of any calendar year after 2004, the dollar amounts in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount; multiplied by

"(ii) the inflation adjustment determined under section 1860E(a)(2)(B) for such calendar year.

"(B) Rounding.—If any increase determined under subparagraph (A) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

"(3) Eligible entity not at risk for catastrophic benefit.—

"(A) In general.—The Secretary, and not the eligible entity, shall be at risk for the provision of the catastrophic benefit under this subsection.

"(B) PROVISIONS RELATING TO PAYMENTS TO ELIGIBLE ENTITIES.—For provisions relating to payments to eligible entities for administering the catastrophic benefit under this subsection, see section 1860H.

"(C) PROCEDURES FOR DETERMINING MODIFIED ADJUSTED GROSS INCOME.—

"(i) IN GENERAL.—The Secretary shall establish procedures for determining the modified adjusted gross income of eligible beneficiaries enrolled under this part.

"(ii) CONSULTATION.—The Secretary shall consult with the Secretary of the Treasury in making the determinations described in clause (i).

"(iii) DISCLOSURE OF INFORMATION.—Notwithstanding section 6103(a) of the Internal Revenue Code of 1986, the Secretary of the Treasury may, upon written request from the Secretary, disclose to officers and employees of the Centers for Medicare & Medicaid Services such return information as is necessary to make the determinations described in clause (i). Return information disclosed under the preceding sentence may be used by officers and employees of the Centers for Medicare & Medicaid Services only for the purposes of, and to the extent necessary, in making such determinations.

"(D) DEFINITION OF MODIFIED ADJUSTED GROSS INCOME.—In this paragraph, the term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 911, 931, and 933 of such Code;

"(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code; and

"(iii) increased by any amount received under title II or XVI.

"(4) ENSURING CATASTROPHIC BENEFIT IN ALL AREAS.—The Secretary shall develop procedures for the provision of the catastrophic benefit under this subsection to each eligible beneficiary that resides in an area where there are no prescription drug discount card plans offered that have been awarded a contract under this part.

"REQUIREMENTS FOR ENTITIES TO PROVIDE PRESCRIPTION DRUG COVERAGE

"SEC. 1860G. (a) ESTABLISHMENT OF BIDDING PROCESS.—The Secretary shall establish a process under which the Secretary accepts bids from eligible entities and awards contracts to the entities to provide the benefits under this part to eligible beneficiaries in an area.

"(b) SUBMISSION OF BIDS.—Each eligible entity desiring to enter into a contract under this part shall submit a bid to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"(c) ADMINISTRATIVE FEE BID.—

"(1) SUBMISSION.—For the bid described in subsection (b), each entity shall submit to the Secretary information regarding administration of the discount card and catastrophic benefit under this part.

"(2) BID SUBMISSION REQUIREMENTS.—

"(A) ADMINISTRATIVE FEE BID SUBMISSION.—In submitting bids, the entities shall include separate costs for administering the discount card component, if applicable, and the catastrophic benefit. The entity shall submit the administrative fee bid in a form and manner specified by the Secretary, and shall include a statement of projected enrollment and a separate statement of the projected administrative costs for at least the following functions:

"(i) Enrollment, including income eligibility determination.

"(ii) Claims processing.

"(iii) Quality assurance, including drug utilization review.

"(iv) Beneficiary and pharmacy customer service.

"(v) Coordination of benefits.

"(vi) Fraud and abuse prevention.

"(B) NEGOTIATED ADMINISTRATIVE FEE BID AMOUNTS.—The Secretary has the authority to negotiate regarding the bid amounts submitted. The Secretary may reject a bid if the Secretary determines it is not supported by the administrative cost information provided in the bid as specified in subparagraph (A).

"(C) PAYMENT TO PLANS BASED ON ADMINISTRATIVE FEE BID AMOUNTS.—The Secretary shall use the bid amounts to calculate a benchmark amount consisting of the enrollment-weighted average of all bids for each function and each class of entity. The class of entity is either a regional or national entity, or such other classes as the Secretary may determine to be appropriate. The functions are the discount card and catastrophic components. If an eligible entity's combined bid for both functions is above the combined benchmark within the entity's class for the functions, the eligible entity shall collect additional necessary revenue through one or both of the following:

"(i) Additional fees charged to the beneficiary, not to exceed $25 annually.

"(ii) Use of rebate amounts from drug manufacturers to defray administrative costs.

"(d) CONTRACTS WITH THE SECRETARY.—

"(1) IN GENERAL.—The Secretary shall, consistent with the requirements of this part and the goal of containing medicare program costs, enter into at least 2 contracts in each area, unless only 1 bidding entity meets the terms and conditions specified by the Secretary under paragraph (2).

"(2) TERMS AND CONDITIONS.—The Secretary shall not enter into a contract with an eligible entity under this section unless the Secretary finds that the eligible entity is in compliance with such terms and conditions as the Secretary shall specify.

"(3) REQUIREMENTS FOR ELIGIBLE ENTITIES PROVIDING DISCOUNT CARD PROGRAM.—Except as provided in paragraph (4), in determining which of the eligible entities that submitted bids that meet the terms and conditions specified by the Secretary under paragraph (2) to enter into a contract, the Secretary shall consider whether the bid submitted by the entity meets at least the following requirements:

"(A) SAVINGS TO MEDICARE BENEFICIARIES.—The program passes on to medicare beneficiaries who enroll in the program discounts on prescription drugs, including discounts negotiated with manufacturers.

"(B) PROHIBITION ON APPLICATION ONLY TO MAIL ORDER.—The program applies to drugs that are available other than solely through mail order and provides convenient access to retail pharmacies.

"(C) LEVEL OF BENEFICIARY SERVICES.—The program provides pharmaceutical support services, such as education and services to prevent adverse drug interactions.

"(D) ADEQUACY OF INFORMATION.—The program makes available to medicare beneficiaries through the Internet and otherwise information, including information on enrollment fees, prices charged to beneficiaries, and services offered under the program, that the Secretary identifies as being necessary to provide for informed choice by beneficiaries among endorsed programs.

"(E) EXTENT OF DEMONSTRATED EXPERIENCE.—The entity operating the program has demonstrated experience and expertise in operating such a program or a similar program.

"(F) EXTENT OF QUALITY ASSURANCE.—The entity has in place adequate procedures for assuring quality service under the program.

"(G) OPERATION OF ASSISTANCE PROGRAM.—The entity meets such requirements relating to solvency, compliance with financial reporting requirements, audit compliance, and contractual guarantees as specified by the Secretary.

"(H) PRIVACY COMPLIANCE.—The entity implements policies and procedures to safeguard the use and disclosure of program beneficiaries' individually identifiable health information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

"(I) ADDITIONAL BENEFICIARY PROTECTIONS.—The program meets such additional requirements as the Secretary identifies to protect and promote the interest of medicare beneficiaries, including requirements that ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

The prices negotiated by a prescription drug discount card program endorsed under this section shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

"(4) REQUIREMENTS FOR OTHER ELIGIBLE ENTITIES.—If an eligible entity is not offering the discount card plan then the entity must be licensed under State law to provide insurance benefits or shall meet the requirements of the Employee Retirement Income Security Act of 1974 that apply with respect to such plan. Such an entity shall not be required to meet the requirements of subsection (d)(3).

"(5) BENEFICIARY ACCESS TO SAVINGS AND REBATES.—The Secretary shall require eligible entities offering a discount card program to pass on savings and rebates negotiated with manufacturers to eligible beneficiaries enrolled with the entity.

"(6) NEGOTIATED AGREEMENTS WITH EMPLOYER-SPONSORED PLANS.—Notwithstanding any other provision of this part, the Secretary may negotiate agreements with employer-sponsored plans under which eligible beneficiaries are provided with a benefit for prescription drug coverage that is more generous than the benefit that would otherwise have been available under this part if such an agreement results in cost savings to the Federal Government.

"PAYMENTS TO ELIGIBLE ENTITIES FOR ADMINISTERING THE CATASTROPHIC BENEFIT

"SEC. 1860H. (a) IN GENERAL.—The Secretary may establish procedures for making payments to an eligible entity under a contract entered into under this part for—

"(1) no less than 90 percent of the costs of providing covered outpatient prescription drugs to beneficiaries eligible for the benefit under this part in accordance with subsection (b); and

"(2) costs incurred by the entity in administering the catastrophic benefit in accordance with section 1860G.

"(b) PAYMENT FOR COVERED OUTPATIENT PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—Except as provided in subsection (c) and subject to paragraph (2), the Secretary may only pay an eligible entity for covered outpatient drugs furnished by the eligible entity to an eligible beneficiary enrolled with such entity under this part that is eligible for the catastrophic benefit under section 1860F(b).

"(2) LIMITATIONS.—

"(A) FORMULARY RESTRICTIONS.—Insofar as an eligible entity with a contract under this part uses a formulary, the Secretary may not make any payment for a covered outpatient drug that is not included in such formulary, except to the extent provided under section 1860D(a)(4)(B).

"(B) NEGOTIATED PRICES.—The Secretary may not pay an amount for a covered outpatient drug furnished to an eligible beneficiary that exceeds the negotiated price (including applicable discounts) that the beneficiary would have been responsible for under section 1860F(a) or the price negotiated for insurance coverage under the Medicare+Choice program under part C, a medicare supplemental policy, employer-sponsored coverage, or a State plan.

"(C) COST-SHARING LIMITATIONS.—An eligible entity may not charge an individual enrolled with such entity who is eligible for the catastrophic benefit under this part any copayment, tiered copayment, coinsurance, or other cost-sharing that exceeds 10 percent of the cost of the drug that is dispensed to the individual.

"(3) PAYMENT IN COMPETITIVE AREAS.—In a geographic area in which 2 or more eligible entities offer a plan under this part, the Secretary may negotiate an agreement with the entity to reimburse the entity for costs incurred in providing the benefit under this part on a capitated basis.

"(c) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

"DETERMINATION OF INCOME LEVELS

"SEC. 1860I. (a) DETERMINATION OF INCOME LEVELS.—

"(1) IN GENERAL.—The Commissioner of Social Security shall determine income levels of eligible beneficiaries for purposes of this part.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the Commissioner of Social Security to make the determinations required by paragraph (1).

"(b) ENFORCEMENT OF INCOME DETERMINATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall—

"(1) establish procedures that ensure that eligible beneficiaries comply with sections 1860E(c) and 1860F(b); and

"(2) require, if the Secretary determines that payments were made under this part to which an eligible beneficiary was not entitled, the repayment of any excess payments with interest and a penalty.

"(c) QUALITY CONTROL SYSTEM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a quality control system to monitor income determinations made by eligible entities under this section and to produce appropriate and comprehensive measures of error rates.

"(2) PERIODIC AUDITS.—The Inspector General of the Department of Health and Human Services shall conduct periodic audits to ensure that the system established under paragraph (1) is functioning appropriately.

"APPROPRIATIONS

"SEC. 1860J. There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund established under section 1841, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part exceed the enrollment fees collected under section 1860E.

"MEDICARE COMPETITION AND PRESCRIPTION DRUG ADVISORY BOARD

"SEC. 1860K. (a) ESTABLISHMENT OF BOARD.—There is established a Medicare Prescription Drug Advisory Board (in this section referred to as the 'Board').

"(b) ADVICE ON POLICIES; REPORTS.—

"(1) ADVICE ON POLICIES.—The Board shall advise the Secretary on policies relating to the Medicare Outpatient Prescription Drug Discount and Security Program under this part.

"(2) REPORTS.—

"(A) IN GENERAL.—With respect to matters of the administration of the program under this part, the Board shall submit to Congress and to the Secretary such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of the program under this part. Each such report shall be published in the Federal Register.

"(B) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

"(c) STRUCTURE AND MEMBERSHIP OF THE BOARD.—

"(1) MEMBERSHIP.—The Board shall be composed of 7 members who shall be appointed as follows:

"(A) PRESIDENTIAL APPOINTMENTS.—

"(i) IN GENERAL.—Three members shall be appointed by the President, by and with the advice and consent of the Senate.

"(ii) LIMITATION.—Not more than 2 such members may be from the same political party.

"(B) SENATORIAL APPOINTMENTS.—Two members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Committee on Finance of the Senate.

"(C) CONGRESSIONAL APPOINTMENTS.—Two members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

"(2) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

"(3) COMPOSITION.—Of the members appointed under paragraph (1)—

"(A) at least one shall represent the pharmaceutical industry;

"(B) at least one shall represent physicians;

"(C) at least one shall represent medicare beneficiaries;

"(D) at least one shall represent practicing pharmacists; and

"(E) at least one shall represent eligible entities.

"(d) TERMS OF APPOINTMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), each member of the Board shall serve for a term of 6 years.

"(2) CONTINUANCE IN OFFICE AND STAGGERED TERMS.—

"(A) CONTINUANCE IN OFFICE.—A member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

"(B) STAGGERED TERMS.—The terms of service of the members initially appointed under this section shall begin on January 1, 2004, and expire as follows:

"(i) PRESIDENTIAL APPOINTMENTS.—The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

"(I) 2 years;

"(II) 4 years; and

"(III) 6 years.

"(ii) SENATORIAL APPOINTMENTS.—The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

"(I) 3 years; and

"(II) 6 years.

"(iii) CONGRESSIONAL APPOINTMENTS.—The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

"(I) 4 years; and

"(II) 5 years.

"(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

"(D) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

"(e) CHAIRPERSON.—A member of the Board shall be designated by the President to serve as Chairperson for a term of 4 years, coincident with the term of the President, or until the designation of a successor.

"(f) EXPENSES AND PER DIEM.—Members of the Board shall serve without compensation, except that, while serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(g) MEETING.—

"(1) IN GENERAL.—The Board shall meet at the call of the Chairperson (in consultation with the other members of the Board) not less than 4 times each year to consider a specific agenda of issues, as determined by the Chairperson in consultation with the other members of the Board.

"(2) QUORUM.—Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for purposes of conducting business.

"(h) FEDERAL ADVISORY COMMITTEE ACT.—The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(i) PERSONNEL.—

"(1) STAFF DIRECTOR.—The Board shall, without regard to the provisions of title 5, United States Code, relating to the competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code.

"(2) STAFF.—

"(A) IN GENERAL.—The Board may employ, without regard to chapter 31 of title 5, United States Code, such officers and employees as are necessary to administer the activities to be carried out by the Board.

"(B) FLEXIBILITY WITH RESPECT TO CIVIL SERVICE LAWS.—

"(i) IN GENERAL.—The staff of the Board shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and, subject to clause (ii), shall be paid without regard to the provisions of chapters 51 and 53 of such title (relating to classification and schedule pay rates).

"(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Federal Supplemental Medical Insurance Trust Fund established under section 1841, and the general fund of the Treasury, such sums as are necessary to carry out the purposes of this section.".

(b) CONFORMING REFERENCES TO PREVIOUS PART D.—

(1) IN GENERAL.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of enactment of this section, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this section.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) IMPLEMENTATION.—Notwithstanding any provision of part D of title XVIII of the Social Security Act (as added by subsection (a)), the Secretary of Health and Human Services shall implement the Voluntary Medicare Outpatient Prescription Drug Discount and Security Program established under such part in a manner such that benefits under such part for eligible beneficiaries (as defined in section 1860 of such Act, as added by such subsection) are available to such beneficiaries not later than the date that is 1 year after the date of enactment of this Act.

**SEC. 02. ADMINISTRATION OF VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.**

(a) ESTABLISHMENT OF CENTER FOR MEDICARE PRESCRIPTION DRUGS.—There is established, within the Centers for Medicare & Medicaid Services of the Department of Health and Human Services, a Center for Medicare Prescription Drugs. Such Center shall be separate from the Center for Beneficiary Choices, the Center for Medicare Management, and the Center for Medicaid and State Operations.

(b) DUTIES.—It shall be the duty of the Center for Medicare Prescription Drugs to administer the Voluntary Medicare Outpatient Prescription Drug Discount and Security Program established under part D of title XVIII of the Social Security Act (as added by section 01).

(c) DIRECTOR.—

(1) APPOINTMENT.—There shall be in the Center for Medicare Prescription Drugs a Director of Medicare Prescription Drugs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Director shall be responsible for the exercise of all powers and the discharge of all duties of the Center for Medicare Prescription Drugs and shall have authority and control over all personnel and activities thereof.

(d) PERSONNEL.—The Director of the Center for Medicare Prescription Drugs may appoint and terminate such personnel as may be necessary to enable the Center for Medicare Prescription Drugs to perform its duties.

**SEC. 03. EXCLUSION OF PART D COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.**

Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking "attributable to the application of section" and inserting "attributable to—

"(1) the application of section";

(2) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(2) the Voluntary Medicare Outpatient Prescription Drug Discount and Security Program under part D.".

**SEC. 04. MEDIGAP REVISIONS.**

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

"(v) MODERNIZATION OF MEDICARE SUPPLEMENTAL POLICIES.—

"(1) PROMULGATION OF MODEL REGULATION.—

"(A) NAIC MODEL REGULATION.—If, within 9 months after the date of enactment of the Medicare Rx Drug Discount and Security Act of 2002, the National Association of Insurance Commissioners (in this subsection referred to as the 'NAIC') changes the 1991 NAIC Model Regulation (described in subsection (p)) to revise the benefit package classified as 'J' under the standards established by subsection (p)(2) (including the benefit package classified as 'J' with a high deductible feature, as described in subsection (p)(11)) so that—

"(i) the coverage for outpatient prescription drugs available under such benefit package is replaced with coverage for outpatient prescription drugs that complements but does not duplicate the benefits for outpatient prescription drugs that beneficiaries are otherwise entitled to under this title;

"(ii) a uniform format is used in the policy with respect to such revised benefits; and

"(iii) such revised standards meet any additional requirements imposed by the Medicare Rx Drug Discount and Security Act of 2002;

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2004, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '2004 NAIC Model Regulation').

"(B) REGULATION BY THE SECRETARY.—If the NAIC does not make the changes in the 1991 NAIC Model Regulation within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, a regulation and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2004, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '2004 Federal Regulation').

"(C) CONSULTATION WITH WORKING GROUP.—In promulgating standards under this paragraph, the NAIC or Secretary shall consult with a working group similar to the working group described in subsection (p)(1)(D).

"(D) MODIFICATION OF STANDARDS IF MEDICARE BENEFITS CHANGE.—If benefits under part D of this title are changed and the Secretary determines, in consultation with the NAIC, that changes in the 2004 NAIC Model Regulation or 2004 Federal Regulation are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

"(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as 'A' through 'I' under the standards established by subsection (p)(2) (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part D.

"(3) APPLICATION OF PROVISIONS AND CONFORMING REFERENCES.—

"(A) APPLICATION OF PROVISIONS.—The provisions of paragraphs (4) through (10) of subsection (p) shall apply under this section, except that—

"(i) any reference to the model regulation applicable under that subsection shall be deemed to be a reference to the applicable 2004 NAIC Model Regulation or 2004 Federal Regulation; and

"(ii) any reference to a date under such paragraphs of subsection (p) shall be deemed to be a reference to the appropriate date under this subsection.

"(B) OTHER REFERENCES.—Any reference to a provision of subsection (p) or a date applicable under such subsection shall also be considered to be a reference to the appropriate provision or date under this subsection.".

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an additional bill has been added to the hearing agenda for the hearing that was previously scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources on Tuesday, July 30, 2002, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The additional measure to be considered is S. 2652, to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

For further information, please contact Kira Finkler of the Committee staff at (202–224–8164).

SUBCOMMITTEE ON WATER AND POWER

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that two additional bills have been added to the hearing agenda for the hearing that was previously scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Wednesday, July 31, 2002, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The additional measures to be considered are S. 2773, to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping modeling, and monitoring program for the High Plains Aquifer and for other purposes; and

H.R. 2990, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes.

For further information, please contact Patty Beneke at (202) 224–5451 or Mike Connor at (202) 224–5479, of the Committee staff.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 23, 2002, at 10 a.m. to conduct a hearing on the nominations of Ms. Cynthia A. Glassman, of Virginia, to be a member of the Securities and Exchange Commission; and Mr. Roel C. Campos, of Texas, to be a member of the Securities and Exchange Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the senate on Tuesday, July 23, 2002 at 10:30 a.m. to hold a hearing on the Moscow Treaty.

Agenda

*Witnesses*

Panel I: The Honorable Sam Nunn, Co-Chair and Chief Executive Officer, Nuclear Threat Initiative, Washington, DC;

Gen. Eugene E. Habiger, USAF (Ret.), Former Commander, U.S. Strategic Command, United States Air Force, San Antonio, Texas;

The Honorable Ken Adelman, Former Director of the Arms Control and Disarmament Agency, Senior Counselor, Edelman Public Relations Worldwide, Washington, DC.

Panel II: Fr. Drew Christiansen, S.J., Counselor, International Affairs, U.S. Conference of Catholic Bishops, Washington, DC;

Mr. Christopher E. Paine, Co-Director, Nuclear Warhead Elimination and Nonproliferation Project, Natural Resources Defense Council, Charlottesville, Virginia;

Mr. Frank J. Gaffney, Jr., President and CEO, Center for Security Policy, Washington, DC;

Mr. Dimitri K. Simes, President, The Nixon Center, Washington, DC.

The PRESIDING OFFICER. Without objection,it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a Judicial nominations hearing on Tuesday, July 23, 2002 in Dirksen Room 226 at 10:00 a.m.

Tentative Witness List

Panel I: The Honorable Phil Gramm, U.S. Senator (R–TX);

The Honorable Kay Bailey Hutchison, U.S. Senator (R–TX);

The Honorable Bill Nelson, U.S. Senator (D–FL);

The Honorable Kay Granger, U.S. Representative (R–TX).

Panel II: Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit.

Panel III: Timothy J. Corrigan to be U.S. District Court Judge for the Middle District of Florida;

Jose E. Martinez to be U.S. District Court Judge for the Southern District of Florida.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "The Law Enforcement Officers Safety Act, S. 2480," on Tuesday, July 23, 2002 in Dirksen Room 226 at 2:00 p.m.

Tentative Witness List

Panel I: The Honorable Max Baucus, U.S. Senator [D–MT];

The Honorable Randy "Duke" Cunningham, U.S. Representative [R-CA-51st District].

Panel II: Lieutenant Steve Young, National President, Fraternal Order of Police, Marion, OH;

Mr. Arthur Gordon, National Executive Board Member, Federal Law Enforcement Officers Association, Woodbine, MD;

Deputy Chief of Police David Johnson, Cedar Rapids Police Department, Cedar Rapids, IA;

Colonel Lonnie J. Westphal, Chief, Colorado State Patrol, Denver, CO.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 23, 2002 at 10 a.m. to hold a closed hearing on the Joint Inquiry into the events of September 11, 2001.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Tuesday, July 23, at 2:30 p.m. in SD–366. The purpose of this hearing is to receive testimony on the following bills:

S. 2494, to revise the boundary of the Petrified Forest National Park in the State of Arizona;

S. 2598, to enhance the criminal penalties for illegal trafficking of archaeological resources;

S. 2727, to provide for the protection of paleontological resources on Federal lands; and

H.R. 3954, to designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System, and for other purposes.

THE PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Tuesday, July 23, 2002, at 9:30 a.m., for a hearing entitled "The Role of the Financial Institutions In Enron's Collapse."

THE PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that a fellow in the office of Senator JEFFORDS, Drew Kumperis, be granted floor privileges for the remainder of the consideration of the measure dealing with prescription drugs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that Malinda Baehr, an intern in my office, be granted floor privileges during the remainder of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIONAL VETERANS AWARENESS WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 502, S. Res. 293.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 293) designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD at the appropriate place as if given, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 293) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 293

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century;

Whereas the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining our freedoms and way of life;

Whereas the advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces;

Whereas this reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in our Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations;

Whereas our system of civilian control of the Armed Forces makes it essential that the future leaders of the Nation understand the history of military action and the contributions and sacrifices of those who conduct such actions; and

Whereas on October 30, 2001, President George W. Bush issued a proclamation urging all Americans to observe November 11 through November 17, 2001, as National Veterans Awareness Week: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" for the purpose of emphasizing educational efforts directed at elementary and secondary school students concerning the contributions and sacrifices of veterans; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe National Veterans Awareness Week with appropriate educational activities.

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## NATIONAL AIRBORNE DAY

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 242 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 242) designating August 16, 2002, as "National Airborne Day".

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to, the motion to reconsider be laid on the table, and that statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 242) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 242

Whereas the airborne forces of the United States Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas August 16, 2002, marks the anniversary of the first official validation of the innovative concept of inserting United States ground combat forces behind battle lines by means of parachute;

Whereas the United States experiment of airborne infantry attack was begun on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the United States Department of War, and was launched when 48 volunteers began training in July 1940;

Whereas the Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940;

Whereas the success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World War II led to the formation of a formidable force of airborne units that, since then, have served with distinction and repeated success in armed hostilities;

Whereas among those units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile 101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Infantry (Ranger) regiment, the 173rd, 187th, 503rd, 507th, 508th, 517th, 541st, and 542nd airborne infantry regiments, the 88th Glider Infantry Battalion, and the 509th, 550th, 551st, and 555th airborne infantry battalions;

Whereas the achievements of the airborne forces during World War II provided a basis for evolution into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas the modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Infantry (Ranger) regiment which, together with other units, comprise the quick reaction force of the Army's XVIIIth Airborne Corps when not operating separately under the command of a Commander in Chief of one of the regional unified combatant commands;

Whereas that modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Reconnaissance, Navy SEALs, Air Force Combat Control Teams, Air Sea Rescue, and Airborne Engineer Aviation Battalions, all or most of which comprise the forces of the United States Special Operations Command;

Whereas, in the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Infantry (Ranger) regiment, Special Forces units, and units of the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere;

Whereas, of the members and former members of the Nation's combat airborne forces, all have achieved distinction by earning the right to wear the airborne's "Silver Wings of Courage", thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor;

Whereas, the members and former members of the Nation's combat airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operations forces, and (in former days) glider troops; and

Whereas the history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people as the airborne community celebrates August 16, 2002, as the 62nd anniversary of the first official jump by the Army Parachute Test Platoon: Now, therefore, be it

*Resolved*, That the Senate requests and urges the President to issue a proclamation—

(1) designating August 16, 2002, as "National Airborne Day"; and

(2) calling on Federal, State, and local administrators and the people of the United States to observe "National Airborne Day" with appropriate programs, ceremonies, and activities.

## HONORING THE BUFFALO SOLDIERS AND COLONEL CHARLES YOUNG

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 97 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 97) honoring the Buffalo Soldiers and Colonel Charles Young.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, the motion to reconsider be laid upon the table, and any statements regarding this matter be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 97) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 97

Whereas the 9th and 10th Horse Cavalry Units, (in this resolution referred to as the 'Buffalo Soldiers') have made key contributions to the history of the United States by fighting to defend and protect our Nation;

Whereas the Buffalo Soldiers maintained the trails and protected the settler communities during the period of westward expansion;

Whereas the Buffalo Soldiers were among Theodore Roosevelt's Rough Riders in Cuba during the Spanish-American War, and crossed into Mexico in 1916 under General John J. Pershing;

Whereas African-American men were drafted into the Buffalo Soldiers to serve on harsh terrain and protect the Mexican Border;

Whereas the Buffalo Soldiers went to North Africa, Iran, and Italy during World War II and served in many positions, including as paratroopers and combat engineers;

Whereas in the face of fear of a Japanese invasion, the Buffalo Soldiers were placed along the rugged border terrain of the Baja Peninsula and protected dams, power stations, and rail lines that were crucial to San Diego's war industries;

Whereas among these American heroes, Colonel Charles Young, of Ripley, Ohio, stands out as a shining example of the dedication, service, and commitment of the Buffalo Soldiers;

Whereas Colonel Charles Young, the third African-American to graduate from the United States Military Academy at West Point, served his distinguished career as a member of the Buffalo Soldiers throughout the world, traveling to the Philippines during the Spanish-American War, Haiti as the first African-American military attache for the United States, Liberia and Mexico as a military attache, Monrovia as advisor to the Liberian government, and several other stations within the borders of the United States, holding commands during most of these tours;

Whereas Colonel Charles Young took a vested interest in the development of African-American youth by serving as an educator, teaching in local high schools and at Wilberforce University in Ohio, and developing a military training ground for African-American enlisted men to help them achieve officer status for World War I at Fort Huachucha;

Whereas Colonel Charles Young achieved so much in the face of race-based adversity and while he fought a fatal disease, Bright's Disease, which eventually took his life; and

Whereas there are currently 21 existing chapters of the 9th and 10th Cavalry Association, with 20 domestic chapters and 1 in Germany: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the bravery and dedication of the Buffalo Soldiers throughout United States and world history;

(2) honors 1 of the Buffalo Soldiers' most distinguished heroes, Colonel Charles Young, for his lifetime achievements; and

(3) recognizes the continuing legacy of the Buffalo Soldiers throughout the world.

## ORDERS FOR WEDNESDAY, JULY 24, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Wednesday, July 24; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half under the control of the Democratic leader or his designee and the second half of the time under the control of the Republican leader or his designee; that at 11 a.m. the Senate resume consideration of S. 812 under the previous order; and, further, at 3:40 p.m. there will be a moment of silence in observance of the deaths of Officer Chestnut and Detective Gibson which occurred on July 24, 1998, 4 years ago.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. REID. Mr. President, the next rollcall vote will occur at approximately 1:30 p.m. tomorrow on adoption of the supplemental appropriations conference report and in relation to the Hagel second-degree amendment.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:10 p.m., adjourned until Wednesday, July 24, 2002, at 10 a.m.

## CONFIRMATION

Executive nomination confirmed by the Senate July 23, 2002:

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD H. CARMONA, OF ARIZONA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE FOR A TERM OF FOUR YEARS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

# HOUSE OF REPRESENTATIVES—*Tuesday, July 23, 2002*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. SCHROCK).

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*July 23, 2002.*

I hereby appoint the Honorable EDWARD L. SCHROCK to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Texas (Mr. DOGGETT) for 5 minutes.

## TOBACCO SMUGGLING ERADICATION ACT OF 2002

Mr. DOGGETT. Mr. Speaker, this week, with the support of over 60 of our colleagues, I am introducing major law enforcement legislation both to prevent crime and to promote the health of Americans and people around the world.

The Tobacco Smuggling Eradication Act seeks to slow illicit trafficking in tobacco, the world's most widely smuggled legal consumer product.

Across America this year alone some 17 States have already approved cigarette tax hikes. Increasing the price of cigarettes is one of the most effective ways of discouraging children from a lifetime of nicotine addiction. While each tax increase advances public health, it also increases the incentives for smuggling cheaper, "tax-free" black market tobacco.

At a time of tight budgets, State and Federal authorities in the United States are suffering losses of more than $1.5 billion each year in evaded cigarette taxes. By cracking down on smuggling, we can collect this much-needed revenue. With prices rising as high as $7 a pack in New York City, the need is even greater to stop those who offer smokers a nicotine hit without a tax hit.

The same incentives that exist here in America exist around the world when American tobacco is exported—from Canada to Iraq, from China to Colombia. Of all cigarettes manufactured within the United States for export, it is estimated that from one in three to one in four of those cigarettes will be sold illegally without collection of taxes.

Internal tobacco company documents indicate that big tobacco companies themselves know that their cigarettes are sold to distributors and agents who will smuggle them illegally. In too many cases they have carefully overseen and even directed the actions of smuggling intermediaries, ensuring that customers have access to these lower black market prices.

The health consequences of smuggling are severe because the number of nicotine-addicted children and poor increases dramatically with the availability of cheap tobacco. The World Bank reports that within the next two decades, tobacco will become the single biggest cause of premature death worldwide accounting for 10 million deaths each year. That is the equivalent of 70 jet planes crashing every single day, and 70 percent of these deaths will occur in developing countries that are least able to fend off the giant tobacco companies and protect their families.

These are unique individuals who will choke to death with emphysema, wither away with lung cancer, or suffer the severe pain of a heart attack. If urgent action is not taken, tobacco will soon end even more lives than the combined total of all to be killed by AIDS, tuberculosis, maternal deaths in childbirth, automobile accidents, homicides, and suicides.

In preparing this bill, I have worked closely with Federal and State authorities to develop measures that will help them better crack down on tobacco tax evaders. This bill will enable law enforcement officials to share information with foreign countries about international smuggling and authorize new tools to combat smuggling within the US.

To prevent diversion, this bill requires that packages of tobacco products be labeled to facilitate tracing them and verifying their manufacturing source. Packages for export must also clearly be labeled for export to prevent illegal reentry. Additionally, this bill will close the distribution chain and prevent transfers from the legal market by requiring retailers and wholesalers to maintain documents that law enforcement needs to monitor tobacco shipments.

Essential Action and other public interest groups indicated in a briefing paper by the Framework Convention on Tobacco Control Alliance that requiring wholesalers, manufacturers and import-export business to be licensed would be one of the "most effective interventions against large-scale smuggling." With the additional permitting requirements in this bill, the US would meet this objective.

While, unfortunately, the Bush Administration has been largely an obstacle rather than a force for constructive international action to address nicotine addiction, I am pleased that next week in New York City, the United States will host the International Conference on Illicit Tobacco Trade. I encourage the Administration to actively support this Tobacco-Smuggling Eradication Act, which the American Lung Association and a number of other major public health groups have said "makes good sense as a matter of law enforcement, health policy and international leadership."

We must act now to stop the smuggling and stop the mugging of the world's children through nicotine addiction promoted by big tobacco companies.

## COMBATTING CHRONIC WASTING DISEASE

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Wisconsin (Mr. GREEN) is recognized during morning hour debates for 5 minutes.

Mr. GREEN of Wisconsin. Mr. Speaker, needless to say, Americans are concerned with lots of issues these days, including the issue that my good friend on the other side of the aisle just raised.

Mr. Speaker, I take to the floor to raise an issue that I think in calmer times would be front page news. Mr. Speaker, what if I told the Members there was a complex and infectious agent out there that was so little understood that science is not quite sure how to categorize it? And if I told

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Members that this agent, called a preon, is very hard to kill: not killed by burying, not killed by heating, not killed by disinfectant? What if I told the Members further that the disease it carries is 100 percent fatal to the deer and elk that it attacks? There is no cure, there is no treatment. We do not know how it is spread, and we do know it is a cousin to mad cow disease.

Well, Mr. Speaker, if there was not so much going on, it would, indeed, be front page news. This disease, called chronic wasting disease, has now been found in nine States. It has now been found in Canada, and it is spreading. It could have a devastating impact on the culture, on the environment, and on the economy of so many States.

If there is good news to report this morning, it is, first, that Congress has recently secured more funds to help in this battle. For example, last week in a colloquy that I held with the chairman of the Subcommittee of the Interior of the Committee on Appropriations, that chairman pledged to me that he would help us get another $4 million to help us all in this battle against chronic wasting disease.

Secondly, guided by legislation that I authored with the gentleman from Colorado (Mr. MCINNIS) and the gentleman from Wisconsin (Mr. RYAN), and supported by most Members, Republican and Democrat, from Wisconsin, the administration has now developed a comprehensive plan to fight chronic wasting disease over the long haul. That plan will mean more research and more money to the States.

But Mr. Speaker, there is one area in which we have made painfully little progress. That is providing enough testing resources for chronic waste disease. Research is good, study is good, but what our hunters will really want, what they really need, are enough testing facilities to tell them whether their deer are safe. It is that simple, Mr. Speaker. We are falling short.

Federal officials have decided against allowing private labs to test for chronic waste disease, only State and Federal labs. But that raises real problems. For example, the State lab in Wisconsin will only be able to handle 15,000 to 30,000 cases per year. If all goes well, by September there may be as many as 11 State labs throughout the entire country, and if all goes well, their capacity for testing may be perhaps 500,000 per year.

But Mr. Speaker, each year in Wisconsin alone some 600,000 deer hunters will take to the woods. They will bag in a good year as many as 400,000 deer in Wisconsin alone. That means our testing capacity will be dangerously short. We need more testing to reassure our hunters. We need more testing to diagnose the extent of the epidemic.

Mr. Speaker, I am convinced this is a health crisis, it is an environmental crisis, and I know it is an economic crisis for States like mine, States like Wisconsin.

This morning, I call on the administration to do everything possible to increase testing capacity now. That means increasing the number of public labs that do testing. That means reconsidering its decision not to work with private labs. We must leave no stone unturned, because the consequences of inaction are simply too high.

Mr. Speaker, as I began, I said that Members probably have not heard much about chronic wasting disease because of everything else that is going on. I fear that Members will hear an awful lot about it in the years ahead. We have to act now. We have to increase testing. It is the right thing to do. It is the safe thing to do.

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## HEALTH CARE IN LOS ANGELES COUNTY

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentlewoman from California (Ms. SOLIS) is recognized during morning hour debates for 5 minutes.

Ms. SOLIS. Mr. Speaker, I rise today to talk about an urgent issue facing the people that I represent in Los Angeles, California, in the great county of Los Angeles: nearly 3 million people in Los Angeles lack adequate health care insurance. At least 215,000 of those people live in communities that I represent in the San Gabriel Valley in east Los Angeles.

Unfortunately, individuals without health insurance are more likely to have serious health problems and put off getting needed care. In L.A. County, our system of public hospitals and county clinics works together to provide health care to those who cannot afford health care because they are either uninsured or underinsured. Clinics offer vital services that provide prenatal care, asthma treatment, diabetes screening, and HIV prevention.

Without these vital clinics, thousands of uninsured patients would have no health care or safety net for their families. Unfortunately, in L.A. County's health care system, we are now faced with major budget cuts that are threatening to close dozens of our health clinics.

The crisis is a result of a combination of factors: an increase in the number of uninsured patients, declining State revenues, and Federal payments that simply do not match our need. L.A. County has the highest proportion in the Nation of indigent patients relying on the county health care system, with more than 600,000 people a year waiting to receive some kind of treatment at our county facilities.

I am very concerned about the county's budget cuts because they will have a devastating impact on those people that reside in my community. Clinics, for example, in the city of Alhambra and in Azusa are scheduled to be closed in the future.

Alhambra Health Center receives over 22,000 visits a year. In the city of Azusa, the health care center receives over 21,000 visits a year. These are families struggling with high unemployment rates. In fact, in my district alone in the city of South El Monte, we have one of the highest unemployment rates in the country: 11 percent.

Where will the young mother who needs to have her baby's hearing checked go? What should we tell the working father who needs a place to get his diabetes treatment screened? Who will take care of the elderly woman who has problems with arthritis? Since L.A. County's health care system is so large, any downturn will have a ripple effect throughout California and the rest of the country.

It is time for the Federal Government to step up to the plate and do its part to help the residents of L.A. County. Both the Congress and the administration must continue to work together. The Center for Medicaid and Medicare services here in Washington, also known as CMS, can help L.A. County with the Federal program known as the Medicaid Upper Payment Limit. Payments under the Upper Payment Limit, also known as the UPL, help safety net hospitals like L.A. County by providing over $120 million each year.

Unfortunately, CMS decided this past January that they would change the rules on UPL. This change would devastate California. We could potentially lose up to $300 million in Medicaid funding this year. CMS says the change in UPL is necessary because States were abusing the Upper Payment Limit by using these monies for nonhealth-related purposes. But this is not the case in California. Those monies were used in the health care delivery system, and it is simply unreasonable to punish California, to punish our uninsured patients, for the mistakes that other States have made.

I want to remind my colleagues that now is the time to work together in a bipartisan fashion, and I hope we can agree that these important Upper Payment Limits need to continue at an agreed-upon rate. It is simply unfair to play politics with people's lives and health care services. We in Congress have an important role to play in Federal health care efforts.

Right now, funding for another Federal program, known as the Disproportionate Share Hospital program, or DSH, is also scheduled to be cut. Cuts in the DSH program will cost California $183 million, and L.A. County can potentially get a hit of $37 million. That would ruin our safety net.

Fortunately, the support for stopping the DSH cliff is bipartisan. Many in this Congress are working together to ensure that hospitals that serve indigent patients get the help they need in our communities immediately. I know our Republican and Democratic leadership have pledged to stop what they call the "DSH cliff." I urge my colleagues to work together to resolve this matter. Patients in our county are counting on us here in the Congress to take care of this problem.

I also want to bring to Members' attention another issue that is of great concern to us in L.A. County, and we call this "the waiver." It is known here in Washington as the Medicaid 1115 waiver. This waiver allows L.A. County to operate our health care system in a unique way that is designed to serve patients better and saves the Federal Government money.

I would ask that we also renew our efforts to provide full support for DSH funding.

Mr. Speaker, as Los Angeles County faces new realities in our health care system, including a rising uninsured rate, the County has begun to renegotiate its waiver with the federal government.

I hope that my colleagues at CMS will look favorably at the County's efforts to renegotiate the waiver. The County is taking serious steps to reconfigure its health care system, but we can't do it alone. We need the partnership of the federal government. Without it I fear we will force thousands of Los Angelinos who depend on our emergency care services to forgo urgently needed health care.

We can't afford to sit idly by while patients in Los Angeles County face a health care crisis, we simply must do more.

## CONGRATULATING MIAMI CHILDREN'S HOSPITAL ON ITS RECOGNITION AS ONE OF AMERICA'S BEST HOSPITALS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized during morning hour debates for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to congratulate Miami Children's Hospital for recently having been recognized among America's best hospitals by U.S. News and World Report. "We are here for our children" is the motto of Miami Children's Hospital, and this principle is demonstrated every day by always seeking innovative ways to better serve the children of south Florida.

A recent groundbreaking celebrated the hospital's new expansion efforts to renovate its medical campus. These include a radiology expansion, an ambulatory care building, a helistop, and a hurricane-proof encapsulation.

Based on the vision of one man, Ambassador David Walters, Miami Children's Hospital is indeed building on a dream. Under the leadership of its President and CEO, Thomas Rozek, it is demonstrating a never-ending commitment to children and its pioneering achievements in pediatric care.

Mr. Speaker, I ask my colleagues to join me in congratulating Miami Children's Hospital for this prestigious achievement and recognition.

## CORPORATE GREED

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the Bush administration has very close ties to the prescription drug industry. In and of itself, that might not be a problem. Part of any administration's job is to support American industry, so long as it coincides with the best interests of the American people.

That is, unfortunately, where the Bush administration runs into problems. The best interests of the American people should outweigh the interests of industry, but too often with this administration, the drug industry prevails at the expense of American consumers.

Last year, for instance, prescription drug costs increased 17 percent, while the inflation rate was only 1.6 percent. Rising drug costs have fueled double-digit increases in health insurance premiums. Rises in drug costs are putting State budgets in the red. Rising drug costs are bankrupting seniors on fixed incomes.

The Bush administration's response to this situation? They recently released a "study" arguing that American consumers must continue to pay the highest prices in the world for prescription drugs. If we do not, the study said, medical research and development will dry up. This study is available online at www.hhs.gov.

It could just as easily, however, appear at www.phrma.org, the drug industry association's Web site. If Members had any questions about how closely aligned the administration is with the drug industry, this study makes it clear they are in lockstep.

I wonder, Mr. Speaker, if it is any coincidence that this study comes out of the Department of Health and Human Services' Planning Office, which is managed by a former employee of, you guessed it, the drug industry.

This study says the best bet for American consumers is the status quo. If we do anything about price, this study, the administration, or the drug industry, and it all, unfortunately, seems like the same thing too often, if we do anything about price, the administration says, we will be responsible in this country for killing research and development in the drug industry.

It is a pretty difficult sell to claim this when we consider that the drug industry has topped, or in terms of profitability, it has been the most profitable industry in America for 20 years running, return on price, return on sales, return on equity. While the overall profits of Fortune 500 companies declined 53 percent last year, the top 10 drugmakers increased profits by 33 percent last year.

Drug companies spend twice as much on marketing and administration as they do on research and development. U.S. tax dollars fund almost half of the research that the drug industry does, but American consumers are supposed to be so grateful that they are supposed to gratefully pay twice for that R&D. We are supposed to thank the drug industry for charging us prices two and three and four times what prices are in every other country in the world.

To explain this, look what happened last month. Last month, the drug industry wrote a prescription drug coverage bill for the Republican leadership that was introduced in the Committee on Energy and Commerce to give a prescription drug plan for Americans. The drug industry wrote the bill.

The Republicans started a hearing. The Republicans, as we were marking up this drug industry bill sponsored by Republicans, our committee recessed at 5 o'clock so Members of the committee, Republican Members of the committee, could go off to a fundraiser underwritten by the drug companies, chaired by the CEO of GlaxoSmithKline, a British drug company, who gave $250,000. The next morning, the Republicans and all of us met again to work on this drug bill. Every pro-consumer amendment was defeated by the drug industry and by the Republicans.

After this bill then passed the committee and passed the House of Representatives, the drug industry spent, through a group called United Seniors Association, but paid by the drug industry, spent $3 million on an ad campaign thanking those Republican Members for passing it and thanking them for their concern for America's seniors. So the drug industry wrote the bill, the Republicans passed the bill, the drug industry gave money to the Republicans while the bill was being passed, and then the drug industry ran TV ads thanking the Republican Members and congratulating them on a job well done.

The Bush administration then, no surprise here, followed suit by claiming that seniors' best hope for drug coverage is the Republican bill.

Now, why is this? Why should the drug industry have this kind of influence here? Well, over the last 12 years, the drug industry's lobbying expenditures have increased 800 percent. In the 2000 election cycle, the drug industry contributed $26 million to candidates running for office, the overwhelming majority of which to Republicans. The industry contributed $625,000 to the

Bush-Cheney inaugural. So far in this election cycle, the drug industry has contributed $14.6 million in political donations, the vast majority of which to Republicans.

This may explain, Mr. Speaker, why the administration is working so hard for the drug industry, but it begs the question: Is what is good for the drug industry in the best interests of the American people?

## DEPARTMENT OF HOMELAND SECURITY, WHO NEEDS IT?

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Texas (Mr. PAUL) is recognized during morning hour debates for 5 minutes.

Mr. PAUL. Mr. Speaker, the Department of Homeland Security, who needs it? Mr. Speaker, everyone agrees the 9–11 tragedy confirmed a problem that exists in our domestic security and dramatized our vulnerability to outside attacks. Most agree that the existing bureaucracy was inept. The CIA, the FBI, the INS, and Customs failed to protect us.

It was not a lack of information that caused this failure; they had plenty. But they filed to analyze, communicate, and use the information to our advantage.

The flawed foreign policy of interventionism that we have followed for decades significantly contributed to the attacks. Warnings had been sounded by the more astute that our meddling in the affairs of others would come to no good. This resulted in our inability to defend our own cities, while spending hundreds of billions of dollars providing more defense for others than for ourselves. In the aftermath, we were even forced to ask other countries to patrol our airways to provide security for us.

A clear understanding of private property and an owner's responsibility to protect it has been seriously undermined. This was especially true for the airline industry. The benefit of gun ownership and second amendment protections were prohibited. The government was given the responsibility for airline safety through FAA rules and regulations, and it failed miserably.

The solution now being proposed is a giant new Federal department, and it is the only solution we are being offered, and one which I am certain will lead to tens of billions of dollars of new spending.

What is being done about the lack of emphasis on private property ownership? The security services are federalized. The airlines are bailed out and given guaranteed insurance against all threats. We have made the airline industry a public utility that gets to keep its profits and pass on its losses to the taxpayers, like Amtrak and the post office. Instead of more ownership responsibility, we get more government controls.

Is the first amendment revitalized, and are owners permitted to defend their property, their passengers, and personnel? No, no hint of it, unless you are El Al airlines, which enjoys this right, while no others do.

Has anything been done to limit immigration from countries placed on the terrorist list? Hardly. Have we done anything to slow up immigration of individuals with Saudi passports? No, oil is too important to offend the Saudis.

Yet, we have done plenty to undermine the liberties and privacy of all Americans through legislation such as the PATRIOT Act. A program is being planned to use millions of Americans to spy on their neighbors, an idea appropriate for a totalitarian society. Regardless of any assurances, we all know that the national ID card will soon be instituted.

Who believes for a moment that the military will not be used to enforce civil law in the near future? Posse comitatus will be repealed by executive order or by law, and liberty, the Constitution, and the Republic will suffer another major setback.

Unfortunately, foreign policy will not change, and those who suggest that it be strictly designed for American security will be shouted down for their lack of patriotism. Instead, war fever will build until the warmongers get their wish and we march on Baghdad, making us even a greater target of those who despise us for our bellicose control of the world.

A new department is hardly what we need. That is more of the same, and will surely not solve our problems. It will, however, further undermine our liberties and hasten the day of our national bankruptcy.

A common sense improvement to homeland security would allow the DOD to provide protection, not a huge, new, militarized domestic department. We need to bring our troops home, including our Coast Guard; close down the base in Saudi Arabia; stop expanding our presence in the Muslim portion of the former Soviet Union; and stop taking sides in the long, ongoing war in the Middle East.

If we did these few things, we would provide a lot more security and protect our liberties a lot better than any new department ever will, and it will cost a lot less.

## THE INFLUENCE OF THE DRUG INDUSTRY ON THE WHITE HOUSE AND ON CONGRESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, more information comes out every day about the influence of the drug industry, both on the White House and on Congress, in terms of what kind of prescription drug plan we pass here in the House and in the other body, which is currently debating the bill.

I do not bring up the information about the links between the prescription drug industry because of any desire to defame them, but only because I am very concerned that their amount of influence that they exert here basically skews the dialogue and what we pass in a way that is not beneficial to the average Americans.

The bottom line is that Democrats in the House a few weeks ago, when the Republicans passed the prescription drug bill, were very critical of the Republican bill because it was basically giving money to private insurers in the hope that they would offer drug-only policies to senior citizens.

There was nothing in the Republican prescription drug bill that passed the House that would guarantee a prescription drug benefit for seniors. There was no guarantee, and there was no absolutely effort on the Republican part to address the issue of price, which is the main problem most Americans face now, that the price of drug continues to rise.

What Democrats said then and continue to say is that we need a prescription drug benefit under Medicare that guarantees the plan a benefit, a generous benefit, 80 percent of the cost paid for by the Federal Government, that guarantees that benefit to every American, or to every senior, I should say, to everyone who is eligible for Medicare, and that is basically under Medicare, an expansion of Medicare, and that addresses the issue of price by saying that the Secretary of Health and Human Services will basically negotiate for the 30 or 40 million Americans who are under Medicare to reduce price maybe 30 or 40 percent.

Now, the reason that the Democratic bill did not get a chance, and the reason the Republican bill, which is private subsidies for insurance companies, passed, is not only because the Republicans are in the majority, but because of the influence of the prescription drug industry. They wanted a bill that provided a subsidy to the private insurance companies and not a Medicare benefit, and the prescription drug industry wanted to make sure that there was nothing in the Republican bill that would reduce prices.

I say that because more and more information comes out on a daily basis about the influence of the prescription drug industry. Soon after the House passed the Republican bill, the President released a study by the Department of Health and Human Services that basically said that the only way to go was to give money to private insurers; that a Medicare benefit and a program that controlled cost would actually hurt research and development of new drugs.

This was in The Washington Post on Thursday, July 11. It said, "The Bush administration plans to issue a study today suggesting that any new prescription drug coverage for older Americans must rely on the private sector to provide it, warning that too much government regulation could hinder access to promising new therapies. The report described effective drug therapies, and says that cost containment efforts would fail."

The bottom line is, who put out this report? We find out that the former vice president of policy for PHRMA, the prescription drug trade group, is in charge of Secretary Thompson's planning department. This is the same department that generated this study warning that a drug benefit delivered through Medicare would devastate R&D and harm seniors.

It is simply not true. It is because of the influence of the prescription drug industry, and even the policymakers in the White House that used to work for them, that now we have both the industry and the advertisements paid for by the prescription drug industry and the people at the White House coming out and saying, go to the private sector; do not do a Medicare benefit, do not control costs.

Now, by contrast to that prejudiced, if you will, study that came out from the White House, and essentially from former PHRMA people, Families USA did a report just last week issued on July 17. Their report showed that U.S. drug companies that market the 50 most prescribed drugs to seniors spent almost 2½ times as much on marketing, advertising and administration as they spend on research and development in 2001.

The report essentially debunks President Bush's recent assertion through that study of HHS, and the drug companies' claims, that rising and fast-rising drug prices are needed to support R&D. So if we look at the facts, we find out that it is not that the brand name drug companies need more money because they are going to do more R&D and come up with better drugs, it is because they are spending so much on marketing and advertising and administration, and also paying their CEOs very high salaries. That is the reason why they want the higher drug prices.

We must point this out on a regular basis.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 34 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. JEFF MILLER of Florida) at 10 a.m.

## PRAYER

Captain Jeff Struecker, Chaplain, 3rd Battalion, 504th Parachute Infantry Regiment, 82nd Airborne Division, Ft. Bragg, North Carolina, offered the following prayer:

Almighty God and Father of my Savior, I lift up to You these men and women that You have selected to serve this great Nation. I pray that You would etch onto the souls of every man and woman here the awesome sense of responsibility for the office that they hold and the weight of that thought would drive them to their knees, every morning seeking Your leadership, as they lead this Nation, especially right now with America's sons and daughters at war.

I pray that You would also balance that serious sense of responsibility with the pleasure of knowing that they are serving as Your appointed leaders in the greatest Nation on Earth.

Father, finally I pray that You will protect those men and women who are right now involved with this war on terrorism. Give them Your peace, give them Your presence, give them Your protection. I pray. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all

## INTRODUCTION OF CAPTAIN JEFF STRUECKER AS GUEST CHAPLAIN

(Mr. COLLINS asked and was given permission to address the House for 1 minute.)

Mr. COLLINS. Mr. Speaker, I am honored to introduce Captain Jeff Struecker, Chaplain, United States Army, 3rd Battalion, 504th Parachute Infantry Regiment, 82nd Airborne Division, Ft. Bragg, North Carolina. Chaplain Jeff Struecker was born in Fort Dodge, Iowa. He entered the Army as an enlisted soldier in September, 1987. He attended basic training, AIT, airborne school, and the Ranger Indoctrination Program at Fort Benning, Georgia.

His combat experience includes participation in Operation Just Cause in Panama, Operation Iris Gold in Kuwait, and Operation Gothic Serpent, UNOSOM Two, Mogadishu, Somalia.

Mr. Speaker, Captain Struecker served in the United States Army as an enlisted soldier until April of 2000. Afterward he entered the Chaplain Officers Basic Course. While serving in Mogadishu, Somalia, Sergeant Struecker was involved in a 17-hour firefight which was later portrayed in the book and movie "Black Hawk Down." As a teenager, Jeff Struecker accepted Christ as his Savior. His faith was strengthened in Mogadishu as Captain Struecker recounted, and I quote, "In the middle of that firefight, I had to decide whether I believed what I say I believe. And when I finally answered that question, my faith became so strong, it gave me the strength to fight for the rest of the night."

Captain Struecker has received many awards and citations for his bravery, including the Bronze Star with the V device. He and his wife, Dawn, reside in Linden, North Carolina, with their five children, Aaron, Jacob, Joseph, Abigail, and Lydia.

Mr. Speaker, it is a pleasure to have Chaplain Jeff Struecker as Chaplain today in the United States House of Representatives.

## HONORING GUEST CHAPLAIN JEFF STRUECKER

(Mr. HAYES asked and was given permission to address the House for 1 minute.)

Mr. HAYES. Mr. Speaker, "Struecker felt his own heart sink. His vehicles were all shot up. The rear of his Humvee was splattered with Pila's blood and brains. When the body was pulled out, it did not even look like Pila anymore. The top of his head was gone and his face was grotesquely swollen and disfigured. Struecker's men were freaking out."

This is the scene Mark Bowden describes in his novel retelling the horrors of the firefight in Somalia. Here today leading us in prayer is a hero and a survivor of this vicious fight, Captain Jeff Struecker, currently serving at Ft. Bragg in my district in North Carolina. Captain Struecker is a model citizen and soldier for us all. A devoted husband and father of five, Jeff has experienced combat in such places as Panama, Kuwait, and Somalia and has received numerous medals honoring his service.

Entering the ministry during his service at Fort Benning, Jeff has provided inspiration and ministered to many in the past few years. He states that the experience in Mogadishu called him to God, as it was his faith that gave him the strength to fight the rest of the night. This "bullet-proof faith," to use Jeff's words, would serve as example to all of us about the power of God. We are lucky to have Chaplain Struecker here with us today. May God bless him and his family and the men and women that currently fight for our freedom.

## COMMENDING SARAH AHN

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Mr. Speaker, I rise to commend a very brave and very smart little girl by the name of Sarah Ahn. Sarah Ahn is the playmate and friend of Samantha Runnion, the girl who was snatched when playing near her Stanton, California home. I commend Sarah Ahn because she was the only eyewitness to such a horrible crime and gave the police the details about Samantha's kidnapper that ultimately led to his arrest. While this event was obviously extremely tragic, Sarah Ahn proved to everyone that children need not be victims.

Her story of bravery is one of many that I have heard about children saving or being key witnesses in abduction cases. One of the most wonderful stories I have ever heard was of an elementary school girl who kept insisting that a boy in her class was the one on the missing children's card, the Advo card, that they got at their home. Her persistence caused her mother to ultimately call the police, tell the story and learn that the little boy had indeed been abducted. He was returned to his family.

Mr. Speaker, I want to urge every parent to encourage your children to be aware of what is going on around them. Listen to your kids when they tell you that something might be wrong and trust them. Sarah Ahn is an inspiration to every one of us.

## RECOGNIZING MIAMI JOB CORPS CENTER

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today I recognize the Miami Job Corps Center for all of its hard work in providing quality training programs and employment opportunities for our South Florida youth. I want to send special thanks to the center's director, Luis Cerezo, whose generous devotion to our community's young people has made this organization a great success.

Through the Miami Job Corps Center, young adults in our community have been able to participate in mentoring programs and job fairs which have reinforced employability and interviewing skills, leadership training, dress code and business etiquette. In particular, one project with the School for Integrated Academics and Technologies provides student trainees the opportunity to finish their high school studies in a classroom-based, high-tech environment which will better prepare them to achieve in the working world.

I again want to thank all of the dedicated workers of the Miami Job Corps Center for giving our community's young people greater opportunities for success.

## CORPORATE ACCOUNTABILITY AND THE ECONOMY

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, each weekend when I go home to my district, the issue I hear the most about is with respect to the economy. President Bush has told the American public that our economy is fundamentally sound. I question that terminology. I question it because in my own district, one of the largest cities that I represent, the city of El Monte, we have upwards of 9 percent unemployment. In the city of South El Monte, it goes beyond. It is 11 percent. People are wondering what is happening to them there. In Baldwin Park, unemployment rates are 8.2 percent. In South El Monte again, it is 11 percent. And it is not just about the unemployed. It is about jobs and it is about the potential for these people to have a place to stay, to live, to raise their families.

Each day brings more layoffs and each week brings new news that yet another corporate scandal is upon us. The collapse of WorldCom has serious implications for not only those that work for that company but also the many people and organizations who invested millions in that company. The California Public Employees Retirement System, CALPERS, which provides retirement and health benefit services to 1.3 million public employees and nearly 2,500 employers, has estimated a loss at $433 million because of the collapse of WorldCom.

It is time for President Bush and the Republican majority in the House to stand up for workers and provide restitution to the employees who lost their life savings and their pension funds.

## TIME TO SEND AN ENERGY BILL TO THE PRESIDENT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I would like to also welcome Captain Struecker by saying "Airborne All the Way" and "Rangers Lead the Way."

Mr. Speaker, I rise to talk about a provision in the energy bill that would greatly impact my district. Both the House and Senate versions of this energy bill contain a provision that would allow small oil refiners of 75,000 barrels a day or less 75 percent expensing of capital cost associated with complying with EPA's heavy duty diesel regulations.

The Premcor Wood River Refinery, located just outside my district, recently announced that it would be closing its doors, laying off over 300 employees because the cost to comply with these regulations is too high. This year the refinery capacity in Illinois will be at 889,000 barrels a day, which is 150,000 barrels less than 2 years ago. Combine that with the fact that no new refinery has been built in the U.S. in 25 years and that the number of refineries has been cut in half in the last 20 years and the problem only worsens. This creates an even tighter supply. A small fire or mechanical problem that forces a refinery to shut down for even a day has a drastic impact on the price of gasoline.

Illinois has faced job loss and unstable gas prices as we wait for Congress to pass an energy bill that provides some relief for the small independent refineries of our country. Mr. Speaker, it is time to send an energy bill to the President.

## SUPPORTING THE PRACTITIONERS OF FALUN GONG

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today I rise in support of practitioners of Falun Gong. Falun Gong, also known as Falun Dafa, is a peaceful spiritual discipline that is rooted in Chinese culture and based on beliefs in truthfulness, benevolence and forbearance.

Since its introduction in 1992, it quickly spread by word of mouth throughout China and it is now practiced in over 50 countries in the world. With government estimates of as many as 100 million practicing Falun Gong, China's President Zemin outlawed the peaceful practice in July 1999. Since 1999, over 400 practitioners in mainland China have been killed and thousands have been forced into labor and concentration camps, mental institutions and reeducation centers.

Yesterday's debate of House Concurrent Resolution 188 was a step in the right direction, but I urge my colleagues to show their support to Falun Gong practitioners visiting Washington, D.C. this week.

□ 1015

Let us show them that religious persecution will not be tolerated in this country, or any other country of the world.

## PREPARING FOR NEW CHALLENGES FOR AMERICA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, this week legislation creating the new Homeland Security Department will come before this Chamber for consideration. It will mark perhaps the most historic congressional debate in decades. The last time Congress considered such a considerable reorganization of the Federal Government was back in 1947 under the Truman administration. Now we must once again reorganize the Federal Government to better meet the new challenges that our country faces.

Mr. Speaker, I have been quite impressed with the commitment of both this House and of the administration to move forward expeditiously with a plan to create an efficient and effective Department of Homeland Security.

I have been greatly concerned over turf wars between agencies and among our congressional committees, yet our committees have worked together in a true bipartisan fashion for the people of America.

I look forward to our debate on the Homeland Security Department, and am confident that our work will enable our Nation to be better prepared for the new challenges it faces in the 21st century.

## FINDING A CURE FOR LOU GEHRIG'S DISEASE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, every day in America 15 people are diagnosed with Lou Gehrig's disease, amounting to more than 5,600 people each year. The average life expectancy for people with this disease is only 2 to 5 years from the time of diagnosis.

Lou Gehrig's disease, or ALS, is a fatal illness that attacks nerve cells and pathways in the brain and spinal cord. When these nerve cells die, a person loses muscle control. People with advanced stages of the disease can be totally paralyzed, yet their minds remain sharp and alert.

However, there is hope. Recent advances allow people with Lou Gehrig's disease to live longer lives. New breakthroughs have occurred, due in large part to the efforts of the ALS Association. The association provides the largest private source of funding for researching the cause, and ultimately, the cure for Lou Gehrig's disease.

I commend the efforts of the Carolinas Chapter of the ALS Association and Executive Director Jerry Dawson for their commitment and dedication in caring for those with Lou Gehrig's disease in both North Carolina and South Carolina. Their efforts today will bring us closer to finding a cure tomorrow for Lou Gehrig's disease.

## STOPPING PARTIAL-BIRTH ABORTIONS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, this week we are debating a bill to ban partial-birth abortion. We will hear a lot of perspectives in this debate, but I think there is one perspective we may not hear, and that is the baby's perspective.

I have an article from the Journal of the American Medical Association that might help us understand just what the baby goes through during a partial-birth abortion. The article is written by Dr. Sprang and Dr. Neerhof of Northwestern University Medical School.

They say in their article, "The centers necessary for pain perception develop early in the second trimester."

Mr. Speaker, most partial-birth abortions happen in the second and third trimesters. Dr. Sprang and Dr. Neerhof say the vast majority of partial-birth abortions are performed on near-viable babies. They say, "When infants of similar gestational ages are delivered, pain management is an important part of the care rendered to them in the intensive care nursery. But in a partial-birth abortion, pain management is not provided for the fetus, who is literally within inches of being delivered."

Mr. Speaker, killing children by painfully stabbing them in the back of the head and sucking out their brains is wrong. It is up to us to stop it.

## UNITED NATIONS POPULATION FUND AND ABORTION

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, the common accusation in Washington, D.C. is that we say one thing and then do another. It was back in the campaign of 2000 and in March of this year that President George W. Bush pledged to the American people that he would not permit taxpayer dollars to be used to fund abortion. Specifically, in March of this year the President said, "I said we are not going to use taxpayer money to fund abortion. I am going to make sure we are not using taxpayer money to fund abortion."

Yesterday the President, as has been his wont with the American people, the President once again was a man as good as his word. The State Department announced that UNFPA funding would be denied in its entirety and diverted to other children's services at the United Nations.

This institution gave more than $34 million to the United Nations Family Planning Fund, despite overwhelming evidence presented before House committees and the House Permanent Select Committee on Intelligence that China was engaged in forced and coercive abortion practices.

I rise today to extol the President of the United States for being a man as good as his word, for standing with the American people in their fundamental belief in the dignity and the sanctity of human life.

## APPLAUDING PRESIDENT BUSH FOR REDIRECTING UNFPA FUNDING TO PROTECT HUMAN RIGHTS

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, President Bush has provided hope to oppressed women everywhere, especially in China, promising them that the United States will no longer subsidize those who engage in forced abortion and other coercive population control programs.

For over 20 years, Mr. Speaker, the U.N. Population Fund (UNFPA) has enabled facilitated, and shamelessly whitewashed terrible crimes against humanity, especially crimes against women, and the United States will now no longer have any part in subsidizing them. In refusing to fund the UNFPA, our President and our country have taken the side of the oppressed and have refused to cooperate with the oppressor. The United States will now no longer directly or indirectly fund the brutal, oppressive Chinese Government's violence against women.

Mr. Speaker, as Secretary of State Colin Powell said yesterday, UNFPA funds have provided crucial technical support that has made China's barbaric program more effective. That means that as a result of UNFPA's complicity with China's antilife program more women are targeted for forced abortions.

Mr. Speaker, tens of millions of children have been slaughtered and their mothers have been robbed by the state of their children. The UNFPA for over 20 years has aggressively defended the indefensible, this barbaric policy that makes brothers and sisters illegal and makes women the victims of population control cadres.

This whitewashing of crimes against humanity must end. My hope is that other parliaments around the world, will take a good long second look at the one child per couple policy in China and cease their enabling of this violence against women.

Thank you President Bush.

## JOURNAL VOTE

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Pursuant to clause 8 of rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 339, nays 45, answered "present" 1, not voting 49, as follows:

[Roll No. 326]

### YEAS—339

Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Cox
Coyne
Crenshaw
Crowley
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeMint
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (NY)
McCollum
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moran (KS)
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

### NAYS—45

Aderholt
Baird
Baldwin
Borski
Brady (PA)
Condit
Costello
Crane
DeFazio
English
Fattah
Filner
Green (TX)
Gutknecht
Hefley
Hilliard
Kennedy (MN)
Kucinich
Larsen (WA)
Latham
LoBiondo
McDermott
McNulty
Miller, George
Moore
Oberstar
Olver
Peterson (MN)
Ramstad
Sabo
Sanchez
Schaffer
Stark
Strickland
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Weller

### ANSWERED "PRESENT"—1

Tancredo

### NOT VOTING—49

Abercrombie
Barrett
Bentsen
Bonilla
Bonior
Bono
Callahan
Calvert
Capuano
Carson (OK)
Clay
Cramer
Cubin
Cummings
Davis (IL)
DeLay
Deutsch
Ehrlich
Emerson
Engel
Frelinghuysen
Granger
Hastings (FL)
Hyde
Jefferson
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Lewis (GA)
Linder
Lynch
Maloney (CT)
McCarthy (MO)
McCrery
Miller, Dan
Moran (VA)
Morella
Phelps
Platts
Pryce (OH)
Riley
Ryun (KS)
Stump
Taylor (NC)
Traficant
Wexler
Young (AK)
Young (FL)

□ 1045

Mr. RANGEL changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. BARRETT of Wisconsin. Mr. Speaker, because of commitments in my home state of Wisconsin, I was unable to vote on rollcall No. 326. Had I been present, I would have voted "yea" on rollcall No. 326.

Mr. ABERCROMBIE. Mr. Speaker, yesterday and this morning, I was unavoidably detained and I was unable to vote on rollcall No. 326. Had I been present, I would have voted "yea."

Mr. MALONEY of Connecticut. Mr. Speaker, I was absent on Tuesday, July 23, 2002, and missed rollcall vote No. 326. Had I been present, I would have voted "yea" on rollcall No. 326.

□ 1045

## DISAPPROVAL OF NORMAL TRADE RELATIONS TREATMENT TO PRODUCTS OF VIETNAM

Mr. THOMAS. Mr. Speaker, pursuant to the previous order of the House, I call up the joint resolution (H.J. Res. 101) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of H.J. Res. 101 is as follows:

H. J. RES. 101

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 3, 2002, with respect to Vietnam.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Pursuant to the order of the House of Monday, July 22, 2002, the gentleman of California

(Mr. THOMAS) and a Member in support of the joint resolution each will control 30 minutes.

Is there a Member in support of the joint resolution?

Mr. MCNULTY. Mr. Speaker, I claim the time in support of the joint resolution.

The SPEAKER pro tempore. The gentleman from New York (Mr. MCNULTY) will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to yield one half of my time to the gentleman from Michigan (Mr. LEVIN), the ranking member of the Subcommittee on Trade on the Committee on Ways and Means and that he be permitted to yield that time as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to House Joint Resolution 101, a resolution to disapprove the Jackson-Vanik waiver for Vietnam.

Mr. Speaker, I yield the remainder of my time to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade and ask unanimous consent that he be allowed to control the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I ask unanimous consent that half my time be yielded to the gentleman from California (Mr. ROHRABACHER) and that he be permitted to allocate that time as he sees fit and that, further, I be permitted to yield the time that I have remaining.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCNULTY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we discuss this resolution every year and my position has not changed. I do not oppose eventual normalization of trade relations with Vietnam. We have done that with all of our former enemies. I oppose doing it at this time, Mr. Speaker, for very practical reasons. The latest report from the Department of Defense MIA office is that we have found the wreckage of two more United States military planes; a C–130 with nine on board and an A–6 with two aboard. And pending examination of those remains, we have the prospect of the return of 11 more American soldiers who have been missing in action in Vietnam for literally decades. And when did we get that news about those findings? July 2 in the year 2002. Three weeks ago!

I ask the question again: Can we not wait until we get as full an accounting as possible of our missing in action in Vietnam before we proceed further with this trade relationship? Where are our priorities?

And I do get emotional about this. There is an anniversary coming up on August 9. August 9, 1970, my brother, H.M.3 William F. McNulty, a medic in the Navy, transferred to the Marine Corps, was out in the field in Quang Nam province patching up his buddies. He stepped on a land mine and he lost his life. But his body was recovered. And he was brought back home, and we had a wake and a funeral and a burial. Our family suffered a tremendous loss, but we had some closure.

I have always wondered how terrible it must be for an MIA family, never exactly knowing what happened to their loved one—not for a day, a week, a month or a year, but for decades. And so, Mr. Speaker, until we get as complete an accounting as possible of all of those who are missing in action from the Vietnam War, I will continue to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to H.J. Res. 101 and in support of extending Vietnam's Jackson-Vanik waiver. Failure to extend the waiver so soon after the U.S. Vietnam bilateral trade agreement entered in, of course, would send terribly mixed diplomatic signals and would undermine the economic and political reforms now gaining momentum in Vietnam.

The completion of the BTA was a significant accomplishment and December 10, 2001, may very well be the most important date in U.S.-Vietnam relations since the end of the Vietnam War. The agreement is the most comprehensive trade agreement ever signed by Vietnam and contains provisions on market access in goods, trade in services, intellectual property protection, and investment.

Because the BTA is now in force, the Jackson-Vanik waiver provides U.S. firms with greater access to the Vietnamese market of over 80 million people, the 14th most populous country in the world. Over the first 4 months of 2002, two-way trade between the United States and Vietnam was up over 60 percent from the same period last year. The Jackson-Vanik waiver also enables U.S. exporters doing business in Vietnam to have access to U.S. trade financing programs, provided that Vietnam meet the relevant program criteria.

I visited Vietnam last year and saw firsthand the enormous potential that Vietnam offers. Over half of the population is under the age of 25 and the literacy rate is over 90 percent. The Vietnamese people have a solid work ethic, an entrepreneurial spirit, and a strong commitment to education. Continued engagement between the United States and Vietnamese Governments and its peoples will help this potential flourish.

On emigration, the central issue for the Jackson-Vanik waiver, more than 500,000 Vietnamese citizens have entered the United States under the Orderly Departure program. And as a result of steps taken by Vietnam to streamline its emigration process, only a small number of refugee applicants remain to be processed under both the Orderly Departure and the Resettlement for Vietnamese Returnees programs.

Extending Vietnam's waiver will give reformers within the Vietnamese government much-needed support to continue within economic and political reforms. I ask my colleagues not to take away the best vehicle for the United States to continue to pressure the Vietnamese for progress on issues of importance to us. Therefore, I urge a "no" vote on H.J. Res. 101.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to oppose this resolution. The waiver that is the subject of the resolution issued today is a continuation in the process of engaging with Vietnam and pressuring it. The waiver this year will continue the availability of export-related financing from OPIC, Ex-Im Bank, and the Department of Agriculture, financing that is important to American businesses, their workers and farmers seeking to export and to do business in Vietnam.

In addition, expanding upon prior years' Jackson-Vanik waivers, this waiver will continue normal trade relation status for Vietnam.

Vietnam sparks deep emotions, and very understandably. Our relationship with Vietnam is a complicated one. The war left deep and enduring impacts on both nations and surely on ours. Although for many years we pursued a policy of isolation of Vietnam, we have been following in recent years a path of engagement and pressuring. As mentioned, in 1994 we lifted the trade embargo. In 1995 we opened a U.S. embassy. In 1998 the President first waived the Jackson-Vanik prohibitions. Last year, as mentioned, Congress approved the U.S. Vietnam bilateral trade agreement. That agreement has been successful in some important respects, increasing trade both imports and exports.

Notably the government of Vietnam has continued to cooperate in helping to locate U.S. servicemen and women missing in Vietnam. Just last year, nine Vietnamese citizens died helping in the search for U.S. POWs and MIAs. Our continuing engagement with Vietnam has been critical in helping to secure Vietnam's assistance with these efforts.

And as also mentioned, there has been further improvement in terms of emigration. Unfortunately, the Government of Vietnam has not made similar movements to improve its human rights record. The most recent State Department human rights report indicates Vietnam's already poor human rights record has gone downward. Additionally, Vietnam still has to make major progress in respecting and enforcing core internationally recognized labor rights.

The Memorandum of Understanding that was signed during the Clinton administration has been implemented to some extent, but there is still a long way to go. Vietnam continues to deny its workers, as mentioned, the fundamental right to associate freely. And the recent State Department report indicates that child labor and prison labor continue to be wide spread in Vietnam.

Last year, when we approved the bilateral trade agreement with Vietnam, I stated that we would watch closely eventual negotiations of the textile and apparel agreement, and that any such agreement must include labor provisions similar to the positive incentives included in the Cambodia agreement.

☐ 1100

Negotiations on this agreement have begun, but there still is no firm commitment by the administration, our administration, to include positive incentive labor provisions, and though this issue is not yet ripe, while we vote today, I want to convey to the administration and to the government of Vietnam that if the core labor standards issue is ignored in the textile and apparel agreement, it will have serious repercussions for future Jackson-Vanik and NTR waivers.

Last week, I expressed this to the distinguished ambassador from Vietnam. So here we have another resolution. The vast majority of us voted against it last year. There is no reason to change our position this year. To do so would hurt our relations with Vietnam. It would hurt our efforts to fully account for U.S. POWs and MIAs, an important issue indeed, and I think it would undercut important reform efforts in Vietnam.

I think on balance the best procedure, the best approach is to continue what we started some years ago, continuing to vote to engage and pressure Vietnam, and therefore, I encourage my colleagues to oppose this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time I may consume.

After hearing the gentleman from Michigan's (Mr. LEVIN) description of how human rights has not been improved and how things are still just as repressive, it seems to me that he has just provided enough arguments for us to say why are we doing the same old policy if it is not working and the Vietnamese, that the Vietnamese Communist have just signed another agreement, as my friend, the gentleman from Illinois (Mr. CRANE) has just said, big deal, they have signed agreements for 20 years and broken all of them. This is no reason we should continue down a path that has kept the Vietnamese people in chains and in slavery and in abject poverty.

During the last 12 months, despite the Presidential waiver that we are debating today, the Communist regime has actually increased its brutal repression as the gentleman from Michigan (Mr. LEVIN) suggested in his comments. Religious clergy, advocates of democracy, ethnic tribal leaders and members of the tribes in the central highlands, these are the people who were the most loyal to American forces during the war. All have been victimized, and the victimization continues at a higher pace.

By voting yes on H.J. Res. 101, thus denying normal trade relations for Vietnam, we send a message to the gang of thugs that rule Vietnam that they must once and for all not just make agreements but start some real political reform. Let us see something happening rather than just talk before we normalize relations with them. Only this will allow the Vietnamese people to enjoy some prosperity, some peace and some liberty, but they have been denied this by the regime that holds them in its grip.

The sad truth is that there will be no democracy, no human rights and none of these other things that we hold dear in the United States, no prosperity, no freedom for these people in Vietnam unless their own government starts to reform, and it has not done so under the rules that we have been playing with. We have been treating them as we treat free governments, which is insane.

Hanoi has recently, in fact, initiated a new campaign of censorship. They have even outlawed the watching of satellite TV. Give me a break, and we are going to treat them like we do democratic societies? The primary cause for the fact that their country is making any headway economically is their lack of democracy and freedom and the fact that it is a Communist dictatorship that we are talking about. If we wish Vietnam to succeed, we have got to do more than just wink and nod when they make another agreement, yet they will then violate again and again.

What we are talking about today, by the way, is not whether or not we should engage with Vietnam. It is not whether we should isolate Vietnam. It is one thing and one thing only, and that is, whether or not those businessmen who are free already to sell their products or to build their factories, whether or not those businessmen for the United States will be subsidized by the American taxpayer in building factories, manufacturing units in Vietnam in order to exploit their slave labor, their labor that is not permitted to join a union, is not permitted to quit their jobs.

This is what this debate is all about. The debate is not about whether we can sell our products. American businessmen can sell the products and will continue to or can build factories at their own risk, but is whether, as the gentleman from Michigan (Mr. LEVIN) calls it, financing will be available. What we are talking about is financing that is subsidized by the American taxpayer through international and national financial institutions like the Export-Import Bank.

There is no reason whatsoever we should be financing the building of factories, even in democratic societies overseas, but for countries like Communist China, Vietnam, this is a sin not only against their people because we are permitting a few people here to exploit their labor, but it is a sin against our people because we are putting them out of work. So let us not ignore the central issue today.

Two central issues, freedom in Vietnam and subsidies for American businessmen to build factories and put our own people out of work, and let us not ignore that. We will see if that even comes up on the other side during the debate. While extending these subsidies has not made Vietnam any freer in these last few years, it has not been going in the right direction. If it had been, we would be able to report all of this stuff.

Instead, what we see are American businessmen that are leaving Vietnam. These are the guys who do not have the subsidies because of the level of corruption and repression that goes along with a Communist dictatorship. In that country, trade data, for example, remains a State secret. Journalists and public officials continue to be jailed on charges of treason for merely discussing trade and economic issues. In fact, the Communist regime has imprisoned business executives locally and of several major and private corporations simply for criticizing the government or when their company has been too successful outside of the corrupt system.

I urge my colleagues to stand up for American values and international freedom by voting yes on H.J. Res. 101. Why, subsidize the building of factories in Communist Vietnam, costing jobs at home and putting our people out of work to help a Communist regime.

This globalist dream is not just a nightmare for America. It demoralizes those around the world who believe in liberty and justice and see America as their only hope.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Speaker, there are just a couple of comments I make.

This all is very confusing, sort of a double or triple negative, do we oppose an opposition? Actually, I oppose the disapproval of the extension of the waiver, which means we will continue our relationships with Vietnam.

I can identify with the gentleman, from New York (Mr. McNULTY) and I am terribly sorry about the situation with his brother, but there are others of us who had members of our family in not only that war, but other wars have had the same situation, and I understand what the gentleman from California (Mr. ROHRABACHER) is saying, but the same arguments could be used with Russia.

Mr. McNULTY. Mr. Speaker, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from New York.

Mr. McNULTY. Mr. Speaker, I think the gentleman is incorrect. I do not think we have the same situation because in prior wars a period of time went by after the last possible remains realistically recoverable were found. We did not have the situation where we were being blocked from going to certain areas of the country to search for remains. We did not have a situation where three weeks prior to voting on normalizing relations, we found new American remains. I do not think the situation is the same at all.

Mr. HOUGHTON. Mr. Speaker, I understand what the gentleman is saying, but there are others of us who have been in others wars and have other members of our families and there are still situations there which are still to be clarified.

All I was saying is that I identify with the gentleman, and I am sorry about that situation because I know how meaningful it is to him and how poignant those memories are, but others of us have those same type of things.

The only thing I am saying is that, very briefly, that if we are going to look forward rather than back, we must relate to other people in this world, including our former enemies, and I think it is high time that we kept those relations going, and therefore, I would strongly oppose the disapproval in H.J. Res. 101.

Mr. McNULTY. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, today I rise as a strong supporter and as a cosponsor of House Joint Resolution 101, which disapproves the extension of the Jackson-Vanik waiver authority for Vietnam. We have already heard a couple of comments about human rights issues and how in Vietnam they have not improved, and that is true. We have also heard about our missing in action and the fact that we have had more problems recently in trying to get facts and remains out of Vietnam.

This discussion today about the Jackson-Vanik waiver is really about immigration and family reunification and visas between countries.

What we basically say is if Vietnam is doing a good job in helping us to reunify our families, to send families over to Vietnam and vice versa, if they are cooperating with us in a good way, to have that happen, then we waive Jackson-Vanik and we give them some special trade provisions like letters of credit, the workings of OPEC, some programs through the Department of Agriculture.

The fact of the matter is that Vietnam is not doing a good job to help us with immigration, with visas, with family visits. How do I know that? I represent the largest group of Vietnamese outside of Vietnam in the world. So about 65 percent of immigration visas, family visits with respect to Vietnam in this country, those requests go through my office, my office in Garden Grove, California.

We know what it is like to have to deal with that government. We know that when people here who are now U.S. citizens go to Vietnam to visit their families, that they are asking for additional moneys, that they cannot get their visas to come, that their families cannot get their exit visas. A country where, on a normal basis, on an annual basis, a person would maybe feel like they make $300 or $400 a year, when they ask somebody for an exit visa and they tell them it costs $2,000 in order to get it, well, how are they supposed to do that? How are we supposed to do that?

If we approve for a family member to come to the United States, but they cannot get their exit visa because the government of Vietnam says, oh, we need $2,000 from that person, then they are not helping with reunifying these families, and that is what this waiver is about. If they are doing a good job on that, we are going to give these extra things to help with the trade.

Trade with Vietnam is important. We approved it. I did not vote for it, but we approved it as a country over a year ago, and I believe that as we work with Vietnam and as we have more business going on that, hopefully human rights might get better in Vietnam. They have not so far. It has gotten worse, we can take a look at the State Department records, and if we are interested in what is going on with the whole issue of human rights, just this afternoon at 3 p.m., a Human Rights Caucus will hold a hearing on the conditions in Vietnam with respect to human rights. They have not gotten any better.

The reality is that even one of the people who submitted written information to us for this hearing this afternoon was arrested just last week, probably for having spoken up and sent us information about what is going on in that country. We have not heard from him. We cannot find him. This is what happens. There is no freedom of the press in Vietnam. There is no collective bargaining when a person is working. They cannot assemble. They cannot even assemble for church purposes to do a procession through town to talk about things. They are not allowed to do that.

There is no freedom and human rights in Vietnam, and we need to stop that and that is what we will discuss this afternoon.

Today, in this Chamber for my colleagues, this vote is about whether they are helping us to bring families together and they are not. They are not doing a good job.

□ 1115

So I would ask my colleagues, please vote for this resolution. It is time we stood up and we asked for more. This is about families. This is about mothers and fathers who have been here for 10 or 15 years and want their children who are still in Vietnam.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to the resolution.

The United States and Vietnam have had a long and sometimes difficult history. Today, that relationship is one of increasing cooperation, best symbolized by the expanded trade, growing tourism, liberalized emigration policies and improvements in the standard of living of the Vietnamese people. As in the past, this record warrants waiving Jackson-Vanik trade restrictions, as requested by Democratic and Republican Presidents alike.

The passage of the Bilateral Trade Agreement last year played a major role in building a new relationship between our people. The Vietnamese government has made continued efforts toward economic, legal and labor reforms in the 10 months since the BTA was approved. Trade between our countries is growing, there is continued full cooperation on the important POW-MIA issues, and the Vietnamese government has moved forward by enacting legal reforms in the areas of intellectual property, investment, transparency and labor. Reimposing trade restrictions at this point would represent an enormous and unnecessary step backwards in this flourishing relationship.

Earlier this year, I visited Vietnam for the third time and had an opportunity to meet with representatives of local business and labor unions, the National Assembly, the International Labor Organization, and American business people who are investing in Vietnam. As a critic of many other trade agreements that are insensitive to the legitimate needs of working people, I reiterated my message of support for closer trade and economic relationships between our countries, with the expectation that working men and women would benefit from these policies.

My support for the BTA and for Jackson-Vanik waivers has never been, and is not today, unconditional. Trade needs to work for more than corporations and shareholders: it must also uplift workers and their families through decent wages, fair working conditions, safe workplaces, and basic, internationally recognized labor rights. Trade can and must be an important tool for uplifting the conditions and rights of workers around the world to internationally recognized standards.

The National Assembly of Vietnam has just completed rewriting a labor code which expands the rights of workers with respect to hiring and termination, severance, workers' compensation, and protections for women workers. These are significant reforms, and through the Labor Memorandum of Understanding we signed at the time of the BTA, I expect that the U.S. Government, together with international groups like the ILO, which has opened a new office in Hanoi, and Social Accountability International, will continue to work with the Vietnamese to expand labor protections and upgrade labor standards.

By our own standards and those recognized by the signatories of the ILO, Vietnam still falls short on several core human rights conventions, especially the right of free association which is the core to a genuine independent trade union movement. During my visit to Vietnam, I continued to emphasize the need for truly independent trade unions and a legally protected collective bargaining policy.

The United States should continue to carefully monitor progress on this crucial topic, as will international unions and the ILO itself, because free unions are the measure of true worker democracy, in Vietnam, in Cambodia, in Mexico and, for that matter, in much of the United States where labor organizing is often inadequately protected by current law. Unquestionably, we would like to have these political reforms as well as liberalization of the economic system.

Mr. Speaker, I rise in opposition to this joint resolution and ask others to do so as well.

Mr. ROHRABACHER. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman from Illinois (Mr. CRANE) has 9½ minutes remaining, the gentleman from California (Mr. ROHRABACHER) has 9 minutes remaining, the gentleman from New York (Mr. MCNULTY) has 6½ minutes remaining, and the gentleman from Michigan (Mr. LEVIN) has 7 minutes remaining.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 2 minutes.

As this debate goes on, let me again stress what we are talking about, and I do agree with my colleague, the gentlewoman from California (Ms. SANCHEZ), that the legal essence of what is being talked about today is whether or not we should grant normal trade relations and whether or not, and this should be based on emigration policy.

As she said, even in the emigration area, the Communist dictatorship in Vietnam has not measured up to what it should and, in fact, I cannot believe, and I am sure she agrees, that those Vietnamese who are being victimized by the extortion of this dictatorship, that this extortion is not going on without the knowledge of the dictatorship, without the acknowledgment and probably the profiteering of the very people that we want to make this great relationship with.

This is not a debate about whether or not we should have a good relationship with the Vietnamese people. It is what kind of relationship we will have with the government of Vietnam, a government which is a Communist dictatorship, which arrests anyone who speaks up against it, a government that extorts, as we have heard on the floor today, extorts money from would-be immigrants, a government that plays games and continues to play games with our POWs and the bodies of our brave soldiers and airmen and marines from 20 years ago.

What type of relationship do we want to have with them? Do we want to treat them the way we do Italy, England, or even Thailand, even more democratic governments? I do not think so. I think we should have free trade and good relations with the people of the world and the governments of the world if they have a free and democratic government. We should have free and open trade. But if those governments are dictatorships that terrorize their own populations, we should not have the same type of trade relations. We should not have a Jackson-Vanik waiver.

Mr. Speaker, I reserve the balance of my time.

Mr. COYNE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time.

Mr. Speaker, I rise today to urge my colleagues to oppose the resolution disapproving the President's extension of the Jackson-Vanik waiver for Vietnam. It has been 8 years since we ended our trade embargo and began the process of normalizing relations with Vietnam. Over these few years, good progress has been made. From its accounting of U.S. POWs and MIAs, to its movement to open trade with the world, to its progress on human rights, Vietnam has moved in the right direction. Vietnam is not there yet, but Vietnam is moving in the right direction.

Mr. Speaker, H.J. Resolution 101 is the wrong direction for to us to take today. Who is hurt if we pass this resolution? We are. It is the wrong direction for U.S. farmers and manufacturers, who will not have a level playing field when they compete with their European or Japanese counterparts in Vietnam. It is the wrong direction for our joint efforts with the Vietnamese to account for the last remains of our soldiers and to answer, finally, the questions of their loved ones here. And it is the wrong direction for our efforts to influence the Vietnam people, 65 percent of whom were not even born before the war was waged.

Let us not turn the clock back on Vietnam. Let us continue to work with them, and in so doing teach the youthful Vietnamese the values of democracy, the principles of capitalism, and the merits of a free and open society.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to a very distinguished colleague, the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Speaker, I thank the gentleman for yielding me this time, and I urge my colleagues to oppose the resolution before us.

I have heard several people talk about what this is all about and to make a good faith attempt to try to set the limits of the debate and to move forward. But what I think I can add to this debate is that I have been to Vietnam and seen the work of the Joint Task Force on Full Accounting, our military presence tasked with looking for our missing-in-action.

I visited these young men and women, and they are among the bravest and most motivated soldiers I have ever met. Everyday, from the jungle battle sites to the excavation of crash sites on mountain summits, they put their lives in harm's way to find our missing. It is talking with them that it was clear to me their mission was one that they totally believed in.

Last year, seven Americans of this task force, along with nine Vietnamese, lost their lives in a helicopter crash on the way to a recovery mission. We should not forget these American heroes, or soldiers, who gave their lives to accomplish the mission they had believed was their highest duty and honor. If we pass this resolution of disapproval, we would be hindering this mission. The only way to carry this out is to be in Vietnam. Maintaining that presence means honoring our promises to Vietnam. Passing this resolution would send the wrong signal to the Vietnamese, not to mention the brave Americans who are still searching, as we meet here today, in the rice paddies and mountains of Vietnam.

This is the fifth year that this House will vote on a resolution of disapproval. Since we first voted on this, the House has each time, with growing and overwhelming support, voted down this resolution. With last year's passage of the Bilateral Trade Agreement, we are truly embracing a successful policy that will advance our Nation's interests and goals of achieving a more open and coöperative Vietnam. Let us stay the course. Please vote against this resolution.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in support of America's continued trade with Vietnam. In the 1870s, the French moved into Southeast Asia, particularly Vietnam, isolated that country, demeaned the people and took away their dignity. That lasted until 1940. The Japanese moved in, isolated Vietnam from the rest of the world, demeaned the population, and took away their dignity. In 1945, the French moved back in and did the same thing. So for well over a century the Vietnamese were isolated from the rest of the world, could not exchange information, had no trade, had no expertise or skill to understand the nature of a nation having its own sovereignty, knew nothing about World War II which we fought to have a nation determine its own destiny, and there has been trouble in the 1950s and in the 1960s and the 1970s, and then the United States finally decided that in order to help the Vietnamese gain some dignity, to have a sense of the international community, they needed the skills, the expertise, and, yes, the hope, and so what we have been doing over the last so many years is expanding the horizon for the Vietnamese people so they have what it takes to change their government from the inside while we make strong attempts to change their government from the outside, especially through the requirements of the trading agreements. Take the trading agreements away, take Americans away from the landscape of Vietnam, and the Vietnamese people go back to that isolation. They go back to the demeaning effects of what communism can do when no one reaches in to wrestle that juggernaut.

So what this debate is about is we understand, we know the nature of the government of Vietnam, and I have been back to Vietnam after I served there in the 1960s, and, yes, I have sat at a table with the same people that fought against me in the same region at the same time and they said, "We are communist," and I said, "You would be better off giving your people some sense of freedom, freedom of the press, freedom of assembly, freedom to bargain," et cetera. So we know the government and we are working with the government to pull them out of that mindset because communism does not work, but we cannot give up on the people as well. And the way we get into the country to deal with the Vietnamese people to give them hope, to give them dignity, to give them the skills that are necessary to rise up out of the problems that exist there is through the requirements in trade.

Mr. ROHRABACHER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. WOLF) who has been involved personally in almost every human rights fight in the Congress since I got here 14 years ago and whom I deeply respect.

□ 1130

Mr. WOLF. Mr. Speaker, I rise today to support the legislation that disapproves granting Vietnam normal trade relations, and I appreciate the faithfulness of the gentleman from California (Mr. ROHRABACHER) on this issue.

The government of Vietnam is a gross violator and abuser of human rights. It persecutes all faiths, Buddhists, Roman Catholics and Protestants. The State Department's most recent annual report on international religious freedom cites that "police routinely arbitrarily detained persons based on their religious beliefs and practices. Groups of Protestant Christians who worshipped in house churches in ethnic minority areas were subjected to detention by local officials who broke up unsanctioned religious meetings. Authorities also imprisoned persons for practicing religion illegally by using provisions of the penal code that allow for jail terms of up to 3 years for abusing freedom of speech, press or religion." There are an estimated 2 dozen religious prisoners today as we debate this resolution.

According to the State Department's report on religious international freedom, a Roman Catholic priest, Father Ly, has been in prison for several years and it is almost like nobody knows who Father Ly is, because he testified at a hearing held by the U.S. Commission on International Religious Freedom.

Vietnam persecutes believers. It abuses those who fought alongside those in the United States. This Congress and this administration want to now give them normal trade relations. Vietnam should not get normal trade relations until its human rights record substantially improves.

Furthermore, there are now 348 detainees from Vietnam in U.S. custody, violent prisoners that are in United States prisons. These are Vietnamese prisoners who have finished their term, are violent, and yet the Vietnam government will not take them back. They will not take them back. I believe that we should press the State Department and the Department of Justice, and the U.S. Ambassador in Vietnam ought to be speaking out on this issue. The silence coming out of our embassy in Vietnam is deafening. The silence is deafening.

Mr. Speaker, Members who vote to grant Vietnam normal trade relations in the belief that engagement and trade will improve Vietnam's records ought to speak out. Anyone who votes for this, speaking out publicly to the Vietnamese government, will help raise attention to the human rights problems and put pressure on the Vietnamese to stop persecuting Catholics, Protestants, and Buddhists.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman for yielding me this time to speak against this resolution.

Mr. Speaker, I would begin by agreeing with my colleague from Virginia that people on both sides of the aisle have a responsibility to speak out on the continuing problems with human rights abuse, particularly religious freedom in Vietnam. I noted my colleague from Michigan had a very balanced statement in terms of looking at the snapshot.

This year's annual vote to disapprove the President's waiver comes less than a year after the historic vote to approve normal trade relations. We have seen solid progress and accomplishments since 1998 in my tenure in the House. Progress has not just been in economic opportunity for American companies in Vietnam and doing business in Vietnam, although those are important, particularly given these troubled economic times, we have seen progress in terms of the growing prosperity of the Vietnamese people, an 8 percent increase in per capita income in just this last year alone, and a tenfold increase in private firms that are doing business in Vietnam. We have seen progress in assuring continued progress and repatriating the remains of hundreds of Americans missing in action in Vietnam. I was there 2 years ago with President Clinton and watched men and women from both countries working to make sure that we are answering these questions.

More has been done in this war than any other war in American history. We have made progress in assuring the rights of Vietnamese returnees seeking to resettle in their homeland, and of Vietnamese citizens seeking to emigrate from Vietnam to the United States.

Yes, the human rights record is a dark spot, but revoking normal trade relations with Vietnam is not going to accelerate progress. Even the uneven progress in the course of this last year, we see that most of the promises, most of the benchmarks have in fact been met. I have done as the gentleman from Virginia (Mr. WOLF) has suggested, when I have been in Vietnam, I have used the opportunity to press the need for religious freedom and the opportunity for Vietnamese to practice their faith. That is going to be critical for Vietnam to be fully accepted into the family of nations.

But the fact is this is a government in transition. The old guard took over a year to figure out that they could accept yes for an answer and approve the bilateral trade agreement.

Mr. Speaker, I have experienced firsthand the warmth of the Vietnamese people, 80 percent of whom were mere children or were not even born during the Vietnam War. I have seen their eagerness to embrace American innovation and American values. I strongly urge that we continue with our progress by rejecting this resolution today.

Mr. McNULTY. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I rise in strong support of H.J. Res. 101, disapproving the extension of the waiver authority in section 402(c) of the Trade Act of 1974 with respect to Vietnam.

I am proud to represent a community in Santa Clara County that has been greatly enriched by the contributions of its Vietnamese American residents. For many years now, first an immigration attorney, a local elected official, and now as a Member of Congress, I have worked closely with these Americans on two issues close to their hearts and to mine, immigration and human rights.

Quite a few of my constituents came to San Jose as refugees, escaping an oppressive political regime. That is why I value their knowledge, experience and support, and that is why I believe their unique perspective on the U.S. relationship with Vietnam deserves deference.

While we are constantly told that the government of Vietnam is making progress in the area of human rights, I continue to hear about political persecuting and unwarranted detentions from my friends in the Vietnamese community. Later today, the Human Rights Caucus will be holding a hearing on freedom of expression in Vietnam.

Article 69 of the Vietnamese constitution recognizes freedom of opinion, expression and association for all its citizens, but the Vietnamese people are denied these privileges daily. Vietnamese authorities continue to sensor mail, telephone calls and e-mail. Freedom of the press is a joke. While 500 papers exist in Vietnam, not one is privately owned. All radio and television stations are state-owned.

Amnesty International and Human Rights Watch have detailed cases, and their list of abuses is long. The U.S. State Department and humanitarian groups have reported that the Vietnam human rights situation has actually worsened in 2001, especially with regard to ethnic minorities like the Montagnards. There are reports of harassment of prominent dissidents in Vietnam, and Hanoi still implements strict control over the press.

If Vietnam is making such great strides towards human rights, then why are we continuing to hear that those who try to express themselves freely are routinely detained?

I believe in free trade. I have voted for trade agreements, but I believe that the situation in Vietnam is different. Here we have a clear opportunity to change the course of this Nation's behavior in exchange for trade. If we insist on human rights, Vietnam will comply in order to obtain a trade relationship with America. I ask my colleagues to support H.J. Res. 101. Stand up to the communists in Vietnam. Insist on human rights in Vietnam in exchange for free trade.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in opposition to this resolution that would overturn the waiver of Jackson-Vanik for Vietnam.

Mr. Speaker, it is clear to me that economic engagement with Vietnam is critical. It is critical if we are going to have progress on the economic and political fronts. The kind of engagement that we have today promotes economic growth. It promotes the reduction of poverty in that country, and those certainly are goals that we are seeking to achieve around the world. As it encourages economic freedom in the country, it thereby helps to promote human rights and political pluralism.

I think of two other countries in that region that have had similar kinds of histories, Taiwan and South Korea. Both of those countries did not have good records on human rights. They did not have expressions of support for human rights or political freedom and political pluralism. But today those are flourishing democracies, and they are flourishing because of the economic progress that has been made in those countries. The same can be said of Vietnam.

I was in Vietnam just a year ago. It had been 10 years since my last visit, and the changes which have taken place are very, very dramatic in Vietnam. This is a country that is clearly on the edge of making huge progress economically; and as it does, I think one can predict with absolute certainty that there will be progress on the political front as well.

If we were to revoke normal trade relations with this country, it means that we isolate the country politically. As we do that, we give them reason not to move towards more openness, more freedom and pluralism. It is not in our interest, economically or politically, from our national security standpoint, to isolate Vietnam. It is in our interest to integrate it into the trading system and the economic integration of Southeast Asia.

Mr. Speaker, I hope that this resolution will be defeated and that we will continue to grant normal trade relations with Vietnam.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this has nothing to do with isolating Vietnam, and everybody in this debate should understand that. It has nothing to do with whether or not Americans should be able to sell their products in Vietnam. People can sell whether we grant them this waiver or normal trade relations status. They can still go over and build factories and sell products. We certainly are not going to isolate Vietnam.

What this is about, in essence, unless Vietnam gets this normal trade relations, gets this Presidential waiver, what is happening, American businessmen will be denied subsidies given to them through international and our national financial institutions. They will be denied the subsidies for their investment in building factories in Vietnam. That is what is really going on here. Yet no one else addresses that. I mentioned that in the beginning. None of the other Members participating in the debate say that.

Let us address this. Why should we be subsidizing with our tax dollars the building of factories in Vietnam, a communist dictatorship, so that some of our profiteers, our businessmen who would like to make profit off labor that does not have a right to quit, does not have a right to complain or unionize, does not have any competition, we are going to have slave labor basically over there manufacturing in companies and in plants that have been built by the American taxpayers' subsidy.

Mr. Speaker, that is what this is all about. That is wrong in communist China. It is wrong in Vietnam. It is something that we should not be doing in China. It has not opened up the society. And for 8 years it has not opened up the society in Vietnam. This is profiteering at the expense of slave labor. This is wrong. That is the central issue at hand.

They have been playing games with us about our POWs. Let me just suggest this. Last year during this debate I remember our good friend and former colleague, Mr. PETERSON was here, and when I said the Vietnamese had not been forthcoming with the records on the prisons where they held our POWs during the war, the word was spread, oh, no, they have given us all of the records, and that came from Mr. PETERSON, who was then our ambassador. Guess what, after the debate and I talked to him, oh, no, he had been mistaken. They have not given us those records.

They have not been forthcoming on that, and we have seen no progress on human rights. We should not be giving them credits and subsidizing our businessmen to build factories there.

□ 1145

Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, why do we not put this in historical context? Why do we not remember the Vietnamese people who fought alongside our young men and women for freedom and justice? This is not a trade bill. This is, frankly, rewarding those who continue to punish those hard-working, dedicated freedom fighters in Vietnam and punish their families who are here in the United States, refusing to allow their families to reunite with my own constituents and constituents across this Nation who work hard every day in our communities and cannot see their family members.

This is not a trade question, because I do believe that it is important for cultural exchange and the opportunities for trade exchange between our mutual businesses if it is fairly done, if those who are working are paid fairly in Vietnam, if no slave labor is used, if no human rights violations are used against those in that country.

What kind of morals do we have if we allow trade to be superior to the idea of freedom for the people? We should support this resolution and deny trade until Vietnam understands the real essence of human rights and freedom and justice.

Mr. MCNULTY. Mr. Speaker, before I recognize my final speaker, I would ask the Speaker to outline the order in which the closing statements will take place.

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman from Illinois (Mr. CRANE) will close, the gentleman from New York (Mr. MCNULTY) will be in support, the gentleman from Michigan (Mr. LEVIN), and the gentleman from California (Mr. ROHRABACHER).

Mr. MCNULTY. Mr. Speaker, I suggest that the order will be the reverse of what the Chair just outlined.

Mr. ROHRABACHER. We need the time as well, Mr. Speaker.

The SPEAKER pro tempore. The Chair was designating from the close backward. The gentleman from Illinois (Mr. CRANE) has the right to close.

Mr. MCNULTY. That is correct. The order of closing, then, will be the gentleman from California (Mr. ROHRABACHER), the gentleman from Michigan (Mr. LEVIN), myself, and then the chairman?

The SPEAKER pro tempore. The gentleman is correct. The gentleman from Illinois (Mr. CRANE) has 2½ minutes remaining, the gentleman from New York (Mr. MCNULTY) has 3 minutes remaining, the gentleman from Michigan (Mr. LEVIN) has 2 minutes remaining, and the gentleman from California (Mr. ROHRABACHER) has 1½ minutes remaining.

Mr. MCNULTY. Mr. Speaker, I yield 1 minute to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. I thank my friend for yielding me this time.

Mr. Speaker, I understand that the big money interests want us to have a free trade agreement with Vietnam because it works in their interest. How wonderful it is for them to throw American workers out on the street so they can move to Vietnam and China and Mexico and pay desperate people 20 cents an hour, and they can make all kinds of profits while American workers lose their jobs. The truth is our current trade policy is a disaster. In the last 4 years under NAFTA and MFN with China and trade agreements with Vietnam, we have lost millions of factory jobs. In fact, we have lost 10 percent of our manufacturing base.

In my small State of Vermont, companies cannot compete against cheap imports. All over this country, companies are running to China and Vietnam to exploit the people in those countries. It is incomprehensible to me that any Member of this Congress who wants to protect American workers would vote against the amendment of my friend from California.

Mr. ROHRABACHER. Mr. Speaker, there are some true champions of human freedom in this body and none has a stronger voice and has been active as long as the gentleman from New Jersey (Mr. SMITH) to whom I yield 1 minute.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of the gentleman's resolution.

It seems inconceivable to me that we could be waiving Jackson-Vanik at a time when the Vietnamese Government is paying $100 a head for the return of the Montagnards who have been escaping. Dissidents, men and women who have been repressed by this government, are being returned from Cambodia back to this repressive regime. To waive this in the Pollyanna-ish view that somehow human rights are improving is inconceivable to me.

I would also point out to my colleagues that this body passed the Vietnam Human Rights Act, which I introduced, overwhelmingly last year, 410 to one. The Vietnamese Government has moved Heaven and Earth in the other body to put a hold on that legislation which simply looks for human rights improvements. They have not happened, I say to my colleagues. We need to step up to the plate and say, despite the expectations that might have been there, they have not been realized. Human rights continue to be trashed.

I again rise in strong support of the gentleman's resolution.

Mr. Speaker, I submit the following letter for inclusion in the CONGRESSIONAL RECORD:

### COMMISSION ASKS SECRETARY POWELL TO RAISE RELIGIOUS FREEDOM ISSUES WITH VIETNAM AT ASEAN MEETING

WASHINGTON, July 23—The U.S. Commission on International Religious Freedom, a federal agency advising the Administration and Congress, last week wrote Secretary of State Colin L. Powell, asking that he raise religious freedom issues with Vietnamese officials during the ASEAN Regional Forum at the end of this month. The text of the letter follows:

JULY 17, 2002.

DEAR SECRETARY POWELL: I am writing on behalf of the U.S. Commission on International Religious Freedom, which urges you to raise prominently the protection of religious freedom in Vietnam during your upcoming participation at the ASEAN Regional Forum in July 2002. We also urge you to impress your Vietnamese officials that improvements in the protection of religious freedom in Vietnam are critical to continuing progress in U.S.-Vietnam relations.

Since the Congress ratified the U.S.-Vietnam Bilateral Trade Agreement (BTA) in September 2001, the protection of religious freedom in Vietnam continues to be minimal at best. In February 2002, the Commission sent a delegation to visit that country. Despite the increase in religious practice continues its repressive policy toward all religious and their followers in Vietnam.

Key Vietnamese religious dissidents remain under house arrest or imprisoned, including two senior leaders of the outlawed Unified Buddhist Church of Vietnam (UBCV) ? Most Venerable Thich Huyen Quang and Venerable Thich Quang Do ? and a Hoa Buddhist leader, Mr. Le Quang Liem. Mr. Quang has been denied access to much needed medical treatment. in addition, Father Thaddeaus Nguyen Van Ly, who last year submitted written testimony to the Commission, was sentenced to 15 years in prison after having been convicted on charges of "undermining state unity" and "slandering the government." During the Commission's visit, Vietnamese officials refused the delegation's requests to meet with these and other religious leaders who were either in prison or under house arrest.

Government officials continue to harass leaders of unregistered religious organizations and their followers, particularly unregistered Protestant fellowships, as well as clergy members of officially recognized religious groups who oppose government interference in their activities. At the same time, Vietnamese authorities have refused to register some religious groups. For example, the Vietnamese government has refused to register or permit any activity of Baha'i adherents, whose membership in Vietnam before 1976 counted close to 200,000. Meanwhile, provincial and local officials continue to force

Hmong Christians in northwestern Vietnam to renounce their faith. Hmong Christian leaders have been arrested and beaten, and their followers are not allowed to meet in homes and conduct worship. Catholic bishops continue to have limits imposed on them by the government regarding the number of candidates who can be admitted to study for the priesthood as well as the number of qualified men who are allowed to be ordained to the priesthood.

Although the government recognized the Evangelical Church of Vietnam in the South in April 2001, that recognition apparently has not been extended to the Montagnards who reside in the Central Highlands. Government repression of religious freedom for Monagnard Christians, coupled with an ongoing land dispute between the Montagnards and the government, led to unrest and government crackdown in February 2001 that ultimately resulted in the flight to Cambodia of over 1,000 Montagnards. Nonetheless, it appears that the Vietnamese government continues to violate the right to religious freedom of Montagnard Christians in the Central Highlands through arrests and the closing of churches.

In light of these conditions, the Commission urges you to raise these issues in substantive discussions with Vietnamese officials during your attendance at the ASEAN Regional Forum. In particular, we hope you will inquire about the confinement of Mr. Quang, Mr. Do, and Mr. Liem, and the imprisonment of Fr. Ly.

Furthermore, we wish to draw your attention to the following recommendations, first set out in our 2001 Annual Report. We urge you to press the Vietnamese government to take the following steps:

(1) Release from imprisonment, detention, house arrest, or intimidating surveillance persons who are so restricted due to their religious identities or activities.

(2) Permit full access to religious leaders by U.S. diplomatic personnel and government officials, the U.S. Commission on International Religious Freedom, and international human rights organizations. The government should also invite a return visit by the UN Special Rapporteur on Freedom of Religion.

(3) Establish the freedom to engage in religious activities (including the freedom for members of religious groups to select their own leaders, worship publicly, express and advocate religious beliefs, and distribute religious literature) outside state-controlled religious organizations and eliminate controls on the activities of officially registered organizations. Allow indigenous religious communities to conduct educational, charitable, and humanitarian activities, in accordance with the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination.

(4) Permit religious groups to gather for observance of religious holidays.

(5) Return confiscated religious properties.

(6) Permit domestic Vietnamese religious organizations and individuals to interact with foreign organizations and individuals.

(7) Permit domestic Vietnamese religious and other non-governmental organizations to distribute their own and donated aid.

(8) Support exchanges between Vietnamese religious communities and U.S. religious and other non-governmental organizations concerned with religious freedom in Vietnam.

In its May 2001 report, the Commission also recommended that the U.S. government continue to support the ASEAN Human Rights Working Group, and that it should encourage the Vietnamese government to join the working group by establishing a national working group. The Commission urges you to take this opportunity to engage officials of the ASEAN working group in serious discussions about the promotion of human rights, including religious freedom, among ASEAN member states. Moreover, we urge you to impress upon Vietnamese officials that the establishment of a national working group by their government would be an important sign of Vietnam's commitment to protecting religious freedom and other human rights.

Thank you for your consideration of the Commission's recommendations. We would be grateful if you would share with us the findings and achievements of your visit upon your return.

Respectfully,

FELICE GAER,
*Chair.*

Mr. ROHRABACHER. Mr. Speaker, I yield myself the balance of my time.

We have heard over and over again that there has been progress made in Vietnam, but there has been no progress, obviously no progress, on human rights. They have gone the opposite direction. We have heard there has been progress in POWs. That is not true. Again, let me reaffirm that they have never given the reports that we have been begging for for the records for the places where they kept our POWs so we could determine how many POWs were kept afterwards. And there is never an excuse because of the lack of human rights in Vietnam for us to subsidize the building of factories with American tax dollars, putting our own people out of work in a Communist dictatorship.

I call on my colleagues to support my resolution in denying this waiver of normal trade relations with this Communist dictatorship. Let us not throw our people out of work to give the chance for subsidized loans to our big businessmen to build factories in Vietnam.

Mr. LEVIN. Mr. Speaker, I yield myself the balance of my time.

Trade is rarely a matter of a single dimension. I always resist the arguments that pretend or assume that trade is all one way or all the other. There are usually considerations on all sides of the trade equation. I do not think trade by itself is a guarantee of political freedom. There has to be pressure on governments. It depends on the situation. But there also has to be engagement in most circumstances as well as pressure. That is what this discussion today is all about.

We have spent, many of us, a lot of time with former Ambassador Pete Peterson. He has assured us that Vietnam is not the same place today as it was 10 or 15 or 20 years ago. It is moving some steps forward, and it is also at times moving backwards. Our job is to help it keep moving in the right direction.

Mr. Speaker, the vote today if it succeeds relates not only to subsidies. It would revoke the bilateral trade agreement that was passed here by a very substantial margin just last year. I think those who voted in favor of that bilateral trade agreement have no reason today to change their vote. Those who have voted against this resolution in the past have no reason to change their vote. We will see in the future what happens, for example, with the textile agreement, and I have already made clear the position of many of us. But today we should remain on the course of both engagement and pressure.

I urge opposition to this resolution.

Mr. McNULTY. Mr. Speaker, I yield myself the balance of my time.

I thank Chuck Henley, Ron Cima, and Boyd Sponaugle of the Office of the Secretary of Defense for all of the latest information which they have supplied to me with regard to our MIAs. I am grateful to them and all of those who are helping to bring our MIAs home.

Mr. Speaker, we heard a lot about priorities today. I try to keep my priorities straight. Part of that is remembering that had it not been for all of the men and women who wore the uniform of the United States military through the years, some of whom are present in this Chamber right now, I would not have the privilege of going around bragging, as I often do, about how we live in the freest and most open democracy on the face of the Earth.

Freedom is not free. We have paid a tremendous price for it. That is why I try not to let a day go by without remembering with deepest gratitude all of those who, like my brother Bill and tens of thousands of others through the years, gave their lives in service to this country. And it's why I'm thankful for people like J. Leo O'Brien, whose funeral I attended yesterday. Leo was part of what we call "the greatest generation"—those who served in World War II. Leo served, put his life on the line for all of us, for our families, and for all that we hold dear, and thankfully came home and rendered outstanding service in the community. He then raised a beautiful family to carry on in his fine tradition. That is what America is all about. Veterans are the reason why, when I get up in the morning, the first two things I do are to thank God for my life and then veterans for my way of life.

And so, Mr. Speaker, on behalf of all 1,442 Americans missing in action in Vietnam and their families, I support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. CRANE. Mr. Speaker, I yield myself the balance of my time.

In response to some of the arguments that have come up earlier, I would like to make just a couple of observations, one dealing with the Overseas Private Investment Corporation. It is charging user fees historically, and it is a U.S.

Government agency that operates at no net cost to U.S. taxpayers. OPIC has earned a net profit in each year of operations, $125 million in fiscal year 2001, and its reserves currently stand at more than $4 billion. OPIC projects have also generated $64 billion in U.S. exports and created nearly 250,000 American jobs. OPIC projects are carefully screened for their U.S. employment effects. OPIC does not support any projects that might harm the U.S. economy or that would result in the loss of U.S. jobs.

It is imperative that we continue Vietnam's Jackson-Vanik waiver. It is in the United States' interest to have an economically healthy Vietnam that is engaged with a global community of nations. Vietnam is currently negotiating its accession to the World Trade Organization; and I fully support that effort, provided it is based on commercially sound terms. The BTA and its implementation offer an important road map for Vietnam to follow to help achieve that goal.

Although Vietnam has far to go in improving human rights for its people, withdrawing the Jackson-Vanik waiver would eliminate our ability to influence its policies. I urge my colleagues to defeat this resolution.

Mr. LAFALCE. Mr. Speaker, I rise in opposition to H.J. Res. 101, the resolution of disapproval of the President's waiver of the Jackson-Vanik Amendment for Vietnam.

On June 3, 2002, President Bush notified Congress of his intention to issue a limited Jackson-Vanik waiver for trade relations with Vietnam for another year. I agree with the President's action and believe that it is in our national interest to continue a policy of engagement with Vietnam.

Since the early 1990s, the United States has taken various steps to improve relations with Vietnam. In 1994, President Clinton lifted the U.S. trade embargo on Vietnam in recognition of the progress made in accounting for prisoners of war and servicemen missing in action. In 1995, President Clinton established diplomatic relations with Vietnam.

Last year trade between the United States and Vietnam totaled $1 billion. While such amount is not large relative to our total trade with the rest of the world, it is significant for Vietnam and is an important degree of engagement with a country that was once our enemy.

Last fall, Congress enacted legislation that ratified a U.S.-Vietnam bilateral trade agreement and extended normal trade relations to Vietnam. As in the case of China and some other countries, an annual review of Vietnam's trade status is required by the Jackson-Vanik amendment to the 1974 Trade Act.

If this resolution was adopted, Vietnam could not receive U.S. government credits, or credit or investment guarantees, such as those provided by the Overseas Private Investment Corporation (OPIC), the Export-Import Bank and the U.S. Agriculture Department. In addition, imports from Vietnam would be subject to much higher tariffs and duties. These measures, which we grant to countries with which we have normal trade relations, would severely damage our trade with Vietnam.

The trade fostered by normal trade relations with Vietnam, relations that require a Jackson-Vanik waiver, are necessary for the United States to more effectively push for reform in Vietnam. As a result of the normalizing of trade and diplomatic relations with Vietnam, Hanoi has made major progress on freedom of emigration, including helping with last year's resettlement of 3,000 former boat people held in refugee camps throughout Asia. In addition, Vietnam has steadily improved cooperation in locating U.S. servicemen missing in action. Finally, the very act of trading with the United States, and the desire to increase that trade, is resulting in the beginning of meaningful economic reforms in Vietnam.

This is a lesson that sadly, this Administration has not applied to relations with Cuba: There we have had a decades long trade embargo, and economic sanctions, that has done nothing, absolutely nothing, to loosen or undermine the hold of the Castro regime on the Cuban people. I urge the Administration to review the success of its actions on trade with Vietnam and apply that lesson to trade with Cuba. We will improve human rights and the economic situation of the Cuban people faster with a policy of trade engagement than with maintaining the status quo policy of failed trade sanctions.

In the meantime, we must continue to maintain normal trade relations with Vietnam. Perhaps another year's successful trade with Vietnam will convince the Administration that normalizing trade relations with Cuba will also be advantageous to the people of Cuba.

Mr. GILMAN. Mr. Speaker, I want to thank the distinguished Chairman of the Ways and Means Committee the gentleman from California, Mr. THOMAS and the Ranking Minority Member Congressman RANGEL and the Chairman of the Trade Subcommittee Congressman CRANE and its Ranking Minority Member Congressman LEVIN for bringing H.J. Res. 101 to the Floor. I want to commend Congressman ROHRABACHER for crafting this important resolution. The effect of this resolution would be to withdraw the President's Jackson-Vanik waiver for Vietnam.

Jackson-Vanik requires that a country permits free emigration of its citizens. According to Human Rights Watch, with regard to the exodus of Montagnards refugees to Cambodia, the Vietnamese government did everything that it could to prevent such an exodus. Human Rights Watch reported "the Vietnamese government began to tightly restrict freedom of movement throughout the Central Highlands. Montagnards arriving at the UNHCR sites in Cambodia reported that strict travel bans had been instituted throughout the highlands with police posted on the roads to stop movement of people and in the hamlets to prevent travel and communication between villages." The report goes on to state that "Areas from which large numbers of people had attempted to flee to Cambodia faced particularly heavy surveillance and extra travel restrictions."

Mr. Speaker, human rights organizations also inform us that security police recruited villagers to report on anyone who attended Christian meetings and even those who conducted family prayers in their own homes. Why should we award a dictatorship that attempts to prevent our war time allies from freely emigrating and persecutes people for praying?

Jackson-Vanik also sets down conditions to deny MFN to any country with a nonmarket economy. According to the Country Commercial Guide of the U.S. Commercial Service and the U.S. Department of State "State-Owned Enterprises continue to dominate the industrial economy of Vietnam . . . The government's protectionist approach to these loss-making companies has long stood in the way of further trade reform and investment liberalization." The report goes on to state that "The government has organized around 2,000 State-owned Enterprises into 17 so-called 'general corporations' (or conglomerates) and 77 'special corporations', thereby reinforcing monopoly or privileged conditions in industries that account for approximately 80 percent of the productive capacity of the state sector."

Mr. Speaker, it is obvious that Vietnam does not meet the human rights and economic conditions set forth by Jackson-Vanik. Let's not reward a dictatorship that does not cooperate with us in helping to find our missing servicemen, refuses to permit our wartime allies to leave and uses trade to enrich and enforce its repressive regime. Accordingly, I urge my colleagues to support H.J. Res. 101.

Mr. CRANE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of Monday, July 22, 2002, the joint resolution is considered read for amendment and the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MCNULTY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.J. Res. 101.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any RECORD votes on postponed questions will be taken later today.

## IMPROVING ACCESS TO LONG-TERM CARE ACT OF 2002

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4946) to amend the Internal Revenue Code to provide health care incentives related to long-term care, as amended.

The Clerk read as follows:

### H.R. 4946

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Improving Access to Long-Term Care Act of 2002".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

### SEC. 2. DEDUCTION FOR PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new subsection:

### "SEC. 223. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year by the taxpayer for coverage for the taxpayer and the spouse and dependents of the taxpayer.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

| **"For taxable years beginning in calendar year—** | **The applicable percentage is—** |
|---|---|
| 2003, 2004, and 2005 | 25 |
| 2006 and 2007 | 30 |
| 2008 and 2009 | 35 |
| 2010 and 2011 | 40 |
| 2012 and thereafter | 50. |

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $20,000 (twice the preceding dollar amount, as adjusted under paragraph (2), in the case of a joint return) the amount which would (but for this subsection) be allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowed as such excess bears to $20,000 ($40,000 in the case of a joint return).

"(2) ADJUSTMENTS FOR INFLATION.—

"(A) IN GENERAL.—In the case of a taxable year beginning after December 31, 2003, the first $20,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000 (or if such amount is a multiple of $500, such amount shall be rounded to the next highest multiple of $500).

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of paragraph (1), the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after application of sections 86, 135, 137, 219, 221, 222, and 469.

"(d) LIMITATION BASED ON SUBSIDIZED COVERAGE.—

"(1) IN GENERAL.—Subsection (a) shall not apply to premiums paid for coverage of any individual for any calendar month if—

"(A) for such month such individual is covered by any insurance which is advertised, marketed, or offered as long-term care insurance under any health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, and

"(B) 50 percent or more of the cost of any such coverage (determined under section 4980B) for such month is paid or incurred by the employer.

"(2) PLANS MAINTAINED BY CERTAIN EMPLOYERS.—A health plan which is not otherwise described in paragraph (1)(A) shall be treated as described in such paragraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

"(e) COORDINATION WITH OTHER DEDUCTIONS.—Any amount taken into account under subsection (a) shall not be taken into account in computing the amount allowable as a deduction under section 162(l) or 213(a).

"(f) MARRIED COUPLES MUST FILE JOINT RETURN.—

"(1) IN GENERAL.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(2) MARITAL STATUS.—For purposes of paragraph (1), marital status shall be determined in accordance with section 7703.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 is amended by inserting after paragraph (18) the following new item:

"(19) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 223.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 86(b)(2)(A), 135(c)(4)(A), 137(b)(3)(A), 219(g)(3)(A)(ii), and 221(b)(2)(C)(i) are each amended by inserting "223," after "222,".

(2) Section 222(b)(2)(C)(i) is amended by inserting "223," before "911".

(3) Section 469(i)(3)(F)(iii) is amended by striking "and 222" and inserting "222, and 223".

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 223. Premiums on qualified long-term care insurance contracts.

"Sec. 224. Cross reference.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

### SEC. 3. ADDITIONAL PERSONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.

(a) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an exemption of the exemption amount for each qualified family member of the taxpayer.

"(2) PHASE-IN.—In the case of taxable years beginning in calendar years before 2012, the amount of the exemption provided under paragraph (1) shall not exceed the applicable limitation amount determined in accordance with the following table:

| **"For taxable years beginning in calendar year—** | **The applicable limitation amount is—** |
|---|---|
| 2003 and 2004 | $500 |
| 2005 and 2006 | 1,000 |
| 2007 and 2008 | 1,500 |
| 2009 and 2010 | 2,000 |
| 2011 | 2,500. |

"(3) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term 'qualified family member' means, with respect to any taxable year, any individual—

"(A) who is—

"(i) the spouse of the taxpayer, or

"(ii) a dependent of the taxpayer with respect to whom the taxpayer is entitled to an exemption under subsection (c),

"(B) who is an individual with long-term care needs during any portion of the taxable year, and

"(C) other than an individual described in section 152(a)(9), who, for more than half of such year, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

"(4) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—For purposes of this subsection, the term 'individual with long-term care needs' means, with respect to any taxable year, an individual who has been certified, during the 39½-month period ending on the due date (without extensions) for filing the return of tax for the taxable year (or such other period as the Secretary prescribes), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being, for a period which is at least 180 consecutive days—

"(A) an individual who is unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in section

7702B(c)(2)(B)) due to a loss of functional capacity, or

"(B) an individual who requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

"(5) Identification requirement.—No exemption shall be allowed under this subsection to a taxpayer with respect to any qualified family member unless the taxpayer includes, on the return of tax for the taxable year, the name and taxpayer identification of the physician certifying such member. In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

"(6) Special rules.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this subsection.".

(b) Conforming Amendments.—

(1) Section 1(f)(6)(A) is amended by striking "151(d)(4)" and inserting "151(e)(4)".

(2) Section 1(f)(6)(B) is amended by striking "151(d)(4)(A)" and inserting "151(e)(4)(A)".

(3) Section 3402(f)(1)(A) is amended by striking "151(d)(2)" and inserting "151(e)(2)".

(4) Section 3402(r)(2)(B) is amended by striking "151(d)" and inserting "151(e)".

(5) Section 6012(a)(1)(D)(ii) is amended—

(A) by striking "151(d)" and inserting "151(e)", and

(B) by striking "151(d)(2)" and inserting "151(e)(2)".

(6) Section 6013(b)(3)(A) is amended by striking "151(d)" and inserting "151(e)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

### SEC. 4. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-TERM CARE INSURANCE.

(a) Additional Protections Applicable to Long-Term Care Insurance.—Subparagraphs (A) and (B) of section 7702B(g)(2) of the Internal Revenue Code of 1986 (relating to requirements of model regulation and Act) are amended to read as follows:

"(A) In general.—The requirements of this paragraph are met with respect to any contract if such contract meets—

"(i) Model regulation.—The following requirements of the model regulation:

"(I) Section 6A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 6A.

"(II) Section 6B (relating to prohibitions on limitations and exclusions).

"(III) Section 6C (relating to extension of benefits).

"(IV) Section 6D (relating to continuation or conversion of coverage).

"(V) Section 6E (relating to discontinuance and replacement of policies).

"(VI) Section 7 (relating to unintentional lapse).

"(VII) Section 8 (relating to disclosure), other than section 8F thereof.

"(VIII) Section 11 (relating to prohibitions against post-claims underwriting).

"(IX) Section 12 (relating to minimum standards).

"(X) Section 13 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(XII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

"(ii) Model act.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(III) The provisions of section 8 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

"(B) Definitions.—For purposes of this paragraph—

"(i) Model provisions.—The terms 'model regulation' and 'model Act' means the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000).

"(ii) Coordination.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(iii) Determination.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.".

(b) Excise Tax.—Paragraph (1) of section 4980C(c) of the Internal Revenue Code of 1986 (relating to requirements of model provisions) is amended to read as follows:

"(1) Requirements of model provisions.—

"(A) Model regulation.—The following requirements of the model regulation must be met:

"(i) Section 9 (relating to required disclosure of rating practices to consumer).

"(ii) Section 14 (relating to application forms and replacement coverage).

"(iii) Section 15 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iv) Section 22 (relating to filing requirements for advertising).

"(v) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a qualified long-term care insurance contract, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(vi) Section 24 (relating to suitability).

"(vii) Section 29 (relating to standard format outline of coverage).

"(viii) Section 30 (relating to requirement to deliver shopper's guide).

The requirements referred to in clause (vi) shall not include those portions of the personal worksheet described in Appendix B of the model regulation relating to consumer protection requirements not imposed by section 4980C or 7702B.

"(B) Model act.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6J (relating to policy summary).

"(v) Section 6K (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) Definitions.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such term by section 7702B(g)(2)(B).".

(c) Effective Date.—The amendments made by this section shall apply to policies issued after December 31, 2002.

### SEC. 5. EXPANSION OF HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) In General.—Paragraph (2) of section 45C(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(C) Treatment of certain expenses incurred before designation.—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses incurred after the date of the enactment of this Act.

### SEC. 6. VACCINE TAX TO APPLY TO HEPATITIS A VACCINE.

(a) In General.—Paragraph (1) of section 4132(a) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A."

(b) Effective Date.—

(1) Sales, etc.—The amendments made by subsection (a) shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

### SEC. 7. ELIGIBILITY FOR ARCHER MSA'S EXTENDED TO ACCOUNT HOLDERS OF MEDICARE+CHOICE MSA'S.

(a) In General.—Subparagraph (B) of section 220(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(iii) Medicare+choice msa's.—In the case of an individual who is covered under an MSA plan (as defined in section 1859(b)(3) of the Social Security Act) which such individual elected under section 1851(a)(2)(B) of such Act—

"(I) such plan shall be treated as a high deductible health plan for purposes of this section,

"(II) subsection (b)(2)(A) shall be applied by substituting '100 percent' for '65 percent' with respect to such individual,

"(III) with respect to such individual, the limitation under subsection (d)(1)(A)(ii) shall be 100 percent of the highest annual deductible limitation under section 1859(b)(3)(B) of the Social Security Act,

"(IV) paragraphs (4), (5), and (7) of subsection (b) and paragraph (1)(A)(iii) of this subsection shall not apply with respect to such individual, and

"(V) the limitation which would (but for this subclause) apply under subsection (b)(1) with respect to such individual for any taxable year shall be reduced (but not below zero) by the amount which would (but for subsection 106(b)) be includible in such individual's gross income for the taxable year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from California (Mr. STARK) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

☐ 1200

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support this morning of this very important measure, H.R. 4946, the Improving Access to Long-Term Care Act. The need for long-term care is expected to grow substantially in the future, straining both public and private resources.

Total spending on long-term care services for people of all ages approached $138 billion in fiscal year 2000, nearly $86 billion of which was for public programs. As 77 million babyboomers approach retirement age, the need to address long-term care becomes ever-more important.

Soaring costs and rising demand for long-term care services could deplete personal savings and exhaust government entitlement programs. It is essential that people are encouraged to plan and take some personal responsibility for their future needs. Therefore, it is my privilege to bring forward this legislation, the Improving Access to Long-Term Care Act of 2002 as a critical first step toward helping in the emerging long-term care crisis.

First of all, this legislation provides immediate tax relief to assist individuals in acquiring and maintaining long-term care for themselves, especially health care, which is so vital, for themselves, their spouses and their dependents.

H.R. 4946 would provide an above-the-line deduction for eligible long-term care insurance premiums. Under current law, individuals may claim an itemized deduction for the cost of eligible qualified long-term care insurance premiums, but only to the extent that such premiums, combined with the taxpayer's additional medical expenses, exceed 7.5 percent of adjusted gross income.

This bill provides an above-the-line deduction for a percentage of eligible long-term care premiums for which the taxpayer pays at least 50 percent of the cost of coverage. The deduction is available for eligible long-term care insurance that covers the taxpayer, the taxpayer's spouse or the taxpayer's dependents.

The deduction is available to individuals with adjusted gross income between $20,000 and $40,000, and twice that amount for married couples filing a joint return. This amount will be adjusted annually for inflation. This bill, Mr. Speaker, provides targeted relief for those taxpayers who really need it.

Although financing is the cornerstone of the long-term care issue, we must also look at supporting family caregivers. H.R. 4946 would add an additional personal exemption for home caregivers of family members. This bill provides immediate tax relief to those taxpayers who assume the responsibility of providing for the care and support of individuals with long-term care needs.

Under current law, individuals are entitled to a personal exemption deduction of $3,000 in 2002 for the taxpayer, the taxpayer's spouse and each dependent. This bill provides the taxpayer with an additional personal exemption for each qualified family member with long-term needs.

This legislation, Mr. Speaker, has been updated to include additional consumer protections for long-term care insurance policies. A qualified long-term care insurance contract is one that meets certain consumer protection requirements promulgated by the National Association of Insurance Commissioners, or NAIC. This bill updates the consumer protection provisions to reflect changes made to the Long-Term Care Insurance Model Act by the NAIC. Groups that support the addition of the additional consumer protection provisions include AARP, the American Council of Life Insurers and the Health Insurance Association of America.

Mr. Speaker, this legislation also includes other various tax provisions concerning health and health care. First, this legislation includes an orphan drug tax credit that would prevent drug manufacturers from delaying the important process of human clinical testing of orphan drugs until the time of Food and Drug Administration approval. This legislation would add any vaccine administered to prevent hepatitis A to the list of taxable vaccines. Finally, this legislation will provide retirees with additional flexibility in obtaining health care for the retirees and their families by permitting those individuals who have a Medicare+Choice Medical Savings Account to also have an Archer Medical Savings Account and allowing employees to make contributions to an Archer MSA on behalf of a Medicare eligible individual.

Mr. Speaker, our Nation is in dire need of comprehensive long-term care reform. By 2040, the number of Americans 64 and older will more than double. Without long-term care reform, these changing demographics will drive spending for Social Security, Medicare and Medicaid to consume nearly 75 percent of all Federal revenue by the year 2030.

The Improving Access to Long-Term Care Act is a first critical step to focus immediate attention on long-term care before the crisis occurs.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hardly know where to begin. This bill is, at best, unnecessary, and, at worst, it is a wasteful expenditure of $5.5 billion, which will accomplish very little except add to the repeated Republican program of giving huge benefits to the wealthy and doing very little for the average American.

This bill is designed to turn a bunch of sow's ears into silk purses. The goal of expanding the purchase of long-term care insurance sounds like a positive one, if people really believe that long-term care insurance was any good as offered by the insurance industry today. Very few people are purchasing it. It is a dud in the market.

We are, in this bill, attempting to help or bail out the long-term care insurance industry. But I wonder if that is a wise expenditure of the public's money? We are having trouble finding the money to pay, say, for prescription drugs. Why are we trying to get people to purchase something they do not need?

Mr. Speaker, I believe firmly that we need to do something about the long-term care issue, but we have had precious little debate as to whether private insurance is the right approach. Even if you think it is a good idea to promote the purchase of private long-term care insurance, the real question is whether or not this bill before us today will do any good.

There are, as the distinguished gentleman from Arizona pointed out, three major components to this bill. There is the long-term care tax deduction. It allows individuals with incomes below $40,000, and actually the full benefit is available for individuals up to $20,000, and then phases out by $40,000, it will give them very slowly over 10 years a deduction, and the most value it will provide these people is 7.5 cents on every dollar of long-term care premium they pay.

Now, mind you, you are talking about individuals with $20,000 worth of income. It is questionable whether those people are even buying life insurance. The average amount of life insurance in this country is less than $8,000. Why my colleagues on the other side of the aisle think that people who already are under-insured and are young enough to afford this would begin to buy long-term care insurance escapes me.

But let us suppose that the bill works as the Joint Tax Committee has informed us they think it might. In the year 2003, what would happen? Six thousand people would newly purchase long-term care insurance, and, of course, we would spend $19 million to get them to do that. That is approximately $3,200 per insured person of your hard-earned taxpayer money to just get these 6,000 people to buy policies, and I am not sure we would all agree that the policies are any good.

It gets better. Why, in 2004, you would get 12,000 people, and it would cost them only $1,000 that year. But in 2005, you get 18,000 people, and it costs $7,780 a person. That is more than the premiums.

Now, why are we wasting the taxpayer's money? This is some insurance salesman run amuck and writing a bill, which even the insurance salesmen, if you triple their commissions, they would not get that much money. It is a terribly inefficient way.

The net result is let us get all the way out to 2012, when this turkey is full grown and ready for the table. In 2012, the Joint Tax Committee estimates that 100,000 people will become new purchasers of long-term care insurance at a modest cost of $561 million. That is $5,600 a person.

Now, you guys are going to bribe people with $5,600 to buy long-term care insurance, which most of the people supporting this, I wish they would raise their hands, I do not buy long-term care insurance and I bet none of my Republican colleagues have purchased the long-term care insurance, which is now available through the House of Representatives. That is another turkey. If we are not buying it, why should we be spending the taxpayer's money to encourage the public to buy in?

Now, the bill gets better, of course. We have an additional personal exemption for caregivers. This sounds nice. It allows the taxpayer caring for a chronically ill loved one to get an additional personal exemption to defray some of the cost. It phases in very slowly, starting with a $500 exemption in 2003 and eventually going to $2,500. But it mostly benefits wealthy people anyway, because if you do not have any tax liability, this personal exemption does little or nothing for you.

Of course, the third one is the grandfather gobbler of all turkeys, and that is Medicare MSAs, which were written into law right after we wrote in Medicare+Choice. This one is so successful that not one, not one company offers them, not one person has ever asked to buy one. They just do not exist. They are zip, zero, nada. This is the turkey of all turkeys.

Then what they are going to do is allow Medicare beneficiaries, people my age, Mr. Speaker, to take $6,000 a year and deduct it, which nobody else can do, and pop it into an IRA, and save it there and let the income accumulate tax free, and when it is all done, I can spend it on anything I want with no penalties. I do not have to spend it on health care.

It is a new $6,000 IRA only for us old fogies. Now, if you are trying to encourage my children to save for long-term care, maybe we could do something like that for them. But why give it to me? Long-term care is far too expensive. I should have already saved by now.

So what you have here is a grand campaign scheme which throws away $5.5 billion of the taxpayer's money on something that is next to worthless, that only benefits insurance companies who have a bankrupt product that they cannot sell.

So here we go again, the Republicans subsidizing large corporations to the disadvantage of the poor and the disadvantage of the taxpayers to accomplish precious little.

The bill will go nowhere. You will see it on campaign statements if it passes muster today. But I hope it does not. It is useless, it is worthless, and it is a tremendous waste of the taxpayer's money.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield myself 30 seconds.

The question comes from the gentleman from California in a very interesting fashion in terms of public policy, why do this? Well, I think it is worth noting that in fiscal year 2000 Medicare and Medicaid provided $82.1 billion, 60 percent of the money spent, of the $123 billion, spent on long-term care services.

□ 1215

We have a basic question here. If we do not put incentives in for individuals, our public resources will be depleted. It is in that spirit that we offer the legislation.

Mr. HAYWORTH. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I stand here in strong support of legislation that is pro-family and pro-senior, legislation that will help families struggling to find long-term care needs.

Mr. Speaker, if we look at the statistics, only 10 percent of Americans today have long-term care insurance, what some of us would call nursing home insurance. Many would suggest, well, do not worry about it right now; just, when the time comes if you need nursing home care, somebody else will pick up the tab. Well, we have learned how expensive nursing home care is for an average family. When we think about it, one could be a 16-year-old in a motorcycle accident and require long-term care if that tragedy were to occur.

This is good legislation. I commend the gentleman from Arizona (Mr. HAYWORTH) for stepping forward to offer a solution that will help families and provide an incentive to purchase long-term care insurance.

It is an above-the-line deduction for eligible, long-term care insurance premiums. When we think about it, this legislation is targeted to moderate and middle income families, individuals between the income levels, adjusted gross income level of $20,000 to $40,000, or if you are married, twice that. There is no marriage penalty here; all will be eligible for this above-the-line deduction. It helps the middle class, those who struggle the most. Because if you are poor, Medicaid picks up the tab; if you are rich, you can afford it. It is the middle class that struggles the most with nursing home care costs.

I also want to commend the gentleman from Arizona (Mr. HAYWORTH) for including in this legislation help for those families who take care of mom or dad or a loved one at home. We receive a $3,000 personal exemption for our dependents and spouses under our Tax Code today. Well, this legislation creates a new one. If you have a parent living at home or someone, a loved one that is at home who requires long-term care needs and you are taking care of that family member at home, you get a personal exemption which, once phased in, will equal $2,500. That is leadership, and that is helping families, particularly middle and moderate-income families who some day will be seniors.

Mr. STARK. Mr. Speaker, I am pleased to yield 4 minutes to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentleman from California for yielding me this time.

I want to talk, first of all, a little bit about long-term care and what it means to folks in and around. One reason was mentioned just about nursing home care, but there are other reasons for long-term care. We are talking about home health care, we are talking about people that might want assisted living, areas that many of our seniors are moving in those directions today. We always want to think that we give them the best quality.

So over the years, the Congress has talked about this issue. We also, in the last year or so, were able to pass on to retirees from the Federal Government, as well as Federal employees that are now serving, the ability to buy long-term care. It just seems to me that in some ways, we need to be starting to work with those folks that are 44, 50 years old, so they can start looking at ways to plan for their retirement, and so that they are not dependent on their families for the cost of this. Because that has a negative effect on the families that they are trying to put through college or that they are trying to help to buy their first home, or to do the things that all of us want to be able to do for our families without burdening them with us, who might end up needing some long-term care.

In saying all of that, I also want to say that I am a little concerned that we did not look at a bill that the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from North Dakota (Mr. POMEROY) and myself have worked on, which was H.R. 831 which, quite frankly, I think does a little bit more and would improve the Hayworth bill.

First of all, it would, in fact, look at instead of the deduction by 2012, we could have actually looked at maybe a possibility of bringing to a 100 percent tax deductible, and particularly for those people at 50 years old, because we need to be encouraging them to buy this. That would have been an excellent place, I think, for us to begin.

The other area, for those that have chosen to keep a loved one at home and that have to take off from work or need to provide somebody to come in to give them the tax credit, I think ours was a little bit more generous with that.

But I would say that I would like to thank the gentleman from Arizona (Mr. HAYWORTH) and others for taking our suggestions during the markup, because we had worked so hard on this piece of legislation that we also knew that there needed to be consumer protections, which in my understanding now has been added to this particular piece of legislation. These consumer protection provisions would apply to all people purchasing long-term care insurance policies, which is good and, among other things, these protections help to keep people from losing their policies. That is big, because we have seen over the course of the last couple of years that we have out-priced policies, that there were no consumer protections. So by adding in this protection, we hope that it will help them from losing their policies and being out-priced in the market or, just at the time that folks might need this, all of a sudden their premiums jump so high that they have the inability to pay for it, so all of the time they have been purchasing this, they no longer have use of it because they cannot pay the premium.

I think that the gentleman from North Dakota (Mr. POMEROY), because of his background, will talk more about, I hope I am right, on some of the issues that he has dealt with on suitability standards that he has so much knowledge about and has worked with for so many years in his own State of North Dakota.

While I would say that I do not think the Hayworth bill is perfect, I do think it gives us a first step to bringing down the cost of long-term care insurance for people, but I hope that we can look at the other bills that are out there.

Mr. HAYWORTH. Mr. Speaker, I yield myself 30 seconds to thank the gentlewoman for her well-intentioned critique and also the work that she has done on a bipartisan basis with the gentlewoman from Connecticut (Mrs. JOHNSON).

A couple of points I would make, first of all, based on some of the work we did in committee. Just to amplify again, we included in this legislation the consumer protections. The language is directly from the bipartisan bill H.R. 831, just to amplify that fact, so we tried to work in a constructive way, and we will continue to work in that constructive fashion. Given the budget parameters that we face, the bill advocated by the gentlewoman from Florida is six times the cost of this bill, so while this bill is a first step, it fits into some budgetary parameters and realities in which we had to deal.

Mr. HAYWORTH. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY) to discuss another important provision of this legislation.

Mr. BRADY of Texas. Mr. Speaker, I rise today in support of H.R. 4946. I want to commend the gentleman from Arizona (Mr. HAYWORTH) from the Committee on Ways and Means for introducing this very important legislation.

This will provide immediate tax relief to assist individuals in getting, and in keeping, long-term health care for themselves, for their parents, and for their dependents. I am pleased, too, that this bill incorporates legislation that I introduced, the Orphan Drug Tax Credit Act of 2001.

Orphan drugs are drugs that address rare diseases, those which do not have large populations, but that are very serious. The act has really worked well getting these new drugs to the marketplace, but a glitch has developed that we want to correct. Delays in the designation process unfortunately stop drugs for about 6 months to a year from coming to the market, and that means we are not able to help the approximately 20 million Americans who suffer from more than 5,000 different rare diseases such as Lou Gehrig's, cerebral palsy, cystic fibrosis, pulmonary hypertension, and Huntington's disease, for example. This legislation merely removes that timing problem, and allows the tax credit to be taken from the time they apply.

Our goal here is to get more of these drugs and therapies into the hands of patients in a safe and quick and more affordable manner. We do that by eliminating unnecessary delays and costs, encouraging biotechnology and pharmaceutical companies to research, to develop, and to manufacture these drugs, even though the market for them may be relatively small. Without continued research into orphan drugs, people with rare diseases will not see the medical breakthroughs the patients with more common diseases may enjoy.

Mr. Speaker, I support this legislation. It is endorsed by the Biotechnology Institute and a number of patient groups with the rare diseases. I appreciate the leadership of the gentleman from Arizona (Mr. HAYWORTH) and the Committee on Ways and Means in bringing this legislation forward.

Mr. STARK. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time. I applaud the gentleman from Arizona (Mr. HAYWORTH) for his attention to the issue of long-term care. There is no doubt we need to do something about this issue.

Currently, some 5.2 million Americans over the age of 65 and 4.6 million Americans under the age of 65 need assistance with daily activities. The increased life expectancy of the baby boomer generation will increase this need for long-term care. A man aged 65 today can expect to live another 15 years, and a woman aged 65 can expect to live another 19 years.

But the cost of long-term care insurance can be prohibitive. The cost of long-term care insurance varies dramatically, according to the age of the consumer. On average, a basic plan premium can cost a 50-year-old $385 annually; $1,007 annually for a 65-year old; $4,100 for a 79-year old, if they can find the coverage.

Now, some of us worked to begin this approach at trying to tax and encourage long-term care insurance and, under HIPAA, individuals can deduct long-term care premiums, but only if the taxpayer itemizes deductions and that medical cost that exceeds 7.5 percent of adjusted gross income.

We had sought in a bipartisan way to expand upon this with H.R. 831, creating an above-the-line deduction for long-term care. I joined the gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from Louisiana (Mr. MCCRERY), and the gentlewoman from Florida (Mrs. THURMAN) in sponsoring that legislation. I am very disappointed that budget constraints do not allow us to move on that legislation, because I believe that would have been much more significant in providing relief to those that accept the responsibility to insure themselves against the cost of long-term care.

The bill before us does not do a lot. I do not mean in any way to impugn the dedication of the sponsor to this topic. It is a feature of budget. But I used to prosecute insurance agents as insurance commissioner that overstated what they had in the policy, and to make it absolutely clear that we are not overstating on this legislation, I want to spell out what the bill does and does not do.

Well, it gradually phases in a personal exemption for caregivers and for long-term care insurance, but it is phased in very slowly and, when fully phased in, does not produce a lot of benefit. The Center on Budget and Policy Priorities estimates that at full implementation in the year 2012, most eligible taxpayers will defray no more than 5 to 7.5 cents of each dollar spent out of pocket for coverage. While it is phasing into the years 2003 and 2005, you have 2.5 cents per dollar to 3.75 cents per dollar incentive. We are not going to achieve much in terms of generating new interest in the market for long-term care insurance with this very de minimis new incentive.

Now, I am pleased that the sponsor of the legislation did incorporate the consumer protection standards that have been developed by State insurance regulators. I chaired the first National Association of Insurance Commissioners Committee to develop these minimum standards, and they have been enhanced over the years. I am particularly concerned about suitability and that these policies not be sold to people that may have very modest amounts of income and are actually relatively near Medicaid eligibility. These individuals historically have been shown not to be able to keep their coverage in force, lapse their coverage, and basically end up poorer than when they started with nothing held by way of protection for long-term care expenses.

I also take some criticism of the way the personal exemption for at-home care has been provided. In our initial legislation, we had sought a tax credit for long-term care for at-home cost of providing care. The tax exemption as figured in this legislation means the more you have by way of resources, the more you have by way of taxable income, the more you get back by way of benefit.

□ 1230

Well, the costs of providing care actually hit harder on those that do not have the income. It is more manageable by those that do have the income. So it is not sound policy to construct a benefit that gives a lot more benefit to those with income and a lot less benefit to those without. Those without income, those without resources yet struggling to provide the care to a loved one in their home need more help, and this is exactly the wrong approach.

I have struggled with whether to support this bill or not. I do not know whether it is a baby step forward, in which case I would vote for it, or a side track, basically diverting the political pressure for doing more on incenting long-term care insurance or a side track down the road to nowhere. In the end I decided to say, very marginally worthwhile baby step, and I will vote for it without much enthusiasm.

Mr. HAYWORTH. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, talk about faint praise. It is interesting to hear my colleague from North Dakota. Let me address, amidst all the rhetoric, a couple of concerns because it bears amplification in a bipartisan way, mindful of the gentleman's experience in the insurance industry. Precisely because of the concerns he shared with this body on suitability, precisely because of some of the challenges confronted, we specifically added the consumer protections offered in the Johnson bill. Specifically, section 24 of model regulation that deals precisely with the question of suitability.

Now, undergirding all of this is the notion, Mr. Speaker, that the House has already put in place an incremental approach to long-term health care policy and insurance. One of the challenges we confront in a legislative body in a very real way is how to capture the ideal and move something that is real. With carte blanche, with a blank check certainly we could have embraced a bill six times more costly; and I champion the provisions, but the challenge we face is fitting this in to budget parameters. Again, the question comes up, who will this benefit?

I would point out that a married couple filing jointly would find the economics of this to be between $40,000 and $80,000 a year. Not an inconsiderable sum.

Mr. Speaker, we all know of families who fit within those parameters. I shared in committee my aunt and uncle, my cousin with Down syndrome. They fit precisely into this frame work. So I do not think we get anywhere by characterizing side steps, small steps. The fact is, Mr. Speaker, we will take a positive step forward with approval of this legislation.

Mr. STARK. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from California (Mr. STARK) has 2½ minutes remaining. The gentleman from Arizona (Mr. HAYWORTH) has 7 minutes remaining.

Mr. STARK. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Speaker, let me thank the gentleman from California (Mr. STARK) for recognizing me for a short time.

This bill was before the Committee on Ways and Means a short time ago. And after listening to the debate, I come down on the same side as my colleague from Florida (Mrs. THURMAN), who indicates that the long-term care insurance is something that I think we should not only consider but also encourage. We find that the population in the country is living longer. We also find that long-term care is something that many people are going to be in need of, and so to encourage people today where they can get a premium rate that is somewhat reasonable versus waiting until you are 55 or 60 years old is something this Congress should be involved in.

The other provision of the bill deals with the personal exemption to those who provide home care to dependents. Again, we should thank and encourage these people to stay home. The option is to put your relative in a nursing home or assisted living which will cost much more.

The thing I think is not a fatal flaw in the bill, but one is kind of like a turkey as referred to by the gentleman from California (Mr. STARK), that is the MSAs for Medicare+Choice. We tried this failed policy before with the general population. We found that the only people buying MSAs were doctors and attorneys; and to now subject the Medicare+Choice elderly to an MSA is ridiculous. They are the ones who need not only the Medicare program, a supplemental, but also a drug benefit.

It is not fatal. I will be supporting the bill, but it is bad policy.

Mr. STARK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I continue to suggest that this is a waste of money. Three and a half million or more people have long-term care, they will get no benefit from this. In its final year we will spend $561 million to get 100,000 people more in. That is a marginal benefit.

If we really wanted to have long-term care, we might redesign a Federal program much like Social Security that people would like, they could afford. It is a social insurance program; and as it is with MSAs and with Medicare+Choice, these are failed programs. They are not working. Companies that issue them are going broke. People are not signing up. Why we continue to beat these dead horses and waste good taxpayers' money year after year escapes me.

I would hope we could come back. We recognize that there is a problem. Let us solve it in a way that is more than campaign rhetoric. Let us solve it with a program that does the job for all Americans regardless of their income, and then we can be proud of our work.

Mr. Speaker, I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank you for this debate; and it does point up some basic differences that exist between the gentleman from California (Mr. STARK) and many of us on the majority side. It is interesting to hear the call for nationalized insurance, and certainly that is one philosophical point of view that one can offer here.

I think it is important not to lose sight of our goal. Indeed, this House has acted in incremental fashion before to put in place long-term care insurance. Indeed, already close to 5.5 million Americans have these policies. We expect them to grow in short time to 11.5 million Americans. That is a significant portion of our population. And we need to offer an opportunity for this to grow even larger because the question comes, who will be responsible as our society continues to age? Will we see up to 75 percent of funds coming into the government dealing with questions of health and old age for the American populace? Or commensurate with our national heritage and our primary philosophy in this country, does it not make sense to provide for self-sufficiency? The challenge has been noted. Budgetary restraints have kept us from the ideal, but we deal with the real here today.

While we thank those who, on a bipartisan basis, have offered a long-term care model, this legislation is substantially less in cost, but can have a pronounced impact for working Americans in need of relief of long-term care and the ability to take advantage of these policies. Mindful of the critiques offered in committee, we reached out in this legislation incorporating the consumer protection language offered in a previous bill, in H.R. 831, and so we have been mindful of that and we will continue to work where we have the ability to expand this further as we deal with what may be contemplated in the other body. But, again, this is an important step. This House dare not ignore this or spurn this because we will send the wrong message to the American people if we choose to do this.

So, Mr. Speaker, I invite you to join me in bipartisan support of H.R. 4946; and with this long-term care bill, we can take another important step forward.

**Mr. BENTSEN.** Mr. Speaker, I rise today in strong support of H.R. 4946, Improving Access to Long Term Care Act. As an original cosponsor of similar legislation, I am pleased that the House of Representatives is today considering legislation to improve the lives of long term care patients and their families.

Under this bill, individuals would be permitted to deduct a percentage of their long term care expenses depending on their income. This income tax deduction would be available for both individuals and married couples. Under this bill, individuals and married couples could deduct an above-the-line deduction of 25 percent beginning in 2003. This deduction would increase to 50 percent of the cost of these plans by 2011. In order to protect taxpayers, this tax deduction is limited to moderate and low income families. The deduction would be available for those individual taxpayers whose adjusted gross income is between $20,000 and $40,000 and the deduction would be available for married couples whose adjusted gross income is between $40,000 and $80,000 annually. The value of the deduction would be indexed for inflation so that as the cost of these premiums increase, the deduction would also increase. The Joint Committee on Taxation has estimated that this provision will cost $648 million over five years.

I strongly believe that we must provide incentives to encourage all Americans to purchase long term care insurance plans. Under current law, both individuals and married couples can deduct the cost of these premiums from their adjusted gross income if these expenses exceed 7.5 percent of adjusted gross income. As a result of this limitation, many Americans do not currently purchase these insurance plans. With the average cost of at least $50,000 per year for long term care services, many Americans are not financially prepared to pay for the cost of the long term care services. As the number of Americans who are reaching retirement age climbs, there will be more need to provide such coverage. In addition, it is better to encourage Americans to purchase long term care plans when they are healthy and younger. Because long term insurance plan premiums are risk-based, it is better to encourage individuals and families to purchase such insurance when their premiums are more affordable.

Another important provision in this measure would provide a new personal tax exemption for home care givers of long term care patients. In a time when many families make personal sacrifices in order to keep their loved ones at home, we should be helping these families to cope with the financial burden for such home-based care. Under the bill, a taxpayer who is a care giver for a loved one would be eligible for a personal tax exemption of $500 beginning in 2003 and increasing by $500 every two years until it reaches $2000 in 2010. This tax exemption would be available for individuals whose adjusted gross income is less than $137,300 and would be available for married couples whose adjusted gross income is less than $206,000 annually. In order to encourage all Americans to use these exemptions, the cap of these exemptions would be repealed in 2010. The Joint Tax Committee estimates that this provision will save families $787 million over five years. It is my hope that this exemption will help many caregivers who choose to care for their families in their own homes, rather than the more expensive institution-based care of nursing homes and long term facilities.

I believe we must encourage families to purchase long term care insurance. Without such incentives, the federal government will face a crisis in the future as more Americans need long term care services. This bill is an important first step in our effort to making long term care insurance plans more affordable and accessible.

**Mr. SPRATT.** Mr. Speaker, few would question the goals of H.R. 4946. Most of us see the need to provide assistance to those burdened by the costs of long-term care. However, once again we are approaching an issue with fiscal impact in a vacuum, without a plan to guide us.

Republicans claim that this bill is consistent with their budget resolution, because the resolution provided for some tax relief. But the House has already adopted tax bills totaling $43.145 billion through fiscal year 2007. The 2003 budget resolution provided for only $27.853 billion over five years. Attached is a table compiled by the House Budget Committee Democratic staff that documents these figures.

There is no room for these tax cuts under the fiscal plan that is supposed to be our guide. Either these tax cuts are not real, and we are passing tax bills that will never become law; or the 2003 House Republican budget is not real, and we are about to tax cut our way even deeper into deficit, and spend even more of the Social Security Trust Fund surplus.

We continue to consider legislation without any coherent Republican budget plan. The Republicans claim that their budget provides tight fiscal management. But then the Republican leadership again and again schedules legislation that violates their own budget.

Mr. Speaker, as we speak, we are sliding deep into deficit. It is time for all of us to sit down together and hammer out a real budget that saves Social Security, pays down the debt, and protects national priorities.

COSTS OF TAX BILLS PASSED BY THE HOUSE THUS FAR

| Title | 2002–2007 | 2002–2012 | Bill No. | Status |
|---|---|---|---|---|
| Clergy Housing Clarification Act | −0.007 | −0.033 | H.R. 4156 | Enacted into Law. |
| Energy Tax Policy Act | 22.759 | 33.521 | H.R. 4 | Passed the House. |
| Encouraging Work and Supporting Marriage Act | 0.907 | 0.908 | H.R. 4626 | Passed the House. |
| Expansion of Adoption Benefits | 0.000 | 0.401 | H.R. 4800 | Passed the House. |
| Holocaust Restitution Tax Fairness Act | 0.000 | 0.003 | H.R. 4823 | Passed the House. |
| Marriage Penalty Tax Bill | 0.000 | 42.000 | H.R. 4019 | Passed the House. |
| Retirement Savings Security Act | 0.000 | 6.105 | H.R. 4931 | Passed the House. |
| Armed Forces Tax Fairness Act | 0.069 | 0.156 | H.R. 5063 | Passed the House. |
| Pension Security Act | 10.440 | 24.615 | H.R. 3762 | Passed the House. |
| Tax Relief Guarantee Act | 8.977 | 373.712 | H.R. 586 | Passed the House. |
| Grand total | 43.145 | 481.388 | | |
| Concurrent Resolution on the Budget | 27.853 | N.A. | H. Con. Res. 353 | |
| Available | −15.292 | −481.388 | | |
| Improving Access to Long-Term Care Act | 1.501 | 5.487 | H.R. 4946 | On the Floor. |

Mr. SHAYS. Mr. Speaker, I rise in strong support of H.R. 4946, the Improving Access to Long-Term Care Act.

H.R. 4946 phases in tax deductions for individuals who pay 50 percent of their long-term care costs. The deduction can be used for the taxpayer, a spouse or a dependent. The challenge of caring for a loved one over years and, in some cases, decades can literally break families apart and exhaust a lifetime of savings. Many families do not use private long-term care insurance to help protect against financial and emotional strain. I am a strong advocate for making private long-term care more affordable and support providing incentives—including tax deductions—for the purchase of private long-term care insurance.

Under the current system Medicare doesn't pay for long term care and seniors are forced to "spend down" their assets to qualify for Medicaid, which provides $33 billion in long term care services each year. This has serious financial repercussions for retirees and taxpayers who pay for long term care assistance through public programs.

As the Baby Boom generation retires, the financial burden will consume more of the public resources. In the coming decade, people over age 65 will represent up to 20 percent or more of the population, and the proportion of the population composed of individuals who are over age 85, who are most likely to be in need of long-term care, may double or triple.

I urge my colleagues to vote for this crucial legislation.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 4946, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HAYWORTH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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### GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4946, the bill just debated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

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### NATIONAL AVIATION CAPACITY EXPANSION ACT OF 2002

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3479) to expand aviation capacity in the Chicago area, as amended.

The Clerk read as follows:

H.R. 3479

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I—NATIONAL AVIATION CAPACITY EXPANSION

**SEC. 101. SHORT TITLE.**

This title may be cited as the "National Aviation Capacity Expansion Act of 2002".

**SEC. 102. FINDINGS.**

Congress finds the following:

(1) O'Hare International Airport consistently ranks as the Nation's first or second busiest airport with nearly 34,000,000 annual passengers enplanements, almost all of whom travel in inter-state or foreign commerce. The Federal Aviation Administration's most recent data, compiled in the Airport Capacity Benchmark Report 2001, projects demand at O'Hare to grow by 18 percent over the next decade. O'Hare handles 72,100,000 passengers annually, compared with 64,600,000 at London Heathrow International Airport, Europe's busiest airport, and 36,700,000 at Kimpo International Airport, Korea's busiest airport, 7,400,000 at Narita International Airport, Japan's busiest airport, 23,700,000 at Kingsford-Smith International Airport, Australia's busiest airport, and 6,200,000 at Ezeiza International Airport, Argentina's busiest airport, as well as South America's busiest airport.

(2) The Airport Capacity Benchmark Report 2001 ranks O'Hare as the third most delayed airport in the United States. Overall, slightly more than 6 percent of all flights at O'Hare are delayed significantly (more than 15 minutes). On good weather days, scheduled traffic is at or above capacity for 3½ hours of the day with about 2 percent of flights at O'Hare delayed significantly. In adverse weather, capacity is lower and scheduled traffic exceeds capacity for 8 hours of the day, with about 12 percent of the flights delayed.

(3) The city of Chicago, Illinois, which owns and operates O'Hare, has been unable to pursue projects to increase the operating capability of O'Hare runways and thereby reduce delays because the city of Chicago and the State of Illinois have been unable for more than 20 years to agree on a plan for runway reconfiguration and development. State law states that such projects at O'Hare require State approval.

(4) On December 5, 2001, the Governor of Illinois and the Mayor of Chicago reached an agreement to allow the city to go forward with a proposed capacity enhancement project for O'Hare which involves redesign of the airport's runway configuration.

(5) In furtherance of such agreement, the city, with approval of the State, applied for and received a master-planning grant from the Federal Aviation Administration for the capacity enhancement project.

(6) The agreement between the city and the State is not binding on future Governors of Illinois.

(7) Future Governors of Illinois could stop the O'Hare capacity enhancement project by refusing to issue a certificate required for such project under the Illinois Aeronautics Act, or by refusing to submit airport improvement grant requests for the project, or by improperly administering the State implementation plan process under the Clean Air Act (42 U.S.C. 7401 et seq.) to prevent construction and operation of the project.

(8) The city of Chicago is unwilling to continue to go forward with the project without assurance that future Governors of Illinois will not be able to stop the project, thereby endangering the value of the investment of city and Federal resources in the project.

(9) Because of the importance of O'Hare to the national air transportation system and the growing congestion at the airport and because of the expenditure of Federal funds for a master-planning grant for expansion of capacity at O'Hare, it is important to the national air transportation system, interstate commerce, and the efficient expenditure of Federal funds, that the city of Chicago's proposals to the Federal Aviation Administration have an opportunity to be considered for Federal approval and possible funding, that the city's requests for changes to the State implementation plan to allow such projects not be denied arbitrarily, and that, if the Federal Aviation Administration approves the project and funding for a portion of its cost, the city can implement and use the project.

(10) Any application submitted by the city of Chicago for expansion of O'Hare should be evaluated by the Federal Aviation Administration and other Federal agencies under all applicable Federal laws and regulations and should be approved only if the application meets all requirements imposed by such laws and regulations.

(11) As part of the agreement between the city and the State allowing the city to submit an application for improvement of O'Hare, there has been an agreement for the continued operation of Merrill C. Meigs Field by the city, and it has also been agreed that, if the city does not follow the agreement on Meigs Field, Federal airport improvement program funds should be withheld from the city for O'Hare.

(12) To facilitate implementation of the agreement allowing the city to submit an application for O'Hare, it is desirable to require by law that Federal airport improvement program funds for O'Hare be administered to require continued operation of Merrill C. Meigs Field by the city, as proposed in the agreement.

(13) To facilitate implementation of the agreement allowing the city to submit an application for O'Hare, it is desirable to enact into law provisions of the agreement relating to noise and public roadway access. These provisions are not inconsistent with Federal law.

(14) If the Federal Aviation Administration approves an airport layout plan for O'Hare directly related to the agreement reached on December 5, 2001, such approvals will constitute an action of the United States under Federal law and will be an important first step in the process by which the Government could decide that these plans should receive Federal assistance under chapter 471 of title 49, United States Code, relating to airport development.

(15) The agreement between the State of Illinois and the city of Chicago includes agreement that the construction of an airport in Peotone, Illinois, would be proposed by the State to the Federal Aviation Administration. Like the O'Hare expansion proposal, the Peotone proposal should receive full consideration by the Federal Aviation Administration under standard procedures for approving and funding an airport improvement project, including all applicable safety, utility and efficiency, and environmental review.

(16) Gary/Chicago Airport in Gary, Indiana, and the Greater Rockford Airport, Illinois,

may alleviate congestion and provide additional capacity in the greater Chicago metropolitan region. Like the O'Hare airport expansion proposal, expansion efforts by Gary/Chicago and Greater Rockford airports should receive full consideration by the Federal Aviation Administration under standard procedures for approving and funding an airport capacity improvement project, including all applicable safety, utility and efficiency, and environmental reviews.

**SEC. 103. STATE, CITY, AND FAA AUTHORITY.**

(a) PROHIBITION.—In furtherance of the purpose of this Act to achieve significant air transportation benefits for interstate and foreign commerce, if the Federal Aviation Administration makes, or at any time after December 5, 2001 has made, a grant to the city of Chicago, Illinois, with the approval of the State of Illinois for planning or construction of runway improvements at O'Hare International Airport, the State of Illinois, and any instrumentality or political subdivision of the State, are prohibited from exercising authority under sections 38.01, 47, and 48 of the Illinois Aeronautics Act (620 ILCS5/) to prevent, or have the effect of preventing—

(1) further consideration by the Federal Aviation Administration of an O'Hare airport layout plan directly related to the agreement reached by the State and the city on December 5, 2001, with respect to O'Hare;

(2) construction of projects approved by the Administration in such O'Hare airport layout plan; or

(3) application by the city of Chicago for Federal airport improvement program funding for projects approved by the Administration and shown on such O'Hare airport layout plan.

(b) APPLICATIONS FOR FEDERAL FUNDING.—Notwithstanding any other provision of law, the city of Chicago is authorized to submit directly to the Federal Aviation Administration without the approval of the State of Illinois, applications for Federal airport improvement program funding for planning and construction of a project shown on an O'Hare airport layout plan directly related to the agreement reached on December 5, 2001, and to accept, receive, and disburse such funds without the approval of the State of Illinois.

(c) LIMITATION.—If the Federal Aviation Administration determines that an O'Hare airport layout plan directly related to the agreement reached on December 5, 2001, will not be approved by the Administration, subsections (a) and (b) of this section shall expire and be of no further effect on the date of such determination.

(d) WESTERN PUBLIC ROADWAY ACCESS.—As provided in the December 5, 2001, agreement referred to in subsection (a), the Administrator of the Federal Aviation Administration shall not consider an airport layout plan submitted by the city of Chicago that includes the runway redesign plan, unless the airport layout plan includes public roadway access through the existing western boundary of O'Hare to passenger terminal and parking facilities located inside the boundary of O'Hare and reasonably accessible to such western access. Approval of western public roadway access shall be subject to the condition that the cost of construction be paid for from airport revenues consistent with Administration revenue use requirements.

(e) NOISE MITIGATION.—As provided in the December 5, 2001, agreement referred to in subsection (a), the following apply:

(1) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall require the city of Chicago to offer acoustical treatment of all single-family houses and schools located within the 65 DNL noise contour for each construction phase of the runway redesign plan, subject to Administration guidelines and specifications of general applicability. The Administrator may not approve the runway redesign plan unless the city provides the Administrator with information sufficient to demonstrate that the acoustical treatment required by this paragraph is feasible.

(2)(A) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall be subject to the condition that noise impact of aircraft operations at O'Hare in the calendar year immediately following the year in which the first new runway is first used and in each calendar year thereafter will be less than the noise impact in calendar year 2000.

(B) The Administrator shall make the determination described in subparagraph (A)—

(i) using, to the extent practicable, the procedures specified in part 150 of title 14, Code of Federal Regulations;

(ii) using the same method for calendar year 2000 and for each forecast year; and

(iii) by determining noise impact solely in terms of the aggregate number of square miles and the aggregate number of single-family houses and schools exposed to 65 or greater decibels using the DNL metric, including only single-family houses and schools in existence on the last day of calendar year 2000. The Administrator shall make such determination based on information provided by the city of Chicago, which shall be independently verified by the Administrator.

(C) The conditions described in this subsection shall be enforceable exclusively through the submission and approval of a noise compatibility plan under part 150 of title 14, Code of Federal Regulations. The noise compatibility plan submitted by the city of Chicago shall provide for compliance with this subsection. The Administrator shall approve measures sufficient for compliance with this subsection in accordance with procedures under such part 150. The United States shall have no financial responsibility or liability if operations at O'Hare in any year do not satisfy the conditions in this subsection.

(f) REPORT TO CONGRESS.—If the runway redesign plan described in this section has not received all Federal, State, and local permits and approvals necessary to begin construction by December 31, 2004, the Administrator shall submit a status report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives within 120 days of such date identifying each permit and approval necessary for the project and the status of each such action.

(g) JUDICIAL REVIEW.— An order issued by the Administrator, in whole or in part, under this section shall be deemed to be an order issued under part A of subtitle VII of title 49, United States Code, and shall be reviewed in accordance with the procedure in section 46110 of such title.

(h) DEFINITION.—In this section, the terms "airport layout plan directly related to the agreement reached on December 5, 2001" and "such airport layout plan" mean a plan that shows—

(1) 6 parallel runways at O'Hare oriented in the east-west direction with the capability for 4 simultaneous independent visual aircraft arrivals in both directions, and all associated taxiways, navigational facilities, and other related facilities; and

(2) closure of existing runways 14L–32R, 14R–32L and 18–36 at O'Hare.

**SEC. 104. CLEAN AIR ACT.**

(a) IMPLEMENTATION PLAN.—An implementation plan shall be prepared by the State of Illinois under the Clean Air Act (42 U.S.C. 7401 et seq.) in accordance with the State's customary practices for accounting for and regulating emissions associated with activity at commercial service airports. The State shall not deviate from its customary practices under the Clean Air Act for the purpose of interfering with the construction of a runway pursuant to the redesign plan or the south surburban airport. At the request of the Administrator of the Federal Aviation Administration, the Administrator of the Environmental Protection Agency shall, in consultation with the Administrator of the Federal Aviation Administration, determine that the foregoing condition has been satisfied before approving an implementation plan. Nothing in this section shall be construed to affect the obligations of the State under section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)).

(b) LIMITATION ON APPROVAL.—The Administrator of the Federal Aviation Administration shall not approve the runway redesign plan unless the Administrator of the Federal Aviation Administration determines that the construction and operation will include, to the maximum extent feasible, the best management practices then reasonably available to and used by operators of commercial service airports to mitigate emissions regulated under the implementation plan.

**SEC. 105. MERRILL C. MEIGS FIELD.**

The State of Illinois and the city of Chicago, Illinois, have agreed to the following:

(1) Until January 1, 2026, the Administrator of the Federal Aviation Administration shall withhold all Federal airport grant funds respecting O'Hare International Airport, other than grants involving national security and safety, unless the Administrator is reasonably satisfied that the following conditions have been met:

(A) Merrill C. Meigs Field in Chicago either is being operated by the city of Chicago as an airport or has been closed by the Administration for reasons beyond the city's control.

(B) The city of Chicago is providing, at its own expense, all off-airport roads and other access, services, equipment, and other personal property that the city provided in connection with the operation of Meigs Field on and prior to December 1, 2001.

(C) The city of Chicago is operating Meigs Field, at its own expense, at all times as a public airport in good condition and repair open to all users capable of utilizing the airport and is maintaining the airport for such public operations at least from 6:00 A.M. to 10:00 P.M. 7 days a week whenever weather conditions permit.

(D) The city of Chicago is providing or causing its agents or independent contractors to provide all services (including police and fire protection services) provided or offered at Meigs Field on or immediately prior to December 1, 2001, including tie-down, terminal, refueling, and repair services, at rates that reflect actual costs of providing such goods and services.

(2) If Meigs Field is closed by the Administration for reasons beyond the city of Chicago's control, the conditions described in subparagraphs (B) through (D) of paragraph (1) shall not apply.

(3) After January 1, 2006, the Administrator shall not withhold Federal airport grant funds to the extent the Administrator determines that withholding of such funds would create an unreasonable burden on interstate commerce.

(4) The Administrator shall not enforce the conditions listed in paragraph (1) if the State of Illinois enacts a law on or after January 1, 2006, authorizing the closure of Meigs Field.

(5) Net operating losses resulting from operation of Meigs Field, to the extent consistent with law, are expected to be paid by the 2 air carriers at O'Hare International Airport that paid the highest amount of airport fees and charges at O'Hare International Airport for the preceding calendar year. Notwithstanding any other provision of law, the city of Chicago may use airport revenues generated at O'Hare International Airport to fund the operation of Meigs Field.

**SEC. 106. APPLICATION WITH EXISTING LAW.**

Nothing in this Act shall give any priority to or affect availability or amounts of funds under chapter 471 of title 49, United States Code, to pay the costs of O'Hare International Airport, improvements shown on an airport layout plan directly related to the agreement reached by the State of Illinois and the city of Chicago, Illinois, on December 5, 2001.

**SEC. 107. SENSE OF CONGRESS ON QUIET AIRCRAFT TECHNOLOGY RESEARCH AND DEVELOPMENT.**

It is the sense of the Congress that the Office of Environment and Energy of the Federal Aviation Administration should be funded to carry out noise mitigation programming and quiet aircraft technology research and development at a level of $37,000,000 for fiscal year 2004 and $47,000,000 for fiscal year 2005.

## TITLE II—AIRPORT STREAMLINING APPROVAL PROCESS

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Airport Streamlining Approval Process Act of 2002".

**SEC. 202. FINDINGS.**

Congress finds that—

(1) airports play a major role in interstate and foreign commerce;

(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

**SEC. 203. PROMOTION OF NEW RUNWAYS.**

Section 40104 of title 49, United States Code, is amended by adding at the end the following:

"(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47179.".

**SEC. 204. AIRPORT PROJECT STREAMLINING.**

(a) IN GENERAL.—Chapter 471 of title 49, United States Code, is amended by inserting after section 47153 the following:

"SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

**"§ 47171. DOT as lead agency**

"(a) AIRPORT PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement a coordinated review process for airport capacity enhancement projects at congested airports.

"(b) COORDINATED REVIEWS.—The coordinated review process under this section shall provide that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for an airport capacity enhancement project at a congested airport will be conducted concurrently, to the maximum extent practicable, and completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (c) with respect to the project.

"(c) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport, the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

"(d) STATE AUTHORITY.—If a coordinated review process is being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

"(e) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (c) with respect to the project and the airport sponsor.

"(f) EFFECT OF FAILURE TO MEET DEADLINE.—

"(1) NOTIFICATION OF CONGRESS AND CEQ.—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (b) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

"(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, license, or approval.

"(g) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section with respect to an airport capacity enhancement project at a congested airport and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

"(h) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport. Any other Federal or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

"(i) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (g) and (h), the Secretary shall solicit and consider comments from interested persons and governmental entities.

**"§ 47172. Categorical exclusions**

"Not later than 120 days after the date of enactment of this section, the Secretary of Transportation shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports.

**"§ 47173. Access restrictions to ease construction**

"At the request of an airport sponsor for a congested airport, the Secretary of Transportation may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that imposition of the restriction—

"(1) is necessary to mitigate those impacts and expedite construction of the runway;

"(2) is the most appropriate and a cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs associated with the restriction; and

"(3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

**"§ 47174. Airport revenue to pay for mitigation**

"(a) IN GENERAL.—Notwithstanding section 47107(b), section 47133, or any other provision of this title, the Secretary of Transportation may allow an airport sponsor carrying out an airport capacity enhancement project at a congested airport to make payments, out of revenues generated at the airport (including local taxes on aviation fuel), for measures to mitigate the environmental impacts of the project if the Secretary finds that—

"(1) the mitigation measures are included as part of, or are consistent with, the preferred alternative for the project in the documentation prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and

"(3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

"(b) MITIGATION OF AIRCRAFT NOISE.—Mitigation measures described in subsection (a) may include the insulation of residential buildings and buildings used primarily for educational or medical purposes to mitigate the effects of aircraft noise and the improvement of such buildings as required for the insulation of the buildings under local building codes.

**"§ 47175. Airport funding of FAA staff**

"(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

"(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

"(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

"(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

"(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

"(3) shall remain available until expended.

"(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002, excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862), for the activities described in subsection (a).

**"§ 47176. Authorization of appropriations**

"In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $2,100,000 for fiscal year 2003 and $4,200,000 for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

**"§ 47177. Judicial review**

"(a) FILING AND VENUE.—A person disclosing a substantial interest in an order issued by the Secretary of Transportation or the head of any other Federal agency under this part or a person or agency relying on any determination made under this part may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

"(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the head of any other Federal agency involved. The Secretary or the head of such other agency shall file with the court a record of any proceeding in which the order was issued.

"(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the head of any other Federal agency involved, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the head of such other agency to conduct further proceedings. After reasonable notice to the Secretary or the head of such other agency, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the head of such other agency are conclusive if supported by substantial evidence.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing an order of the Secretary or the head of any other Federal agency under this section, the court may consider an objection to the action of the Secretary or the head of such other agency only if the objection was made in the proceeding conducted by the Secretary or the head of such other agency or if there was a reasonable ground for not making the objection in the proceeding.

"(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

"(f) ORDER DEFINED.—In this section, the term 'order' includes a record of decision or a finding of no significant impact.

**"§ 47178. Definitions**

"In this subchapter, the following definitions apply:

"(1) AIRPORT SPONSOR.—The term 'airport sponsor' has the meaning given the term 'sponsor' under section 47102.

"(2) CONGESTED AIRPORT.—The term 'congested airport' means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2001.

"(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term 'airport capacity enhancement project' means—

"(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

"(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 of such title is amended by adding at the end the following:

"SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

"47171. DOT as lead agency.
"47172. Categorical exclusions.
"47173. Access restrictions to ease construction.
"47174. Airport revenue to pay for mitigation.
"47175. Airport funding of FAA staff.
"47176. Authorization of appropriations.
"47177. Judicial review.
"47178. Definitions.".

**SEC. 205. GOVERNOR'S CERTIFICATE.**

Section 47106(c) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A)(ii);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(2) in paragraph (2)(A) by striking "stage 2" and inserting "stage 3";

(3) by striking paragraph (4); and

(4) by redesignating paragraph (5) as paragraph (4).

**SEC. 206. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.**

Section 47504(c)(2) of title 49, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following:

"(E) to an airport operator of a congested airport (as defined in section 47178) and a unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47178) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.".

**SEC. 207. LIMITATIONS.**

Nothing in this Act, including any amendment made by this Act, shall preempt or interfere with—

(1) any practice of seeking public comment; and

(2) any power, jurisdiction, or authority of a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. LIPINSKI) each will control 20 minutes.

Mr. LIPINSKI. Mr. Speaker, I ask unanimous consent to yield the 20 minutes that is designated to me to the gentleman from Illinois (Mr. JACKSON), who is a true opponent of this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to rise in support of H.R. 3479, the National Aviation Capacity Enhancement Act. This legislation was introduced by the ranking Democrat of the Subcommittee on Aviation, the gentleman from Illinois (Mr. LIPINSKI).

This legislation codifies a long-sought agreement that was reached between the Governor of Illinois and the mayor of Chicago to address the critical aviation needs in the Chicago region. In December of 2001 after some 20 years of disagreement and in action, State and local leaders approved a plan to expand Chicago's O'Hare International Airport. The agreement also requires full FAA consideration of projects at regional reliever airports. These include the proposed South Suburban Airport in Peotone, and airports in Gary, Indiana, and Rockford, Illinois.

H.R. 3479 is not, as some have claimed, an attempt for the Federal Government to in any way usurp local decision-making authority. The State and local decision-makers in the greater Chicago region have come to an agreement. This bill ensures that the agreement in fact will be implemented, but only if all normal procedures for FAA approval are completed and Federal funding is received.

Federal approvals can take years. Title 2 of this legislation would help expedite that process. However, we do not want local leaders to change their minds while that process is in an ongoing situation and after having spent millions and millions of taxpayer dollars.

Why should Congress care or become involved in ensuring the viability of this important Chicago agreement? It is simple. Chicago O'Hare Airport is absolutely vital to our National aviation system and also to our interstate commerce and this Nation's economy.

O'Hare has consistently ranked as one of the world's busiest airports. It supports domestic hub operations for two major airlines, and over 70 million Americans a year and travelers use this facility.

☐ 1245

Even during the economic downturn and with the aftermath of the tragic events of September 11, aircraft activity at O'Hare was up slightly last year. Unfortunately, O'Hare continues to be one of the most congested and delayed airports in the country. If future congestion at O'Hare affected only the Chicago area, we might not need to stand here before all of Congress to address this issue. However, the congestion in Chicago, in O'Hare often closes down and causes serious delay in our aviation activity across the Nation.

This legislation does provide assurances needed to proceed with the much-needed projects at O'Hare, and again, it is the codification of local and State governments.

Some of our colleagues have raised questions regarding this legislation, even said it is unconstitutional or supersedes State law. That is not the case. However, the preemption language contained in this legislation is extremely limited and is tied to a decision by the FAA to fund the O'Hare project. The preemption of State law would expire immediately upon a decision by the Federal Aviation Administration not to fund the construction of the O'Hare Capacity Enhancement Project.

This legislation ensures that State law will not prevent the Federal Government from spending Federal funds the way the Federal Government intends they be spent. I would ask this body to remember State and local officials have already reached an agreement regarding Chicago's regional aviation projects, but the agreement is not binding on future administrations, and we are not going to go round in circles any longer on this. We have to look at the national interest.

Therefore, before committing to a $6 billion capacity enhancement project at O'Hare, and it can even be more at this airport, it is absolutely reasonable to seek assurance that the agreement will not be abandoned by future State or future debate on this issue. This bill simply codifies a local agreement that addresses regional and our national transportation needs.

This bill is good for interstate commerce. It is good for our economy, and it will protect our national interests, which is part of my responsibility. So, therefore, I support this legislation. I urge Members on all sides, regardless of their persuasion, to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. JACKSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

First, let me begin by thanking the gentleman from Florida (Mr. MICA), the chairman, and the gentleman from Florida (Mr. LIPINSKI), the ranking member, for their work on H.R. 3479. There are many reasons why I oppose H.R. 3479, none of which have anything to do with them personally. I want to share with my colleagues some reasons why they should be opposed to the National Aviation Capacity and Expansion Act.

Mr. Speaker, just a week ago, this House rejected by a small margin this measure. There are a number of bills that we could be considering before the Congress, including saving Social Security, Medicare and Medicaid. There are a number of important measures that could be on the suspension calendar, but what has changed in a week for a bill that was rejected one week ago to be brought back in such short order, back on the noncontroversial suspension calendar?

Mr. Speaker, this is a highly controversial bill. This should offend every House traditionalist and institutionalist. It violates the established processes set up by the House of Representatives, and even if my colleagues agree on the substance, they should be against the process.

H.R. 3479 should be a stand-alone bill that is fully debated before the House, with the possibility of adding amendments to improve this bill. It should not be on the suspension calendar. Many of my colleagues believe that they are voting to codify, as the gentleman from Florida (Mr. MICA) said an agreement between Mayor Daley and the governor of our State, Governor Ryan, but this bill, the House version of the bill, does not reflect that deal.

Their agreement promised priority status for a south suburban airport in Peotone and O'Hare expansion. While I do not support the O'Hare-designed plan that is articulated in the bill, and I do believe in O'Hare modernization, the idea that this bill provides for O'Hare expansion but does not, I repeat, does not, give priority status to Peotone, offends those of us who have been fighting at least for the last 16 years to make aviation capacity and to alleviate the crisis for our entire Nation, a reality for all Americans.

Both sides agree that there is a capacity crisis at O'Hare. The disagreement comes over how best to solve it. A new south suburban airport in Peotone offers a faster and cheaper and safer, a cleaner and more permanent solution. What do I mean? I mean that after O'Hare expansion is completed if air travel expands as projected, we will still be in the same capacity crisis that we are in today.

This is a 15-year construction project. So why spend more money, take longer, increase environmental problems, put the flying public at greater risk, support a temporary solution and increase the economic and racial divide in Chicago when there is a better way of resolving the current aviation capacity crisis?

O'Hare Airport is the economic magnet that provides jobs and economic security for Chicago's north side and northwest suburbs. Midway Airport, housed in the gentleman from Illinois' (Mr. LIPINSKI) district, is the economic magnet that provides jobs and economic security for Chicago's southwest side. There is no similar economic engine for Chicago's south side and south suburbs.

O'Hare expansion puts in 195,000 new jobs and $19 billion of economic activity in an area that already has an overabundance. For example, the biggest beneficiary of O'Hare is Elk Grove Village, a city of 35,000 people where over 100,000 people come to work every day. That is three jobs for every one person.

The greatest beneficiary of O'Hare, Mayor Craig Johnson of Elk Grove Village, is one of the biggest supporters of Peotone. By contrast, some communities in my district have 60 people for every one job.

Finally, it just so happens that the areas where O'Hare and Midway Airports are located are primarily where whites live. African Americans live primarily south and in the south suburbs, but African American families need economically stable families and communities that have a future and can send their children to college, too. We need greater economic balance in the Chicago metropolitan area so that all of the people have jobs and economic security.

The gentleman from Illinois (Mr. LIPINSKI) says that 15 environmental groups, including the Sierra Club, support the language in this bill. He, of course, is implying that they have endorsed it. The gentleman from Illinois (Mr. LIPINSKI) knows better. They have not endorsed it. I also asked the gentleman from Illinois (Mr. LIPINSKI) to supply me with the names of the other environmental groups who he says support the language in this bill, and he has failed to do so.

O'Hare is already the largest polluter in the Chicago area. Doubling the number of flights into the 7,000 acres that houses O'Hare means pollution levels will explode. A recent study found there was an excess of 800 new incidences of cancer each year, over and above what would be expected based on the State's average, in eight northeastern communities downwind of O'Hare. Peotone's 24,000 acre site has a built-in environmental safety zone.

Mr. Speaker, the O'Hare expansion plan is obviously anti-consumer. Two airlines, American and United, control 90 percent of the flights in and out of O'Hare. It is a duopoly, and due to a lack of competition, fares at O'Hare continue climbing at faster than the national average.

Mr. Speaker, I do want to address the constitutional issue before I reserve the balance of my time. The United States Supreme Court stated in Printz versus United States decision in 1997 that dual sovereignty is incontestable, to preemp State law, that is, the Illinois Aeronautics Act, and give power to the city of Chicago and the city of Chicago's ability to come directly to the Federal Government for the purposes of expanding O'Hare airport.

The Printz versus United States decision emphasized that that is a constitutional structural barrier to Congress intruding on a State's sovereignty, and this structural barrier could not be avoided by claiming that constitutional authority was, A, pursuant to the commerce power clause. We have heard the gentleman from Florida (Mr. MICA) talk about the number of jobs and the fact this is a factor in our economy. It will create 195,000 jobs, $19 billion in economic activity pursuant to the commerce power. According to Printz versus the United States these arguments are not available to the chairman of the committee.

The necessary and proper clause of the Constitution, we have heard there is an aviation capacity crisis, that this bill seeks to alleviate. According to the Printz versus the United States, Congress cannot use the necessary and proper clause argument as a basis for preempting State law.

Last but not least, Printz versus the United States said that the Federal law preempted State law under the Supremacy Clause, that Congress can use its power to solve impasses, that should be solved at the local level in the city of Chicago and in the State of Illinois.

In other words, Mr. Speaker, all of the arguments that we have heard, including the arguments of my good friend, the chairman, are all unconstitutional according to Printz versus the United States, and whether my colleagues agree with my constitutional interpretation or not, because there is a legitimate constitutional interpretive disagreement that is taking place, this can only be solved in Federal court, which means the idea of expanding aviation capacity in northern Illinois is likely to be tied up in the Federal courts for a number of years, and therefore, we will not be expanding aviation capacity as the chairman and as the ranking member seek to do.

Therefore, Mr. Speaker, I urge my colleagues to reject this bill. It could be improved if it were brought in the regular order and amendments were allowed to include the faster, cheaper, safer and cleaner proposal, building a third airport in Peotone.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield 10 minutes to the gentleman from Illinois (Mr. LIPINSKI), and I ask unanimous consent that he be allowed to control the time.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LIPINSKI. Mr. Speaker, I ask unanimous consent to give the gentleman from Illinois (Mr. JACKSON) an additional 10 minutes, the gentleman from Florida (Mr. MICA) an additional 10 minutes, which his 10 minutes will be split with 5 minutes for himself, 5 minutes for my side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. JACKSON of Illinois. Mr. Speaker, may I inquire as to how much time we have remaining.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. JACKSON) has 22½ minutes, the gentleman from Florida (Mr. MICA) has 14½ minutes. There is 5 minutes reallocated to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Speaker, in the additional time request, it would be 10 minutes for the gentleman from Illinois (Mr. JACKSON), 10 minutes for the gentleman from Florida (Mr. MICA), which he automatically yields to me 5 minutes. So I should have 15 minutes at the present time.

The SPEAKER pro tempore. The gentleman is correct.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today in strong support of H.R. 3479, the National Aviation Capacity Expansion Act, and would point out that I believe one of the reasons we are here today under suspension is a broad-ranging bipartisan support that exists for this legislation today.

Whether we talk about a Democratic mayor for the city of Chicago, whether a Republican governor of the State of Illinois, whether we talk about the Illinois Chamber of Commerce, or whether we talk about the AFL–CIO, whether we talk about the Republican or Democratic leadership of the Committee on Transportation and Infrastructure that reported this bill to the Congress, one of the things that has been debated hotly about this legislation is the status of the Peotone site in the State of Illinois.

What I want to use my time today is to point out to Members of this body that there are three airports involved, O'Hare International Airport, an airport in Rockford, Illinois, and the airport in Gary, Indiana, which is in my congressional district. There is a proposed site in Peotone, Illinois.

The gentleman from Illinois (Mr. JACKSON) talked about a potential racial divide on the Illinois side. I would point out that Gary, Indiana's population is 85 percent African American, and for those African American citizens of Gary, Indiana, the passage of this legislation is very important for their economic future because they and their surrounding environs have been decimated because of the loss of manufacturing jobs.

□ 1300

We have an existing airport at Gary, Indiana, just as there is one at Rockford. One of the things that the leaders on the committee took great pains to do was to ensure that both of those airports, as well as the proposed Peotone site, are all treated equally. Given that equity that exists in this bill for those two airports and that proposed site, I strongly urge support passage of this bipartisan legislation.

Mr. MICA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER), who has worked to protect the interests of the Peotone expansion.

Mr. WELLER. Mr. Speaker, today I stand in support of this legislation. As my colleagues know, I am very disappointed in the drafting of this legislation, particularly in regards to the south suburban airport at Peotone. But I believe it is in the best interests to move this process forward, particularly in the hope that in conference between the House and Senate, we can improve upon the language for Peotone.

Air travel is expected to double in the next 10 to 15 years. We need to expand O'Hare, we need to build Peotone to accommodate the doubling of air travel. As we know, expanding O'Hare alone will not accommodate that growth in aviation. We need a south suburban third airport at Peotone.

The governor and the mayor of Chicago have come to an agreement regarding the construction of Peotone, as well as expansion of O'Hare, and this legislation does not fully reflect that agreement, which has been the concern that I have had. But I spoke with the governor yesterday personally, and he asked me to support this legislation so it can move forward and move towards conference. In that spirit, I support this legislation today.

Let me take a moment to discuss the importance of the south suburban third airport at Peotone. The south suburban third airport at Peotone will be a complement to O'Hare. And I will note that while they are pouring concrete and ripping up concrete, it is difficult to land airplanes, so we need a third airport to serve while O'Hare is expanded over the next 10 to 15 years. I would note that the south suburban third airport can be constructed in 4 to 5 years. It can be constructed for $500–600 million, compared to $13 billion. And from a local standpoint, for the 2.5 million of us who reside within 45 minutes of the Peotone site, it will generate over 200,000 jobs.

Mr. Speaker, we need the south suburban third airport at Peotone to expand aviation capacity, and I believe by moving this legislation forward, we can move towards that goal. People often ask what is the status of the construction of the airport at Peotone. Just recently, the FAA released their EIS approval of FAA record of decision signing. They investigated and reviewed seven proposed sites for a third airport, and they said that the Peotone site is the best one. They gave their blessing for the State to continue moving forward with what we call land banking, and the State legislature and the governor have made the decision to move forward to acquire 4,000 acres of the 24,000 eventually needed for the purpose of land banking. That is an important step. We need to move this legislative process forward, and while I am disappointed in this language, I want to make it clear that I was strongly in opposition to this bill this past week, and should this bill come back without the provisions that we need to build a south suburban third airport, I will just as strongly oppose it when it comes back from the conference.

Mr. KIRK. Mr. Speaker, will the gentleman yield?

Mr. WELLER. I yield to the gentleman from Illinois.

Mr. KIRK. Mr. Speaker, this is a courageous decision by the gentleman. As a member of the committee and as a supporter of Peotone, the gentleman has engendered a lot of goodwill and friendship when we complete the final legislation. My hope is that it will strongly reflect the full agreement, including the gentleman's provision on Peotone.

Mr. WELLER. Mr. Speaker, I thank the gentleman and urge Members to join me in supporting this bill today.

Mr. JACKSON of Illinois. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on International Relations.

Mr. HYDE. Mr. Speaker, I hate to disabuse the gentleman from Illinois (Mr. WELLER), but if this expansion goes through, the gentleman will never see Peotone. We will not need Peotone. We will have all of the capacity that is needed, 1.6 million airplanes. So while the gentleman from Illinois (Mr. WELLER) hopes and prays that some agreement that has been made off the record will guarantee some favorable treatment of Peotone, the best medical advice I can give to the gentleman is not to hold his breath.

I do not know about others, but I love a mystery; and this bill is as mysterious as anything Agatha Christie ever wrote.

First of all, why is such a controversial bill being brought under suspension? What a mystery. Why are the bill's proponents, and I almost said perpetrators, allergic to debate and amendments? Well, let us be clear about what this bill seeks to do.

The establishment wants to nearly double the capacity of what is now the world's busiest airport, O'Hare International, to accommodate 1.6 million flights a year. Who is the establishment? Well, people of substance in the community: The major Chicago newspapers, the Chamber of Commerce, the mayor of Chicago; the governor of Illinois, United Airlines, American Airlines, and so many more that a famous President once labeled the malefactors of great wealth the establishment. Members know who they are. They have been besieged by their lobbyists.

Who is the opposition? Thousands of citizens who live and work near the airport and its present 900,000 flights a year, whose quality of life will be shattered by doubling the capacity at O'Hare. Those families whose homes will be condemned and bulldozed, whose businesses will be plowed under as the airport expands.

Members might say we cannot stand in the way of progress. Of course not. But O'Hare is landlocked. It is surrounded by vital suburban communities, many of which I represent. It is saturated with aircraft. Add to capacity, yes, but do it by building another airport at Peotone, a modern one that is environmentally friendly and can expand in years to come. By the time the $15–20 billion, not $6 billion as they propose, the $15–20 billion is spent on O'Hare, it will be obsolete. Peotone can be built faster and cheaper than expanding O'Hare.

It makes sense economically and logistically; but the flaw in the ointment is Chicago would not own Peotone. Therefore, it must not survive.

There are fundamental constitutional questions with this bill. In the first place, Chicago has no power or authority to do anything unless that power has been given to the city by the Illinois General Assembly. The city is a political subdivision of the State. It is a creature of the legislature, and its powers are defined and limited by the Illinois Municipal Code. The Illinois Municipal Code contains the Illinois Aeronautics Act which forbids anyone from expanding any airport without a certificate of approval from the Illinois Department of Transportation. The same limitation applies to the governor. The deal he made with the city to expand O'Hare is what the lawyers call ultra vires, beyond his authority. Neither the Federal Constitution nor the State constitution gives the governor the authority to ignore the Illinois Aeronautics Act.

If President Bush were to enter into an agreement with Commonwealth Edison to build a nuclear plant in Illinois, his action would be ultra vires, without a license from the Nuclear Regulatory Commission. But that would require full disclosure, something woefully absent from this O'Hare debate. Does anyone supporting this bill think the President has constitutional authority to enter into an agreement with Exxon to drill in the Alaskan National Wildlife Refuge without statutory authority from Congress?

The Illinois Aeronautics Act requires a certificate of approval from the Department of Transportation. The city and the governor proposed to march ahead, ignoring the law, all to give the city an unfettered right to condemn all the land they want, sidestepping the Illinois law.

Now let us consider another mystery in this bill. The governor and the mayor should just ask the Department of Transportation for a certificate of approval. It is the Illinois DOT. The governor has peopled it and appointed its chairman. They should just ask that body for a certificate of approval. If that is what is keeping them from complying with the law, why not just apply for a certificate?

I asked my dear friend, the gentleman from Illinois (Mr. LIPINSKI), at least twice why they have not just asked for a certificate. It is so simple. The gentleman says he does not know. It is a real mystery.

Well, it finally dawned on me like a ton of fire appearing over my head why this circuitous route around Illinois law is being employed: To get a certificate of approval, they would have to disclose what their real plan is. That is the last thing that they want to do. Transparency is not in their vocabulary. To apply for a certificate, they would have to disclose how much this alleged $6.5 billion plan will really cost. How is it going to be financed? Who is going to pay the bonds? Will they be paid for by United and American Airlines after they get their share of the airline bailout? How many acres do they really plan to condemn? How many homes do they really plan to plow under? Does this expand the United-American monopoly existing at O'Hare now? So many questions they would have to disclose, and not to disclose them is why they are ignoring the law. That is why we should not let them.

How much corporate welfare are they concealing? What are they hiding? This is like Enron or WorldCom. What was wrong with them, they did not disclose the true state of affairs in their corporation, and we have tired fingers pointing at Enron and Arthur Andersen and WorldCom. Well, that is what we are doing today. We are giving American and United and the city of Chicago and the governor a pass on the law having to disclose what this plan, this massive plan is all about.

Do we encourage nondisclosure? Are we now accessories? Listen, Republicans are always given the image of being in bed with big business and Democrats march beside the little guy, the powerless. Well, this vote, if Members vote yes on this bill, they validate that they are in bed with big business, and the heck with the little people whose homes and businesses are going to be wiped out. I do not know how the Democrats will explain that.

This bill is wired. I know it. I can count. But I would rather be on the losing side of a good, honest cause than on the winning side of a cause that hurts vulnerable people.

A famous Russian writer whose name I never knew once wrote that even if the whole world was paved over, somewhere a crack would appear, and in that crack a blade of grass would begin to sprout.

So bring on the bulldozers, the cement mixers and shovels, and the 1.6 million roaring airplanes. That blade of grass is the rule of law, and this fight is far from over.

Mr. LIPINSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, the issue of expansion at O'Hare has been around for a long time and there has been considerable debate. I want to commend the gentleman from Illinois (Mr. LIPINSKI) for his leadership on not only this issue, but other issues surrounding transportation. Today I stand in firm support of H.R. 3479.

I also want to commend the gentleman from Illinois (Mr. HYDE) for his efforts to bring a third airport in the Peotone area. Especially, though, I want to commend the gentleman from Illinois (Mr. JACKSON) for his consistent and eloquent, creative approach to try and develop jobs and economic opportunity and bring them closer to the people in his congressional district.

Chicago has a vast and growing transportation industry. Over the years, Chicago O'Hare International Airport has continued its growth in traffic and demand.

□ 1315

Presently, O'Hare ranks as the Nation's first or second busiest airport at any given time, with nearly 34 million annual passengers traveling both domestically and internationally.

Expanding O'Hare offers an immediate array of benefits, from employment to economic growth. And I am pleased to note that the plan for O'Hare expansion includes a 30 percent goal for minority and women-owned businesses as opposed to a 10 percent goal in the State's plan for Peotone.

As Chicago continues to grow, O'Hare continues to experience the backlog of delays. According to the Airport Capacity Benchmark Report in 2001, O'Hare was the third most delayed airport. Sitting in the heart of the Midwest, these delays continue to burden connecting airports, creating a snowball effect and frustrating passengers. By the addition of runways, and the expansion of O'Hare, delay times will diminish and air travel at Chicago's bustling O'Hare will undoubtedly improve for the consumer and the region.

I do not believe that this necessitates the idea that there cannot and will not be a third airport at Peotone, or in that area. As the time continues to develop, the need will continue to grow. Right now, though, the greatest need is to expand O'Hare, and I think we will get to Peotone as time comes.

Mr. MICA. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, the National Aviation Capacity Expansion Act is not just a bill about expanding O'Hare International Airport, it is about relieving congestion for the entire air transportation system in the United States, of which obviously O'Hare is an integral part.

I fought hard and testified several times to make sure this bill includes a provision asking the FAA to consider utilizing existing airports that are capable of immediately reducing congestion and delays at our Nation's major airports. In the Chicago region, that airport is the Greater Rockford Airport. Passage of this legislation ensures that Rockford Airport will be able to offer its vast resources, which include:

$150 million of recent infrastructure improvements; a 10,000-foot runway that can land any jet aircraft today as well as an 8,200-foot runway; a category III Instrument Landing System; a Glycol Detention and Treatment Facility; an upgraded taxiway system; an FAA 24-hour traffic control tower; it is the present home to United Parcel Service's second largest hub in the Nation; a modern passenger terminal immediately capable of handling 1 million emplaned passengers annually, and room for 3 million with a modest investment, and capacity for up to 15 million passengers a year; unconstrained airspace; the ability to relieve up to 20 percent of O'Hare's originating passengers; and all only 1 hour's distance from Chicago.

As my colleagues can see, this bill is the best vehicle by which the Nation's air traffic congestion and delays could be relieved. And Rockford Airport is ready today; built, paid for, existing. It is considered, as designated in this legislation, to be a low-cost and convenient factor in that solution.

I urge my colleagues to vote in favor of this bill.

Mr. JACKSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time, and, once again, I rise in strong opposition to Federal legislation that would mandate runway expansion and reconfiguration at Chicago's O'Hare Airport.

Like most people, I want the air traffic congestion problem at O'Hare solved as soon as possible, but the plan mandated by this bill will not accomplish that objective. It is projected to take 900,000 flights annually to 1.6 million flights annually. Moreover, it would be expensive. Very expensive. Its sponsors say the O'Hare runway plan will cost $6.6 billion to implement, but by the time the 500 to 600 property condemnations, the two graveyard relocations, road improvements, soundproofing work, and other items are finished, the price tag is likely to be double or triple that amount.

Meanwhile, there are four good-sized airports currently in operation within less than a 100-mile radius of Chicago, Great Rockford Airport being one, that could handle additional flights, and a fifth could be built south of the city with less difficulty and for less money than it would take to add to and reconfigure the runways at O'Hare. Making greater use of these airports would be a quicker, simpler, and less expensive option than trying to expand O'Hare's runway capacity.

Also, it would spare thousands of people living and/or working near O'Hare the consequences of higher noise and air pollution levels, declining property values, and, in some cases, the loss of their homes and their jobs.

For their sakes, and for the sake of others who live or work in places that could suffer a similar fate in the future, I urge my colleagues to vote "no" on this counterproductive and potentially precedent-setting piece of legislation. We can and should do better.

Mr. LIPINSKI. Mr. Speaker, may I inquire about the amount of time everyone has left here?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Illinois (Mr. LIPINSKI) has 10 minutes remaining, the gentleman from Illinois (Mr. JACKSON) has 6½ minutes remaining, and the gentleman from Florida (Mr. MICA) has 9½ minutes remaining.

Mr. JACKSON of Illinois. I am sorry, Mr. Speaker, my math is a little bit different. Since the moment that you yielded me and informed me I had 22½ minutes, I yielded 10 minutes to the gentleman from Illinois (Mr. HYDE) and 2 minutes to the gentleman from Illinois (Mr. CRANE).

The SPEAKER pro tempore. In the gentleman's request to yield 10 minutes to the gentleman from Illinois (Mr. HYDE), did the gentleman ask that he control the time?

Mr. JACKSON of Illinois. I asked that he have 10 minutes.

The SPEAKER pro tempore. And the gentleman from Illinois (Mr. HYDE) debated and then yielded back with one minute remaining.

Mr. JACKSON of Illinois. Correct. And at the time I yielded 10 minutes to the gentleman from Illinois (Mr. HYDE) I had 22½ minutes.

The SPEAKER pro tempore. Did you ask unanimous consent that the gentleman from Illinois (Mr. HYDE) be able to control 10 minutes?

Mr. JACKSON of Illinois. I asked that the gentleman from Illinois (Mr. HYDE) have 10 minutes, Mr. Speaker, and then the gentleman from Illinois (Mr. CRANE) had 2 minutes. That should leave me 10 minutes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HYDE) used 9 of the 10 minutes, which is 8½ minutes remaining, before yielding to the gentleman from Illinois (Mr. CRANE) 2 minutes, and that leaves 6½ minutes.

Mr. JACKSON of Illinois. I thank the Speaker.

Mr. LIPINSKI. Mr. Speaker, just so we are perfectly clear, I have 10 minutes remaining?

The SPEAKER pro tempore. The gentleman has 10 minutes remaining.

Mr. LIPINSKI. And the gentleman from Illinois (Mr. JACKSON) has 6½ minutes remaining.

The SPEAKER pro tempore. The gentleman has 6½ minutes remaining.

Mr. LIPINSKI. And what does the gentleman from Florida (Mr. MICA) have remaining?

The SPEAKER pro tempore. The gentleman from Florida has 9½ minutes remaining.

Mr. MICA. Mr. Speaker, just for the information of the House and the Speaker, I plan to use only 3 minutes of that time because the House does want to proceed with other business.

Mr. LIPINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure, a longtime chairman of the Subcommittee on Aviation.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the National Aviation Capacity Expansion Act of 2002, and I do so with greatest respect and admiration for the gentleman from Illinois (Mr. LIPINSKI) who has labored mightily to bring together the State of Illinois, the City of Chicago, and a wide range of interests in the House to support this initiative.

It is unfortunate that we have to do this by legislation, but it is also unfortunate that historically the City of Chicago and the State of Illinois have not been able to work together constructively, with oftentimes the Governor's office countermanding an agreement worked out between the Mayor and the Governor, as Mayor Daley testified to so specifically in our committee hearings last year and early this year.

I just want to point out that we are not talking about an ordinary airport. This is the premier airport in the United States. This is a treasure for all of world aviation. There is no question that we need to address the needs of O'Hare; that we, if necessary, as we do in this legislation, in effect, codify an agreement between the Mayor and the State of Illinois.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Illinois.

Mr. HYDE. The gentleman had one hearing on this bill, did you not?

Mr. OBERSTAR. Reclaiming my time, Mr. Speaker, I believe there were two hearings

Mr. HYDE. If the gentleman will continue to yield, Mr. Speaker, it is my understanding that mayors whose towns are going to be affected by this, and citizens and businessmen were here and were not permitted to testify. Is that the gentleman's recollection?

Mr. OBERSTAR. That is not my understanding. All that I know who requested the hearing were accommodated. I am not aware of such. But at any rate, I have only limited time and perhaps the gentleman can discuss this on his time with the gentleman from Illinois (Mr. LIPINSKI).

Mr. HYDE. We can do this off the record, yes.

Mr. OBERSTAR. Mr. Speaker, it is cities, more than States, that have advanced the cause of aviation in the United States. Until 1958, there were only 7 States that provided any support financially for airport construction and development. In the 1940s, Chicago's city council looked into the crystal ball, saw the future of aviation and had the foresight to acquire orchard fields and an additional 7,000 acres to build this treasure of an airport, O'Hare, that was named for a World War II hero.

Similarly, LaGuardia was the brainchild of Mayor Fiorello LaGuardia, who sought to capitalize on the great success of Newark Airport, and built what was then a treasure on the East Coast. And the same with Atlanta. Hartsfield Airport was the vision of Alderman and Mayor William Hartsfield. So we are now dealing with the need to look into the future of aviation in the United States.

When traffic backs up at O'Hare, it backs up all the way around the world. Delays at O'Hare affect traffic as far away as Frankfurt, in Europe, and Tokyo on the Pacific Rim. This legislation, and I have spent a great deal of time looking at the airport runway reconfiguration, will allow operations of all weather conditions, simultaneous operations. It will make possible simultaneous operations under all but the very worst zero visibility conditions, and that would be a huge improvement over the existing situation at O'Hare.

There have been allegations about the constitutionality of this legislative proposal. Last week, during debate, the gentleman from Illinois (Mr. JACKSON) and the gentleman from Illinois (Mr. HYDE) made references to constitutional issues in a letter written by Professor Ronald Rotunda of the University of Illinois College of Law. Well, we have got other experts and other professors who have also reviewed this letter. We talked to Professor Thomas Merrill, the John Paul Stephens Professor of Law at Northwestern University, to get his opinion, which concludes as follows:

"This legislation is squarely within the power delegated to Congress under the commerce clause and relies on familiar precepts of preemption. It presents no substantial issue under the anti-commandeering principle of U.S. v. New York."

Mr. Speaker, I am submitting herewith for the RECORD the memorandum provided by Professor Merrill, and the letter of agreement between the Governor of Illinois and the Mayor of the City of Chicago, testifying that they have reached an agreement and both do strongly support this legislation.

STATE OF ILLINOIS,
CITY OF CHICAGO,
*July 22, 2002.*

DEAR MEMBER OF CONGRESS: We want to unequivocally state our strong support for Representative Bill Lipinski and Mark Kirk's legislation, H.R. 3479, the National

Aviation Capacity Expansion Act of 2002, which is expected to be on the House Calendar this week.

This legislation is crucial to the agreement that we, as Governor of Illinois and Mayor of Chicago, reached to end decades of debate over the future of airports in the Chicago area. That debate has choked off necessary improvements to airport capacity in the region, and led to display and congestion that have negatively affected the economy of the region, and rippled through the national aviation system. It is time to end that debate and move forward.

Passage of this legislation is necessary for us to carry out this agreement, which will lead to reconfiguration of the runway system at O'Hare, the reduction of delays, and the creation of almost 200,000 new jobs in Illinois. It will help improve the operations of the entire system, reducing delays around the nation.

The agreement also includes going ahead with work on the development of a new airport in the southern suburbs of Chicago, which has been a great importance to not only the State of Illinois, but to many members of the Illinois delegation. Passage of this legislation is the best course of action to help develop a third regional airport in the southern suburbs.

Let us be clear: failure to pass this legislation will return us to the political gridlock over airport issues in the Chicago region that may take decades more to resolve. A huge economic boost to the State of Illinois, to the Midwest and to the entire nation will be lost.

We both strongly urge your favorable vote on H.R. 3479. Thank you.

GEORGE H. RYAN,
*Governor.*
RICHARD M. DALEY,
*Mayor.*

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## MEMORANDUM

To: R. Eden Martin, President, Civic Committee of The Commercial Club of Chicago.

From: Thomas W. Merrill, John Paul Stevens Professor of Law, Northwestern University.

Re: Constitutionality of the Durbin-Lipinski Legislation.

Date: April 17, 2002.

This memorandum is in response to your request for an evaluation of the constitutionality of the National Aviation Capacity Expansion Act, proposed federal legislation introduced in the Senate by Senator Durbin (S. 2039) and in the House by Representative Lipinski (H.R. 3479) (the Durbin-Lipinski Legislation). This legislation is designed to facilitate the redesign of Chicago's O'Hare International Airport in accordance with a plan agreed to by Mayor Richard Delay of Chicago and Governor George Ryan of the State of Illinois. The plan would redesign the runways, terminals and access roads at O'Hare so as to permit this facility, which is vital to both the national and the regional economy, to accommodate the existing and anticipated volume of commercial air traffic in the Chicago area.

In a letter to Representative Henry Hyde dated March 1, 2002, Professor Ronald Rotunda of the University of Illinois Law School has offered the opinion that the Durbin-Lipinski legislation is "most likely unconstitutional." (Rotunda Letter at 16). The provisions he finds constitutionally problematic are §3(a)(3), which exempts the O'Hare redesign project from state permitting requirements, and §3(f), which, as it appears in the House bill, provides that if all state and local approvals are not obtained by 2004, the project shall proceed as a federal project. These provisions are constitutionally suspect, according to Professor Rotunda, because they "conscript the instrumentalities of state government and state power as tools of federal power," do not constitute "generally applicable" legislation, and "impose[] federal rules on the relationship between a city and the State that created the city." (Letter at 16.) I have reviewed the authorities and arguments advanced by Professor Rotunda and conclude that they raise no substantial question about the constitutionality of the proposed legislation.

### I. THE DURBIN-LIPINSKI LEGISLATION REPRESENTS AN EXERCISE OF CORE FEDERAL POWERS UNDER THE COMMERCE CLAUSE AND PRE-EMPTS CONTRARY STATE LAW

No claim has been made by Professor Rotunda, nor could it be made, that the Durbin-Lipinski Legislation deals with a subject beyond the scope of Congress's authority under the Commerce Clause. The Supreme Court, in reviewing the historical understanding of the Commerce Power, has recently summarized that Power as falling into three general categories: (1) regulation of the channels of interstate commerce, (2) regulation of the instrumentalities of interstate commerce, and (3) regulation of commercial activity that in the aggregate has a substantial affect on interstate commerce. See United States v. Lopez, 514 U.S. 549, 558–59 (1995); United States v. Morrison, 529 U.S. 598, 609–09 (2000). The "channels of interstate commerce" include navigable rivers, interstate highways, interstate rail facilities and terminals—and of course navigable airspace and airport terminals. See, e.g., Braniff Airways, Inc. v. Nebraska State Bd. of Equalization, 347 U.S. 590, 596 (1954) ("Federal Acts regulating air commerce are bottomed on the commerce power of Congress"). Congress thus has complete and plenary power under the Commerce Clause to regulate the size, configuration, and operating parameters of airport facilities that serve as hubs of interstate air commerce. See, e.g., Northwest Airlines, Inc. v. Minnesota, 322 U.S. 292, 303 (1944) (Jackson, J. concurring) (federal power over air commerce and air transit is "exclusive"). It follows from this that the Durbin-Lipinski Legislation—which is designed to assure that the Nation's busiest airport terminal has sufficient capacity to accommodate future growth in interstate and international air commerce—falls squarely within the core of congressional power under the Commerce Clause.

Given that the Durbin-Lipinski Legislation is within Congress's power to legislate, any contrary provision of state law is pre-empted. "[U]nder the Supremacy Clause, from which our pre-emption doctrine is derived, 'any state law, however clearly within a State's acknowledged power, which interferes with or is contrary to federal law, must yield." Gade v. National Solid Waste Management Ass'n, 505 U.S, 88, 108 (1992) (citation omitted). As the Court noted in Printz v. United States, 521 U.S. 898, 913 (1997)—one of the decisions Professor Rotunda relies upon most heavily—"all state officials" act under a duty "to enact enforce, and interpret state law in such as fashion as not to obstruct the operation of federal law;" consequently, "all state actions constituting such obstruction, even legislative Acts, are ipso facto invalid." Indeed, "even state regulation designed to protect vital state interests must give way to paramount federal legislation." De Canas v. Bica, 424 U.S. 351, 357 (1976).

The Durbin-Lipinski Legislation provides, among other things, that the State of Illinois "shall not enact or enforce any law respecting aeronautics that interferes with, or has the effect of interfering with, implementation of Federal policy with respect to the runway redesign plan including 38.01, 47, and 48 of the Illinois Aeronautics Act." H.R. 3479, §3(a)(3). This provision is obviously inconsistent with any requirement for state certification of the O'Hare redesign plan under §47 of the Illinois Aeronautics Act or otherwise. Any such state certification requirement is therefore plainly pre-empted by the Durbin-Lipinski Legislation.

### II. THE DURBIN-LIPINSKI LEGISLATION DOES NOT "COMMANDEER" THE STATE OR ITS OFFICIALS

Professor Rotunda concludes that the Durbin-Lipinski Legislation is "likely unconstitutional" primarily by relying on decisions holding that the Commerce Power does not extend to laws that "compel the States to enact or administer a federal regulatory program," New York v. United States, 505 U.S. 144, 188 (1992), or that "conscript the States' officers directly" to administer or enforce federal law. Printz, supra, 521 U.S. at 935. He argues that the Durbin-Lipinski Legislation has the effect of "commanding and singling out the State of Illinois to, in effect, repeal its legislation governing the powers delegated to the City of Chicago." (Letter at 14.)

The short answer to this elaborate argument is that the Durbin-Lipinski legislation does no such thing. I does not require the State of Illinois or any political subdivision to enact—or repeal—any legislation. Nor does it conscript state employees to act as administrators or enforcement agents of federal law. Instead, the Durbin-Lipinski Legislation simply preempts provisions of state law that might serve as an impediment to the completion of the O'Hare redesign plan. The State is not ordered to take affirmative steps to aid in the redesign of the airport, either by legislative or administrative action. It is merely prohibited from blocking the redesign and reconfiguration of the airport. This of course is what happens whenever state law is preempted by federal legislation. See, e.g., City of Burbank v. Lockheed Air Terminal, Inc., 411 U.S. 624 (1973) (local ordinance governing hours of operation of airport terminal pre-empted by comprehensive federal regulation of airport noise).

Absent some provision that directs Illinois to adopt legislation or regulations, or that commands Illinois officials or employees to enforce federal law, the Durbin-Lipinski Legislation raises no issue under New York and Printz. As the Supreme Court recently (and unanimously) held in Reno v. Condon, 528 U.S. 141 (2000), where a federal statute does not require a state legislature "to enact any laws or regulations" and does not "require state officials to assist in the enforcement of federal statutes regulating private individuals," the anti-commandeering doctrine of New York and Printz does not apply. Id. at 151. Condon involved a federal statute, The Driver's Privacy Protection Act, that prohibited States from disclosing personal information about individuals obtained from department of motor vehicle records without the individual's consent. Because the Act did not direct the "States in their sovereign capacity to regulate their own citizens," id., the Court found that it was a legitimate exercise of the Commerce Power and that contrary state legislation was preempted. The Durbin-Lipinski Legislation likewise contains no provision that would compel the State or its agents to regulate the citizens of Illinois.

Nor does the provision of the House bill that calls for the O'Hare redesign to become a federal project if construction has not commenced by 2004 raise any commandeering problem. This is a form of conditional regulation, in which Congress "offer[s] States the choice of regulating [private] activity according to federal standards or having state law pre-empted by federal regulation." New York, 505 U.S. at 167. This type of conditional regulation is often used in environmental legislation, and the New York Court took pains to reaffirm its constitutionality. Id; see also Printz, 521 U.S. at 925–26. Such condition regulation, the Court found, is constitutionally permissible because it does not represent direct coercion of State governments in the way that commandeering does. Section 4(f) of the House bill is of a similar design. It provides that in the event the Administrator of the FAA finds that "a continuous course of expected to commence by December 1, 2004" then "the Administrator shall construct the runway redesign plan as a Federal project." H.R. 3479, §4(f). The legislation, in other words, does not order State and local officials to issue permits and approvals for construction; it sets a deadline for obtaining such approvals, and if this is not met, provides for federal permits and approvals—a classic form of conditional regulation approved by New York and Printz.

### III. THE DURBIN-LIPINSKI LEGISLATION IS NOT CONSTITUTIONALLY INFIRM BECAUSE IT APPLIES TO A SINGLE AIRPORT

Professor Rotunda also seeks to rely on language in New York and Condon that distinguishes impermissible commandeering statutes from laws "that subject state governments to generally applicable laws." New York, 505 U.S. at 160; Condon, 528 U.S. at 151. He notes that the Durbin-Lipinski Legislation applies to only one airport and in this sense is not a "generally applicable" law, thus, he suggests, the legislation is unconstitutional under New York and Prinitz.

This argument, however, reflects misapplication of the "generally applicable laws" exception recognized in New York and Condon. The exception applies only to federal laws that otherwise compel a State to enact legislation or conscript state employees to enforce federal law. If a federal law has this "commandeering" effect, then it may nevertheless be upheld as constitutional if it is a "generally applicable law" that applies to state governments and private persons alike. Thus, for example, the Fair Labor Standards Act (FLSA), as amended, applies to state and local governments as well as to private employers. This statute requires state governments to enact laws or regulations (e.g., setting wages and hours of state employees), and it requires state officers and employees to administer federal law (e.g., determining that all units of state government are in compliance with federal standards). Yet the constitutionality of the FLSA as applied to state governments was upheld in Garcia v. San Antonio Metropolitan Transit Auth., 469 U.S. 528 (1985). The Court in New York reconciled this result with the anti-commandeering principle by noting that the FLSA is a generally applicable law that governs state and private employers alike. New York, 505 U.S. at 160–61.

Properly understood, therefore, the generally applicable laws exception has no relevance to the Durbin-Lipinski Legislation. The Durbin-Lipinski Legislation does not compel the State to enact any laws or regulations, and does not conscript state employees to administer any federal law. Instead, it is a narrow preemption statute. As such, the anti-commandeering principle of New York and Printz does not apply at all, and hence the generally applicable laws exception does not apply at all.

Outside the commandeering context, there is no principle of law that condemns congressional legislation under the Commerce Clause because it proceeds project-by-project rather than under generally applicable laws. Congress has often legislated under the Commerce Clause by addressing particular obstructions of commerce, whether they be inadequate harbor facilities, impassive on rivers, or bottlenecks in the interstate highway system. For example, Congress has legislated with respect to a single bridge spanning a navigable river, and this has been sustained as a valid exercise of the Commerce Power. See Pennsylvania v. Wheeling and Belmont Bridge Co., 59 U.S. (18 How.) 421, 431 (1855). Similarly, federal agencies exercising delegated power under the Commerce Clause, such as the Army Corps of Engineers and the FAA, commonly and properly focus their attentions on particular obstructions of commerce, rather than proceeding by promulgating general regulations. That is all Congress has done here, by legislating to assure that a critical airport that serves as a central hub of the entire air traffic system of the United States does not become an impediment to the free flow of interstate and international commerce.

### IV. THE DURBIN-LIPINSKI LEGISLATION DOES NOT IMPERMISSIBLY INTERFERE WITH RELATIONS BETWEEN A STATE AND ITS POLITICAL SUBDIVISIONS

Finally, Professor Rotunda suggests in passing (Letter at 7) that the Durbin-Lipinski legislation violated some general principle of federalism that requires Congress to afford a state government complete and unlimited control over the powers and duties of its political subdivisions. The decision he cites in support of this proposition, Hunter v. City of Pittsburgh, 207 U.S. 161 (1907), held no such thing. Instead, the Court merely rejected the claim of the City of Pittsburgh that a Pennsylvania law directing the annexation of Pittsburgh and another city over the objection of a majority of the Pittsburgh electorate violated Pittsburgh's rights under Fourteenth Amendment's Due Process Clause. It was in this context that the Court said that the "number, nature, and duration of the powers conferred upon" a municipal corporation "rests in the absolute discretion of the state." Id. at 178. No issue was presented in the case about the authority of Congress to deal directly with municipal corporations—as it often deals directly with other types of corporations—in the implementation of otherwise valid federal legislation.

In fact, Congress has long dealt directly with municipalities in a variety of contexts, and the federal courts have uniformly rejected challenges to these measures based on the notion that the federal government must always defer to state-law limitations on municipal powers. Lawrence County v. Lead-Deadwood School District, 469 U.S. 256 (1985), for example, involved a federal statute that provided payments in lieu of taxes to a county based on the presence of tax-exempt federal land in the county. The federal statute gave the county discretion to allocate funds for "any governmental purpose." Id. at 258. A South Dakota statute, however, provided that all in lieu payments be allocated in the same ratio as the county's general tax revenues were allocated. By a vote of 7–2, the Supreme Court held that the federal statute preempted the allocation requirement in the state statute, and specifically rejected the contention based on the language in Hunter that this constituted impermissible interfence with state control over its political subdivisions, Id. at 269; cf. id. at 270–71 (Rehnquist, J. dissenting (quoting Hunter)).

The same conclusion has been reached when the federal government has given regulatory permission to political subdivisions to take action contrary to state law. In one case the Federal Power Commission issued a license to the City of Tacoma, Washington, to build a hydroelectric dam on the Cowlitz River. An agency of the State of Washington opposed the license, and argued that Washington statutes required the City to obtain permission from the State. The United States Court of Appeals for the Ninth Circuit held that the case presented a simple matter of federal supremacy: State law cannot interfere with the ability of a federal licensee to exercise the rights provided by a federal license on a navigable waterway. State of Washington Dept. of Game v. Federal Power Comm., 207 F.2d 396 (9th Cir. 1953). The court agreed that the City was a creature of the State and normally could not act without authorization of state law. But private licensees—such as corporations and electrical cooperatives—are also creatures of state law, and it is well-established that they can invoke federal law to preempt state law inconsistent with a federal license. See First Iowa Hydro-Electric Coop. v. Federal Power Comm., 328 U.S. 152 (1946). The court reasoned that municipal corporations are no different in this regard, and they too may be empowered by the federal government to take action affecting the channels of interstate commerce without regard to limitations contained in state law. The Washington Supreme Court later disagreed with this ruling, see City of Tacoma v. Taxpayers of Tacoma, 307 P.2d 567 (Wash. 1957), but the U.S. Supreme Court reversed, holding that the decision of the Ninth Circuit was res judicata. See City of Tacoma v. Taxpayers of Tacoma, 357 U.S. 320 (1958).

Similiarly, in a controversy closely analogous to the instant matter, the City of New Haven, Connecticut received a $750,000 grant from the Federal Aviation Administration for extension of an airport runway. Pursuant to agreements between the City and the FAA, the City was required to purchase land in the neighboring town of East Haven in order to provide an expanded "clear zone" for takeoffs and landings. When neighbors objected and instituted actions in state court seeking to block the project on the ground that New Haven's purchase of land in East Haven violated state law, the United States sought and obtained a preliminary injunction against further state-court litigation. In affirming the injunction, the United States Court of Appeals for the Second Circuit observed that "[i]n the case of a clash between federal legislation and state orders in the area of air commerce, it is clear that under the doctrine of federal supremacy and the commerce clause" the United States would likely prevail on the merits. See United States v. City of New Haven, 447 F.2d 972, 973–74 (2d Cir. 1971) (citations omitted).

There are, to be sure, constitutional questions about how far the federal government may go in bypassing state governments and dealing directly with municipalities and other subdivisions of a State. The Washington Supreme Court in the Tacoma dam controversy thought that the federal government could not confer the power of eminent domain on a municipality in circumstances where such power is not given by state law. City of Tacoma, 307 P.2d at 576–78, rev'd on other grounds, 357 U.S. 320. And although the Supreme Court has held that a federal district court in implementing a desegregation decree may issue an order pre-empting state tax limitations in order to permit a city to raise taxes, it has reserved judgment as to whether it would be constitutional for such a court directly to order a city to raise taxes. Missouri v. Jenkins, 495 U.S. 33, 50–51 (1990).

But the Durbin-Lipinski Legislation raises none of these unresolved questions. Section 3(a)(3) in both bills simply pre-empts state certification requirements that might act as an impediment to the City's execution of the redesign plan using its otherwise-existing delegated and home-rule powers under state law. And §3(f) of the House bill provides that if the O'Hare redesign project becomes a federal project, either the City will exercise its existing eminent domain power or the FAA will use its federal eminent domain power to acquire needed land. See H.R. 3479, §3(f)(1)(E) & §3(f)(3). Nor is there any suggestion in this bill that Congress has authorized the City to exercise powers of taxation beyond those it already enjoys under state law. See id. §3(f)(1)(F) ("the costs of the runway redesign plan will be paid from the sources normally used for airport redevelopment projects of similar kind and scope").

CONCLUSION

The Durbin-Lipinski Legislation is squarely within the power delegated to Congress under the Commerce Clause and relies on familiar precepts of pre-emption. It presents no substantial issue under the anti-commandeering principle of United States v. New York and Printz v. United States. Nor does it attempt to intrude upon State-municipality relations in a manner that is constitutionally problematic. The proposed legislation addresses a matter of vital national importance in a manner that is minimally intrusive to the legitimate interests of the State as sovereign, and is therefore fully constitutional.

PARLIAMENTARY INQUIRY

Mr. JACKSON of Illinois. Mr. Speaker, I feel compelled at this time to ask a parliamentary inquiry about my time. The reason I need to ask the parliamentary inquiry is that there have been three speakers for those of us who have been opposed to the legislation.

The debate began with 20 minutes on each side, and then there was a unanimous consent for an additional 10 minutes, which should have left me with 30 minutes on my side and 30 minutes on the other side of this legislation. I have yielded 10 minutes to the gentleman from Illinois (Mr. HYDE), and you said he spoke for 9½ minutes and yielded back the balance of his time. I yielded 2 minutes to the gentleman from Illinois (Mr. CRANE), and I made an opening statement.

I do not know how long my opening statement was, but I do not believe it left me 6½ minutes.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. JACKSON) made an opening statement of 7½ minutes, leaving 12½ minutes. Thereon the time was expanded by 10 minutes per side, leaving the gentleman 22½ minutes. The gentleman then yielded 5 minutes to the gentleman from Illinois (Mr. LIPINSKI), leaving him 7½ minutes.

Mr. JACKSON of Illinois. No, sir. No, sir, I did not yield 5 minutes to the gentleman from Illinois (Mr. LIPINSKI).

□ 1330

The time of the gentleman from Illinois (Mr. LIPINSKI) is controlled by the chairman, sir. I am in opposition to the bill. They divided time amongst themselves. Ten minutes additional on each side, sir, should have left me with 22½ minutes. I yielded 10 minutes to the gentleman from Illinois (Mr. HYDE), and I yielded 2 minutes to the gentleman from Illinois (Mr. CRANE), which should leave me with 10 minutes.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman did not make a unanimous consent request that the gentleman from Illinois (Mr. LIPINSKI) control 5 minutes?

Mr. JACKSON of Illinois. No, sir. The gentleman from Illinois (Mr. LIPINSKI) made a unanimous consent request that 10 minutes be increased on each side and there was no objection, 10 minutes for that side and I am the other side.

The SPEAKER pro tempore. The Chair will subtract 5 minutes from the gentleman from Illinois's (Mr. LIPINSKI) side that apparently the gentleman from Illinois (Mr. JACKSON) did not yield to him, which means that the gentleman from Illinois has no time remaining.

Mr. LIPINSKI. How much time do I have?

The SPEAKER pro tempore. The gentleman has no time remaining now.

Mr. LIPINSKI. That is not right, Mr. Speaker. If I may say, before my 10 minutes was used at all, my request was for an additional 10 minutes for the gentleman from Illinois (Mr. JACKSON), an additional 10 minutes for the gentleman from Florida (Mr. MICA), which he would yield 5 minutes to me, thereby giving me 15 minutes.

To the best of my recollection, I gave 2 minutes to the gentleman from Indiana (Mr. VISCLOSKY), 3 minutes to the gentleman from Illinois (Mr. DAVIS), and 5 minutes to the gentleman from Minnesota (Mr. OBERSTAR). That is 10 minutes, which means I have 5 minutes remaining.

The SPEAKER pro tempore. Let the chair get this straight.

The gentleman's 5 minutes was taken out of the gentleman from Florida's (Mr. MICA) time. Of the 10-minute expansion, 5 went to the gentleman from Illinois (Mr. LIPINSKI), 5 went to the gentleman from Florida (Mr. MICA), and 10 went to the gentleman from Illinois (Mr. JACKSON).

Mr. LIPINSKI. Correct.

The SPEAKER pro tempore. The gentleman from Florida (Mr. MICA) has 4½ minutes remaining, the gentleman from Illinois (Mr. JACKSON) has 11½ minutes remaining, and the gentleman from Illinois (Mr. LIPINSKI) has 5 minutes remaining.

Mr. JACKSON of Illinois. Mr. Speaker, I yield myself 4¾ minutes.

Mr. Speaker, I have not often come to the floor of this Congress to talk about the racial divide in the city of Chicago; but when I do, it is very serious business because I do not want to take lightly the implications of what Members of Congress are going to vote on today. This bill will greatly exacerbate what the New York Times has referred to as the most segregated city in Chicago. I guess, Mr. Speaker, I want to draw the relationship with this chart between those comments and what the demographic shifts are actually showing in Chicago.

When John F. Kennedy inaugurated O'Hare Airport in the early sixties, you see that the center of economic activity in this first map is in central downtown Chicago. As a result of O'Hare Airport and our economy moving from an industrial-based economy to a service-based economy, we see tremendous economic growth by 1980 in the northwestern suburban area. In the meantime, the south side of Chicago and the south suburbs is experiencing zero to negative growth.

By 1990, O'Hare Airport, well into Du Page County, Kane County, McHenry County, and Lake County, Illinois, end up being responsible, for every three jobs that exist in our area, three of them can be found in the northwestern suburbs per one person. Under a build scenario for the south suburban airport, which is why I am here, the Second Congressional District of Illinois extends from 71st and Yates all the way to Will County, to the county line and just beyond the county line. The south suburban airport under a 2020 build scenario allows the balancing of growth between the northwest suburban areas and the south suburban areas, with Chicago being the overwhelming beneficiary of that balanced economic growth. Without that airport, under a 2020 no-build scenario, south Cook County becomes increasingly reliant upon government services, welfare, various forms of section 8 housing, and other programs.

And so when we debate aviation capacity and the opportunity to expand aviation in northeastern Illinois and build an airport on the south side of Chicago and the south suburbs, Mr. Speaker, it is our goal to solve a long-standing problem. Consistent with the gentleman from Indiana (Mr. VISCLOSKY), I too support modernization at Gary Airport. I do support modernization at Rockford Airport. But, Mr. Speaker, the deal between the Governor of the State of Illinois and the mayor of the city of Chicago was to add priority status to the building of a south suburban airport in Peotone, Illinois.

This legislation does not reflect that deal. That deal is better reflected by the Senate version of the bill offered by

Mr. DURBIN where the Peotone language is given priority status. And so why the gentleman from Illinois (Mr. LIPINSKI) stands here, my good friend, and advocates that this bill is reflective of the deal but removes the priority status that by 2020 will alleviate the racial, social and economic tensions that exist in our region is a factor is why some of us are so adamantly opposed to O'Hare expansion without building this south suburban airport at least first and as a priority.

I agree that there must be some modernization at O'Hare Airport. I disagree that we must tear up five runways at O'Hare and build an additional eight runways at O'Hare Airport as the solution. This area already has sufficient economic activity and jobs. Bring jobs and growth to the south side of Chicago that only a service-based economy can build.

Mr. Speaker, it is not just about airports. With airports come Hyatt and Hilton and Fairmont and UPS and Federal Express and every other ancillary business that requires moving cargo in and out of aviation facilities. Those jobs are badly needed not just in the northwest suburbs. They are also needed on the south side of Chicago and in the south suburbs. That is why bringing this bill to the floor in regular order, allowing those of us who have been advocating for this bill and advocating for expansion of aviation capacity in the regular order that we might amend it and ensure that our interests are protected is a factor is why we are disappointed and many of us, namely myself I know for a fact, are going to vote against this bill.

Certainly the gentleman from Illinois (Mr. WELLER) says that he hopes these issues will be worked out in conference. Mr. Speaker, the mayor of the city of Chicago's father wanted to expand aviation capacity by building a third airport on Lake Michigan. The mayor himself wanted to build one in Lake Calumet. Only when the idea came about to build it in south suburban Peotone where he did not control it did he oppose it.

And so, Mr. Speaker, I am asking for the justice of this House to vote down this bill because it is controversial, and it has implications 20 years from now for the quality of life for people that I represent. Give us a chance to offer amendments in the regular order and not on suspension.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, may I inquire how much extra time the gentleman from Illinois (Mr. JACKSON) used there?

The SPEAKER pro tempore. The gentleman has 6¾ minutes remaining.

Mr. LIPINSKI. You were very generous to him.

Mr. Speaker, I yield 30 seconds to the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Speaker, I want to come to say that the gentleman from Illinois (Mr. HYDE) and the gentleman from Illinois (Mr. JACKSON) have done a wonderful job. Obviously, people underestimated their ability last Monday. No one is underestimating their ability today. We have done the work that is necessary in order to expand O'Hare. We feel that it is necessary.

Last week, one of the Hispanic Members voted against the bill because some people were saying that Hispanics were going to be hurt by this expansion of O'Hare. Today we have a commitment of all of the Hispanic Members of this Congress to vote for the bill, including myself, who is present today to vote for this bill.

We will not underestimate it. We know the quality of your arguments and the commitment that you have. Please understand that this is a gentlemen's disagreement. We respect and love you both very, very much.

Mr. JACKSON of Illinois. Mr. Speaker, I am honored to yield 3¼ minutes to the distinguished gentlewoman from California (Ms. WATERS), who has an issue at Los Angeles International Airport.

Ms. WATERS. I would like to thank the gentleman from Illinois for yielding this time to me.

Mr. Speaker, I rise to oppose H.R. 3479, the National Aviation Capacity Expansion Act, which would expand the size of Chicago O'Hare International Airport and undermine the rights of States and local communities to make decisions regarding local airport development.

O'Hare expansion would destroy approximately 1,500 homes and exacerbate the pollution, traffic congestion and noise endured by residents who live near the airport and north of Chicago. O'Hare expansion is also opposed by residents of the south side of the Chicago region, because it would make the construction of a third regional airport virtually impossible. O'Hare expansion would deny the people who live on the south side of the Chicago region any opportunity to enjoy the economic benefits of having access to a local airport.

H.R. 3479 would set a dangerous precedent by allowing the Federal Government to preempt State and local laws that could limit airport expansion. Such a precedent could prevent the people of southern California from developing a regional solution to our region's aviation needs. The people of my congressional district in southern California are already overburdened by the noise, pollution, and traffic congestion generated by Los Angeles International Airport. Other communities in southern California would like to attract service to their local airports. Legislation to impose LAX expansion would undermine southern California's efforts to ensure that the benefits and burdens of airport development are fairly distributed throughout our region.

Last week I introduced H.R. 5144, the Careful Airport Planning for Southern California Act, known as the CAP Act. The CAP Act would cap LAX air traffic at its current capacity of 78 million passengers per year and would encourage airport development in southern California communities that actually want airport development.

I urge my colleagues to support the CAP Act and oppose the expansion of Chicago O'Hare and LAX.

Mr. Speaker, I join this debate because there is nothing worse than having the folks sit in Washington override the people in local communities and in the States, telling them what is best for them when in fact the people have a right to make those decisions in their own regions and in their own communities. I respect the right of the people of the south side of Chicago to talk about what is in the best interests of their area, of that region. If we are sincere about not trying to override local control, we will not allow this to happen.

I would ask my colleagues to please oppose H.R. 3479. Someday it may happen to you in your area, in your region; and you would not want the Federal Government to put its foot on your hand and tell you what you can or cannot do.

Mr. LIPINSKI. Mr. Speaker, could I have a breakdown on how much time everybody has left?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. LIPINSKI) has 4½ minutes remaining, the gentleman from Illinois (Mr. JACKSON) has 3½ minutes remaining, and the gentleman from Florida (Mr. MICA) has 4½ minutes remaining.

Mr. LIPINSKI. Mr. Speaker, I yield myself 2½ minutes.

First of all I would like to submit my printed statement for the RECORD, and then I would like to go into a couple of points that have been raised here on the floor.

LAX. That was a wonderful speech by the gentlewoman from California (Ms. WATERS), but it has nothing to do with this situation whatsoever. The State of Illinois is the only State in the Union where the Governor has veto power over the construction of a new airport or a new runway. The Illinois channeling laws have strictly to do with the Illinois Department of Transportation and the Governor, as the gentleman from Illinois (Mr. HYDE) has stated, appoints all the people in charge of the Illinois Department of Transportation. So the LAX situation has nothing to do with, and it is not precedent-setting whatsoever as far as this legislation we have here.

□ 1345

The gentleman from Illinois (Congressman HYDE) has asked me a number of times why the City of Chicago did not ask the Illinois Department of Transportation for a certificate of approval. I now have the answer for the congresswoman. In order to get a certificate for the Illinois Department of Transportation, it takes over a year. Unfortunately Governor Ryan would no longer be in office at the end of that time. A new governor could simply take that report because he has the arbitrary veto power and chuck it out the window and say we are going to keep the gridlock in the Midwest in aviation.

The gentleman from Illinois (Congressman JACKSON) talks about Peotone. There is nothing in whatsoever in this legislation that stops Peotone from being built. What this legislation does not do, though, it does not reach out from Washington, D.C. and say we have to build Peotone. It is entirely left up to the State of Illinois. And it does not give high priority to Peotone because if we did that, every airport in the country would be rushing here to get exactly the same status. We do not even do that for O'Hare Airport in this legislation. O'Hare has to be improved in its modernization and expansion by the FAA before it becomes Federal law.

Mr. Speaker, I thought my time might have expired. I will be back shortly.

Mr. JACKSON of Illinois. Mr. Speaker, I just have one final speaker; so we will continue to reserve the balance of our time if that is okay.

The SPEAKER pro tempore (Mr. SIMPSON). Who yields time?

Mr. LIPINSKI. Mr. Speaker, since our side has time to close, I reserve the balance of my time.

Mr. JACKSON of Illinois. Mr. Speaker, the gentleman from Florida (Mr. MICA) has the right to close. The gentleman from Illinois (Mr. LIPINSKI) needs to exhaust the balance of his time and then we will exhaust the balance of ours and we will give it to the gentleman from Florida (Mr. MICA).

Mr. LIPINSKI. Mr. Speaker, is that the ruling of the Chair?

The SPEAKER pro tempore. It is.

Mr. LIPINSKI. Could I inquire to have a Parliamentary inquiry on why, since I have part of the gentleman from Florida's (Mr. MICA) time, I should not be able to come just before he closes?

The SPEAKER pro tempore. The original time is controlled by the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. JACKSON); the reverse order of opening.

Mr. LIPINSKI. Mr. Speaker, I yield myself the balance of my time.

Let us see something else that has been brought up here. Competition. The gentleman from Illinois (Mr. HYDE) talked about the competition. We are going to have more gates at new modernized O'Hare Airport. In the agreement, Delta Airlines, Northwest Airlines, a number of airlines that now utilize O'Hare but feel that they are restricted because of the size of O'Hare will have a much greater opportunity to get gates, to get landing slots so that there will be significantly more competition at O'Hare.

Another point I would like to bring up is that this is really a very bipartisan piece of legislation. Not only do we have support from the Republican side and the Democratic side, but beyond this Chamber, five secretaries of Transportation enthusiastically support this legislation, and these are appointees both on the Democratic side and from the Republican side. Two of them that I could name right here, Secretary Slater, Secretary Skinner. People support this not only because it is necessary to break the gridlock at O'Hare for benefit of the American aviation flying public, but it will also create 195,000 jobs, and those jobs are not going to just go to people on the northwest side of the city of Chicago. They are going to go to people within the city of Chicago, within Cook County, within the counties that surround Cook County. This is job creation. This is economic development at the highest possible level, and on top of all that, once again I say to you there is nothing in this legislation that stops the State, rural county, or anyone else from building Peotone.

Mr. JACKSON of Illinois. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, this is a Rand McNally map of Chicago. It is called the Rand McNally Chicago Easy Finder Map. And in this map it has all of the northwest suburbs in it, it has most of the city of Chicago, it has some of the southwest suburbs, but it stops here at 55th Street, right here at the Museum of Science and Industry. My district does not even start until 71st Street, and then it proceeds almost 40 miles outside the city of Chicago.

Mr. Speaker, it is as if the city of Chicago stops right there where all of the tourists and where all of the economic activity is without any consideration of the south suburbs.

Mr. Speaker, I brought with me some of the many books that document the damaging effects of Chicago's persistent disparities between north and south. Let me read a passage of just one of these titled When Work Disappears by noted University of Chicago and Harvard University Professor William Julius Wilson. Professor Wilson writes, "Over the last two decades, 60 percent of the new jobs created in the Chicago metropolitan area have been located in northwest suburbs of Cook and DuPage County surrounding O'Hare Airport. African-Americans constitute less than 2 percent of the population in these areas." He concluded, "The metropolitan black poor are becoming increasingly isolated."

Let us not add to this hefty volume. Let us not continue to perpetuate and exploit this divide. Let us regulate all of these books to the history section and begin our own new chapter of balanced economic growth and justice in Chicago.

Mr. Speaker, I urge a no vote on this bill. It is an unprecedented act that undermines our State's ability to determine our State's future.

Mr. Speaker, I include for the RECORD the following remarks:

Mr. Speaker, I rise in opposition to H.R. 3479.

Votes on the suspension calendar are supposed to be, by definition, non-controversial. But to argue that H.R. 3479 is non-controversial is like arguing that the elimination of estate taxes, gun control legislation, a patients bill of rights, and prescription drug benefits for seniors should all be on the suspension calendar. H.R. 3479 is one of the most controversial bills to come before the House this year. It has been extremely controversial in Chicago, in the northwest suburbs, in Illinois generally, in the Illinois congressional delegation(our two U.S. Senators are divided over it), in all House and Senate Committees, in the full Senate, and, if a full debate were held on the House floor today, the nation would see just how controversial this bill is.

This bill has already been delayed in the Senate with one virtual filibuster—and it will be subjected to every parliamentary and tactical maneuver possible to try to stop it when it comes before the senate again. Hardly non-controversial!

To tear down and rebuild O'Hare will cost taxpayers three times as much money as it will cost to build a third South Suburban airport—$15–20 billion (not the $6.6 billion generally used) versus $5–7 billion. This bill is hardly non-controversial for taxpayers!

Tearing down and rebuilding O'Hare is estimated to take 15–20 years, assuming ti proceeds on schedule, without lawsuits—not likely—while building a new South Suburban Airport would take five years, it would expand thereafter as need arises, and would be a more permanent solution to the capacity crisis. When the new O'Hare is completed, we will be in the same position we are today with regard to the air capacity crisis. How is that not controversial?

This bill will double the noise pollution in the suburban communities surrounding O'Hare. It is hardly non-controversial in the polluted northwest suburbs of Chicago.

Doubling the traffic in the air space around O'Hare from 900,000 to 1.6 million operations will make flying into O'Hare less safe for the public—hardly noncontroversial for the flying public.

This bill will increase environmental pollution—O'Hare is already the number one polluter in Illinois—hardly non-controversial for those having to live in the increased pollution.

The Chicago Tribune won a Pulitzer Prize for documenting "sleaze" surrounding the City of Chicago and past O'Hare construction, vender, and service contracts. By passing this bill—and removing the Illinois Aeronautics Law and by-passing the Illinois General Assembly—we are virtually sanctioning more "sleaze" to be found around O'Hare construction, vender, and service contracts. Since when has such potential "sleaze" become non-controversial for Congress.

I don't consider the Federal Government running over any future Governor of Illinois, the Illinois General Assembly, the Illinois Aeronautics Law, and the 10th Amendment of the U.S. Constitution—to build an airport—non-controversial.

Finally, we're already finding out how controversial this bill is as Judge Hollis Webster on July 9, 2002, stopped the City of Chicago from running rough-shod over their northwest suburban neighbors by illegally trying to buy up and tear down their homes and businesses to make room for O'Hare expansion. This is just one of many controversial lawsuits that have been and will be filed in the future if this bill passes and becomes law.

How is tearing down and rebuilding O'Hare—which will be three times as expensive, take three times longer, be less protective of the environment, make the skys less safe, and be a less permanent solution than building a third airport—non-controversial? I say, solve the current air capacity crisis by building Peotone first, faster, cheaper, and safer, then evaluate what needs to be done with O'Hare.

H.R. 3479 fall woefully short of providing an adequate, equitable solution.

Please know that I do not oppose fixing the current air capacity crisis surrounding O'Hare. But I have many, many grave concerns about this specific expansion plan. Concerns about cost. About safety. About environmental impact. About federal precedence—and I associate myself completely with the remarks of my good friend, Mr. HYDE.

Although I oppose this bill for many reasons, I rise today to discuss an important element of this bill—constitutionality.

The attempt to rebuild and expand O'Hare Airport—Congress is inappropriately violating the Tenth Amendment.

In other contexts—specifically with regard to certain human rights—I believe that the Tenth Amendment serves to place limitations on the federal government with which I disagree. Indeed, in the area of human right, I believe new amendments must be added to the Constitution to overcome the limitations of the Tenth Amendment. However, building airports is not a human right. Therefore, in the present context, I agree that building airports is appropriately within the purview of the states.

I believe attempts by Congress to strip the authority of Governor Ryan and the Illinois Legislature over the delegation and authorization to Chicago of state power to build airports—along with the authority of governors and state legislatures in a host of other states such as Massachusetts (Logan), New York (LaGuardia and JFK), New Jersey (Newark), California (San Francisco airport), and the State of Washington (Seattle)—raise serious constitutional questions.

Under the framework of federalism established by the federal constitution, Congress is without power to dictate to the states how the states delegate power—or limit the delegation of that power—to their political subdivisions. Unless and until Congress decides that the federal government should build airports, airports will continue to be built by states or their delegated agents (state political subdivisions or other agents of state power) as an exercise of state law and state power. Further compliance by the political subdivision of the oversight conditions imposed by the State legislature as a condition of delegating the state law authority to build airports is an essential element of that delegation of state power. If Congress strips away a key element of that state law delegation, it is highly unlikely that the political subdivision would continue to have the power to build airports under state law. The political subdivision's attempts to build runways would likely be ultra vires (without authority) under state law.

Under the Tenth Amendment and the framework of federalism built into the Constitution, Congress cannot command the States to affirmatively undertake an activity. Nor can Congress intrude upon or dictate to the states, the prerogatives of the states as to how to allocate and exercise state power—either directly by the state or by delegation of state authority to its political subdivisions.

As states by the United States Supreme Court:

> [T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States. . . . We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts. New York v. United States, 505 U.S. 144, at 166 (1992) (emphasis added)
>
> It is incontestable that the Constitution established a system of "dual sovereignty." Printz v. United States, 521 U.S. 898, 981 (1997) (emphasis added)
>
> Although the States surrendered many of their powers to the new Federal Government, they retained "a residuary and inviolable sovereignty," The Federalist No. 39, at 245 (J. Madison). This is reflected throughout the Constitution's text.
>
> Residual state sovereignty was also implicit, of course, in the Constitution's conferral upon Congress of not all governmental powers, but only discrete, enumerated ones, Art. I, Sec. 8, which implication was rendered express by the Tenth Amendment's assertion that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Id at 918–919.
>
> This separation of the two spheres is one of the Constitution's structural protections of liberty. "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a health balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. Id at 921 quoting Gregory v. Ashcroft, 501 U.S. 452 at 458 (1991)

The Supreme Court in Printz went on to emphasize that this constitutional structural barrier to the Congress introducing on the States' sovereignty could not be avoided by claiming either (a) that the congressional authority was pursuant to the Commerce Power and the "necessary and proper clause of the Constitution or (b) that the federal law "preempted" state law under the Supremacy Clause. 521 U.S. at 923–924.

It is important to note that Congress can regulate—but not affirmatively command—the states when the state decides to engage in interstate commerce. See Reno v. Condon, 528 U.S. 141 (2002). Thus in Reno, the Court upheld an act of Congress that restricted the ability of the state to distribute personal drivers' license information. But Reno did not involve an affirmative command of Congress to a state to affirmatively undertake an activity desired by Congress. Nor did Reno involve (as proposed here) an intrusion by the federal government into the delegation of state power by a state legislature—and the sate legislature's express limits on that delegation of state power—to a state political subdivision.

H.R. 3479 would involve a federal law which would prohibit a state from restricting or limiting the delegated exercise of state power by a state's political subdivision. In this case, the proposed federal law would seek to bar the Illinois Legislature from deciding the allocation of the state's power to build an airport or runways—and especially the limits and conditions imposed by the State of Illinois on the delegation of that power to Chicago. The law is clear that Congress has no power to intrude upon or interfere with a state's decision as to how to allocate state power.

A state's authority to create, modify, or even eliminate the structure and power of the state's political subdivision—whether that subdivision be Chicago, Bensenville, or Elmhurst—is a matter left by our system of federalism and our federal Constitution to the exclusive authority of the states. As stated by the Seventh Circuit in Commissioners of Highways v. United States, 653 F.2d 292 (7th Cir. 1981) (quoting Hunter v. City of Pittsburgh, 207 U.S. 161, 178 (1907)):

> Municipal corporations are political subdivisions of the State, created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them. For the purpose of executing these powers properly and efficiently they usually are given the power to acquire, hold, and manage personal and real property. The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State. . . . The State, therefore, at its pleasure may modify or withdraw all such power, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the State is supreme, and its legislative body, conforming its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States.

Commissioners of Highways, 653 F.2d at 297 Chicago has acknowledged that Illinois has delegated its power to build and operate airports to its political subdivisions by express statutory delegation. 65 ILCS 5/11–102–1, 11–102–2 and 11–102–5. These state law delegations of the power to build airports and runways are subject to the Illinois Aeronautics Act requirements—including the requirement that the State approve any alterations of the airport—by their express terms. Any attempt by Congress to remove a condition or limitation imposed by the Illinois Legislature on the terms of that state law delegation of authority would likely destroy the delegation of state authority to build airports by the Illinois Legislation to Chicago—leaving Chicago without delegated state legislative authority to build runways and terminals at O'Hare or midway. The requirement that Chicago receive a state permit is an express condition of the grant of state authority and an attempt by Congress to remove that condition or limitation would mean that there was no continuing valid state delegation of authority to Chicago to build airports. Chicago's attempts to build new runways would be ultra vires under state law as being without the required state legislative authority.

Clearly this bill sets dangerous precedence by stating that Congress—not the FAA, not Departments of Transportation, not aviation experts—but Congress shall plan and built airports.

Further, it ignores the 10th Amendment to the U.S. Constitution. It guts and/or undermines state laws and environmental protections. And it sidesteps the checks-and-balances and the public hearing process.

My focus today is the same as it's always been. Finding the best fix. And that best fix is the construction of a third Chicago airport near Peotone, Illinois. The plain truth is Peotone could be build in one-third the time at one-third the cost. For taxpayers and travelers, it's a no-brainer.

Unfortunately, this bill mandates expansion of O'Hare yet pays mere lip service to Peotone. It puts the projects on two separate and unequal tracks. That is my opinion. That is also the opinion of the Congressional Research Service, whose analysis I will provide for the record.

What we don't need at this critical juncture is favoritism or interference from politicians and profit-oriented airlines to stack the deck against Peotone. What we don't need is a bill that increases the likelihood of a constitutional challenge that prolongs the debate and delays the fix.

Thus, I urge members to reject this unprecedented, unwise, and unconstitutional bill.

RONALD D. ROTUNDA, UNIVERSITY OF ILLINOIS COLLEGE OF LAW,
*Champaign, IL, March 1, 2002.*

Re Proposed federal legislation granting new powers to the city of Chicago.

Hon. JESSE L. JACKSON, JR.,
*House of Representatives, Washington, DC.*

DEAR CONGRESSMAN JACKSON. As you know, I serve as the Albert E. Jenner Professor of Law at the University of Illinois Law School. I have authored a leading course book on Constitutional Law. In addition, I co-author, along with my colleague John Nowak, the widely-used multi-volume Treatise on Constitutional Law, published by West Publishing Company. In addition to my books, I have taught and researched in the area of Constitutional Law since 1974.

I have been asked to give my opinion on the constitutionality of proposed federal legislation entitled "National Aviation Capacity Expansion Act," identical versions of which have been introduced in both the Senate and the House of Representatives by Senator Durbin and Congressman Lipinski (S. 1786, HR 3479), hereafter the "Durbin-Lipinski legislation."

The Durbin-Lipinski legislation seeks to enact Congressional approval of a proposal to construct a major alteration of O'Hare Airport in Chicago. While this legislation focuses on Chicago and the State of Illinois, the issues raised by the legislation have serious constitutional implications for all 50 States.

There are two key components of the legislation that have been the subject of my examination.

First Section 3(a)(3) attempts to give the City of Chicago (a political subdivision and instrumentality of the State of Illinois) the legal power and authority to build a proposed major alteration of O'Hare even though state law does not authorize Chicago to build the alteration without first receiving a permit from the State of Illinois. Chicago, as a legal entity, is entirely a creation of state—not federal law—and Chicago's authority to build airports is essentially an exercise of state law power delegated to Chicago by the Illinois General Assembly.

The requirement that Chicago first obtain a state permit is an integral and essential element of that delegation of state power. The U.S. Constitution prohibits Congress (1) from invading and commandeering the exercise of state power to build airports, and (2) from changing the allocation of state-created power between the State of Illinois and its political subdivisions. The U.S. Constitution, in short, prohibits Congress from essentially rewriting state law dealing with the delegation of state power by eliminating the conditions, restrictions, and prohibitions imposed by the Illinois General Assembly on that delegation. These constitutional restrictions on Congress' power—which prohibit Congress from requiring states to change their state laws governing cities—are often termed Tenth Amendment restrictions.

Similarly, the provisions of Section 3(f) of the proposed Durbin-Lipinski legislation are necessarily conditioned upon the existence of state law authority of Chicago to enter into agreements for a third party (the FAA) to alter O'Hare without first obtaining a permit from the State of Illinois. But Chicago has no state law authority (under the delegation of state power to build and alter airports) to enter into an agreement to engage in a massive alteration of O'Hare without a state permit. Congress cannot confer powers on a political subdivision of a State where the State has expressly limited its delegation of state power to build airports to require a state permit. Congress has no constitutional authority to create powers in an instrumentality of State law (Chicago) when the very authority and power of Chicago to undertake the actions proposed by Congress depends on compliance with—and is contrary to—the mandates of the Illinois General Assembly.

For the reasons discussed below, it is my opinion that the proposed legislation is unconstitutional.

*Summary of Analysis*

The following is a summary of my analysis:

1. Under the governing United States Supreme Court decisions of New York v. United States and Printz v. United States, which are discussed below, the proposed legislation is not supported by any enumerated power and thus violates the limitations of the Tenth Amendment of the Constitution. In these decisions, the Supreme Court held that legislation passed by Congress, purportedly relying on its exercise of the Commerce Power (nuclear waste legislation in New York and gun control legislation in Printz) was unconstitutional because the federal laws essentially commandeered state law powers of the States as instrumentalities of federal policy.

2. The same constitutional flaws afflict the proposed Durbin-Lipinski legislation. Central to the Durbin-Lipinski legislation are two provisions [sections 3(a)(3) and 3(f)] that purport to empower or authorize Chicago (a political instrumentality of the State of Illinois, and thus a city that has no authority or even legal existence independent of state law) to undertake actions for which Chicago has not received any delegation of authority from the State of Illinois and that, in fact, are directly prohibited by Illinois law when the conditions and limitations of the State delegation of authority have not been satisfied.

3. Under Illinois law, Chicago (like any other political subdivision of a State) has no authority to undertake any activity (including constructing airports) without a grant of state authority from the State of Illinois. Under Illinois law, actions taken by political subdivisions of the State (e.g., Chicago) without a grant of authority from the State, or actions taken by political subdivision in violation of the conditions, limitations or prohibitions imposed by the State in delegating the state authority, are plainly ultra vires, illegal, and unenforceable. The City of Chicago is a creature of state law, not federal law.

4. The power exercised by any state political subdivision (e.g., the power to construct airports) is in reality a power of the State—not inherent in the existence of the political subdivision. For the political subdivision to have the legal authority to exercise that state power, there must be a delegation of that state power by the State to the political subdivision. Further, it is axiomatic that any such delegation of state power to a political subdivision must be exercised in accordance with the conditions, limitations, and prohibitions accompanying the State's delegation of that power.

5. In the case of airport construction, the Illinois General Assembly has enacted a statute that delegated to Chicago (and other municipalities) the state law power to construct airports explicitly and specifically subject to certain limits and conditions that the General Assembly imposed. One basic requirement is that Chicago must first comply with all of the requirements of the Illinois Aeronautics Act—including the requirement that Chicago first receive a permit (a certificate of approval) from the State of Illinois. the Illinois General Assembly has expressly provided that municipal construction or alteration of an airport without such a state permit is unlawful and ultra vires.

6. Section 3(a)(3) of the Durbin-Lipinski legislation expressly authorizes Chicago to proceed with the "runway redesign plan" (a multi-billion dollar modification of O'Hare) without regard to the clear delegation limitations and prohibitions imposed by the Illinois General Assembly on the state statutory delegation to Chicago of the state law power to construct airports. Illinois law explicitly says Chicago has no state law authority to build or alter airports without first complying with the Illinois Aeronautics Act, including the state permitting requirements of §47 of that Act. Even though Chicago (a political creation and instrumentality of the State of Illinois) has no power to build or modify airports (a state law power) unless Chicago obtains State approval, Section 3(a)(3) purports to infuse Chicago (which has no legal existence independent of state law) with a federal power to build airports and to disregard Chicago's fundamental lack of power under state law to

undertake such actions (absent compliance with state law). Like New York v. United States and Printz v. United States the proposed Durbin-Lipinski legislation involved Congress attempting to use a legal instrumentality of a State (i.e., the state power to build airports exercised through its delegated state-created instrumentality, the city of Chicago) as an instrument of federal power. As the Supreme Court held in New York and Printz, the Tenth Amendment—and the structure of "dual sovereignty" it represents under our constitutional structure of federalism—prohibits the federal government from using the Commerce power to conscript state instrumentalities as its agents.

7. Similar problems articulated in New York and Printz fatally afflict Section 3(f) of the proposed Durbin-Lipinski legislation. That section provides that, if (for whatever reason) construction of the "runway design plan" is not underway by July 1, 2004, then the FAA Administrator (a federal agency) shall construct the "runway redesign plan" as a "Federal Project". But, Section 3(f)(1) then provides that this "federal project" must obtain several agreements and undertakings from Chicago—agreements and undertakings that are controlled by state law, which limits Chicago's authority to enter into such agreements or accept such undertakings. Chicago has no authority under the state law (which confers upon Chicago the state power to construct airports) to enter into agreements with any third party (be it the United States or a private party) to make alterations of an airport without the state permit required by state statute. Thus, Chicago has no authority under state law to enter into an agreement with the FAA Administrator to have the runway redesign plan constructed by the Federal government because Chicago has not received approval from the State of Illinois under the Illinois Aeronautics Act—a specific condition and prohibition of the delegation of state power (to build airports) to Chicago by the Illinois General Assembly. Just as Chicago (a creation and instrumentality of the State of Illionis) has no power or authority under state law (absent compliance with the Illinois Aeronautics Act) to enter into an agreement for the FAA to construct the runway redesign plan, Chicago also has no power or authority (absent compliance with the Illinois Aeronautics Act) to enter into the other agreements provided for in Sections 3(f)(1)(B) of the Durbin-Lipinski legislation. Again, Section 3(f) is an attempt to have Congress use the Commerce power to conscript state instrumentalities as its agents. Instead of Congress regulating interstate commerce directly (which both New York v. United States and Printz allow), the Durbin-Lipinski legislation seeks to regulate how the State regulates one of its cities (which both New York v. United States and Printz do not allow).

8. The Durbin-Lipinski legislation is not a law of "general application". There is a line of Supreme Court decisions which allow Congress to use the Commerce Power to impose obligations on the States when the obligations imposed on the States are part of laws which are "generally applicable" i.e., that impose obligations on the States and on private parties alike. See e.g., Reno v. Condon, 528 U.S. 141 (2000) (Federal rule protecting privacy of drivers' records upheld because they do not apply solely to the State), South Carolina v. Baker, 485 U.S. 505 (1988); (state bond interest not immune from nondiscriminatory federal income tax); Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528, (1985) (law of general applicability, binding on States and private parties, upheld). But these cases have no application where, as here and in New York and Printz, the Congressional statute is not one of general applicaiton but a specifically directed at the States to use state law instrumentalities as tools to implement federal policy. Here the Durbin-Lipinski legislation is doubly unconstitutional, because it does not apply to private parties or even to all States but only to one State (Illinois) and its relationship to one city (Chicago). The Durbin-Lipinski legislation proposes to use Chicago (an instrumentality of state power whose authority to construct airports is "an exercise of state power expressly limited and conditioned on the limits and prohibitions imposed on that delegation by the Illinois legislature) as a federal instrumentality to implement federal policy. Congress is commandeering a state instrumentality of a single State (Illinois) against the express statutory will of the Illinois Legislature, which has refused to confer on Chicago (an instrumentality of the State) the state law power and authority to build airports unless Chicago first obtains a permit from the State of Illinois. This is an unconstitutional use of the Commerce Power under the holdings New York and Printz and does not fall within the "general applicability" line of cases such as Reno v. Condon, South Carolina v. Baker, and Garcia.

### ANALYSIS

Before discussing any further the specific provisions of the Durbin-Lipinski legislation, let us review some important background law.

*A. The basic legal principles*

Cities are Creatures of the States and State Law—Not Instrumentalities of Federal Power. Normally, this controversy surrounding the proposed expansion of O'Hare Airport would be left to the state political process. Under Illinois law, the cities in this state have only the power that the State Constitution or the legislature grants to them, subject to whatever limits the State imposes. This legal principle has long been settled.

Nearly a century ago, the U.S. Supreme Court, in Hunter v. City of Pittsburgh, 207 U.S. 161, 28 S.Ct. 40, 52 L.Ed. 151 (1907) held that, under the U.S. Constitution, cities are merely creatures of the State and have only those powers that the State decides to give the, subject to whatever limits the States choose to impose:

"This court has many times had occasion to consider and decide the nature of municipal corporations, their rights and duties, and the rights of their citizens and creditors. [Citations omitted.] It would be unnecessary and unprofitable to analyze these decisions or quote from the opinions rendered. We think the following principles have been established by them and have become settled doctrines of this court, to be acted upon wherever they are applicable. Municipal corporations are political subdivisions of the state, created as convenient agencies for exercising such of the governmental powers of the state as may be [e]ntrusted to them. . . . The number, nature, and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the state. . . . The state, therefore, at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the state is supreme, and its legislative body, conforming its action to the state Constitution, may do as it will, unrestrained by any provision of the Constitution of the United States."

Hunter held that a State that simply takes the property of municipalities without their consent and without just compensation did not violate due process. While Hunter is an old case, it still is the law, and the Seventh Circuit recently quoted with approval the language reprinted here.

The Illinois Aeronautics Act Expressly Limits Chicago's Power to Build and Alter. The State of Illinois has delegated to Chicago the power to build and alter airports. But that power is expressly limited by the requirement that Chicago must comply with the Illinois Aeronautics Act. And the Illinois Aeronautics Act provides that Chicago has no power to make "any alteration" to an airport unless it first obtains a permit, a "certificate of approval," from the State of Illinois. Finally, Chicago has not obtained this certificate of approval. That fact is what has led to the proposed federal intervention.

*B. The federalism problem*

As mentioned above, section 3(a)(3) of the proposed federal law overrides the licensing requirements of §47 of the Illinois Aeronautics Act. This section states:

"(3) The State shall not enact or enforce any law respecting aeronautics that interferes with, or has the effect of interfering with, implementation of Federal policy with respect to the runway redesign plan including sections 38.01, 47, and 48 of the Illinois Aeronautics Act."

In addition, section 3(f) authorizes Chicago to enter into an agreement with the federal government to construct the O'Hare Airport expansion. This project is called a "Federal project," but Chicago must agree to construct the "runway redesign as a Federal Project," and Chicago provides the necessary land, easements, etc., "without cost to the United States."

What this proposed legislation does is authorize the City of Chicago to implement an airport expansion approved by the Administrator of the Federal Aviation Administration. But, under state law, Chicago cannot expand O'Hare because it does not have the required state permit.

There is no doubt that the O'Hare Airport is a means of interstate commerce, and Congress may certainly impose various rules and regulations on airports, including O'Hare. Congress, for example, may decide to require airport security and require that the security agents be federal employees. Or, Congress could provide that it would build and takeover the O'Hare Airport and construct expansion if the State of Illinois refused to do so.

Congress may also use its spending power to take land by eminent domain and then construct or expand an airport, no matter that the state law provides. The limits on the spending clause are few.

But, the proposed law does not take such alternatives. It does not impose regulations on airports in general, nor does it exercise the very broad federal spending power. Nor does the proposed law authorize the federal government take over ownership and control of O'Hare Airport. Instead, it seeks to use an instrumentality of state power (i.e., the state law power to build airports as delegated to a state instrumentality, the city of Chicago) as an exercise of federal power.

The proposed federal law is stating that it is creating a federal authorization or empowerment to the City of Chicago to do that which state law provides that Chicago may not do—expand O'Hare Airport without complying with state laws that create the City of Chicago and delegate to it certain limited powers that can be exercised only if within the limits of the authorizing state legislation.

*New York v. United States*

The proposed federal law is very similar to the law that the Supreme Court invalidated a decade ago in New York v. United States. The law that New York invalidated singled out states for special legislation and regulated that states' regulation of interstate commerce. The proposed Durbin-Lipinski legislation singles out a State (Illinois) for special legislation and regulates the State's regulation of interstate commerce dealing with O'Hare Airport.

While the law in this area has shifted a bit over the last few decades, it is now clear that Congress can use the Interstate Commerce Clause to impose various burdens on States as long as those laws are "generally applicable." The federal law may not single out the State for special burdens. For example, Congress may impose a minimum wage on state employees in, or affecting, interstate commerce as long as Congress imposes the same minimum wage requirements on non-state workers in, or affecting, interstate commerce. Congress can regulate the States using the Commerce Clause if it imposes requirements on the States that are generally applicable—that is, if it imposes the same burdens on private employers. Congress cannot single out the States for special burdens; it cannot commandeer or take control over the States or order a state legislature to increase the home rule powers of the City of Chicago; it cannot enact federal legislation that adds to or revises Chicago's state created and limited delegated powers.

The leading case, New York v. United States, held that the Commerce Clause does not authorize the Federal Government to conscript state governments as its agents. "Where a federal interest is sufficiently strong to cause Congress to legislate, it must do so directly; it may not conscript state governments as its agents." The proposed Durbin-Lipinski legislation will do exactly what New York prohibits: it will conscript the City of Chicago as its agent and interfere with the relationship between the State of Illinois and the entity it created, the City of Chicago.

New York invalidated a legislative provision that is strikingly similar to the proposed federal Durbin-Lipinski legislation. The Court, in the New York case, considered the Low-Level Radioactive Waste Policy Amendments Act of 1985. Congress was concerned with a shortage of disposal sites for low level radioactive waste. The transfer of waste from one State to another is obviously interstate commerce. Congress, in order to deal with the waste disposal problem, crafted a complex statute with three parts, only one of which was unconstitutional. There were a series of monetary incentives, which the Court unanimously upheld under Congress' broad spending powers. Congress also authorized States that adopted radioactive waste and storage disposal guidelines to bar waste imported from States that had not adopted certain storage and disposal programs. The Court, again unanimously, relied on long-settled precedent that approves of Congress creating such trade barriers in interstate commerce.

Then the Court turned to the "take title" provisions and held (six to three) that they were unconstitutional. The "take title" provision in effect required a State to enact certain regulations and, if the State did not do so, it must (upon the request of the waste's generator or owner), take title to and possession of the waste and become liable for all damages suffered by the generator or owner as a result of the State's failure to promptly take possession.

The Court explained that Congress could, if it wished, preempt entirely state regulation in this area and take over the radioactive waste problem. But Congress could not order the States to change their regulations in this area. Congress lacks the power, under the Constitution, to regulate the State's regulation of interstate commerce. This is what the proposed federal O'Hare Airport bill will do: it will regulate the State's regulation of interstate commerce by telling the State that it must act as if the City of Chicago has complied with the Illinois Aeronautics Act and other state rules.

In a nutshell, Congress cannot constitutionally commandeer the legislative or executive branches. The Court pointed out that this commandeering is not only unconstitutional (because nothing in our Constitution authorizes it) but also bad policy, because federal commandeering serves to muddy responsibility, undermine political accountability, and increase federal power.

The proposed Durbin-Lipinski legislation prohibits Illinois from applying its laws regulating one of its cities. The proposed federal law also authorizes the federal government to make an agreement with Chicago, pursuant to which Chicago will assume some significant obligations, even though present state law gives Chicago no authority to engage in this activity. As the six to three New York decision made clear:

"A State may not decline to administer the federal program. No matter which path the State chooses, it must follow the direction of Congress. . . . No other federal statute has been cited which offers a state government no option other than that of implementing legislation enacted by Congress. Whether one views the take title provision as lying outside Congress' enumerated powers, or as infringing upon the core of state sovereignty reserved by the Tenth Amendment, the provision is inconsistent with the federal structure of our Government established by the Constitution."

The proposed Durbin-Lipinski legislation is very much like the law that six justices invalidated in New York. The O'Hare bill provides that, no matter what the State chooses, "it must follow the direction of Congress." The State has "no option other than that of implementing legislation enacted by Congress."

The Court in New York went on to explain that there are legitimate ways that Congress can impose its will on the states:

"This is not to say that Congress lacks the ability to encourage a State to regulate in a particular way, or that Congress may not hold out incentives to the States as a method of influencing a State's policy choices. Our cases have identified a variety of methods, short of outright coercion, by which Congress may urge a State to adopt a legislative program consistent with federal interests. Two of these methods are of particular relevance here."

The Court then discussed those two alternatives. First, there is the spending power, with Congress attaching conditions to the receipt of federal funds. The proposed Durbin-Lipinski legislation rejects the spending power alternative. Second, "where Congress has the authority to regulate private activity under the Commerce Clause, we have recognized Congress' power to offer States the choice of regulating that activity according to federal standards or having state law preempted by federal regulation." The proposed Durbin-Lipinski legislation rejects that alternative as well. It does not propose that Congress directly takeover and expand O'Hare Airport. Instead, it proposes that the City of Chicago be allowed to exercise power that the State does not allow the City to exercise.

New York v. United States did not question "the authority of Congress to subject state governments to generally applicable laws." But Congress cannot discriminate against the States and place on them special burdens. It cannot commandeer or command state legislatures or executive branch officials to enforce federal law. Congress can regulate interstate commerce and States are not immune from such regulation just because they are States. For example, Congress can forbid employers from hiring child labor to work in coal mines, whether a private company or a State owns the coal mine and employs the workers.

Printz v. United States. Following the New York decision, the Court invalidated another federal statute imposing certain administrative duties on local law enforcement officials, in Printz v. United States. The Brady Act, for a temporary period of time, required local law enforcement officials to use "reasonable efforts" to determine if certain gun sales were lawful under federal law. The federal law also "empowered" these local officers to grant waivers of the federally prescribed 5-day waiting period for handgun purchases. Note that the proposed Durbin-Lipinski legislation will also "empower" the City of Chicago to do that which Illinois does not authorize the city to do.

To make the analogy even more compelling, the chief law enforcement personal suing in the Printz case said that state law prohibited them from undertaking these federal responsibilities. That, of course, is the exact position in which Chicago finds itself. State law prohibits Chicago from entering into and committing to these federal responsibilities (e.g., the agreements between Chicago and the FAA in §3(f) of the proposed Durbin-Lipinski legislation call for construction as a "federal project" but then require Chicago to either construct or allow construction without a permit from the State of Illinois).

We should realize that the proposed Durbin-Lipinski legislation—in commanding and singling out the State of Illinois to, in effect, repeal its legislation governing the powers delegated to the City of Chicago—is quite unusual and not at all in the tradition of federal legislation. For most of our history, Congress would explicitly only "recommend" or "request" the assistance of the governors and state legislatures in implementing federal policy. It is only in very recent times that Congress has sought explicitly to commandeer or order the legislative and executive branches of the States to implement federal policies. Because such federal legislative activity is recent, the case law in this area is recent, but the case law is clear in prohibiting this type of federal assertion of power.

New York v. United States held that Congress cannot "command a State government to enact state regulation." Congress may regulate interstate commerce directly, but it may not "regulate state governments' regulation of interstate commerce." The Federal Government may not "conscript state governments as its agents." Congress has the "power to regulate individuals, not States."

In short, there are important limits on the power of the federal government to commandeer the state legislature or state executive branch officials for federal purposes. Another way to think about this issue is that, to a certain extent, the Constitution forbids Congress from imposing what recently have been called "unfunded mandates" on state officials. Congress cannot simply order the States or state officials or a city to take care of a problem. Congress can use its spending power to persuade the States by using the carrot instead of the stick.

While there are those who have attacked the restrictions that New York v. United States have imposed on the Federal Government, it is worth remembering the line-up of the Court in Maryland v. Wirtz when the justices first considered this issue. That case rejected the applicability of the Tenth Amendment and held that it was constitutional for Congress to set the wages, hours, and working conditions of employees, including state employees in interstate commerce. However, Justice Douglas, who was joined by Justice Stewart, dissented. Douglas found the law to be a "serious invasion of state sovereignty protected by the Tenth Amendment" and "not consistent with our constitutional federalism." He objected that Congress, using the broad commerce power, could "virtually draw up each State's budget to avoid 'disruptive effect[s]'" on interstate commerce. New York v. United States prevents this result.

The "generally applicable" restriction is important, and it explains Reno v. Condon. Congress enacted the Driver's Privacy Protection Act (DPPA), which limited the ability of the States to sell or disclose a driver's personal information to third parties without the driver's consent. Chief Justice Rehnquist, for a unanimous Court, upheld the law as a proper regulation of interstate commerce and not violating any principles of federalism found in New York v. United States or Printz because the law was "generally applicable."

Reno grew out of a congressional effort to protect the privacy of drivers' records. As a condition of obtaining a driver's license or registering a car, many States require drivers to provide personal information, such as name, address, social security number, medical information, and a photograph. Some States then sell this personal information to businesses and individuals, generating significant revenue. To limit such sales, Congress enacted the DPPA, which governs any state department of motor vehicles (DMV), or state officer, employee, or contractor thereof, and any resale or re-disclosure of drivers' personal information by private persons who obtained the information from a state DMV. The Court concluded: "The DPPA's provisions do not apply solely to States." Private parties also could not buy the information for certain prohibited purposes nor could they resell the information to other parties for prohibited purposes, and the States could not sell the information to the private parties for certain purposes if the private parties could not buy it for those purposes.

Unlike the law in New York, the Court concluded that the DPPA does not control or regulate the manner in which States regulate private parties, it does not require the States to regulate their own citizens, and it does not require the state legislatures to enact any laws or regulations. Unlike the law in Printz, the DPPA does not require state officials to assist in enforcing federal statutes regulating private individuals. This DMV information is an article of commerce and its sale or release into the interstate stream of business is sufficient to support federal regulation.

The DPPA is a "generally applicable" federal law regulating commerce because it regulates the universe of entities that participate as suppliers to the market for motor vehicle information—the states as initial suppliers and the private resellers or redisclosers of this information. "South Carolina has not asserted that it does not participate in the interstate market for personal information. Rather, South Carolina asks that the DPPA be invalidated in its entirety, even as applied to the States acting purely as commercial sellers."

### CONCLUSION

The proposed federal law dealing with the O'Hare Airport expansion is most likely unconstitutional because it imposes federal rules on the relationship between a city and the State that created the city. It subjects Illinois to special burdens that are not generally applicable to private parties or even to other States. It authorizes the City of Chicago to do that which Illinois now prohibits.

There is no escape from the conclusion that the proposed federal law does not regulate the behavior of private parties in interstate commerce. It does not subject the State of Illinois to "generally applicable" legislation. Instead, Congress is regulating the state's regulation of interstate commerce. Congress may not conscript the instrumentalities of state government and state power as tools of federal power. The case law is clear that Congress does not have this power.

Sincerely,

RONALD D. ROTUNDA,
*The Albert E. Jenner, Jr. Professor of Law.*

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## CHICAGO IS NOT AN AGENCY OF THE FEDERAL GOVERNMENT

(By Ronald D. Rotunda)

Congress is at it again. The Senate Commerce Committee has cleared a bill that would, in effect, enlist Chicago as an agency of the federal government. The immediate dispute involves O'Hare Airport, but the underlying constitutional issue affects us all. The question is whether there should be a major expansion of O'Hare, or a new airport. That decision has been entrusted to Chicago, a city created under Illinois law. But the state placed an important condition on Chicago's power to expand O'Hare. First, the city has to secure a state permit.

That's the rub. Some people who favor the expansion don't want Chicago to comply with the state permit requirement, so they urged Congress to enact legislation that authorizes Chicago to do what state law forbids. Enter the U.S. Constitution. For over two centuries, the federal government has had the power to regulate interstate commerce. After the terrorist attacks, for example, Congress relied on that power to federalize airport security. Notably, Congress didn't deal with the problem by ordering state and city police to take over security and pay the bills. That's because the federal government knew it could not regulate by conscripting state or city governments as its agents.

Congress acknowledged that fundamental principle in 1789, the very year that the Constitution was ratified. The First Congress enacted a law that requested state assistance to hold federal prisoners in state jails at federal expense. The law did not command the states' executives, but merely recommended to their legislatures, and offered to pay 50 cents per month for each prisoner. When Georgia refused, Congress authorized the U.S. marshal to rent a temporary jail until a permanent one could be found. It never occurred to Congress that it could make city or state officials its minions by instructing them to act as if they were federal employees.

All this changed a little over a decade ago, when Congress has to decide how to dispose of radioactive waste. Rather than handle the matter directly, it chose a low-cost solution: it simply ordered the states to take care of the problem. The law required the states to take title to radioactive waste that private parties had generated, and be responsible for its disposal, at not cost to the federal government. In 1992, the Supreme Court invalidated the law, calling it an unprecedented effort by the federal government to co-opt legislative and executive branch officials of state government.

A few years later, Congress mandated background checks in connection with gun purchases. It didn't want to spend federal money for bureaucrats to enforce the new law, so it told city and state law enforcement personnel to carry out the background checks. Printz v. United States invalidated that portion of the federal law. The Supreme Court explained that city and state officials do not work for the federal government; they work for the state. Cities are creatures of state law, and they have only the powers that the state chooses to give them.

Federalism, the Court tells us, exists to protect the people by dividing power between the states and the federal government. That protection is undermined if Congress can bypass the federal bureaucracy by directing state or city officials to do its bidding. The Court added that allowing Congress to treat state officials as its worker bees is bad policy because it muddies responsibility, weakens political accountability, and increases federal power.

The Constitution gives Congress plenty of ways to deal with O'Hare, but they all cost money: Congress can use its spending power to expand the airport; it can give the state money on the condition that it expand the airport; it can order federal officials (the Army Corps of Engineers) to build the O'Hare expansion. But Congress may not simply order or authorize state or city officials to violate state law and act like federal employees. The proposed federal law dealing with the expansion of O'Hare Airport subjects Illinois to special burdens that are not applicable to other states or to private parties, and it authorizes Chicago, a city created by the state, to do that which Illinois law prohibits.

Justice Sandra Day O'Connor, speaking for the Court in 1992, put it bluntly: "Where a federal interest is sufficiently strong to cause Congress to legislate, it must do so directly; it may not conscript state [or city] governments as its agents."

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## A CONTROLLER'S VIEW

Ladies and gentlemen; I have proudly served the FAA for the past 14 years as an Air Traffic Controller. I have been employed at several air traffic control facilities throughout the Chicagoland area, and feel that I have a unique perspective on enhancing future airport development.

To date, most of you have heard numerous insights on a proposed third major airport for Chicago. Let me offer another perspective from a "controller's viewport". Within a small twenty-mile radius of the Chicagoland area, lie four of the busiest airports in the country. Approximately one and one half million airplanes take off and land at Palwaukee, Dupage, Midway, and O'Hare Airports yearly! This puts a tremendous strain on the Air Traffic Controllers who struggle to keep this area safe and without significant delay. With air travel continuously increasing, delays and safety will become a nearly impossible challenge.

Plans for expansion at the two major Chicago airports will not be enough to meet demands. O'Hare airport has reached its maximum capacity creating consequential delays. There are not enough available gates, runways, and taxiways to serve all the aircraft. Although there are plans to add additional gates and another runway, this will not address the taxiway problem. Due to the layout of O'Hare airport, in my opinion there is no effective way to construct additional taxiways that will have a positive impact on airport operations. Thus making any other method to increase capacity ineffective.

The problems that face O'Hare are some of the same problems facing Midway Airport. Midway boasts as being aviation's busiest square mile. Nowhere else are there more commercial airplanes landing and departing in such a condensed area. Unfortunately, Midway Airport is very condensed. Due to runway lengths, it can only handle the smallest commercial aircraft. The airport is severely landlocked with major streets, houses and businesses immediately surrounding the field. Even with the current terminal expansion project in effect, an insufficient number of taxiways and the size of the runways, in my opinion limit any significant increase in traffic.

The need for a third major airport is loud and clear. With the projections of air traffic on the rise, additional airports must become available. In my opinion, Peotone is an excellent location for a major commercial airport. Peotone is located just outside the main flow of air traffic in and out of Chicago. Any additional airplanes created by the third airport would not adversely effect air traffic facilities located east, south, and west of Peotone. A third airport located in Peotone would not be significantly effected by Chicago's air traffic, which is rapidly reaching a saturation point, but instead would aid in alleviating the congestion heading into Chicago.

Another point of interest, which may have been overlooked, is corporate aircraft. The use of corporate aircraft is one of the fastest growing fields in aviation. There are very few, if any airports that can accommodate corporate aircraft in the south Chicagoland area. With the pending closure of Meigs Field in Chicago, the Petone airport would fill the need for another corporate airport crucial to south Chicagoland businesses. Furthermore, suggestions that a third major airport being located in the immediate Chicagoland area, namely Gary, Indiana, would not alleviate the saturation problem Chicago is already facing.

In closure, I would like to thank all those involved with the Petone Airport project. I am greatly anticipating the future events surrounding this project.

JOHN W. TEERLING,

*Lockport, IL, January 18, 1999.*

Re A Third Chicago Airport.

Governor GEORGE RYAN,
*State Capitol, Springfield, IL.*

DEAR GOVERNOR RYAN: My name is John Teerling and I recently retired, after 31.5 years with American Airlines as a Captain, flying international routes in Boeing 767 and 757's. I was based at Chicago's O'Hare my entire career. I have seen the volume of traffic at O'Hare pick up and exceed anyone's expectations, so much so, that on occasion mid-airs were only seconds apart. O'Hare is at maximum capacity, if not over capacity. It is my opinion that it is only a matter of time until two airliners collide making disastrous headlines.

Cities like Atlanta, Dallas and especially Miami continue to increase their traffic flow, some months exceeding Chicago, and at some point could supersede Chicago permanently. If Chicago and Illinois are to remain as the major Hub for airline traffic, a third major airport has to be built, and built now. Midway, with its location and shorter runways will never fill this void. A large international airport located in the Petone area, complete with good ground infrastructure (rail and highway) to serve Chicago, Kankakee, Joliet, Indiana and the Southwest suburbs, would be win, win situation for all. The jobs created for housing, offices, hotels, shopping, manufacturing and light industry could produce three to four hundred thousand jobs. Good paying jobs.

Another item to consider, which I feel is extremely important, is whether. I have frequently observed that there are two distinct weather patterns between O'Hare and Kankakee. Very often when one is receiving snow, fog or rain the other is not. These conditions affect the visibility and ceiling conditions determining whether the airports operate normally or not. Because of the difference in weather patterns when one airport, say O'Hare, is experiencing a hampered operation, an airport in Peotone, in all probability, could be having more normal operations. Airliners could then divert to the "other" Chicago Airport, saving time and money as well as causing less inconvenience to the public. (It's better to be in Peotone than in Detroit).

It is well known that American and United, who literally control O'Hare with their massive presence, are against a third airport, Why? It is called market share competition and greed. A new airport in the Peotone area would allow other airlines to service Chicago and be competition. American and United are of course dead set against that. What they are not considering is that their presence at a third airport would afford them an even greater share of the Chicago regional pie as well as put them in a great position for future expansion.

You also have Mayor Daley against a third airport because he feels a loss of control and possible revenue for the city. This third airport, if built, and it should be, should be classified as the Northern Illinois Regional Airport, controlled by a Board with representatives from Chicago and the surrounding areas. That way all would share in the prestige of a new major international airport along with its revenues and expanding revenue base.

The demand in airline traffic could easily expand by 30% during the next decade. Where does this leaves Illinois and Chicago? It leaves us with no growth in the industry if we have no place to land more airplanes. If Indiana were ever to get smart and construct a major airport to the East of Peotone, imagine the damaging economic impact it would have on Northern Illinois!

Sincerely,

JOHN W. TEERLING.

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## THE FUTURE OF THE CHICAGO REGION: SMART GROWTH, INFILL REDEVELOPMENT AND REGIONAL BALANCE

The Midwest and, in particular, the Chicago Metropolitan Area, has had a remarkable turnaround in economic fortune over the past decade. It has shed its "rust-belt" image and has produced remarkable economic growth.

Between 1990 and 1998, the six-county Chicago area grew by 505,500 persons, a 7 percent increase. While this percent increase is moderate, the numerical increase is equivalent to a city larger than Denver.

Between 1990 and 1997, the six-county area grew by 275,000 jobs, a 9 percent increase. Between 1970 and 1996, the region (Kenosha to Michigan City) grew by 1.310 million jobs, the fifth largest increase in the nation.

Between 1996 and 2020, the Chicago region is projected to grow by 785,000 persons. This is a city the size of San Francisco.

Between 1996 and 2020, the Chicago region is projected to have the largest growth of any metro area in the U.S., adding 1.118 million jobs.

In spite of these significant regional turnarounds, the City of Chicago continued to lose ground. Between 1991 and 1997, the City of Chicago lost over 27,000 jobs; 11,0000 were from the South Loop. Every one of the City's eight major community areas experienced losses, with the exception of North Michigan Avenue and the Northwest area around O'Hare International Airport. The Far South, Southwest and South communities experienced the greatest losses.

This development trend extended to the suburban area. While the six-county Chicago Area grew by 275,000, the north and northwest suburbs were the major beneficiaries. DuPage, Lake and Northwest Suburban Cook (around O'Hare) Counties contributed 194,000 jobs, or 71 percent of the net growth. With 500,000 jobs in Chicago's Central Business District versus 450,000 in North Suburban Cook County and 150,000 in Northeast Du Page County, the economic center of the region has shifted from downtown to O'Hare.

O'Hare International Airport is, undoubtedly, the great economic engine it is portrayed. But, it has run out of space, both in the air and on the ground. Its enormous attraction, to business and industry, has brought thousands of enterprises, hundreds of thousands of jobs, millions of visitors and billions of dollars, annually, to the Chicago region. On this, we all agree. But, the area surrounding it is choking on the development. Other areas, particularly the South Side, are in great need of both jobs and better airport access. In fact, the two issues are closely related.

The massive development attracted by O'Hare Airport makes airport expansion there costly, time-consuming, difficult and intrusive. Traffic often is brought to a near halt on the expressways leading to O'Hare; future traffic problems would be compounded many times over. O'Hare's neighbors—well-aware of its many economic contributions—also are wary of expansion, weary of noise and traffic, and fearful of possible future compromises on safety. On the opposite side of the region—and the other side of the ledger—are the communities of the Chicago South Side and the South Suburbs. By all accounts, these areas find themselves overlooked and under-served—primarily due to their distance from the region's airports. This economic disparity is clearly evident from the following maps, which show job concentrations in 1960 and 1990. This period marked major declines in manufacturing jobs in the region's South Side; and a rise in both manufacturing and service jobs in the North/Northwest, around O'Hare. Airport access was the difference.

The solution to the region's needs is the Third Chicago Airport. Development of the Third Chicago Airport is a true urbanist's dream: obtaining multiple benefits from one investment. Why, then, is it being ignored? When you have two powerful and thoughtful representatives of the people—Congressman Henry Hyde saying "we've had enough," and Congressman Jesse Jackson, Jr. saying "let us have some—perhaps we should listen to them. Other representatives—Congressmen Jerry Weller, Bobby Rush, and Tom Ewing, Senator Peter Fitzgerald, Governor George Ryan, Senate President Pate Phillip—plus scores of local mayors, hundreds of local businesses and hundreds of thousands of residents, have joined in the effort to bring the airport to the South Suburbs. Perhaps, with the airport in place, we can begin to truly balance growth, encourage infill development and share the wealth of the region.

### THE PLANNING PROCESS: TWELVE YEARS OF FINDINGS

The state agency responsible for planning the region's transportation infrastructure, the Illinois Department of Transportation (IDOT), has been planning for the region's aviation needs for the past twelve years. IDOT, and its aviation consultants, are convinced, without a doubt, that Chicago's aviation demands will more than double by 2020. The Federal Aviation Administration (FAA), the Airports Council International (ACI) and other industry groups have forecasted national growth of similar magnitude. For a brief time, the City of Chicago agreed, as well. The Chicagoland Chamber study predicts a five-fold increase in international traffic. IDOT's studies support the contention that Chicago has an excellent opportunity to be the dominant North American hub for international flights, as well as its premier domestic hub, into the next century. That point has been stated and documented on many occasions by IDOT. The State's forecasts have been corroborated, independently, by a decade of observations. They are reinforced in the latest study for the Chicagoland Chamber of Commerce. It is agreed, by all key interest groups, that the Chicago region must increase its aviation capacity.

The region cannot double its aviation service without building major new airport capacity. O'Hare and Midway are now at capacity. Enplanements already are being affected, with growth limited to increases in plane size or load factor; neither is expected to increase further. The City's $1.8 billion investment in terminals will not increase capacity. But, the adverse impact on the region already is evident. Businesses and residents are witnessing major increases in fares in the Chicago region, according to IDOT, the USDOT, the GAO and the FAA, itself. Perhaps in response to these obvious constraints, both the Chicagoland Chamber and the Commercial Club of Chicago have begun to address the region's aviation issues. The Chamber calls for O'Hare expansion. The "Metropolis 2020" study also recognizes the need for additional aviation capacity, with a call for expansion of O'Hare and land banking of the Third Airport site in Peotone. This call for action comes none too soon. There are many indications that the Chicago region has begun to suffer from capacity constraints.

Ten years ago, Chicago was one of the nation's least expensive regions to fly to, due to its central location. Obviously, its location has not changed; however, now, due to O'Hare's capacity overload and higher fares, it is cheaper to fly from all around the country to many other cities than to Chicago. For instance; according to data supplied by the airlines to the U.S. Department of Transportation, it is now cheaper to fly from Green Bay to Las Vegas than from Green Bay to Chicago. It is cheaper to fly from Seattle to Orlando than from Seattle to Chicago. Something is wrong. Due to capacity constraints, O'Hare's airlines are over-charging their patrons by $750 million, annually (the difference between average fares for large U.S. airports and those at O'Hare). This fact is beginning to affect regional development—especially conventions and tourism—but, it also affects every major and start-up business, every individual with family and friends in far-flung places. As is well-known, access to a major airport is one of the top three requirements of a locating or expanding business. But, access must be at competitive fares. Expanding O'Hare will simply buttress the monopolistic behavior of its airlines. Such monopolistic practices currently are a major concern of Congress.

### THE DEVELOPMENT ALTERNATIVES

Aviation infrastructure must be expanded—and expanded soon—to bring true competition, lower fares and increased service to the region. The alternatives are two: adding runways to O'Hare; or building the Third Chicago Airport. The two alternatives have far different consequences. The question is: "Will we continue to spend great outlays of public-private funds on an area that is overwhelmed with both riches and the congestion those riches bring; or do we make those investments in mature urban areas that are wanting for jobs and economic development?"

As is clearly documented by a recent Chamber study, O'Hare's benefits are conferred, primarily, on the west, north and northwest suburbs. Virtually all of O'Hare's employees reside near it. In addition, it has garnered high concentrations of development. These concentrations, however, have led to congestion and increased land values. High land prices have forced businesses and developers to plan future growth on the most environmentally-sensitive fringes of the region and in areas farther removed from the region's central core.

### THE TWO SIDES OF THE COIN

While unprecedented growth takes place around O'Hare, to the north, the three million residents of the region who reside south of McCormick Place are left with long trips to the airport for flights and out of the running for the many jobs it produces. The consequences, for South Side/South Suburban residents and the dwindling businesses that serve them, are the highest property tax rates in the State. Because jobs have disappeared, residents have some of the longest trips to work in the nation. Because transit only to the Loop is convenient, recent job losses in that area, as well, (11,000 since 1991; 25,000 since 1983) have compounded the job searches of the South Side's residents. For decades, regional planning agencies have called for the development of moderate-income housing near job concentrations. Instead, let us bring the jobs to the residents.

Recent public forums on the disparity of property tax rates in Cook County's north and south communities have led to the South's designation as the "Red Zone," signifying its concentration of highest property tax rates. This disparity was not always so. It has occurred over the last three decades and proliferated in the last two, as shown below. The "Metropolis 2020" study addresses this disparity issue by calling for a sharing of revenues with the "lesser haves." The more-responsive, enduring and—ultimately—more-equitable solution is to provide the South Side with the Economic opportunities generated by the Third Chicago Airport.

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Whether the region expands O'Hare or builds a supplemental airport, O'Hare's riches will remain and grow. It is currently enjoying a $1 billion public investment to upgrade its terminals. Midway, as well, will continue to thrive, as the recipient of an $800-million-publicly-funded new terminal. However, this $1.8 billion investment will not increase capacity. The initial infrastructure investment of $500 million ($2.5 billion through 2010) to build the Third Chicago Airport, will. And, it will produce more than just added aviation capacity. The Third Chicago Airport will provide 235,000 airport-relate jobs—in the right places—by 2020. Additional airport access jobs will benefit the entire region. In addition, it will reinforce the City of Chicago's role as the center of the region's growth.

Spokesmen for the incumbent airlines claim that other airlines will not invest in the Third Chicago Airport; this is a traditional response to discourage competition. Furthermore, the financing of any airport comes, principally, from its users. The Third Chicago Airport market comprises 16.5 percent of the region's current air trip users, with a potential for contributing 20 percent. They should not be left behind. Upfront airport development costs, for planning and engineering and land acquisition traditionally have come from the federal government. In this "Year of Aviation", these funds are expected to increase by 50 percent; and Passenger Facility Charges (PFC's) are expected to increase from $3 to $6. Currently, $1 in PFC's at O'Hare yields $37 million per year. At the Full-Build forecast and $6 rate, the Third Chicago Airport will generate $100 million in PFC's annually by 2010. The FAA must provide the needed approvals and normal up-front funding. A Third Airport development in the Sought Suburbs can provide social and economic parity; and it can do it with a hand-up rather than a hand-out.

### THE ARGUMENT FOR SMART GROWTH WITH CHICAGO'S THIRD AIRPORT

Independent studies have demonstrated overwhelmingly, the need for expanded aviation capacity in the Chicago region.

Demand will more than double by 2020.

Needed is a Third Airport that can grow as future demand dictates.

The need is now. The region is beginning to experience the costs of capacity constraints. These are:

Dampended aviation growth.

Increased and non-competitive fares.

Lost jobs, conventions and other opportunities.

There are two alternatives for meeting the region's demand:

Adding runways at O'Hare—an area already well-served and suffering the effects of overdevelopment and congestion, or;

Building the Third Chicago Airport—investing in an existing, mature part of the region suffering losses due to changes in the national/regional economies and lack of access to a major airport.

Doubling traffic at O'Hare drives new development farther away from the region's core—the Chicago Central Area—and its residents and businesses to the South.

It will encroach on environmentally-sensitive areas.

It will compound noise, pollution and traffic congestion; and impose these on hundreds of thousands of additional residents.

It will buttress monopolistic behavior by major airlines.

Building the Third Chicago Airport is a true urbanist's dream. It solves multiple problems with one investment.

It develops an environmentally-sensitive, new airport, that can provide increased capacity for decades to come.

It provides nearby, inexpensive land for development.

It brings jobs and development to mature portions of the region.

It allows three airport facilities to function at optimal capacity.

It maintains the Chicago region as the nation's aviation capital.

Because of planning already completed, the Third Chicago Airport can be built before additional runways at O'Hare.

Resources are available to build the airport.

Federal Funds for airport development will increase by 50 percent.

The U.S. Congress, many businesses and consumers are demanding access to and through the Chicago area.

Ultimately, the passenger pays through Passenger Facility Charges.

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### THE GROWING IMBALANCE IN THE REGION'S GROWTH, AND ACCESS TO JOBS

1. The Chicago region has grown robustly over the past 25–30 years.

Over 1.310 million jobs (1970–96) for the consolidated area.

Over 275,000 jobs between 1990 and 1997, alone, for the six-county area.

2. This growth has been very uneven. The North has prospered, while the South has languished.

3. The region's center has migrated from Downtown Chicago (with its excellent public transportation access) to the area around O'Hare (dependent on autos).

4. The City of Chicago lost over 27,000 jobs between 1991 and 1997; 11,000 of these losses were from the South Loop.

5. The suburbs grew by 300,000 jobs. The areas to the north, northwest and west (O'Hare-influenced) contributed nearly 200,000 of this growth.

6. With 500,000 jobs in Chicago's CBD, versus 450,000 in North Suburban Cook and 150,000 in Northeast DuPage, the economic center of the region has shifted from Downtown to O'Hare.

7. Consequently, residents of the South Side and South Suburbs have commutes to work that are among the nation's longest. There is little public transit between suburbs.

8. These same residents do have the region's highest tax rates, however; without businesses and industries, the residents, alone, must pay for all their services.

9. New businesses and industries want access to major airports. O'Hare's nearby communities have run out of space to offer. The South Side has ample land, but no airport. The ample land also allows the construction of an environmentally-sensitive airport.

10. To accommodate the economic growth anticipated over the next 20 years, the Chicago region needs additional airport capacity. To balance the economic growth, it needs a South Suburban Airport.

### SOUTH SUBURBAN AIRPORT: AVIATION DEMAND IN THE CHICAGO REGION

*Background Assumptions for Demand Forecasts*

Aviation demand is derived from a few basic factors:

The national/international growth in aviation.

The socio-economic dynamics and growth of the region.

The location/desirability of the region for providing connecting flights.

The ability of the region to accommodate this demand depends on:

The capacity of its airports.

The competitiveness of its fares.

*National/International Aviation Growth*

The FAA forecasts a doubling in aviation growth over a 15 year period.

International enplanements and freight are growing even more rapidly.

The FAA and the Airports Council International have equated this growth to 10 O'Hare Airports.

By 2012, there will be more than 1 billion enplanements, 2 billion passengers in the U.S..

*Socio-Economics Create Demand*

Since the original aviation forecasts, made in 1994, the socio-economic performance of the Chicago region has matched or exceeded expectations:

In 1990–1996, population and employment for the 14- and 9-County regions grew at rates and volumes slightly above those forecast.

The Chicago Consolidated Area (Kenosha to Michigan City) produced 1,311,000 jobs between 1970 and 1996; and added 617,260 persons.

The regional planning agencies have increased their 2020 forecasts, to reflect this growth. So has NPA, author of forecasts used by City of Chicago.

Woods & Poole Economics (the national forecast used by IDOT), in its 1999 edition, expects the Chicago region to produce the largest volume growth in employment of any metropolitan region in the U.S.:—for 1996–2020, a 1,118,660 job growth—for 1990–2020, a 1,635,570 job growth

Chicago's economy an continue its robust growth only if it can provide excellent aviation access. And it, can serve the region fairly, only if it provides that access to the south suburbs.

*Location Drives Connecting Flights*

Becuase of its central location and high concentration of jobs and population, the Chicago region is a critical location for connecting flights:

The recent Booz-Allen study, prepared for the City, forecasts an international growth that is higher than IDOT's; and claims that high ratios of connecting to O/D are not just desirable, but necessary.

The City of Chicago, in 1998, forecast connecting enplanements based on regional location; their connecting forecasts were higher than IDOT's,

O'Hare's current connecting is 54.7%, slightly under its past average. IDOT. assumed 50% connecting for O'Hare in 2001; 51% for the region.

*Aviation Growth Parallels IDOT Forecasts*

Since their national forecasts of 1994 (base for IDOT forecast), the FAA has generated five 12-year forecasts, five long-range national forecasts though 2020, and five terminal area forecasts.

All the FAA national forecasts are higher than the study's base forecast.

Although it continues to contest IDOT's forecasts, the City and Chicago and its consultants are using forecasts that are nearly identical.

The City and State are using IDOT socio-economic and aviation forecasts for all short- and long-term regional transportation planning.

Other aviation plans (Gary Airport Master Plan; Booz-Allen forecasts for O'Hare International) are consistent with IDOT forecasts.

*Capacity Constraints Jeopardize Economic and Aviation Growth*

The ability of the region's airports to accommodate demand is a most-serious concern. The Chicago region has reached aviation capacity. These aviation capacity constraints have dampened regional growth:

Since 1995, O'Hare's growth in commercial operations has stopped.

Domestic enplanements at O'Hare have declined this year.

Small cities have been dropped from service.

Booz-Allen says the international market is not being well served.

Fares at O'Hare have risen above the average for large airports.

O'Hare's delays have been much greater this year than last; O'Hare's delays are among the nation's highest and cascade throughout the nation's airports.

The FAA has long forecasted such capacity problems and resultant delays. In 1992 it forecasted a doubling of airports with delay problems by 2001.

The forecasts have arrived a bit ahead of schedule. Without additional capacity, the economic well-being of both Chicago and the nation are jeopardized.

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### NIPC FINDINGS—NOVEMBER 1996

#### TALKING ABOUT THE REGION'S FUTURE

We recently asked a cross-section of the region's leaders:

Should water quality protection measures for our rivers, lakes, and streams be implemented even if this means placing development limits on presently undeveloped high-quality watersheds?

Should the region pursue infill and redevelopment strategies that lead to employment and income growth in older communities that have experienced diminished tax base and disinvestment?

Should priority in transportation funding be given to maintenance of the existing system?

Should measures to encourage reclamation of contaminated properties, including tax credits and limits on liability, be enacted?

Yes, said strong majorities of participants in two public workshops conducted by NIPC in June and September of this year. The workshops were held as part of an effort to engage the region in a discussion of growth choices facing us. Participants representing local governments, state and federal agencies, and civic and community organizations were asked to respond to possible future development patterns, their. probable consequences, and the tools it would take to bring them about. The broad choice which framed the discussions was this: should anticipated future growth continue along the path of past trends or should efforts should be made to moderate the physical decentralization of the region?

NIPC is not alone in the region in raising these issues. In fact, it is hard to remember a time when the future development of the region has been discussed more widely or fervently. Numerous civic and community organizations have been developing analyses and recommendations on transportation and development and encouraging discussion of regional issues by their members and constituents.

The Commission's immediate purpose in conducting the workshops was to seek public guidance in the development of new demographic forecasts for the region. These forecasts will be used in the preparation of the Regional Transportation Plan for 2020. Draft forecasts will be completed by early 1997. At the same time, the Chicago Area Transportation Study (CATS) will complete a draft transportation plan. After a period of public review, the transportation plan will be tested for conformity with the requirements of the Clean Air Act. Following additional opportunity for public comment, final forecasts will be endorsed and the Regional Transportation Plan for 2020 will be adopted. These actions are scheduled for June 1997.

Beyond the immediate need to support the transportation planning process, this regional discussion advances NIPC's mission of striving for consensus on policies and plans for action which will promote the sound and orderly development of the northeastern Illinois area. The purpose of this newsletter is to inform the region of what we have heard and to encourage continuing deliberation on what kind of region we want to be in the next century.

*What We Have Heard*

Several general conclusions emerged from the workshops. The first is that there is widespread, though by no means unanimous, belief that the past trend of dispersed, low-density residential and employment growth has had unintended negative consequences which must be moderated to some degree in the interests of environmental quality, prudent public investment, and social equity. There is also substantial support for some public policy measures which could help achieve that moderated growth. These will be described in more detail below. Some measures which could be highly effective in moderating past trends are widely agreed to lack political acceptability in this region. Finally, there is broad support for measures which would improve the quality of local planning and development within either a continued trends or moderated trend approach.

*The Forecast: A Growing Region*

The preparation of forecasts of future population, households, and employment is one of NIPC's most important responsibilities. These are not simply forecasts of the numbers of people, households and jobs which will be in the region in a future year. People, households, and jobs imply houses, roads, sewers, and parks. The forecasts thus represent the Commission's best estimate of how activities and facilities will be distributed across the region: where new housing will be necessary and old housing may become vacant, where new or expanded streets and sewers will be required, and where streams and wetlands will come under pressure form growing population. The forecasts thus have implicit in them a generalized land use plan for the region. It is critical that they be as realistic as possible in reflecting the trends and constraints of the market, the influences of public policy, and expectations of local governments.

We have previously described the process being used to develop forecasts for the year 2020 (NIPC Reports, January 5, 1996). In March 1994, the Commission endorsed regional forecast totals of 9 million people, 3.4 million households, and 5.3 million jobs in 2020. These figures represent a 25 percent increase in population and a 37 percent increase in employment from 1990 to 2020. By way of comparison, between 1970 and 1990 the region's population increased by only four percent and employment by 21 percent. The amount of land devoted to urban uses, however, increased by 34 percent during that twenty-year period. In view of this finding about land consumption, the forecasted future growth has the potential to add seriously to pressures on the transportation system, air and water quality, and agricultural land. The Commission thus concluded that alternatives to past patterns of growth had to be presented to the region for discussion.

*A Preferred Development Pattern in Northeastern Illinois*

On June 26, 1996, the Commission conducted the first of two regional workshops on alternative growth scenarios and their implications. The intent was to assess how much support there might be for different development patterns and how much acceptance of their probable costs. It was hoped that participants would set aside issues of feasibility for the time being and respond to the question of what is the most desirable future for the region. The workshop was attended by 127 people representing a broad spectrum of organizations and interests.

Three general scenarios were presented. Each was designed to illustrate the outcome of a unique combination of public policies with respect to transportation and community development. The broad patterns of new household and job growth to which these scenarios would lead are shown in the maps below. Participants were not asked to express a preference among the scenarios themselves, but to evaluate the relative importantance of the impacts which each would have on communities and the natural environment. Questions to the participants concerned the importance of land development patterns which would (1) help preserve farmland, (2) encourage the use of public transit, (3) protect high-quality watersheds from the impacts of urbanization, and (4) promote affordable housing close to centers of job growth.

Continued Trends. This is the "baseline" scenario which assumes the least change, in terms of public policy, from recent conditions. Only limited highway, and rail transit capacity would be built beyond what is currently committed for funding. Future demand for aviation service would be met at O'Hare and Midway. The broad pattern of low-density dispersal of jobs and households would continue. Households and jobs in Chicago and some inner suburbs would continue to decline while they would increase in the rest of the region. The largest number of new jobs would be located in suburban Cook County, and DuPage County would gain jobs but at a slower rate. The four outer counties would show the greatest percentage gains in employment. Household growth would be strongest in the middle ring of suburbs. The loss of farmland would be substantial, as would the negative impact of urban densities on lakes and streams. Automobile use would continue to increase and transit use to decline. The separation of affordable housing from low-income jobs would continue to increase.

South Suburban Airport. The central assumption of this scenario is that future need for additional aviation capacity would be provided at the proposed south suburban airport. Otherwise, the scenario makes essentially the same land use and transportation policy assumption as the trends alternative. Employment and population in Chicago would increase, although the city's regional share would decline slightly. Job growth would be lower than under existing trends in the northern and western parts of the region and substantially higher in south Cook and Will counties. Household growth would be similar to that expected under a continuation of trends. Conversion of agricultural land would be extensive, particularly in Will County, as would development pressure on lakes and streams. The development of the airport could have a positive effect on jobs-housing balance and on redevelopment by bringing employment to a portion of the region which is now relatively job-poor.

Redevelopment and Infill. This scenario represents a deliberate attempt to moderate the trend of dispersed development and to encourage reinvestment in mature communities. Like the trends scenario, this alternative assumes limited investment in new surface transportation and satisfaction of future aviation requirements at the existing regional airports. In addition, the scenario assumes (1) implementation of very strong farmland protection policies in the agricultural protection zones in Kane, McHenry and Will counties, (2) intensive population and employment growth within walking distance of selected transit stops in Chicago and the inner suburbs, and (3) high employment growth through redevelopment in certain built-up areas in Chicago, the inner suburbs, Waukegan, and Joliet. Under this scenario, Chicago's loss of population and employment would be reversed. At the same time, the other sectors of the region would all gain both people and jobs, though their rates of growth would be lower than under a continuation of trends. Conversion of farmland for development and urban stress on water resources would be at lower levels than the other two scenarios, but still significant. Similarly, automobile use would increase and transit ridership decrease, but at lower rates. Because both jobs and population would increase in the communities with the greatest low-income population, jobs-housing balance would change only slightly.

The redevelopment scenario was designed to simulate the effect of efforts to moderate the worst unintended consequences of recent trends. Two important conclusions emerge from an examination of the scenario results:

Given NIPC's overall forecasts, economic growth in northeastern Illinois need not be an either-or situation. Even with deliberate efforts to encourage reinvestment in the mature core communities, the balance of the region can sustain a relatively high level of growth.

Under conditions of high overall growth, managing negative environmental consequences will be very difficult even if the trend of decentralized, low-density development is moderated.

Following the presentation of the scenarios, a panel of five experts on aspects of the region's development commented on the alternatives and on issues related to their implementation. These are some of the highlights of their comments:

Barry Hokanson, Director of Planning, Lake County: Lake County is expected to experience high growth under any one of the scenarios. While the county has programs to meet the demands on resources and services generated by growth, the multiplicity of local governments makes the translation of regional projections into coordinated local planning difficult. There are strong voices in Lake County advocating constraint on new transportation capacity as a means of limiting growth and encouraging mature-area reinvestment.

David Schulz, Director, Infrastructure Technology Institute, Northwestern University: The outward movement of households is driven, by a variety of forces having to do with the quality of schools, perceptions of safety, tax levels, and job availability. Transportation systems do not induce people to move but influence where they move. Constraining the transportation system will simply force people to move farther out past the perceived zone of congestion and will thus worsen the problem of dispersal rather than curing it.

Rusty Erickson, Director of Development, City of Aurora: Aurora has benefited from the decentralizing trend in the region. Continued growth is necessary to provide quality schools and other services to residents. It is important that new suburban growth be concentrated in areas with full public services. Low-density development in rural areas will destroy the open countryside which is a strong quality-of-life value.

Frank Martin, President, Shaw Homes Inc: There is a market for residential development which integrates the natural and built environments and which provides the resource efficiency and quality of life of a dense community, including access to public transportation, while preserving high-quality natural surroundings. However, developers will find this kind of balanced development hard to do successfully if local government does not address inefficiencies in public services and excessive regulations which work against affordability by raising land values and construction costs.

Benjamin Tuggle, Field Office Supervisor, U.S. Fish and Wildlife Service: Making maximum use of existing intrastructure and established urban areas is an important way of preserving high-quality air, surface water, and wetlands in . . .

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## If You Build It, We Won't Come—the Collective Refusal of the Major Airlines To Compete in the Chicago Air Travel Market

### AN ANALYSIS OF THE PER SE VIOLATIONS OF FEDERAL ANTITRUST LAWS BY MAJOR AIRLINES IN THEIR REFUSAL TO COMPETE WITH EACH OTHER IN FORTRESS HUB MARKETS—WITH METROPOLITAN CHICAGO AS A CASE EXAMPLE—MAY 2000

*The Suburban O'Hare Commission*

The Suburban O'Hare Commission (SOC) is an inter-governmental agency representing more than one million residents who live in communities surrounding O'Hare Airport. SOC's leadership is made up of mayors and other officials who are both advocates for the quality of life and health of their communities and business persons who are concerned about the economic health of the region. Over the past several years SOC has conducted a number of studies relating to the environmental, safety, public health, and economic issues surrounding air transportation in the Chicago metropolitan region.

This current (SOC) report focuses on one of the significant economic issues relating to air transportation—monopoly power and high monopoly-supported air fares—and the legality of the Fortress Hub system under the nation's antitrust laws. However, as is discussed in the report, the major airlines' drive for preservation and expansion of their Fortress Hub system (especially at Fortress O'Hare)—and their corresponding refusal to compete in each other's Fortress Hub markets—creates serious economic, social, and environmental harm in broad areas of the metro Chicago region.

### PREFACE

In the past several years there have been numerous congressional hearings and media stories about a phenomenon in the airline industry known as "Fortress Hubs" and the problem of high monopoly supported airfares charged to airline passengers traveling from or through these Fortress Hubs.

However, most of the attention of Congress, the Administration, and the media has focused on two narrow facets of the Fortress Hub problem (1) restrictions on access by so-called "low cost" "new entrant" carriers to a few of the Fortress Hubs, and (2) the allegations of predatory pricing by a dominant major airline against a new low-cost entrant. But this narrow focus has ignored a much more fundamental question: Does the Big Seven Airlines Fortress Hub geographic allocation of markets—and their corresponding refusal to compete in each other's Fortress Hub markets—violate federal antitrust laws?

Virtually ignored by Congress and the Administration has been the concerted refusal of the major airlines—the so-called "Big Seven" (Northwest, United, American, Delta, US Air, Continental, and Trans World)—to compete with their fellow major airlines in each other's Fortress Hub cities. This study, prepared by the Suburban O'Hare Commission (SOC), focuses on the collective refusal of the Big Seven to compete with each other and examines the question as to whether this geographic allocation of Fortress Hub markets by the Big Seven violates federal antitrust laws. Does the Big Seven's refusal to compete in Metropolitan Chicago—their refusal to use the South Suburban Airport: "If you build it, we won't come."—violate federal anti-trust law?

The SOC study also focus on the Metropolitan Chicago market as a case study of the Big Seven's de facto arrangement not to compete with their fellow major airlines in each other's Fortress Hub cities. A glaring example of this concerted refusal by the major airlines to compete in the fellow major airlines' Fortress Hub markets can be found in the decision of the major airlines to boycott the proposed new South Suburban Airport in metropolitan Chicago. The major airlines' "If you build it, we won't come" argument is simply a manifestation of the majors' overall horizontal geographic restraint of major markets across the nation—and particularly in metropolitan Chicago.

### THE FINDINGS OF THIS STUDY

The study's findings include:

1. De Facto Geographic Allocation of Fortress Hub Markets by the Big Seven. The heart of the monopoly problem in Fortress Hub markets—and the resultant high monopoly-inducted air fares—has been the de facto agreement among the Big Seven to stay out of each other's Fortress Hub markets with any competitively significant level of entry into that market.

2. The Fortress Hub Monopoly Dominance Geographic Allocation by the Big Seven is Likely Costing the Nation's Air Travelers Billions of Dollars Annually. There is an overwhelming body of evidence that—because of the Fortress Hub monopoly dominance of one of two of the Big Seven at many metropolitan areas across the country—the Big Seven airlines are able to charge excessive air fares totaling billions of dollars a year. The principal victims of this monopoly-induced Fortress Hub excess fares are: (1) the time-sensitive business traveler who pays unrestricted coach fares and (2) the so-called "spoke" passenger who must connect through one of the "Fortress Hubs" to get to his or her ultimate destination. The cost of this territorial "Fortress Hub" monopoly to the American consumer: billions of dollars per year in excess fares—hundreds of millions per year in metropolitan Chicago alone.

3. The Big Seven's De Facto Geographic Allocation of Major Air Travel Markets in the Nation through the Development of "Fortress Hubs" Constitutes a Per Se Violation of Federal Antitrust laws. Little discussion or analysis has been undertaken by Congress or the Administration as to whether this concerted refusal by the Big Seven to compete in their fellow major airlines' Fortress Hub markets—which costs consumers billions annually—constitutes a violation of federal antitrust laws. Based on clear and repeated Supreme Court precedent, it clearly does. The Big Seven's de facto geographic allocation of major air travel markets in the Fortress Hub through the development of "Fortress Hubs" constitutes a per se violation of the antitrust laws. The Supreme Court has uniformly condemned arrangements to carve up horizontal markets as per se violations of section 1 of the Sherman Act. See e.g., Palmer v. BRG Group of Georgia, 498 U.S. 46, 49 (1990); United States v Topco Associates, Inc., 405 U.S. 596, 607–609 (1972).

4. The Big Seven's Explicit Refusal to Compete In Metropolitan Chicago: If You Build It, we Won't Come. In the metropolitan Chicago air travel market, the illegal collective refusal of the Big Seven to compete is manifested by two actions: (1) the de facto abandonment by members of the Big Seven (other than United and American) of any significant role at O'Hare Airport and (2) the announcement by the Big Seven and its allies in the Air Transport Association that they would refuse to use a new South Suburban Regional Airport. In the popular jargon of the media, the Big Seven have said "If you build it, we won't come."

In reality, this collective refusal to use a new regional airport is nothing more than a manifestation of the Big Seven's horizontal market agreement not to compete in any significant way with United and American in their dominant Chicago market. This refusal by major airlines such as Delta, Northwest, USAir, and Continental to use new metropolitan Chicago airport capacity to compete in metropolitan Chicago is but an individual example of the per se antitrust violation of allocating geographic markets by the major airlines. "If you build it, we won't come" is a blatant violation of the federal antitrust laws.

5. The City of Chicago's Participation in Opposing New Capacity and in Assisting Big Seven in Their Refusal to Use the New South Suburban Airport is Not Immune from Antitrust Law Prosecution. The available evidence is clear that the City of Chicago and its agents have been active participants in helping the Big Seven Airlines in their refusal to compete in the Chicago market and their refusal to use the proposed South Suburban Airport. Absent express approval by the State of the monopolistic practice, political subdivisions of the State—like the City of Chicago—are not free to violate the antitrust laws under the guise of state action.

While Congress has made municipalities immune from damages for violations of the antitrust laws, Chicago and its officials are not immune from prosecution for their attempts to assist the Big Seven in their refusal to compete in the metro Chicago market and in United and American's attempts to monopolize that market.

6. It Appears That Federal Taxpayer Funds May Have Been Used to Suppress Competition and Violate the Antitrust Laws in the Chicago Market. United and American (the

dominant carriers at O'Hare)—along with other major airlines through the Air Transport Association—have engaged in a concerted effort to defeat construction of a new South Suburban Airport, an airport that would provide significant capacity opportunities for major new competition to enter the Chicago market. United executives have stated their goal as "Kill Peotone".

United and American have been assisted in their "Kill Peotone" (and thus kill new competitive capacity) campaign by representatives of the City of Chicago—including Chicago's consultants have been paid several million dollars in fees to assist Chicago and United and American in expanding O'Hare and in obstructing development of a new South Suburban Airport.

Much of the money paid to these consultants has come from either: (1) federal Passenger Facility Charge (PFC) funds, (2) federal Airport Improvement Program (AIP) funds, or (3) federally subsidized municipal airport bonds ("GARBs" General Airport Revenue Bonds). Thus, we have the following spectacle—not only are the airlines and Chicago engaged in a monopolistic arrangement designed to prevent new competition from entering the Chicago market (i.e., through the new airport)—but much of the money to implement this illegal arrangement is coming from federal taxpayer dollars. The GAO and the Department of Justice should be asked to conduct an independent audit of all PFC, AIP, and GARB expenditures at O'Hare to determine if any federal funds were used as part of a campaign to "Kill Petone"—i.e., a campaign to oppose construction of a new South Suburban Airport.

7. Federal Officials Have Participated in and Supported the Big Seven's Illegal Monopolistic Arrangement to Refuse to Compete in the Chicago Market. Not only have federal funds been used to support the major airlines illegal monopolistic arrangement to refuse to compete in the Chicago market, but it appears that federal officials within the Administration have worked with the major airlines and Chicago to assist in this antitrust arrangement to prevent the development of a new airport in metropolitan Chicago. For the last several years, federal administration officials—several of whom are former Chicago officials who worked for the City of Chicago—have blocked development of the new South Suburban Airport through a series of spurious legal claims that federal law requires that there be a "consensus" between the State of Illinois and the City of Chicago before a new metropolitan airport can be constructed. No such legal requirement exists.

Because of the active participation of key figures in the current administration in promoting and supporting the continued blockage of new airport development in metropolitan Chicago—in concert with the illegal refusal of the major airlines to compete in the Chicago market by using the new airport—the impartiality and lack of bias of the Administration in conducting law enforcement in this area is legitimately suspect. The Attorney General should be asked to appoint an independent prosecutor to conduct the antitrust investigation and to undertake all appropriate civil legal actions needed to correct the ongoing antitrust violations.

8. Defining the Market Under Monopoly Control and in Need of New Competition—The Hub-and-Spoke Market. The heart of the monopoly overcharges to travelers in the Chicago market is the absence of competition in the "hub-and-spoke" market in Chicago. None of the other Big Seven will come into the Chicago market to establish a competitive hub-and-spoke operation.

In an attempt to expand their monopoly and prevent new competition from entering the Chicago market, United and American—along with their surrogate allies—have sought to distract attention by suggesting a south suburban airport in metro Chicago as a "point-to-point" airport—not unlike Midway. United and American argue that O'Hare should be the only "hub-and-spoke" airport in metropolitan Chicago.

By shaping the argument in this fashion, United and American guarantee that they will be allowed to continue and dramatically expand their Fortress Hub monopoly at O'Hare. According to their arguments, the lion's share of all the origin-destination traffic in the region—and all of the connecting and international traffic—should go to the sole hub-and-spoke airport in the region: O'Hare. Any minor overflow of "point-to-point" origin-destination traffic that a dramatically expanded O'Hare and Midway could not handle (if any) could be addressed in a small "point-to-point" airport like the South Suburban Airport or Gary.

What United and American gloss over is the fact that there is plenty of competition in the Chicago market in point-to-point service. The real lack of competition in the Chicago market is in the lack of additional hub-and-spoke competition to challenge the hub-and-spoke duopoly of United and American at Fortress O'Hare. It is this market dominance of the hub-and-spoke market—not the point-to-point—where lack of competition gouges the business traveler and those travelers from "spoke" cities who must use a single Fortress Hub. There is a desperate need for new competitive hub-and-spoke service in the Chicago market and the place to put that hub-and-spoke is the new South Suburban Airport.

9. Beyond Antitrust Law Enforcement, Federal Transportation Officials Play a Major Antitrust Policy Role—In Either Promoting Monopoly Abuses or Encouraging Competition—By Their Decisions on the Use of Federal Taxpayer Funds. Not only have federal officials blocked development of new competition by blocking a new airport, federal approval of federal expenditures for major physical changes at O'Hare will exacerbate the monopoly power of American and United in this region.

Chicago's so-called "World Gateway" program has been designed in consultation with United and American to enhance and expand United and American's hub-and-spoke system at O'Hare. Chicago's World Gateway proposal is not designed to bring new hub-and-spoke competition into O'Hare or the Chicago market to compete with United and American.

Thus, Chicago's World Gateway proposal will enhance and expand United and American's Fortress Hub monopoly in the Chicago market. Since the physical design proposed by United and American and Chicago can only go forward if federal Transportation Department officials approve federal taxpayer funds to subsidize the project, federal officials are being asked to use billions of dollars in federal taxpayer funds to expand and enhance the illegal Fortress Hub monopoly of American and United at O'Hare. No federal officials appear to be examining whether spending 10 billion dollars (much of it from federal taxpayers) at O'Hare makes economic sense when much more new capacity to support competitive hub-and-spoke operations can be constructed at a new metropolitan airport for less than half the cost. Nor are federal officials examining whether the use of billions of dollars of federal taxpayer funds to expand United and American's hub-and-spoke duopoly at Fortress O'Hare—essentially using federal taxpayer funds to subsidize expansion of monopoly power—is a proper use of federal funds.

10. The Lifting of the Slot Limits at O'Hare Will Not Provide Sufficient Capacity to Allow Significant New Competition to Enter the Chicago Area Market. Much of the debate over the recent passage of the federal reauthorization of the Federal Aviation Program involved the issue of lifting "slot restrictions" at LaGuardia and Kennedy airports in New York and O'Hare in Chicago. One of the principal asserted justifications for lifting the slots was to provide access to so-called "new entrant" carriers that would presumably provide competition for the dominant carriers at O'Hare and force prices down. Yet FAA's own capacity studies at O'Hare demonstrate that O'Hare is already beyond acceptable limits of capacity and can provide only marginal capacity access—if any.

In addition, as predicted by Senator Peter Fitzgerald and Congressman Henry Hyde, any arguable incremental theoretical capacity at O'Hare will rapidly be consumed by United and American—expanding their monopoly. As stated by the Illinois Department of Transportation, the only effective way to provide sufficient capacity for major new competition in the Chicago market is to build major new capacity in the metropolitan Chicago area.

11. A New Runway at O'Hare is Intended to Increase Capacity to Expand United and American's Monopoly Power. The airlines' current public relations argument is that the lion's share of all the origin-destination traffic in the region (and all of the connecting and international traffic) should go to the sole hub-and-spoke airport in the region (O'Hare). Any minor overflow of point-to-point origin-destination traffic that a dramatically expanded O'Hare and Midway could not handle (if any) could be addressed in a small point-to-point airport like the South Suburban Airport or Gary.

Paralleling this argument is the claim by the airlines' allies that a new runway at O'Hare is needed to "reduce delays." They claim that a new runway would not increase O'Hare capacity but simply reduce delays.

Yet an analysis using FAA's own capacity analysis standards and criteria demonstrates that a new runway at O'Hare would substantially increase the capacity of the airport. This capacity increase at O'Hare would dramatically expand American's and United's hub-and-spoke monopoly at Fortress O'Hare. Further, it would virtually doom the economic justification for the new south suburban airport because the new "delay" runway—once built—could easily be used to carry the new additional traffic for which the new airport was intended. Simply by piecemealing incremental expansion at O'Hare, Chicago and American and United can keep the region under the thumb of the Fortress O'Hare monopoly.

12. United's and American's Fight to Preserve and Expand Fortress Hub Monopoly Power at O'Hare Has Grave Social, Economic, Public Health, and Quality of Life Consequences for the Region. Much of the discussion in this paper focuses on the billions of dollars in monopoly induced overcharges inflicted on air travelers—particularly the business traveler—as a result of the Fortress Hub monopoly system. But these monopoly abuses also inflict other serious

harm on a variety of important public and social interests.

The consequences of these abuses of monopoly power for the metro Chicago region are stark and severe:

O'Hare area communities will be subjected to more noise, more air pollution, and more safety hazards because—under the United, American, and Chicago proposal—all the international, all the transfer traffic, and the lion's share of the origin-destination traffic are jammed into an already overstuffed O'Hare. Any new airport—even if built—will simply receive the origin-destination overflow (if any) from a vastly expanded O'Hare and Midway.

South Chicago and south suburban communities will continue to suffer serious economic decline because the South Suburban Airport—which should have been built years ago—lies hostage to the unholy alliance struck between the monopoly interest of United and American and the political pique of Chicago's mayor.

### RECOMMENDATIONS

Based on the facts and the antitrust law analysis contained in this report, the Suburban O'Hare Commission recommends the following actions:

1. The United States Attorney General and the United States Attorney for the Northern District of Illinois should initiate an investigation into the collective refusal of the Big Seven airlines to compete against each other in each other's Fortress Hub Markets. Included in the investigation should be an examination of the role of third party collaborators in the antitrust violations—including the City of Chicago and other private organizations and individuals who have assisted the Big Seven (including United and American) in perpetrating these violations. Because of the involvement by federal officials in affirmatively assisting the Big Seven and the City of Chicago in keeping significant competition out of Chicago, the Attorney General should be asked to consider the appointment of independent counsel.

2. The United States Attorney General and the United States Attorney should bring a civil action in federal court to enjoin and break up the illegal Fortress Hub geographic market allocation by the Big Seven and prohibit the collective refusal by the Big Seven to compete in each other's Fortress Hub markets. Included in the relief should be a requirement that members of the Big Seven halt their collective refusal to use a new South Suburban Airport in metropolitan Chicago and a requirement that competitive hub-and-spoke operations be established in metro Chicago to compete with United and American.

3. The State Attorneys General should initiate civil damage actions to recover treble damages for the billions of dollars per year in excess monopoly profits in airfare overcharges that have been charged at the Big Seven's Fortress Hubs. The Illinois Attorney General should bring suit to recover treble damages for the hundreds of millions of dollars in monopoly overcharges by American and United at Fortress O'Hare. On a multiple year basis in Illinois alone, the treble damages recoverable for consumers would exceed several billion dollars.

4. The GAO and the Department of Justice should undertake an immediate and detailed audit of all federal funds that may have been used to further the refusal of the other members of the Big Seven to compete with United and American in metropolitan Chicago—particularly the campaign by the airlines and Chicago to "Kill Peotone."

5. The United States Department of Transportation should withhold any further approvals of federal funds for expansion of the United and American duopoly at Fortress O'Hare.

6. The House and Senate Judiciary Committees should conduct immediate hearings on these issues.

7. Our Governor and our two United States Senators, the Speaker of the House, and our Illinois Attorney General should be respectfully asked what specific actions they will take to (1) break up the Fortress Hub system—particularly Fortress O'Hare; (2) bring new hub-and-spoke competitors into the Chicago market; (3) recover the billions in excess monopoly profits from the Fortress O'Hare overcharges; (4) prevent the Big Seven from continuing to refuse to use the new capacity provided to the South Suburban Airport; and (5) assemble the federal and state resources needed to rapidly build the South Suburban Airport.

8. Our Governor should hold fast to his promise not to permit any additional runways at O'Hare. To do otherwide would simply enhance and expand the monopoly power of Fortress O'Hare and doom the opportunity to bring new competition into the region at the South Suburban Airport.

9. The two candidates for President of the United States—both of whom have likely received large campaign contributions from the Big Seven—should be respectfully asked what they will do to break up the Fortress Hub system nationally and Fortress O'Hare in particular. Vice President Gore in particular should be asked why his administration has for the past eight years looked the other way while the Big Seven has used violations of the nation's antittust laws to literally steal billions of dollars from American consumers. Mr. Gore should also be asked to explain why his administration has literally blocked development of new competitive capacity in metro Chicago—i.e., a new South Suburban Airport—at every turn Finally, Mr. Bush should be asked specifically what he will do to build the South Suburban Airport and break up Fortress O'Hare.

### INTRODUCTION—RELEVANT QUOTATIONS

Alfred Kahn, the "father" of airlines deregulation:

Anyone who says applying antitrust laws is the same as re-regulation is simply ignorant. To preserve competition we need the antitrust laws and vigorous enforcement of the antitrust laws.

When we deregulated the airlines, we certainly did not intend to exempt them from the antitrust laws.

Gordon Bethune, Chairman and CEO, Continental Airlines:

"Continental chief says hub competition over,":

Competition among airlines for dominance at major U.S. airports is virtually a thing of the past, the chairman of Continental Airlines said on Monday.

Continental chief executive Gordon Bethune, in a break from the usual industry line that competition reigns supreme, said the large air carriers have staked out their respective hubs and will be difficult to dislodge.

"In the last 20 years, the marketplace of the United States has been sorted out. American (Airlines) kind of controls Dallas-Fort Worth and Miami and we've got Newark, Houston and Cleveland. Delta's got Atlanta," Bethune said in remarks to the National Defense Transportation Association annual conference.

U.S. Senator Mike Dewine:

During the last year, there has been rising concern among some of the smaller airlines that the seven largest passenger carriers in the U.S. are no longer competing against each other. Essentially, the argument goes, the "Big Seven" have carved up the U.S. aviation market . . .

CEOs of 16 major airlines tell Illinois' Governor that they will not use new airport in metropolitan Chicago:

We are writing to express our concerns about further planning and development of the so-called Third Chicago Airport. It is our understanding that the State of Illinois will not proceed with the construction of a third airport without the support of the airlines. This letter is intended to inform you that the airlines oppose further planning and construction of this facility. . .

USA Today:

In the two decades since deregulation forced the government to stop telling carriers what fares to charge and which cities to serve, the big airlines have built up "fortress hubs" where, without meaningful competition, they alone decide where to go, how often to go there and how much to charge.

What travelers suspect is true: Airfares are climbing fast, and nowhere is the situation worse than at the hubs for the nation's largest airlines.

Business travelers have been especially hard hit at hubs.

And almost everywhere, hub fares, especially for business fliers, are soaring.

Even when low-fare carriers enter a hub market, they usually control so little of the traffic that they can't do much to bring fares down.

New York Times:

Business travelers feel particularly abused because they account for more than half of airline revenue. For in the through-the-looking-glass world of airline pricing, the fares paid by leisure travelers, who book as long as a month in advance and stay over a weekend night, have in many cases declined, while last-minute fully refundable fares, which are most often paid by business travelers, are skyrocketing.

"The carriers always say that the business traveler is inelastic," said Peter M. Buchheit, director of travel and meeting services for the Black & Decker Corporation, which spent $18 million on air tickets for its American employees last year. "We need to travel so we will pay whatever it costs. But it has reached a point where we can't pay it anymore."

The burden of high fares is even greater on small companies. John W. Galbraith, president of Twin Advertising, a small company based in Rochester that had $2 million in billings last year, said he was thinking about dropping clients outside the city because the high cost of visiting them cancels out the profit he makes from having their business.

"Basically, what the airlines have done to companies like ours is kept us from growing," he said. (New York Times January 11, 1998)

United States Supreme Court on horizontal market allocations as *per se* violations of federal antitrust law:

One of the classic examples of a per se violation of §1 [of the Sherman Antitrust Act] is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition. . . . This Court has reiterated time and time again that '[h]orizontal territorial limitations . . . are naked restraints of trade with no purpose except stifling of competition.' Such limitations are per se violations of the Sherman Act. (The United States Supreme Court in the 1990 decision in Palmer v. BRG Group of Georgia, 498 U.S. 46, 49 (1990).)

Relevant Provisions of The Sherman Act:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court. (Title 15 United States Code §1)

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court. (Title 15 United States Code §2)

The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. (Title 15 United States Code §4)

[A]ny person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee. (Title 15 United States Code §15)

1. Focusing on the Elephant in the Corner.

Over the last decade there have been extensive congressional hearings and much media coverage of so-called "Fortress Hubs. But much of the attention has focused on two aspects of the Fortress Hub phenomenon:

Various "constraints" that the so-called "low-cost" "new-entrant" airlines (e.g., Spirit Vanguard) say have prevented these new entrants from entering and competing in Fortress Hub markets; and

In those instances where the new low-cost airlines could physically enter the Fortress Hub market, the dominant hub airlines are alleged to have engaged in predatory pricing to drive the so-called "low-cost" "new-entrant" competitors out of the market.

But while Congress and the Administration have focused on these elements, they have ignored what might be called "the elephant in the corner" aspect of the Fortress Hub issue. Virtually ignored in these debates has been the role of the so-called "major" airlines—i.e., the so-called "Big Seven" controlling members of the trade group known as the Air Transport Association (ATA)—in creating and maintaining the Fortress Hub system. While Congress and the U.S. DOT talked about the anti-competitive aspects of keeping the new "low-cost" airlines out of the Fortress Hub market, little attention has been directed toward the issue of whether the Big Seven's Fortress Hub system is itself a violation of the nation's antitrust laws.

The purpose of this study is to: (1) analyze the known facts of the Fortress Hub system; (2) determine if the known facts demonstrate the existence of a violation of federal antitrust laws, (3) examine the role of the "Big Seven's" conduct in the Chicago air travel market as a case study illustration of their collaborative conduct nationally in maintaining the national Fortress Hub network, and (4) propose remedial action.

The findings of this study unequivocally demonstrate that the Fortress Hub system maintained by the Big Seven—alone and through their trade organizations, the Air Transport Association—is an illegal cartel in violation of the Nation's antitrust laws.

2. Geographic Market Allocation through Fortress Hubs—Mutual Protection of Fortress Hub Dominance Against New Competition from Other Big Seven Airlines.

There is overwhelming and incontroverible evidence that, since "deregulation" in 1978, the market airlines have carved up major areas of the Nation into territories of geographic market dominance known as "Fortress Hubs". Under this Fortress Hub arrangement, one or two major airlines are ceded geographic market dominance and other major airlines tactitly agree not to compete in that geographic market.

Thus Delta has Fortress Hubs at Atlanta and Cincinnati, USAir at Pittsburgh, Northwest at Minneapolis and Detroit, American at Dallas-Ft. Worth, American and United at Chicago O'Hare, etc. The other Big Seven airlines—either implicitly or by explicit agreement—have agreed to stay out of each other's Fortress Hub markets in any significant way. Thus, for example, Delta remains unchallenged by United, Northwest, and others in Atlanta. In turn, Delta doesn't provide significant challenge to United and American at O'Hare or to Northwest at Minneapolis and Detroit. Similar de facto, quid pro quo non-compete accommodations by the major airlines can be found at virtually every Fortress Hub where one or two airlines have dominant control of the local market.

As stated by one congressional witness:

"The major airlines . . . developed high market share hubs in large sections of the country. Given the market power that they have developed, the major airlines have raised prices far above the competitive level in their market hubs (as study after study has shown). Furthermore, the major airlines defend their high price hub markets with predatory pricing. These markets are descriptively called 'fortress hub's'.

"There are two things the major airlines are doing to monopolize large segments of the country. First, they work hard to see that entry to their large markets remains closed or difficult. Second, if a discounter enters a few of their markets they use predatory pricing to drive the discounters out of business."

The broad reach of this Fortress Hub system is illustrated in a table prepared by the National Association of Attorneys General.

CITIES WHERE FORTRESS HUBS ARE LOCATED

*City and Dominant Airline*

Atlanta, Delta; Chicago O'Hare, United and American; Cincinnati, Delta; Dallas, American; Detroit, Northwest; Houston International, Continental; Minneapolis/St. Paul, Northwest; Denver, United; Pittsburgh, US Air; St. Louis, TWA.

3. Monopoly Fare Premiums at Fortress Hubs.

There is a large body of evidence and expert opinion—as articulated by the General Accounting Office, USDOT, business travel organizations, and the Illinois Department of Transportation—that the dominance of these major markets by one or two carriers results in a monopolistic ability to raise fares beyond the air fares that would exist if there was strong competition in these Fortress Hub markets. As stated by the GAO as far back as 1990:

"Airports where one or two carriers handle most of the enplaning traffic have higher fares than airports where the traffic is less concentrated. Moreover, the data show that fares tend to rise as concentration increases. While many factors can influence fare changes, the evidence that we have collected strongly suggests that fares and concentration at an airport are related. Fares are higher at concentrated airports than at relatively less concentrated ones, and the evidence suggests that the gap is increasing."

Subsequent studies by GAO since 1990 have confirmed the problem of higher fares at Fortress Hubs—higher than would exist in a competitive environment. See e.g., Barriers to Entry Continue in Some Markets (GAO/T-RCED-98-112; March 5, 1998); Airline Deregulation: Barriers to Entry Continue to Limit Competition in Several Key Domestic Markets (GAO/RCED-97-4, Oct. 18, 1996); Domestic Aviation: Barriers to Entry Continue to Limit Benefits of Airline Deregulation (GAO/RCED-97-120, May, 13, 1997); Airline Competition: Higher Fares and Less Competition Continue at Concentrated Airports (GAO/RCED-93-141, July 15, 1993); Airline Competition: Effects of Airline Market Concentration and Barriers to Entry on Airfares (GAO/RCED-91-101, Apr. 26, 1991).

While repeatedly emphasizing the problem of higher monopoly fares caused by lack of competition, GAO continued to emphasize the lifting of slot restrictions at three of the nation's airports as a partial solution to the problem. GAO's prime emphasis has been to obtain access to airport capacity for the so-called "low-cost" new entrant airlines into the Fortress Hub markets.

But GAO has never analyzed the issue of the "capacity" of these slot-restricted airports to service new competition—even if the slot restrictions were lifted. As discussed below, the FAA has repeatedly emphasized that the practical capacity of an airport is limited (see discussion, infra.) and that as traffic growth approaches the physical limits of the airport's capacity, aircraft delays rise geometrically—essentially leading to gridlock.

As the analysis contained in the 1995 DOT report A Study of the High Density Rule, and this study show, there simply is not enough capacity at O'Hare—even with the slots lifted—to all significant new competition to enter the Chicago market. This is why the Big Seven's collective refusal (discussed infra) to use and support the major new capacity that would be provided by the new South Suburban Airport is a central component in the preservation of the Fortress Hub problem in metropolitan Chicago. Moreover, any arguable minor increment of available capacity at O'Hare will rapidly be consumed by United and American. There simply is not enough room at O'Hare to allow a major new competitor to gain the "critical mass" to compete with United and American.

The Illinois Department of Transportation has repeatedly emphasized its opinion that monopoly dominance at O'Hare results in higher airfares paid by Chicago area travelers and that major new regional airport capacity is essential to breaking the monopoly stranglehold of Fortress O'Hare:

"There are numerous examples besides these to demonstrate that without the competition of a new entrant, the fares at Chicago are increasing or remain inordinately high."

"We encourage and support your [USDOT's] focus on anticompetitive practices that are injuring commerce, smaller cities, and consumers in Illinois and throughout the region serviced by O'Hare Airport as the hub of United Airlines and American Airlines. We strongly urge, however, that the enforcement policies should be part of a broader initiative that will insure that there will be airport capacity available in the Chicago area that will provide new airline entrants the opportunity to compete with United and American. Additional airport capacity is vital to restoring airline competition in the Chicago, Illinois, and Midwestern markets."

"There is simply no room at O'Hare for new entrant airlines to pose competitive challenges to the dominant airlines."

4. Time Sensitive Business Traveler Biggest Loser in Fortress Hub Monopoly System.

The air travel consumer most seriously harmed by this horizontal Fortress Hub market allocation is the business traveler—particularly the small to medium size business traveler who cannot negotiate bulk fare discounts and who must make time sensitive business trips at unrestricted coach fares.

The Illinois Department of Transportation estimates this monopoly based fare penalty at O'Hare alone exceeds several hundred million dollars per year. Nationally, the loss to the traveling public from these monopoly premiums at Fortress Hubs is likely to exceed several billion dollars annually.

As stated in major articles on the subject by USA Today and the New York Times:

What travelers suspect is true: Airfares are climbing fast, and nowhere is the situation worse than at the hubs for the nation's largest airlines.

Business travelers have been especially hard hit at hubs

And almost everywhere, hub fares, especially for business fliers, are soaring. (USA Today February 23, 1998)

Business travelers feel particularly abused because they account for more than half of airline revenue. For in the through-the-looking-glass world of airline pricing, the fares paid by leisure travelers, who book as long as a month in advance and stay over a weekend night, have in many cases declined, while last-minute fully refundable fares, which are most often paid by business travelers, are skyrocketing.

"The carriers always say that the business traveler is inelastic," said Peter M. Buchheit, director of travel and meeting services for the Black & Decker Corporation, which spent $18 million on air tickets for its American employees last year. "We need to travel so we will pay whatever it costs. But it has reached a point where we can't pay it anymore."

The burden of high fares is even greater on small companies. John W. Galbraith, president of Twin Advertising, a small company based in Rochester that had $2 million in billings last year, said he was thinking about dropping clients outside the city because the high cost of visiting them cancels out the profit he makes from having their business.

"Basically, what the airlines have done to companies like ours is kept us from growing," he said. (New York Times January 11, 1998)

Put bluntly, the Big Seven has used their monopoly power at Fortress Hubs to literally extort billions of dollars annually from captive travelers—most often time sensitive business travelers living in these airlines' own Fortress Hub communities.

5. The Second Biggest Loser in the Fortress Hub Monopoly System is the "Spoke" Passenger.

The second biggest loser from this Fortress Hub monopoly system is the so-called "spoke" passenger in the small to medium size community that serves as the "spoke" to a single large metropolitan Fortress Hub. Because the dominant Big Seven airline at a Fortress Hub has no competition at its hub, it is free to charge the spoke passenger—who must use the hub to get to his or her destination—excessive monopoly fares.

The Illinois Department of Transportation—again emphasizing the lack of capacity to handle both new competition and service to smaller and mid-size communities—has stated the problem as follows:

"The dominant airlines are diminishing and even abandoning service to smaller Illinois and Midwestern cities in favor of routes that are more lucrative or that increase the power of their hub networks."

Because the dominant O'Hare airlines prioritize the limited capacity at O'Hare to service the flight operations with the highest profitability, the small community "spoke" traveler gets harmed on two levels. First, he loses service when the cominant airlines cut small community service to use the limited capacity to service more lucrative long-haul or international traffic—eliminating less profitable small community service. Second, as to the small community traffic that the dominant airlines still service, they are able to charge exorbitant rates—knowing that the small community spoke traveler is at their mercy.

6. The Big Seven's Fortress Hub Geographic Market Allocation is a Per Se Violation of the Antitrust laws.

Neither the Administration nor the Congress appears to have critically examined a central question: Does the Big Seven's Fortress Hub geographic market allocation violate the Nation's antitrust laws? Based on clear and repeated Supreme Court precedent, it clearly does.

The major airlines general de facto geographic allocation of major air travel markets in the nation through the development of "Fortress Hubs" constitutes a per se violation of the antitrust laws. The Supreme Court has uniformly condemned arrangements to carve up horizontal markets as per se violations of Section 1 of the Sherman Act. See e.g., Palmer v. BRG Group of Georgia, 498 U.S. 46, 49 (1990); United States v. Topco Associates, Inc., 405 U.S. 596, 607–609 (1972).

Virtually all laymen and most lawyers shy away from antitrust law as an economic morass difficult to understand. But there is one area where the United States Supreme Court has been clear and unequivocal: horizontal arrangements to carve up geographic markets are an automatic—a "per se"—violation of the federal antitrust laws. Because this law is so-clear and unambiguous—and recognizing that the airlines will claim that the law can be ignored—we believe it important to quote the United States Supreme Court on this subject:

"While the Court has utilized the 'rule of reason' in evaluating the legality of most restraints alleged to be violative of the Sherman Act, it has also developed the doctrine that certain business relationships are per se violations of the Act without regard to a consideration of their reasonableness. In Northern Pacific R. Co. v. United States, 356 U.S. 1, 5, 78 S.Ct. 514, 518, 2 L.Ed.2d 545 (1958), Mr. Justice Black explained the appropriateness of, and the need for, per se rules:"

"'(T)here are certain agreements or practices which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal without elaborate inquiry as to the precise harm they have caused or the business excuse for their use. This principle of per se unreasonableness not only makes the type of restraints which are prescribed by the Sherman Act more certain to the benefit of everyone concerned, but it also avoids the necessity for an incredibly complicated and prolonged economic investigation into the entire history of the industry involved, as well as related industries, in an effort to determine at large whether a particular restraint has been unreasonable—an inquiry so often wholly fruitless when undertaken.'"

"It is only after considerable experience with certain business relationships that courts classify them as per se violations of the Sherman Act. See generally Van Cise, The Future of Per Se in Antitrust Law, 50 Va.L.Rev. 1165 (1964). One of the classic examples of a per se violation of §1 is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition. Such concerted action is usually termed a 'horizontal' restraint, in contradistinction to combinations of persons at different levels of the market structure, e.g., manufacturers and distributors, which are termed 'vertical' restraints. The Court has reiterated time and time again that '(h)orizontal territorial limitations . . . are naked restraints of trade with no purpose except stifling of competition.' White Motor Co. v. United States, 372 U.S. 253, 263, 83 S. Ct. 696, 702, 9 L.Ed.2d 738 (1963). Such limitations are per se violations of the Sherman Act. See Addyston Pipe & Steel Co. v. United States, 175 U.S. 211, 20 S.Ct. 44 L.Ed 136 (1989), aff'g 85 F. 271 (C.A.6 1898) (Taft, J.); United States v. National Lead Co., 332 U.S. 319,67 S.Ct. 1634, 91 L.Ed. 2077 (1947); Timken Roller Bearing Co. v. United States, 341 U.S. 593, 71 S.Ct. 971, 95 L.Ed. 1199 (1951); Northern Pacific R. Co. v. United States, supra; Citizen Publishing Co. v. United States, 394 U.S. 131, 89 S.Ct. 927, 22 L.Ed.2d 148 (1969); United States v. Sealy, Inc., 388 U.S. 350, 87 S.Ct. 1847, 28 L.Ed.2d 1238 (1967); United States v. Arnold, Schwinn & Co., 388 U.S. 365, 390, 87 S.Ct. 1856, 1871, 18 L.Ed.2d 1249 (1967) (Stewart, J., concurring in part and dissenting in part); Serta Associates, Inc. v. United States, 393 U.S. 534, 89 S.Ct. 870, 21 L.Ed.2d 753 (1969), aff'g 296 F.Supp. 1121, 1128 (N.D.Del.1968)." (United States v. Topco Associates, Inc., 405 U.S. at 607–608 (emphasis added))

The Big Seven's carving up of geographic markets into the current Fortress Hub system is nothing more than a naked horizontal restraint repeatedly condemned by the Supreme Court as a per se violation of the Sherman Act.

Put in terms the average citizen understands—Could McDonald's tell Burger King: We won't compete in Atlanta if you won't compete in Chicago? Could Ford tell GM: We won't sell Fords in Michigan if you won't sell Chevys in Illinois? The answer is clearly no. Each would be a horizontal market restraint and a per se violation of the Sherman Act just as the Big Seven's Fortress Hub system—and their refusal to compete in each other's hub market—is a horizontal market restraint and a per se violation of the Sherman Act.

The law is equally clear it is not necessary to demonstrate a formal written agreement among the Big Seven to carve up the geographic Fortress Hub market in order to find a conspiracy in violation of the Sherman Act. The existence of such an agreement or arrangement can be inferred from the course of conduct of the members of the industry. Norfolk Monument Company v. Woodlawn Memorial Gardens, 394 U.S. 700, 704 (1969); American Tobacco Company v. United States, 328 U.S. 781, 809–810 (1946); InterstateCircuit v. United States, 306 U.S. 208, 221, 226–227 (1939).

7. The Metropolitan Chicago Market: An Egregious Example of the Geographic Market Allocation and Refusal to Compete—"If You Build It, We Won't Come."

A particularly egregious implementation of this horizontal agreement not to compete in each other's Fortress Hub markets can be found in the major airlines' announced refusal to use a new major airport in the metropolitan Chicago. The most visible manifestation of their refusal to compete in the Chicago market can be found in letters written by sixteen Chief Executive Officers (CEOs) of the major airlines to Illinois Governor Jim Edgar and his successor George Ryan. In those letters—drafted in coordination with representatives of the City of Chicago and the Air Transport Association—the major airlines tell the Illinois Governor that they will refuse to use the proposed new metropolitan Chicago airport:

"We are writing to express our concerns about further planning and development of the so-called Third Chicago Airport. It is our understanding that the State of Illinois will not proceed with the construction of a third airport without the support of the airlines. This letter is intended to inform you that the airlines oppose further planning and construction of this facility . . ."

Chicago area news media have characterized the major airlines' refusal to use a new airport as "If you build it, we won't come." In reality, this collective refusal to use a new regional airport is nothing more than a manifestation of the major airlines' horizontal market agreement not to compete in any significant way with United and American in their dominant Chicago market. This refusal by major airlines such as Delta, Northwest, USAir, and Continental to use new metropolitan Chicago airport capacity to compete in metropolitan Chicago is but an individual example of the per se antitrust violation of allocating geographic markets by the major airlines.

8. The Fortress Hub System and the Big Seven's Collective Refusal to Compete in Each Other's Fortress Hub Markets—as Illustrated by Their Collective Refusal to Use the New South Suburban Airport—Represent Serious Violations of Federal Law.

These clear violations by the Big Seven airlines in creating and maintaining the Fortress Hub system and the refusal of the Big Seven to compete in each other's markets represent serious violations of the antitrust laws. If the GAO and IDOT estimates are accurate, nationally the Fortress Hub system literally illegally steals several billion dollars per year from the nation's air travelers—several hundred million dollars in the Chicago area alone.

Because these antitrust violations are so blatant, it is important for the public to know the significant sanctions and remedies available to cure these violations.

Section 1 of the Sherman Act provides:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding **$10,000,000** if a corporation, or, if any other person, **$350,000**, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court. (Title 15 United States Code §1 (emphasis added))

Section 2 of the Sherman Act provides:

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding **$10,000,000** if a corporation, or, if any other person, **$350,000**, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court. (Title 15 United States Code §2 (emphasis added))

Section 4 of the Act provides civil injunction remedies and mandates the Department of Justice to "institute proceedings in equity to prevent and restrain such violations":

The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. (Title 15 United States §4 (emphasis added))

Section 15 provides that any person injured by the violations of the antitrust laws can recover treble (triple) damages for the monetary losses caused by the violations.

[A]ny person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefore in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee. (Title 15 United States Code §15)

In summary, the statutory sanctions for these antitrust violations are significant. Thus far, federal Department of Justice officials have been unwilling to initiate antitrust enforcement proceedings to break up the Fortress Hub monopoly of the Big Seven.

9. The Major Airlines Geographic Market Allocation—A Per Se Violation of the Antitrust laws—Is Not Immunized by the "Noerr-Pennington" Doctrine.

The major airlines' have engaged in this de facto Fortress Hub geographic market allocation scheme for more than a decade. It is likely that the airlines will assert that their collective refusal to compete in the metropolitan Chicago market—and the manifestation of that refusal by their letters to Governors Edgar and Ryan—is immunized from antitrust law enforcement by the "Noerr-Pennington" doctrine. That doctrine immunizes antitrust violations where the principal vehicle for achieving the monopolistic goal is political expression—i.e., lobbying government.

But the post-Noerr-Pennington case law makes clear that where a business arrangement—that otherwise violates the antitrust laws—has one component that involves the exercise of First Amendment speech, there is no immunity from antitrust enforcement under the "Noerr-Pennington" doctrine. See Allied Tube & Conduit Corp. v. Indian Head, Inc., 486 U.S. 492, 505–506 (1988); FTC v. Superior Court Trial Lawyers Ass'n, 493 U.S. 411, 423–426 (1990); Sandy River Nursing Care v. Aetna Casualty, 985 F.2d 1138, 1142–43 (1st Cir. 1993); In re Brand Name Prescription Drugs Antitrust Litigation, 186 F.3d 781, 788–789 (7th Cir. 1999).

10. The Major Airlines Geographic Market Allocation—A Per Se Violation of the Antitrust laws—Is Not Immunized by the "State Action Doctrine".

It is common for those accused of antitrust violations to claim that their monopolistic practices are immunized from antitrust liability under the so-called "state action" doctrine of Parker v. Brown, 317 U.S. 341 (1943). The Supreme Court's rationale in Parker for "state action" immunity was the Congress had not intended in the Sherman Act to control the activities of states in engaging in conduct directed by the state legislature. 317 U.S. at 351–352.

But the Supreme Court has severely limited the availability of "state action" immunity when invoked by private parties such as the airlines in an attempt to immunize conduct clearly violative of the antitrust laws. The Supreme Court has established two requirements for "state action" immunity where private parties participate in the antitrust violation: 1) the monopolistic activity must be clearly expressed and affirmatively adopted as being the policy of the State, and 2) the monopolistic activity must be actively supervised by the State itself. Federal Trade Commission v. Ticor Title Insurance Co, 504 U.S. 621, 633–634 (1992); Patrick v. Burget, 486 U.S. 94, 101–102 (1988); California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc., 445 U.S. 97, 105–106 (1980).

In the case of Fortress O'Hare and the collective campaign of United, American and Chicago to keep significant new hub-and-spoke competition from coming into the metro Chicago market, there is no question that the "state action" defense does not apply. First, the State of Illinois has not authorized the Fortress O'Hare monopoly maintained by United and American and has actively spoken out against the monopoly problem there. Second, the State is not actively supervising and approving the anticompetitive conduct by United and United and American and Chicago.

11. Federal Taxpayer Funds May Have Been Used to Suppress Competition and Violate the Antitrust Laws in the Chicago Market.

As stated above, other major airlines through the (ATA), United and American (the dominant carriers at O'Hare) have engaged in a concerted effort to defeat construction of a new South Suburban Airport, an airport that would provide significant capacity opportunities for major new competition to enter the Chicago market. United executives have privately stated their goal as "Kill Peotone".

United and American have been assisted in their "Kill Peotone" (and thus kill new competitive capacity) campaign by representatives of the City of Chicago—including Chicago's consultants. Chicago's consultants have been paid several million dollars in consulting fees to assist Chicago and United and American in expanding O'Hare and in obstructing development of a new South Suburban Airport.

Much of the money paid to these consultants has come from either: (1) federal Passenger Facility Charge (PFC) funds (2) federal Airport Improvement Program (AIP) funds, or (3) federal tax subsidies for municipal airport bonds ("GARBs" General Airport Revenue Bonds). Not only are the airlines and Chicago engaged in a monopolistic arrangement designed to prevent new competition from entering the Chicago market (i.e., through the new airport), but much of the money to implement this illegal arrangement is coming from federal taxpayer dollars. The GAO and the Department of Justice should be asked to conduct an independent audit of all PFC, AIP, and GARB expenditures at O'Hare to determine if any federal funds were used as part of a campaign to "Kill Peotone" and to assist in the violation of federal antitrust laws.

12. Federal Officials Have Participated in and Supported the Big Seven's Illegal Monopolistic Arrangement to Refuse to Compete in the Chicago Market.

Not only have federal funds been used to support the major airlines illegal monopolistic arrangement to refuse to compete in the Chicago market, but it appears that federal officials within the Administration have worked with the major airlines and Chicago to assist in this antitrust arrangement to prevent the development of a new airport in metropolitan Chicago. For the last several years, federal administration officials—several of whom are former Chicago officials who worked for the Chicago Aviation Department—have blocked development of the new South Suburban Airport through a series of spurious legal claims that federal law requires that a "consensus" must exist between the State of Illinois and the City of Chicago before a new metropolitan airport can be constructed. No such legal requirement exists.

Because of the active participation of key figures in the current administration in promoting and supporting the continued blockage of new airport development in metropolitan Chicago—in concert with the illegal refusal of the major airlines to compete in the Chicago market by using the new airport—and impartiality and lack of bias of the Administration in conducting law enforcement in this area is suspect. The Attorney General should be asked to appoint an independent prosecutor to conduct the antitrust investigation and to undertake all appropriate actions needed to correct the ongoing antitrust violations.

13. Defining Essential Remedies—A New Regional Airport With Sufficient Capacity to Support New Competitive Hub-And-Spoke Operations.

There have been two "remedies" asserted to eliminate the monopoly dominance of Fortress O'Hare in the Chicago market. The first—eliminating slot restrictions at O'Hare—was proposed and passed by Congress this year. According to proponents of lifting the slot limits, elimination of slot controls would bring new competition into O'Hare.

A. Lifting the Slot Limits Was an Unmitigated Disaster.

At the time the federal laws lifting the slot limits was passed, Illinois Senator Peter Fitzgerald and Congressman Henry Hyde both voted against the bill. They argued that the slot limitations were not an artificial constraint but a recognition of the already exhausted limited capacity of O'Hare. They argued that lifting the slots would be a disaster because: (1) added flights should lead to a massive delay gridlock at O'Hare, and (2) that even if there were any additional capacity, that capacity would be rapidly consumed by American and United. Under these circumstances, they argued that lifting the slot limits would simply expand United's and American's monopoly—not increase competition.

Senator Fitzgerald and Congressman Hyde can rightfully say: I told you so. On April 20, 2000 United and American announced their intent to add 400 new daily flights to O'Hare. The sad reality is that O'Hare does not have the capacity for these 400 new flights. But Fitzgerald's and Hyde's point was made; whatever arguable minor incremental capacity exists at O'Hare (if any), it has been rapidly consumed by United and American—not used by new competition. Instead of reducing the monopoly, the new federal law has helped United and America expand the monopoly.

United's and American's actions—coupled with the limited capacity of O'Hare—illustrates a salient point. There simply is not enough capacity at O'Hare to bring any significant new competition into O'Hare. Any new competitive entry will be token at best and not provide meaningful competition to the hub-and-spoke dominance of United and American.

Lifting the slot limit, coupled with United and American's actions to jam more than 400 new flights into O'Hare also means massive new delay increases for the traveling public this Summer. To illustrate these points and to demonstrate why the recently passed federal legislation makes matters much worse at O'Hare requires a brief analysis of the related issues of capacity and delay at airports—particularly O'Hare.

FAA, the airlines, Chicago and IDOT define capacity as the number of operations that can be processed at an airport at an acceptable level of delay. There is a recognition that there is a difference between absolute maximum physical throughput and a lower level of operations that can be put through without experiencing intolerable levels of delay and cancellations. As stated by the City of Chicago:

"The practical capacity of an airfield will be defined as the maximum level of average all-weather throughput achievable while maintaining an acceptable level of delay."

"Ten minutes per aircraft operation will be used at the maximum level of acceptable delay for the assessment of the existing airfield's capacity, subject to future levels of forecast demand. This level of delay represents an upper bound for acceptable delays at major hub airports."

This relationship between maximum physical throughput and practical, delay-sensitive capacity is illustrated in a FAA chart copied from an FAA report on the subject, Airfield and Airspace Capacity/Delay Policy Analysis, FAA–APO–81–14.

This relationship holds true whatever the input data as to the level of demand or whatever the capacity of the airport under study. Once the demand reaches a point approaching the physical capacity of the airport the delay levels for all traffic at the airport rise geometrically. The acceptable or "practical capacity" of the airport is that level where delays are acceptable. To push more traffic beyond that point is a certain invitation to massive delays, major cancellations, and gridlock.

At one point FAA defined the acceptable level for practical capacity of an airport as four minutes average annual delay. That translated into about a 30-minute delay in peak periods. Now FAA, IDOT and Chicago defined the acceptable level of delay to define practical capacity as 10 minutes average annual delay. This translates (in equivalent terms) into more than an hour delay in peak periods.

What is important to emphasize is that all FAA and Chicago—and most likely Booz•Allen and United and American—runs of the SIMMOD model for O'Hare show average annual delay at O'Hare is currently in excess of 10 minutes average annual delay—already above acceptable capacity limits without adding more flights. FAA and Chicago and United and American all know that to push 400–500 new flights per day into O'Hare is going to lead to: (1) massive increases in delays and (2) widespread cancellations. FAA (USDOT) A Study of the High Density Rule illustrates the massive delay increase that adding just a few flights at O'Hare beyond the slot limits will do to all passengers at O'Hare. This analysis shows that adding 400–500 flights per day will lead to disastrous delays for all passengers—more than doubling the delays for all passengers, not just those who are on the new additional flights.

We anticipate that FAA and United and American will claim that the delay and capacity results of DOT in 1995 have been changed because of capacity improvements at O'Hare in intervening years. But if so, a few questions need answering. What are the capacity improvements since 1995? How much new capacity has been provided? What will be the capacity/delay numbers (comparable to DOT's 1995 analysis) with the new capacity? Why were there no public hearings and environmental disclosure on these capacity improvements?

We suspect the answer is that there have not been any capacity changes at O'Hare since 1995 and DOT's numbers remain valid. Conversely, if there have been capacity changes, FAA has failed to inform both affected elected officials (e.g., Congressman Hyde and Senator Fitzgerald) and they have failed to tell the public and give the public an opportunity to be heard.

There is another important point to emphasize about this throughput/delay relationship shown on the FAA charts. Where the airport is at the limits of acceptable delays—i.e., the practical capacity limit—very small shifts in either traffic demand or capacity can dramatically increase delays for all passengers. Thus a small increase in traffic demand beyond the practical capacity limit will generate huge increases in delays for all passengers. Similarly, a slight decrease in capacity—such as experienced this past year when regional jet pilots were refusing Land-And-Hold-Short for safety reasons—can dramatically increase delays with little or no increase in throughput. The point here is that O'Hare is already at the breaking point—brought there by the resistance of Chicago and the Fortress Hub airlines at O'Hare (United and American) to the building of a new regional airport. O'Hare cannot handle 400–500 new flights per day and United and American know it. Their own SIMMOD analysis tells them that.

Why then do United and American announce a literally foolhardy plan to jam 400–500 flights into O'Hare—an announcement made the same day that United's and American's front organization (the Civic Committee) calls for a new runway at O'Hare? By deliberately creating chaos at O'Hare, United and American will then be able to say that delays are at crisis levels and we must immediately build a new runway at O'Hare.

B. The "Point-To-Point" Shell Game: Building the South Suburban Airport as a "Point-To-Point" Airport Will Not Break the Hub-And-Spoke Monopoly of Fortress O'Hare.

The heart of the monopoly overcharges to travelers in the Chicago market is the absence of competition in the hub-and-spoke market in Chicago. None of the other Big Seven will come into the Chicago market to establish a competitive hub-and-spoke operation.

United and American propose using close to 10 billion dollars (much of it in federal funds) to expand United and American's hub-and-spoke empire at Fortress O'Hare. In an attempt to expand their monopoly and prevent new competition from entering the Chicago market, United and American (along with the "Civic Committee" and the Chicagoland Chamber) have sought to distract attention by suggesting a south suburban airport in Chicago as a "point-to-point" airport—not unlike Midway. United and American argues that O'Hare should be the only "hub-and-spoke" airport in metropolitan Chicago.

By shaping the argument in this fashion, United and American guarantee that they will be allowed to continue and dramatically expand their Fortress Hub monopoly at O'Hare. According to their arguments, the lion's share of all the origin-destination traffic in the region—and all of the connecting and international traffic—should go to the sole hub-and-spoke airport in the region: O'Hare. Any minor overflow of "point-to-point" origin-destination traffic that Midway could not handle could be addressed in a small "point-to-point" airport like the South Suburban Airport or Gary.

What United and American gloss over is the fact there is plenty of competition in the Chicago market in point-to-point service. The real lack of competition in the Chicago market is in the lack of additional hub-and-spoke competition to challenge the hub-and-spoke duopoly of United and American at Fortress O'Hare. It is this market dominance of the hub-and-spoke market—not the point-to-point—where lack of competition gouges the business traveler and the traveler from "spoke" cities. There is a desperate need for new competitive hub-and-spoke service in the Chicago market and the place to put that hub-and-spoke is the new South Suburban Airport.

No federal administration officials appear to be examining whether spending 10 billion dollars (much of it from federal taxpayers) at O'Hare makes economic sense when much more new capacity to support competitive hub-and-spoke operations can be constructed at a new metropolitan airport for less than half the cost. Nor are federal officials examining whether the use of billions of dollars of federal taxpayer funds to expand United and American's hub-and-spoke duopoly at Fortress O'Hare—essentially using billions of dollars of federal taxpayer funds to subsidize expansion of monopoly power—is proper use of federal funds.

C. A New Runway at O'Hare is Intended to Increase Capacity to Expand United and American's Monopoly Power.

As discussed above, the airlines" current public relations argument is that the lion's share of all the origin-destination traffic in the region (and all of the connecting and international traffic) should go to the sole hub-and-spoke airport in the region (O'Hare). Any minor overflow of point-to-point origin-destination traffic that a dramatically expanded O'Hare and Midway could not handle (if any) could be addressed in a small point-to-point airport like the South Suburban Airport or Gary.

Paralleling this argument is the claim by the airlines allies that a new runway at O'Hare is needed to "reduce delays". They claim that a new runway would not increase O'Hare capacity but simply reduce delays.

Yet an analysis using FAA's own capacity analysis standards and criteria demonstrates that a new runway at O'Hare would substantially increase the capacity of the airport. As discussed above, the concepts of capacity and delay are closely interrelated. The FAA and Chicago both define capacity as that level of aircraft operations that can be processed at an airport at an acceptable level of delay.

The FAA's published graphic showing the relationship of capacity and delay illustrates a how a so-called "delay reduction" at one level of traffic results in an increase in capacity at the airport to accommodate additional levels of traffic.

This capacity increase at O'Hare—by building a runway to "reduce delay"—would dramatically expand American's and United's hub-and-spoke monopoly at Fortress O'Hare. Further, it would virtually doom the economic justification for the new south suburban airport because the new "delay" runway—once built—could easily be used to carry the new additional traffic for which the new airport was intended. Simply by piecemealing incremental expansion at O'Hare, Chicago and American and United can keep the region under the thumb of the Fortress O'Hare monopoly.

14. United's and American's Fight to Preserve and Expand Fortress Hub Monopoly Power at O'Hare has Grave Social, Economic, Public Health, and Quality of Life Consequences for the Region.

In their passion to expand Fortress O'Hare and defeat the prospect of new hub-and-spoke competition coming into a new airport, United and American have disregarded safety, public health, and quality of life for the communities around O'Hare. All parties are in agreement that growth in air traffic should be accommodated with major increases in new airport capacity in the metropolitan Chicago region.

The choices are stark: (1) a new regional airport which will have an environmental land buffer three times the size of O'Hare and plenty of capacity to accommodate new hub-and-spoke competition or (2) an overstuffed O'Hare with no land buffer and continued dominance of the metropolitan hub-and-spoke market by United and American. But for the addiction to monopoly revenues at Fortress O'Hare, the decision is simple—send the traffic growth to a new environmentally sound, competitively open new regional airport.

Instead we have United and American and their political surrogates urging more air pollution, more noise, and more safety hazards be imposed on O'Hare area communities—simply to protect and expand the Fortress O'Hare monopoly. We now live in a bizarre world where the desire to protect and expand violations of antitrust law and illegal overcharges trumps protection of public health, safety and quality of life.

The consequences of these abuses of monopoly power for the metro Chicago region are stark and severe:

O'Hare area communities will be subjected to more noise, more air pollution, and more safety hazards because—under the United, American, and Chicago proposal—all the international, all the transfer traffic, and the lion's share of the origin-destination traffic are jammed into an already overstuffed O'Hare. Any new airport—even if built—will simply receive the origin-destination overflow (if any) from a vastly expanded O'Hare and Midway.

South Chicago and south suburban communities will continue to suffer serious economic decline because the South Suburban Airport—which should have been built years ago—lies hostage to the unholy alliance struck between the monopoly interest of United and American and the political pique of Chicago's mayor. Residents of South and South Suburban Chicago legitimately ask why United and American oppose the hundreds of thousands of jobs and billions in economic benefits that would accrue to this area if the new airport is built. Some attribute United and American's position to racial intent. More accurately, United and American are willing to ignore the severe economic harm their monopolistic position inflicts on an area with a significant African-American population if that harm is a necessary consequence of preserving and expanding their monopoly at Fortress O'Hare. In a world of pure economic rationality, monopoly power and the social and economic injustices incident to that monopoly power might be excused as central to the maximization of profit. However, in a world of law and justice—where political leaders must account for their failure to correct these abuses—such destructive monopoly power should not be tolerated.

### RECOMMENDATIONS

Based on the facts and the antitrust law analysis contained in this report, the Suburban O'Hare Commission recommends the following actions:

The United States Attorney General and the United States Attorney for the Northern District of Illinois should initiate an investigation into the collective refusal of the Big Seven airlines to compete against each other in each other's Fortress Hub Markets. Included in the investigation should be an examination of the role of third party collaborators in the antitrust violations—including the City of Chicago and other private organizations and individuals who have assisted the Big Seven (including United and American) in perpetrating these violations. Because of the involvement by federal officials in affirmatively assisting the Big Seven and the City of Chicago in keeping significant competition out of Chicago, the Attorney General should be asked to consider the appointment of independent counsel.

The United States Attorney General and the United States Attorney should bring a civil action in federal court to enjoin and break up the illegal Fortress Hub geographic market allocation by the Big Seven and prohibit the collective refusal by the Big Seven to compete in each other's Fortress Hub markets. Included in the relief should be a requirement that members of the Big Seven halt their collective refusal to use a new South Suburban Airport in metropolitan Chicago and a requirement that competitive hub-and-spoke operations be established in metro Chicago to compete with United and American.

The State Attorneys General should initiate civil damage actions to recover treble damages for the billions of dollars per year in excess monopoly profits in airfare overcharges that have been charged at the Big Seven's Fortress Hubs. The Illinois Attorney General should bring suit to recover treble damages for the hundreds of millions of dollars in monopoly overcharges by American and United at Fortress O'Hare. On a multiple year basis in Illinois alone, the treble damages recoverable for consumers would exceed several billion dollars.

The GAO and the Department of Justice should undertake an immediate and detailed audit of all federal funds that may have been used to further the refusal of the other members of the Big Seven to compete with United and American in metropolitan Chicago—particularly the campaign by the airlines and Chicago to "Kill Peotone".

The United States Department of Transportation should withhold any further approvals of federal funds for expansion of the United and American duopoly at Fortress O'Hare.

The House and Senate Judiciary Committees should conduct immediate hearings on these issues.

Our Governor and our two United States Senators, the Speaker of the House, and our Illinois Attorney General should be respectfully asked what specific actions they will take to (1) break up the Fortress Hub system—particularly Fortress O'Hare; (2) bring new hub-and-spoke competitors into the Chicago market; (3) recover the billions in excess monopoly profits from the Fortress O'Hare overcharges; (4) prevent the Big Seven from continuing to refuse to use the new capacity provided by the South Suburban Airport; and (5) assemble the federal and state resources needed to rapidly build the South Suburban Airport.

Our Governor should hold fast to his promise not to permit any additional runways at O'Hare. To do otherwise would simply enhance and expand the monopoly power of Fortress O'Hare and doom the opportunity to bring in new competition into the region at the South Suburban Airport.

The two candidates for President of the United States—both of whom have likely received large campaign contributions from the Big Seven—should be respectfully asked what they will do to break up the Fortress Hub system nationally and Fortress O'Hare in particular. Vice President Gore in particular should be asked why his administration has for the past eight years looked the other way while the Big Seven has used violations of the nation's antitrust laws to literally steal billions of dollars from American consumers. Mr. Gore should also be asked to explain why his administration has blocked development of new competitive capacity in metro Chicago—i.e. a new South Suburban Airport—at every turn. Finally, Mr. Bush should be asked specifically what he will do to build the South Suburban Airport.

### CONCLUSION

The monopoly abuses of the Fortress Hub system—and especially the abuses of Fortress O'Hare and the refusal of the Big Seven to compete in metropolitan Chicago—are a national disgrace. It's time to end it.

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## SUBURBAN O'HARE COMMISSION—EXECUTIVE SUMMARY

A study prepared by the Suburban O'Hare Commission concludes that the major airlines have committed per se violations of federal antitrust laws by refusing to compete with each other in Fortress Hub markets, such as in the metro Chicago region now dominated by "Fortress O'Hare".

The glaring example of these monopolistic practices are documented by the major airline's letter to former Illinois Gov. Jim Edgar which, in effect, said if the state builds a new airport in Chicago's southern suburbs, "we won't come."

That leaves United and American airlines, which control over 80 percent of the air traffic at O'Hare in an unchallenged market position. It would be as if Ford Motor Company told General Motors, "If you agree not to sell cars in Chicago, we will agree not to compete with you in Los Angeles."

SOC's major findings include:

The de facto agreement among the "Big Seven" airlines—Northwest, United, American, Delta, US Air, Continental and Trans World—not to compete in each others hub market is the heart of the monopoly problem.

The resulting fortress hub monopolies are costing American air travelers billions of dollars annually in monopoly induced higher fares, especially the fares charged to time-sensitive business travelers and "spoke" passenger who must connect through the hub to get to their ultimate destinations.

The Big Seven's geographic market allocation violates the nation's antitrust laws, based on clear and repeated Supreme Court decisions which have roundly condemned arrangements to carve up geographic markets horizontally.

In Chicago, the clear violation of the antitrust law is demonstrated by the abandonment by major airlines of meaningful competition to United and American at O'Hare and the announcement that they would not use a South Suburban Airport if built.

The airlines can't defend their anti-competitive practices with the "Noerr-Pennington" doctrine, which asserts that petitioning the government to help the industry engage in antitrust actions is protected under Free Speech guarantees. Case law doesn't protect anti-competitive practices that have evolved independent of any government authorization, as in the present case.

Nor can the airlines or Chicago defend themselves by the "state action" doctrine, which allows states, as a matter of federalism, to consciously participate in monopoly practices. For this defense to succeed, Supreme Court decisions require that the state must clearly endorse and supervise the monopoly practices. Here there has been no such approval of the Fortress Hub monopoly abuses by the State of Illinois.

Chicago and its officials are not immune from antitrust law liability for helping the major airlines avoid competing with the United/American cartel at O'Hare.

Federal taxpayer funds may have been used to suppress competition and violate antitrust laws in the Chicago market.

The Clinton administration has not only looked the other way in not bringing antitrust enforcement action to break up the Fortress Hub system, but has affirmatively assisted Chicago and United and American in blocking significant new competition from entering the region by blocking development of a new regional airport in metro Chicago.

The lifting of slot limitations will not allow significant competition to enter the Chicago market. Instead—as predicted by Senator Fitzgerald and Congressman Hyde—the lifting of the slots will be accompanied by massive increase in delays and by United and American simply expanding their monopoly control at the airport.

Construction of a new runway for "delay reduction" is simply subterfuge to expand the size of United and American's Fortress Hub operation at O'Hare. Building a new runway at O'Hare will make the monopoly problem—and resultant air fare overcharges—even worse. Moreover, it will doom the economic viability of the New South Suburban Airport.

### RECOMMENDATIONS

Based on these findings, SOC recommends:

Investigations by the U.S. Attorney General and U.S. Attorney for Northern Illinois into activities by the airlines, the city of Chicago, consultants and other third parties which have been used to protect and expand the Fortress Hub system nationally—and in particular to prevent new airport development in the metro Chicago region.

Civil action by the Attorney General and U.S. Attorney here to break up the Fortress Hub system and to compel the major airlines to stop their refusal to compete in metro Chicago.

Action by state attorneys general to recover treble damages for fliers who were charged billions of dollars in excess fares as a result of the Fortress Hub system.

A Government Accounting Office and Department of Justice audit of federal taxpayer funds to subsidies that abetted the antitrust violations, particularly efforts to kill the South Suburban Airport.

Governor Ryan should hold fast to his promise not to permit any additional runways at O'Hare. To allow additional runways would simply enhance and expand the monopoly power of Fortress O'Hare and doom the opportunity to bring in new competition into the region by the South Suburban Airport.

The withholding of U.S. Transportation Department of any more federal funds for expansion of the United and American duopoly at Fortress O'Hare.

An explanation and action by Illinois' highest elected officials as to what they will do to break up the Fortress O'Hare monopoly and provide for a new south suburban airport.

A clear statement by Republican and Democratic candidates for president to state their positions on Fortress Hubs, especially O'Hare and the role of the federal government in either breaking up Fortress O'Hare or building new capacity for new competition at the South Suburban Airport.

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## STUDY FINDS MAJOR AIRLINES AND CHICAGO VIOLATE FEDERAL ANTITRUST LAWS TO SUPPORT HIGH MONOPOLY FARES AND BLOCK NEW COMPETITION

BENSENVILLE, IL, May 21, 2000.—The nation's major airlines have committed serious violations of U.S. antitrust laws by refusing to compete with each other in "Fortress Hub" markets, including Chicago, a study by the Suburban O'Hare Commission concludes.

The study (entitled "If You Build It, We Won't Come: The Collective Refusal of the Major Airlines to Compete in the Chicago Air Travel Market") calls for an investigation by the Justice Department into the anti-competitive practices by the airlines, and also by the city of Chicago, its consultants and third party allies, which have been complicit in the antitrust violations. Based on the study, SOC officials also called for:

U.S. Attorney General Janet Reno to begin civil action to break up the hub monopolies.

State attorneys general to recover treble damages for fliers who have been billed billions of dollars in excessive fares made possible by the monopolistic practices. The U.S. Transportation Department to withhold any more federal funds for the expansion, and further strengthening, of the United and American airlines' cartel at O'Hare Airport in Chicago.

General Accounting Office and Department of Justice audits of funds that have been used to abet the antitrust violations, including the airlines' and Chicago Mayor Richard M. Daley's efforts to kill a proposed hub airport in Chicago's south suburbs.

Governor Ryan to hold to his firm commitment not to permit new runways at O'Hare since such runways would expand United's and American's Fortress Hub monopoly at O'Hare and would doom the economic justification for the new South Suburban Airport.

SOC is a government agency representing more than 1 million residents who live in communities surrounding O'Hare airport. The study alleges that the airlines, the city of Chicago, its consultants and allies have used millions of dollars of taxpayers' money to thwart a south suburban airport that would bring competition to the United and American airlines' cartel at O'Hare and to expand the Fortress Hub monopoly at O'Hare.

"The antitrust violations are as clear and as egregious as if Ford said to General Motors, 'We won't compete against you in Chicago, if you agree not to compete against us by selling cars in Los Angeles'" said John Geils, SOC chairman and mayor of Bensenville, which borders O'Hare Airport. "The major airlines even went so far as to write two governors of Illinois, in their infamous 'If you build it, we won't come' letters that they would not use a south suburban airport. This extraordinarily public flaunting of the nation's antitrust laws simply cannot be tolerated."

The heart of the antitrust violations, according to the study, is found in the de facto agreement among the big seven airlines—Northwest, United, American, Delta, US Air Continental and Trans World—to not significantly compete in each others' hub markets. The resulting domination by these airlines of their "own" airports (such as Delta in Atlanta, TWA in St. Louis and Northwest in the Twin Cities), forces fliers, especially time-sensitive business travelers, billions of dollars in unwarranted and additional fares, government studies have shown.

"Taxpayers should be concerned that millions of dollars of federal money, raised in part through taxes on every passenger using O'Hare, among other airports, have gone towards financing costly public relations and political lobbying campaigns to support this restraint of trade," said Craig Johnson, vice president of SOC and mayor of Elk Grove Village. "At every turn, the recommendation of expert panels to relieve the pressure on O'Hare and the national aviation system by building an airport in Chicago's south suburbs has been stymied by this campaign. It begins with two airlines' insatiable desire to dominate the Chicago market and is abetted by other major airlines interested in protecting their own turf. And it is carried out by a compliant Chicago mayor who is dependent on the political spoils of a monopolistic O'Hare airport and those who share in those spoils—contractors, political consultants, big public relations firms, concessionaires and their friends in corporate board rooms and the media."

Said Geils: "The antitrust movement 100 years ago was aimed at breaking up precisely this sort of attack on the public and consumers. After a century, we don't need new laws. What we need are responsible public officials who won't look the other way, who will carry out the sworn duties of their office."

The hub-and-spoke airline market was made possible by aviation deregulation two decades ago, which gave commercial carriers the right to compete where, when and at what price they wanted. But instead of the robust competition that deregulation was intended to spawn, it led to increasing concentrations of power of separate airlines at separate "Fortress Hub" airports. While the industry will argue that this leads to economies of scales that are passed along to some air travelers in the form of price savings, government and independent studies show that large numbers of travelers—especially time-sensitive business travelers—are actually paying billions more.

The costs, said Geils, are paid in more than just higher fares. "They come in the form of more air pollution, more noise and more safety hazards that the airlines are willing to impose on O'Hare area communities—simply to protect and expand the Fortress O'Hare monopoly. We now live in a bizarre world where the desire to protect and profit from illegal overcharges trump the protection of public health, safety and quality of life."

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[From The Sun Times, May 20, 2000]

### GORE'S INTEREST HARDLY PUBLIC

(By Jesse Jackson, Jr.)

At a recent Democratic fund-raiser hosted by Mayor Daley, Al Gore, the vice president and presumptive Democratic nominee, said: "The Department of Transportation has said at the present time it's a bit premature to build a third airport . . . and I have agreed with that. What happens in the future depends on the best public interest. I know there is a strong public interest in making sure that the health of O'Hare remains very strong."

Let's look at Gore, O'Hare and the public interest.

First, is the "best public interest" served through local or national control of federal transportation policy? Gore came before the Congressional Black Caucus and said that "federalism" would be an important issue in the 2000 campaign. Since George W. Bush is openly a "states' righter," I assumed that the vice president was appealing to us for support by saying, as president, he would fight for federal policies that contributed to the public interest. Gore did that in the South Carolina flag issue, but in the case of Elian Gonzalez in Florida and a third airport in Chicago he, too, deferred to the locals.

Gore is right that the DOT has recommended against building a third airport now. However, Gore did not share the rationale for the DOT's recommendation. Did he draw his conclusion after a thoughtful series of dispassionate, hard-nosed government studies? Or were 2000 political considerations uppermost? President Clinton has told some Chicagoans privately that, "Jesse Jr. may be right about the airport, but this is an election year." However, at Daley's request, the Clinton-Gore administration in 1997 took Peotone off the nation's planning list, making it ineligible for federal funds. Thus, one is led to conclude that, in Chicago, local politics control federal aviation policy, rather than the public interest. O'Hare is the new patronage system in Chicago—which includes lucrative no-bid contracts, jobs and vendor access.

Is unbalanced growth in the public interest? Chicago eventually plans to spend at least $15 billion to gold-plate O'Hare (and Midway) and build additional runways at O'Hare. For considerably less money—$2.3 billion—one could build four runways and 140 gates and, more important, achieve balanced economic growth. A recent downtown business study said current plans will add $10 billion to the economy around O'Hare and 110,000 new jobs. Such a plan will meet Chicago's transportation needs for the foreseeable future and "keep the health of O'Hare . . . very strong," as Gore desires. But such a policy will kill Peotone and its potential 236,000 new jobs, and will lead to increased class and caste segregation in the Chicago metropolitan area—a community already well known for such patterns. Was that understanding part of Gore's calculation of the "public interest" when he affirmed O'Hare and negated Peotone?

The top 11 businesses in the 2nd Congressional District, with nearly 600,000 residents, employ a mere 11,000 people—one job for every 60 people. By contrast, more than 100,000 people go to work in Elk Grove Village, a city of 36,000 people—three jobs for every person. The effect of Gore's position on O'Hare will only add to this disparity. Apparently, Gore sees the option as either a "zero sum" game—if we build Peotone it will hurt O'Hare—or he is willing to accept the consequences of unbalanced growth that would make the southern part of Chicago and Cook County even poorer, blacker, more segregated and dependent on government and taxpayers. Is Gore claiming that such economic imbalance and racial segregation are in the public interest?

Are increased class and caste disparities in the political interests of Gore? Quite naturally, politicians representing areas of excess private jobs will want lower taxes and less government—the Republican agenda. My area, in desperation, will turn to the government as the lifeboat of last resort to keep it afloat at a subsistence level, even as crime soars, social needs rise, services fail and hardworking, middle-class taxpayers revolt against "welfare cheats and free-loaders." With nowhere else to go, these African Americans and poor people who vote will turn to Democrats to save them. Thus, it will perpetuate a Democratic image as the party of big government and undermine Gore's efforts to downsize and "reinvent" government.

Balanced economic growth better serves the entire region. In Gore's own political interests, he should look anew at O'Hare and Peotone and make another assessment of what is truly in the public interest.

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### MEMORANDUM—JULY 13, 2002

To: Senator Peter Fitzgerald, Congressman Henry Hyde, Congressman Jesse Jackson, Jr.

From: Joe Karaganis.

Re: Impact of the Lipinski/Oberstar Bill on Illinois Law and Unchecked Condemnation Powers for Chicago to Condemn Land in Other Communities.

Sandy Murdock asked me to give you some background legal analysis of the impact of the language in the Lipinski/Oberstar bill (see §3 of the bill) to create a federal law override (preemption) of the Illinois Aeronautics Act—specifically as that impact relates to expanding Chicago's power to engage in widespread condemnation and demolition of residential and business properties in other municipalities outside Chicago's boundaries.

As you know, on July 9, 2002 Judge Hollis Webster of the DuPage County Circuit Court entered a ruling declaring that Chicago had no authority under Illinois law to acquire property in other municipalities without complying first with §47 of the Illinois Aeronautics Act, 620 ILCS 5/47 which requires any municipality to first obtain a "certificate of approval" from the Illinois Department of Transportation before making any alteration or extension of an airport.

Prior to her ruling, Chicago had proposed to acquire and demolish over 500 homes in Bensenville before seeking a certificate of approval. In testimony at the July 9, injunction hearing before Judge Webster, the lead IDOT official in charge of the IDOT approval process (James Bildilli) testified:

1. Without judicial enforcement of the Illinois Aeronautics Act, Chicago could acquire and demolish all the homes and businesses proposed in Bensenville and Elk Grove (over

500 homes and dozens of businesses) and only after such acquisition and demolition, would IDOT some years later hold a hearing in which IDOT would hear evidence and consider whether the harm caused by the acquisition and demolition justified IDOT's approval of the project. Essentially IDOT, in reaching its decision on the certificate of approval, would hear and consider evidence of the harm caused by the acquisition and demolition and consider this harm as a basis of its decision—but only after the harm (and destruction) had been inflicted.

2. Without judicial enforcement of the Illinois Aeronautics Act, Chicago could acquire by condemnation or otherwise all of Bensenville, Wood Dale, Elk Grove Village (thousands of homes and businesses) and any other municipality—without any need for a prior certificate of approval from IDOT under §47.

Thankfully, Judge Webster rejected Chicago and IDOT's claims and applied and enforced the plain language of the statute—prohibiting Chicago from acquiring and demolishing homes and businesses in another municipality without first obtaining a certificate of approval from IDOT.

It is important for you to understand that the preemption approach of the Lipinski Bill (as well as Durbin's) will not simply federally destroy key provisions of the Illinois Aeronautics Act (namely §§47, 48, and 38.01). The Lipinski legislation has the effect of destroying the entire framework that Illinois has created under the Illinois Constitution and Illinois Municipal Code for preventing abuses of the state law condemnation power by municipalities. Here is the Illinois constitutional and Illinois statutory framework as upheld and enforced by Judge Webster:

1. Under the Illinois Constitution, Chicago has only that condemnation authority to condemn lands in other municipalities for airport purposes that is expressly delegated to Chicago by the laws of the State of Illinois. Article VII, Section 7 of the Illinois Constitution. Under long standing Illinois law ("Dillon's rule" followed in almost all of the 50 states) any powers delegated to a municipality by the General Assembly under this constitutional provision are narrowly construed against assertions of authority by the municipality.

2. The Illinois General Assembly has delegated to Chicago the authority to condemn lands in other municipalities for airport purposes in the Illinois Municipal Code) (65 ILCS 5/11-102-4) but as an essential element of that authority to condemn has expressly mandated in the Illinois Municipal Code (65 ILCS 5/11-102-10) that this grant of authority to condemn must be in accordance with the requirements of the Illinois Aeronautics Act.

3. Acquisition of land by Chicago without complying with the Illinois Aeronautics Act is thus not only a violation of the Illinois Aeronautics Act, such failure constitutes an unlawful *ultra vires* action by Chicago in violation of the Illinois Constitution and the Illinois Municipal Code. Without compliance with the Illinois Aeronautics Act, Chicago has no authority under either Article VII, Section VII of the Illinois constitution and no authority under the Illinois Municipal Code to acquire land in other municipalities.

The Lipinski (and Durbin) legislation seeks to "preempt" and destroy the Illinois Aeronautics Act, but in doing so the Lipinski (and Durbin) legislation attempts to destroy and rewrite the framework created by the Illinois Constitution and the Illinois Municipal Code. Why not just abolish state constitutions and state statutory codes altogether and let Congress rewrite the state constitutions and state statutory codes of all 50 states?

Beyond the enormous legal implication of such action, the practical effect of the Lipinski (and Durbin) legislation is to do exactly what Judge Webster said Illinois law prohibits:

1. The Lipinski (and Durbin) legislation will "authorize" Chicago to condemn land in other municipalities even though no such authorization exists for Chicago to do so under the Illinois Constitution or Illinois Municipal Code.

2. The Lipinski (and Durbin) legislation will "authorize" Chicago to engage in unfettered condemnation authority with the ability to acquire and destroy thousands of homes and businesses in many other municipalities—all in violation of the limits on Chicago's state constitutional and state Municipal Code authority imposed by the Illinois Constitution and Illinois General Assembly.

As Senator Fitzgerald has pointed out in his remarks in his recent colloquy with Senator Durbin, the Lipinski (and Durbin) legislation would give Chicago unfettered ability to condemn properties outside the City of Chicago. If applied in other states, it would "authorize" one municipality (whichever municipality Congress chose) to disregard the limits on that municipality's delegated powers created by that state's constitution and state statutory code) and to condemn land in any other municipality in that state—in total federal preemption of that state's constitution and municipal code.

As we have said before, such radical action is a blatant violation of the federalism/Tenth Amendment Structure of the federal Constitution. But even if Congress did have such power, should Congress be overriding state constitutions and municipal codes to give federal "authorization" to one municipality in a state to run roughshod over other municipalities in that state in violation of the state constitution and municipal statutory code?

Postscript: There is another aspect of the Lipinski preemption which may be of interest. The Lipinski bill proposes to preempt §38.01 of the Illinois Aeronautics Act, 620 ILCS 5/38.01. This section requires Chicago to obtain IDOT approval for any grant of federal funding to be used on airport projects which the Illinois General Assembly has authorized Chicago to construct. This is an important financial oversight tool (created by the Illinois General Assembly as a condition of a grant of authority to build airports) which allows the State of Illinois to engage in financial oversight of airport actions by Chicago. Given the widespread abuses in contract awards that have been documented at O'Hare, the Lipinski (and Durbin) legislation will literally "open the chicken coop" to widespread potential for corruption.

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*July 24, 2001.*

Hon. Don Young,
*Chairman, Transportation and Infrastructure Committee,*
*Washington, DC.*

Dear Congressman Young: I am writing to you about the grave concerns I have with H.R. 2107, The End Gridlock at Our Nation's Critical Airports Act of 2001. I share the concerns of Congressmen Henry Hyde, Jerry Weller and Philip Crane, who have sent a virtually identical letter to you under separate cover. I agree that in H.R. 2107—the attempt to rebuild and expand O'Hare Airport—Congress is inappropriately violating the Tenth Amendment.

In other contexts—specifically with regard to certain human rights—I believe that the Tenth Amendment serves to place limitations on the federal government with which I disagree. Indeed, in the area of human rights, I believe new amendments must be added to the Constitution to overcome the limitations of the Tenth Amendment. However, building airports is not a human right. Therefore, in the present context, I agree that building airports is appropriately within the purview of the states.

I believe attempts by Congress to strip the authority of Governor Ryan and the Illinois Legislature over the delegation and authorization to Chicago of state power to build airports—along with the authority of governors and state legislatures in a host of other states such as Massachusetts (Logan), New York (LaGuardia and JFK), New Jersey (Newark) California (San Francisco airport), and the State of Washington (Seattle)—raise serious constitutional questions.

Under the framework of federalism established by the federal constitution, Congress is without power to dictate to the states how the states delegate power—or limit the delegation of that power—to their political subdivisions. Unless and until Congress decides that the federal government should build airports, airports will continue to be built by states or their delegated agents (state political subdivisions or other agents of state power) as an exercise of state law and state power. Further compliance by the political subdivision of the oversight conditions imposed by the State legislature as a condition of delegating the state law authority to build airports is an essential element of that delegation of state power. If Congress strips away a key element of that state law delegation, it is highly unlikely that the political subdivision would continue to have the power to build airports under state law. The political subdivision's attempts to build runways would likely be ultra vires (without authority) under state law.

Under the Tenth Amendment and the framework of federalism built into the Constitution, Congress cannot command the States to affirmatively undertake an activity. Nor can Congress intrude upon or dictate to the states, the prerogatives of the states as to how to allocate and exercise state power—either directly by the state or by delegation of state authority to its political subdivisions.

As stated by the United States Supreme Court.

[T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States. . . . We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those Acts. New York v. United States, 505 U.S. 144, at 166 (1992) (emphasis added)

It is incontestable that the Constitution established a system of "dual sovereignty." Printz v. United States, 521 U.S. 898, 918 (1997) (emphasis added)

Although the States surrendered many of their powers to the new Federal Government, they retained "a residuary and inviolable sovereignty," The Federalist No. 39, at 245 (J. Madison). This is reflected throughout the Constitution's text.

Residual state sovereignty was also implicit, of course, in the Constitution's conferral upon Congress of not all governmental powers, but only discrete, enumerated ones, Art. I, Sec. 8, which implication was rendered express by the Tenth Amendment's assertion that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

This separation of the two spheres is one of the Constitution's structural protections of liberty. "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. Id at 921 quoting Gregory v. Ashcroft, 501 U.S. 452 at 458 (1991)

The Supreme Court in Printz went on to emphasize that this constitutional structural barrier to the Congress intruding on the State's sovereignty could not be avoided by claiming either a) that the congressional authority was pursuant to the Commerce Power and the "necessary and proper clause of the Constitution or b) that the federal law "preempted" state law under the Supremacy Clause. 521 U.S. at 923–924.

It is important to note that Congress can regulate—but not affirmatively command—the states when the state decides to engage in interstate commerce. See Reno v. Condon, 528 U.S. 141 (2000). Thus in Reno, the Court upheld an act of Congress that restricted the ability of the state to distribute personal drivers' license information. But Reno did not involve an affirmative command of Congress to a state to affirmatively undertake an activity desired by Congress. Nor did Reno involve (as proposed here) an intrusion by the federal government into the delegation of state power by a state legislature—and the state legislature's express limits on that delegation of state power—to a state political subdivision.

H.R. 2107 would involve a federal law which would prohibit a state from restricting or limiting the delegated exercise of state power by a state's political subdivision. In this case, the proposed federal law would seek to bar the Illinois Legislature from deciding the allocation of the state's power to build an airport or runways—and especially the limits and conditions imposed by the State of Illinois on the delegation of that power to Chicago. The law is clear that Congress has no power to intrude upon or interfere with a state's decision as to how to allocate state power.

A state's authority to create, modify, or even eliminate the structure and powers of the state's political subdivisions—whether that subdivision be Chicago, Bensenville, or Elmhurst—is a matter left by our system of federalism and our federal Constitution to the exclusive authority of the states. As stated by the Seventh Circuit in Commissioners of Highways v. United States, 653 F.2d 292 (7th Cir. 1981) (quoting Hunter v. City of Pittsburgh, 207 U.S. 161, 178 (1907)):

Municipal corporations are political subdivisions of the State, created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them. For the purpose of executing these powers properly and efficiently they usually are given the power to acquire, hold, and manage personnel and real property. The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State. . . . The State, therefore, at its pleasure may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the State is supreme, and its legislative body, conforming its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States. Commissioners of Highways, 653 F.2d at 297

Chicago has acknowledged that Illinois has delegated its power to build and operate airports to its political subdivisions by express statutory delegation. 65 ILCS 5/11–102–1, 11–102–2 and 11–102–5. These state law delegations of the power to build airports and runways are subject to the Illinois Aeronautics Act requirements—including the requirement that the State approve any alterations of the airport—by their express terms. Any attempt by Congress to remove a condition or limitation imposed by the Illinois Legislature on the terms of that state law delegation of authority would likely destroy the delegation of state authority to build airports by the Illinois Legislature to Chicago—leaving Chicago without delegated state legislative authority to build runways and terminals at O'Hare or Midway. The requirement that Chicago receive a state permit is an express condition of the grant of state authority and an attempt by Congress to remove that condition or limitation would mean that there was no continuing valid state delegation of authority to Chicago to build airports. Chicago's attempts to build new runways would be ultra vires under state law as being without the required state legislative authority.

Very truly yours,

JESSE L. JACKSON, JR.
Member of Congress.

### STATEMENT OF U.S. REPRESENTATIVE JESSE L. JACKSON, JR. BEFORE THE U.S. SENATE COMMERCE COMMITTEE—THURSDAY, MARCH 21ST, 2002 WASHINGTON, DC

I want to commend and thank Members of the Committee on Commerce, Science and Transportation for this opportunity to again discuss the future of Chicago's airports. As you know, I sent a letter to each of you stating my opposition to this bill. Many Members responded favorably, and for that I thank them. Today, my position has not changed.

As you know, my commitment to resolving Chicago's aviation capacity crisis predates my days in Congress. I ran on this issue in my first campaign. I won on this issue. It remains my first priority. It was the subject of my first speech in Congress. And it was the topic of my first debate in Washington.

I am elated that this issue—my issue—is now before the Congress. And while I thank Members of the Senate for their interest in trying to resolving this regional and national crisis, I must say that HR 3479 as amended falls woefully short of providing an adequate, equitable solution.

Please know that I do not oppose fixing O'Hare's problems. But I have many, many grave concerns about this specific expansion plan. Concerns about cost. About safety. About environment impact. About federal precedence. And about constitutionality.

Clearly this bill sets dangerous precedence by stating that Congress—not the FAA, not Departments of Transportation, not aviation experts—but Congress shall plan and build airports. Further, it ignores the 10th Amendment to the U.S. Constitution. It guts and/or undermines state laws and environmental protections. And it sidesteps the checks-and-balances and the public hearing process.

My focus today is the same as it's always been. Finding the best fix. And that best fix is the construction of a third Chicago airport near Peotone, Illinois. The plain truth is Peotone could be built in one-third the time at one-third the cost. For taxpayers and travelers, it's a no-brainer.

Unfortunately, this bill mandates expansion of O'Hare yet pays mere lip service to Peotone. It puts the projects on two separate and unequal tracks. That is my opinion. That is also the opinion of the Congressional Research Service, whose analysis I will provide to you.

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### FEDERAL STUDY CONFIRMS AIRPORT DEAL SHORTCHANGES PEOTONE

An analysis released today by the independent, non-partisan research arm of Congress confirmed what Peotone proponents have said all along: The Ryan-Daley airport agreement puts O'Hare on the fast track and just pays lip service to Peotone.

An analysis released today by the Congressional Research Service concludes that the proposed National Aviation Capacity Expansion Act puts the two projects on separate and unequal tracks.

The CRS analysis states that the Federal Government "shall construct the runway redesign plan" at O'Hare but would merely "review" and give "consideration" to the Peotone Airport project.

In reaction to the release of today's report, Congressman Jackson reiterated his opposition to the measure. "This study unmasks the bare truth about the agreement between the Mayor and the Governor. For those claiming that the deal is good for the Third Airport, it's not. The masquerade ball is over," Jackson said.

"Peotone has been stuck in the paralysis of analysis for 15 years. We don't need any more reviews. We need a Third Airport," Jackson said. "Peotone can be built faster cheaper, safer, and cleaner than expanding O'Hare, and presents a more secure and more permanent solution to Illinois' aviation crisis. This is shortsighted legislation and a bad deal for the public."

The CRS report states that the Lipinski-Durbin bill "specifically states that the (FAA) Administrator 'shall construct' the runway redesign plan; however, there is no parallel language regarding the construction of the south suburban airport."

CRS concludes that the bill "provides for the Administrator's review of the Peotone Airport project (and) provides for the expansion of O'Hare. The provisions appear to operate independently of each other and are not drafted in parallel language, and provide different directions to the Administrator."

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### CONGRESSIONAL RESEARCH SERVICE MEMORANDUM—FEBRUARY 6, 2002

To: Hon. Jesse L. Jackson, Jr., Attention: George Seymour

From: Douglas Reid Weimer, Legislative Attorney, American Law Division

Subject: Examination of Certain Provisions of H.R. 3479: National Aviation Capacity Expansion Act

#### BACKGROUND

This memorandum summarizes various telephone discussions between George Seymour and Rick Bryant of your staff, and Douglas Weimer of the American Law Division. Your staff has expressed interest in certain provisions of H.R. 3470, the proposed National Aviation Capacity Expansion Act ("bill"). These provisions are examined and analyzed in the following memorandum.

The bill contains various provisions relating to the expansion of aviation capacity in the Chicago area. Among the provisions contained in the bill are provisions relating to O'Hare International Airport ("O'Hare"), Meigs Field, a proposed new carrier airport located near Peotone, Illinois ("Peotone"), and other projects. Your office has expressed repeated concern that the news media and various commentators have reported that the bill would apparently implement the various projects in a similar manner and that similar legislative language is used to implement the various projects. The news articles that you have cited concerning the bill tend to report the various elements of the bill without distinguishing the bill language and the differences as to the means in which the various projects may be implemented.

ANALYSIS

The chief purpose of the bill it so expand aviation capacity in the Chicago area, through a variety of means. Section 3 of the bill deals with airport redesign and other issues. Your staff has focused upon the interpretation and the bill language of two particular subsections—(e) and (f)—of Section 3, which are considered below.

"(e) SOUTH SUBURBAN AIRPORT FEDERAL FUNDING.—The Administrator shall give priority consideration to a letter of intent application submitted by the State of Illinois or a political Subdivision thereof for the construction of the south suburban airport. The Administrator shall consider the letter not later than 90 days after the Administrator issues final approval of the airport layout plan for the south suburban airport."

If enacted, this bill language would relate to the federal funding for the proposed airport to be constructed at Peotone. The "Administrator" refers to the Administrator of the Federal Aviation Administration. The Administrator is directed to give priority consideration to a letter of intent application ("application") submitted by Illinois, or a political subdivision for the construction of the "south suburban airport" the proposed airport at Peotone.

The Administrator is given specific directions concerning the application and for the time consideration of the application. Concern has been expressed that the Administrator is given certain duties and directions, but that there is no specific language to ensure and/or to compel that the Administrator will comply with the Congressional mandate, if the Administrator does not choose to follow the Congressional direction. Congress possesses inherent authority to oversee the project, as well as the Administrator's compliance with the statutory requirements, by way of its oversight and appropriations functions. Congress and congressional committees have virtually plenary authority to elicit information which is necessary to carry out their legislative functions from executive agencies, private persons, and organizations. Various decisions of the Supreme Court have established that the oversight and investigatory power of Congress is an inherent part of the legislative function and is implied from the general vesting of the legislative power of Congress. Thus, courts have held that Congress' constitutional authority to enact legislation and appropriate money inherently vests it with power to engage in continuous oversight. The Supreme Court has described the scope of this power of inquiry as to be "as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution."

Specific interest is focused on the language "shall consider" used in the second sentence of the subsection. In the context of this subsection, it should not necessarily be considered to mean the implementation of an accelerated approval/construction process for the airport. While these events may occur, such a course of action is not specifically provided by the legislation.

Your staff has also focused on subsection (f), dealing with the proposed federal construction at O'Hare. The bill provides:

"(f) FEDERAL CONSTRUCTION.—

(1) On July 1, 2004, or as soon as practicable thereafter, the Administrator shall construct the runway redesign plan as a Federal project, if—

(A) the Administrator finds, after notice and opportunity for public comment, that a continuous course of construction of the runway design plan has not commenced and is not reasonably expected to commence by December 2, 2004;

(B) Chicago agrees in writing to construction of the runway redesign plan as a Federal project without cost to the United States, except such funds as may be authorized under chapter 471 of title 49, United States Code, under authority of paragraph (4);

(C) Chicago enters into an agreement, acceptable to the Administrator, to protect the interests of the United States Government with respect to the construction, operation, and maintenance of the runway redesign plan;

(D) the agreement with Chicago, at a minimum provides for Chicago to take over ownership and operations control of each element of the runway redesign plan upon completion of construction of such element by the Administrator;

(E) Chicago provides, without cost to the United States Government (except such funds as may be authorized under chapter 471 of title 49, United States Code, under the authority of paragraph (4)), land easements, rights-of-way, rights of entry, and other interests in land or property necessary to permit construction of the runway redesign plan as a Federal project and to protect the interests of the United States Government in its construction, operation, maintenance, and use; and

(F) the Administrator is satisfied that the costs of the runway redesign plan will be paid from sources normally used for airport development projects of similar kind and scope.

(2) The Administrator may make an agreement with the City of Chicago under which Chicago will provide the work described in paragraph (1), for the benefit of the Administrator.

(3) The Administrator is authorized and directed to acquire in the name of the United States all land, easements, rights-of-way, rights of entry, or other interests in land or property necessary for the runway redesign plan under this section, subject to such terms and conditions as the Administrator deems necessary to protect the interests of the United States.

(4) Chicago shall be deemed the owner and operator of each element of the runway reconfiguration plan under section 40117 and chapter 471 of title 49, United States Code, notwithstanding any other provision of this section or any of the provisions in such title referred to in this subsection."

The Administrator is directed to construct the O'Hare runway plan as a Federal project if certain conditions are met: (1) construction of the runway design plan has not begun and is not expected to begin by December 1, 2004; (2) Chicago agrees to the runway plan as a Federal project without cost to the United States, with certain exceptions; (3) Chicago enters into an agreement to protect Federal Government interests concerning construction, operation, and maintenance of the runway project; (4) the agreement provides that Chicago take over the ownership and operation control of each element of the runway design plan upon its completion; (5) Chicago provides, without cost, the land, easements, right-of-way, rights of entry, and other interests in land/property as are required to allow the construction of the runway plan as a Federal project and to protect the interests of the Federal Government in its construction, operation, maintenance, and use; and (6) the Administrator is satisfied that the redesign plan costs will be paid from the usual sources used for airport development projects of similar kind and scope.

Paragraph 2 provides that the Administrator "may" make an agreement with Chicago, whereby Chicago will provide the work described above in paragraph (1) for the benefit of the Administrator. It should be noted that the use of the word "may" would appear to make this language optional, and would not necessarily require the Administrator to enter into such agreement with Chicago.

Paragraph 3 authorizes and directs the Administrator to acquire in the name of the Federal Government those property interests needed for the redesign plan, subject to the terms and conditions that the Administrator feels are necessary to protect the interests of the United States.

Paragraph 4 provides that Chicago will be deemed to be the owner and operator of each element of the runway reconfiguration plan, notwithstanding any other provision of this section.

Discussion has focused on the different legislative language used in subsection (e) and (f). Subsection (f) specifically states that the Administrator "shall construct" the runway redesign plan; however, there is no parallel language regarding the construction of the south suburban airport in subsection (e). The provisions of the subsections appear to be independent of each other and provide very different directions to the Administrator. Hence, it may be interpreted that subsection (f) would authorize runway construction (if certain conditions are met), and subsection (e) is concerned primarily with the review and the consideration of an airport construction plan.

It is possible that the Administrator's actions concerning the implementation of this legislation, if enacted, may be subject to judicial review. Judicial review of agency activity or inactivity provides control over administrative behavior. Judicial review of agency action/inaction may provide appropriate relief for a party who is injured by the agency's action/inaction. The Administrative Procedure Act ("APA") provides general guidelines for determining the proper court in which to seek relief. Some statutes provide specific review proceedings for agency actions. Subsection (h) of the bill provides for judicial review of an order issued by the Administrator. The bill provides that the bill may be reviewed pursuant to the provisions contained at 49 U.S.C. §46110.

If the Administrator does not issue an order and judicial review is not possible under this provision, then it is possible that "nonstatutory review" may occur. When Congress has not created a special statutory procedure for judicial review, an injured party may seek "nonstatutory review." This review is based upon some statutory grant of subject matter jurisdiction. Therefore, a party who wants to invoke nonstatutory review will look to the general grants of original jurisdiction that apply to the federal courts. It is possible that an available basis for jurisdiction in this case—if the Administrator does not carry out his/her Congressional mandate—may be under the general federal question jurisdiction statute which authorizes the federal district courts to entertain any case "arising under" the Constitution or the laws of the United States. An action for relief under this provision is usually the most direct way to obtain nonstatutory review of an agency action. Hence, it is possible that an action could be brought under this statute to compel the Administrator to comply with the provisions contained in the bill.

### CONCLUSION

This memo has summarized staff discussion concerning certain provisions contained in the proposed National Aviation Capacity Expansion Act. Subsection (e) provides for the Administrator's review of the Peotone Airport project. Subsection (f) provides for the expansion of O'Hare. The provisions appear to operate independently of each other, are not drafted in parallel language, and provide different directions to the Administrator. The Administrator is given certain responsibilities under both subsections. Congress possesses plenary oversight authority over federally funded projects. This would provide oversight Administrator is given certain responsibilities under both subsections. Congress possesses plenary oversight authority over federally funded projects. This would provide oversight over the Administrator and his/her actions. A judicial proceeding may be possible against the Administrator to compel the Administrator to fulfill the statutory responsibilities provided by the bill.

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### Statement of U.S. Representative Jesse L. Jackson Jr. Before the U.S. House Aviation Subcommittee—Wednesday, August 1st, 2001 Washington, DC

I want to thank Members of the House Aviation Subcommittee for this opportunity to discuss Chicago's aviation future. As you may know, I ran on this issue in 1995, and have supported expanding aviation capacity by building a third regional airport in Peotone, Illinois.

Let me begin with a personal anecdote that, from my perspective, illustrates why we're here. I won my first term in a special election and on December 14th, 1995 took the Oath of Office. Congressman Lipinski, my good friend and fellow Chicagoan whose district borders mine, was present and his was the seventh or eighth hand I shook as a new Member. He told me then: "Young man, I want you to know that I can be very helpful to you during your stay in Congress, but you're never going to get that new airport you spoke about during your campaign."

Since then, Congressman Lipinski has been helpful and we've worked together on many important issues. But, he's also made good on his word to block a third airport.

It is this rigid stance by many Chicago officials that's allowed a local problem to escalate into a national crisis. Once the nation's best and busiest crossroads, O'Hare is now its worst choke point—overpriced, overburdened and overwhelmed.

And to think it was avoidable. This debate dates back to 1984 when the Federal Aviation Administration determined that Chicago was quickly running out of capacity. The FAA directed Illinois, Indiana and Wisconsin to conduct a feasibility study for a new airport. The exhaustive study of numerous sites concluded almost 10 years ago that gridlock could be best avoided by building a south suburban airport. The State of Illinois then drafted detailed plans for an airport near Peotone.

Unfortunately, despite the FAA's dire warning and the State's best efforts, I watched in amazement as the City of Chicago went to extremes to thwart and delay any new capacity.

In the late 1980s, Mayor Daley mocked the idea of a third airport. By 1990, the City did an about-face and proposed building a third airport within the City. The City even initiated federal legislation creating the Passenger Facility Charge (PFC) to pay for it. But two years later the City reversed itself again and abandoned the plan, yet continued to collect $90 million a year in PFCs. This summer, the City told the Illinois Legislature that O'Hare needed no new capacity until the year 2012, then, in yet another reversal, three weeks ago declared O'Hare needed six new runways.

As the City was spending hundreds of millions of dollars on consultants to tell us that the City didn't, did, didn't, did need new capacity, it continued to be consistent on the one thing—fighting to kill the third airport.

Sadly, that opposition was never based on substantive issues—regional capacity, public safety or air travel efficiency. Instead it was rooted in protecting patronage, inside deals and the status quo. In fact, earlier this year the Chicago Tribune won a Pulitzer Prize for documenting the "stench at O'Hare."

Still, for eight years, City Hall leveraged the Clinton FAA to stall Peotone. The FAA, ignoring its own warnings of approaching gridlock, conspired with the city to:

(1) Mandate "regional consensus," thus requiring Chicago mayoral approval for any new regional airport;

(2) Remove Peotone from the NPIAS list in 1997, after it emerged as the frontrunner. Peotone had been on the NPIAS for 12 years;

(3) Hold up the Peotone environmental review from 1997 to 2000.

In short, the same parties who created this aviation mess are now saying "trust us to clean it up" with H.R. 2107. But their hands are too dirty and their interests are too narrow. Proponents of this legislation claim to be taking the high road. But this is a dead end.

Fortunately, there is a better alternative. Compared to O'Hare expansion, Peotone could be built in one-third the time at one-third the cost—both important facts given that the crisis is imminent and that the public will ultimately pay for any fix.

Site selection aside, however, there is yet another, even bigger problem with H.R. 2107. It is the United States Constitution.

H.R. 2107 strips Illinois Governor George Ryan of legitimate state power in an apparent violation of the "reserved powers" clause of the 10th Amendment.

Under the 10th Amendment, Congress cannot command Illinois to affirmatively undertake an activity, nor can it intrude upon Illinois' prerogative to exercise or delegate its power. As stated by the United States Supreme Court: "[T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States . . . We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts." [New York v. United States, 1992]

Supporters have cited the Commerce Clause in defending his legislation. But the Supreme Court in Printz v. United States specifically emphasized the 10th Amendment barrier to Congress intruding on a state's sovereignty by saying that it could not be avoided by claiming either, one, that congressional authority was pursuant to the Commerce Power, or, two, that federal law "preempted" state law under the Supremacy Clause.

Chicago has acknowledged Illinois' authority to build and operate airports by express statutory delegation through the Illinois Aeronautics Act, including the requirement that the State approve any airport alterations. Under the 10th Amendment, if Congress strips away a key element of the Illinois law, Chicago's attempt to build runways would likely be ultra vires (without authority) under Illinois law.

Moreover, H.R. 2017 converts the concept of dual sovereignty into tri-sovereignty, by going beyond states' rights to city rights. It gives Mayor Daley (and the other local officials in charge of the 68 largest airports in the country) a greater say over national aviation policy than the federal government or the fifty governors.

Indeed, H.R. 2107 sets federalism on its head. It makes about as much sense as putting the local police department in charge of national defense.

Such legislation won't improve aviation services. In fact, it increases the likelihood for a constitutional challenge that will further prolong this crisis.

So, from a practical standpoint, I urge the subcommittee to reject this measure, to reject cramming more planes into one of the nation's most overcrowded airport, to reject turning O'Hare into the world's largest construction site for the next 20 years, and to reject sticking the taxpayers with an outrageous bill.

I strongly urge the committee to reject this unprecedented, unwise and unconstitutional attack against our fifty states and our Founding Fathers. Thank you.

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### Suburban O'Hare Commission, February 13, 2002—A Better Plan for Curing the O'Hare Airport Bottleneck

Chicago—A plan for relieving the Chicago aviation bottleneck was unveiled today that costs less, is more efficient, less destructive and can be realized quicker than a "compromise" plan that Chicago Mayor Richard M. Daley and Illinois Gov. George Ryan are trying to rush through Congress.

The plan was crafted by the Suburban O'Hare Commission, a council of governments representing a million residents living around O'Hare Airport.

The plan includes runway, terminal and other improvements at O'Hare International Airport, to make it more efficient, competitive and convenient. The plan also includes alternatives to the costly and destructive "western access" proposed in the Daley-Ryan plant. The centerpiece of the plan remains, as it has for well over a decade, a major hub airport in the south suburbs that had been urged by experts and government officials from three states, and would be operational now if not for obstruction from Chicago Mayor Richard M. Daley. The plan provides for many more flights to the region, and, consequently, many more jobs.

"We always have been in favor of a strong O'Hare Airport because of its importance to our communities and to the regional economy," said John Geils, SOC Chairman and president of the Village of Bensenville. "This will come as a surprise only to those who have been taken in by the rhetoric of our opponents, who maliciously tried to portray us as anti-O'Hare zealots, willing to damage or even destroy O'Hare. Our plan will expand the region's aviation and economic growth; the Daley-Ryan plan will stifle that growth.

"The claimed benefits—including delay reductions, job increases, improved safety, greater competition and less noise—of the Daley-Ryan O'Hare expansion plan are untrue. We have a plan that is better for the entire region, and not just for Chicago City Hall and its big business friends," Geils said.

Among the improvements are a realistically modernized O'Hare, instead of the impossible attempt by Daley and Ryan to stuff ten pounds of potatoes into a five-pound sack. Terminals would be updated, with an eye to matching them with capacity and making them more user friendly. Selected runways would be widened to accommodate the large new jets, such as the A380X, thus increasing the number of passengers the airport can serve, without increasing air traffic. Western access and a bypass route would be built on airport property, skirting O'Hare to the south—as originally planned, thus avoiding the destruction of uncounted homes and businesses, as under the Daley-Ryan plan.

The SOC Solution also would increase competition at O'Hare, through terminal and other facilities improvements so that air travelers using the competition are not treated as second-class customers. Funding of O'Hare improvements would be disconnected from a complicated bonding scheme that allows United and American airlines to become more entrenched and to continue to charge anti-competitive fares. In addition, some of the lucrative gambling revenues, now going to enrich political insiders, would be used for a competitive makeover of O'Hare.

SOC's plan also would provide better safety and environmental protections. Every home impacted by noise at O'Hare and Midway would be soundproofed, instead of a select few as provided under the current, flawed standards adopted by Chicago. O'Hare neighbors would be spared the concentration of air pollution brought by a doubling of flights at what is already the state's largest single air polluter. Under the Daley-Ryan plan, O'Hare neighbors would find themselves in federally required crash zones at the end of runways, forcing them to either give up their homes or live in devalued property in great risk. Because most of the region's air traffic growth would use the South Suburban airport where pollution and safety buffers are required under current federal standards, fewer total people in the region would be subjected to health and safety risks.

Key to the SOC Solution is the construction of a truly regional hub airport in the South Suburbs, rather than an inadequate "reliever" airport as envisioned under the Daley-Ryan plan. Just as New York City and Washington, D.C. have more than one hub airport, a true regional airport in the South Suburbs would give Chicago the kind of potential it needs with three hub airports (O'Hare, Midway and Peotone) to maintain its aviation dominance for decades. Despite the long-made assertions by entrenched interests, such as United and American airlines, that the Chicago area didn't need a second hub airport, Midway already is developing into a hub simply because of market forces. With Midway reaching capacity in just a few years, and O'Hare already at capacity, the sounds of "no one will come to Peotone" no longer are heard.

Finally, the SOC Solution will protect taxpayers by creating an oversight board of improvements at all airports, including the south suburban airport and Midway.

"The SOC Solution is not a fragmented plan that simply focuses on O'Hare, which under the Daley-Ryan proposal is merely an instrument for extending the political and economic might of a select few," said Geils. "Ours is a plan for a regional airport system—one that is based on common sense and what is fair and good for the entire public."

COMPARISONS OF THE DALEY-RYAN PLAN AND THE SOC SOLUTION

| | Daley-Ryan O'Hare plan | SOC Plan |
|---|---|---|
| Provides Immediate Solution to the Delay Problem at O'Hare? | No—runways will not be built for years and by the time they are built, delays will increase with increased traffic growth. | Yes—delays addressed immediately by FAA recommended demand management techniques such as proposed for LaGuardia. |
| Which Plan Provides Greatest Capacity Growth for Region? | Max increase of 700,000 operations; likely much less | 1,600,000 operations capacity at South Suburban Airport—far more than Daley-Ryan plan. |
| Which Plan Produces Greatest Opportunity for New Competition and Lower Fares?. | Daley-Ryan O'Hare plan solidifies and expands United-American monopoly dominance—hundreds of millions in losses to Chicago travelers each year. | Wide open opportunity for major competition—both at O'Hare and at South Suburban Airport. |
| Which Plan Provides Greater Job Growth? | Daley-Ryan O'Hare plan job growth of 195,000 jobs dependent on 700,000 new operations capacity at O'Hare—real capacity unlikely and far less jobs. | Suburban O'Hare Commission plan provides 1.6 million new operations capacity in addition to O'Hare—far more jobs than Daley-Ryan O'Hare plan. |
| Which Plan Makes Peotone A Reality? | No provision in Daley-Ryan O'Hare plan to actually fund and build Peotone—an exercise in political rhetoric with little likelihood of success. | SOC plan borrows from idea by Senator Patrick O'Malley to use huge excess gambling income now going to political insiders to fund Peotone construction. |
| Which Plan Produces Less Toxic Air Pollution Impact on Surrounding communities?. | Daley-Ryan O'Hare plan makes toxic emissions at O'Hare much worse—900,000 flights to 1, 600,000—no environmental buffer. | Huge non-residential land buffer at Peotone protects public health and prevents residential exposures. |
| Which Plan Produces Less Noise Impact on Surrounding communities? | Daley-Ryan O'Hare plan makes aircraft noise at O'Hare much worse—900,000 flights to 1, 600,000—no environmental buffer. | Huge non-residential land buffer at Peotone protects against residential noise exposure. |
| Which Plan is Safer? | Daley-Ryan O'Hare plan reduces safety margins at O'Hare—more congested airspace, less safety on runways and taxiways, occupied runway crash zones. | SOC plan much safer because South Suburban Airport site can address runway safety concerns much easier than O'Hare because much more land available. |
| Which Plan Provides Justice and Equity for the South Side and South Suburbs? | Daley-Ryan O'Hare plan guarantees exactly what Daley wants—an empty cornfield at Peotone. | SOC plan insures construction of major new airport with adequate funding. |
| Which Plan Preserves State Law protections? | Daley-Ryan O'Hare plan destroys state law protections for public; health, the environment, the consumer. | SOC plan preserves and protects state law safeguards for our environment, public health and the consumer. |
| Which Plan Provides Greatest Economic Benefits Over Costs? | Daley-Ryan O'Hare plan has huge costs that likely far exceed the economic benefits. (which are far less than claimed). | SOC plan provides much greater regional capacity, eliminates the delay problem in the short and long term, and can be built far faster, with far less cost. Also provides much greater potential for new competition and lower fares. A much greater economic bang for far less bucks. |

THE DALEY-RYAN PLAN'S ALLEGED BENEFITS AND THE REALITY

| Daley-Ryan O'Hare Plan Claims | Reality |
|---|---|
| Delay Reduction Untrue. Daley-Ryan O'Hare plan claims it reduces bad weather delays by 95% and overall delay by 79%. | Total bad weather and good weather delays will increase dramatically under Daley-Ryan O'Hare plan. |
| Delay Savings Untrue. Daley-Ryan O'Hare plan claims it will produce delay savings of $370 million annually and passenger delay savings of $380 million annually. | Daley-Ryan O'Hare plan will increase total delay costs by hundreds of millions of dollars annually. |
| Cost Claims Untrue. Daley-Ryan O'Hare plan says cost is: $6.6 billion | Real Costs—$15 billion to $20 billion. |
| Capacity Claims Untrue. Daley-Ryan O'Hare plan claims it will meet aviation needs of Region | Real Capacity of Daley-Ryan O'Hare plan: |
| Increase O'Hare passenger "enplanements" (boarding passengers) from current 34 million to 76 million | Falls far short of 76 million passenger capacity and far short of capacity of 1,600,000 operations. |
| Increase O'Hare operational capacity from 900,000 to 1,600,000 operations | Leaves region with huge capacity gap for both passengers and aircraft operations. |
| Peotone Claim untrue. Daley-Ryan O'Hare plan says they will build Peotone | Daley-Ryan O'Hare plan destroys economic rationale and funding for Peotone:<br>If Daley-Ryan O'Hare plan meets its capacity claims, no economic justification for Peotone—not needed.<br>If Daley-Ryan O'Hare plan falls short of capacity, $15 billion to $20 billion spent at O'Hare will exhaust federal and state funding resources. |
| Jobs Claims untrue. Daley-Ryan O'Hare plan says it will create 195,000 jobs | Actual jobs fall far short of the 195,000 jobs claimed because of enormous capacity shortfall; much greater job growth under SOC alternative. |
| Financial Claims Untrue. Daley-Ryan O'Hare plan says there is plenty of federal and airlines money to expand O'Hare and pay $15 billion to $20 billion cost. | Daley-Ryan O'Hare plan will bankrupt federal airport aid trust fund and United and American cannot afford billions in bonds. |
| Hiding the Data and Information. Daley-Ryan O'Hare plan claims based on slick Power Point Slides—no backup information provided. | Daley and Ryan O'Hare plan stonewall on documents and data backing up their claims—refuse to produce documents in Freedom of Information requests. |
| Monopoly Overcharge Problem. Daley-Ryan O'Hare plan makes no mention of monopoly overcharge problem at O'Hare—costing Chicago based travelers hundreds of millions of dollars per year. As Governor-Elect George Ryan said, monopoly overcharges at O'Hare gouged travelers over $600 million per year. | Daley-Ryan O'Hare plan will expand and strengthen the monopoly hold United and American have on Chicago market—costing Chicago business travelers hundreds of millions annually in overcharges. |
| Where is the Western Ring Road? Daley-Ryan O'Hare plan say western ring road is needed for O'Hare expansion; yet refuse to disclose location, cost, and impact on local jobs, industry, housing. | Western Ring Road route pushed west by Daley-Ryan O'Hare plan into valuable and important industrial and residential areas of Elk Grove Village and Bensenville—leading to huge losses in jobs, tax revenues, economic development and residential quality of life. |
| Where are all the Terminals? Daley and Ryan say they have identified all the terminals needed for the Daley-Ryan O'Hare plan. | Daley now says all but one of the new terminals shown on the Daley-Ryan O'Hare plan (new Terminals 4 and 6) needed for existing runways and that new (as yet unidentified terminals will be needed for Daley-Ryan O'Hare plan—no locations shown, unidentified billions of dollars in additional unstated costs. |
| Noise—the Daley Ryan New Math. Daley-Ryan O'Hare plan says noise will be less at 1,600,000 operations than at 900,000 operations. | There will be significantly more noise at 1,600,000 operations than at 900,000 operations. |

THE DALEY-RYAN PLAN'S ALLEGED BENEFITS AND THE REALITY—Continued

| Daley-Ryan O'Hare Plan Claims | Reality |
|---|---|
| Toxic Air Pollution. Daley-Ryan O'Hare plan makes no mention of toxic air pollution yet Ryan as Governor said O'Hare should not be expanded because of toxic air pollution problem. | There will be significantly more toxic air pollution at 1,600,000 operations than at 900,000 operations. |
| Benefit-Cost Analysis. Daley-Ryan O'Hare plan says it meets federal benefit-cost analysis requirements—including requirement that federal government chose the alternative that produces greatest net benefits. | Reality is that benefits of Daley-Ryan O'Hare plan may not exceed the huge costs. It is also clear that placing the new capacity at the new South Suburban Airport rather than an expanded O'Hare produces far grater economic benefits at far less cost than the Daley-Ryan O'Hare plan. |
| Increased Safety Hazards. Daley and Ryan say their plan is safe | Daley-Ryan O'Hare plan creates major safety hazards, including: increase in traffic incursions (collision risk), destruction of safest runways for bad weather winter storm conditions (14/32s), high congestion in O'Hare area air space, risky runway protection (crash zones) in occupied areas. |
| Compliance With State Law. Daley and Ryan say that their plan complies with state law and that they are seeking federal preemption of state law only to prevent upsetting Daley-Ryan deal by a future governor. | Daley and Ryan both know that they (not some future governor) have both violated state law by failing to meet the requirements of the Illinois Aeronautics Act; purpose of bill is to immunize this illegality. |
| $15 Billion into the O'Hare Money Pit: Problems of Corruption in Management of O'Hare. Daley and Ryan make no mention of the history of rampant corruption and kickbacks to Daley friends and cronies in O'Hare contracts or the need for safeguards and reforms to insure the integrity of the process. | Putting $15 or more billion dollars into the corrupt contract management system that infects Chicago public works awards—especially at O'Hare, is pouring public resources into a cesspool. The First Commandment of Chicago O'Hare contracts is that the contractor has to hire one of Daley's friends or political associates on contract awards. |
| Economic Equity and Justice for the South Side and South Suburbs. Daley-Ryan O'Hare plan offers little but empty rhetoric for Peotone and south suburban economic development. | Daley-Ryan O'Hare plan calls for putting virtually all of the economic growth of aviaticn demand at O'Hare—leaving South Side and South Suburbs either empty promises, or a white elephant token airport. |

## GRAVE CONCERNS NEAR O'HARE

(By Robert C. Herguth)

American Indian remains that were exhumed 50 years ago to make way for O'Hare Airport might have to be moved again to accommodate Mayor Daley's runway expansion plans.

That's disturbing to some Native Americans, who say they want their ancestors and relics treated with greater respect.

And it's prompting local opponents of the proposed closure of two O'Hare cemeteries—one of which has Indians—to explore whether federal laws that offer limited protection to Native American burial sites and artifacts could help them resist the city's efforts.

"Maybe the federal law might come to our aid," said Bob Placek, a member of Resthaven Cemetery's board who estimates 40 of his relatives, all German and German-American, are buried there. "The dead folks out there aren't trying to be obstructionists, they're trying to rest in peace. . . . I feel it's a desecration to move a cemetery. It's a disregard for our family's history."

Resthaven is a resting place for European settlers, their descendants and, possibly, Potawatomi.

It seems unlikely federal law, specifically the Native American Grave Protection and Repatriation Act, would lend much muscle to those opposed to Daley's plan, which calls for knocking out three runways, building four new ones and adding a western entrance and terminal.

"Primarily, the legislation applies to federal lands and tribal lands," said Claricy Smith, deputy regional director for the Bureau of Indian Affairs.

Even if someone made the argument that O'Hare is effectively federal land because it uses federal money, the most Resthaven proponents could probably hope for is a short delay, a say in how any disinterment takes place and, if they are Indian, the opportunity to claim the bodies of Native Americans.

"They've got a hard road," Smith said of those who might try to halt a Resthaven closure on the basis of Indian remains.

When O'Hare was being built five decades back, an old Indian burial ground that had become a cemetery for the area's white settlers was bulldozed. Some bodies were moved to a west suburban cemetery and some, including an unknown number of Indians, were believed to be transferred to Resthaven, according to published accounts and those familiar with local history.

"Ma used to talk about Indians being buried at Resthaven," said the 44-year-old Placek, who believes the Indians share a mass grave. His mother, who died in 1996, also is buried at Resthaven. "I used to hear as a little kid Potawatomi" were there.

Regardless of the tribe to which the dead belonged, the Forest County Potawatomi Community of Wisconsin, one of several Potawatomi bands relatively close to Chicago, plans to get involved.

"It's concerning," said Clarice Ritchie, a researcher for the community of about 1,000 who hadn't heard about the issue until contacted by a reporter.

"At this stage of the game, who can determine who they were specifically? But we run into this sort of circumstance in many instances throughout the state of Wisconsin, and some in Illinois, and we take care of them as if they were relatives," she said. "We're all related, we're all created from God, so we do the right thing, we take care of anybody and try to see that they're either not disturbed or properly taken care of."

"I guess we'd have to keep our mind broad as to what would be done," Ritchie said. "Naturally we don't like to see graves disturbed, but somebody has already disturbed them once. . . . I guess what I'd probably do is talk to the tribal elders and spiritual people and other tribes who could be in the area and come to a conclusion of what should be done."

Bill Daniels, one of the Potawatomi band's spiritual leaders, said spirits may not look kindly on those who move remains.

"It's not good to do that—move a cemetery or just plow over it," he said.

Daley's plan, which still must be approved by state and federal officials, also may displace nearby St. Johannes Cemetery, which is not believed to have any Native American bodies.

John Harris, the deputy Chicago aviation commissioner overseeing the mayor's $6 billion project, said this is the first he's heard that there might be Indian remains at Resthaven, and city officials are trying to verify it.

"I have no reason to doubt them at this time, but I have no independent knowledge," he said. But "whether they're Indians or not, we would exercise an extreme level of sensitivity in the interest of their survivors."

Resthaven, which is loosely affiliated with the United Methodist Church, has about 200 graves, some of which date to the 19th century. It's located on about 2 acres on the west side of O'Hare, in Addison Township just south of the larger St. Johannes.

Self-described "advocate for the dead" Helen Sclair has heard there might be Indians buried at Resthaven, but she suspects not all Native American remains were retrieved when Wilmer's Old Settlers Cemetery was closed in the early 1950s to make room for O'Hare access roads.

She said the Chicago region, which used to be home to Potawatomi, Chippewa and other Indians, doesn't have enough cemetery space, and the dead should be treated with more respect.

"We don't have much of a positive attitude toward cemeteries in Chicago," Sclair said. "Do you know why? Because the dead don't pay taxes or vote. . . . Well, technically they don't vote."

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ROSEMARY MULLIGAN,
STATE REPRESENTATIVE 55TH DISTRICT,
*Des Plaines, IL, July 5, 2002.*

Hon. JESSE L. JACKSON, JR.,
*U.S. House of Representatives, Washington, DC.*

SUBJECT: VOTE "NO" ON H.R. 3479

DEAR REPRESENTATIVE JACKSON, JR.: As an Illinois state legislator, I would like to use this opportunity to express my concern and opposition to the National Aviation Capacity Act. The issue of expansion of Chicago O'Hare Airport is extremely important but has been so misrepresented that I believe it is imperative to make a personal plea on behalf of my local residents to each member of the House of Representatives. This plan in the form it has been presented to you contains gross misrepresentations of fact and will inflict harm on the over 100,000 constituents I have taken an oath to protect.

You may not realize that "Chicago" O'Hare Airport is virtually an outcropping of land annexed by the City of Chicago that is over 90 percent surrounded by suburban municipalities. It is the only major city airport where the people directly impacted by airport activity do not elect the mayor or city officials that make decisions about the airport. Therefore, we have had little control or recourse over what happens at the airport. This plan represents a "deal" between two men and has never been debated or voted on by the Illinois General Assembly!

My family moved to Park Ridge in 1955, long before anyone had an idea of what an overpowering presence O'Hare would become. Unfortunately, the amount of land dedicated to the airport set its fate long before the current crisis. Plainly speaking, there isn't enough room to expand.

For the past several years, I and other legislators have introduced nearly a dozen measures in the Illinois General Assembly to conduct environmental studies, provide tax relief for soundproofing, defend suburban neighborhoods from unfair "land grabs," require state legislative approval of any airport expansion and to generally protect the people we represent whose residences abut airport property. Because of the political make-up of our body and the great influence of Chicago's mayor, we have been unsuccessful. Our efforts and the health and safety of our constituents are ignored because of politics.

Please, before you vote on HR 3479, consider the following facts:

1. If the people who surround this airport could vote for the mayor of the City of Chicago, an agreement to expand O'Hare could not have been made. Whoever is mayor would have to take into consideration his immediate constituency.

2. Thorough environmental studies are being blocked. There are many documented health concerns related to current pollution levels. 800,000 additional flights will nearly double the environmental hazard.

3. The State of Illinois' rights are being trampled. The House of Representatives vote is setting a precedent that may impact your home state at some later date.

4. The safety of this plan has been questioned, particularly with its inadequate FAA Safety Zones. The lack of land does not allow for significant changes. It jeopardizes surrounding schools, homes and businesses.

5. No matter what configuration or expansion moves forward, O'Hare's Midwest location means it will always be impacted by weather from many directions.

6. Proponents claim a 79 percent decline in delays with reconfiguration of runways. However, when the increase of 800,000 flights is factored in, delays will increase to above their current levels.

Notwithstanding the economic benefits proponents subscribe to this project, the responsibility of elected officials must be first to the health, welfare and public safety of the people we represent.

Lastly, there exists a glaring discrepancy between the legislation before you and what has been told to Illinoisans. A simpler answer to all of the O'Hare congestion problems exists in the development of a third regional airport. The legislation has downgraded the priority of this solution and will further delay any true relief for our nation's transportation woes. This fact is omitted from news reports and official proponent propaganda.

With all due respect, I ask that you vote "no" on HR 3479. Let this remain a state's rights issue. Please feel free to contact me anytime if you have any questions at (847) 297-6533. Thank you for your time.

Respectfully,

ROSEMARY MULLIGAN,
*Illinois State Representative, 55th District.*

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NATIONAL AIR TRAFFIC
CONTROLLERS ASSOCIATION,
CHICAGO O'HARE TOWER,
*Chicago, IL, November 30, 2001.*

Hon. PETER FITZGERALD,
*U.S. Senate, Washington, DC.*

SENATOR FITZGERALD, As requested from your staff, I have summarized the most obvious concerns that air traffic controllers at O'Hare have with the new runway plans being considered by Mayor Daley and Governor Ryan. They are listed below along with some other comments.

1. The Daley and Ryan plans both have a set of east/west parallel runways directly north of the terminal and in close proximity to one another. Because of their proximity to each other (1200′) they cannot be used simultaneously for arrivals. They can only be used simultaneously if one is used for departures and the other is used for arrivals, but only during VFR (visual flight rules), or good weather conditions. During IFR (instrument flight rules, ceiling below 1000′ and visibility less than 3 miles) these runways cannot be used simultaneously at all. They basically must be operated at one runway for safety reasons. The same is true for the set of parallels directly south of the terminal; they too are only 1200′ apart.

2. Both sets of parallel runways closest to the terminal (the ones referred to above) are all a minimum of 10,000′ long. This creates a runway incursion problem, which is a very serious safety issue. Because of their length and position, all aircraft that land or depart O'Hare would be required to taxi across either one, or in some cases two runways to get to and from the terminal. This design flaw exists in both the Daley and the Ryan plan. A runway incursion is when an aircraft accidentally crosses a runway when another aircraft is landing or departing. They are caused by either a mistake or mis-understanding by the pilot or controller. Runway incursions have skyrocketed over the past few years and are on the NTSB's most wanted list of safety issues that need to be addressed. Parallel runway layouts create the potential for runway incursions; in fact the FAA publishes a pamphlet for airport designers and planners that urge them to avoid parallel runway layouts that force taxiing aircraft to cross active runways. Los Angeles International airport has lead the nation in runway incursions for several years. A large part of that incursion problem is the parallel runway layout; aircraft must taxi across runways to get to and from the terminals.

3. The major difference in Governor Ryan's counter proposal is the elimination of the southern most runway. If this runway were eliminated, the capacity of the new airport would be less than we have now during certain conditions (estimated at about 40% of the time). If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways. The northeast-southwest parallels are left over from the current O'Hare layout. These two runways simply won't be usable in day-to-day operations because of the location of them (they are wedged in between, or pointed at the other parallels). We would not use these runways except when the wind was very strong (35 knots or above) which we estimate would be less than 1% of the time. That leaves the six east/west parallels for use in normal day-to-day operations. This is the same number of runways available and used at O'Hare today. If you remove the southern runway (Governor Ryan's counter proposal), you are leaving us five runways which is one less than we have now. That means less capacity than today's O'Hare during certain weather conditions. With good weather, you may get about the same capacity we have now. If this is the case, then why build it?

4. The Daley-Ryan plans call for the removal of the NW/SE parallels (Runways 32L and 32R). This is a concern because during the winter it is common to have strong winds out of the northwest with snow, cold temperatures and icy conditions. During these times, it is critical to have runways that point as close as possible into the wind. Headwinds mean slower landing speeds for aircraft, and they allow for the airplane to decelerate quicker after landing which is important when landing on an icy runway. Landing into headwinds makes it much easier for the pilot to control the aircraft as well. Without these runways, pilots would have to land on icy conditions during strong cross-wind conditions. This is a possible safety issue.

These are the four major concerns we have with the Daley-Ryan runway plans. There are many more minor issues that must be addressed. Amongst them are taxiway layouts, clear zones (areas off the ends of each runway required to be clear of obstructions), ILS critical areas (similar to clear zones, but for navigation purposes), airspace issues (how arrivals and departures will be funneled into these new runways) and all sorts of other procedural type issues. These kinds of things all have to go through various parts of the FAA (flight standards, airport certification etc.) eventually. These groups should have been involved with the planning portion from day one. Air traffic controllers at the tower are well versed on what works well with the current airport and what does not. We can provide the best advice on what needs to be accomplished to increase capacity while maintaining safety. It is truly amazing that these groups were not consulted in the planning of a new O'Hare. The current Daley-Ryan runway plans, if built as publicized, will do little for capacity and/or will create serious safety issues. This simply cannot happen. The fear is that the airport will be built, without our input, and then handed to us with expectations that we find a way to make it work. When it doesn't, the federal government (the FAA and the controllers) will be blamed for safety and delay problems.

Sincerely,

CRAIG BURZYCH,
*Facility Representative, NATCA-O'Hare Tower.*

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HOUSE OF REPRESENTATIVES,
*Washington, DC, January 31, 2001.*

Re Key Points Why The Chicago Region Needs A New Airport—And Why New O'Hare Runways Are Contrary To The Region and Nation's Best Interests.

Hon. ANDREW H. CARD,
*Chief of Staff to the President,*
*The White House, Washington, DC.*

DEAR ANDY: A matter of great importance to us is the need for safe airport capacity expansion in the metro Chicago region. At your earliest convenience, we would like to schedule a meeting with you and Secretary Mineta to discuss the situation. Enclosed is a detailed memorandum summarizing our views. We are convinced that we must build a new regional airport *now* and, for the same reasons, we believe that construction of one or more new runways at O'Hare would be harmful to the public health, economy and environment of the region.

As set forth in that memorandum:

Most responsible observers agree that the Chicago region needs major new runway capacity now.

The question is where to build that new runway capacity—1) at a new regional airport, 2) at O'Hare, 3) at Midway, or 4) a combination of all of the above. An assessment of these alternatives reaches the following conclusions:

1. The new runways can be built faster at a new airport as opposed to O'Hare or Midway.

2. More new runway capacity can be built at a new site than at O'Hare or Midway.

3. The new runways can be built at far less cost at a new airport than at O'Hare or Midway.

4. Construction of the new capacity at a new airport will have far less impact on the environment and public health than would expansion of either Midway or O'Hare.

5. Construction of the new capacity at a new airport offers the best opportunity to bring major new competition into the region.

6. The selected alternative cannot be expansion at O'Hare *and* construction of a new airport. New runways at O'Hare would doom the economic feasibility of the new airport, guarantee its characterization as a "white elephant" and insure the expansion of the monopoly dominance of United and American Airlines in the Chicago market.

The memorandum contains a series of related questions and a detailed list of suggestions that would ensure the rapid development of major new runway capacity in the

Chicago region, open the region to major new competition, and accomplish these objectives in a low-cost, environmentally sound manner.

Again, we would appreciate the opportunity to discuss these matters with you and Secretary Mineta at your earliest convenience.

Very truly yours,
HENRY HYDE,
JESSE JACKSON, JR.

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To: White House Chief of Staff Andrew Card.
From: Congressman Henry Hyde, Congressman Jesse Jackson, Jr.
Re: Key Points Why Chicago Region Needs A New Airport—And Why New O'Hare Runways Are Contrary To The Region and Nation's Aviation Best Interests
Date: January 31, 2001.

This memorandum summarizes our views in the debate over the need for airport capacity expansion in the metro Chicago region. For the reasons set forth herein, we are convinced that we must build a new regional airport now and, for the same reasons, believe that construction of one or more new runways at O'Hare would be harmful to the public health, economy and environment of the region.

The debate can best be summarized in a simple question and answer format.

Does the Region need new runway capacity now? Unlike The City of Chicago—which has for more than a decade privately known that the region needs new runway capacity while publicly proclaiming that new runway capacity is not needed—bipartisan leaders like Jesse Jackson, Jr. and myself have openly acknowledged the need for, and urged the construction of, new runway capacity in the region.

The need for new runway capacity is not a distant phenomenon; we should have had new runway capacity built several years ago. While 20 year growth projections of air travel demand show that the harm caused by this failure to build capacity will only get worse, the available information suggests that the region has already suffered serious economic harm for several years because of our past failure to build the new runway capacity.

If the answer to the runway question is yes—and we believe it is—the next question is where to build the new runway capacity? Though the issue has been discussed, the media, Chicago and the airlines have failed to openly discuss the alternatives as to where to build the new runway capacity—and especially, the issues, facts and impacts to the pros and cons of each alternative.

The alternatives for new runway capacity in the region are straightforward: (1) build new runways at a new airport, (2) build a new runways at O'Hare, (3) build new runways at Midway, or (4) a combination of all of the above. Given these alternatives, the following facts are clear:

1. The new runways can be built faster at a new airport as opposed to O'Hare or Midway. Simply from the standpoint of physical construction (as well as paper and regulatory planning) the new runways can be built faster at a "greenfield" site than they can at either O'Hare or Midway.

2. More new runway capacity can be built at a new site than at O'Hare or Midway. Given the space limitations of O'Hare and Midway, it is obvious that more new runways (and therefore more new runway capacity) can be built at a new larger greenfield site than at either O'Hare and Midway. We acknowledge that additional space can be acquired at Midway or O'Hare by destroying densely populated surrounding residential communities—but only at tremendous economic and environmental cost.

3. The new runways can be built at far less cost at a new airport than at O'Hare or Midway. Again, it is obvious that the new runways—and their associated capacity—can be built at far less cost at a "greenfield" site than they can at either O'Hare or Midway. Given the enormous public taxpayer resources that must be used for any of the alternatives—and the relative scarcity of public funds—the Bush Administration should compare the overall costs of building the new runway capacity (and associated terminal and access capacity) at a new airport vs. building the new capacity at O'Hare or Midway.

4. Construction of the new capacity at a new airport will have far less impact on the environment and public health than would expansion of either Midway or O'Hare. Midway, and later O'Hare, were sited and built at a time when concerns over environment and public health were far less than they are today. As a result, both existing airports have virtually no "environmental buffer" between the airports and the densely populated communities surrounding these airports. In contrast, the site of the new South Suburban Airport has, by design, a large environmental buffer which will ameliorate most, if not all, of the environmental harm and public health risk from the site. Indeed, prudence would suggest an even larger environmental buffer around the South Suburban site than is now contemplated. We can create the same or similar environmental buffer around O'Hare or Midway—but only at a cost of tens of billions of dollars and enormous social and economic disruption.

5. Construction of the new capacity at a new airport offers the best opportunity for bringing major new competition into the region. When comparing costs and benefits of alternatives, the Bush Administration must address the existing problem of monopoly (or duopoly) fares at "Fortress O'Hare" and the economic penalty such high fares are inflicting on the economic and business community in our region. Does the lack of significant competition allow American and United to charge our region's business travelers higher fares than they could if there was significant additional competition in the region? What is the economic cost to the region—in both higher fares and lost business opportunities—of the existing "Fortress O'Hare" business fare dominance of United and American?

The State of Illinois has stated that existing "Fortress O'Hare" business fare dominance of United and American costs the region many hundreds of millions of dollars per year. Bringing in one or more significant competitors to the region would bring enormous economic benefits in increased competition and reduced fares.

And the only alternative that has the room to bring in significant new competition is the new airport. Certainly the design of Chicago's proposed World Gateway program—designed in concert with United and American to preserve and expand their dominance at O'Hare—does not offer opportunities for major competitors to come in and compete head-to-head with United and American.

6. The selected alternative cannot be expansion at O'Hare and construction of a new airport. The dominant O'Hare airlines are pushing their suggestion: add another runway at O'Hare and allow a "point-to-point" small airport to be built at the South Suburban Site.

That is not an acceptable alternative for several reasons:

First, it presumes massive growth at O'Hare, as it is based on the assumption that all transfer traffic growth—along with the origin-destination traffic to sustain the transfer growth—stays at O'Hare. If that assumption is accepted, the airlines already know that demand growth for the traffic assumed to stay at O'Hare will necessitate not one, but two or more additional runways. This increase in traffic at O'Hare will have serious environmental and public health impacts on surrounding communities.

Second, this alternative destroys the economic justification for the new airport. With massive new capacity at O'Hare, there would be no economic need for the new airport.

Third, assuming the new airport is built anyway, as a "compromise", this alternative guarantees that the new airport will be a "white elephant"—much as the Mid-America airport near St. Louis is today because of the Fortress Hub practices of the major airlines and as was Dulles International as long as Washington National was allowed to grow. With limits on the growth of National finally recognized, Dulles is now the thriving East Coast Hub for United.

### RELATED QUESTIONS

If the Region needs new runways, what is the sense of spending over several billion dollars—much of it public money—to build the World Gateway Program at O'Hare if we decide that new runway capacity should be built elsewhere? If the decision is to build the new runways at O'Hare, then much of the 5-6 billion dollar terminal and roadway expansion proposed for O'Hare may be justified.

But if the decision is that the new runway capacity should be built elsewhere, then the proposed multi-billion dollar expansion makes no sense. We will be spending billions of dollars in taxpayer funds for a massive project that standing alone—without new runways—will not add any new capacity to our region.

The airlines know this fact and that is why they—and their surrogates at the Civic Committee and the Chicagoland Chamber—are pushing for new runways.

If the Region needs new runways and we wish to explore the alternative of putting the new runways in at O'Hare, what is the full cost of expanding O'Hare as opposed to constructing a new airport? If others wish to explore the alternative of an expanded O'Hare as the place to build the new runways capacity for the region, let's have an honest exploration and discussion of the full costs of expanding O'Hare with new runways and compare it to the cost of building the new airport. Chicago and the airlines already know what the components of an expanded O'Hare would be.

These components are laid out in Chicago's "Integrated Airport Plan and include a new "quad runway" system for O'Hare and additional ground access through "western access".

Based on information available, we believe that the cost of the O'Hare expansion would exceed ten billion dollars. These costs should be compared with the costs of a new airport.

Are the delay and congestion problems experienced at O'Hare self-inflicted? Sadly, when Chicago and the major O'Hare airlines advocated lifting of the "slot" restrictions at O'Hare and other major "slot" controlled airports, the Clinton Administration and others ignored the warnings of Congressman Jackson, and myself that the airport could not accommodate the additional flights without a chaotic increase in delays and congestion. Indeed, the chaos we predicted has come true and we now have a "Camp O'Hare" where air traffic is managed by cancellation rather than by adequate service.

Like Cassandra, our prophecy was ignored. The Clinton Administration endorsed lifting the slot controls and chaos ensued.

But just because our warnings were ignored doesn't mean that practical solutions should continue to be ignored. The delays and congestion were predictable and certain—predicted based on delay/capacity analysis conducted by the FAA. Just as certain are the short term remedies.

Just as the congestion was brought on by overstuffing O'Hare with more aircraft operations than it can handle, the congestion and delay can immediately be reduced to acceptable levels by reducing the scheduled air traffic to the level that can be easily accommodated by O'Hare without the risk of unacceptable delays. The delay chaos was self-inflicted by ignoring the flashing warnings put out by the FAA and other experts. The solution can be easily administered by the FAA recognizing—as it has at LaGuardia—that limits must be placed on uncontrolled airline desire to overscheduled flights.

Should the short-term "fix" to the delays and congestion include "capacity enhancement" through air traffic control devices? Absent new runways, the FAA has encouraged and permitted a variety of operational devices designed to allow increased levels of departures and arrivals in a set period of time. These procedures—known as "incremental capacity enhancement"—focus on putting moving aircraft closer together in time and space—to squeeze more operations into a finite amount of runways. Typically, this squeezing is done in low visibility, bad weather conditions because these are the conditions where FAA wants to increase capacity.

While the air traffic controllers remain mute on the safety concerns raised by these procedures, the pilots sure have not:

"We have seen the volume of traffic at O'Hare pick up and exceed anyone's expectations, so much so, that on occasion *mid-airs were only seconds apart.* O'Hare is at maximum capacity, if not over capacity. It is my opinion that *it is only a matter of time until two airliners collide making disastrous headlines.*" Captain John Teerling, Senior AA Airline Captain with 31 years experience flying out of O'Hare January 1999 letter to Governor Ryan (emphasis added)

Paul McCarthy, ALPA's [Airline Pilots Association] executive air safety chairman, condemned the incremental capacity enhancements *as threats to safety.* Each one puts a small additional burden on pilots and controllers, he said. Taken together, they *reduce safety margins,* particularly at multiple runway airports, to the point that they invite a *midair collision,* a *runway incursion* or a *controlled flight into terrain.* Aviation Week, September 18, 2000 at p. 51 (emphasis added)

It is clear that FAA's constant attempts to squeeze more and more capacity out of the existing overloaded runways—through such "enhancement" procedures as the recently announced "Compressed Arrival Procedures" and other ATC changes—is incrementally reducing the safety margin so cherished by the pilots and the passengers who have entrusted their safety to them.

The answer to growth is new runways at a new airport—not jamming more aircraft closer and closer together at O'Hare. The answer to delays and congestion with existing overscheduled levels of traffic is to reduce traffic levels to the capacity of the runways without the need to jam aircraft closer and closer together.

Does the current level of operations at O'Hare (and Midway) generate levels of toxic air pollutants that expose downwind residential communities to levels of these pollutants in their communities at levels above USEPA cancer risk guidelines? Though our residents have complained for years about toxic air pollution from O'Hare, none of the state and federal agencies would pay attention. Recently however, Park Ridge funded a study by two nationally known expert firms in the field of air pollution and public health to conduct a preliminary stud of the toxic air pollution risk posed by O'Hare. That study, Preliminary Study and Analysis of Toxic Air Pollution Emissions From O'Hare International Airport and the Resultant Health Risks Caused By Those Emissions in Surrounding Residential Communities (August 2000), found that current operations at O'Hare—based on emission data supplied by Chicago—created levels of toxic air pollution in excess of federal cancer risk guidelines in 98 downwind communities. The highest levels of risk were found in those residential communities that O'Hare uses as its "environmental buffer"—namely Park Ridge and Des Plaines.

Is the Park Ridge study valid? Park Ridge has challenged Chicago, the airlines, and federal and state agencies to come forward with any alternative findings as to the toxic air pollution impact of O'Hare's emissions on downwind residential communities. And that does not mean simply listing what comes out of O'Hare. The downwind communities are entitled to know how much toxic pollution comes out of O'Hare, where the toxic pollution from O'Hare goes, what are the concentrations of O'Hare toxic pollution when it reaches downwind residential communities, and what are the health risks posed by those O'Hare pollutants at the concentrations in those downwind communities.

Should not something be done to control and reduce the already unacceptable levels of toxic air pollution coming into downwind residential communities from O'Hare's current operations?

Should not the relative toxic pollution risks to surrounding residential communities created by the alternatives of a new airport, expanding O'Hare, or expanding Midway be added to the analysis and comparison of alternatives?

What about the monopoly problem at Fortress O'Hare and what should be done about it? We have already alluded to the factor of high monopoly fares as a consideration in choosing alternatives for the new runway capacity. But the monopoly problem of Fortress O'Hare will be relevant even if no new airport is built. The entire design of the proposed World Gateway Program is premised on a terminal concept that solidifies and expands the current market dominance of United and American at O'Hare and in the Chicago air travel market.

What can the Bush Administration do if indeed there is a monopoly air fare problem at O'Hare or monopoly dominance is costing Chicago area business travelers hundreds of millions of dollars per year?

When these questions were raised in the Suburban O'Hare Commission report, If you Build It We Won't Come: The Collective Refusal Of The Major Airlines To Compete In The Chicago Air Travel Market, Chicago and the airlines responded with smoke and mirrors. First they produced glossy charts showing that more than 70 airlines serve O'Hare. What they neglected to show was that United and American control over 80% of those flights with the remaining 60 plus airlines operating only a small percentage.

Similarly, the airlines and Chicago talked about the competitive low fares charged to passengers. What they emphasized, however, were low fares for reservations far in advance. The major business travel organizations representing business travel managers report that business travelers predominantly use unrestricted coach fares since they have to respond on short notice to business needs. An examination of fares for unrestricted business travel from Chicago to major business markets shows that these routes are dominated by United and American and that they charge extremely high "lock-step" fares to business travelers to these business markets.

Finally, the airlines and Chicago argued that O'Hare is "competitive" with fares charged to business travelers in other Fortress Hub Markets. That statement ignores the fact that all the major airlines are gouging captive business travelers in all their own Fortress Hub markets. Indeed, a repeated anecdote is the fact that a passenger from a "spoke" city—e.g., Springfield, Illinois—pays a lower fare for a trip to O'Hare and then to Washington D.C. than a Chicago based traveler who gets on the same plane to Washington. Why? Because the Springfield traveler has the choice of hubbing either through O'Hare or St. Louis while the Chicago based business traveler is locked into Chicago.

Where are the antitrust enforcers to break up these geographic cartels? Equally important, in addition to antitrust enforcement powers, the federal government has enormous leverage to break up the cartels through the funding approval process of the Airport Improvement Program (AIP) and Passenger Facility Charge (PFC) programs. Yet billions of federal taxpayer funds go to United and American without so much as a raised eyebrow.

What about Noise? Shouldn't we be happy to exchange some soundproofing for new runways at O'Hare? The City of Chicago has a residential soundproofing program which was created on the advice of its public relations consultants to create a spirit of "compromise" that would lead to acceptance of new runways at O'Hare.

But here are some facts that are little publicized:

1. Most of our residents feel that soundproofing—while improving their interior quality of life—essentially assumes that we will give up living-out-of-doors or with our windows open in nice weather.

2. Whereas many major airport cities with residential soundproofing programs are soundproofing all homes experiencing 65 DNL (decibels day-night 24-hr. average) or greater, Chicago and the airlines are only committing funds to the 70 DNL level. Result: Chicago is only soundproofing less than 10% of the homes that Chicago itself acknowledges to be severely impacted.

3. Chicago came into our communities asking to put in noise monitors to collect "real world" data as to the levels of noise. Yet, despite promises to share the data, Chicago refuses to share the data with our communities.

4. Instead of an atmosphere of trust, these tactics by Chicago have created additional animosity as neighbors on one side of an alley or street get soundproofing while their neighbors across that alley or street get no soundproofing. Indeed, Chicago's residential

soundproofing program—because it is so limited in scope and ignores thousands of adversely impacted homes—has caused even more animosity in our communities.

In short, residential soundproofing is not the panacea that Chicago and many in the downtown media perceive it to be. Moreover, it does nothing to address the toxic air pollution and other safety related concerns of our residents.

Can we have more than one "hub" airport operating in the same city? Faced with the potential inevitability of a new airport, the airlines for the last two years have been arguing for an expansion of O'Hare (instead of a major new airport) with the argument that a metropolitan area cannot have more than one hub airport. Based on that premise, United and American say that the sole hub airport in metro Chicago should be O'Hare. That simply is not correct:

1. There are several domestic and international cities with more than one hubbing airport. Competing airlines create hubbing operations wherever airport space is available. Thus, there are multiple hubbing airports in metro New York (JFK and Newark), Washington, D.C., London, and Paris.

2. The Lake Calumet Airport proposed by Mayor Daley would have been a second hub airport.

3. There is simply no reason—given the size of the business and other travel origin-destination market in metro Chicago—that a new hub competitor could not establish a major presence at a new south suburban airport.

How do we fund new airport construction? The answer is simply and the same answer Mayor Daley had for the proposed Calumet Airport. Daley proposed using a mix of PFC and AIP funds to induce carriers to use the new airport. Indeed, the entire justification for his urging the passage of PFC legislation was to collect PFCs at O'Hare and use them for the new airport.

But United and American claim that the PFC revenues are "their" money. On the contrary, the PFC funds are federal taxpayer funds no different in their nature as taxpayer dollars than the similar "AIP" tax charged to air travelers. These funds don't belong to the airlines. They are federal funds collected and disbursed through a joint program administered by the FAA and the airport operator.

Nor are these federal taxpayer funds "Chicago's" money. Chicago is simply a tax collection agent for the federal government.

But how do we get the funds from O'Hare to the new airport? We do it the same way Mayor Daley is transferring funds from O'Hare to Gary and the same way he proposed getting federal funds collected at O'Hare to the Lake Calumet project: a regional airport authority.

## SUGGESTIONS

We have respectfully posed some questions and posited some answers for the President's and your consideration. We believe that a thorough and candid examination and discussion of these questions leads to only one conclusion: we should build a new airport and we should not expand O'Hare.

But more than raising questions, we also have several concrete suggestions for addressing the region's air transportation needs:

1. Let's stop the paper shuffling and build the new airport. The program we outline is this letter is virtually identical to the proposal drafted by Mayor Daley for construction of the Lake Calumet Airport. We believe that a cooperative fast-track planning and construction program for a new airport could see the new airport open for service. in 3-5 years.

2. The money, resources and legal authority to build the new airport can be assembled by passage of a regional airport authority bill similar to the regional airport authority bill drafted in 1992 by Mayor Daley for the Lake Calumet project. So the Illinois General Assembly is a necessary partner in any effort. But equally important is the dominant role of the federal Administration in controlling the use of AIP and PFC funds and in assertive enforcement of federal antitrust laws. Let's put together a federal-state partnership to get the job done.

3. Give the O'Hare suburbs guaranteed protection against further expansion of O'Hare. Such guarantees are needed not only for our protection but for the viability of the new regional airport.

4. Provide soundproofing for all of the noise impacted residences around O'Hare and Midway. The new airport addresses future needs; it does not correct existing problems caused by existing levels of traffic.

5. Initiate a regulatory program to control and reduce air toxics emissions from O'Hare.

6. Fix the short-term delay and congestion at O'Hare by returning to a recognition of the existing capacity limits of the airport. The delay and congestion now experienced at O'Hare is a self-inflicted wound brought about by airline attempts to stuff too many planes into that airport. The delays and congestion will be dramatically reduced immediately by reducing scheduled traffic to a level consistent with the exiting capacity of the airport.

7. Demand a break-up and reform of the Fortress Hub anti-competitive phenomenon—both at O'Hare and at other Fortress Hubs around the nation. This can be done with either aggressive antitrust enforcement or with proper oversight of the disbursal of massive federal subsidies.

8. The entire World Gateway Program should be exmained in light of the questions raised here and should be modified or abandoned depending on the answers provided to these questions.

We would appreciate the opportunity to discuss these matters with you and Secretary Mintea at your convenience.

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HOUSE OF REPRESENTATIVES,
*Washington, DC.*

FIVE REASONS TO OPPOSE THE NATIONAL AVIATION CAPACITY EXPANSION ACT (HR 3479)

DEAR COLLEAGUE: This legislation to expand O'Hare International Airport is fatally flawed because it will:

1. SET A TERRIBLE PRECEDENT: This bill will allow the federal government to preempt state law requiring approval of airport construction and expansion—approval that requires the blessing of the state legislature. Will your state legislature be next to lose its power to decide local airport matters?

The bill also will lead to a rash of demands from various localities for priority standing for airport funding, bypassing reasonable administrative planning and environmental review processes.

2. THREATEN SAFETY AND THE ENVIRONMENT: This legislation attempts to superimpose what amounts to an airport the size of Dulles International on a land-locked airport the size of Reagan National—an absurd idea on its face. Former U.S. Department of Transportation Inspector General Mary Schiavo has called this proposal "a tragedy waiting to happen."

Putting 1.6 million planes a year into the O'Hare airspace already overcrowded with 900,000 flights doesn't make sense. It increases the risk of a serious accident and it jeopardizes surrounding schools, homes and businesses.

A third regional airport that can be built in one-third of the time and at one-third of the cost of expanding O'Hare.

O'Hare is already the largest polluter in the Chicago region. With expansion, noise and air pollution will increase exponentially.

3. UPROOT THOUSANDS OF FAMILIES: This legislation will destroy the single largest concentration of federally assisted affordable housing in one of the nation's most affluent counties. These are the homes that low-income people and other minorities, particularly Hispanics, depend on.

Up to 1,500 or more homes will be destroyed. These homes will be condemned or taken by eminent domain, leaving those homeowners few options to find affordable housing elsewhere.

4. THREATEN THOUSANDS OF JOBS: This legislation will destroy as much as one-third of the nation's largest contiguous industrial park, threatening tens of thousands of jobs. How many jobs will be created by the airport expansion? That remains a great mystery.

5. COST TOO MUCH: This legislation will require the expenditure of $15 billion or more once the entire infrastructure, relocation, soundproofing and other costs are figured in. This is much more costly than the $6.6 billion that supporters keep touting.

Commits Chicago, Illinois and federal taxpayers to a plan whose costs have not been adequately detailed. We have requested documentation of the costs, but have been rebuked. That is why a Freedom of Information lawsuit is pending in Illinois court.

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[From the Chicago Tribune, March 20, 2001]

### DALEY AND THE STENCH AT O'HARE

Maybe after 12 years in office the mayor of Chicago thinks he owns the chair.

And why not. Richard M. Daley's decision to let his pals run wild, and put the best interests of citizens a distant second makes sense.

After all those years of worrying about appearance, who wouldn't let his buddies bend a few rules? Who wouldn't get tired of staring cameras and pretending that every decision is being made for the good of Chicago? And who wouldn't be fed up with annoying questions from the newspaper gnats about ethics?

Truth is, the growing trail of pols and pals who use their connections with Daley to get rich—and to trash the mayor's reputation in the process—is a marvel. So is the chutzpah that leads the boodlers to think they won't be found out.

Unless, with their millions already stuffed in their pockets and Daley as their see-no-evil patsy, the boodlers just don't care any more.

The latest to be outed is Jeremiah Joyce, an old Daley buddy who reportedly has been exploiting his connections to line his pockets. Joyce is a player—a richly paid one at that—in an increasingly—seamy drama: "Why the Mayor Doesn't Want a Third Airport."

Unless, of course, it's a city-owned third airport, not some paved-over cornfield outside Chicago. If Daley's cronies had three airports to play with, they could do an even better job of cashing out their friendships with the mayor. Sure, they look bad, hiring on as fixers to help companies land contracts from Daley's puppets at the city Aviation Department. But so what? There's big money to be made. And if Daley doesn't care about his good name, why should they?

Joyce's rental of his name and reputation reported Monday by the Tribune's Laurie Cohen and Andrew Martin. In 1992, McDonald's Corp. bid on a contract to handle concessions at O'Hare Airport's new international terminal. McDonald's didn't get the deal. But a few months later McDonald's and Duty Free International hired Joyce. Voila!—the O'Hare contract was up for grabs again, and the companies landed a deal worth millions. The arrangement appears to have earned Joyce $1.8 million last year alone.

But not to worry. Everyone denies everything. Joyce denies using his contacts at City Hall to help the companies win their exclusive O'Hare business just one month after they retained him. What role did his clout play? "I would say none," Joyce says. "I would say zero."

David Mosena, then the city's aviation commissioner, agrees. "The significance of Jerry Joyce in the deal was nil," Mosena says.

The Daley administration probably wants to deny the obvious. But the mayor's people say they just can't find the public documents that would explain how the O'Hare pact came together. Don't you hate it when things get lost?

This fiction that nobody knew nothin' about deals at O'Hare is familiar. Power pal Oscar D'Angelo gets at least $480,000 for lobbying on behalf of a contractor, even though he doesn't register as a lobbyist. D'Angelo lobbies the city on behalf of a company that uses a subcontractor run by two women with ties to Maggie Daley, the mayor's wife. Most recently, Victor Reyes, the mayor's former political henchman, winds up in the middle of a billion-dollar O'Hare construction deal just weeks after leaving Daley's payroll. At every turn, nobody knew nothin'.

Mr. Mayor, spare all of us the calls for a tougher ethics ordinance and the angry glare when you deny that you knew about the Joyce deal. Hey, maybe you didn't know about the Joyce deal.

What you did know, and have known for years, is that your pals are oinking at the O'Hare through. And they can oink all they want, because nobody wills top them. This game has only two rules; Don't get caught. And don't say "Peotone."

The rest of us now see O'Hare for the economic engine it really is. Not just for shrewd contractors and patronage hacks, but for the select few who call the mayor of Chicago by his first name.

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[From the Chicago Tribune, Nov. 21, 2000]

## POLITICS SNARL O'HARE

### STALEMATE BLOCKS NEW AIRPORT, MORE RUNWAYS

(By Andrew Martin and Laurie Cohen)

The parochial and petty politics that have turned O'Hare International Airport into a treasure trove for concessionaires and contractors also are at the heart of why the transportation hub is a quagmire of delays, hassles and heartaches.

The political self-interests that have gotten in the way of expanding the world's second-busiest airport—or building a new airfield—are quietly on display on the vaulted corridors of the United Airlines terminal.

Buy a carton of cigarettes at the duty-free shop and some of your money finds its way into the pockets of Jeremiah Joyce, who has been one of Mayor Richard Daley's key political strategists.

Need a book or a magazine to pass the time? The airport's bookseller, W.H. Smith, has paid for political advice from mayoral pal Oscar D'Angelo, and its partners include Grace Barry and Barbara Burrell, friends of the mayor's wife.

Satisfy a sweet tooth and you're patronizing the candy shop partially owned by Rev. Clay Evans and Elzie Higginbottom, both influential supporters of the mayor in the African-American community.

Now, take a look at the passengers killing time because of delays or sleeping on rollaway cots because of cancellations. They're where they are because of politics too.

The hidden motives that determine everything from contracts to projections for growth at O'Hare have created an airport that works for the politicians, their friends and the airport's two major airlines, but not for the public.

Political wheeling and dealing at the airports extends to the debate over new runways and a new airport, though with much higher stakes and a wider impact on the tens of thousands of passengers traveling through O'Hare each day.

Daley seems determined to protect the cookie jar of jobs, concessions, contracts and economic largesse that is O'Hare. His administration, the Tribune has found, has manipulated statistics to downplay the need for a new airport near the Will County town of Peotone. At the same time, Delay has benefitted from a friendly Clinton administration, which has stalled the Peotone proposals.

Opposing him are a Republican governor and other politicians trying to transform a soybean field in Peotone into another major airport that almost certainly would alleviate some gridlock and would placate constituents who live on the edge of O'Hare and are weary of airport noise and pollution.

At a time when other parts of the country are achieving political compromises to facilitate a surging number of the travelers with new runways and air travelers with new runways and airports, the stalemate in Illinois is especially vexing.

U.S. Sen. John McCain (R. Ariz.) in September blamed local political squabbling for sacrificing the interests of the entire Chicago region and the nation.

"I say pox on all of them," McCain said recently in an interview. "Chicago is one of the most gridlocked places in America and a critical transportation hub. We can't get O'Hare expanded, and we can't build another airport. And those are the only two options."

*Political dealmaking—the airport that clout built*

O'Hare has been inexorably, linked with politics and the Daleys since the day the airport—formerly a military airfield and orchard—opened in 1955. Its transformation into an aviation crossroads provides a lesson in Machiavellian politics and lucrative dealmaking.

The late Mayor Richard J. Daley was instrumental in breaking a long impasse between the city and the airlines, which had been reluctant to move from Midway Airport, then the nation's busiest, and cover the costs of a new airport.

Daley also resolved the sticky issue of how the City of Chicago could control an airport outside its borders. The solution: The city annexed 5 miles of Higgins Road, creating a controversial "O'Hare corridor" that linked the city with its new airport.

From the start, O'Hare was used by City Hall as a means to reward political allies. Richard J. Daley's administration, for instance, gave the right to sell flight insurance to a company that had hired Daley's City Council floor leader, Thomas Keane, and it handed millions of dollars in construction work to another company that employed Keane.

Since then, as annual flights have grown to about 900,000 and City Hall has received vastly more money to spend at the airport, the basic formula at O'Hare hasn't changed much.

O'Hare's budget for the coming year is $511 million, which is paid for by airline landing fees, terminal rentals, concessions charges and parking revenues—though not by property taxes. Another $506 million is set aside for construction projects, paid for by bond issues, federal grants and a passenger ticket tax.

O'Hare helps Daley at election time. Airport vendors, concessionaires and other business tied to O'Hare—and their executives and lobbyists—donated about $360,000 to Daley's campaign in an 18-month period beginning in July 1998. Daley was re-elected in February 1999.

And Daley's political machine, as well his loyalists and friends, benefits from the jobs at O'Hare. Due to the length of Dailey's tenure, he has hired nearly 60 percent of the 1,900 employees who work for the city's Department of Aviation, which managers O'Hare, Midway and Meigs Field, according to a Tribune review of payroll records.

His administration has hired campaign workers and the sons, wives, nephews and brothers of City Hall insiders. For instance, the City employed the son of Cook County Sheriff Michael Sheahan, also named Michael Sheahan, in 1992. A campaign worker for Daley, the younger Shealan is now the $65,000-a-year coordinator of security projects at O'Hare and Midway.

The city has also brought; in the brother of Ald. Patrick Levar (45th), who heads the City Council's Aviation Committee. Hired in 1990, Michael Levar is now a $77,500 supervisor of construction and maintenance at O'Hare.

Dominic Longo, a longtime Democratic operative who was convicted of vote fraud in 1984, was hired to supervise truck drivers at the airport one year after Daley was elected in 1989. He was moved to another city department five years later amid allegations that he had sold jobs and pressured workers to buy tickets to campaign events for Daley and others. Longo has denied the charges.

But the money paid for salaries is a fraction of the dollars paid to contractors for everything from engineering and architecture to snow removal: For example, the Aviation Department has contracts with 29 architectural and engineering firms totaling $356 million, $36 million worth of contracts for snowmelting and removal, and $660,000 for seasonal decorations.

Landrum & Brown, the city's long-time aviation planning consultant, provides a case study in how politics and contracts mingle at O'Hare.

The Cincinnati-based firm, which is now paid $12 million a year and has played a crucial role in the city's efforts to block Peotone, operated on the same no-bid city contract from 1968 to 1995, when it got another no-bid deal.

Besides donating to the mayor's campaign and charities overseen by Daley's wife, the firm hired Oscar D'Angelo as its political adviser shortly after Daley took office. It also has handled subcontracts to companies owned by Daley allies. Former campaign manager Carolyn Grisko helps with public relations, Democratic fundraiser Niranjah Shah does engineering work, and Chicago Housing Authority Chairwoman Sharon Gist Gillian is a computer consultant.

United States has used a similar formula. The biggest airline at O'Hare, United States relies on the city for long-term, exclusive gate leases.

Besides donating hunreds of thousands of dollars to city-sponsored events, charities favored by the Delays and political campaigns. United has hired the mayor's younger brother and his former chief of staff as lobbyists.

William Daley lobbied for United before he became U.S. secretary of commerce in the Clinton administration, and Gery Chico, now chairman of the Chicago school board, lobbies for United States at City Hall.

*A long battle—the fight for a third airport*

Given the success of O'Hare—as an important hub in the nation's air traffic system, as an economic engine and as a source of patronage and contracts—it's not surprising that both Daleys wanted new airports, so long as they were subject to mayorial control.

But the push for a third airport has always bogged down in politics, statistical sleight of hand and mixed signals from Washington, D.C.

In the late 1960s, the elder Daley proposed building a major jetport on land-fill in Lake Michigan, an indea that never flew because of cost and environmental concerns.

The idea of a third airport didn't gather steam again until the mid-1980s, when state officials were looking for sites for a third airport to relieve O'Hare, on the orders of the Federal Aviation Administration. The sites considered were in rural areas south of Chicago, including Peotone.

City officials had publicly argued that O'Hare and Midway could handle the region's aviation growth. But, privately, consultants were urging city officials to immediately find a Chicago site for a third airport so they wouldn't lose out to the surburbs.

A suburban airport probably would be controlled by a regional authority consisting of state officials, local lawmakers and, perhaps, Daley appointees.

In 1990, Daley dropped a bombshell, announcing plans for a $5 billion new airport at Lake Calumet on the city's Southeast Side.

The mayor argued that the new airport would take pressure off O'Hare and appease the northwest suburbs that were opposed to O'Hare expansion. He proposed to pay for the airport with a new $3 passenger ticket tax that Chicago Democrats pushed through Congress.

But the Lake Calumet proposal immediately hit turbulence because of concerns over its spiraling costs and resistance from South Siders who didn't want Midway shuttered. The airport plan fell apart after Republicans helped kill it in the state Senate in summer 1992, and Daley abandoned the idea.

By focusing attention on Lake Calumet, the city "succeeded again in preventing [the state] from making any meaningful progress towards developing a new airport in a suburban location," Landrum & Brown President Jeff Thomas wrote in a memo to city officials.

"Thus the city has conducted & protracted but successful guerrilla war against the state forces that would usurp control of the city's airports."

It also left Daley with a huge new pot of money, the passenger ticket tax, which has funneled more than $600 million into the city's coffers since it was passed by Congress in 1990. The city has spent the money on runway resurfacing, terminal upgrades and consultants' fees, but not on new runways or a new airport.

Lake Calumet was dead, but the battle for Peotone was just beginning. At the end of President George Bush's tenure, in 1992, the FAA approved $2 million to start the planning process for building an airport in Peotone.

But after President Clinton took office with some key campaign help from the Daley family, the Peotone proposal ground to a virtual standstill in Washington.

Under the Clinton administration, some of the mayor's staffers assumed key positions in the U.S. Department of Transportation and the FAA with over-sight over new airports. For instance, Susan Kurland, former chief counsel for the city's Department of Aviation, was an associate administrator for airports for the FAA from 1996 to 1999.

Catherine Lang, a former assistant commissioner in the Department of Aviation, is now director of the FAA's Office of Airport Planning and Programming, which oversees the passenger ticket tax and approval for new airport projects. And Frank Kruesi, Daley's first chief of policy, was assistant secretary in the U.S. Department of Transportation from 1993 to 1997. He now heads the Chicago Transit Authority.

Daley and other Illinois Democrats also played a key role in the appointment of Clinton's first FAA administrator, David Hinson, former head of Midway Airlines.

A few months after Hinson's appointment, the Clinton administration pulled planning funds for the Peotone study, citing a lack of "regional consensus."

Illinois Transportation Secretary Kirk Brown—who handles the push for a Peotone airport under Gov. George Ryan, a Republican—recalled that Hinson told him he had favored Peotone but would "have to consult with the mayor" before he proceeded with the airport plan.

Hinson, in an interview, said he didn't remember that conversation with the mayor, though he recalled that Daley objected to a Peotone airport.

Four years later, while Kurland oversaw the program, the FAA quietly pulled the Peotone airport proposal off a list of planned airport projects eligible for federal funding. The Peotone project had been on the planning list since 1986.

Republican leaders maintain the Daley administration has used its influence in Washington to block airport approval.

"It's the mayor through his political influence," said state Senate President James "Pate" Philip. "He's been able to stop it."

The FAA denies that politics have affected its decisions on Peotone, and Kurland declined to comment.

Contributing to the lack of progress toward a Peotone airfield was fierce opposition from United and American Airlines, which dominate O'Hare and vowed not to use a third airport.

In 1995, United spearheaded a "Kill Peotone" campaign that included a letter from 16 airline executives to then-Gov. Jim Edgar voicing their displeasure, according to records.

American also sent a representative to Downstate chambers of commerce to recruit allies in its opposition to Peotone. The airline also has urged its employees who live in the northwest suburbs to press local officials to drop out of the Suburban O'Hare Commission, a coalition of suburbs that staunchly oppose O'Hare expansion.

The status quo benefits the airlines because they control 85 percent of the flights at O'Hare and, without a new airport, none of the other large carriers has an entree into the Chicago market.

But, once again, passengers are the losers in this economic equation. Many studies, including those by the U.S. General Accounting Office, have shown that passengers pay substantially more at airports dominated by one or two major airlines.

*Statistical shell game—ups and downs*

The City of Chicago's political success in holding off a Peotone airport can also be traced to a powerful tool: questionable statistics.

For years, Chicago officials have engaged in a statistical shell game to mask the need for a new airport and to hide O'Hare's capacity woes.

As Jay Franke, Daley's first aviation commissioner, said in an interview, "Forecasts are generally made to order." Franke was ousted in 1992.

In the debate over airports, the key numbers are forecasts of how many passengers are expected to fly out of an airport. By comparing predicted demand to an airport's capacity—how many flights an airport can handle without excessive delays—airport officials try to determine whether a new runway or a new airport is needed.

Forecasts by City Hall's own aviation consultants have repeatedly indicated since 1980 that O'Hare is running out of room. But this became a problem when Peotone emerged as the leading option.

City officials have used a grab bag of tricks to fix the problem. They have changed the formula for devising forecasts and tossed aside forecasts that didn't match their arguments.

And they have insisted that O'Hare can handle more flights because of anticipated improvements in air traffic control that haven't yet materialized, records show.

For example, a 1993 forecast by Landrum & Brown showed that O'Hare would be out of capacity in two years.

"If this is the case, then why build anything at all except a new airport?" wrote Doug Trezise, another city consultant in a 1993 memo to Chicago aviation officials.

The solution was simple: Change the formula.

The original calculation was based on how many passengers would use O'Hare if enough runways were built to meet the demand. City officials asked Landrum & Brown to base the new forecast on how many passengers would use O'Hare given its existing capacity.

The resulting numbers were much more palatable.

The numbers game continued two years later. Landrum & Brown came out with new forecasts that were uncomfortably close to predictions that state officials were using to tout the need for Peotone. But this presented a problem for the city.

"Clearly the similarities between the L&B numbers and those developed by the [state's consultants] will make it more difficult for the city to debate the third-airport issue on the basis of demand forecasts," consultant Ramon Ricondo wrote in a 1995 letter to a top aviation official.

The Daley administration didn't change its position. It simply chose not to release the 1995 forecasts, the Tribune learned from court records.

Then, in 1998, the Daley administration pulled its best statistical stunt yet, again with the help of Landrum & Brown.

The consultants finally delivered a forecast that the city could not only live with but trumpet. The new figures were 25 percent lower than the previous prediction.

The forecasting change was made possible, in part, by careful manipulation of the numbers. Landrum & Brown plugged a population forecast into its formula that was lower than many other population estimates.

The lower number—which called for the Chicago area's population to grow at about half the rate of previous years—had the effect of dampening the aviation forecast.

Where Landrum & Brown had forecast 61 million passengers for the year 2015 in its 1995 study, it now predicted only 46 million passengers in its revised forecast. (Last year, about 36.3 million passengers boarded planes at O'Hare.)

"A realistic forecast proves a new rural airport is not necessary for the region," Landrum & Brown concluded in a summary of its findings.

Though it's too soon to say if Landrum & Brown's prediction is off the mark, one thing is certain: The population number it used was far too low. Already, the population in the Chicago region has exceeded the forecast for 2007 that Landrum & Brown used for its study, according to estimates by the U.S. Census Bureau.

"What L&B did was just go looking for low numbers," said Suhail al Chalabi, a state aviation consultant. "Nobody has used numbers this low before."

Officials at Landrum & Brown declined to comment.

Despite some misgivings, the FAA accepted the city's low forecasts for O'Hare, even though its forecasts show that the number of passengers at O'Hare will grow twice as fast in the next 15 years as the city predicts.

"The problem is one of political intrusion into the technical process," U.S. Rep. Jesse Jackson Jr. (D-Ill.) wrote in a Sept. 20 letter to Transportation Secretary Rodney Slater. "Mayor Daley has argued that there is no need for new runways, not at O'Hare and definitely not in the south suburbs.

"He has made sure the statistics agree," wrote Jackson, who believes a Peotone airport would help his district. "The aviation planning process in Chicago, once a national model, is being corrupted and is truly a technical disgrace."

*Changing positions—running from runways*

The latest position out of City Hall is that it won't stand in the way of Peotone—"They can go build it," the mayor now says—and that new runways at O'Hare are unnecessary.

The Daley administration now says it can meet demand at O'Hare through a $3.2 billion building program called World Gateway that is under review by the FAA. It calls for new terminals, parking spaces and expanded light-rail service.

It does not call for new runways, and city officials contend O'Hare has sufficient capacity through 2012. Officials, however, decline to say exactly how many planes the airport can handle, and some experts think O'Hare is out of room now.

"On the whole, the system works awfully well," Aviation Commissioner Thomas Walker said in a recent interview. "We will have to get used to the occasional inconveniences."

Though it might be logical for the city to lobby heavily for additional runways at O'Hare, it would be bad politics.

If Daley were to argue for a new runway, his Republican foes likely would pounce on that as evidence that a new airport in Peotone is needed.

Also, the Republicans hold all the cards when it comes to O'Hare expansion. Final approval for new runways rests with the governor's office, and a Republican has been governor since 1977.

To make room for the runway, Daley would have to use the city's condemnation powers to take a significant chunk of Bensenville, a leader in the efforts to block an expansion of O'Hare. Among the properties the city would bulldoze are the Garden Horseshoe neighborhood—home of more than 2,000 people—as well as 28 businesses, a cemetery near St. John's Catholic Church and a water tower.

While Daley remains noncommittal on runways, his longtime supporters in the business community now say they are crucial to the future of O'Hare and the local economy. United Airlines and the Civic Committee of the Commercial Club of Chicago, an influential business group, say there is an immediate need for a new runway at O'Hare.

The Republican opposition to new O'Hare runways has been staunch. With political power bases in the airport's shadows, Philip, U.S. Rep. Henry Hyde (R-Ill.) and state Atty. Gen. Jim Ryan have fought on behalf of constituents who don't want jet noise to increase in their communities.

A suburban airport, which is supported by Gov. George Ryan and other key Republicans, also would give Republicans access to the aviation jobs and contracts that Daley now solely controls.

While Chicago remains mired in political gridlock, mayors and other governmental officials across the nation have risked the political capital to increase capacity at their airports.

Since 1995, relatively little airport expansion took place nationally—a total of four new runways, five runways extensions and one runway reconstruction at nine of the 27 hub airports.

However, over the next eight years, the pace of construction will triple. Seventeen of the hubs are building or have plans for 17 new runways, 12 extensions and one reconstruction, all to be completed by 2008.

One important reason for the shift in to high gear is that the opposition of neighboring municipalities to airport expansion is now being blunted or overridden. For decades, complaints about noise and pollution have kept airport expansion projects in check.

But increasingly, court officials and legislators are deciding those concerns are outweighed by the importance of the air traffic system to the U.S. economy and the needs of millions of air travelers.

"Virtually every other major airport in the country has added or is adding ground capacity," said R. Eden Martin, president of the Civic Committee of the Commercial Club of Chicago, whose members include the major airlines and which has opposed a major airport in Peotone.

"Why don't we do in Chicago what an enlightened airline industry, business community and political leadership was able to do in Atlanta?" Martin said.

In Atlanta, city, regional and state leaders came together in support of a new runway at Hartsfield International Airport, which is now outdistancing O'Hare as the world's busiest airport. Yet, in winning expansion, Hartsfield had one huge advantage over O'Hare: Partisan politics was never an issue because nearly all major political players in Atlanta and Georgia are Democrats.

Even so, negotiations took nearly a decade, and it wasn't until late last year that a key compromise was reached with College Park, a municipality that borders the airport and will be truncated by the new runway. The town got money to move a convention center and develop hotels, office buildings and car rental facilities. In return, it will lose 100 businesses and the homes of 2,500 people to demolition.

That's the same sort of price that Bridgeton, a middle-class suburb of St. Louis, is going to pay because of plans to expand Lambert-St. Louis International Airport.

Unlike College Park, Bridgeton has been in court, fighting the plans that would level six schools, at least two parks, six churches, 75 businesses and nearly 2,000 homes. But, in April, the Missouri Court of Appeals overruled the municipality's objections to the expansion, concluding, "The substantial benefits conferred by the operation of the airport on the public clearly outweigh the interest of Bridgeton. The expansion of Lambert Airport is essential to its survival."

Among the 27 hub airports in the U.S., O'Hare is the only one that hasn't built a new runway and has no plans to do so.

Former Gov. Edgar, a Republican who participated in the airport feud during his eight years in office, now says the time has come to forget politics and address a critical issue for the region.

"There's a good case for a new runway at O'Hare," Edgar said. "There's a good case for a new airport in the south suburbs. The longer we wait, the more acute the problem is going to be."

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THE THIRD CHICAGO AIRPORT FACT SHEET

The Federal Aviation Administration has called for a major expansion of U.S. airports to meet increased demands on aviation. In 2020, Chicago's regional demand will be two and a half times that of 1993, double that of 1999. By 2001, over 7.1 million projected enplanements in the Chicago region will not be accommodated unless the South Suburban Airport is built.

Five independent studies on the need for an additional airport in the Chicago region concluded a third airport should be built. The studies concluded the third airport will have no negative impact on either Midway or O'Hare Airports. Instead, it would bring over $9 billion, annually, to our region, above and beyond that of the existing airports by 2010; over $16 billion by 2020.

The initial study, the Chicago Airport Capacity Study, concluded that neither Midway nor O'Hare Airports could be expanded to meet Chicago's long-term air transportation needs. With the release of the state's 1994 and 1995 demand forecast studies, it became clear that Midway and O'Hare Airports would be at or near capacity by the year 2000. By 1999, we have watched capacity constraints cause major delays at O'Hare; and, by ripple effect, throughout the nation.

Building a new airport ensures that Chicago remains the nation's prime aviation hub into the next century. It also creates a wide array of airport-related jobs and contributes major revenues to state and local governments. A third airport means 236,000 new jobs and $5.1 billion in annual wages, by 2020.

IDOT studies state that capacity constraints at O'Hare will, first, cause airlines to eliminate commuter air service and, then, all aviation services to cities within 150 miles of Chicago. This trend began in 1992, with airlines increasing fares to downstate communities, resulting in less passenger traffic: The airlines then cut commuter service and, eventually, may eliminate all service to downstate communities; many already have lost service. Eventually, the ability of the Chicago region to attract and retain businesses, jobs and residences would be affected. In 1998 and 1999 some of these lost services were restored, due to adverse publicity, intensive lobbying by officials, and pending Federal legislation.

In 1996, IDOT stated that, in order for the Chicago region to continue as a major transportation and commercial center in the 21st century, the South Suburban Airport should be ready by 2001. However, political maneuvers have kept the project in limbo. But capacity constraints and their impacts continue to multiply. O'Hare already operates, for safety reasons, under FAA restrictions on the number of flights; but Congress is planning to lift these caps. Midway cannot be expanded to include more or longer runways, barring the displacement of surrounding homes and businesses. Although it will not increase capaçity, more than $2 billion will be spent on landside improvements at these airports.

Over the next 20 years, employment in the 14-county region is expected to grow by almost two million jobs. With the new airport, jobs from Chicago's three airports will grow to 674,000, almost 10 percent of the region's total employment in 2020. Without the new airport, projected job growth in the 14-county region will be reduced by 535,000. In the six-county region, the reduction would be 415,000 jobs. The economies of many cities within 150 miles of Chicago will be adversely affected as their traditional businesses, financial and personal ties are cut or strained and transferred to competing regional hubs.

The location selected for the third airport is 23,845 acres of land 15 miles south of the Chicago city limits. The new airport will result in a better distribution of jobs to the existing population; improved accessibility to jobs for minority populations: and a more-balanced regional growth. The site is the closest feasible to the Chicago urban area and has no significant environmental concerns.

The proposed Third Airport would bring jobs and development to a mature portion of the region, hard hit by industrial automation. It makes use of an in-place transportation infrastructure and provides access to nearby inexpensive land for development. It will allow residents of the South Side to reduce both travel time and costs to their jobs. It will bring revenues to municipalities with the highest tax assessments in the region. It is smart growth.

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[From Crain's Chicago Business, Jan. 29 2001]

## High Cost of Gridlock

### STALEMATE OVER AIRPORT EXPANSION IS STARTING TO INFLICT DAMAGE

(By Greg Hinz)

Gov. George Ryan had barely dispatched his bagel and eggs when members of the Illinois Business Roundtable gave him cause for indigestion.

Chicago's economic crown jewel, its once world-leading aviation system, is in trouble, the audience of leading corporate executives bluntly told the governor at the private breakfast meeting late last fall. O'Hare International Airport is not being taken care of, the executives asserted.

In fact, O'Hare now is so beset by delays, congestion and cancellations that financial services giant Household International Inc. is locating new jobs out of state, Chairman and CEO William Aidinger informed Mr. Ryan. When Prospect Heights-based Household has been expanding, he said, it's been expanding someplace else.

That message is every bit as ominous as it sounds for the Chicago-area economy. A decade of scorched-earth political warfare over O'Hare is beginning to take a toll, threatening the city's status as the nation's transportation center and its draw as a corporate headquarters and services center.

Now, the engine that has generated an estimated 500,000 jobs and $35 billion a year is at risk of losing momentum. And continued constraints at O'Hare could cost the region up to $10 billion a year in lost economic activity—from business meetings to larger-scale corporate investment—according to one recent study.

Clearly, business, jobs and investment aren't coming to Chicago—at least not to the extent they might be, had government leaders resolved the fight over whether to add runways at O'Hare or build a new airport in Peotone. In the end, they may have to do both. In the meantime, cities such as Denver are nabbing marketshare.

"Could Chicago lose critical mass as a business services center? It's a strong possibility," says William Testa, senior economist and vice-president of the Federal Reserve Bank of Chicago. "Everything that's growing (in the Chicago economy) is dependent on that engine called O'Hare Airport."

### *Already in a hole*

The situation is so troublesome that former Gov. Jim Edgar for the first time is revealing that he tried to cut an airport expansion deal just before he left office two years ago. Pressure is rising fast on Mr. Ryan and Mayor Richard M. Daley to finish the job.

Most of the evidence of damage is so far circumstantial. Few business people will talk about why they chose to locate a new facility elsewhere. But as former Chicago Aviation Commissioner Jay Franke puts it, "By the time you know for sure you've been hurt in this business, it's too late. It will take 15 years to dig out the hole."

How deep is the hole? Though some data are debatable, a general trend is clear:

The city is losing marketshare in the nationwide aviation business, with O'Hare passenger volume growing at just two-thirds the national rate in the past four years and domestic enplanements—the number of people boarding planes—down two years in a row.

"The picture at O'Hare continues to deteriorate," says Robert Baker, vice-chairman of American Airlines, which is buying Trans World Airlines and intends to expand TWA's St. Louis hub. "Unless O'Hare is operated better than it has been and is allowed to grow with the rest of the economy, its competitiveness will decline."

O'Hare's connecting, or hub business, is moving elsewhere, dropping from 60 percent of domestic enplanements in 1993 to a projected 52 percent by early in the next decade, according to the Department of Aviation.

The loss of hub traffic means that O'Hare stands to lose the large number of destinations and flights that make Chicago such a draw for corporate meetings, trade shows and even business expansion. That loss could jeopardize O'Hare's far more lucrative long-haul domestic and international business, which draws on passengers from feeder cities.

"The challenges Chicago is facing give us an opportunity to pick up some of their traffic," says Amy Bourgeron, deputy manager of aviation at Denver International Airport, a key and fast—growing hub for Elk Grove Township-based United Airlines. "We have the ability to grow.

Decisionmakers say that O'Hare's reputation as a good place from which to do business is down—way down—with congestion costing Chicago businesses an estimated $3 billion last year in lost time and expenses, according to an analysis by Deloitte & Touche LLP (Crain's, July 31).

### *Terrible reputation*

"In the marketplace, the perception is that Chicago is a horrible place to go through," says Stephen Stoner, a facilities location expert who heads the U.S. real estate consulting practice for Arthur Andersen LLP. "If I were the mayor, I'd be nervous. "

Confirmation that a problem exists comes from a surprising source—Mr. Edcrar, a Republican known for his supposed anti-Chicago attitude and support for a third airport at Peotone.

The former governor says he quietly attempted to negotiate a pact with Mr. Daley at the end of his term in 1998 in which he would have agreed to a new runway at O'Hare, in exchange for the mayor signing off on construction of a Peotone airport using state and federal funds.

Mr. Daley says such a conversation never occurred. But Mr. Edgar says he made the previously unreported offer because he concluded that airport gridlock is costing Illinois. "If we don't do something now, we're going to be in trouble in years to come," he says. (See story, this issue.)

National political leaders, too, are getting involved. "We either expand O'Hare Airport, or we build another airport, or both," Sen. John McCain, R-Ariz., declared during a Senate Commerce Committee hearing last summer.

### *Capacity issue is critical*

The shortage of runway space—"capacity constraints" is the industry label—obviously isn't the only cause of O'Hare's woes. Labor strife and technological snafus, bad weather and federal limits on the number of flights all have contributed to the airport's declining stature.

But at the center of the problem is the need for one or more runways, which would offset or ease the other constraints as O'Hare gears up for possible expansion with the scheduled lifting of flight slot controls in 2002.

"The region needs new runway capacity," argues Chicago attorney Joseph Karaganis, who has made a career fighting O'Hare but does not dispute the notion that something must be done. "The question is where to put them."

Two major studies in recent years concluded that the local economy would take a big hit if the airport capacity problem were not solved. The first was a 1996 Dallas/Fort Worth review by the Regional Economics Applications Laboratory (REAL), a joint venture between the University of Illinois and the Federal Reserve Bank of Chicago.

REAL concluded that allowing airport capacity here to grow as much as the market demands would create up to 55,000 jobs in aviation-related fields alone by 2018, and add $15.7 billion in direct value to the metropolitan-area economy.

Geoffrey Hewings, one of the chief authors of that study, says he has not since attempted to measure whether capacity constraints indeed have begun to exact a toll, but believes they're "starting to. We were suggesting, that, by 2001 or 2002, we'd begin to see a 1 percent or 2 percent loss (of potential growth)."

Two subsequent studies by the Chicago office of Booz•Allen & Hamilton, a consulting firm commissioned by the Civic Committee of the Commercial Club of Chicago, reached similar conclusions. Even if some version of Peotone is built, "artificially constraining O'Hare at the current levels of 900,000 (flights a year) could cost $10 billion annually" in direct spending on passenger services and indirect benefits from economic activity such as corporate meetings, the study concluded.

### *Incentives disappearing*

Booz•Allen derived that number by making a key but logical assumption: When capacity is limited, airlines will focus on the most profitable side of their business here and ignore less lucrative traffic.

As Booz•Allen saw it, high-margin international passengers are the most valued, worth $2,310 each to the regional economy. Next in line are Chicago-area residents flying to or from other North American cities—known as origin and destination (O&D) passengers—worth $1,200 each. Last in the priority queue: those flying here from smaller Midwestern cities, and connecting passengers who can be dispatched to other hubs, such as Atlanta, Dallas and Denver; they're worth $430 each.

Over time, connecting traffic and flights to smaller cities will tend to be displaced, Booz•Allen concluded. If enough of those go, there eventually will be "less incentive for airlines to focus international growth investments on Chicago."

The reason: Why should, say, Iberia Airlines run service to Chicago rather than Detroit if Detroit has more flights to smaller American cities where Iberia's passengers live?

Right now, international traffic is perking along nicely at O'Hare, rising nearly 50 percent in just the past four years. But the process of dumping short flights in favor of long flights, and connecting traffic in favor of O&D business, has begun, according to Suhail and Margery at Chatabi, principals in Chicago-based at Chalabi Group, the state consultant on the proposed Peotone airport.

While Chicago once was an aviation leader known for above-average growth, O'Hare operations have been flat in recent years, and domestic enplanements actually are down, Ms. al Chalabi notes. "The airlines are putting more of their (connecting) schedule in other hubs."

Consistent with that loss of hub traffic, Mr. al Chalabi points to figures he's derived from federal reports that suggest O'Hare is indeed losing marketshare. O'Hare enplanements were up just under 9.0 percent between 1995 and 1999, those data indicate—compared with an average 13.5 percent increase for the nation's 68 largest airports, and well below increases at rival hub airports such as Dallas/Fort Worth (17.2 percent), Denver International (15.3 percent) and Atlanta Hartsfield (29.7 percent).

If booming Midway Airport is included, the metro-Chicago hike is slightly more than 13 percent, near the 9 national average, Mr. al Chalabi concedes- But Midway soon will hit capacity and be unable to capture O'Hare overflow, he argues, and the O'Hare increase largely is driven by international, not domestic, business.

Aviation Department reports indicate that O'Hare's domestic business almost certainly fell for the second year in a row in 2000, down 1.2 million passengers, or nearly 2 percent, and that the number of O&D enplanements is at its lowest level since 1995. Remarkably, that flat-to-down performance came during, a period of unparalleled prosperity, when air travel nationally was rising 2 percent to 3 percent a year.

### *Runways not the key, city says*

But City Aviation Commissioner Thomas Walker reads the figures differently. Chicago's aviation market is "mature," he insists, and O'Hare won't need any O'Hare is losing new runways until at least 2012.

O'Hare has been held back not by a runway shortage but by federal slot rules, argues Mr. Walker, whose boss, Mayor Daley, has made it clear the city does not want to discuss runways now. In fact, Mr. Walker says, "the runway capacity we have isn't matched" by the number of available gates, taxiways and other ground facilities needed to handle the planes that do land.

O'Hare plans to remedy that situation with its $3-billion World Gateway plan, which will add two terminals and up to 32 gates, Mr. Walker says. Even so, O'Hare will grow more slowly than other U.S. airports, he concludes. "There just aren't that many more destinations to serve, or that many which are underserved."

Ramon Ricondo, a consultant who works for O'Hare and other airports around the country, says it's "too soon" to worry about recent weakness in O'Hare's domestic business. "You could have any number of things going on," he says, with one major carrier or another temporarily moving traffic to suit its particular needs.

"If O'Hare was less desirable," Mr. Ricondo concludes, "you wouldn't see United and American fighting so hard to get more oates here."

But other data released by Mr. Walker's department indicate that O'Hare's hub business has been down over an extended period, dropping from 60 percent of the airport's domestic enplanements in 1989 to 55.5 percent in 1995. The figure has recovered a bit in the intervening years, but the city projects it will fall to 51.8 percent by 2012.

Additionally, while O'Hare continues to attract non-stop service to new destinations, many of them overseas, it is losing flights to smaller Midwestern cities.

Between December 1996 and December 2000, O'Hare added non-stop service to 32 new locations—including Hong Kong; Istanbul, Turkey; Osaka, Japan, and Krakow, Poland—according to Official Airline Guides, an Oak Brook-based division of Britain's Reed Elsevier plc Group. During the same period, the airport lost non-stop service to 15 cities, including Decatur, Danville and Sterling, Ill. Terre Haute, Ind., and Mason City and Sioux City, Iowa.

### *Future performance a concern*

Industry experts say there is reason for Chicago to be concerned.

American Airlines' Mr. Baker says he worries that O'Hare's performance will further deteriorate when carriers try to add more flights after the slot cap is lifted in 2002. He points to the chaos that enveloped New York's LaGuardia Airport last summer when slot controls were lifted temporarily there.

"There's no way to add Chicago capacity without dragging (performance) down," says Mr. Baker, who was interviewed before American announced plans to buy TWA. "That would affect Chicago's viability."

Thomas Hansson, one of two chief authors of the Booz•Allen report, concurs that O'Hare operations are "at capacity."

Walter Aue, American's vice-president for capacity planning, confirms that his airline's expansion here will be "focused internationally;" even though it also would like to add service from Chicago to the East Coast.

Other carriers' decisions in recent years to open hubs in cities such as Cincinnati and Detroit are a sign of what's occurring, he adds. "They're a reflection that O'Hare hasn't grown in 20 years. O'Hare should be growing at a greater rate than it is,"

Howard Putnam, a former United vice-president who later headed Southwest Airlines and the now-defunct Braniff Airways, says he hears one statement a lot from top airline pros: "We don't have enough concrete" in Chicago.

Mr. Putnam says he hasn't examined the latest data on whether O'Hare is losing marketshare, and notes that the data likely can be interpreted in various ways, but he's nonetheless made up his mind about O'Hare: "I haven't been there in three years. I go anywhere else I can to avoid it."

Even Chicago's hometown airline, United, is avoiding Chicago to some degree. Though its headquarters is on the north edge of the airport, the carrier confirms that other hubs like Denver are getting business that O'Hare can't handle. (See story, this issue.)

Things are so tight here that a labor action or bad weather has a ripple effect—for example, the stranding of thousands of United passengers last summer.

As serious as O'Hare's problems are, the more basic question for Chicago is whether the airport wars have begun to claim victims throughout the broader economy.

Some say not yet, but they're worried.

"There is such a solid base of business here that they see themselves surviving in spite of O'Hare," says Laurie Stone, president of the Greater O'Hare Assn. of Industry and Commerce, a 1,200-member business group. "I don't see very much political leadership."

### *Marginalizing O'Hare*

Others—particularly in growing, transit-dependent fields such as law, accounting and banking—have begun to adjust their work habits, or fear they will have to soon.

Diane Swonk, chief economist at Chicago's Bank One Corp., crew so fed up with O'Hare that she began flying, out of much smaller, but more dependable, Midway. Once there, she discovered that a lot of other bankers already had made the move.

Michael Krauss, chief marketing officer at DiamondCluster International Inc., says employees at his Chicago-based high-tech consulting firm survived last summer's flying, woes by, among other things, making more conference calls.

But some companies already have decided to sidestep O'Hare.

Michael Lynch, director of public affairs at Illinois Tool Works Inc., says flying personnel to Detroit for a weekly meeting with big, auto clients became such a hassle that the Glenview-based manufacturer has cut way back on trips. Instead, the firm taps the teleconferencing network it recently built at 20 locations worldwide.

In fact, the company is so fed up with O'Hare that it almost located a new manufacturing facility near St. Louis, deciding on Ottawa, in LaSalle County, at the last minute only because of other factors, Mr. Lynch says. "O'Hare is being, marginalized.

### *No. 1 priority*

That view is being expressed more and more.

Lester Crown, the industrialist and financier who heads the Civic Committee's aviation panel, says that when he speaks with his colleagues from other cities, they say two things about Chicago It's "a wonderful place to be," and "O'Hare is a mess. What a shame."

For those who want to keep the region prosperous, he adds, "nothing, could be of more benefit" than ending Chicago's air gridlock. "Anything else pales in comparison."

## Is Political Breakthrough on the Radar?

Amid the harsh words and political flak that dominate Chicago's airport wars, a surprise is emerging: the outline of a potential compromise.

At first glance, airport peace seems as likely as a Cubs World Series sweep. After all, O'Hare's politically powerful neighbors, led by the Suburban O'Hare Commission, not only want to cap growth but also complain bitterly about noise and air pollution. And Mayor Richard M. Daley, by all accounts, is unwilling to even acknowledge that an airport capacity problem exists, much less sit down and bargain.

But after a decade of dogfights over O'Hare and Peotone, there are signs the region may be at a critical turning point. With a new president, a governor perhaps in search of a legacy and a business establishment that's increasingly vocal about O'Hare's importance to its growth, the logjam could break.

The wild card is Mr. Daley and whether he's willing to push when pushing might work. Asked repeatedly in various forums about the airport problem, Mr. Daley dismisses discussions about the need for additional runway space. As for Peotone, the mayor usually responds, "If they want to build it, they should go buy the land."

There are reasonable compromises out there," says U.S. Rep. William O. Lipinski, D-Chicago, who holds a crucial bargaining post as the ranking Democrat on the House Aviation Subcommittee. "Whether there are people out there who are reasonable, I don't know."

Another top Democrat may be jumping into the fray. Illinois House Speaker Michael Madigan is considering forming a committee on aviation, aides to the Chicago Democrat confirm. The panel would give Mr. Madigan a platform to raise his profile on the subject of runway and airport expansion.

One sign auguring in favor of the obvious compromise—a runway or two plus new western ground access at O'Hare, and a small airport at Peotone—is that the public positions of some of the major players are closer than is generally realized.

For instance, while Suburban O'Hare Commission lawyer Joseph Karaganis argues that Peotone will be a financial flop unless limits are imposed on O'Hare operations, state Transportation Secretary Kirk Brown, Peotone's original patron, disagrees.

He says Peotone "absolutely" needs neither caps at O'Hare nor a portion of O'Hare-generated passenger fees: "You don't need to take traffic from O'Hare." Mr. Brown wants the state to build a $500-million starter field at Peotone using state and federal funds.

The goal is to build an airport with point-to-point flights, not a hub, that would start out slowly and build, like Midway," he says.

Such a position should please executives such as Robert Baker, vice-chairman of American Airlines. He says American does not want to be forced to pay for dual hubs at O'Hare and Peotone, since the vast majority of its passengers live closer to O'Hare, but concedes that "some small amount of local service might work" at Peotone.

### *The Midway factor*

Another example: City gripes that building Peotone could kill Midway Airport appear to be overblown, at least legally.

It is true that leases signed by Southwest Airlines and other Midway carriers allow them to leave under certain conditions. But those conditions are limited to cases in which the city itself develops another airport within 50 miles, or in which someone else does and thereby forces "material limitations on operations" at Midway, according to the city's lease with Southwest.

One well-placed city official concedes that the language is "intentionally vague." And Southwest's director of property, Peter Hampton, acknowledges that mere competition from Peotone would not be enough to cancel the lease, but argues that the meaning of "material limitations" might have to be resolved in court.

Driving a possible compromise: political change. The relationship between Mr. Daley and Gov. George Ryan is as congenial as the relationship between Mr. Daley and former Gov. Jim Edgar was icy—and both officials are under increasing pressure to work things out now, while they still can.

Though the mayor flatly denies that he met with Mr. Edgar to discuss airport issues in 1998, Arnold Weber, who was president of the Civic Committee of the Commercial Club of Chicago, says the big-business lobbying group helped arrange the meeting and that Mr. Edgar briefed him on its outcome two or three days later.

I never ever had a conversation with him on that subject," Mr. Daley says. Asked if he could work with Mr. Ryan on a compromise, he says, "I don't know. This is the governor's standoff."

Why the mayoral reticence?

Some say Mr. Daley never got over his bad airport experience of several years ago, when the proposed Lake Calumet field was quickly shot down, and is unwilling to expend more political capital. Other political insiders say Mr. Daley's mind is on a more practical matter: tens of millions of dollars in jobs and contracts that friends and associates control at O'Hare.

But the mayor may not be able to duck much longer. With Republicans, rather than the anti-Peotone Clinton White House, now running the U.S. Department of Transportation, Mr. Daley runs the risk of the GOP winning crucial federal approval to build Peotone without giving O'Hare anything.

The pressure on Mr. Ryan is even more acute. A dealmaker par excellence, Mr. Ryan could cut the mother of all deals on Chicago airports, State law gives him the power to unilaterally approve more runways at O'Hare. But with federal prosecutors having badly damaged his reputation, Mr. Ryan's time in office may be running short.

### *Hastert could weigh in*

There is one other key figure: U.S. House Speaker J. Dennis Hastert, R-Yorkville.

Unlike powerful DuPage County politicians such as Illinois Senate President James "Pate" Philip and U.S. Rep. Henry Hyde, R-Addison, he tends to favor O'Hare expansion because his district is far enough from the airport to be insulated from noise problems but close enough to share its economic benefits. If the city, as part of a runway deal, agrees to add a western entrance to O'Hare—just minutes away from Mr. Hastert's district—the speaker might bite, insiders say.

Bottom line: "A deal is possible. There's probably as good a chance now as ever," says one top Springfield insider. "At some point, I think the governor will be willing to talk." But will Mr. Daley talk, too?

## Denver's Skies Friendlier as United Expands

With 450 departures a day from O'Hare International Airport and its corporate headquarters just a few blocks away from the terminals, United Airlines might be said to have a major investment in Chicago's aviation system. But when it comes to growing its mid-continent hubs, United's rising star is located a thousand miles away from its hometown, in Denver.

United has added dozens of flights at Denver International Airport since 1995, while its O'Hare operations and passenger flow have barely edged up.

"Our ability to grow (O'Hare) has been limited," says Kevin Knight, United's vice-president in charge of route development, blaming a shortage of gates that will be only partially alleviated by O'Hare's pending expansion, about-to-expire federal slot rules and a shortage of runways that shows no sign of easing.

"One of the major challenges we face is getting airplanes out of the airport," he say. "That means runways."

The carrier's pending acquisition of US Airways Group Inc., with its coveted East Coast routes that will provide a lucrative feed for long-haul domestic and international flights, will enable United to grow faster than before. But with O'Hare's current constraints, it's possible that Chicago won't reap the benefits of a larger, more powerful United.

The numbers tell a simple story.

At the 6-year-old Denver International, where United and its United Express feeder line are dominant, operations have been rising about 4 percent a year for the past five years—about the same as in other airlines' mid-America hubs, such as Detroit, according to Mr. Knight. Much of that service is provided by increasingly popular regional jets, which carry fewer passengers but require almost as much runway space as large aircraft.

But at O'Hare, United's operations and enplanements—the number of passengers boarding planes—are up just 1 percent, Mr. Knight says.

Since United still wants to grow its high-margin international business in Chicago and to serve as many local residents as possible an their domestic trips, something has had to give. The something is connecting hub service, in which out-of-towners fly here to get a flight to a third city. That service has begun to head elsewhere.

"The percentage of our passengers that are local in Chicago has been increasing," Mr. Knight says, jumping from 38 percent in 1994 to 44 percent in 1999. That means connecting passengers are down, to 56 percent from 62 percent.

"While we continue to serve the local Chicago market very effectively, we are increasing local service at the expense of connections," Mr. Knight concedes. "Some of that traffic that could go to Chicago is going elsewhere."

Mr. Knight doesn't identify any particular flight or city that's vanished from United's service roster. He insists that United's recent decision to drop non-stop service from Chicago to Honolulu—O'Hare passengers now have to change planes in Los Angeles or San Francisco en route to Waikiki, just like the folks from Des Moines—was based on other factors.

But there are big smiles in Denver, where the total number of passengers leapt 21 percent to an estimated 39.2 million last year from 32.3 million in 1996, far surpassing Chicago's modest 5 percent increase to an estimated 72.4 million in the same period.

United already has added 50 flights a day in Denver since the city's old Stapleton Airport closed in early 1995, and United Express service is up 25% in three years. The airline has agreed to lease 10 more gates in Denver—more than the eight additional spots it will get under O'Hare's pending World Gateway expansion—and announced last June that it's building a $100-million, 36-gate regional concourse there.

"They are growing here. We like that," says Amy Bourgeron, Denver's deputy manager of aviation. "We have competitive advantages over other airports that have congestion and traffic problems."

Mr. Knight does have a little good news for O'Hare. For at least the next five years, it will remain United's single largest hub.

Meanwhile, he has a sharp reply to contentions by city officials that Chicago is a "mature" market in need of little new service: "I couldn't agree with that. This is a viable, growing market."

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[From the Chicago Sun-Times, Feb. 17, 2001]

### MAYOR STANDS EXPOSED ON AIRPORT

(By Jesse L. Jackson, Jr.)

Mayor Daley's erratic posturing on a third airport in Chicago reminds me of the fabled emperor with no clothes.

No matter what the emperor said, believable or not, his followers displayed blind loyalty.

In the late 1980s, Daley mocked the idea of a third airport, calling it unnecessary. In 1990, he did an about-face and proclaimed that Chicago needed another airport or else the city would "continue to lose business to Denver, Dallas, Atlanta and others." Two years later, in another reversal, Daley declared that Chicago had enough airport capacity for another 20 years.

So, throughout the '90s, the city paid hundreds of millions of dollars to consultants, lobbyists and public relations firms to force-feed incorrect data to the public and the federal government, supporting the mayor's bogus claim that the city needed no new capacity. All the while, O'Hare was choking on congestion, delays and gridlock.

As recently as last month, the mayor and the city Aviation Department reiterated that O'Hare needed no new runways until 2012.

Then on Feb. 1, the mayor flipped again, dropping all pretense and admitting the obvious—that Chicago needed additional capacity. Now the mayor is calling for new runways at O'Hare.

Unfortunately for taxpayers, the mayor's deception has come with a heavy price tag.

To pay for his ill-fated third airport, Daley in 1992 leveraged Congress to enact a $3 ticket tax on air travelers. The so-called passenger facility charge was, according to Congress, to be used to increase airport capacity and enhance airline competition.

Instead, the city committed $3 billion in passenger facility charge receipts—all those to be collected through 2017—to expand and gold-plate terminals, improve taxiways and aprons, and pay consultants—none of which adds capacity or competition to the overcrowded, overpriced O'Hare.

Consequently, passengers are paying for a new airport but getting increased fares, delays, cancellations and congestion at "O'Nightmare."

Now, given the mayor's renewed call for runways, it is inevitable that City Hall and O'Hare's dominant carriers, United and American airlines, will return hat-in-hand to ask the federal government and the public to pony up more money.

After violating the public trust so often, the mayor wants to be the steward of it. But his tactics have led to misplaced priorities and misallocation of funds. Chicago deserves better.

Fortunately, there is an alternative. The State of Illinois has proposed building a third airport near Peotone. As proposed, the inaugural airport could be built faster, cheaper, cleaner and safer than a new runway at O'Hare.

With Peotone's stock suddenly rising with the new administration in Washington, Daley and his supporters in business and the media are promoting a compromise. Many are advocating that O'Hare get a new runway in exchange for Peotone getting off the ground. Of course, a new runway at O'Hare makes Peotone unnecessary for at least several more years.

I oppose such a deal. The city has strained its credibility and blocked the doorway of opportunity long enough. The region is paying with lost jobs, market share and tourism. Passengers are paying with high fares and poor service.

For the sake of safety and fairness, Peotone must be the taxpayers' new first priority. Because the naked truth is, the city, the mayor and the airlines no longer can be blindly trusted to ensure that Illinois gets the best deal.

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### A MESSAGE FROM THE MAYOR

(By Richard M. Daly)

Chicago's Southeast Side, along with the entire Calumet region, has been in a state of economic decline since the steel industry and its related businesses left the area.

The loss of this industrial base proved devastating to many thousands of families forced to endure years of harder times.

Over the years that followed, there were many promises of revitalization and major new industry. None of them amounted to anything.

There are two realistic futures for this area.

One is to continue struggling, fighting for dwindling resources that will never be enough to restore the area to economic and environmental health.

A comprehensive clean-up of the industrial pollution alone would cost hundreds of millions of dollars that simply are unavailable from the federal government.

The other future is one that offers tremendous hope: the prosperity of hundreds of thousands of new jobs and an economic rebirth that includes a cleanup-up environment.

It is a future that will cost billions of dollars to create. And there is only one possible way to raise this money: the Lake Calumet Airport.

While my airport proposal is good for the entire City of Chicago, it is the Calumet region that will most benefit.

Construction and operation of this international airport will create a huge economic engine that will pump new life into this region.

It will bring new prosperity to the entire area, making it the most dynamic in the state.

The economic benefits of this project are so immense—we are talking billions of dollars each year—that it will present no difficulty to create new communities for those residents who must someday relocate nearby.

These communities can even be modeled after what is now in place—if that is what the residents desire.

We can do all this. It's that big a project.

Chicago is a city of neighborhoods and of families. Many Southeast Side residents have roots in the area going back generations.

All of this can be preserved, both in the city and throughout the Calumet region, as the new airport takes shape.

I wouldn't have it any other way.

A few opponents of the airport believe the area is being asked to sacrifice itself for the good of the rest of Chicago.

I ask no sacrifice other than to give up the false promises of the past, in favor of a real future for the community and all who call it home.

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### LAKE CALUMET AIRPORT: THE FUTURE OF CHICAGO

Chicago's O'Hare International Airport is again the busiest in the world for 1990, but this coveted title did not come by chance. Chicago worked hard to become the transportation hub of the nation.

Competition in the aviation world is more intense than ever. Today other cities aggressively pursue this prestigious leadership position in the nation's air transportation system and the jobs and economic benefits that go with it.

Not all passengers using Chicago airports begin or end their trips here. About half are connecting passengers using the major airline hub operations at O'Hare.

This arrangement not only makes them customers of the airport bringing in revenue, but also makes available a huge selection of direct destinations for Chicagoans to points around the world. This, in turn, makes Chicago a very attractive location for business and industry that rely heavily on convenient passenger and air freight service.

Aviation leadership means a great deal to Chicagoans. If the new airport is not built, the city will likely continue to lose business to Denver, Dallas, Atlanta and others that more aggressively compete with new and improved facilities. Should airline business go elsewhere, Chicago will lose many of the jobs it now enjoys.

The central position occupied by Chicago in the nation's air transportation system has been extremely important to the economic growth and development of the entire region. The economic impact of O'Hare—the state's seventh-largest employer—is more than $9 billion each year and the airport supports over 180,000 jobs. The Lake Calumet Airport will be larger in size and generate even greater economic benefits and jobs.

Forecasts for the future of air travel indicate that Chicago's present airports will not be able to handle the increased demands of air transportation expected in the next century. As demand for air service increases, delays and congestion at Chicago's airports are getting worse. As a result, the share of business handled by Chicago already has begun to decline.

In 1986, the Illinois Department of Transportation began a feasibility study for a third Chicago airport. The results clearly demonstrated that the location that would provide efficient service to the most passengers is between Chicago's Loop and Gary, Indiana.

Chicago Mayor Richard M. Daley proposed the Lake Calumet airport site as the best means for revitalization of the north-eastern Illinois and northwestern Indiana region. Located halfway between the Loop and Gary, it is ideally situated to attract a significant share of Chicago's air transportation market. News organizations including the Chicago Sun-Times, Crains's Chicago Business, the Chicago Tribune and the Southtown Economist have recognized the benefits of the Lake Calumet Airport concept, as have a broad-cross section of community, labor and business leaders.

Sponsored by the states of Illinois and Indiana and the City of Chicago, a major study is now underway of five new airport sites: the Chicago Lake Calumet location; expansion of the Gary Municipal Airport; Rockville Township in northwest Kankakee County; Peotone, Illinois in Will County; and a location on the Illinois-Indiana state line east of Beecher, Illinois—also in Will County.

The results of this study, to be completed in Fall 1991, will compare the suitability of these sites as airports under established financial, environmental, social and technical criteria. The Bi-State Airport Policy Committee, made up of the appointed representatives of the three sponsors, will review these findings and recommend a site to be developed as an airport for the region.

The advantages of the Lake Calumet site are that it addresses the region's need for a new airport, not only by attracting passengers, but also by improving the environment (see "Airport to provide health and environmental benefits", page 2). These advantages make it a strong contender.

The lead time for developing a major airport is very long—15 years or more. Several complex steps must be taken after site selection is completed. They include: master planning, environmental review, financing, land acquisition, site preparation and construction.

The expenses are enormous. At a cost of $5 billion, only location with the financial resources to cover such expenditures can realistically aspire to build an airport in today's environment. Chicago is the only site with that capacity.

A new airport will allow Chicago to retain its leadership in aviation well into the next century and continue to enjoy the many economic benefits inherent in that position.

### CHICAGO AVIATION MILESTONES

1927—"Chicago Airpark" (now Midway) opens as the first municipally owned and operated airport in United States.

1932—Midway Airport, the birthplace of municipal aviation, becomes the world's busiest airport, serving 100,847 passengers annually.

1963—O'Hare International Airport is dedicated by President John Kennedy, heralding the beginning of the jet age in Chicago.

1970—O'Hare continues as the world's busiest airport, serving 29 million passengers annually.

1990—On February 15, Mayor Daley unveils his proposal for the Lake Calumet Airport to ensure Chicago's aviation leadership into the 21st Century.

### AIRPORT WILL GENERATE NEW JOBS

As the residents know, the Lake Calumet areas has been in an economic slump that has lasted for nearly two decades. Since many steel mills, factories and neighborhood businesses were closed, many former workers have had to take lower paying jobs.

Despite the many promises of jobs from same local politicians over the years, nothing has been found to replace the good-paying jobs that used to be plentiful for area residents.

This is why the Lake Calumet Airport project is so important for the area. It brings far more than just an airport. It will revitalize the Southeast Side of Chicago and the entire Calumet region. The airport will generate thousands of jobs and business opportunities.

The Lake Calumet Airport will provide an economic rebirth for an area with a rich heritage founded on a strong work ethic. The airport is expected to generate nearly $14 billion each year and bring approximately 200,000 new jobs to the region once it becomes operational in the year 2010. The jobs include every line of work in the aviation industry, along with thousands of positions in airport spin-off businesses.

The project will require thousands of construction workers to build the airport facilities and the new housing and business developments that will spring up around the airport. These jobs will offer competitive wages.

The Mayor is committed to establishing a program that gives residents from the affected communities the first opportunity to train and apply for these jobs.

The city will develop a comprehensive job training and employment program by working with unions, business developers, women- and minority-owned businesses and area schools. City colleges and vocational schools will be encouraged to establish courses to train residents for the jobs that will be needed at the airport and in the many spin-off businesses.

The city will encourage business developers to support the job training programs. Contractors for the numerous project tasks will be selected, in part, based upon their commitment to support the local employment pool.

PARTIAL LIST OF THE JOBS THAT SUPPORT AIRPORT OPERATIONS

| Occupation | Middle Range Earnings * |
|---|---|
| Ticket Agent | $26,208–$34,996 |
| Line Maintenance Inspector | 36,400–44,262 |
| Motor Vehicle Mechanic | 30,555–41,808 |
| Aircraft Inspector | 36,400–45,302 |
| Aircraft Mechanic | 30,784–39,728 |
| Ramp Service Helper | 20,093–34,778 |
| Stock Clerk | 24,814–33,488 |
| Aircraft Cleaner | 15,413–28,600 |
| Computer Programmer | 25,766–30,576 |
| Computer Systems Analyst | 34,684–59,202 |
| Janitor, Porter, Cleaner | 11,315–27,706 |
| Dispatchers | 29,640–55,120 |

* In 1989 dollars.

Source: U.S. Dept. of Labor, Bureau of Labor Statistics.

## SOUTH SUBURBAN AIRPORT: AVIATION DEMAND IN THE CHICAGO REGION

### BACKGROIUND ASSUMPTIONS FOR DEMAND FORECASTS *

Aviation demand is derived from a few basic factors:

The national/international growth in aviation.

The socio-economic dynamics and growth of the region.

The location/desirability of the region for providing connecting flights.

The ability of the region to accommodate this demand depends on:

The capacity of its airports.

The competitiveness of its fares.

### NATIONAL/INTERNATIONAL AVIATION GROWTH

The FAA forecasts a doubling in aviation growth over a 15 year period.

International enplanements and freight are growing even more rapidly.

The FAA and the Airports Council International have equated this growth to 10 O'Hare Airports.

By 2012, there will be more than 1 billion enplanements, 2 billion passengers in the U.S.

### SOCIO-ECONOMICS CREATE DEMAND

Since the original aviation forecasts, made in 1994, the socio-economic performance of the Chicago region has matched or exceeded expectations:

In 1990–1996, population and employment for the 14- and 9-County regions grew at rates and volumes slightly above those forecast.

The Chicago Consolidated Area (Kenosha to Michigan City) produced 1,311,000 jobs between 1970 and 1996; and added 617,260 persons.

The regional planning agencies have increased their 2020 forecasts, to reflect this growth. So has NPA, author for forecasts used by City of Chicago.

Woods & Poole Economics (the national forecast used by IDOT), in its 1999 edition, expects the Chicago region to produce the largest volume growth in employment of any metropolitan region in the U.S.: for 1996—2020, a 1,118,660 job growth; for 1990—2020, a 1,635,570 job growth.

Chicago's economy can continue its robust growth only if it can provide excellent aviation access. And, it can serve the region fairly, only if it provides that access to the south suburbs.

### LOCATION DRIVES CONNECTING FLIGHTS

Because of its central location and high concentration of jobs and population, the Chicago region is a critical location for connecting flights:

The recent Booz•Allen study, prepared for the City, forecasts an international growth that is higher than IDOT's; and claims that high ratios of connecting to O/D are not just desirable, but necessary.

The City of Chicago, in 1998, forecast connecting enplanements based on regional location; their connecting forecasts were higher than IDOT's.

O'Hare's current connecting is 54.7%, slightly under its past average. IDOT assumed 50% connecting for O'Hare in 2001; 51% for the region.

### AVIATION GROWTH PARALLELS IDOT FORECASTS

Since their national forecasts of 1994 (base for IDOT forecasts), the FAA has generated five 12-year forecasts, five long-range national forecasts through 2020, and five terminal area forecasts.

All the FAA national forecasts are higher than the study's base forecast.

Although it continues to contest IDOT's forecasts, the City of Chicago and its consultants are using forecasts that are nearly identical.

The City and State are using IDOT socio-economic and aviation forecasts for all short- and long-term regional transportation planning.

Other aviation plans (Gary Airport Master Plan; Booz•Allen forecasts for O'Hare International) are consistent with IDOT forecasts.

### CAPACITY CONSTRAINTS JEOPARDIZE ECONOMIC AND AVIATION GROWTH

The ability of the region's airports to accommodate demand is a most-serious concern. The Chicago region has reached aviation capacity. These aviation capacity constraints have dampened regional growth:

Since 1995, O'Hare's growth in commercial operations has stopped.

Domestic enplanements at O'Hare have declined this year.

Small cities have been dropped from service.

Booz•Allen says the international market is not being well served.

Fares at O'Hare have risen above the average for large airports.

O'Hare delays have been much greater this year than last; O'Hare's delays are among the nation's highest and cascade throughout the nation's airports.

The FAA has long forecasted such capacity problems and resultant delays. In 1992 it forecasted a doubling of airports with delay problems by 2001.

The forecasts have arrived a bit ahead of schedule. Without additional capacity, the economic well-being of both Chicago and the nation are jeopardized.

### THE GROWING IMBALANCE IN THE REGION'S GROWTH, AND ACCESS TO JOBS

1. The Chicago region has grown robustly over the past 25–30 years.

Over 1.310 million jobs (1970–96) for the consolidated area.

Over 275,000 jobs between 1990 and 1997, alone, for the six-county area.

2. This growth has been very uneven. The North has prospered, while the South has languished.

3. The region's center has migrated from Downtown Chicago (with its excellent public transportation access) to the area around O'Hare (dependent on autos).

4. The City of Chicago lost over 27,000 jobs between 1991 and 1997; 11,000 of these losses were from the South Loop.

5. The suburbs grew by 300,000 jobs. The areas to the north, northwest and west (O'Hare-influenced) contributed nearly 200,000 of this growth.

6. With 500,000 jobs in Chicago's CBD, versus 450,000 in North Suburban Cook and 150,000 in Northeast DuPage, the economic center of the region has shifted from Downtown to O'Hare.

7. Consequently, residents of the South Side and South Suburbs have commutes to work that are among the nation's longest. There is little public transit between suburbs.

8. These same residents do have the region's highest tax rates, however; without businesses and industries, the residents, alone, must pay for all their services.

9. New businesses and industries want access to major airports. O'Hare's nearby communities have run out of space to offer. The South Side has ample land, but no airport. The ample land also allows the construction of an environmentally-sensitive airport.

10. To accommodate the economic growth anticipated over the next 20 years, the Chicago region needs additional airport capacity. To balance the economic growth, it needs a South Suburban Airport.

### SOUTH SUBURBAN AIRPORT: AVIATION DEMAND IN THE CHICAGO REGION

### BACKGROUND ASSUMPTIONS FOR DEMAND FORECASTS

Aviation demand is derived from a few basic factors:

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The location/desirability of the region for providing connecting flights.

The national/international growth in aviation.

The ability of the region to accommodate this demand depends on:

The capacity of its airports.

The competitiveness of its fares.

### SOCIO-ECONOMICS CREATE DEMAND

Since the original aviation forecasts, made in 1994, the socio-economic performance of the Chicago region has matched or exceeded expectations:

In 1990–1996, population and employment for the 14- and 9-County regions grew at rates and volumes slightly above those forecast.

The Chicago Consolidated Area (Kenosha to Michigan City) produced 1,311,000 jobs between 1970 and 1996; and added 617,260 persons.

The regional planning agencies—primarily NIPC, but also NIRPC have increased their 2020 forecasts, to reflect this growth.

Woods & Poole Economics (the national forecast used in the former IDOT study), in its 1999 edition, expects the Chicago region to produce the largest volume growth in employment of any metropolitan region in the U.S.: for 1996–2020=1,118,660 job growth; for 1990–2020=1,635,570 jobs growth.

NPA, author of the forecasts used by the City of Chicago in 1998 and once much lower, in 1999 raised their economic forecasts to match those of W&P.

### LOCATION DRIVES CONNECTING FLIGHTS

Because of its central location and high concentration of jobs and population, the Chicago region is a critical location for connecting flights:

The recent Booz•Allen study, prepared for the City, forecasts an international growth that is higher than IDOT's; and claims that high ratios of connecting to O/D are not just desirable, but necessary.

The City of Chicago, in 1998, forecast connecting enplanements based on regional location; their connecting forecasts were higher than IDOT's.

The FAA's latest estimates put O'Hare's connecting at 54.70% slightly under its average percentage of the past 15 years. IDOT assumed 50% connecting for O'Hare in 2001; and 51% for the region.

### AVIATION GROWTH PARALLELS IDOT FORECASTS

Since their national forecasts of 1994 (base for IDOT forecast), the FAA has generated five 12-year forecasts, five long-range national forecasts through 2020, and five terminal area forecasts.

All the FAA national forecasts are higher than the study's base forecast.

Although it continues to contest IDOT's forecasts, the City of Chicago and its consultants are using forecasts that are nearly identical.

The City and State are using IDOT socio-economic and aviation forecasts for short- and long-term regional transportation planning.

Other aviation plans Gary Airport Master Plan; Booz•Allen forecasts for O'Hare international are consistent with IDOT forecasts.

### CAPACITY CONSTRAINTS JEOPARDIZE ECONOMIC AND AVIATION GROWTH

While forecasts are an issue, it is the ability of the region's airports to accommodate demand that is most serious. The Chicago region has reached capacity. Aviation capacity constraints have dampened regional growth:

Since 1995, O'Hare's growth in commercial operations has stopped.

Domestic enplanements at O'Hare have declined this year.

Delays have been significantly greater this year than last.

Small cities have been dropped from service.

Booz•Allen says the international market is not being well served.

Fares at O'hare have risen about the average for large airports.

### ABILITY TO ACCOMMODATE-REGIONAL DEMAND IS DECLINING

In 1998, (FAA statistics) O'Hare slipped to second place, behind Atlanta's Hartsfield, in enplanements. Capacity limited O'Hare's growth. The City of Chicago claimed that we should, "look at the Chicago aviation system (O'Hare and Midway) which combined, make Chicago the world's busiest system." Unfortunately, this claim is wrong; but a look at the major regional aviation systems in the country shows that Chicago is slipping in accommodating its regional demand.

In 1993, the Chicago regional system ranked second, behind New York, only. By 1998, it was about to slip behind Los Angeles, but rallied at year's end. By 2015, however, Chicago will have slipped to fourth, behind New York, Los Angeles and Atlanta.

MAJOR AIRPORT SYSTEMS

[Enplanements in thousands and regional rank]

| Region | 1993 | 1998 | 1993–98 growth (percent) | 2015 |
|---|---|---|---|---|
| Chicago (O'Hare, Midway) | 33,017 (2) | 39,231 (2) | 16 | 65,551 (4) |
| Atlanta | 22,282 (6) | 35,255 (4) | 53 | 65,719 (3) |
| New York (JFK, Laguardia, Newark) | 36,855 (1) | 43,895 (1) | 20 | 70,514 (2) |
| Los Angeles (LAX, John Wayne, Ontario, Burbank) | 31,878 (3) | 38,510 (3) | 25 | 71,377 (1) |

[1] FAA—Terminal Area forecasts Summary: fiscal Years 1998–2015 estimates had Chicago slipping to 3rd in 1998. FAA—Terminal Area Forecasts Summary: Fiscal Years 1999–2015—source of above data.

Chicago's slippage, over the five-year period (1993–1998) shown, indicates its inability to accommodate regional aviation demands.

Chicago's regional growth, at 16%, lagged far behind Atlanta's, at 53%.

Chicago also lagged behind the regions that have capacity-constrained major airports—New York, Washington, San Francisco and Los Angeles—because those regions have utilized third and fourth airports.

Recent statistics indicate that O'Hare has slipped behind in operations, as well as enplanements, a clear indication of capacity constraints.

There are no socio-economic reasons for a dampened regional demand.

### OPPORTUNITIES ALREADY HAVE BEEN LOST; OTHERS WILL FOLLOW

It is always difficult to document events and forecasts that do not materialize. But if you trust your forecasts, some estimates can be made and general conclusions reached.

Over the past decade, the Chicago region has missed the following opportunities:

When Delta could not accommodate its demand at O'Hare, it moved its Midwest hub operations to Cincinnati. Cincinnati, with a metro area population of 1.729 million in 1980 and 1.969 million in 1999, has watched its airport grow from 2.300 million enplanements, in 1986, to 9.327 million enplanements, in 1997; and is forecast to grow to 21.826 million enplanements by 2015.

Both the U.S. Postal Service and Fed Ex have built major facilities at Indianapolis Airport. United Airlines built its maintenance facility there, as well. UPS built major facilities at Louisville and Rockford Airports.

United Airlines, Chicago's hometown airline, has developed its European hub at Dulles Airport. It now is transferring increasing numbers of connections to Denver, the airport it opposed so vehemently.

Major conventions have been lost, in total or in part, to the Chicago area. An IDOT study showed that average fares from across the country to Orlando and to Las Vegas were lower than to Chicago despite the fact that average distances to Chicago are smaller.

Chicago, over the past several years, has lost major headquarters. Although many losses were due to acquisitions/mergers, few new corporate headquarters have chosen to locate in the Chicago region. Although proximity to a major airport is one of three factors determining corporate location, such proximity in Chicago is both costly and rare.

The region has missed a window of opportunity when: jobs have grown beyond expectation; financing was available; business economic conditions were very good; and commercial development rebounded.

Without a major investment in airport infrastructure, by 2020 the Chicago region will have forfeited: 30.7 million regional enplanements unaccommodated; 500,000 jobs and attendant economic opportunities lost.

### Chicago's Third Airport and the Future of the Chicago Region: An Opportunity for Smart Growth, Infill Redevelopment and Regional Balance

The Midwest and, in particular, the Chicago Metropolitan Area, has had a remarkable turnaround in economic fortune over the past decade. It has shed its "rust-belt" image and has produced remarkable economic growth.

Between 1990 and 1998, the six-county Chicago area grew by 505,500 persons, a 7 percent increase. While this percent increase is moderate, the numerical increase is equivalent to a city larger than Denver.

Between 1990 and 1997, the six-county area grew by 275,000 jobs, a 9 percent increase. Between 1970 and 1996, the region (Kenosha to Michigan City) grew by 1.310 million jobs, the fifth largest increase in the nation.

Between 1996 and 2020, the Chicago region is projected to grow by 785,000 persons. This is a city the size of San Francisco.

Between 1996 and 2020, the Chicago region is projected to have the largest growth of any metro area in the U.S., adding 1.118 million jobs.

In spite of these significant regional turnarounds, the City of Chicago continued to lose ground. Between 1991 and 1997, the City of Chicago lost over 27,000 jobs; 11,000 were from the South Loop. Every one of the City's eight major community areas experienced losses, with the exception of North Michigan Avenue and the Northwest area around O'Hare International Airport. The Far South, Southwest and South communities experienced the greatest losses.

This development trend extended to the suburban area. While the six-county Chicago Area grew by 275,000, the north and northwest suburbs were the major beneficiaries. DuPage, Lake and Northwest Suburban Cook (around O'Hare) Counties contributed 194,000 jobs, or 71 percent of the net growth. With 500,000 jobs in Chicago's Central Business District versus 450,000 in North Suburban Cook County and 150,000 in Northeast Du Page County, the economic center of the region has shifted from downtown to O'Hare.

O'Hare International Airport is, undoubtedly, the great economic engine it is portrayed. But, it has run out of space, both in the air and on the ground. Its enormous attraction, to business and industry, has brought thousands of enterprises, hundreds of thousands of jobs, millions of visitors and billions of dollars, annually, to the Chicago region. On this, we all agree. But, the area surrounding it is choking on the development. Other areas, particularly the South Side, are in great need of both jobs and better airport access. In fact, the two issues are closely related.

The massive development attracted by O'Hare Airport makes airport expansion there costly, time-consuming, difficult and intrusive. Traffic often is brought to a near halt on the expressways leading to O'Hare; future traffic problems would be compounded many times over. O'Hare's neighbors—well-aware of its many economic contributions—also are wary of expansion, weary of noise and traffic, and fearful of possible future compromises on safety. On the opposite side of the region—and the other side of the ledger—are the communities of the Chicago South Side and the South Suburbs. By all accounts, these areas find themselves overlooked and under-served—primarily due to their distance from the region's airports. This economic disparity is clearly evident from the following maps, which show job concentrations in 1960 and 1990. This period marked major declines in manufacturing jobs in the region's South Side; and a rise in both manufacturing and service jobs in the North/Northwest, around O'Hare. Airport access was the difference.

The solution to the region's needs is the Third Chicago Airport. Development of the Third Chicago Airport is a true urbanist's dream: obtaining multiple benefits from one investment. Why, then, is it being ignored? When you have two powerful and thoughtful representatives of the people—Congressman Henry Hyde saying "we've had enough," and Congressman Jesse Jackson, Jr. saying "let us have some"—perhaps we should listen to them. Other representatives—Congressmen Jerry Weller, Bobby Rush, and Tom Ewing, Senator Peter Fitzgerald, Governor George Ryan, Senate President Pate Phillip—plus scores of local mayors, hundreds of local businesses and hundreds of thousands of residents, have joined in the effort to bring the airport to the South Suburbs. Perhaps, with the airport in place, we can begin to truly balance growth, encourage infill development and share the wealth of the region.

### The Planning Process: Twelve Years of Findings

The state agency responsible for planning the region's transportation infrastructure, the Illinois Department of Transportation (IDOT), has been planning for the region's aviation needs for the past twelve years. IDOT, and its aviation consultants, are convinced, without a doubt, that Chicago's aviation demands will more than double by 2020. The Federal Aviation Administration (FAA), the Airports Council International (ACI) and other industry groups have forecasted national growth of similar magnitude. For a brief time, the City of Chicago agreed, as well. The Chicagoland Chamber study predicts a five-fold increase in international traffic. IDOT's studies support the contention that Chicago has an excellent opportunity to be the dominant North American hub for international flights, as well as its premier domestic hub, into the next century. That point has been stated and documented on many occasions by IDOT. The State's forecasts have been corroborated, independently, by a decade of observations. They are reinforced in the latest study for the Chicagoland Chamber of Commerce. It is agreed, by all key interest groups, that the Chicago region must increase its aviation capacity.

The region cannot double its aviation service without building major new airport capacity. O'Hare and Midway are now at capacity. Enplanements already are being affected, with growth limited to increases in plane size or load factor; neither is expected to increase further. The City's $1.8 billion investment in terminals will not increase capacity. But, the adverse impact on the region already is evident. Businesses and residents are witnessing major increases in fares in the Chicago region, according to IDOT, the USDOT, the GAO and the FAA, itself. Perhaps in response to these obvious constraints, both the Chicagoland Chamber and the Commercial Club of Chicago have begun to address the region's aviation issues. The Chamber calls for O'Hare expansion. The "Metropolis 2020" study also recognizes the need for additional aviation capacity, with a call for expansion of O'Hare and land banking of the Third Airport site in Peotone. This call for action comes none too soon. There are many indications that the Chicago region has begun to suffer from capacity constraints.

Ten years ago, Chicago was one of the nation's least expensive regions to fly to, due to its central location. Obviously, its location has not changed; however, now, due to O'Hare's capacity overload and higher fares, it is cheaper to fly from all around the country to many other cities than to Chicago. For instance, according to data supplied by the airlines to the U.S. Department of Transportation, it is now cheaper to fly from Green Bay to Las Vegas than from Green Bay to Chicago. It is cheaper to fly from Seattle to Orlando than from Seattle to Chicago. Something is wrong. Due to capacity constraints, O'Hare's airlines are over-charging their patrons by $750 million, annually (the difference between average fares for large U.S. airports and those at O'Hare). This fact is beginning to affect regional development—especially conventions and tourism—but, it also affects every major and start-up business, every individual with family and friends in far-flung places. As is well-known, access to a major airport is one of the top three requirements of a locating or expanding business. But, access must be at competitive fares. Expanding O'Hare will simply buttress the monopolistic behavior of its airlines. Such monopolistic practices currently are a major concern of Congress.

### THE DEVELOPMENT ALTERNATIVES

Aviation infrastructure must be expanded—and expanded soon—to bring true competition, lower fares and increased service to the region. The alternatives are two: adding runways to O'Hare; or building the Third Chicago Airport. The two alternatives have far different consequences. The question is:

"Will we continue to spend great outlays of public-private funds on an area that is overwhelmed with both riches and the congestion those riches bring; or do we make those investments in mature urban areas that are wanting for jobs and economic development?"

As is clearly documented by a recent Chamber study, O'Hare's benefits are conferred, primarily, on the west, north and northwest suburbs. Virtually all of O'Hare's employees reside near it. In addition, it has garnered high concentrations of development. These concentrations, however, have led to congestion and increased land values. High land prices have forced businesses and developers to plan future growth on the most environmentally-sensitive fringes of the region and in areas farther removed from the region's central core.

### THE TWO SIDES OF THE COIN

While unprecedented growth takes place around O'Hare, to the north, the three million residents of the region who reside south of McCormick Place are left with long trips to the airport for flights and out of the running for the many jobs it produces. The consequences, for South Side/South Suburban residents and the dwindling businesses that serve them, are the highest property tax rates in the State. Because jobs have disappeared, residents have some of the longest trips to work in the nation. Because transit only to the Loop is convenient, recent job losses in that area, as well, (11,000 since 1991; 25,000 since 1983) have compounded the job searches of the South Side's residents. For decades, regional planning agencies have called for the development of moderate-income housing near job concentrations. Instead, let us bring the jobs to the residents.

Recent public forums on the disparity of property tax rates in Cook County's north and south communities have led to the South's designation as the "Red Zone," signifying its concentration of highest property tax rates. This disparity was not always so. It has occurred over the last three decades and proliferated in the last two, as shown below. The "Metropolis 2020" study addresses this disparity issue by calling for a sharing of revenues with the "lesser haves." The more-responsive, enduring and—ultimately—more-equitable solution is to provide the South Side with the economic opportunities generated by the Third Chicago Airport.

Whether the region expands O'Hare or builds a supplemental airport, O'Hare's riches will remain and grow. It is currently enjoying a $1 billion public investment to upgrade its terminals. Midway, as well, will continue to thrive, as the recipient of an $800-million-publicly-funded new terminal. However, this $1.8 billion investment will not increase capacity. The initial infrastructure investment of $500 million ($2.5 billion through 2010) to build the Third Chicago Airport, will. And, it will produce more than just added aviation capacity. The Third Chicago Airport will provide 235,000 airport-related jobs—in the right places—by 2020. Additional airport access jobs will benefit the entire region. In addition, it will reinforce the City of Chicago's role as the center of the region's growth.

Spokesmen for the incumbent airlines claim that other airlines will not invest in the Third Chicago Airport; this is a traditional response to discourage competition. Furthermore, the financing of any airport comes, principally, from its users. The Third Chicago Airport market comprises 16.5 percent of the region's current air trip users, with a potential for contributing 20 percent. They should not be left behind. Upfront airport development costs, for planning and engineering and land acquisition, traditionally have come from the federal government. In this "Year of Aviation", these funds are expected to increase by 50 percent; and Passenger Facility Charges (PFC's) are expected to increase from $3 to $6. Currently, $1 in PFC's at O'Hare yields $37 million per year. At the Full-Build forecast and $6 rate, the Third Chicago Airport will generate $100 million in PFC's annually by 2010. The FAA must provide the needed approvals and normal up-front funding. A Third Airport development in the South Suburbs can provide social and economic parity; and it can do it with a hand-up rather than a hand-out.

### THE ARGUMENT FOR SMART GROWTH WITH CHICAGO'S THIRD AIRPORT

Independent studies have demonstrated, overwhelmingly, the need for expanded aviation capacity in the Chicago region.

Demand will more than double by 2020.

Needed is a Third Airport that can grow as future demand dictates.

The need is now. The region is beginning to experience the costs of capacity constraints. These are:

Dampened aviation growth.

Increased and non-competitive fares.

Lost jobs, conventions and other opportunities.

There are two alternatives for meeting the region's demand:

Adding runways at O'Hare—an area already well-served and suffering the effects of overdevelopment and congestion, or;

Building the Third Chicago Airport—investing in an existing, mature part of the region suffering losses due to changes in the national/regional economies and lack of access to a major airport.

Doubling traffic at O'Hare drives new development farther away from the region's core—the Chicago Central Area—and its residents and businesses to the South.

It will encroach on environmentally-sensitive areas.

It will compound noise, pollution and traffic congestion; and impose these on hundreds of thousands of additional residents.

It will buttress monopolistic behavior by major airlines.

Building the Third Chicago Airport is a true urbanist's dream. It solves multiple problems with one investment.

It develops an environmentally-sensitive, new airport, that can provide increased capacity for decades to come.

It provides nearby, inexpensive land for development.

It brings jobs and development to mature portions of the region.

It allows three airport facilities to function at optimal capacity.

It maintains the Chicago region as the nation's aviation capital.

Because of planning already completed, the Third Chicago Airport can be built before additional runways at O'Hare.

Resources are available to build the airport.

Federal Funds for airport development will increase by 50 percent.

The U.S. Congress, many businesses and consumers are demanding access to and through the Chicago area.

Ultimately, the passenger pays through Passenger Facility Charges.

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### CHICAGO'S THIRD AIRPORT AND THE FUTURE OF THE CHICAGO REGION: AN OPPORTUNITY FOR SMART GROWTH, CONGESTION RELIEF AND REGIONAL BALANCE

### AN EMERGING CONSENSUS

Finally, after nearly nine years of intense debate, there is near unanimous agreement on the need for additional airport capacity in the Chicago region. This is due, in part, to several inescapable facts:

Operations at O'Hare have been at a virtual stall since 1994; hourly capacities have been reached; every day is Thanksgiving eve.

The region's enplanements have grown only as Midway has been able to take up a portion of the demand unaccommodated at O'Hare; and as small markets are abandoned in favor of large.

International enplanements have grown at rates over 9 percent, annually, but at the expense of domestic.

Domestic enplanements at O'Hare have grown by only 1.9 percent, annually, since 1993; and actually have declined since 1998.

In 1998, Atlanta's Hartsfield Airport surpassed O'Hare as the nation's busiest airport; it remained first in 1999 and 2000.

In 1999, the regional air system (O'Hare/Midway) nearly slipped to third place, behind New York and Los Angeles. It is forecast by the FAA to fall to fourth place (behind Atlanta) by 2015.

In 2000, O'Hare had the nations worst delays.

Now, nearly all those who claimed that Chicago could handle forecasted growth into the foreseeable future, are admitting that the gap between demand and the ability to accommodate it are growing farther apart and at a faster pace.

1998 studies by Booz•Allen & Hamilton (BAH) for the Chicagoland Chamber claim that Chicago's capture of international traffic—although considerable—is stifled.

BAH's recent (2000) update for the Commercial Club of Chicago shows an international demand that is even higher than estimated a year ago and higher than estimates made by IDOT.

Overall forecasts undertaken by the City of Chicago's consultants—and recently made public—are similar to the forecasts of IDOT, but with higher connecting volumes.

Both United and American Airlines have called for the construction of an added runway at O'Hare. United funded the 1998 BAH study.

Calls for an added runway also have come from the Chicagoland Chamber, the Commercial Club and the Chicago Tribune.

When the State of Illinois Department of Transportation started planning for the regions Third Airport, in 1986, it was suggested that the need would be evident by the turn of the century. Later, detailed forecasts documented an unmet demand of 7.1 million enplanements, by 2001. We have nearly reached that first milestone and the evidence of unmet demand, indeed, is great. Recent studies indicate that, by 2001, the Chicago region will have lost or foregone a large portion (5.1 million) of the 7.1 million enplanement forecast for the Third Airport.

The question no longer is whether we should add capacity to the region but, rather, where we should add it.

Whether the region expands O'Hare or builds a supplemental airport, O'Hare's riches will remain and grow. It is currently enjoying a $1 billion public investment to upgrade its terminals. Midway, as well, will continue to thrive, as the recipient of an $800-million-publicly-funded new terminal. However, in spite of this $1.8 billion investment, the region's capacity will not be increased. The initial infrastructure investment of $500 million ($2.5 billion through 2010) to build the Third Chicago Airport, will increase it, And, it will produce more than just added aviation capacity. The Third Chicago Airport will provide 235,000 airport-related jobs—in the right places by 2020. Additional airport access jobs will benefit the entire region, In addition, it will reinforce the City of Chicago's role as the center of the region's growth. Furthermore, both businesses and residents of the airport's environs want it.

Spokesmen for the incumbent airlines claim that other airlines will not invest in the Third Chicago Airport; this is a traditional response to discourage competition. Furthermore, the financing of any airport comes, principally, from its users. The Third Chicago Airport market comprises 16.6 percent of the region's current air trip users, with a potential for contributing 20 percent. They should not be left behind. Upfront airport development costs, for planning and engineering and land acquisition, traditionally have come from the federal government. In 2000, these funds increased by 50 percent; and Passenger Facility Charges (PFC's) increased from $3 to $4.50. Currently, $1 in PFC's at O'Hare yields $37 million per year. The Third Airport market contributes nearly one fifth of these funds for O'Hare. At the Full-Build forecast and $4.50 rate, the Third Chicago Airport will generate $75 million in PFC's annually by 2010. The FAA must provide the needed approvals, and normal upfront funding. A Third Airport development in the South Suburbs can provide social and economic parity; and it can do it with a hand-up rather than a hand-out.

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### THE ARGUMENT FOR SMART GROWTH WITH CHICAGO'S THIRD AIRPORT

Independent studies have demonstrated, overwhelmingly, the need for expanded aviation capacity in the Chicago region.

Demand will more than double by 2020.

Existing airports are at capacity.

Needed, is a facility to grow as future demand dictates.

The need is now. The region is beginning to experience the costs of capacity constraints. These are:

Travel delays, often the nations worst.

Dampened aviation growth.

Increased and non-competitive fares.

Lost jobs, businesses and other opportunities.

There are two alternatives for meeting the region's demand; they are:

Adding runways at O'Hare—an area already well-served and suffering the effects of overdevelopment and congestion, or;

Building the Third Chicago Airport—investing in an existing, mature part of the region suffering losses due to changes in the national/regional economies and lack of airport access.

Doubling traffic at O'Hare forces job development farther away from the region's core—the Chicago Central Area—and from the South Side.

It will require additional land and structure acquisition.

It will encroach on environmentally-sensitive areas.

It will compound noise, pollution and traffic congestion; and impose these on hundreds of thousands of additional residents.

It will buttress monopolistic behavior by major airlines.

It will take 10–15 years to achieve capacity increases.

Building the Third Chicago Airport is a true urbanist's dream. It solves multiple problems with one investment.

It develops an environmentally-sensitive, new airport, that can provide increased capacity for decades to come.

It provides nearby, inexpensive land for development.

It brings jobs and development to mature portions of the region.

It allows three airport facilities to function at optimal capacity.

It maintains the Chicago region as the nation's aviation capital.

Because of planning already completed, the Third Chicago Airport can be built before additional runways at O'Hare.

Residents and businesses nearby want it built.

Resources are available to build the Third Airport.

The U.S. Congress, many businesses and consumers are demanding access to and through the Chicago area.

Federal funds for airport development have increased by 50 percent.

Ultimately, the passenger pays through Passenger Facility Charges; PFC rates have increased from $3.00 to $4.50 per trip segment.

At full build, PFC's will provide $75 million, annually, by 2010.

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### CLAIMING THE TIME IN OPPOSITION (JACKSON)

[You need to be on your feet when the bill is called up]

[After the Speaker recognizes Mr. Lipinski and Mr. Young]

Mr. Speaker: Point of order Mr. Speaker. May I inquire as to whether either gentleman is opposed to the bill. As I understand it, the bill was ordered reported favorably by unanimous voice vote, and both of these gentleman were present. Under the provisions of Rule XV, clause 1(c), debate on a motion to suspend the rules is "one-half in favor and one-half in opposition, thereto."

The notes to the Rule state where the time in opposition is contested, "The Speaker will accord priority first on the basis of true opposition. . . ,"

Mr. Speaker, I will state for the record that I am in true opposition to this bill, I therefore claim the time in opposition.

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### RULES OF THE HOUSE OF REPRESENTATIVES

#### Rule XV, clause 1

(c) A motion that the House suspend the rules is debatable for 40 minutes, one-half in favor of the motion and one-half in opposition thereto.

This provision (former clause 2 of rule XXVII) was adopted in 1880 (V, 6821). It was amended and redesignated from clause 3 to clause 2 of rule XXVII in the 102d Congress to conform to the repeal of the former clause 2, relating to the requirement of a second (H. Res. 5, Jan. 3, 1991, p. 39). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XXVII. Former clause 2 consisted of paragraph (b) and another provision currently found in clause 1(a) of rule XIX permitting 40 minutes debate on an otherwise debatable question on which the previous question has been ordered without debate (H. Res. 5, Jan. 6, 1999, p ——). Before the adoption of this provision in 1880 (V, 6821) the motion to suspend the rules was not debatable (V, 5405, 6820). The 40 minutes of debate is divided between the mover and a Member opposed to the bill, unless it develops that the mover is opposed to the bill, in which event some Member in favor is recognized for debate (VIII, 3416). Where recognition for the 20 minutes in opposition is contested, the Speaker will accord priority first on the basis of true opposition, then on the basis of committee membership, and only then on the basis of party affiliation, the latter preference inuring to the minority party (VIII, 3415; Nov. 18, 1991, p. 32510). The Chair will not examine the degree of opposition to the motion by a member of the committee who seeks the time in opposition (Aug. 3, 1999, p. ——). When the mover and the opponent divide their time with others, the practice as to alternation of recognitions is not insisted on so rigidly as in other debate (II, 1442). Debate should be confined to the object of the motion and may not range to the merits of a bill not scheduled for suspension on that day (Nov. 23, 1991, p. 34189).

This paragraph formerly included a provision dealing with the Speaker's authority to postpone further proceedings on motions to suspend the rules and pass bills or resolutions. It was added in the 93d Congress (H. Res. 998, Apr. 9, 1974, pp. 10195–99), amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), and amended further in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). It was deleted entirely in the 97th Congress (H. Res 5, Jan. 5, 1981, pp. 98–113) when all of the Speaker's postponing authorities were consolidated into clause 5 of rule I (current clause 8 of rule XX).

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### OPENING STATEMENT OPPOSING H.R. 3479

There are many reasons why I oppose H.R. 3479. I want to share some reasons why you too should be opposed to the National Aviation Capacity Expansion Act.

#### 1. RESPECT FOR THE INSTITUTION OF THE HOUSE

The Suspension Calendar is reserved for NON-CONTROVERSIAL bills. This is a HIGHLY CONTROVERSIAL bill. This should offend every House traditionalist and institutionalist. It violates the integrity of the established, respected, and utilitarian processes set up by the House of Representatives. Even if you agree on the substance, you should be against the process. H.R. 3479 should be a "stand-alone" bill that is fully debated before the House—with the possibility of adding amendments to improve the bill. It should not be on the Suspension Calendar.

#### 2. H.R. 3479 DOES NOT REFLECT THE AGREEMENT BETWEEN MAYOR DALEY AND GOVERNOR RYAN

Most of you believe you are voting to codify an agreement between Chicago Mayor Richard M. Daley and Illinois Governor George Ryan. But this bill does not reflect that deal. Their agreement promised "priority status" for a south suburban airport in Peotone and O'Hare expansion. This bill provides for O'Hare expansion, but does not give "priority status" to Peotone.

#### 3. IF THE ISSUE IS RESOLVING THE AIR CAPACITY CRISIS, THIS BILL IS NOT THE MOST EFFECTIVE OR EFFICIENT WAY TO SOLVE THAT PROBLEM

Both sides agree there is an air capacity crisis at O'Hare. The disagreement comes over how best to resolve it. A new south suburban airport in Peotone offers a faster, cheaper, cleaner, safer, and more permanent solution. What do I mean? I mean after O'Hare expansion is completed—if air travel expands as projected—we'll still be in the same capacity crisis that we're in today. So why spend more money, take longer, increase environmental problems, put the flying public at greater risk, support a temporary solution, and increase the economic and racial divide in Chicago, when there is a better way of resolving the current aviation capacity crisis?

#### 4. A NEW SOUTH SUBURBAN AIRPORT IS A MORE ECONOMICALLY JUST SOLUTION

O'Hare Airport is the economic magnet that provides jobs and economic security for Chicago's North Side and the northwest suburbs. Midway Airport is the economic magnet that provides jobs and economic security for Chicago's southwest side. There is no similar economic engine for Chicago's South Side and south suburbs. O'Hare expansion puts 195,000 new jobs and $19 billion of economic activity in an area that already has an over-abundance. For example, the biggest beneficiary of O'Hare is Elk Grove Village, a city of 35,000 people where over 100,000 people come to work everyday—three jobs for every one person. The greatest beneficiary of O'Hare, Mayor Craig Johnson of Elk Grove Village, is one of the biggest supporters of Peotone. By contrast, some communities in my district have 60 people for every one job.

Finally, it just so happens that the areas where O'Hare and Midway Airports are located are primarily where whites live. African Americans live primarily south and in the south suburbs. But African American families need economically stable families and communities, who have a future, and can send their children to college too. We need greater economic balance in the Chicago Metropolitan area so that all of the people have jobs and economic security.

### 5. PEOTONE IS ENVIRONMENTALLY CLEANER

Mr. Lipinski says fifteen environmental groups, including the Sierra Club, support the language in this bill. He's implying they've endorsed it, but he knows better. They've not endorsed it. I also asked Mr. Lipinski to supply me with the names of the other environmental groups he says support the language in this bill—and he's failed to do so. O'Hare is already the largest polluter in the Chicago area. Doubling the number of flights into the 7,000 acres that houses O'Hare means pollution levels will explode. A recent study found there was an excess of 800 new incidences of cancer each year—over and above what would be expected based on the state's average—in eight northeastern communities downwind of O'Hare. Peotone's 24,000 acre site has a built-in environmental safety zone.

### 6. THIS BILL IS PRECEDENT SETTING

For economic reasons, San Francisco wanted to add new runways, but there were environmental groups that objected. In Atlanta a few years back, Fulton County commissioners went to battle to stop a proposed sixth runway at Hartsfield. In New York, a controversy sprung up over a 460-foot safety overrun at LaGuardia because objections were raised by residents. Mayor James Hahn made a campaign pledge opposing expansion at LAX in Los Angeles, but a pro-expansion coalition is forming. H.R. 3479 sets a precedent that if these controversies can't be worked out locally, they can always be brought to Congress and passed by a suspension of the rules without debate or amendments. This is like putting the Inglewood Police in charge of homeland security!

### 7. PEOTONE WOULD PROVIDE MORE COMPETITION AND LOWER AIRFARES

The O'Hare expansion plan is an anti-consumer measure. Two airlines—American and United—control roughly 90 percent of the flights in and out of O'Hare. It's a duopoly. And due to a lack of competition, fares at O'Hare continue climbing higher and faster than the national average. Six years ago, O'Hare fares were 21 percent above the national average. Today, they are 33 percent above the national average and cost consumers an extra $1 billion annually.

### 8. THE SUPREME COURT WILL LIKELY FIND H.R. 3479 UNCONSTITUTIONAL

The U.S. Supreme Court stated in Printz v. United States (1997) that "dual sovereignty" is incontestable. It emphasized that the constitutional structural barrier to Congress intruding on a State's sovereignty could not be avoided by claiming that congressional authority was: (a) pursuant to the Commerce Power—it will create 195,000 jobs and $19 billion in economic activity; (b) the "necessary and proper" clause of the Constitution—there's an aviation capacity crisis; or (c) that the federal law "preempted" state law under the Supremacy Clause—that Congress can use its power to solve the impasses by overriding the state. In short, all of the arguments the Daley/Ryan forces have been using are unconstitutional.

### CONCLUSION

If you care anything about the institutional integrity of the House, you should vote *against* this bill because it's inappropriately on the alleged "non-controversial" Suspension Calendar. If you think you're voting to build O'Hare and Peotone simultaneously, *you're not*—and you should vote against this bill. If you think you're solving the air capacity crisis in Chicago, *you're not*—vote against H.R. 3479. If you think you're voting for a morally sound, and an economically and racially just bill, *you're not*—vote no. If you think you're protecting the environment and consumers, *you're not*—again you should be against this bill. If you think H.R. 3479 is constitutional, *it's not*—and both Democrats and Republicans should vote against this bill. Vote "No" on H.R. 3479!

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### ECONOMIC IMBALANCE

Make no mistake. A "YES" vote on this bill today is a vote to widen and reinforce the economic and racial divide in Chicago.

For too long, the Chicago area has been fractured—divided in two by geography, opportunity and race.

One Chicago—the North Side and Northwest suburbs—is exploding with growth. With O'Hare having replaced the Downtown Loop as Chicago's economic center, jobs and investment located near the airport have increased dramatically. Today, some North West suburbs, which are primarily white and affluent, have 3 jobs for every person. This Chicago boasts the best schools, the least crime and the lowest property tax rates.

In sharp contrast, the other Chicago—the South Side and south suburbs—is slumping in depression. Today, in some South Side neighborhoods and south suburbs, which are predominantly Black and poorer, there are 60 people for every one job. Jobs and factories have been replaced with unemployment, welfare and crime; local property values have slumped; and local school funding has withered as prison construction has blossomed. In this Chicago, the lack of jobs and investment is disrupting lives, corrupting children and destroying communities.

Look at this Rand McNally easy finder map of Chicago. It includes O'Hare, but doesn't include much of the south side and none of the south suburbs. It's as if Chicago ends at the Museum of Science and Industry.

This tale of two cities is a classic and persistent divide for which Chicago, although not unique, has long been infamous. But rather than bridging this gap and uniting these two Chicagos with a third airport, this bill further concentrates all aviation and economic growth in the already over-saturated corridor from Downtown Chicago to O'Hare. Meanwhile, the South Side and beyond, get nothing.

This imbalance now poses a problem for aviation expansion. The massive development surrounding O'Hare makes airport expansion there costly, time-consuming, difficult and intrusive. Congestion often brings area expressways to a halt; O'Hare is the state's largest polluter; and safety is a growing concern because O'Hare is surrounded by residential neighborhoods. Expansion would only compound these problems.

The question we must ask ourselves is: Do we continue to invest in an area that is overwhelmed with riches and congestion or do we invest in areas that desperately need jobs and economic development?

I brought with me just some of the many books that document the damaging effects of Chicago's persistent disparities between north and south.

Let me read a passage from just one of these, titled "When Work Disappears," by noted University of Chicago and Harvard University scholar William Julius Wilson. Professor Wilson writes, "Over the last two decades, 60 percent of the new jobs created in the Chicago metropolitan area have been located in the northwest suburbs of Cook and DuPage County (surrounding O'Hare). African-Americans constitute less than 2 percent of the population in these areas." He concluded, "The metropolitan black poor are becoming increasingly isolated."

Let's not add to this hefty volume. Let's not continue to perpetuate and exploit this divide. Let's relegate these books to the history section and begin our own new chapter of balanced economic growth and justice in Chicago. I urge a "no" vote on this bill.

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### SUSPENSION CALENDAR ARGUMENTS TO BE AGAINST H.R. 3479

The Suspension Calendar is a procedure that allows House members to vote on non-controversial bills—like paying tribute to Ted Williams.

Putting H.R. 3479 on the Suspension Calendar, for House traditionalists and institutionalists, ought to strike you as violating the integrity of the established, respected, and utilitarian rules set up in the House. It is inconsistent with the institutional traditions of this body. This is an abuse of power!

It is highly unusual for a bill defeated under suspension of the rules to ever be brought back in the same manner—not to mention a week later. In the entire 106th Congress, no bill defeated on the Suspension Calendar was brought up again. Six Suspension bills have failed in the 107th Congress—all six during the second session. Two of the six were later passed as stand-alone bills in regular order. Not one of the six was brought up again under suspension of the rules. This is an arrogant use of power!

H.R. 3479 should be a "stand-alone" bill that is fully debated before the House—with the possibility of adding amendments to improve the bill.

Even if you are with this bill on substance you should be against it on process. This makes a mockery of the suspension of the rules, which is reserved for noncontroversial bills.

This does not have the full support of the Illinois delegation. In the other body, one Illinois senator staunchly opposes it, and one strongly supports it.

This bill is far from being non-controversial. It is controversial for the Illinois delegation, controversial for the community surround O'Hare, controversial for the South Side and south suburbs, and controversial throughout the entire state. The Speaker's participation and the lobbying effort of the last few days underscores the controversy. It does not conceal, but reveals that this is a controversial issue. It does not obscure it, it underscores it. It's so controversial that it's on the Suspension Calendar in order to limit discussion and debate, and prevent amendments.

Today's vote is not about the most efficient and effective way to resolve the aviation capacity crisis at Chicago's O'Hare International Airport. It is not about sound policy and regular procedure, but raw politics and brute political power. This should not be on the Suspension Calendar!

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### H.R. 3479 DOES NOT REFLECT THE DALEY/RYAN AGREEMENT

This bill has been touted as codifying a secret deal struck between Mayor Richard M.

Daley and Governor George Ryan—a deal without public input, where nobody has seen the actual plans, and where total costs are still unknown. But this bill is not that secret deal.

The *Chicago Tribune* reported on December 6, 2001, that Mayor Daley and Governor Ryan had reached "a deal that would build new runways at O'Hare International Airport. . . . The deal also calls for construction of a new airport near Peotone Ryan has wanted. Daley, who has raised concerns that Peotone would compete with O'Hare, agreed to work with the governor to seek federal funds for construction of the third airport."

In a December 7th AP story, Senator DICK DURBIN said, "O'Hare and Peotone are not mutually exclusive. It is not an 'either-or' proposition. We need both and we will have both. . . . On Wednesday, Ryan and Daley reached an historic agreement that would modernize O'Hare International Airport, including east-west parallel runways; construct a south suburban airport near Peotone. . . . Durbin said construction of Peotone will provide a huge economic boost to the south suburbs and help provide travel access to fast-growing areas like Will County."

The *Chicago Tribune*, in a December 11, 2001, editorial, said, "Thanks to Daley and Ryan, the gridlock may finally be broken. They have a sound plan. The parameters of it have been before the public for five months. It answers the nightmare of flight delays at O'Hare and gives the south suburbs their best chance to build an airport at Peotone."

Despite these reports, and what may be said here on the floor today, this bill does not codify a key part of the agreement reached by Mayor Daley and Governor Ryan.

Mr. Speaker, this bill does not make construction of a south suburban airport near Peotone a federal priority.

While it's coming to light that corporate chieftains are cooking books, fudging numbers, and misrepresenting the facts to the public, it is critical that this body, the peoples' House, not do the same.

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### 10TH AMENDMENT ARGUMENTS AGAINST H.R. 3479

Even if H.R. 3479 becomes law, a federal court is likely to find it unconstitutional under the 10th Amendment, which gives certain powers exclusively to the States, including the power to build and alter airports.

The U.S. Supreme Court stated in Printz v. United States (1997) that "dual sovereignty" is incontestable.

It emphasized that the constitutional structural barrier to Congress intruding on a State's sovereignty could not be avoided by claiming that congressional authority was:

(a) pursuant to the Commerce Power—it will create 195,000 jobs and $19 billion in economic activity;

(b) the "necessary and proper" clause of the Constitution—there's an aviation capacity crisis; or

(c) that the federal law "preempted" state law under the Supremacy Clause—that Congress can use its power to solve the impasses by overriding the state.

In short, all of the arguments for codifying the Daley/Ryan deal in federal law are unconstitutional.

It sets a dangerous precedent by allowing the federal government to pre-empt state law requiring approval of airport construction and expansion—approval that requires the blessing of the state legislature.

This bill converts the concept of dual sovereignty into tri-sovereignty by going beyond states' rights to city rights. It gives Mayor Daley (and the other local officials in charge of the 68 largest airports in the country) a greater say over national aviation policy than the federal government or the fifty governors.

If this bill passes, it would invite congressional interference on other important aviation issues, leading to a potential rash of demands from various localities for priority standing for airport funding, bypassing reasonable administrative planning, and the environmental review process. Airport expansion issues are bubbling up everywhere—Boston Logan's, New York's LaGuardia, Cleveland's Hopkins, Atlanta's Hartsfield, San Francisco's SFO, and Los Angeles' LAX. Will your state legislature be next to lose its power to decide local airport matters?

Indeed, H.R. 3479 stands federalism on its head. It makes about as much sense as putting your local police department in charge of homeland security.

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RONALD D. ROTUNDA, UNIVERSITY OF
ILLINOIS COLLEGE OF LAW,
*Champaign, IL, March 1, 2002.*

Re: Proposed Federal legislation granting new powers to the City of Chicago.

Hon. JESSE L. JACKSON, Jr.,
*U.S. House of Representatives,*
*Washington, DC.*

DEAR CONGRESSMAN JACKSON: As you know, I serve as the Albert E. Jenner Professor of Law at the University of Illinois Law School. I have authored a leading course book on Constitutional Law. In addition, I co-author, along with my colleague John Nowak, the widely-used multi-volume Treatise on Constitutional Law, published by West Publishing Company. In addition to my books, I have taught and researched in the area of Constitutional Law since 1974.

I have been asked to give my opinion on the constitutionality of proposed federal legislation entitled "National Aviation Capacity Expansion Act," identical versions of which have been introduced in both the Senate and the House of Representatives by Senator DURBIN and Congressman LIPINSKI (S. 1786, H.R. 3479), hereafter the "Durbin Lipinski legislation."

The Durbin-Lipinski legislation seeks to enact Congressional approval of a proposal to construct a major alteration of O'Hare Airport in Chicago. While this legislation focuses on Chicago and the State of Illinois, the issues raised by the legislation have serious constitutional implications for all 50 States.

There are two key components of the legislation that have been the subject of my examination.

First Section 3(a)(3) attempts to give the City of Chicago (a political subdivision and instrumentality of the State of Illinois) the legal power and authority to build a proposed major alteration of O'Hare even though state law does not authorize Chicago to build the alteration without first receiving a permit from the State of Illinois. Chicago, as a legal entity, is entirely a creation of state—not federal law—and Chicago's authority to build airports is essentially an exercise of state law power delegated to Chicago by the Illinois General Assembly.

The requirement that Chicago first obtain a state permit is an integral and essential element of that delegation of state power. The U.S. Constitution prohibits Congress (1) from invading and commandeering the exercise of state power to build airports, and (2) from changing the allocation of state-created power between the State of Illinois and its political subdivisions. The U.S. Constitution, in short, prohibits Congress from essentially rewriting state law dealing with the delegation of state power by eliminating the conditions, restrictions, and prohibitions imposed by the Illinois General Assembly on that delegation. These constitutional restrictions on Congress' power—which prohibit Congress from requiring states to change their state laws governing cities—are often termed Tenth Amendment restrictions.

Similarly, the provisions of Section 3(f) of the proposed Durbin-Lipinski legislation are necessarily conditioned upon the existence of state law authority of Chicago to enter into agreements for a third party (the FAA) to alter O'Hare without first obtaining a permit from the State of Illinois. But Chicago has no state law authority (under the delegation of state power to build and alter airports) to enter into an agreement to engage in a massive alteration of O'Hare without a state permit. Congress cannot confer powers on a political subdivision of a State where the State has expressly limited its delegation of state power to build airports to require a state permit. Congress has no constitutional authority to create powers in an instrumentality of State law (Chicago) when the very authority and power of Chicago to undertake the actions proposed by Congress depends on compliance with—and is contrary to—the mandates of the Illinois General Assembly

For the reasons discussed below, it is my opinion that the proposed legislation is unconstitutional.

#### SUMMARY OF ANALYSIS

The following is a summary of my analysis:

1. Under the governing United States Supreme Court decisions of New York v. United States and Printz v. United States, 6 which are discussed below, the proposed legislation is not supported by any enumerated power and thus violates the limitations of the Tenth Amendment of the Constitution. In these decisions, the Supreme Court held that legislation passed by Congress, purportedly relying on its exercise of the Commerce Power (nuclear waste legislation in New York and gun control legislation in Printz) was unconstitutional because the federal laws essentially commandeered state law powers of the States as instrumentalities of federal policy.

2. The same constitutional flaws afflict the proposed Durbin-Lipinski legislation. Central to the Durbin-Lipinski legislation are two provisions [sections 3(a)(3) and 3(f)] that purport to empower or authorize Chicago (a political instrumentality of the State of Illinois, and thus a city that has no authority or even legal existence independent of state law) to undertake actions for which Chicago has not received any delegation of authority from the State of Illinois and that, in fact, are directly prohibited by Illinois law when the conditions and limitations of the State delegation of authority have not been satisfied.

3. Under Illinois law, Chicago (like any other political subdivision of a State) has no authority to undertake any activity (including constructing airports) without a grant of state authority from the State of Illinois. Under Illinois law, actions taken by political subdivisions of the State (e.g., Chicago) without a grant of authority from the State, or actions taken by a political subdivision in violation of the conditions, limitations or prohibitions imposed by the State in delegating the state authority, are plainly ultra vires, illegal, and unenforceable. The City of

Chicago is a creature of state law, not federal law.

4. The power exercised by any state political subdivision (e.g., the power to construct airports) is in reality a power of the State—not inherent in the existence of the political subdivision. For the political subdivision to have the legal authority to exercise that state power, there must be a delegation of that state power by the State to the political subdivision. Further, it is axiomatic that any such delegation of state power to a political subdivision must be exercised in accordance with the conditions, limitations, and prohibitions accompanying the State's delegation of that power.

5. In the case of airport construction, the Illinois General Assembly has enacted a statute that delegated to Chicago (and other municipalities) the state law power to construct airports explicitly and specifically subject to certain limits and conditions that the General Assembly imposed. One basic requirement is that Chicago must first comply with all of the requirements of the Illinois Aeronautics Act—including the requirement that Chicago first receive a permit (a certificate of approval) from the State of Illinois. The Illinois General Assembly has expressly provided that municipal construction or alteration of an airport without such a state permit is unlawful and ultra vires.

6. Section 3(a)(3) of the Durbin-Lipinski legislation expressly authorizes Chicago to proceed with the "runway redesign plan" (a multi-billion dollar modification of O'Hare) without regard to the clear delegation limitations and prohibitions imposed by the Illinois General Assembly on the state statutory delegation to Chicago of the state law power to construct airports. Illinois law explicitly says Chicago has no state law authority to build or alter airports without first complying with the Illinois Aeronautics Act, including the state permitting requirements of 47 of that Act. Even though Chicago (a political creation and instrumentality of the State of Illinois) has no power to build or modify airports (a state law power) unless Chicago obtains State approval, Section 3(a)(3) purports to infuse Chicago (which has no legal existence independent of state law) with a federal power to build airports and to disregard Chicago's fundamental lack of power under state law to undertake such actions (absent compliance with state law). Like New York v. United States and Printz v. United States the proposed Durbin-Lipinski legislation involves Congress attempting to use a legal instrumentality of a State (i.e., the state power to build airports exercised through its delegated state-created instrumentality, the city of Chicago) as an instrument of federal power. As the Supreme Court held in New York and Printz, the Tenth Amendment—and the structure of "dual sovereignty" it represents under our constitutional structure of federalism—prohibits the federal government from using the Commerce power to conscript state instrumentalities as its agents.

7. Similar problems articulated in New York and Printz fatally afflict Section 3(f) of the proposed Durbin-Lipinski legislation. That section provides that, if (for whatever reason) construction of the "runway design plan" is not underway by July 1, 2004, then the FAA Administrator (a federal agency) shall construct the "runway redesign plan" as a "Federal Project". But, Section 3(f)(1) then provides that this "federal project" must obtain several agreements and undertakings from Chicago—agreements and undertakings that are controlled by state law, which limits Chicago's authority to enter into such agreements or accept such undertakings. Chicago has no authority under the state law (which confers upon Chicago the state power to construct airports) to enter into agreements with any third party (be it the United States or a private party) to make alterations of an airport without the state permit required by state statute. Thus, Chicago has no authority under state law to enter into an agreement with the FAA Administrator to have the runway redesign plan constructed by the federal government because Chicago has not received approval from the State of Illinois under the Illinois Aeronautics Act—a specific condition and prohibition of the delegation of state power (to build airports) to Chicago by the Illinois General Assembly. Just as Chicago (a creation and instrumentality of the State of Illinois) has no power or authority under state law (absent compliance with the Illinois Aeronautics Act) to enter into an agreement for the FAA to construct the runway redesign plan, Chicago also has no power or authority (absent compliance with the Illinois Aeronautics Act) to enter into the other agreements provided for in Section 3(f)(1)(B) of the Durbin-Lipinski legislation. Again, Section 3(f) is an attempt to have Congress use the Commerce power to conscript state instrumentalities as its agents. Instead of Congress regulating interstate commerce directly (which both New York v. United States and Printz allow), the Durbin-Lipinski legislation seeks to regulate how the State regulates one of its cities (which both New York v. United States and Printz do not allow).

8. The Durbin-Lipinski legislation is not a law of "general application". There is a line of Supreme Court decisions which allow Congress to use the Commerce Power to impose obligations on the States when the obligations imposed on the States are part of laws which are "generally applicable" i.e., that impose obligations on the States and on private parties alike. See e.g., Reno v. Condon, 528 U.S. 141 (2000) (federal rule protecting privacy of drivers' records upheld because they do not apply solely to the State); South Carolina v. Baker, 485 U.S. 505 (1988) (state bond interest not immune from nondiscriminatory federal income tax); Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528, (1985) (law of general applicability, binding on States and private parties, upheld). But these cases have no application where, as here and in New York and Printz, the Congressional statute is not one of general application but is specifically directed at the States to use state law instrumentalities as tools to implement federal policy. Here the Durbin-Lipinski legislation is doubly unconstitutional, because it does not apply to private parties or even to all States but only to one State (Illinois) and its relationship to one city (Chicago). The Durbin-Lipinski legislation proposes to use Chicago (an instrumentality of state power whose authority to construct airports is an exercise of state power expressly limited and conditioned on the limits and prohibitions imposed on that delegation by the Illinois legislature) as a federal instrumentality to implement federal policy. Congress is commandeering a state instrumentality of a single State (Illinois) against the express statutory will of the Illinois Legislature, which has refused to confer on Chicago (an instrumentality of the State) the state law power and authority to build airports unless Chicago first obtains a permit from the State of Illinois. This is an unconstitutional use of the Commerce Power under the holdings New York and Printz and does not fall within the "general applicability" line of cases such as Reno v. Condon, South Carolina v. Baker, and Garcia.

ANALYSIS

Before discussing any further the specific provisions of the Durbin-Lipinski legislation, let us review some important background law.

A. The Basic Legal Principles.

Cities are Creatures of the States and State Law—Not Instrumentalities of Federal Power. Normally, this controversy surrounding the proposed expansion of O'Hare Airport would be left to the state political process. Under Illinois law, the cities in this state have only the power that the State Constitution or the legislature grants to them, subject to whatever limits the State imposes. This legal principle has long been settled.

Nearly a century ago, the U.S. Supreme Court, in Hunter v. City of Pittsburgh, 207 U.S. 161, 28 S.Ct. 40, 52 L.Ed. 151 (1907) held that, under the U.S. Constitution, cities are merely creatures of the State and have only those powers that the State decides to give them, subject to whatever limits the States choose to impose:

> This court has many times had occasion to consider and decide the nature of municipal corporations, their rights and duties, and the rights of their citizens and creditors. [Citations omitted.] It would be unnecessary and unprofitable to analyze these decisions or quote from the opinions rendered. We think the following principles have been established by them and have become settled doctrines of this court, to be acted upon wherever they are applicable. Municipal corporations are political subdivisions of the state, created as convenient agencies for exercising such of the governmental powers of the state as may be [e]ntrusted to them. . . . The number, nature, and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the state. . . . The state, therefore, at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the state is supreme, and its legislative body, conforming its action to the state Constitution, may do as it will, unrestrained by any provision of the Constitution of the United States.

Hunter held that a State that simply takes the property of municipalities without their consent and without just compensation did not violate due process. While Hunter is an old case, it still is the law, and the Seventh Circuit recently quoted with approval the language reprinted here.

The Illinois Aeronautics Act Expressly Limits Chicago's Power to Build and Alter. The State of Illinois has delegated to Chicago the power to build and alter airports. But that power is expressly limited by the requirement that Chicago must comply with the Illinois Aeronautics Act. And the Illinois Aeronautics Act provides that Chicago has no power to make "any alteration" to an airport unless it first obtains a permit, a "certificate of approval," from the State of Illinois. Finally, Chicago has not obtained this certificate of approval. That fact is what has led to the proposed federal intervention.

B. The Federalism Problem.

As mentioned above, section 3(a)(3) of the proposed federal law overrides the licensing requirements of §47 of the Illinois Aeronautics Act. This section states:

> (3) The State shall not enact or enforce any law respecting aeronautics that interferes with, or has the effect of interfering with, implementation of Federal policy with respect to the runway redesign plan including sections 38.01, 47, and 48 of the Illinois Aeronautics Act.

In addition, section 3(f) authorizes Chicago to enter into an agreement with the federal government to construct the O'Hare Airport expansion. This project is called a "Federal project," but Chicago must agree to construct the "runway redesign as a Federal Project," and Chicago provides the necessary land, easements, etc., "without cost to the United States."

What this proposed legislation does is authorize the City of Chicago to implement an airport expansion approved by the Administrator of the Federal Aviation Administration. But, under state law, Chicago cannot expand O'Hare because it does not have the required state permit.

There is no doubt that the O'Hare Airport is a means of interstate commerce, and Congress may certainly impose various rules and regulations on airports, including O'Hare. Congress, for example, may decide to require airport security and require that the security agents be federal employees. Or, Congress could provide that it would build and take over the O'Hare Airport and construct expansion if the State of Illinois refused to do so.

Congress may also use its spending power to take land by eminent domain and then construct or expand an airport, no matter what the state law provides. The limits on the spending clause are few.

But, the proposed law does not take such alternatives. It does not impose regulations on airports in general, nor does it exercise the very broad federal spending power. Nor does the proposed law authorize the federal government take over ownership and control of O'Hare Airport. Instead, it seeks to use an instrumentality of state power (i.e., the state law power to build airports as delegated to a state instrumentality, the city of Chicago) as an exercise of federal power.

The proposed federal law is stating that it is creating a federal authorization or empowerment to the City of Chicago to do that which state law provides that Chicago may not do—expand O'Hare Airport without complying with state laws that create the City of Chicago and delegate to it certain limited powers that can be exercised only if within the limits of the authorizing state legislation.

### NEW YORK V. UNITED STATES

The proposed federal law is very similar to the law that the Supreme Court invalidated a decade ago in New York v. United States. The law that New York invalidated singled out states for special legislation and regulated the states' regulation of interstate commerce. The proposed Durbin-Lipinski legislation singles out a State (Illinois) for special legislation and regulates that State's regulation of interstate commerce dealing with O'Hare Airport.

While the law in this area has shifted a bit over the last few decades, it is now clear that Congress can use the Interstate Commerce Clause to impose various burdens on States as long as those laws are "generally applicable." The federal law may not single out the State for special burdens. For example, Congress may impose a minimum wage on state employees in, or affecting, interstate commerce as long as Congress imposes the same minimum wage requirements on non-state workers in, or affecting, interstate commerce. Congress can regulate the States using the Commerce Clause if it imposes requirements on the States that are generally applicable—that is, if it imposes the same burdens on private employers. Congress cannot single out the States for special burdens; it cannot commandeer or take control over the States or order a state legislature to increase the home rule powers of the City of Chicago; it cannot enact federal legislation that adds to or revises Chicago's state created and limited delegated powers.

The leading case, New York v. United States, held that the Commerce Clause does not authorize the Federal Government to conscript state governments as its agents. "Where a federal interest is sufficiently strong to cause Congress to legislate, it must do so directly; it may not conscript state governments as its agents." The proposed Durbin-Lipinski legislation will do exactly what New York prohibits: it will conscript the City of Chicago as its agent and interfere with the relationship between the State of Illinois and the entity it created, the City of Chicago.

New York invalidated a legislative provision that is strikingly similar to the proposed federal Durbin-Lipinski legislation. The Court, in the New York case, considered the Low-Level Radioactive Waste Policy Amendments Act of 1985. Congress was concerned with a shortage of disposal sites for low level radioactive waste. The transfer of waste from one State to another is obviously interstate commerce. Congress, in order to deal with the waste disposal problem, crafted a complex statute with three parts, only one of which was unconstitutional. There were a series of monetary incentives, which the Court unanimously upheld under Congress' broad spending powers. Congress also authorized States that adopted radioactive waste and storage disposal guidelines to bar waste imported from States that had not adopted certain storage and disposal programs. The Court, again unanimously, relied on long-settled precedent that approves of Congress creating such trade barriers in interstate commerce.

Then the Court turned to the "take title" provisions and held (six to three) that they were unconstitutional. The "take title" provision in effect required a State to enact certain regulations and, if the State did not do so, it must (upon the request of the waste's generator or owner), take title to and possession of the waste and become liable for all damages suffered by the generator or owner as a result of the State's failure to promptly take possession.

The Court explained that Congress could, if it wished, preempt entirely state regulation in this area and take over the radioactive waste problem, But Congress could not order the States to change their regulations in this area. Congress lacks the power, under the Constitution, to regulate the State's regulation of interstate commerce. That is what the proposed federal O-Hare Airport bill will do: it will regulate the State's regulation of interstate commerce by telling the State that it must act as if the City of Chicago has complied with the Illinois Aeronautics Act and other state rules.

In a nutshell, Congress cannot constitutionally commandeer the legislative or executive branches. The Court pointed out that this commandeering is not only unconstitutional (because nothing in our Constitution authorizes it) but also bad policy, because federal commandeering serves to muddy responsibility, undermine political accountability, and increase federal power.

The proposed Durbin-Lipinski legislation prohibits Illinois from applying its laws regulating one of its cities. The proposed federal law also authorizes the federal government to make an agreement with Chicago, pursuant to which Chicago will assume some significant obligations, even though present state law gives Chicago no authority to engage in this activity. As the six to three New York decision made clear:

> A State may not decline to administer the federal program. No matter which path the State chooses, it must follow the direction of Congress. . . . No other federal statute has been cited which offers a state government no option other than that of implementing legislation enacted by Congress. Whether one views the take title provision as lying outside Congress' enumerated powers, or as infringing upon the core of state sovereignty reserved by the Tenth Amendment, the provision is inconsistent with the federal structure of our Government established by the Constitution.

The proposed Durbin-Lipinski legislation is very much like the law that six justices invalidated in New York. The O'Hare bill provides that, no matter what the State chooses, "it must follow the direction of Congress." The State has "no option other than that of implementing legislation enacted by Congress."

The Court in New York went on to explain that there are legitimate ways that Congress can impose its will on the states:

> This is not to say that Congress lacks the ability to encourage a State to regulate in a particular way, or that Congress may not hold out incentives to the States as a method of influencing a State's policy choices. Our cases have identified a variety of methods, short of outright coercion, by which Congress may urge a State to adopt a legislative program consistent with federal interests. Two of these methods are of particular relevance here.

The Court then discussed those two alternatives. First, there is the spending power, with Congress attaching conditions to the receipt of federal funds. The proposed Durbin-Lipinski legislation rejects the spending power alternative. Second, "where Congress has the authority to regulate private activity under the Commerce Clause, we have recognized Congress' power to offer States the choice of regulating that activity according to federal standards or having state law preempted by federal regulation." The proposed Durbin-Lipinski legislation rejects that alternative as well. It does not propose that Congress directly takeover and expand O'Hare Airport. Instead, it proposes that the City of Chicago be allowed to exercise power that the State does not allow the City to exercise.

New York v. United States did not question "the authority of Congress to subject state governments to generally applicable laws." But Congress cannot discriminate against the States and place on them special burdens. It cannot commandeer or command state legislatures or executive branch officials to enforce federal law. Congress can regulate interstate commerce and States are not immune from such regulation just because they are States. For example, Congress can forbid employers from hiring child labor to work in coal mines, whether a private company or a State owns the coal mine and employs the workers.

Printz v. United States. Following the New York decision, the Court invalidated another federal statute imposing certain administrative duties on local law enforcement officials, in Printz v. United States. The Brady Act, for a temporary period of time, required local law enforcement officials to use "reasonable efforts" to determine if certain gun sales were lawful under federal law. The federal law also "empowered" these local officers to grant waivers of the federally prescribed 5-day waiting period for handgun purchases Note that the proposed Durbin-Lipinski legislation will also "empower" the City of Chicago to do that which Illinois does not authorize the city to do.

To make the analogy even more compelling, the chief law enforcement personal suing in the Printz case said that state law prohibited them from undertaking these federal responsibilities. That, of course, is the exact position in which Chicago finds itself. State law prohibits Chicago from entering into and committing to these federal responsibilities (e.g., the agreements between Chicago and the FAA in §3(f) of the proposed Durbin-Lipinski legislation call for construction as a "federal project" but then require Chicago to either construct or allow construction without a permit from the State of Illinois).

We should realize that the proposed Durbin-Lipinski legislation—in commanding and singling out the State of Illinois to, in effect, repeal its legislation governing the powers delegated to the City of Chicago—is quite unusual and not at all in the tradition of federal legislation. For most of our history, Congress would explicitly only "recommend" or "request" the assistance of the governors and state legislatures in implementing federal policy. It is only in very recent times that Congress has sought explicitly to commandeer or order the legislative and executive branches of the States to implement federal policies. Because such federal legislative activity is recent, the case law in this area is recent, but the case law is clear in prohibiting this type of federal assertion of power.

New York v. United States held that Congress cannot "command a State government to enact state regulation." Congress may regulate interstate commerce directly, but it may not "regulate state governments" regulation of interstate commerce." The Federal Government may not "conscript state governments as its agents." Congress has the "power to regulate individuals, not States."

In short, there are important limits on the power of the federal government to commandeer the state legislature or state executive branch officials for federal purposes. Another way to think about this issue is that, to a certain extent, the Constitution forbids Congress from imposing what recently have been called "unfunded mandates" on state officials. Congress cannot simply order the States or state officials or a city to take care of a problem. Congress can use its spending power to persuade the States by using the carrot instead of the stick.

While there are those who have attacked the restrictions that New York v. United States have imposed on the Federal Government, it is worth remembering the line-up of the Court in Maryland v. Wirtz when the justices first considered this issue. That case rejected the applicability of the Tenth Amendment and held that it was constitutional for Congress to set the wages, hours, and working conditions of employees, including state employees in interstate commerce. However, Justice Douglas, who was joined by Justice Stewart, dissented. Douglas found the law to be a "serious invasion of state sovereignty protected by the Tenth Amendment" and "not consistent with our constitutional federalism." He objected that Congress, using the broad commerce power, could "virtually draw up each State's budget to avoid 'disruptive effect[s]' " on interstate commerce. New York v. United States prevents this result.

The "generally applicable" restriction is important, and it explains Reno v. Condon. Congress enacted the Driver's Privacy Protection Act (DPPA), which limited the ability of the States to sell or disclose a driver's personal information to third parties without the driver's consent. Chief Justice Rehnquist, for a unanimous Court, upheld the law as a proper regulation of interstate commerce and not violating any principles of federalism found in New York v. United States or Printz because the law was "generally applicable."

Reno grew out of a congressional effort to protect the privacy of drivers' records. As a condition of obtaining a driver's license or registering a car, many States require drivers to provide personal information, such as name, address, social security number, medical information, and a photograph. Some States then sell this personal information to businesses and individuals, generating significant revenue. To limit such sales, Congress enacted the DPPA, which governs any state department of motor vehicles (DMV), or state officer, employee, or contractor thereof, and any resale or re-disclosure of drivers' personal information by private persons who obtained the information from a state DMV. The Court concluded: "The DPPA's provisions do not apply solely to States. Private parties also could not buy the information for certain prohibited purposes nor could they resell the information to other parties for prohibited purposes, and the States could not sell the information to the private parties for certain purposes if the private parties could not buy it for those purposes.

Unlike the law in New York, the Court concluded that the DPPA does not control or regulate the manner in which States regulate private parties, it does not require the States to regulate their own citizens, and it does not require the state legislatures to enact any laws or regulations. Unlike the law in Printz, the DPPA does not require state officials to assist in enforcing federal statutes regulating private individuals. This DMV information is an article of commerce and its sale or release into the interstate stream of business is sufficient to support federal regulation.

The DPPA is a "generally applicable" federal law regulating commerce because it regulates the universe of entities that participate as suppliers to the market for motor vehicle information—the states as initial suppliers and the private resellers or redisclosers of this information. "South Carolina has not asserted that it does not participate in the interstate market for personal information. Rather, South Carolina asks that the DPPA be invalidated in its entirety, even as applied to the States acting purely as commercial sellers."

### CONCLUSION

The proposed federal law dealing with the O'Hare Airport expansion is most likely unconstitutional because it imposes federal rules on the relationship between a city and the State that created the city. It subjects Illinois to special burdens that are not generally applicable to private parties or even to other States. It authorizes the City of Chicago to do that which Illinois now prohibits.

There is no escape from the conclusion that the proposed federal law does not regulate the behavior of private parties in interstate commerce. It does not subject the State of Illinois to "generally applicable" legislation. Instead, Congress is regulating the state's regulation of interstate commerce. Congress may not conscript the instrumentalities of state government and state power as tools of federal power. The case law is clear that Congress does not have this power.

Sincerely,

RONALD D. ROTUNDA,
*The Albert E. Jenner, Jr. Professor of Law.*

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### MEMORANDUM

*July 13, 2002.*

Re Impact of the Lipinski/Oberstar Bill on Illinois Law and Unchecked Condemnation Powers for Chicago to Condemn Land in Other Communities.

To: Senator Peter Fitzgerald; Congressman Henry Hyde; Congressman Jesse Jackson, Jr.

From: Joe Karaganis.

Sandy Murdock asked me to give you some background legal analysis of the impact of the language in the Lipinski/Oberstar bill (see §3 of the bill) to create a federal law override (preemption) of the Illinois Aeronautics Act—specifically as that impact relates to expanding Chicago's power to engage in widespread condemnation and demolition of residential and business properties in other municipalities outside Chicago's boundaries.

As you know, on July 9, 2002 Judge Hollis Webster of the DuPage County Circuit Court entered a ruling declaring that Chicago had no authority under Illinois law to acquire property in other municipalities without complying first with §47 of the Illinois Aeronautics Act, 620 ILCS 5/47 which requires any municipality to first obtain a "certificate of approval" from the Illinois Department of Transportation before making any alteration or extension of an airport.

Prior to her ruling, Chicago had proposed to acquire and demolish over 500 homes in Bensenville before seeking a certificate of approval. In testimony at the July 9, injunction hearing before Judge Webster, the lead IDOT official in charge of the IDOT approval process (James Bildilli) testified:

1. Without judicial enforcement of the Illinois Aeronautics Act, Chicago could acquire and demolish all the homes and businesses proposed in Bensenville and Elk Grove (over 500 homes and dozens of businesses) and only after such acquisition and demolition, would IDOT some years later hold a hearing in which IDOT would hear evidence and consider whether the harm caused by the acquisition and demolition justified IDOT's approval of the project. Essentially IDOT, in reaching its decision on the certificate of approval, would hear and consider evidence of the harm caused by the acquisition and demolition and consider this harm as a basis of its decision—but only after the harm (and destruction) had been inflicted.

2. Without judicial enforcement of the Illinois Aeronautics Act, Chicago could acquire by condemnation or otherwise all of Bensenville, Wood Dale, Elk Grove Village (thousands of homes and businesses) and any other municipality—without any need for a prior certificate of approval form IDOT under §47.

Thankfully, Judge Webster rejected Chicago and IDOT's claims and applied and enforced the plain language of the statute—

prohibiting Chicago from acquiring and demolishing homes and businesses in another municipality without first obtaining a certificate of approval from IDOT.

It is important for you to understand that the preemption approach of the Lipinski Bill (as well as Durbin's) will not simply federally destroy key provisions of the Illinois Aeronautics Act (namely §§47, 48, and 38.01). The Lipinski legislation has the effect of destroying the entire framework that Illinois has created under the Illinois Constitution and Illinois Municipal Code for preventing abuses of the state law condemnation power by municipalities. Here is the Illinois constitutional and Illinois statutory framework as upheld and enforced by Judge Webster:

1. Under the Illinois Constitution, Chicago has only that condemnation authority to condemn lands in other municipalities for airport purposes that is expressly delegated to Chicago by the laws of the State of Illinois. Article VII, Section 7 of the Illinois Constitution. Under long standing Illinois law ("Dillon's rule" followed in almost all of the 50 states) any powers delegated to a municipality by the General Assembly under this constitutional provision are narrowly construed against assertions of authority by the municipality.

2. The Illinois General Assembly has delegated to Chicago the authority to condemn lands in other municipalities for airport purposes in the Illinois Municipal Code (65 ILCS 5/11-102-4) but as an essential element of that authority to condemn has expressly mandated in the Illinois Municipal Code (65 ILCS 5/11-102-10) that this grant of authority to condemn must be in accordance with the requirements of the Illinois Aeronautics Act.

3. Acquisition of land by Chicago without complying with the Illinois Aeronautics Act is thus not only a violation of the Illinois Aeronautics Act, such failure constitutes an unlawful ultra vires action by Chicago in violation of the Illinois Constitution and the Illinois Municipal Code. Without compliance with the Illinois Aeronautics Act, Chicago has no authority under either Article VII, Section VII of the Illinois Constitution and no authority under the Illinois Municipal Code to acquire land in other municipalities.

The Lipinski (and Durbin) legislation seeks to "preempt" and destroy the Illinois Aeronautics Act, but in doing so the Lipinski (and Durbin) legislation attempts to destroy and rewrite the framework created by the Illinois Constitution and the Illinois Municipal Code. Why not just abolish state constitutions and state statutory codes altogether and let Congress rewrite the state constitutions and state statutory codes of all 50 states?

Beyond the enormous legal implications of such action, the practical effect of the Lipinski (and Durbin) legislation is to do exactly what Judge Webster said Illinois law prohibits:

1. The Lipinski (and Durbin) legislation will "authorize" Chicago to condemn land in other municipalities even though no such authorization exists for Chicago to do so under the Illinois Constitution or Illinois Municipal Code.

2. The Lipinski (and Durbin) legislation will "authorize" Chicago to engage in unfettered condemnation authority with the ability to acquire and destroy thousands of homes and businesses in many other municipalities—all in violation of the limits on Chicago's state constitutional and state Municipal Code authority imposed by the Illinois Constitution and Illinois General Assembly.

As Senator Fitzgerald has pointed out in his remarks in his recent colloquy with Senator Durbin, the Lipinski (and Durbin) legislation would give Chicago unfettered ability to condemn properties outside the City of Chicago. If applied in other states, it would "authorize" one municipality (whichever municipality Congress chose) to disregard the limits on that municipality's delegated powers created by that state's constitution and state statutory code) and to condemn land in any other municipality in that state—in total federal preemption of that state's constitution and municipal code.

As we have said before, such radical action is a blatant violation of the federalism/Tenth Amendment Structure of the federal Constitution. But even if Congress did have such power, should Congress be overriding state constitutions and municipal codes to give federal "authorization", to one municipality in a state to run roughshod over other municipalities in that state in violation of the state constitution and municipal statutory code?

Postscript: There is another aspect of the Lipinski preemption which may be of interest. The Lipinski bill proposes to preempt §38.01 of the Illinois Aeronautics Act, 620 ILCS 5/38.01. This section requires Chicago to obtain IDOT approval for any grant of federal funding to be used on airport projects which the Illinois General Assembly has authorized Chicago to construct. This is an important financial oversight tool (created by the Illinois General Assembly as a condition of a grant of authority to build airports) which allows the State of Illinois to engage in financial oversight of airport actions by Chicago. Given the widespread abuses in contract awards that have been documented at O'Hare, the Lipinski (and Durbin) legislation will literally "open the chicken coop" to widespread potential for corruption.

### Good Government vs. City Hall Corruption

It's hard to pinpoint Chicago City Hall's position on airports because it changes about as often as the wind in the Windy City.

In 1988, City Hall opposed a new airport or O'Hare expansion, saying they were unnecessary. In 1990, City Halls said a new airport was needed and proposed building one on the South Side near Lake Calumet. In 1994, City Hall abandoned the Lake Calumet Airport proposal and once again claimed no new runways were needed.

Just last year, the Mayor held a press conference to reiterate that O'Hare could handle all regional capacity needs until 2012, and that no runways were needed. Then in 2002, the Mayor changed course again and said six new runways were needed at O'Hare immediately. We don't need it. We need it. We don't need it. We need it. What is it?

Through all the flipflopping, one factor has remained consistent. That is City Hall's desire to protect cronyism and pin-striped patronage at O'Hare. The Chicago Tribune last year won a Pulitzer Prize for writing about what it called in one editorial: "Daley and the stench at O'Hare." Mr. Speaker, I ask for unanimous consent to enter this editorial into the record.

The Tribune's continuing series recounted numerous insider deals that enriched the Mayor's family, friends and contributors. And these aren't penny-annie deals. For example, the City handed out $400 million to 30 engineering firms in no-bid contracts—when the City denied it was working on expansion plans. A longtime mayoral friend was paid $1.8 million to arrange a meeting with a concessionaire. Another friend was paid $480,000 to lobby for O'Hare, even though he wasn't a lobbyist. Meanwhile, airport vendors, concessionaires and businesses tied to O'Hare gave the mayor $360,000 in campaign gifts, according to the Tribune.

More recently, Chicago unveiled plans to spend $1.3 billion for terminal improvements at O'Hare. After viewing the plan, U.S. Transportation Secretary Norman Mineta remarked that the massive project included "not one dime for new capacity." Mineta joked, "O'Hare will have the finest food court in America."

Now the City says trust us to build six new runways for billions of dollars.

The bottom line is: City Hall's repeated flip-flopping; its insider deals; and decades of deceit on this important issue have left it with little credibility.

I oppose such a deal. The City has strained its credibility and blocked the doorway to opportunity long enough. The region is paying with lost jobs, high fares, poor service and political corruption.

This airport debate is about good government. A third airport would protect taxpayers interests and improve service, while also resolving our nation's aviation crisis quicker, cheaper, safer and cleaner.

### Consumer Protection Fares

The O'Hare expansion plan is an anti-consumer measure.

Two airlines—American and United Airlines—control roughly 90 percent of the flights in and out of O'Hare. Combined, they have a monopoly.

Due to a lack of competition, fares at Chicago O'Hare continue climbing higher and faster than the national average. Six years ago, O'Hare fares were 21 percent above the national average. Today, they are 33 percent above the national average. In real terms, Chicagoans today pay more than $1 billion a year in overcharges to use O'Hare.

The Secretary of Transportation in Illinois often tells a story about his travels from Springfield Illinois to Washington. If he flies from Springfield to O'Hare and then to Washington, it costs him about $400. However, if he drives from Springfield to O'Hare and then flies to Washington—on the exact same plane—it costs him nearly $1,500, or three times more. That's because Springfield has competition. From there, one can choose to fly through Chicago or St. Louis. The poor traveler in Chicago has few options. And he or she pays mightily.

O'Hare's monopoly fares have been the subject of analysis in recent years by the General Accounting Office, the U.S. DOT and the State of Illinois, among others. Each study concluded that O'Hare fares are considerably higher than average simply because of a lack of competition.

A lack of competition has also resulted in airlines reducing service or methodically abandoning service to less-profitable markets, which severely hurts the economy of small and mid-sized cities.

In the past 10 years, O'Hare has terminated service to more than a dozen markets, from South Carolina to North Dakota.

Will adding new runways at O'Hare increase competition or lower fares? It's unlikely.

A few years ago, Congress lifted the restrictions on slots for commuter flights at O'Hare—theoretically in the name of increasing competition. However, the vast majority of the new slots were snapped up by commuters planes owned by or affiliated with United and American. Why? Because only United and American provide a network of connecting flights.

Now, the airlines will tell you that no carrier wants to come to Peotone. But that's simply not true. At least two airlines—Spirit and Virgin—have said they would love to fly out of a third airport. Moreover, last summer the CEO of American Airlines, Donald Carty, said American would use Peotone.

This airport debate is about consumer protection. A third airport will increase competition, which will reduce fares, while also resolving our nation's aviation crisis quicker, cheaper, safer and cleaner.

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### Stop O'Hare Expansion

### Let 2,000 Souls Rest in Peace

Dear Colleague: Two historic cemeteries stand in the path of the runways proposed under a plan to expand Chicago O'Hare International Airport. For this and many reasons more, we urge you to oppose H.R. 3479 or any legislation that would essentially force the Federal Aviation Administration to tear down and reconstruct O'Hare. We believe this legislation is constitutionally suspect, deeply divisive, environmentally flawed, wasteful and dangerous.

Many of you might be wondering why this issue should matter to you. Well, the answer is simple. If this atrocity could happen in our backyards, it could happen in yours!

On the reverse side of this page, please read an article that was printed in the Chicago Sun-Times detailing the "royal mess" that happened when contractors tried to move thousands of bodies in a nearby cemetery when St. Louis Lambert Airport expanded in the 1990s.

Near O'Hare, there are two cemeteries: St. Johnannes Cemetery (owned and maintained by St. John's United Church of Christ) and Resthaven Cemetery (affiliated with the Methodist Church). Most people have never heard of these cemeteries, but they serve as the final resting place of some of the first Illinois pioneers, as well as many of their modern era descendants. These cemeteries have served this purpose for more than 150 years since their first church members were laid to rest in the 1840s.

These individuals, their descendants and 1,600 other souls lie at rest in St. Johnannes, including some buried within the last year. Hundreds of others lie at rest at Resthaven, including mayors, business owners, farmers, factory workers, soldiers and housewives. Members of the Potowatamie tribe also are buried at Resthaven.

Illinois law states that a cemetery cannot be removed without the owner's consent, but that hasn't stopped the City of Chicago from planning to dig up these souls despite both churches stating publicly that they do not intend to provide consent.

Again, we implore you to vote against H.R. 3479. Let the dead rest in peace.

Henry Hyde.
Jesse Jackson, Jr.
Phil Crane.

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[From the Chicago Sun-Times, July 14, 2002]

### Moving Graves Can Be 'Royal Mess'

(By Robert C. Herguth, Transportation Reporter)

In the 1990s, St. Louis' Lambert Airport moved thousands of bodies from the crumbling, mostly black Washington Park Cemetery to make way for a transit line and create a larger, flatter buffer for runways.

Trouble, it turned out, was almost as bountiful as bones. An archaeologist hired to help with disinterment was accused of snatching limbs and yanking out teeth, supposedly for research, and later of hiding corpses to ensure he got paid. A state inspector climbed into a burial vault and held what was described as a "mock funeral."

There also were reports of coffins being accidentally pulverized by machinery.

"That was a royal mess," a person associated with the project recently remarked.

While an extreme example, the St. Louis work demonstrates how bad an already difficult and delicate process can get.

And it serves as a cautionary tale as the City of Chicago—using one of the same consultants involved in the Washington Park effort—makes plans to bulldoze two historic suburban cemeteries, and 433 acres of homes and businesses, to accommodate a proposed O'Hare Airport runway expansion.

"We've thought about those kinds of things," said Bob Sell, referring to Lambert's problems.

The Loop attorney has dozens of relatives buried at St. Johannes Cemetery, which is targeted for relocation, along with tiny Resthaven Cemetery.

"The notion of someone going to the cemetery and putting a shovel to my family member is horrible. That something could go wrong in that process, it makes me sick to my stomach."

Like many homeowners in the proposed expansion zone, leaders of Resthaven and St. Johannes don't want to sell. One and perhaps both graveyards will fight the city in court, cemetery officials said.

The process, as of last Tuesday, is in a holding pattern because of a DuPage County judge's ruling in a different lawsuit. The judge ordered Chicago to halt land buys until it receives a state permit, something city officials believe is unnecessary and will appeal. Meanwhile, the city won't even be negotiating sales.

In another room Tuesday in another part of DuPage, a different aspect of the same thorny issue played out as two of the city's hired guns met for the first time with leaders of Resthaven to "open up the dialogue."

That's how Jeff Boyle—a former top aide to Mayor Daley now being paid $240 an hour as a no-bid consultant—portrayed the meeting at the Bensenville Community Public Library.

Resthaven president Lee Heinrich, vice president Bob Placek and their attorney said they were there to listen to Boyle and another consultant, Robert Merryman of O.R. Colan Associates.

Merryman—after Boyle nearly canceled the meeting because of the presence of a reporter and the lawyer—outlined several options, all of which involved the city buying the cemetery land.

"Let's start with the assumption that you have to go," he said softly, speaking in the consoling tones of a funeral director.

"The airport could simply purchase Resthaven and Resthaven is no more," he said.

The second possibility, he said, would be to "functionally replace Resthaven" by building "a new Resthaven" elsewhere.

Third, he said, the cemetery could be moved to another graveyard, where "a section can be Resthaven." Headstones and monuments would go with the remains, the city would cover costs, and if some families wanted relatives reburied elsewhere, that would be fine, too, he said. Relatives could decide who "disinters and reinters the body," and help monitor the process, he said.

Merryman's company was involved in the Washington Park Cemetery relocation. The firm did not select the archaeologist facing the allegations of desecrating the remains and, in fact, was asked "to come and correct the situation," according to Chicago Aviation Department spokeswoman Monique Bond.

The firm also helped handle the "land acquisition aspects" of moving graves from Bridgeton Memorial Cemetery in St. Louis, which currently is being excavated to make way for new and longer runways at Lambert, said Lambert spokesman Mike Donatt.

#### HOW A CEMETERY IS MOVED

Locating and moving remains can be a tough process, but it's one played out quite frequently for road, airport and other public works projects, said Randolph Richardson.

He owns Kentucky-based Richardson Corp., which does the physical part of relocating graves.

For big jobs, Richardson may bring in 15 workers in blue jeans and knee boots, and heavy equipment. After mapping a cemetery, a worker with a "probe rod" tries to gauge the depth of graves and directs a backhoe operator on how far to dig. "If the grave itself is 6 feet deep you dig down around 4½ feet, and the rest of it is hand digging," he said.

"Say we've got a row of 50 graves, we'd start at the end with a backhoe, the man with the probe rod is guiding the backhoe to tell him how deep to go, we dig a trench to expose those 50 graves, that allows us to get the men in there to work," he said.

Bodies are placed in individual wooden boxes—there are several sizes—unless coffins are intact, he said, adding that his workers may get tetanus shots before a project because of old rusty nails.

Caskets are put on trucks and driven to their new resting place, he said. His company typically charges between $1,000 and $1,500 per body.

Richardson, whose firm relocated some of the bodies from St. Louis' Washington Park, recalls some of the trouble there, but insists things usually are more smooth.

#### GUARDS QUESTIONING VISITORS

Boyle and Chicago's first deputy aviation commissioner, John Harris, have said they want to handle their cemetery situation with dignity and sensitivity. But the city is having its own public relations headaches.

The cemeteries are outside Chicago's borders, but can only be reached by a city-owned access road monitored by city guards.

Twice this month, a guard approached a St. Johannes visitor at the cemetery, questioned the person and asked that they "sign in."

In the first instance, the visitor said, he was interrupted while praying at a grave site, and after refusing to sign in was met by five Chicago police cars on the access road. The visitor in the second case was the pastor of the church that owns St. Johannes.

Just before being confronted—on Wednesday, after the judge's ruling—the minister was surprised to find four O.R. Colan employees nosing around graves at St. Johannes, apparently taking down names from headstones, although they had no permission to be there.

"They said they were doing a study," Sell said. "They're trespassing on private property."

Merryman did not return phone calls. City officials were at a loss to explain.

But Roderick Drew, a spokesman for Daley, said Friday that there's been a "change in policy" that "nobody will have to sign in any more."

"Anybody who wants access to that cemetery during those posted hours will not be stopped, will not have to sign in," he said, adding that the sign in "has turned out to be a much greater inconvenience to the people who access it."

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### Floor Statement of U.S. Representative Jesse L. Jackson, Jr., Opposing H.R. 3479: The National Aviation Capacity Expansion Act of 2002—Monday, July 15, 2002 Washington, DC

Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I rise in opposition to H.R. 3479.

Votes on the suspension calendar are supposed to be, by definition, non-controversial. But to argue that H.R. 3479 is non-controversial is like arguing that the elimination of estate taxes, gun control legislation, a patients bill of rights, and prescription drug benefits for seniors should all be on the suspension calendar. H.R. 3479 is one of the most controversial bills to come before the House this year. It has been extremely controversial in Chicago, in the northwest suburbs, in Illinois generally, in the Illinois congressional delegation (our two U.S. Senators are divided over it), in all House and Senate Committees, in the full Senate, and, if a full debate were held on the House floor today, the NATION would see just how controversial this bill is.

This bill has already been delayed in the Senate with one virtual filibuster—and it will be subjected to every parliamentary and tactical maneuver possible to try to stop it when it comes before the Senate again. Hardly non-controversial!

To tear down and rebuild O'Hare will cost taxpayers three times as much money as it will cost to build a third South Suburban airport—$15–20 billion (not the $6.6 billion generally used) versus $5–7 billion. This bill is hardly noncontroversial for taxpayers!

Tearing down and rebuilding O'Hare is estimated to take 15-to-20 years, assuming it proceeds on schedule, without lawsuits—not likely—while building a new South Suburban Airport would take five years, it would expand thereafter as need arises, and would be a more permanent solution to the capacity crisis. When the new O'Hare is completed, we will be in the same position we are today with regard to the air capacity crisis. How is that not controversial?

This bill will double the noise pollution in the suburban communities surrounding O'Hare. It is hardly non-controversial in the polluted northwest suburbs of Chicago.

Doubling the traffic in the air space around O'Hare from 900,000 to 1.6 million operations will make flying into O'Hare less safe for the public—hardly noncontroversial for the flying public.

This bill will increase environmental pollution—O'Hare is already the number one polluter in Illinois—hardly non-controversial for those having to live in the increased pollution.

The Chicago Tribune won a Pulitzer Prize for documenting "sleaze" surrounding the City of Chicago and past O'Hare construction, vendor, and service contracts. By passing this bill—and removing the Illinois Aeronautics Law and by-passing the Illinois General Assembly—we are virtually sanctioning more "sleaze" to be found around O'Hare construction, vendor, and service contracts. Since when has such potential "sleaze" become non-controversial for Congress.

I don't consider the Federal Government running over any future Governor of Illinois, the Illinois General Assembly, the Illinois Aeronautics Law, and the 10th Amendment of the U.S. Constitution—to build an airport—non-controversial.

Finally, we're already finding out how controversial this bill is as Judge Hollis Webster on July 9, 2002, stopped the City of Chicago from running rough-shod over their northwest suburban neighbors by illegally trying to buy up and tear down their homes and businesses to make room for O'Hare expansion. This is just one of many controversial lawsuits that have been and will be filed in the future if this bill passes and becomes law.

How is tearing down and rebuilding O'Hare—which will be three times as expensive, take three times longer, be less protective of the environment, make the skys less safe, and be a less permanent solution than building a third airport—non-controversial? I say, solve the current air capacity crisis by building Peotone first, faster, cheaper, and safer, then evaluate what needs to be done with O'Hare.

H.R. 3479 falls woefully short of providing an adequate, equitable solution.

Please know that I do not oppose fixing the current air capacity crisis surrounding O'Hare. But I have many, many grave concerns about this specific expansion plan. Concerns about cost. About safety. About environmental impact. About federal precedence—and I associate myself completely with the remarks of my good friend, Mr. Hyde.

Although I oppose this bill for many reasons, I rise today to discuss an important element of this bill—constitutionality.

The attempt to rebuild and expand O'Hare Airport—Congress is inappropriately violating the Tenth Amendment.

In other contexts—specifically with regard to certain human rights—I believe that the Tenth Amendment serves to place limitations on the federal government with which I disagree. Indeed, in the area of human rights, I believe new amendments must be added to the Constitution to overcome the limitations of the Tenth Amendment. However, building airports is not a human right. Therefore, in the present context, I agree that building airports is appropriately within the purview of the states.

I believe attempts by Congress to strip the authority of Governor Ryan and the Illinois Legislature over the delegation and authorization to Chicago of state power to build airports—along with the authority of governors and state legislatures in a host of other states such as Massachusetts (Logan), New York (LaGuardia and JFK), New Jersey (Newark) California (San Francisco airport), and the State of Washington (Seattle)—raise serious constitutional questions.

Under the framework of federalism established by the federal constitution, Congress is without power to dictate to the states how the states delegate power—or limit the delegation of that power—to their political subdivisions. Unless and until Congress decides that the federal government should build airports, airports will continue to be built by states or their delegated agents (state political subdivisions or other agents of state power) as an exercise of state law and state power. Further compliance by the political subdivision of the oversight conditions imposed by the State legislature as a condition of delegating the state law authority to build airports is an essential element of that delegation of state power. If Congress strips away a key element of that state law delegation, it is highly unlikely that the political subdivision would continue to have the power to build airports under state law. The political subdivision's attempts to build runways would likely be ultra vires (without authority) under state law.

Under the Tenth Amendment and the framework of federalism built into the Constitution, Congress cannot command the States to affirmatively undertake an activity. Nor can Congress intrude upon or dictate to the states, the prerogatives of the states as to how to allocate and exercise state power—either directly by the state or by delegation of state authority to its political subdivisions.

As stated by the United States Supreme Court:

"[T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States. . . . We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, *it lacks the power directly to compel the States to require or prohibit those acts.*"—New York v. United States, 505 U.S. 144, at 166 (1992) (emphasis added).

It is incontestable that the Constitution established a system of "*dual sovereignty.*"—Printz v United States, 521 U. S. 898, 918 (1997) (emphasis added).

Although the States surrendered many of their powers to the new Federal Government, they retained "a residuary and inviolable sovereignty," The Federalist No. 39, at 245 (J. Madison). This is reflected throughout the Constitution's text.

Residual state sovereignty was also implicit, of course, in the Constitution's conferral upon Congress of not all governmental powers, but only discrete, enumerated ones, Art. 1, Sec. 8, which implication was rendered express by the Tenth Amendment's assertion that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."—Id at 918–919.

This separation of the two spheres is one of the Constitution's structural protections of liberty. "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.—Id at 921 quoting Gregory v. Ashcroft, 501 U.S. 452 at 458 (1991).

The Supreme Court in Printz went on to emphasize that this constitutional structural barrier to the Congress intruding on the State's sovereignty could not be avoided by claiming either (a) that the congressional authority was pursuant to the Commerce Power and the "necessary and proper clause of the Constitution or (b) that the federal law "preempted" state law under the Supremacy Clause. 521 U.S. at 923–924.

It is important to note that Congress can regulate—but not affirmatively command—the states when the state decides to engage in interstate commerce. See Reno v. Condon, 528 U.S. 141 (2000). Thus in Reno, the Court upheld an act of Congress that restricted the ability of the state to distribute personal drivers' license information. But Reno did not involve an affirmative command of Congress to a state to affirmatively undertake an activity desired by Congress. Nor did Reno involve (as proposed here) an intrusion by the federal government into the delegation of state power by a state legislature—and the state legislature's express limits on that delegation of state power—to a state political subdivision.

H.R. 3479 would involve a federal law which would prohibit a state from restricting or limiting the delegated exercise of state power by a state's political subdivision. In this case, the proposed federal law would seek to bar the Illinois Legislature from deciding the allocation of the state's power to build an airport or runways—and especially the limits and conditions imposed by the State of Illinois on the delegation of that power to Chicago. The law is clear that Congress has no power to intrude upon or interfere with a state's decision as to how to allocate state power.

A state's authority to create, modify, or even eliminate the structure and powers of the state's political subdivisions—whether that subdivision be Chicago, Bensenville, or Elmhurst—is a matter left by our system of federalism and our federal Constitution to the exclusive authority of the states. As stated by the Seventh Circuit in Commissioners of Highways v. United States, 653 F.2d 292 (7th Cir. 1981) (quoting Hunter v. City of Pittsburgh, 207 U.S. 161, 178 (1907)):

> "Municipal corporations are political subdivisions of the State, created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them. For the purpose of executing these powers properly and efficiently they usually are given the power to acquire, hold, and manage personal and real property. The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State. . . . The State, therefore, at its pleasure may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the State is supreme, and its legislative body, conforming its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States."—Commissioners of Highways, 653 F.2d at 297.

Chicago has acknowledged that Illinois has delegated its power to build and operate airports to its political subdivisions by express statutory delegation. 65 ILCS 5/11-102-1, 11-102-2 and 11-102-5. These state law delegations of the power to build airports and runways are subject to the Illinois Aeronautics Act requirements—including the requirement that the State approve any alterations of the airport—by their express terms. Any attempt by Congress to remove a condition or limitation imposed by the Illinois Legislature on the terms of that state law delegation of authority would likely destroy the delegation of state authority to build airports by the Illinois Legislature to Chicago—leaving Chicago without delegated state legislative authority to build runways and terminals at O'Hare or Midway. The requirement that Chicago receive a state permit is an express condition of the grant of state authority and an attempt by Congress to remove that condition or limitation would mean that there was no continuing valid state delegation of authority to Chicago to build airports. Chicago's attempts to build new runways would be ultra vires under state law as being without the required state legislative authority.

Clearly this bill sets dangerous precedence by stating that Congress—not the FAA, not Departments of Transportation, not aviation experts—but Congress shall plan and build airports.

Further, it ignores the 10th Amendment to the U.S. Constitution. It guts and/or undermines state laws and environmental protections. And it sidesteps the checks-and-balances and the public hearing process.

My focus today is the same as it's always been. Finding the best fix. And that best fix is the construction of a third Chicago airport near Peotone, Illinois. The plain truth is Peotone could be built in one-third the time at one-third the cost. For taxpayers and travelers, it's a no-brainer.

Unfortunately, this bill mandates expansion of O'Hare yet pays mere lip service to Peotone. It puts the projects on two separate and unequal tracks. That is my opinion. That is also the opinion of the Congressional Research Service, whose analysis I will provide for the record.

What we don't need at this critical juncture is favoritism or interference from politicians and profit-oriented airlines to stack the deck against Peotone. What we don't need is a bill that increases the likelihood of a constitutional challenge that prolongs the debate and delays the fix.

Thus, I urge members to reject this unprecedented, unwise, and unconstitutional bill.

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### TESTIMONY OF CONGRESSMAN JESSE L. JACKSON, JR. BEFORE THE COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, UNITED STATES CONGRESS

#### OVERSIGHT HEARING ON THE STATE OF COMPETITION IN THE AIRLINE INDUSTRY—JUNE 14, 2000

Mr. Chairman, Ranking Member Conyers, members of the Judiciary Committee. Thank you for the opportunity to present my concerns about monopoly abuses in the airline industry—particularly the apparent agreement by the so-called "Big Seven" major airlines not to compete in each other's Fortress Hub markets. I know much of the discussion at today's hearing will focus on the recently announced merger between United and US Air and the potential responsive mergers between American and Northwest and between Delta and some other major airline. That these mergers are anti-competitive and should be prohibited is self-evident.

While I will address the issue of these proposed or potential mergers, I believe it important to focus on today's monopoly environment in the airline industry. It is true that the proposed mergers will make the monopoly problem worse. But what needs to be emphasized is that today—even if the proposed or potential mergers never reach fruition or are ultimately rejected—the major airlines have currently created a monopolistic system of Fortress Hubs that represents a blatant violation of federal antitrust laws. Moreover, if government estimates are correct, these current monopoly abuses at Fortress Hubs are costing air travelers—especially business travelers—billions of dollars a year in excess fares.

Therefore my remarks will focus on the antitrust violations of the current Fortress Hub system created and maintained by the major airlines. That the proposed or potential mergers are an unacceptable expansion of monopolization is a given. But this Committee, the entire Congress, and the Administration need to develop and implement specific concrete and comprehensive solutions to the existing Fortress Hub monopoly problem.

Thankfully, we do not address this problem in a vacuum. The Suburban O'Hare Commission—an intergovernmental body of local governments adjacent to O'Hare airport—has recently issued a comprehensive report on the national Fortress Hub problem entitled If You Build It, We Won't Come: The Collective Refusal Of The Major Airlines To Compete In The Chicago Air Travel Market. The Suburban O'Hare Commission report contains a detailed analysis and description of the monopoly problem presented by the Fortress Hub system and I won't repeat all those details here. But I would like to highlight several issues from the report and discuss recommended solutions to the Fortress Hub problem both nationally, and in Chicago.

1. Northwest owns Minneapolis and Detroit; Delta owns Atlanta and Cincinnati; American and United own Chicago; US Air owns Pittsburgh.

Ever since the passage of deregulation legislation in 1978, the major airlines have consolidated their economic power into a series of geographically distinct "Fortress Hubs". Thus everyone knows that Northwest Airlines dominates air travel to and from Minneapolis and Detroit; Delta dominates air travel to and from Atlanta and Cincinnati; United and American dominate air travel to and from Chicago; and US Air dominates air travel to and from Pittsburgh.

2. These Fortress Hub markets have economically attractive business travel markets that should—in normal circumstances—attract competition to service those markets.

Virtually all of the major Fortress Hub markets are located in thriving urban business centers. This means that in all major Fortress Hub markets there is a large pool of business travelers who would like to travel from the Fortress Hub to other destinations.

One would assume that this pool of business travelers would be an attractive market for major airlines to compete with one another for this traffic. One would assume therefore that United would—under normal circumstances—wish to compete with Delta for the business traveler based in Atlanta. Similarly, Delta would—under normal circumstances—wish to compete with United and American for the business travel market based in Chicago or with Northwest for the business market in Minneapolis or Detroit.

But we do not have normal circumstances here. We do not see Northwest coming before Congress complaining about their inability to compete with Delta in Atlanta for the lucrative business travel market. We do not see Delta coming before Congress complaining about their inability to compete with Northwest in Detroit for the lucrative business travel market there or their inability to compete with United and American in Chicago for the business travel there. Instead we have a collective decision by the major airlines—the so-called "Big Seven"—not to compete in each other's major hub markets.

3. This decision by the Big Seven Not To Compete Appears to Be a "Per Se" Violation of federal Anti-trust laws.

Given this obvious collective decision by the Big Seven to stay out of each other's Fortress Hub markets and this collective decision not to compete for lucrative business travel in those markets, the obvious question is: Do these geographic allocation of Fortress Hub markets by the major airlines constitute "per se" violations of federal antitrust laws. As set forth in the Suburban O'Hare Commission report, a multitude of Supreme Court decisions uniformly condemn horizontal geographic market allocations—such as is present in the geographic allocation of Fortress Hub markets—as "per se" violations of the Sherman antitrust law.

4. The Fortress Hub Monopoly System Costs Travelers—especially business travelers—billions of dollars per year in excess fares.

The concentration of market power in the hands of one or two airlines in a single geographic market inevitably leads to the temptation by the dominant carriers to raise prices to higher levels than would be the case if there was significant competition in that market. The General Accounting Office (GAO) has warned us for years that concentration of market power in one or two airlines has led and will lead to significantly higher prices than would otherwise be the case with aggressive competition.

The State of Illinois has produced two studies which suggest that the monopoly premium paid by travelers at Fortress O'Hare alone is on the order of several hundred million dollars per year—monopoly overcharges taken from the traveler by United and American because of the lack of significant competition in the O'Hare market. Extended nationally, these monopoly overcharges are likely to exceed several billion dollars per year being paid by the nation's air travelers. The segment of the travelling public that bears the brunt of these monopoly overcharges is the business traveler. The anecdotal evidence is overwhelming that the time-sensitive business traveler is being charged exorbitant prices for business travel. It is clear that the Big Seven cartel is maintaining the Fortress Hub system—and reaping huge monopoly induced revenues—on the backs of the business traveler.

5. The Big Seven's refusal to Compete In Chicago—If You Build It We Won't Come.

Metropolitan Chicago makes a good case study of the collective refusal of the other members of the Big Seven to compete with United's and American's dominance of the Chicago air travel market. As discussed in the Suburban O'Hare Commission report, the evidence is clear that United and American—in concert with their fellow members of the Air Transport Association (ATA)—have engaged in a collusive effort to stop construction of major new capacity in metropolitan Chicago.

Here we have explicit evidence of the other major airlines telling the State of Illinois that—even if a new airport is constructed in metro Chicago—they will not use that airport to compete head-to-head with United and American. When read carefully, the ATA sponsored letter necessarily implies even more. It suggests that these other major airlines simply do not wish to compete with United and American in the Chicago market on any terms or at any location.

Nowhere do these major airlines (e.g. Delta, Northwest, Continental) offer to compete with United and American in the metro Chicago area if favorable terms are made available to them at the new airport (e.g. low landing fees; high speed rail access to central Chicago, etc.). Nor do they alternatively demand major hub-and-spoke capacity be made available to them at O'Hare so that they can compete head-to-head at O'Hare. Instead, they simply declare their refusal to use the new airport and by necessary conclusion, declare their refusal to compete in the metro Chicago market.

6. The Currently Proposed O'Hare Expansion Will Only Make the Monopoly Problem Worse.

United and American are currently working with the City of Chicago on a massive expansion of O'Hare called the "World Gateway" program. This proposal calls for spending several billion dollars in federal taxpayer money to fund the expansion of United and American's hub-and-spoke monopoly at O'Hare. Nowhere in the design of the World Gateway project is there any attempt to include or encourage new hub-and-spoke competition from another major airline. Indeed, the entire terminal design is premised on continued growth of United and American's hub-and-spoke systems to the exclusion of any new hub-and-spoke competitor.

7. The Campaign to Maintain the Fortress Hub System—and to Defeat the Development of New Capacity for New Competition—has Other Serious Consequences.

As discussed above the principal economic victims of the Fortress Hub monopoly system is the business traveler and our national economy. American businesses are paying a penalty of billions of dollars per year in monopoly overcharges to the major airlines Fortress Hub system. Further, the prohibitively high prices of business travel created and maintained by this Fortress Hub system are actually stifling business travel for those entrepreneurial businesses who cannot afford those prices.

But the business traveler is not the only victim of this Fortress Hub system. As shown by the Suburban O'Hare Commission report and from my own experience, the major airlines attempts to defeat the construction of new competitive capacity in the South Suburban Chicago Airport illustrates the widespread adverse consequences of this illegal conduct.

By seeking to expand United and American's dominance of the regional Chicago market through a major expansion of O'Hare—while refusing to compete in metropolitan Chicago—the major airlines (led by United and American) have created severe environmental and economic problems and distortions throughout the Chicago metro region. My point is that the major airlines' passion for protection and expansion of the Fortress Hub monopoly system has consequences far beyond the business traveler. These include:

Severe environmental impacts on communities around the Fortress Hub airport. The O'Hare area communities will be subjected to more noise, more air pollution, and more safety hazards because United and American want the expansion to take place under their control at O'Hare—where by design they are keeping out new hub-and- spoke competition—rather than at a new regional airport where a major new competitor could enter the region.

Serious economic decline in the communities in my district. By seeking to force traffic growth into their already overloaded Fortress Hub at O'Hare, United and American (along with their colleagues at the ATA) are causing serious economic injury to the communities in my district. As you know, Chairman Hyde and I each represent a part of Chicago and its suburbs. What you might not know is that the hub of business activity in Chicago is no longer downtown; it is O'Hare Airport. There are roughly equal numbers of people living in the south suburbs, which I represent, and the northwest suburbs, which Chairman Hyde represents. However, during the past ten years, eighty percent of the new jobs created in the Chicago region were in Mr. Hyde's district while my district lost jobs.

8. The Federal Government Has Assisted In the Growth and Expansion of the Fortress Hub Monopoly System.

It is obvious that the Department of Justice has broad law enforcement powers to correct many of the abuses of the Fortress Hub system. But there is another aspect of federal power that has actually been used to nurture and expand the Fortress Hub monopoly problem—the current federal programs for financial assistance to airports.

The federal government—through either the Airport Improvement Program (AIP) or the Passenger Facility Charge Program (PFC)—awards or authorizes the expenditure of billions of dollars for airport development. Yet it is clear that little effort has been made by the Department of Transportation to ensure that these billions of federal taxpayer dollars are used to enhance competition and to deter monopoly. Indeed, there is strong evidence that the Department of Transportation has acted in collusion with the Fortress Hub major airlines to expand the Fortress Hub monopolies and to discourage new competition.

This neglect of the antitrust implications of federal airport funding policy is vividly illustrated in the Administration's bizarre use of federal funding power in Chicago:

First, the Administration has repeatedly denied planning and development funds for a new regional airport which could support major new competition for United and American. The Administration has done so on the bizarre extra-legal claim that before a new airport can proceed, there must be "regional consensus"—a code phrase for Mayor Daley's approval. No such requirement exists in federal law.

Second, the Administration is proceeding forward with Chicago's (and United and American's) design for a so-called "World Gateway" program at O'Hare which is designed to expand and solidify the current hub-and-spoke dominance of United and American in the region. As currently proposed, the DOT is being asked to approve or authorize billions of federal taxpayer dollars to build a Fortress Hub expansion designed by United and American to keep out new hub-and-spoke competition.

Both of these actions by DOT are interrelated. Starving the new regional airport will ensure that no significant new competition comes into the region while funneling billions in taxpayer dollars into United's and American's expanded Fortress O'Hare will only increase the monopoly problem in Chicago.

9. Mega-Mergers Will Only Make The Problem Worse.

My discussion above makes it clear that we already—independent of the proposed and potential mega-mergers—have enormous problems with anti-trust violations in the airline industry's Fortress Hub system, problems that cost the traveling public billions of dollars, in overcharges each year. These current problems stem from a concentration of market power in the hands of a few. It is obvious that the mega-mergers will only make an already terrible situation even worse.

CONCLUSION AND RECOMMENDATIONS

Based on my own analysis and that of the Suburban O'Hare Commission, I conclude that the evidence is overwhelming that the major airlines have developed a Fortress Hub system that enables individual airlines to dominate geographic markets and charge exorbitant monopoly supported air fares. I further conclude that as part of their program to maintain and expand this illegal system, the major airlines have acted in concert not to compete in each other's Fortress Hub markets for lucrative business travel markets—with the result that business travelers are overcharged billions of dollars per year.

Finally, I conclude that this Fortress Hub system constitutes a per se violation of federal antitrust laws. Given these conclusions, I make the following recommendations to this Committee:

It is obvious that the proposed and potential "mega-mergers" should be stopped.

I respectfully ask that the Committee join with me in asking the Department of Justice to initiate an investigation into the collective refusal of the Big Seven airlines to compete against each other in each other's Fortress Hub markets.

I respectfully ask that the Committee join with me in asking the Department of Justice to initiate a civil action in federal court to break up the Fortress Hub geographic market allocation by the major airlines and to prohibit the collective refusal of the major airlines to compete in each other's Fortress Hub markets.

I respectfully ask that the Committee join with me in asking the state Attorneys General to bring civil damage actions to recover treble damages for the billions of dollars per year in overcharges imposed on travelers as a result of Fortress Hub system.

I respectfully ask this Committee to join with me in a request to the Department of Justice and the Department of Transportation that no further federal funds (either Airport Improvement Program funds or Passenger Facilities Charges) be authorized or approved at O'Hare until there have been full public hearings and public consideration of the antitrust implications of the proposed alterations to O'Hare.

I respectfully ask that the Committee join with me in seeking major reform of the federal aid process to airports to insure that the federal funds are used to promote competitions and to discourage maintenance and growth of Fortress Hub monopoly power.

I respectfully ask that the Committee join with me in the following recommendation to the Department of Transportation: Until completion of construction of a new Chicago regional airport, the existing capacity of O'Hare should be reallocated from its current dominance by United and American into a shared capacity allocation program that reserves a significant share of O'Hare's capacity (e.g. 40 percent) for new 1 competitive entrants. And by new competitive entrants, I do not mean affiliates of United and American.

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### STATEMENT OF U.S. REPRESENTATIVE JESSE L. JACKSON, JR. BEFORE THE U.S. HOUSE AVIATION SUBCOMMITTEE—WEDNESDAY, AUGUST 1ST, 2001 WASHINGTON DC

I want to thank Members of the House Aviation Subcommittee for this opportunity to discuss Chicago's aviation future. As you may know, I ran on this issue in 1995, and have supported expanding aviation capacity by building a third regional airport in Peotone, Illinois.

Let me begin with a personal anecdote that, from my perspective, illustrates why we're here. I won my first term in a special election and on December 14th, 1995 took the Oath of Office. Congressman Lipinski, my good friend and fellow Chicagoan whose district borders mine, was present and his was the seventh or eighth hand I shook as a new Member. He told me then: "Young man, I want you to know that I can be very helpful to you during your stay in Congress, but you're never going to get that new airport you spoke about during your campaign."

Since then, Congressman Lipinski has been helpful and we've worked together on many important issues. But, he's also made good on his word to block a third airport.

It is this rigid stance by many Chicago officials that's allowed a local problem to escalate into a national crisis. Once the nation's best and busiest crossroads, O'Hare is now its worst choke point—overpriced, overburdened and overwhelmed.

And to think it was avoidable. This debate dates back to 1984 when the Federal Aviation Administration determined that Chicago was quickly running out of capacity. The FAA directed Illinois, Indiana and Wisconsin to conduct a feasibility study for a new airport. The exhaustive study of numerous sites concluded almost 10 years ago that gridlock could be best avoided by building a south suburban airport. The State of Illinois then drafted detailed plans for an airport near Peotone.

Unfortunately, despite the FAA's dire warning and the State's best efforts, I watched in amazement as the City of Chicago went to extremes to thwart and delay any new capacity.

In the late 1980s, Mayor Daley mocked the idea of a third airport. By 1990, the City did an about-face and proposed building a third airport within the City. The City even initiated federal legislation creating the Passenger Facility Charge (PFC) to pay for it. But two years later the City reversed itself again and abandoned the plan, yet continued to collect $90 million a year in PFCS. This summer, the City told the Illinois Legislature that O'Hare needed no new capacity until the year 2012, then, in yet another reversal, three weeks ago declared O'Hare needed six new runways.

As the City was spending hundreds of millions of dollars on consultants to tell us that the City didn't, did, didn't, did need new capacity, it continued to be consistent on one thing—fighting to kill the third airport.

Sadly, that opposition was never based on substantive issues—regional capacity, public safety or air travel efficiency. Instead it was rooted in protecting patronage, inside deals and the status quo. In fact, earlier this year the Chicago Tribune won a Pulitzer Prize for documenting the "stench at O'Hare."

Still, for eight years, City Hall leveraged the Clinton FAA to stall Peotone. The FAA, ignoring its own warnings of approaching gridlock, conspired with the city to:

(1) Mandate "regional consensus,"' thus requiring Chicago mayoral approval for any new regional airport; (2) Remove Peotone from the NPIAS list in 1997, after it emerged as the frontrunner. Peotone had been on the NPIAS for 12 years; (3) Hold up the Peotone environmental review from 1997 to 2000.

In short, the same parties who created this aviation mess are now saying "trust us to clean it up" with H.R. 2107. But their hands are too dirty and their interests are too narrow. Proponents of this legislation claim to be taking the high road. But this is a dead end.

Fortunately, there is a better alternative. Compared to O'Hare expansion, Peotone could be built in one-third the time at one-third the cost—both important facts given that the crisis is imminent and that the public will ultimately pay for any fix.

Site selection aside, however, there is yet another, even bigger problem with H.R. 2107. It is the United States Constitution.

H.R. 2107 strips Illinois Governor George Ryan of legitimate state power in an apparent violation of the "reserved powers" clause of the 10th Amendment.

Under the 10th Amendment, Congress cannot command Illinois to affirmatively undertake an activity, nor can it intrude upon Illinois' prerogative to exercise or delegate its power. As stated by the United States Supreme Court: "[T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States . . . . We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts." [New York v. United States, 1992] [2]

Supporters have cited the Commerce Clause in defending his legislation. But the Supreme Court in Printz v. United States specifically emphasized the 10th Amendment barrier to Congress intruding on a state's sovereignty by saying that it could not be avoided by claiming either, one, that congressional authority was pursuant to the Commerce Power, or, two, that federal law "preempted" state law under the Supremacy Clause.

Chicago has acknowledged Illinois' authority to build and operate airports by express statutory delegation through the Illinois Aeronautics Act, including the requirement that the State approve any airport alterations. Under the 10th Amendment, if Congress strips away a key element of the Illinois law, Chicago's attempt to build runways would likely be ultra vires (without authority) under Illinois law.

Moreover, H.R. 2107 converts the concept of dual sovereignty into tri-sovereignty, by going beyond states' rights to city rights. It gives Mayor Daley (and the other local officials in charge of the 68 largest airports in the country) a greater say over national aviation policy than the federal government or the fifty governors.

Indeed, H.R. 2107 sets federalism on its head. It makes about as much sense as putting the local police department in charge of national defense.

Such legislation won't improve aviation services. In fact, it increases the likelihood for a constitutional challenge that will further prolong this crisis.

So, from a practical standpoint, I urge the subcommittee to reject this measure, to reject cramming more planes into one of the nation's most overcrowded airport, to reject turning O'Hare into the world's largest construction site for the next 20 years, and to reject sticking the taxpayers with an outrageous bill.

I strongly urge the committee to reject this unprecedented, unwise and unconstitutional attack against our fifty states and our Founding Fathers. Thank you.

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HOUSE OF REPRESENTATIVES,
*Washington, DC.*

### STATEMENT OF U.S. REPRESENTATIVE JESSE L. JACKSON, JR. BEFORE THE U.S. SENATE COMMERCE COMMITTEE THURSDAY, MARCH 21, 2002.

I want to commend and thank Members of the Committee on Commerce, Science and Transportation for this opportunity to again discuss the future of Chicago's airports. As you know, I sent a letter to each of you stating my opposition to this bill. Many Members responded favorably, and for that I thank them. Today, my position has not changed.

As you know, my commitment to resolving Chicago's aviation capacity crisis predates my days in Congress. I ran on this issue in my first campaign. I won on this issue. It remains my first priority. It was the subject of my first speech in Congress. And it was the topic of my first debate in Washington.

I am elated that this issue—my issue—is now before the Congress. And while I thank

Members of the Senate for their interest in trying to resolving this regional and national crisis, I must say that HR 3479 as amended falls woefully short of providing an adequate, equitable solution.

Please know that I do not oppose fixing O'Hare's problems. But I have many, many grave concerns about this specific expansion plan. Concerns about cost. About safety. About environment impact. About federal precedence. And about constitutionality.

Clearly this bills sets dangerous precedence by stating that Congress—not the FAA, not Departments of Transportation, not aviation experts—but Congress shall plan and built airports. Further, it ignores the 10th Amendment to the U.S. Constitution. It guts and/or undermines state laws and environmental protections. And it sidesteps the checks-and-balances and the public hearing process.

My focus today is the same as it's always been. Finding the best fix. And that best fix is the construction of a third Chicago airport near Peotone, Illinois. The plain truth is Peotone could be built in one-third the time at one-third the cost. For taxpayers and travelers, it's a no-brainer.

Unfortunately, this bill mandates expansion of O'Hare yet pays mere lip service to Peotone. It puts the projects on two separate and unequal tracks. That is my opinion. That is also the opinion of the Congressional Research Service, whose analysis I will provide to you.

What we don't need at this critical juncture is favoritism or interference from politicians and profit-oriented airlines to stack the deck against Peotone. What we don't need is a bill that increases the likelihood of a constitutional challenge that prolongs the debate and delays the fix.

Thus, I urge you to reject this unprecedented, unwise, and unconstitutional bill. Instead, I urge you to treat O'Hare and Peotone on equal terms and to avoid stacking the deck for or against either project. Finally, I urge you to consider substantive improvements to this bill that would allow—not impair—Peotone to proceed on its own merits, free of political interference.

If you do, I am confident that Peotone will prove to be the cheaper, quicker, safer, cleaner, more practical and more permanent solution to the region's and nation's aviation capacity needs. Thank you.

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HOUSE OF REPRESENTATIVES,
*Washington, DC.,*
*Wednesday, February 6, 2002.*

### FEDERAL STUDY CONFIRMS AIRPORT DEAL SHORTCHANGES PEOTONE

An analysis released today by the independent, non-partisan research arm of Congress confirmed what Peotone proponents have said all along: The Ryan-Daley airport agreement puts O'Hare on the fast track and just pays lip service to Peotone.

An analysis released today by the Congressional Research Service concludes that the proposed National Aviation Capacity Expansion Act puts the two projects on separate and unequal tracks.

The CRS analysis states that the Federal Government "shall construct the runway redesign plan" at O'Hare but would merely "review" and give "consideration" to the Peotone Airport project.

In reaction to the release of today's report, Congressman Jackson reiterated his opposition to the measure. "This study unmasks the bare truth about the agreement between the Mayor and the Governor. For those claiming that the deal is good for the Third Airport, it's not. The masquerade ball is over," Jackson said.

"Peotone has been stuck in the paralysis of analysis for 15 years. We don't need any more reviews. We need a Third Airport, " Jackson said. "Peotone can be built faster, cheaper, safer, and cleaner than expanding O'Hare, and presents a more secure and more permanent solution to Illinois' aviation crisis. This is shortsighted legislation and a bad deal for the public."

The CRS report states that the Lipinski-Durbin bill "specifically states that the (FAA) Administrator 'shall construct' the runway redesign plan; however, there is no parallel language regarding the construction of the south suburban airport."

CRS concludes that the bill "provides for the Administrator's review of the Peotone Airport project (and) provides for the expansion of O'Hare. The provisions appear to operate independently of each other and are not drafted in parallel language, and provide different directions to the Administrator."

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CONGRESSIONAL RESEARCH SERVICE,
*February 6, 2002.*

### MEMORANDUM

Subject Examination of Certain Provisions of H.R. 3479: National Aviation Capacity Expansion Act.

To: Hon. Jesse L. Jackson, Jr., Attention: George Seymour

From: Douglas Reid Weimer, Legislative Attorney, American Law Division.

#### BACKGROUND

This memorandum summarizes various telephone discussions between George Seymour and Rick Bryant of your staff, and Douglas Weimer of the American Law Division. Your staff has expressed interest in certain provisions of H.R. 3470, the proposed National Aviation Capacity Expansion Act ("bill"). These provisions are examined and analyzed in the following memorandum.

The bill contains various provisions relating to the expansion of aviation capacity in the Chicago area. Among the provisions contained in the bill are provisions relating to O'Hare International Airport ("O'Hare"), Meigs Field, a proposed new carrier airport located near Peotone, Illinois ("Peotone"), and other projects. Your office has expressed repeated concern that the news media and various commentators have reported that the bill would apparently implement the various projects in a similar manner and that similar legislative language is used to implement the various projects. The news articles that you have cited to concerning the bill tend to report the various elements of the bill without distinguishing the bill language and the differences as to the means in which the various projects may be implemented.

#### ANALYSIS

The chief purpose of the bill is to expand aviation capacity in the Chicago area, through a variety of means. Section 3 of the bill deals with airport redesign and other issues. Your staff has focused upon the interpretation and the bill language of two particular subsections—(e) and (f)—of Section 3, which are considered below.

(e) SOUTH SUBURBAN AIRPORT FEDERAL FUNDING.—The Administrator shall give priority consideration to a letter of intent application submitted by the State of Illinois or a political Subdivision thereof for the construction of the south suburban airport. The Administrator shall consider the letter not later than 90 days after the Administrator issues final approval of the airport layout plan for the south suburban airport .

If enacted, this bill language would relate to the federal funding for the proposed airport to be constructed at Peotone. The "Administrator" refers to the Administrator of the Federal Aviation Administration. The Administrator is directed to give priority consideration to a letter of intent application ("application") submitted by Illinois, or a political subdivision for the construction of the "south suburban airport," the proposed airport at Peotone.

The Administrator is given specific directions concerning the application and for the time consideration of the application. Concern has been expressed that the Administrator is given certain duties and directions, but that there is no specific language to ensure and/or to compel that the Administrator will comply with the Congressional mandate, if the Administrator does not choose to follow the Congressional direction. Congress possesses inherent authority to oversee the project, as well as the Administrator's compliance with the statutory requirements, by way of its oversight and appropriations functions. Congress and congressional committees have virtually plenary authority to elicit information which is necessary to carry out their legislative functions from executive agencies, private persons, and organizations. Various decisions of the Supreme Court have established that the oversight and investigatory power of Congress is an inherent part of the legislative function and is implied from the general vesting of the legislative power in Congress. Thus, courts have held that Congress' constitutional authority to enact legislation and appropriate money inherently vests it with power to engage in continuous oversight. The Supreme Court has described the scope of this power of inquiry as to be "as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution."

Specific interest is focused on the language "shall consider" used in the second sentence of the subsection. In the context of this subsection, it should not necessarily be considered to mean the implementation of an accelerated approval/construction process for the airport. While these events may occur, such a course of action is not specifically provided by the legislation.

Your staff has also focused on subsection (f), dealing with the proposed federal construction at O'Hare. The bill provides:

(f) FEDERAL CONSTRUCTION.—

(1) On July 1, 2004, or as soon as practicable thereafter, the Administrator shall construct the runway redesign plan as a Federal project, if—

(A) the Administrator finds, after notice and opportunity for public comment, that a continuous course of construction of the runway design plan has not commenced and is not reasonably expected to commence by December 1, 2004;

(B) Chicago agrees in writing to construction of the runway redesign plan as a Federal project without cost to the United States, except such funds as may be authorized under chapter 471 of title 49, United States Code, under authority of paragraph (4);

(C) Chicago enters into an agreement, acceptable to the Administrator, to protect the interests of the United States Government with respect to the construction, operation, and maintenance of the runway redesign plan;

(D) the agreement with Chicago, at a minimum provides for Chicago to take over ownership and operations control of each element of the runway redesign plan upon completion of construction of such element by the Administrator;

(E) Chicago provides, without cost to the United States Government (except such funds as may be authorized under chapter 471 of title 49, United States Code, under the authority of paragraph (4)), land easements, rights-of-way, rights of entry, and other interests in land or property necessary to permit construction of the runway redesign plan as a Federal project and to protect the interests of the United States Government in its construction, operation, maintenance, and use; and

(F) the Administrator is satisfied that the costs of the runway redesign plan will be paid from sources normally used for airport development projects of similar kind and scope.

(2) The Administrator may make an agreement with the City of Chicago under which Chicago will provide the work described in paragraph (1), for the benefit of the Administrator.

(3) The Administrator is authorized and directed to acquire in the name of the United States all land, easements, rights-of-way, rights of entry, or other interests in land or property necessary for the runway redesign plan under this section, subject to such terms and conditions as the Administrator deems necessary to protect the interests of the United States.

(4) Chicago shall be deemed the owner and operator of each element of the runway reconfiguration plan under section 40117 and chapter 471 of title 49, United States Code, notwithstanding any other provision of this section or any of the provisions in such title referred to in this subsection.

The Administrator is directed to construct the O'Hare runway plan as a Federal project if certain conditions are met: (1) construction of the runway design plan has not begun and is not expected to begin by December 1, 2004; (2) Chicago agrees to the runway plan as a Federal project without cost to the United States, with certain exceptions; (3) Chicago enters into an agreement to protect Federal Government interests concerning construction, operation, and maintenance of the runway project; (4) the agreement provides that Chicago take over the ownership and operation control of each element of the runway design plan upon its completion; (5) Chicago provides, without cost, the land, easements, right-of-way, rights of entry, and other interests in land/property as are required to allow the construction of the runway plan as a Federal project and to protect the interests of the Federal Government in its construction, operation, maintenance, and use; and (6) the Administrator is satisfied that the redesign plan costs will be paid from the usual sources used for airport development projects of similar kind and scope.

Paragraph 2 provides that the Administrator "may" make an agreement with Chicago, whereby Chicago will provide the work described above in paragraph (1) for the benefit of the Administrator. It should be noted that the use of the word "may" would appear to make this language optional, and would not necessarily require the Administrator to enter into such agreement with Chicago.

Paragraph 3 authorizes and directs the Administrator to acquire in the name of the Federal Government those property interests needed for the redesign plan, subject to the terms and conditions that the Administrator feels are necessary to protect the interests of the United States.

Paragraph 4 provides that Chicago will be deemed to be the owner and operator of each element of the runway reconfiguration plan, notwithstanding any other provision of this section.

Discussion has focused on the different legislative language used in subsection (e) and (f). Subsection (f) specifically states that the Administrator "shall construct" the runway redesign plan; however, there is no parallel language regarding the construction of the south suburban airport in subsection (e). The provisions of the subsections appear to be independent of each other and provide very different directions to the Administrator. Hence, it may be interpreted that subsection (f) would authorize runway construction (if certain conditions are met), and subsection (e) is concerned primarily with the review and the consideration of an airport construction plan.

It is possible that the Administrator's actions concerning the implementation of this legislation, if enacted, may be subject to judicial review. Judicial review of agency activity or inactivity provides control over administrative behavior. Judicial review of agency action/inaction may provide appropriate relief for a party who is injured by the agency's action/inaction. The Administrative Procedure Act ("APA") provides general guidelines for determining the proper court in which to seek relief. Some statutes provide specific review proceedings for agency actions. Subsection (h) of the bill provides for judicial review of an order issued by the Administrator. The bill provides that the bill may be reviewed pursuant to the provisions contained at 49 U.S.C. §46110.

If the Administrator does not issue an order and judicial review is not possible under this provision, then it is possible that "nonstatutory review" may occur. When Congress has not created a special statutory procedure for judicial review, an injured party may seek "nonstatutory review." This review is based upon some statutory grant of subject matter jurisdiction. Therefore, a party who wants to invoke nonstatutory review will look to the general grants of original jurisdiction that apply to the federal courts. It is possible that an available basis for jurisdiction in this case—if the Administrator does not carry out his/her Congressional mandate—may be under the general federal question jurisdiction statute which authorizes the federal district courts to entertain any case "arising under" the Constitution or the laws of the United States. An action for relief under this provision is usually the most direct way to obtain nonstatutory review of an agency action. Hence, it is possible that an action could be brought under this statute to compel the Administrator to comply with the provisions contained in the bill.

CONCLUSION

This memo has summarized staff discussion concerning certain provisions contained in the proposed National Aviation Capacity Expansion Act. Subsection (e) provides for the Administrator's review of the Peotone Airport project. Subsection (f) provides for the expansion of O'Hare. The provisions appear to operate independently of each other, are not drafted in parallel language, and provide different directions to the Administrator. The Administrator is given certain responsibilities under both subsections. Congress possesses plenary oversight authority over federally funded projects. This would provide oversight Administrator is given certain responsibilities under both subsections. Congress possesses plenary oversight authority over federally funded projects. This would provide oversight over the Administrator and his/her actions. A judicial proceeding may be possible against the Administrator to compel the Administrator to fulfill the statutory responsibilities provided by the bill.

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July 22, 2002.

Hon. MAXINE WATERS,
*House of Representatives, Washington, DC.*

DEAR REPRESENTATIVE WATERS, I would like to personally thank you for opposing H.R. 3479, The National Capacity Expansion Act. This is an extremely controversial bill, and it was totally inappropriate for it to be included on the suspension calendar.

There is no dispute that there is an air capacity crisis at the Chicago O'Hare International Airport. There is a dispute over how to resolve it. We believe that building Peotone is a quicker, cheaper, safer, cleaner, more permanent, and more just way to resolve the aviation capacity crisis,

As you know, this bill also sets a dangerous precedent by allowing the federal government to preempt an Illinois state law that requires state legislative approval of airport construction and expansion. Will your state legislature be next to lose its power to decide local airport matters?

With your assistance, the misguided efforts of H.R. 3479 were defeated. I appreciate your vote and urge your continued opposition to H.R. 3479!

Sincerely,

JESSE L. JACKSON, Jr.
*Member of Congress.*

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HOUSE OF REPRESENTATIVES,
*Washington, DC., December 13, 2001.*

Hon. EDWARD M. KENNEDY,
*United States Senate, Washington, DC.*

DEAR SENATOR KENNEDY: In the next few days and months, you may be asked to cosponsor S. 1786, a bill to massively expand O'Hare International Airport in Chicago. I strongly oppose this legislation, which in my view, is severely flawed, deeply divisive, constitutionally suspect, environmentally unsound, unnecessarily wasteful and dangerous.

For the past six years, I have been working on an alternative proposal to increase aviation capacity in the Chicago area—building a third regional airport. Rather than ripping up and reconstructing runways at O'Hare, a new airport near Peotone, Illinois provides a cheaper, quicker, and cleaner solution.

Able to be built in one-third the time and at one-third the cost of the proposed O'Hare expansion, a third airport would be a more secure and more permanent solution to the region's aviation crisis. It also would create 236,000 jobs, generate $10 Billion in new economic activity, revitalize depressed communities, foster balanced economic growth, enhance airline competition, and drive down ticket prices. Simply put, a new airport makes good dollars and good sense for the City of Chicago, the State of Illinois and the entire nation.

Thus, I ask that you oppose S. 1786. However, if you are considering supporting the bill, I respectfully request that you allow me an opportunity to share my views with you. I can be reached at 225-0773. Thank you in advance for your consideration and I look forward to speaking with you.

Sincerely,

JESSE L. JACKSON, Jr.,
*Member of Congress.*

HOUSE OF REPRESENTATIVES,
*Washington, DC., July 24, 2001.*

Hon. DON YOUNG,
*Chairman, Transportation and Infrastructure Committee, Washington, DC.*

DEAR CONGRESSMAN YOUNG: I am writing to you about the grave concerns I have with H.R. 2107, The End Gridlock at Our Nation's Critical Airports Act of 2001. I share the concerns of Congressmen Henry Hyde, Jerry Weller and Philip Crane, who have sent a virtually identical letter to you under separate cover. I agree that in H.R. 2107—the attempt to rebuild and expand O'Hare Airport—Congress is inappropriately violating the Tenth Amendment.

In other contexts—specifically with regard to certain human rights—I believe that the Tenth Amendment serves to place limitations on the federal government with which I disagree. Indeed, in the area of human rights, I believe new amendments must be added to the Constitution to overcome the limitations of the Tenth Amendment. However, building airports is not a human right. Therefore, in the present context, I agree that building airports is appropriately within the purview of the states.

I believe attempts by Congress to strip the authority of Governor Ryan and the Illinois Legislature over the delegation and authorization to Chicago of state power to build airports—along with the authority of governors and state legislatures in a host of other states such as Massachusetts (Logan), New York (LaGuardia and JFK), New Jersey (Newark) California (San Francisco airport), and the State of Washington (Seattle)—raise serious constitutional questions.

Under the framework of federalism established by the federal constitution, Congress is without power to dictate to the states how the states delegate power—or limit the delegation of that power—to their political subdivisions. Unless and until Congress decides that the federal government should build airports, airports will continue to be built by states or their delegated agents (state political subdivisions or other agents of state power) as an exercise of state law and state power. Further compliance by the political subdivision of the oversight conditions imposed by the State legislature as a condition of delegating the state law authority to build airports is an essential element of that delegation of state power. If Congress strips away a key element of that state law delegation, it is highly unlikely that the political subdivision would continue to have the power to build airports under state law. The political subdivision's attempts to build runways would likely be ultra vires (without authority) under state law.

Under the Tenth Amendment and the framework of federalism built into the Constitution, Congress cannot command the States to affirmatively undertake an activity. Nor can Congress intrude upon or dictate to the states, the prerogatives of the states as to how to allocate and exercise state power—either directly by the state or by delegation of state authority to its political subdivisions.

As stated by the United States Supreme Court:

[T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States....We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts.

New York v. United States, 505 U.S. 144, at 166 (1992) (emphasis added).

It is incontestable that the Constitution established a system of "dual sovereignty."

Printz v United States, 521 U. S. 898, 918 (1997) (emphasis added).

Although the States surrendered many of their powers to the new Federal Government, they retained "a residuary and inviolable sovereignty," The Federalist No. 39, at 245 (J. Madison). This is reflected throughout the Constitution's text.

Residual state sovereignty was also implicit, of course, in the Constitution's conferral upon Congress of not all governmental powers, but only discrete, enumerated ones, Art. 1, Sec. 8, which implication was rendered express by the Tenth Amendment's assertion that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Id at 918–919.

This separation of the two spheres is one of the Constitution's structural protections of liberty. "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.

Id at 921 quoting Gregory v. Ashcroft, 501 U.S. 452 at 458 (1991).

The Supreme Court in Printz went on to emphasize that this constitutional structural barrier to the Congress intruding on the State's sovereignty could not be avoided by claiming either a) that the congressional authority was pursuant to the Commerce Power and the "necessary and proper clause of the Constitution or b) that the federal law "preempted" state law under the Supremacy Clause. 521 U.S. at 923–924.

It is important to note that Congress can regulate—but not affirmatively command—the states when the state decides to engage in interstate commerce. See Reno v. Condon, 528 U.S. 141 (2000). Thus in Reno, the Court upheld an act of Congress that restricted the ability of the state to distribute personal drivers' license information. But Reno did not involve an affirmative command of Congress to a state to affirmatively undertake an activity desired by Congress. Nor did Reno involve (as proposed here) an intrusion by the federal government into the delegation of state power by a state legislature—and the state legislature's express limits on that delegation of state power—to a state political subdivision.

H.R. 2107 would involve a federal law which would prohibit a state from restricting or limiting the delegated exercise of state power by a state's political subdivision. In this case, the proposed federal law would seek to bar the Illinois Legislature from deciding the allocation of the state's power to build an airport or runways—and especially the limits and conditions imposed by the State of Illinois on the delegation of that power to Chicago. The law is clear that Congress has no power to intrude upon or interfere with a state's decision as to how to allocate state power.

A state's authority to create, modify, or even eliminate the structure and powers of the state's political subdivisions—whether that subdivision be Chicago, Bensenville, or Elmhurst—is a matter left by our system of federalism and our federal Constitution to the exclusive authority of the states. As stated by the Seventh Circuit in Commissioners of Highways v. United States, 653 F.2d 292 (7th Cir. 1981) (quoting Hunter v. City of Pittsburgh, 207 U.S. 161, 178 (1907)):

Municipal corporations are political subdivisions of the State, created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them. For the purpose of executing these powers properly and efficiently they usually are given the power to acquire, hold, and manage personal and real property. The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State.... The State, therefore, at its pleasure may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the State is supreme, and its legislative body, conforming its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States.

COMMISSIONERS OF HIGHWAYS, 653 F.2D AT 297

Chicago has acknowledged that Illinois has delegated its power to build and operate airports to its political subdivisions by express statutory delegation. 65 ILCS 5/11–102–1, 11–102–2 and 11–102–5. These state law delegations of the power to build airports and runways are subject to the Illinois Aeronautics Act requirements—including the requirement that the State approve any alterations of the airport—by their express terms. Any attempt by Congress to remove a condition or limitation imposed by the Illinois Legislature on the terms of that state law delegation of authority would likely destroy the delegation of state authority to build airports by the Illinois Legislature to Chicago leaving Chicago without delegated state legislative authority to build runways and terminals at O'Hare or Midway. The requirement that Chicago receive a state permit is an express condition of the grant of state authority and an attempt by Congress to remove that condition or limitation would mean that there was no continuing valid state delegation of authority to Chicago to build airports. Chicago's attempts to build new runways would be ultra vires under state law as being without the required state legislative authority.

Very truly yours,
JESSE L. JACKSON, JR.,
*Member of Congress.*

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HOUSE OF REPRESENTATIVES,
*Washington, DC., January 31, 2001.*

Re Key Points Why The Chicago Region Needs A New Airport—And Why New O'Hare Runways Are Contrary To The Region and Nation's Best Interests

Hon. ANDREW H. CARD,
*Chief of Staff to the President,*
*The West Wing, 1st Floor,*
*The White House,*
*Washington, DC.*

DEAR ANDY: A matter of great importance to us is the need for safe airport capacity expansion in the metro Chicago region. At your earliest convenience, we would like to schedule a meeting with you and Secretary Mineta to discuss the situation. Enclosed is a detailed memorandum summarizing our views. We are convinced that we must build a new regional airport now and, for the same reasons, we believe that construction of one or more new runways at O'Hare would be harmful to the public health, economy and environment of the region.

As set forth in that memorandum:

Most responsible observers agree that the Chicago region needs major new runway capacity now.

The question is where to build that new runway capacity—(1) at a new regional airport, (2) at O'Hare, (3) at Midway, or (4) a combination of all of the above. An assessment of these alternatives reaches the following conclusions:

1. The new runways can be built faster at a new airport as opposed to O'Hare or Midway.

2. More new runway capacity can be built at a new site than at O'Hare or Midway.

3. The new runways can be built at far less cost at a new airport than at O'Hare or Midway.

4. Construction of the new capacity at a new airport will have far less impact on the environment and public health than would expansion of either Midway or O'Hare.

5. Construction of the new capacity at a new airport offers the best opportunity to bring major new competition into the region.

6. The selected alternative cannot be expansion at O'Hare and construction of a new airport. New runways at O'Hare would doom the economic feasibility of the new airport, guarantee its characterization as a "white elephant" and insure the expansion of the monopoly dominance of United and American Airlines in the Chicago market.

The memorandum contains a series of related questions and a detailed list of suggestions that would ensure the rapid development of major new runway capacity in the Chicago region, open the region to major new competition, and accomplish these objectives in a low-cost, environmentally sound manner.

Again, we would appreciate the opportunity to discuss these matters with you and Secretary Mineta at your earliest convenience.

Very truly yours,
HENRY HYDE.
JESSE JACKSON, Jr.

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Re Key Points Why Chicago Region Needs A New Airport—And Why New O'Hare Runways Are Contrary To The Region and Nation's Aviation Best Interests

To: White House Chief of Staff Andrew Card

From: Congressman Henry Hyde, Congressman Jesse Jackson, Jr.

*January 31, 2001*

This memorandum summarizes our views in the debate over the need for airport capacity expansion in the metro Chicago region. For the reasons set forth herein, we are convinced that we must build a new regional airport now and, for the same reasons, believe that construction of one or more new runways at O'Hare would be harmful to the public health, economy and environment of the region.

The debate can best be summarized in a simple question and answer format.

Does the Region need new runway capacity now? Unlike The City of Chicago—which has for more than a decade privately known that the region needs new runway capacity while publicly proclaiming that new runway capacity is not needed—bipartisan leaders like Jesse Jackson, Jr. and myself have openly acknowledged the need for, and urged the construction of, new runway capacity in the region.

The need for new runway capacity is not a distant phenomenon; we should have had new runway capacity built several years ago. While 20 year growth projections of air travel demand show that the harm caused by this failure to build capacity will only get worse, the available information suggests that the region has already suffered serious economic harm for several years because of our past failure to build the new runway capacity.

If the answer to the runway question is yes—and we believe it is—the next question is where to build the new runway capacity? Though the issue has been discussed, the media, Chicago and the airlines have failed to openly discuss the alternatives as to where to build the new runway capacity—and especially, the issues, facts and impacts to the pros and cons of each alternative.

The alternatives for new runway capacity in the region are straightforward: (1) build new runways at a new airport, (2) build new runways at O'Hare, (3) build new runways at Midway, or (4) a combination of all of the above. Given these alternatives, the following facts are clear:

1. The new runways can be built faster at a new airport as opposed to O'Hare or Midway. Simply from the standpoint of physical construction (as well as paper and regulatory planning) the new runways can be built faster at a "greenfield" site than they can at either O'Hare or Midway.

2. More new runway capacity can be built at a new site than at O'Hare or Midway. Given the space limitations of O'Hare and Midway, it is obvious that more new runways (and therefore more new runway capacity) can be built at a new larger greenfield site than at either O'Hare and Midway. We acknowledge that additional space can be acquired at Midway or O'Hare by destroying densely populated surrounding residential communities—but only at tremendous economic and environmental cost.

3. The new runways can be built at far less cost at a new airport than at O'Hare or Midway. Again, it is obvious that the new runways—and their associated capacity—can be built at far less cost at a "greenfield" site than they can at either O'Hare or Midway. Given the enormous public taxpayer resources that must be used for any of the alternatives—and the relative scarcity of public funds—the Bush Administration should compare the overall costs of building the new runway capacity (and associated terminal and access capacity) at a new airport vs. building the new capacity at O'Hare or Midway.

4. Construction of the new capacity at a new airport will have far less impact on the environment and public health than would expansion of either Midway or O'Hare. Midway, and later O'Hare, were sited and built at a time when concerns over environment and public health were far less than they are today. As a result, both existing airports have virtually no "environmental buffer" between the airports and the densely populated communities surrounding these airports. In contrast, the site of the new South Suburban Airport has, by design, a large environmental buffer which will ameliorate most, if not all, of the environmental harm and public health risk from the site. Indeed, prudence would suggest an even larger environmental buffer around the South Suburban site than is now contemplated. We can create the same or similar environmental buffer around O'Hare or Midway—but only at a cost of tens of billions of dollars and enormous social and economic disruption.

5. Construction of the new capacity at a new airport offers the best opportunity for bringing major new competition into the region. When comparing costs and benefits of alternatives, the Bush Administration must address the existing problem of monopoly (or duopoly) fares at "Fortress O'Hare" and the economic penalty such high fares are inflicting on the economic and business community in our region. Does the lack of significant competition allow American and United to charge our region's business travelers higher fares than they could if there was significant additional competition in the region? What is the economic cost to the region—in both higher fares and lost business opportunities—of the existing "Fortress O'Hare" business fare dominance of United and American?

The State of Illinois has stated that existing "Fortress O'Hare" business fare dominance of United and American costs the region many hundreds of millions of dollars per year. Bringing in one or more significant competitors to the region would bring enormous economic benefits in increased competition and reduced fares.

And the only alternative that has the room to bring in significant new competition is the new airport. Certainly the design of Chicago's proposed World Gateway program—designed in concert with United and American to preserve and expand their dominance at O'Hare—does not offer opportunities for major competitors to come in and compete head-to-head with United and American.

6. The selected alternative cannot be expansion at O'Hare and construction of a new airport. The dominant O'Hare airlines are pushing their suggestion: add another runway at O'Hare and allow a "point-to-point" small airport to be built at the South Suburban Site.

That is not an acceptable alternative for several reasons:

First, it presumes massive growth at O'Hare, as it is based on the assumption that all transfer traffic growth—along with the origin-destination traffic to sustain the transfer growth—stays at O'Hare. If that assumption is accepted, the airlines already know that demand growth for the traffic assumed to stay at O'Hare will necessitate not one, but two or more additional runways. This increase in traffic at O'Hare will have serious environmental and public health impacts on surrounding communities.

Second, this alternative destroys the economic justification for the new airport. With massive new capacity at O'Hare, there would be no economic need for the new airport.

Third, assuming the new airport is built anyway, as a "compromise", this alternative guarantees that the new airport will be a "white elephant"—much as the Mid-America airport near St. Louis is today because of the Fortress Hub practices of the major airlines and as was Dulles International as long as Washington National was allowed to grow. With limits on the growth of National finally recognized, Dulles is now the thriving East Coast Hub for United.

RELATED QUESTIONS

If the Region needs new runways, what is the sense of spending over several billion dollars—much of it public money—to build the World Gateway Program at O'Hare if we decide that new runway capacity should be built elsewhere? If the decision is to build the new runways at O'Hare, then much of the 5–6 billion dollar terminal and roadway expansion proposed for O'Hare may be justified.

But if the decision is that the new runway capacity should be built elsewhere, then the proposed multi-billion dollar O'Hare expansion makes no sense. We will be spending billions of dollars in taxpayer funds for a massive project that standing alone—without new runways—will not add any new capacity to our region.

The airlines know this fact and that is why they—and their surrogates at the Civic Committee and the Chicagoland Chamber—are pushing for new runways.

If the Region needs new runways and we wish to explore the alternative of putting the new runways in at O'Hare, what is the full cost of expanding O'Hare as opposed to constructing a new airport? If others wish to explore the alternative of an expanded O'Hare as the place to build the new runways capacity for the region, let's have an honest exploration and discussion of the full costs of expanding O'Hare with new runways and compare it to the cost of building the new airport. Chicago and the airlines already know what the components of an expanded O'Hare would be. These components are laid out in Chicago's "Integrated Airport Plan and include a new "quad runway" system for O'Hare and additional ground access through western access".

Based on information available, we believe that the cost of the O'Hare expansion would exceed ten billion dollars. These costs should be compared with the costs of a new airport.

Are the delay and congestion problems experienced at O'Hare self-inflicted? Sadly, when Chicago and the major O'Hare airlines advocated lifting of the "slot" restrictions at O'Hare and other major "slot" controlled airports, the Clinton Administration and others ignored the warnings of Congressman Jackson, and myself that the airport could not accommodate the additional flights without a chaotic increase in delays and congestion. Indeed, the chaos we predicted has come true and we now have a "Camp O'Hare" where air traffic is managed by cancellation rather than by adequate service.

Like Cassandra, our prophecy was ignored. The Clinton Administration endorsed lifting the slot controls and chaos ensued.

But just because our warnings were ignored doesn't mean that practical solutions should continue to be ignored. The delays and congestion were predictable and certain—predicted based on delay/capacity analysis conducted by the FAA. Just as certain are the short term remedies.

Just as the congestion was brought on by overstuffing O'Hare with more aircraft operations than it can handle, the congestion and delay can immediately be reduced to acceptable levels by reducing the scheduled air traffic to the level that can be easily accommodated by O'Hare without the risk of unacceptable delays. The delay chaos was self-inflicted by ignoring the flashing warnings put out by the FAA and other experts. The solution can be easily administered by the FAA recognizing—as it has at LaGuardia—that limits must be placed on uncontrolled airline desire to overscheduled flights.

Should the short-term "fix" to the delays and congestion include "capacity enhancement" through air traffic control devices? Absent new runways, the FAA has encouraged and permitted a variety of operational devices designed to allow increased levels of departures and arrivals in a set period of time. These procedures—known as "incremental capacity enhancement"—focus on putting moving aircraft closer together in time and space—to squeeze more operations into a finite amount of runways. Typically, this squeezing is done in low visibility, bad weather conditions because these are the conditions where FAA wants to increase capacity.

While the air traffic controllers remain mute on the safety concerns raised by these procedures, the pilots surely have not:

We have seen the volume of traffic at O'Hare pick up and exceed anyone's expectations, so much so, that on occasion mid-airs were only seconds apart. O'Hare is at maximum capacity, if not over capacity. It is my opinion that it is only a matter of time until two airliners collide making disastrous headlines.

Captain John Teerling, Senior AA Airline Captain with 31 years experience flying out of O'Hare January 1999 letter to Governor Ryan (emphasis added)

Paul McCarthy, ALPA's [Airline Pilots Association] executive air safety chairman, condemned the incremental capacity enhancements as threats to safety. Each one puts a small additional burden on pilots and controllers, he said. Taken together, they reduce safety margins, particularly at multiple runway airports, to the point that they invite a midair collision, a runway incursion or a controlled flight into terrain.

Aviation Week, September 18, 2000 at p. 51 (emphasis added)

It is clear that FAA's constant attempts to squeeze more and more capacity out of the existing overloaded runways—through such "enhancement" procedures as the recently announced "Compressed Arrival Procedures" and other ATC changes—is incrementally reducing the safety margin so cherished by the pilots and the passengers who have entrusted their safety to them.

The answer to growth is new runways at a new airport—not jamming more aircraft closer and closer together at O'Hare. The answer to delays and congestion with existing overscheduled levels of traffic is to reduce traffic levels to the capacity of the runways without the need to jam aircraft closer and closer together.

Does the current level of operations at O'Hare (and Midway) generate levels of toxic air pollutants that expose downwind residential communities to levels of these pollutants in their communities at levels above USEPA cancer risk guidelines? Though our residents have complained for years about toxic air pollution from O'Hare, none of the state and federal agencies would pay attention. Recently however, Park Ridge funded a study by two nationally known expert firms in the fields of air pollution and public health to conduct a preliminary study of the toxic air pollution risk posed by O'Hare. That study, Preliminary Study and Analysis of Toxic Air Pollution Emissions From O'Hare International Airport and the Resultant Health Risks Caused By Those Emissions in Surrounding Residential Communities (August 2000), found that current operations at O'Hare—based on emission data supplied by Chicago created levels of toxic air pollution in excess of federal cancer risk guidelines in 98 downwind communities. The highest levels of risk were found in those residential communities that O'Hare uses as its "environmental buffer" namely Park Ridge and Des Plaines.

Is the Park Ridge study valid? Park Ridge has challenged Chicago, the airlines, and federal and state agencies to come forward with any alternative findings as to the toxic air pollution impact of O'Hare's emissions on downwind residential communities. And that does not mean simply listing what comes out of O'Hare. The downwind communities are entitled to know how much toxic pollution comes out of O'Hare, where the toxic pollution from O'Hare goes, what are the concentrations of O'Hare toxic pollution when it reaches downwind residential communities, and what are the health risks posed by those O'Hare pollutants at the concentrations in those downwind communities.

Should not something be done to control and reduce the already unacceptable levels of toxic air pollution coming into downwind residential communities from O'Hare's current operations?

Should not the relative toxic pollution risks to surrounding residential communities created by the alternatives of a new airport, expanding O'Hare, or expanding Midway be added to the analysis and comparison of alternatives?

What about the monopoly problem at Fortress O'Hare and what should be done about it? We have already alluded to the factor of high monopoly fares as a consideration in choosing alternatives for new runway capacity. But the monopoly problem of Fortress O'Hare will be relevant even if no new airport is built. The entire design of the proposed World Gateway Program is premised on a terminal concept that solidifies and expands the current market dominance of United and American at O'Hare and in the Chicago air travel market.

What can the Bush Administration do if indeed there is a monopoly air fare problem at O'Hare or monopoly dominance is costing Chicago area business travelers hundreds of millions of dollars per year?

When these questions were raised in the Suburban O'Hare Commission report, If You Build It We Won't Come: The Collective Refusal Of The Major Airlines To Compete In The Chicago Air Travel Market, Chicago and the airlines responded with smoke and mirrors. First they produced glossy charts showing that more than 70 airlines serve O'Hare. What they neglected to show was that United and American control over 80% of those flights with the remaining 60 plus airlines operating only a small percentage.

Similarly, the airlines and Chicago talked about the competitive low fares charged to passengers. What they emphasized, however, were low fares for reservations far in advance. The major business travel organizations representing business travel managers report that business travelers predominantly use unrestricted coach fares since they have to respond on short notice to business needs. An examination of fares for unrestricted business travel from Chicago to major business markets shows that these routes are dominated by United and American and that they charge extremely high "lock-step" fares to business travelers to these business markets.

Finally, the airlines and Chicago argued that O'Hare is "competitive" with fares charged to business travelers in other Fortress Hub Markets. That statement ignores the fact that all the major airlines are gouging captive business travelers in all their own Fortress Hub markets. Indeed, a repeated anecdote is the fact that a passenger from a "spoke" city—e.g., Springfield, Illinois—pays a lower fare for a trip to O'Hare and then to Washington D.C. than a Chicago based traveler who gets on the same plane to Washington. Why? Because the Springfield traveler has the choice of hubbing either through O'Hare or St. Louis while the Chicago based business traveler is locked into Chicago.

Where are the antitrust enforcers to break up these geographic cartels? Equally important, in addition to antitrust enforcement powers, the federal government has enormous leverage to break up the cartels through the funding approval process of the Airport Improvement Program (AIP) and Passenger Facility Charge (PFC) programs. Yet billions of federal taxpayer funds go to United and American without so much as a raised eyebrow.

What about Noise? Shouldn't we be happy to exchange some soundproofing for new runways at O'Hare? The City of Chicago has a residential soundproofing program which was created on the advice of its public relations consultants to create a spirit of "compromise" that would lead to acceptance of new runways at O'Hare.

But here are some facts that are little publicized:

1. Most of our residents feel that soundproofing—while improving their interior quality of life—essentially assumes that we will give up living-out-of-doors or with our windows open in nice weather.

2. Whereas many major airport cities with residential soundproofing programs are soundproofing all homes experiencing 65 DNIL (decibels day-night 24-hr. average) or greater, Chicago and the airlines are only committing funds to the 70 DNL level. Result: Chicago is only soundproofing less than 10 percent of the homes that Chicago itself acknowledges to be severely impacted.

3. Chicago came into our communities asking to put in noise monitors to collect "real world" data as to the levels of noise. Yet, despite promises to share the data, Chicago refuses to share the data with our communities.

4. Instead of an atmosphere of trust, these tactics by Chicago have created additional animosity as neighbors on one side of an alley or street get soundproofing while their neighbors across that alley or street get no soundproofing. Indeed, Chicago's residential soundproofing program—because it is so limited in scope and ignores thousands of adversely impacted homes—has caused even more animosity in our communities.

In short, residential soundproofing is not the panacea that Chicago and many in the downtown media perceive it to be. Moreover, it does nothing to address the toxic air pollution and other safety related concerns of our residents.

Can we have more than one "hub" airport operating in the same city? Faced with the potential inevitability of a new airport, the airlines for the last two years have been arguing for an expansion of O'Hare (instead of a major new airport) with the argument that a metropolitan area cannot have more than one hub airport. Based on that premise, United and American say that the sole hub airport in metro Chicago should be O'Hare. That simply is not correct:

1. There are several domestic and international cities with more than one hubbing airport. Competing airlines create hubbing operations wherever airport space is available. Thus, there are multiple hubbing airports in metro New York (JFK and Newark), Washington D. C., London, and Paris.

2. The Lake Calumet Airport proposed by Mayor Daley would have been a second hub airport.

3. There is simply no reason—given the size of the business and other travel origin-destination market in metro Chicago—that a new hub competitor could not establish a major presence at a new south suburban airport.

How do we fund new airport construction? The answer is simple and the same answer Mayor Daley had for the proposed Calumet Airport. Daley proposed using a mix of PFC and AIP funds to induce carriers to use the new airport. Indeed, the entire justification for his urging the passage of PFC legislation was to collect PFCs at O'Hare and use them for the new airport.

But United and American claim that the PFC revenues are "their" money. On the contrary, the PFC funds are federal taxpayer funds no different in their nature as taxpayer dollars than the similar "AIP" tax charged to air travelers. These funds don't belong to the airlines. They are federal funds collected and disbursed through a joint program administered by the FAA and the airport operator.

Nor are these federal taxpayer funds "Chicago's" money. Chicago is simply a tax collection agent for the federal government.

But how do we get the funds from O'Hare to the new airport? We do it the same way Mayor Daley is transferring funds from O'Hare to Gary and the same way he proposed getting federal funds collected at O'Hare to the Lake Calumet project: a regional airport authority.

### SUGGESTIONS

We have respectfully posed some questions and posited some answers for the President's and your consideration. We believe that a thorough and candid examination and discussion of these questions leads to only one conclusion: we should build a new airport and we should not expand O'Hare.

But more than raising questions, we also have several concrete suggestions for addressing the region's air transportation needs:

1. Let's stop the paper shuffling and build the new airport. The program we outline in this letter is virtually identical to the proposal drafted by Mayor Daley for construction of the Lake Calumet Airport. We believe that a cooperative fasttrack planning and construction program for a new airport could see the new airport open for service in 3–5 years.

2. The money, resources and legal authority to build the new airport can be assembled by passage of a regional airport authority bill similar to the regional airport authority bill drafted in 1992 by Mayor Daley for the Lake Calumet project. So the Illinois General Assembly is a necessary partner in any effort. But equally important is the dominant role of the federal Administration in controlling the use of AIP and PFC funds and in assertive enforcement of federal antitrust laws. Let's put together a federal-state partnership to get the job done.

3. Give the O'Hare suburbs guaranteed protection against further expansion of O'Hare. Such guarantees are needed not only for our protection but for the viability of the new regional airport.

4. Provide soundproofing for all of the noise impacted residences around O'Hare and Midway. The new airport addresses future needs; it does not correct existing problems caused by existing levels of traffic.

5. Initiate a regulatory program to control and reduce air toxic emissions from O'Hare.

6. Fix the short-term delay and congestion at O'Hare by returning to a recognition of the existing capacity limits of the airport. The delay and congestion, now experienced at O'Hare is a self-inflicted wound brought about by airline attempts to stuff too many planes into that airport. The delays and congestion will be dramatically reduced immediately by reducing scheduled traffic to a level consistent with the exiting capacity of the airport.

7. Demand a break-up and reform of the Fortress Hub anti-competitive phenomenon—both at O'Hare and at other Fortress Hubs around the nation. This can be done with either aggressive antitrust enforcement or with proper oversight of the disbursal of massive federal subsidies.

8. The entire World Gateway Program should be examined in light of the questions raised here and should be modified or abandoned depending on the answers provided to these questions.

We would appreciate the opportunity to discuss these matters with you and Secretary Mineta at your convenience.

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CHICAGO URBAN LEAGUE,
*Chicago, Illinois, June 27, 2002.*

Rep. WILLIAM O. LIPINSKI,
*Rayburn House Office Building,*
*Washington, DC.*

DEAR REPRESENTATIVE LIPINSKI: I am writing to express my concern about your omission of any special provision for a south suburban airport near Peotone from the O'Hare expansion legislation that you are introducing for consideration in the House of Representatives.

The expansion agreement reached last December by Illinois Governor George Ryan and Chicago Mayor Richard Daley was the product of a long and difficult process of political negotiation. To reach this historic and comprehensive aviation agreement, it was deemed essential to include a special measure giving priority consideration to federal funding of airport development in Peotone.

Along with Governor Ryan, Mayor Daley, and a host of state legislators, aldermen, and other civic and business leaders from the Chicago area, I met last February with you and Senator Dick Durbin to plot a strategy to secure federal funding to make O'Hare the airport hub of the nation. Our Chicago delegation of The Campaign to Expand National Aviation Capacity left Washington, DC. with the understanding that you agreed that this goal would be best achieved through a bill that provides for a modernized and expanded O'Hare and funding for a new airport in Peotone. As our delegation indicated in February, both are needed, and both play important roles in the Chicago region's strongly linked aviation and economic futures.

I know that you agree with the Campaign's belief that Chicago's airports are key to the future of every citizen in Illinois. They are the economic engines that create jobs, provide new business opportunities, and make Chicago one of the world's truly great cities.

In the interest of maintaining a strong Chicago and Illinois coalition in support of airport expansion in the Chicago area, I urge you to revisit the discussions we had last winter and to reconsider your omission of the Peotone provision.

If you or your staff have any questions or comments regarding the Chicago Urban League's position on this key issue, please do not hesitate to call me at 773-451-3500.

Sincerely,

JAMES W. COMPTON,
*President and CEO.*

cc: Representative Jesse L. Jackson, Jr.

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ROSEMARY MULLIGAN,
STATE REPRESENTATIVE, 55TH DISTRICT,
ILLINOIS,
*July 5, 2002.*

SUBJECT: Vote "No" on H.R. 3479

Hon. JESSE L. JACKSON, JR.,
*House of Representatives, Washington, DC.*

DEAR REPRESENTATIVE JACKSON, JR.: As an Illinois state legislator, I would like to use this opportunity to express my concern and opposition to the National Aviation Capacity Act. The issue of expansion of Chicago O'Hare Airport is extremely important but has been so misrepresented that I believe it is imperative to make a personal plea on behalf of my local residents to each member of the House of Representatives. This plan in the form it has been presented to you contains gross misrepresentations of fact and will inflict harm on the over 100,000 constituents I have taken an oath to protect.

You may not realize that "Chicago" O'Hare Airport is virtually an outcropping of land annexed by the City of Chicago that is over 90 percent surrounded by suburban municipalities. It is the only major city airport where the people directly impacted by airport activity do not elect the mayor or city officials that make decisions about the airport. Therefore, we have had little control or recourse over what happens at the airport. This plan represents a "deal" between two men and has never been debated or voted on by the Illinois General Assembly!

My family moved to Park Ridge in 1955, long before anyone had an idea of what an overpowering presence O'Hare would become. Unfortunately, the amount of land dedicated to the airport set its fate long before the current crisis. Plainly speaking, there isn't enough room to expand.

For the past several years, I and other legislators have introduced nearly a dozen measures in the Illinois General Assembly to conduct environmental studies, provide tax relief for soundproofing, defend suburban neighborhoods from unfair "land grabs", require state legislative approval of any airport expansion and to generally protect the people we represent whose residences abut airport property. Because of the political make-up of our body and the great influence of Chicago's mayor, we have been unsuccessful. Our efforts and the health and safety of our constituents are ignored because of politics.

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NATIONAL AIR TRAFFIC
CONTROLLERS ASSOCIATION,
*Chicago, IL, November 30, 2001.*

Hon. PETER FITZGERALD,
*U.S. Senate, Washington, DC.*

SENATOR FITZGERALD, As requested from your staff, I have summarized the most obvious concerns that air traffic controllers at O'Hare have with the new runway plans being considered by Mayor Daley and Governor Ryan. They are listed below along with some other comments.

1. The Daley and Ryan plans both have a set of east/west parallel runways directly north of the terminal and in close proximity to one another. Because of their proximity to each other (1200′) they cannot be used simultaneously for arrivals. They can only be used simultaneously if one is used for departures and the other is used for arrivals, but only during VFR (visual flight rules), or good weather conditions. During IFR (instrument flight rules, ceiling below 1000′ and visibility less than 3 miles) these runways cannot be used simultaneously at all. They basically must be operated as one runway for safety reasons. The same is true for the set of parallels directly south of the terminal; they too are only 1200′ apart.

2. Both sets of parallel runways closest to the terminal (the ones referred to above) are all a minimum of 10,000′ long. This creates a runway incursion problem, which is a very serious safety issue. Because of their length and position, all aircraft that land or depart O'Hare would be required to taxi across either one, or in some cases two runways to get to and from the terminal. This design flaw exists in both the Daley and the Ryan plan. A runway incursion is when an aircraft accidentally crosses a runway when another aircraft is landing or departing. They are caused by either a mistake or mis-understanding by the pilot or controller. Runway incursions have skyrocketed over the past few years and are on the NTSB's most wanted list of safety issues that need to be addressed. Parallel runway layouts create the potential for runway incursions; in fact the FAA publishes a pamphlet for airport designers and planners that urge them to avoid parallel runway layouts that force taxiing aircraft to cross active runways. Los Angeles International airport has led the nation in runway incursions for several years. A large part of their incursion problem is the parallel runway layout; aircraft must taxi across runways to get to and from the terminals.

3. The major difference in Governor Ryan's counter proposal is the elimination of the southern most runway. If this runway were eliminated, the capacity of the new airport would be less than we have now during certain conditions (estimated at about 40% of the time). If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways. The northeast-southwest parallels are left over from the current O'Hare layout. These two runways simply won't be usable in day-to-day operations because of the location of them (they are wedged in between, or pointed at the other parallels). We would not use these runways except when the wind was very strong (35 knots or above) which we estimate would be less than 1% of the time. That leaves the six east/west parallels for use in normal day-to-day operations. This is the same number of runways available and used at O'Hare today. If you remove the southern runway (Governor Ryan's counter proposal), you are leaving us five runways which is one less than we have now. That means less capacity than today's O'Hare during certain weather conditions. With good weather, you may get about the same capacity we have now. If this is the case, then why build it?

4. The Daley-Ryan plans call for the removal of the NW/SE parallels (Runways 32L and 32R). This is a concern because during the winter it is common to have strong winds out of the northwest with snow, cold temperatures and icy conditions. During these times, it is critical to have runways that point as close as possible into the wind. Headwinds mean slower landing speeds for aircraft, and they allow for the airplane to decelerate quicker after landing which is important when landing on an icy runway. Landing into headwinds makes it much easier for the pilot to control the aircraft as well. Without these runways, pilots would have to land on icy conditions during strong cross-wind conditions. This is a possible safety issue.

These are the four major concerns we have with the Daley-Ryan runway plans. There are many more minor issues that must be addressed. Amongst them are taxiway layouts clear zones (areas off the ends of each runway required to be clear of obstructions), ILS critical areas (similar to clear zones, but for navigation purposes), airspace issues (how arrivals and departures will be funneled into those now runways) and all sorts of other procedural type issues. These kinds of things all have to go through various parts of the FAA (flight standards, airport certification etc.) eventually. These groups should have been involved with the planning portion from day one. Air traffic controllers at the tower are well versed on what works well with the current airport and what does not. We can provide the best advice on what needs to be accomplished to increase capacity while maintaining safety. It is truly amazing that these groups were not consulted in the planning of a new O'Hare. The current Daley-Ryan runway plans, if built as publicized, will do little for capacity and/or will create serious safety issues. This simply cannot happen. The fear is that the airport will be built, without our input, and then handed to us with expectations that we find a way to make it work. When it doesn't the federal government (the FAA and the controllers) will be blamed for safety and delay problems.

Sincerely,

CRAIG BURZYCH,
*Facility Representative*
*NATCA—O'Hare Tower*

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[From the Chicago Sun-Times, July 21, 2002]

## BUILDING 3RD AIRPORT IS TOP PRIORITY NOW

(By Rep. Jesse L. Jackson)

Unfortunately, the House defeat of the O'Hare expansion bill last week has shifted the debate from "substance" to "power." The focus now is on machismo: "Does [Rep. William] Lipinski have the power to ram a bill through Congress?" It is not on the real issue: "Who has the best solution to the air capacity crisis?"

All four sides in this dispute agree on the analysis: There is an air capacity crisis at O'Hare. The disagreement comes over how to resolve it.

Many suburbs around O'Hare, for a wide variety of valid reasons, are absolutely against O'Hare expansion. They also believe expanding O'Hare will make Peotone unnecessary.

Mayor Daley and the downtown business and media community, who maniacally support O'Hare expansion and are attempting to ram it down the throats of everyone else—regard less of who is opposed or why—also believe it will kill Peotone. This interconnected and elite group of business leaders and politicians has an interest in maintaining American's and United Airlines' duopoly at O'Hare, where ticket prices are one-third higher than the national average, costing consumers an extra $1 billion. The mayor also has an interest in maintaining his campaign contributors, who, in many instances, are the same businesses connected at O'Hare's hip.

Others want to expand O'Hare and build Peotone simultaneously. However, Lipinski's bill removes Peotone as a priority—leaving its proponents with little more than baseless hope and a prayer.

A final group, of which I'm a part, wants to build Peotone first, then revisit O'Hare expansion later, because: (a) Peotone offers a faster, cheaper, cleaner, safer, more permanent and just solution; and (b) an evolving Peotone airport, accommodating 1.6 million new flights, would surely make O'Hare expansion unnecessary.

So why spend more money, take longer, increase environmental problems, put the flying public in greater danger, support a temporary solution—once O'Hare expansion is complete, we will be in the same capacity crisis as today—and increase the economic and racial divide in Chicago, when there is a better way of resolving the current aviation capacity crisis?

I'm not ignorantly against 195,000 new jobs and billions of dollars of investment on the North Side and northwest suburbs around O'Hare. I simply note that Elk Grove Village already has three jobs for every one person.

By contrast, some communities in the 2nd Congressional District have 60 people for every one job. Thus, I'm intelligently for the 236,000 new jobs and billions of dollars of economic activity; that Peotone will bring in and around my district, where the need is greatest. The Southland needs economically stable communities, and families who have a future and can send their children to college, too. Peotone also benefits the entire region, state and nation.

Even if H.R. 3479 becomes law, a federal court is likely to find it unconstitutional under the 10th Amendment, which gives certain powers exclusively to the states, including the power to build and alter airports. The U.S. Supreme Court stated in Printz vs. United States (1997) that "dual sovereignty" is incontestable. It emphasized that the constitutional structural barrier to Congress' intruding on a state's sovereignty could not be avoided by claiming that congressional authority was: (a) pursuant to the commerce power—it will create 195,000 jobs and $19 billion in economic activity; (b) the "necessary and proper" clause of the Constitution—there's an aviation capacity crisis, or (c) that the federal law "preempted" state law under the Supremacy Clause—that Congress can use its power to solve the impasses by overriding the state. In short, all the arguments the Daley and Ryan forces have been making are unconstitutional.

Both Mayor Daleys saw the aviation capacity crisis coming. Both proposed a third airport: one literally on Lake Michigan, the other in Lake Calumet. Both sites were in Cook County, controlled by the Daleys. However, when the most credible long-term study recommended Peotone in Will County, Daley did an about face.

Without the years of obstructionist tactics by Mayor Richard M. Daley, protecting his narrow and parochial interests, the south suburban airport would already be built and today's aviation crisis averted.

A new airport in Peotone can still be built in one-third of the time, at one-third of the cost of O'Hare expansion, with less disruption and environmental damage, greater public safety and more economic justice through balanced growth in the Chicago metropolitan area. Why force through an irrational bill when a more rational, effective and efficient solution to the aviation capacity crisis is available now?

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[From the Chicago Sun-Times, Aug. 30, 2001]

## GRAVE CONCERNS NEAR O'HARE

(By Robert C. Herguth)

American Indian remains that were exhumed 50 years ago to make way for O'Hare Airport might have to be moved again to accommodate Mayor Daley's runway expansion plans.

That's disturbing to some Native Americans, who say they want their ancestors and relics treated with greater respect.

And it's prompting local opponents of the proposed closure of two O'Hare cemeteries—one of which has Indians—to explore whether federal laws that offer limited protection to Native American burial sites and artifacts could help them resist the city's efforts.

"Maybe the federal law might come to our aid," said Bob Placek, a member of Resthaven Cemetery's board who estimates 40 of his relatives, all German and German-American, are buried there. "The dead folks out there aren't obstructionists, they're trying to rest in peace. . . . I feel it's a desecration to move a cemetery. It's a disregard for our family's history."

Resthaven is a resting place for European settlers, their descendants and, possibly, Potawatomi.

It seems unlikely federal law, specifically the Native American Grave Protection and Repatriation Act, would lend much muscle to those opposed to Daley's plan, which calls for knocking out three runways, building four new ones and adding a western entrance and terminal.

"Primarily, the legislation applies to federal lands and tribal lands," said Claricy Smith, deputy regional director for the Bureau of Indian Affairs.

Even if someone made the argument that O'Hare is effectively federal land because it uses federal money, the most Resthaven proponents could probably hope for is a short delay, a say in how any disinterment takes place and, if they are Indian, the opportunity to claim the bodies of Native Americans.

"They've got a hard road," Smith said of those who might try to halt a Resthaven closure on the basis of Indian remains.

When O'Hare was being built five decades back, an old Indian burial ground that had become a cemetery for the area's white settlers was bulldozed. Some bodies were moved to a west suburban cemetery and some, including an unknown number of Indians, were believed to be transferred to Resthaven, according to published accounts and those families with local history.

"Ma used to talk about Indians being buried at Resthaven," said the 44-year-old Placek, who believes the Indians share a mass grave. His mother, who died in 1996, also is buried at Resthaven. "I used to hear as a little kid Potawatomi" were there.

Regardless of the tribe to which the dead belonged, the Forest County Potawatomi Community of Wisconsin, one of several Potawatomi bands relatively close to Chicago, plans to get involved.

"It's concerning," said Clarice Ritchie, a researcher for the community of about 1,000 who hadn't heard about the issue until contacted by a reporter.

"At this stage of the game, who can determine who they were specifically? But we run into this sort of circumstance in many instances throughout the state of Wisconsin, and some in Illinois, and we take care of them as if they were relatives," she said. "We're all related, we're all created from God, so we do the right thing, we take care of anybody and try to see that they're either not disturbed or properly taken care of."

"I guess we'd have to keep our mind broad as to what would be done," Ritchie said. "Naturally we don't like to see graves disturbed, but somebody has already disturbed them once. . . . I guess what I'd probably do is talk to the tribal elders and spiritual people and other tribes who could be in the area and come to a conclusion of what should be done."

Bill Daniels, one of the Potawatomi band's spiritual leaders, said spirits may not look kindly on those who move remains.

"It's not good to do that—move a cemetery or just plow over it," he said.

Daley's plan, which still must be approved by state and federal officials, also may displace nearby St. Johannes Cemetery, which is not believed to have any Native American bodies.

John Harris, the deputy Chicago aviation commissioner overseeing the mayor's $6 billion project, said this is the first he's heard that there might be Indian remains at Resthaven, and city officials are trying to verify it.

"I have no reason to doubt them at this time, but I have no independent knowledge," he said. But "whether they're Indians or not, we would exercise in extreme level of sensitivity in the interest of their survivors."

Resthaven, which is loosely affiliated with the United Methodist Church, has about 200 graves, some of which date to the 19th century. It's located on about 2 acres on the West side of O'Hare, in Addison Township just south of the larger St. Johannes.

Self-described "advocate for the dead" Helen Sclair has heard there might be Indians buried at Resthaven, but she suspects not all Native American remains were retrieved when Wilmer's Old Settlers Cemetery was closed in the early 1950s to make room for O'Hare access roads.

She said the Chicago region, which used to be home to Potawatomi, Chippewa and other Indians, doesn't have enough cemetery space, and the dead should be treated with more respect.

"We don't have much of a positive attitude toward cemeteries in Chicago," Sclair said. "Do you know why? Because the dead don't pay taxes or vote. . . . Well, technically they don't vote."

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SUBURBAN O'HARE COMMISSION,
*Bensenville, IL, February 13, 2002.*

## A BETTER PLAN FOR CURING THE O'HARE AIRPORT BOTTLENECK

CHICAGO.—A plan for relieving the Chicago aviation bottleneck was unveiled today that costs less, is more efficient, less destructive and can be realized quicker than a "compromise" plan that Chicago Mayor Richard M. Daley and Illinois Gov. George Ryan are trying to rush through Congress.

The plan was crafted by the Suburban O'Hare Commission, a council of governments representing a million residents living around O'Hare Airport.

The plan includes runway, terminal and other improvements at O'Hare International Airport, to make it more efficient, competitive and convenient. The plan also includes alternatives to the costly and destructive "western access" proposed in the Daley-Ryan plan. The centerpiece of the plan remains, as it has for well over a decade, a major hub airport in the south suburbs that had been urged by experts and government officials from three states, and would be operational now if not for obstruction from Chicago Mayor Richard M. Daley. The plan provides for many more flights to the region, and, consequently, many more jobs.

"We always have been in favor of a strong O'Hare Airport because of its importance to our communities and to the regional economy," said John Geils, SOC Chairman and president of the Village of Bensenville. "This will come as a surprise only to those who have been taken in by the rhetoric of our opponents, who maliciously tried to portray us as anti-O'Hare zealots, willing to damage or even destroy O'Hare. Our plan will expand the region's aviation and economic growth; the Daley-Ryan plan will stifle that growth.

"The claimed benefits—including delay reductions, job increases, improved safety, greater competition and less noise—of the Daley-Ryan O'Hare expansion plan are untrue. We have a plan that is better for the entire region, and not just for Chicago City Hall and its big business friends," Geils said.

Among the improvements are a realistically modernized O'Hare, instead of the impossible attempt by Daley and Ryan to stuff ten pounds of potatoes into a five-pound sack. Terminals would be updated, with an eye to matching them with capacity and making them more user friendly. Selected runways would be widened to accommodate the large new jets, such as the A380X, thus increasing the number of passengers the airport can serve, without increasing air traffic. Western access and a bypass route would be built on airport property, skirting O'Hare to the south—as originally planned, thus avoiding the destruction of uncounted homes and businesses, as under the Daley-Ryan plan.

The SOC Solution also would increase competition at O'Hare, through terminal and other facilities improvements so that air travelers using the competition are not treated as second-class customers. Funding of O'Hare improvements would be disconnected from a complicated bonding scheme that allows United and American airlines to become more entrenched and to continue to charge anti-competitive fares. In addition, some of the lucrative gambling revenues, now going to enrich political insiders, would be used for a competitive makeover of O'Hare.

SOC's plan also would provide better safety and environmental protections. Every home impacted by noise at O'Hare and Midway would be soundproofed, instead of a select few as provided under the current, flawed standards adopted by Chicago. O'Hare neighbors would be spared the concentration of air pollution brought by a doubling of flights at what is already the state's largest single air polluter. Under the Daley-Ryan plan, O'Hare neighbors would find themselves in federally required crash zones at the end of runways, forcing them to either give up their homes or live in devalued property in great risk. Because most of the region's air traffic growth would use the South Suburban airport where pollution and safety buffers are required under current federal standards, fewer total people in the region would be subjected to health and safety risks.

Key to the SOC Solution is the construction of a truly regional hub airport in the South Suburbs, rather than an inadequate "reliever" airport as envisioned under the Daley-Ryan plan. Just as New York City and Washington D.C. have more than one hub airport, a true regional airport in the South Suburbs would give Chicago the kind of potential it needs with three hub airports (O'Hare, Midway and Peotone) to maintain its aviation dominance for decades. Despite the long-made assertions by entrenched interests, such as United and American airlines, that the Chicago area didn't need a second hub airport, Midway already is developing into a hub simply because of market forces. With Midway reaching capacity in just a few years, and O'Hare already at capacity, the sounds of "no one will come to Peotone" no longer are heard.

Finally, the SOC Solution will protect taxpayers by creating an oversight board of improvements at all airports, including the south suburban airport and Midway.

"The SOC Solution is not a fragmented plan that simply focuses on O'Hare, which under the Daley-Ryan proposal is merely an instrument for extending the political and economic might of a select few," said Geils. "Ours is a plan for a regional airport system—one that is based on common sense and what is fair and good for the entire public."

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SUBURBAN O'HARE COMMISSION,
*Bensenville, IL, February 26, 2002.*

Hon. DANIEL K. AKAKA,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR AKAKA: The Suburban O'Hare Commission (SOC) urges you to oppose H.R. 3479 and S. 1786, which have been erroneously titled the National Aviation Capacity Expansion Act. If enacted, this legislation would have unprecedented and deleterious consequences for the national air transportation system as well as for the Chicago-area aviation system.

SOC is a strong advocate of expanding airport capacity for the Chicago area and has presented a plan that will meet the area's aviation needs for the 21st century through the development of a needed third airport in the South Suburban area, as well as modernization of O'Hare International Airport. SOC's plan supports and would accomplish O'Hare modernization, because we recognize that it is a very important aviation facility for the country and our region.

If enacted, the proposed legislation would accord unique and special status to O'Hare Airport, unlike any other airport in the nation, by legislatively mandating a multi-billion dollar airport development project, calling for the total reconstruction of O'Hare to create six new parallel runways and new terminal facilities. Its promoters hope to achieve nothing less than the circumvention of the existing legal framework for review of airport development by the FAA and the elimination of the environmental review process for one of the largest airport expansions in aviation history, the size, scope and cost of which has not yet been publicly disclosed.

The legislation:

Makes it "federal policy" to construct the O'Hare portion of the plan (projected to cost as much as 16 billion dollars) and, if construction has not commenced by 2004, *requires the federal government to complete the project "as a federal project";*

*Preempts the State of Illinois* from exercising its lawful rights under its own laws;

*Mandates changes to the Clean Air Act implementation plan* for the Chicago region should it interfere with the O'Hare expansion plans; and

*Short-circuits the environmental review process under NEPA*, a requirement applicable to all airport construction projects.

Each of these issues is particularly troubling from a national aviation and environmental perspective. For example, the curtailing of the NEPA process calls into question the need for other airport projects to undergo the same rigorous screening process to determine their public benefit and environmental compliance. Further, the legislation would in effect commit the Federal Government to spend billions of dollars for a flawed airport development project, and diverts needed financial and federal government resources from other critically needed airport projects throughout the nation.

The legislation is unnecessary. If the project is compelling, it should be able to meet the usual and regular evaluative process that is applicable to every other airport in the country. The FAA possesses the special competence and expertise to evaluate airport development projects. It is the agency entrusted by Congress to determine whether this or any other project makes sense for the national air transportation system. The legislation would substantially erode the FAA's independent and deliberative role in reviewing the O'Hare project. Moreover, the bill short-circuits the required review under the National Environmental Policy Act (NEPA), a 30 year old statute with a well defined process to review major federal action of this type.

The O'Hare project raises many public questions, which requires full debate and public disclosure through the FAA's review procedures. These questions include:

Will the air traffic control airspace resources around O'Hare allow the substantial increase in operations (project to increase from 900,000 per year to 1.4 million per year)?

Is the O'Hare expansion plan the best choice to meet the future needs of the Chicago region?

How much will the O'Hare expansion project cost?

Will six, closely aligned parallel runways (only 1400 feet apart) be cost effective to maximize the region's capacity?

What will be the impact on surrounding neighborhoods of the proposed project?

Is it possible to tear up two major runways and build four additional runways at the same time O'Hare is attempting to operate at full capacity? What specific, detailed operational plan has been prepared and how does it propose to make these massive alterations while O'Hare continues to function as a key US hub?

Will the funds that must be expended at O'Hare preclude the development of Peotone? Will such mandated funding impact future developments at Midway or Milwaukee or other airports in the Great Lakes region?

What impact would the expenditure of billions of dollars for, and according special congressional priority to, the O'Hare project have on critically needed airport development and aviation security projects for other airports throughout the nation.

It appears that one of the unstated goals of the legislation is to curtail the normal NEPA process and, to avoid the NEPA-mandated right of all interested persons to have an opportunity to review and comment on the environmental impacts of the proposal. The legislation seeks to have Congress make the decisions now vested by law with the FAA, even though details of the project has yet to be fully disclosed, the purpose and need has yet to be documented, the environmental impacts have yet to be evaluated, the alternatives and cost-benefits have yet to be studied.

This is not streamlining; it is redlining for a single airport! It is unprecedented in the history of civil aviation. A legislative mandate giving O'Hare special priority for approvals and funding for billions of taxpayers dollars will adversely impact the availability of grants-in-aid dollars for other major airport development projects around the country. If the legislation is enacted, proposed enhancements at airports such as San Francisco, Washington Dulles, Los Angeles, Denver, Seattle, Atlanta, and Dallas-Ft. Worth may experience delays in order to accommodate the preference granted to Chicago.

The proponents of HR 3479/S 1786 unsuccessfully attempted to enact this legislation without a hearing late last year but that plan of action was soundly rejected by members of the U.S. Senate, who objected to it being added to an appropriations bill without the benefit of a hearing. The speed with which its supporters want this bill to move suggests that they really do not want full and open consideration by Congress regarding the substantial questions that surround this bill. Recent history with aviation legislation should suggest that the industry's complex economic, policy, financial and environment issues require thoughtful review, not superficial treatment.

The bill is also unprecedented because it curtails the ability of a state to enforce its own laws and is thereby inconsistent with the Tenth Amendment. Every State should be very concerned about this proposed precedent, which may adversely affect its ability to make similar decisions in the future. Moreover, the attempt to foreclose the next Governor's ability to review this project makes bad public policy. The Chief Executive of a state should evidence the broader support of his or her government before such projects are adopted by the federal government. HR 3479/S 1786 seek to abrogate that historical protection.

The Senate Commerce, Science and Transportation Committee is likely to hold a hearing on S 1786 in the near future. We encourage you to urge Chairman Hollings and Ranking Member McCain to conduct a careful and thorough investigation of the legislation.

SOC is an advocate for the expansion of Chicago's aviation capacity. SOC has issued its own fully documented report which sets forth a Plan to increase capacity in the Chicago region. See enclosures. We urge you to oppose this legislation which would reverse 30 years of precedent and policy under NEPA and aviation law.

Sincerely,

JOHN C. GEILS,
*Chairman.*

## TESTIMONY OF THE SUBURBAN O'HARE COMMISSION BEFORE THE HOUSE AVIATION SUBCOMMITTEE OF THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE—HEARING ON H.R. 3479, MARCH 6, 2002

### TESTIMONY OF THE SUBURBAN O'HARE COMMISSION

Mr. Chairman, and members of the House Aviation Subcommittee, the Suburban O'Hare Commission (SOC), a consortium of 14 local governments adjacent to O'Hare International Airport, representing the interests of over 1.5 million citizens, is grateful for the opportunity to present its views concerning the important national aviation policy and legal issues raised by H.R. 3479.

This legislation is intended to fast-track a massive new runway redevelopment plan for the Chicago O'Hare International Airport. Its principal purpose and effect would be to circumvent established requirements for review of airport development projects by the Federal Aviation Administration (FAA) and environmental agencies. The effect of the bill would be to silence, through an act of Congress, further public debate concerning the future and direction of Chicago's airport needs. It would effectively curtail the role of the FAA in evaluating and approving airport development projects; it would also have the effect of substantially reducing the protections of NEPA that safeguard the environment and the public health and welfare. H.R. 3479 represents an unprecedented abandonment of the federal laws established by Congress to provide for the reasoned and orderly construction of airports in a manner consistent with the public interest.

At the outset, it is important for you to understand what SOC stands for, and what it does not. SOC is not opposed to airport development, nor the need to improve the capacity and efficiency of Chicago's airport system. To the contrary, there is broad regional consensus—including SOC—that the Chicago metropolitan area needs significant new airport capacity. What SOC does oppose, however, is the single-minded focus on expansion at O'Hare—when there is a better, faster, safer, less expensive, and more environmentally-sound alternative: the construction of a South Suburban Airport at Peotone.

SOC believes that these regional airport development issues are matters to be determined by the Federal Aviation Administration, exercising authority charged to it by law. We do not think that the Congress should decide, through political fiat, what does, or does not make sense for the citizens most directly affected by the Chicago region's airport development needs. Congress has neither the specialized aviation and airport environmental expertise of the FAA, nor the local knowledge necessary to make these judgments. Indeed, for Congress to impose its will in the manner proposed by H.R. 3479, would strip away the vested oversight authority of the State of Illinois with respect to airport construction within its borders, and directly violate the 10th amendment.

SOC opposes this bill because it seeks to avoid the careful framework established for review of airport development by the FAA in cooperation with state airport sponsors. And, the bill would result in a major curtailment of the critical environmental review process. The O'Hare redevelopment plan is one of the largest airport expansions in aviation history. A project of this size, scope, and cost certainly deserves more than a perfunctory review, which is all the bill would allow. Before turning to a more thorough evaluation of the legislation, I would like to highlight a few of our key concerns.

H.R. 3479 is unprecedented in the history of civil aviation. It would:

Declare it to be "federal policy" to construct the O'Hare expansion project (expected to cost 15 billion dollars or more). If the City has not commenced construction by 2004, the FAA is required to "construct the [six] runway design plan as a federal project";

Accord the O'Hare runway project special statutory priority over every other airport project in the nation;

Violate the 10th amendment by preempting the State of Illinois from exercising its lawful oversight authority under its own law;

Interfere with FAA's statutory responsibility to evaluate the air safety, efficiency and public benefits/costs of airport development projects.

Short-circuit the environmental review process under NEPA, which is applicable to all other airport construction projects;

Mandate changes to the Clean Air Act State Implementation Plan (SIP) for the Chicago area by giving O'Hare a blank check to define its own pollution emissions at the expense of other industries.

For these reasons, SOC strongly urges the Aviation Subcommittee to reject H.R. 3479, and its goal of establishing a unique set of rules, applicable to no other airport in the nation, to ensure construction at O'Hare.

### 1. H.R. 3479 CONSTITUTES UNPRECEDENTED INTERFERENCE WITH FAA'S STATUTORY RESPONSIBILITY TO EVALUATE THE AIR SAFETY, EFFICIENCY AND COST/BENEFITS OF AIRPORT DEVELOPMENT PROJECTS.

SOC is extremely concerned about the shift in decision-making responsibilities over airport development that would be brought about by H.R. 3479. The bill would drastically impinge—indeed, nullify—the FAA Administrator's and the Secretary of Transportation's authority to review and approve airport development projects. The exercise by the FAA of independent, objective and expert judgment with respect to airport projects is essential to ensuring that public resources are well-spent to optimize the safety and efficiency of the air transportation system and to protect against harmful environmental consequences—particularly on a highly controverted and extremely costly project such as this. SOC believes that the critical future planning decisions about what Chicago-area airports and which particular runways should be built are best made on the technical merits, rather than through the federal political process.

Under current law, the FAA and DOT have the responsibility to determine whether any proposed airport development project is consistent with promoting the public interest and the safe and efficient management of the national air transportation system. The proposed legislation would substitute a political judgment by Congress for the expert judgment of the agencies that are charged with that responsibility under the Transportation Code (Title 49 U.S.C. Subtitle VII).

The legislation would erode the FAA's independent and deliberative role in reviewing the O'Hare project. It would have Congress make the decisions now vested in the FAA, even though details of the development plan have yet to be disclosed, the need for the plan has yet to be documented, the environmental impacts have yet to be determined, and the alternatives and cost-benefits have yet to be evaluated.

The legislation is unprecedented in the history of aviation. It accords unique and special priority for O'Hare not applicable to any other airport in the country. This is not streamlining; it is redlining for the benefit of a single airport!

By directing the FAA to give the O'Hare project priority for approvals and expenditure of Federal government resources, other vitally important airport development projects around the country would be adversely impacted. If this legislation is enacted, airport projects at airports such as San Francisco, Dallas/Ft. Worth, Los Angeles, Atlanta, San Jose and Seattle may experience FAA review delays or reduced funding in order to accommodate the preference accorded to O'Hare by Congress.

DOT and FAA currently have discretion to approve airport development funding for those projects that will "preserve and enhance capacity, safety and security" at airports throughout the country. 49 U.S.C. §47115(c)(1). The Secretary is required to take into account "the effect the proposed project will have on the overall national air transportation system and capacity." 49 U.S.C. 47115(d)(1). In addition, the DOT and the FAA now have the authority to approve changes in an airport's configuration (the airport layout plan) and to review the impacts of such changes.

The important issues the FAA is required to consider, but which the legislation short-circuits include the following:

Will the air traffic control airspace resources around O'Hare allow the substantial increase in operations (projected to increase from 900,000 per year to 1.6 million per year)?

Is the O'Hare expansion plan the best choice to meet the future needs of Chicago region?

How much will the O'Hare expansion project cost?

Will six, closely-aligned parallel runways (several of which are only 1400 feet apart) be cost effective to maximize the region's capacity?

What will be the impact on surrounding neighborhoods of the proposed project?

Is it possible to tear up two major runways and build four additional runways at the same time O'Hare is attempting to operate at full capacity? What specific, detailed operational plan has been prepared and how does it propose to make these massive alterations while O'Hare continues to function as a key U.S. hub?

Will the preferences accorded to O'Hare in the legislation effectively preclude the development of Peotone? Will such preference impact future developments at Midway or Milwaukee or other airports in the Great Lakes region?

What impact would the expenditure of billions of dollars for, and according special

Congressional preference to the O'Hare project have on critically needed airport development and aviation security projects for other major airports throughout the nation?

The legislation would rob the Secretary and the FAA Administrator of their important statutory obligations. It is critical for the expert federal agencies entrusted with responsibility in this area to evaluate and make a determination on whether the crowded skies over O'Hare—with the closely abutting busy airspace used by Midway, Meigs and other very active general aviation airports in the area—are the safest, and most efficient conduit for additional air traffic moving to and from Chicago and through the national air transportation system, as opposed to the development of a new airport in the South Suburban area.

The legislation would substantially erode the FAA's independent and objective role in reviewing major airport expansion projects. Under the legislation, Congress will make that determination, not the FAA, since Congress would declare that: "it is critical the Federal Government does all it can to facilitate the redesign of O'Hare" (Sec. 2(3)), and directs that the FAA "shall . . . construct the [six] runway design plan as a Federal project" (Sec. 3(f)).

Thus, under the legislation, Congress would nullify the FAA's role in determining whether this airport development project is consistent with applicable requirements and reflects the sound expenditure of limited resources and airport development funds. Enactment of this legislation will dictate the construction of additional runways at O'Hare without regard to whether they will actually add capacity to the Chicago region or the national air transportation system.

### THE O'HARE REDEVELOPMENT PLAN WOULD BE A NATIONAL AIR TRANSPORTATION MISTAKE OF EPIC PROPORTIONS

The O'Hare "runway design plan", which the legislation will mandate, calls for a massive expansion of O'Hare by creating a total of six parallel runways. However, in terms of well-established FAA safety and efficiency standards, several of the runways are too closely spaced (separated by only 1,400 feet) to allow for simultaneous arrivals or departures. The runways can only be used simultaneously if one runway is used for arrivals and the other is used for departures—and even then only if the weather is good. Whenever cloud cover and visibility conditions require the use of instrument landing procedures (a chronic situation at O'Hare), these closely spaced parallel runways could not be used simultaneously at all. By mandating the construction of the proposed configuration, Congress would abrogate the FAA's existing statutory power to determine whether the proposed runway system is safe and whether it would in fact add capacity to the region.

The proposed legislation would have Congress make findings that the national air transportation is "dependent" on O'Hare and that "the reliability and efficiency of interstate air transportation for the residents and businesses in many States depend on the efficient processing of air traffic operations at O'Hare." (Sec. 2). While the bill's promoters, most notably the City of Chicago, would no doubt prefer that interstate air traffic have no alternative but to flow through O'Hare, in reality, this is far from the truth and there is a better, more efficient alternative.

Passengers traveling via O'Hare have their option of any number of viable connecting hubs. Rather than trying to cram more flights through O'Hare, SOC believes that the best way to enhance Chicago's role as a pivotal hub in the national air transportation system is through the development of a modern alternate third airport at Peotone. Chicago's large population and economic base makes it an attractive hub, and a new South Suburban airport will attract more air carrier service and more connecting passengers.

The legislation accords significant preference to O'Hare over the Peotone airport. If, despite the efficiency and safety concerns of the O'Hare project and the superiority of the proposed airport at Peotone, O'Hare is massively expanded, the economic viability of a new airport would be undermined. An expanded O'Hare could make it more difficult to justify a new South Suburban Airport at Peotone, as contemplated in the legislation.

Thus, the proposed legislation pays lip service to the development of a new airport at Peotone, but in practical effect would thwart the development of a South Suburban Airport. The legislation requires that the FAA "shall construct the [six] runway design plan a federal project" if it is not begun by July 1, 2004. No such directive is applicable to Peotone. As a result, the legislation guarantees the expansion of O'Hare but leaves Peotone to whither as an unfunded appendage. Such determinations should be made by the FAA through the exercise of its expertise, not by Congress. Absent the legislative directive, the FAA might well determine to give Peotone a higher priority than O'Hare, based on very real safety, efficiency, public interest and environmental considerations. Under the legislation that would not be possible.

Worse yet, by prejudging the issue and requiring the mandatory federal construction of the ill-conceived O'Hare six-runway design plan, Congress would be condemning the Chicago region and the national air transportation system to a future of interminable delays. Because of air traffic constraints that will be exacerbated by the O'Hare project, a six-runway O'Hare super-hub would produce the biggest and most delay-prone airport in the country.

The Achilles heel of the O'Hare redevelopment plan is that the system is guaranteed to collapse in bad weather. Safety standards mandate that the closely-spaced parallel runways could not be used for simultaneous operations when the weather requires pilots to use instrument procedures. This means that half the expensive new concrete poured at O'Hare would effectively be taken out of service exactly when they need it most—to alleviate bad weather backups, which are a leading cause of delays.

Far from enhancing capacity and efficiency, if Congress were to adopt this legislation it would saddle the national air transportation system with an enormously expensive and delay-prone hub that is, in reality, the worst tool for the job. That is why SOC believes this is a matter best left to the FAA's expert judgment, instead of the legislative process.

### LAYING NEW CONCRETE ON TOP OF FUNCTIONAL EXISTING RUNWAYS FLUNKS THE COST-BENEFIT TEST, AND DEFEATS THE FEDERAL POLICY TO DEVELOP RELIEVER AIRPORTS

There is compelling evidence demonstrating that the development of a third Chicago airport at Peotone would provide more effective capacity expansion for the region, and could be brought on line more quickly, at less cost, with less disruption to existing operations, and with less environmental impacts, than the proposed mandatory development project at O'Hare. Cost estimates released by the State of Illinois indicate that a new six runway airport at Peotone would cost in the vicinity of 5 billion dollars. Cost estimates for new runways at O'Hare are between 1 to 2 billion dollars per runway. Chicago itself estimates that terminal expansion at O'Hare would cost another 6 billion dollars, bringing the total tab for the O'Hare expansion extravaganza to a whopping 15 billion dollars. Even this massive figure does not include the additional cost of access roads, parking facilities, and mitigation measures for the immediately impacted communities.

Given that Peotone would provide substantially more new incremental capacity at substantially less cost, the O'Hare construction plan is a spendthrift nightmare. Under existing law, the FAA is responsible for weighing the "project benefit and cost". 49 U.S.C. §47115(d)(2). Congress added that responsibility to avoid situations in which taxpayer dollars are expended on projects that do not represent the best use of limited airport development funds. Under the required cost-benefit analysis, Chicago would be required to examine various alternatives and consider issues such as whether the addition of new runways at an existing airport is a better or worse investment than building a new airport. SOC submits that the O'Hare construction plan flunks this test.

The proposed legislation provides a "quick fix" to the otherwise fatal cost-benefit problems affecting a large scale redevelopment of O'Hare, by eliminating the FAA's essential "purpose and need" evaluation. The FAA is otherwise required to investigate cost-benefit of airport funding projects, and SOC believes that under any such analysis it should find this one unsatisfactory.

The legislation also contravenes the established federal policy to "give special emphasis to developing reliever airports." 49 U.S.C. §47101(a)(3). By concentrating an ever-increasing number of airplanes in the finite volume of airspace over O'Hare, Congress would be frustrating the very reliever program it mandated the FAA to promote.

Another important consideration for airport development funding requires the Secretary to be satisfied that "the project will be completed without unreasonable delay". 49 U.S.C. §47106(a)(4). Attempting a massive redevelopment project at one of the busiest airports in the country is a recipe for project delays and massive disruption to the existing air carrier activities at O'Hare.

### II. H.R. 3479 SHORTCUTS NEPA AND A HOST OF OTHER STATUTES THAT ARE ESSENTIAL TO THE PROTECTION OF THE ENVIRONMENT AND THE PUBLIC HEALTH AND WELFARE

This is result-driven legislation which has the singular purpose and effect of curtailing meaningful evaluation of the environmental consequences in order to lay runways and pavement at O'Hare. The legislation would shunt aside vital considerations that under current law would otherwise require careful scrutiny by the FAA and other agencies, including such issues as: the tremendous noise impacts over surrounding communities, the massive amounts of ozone and other airborne pollutants that would be emitted into the Chicago-area airmass, the millions of additional gallons in toxic deicing fluid and other chemical runoff that will flow into water-ways, and the impact of the project on wetlands, endangered species and other natural resources.

Even in its current pre-expansion condition, O'Hare is the largest source of toxic emissions and hazardous air pollutants in the State of Illinois. Moreover, monitoring data shows that O'Hare impacts large numbers of Chicago area residents with significant and undesirable noise exposure. Adding hundreds of thousands of new flights will make matters much worse. SOC is extremely concerned that the proposed legislation will effectively preclude further consideration of these important issues, cut off public comment, and curtail thorough evaluation of the public health and environmental considerations NEPA was enacted to protect.

While the legislation pays lip service to compliance with NEPA, there is simply no way that a project of this scope and scale could be subject to meaningful NEPA review in the scant period of time the legislation allows before the FAA is compelled to begin runway construction "as a federal project." Airport development projects of this magnitude ordinarily take several years to complete the NEPA process, under current law and procedures.

Thus, while the bill states that implementation of the O'Hare construction plan "shall be subject to application of Federal laws with respect to environmental protection and environmental analysis including [NEPA]" (Sec. 3(a)(2)(B)), as a practical matter the construction deadline would make it impossible for FAA to conduct the necessary NEPA review. Courts have held that when Congress imposes a mandatory action under an impossible deadline, NEPA has, in effect, been legislatively overruled. See, Flint Ridge Development Co. v. Scenic Rivers, 426 U.S. 776 (1976). That is exactly what Congress would be doing here, despite token language to the contrary.

The FAA is the lead agency responsible for coordinating NEPA review of airport construction projects, along with the involvement of other Federal Agencies and the public. In discharging these obligations, the Transportation Code and NEPA charge the FAA with the duty to objectively and independently analyze the proposed airport expansion, and its impact on the environment, without prejudging the outcome.

Section 3(f) of the bill—which compels the Administrator to begin building the runway development plan at O'Hare by 2004 if the City has not begun construction—effectively eliminates that independence. FAA would do all it could to avoid having to assume construction of O'Hare as a federal project. A statutorily-imposed construction ultimatum by Congress would have the effect of forcing the environmental review process to be so truncated as to effectively preclude meaningful evaluation by the FAA of the environmental consequences.

The massive six-runway redevelopment and expansion plan at O'Hare raises serious and significant adverse environmental questions bearing on air quality, other pollutants, and noise. If an application has significant adverse environmental effects, under the Transportation Code, the FAA Administrator may grant approval "only after a finding that no possible prudent alternative to the project exists and that every reasonable step has been taken to minimize the adverse effect." 49 U.S.C. §47106(c). The proposed legislation would foreclose consideration of the otherwise legally-required alternatives.

Indeed, the alternative endorsed by SOC—that of a new South Suburban Airport—can readily be shown to produce far fewer negative environmental impacts. A new airport at Peotone would have an extensive non-residential environmental land buffer to mitigate the noise and air pollution created by the facility. In contrast, the environmental "buffer" for O'Hare currently consists of Bensenville, Wood Dale, Elk Grove and a host of other DuPage County communities—a residential "buffer" that would be severely negatively impacted if hundreds of thousands of more flights are added at O'Hare.

It is highly significant that two Chicago area Congressmen from different districts, different political parties, and with different political philosophies—Congressmen Hyde and Congressman Jackson—have come out united against further O'Hare expansion, based, in large part, on the disastrous environmental impacts to the region. Allow me to quote here from their open letter to State and Regional Leaders——

"Rather than build an environmentally sound new airport, Chicago wants to add new runways at O'Hare.

Adding runways at O'Hare would compound what is already an environmental disaster. Even Chicago in its Master Plan acknowledged that adding runways would allow a level of air traffic that would be environmentally unacceptable. Despite this environmental unacceptability, Chicago is aggressively fighting a new airport and is actively pushing the option of new runways at O'Hare. (Hyde/Jackson Open Letter, October, 1997 at 9.)

These are precisely the type of critical environmental issues that NEPA requires to be thoroughly examined prior to a major federal action like the O'Hare redevelopment project. However, NEPA and its companion environmental statutes would be effectively gutted by the proposed legislation. Viable, prudent, and indeed more desirable environmental alternatives exist than re-developing an inherently delay-prone airport in close proximity to the City. This legislation eliminates the FAA's independence and forces the FAA, as the lead agency on this project, to short-circuit its environmental review.

### A. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) (42 U.S.C. §4321 ET SEQ.) AND ITS COMPANION ENVIRONMENTAL STATUTES WOULD BE IGNORED BY THE PROPOSED LEGISLATION

NEPA would either be eliminated or so truncated by the legislation as to preclude meaningful review by the FAA Administrator, coordinating federal agencies and the public. NEPA is the nation's core environmental statute that requires Federal agencies to give careful consideration to the potential environmental impacts of the project, to consider practical alternatives to the project, and to give the public adequate opportunity to participate in the review process.

The Department of Transportation—in its May 21, 2001 Report To Congress on Environmental Review of Airport Projects—recognizes the important role of NEPA and public participation as critical to the airport development process:

"[NEPA] requires federal agencies to prepare [Environmental Impact Studies] for projects significantly affecting the environment. Since most new commercial service runways and major runway expansions produce significant environmental impacts, an EIS is usually required. (Page iii)

"Public involvement is an essential part of the environmental review process. . . . There is usually a high degree of public interest in airport projects, including a certain amount of public opposition." (Page v).

"[P]ublic opposition to airport projects continues to rise. The NIMBY effect should not be dismissed as an environmental fringe element. It is based on real environmental concerns and has an increasingly broad-based constituency." (Page iii).

H.R. 3479 is diametrically opposed to the objectives of NEPA and the important public policies recognized by the Department of Transportation in its Report. For starters, the airport environmental review process for a runway expansion project of this magnitude requires the preparation of an EIS, as well as the opportunity for substantial public involvement. That cannot and will not happen under the timetable contemplated by the proposed legislation, and the public's right to participate in the NEPA process would be rendered meaningless,

In addition to the FAA's express NEPA obligations, the Clean Air Act further authorizes the EPA Administrator to conduct a NEPA review on federal projects for construction and major federal actions that are subject to NEPA. If the EPA Administrator determines that the proposed action is unsatisfactory from the standpoint of public health and welfare, or environmental quality, she must make public that determination and refer the matter to the Council on Environmental Quality for mediation. The mandatory 2004 Federal construction deadline under the legislation for the O'Hare project forecloses meaningful review.

### B. STATE IMPLEMENTATION PLAN (SIP) CONFORMITY DETERMINATION (CLEAN AIR ACT)

The Chicago O'Hare area is classified as a severe nonattainment area for ozone, and parts of the Chicago region are designated as moderate nonattainment for particulate matter. Without amendment of the Clean Air Act, the O'Hare expansion program would face difficult or insurmountable burdens under that statute.

O'Hare is a huge polluter, and will be far worse if expanded to nearly double the level of flight operations. Air pollution from O'Hare consists of burned and unburned jet fuel aerosols containing dozens of carcinogenic organic compounds—including Benzene and Formaldehyde. If flights are expanded from 900,000 to 1.6 million annually, O'Hare and its immediately surrounding communities will experience an inevitable and unacceptably high concentration of Ozone and a host of toxic pollutants hanging in toxic cloud over O'Hare. (By contrast, a South Suburban Airport would have a significant land buffer to assist in the dispersal of these toxic pollutants and to keep them away from residential areas. No such buffer exists at O'Hare.)

As required by Section 176 of the Clean Air Act, the State of Illinois has, after extensive public consultation and comment, developed a State Implementation Plan (SIP), which is the State's plan to come into compliance with the national air quality standards under the Clean Air Act. The SIP reflects a careful balance between the protection of the public health and welfare from air pollution, on the one hand, and the need for commerce and other activities, on the other hand. Each Federal agency involved in an airport expansion project must make a determination that the proposed action conforms to the SIP.

Because of the huge increase in air pollution, there is a major inherent conflict between the existing SIP and O'Hare expansion. Under normal SIP processes, the City of Chicago, the airlines, the State of Illinois and its various agencies, the U.S. EPA, the FAA, other Federal agencies, and the public would work together to amend the SIP to accommodate O'Hare's needs while balancing competing interests. H.R. 3479 completely avoids that consultative and deliberative process.

If this legislation is enacted, the City is empowered to define O'Hare's SIP allocation, without the normal public participation process and without the participation of the State and Federal agencies. Moreover, the legislation directs the Administrator of the EPA to amend the SIP to accommodate the O'Hare's expansion (Section 3 (a)(5): ". . . the Environmental Protection Agency shall forthwith use its powers under the Clean Air Act respecting approval and promulgation of implementation plans to cause or promulgate a revision of such implementation plan sufficient for the runway redesign plan to satisfy the requirements of section 176(c) of the Clean Air Act.") This is unprecedented legislation. There is no public process, no balancing, only O'Hare claiming for itself whatever level of emissions it wants.

Under the proposed statute, O'Hare's needs (as determined by the City) are accepted as given, and the EPA would force other institutions to reduce their emissions pursuant to the EPA's judgment on how to reach SIP goals. This fails to allow other businesses and the public any opportunity to contribute to or participate in the process. Power companies, railroads, truckers, buses, heavy industry, and the Peotone Airport will, in all likelihood, have their target emissions cut by the EPA to satisfy O'Hare's runway plan. And, because this is a legislative mandate, none of those other vitally interested parties will be allowed to challenge O'Hare's claims or the EPA Administrator's solutions.

The proposed legislation would radically alter the SIP and would drastically impact other industries. The statute before Congress would do tremendous damage to the existing processes and the other businesses impacted by this unique power granted the City.

### C. OTHER IMPACTED "CROSS-CUTTING" ENVIRONMENTAL LAWS

NEPA is the primary statutory tool for analyzing the impact of airport expansion on the environment. In addition, Congress has passed a number of environmental laws addressing federal responsibility for recognizing and protecting special national resources. These laws, referred to as "cross-cutting" laws, require Federal agencies to consider the impact that their programs and some private actions might have on such national resources. This consideration must be documented as part of the agencies' decision-making process. Many of these laws require the lead Federal agencies to consult with other federal and state agencies having legal authority over the proposed action or special expertise relevant to the proposed action.

Significantly, Congress has determined that standards and processes embodied in each of these Federal laws should be applied to every airport expansion. Some of the most obvious environmental criteria that would be eviscerated by the proposed O'Hare expansion legislation are set forth below.

### 1. ENDANGERED SPECIES ACT, 16 U.S.C. 1531 ET SEQ.

Airport expansion projects frequently raise Endangered Species Act concerns because airports are favored habitats for certain endangered and threatened birds of prey. If review of the proposed action reveals the potential for an adverse impact, the FAA must obtain an opinion from the Fish and Wildlife Service regarding the impact of the project on the endangered species or its habitat. The Endangered Species Act prohibits the project from proceeding unless the agencies agree on alternatives to the project to eliminate the adverse impact.

It will be difficult or impossible, in the time allowed, for the FAA and the Fish and Wildlife Service to perform the analysis of the potential impacts that O'Hare expansion would have on endangered species.

### 2. CLEAN WATER ACT, 33 U.S.C. 1251 ET SEQ.

The Clean Water Act prohibits the discharge of dredged or fill material into wetlands except in compliance with a permit issued by the Army Corps of Engineers. Federal agencies are required to identify any wetlands or other navigable waters of the United States that might be affected by a project.

In the normal course of any other airport project, relevant Federal and State agencies would contribute their comments and judgment as to whether a proposed project would put wet-lands at risk. If enacted, this legislation would result in the approval of the O'Hare project without consideration of these potential impacts in accordance with established statutory standards.

### 3. FLOODPLAINS (EXECUTIVE ORDER 11988)

Executive Order 11988 requires Federal agencies to avoid, to the extent possible, the adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative.

For all airport development projects, the FAA is required to: (1) determine if the proposed project is located in a floodplain; (2) identify and evaluate practicable alternatives to the proposed project; (3) develop mitigation measures if alternatives are not practicable; and (4) encourage public participation in the review process.

If enacted, this legislation would mandate implementation of the six-runway O'Hare project without even passing consideration of whether floodplains would be affected and measures that could be taken to reduce the impact of the project.

### III. H.R. 3479 WOULD VIOLATE THE TENTH AMENDMENT OF THE U.S. CONSTITUTION

SOC believes that it is inappropriate and unlawful for the Federal Congress to dictate to the State of Illinois which airports and what runways to construct within its borders. Decisions involving airport and infrastructure development have historically been delegated to the states. H.R. 3479 would strip the State of Illinois of its vested authority to delegate and authorize the City of Chicago to construct airports in the State. Doing so would be a clear-cut violation of the tenth amendment.

Under the framework of federalism established by the Constitution, Congress is without power to dictate to the States how the States delegate power, or to limit the delegation of that power, to their political subdivisions. Unless and until Congress takes over complete responsibility to build airports, airports will continue to be developed by States, or their delegated agents, as an exercise of State power and law. Compliance by the political subdivision to which the State delegates authority to construct airports with the oversight conditions imposed by the State is an essential element of State authority and power.

The proposed legislation would strip away such oversight authority, fundamentally intruding upon the State's sovereign authority to take action under its own laws. The legislation would prohibit the State from restricting or limiting the delegated exercise of State power by the State's political subdivision. It would nullify the decision of the State of Illinois legislature allocating authority with respect to construction of airports located within the State, particularly the limitations and conditions imposed by the State on the delegation of that power to the City. The law is clear that Congress does not have the power to intrude or interfere with a State's decision as to how to allocate State power.

Under the U.S. Constitution, the State's authority to create, modify, condition, and impose limitations on the structure and powers of the State's political subdivisions is a matter left the exclusive control of the States.

"Municipal corporations are political subdivisions of the State, and created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them. . . . The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State. . . . The State, therefore, at its pleasure may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respect the State is supreme, and its legislative body, conforming its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States." Commissioners of Highways v. United States, 653 F.2d 292, 297 (7th Cir. 1981) (quoting Hunter v. City of Pittsburgh, 207 U.S. 161, 178 (1907) (emphasis added).

The Illinois State law delegating powers to construct or alter airports and runways are subject to the requirements of the Illinois Aeronautics Act. This Act requires that the State approve any alterations of the airport. The proposed legislation is an attempt to remove this State oversight in violation of the Tenth Amendment. The law would commandeer the City of Chicago, which is an instrumentality of the State of Illinois, to do what the State has prohibited it from doing: i.e. expanding the airport without receiving a permit from the State. Under State law, any airport construction without the required State permit is unlawful.

Congress does not have the authority to interfere with the State of Illinois's determination as to how to allocate State power to the City of Chicago. By impairing the State's delegation, the legislation would have the effect of undermining the delegation of the authority from the State to the City and thereby extinguish that delegation. As a result, any effort by the City to build new runways would be without the required State delegation and ultra vires under State law.

The national implications of this legislation are profound and go well beyond Illinois and implicate States throughout the nation. Most States have laws providing for some level of oversight over airport expansions, including State environmental laws and permitting requirements. Twenty-six states have laws requiring local airport authorities to submit applications for federal funds through the state, rather than directly to the FAA. This legislation would set a dangerous precedent nullifying State oversight laws.

### IV. CONCLUSION

In conclusion, SOC strongly urges the Subcommittee to reject H.R. 3479. This legislation would dismantle the careful federal framework established to govern the review and approval of airport development projects. The FAA must have the unfettered ability to exercise its expert independent and objective expert oversight functions over airport development projects, and to carry out its environmental review responsibilities under NEPA, to make sure that whatever airport development is undertaken will be the best possible solution for the Chicago region and the national air transportation system.

The proposed legislation ties the FAA's hands by removing the agency's neutrality and discretion by forcing it to rush headlong toward a mandatory construction of O'Hare by 2004. SOC believes that a rational and reasoned evaluation will establish that the development of a new South Suburban Airport is superior to O'Hare in every respect—that a new airport at Peotone would offer more capacity, can be built at less cost, more quickly, and with fewer adverse environmental consequences. These are extremely important considerations which need to be resolved though the established federal review process. Congress not attempt to resolve them here by political fiat.

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### South Suburban Airport Fact Sheet

Reasons for building of a regional airport in Chicago's south suburbs:

#### JOBS

The South Suburban Airport would create an estimated 236,000 permanent jobs in the next 20 years. Most of these would be good-paying jobs with family health insurance and retirement benefits—jobs that stabilize communities and rebuild local economies.

#### REGIONAL AIR TRAVEL NEEDS

Air travel is expected to double in the next 20 years. Chicago's existing airports cannot handle that growth. O'Hare has reached operational capacity and Midway will reach capacity by 2005. Without additional capacity, airlines will be forced to move their hubs—and jobs—elsewhere.

#### ECONOMIC EQUITY

The third airport is an urbanist's dream—solving multiple problems with one investment. While the 1990s has been good to many, Chicago's old South Side/south suburban industrial hub has lost jobs and experienced negative growth—resulting in the downward spiral of lost investment, soaring property taxes, declining schools and rising crime. The airport would provide economic opportunities for hundreds of thousands of people, mostly minorities, who have been left behind.

#### LOWER FARES

A third airport would reduce fares. Fares to Chicago today average 34 percent higher than most major U.S. cities because of a lack of competition at O'Hare. American and United Airlines practically monopolize the airport, controlling 89 percent of all flights. A new airport would increase competition among carriers, which often leads to lower fares.

#### NO NEW TAXES

Airport construction would be paid by private investors and/or the airlines using the facility—not by taxpayers. Indeed, airports are cash cows that generate millions of tax dollars, spur investment, stabilize communities, shrink welfare rolls and improve quality of life.

#### WON'T HURT MIDWAY OR O'HARE

This airport would relieve, not compete with, existing airports. It would handle ovetflow traffic from O'Hare and Midway. The third airport would expand, as needed, to accommodate future demands that O'Hare and Midway cannot meet.

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### Why You Should Vote 'No' on H.R. 3479

Don't be fooled into thinking this legislation will benefit your constituents

H.R. 3479 never should have been brought up under suspension. It is too controversial, What are proponents trying to hide by limiting debate?

2. H.R. 3479 Violates state's rights. The governor and mayor never consulted the Illinois General Assembly nor did they even try to obtain a permit from the Illinois Department of Transportation to expand O'Hare. Why? See #3 and #4. Also, think this legislation won't set a precedent that could rob your state legislature of its power to decide local airport matters? Think again.

3. H.R. 3479 Will Cost $15 to $20 billion, Not the 6.6 billion that the Mayor and governor are claiming. Do you really think there will be money left over to expand your local airport once O'Hare is expanded? Think again. A third suburban airport can be built CHEAPER and FASTER than O'Hare. Let's think ahead and spend the nation's money wisely.

4. H.R. 3479 will destroy up to 1,500 homes and an untold number of businesses once all of the safety buffers, ring roads etc. are in place. Don't believe the claims that ONLY 533 homes will be destroyed. These homes are occupied by senior citizens, young families and Hispanic families—all of whom won't be able to find quality, affordable housing in DuPage County if their homes are bulldozed. Quality of life for 1 million residents surrounding O'Hare will also be destroyed.

5. H.R. 3479 IS a public health treat. O'Hare expansion = increased air and noise pollution, increased cancer rates . . . the list goes on.

Henry Hyde.
Jesse Jackson, Jr.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

**Mr. HYDE.** Well, at least we have worked it out of my friend the gentleman from Illinois (Mr. LIPINSKI) why this city will not get a certificate of approval from the State. He said because the governor only has a year left, and they just do not know what another governor might want to do. They want to deprive the succeeding Governor of having any say on this massive expansion.

Well, I would like to know who is going to pay for this. We still did not get an answer on that. If United and American are going to buy these bonds that will be issued, why would they not demand their present monopoly, or duopoly? These are questions we do not have any answers to.

The Illinois Municipal Code is what empowers the city. They have no more nor any less rights to do anything unless conveyed upon them through the legislature. This bill seeks to sidestep the legislature and have Washington decide a local issue.

Every Republican I have ever known campaigns on the theory that we are going to cut the Federal Government down to size. Well, I would say to Members, do not ever say that, if you vote for this bill. This is a massive transfer of power to Congress and debilitates, weakens, ignores local government.

**Mr. JACKSON of Illinois.** Mr. Speaker, I yield back the balance of our time.

**Mr. MICA.** Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Illinois (Mr. KIRK), who is one of the prime sponsors of this legislation.

**Mr. KIRK.** Mr. Speaker, I thank my chairman for yielding me time, and I rise in strong support of this legislation.

Mr. Speaker, we have been delayed in the passage of this very important bill, largely due to the respect and admiration we have for one Member of this House, the gentleman from Illinois (Mr. HYDE). He is a hero to me, and our communities and our country owe him a great deal of gratitude for the service he has given to the Nation.

The Chicago Tribune called the gentleman from Illinois (Mr. HYDE) a "Lion in Winter," but the last week has proved that he is still a tiger.

But this legislation is still required, for Chicago and for the Nation. America's busiest airport is broken. Passengers using the airfield have only a 60 percent chance of leaving on time, and experts say that when O'Hare gets a cold, most airports get the flu. Tie-ups strand Americans everywhere, caused by an outdated design set in place by political gridlock.

That gridlock has been broken. Illinois is one of two States that requires a governor's signature before modernizing an airfield. We have that signature.

In an historic agreement, our Republican Governor and Chicago's Democratic Mayor agreed to the first modernization of the airfield since 1972. This bill simply ratifies an agreement made by local leaders who showed leadership.

In these uncertain times, the modernization of this airfield unlocks over $6 billion in new work, overwhelmingly paid for by private funds. Over 100,000 new jobs will be created, in an unprecedented shot in the arm for Illinois' economy.

The new design builds a safer O'Hare, eliminating intersecting runways. The removal of north-south runways dramatically reduces the sound of aircraft over Arlington Heights, Palatine and Mt. Prospect.

The bill also highlights the importance of NASA's Quiet Aircraft Technology Program. Leaders in this House and NASA helped eliminate the noisy Stage II 727 aircraft from O'Hare. We set an aggressive Stage III noise reduction standard now in the air and will soon require even quieter Stage IV aircraft.

Mr. Speaker, I want to compliment the leaders of the O'Hare Noise Compatibility Commission and their leaders, Mayor Arlene Mulder and Mayor

Rita Mullins, for their ongoing work and commitment to the quality of life issues in our communities.

Mr. Speaker, this is bipartisan legislation, strongly supported by the gentleman from Illinois (Speaker HASTERT), the minority leader, the gentleman from Missouri (Mr. GEPHARDT), the Chamber of Commerce and the AFL-CIO. Even the Sierra Club has no objection to its passage.

Given this unique political alignment, it is clear that this plan's time has come. I urge adoption of the legislation.

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 3479, the National Aviation Capacity Act. This legislation was introduced by my good friend, Mr. LIPINSKI, and I would like to thank him for his hard work. I am pleased to join him as a cosponsor of this legislation.

O'Hare is a tremendously important airport in not only to Chicago and the Midwest, but also our entire national aviation system. It recently reclaimed the title of the world's busiest airport and is the only airport to serve as a hub for two major airlines. O'Hare serves 190,000 travelers and operates 2,700 flights daily, employs 50,000 people and generates $37 billion in annual economic activity.

However, O'Hare needs to be redesigned to meet today's demands. It is laid out with seven runways, six of which intersect at least one other runway. The modernization plan would add one new runway. The seven existing runways will be reconfigured to include a southern runway for a total of eight runways, of which six would be parallel. These improvements would have a significant impact on reducing delays and cancellations: bad weather delays would decrease by 95 percent and overall delays would decrease by 79 percent.

On December 5, 2001, Mayor Daley and Governor Ryan reached a historic agreement to expand and improve O'Hare airport. The agreement would modernize O'Hare, create western access to the airport, provide additional funds for soundproofing home and schools near O'Hare, move forward with the construction of a third Chicago airport at the Peotone site and keep Meigs Field open until at least 2006, and likely until 2026.

H.R. 3479 would simply codify the deal so that a future governor does not rescind the agreement. Illinois is in a unique situation because the governor does have veto power. If this legislation is not enacted, it is possible that a future governor could undo all the hard work that the current governor and mayor of Chicago have done to reach this agreement.

There is some concern that this legislation sets a precedent by involving the federal government or creating a short-cut around environmental laws. Again, O'Hare is an exceptional situation which requires this limited federal action. Other cities and airport authorities do not have a governor with veto authority over this issue. The city of Chicago does not want the federal government to take over the modernization of O'Hare but the language is included in case the State delays the State Implementation Plan (SIP) of the Clean Air Act to slow down the project. The language granting priority consideration for a Letter of Intent from the FAA for Peotone is no different than language that can be found in any Transportation Appropriations bill.

Regarding environmental concerns, the bill says that implementation shall be subject to federal laws with respect to environmental protection and analysis, and that the environmental reviews will go forward in an expedited way. There is no attempt to go around existing state or federal environmental laws, and this legislation has the support of many environmental groups.

Mr. Speaker, this legislation will allow the much-needed expansion of O'Hare to move forward. I urge my colleagues to join me in supporting this bill.

Mr. MICA. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 3479, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. JACKSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3479, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## COMMENDING THE HONORABLE HENRY HYDE AND HONORABLE JESSE JACKSON, JR., MEMBERS OF CONGRESS

(Mr. LIPINSKI asked and was given permission to address the House for 1 minute.)

Mr. LIPINSKI. Mr. Speaker, I just want to conclude by saying that I compliment the gentleman from Illinois (Mr. JACKSON) and the gentleman from Illinois (Mr. HYDE) on the very spirited, articulate presentation of their cause. They are both my friends. I have the greatest respect for them. Unfortunately, we disagree on this.

## COMMENDING THE HONORABLE JESSE JACKSON, JR., HONORABLE WILLIAM LIPINSKI, HONORABLE JOHN MICA AND HONORABLE MARK KIRK, MEMBERS OF CONGRESS

(Mr. HYDE asked and was given permission to address the House for 1 minute.)

Mr. HYDE. Mr. Speaker, I want to say what a genuine pleasure it is to work with fiery, intelligent, energetic, honorable Congressmen like the gentleman from Illinois (Mr. JACKSON), the gentleman from Illinois (Mr. LIPINSKI), the gentleman from Florida (Mr. MICA), and the gentleman from Illinois (Mr. KIRK). They are the salt of the Earth. This was a debate on the merits, and, even though they stacked the deck on us, it still was a pleasure.

## COMMENDING THE HONORABLE HENRY HYDE AND HONORABLE WILLIAM LIPINSKI, MEMBERS OF CONGRESS

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute.)

Mr. JACKSON of Illinois. Mr. Speaker, I want to say that I have enjoyed the time that the gentleman from Illinois (Mr. HYDE) and I have worked closely to expand aviation capacity at Northeastern Illinois.

I must add that from the very first moment I entered this institution, the gentleman from Illinois (Mr. LIPINSKI) has been a kind of mentor on all aviation issues, basically assuring me that they would be expanded where he wants them to be expanded. I consider him and rank him among one of my highest friends in the Congress of the United States. I thank the gentleman from Illinois for his kindness.

□ 1400

## CONFERENCE REPORT ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

Mr. YOUNG of Florida. Mr. Speaker, pursuant to a previous order of the House, I call up the conference report to accompany the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the order of the House of Monday, July 22, 2002, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 19, 2002 at page H 4935.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report accompanying H.R. 4775, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House the conference report on the 2002 supplemental appropriations bill. This is a war-time supplemental to add further to our efforts to respond to the terrorist attacks on September 11, to provide necessary funding to pursue the al Qaeda, to secure America, and to support further recovery from the vicious attack on September 11 of last year.

On May 24, almost 2 months ago, the House passed this version of this supplemental by a vote of 280 to 138. Two weeks later, the Senate passed its version of the bill. Over the past month and a half, we have worked diligently to address the differences in the House and Senate bills. The agreement being presented here to the House today is a fair bill that provides the funding that President Bush has requested as he leads our Nation against terrorism.

Mr. Speaker, this is a tremendously important bill, and I would again like to state that this is a wartime supplemental appropriations bill. It provides money for our troops, our intelligence community, our safety and security, the victims of New York, and to promote U.S. foreign policy.

The bill totals $28.9 billion in discretionary spending; $15 billion of that is for the Defense Department, including additional funds for the call-up of the Guard and Reserves as they were called to active duty to respond to September 11; $6.7 billion is for homeland security requirements; $2.1 billion is for foreign assistance and embassy security programs; and $5.5 billion is to further support recovery in New York.

The bill also includes $1 billion in funds to avert the estimated shortfalls in the Pell Grant student aid program. It includes $417 million for veterans' medical care, $205 million for Amtrak, $400 million for programs and activities to improve general election administration in our country, and $100 million to begin to address the need to respond to floods and the tremendous fires that our Nation has experienced and is still experiencing.

The committee has identified $3 billion in offsets to help pay for much of the new spending contained in the bill. These offsets are real, they are actual offsets; they are not smoke and mirrors.

It is a good bill, and I hope we can get it to the President's desk as soon as possible so that our soldiers, our diplomats, our law enforcement, and our intelligence officers can have the resources they need to protect our country from future attacks. At this point in the RECORD I will insert a table identifying the details of the conference report.

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| CHAPTER 1 | | | | | | |
| DEPARTMENT OF AGRICULTURE | | | | | | |
| Office of the Secretary (contingent emergency) | --- | --- | 18,000 | 18,000 | +18,000 | --- |
| Agricultural Research Service | | | | | | |
| Salaries and expenses (contingent emergency) | --- | --- | 16,000 | 8,000 | +8,000 | -8,000 |
| Buildings and facilities | --- | --- | 50,000 | 25,000 | +25,000 | -25,000 |
| Cooperative State Research, Education, and Extension Service | | | | | | |
| Extension activities (contingent emergency) | --- | --- | 16,000 | 6,000 | +6,000 | -10,000 |
| Animal and Plant Health Inspection Service | | | | | | |
| Salaries and expenses (contingent emergency) | --- | 10,000 | 60,000 | 33,000 | +23,000 | -27,000 |
| Food Safety and Inspection Service | | | | | | |
| Food Safety and Inspection Service (contingent emergency) | --- | 2,000 | 15,000 | 13,000 | +11,000 | -2,000 |
| Natural Resources Conservation Service | | | | | | |
| Watershed Rehabilitation Program (rescission) | -9,000 | --- | --- | --- | --- | --- |
| Watershed and Flood Prevention Operations | --- | --- | 73,000 | 94,000 | +94,000 | +21,000 |
| Contingent emergency | --- | --- | 27,000 | 50,000 | +50,000 | +23,000 |
| Rural community advancement program (contingent emergency) | --- | --- | 25,000 | 20,000 | +20,000 | -5,000 |
| Rural Utilities Service | | | | | | |
| Local Television Loan Guarantee program account | --- | --- | 20,000 | 8,000 | +8,000 | -12,000 |
| Rescission | --- | --- | -20,000 | -20,000 | -20,000 | --- |
| Food and Nutrition Service | | | | | | |
| Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) | 75,000 | 75,000 | 75,000 | 75,000 | --- | --- |
| Food Stamp program (rescission) | --- | --- | -33,000 | -24,000 | -24,000 | +9,000 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| DEPARTMENT OF HEALTH AND HUMAN SERVICES | | | | | | |
| Food and Drug Administration | | | | | | |
| Salaries and expenses (contingent emergency).......... | — | 18,000 | — | 17,000 | -1,000 | +17,000 |
| General Provisions | | | | | | |
| Export Enhancement Program (limitation) (sec. 101).... | — | -450,000 | — | -445,000 | +5,000 | -445,000 |
| Agriculture Assistance................................ | — | — | — | 10,000 | +10,000 | +10,000 |
| Contingent emergency.............................. | — | — | 10,000 | — | — | -10,000 |
| Total, chapter 1................................ | 66,000 | -345,000 | 352,000 | -112,000 | +233,000 | -464,000 |
| CHAPTER 2 | | | | | | |
| DEPARTMENT OF JUSTICE | | | | | | |
| General Administration | | | | | | |
| Salaries and expenses................................. | — | — | 2,000 | — | — | -2,000 |
| Emergency......................................... | 5,750 | 5,750 | — | 5,750 | — | +5,750 |
| Contingent emergency.............................. | — | — | 184,550 | 1,000 | +1,000 | -183,550 |
| Legal Activities | | | | | | |
| United States Attorneys (contingent emergency)........ | — | — | 5,200 | — | — | -5,200 |
| Rescission........................................ | — | — | -7,000 | -7,000 | -7,000 | — |
| United States Marshals Service: | | | | | | |
| Salaries and expenses (contingent emergency)...... | — | 1,000 | — | 37,900 | +36,900 | +37,900 |
| Rescission........................................ | — | — | -2,100 | — | — | +2,100 |
| Federal prisoner detention (rescission)............... | — | — | — | -30,000 | -30,000 | -30,000 |
| Assets forefeiture fund (rescission).................. | — | — | — | -5,000 | -5,000 | -5,000 |
| Federal Bureau of Investigation | | | | | | |
| Salaries and expenses (emergency)..................... | 10,000 | 10,000 | — | 10,000 | — | +10,000 |
| Contingent emergency.............................. | — | 102,000 | 75,500 | 165,000 | +63,000 | +89,500 |
| Immigration and Naturalization Service | | | | | | |
| Enforcement and Border Affairs: Salaries and and expenses (emergency)............................ | 35,000 | 35,000 | — | 35,000 | — | +35,000 |
| Contingent emergency.............................. | — | 40,000 | 35,000 | 46,250 | +6,250 | +11,250 |
| Construction (contingent emergency)................... | — | — | 84,000 | 32,100 | +32,100 | -51,900 |
| Federal Prison System | | | | | | |
| Buildings and facilities (rescission)................. | — | — | -30,000 | -5,000 | -5,000 | +25,000 |
| Office of Justice Programs | | | | | | |
| Election Reform Grant Program......................... | — | — | 450,000 | — | — | -450,000 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| Justice assistance (emergency) | --- | 175,000 | --- | --- | -175,000 | --- |
| Contingent emergency | --- | --- | --- | 151,300 | +151,300 | +151,300 |
| Rescission | --- | --- | -4,000 | -600 | -600 | +3,400 |
| COPS Interoperability (contingent emergency) | --- | --- | 85,000 | 50,000 | +50,000 | -35,000 |
| DEPARTMENT OF COMMERCE AND RELATED AGENCIES | | | | | | |
| RELATED AGENCIES | | | | | | |
| Office of the United States Trade Representative | | | | | | |
| Salaries and expenses (contingent emergency) | --- | 1,100 | --- | 1,100 | --- | +1,100 |
| European Communities Music Licensing Dispute | 3,300 | --- | --- | --- | --- | --- |
| DEPARTMENT OF COMMERCE | | | | | | |
| International Trade Administration | | | | | | |
| Operations and administration (contingent emergency) | --- | --- | 1,725 | --- | --- | -1,725 |
| Export Administration | | | | | | |
| Operations and Administration (emergency) | 8,700 | --- | --- | --- | --- | --- |
| Contingent emergency | --- | --- | 8,700 | --- | --- | -8,700 |
| Bureau of the Census | | | | | | |
| Periodic Censuses and Programs (rescission) | --- | --- | -20,900 | -11,300 | -11,300 | +9,600 |
| National Institute of Standards and Technology | | | | | | |
| Scientific and Technical Research and Services (emergency) | 4,000 | 4,000 | --- | 4,000 | --- | +4,000 |
| Contingent emergency | --- | --- | 84,600 | 33,100 | +33,100 | -51,500 |
| National Oceanic and Atmospheric Administration | | | | | | |
| Operations, research, and facilities | --- | --- | 26,400 | 2,000 | +2,000 | -24,400 |
| Contingent emergency | --- | --- | 2,800 | 2,800 | +2,800 | --- |
| Rescission | --- | --- | --- | -8,100 | -8,100 | -8,100 |
| Procurement, acquisition and construction: | | | | | | |
| Contingent emergency | --- | --- | 7,200 | 7,200 | +7,200 | --- |
| Rescission | --- | --- | -8,100 | --- | --- | +8,100 |
| Fisheries Finance Program Account (limitation on direct loans) | (24,000) | (24,000) | (24,000) | (24,000) | --- | --- |
| Negative subsidy | -3,000 | -3,000 | -3,000 | -3,000 | --- | --- |
| Departmental Management | | | | | | |
| Salaries and expenses (emergency) | 400 | 400 | --- | 400 | --- | +400 |
| Contingent emergency | --- | --- | 400 | --- | --- | -400 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| THE JUDICIARY | | | | | | |
| Supreme Court of the United States | | | | | | |
| Care of the Buildings and Grounds (emergency) | 10,000 | 10,000 | --- | 10,000 | --- | +10,000 |
| Contingent emergency | --- | --- | 10,000 | --- | --- | -10,000 |
| United States Courts of Appeals for the Federal Circuit | | | | | | |
| Salaries and expenses (emergency) | 857 | --- | --- | --- | --- | --- |
| Courts of Appeals, District Courts, and Other Judicial Services | | | | | | |
| Salaries and expenses (emergency) | 3,143 | 3,143 | --- | 3,143 | --- | +3,143 |
| Contingent emergency | --- | 3,115 | 9,684 | 3,972 | +857 | -5,712 |
| DEPARTMENT OF STATE AND RELATED AGENCY | | | | | | |
| DEPARTMENT OF STATE | | | | | | |
| Administration of Foreign Affairs | | | | | | |
| Diplomatic and Consular Programs (emergency) | 51,050 | 51,050 | --- | 47,450 | -3,600 | +47,450 |
| Contingent emergency | --- | --- | 38,300 | --- | --- | -38,300 |
| Capital Investment Fund (emergency) | 2,500 | --- | --- | --- | --- | --- |
| Educational and Cultural Exchange Programs (emergency) | 10,000 | 10,000 | --- | 10,000 | --- | +10,000 |
| Contingent emergency | --- | 10,000 | 9,000 | 5,000 | -5,000 | -4,000 |
| Embassy Security, Construction, and Maintenance (emergency) | 200,516 | 200,516 | --- | 200,516 | --- | +200,516 |
| Contingent emergency | --- | --- | 210,516 | 10,000 | +10,000 | -200,516 |
| Emergencies in the Diplomatic and Consular Service (emergency) | 8,000 | --- | --- | --- | --- | --- |
| International Organizations and Conferences | | | | | | |
| Contributions to International Organizations (emergency) | 7,000 | 7,000 | --- | 7,000 | --- | +7,000 |
| Contingent emergency | --- | --- | 7,000 | --- | --- | -7,000 |
| Contributions For International Peacekeeping Activities (emergency) | 43,000 | 43,000 | --- | 23,034 | -19,966 | +23,034 |
| Rescission | --- | --- | -48,000 | --- | --- | +48,000 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus | |
|---|---|---|---|---|---|---|
| | | | | | House | Senate |
| RELATED AGENCY | | | | | | |
| Broadcasting Board of Governors | | | | | | |
| International Broadcasting Operations (emergency) | 7,400 | 7,400 | --- | 7,400 | --- | +7,400 |
| Contingent emergency | --- | --- | 7,400 | --- | --- | -7,400 |
| Broadcasting capital improvements | --- | --- | --- | 7,700 | +7,700 | +7,700 |
| Contingent emergency | --- | 7,700 | --- | --- | -7,700 | --- |
| RELATED AGENCIES | | | | | | |
| Department of Transportation | | | | | | |
| Maritime Administration | | | | | | |
| Maritime guaranteed loan (Title XI) program account rescission | --- | --- | --- | -5,000 | -5,000 | -5,000 |
| Securities and Exchange Commission | | | | | | |
| Salaries and expenses | 20,000 | 20,000 | 20,000 | 30,900 | +10,900 | +10,900 |
| Contingent emergency | --- | 9,300 | 9,300 | 9,300 | --- | --- |
| GENERAL PROVISIONS | | | | | | |
| Industrial Technology Services (sec. 201) | --- | --- | --- | --- | --- | --- |
| New England fishery (sec. 210) | --- | --- | 11,000 | 11,000 | +11,000 | --- |
| Northeast fishery (sec. 211) | --- | --- | 5,000 | 5,000 | +5,000 | --- |
| Total, chapter 2 | 427,616 | 753,474 | 1,267,175 | 901,315 | +147,841 | -365,860 |
| CHAPTER 3 | | | | | | |
| DEPARTMENT OF DEFENSE - MILITARY | | | | | | |
| Military Personnel | | | | | | |
| Military Personnel, Air Force (emergency) | 206,000 | 206,000 | 206,000 | 206,000 | --- | --- |
| Operation and Maintenance | | | | | | |
| Operation and Maintenance, Army (emergency) | 107,000 | 107,000 | 107,000 | 107,000 | --- | --- |
| Contingent emergency | --- | 119,000 | --- | 102,000 | -17,000 | +102,000 |
| Operation and Maintenance, Navy (emergency) | 36,500 | 36,500 | 36,500 | 36,500 | --- | --- |
| Contingent emergency | --- | 17,250 | --- | 12,250 | -5,000 | +12,250 |
| Operation and Maintenance, Air Force (emergency) | 41,000 | 41,000 | 41,000 | 41,000 | --- | --- |
| Contingent emergency | --- | 19,500 | --- | 24,510 | +5,010 | +24,510 |
| Operation and Maintenance, Defense-Wide (emergency) | 739,000 | 739,000 | 739,000 | 721,975 | -17,025 | -17,025 |
| Contingent emergency | --- | 12,975 | --- | --- | -12,975 | --- |
| Defense Emergency Response Fund (emergency) | 11,300,000 | 11,300,000 | 11,300,000 | 11,300,000 | --- | --- |
| Contingent emergency | --- | 1,393,972 | --- | 601,900 | -792,072 | +601,900 |
| Total, Operation and maintenance | 12,223,500 | 13,786,197 | 12,223,500 | 12,947,135 | -839,062 | +723,635 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| Procurement | | | | | | |
| Other Procurement, Army (emergency) | 79,200 | 79,200 | 79,200 | 79,200 | --- | --- |
| Aircraft Procurement, Navy (emergency) | 22,800 | 22,800 | 22,800 | 22,800 | --- | --- |
| Procurement of Ammunition, Navy and Marine Corps (emergency) | 262,000 | 262,000 | 262,000 | 262,000 | --- | --- |
| Other Procurement, Navy (emergency) | 2,500 | 2,500 | 2,500 | 2,500 | --- | --- |
| Procurement, Marine Corps (emergency) | 3,500 | 3,500 | 3,500 | 3,500 | --- | --- |
| Aircraft Procurement, Air Force (emergency) | 93,000 | 93,000 | 93,000 | 93,000 | --- | --- |
| Contingent emergency | --- | 36,500 | --- | 25,000 | -11,500 | +25,000 |
| Procurement of Ammunition, Air Force (emergency) | 115,000 | 115,000 | 115,000 | 115,000 | --- | --- |
| Other Procurement, Air Force (emergency) | 752,300 | 735,340 | 752,300 | 747,840 | +12,500 | -4,460 |
| Procurement, Defense-Wide (emergency) | 99,500 | 99,500 | 99,500 | 99,500 | --- | --- |
| Non-emergency | --- | 4,925 | --- | --- | -4,925 | --- |
| Contingent emergency | --- | --- | --- | 4,925 | +4,925 | +4,925 |
| Total, Procurement | 1,429,800 | 1,454,265 | 1,429,800 | 1,455,265 | +1,000 | +25,465 |
| Research, Development, Test and Evaluation | | | | | | |
| RDT&E, Army (emergency) | 8,200 | 8,200 | 8,200 | 8,200 | --- | --- |
| RDT&E, Navy (emergency) | 19,000 | 9,000 | 19,000 | 9,000 | --- | -10,000 |
| RDT&E, Air Force (emergency) | 60,800 | 60,800 | 60,800 | 60,800 | --- | --- |
| Contingent emergency | --- | 39,000 | --- | 137,600 | +98,600 | +137,600 |
| RDT&E, Defense-Wide (emergency) | 74,700 | 52,000 | 74,700 | 67,000 | +15,000 | -7,700 |
| Contingent emergency | --- | 20,000 | --- | --- | -20,000 | --- |
| Total, Research, Development, Test & Evaluation | 162,700 | 189,000 | 162,700 | 282,600 | +93,600 | +119,900 |
| General Provisions | | | | | | |
| General Transfer Authority | (1,000,000) | --- | --- | --- | --- | --- |
| MH-47 Helicopters (contingent emergency) (sec. 308) | --- | 93,000 | --- | --- | -93,000 | --- |
| Chemical Demil (contingent emergency) (sec. 306) | --- | 100,000 | --- | 75,000 | -25,000 | +75,000 |
| Rescissions (sec. 307) | --- | -59,000 | --- | -163,100 | -104,100 | -163,100 |
| Defense emergency response fund (rescission of emergency funds) (sec. 312) | --- | --- | --- | -224,000 | -224,000 | -224,000 |
| Revised economic assumptions (rescission) (sec. 313) | --- | --- | --- | -226,000 | -226,000 | -226,000 |
| Total, chapter 3 | 14,022,000 | 15,769,462 | 14,022,000 | 14,352,900 | -1,416,562 | +330,900 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| CHAPTER 4 | | | | | | |
| DISTRICT OF COLUMBIA | | | | | | |
| Federal payment to the Children's National Medical Center (contingent emergency) | --- | --- | 13,770 | 10,000 | +10,000 | -3,770 |
| Federal payment to the District of Columbia (contingent emergency) | --- | --- | 24,730 | 23,000 | +23,000 | -1,730 |
| Federal payment to the Washington Metropolitan Area Transit Authority (contingent emergency) | --- | --- | 25,000 | 8,000 | +8,000 | -17,000 |
| Federal Payment to the Washington Metropolitan Area Council of Governments (contingent emergency) | --- | --- | 1,750 | 1,750 | +1,750 | --- |
| Federal Payment to the Water and Sewer Authority of the District of Columbia (contingent emergency) | --- | --- | 3,000 | 1,250 | +1,250 | -1,750 |
| Federal Payment for Family Court Act (rescission) | --- | --- | --- | -700 | -700 | -700 |
| Federal Payment for Family Court Act | --- | --- | --- | 700 | +700 | +700 |
| DISTRICT OF COLUMBIA FUNDS | | | | | | |
| Public safety and justice (rescission) | --- | --- | (-100) | (-100) | (-100) | --- |
| Corrections Information Council | --- | --- | (100) | (100) | (+100) | --- |
| Public education system (rescission) | --- | (-37,000) | (-37,000) | (-37,000) | --- | --- |
| Human Support Services: | | | | | | |
| Child and Family Services Agency | --- | (11,000) | (11,000) | (11,000) | --- | --- |
| Department of Mental Health | --- | (26,000) | (26,000) | (26,000) | --- | --- |
| Repayment of loans and interest (rescission) | --- | (-7,950) | (-7,950) | (-7,950) | --- | --- |
| Certificates of participation | --- | (7,950) | (7,950) | (7,950) | --- | --- |
| Total, chapter 4 | --- | --- | 68,250 | 44,000 | +44,000 | -24,250 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

|  | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| CHAPTER 5 |  |  |  |  |  |  |
| DEPARTMENT OF DEFENSE - CIVIL |  |  |  |  |  |  |
| DEPARTMENT OF THE ARMY |  |  |  |  |  |  |
| Corps of Engineers - Civil |  |  |  |  |  |  |
| Flood control, Mississippi River and tributaries (by transfer/contingent emergency) | --- | --- | (6,500) | --- | --- | (-6,500) |
| Operation and Maintenance, General | --- | --- | 10,000 | 32,000 | +32,000 | +22,000 |
| Contingent emergency | --- | 128,400 | 22,000 | 108,200 | -20,200 | +86,200 |
| DEPARTMENT OF THE INTERIOR |  |  |  |  |  |  |
| Bureau of Reclamation |  |  |  |  |  |  |
| Water and related resources (sec. 504) | --- | --- | 3,000 | 7,000 | +7,000 | +4,000 |
| DEPARTMENT OF ENERGY |  |  |  |  |  |  |
| Energy Programs |  |  |  |  |  |  |
| Science (contingent emergency) | --- | 29,000 | --- | 24,000 | -5,000 | +24,000 |
| National Nuclear Security Administration |  |  |  |  |  |  |
| Weapons Activities (emergency) | 19,400 | 19,400 | --- | 19,400 | --- | +19,400 |
| Rescission | --- | --- | --- | -14,460 | -14,460 | -14,460 |
| Contingent emergency | --- | 106,000 | 181,650 | 138,650 | +32,650 | -43,000 |
| Defense Nuclear Nonproliferation | --- | --- | --- | 100,000 | +100,000 | +100,000 |
| Contingent emergency | --- | 5,000 | 100,000 | --- | -5,000 | -100,000 |
| Office of the Administrator (contingent emergency) | --- | --- | 1,750 | 1,750 | +1,750 | --- |
| Environmental and Other Defense Activities |  |  |  |  |  |  |
| Defense environmental restoration and waste management (contingent emergency) | --- | 67,000 | 40,000 | 56,000 | -11,000 | +16,000 |
| Rescission | --- | --- | --- | -15,540 | -15,540 | -15,540 |
| Defense facilities closure projects (contingent emergency) | --- | 16,600 | --- | 14,000 | -2,600 | +14,000 |
| Other Defense Activities (emergency) | 7,000 | 7,000 | --- | 7,000 | --- | +7,000 |
| Contingent emergency | --- | --- | 7,000 | --- | --- | -7,000 |
| GENERAL PROVISIONS |  |  |  |  |  |  |
| DEPARTMENT OF ENERGY |  |  |  |  |  |  |
| Department-wide non-defense (rescission) (sec. 501) | --- | --- | -30,000 | --- | --- | +30,000 |
| Total, chapter 5 | 26,400 | 378,400 | 335,400 | 478,000 | +99,600 | +142,600 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Senate |
|---|---|---|---|---|---|---|
| CHAPTER 6 | | | | | | |
| BILATERAL ECONOMIC ASSISTANCE | | | | | | |
| Funds Appropriated to the President | | | | | | |
| United States Agency for International Development | | | | | | |
| Child Survival and Health Programs Fund (contingent emergency) | --- | 200,000 | 200,000 | 200,000 | --- | --- |
| Transfer out (contingent emergency) | --- | --- | --- | (-6,000) | (-6,000) | (-6,000) |
| International Disaster Assistance (emergency) | 40,000 | --- | --- | 40,000 | +40,000 | +40,000 |
| Contingent emergency | --- | 190,000 | 150,000 | 144,000 | -46,000 | -6,000 |
| Operating Expenses of the United States Agency for International Development (emergency) | 7,000 | 7,000 | --- | 7,000 | --- | +7,000 |
| Contingent emergency | --- | --- | 5,000 | --- | --- | -5,000 |
| By transfer (contingent emergency) | --- | --- | --- | (6,000) | (+6,000) | (+6,000) |
| Other Bilateral Economic Assistance | | | | | | |
| Economic Support Fund (emergency) | 525,000 | 460,000 | --- | 465,000 | +5,000 | +465,000 |
| Contingent emergency | --- | 250,000 | 700,000 | 200,000 | -50,000 | -500,000 |
| Transfer out (contingent emergency) | --- | --- | (-200,000) | (-200,000) | (-200,000) | --- |
| Assistance for the Independent States of the Former Soviet Union (emergency) | 110,000 | 110,000 | --- | 110,000 | --- | +110,000 |
| Contingent emergency | --- | --- | 110,000 | --- | --- | -110,000 |
| Department of State | | | | | | |
| International Narcotics Control and Law Enforcement (emergency) | 114,000 | 120,000 | --- | 114,000 | -6,000 | +114,000 |
| Contingent emergency | --- | --- | 104,000 | 3,000 | +3,000 | -101,000 |
| Migration and refugee assistance | --- | --- | 50,000 | --- | --- | -50,000 |
| Contingent emergency | --- | 10,000 | --- | 40,000 | +30,000 | +40,000 |
| Nonproliferation, Anti-Terrorism, Demining and Related Programs (emergency) | 83,000 | 83,000 | --- | 83,000 | --- | +83,000 |
| Contingent emergency | --- | --- | 93,000 | 5,000 | +5,000 | -88,000 |
| By transfer (contingent emergency) | --- | --- | (200,000) | (200,000) | (+200,000) | --- |
| MILITARY ASSISTANCE | | | | | | |
| Funds Appropriated to the President | | | | | | |
| Foreign Military Financing Program (emergency) | 372,500 | 366,500 | --- | 357,000 | -9,500 | +357,000 |
| Contingent emergency | --- | --- | 347,500 | 30,000 | +30,000 | -317,500 |
| Peacekeeping Operations (emergency) | 28,000 | 20,000 | --- | 20,000 | --- | +20,000 |
| Contingent emergency | --- | --- | 20,000 | --- | --- | -20,000 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| MULTILATERAL ECONOMIC ASSISTANCE | | | | | | |
| Funds Appropriated to the President | | | | | | |
| Special Payments to the International Financial Institutions (rescission) | -157,000 | -159,000 | -159,000 | -159,000 | --- | --- |
| GENERAL PROVISIONS | | | | | | |
| Rescission (sec. 602) | --- | -60,000 | --- | -60,000 | --- | -60,000 |
| Rescission (sec. 604) | --- | --- | -75,000 | -50,000 | -50,000 | +25,000 |
| Total, chapter 6 | 1,122,500 | 1,597,500 | 1,545,500 | 1,549,000 | -48,500 | +3,500 |
| CHAPTER 7 | | | | | | |
| DEPARTMENT OF THE INTERIOR | | | | | | |
| Bureau of Land Management | | | | | | |
| Management of Lands & Resources (contingent emergency) | --- | 658 | --- | 658 | --- | +658 |
| United States Fish and Wildlife Service | | | | | | |
| Resource management (contingent emergency) | --- | 1,443 | 412 | 1,038 | -405 | +626 |
| Construction (contingent emergency) | --- | --- | 3,125 | 3,125 | +3,125 | --- |
| National Park Service | | | | | | |
| Operation of the National Park System (contingent emergency) | --- | 1,173 | --- | 1,173 | --- | +1,173 |
| Construction (contingent emergency) | --- | 19,300 | 17,651 | 17,651 | -1,649 | --- |
| United State Geological Survey | | | | | | |
| Surveys, investigations, and research (contingent emergency) | --- | 25,700 | 26,776 | 26,000 | +300 | -776 |
| Bureau of Indian Affairs | | | | | | |
| Operation of Indian programs (contingent emergency) | --- | 134 | --- | 134 | --- | +134 |
| Rescission | -10,000 | -5,000 | -10,000 | -10,000 | -5,000 | --- |
| Indian trust fund management litigation | --- | --- | --- | --- | --- | --- |
| Departmental Offices | | | | | | |
| Departmental Management: Salaries and expenses (contingent emergency) | --- | 905 | 7,030 | 905 | --- | -6,125 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| RELATED AGENCIES | | | | | | |
| DEPARTMENT OF AGRICULTURE | | | | | | |
| Forest Service | | | | | | |
| Wildland fire management (contingent emergency)....... | --- | --- | --- | 50,000 | +50,000 | +50,000 |
| Capital improvement and maintenance (contingent emergency)....... | --- | --- | 3,500 | 3,500 | +3,500 | --- |
| OTHER RELATED AGENCIES | | | | | | |
| Smithsonian Institution | | | | | | |
| Salaries and expenses (contingent emergency).......... | --- | 11,000 | --- | 10,000 | -1,000 | +10,000 |
| Construction (contingent emergency).................. | --- | 2,000 | 2,000 | 2,000 | --- | --- |
| Total, chapter 7.............................. | -10,000 | 57,313 | 50,494 | 106,184 | +48,871 | +55,690 |
| CHAPTER 8 | | | | | | |
| DEPARTMENT OF LABOR | | | | | | |
| Employment and Training Administration | | | | | | |
| Training & Employment Services (contingent emergency). | 750,000 | 300,000 | 400,000 | --- | -300,000 | -400,000 |
| DEPARTMENT OF HEALTH AND HUMAN SERVICES | | | | | | |
| Health Resources and Services Administration | | | | | | |
| Health Resources and Services (rescission)............ | -20,000 | --- | --- | --- | --- | --- |
| Centers for Disease Control and Prevention | | | | | | |
| Disease Control, Research and Training (contingent emergency)........................................ | --- | 1,000 | 315,000 | 1,000 | --- | -314,000 |
| National Institutes of Health | | | | | | |
| Buildings and facilities (contingent emergency)....... | --- | --- | 72,000 | --- | --- | -72,000 |
| Rescission....................................... | -30,000 | -30,000 | -30,000 | -30,000 | --- | --- |
| Administration for Children and Families | | | | | | |
| Children and Families Services Programs (contingent emergency)........................................ | --- | 500 | --- | 500 | --- | +500 |
| Office of the Secretary | | | | | | |
| Public Health and Social Services Emergency fund Contingent emergency.............................. | --- | --- | 90,000 | 90,000 | +90,000 | --- |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| DEPARTMENT OF EDUCATION | | | | | | |
| Student financial assistance | 1,276,000 | 1,000,000 | --- | 1,000,000 | --- | +1,000,000 |
| Contingent emergency | --- | --- | 1,000,000 | --- | --- | -1,000,000 |
| General Provisions | | | | | | |
| Administrative costs (rescission) | --- | --- | -45,000 | -45,000 | -45,000 | --- |
| Total, chapter 8 | 1,976,000 | 1,271,500 | 1,802,000 | 1,016,500 | -255,000 | -785,500 |
| CHAPTER 9 | | | | | | |
| LEGISLATIVE BRANCH | | | | | | |
| House of Representatives | | | | | | |
| Committee Employees | | | | | | |
| Standing Committees, Special and Select | --- | 1,600 | --- | 1,600 | --- | +1,600 |
| Library of Congress | | | | | | |
| Copyright Office: Salaries and expenses | --- | --- | --- | 7,500 | +7,500 | +7,500 |
| Emergency | 7,500 | 7,500 | --- | --- | -7,500 | --- |
| Contingent emergency | --- | --- | 7,500 | --- | --- | -7,500 |
| Joint Items | | | | | | |
| Capitol Police Board | | | | | | |
| Capitol Police | | | | | | |
| General expenses | --- | --- | --- | 16,100 | +16,100 | +16,100 |
| Contingent emergency | --- | 16,100 | 3,600 | --- | -16,100 | -3,600 |
| Government Printing Office | | | | | | |
| Congressional printing and binding | 5,875 | --- | --- | --- | --- | --- |
| Government Printing Office revolving fund | 2,000 | --- | --- | --- | --- | --- |
| Total, chapter 9 | 15,375 | 25,200 | 11,100 | 25,200 | --- | +14,100 |
| CHAPTER 10 | | | | | | |
| DEPARTMENT OF DEFENSE | | | | | | |
| Military construction, Air Force (contingent emergency) | --- | 8,505 | --- | 7,250 | -1,255 | +7,250 |
| Military construction, Defense-wide (contingent emergency) | --- | 21,500 | --- | 21,500 | --- | +21,500 |
| Total, chapter 10 | --- | 30,005 | --- | 28,750 | -1,255 | +28,750 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| CHAPTER 11 | | | | | | |
| DEPARTMENT OF TRANSPORTATION | | | | | | |
| Office of the Secretary | | | | | | |
| Transportation Administrative Service Center (obligation limitation) | (128,123) | (128,123) | (128,123) | (128,123) | --- | --- |
| Transportation Security Administration | | | | | | |
| Salaries and expenses (emergency) | 3,370,000 | 2,305,000 | --- | 3,370,000 | +1,065,000 | +3,370,000 |
| Contingent emergency | --- | 1,545,000 | 4,702,525 | 480,200 | -1,064,800 | -4,222,325 |
| | 3,370,000 | 3,850,000 | 4,702,525 | 3,850,200 | +200 | -852,325 |
| U.S. Coast Guard | | | | | | |
| Operating Expenses (emergency) | 189,000 | 189,000 | --- | 189,000 | --- | +189,000 |
| Contingent emergency | --- | 21,000 | 318,400 | 11,000 | -10,000 | -307,400 |
| | 189,000 | 210,000 | 318,400 | 200,000 | -10,000 | -118,400 |
| Acquisition, Construction, & Improvements (emergency) | 66,000 | 66,000 | --- | 66,000 | --- | +66,000 |
| Vessels (emergency) | --- | --- | --- | (26,100) | (+26,100) | (+26,100) |
| Other equipment (emergency) | --- | --- | --- | (27,729) | (+27,729) | (+27,729) |
| Shore facilities (emergency) | --- | --- | --- | (12,171) | (+12,171) | (+12,171) |
| Contingent emergency | --- | 12,000 | 347,700 | 262,000 | +250,000 | -85,700 |
| Vessels (contingent emergency) | --- | --- | --- | (12,000) | (+12,000) | (+12,000) |
| Aircraft (contingent emergency) | --- | --- | --- | (200,000) | (+200,000) | (+200,000) |
| Shore facilities (contingent emergency) | --- | --- | --- | (50,000) | (+50,000) | (+50,000) |
| | 66,000 | 78,000 | 347,700 | 328,000 | +250,000 | -19,700 |
| Federal Aviation Administration | | | | | | |
| Operations: | | | | | | |
| Contingent emergency | --- | --- | 100,000 | 42,000 | +42,000 | -58,000 |
| Transfer authority | (100,000) | (25,000) | --- | (33,000) | (+8,000) | (+33,000) |
| Facilities and equipment (Airport and Airway trust fund) (contingent emergency) | --- | --- | 15,000 | 7,500 | +7,500 | -7,500 |
| Grants-in-aid for airports (contingent emergency) | --- | 200,000 | --- | --- | -200,000 | --- |
| (Airport and Airway trust fund) (contingent emergency) | --- | --- | 100,000 | 150,000 | +150,000 | +50,000 |
| | --- | 200,000 | 100,000 | 150,000 | -50,000 | +50,000 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| Federal Highway Administration | | | | | | |
| Federal-Aid Highways, Emergency Relief Program (Highway Trust Fund): | | | | | | |
| Non-emergency | --- | --- | 120,000 | --- | --- | -120,000 |
| Emergency | 167,000 | 167,000 | --- | 167,000 | --- | +167,000 |
| Contingent emergency | --- | --- | 167,000 | 98,000 | +98,000 | -69,000 |
| Federal-aid Highways(rescission of contract authority) | --- | --- | -320,000 | -320,000 | -320,000 | --- |
| Federal Motor Carrier Safety Administration | | | | | | |
| Border Enforcement Program (emergency) | 19,300 | 19,300 | --- | 19,300 | --- | +19,300 |
| Contingent emergency | --- | --- | 19,300 | --- | --- | -19,300 |
| Hazardous materials security (Highway trust fund) (contingent emergency) | --- | 5,000 | --- | 5,000 | --- | +5,000 |
| Federal Railroad Administration | | | | | | |
| Capital grants to the National Railroad Passenger Corporation | --- | --- | 55,000 | 205,000 | +205,000 | +150,000 |
| Federal Transit Administration | | | | | | |
| Capital Investment Grants (emergency) | 1,800,000 | 1,800,000 | --- | 1,800,000 | --- | +1,800,000 |
| Contingent emergency | --- | --- | 1,800,000 | --- | --- | -1,800,000 |
| Research and Special Projects Administration | | | | | | |
| Research and Special Programs (emergency) | 3,500 | --- | --- | --- | --- | --- |
| Contingent emergency | --- | --- | 3,500 | --- | --- | -3,500 |
| General Provisions | | | | | | |
| Airline loan program limitation (sec. 1103) | --- | -1,254,000 | --- | --- | +1,254,000 | --- |
| Total, chapter 11 | 5,614,800 | 5,075,300 | 7,428,425 | 6,552,000 | +1,476,700 | -876,425 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

|  | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| CHAPTER 12 |  |  |  |  |  |  |
| DEPARTMENT OF THE TREASURY |  |  |  |  |  |  |
| Federal law Enforcement Training Center (contingent emergency)........................................ | --- | 15,870 | --- | 15,870 | --- | +15,870 |
| Financial Management Service |  |  |  |  |  |  |
| Salaries and expenses (sec. 1201) (rescission)........ | --- | -14,000 | -14,000 | -14,000 | --- | --- |
| United States Customs Service |  |  |  |  |  |  |
| Salaries and expenses (contingent emergency).......... | --- | --- | 59,000 | 39,000 | +39,000 | -20,000 |
| Internal Revenue Service |  |  |  |  |  |  |
| Information Systems (rescission)...................... | --- | --- | -10,000 | -10,000 | -10,000 | --- |
| Business Systems Modernization (sec. 1201)............ | --- | 14,000 | --- | 14,000 | --- | +14,000 |
| United States Secret Service |  |  |  |  |  |  |
| Salaries and expenses (contingent emergency).......... | --- | 46,750 | 17,200 | 28,530 | -18,220 | +11,330 |
| POSTAL SERVICE |  |  |  |  |  |  |
| Payment to the Postal Service Fund (emergency)........ | 87,000 | 87,000 | --- | 87,000 | --- | +87,000 |
| Contingent emergency.............................. | --- | --- | 87,000 | --- | --- | -87,000 |
| EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT |  |  |  |  |  |  |
| Office of Administration (emergency).................. | 5,000 | --- | --- | 3,800 | +3,800 | +3,800 |
| Contingent emergency.............................. | --- | --- | 5,000 | --- | --- | -5,000 |
| Office of Management and Budget (rescission).......... | --- | -750 | --- | -100 | +650 | -100 |
| Election Administration Reform and Related expenses... | --- | 450,000 | --- | --- | -450,000 | --- |
| Contingent emergency.............................. | --- | --- | --- | 400,000 | +400,000 | +400,000 |
| INDEPENDENT AGENCIES |  |  |  |  |  |  |
| Federal Election Commission........................... | --- | 750 | --- | 750 | --- | +750 |
| GENERAL SERVICES ADMINISTRATION |  |  |  |  |  |  |
| Real Property Activities |  |  |  |  |  |  |
| Federal Buildings Fund (emergency).................... | 51,800 | 51,800 | --- | 21,800 | -30,000 | +21,800 |
| Contingent emergency.............................. | --- | --- | 51,800 | --- | --- | -51,800 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

| | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| General Activities | | | | | | |
| Policy and Operations (emergency) | 2,500 | --- | --- | --- | --- | --- |
| Contingent emergency | --- | --- | 2,500 | --- | --- | -2,500 |
| Total, chapter 12 | 146,300 | 651,420 | 198,500 | 586,650 | -64,770 | +388,150 |
| CHAPTER 13 | | | | | | |
| DEPARTMENT OF VETERANS AFFAIRS | | | | | | |
| Veterans Health Administration | | | | | | |
| Compensation and pensions | 1,100,000 | --- | 1,100,000 | 1,100,000 | +1,100,000 | --- |
| Medical Care | 142,000 | 417,000 | 142,000 | 142,000 | -275,000 | --- |
| Contingent emergency | --- | --- | 275,000 | 275,000 | +275,000 | --- |
| Medical and Prosthetic Research (rescission) | -5,000 | --- | --- | --- | --- | --- |
| DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT | | | | | | |
| Public and Indian Housing | | | | | | |
| Housing certificate fund (rescission) | --- | -300,000 | -300,000 | -388,500 | -88,500 | -88,500 |
| Community Planning and Development | | | | | | |
| Community Development Fund (emergency) | 750,000 | 750,000 | --- | 783,000 | +33,000 | +783,000 |
| Contingent emergency | --- | --- | 750,000 | --- | --- | -750,000 |
| Rural Housing and Economic Development (rescission) | -20,000 | --- | --- | --- | --- | --- |
| HOME investment partnership program (rescission) | --- | --- | -50,000 | -50,000 | -50,000 | --- |
| Housing Programs | | | | | | |
| Rental Housing Assistance (rescission) | --- | -300,000 | --- | -300,000 | --- | -300,000 |
| INDEPENDENT AGENCIES | | | | | | |
| Department of Health and Human Services | | | | | | |
| National Institutes of Health | | | | | | |
| National Institute of Environmental Health Sciences (emergency) | --- | 8,000 | --- | --- | -8,000 | --- |
| Contingent emergency | --- | --- | --- | 8,000 | +8,000 | +8,000 |
| Agency for Toxic Substances and Disease Registry | | | | | | |
| Salaries and expenses (emergency) | --- | 11,300 | --- | --- | -11,300 | --- |
| Contingent emergency | --- | --- | --- | 11,300 | +11,300 | +11,300 |
| Environmental Protection Agency | | | | | | |
| Science and technology (contingent emergency) | --- | --- | 100,000 | 50,000 | +50,000 | -50,000 |
| Hazardous Substance Superfund (emergency) | 12,500 | --- | --- | --- | --- | --- |
| Contingent emergency | --- | --- | 12,500 | --- | --- | -12,500 |

## H.R. 4775 - SUPPLEMENTAL APPROPRIATIONS ACT, 2002

(Amounts in Thousands)

|  | Supplemental Request | House | Senate | Conference | Conference versus House | Conference versus Senate |
|---|---|---|---|---|---|---|
| Federal Emergency Management Agency |  |  |  |  |  |  |
| Disaster Relief (emergency) | 3,780,000 | 2,750,000 | --- | 2,650,700 | -99,300 | +2,650,700 |
| Contingent emergency | --- | --- | 2,660,000 | --- | --- | -2,660,000 |
| Disaster assistance for unmet needs (contingent emergency) | --- | 23,320 | --- | 23,200 | -120 | +23,200 |
| Emergency Management Planning & Assistance (emergency) | 326,728 | 151,700 | --- | 225,400 | +73,700 | +225,400 |
| Contingent emergency | --- | --- | 745,000 | 221,800 | +221,800 | -523,200 |
| Cerro Grande fire claims (contingent emergency) | --- | --- | 80,000 | 61,000 | +61,000 | -19,000 |
| National Science Foundation |  |  |  |  |  |  |
| Education and Human Resources (emergency) | 19,300 | --- | --- | 19,300 | +19,300 | +19,300 |
| Contingent emergency | --- | --- | 19,300 | --- | --- | -19,300 |
| Total, chapter 13 | 6,105,528 | 3,511,320 | 5,533,800 | 4,832,200 | +1,320,880 | -701,600 |
| CHAPTER 14<br>GENERAL PROVISIONS |  |  |  |  |  |  |
| Federal admini & travel expenses (non-def rescission) | --- | --- | --- | -154,000 | -154,000 | -154,000 |
| Federal admin & travel expenses (defense rescission) | --- | --- | --- | -196,000 | -196,000 | -196,000 |
| Total, chapter 14 | --- | --- | --- | -350,000 | -350,000 | -350,000 |
| Grand total (net) | 29,512,519 | 28,775,894 | 32,614,644 | 30,010,699 | +1,234,805 | -2,603,945 |
| Appropriations | (2,621,175) | (1,980,275) | (2,209,400) | (2,892,250) | (+911,975) | (+682,850) |
| Emergency appropriations | (26,392,344) | (24,091,099) | (14,022,000) | (24,971,208) | (+880,109) | (+10,949,208) |
| Contingent emergency appropriations | (750,000) | (5,336,270) | (17,599,344) | (5,138,641) | (-197,629) | (-12,460,703) |
| Rescissions | (-251,000) | (-927,750) | (-896,100) | (-2,002,400) | (-1,074,650) | (-1,106,300) |
| Rescission of contract authority | --- | --- | (-320,000) | (-320,000) | (-320,000) | --- |
| Rescission of emergency funds | --- | --- | --- | (-224,000) | (-224,000) | (-224,000) |
| Offsets | --- | (-1,704,000) | --- | (-445,000) | (+1,259,000) | (-445,000) |
| (Transfer out-contingent emergency) | --- | --- | (-200,000) | (-206,000) | (-206,000) | (-6,000) |
| (By transfer-contingent emergency) | --- | --- | (200,000) | (206,000) | (+206,000) | (+6,000) |
| (By transfer emergency) | --- | --- | (6,500) | --- | --- | (-6,500) |
| (Other) | (1,252,123) | (177,123) | (152,123) | (513,123) | (+336,000) | (+361,000) |

Mr. YOUNG of Florida. Mr. Speaker, I would like to extend a statement of appreciation to the gentleman from Wisconsin (Mr. OBEY), who has worked along with us through these last several months in trying to bring this conference report to conclusion. There were differences, as anyone might expect. We did finally work out those differences. I expect we could find some controversy here in this bill; I think we could find areas that I do not agree with and areas that the gentleman from Wisconsin (Mr. OBEY) does not agree with. But, nevertheless, this is a good work product as we dealt with the many different institutions and principals who were involved in bringing this bill to conclusion.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I think there are a number of items in this bill which Members ought to know about. This bill, for instance, has $13 million in the conference report for safety of imported meat and poultry above the amount recommended by the President. We have $17 million above the amount recommended by the President for bioterrorism responsibilities of the Food and Drug Administration. We have $37 million above the President's request for the Marshals Service to safeguard U.S. Federal courts. We have $165 million above the President's request for the FBI to provide, among other things, additional analysts to increase the FBI's ability to process and disseminate counterterrorism information. We have $78 million more for the Immigration and Naturalization Service, including $25 million for analysis to help find, arrest, and deport high-risk, undocumented immigrants in the United States. We doubled the President's request for the Securities and Exchange Commission, and we try to provide additional funds for staff and pay parity in information technology, improvements for that agency so that they can be more effective in dealing with some of the accusations of corporate fraud that are now flooding the country and ruining its markets.

We have a number of other items in the bill as well, which I would be happy to comment on if any Members have individual questions about it.

Let me simply say there is nothing in this bill that anyone is going to be very thrilled about, because it is the product of a long compromise process, but it is a reasonable package, and I think the most important thing we can say about it is that we simply need to get on with it and get this down to the President.

This bill also includes a fix of the problem that we faced with respect to a dip in highway funding and support to States because of the anomaly in the ISTEA highway distribution formula, and we provide sufficient money; unlike the White House, we provide sufficient monies so that we do not have to, in fact, demobilize the Guard and Reserve forces until they can be replaced in sensitive areas by adequately trained personnel to deal with terrorist threats facing the country.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from Kentucky (Mr. ROGERS), the chairman of the Subcommittee on Transportation.

Mr. ROGERS of Kentucky. Mr. Speaker, this bill contains $3.85 billion to continue operations and activities of the Transportation Security Administration for the remainder of fiscal year 2002. I am pleased to report that this is the same level as approved by the House in its version of the supplemental. The Senate wanted almost $1 billion more for this start-up agency compared to the House level, with no limit on staffing, and we held the line against that proposal. Members should know that we have upheld the position of the House in this agreement, and it is adequate.

The Department of Transportation has raised objections to specific security items in this bill. What are they objecting to?

They are objecting to funds for airport modifications to ensure the timely installation of explosive detection systems, an additional $225 million, for a total of $738 million. This will lessen the likelihood of chaos later this year when bomb detection machines are delivered and installed in airports.

They are objecting to grants to improve port security, an issue of great vulnerability, $125 million.

They are objecting to systems for air marshals to communicate with the pilots and officials on the ground, $15 million.

They are objecting to funds to address airport terminal security, a critical issue, since the attack on El Al in Los Angeles a few weeks ago, $17 million.

And they are objecting to funds for immediate replacement of the outdated metal detectors at all commercial airports, $23 million.

With additions like these, we have improved upon the administration's request in modest ways, and provided the means for TSA to work smarter. The bill also caps TSA's full-time permanent staffing to no more than 45,000 people. My subcommittee's review of the TSA plan points to well over 12,000 positions that should be reevaluated. In fact, in a recent hearing, the head of the agency gave me his commitment to eliminate many of these positions such as "ticket checkers" and "customer service representatives." TSA is building a huge bureaucracy, and this bill helps bring that process under control.

The Secretary of Transportation testified earlier today that TSA needs every penny of the amount they requested. I respectfully disagree. The agency is so far behind in its own hiring goals, there should be little doubt that fewer resources are needed to get them through fiscal year 2002. OMB even offered up some of this money. Maybe they know the agency has not been the best steward of the monies we have already provided for this year, several billions of dollars, offering law enforcement personnel salaries that are higher than necessary, allowing excessive overhead charges on the existing screener contracts, and not monitoring those charges and refusing to move out quickly on new technology, such as metal detectors, which would reduce the staffing need dramatically at the check-out points at airports. Just this morning, the DOT Inspector General testified that "Controls over the existing security screener contracts were lacking, and that improvements were drastically needed."

Until they straighten out these problems, they do not need more money.

This bill provides adequate funding for TSA to get through the next 10 weeks. It deletes unnecessary funds and encourages them to look much more carefully at how they are spending our money. We will not give them money for salaries that are outside the norm for similar Federal activities. We will not give them money for wasteful overhead charges on Federal contracts, and we will not give them money to hire a standing army of almost 70,000 people to take off your shoes, check your briefcase three times, and perform intensive checks of white-haired grandmothers in wheelchairs and babes in arms. If the Department of Transportation does not understand this by now, this bill should help them get that message.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I want to congratulate the chairman and the ranking member for bringing us together on this supplemental. I support it.

Today's bill, Mr. Speaker, includes an additional $150 million for the assistance to the Firefighters Grant Program. This is part of homeland security, defending the homeland. This brings the amount of money we will give to fire departments around the country up to $510 million for fiscal year 2003.

This is personal for me, Mr. Speaker. On May 9 of last year, Alberto Birado, a firefighter for the City of Passaic, died in the line of duty during the primary search of a building on fire. He died because his Self-Contained Breathing Apparatus ran out of air.

Just last week, the Passaic Fire Department was awarded a grant to purchase more SCBAs and spare air cylinders. Features of these additional cylinders will hopefully prevent all other unnecessary deaths. This is what the Firefighters Grant Program is all about.

The attacks on September 11 taught us many lessons. One of those is the importance of firefighters to the public safety equation and, indeed, to homeland security. We had to scrape and beg to get $100 million last year in the emergency spending bill.

The leadership told us they did not believe us when we said the fire services needed the money desperately. In one year, we have gone from $100 million funding to half a billion dollars. We still have a long way to go. There are over 20,000 applications to FEMA in the second year of this program with requests totaling over $2.2 billion.

Trust me. We will be hearing from all of these fire departments in Members' districts around this country. The odds are that all of us have a few fire departments at home that will not get a grant this year because there was not enough money to go around.

□ 1415

I know our contribution to this worthy cause will continue to rise as each of us hears from our constituents.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I rise to engage in a colloquy with the chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I am pleased that we were joined by the gentleman from Illinois (Mr. HYDE), chairman of the Committee on International Relations, which is the committee of the House with legislative jurisdiction over the American Servicemembers' Protection Act. This legislation appears as title II of this conference report. I would like to ask the gentleman to explain the background of this legislation and describe how some of its provisions are intended to work.

Mr. HYDE. I thank the gentleman. The gentleman from Texas (Mr. DELAY) and I first introduced the American Servicemembers' Protection Act as H.R. 4654 on June 14, 2000, and reintroduced it in the 107th Congress as H.R. 1794. On May 10, 2001, the House of Representatives adopted the text of our legislation as a floor amendment to another bill, H.R. 1646. The gentleman from Texas (Mr. DELAY) and I thereafter entered into negotiations with representatives of the Bush administration in an effort to agree on a version of the American Servicemembers' Protection Act that the Bush administration could support. We were joined in these negotiations by Senator HELMS, the lead sponsor of the Senate companion bill.

After many months of detailed discussions, we reached an agreement on language last September, and Senator HELMS, the gentleman from Texas (Mr. DELAY) and I each received from the administration letters dated September 25, 2001, promising the administration's full support for enactment of this agreed language. I am pleased that the conference report includes the language we agreed on last September with only one nonsubstantive addition that I will describe in a few minutes.

Mr. YOUNG of Florida. Mr. Speaker, I note that one provision of this agreed language, which appears as section 2011 of the conference report, is particularly complicated. And I would hope that the gentleman could draw on his background as the former chairman of our Committee on the Judiciary, as well as his current position as chairman of our Committee on International Relations, to explain to our colleagues the purpose of section 2011.

Mr. HYDE. I thank the chairman. I would be pleased to explain the purpose of section 2011.

Mr. YOUNG of Florida. Mr. Speaker, does the gentleman know if all other Members of Congress agree with the interpretation that he has provided of the language negotiated with the administration?

Mr. HYDE. Mr. Speaker, obviously I cannot read the minds of all of our colleagues, but I do know that the gentleman from Texas (Mr. DELAY), Senator HELMS and I were the only three members actively involved in negotiating the language of sections 2004, 2006 and 2011 with the administration. I have accurately described our understanding of how these sections would work together, what our intention was, and what we understood the administration's understanding and intention to be. I suppose that someone else could try to project onto these sections a different intention, but they would be doing precisely that, projecting onto them a new meaning that was never intended by those of us who were involved in drafting and refining them.

Mr. YOUNG of Florida. Mr. Speaker, I want to thank the gentleman from Illinois (Mr. HYDE) for providing clarity to this rather complicated and important title of this conference report.

Mr. HYDE. Mr. Speaker, my statement on the American Servicemembers' Protection Act is as follows:

When Congressman DELAY, Senator HELMS, and I sat down with representatives of the Bush Administration to discuss the American Servicemembers' Protection Act, it quickly emerged that the Administration's principal concern with the legislation was the belief that a few of its restrictions on United States interaction with the International Criminal Court could, in certain improbable circumstances, interfere with the exercise of authorities vested in the President by the Constitution. The constitutional authorities that they saw as possibly conflicting with the legislation were the president's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the Constitution, and the President's constitutional authority with respect to the conduct of foreign policy, in particular his authority to exchange information with foreign governments and international organizations. Because there is no specific enumeration in the Constitution of the President's authority to conduct foreign policy, this authority is encompassed textually within the executive power vested in the President by article II, section 1 of the Constitution.

There are two sections of our legislation that restrict United States interaction with the International Criminal Court and which therefore, in the view of the Administration, could possibly come into conflict with the exercise of the President's constitutional authority as Commander in Chief and his authority to conduct foreign policy as chief executive. These sections appear as sections 2004 and 2006 of the conference report.

To ensure that sections 2004 and 2006 will never operate to prohibit the President from taking an action that he is empowered under the Constitution to take and that Congress is without power to prohibit, we developed the "exercise of constitutional authorities" exception set forth in section 2011 of the conference report.

The Committee on International Relations has approved a lot of legislation over the years containing presidential waiver provisions. The "exercise of constitutional authorities" exception contained in section 2011 is very different from these other waiver provisions.

The other waiver provisions give the President, or some other official of the Executive branch, the authority to "waive" an otherwise applicable prohibition or restriction. Typically, the President or other official must first determine that a particular standard set forth in the waiver provision is satisfied. Common examples are requirements that he find that exercising the waiver is "in the national interest," "important to the national interest," or "vital to the national interest." Whatever the waiver standard, the idea is that the President or other official is invited to sue his judgment, and if he judges that the facts permit him to determine that the wavier standard is satisfied, he can then exercise the wavier, which has the effect of rendering the prohibition or restriction inapplicable with respect to the action that he wishes to take or direct.

The "exercise of constitutional authorities" exception contained in section 2011 is very different. Section 2011 does not turn on factual judgments made by the President. Rather, it turns on the parameters of the President's authority under the Constitution. What it says, in effect, is that Congress has not prohibited anything under sections 2004 and 2006 that Congress is without constitutional authority to prohibit.

The intent of Congress in sections 2004 and 2006 could not be clearer. Congress wishes to prohibit any form of assistance to, or cooperation with, the International Criminal Court. We wish to impose such a prohibition to the fullest extent of our ability under the Constitution to do so. To the extent that certain forms of interaction with the International Criminal Court are subject to the shared responsibility of Congress and the President under the Constitution, Congress has the constitutional authority to forbid those forms of interaction, and in sections 2004 and 2006 we exercise that authority to forbid such interaction. However, we recognize that there may be forms of interaction that are the exclusive authority of the President under the Constitution, which Congress constitutionally is without authority to prohibit. Accordingly, with respect to those forms of interaction, section 2011 provides a mechanism for ensuring that sections 2004 and 2006 do not constrain the President in ways that, as a matter of constitutional law, he may not be constrained by Congress.

To put the matter differently, it is the intention of Congress that the "exercise of constitutional authorities" exception in this legislation shall only be available in those instances where the President's lawyers could in good faith write a legal opinion concluding that application of the prohibitions of sections 2004 or 2006 to a proposed action by the President would be unconstitutional. It is not good enough that the prohibitions of sections 2004 or 2006 conflict with what the President judges to be in the national interest, or that they interfere with the foreign policy that he would like to conduct. The prohibitions must actually be unconstitutional if applied to the proposed action. This is the meaning of the term "action . . . taken or directed by the President . . . in the exercise of the President's authority as Commander in Chief of the Armed Forces . . . or in the exercise of the executive power . . ." The action by the President, in contravention of the prohibitions set forth in sections 2004 or 2006, must actually be an exercise by him of constitutional authority to take an action that Congress is without authority to prohibit.

We understand that many, if not most, actions by the President involve, to some degree or another, an exercise of some constitutional authority. But that is not the kind of constitutional authority to which section 2011 refers. Section 2011 refers to an exercise of the kind of constitutional authority necessary to overcome a statutory prohibition on the taking of a particular action. That kind of constitutional authority exists only with respect to statutory prohibitions that Congress is without constitutional authority to impose in the first place.

This means, as a practical matter, that most of the prohibitions in section 2004 are beyond the reach of the exception set forth in section 2011. This is because most of them do not restrict the exercise of any authority vested exclusively in the President by the Constitution.

A clear example is section 2004(d), which prohibits the extradition of any person from the United States to the International Criminal Court. The Supreme Court ruled in the case of Valentine v. United States in 1936 that the President has no inherent constitutional authority to extradite persons to foreign jurisdictions. To the contrary, the Supreme Court ruled that it is unconstitutional for the President to extradite persons in the absence of an extradition treaty or a statute authorizing extradition to the foreign jurisdiction in question. Because there is no treaty or statute authorizing the extradition of persons to the International Criminal Court, the President could not rely on section 2011 to extradite a person to the International Criminal Court in contravention of section 2004(d). This point is underscored by section 2011(c), which makes clear that section 2011 grants no statutory authority to the President to take any action.

Another category of prohibitions that cannot be overcome under section 2011 is those relating to the provision by the U.S. Government of funds, property, or services to the International Criminal Court. Congress has plenary authority under the Constitution with respect to the use of appropriated funds and the disposition of U.S. Government property. Subsections (e) and (f) of section 2004 represent an exercise of this plenary authority. The intention of Congress is to prohibit any direct or indirect provision by the U.S. Government to the International Criminal Court of appropriated funds, U.S. Government property, or services provided utilizing appropriated funds. There may be very limited circumstances in which the President may rely on section 2011 to direct the provision of services to the International Criminal Court notwithstanding the prohibitions of subsections (e) and (f) of section 2004, for example, services provided by the United States Armed Forces pursuant to an exercise of the President's authority as Commander in Chief. But in the absence of an exercise of a constitutional authority vested exclusively in the President—such as the Commander in Chief authority—the prohibitions of these subsections prohibit the provision of the kinds of support to which they apply, and the exception set forth in section 2011 is not available to permit an action by the President in contravention of these sections.

A third category of prohibitions that cannot be overcome under section 2011 is those relating to the exercise of functions not vested in the Executive branch of the United States Government. The President has no inherent constitutional authority to direct or control the operations of state and local governments. Nor does he have any inherent constitutional authority to direct or control the operations of the judicial branch of the federal government, much less the judicial functions of state and local governments. Accordingly, the President may not rely on section 2011 to direct state and local governments. Accordingly, the President may not rely on section 2011 to direct state and local governments to take actions prohibited under subsections (b), (d) and (e) of section 2004, or to authorize such governments to take such actions notwithstanding the prohibitions of these subsections. Similarly, the President may not rely on section 2011 to direct federal, state, or local courts to take actions prohibited under subsections (b), (d), (e) and (f) of section 2004, or to authorize such courts to take such actions notwithstanding the prohibitions of these subsections. The explanation is very simply. Because the exercise of functions by state and local governments and by federal, state, and local courts is by design beyond the inherent constitutional authority of the President, there is no constitutional authority that the President can exercise under section 2011 to overcome prohibitions that this legislation applies to such governments and courts.

This does not mean that section 2011 is of no practical use to the President. In our negotiations with the Administration we discussed a number of circumstances where the President would be able to rely on section 2011 to direct actions plainly prohibited in the first instance by the language of sections 2004 or 2006.

I have already mentioned one such circumstance, and that is actions by the United States Armed Forces directed by the President in the exercise of his constitutional authority as Commander in Chief. An example we discussed in our negotiations was a decision by the President to facilitate the transfer to the International Criminal Court of a foreign national wanted by that Court. Section 2004(e) prohibits the United States Government from facilitating the transfer of persons to the International Criminal Court, including by the United States Armed Forces. But we recognize that at a certain level this prohibition may come into conflict with the President's authority to command our Armed Forces, and in such a case, section 2011 would ensure that the President is not unconstitutionally constrained.

Another circumstance where the President may be able to rely on section 2011 concerns the provision of information controlled by the President to foreign governments and to international organizations, including the International Criminal Court. To the degree the President has inherent constitutional authority to provide such information to foreign governments and international organizations, conflicts could arise between this authority and the prohibitions of section 2004(e) and section 2006. In the case of such a conflict, the President could rely on section 2011 to provide information in the exercise of his constitutional authority without violating the letter of the statute.

I am not aware of other circumstances where the President could rely on section 2011 to take or direct actions otherwise prohibited under section 2004 and 2006, and we pressed the Administration very hard on this point in our negotiations. These were only examples they gave us of situations where the prohibitions of sections 2004 and 2006 could come into conflict with the President's constitutional prerogatives. In order to address this concern, we developed the mechanism contained in section 2011. Section 2011 is narrowly tailored to be available only in cases where there is such a conflict exists. In other cases where the prohibitions of the legislation are merely inconvenient, or in conflict with the President's preferred foreign policy, section 2011 is not available to permit the President to take or direct actions prohibited by section 2004 or 2006.

Another feature of section 2011 is that, by its terms, it can be invoked by the President only on a "case-by-case basis". In using this term, we were mindful of the way that the existing United Nations war crimes tribunals for Yugoslavia and Rwanda have gone about their work. those tribunals have developed separate cases against suspected war criminals. Usually these cases involve a single defendant, though sometimes a case will have multiple defendants who were involved in the same specific incident. we intend the term "case" in section 2011 to have the same meaning that it has in current usage at the Yugoslavia and Rwanda tribunals. Yugoslavia and Rwanda are not "cases" before those tribunals. Rather, the prosecutions of individual named persons are the "cases" pending before these tribunals. This can be verified by simply looking at the web sites of these two tribunals.

Before closing, I wish to comment on the effect of the addition by the Senate to this legislation of the language appearing as section 2015. That section was not part of language we negotiated with the Administration. But it does not in any way vitiate the restrictions on cooperation with the International Criminal Court set forth in sections 2004 and 2006. Section 2015 simply reiterates that this legislation does not apply to international efforts besides the International Criminal Court to bring to justice foreign national accused of genocide, war crimes, or crimes against humanity. Regarding application of this section to the International Criminal Court, however, ordinary cannons of statutory construction apply. The specific controls the general unless otherwise provided, and in the case of this legislation it is quite obvious that the legislation is very specific about what is to be allowed and what is to be forbidden when it comes to assisting the International Criminal Court. Had the Senate wanted to vitiate the restrictions of sections 2004 and 2006, it would have had to amend them, strike them, or expressly notwithstand them.

The Senate debate during which the language of section 2015 was agreed to makes clear that this language was understood at the time to make no substantive change to the other provisions of the American Servicemembers' Protection Act. The full text of sections 2004, 2006 and 2011, along with other provisions of the American Servicemembers' Protection Act, was adopted by the Senate as an amendment to another bill on December 7, 2001, by a vote of 78–21. When Senator WARNER offered these same provisions as an amendment to this supplemental appropriations bill, the Senate had essentially the same debate it had on December 7th of last year. Neither the supporters nor the opponents of the language that became section 2015 suggested that this language made any change to the legislation that had previously passed the Senate, and the final vote in favor of the amendment, 75–19, was essentially the same as the vote last year. For these reasons, Mr. DELAY and I agreed with the House conferees that there was no reason not to accept the Senate language.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I did not want to insert myself in the colloquy that has just preceded, but I would simply say that while there may have been negotiations going on outside of the room with the administration, the negotiations that count were the negotiations between the four parties that produced this language. And I think that the understandings discussed here are not necessarily those that were reached between the gentleman from Florida (Mr. YOUNG), myself, Mr. BYRD and Mr. STEVENS.

I think the language speaks for itself without being maneuvered one way or another by any after-the-fact colloquies that may or may not relate to the language involved.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. SERRANO).

Mr. SERRANO. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the conference report. Mr. Speaker, no one can forget the shock and horror of September 11 when terrorists attacked the United States, murdering nearly 3,000 people, destroying the World Trade Center, damaging the Pentagon and threatening sites in Washington, D.C.

New Yorkers in particular relive that every time we see the gap in our skyline or mourn the missing in our families and neighborhoods. But within days of the vicious attacks, the President met with Members of the New York delegation and pledged to support our recovery with at least $20 billion in Federal funds. He has kept that promise and no part of our government has wavered, not the House nor the Senate nor the conferees.

This bill contains an additional $5.5 billion which brings the total funding available for New York's recovery to more than $21 billion.

As a member of the committee of conference, and as a New Yorker, I rise simply to thank President Bush, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) and my colleagues in this Congress for all the support provided to my city so far. The September 11 attacks were truly attacks on America and America has responded with grace and generosity.

Mr. Speaker, we are a grateful city and we thank Congress for this support. I urge my colleagues to support this conference report.

Mr. YOUNG of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Arizona (Mr. KOLBE), chairman of the Committee on Appropriations Subcommittee on Foreign Operations.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me time, and I want to pay special tribute to the gentleman from Florida (Mr. YOUNG) as well as the gentleman from Wisconsin (Mr. OBEY) for the leadership that they have provided in crafting this bill and bringing it at long last to the floor for much-needed supplemental appropriations to continue the war against terrorism, the enduring freedom fight.

I want to address my remarks to that part that addresses foreign operations that are in this conference report. First, the numbers, the figures themselves. The funding in this chapter includes a spending level of $1,818,000,000. But there are rescissions in there of $269 million, meaning there is a net spending level in foreign operations of $1,549,000,000. That is $48.5 million below where we were when we passed this bill in the House, $3.5 million above where it was in the Senate. So much for the overall numbers.

A few of the specific things that are in there. We have $200 million in here for the fight against HIV/AIDS, tuberculosis, and malaria around the world, particularly in Africa and Eurasia. This has been in both the House and Senate bills. While this number was not in the initial request to the President, as I think everybody knows, the President has endorsed this and spoken specifically about the programs that he will use this money for. And I believe, as he does, that it is vitally important that we continue to make progress in combating the worldwide scourge against AIDS.

In addition, there is another figure in there that was not in the President's original request and that is $200 million for antiterrorism assistance for the state of Israel and $50 million for humanitarian assistance for the Palestinian people. Not to the PLA, the Authority, the Palestine Authority, but rather $50 million for humanitarian assistance to Palestinians themselves. We believe this also is very important, given the fight that has been going on over there. We need to express our support for Israel's fight against terrorism. We need to say to the Palestinian people, we are there to support you when you are trying to rebuild your country, when you are trying to provide for the well-being of your people. We will not support the government that you have in place now.

I think the President has made clear that we have need to see a new government, a new direction of that government before we can have serious negotiations with them. But I think this is the right approach to it.

The negotiations with the Senate on the assistance for Colombia were very tough, but in the end the House language prevailed. It allows the administration to expand its assistance to the government of Colombia for the war against terrorism and narco-traffickers. It includes some of the provisions that the Senate wanted to make sure that we are not going to be involved in combat operations.

Regarding Afghanistan, we have added funding to both the House and the Senate bills to provide humanitarian and reconstruction assistance for Afghanistan. There is up to 384 million that could be available under this conference report to help rebuild in Afghanistan.

Let me end on two final points here. Regarding the United Nations' Population Funds, or UNPF, as it is called, the conference work does not address this issue. I am disappointed with the administration's decision that has come down since this conference report was adopted, and I expect that in our 2003 appropriations bill we are going to address this issue and try to ensure that funding for this very important organization is included.

Most of the funding in the chapter is dedicated to assisting our allies in the war on terrorism. At this last minute the Office of Management and Budget proposed removal of hundreds of millions of dollars requested by the President for assistance to our allies. I am puzzled, I am disappointed that OMB made such a proposal, and I do not think they reflected what either the President or the Secretary of the State or the Secretary of Defense had in this regard. But I am pleased overall with the bill that we have now, I think it is a good bill and, Mr. Speaker, I urge its adoption.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. BOSWELL) who has been very much focused on several aspects of this bill.

Mr. BOSWELL. Mr. Speaker, I thank the gentleman for yielding me time and I thank the gentleman from Florida (Mr. YOUNG) for his hard work.

Today I can support this bill with enthusiasm. I was very sorry the last time we discussed it I could not, and I want to thank the conference committee for their hard work. It kind of signals a win to me for a concern that I have had for my State of Iowa in the area of Medicare reimbursements rates.

In May the Committee on Rules made an exception and put into this supplemental bill what I thought was an unfair fix for rates for a selected few and leave out many. I appreciate this. It has actually drawn attention to this ploy and helped to shed additional light on the discriminatory formulas and the adverse consequences for seniors, hospitals and health care professionals across Iowa and other similarly situated areas.

Although our health care professionals are doing a great job with less, the fact remains, as we see here, and I will show you a chart one more time in a moment, that there are places in the country where Medicare patients are getting eyeglasses and they are getting prescriptions. In fact, it is a double of what we were getting in Iowa, the amount. It is a whole lot more than what the gentleman from Wisconsin (Mr. OBEY) was getting as well. They are below the average as well, and I know the gentleman knows that. This is something we have been working on. Let us do something about this. I think that perhaps we are making some progress, and I hope so.

On the Medicare reimbursement relief of last month, a few days ago there was attention given and an additional $120 million for Iowa over 3 years, and that is a big help, but we have a ways to go. So I want you to again look at this chart, and it will show you very clearly that there is a great disparity across this country, and the citizens pay the same taxes for the same service. They pay the same.

Look here. There are some States, mine, but others are receiving less than half of what the top is. Is that fair for Americans? I do not think so. I do not think there is one of you here that would feel this way. So I do support this bill today and I appreciate it for the whole country. I hope that our seniors are considered of equal importance, and I think they are. I thank the gentleman again for this time, and I do support the bill, and I support the fact that we have been talking about there now. Let us talk about it some more.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia (Mr. WOLF), chairman of the Subcommittee on Commerce, Justice, State and Judiciary of the Committee on Appropriations.

Mr. WOLF. Mr. Speaker, I want to commend the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) for the great job of this conference report, and I rise in strong support.

The bill includes $175 million to improve the ability of the FBI to synthesize and interpret data and intelligence collections from investigations. The funding will support technology upgrades and allow the FBI to hire additional cybercrime counterterrorism and counterintelligence analysts. The bill also provides $81.3 million for the INS, including upgrades for the border patrol agents and immigration inspections who are also on the frontline, and $25 million for an Absconder Initiative, to find and remove more aliens who have been ordered deported and who have not followed those orders.

□ 1430

I want to thank the gentleman from Arizona (Mr. KOLBE) for his good efforts with this action and with regard to this issue.

As we all saw in the tragic events of September 11, we depend on our State and local police, fire, EMS and HAZMAT people to respond to acts of terrorism. Their heroism and preparedness has saved many lives and will likely save many more. The bill provides $2.1 million for State and local first responder equipment, exercise and training, and including $50 million to provide communities across the country with interoperable emergency communications equipment.

The SEC, the Securities and Exchange Commission, requires an infusion of resources to strengthen oversight and enforcement and preserve the integrity of the financial markets. This bill provides $40.2 million for the SEC, $20.2 million above the request, including funds for the immediate addition of 125 staff positions in enforcement and corporate oversight and key information technology upgrades. This will begin to provide the SEC with the resources they need to combat corporate fraud and to protect the savings and retirement investments of millions of American families.

The conference report also includes $318.1 million for embassy security and public diplomacy. The diplomatic staff is hard at work right now under very difficult and dangerous conditions in south Asia and elsewhere. This bill will provide for an expedited construction of fully secured replacement embassy facilities in Afghanistan and Tajikistan.

Recently, a lot of attention has been focused on improving our public diplomacy's efforts, including the gentleman from Illinois' (Mr. HYDE) legislation H.R. 3969, which passed the House yesterday. We are not doing an adequate job of telling America's story, and it is a great story to the world. To improve this effort, the bill includes $40.1 million for information and exchange programs of the State Department, Radio Free Afghanistan and the Middle East Broadcasting Initiative.

In addition, the bill includes $55 million for the enhanced security of the Federal judiciary in response to terrorist and other high threat trials, including $10 million for the Supreme Court building and $37.9 million for the U.S. Marshals Service.

The bill also includes authorization and funding for the closed circuit transmission of the Moussaoui trial to victims of the September 11 attacks.

Finally, the bill includes $37 million for the National Institute of Standards and Technology to develop an information technology security framework for the Federal Government.

Lastly, these additional funds for fiscal year 2002 are vital for carrying out our continued homeland security, international and corporate oversight responsibilities, and I urge my colleagues to support it.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding me the time, and I want to congratulate our chairman, the gentleman from Florida (Mr. YOUNG) who everybody knows I feel very highly, about one of the fairest chairman I have ever served under, and the gentleman from Wisconsin (Mr. OBEY), one of the most able Members I have served with.

Mr. Speaker, I rise in support of the conference report and want to highlight funding in two critical areas. First, this supplemental appropriations bill gives us $400 million reasons to complete our work on election reform as soon as possible. The gentleman from Florida (Mr. YOUNG), the gentleman from Illinois (Speaker HASTERT), and the gentleman from Wisconsin (Mr. OBEY) were critically important in making sure this money stayed in this bill.

Appropriators from both sides of the aisle on both sides of the Capitol have done their job. They recognize that we must upgrade our election systems. They recognize that the disenfranchisement of an estimated 6 million voters in November 2000 offends our democratic values, and they recognize that real reform costs money.

Now we must finish the job and pass the election reform conference report that authorizes the expenditure of the funding. Election reform conferees are making progress in resolving the differences between the House and the Senate bills, and I hope this supplemental appropriation bill and the $400 million it provides for election reform adds urgency to our negotiations. We must not delay.

Secondly, I want to note the $150 million that is provided for the Fire Grant Program through FEMA, bringing the fiscal year 2002 total to $510 million. I note that some $3 billion-plus had been requested by local fire services and emergency responders throughout the Nation, but this is a significant step forward. Every day we ask our firefighters to risk their lives to protect our homes, our businesses and our children. With this additional funding, Mr. Speaker, we say to them we recognize and appreciate their sacrifice and want to ensure they can do their jobs as safely and effectively as possible.

Mr. YOUNG of Florida. Mr. Speaker, I would like to inquire as to the time remaining on both sides.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Florida has 12 minutes remaining. The gentleman from Wisconsin has 19 minutes remaining.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM), a distinguished member of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker,. I thank the chairman of the Committee on Appropriations for yielding me the time.

This bill is critical to winning the war on terrorism, New York City repayment and recovery efforts, homeland security, replenishment munitions in which the gentleman from California's (Mr. HUNTER) been trying to do for years, and support ongoing intelligence.

While I support this emergency spending, a bill to fight the war on terrorism and aid continued recovery efforts, I must point out a section of this legislation that does not belong in this bill. It is legislation on an appropriations bill, and that is section 3002 regarding mail service to Alaska.

Section 3002, the Rural Service Improvement Act of 2002, was never subject to any congressional hearings or other fact-finding events. We have got two opposing sides claiming problems on either side, and yet the chairman, a Republican, from the other body, refuses to even have a hearing on this issue.

These provisions specifically target carriers that successfully and profitably transported mail for the Postal Service within the State of Alaska for many years. The Act's stated goal is to reduce costs which then actually it will increase costs from the Postal Service. Congressional approval of this legislation, without any hearings, that eliminates a single competitor from business and protects incumbent carriers from competition is wrong. Matter of fact, in my opinion, it is an abuse of power from a single Senator from the other body that is abusing his office by legislating someone out of business.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind the Members to temper their remarks to avoid improper references to Members of the other body.

Mr. CUNNINGHAM. Mr. Speaker, I do not know how to temper an event when someone legislates someone out of office and denies them going to court. To me that is unconstitutional, and the legislative business that we perform every day should not take up legislation like this on such an important bill.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, I thank the gentleman for yielding me the time, and I thank the gentleman from Florida (Mr. YOUNG) for all the excellent work they have done on this bill. It is an excellent bill. It contains aid for New York City, contains aid for our allies, but perhaps troubling, it also contains aid for our enemies.

Quietly and without any floor debate, $50 million is included in this bill for aid to the West Bank in Gaza. This is on top of more than $100 million that has gone to the Palestinians since 1999. In that same time period, 577 Israelis and dozens of American citizens have died in over 50 homicide attacks in Israel.

I support foreign aid. Foreign aid exports are values. It buys cooperation overseas. It makes tense areas of our world more peaceful, but on every level, Palestinian aid has failed in those fundamental values. Rather than promoting our values, the people of Nablus were cheering on September 11 when captured by TV cameras. Rather than buying cooperation, money that we have provided has found its way to be producing suicide belts, according to some of the documents seized at the Ramallah compound. Rather than making the world more peaceful, the Palestinians have used the money to import arms from Iran.

I believe that we should vote yes on this bill. I believe we should vote yes on future foreign aid bills, but I also think it is time we had a debate on the floor of this House with an up or down vote on whether or not we should continue to provide aid for the West Bank and Gaza.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I rise today in support of the bill H.R. 4775, the Defense and Homeland Security Supplemental Appropriations Act Conference Report. I would like to thank the gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations, for including the restoration of highway funds that was agreed to by the Authorization Committee and 410 Members of this House. It was the right thing to do, and it will benefit all the States for transportation needs.

Although unfortunately, the Committee on Appropriations also rescinded $320 million in highway contract authority that was created in TEA-21 and has already been appropriated to every State, such a rescission is unprecedented, and it is absolutely unacceptable to the Committee on Transportation and Infrastructure. This $320 million will be taken from the balance of the contract authority that exceeded the obligation limitations that has been placed on the highway program. So it is sometimes called excess contract authority, but there will still be programmatic impacts resulting from this rescission.

State Departments of Transportation utilize their full amount of contract authority when they plan ahead for projects in every Members' district.

It has an immediate effect, too. States have been given the flexibility to move funds across programs. This flexibility will be lessened in 2003 by this rescission. Therefore, some of the transportation projects that were coming off the shelf in 2003 will be put back on the shelf.

The rescission of the contract's authority should not be used now or in the future to balance the spending of the Congress. I will submit for the RECORD a State-by-State table showing the cuts to each state.

### STATE-BY-STATE IMPACT OF $310 M RESCISSION OF HIGHWAY CONTRACT AUTHORITY IN FY 2002 SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 4775)

| *State* | *Contract Authority Lost* |
|---|---|
| Alabama | −$6,055,699 |
| Alaska | −1,531,493 |
| Arizona | −5,103,144 |
| Arkansas | −4,186,819 |
| California | −31,502,078 |
| Colorado | −4,605,662 |
| Connecticut | −3,984,645 |

| *State* | *Contract Authority Lost* |
|---|---|
| Delaware | −1,205,967 |
| Dist. of Col. | −1,102,821 |
| Florida | −12,154,625 |
| Georgia | −9,771,545 |
| Hawaii | −1,218,691 |
| Idaho | −2,123,194 |
| Illinois | −11,964,461 |
| Indiana | −6,779,800 |
| Iowa | −4,608,642 |
| Kansas | −4,570,334 |
| Kentucky | −5,375,294 |
| Louisiana | −5,497,393 |
| Maine | −1,831,982 |
| Maryland | −5,589,406 |
| Massachusetts | −6,436,734 |
| Michigan | −9,894,776 |
| Minnesota | −5,204,170 |
| Mississippi | −4,349,567 |
| Missouri | −8,309,367 |
| Montana | −2,647,739 |
| Nebraska | −3,123,825 |
| Nevada | −2,183,077 |
| New Hampshire | −1,496,695 |
| New Jersey | −9,229,067 |
| New Mexico | −3,117,390 |
| New York | −16,823,836 |
| North Carolina | −8,003,803 |
| North Dakota | −2,344,956 |
| Ohio | −11,486,595 |
| Oklahoma | −5,892,937 |
| Oregon | −4,346,259 |
| Pennsylvania | −15,576,784 |
| Rhode Island | −1,702,512 |
| South Carolina | −4,979,995 |
| South Dakota | −2,372,588 |
| Tennessee | −6,974,601 |
| Texas | −22,757,525 |
| Utah | −2,889,990 |
| Vermont | −1,420,695 |
| Virginia | −7,934,231 |
| Washington | −6,528,778 |
| West Virginia | −2,886,042 |
| Wisconsin | −5,736,023 |
| Wyoming | −2,585,746 |
| Total | −320,000,000 |

I again, though, thank the appropriators and realize they have to deal with the other side of the aisle, but I would also suggest respectfully in the future, be very careful about fooling around with the Committee on Transportation and Infrastructure's jurisdiction.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of this bill, and I want to thank the chairman and the ranking member and the conferees for working so hard to develop a bill that I think a majority on both side of the aisle can support.

I would like, however, to speak about the provisions on Colombia that remain in the bill. I believe the Colombia provisions in the conference report are a slight improvement from those in the House-passed bill. At least now Congress is asking for written commitments from the newly elected Uribe administration on how he will pursue the war in Colombia.

Still, I have gave reservations regarding the wisdom and the consequences of expanding U.S. involvement in Colombia's grinding violence and deepening civil war, a civil war that has plagued Colombia for nearly four decades.

Mr. Speaker, I have little trust in conditions. They are easily waived or distorted when viewed as getting in the way of policy, and I believe that the House will return to debate this matter again in September.

The House of Representatives should think long and hard before it gives a green light to any policy that commits more of America's precious resources to a hideously complex civil war in Colombia.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from North Carolina (Mr. BALLENGER).

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me the time, and I congratulate the chairman for a job well done.

I want to thank the leadership, also, for sticking with their commitment to require printing and dyeing and finishing of textiles to remain in the United States. I am speaking today in support of the Supplemental Appropriations Act Conference Report, because it is a victory for the textile industry and at no cost to the Government.

In the 1970s and 1980s, 13 small towns in Western North Carolina attracted printing, dyeing and finishing jobs to their communities. These towns sold bonds to pay for the necessary water and sewer infrastructure, while textile companies built plants whose taxes would pay for those bonds. Since this manufacturing method had a low labor content and high value added content, these firms expected to remain competitive.

All was well until the textile industry started leaving because of lower labor costs around the world. The printing and dyeing and finishing jobs also started leaving, resulting in what we call stranded bonds investment without a manufacturing base to pay for the bonds. Local water-sewer rates have exploded to cover the costs.

With the new commitment requiring that printing, dyeing and finishing remain in the United States, these small towns will have available attractive facilities for economic development and taxable investment to pay for the bond expense while enhancing employment opportunities.

I urge my colleagues to join me in voting for the conference report on H.R. 4775. The small towns of North Carolina thank my colleagues.

□ 1445

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise in support of this very important piece of legislation. A supplemental appropriation is absolutely necessary to take care of the very important needs of this country and this world. It is absolutely important that we fight this war on terrorism and that we have the resources to do so, and to establish homeland security.

Beyond that, Mr. Speaker, I want to thank the gentleman from Minnesota (Mr. OBEY) and the gentleman from Florida (Mr. YOUNG) and others for the $200 million that they have appropriated for AIDS in Africa. This is extremely important. I know that it is very difficult to satisfy everybody with a bill like this, but I think we have done some good things with this bill: money for Israel, money for Afghanistan, money for the Palestinians, and money for Africa.

If there is one request that I could have had in addition to all of this, it would have been to appropriate more money for the famine in southern Africa. We have about 13 million people who are at risk of starvation. Unfortunately, there has been a drought. Unfortunately, the grain silos are empty; and there are people in villages who are going to die. Even with the food resources that we are trying to get there, it will not reach there and the rains are going to set in in September or October. These people, whole families, babies, children who are now eating dirt and bugs, are going to die.

So if there was anything else I would have done with this supplemental appropriation, it would have been to try and avert that famine that is taking place in six nations of southern Africa.

Having said that, I appreciate the work of this committee, and I appreciate the manner in which they tried to take care of all of these very difficult problems. I am hopeful that that which we were not able to do relative to southern Africa, perhaps we can do it in the agricultural appropriations bill. Perhaps there will be some room there that we can find a way to get more money to those who are going to die of starvation unless we attend to it.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the ranking member for yielding me this time and also thank him for his hard work and the chairman's hard work in bringing this bipartisan bill to the floor.

However, I want to really express today my disappointment and frustration, quite frankly, with the level of AIDS funding that is in this bill. We have heard time and time again how AIDS is killing millions of people in poor countries throughout the world. We know that AIDS is a complex disease that requires a comprehensive strategy.

I want to thank the gentleman from Minnesota (Mr. OBEY), our minority leader, the gentleman from Missouri (Mr. GEPHARDT), the gentleman from Iowa (Mr. LEACH), the gentlewoman from California (Ms. PELOSI), the gentlewoman from New York (Mrs. LOWEY), the Congressional Black Caucus, and all of those who have worked very hard to raise the level of funding for global AIDS programs in this bill. Last month, however, our efforts to do even more to increase global AIDS funding was derailed by the President. This was a total outrage, given the administration's stated commitment to lead in fighting this scourge.

I attended the 14th International Conference on AIDS in Barcelona and heard from AIDS experts, activists, and people living with AIDS who demanded treatment now. There are 28 million people in Africa living with HIV and AIDS, but only 30,000, 30,000, who receive treatment, in comparison to nearly 100 percent of the people in the United States who need treatment and receive it.

At the conference, alarming statistics and forecasts indicated that HIV infections are not decreasing, nor are they leveling off. They are growing. This crisis will only continue to worsen. Today, there are over 40 million people living with AIDS. By 2010, we will see more than 100 million new AIDS cases unless we step up to the plate. China, Russia, and India are ticking time bombs. We must put at least $1 billion into the trust fund, Mr. Speaker.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise to support this conference report. This conference report funds the war on terrorism, but it also helps to make as whole as possible my district in New York where the World Trade Center stood before the attack last year. This conference report fulfills the congressional part of the President's pledge to appropriate $20 billion to help New York recover from the attack.

We still have some problems with FEMA doling out the money; but I want to commend the chairman of the committee, the gentleman from Florida (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBEY), and especially the New York members of the Committee on Appropriations who worked so hard to ensure that New York would not be forgotten and that we now have this $21.4 billion appropriated.

I want to also express my support for the $200 million in aid to Israel included in this legislation. Israel is our only true ally in the Middle East, and our only true friend in the fight against terrorism. It is only right that we support Israel in its fight against terrorism.

I also want to say that the $200 million appropriated for fighting AIDS in Africa is a good first step, but we must increase it because it does not meet the scale of the catastrophe in Africa, and the United States should step up to the plate more. But this is a very good first step.

So I want to congratulate the members of the Committee on Appropriations and the leadership of the Committee on Appropriations, and I support this bill.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I want to thank the gentleman from New York for the comment that he just made. The conferees have worked really hard with the delegation from New York, including the Senate and House Members; and we have all worked together very well.

This conference report continues to recognize the tremendous human losses suffered by those businesses located in the World Trade Center during the September 11 attacks, and we have included this emergency appropriation for the purpose of assisting these businesses. As stated in the joint explanatory statement of the Committee of the Conference, the conferees added $33 million to the amount provided over the initial request, and we did so expecting that that additional money would be made available specifically for helping to assist those firms located in New York City who, at the time of the terrorist attacks, suffered a disproportionate loss of their workforce and who intend to reestablish their operations in New York City.

I have discussed this issue on numerous occasions with Mr. Gargano, who serves as Governor Pataki's Chairman and CEO of New York's Empire State Development Corporation. It is our understanding that in cooperation with New York City and the Lower Manhattan Development Corporation, the State of New York will ensure that these funds will be available for the intended purposes.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes to filibuster, in hopes that the gentlewoman who wishes to speak on this gets here.

Let me say that, given the fact that I am trying to stall until another Member gets here, there are several items that I think the membership ought to know about that we have provided in this bill above the administration request.

We have provided $225 million for modification of airports. Those modifications are needed in order to create an actual place to install the explosive detection systems which are supposed to be placed in those airports. It would be pretty difficult to meet the deadline without that additional funding, which the administration did not request.

We also now have the situation in which air marshals at this point cannot communicate with the ground except through the pilot. We think that is fairly unfortunate and risky, and so we provided $15 million to fix that problem.

We have also provided additional funding for port security grants, and I think that is probably among the most important money in the bill.

We have taken a number of other actions which I think will enhance overall security, even while we have not provided all of the funding that the Transportation Security Administration asked for for other activities, in large part because the Congress, on a bipartisan basis, has so little confidence in the way that agency has approached its job to date.

With that, Mr. Speaker, I will end my filibuster.

Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding me this time. I was not going to get into this, but I want to thank the chairman of the committee.

As the chairman knows, I have great concern about LaPlata, Maryland, that was struck by a tornado some months ago, and literally two-thirds of the town was obliterated, knocked down, along with almost a thousand homes destroyed.

I was hopeful that there would be some additional funds in this bill. That was not possible. But I want to thank the chairman and the ranking member, with whom I talked during the course of the conference, for their assurances that during the course of the next weeks that we will address this problem. I want to be able to assure the folks of LaPlata that we have not forgotten them and we are going to assist them as soon as we possibly can; and I thank the chairman for his assurance on that and working with me to accomplish that objective, and I thank the gentleman from Minnesota (Mr. OBEY) as well.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to use this time as we consider the supplemental to raise an issue that I think has tremendous emergency potential, but it has great implications for us as a Nation as we respond internationally and as we are trying to bring stability in regions of the country that we want to have stable commerce with.

And that is to recognize that in southern parts of Africa there are countries where people are literally starving today and that we could intervene and make a difference. A little money could be provided for food, and those who are starving need not die from starvation and the starvation numbers need not increase.

Just yesterday, the World Food Program revised their numbers up that they expect will be affected if we did nothing, from 13 million to 14 million. It is so easy for us in our luxury, or in our secure areas not to see this as immediate, because it is over there. Well, their problems over there become our problems in terms of security.

As we are now trying to bring stability to all regions, in particular developing countries, I would hope we would see it in the Nation's interest, our security interests, even if we do not see it in the humanitarian interest, of doing the right thing. So I want to bring this to the attention of the appropriators. And I know it is not in this bill. I offered amendments when it came to the House before, and we were not given an opportunity; but I just want to use every moment and every breath I have to raise the consciousness and awareness that we can make a difference.

Now, let me say parenthetically, Americans are making some difference now. But because we are a very affluent country, we cannot afford not to do what is necessary. We need to have that opportunity to make a difference. Mr. Speaker, 13 million could possibly die if we fail to act. We need those resources, and if not through this bill, through some future bill.

□ 1500

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, Article I of the Constitution indicates that it is Congress which is given the power to determine the expenditure of taxpayer's money. Nowhere in the Constitution, in Article I or any other article, do we have a mention of the Office of Management and Budget. And yet I think as has been often the case, or has often been made obvious, the present director of the Office of Management and Budget seems to believe that the only role of Congress in the appropriations process is to salute whatever whim seems to occupy OMB that day. It is not the first time in our Nation's history OMB has had that attitude; but it is the most recent and, therefore, the most annoying.

Let me simply say OMB and the White House itself has on numerous occasions chastised this Congress for the decisions we have made on the supplemental, and they have also chastised the Congress for being somewhat tardy in getting this bill to the White House.

Let me point out that the White House did not send this bill to Congress until late March. They could have sent it up in January. They did not. They could have sent it up when they sent up their budget in February, but they did not. They delayed until late March, and then on three separate occasions after the conferees reached agreement on the content of this bill, OMB saw fit to blow up that agreement and ask for a different cut of the cards.

Because of that history, it has taken the Congress more time than it otherwise would have taken. Nonetheless, we now have a product which does not suit everyone exactly, but it is a reasonable product; and I believe it deserves the support of the House. I do not support every item in it; no Member does. But it is a reasonable effort to reach a conclusion on this matter, and I personally intend to support it because of that fact.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I express my great admiration for the job that the gentleman from Wisconsin (Mr. OBEY) and the chairman of the Committee on Appropriations have done together, but the conference report has some extraneous provisions which the Committee on Transportation and Infrastructure has objected to on a bipartisan basis, including one provision that has nothing to do with fighting the war on terrorism: a rescission of $320 million of highway contract authority.

That means if this stands, and apparently it will, that every State's highway program will lose interstate maintenance, national highway system funding, surface transportation program, bridge, congestion mitigation, and air quality improvement funds. California loses $31 million; Pennsylvania, $15 million; Illinois, $11 million; and Minnesota, $5.2 million.

For the first time in the history of the highway programs, these States will have to return budget authority which has been apportioned to them. These cuts are over the express objections of both the House and the Senate authorizing committees. Some will argue this has no effect because the obligational authority is not reduced in fiscal year 2002, but I disagree. These rescissions will limit the States' flexibility to use their different categories of funds. When we passed TEA–21, we expected that contract authority would be greater than the annual obligation limitation. This excess contract authority has played a critical role in funding the States' need to set their own priorities for highway investments, and they have done exceedingly well with it.

States will have to go through the process now of returning these funds from each of the highway categories to the Federal Highway Administration, and put more pressure on each State's highway next year if reauthorization of TEA–21 is delayed.

Mr. Speaker, for those reasons I must oppose the conference report.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I thank the members of the conference committee and the staff who worked very diligently for a number of weeks to get us to the point where we are today to have this supplemental on the floor.

Our counterparts in the other body worked with us very diligently. I suggest that they raised a number of very challenging issues. This is one of the more difficult conferences that I have been involved with in a good many years; but with the leadership of Senator BYRD and Senator STEVENS, we came to a good conclusion on a good supplemental conference report.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. LEWIS), the chairman of the Subcommittee on Appropriations, since this is primarily a national defense emergency supplemental bill.

Mr. LEWIS of California. Mr. Speaker, I rise to express my deep appreciation to the gentleman from Florida (Chairman YOUNG) and to the gentleman from Wisconsin (Mr. OBEY) for the very fine work they have done on this supplemental bill. This is, after all, the supplemental to provide additional funds for the war on terrorism.

It was not quite a year ago that we met downstairs in this building to mark up the fiscal year 2002 appropriations bill for national security. As we were meeting that very morning, all of us had the experience of seeing those planes fly into those buildings in New York, shortly thereafter learning about a plane flying into the Pentagon and the President brought us all together to discuss for the first time the war on terrorism.

One of the most significant moments of my time in public affairs was to share with Members in this House when the President came to the House, bringing us all together, both bodies of the Congress, the Supreme Court, all of the members of the cabinet, in order to talk about this new challenge that America was faced with. I will never quite forget that scene when the leader of the other body, who was in the well of the House, came across the well of the House and we saw the President of the United States and that leader in friendship and leadership and otherwise hug each other expressing the public's view that we ought to be together as we go about fighting this war.

Indeed, the gentleman from Wisconsin (Mr. OBEY) has indicated that this bill might have moved more quickly. There are any number of interests that have come forward since the fiscal year 2002 bills were marked up, and indeed the best effort has been made to reflect those additional interests in this fiscal year 2002 supplemental. But most of it, approximately half of it, is money to fight the war on terrorism; and we are coming together to further express our commitment on both sides of the aisle to make certain that we do whatever is necessary to see that we win this war.

America is not backing off from the challenge that is before us. Indeed, the people of the United States continue to insist that we work together intently to make sure that America remains the strongest Nation in the world carrying forward that battle to be successful in the war on terrorism.

Mr. BLUMENAUER. Mr. Speaker, I will support this legislation.

Its provision to provide funding fro Amtrak is especially critical to avoiding a shutdown of our national passenger railroad system later this year. Congress has a special obligation to fund Amtrak as part of the Amtrak Reform and Accountability Act of 1997. The fiscal problems facing Amtrak are not the responsibility of the railroad alone, but also reflect the unrealistic and unattainable goals that we impose on Amtrak under that legislation and our failure in Congress to provide necessary capital funding. The $205 million provided in this bill is a stop gap measure to keep the railroad functioning as we look at opportunities next year during the Amtrak reauthorization to address larger fiscal and structural issues.

This conference report contains funding for homeland security that is much needed in my district. It is essential that we provide our local governments and first responders with the resources to provide training and acquire the equipment necessary to be prepared for potential terrorist attacks.

Our military has responded with great professionalism to the unforeseen tragedies of September 11, but we need to utilize tools beyond those of the military in reducing global risks. I am disappointed that we had to add military spending to this bill. The FY02 military budget we adopted last fall was $351 billion, a figure already exceeding the military spending of the next 25 nations combined.

Finally, the conference report appropriates $134 million for reconstruction activities in Afghanistan. I am pleased that this total includes funding to repair houses damaged during military operations. The conference report appropriates some $3000 million for assistance to Afghanistan from various accounts.

Afghanistan is believed to have one of the worst landmine and unexploded ordnance problems in the world, with 5–7 million still littered about the country. In addition to Afghan citizens, U.S. service personnel have also been killed by these explosive remnants of war. $4 million is included in this conference report for humanitarian demining and cleanup of other unexploded ordnance.

Representative LEACH and I led a request to the Foreign Operations Appropriations Subcommittee for assistance to unintended victims of the Afghan war in its FY03 bill. A bipartisan group of 38 Members joined us. This is an important gesture for us to make to the Afghan people to show them that our military campaign is not against them; it is against Al-Qaeda. I hope we can build on the assistance for housing repair that is in this conference report in the appropriation for FY03 funding when the House Foreign Operations Subcommittee marks up its bill following the August recess.

Mr. LANTOS. Mr. Speaker, today the House is voting on H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States. This legislation provides key support to our military to conduct the ongoing struggle against the barbaric forces of international terrorism, additional support for some key friends and allies in the war against terrorism, and supports other critical programs. I fully support the conference report and urge all my colleagues to support this critical legislation.

Mr. Speaker, I rise today to address a very important provision that is contained in this legislation, section 603 of the Supplemental Appropriations Act, relating to the dangerous security situation on Afghanistan, which is jeopardizing U.S. efforts to stabilize and democratize that war-torn nation. On May 21, 2002, I offered an amendment to H.R. 3969, the Afghanistan Freedom Support Act of 2002, which is substantially similar to section 603 and was adopted by vote of 407–4. My amendment and section 603 require the Administration to submit a strategy for addressing this critical problem. Under section 603, the Administration is required to submit a report on the strategy for meeting the immediate security needs, and a further report within 90 days on the long term strategy for meeting long term security needs in Afghanistan.

Mr. Speaker, the United States and its coalition partners have freed Afghanistan from the choke-hold of the al-Qaeda terrorists and the repressive regime of the Taliban. With the support of the international community, a new, interim authority is in place and the country is, uncertainly, on a path to peace and stability. But that very peace and stability is being threatened, and the new government of Afghanistan, led by Chairman Hamid Karzai, is being undermined by lawlessness and insecurity. Afghanistan is in grave danger of relapsing to the very conditions of violence and warlordism that created the Taliban and attracted al-Qaeda to operate in Afghanistan.

This is not the vision we had for Afghanistan as we sought to help liberate it from the grasp of the terrorists and the Taliban. President Bush has pledged to help restore security and rebuild Afghanistan, and Secretary Rumsfeld has himself noted on many occasions that security is fundamental to all other issues and objectives in Afghanistan. Mr. Speaker, if this was not clear on May 21, when I first raised this issue, it certainly is now. A key member of the Karzai Government, Vice President Haji Abdul Qadir, was assassinated on July 6, 2002. The assassination of this key Pashtun leader highlighted the instability in Afghanistan that threatens the U.S. mission there. And just this week, Secretary of Defense Rumsfeld announced that U.S. soldiers, including U.S. special forces, will protect President Karzai, perhaps for several months, in order to protect the nascent political process that is taking place. I could not agree with him more when he said that it is important that the political process in that country "not be negated by violence."

Mr. Speaker, the Bush Administration decision to protect President Karzai speaks volume about the threats facing Afghanistan today. Just as President Karzai is threatened by continuing insecurity, so is the entire Afghani population. The bill before us today, and the Afghanistan Freedom and Reconstruction Act passed earlier this year, provides funding to help transform Afghanistan from a land of repression and chaos into a safe and secure environment where freedom, human rights and democracy can grow, and terrorism and opium production will wither. However, none of this can be accomplished without security. The United States is providing critical assistance to create a new professional, multiethnic Afghan Army that can address Afghanistan's long-term security needs. But something must be done now, whether it is the expansion of a multinational force or through some other mechanism, to stabilize the countryside. Neither we nor our Afghan friend have the luxury to wait until a future Afghan security force is fully trained and deployed.

Section 603 requires the Administration to address this issue in a constructive way. It requires the Administration to formulate a strategy to increase security in the country during the transaction to a fully functioning national army and police force. I fear that a failure to do address the security situation may lead to a failed Afghanistan, reduced instead of increased international assistance, delays in the accomplishment of U.S. military objectives and a far longer engagement for our military in the region.

Mr. LEVIN. Mr. Speaker, I will support the conference report on the supplemental appropriations bill when it comes to a vote this afternoon because of the funds provided for the war on terrorism, homeland security, and assistance to the city and state of New York.

That said, there are provisions in this bill that have nothing to do with these important objectives. One provision will undo a past trade commitment that the U.S. made in good faith to the countries of the Caribbean Basin region. That commitment relates to the rules of origin for apparel products under the CBI program. This bill includes changes to those rules of origin that make the program much more restrictive.

We all know why these provisions are being included—it is to make good on a deal made by House Republican leadership with a few Republican Members from textile states in order to secure those Members' votes for a fundamentally flawed fast track bill.

The CBI bill was crafted carefully on a bipartisan basis and it was an opportunistic, serious mistake to undo the provisions in that bill. The irony is that it is most likely that the promises in this bill will prove to be a pyrrhic victory.

Provisions in the House bills on fast track and Andean Trade Preferences would significantly expand imports of textiles and apparel products from various countries—to a much larger degree than the trade at issue in this dyeing and finishing provision. The House Republican leadership therefore has been giving with one hand and taking away with the other.

In a way, this dyeing and finishing amendment encapsulates the trade policy of the current Administration. It is going back and forth, with no direction.

It is a reflection of the basic flaw of the House Republican leadership to approach trade policy as a purely political issue and thumb its nose at bipartisanship from the very outset.

A trade policy on such a narrow partisan basis is not viable as it is built on shifting sands of political expediency, instead of a strong, broad foundation.

Mr. JEFF MILLER of Florida. Mr. Speaker, today I rise with reserved support for the FY 02 supplemental Conference Report. This legislation, billed as a wartime supplemental, has egregious spending proposals I cannot wholly support. However, with more than $14 billion going to support our men and women in uniform, I am unable to oppose the measure.

In my opinion, Mr. Speaker, this bill is the embodiment of resentment our constituents express in regular helpings. This process, of using strong and vital proposals to shield what is essentially pork, afford the hard working taxpayers in this country a valid complaint against their government.

I have read and reread the bill, Mr. Speaker. I shook my head with disgust and held my breath when casting my aye vote. My vote supports our efforts to defend this great country and to protect our interests in other lands. However, I know that this supplemental could have been better and I know for a fact that our constituents deserve better.

Mr. PETRI. Mr. Speaker, first the good news. I am pleased that this conference report includes language that provides that adjustments in obligation authority for the federal highway program due to the Revenue Aligned Budget Authority (RABA) calculation will be zero for fiscal year 2003. This will ensure that the obligation levels behind the budget firewall for fiscal year 2003 will be at TEA 21 estimated levels for the year ($27.7 billion) and about $4.4 billion over what was included in the President's budget. The lower budget number in the President's budget was a result of adjustments made to correct previous overestimates for 2001 revenues and lower estimates for future revenues.

However, it is important to note that there is no reason why Congress cannot provide funding in addition to this "minimum" guaranteed level of funding and, indeed, the Highway Trust Fund can support additional funding. This provision is identical to what was approved by the House earlier this year when H.R. 3694, the Highway Funding Restoration Act, was passed by a vote of 410–5 and will provide for more stable highway funding for the states.

Now, the bad news. In an unprecedented move, the conferees have included a Senate provision that rescinds $320 million in contract authority from the Highway Trust Fund that has already been distributed to the states. In my more than 20 years here in the House, I cannot remember a time when states have had to give back federal highway apportionments.

Mr. Speaker, this move is objectionable on many levels.

Contract authority from the Highway Trust Fund is under the exclusive jurisdiction of the Transportation and Infrastructure Committee. It is not the place of the Appropriations Committee to rescind contract authority. Under the Rules of the House, this is a violation and would be considered legislating on an appropriations bill. It should be of grave concern to all those Members who are not on the Appropriations Committee—which is about 85 percent of us—to see the continued usurpation of authorizer's authority and the long arm of the appropriators reaching beyond their legitimate powers and authorities.

In addition, this is a terrible precedent. For decades, the Public Works and Transportation Committee, as our Committee was known back then, worked diligently in support of efforts to take the Aviation and Highway Trust Funds off-budget. And it was just because of budget games such as this that were played with Trust Funds that spurred that effort. We made real progress in TEA 21 where, for the first time, highway spending levels are linked to revenues coming into the Trust Fund. If the Appropriators are able to use the Trust Fund for budget gimmicks today, what is to stop them from doing so again in the future. Perhaps we should be thankful that the rescission in this bill is "only" $320 million, when, I understand, it could have been a lot more. But we must stop manipulating the Trust Fund and the highway program for illusory budget reasons.

But perhaps most important is the impact on state transportation plans and programs. States receive contact authority each year in accordance with TEA 21 in the various highway program categories. They are able to target obligation authority (which is typically less than contract authority) received each year among the various programs to meet specific transportation priorities and needs. This flexibility is needed by the states to properly manage and plan to ensure the most efficient and effective highway program. If suddenly a state must give back contract authority (and I understand DOT will require an across the board return of contract authority from among the various funding categories), states lose this vital flexibility. And some states may have large amounts of contract authorify in only a few categories, so that impact would be felt more deeply in other programs.

I understand this rescission has been justified on the basis of budget authority "savings" that were necessary to meet target spending levels. It is distressing that the Transportation Committee offered up over $1 billion in savings from the loan guarantee program under the Air Transportation Safety and System Stabilization Act of reducing the outstanding loan authority down to the value of all pending loan applications. However, conferees did not avail themselves of this option and instead chose to focus on the highway program.

The proper course of action to take would be to restore this contract authority as we continue the appropriations process for fiscal year 2003. I trust the appropriators and leadership will work with us to ensure this correction is made.

Mr. Speaker, we simply cannot begin to play with the highway contract authority given to the states. We have never required them to "give back" contract authority already distributed. This is a very dangerous precedent and I trust we will go no further down this road in the future.

Mrs. MALONEY of New York. Mr. Speaker, I rise in support of this very important legislation.

I want to express my sincere thanks and happiness that the funding for New York's recovery has been included in this bill.

I would like to also note that this legislation includes $90 million for a longterm study that will be conducted by Mt. Sinai hospital to track the health impact of 9/11 on the dedicated and courageous response-and-recovery workers at the World Trade Center.

However, while I am pleased that this study was included and that we are taking care of the utilities, I must say that I am very troubled that this bill does not contain any funding to aid the New York City Board of Education with its costs because of the September 11th terrorist attack.

I, along with many members of the New York Congressional Delegation, and especially my friend and colleague Representative JOHN SWEENEY, who tried to include the aid in Committee, have been working on this important issue since the Board came to us with their concerns. Because of the attack, the Board has incurred costs such as making up for lost instructional time, clean up and repair of impacted buildings, transportation for relocated students, and the loss of perishable food and lunch revenues. Our goal simply has been to obtain for the New York City schoolchildren the same kind of aid that was made available to the Northridge schools following the 1994 earthquake. FEMA indicated that it wanted to help, but lacked the necessary authority.

After months of correspondence with FEMA, we believed that to provide the Board with this funding, language needed to be included in the Supplemental Appropriations bill directing FEMA to reimburse the Board. However, even after the inclusion of such language by our colleagues in the other body, FEMA and OMB have indicated that this language is not sufficient, and the FEMA still lacks the authority to reimburse the Board. I am very disappointed with FEMA's inability to come to the aid of New York City's schoolchildren, who have done nothing wrong and deserve to have the best possible educational experience.

Mr. Speaker, the events of September 11th are unprecedented in our nation's history. As a result, President Bush pledged that his administration would do whatever it takes to rebuild New York City. While we appreciate his support and much of the good work that has already occurred, the red tape that seems to be tying up the aid for the New York City schools must be cut as soon as possible. I am hopeful that we will be able to come to some resolution with FEMA so that the Board can continue its preparations for the upcoming school year.

Mr. STARK. Mr. Speaker, I rise today in opposition to the Supplemental Appropriations bill for Fiscal Year 2002.

The Republicans have created a bill that throws important priorities in with a laundry list of poor choices. I can't in good conscience vote for a bill that in one breath provides billions in new funding for defense while cutting a reasonable investment in America's infrastructure and public housing.

I can't support a bill that authorizes spending—to the tune of $29.8 billion—that the President already said he would veto. It is critical that we make funding for transportation safety available as quickly as possible. But we can't be effective if we don't provide the funding the Transportation Safety Administration says it needs. The Secretary of Transportation says passage of this bill will delay the installation of screening and detection systems needed to keep weapons and explosives off our airlines.

This bill opens the door for U.S. military involvement in Colombia, moving us one step closer to being mired in a civil war there. I cannot support this, just as I have always opposed the United States giving funding to other nations to purchase weapons that might be used to wage war or harm innocent civilians.

This bill also withholds funding for critical UN family planning efforts that are vital in combating poverty and hunger throughout the world.

I do support a great deal of what is funded in this bill. We must crack down on corporate fraud. We should make college more affordable for all Americans by boosting Pell Grant funding. We need to do more to help the victims of domestic violence and assist poor mothers and their children. We should assist local communities and first responders in their emergency preparedness efforts. We ought to boost the security of our transportation systems and at our ports.

America should also be a responsible force abroad as well by helping Afghanistan rebuild, giving needed humanitarian aid to refugees, and providing support to vital global health care initiatives like the fight against HIV/AIDS.

I support all of these important endeavors. But, unfortunately, this bill is far too flawed to gain my vote. I urge my Republican colleagues to think about what our priorities should be and consider the consequences this bill imposes on our nation's and the world's future.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

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## GENERAL LEAVE

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5120, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

## TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore (Mr. LEWIS of California). Pursuant to House Resolution 488 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5120.

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### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes.

The Chair designates the gentleman from California (Mr. DREIER) as the chairman of the Committee of the Whole, and requests the gentleman from Washington (Mr. HASTINGS) to assume the Chair temporarily.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Maryland (Mr. HOYER) each will control 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to present to the House H.R. 5120. This is the fiscal year 2003 appropriations measure for Treasury, Postal Service and General Government. I believe we have a good bill, Mr. Chairman, one that puts the proper focus on homeland security and Federal law enforcement, on securing the borders and protecting our homeland.

I am pleased to say this bill has the support of the gentleman from Maryland (Mr. HOYER), the ranking member. I know that the gentleman from Maryland (Mr. HOYER), as many of us, continues to have concerns about different provisions in this bill. That is common, and I am committed to resolving the concerns of all Members as we wind our way through the legislative process.

Briefly, I would like to explain something about the overall numbers in this bill. We have received certainly a fair, a very good allocation from the chairman, the gentleman from Florida (Mr. YOUNG), on our subcommittee's portion of this year's appropriation. Our committee's allocation is a total $18.5 billion in discretionary resources for fiscal year 2003. In the charts that accompany the report, some indicate that the level appears to be below the President's request by some $207 million. Although that certainly appears attractive to fiscal conservatives such as myself, I would like to point out what appears to be a reduction is the consequence of scorekeeping adjustments related to the fact that the President's proposal had some accrual accounting in his budget proposal for fiscal year 2003, accrual accounting that was not included in the actual bill.

Therefore, there is something like a $745 million difference caused by those score-keeping adjustments. If we exclude that accrual accounting and we just compare apples to apples, programs for fiscal year 2003 to fiscal year 2002, we will find that when compared to last year's fiscal year 2002 enacted level, it is above the President's request, above fiscal year 2002 by $149 million and above the President's request by $538 million.

This is not the result of extra spending that we wanted to accomplish except for that which is necessary for homeland security. Instead, it is because we have a special provision in this bill for $200 million in support of reforming election administration through the country to enable the purchasing of up-to-date, modern election equipment so we do not have the difficulties in future Presidential elections that we saw happen in 2000.

Secondly, in the base operations for the U.S. Customs Service, which is charged with overseeing some $8 billion worth of goods that come into the U.S. each day and making sure those are not a conduit for bringing in a weapon of mass destruction or for bringing in someone else that might be a threat to our homeland, to fund those operations and continue the level of increases in border security that this subcommittee has been proposing in the past, we have $250 million that the President wanted to have offset by fee increases. We are not increasing the fees that are generated by the Customs Service, but we are handling this increase by direct appropriation.

☐ 1515

Again, that is the other key reason why there are differences between our numbers and those in the President's proposed budget.

As reported by the committee, this bill provides a total of $4.2 billion for securing our homeland. This includes not only funding for the Office of Homeland Security, which is currently part of the Executive Office of the President, but it also includes funding for the U.S. Customs Service, for the Secret Service and for the Federal Law Enforcement Training Center, which is having to provide the training for the increasing number of Federal law enforcement officials that we have needed and been putting in place ever since 9/11 and, indeed, which this subcommittee was increasing even before 9/11.

This bill also includes a total of $246.4 million for the HIDTA program. HIDTA is high intensity drug trafficking areas. This is providing special funding for Federal, State and local coordination to combat the scourge of illegal drugs. The HIDTA money is an increase of $20 million above the current year's funding.

Although nominally the bill reduces funding for the national youth anti-drug media campaign by $10 million, it actually increases the amount that is going to be applied to the national campaign, the advertising campaign, to discourage the use of illegal drugs by our young people. What we have done is to take the difference out of the bureaucracy that had been growing within the Office of National Drug Control Policy and mandate that they increase the amount that is actually being expended on actual advertising.

The bill also provides some $646 million for the construction program of the General Services Administration which, of course, is the landlord for the Federal Government. That includes site acquisition, design and/or construction of some 11 courthouses, trying to take care of the overburden that currently is being placed upon our judicial system.

The bill has major funding regarding information technology. A lot of that is related to trade and to homeland security. The bill includes $439 million for the Customs automation program, including a total of not less than $317 million for modernizing the automated commercial system, the ACE program. Mr. Chairman, it is this modernization program within Customs that I believe will ultimately form the information backbone for the forthcoming Department of Homeland Security, because this database ties in not only Federal law enforcement but some 58 Federal agencies, giving them the interfacing and the access to sharing information that we have seen is so sorely lacking today among Federal agencies. Not only is this an initiative our subcommittee has been accelerating, but it is something that has laid the groundwork for the forthcoming Department of Homeland Security.

In regard to information technology, we also include $436 million for the business systems modernization of the Internal Revenue Service, so taxpayers will no longer have the waiting game and the wondering game that they sometimes have right now when trying to get their complex tax situations straightened out with the IRS.

And we fund $5 million for the President's e-government proposal as well.

In regard to legislative items, we have a number of historical provisions that are a part of this bill. One of them is maintaining the current law that prohibits using funds to pay for abortions through the Federal employees health benefits plan which is the insurance program for Federal workers. This is a provision that has been a part of this bill for a number of years, as is the continued requirement that FEHBP providers include coverage for prescription contraceptive services under certain circumstances and limitations.

We also have a number of other measures in this bill that, frankly, Mr. Chairman, will probably consume most of the debate time, even though they are not the focus of this bill. The focus of this bill is the Treasury Department, the White House, the Executive Office of the President, Federal law enforcement, almost half of which is funded through this bill, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, and the Customs Service with its significant role regarding border security and homeland security. However, probably most of the debate time will be consumed in debate, such as travel to Cuba, which I know is a subject of interest to a great many Members. It is not the thrust of this bill, but it is probably a debate that we will get into, nevertheless.

Because we have so many amendments that Members wish to offer to this bill, mostly to the general government provisions, I hope we do not consume the entire hour that is allocated for official debate on the bill itself so that we might move into the opportunity for Members to be presenting their amendments. But, of course, we will try to take the necessary time to cover those issues.

Mr. Chairman, I include the following tabular material for the RECORD:

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| TITLE I - DEPARTMENT OF THE TREASURY | | | | | |
| Departmental Offices | 177,142 | 191,914 | 187,241 | +10,099 | -4,673 |
| Department-wide systems and capital investments programs | 68,828 | 68,828 | 68,828 | --- | --- |
| Office of Inspector General | 35,424 | 35,428 | 35,424 | --- | -4 |
| Treasury Inspector General for Tax Administration | 123,746 | 123,962 | 123,962 | +216 | --- |
| 9/11 Supplemental (P.L. 107-117) | 2,032 | --- | --- | -2,032 | --- |
| Subtotal | 125,778 | 123,962 | 123,962 | -1,816 | --- |
| Air Transportation Stabilization Program Account | --- | 6,041 | 6,041 | +6,041 | --- |
| Treasury Building and Annex Repair and Restoration | 28,932 | 32,932 | 32,932 | +4,000 | --- |
| Expanded Access to Financial Services | 2,000 | 2,000 | 4,000 | +2,000 | +2,000 |
| Counterterrorism Fund | 40,000 | 40,000 | 33,000 | -7,000 | -7,000 |
| Treasury franchise fund | --- | --- | --- | --- | --- |
| Financial Crimes Enforcement Network | 45,837 | 50,517 | 51,444 | +5,607 | +927 |
| 9/11 Supplemental (P.L. 107-117) | 1,700 | --- | --- | -1,700 | --- |
| Subtotal | 47,537 | 50,517 | 51,444 | +3,907 | +927 |
| Federal Law Enforcement Training Center: | | | | | |
| Salaries and Expenses | 105,660 | 122,393 | 152,951 | +47,271 | +30,558 |
| 9/11 Supplemental (P.L. 107-117) | 23,000 | --- | --- | -23,000 | --- |
| Subtotal | 128,660 | 122,393 | 152,951 | +24,271 | +30,558 |
| Acquisition, Construction, Improvements, & Related Expenses | 33,434 | 23,329 | 31,800 | -1,634 | +8,471 |
| 9/11 Supplemental (P.L. 107-117) | 8,500 | --- | --- | -8,500 | --- |
| Subtotal | 41,934 | 23,329 | 31,800 | -10,134 | +8,471 |
| Total | 170,614 | 145,722 | 184,751 | +14,137 | +39,029 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Interagency Law Enforcement: | | | | | |
| Interagency crime and drug enforcement.............. | 107,576 | 107,576 | 110,594 | +3,018 | +3,018 |
| Financial Management Service........................... | 212,850 | 220,712 | 220,664 | +7,814 | -48 |
| Bureau of Alcohol, Tobacco and Firearms.............. | 810,316 | 870,775 | 878,034 | +67,718 | +7,259 |
| 9/11 Supplemental (P.L. 107-117).................. | 31,431 | — | — | -31,431 | — |
| Subtotal.......................................... | 841,747 | 870,775 | 878,034 | +36,287 | +7,259 |
| GREAT grants...................................... | 13,000 | 13,000 | 13,000 | — | — |
| Total.......................................... | 854,747 | 883,775 | 891,034 | +36,287 | +7,259 |
| United States Customs Service: | | | | | |
| Salaries and Expenses.............................. | 2,079,357 | 2,391,952 | 2,496,165 | +416,808 | +104,213 |
| 9/11 Supplemental (P.L. 107-117).............. | 392,603 | — | — | -392,603 | — |
| Subtotal.................................. | 2,471,960 | 2,391,952 | 2,496,165 | +24,205 | -104,213 |
| Users fees, conveyance/passenger/other............ | — | -167,000 | — | — | -167,000 |
| Harbor Maintenance Fee Collection.................. | 3,000 | 3,000 | 3,000 | — | — |
| Operation, Maintenance and Procurement, Air and Marine Interdiction Programs.................... | 177,860 | 170,829 | 190,000 | +12,140 | +19,171 |
| 9/11 Supplemental (P.L. 107-117).............. | 6,700 | — | — | -6,700 | — |
| Subtotal.................................. | 184,560 | 170,829 | 190,000 | +5,440 | +19,171 |
| Miscellaneous appropriations (P.L. 106-554)... | — | — | — | — | — |
| Automation modernization: | | | | | |
| Automated Commercial System.................. | 122,432 | 122,432 | 122,432 | — | — |
| International Trade Data System.............. | 5,400 | — | — | -5,400 | — |
| Automated Commercial Environment.............. | 300,000 | 312,900 | 316,900 | +16,900 | +4,000 |
| Subtotal.................................. | 427,832 | 435,332 | 439,332 | +11,500 | +4,000 |
| Customs Services at Small Airports (to be derived from fees collected)........................ | 3,000 | 3,000 | 3,000 | — | — |
| Offsetting receipts.......................... | -3,000 | -3,000 | -3,000 | — | — |
| Total.................................... | 3,087,352 | 2,834,113 | 3,128,497 | +41,145 | +294,384 |
| Bureau of the Public Debt............................ | 186,953 | 191,119 | 168,673 | -18,280 | -22,446 |
| Payment of government losses in shipment............. | 1,000 | 1,000 | 1,000 | — | — |

**COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)**

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Internal Revenue Service: | | | | | |
| Processing, Assistance, and Management............ | 3,797,890 | 3,958,337 | 3,955,777 | +157,687 | -2,560 |
| 9/11 Supplemental (P.L. 107-117)............... | 12,990 | --- | --- | -12,990 | --- |
| Subtotal.................................. | 3,810,880 | 3,958,337 | 3,955,777 | +144,897 | -2,560 |
| Tax Law Enforcement.............................. | 3,538,347 | 3,729,072 | 3,729,072 | +190,725 | --- |
| 9/11 Supplemental (P.L. 107-117)............... | 4,544 | --- | --- | -4,544 | --- |
| Subtotal.................................. | 3,542,891 | 3,729,072 | 3,729,072 | +186,181 | --- |
| Earned Income Tax Credit Compliance Initiative.... | 146,000 | 146,000 | 146,000 | --- | --- |
| Information Systems.............................. | 1,563,249 | 1,632,444 | 1,632,444 | +69,195 | --- |
| 9/11 Supplemental (P.L. 107-117)............... | 15,991 | --- | --- | -15,991 | --- |
| Subtotal.................................. | 1,579,240 | 1,632,444 | 1,632,444 | +53,204 | --- |
| Business systems modernization.................... | 391,593 | 450,000 | 436,000 | +44,407 | -14,000 |
| Total (net)................................. | 9,470,604 | 9,915,853 | 9,899,293 | +428,689 | -16,560 |
| United States Secret Service: | | | | | |
| Salaries and Expenses............................ | 920,615 | 1,010,435 | 1,017,892 | +97,277 | +7,457 |
| 9/11 Supplemental (P.L. 107-117)............... | 104,769 | --- | --- | -104,769 | --- |
| Subtotal.................................. | 1,025,384 | 1,010,435 | 1,017,892 | -7,492 | +7,457 |
| Acquisition, Construction, Improvements, & Related Expenses........................................ | 3,457 | 3,519 | 3,519 | +62 | --- |
| Total...................................... | 1,028,841 | 1,013,954 | 1,021,411 | -7,430 | +7,457 |
| Total, title I, Department of the Treasury.... | 15,646,178 | 15,865,446 | 16,168,789 | +522,611 | +303,343 |
| Appropriations............................ | 15,041,918 | 15,865,446 | 16,168,789 | +1,126,871 | +303,343 |
| Emergency funding......................... | 604,250 | --- | --- | -604,250 | --- |
| Rescissions............................... | --- | --- | --- | --- | --- |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| TITLE II - POSTAL SERVICE | | | | | |
| Payment to the Postal Service Fund | 29,000 | 29,000 | 29,000 | --- | --- |
| 9/11 Supplemental (P.L. 107-117) | 500,000 | --- | --- | -500,000 | --- |
| Subtotal | 529,000 | 29,000 | 29,000 | -500,000 | --- |
| Advance appropriation, FY 2002/2003 | 67,093 | 47,619 | 47,619 | -19,474 | --- |
| Advance appropriation, FY 2004 | --- | 31,014 | 31,014 | +31,014 | --- |
| Total, title II, Postal Service: | | | | | |
| Fiscal year 2002/2003 | 596,093 | 76,619 | 76,619 | -519,474 | --- |
| Fiscal year 2004 | --- | 31,014 | 31,014 | +31,014 | --- |
| TITLE III - EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT | | | | | |
| Compensation of the President and the White House Office: | | | | | |
| Compensation of the President | 450 | 450 | 450 | --- | --- |
| Salaries and Expenses | 54,651 | 84,595 | 50,715 | -3,936 | -33,880 |
| Office of Homeland Security | --- | --- | 24,061 | +24,061 | +24,061 |
| Executive Residence at the White House: | | | | | |
| Operating Expenses | 11,695 | 12,228 | 12,228 | +533 | --- |
| White House Repair and Restoration | 8,625 | 1,200 | 1,200 | -7,425 | --- |
| Special Assistance to the President and the Official Residence of the Vice President: | | | | | |
| Salaries and Expenses | 3,925 | 4,066 | 3,160 | -765 | -906 |
| Operating expenses | 318 | 324 | 324 | +6 | --- |
| Council of Economic Advisers | 4,211 | 4,405 | 3,763 | -448 | -642 |
| Office of Policy Development | 4,142 | 4,221 | 3,251 | -891 | -970 |
| National Security Council | 7,494 | 9,525 | 7,803 | +309 | -1,722 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

|  | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Office of Administration | 46,955 | 70,128 | 92,681 | +45,726 | +22,553 |
| 9/11 Supplemental (P.L. 107-117) | 50,040 | --- | --- | -50,040 | --- |
| Subtotal | 96,995 | 70,128 | 92,681 | -4,314 | +22,553 |
| Office of Management and Budget | 70,752 | 70,752 | 61,492 | -9,260 | -9,260 |
| Electronic Government (E-Gov) Fund | --- | --- | 5,000 | +5,000 | +5,000 |
| Election Administration Reform | --- | --- | 200,000 | +200,000 | +200,000 |
| Office of National Drug Control Policy: |  |  |  |  |  |
| Salaries and expenses | 25,263 | 25,458 | 24,458 | -805 | -1,000 |
| Counterdrug Technology Assessment Center | 42,300 | 40,000 | 55,800 | +13,500 | +15,800 |
| Total | 67,563 | 65,458 | 80,258 | +12,695 | +14,800 |
| Federal Drug Control Programs: |  |  |  |  |  |
| High Intensity Drug Trafficking Areas Program | 226,350 | 206,350 | 246,350 | +20,000 | +40,000 |
| Special Forfeiture Fund | 239,400 | 251,300 | 240,800 | +1,400 | -10,500 |
| Unanticipated Needs | 1,000 | 1,000 | 1,000 | --- | --- |
| Total, title III, Executive Office of the President and Funds Appropriated to the President | 797,571 | 786,002 | 1,034,536 | +236,965 | +248,534 |
| TITLE IV - INDEPENDENT AGENCIES |  |  |  |  |  |
| Committee for Purchase From People Who Are Blind or Severely Disabled | 4,629 | 4,629 | 4,629 | --- | --- |
| Federal Election Commission | 43,689 | 45,244 | 49,426 | +5,737 | +4,182 |
| Federal Labor Relations Authority | 26,524 | 28,684 | 28,677 | +2,153 | -7 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| General Services Administration: | | | | | |
| Federal Buildings Fund: | | | | | |
| Appropriations | 284,400 | 276,400 | 325,711 | +41,311 | +49,311 |
| 9/11 Supplemental (P.L. 107-117) | 126,512 | --- | --- | -126,512 | --- |
| Subtotal | 410,912 | 276,400 | 325,711 | -85,201 | +49,311 |
| Limitations on availability of revenue: | | | | | |
| Construction and acquisition of facilities | (562,680) | (556,574) | (646,385) | (-16,295) | (+89,811) |
| Repairs and alterations | (826,676) | (986,029) | (978,529) | (+151,853) | (-7,500) |
| 9/11 Supplemental (P.L. 107-117) | (42,700) | --- | --- | (-42,700) | --- |
| Subtotal | (869,376) | (986,029) | (978,529) | (+109,153) | (-7,500) |
| Installment acquisition payments | (186,427) | (178,960) | (178,960) | (-7,467) | --- |
| Rental of space | (2,952,050) | (3,153,211) | (3,153,211) | (+201,161) | --- |
| Building Operations | (1,748,949) | (1,965,160) | (1,925,160) | (+176,211) | (-40,000) |
| 9/11 Supplemental (P.L. 107-117) | (83,812) | --- | --- | (-83,812) | --- |
| Subtotal | (1,832,761) | (1,965,160) | (1,925,160) | (+92,399) | (-40,000) |
| Subtotal, limitations | 6,503,294 | 6,839,934 | 6,882,245 | +378,951 | +42,311 |
| Repayment of Debt | (72,000) | (79,685) | (79,685) | (+7,685) | --- |
| Rental income to fund | --- | --- | --- | --- | --- |
| Total, Federal Buildings Fund | 410,912 | 276,400 | 325,711 | -85,201 | +49,311 |
| (Limitations) | (6,575,294) | (6,919,619) | (6,961,930) | (+386,636) | (+42,311) |
| Policy and Operations | 143,139 | --- | --- | -143,139 | --- |
| Policy and Citizen Services | --- | 65,995 | 65,995 | +65,995 | --- |
| Operating Expenses | --- | 88,263 | 77,904 | +77,904 | -10,359 |
| Office of Inspector General | 36,346 | 37,617 | 37,617 | +1,271 | --- |
| Electronic Government Fund | 5,000 | 45,000 | --- | -5,000 | -45,000 |
| Allowances and Office Staff for Former Presidents | 3,196 | 3,339 | 3,339 | +143 | --- |
| Total, General Services Administration | 598,593 | 516,614 | 510,566 | -88,027 | -6,048 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Merit Systems Protection Board: | | | | | |
| Salaries and Expenses | 30,555 | 31,790 | 31,788 | +1,233 | -2 |
| Limitation on administrative expenses | 2,520 | 2,594 | 2,594 | +74 | --- |
| Morris K. Udall Foundation: | | | | | |
| Morris K. Udall Trust Fund | 1,996 | 1,996 | 1,996 | --- | --- |
| Environmental Dispute Resolution Fund | 1,309 | 1,309 | 1,309 | --- | --- |
| National Archives and Records Administration: | | | | | |
| Operating expenses | 244,247 | 256,731 | 249,731 | +5,484 | -7,000 |
| 9/11 Supplemental (P.L. 107-117) | 1,600 | --- | --- | -1,600 | --- |
| Subtotal | 245,847 | 256,731 | 249,731 | +3,884 | -7,000 |
| Reduction of debt | -6,612 | -7,186 | -7,186 | -574 | --- |
| Repairs and Restoration | 39,143 | 10,458 | 10,458 | -28,685 | --- |
| 9/11 Supplemental (P.L. 107-117) | 1,000 | --- | --- | -1,000 | --- |
| Subtotal | 40,143 | 10,458 | 10,458 | -29,685 | --- |
| National Historical Publications and Records Commission: Grants program | 6,436 | 5,000 | 7,000 | +564 | +2,000 |
| Total | 285,814 | 265,003 | 260,003 | -25,811 | -5,000 |
| Office of Government Ethics | 10,117 | 10,488 | 10,486 | +369 | -2 |
| Office of Personnel Management: | | | | | |
| Salaries and Expenses | 99,636 | 128,804 | 128,986 | +29,350 | +182 |
| Limitation on administrative expenses | 115,928 | 120,791 | 120,791 | +4,863 | --- |
| Office of Inspector General | 1,498 | 1,498 | 1,498 | --- | --- |
| Limitation on administrative expenses | 10,016 | 10,766 | 10,766 | +750 | --- |
| Government Payment for Annuitants, Employees Health Benefits | 6,129,000 | 6,853,000 | 6,853,000 | +724,000 | --- |
| Government Payment for Annuitants, Employee Life Insurance | 34,000 | 34,000 | 34,000 | --- | --- |
| Payment to Civil Service Retirement and Disability Fund | 9,229,000 | 9,410,000 | 9,410,000 | +181,000 | --- |
| Total, Office of Personnel Management | 15,619,078 | 16,558,859 | 16,559,041 | +939,963 | +182 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Office of Special Counsel | 11,891 | 12,434 | 12,432 | +541 | -2 |
| United States Tax Court | 37,305 | 37,305 | 37,305 | --- | --- |
| White House Commission on the National Moment of Rememberance | --- | 250 | 250 | +250 | --- |
| Net FY2002 proceeds from WTC stamp | --- | --- | --- | --- | --- |
| Total, title IV, Independent Agencies | 16,374,020 | 17,517,199 | 17,510,502 | +836,482 | -6,697 |
| Grand total (net) | 33,713,862 | 34,276,280 | 34,821,460 | +1,107,598 | +545,180 |
| Current year, FY 2003 | 33,646,769 | 34,197,647 | 34,742,827 | +1,096,058 | +545,180 |
| Appropriations | (32,363,357) | (34,197,647) | (34,742,827) | (+2,379,470) | (+545,180) |
| Emergency funding | (1,283,412) | --- | --- | (-1,283,412) | --- |
| Rescissions | --- | --- | --- | --- | --- |
| Advance appropriations, FY 2003 / FY 2004 | 67,093 | 78,633 | 78,633 | +11,540 | --- |
| (Limitations) | 6,575,294 | 6,919,619 | 6,961,930 | +386,636 | +42,311 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| CONGRESSIONAL BUDGET RECAP | | | | | |
| Scorekeeping adjustments: | | | | | |
| Bureau of The Public Debt (Permanent) | 148,000 | 151,000 | 151,000 | +3,000 | — |
| Federal Reserve Bank reimbursement fund | 134,000 | 137,000 | 137,000 | +3,000 | — |
| US Mint revolving fund | 17,000 | — | — | -17,000 | — |
| Sallie Mae | 1,000 | 1,000 | 1,000 | — | — |
| Federal buildings fund | 14,000 | 15,000 | 7,000 | -7,000 | -8,000 |
| Advance appropriations: | | | | | |
| Postal service, FY 2004 | — | -31,014 | -31,014 | -31,014 | — |
| GSA, FY 2003-2004 | — | — | — | — | — |
| OMB retirement accruals | — | 745,000 | — | — | -745,000 |
| Emergency supplemental | — | — | — | — | — |
| Total, scorekeeping adjustments | 314,000 | 1,017,986 | 264,986 | -49,014 | -753,000 |

### COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002 AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003

(Amounts in Thousands)

| | FY 2002 Enacted | FY 2003 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Total (including adjustments) | 34,027,862 | 35,294,266 | 35,086,446 | +1,058,584 | -207,820 |
| Amount in this bill | 33,713,862 | 34,276,280 | 34,821,460 | +1,107,598 | +545,180 |
| Scorekeeping adjustments | 314,000 | 1,017,986 | 264,986 | -49,014 | -753,000 |
| Prior year outlays | | | | | |
| Total mandatory and discretionary | 34,027,862 | 35,294,266 | 35,086,446 | +1,058,584 | -207,820 |
| Mandatory | 15,675,450 | 16,586,450 | 16,586,450 | +911,000 | — |
| Discretionary | 18,352,412 | 18,707,816 | 18,499,996 | +147,584 | -207,820 |
| **RECAP BY FUNCTION** | | | | | |
| Mandatory | 15,675,450 | 16,586,450 | 16,586,450 | +911,000 | — |
| Prior year (outlays only) | | | | | |
| Total, Mandatory | 15,675,450 | 16,586,450 | 16,586,450 | +911,000 | — |
| Discretionary: | | | | | |
| General purpose discretionary | 18,352,412 | 18,707,816 | 18,499,996 | +147,584 | -207,820 |
| Prior year (outlays only) | | | | | |
| Total, Discretionary | 18,352,412 | 18,707,816 | 18,499,996 | +147,584 | -207,820 |
| Grand total, Mandatory and Discretionary | 34,027,862 | 35,294,266 | 35,086,446 | +1,058,584 | -207,820 |

Mr. Chairman, I reserve the balance of my time.

Mr. HOYER. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the gentleman from Oklahoma (Mr. ISTOOK), the chair of our subcommittee, for the leadership he has shown on this bill. I want to thank our staff, particularly our staff director, Ms. Michelle Mrdeza, Jeff Ashford, Kurt Dodd, Walter Hearne, Tammy Hughes and Randy Cogga, who is a detailee working with us. I also want to thank my own staff, Mike Malone and Scott Nance, who have done an outstanding job. I also want to thank Chairman YOUNG for his assistance, and Ranking Member OBEY for providing an allocation that is workable. And I want to thank Chairman ISTOOK, as I said earlier, for working with us.

Although we disagree on some of the funding levels and provisions included in this bill, our views have generally been incorporated in the bill. The bill provides for $18.5 billion in discretionary budget authority, $148 million higher than fiscal year 2002, a relatively modest number. This bill provides $3.128 billion for the Customs Service, $127.3 million above the President's request. This will allow the Customs Service to meet their homeland security needs as well as address other issues such as modernization of their antiquated import data system known as ACE.

The bill provides $185 million to the Federal Law Enforcement Training Center, $30 million above the President's request, in order to handle the additional workload related to the training of Transportation Security Agency personnel.

The bill adds $32 million back to Treasury law enforcement agencies that was cut in the President's budget for unspecified nonpay inflation costs. I intend to work with the chairman to add back funding to all Treasury agencies that were forced to take this cut.

The bill provides close to the full funding amount for the IRS which will enable them, Mr. Chairman, to increase compliance efforts and continue to modernize their business systems.

The bill, in addition, provides $246 million, $40 million above the request, for high intensity drug trafficking areas, and $55.8 million, $15 million above the request, for the counterdrug research and technology transfer programs at the Office of National Drug Control Policy.

For the General Services Administration, the bill includes $606.4 million for the construction of Federal buildings. I would like to point out that $177 million is included to construct a new census building in Suitland, Maryland, and $45.5 million for the continued consolidation of FDA.

In addition to the $400 million included in the fiscal year 2002 supplemental bill, this bill provides an additional $200 million for election reform administration. I want to thank our leaders, including Speaker HASTERT and Chairman YOUNG, for their commitment to include this important funding. I would observe, however, Mr. Chairman, that this funding, should the authorization bill pass, will be very substantially inadequate, and I will be seeking supplemental funds in the event that the election reform authorization bill passes prior to us completing conference or completing the final passage of this bill.

The bill also includes several provisions that benefit Federal employees, including language that provides Federal employees with its comparability adjustment comparable to that of the military. This adjustment is 1.5 percent higher than the President's request.

Although most of this bill is supportable, there are some issues in the bill that I disagree with. For the first accounts program, which attempts to provide access to those who are "unbanked" in this country, the bill provides restrictive provisions that may ruin the program. I am hopeful that we will drop those in conference. Although the bill provides $4 million for the program, $2 million above the fiscal year 2002 level, these provisions may severely limit the ability of the Treasury Department to have a successful program. These limitations seem to have been developed without full information, in my opinion, about their impact.

I am also concerned about the committee's elimination of the savings bonds program's $22 million marketing budget. To have a program to sell savings bonds without the ability to market them, in my opinion, does not seem to make sense.

I also continue to be concerned with the lack of information received from the Office of Homeland Security. This bill includes $24.8 million for that office, despite our frustrations with the limited amount of information provided to this committee. Let me speak to that for 1 minute, Mr. Chairman. I asked the representative of the White House who testified on this budget whether or not he could tell me how this money was to be spent. He said he could not. I asked him had he put this money together and had he planned this budget. He said he had not. I asked him had he discussed this matter with Governor Ridge as to how these funds were to be spent. He said he had not. Notwithstanding that fact, Governor Ridge refused to testify before our committee. I want to say in fairness to Governor Ridge, I believe that was under the instructions of the White House and, furthermore, Governor Ridge did make himself available to the committee for discussions. But it was an item that we should have had hearings on, we should have had testimony on, and we did not. I continue to believe that the director of that office, Homeland Security, should testify within the regular committee hearing process so that we can exercise our constitutional right of oversight.

On balance, however, Mr. Chairman, this bill is an improvement from the President's request, and despite some disagreements with its contents, I ask my colleagues to support it in its current form.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, first I would like to congratulate my friend and colleague from Oklahoma for an excellent job with this bill and I enjoyed working with him.

Mr. Chairman, I also would like to engage the gentleman in a brief colloquy with respect to the funding for the drug-free communities program. One of the items authorized and appropriated under that program is the National Community Antidrug Coalition Institute. This is a new program which was intended to be a grant to a private sector entity to help train local community antidrug coalitions. It is my understanding that the Federal grant manager has expressed its intent to exercise "substantial Federal involvement" in the institute's administration. This was not our intent in authorizing this program. Is it the chairman's intention that the appropriated funding here is to be used exclusively for a grant to a private sector entity and not for Federal administration or activities in connection with the institute other than grant administration?

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. SOUDER. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I thank the gentleman for yielding.

The committee intention is, as stated, to support the private sector and not to fund the conduct or administration of this program by government employees other than issuing the grant itself.

Mr. SOUDER. I thank the gentleman for the colloquy.

Mr. ISTOOK. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Chairman, I would first of all like to also congratulate Chairman ISTOOK on a fine bill that he and my friend, the gentleman from Maryland (Mr. HOYER), have brought forth today. I would like to speak with him about an issue that is of particular importance to me, Mr. Chairman.

Last year as a part of the Floyd Spence National Defense Authorization

Act for Fiscal Year 2002, I reinstated the Monroney amendment for Federal DOD employees.

As the gentleman knows, the Monroney amendment provides that whenever there is a shortage of comparable occupations in private industry in a given wage area, the wage survey must use comparable pay data from the nearest wage area that is determined to be similar in nature of its population, employment, manpower and industry. Previously this amendment was not available to Federal DOD employees.

I would also like to stress the importance of this because of the problems we are having in recruiting and retaining a skilled workforce in our public military depots.

I would particularly like to discuss the pay limit that is unfairly limited on blue collar Federal DOD employees during the transition to one wage scale. These blue collar employees are a key component to our national security and to our warfighting capability. Recruitment and retention of these highly skilled workers is imperative. However, during this transition to a fair and equitable pay adjustment, a pay cap in the Treasury-Postal bill hinders that progress.

I ask the chairman that we discuss ways to overcome and work out the hurdles that stand in the way of eliminating this pay disparity.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. CHAMBLISS. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. I thank the gentleman from Georgia for bringing these concerns to our attention, and certainly I am open to working with him. I am compelled to add, however, that the wage-grade issue is exceedingly complex, and I would want to be very careful about any proposals that may be advanced.

□ 1530

I should also add that the authorizing committees have jurisdiction over this issue and, therefore, it is necessary that they should be involved in any proposed reform that might involve this bill.

Mr. CHAMBLISS. Mr. Chairman, reclaiming my time, I thank the gentleman from Oklahoma for his cooperation and understanding of this matter, and I appreciate the beginning of a dialogue on this issue.

Mr. HOYER. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. SERRANO), for the purpose of entering into a colloquy.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from New York.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentleman from New York (Mr. SERRANO) is recognized for 5 minutes.

Mr. SERRANO. Mr. Chairman, I would like to engage the chairman and ranking Democrat of the subcommittee in a colloquy.

Since before I was elected to Congress, I have heard repeated requests from my constituents for assistance in dealing with Bronx post offices. Continuing problems include lost mail, misdelivered mail, late night deliveries. You name it, we have it.

I have witnessed service problems firsthand. Whenever I send out a newsletter to my constituents, boxes and boxes containing undelivered newsletters get sent back to my office for different reasons. Sometimes the Post Office says there is no such address, but, most frustratingly, some get returned for insufficient postage. Some employees at the Post Office do not seem to recognize the Congressional frank.

I have repeatedly tried to work with the local postmaster, as well as regional postal service officials. I have had a representative from the Postmaster come to my Washington office to try to work out the problem. We showed her the boxes and boxes that have been returned to my office. Unfortunately, while much was promised at these many meetings, little was delivered.

My good friend and colleague who shares part of the problems with me, the gentleman from New York (Mr. CROWLEY) requested language included in your report to require a general study of the postal situation at Morris Park and the Bronx with recommendations to be made to ameliorate the problems. I salute his efforts.

I would like to go further and work with the chairman and ranking Democrat to expand the study to the entire Bronx to send a strong message to the Postmaster General that the current situation in the Bronx is intolerable.

Mr. Chairman, I would ask, would the chairman and ranking member work with me in putting an end to this long-term problem?

Mr. HOYER. Mr. Chairman will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I certainly have every intention of working with the gentleman. It is a significant and real problem that he brings up, and we want to work with him on that.

Mr. CROWLEY. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from New York.

Mr. CROWLEY. Mr. Chairman, I thank my colleague and good friend from the Bronx for yielding during this colloquy to reiterate the statements made by him regarding the mail delivery problems we are experiencing in the Bronx in New York.

Like the gentleman from New York (Mr. SERRANO), I have heard from far too many of my constituents about mail delays, misdelivered mail, lost mail, late deliveries, 9 o'clock at night, and even no mail delivery at all. One of the most affected areas in the Bronx is the Morris Park Post Office.

I would like to express my deep gratitude to the gentleman from Oklahoma (Chairman ISTOOK) and the ranking member, the gentleman from Maryland (Mr. HOYER), for including report language that was mentioned by the gentleman from New York (Mr. SERRANO) mandating that the New York Post Office headquarters conduct a study and implement recommendations to improve the mail delivery in Morris Park.

Stating that, this community's problems are just the tip of the iceberg. I have heard of mail complaints in Throggs Neck, Soundview and Co-Op City, just to name a few places, meaning more must be done.

Again, I thank the gentleman from New York (Mr. SERRANO) for yielding me this time, as well as the gentleman from Oklahoma (Chairman ISTOOK) and the ranking member, the gentleman from Maryland (Mr. HOYER) for their actions to improve mail delivery for my constituents.

I also want to recognize the great work of City Councilwoman Madeline Provenzano, as well as members of the Assembly, Kaufman, Klein and Rivera for bringing this issue to my attention.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, to answer the questions posed by the gentleman from New York (Mr. SERRANO), yes, I think we can definitely work together to address his concerns about postal service in the Bronx. The gentleman is correct that we have included report language at the request of the gentleman from New York (Mr. CROWLEY) concerning the Post Office in Morris Park. We have recommended that the Postal Service investigate this situation and report recommendations for corrective action, reporting that to the committee.

When we go to conference with the Senate, we can and will work with the gentleman from New York (Mr. SERRANO) to come up with additional report language to take care of the issue regarding the Postal Service in the Bronx, presuming, of course, that the distinguished ranking member of the committee has no objections.

Mr. HOYER. Mr. Chairman will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I echo the gentleman's comments. Certainly I will indicate I have no objections, and look forward to working with the chairman, with the gentleman from New York (Mr. SERRANO) and with the gentleman from New York (Mr. CROWLEY) on these important issues that they have raised.

Mr. SERRANO. I thank you both, and I congratulate you on bringing a good bill to the floor.

Mr. ISTOOK. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. SWEENEY), a member of our subcommittee who has done excellent work on this measure.

Mr. SWEENEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I just simply wanted to take some time to come down at the introduction of this bill at the beginning of what will be a very long debate and long night on a number of issues important to the Nation and important to the Nation's security to congratulate my good chairman, the gentleman from Oklahoma (Mr. ISTOOK), for the tremendous work done and my friend the ranking member, the gentleman from Maryland (Mr. HOYER), for really balancing some critical priorities in this process.

This is one of those bills that every year is critical to our homeland security, and I am very proud to be part of a committee that, not only in a period of time of great economic concern were we able to balance those economic needs and changing wants, but also, obviously, since September 11, it is a period of time in which our national security, our homeland security, are at greater risk and greater sensitivity to all of us.

This subcommittee had a perilous task in balancing those priorities, and did so in such a responsible manner, in protecting our borders from threats, new and old, many of those threats changing in unimaginable ways in the past year. The bill provides critical funding to protect our borders in a time of heightened security.

The Subcommittee on Treasury, Postal Service and General Government was able to respond to the changes we have faced. We have included increases of over $24 million for Customs Services' salaries and expenses, including over $21 million for its Northern Border Staffing. I am pleased with the response of the subcommittee in addressing the needs of the facilities protecting our borders, in particular, because close to my district in upstate New York the Port of Champlain Border Crossing has been in need for a great many of years, and this bill includes $5 million for desperately needed updates and facility repairs.

Not only does the bill provide the necessary funding to protect our borders from newly exposed threats, it also maintains support for local law enforcement in fighting the war on drugs. An additional $20 million is appropriated for high-intensity drug trafficking areas. Stopping drugs at our borders and helping local law enforcement agencies is a critical function of this committee. We were able to do that, maintain those basic commitments to programs that preceded September 11, and indeed, adjust some of those priorities to address the new changing challenges.

I want to, finally, thank and congratulate the committee staff who do a phenomenal job keeping Members informed. I remember the days immediately following the attacks of September 11 and the myriad of questions that were being asked by my constituents and the people of America, and this committee was on top of each of those. I want to spend this time to recognize them.

Mr. HOYER. Mr. Chairman, I yield 5 minutes to the gentlewoman from Florida (Mrs. MEEK), a very distinguished member of our subcommittee. The gentlewoman from Florida (Mrs. MEEK) is the next ranking Democrat on our committee and does a great job, and I appreciate her help and assistance.

Mrs. MEEK of Florida. Mr. Chairman, I want to thank my colleague and leader, the gentleman from Maryland (Mr. HOYER), for yielding me time. I want to thank my chairman, the gentleman from Oklahoma (Mr. ISTOOK), and the staff, both majority and minority staff members.

Also I want to thank the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Florida (Mr. YOUNG) for giving us the kind of 302(b) allocation that allowed our committee this time to fund the Customs Service program without having to resort to an additional fee increase on airline passengers. We did not really need that.

While we only got enough money for a down payment on correcting the problems that arose during the 2000 presidential election, we needed more, the gentleman from Maryland (Mr. HOYER) did an outstanding job of leading this effort. Of course, $650 million is in the bill for election reform. That is a very good start.

Mr. Chairman, this is a good bill that I intend to support. The bill before us today is a big improvement over the President's request. However, the bill has a number of problem areas that still need to be addressed before the process concludes, such as three "poison pill" restrictions on the First Accounts Program and the unfortunate decision to limit the future marketing of the savings bonds program.

This bill became worse when we adopted a rule permitting a point of order to be raised against the DeLauro language that restricts the award of new Federal contracts to companies that have moved out of the United States and incorporated in tax-haven countries in order to avoid U.S. taxes.

Let me mention just a few of the items in the bill and report that I particularly like, and then turn to problem areas. I commend my committee for restoring over $32 million of nonpay inflationary increases for Treasury law enforcement. That was needed, and I want to congratulate the committee for doing so.

The $316.9 million investment that is proposed for the ACE, the Customs modernization project, is urgently needed. This money will help the trade community and law enforcement tremendously. It certainly is needed in Miami. Despite the President's failure to request it, I commend the committee and the gentleman from Oklahoma (Mr. ISTOOK) for providing an additional $30 million to the Federal Law Enforcement Training Center for training Transportation Security Agency personnel in response to the attacks of September 11.

Finally, I am pleased that the bill continues several favorable and important provisions for Federal employees, such as contraceptive coverage under the Federal Health Benefits Program, child care assistance for lower income employees and pay parity through a 4.1 percent pay increase adjustment for all Federal employees.

The bill does have some problem areas. As I previously discussed, South Florida needs more Customs employees at Miami International Airport and the Miami Seaport. We are very vulnerable in those two areas.

I remain very concerned about the level of Customs staffing in South Florida and whether the overall level of staffing at Customs is sufficient to meet the many new challenges and threats that we are asking Customs to meet.

We do need a very strong Customs Service serving as our first line of homeland defense. It is more important now than ever. Customs projections through its resource allocation model have demonstrated a need for thousands more staff, mostly inspectors and special agents. I cannot underline this need too strongly, Mr. Chairman. None of the Customs locations show a decline in workload or staff coverages, so reallocation of staff does not appear to be a realistic option. We should not have reallocated staff in that regard. We need to ensure that Customs receives the resources it needs to do its job effectively.

Mr. Chairman, as I have noticed on many occasions, there is also a perception among many of my constituents that the IRS and the Congress care more about chasing tens and hundreds dollars from EITC claimants than collecting thousands and, in some cases, millions of dollars from high income taxpayers.

In conclusion, Mr. Chairman, the First Accounts Program is a very important program, not only to me but to many of the unbanked people in this country. I do hope as this bill moves forward and goes into conference that the committee and the conference committee will think of trying to return banking privileges to these unbanked people.

Mr. HOYER. Mr. Chairman will the gentleman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Maryland.

MR. HOYER. Mr. Chairman, we will certainly support the gentlewoman's efforts in that regard. I think she is absolutely right.

Mr. ISTOOK. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. SHAW) for the purpose of engaging in a colloquy.

Mr. SHAW. Mr. Chairman, I rise to engage the distinguished chairman of the subcommittee and the distinguished ranking member in a colloquy to discuss a matter of great concern to the gentleman from Florida (Mr. WEXLER) and to me and of great concern also to our constituents.

□ 1545

As the chairman knows, the first and most severe anthrax attack occurred in Boca Raton, Florida. One man died and many others were injured. The building itself, 67,000 square feet in the middle of the city, is now under quarantine. The level of contamination is equal to that of the Daschle suite in the Hart Senate Office Building.

While we still do not know who is responsible for the contamination in Boca Raton, we know the owners of the buildings are the victims of a terrorist attack resulting in a public health hazard. The problems now facing the community because of this attack are so serious and unusual in nature that it is, in my opinion, necessary for the Federal Government to become engaged and provide a solution.

Local leaders, including the mayor of Boca Raton, Steve Abrams, and the city council, in addition to the owners of the building, have shown a willingness to work with the government in order to fix this problem. The solution that the gentleman from Florida (Mr. WEXLER) and I have proposed, along with other Members of the Florida delegation, most notably the gentleman from Florida (Mr. MICA), (Mr. DEUTSCH), and (Mr. HASTINGS), has the bipartisan support of the entire Palm Beach County, Boca Raton community.

I understand that the chairman has expressed some concern with our proposal. I appreciate and respect those concerns. Moreover, I greatly appreciate the time and effort that the gentleman and his staff have devoted to this issue. I am hopeful, I would say to the chairman, that we can continue our dialogue, as this matter is of great concern and urgency to the citizens of South Florida.

Again, I want to thank the chairman and I want to thank also the ranking Democrat member for their efforts on behalf of our constituents.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I want to thank the gentleman from Florida (Mr. SHAW) for his remarks. I do fully appreciate the magnitude of the problem facing the citizens of his district, and I realize both its magnitude and its complexity. I hope that he and others understand that, therefore, we are trying to move circumspectly to see if we might be able to resolve it.

The gentleman is correct in stating that I do have some concerns over the approach that he has proposed, although I recognize the need for a solution that is timely. I look forward to working together and continuing our dialogue in hopes that the problem can be resolved in an acceptable manner.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I also want to continue to lend my support to the gentlemen from Florida (Mr. SHAW) and (Mr. WEXLER) and the others that have been mentioned. I, like the chairman, will continue to work with the gentleman on this issue so that we can find a timely and meaningful solution that satisfies the concerns of the gentleman and the concerns of the local officials in Boca Raton.

I do believe this is a public health problem. I do believe the Federal Government has a responsibility, and I want to see us help solve this problem this year.

Mr. WEXLER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Florida.

Mr. WEXLER. Mr. Chairman, I rise to thank the chairman of the subcommittee, the gentleman from Oklahoma (Mr. ISTOOK), and especially the gentleman from Maryland (Mr. HOYER), my friend and ranking member, for their work on this issue, as well as the gentleman from Florida (Mr. SHAW), for his leadership as we continue this debate.

Let me reiterate how important it is for the Federal Government to take an active role in finding a solution to the cleanup of the anthrax contamination at the American Media, Inc. building and what it means to the people of South Florida and the rest of the Nation. I want to make clear that this is not our first attempt at requesting Federal assistance for this cleanup. Shortly after the October 1, 2001 anthrax attack on the AMI building in Boca Raton, Florida's governor, Jeb Bush, wrote to the Federal Emergency Management Agency asking for disaster assistance to help the State deal with the biological attack and the cleanup effort. The members of the Florida congressional delegation followed with a letter to FEMA, but the request was turned down.

We must not forget that this incident in Florida was the first biological attack in the United States. Although the anthrax attack on the AMI building occurred before the anthrax attacks here in the U.S. Capitol, the AMI building is yet to be decontaminated. Now, 9 months later, a potentially treacherous health hazard continues to threaten the people of South Florida. We are now in the middle of hurricane season, and one can only imagine the potential for harm that exists each and every day that the AMI building remains contaminated.

Let us not forget that this attack killed Mr. Bob Stevens and severely sickened another person. Every American that is victimized by a terrorist attack should have confidence that the Federal Government will come to their aid. Right now, the people of South Florida do not have that assurance.

Again, I would like to thank the gentleman from Oklahoma (Mr. ISTOOK), the gentleman from Maryland (Mr. HOYER), and the gentleman from Florida (Mr. SHAW), and I hope that we will be able to reach a positive resolution to this public health problem.

Mr. HOYER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I want to congratulate both gentlemen from Florida, (Mr. SHAW) and (Mr. WEXLER), who have worked tirelessly on this issue. I know the chairman and I have spent literally hours with each gentleman because of their deep concern over the public health challenge that this causes the people of South Florida. I want to assure both of them that I know the chairman and I will spend a lot of time on this and try to bring this matter to a successful resolution, and I thank the gentlemen for their work.

Mr. SHAW. Mr. Chairman, if the gentleman would yield just briefly, I thank the gentleman and the chairman for giving so much of their time, and I think the people of Boca Raton are very grateful, and we look forward to continuing to work with both of the gentlemen.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. WYNN), my friend and colleague.

Mr. WYNN. Mr. Chairman, I rise in support of H.R. 5120, the Treasury-Postal appropriations bill.

This bill includes $45 million in funding to build a much-needed, state-of-the-art laboratory for the Food and Drug Administration's Center for Devices and Radiological Health. This project is a critical component of the overall consolidation of the Food and Drug Administration.

I would like to, of course, thank the chairman, the gentleman from Pennsylvania (Mr. ISTOOK), for his work and single out for thanks and appreciation to my Maryland colleague (Mr. HOYER) who has been very active on behalf of the consolidation of the Food and Drug Administration.

Currently, nearly 6,000 FDA Washington-area employees are housed in commercially leased space at approximately 39 different streetfront buildings, many of which are vulnerable to attack. This FDA consolidation would transfer all 6,000 FDA employees to state-of-the-art laboratory and administrative facilities at the White Oak campus in Silver Spring, Maryland, facilitating easier communications between the FDA employees and the various centers.

At a time when we are reorganizing the government for purposes of homeland security, the most important thing we can do is actually secure something. We have that opportunity to do that in this bill by providing a secure, fenced campus setting in White Oak, Maryland, formerly the Naval Surface Warfare Center.

By moving the FDA to a government-owned facility at White Oak, the consolidation is expected to yield savings of approximately $300 million in government lease costs over 10 years. The $45 million included in this bill will be used to construct laboratories for the Center for Devices and Radiological Health, which improves mammography scanners, x-ray machinery, and irradiation devices used to kill bacteria in food and in mail. Currently, several such labs are housed in old, dilapidated, leased buildings scheduled for demolition in 2004.

Importantly, this funding in the fiscal year 2003 budget means the construction of these labs will likely be finished by 2004, several months prior to the expiration to the leases in three separate facilities. This means savings of millions of dollars for the taxpayer in lease space and multiple moves.

Mr. Chairman, I believe this is an excellent bill. I also note that it includes $177 million for the construction of a new Census facility in Suitland. I urge my colleagues to support the Treasury-Postal appropriations bill.

Mr. ISTOOK. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. OSE).

Mr. OSE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of this important legislation. I want to thank the chairman of the subcommittee for allowing me to speak today, and I also thank him for his leadership in dedicating additional funding for the U.S. Customs Service.

I stand before my colleagues to highlight the importance of Customs funding for the Sacramento International Airport. In 2001 the airport was granted Port of Entry status, paving the way for international flights. On July 1 of this year, Mexicana Airlines commenced scheduled international service from Sacramento to Mexico. I take great pride in our ongoing efforts at the local, State, and Federal level to expand this first class airport, including putting up $3.2 million of local money to construct the processing facility. New international service has just begun and it, in fact, is just the beginning.

In order to gain this international service, the Sacramento International Airport signed an agreement to cover the cost of the Customs Service for this operation until the Customs Service could provide full-time personnel. The cost to the airport is approximately $475,000 per year.

Interestingly, according to an economic analysis conducted on behalf of the airport, Federal, State, and local governments will receive approximately $1.5 million in new tax revenues because of this new international service provided by Mexicana Airlines. These flights will generate approximately 360 direct and indirect jobs, with over 100 of these jobs in the visitor and tourism industry. In the Sacramento area, personal income is estimated to increase by over $9 million per year.

In the Treasury-Postal Appropriations Subcommittee report, which is House Report 107-575 accompanying H.R. 5120, the committee directed "the U.S. Customs Service to work closely with international airport authorities to ensure that Customs will meet the optimal staffing requirements at international airports in the United States."

The committee report goes on to recommend that the Customs Service "evaluate the feasibility of providing additional resources and staffing to include increased inspection services at Sacramento International Airport."

I appreciate the work the committee has done on behalf of Sacramento International Airport, and I look forward to working with the committee to secure funding for permanent Customs staff.

Mr. Chairman, this is a successful local, State, and Federal partnership that has laid the groundwork for opening a whole new area of economic activity in Sacramento. I urge my colleagues to support this important legislation.

Mr. HOYER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me this time.

There will be a series of amendments offered during the course of the debate on this bill by a bipartisan group of Members, Republicans and Democrats, liberals and conservatives, who, after 43 years, recognize that there can be no doubt that our current Cuba policy has failed. It has failed the Cuban people because it certainly has not brought them freedom and political space, but it has also failed the American people, not just because it has denied us commercial opportunities but, more importantly, has unreasonably restricted one of our fundamental constitutional rights, the right to travel.

Even Vice President CHENEY admitted during the campaign, and I am quoting him now, "restrictions, frankly, have not worked very well in Cuba."

Well, furthermore, this policy opens us to charges of hypocrisy. Americans can travel to North Korea and Iran; by my reckoning, that is two-thirds of the axis of evil, but not to Cuba. That makes no sense, I would suggest.

We also helped pass the United Nations resolution that calls for virtually unrestricted trade with Iraq, the crown jewel of the troika of the axis of evil, yet we continue an embargo on Cuba. Well, that makes no sense, either.

If we do not approve of one-party states where elections are a sham, where political and religious dissent is repressed, and the president names the editors in chief of the three largest daily newspapers, why do we not restrict travel and impose an economic embargo on Egypt, rather than sending them a $2 billion check every year? Why do we not impose Cuba-like sanctions on Saudi Arabia, one of the most oppressive regimes on earth, where women cannot thrive and our own soldiers are prohibited from leaving their bases, and an adult American woman born in Texas cannot leave to come home to America because her husband will not consent.

☐ 1600

How can we justify that inconsistency? The amendments that we will be offering will eliminate that hypocrisy and help create a democratic opening in Cuba. I urge my colleagues to support these amendments and particularly also when the amendment offered by the gentleman from Florida (Mr. GOSS) comes forward, to vote "no."

Mr. HOYER. Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, may I inquire how much time remains.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentleman from Oklahoma (Mr. ISTOOK) has 6½ minutes remaining, and the gentleman from Maryland (Mr. HOYER) has 11 minutes remaining.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Chairman, I thank the gentleman for yielding me this time and again congratulate him and the gentleman from Maryland (Mr. HOYER) on a very fine bill coming forward today.

Mr. Chairman, the Federal Law Enforcement Training Center, or what is commonly known as FLETC, in Glynco, Georgia, provides critical training for a range of Federal law enforcement personnel as well as State, local, foreign, and private sector security personnel.

My Subcommittee on Terrorism and Homeland Security of the House Permanent Select Committee on Intelligence just completed a study of the intelligence deficiencies that left our Nation vulnerable to attack. We know that our intelligence agencies must do a better job of collecting and analyzing producing intelligence information, but that is only part of the solution. We need to ensure that we have a robust law enforcement and security force that can take that intelligence and use it to stop future attacks. The critical security training by FLETC is an integral part of protecting our Nation.

I strongly support allowing our pilots to be armed as an additional layer of aviation security. Since FLETC will train our air marshals, FLETC is an appropriate place to train our pilots with the same standards. I applaud the efforts of the gentleman from Georgia (Mr. KINGSTON), who has done an outstanding job of working with FLETC to address their needs. I am pleased that under the gentleman from Oklahoma's (Mr. ISTOOK) leadership this bill increases funding for this important facility. I thank the chairman for his support and for his commitment to ensuring that significant resources have been provided to fully train Federal law enforcement and security personnel at the Federal Law Enforcement Training Center.

Mr. HOYER. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise to thank him for his work and to thank the gentleman from Oklahoma (Mr. ISTOOK) as well and to support this appropriation.

I want to talk about an important matter and that is about an amendment that I intended to offer. It may or may not have been in order, but I want to discuss it on the floor now. It is the closing of E Street. It remains closed even though the Secret Service signed off on a report recommending that it be open, a report of the National Capitol Planning Commission. There is no safety or security issue. There is an 800-foot setback from the back of the White House. It is closed for one and only one reason, and that is when the Secret Service closes something, it wants to always keep it closed. The Secret Service wanted to keep National Airport closed. Only because the entire region fought back is National Airport open. The Secret Service wanted to close Pennsylvania Avenue ever since the Eisenhower administration. It succeeded after Oklahoma City. We are not asking that Pennsylvania be reopened, but we cannot afford to see E Street remain closed; and I will say why in a few minutes.

First of all, E Street is one of the few streets in the District that was prepared for September 11 because after Oklahoma City, E Street had been widened in order to make sure that the White House which has an 800-foot setback was, in fact, safe. In fact, it opened for a year after Oklahoma City and after 9-11 closed. Another study done, that study shows that it can be opened. The Chair of the Subcommittee on the District of Columbia and I have sent letters. It is because we can get no response that I come to the floor to say if we do not get response within the next few months, I will take action that I think will result in the opening of E Street.

There is new urgency which above all sends me to the floor today because the entire region is implicated. There has been a recent Court of Appeals ruling that this entire region is in "severe violation" of the Clean Air Act. What that means for the region, and the ranking member is deeply implicated here because he represents part of this region, is that this region very soon, unless we get at things that are causing congestion like the closure of E Street which has to take all of the traffic in Maryland, Virginia, and crosstown traffic in D.C., if we are not able to get ahold of matters like this, then this region will be able to build nothing with transportation funds, no metro, no roads; and here we are just caught up in this dilemma.

E Street handles a lion's share of the traffic from the region, and of course it is a way that we get across town. It makes a very large contribution to traffic congestion and air pollution that must be cleared up if we are to continue to build in this town. It is time E Street was allowed to make the contribution the founders intended it to make to facilitate traffic across town. We closed E Street in front of Pennsylvania in front of the White House. We must not close off E Street in back of the White House.

Mr. HOYER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from northern New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, I rise today in support of the bill and in opposition to any amendments that prohibit funds from being used to administer or enforce the ban on travel to Cuba or to enforce the U.S. embargo against Cuba.

Mr. Chairman, I have said in the past doing business with Cuba means doing business with Castro. So long as Castro maintains his stranglehold on every aspect of Cuban life, lifting any aspect of the embargo or allowing Americans to travel to Cuba would mean subsidizing Castro.

Contrary to popular belief, increased tourist travel to the island would not increase purposeful contact with the Cuban people and instead contributes to unacceptable practices of slave labor and racism.

Canadians and Europeans have been traveling to Cuba for years, and yet there has been no measurable impact on or change in Castro's control over the people.

Furthermore, 98 percent of Cuban citizens are forbidden even entry into the tourist areas, which is Fidel Castro's way of denying foreigners the ability to gain a glimpse into the reality of Cuban life. Those Cubans who do work at the resorts are forbidden to engage in certain types of conversations with foreigners, including any mention of Cuba's political situation, the U.S. embargo, and other such issues.

Citizens who work at the resorts are employed by a state employment agency run by the Castro regime. The foreign resorts pay the workers' wages to the state agency in dollars, but the workers receive only pesos. Therefore between 95 and 97 percent of a workers' wages are kept by Castro.

Mr. Chairman, most Cuban tourist operations are run by the Cuban military and internal security services. These so-called companies funnel money directly into the regime, earning them the hard currency necessary to perpetuate their repressive policies. Expanding tourism was the key to Castro's survival after the collapse of the Soviet Union. Tourism has helped to feed the personal fortunes of the Castro family and provide the necessary government revenues that Cuba's deteriorating sugar industry and failing state enterprises simply cannot.

Mr. Chairman, by lifting these sanctions, with nothing in exchange from the Cuban Government, we would be betraying the very people that these policies were designed to help. Mr. Chairman, I urge my colleagues to join with me and oppose any amendments that lift travel restrictions or lift the embargo and to remain committed to their support and the U.S. Government's support for the Cuban people.

### INTRODUCTION

Mr. NUSSLE. Mr. Chairman, I rise to speak on H.R. 5120, a bill providing appropriations for the Department of Treasury and related agencies and to express my continuing concern with the path the House is currently taking on appropriations.

### OVERALL LEVELS

As reported, H.R. 5120 provides $18.5 billion in budget authority and $18.2 billion in outlays for fiscal year 2003. It also exceeds the President's request by $537 million. To put this increase in perspective, appropriations for the agencies covered by this bill have climbed by an average of 10.5 percent a year over the last three years.

The bill provides another $31 million for fiscal year 2004 for free and reduced mail for the blind as well as mail for overseas voting. This is included in the list of permissible advance appropriations pursuant to the House-passed budget resolution for fiscal year 2003 (H. Con. Res. 353).

### COMPLIANCE WITH BUDGET RESOLUTION

It is only fair to point out that this bill, like that of the Interior bill we considered last week, is within the reporting Subcommittee' 302(b) allocation. Hence, no budget-related point of order lies against consideration of the bill.

To the Appropriations Committee's credit, it was able to meet its 302(b) allocation without designating phony emergencies, which are effectively exempt from any budgetary constraints. Nor did it attempt to create the illusion of fiscal restraint by offsetting spending increases with rescissions in funds that would never have been spent.

### THE BIGGER PICTURE

My concern is less with the bill than in the direction in which we are heading. Unless we exercise more restraint in the less controversial measures like this bill, we will be forced to find savings in the remaining appropriations bills or breach the limits that both the House and the President agreed to earlier this year.

The real test will come when we consider appropriations for VA–HUD and Labor-HHS, which the Leadership has agreed to bring to the floor before any other appropriations measures are considered. For every dollar we increase spending in this bill above the President's request, we must find an equal amount of savings from such agencies as Veterans' Affairs, Health and Human Services and Housing and Urban Development.

I sincerely hope that both the Appropriations Committee and the Congress as a whole is up to this task.

### OTHER ISSUES

On a lighter note, for the second year in a row the bill includes a limitation that prohibits appropriations from being used to pay the salaries of any OMB staff who dare to compare the President's budget request with that of the 13 appropriations bills.

It still seems curious to me that while the individual appropriations bills must be submitted to the President to become law, the President shouldn't be allowed to suggest how much should be spent on each bill.

### CONCLUSION

In conclusion, I reluctantly support this bill because it is within the limits that were established for it by the House-passed budget resolution.

At the same time, it continues the pattern of allowing appropriations for select agencies to grow significantly beyond the levels requested by the President.

This will force us to exercise greater restraint than would have otherwise been required for such agencies as Veterans Affairs, Housing and Urban Development and Health and Human Services.

If we prove unable to meet that challenge, I will be forced to examine other remedies to bring overall appropriations in line with the budget resolution.

Mr. MORAN of Kansas. Mr. Chairman, I rise in opposition to a Congressional pay raise. I do not support this procedural motion, and I do not support the way this issue is being handled. Failure to allow an up or down vote on this issue only serves to increase cynicism towards the political process and confirms the feelings of many voters that their representatives are out of touch. This process needs to be reformed. Members of Congress should be on record with the citizens of their districts as to whether they believe an increase to their salary is justified. Given the opportunity, I would vote "no."

Fiscal discipline must start with elected officials. At a time when farmers and ranchers and small businesses across Kansas are struggling and rural hospitals and other health care providers are curtailing services, there is no place for a Congressional cost of living increase, especially one born in a cloud of secrecy.

Mr. DAVIS of Illinois. Mr. Chairman, I had planned to offer an amendment today that would have linked any increase in postage rates by the United States Postal Service (USPS) to Postal Reform. However, I have decided against that. But I would like to share with my colleagues and the American people the crisis in our mail system and its likely impact on our economy.

The USPS is hemorrhaging—universal service is in real jeopardy. The Postal Service continues to operate under laws passed in 1970. They cannot raise rates to cover spikes in gas prices. The 1970 laws did not take into consideration e-mail, e-commerce or the impact that other advances in technology would have on first class mail. The USPS is an organization that comprises over 800,000 full and part-time workers and plays a significant role in our economy.

The anthrax attacks on the Postal Service have tragically taken the lives of two postal workers and threatened thousands more. The pipe-bomb attacks on rural mailboxes have stirred fear on many of our rural routes and put at risk rural letter carriers and residents. The attacks coupled with a lack of Postal Reform have the Postal Service spiraling dangerously close to bankruptcy. The Postal Service reports that in fiscal year 2002, mail volume is down by six billion pieces—an unprecedented decline.

Last year, the Postal Service lost $1.68 billion dollars, and this fiscal year they are predicting losses of $1.5 billion. No business in America can continue to function with these type of losses.

The Postal Service is unlike any other business—unique in its mission and goal. It is the anchor for the $900 billion dollar mailing industry—which employs approximately 9 million people. The mailing industry represents 8 percent of the gross domestic product. When the Postal Service gets a cold—the mailing industry gets pneumonia. We are almost at pneumonia crisis in the mailing industry. The uncertainty of the economy coupled with constant rate increased by the Postal Service to cover its budget shortfall could lead to lay offs and cuts at big mailing operations like RR Donnelley & Sons, AOL Time Warner, Lands End and others.

The business industry needs and deserves stability in terms of projected increases in rates.

A number of companies could be in real jeopardy if the Postal Service is not provided the tools they need in order to be competitive. A viable and competitive Postal Service provides the stability that printers, mailers, employees and consumers can count on. The impact of a weak Postal Service on our quality of life and economy are enormous. It is my hope that we will continue to press the issue for Postal Reform.

Ms. SCHAKOWSKY. Mr. Chairman, I rise in support of the Rangel, Moran, and Flake amendments to the Treasury-Postal Appropriations bill. It is clear to me that the trade and travel embargo on Cuba must be lifted. I commend the following Chicago Tribune article on this subject to the attention of my colleagues, and I urge all members to vote to repeal the current policy, which is outdated and unwise. Allowing trade and travel between the U.S. and Cuba will help the Cuban people and will help the America public. I urge all members to join me in supporting the efforts of the Gentleman from New York, The Gentleman from Kansas, and the Gentleman from Arizona. As the Tribune puts it, this is "a chance to think fresh on Cuba".

### A CHANCE TO THINK FRESH ON CUBA

With each passing day, the once-invincible Washington lobby in favor of maintaining the U.S. economic embargo against Cuba looks as absurd and irrelevant as the Flat Earth Society. Unfortunately, and not as a matter or principle but craven politics, President Bush vows to stick with his support of the embargo to the point of vetoing any congressional move to weaken it.

He must give this new thought. The next few weeks will be as propitious a time as any to shift course, be it from the perspective of politics, economics or the national interest.

Four amendments to the Treasury and Postal Service bill in the House seek to undo various parts of the embargo. Rep. Charles Rangel (D–NY) wants to dismantle the embargo altogether. Rep. Jerry Moran (R–Kansas) proposes to lift restrictions on private financing of trade deals with Cuba. Finally, Rep. Jeff Flake (R–Ariz.) has introduced two amendments, one to effectively lift restrictions on private travel to Cuba and another to lift limits on remittances Cuban-Americans to their relatives still in the island.

The last three amendments have an excellent chance of passage. A similar amendment by Flake last year received 240 votes, but was sidetracked in the Senate by the events of Sept. 11. An even wider margin is expected when it comes for a vote within the next few days. On Tuesday, the Senate Appropriation Committee unanimously passed an amendment identical to Flake's; full Senate approval is expected by a wide margin.

Except for incurring the wrath of some Cuban hardliners in southern Florida—and possibly harming his brother's chances for re-election as governor—there would not be much political risk to President Bush if he were to get behind a softening of the embargo.

Economically, it would be good for the country. According to the U.S.-Cuba Trade and Economic Council, a non-partisan information organization, trade with Cuba last year amounted to about $103 million and is expected to rise to $165 million this year—all cash. That puts Cuba 57th among the 180 top buyers of U.S. agricultural products. These shipments originated in 30 states.

A U.S. food and agribusiness fair, scheduled for Havana in September, already has attracted 120 American exhibitors, who are coming armed for business. Confirmed attendees so far include two Illinois dairy cows plus two buffalo and a 200-pound pig from North Dakota. Approximately 20,000 attendees are expected from both counties, including the Bearded One, who has promised to stop by every day.

Unless President Bush changes course, he will find himself in the untenable position of having to recite the tired old lines in support of the embargo even as Congress moves overwhelmingly to vote in favor of easing it, and American business people—many of them no doubt Republican—head for Havana to sell their products.

Certainly, the administration has more important foreign-policy issues on its agenda than maintaining an embargo fueled by Cold War rancor rather than economic or political reality.

Mr. HOYER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ISTOOK. Mr. Chairman, I remind Members that we appreciate their support of this important measure.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

The Chair shall accord priority in recognition to the gentleman from Florida (Mr. GOSS), or his designee, to offer the amendment printed in House Report 107-585, which may be offered only at the appropriate point in the reading of the bill, shall be considered read, and shall not be subject to amendment.

Except as otherwise specified, during the consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in a designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

### H.R. 5120

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, namely:

## TITLE I—DEPARTMENT OF THE TREASURY

## DEPARTMENTAL OFFICES

### SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $3,500,000 for official travel expenses; not to exceed $3,813,000, to remain available until expended for information technology modernization requirements; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, $187,241,000: *Provided*, That of these amounts $2,900,000 is available for grants to State and local law enforcement groups to help fight money laundering: *Provided further*, That of these amounts, $5,893,000 shall be for the Treasury-wide Financial Statement Audit Program, of which such amounts as may be necessary may be transferred to accounts of the Department's offices and bureaus to conduct audits: *Provided further*, That this transfer authority shall be in addition to any other provided in this Act.

### DEPARTMENT-WIDE SYSTEMS AND CAPITAL INVESTMENTS PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $68,828,000, to remain available until expended: *Provided*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act.

### OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, not to exceed $2,000,000 for official travel expenses, including hire of passenger motor vehicles; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, $35,424,000.

### INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration; not to exceed $6,000,000 for official travel expenses; and not to exceed $500,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General for Tax Administration, $123,962,000.

### AIR TRANSPORTATION STABILIZATION PROGRAM ACCOUNT

For necessary expenses to administer the Air Transportation Stabilization Board established by section 102 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42), $6,041,000, to remain available until expended.

### TREASURY BUILDING AND ANNEX REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Treasury Building and Annex, $32,932,000, to remain available until expended.

### EXPANDED ACCESS TO FINANCIAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

To develop and implement programs to expand access to financial services for low- and moderate-income individuals, $4,000,000, such funds to become available upon authorization of this program as provided by law and to remain available until expended: *Provided*, That of these funds, such sums as may be necessary may be transferred to accounts of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds shall be used to provide real property, automated teller machines or any other equipment for use by any financial institution: *Provided further*, That none of the funds shall be used to support any program or activity that incurs costs in excess of $100 for each participant who is expected to establish an account: *Provided further*, That none of the funds shall be used for any program or activity that does not provide at least $0.50 in non-Federal matching funds for each $1.00 received from the Expanded Access to Financial Services account.

### COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary, $33,000,000, to remain available until expended, to reimburse any Department of the Treasury organization for the costs of providing support to counter, investigate, or prosecute unexpected threats or acts of terrorism, including payment of rewards in connection with these activities: *Provided*, That any Federal agency may be reimbursed for costs of responding to the United States Secret Service's request to provide security at National Special Security Events: *Provided further*, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted to the Committees on Appropriations in accordance with guidelines for reprogramming and transfer of funds and such amount has been apportioned pursuant to 31 U.S.C. 1513.

## FINANCIAL CRIMES ENFORCEMENT NETWORK

### SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement, $51,444,000, of which not to exceed $3,400,000 shall remain available until September 30, 2005; and of which $8,338,000 shall remain available until September 30, 2004: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

## FEDERAL LAW ENFORCEMENT TRAINING CENTER

### SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed 52 for police-type use, without regard to the general purchase price limitation) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $11,500 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109, $152,951,000, of which $650,000 shall be available for an interagency effort to establish written standards on accreditation of Federal law enforcement training; and of which up to $24,266,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2005, and of which up to 20 percent of the $24,266,000 also shall be available for travel, room and board costs for participating agency basic training during the first quarter of a fiscal year, subject to full reimbursement by the benefitting agency: *Provided*, That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: *Provided further*, That the Center is authorized to accept detailees from other Federal agencies, on a non-reimbursable basis, to staff the accreditation function: *Provided further*, That notwithstanding any other provision of law, students attending training at any Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation, except that reimbursement may be waived by the Secretary for law enforcement training activities in foreign countries undertaken pursuant to section 801 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–32); training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training sponsored by the Center: *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That the Center is authorized to provide training for the Gang Resistance Education and Training program to Federal and non-Federal personnel at any facility in partnership with the Bureau of Alcohol, Tobacco and Firearms: *Provided further*, That the Center is authorized to provide short-term medical services for students undergoing training at the Center.

### Acquisition, Construction, Improvements, and Related Expenses

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $31,800,000, to remain available until expended.

## INTERAGENCY LAW ENFORCEMENT

### Interagency Crime and Drug Enforcement

For expenses necessary to conduct investigations and convict offenders involved in organized crime drug trafficking, including cooperative efforts with State and local law enforcement, as it relates to the Treasury Department law enforcement violations such as money laundering, violent crime, and smuggling, $110,594,000.

## FINANCIAL MANAGEMENT SERVICE

### Salaries and Expenses

For necessary expenses of the Financial Management Service, $220,664,000, of which not to exceed $9,220,000 shall remain available until September 30, 2005, for information systems modernization initiatives; and of which not to exceed $2,500 shall be available for official reception and representation expenses.

## BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

### Salaries and Expenses

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed 822 vehicles for police-type use, of which 650 shall be for replacement only, and hire of passenger motor vehicles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where a major investigative assignment requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $20,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; not to exceed $50,000 for cooperative research and development programs for Laboratory Services and Fire Research Center activities; and provision of laboratory assistance to State and local agencies, with or without reimbursement, $891,034,000; of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); of which up to $2,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries including Social Security and Medicare, travel, fuel, training, equipment, supplies, and other similar costs of State and local law enforcement personnel, including sworn officers and support personnel, that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms; of which $13,000,000, to remain available until expended, shall be available for disbursements through grants, cooperative agreements or contracts to local governments for Gang Resistance Education and Training; and of which $3,200,000 for new headquarters shall remain available until September 30, 2004: *Provided*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco and Firearms to other agencies or Departments in fiscal year 2003: *Provided further*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of "Curios or relics" in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.

## UNITED STATES CUSTOMS SERVICE

### Salaries and Expenses

For necessary expenses of the United States Customs Service, including purchase and lease of up to 1,535 motor vehicles, of which 550 are for replacement only and of which 1,500 are for police-type use and commercial operations; hire of motor vehicles; contracting with individuals for personal services abroad; not to exceed $40,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service, $2,496,165,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; not to exceed $4,000,000 shall be available until expended for research; not less than $100,000 shall be available to promote public awareness of the child pornography tipline; not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to 19 U.S.C. 2081; not to exceed $8,000,000 shall be available until expended for the procurement of automation infrastructure items, including hardware, software, and installation; and not to exceed $5,000,000 shall be available until expended for repairs to Customs facilities: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That notwithstanding any other provision of law, the fiscal year aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000.

### AMENDMENT NO. 13 OFFERED BY MR. ROGERS OF MICHIGAN

Mr. ROGERS of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. Rogers of Michigan:

In the item relating to "United States Customs Service-salaries and expenses", after the second dollar amount, insert "(increased by $700,000)".

In the item relating to "INTERNAL REVENUE SERVICE–PROCESSING, ASSISTANCE, AND MANAGEMENT", after the first dollar amount, insert "(reduced by $700,000)".

Mr. ROGERS of Michigan. Mr. Chairman, I want to thank my colleagues, and I will ask for their help because Michigan today needs their help.

In the Civil War we mustered 90,000 troops to defend the Union. We had the second most diverse crop of agriculture in the United States. We offer all the flavors of this great country to our fellow States around.

Michigan is responsible for creating the permanent middle class in America when Henry Ford decided to pay the workers on the line $5 a day. We became, in World War II, we converted all of our automobile making capacity to be the arsenal of democracy for the world. We did that for the United States of America. We have 20 percent of the world's fresh water right there in Michigan, all of it worth defending. And I am here to tell you today that Michigan right now is under attack. And I need every colleague in this House from Maine to California to Florida and everybody in between to step up to the plate and say, We will stand beside you, those who have stood by America before.

In the year 2000, Canadians sent 4.2 million cubic yards of waste to Michigan, nearly double from the year before. Canada is the second largest land mass country in the world, and yet they think they are unable to handle their own trash. This gets worse.

Toronto is scheduled to close its last landfill at the end of the year. Recently, city workers in Toronto went on strike. I want to point this out to you. This is the scene in Toronto just a few weeks ago: trash blocking roadways. This is a park area they had to fill in with trash from Toronto. As you can see, the residents were just throwing bags over the fence, piling up everywhere all across their city.

□ 1615

Here is the bad news about that. All of that trash that my colleagues see right here, absolutely unregulated as to what is in its contents, is coming to the great State of Michigan. Let me just quote for my colleagues from someone from Toronto, when they settled the strike and said it is all over, she was quoted as saying "I'm relieved that it's on its way. It was polluted, smelly and germy."

One hundred sixty trucks a day of polluted, smelly and germy Toronto trash coming to pollute the great State of Michigan, and at the end of this year, when their landfill closes, that is going to go to nearly 250 trucks every day of this trash in our landfills. Michigan has had a long-term vision of this. Just with Canadian trash alone, it cuts our landfill capacity from 20 years to 10 years, and getting smaller every day.

In the one landfill that we found that accepted Canadian trash, PCBs, soil coffin waste, I do not know what that is, scares me to find out, the needle program in Toronto coming to a landfill near the great citizens of Michigan.

This amendment is important today. There is a lot of work we need to do on this issue to stop it, but before we do that, we ought to be able to have the courage today to stand with our fellow Michiganders and say we are going to give them at least the hope to protect their environment in the great State of Michigan.

The purpose is to hire six Customs agents to be stationed 24 hours a day on the Ambassador Bridge and the Detroit Windsor Tunnel, whose sole responsibility is to inspect Canadian trash coming into Michigan. The money includes equipment, training and benefits.

Now, the only way that we are going to stop this trash, whatever is in that bag that that Torontan is sending to us, is to get our hands dirty and crawl around in it and inspect it and find out where the PCBs are coming from, where the soil coffin waste is coming from, where their bottles, which they refuse to have a deposit program like Michigan does, is coming from.

This is the right and decent thing to do to let us in Michigan defend our borders as we have stood with the rest of this country to defend their borders.

I am going to ask my colleagues again today, please strongly support this amendment. We want to make sure that every trash container coming into Michigan meets existing environmental and health regulations. Today, we have no idea if that is happening. Today, we have no idea if there is leeching from this material, ruining our lakes, our streams, ruining the great land of Michigan.

Instead of spending a little more money going after grandma who owes the IRS 12 bucks, we are going to say please spend just a little bit less of that $4 billion that we are reducing to protect the health and environment of my home State, the great State of Michigan, and I challenge all of my colleagues to please support this issue. Stand loudly with us as we tell the Canadians to please handle their own trash and leave the littering to those who get a ticket.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not consume the 5 minutes. I certainly appreciate the passion of the gentleman from Michigan (Mr. ROGERS). It certainly is a significant problem. I am not quite sure what it will take to resolve it totally, but at this point anyway, we certainly would be willing to accept the amendment.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the gentleman from Oklahoma (Mr. ISTOOK). I know that the gentleman from Michigan has worked very hard on this, other Members in Michigan, and we will have no objection to this amendment.

Mr. BARCIA. Mr. Chairman, I rise in support of the amendment offered by my friend and colleague from Michigan, Mr. ROGERS, who has been a leader on this issue of waste importation since coming to Congress.

In 2000, Canadians sent 4.2 million cubic yards of waste to Michigan—nearly double from the year before, and that staggering figure is only going to increase as Toronto is scheduled to close its last landfill at the end of this year.

Every day, more than 150 trucks carrying solid waste from Canada come across just two bridges into my home state of Michigan, headed for nearby landfills, another number sure to increase as landfills in Ontario shut down.

What the importation of trash from Canada has done is to cut Michigan's landfill capacity in half, but what's worse, the trash often contains PCB's and other harmful waste which does not meet existing environmental and health regulations in this country.

That leaves Michiganders suffering a variety of medical ailments and American taxpayers footing much of the bill for their treatment. And for what? So that we can dispense of Canadian trash.

The amendment currently before the House takes less than 2 percent of the $3.8 billion in funding allocated by the bill for IRS Processing, Assistance and Management and uses it to hire six new customs agents to be stationed at two U.S. entry points in Michigan whose sole job it is to inspect the trash coming across our borders every day.

These customs agents will protect American citizens—and not only those in Michigan—by preventing harmful waste from entering our country and our communities at the border.

The importation of solid waste from Canada will still be a problem to communities across Michigan even if this amendment passes and this legislation is signed into law. But at least the people living in these communities will be able to sleep easy knowing that their health is no longer at risk from this trash.

This amendment is very simple, very straightforward, and very cost effective, and I urge it's adoption.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from Michigan (Mr. ROGERS).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

HARBOR MAINTENANCE FEE COLLECTION

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103–182, $3,000,000, to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the Customs "Salaries and Expenses" account for such purposes.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and, at the discretion of the Commissioner of Customs, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $190,000,000, which shall remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of the Treasury, during fiscal year 2003 without the prior approval of the Committees on Appropriations.

### AUTOMATION MODERNIZATION

For expenses not otherwise provided for Customs automated systems, $439,332,000, to remain available until expended, of which not less than $316,900,000 shall be for the development of the Automated Commercial Environment: *Provided*, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the United States Customs Service prepares and submits to the Committees on Appropriations a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including OMB Circular A-11, part 3; (2) complies with the United States Customs Service's Enterprise Information Systems Architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the Customs Investment Review Board, the Department of the Treasury, and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office: *Provided further*, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until such expenditure plan has been approved by the Committees on Appropriations.

## UNITED STATES MINT

### UNITED STATES MINT PUBLIC ENTERPRISE FUND

Pursuant to section 5136 of title 31, United States Code, the United States Mint is provided funding through the United States Mint Public Enterprise Fund for costs associated with the production of circulating coins, numismatic coins, and protective services, including both operating expenses and capital investments. The aggregate amount of new liabilities and obligations incurred during fiscal year 2003 under such section 5136 for circulating coinage and protective service capital investments of the United States Mint shall not exceed $34,900,000.

## BUREAU OF THE PUBLIC DEBT

### ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, $173,073,000, of which not to exceed $2,500 shall be available for official reception and representation expenses, and of which not to exceed $2,000,000 shall remain available until expended for systems modernization: *Provided*, That the sum appropriated herein from the General Fund for fiscal year 2003 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 2003 appropriation from the General Fund estimated at $168,673,000. In addition, $40,000, to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380.

## INTERNAL REVENUE SERVICE

### PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service for pre-filing taxpayer assistance and education, filing and account services, shared services support, general management and administration; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,955,777,000, of which up to $3,950,000 shall be for the Tax Counseling for the Elderly Program, of which $9,000,000 shall be available for low-income taxpayer clinic grants, and of which not to exceed $25,000 shall be for official reception and representation expenses.

### TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; conducting a document matching program; resolving taxpayer problems through prompt identification, referral and settlement; compiling statistics of income and conducting compliance research; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,729,072,000 of which not to exceed $1,000,000 shall remain available until September 30, 2005, for research.

### EARNED INCOME TAX CREDIT COMPLIANCE INITIATIVE

For funding essential earned income tax credit compliance and error reduction initiatives, $146,000,000, of which not to exceed $10,000,000 may be used to reimburse the Social Security Administration for the costs of implementing section 1090 of the Taxpayer Relief Act of 1997.

### INFORMATION SYSTEMS

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $1,632,444,000, which shall remain available until September 30, 2004.

### BUSINESS SYSTEMS MODERNIZATION

For necessary expenses of the Internal Revenue Service, $436,000,000, to remain available until September 30, 2005, for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by 5 U.S.C. 3109: *Provided*, That none of these funds may be obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11 part 3; (2) complies with the Internal Revenue Service's enterprise architecture, including the modernization blueprint; (3) conforms with the Internal Revenue Service's enterprise life cycle methodology; (4) is approved by the Internal Revenue Service, the Department of the Treasury, and the Office of Management and Budget; (5) has been reviewed by the General Accounting Office; and (6) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

### ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SEC. 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

SEC. 102. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 103. The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.

SEC. 104. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective 1–800 help line service for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1–800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1–800 help line service.

## UNITED STATES SECRET SERVICE

### SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 610 vehicles for police-type use for replacement only, and hire of passenger motor vehicles; purchase of American-made side-car compatible motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $25,000 for official reception and representation expenses; not to exceed $100,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year, $1,017,892,000, of which $1,633,000 shall be available for forensic and related support of investigations of missing and exploited children, and of which $4,000,000 shall be available as a grant for activities related to the investigations of exploited children and shall remain available until expended: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2004; *Provided further*, That funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers, training Federal law enforcement officers, training State and local government law enforcement officers on a space-available basis with or without reimbursement of actual costs to this appropriation, training private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation, and training foreign law enforcement officers on a space-available basis with reimbursement of actual costs to this appropriation: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That the James J. Rowley Training Center is authorized to provide short-term medical services for students undergoing training at the Center.

### ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, $3,519,000, to remain available until expended.

### GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 110. Any obligation or expenditure by the Secretary of the Treasury in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 2003, shall be made in compliance with reprogramming guidelines.

SEC. 111. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 112. The funds provided to the Bureau of Alcohol, Tobacco and Firearms for fiscal year 2003 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

SEC. 113. Not to exceed 2 percent of any appropriations in this Act made available to the Federal Law Enforcement Training Center, Financial Crimes Enforcement Network, Bureau of Alcohol, Tobacco and Firearms, United States Customs Service, Interagency Crime and Drug Enforcement, and United States Secret Service may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 44, line 12, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The text of the bill from page 26, line 13, to page 44, line 12, is, as follows:

SEC. 114. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Office—Salaries and Expenses, Office of Inspector General, Treasury Inspector General for Tax Administration, Financial Management Service, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 115. Not to exceed 2 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to the Treasury Inspector General for Tax Administration's appropriation upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 116. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with Departmental vehicle management principles: *Provided*, That the Secretary may delegate this authority to the Assistant Secretary for Management.

SEC. 117. None of the funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of Engraving and Printing may be used to redesign the $1 Federal Reserve note.

SEC. 118. The Secretary of the Treasury may transfer funds from "Salaries and Expenses", Financial Management Service, to the Debt Services Account as necessary to cover the costs of debt collection: *Provided*, That such amounts shall be reimbursed to such Salaries and Expenses account from debt collections received in the Debt Services Account.

SEC. 119. Section 122(g)(1) of Public Law 105–119 (5 U.S.C. 3104 note), is further amended by striking "4 years" and inserting "5 years".

SEC. 120. None of the funds appropriated or otherwise made available by this or any other Act may be used by the United States Mint to construct or operate any museum without the explicit approval of the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs.

SEC. 121. None of the funds appropriated or made available by this Act may be used for the production of Customs Declarations that do not inquire whether the passenger had been in the proximity of livestock.

SEC. 122. The Federal Law Enforcement Training Center is directed to establish an accrediting body that will include representatives from the Federal law enforcement community, as well as non-Federal accreditation experts involved in law enforcement training. The purpose of this body will be to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

This title may be cited as the "Treasury Department Appropriations Act, 2003".

### TITLE II—POSTAL SERVICE

### PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $60,014,000, of which $31,014,000 shall not be available for obligation until October 1, 2003: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2003.

This title may be cited as the "Postal Service Appropriations Act, 2003".

## TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

### COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

### COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102, $450,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

### SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, $50,715,000: *Provided*, That $8,650,000 of the funds appropriated shall be available for reimbursements to the White House Communications Agency.

### OFFICE OF HOMELAND SECURITY

#### SALARIES AND EXPENSES

For necessary expenses of the Office of Homeland Security, pursuant to Executive Order 13288, $24,061,000: *Provided*, That the Office of Homeland Security shall submit a report identifying estimated obligations for each function assigned to this Office pursuant to Executive Order 13288 to the House Committee on Appropriations no later than November 1, 2002.

### EXECUTIVE RESIDENCE AT THE WHITE HOUSE

#### OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $12,228,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112–114.

#### REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided*, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further*, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further*, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: *Provided further*, That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit $25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further*, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further*, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further*, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further*, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further*, That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

#### WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, $1,200,000, to remain available until expended, for projects for required maintenance, safety and health issues, and continued preventative maintenance.

### SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

#### SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, $3,160,000.

#### OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, $324,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

### COUNCIL OF ECONOMIC ADVISERS

#### SALARIES AND EXPENSES

For necessary expenses of the Council of Economic Advisors in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $3,763,000.

### OFFICE OF POLICY DEVELOPMENT

#### SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, $3,251,000.

### NATIONAL SECURITY COUNCIL

#### SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $7,803,000.

### OFFICE OF ADMINISTRATION

#### SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, $92,681,000, of which $17,495,000 shall remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the Executive Office of the President: *Provided*, That the Executive Office of the President shall submit a report to the House Committee on Appropriations that includes a current description of: (1) the Enterprise Architecture, as defined in OMB Circular A–130 and the Federal Chief Information Officers Council guidance; (2) the Information Technology (IT) Human Capital Plan; (3) the capital investment plan for implementing the Enterprise Architecture; and (4) the IT capital planning and investment control process: *Provided further*, That this report shall be reviewed and approved by the Office of Management and Budget, and reviewed by the General Accounting Office.

### OFFICE OF MANAGEMENT AND BUDGET

#### SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $61,492,000, of which not to exceed $5,000,000 shall be available to carry out the provisions of chapter 35 of title 44, United States Code, and of which not to exceed $3,000 shall be available for official representation expenses: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or the Committees on Veterans' Affairs or their subcommittees: *Provided further*, That the preceding shall not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans' Affairs: *Provided further*, That none of the funds appropriated in this Act may be available to pay the salary or expenses of any employee of the Office of Management and Budget who, after February 15, 2003, calculates, prepares, or approves any tabular or other material that proposes the sub-allocation of budget authority or outlays by the Committees on Appropriations among their subcommittees.

### ELECTRONIC GOVERNMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in support of interagency projects that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods $5,000,000 to remain available until expended: *Provided*, That these funds may be transferred to Federal agencies to carry out the purposes of the Fund: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That such transfers may not be made until 10 days after a proposed spending plan and justification for each project to be undertaken has been submitted to the Committees on Appropriations.

### ELECTION ADMINISTRATION REFORM AND RELATED EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the implementation of election administration reform, and related expenses, $200,000,000, to remain available until expended: *Provided*, That such amount shall not be available for obligation until the enactment of legislation that establishes programs for improving the administration of elections: *Provided further*, That, upon the enactment of such legislation, the Director of the Office of Management and Budget shall transfer the specific amounts authorized, for the purposes designated, to the Federal entities specified by such legislation, and according to the provisions established in H.R. 3295, as passed by the House of Representatives on December 12, 2001: *Provided further*, That, within 15 days of such transfers, the Director of the Office of Management and Budget shall notify the Congress of the amounts transferred to each authorized Federal entity: *Provided further*, That the entities to which the amounts are transferred shall use the amounts to carry out the applicable provisions of such legislation: *Provided further*, That the transfer authority provided in this paragraph shall be in addition to any other transfer authority provided in this or any other Act: *Provided further*, That the Federal entities referred to in the second proviso shall establish a program under which the entity shall make a one-time payment to the chief election authority of each State which, on a Statewide basis, obtained optical scan or electronic voting equipment for the administration of elections for Federal office in the State prior to the regularly scheduled general election for Federal office held in November 2000: *Provided further*, That the amount of the payment made with respect to a State under the program under the previous proviso shall be equal to the costs incurred by the State in obtaining the optical scan or electronic voting equipment used to administer the most recent regularly scheduled general election for Federal office in the State, except that in no case may the amount of the payment exceed $6,000 per voting precinct in the State at the time of the election: *Provided further*, That total payments made under the program under the sixth proviso shall not exceed $23,000,000.

### OFFICE OF NATIONAL DRUG CONTROL POLICY

#### SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.); not to exceed $10,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement, $24,458,000; of which $2,350,000 shall remain available until expended, consisting of $1,350,000 for policy research and evaluation, and $1,000,000 for the National Alliance for Model State Drug Laws: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office: *Provided further*, That $5,000,000 of these funds shall not be obligated until the Director submits performance measures of effectiveness for the High Intensity Drug Trafficking Areas program to the House Committee on Appropriations: *Provided further*, That none of the funds appropriated shall be used to submit a fiscal year 2004 budget request that is not supported by performance measures of effectiveness data, including supporting justifications for each High Intensity Drug Trafficking Area and an optimal spending allocation based on the same measures.

#### COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Counterdrug Technology Assessment Center for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.), $55,800,000, which shall remain available until expended, consisting of $26,064,000 for counternarcotics research and development projects, and $29,736,000 for the continued operation of the technology transfer program: *Provided*, That the $26,064,000 for counternarcotics research and development projects shall be available for transfer to other Federal departments or agencies.

### FEDERAL DRUG CONTROL PROGRAMS

#### HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $246,350,000, for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of the enactment of this Act: *Provided*, That up to 49 percent, to remain available until September 30, 2004, may be transferred to Federal agencies and departments at a rate to be determined by the Director, of which not less than $2,100,000 shall be used for auditing services and associated activities, and at least $500,000 of the $2,100,000 shall be used to develop and implement a data collection system to measure the performance of the High Intensity Drug Trafficking Areas Program: *Provided further*, That High Intensity Drug Trafficking Areas Programs designated as of September 30, 2002, shall be funded at no less than fiscal year 2002 levels unless the Director submits to the Committees on Appropriations, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the High Intensity Drug Trafficking Areas Programs, as well as published Office of National Drug Control Policy performance measures of effectiveness.

#### SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and for other purposes, authorized by the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.), $240,800,000, to remain available until expended, of which the following amounts are available as follows: $170,000,000 to support a national media campaign, as authorized by the Drug-Free Media Campaign Act of 1998, including no less than $150,000,000 for media buys; $60,000,000 for a program of assistance and matching grants to local coalitions and other activities, as authorized in chapter 2 of the National Narcotic Leadership Act of 1988; $6,000,000 for the Counterdrug Intelligence Executive Secretariat; $2,000,000 for evaluations and research related to National Drug Control Program performance measures; $1,000,000 for the National Drug Court Institute; $1,000,000 for the United States Anti-Doping Agency for anti-doping activities; and $800,000 for the United States membership dues to the World Anti-Doping Agency: *Provided*, That such funds may be transferred to other Federal departments and agencies to carry out such activities.

### UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, as authorized by 3 U.S.C. 108, $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 2003".

The CHAIRMAN pro tempore. Are there any amendments to that portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

### TITLE IV—INDEPENDENT AGENCIES

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92–28, $4,629,000.

### FEDERAL ELECTION COMMISSION

#### SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, $49,426,000, of which no less than $5,866,700 shall be available for internal automated data processing systems, and of which not to exceed $5,000 shall be available for reception and representation expenses.

### FEDERAL LABOR RELATIONS AUTHORITY

#### SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, and including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, $28,677,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

### GENERAL SERVICES ADMINISTRATION

### REAL PROPERTY ACTIVITIES

#### FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in, and to be used for the purposes of, the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)),

$325,711,000. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of $6,961,930,000, of which: (1) $646,385,000 shall remain available until expended for construction (including funds for sites and expenses and associated design and construction services) of additional projects at the following locations:

New Construction:

Arkansas:

Little Rock, United States Courthouse Annex, $77,154,000

California:

San Diego, United States Courthouse Annex, $23,901,000

District of Columbia:

Washington, Southeast Federal Center Site Remediation, $6,472,000

Florida:

Fort Pierce, United States Courthouse, $2,744,000

Iowa:

Cedar Rapids, United States Courthouse, $5,167,000

Maine:

Jackman, Border Station, $9,194,000

Maryland:

Montgomery County, FDA consolidation, $45,500,000

Suitland, National Oceanic and Atmospheric Administration II, $9,461,000

Suitland, United States Census Bureau, $176,919,000

Mississippi:

Jackson, United States Courthouse, $7,276,000

Missouri:

Cape Girardeau, United States Courthouse, $49,311,000

Montana:

Raymond, Border Station, $7,753,000

New York:

Brooklyn, United States Courthouse Annex—GPO, $39,500,000

Champlain, Border Station, $5,000,000

Massena, Border Station, $1,646,000

New York, U.S. Mission to the United Nations, $57,053,000

North Dakota:

Portal, Border Station, $2,201,000

Oregon:

Eugene, United States Courthouse, $77,374,000

Tennessee:

Nashville, United States Courthouse, $7,095,000

Texas:

Austin, United States Courthouse, $13,809,000

Utah:

Salt Lake City, United States Courthouse, $6,018,000

Washington:

Oroville, Border Station, $6,572,000

Nationwide:

Judgment Fund Repayment, $3,012,000

Nonprospectus Construction, $6,253,000:

*Provided*, That funding for any project identified above may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts included in an approved prospectus, if required, unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2004, and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (2) $978,529,000 shall remain available until expended for repairs and alterations which includes associated design and construction services: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project, as follows, except each project may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount:

Repairs and Alterations:

California:

Los Angeles, Federal Building, 300 North Los Angeles Street, $93,166,000

San Francisco, Appraisers Building, $20,283,000

Tecate, Tecate U.S. Border Station, $5,709,000

Connecticut:

New Haven, Robert N. Gaimo Federal Building, $18,507,000

District of Columbia:

Federal Office Building 10A Garage, $5,454,000

Harry S Truman Building (State), $29,443,000

Illinois:

Chicago, U.S. Custom House, $9,000,000

Iowa:

Davenport, Federal Building and U.S. Courthouse, $12,586,000

Maryland:

Baltimore, Metro West, $6,162,000

Woodlawn, Operations Building, $96,905,000

Massachusetts:

Boston, John F. Kennedy Federal Building Plaza, $3,271,000

Missouri:

Kansas City, Bannister Federal Complex, Building 1, $16,130,000

Kansas City, Bannister Federal Complex, Building 2, $3,148,000

New Hampshire:

Manchester, Norris Cotton Federal Building, $17,668,000

Portsmouth, Thomas J. McIntyre Federal Building, $11,149,000

New York:

New York, Jacob K. Javits Federal Building, $7,568,000

Ohio:

Cleveland, Howard M. Metzenbaum U.S. Courthouse, $15,212,000

Pennsylvania:

Pittsburgh, William S. Moorhead Federal Building, $68,793,000

Texas:

Dallas, Earle Cabell Federal Building—Courthouse and Santa Fe Federal Building, $16,394,000

Fort Worth, Fritz Garland Lanham Federal Building, $15,249,000

Washington:

Seattle, Henry M. Jackson Federal Building, $26,832,000

Nationwide:

Chlorofluorocarbons Program, $8,000,000

Design Program, $45,027,000

Elevator Program, $21,533,000

Energy Program, $8,000,000

Glass Fragmentation Program, $20,000,000

Terrorism, $10,000,000

Basic Repairs and Alterations, $367,340,000: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations: *Provided further*, That the amounts provided in this or any prior Act for "Repairs and Alterations" may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading "Repairs and Alterations", may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2004, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations" or used to fund authorized increases in prospectus projects; (3) $178,960,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) $3,153,211,000 for rental of space which shall remain available until expended; and (5) $1,925,160,000 for building operations which shall remain available until expended: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 2003, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $6,961,930,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

### GENERAL ACTIVITIES

#### POLICY AND CITIZEN SERVICES

For expenses authorized by law, not otherwise provided for, for Government-wide policy and evaluation activities associated with the management of real and personal property assets and certain administrative services; Government-wide policy support responsibilities relating to acquisition, telecommunications, information technology management, and related technology activities; providing Internet access to Federal information and services; and services as authorized by 5 U.S.C. 3109, $65,995,000.

#### OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, for Government-wide activities associated with utilization and donation of surplus personal property; disposal of real property; telecommunications, information technology management, and related technology activities; agency-wide policy direction and management, and Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $7,500 for official reception and representation expenses, $77,904,000, of which $17,463,000 shall remain available until expended.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $37,617,000: *Provided*, That not to exceed $15,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

#### ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958 (3 U.S.C. 102 note), and Public Law 95–138, $3,339,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

### GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SEC. 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 2003 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 2004 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2004 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency that does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 406. Funds provided to other Government agencies by the Information Technology Fund, General Services Administration, under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) and sections 5124(b) and 5128 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1424(b) and 1428), for performance of pilot information technology projects which have potential for Government-wide benefits and savings, may be repaid to this Fund from any savings actually incurred by these projects or other funding, to the extent feasible.

SEC. 407. From funds made available under the heading "Federal Buildings Fund, Limitations on Availability of Revenue", claims against the Government of less than $250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

### MERIT SYSTEMS PROTECTION BOARD

#### SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $31,788,000 together with not to exceed $2,594,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

### MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL

### POLICY FOUNDATION

#### MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND

For payment to the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund, pursuant to the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.), $1,996,000 to remain available until expended: *Provided*, That up to 60 percent of such funds may be transferred by the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for the necessary expenses of the Native Nations Institute.

#### ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1998, $1,309,000, to remain available until expended.

### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

#### OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and archived Federal records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $249,731,000: *Provided*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings: *Provided further*, That of the funds made available, $11,837,000 is for the electronic records archive, $10,137,000 of which shall be available until September 30, 2005.

AMENDMENT NO. 19 OFFERED BY MS. MILLENDER-MCDONALD

Ms. MILLENDER-McDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Ms. MILLENDER-MCDONALD:

Page 61, line 12, insert before the period the following:

: *Provided further*, That, of the funds provided in this paragraph, $600,000 shall be for the preservation of the records of the Freedmen's Bureau, as required by section 2910 of title 44, United States Code, and as authorized by section 3 of the Freedmen's Bureau Records Preservation Act of 2000 (Pub. L. 106–444)

Ms. MILLENDER-McDONALD. Mr. Chairman, I would like to thank the chairman and the ranking member for their support and leadership on this issue.

As we began to deliberate and consider fiscal year 2003 Treasury Postal appropriations, I am pleased to offer an amendment to include continued funding for the Freedmen's Bureau Preservation Act of 2000. This legislation that became public law authorized $3 million over a 5-year period for the National Archive and Records Administration to microfilm the records, create a surname and locality index and to put this index on-line for access by the public.

These efforts are intended to preserve an important piece of American history for future generations. There are many historians, genealogists and family researchers interested in exploring the vast context and content of these records. As ship manifests are the vital link between European Americans and their European ancestors, the Freedmen's Bureau Records are the link for African Americans to their slave history.

For historians and genealogists, these records provide the critical link between the Civil War and the 1870 census, the first to list African Americans by name. Former slaves, recognized earlier in government census records only by sex, age and color, were named in the Bureau records as individuals in marriages, government rations lists, lists of colored people, labor contracts, indentured contracts for minors, medical and school records and as victims of violence.

So far in fiscal year 2002, the National Archives has completed filming the records of the Freedmen's Bureau field offices in Florida, approximately 15,000 images, and Alabama, approximately 35 images. Copies of the resulting film are being shipped to all 15 of the microfilm reading rooms managed by the National Archives throughout the country, with two locations in California.

Filming of approximately 23,000 images of Arkansas field office records is currently underway. Also, the National Archives has microfilmed approximately 5,000 images of marriage records included among Freedmen's Bureau's records at the headquarters level.

The agency has provided copies of the Florida field office film and the marriage records film to Howard University for use in testing indexing techniques.

Fiscal year 2003 funding will help to continue the National Archives work to complete the next phase of microfilming and begin the process of placing the index on-line in partnership with historically black colleges and universities.

This investment in preserving the records of our past is also an important investment in our future as these records provide a unique insight into American history.

Mr. Chairman, I urge the House to pass this measure to preserve and protect this unique chronicle of our country's past.

□ 1630

Mr. HOYER. Mr. Chairman, I move to strike the last word, and I rise in very strong support of this amendment sponsored by the gentlewoman from California, who chairs the Congressional Black Caucus and has been an outstanding leader on behalf of the recognition of the contributions of African Americans to the history of this country.

This amendment will provide $600,000 to be spent on records administration for the Freedmen's Bureau. She has well outlined the contributions of the Freedmen's Bureau and the historical importance of maintaining the records of the Freedmen's Bureau. This was arguably one of the most significant times in the history of African Americans; and as a result, the retaining of those records, the ensuring that those records are not only preserved but are available for researchers, for academics, and for the general public, is very, very important. So I commend her on her leadership on this.

The records of the Freedmen's Bureau are quite extensive, Mr. Chairman, according to the NARA. The inventory of the records of the bureau headquarters includes about 240 record "series" and much more voluminous records, more than 4,400 "series" of the field offices of the State assistant commissioners and their subordinate officers. Many of the latter series contain unique data about the freedmen. And I might add that freedmen, of course, also means freed women.

In fiscal year 2002, the committee provided $600,000 for preservation and access activities associated with the records of the Freedmen's Bureau. This was an increase, I might add, of $450,000 over the President's request. The amendment of the gentlewoman from California (Ms. MILLENDER-MCDONALD) will ensure that that same $600,000 will be spent this year to ensure that this effort is continued and enhanced. These funds will be used to help microfilm the records, assist researchers in using related documents, provide better access to record inventories, and create partnerships for developing indexes.

Mr. Chairman, I think this amendment is a very, very important amendment and will, as I say, help NARA in pursuing this project. I might add, on behalf of the leadership of NARA, they are very enthusiastic about pursuing this, and this will help them do that; and it will certainly justify the fact that they spend the resources necessary to effect the ends that the gentlewoman from California seeks and that we all seek in making sure that we know this history, which was so critically important as this country moved from a country that articulated a premise that all men and women were created equal and endowed by their creator with certain inalienable rights.

Unfortunately, as Martin Luther King so dramatically and powerfully intoned, we were not living up to that promise, and the Emancipation Proclamation started us on that road. We are still not at the end of that road, and perhaps we will never get to the end of that road; but we can learn from this period of our history, and we can expand upon the promise that it made.

Mr. ISTOOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in response to the motion of the gentlewoman from California (Ms. MILLENDER-MCDONALD).

I want to say that certainly I propose accepting the amendment. We had a line item in the bill last year regarding the Freedmen's Bureau, and I realize the preservation of the records and the history is very important to preserve the heritage of this country and particularly of the group of people that were involved in the former institutions of slavery and being freed from it.

So I believe that this is something that would have been funded by the National Archives and Records Administration with or without the amendment. We have had enough conversations with them, but I appreciate the gentlewoman's desiring to be certain on this, and I support her desire for that certainty; and I certainly support and accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. MILLENDER-MCDONALD).

The amendment was agreed to.

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that the remainder of the bill, through page 67, line 21, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The text of the bill from page 61, line 13, through page 67, line 21, is as follows:

#### REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, $10,458,000, to remain available until expended, of which $1,250,000 is for the Military Personnel Records Center preliminary design studies, and $3,250,000 is for repairs to the Lyndon Baines Johnson Presidential Library Plaza.

#### NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

##### GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, $7,000,000, to remain available until expended.

### OFFICE OF GOVERNMENT ETHICS

#### SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses, $10,486,000.

### OFFICE OF PERSONNEL MANAGEMENT

#### SALARIES AND EXPENSES

##### (INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, $128,986,000, of which $24,000,000 shall remain available until expended for the cost of the government-wide human resources data network project, and $2,500,000 shall remain available until expended for the cost of leading the government-wide initiative to modernize Federal payroll systems and service delivery; and in addition $120,791,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs, of which $27,640,000 shall remain available until expended for the cost of automating the retirement recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by sections 8348(a)(1)(B), 8909(g), and 9004(f)(1)(A) and (2)(A) of title 5, United States Code: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 2003, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

### OFFICE OF INSPECTOR GENERAL

### SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $1,498,000; and in addition, not to exceed $10,766,000 for administrative expenses to audit, investigate, and provide other oversight of the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

### GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), such sums as may be necessary.

### GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

### PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, and the Act of August 19, 1950 (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

### OFFICE OF SPECIAL COUNSEL

### SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), the Whistleblower Protection Act of 1989 (Public Law 101–12), Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $12,432,000.

### UNITED STATES TAX COURT

### SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $37,305,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

### WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE

For necessary expenses of the White House Commission on the National Moment of Remembrance, as authorized by Public Law 106–579, $250,000.

This title may be cited as the "Independent Agencies Appropriations Act, 2003".

### TITLE V—GENERAL PROVISIONS

### THIS ACT

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 503. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

The CHAIRMAN. Are there any amendments to that portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 504. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Department of the Treasury.

Mr. SMITH of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from Oklahoma, the chairman of the subcommittee, about a provision in the underlying bill.

First of all, I wish to express my concern about a provision in the underlying bill that prevents the transfer of the Federal Law Enforcement Training Center from the Treasury Department to another Department of the executive branch. I know, for example, that the Department of Justice and the Select Committee on Homeland Security would at least like to have the option of perhaps transferring that Federal Law Enforcement Training Center out of the Treasury Department.

Mr. Chairman, could the gentleman give me some reassurance that that proposed transfer, if in fact it occurs and is a part of the recommendation of the select committee, will not be blocked by the underlying language in the bill?

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, the provision the gentleman refers to, section 504 of the bill, is one that was crafted, I believe, prior to the recommendation for the Department of Homeland Security being formed.

It is certainly my intent, and I will endeavor to make sure our bill is consistent with this, that whatever is ultimately adopted by this body and by the other body, what is ultimately adopted by Congress regarding where the Federal Law Enforcement Training Center should be situated, whether it be in the Department of Justice, the Department of the Treasury, the Department of Homeland Security or elsewhere, whatever ultimately is the enactment as far as the Department of Homeland Security, is something that I will make sure that we have language consistent with that in the ultimate House-Senate version of the Treasury, Postal appropriation.

Mr. SMITH of Texas. Mr. Chairman, reclaiming my time, I thank the gentleman from Oklahoma for his reassurance.

Mr. KINGSTON. Mr. Chairman, I move to strike the last word, and I wanted to say to the chairman and the gentleman from Texas that in terms of moving the Federal Law Enforcement Training Center out of the Department of the Treasury and into the Department of Justice, as somebody who represents a significant portion of the Federal Law Enforcement Training Center, the first I learned about that was actually this morning. And while there have been rumors about the Department of Justice's interest in FLETC, I have not seen any case made to make that transfer possible.

So I would certainly oppose moving the Federal Law Enforcement Training

Center out of the Department of the Treasury and strongly be opposed to it moving into the Department of Justice, based on the lack of information to make such a move; and I wanted to express that to the chairman.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, let me say that I believe that the interest of the gentleman from Georgia and mine in this situation are very akin to each other. What I wanted to do in the colloquy I just had with the gentleman from Texas (Mr. SMITH) was, frankly, avoid trying to unnecessarily get into a debate today, since we have so many other things that are going to be consuming debate time on the floor.

Although I believe that the Federal Law Enforcement Training Center should not, under current proposals, be transferred to the Department of Justice, nevertheless, I do not think it serves any purpose to try to engage in a debate on that today. Of the 21,000 students and 223 student-weeks of training that are currently conducted at FLETC, the Federal Law Enforcement Training Center, only about 5 percent of that training involves agencies that, under the proposal that will be on the House this week, would be under the Department of Justice. I do not think it would make sense to have FLETC be under the Department of Justice when only 5 percent of the work of FLETC is under the Department of Justice.

Now, I do not know if, under what we do later, things might remain in the Department of the Treasury or if they might go to the Department of Homeland Security; and those probably would give us some idea of what is the best solution. But I do not think that we need to have that debate today. We are going to be having debate on that, and similar things, later this week. And I think what we want to do is to make sure that ultimately we take a consistent position; that what comes out of our appropriations bill will ultimately be consistent with whatever the entire Congress and the President adopt regarding the Office of Homeland Security.

So, therefore, we had the colloquy rather than engaging in a debate on the amendment over this issue today.

Mr. SMITH of Texas. Mr, Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I thank my friend from Georgia for yielding, and I also want to suggest to him that his concerns may be unjustified or unfounded, simply because, even if the training center were moved to another agency or another Department, that does not mean it is going to leave the State of Georgia.

So I do not think the gentleman needs to necessarily be concerned about losing that training center, even if it were to be transferred to another agency.

Mr. KINGSTON. Mr. Chairman, reclaiming my time, I thank my friend, the gentleman from Texas, for pointing that out. We do, of course, want to keep the physical plant, the jobs, and all the related benefits in Brunswick, Georgia, as part of it; but also I want to say it is not just that. It is that inside of FLETC there is a lot of angst and concern about moving it from the Department of Treasury to the Department of Justice, and we have not seen any justification for doing that right now. So it is not purely provincial that I am pushing this.

Mr. SMITH of Texas. Mr. Chairman, if the gentleman will continue to yield, we can continue the debate later, as the gentleman from Oklahoma suggested. But when we have the Department of Justice and the Select Committee on Homeland Security wanting to transfer it, let us have that debate another time; but let us not dismiss the equities of that argument.

Mr. KINGSTON. Once again, reclaiming my time, Mr. Chairman, I agree with my friend and thank him for his openness and look forward to the discussion with him and the chairman.

Mr. HEFLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was in a defense conference with the Senate and missed my opportunity to offer this amendment on page 57. We have barely passed it. I do not think the committee is going to accept it, but I would at least like the opportunity to offer it. If they would grant me unanimous consent to do so, I would appreciate that.

The CHAIRMAN. The gentleman asks unanimous consent that we go to page 56 in the bill. Is there objection to the request of the gentleman from Colorado?

Mr. ISTOOK. Mr. Chairman, reserving the right to object, as I understand it, this has to do with funding of the Office of Former Presidents, which, frankly, could open a time-consuming debate on this. Is the gentleman aware that it may be possible for him to offer his amendment at a later stage in the bill?

Mr. HEFLEY. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Chairman, I am aware we could do a reach-back amendment and do it later. However, I would rather do it now, when it is closer to the actual subject matter, than trying to amend it into the total of the overall bill. This would relate directly to what I am trying to get at rather than the total figures at the end of the bill. And I do not plan to take much time with it, if the gentleman does not.

□ 1645

Mr. ISTOOK. Mr. Chairman, although I wish to accommodate the gentleman, lest we set a precedent that would keep us from considering other amendments that come before us and having to constantly reach back in the bill, I object, although I would certainly cooperate with the gentleman in the mechanics where he can do it later in the bill.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

SEC. 505. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 506. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Buy American Act (41 U.S.C. 10a–10c).

SEC. 507. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 508. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 509. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 510. The provision of section 509 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 511. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2002 from appropriations made available for salaries and expenses for fiscal year 2002 in this Act, shall remain available through September 30, 2003, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 512. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 513. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93-400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

AMENDMENT NO. 17 OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. KUCINICH:

Page 71, beginning on line 1, strike section 513 (relating to applicability of cost accounting standards to Federal Employees Health Benefits Program).

Mr. KUCINICH. Mr. Chairman, this Congress has spoken at long length on the floor of the House about corporate accountability. If there is one thing that we have learned, it is that we must have standards and the companies must abide by them. Why then in this bill are health insurance companies in the Federal Employees Health Benefits Program exempted from cost accounting standards? Has Congress not learned from Enron, not learned from WorldCom?

My amendment would strike section 513 in this bill, which is the section which grants a waiver from complying with governmentwide cost accounting standards. This is a special exemption from Federal accounting standards. By granting this waiver, it exposes the government to increased risks from fraud and abuse. Federal employees, unions, the administration, and even some of the insurance carriers themselves have opposed this special exemption.

Given the public's lack of confidence in corporate accounting standards, it makes no sense for Congress to give an exemption for accounting standards to contractors participating in its own health care program, especially when these same accounting standards apply to every other Federal contractor. Cost accounting standards are designed to prevent fraud, overcharging and abuse. They serve as an important safeguard to save taxpayer money. They allow the government to track the cost of goods and services provided under specialized contracts when there is no market price available.

These accounting standards apply when Federal contractors charge the government based on negotiated cost-based pricing arrangements, and ensure that costs are properly calculated. If an exemption is truly needed and warranted, there is a process that Congress established in case such a situation arose. The Cost Accounting Standards Board, CASB, includes accounting experts for this very purpose.

Last year the statement of administration policy on this bill stated, "The administration opposes section 513 which would continue the 1-year moratorium on the application of cost accounting standards under the FEHBP. A statutory moratorium is not required as existing law provides for an administration process which allows the CASB to exempt contracts from any or all CAS requirements."

There is no reason that FEHBP contractors should get a special pass around the board. Congress created the Cost Accounting Standards Board specifically to deal with such issues. By allowing this waiver, it places insurance carriers of the FEHBP above the law. These carriers report charges annually to the FEHBP of billions of dollars, and when they do so, they report them in the manner of their own choosing and design. When they report their costs go up 10 or 15 or 20 percent, or even more, Congress has no way of effectively verifying those claims, or whether they may be losing millions of dollars to fraudulent claims.

In the current climate when health care costs continue to increase, it makes the exemption for FEHBP health plans even more egregious. The second largest participant in the plan, First Health, opposes this exemption. First Health, which has been in FEHBP for over 20 years and includes 1 million participants, recently wrote to the gentleman from Wisconsin (Mr. OBEY), "I urge the Committee on Appropriations to not include language prohibiting the imposition of cost accounting standards to the FEHBP in the fiscal year 2003 Treasury-Postal appropriations bill."

Clearly even the companies who benefit from the exemption understand the importance of abiding by government cost accounting standards. Now is not the time to be exempting companies from accounting standards. Enron and WorldCom have done enough. Other industries do not need Congress to give them a hand. Support the Kucinich amendment to strike section 513.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. KUCINICH). I recognize that cost accounting standards and accounting propriety is something that we all support and seek and we want to make sure that it is done. The difficulty, of course, is that this particular provision has been carried in this bill since 1998 at the request of the authorizing committee, namely the Committee on Government Reform. Why? Because, as the Office of Personnel Management has told us, the accounting standards that through the CAS are sought to be applied to insurance carriers through the Federal Employees Health Benefits Plan, as OPM told us, are in "incompatible conflict" with the accounting standards that are used within the insurance industry.

I think that the Chairman, as well as many Members, are aware that there are accounting differences depending on the type of business, whether it is a publicly held corporation, whether it is a partnership or small business, whether it is a public utility, or in this case whether we are talking about an insurance company.

The concern is this: If we adopt this amendment, we may force out of the market insurance carriers that provide coverage to hundreds of thousands of Federal workers by arbitrarily and immediately cutting them off. I do not want to see hundreds of thousands of people lose their insurance benefits or be told now they have to shop around and find a different carrier under the FEHBP just because we made a quick and not fully informed decision on the floor of the House that we wanted to take some regulation that was meant to apply to other types of companies and apply them to insurance carriers under the FEHBP. That is my concern with the gentleman's amendment.

His desire to make sure that we have accounting propriety is well taken; but let us make sure that we do that in a reasoned way. Let us make sure that we go back to the authorizers, the Committee on Government Reform that originally asked for this provision to be carried in this bill several years ago, ask them to look at it, look at it in proper depth and with correct understanding of the accounting differences for different types of businesses.

I have been informed that more than half of all Federal employees could have their insurance coverage put at risk if we adopt the amendment of the gentleman from Ohio (Mr. KUCINICH). Members may agree or disagree that that is the case, but I for one do not want to take the chance without having a much more informed understanding of this situation.

It is a very technical amendment. It is a technical circumstance. The gentleman has excellent motives, but I think it is also an excellent motive to protect the insurance coverage of half or more of the Federal workers that we have in the United States.

So I oppose this amendment, but I look forward to working with the gentleman from Ohio (Mr. KUCINICH) to make sure that whether it be through FEHBP or through any other person or entity that does business with the Federal Government or with the taxpayers, we have proper, reliable accounting standards applied.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak in opposition to the gentleman's amendment. The gentleman from Ohio (Mr. KUCINICH) is a Member whom I enjoy working with on a host of issues, and I fully understand the gentleman's passion for establishing good cost accounting standards.

The cost accounting standard that we are trying to apply to the FEHBP program is a cost accounting standard that was essentially developed for defense contractors, and the issue that was brought up to us in the subcommittee, and the gentleman from Oklahoma (Mr. ISTOOK) mentioned that the authorizing committee opposes this amendment and supports the exemption, I am the chairman of that committee and this exemption was initially put in place by the gentleman from Florida (Mr. MICA) and continued by the gentleman from Florida (Mr. SCARBOROUGH), and it has been continued by myself.

The central issue here is we are trying to take cost accounting standards that were developed for defense contractors, and we are trying to apply them to the health care insurance industry.

Now the real issue here is Blue Cross/Blue Shield, and that is really what we are talking about. Blue Cross/Blue Shield insures 80 million Americans, and 4 million of those Americans are Federal employees. A lot of those Federal employees live in many of the affiliated States within the Blue Cross/Blue Shield system. Nationwide it is 5 percent, 4 percent of the entire Blue Cross/Blue Shield workforce, but in some States it is even less than that, and they are not going to want to participate.

The way I understand this works under the law within FEHBP, it is an all-or-none situation. It cannot be like Blue Cross/Blue Shield will stay in the system here in Washington, D.C. where they might have several hundred thousand employees, and let all of the affiliates in Oklahoma and Iowa withdraw. They have to participate nationally.

Now some of the other insurance carriers, I think maybe virtually all of them, have complied with the standards. But as I understand it, for all of them, they only do business with FEHBP. Blue Cross/Blue Shield is in a very unique position. What I have been told is essentially that they will withdraw, that it will be too much of a burden on them to convert their entire system over to comply, to meet the requirements for this relatively small percentage of their business, and that they will withdraw.

□ 1700

I guess we are going to try to call their bluff and see if they really will withdraw. But if they do withdraw, 4 million people are currently within the Blue Cross/Blue Shield FEHBP plan. Many of them are current Federal employees. Many of them are retirees. Some of them have been in Blue Cross/Blue Shield. And the important point I want to stress in all this is that OPM has testified to us that they have copious amounts of data, that they do not need more data. They did not say they had adequate levels of information. They said they have all the information they needed to verify that Blue Cross/Blue Shield within FEHBP is not skimming money away, that they are not engaging in any fraudulent behavior, that they have all of the insight that they need, and OPM has testified to us that they do not need this and that it is going to provide no additional information.

We are all for good, solid, especially in this climate, good, solid accounting standards; but the agency in the Federal Government, the Office of Personnel Management, is telling us they have all the insight they need; they have more than enough insight. So the net effect of all this may be, even if you did apply it to Blue Cross/Blue Shield, no new information, and the net effect may be that millions of Federal employees and retirees may actually ultimately withdraw.

I would encourage a "no" vote on the gentleman's amendment. I know his heart is in the right place, but having studied this through the subcommittee, I believe this exception should be kept in the current law. I strongly urge a "no" vote on the gentleman's amendment.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the previous speaker has raised many legitimate points, but out of courtesy I yield to the gentleman from Ohio.

Mr. KUCINICH. I thank the gentleman for yielding. With all due respect to my good friend, the gentleman from Florida (Mr. WELDON), I do not think we need to worry about Blue Cross/Blue Shield withdrawing because of the imposition of government cost accounting standards, because, in effect, Members should know that Blue Cross/Blue Shield is already complying with government accounting standards in Medicare and also the Tricare program which serves our veterans.

Furthermore, for my friends who indicate that a statutory moratorium would be required, the statement of administration policy has indicated that a statutory moratorium is not required, as existing law provides for an administrative process to exempt or waive classes or categories of contracts from any or all CAS requirements. So you do not need to go to the authorizing committee.

My friends who indicate that government cost accounting standards are not appropriate for FEHBP health plans should know that cost accounting standards are certainly appropriate for such plans if not more so than any other Federal contractors. The cost of health care is increasing, which makes it even more important for health care plans to account for the cost increases. Hewitt Health Care Resources reported last June that HMO premiums may increase 22 percent in 2003 and Congress should not be allowing health care plans a waiver from accounting for these types of dramatic increases.

Finally, where my friends indicate that government cost accounting standards are incompatible with the already existing accounting system used by the health care industry, they should know that any other government contractor faces the same issue whether it has government as well as commercial clients, that this argument is not unique to health plans. Moreover, health plans have had more than 3 years to make the necessary changes in order to abide by the government cost accounting standards which, I might add, Mr. Chairman, is plenty of time. So if cost accounting standards are truly a legitimate problem, Congress has already established a cost accounting standards board to determine if a waiver is appropriate. This board is staffed by experts who have knowledge and expertise to make that determination. Allowing a blanket exemption by statute puts the FEHBP health plans above the law.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

The ranking member of our committee indicated, and I agree with him, that the gentleman from Florida (Mr. WELDON) raised some very legitimate and good points. The good news is that we have time to, I think, develop this issue further between now and the time of conference. I am pretty confident that the Senate will include similar language in their bill, so this will be a conferenceable item if it is not in the bill.

Clearly what the gentleman from Ohio seeks to do is to raise the issue of whether or not there ought to be a consistency in reporting costs so that OPM on behalf of Federal employees and Federal employees, generally, can make an assessment as to the costs that are being incurred by the insurers and, determining the cost, then what ought to be the appropriate level of premiums for the insurance that is gotten.

I think this is particularly cogent in a time when health care costs and premiums in particular for Federal employees and for all employees are starting to rise very, very substantially. So I understand what the gentleman from Ohio is saying. I think the gentleman from Florida (Mr. WELDON), who chairs the relevant subcommittee, makes some very good points; but I think either way what the gentleman from Oklahoma (Mr. ISTOOK) is saying, we need to look at this very carefully, and I am convinced that the gentleman from Oklahoma and I and the subcommittee, whatever happens on this amendment, are going to look very carefully at this between now and the markup.

Mr. WELDON of Florida. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Chairman, I just want to raise a couple of points in response to some of the statements my friend from Ohio made but really just one in particular and, that is, as it relates to the Blue Cross/Blue Shield systems complying with the cost accounting standards within the Medicare plan, those are very distinct plans. In many cases the Medicare operation is actually housed in a wholly owned subsidiary and for some of these FEHBP plans, they have provider networks and they overlap with the products that they are offering employers in the region and it is not really an entirely separate system.

This is the problem that you get into specifically with the Blues as it relates to FEHBP. They are taking on a Federal employee, and they are taking on somebody who works in industry; they are offering the same product, and really what you are essentially asking the Blues to do with your amendment is adopt this new standard nationwide for all of their 80 million customers in order to keep this 4 million people within their system. It would be very costly for them to develop a separate standard for the 4 million people in FEHBP.

Frankly, I think what you are doing is essentially saying to them, are you going to do it? Are you going to withdraw?

Mr. HOYER. Reclaiming my time, I want to say, as I said before, and I think the gentleman raises obviously the problem that Blue Cross raises. On the other hand, it is interesting that OPM, I guess, through the administration, the administration opposes this provision. So the gentleman from Ohio (Mr. KUCINICH) essentially is offering the position of the administration on this amendment if you read the statement of administration policy.

Mr. KUCINICH. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Ohio.

Mr. KUCINICH. I want to say what a pleasure it is to be able to do that on behalf of the administration.

Mr. HOYER. Reclaiming my time, I know the gentleman's happiness at the present position he finds himself in.

But the point I want to make is, this is clearly not a partisan issue. This is an issue of judgment as to clearly we want to keep the Blues in the program. Some years ago we lost Aetna. We do not want to lose competitors in the program that will adversely affect Federal employees and adversely affect taxpayers who participate, as you know, in 70 percent of the average cost of the FEHBP. So clearly I think we all want to get to the same place, but I think there is some question here, and I tried to contact OPM today to follow up on this without success after I found out that the administration was for essentially the Kucinich amendment.

They did not mention that amendment. They simply mentioned that they were in favor of this provision being dropped. But clearly I want to assure the gentleman from Florida, and I know that having talked to the gentleman from Oklahoma (Mr. ISTOOK), the chairman of our committee, about this, whatever happens on this amendment, we are going to look very carefully at it; and we are not going to allow anything to happen which will adversely affect the Federal employees and which will unfairly affect Blue Cross/Blue Shield.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Kucinich amendment which would strike section 513 of the bill. That provision contains a waiver from cost accounting standards for the insurance companies participating in the Federal Employees Health Benefit Program. In today's environment, the Federal Government should be setting an example by holding its own contractors to accounting standards in a consistent manner, not granting legislative waivers at the behest of insurance companies.

The accounting standards involved here are important. They ensure that the government is not overcharged for labor and materials, and not charged at all for certain unallowable costs like travel and entertainment. They also ensure that the government pays only its fair share of things like depreciation of equipment and pension costs.

Some insurers, like Blue Cross/Blue Shield, argue that these cost accounting standards are burdensome and will cost them too much money to adopt. That is really a very strange contention, given that Blue Cross/Blue Shield already complies with cost accounting standards for their contracts with the military's Tricare health program. And even if they did not already comply, the expenses related to implementing the accounting standards is an allowable cost which could be billed to the FEHBP. So I am afraid that this argument just does not hold water.

There is widespread opposition to this waiver. The administration opposes this waiver because the standards ensure consistent reporting of costs on Federal contracts. Federal employees oppose the waiver because they are rightly concerned that overcharges will result in unjustifiably high premiums for their members. And even some of the insurance carriers, such as First Health, oppose the waiver because they do not want to be associated with waivers from accounting standards in the current climate.

The taxpayers' money is at stake here. Granting a waiver from these standards exposes the government to waste and fraud. According to the Congressional Budget Office, the failure to apply these standards has already cost the taxpayers millions. There is an old adage: "A good example is the best sermon." There has been a lot of sermonizing lately in Washington on the topic of corporate and governmental accountability. Today we have a chance to set a good example by adopting the Kucinich amendment.

I urge a "yes" vote on this important amendment.

Mrs. MINK of Hawaii. Mr. Chairman, I rise in support of Congressman KUCINICH's amendment to strike the section of the Treasury-Postal FY 2003 Appropriations bill that exempts companies in the Federal Employees Health Benefits Program (FEHBP) from following Cost Accounting Standards (CAS).

These accounting standards are written by an independent board within the Office of Management and Budget. The standards were created due to concerns about the pricing and accounting practices of defense contractors. Before the creation of the CAS, there was no consistency within and between contractors' cost accounting practices. Auditors could not conduct reviews, and the public had no assurance that the government was purchasing the best value for their tax dollars.

These standards are not an onerous set of accounts rules and regulations. The committee that creates the standards generally gives companies numerous cost accounting options for each regulation.

The CAS are needed to make sure greedy corporations do not defraud the government. They help ensure the accuracy of the charges submitted to the federal government. Yet, due to the hard work of a small group of health care providers, the CAS have never been applied to the FEHBP. Congress has waived these accounting standards in every Treasury-Postal Appropriations bill since FY 1999.

The exemption simply does not make any sense. The FEHBP covers nearly nine million active and retired federal employees, and it is the nation's largest employer-sponsored health insurance plan. Every year the government pays more than $20 billion to the health care providers in the plan. What corporation in America would pay this much money without having any way to rationally examine their expenses?

With daily stories of new scandals in the corporate world, now is not the time to exempt companies from basic accounting standards. Congress must remove this special exemption for the health insurance companies in the FEHBP.

I urge my colleagues to improve the accountability of FEHBP health insurance providers by supporting the Kucinich amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

SEC. 514. For the purpose of resolving litigation and implementing any settlement agreements regarding the nonforeign area cost-of-living allowance program, the Office of Personnel Management may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an appropriations Act) funds made available to the Office pursuant to court approval.

SEC. 515. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

SEC. 516. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

### TITLE VI—GENERAL PROVISIONS

### DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2003 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided*, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 604. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

SEC. 605. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 606. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 607. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 608. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 609. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 610. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 611. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c).

SEC. 612. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 613. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2003, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury and General Government Appropriations Act, 2002, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2003, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder of fiscal year 2003, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2003 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2003 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 2002 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2002, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2002, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 2002.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the term "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 615. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 616. Notwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 617. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 618. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for the current fiscal year shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 619. None of the funds made available in this Act for the United States Customs Service may be used to allow—

(1) the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined pursuant to section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); or

(2) the release into the United States of any good, ware, article, or merchandise on which the United States Customs Service has in effect a detention order, pursuant to such section 307, on the basis that the good, ware, article, or merchandise may have been mined, produced, or manufactured by forced or indentured child labor.

SEC. 620. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 621. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 622. No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793. 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.": *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 623. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 624. None of the funds appropriated by this or any other Act may be used by an agency to provide a Federal employee's home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 625. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 626. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 627. (a) In this section the term "agency"—

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the General Accounting Office.

(b) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties.

SEC. 628. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, funds made available for the current fiscal year by this or any other Act to any department or agency, which is a member of the Joint Financial Management Improvement Program (JFMIP), shall be available to finance an appropriate share of JFMIP administrative costs, as determined by the JFMIP, but not to exceed a total of $800,000 including the salary of the Executive Director and staff support.

SEC. 629. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each Executive department and agency is hereby authorized to transfer to or reimburse the "Policy and Citizen Services" account, General Services Administration, with the approval of the Director of the Office of Management and Budget, funds made available for the current fiscal year by this or any other Act, including rebates from charge card and other contracts. These funds shall be administered by the Administrator of General Services to support Government-wide financial, information technology, procurement, and other management innovations, initiatives, and activities, as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director (including the Chief Financial Officers Council and the Joint Financial Management Improvement Program for financial management initiatives, the Chief Information Officers Council for information technology initiatives, and the Procurement Executives Council for procurement initiatives). The total funds transferred or reimbursed shall not exceed $17,000,000. Such transfers or reimbursements may only be made 15 days following notification of the Committees on Appropriations by the Director of the Office of Management and Budget.

SEC. 630. Notwithstanding any other provision of law, a woman may breastfeed her child at any location in a Federal building or on Federal property, if the woman and her child are otherwise authorized to be present at the location.

SEC. 631. Nothwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of specific projects, workshops, studies, and similar efforts to carry out the purposes of the National Science and Technology Council (authorized by Executive Order No. 12881), which benefit multiple Federal departments, agencies, or entities: *Provided*, That the Office of Management and Budget shall provide a report describing the budget of and resources connected with the National Science and Technology Council to the Committees on Appropriations, the House Committee on Science; and the Senate Committee on Commerce, Science, and Transportation 90 days after enactment of this Act.

SEC. 632. Any request for proposals, solicitation, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds and the amount provided. This provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

SEC. 633. Section 403(f) of Public Law 103-356 (31 U.S.C. 501 note) is amended by striking "October 1, 2002" and inserting "October 1, 2003".

SEC. 634. (a) PROHIBITION OF FEDERAL AGENCY MONITORING OF PERSONAL INFORMATION ON USE OF INTERNET.—None of the funds made available in this or any other Act may be used by any Federal agency—

(1) to collect, review, or create any aggregate list, derived from any means, that includes the collection of any personally identifiable information relating to an individual's access to or use of any Federal Government Internet site of the agency; or

(2) to enter into any agreement with a third party (including another government agency) to collect, review, or obtain any aggregate list, derived from any means, that includes the collection of any personally identifiable information relating to an individual's access to or use of any nongovernmental Internet site.

(b) EXCEPTIONS.—The limitations established in subsection (a) shall not apply to—

(1) any record of aggregate data that does not identify particular persons;

(2) any voluntary submission of personally identifiable information;

(3) any action taken for law enforcement, regulatory, or supervisory purposes, in accordance with applicable law; or

(4) any action described in subsection (a)(1) that is a system security action taken by the operator of an Internet site and is necessarily incident to the rendition of the Internet site services or to the protection of the rights or property of the provider of the Internet site.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term "regulatory" means agency actions to implement, interpret or enforce authorities provided in law.

(2) The term "supervisory" means examinations of the agency's supervised institutions, including assessing safety and soundness, overall financial condition, management practices and policies and compliance with applicable standards as provided in law.

SEC. 635. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Personal Care's HMO; and

(B) OSF Health Plans, Inc.; and

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

SEC. 636. The Congress of the United States recognizes the United States Anti-Doping Agency (USADA) as the official anti-doping agency for Olympic, Pan American, and Paralympic sport in the United States.

SEC. 637. Not later than 6 months after the date of enactment of this Act, the Inspector General of each applicable department or agency shall submit to the Committee on Appropriations a report detailing what policies and procedures are in place for each department or agency to give first priority to the location of new offices and other facilities in rural areas, as directed by the Rural Development Act of 1972.

SEC. 638. Section 7131 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) Each agency shall submit to each House of the Congress, the Office of Personnel Management, and the Office of Management and Budget, at the time the budget is submitted by the President to the Congress in each calendar year, a report on the use of official time within such agency during the fiscal year last ending before the date of the report's submission.

"(2) Each such report shall include, with respect to the fiscal year to which it pertains—

"(A) the number of hours of official time that employees spent on labor organization activities;

"(B) the number of employees who used official time for labor organization activities;

"(C) the number of employees who spent 100 percent of their time on labor organization activities;

"(D) the dollar value of the official time spent on labor organization activities;

"(E) the dollar value of the office space, equipment, telephone use, and supplies provided to employees using official time for labor organization activities; and

"(F) the benefits and disadvantages of using official time for labor organization activities.".

SEC. 639. (a) ANNUAL IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES SUSCEPTIBLE TO IMPROPER PAYMENTS.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

(b) ESTIMATION OF IMPROPER PAYMENTS.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

(1) estimate the annual amount of improper payments; and

(2) include that estimate in its annual budget submission.

(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed 1 percent of the total program or activity budget or $1,000,000 annually (whichever is less), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

(1) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

(2) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

(3) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

(d) DEFINITIONS.—For the purposes of this section:

(1) AGENCY.—The term "agency" means an executive agency, as that term is defined in section 102 of title 31, United States Code.

(2) IMPROPER PAYMENT.—The term "improper payment"—

(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

(3) PAYMENT.—The term "payment" means any payment (including a commitment for future payment, such as a loan guarantee) that is—

(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

(e) APPLICATION.—This section—

(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.

SEC. 640. (a) Notwithstanding paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (sec. 5-701(17), D.C. Official Code) or any other provision of such Act to the contrary, for purposes of determining the amount of any annuity required to be paid under such Act with respect to an officer or member of the United States Secret Service who retired during fiscal year 1995, the officer's or member's average pay shall be the officer's or member's basic salary at the time of retirement.

(b) Subsection (a) shall apply with respect to any annuity paid—

(1) during fiscal year 1995 or any succeeding fiscal year, in the case of a survivor's annuity paid with respect to an officer or member of the United States Secret Service described in such subsection; or

(2) during fiscal year 2003 or any succeeding fiscal year, in the case of any other annuity paid with respect to an officer or member of the United States Secret Service described in such subsection.

SEC. 641. Section 902(b) of the Law Enforcement Pay Equity Act of 2000 (as enacted into law by Public Law 106-554), shall cease to be effective on January 1, 2003.

SEC. 642. No funds appropriated under this Act or any other Act with respect to any fiscal year shall be available to take any action based upon any provision of 5 U.S.C. 552 with respect to records collected or maintained by the Secretary of the Treasury or his delegate pursuant to 18 U.S.C. 846(b), 923(g)(3) or 923(g)(7), or obtained by the Secretary or delegate from Federal, State, local, or foreign law enforcement agencies in connection with arson or explosives incidents or the tracing of a firearm, except that the Secretary or delegate may continue to disclose such records to the extent and in the manner that records so collected, maintained, or obtained have been disclosed by the Secretary or delegate under 5 U.S.C. 552 prior to the date of the enactment of this Act.

SEC. 643. (a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2003 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.1 percent.

(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2003.

SEC. 644. (a) Section 9505(d) of title 5, United States Code, is amended by striking the second sentence and inserting the following: "Such amount may not exceed the maximum amount which would be allowable under paragraph (3) of section 5384(b) if such paragraph were applied by substituting 'the Internal Revenue Service' for 'an agency'.".

(b) The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 2002.

SEC. 645. None of the funds made available in this Act may be used to finalize, implement, administer, or enforce—

(1) the proposed rule relating to the determination that real estate brokerage is an activity that is financial in nature or incidental to a financial activity published in the Federal Register on January 3, 2001 (66 Fed. Reg. 307 et seq.); or

(2) the revision proposed in such rule to section 1501.2 of title 12 of the Code of Federal Regulations.

SEC. 646. CORPORATE EXPATRIATES. (a) LIMITATION.—None of the funds made available in this Act may be obligated for payment on any new contract to a subsidiary of a publicly traded corporation if the corporation is incorporated in a tax haven country but the United States is the principal market for the public trading of the corporation's stock.

(b) DEFINITION.—For purposes of subsection (a), the term "tax haven country" means each of the following: Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Liechtenstein, the Principality of Monaco, and the Republic of the Seychelles.

(c) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to the Appropriations Committees that the waiver is required in the interest of national security.

□ 1715

POINT OF ORDER

Mr. SMITH of Texas. Mr. Chairman, I make a point of order against the language beginning with "Provided" on page 74, line 15, through the word "law" on line 25. These provisos, which affect federal criminal rules of evidence and criminal laws, constitute legislation on an appropriations bill in violation of clause 2(b) of rule XXI of the House of Representatives.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 103, line 10, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The text of the remainder of the bill through page 103, line 10, is as follows:

The CHAIRMAN. Are there any other points of order?

### POINT OF ORDER

Mr. DAVIS of Virginia. Mr. Chairman, I make a point of order under clause 2(b), rule XXI, legislating on an appropriations bill, against section 646, beginning at page 102, line 19, through page 103, line 10.

The CHAIRMAN. Do other Members wish to be heard on the point of order?

If not, the Chair finds that this provision includes language requiring a new determination by a certification. The provision, therefore, constitutes legislation, in violation of clause 2, rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Are there any other points of order?

If not, are there any amendments?

### AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOSS: Amendment printed in House Report 107-585:

Page 103, insert after line 10 the following new section:

SEC. 647. Any limitation in this Act on the use of funds to administer or enforce regulations restricting travel to Cuba or transactions related to travel to Cuba shall apply only after the President has certified to the Congress that the Cuban Government—

(1) does not possess and is not developing a biological weapons program that threatens the homeland security of the United States;

(2) is not providing to terrorist states or terrorist organizations technology that could be used to produce, develop, or deliver biological weapons; and

(3) is not providing support or sanctuary to international terrorists.

Mr. GOSS. Mr. Chairman, there exists a nation that for over 40 years has repeatedly declared its hostile intentions towards the United States of America and American citizens. It has consistently allied itself with our enemies, it has sought nuclear weapons on its soil, and abused its own citizens. It has violated human rights in an egregious way. This nation today is on the State Department list for sponsoring terrorism, and in the past it has provided funds and shelter for terrorist groups, groups such as the ETA, the Basque Nationalists, Colombian guerrillas, committing some of the great atrocities going on in our hemisphere now, IRA leaders, possibly even Iranian agents and others.

This nation's dictator has failed to share any useful intelligence information with us since 9/11, and calls our military response in Afghanistan not "a war on terrorism," but "a war for terrorism." The state, of course, I am referring to is Cuba, a nation only 90 miles from the southern boundaries of the United States of America.

Coming from a south Florida district, Mr. Chairman, I have long heard the arguments from both sides about the Cuban embargo and travel ban. Usually this debate evokes emotional issues on topics like human rights and free trade. I have not come to the floor today to rehash the old fights on those scores, because while these concerns are certainly still valid and will certainly be debated, I think the center of gravity in this discussion has shifted very dramatically since 9/11.

There is no doubt that Cuba has sponsored terrorist activity in the past. That is not arguable or debatable. It is fact. Whether it is a terrorist sponsor today remains a difficult, open question and one which of our executive agencies are working on, and one we do not want to have answered the wrong way or the hard way.

I do not see how, in good conscience, we can do business with Cuba's current regime when its activities are veiled by a closed society. How can we tell the world we will not tolerate terrorism, but, at the same time, open our economic door and all the benefits that that implies to a clearinghouse for those who harm innocent civilians?

Castro's coffers should not be enriched by the bounty of American travel dollars if he is aiding and abetting brutal criminals. Our tireless enemies are disciplined, they are persistent, and they are adaptable, as we have found out to our regret. They leave us few physical targets to attack and they are difficult to track.

However, they are vulnerable. Terrorists, like any other organization, need residence, they need logistic support; they need travel aid, they need money, they need safe harbor. Without these, they are little more than bitter outlaws.

Back in September, President Bush drew a clear line for all nations of the world when he declared, "You are either with us, or you are with the terrorists." It is essential that groups like al Qaeda never again find a safe haven from which to rebuild, especially a place so near our nation.

For this reason, I bring this amendment to ask that the President certify a clean bill of health for Cuba before travel is allowed. The amendment specifically asks the President to certify that Cuba is not developing biological weapons and that it is not providing technology, shelter or assistance to terrorists.

I strongly support President Bush's efforts to bring real democracy to the people of Cuba. We all want a better life for our innocent neighbors that have long suffered off our shores. However, in our rush to help the oppressed people of Cuba, let us ensure we are not strengthening a regime that is now running a terrorist comfort station.

Our job is to look out for the national security of the United States of America and Americans at home and abroad. This is a simple amendment to give us an extra measure of assurance in that area. Should the administration determine that the Cuban-Castro regime passes the test, then there is no problem with those who object to this amendment. If he does not pass the test, then there is every reason why this amendment should pass.

Mr. McGOVERN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentlman from Massachusetts is recognized for 5 minutes.

There was no objection.

Mr. McGOVERN. Mr. Chairman, I rise in very strong opposition to the amendment offered by the gentleman from Florida.

I have the utmost respect for the chairman of the Permanent Select Committee on Intelligence and my colleague on the Committee on Rules, but I am disappointed that he would offer this amendment, which further restricts the ability of U.S. citizens to travel to Cuba. And let us be clear, that is the only thing the Goss amendments would do; keep Americans from traveling to Cuba.

If Members are seriously alarmed about bioweapons being developed or exported by Cuba, then serious action is required, not this. The United States should present to our allies and the international community information backing up these claims. But we have not done so.

The United States should call upon the United Nations and the OAS to form a reputable inspection team, send it to Cuba, investigate these allegations and determine whether or not they have merit. We are not doing that either.

Officials from the Bush Administration should be informing all relevant committees, Members of Congress and the press of the documentation they have to back up their claims. But that is not happening either.

Instead, high officials of the Bush Administration have deliberately distanced themselves from the one individual, Under Secretary of State John Bolton, who made such claims in a May 6 speech at the Heritage Foundation.

Following Mr. Bolton's remarks, Secretary of Defense Donald Rumsfeld was asked about the matter. He replied that he had not seen the intelligence to back up such charges. Secretary of State Powell, the U.S. has always stated that Cuba has the capacity to develop such bioweapons, but there was no information that Cuba had developed offer was exporting bioweapons technology.

In hearings in the other body, not only did the State Department refuse to allow the Under Secretary of State Bolton to testify on this matter, but the person they did send, Assistant Secretary of State for Intelligence and Research Carl Ford, Jr., stated that he had no evidence to back up the suggestion that Cuba was working on the development of biological weapons or passing that technology on to rogue states. He concluded that the State Department "never tried to suggest that we had a smoking gun."

The possession, development or export of such bioweapons by Cuba or any other weapon of mass destruction has not been cited in any CIA, Pentagon or State Department report issued over the past decade, including those wholly researched, written and issued by the Bush Administration.

The State Department's own May 2002 report on global terrorism issued 3 weeks after Bolton's charges made no mention, not even a hint, of bioweapons in Cuba. The July 11 letter sent by Secretaries Powell and O'Neill to the Committee on Appropriations chairman, the gentleman from Florida (Mr. YOUNG), does not mention Cuba developing bioweapons. And the July 18th statement of the administration policy issued by the White House, also no mention of bioweapons development in Cuba.

Certainly, Mr. Chairman, Cuba has the capability to develop and manufacture such weapons. But, then again, so does every single country in the world that produces aspirin.

The President has stated clearly that he wants no changes in the restrictions on Cuba; he supports the status quo. He has absolutely no incentive to certify, no incentive to prove or disprove the charges made against Cuba.

The gentleman from Florida has crafted an amendment that he knows the administration has no intention of ever pursuing, let alone certifying. The amendment, if approved, overrides every other measure passed by Congress to lift the restrictions on travel to Cuba. Even if the Flake amendment once again passes overwhelmingly, it would not be able to go into effect.

I wish the gentleman would have simply opposed the Flake amendment and let the chips fall where they may, because if you are serious about fighting terrorism, you do not go about it by adding more restrictions on the right of American to travel freely to Cuba.

This amendment trivializes the war on terrorism. It accomplishes nothing. It is just the latest effort in a series of efforts to thwart the overwhelming will of the majority in both bodies to lift the restrictions that prohibit U.S. citizens from traveling to Cuba.

This is not a debate, Mr. Chairman, about trusting Castro, it is about trusting the American people. I urge my colleagues in the strongest possible terms to oppose the Goss amendment.

Mrs. EMERSON. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentlewoman from Missouri is recognized for 5 minutes.

There was no objection.

Mrs. EMERSON. Mr. Chairman, I rise in opposition to the Goss amendment for one primary reason, and that is because its purpose is to undo what our colleague, the gentleman from Arizona (Mr. FLAKE) will offer following this, and that is an amendment to end the travel ban to Cuba. First of all, I just want to go through a few points about this.

Number one, a main premise, if we all remember, of American policy toward the former Soviet bloc that was enshrined in the 1975 Helsinki Accords was that travel restrictions should be ended. From the American perspective, the purpose was to expose closed societies to western influence.

If, in fact, that was the premise then, it should be the premise today, and anything that would stop us, as the Goss amendment would do, would, in fact, not allow us to spread our values, our democratic society, to those people who desperately need it, those people in Cuba.

Like many people, and any people who have lived under communism, Cubans want contact with the rest of the world and not isolation from it, and they do benefit materially from foreign visitors. Contact with foreigners brings information, news and foreign influence. It erodes the information monopoly that the government and the communist party attempt to maintain.

In spite of what anyone will say, and having been on two occasions to Cuba, tourist dollars do reach the people directly. Think of Cuba's artisan markets, the bicycle taxies, the private taxies, the private restaurateurs, the thousands of Cubans who rent their rooms to tourists, this is the 4 percent of the Cuban workforce that is employed as private licensed entrepreneurs.

No, it is not nearly enough, but it is a beginning. They live largely on the money tourists spend when visiting Cuba.

Then there are the hotel and restaurant employees, who do earn tips, some directly, some because all employees in a hotel pool the tips and divide them. They get dollar wages, they get dollar bonus, but, most of all, they do get the money that Germans, Spaniards and French and all the other tourists to Cuba give them, perhaps under the table, but they do have this to supplement their income.

Finally, tourist spending has a secondary impact. Cuba's farmer's markets and the private farmers who supply them, and all the small entrepreneurs prosper when tourism is up and artists, restaurateurs, taxi drivers, bellhops and chambermaids have disposable income. American tourism would make this entire Cuban private sector boom.

I, quite frankly, do not understand what anybody is afraid of, why people are afraid for Americans to travel to Cuba. In my opinion, it would only help the Cuban people in the long run.

Mr. BALLENGER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no objection.

Mr. BALLENGER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida (Mr. GOSS). The chairman of the Permanent Select Committee on Intelligence is raising a reasonable point. In his amendment he is asking that before we lift the Treasury Department restrictions on travelers spending money in Cuba without a license, we should get some answers to some critical home security questions: Does Cuba have an offensive biological weapons capability? Is Cuba sharing dual use biotechnology with rogue states? Does Cuba harbor and support terrorists?

Our administration has released statements approved by our intelligence community that say that our government believes the answer to the first two questions is yes. As for the third question, Cuba is on the State Department's list of state-sponsored terrorism.

□ 1730

We need to take a closer look at these potential threats to our citizens. That is what the Goss amendment does. It says to the President, look into this and certify to Congress whether these things are true. There are also some commonsense questions about Cuba's possible motives for developing biological weapons that we ought to be asking. Why is it that the government of this poor nation has poured many, many millions of dollars into developing a biotech industry? Can we really accept at face value Cuban claims that they are only pursuing medical research? Cuba has on numerous occasions over the years falsely accused the

United States of deploying biological agents against Cuba. Could such paranoia motivate the regime in Havana to develop biological weapons? Since the Cuban regime says it fears a U.S. invasion, is it possible that such a perceived threat would motivate the Cubans to develop offensive biological weapons?

I urge my colleagues to support the Goss amendment so Congress could get the answer to these questions.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentlewoman from Florida is recognized for 5 minutes.

There was no objection.

Ms. ROS-LEHTINEN. Mr. Chairman, I rise to lend my strong and unequivocal support to the amendment offered by the distinguished gentleman from Florida (Mr. GOSS), chairman of the House Permanent Select Committee on Intelligence.

This is an amendment which seeks to protect our citizens from the imminent threats emanating from a state sponsor of terrorism, a declared enemy of the United States in our own backyard. On Tuesday of just this week, President Bush presented his national strategy for homeland security, and in it he outlined what is the beginning of a long and difficult struggle to protect our Nation from the threat of terrorism. It establishes a foundation upon which to organize our efforts and it provides initial guidance to prioritize the work ahead, and two of the most important objectives include preventing terrorist attacks within the United States and reducing America's vulnerability to terrorism. The Goss amendment before us, Mr. Chairman, accomplishes just that.

The Castro dictatorship, a totalitarian regime long known to be a safe haven for terrorists and a nerve center for international espionage, is a continuing and growing threat to our national security that we cannot afford to underestimate. We must be acutely aware of the reality that the closest foreign staging ground friendly to terrorist elements is a mere 90 miles from our borders.

The Goss amendment recognizes the inherent danger posed by this dictatorship whose maniacal leader has pledged to "bring America to its knees," a regime which along with other pariah states plays a critical role in abetting and facilitating terrorist operations, a regime with an expansive network of spies, equipment, and facilities that are targeting military, political, and economic information from and about the United States only so that they can share it with other terrorist nations. Without the provisions by rogue states such as Cuba of training facilities, sanctuary, financial support, safe havens and other passive forms of support, many terrorist groups would find it far more difficult to continue to operate.

To reiterate, the Goss amendment acknowledges this reality and it implements steps to help us counter the threats stemming from a nation so close to our own. Further, it establishes a mechanism to address and protect our great Nation from a new wave of terrorism, one potentially involving the world's most destructive weapons. Our enemies are working to obtain chemical, biological, radiological, and nuclear weapons for the purposes of wreaking unprecedented damage on America. The Castro regime is no different, Mr. Chairman, Dr. Ken Alibek, the former head of the Soviet Biological Weapons program, has referenced in congressional testimony the existence of a center close to Havana involved in military biological technology. He asserts that the Castro regime has the capacity and the desire to develop such biological weapons. And the former director of research and development at Cuba's Center for Genetic Engineering and Biotechnology, Dr. Jose de la Fuente, has detailed the Castro regime's sales of technology to Iran which could be used to produce lethal agents like anthrax.

The concerns are not new nor are they limited to the statements by Under Secretary John Bolton earlier this year. In 1997 a Defense Intelligence Agency report raised concerns about Cuba's potential for a biological weapons program. This is a very real possibility and one which the Goss amendment seeks to address. The Goss amendment is crucial to reducing our vulnerability to the threats posed by Cuba's terrorist regime, by requiring a presidential certification that the regime is not facilitating nor engaging in any of the following three fronts critical to our homeland security efforts. It requires proof that the Castro regime first does not possess and is not developing biological weapons.

Do we not want that assertion that it does not provide terrorist states technology that could be used to produce, develop, or deliver biological weapons, do we not want such proof?

And, lastly, the regime must state and the President must certify that it does not provide support or sanctuary to international terrorists.

Mr. Chairman, following the deplorable acts of September 11, President Bush divided the world into two camps with a basic guiding principle, "Either you are with us or you are with the terrorists." Ironically enough, today the United States is facing the same question and that is what the Goss amendment seeks to address today, and I urge my colleagues to adopt the Goss amendment.

Mr. ROTHMAN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from New Jersey is recognized for 5 minutes.

There was no objection.

Mr. ROTHMAN. Mr. Chairman, first let me thank the distinguished and honorable gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Maryland (Mr. HOYER), the ranking member, for all their work in crafting a bill that deserves all of our support. I am proud to serve with them on the Subcommittee on Treasury, Postal Service and General Government, and I thank them for their leadership.

I come here this evening, however, to wholeheartedly support and endorse, and I ask my colleagues to support, the Goss amendment. In my opinion, the United States should not lift the travel ban to Cuba until several important conditions are met. Foremost on this list of conditions is the requirement that Cuba return convicted American fugitives now living in Cuba who have been given sanctuary in Cuba by the Castro government.

My passion for this particular condition is rooted in the 74 cases of American fugitives from justice now living under Castro's protection in Cuba.

Let me tell my colleagues about one of these fugitives from American justice. Joanne Chesimard, a convicted cop killer. On May 2, 1973, New Jersey State Troopers Werner Foerster and James Harper pulled over Joanne Chesimard and two of her companions in a routine traffic stop. A shoot-out began and Trooper Foerster, who had served on the force for less than 3 years, was shot and killed. Trooper Harper was wounded.

A jury here in the United States of America, a jury found that Trooper Foerster had been shot in the back of his head, execution style, at point-blank range. The jury convicted Joanne Chesimard of murder and sentenced her to life in prison. But she escaped in 1979 with the help of four accomplices when they took a prison guard hostage, a prison van was driven, and she was permitted to escape. She lived underground in America for 4 years until she found sanctuary in Castro's Cuba where she lives today, free, enjoying the protection of the Castro government.

In addition to Joanne Chesimard, a convicted U.S. cop killer living in Castro's Cuba under his protection today, there are 73 other fugitives living under Castro's protection in Cuba, including Victor Manuel Gerena, an armed robber and a member of a terrorist group who has carried out bombings of U.S. military and civilian targets and is a member of the FBI's 10 Most Wanted List, as well as Michael Robert Finney and Charles Hill, who are wanted for the murder of New Mexico State Police Officer Robert Rosenblum.

Mr. Chairman, the United States of America should not allow Fidel Castro, Cuba's dictator for the last 43 years, to enjoy the financial benefits of America's tourism until he returns Joanne

Chesimard, the convicted cop killer, and until he returns the other 73 fugitives from American justice.

It is only fair, it is only right. What do we say to the widow of Werner Foerster and his child? What do we say to all of the other victims of terror, American victims of terror and their children and their relatives if we do not seek justice for the fugitives given sanctuary by Castro today in Cuba?

If we simply remove the travel ban without any regard to these fugitives now under Castro's control, we say to any terrorist who would kill a United States trooper, State trooper or any other first responder, we would say to those terrorists, those murderers, it is okay, you can escape American justice, even if you are caught and convicted by a U.S. jury, if you can escape to Cuba. That is wrong, I say to my colleagues. We should not allow travel to Cuba until Castro returns the 74 fugitives from American justice.

Mr. Chairman, I support the Goss amendment, and I ask all of my colleagues to do so.

Mr. McGOVERN. Mr. Chairman, will the gentleman yield?

Mr. ROTHMAN. I yield to the gentleman from Massachusetts.

Mr. McGOVERN. Mr. Chairman, I would simply say to the gentleman that I agree with him that we need to bring fugitives who have committed crimes in this country to justice, not only in Cuba, but in other countries, including some of our allies who we do not have extradition treaties with. Perhaps the gentleman would urge the United States to try to negotiate an extradition treaty with Cuba in order to get those fugitives back to the United States where they can stand trial, rather than deny U.S. citizens freedom.

Mr. ROTHMAN. Mr. Chairman, reclaiming my time, I would do what the gentleman suggests, but I am not going to before that allow Castro to have the benefits of tourism from the United States until he returns these cop-killers and 74 fugitives back to the United States.

Mr. COX. Mr. Chairman, I move to strike the last word, and I rise in strong support of the Goss amendment.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. COX. Mr. Chairman, very shortly, we will see the anniversary of September 11. At this point, reflecting back on the events of last year, we can take comfort that the entire civilized world has joined us in condemning the acts of terrorism committed here in Washington, in New York, and in Pennsylvania. Nowhere has this support for our war on terrorism been stronger than in our own hemisphere where the leaders of every nation have joined in our fight; all, that is, except one, because the Castro regime does not support the war on terrorism.

President Bush asked the leaders of the civilized world to declare themselves with us or against us, but the Castro regime has made it very clear that they oppose the war on terrorism.

According to Secretary of State Colin Powell and Secretary of the Treasury Paul O'Neill, in an extraordinary joint letter to Congress: "The Cuban government has refused to cooperate with the global coalition's efforts to combat terrorism, refusing to provide information about al Qaeda."

"On June 8, 2002," and I am still quoting from this letter from the Secretary of State and the Secretary of the Treasury, in an extraordinary joint letter to Congress, "On June 8, 2002, Castro compared the U.S. campaign against terrorism with Hitler's Third Reich. Castro said, 'What is the difference between America's antiterrorism philosophy and those of the Nazis?'"

It does not end there. Cuba is working with the government of Iran and Ayatollah Ali Khamenei to undermine America. In a meeting with Khamenei last year, Castro said that in cooperation with each other, Iran and Cuba can destroy America. He added that, "The United States regime is very weak and we are witnessing this weakness from close up."

Senior State Department officials have discussed publicly the threat of Cuba's bioterrorism program.

□ 1745

As we rush to protect our citizens from small pox and anthrax, Castro is diverting the resources of his desperately poor economy to offensive biological warfare research and development. And he is selling bio-technology to other rogue states. Even more than with al Qaeda terrorists based in Afghanistan, Pakistan, or Somalia, Cuba's geographic proximity to the United States offers Castro's agents opportunities to gain access to U.S. territory and to our critical infrastructure.

In this connection, the current regulations on U.S.-Cuba travel are a crucial tool for law enforcement to prevent the use of bio-weapons against the American people.

Today we will vote on legislation to lift aspects of the embargo on Cuba. The Goss amendment will only take effect if this Chamber votes to do so. It requires a Presidential precertification to Congress before such a new law would take effect of three things: first, that Cuba does not possess and is not developing biological weapons that threaten the homeland security of the United States; second, that Cuba is not providing to terrorist states or terrorist organizations technology that could be used to produce, develop or deliver biological weapons; and, third, that Cuba is not providing support or sanctuary to international terrorists.

These are exceedingly reasonable and vitally important questions to have answered. And if President Bush cannot give Cuba a clean bill of health on these three questions, then, lifting any aspect of the embargo must be dependent upon Castro's beginning to change these practices.

The embargo and the promise of lifting it provides the necessary leverage for the President to achieve our antiterror objectives. If Congress were to give the Castro regime the trade and tourism dollars they now seek without any reform in exchange, we would simultaneously undermine U.S. policy and subsidize our hemisphere's most notorious state sponsor of terrorism. Castro, for his part, would use any easing of the embargo to redouble his efforts to undermine America and to tighten his grip over the Cuban people, but we must not give him that chance.

As we continue to wage the war on terrorism, now is the time to fully support President Bush by giving him the tools he needs to win. I urge my colleagues to vote "aye" on the Goss amendment.

Mr. FARR of California. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. FARR of California. Mr. Chairman, I appreciate being recognized.

Let me ask Members to consider what this amendment is about. It is not about terrorism. It is about trying to destroy the amendment that the gentleman from Arizona (Mr. FLAKE) will offer that will allow Americans to travel to Cuba. Yes, this amendment coats itself in words about terrorism, but if it were serious you would not allow Canada to send all of their people to Cuba because of terrorism; you would not allow the European allies that are helping us send all of their folks to Cuba. In fact, what this amendments says is that travel to Cuba shall apply only after the President has certified to Congress that the Cuban Government does not possess and is not developing a biological weapons programs that threatens the homeland security of the United States.

The President cannot certify that about our own country. Where did the anthrax come from?

We allow our tourists to go to China. We could not certify these things about China. We allow our tourists to go to North Korea, and we could not certify these things about North Korea. We allow our own tourists to go to Iran, and we certainly could not certify these things about Iran. This is an issue to kill the Flake amendment.

The only wise thing to do if you really want the ability of Americans to sell the American message, to sell what it is about America that we love and possess is to allow Americans travel to a tiny little island with 11 million people.

We are asking the question in the Middle East, Why do they hate us? What do you think the Cuban people are asking? Why do the Americans hate us so much that they will not allow their own people to come here to our country?

If we want to prohibit Americans from traveling to Cuba, then we ought to support the Goss amendment. But if you really think after 40 years of failed policy we ought to try something different, then you ought to join me in defeating the Goss amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of the Goss amendment. The sanctions on Cuba remind me of the people that want to lift those sanctions as the turtle and the snake story. A snake came up to the river and could not swim across it. So he asked the turtle, Please let me climb on your back and take me cross the river. And the turtle said, I cannot do that because when I get on the other side, you will sink your fangs into me put venom into me and kill me. The snake said, Trust me. I will not do that. So the turtle says, Hop on my back. And the turtle takes the snake across and just as they get to the other side, the snake sink his fangs into the turtle and envenomates him. The turtle said, But you gave me your word that you would not bite me, you would not kill me. And the snake turned to the turtle and said, I do not know what you are complaining about, you knew it was in my nature.

This is in Castro's nature. Have we forgot about Che Guevara? Have we forgot about Angola? Have we forgot about the MIAs and the prisoners of war that died under his henchmen, his interrogators in Vietnam? I remember that. And until those people are brought to justice, the 74 people that Castro is harboring that are cop killers, and we are even conceiving of lifting the embargo on Castro. It is amazing.

There is documented evidence that Castro works with terrorist organizations and groups. Iran, with a recent visit, biological warfare; and we are considering raising these sanctions? Remember the Bay of Pigs? You do not think he would not put missiles there and use them on us?

Think who Castro is. Look at the history of this man and you want to allow the snake to climb on the United States' back and trust him? I cannot do that. It is wrong.

I look at Elian Gonzalez. Maybe if you are Janet Reno this would be okay; but to me and those who have fought for this country, to allow someone that in every case in every place, when I was in the United States Navy when we would go when Cuba was getting money from Russia, we would have Cuban advisors there, Cubans in Vietnam, Cubans in Angola, Cubans in every place that the United States were going to go, ready to kill Americans, and you want to lift the embargo? It is beyond comprehension.

I guess the best thing is the President will veto it. Maybe you are trying to make a political issue, but the President is going to veto this if it goes in. But Cuba is the only nation in the hemisphere where political activity of all kinds is a crime. Take a look at what this man is. And you are trying to raise those sanctions? Do not let him on our backs. I support the Goss amendment.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Washington is recognized for 5 minutes.

There was no objection.

Mr. NETHERCUTT. Mr. Chairman, I have listened to part of this debate today and find it interesting. This subject is fascinating to me, and I have great respect for people on both sides of the issue.

What strikes me in this amendment is that we are debating not the future of the United States' relationship with Cuba, but we are trying, it seems to me by this amendment, to restrict that future and the potential for it. It is couched in terms of bio-terrorism and chemical warfare, but it is an inconsistent argument because if you look at the history of the United States and its relations with other countries of the world who have had terrorist tendencies, terrorist records, we only need look to the places like the Soviet Union and China with which we normalized relations, an opening of a relationship, an opening years and years ago that led to a relationship of civility and some respect mutually, some relationship, in fact, rather than isolation.

That is why I urge my colleagues today to think carefully about this issue of this Goss amendment. The gentleman from Florida (Mr. GOSS) is a strong figure in this House of Representatives. I have great respect for him. I also feel the same way about the gentleman from Arizona (Mr. FLAKE), whose approach to change this policy in his amendment really, it seems to me, is being thwarted by a secondary amendment that has a purpose that should not be the one we focus on today. The focus ought to be, in my judgment, the relationship between the United States and Cuba post-Castro.

I will stand with everyone here in condemning the regime of Fidel Castro, but I will stand with a lot of people in this Chamber who support the 11 million people and the potential relationship we could have with them if we have a change in policy.

This policy has not worked. Castro has not yielded to the embargo that has existed for all these years. And so my sense is that as we open the door to trade, the door to a relationship through food and medicine which occurred here a couple of years ago with broad bipartisan support, that has opened the door to a future relationship which I think has merit, not as it relates to Castro certainly, but as it relates to the Cuban people.

When we engaged with the Soviet Union years and years ago, it led to a relationship that has been one of mutual discussion and consideration, not isolation. We never in all the years of Soviet Union ownership of weaponry, of terrorist activity, of spying, of all of those things that we object to in a free society, we never restricted the travel there.

In China, people travel there regularly now. There are 13 categories of travel that exist today for people of the United States to go to Cuba. And most of the proponents of the restrictive amendment, I would argue, have never been to Cuba, have never had a chance to talk with any of the people there on that soil and get a sense of what the future potential is for a relationship.

I want to let my colleagues know that the American Farm Bureau Federation strongly supports the Flake amendment, strongly opposes the Goss amendment for reasons that our American agriculture sector has a huge potential, I believe, to do business with Cuba, that is, take Castro's money, take the government of Cuba's money and provide food and medicine for the people of Cuba, to assist them.

So I urge us to think beyond just the issue of terrorism that I happen to feel is something of a pretext here to frustrate the Flake amendment and think carefully about the future relationship. Think carefully about whether we are harming the potential future relationship for helping it, as we look at the 11 million people who are in Cuba who yearn to be free, I would argue. And I think only by opening your relationship, having communication, letting them understand that America should not be the scape goat of Fidel Castro. It is a convenient scape goat for him, this embargo. He must love it because it allows him to rail against the United States when, in fact, probably his worst nightmare would be if we lifted the opportunity to travel and flooded the people of Cuba with exposure to democracy and freedom. That would be his worst nightmare.

So I would just say to my friends, this is a highly emotional debate for a lot of people. People feel very strongly about this issue, but I would urge we reject the Goss amendment and support the Flake amendment.

□ 1800

Mr. DELAHUNT. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 5 minutes.

There was no objection.

Mr. DELAHUNT. Mr. Chairman, I know some of my friends on the other side are concerned about or they have expressed their fears about bioweapons and bioterrorism, but I think I should point out that General Gary Spear who is the commander of the U.S. Southern Command said just recently in a New York Times article that he knows of no evidence that Cuba is producing biological weapons from biomedical research programs.

Then, of course, we have the individual who should know, the Assistant Secretary of State for Intelligence and Research who testified recently before a Senate committee, Mr. Ford, Secretary Ford. In a response to a question from a Senator, he said, "Do I go home every night and worry about it? No." He also said that Cuba is far from the number one concern of the people in our government who monitor chemical and biological weapon threats.

So I would hope that their fears would be somewhat alleviated, but we have an amendment before us that would, in effect, continue to subvert the constitutional right of Americans to travel by requiring a brand new presidential certification that applies to no other country but Cuba.

For example, it would not apply to China, where just recently nine Chinese companies, presumably owned by the People's Army, sold goods and technology to Iran, where they were used for conventional and chemical weapons programs, but no need for certification when it comes to China. In fact, recent reports indicate that the United States is contemplating an expansion of our military ties with that Communist government, but certification of Cuba, of course.

Some might suggest that not only is this inconsistent but hypocritical. While on the subject of Iran, I think it was the gentleman from California (Mr. COX) that talked about Iran, and remember, that is one of the originals in the axis of evil, but no need for certification there either.

This amendment does not mention Iran, and in case my colleagues did not know, Americans can travel to Iran today without a license. Supposedly we are worried about Iran and its support for terrorist organizations like Hamas and Hezbollah. In fact, our own State Department recently announced that Iran remained the most active State sponsor of terrorism in 2001, but there is no certification for Iran in this amendment.

Again, some might suggest that this is hypocrisy, and then what about North Korea, the other in the troika of the axis of evil. Surely one would believe that this amendment would include North Korea in its certification requirements, especially since there is no U.S. policy prohibiting travel to North Korea if an American citizen wants to exercise his or her constitutional right. Furthermore, we have an agreement with North Korea where we give them hundreds of millions of dollars of aid annually for not pursuing a nuclear weapons effort. I bet the Cubans would love that deal. The North Koreans are not included in this amendment. Inconsistent, hypocritical, I do not know.

Then, of course, one might expect that there would be a certification requirement in this amendment for Saudi Arabia, since 15 of the 19 hijackers who were responsible for the death of more than 3,000 Americans on September 11 were Saudi citizens. Of course, there appears to be compelling evidence that Saudi money went to support the extremist religious schools, the so-called madrassas that are a breeding nest for terrorists, but no, they are not included either, despite being one of the most oppressive regimes on the planet. Maybe, just maybe, if Cuba had a few massive oil reserves, this amendment would not be before us.

Again, I think it opens us to charges of inconsistency at best and hypocrisy at worst. We could discuss other nations, Syria, Sudan, both of which Secretary Bolton said may be pursuing biological weapons, but I think my colleagues get the picture.

This amendment makes no sense. It does not pass the smell test. It is not about terrorism or foreign policy. It is about domestic politics, and it deserves to be defeated.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Illinois (Mr. HYDE) is recognized for 5 minutes.

There as no objection.

Mr. HYDE. Mr. Chairman, I listened to the speeches, impassioned on both sides, and they are very instructive. Someone mentioned 11 million Cubans yearning to be free. The only advice I would give them is do not get in a boat and try to get out into the ocean because they will get shot alive.

I have heard comparisons of our attitude toward China and my colleagues are perfectly right. It is very inconsistent. China is so big, it is like when banks go bankrupt. It is too big to fail. Our attitude towards China is one that I have difficulty supporting because of their human rights, but that does not, in any way, diminish the offensiveness of the Castro regime.

A friend of mine, he is deceased now, Vernon Walters, had a great description of Cuba. He said it is the biggest country in the world. Its administration is in Havana, but its government is in Moscow; its army is in Africa; and its population is in Miami. That is not true anymore, but it is a good line, and I would like to revisit it.

On this bill, a country that cannot recognize its enemy is in great difficulty, and Cuba, under the Castro regime, is certainly our enemy. What does this simple amendment do? It says the President has to certify that Cuba is not developing biological weapons. Does anyone think it is a healthy state to have an avowed Marxist enemy of the United States developing biological weapons; is not providing state sponsors of terrorism or terrorist organizations with technology to create biological weapons, and is not providing sanctuary of international terrorists?

Listen, he is the last Communist dictator in our hemisphere, one of the few left in the world, including China, and he is an outlaw. He ought to be treated as an outlaw.

Earlier this year, the State Department publicly released unclassified information cleared by our intelligence community, and let me quote it. "The United States believes that Cuba has at least a limited, developmental, offensive biological warfare research and development effort. Cuba has provided dual use biotechnology to rogue states. We are concerned that such technology could support biological warfare programs in those States."

The State Department has repeatedly designated Cuba as a State sponsor of terrorism. Cuba harbors fugitives from the Basque terrorist group ETA. Cuba also harbors fugitives from U.S. justice, including people who have murdered American police officers. Cuba harbors members of the FALN-Macheteros terrorist organization.

They are not a friendly country. They hate America and there is no reason for us to embrace them and to have them point and say, well, we outlasted you, you are out of breath and so you are surrendering.

I think Mr. Castro deserves to be treated as an outcast. We are treating him as such, and if we just persist, sooner or later he will leave. It is Cuba that must change its policy. He could do that if he wanted to. He is an enemy and he should be isolated as one. The gentleman from Florida (Mr. GOSS) knows what he is talking about. He is chairman of the Permanent Select Committee on Intelligence, and I put my trust in him.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

There was no objection.

Mr. BLUMENAUER. Mr. Chairman, this afternoon's debate is not about

American security or about support for Castro's regime. It is not even about business opportunities that may avail should we change our failed policy. This afternoon's debate is about an attempt to continue to extend this failed policy from the last 42 years.

We have heard people come forward already this afternoon, making the point that it is really hard to argue that Cuba is a serious threat to United States security. It has not been named as a state that possesses biological or chemical weapons. It was not mentioned in the State Department's 2000 report of the worrisome states pursuing or possessing biological or chemical weapons.

Despite all the recent hoopla regarding Under Secretary of State John Bolton's notion of Cuba being a bioterrorist threat, the State Department's been sort of backing away from that ever since. No, even if that were, in fact, the case, Mr. Chairman, what we have before us here this evening is that there is really no cause and effect between what is purported in terms of terrorism and what is before us to vote upon.

As has been mentioned, we allow Americans to travel to China, to Vietnam, to the axis of evil in Iran and North Korea, which I think many people feel do pose real threats, but we are not coming forward with that. In fact, we would be coming forward with a certification process that cannot be done as has been referenced by my colleague from California for this country, as well as many other countries where we permit travel. It is very likely to be an intensely political decision given the nature of domestic politics.

Mr. Chairman, it is time to free America from the shackles of this failed policy, but most important, it is not about trying to have Americans there to change practices in Cuba. Although, I truly believe that by having the free flow of people in and out of Cuba, that it will hasten the day that there is a change in the Cuban regime.

People here on this floor ought to be outraged with the interference with the American's constitutional right to travel. Former Supreme Court Justice Douglas said the "freedom of movement is the very essence of our free society, setting us apart. It often makes all other rights meaningful."

Americans have the right to travel the world, to make their own judgments, whether it is in Burma, in China, Iran or North Korea. It is high time that we stop the tyranny of domestic policy that is interfering with the rights of Americans to be able to travel to Cuba as they see fit, to make their own judgments and, incidentally, hasten the demise of that regime.

I strongly urge the rejection of this amendment, and as we have the proposals that come forward later in the evening from the gentleman from Arizona (Mr. FLAKE), that would move us incrementally towards a sense of rationality, I strongly urge support for them as well.

□ 1815

Mr. DELAY. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. DELAY. Mr. Chairman, while Members may disagree about the impact that increased trade and unrestricted tourism could potentially play in reforming Castro's ruling regime, there is overwhelming opposition to any action that would compromise the war against terror.

We have ample reason to suspect that Castro is developing weapons of mass destruction. America cannot allow a hostile regime just 90 miles from our shores to develop the world's most dangerous weapons. That is the difference between Cuba and China. That is the difference between Cuba and North Korea. Ninety miles. For that reason, we must completely be confident that Castro's regime is not either producing biological weapons or supporting terrorist organizations before any steps to relax the embargo are contemplated.

Castro's Cuba has a long track record of hostility towards the United States, and freedom in general. Castro has long given refuge to terrorists and violent fugitives, and the Goss amendment raises a firewall between American tourism and Cuban biological weapons development and support for terrorist organizations.

Castro's regime is a threat to our national security and a source of daily oppression to the Cuban people. Cuba has sponsored, trained, and directed terrorist groups operating in our hemisphere. History proves it. Cuban officials regularly collaborate with other state sponsors of terrorism. Just last year, Castro visited Libya, Syria and Iran, saying in Tehran, "Iran and Cuba, in cooperation with each other, can bring America to its knees."

Cuban intelligence seeks to penetrate our Defense Department. A Cuban spy in the Defense Intelligence Agency, just discovered after September 11, could have passed valuable information on American tactics and methods to hostile regimes through Castro's government and endangered our soldiers.

A Cuban spy cell, the so-called "Wasp Network," targeted our southern command and passed on information leading to the downing of a Brothers to the Rescue plane with Cuban migs.

Despite U.S. appeals, Cuba has done nothing to cooperate in the war against terrorism. The State Department reports that Cuba has not turned over a single piece of useful information on al Qaeda and the terrorism networks. Castro and Cuban officials frequently attack the war on terror as American aggression. On June 8, just last month, Castro asked, "What is the difference between the American war on terror's philosophy and methods, and those of the Nazis?"

We know that Cuba has been working to develop weapons of mass destruction for years. Under Secretary of State John Bolton recently testified that the United States believes that Cuba has at least a limited developmental biological warfare research and development effort.

The Goss amendment protects our national security by shielding funding for travel ban enforcement unless the President first certifies that the Cuban Government does not threaten our homeland security. Specifically, the President must make three very critical determinations that make good common sense:

First, Cuba does not possess and is not developing a biological weapons program; second, Cuba is not providing terrorist states or terrorist organizations with the technology to build or use bioweapons; and, third, Cuba is not providing support for our or sanctuary to international terrorists. Very simple, straightforward commonsense approaches.

Two generations ago, President Kennedy called Castro's Cuba "the unhappy island." Four decades later, life for the Cuban people has only gotten worse under Fidel Castro's brutality. They are stripped of basic human rights, they are denied political rights, and they are deprived of the hope to improve their lives because Cuba still has not joined the 21st century.

We should never stop working to bring freedom to Cuba. But until we can be certain that Cuba poses no threat to our national security, Congress should take no step that inadvertently strengthens the Castro regime and compromises our campaign against terror. Members should support the Goss amendment because it will ensure that the price of Cuban tourism will not eventually be measured in American lives.

Mr. YOUNG of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WALDEN of Oregon) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, had come to no resolution thereon.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken later.

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## PIPELINE INFRASTRUCTURE PROTECTION TO ENHANCE SECURITY AND SAFETY ACT

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3609) to amend title 49, United States Code, to enhance the security and safety of pipelines, as amended.

The Clerk read as follows:

H.R. 3609

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Infrastructure Protection to Enhance Security and Safety Act".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
Sec. 2. One-call notification programs.
Sec. 3. One-call notification of pipeline operators.
Sec. 4. Protection of employees providing pipeline safety information.
Sec. 5. Safety orders.
Sec. 6. Penalties.
Sec. 7. Pipeline safety information grants to communities.
Sec. 8. Population encroachment.
Sec. 9. Pipeline integrity research, development, and demonstration.
Sec. 10. Pipeline qualification programs.
Sec. 11. Additional gas pipeline protections.
Sec. 12. Security of pipeline facilities.
Sec. 13. National pipeline mapping system.
Sec. 14. Coordination of environmental reviews.
Sec. 15. Nationwide toll-free number system.
Sec. 16. Recommendations and responses.
Sec. 17. Miscellaneous amendments.
Sec. 18. Technical amendments.
Sec. 19. Authorization of appropriations.
Sec. 20. Inspections by direct assessment.
Sec. 21. Pipeline bridge risk study.
Sec. 22. State oversight role.

### SEC. 2. ONE-CALL NOTIFICATION PROGRAMS.

(a) MINIMUM STANDARDS.—Section 6103 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting ", including all government operators" before the semicolon at the end; and

(B) in paragraph (2) by inserting ", including all government and contract excavators" before the semicolon at the end; and

(2) in subsection (c) by striking "provide for" and inserting "provide for and document".

(b) COMPLIANCE WITH MINIMUM STANDARDS.—Section 6104(d) is amended by striking "Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to" and inserting "The Secretary shall".

(c) IMPLEMENTATION OF BEST PRACTICES GUIDELINES.—

(1) IN GENERAL.—Section 6105 is amended to read as follows:

**"§6105. Implementation of best practices guidelines**

"(a) ADOPTION OF BEST PRACTICES.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled 'Common Ground', as periodically updated.

"(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to and participate in programs sponsored by a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

"(c) GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to a non-profit organization described in subsection (b).

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2002 through 2005. Such sums shall remain available until expended.

"(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 61 is amended by striking the item relating to section 6105 and inserting the following:

"6105. Implementation of best practices guidelines.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR GRANTS FOR STATES.—Section 6107(a) is amended by striking "$1,000,000 for fiscal year 2000" and all that follows before the period at the end of the first sentence and inserting "$1,000,000 for each of fiscal years 2003 through 2006".

(2) FOR ADMINISTRATION.—Section 6107(b) is amended by striking "for fiscal years 1999, 2000, and 2001" and inserting "for fiscal years 2003 through 2006".

### SEC. 3. ONE-CALL NOTIFICATION OF PIPELINE OPERATORS.

(a) LIMITATION ON PREEMPTION.—Section 60104(c) is amended by adding at the end the following: "Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.".

(b) MINIMUM REQUIREMENTS.—Section 60114(a)(2) is amended by inserting ", including a government employee or contractor," after "person".

(c) CRIMINAL PENALTIES.—Section 60123(d) is amended—

(1) in the matter preceding paragraph (1) by striking "knowingly and willfully";

(2) in paragraph (1) by inserting "knowingly and willfully" before "engages";

(3) by striking paragraph (2)(B) and inserting the following:

"(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or"; and

(4) by adding after paragraph (2) the following:

"Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.".

### SEC. 4. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

**"§60129. Protection of employees providing pipeline safety information**

"(a) DISCRIMINATION AGAINST EMPLOYEE.—(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

"(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

"(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

"(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

"(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

"(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

"(2) For purposes of this section, the term 'employer' means—

"(A) a person owning or operating a pipeline facility; or

"(B) a contractor or subcontractor of such a person.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person or persons named in the complaint and the Secretary of Transportation of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person or persons under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person or persons named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 60-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 90 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person or persons alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons who committed such violation to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person or persons against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person or persons to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an action of an employee of an employer who, acting without direction from the employer (or such employer's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.".

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

"(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by adding at the end the following:

"60129. Protection of employees providing pipeline safety information.".

**SEC. 5. SAFETY ORDERS.**

Section 60117 is amended by adding at the end the following:

"(l) SAFETY ORDERS.—If the Secretary decides that a pipeline facility has a potentially unsafe condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the unsafe condition.".

**SEC. 6. PENALTIES.**

(a) PIPELINE FACILITIES HAZARDOUS TO LIFE AND PROPERTY.—

(1) GENERAL AUTHORITY.—Section 60112(a) is amended to read as follows:

"(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

"(1) operation of the facility is or would be hazardous to life, property, or the environment; or

"(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.".

(2) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended by striking "is hazardous" and inserting "is or would be hazardous".

(b) ENFORCEMENT.—(1) Section 60122(a)(1) is amended—

(A) by striking "$25,000" and inserting "$100,000"; and

(B) by striking "$500,000" and inserting "$1,000,000".

(2) Section 60122(b) is amended by striking "under this section" and all that follows through paragraph (4) and inserting "under this section—

"(1) the Secretary shall consider—

"(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

"(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

"(C) good faith in attempting to comply; and

"(2) the Secretary may consider—

"(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

"(B) other matters that justice requires.".

(3) Section 60120(a) is amended—

(A) by striking "(a) CIVIL ACTIONS.—(1)" and all that follows through "(2) At the request" and inserting the following:

"(a) CIVIL ACTIONS.—

"(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122.

"(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—At the request"; and

(B) by aligning the remainder of the text of paragraph (2) with the text of paragraph (1).

**SEC. 7. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.**

(a) GRANT AUTHORITY.—(1) The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipelines in local communities. The Secretary shall establish competitive procedures for awarding grants under this section, and criteria for selection of grant recipients. The amount of any grant under this section may not exceed $50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

(2) For purposes of this subsection, the term "technical assistance" means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in Department of Transportation and other official processes, commenting on Department of Transportation proposals, and participating in official Federal standard setting processes.

(b) PROHIBITED USES.—Funds provided under this section may not be used for lobbying or in direct support of litigation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for carrying out this section $1,000,000 for each of the fiscal years 2003 through 2006. Such amounts shall not be derived from user fees collected under section 60301.

**SEC. 8. POPULATION ENCROACHMENT.**

Section 60127 is amended to read as follows:

**"§ 60127. Population encroachment**

"(a) STUDY.—The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices and zoning ordinances with regard to pipeline rights-of-way.

"(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices and zoning ordinances—

"(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

"(2) to address and prevent the hazards and risks to the public, pipeline workers, and the environment associated with encroachment on pipeline rights-of-way; and

"(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way.

"(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

"(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

"(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

"(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment on pipeline rights-of-way so as to more effectively protect public safety, pipeline workers, and the environment.

"(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

"(A) Congress and appropriate Federal agencies; and

"(B) States for further distribution to appropriate local authorities.

"(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way.".

**SEC. 9. PIPELINE INTEGRITY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.**

(a) ESTABLISHMENT OF COOPERATIVE PROGRAM.—

(1) IN GENERAL.—The heads of the participating agencies shall develop and implement a program of research, development, demonstration, and standardization to ensure the integrity of energy pipelines and next-generation pipelines.

(2) ELEMENTS.—The program shall include research, development, demonstration, and standardization activities related to—

(A) materials inspection;

(B) stress and fracture analysis, detection of cracks, corrosion, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;

(C) internal inspection and leak detection technologies, including detection of leaks at very low volumes;

(D) methods of analyzing content of pipeline throughput;

(E) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;

(F) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;

(G) communication, control, and information systems surety;

(H) fire safety of pipelines;

(I) improved excavation, construction, and repair technologies; and

(J) other elements the heads of the participating agencies consider appropriate.

(3) ACTIVITIES AND CAPABILITIES REPORT.—Not later than 6 months after the date of the enactment of this Act, the participating agencies shall transmit to the Congress a report on the existing activities and capabilities of the participating agencies, including the national laboratories. The report shall include the results of a survey by the participating agencies of any activities of other Federal agencies that are relevant to or could supplement existing research, development, demonstration, and standardization activities under the program created under this section.

(b) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the participating agencies shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Pipeline Integrity Technical Advisory Committee established under subsection (c) for review, and the report to Congress shall include the comments of the Advisory Committee. The 5-year program plan shall take into account related activities of Federal agencies that are not participating agencies.

(2) CONSULTATION.—In preparing the program plan, the participating agencies shall consult with appropriate representatives of State and local government and the private sector, including companies owning energy pipelines and developers of next-generation pipelines, to help establish program priorities.

(3) ADVICE FROM OTHER ENTITIES.—In preparing the program plan, the participating agencies shall also seek the advice of other Federal agencies, utilities, manufacturers, institutions of higher learning, pipeline research institutions, national laboratories, environmental organizations, pipeline safety advocates, professional and technical societies, and any other appropriate entities.

(c) PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The participating agencies shall establish and manage a Pipeline Integrity Technical Advisory Committee (in this subsection referred to as the "Advisory Committee"). The Advisory Committee shall be established not later than 6 months after the date of the enactment of this Act.

(2) DUTIES.—The Advisory Committee shall—

(A) advise the participating agencies on the development and implementation of the program plan prepared under subsection (b); and

(B) have a continuing role in evaluating the progress and results of research, development, demonstration, and standardization activities carried out under this section.

(3) MEMBERSHIP.—

(A) APPOINTMENT.—The Advisory Committee shall be composed of—

(i) 3 members appointed by the Secretary of Energy;

(ii) 3 members appointed by the Secretary of Transportation; and

(iii) 3 members appointed by the Director of the National Institute of Standards and Technology.

In making appointments, the participating agencies shall seek recommendations from the National Academy of Sciences.

(B) QUALIFICATIONS.—Members appointed to the Advisory Committee shall have experience or be technically qualified, by training or knowledge, in the operations of the pipeline industry, and have experience in the research and development of pipeline or related technologies.

(C) COMPENSATION.—The members of the Advisory Committee shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) MEETINGS.—The Advisory Committee shall meet at least 4 times each year.

(5) TERMINATION.—The Advisory Committee shall terminate 5 years after its establishment.

(d) REPORTS TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the participating agencies shall each transmit to the Congress a report on the status and results to date of the implementation of their portion of the program plan prepared under subsection (b).

(e) MEMORANDUM OF UNDERSTANDING.—Not later than 120 days after the date of the enactment of this Act, the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities under this Act, consistent with the activities and capabilities identified under subsection (a)(3). Each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program plan within its jurisdiction are implemented in accordance with this section. The Department of Transportation's responsibilities shall reflect its expertise in pipeline inspection and information systems surety. The Department of Energy's responsibilities shall reflect its expertise in low-volume leak detection and surveillance technologies. The National Institute of Standards and Technology's responsibilities shall reflect its expertise in standards and materials research.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to the Secretary of Energy $10,000,000;

(2) to the Secretary of Transportation $5,000,000; and

(3) to the National Institute of Standards and Technology $5,000,000,

for each of the fiscal years 2003 through 2007 for carrying out this section.

(g) DEFINITIONS.—For purposes of this section—

(1) the term "energy pipeline" means a pipeline system used in the transmission or local distribution of natural gas (including liquefied natural gas), crude oil, or refined petroleum products;

(2) the term "next-generation pipeline" means a transmission or local distribution pipeline system designed to transmit energy or energy-related products, in liquid or gaseous form, other than energy pipelines;

(3) the term "participating agencies" means the Department of Energy, the Department of Transportation, and the National Institute of Standards and Technology; and

(4) the term "pipeline" means an energy pipeline or a next-generation pipeline.

**SEC. 10. PIPELINE QUALIFICATION PROGRAMS.**

(a) VERIFICATION PROGRAM.—

(1) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

**"§ 60130. Verification of pipeline qualification programs**

"(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the individuals who perform covered tasks are qualified to conduct such tasks.

"(b) STANDARDS AND CRITERIA.—

"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

"(2) CONTENTS.—The standards and criteria shall include the following:

"(A) The establishment of methods for evaluating the acceptability of the qualifications of individuals described in subsection (a).

"(B) A requirement that pipeline operators develop and implement written plans and procedures to qualify individuals described in subsection (a) to a level found acceptable using the methods established under subparagraph (A) and evaluate the abilities of individuals described in subsection (a) according to such methods.

"(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be reviewed and verified under subsection (e).

"(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall require a pipeline operator to develop and adopt a qualification program that complies with the standards and criteria described in subsection (b).

"(d) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

"(1) A method for examining or testing the qualifications of individuals described in subsection (a). Such method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

"(2) A requirement that the operator complete the qualification of all individuals described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

"(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

"(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

"(e) REVIEW AND VERIFICATION OF PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall review the qualification program of each pipeline operator and verify its compliance with the standards and criteria described in subsection (b) and includes the elements described in paragraphs (1) through (3) of subsection (d). The Secretary shall record the results of that review for use in the next review of an operator's program.

"(2) DEADLINE FOR COMPLETION.—Reviews and verifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

"(3) INADEQUATE PROGRAMS.—If the Secretary decides that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary shall act as under section 60108(a)(2) to require the operator to revise the qualification program.

"(4) PROGRAM MODIFICATIONS.—If the operator of a pipeline facility seeks to modify significantly a program that has been verified under this subsection, the operator shall submit the modifications to the Secretary for review and verification.

"(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section.

"(6) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in paragraphs (1) through (3) of subsection (d) not later than 2 years after the date of enactment of this section.

"(f) COVERED TASK DEFINED.—In this section, the term 'covered task'—

"(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, as in effect on the date of enactment of this section.

"(g) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at end the following:

"60130. Verification of pipeline qualification programs.".

(b) PILOT PROGRAM FOR CERTIFICATION OF CERTAIN PIPELINE WORKERS.—

(1) IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall—

(A) develop tests and other requirements for certifying the qualifications of individuals who operate computer-based systems for controlling the operations of pipelines; and

(B) establish and carry out a pilot program for 3 pipeline facilities under which the individuals operating computer-based systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

(2) REPORT.—The Secretary shall include in the report required under section 60130(g), as added by subsection (a) of this section, the results of the pilot program. The report shall include—

(A) a description of the pilot program and implementation of the pilot program at each of the 3 pipeline facilities;

(B) an evaluation of the pilot program, including the effectiveness of the process for certifying individuals who operate computer-based systems for controlling the operations of pipelines;

(C) any recommendations of the Secretary for requiring the certification of all individuals who operate computer-based systems for controlling the operations of pipelines; and

(D) an assessment of the ramifications of requiring the certification of other individuals performing safety-sensitive functions for a pipeline facility.

(3) DEFINITION.—For purposes of this subsection, the term "computer-based systems" means supervisory control and data acquisition systems (SCADA).

## SEC. 11. ADDITIONAL GAS PIPELINE PROTECTIONS.

(a) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—Section 60109 is amended by adding at the end the following:

"(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

"(1) REQUIREMENT.—Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator in an area identified pursuant to subsection (a)(1), and shall adopt and implement a written integrity management program for such facility to reduce the risks.

"(2) REGULATIONS.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require the conduct of the risk analysis and adoption of the integrity management program to occur within a time period prescribed by the Secretary, not to exceed 1 year after the issuance of such regulations. The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

"(3) MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

"(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1), to be completed not later than 10 years after the date of the adoption of the integrity management program, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety.

"(B) Subject to paragraph (4), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

"(C) Clearly defined criteria for evaluating the results of reassessments conducted under subparagraph (B) and for taking actions based on such results.

"(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

"(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

"(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

"(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

"(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

"(4) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

"(5) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

"(A) The minimum requirements described in paragraph (3).

"(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

"(C) The manner in which the inspections or testing are conducted.

"(D) The criteria used in analyzing results of the inspections or testing.

"(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

"(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

"(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1).

In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

"(6) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

"(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

"(B) the use of emergency flow restricting devices.

"(7) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards as described in paragraph (2), an operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program under paragraph (1) not later than 30 months after the date of the enactment of this subsection.

"(8) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

"(A) REVIEW OF PROGRAMS.—

"(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

"(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

"(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

"(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment.

"(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

"(9) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (8), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

"(10) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.".

(b) INTEGRITY MANAGEMENT REGULATIONS.—Section 60109 is further amended by adding at the end the following:

"(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).".

(c) CONFORMING AMENDMENT.—Section 60118(a) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).".

(d) STUDY OF REASSESSMENT INTERVALS.—

(1) STUDY.—The Secretary of Transportation shall conduct a study to evaluate the 7-year reassessment interval required by section 60109(c)(3)(B) of title 49, United States Code, as added by subsection (a) of this section.

(2) REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

## SEC. 12. SECURITY OF PIPELINE FACILITIES.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

### "§ 60131. Security of pipeline facilities

"(a) RULEMAKING REQUIREMENT.—The Secretary of Transportation, not later than 60 days after the date of the enactment of this section, after consultation with any appropriate Federal, State, or nongovernmental entities, shall commence a rulemaking to require effective security measures which the Secretary determines are necessary to be adopted against acts of terrorism or sabotage directed against waterfront liquefied natural gas plants, capable of receiving liquefied natural gas tankers, located in or within 1 mile of a densely populated urban area. Within 1 year after the date of the enactment of this section, the Secretary of Transportation shall issue a final rule.

“(b) FACTORS TO BE CONSIDERED.—Regulations issued under subsection (a) shall take into account—

“(1) the events of September 11, 2001;

“(2) the potential for attack on facilities by multiple coordinated teams totaling in the aggregate a significant number of individuals;

“(3) the potential for assistance in an attack from several persons employed at the facility;

“(4) the potential for suicide attacks;

“(5) water-based and air-based threats;

“(6) the potential use of explosive devices of considerable size and other modern weaponry;

“(7) the potential for attacks by persons with a sophisticated knowledge of facility operations;

“(8) the threat of fires and large explosions; and

“(9) special threats and vulnerabilities affecting facilities located in or within 1 mile of a densely populated urban area.

“(c) REQUIREMENTS.—Regulations issued under subsection (a) shall establish requirements for waterfront liquefied natural gas plants, capable of receiving liquefied natural gas tankers, relating to construction, operation, security procedures, and emergency response, and shall require conforming amendments to applicable standards and rules.

“(d) OPERATIONAL SECURITY RESPONSE EVALUATION.—(1) Regulations issued under subsection (a) shall include the establishment of policies and procedures by the Secretary of Transportation, which shall ensure that the operational security response of each facility described in paragraph (2) is tested at least once every 2 years through the use of force-on-force exercises to determine whether the threat factors identified in regulations issued under subsection (a) have been adequately addressed.

“(2) Facilities subject to testing under paragraph (1) include waterfront liquefied natural gas plants, capable of receiving liquefied natural gas tankers, located in or within 1 mile of a densely populated urban area, and associated support facilities and equipment.

“(e) REVIEW AND REVISION.—Regulations issued under subsection (a) shall be reviewed and revised as appropriate at least once every 5 years.

“(f) DEFINITIONS.—For purposes of this section, the term ‘densely populated urban area’ means an area with a population density of more than 10,000 people per square mile.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

“60131. Security of pipeline facilities.”.

**SEC. 13. NATIONAL PIPELINE MAPPING SYSTEM.**

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

**“§ 60132. National pipeline mapping system**

“(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) shall provide to the Secretary of Transportation the following information with respect to the facility:

“(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

“(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

“(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

“(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

“(c) TECHNICAL ASSISTANCE TO IMPROVE LOCAL RESPONSE CAPABILITIES.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

“60132. National pipeline mapping system.”.

**SEC. 14. COORDINATION OF ENVIRONMENTAL REVIEWS.**

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

**“§ 60133. Coordination of environmental reviews**

“(a) INTERAGENCY COMMITTEE.—

“(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

“(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

“(A) The Secretary of Transportation.

“(B) The Administrator of the Environmental Protection Agency.

“(C) The Director of the United States Fish and Wildlife Service.

“(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

“(E) The Director of the Bureau of Land Management.

“(F) The Director of the Minerals Management Service.

“(G) The Assistant Secretary of the Army for Civil Works.

“(H) The Chairman of the Federal Energy Regulatory Commission.

“(3) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

“(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

“(5) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

“(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

“(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

“(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

“(2) to preempt applicable Federal, State, or local environmental law.

“(d) INTERIM OPERATIONAL ALTERNATIVES.—

“(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

“(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

“(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

“(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

“(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

"(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

"(f) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60133. Coordination of environmental reviews.".

### SEC. 15. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems.

### SEC. 16. RECOMMENDATIONS AND RESPONSES.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

**"§ 60134. Recommendations and responses**

"(a) RESPONSE REQUIREMENT.—Whenever the Office of Pipeline Safety has received recommendations from the National Transportation Safety Board regarding pipeline safety, it shall submit a formal written response to each such recommendation within 90 days after receiving the recommendation. The response shall indicate whether the Office intends—

"(1) to carry out procedures to adopt the complete recommendations;

"(2) to carry out procedures to adopt a part of the recommendations; or

"(3) to refuse to carry out procedures to adopt the recommendations.

"(b) TIMETABLE FOR COMPLETING PROCEDURES AND REASONS FOR REFUSALS.—A response under subsection (a)(1) or (2) shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendations. A response under subsection (a)(3) shall detail the reasons for the refusal to carry out procedures to adopt the recommendations.

"(c) PUBLIC AVAILABILITY.—The Office shall make a copy of each recommendation and response available to the public, including in electronic form.

"(d) REPORTS TO CONGRESS.—The Office shall submit to Congress on January 1 of each year a report describing each recommendation on pipeline safety made by the National Transportation Safety Board to the Office during the prior year and the Office's response to each recommendation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60134. Recommendations and responses.".

### SEC. 17. MISCELLANEOUS AMENDMENTS.

(a) PROTECTION OF PUBLIC HEALTH, WELFARE, AND THE ENVIRONMENT.—Section 60102(a)(1) is amended by inserting "in order to protect public health and welfare and the environment from reasonably anticipated threats that could be posed by such transportation and facilities" after "and for pipeline facilities".

(b) CONFLICTS OF INTEREST.—Section 60115(b)(4) is amended by adding at the end the following new subparagraph:

"(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.".

### SEC. 18. TECHNICAL AMENDMENTS.

Chapter 601 is amended—

(1) in section 60102(a)—

(A) by striking "(a)(1)" and all that follows through "The Secretary of Transportation" and inserting the following:

"(a) MINIMUM SAFETY STANDARDS.—

"(1) IN GENERAL.—The Secretary of Transportation";

(B) by moving the remainder of the text of paragraph (1), including subparagraphs (A) and (B) but excluding subparagraph (C), 2 ems to the right; and

(C) in paragraph (2) by inserting "QUALIFICATIONS OF PIPELINE OPERATORS.—" before "The qualifications";

(2) in section 60110(b) by striking "circumstances" and all that follows through "operator" and inserting the following: "circumstances, if any, under which an operator";

(3) in section 60114 by redesignating subsection (d) as subsection (c);

(4) in section 60122(a)(1) by striking "section 60114(c)" and inserting "section 60114(b)"; and

(5) in section 60123(a) by striking "60114(c)" and inserting "60114(b)".

### SEC. 19. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended to read as follows:

"(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

"(1) $45,800,000 for fiscal year 2003, of which $31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

"(2) $46,800,000 for fiscal year 2004, of which $35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

"(3) $47,100,000 for fiscal year 2005, of which $41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

"(4) $50,000,000 for fiscal year 2006, of which $45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.".

(b) STATE GRANTS.—Section 60125 is amended—

(1) by striking subsections (b), (d), and (f) and redesignating subsections (c) and (e) as subsections (b) and (c), respectively; and

(2) in subsection (b)(1) (as so redesignated) by striking subparagraphs (A) through (H) and inserting the following:

"(A) $19,800,000 for fiscal year 2003, of which $14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

"(B) $21,700,000 for fiscal year 2004, of which $16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

"(C) $24,600,000 for fiscal year 2005, of which $19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

"(D) $26,500,000 for fiscal year 2006, of which $21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.".

(c) EMERGENCY RESPONSE GRANTS.—Section 60125 is amended by adding after subsection (c) (as redesignated by subsection (b)(1) of this section) the following:

"(d) EMERGENCY RESPONSE GRANTS.—

"(1) IN GENERAL.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for each of fiscal years 2003, 2004, and 2005 to carry out this subsection.".

(d) CONFORMING AMENDMENT.—Section 60125(c) (as redesignated by subsection (b)(1) of this section) is amended by striking "or (b) of this section".

### SEC. 20. INSPECTIONS BY DIRECT ASSESSMENT.

Section 60102, as amended by this Act, is further amended by adding at the end the following new subsection:

"(m) INSPECTIONS BY DIRECT ASSESSMENT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.".

### SEC. 21. PIPELINE BRIDGE RISK STUDY.

(a) INITIATION.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a study to determine whether cable-suspension pipeline bridges pose structural or other risks warranting particularized attention in connection with pipeline operators risk assessment programs and whether particularized inspection standards need to be developed by the Department of Transportation to recognize the peculiar risks posed by such bridges.

(b) PUBLIC PARTICIPATION AND COMMENTS.—In conducting the study, the Secretary shall provide, to the maximum extent practicable, for public participation and comment and shall solicit views and comments from the public and interested persons, including participants in the pipeline industry with knowledge and experience in inspection of pipeline facilities.

(c) COMPLETION AND REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall complete the study and transmit to Congress a report detailing the results of the study.

### SEC. 22. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) in subsection (a) by striking "GENERAL AUTHORITY.—" and inserting "AGREEMENTS WITHOUT CERTIFICATION.—";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(3) by inserting after subsection (a) the following:

"(b) AGREEMENTS WITH CERTIFICATION.—

"(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.

"(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

"(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

"(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

"(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

"(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

"(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Infrastructure Protection to Enhance Security and Safety Act if—

"(A) the State authority fails to comply with the terms of the agreement;

"(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.".

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended to read as follows:

"(e) ENDING AGREEMENTS.—

"(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

"(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

"(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

"(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.".

(c) SECRETARY'S RESPONSE TO STATE NOTICES OF VIOLATIONS.—Subsection (c) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended—

(1) by striking "Each agreement" and inserting the following:

"(1) IN GENERAL.—Each agreement";

(2) by adding at the end the following:

"(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

"(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

"(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions."; and

(3) by aligning the text of paragraph (1) (as designated by this subsection) with paragraph (2) (as added by this subsection).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

### GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject matter of this bill, H.R. 3609.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I would like to thank the gentleman from Minnesota (Mr. OBERSTAR) for his cooperation in reaching this compromise on H.R. 3609, the Pipeline Infrastructure Protection and Enhancement Security and Safety Act. I also would like to thank my good friend and hunting partner, the gentleman from Louisiana (Mr. TAUZIN), and the gentleman from Michigan (Mr. DINGELL) for their hard work in crafting a bill that both our committees can agree to.

H.R. 3609 improves safety and protects workers and residents who live near pipelines. H.R. 3609 will strengthen the training procedures of pipeline workers, and implement a tough inspection and rigorous inspection schedule of pipelines.

The bill will improve the permitting procedures that allow operators to make the repairs that will be required under rules currently being developed at the Department of Transportation.

The bill will improve the enforcement of statutes and regulations that cover pipeline and operators at facilities.

Mr. Speaker, this is a good piece of legislation, and I urge my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 5½ minutes.

Today, we are finally going to be able to vote on pipeline safety legislation worthy of the name. It is regrettable it has taken us 3 years to get here, but the bill before the House is a good bill. It is the result of long, intense, constructive negotiations among the parties to this process, including our Republican leadership on our committee, the gentleman from Alaska (Mr. YOUNG), and his staff, the gentleman from Louisiana (Mr. TAUZIN) and his staff, the gentleman from Michigan (Mr. DINGELL) and his staff, represented here today by the gentleman from Virginia (Mr. BOUCHER).

This is a compromise in the best sense of that word. We have all yielded some and accepted some. It is one that will promote pipeline safety and legislation that should be widely supported. We were very far apart at the outset of this process. I had serious reservations about the bill, H.R. 3609, as introduced, because I believed very strongly that the introduced bill failed to respond adequately to a number of important safety concerns, many of which date back to the mid-1980s when I chaired the Subcommittee on Oversight and Investigations and held hearings on pipeline safety in the aftermath of several tragedies throughout the United States, including one very serious fatal pipeline blast in Minnesota that killed people in the northern suburbs of the Twin Cities.

The introduced bill, in my view, did little to ensure that pipeline employees with safety responsibilities would be qualified or that they would get the necessary training. It did not have funding for assistance to groups of concerned citizens who had played an important role in pipeline safety, something I have come to appreciate over the years, and unprecedented authority for the Department of Transportation to terminate jurisdiction of agencies with environmental responsibilities for pipelines. Those were widely discussed issues and widely reported in news reports on this legislation.

I think that the bill we have before us now adequately addresses those problems, and I can support this legislation in partnership with the gentleman from Alaska and the gentleman from Louisiana and the gentleman from Michigan and the gentleman from Virginia.

The bill requires that all natural gas transmission pipelines serving high-consequence areas be inspected within 10 years and reinspected no later than every 7 years thereafter. It requires pipeline operators to provide training to ensure that individuals have the necessary knowledge and skills to do their tasks in a safe manner. It makes clear that it is not enough to rely on observing an employee's on-the-job performance to determine if he or she is qualified.

I have been to pipeline operational facilities to observe these circumstances firsthand. I am quite convinced that the language we have now is going to address that issue.

The bill includes a pilot program to determine whether persons operating computer-based systems for controlling pipelines should be certified. It raises civil penalties for violations from $25,000 to $100,000, and the maximum civil penalty from $500,000 to $1 million.

The bill allows the Secretary of Transportation to ask the Attorney General to bring civil actions in Federal District Court to enforce pipeline safety regulations. It has a program of grants for local organizations to obtain technical assistance to participate effectively in pipeline safety proceedings and limitations on those groups against lobbying, against political activities with these funds.

The bill requires an interagency committee to coordinate environmental reviews, chaired by the chairman of the Council on Environmental Quality and consisting of Federal environmental permitting agencies to develop a memorandum of understanding to coordinate environmental reviews for pipeline repair projects. It ensures that this coordination process will respect existing environmental laws. It will address the appropriate roles of the permitting agencies and respect those roles. The bill requires the affected agencies to reach union agreement on the memorandum, and specifically states that the provision does not preempt any Federal, State, or local environmental law.

That is a critical issue. It has taken a long time to get to that point. The fact that we have reached agreement on that issue is significant in moving this legislation forward. For that, I express my great appreciation to the chairman of our committee, the gentleman from Alaska; and to the chairman of the Committee on Energy and Commerce, the gentleman from Louisiana; and also the gentleman from Michigan, the ranking member on that committee.

Two years ago, Mr. Speaker, we defeated a weak bill, believing that no bill was better than a weak bill. It was the right thing to do then. Today's action proves that we were right. With time, with effort, with imagination, with good will to achieve a good result, we could do better. And today we do better.

Mr. Speaker, I reserve the balance of my time.

□ 1830

Mr. YOUNG of Alaska. Mr. Speaker, I do agree with the gentleman's words and I insert into the RECORD at this point an exchange of letters between myself and the gentleman from New York (Mr. BOEHLERT) regarding H.R. 3609.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
*Washington, DC, July 23, 2002.*

Hon. SHERWOOD L. BOEHLERT,
*Chairman, Committee on Science, Rayburn Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of July 23, 2002, regarding H.R. 3609, the Pipeline Infrastructure Protection to Enhance Safety and Security Act, and for your willingness to waive consideration of provisions in the bill that fall within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of section 9 of H.R. 3609 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 3609 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the Congressional Record during consideration on the House Floor.

Thank you for your cooperation in moving this important legislation.

Sincerely,

DON YOUNG,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
*Washington, DC, July 23, 2002.*

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Committee on Transportation and Infrastructure has had under consideration H.R. 3609, the Pipeline Infrastructure Protection to Enhance Security and Safety Act. Section 9 of that bill falls under the jurisdiction of the Committee on Science.

By waiving consideration of H.R. 3609 the Committee on Science does not waive any of its jurisdictional rights and prerogatives.

I ask that you would support our request for conferees on H.R. 3609 or similar legislation if a conference should be convened with the Senate. I also ask that our exchange of letters be included in the *Congressional Record*.

I look forward to working with you on this and other important pieces of legislation.

Sincerely,

SHERWOOD BOEHLERT,
*Chairman.*

Mr. Speaker, I yield whatever time he may consume to the gentleman from Louisiana (Mr. TAUZIN), chairman of the very powerful Committee on Energy and Commerce, a good friend.

Mr. TAUZIN. Mr. Speaker, I certainly want to thank the gentleman from Alaska (Mr. YOUNG), my friend and the chairman of the tremendously important Committee on Transportation and Infrastructure, whom we all depend upon for our transportation needs and whom I consider my dearest friend, whenever I have those needs in particular. I do want to seriously thank the gentleman from Alaska (Mr. YOUNG) for the extraordinary degree of cooperation between his committee and his staff and the staff of the Committee on Energy and Commerce, as well as the staffs of the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Michigan (Mr. DINGELL), representing the minority of our two committees for the extraordinary work that has been done on this bill. This is not just a multi-year bill, this is a multi-Congress bill. This has been a work in progress for years through several Congresses, and we have reached the point today where we now have concurrence not only between our two committees but in a bipartisan fashion we can bring pipeline safety to the floor for a vote, and most importantly we can bring it to the floor for a vote with the support of the Office of Pipeline Safety, with the pipeline industry itself, with the support of the environmental community and the support of organized labor. This is a bill literally that meets all those tests simultaneously and it is a great example of the way this House can work through our committee system together in a bipartisan fashion to do the right thing for our country.

It also addresses, by the way, State participation in the pipeline safety regulatory regime, again recognizing the dual role in the Federal and the State governments in protecting our citizens in terms of pipeline safety, and, perhaps most importantly, this bill becomes the House position on pipeline safety as we are now engaged in the Conference on Energy with the Senate where we hope to produce a comprehensive energy package for the House and Senate to vote on sometime before we leave session in October.

This bipartisan position that is now supported, I hope, by this whole House will be the frame by which the House makes an offer to the Senate now and hopefully resolves this issue in the context of the much larger energy bill. And I want to thank my friends from both sides of the aisle for making that possible. As we move toward consideration of the most serious issues in dispute between the House and Senate, getting an agreement on pipeline safety will be one of the first orders of business that we will take up this Thursday when the conference meets.

So again I want to thank all the chairmen and ranking members, and I lastly want to pay particular thanks and attention to the chairman of the subcommittee and the gentleman from Virginia (Mr. BOUCHER) for doing such a great job at the subcommittee level of the Committee on Energy and Commerce in producing this bill. We sometimes forget how important the work of our subcommittees is in framing a bill that we can together work out in final detail for the floor, and the gentleman from Texas (Chairman BARTON) and the gentleman from Virginia (Mr. BOUCHER) as in their usual fashion have worked in extraordinarily close fashion to make sure we have that opportunity at the Committee on Energy and Commerce level. And again I want to thank them for their hard work and the work of the staffs that went behind it. Again this is a good day for both our committees. I commend this legislation to the House floor.

Mr. OBERSTAR. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER) representing the Democrats on the Committee on Energy and Commerce.

Mr. BOUCHER. Mr. Speaker, I thank the gentleman from Minnesota (Mr. OBERSTAR) for yielding me this time.

Mr. Speaker, I am pleased to rise in support of H.R. 3609 and to urge its approval by the House. The pipeline safety measure now before the House results from bipartisan discussions involving two committees and I want to commend the gentleman from Louisiana (Chairman TAUZIN) of our full Committee on Energy and Commerce; the gentleman from Michigan (Mr. DINGELL), ranking committee member; the gentleman from Texas (Mr. BARTON), the chairman of the Subcommittee on Energy and Air Quality, with whom I have been pleased to cooperate on this measure; and the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) of the Committee on Transportation and Infrastructure for all of the efforts of these Members in achieving the consensus measure that is before the House today.

The authorization for appropriations for the Federal pipeline safety program expired during the year 2000. The bill which we are considering today will take the necessary steps to reauthorize the program. The measure makes a number of improvements to existing pipeline safety requirements. It will direct the Department of Transportation to promulgate a rule requiring operators to develop integrity management plans which will include a pipeline safety inspection within 10 years of enactment and a reinspection within the following 7 years. The measure will also require operators to develop and implement written programs to ensure that all individual pipeline operators are qualified to perform their jobs and will establish a pilot program within the Department of Transportation for the certification of pipeline employees.

In addition, the measure establishes a technical assistance grant program to enhance the knowledge of individuals who reside or conduct businesses in the general vicinity of pipelines.

We worked very closely with the gentleman from Alaska (Chairman YOUNG) of the Committee on Transportation and Infrastructure to ensure that the establishment of these grants is performed in such a way as to accommodate the concern of all stakeholders. In addition, the measure will improve the Office of Pipeline Safety's ability to enforce safety laws by increasing the cap on penalties. The bill will also improve existing one-call notification programs and develop a national pipeline mapping system. These are all very helpful steps that, taken together, will ensure greater pipeline safety for the Nation going forward.

I again want to commend all of the Members who on a bipartisan basis have worked diligently to achieve the consensus that has embodied this measure. And, Mr. Speaker, it is my pleasure to urge approval of this bill by the House. I thank the gentleman from Minnesota.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. BARTON), one of the great subcommittee chairmen of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, I also want to rise in strong support of H.R. 3609, the Pipeline Infrastructure Protection to Enhance Security and Safety Act. It is comprehensive, bipartisan, multi-committee, and widely supported. It will reauthorize our pipeline safety laws through 2006 which, in my opinion, is a tremendous accomplishment.

I want to add my commendations to my full committee chairman, the gentleman from Louisiana (Mr. TAUZIN), and the ranking member, the gentleman from Michigan (Mr. DINGELL). I compliment the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Transportation and Infrastructure, along with the gentleman from Minnesota (Mr. OBERSTAR). I would also thank the subcommittee chairman, the gentleman from Wisconsin (Mr. PETRI), the gentleman from Pennsylvania (Mr. BORSKI), the ranking member, and the gentleman from Virginia (Mr. BOUCHER), the ranking member on my subcommittee. We all worked very hard to make it possible to come out and pat each other on the back this evening.

The bill before us is an agreement that we have worked on in both committees. Both of our committees reported a pipeline safety bill earlier this year. It has a new landmark section on integrity management for natural gas transmission lines. It has a baseline integrity assessment of 7 years and periodic reinspections every 10 years. We have a tough but very manageable requirement for pipeline infrastructure. This balance requirement, in my opinion, appears to be a much more appropriate inspection regime than is currently in the bill which passed the other body.

The pipeline infrastructure for delivering natural gas and liquid petroleum is more important than ever for our great Nation. The demand for natural gas and gasoline will likely continue to rise, and our pipelines will have a more and more important role each day in supplying those commodities. Pipeline transportation is among the cheapest and safest methods of transport. We need to make sure that our pipelines are safe and managed well. We also want States and our local communities to be comfortable that future pipelines which will be needed are good things for their region, and that they are operated as safely as possible.

Today's agreement includes changes to the one-call notification programs, a new national toll-free number suggested by the gentleman from Louisiana (Mr. JOHN), a member of my subcommittee. It has an important integrity research and development program which was authored by the gentleman from Texas (Mr. HALL) who is also the ranking member of the Committee on Science. It includes important coordination of environmental reviews by Federal agencies to streamline the process for permitting repairs.

Finally, I commend all of the staffs for their hard work on this bill, especially from our committee, Bill Cooper and Andy Black of the majority, and Rick Kessler of the minority for their hard work. The bill is supported by environmental groups, labor groups and industry associations and many local community groups. It has the support of the majority and the minority of every committee involved in the discussions. I hope that we will pass this by unanimous consent in the very near future.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I would like to begin by complimenting the work of the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Michigan (Mr. DINGELL), the gentleman from Alaska (Mr. YOUNG) and the gentleman from Louisiana (Mr. TAUZIN). It is amazing what can be done when all sides resign themselves to work together.

Although not a perfect bill, this is a bipartisan bill. It is an effort the American people can be proud of. Unbeknownst to millions of Americans, their homes, schools and communities are sitting on top of millions of miles of pipelines. With this bill, Congress seeks to ensure that proper regulations are backed up by strong enforcement policies to ensure their safety.

Despite the Office of Pipeline Safety requests for mapping information more than 3 years ago, and the importance of a national repository of pipeline maps for national security purposes, hundreds of operators have not submitted the requested maps. Under the bill, OPS will finally have the maps of pipeline systems it needs to regulate effectively.

Furthermore, the compromise legislation includes important employee training provisions and whistleblower protections. Those on the front lines must feel free to inform the proper authorities if there is a safety or security risk not being addressed. Also included is funding for grants to community groups to allow them to obtain technical expertise for participation in pipeline regulatory proceedings.

The House will finally be on record endorsing real pipeline safety legislation, requiring pipeline operators to adopt integrity management programs with periodic inspections. Enron has shown us that we cannot put our faith in the industry to do the thing.

We cannot afford to lose any more lives, Mr. Speaker. In the face of potentially severe consequences, symbolic legislation cannot suffice. This is our opportunity to fix a broken system. Mr. Speaker, I am confident that we are doing the right thing by passing strong pipeline legislation today.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think special kudos should go to the gentleman from Alaska (Mr. YOUNG) and the gentleman from Louisiana (Mr. TAUZIN) because they put so much leadership and commitment into bringing this bill to the floor. This debate has gone on for a long time. The first bill that we voted on during this debate was 2 years ago, and we could not get the votes then.

We have worked on this bill consistently with the help of a lot of our neighbors in Washington State and a lot of members from the Committee on Transportation and Infrastructure. I commend the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Alaska (Mr. YOUNG) for putting together a good bill.

In Washington State 3 years ago, there was a pipeline explosion in the area of Bellingham. It is the area that the gentleman from Washington (Mr. LARSEN) now represents, and at that time Congressman Metcalf represented. Both gentlemen were very involved in this debate. They had a problem to solve for the neighbors who lived in their communities, and success has finally greeted us here on the floor of the House tonight.

□ 1845

We have worked on this bill ever since. Three years of work to put together a bill that would be appropriate, a bill where we could release some information but be very aware that if terrorists are looking for a way to endanger our communities, we have to be somewhat careful on how we phrase the public information portion of this.

I want to summarize a few of the elements that are in this legislation that make it much better than anything we have ever had before in protecting our neighbors and our neighborhoods from any explosion or any kind of emission of toxic substances into the environment.

The legislation tonight talks about inspection of gas pipelines every 5 years. It will be mandated. There is flexibility left so that we can do it in the proper way, so it will not be a huge new expense to the companies but will also perform the program that we are interested in, which is to make sure those pipelines are not corroded, are not broken, and will not result in a horrible explosion like the one that the parents of those children in Bellingham had to live with 3 years ago.

It also establishes a program to certify that critical pipeline employees are qualified to do their jobs. This has never been required before, Mr. Speaker. I think this bill puts out there in print what we expect from the companies who are engaged in operating pipelines. It also increases penalties for pipeline safety violations. Why is this important? It is important, Mr. Speaker, because we want those companies to take very seriously the requirements we have handed to them. Sometimes money tells the story. To penalize them in a monetary way we think is very important. It also provides for increased State oversight of pipelines. We want the States involved. We would like to have community advisory boards. We are going to increase the amount of personal activity done to keep these pipelines safe by allowing the communities and the neighbors to advise the companies that come up with good ideas that we may have missed, that might have fallen through the cracks on this legislation.

I think it is also very important that communities be given access to information about the pipelines that run underneath their schools, underneath their homes, underneath their neighborhoods. Everybody in the process agrees that this information ought to be out there. We have not yet agreed how this information should be available. I hope this information can be addressed as this bill moves forward as we go through the conference committee with a good strong House bill that will be debated by Members of the Senate and the House so that we will come up with something really strong.

The answer to this particular public access question may be part of homeland security. It may have to be a compromise. What I want, Mr. Speaker, my mayors to be able to walk in and see the most up-to-date maps that outline these pipeline directions so that they will be able to instruct people who are digging trenches for water mains or digging trenches for the construction of foundations of homes or schools. I want them to know, these communities, where these pipelines run and we all appreciate that. In an era which is different since 9–11, where terrorists can get control fairly easily of information, we have to massage this. But I think each of us appreciates the fact that this information must be made available.

Mr. Speaker, for 3 years we have tried to pass this bill. We have tried to put this bill together in a way that would protect our communities. This bill moves closer to that objective than anything I have seen so far. It is a compromise, but I think it provides us the basis for a good, strong community approach that will allow us to provide that protection for our communities that we worked so hard to do.

Mr. Speaker, as we move closer to our objective, as we get a good bill out of the House, I urge our colleagues to support this. It is a fine bill. My congratulations to everybody who has been in the process.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, as one of the Democratic cosponsors, I rise in strong support of H.R. 3609. Our pipeline infrastructure is the invisible backbone of this country through which the vast majority of our gasoline and natural gas flows. This bill greatly enhances the safety of all the pipelines by requiring more frequent inspections, additional operator training, greater fines for safety violations, and better measures to protect against terrorist attacks.

All these additional enhancements are reached on a bipartisan basis, not only by the Committee on Energy and Commerce but also by my good friends and colleagues on the Committee on Transportation and Infrastructure. Mr. Speaker, protecting the lives of the folks whom I represent in Houston, Texas, who have lived and worked along pipelines all their lives, is our first priority, even around the country. The vast majority of the pipelines scheduled to be inspected first are those with high population density surrounding them. This commonsense approach will immediately bring the greatest margin of safety to the largest number of people. In addition, all pipelines will be inspected more frequently under this legislation.

Because of the increased inspections mandated under the bill, pipeline inspection equipment and the personnel needed to man them should increase at a rapid pace. This will in turn lead to even better inspections and less accidents like we have had in Washington State and New Mexico.

This is a great bill. I am proud to be a cosponsor.

Mr. Speaker, as one of the Democratic cosponsors to this legislation, I rise in strong support of H.R. 3609. Our pipeline infrastructure is the invisible backbone of this country through which the vast majority of our gasoline and natural gas flows through.

This bill will greatly enhance the safety of all pipelines by requiring more frequent inspections, additional operator training, greater fines for safety violations, and better measures to protect against terrorist attacks.

All these additional enhancements were reached on a bipartisan basis between members of the Transportation and Infrastructure Committee and the Energy & Commerce Committee.

Mr. Speaker, protecting the lives of my folks in Houston who happen to live around the many pipelines is my first priority.

The vast majority of the pipelines scheduled to be inspected first are those with high population density surrounding them.

This common senses approach will immediately bring the greatest safety margin to the largest number of people.

In addition, all pipelines will be inspected more frequently under this legislation

Because of the increased inspections mandated under this bill, pipeline inspection equipment and the personnel needed to man them should increase at a rapid pace.

This will in turn lead to even better inspections and less accidents like we saw in Washington State and New Mexico.

Mr. Speaker, this is a good bill and I want to commend both Chairmen and Ranking Members for working to better protect the American people.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

It is rare that I do this as the chairman of two committees over the period of the last 8 years, but I would like to acknowledge at this time the work that has been mentioned by other Members that have spoken, the work of the staff. This has been a long, trying period of time. I want to compliment the staff on the minority side but I also, because I pay their bills, would like to compliment Graham Hill, especially, for his work and his outstanding dedication and perseverance; Levon Boyagian, who has been with me now as the counsel for the Committee on Transportation and Infrastructure; Mike Henry from the Committee on Transportation and Infrastructure; Frank Mulvey; David Heymsfeld; Ward McCarragher; and, of course, Liz Megginson, who is my chief counsel.

I rarely do this because I know they are doing what they love to do, but this has been a very complex issue; it takes a lot of work, a lot of discussion, some which I do not have the patience for, and I will be the first one to admit that; but we worked together as a group collectively and fought out the battles and discussed it.

I can truthfully say I believe that this piece of legislation is a great step forward to accomplish what I am seeking to do and have the safest pipelines in the United States. Twenty-two million miles of pipeline exist in the United States. This will be the first time where we know they will be inspected in a period of time, they will be repaired under the system of this bill on time, we will not have the accidents, hopefully, that have been happening in the past, and we will be able to deliver that product to the homes that they so badly need to live their lives.

Again, I thank the staff for the work they have done on both sides of the aisle.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, the chairman's patience is legendary.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HALL).

Mr. HALL of Texas. Mr. Speaker, I want to thank the chairman and ranking member of the Committees on Energy and Commerce and Transportation and Infrastructure for working with the Committee on Science and for allowing us to work with them to include the research and development language that is contained in section 9 of the bill that is before us today. Section 9 is also the product of a very close collaboration on both sides of the aisle in the Committee on Science, which reported these provisions as H.R. 3929 last spring.

Section 9 will be of immense value to this Nation in ensuring that the natural gas, crude oil, and refined products pipelines of this country are safer and more secure as we move into the 21st century.

The result will be a much stronger focus on the development of technologies necessary to make the pipeline infrastructure of this country safer and more secure.

Mr. Speaker. I want to thank the Chairman and Ranking Minority members of the Energy and Commerce and Transportation and Infrastructure Committees for working with the Science Committee to include the research and development language contained in Section 9 of the bill before us today. Section 9 is also the product of a close collaboration on both sides of the aisle in the Science Committee, which reported these provisions as H.R. 3929 last spring.

Section 9 will be of immense value to this nation in ensuring that the natural gas, crude oil, and refined products pipelines of this country are safer and more secure as we move into the 21st Century. And we are taking the first steps toward addressing the development of what we call the next-generation pipelines—those that will carry hydrogen, CO2 and perhaps other substances that will be part of the energy infrastructure of the future.

These pipelines are an essential part of the nation's energy infrastructure. They are so affected with the public interest that special efforts need to be taken now to make certain that new technologies are developed or existing technologies adapted to make certain that these facilities are as safe and secure as they can be—and so soon as they can be.

Section 9 of the bill brings the considerable capabilities of the Department of Energy (DOE) and its National Laboratories and the National Institute of Standards and Technology (NIST) to bear in a much more prominent way to provide solutions to the safety and security needs of the nation's pipelines. It provides considerable flexibility to the participating agencies, the Department of Transportation, DOE and NIST, to develop a research plan—one that will be reviewed by a Technical Advisory Committee to ensure that the work being done is relevant and appropriate.

The result will be a much stronger focus on the development of technologies necessary to make the pipeline infrastructure of this country more safe and secure.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I urge all Members to vote for this bill. For the committee, we expect to have a vote on this legislation probably later on this evening. I urge all Members to vote for the passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. LARSEN), whose district was tragically the site of a pipeline tragedy.

Mr. LARSEN of Washington. Mr. Speaker, I rise in support of H.R. 3609. I have a full statement, but I just want to make a quick note about what happened 3 years ago on June 10, 1999, in Bellingham, Washington, and remember why we are here today, to remember 10-year-old Wade King, 10-year-old Stephen Tsiorvas, and 18-year-old Liam Wood, who were killed when nearly 300,000 gallons of gasoline from a nearby pipeline rupture leaked into Whatcom Creek and were ignited and exploded. 1,100 days later, the House of Representatives is on the verge of finally passing strong pipeline safety legislation to respond to this tragedy.

On behalf of their families, I want to thank the House for doing so. I want to thank Chairman YOUNG, Chairman TAUZIN, Ranking Member OBERSTAR and Ranking Member DINGELL and the staffs from the majority and minority side for all the hard work that they have put into this issue over the last 3 years to make this a reality, to respond to the communities, to respond to their concerns about safety; and again to remember Wade King, Stephen Tsiorvas and Liam Wood for the lives that they lost, but hopefully with action by the House today we are doing our best to prevent losing lives in the future.

On June 10, 1999 in Bellingham, Washington, two ten-year old boys, Wade King and Stephen Tsiorvas, and an 18 year-old man, Liam Wood, were killed when nearly 300,000 gallons of gasoline from a nearby pipeline rupture ignited, sending a fireball roaring down

Whatcom Creek, and a plume of smoke thousands of feet into the sky. Over 1100 days later, the House of Representatives is on the verge of finally passing pipeline safety legislation to respond to this tragedy.

Since I came to this chamber, I have worked to see that the type of tragedy my constituents suffered never happens again by laboring to see that meaningful pipeline safety legislation passes the House of Representatives. Our friends in the Senate have acted three times. It is now time for us to act.

The bill before us today is a strong pipeline safety bill. It strengthens pipeline safety by ensuring operators enhance training and evaluation of pipeline employees, requires pipeline inspection programs be adopted and enacted every ten years, with follow-up inspections every seven years, strengthens the oversight role of state governments and citizens, and mandates substantially increased civil penalties.

With that said, I think it important to point out that the bill is missing critical community-right-to-know provisions that are vital if we truly intend to improve the safety of the pipelines that weave in and out of our communities. If we do not direct pipeline operators maintain continuous liaison with emergency responders, or require them to provide maps of their pipelines to municipalities, we are not doing all we can to ensure that another tragedy like that in Bellingham or Carlsbad, New Mexico never happens again. As this process moves forward into a Conference Committee, I urge my colleagues in the strongest possible terms to recede to the Senate's community-right-to-know provisions.

In conclusion, Mr. Speaker, allow me to thank the leadership of the Transportation and Infrastructure and Energy and Commerce Committees. Chairman YOUNG and TAUZIN, as well as Ranking Members OBERSTAR and DINGELL have done a good job of shepherding this critical piece of legislation through the House of Representatives. As one who has seen firsthand the danger posed by unsafe pipelines, I thank them, and all Members who have worked on this bill, and urge my colleagues to support this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. PETRI), the chairman of the subcommittee that handled this issue.

Mr. PETRI. Mr. Speaker, I rise in support of the bill before us and urge my colleagues to vote in favor of this worthwhile legislation. I would like to take a minute to commend the leadership of the Committee on Transportation and Infrastructure and of the Committee on Energy and Commerce for reaching this agreement, particularly the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Louisiana (Mr. TAUZIN), and the gentleman from Michigan (Mr. DINGELL).

The bill will require a more frequent inspection and reinspection schedule for pipelines, in particular problem pipelines. It will ensure that individuals who work on pipelines are properly trained. The bill also includes a permanent streamlining provision that will enable pipeline operators to make repairs within the time limits set forth by the Department of Transportation.

H.R. 3609 includes whistleblower provisions to protect employees who report problems that may endanger the lives of fellow workers and those living near the facilities. Finally, the bill will require every pipeline operator to develop and to implement a terrorism security program approved by the Secretary.

Mr. Speaker, this is a bill that will increase the safety and security of our Nation's pipelines. I urge its adoption.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, for 3 years the parents of the three boys who died on June 10, 1999, in Bellingham, Washington, have been unstinting and unyielding in their insistence that this Chamber adopt a requirement that pipeline companies inspect their pipelines. Today it is their efforts that truly ought to be honored to fully and fairly require that for the American people.

I want to note the efforts of Frank and Mary King, Marlene Robinson and Katherine Dalen, because they have been insistent that we not leave this House until we require in statute the inspection of these pipelines. This has been difficult for them. It has been difficult because the last time we had this provision on this Chamber, on this floor, we did not have such an inspection. But they were unyielding and unstinting. I want to thank them for their courage in such difficult circumstances to hold our feet to the fire, to go through a multiple-year effort to get this inspection requirement. Their decision not to allow anything less than that in the last Congress today has proven the right decision.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Energy and Commerce, whose years of endeavor in the vineyard have proven fruitful.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 3609. I am pleased to be here to mark an important event. We are on the verge of moving forward with pipeline safety legislation that will enhance the real safety of our Nation's pipelines. I want to commend the distinguished gentleman from Louisiana (Mr. TAUZIN), our chairman, and also the distinguished gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure, and my distinguished friend, the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure, for making this possible.

□ 1900

Mr. Speaker, there is a mounting body of evidence that our system of pipeline safety regulation is wholly inadequate. As of now, the Congress has failed to move on meaningful reforms. We do so in this legislation.

I want to, again, commend my colleagues for the work, efforts and leadership which they have given, and also, again, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Texas (Mr. BARTON) for having worked with us to develop this legislation.

The legislation we are considering today is comprised of the unanimously approved Committee on Energy and Commerce bill plus important and valuable additions drawn from the Committee on Transportation and Infrastructure product.

As a result of good faith working together, we have presented the House with a bill which deserves the support of all of my colleagues and which will contribute significantly to the protection of the environment and the protection of the American public.

I want to commend our good friend, the gentleman from Virginia (Mr. BOUCHER), the ranking member of the subcommittee, for his efforts on the technical assistance grants and hazardous pipeline enforcement provisions. The gentleman from Texas (Mr. HALL) and the gentleman from Pennsylvania (Mr. DOYLE) again deserve significant recognition for their fine efforts on the research provisions which largely reflect the legislation of the gentleman from Texas (Mr. HALL) that was reported overwhelmingly by the Committee on Science.

I also want to thank the gentleman from Massachusetts (Mr. MARKEY) for his work and cooperation on the provisions relating to the National Transportation Safety Board and the security of liquefied natural gas and other pipeline facilities.

Finally, I express my appreciation to those in the environmental community and in organized labor who have worked with me for so many years on these matters. They, along with industry stakeholders who have chosen to play a constructive role in this process, deserve great credit. They all deserve to be thanked.

Mr. Speaker, I urge the swift and speedy adoption of this legislation.

Mr. Speaker, I rise in strong support of H.R. 3609. I am truly pleased to be here to mark a very important event: for the first time in a decade, we are on the verge of moving forward on pipeline safety legislation that would actually enhance the safety of our Nation's pipelines. I want to commend Chairman TAUZIN, along with Chairman YOUNG and Ranking Member OBERSTAR for making this possible.

There is a mounting body of evidence that our system of pipeline safety regulation is wholly inadequate. Unfortunately, until now, Congress has failed to move on any meaningful reforms. During the last Congress, the

House considered legislation that was more about public relations than public safety. Because that legislation did little more than restate existing law and provide cover for maintaining the deadly status quo, Mr. OBERSTAR and I—along with many of our colleagues—successfully opposed enactment of that legislation.

Things, however, were very different this year in our Committee, and Chairmen TAUZIN and BARTON deserve the thanks of this body for working as partners with us to develop legislation that moves the ball forward on protecting the public and the environment from the dangers of unsafe pipelines. The Energy and Commerce Committee bill was supported by all stakeholders—including the gas pipeline industry, the oil pipeline industry, labor, and the environmental community.

The legislation we are considering today is comprised of the unanimously approved—Energy and Commerce bill plus some very important and useful additions drawn from the Transportation and Infrastructure Committee product. It is the result of a good faith, sincere effort to do what is doable for the sake of safety, rather than hold out for everything that every stakeholder ever wanted. I know it is not a perfect product, but I believe that the effort has been successful.

I commend Members who have worked with us to address specific matters in the bill. These include Chairman BARTON and Representative JOHN—as well as Representative PALLONE—for their work on the provision to establish a national 3-digit, one-call number. I also want to commend Ranking Member BOUCHER for his efforts on the technical assistance grants and hazardous pipeline enforcement provisions. Representatives HALL and DOYLE deserve recognition for their efforts on the research provisions that largely reflect Mr. HALL's legislation that was reported overwhelmingly by the Committee on Science. I also want to specifically thank Representative MARKEY for his work and cooperation on the provisions relating to the National Transportation Safety Board and the security of liquified natural gas and other pipeline facilities.

Finally, I express my appreciation to those in the environmental community and organized labor who have worked with me over the years on these matters. They, along with the industry stakeholders who have chosen to play a constructive role in this process, deserve to be recognized for helping us make it possible to go forward with the support of every Member of our Committee and hopefully today with support of the entire House of Representatives.

Mr. Speaker, I urge swift adoption of the amendment in the nature of a substitute and passage of the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I reserve my time.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma (Mr. CARSON).

Mr. CARSON of Oklahoma. Mr. Speaker, I rise today to express my support for this compromise version of H.R. 3609, which improves pipeline safety. I am an original cosponsor of this legislation, which has undergone significant changes since it was first introduced.

This legislation importantly accomplishes various improvements in pipeline safety, while recognizing the realities of pipeline operation and its, unacknowledged often, importance to many communities and businesses across the country.

Pipelines are a critical mode of transportation for our Nation and by far one of the safest modes of transporting energy materials to needed destinations. It is equally important that the American public have faith in its safety.

I support this legislation and encourage my colleagues to vote in favor of this bill, which improves public confidence in our Nation's pipeline system and allows continued quality service to the many Americans who depend upon the products that pipelines provide.

Mr. OBERSTAR. Madam Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I surely hope that the bill before us is a good one, and there is reason for hope, since it is inconceivable that our current pipeline safety regulation could get much worse.

When it comes to pipeline safety, "oversight" has usually meant "overlook." When it comes to the Office of Pipeline Safety, it has found itself in alliance with groups such as the Longhorn Pipeline that have posed such dangers to my community in Central Texas, and how South Austinites have rightly shouted that they have everything to lose and nothing to be gained by being forced to be a Longhorn partner because of the tragic intrusion on our community by Longhorn Pipeline. The City of Austin has a lot resting on the protections offered by this bill.

With an understanding of our experience with Longhorn Pipeline and the lack of protection from the Office of Pipeline Safety, the city submitted testimony expressing its concern about current Federal statutes that restrict municipalities in protecting their citizens from pipeline dangers. It is essential that the Office of Pipeline Safety and other Federal agencies give thorough consideration to the issues faced by those exposed to hazardous pipelines. Hopefully, that will be accomplished by the modest steps in this bill.

Mr. OBERSTAR. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I wish to express my great appreciation for the cooperation of all the members on the Democratic side on the Committee on Transportation and Infrastructure. We had many, many meetings and discussions to iron out differences, to reach agreements, to reach consensus on matters, that compromise that we have offered to the majority in our committee. In particular, the gentleman from New Jersey (Mr. PASCRELL) has been an absolute champion on pipeline safety; the gentleman from Washington (Mr. LARSON), who has been a vigorous advocate stemming from the tragedies that resulted in his own district; the gentleman from Oklahoma (Mr. CARSON), who, likewise, has been a vigorous advocate and a staunch supporter of strong pipeline safety legislation; and many others on our committee who have contributed long hours in the discussion and debate internally.

But especially my appreciation goes to the chairman of our committee, whose patience, as I said a moment ago, is legendary. Sometimes that fuse is maybe a quarter of an inch long, but he is always willing to come back again and to discuss and to revisit issues on which it seems that there is no agreement and to find common ground. We have found common ground, and I am very appreciative.

I especially am grateful to our committee staff, David Heymsfeld and Frank Mulvey, who have labored intensively on crafting this legislation and Ward McCarragher, whose many, many hours combined have produced this splendid piece of legislation which we can now support.

Madam Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, that everybody is thanking everybody means this is a good day, and I would suggest we especially thank again the gentleman from Michigan (Mr. DINGELL), the ranking member on the Committee on Energy and Commerce, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Minnesota (Mr. OBERSTAR) and the work he has done, the gentleman from Washington (Mr. LARSON) and the gentleman from Oklahoma (Mr. CARSON).

Everybody has worked together and we have got what I think is a good piece of legislation.

Mr. MARKEY. Madam Speaker, I rise in support of H.R. 3609.

I am pleased that the bill we are considering today contains a provision I authored (Section 12 of the bill) which deals with a special situation that we are facing in Everett, Massachusetts, in my Congressional District.

The Distrigas LNG facility in Everett is owned by Tractebel, a Belgian-based energy affiliate of the French conglomerate, Suez. This facility is unlike any other waterfront LNG plant in the nation that receives LNG tankers. It is located in the middle of the City of Everett, a city of 38,000 people that has a population density of 11,241 people per square mile. The facility is a mile and a half from my hometown of Malden (a city of 56,000 people), it is two and a half miles from the City of Medford (also population 56,000) where my District Office is located. The facility also is right across the Mystic River from downtown Boston—population 590,000.

LNG tankers that dock at the Distrigas facility must enter the Boston Harbor and sail through a narrow ship channel that passes by Logan airport, under the Tobin Bridge, and right by the central financial and commercial district of the City of Boston. For this reason, when LNG tankers approach Boston, the Coast Guard has established special procedures to help protect the public health and safety, including the possibility of terrorist attacks. The Coast Guard works with the City of Boston, and police and fire departments of Everett, Malden and Medford to establish procedures for protecting the tanker ships and preparing for any emergency response.

However, after the LNG tankers have docked at the facility, the Coast Guard's job is done. Security then, is left to the private security guards hired by Distrigas and the Everett Police Department. Of course, the Everett Police Department has all of the responsibilities of an urban police force, and cannot devote the resources to maintaining a large police presence at this facility at all times. For this reason, we have to rely primarily on the LNG plant operator, Distrigas, to put in place adequate security systems.

Unfortunately, I have found that security at this facility is sorely inadequate. Both from whistleblower reports and from direct first hand observation, I have seen a facility where security is either nonexistent or woefully lacking. I have written to Homeland Security Director Tom Ridge on two occasions last fall and last winter to ask him to look into this matter and work with the Department of Transportation, the Coast Guard, and with the State and Local governments to help rectify this situation, and he responded several weeks ago to tell me that he had misplaced my letters and would have to get back to me later. So I guess you could say that I have had direct firsthand experience that demonstrates that Governor Ridge needs the additional resources and authorities that President Bush called upon the Congress to give him.

I also raised this issue with the Transportation Department during the Subcommittee's hearing on the pending legislation. The responses I received were not satisfactory. The Department noted, for example, that it had found in November that the Everett plant's contract security guards "needed additional training regarding existing Distrigas security procedures". And these were the security procedures established before September 11th.

The Department subsequently announced that it was imposing a $220,000 civil fine on Distrigas for violations of DOT security requirements and safety rules. In so doing the Department announced that the Department's "Inspectors found Distrigas had failed to train their contract security personnel in security procedures established prior to Sept. 11, 2001. Morever, a follow-up inspection found that even as late as April 2002, not all contract security employees had been trained in security procedures."

In other words, the Transportation Department essentially said that Distrigas has flunked what is basically an elementary school-level security test. However, what they may really need to be prepared for is a college level exam. We need to upgrade the security standards affecting this type of facility, so that we can get access to the LNG needed to provide energy for our region, while also protecting our communities from a terrorist action that could threaten public safety.

While Distrigas says it is improving its security procedures, it has also said that the company would fight the Department's proposed fine. While I have had some positive recent communications with U.S.-based representatives of the company following the Committee's adoption of my amendment, only time will tell whether the situation on the ground in Everett will change and whether the companies' European corporate parents will provide the funding and support to allow a "security first" philosophy to truly take hold at Distrigas.

My amendment, which appears as Section 12 of the bill, is aimed at assuring that this facility, or any future LNG terminal that is sited in a densely populated urban area, it fully protected against terrorist threats. What it does is very simple:

It directs the Secretary of Transportation to undertake a rulemaking to develop new security rules for the Everett facility, and to issue a final rule within one year "to require effective security measures which the Secretary determines are necessary to be adopted against acts of terrorism or sabotage . . ." The amendment identifies nine specific factors the Secretary shall take into account in this rulemaking, and it provides that any rules issued by the Secretary shall establish requirements for security procedures and emergency response at the facility, including effective testing of the security forces at the plant.

Let me make it clear, the provision would only cover this one facility, located in Everett, Massachusetts, in my District, which faces what may be some unique security challenges and some severe public safety consequences in the event of a successful terrorist attack. Of course, the amendment is drafted to be generic in application, so that if there is some future facility that meets the statutory definition, it would be similarly afforded the protections provided by the security measures mandated under the Section. The principle underlying the Section 12 is the LNG facility that receive LNG tanker ships, and are located in or near densely populated urban areas, must comply with enhanced security rules and security force testing procedures. We are focused on this class of facilities, because the adverse consequences of a security breach at a LNG facility in an urban area could be quite severe in terms of loss of life or destruction of property.

I would not that the rulemaking required under Section 12 applies only to a "waterfront liquefied natural gas plants capable of receiving liquefied natural gas tankers" that is "located in or within one mile of a densely populated urban area." The term "waterfront liquefied natural gas plant" is derived from a term which appears in the U.S. Code of Federal Regulations, and refers to "an LNG plant with docks, wharves, piers, or other structures in, on, or immediately adjacent to the navigable waters of the United States or Puerto Rico and any shore area immediately adjacent to those waters to which vessels may be secured and at which LNG cargo operations may be conducted." The term "densely populated urban area" is specifically defined in the amendment as "an area with a population density of more than 10,000 people per square mile."

Section 12 therefore currently would exclude the Lake Charles, Louisiana LNG facility, the Elba Island, Georgia LNG facility, and the soon-to-be reactivated Cove Point, Maryland LNG facility from coverage, as none of those facilities are located in areas with a population area of more than 10,000 people per square mile. For example, the population density of Lake Charles (home of the CMS Trunkline Facility) is 1786 people per square mile. There is one other LNG Terminal currently operating, which is located at Elba Island, Georgia, near Savannah, Georgia (which has a population of 1759.5 people per square mile). It was reactivated in December. The Cove Point facility, in Maryland is not yet reopened, but it is located in a rural area that is even less densely populated.

Section 12 also excludes an LNG facility that is not used to dock or receive LNG tankers. We are focused narrowly on LNG terminals in this amendment since these are facilities that may receive ocean-going tankers from Middle Eastern countries like Algeria, where there may be active terrorist cells operating, or from other foreign nations, where there may not be adequate screening of ship's crews or adequate systems in place to assure ship security. The section is intended to supplement the other measures undertaken to ensure the security of such LNG terminals, included those taken by the Coast Guard in addressing the security of LNG tankers and screen their crews as they enter U.S. waters and travel through U.S. harbors to their destinations. In the past, I have seen at the Everett facility that while the Coast Guard does a reasonably good job of addressing security at the water side of the plant, there simply has not been enough attention focused on what could happen on the land side, or the potential for a coordinated attack that might involve insiders. Section 12 gives the Department the tools needed to address this.

I appreciate the cooperation of the Chairman of the Energy and Commerce Committee and his staff, who have offered some helpful suggestions on how to tighten the language of the amendment, as well as the Ranking Member, who have been helpful in assuring that the amendment touched only this facility, and did not inadvertently affect other facilities where the security problems may not be as serious, or the consequences of a successful terrorist attack so potentially devastating.

I urge adoption of the legislation.

Mr. YOUNG of Alaska. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3609, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. YOUNG of Alaska. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, and the Chair's prior announcement, the Chair will now put three of the questions on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H.R. 3479, by the yeas and nays;

H.R. 4775, by the yeas and nays; and

House Joint Resolution 101, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second and third electronic vote in this series.

## NATIONAL AVIATION CAPACITY EXPANSION ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3479, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 3479, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 343, nays 87, not voting 5, as follows:

[Roll No. 327]

YEAS—343

Abercrombie
Ackerman
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Bryant
Burr
Callahan
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Culberson
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hansen
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schrock
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—87

Aderholt
Akin
Ballenger
Barr
Bartlett
Bilirakis
Brown (FL)
Brown (OH)
Burton
Buyer
Calvert
Chabot
Coble
Collins
Condit
Conyers
Crane
Cubin
Cummings
Cunningham
Davis, Jo Ann
Deal
Delahunt
Dingell
Farr
Fattah
Flake
Gallegly
Gillmor
Goode
Goodlatte
Graham
Gutknecht
Hall (TX)
Harman
Hefley
Hilleary
Hilliard
Horn
Hostettler
Houghton
Hunter
Hyde
Jackson (IL)
Jenkins
Jones (NC)
Kennedy (RI)
Kerns
Kilpatrick
Kucinich
LaHood
Lee
McCarthy (MO)
McKinney
Meek (FL)
Miller, Jeff
Moran (VA)
Morella
Obey
Paul
Payne
Pence
Radanovich
Riley
Rivers
Rohrabacher
Rothman
Royce
Ryun (KS)
Sabo
Schaffer
Schiff
Scott
Sensenbrenner
Sherman
Shows
Smith (WA)
Snyder
Stump
Sununu
Tancredo
Thurman
Toomey
Waters
Watt (NC)
Weldon (FL)
Wolf

NOT VOTING—5

Goss
Jones (OH)
Lewis (GA)
Stearns
Traficant

□ 1930

Mr. PENCE and Mr. RILEY changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "To expand aviation capacity.".

A motion to reconsider was laid on the table.

Stated for:

Mr. GOSS. Madam Speaker, on rollcall No. 327, I was inadvertently detained.

Had I been present, I would have voted "yea."

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each question on which the Chair has postponed further proceedings.

## CONFERENCE REPORT ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 4775, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 32, not voting 5, as follows:

[Roll No. 328]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett

Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NAYS—32

Borski
Capuano
Chabot
Collins
Cubin
Deal
Delahunt
Doggett
Duncan
Flake
Frank
Goode
Green (WI)
Issa
Johnson, E. B.
Kerns
Kind (WI)
Kucinich
Manzullo
McDermott
McKinney
Norwood
Oberstar
Paul
Petri
Royce
Ryan (WI)
Sensenbrenner
Smith (WA)
Stark
Tancredo
Terry

### NOT VOTING—5

Goss
Jones (OH)
Lewis (GA)
Stearns
Traficant

□ 1940

Ms. EDDIE BERNICE JOHNSON of Texas changed her vote from "yea" to "nay."

Mr. OTTER changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GOSS. Madam Speaker, on rollcall No. 328, I was inadvertently detained. Had I been present, I would have voted "yea".

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## DISAPPROVAL OF NORMAL TRADE RELATIONS TREATMENT TO PRODUCTS OF VIETNAM

The SPEAKER pro tempore. The pending business is the question of passage of the joint resolution, H.J. Res. 101, on which the yeas and nays were ordered.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 91, nays 338, not voting 5, as follows:

[Roll No. 329]

### YEAS—91

Aderholt
Andrews
Ballenger
Barr
Bartlett
Berry
Bonilla
Bonior
Brown (OH)
Brown (SC)
Burton
Buyer
Chabot
Coble
Collins
Cox
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
Diaz-Balart
Doolittle
Duncan
Ehrlich
Everett
Flake
Frank
Gibbons
Gilman
Goode
Graham
Green (TX)
Green (WI)
Gutknecht
Hall (TX)
Hayes
Hayworth
Hefley
Hilleary
Honda
Houghton
Hunter
Jackson-Lee (TX)
Jenkins
Johnson, Sam
Jones (NC)
Kelly
Kennedy (RI)
Kingston
Kucinich
Lantos
Lewis (CA)
LoBiondo
Lofgren
McIntyre
McNulty
Miller, Jeff
Norwood
Obey
Paul
Payne
Pickering
Pombo
Riley
Rivers
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Sanchez
Sanders
Schaffer
Shows
Slaughter
Smith (NJ)
Souder
Strickland
Stump
Tancredo
Taylor (MS)
Taylor (NC)
Visclosky
Wamp
Watson (CA)
Weldon (FL)
Wicker
Wolf
Young (FL)

### NAYS—338

Abercrombie
Ackerman
Akin
Allen
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Burr
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Greenwood
Grucci
Gutierrez
Hall (OH)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (KY)

Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pitts
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden
Walsh
Waters
Watkins (OK)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—5

Jones (OH)
Lewis (GA)
Pelosi
Stearns
Traficant

□ 2003

Mrs. BIGGERT changed her vote from "yea" to "nay."

Mr. HAYES changed his vote from "nay" to "yea."

So the joint resolution was not passed.

The result of the vote was announced as above recorded.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 107–607) on the resolution (H. Res. 497) providing for consideration of the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4965, PARTIAL-BIRTH ABORTION BAN ACT OF 2002

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 107–608) on the resolution (H. Res. 498) providing for consideration of the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth-abortion, which was referred to the House Calendar and ordered to be printed.

## NOTICE OF INTENTION TO OFFER RESOLUTION ON QUESTION OF PRIVILEGES OF THE HOUSE

Ms. SANCHEZ. Mr. Speaker, pursuant to rule IX, I hereby notify the House of my intention to offer a resolution as a question of the privileges of the House. The text of my resolution is identical to the resolution reported by the Ethics Committee and reads as follows.

In the matter of JAMES A. TRAFICANT, Jr., resolved that pursuant to article 1, section 5, clause 2 of the United States Constitution, Representative JAMES A. TRAFICANT, Jr., be, and he hereby is, expelled from the House of Representatives.

The SPEAKER pro tempore (Mr. SIMPSON). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentlewoman from California will appear in the RECORD at this point.

The Chair will not, at this point, determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

## LIMITATION ON DEBATE ON CERTAIN AMENDMENTS DURING FURTHER CONSIDERATION IN THE COMMITTEE OF THE WHOLE OF H.R. 5120, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 5120 in the Committee of the Whole pursuant to House Resolution 488, debate on the following amendments, and any amendments thereto, be limited to the time specified equally divided and controlled by the proponent and an opponent as follows:

The amendment printed in the House Report 107–585 shall be debatable for 12 additional minutes.

The amendment printed in the CONGRESSIONAL RECORD and numbered 1 shall be debatable for 30 minutes.

The amendment printed in the CONGRESSIONAL RECORD and numbered 5 shall be debatable for 20 minutes.

The amendments printed in the CONGRESSIONAL RECORD and numbered 9 and 20 each shall be debatable for 10 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. MENENDEZ. Mr. Speaker, reserving the right to object, and it is not my intention to object but to clarify, the gentleman's proposition here, on unanimous consent, is that the 12 minutes on the Goss amendment are to be divided 6 apiece.

Mr. ISTOOK. Mr. Speaker, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from Oklahoma under my reservation of objection.

Mr. ISTOOK. The gentleman's understanding is correct.

Mr. MENENDEZ. Mr. Speaker, it is my further understanding that of those 6 minutes, the Chair is going to be instructed as to how those 6 minutes are going to be divided.

Mr. ISTOOK. Mr. Speaker, if the gentleman will continue to yield, the UC request specifies divided equally between an opponent and a proponent of it. The UC request does not identify specific Members who would claim that time.

Mr. MENENDEZ. Mr. Speaker, continuing under my reservation of objection, let me ask an inquiry of the Chair. How will the Chair recognize individuals for those time frames on each side?

It is my understanding that of the 6 minutes to each side, I was to receive 3 of those 6, and I just want to make sure that that in fact take place.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. MENENDEZ. I yield under my reservation of objection to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, it is my presumption that, as the ranking member, I would be recognized, and I would tell the gentleman that I will yield him the 3 minutes.

Mr. MENENDEZ. Reclaiming my time, Mr. Speaker, based upon that, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

## TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 488 and rule

XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5120.

□ 2008

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, with Mrs. BIGGERT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, pending was the amendment printed in House Report 107-585 by the gentleman from Florida (Mr. GOSS), and the bill was open from page 75, line 11, through page 103, line 10.

Pursuant to the order of the House of today, debate on the following amendments, and any amendments thereto, will be limited to the time specified, equally divided and controlled by the proponent and an opponent as follows:

The amendment printed in House Report 107-58 offered by the gentleman from Florida (Mr. GOSS) shall be debated for 12 additional minutes;

the amendment printed in the CONGRESSIONAL RECORD and numbered 1 shall be debatable for 30 minutes;

the amendment printed in the CONGRESSIONAL RECORD and numbered 5 shall be debatable for 20 minutes; and

the amendments printed in the CONGRESSIONAL RECORD and numbered 9 and 20 each will be debated for 10 minutes.

Pursuant to the order of the House of today, the gentleman from Florida (Mr. GOSS) and a Member opposed, the gentleman from Maryland (Mr. HOYER) each will control 6 minutes on the Goss amendment.

Mr. HOYER. Madam Chairman, I want to clarify, because it is not fair for me to claim all 6 minutes in opposition, A, because I am not in opposition.

Madam Chairman, because the gentleman from New Jersey (Mr. MENENDEZ) was concerned under the unanimous consent that he might not get the time to speak, and he is not a member of the Committee on Appropriations, in fairness, my understanding with the gentleman from Oklahoma (Mr. ISTOOK), and I think everybody's understanding, was that the proponents would have 6 minutes and the opponents would have 6 minutes, so that my only intent, Madam Chairman, is to ensure that the gentleman from New Jersey (Mr. MENENDEZ) get his 3 minutes. I also want to ensure that the gentleman from Indiana (Mr. ROEMER) gets his 3 minutes. So I am not claiming the time.

Mr. ROEMER. Madam Chairman, we need a clarification. I think the gentleman from Maryland rose to claim the time in opposition to yield 3 of the 6 minutes to the gentleman from (Mr. MENENDEZ).

The gentleman from New Jersey (Mr. MENENDEZ) is a proponent of Goss and not in opposition to Goss. So we may need a unanimous consent agreement here to agree that the gentleman from New Jersey (Mr. MENENDEZ) gets 3 minutes; that the gentleman from Florida (Mr. DIAZ-BALART) gets 3 minutes in supporting the Goss amendment; that the gentleman from Arizona (Mr. FLAKE) and the gentleman from Indiana (Mr. ROEMER) get 3 minutes each in opposition to the Goss amendment.

The CHAIRMAN pro tempore. The Chair mistook the attitude of the gentleman from Maryland (Mr. HOYER). Does any Member rise in opposition to the amendment?

Mr. ROEMER. Madam Chairman, I rise in opposition to the Goss amendment.

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. ROEMER) will control 6 minutes.

Mr. ROEMER. I thank the Chairman.

Mr. DIAZ-BALART. Madam Chairman, as the designee of the proponent of the amendment, am I correct that I will, as the person controlling the 6 minutes, have the right to close?

The CHAIRMAN pro tempore. In the absence of a committee Member in opposition; that is correct.

Mr. DIAZ-BALART. As the designee of the proponent of the amendment, do I have the right to close?

The CHAIRMAN pro tempore. Without objection, the gentleman from Florida (Mr. DIAZ-BALART) will control 6 minutes as the designee of the proponent of the amendment.

Mr. HOYER. Reserving the right to object, Madam Chairman, I want to make clear that a unanimous consent has been propounded, which I think is a fair one, and what that does, it gives one Democrat a proponent of the Goss amendment and one Democrat who is an opponent 3 minutes apiece; and on the other side, one Republican who is a proponent gets 3 minutes and one Republican who is an opponent gets 3 minutes.

I am not going to seek any time. I am for the proposed unanimous consent irrespective of who closes or not. The proponent of the amendment, I presume, under the rules, would have the right to close.

Mr. DIAZ-BALART. Madam Chairman, will the gentleman yield?

Mr. HOYER. Madam Chairman, under my reservation of objection, I yield to the gentleman from Florida.

Mr. DIAZ-BALART. I am still trying to get an answer as to whether the proponent of the amendment has the right to close. That is the first question I would like answered. As the proponent of the amendment, do I get the right to close?

The CHAIRMAN pro tempore. Members will suspend for a moment.

Mr. HOYER. Madam Chairman, it is my perception there is not opposition to the unanimous consent request, but I may be wrong.

The CHAIRMAN pro tempore. The Chair will state her current understanding. The 6 minutes in opposition will be controlled by the gentleman from Indiana (Mr. ROEMER), the 6 minutes for the proponent will be controlled by the gentleman from Florida (Mr. DIAZ-BALART). The gentleman from Florida (Mr. DIAZ-BALART) will have the right to close.

The Chair recognizes the gentleman from Florida (Mr. DIAZ-BALART).

Mr. HOYER. Madam Chairman, as I understand, there was a unanimous consent request propounded subsequent to the first unanimous consent, and that unanimous consent was of the gentleman from Indiana (Mr. ROEMER) suggesting that there be in effect, an amendment to the first unanimous consent and that that amendment would be that the gentleman from Florida (Mr. DIAZ-BALART) has 3 minutes and controls that, that the gentleman from New Jersey (Mr. MENENDEZ) has 3 minutes, that the gentleman from Indiana (Mr. ROEMER) has 3 minutes in opposition, and that the gentleman from Arizona (Mr. FLAKE) has 3 minutes in opposition.

It seems to me that we all here, I think, agree that that would be the distribution of time.

□ 2015

The CHAIRMAN pro tempore (Mrs. BIGGERT). The Chair has allocated time to two Members, one as proponent and one as opponent, and those gentlemen may yield to other Members who request time.

Mr. DIAZ-BALART. Madam Chairman, the Chair has stated that the opposition to the amendment has 6 minutes and the proponents of the amendment have 6 minutes, and we have the right to close.

There is 6 minutes in opposition to the Goss amendment, and I will yield 3 minutes to the gentleman from New Jersey (Mr. MENENDEZ), and then I will close.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) controls 6 minutes, and is recognized.

Mr. DIAZ-BALART. Madam Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Madam Chairman, after 10 years in the House, and as the ranking Democrat on the Subcommittee on the Western Hemisphere, it is amazing on an issue that is vital to my district and my constituency how I have to fight for time on the floor, but I appreciate the gentleman yielding me this time.

President Bush came to this Chamber and said of countries who support terrorism, you are either with us or you are against us. It is amazing to me how I have heard some of my colleagues come to the floor and begin to equivocate. I remember the standing ovation the President received when he said that, about whether some terrorists are okay and others are not.

For the purposes of this amendment, let me just put Cuba under Castro in context. On May 10, 2001, Castro visited Iran and he said, "Iran and Cuba in cooperation with each other can bring America to its knees. The United States regime is very weak, and we are witnessing this weakness from up close."

Then we found out that Ana Montes, who was a senior analyst for our Defense Intelligence Agency of the United States, was a Cuban spy. She gave us all of the wrong information and analysis on Cuba, and gave the Cubans and Castro all of the sensitive information she had as a senior analyst on the United States, and she was specifically instructed to discredit Cuban defectors' reports of Cuba's biological weapons development.

Then we saw the Cuban spy ring in the south of Florida. These are all agents of the Castro regime, who has enough money to put all of these people here in Cuba and to have them be able to create these operations; however, does not have enough food to put on the plates of Cuban families back in Cuba, including that of my family. What did this spy ring, when they came before the judge and pleaded in some cases, say? That they sent detailed information. On what, on the United States Postal System to Cuba. What a boring issue, the United States Postal System. But we add Castro's visit to Iran right before September and May, add the Defense Intelligence spy giving all of our sensitive information and giving us all of the wrong information about Cuba, look at the pleas that took place in the Southern District of Florida and the statements made there, and we have more than enough to be concerned about this benign regime that some would paint here on the floor.

Vote for the Goss amendment for a whole host of reasons.

Mr. ROEMER. Mr. Chairman, I yield 20 seconds to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, the Goss amendment means that we continue what has not worked for the last 41 years.

One of the certifications that the President has to make is that Cuba is not providing technology that could be used to produce, develop, or deliver biological weapons, and the President could not even make this certification for the United States.

Mr. ROEMER. Mr. Chairman, I yield myself 2 minutes, 40 seconds.

Mr. Chairman, this whole debate started several months ago when the Under Secretary of State said, "The United States believes that Cuba has at least a limited offensive biological warfare research and development effort."

Now, one of the first people I would go to if I heard that kind of accusation about a country 90 miles from our shore would be the Secretary of Defense, Mr. Rumsfeld, a very respected individual. At a press conference he said this on May 29 in the St. Petersburg Times about that statement in the State Department. "I haven't seen the intelligence that apparently led Under Secretary Bolton to make those remarks."

If the Secretary of Defense, fighting a war against terrorism, saying you are with us or against us, does not have that, where does it come from? The Secretary of State said when he heard that quote, and here is another quote, "We did not say Cuba actually had such weapons, but it has the capability and capacity to conduct some research."

Mr. Chairman, let us talk about the facts here. The facts are that Cuba and Mr. Castro, who I have no respect for and want to see out of power, he has been in power for 42 years. What is the best way to get rid of him? The best way is to have American travel go, and students and business leaders and American ideas get to Cuba. Those ideas, those beliefs, that American free enterprise system, students from colleges, farmers to help the Cubans open up their newly announced 300 freely priced farmers' markets, new microenterprises open around Cuba, that is the way to open up that government and change it.

Now it may not topple Castro, but 42 years of failed policy is not going to do it, either. Let us try something new. Let us move our ideas forward. Let us not let Castro stay in power any longer. Church groups, students, American beliefs, American tourists going into taxicabs and hotels, spending our time and our ideas down there, that is the American tradition to change this policy. Vote against the Goss amendment and for the Flake amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. FLAKE), since the gentleman from Florida (Mr. DIAZ-BALART) has the right to close.

Mr. FLAKE. Mr. Chairman, I rise in strong opposition to the Goss amendment. This debate is all about consistency, and it is interesting that we have been debating for the past 10 minutes who gets what amount of time to argue what position. If we think about it, the other side of this debate has had 42 years to make this debate, to make their side of the debate. Forty-two years. Forty-two years we have had the same failed policy. Castro is still every bit the thug he was 42 years ago. He is still very much in power, and the question occurs after 42 years, it is about time that we decide maybe we need a change here. Maybe we ought to be consistent with what we are doing in the rest of the world.

We not only allow, we encourage tourists and others to travel to China, even though China is very much engaged in shipping arms, and who knows, maybe biological weapons. They certainly have the capacity. If Cuba does, they do. So does Albania, for that matter. Iran very much has the capacity. If we believe the other side, they got it from Cuba. Are we saying that we should not travel to Iran? No. We are saying Americans are our best ambassadors all over the world, yet we say not to Cuba. It is time for that policy to change.

The other side will say this is all about terrorism. Last year 240 Members of this body said we need a change. We need a change. At that point the other side stood up and said it is about political prisoners. That was the killer amendment to the Flake amendment last year. Terrorism was not the chic issue it is this year; it was political prisoners. That was brought up and said, well, Castro has to release political prisoners. This year, is political prisoners in the Goss amendment? No. It is terrorism.

Are they saying we should allow tourism just as long as there is no terrorism, even though Castro has not released political prisoners? No. This is simply a killer amendment; let us take it for what it is.

If we are concerned about terrorism, I would submit that the best thing to do is defeat the Goss amendment and approve the Flake amendment. We have to realize that the Office of Foreign Assets Control at the Treasury Department spends between 10 and 20 percent of its resources tracking down grandmothers from Iowa who happen to go on a bicycling trip to Cuba.

Last year a man from the State of Washington went to Cuba for 24 hours to spread his parents' ashes at the church they built in the 1950s. That man returned to a $7,500 fine from the Office of Foreign Assets Control. Now the Office of Foreign Assets Control's job is to shut down the international terrorist network. How can they do that if they are spending all of their time chasing down tourists or others who are going to Cuba for innocent reasons? It is time to defeat the Goss amendment.

Mr. DIAZ-BALART. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, what is new is that some hijackers smashed into the World Trade Center killing thousands of people and killed some heroes also in the Pentagon. What is new is that the administration has made public for the first time something that the intelligence community came to the conclusion about in 1999, and that is there is a biological weapons program in Castro's Cuba. That is what is new.

It is not a fetish, I think that is word of the gentleman from Arizona (Mr. FLAKE), or fad, when we are talking about protecting American citizens. If the Flake amendment passes without the Goss amendment, it is not going to be a SCUD missile. Let us say that Castro happens to be wrong and that his denial of the fact that he has biological weapons is a lie, like he denied 40 years ago that he had another kind of weapon. I think it was a nuclear weapon, he was denying that. Happened to be wrong.

□ 2030

Let us say that he happens to be wrong again and that he does have biological weapons, as our intelligence community says so and has said so repeatedly, not just Mr. Bolton, Mr. Ford, the head of the State Department intelligence department, the intelligence community. By the way, they have both said that there is a lot more that the intelligence community does not let them say. There is a lot more that we know.

Let us say that Castro does have biological weapons. Let us just say. It is not a fad now. Let us just say. He is not going to use Scud missiles. He has got a lot of travelers going back and forth. This guy, this gentleman here, who happens to be in prison, his name is Padilla, because he was preparing a dirty bomb that he wanted to throw here in Washington, and let us say that he is able to get out of prison and he wants to go where there are already thousands of other terrorists given safe harbor by the only terrorist regime in this hemisphere. Under the Flake amendment if Goss does not pass and the President is out of the picture, this man, or any other man, cannot be licensed, cannot be checked, cannot be reviewed, suitcases cannot be opened; he gets to go to the only terrorist state 90 miles from here without our Treasury Department, where we are spending 40 percent of the money of the Federal Government for security on this bill. Not one cent can be spent to check him or any other terrorist that wants to go to the only terrorist state in this hemisphere. That is what the Flake amendment would do if Goss does not pass.

What does Goss say? That the President has to be in the mix, that the President has the authority, has to have the authority in this war on terrorism to check this man and to check his suitcase and to license him.

It is not illegal to go to Cuba. A number of colleagues went to Cuba. Here is the gentleman from Massachusetts (Mr. MCGOVERN). Here is the gentleman from Arizona (Mr. FLAKE). They love to go to Cuba. They love the mojitos on the beach where the Cubans cannot go. But this man, this man, this man——

Mr. OBEY. Mr. Chairman, I demand that the gentleman's words be taken down.

Mr. DIAZ-BALART. You know it is true. You know it is true.

Mr. OBEY. I want the rules enforced.

The CHAIRMAN. The gentleman from Florida will be seated.

The Clerk will report the words.

□ 2041

The Chair recognizes the gentleman from Florida (Mr. DIAZ-BALART).

Mr. DIAZ-BALART. Mr. Chairman, I understand I was not out of order. I certainly meant no offense.

The CHAIRMAN. Does the gentleman from Wisconsin (Mr. OBEY) insist on his demand?

Mr. OBEY. Mr. Chairman, it is not worth it.

The CHAIRMAN. The gentleman withdraws his demand.

Mr. GILMAN. Mr. Chairman, in recent years there has been a growing body of second-guessing about the adequacy of the policies of the United States toward Cuba.

However, President Bush made it clear in a recent speech why there is no real justification for a change of policy by his Administration.

Unfortunately, the Castro regime continues to engage in severe human rights abuses. Cubans are deprived from the basic right of choosing their government by free elections. Political prisoners are maltreated, to the extent that some die in detention as a result of the physical abuse and the lack of subsequent required medical attention. Citizens in Cuba do not enjoy any of the rights common to free people.

The Cuban government is sensitive to its citizens contacting foreigners, in particular human-rights activists. During President Carter' visit, Castro put up a show for the benefit of foreign audiences by allowing Mr. Carter to meet with a number of prominent rights activists. However, as soon as the former President left the Island, the Cuban regime put in motion a massive effort to neutralize the ephemeral achievement of the activists.

Presently Castro is trying to amend the Cuban constitution, so that the authoritarian system will become forever entrenched not only de facto, but also in the law.

Mr. Chairman, it is my opinion that this is certainly not the time to soften American policies towards Cuba. Indeed, a policy of accommodation towards Castro will also encourage him and other dictators. It will also discourage fragile democracies that happen to be burdened by economic downturns, or political upheavals.

Peoples and governments around the world are watching our policies towards Cuba as a bench mark to our commitment to the spread of democracy. Let's not discourage those seeking freedom on the Cuban island and in other places. Let's stay fast and send the message that a long as there is no hope afforded to the people of Cuba by its present regime, the United States will not change its policies.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. GOSS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. GOSS) will be postponed.

### AMENDMENT NO. 1 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FLAKE:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . (a) None of the funds made available in this Act may be sued to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to the issuance of general or specific licenses for travel or travel-related transactions, and shall not apply to transactions in relation to any business travel covered by section 515.560(g) of such part 515.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, may I just state for the record for the folks at home, I am Mormon and I do not drink mojitos, or whatever they are.

Mr. Chairman, I appreciate this opportunity to stand in support of the Flake amendment. What the Flake amendment simply says is that this is all about freedom. Our government should not tell us where we can and cannot travel. It is a fundamental right of every American to travel. Every one of us ought to have the right to go to Cuba to see what a mess Fidel Castro has made of that island. We should have that right firsthand.

That is what this amendment is all about. When you strip away everything else, should you be allowed the right to travel to Cuba, or anywhere else you want, or should your government tell you where you can and cannot travel?

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the greatest antidote to totalitarianism is an informed mind. I would like to read a quick passage from an independent journalist, a dissident in Cuba, Oscar Espinosa Chepe: "The passage of the House amendment last year to end the travel ban reflects a public opinion that every day understands more clearly that the effort to isolate Cuba has only increased the suffering of the Cuban people and strengthened the positions of the most recalcitrant elements in the Havana regime. Experience demonstrates that isolationism breathes life into totalitarianism. It helps it exercise control over citizens subjected to its power and to reinforce its monopoly over their minds. On the other hand, contact between peoples free individuals from falsehoods and from the lies without dignity to which they are obliged to lead."

Mr. Chairman, it has been the American policy from Republican presidents and Democrat presidents that we engage; it has been in the American policy that we engage the Soviet Union, that we engage China, that we, just a few minutes ago, voted to engage Vietnam.

We should do the same with Cuba. The simple reason is that it has been a bedrock principle of American policy that travel is a device that opens closed societies. American travelers are our best ambassadors. They carry the idea of freedom to people from communist countries. There is no reason to make this exception for Cuba.

We want Americans to go down and exchange ideas, to show them the taste of freedom, to know what kind of brutal totalitarian regime they are living under. A people cannot rise up and ask for alternatives if they are not acquainted with those alternatives.

We are simply saying this 42-year practice of turning our backs, of looking inward, of being hypocrites while we go to China and Russia and Vietnam, must be ended.

With that, Mr. Chairman, I call for a yes vote on the Flake amendment. I encourage Members to vote for the Flake amendment.

The CHAIRMAN. Does any Member oppose the amendment?

Ms. ROS-LEHTINEN. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN. The gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 15 minutes.

Ms. ROS-LEHTINEN. Mr. Chairman, I yield 3 minutes to our friend, the gentleman from Tennessee (Mr. WAMP), to speak in opposition to the Flake amendment, an amendment which runs contrary to the spirit and letter of our U.S. anti-terrorism policy.

Mr. WAMP. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I want to say I have the greatest respect for the gentleman from Arizona. He is as solid as a rock and totally believes in his position here. In previous years, I have actually supported him and Mr. Sanford before him on opening up travel. I supported the gentleman from Washington (Mr. NETHERCUTT) at the Committee on Appropriations with regard to food and medicine.

But I have to tell you, the question was asked earlier what has changed, and I rarely have changed my position on any issue over the last 8 years, but today I am going to change my position on this issue after careful research because the world has changed. It changed September 11, and we have to listen to our intelligence community and make informed decisions.

Why should we be concerned? Well, the President has said those nations that harbor terrorists are terrorists, and should be treated as such. A gentleman just compared China, Vietnam or other countries such as that, to Cuba. There are no allegations that I know of of those nations harboring terrorists. We have concerns in our intelligence community about Cuba harboring terrorists.

What about the proliferation, production, of biological weapons? We have information in our intelligence community that Cuba is up to no good.

Somebody said that we should try something new after 42 years. Mr. Chairman, this is not the time to try something new. This is the most serious time in the history of our country. We have got to be extremely careful.

This is not a trade issue where you do want to promote travel and open up markets. This is a national security issue and should than treated as such. We need to treat Cuba like Syria, not like Mexico. There is a huge difference. I am going to listen to the gentleman from Florida (Mr. GOSS) and our intelligence community, not Fidel Castro and his propaganda.

Mr. Chairman, I agree in principle with the issues that bring those proponents of this amendment to the floor today on opening markets and how to engage. But this is different. We have information that should gravely concern us.

Let me tell you why I have changed my position: Because I would rather be safe than sorry. I would rather be safe than sorry. I do not want to come back to this floor because somebody from Cuba was involved in a terrorist action in this country and we promoted open travel between the U.S. and Cuba. I am changing because I am better informed, and the world has changed.

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to point out, it was said you cannot travel to Syria. You can travel to Syria. You can travel to Iran. You can travel to North Korea. You can travel to China. So that is not the issue. The issue is consistency here.

Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the point bears repeating that we are talking about having a foreign policy that makes sense and has made sense in the past and will in the future. We have decided that nations with whom we disagree, who have foreign policies with whom we disagree, what should be our policy toward them with regard to Americans traveling to those nations?

We have disagreed with Syria very vigorously, yet we have said Americans can travel there. We have disagreed and continue to disagree very vigorously with Iran and their support of terrorist groups, but we have said Americans can travel there. We have had problems with China and Russia and their support through equipment and materials to countries we think should not get those materials because of the weapons systems they might be used for. But we say, Americans, you can travel to China; Americans, you can travel to Russia.

The one country that we have this policy with is Cuba. So we are now seeing this bogeyman created, that somehow September 11 is related to the last 43 years of a failed policy.

Well, in my view, what this debate should be about tonight is what increases the chances of the people of Cuba growing up in freedom and growing up in democracy and knowing a market economy. I was in Cuba the first week of January with several members of Congress. I took this picture at a church in Cuba. It is the same town where Elian Gonzales now lives.

To me, this is the future of Cuba. What increases their opportunity to grow up in freedom? Is their opportunity for freedom increased by having Americans never see them, by having Americans never come to their church and visit with them and talk about America? Is that what increases their chances of freedom, of knowing what freedom is about, of hearing them talk, as we did, with people in Cuba about what it means to have freedom of the press? Why is The New York Times not available? Why do not you let people have open newspapers?

I think that what will increase their chances for freedom is what we do tonight. Vote no on the Goss amendment and for the Flake amendment.

Ms. ROS-LEHTINEN. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentlewoman for yielding me time.

I think in so many ways this debate is about our government versus their government, and our government is about democracy. It is about a republic. Their government is about really one guy basically, Fidel Castro.

What is wrong with him? Well, let us just start with the fact that he came into power by hoodwinking people, by stealing hotels, properties, and in many cases, breaking up families and executing many of them. He is pro-communism, he is anti-American, and the other thing is he is bankrupt.

In Cuba right now, their debt is $11 billion. Venezuela, one of their strongest allies, suspended oil shipments based on the fact that Cuba owes them $63 million. Right now, Cuba owes Russia $20 billion. Now, when you get in a position like this and you are not exactly a Sunday school teacher from next door, you are liable to cut some deals with some unsatisfactory characters.

That is what this is about. This is not about your good constituents or my good constituents going to Cuba. Indeed, last year alone 156,000 Americans went to Cuba. This is about people that you want to keep track of that might be going over there to hide, just like an old outlaw post.

Here is a quote from Castro that gives his sentiments. This, by the way, is from May 10, 2001, just on the eve of 9/11. "Iran and Cuba, in cooperation with each other, can bring America to its knees. The U.S. regime is very weak and we are witnessing this weakness from close-up."

Why would you say that if you are pro-American? What interest that would be pro-American that would say you would bring America to its knees? That is a statement of war. It is a statement of antagonism.

Let us add on these statements. Here is something from John Bolton, the Under Secretary for Arms Control. "Cuba has at least a limited offensive biological warfare research and development effort. Cuba has provided dual-use biotechnology to other rogue States like Iran, probably Iraq, probably Syria, probably a dozen others that we do not know about. We are concerned that such technology could support bioweapons programs in those States."

So you have got a guy who is a one-man dictatorship, a guy who is bankrupt, a guy who is anti-American, and a guy who is developing biological weapons to probably be used to "bring America to its knees." Why do we want to be the first one to blink?

That is what this is about. Why are we blinking first? Castro is on his way out. I think the amendment of the gentleman from Washington (Mr. NETHERCUTT) last year probably has done some humanitarian good, although it is hard to say, because I know when we go over there, we get filtered information.

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But why do we want to start giving him a money train called tourism? I know about the tourism game. I represent coastal Georgia. It is our number one industry from Savannah to Saint Simons to the Sea Islands, all over. Tourism is a money train. Why do we want to give it to Fidel Castro?

Mr. Chairman, I reluctantly oppose a friend, but I do urge my colleagues to enthusiastically vote "no" on the Flake amendment.

Mr. FLAKE. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Chairman, I rise in very strong support of the Flake amendment, quite simply because I firmly believe it is the right of all Americans to be able to travel wherever they wish.

I support this amendment because I believe the current sanctions on travel to Cuba go against the very traditions and democratic values that make the United States so respected in the eyes of the world community.

I trust the people of America. They are not fools. They should be able to see firsthand, freely and whenever they choose, both the good and bad about today's Cuba. They do not need the Federal Government to censor what they see or how they might experience Cuba.

I believe that increased travel by Americans and others would make Cuba less insular and more exposed to American ideas.

I believe Cuban Americans should have the right to visit their relatives as often as they wish, without seeking the approval of the U.S. Government.

This is not a debate about whether U.S. citizens should travel to an undemocratic or repressive country. If that were true, then Americans would not be able to travel to China, Vietnam, Burma, Sudan, Syria, Iran, and North Korea. But Americans travel freely to these countries, as is their right. Why then do we continue to prohibit the travel to Cuba?

Vote "yes" on the Flake amendment.

Ms. ROS-LEHTINEN. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I thank the gentlewoman for yielding me this time. I appreciate my good friend, the gentleman from Arizona (Mr. FLAKE), and the amendment he has brought to the floor, but I rise to disagree with the amendment and to point out that the Bush administration said they will veto this bill, or at least they are likely to, and I will give the specific language in a second, but that they are likely to veto this appropriations bill if the language comes through that limits the embargo.

A statement from the administration said that the administration understands that an amendment may be offered on the House floor that would weaken current sanctions against the Cuban government. The administration believes it is vitally important to maintain these sanctions.

The function of the travel sanctions is to prevent unlicensed tourism to Cuba that provides economic resources to the Castro regime, while doing nothing to help the Cuban people, and these sanctions should not be removed. It goes on to say, as noted in the July 11 letter from Secretaries Powell and O'Neill, the President's senior advisor recommended he veto a bill that contains such changes.

This bill, the Treasury-Postal bill is, for 2003, a homeland security bill. The committee provides over $4 billion in support of the homeland security effort. It establishes a separate appropriation for the Office of Homeland Security. This bill is our bill for homeland security. The President and the administration make the point that this weakens the bill. Cuba is a known harborer of international terrorists, has strong ties to other terrorist states.

Castro said in a meeting last year with the Iranian leader that Iran and Cuba, in cooperation with each other, can destroy America. Quote: "The United States regime is very weak and we are witnessing this weakness from close up," end the Castro quote there.

Ending the embargo would assist terrorists in using Cuba as a forward operating base miles off our shore. According to Secretary of State Powell and Secretary of the Treasury O'Neill in a recent letter to the chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), they said that the Cuban government has refused to cooperate with the global coalition's efforts to combat terrorism, refusing to provide information about al Qaeda. On November 13, 2002, the Cuban Foreign Minister delivered a speech at the United Nations in which he accused the United States of war atrocities in Afghanistan. And on June 8, Castro compared President Bush's terrorism policies to Nazi Germany's efforts to assert world hegemony, suggesting that the administration permitted the 9/11 attacks in order to "reshape the world as they wish."

This is not a regime to send money to. This is not a regime to open the sanctions up with. It is clear at this time where our administration thinks we need to be in this regard. This is not a time to reevaluate this policy, and I urge that we defeat the amendment.

Mr. FLAKE. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would like to point out that Secretary O'Neill, in testimony before the Senate just a few months ago, stated that if it were up to him, he would basically agree to my amendment. He would not enforce the travel ban because it takes away money from terrorism.

Mr. FLAKE. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I rise in strong support of the Flake amendment. I had the opportunity on two occasions to visit Cuba, and I went there out of curiosity to also see what many of my constituents have come to tell me, and that is that there are some opportunities there, cultural exchange, educational opportunities.

When I came back from my first trip, I noticed that on the plane coming back, there were 20 students from Mt. San Antonio College that were playing in athletic games with students in Cuba, and I asked them, what was your curiosity? What did you think about the Cuban government? What did you think about the people there? Many of them said that they were very supportive and felt that they were a part of a student group there that they could work on different issues and learn about each other and break down those barriers that we hear about every single day here by some of the rhetoric that we are even hearing here tonight.

I met with students, medical students from California, from Boston, from New York, who are there because they cannot get into medical schools here, who are learning about how to become professionals in the health career field. That is one of the reasons why I went.

Trade promotion also needs to be a part of this discussion.

Ms. ROS-LEHTINEN. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, first, so the record is clear, Paul O'Neill, the Secretary of the Treasury, has cosigned a letter with Secretary Colin Powell to the gentleman from Florida (Mr. YOUNG) saying that we would recommend that the President veto such legislation if it reaches his desk with the Flake amendment or any language that weakens current policy. So let us be very clear about that.

Let me also point out to my colleagues that travel to Cuba by Americans is permitted, providing it is with a purpose. There are 13 broad categories for which travel may be authorized. Something on the order of 200,000 people visited Cuba last year, so travel does take place, but it has to have a purpose.

There is a dark side to Cuba travel as well. Some of my colleagues think the travel is a panacea if we just have unfettered travel, somehow human rights abuses will be ameliorated and we will see some changes. That has not happened with the Canadians, with Europeans and others who routinely go to Cuba. There has been no mitigation of the human rights abuse. It has gotten worse in Cuba over this last several years. It is Pollyannaish, I would say to my colleagues who think otherwise.

There is also another dark side. The Protection Project just recently came out with a report again about human trafficking and sexual exploitation. I am the prime sponsor of landmark human trafficking law, and we have seen an increase in sexual tourism in Cuba. Here is what the Protection Project says. Canadian sex tourism is largely responsible for the revival of child prostitution. So there is a dark side to this seeming panacea of travel.

Let me also point out to my colleagues that Cuba continues to share the dubious distinction of being named a terrorist state by the Department of State. They join the infamous and the cruel, six other rogue nations: Iran, Iraq, Libya, North Korea, Sudan and Syria.

I think in this stage of the debate, it is worth reiterating that the Goss amendment would merely require that before we provide the means for Castro to obtain millions of dollars in revenues for his dictatorship, that three mutually reinforcing homeland security criteria are met: That the Cuban government does not process and is not developing biological weapons that threaten the U.S.; that Cuba is not providing terrorist states or terrorist organizations technology that could be used to produce, develop, or deliver biological weapons; and that Cuba is not providing support or sanctuary for international terrorists. These are exceedingly important criteria.

I would say to my colleagues, if you do not think they are relevant, vote for the Flake amendment. If you think they are relevant, I would ask you to vote for the Goss amendment and against the Flake amendment. If you think that the Cuban dictatorship is clean, you should also vote for the Goss amendment. What is there to hide? Let the scrutiny begin. Let a full-scale, presidential review and determination be made to ensure whether or not biological weapons in Cuba are real. If you think, as I do, that the dictatorship poses very serious threats to the safety and well-being of Americans, then I would urge my colleagues to vote for the Goss amendment.

Mr. Chairman, let us not forget, Fidel Castro is a dictator, a mass torturer, and he is a terrorist. Just look at the country's human rights practices. It is unconscionable. The recent State Department Report makes it very clear people are routinely beaten for their beliefs.

Vote "yes" on Goss.

Mr. FLAKE. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, I read an interesting article in today's Washington Times about a retired Air Force colonel, Ed Hubbard, a former POW in Vietnam, who traveled down to Miami this week to have a press conference where he was awarded with some medals for his bravery, which he truly deserved, but it was also to point a finger, if you will, at the person that he suspected of being the Cuban interrogator and torturer in Vietnam.

Well, as it turns out, it was a very interesting article, and after he was awarded these pins, the colonel stunned everybody in the room by saying, you know, let me say something. The best way to topple communism and I quote, in today's Cuba, he said, "is by establishing relations with Fidel Castro. Communism collapsed in Eastern Europe because we showed them how we live. I have to believe the same thing will happen with Cuba."

That is Retired Air Force Colonel Ed Hubbard, a POW, tortured in Vietnam by a Cuban, who very strongly believes that we should open the door with Cuba. I think that says it all.

Mr. FLAKE. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Mr. Chairman, I thank the gentleman for yielding me this time.

The starting point for this debate this evening should be that Americans have a constitutional right to travel, and history shows us that the Framers of the Constitution and the signers to the Declaration of Independence thought it was an inalienable right and one that came from natural law and that governments were given a duty to protect.

I have heard three arguments from the opponents of lifting this travel ban. The first is that because we disagree with the policies of Castro that we should prevent our citizens from traveling to Cuba; yet, if we look across the globe, there are many, many regimes that we disagree with on policy reasons: China, for one, Iran for another; but on a daily basis, our citizens are allowed to travel there. So that is not one that holds up.

Secondly, we have heard that history precludes it, as in the Bay of Pigs, I had heard that referred to earlier. Well, we just debated earlier this evening a bill that would establish trade with Vietnam, our citizens are allowed to go there. And what about Vietnam? We lost 48,000 American boys in a war with that country, and yet we allow our citizens to go there. So it is not history that precludes it.

Lastly, probably the thinnest argument is that argument around terrorism. I just want to remind people that when we rounded up the Taliban, when Secretary of Defense Rumsfeld rounded up the al Qaeda suspects in Afghanistan at the Battle of Kandahar, where did they send them? They sent them to Guantanamo Bay in Cuba. If there was any chance of Cuba being a hotbed of terrorist activity, that never would have happened.

Mr. Chairman, I ask Members to support the Flake amendment.

Mr. FLAKE. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me this time.

As I have listened to this debate tonight, I think it has been a good debate. What strikes me about the argument of the opponents to the Flake amendment is that there seems to be this fear of Fidel Castro, a tiny dictator in a country 90 miles from us who is, by all reasonable accounts, I would argue to my colleagues, not a threat to this country. Even in the days of the gravest threat when the Soviet Union was at its greatest power, we still allowed our American citizens to travel there. We allow families of Cubans who are still in Cuba to travel there, 90 miles off our shore, once a year. We allow Cuban families to give money to their relatives in Cuba.

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The Pope has gone to Cuba. Many Americans under certain restrictions have gone to Cuba. My suggestion to my colleagues is why are we afraid to allow Americans to go there and spread democracy, to make the arguments and be examples to the people of that country, 11 million people that we are a good country, that we are not a country that Fidel Castro says we are, but when we are his scape goats we somehow fall into that trap. I urge support of the Flake amendment.

Ms. ROS-LEHTINEN. Mr. Chairman, I yield myself the remainder of my time.

Just to answer the points made by my good friend, the gentleman from Washington (Mr. NETHERCUTT), if Castro poses no threat to the United States, I would like the gentleman to place a call to the parents of Carlos Costa, Armando Alejandre, Mario de la Pena and Pablo Morales, and four young men, three of whom were United States citizens, one of whom was a United States resident, one was a decorated Vietnam veteran, who were killed by Fidel Castro's air force when they were in international air space. Apparently he poses a threat to some United States citizens.

The gentleman is right. The Pope did go to Cuba. Jimmy Carter did go to Cuba. And what happened? The greatest crackdown on dissidents yet after Jimmy Carter's visit and every international human rights organization will tell you, the greatest crackdown in Cuban history since Castro took power after the visit of the Pope, after the visit of Jimmy Carter and after the visit of 500,000 American visitors to the island of Cuba.

And as repeatedly articulated by President Bush, one of the pillars of our efforts to eradicate this cancer of global terrorism, and to secure the security and domestic tranquility of our country is to deny, impair, and expose the financial infrastructure which provides a lifeline to these agents of terror, agents like Fidel Castro. To deny, impair and expose. That is precisely what our current U.S./Cuba policy does.

Why are we discussing an amendment that would instead provide funds to the Castro dictatorship, a country which every recent administration, Democrat or Republican, has repeatedly labeled as a state sponsor of terrorism. As has been pointed out on the floor, Paul O'Neill, Secretary of the Treasury, Colin Powell, Secretary of the State recently stated that this country has an implacable hostility to the United States.

I would point my colleagues to a news report that just came out hours ago in a meeting between Iraq's Saddam Hussein and Rodrigo Alvarez Cambras, special envoy of Cuban dictator Fidel Castro. Cambras emphasized the Castro regime's "support for Iraq against the threats from the United States." And he reiterated their firm commitment of both these terrorist states to expand their bilateral cooperation, two sworn enemies of the United States working together motivated by their hatred of our country.

I ask my colleagues tonight to not help the enemy, to support freedom, to support our U.S. anti-terrorism efforts, to vote "no" on the Flake amendment, vote "yes" on the Goss amendment.

Mr. Chairman, I yield the remainder of my time to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I tell my colleague, a POW was mentioned by the gentlewoman from Missouri. There was a POW that cannot say that. He spit in the face of one of the Cuban interrogators while he was being tortured. The Cuban took out his pistol and blew his brains out.

I go to the POW meetings every single year, and I will tell my colleagues that is not, that is not their policy, to open up Cuba.

Mr. FLAKE. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I appreciate the debate. And let me say, both sides of this debate want the same thing. We want a free, democratic, and prosperous Cuba. The question is how do we get there? Should we go the same route that we have gone for the past 42 years that has ended in utter failure? Fidel Castro is still around. He is still a thug. He is still very much a bad guy. We will all stipulate that. The question is how do we best remove him? How did we make sure that he does not have the only megaphone in Cuba?

Currently we silence Americans who would like very much to go to Cuba, to see the situation there, to explain to their Cuban brethren that we have a better way and to see what 40 years of socialism have wrought on that island. We prevent them from doing so, and we allow Fidel Castro to have the microphone, the only one they hear. We recognize the rest of the world, in China, Vietnam, North Korea, Iran, you name it. We not only allow travel; we encourage it. Yet, in Cuba, we say we will go a different route. We will isolate.

Well, we have the verdict: 42 years, nothing has changed. Nothing has changed.

Let me read you a quote:

> I have called for lifting economic sanctions generally, unilateral sanctions, because I believe they do not work. Well, Cuba is a tough case and admittedly a difficult one because we have had sanctions there over the years. They have not worked either. Sanctions, frankly, have not worked very well in Cuba.

You might think that was the gentleman from Massachusetts (Mr. MCGOVERN) or the gentleman from Indiana (Mr. ROEMER) or the gentleman from Massachusetts (Mr. DELAHUNT) or others who made that statement or even me. It was not. It was Vice President CHENEY.

As I mentioned before, Secretary O'Neill in testimony before the Senate just months ago said that if it were up to him he would not enforce the Cuba travel ban because he knows that if we are concerned about terrorism, then the last thing we want to do is expend resources from OFAC, or the Office of Foreign Assets Control, tracking down tourists, tracking down innocent grandmothers from Iowa, when we could instead be tracking down real terrorists and those who are perpetrating the terrorism war against the United States.

I would urge my colleagues to remember what this is all about. The Flake amendment says that we should be free, we should be free as Americans to travel where we want to. The Goss amendment says no. Vote "yes" on the Flake amendment.

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in strong support of the proposed legislation to lift the ban prohibiting Americans from traveling to Cuba. I would like to thank my colleague, the Gentleman from Arizona, for his leadership in regard to this amendment, and for drawing the attention of Congress to this very important issue.

Mr. Chairman, for four decades, American citizens have been unable to travel to Cuba, be it to visit family or to conduct business. As lawmakers for a democratic nation, I do not see how we can limit our own people from contact with a nation that can benefit so extensively from the influence of the strongest ambassadors of freedom in the world—American citizens. After all, what speaks more strongly for the power of democracy, than citizens who enjoy the liberties to earn income and to travel?

Mr. Chairman, free American travel to Cuba, in addition to reforming the Cuban political system, increasing rights enjoyed by Cuban citizens, and improving Cuba's economic condition, sends a powerful message of freedom. We must emphasize the value of personal freedom, as it applies to American citizens, by lifting this ban against American travel to Cuba.

Mr. FARR of California. Mr. Chairman, I rise in strong support of the Flake Amendment to end funding of the travel ban to Cuba. I heartily agree with the American Society of Travel Agents (ASTA) which stated in a recent letter to Congress that "the right to travel is among those rights that our Nation's founding documents refer to as 'inalienable'."

Recently, we Americans have been asking ourselves: "Why do they hate us? Why do other nations hate Americans, when they know so little about us?"

Many Cubans must be asking themselves the same question: "Why do they hate us? Why does the American government continue to support a forty-year embargo of our country, which has contributed to the collapse of the economy, and has done nothing to increase personal and political freedoms?"

Cubans must think: "if Americans only knew us—if they knew our culture, our language, our music—they would develop policies which would support exchange and abandon the failed policy of isolation."

Isn't that what Americans think? If countries around the world opened their borders to American visitors, opened their markets to American goods, and increased people-to-people exchanges through programs such as the Peace Corps, hostility towards our country and our people will be reduced.

Americans and Cubans are both right. It is only through greater openness and exchange that peoples of the world connect to each other—through personal bonds, commerce, and for mutual political benefit—and break down barriers in their own countries and across borders.

Ending the travel ban not only follows the spirit of the Constitution, it will be economically beneficially to the United States. According to the recent Brattle Group study, opening travel with Cuba will bring $415 million annually to the ailing airline industry; increase U.S. economic input by $1.6 billion; and create over 23,000 jobs in the American economy.

Vote for the Flake amendment. Vote to uphold Americans' Constitutional right to travel whenever and wherever they want. Vote for lifting the travel ban to Cuba, and tear down this wall that separates our two countries once and for all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona (Mr. FLAKE) will be postponed.

It is now in order to consider the second amendment offered by the gentleman from Arizona (Mr. FLAKE).

### AMENDMENT NO. 20 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. FLAKE:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ___. None of the funds made available in this Act may be used to enforce any restriction on remittances to nationals of Cuba covered by section 515.570(a)(1)(i), (a)(2), (b)(1)(i), or (b)(2) of title 31, Code of Federal Regulations.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Arizona (Mr. FLAKE) and the gentleman from California (Mr. ROHRABACHER) each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me time.

Current U.S. policy prohibits Americans from sending more than $1,200 a year to family members in Cuba. Understand, again, that this applies only to Cuba. No other country has this cap. And if you dare exceed this limit, be careful, the remittance police are watching and the penalties are severe. You can get 10 years in jail and a $55,000 fine. But, the law is actually rarely enforced. There has never been, in fact, a single prosecution. But that is going to change, because one year ago this week, President Bush personally directed the Department of Treasury to expand its capability to enforce limits on remittances to the fullest extent of the law.

The White House, in other words, has made the enforcement of the Cuban remittance limits a national priority. While I oppose both the embargo and the travel ban, let me suggest that the cap on remittances is truly the cruelest aspect of our policy towards Havana.

It restricts American freedoms. It limits family charity and denies hopes for tens of thousands of Cubans, and at the same time it breeds disrespect for our law because we all know that Cuban-Americans are doing the right thing and are circumventing this policy.

This policy does not punish Fidel Castro. Instead, it punishes American citizens and their relatives in Cuba. Let us be clear, none of this money comes from the United States Government. None of this money goes to the Cuban Government and Fidel Castro. It is direct aid from ordinary people who care to ordinary people who need. And it is the official policy of the United States that you should only do just so much. This policy would be silly. It is a real tarnish on the golden rule. But it is tragic. And it is un-American.

Tonight, if we support this amendment, we can end this policy, end this cruel aspect of our policy to Cuba.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, is the gentleman saying essentially that it is their money, these Americans, and they know what to do with it?

Mr. DELAHUNT. That is what I am saying.

Mr. ROHRABACHER. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from California (Mr. ROHRABACHER) has 5 minutes in opposition to the Flake amendment. The gentleman from Arizona (Mr. FLAKE) has consumed 2½ minutes of the 5 minutes.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 3 minutes.

Let us take a look at what is really going on in the world today. Why are we concerned about Fidel Castro? Yes, he is a petty little thug down in Cuba. They say how weak he is. Fidel Castro is demonstrably stronger than Saddam Hussein in terms of his ability to hurt the United States of America. But Saddam Hussein and Fidel Castro both share something. They share a blood grudge against the United States of America. And you might have some weak guy like bin Laden over there who looks very weak; but both of those fellows, both Saddam Hussein and Fidel Castro, have a blood grudge and can kill thousands, if not millions, of Americans in this day and age in which we live. It behooves us to do everything we can to get rid of Fidel Castro and get rid of the Saddam Husseins of this world before they decide to kill thousands, if not tens of thousands, of Americans.

They have a blood grudge, and no one should ignore that. You ignore it and if something happens, we are having to take the responsibility for not acting on this.

What is this all about? $1,200? Fidel Castro is broke. And by taking off all of these restrictions on the remittances, by just taking off the lid on the $1,250 in remittances, we will be bailing out Castro, just at a time when Castro as we have seen over and over again as was demonstrate earlier by what was presented to us, his regime is almost in collapse.

This has nothing to do with the well-being of the Cuban people. If it would, the Cuban-Americans in this body would be rising up and saying, my goodness, you are doing something to hurt the Cuban people. What we are doing here is to limit the power and strength of the Saddam Husseins and Fidel Castros of this world to hurt the United States of America. Our President knows that.

When those buildings went down in New York, who would have guessed that some weakling named bin Laden would have been able to do that?

Fidel Castro has a much greater grudge than bin Laden had against the United States of America. He has from his very first moments put Robert Vesco in a position to organize the drug trade throughout this hemisphere. He has over his 43 years of power had one of the worst repressive regimes and anti-American regimes in the world.

And when we talked about POWs in Vietnam, this man hates the United States so badly that he sent torturers over to Vietnam to torture our POWs.

Mr. DELAHUNT. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. Mr. Chairman, regular order. I would ask for an additional 30 seconds for being interrupted.

The CHAIRMAN. The gentleman's time has expired.

Mr. ROHRABACHER. Mr. Chairman, I would ask for an additional 30 seconds based on the interruptions.

Mr. DELAHUNT. Mr. Chairman, I ask unanimous consent to give the gentleman an additional minute.

The CHAIRMAN. The gentleman will suspend.

The gentleman from California (Mr. ROHRABACHER) controls 5 minutes. The gentleman from Arizona (Mr. FLAKE) controls 5 minutes for consideration of this debate.

Mr. ROHRABACHER. Point of inquiry.

The CHAIRMAN. The gentleman will suspend.

We have taken into consideration the interruption that took place in the gentleman's time. The gentleman has consumed 3 minutes, and if the gentleman wishes to yield himself an additional 2 minutes, he is certainly welcome to do that.

Mr. ROHRABACHER. Mr. Chairman, I yield myself an additional 30 seconds.

Fidel Castro sent torturers to torture American POWs half way around the world because he hates the United States of America. Everyone who has ever got into serious conversations with this man over his 40 years of rules has come away understanding this man has a visceral hatred for the United States of America.

At this time when we are threatened by international terrorism, we should not be doing anything to strengthen his regime, whether it is permitting millions of people to go down there and spend money and bail him out or whether it is increasing the amount of money that Americans can send to Cuba.

Mr. FLAKE. Mr. Chairman, I reserve the right to close and would inquire does the opposition have an additional speaker.

Mr. ROHRABACHER. If the gentleman will be closing now, I guess I should take my extra 1½ minutes.

Mr. FLAKE. It is my intent to close.

Mr. Chairman, I yield the gentleman from California (Mr. ROHRABACHER) 30 seconds.

The CHAIRMAN. The gentleman from Arizona (Mr. FLAKE) will have 2 minutes to close debate and the gentleman from California (Mr. ROHRABACHER) will have 2 minutes to close.

Mr. ROHRABACHER. Mr. Chairman, let me use 30 seconds to praise my friend for being so courteous, and I thank the gentleman for that thought.

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I think this is a vital discussion. Who would ever have thought that we would be living in this world 2 years ago. We live in a world where 3,000 Americans have been slaughtered before our eyes. We live in a world where we understand that the bin Ladens are little kooks over there halfway around the world, living in a dictatorship like with the Taliban, can do us horrendous harm.

We have nothing against the people of Cuba. The people of Cuba are wonderful people. In fact, if we are doing something against the people of Cuba's well-being, we have Cuban Americans with us who would be jumping up in order to protect their interests.

No, the people of Cuba are our friends, just like the people of Communist China are our friends, but what we have to do is make sure we weaken the stranglehold these gangster regimes have on those people, and it is especially important for us to weaken that stranglehold on these regimes that are headed by monsters, Frankenstein monsters, who have a blood grudge against the United States of America. Nowhere is that more demonstrable than in Fidel Castro.

Bin Laden hates us, but I will tell my colleagues that Fidel Castro's hatred of the United States is as equal to that of bin Laden, and there are countless quotes to suggest that.

No, we do not want this man's regime to be maintained. We do not want to bail him out at the end just as his economy is about to collapse. We want to keep the pressure on. He has had 40 years of tyranny, 40 years of tyranny. If we were to let up on the Soviet Union after 40 years of tyranny and started letting them become part of the economy of the world, Communism would still be in power in the Soviet Union today and the Cold War would still be on.

No, we want to keep a stranglehold on the Castro regime while reaching out to the people of Cuba.

By the way, all of these restrictions can be eliminated just by the stroke of a pen. All Castro has to do is to permit free elections, permit opposition parties, permit the democratization of society. Then we will have all of these be eliminated.

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

I appreciate this debate. I appreciate the good words of my colleague from California. I cannot say that I disagree with any of them. Fidel Castro is a thug. We have said it again and again and again. What this debate is about is the best way to topple him, to make sure that he does not remain there longer than the 42 years that he has been in power. Let us get back to what this amendment really does.

Currently, Cuban American families who live here in the United States are told by their government that they can be charitable but only so charitable. They are told that they can only send up to $100 a month to their family members in Cuba. I do not think that our government ought to be in the business of telling families how charitable they can be. This money is going directly to Cuban families.

I asked someone who does not agree with my position on allowing tourists and others to go to Cuba, I asked him why he supported remittances, and the answer was, remittances are different. Remittances are subversive. I agree with that statement, not that they are different. Tourism, I believe, is subversive as well, but if remittances are subversive, then let us do a lot more subversing, I say, if that is a word. Let us be a lot more subversive. Let us allow families to send whatever they would like to their families in Cuba. That is not what this country is about, limiting family charity.

That is all this amendment says. At the current time, families are allowed $1,200 a year. Currently, the State Department estimates that a lot more goes to Cuba. It goes in violation or it goes illegally. We should not make criminals out of families for wanting to help their families in Cuba.

Let us support this amendment.

Mr. ROHRABACHER. Mr. Chairman, I would ask unanimous consent to give the gentleman an extra 30 seconds.

Mr. FLAKE. Mr. Chairman, if I can take it.

The CHAIRMAN. We have a unanimous consent agreement under which we are operating here.

The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona (Mr. FLAKE) will be postponed.

### AMENDMENT NO. 9 OFFERED BY MR. MORAN OF KANSAS

Mr. MORAN of Kansas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. MORAN of Kansas:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ___ . None of the funds made available in this Act may be used to implement any sanction imposed by the United States on private commercial sales of agricultural commodities (as defined in section 402 of the Agriculture Trade Developments and Assistance Act of 1954) or medicine or medical supplies (within the meaning of section 1705(c) of the Cuban Democracy Act of 1992) to Cuba (other than a sanction imposed pursuant to agreement with one or more other countries).

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Kansas (Mr. MORAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Chairman, I yield myself such time as I may consume.

For the Members of this House who were Members in July of 2000, this amendment will sound awfully familiar. Two years ago this month, I offered a similar amendment, in fact, nearly identical amendment, to the one I offer this evening to the Treasury Postal appropriations bill.

This amendment would ban the implementation, the enforcement of the sanctions against the export of food, agriculture, commodities and medicine to the country of Cuba. The history of this amendment is such that this amendment passed 301 to 116 two years ago this month. A majority of Republican Members of Congress, a majority of Democrat Members of Congress supported this amendment.

Ultimately, through efforts of the leadership of this House, along with the gentleman from Washington (Mr. NETHERCUTT) and the gentlewoman from Missouri (Mrs. EMERSON), the Trades Sanction Reform Act of 2000 was signed into law as part of the agricultural appropriations bill and trade on agricultural products, food and medicine was authorized in a limited fashion.

Beginning last Thanksgiving, Cuba has purchased more than $100 million worth of U.S. commodities. Thirty States have sourced 650,000 metric tons of food to Cuba. Given the opportunity, Mr. Chairman, had the Committee on Rules allowed me to have a waiver of a point of order, I would have offered an amendment to clear up a number of problems that have arisen, not in creating problems for the country of Cuba but creating problems for our farmers, our ranchers and our companies that seek to export agriculture commodities, food and medicine.

We have a myriad of restrictions related to the license, shipping, financing that, in my opinion, create only handicaps for us, not creating any kind of pressure on the country of Cuba, and so this amendment tonight is an attempt to again reaffirm our support as a Congress, as a House of Representatives for trade with the country of Cuba.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who rises in opposition to the amendment?

Mr. SMITH of New Jersey. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

As we debate this amendment, it is imperative we focus and base our arguments on the facts and the reality of trading with the terrorist regime just 90 miles off the U.S. shores. Not only is the Castro regime a tyrannical one and one of the worst violators of the world, not only does the dictatorship use slave labor, not only does it force children to work in the farming sector as stated in the State Department human rights report, it has also proven to be an unworthy economic partner.

Here are the facts which clearly show that Cuba is not, nor will it ever be, a panacea for American farmers and investors so long as the current regime is in place.

In fact, number one, the Euromoney Country Risk Rating lists Cuba as one of the top five riskiest countries to invest in out of the 185 that they surveyed. Fact: Cuba is rated by Dunn and Bradstreet as one of the riskiest economies in the world. Fact: The Wall Street Journal's Index of Economic Freedom ranks Cuba as the most risky investment and as having the least free economy of the 156 countries surveyed. Fact: Cuba is already in default on $8.2 billion of its $11 billion debt.

In April of this year, Mr. Chairman, three Chilean fish exporters stopped shipments to Cuba after Cuba failed to make an installment payment of $3.7 million on the $20 million deal.

Also in April of this year, a South African company stopped shipments of its diesel engines to Cuba after the dictatorship failed to make the required payments on a 1997 contract.

Even Venezuela has stopped oil shipments to Cuba because Cuba has accrued with them a $63 million debt, missing payment after payment on below-market sales of petroleum.

It is imperative, Mr. Chairman, to maintain the precautions and the safeguards currently in place as part of U.S.-Cuba policy. The protection, Mr. Chairman, afforded by existing U.S. restrictions on trade with the Castro regime is a reality reaffirmed by the U.S. International Trade Commission. The ITC stated in its report that, existing U.S. laws, because they prohibit U.S. financial institutions' dealings with Cuba, ensured that there was no U.S. exposure to Cuba's foreign debt moratorium.

The ITC report added that extending credits and financing to a bankrupt Castro regime would expose taxpayers to footing the bill once Cuba defaulted on its payments. We certainly do not want that.

We as Members of Congress, Mr. Chairman, elected to represent and defend the interests of our constituents, cannot and must not support an amendment which would essentially force the American taxpayer to absorb such losses.

And there is already cause for U.S. concern. Under the compromise language in the Trade Sanctions Reform Act, ag sales to Cuba have occurred. Yet despite repeated congressional inquiries, there has not been an independent or Government confirmation that payments have been received from Cuba.

Before we support the unrestricted and unsupervised sales called for in the Moran amendment, would my colleagues not agree that it would be prudent to examine whether current regulations are being fully complied with? We should also pause, look to the experiences of others and learn from them in order to protect the American people.

For example, the European Union recently wrote a 15-page letter of complaint to Cuba's so-called finance minister, Carlos Lage, citing the discriminatory and uncertain trading environment of the Castro regime. Do we want to subject American investors to loss of contracts, confiscation of machinery, equipment and financial investments or even jail time? This is not an exaggeration. These are well-documented tactics employed by the Castro regime to retaliate against investors who voice dissatisfaction with the dictatorship's policies.

Mr. Chairman, as the saying goes, "an ounce of prevention is worth a pound of cure." Thus to prevent the victimization of our farmers and investors at the hands of Castro's erratic and failed economic policies, we must uphold existing U.S. law.

I ask my colleagues to champion the cause of hard-working Americans throughout this great Nation and prevent their from being used as experimental subjects to test Cuba's debt-filled waters. I ask for a no on the Moran amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Kansas. Mr. Chairman, I yield 45 seconds to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, it seems to me that 42 years of trade embargoes with Cuba have not changed Cuban Government policies, have not changed North Korea, Sudan, Libya, or Syria.

Forty years ago U.S. controlled most of the ag commodities in the world. The embargo might have had some impact at that time. Today we have a global economy. Countries simply buy elsewhere if we have an embargo. It costs us market share.

A 2002 Texas A&M study showed that Cuba trade restrictions costs U.S. agriculture $1.24 billion annually and $5 billion for ag and ag-related business.

Reaching back into my somewhat vague and sordid past, it seems to me that if someone ran the same play for 43 years and it did not work, maybe they would try something different. So

I would suggest that we might try that. Not asking to trade weapons, computer chips, petroleum or plutonium. We are simply saying that food and medicine does not jeopardize national security. It helps our country and our ag.

Mr. SMITH of New Jersey. Mr. Chairman, we reserve the balance of our time. How much time remains?

The CHAIRMAN. The gentleman from New Jersey (Mr. SMITH) has 30 seconds remaining and the gentleman from Kansas (Mr. MORAN) has 2 minutes remaining.

Mr. SMITH of New Jersey. Mr. Chairman, we reserve the balance of our time.

Mr. MORAN of Kansas. Mr. Chairman, I yield 45 seconds to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me this time. I rise in support of the amendment by the gentleman from Kansas (Mr. MORAN). He has been a very strong leader in this House in supporting agriculture and not restricting the transfer of food and medicine to countries like Cuba, the sale of food and medicine by American farmers. He is part of the Cuba Working Group, a bipartisan group of 23 Republicans, 23 Democrats who have worked very hard to change this policy and bring a sensible policy to this country.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. NETHERCUTT. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I thank my good friend and teammate on the Cuba Working Group. We have heard mention many times today committees and communism and changing foreign policy. Months ago 23 Democrats and 23 Republicans came together, formulating ideas, bringing them forward through amendments and bills, having meetings and working in a bipartisan way to try to accomplish some things. Tonight is the cumulation of that. I thank the gentleman for yielding.

Mr. MORAN of Kansas. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

I want to reiterate to my colleagues that in a letter dated July 11, 2002, Secretary of State, Colin Powell; and Paul O'Neill, Secretary of the Treasury, have made it very clear that, and I quote them. "We are writing to reiterate the administration's strong opposition to any legislative efforts that weaken the United States' current Cuba policy by permitting U.S. citizens to finance the Cuban purchase of American agriculture commodities or by changing the restrictions on travel."

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They would recommend a veto if the legislation reaches his desk with those changes.

I urge a "no" vote on the Moran amendment. I certainly respect my good friend and colleague, but I urge a "no" vote, nevertheless.

Mr. MORAN of Kansas. Mr. Chairman, may I inquire of the time remaining?

The CHAIRMAN. The gentleman from Kansas has 1¼ minutes to close.

Mr. MORAN of Kansas. Mr. Chairman, I yield myself the balance of my time, and I again reiterate that this is a vote this body has taken. Because of the efforts of the gentleman from Washington and the gentlewoman from Missouri, we have changed policy in regard to agricultural trade with Cuba. But this House needs to reaffirm its position one more time.

Every impediment that can be placed in the way of our farmers and ranchers and the businesses that deal in agriculture commodities in the trade with Cuba, every impediment has been placed in their way. It is not disadvantageous to Cuba, it is disadvantageous to Americans.

As the gentleman from Nebraska said, for 42 years we have tried to change the policy. They might as well be spending their cash on behalf of American agriculture, on behalf of the farmers and ranchers of this country. And as we have seen, they have the ability to do so: $100 million in cash payments coming to the United States to pay for agricultural products. The market is estimated to be $1 billion.

And for those who had concerns about the farm bill, help us export our agriculture commodities. Help us create markets for the farmers and ranchers of this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. MORAN).

The amendment was agreed to.

### AMENDMENT NO. 5 OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. RANGEL:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds made available in this Act may be used to implement, administer, or enforce the economic embargo of Cuba, as defined in section 4(7) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114), except those provisions that relate to the denial of foreign tax credits or to the implementation of the Harmonized Tariff Schedule of the United States.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New York (Mr. RANGEL) and a Member opposed to the amendment each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Chairman, I yield myself 3 minutes.

My colleagues, when the terrorists struck New York City, many of us recognized that the problems that we had as Republicans and Democrats, as blacks and whites, as Jew and gentile, was not nearly as important as working together as a city in order to show our defense against the people who struck against us. And so it was no surprise when we came to Congress to see that our President had thought that that would be the best thing for our Nation to do.

So we joined hands with Afghanistan and Pakistan and many other countries that we had serious differences with, but, at the same time, when they declared that they were going to be our partners in the war against terrorism, we took their hands and we thought it would be better to fight the big war than to highlight our differences.

How in God's name, at a time like this, can we really say that Castro and the Cubans, 90 miles from our shore, represent a threat to our national security when we know that they, too, have joined in this great war against terrorism? And how could it possibly be that we are prepared to say that they have different kinds of Communists in Cuba than the Communists that they have in North Korea or the Communists that they have in North Vietnam or the Communists that they have in Communist China?

My colleagues, this has nothing to do with trade policy. It has nothing to do with foreign policy. There is no former high ranking State Department official that will tell us that this embargo is against everything that our great country believes in. So what is it about?

It is about the State of Florida. It is about the sovereign State of Florida. It is about the politics of Florida. The President understands that. The Governor of Florida understands that. And I do not have a problem with anyone that comes from the State of Florida. They do what they have to do. But do not do it to my country. Do not allow local politics to influence what is in our national interests.

If trade is good enough to break the barriers between people who do not understand the value of capitalism, if trade is what we want for people to be able to buy our wares and that we can buy theirs, if it is good enough for China, for the former Soviet Union, for communism around the world, tell me why not share it with the people of Cuba?

If my colleagues want to bring down the Castro regime, let the people in Cuba smell democracy. Let us go there and speak to the people in Cuba. Let any American that wants to travel in Cuba be able to travel without any fear.

The CHAIRMAN. Does the gentleman from Florida seek to control the time in opposition to the Rangel amendment?

Mr. DIAZ-BALART. I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 10 minutes.

Mr. DIAZ-BALART. Mr. Chairman, I yield myself 6 minutes.

We have a policy goal, and it is a policy that has been set not only by the President but by the Congress and codified into law and clearly espoused by President Bush in repeated statements: A free Cuba, achieved through a democratic transition, with the release of all political prisoners, the legalization of all political parties, the press and labor unions, and the scheduling of free internationally supervised elections.

Now that free Cuba will not oppress its people and it will not threaten its neighbors. The intelligence community, as I stated before, has said that ever since 1999 it has come to the conclusion that there is an offensive biological weapons program being developed by the Cuban regime. That has been made public now by the intelligence community, but the conclusion was reached as of 1999.

Now, the director of the Soviet biological weapons program, Dr. Alibek, has written in his book that by 1990, the Soviets were absolutely convinced that Castro had an offensive biological weapons program. But we are led to believe by the people who are arguing to open up all the trades and open up all the credits and the tourism for the Castro dictatorship that not only our intelligence community is lying, not only is our intelligence community now not telling the truth, but the director of the Soviet program, who defected and who our experts say has provided more information on Soviet biological and chemical weapons programs than any other defector, that he is lying as well. So all of those people are lying and we should make that leap of faith and proceed to provide billions of dollars in trade and credit to the dictatorship.

Now, the denial of the U.S. market to the Cuban regime and the conditioning of democratic reforms for the end of the embargo constitutes the most important leverage that exists for the democratic transition to take place. In a totally personalized dictatorship, like the Cuban one, when the dictator is gone from the scene, when he dies, or however he is gone from the scene, that situation invariably will change. It is like when Franco disappeared from the scene in Spain, or Oliveira, after 50 years of dictatorship in Portugal. Inevitably, those regimes were faced with a different dynamic.

But in each of those cases where there was a democratic transition, there was some form of external pressure, some form of solidarity with those people demanding, requesting, encouraging, incentivizing a democratic transition. If we give the dictatorship the trade and tourism dollars it seeks now, Mr. Chairman, unilaterally, in exchange for no democratic reform, like the people proposing this amendment are saying, that we should unilaterally, without getting any sort of democratic reform for the Cuban people in exchange, if we do that, Mr. Chairman, we risk making that regime permanent. We risk the possibility of that regime outliving the dictator.

Now, in addition, it is important to realize that the U.S. embargo has had collateral successes. The denial of resources for the dictatorship has made it much more difficult for the dictatorship to cooperate with terrorist organizations or to develop biological weapons. The denial of resources, the limitation of resources to the dictatorship has helped. But, in addition to that, and the most important aspect, is the leverage that must be retained for a democratic transition.

Just like Europe insisted on democracy in Spain or Portugal, before Spain and Portugal could become part of what was then the European Economic Community, today we are saying liberate the political prisoners, legalize political parties, labor unions and the press, and hold an election.

Now, why is the issue not the Cuban people's right to be free like everyone else in the hemisphere? Why is the issue not the Cuban people deserving to be free, just like in country after country after country colleagues have come to this floor asking for solidarity with those people? But, no, in the case of Cuba, it is different. In the case of Cuba, it is 43 years of dictatorship and of oppression, and the efforts are to get more trade and more dollars and more oxygen to that regime, instead of talking about the torture and the political prisoners. That is the reality.

But the reality of the matter is that only in this hemisphere, Mr. Chairman, is there an international law requiring representative democracy. We always talk about examples from other hemispheres. There are multiple differences from the decentralization that has existed in other dictatorships in other hemispheres to the fact that in this hemisphere, and only in this hemisphere, does international law require representative democracy.

I want to point out one other thing, and that is as follows, and I never thought I would come to this floor quoting the editorial board of The Washington Post, but I guess Ronald Reagan used to say never say never. Well, The Washington Post has, in a very dignified manner, has focused in on the efforts of the Cuban dissidents over the last year to call for reforms internally. Now, they have been very mild reforms that the dissidents have called for, and despite that the regime has answered with, if you will, a Maoist-style cultural revolution.

The Washington Post has said that if Castro, as he has been, is unwilling to permit more political and economic freedom, then loosening the embargo risks strengthening and enriching Mr. Castro and the apparatchiks who surround him, while accomplishing little else.

And with regard to that dissident petition, in which Castro answered with his Maoist-style cultural revolution, The Washington Post said, until it is granted, and obviously it has not been granted, no further easing of the embargo should be considered.

Now this is a good-faith editorial board. And I would wish that some people would realize that times have changed and that the Cuban people deserve, like The Washington Post editorial board has said, solidarity.

Mr. RANGEL. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from New York (Mr. SERRANO), the cosponsor of this amendment.

Mr. SERRANO. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

We have heard a lot of accusations tonight about Cuba and Castro. In fact, if I may just make a comment, the only things Cuba and Castro have not been blamed for are the Chicago fire, the San Francisco earthquake, the stock market crash of 1929, or the one that is coming soon, if we are not careful.

The point here is my colleagues could spend all the time they want telling us how bad Cuba is, but we took a vote tonight on Vietnam which was so lopsided to make the point that we cannot continue just to single out Cuba.

Now, the gentleman from New York (Mr. RANGEL) is correct, and I do not want to be repetitious of his comments, but this is about the State of Florida. I do not feel bad about that. I wish I had that kind of power for one county in one State to control foreign policy on one issue. I wish the Bronx had that kind of power, but we do not.

The fact of life is that this Rangel/Serrano amendment sends the message that it is time to change this policy. We no longer have any moral justification for keeping an embargo on Cuba while we deal with China, Vietnam, Korea, and every other country in the world. Well, my God, our allies in the war on terrorism are people who, in so many ways, have behaved towards this country 10 times worse than anything Cuba or Castro have ever said about us, and we still deal with them.

□ 2200

Now some of the facts will come out in the next few weeks because we do not have the time here tonight. Castro offered to help us with the war on terrorism, and we refused it. AP reported that. The Washington Post reported that. The New York Times reported that. We refused the help.

Cuba has sent to us three individuals in the last year who were wanted in this country. They have asked in return, not as a quid pro quo, for us to return a couple of hijackers that we have had here for over 20 years from Cuba, and we have not done it. No one mentions that tonight. No one mentions it is a one-sided issue all of the time.

This is not about Fidel Castro and communism, this is about a stupid outdated policy that says in the Caribbean we are going to single out this island, and in the rest of the world, we will not. And it is across the board. I asked my favorite President a couple of years ago, Bill Clinton, why China and not Cuba. He said China is big. I understand that. Cuba is small. But children in Cuba are no less important than children in Vietnam or China. Let us treat them all equally. We have no justification for this.

We can lift the embargo and who knows, that governor in Florida may still get reelected, so there is no need to play Florida politics tonight. Let us do what is right.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I first thank the gentleman from New York (Mr. RANGEL) for offering this very commonsense amendment, and I urge Members to support this amendment which really would cut funds to continue to aid the United States embargo on Cuba.

It is long overdue that the United States lift its 40-year embargo against this small island nation. We have seen that this embargo has done more harm than good. It is a grave injustice to the people of the United States and to the people in Cuba.

I have participated in many fact-finding delegations to Cuba and have seen firsthand the devastation and the suffering that the embargo has created on that island nation only 90 miles from our shore. One vivid image which haunts me is of a child in need of dialysis treatment, struggling to stay alive, his future was uncertain because of his inability to acquire a replacement part for the sole dialysis machine in his town. The embargo prevented a United States-made part from reaching this innocent child.

The American people and the United States Congress have voiced their support for lifting this archaic and antiquated embargo. Even the majority of the dissidents in Cuba believe that the embargo should end. They understand that the way to democracy in Cuba can be accomplished through a policy of engagement with the people of Cuba rather than the current policy which isolates the small island nation which just happens to be an Afro-Hispanic country.

By maintaining the embargo against Cuba, the United States is limiting important trade opportunities, which we have heard tonight, including food and medicine sales.

In addition, we have severely limited the ability of Americans to travel to Cuba, and this is just basically downright wrong.

Economists have verified that if the embargo toward Cuba were lifted, the U.S. economy would gain $1.24 billion in agricultural exports and $3.6 billion in related economic output. In addition, we would create thousands of jobs in our country from the tourism sector.

I am convinced that we must build a bridge in our own struggle for human rights and equality which happens to be a country 90 miles away. Let us lift this embargo.

Mr. DIAZ-BALART. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, I have followed the debate with great interest tonight, and have heard my amendment seriously mischaracterized. I would like to point out that the amendment merely is a safeguard for America and American national security. If everything is all right and the President certifies everything is all right, then there is no problem. But if everything is not all right, then there is a problem. I think Members would agree that national security for the United States of America and Americans is our first priority.

I want to point out that the nation of Cuba has been about the most aggressive spying on the United States of America. We have now convicted 17 spies in the past year or two. I do not know the exact number, but that is close. Certainly the highest-ranking analyst at the Department of Defense in the DIA has recently been apprehended and has been a long-time spy for Fidel Castro's Cuba. These are not friendly motives. These are harmful to the national security. Those are the kinds of things that we are worried about.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I think the most important part of this discussion tonight is trying to get the United States of America consistent in its foreign policy, and to recognize that the amendment offered by the two gentlemen from New York makes a lot of sense to provide the kind of security that we are seeking as we debate homeland security this week.

Ninety miles away from the United States lies the island of Cuba. People there have viewed the United States more as an adversary rather than a friend. But when we speak directly to the Cuban people, they want to engage with the United States. As I stand here tonight, I have constituents in Cuba who are involved in cultural exchange and who are being trained to be medical physicians, the same as Cuba has done to send these physicians all over the world to help those in need.

As I stand here today, it is important to note that there is a strong religious community in Cuba, but yet the United States, its foreign policy, will ensure friendship with China and Vietnam, but it opposes the friendship with Cuba.

Mr. DIAZ-BALART. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Chairman, I ask Members tonight to not be part of what Ambassador Jeanne Kirkpatrick calls the "blame America first" crowd, and that is what we have in front of us in the Rangel amendment.

The sole mastermind behind Castro's degrading treatment of its own citizens is himself. Fidel Castro. Yet this amendment says if we lift the embargo, all will be swell in Cuba. That means U.S. policy is to blame for all of the misery in Cuba that we have discussed tonight. But our policy does not create the lack of due process.

Our policy does not say that independent journalists and independent libraries are banned in Cuba. That is Fidel Castro's policy. Our policy does not maintain a system of remote and unmonitored gulags for prisoners of conscience. That is Fidel Castro's policy. Our policy does not forbid independent labor unions. That is Fidel Castro's policy. Our policy is not the cause of systematic mistreatment of religious believers. That is Fidel Castro's policy. Our policy is not to punish nonviolent opposition movement leaders. That is Fidel Castro's policy. We do not say that community activists and dissidents are going to be harassed, prosecuted and persecuted. That is Fidel Castro's policy.

The embargo is not what drives a police officer to beat unconscious a political prisoner who is on a hunger strike. That is Fidel Castro's policy. That is not U.S. policy. Our policy does not mandate the summary execution of independent journalists and conscientious objectors. That is Fidel Castro's policy.

Do not confuse the issue. Do not be part of Jeanne Kirkpatrick's "blame America first" crowd. It is Fidel Castro that is at fault, not the U.S. embargo.

Mr. DIAZ-BALART. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, by hearing the other side on this issue, we would seem to believe that they were talking with Costa Rica or Panama or some other country where there is a functioning democracy where there is no state sponsorship of terrorism. The reality is that Fidel Castro is the only world leader who has ever called for a nuclear first strike against the United States.

He is the only world leader who has ever called for a first strike against the United States, but they may say he is a kindly old grandfather now. He is a good guy, so let us reward him. That is what the Rangel amendment is seeking to do.

But wait a minute, 2 days ago in Greece, the head terrorist that was arrested there, Alexandros Yiotopoulos, for bombing numerous people in Greece and throughout that part of the world, where was he trained? He was trained by Fidel Castro's Cuba. And the Jewish community center bombed in Argentina in 1994 by the Iranians, where did they assemble? They assembled in Cuba, flew to Paraguay, crossed the border with fake passports, and fled back to Cuba after the attack. The bombers hid in Cuba for several months after the attack, and still have impugnity.

And the kindly old grandfather goes further. In 2001, the IRA terrorists arrested in Colombia for training the FARC terrorists there in sophisticated urban bomb warfare, where were they based? In Cuba. Reward Castro for torturing the Cuban people and oppressing the Cuban people and being the only state sponsor of terrorism in this hemisphere, vote no on the Rangel amendment. Vote yes on Goss, no on the other amendments.

Mr. RANGEL. Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. WATERS) for the purpose of closing.

Ms. WATERS. Mr. Chairman, it is time to lift the embargo and stop the blockade. The Castro-haters took this floor tonight to talk about limiting travel. But Members of Congress go to Cuba whenever they want to go. People are going to Cuba from all over America. Jimmy Carter was there, the Pope was there. Let the other American people go who want to go.

People talked about limiting the remittances, but Members of Congress go to Cuba and they take the money to their families, all of the money that they want to give to them. Let us be fair to all of the families in Cuba. Let us stop strangling the trade. Cuba wants to trade. Trade is the cornerstone of capitalism. Members say that is what they want. That is what Fidel Castro wants.

It is time to allow our agricultural products and our medical products to be sold. China is there. Canada is there. Germany is there. American business people need the opportunity to be there. What is all of this fear? We do not really fear Fidel Castro. Lift the embargo.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of the amendment offered by my colleague, Mr. RANGEL of New York, which bans all funding to the Treasury Department for enforcement of the embargo against Cuba.

Forty years ago, the world order was strikingly different than today. We were in the midst of the Cold War, fighting communism from spreading its tentacles around the world. With Cuba so close to our shores, it was good public policy THEN to impose an embargo. However, I am reminded of the song "The Times They are A-Changin"—and they have.

The embargo has not achieved its goals. The same regime rules Cuba now as ruled four decades ago; the Cubans do not have human or civil rights; American citizens are denied their right to travel; and the economic consequences to American farmers and the travel industry are significant.

Let's lift the embargo and move toward normal commercial and diplomatic relations with Cuba. Let the Cuban people see what democracy's all about.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RANGEL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RANGEL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. RANGEL) will be postponed.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment printed in House Report 107-585 by the gentleman from Florida (Mr. GOSS); amendment No. 1 by the gentleman from Arizona (Mr. FLAKE); amendment No. 20 by the gentleman from Arizona (Mr. FLAKE); and amendment No. 5 by the gentleman from New York (Mr. RANGEL).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

### AMENDMENT OFFERED BY MR. GOSS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment printed in House Report 107-585 offered by the gentleman from Florida (Mr. GOSS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 247, not voting 5, as follows:

[Roll No. 330]

### AYES—182

Ackerman
Aderholt
Andrews
Armey
Bachus
Baker
Ballenger
Bartlett
Barton
Bass
Berkley
Bilirakis
Blagojevich
Blunt
Boehner
Bonilla
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Engel
English
Etheridge
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Green (TX)
Green (WI)
Grucci
Gutknecht
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hilleary
Hobson
Hulshof
Hunter
Hyde
Isakson
Istook
Jenkins
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Myrick
Northup
Norwood
Ortiz
Ose
Oxley
Pallone
Pascrell
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shows
Shuster
Skeen
Skelton
Smith (NJ)
Smith (TX)
Souder
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thurman
Tiahrt
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

### NOES—247

Abercrombie
Akin
Allen
Baca
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Callahan
Camp
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Collins
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley
Doyle
Ehlers
Emerson
Eshoo
Evans
Everett
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Ganske
Gilchrest
Gonzalez
Gordon
Graves
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (FL)
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kolbe
Kucinich
LaFalce
LaHood

Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Nussle
Oberstar
Obey
Olver
Osborne
Otter
Owens
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rehberg
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Sherwood
Shimkus
Simmons
Simpson
Slaughter
Smith (MI)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Whitfield
Woolsey
Wynn

### NOT VOTING—5

Bonior
DeFazio
DeGette
Stearns
Traficant

☐ 1037

Mr. SAXTON changed his vote from "aye" to "no."

Messrs. LUCAS of Kentucky, ENGLISH, GARY B. MILLER of California, SWEENEY, FORBES and RYUN of Kansas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 1 OFFERED BY MR. FLAKE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. FLAKE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 262, noes 167, answered "present" 1, not voting 4, as follows:

[Roll No. 331]

### AYES—262

Abercrombie
Aderholt
Allen
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Callahan
Camp
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
DeGette
Delahunt
DeLauro
DeMint
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Gallegly
Ganske
Gilchrest
Gonzalez
Gordon
Graves
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Harman
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rehberg
Reyes
Rivers
Rodriguez
Roemer
Rogers (KY)
Ross
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Shimkus
Shows
Simmons
Slaughter
Smith (MI)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn

### NOES—167

Ackerman
Akin
Andrews
Armey
Bachus
Baker
Ballenger
Barr
Barton
Berkley
Bilirakis
Blunt
Boehner
Bonilla
Bryant
Burr
Burton
Buyer
Calvert
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
Deutsch
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Engel
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Green (TX)
Green (WI)
Gutknecht
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hilleary
Hobson
Hulshof
Hunter
Hyde
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
McCrery
McHugh
McInnis
McKeon
Meek (FL)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Myrick
Northup
Norwood
Ose
Oxley
Pallone
Pascrell
Pence
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Reynolds
Riley
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Souder
Stump
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thomas
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Wexler
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### ANSWERED "PRESENT"—1

Brown (FL)

### NOT VOTING—4

Bonior
DeFazio
Stearns
Traficant

☐ 1046

So the amendment was agreed to.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 20 OFFERED BY MR. FLAKE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. FLAKE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 251, noes 177, not voting 6, as follows:

[Roll No. 332]

### AYES—251

Abercrombie
Aderholt
Allen
Baca
Baird
Baldacci

Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Camp
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Doggett
Dooley
Doyle
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Ganske
Gilchrest
Gonzalez
Gordon
Graves
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rehberg
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Shimkus
Shows
Simmons
Slaughter
Smith (MI)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Weller
Whitfield
Woolsey
Wynn

NOES—177

Ackerman
Akin
Andrews
Armey
Bachus
Baker
Ballenger
Barr
Barton
Berkley
Bilirakis
Blunt
Boehner
Bonilla
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Engel
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goss
Graham
Granger
Green (TX)
Green (WI)
Gutknecht
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Isakson
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
King (NY)
Kingston
Knollenberg
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
McCrery
McInnis
McKeon
Meek (FL)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Myrick
Northup
Norwood
Ose
Oxley
Pallone
Pascrell
Pence
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Souder
Stump
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thomas
Toomey
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—6

Bonior
DeFazio
Goodlatte
Hansen
Stearns
Traficant

☐ 2254

Mr. WELLER changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. GOODLATTE. Mr. Chairman, on rollcall No. 332, I was unavoidably detained.

Had I been present, I would have voted "no."

### AMENDMENT NO. 5 OFFERED BY MR. RANGEL

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 5 offered by the gentleman from New York (Mr. RANGEL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 204, noes 226, not voting 4, as follows:

[Roll No. 333]

AYES—204

Abercrombie
Allen
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berman
Berry
Biggert
Bishop
Blumenauer
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Emerson
Eshoo
Evans
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Ganske
Gonzalez
Gordon
Graves
Hall (OH)
Hall (TX)
Harman
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Nadler
Napolitano
Neal
Nussle
Oberstar
Obey
Olver
Osborne
Otter
Owens
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Phelps
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rehberg
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shays
Shimkus
Shows
Slaughter
Smith (WA)
Snyder
Solis
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wynn

NOES—226

Ackerman
Aderholt
Akin
Andrews
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berkley
Bilirakis
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Doolittle
Dreier
Duncan.
Dunn
Ehlers
Ehrlich
Engel
English

Etheridge
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Ortiz
Ose
Oxley
Pallone
Pascrell
Pence
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun (KS)
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Toomey
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—4

Bonior
DeFazio
Stearns
Traficant

□ 2301

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ISTOOK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, had come to no resolution thereon.

## PIPELINE INFRASTRUCTURE PROTECTION TO ENHANCE SECURITY AND SAFETY ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3609, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3609, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 423, nays 4, not voting 7, as follows:

[Roll No. 334]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—4

Flake
Miller, Jeff
Paul
Waters

NOT VOTING—7

Bonior
Clay
DeFazio
Hill
Kleczka
Stearns
Traficant

□ 2319

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2320

## PERMISSION FOR SELECT COMMITTEE ON HOMELAND SECURITY TO HAVE UNTIL 3 A.M. ON WEDNESDAY, JULY 24, 2002, TO FILE REPORT ON H.R. 5005, HOMELAND SECURITY ACT OF 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the Select Committee on Homeland Security have until 3 a.m. on Wednesday, July 24, to file a report to accompany H.R. 5005.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentleman from Texas?

There was no objection.

## LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 5120, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 5120 in the Committee of the Whole, pursuant to House Resolution 488, no further amendment to the bill may be offered except as follows:

Pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments numbered 2, 8, 12, and 18, as printed in the CONGRESSIONAL RECORD, which shall be debatable for 5 minutes each;

An amendment offered by the gentleman from Georgia (Mr. BARR) regarding a national media campaign, and an amendment offered by the gentleman from California (Mr. GEORGE MILLER) regarding Federal Acquisition Regulation, which shall each be debatable for 20 minutes each;

Amendment numbered 16, as printed in the CONGRESSIONAL RECORD, an amendment offered by the gentleman from Maryland (Mr. HOYER) regarding High Sea Repairs, and the amendment offered by the gentleman from Colorado (Mr. HEFLEY) that I have placed at the desk, which shall be debatable for 10 minutes each;

Amendment numbered 21 in the CONGRESSIONAL RECORD, which shall be debatable for 40 minutes;

And an amendment offered by the gentleman from Vermont (Mr. SANDERS) regarding taxation of pension plans, which shall be debatable for 30 minutes.

Each such amendment may be offered only by the Member designated in this unanimous consent request, or a designee, or the Member who caused it to be printed, or a designee, shall be considered as read, shall be debatable for the time specified equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Mr. KUCINICH. Mr. Speaker, reserving the right to object, if the gentleman would yield for a question.

Mr. ISTOOK. Certainly.

Mr. KUCINICH. Would the gentleman recount the title of amendment No. 8.

Mr. ISTOOK. If the gentleman will yield, amendment No. 8 is in a grouping with amendments numbered 2, 8, 12, and 18, as printed in the CONGRESSIONAL RECORD, which shall be debatable for 5 minutes each.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. KUCINICH. Mr. Speaker, under my reservation of objection, I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I do not intend to object, but I just want to make sure that the amendment of the gentlewoman from Texas (Ms. JACKSON-LEE) is in there. We have talked about that; No. 12.

Mr. ISTOOK. If the gentleman from Ohio will continue to yield.

Mr. KUCINICH. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Speaker, I am told it is. I am not sure of the number. Oh, No. 12. It is in there, yes.

Mr. HOYER. I thank the gentleman.

Mr. KUCINICH. Reclaiming my time under my reservation of objection, could the gentleman again give the title of amendment No. 18 at this point, then.

Mr. ISTOOK. If the gentleman will once again yield, No. 18 is included in the request and is debatable for 5 minutes.

Mr. KUCINICH. And which one is that?

Mr. ISTOOK. I understand that that is the amendment that the gentleman from Ohio has filed.

Mr. KUCINICH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The Clerk will report the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The Clerk read as follows:

Amendment Offered by Mr. HEFLEY:

Page 103, after line 10, insert the following new section:

SEC. . The amount otherwise provided by this Act under the heading "Allowances and Office Staff for Former Presidents" is hereby reduced by $339,000.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken tomorrow.

## COST OF WAR AGAINST TERRORISM AUTHORIZATION ACT OF 2002

Mr. HUNTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4547) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003.

The Clerk read as follows:

H.R. 4547

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

*(a) SHORT TITLE.—This Act may be cited as the "Cost of War Against Terrorism Authorization Act of 2002".*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*Sec. 1. Short title; table of contents.*
*Sec. 2. Amounts authorized for the War on Terrorism.*
*Sec. 3. Additional authorizations*

*TITLE I—AUTHORIZATION OF APPROPRIATIONS*

*Subtitle A—Authorizations to Transfer Accounts*

*Sec. 101. War on Terrorism Operations Fund.*
*Sec. 102. War on Terrorism Equipment Replacement and Enhancement Fund.*
*Sec. 103. General provisions applicable to transfers.*

*Subtitle B—Authorizations to Specified Accounts*

*Sec. 111. Army procurement.*
*Sec. 112. Navy and Marine Corps procurement.*
*Sec. 113. Air Force procurement.*
*Sec. 114. Defense-wide activities procurement.*
*Sec. 115. Research, development, test, and evaluation, defense-wide.*
*Sec. 116. Classified activities.*
*Sec. 117. Global Information Grid system.*
*Sec. 118. Operation and maintenance.*
*Sec. 119. Military personnel.*

*Subtitle C—Military Construction Authorizations*

*Sec. 131. Authorized military construction and land acquisition projects.*

*TITLE II—WARTIME PAY AND ALLOWANCE INCREASES*

*Sec. 201. Increase in rate for family separation allowance.*
*Sec. 202. Increase in rates for various hazardous duty incentive pays.*
*Sec. 203. Increase in rate for diving duty special pay.*
*Sec. 204. Increase in rate for imminent danger pay.*
*Sec. 205. Increase in rate for career enlisted flyer incentive pay.*
*Sec. 206. Increase in amount of death gratuity.*
*Sec. 207. Effective date.*

*TITLE III—ADDITIONAL PROVISIONS*

*Sec. 301. Establishment of at least one Weapons of Mass Destruction Civil Support Team in each State.*
*Sec. 302. Authority for joint task forces to provide support to law enforcement agencies conducting counter-terrorism activities.*

Sec. 303. Sense of Congress on assistance to first responders.

### SEC. 2. AMOUNTS AUTHORIZED FOR THE WAR ON TERRORISM.

The amounts authorized to be appropriated in this Act, totalling $10,000,000,000, are authorized for the conduct of operations in continuation of the war on terrorism in accordance with the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) and, to the extent appropriations are made pursuant to such authorizations, shall only be expended in a manner consistent with the purposes stated in section 2(a) thereof.

### SEC. 3. ADDITIONAL AUTHORIZATIONS

The amounts authorized to be appropriated by this Act are in addition to amounts authorized to be appropriated for military functions of the Department of Defense for fiscal year 2003 in the National Defense Authorization Act for Fiscal Year 2003 or any other Act.

## TITLE I—AUTHORIZATION OF APPROPRIATIONS

### Subtitle A—Authorizations to Transfer Accounts

### SEC. 101. WAR ON TERRORISM OPERATIONS FUND.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Defense for fiscal year 2003 the amount of $3,544,682,000, to be available only for operations in accordance with the purposes stated in section 2 for Operation Noble Eagle and Operation Enduring Freedom. Funds authorized in the preceding sentence may only be used as provided in subsection (b).

(b) TRANSFER AUTHORITY.—Subject to section 103, the Secretary of Defense may, in the Secretary's discretion, transfer amounts authorized in subsection (a) to any fiscal year 2003 military personnel or operation and maintenance account of the Department of Defense for the purposes stated in that subsection.

### SEC. 102. WAR ON TERRORISM EQUIPMENT REPLACEMENT AND ENHANCEMENT FUND.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Defense for fiscal year 2003 the amount of $1,000,000,000, to be available only in accordance with the purposes stated in section 2 and to be used only as provided in subsection (b).

(b) TRANSFER AUTHORITY.—Subject to section 103, the Secretary of Defense may, in the Secretary's discretion, transfer amounts authorized in subsection (a) to any fiscal year 2003 procurement or research, development, test, and evaluation account of the Department of Defense for the purpose of—

(1) emergency replacement of equipment and munitions lost or expended in operations conducted as part of Operation Noble Eagle or Operation Enduring Freedom; or

(2) enhancement of critical military capabilities necessary to carry out operations pursuant to Public Law 107-40.

### SEC. 103. GENERAL PROVISIONS APPLICABLE TO TRANSFERS.

(a) IN GENERAL.—Amounts transferred pursuant to section 101(b) or 102(b) shall be merged with, and available for the same purposes and the same time period as, the account to which transferred.

(b) CONGRESSIONAL NOTICE-AND-WAIT REQUIREMENT.—A transfer may not be made under section 101(b) or 102(b) until the Secretary of Defense has submitted a notice in writing to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of the proposed transfer and a period of 15 days has elapsed after the date such notice is received. Any such notice shall include specification of the amount of the proposed transfer, the account to which the transfer is to be made, and the purpose of the transfer.

(c) TRANSFER AUTHORITY CUMULATIVE.—The transfer authority provided by this subtitle is in addition to any other transfer authority available to the Secretary of Defense under this Act or any other Act.

### Subtitle B—Authorizations to Specified Accounts

### SEC. 111. ARMY PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement accounts of the Army in amounts as follows:

(1) For ammunition, $94,000,000.

(2) For other procurement, $10,700,000.

### SEC. 112. NAVY AND MARINE CORPS PROCUREMENT.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement accounts for the Navy in amounts as follows:

(1) For aircraft, $106,000,000.

(2) For weapons, including missiles and torpedoes, $633,000,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2003 for the procurement account for the Marine Corps in the amount of $25,200,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2003 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $120,600,000.

### SEC. 113. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement accounts for the Air Force in amounts as follows:

(1) For aircraft, $214,550,000.

(2) For ammunition, $157,900,000.

(3) For other procurement, $10,800,000.

### SEC. 114. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the procurement account for Defense-wide procurement in the amount of $620,414,000.

### SEC. 115. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the research, development, test, and evaluation account for Defense-wide activities in the amount of $390,100,000.

### SEC. 116. CLASSIFIED ACTIVITIES.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2003 for unspecified intelligence and classified activities in the amount of $1,980,674,000, of which—

(1) $1,618,874,000 is authorized to be appropriated to procurement accounts;

(2) $301,600,000 is authorized to be appropriated to operation and maintenance accounts; and

(3) $60,200,000 is authorized to be appropriated to research, development, test, and evaluation accounts.

### SEC. 117. GLOBAL INFORMATION GRID SYSTEM.

None of the funds authorized to be appropriated by this Act for the Department of Defense system known as the Global Information Grid may be obligated until the Secretary of Defense submits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives the Secretary's certification that the end-to-end system is secure and protected from unauthorized access to the information transmitted through the system.

### SEC. 118. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $14,270,000.

(2) For the Navy, $5,252,500.

(3) For the Marine Corps, $11,396,000.

(4) For the Air Force, $517,285,000.

### SEC. 119. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2003 a total of $503,100,000.

### Subtitle C—Military Construction Authorizations

### SEC. 131. AUTHORIZED MILITARY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) PROJECTS AUTHORIZED.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (b), the Secretary of the military department concerned may acquire real property and carry out military construction projects for the installations and locations, and in the amounts, set forth in the following table:

**Projects Authorized**

| Military Department | Installation or location | Amount |
|---|---|---|
| Department of the Army | Qatar | $8,600,000 |
| Department of the Navy | Naval Station, Guantanamo Bay, Cuba | $4,280,000 |
| | Naval Station, Rota, Spain | $18,700,000 |
| Department of the Air Force | Bolling Air Force Base, District of Columbia | $3,500,000 |
| | Total | $35,080,000 |

*(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2003 for the military construction projects authorized by subsection (a) in the total amount of $35,080,000.*

### *TITLE II—WARTIME PAY AND ALLOWANCE INCREASES*

#### *SEC. 201. INCREASE IN RATE FOR FAMILY SEPARATION ALLOWANCE.*

*Section 427(a)(1) of title 37, United States Code, is amended by striking "$100" and inserting "$125".*

#### *SEC. 202. INCREASE IN RATES FOR VARIOUS HAZARDOUS DUTY INCENTIVE PAYS.*

*(a) FLIGHT PAY FOR CREW MEMBERS.—Subsection (b) of section 301 of title 37, United States Code, is amended by striking the table and inserting the following new table:*

| *"Pay grade:* | *Monthly Rate* |
|---|---|
| *O–10* | *$200* |
| *O–9* | *$200* |
| *O–8* | *$200* |
| *O–7* | *$200* |
| *O–6* | *$300* |
| *O–5* | *$300* |
| *O–4* | *$275* |
| *O–3* | *$225* |
| *O–2* | *$200* |
| *O–1* | *$200* |
| *W–5* | *$300* |
| *W–4* | *$300* |
| *W–3* | *$225* |
| *W–2* | *$200* |
| *W–1* | *$200* |
| *E–9* | *$290* |
| *E–8* | *$290* |
| *E–7* | *$290* |
| *E–6* | *$265* |
| *E–5* | *$240* |
| *E–4* | *$215* |
| *E–3* | *$200* |
| *E–2* | *$200* |
| *E–1* | *$200".* |

*(b) INCENTIVE PAY FOR PARACHUTE JUMPING WITHOUT STATIC LINE.—Subsection (c)(1) of such section is amended by striking "$225" and inserting "$275".*

*(c) OTHER HAZARDOUS DUTIES.—Subsection (c)(1) of such section is amended by striking "$150" and inserting "$200".*

*(d) REMOVAL OF AIR WEAPONS CONTROLLER CREW MEMBERS FROM LIST OF HAZARDOUS DUTIES.—Such section is further amended—*

*(1) in subsection (a)—*

*(A) by striking paragraph (12);*

*(B) in paragraph (11), by striking "; or" and inserting a period; and*

*(C) in paragraph (10), by inserting "or" after the semicolon; and*

*(2) in subsection (c), as amended by subsections (b) and (c) of this section—*

*(A) by striking "(1)"; and*

*(B) by striking paragraph (2).*

#### *SEC. 203. INCREASE IN RATE FOR DIVING DUTY SPECIAL PAY.*

*Section 304(b) of title 37, United States Code, is amended—*

*(1) by striking "$240" and inserting "$290"; and*

*(2) by striking "$340" and inserting "$390".*

#### *SEC. 204. INCREASE IN RATE FOR IMMINENT DANGER PAY.*

*Section 310(a) of title 37, United States Code, is amended by striking "$150" and inserting "$250".*

#### *SEC. 205. INCREASE IN RATE FOR CAREER ENLISTED FLYER INCENTIVE PAY.*

*The table in section 320(d) of title 37, United States Code, is amended to read as follows:*

| ***"Years of aviation service*** | ***Monthly rate*** |
|---|---|
| *4 or less* | *$200* |
| *Over 4* | *$275* |
| *Over 8* | *$400* |
| *Over 14* | *$450.".* |

#### *SEC. 206. INCREASE IN AMOUNT OF DEATH GRATUITY.*

*Section 1478(a) of title 10, United States Code, is amended by striking "$6,000" and inserting "$12,000".*

#### *SEC. 207. EFFECTIVE DATE.*

*(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall take effect on the later of the following:*

*(1) The first day of the first month beginning on or after the date of the enactment of this Act.*

*(2) October 1, 2002.*

*(b) DEATH GRATUITY.—The amendment made by section 206 shall apply with respect to a person covered by section 1475 or 1476 of title 10, United States Code, whose date of death occurs on or after the later of the following:*

*(1) The date of the enactment of this Act.*

*(2) October 1, 2002.*

### *TITLE III—ADDITIONAL PROVISIONS*

#### *SEC. 301. ESTABLISHMENT OF AT LEAST ONE WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM IN EACH STATE.*

*(a) FINDINGS.—Congress makes the following findings:*

*(1) Weapons of Mass Destruction Civil Support Teams are strategic assets, stationed at the operational level, as an immediate response capability to assist local responders in the event of an emergency within the United States involving use or potential use of weapons of mass destruction.*

*(2) Since September 11 2001, Civil Support Teams have responded to more than 200 requests for support from civil authorities for actual or potential weapons of mass destruction incidents and have supported various national events, including the World Series, the Super Bowl, and the 2002 Winter Olympics.*

*(3) To enhance homeland security as the Nation fights the war against terrorism, each State and territory must have a Weapons of Mass Destruction Civil Support Team to respond to potential weapons of mass destruction incidents.*

*(4) In section 1026 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 as passed the House of Representatives on May 10, 2002 (H.R. 4546 of the 107th Congress), the House of Representatives has already taken action to that end by expressing the sense of Congress that the Secretary of Defense should establish 23 additional Weapons of Mass Destruction Civil Support Teams in order to provide at least one such team in each State and territory.*

*(5) According to a September 2001 report of the Comptroller General entitled "Combating Terrorism", the Department of Defense plans that there eventually should be a Weapons of Mass Destruction Civil Support Teams in each State, territory, and the District of Columbia.*

*(b) REQUIREMENT.—From funds authorized to be appropriated in section 101, the Secretary of Defense shall ensure that there is established at least one Weapons of Mass Destruction Civil Support Team in each State.*

*(c) DEFINITIONS.—For purposes of this section:*

*(1) The term "Weapons of Mass Destruction Civil Support Team" means a team of members of the reserve components of the armed forces that is established under section 12310(c) of title 10, United States Code, in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.*

*(2) The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.*

*(d) DEADLINE FOR IMPLEMENTATION.—The Secretary of Defense shall ensure that subsection (b) is fully implemented not later than September 30, 2003.*

#### *SEC. 302. AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.*

*(a) AUTHORITY.—A joint task force of the Department of Defense that provides support to law enforcement agencies conducting counter-drug activities may also provide, consistent with all applicable laws and regulations, support to law enforcement agencies conducting counter-terrorism activities.*

*(b) CONDITIONS.—Any support provided under subsection (a) may only be provided in the geographic area of responsibility of the joint task force.*

*(c) FUNDS.—Funds are hereby authorized to be appropriated for fiscal year 2003 in the amount of $5,000,000 to provide support for counter-terrorism activities in accordance with subsections (a) and (b).*

#### *SEC. 303. SENSE OF CONGRESS ON ASSISTANCE TO FIRST RESPONDERS.*

*It is the sense of Congress that the Secretary of Defense should, to the extent the Secretary determines appropriate, use funds provided in this Act to assist, train, and equip local fire and police departments that would be a first responder to a domestic terrorist incident that may come about in connection with the continued fight to prosecute the war on terrorism.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

Mr. KUCINICH. Mr. Speaker, I rise to claim time in opposition.

The SPEAKER pro tempore. Is the gentleman from Missouri (Mr. SKELTON) opposed to the motion?

Mr. SKELTON. No, Mr. Speaker.

The SPEAKER pro tempore. Under the clause 1(c) of rule XV, the Chair recognizes the gentleman from Ohio (Mr. KUCINICH) to control the time in opposition to the motion. Each side will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration, H.R. 4547.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that half the time in support of the bill, that is the time that I have of 20 minutes, that half of that be designated to the gentleman from Missouri (Mr. SKELTON) for purposes of control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on July 18, the House Committee on Armed Services reported out the bill presently before the House, H.R. 4547, on a near unanimous vote of 50 to 1. To understand what this bill does, allow me to first provide a bit of background.

The President's budget request for fiscal year 2003 contained an unprecedented request for the Congress to establish a $10 billion war contingency fund that would allow the Department of Defense maximum flexibility in expanding these funds to prosecute the war on terrorism. In response, the House adopted a budget resolution in March that set aside $10 billion of the defense budget in a special reserve fund for this purpose.

The operative language of the budget resolution establishing the procedure by which the House would be able to consider authorizing or appropriating the $10 billion fund requires that only legislation that provides new budget authority for operations of the Department of Defense to prosecute the war on terrorism will qualify to use this fund.

On July 3, the President submitted to Congress a request to amend his budget to provide a bit more detail on how DOD proposes to expend these funds but would still essentially remain one large $10 billion contingency fund. When the committee and the House acted on the defense authorization bill earlier this year, we recognized that this approach would require that we split the defense authorization bill into two pieces. One would involve the requested defense program minus the $10 billion, and the other would be the $10 billion which would follow at some later point.

In passing the base defense bill, we also took preliminary action on the $10 billion bill by authorizing about $3.5 billion worth of programs that we judged to be more appropriately considered as part of the so-called "cost of war" fund. Since then, the Senate has passed its version of the defense authorization bill and chose to include the $10 billion, unlike the House. So at this point, we are disconnected with the Senate over the $10 billion as we prepare to go to conference.

All this background brings us to today. The objectives of this bill are twofold: First, to preserve the prerogative of the Congress and the authorizing process by considering and issuing our recommendation on this remaining piece of the defense budget; and, second, to move this bill through the process so that we can go to conference with the Senate with both sides having acted on the totality of the defense budget for fiscal year 2003.

H.R. 4547, as amended by the Committee on Armed Services, represents a compromise of sorts. It authorizes specific activities where we have received specific detail on how the Pentagon intends to execute war-related activities and it grants the administration flexibility for these accounts that traditionally are nearly impossible to define in such a situation.

This bill accomplishes a number of objectives: First, it preserves the action already taken by the committee by fulfilling our commitment to authorize the $3.5 billion worth of war-related items we deferred earlier in May. Second, it would keep intact all major elements of the budget request and authorize those amounts for which the administration has identified a specific purpose. Third, it provides the Department of Defense significant flexibility by creating two transfer accounts that the Secretary can use to move money around and to meet the needs of the war as they emerge.

□ 2330

Finally, it fully and specifically complies with the terms of the budget resolution by ensuring that all activities funded by this bill are directly for the prosecution of the war on terrorism. I would repeat that to my colleagues, that all the dollars that are expended in this bill must be compliant with the resolution that this House passed on September 14, 2001.

Mr. Speaker, we are moving this bill through the House tonight on an expedited schedule for a good reason. The President has asked the Congress to send him first those bills that he needs to ensure that we continue to prevail in our war against terrorism.

The House has done everything possible to comply with this important request, and tonight's expedited consideration of this war funding bill is a continuation of this commitment to properly support our men and women who are on the front lines of this challenge.

In closing, I thank committee members on both sides of the aisle who worked so cooperatively to move this process forward with the gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON), the ranking member.

Mr. Speaker, this bill was developed on a bipartisan basis with the mutual objective of striking a balance between congressional prerogatives and the need to provide the department with some flexibility in financing this unprecedented global war on terrorism. The bill represents a very reasonable approach that accomplishes all these goals. I urge Members to give it their very strong support.

Mr. Speaker, I reserve the balance of my time.

Mr. KUCINICH. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. Synder).

Mr. SNYDER. Mr. Speaker, let me just say I am a member of the Committee on Armed Services and the committee considered this bill last week and I voted for it coming out of committee, but this is a very, very poor process.

Members got the Blackberry a week or two after September 11, and we get notice when bills are going to be considered. I believe it was 8:47 this evening I got a message that said that we were going to finish with the Cuban amendments on Treasury-Postal appropriations and go home.

At 9:12 another message comes over it and says through this expedited process, we are going to consider a $10 billion bill, and we are going to give 20 minutes on each side. The Chamber is empty. Do not kid anyone, Members are not sitting in their offices watching the debate tonight. This is a time of war, a time when our country expects us to be paying attention to these kinds of bills, and we are not expediting the process, we are expediting the denial of democracy.

I wanted to do an amendment on this bill. This process means there are no amendments. I had help with my amendment by the gentleman from Nebraska (Mr. BEREUTER), a well-respected Republican subcommittee chairman, and the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, were joining me on an amendment that we were going to go to the Committee on Rules to try to put on this bill.

This process denies the right of any Member to bring an amendment on a $10 billion bill. I think it is a very, very poor way to do a process at any time, particularly at 11:30 at night when Members have gone home.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill being considered this evening will complete the House's consideration of the second piece of fiscal year 2003 National Defense Authorization Act. The bill passed the Committee on Armed Services with broad bipartisan support. Passing this bill will allow the House to quickly proceed to conference with the Senate on both pieces of the authorization bill, thereby providing our men and women in uniform with all the tools they need to fight the global war and to protect the American people.

The bill as passed by the Committee on Armed Services reflects a balanced approach to authorizing the $10 billion war reserve fund requested by the administration. The amendment carries forward the specific authorizations made by the committee when it first considered the bill earlier this year. It includes the wartime pay and allowances increases from that earlier consideration, and includes two new, operationally oriented transfer funds that should enable the Department of Defense to meet operational expenses associated with prosecuting the war against terrorism.

Although the committee's approach may not provide the Department of Defense with complete discretion and use of the $10 billion, I believe it provides sufficient flexibility for the department.

I also want to indicate my support for the premise of this bill that the funds we authorize today are tied to the resolution passed by Congress on September 14, 2001, that authorizes the use of force against those who attacked our great Nation on September 11. The effort here today is to provide the administration funding for activities that are directly related to prosecuting the war against terrorism.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, so do I understand that this in no way authorizes the expenditure of monies for any attack on the nation of Iraq?

Mr. SKELTON. Mr. Speaker, by its verbiage, this is limited to the resolution that passed Congress on September 14, 2001.

Mr. DOGGETT. Which is a very narrow resolution tying it to the events of September 11?

Mr. SKELTON. Absolutely.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman.

Mr. SKELTON. Mr. Speaker, the funds authorized and the increases to pay and allowances included in this bill are critical to the Department of Defense's ability to continue to fight the war.

Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I congratulate both the ranking member, the gentleman from Missouri (Mr. SKELTON), and the chairman, the gentleman from California (Mr. HUNTER), for bringing this legislation before us. I rise in support of the legislation. I particularly appreciate the language that the committee has included in section 2 pertaining to the scope of the authorization in the bill. Section 2 states that the $10 billion authorized in this legislation "are authorized for the conduct of operations in continuation of the war on terrorism in accordance with the Authorization for Use of Military Force (Public Law 107–40; 50 USC 1541 note) and, to the extent appropriations are made pursuant to such authorizations, shall only be expended in a manner consistent with the purposes in section 2(a) thereof."

Section 2(a) of the Use of Force resolution authorizes the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons."

Therefore, it is clear that the committee intends that funds authorized in this bill are only to be used for military operations against entities responsible for the September 11 attacks, or entities that harbor those responsible.

Likewise, I believe funds in this bill cannot be used to expand the war on terrorism to other nations absent clear and compelling evidence that a nation was responsible for the September 11 attacks or is actively and willingly harboring those responsible unless subsequently authorized for such a purpose by Congress.

Mr. SKELTON. Mr. Speaker, I reserve the balance of my time.

□ 2340

Mr. KUCINICH. Mr. Speaker, I yield myself such time as I may consume.

I want to congratulate the gentleman from Maine (Mr. ALLEN) and the committee for focusing in on that point because certainly it was not the intent of that committee to have that used for anything other than what is in the resolution of September 14 which, Mr. Speaker, I voted for.

I want to say that while I know that is the intention of the committee, I would be very concerned about people in the administration who may interpret it to say, as it reads, that the President is authorized to use all necessary and appropriate force against those nations, organizations or persons he determines planned, authorized, committed or aided the terrorist attacks.

It is no secret when we look at the events of the last few weeks, we see headlines such as:

"Bush to Formalize a Defense Policy of Hitting First," New York Times, June 17.

"U.S. Plans Massive Invasion of Iraq," UPI, July 10.

"U.S. Capable of Quick Iraq Strike," Associated Press, July 10.

"We could have a situation where on Monday it first looks like there will be a war, on Friday troops are in Kuwait, and by the next Thursday they are in Baghdad," John Pike, Defense Analyst. Associated Press, July 10.

"U.S. Says Iraq Would Target Troops," Associated Press, July 13.

"According to officials who spoke to UPI, three dates are being discussed as possible times to launch the attack. The first would be before the November elections." UPI, July 10.

"U.S. Worries Iraq's Chemical and Biological Weapons Would Target Invading American Troops, Israel." Associated Press, July 13.

One of the things that concerns me, Mr. Speaker, is notwithstanding the assumption which the honorable gentlemen have here about how this money is going to be spent, I have here the House markup with the actual breakdown of the amount of moneys that are going to be used per category in the cost of the war. I think it is more than interesting that we see for a war supposedly in Afghanistan an amount of almost a half a billion dollars is going to be used for chemical and biological defense. An amount of nearly $600 million would be used for conversion of Tomahawk missiles. An amount of $3.5 billion would be used for an operations fund. An amount of over a half a billion dollars would be used for combat air patrols. I think that is interesting because when you take that in the context of a New York Times report of a preliminary Pentagon planning document in an article written by Eric Schmitt, it suggests, according to the Times, that the military brass is considering a large scale air and ground assault involving as many as 250,000 American troops. Indeed, that has been the reportage that we have seen. This report goes on to say in an editorial that such a Pentagon plan for an invasion of Iraq would be backed by hundreds of warplanes. It goes on to say that Saddam Hussein may not be as easily deterred from using his hidden stocks of anthrax, botulinum, toxin and VX nerve gas.

So when you put this document together with the report of the preliminary Pentagon planning document, I think this is one of those cases where one plus one equals an invasion of Iraq, notwithstanding the September 14 language or the fine work of our committee. I want to express that as a concern because there is some symmetry here on the issue of congressional oversight. Members of our Committee on Armed Forces fought very hard to assure there would be congressional oversight. Yet we have a fund of about $10 billion which is largely going to be beyond congressional control. The administration has repeatedly been trying to escape congressional oversight. That, Mr. Speaker, has really been the tenor of the debate we have had over the homeland security bill itself. I spent 15 hours in our government oversight committee. Much of the discussion had to do with the authority of Congress to have oversight over budgetary items and to have oversight over other areas which involve Congress' constitutional responsibility.

I rise here because when I look at this report that is from the Congressional Research Service, we see an increase from the original May 1 markup to the July 18 markup of almost a total of $6 billion. I think that the facts that we are here late at night, it is a quarter to midnight, and most Members of Congress are on their way home or are already asleep, we really need to have the kind of full-fledged debate about this, because when you see the administration moving in a direction towards war with Iraq and certainly not being able to finance that war unless they brought a resolution specifically to do that before this Congress, the fact that this amount of money is available ought to be of concern to all Members of Congress, because notwithstanding the fine work of our committee, we have had people connected to the administration as well as our own Members of Congress state openly that this resolution of September 14 already gives the President the authority he needs to do what he may want to do and has said he wants to do in Iraq. I know what the bill says and I congratulate our fine members for doing that work, its due diligence, but I feel that this is an appropriate time to kind of stop the music and focus on this, because all around this country, people are expecting this Congress to step up to its responsibilities under article 1, section 8 of the Constitution with respect to Congress' war-making authority. I voted for the resolution on September 14. But it was my intention in voting for that to see a focused response and now we hear our good chairman and ranking member speak in terms of a global war against terrorism but yet on one hand if it is a global war against terrorism, then it would appear that the administration would then be authorized to go beyond Afghanistan. Yet if it is only Afghanistan, then we ought to be very certain in our interpretation that that is exactly what it is going to be. But as I stand here at a quarter to 12 on this evening, I can say that based on information that we have had from the New York Times and information that we have from our breakdown from the Congressional Research Service, I have real concern that the administration could take this money and will take this money and use it to prosecute a war against Iraq.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume. Let me reiterate, according to the language of this bill, that it is limited to the verbiage attached to the September 14 resolution. Let me also add it is my considered opinion, Mr. Speaker, that should there be contemplated action against the country of Iraq by the United States of America that this Congress has the duty to pass upon such authorization as we have done so in the past.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. I thank my friend for yielding me this time.

Mr. Speaker, I rise in strong support of this bill, in part because I believe it strikes a proper balance between the flexibility needed in the executive branch and the due prerogatives of those of us in the Congress on this very important issue of the future prosecution of the war against terrorism.

This bill leaves intact the law that exists as of today with respect to the future prosecution of the global war against terrorism. That law contemplates three circumstances. The first would be an emergency urgent circumstance where the President, consistent with his constitutional authority, could act to defend the country. This bill in no way limits, nor should it limit, that prerogative.

The second circumstance that the present law contemplates is a circumstance where there is clear and compelling evidence of a connection between any other state or organization and the events of September 11 in fostering, harboring, planning, aiding and abetting the actions of September 11. Under those circumstances, under the law, the President is already authorized to take steps to defend the country and this bill leaves that intact.

The third circumstance contemplated by the law would be a circumstance that is not emergency, where there is not a demonstration of a clear and compelling link between the actions of another state and the activities of September 11, and it is contemplated that under those circumstances the President, consistent with the Constitution, would be required to come to the House and to the Senate and seek authority to further prosecute activities in defense of the country.

□ 2350

That is the law, and that is the balance that is struck, and this bill leaves that balance intact. For that and for many other reasons, I would urge both Republican and Democratic Members to vote in favor of this very necessary funding to continue to prosecute our very successful efforts in this field.

Mr. KUCINICH. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, we approach the midnight hour here in Washington, in our Nation's Capital. This bill was first noticed for consideration by the House less than 3 hours ago. One hour ago copies of the bill were not available for Members to review, and, in the time since then, there are fewer Members present here tonight than there are members of the National Security Committee.

Any bill that authorizes the expenditure of $10 billion of taxpayer money for any purpose, no matter how worthy or important to the Nation, deserves better consideration than this. It is outrageous to be taking up such a matter under these conditions.

Seldom has a day in recent weeks gone by without some administration official or commentator suggesting that the salvation for our Nation's security lies in expanding use of nuclear weapons, or that our Nation should alter its traditions by launching a surprise attack, or just a simple but dangerous cry, "on to Baghdad."

Each of these alternatives would do more to undermine the security of American families than to assure that security. We need a full and complete debate about such a major change in our national defense policy. No administration official has been able to connect a regime in Iraq, that all of us despise, to the terrorism of September 11. If they could, they surely would have done so by now.

I am pleased that no one here tonight speaking in support of this bill claims that this bill is anything more than what I would term an attempt to put some limits, however modest they may be, on what otherwise would have been a $10 billion slush fund that the administration requested. If the administration wishes to make the case that it should invade Iraq, or any other country, for that matter, not connected to the events directly of September 11, it needs to come to this Congress and come to this country and make its case, not at midnight, but in the full light of day.

Mr. KUCINICH. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was on the floor to pay tribute to a fallen hero in our community, Judge Carl Walker, but I realize that the time will not allow us to do that tribute this evening.

I want to acknowledge the concern that I have, but expressing as well the support I have for the ranking member's explanation about the limitation on this allocation. I think it would be important to enunciate the fears of the American people and the responsibility of the United States Congress as relates to the oversight over the determination of a country going to war.

I would hope as this legislation moves through the House that we make it very clear that there can be no precipitous attack on Iraq without the oversight, the Constitutional oversight, of the United States Congress.

There are three branches of government, the executive, the Congress and as well the judiciary. A venture or advance, if you will, into Iraq, without any participation by this Congress I believe would be an illegal act and would cause devastation in our relations with our allies around the world.

This is not the direction to take, and I would hope this funding does not point us in that direction.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California and thank the gentleman from Ohio for their thoughtful presentation this evening. I think this is a very important bill that we should pass. It received very thorough discussion in the Committee on Armed Services and passed by a nearly unanimous vote out of that committee.

Mr. Speaker, I urge the House to pass this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. KUCINICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us suppose for a moment that these funds that were we are appropriating tonight are only for Afghanistan, that the half a billion dollars listed in this report for combat air patrols would in fact be used in Afghanistan.

I would like to call to the attention of this House recent news accounts that indicate that hundreds and hundreds of innocent civilians of Afghanistan have been killed accidentally in bombings by U.S. warplanes. I say that in an appeal to the administration to stop the bombing, because we have no quarrel with the Afghan people. The Taliban are overthrown, al Qaeda has fled, bin Laden has vanished, and yet, with this document, we see that the bombs will continue to drop indiscriminately.

Is there any American who has not been shaken at the mere thought of the horrors of U.S. warplanes bombing a wedding celebration in the village of Bal Khel killing dozens of innocent civilians? Whatever moral authority our Nation had at the beginning of the conflict is being lost in such bombings.

These types of acts do not represent America. Democracy does not wed terror. These acts must not be cloaked in the irresponsible and inhuman euphemism of collateral damage.

I appeal to the administration to stop the bombing, let an international police force continue in Afghanistan, and let the humble people of Afghanistan be spared the friendly fire from the skies. Enough of bombing the villages to save the villages. Stop the bombing, I appeal to the administration.

Mr. Speaker, I took this floor this evening so that questions which need to be asked in this House are in fact asked at a time when an administration is widely publicized to be preparing for a preemptive strike in Iraq. The administration sought and received an amount of money that is a virtual blank check to spend $10 billion any way they see fit.

□ 2400

Now, this idea, of course, has met resistance from members of the committee, and I will acknowledge that, ever since it was proposed. Legislators have said that they did not want to give the administration a blank check. But everyone who has looked at this knows that the administration request has been vague and, yet, with the breakdown that we have here, money for combat air patrols, money for chemical and biological defense, money for the conversion of Tomahawk missiles, in truth, this does not sound much like Afghanistan; it begins to sound like Iraq.

When we take that in the context of the New York Times' discovery of the Pentagon preliminary planning document which talks about a large-scale invasion, my concern, Mr. Speaker, is that notwithstanding the fine work of the men and women of our committee, that it is quite possible this administration will go in that direction. Indeed, the gentleman from New Jersey identified three specific areas where a President could proceed, and his comments were, frankly, quite in line with the assessments of other Members of Congress, not precluding the possibility of the use of these funds for something other than Afghanistan, notwithstanding the fine work of our committee.

I think it is noteworthy, at a time when an administration is essentially abandoning multilateralists and articulating a first-strike approach in Afghanistan, I think it is noteworthy that this Congress has yet to have the kind of full debate that Members of both Houses of Congress are beginning to call for. I think it is important that when we see this cavalcade of headlines talking about massive invasions, a quarter of a million troops, policies of hitting first, anticipating that Iraq would target our troops; well, if there is an anticipation of that, then we are talking about an invasion and, above all that, doing this before the November elections.

In previous legislation tonight, this House took action on a conference report on Defense and Homeland Security Supplemental Appropriations in providing an additional $14.5 billion in funding related to the U.S. military. Now, I think that the people of this country have a right to know if the administration is, in fact, planning to go into Iraq, and this Congress has a right to know and a right to participate fully in a full-fledged debate. As a matter of fact, even though myself and our esteemed ranking member may have a difference of opinion on that, whether or not we should do it, I think we agree that certainly Congress has a role.

Essentially, I would say to the chairman that is what I am here to affirm, that Congress does have a role to play. Of course, I am opposed to any such invasion for reasons I do not need to get into right now. But even more important is that this Congress affirms its position with respect to its power to send men and women from our country into combat against Iraq or any other country.

So I want to thank the distinguished chairman and ranking member for their diligence on this bill, but I also want to express my reservations, serious reservations about the symmetry between the contents of this bill and the planning document which The New York Times covered in full detail.

Mr. Speaker, I yield back the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

I want to address just one point from my friend from Ohio, and that is that the combat air patrols that are listed in the bill and in the report are listed as Operation Noble Eagle, which is combat air patrols over the United States, over American cities, which have been ongoing, and I believe there are some $500-plus-million in the bill for that.

I would further say that this bill came up in two pieces, which is extremely unusual for our system. One reason it came up in two pieces was because we were undertaking continuing military operations and, because of that, the chairman of the full committee, the gentleman from Arizona (Mr. STUMP), at whose direction I am acting today, worked with the gentleman from Missouri (Mr. SKELTON), and we put together a bipartisan bill that did give some direction to where some of this money went.

Let me just describe for the Members where some of the money went. Some of it went to what is known as combat pay enhancements. That includes increasing family separation allowance, increasing flight pay for crew members, increasing the death gratuity given to survivors, increasing career enlistment flying incentive, increasing diving pay, increasing hazardous duty pay.

We also put in a number of required items that, in fact, the administration had requested that had been early on in the base bill. They include the chemical and biological antiterrorism program for homeland defense, $480 million; command and control, computers and intelligence, KC–135 tanker aircraft, linguists, military construction, war pay, and the list goes on.

So we did leave some flexibility with the administration and we did give some direction. I would simply say that it was because of the hard work of the gentleman from Arizona (Mr. STUMP) and the hard work of the gentleman from Missouri (Mr. SKELTON) and all of the members on our committee, and I think we have heard from several of our very thoughtful Members today on the Democrat side who participated very fully, such as the gentleman from Maine (Mr. ALLEN), I think, and the gentleman from New Jersey (Mr. ANDREWS) gave a very full evaluation of what this did.

Once again, the key point that they reiterated was that this money can only go to the military programs that are allowed under the September 14 resolution, and, once again, I want to read that resolution, because this is a base resolution that these dollars are expended under.

> The President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or

aided, the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons in order to prevent any future acts of international terrorism against the United States by such nations or organizations or persons.

So this money is expended only in a manner, and can be expended only in a manner, consistent with that resolution of September 14. I might add, it is simply the last piece of the President's defense budget.

Now, on the other side, the Senate passed the full $393 billion authorized or requested by the President. So they go to conference with a full budget, so to speak, and until tonight, we only go to conference with 383; that is, the budget less the $10 billion piece.

So it was important for us to act quickly. We just got the details on this plan several weeks ago, we marked it up in the Committee on Armed Services in a bipartisan way, and it was important to get this second piece in place to be able to go to conference and do an effective job.

So I want to thank all of the Members that participated in the debate.

Mr. HUNTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and pass the bill, H.R. 4547, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. KUCINICH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

☐ 0010

## COMMUNICATION FROM THE HON. KAREN L. THURMAN, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. TERRY) laid before the House the following communication from the Honorable KAREN L. THURMAN, Member of Congress:

HOUSE OF REPRESENTATIVES,
*Washington, DC, July 22, 2002.*

Hon. J. DENNIS HASTERT,
*The Speaker, The Capitol, Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena for documents and testimony issued by the United States District Court for the District of Columbia.

After consulting with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

KAREN L. THURMAN,
*Member of Congress.*

## COMMUNICATION FROM LEGISLATIVE CORRESPONDENT FOR THE HON. MIKE FERGUSON, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Rogan Kelly, Legislative Correspondent for the Hon. MIKE FERGUSON, Member of Congress:

HOUSE OF REPRESENTATIVES,
*Washington, DC, July 10, 2002.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have been served with a grand jury subpoena for testimony issued by the Superior Court of the District of Columbia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ROGAN KELLY,
*Legislative Correspondent.*

## OMISSION FROM THE CONGRESSIONAL RECORD OF JULY 22, 2002 AT PAGE H5027

A portion of the following concurrent resolution was inadvertently omitted from the RECORD:

## HONORING CORINNE "LINDY" CLAIBORNE BOGGS ON OCCASION OF 25TH ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN'S CAUCUS

Mr. LINDER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 439) honoring Corinne "Lindy" Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

The Clerk read as follows:

Honoring Corinne "Lindy" Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

Whereas in 1977, Lindy Boggs helped found the Congressional Women's Caucus and served as longtime Caucus Secretary;

Whereas the Congressional Women's Caucus is committed to improving the lives of women and families through legislation and leadership roles;

Whereas the continued success of the Congressional Women's Caucus is due to the bipartisan spirit that Lindy Boggs established;

Whereas Lindy Boggs represented the 2nd district of Louisiana from March 20, 1973, to January 3, 1991;

Whereas Lindy Boggs was the first woman elected to the United States House of Representatives from Louisiana and was the first woman to chair a national political convention, leading the convention of 1976 that nominated former United States President Jimmy Carter;

Whereas Lindy Boggs served on the Committee on Appropriations, was instrumental in creating the Select Committee on Children, Youth, and Families, and chaired the Crisis Intervention Task Force; and

Whereas Lindy Boggs served as United States Ambassador to the Holy See from December 16, 1997, to March 1, 2001: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress honors Corinne "Lindy" Claiborne Boggs for her extraordinary service to the people of Louisiana and the United States, recognizes that her role in founding the Congressional Women's Caucus has improved the lives of families throughout the United States, and commends her bipartisan spirit as an example to all elected officials.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEFAZIO (at the request of Mr. GEPHARDT) for after 10:00 p.m. today on account of personal reasons.

Mr. GOSS (at the request of Mr. ARMEY) for between 6:00 and 9:00 p.m. on account of personal reasons.

Mrs. JONES of Ohio (at the request of Mr. GEPHARDT) for today on account of adverse weather conditions and subsequent flight cancellations.

Ms. MILLENDER-MCDONALD (at the request of Mr. GEPHARDT) for Monday, July 22 on account of official business in the district.

Mr. STEARNS (at the request of Mr Armey) for after 1:00 p.m. today through July 25 on account of a family medical procedure.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and tomorrow July 24th.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KUCINICH) to revise and extend their remarks and include extraneous material:)

Ms. THURMAN, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. HAYES) to revise and extend their remarks and include extraneous material:)

Mr. WOLF, for 5 minutes, July 25.

Mr. JONES of North Carolina, for 5 minutes, July 24.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. JACKSON of Illinois and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $9,630.

Mr. JACKSON of Illinois and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $8,588.

## ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1209. An act to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

H.R. 2175. An act to protect infants who are born alive.

H.R. 3487. An act to amend the Public Health Service Act with respect to health professions regarding the field of nursing.

## ADJOURNMENT

Mr. HAYES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 13 minutes a.m.), the House adjourned until today, Wednesday, July 24, 2002, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8152. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the twelfth annual report on the Profitability of Credit Card Operations of Depository Institutions, pursuant to 15 U.S.C. 1637 note. Public Law 100—583, section 8 (102 Stat. 2969); to the Committee on Financial Services.

8153. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the determination and memorandum of justification pursuant to Section 2(b)(6) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

8154. A letter from the Director, Office of Thrift Supervision, transmitting the 2001 Annual Report to Congress on the Preservation of Minority Savings Institutions, pursuant to 12 U.S.C. 1462a(g); to the Committee on Financial Services.

8155. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

8156. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

8157. A letter from the Secretary, Department of Health and Human Services, transmitting the annual report on the Loan Repayment Program on Health Disparities Research (HDR-LRP) for FY 2001, pursuant to 42 U.S.C. 2541—1(i); to the Committee on Energy and Commerce.

8158. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 107-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8159. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 101-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8160. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 83-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8161. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 73-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8162. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 64-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8163. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 106-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8164. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 99-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8165. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 65-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8166. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

8167. A communication from the President of the United States, transmitting a supplemental report, consistent with the War Powers Resolution, to help ensure that the Congress is kept fully informed on continued U.S. contributions in support of peacekeeping efforts in the former Yugoslavia; (H. Doc. No. 107—250); to the Committee on International Relations and ordered to be printed.

8168. A letter from the Assistant Secretary, Policy, Management and Budget and Chief Financial Officer, Department of the Interior, transmitting the Department's Annual Accountability Report for Fiscal Year 2001; to the Committee on Government Reform.

8169. A letter from the Secretary, Department of Commerce, transmitting the Department's FY 2001 Annual Program Performance Report and FY 2003 Annual Performance Plan; to the Committee on Government Reform.

8170. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8171. A letter from the Secretary, Department of Housing and Urban Development, transmitting the Department's FY 2001 Annual Report on Performance and Accountability; to the Committee on Government Reform.

8172. A letter from the Chairman, Federal Maritime Commission, transmitting semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

8173. A letter from the Chief Judge, Superior Court of the District of Columbia, transmitting the Court's report entitled "A Supplement to the Family Court Transition Plan" submitted in response to a request; to the Committee on Government Reform.

8174. A letter from the Chief Judge, Superior Court of the District of Columbia, transmitting the Court's report entitled "Supplement to the Family Court Transition Plan"; to the Committee on Government Reform.

8175. A letter from the Secretary, Department of the Interior, transmitting the 2001 Annual Report for the Office of Surface Mining (OSM), pursuant to 30 U.S.C. 1211(f), 1267(g), and 1295; to the Committee on Resources.

8176. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Regulated Navigation Area and Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone [CGD01-01-181] (RIN: 2115-AE84 and 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8177. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Sanibel Causeway Bridge, Okeechobee Waterway, Punta Rassa, Florida [CGD7-01-144] (RIN: 2115-AE47) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8178. A letter from the Chief, Regulation and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Commercial Boulevard bridge (SR 870), Atlantic Intracoastal Waterway, mile 1059.0, Lauderdale-by-the-Sea, Broward County, FL [CGD07-02-009] received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8179. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Wearing of Personal Flotation Devices (PFDs) by Certain Children Aboard Recreational Vessels [USCG-2000-8589] (RIN: 2115-AG04) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8180. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Wearing of Personal Flotation Devices (PFDs) by Certain Children Aboard Recreational Vessels [USCG-2000-8589] (RIN: 2115-AG04) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8181. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Annual fireworks events in the Captain of the Port Milwaukee Zone [CGD09-02-003] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8182. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Captain of the Port Detroit Zone, Selfridge Air National Guard Base, Lake St Clair [CGD09-02-004] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8183. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety and Security Zones; High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, Rhode Island [CGD01-01-188] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8184. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Seabrook Nuclear Power Plant, Seabrook, New Hampshire [CGD01-01-207] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8185. A letter from the General Counsel, Department of the Treasury, transmitting the Department's draft bill entitled, "To amend the Customs user fee statute, and for other purposes"; to the Committee on Ways and Means.

8186. A letter from the Under Secretary, Department of Defense, transmitting contingent liabilities of the United States under the vessel war risk insurance program under title XII of the Merchant Marine Act, 1936, pursuant to Public Law 104—201, section 1079(a) (110 Stat. 2670); jointly to the Committees on Armed Services and Transportation and Infrastructure.

8187. A letter from the Deputy Secretary, Department of Defense, transmitting a Report on Proposed Obligations for Weapons Destruction and Non-Proliferation in the Former Soviet Union, pursuant to Public Law 104—106, section 1206(a) (110 Stat. 471); jointly to the Committees on Armed Services and International Relations.

8188. A letter from the President, Federal Bar Association, transmitting the Association's Resolution entitled, "A Resolution urging that certain employees of the Securities and Exchange Commission be removed from the general pay schedule established by Title 5, United States Code"; jointly to the Committees on Financial Services and Government Reform.

8189. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report entitled, "Suspension of Limitations Under the Jerusalem Embassy Act" (Presidential Determination No. 2002-23), pursuant to Public Law 104—45, section 6 (109 Stat. 400); jointly to the Committees on International Relations and Appropriations.

8190. A letter from the Administrator, Agency for International Development, transmitting a report required by Section 653(a) of the Foreign Assistance Act of 1961, as amended, entitled "Development Assistance and Child Survival/Diseases Program Allocations-FY 2002"; jointly to the Committees on International Relations and Appropriations.

8191. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification that shrimp harvested with technology that may adversely affect certain sea turtles may not be imported into the United States unless the President makes specific certifications to the Congress by May 1, pursuant to Public Law 101—162, section 609(b)(2) (103 Sat. 1038); jointly to the Committees on Resources and Appropriations.

8192. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, "National Coverage Determinations"; jointly to the Committees on Ways and Means and Energy and Commerce.

8193. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the level of coverage and expenditures for Religious Nonmedical Health Care Institutions (RNHCIs) under both Medicare and Medicaid for the previous fiscal year (FY); estimated levels of expenditure for the current FY; and, trends in those expenditure levels including an explanation of any significant changes in expenditure levels from previous years; jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUMP: Committee on Armed Services. H.R. 4547. A bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003; with an amendment (Rept. 107-603). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4965. A bill to prohibit the procedure commonly known as partial-birth abortion (Rept. 107-604). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 3609. A bill to amend title 49, United States Code, to enhance the security and safety of pipelines; with an amendment (Rept. 107-605 Pt. 1). Ordered to be printed.

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 3609. A bill to amend title 49, United States Code, to enhance the security and safety of pipelines; with an amendment (Rept. 107-605 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. (House Resolution 437. Resolution requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in "National Night Out", including by supporting local efforts and neighborhood watches and by supporting local officials to provide homeland security, and for other purposes (Rept. 107-606). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 497. Resolution providing for the consideration of the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 107-607). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 498. Resolution providing for consideration of the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion (Rept. 107-608). Referred to the House Calendar.

*[Pursuant to the order of the House on July 23, 2002 the following report was filed on July 24, 2002]*

Mr. ARMEY: Select Committee on Homeland Security. H.R. 5005. A bill to establish the Department of Homeland Security, and for other purposes; with an amendment (Rept. 107-609 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Energy and Commerce discharged from further consideration. H.R. 3609 referred to the Committee of the Whole House on the State of the Union.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3609. Referral to the Committee on Energy and Commerce extended for a period ending not later than July 23, 2002.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MANZULLO:

H.R. 5179. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, and administrative settlement offers, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN:

H.R. 5180. A bill to direct the Secretary of Agriculture to convey certain real property in the Dixie National Forest in the State of Utah; to the Committee on Resources.

By Mr. BACA:

H.R. 5181. A bill to expand the Officer Next Door and Teacher Next Door initiatives of the Department of Housing and Urban Development to include fire fighters and rescue personnel, and for other purposes; to the Committee on Financial Services.

By Ms. BALDWIN (for herself, Mr. Frank, Ms. Norton, and Ms. Ros-Lehtinen):

H.R. 5182. A bill to amend the Internal Revenue Code of 1986 to increase the age limit for the child tax credit; to the Committee on Ways and Means.

By Mr. BARCIA (for himself, Mr. LaTourette, Mr. Pascrell, Mr. Murtha, Mr. Dingell, Mr. Camp, Mr. Allen, Mr. Bass, Mr. Quinn, Mr. Ehlers, Mr. Coyne, Mr. Markey, Mr. Kildee, Mr. Stupak, Mr. Holden, and Ms. Kilpatrick):

H.R. 5183. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants; to the Committee on Transportation and Infrastructure.

By Mr. DAVIS of Illinois:

H.R. 5184. A bill to establish an Office of Audit Review within the Securities and Exchange Commission to oversee the audits of certain public companies; to the Committee on Financial Services.

By Mr. GALLEGLY (for himself, Mr. Weldon of Pennsylvania, Mr. Lewis of California, Mr. Gibbons, Mr. Calvert, Mr. Cannon, Mr. Souder, and Mr. Horn):

H.R. 5185. A bill to remove a restriction on the authority of the Secretary of Agriculture and the Secretary of the Interior to enter into agreements with any Federal agency to acquire goods and services directly related to improving or using the wildfire fighting capability of those agencies; to the Committee on Agriculture, and in addition to the Committees on Resources, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KINGSTON (for himself, Mr. Gutknecht, Mr. Thune, Mr. Stump, Mrs. Jo Ann Davis of Virginia, Mr. Kolbe, Mr. Dan Miller of Florida, Mrs. Northup, Mrs. Emerson, Mr. Crowley, Mr. Bartlett of Maryland, Mr. Baldacci, Mr. Paul, Mr. Duncan, Mr. Shays, Mr. Tancredo, Mr. Jones of North Carolina, Mr. Wamp, Mr. Pomeroy, and Mr. Hoekstra):

H.R. 5186. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs; to the Committee on Energy and Commerce.

By Mr. MENENDEZ (for himself, Ms. Ros-Lehtinen, Mr. Green of Texas, Mrs. Christensen, Mr. Thompson of Mississippi, Mr. Diaz-Balart, Mr. Serrano, Mr. Smith of New Jersey, Ms. Lee, Mrs. Jones of Ohio, Mr. Frost, Mr. Conyers, Ms. Woolsey, Mr. Rodriguez, Ms. Roybal-Allard, Mr. Baca, Mr. Gonzalez, Mr. Hinojosa, Mr. Cummings, Mr. Acevedo-Vila, Mr. Pallone, Mr. Pastor, Mr. Udall of New Mexico, Mr. Pascrell, Mr. Stark, Mr. Payne, Mr. Bentsen, and Mr. Rothman):

H.R. 5187. A bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services; to the Committee on Energy and Commerce.

By Mrs. MORELLA (for herself, Mr. Langevin, Mr. Ramstad, Mr. Owens, Mr. Honda, Mr. Waxman, Ms. Schakowsky, Mr. George Miller of California, Mr. Kildee, Ms. Norton, Mr. Davis of Illinois, Mr. Frost, Mr. Lantos, Mr. Farr of California, Mr. McNulty, and Mrs. Johnson of Connecticut):

H.R. 5188. A bill to authorize the presentation of a gold medal on behalf of the Congress to the next of kin or other personal representative of Justin W. Dart, Jr., on behalf of the entire disability community and in recognition of his many contributions to the Nation throughout his lifetime, especially his tireless work to secure passage of the Americans with Disabilities Act of 1990, and for other purposes; to the Committee on Financial Services.

By Mr. NUSSLE:

H.R. 5189. A bill to provide that the educational assistance provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent; to the Committee on Ways and Means.

By Mr. POMEROY:

H.R. 5190. A bill to amend the Internal Revenue Code of 1986 to expand retirement savings for moderate and lower income workers, and for other purposes; to the Committee on Ways and Means.

By Mr. SANDERS (for himself, Ms. Lee, Mr. Hinchey, Mr. Larson of Connecticut, and Mr. Frank):

H.R. 5191. A bill to amend titles XIX and XXI of the Social Security Act to provide for expanded dental coverage under Medicaid and State children's health insurance programs and to provide for funding for expanded community oral health services; to the Committee on Energy and Commerce.

By Mr. SCHAFFER (for himself, Mr. Hoekstra, Mr. Shows, Mr. Lipinski, Mr. Camp, Mr. Lewis of Kentucky, Mr. McInnis, Mr. Kingston, Mr. DeMint, Mr. Shadegg, Mr. Tancredo, Mr. Cantor, Mr. Smith of Michigan, Mr. Tiberi, Mr. Pitts, Ms. Hart, Mr. Gutknecht, Mr. Paul, Mr. Barr of Georgia, Mr. Akin, Mr. Kerns, Mr. Terry, Mr. Sensenbrenner, Mr. Burton of Indiana, Mr. Souder, and Mr. Pickering):

H.R. 5192. A bill to amend the Internal Revenue Code of 1986 to allow a credit for contributions for the benefit of elementary and secondary schools; to the Committee on Ways and Means.

By Mr. SCHAFFER (for himself, Mr. Hayworth, Mr. McInnis, Mr. Weller, Mr. Hulshof, Mr. English, Mr. Boehner, Mr. Herger, Mr. Shadegg, Mr. Hoekstra, Mr. Terry, Mr. Otter, Mr. Smith of Michigan, Mr. Kingston, Mr. Akin, Mr. Doolittle, Mr. Burton of Indiana, Mr. DeMint, Mrs. Jo Ann Davis of Virginia, Mr. Souder, Mr. Tiberi, Mr. Ryun of Kansas, Mrs. Myrick, Mr. Thune, Mr. Pombo, Mr. Buyer, Mr. Green of Wisconsin, Mr. Armey, Mr. Toomey, Mr. Jeff Miller of Florida, Ms. Hart, Mr. Brown of South Carolina, Mr. Paul, Mr. Lipinski, Mr. Sensenbrenner, Mrs. Cubin, Mr. Hilleary, Mr. Barr of Georgia, and Mr. Pickering):

H.R. 5193. A bill to amend the Internal Revenue Code of 1986 to allow a deduction to certain taxpayers for elementary and secondary education expenses; to the Committee on Ways and Means.

By Mr. SMITH of Texas (for himself, Mr. Hostettler, Mr. Pitts, Mr. Pence, Mr. Green of Wisconsin, Mr. Phelps, Mr. Terry, Mr. Osborne, Mr. English, Mr. Weldon of Florida, Mr. Ryun of Kansas, Mr. Aderholt, Mr. Schaffer, Mr. Sullivan, Mr. Stearns, Mr. Akin, and Mr. Pickering):

H. Con. Res. 445. Concurrent resolution expressing the sense of Congress supporting vigorous enforcement of the Federal obscenity laws; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

340. The SPEAKER presented a memorial of the General Assembly of the State of Delaware, relative to House Resolution No. 70 memorializing the United States Congress to consider impeachment proceedings against the Judges responsible for this decision limiting our public school children's freedom of speech; to the Committee on the Judiciary.

341. Also, a memorial of the Legislature of the State of Illinois, relative to House Joint Resolution No. 54 memorializing the United States Congress to authorize funding to construct 1,200-foot locks on the Upper Mississippi and Illinois River System; to the Committee on Transportation and Infrastructure.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Mr. Hall of Ohio.

H.R. 267: Mr. Castle.

H.R. 572: Mr. Shimkus.

H.R. 599: Mr. Price of North Carolina.

H.R. 633: Mr. Snyder.

H.R. 760: Mr. Andrews.

H.R. 831: Mr. Lynch, Mr. Souder, and Mr. Rangel.

H.R. 1090: Mr. Matheson, Mr. Riley, Mr. Hoyer, Ms. Berkley, Mr. Boehlert, Mr. Dooley of California, and Mr. Tiahrt.

H.R. 1092: Mrs. Maloney of New York.

H.R. 1331: Mrs. Wilson of New Mexico.

H.R. 1418: Mr. Carson of Oklahoma.

H.R. 1452: Mr. Farr of California.

H.R. 1490: Mr. Graham.

H.R. 1723: Mr. Moore.

H.R. 1724: Mr. Olver.

H.R. 1918: Ms. Lee, Mr. Honda, Mr. Davis of Illinois, Ms. Schakowsky, Mr. Pastor, and Ms. Velázquez.

H.R. 1982: Mr. Hastings of Washington and Mr. Kennedy of Minnesota.

H.R. 2074: Mr. Kleczka.

H.R. 2125: Mr. Ferguson, Mr. Ramstad, and Mr. Greenwood.

H.R. 2173: Mr. Larsen of Washington.

H.R. 2290: Mr. Hall of Ohio and Mrs. Jones of Ohio.

H.R. 2373: Mr. Moore.

H.R. 2483: Mr. Oberstar.

H.R. 2638: Mr. Wilson of South Carolina, Mr. Stupak, Mr. Baird, and Mr. Tauzin.

H.R. 2908: Mr. Gephardt.

H.R. 3062: Mr. Ballenger.

H.R. 3105: Mr. Whitfield.

H.R. 3132: Mr. LaFalce, Mr. Lewis of Georgia, Ms. Millender-McDonald, and Mr. Bentsen.

H.R. 3238: Mr. Kildee.

H.R. 3273: Mr. Schrock.

H.R. 3320: Mr. Nussle.

H.R. 3443: Mr. Bilirakis.

H.R. 3450: Ms. Ros-Lehtinen, Mrs. Wilson of New Mexico, Mr. Frost, Mr. Walden of Oregon, and Mr. Blumenauer.

H.R. 3498: Ms. Ros-Lehtinen.

H.R. 3612: Mr. Young of Alaska.

H.R. 3617: Mr. Taylor of Mississippi.

H.R. 3659: Mr. Rothman, Mr. Clay, Mr. Wilson of South Carolina, Mr. Wexler, Mr. English, Mr. DeFazio, Mr. Souder, and Mr. Lewis of Georgia.

H.R. 3673: Mr. John.

H.R. 3884: Mr. Larsen of Washington, Mr. Lantos, and Mr. Borski.

H.R. 3887: Ms. Solis and Ms. Waters.

H.R. 3899: Mr. Clyburn.

H.R. 3956: Ms. Baldwin.

H.R. 3989: Mr. Sherman.

H.R. 4010: Mr. Hayworth.

H.R. 4017: Mr. Gordon, Mr. Abercrombie, and Mr. Holden.

H.R. 4058: Mr. Gutierrez.

H.R. 4060: Mr. Acevedo-Vilá, Mr. Brown of Ohio, and Mr. Kildee.

H.R. 4113: Ms. Roybal-Allard, Ms. Harman, Mr. Kind, Ms. Baldwin, Mr. Baca, and Mr. Crowley.

H.R. 4114: Mr. Waxman.

H.R. 4152: Mr. Hayworth.

H.R. 4446: Mr. Young of Alaska.

H.R. 4483: Mrs. Bono, Mr. Upton, Mr. Weldon of Pennsylvania, Mr. Berry, Mr. Strickland, and Mr. Ross.

H.R. 4524: Mr. Gutierrez and Mrs. Maloney of New York.

H.R. 4554: Mr. Frost and Mr. English.

H.R. 4555: Mr. Pitts, Mr. Kolbe, and Mr. Putnam.

H.R. 4575: Mr. Fattah and Mr. Rothman.

H.R. 4600: Mr. Lewis of California, Mr. Wolf, Mrs. Bono, Mr. Mica, and Mr. Portman.

H.R. 4604: Mr. Latham and Mr. Goode.

H.R. 4693: Mr. Rothman, Mr. Aderholt, Mrs. Tauscher, Mr. Hayworth, and Mr. Shadegg.

H.R. 4704: Mr. Smith of Washington.

H.R. 4706: Mr. Nussle.

H.R. 4720: Mr. Ross.

H.R. 4729: Mr. Frost, Mr. Cummings, and Mr. Frank.

H.R. 4738: Mr. Gordon and Mrs. Thurman.

H.R. 4753: Mr. Gordon.

H.R. 4754: Mr. Watt of North Carolina and Mr. Spratt.

H.R. 4760: Mr. Rothman.

H.R. 4777: Mr. Payne and Mr. Lynch.

H.R. 4785: Mr. Mascara and Mr. Towns.

H.R. 4840: Mr. Sessions.

H.R. 4852: Mrs. Thurman.

H.R. 4857: Mrs. Davis of California.

H.R. 4967: Mr. Manzullo.

H.R. 5060: Mrs. Thurman, Mr. Underwood, Ms. Hart, Mr. Jeff Miller of Florida, Ms. McKinney, Ms. Schakowsky, and Mr. Rodriguez.

H.R. 5064: Mr. Phelps, Mr. Gekas, Mr. McHugh, and Mr. Platts.

H.R. 5088: Mr. Frank, Mr. Brown of Ohio, Mr. Baldacci, Ms. Norton, and Ms. McKinney.

H.R. 5090: Mrs. Jo Ann Davis of Virginia.

H.R. 5092: Mr. Rothman.

H.R. 5107: Mrs. Christensen, Mr. Langevin, Ms. Ros-Lehtinen, and Mr. Jefferson.

H.R. 5110: Mr. Honda, Ms. Watson, Mr. Clyburn, Mr. Hilliard, Ms. McKinney, Ms. Millender-McDonald, Ms. Schakowsky, Mr. Payne, Mr. Meeks of New York, Mr. Towns, Mr. Rush, Mr. Evans, Mr. Kucinich, Ms. Kaptur, Mr. Olver, Ms. Solis, Mr. Bishop, Mr. Serrano, Ms. Waters, and Mrs. Jones of Ohio.

H.R. 5157: Mr. Burr of North Carolina, Mr. Blunt, and Mr. Meehan.

H. Con. Res. 20: Mr. Dingell, Ms. Woolsey, Mr. Underwood, and Mr. Doyle.

H. Con. Res. 70: Mr. Baca.

H. Con. Res. 188: Ms. Velázquez.

H. Con. Res. 269: Mrs. Myrick.

H. Con. Res. 327: Mr. Burton of Indiana, Mr. Chambliss, Mr. English, Mr. Clement, Mr. Berman, Mr. Cramer, Mr. Sessions, Mr. Johnson of Illinois, Mr. Chabot, Mr. Crowley, and Ms. Schakowsky.

H. Con. Res. 341: Ms. Millender-McDonald.

H. Con. Res. 351: Mr. Sabo and Mr. Leach.

H. Con. Res. 380: Mr. Baca.

H. Con. Res. 432: Mr. Hoeffel, Ms. Berkley, Mr. Green of Wisconsin, Mr. Skelton, Mr. Deutsch, and Mr. Roemer.

H. Con. Res. 437: Mr. Chambliss, Mr. Sessions, Mr. Ortiz, and Mr. Barrett.

H. Con. Res. 438: Mr. Davis of Illinois, Mr. Capuano, Mr. Brown of Ohio, Mr. Fattah, and Mr. Thompson of Mississippi.

H. Con. Res. 442: Mr. Holden, Mr. Pascrell, Mr. Lampson, Mr. Clement, Mr. Mascara, Mr. Menendez, Mr. Lipinski, Mr. Sandlin, Ms. Brown of Florida, Mr. Rahall, Mr. Honda, Mr. Cummings, Mr. Costello, Mr. Berry, and Mr. Kennedy of Minnesota.

H. Res. 295: Mr. Towns, Mr. Rush, Mr. Ross, and Mr. Camp.

H. Res. 398: Mr. Hyde, Ms. Ros-Lehtinen, Mr. Isakson, Mr. Wilson of South Carolina, Mr. Inslee, and Mr. Wexler.

H. Res. 454: Mr. English, Mr. McDermott, and Mr. Visclosky.

H. Res. 484: Mr. Cramer and Mr. Carson of Oklahoma.

H. Res. 487: Mr. McNulty and Mr. Gibbons.

## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4628

Offered By: Mr. Chambliss

Amendment No. 3: At the end (page 30, after line 7), add the following new title:

### TITLE VI—INFORMATION SHARING

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Homeland Security Information Sharing Act".

**SEC. 602. FINDINGS AND SENSE OF CONGRESS.**

(a) Findings.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) Sense of Congress.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

**SEC. 603. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.**

(a) Procedures for Determining Extent of Sharing of Homeland Security Information.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies determine—

(A) whether, how, and to what extent homeland security information may be shared with appropriate State and local personnel, and with which such personnel it may be shared,

(B) how to identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) Procedures for Sharing of Homeland Security Information.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) Sharing of Classified Information and Sensitive but Unclassified Information With State and Local Personnel.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) Responsible Officials.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) Federal Control of Information.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) Definitions.—As used in this section:

(1) The term "homeland security information" means any information (other than information that includes individually identifiable information collected solely for statistical purposes) possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "State and local personnel" means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

**SEC. 604. REPORT.**

(a) Report Required.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 603. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 603, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) Specified Congressional Committees.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

**SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out section 603.

**SEC. 606. AUTHORITY TO SHARE GRAND JURY INFORMATION.**

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting ", or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6," after "Rule 6"; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting "or of a foreign government" after "(including personnel of a state or subdivision of a state";

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: "or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation";

(ii) in subclause (IV)—

(I) by inserting "or foreign" after "may disclose a violation of State";

(II) by inserting "or of a foreign government" after "to an appropriate official of a State or subdivision of a State"; and

(III) by striking "or" at the end;

(iii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iv) by adding at the end the following:

"(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat."; and

(C) in subparagraph (C)(iii)—

(i) by striking "Federal";

(ii) by inserting "or clause (i)(VI)" after "clause (i)(V)"; and

(iii) by adding at the end the following: "Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

**SEC. 607. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.**

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

"(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

"(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

**SEC. 608. FOREIGN INTELLIGENCE INFORMATION.**

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001 (Public Law 107-56; 50 U.S.C. 403-5d) is amended by adding at the end the following: "Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

(1) by striking "section 2517(6)" and inserting "paragraphs (6) and (8) of section 2517 of title 18, United States Code,"; and

(2) by inserting "and (VI)" after "Rule 6(e)(3)(C)(i)(V)".

**SEC. 609. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.**

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

**SEC. 610. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.**

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

H.R. 4628

OFFERED BY: MR. ENGEL

AMENDMENT NO. 4: At the end of title III (page 21, after line 11), insert the following new section:

**SEC. 311. LIMITATIONS ON ASSISTANCE TO THE PALESTINIAN SECURITY SERVICES.**

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS ON ASSISTANCE TO THE PALESTINIAN SECURITY SERVICES

"SEC. 118. (a) PROHIBITION ON LETHAL ASSISTANCE.—Notwithstanding any other provision of law, no assistance in the form of lethal military equipment may be provided, either directly or indirectly, by any element of the intelligence community to the security services of the Palestinian Authority, or to any officials, employees or members thereof.

"(b) REQUIREMENTS FOR OTHER FORMS OF ASSISTANCE.—With respect to forms of assistance other than the provision of lethal military equipment, provided by any element of the intelligence community to the security services of the Palestinian Authority, or to any officials, employees or members thereof, such assistance may only be provided if the assistance is designed to—

"(1) reduce the number of security services of the Palestinian Authority to no more than two; and

"(2) reform such security services so that its officials, employees, and members—

"(A) respect the rule of law and human rights;

"(B) no longer fall under the command of, or report to, Yasir Arafat; and

"(C) are not compromised by, and will not support, terrorism.

"(c) QUARTERLY REPORTS ON ASSISTANCE PROVIDED SINCE 1993.—(1) Not later than 3 months after the date of the enactment of this section, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report that describes all forms of assistance that have been provided to the security services of the Palestinian Authority since the date on which the Declaration of Principles was signed, including the dates on which such assistance was provided and whether any member of the security services of the Palestinian Authority who received any such assistance has committed an act of terrorism.

"(2) After the submittal of the report under paragraph (1), the Director of Central Intelligence shall submit to the appropriate committees of Congress quarterly reports on the forms of assistance under paragraph (1) provided during the preceding calendar quarter and progress toward—

"(A) reducing the number of security services of the Palestinian Authority to no more than two;

"(B) ensuring that officials, employees, and members of such security services are not compromised by, and will not support, terrorism;

"(C) reforming the security services of the Palestinian Authority so that they respect the rule of law and human rights; and

"(D) ensuring that the security services of the Palestinian Authority are no longer under the control of Yasir Arafat.

"(3) Reports shall be submitted in unclassified form, but may include a classified annex.

"(d) DEFINITIONS.—In this section—

"(1) the term 'lethal military equipment' has the meaning given the term for purposes of the Foreign Assistance Act of 1961; and

"(2) the term "appropriate committees of Congress" means the Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives and the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate.".

(b) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 117 the following new item:

"Sec. 118. Limitations on assistance to the security services of the Palestinian Authority.".

H.R. 4628

OFFERED BY: MR. GOSS

AMENDMENT NO. 5: At the end of title I (page 9, after line 4), insert the following new section:

**SEC. 106. LIMITATION ON USE ON CERTAIN APPROPRIATIONS FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES.**

(a) IN GENERAL.—Subject to subsection (b), the amounts requested for the Defense Emergency Response Fund that are designated for the incremental costs of intelligence and intelligence-related activities for the war on terrorism may only be obligated or expended for the intelligence and intelligence-related activities specified in the letter dated July 19, 2002 of the Deputy Director for Central Intelligence to the Permanent Select Committee on Intelligence of the House of Representatives.

(b) LIMITATIONS.—The amounts referred to in subsection (a)—

(1) may only be obligated or expended for activities directly related to identifying, responding to, or protecting against acts or threatened acts of terrorism;

(2) may not be obligated or expended to correct programmatic or fiscal deficiencies in major acquisition programs which have not achieved initial operational capabilities within two years of the date of the enactment of this Act; and

(3) may not be obligated or expended until the end of the 10-day period that begins on the date notice is provided to the Select Committee on Intelligence and the Committee on Appropriations of the Senate and

the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives.

### H.R. 4628

OFFERED BY: MR. HASTINGS OF FLORIDA

AMENDMENT NO. 6: At the end of the title III (page 21, after line 11), insert the following new section:

**SEC. 311. SENSE OF CONGRESS ON DIVERSITY IN THE WORKFORCE OF INTELLIGENCE COMMUNITY AGENCIES.**

(a) FINDINGS.—Congress finds the following:

(1) The United States is engaged in a war against terrorism that requires the active participation of the intelligence community.

(2) Certain intelligence agencies, among them the Federal Bureau of Investigation and the Central Intelligence Agency, have announced that they will be hiring several hundred new agents to help conduct the war on terrorism.

(3) Former Directors of the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency have stated that a more diverse intelligence community would be better equipped to gather and analyze information on diverse communities.

(4) The Central Intelligence Agency and the National Security Agency were authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 1987.

(5) The Defense Intelligence Agency was authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 1988.

(6) The National Imagery and Mapping Agency was authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 2000.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of the Federal Bureau of Investigation (with respect to the intelligence and intelligence-related activities of the Bureau), the Director of Central Intelligence, the Director of the National Security Agency, and the Director of the Defense Intelligence Agency should make the creation of a more diverse workforce a priority in hiring decisions; and

(2) the Director of Central Intelligence, the Director of National Security Agency, the Director of Defense Intelligence Agency, and the Director of National Imagery and Mapping Agency should increase their minority recruitment efforts through the undergraduate training program provided for under law.

### H.R. 4628

OFFERED BY: MR. HASTINGS OF FLORIDA

AMENDMENT NO. 7: At the end of title III (page 21, after line 11), insert the following new section:

**SEC. 311. ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES IN THE INTELLIGENCE COMMUNITY.**

Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES.—(1) The Director of Central Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

"(2) Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

"(A) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

"(B) Of all individuals employed in the element during the fiscal year involved at the levels referred to in clauses (i) and (ii), the percentage of covered persons employed at such levels:

"(i) Positions at levels 1 through 15 of the General Schedule.

"(ii) Positions at levels above GS–15.

"(C) Of individuals hired by the head of the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

"(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

"(4) Nothing in this subsection shall be construed as providing for the substitution of any similar report required under another provision of law.

"(5) In this subsection, the term 'covered persons' means—

"(A) racial and ethnic minorities,

"(B) women, and

"(C) individuals with disabilities.".

### H.R. 4628

OFFERED BY: MS. PELOSI

AMENDMENT NO. 8: Amend section 501 to read as follows:

**SEC. 501. USE OF FUNDS FOR COUNTER-DRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.**

(a) AUTHORITY.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities for fiscal years 2002 and 2003, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) REQUIREMENT FOR CERTIFICATION.—(1) The authorities provided in subsection (a) shall not be exercised until the Secretary of Defense certifies to the Congress that the provisions of paragraph (2) have been complied with.

(2) In order to ensure effectiveness of United States support for such a unified campaign, prior to the exercise of the authority contained in subsection (a), the Secretary of State shall report to the appropriate committees of Congress that the newly elected President of Colombia has—

(A) committed, in writing, to establish comprehensive policies to combat illicit drug cultivation, manufacturing, and trafficking (particularly with respect to providing economic opportunities that offer viable alternatives to illicit crops) and to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations;

(B) committed, in writing, to implement significant budgetary and personnel reforms of the Colombian Armed Forces; and

(C) committed, in writing, to support substantial additional Colombian financial and other resources to implement such policies and reforms, particularly to meet the country's previous commitments under "Plan Colombia".

In this paragraph, the term "appropriate committees of Congress" means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

(c) TERMINATION OF AUTHORITY.—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(d) APPLICATION OF CERTAIN PROVISIONS OF LAW.—Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(e) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

### H.R. 4628

OFFERED BY: MR. ROEMER

AMENDMENT NO. 9: At the end (page 30, after line 7), add the following new title:

## TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

**SEC. 601. ESTABLISHMENT OF COMMISSION.**

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

**SEC. 602. COMPOSITION OF THE COMMISSION.**

(a) MEMBERS.—Subject to the requirements of subsection (b), the Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—No member of the Commission shall be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service and intelligence gathering.

(c) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to the requirement of paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(d) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(e) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

**SEC. 603. FUNCTIONS OF THE COMMISSION.**

(a) IN GENERAL.—The functions of the Commission are to—

(1) review the implementation by the intelligence community of the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks against the United States which occurred on September 11, 2001;

(B) other reports and investigations of the House Permanent Select Committee on Intelligence of the House of Representatives and the Senate Select Committee on Intelligence of the Senate; and

(C) other such executive branch, congressional, or independent commission investigations of such the terrorist attacks or the intelligence community;

(2) make recommendations on additional actions for implementation of the findings, recommendations and conclusions referred to in paragraph (1);

(3) review resource allocation and other prioritizations of the intelligence community for counterterrorism and make recommendations for such changes in those allocations and prioritization to ensure that counterterrorism receives sufficient attention and support from the intelligence community;

(4) review and recommend changes to the organization of the intelligence community, in particular the division of agencies under the jurisdiction of the Secretary of Defense and the Director of Central Intelligence, the dual responsibilities of the Director of Central Intelligence as head of the intelligence community and as head of the Central Intelligence Agency, and the separation of agencies with responsibility for intelligence collection, analysis, and dissemination; and

(5) determine what technologies, procedures, and capabilities are needed for the intelligence community to effectively support and conduct future counterterrorism missions, and recommend how these capabilities should be developed, acquired, or both from entities outside the intelligence community, including from private entities.

(b) DEFINITION OF INTELLIGENCE COMMUNITY.—In this section, the term "intelligence community" means—

(1) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence and the National Intelligence Council;

(2) the Central Intelligence Agency;

(3) the National Security Agency;

(4) the Defense Intelligence Agency;

(5) the National Imagery and Mapping Agency

(6) the National Reconnaissance Office;

(7) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(8) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard;

(9) the Bureau of Intelligence and Research of the Department of State; and

(10) such other elements of any other department or agency as are designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the intelligence community under section 3(4)(J) of the National Security Act of 1947 (50 U.S.C. 401a(4)(J)).

**SEC. 604. POWERS OF THE COMMISSION.**

(a) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this title—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(b) SUBPOENAS.—

(1) SERVICE.—Subpoenas issued under subsection (a)(2) may be served by any person designated by the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(c) CLOSED MEETINGS.—Notwithstanding any other provision of law which would require meetings of the Commission to be open to the public, any portion of a meeting of the Commission may be closed to the public if the President determines that such portion is likely to disclose matters that could endanger national security.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department, agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this title. Each such department, agency, or instrumentality shall, to the extent authorized by law, furnish such information directly to the Commission upon request.

(f) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(g) GIFTS.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, accept, use, and dispose of gifts or donations of services or property.

(h) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(i) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

**SEC. 605. STAFF OF THE COMMISSION.**

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(b) STAFF.—The Chairperson, in consultation with the Vice Chairperson, may appoint additional personnel as may be necessary to enable the Commission to carry out its functions.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual appointed under subsection (a) or (b) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(d) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(e) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

**SEC. 606. COMPENSATION AND TRAVEL EXPENSES.**

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

### SEC. 607. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

### SEC. 608. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing—

(1) such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members; and

(2) such findings, conclusions, and recommendations regarding the scope of jurisdiction of, and the allocation of jurisdiction among, the committees of Congress with oversight responsibilities related to the scope of the investigation of the Commission as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a final report containing such updated findings, conclusions, and recommendations described in paragraphs (1) and (2) of subsection (a) as have been agreed to by a majority of Commission members.

(c) NONINTERFERENCE WITH CONGRESSIONAL JOINT INQUIRY.—Notwithstanding subsection (a), the Commission shall not submit any report of the Commission until a reasonable period after the conclusion of the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks against the United States which occurred on September 11, 2001.

(d) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

### SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

H.R. 5005

OFFERED BY: MR. BEREUTER

AMENDMENT NO. 1: At the end of section 201, insert the following:

(9) Participate and otherwise coordinate with the intelligence community in the tasking or establishment of priorities for the collection of foreign intelligence important for homeland security by those elements of the intelligence community authorized to undertake such collection.

Amend section 212(a)(2) to read as follows:

(2) REQUESTS FOR THE COLLECTION AND COORDINATION OF INFORMATION.—

(A) Requesting the collection of foreign intelligence by elements of the intelligence community authorized to undertake such collection, Federal law enforcement agencies, and other executive agencies.

(B) Coordinating with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector as appropriate.

H.R. 5005

OFFERED BY: MR. ENGEL

AMENDMENT NO. 2: At the end of the bill, insert the following new title:

## TITLE XI—CHEMICAL WEAPON PRECURSOR LICENSING

### SEC. 1101. DEFINITIONS.

For purposes of this title:

(1) The term "chemical weapon precursor" means a Schedule 1 chemical agent or a Schedule 2 chemical agent, as such terms are defined in section 3 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6701).

(2) The term "licensee" means a person holding a license under this title.

(3) The term "qualified person" means a person found by the Secretary to meet such qualifications as the Secretary may, by rule, prescribe to protect the public health and safety from the misuse of chemical weapon precursors. No person who has been convicted of a criminal offense under this title or under any similar or related provision of Federal or State law shall be a qualified person for purposes of this title.

### SEC. 1102. LICENSE REQUIRED.

After December 31, 2002, no person may purchase, sell, or distribute in interstate commerce any chemical weapon precursor unless such person is licensed under section 1103.

### SEC. 1103. ISSUANCE OF LICENSES.

(a) APPLICATION.—Any qualified person may submit to the Secretary an application for a license to purchase, sell, or distribute in interstate commerce a chemical weapon precursor.

(b) ISSUANCE.—Upon receiving an application containing such information as the Secretary may require, the Secretary is authorized to issue a license to such person to purchase, sell, or distribute in interstate commerce a chemical weapon precursor if the Secretary finds that such person is a qualified person and if such person agrees to comply with this title and the regulations under this title.

(c) TERM; REVOCATION.—A license under this section shall remain in effect for such term as the Secretary may prescribe, except that the Secretary may at any time revoke such license if the Secretary determines that the licensee has failed or refused to comply with this title or any regulation under this title.

### SEC. 1104. REQUIREMENTS FOR MAINTENANCE OF LICENSE.

Each licensee shall comply with each of the following requirements and such other requirements as the Secretary may establish by rule to carry out the purposes of this title:

(1) The licensee shall report any suspicious purchases or sales of chemical weapon precursors.

(2) The licensee shall maintain and make available to the Secretary and to Federal, State, and local law enforcement authorities records of the purchase, sale, or distribution of chemical weapon precursors. Such records shall be in such form and shall contain such information as the Secretary shall, by rule, prescribe.

### SEC. 1105. PENALTIES FOR VIOLATION.

Any person who violates any provision of this title or any regulation under this title shall be subject to a civil penalty of not more than $10,000 for a first offense and not more than $20,000 for a second or subsequent offense. If such violation was intentional, such person shall be subject to a criminal penalty of up to 10 years in prison in addition to such civil penalties.

H.R. 5005

OFFERED BY: MR. PAUL

AMENDMENT NO. 3: In section 763—

(1) strike subsection (b) (relating to transfer of appropriations);

(2) in the section heading, strike "; **TRANSFER OF APPROPRIATIONS**" (and conform the table of contents accordingly);

(3) strike the subsection designation and caption for subsection (a) (and redesignate the paragraphs and subparagraphs as subsections and paragraphs, respectively); and

(4) strike "paragraph (1)(A)" and "paragraph (1)(B)" and insert "subsection (a)(1)" and "subsection (a)(2)", respectively.

In section 811(e), strike the last sentence (referring to section 763(b)).

H.R. 5120

OFFERED BY: MR. BARR

AMENDMENT NO. 23: Insert at the end before the short title the following:

SEC. . None of the funds made available in this Act under the heading "Special Forfeiture Fund (Including transfer of funds)" to support a national media campaign shall be used to pay any amount pursuant to contract number N00600–02–C0123.

H.R. 5120

OFFERED BY: MR. GEORGE MILLER of California

AMENDMENT NO. 24: At the end of the bill (before the short title), insert the following:

SEC. . None of the funds made available in this Act may be used to enter into or carry out with an entity any Federal contract subject to the provisions of the Federal Acquisition Regulation unless such entity has a satisfactory record of integrity and business ethics.

H.R. 5120

OFFERED BY: MR. GEORGE MILLER OF CALIFORNIA

AMENDMENT NO. 25: At the end of the bill (before the short title), insert the following:

SEC. . None of the funds made available in this Act may be used to enter into or carry out with an entity any Federal contract subject to the provisions of the Federal Acquisition Regulation unless the contracting officer for the contract determines that such entity has a satisfactory record of integrity and business ethics.

H.R. 5120

OFFERED BY: MR. SANDERS

AMENDMENT NO. 26: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated by this Act may be used by the Internal Revenue Service for any activity that is in contravention of section 411(b)(1)(H)(i) or section 411(d)(6) of the Internal Revenue Code of 1986, section 204(b)(1)(G) or 204(b)(1)(H)(i) of the Employee Retirement Income Security Act of 1974, or section 4(i)(1)(A) of the Age Discrimination in Employment Act.

H.R. 5120

OFFERED BY: MR. SANDERS

AMENDMENT NO. 27: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated by this Act may be used by the Internal Revenue Service—

(1) for any activity that is in contravention of section 411(b)(1)(H)(i) or section 411(d)(6) of the Internal Revenue Code of 1986, section 204(b)(1)(G) or 204(b)(1)(H)(i) of the Employee Retirement Income Security Act of 1974, or section 4(i)(1)(A) of the Age Discrimination in Employment Act,

(2) for the issuance of favorable tax-qualified determination letters to employers who convert to a cash balance pension plan, or

(3) to enforce the preamble to Treasury Decision 8360, issued under section 401(a)(4) of the Internal Revenue Code of 1986 on September 19, 1991, which reads as follows: "The fact that interest adjustments through normal retirement age are accrued in the year of the related hypothetical allocation will not cause a cash balance plan to fail to satisfy the requirements of section 411(b)(1)(H), relating to age-based reductions in the rate at which benefits accrue under a plan."

H.R. 5120

OFFERED BY: MR. SANDERS

AMENDMENT NO. 28: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated by this Act may be used by the Internal Revenue Service for the issuance of favorable tax-qualified determination letters to employers who convert to a cash balance pension plan.

# SENATE—*Wednesday, July 24, 2002*

The Senate met at 10 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, whose patience lasts even when ours is tested, we praise You for this new day. Thank You for giving the Senators courage to battle for truth as they see it, deal with differences, and keep the unity of fellow patriots. The very nature of our system can foster party spirit. Help us maintain mutual esteem and trust without which nothing can be accomplished. Thank You for being the unseen but powerful Presence in this chamber. Keep us open to You and respectful of each other. Bear on our hearts the words of Thomas Jefferson after the contentious election of 1800: "The greatest good we can do our country is to heal its party divisions and make them one people." We dedicate ourselves to remember this today and throughout this election year.

At 3:40 p.m. today we will remember the sacrifice in the line of duty of Officer Jacob J. Chestnut and Detective John M. Gibson. Continue to bless their families. Help us to express our gratitude to the officers who serve in Congress wth such faithfulness. You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 24, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. NELSON of Nebraska thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

## SCHEDULE

Mr. REID. Mr. President, today will be a very busy day, which will begin with morning business until 11 a.m. The first half of the time is under the control of Senator DASCHLE, which time has been given to the Senator from Michigan, Ms. STABENOW. The second half of the time is under the control of the Republican leader or his designee.

At 11 o'clock, the Senate will resume consideration of the prescription drug bill, with 2 hours of debate in relation to the Hagel second-degree amendment.

At 1 p.m., the Senate will resume consideration of the supplemental conference report, with 30 minutes of debate prior to a 1:30 p.m. rollcall vote on adoption of the report.

Following disposition of that conference report, there will be 5 minutes of debate, equally divided on each side, on the Hagel amendment, followed by a vote in relation to that amendment.

At 3:40, as has been announced in the prayer by the Chaplain, we will remember the deaths of Officer Chestnut and Detective Gibson.

Following the vote on Hagel, we will go then to an amendment to be offered by Senator ROCKEFELLER. We expect to finish that fairly quickly and then go to another amendment or two today. The leader expects to work toward completing the bill this week.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 10 minutes each.

The first half of the time shall be under the control of the majority leader or his designee. The second half of the time shall be under the control of the Republican leader or his designee.

The Senator from Minnesota is recognized.

(Ms. STABENOW assumed the Chair.)

## MINNESOTA NEEDS DISASTER RELIEF

Mr. WELLSTONE. Madam President, I am joined by Senator DAYTON from Minnesota and the occupant of the Chair. We come to the floor this morning because we want to communicate a respectful, sincere, and honest message to each and every one of our colleagues.

It has been my experience in the Senate over the past 12 years that sometimes you just have to fight for people—not with acrimony, but you have to fight for people. In Minnesota, 17 counties have been declared Federal disaster areas due to tremendous floods last month. As a result, Northwest Minnesota, a rich agricultural region, has been devastated. According to the Minnesota Farm Service Agency at least $370 billion in damage to the agriculture sector has been caused, due to these floods. We tried to include disaster relief in the supplemental bill. Unfortunately we could not do it because the administration said don't even try, no way. While there is some help for the Federal Emergency Management Agency, which is important, FEMA cannot help the farmers and the Small Business Administration cannot help the farmers.

This is a case of "there but for the grace of God go I." I said this to my colleagues yesterday, and I want to say it again today. I have never voted against disaster relief assistance for anybody in the country, be it a hurricane, tornado, fire, drought, or flooding. If, God forbid, it happens to others, we want to help.

This administration has said no to any emergency disaster assistance for agriculture. The President has said any emergency assistance for agriculture must come out of the farm bill. The farm bill is about loan rates, dairy, conservation and fair prices for farmers. The farm bill is about economic assistance, not natural disasters.

So our message today is this: We are going to look at every appropriations bill, and if any appropriations bill comes out on the floor and there is assistance for fire or any other emergency that has happened—be it for Arizona, or for flooding in Texas, or anywhere else—we will slow up that bill. In fact, we will stop that bill if we need to until we get the commitment that there will be the funding for emergency disaster assistance for the farmers in Minnesota, or for the farmers in Nebraska, for the people we represent.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Time is not neutral. People need help now. We intend to make the Senate address this issue. I yield to my colleague from Minnesota.

The PRESIDING OFFICER. The junior Senator from Minnesota is recognized.

Mr. DAYTON. Madam President, I thank the Senator for graciously taking the Chair so Senator NELSON could join with the Senator from Minnesota and myself. I know the Senator from Michigan, who is presiding, has strong support for this disaster assistance as well. I want to say to my colleague and friend, the senior Senator from Minnesota, I am proud to stand with him today, and I am proud to follow his leadership on this disaster assistance legislation.

The Senator and I both serve on the Senate Agriculture Committee, along with our colleague from Nebraska. The Senate Agriculture bill had disaster assistance funding in it. The House and the administration would not agree to the inclusion of disaster assistance in the package, which came out of the conference committee and was enacted into law.

As the Senator said, it is imperative that the Senate and the House and the administration join together, given what happened in Minnesota, with 17 counties declared a disaster area because of excessive flooding in June. During a recent visit, I saw whole fields of crops underwater—giant lakes created by torrential rains one week, and again the week following. It is hard to see people, many of whom lost their crops last year, struggling again this year.

I asked Secretary of Agriculture Veneman last week in a committee hearing: Where is this money that is purportedly available in the legislation that was passed for disaster aid? And she could not identify any.

I join with my colleague in saying we must have this assistance. The Senate did it right in its version of the Farm bill. Unfortunately, the House and the administration have blocked disaster aid. We have to try again because farmers are going under if we do not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my distinguished colleague from Michigan for exchanging positions for a moment so I have an opportunity to make a statement about the importance of having disaster relief in the soonest possible timeframe.

Over the last several years in developing a farm policy, we have gone from virtually no help to a new farm program that is designed to help get agriculture on its feet, but it is designed to do that in a time when we would expect normal conditions. It is not designed to take care of disaster situations we are facing today for the livestock industry in particular.

If we are not able to step forward at this time, take care of this situation, and provide hope for the livestock industry in our country, particularly those that are experiencing severe drought, as in the case of Nebraska and the Midwestern States, many of those farmers and ranchers are going to divest themselves of their herds. They are going to cut down the size of their herds. They are going to sell off their breeding stock to survive under these terrible conditions. They are not going to be able to rebuild those herds overnight. It will take years to rebuild.

There is no coverage in the Crop Insurance Program for parched pastures that today will not sustain the grazing of our cattle. There is no support in the farm bill for those farmers and ranchers who are experiencing the losses on the livestock side. For those in this body who are looking for offsets, which is important in the Senate, they are looking for money. To go after the farm bill and the funding for building agriculture and take that money now to support the livestock industry is not the way to go. What we need to do is recognize that this is an emergency situation like other emergencies and it is a disaster that must, in fact, be addressed right now.

Many of the people who voted for the last four or five disaster programs without requiring any kind of an offset are today saying: If we do it today, we have to find an offset. It is because today we have a farm bill, and they found the source of dollars. That is the only reason I think they are looking at that program.

Robbing Peter to pay Paul at the present time will mean that both Peter and Paul will not make it. What we need to do is face this as a reality so that the farmers in Nebraska and the farmers all across our country, those who are selling their livestock, will know there is help on the way; that they can be sustained; that they are not going to have to sell off their herds.

As we look at this downward spiral, the spinoff problems are consequential. In addition to having smaller herds, there will be less cattle to eat corn. In a bumper crop year, there will be more corn, and therefore that will depress the price of corn.

This is not a situation without consequences to those outside interests. It will harm the smaller communities that depend on agricultural income for their very existence. We must, in fact, act now and not make this a partisan or political football to kick back and forth. We must, in fact, step forward now and recognize the urgency of this situation and not hold the farmers and ranchers of the livestock industry hostage while others are playing partisan politics.

I thank the Senators from Minnesota and other colleagues who are looking forward to having an emergency aid package, recognizing this disaster at the soonest possible time.

I yield the floor. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Mr. President, we are playing revolving chairs today. It is a pleasure to be in the Chamber with you. I indicate to my colleagues—the Senator from Nebraska and my colleagues from Minnesota—that I completely understand and support what they are fighting for and join them in that fight.

We also have had in northern and western Michigan disasters that happened as late as this spring where we have seen our cherry crop wiped out because of extremely hot weather, in the nineties, and then immediately going into freezing temperatures. We have seen our orchards literally wiped out in terms of the ability to produce cherries and other crops.

When this happens to our farmers, it is critical we step forward in a bipartisan way and do everything we can to support them to get through this year, to get through these disasters.

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## PRESCRIPTION DRUG BENEFIT

Ms. STABENOW. Mr. President, I rise today, as I have now for many weeks, and in particular in the last 2 weeks, focusing on prescription drugs, which is another disaster, quite frankly, that has been facing our seniors, our families, our farmers who are trying to find health insurance for their families, our small businesses that are seeing their health care premiums double in some cases, trying to afford health care for themselves and their employees.

I rise on behalf of those workers who have had their employer say: You are going to have to take a pay freeze this year because we have to have money to pay for health care benefits.

I rise for those manufacturers that are seeing an explosion as well, and basically for everyone who is paying the price for the explosion in prescription prices, and the system that is basically out of control.

We have been working hard in the last week and a half. I think we are making some progress, but we are not there yet.

Yesterday, we had an opportunity to vote on two different plans before the Senate. One was a plan to strengthen Medicare, to put a system in place that was promised in 1965 with the advent of Medicare: That once you are 65 or you are disabled, you will know that health care is available for you. We all pay into the system. The promise was made, and we have been trying to update and modernize that system to reflect the way health care is provided today, which is primarily on an outpatient basis with prescription drugs.

Yesterday, we had that plan that would pay the majority of the bill and would do it within Medicare, which we know works.

Then we had another plan much more focused on private insurance, HMOs, and I believe a step in privatizing the system. Quite frankly, that is supported by the drug industry, the pharmaceutical industry that has a situation right now for them that is too good to give up voluntarily. They fight everything. They fight any effort to modernize Medicare, to put 40 million people, seniors and disabled persons, in one insurance system because they know that if 40 million seniors and disabled persons are in a system together, they will be able to get a group discount, like all the other insurance companies. They are fighting that. They know when the Federal Government goes to buy for veterans in the VA hospitals, we do not pay retail, we get a discount on behalf of the veterans.

The outrageous part of the system today is that the only people who pay retail, the only people who walk into the pharmacy and have nobody negotiating on their behalf, are the seniors of this country and those who are disabled and need help with health care.

Everybody else gets a discount. So we are trying to change that. The companies are fighting us every step of the way.

I think we did something historic yesterday. We did not get all the way to where we need to be, but for the first time in the Senate—52 people, a majority of our colleagues—voted for a Medicare prescription drug benefit. Unfortunately, in this process we need to get to 60 votes, but I believe we sent a very strong message with 52 people—and the other plan, in fact, had fewer; I believe it was 48 people that voted for that plan. So fewer than the majority voted to move in the direction of privatizing, to set up a system that is much more favorable to the drug companies.

A majority of us, in fact, said we want to do this under Medicare; we want to pay the majority of the bill for our seniors. I am very hopeful that now we will be able to bring enough of our colleagues together, on both sides of the aisle, to be able to get those eight extra votes for something that moves us in the right direction. We know it is not going to be all that we had originally hoped, but I desperately hope the drug companies are not successful again in stopping anything real from happening.

I believe this is a point in history that people will look to just as they will look to 1965, and it is up to us to show that we will do the right thing.

Mr. DORGAN. Mr. President, will the Senator from Michigan yield for a question?

Ms. STABENOW. I would be honored to yield to my friend from North Dakota, who has been such a leader in this effort.

Mr. DORGAN. I would like to ask a question of the Senator from Michigan. It is true that yesterday we had 52 votes for a prescription drug plan in the Medicare Program. It is also true that we desperately need it. Medicare is now roughly 40 years old. Had we had these lifesaving and miracle drugs available when Medicare was created, there is no question that we would have had a prescription drug benefit in the Medicare Program. Our task now is to put a prescription drug benefit in the Medicare Program and do it in a way that does not break the bank. Both goals are important.

Yesterday, we had 52 votes for a prescription drug plan in the Medicare Program, but we need 60. It is also true that although a majority of the Senate have now expressed themselves that they want this prescription drug plan in the Medicare Program, a minority of the Senate can block it.

My hope is we will find a way now to reach 60 votes put a prescription drug plan in the Medicare Program in a thoughtful, responsible manner, that is helpful to senior citizens. At the same time we must put downward pressure on prescription drug prices. Both approaches are necessary.

I ask the Senator from Michigan if it is not the case that although we had 52 votes and the Senate has already said, yes, let us do it, a minority can block it? The question is, over the next 48 hours, Will a minority in the Senate block the majority's efforts to pass this bill? Is that not where we stand at this point?

Ms. STABENOW. That is exactly where we stand. My friend from North Dakota is correct. That is exactly where we stand. The question is, Will the minority be able to block what the majority of people want to have happen?

Turning back and asking my friend a question as well, I want to say for those who are watching today, there is a way to express yourself. We certainly hope you will engage with your Senator. You can also go to fairdrugprices.org and be part of an online petition drive urging the Senate to act, and share your own individual story. We have never had a more important time for people to be involved. We need people now to be involved. There are six drug company lobbyists for every one Member of the Senate, but the majority of the people in this country, regardless of where they live, know that we need action for them now, and that is what this is about.

Since my colleague has been a leader in another important effort, lowering prices for everyone, which is the other piece of the puzzle, we want to make sure Medicare is updated to cover prescriptions for those on Medicare, and that is critical. But for everyone else who is not on Medicare, they also pay too much, and there are a number of efforts we are equally engaged in to get more competition, to lower prices for everyone, and I wonder if I might ask my colleague to speak to that specifically, since we have joined in efforts to open the border to Canada, and other efforts.

I know that the Senator has been very involved in those efforts to create more competition.

Mr. DORGAN. Mr. President, the Senator from Michigan knows that one issue with respect to this bill is adding a prescription drug benefit to the Medicare Program, but that is not the only issue concerning prescription drugs in this country. The other issue is that all Americans who get sick, who have a disease or an illness and who need prescription drugs need to be able to afford and have access to these medicines. Miracle drugs provide no miracles, lifesaving drugs save no lives for those who cannot afford them. So we are trying to find a way to put some downward pressure on prescription drug prices.

The fact is that American people are charged the highest prices in the world for prescription drugs. Virtually everyone else in the world buys the same pill, put in the same bottle, made by the same company, and pays a much lower price. There is no Republican or Democratic way to get sick. There is no Republican version of Celebrex, Zocor, or tamoxifen, and there is no Democratic version of Celebrex, Zocor, or tamoxifen. There is just sickness, medicine, and need.

I want the drug companies to do well. I want them to invest in research, experimentation, and finding drugs. We are doing that in the public sector, doubling the amount we are spending on the National Institutes of Health searching for cures for these diseases. By the same token, I want what we reap from all this research to be affordable by the American people who need them when they get sick.

Regrettably, what has happened is every year the cost of prescription drugs is going up—18 percent last year, 16 percent the year before, 17 percent the year before that. There is this relentless increase in the cost of prescription drugs, and the fact is a lot of vulnerable people in this country desperately need those drugs and cannot possibly afford them.

Yes, it is important we do a prescription drug benefit in the Medicare Program. Fifty-two Senators have already said yes. The question is, Will a minority block us in the next day or two from getting this done?

We also need to find a way to put downward pressure on prices. One way we have worked on—and the Senator from Michigan has been a leader—is the reimportation of prescription drugs from Canada. The same drug, put in the same bottle, made by the same company, is sold in Canada at a fraction of the cost that the American consumer is charged.

To use one example, someone suffering from breast cancer who needs to take the drug tamoxifen is going to pay $100 for that which they could buy for $10 in Canada, the same medicine made by the same company, FDA approved, similar bottle, different price. The U.S. consumer is charged 10 times more than the Canadian consumer. It is wrong, it is unfair, and it ought to stop. These are the things on which we are working.

Ms. STABENOW. Absolutely.

Mr. DORGAN. We do not have perfect solutions, but we must in the next day or two make progress to get this bill completed so that we can go to conference with the House and make prescription drugs available to senior citizens, especially in the Medicare Program, and also begin to find a way to bring prescription drug prices down for all of us.

I appreciate the work the Senator from Michigan has done. She has done in her leadership position a lot of work on this issue, and I deeply appreciate it.

Ms. STABENOW. I thank my colleague from North Dakota.

To support the comments of the Senator from North Dakota, it is so frustrating to look at what is happening, and I think so unfair for consumers in the United States, taxpayers, and ratepayers. People say: How can this happen?

The reality is that today, while the companies say, oh, no, they cannot possibly lower prices at all because they would have to cut research, we know today that they spend two and a half times more on advertising, marketing, and administration than they do on research. When we look at the numbers for last year, the top companies' profits were three times more than they spent on research. This is not about research. We all are for research and, as my friend from North Dakota indicated, we as taxpayers fund research. This year we will contribute over $23 billion to basic research. I support that. I support doing more than that. It is an important investment.

After we do that, the companies take the basic information and see if they can develop new lifesaving medicine. That is great. However, we give tax deductions for research, as well as advertising and other costs of doing business. When they get to the point where they actually have a new drug, we give them a patent of up to 20 years to protect their competitive edge, their brand name, so they can recover their research costs.

We know it costs a lot of money to develop a lifesaving drug. We want to make sure it is a good investment and they can recover their costs. The problem is, we get done with all of this and what do we have? The highest prices in the world—higher than anyone else. If you are uninsured and using medications—which is primarily the seniors of this country—and you walk into your pharmacy, you get the great pleasure and honor of paying the absolutely highest prices in the world. That is outrageous. That is what we are trying to fix, both by making sure the health care system works with medications through Medicare, and also making sure that we have greater competition, that we address the outrageous spiraling prices and we can bring those down for everyone. That is the point of the debate.

We made some progress through amendments last week on cost containment. Yesterday we had an important debate on Medicare coverage. The question now is whether or not we will be able to get this done on behalf of the American people. I am hopeful we will be able to do that.

I am happy to yield to my friend.

Mr. DORGAN. Some say, when you talk of prescription drug prices, let the market decide. There is, after all, an open, free market; let the market decide.

Is it not the case that there is no free market for prescription drugs in this country? There are price controls in the United States but the prices are controlled by the pharmaceutical industry, and they like that. I understand that. Most other countries have price controls in which the governing authority sets the price, including profit, and the drug manufactures market those drugs in those countries under those conditions.

In this country, there are no such limitations. So in this country, you can charge whatever you like. The problem is, what if you charge too much for tamoxifen? What if you charge 10 times more than you should for tamoxifen, and they can actually buy it for one-tenth the price in Winnipeg, Canada? What prevents the consumer from voting with their feet and going to Canada? What prevents it is a perversion of the free market, and that is a law that says the pharmacist at the Main Street drugstore, the distributor cannot access drugs and bring them back.

There is a law that creates an artificial barrier against the free market working. When we try to change that, people say they are worried about bioterrorism, poppy seeds in Afghanistan, or they are worried the Moon is made of blue cheese—the most Byzantine arguments I have heard since I have been in the Senate.

Is it not the case that to say let the market decide, the free market is not a free market with respect to drug pricing in the United States?

Ms. STABENOW. The Senator is absolutely correct. There is not a free market. There are barriers placed in the way from real competition, real trade across the border, and there are ways now that the companies stop competition—buying up generic companies and blocking other competition.

I say in conclusion, unfortunately, we cannot just say, let the free market prevail. We are not talking about optional products. We are not talking about a family saying, we cannot afford a new car this year, we will wait; we cannot afford a pair of new tennis shoes or lawn equipment. We are talking about lifesaving medicine. Sometimes when people have to wait, they do not survive. This is different. We have to be serious about the difference.

I urge my colleagues to come together and get something done.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

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## EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mrs. HUTCHISON. Mr. President, I rise today to speak in favor of the emergency supplemental appropriations bill on which we will be voting at about 1:30 this afternoon. It is high time we pass this bill. The President asked for emergency appropriations to fund the Department of Defense and the war on terrorism about 4 months ago. It is critical. It contains $14 billion to fund the war on terrorism. With the cost of antiterrorist operations in Afghanistan and elsewhere exceeding $2 billion per month, these funds are certainly needed.

Because Congress has taken so long to produce this bill, the Pentagon has already reached into $3 billion worth of funds budgeted for ongoing activities in the fourth quarter of the current fiscal year.

Last week, the Pentagon's comptroller warned of dire consequences if Congress did not provide the funds soon. He said the Department would have to suspend ship deployments and aircraft training operations for units that are not forward deployed, with the result that many units would no longer be able to respond to any crisis that might emerge.

Many spare parts and supplies no longer could be ordered, and both ship maintenance and maintenance on critical aircraft, such as the EA-6B jammers and the F/A-18 fighter/attack aircraft, would come to a halt. Scheduled moves for military personnel would be disrupted, jeopardizing school years for children and job opportunities for spouses. As many as 35,000 civilians could be furloughed from the Department of defense.

Passage of this bill will guarantee our military does not run out of funds before the fiscal year 2003 Defense appropriations bill is sent to the President's desk, hopefully by October 1 of this year.

This bill also helps Texans who have been devastated by two disasters at the same time—a severe lack of water in the Rio Grande River Valley in south Texas and heavy flooding in central Texas.

This emergency legislation will help south Texas farmers by providing $10 million to make up for some of the losses they incurred during the last crop year due to lack of water. Families are suffering because their livelihood depends on water and Mexico has failed to deliver, under the United States-Mexico water treaty of 1994, the water that is owed. This treaty obligates Mexico to allow 350,000 acre feet of water to flow to the Rio Grande river annually while obliging the United States to allow 1.5 million acre feet of water to flow to Mexico from the Colorado River.

Since 1992, Mexico has incurred a debt of 1.5 million acre feet of this water to the United States, while the United States has continually complied with our water obligations under the treaty. Because Mexico has failed to deliver its treaty obligated water, south Texas has lost over 5,000 jobs each year and suffered $230 million per year in lost business activity. The economic loss to the region since 1992 is estimated to be $1 billion. This situation has become critical due to the continuing drought conditions in both south Texas and Mexico.

The bill also provides $100 million in assistance for emergency use—$50 million for fires, $50 million for floods—to hundreds of thousands of Americans who courageously fought to survive the wrath of scorching wildfires and unyielding flash floods that swept across New Mexico, Colorado, Arizona, Montana, Utah, Wyoming, Texas, and many other areas of our Nation. These natural disasters rip through our towns, threaten our families, wreck our homes and businesses, destroy our heirlooms, and leave us stripped of resources to begin putting the pieces back together.

On the Fourth of July, when most of the Nation was celebrating America's birthday, central Texans were evacuated from their homes by the thousands. Texas rivers were on the rise and were cresting at record levels, more than 20 feet above flood stage in most locations. By the time most of America's firework had burned out, the Medina River crested at a ferocious 44 feet above flood stage south of San Antonio. The storm left Texas with four people injured, four missing, and mourning the tragic deaths of nine.

I thank the Texas Department of Emergency Management and the Federal Emergency Management Agency, FEMA, for their rapid response and rescue efforts for thousands of people who evacuated their homes, some of whom had only a few precious minutes to muster their families and secure their most valuable possessions.

Imagine having to choose between saving your family photo album, your great-grandfather's journal, or your family Bible.

I particularly want to thank Joe Albaugh, the Director of the Federal Emergency Management Agency, who toured with some of us in the congressional delegation to see the floods firsthand so he could come back and make sure he had made all of the efforts that could be made, all that were possible to give help to the people of south central Texas.

The flood waters have dropped in Texas and people are now diligently working to clean and repair their homes and businesses. The total damages are still being assessed, and it is estimated they will reach another billion dollars. So I urge my colleagues to agree to this supplemental appropriations conference report to help them begin to put their lives back together in south central Texas.

In addition, I want to mention Amtrak because this bill does restore a commitment to Amtrak, and $4.4 billion in vital highway funding to the States that would have been lost due to a decrease in gasoline tax revenue. Amtrak, in particular, deserves our continued attention. Our national passenger rail system is teetering on the edge of the abyss. The bill merely pulls it back a few inches. We must find a way for Amtrak to achieve long-term financial security through a dedicated funding source similar to the way we fund highways and aviation transportation. Otherwise, we will face these emergencies every year, and service will continue to deteriorate.

At the same time, Amtrak's new leadership must eliminate this regional bias which has infected the railroad since its inception. Amtrak must stop sending all of its resources to the Northeast corridor, which is probably the only place in America with reliable rail service. Even so, the Northeast corridor is losing money every bit as fast as the rest of the system.

I have inserted language into the Amtrak authorization, of which I am a cosponsor, that would force the railroad to spend its money proportionately throughout the system. That way, passengers in Texas, Washington State, and Mississippi can enjoy the kind of service that Northeast commuters have had for decades.

I think we can have a national rail system for our country. I think it is important that we do so. We have the outline of such a railroad system today in Amtrak, but we have not funded it at a level where we could have and expect stable service.

So I hope we will not only give Amtrak its lifeline today—which I believe that we will—but let's look at ways we can stabilize Amtrak so all the places that now get service can get reliable service, ontime service. Every time Amtrak threatens to pull the long-haul lines—which they did earlier this year—we lose thousands of reservations from people not knowing if they are going to be able to use their tickets, if they are going to go somewhere and not be able to get back, so it hurts the system even more. That is why we need to have stability so people can count on the service for which they are paying. We owe them that.

We cannot possibly judge Amtrak unless we give them reliable service that would give us fair criteria. But to think we are going to do it on an operationally self-sufficient basis is ludicrous. We are not. No country in the world does. We are going to have to give it a stable revenue base and then hold the officers and board accountable for knowing how to run a railroad. I think it is time we do all these things and keep the commitment to having rail service in our country.

Rail service is every bit as important an alternative as highways, as buses on the highways, as airports and aviation. We need all kinds of transportation in our country. In some places, freight is most easily and efficiently transferred from State to State across our country via rail. In some places, people cannot get to an airport. They do not live in a place that even has bus service. So they need another alternative that will allow them to travel across our country. This is part of national security. It is part of a stable economy. I think we need to just make a commitment and do it right. We have not been doing it right. We have been putting Band-Aids on Amtrak ever since we revived it years ago. Now is the time to do it right.

I think this supplemental appropriations bill is a good one. It meets the needs of our military and our homeland defense, which certainly have been in a crisis situation for the last few months as we have debated this bill. It also addresses the emergencies in our country, from fires raging across the western part of the United States to floods in my home State of Texas. And it does help us revive Amtrak, hopefully to give the leadership of Amtrak—new leadership, I might add—the ability to get this job on track and hopefully to do it right.

Mr. President, I urge my colleagues to support this bill and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, what is the state of the proceedings at this point?

The ACTING PRESIDENT pro tempore. The minority controls the next 14½ minutes.

## STRENGTHENING CORPORATE ACCOUNTABILITY WHILE STRENGTHENING CORPORATE INNOVATION

Mr. HATCH. Mr. President, the Senate accomplished two significant feats last week. First, this body took strong action to ensure that candor and accountability will be watchwords in the world of corporate accounting. We have given the Securities and Exchange Commission the tools it needs to better do its job of ensuring that financial statements tell investors, in plain English, how our nation's corporations are really doing. And we crafted 21st-century criminal statutes and tougher penalties for those corporate wrongdoers who willfully mislead investors about corporate finances, and we are still working on that language.

Second, and more important, we resisted to a great extent the temptation to turn this bill, on which Senator SARBANES and Senator GRAMM worked so hard, into a tool for demagoguery. With the continuing reports of shoddy bookkeeping at some of our biggest companies, with terrible news coming from Wall Street these past few weeks, and with continuing layoffs at major corporations, it is no wonder that many pundits across the country, and even a few of our colleagues, were tempted to cast about, looking for a bill to support—any bill at all—that could make them look tough on white-collar crime.

But the battle is not over yet. We know that here in Congress, as well as in the regulatory agencies and in State governments, there are still moves afoot to impose more rules, more regulations, and more punishments on American businesses. There are those who are predicting that this wave of corporate scandals could give rise to a new era of big government, much like the Progressive Era or even the Great Depression.

I rise today, to say that this Nation must not return down that failed path. A new era of "re-regulation" would, without a doubt, damage or destroy the twin engines of innovation and capital formation that have made the American people the richest people the world has ever known. A new era of re-regulation, however well-intentioned, would put us on the path that Europe and Japan have recently trod. We would be playing a constant game of catch-up with whatever country was in the economic lead. People in the leading countries would have access to new inventions today, and then, years later, citizens of the sluggish United States would finally be able to afford them. That is the kind of trickle-down we need to avoid, and that is the kind of trickle-down that the good people of Europe and Japan live with every day.

I have faith that the American people will not be led down that path. Instead, I believe that they will remember that in the late 1990s, the forces of competition gave birth to modern wonders in the fields of medicine and telecommunications while Congress cut capital gains taxes and balanced the budget. We saw the promise of venture capital unleashed, as many new start-ups tried out their new ideas in the marketplace even though we knew in advance that only a few would succeed.

And as investment and innovation increased, our workers became more productive, and higher productivity led, as always, to higher wages and better living standards. Census figures show that since 1980, the share of families earning over $100,000 per year doubled, even after adjusting for inflation. The number of people living in poverty has declined, and the only reason it has not declined faster is because this land of opportunity draws in poor immigrants from throughout the world. In many cases, however, within a generation these immigrants will rise into the middle and upper ranks of income-earners.

And, most saliently, this prosperity reached into almost every part of American life. Overall unemployment rates reached the lowest levels in 30 years, and every race and every age group saw its fortunes improve. Just as the 1980s debunked the pessimists who thought that stagflation and malaise were the waves of the future, so the 1990s, with unemployment rates getting down to 4 percent, debunked those who thought that unemployment rates below 6 percent inevitably spark inflation.

Despite the fact that the American people have endured a year of high energy prices, a painful recession, waves of corporate accounting scandals, and the horrific attacks of September Eleventh, our economy's foundations remain strong. Innovation and capital formation have continued even during the depths of the recession, to the amazement of the pessimists. Despite the many buffetings our nation has endured, America's workers are more productive today than they were just a year ago. That continued the trend of the last few years, where we saw productivity grow at an annual rate of 3.1 percent.

We have seen the unemployment rate shoot up from its 30-year low of 3.9 percent up to 5.9 percent in June. Mere numbers, of course, can never convey the real cost of losing a job. And tragically, recessions continue to hurt workers months and months after sales pick up. But clearly, this recession is like no other that we have seen: manufacturing has been hit hard, very hard, by this recession. Workers in those industries, and people who live in towns that rely on those industries, have paid a heavy price.

But our economy's resilience and flexibility is amazing, and this resilience shows in our labor markets, where our nationwide average unemployment rate of 5.9 percent, while still too high, would have been hailed during most of the 1980's and 1990's. And if Congress acts to restore the economy to its potential, enacting policies that encourage innovation and capital formation, we can continue to improve our standard of living, get the unemployment rate back down, and make our economy more resistant to the inevitable economic shocks of our modern world.

As Chairman Greenspan noted last Tuesday, Congress can strengthen our economy's long-run potential through strong fiscal discipline, so that more of our economy's resources are in the hands of our innovating private sector. And since capital formation and technical innovation are keys to productivity growth, we should move aggressively toward expensing capital equipment and finally making the research and development tax credit permanent.

The accounting reform bill we passed last week is a good bill, and once it comes out of conference, I hope it is even better. The Senate bill reduces the potential for conflicts of interest between auditing and consulting services. It ensures that the government will vigorously scrutinize audits to ensure that the balance sheet is telling the real story. And it modernizes the criminal codes to deal with the corrupt few who knowingly break the rules outright.

But once the final version of this bill becomes law, that is by no means the end of the story. Once the regulators get ahold of the final bill, it will, once again, become a target for anti-corporate activists, those who distrust bigness, who distrust success, and who distrust the competitive spirit of the American people. They will seek to pressure the SEC and the Financial Accounting Standards Board to enact rules that express their hostility toward corporate America. And however well-intentioned the goals of these activists, they could have disastrous consequences.

Let us consider an example that sounds reasonable enough. I started off by noting that the Sarbanes bill would ensure that financial statements tell investors, in plain English, how our nation's corporations are really doing. There are good reasons for reporting financial statements in language that ordinary investors can understand, and the SEC has done a good job encouraging corporations and financial services companies to avoid unneeded jargon in their official statements. But at the same time, we need to remember that while corporate finance is not rocket science, it is not that far from it.

Some issues will be hard to understand, and they should stay that way. If we insist that every financial dealing be completely understandable to the average investor, then you know what we will end up with. Corporations that the average investor would not want to invest in. Investors want their companies to be run by people who know more about finance than they do, just as they want our homes built by people who know more about construction than they do. Sure, it is good to know the broad outlines about how a house is built. But we expect construction workers to use their specialized knowledge, knowledge that is difficult to convey to a layperson.

The same holds true in the world of corporate management. Even after these accounting reforms are up and running, accounting is still going to sound like a foreign language to most people, and plenty of run-of-the-mill business decisions are going to sound complex to outsiders. Critics will accuse anything with a footnote of being a loophole, just another example of "crony capitalism." They will put pressure on America's businesses to simplify their businesses so that it can be "transparent" to outsiders. But we cannot give in to the urge to insist that corporate finance be intelligible to high-school students, and we cannot allow pressure groups to dictate how to organize a business.

We have seen unjustified awards destroy the careers of many good doctors who can no longer get malpractice insurance just because juries end up being swayed by emotion and genuine human suffering rather than by the difficult medical issues at hand. We cannot let the same thing happen to corporate America.

Finally, I want to address an overarching question: Do we really live in a world where a couple of crafty and unscrupulous executives can destroy an entire Fortune 500 company? Is our market economy really a house of cards that needs the ever-present support of the Federal Government to keep from falling down? I do not believe the evidence supports these pessimistic conclusions. The companies that have been in the news made bad business decisions generated by what Chairman Greenspan called "infectious greed," which they covered up with accounting chicanery. It was the bad business decisions that were the root cause here, made far worse by the fact that the mistakes were successfully covered up for so long.

By tightening the auditor's scrutiny of business decisions, we expect that in the future, bad decisions will be uncovered sooner, before too much damage is done to the company and to its stock price. But business decisions will continue to be made, both good and bad, and companies will continue to rise and fall as customers and shareholders vote with their dollars. That, as Secretary O'Neill noted, is the "genius of the market."

And that brings me to my final point. If auditors uncover a serious problem with a company's books, who will fix it? Surely, in most cases, the board of directors will act aggressively to sack the problem executives and install a new team that will work hard to put things right. Especially with the incentive of stock options and stock ownership, the new management team, facing auditor scrutiny, will have strong reasons to do the best they can to boost shareholder value. The punishments dealt by the stock market are already giving corporations a strong incentive to reform, as stockholders press for clarity and boards of directors interrogate their CEOs and demand answers.

But what about those occasional situations where the directors are either incompetent or out of touch? In practice, it is very difficult for shareholders to replace directors on their own. There are sometimes millions of individual shareholders, each of whom has little incentive to put in the time and effort of replacing their directors. It is almost always easier to sell the badly-performing stock than it is to replace incompetent directors. At this point, our last best hope is that much-maligned character from the 1980s, the hostile takeover artist.

The Sarbanes bill uses the phrase "protection of investors" over 20 times. But who protects investors better than someone who invests a large sum of cash into a failing company, kicks out the old, ineffective, perhaps even corrupt management, and installs new leaders dedicated to maximizing long-run shareholder value? But while we have seen numerous large mergers over the last decade, why have we not seen as many genuinely hostile takeovers? The answer, of course, is legislation. In this case, it was not federal law but state laws that stemmed the tide of hostile takeovers, as laws made it easier for sloppy management to fend off takeover advances. So even if improved audits uncover corporate incompetence or worse, shareholders could still be left with bad managers and worthless investments.

The accounting reform legislation on which we have worked will break new ground in the realm of investor protection. It will increase transparency and punish wrongdoers. But that is only half the battle against corporate mismanagement. The second half of the battle comes when directors and shareholders take action to purge the ineffective executives and restore the profitability of their investments. In time, I hope Congress takes action to assist them. The combined calls by the President and the Senate for directors with greater independence is a strong step in that direction.

In closing, I want to draw attention again to the true foundation of our nation's prosperity—our nation's workers, the most productive in the world. Whether they work in a factory, behind a desk, or on a farm, the American worker can produce more in an hour than any other worker in the world. That is because they have access to better tools, better knowledge, better education, and in particular, better organizations. From old-economy stalwarts such as Ford to new-economy innovators like Intel to our ever-modernizing agribusiness sector, our economy's large organizations help to coordinate the activities and innovations of countless numbers of people so that we can accomplish more with our scarce time. The quality of American automobiles, the speed of American-designed microprocessors, and the produce of America's farms keep increasing each and every year. I am confident that our accounting reforms, if enforced prudently, will help to strengthen the American corporation's ability to innovate. And by doing so, all Americans will reap the rewards.

Mr. President, I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 812, which the clerk will report.

The bill clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Hagel Amendment No. 4315 (to amendment No. 4299, as amended), to provide Medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

### AMENDMENT NO. 4315

The PRESIDING OFFICER (Ms. LANDRIEU). Under the previous order, there will now be 120 minutes for debate on the Hagel amendment No. 4315, with 60 minutes each under the control of the Senator from Nebraska, Mr. HAGEL, or his designee, and the Senator from Massachusetts, Mr. KENNEDY, or his designee.

Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will yield myself such time as I might use.

Madam President, yesterday we had a very important debate, and we also had the Members of the Senate voting on two important measures for the prescription drug program. I am a strong supporter of the proposal that was offered by the Senator from Florida, Mr. GRAHAM, and Senator MILLER from Georgia. That amendment achieved 52 votes in the Senate. A majority of the Members voted in favor of a program based upon the Medicare system, a program that closes the great loophole that is part of our Medicare system, which so many of our seniors are faced with every single day.

We had a good debate on that measure. And we had a good debate on the Republican alternative, which I believe, as I expressed during the course of the debate, falls well short of meeting the needs of our seniors. The alternative plan is inadequate, full of loopholes, and fails to address the overarching issue of prescription drugs for our seniors. But, nonetheless, we had a good debate.

There are those who supported that program. Obviously, their interpretation differed with my interpretation of the program, and they believed—and continue to believe strongly—that their program was the best way to achieve the objective of universal coverage of seniors in this country. We did not have a difference in terms of the underlying concept, we had a difference in terms of approach. I believed—and still believe—we would be unable to guarantee protections for our elderly under the Republican proposal. But that was the matter of the debate. The Senate spoke. And it spoke more favorably of the proposal offered by Senator GRAHAM than the Republican proposal.

Now we have an entirely different proposal before the Senate. I, quite frankly, believe—even though I was highly skeptical of what they call the tripartisan proposal—that this does not even measure up to the tripartisan proposal.

What we are attempting to do in the Senate is to pass a program that will reach all of our seniors, and do it in a way that is going to be affordable for our seniors. That is one of the great features of the underlying proposal, which we all support on this side of the aisle. And it does include measures that have been accepted both in our HELP Committee, as well as on the floor of the Senate that deal with the issue of the cost of prescription drugs.

We want to make prescription drugs affordable, we want to make them accessible, and we want to build on a system in which the seniors have confidence. That is why, quite frankly, we find that virtually all the seniors groups have supported the proposal of Senator GRAHAM and Senator MILLER. They all support that proposal. Virtually none of them support the tripartisan program. And virtually none of them support this particular proposal.

It seems to me, as we stated yesterday, our seniors—who have fought in the wars, brought us out of the Depression, and built this Nation up to be the great country that it is—are entitled to more than crumbs in terms of the prescription drug program.

They are living longer, thankfully, and families are blessed by the presence of their parents and grandparents. These days, a number of generations—three or four generations—can be alive at the same time. That is all very good.

I cannot understand, for the life of me, why the Senate would be willing to accept the amendment which is being offered now, which is so inadequate that it does not even deserve to be called prescription drug coverage under Medicare. It is a step backwards, not forwards, in mending the broken promise of Medicare and providing senior citizens the health security they deserve.

It provides no real cost containment for the explosive growth of prescription drugs. That is a major problem. We have had good debate on those measures, but this proposal has no cost containment. Its funding is so inadequate that it would pay about a dime on the dollar toward prescription drug costs of the elderly—a dime on the dollar. One of the things we want to avoid in the Senate is telling our seniors that we are doing something meaningful for them in terms of prescription drugs and then failing to meet that test. When you are down to a dime on the dollar for prescription drugs, I believe this amendment fails to live up to a prescription drug coverage for the elderly.

It is a catastrophic-cost-only plan. We tried that once, and the elderly, themselves, rejected it. I was here in the Senate when we tried the catastrophic program for the elderly, and they, themselves, rejected it. We can come back to that discussion later on if we want to.

Under this amendment, a poor senior citizen with an income of less than $9,000 a year would have to pay $1,500—17 percent of their income—before they got any help.

A low-income senior with an income of only $18,000 a year would have to pay $3,500—20 percent of their meager income—before they got any help.

A moderate-income senior citizen with an income of $35,000 would have to pay $5,500—16 percent of their income—before they got any help.

This isn't insurance, and this isn't Medicare. If it were to become law, senior citizens would still be choosing between whether they are going to put food on the table or take the medicines they need to survive. If it were to become law, senior citizens would still face the prospect of having their lifetime savings swept away by the high cost of prescription drugs. If it were to become law, the broken promise of Medicare would remain broken.

Beyond the simple fact that this benefit is inadequate, it violates a basic principle of Medicare, by effectively imposing a means test. Medicare is one of the most beloved and successful programs ever created. The reason it has such broad public support is that it is universal social insurance. Everyone contributes, and everyone benefits.

Republicans have wanted to turn Medicare into a welfare program ever since it was created. This plan is, I believe, just another step in that direction. The American people rejected that approach in 1965, and I think they still reject it today.

This bill is more inadequate than the House Republican bill. It is more inadequate than either of the two bills just voted on by the Senate. It is not supported by a single organization of the elderly or the disabled. And it does not deserve the support of the Senate.

If we are going to take steps to try to respond to the needs of the elderly, it seems to me we ought to be able to gain the support of those groups. We have to ask ourselves, each time we consider legislation, who benefits? Obviously, we also have to ask, who pays? The taxpayer. Who benefits from this program, and how do they react to this program? The elderly, and they are not in support of the program.

The fight for a real Medicare prescription drug benefit did not end yesterday. We will continue to fight until senior citizens have the protections they deserve.

A vote for this bill is a vote to substitute a political fig leaf, a very small fig leaf, for the real protection the elderly need.

I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Madam President, I yield 5 minutes to my colleague from Tennessee.

Mr. FRIST. Madam President, I rise in support of the Hagel-Ensign bill because it really strikes right at the heart of what seniors expect from our Government as they look at their health care and as they look to their future.

When I talk to seniors as I travel around the great State of Tennessee and the country, they tell me a very simple and straightforward message regarding prescription drugs: Please, when you go back to Washington, enact a prescription drug benefit and do it now. Do not do it 3 or 4 years from now—implementing the program in 7 or 8 years. What I want is something now; do it now.

The beautiful thing about the Hagel-Ensign bill—and I congratulate the authors and sponsors and cosponsors—is that it is the only bill that has come to the floor of the Senate that enacts a prescription drug benefit now. Our seniors deserve an affordable, immediate prescription drug coverage. That is No. 1: Do it now. This is the only bill we have considered that accomplishes that.

No. 2: do it responsibly. That is where the debate has changed a lot compared to 2 years ago or 4 years ago or even prior to the last election a year and a half ago. Our seniors today, individuals with disabilities and the future generation of seniors say: Do it now, but do it responsibly. Responsibly means to have a bill on the table that can be sustained over time, which does not sunset or have a narrow window of applicability. Do it now; do it responsibly.

Yesterday, we talked about bills on the floor that cost $800 billion or, over a full 10-year period, $1 trillion, and that did not pass. Additionally, we debated a bill that cost about $370 billion. That bill did not have sufficient votes for the point of order. Today, we are talking about a bill that costs less than $200 billion—well within what we have budgeted.

Even more importantly than cost, is that this particular bill captures the power of what is called competition or the marketplace. What that means is what we pass today in terms of benefits, in terms of the prescription drug card, and in terms of the catastrophic coverage will be able to be sustained over time. When you capture the element of competition in the delivery, what you say is that there will be prudent tradeoffs, and decisions made regarding—whether it is inpatient hospital care, acute care, chronic care, preventive care, or prescription drugs.

When I say "tradeoffs," I don't mean lessening of the benefits. I mean bringing people to the table so rational decisionmaking can take place, given that the benefits that are promised need to be matched with the resources that are available.

The Hagel-Ensign bill is immediate, affordable, and permanent. It is not promised just for a period of time. Finally, it is market based—capturing the power of competition so that it can continue to deliver the benefits over time.

For that reason, I am excited about this bill. I urge my colleagues to support this bill. We will have the opportunity to debate and discuss the details over the next 2 hours. In short, it is a prescription drug card where every senior who participates can get a discount instead of paying retail for drugs. Additionally, there is a cap as to how much they will have to pay out of pocket. This cap provides seniors with security and peace of mind that in the event they are struck by a lymphoma, heart or lung disease and have to buy prescription drugs that they will only have to pay a certain amount. For those reasons, I urge support for this immediate, affordable, permanent, and market-based plan.

The PRESIDING OFFICER. The Senator has used 5 minutes. Who seeks recognition? Who yields time?

Mr. HAGEL. Madam President, I yield my colleague from Nevada 5 minutes.

Mr. ENSIGN. Madam President, I want to talk about a couple of philosophies that deal with this bill. We currently have a health care system that has evolved over time where we have low deductible policies and we have usually a small copay involved. That low deductible coverage over time has taken the patient out of the accountability loop.

Somebody goes into the office. They have an annual deductible. They don't pay attention. They go in and they start getting their health care coverage. The doctor tells them whatever they should do. The doctor is trying to rush people through. They don't think the patient is paying for the care. So they don't take the time to explain why certain tests cost money. They know somebody else is paying for it. They don't think about the patient's cost because it isn't the patient. It is an insurance company that is paying the cost.

By taking that patient out of the accountability loop, costs have skyrocketed in the United States. That is the fundamental flaw to the insurance system we have in our health care delivery system today. It would be akin to having homeowners insurance that paid for doing the landscaping around your house or painting the trim. We don't expect that. We expect those normal maintenance costs to be paid out of pocket.

But if something like a fire happens to your house or some kind of other horrible thing happens—for example, I recently had a hose break in our washing machine. We ended up with probably about $30,000 worth of damage. Unfortunately, we had gone on vacation when the hose in the washing machine broke. We came home. There was all kinds of damage. We had to have floors replaced, walls; it was about $30,000 worth of damage. Our insurance kicked in. But I didn't expect my homeowners insurance to pay for repainting the trim on my house or landscaping or things like that.

That is normal expenses in everyday life. That is why homeowners insurance has remained relatively inexpensive over the years. Health care insurance has not, because the patient doesn't think about the cost.

Our plan says: Let's keep the patient accountable. Let's keep the senior citizen accountable. Senior citizens don't want to put a huge burden onto young people. Yes, they would like prescription drug coverage.

The Senator from Massachusetts mentioned that seniors don't want to lose what they have saved for all the years. They want to make sure they have some security in their assets.

We have said: Let's keep the patient in the accountability loop. Low-income seniors in our bill will pay the first $1,500 or about $120 a month out of pocket. They are going to pay that. Seniors can afford to pay that. They are willing to do that. After that, the Government is going to pay—other than a small copay—is going to pay so that the senior who has diabetes, a heart condition, cancer, that senior is going to be covered under our plan and is going to keep from losing all of their valuable assets.

So because the first dollar coverage is paid by the senior instead of the Government, our plan is much more fiscally responsible to the next generation. That is why, when Senator FRIST talked about it being a sustainable plan, our plan, in the future, will be sustainable because the patients—the senior citizens themselves—will shop for medicine; they will not just take whatever the doctor says. They will ask: what about generics? Is there a generic for that? They will do that because they are paying the first dollars out of their pockets. They will also ask: Do I need that medication? I am taking four medications. Do I need all four? Maybe the doctor would say: I forgot about the other medication you were taking.

So this brings the patient back into being accountable for their own health care. That is critically important to our health care system and especially to this new prescription drug coverage that we want to add to Medicare.

Madam President, I urge my colleagues to look at this very reasonable proposal. It is something that can be done, and can be done now, and it can be made permanent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I think we ought to have at least some understanding about what the challenge is. We make decisions in the Senate, and this is basically a question of priorities. The issue that is before us, in the broader context, is whether we believe it's a priority to do something to keep the costs down in terms of prescription drugs for our senior citizens, our fellow citizens.

Now, our good friends on the other side say: Look, we want to do something, but we are not going to do very much. It is better than doing nothing at all.

I would like to believe we are capable of doing something more for those Americans who have been called the greatest generation. Rather than giving them crumbs, it seems to me we ought to give them a decent benefit package that is built upon the Medicare system. That is what is supported by all of the elderly groups.

The question is, do we have the will? Or are we going to just trim something off the edges and give them a little something? If you are making $8,000 or $9,000, you are going to have to spend $1,500 before you ever get anything at all.

It seems to me this is a question of priorities here in the Senate for the greatest generation, for our senior citizens: Are we prepared to make a commitment that will ensure them a benefit package that is equal to the request by this President for tax cuts this year—$600 billion? I don't hear any proposals from the other side saying, let's defer that $600 billion tax cut and put it in here for prescription drugs. Let us not try to shortchange our senior citizens.

There are two issues which are underlying all of this. One is the issue of cost, which is clearly demonstrated by this chart. The yellow represents the consumer price index, the gradual increase in inflation, and the blue represents the drug costs that are going up every year. There is nothing in the Hagel proposal that does anything to get a handle on these costs. Those costs are going to continue to go up. There is no proposal in there that does anything about cost. But there is another very important proposal that we have before the Senate—and we welcome the support of our Republican colleagues—that can make a difference in terms of cost.

Our Democratic program deals with the issues of cost and also with the issues of coverage. Cost is going up. Our seniors need help. Let's just look at what we are facing globally in the United States in terms of prescription drugs and our seniors and where they are.

We have 13 million who have virtually no coverage at all; 10 million have coverage in employer-sponsored programs—we will come back to that—13 million have none, and 10 million are in employer sponsored programs; 5 million are in the Medicare HMO; 2 million are in Medigap; 3 million are in Medicaid, and another million have other kinds of public coverage. The only seniors who are protected in this whole group are the ones with Medicaid. They are the ones who are guaranteed. The rest of them are not, and we will see very quickly why they are not protected.

Remember now, 13 million have none and 10 million are employer sponsored, 5 million in HMOs, and 2 million in Medigap. Let's take the employer-sponsored group. Look at what happened in the employer-sponsored programs. This chart shows what has been happening in the employer-sponsored programs. Firms offering retiree health coverage dropped 40 percent between 1994 and 2001. That line is going down through the cellar of the Senate. Those 10 million who were covered by employer-sponsored plans are going right on down. They are being dropped every single day. Make no mistake about it.

Under the Republican proposal that was before the Senate yesterday, this decrease would have been accelerated for 3 million seniors in that program because the employers would not receive any of the assistance they need to retain them.

So the 10 million who have the employer sponsored are going down. We have the 13 million who have none and 10 million who are employer sponsored. They are increasingly at risk every single day.

Well, you say, we still have 4 million who have HMO coverage. Look at the bottom line here. Look at the Medicare HMOs, reducing the level of drug coverage. This is going down every single year—70 percent of the HMOs limit their drug coverage to $750. So even if you have some coverage up to $750, you are paying higher and higher costs. That wasn't the case 5 or 7 years ago, but it is the case now. Fifty percent of the Medicare HMOs with drug coverage only pay for generic drugs. So this is what is happening now. The HMOs the 4 million people who have some kind of coverage are being restricted, they are being limited, they are being conditioned every single day.

Increasing numbers of our seniors are not being taken care of. This is what we are facing in our country. The answer we had before the Senate yesterday was a comprehensive program built upon Medicare, which is affordable, which is dependable, which is reliable, which is defensible, and which the overwhelming majority of the elderly support. We have 52 votes for it. We would like to build on that. We are attempting to do so. Now, with the Republican program—as I pointed out, I didn't agree with it, I didn't support it. But at least those who did support it made the case that it was going to be able to provide universal coverage. They said, look, we can do it through the private sector, and if the private sector won't provide the coverage in remote areas, we are going to continue to fund them until at last they do.

I suppose at the end of the day you can find someone who will sell a prescription drug program in a remote area of Alaska if you pay them enough to do so. Our concern is that with the amount of money we are spending to pay the private sector, we ought to be using it in the benefit package, ought to be enhancing the benefit package, providing additional kinds of relief for our senior citizens.

Now along comes a proposal that is opposed by the AARP. Here is a letter that was circulated yesterday. It says:

> Given these concerns, the AARP opposes your amendment.

The reason the seniors oppose it is they don't really believe that this will be any substantial or significant help, or even a little help, to the seniors in this country. They believe what we ought to do is build upon the Medicare system, a system that has been tried and tested, and has performed over the test of time. As the leading organization of the elderly finds, this proposal is completely inadequate. At least we ought to live up to our hopes and our dreams for our seniors, and that is to cover all of them.

We ought to cover all of them. What happens to those seniors who are making $7,000 or $8,000, $9,000? They have to pay out $1,500. Think of this: An elderly person who has worked all of his or her life and has $9,000 in income. Now they have to pay out all of this money. They have to pay out $1,500 before they get any assistance at all. On what are they going to live? Think of the difficult choices and decisions they have to make to come up with that $1,500. Then they will have to pay a copay after that.

A low-income person with only $18,000 in income will have to pay $3,500, 20 percent of their meager income before they get any help. This is well above what any average senior citizen is paying at this time. The average citizen is paying somewhere around $2,000. A person with an income of $18,000 will have to pay $3,500. They are making $18,000 a year and we are calling that moderate income.

How do people get along with $18,000 a year to pay for a mortgage, pay for the heating of their home, pay for their food, pay perhaps for a summer camp for their children or grandchildren? How do people get along on that $18,000? The fact is, people are hard-pressed, and I think for us in this body to accept the concept that we have done something for our seniors with this is a complete misstatement. I just do not see how we can support this proposal.

Nothing in this proposal deals with the cost of prescription drugs—this limited program is unworthy of what we in this body ought to be about. 52 Members of the Senate on our side, and 48 Members on the Republican side voted for a universal plan. Now, we are back in less than 24 hours talking about a catastrophic program that will only reach a small number of people and will put people through the wringer to do so. I think this institution, this body, can do better.

I strongly believe that seniors, who are faced with this national challenge and who are suffering and experiencing these extraordinary choices every single day deserves a great deal better. That is why I hope eventually that this amendment will not be accepted.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Madam President, I am the designee of the Senator from Nebraska. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, I wish to address some of the concerns of the Senator from Massachusetts. First, there are many States, at the income levels he is talking about—$9,000,

$10,000, $11,000, and even in my State of Nevada up to the $22,500 a year level—that are already providing some help for senior citizens.

The Republican Governor of my State was very visionary and put together something called the Senior Rx Program using part of the money from the tobacco settlement. For people with an income of $21,500 or less—they are non-Medicaid-eligible people—as long as they have been a resident of Nevada for at least 12 months, they can have a maximum benefit of $5,000 a year. They have no premium. They pay $10 for generic drugs and a $25 copay for preferred drugs.

In the State of Nevada, that person Senator KENNEDY was talking about who makes $9,000 a year is taken care of. In fact, that person does very well. That person does better than under the Democrat proposal—much better.

Also, if you go out and talk to seniors—I have been in a couple of very time-consuming and all-encompassing campaigns 2 out of the last 4 years—I talked to seniors all over our State, and if you say to them they are going to be limited to about $100, $120 a month of out-of-pocket expenses for those low-to moderate-income people, they are ecstatic; they will jump at that. They will say: Sign me up, as long as they are limited from losing everything or from being bankrupted based on prescription drugs or not being able to pay their rent.

I say to the Senator from Massachusetts that maybe he ought to encourage the people in his State to take a look at what the people in the State of Nevada have done for their seniors, because the seniors in Nevada who truly need help, under this plan, are taken care of.

Those who are higher income seniors—by the way, most seniors have their mortgages paid for. Most of them have their cars paid for, compared to young people. That is what a lot of this argument is about. Tell someone who is making $30,000 a year and has a couple of kids that in the future they are going to have to pay a lot higher taxes; they are already paying high taxes now, but in the future they are going to pay higher taxes because of what we are setting up today, especially if the plan the Senator from Massachusetts supports became law. If the plan the Senator from Massachusetts supports became law, taxes in the future are guaranteed to go up, otherwise our Medicare system will be bankrupt.

Part of that is because of what I already talked about. When you take the patient out of any kind of accountability for what they are receiving, costs are going to skyrocket. We have seen that in our health care system today. A lot of the issues about which the Senator from Massachusetts was talking and the charts he was showing with drugs going out of sight is because people are not accountable for what they are getting. Insurance is taking care of it.

Let us look at what we have before us today. Let us do something for those seniors, and I want to give a couple of examples. I want to show you real-life examples of senior citizens with real-life diseases who are paying real dollars out of their pockets for prescription drugs.

The first example I want to use is a guy named James. He is about 68 years old with an income of about $16,000 a year. He is taking these following medications: Glucophage, Glyburide, Neurontin, Protonix, Lescol, and Zoloft, for a total cost of close to $500 a month, $5,700 a year.

Under the three major competing proposals, that person with $16,000 in income, under the plan the Senator from Massachusetts supports, would pay $2,900 a year out of pocket. Under the tripartisan plan, $2,340, and under the Hagel-Ensign plan, $1,923 a year. That is what this person would pay. So this person who is really sick who needs the help the most is actually going to get the benefit they need, but yet will still have some accountability, and that is the balance in the plan that we have done.

We feel this kind of an example is the reason that people should support our plan.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, to correct my colleague and friend, he mentioned $8,000 or $9,000. That falls within 135 percent of poverty. So under our program, they would not be paying any out-of-pocket expenditures.

Mr. ENSIGN. If the Senator will yield.

Mr. KENNEDY. Beyond this, he mentioned his own program in his own State as support. We are representing all the people of all the States. Quite frankly, I do not intend to get into a debate about his program in Nevada, although there are people who have talked about that program. Some of our colleagues who are former insurance commissioners have talked about the history of that particular program.

I do not happen to get into that program. Let me point out my program in the State of Massachusetts. The annual out-of-pocket spending limits for deductibles and copays are $2,000, or 10 percent of income, whichever is less, and everyone over 65 is eligible for it.

This program is better than the Hagel-Ensign program. No one would benefit from that program in Massachusetts. I do not know which States or individuals would benefit and which would not benefit.

We are concerned about all of our seniors. That is what we are trying to address. Even if one State does a little better and one State does worse, we are looking at the challenge which all of our seniors face. I must say that I think I could go to places in Nevada or places in Massachusetts or any State, to find hard working, decent people, who play by the rules and were guaranteed, through Medicare, that their health care would be secure. That is what we said in 1965. No ifs, ands, or buts; it will be guaranteed. But it is not guaranteed, and the principal reason it is not guaranteed is because we do not have prescription drug coverage. That is the reason. We want to try to deal with that.

Thinking you are giving health security to people who have incomes of $9,000 who are going to still have to pay out the $1,500—and people with incomes of $18,000 who will have to pay $3,500—does not measure up. I know the Senator and I differ on that, but it just does not seem to measure up.

We are not talking about a comparison of particular States. We should be trying to look at this generation and what happens to people who move from State to State.

Speaking about the overutilization of health care, the people who overutilize it are the wealthy individuals. Most people who are working 40 hours a week and taking care of their children do not have time to sit in a doctor's office or the resources to pay a copay. I can give study after study that reflects that.

The greatest overutilization of health care and prescription drugs is by wealthy individuals who can take all the time in a day to go to the doctor's office and who have unlimited resources to pay for the prescription drugs.

Five dollars still makes a big difference to people in my State down in New Bedford, Fall River, and Holyoke. They have seen their water bills go up because of the pollution that has been done over a period of years, and this administration has backed out of making the polluters pay and is now shifting that onto the backs of those water users and water rate payers.

They are seeing their fixed incomes dwindling gradually as they pay out and try to deal with those issues. They see the prescription drug costs going up and the Senator is not doing anything. The Senator is not talking about it. The Senator has not even talked about the escalation of costs. What is he going to do about that?

When are we going to see from the other side an amendment that is going to bring prices down? Where is it? We are waiting for it. We have been on this bill for 5 days. We have not had a single amendment from that side to do something about the costs of prescription drugs—not one. We have not had any. We have had complaints and criticisms of efforts that have been made on this side of the aisle to do something about those prescription drugs. Now we are being asked to sign onto a program that will be presented to the people in my State, or the people that could not afford it, to show that we have done something for them. But this program is not as good as the one in my own State. We ought to be dealing with this program for all Americans. That is what a majority of the Senate voted on yesterday, and almost a majority voted for the Republican program. Not trying to take the small numbers of individuals who are paying every single year was universal across the board.

I would ask the Senator, this is not a lifetime expenditure, is it? They are going to have to pay $1,500 this year, $1,500 next year, $1,500 the year after—$1,500, $1,500, $1,500 every single year, or $3,500, $3,500, $3,500. Does anybody believe people on fixed incomes at those levels can afford that kind of expenditure? They cannot.

So I hope we keep our sights higher in terms of trying to meet the challenges and needs of our people.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Madam President, I ask that I be notified when I have spoken for 5 minutes.

The PRESIDING OFFICER. The Senator will be so notified.

Mr. HAGEL. Madam President, I want to cover some areas of concern and questions that have been addressed, appropriately so, regarding the amendment, but let me generally make a comment in response to my friend from Massachusetts.

One of the results the distinguished senior Senator from Massachusetts is not factoring in in our amendment is the discount that all Medicare beneficiaries would derive. The estimates of those discounts, which are real, which, in fact, are in existence now, those discount card programs, are anywhere from 25 to 40 percent. That is one piece of this that has not been addressed, and it is important to factor that back in. That is but one part of our complete prescription drug program. Obviously, another part is the catastrophic cap.

I have been asked about pharmacies and how this legislation might affect pharmacies, because, as the Senator knows, we do not invent a new bureaucracy. I am sorry to have to say that again to some people who like big government, who think big is better, and the more money we throw at anything always makes everything better. That is aside from the debate about deficits in this country, which I hear an awful lot about in this body, about irresponsible spending.

We do have to ask a question about the affordability. That may be painful for some of my colleagues but, in fact, that is reality. This program is not just about addressing what we must address—and the senior Senator from Massachusetts is exactly right; we need to address this. For too long we have deferred it. It is not just about addressing the problem.

The other end of that is, who pays for the program? Who eventually is going to wind up paying the bill for the program? We have tried to develop a program that focuses on those who need it most.

I know most people would like to have a program where they pay nothing; let somebody pay for it all. Well, that is not a bad life, I suppose, but the reality is someone is going to pay for this. When we look at the huge numbers that we are dealing with in this country today on entitlement programs, everybody better stop for a moment and think through the consequences of what we are doing. There is a consequence to whatever action we take, and the consequence is going to be on the next generation and the next generation, as we add a new entitlement program to Medicare.

We need to do this, but it must be done in some way that is responsible and accountable for those who now have no say in it but we are saddling them with this burden. We cannot just merrily skip along and say, well, we have given you everything free, aren't we great, let's send out a press release out and hold a press conference: oh, Senator HAGEL, you are so good to us.

I have a 9-year-old and an 11-year-old. Many of my colleagues have children and grandchildren. They are the ones who will pay. When we look at the numbers—Senator GRAMM was on the floor yesterday, talking about those numbers—they are significant. With a $2 trillion Federal budget today in this country, about two-thirds is consumed by entitlement programs. We cannot do anything about that. The growth path we are on, even if we do not add any new programs, is immense. I don't know how we are going to ask this next generation and the generation after that to carry that burden. Something will happen. The choices are either that you cut benefits at some point or you continue to raise taxes on the workers, the young people, to pay for my drugs.

We have tried to accomplish some center of gravity, some responsible balance in addressing the problem. It is real. We need to address it but at the same time address the consequences. Who pays? That is the painful part of this process. Who pays? We don't like to talk about that.

When I talk about using a market system in place, not developing or building a new Government program, what do I mean? I mean using the market system in place. It is imperfect. Absolutely. But it is the market system in place today that has given America this remarkable lifestyle, quality of life, longevity. Imperfect and flawed? Absolutely. Are there people who do not benefit from some of this because they are at the bottom? Absolutely; that is what we are trying to deal with. But do not destroy the system that has produced this remarkable quality of life. Why would we throw out a market system that works pretty well?

We use the existing structure in place: Pharmacies, pharmacy benefit managers, insurance policies, systems, programs, administrators to administer the program at the direction of the Secretary of Health and Human Services. Pharmacies are a big part of this. They must be a big part of it. In this system, we have worked with the pharmacist. We preserve that beneficiary/pharmacy relationship. Seniors and other Medicare beneficiaries will continue to get most of their drugs at the pharmacy.

Any proposal that seriously disrupts that relationship would not work for Medicare beneficiaries. I point this out because beneficiaries' relationships with pharmacies will be strengthened. A system such as this could not work without bringing in the pharmacies. There will be a greater emphasis on discounts provided by pharmaceuticals and manufacturers than the pharmacy discounts. It is the pharmaceutical companies that provide the discounts. Those are negotiated by the private plans at the direction of the Secretary.

Pharmacies would be free to choose whether or not to participate. It would be voluntary. Right now, pharmacies are involved in many of these discount drug plans. They do well. It brings in traffic. They have consulting fees. They are a big part of the process. Our bill would make them more a part of a process.

Our legislation prohibits mail-order-only programs; therefore, it does not eliminate pharmacists. That is an option. Pharmacies could directly compete as administering entities. Pharmacies, as some pharmacies do today, could administer these programs. I make this point because there have been questions raised about the role of pharmacies. I understand that. We have spent a lot of time listening to pharmacists from all over the country. I understand their concern. The way we have crafted this, it would enhance the pharmacists.

I yield the floor to my colleague from Nevada for 3 minutes.

Mr. ENSIGN. Madam President, I will address a couple of matters the Senator from Massachusetts talked about. First of all, the Senator said the plan in Massachusetts was more generous than this plan. It is a different plan in that it is a first-dollar coverage plan. I don't know if the numbers have been updated, but according to the report from the GAO, in Massachusetts, if you are 150 percent of poverty or below, you are covered up to a maximum out of pocket of $1,250. That is according to this report.

The bottom line is the difference is Massachusetts covers the first dollars, but it caps the amount that Massachusetts will pay. Our plan caps the amount the seniors will pay. That is the difference. If they want to do first-dollar coverage in Massachusetts—and that is what we do in the State of Nevada—that is up to the State. What we want to do is say to the seniors, you will have the amount capped that you can actually pay out of your pocket so you don't end up going into poverty.

Why didn't the State of Massachusetts make a more generous benefit? They only did it up to 150 percent of poverty. Why? Are people making more than $12,000 a year rich? Can they afford some of the outrageous drug costs? Of course they cannot. The reason they did that is because that is all the State of Massachusetts believed they could afford at the time.

Do what you can with the money you have. The Federal Government is not unlimited in its resources. We have to be fiscally responsible to the next generation.

Yesterday the amendment that the Senator from Massachusetts supported was outlandish. It would bankrupt this country and bankrupt Medicare. I believe it was irresponsible in the long run to the next generation. This bill we present today is responsible, but it provides the coverage seniors really need. When you combine it with the help the States are giving, those low-income seniors, those sad stories we have heard, those people are truly going to be helped.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. Thirty-two minutes.

Mr. KENNEDY. Madam President, first of all, I ask my good friend from Nevada to get current with regard to the Massachusetts plan. I will try and get current with regard to his if he gets current with regard to ours.

Massachusetts residences not on Medicaid, 65 or older, are eligible. Every one is eligible. The annual out-of-pocket spending for deductible and copay is limited to $2,000 or 10 percent, whichever is less for individuals.

It is a good deal different from what the Senator described.

I am not here to offer this as an amendment. Some States do a little better than other States. Massachusetts is clearly a good deal better than what we are being offered with the amendment of Senator HAGEL and Senator ENSIGN. Senator HAGEL has pointed out the real problem is the issue of cost. Now we have cut to the bone. There are a lot of costly programs. Medicare is costly. Yet this country made the decision that for our elderly, who was going to try to offset the cost for frail elderly men and women who worked hard all during their lives? Would it be the individuals who will have an average income of $13,000, and two-thirds below $25,000, or are we going to recognize that as a nation we are going to provide help and assistance?

We made the judgment and decision that we would do that as a country. We did the same on Social Security. Many believe we ought to do it on prescription drugs. My good friends do not believe so.

What are we asking? There was a comment that some of the elderly are asking for something for nothing. Who are these people? They are parents, people who took care of everyone in this room. Asking for nothing? These are the people who fought in the wars. They are the frail elderly, asking for nothing, who have sacrificed for this country, sacrificed for their children, sacrifice, sacrifice, sacrifice. And they are accused in the Senate of trying to get away with something for nothing.

Are you asking them to give up going to the movies once in a while? Or taking their grandchildren out to dinner once in a while? How much can you squeeze from someone with a $9,000 income? How much can you squeeze them?

Defend the market system. Defend the market system. Defend the market system. Prescription drug companies are violating the market system by jiggling the patent system so that there cannot be competition.

Why aren't we hearing something about the market system over there on the underlying amendment? No, we don't hear anything about that. We just hear something about the frail elderly trying to get something for nothing.

What about States being able to use the power of all their people to try to get a better drug price? That is the market system. We don't hear anything about that. No, no, we don't hear about that. We just hear about these frail elderly, all these greedy elderly senior citizens who are trying to rip off the system. Come on. That is the heart of. the Republican program. You just heard it out here.

That is what this decision is about. It is priorities, whether you want to have a massive tax cut that is going to go to the wealthy, or do we as a country and society put the value of our senior citizens ahead of that. It is a value issue. And I believe it is a moral issue as well, as long as we can do something about it and help these senior citizens. That is what the issue is about. We just heard it. We just heard it.

Somehow, we are against the market system when we are trying to stop the kind of violations of patents to let competition get in? We are in violation of the market system when we are trying to let States get better deals for their fellow citizens? We are against the market system?

Senator, that is just wrong. I do not know how much more we can do in terms of our senior citizens; how much more we can squeeze them; how much more, when they are paying out that 15 percent, 18 percent, 20 percent of their income every single year, watching their total life savings go right on down. How much more can we squeeze them so we can give tax breaks for the wealthiest individuals, who have had the greatest profitability over the period of recent years? How much more can we squeeze these men and women who have built the country, suffered, and done such an extraordinary job?

This country has been built by our parents and our grandparents. If it is a great country, and it is, it is because of them. They are the ones who are frail. They are the ones who need the help and assistance. And I reject the fact that we are trying to speak of them as individuals who are trying to rip off the system and get something for nothing. That is not what this debate is about, and it should not be.

I yield 10 minutes to the Senator from New York.

Mr. SCHUMER. I came after the Senator from North Dakota so, if it is OK, I will take my 10 minutes after him.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I joined my colleague earlier on the third floor of the Capitol at a press conference to talk about the generic bill. That bill is very important and one about which I have held a hearing.

In terms of prescription drugs, we need to do two things that are important. We need to have a prescription drug benefit, and we need to do something that puts some downward pressure on prescription drug prices. We must find a way to put a prescription drug plan in the Medicare Program, one that works, works for all beneficiaries, and provides them with the ability to access the medicine they need when they need it.

I said earlier that there is nothing lifesaving about drugs if you cannot afford them. There are no miracles in miracle drugs if you can't afford them.

I just heard my colleague talk about those people who helped build this country. Tom Brokaw's book described some of them who went to war in the Second World War as "the greatest generation."

I had a fellow come to a meeting a while back, who is a member of the greatest generation. He served in the Air Corps in the Second World War. He was in his late seventies and he needed new teeth and didn't have any money for them.

I arranged for a dentist and I also helped him get some teeth. Here is a fellow who fought in the Second World

War, who ends up with nothing, who needs a new set of teeth and has to come nearly begging people to help him get his new teeth.

Senator KENNEDY is right. We have a lot of people in this country who have needs. They reach their declining income years, their retirement years, and they discover the things they need such as new teeth or prescription drugs, cost a fortune.

Senior citizens are 12 percent of America's population and they consume one-third of all prescription drugs. Is it because they want to be sick? Is it because they like to take prescription drugs? I think not.

You meet them at town meetings and various locations around the State, and they come up to you and say: You know, Mr. Senator, I am 80 years old and I have diabetes. I have heart trouble. I have to take seven different prescription medicines. Mr. Senator, I can't afford it. I don't have the money. I wish I didn't have to take the drugs, but I need them and can't afford them.

A doctor in Dickensin, ND, told me one day about a cancer patient who had breast cancer, a senior citizen. After the surgical removal of her breast he told her about the drugs she was going to have to take to try to minimize the chance of recurrence of her cancer.

He said she looked at me and said: Doctor, what will these prescription drugs cost? And when he told her what they would cost, she said: Doctor, I couldn't possibly afford those prescription drugs. I don't have the money. I'll just have to take my chances. I'll just have to take my chances.

We can do better than that. We need to put a prescription drug plan in the Medicare Program, one that works—one that really works. At the same time as we do that, it has to be complemented by a couple of other provisions we—the generic bill offered by my colleague, Senator SCHUMER and the Canadian reimportation bill, both of which will put downward pressure on prices. If we do not do that, we just break the bank. I am not interested in breaking the bank, hooking a hose up to the tank and just sucking all the money out. We can't do that. I am interested in making sure we have a prescription drug benefit plan that works. No, not some sliver of a plan, that says to a poor person: By the way, spend a lot of your money first, and then we'll give you a little help.

No. 1, let's have a plan that works; No. 2, a plan that includes in it downward pressure on prices, not just for senior citizens but for all Americans. That is why this is so important.

I imagine some members of this body could come up with a dozen reasons not to do this. In fact, the negative side of the debate is always the easiest. I think it was Mark Twain who was asked if he would engage in a debate of some sort. He said: Of course, as long as I can take the negative side.

When it was pointed out to him that he hadn't been told the subject of the debate, he said: It doesn't matter. The negative side takes no preparation.

It is easy to take the negative side. It is much more difficult to come up with a positive approach. That is what we are trying to do here. Yesterday, 52 Senators in a very important vote, for the first time in over 40 years, said we would like to put a prescription drug benefit in the Medicare Program. Fifty-two Senators said that. It takes 60 votes.

The question now is, Will the minority of the Senate block it in the next couple of days? The answer is, I hope not. I hope all Members of the Senate understand this is not just some run-of-the-mill issue. This is not just some issue of convenience. This is life or death issue for those who have reached their declining income years. Those who in many cases are living in or near poverty and who are told by their doctor they must take five or seven different kinds of prescription drugs. And they do not have the ability to pay for those drugs. That is why this issue is important.

Let's do this and let's do it right. Let's not take slivers of policy here or there and pretend that we have constructed something meaningful. Let's put a real plan together, one that adds up, one that makes sense, and one that provides real benefits.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. SCHUMER. I thank my colleague. He spoke so poignantly of the doctor in Dickinsin and the senior citizen who had breast cancer and could not afford the drugs.

Again, I appreciate the approach that my colleagues from Nebraska and Nevada have taken. It is an honest approach, but it is a minimalist approach. It is based on the theory that we do not have enough money to do more, even though 52 people in the Senate voted to do significantly more.

I would just ask my colleague this: Isn't this part of the same budget where they take $600 billion over 10 years to reduce the estate tax? Isn't it true that estate tax reduction does not go to people whose income is $17,000 or $35,000 or $350,000, but to people whose estates will eventually rise, I believe it is, to $2 million or $4 million? That is a minimum amount. This is not an abstract discussion.

I ask my colleague if I am right. Do you want to give somebody who is a millionaire, who has an estate worth over $2 million, a total exemption from any tax and deprive patients in North Dakota their desperately needed medicine? It isn't either/or. In my judgment, it is not that we can't afford it. If tomorrow the President and his budget friends on the other side in their budget say we are not going to make the estate tax reduction permanent, there would be more than enough money to afford the plan that we voted for on the floor yesterday.

Am I wrong? Is this a question of choices? This is not simply an abstract discussion about how much we should spend. My colleagues on the other side of the aisle have said they would like to do more, but we can't afford it. But, all of a sudden, when it comes to estates of $10 million, $20 million, $100 million, or $1 billion, that should come ahead of the senior citizen about whom the doctor in Dickensin talked. And we have thousands—tens of thousands—of the same people in New York—poor senior citizens who are struggling and don't have the money for their desperately needed medicine.

Mr. DORGAN. Mr. President, the Senator from New York is certainly correct.

One-hundred years from now we will all be gone. Everyone in this room will be dead. And historians will look at the choices we made in terms of our values and systems and evaluate what we thought was important.

My colleague Senator FEINGOLD offered an amendment on the estate tax which said, let us have an estate tax and we will exempt everybody under $100 million. The only estates that will bear a tax will be those above $100 million.

That lost, because some here believe that the estate tax must be abolished for everybody—even those at the top who are billionaires. Good for them and their success. But I happen to think that when they die part of their wealth should be used to help deal with some of our other needs.

The point is, as the Senator from New York pointed out, we are forced to make choices. What is important? What are the right choices for our country? People are living longer and living better. It is not unusual to find 80-year-olds. My uncle is 81 years old. He runs 400s and 800s in the Senior Olympics. He has 43 gold medals. It is not unusual to see people living longer in our country but not all of them are as healthy as my uncle. Most of the elderly need prescription drugs to deal with medical conditions. And many of them don't have enough income or assets to pay for them. They simply don't have the means to purchase them.

If we were writing a Medicare bill today, there is no question that we would have a prescription drug benefit in that bill. It would be a benefit that works—one that is thoughtful, reasonable, and helps all senior citizens. That is what we ought to pass. It is not acceptable, in my judgment, just to grab slivers here and slivers there, and say, oh, by the way, we can't afford much because we decided we wanted to have other things such as an estate tax repeal for the largest estates in the country.

These are choices that we have to make. I believe we must make the right choices today and tomorrow as we go about our business on behalf of senior citizens and all Americans.

The PRESIDING OFFICER. Who yields time?

The Senator from Nebraska.

Mr. HAGEL. Mr. President, I yield to my friend and colleague from New Mexico 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, fellow Senators, first, I thank the Senator from Nebraska for yielding time. Second, I compliment him and the senior Senator from Nevada for offering this proposal which gives us a chance to do something very significant for our senior citizens.

Let me go back and trace a little bit of modern history so everybody will know what caused the predicament we are in and why we can't do much more than this for our seniors at this point in time.

First, the last budget resolution that passed was a budget resolution when we were in control by one or two votes. That budget resolution provided for a reform of Medicare and a prescription drug benefit that did not cost more than $300 billion over 10 years. We didn't use that because the history has it that the last President got in a very big argument with a bipartisan committee and told them to vote with him and out the window went a bipartisan reform bill. It went, because the last President—President Clinton—wanted Medicare reform, but only his, even though he had appointed a commission.

There is one. Chalk that one up. Who is responsible for that one? President Clinton, without a doubt.

Now comes the time when we are supposed to pass a budget resolution. The last time I heard it was the responsibility of the majority party to report one out and to take one up on the floor. They didn't have to report it out but to take it up and do the business of the Senate by passing a budget resolution.

What happened in the middle of all this was that a Senator left our side of the aisle and joined their side of the aisle for votes and they became responsible for passing a budget resolution.

For the first time, since we had a Budget Act 27 years, we are operating without a budget. We are operating without a new budget that suggests how much money the Senate wants to spend in the next 10 years on prescription drugs. There is no current budget that says that. If they would have put one in place, guess what. It would only require 51 votes. That is not our fault. That is their fault. They did not do it. Consequently, 60 votes are required to get the seniors of America a Medicare bill.

I am not sure that some people think that is good and others think that is bad. I am just stating the facts. That is the reason 60 votes are required. The seniors ought to know that.

That is not the Republicans. That is not our President. That is the Democratic leadership here which said, That budget is getting too tough, let us just not do one.

I did 27 in my life; 12 of them as the chairman when we had to produce them. We always produced them. Believe you me, they were tough. Some took 2 weeks. Some took 80 votes. One time we did 37 votes in a row with Howard Baker sitting right at that table, all of which we had to win and all of which we had to fight for, because under the old rules you could offer almost anything.

Here we come at the end of the year and the leadership on that side of the aisle promises a Medicare bill for the seniors of America, but they cannot pass one because they did not do a budget. Therefore, 60 votes are required—not 51.

I repeat: That is not the Republicans' fault. It is not the President's fault.

I can vividly recall some leading Democrats when they were asked, Why aren't we doing a budget resolution? Oh, well, one of them said, It is too hard this year. Maybe we don't need one. Now here is where we are as a result of that.

I compliment the two Senators. They have a third Senator. I am very lucky. I joined them yesterday. I am a cosponsor of theirs.

Frankly, I went with the tripartisan bill yesterday. If that had passed, we would be finished. But it didn't pass because it only got 48 votes, or 47. It needs 60. That is a pretty good chunk of votes, however, to get you started.

What do I say? I look at all of this and I ask, Is there anybody who has an amendment that does not require 60 votes and still will do something good for the seniors? This amendment will not exceed $300 billion. I do not know the number exactly, but I am going to guess with you that it is between $285 billion, $290 billion, or $295 billion. So this amendment clearly only needs 51 votes. If you want to give the seniors something, 51 votes is all that is necessary.

From what I can tell, it is a very good approach to get the seniors something this year. It will take care of the seniors who are in the biggest trouble with expensive drug bills. For those who have expensive drug bills now, it will take care of them and all of the people who are poor under anyone's definition of poverty. It will take care of them.

What is wrong with that? About $295 billion, or $280 billion—just what the budget resolution said you ought to spend on the whole program just 18 months ago.

I thank the Senators for what I think is a rather ingenious bill. I don't think it carries with it any acrimony. If the Democrats don't want any bill at all, they can look right there to the seniors and say this is what they are going to get.

The Hagel amendment does not have a 60-vote requirement in terms of cost because it comes in under the cost. However, it was not produced by the Finance Committee because they were not permitted to produce any bill. So it probably needs 60 votes.

Clearly, if we have the sufficient votes to adopt this, there would be some way of getting it back to committee, and getting it out of there.

I urge a vote for it because there is a real chance we will send the right signal, and set before us a way to get a bill this year.

I thank the Senator, again, for yielding. And I thank the Senate for listening. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to address further this proposal before us. I was glad my colleague from New Mexico finally mentioned that it would take 60 votes. So we are dealing with 60 votes, and 60 votes, and 60 votes, because of the variety of the very technical, detailed, and sometimes tortuous reasons for the Senate rules, which have a wisdom to them way beyond my ken. But I would like to make a couple points.

First, I would add to the RECORD, if it has not been added already, the CBO estimate of the Hagel-Ensign amendment. I think last night we were talking about $160 billion. Now CBO—and the Senator from New Mexico has stated it correctly—estimates this bill costs $294.7 billion. However, if the Schumer-McCain bill were added to it, it would reduce the cost by $13 billion to $284 billion. That is within the budget resolution. My friend from New Mexico is exactly correct.

It is also $130 billion more than we were talking about last night. With that money, the close to $300 billion, I just want to remind my colleagues of who it covers and who it does not cover.

Again, a senior citizen, poor, with an income of $9,000, would have to first pay $1,500 before they would get a nickel from this bill. I will tell you, $9,000 does not buy much. It buys even less in New York than it would buy in Nebraska or in Nevada, but it does not buy much anywhere—and to ask that person to have to pay $1,500 first?

This amendment does nothing to take away the conundrum that poor senior citizens have: prescription medicines, wonderful drugs that they desperately need, or an adequate meal on the table, a plane ticket to see the grandchildren maybe at Christmastime, whom they have not seen in 3 or 4 years. This amendment does nothing to relieve that burden.

A senior citizen making $18,000 now—that is not a poor senior citizen, but it sure as heck isn't a rich one—would have to pay $3,500 before they got a nickel from this action. That is enormous. That is a huge burden to them. Yet we are spending $300 billion for that.

I remember when we dealt with prescription drugs a couple years ago, and there was a general conclusion that if you are going to do this, do it right, really help people, do not bite around the edges. And this proposal does just that.

And then let's go to a senior citizen who is doing OK. They have a $35,000 income. They are almost never going to get benefits. They have an income of $35,000, and they would have to first spend $5,500 on their prescription drugs before they would get a nickel from the amendment.

I think I know what is going on here. There is a demand that we do something. Everyone wants to say: I am for a bill. I would bet my bottom dollar, if you could get 280 million Americans in an auditorium, if you could get the—how many senior citizens do we have in America? About 40 million, 45 million. If you could get every senior citizen in an auditorium and ask, for $300 billion, should we adopt an amendment that helps so few, they would say: No. Go back. Do it better.

And then again my colleagues will say—I will make the point again because it just gnaws at me—we don't have the money to do more.

The Senator from New Mexico, my good friend, knows the budget, studies it. He is almost a priest of the budget, God bless him. He says: We don't have a budget.

I will tell you why we don't have a budget. It is because of the insistence of the other side and the White House that we continue the tax cuts for the very wealthy, that we can't afford in the President's budget proposal—I repeat, $670 billion to eliminate the estate tax. Many of my same colleagues who are supporting this proposal were on the floor talking about how that is important.

Go ask those 40 million senior citizens. Go ask the 280 million Americans do they want a better benefit than the very measly benefits in this amendment or do they want the estate tax repealed. When? Right now, if your estate is in the millions of dollars, it is taxed, but if it is below that, you are not taxed.

Ask them if they want us to say, let's say anyone with $20 million should pay an estate tax, and we would get a lot more benefits in the bill.

So who are we kidding? We know there is enough money to do this, if we want to. But if we are going to play trickle down, if we are going to say, first, let's reduce the estate tax, and then work in the confines of that, and provide some dribbles to the senior citizens, to the lady in Dickinson who has breast cancer and cannot afford the drugs. Who are we kidding?

Where would 90 percent of the American people be? If the cupboard were bare, if we had no dollars for anything else, if we needed it all for our war effort or for Social Security, maybe we would have to come up with this amendment.

But when we hear the priorities of the other side are tax cuts, particularly the estate tax cut, first, and then whatever is left over we will sort of craft into a plan that makes someone whose income is $9,000 pay $1,500 first before they get a nickel from the benefit, who are we fooling?

So the whole argument that I have heard from my good friends from Nebraska, Nevada, and others is: We don't have enough money to do more. This is fiscally responsible. Is it fiscally responsible, then, to call for $600 billion in cutting the estate tax? And that, of course, is eliminated—I need to get the right number. I know we go up to $2 million or $4 million per estate, but I think right now it is somewhere between $1 million and $2 million where estates are eliminated.

Whom are we kidding? We all have priorities. We have a Senate because not everyone has the same priorities. We have a House of Representatives for the same reason. And our priorities are different. But admit the truth. It is not that we do not have the money to do better, it is that people have other priorities.

I will tell you where the priorities of the senior Senator from New York are. They are for a plan that got 52 votes on the floor of the Senate yesterday above cutting the estate tax for the very wealthy. How many of you will join us in saying that? I doubt very many. And if not, then the underpinning of the argument that we can't do better is false.

We can do better. We can pass a better bill, by rearranging our priorities, and telling that senior citizen who makes $9,000, you don't have to wait until you spend $1,500 before you get a benefit; telling the senior citizen who makes $18,000, you don't have to wait until you spend $3,500 before you get a benefit.

If this were an honest debate about priorities, then there would not be a need for the minimalist plan that my colleagues have offered.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield my colleague from Nevada 1 minute.

Mr. ENSIGN. Mr. President, I want to clear up a couple points the Senator from New York talked about. He said no benefit for somebody until they pay out-of-pocket expenses. He forgets the drug discount card which will save seniors somewhere from 20 up to 40 percent because of volume buying. So they immediately benefit, anybody who signs up for the plan.

Our plan fits really well—I talked about this before—with those State plans that are already out there. The State of Nevada has a great plan using tobacco money. Other plans in States work very well with our plan. Those seniors who need help the most will get the help under this plan.

Let's be honest about this plan. It is fiscally responsible to the next generation but also truly does get the help to the seniors who need it today.

Mr. HAGEL. Mr. President, I yield 6 minutes to the senior Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleagues from Nebraska and Nevada for bringing to the floor what is a valuable piece of legislation to address the issue of prescription drugs.

As chairman of the Republican Policy Committee, I had not engaged in this debate on the floor from the time it began several days ago largely because, while it is a phenomenally important debate, it was a play, a drama to be acted out and ultimately to close with no result. That does not mean that those who come to the floor, such as my colleagues from Nebraska and Nevada, to put forth a substantive piece of legislation aren't well meaning. It does not mean that at all. It means that the majority leader of the Senate set up this play with the purpose of never accomplishing anything in the end but to allow those who wish to make a political statement and to shape themselves for the November election to have that opportunity.

That in itself is a tragedy in the formation of public policy. It allows those to come to the floor and talk about all kinds of other things except that which is very meaningful; that is, a good prescription drug program for the seniors of America.

If this bill had been formed by the Finance Committee in a bipartisan manner, it would be on the floor. It would receive a majority vote, it would be in conference with the House to work out our differences, and the seniors of America would have a drug prescription policy. That is not a statement of myth; that is a statement of fact. It would not be a drama; it would not be a play with all the characters hustling down to the curtain call; it would in fact be an action of positive legislative effort to produce a bill.

The Senator from New York has talked about tax cuts. My goodness, what he has suggested is die and take everybody's money and put it into a social welfare program. No, sir, not on my watch. You bet the Senator from New York and the Senator from Idaho are different people, coming from different States. I don't believe in that.

Mr. SCHUMER. Will my colleague yield?

Mr. CRAIG. I will not yield at this time. I do believe that people who work hard all their life and build an estate ought to have a right to take a little of it, because it is after tax money that builds an estate, and they want to pass it on to their children. That is right. That is reasonable. We call it the American dream. I don't think we ought to step back in and swoop it up for the Government to spend, all in the name of a social welfare state. That is wrong. It is fundamentally un-American.

Debate it, if you wish. The reality is, use that as an excuse. That is law today. It is only an excuse not to have to face the reality of why we are here and not getting anything done.

The reality of why we are not getting anything done is that the majority leader would not allow the chairman of the Finance Committee to do what he should have done at a very important time in American history, at a time when pharmaceutical drugs have become a part of the American health care culture. The seniors of America who are living longer and healthier today are finding that a very important part of their lifestyle. Medicare doesn't address that issue.

The Senator from New York and the Senator from North Dakota said it right: If we were writing a Medicare Program today, prescription drugs would be in it. It would be in it, and I would vote for it, and they would.

At the same time, we are not going to cram in a proposal that costs hundreds of billions of dollars, to the tune of $700 or $800 billion, doesn't take effect until 2004, terminates in 2008 or 2009, and call that something we want to take home and say: Look what we have done for you.

Why not something that our country can afford, that our seniors will find a reliable approach toward acquiring the necessary pharmaceutical drugs to deal with their health care in a way that will not break them? That is not going to be allowed to happen in the Senate in the 107th Congress.

There are 40 million-plus seniors. Put them all in one room and ask them this question: Do you want a pharmaceutical drug program now? The answer is: Yes, we do. We want it now, not 2004. No, we don't want it to terminate in 2008. Most importantly, we don't want it to bankrupt our country. Yes, we would pay a small deductible and, yes, we would even pay a small premium because a small deductible of maybe $100 a month to pay for a $400 drug bill is a right and reasonable thing to ask.

The Senator from Nevada put it well when he said there are State programs—that wasn't counted—that can offset the truly needy. And there are many. Those who have little to no money—and there are many seniors in this position—could have full access. It wouldn't have to come through the Medicare Program or, I should say, the Medicaid Program that oftentimes is administered by the State.

The PRESIDING OFFICER. The Senator has used his time.

Mr. CRAIG. I ask for 1 more minute.

Mr. HAGEL. I yield 1 minute to the Senator from Idaho.

Mr. CRAIG. I thank the Senators from Nebraska and Nevada for bringing a realistic amendment to the floor, one that could take effect now, one with which we could go home to New York or Idaho and say to our seniors: We have cut your drug bills well over a half or two-thirds. You have it now, not wishes 4 years from now, not wishes 3 years from now, a program that won't bankrupt the country and won't demand that those who have saved and earned all their life have to give up their estates so that you can live well.

That is not what this country ought to be about. More importantly, that is not what this debate ought to be about. It ought to be about a substantive, affordable program that truly allows America to say to its seniors: We have changed the dynamics of health care from a 30-year-old model to a modern model that allows pharmaceutical drugs to be affordable, to be fitted into the program.

I strongly support the effort of my colleagues from Nebraska and Nevada.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will speak for a minute. I want to make some comments to my friend from Idaho. He keeps talking about, we are going to take everybody's money. No, we are not going to take everybody's money in the estate tax. We are not even taking most people's money. We are not even taking 5 percent, the wealthiest 5 percent of people's money. We are taking only from people who have estates certainly over $1 million and probably somewhat more than that.

That is how this debate often gets off track. We are not saying to the plumber who built up a little business: We are taking your money. We are not saying to the steelworker who has a pension: We are taking your money.

Yes, we are saying to the very wealthiest: God bless America, you have made a great living, you have lived well. Are you willing, in this social compact we call America, to tell the senior citizen who can't afford to pay for these drugs, and it is life or death, that you have to keep it all—and not even keep it all, pass it all on to your heirs?

That is the issue. It is not everybody. It is not half of the people. It is not a quarter of the people. It is not 5 percent of the people. What is driving the estate tax is the very wealthiest people in America who somehow have won over the other side. But they never talk about them. They say "everybody's" money. Not so. Then the other side of what my good friend said—he said take everybody's money and put it in a social welfare program. The definition of what my friend said, the Hagel-Ensign amendment, is a social welfare program. Social Security is a social welfare program. Medicare is a social welfare program.

Yes, in America, we believe in those things. Back in the 1870s, we did not. The life expectancy was 40 years; one out of every four children died in childbirth; people lived in slums, tenements; farmers went bankrupt every year. Yes, America has changed, and it is not a country that should be run exclusively for the wealthiest people and you give the crumbs to the others. We learned that in the 1890s, in 1912, and in the 1930s. We learned it in the 1960s, and we have learned it since then.

So I reiterate my point. It is a choice of priorities. In this context, yes, you are right, as long as there is a budget deadlock—primarily because we would not go along with reducing taxes even further on the very wealthiest Americans while doing nothing for the middle class—we don't have enough to do a prescription drug bill in the right way. We are left debating whether we should do one that the vast majority of Americans would agree doesn't solve their problems.

So, yes, I regret that the debate has come to this. I don't think it is where the American people are. I think they are much more on the side of the bill that got 52 votes yesterday. But because of the rules of the Senate and, more importantly, because we don't have enough Senators who have the priorities I am enunciating, we will not get that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield to the Senator from Pennsylvania 1 minute.

Mr. SANTORUM. Mr. President, I thank Senators HAGEL, ENSIGN, and GRAMM. They have put forth a plan that focuses in on exactly the problem most Americans understand, which is that we have people who have a high cost of drugs but simply don't have the ability to afford them. They have to make difficult decisions about how to provide for themselves as well as provide the medicine they need.

Secondly, they provide a focused attempt to help the lower income people, who may not have that high of a drug cost, but even with a small amount of the prescription drugs they need, they don't have the resources to pay for them. This is a commonsense approach.

This is a focused approach. This is a good first step. It gets us very far down the playing field.

To me, it is a little bit frustrating to see a proposal that makes so much common sense, is within the budget framework that has been worked out, and we find opposition to going way down the field in a proper direction. Some will say no because it doesn't give us everything we want, it doesn't get us the whole loaf, and somehow that is not good enough.

This is a very solid proposal. I think it is something that should have very strong bipartisan support.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I yield 3 minutes to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank our dear colleague from Nebraska for his leadership on this issue. I think the best proposal that has been presented to the Senate is the Hagel-Ensign proposal. It is the only proposal that is rational. It is the only proposal that is organized in such a way as to give most of the help to the people who need it the most. It is the only proposal that is affordable.

My strong suggestion and my recommendation to my colleagues is that we adopt this proposal. This proposal basically says if you have a moderate income and you have high drug bills, you are going to receive assistance from Medicare. A simple guideline is that if you have a family income, in retirement, of less than $23,000 a year, if this bill goes into effect, you will spend only slightly more than $100 a month on pharmaceuticals before you receive assistance. The amount that people would have to spend before they hit the critical level where they would receive assistance rises with people's incomes, so that at $46,000, you would have to spend $3,500, or about $300 a month; at $69,000 of income, that amount would be $5,500.

So what does this do? It does two things. Immediately, it provides assistance by setting up a program whereby we can use the ability to negotiate prices. Medicare does not buy competitively. It is estimated that by allowing people to choose among selections that will be available through Medicare and by utilizing a purchasing cooperative, whereby they will enter into an agreement with private companies to purchase their pharmaceuticals and find the cheapest price for them, every senior will save between 25 percent and 40 percent on their drug bills. That benefit will start immediately—not in 2004 as the Democrat alternative does, not in 2005 as the tripartisan alternative does, but upon adoption. The other parts of this bill will go into effect as of January 1, 2004.

So this bill helps everybody now, brings efficiency in purchasing health care for every senior, and provides assistance to people who need it the most. I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I yield myself 2 minutes.

Mr. President, I have heard about the generosity of this plan. Well, I think we all can admit it is the least generous plan on the floor. Any plan that tells someone making $9,000 that they have to spend $1,500 first, I don't think most people would call generous. I would say any plan that says to someone making $18,000 that you have to spend $3,500 before you get a nickel is not a generous plan. Again, if that were the best we could do, fine. But it is not. We here on this floor are not in sync with the American people's priorities.

Go back to the issue I have been bringing up this last hour, the estate tax—$670 billion to repeal the estate tax only for estates of over $1 million or even more. Most of that money comes from estates of $50 million. Are you going to tell that person, you get your tax cut, or are you going to tell our senior citizens, you don't have to spend $1,500 of your $9,000 income before you get a bit of benefit?

My colleagues, again, this is a question of choices. We can say that we will keep the status quo, that we will continue the tax cuts on the wealthiest of Americans. All things being equal, I would like to get rid of the estate tax. But if telling the senior citizens of New York State that they don't get a benefit before we take the taxes of people making $50 million down a few more notches, you know what side I am on. I ask my colleagues which side they are on.

The PRESIDING OFFICER. Who yields time?

Mr. HAGEL. Mr. President, I yield 6 minutes to the Senator from Nevada.

Mr. ENSIGN. Mr. President, we are coming to the close of this debate. A couple of things need to be cleared up. There has been talk about the estate tax versus prescription drugs. Medicare is a program that is paid for out of the payroll tax. It has always been that way. Hopefully, it will always be that way. Payroll taxes pay for Medicare.

Our amendment, we believe, is responsible. The difference between our bill is that the seniors pay their first dollar out of pocket for coverage. The other bills, the seniors pay a portion of the first dollar out of pocket. The reason for that is we thought it was important to keep the senior in the accountability loop. I mentioned that earlier in the debate, but it needs to be reemphasized.

When seniors or any other patients in health care do not have to think about the financial aspects of their care, whether it is in purchasing drugs or in getting their health care, if they are only paying a small portion, they do not even think about that. But if they are paying the first dollars—and in our plan, if they have up to $17,700 in income, they will pay out of pocket $1,500—they are going to think about prescription drugs. This is about $120 a month.

Seniors with whom I have talked literally would jump at knowing they would be limited to about $120 a month for prescription drugs. They just do not want to be bankrupt. They do not want to think they are going to lose their house. Many are concerned about long-term care, and that is their biggest fear—that they have to lose everything to get long-term care.

It is the same with prescription drugs. They do not want to lose everything before they are so poor that they have to go on Medicaid to get prescription drugs from the Government. Our amendment is basically limiting out-of-pocket expenses.

The other misconception of our amendment is that you do not get any help if you have, say, $9,000 in income. You absolutely do. That is what our prescription drug discount card is all about. Every senior on a voluntary basis—if they want to sign up—because of group buying, this cooperative-type buying, similar to what HMOs do today, can save about 40 percent. Most HMOs say you save 40 percent versus retail on their prescription drugs. Every senior who signs up for our plan would be able to save up to 40 percent on their prescription drugs, regardless of income. Regardless of where in any of these ranges they fit, they save up to 40 percent.

When we combine that prescription drug discount card with limiting out-of-pocket expenses, along with what many States have done—if States want to be more generous, they can be. My State of Nevada is more generous. The State of Massachusetts, as we have learned today, is more generous. The State of West Virginia has a drug discount card that is working very well. Other States have put these programs into effect. Our plan fits with most of the plans that are already working across the country. So for those seniors who truly need the help, they will get it.

I wish to close my time today with a couple real-life examples. Doris is a patient. She is 75 years old. We changed her name, obviously, for privacy reasons. She has an income of about $17,000 a year. This is a real-life case. She is being treated for diabetes, hypertension, and high cholesterol. She is on Lipitor, Gloucophage, insulin, Coumadin, and Monopril. These are common medications. These are $300 in monthly expenses, about $3,600 per year.

To compare the various plans on a real-life case, under the Graham-Miller-Kennedy plan, the leading Democrat proposal, she would have out-of-pocket expenses of $2,200. Under the tripartisan plan, it is about $2,100. Under our plan, it is $1,700. Ours is more generous to the person who is really sick, who has a low to moderate income.

Example No. 2: Betty is 68 years old with $15,500 per year in income. She has breast cancer, not uncommon for a lot of senior women. She takes morphine, Paxil, dexamethazone, Acifex, trimethobenzamide, and Nolvadex. These cost almost $670—almost $8,000 per year.

Let's compare what happens under the various plans. Under the leading Democrat proposal, she would pay $3,180 out of pocket. Under the tripartisan plan, she would pay about $2,600, and under the Hagel-Ensign plan, she would pay $2,150.

Once again, in a real-life example, the person who is sick who needs the most would do better under our plan, and that is why we are asking people to support this plan.

**Mr. GRASSLEY.** Mr. President, last night and earlier today the Senate debated the Hagel-Ensign prescription drug amendment. During the course of that debate, some Members on the other side made a comparison of the cost of the Graham-Kennedy prescription drug amendment and the revenue loss of a proposal to repeal the "sunset" of death tax relief provisions in last year's bipartisan tax relief bill.

The essence of the argument was that the budget effects of these proposals are roughly equal. As we heard many times, the Senate was supposedly making a choice between these two proposals. Senator SCHUMER claimed, during the argument, two different figures for repeal of the sunset. At one point, the Senator from New York claimed the revenue loss was $670 billion. At another point, a few moments later, the Senator from New York claimed the revenue loss was $600 billion.

The Congressional Budget Office scored the Graham amendment as a spending increase of $594 billion. This figure covers the 8-year proposal's 10-year budget effect. Now, if you accepted Senator SCHUMER'S figures as is, then there might be some basis for his argument. That is, if, in fact, the Joint Committee on Taxation scored the proposed permanent death tax relief proposal at $600 billion or $670 billion, then Senator SCHUMER's argument might be worth debate.

The facts are different. I don't know where Senator SCHUMER got his figure. Maybe it was a liberal think tank, such as the Center on Budget Policy and Priorities. Maybe it was a partisan liberal communications shop, like the Senate Democratic Policy Committee. I don't know where he got the number.

I do know this: The number doesn't apply. For purposes of the Congressional Budget Act, tax provisions are to be scored by the nonpartisan Joint Committee on Taxation.

According to Joint tax, the permanent death tax relief proposal scores at $43.6 billion if you use the fiscal year 2002 budget resolution. That is the one the Senate is currently operating under. If you use the fiscal year 2003 budget resolution, the one under which the House is operating, permanent death tax relief scores at $99.4 billion.

So the real number is, at most, $99.4 billion, for permanent death tax relief. That is one-sixth the cost of the Graham amendment.

It is interesting to note that during last month's debate on the death tax that the Senator from New York supported Senator DORGAN'S amendment. That amendment was scored by Joint Tax as losing $111 billion over 10 years. Basically, Senator SCHUMER voted for death tax relief of $11 billion more than the proposal he criticized last night and today.

So if we are talking about choices between resources for prescription drugs and death tax relief, let's review the record. Let the record reflect that Senator SCHUMER and 39 other members of the Democratic Caucus voted for $11 billion more in death tax relief than their colleagues. For reference, that's rollcall vote No. 149. It is set out in page 10078 of the CONGRESSIONAL RECORD of June 12, 2002.

The Senator from New York's use of erroneous data on the bipartisan tax relief package is unfortunately part of a coordinated strategy on the part of the Democratic leadership. It is also data unchallenged by many in the media. In fact, many in the media parrot another of the Democratic Leadership's equally erroneous statistics. We keep hearing and reading that the bipartisan tax relief package yielded 40 percent of its benefits to the top 1 percent of taxpayers. This statistic, like Senator SCHUMER'S other tax relief statistics, is dramatically at odds with Joint Tax, the official scorekeeper for Congressional tax relief.

According to Joint Tax, the bipartisan tax relief package makes the Tax Code more progressive.

I make this statement for one basic reason. The issues of prescription drugs and death tax relief are important matters. Certainly every one of us hears about both of these issues when we are back home. They are issues that our constituents expect us to resolve. Folks back home expect us to be intellectually honest in debating these important matters. When we debate these issues, we ought to use intellectually honest figures.

I ask unanimous consent to print the Joint Committee on Taxation's revenue estimate of the proposed estate tax relief and the distribution analysis in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED REVENUE EFFECTS OF H.R. 2143, "PERMANENT DEATH TAX REPEAL ACT OF 2001", FISCAL YEARS 2002–2012

[Billions of Dollars]

| Provision | Effective | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2002–07 | 2002–12 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Make Permanent the Repeal of the Estate Tax and the Generation-Skipping Transfer Tax. | dda & gma 12/31/10 | .......... | −1.2 | −1.5 | −1.8 | −2.3 | −2.5 | −2.7 | −2.8 | −4.0 | −24.9 | −55.8 | −9.2 | −99.4 |

Note: Details may not add to totals due to rounding. Legend for "Effective" column: dda=decedents dying after; gma=gifts made after.

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R, 1836

(Prepared by the staff of the Joint Committee on Taxation, May 26, 2001)

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836[1]

| Income category[2] | Change in Federal taxes[3] |  | Federal taxes[3] under present law |  | Federal taxes[3] under proposal |  | Effective tax rate[4] |  |
|---|---|---|---|---|---|---|---|---|
|  | Millions | Percent | Billions | Percent | Billions | Percent | Present law (percent) | Proposal (percent) |
| **CALENDAR YEAR 2001** |  |  |  |  |  |  |  |  |
| Less than $10,000 | −$75 | −1.0 | $7 | 0.4 | $7 | 0.4 | 8.7 | 8.6 |
| 10,000 to 20,000 | −2,989 | −11.5 | 26 | 1.5 | 23 | 1.4 | 7.5 | 6.7 |
| 20,000 to 30,000 | −5,790 | −9.4 | 62 | 3.5 | 56 | 3.3 | 13.4 | 12.2 |
| 30,000 to 40,000 | −5,674 | −6.4 | 89 | 5.1 | 83 | 4.9 | 16.1 | 15.1 |

DISTRIBUTIONAL EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836[1]—Continued

| Income category[2] | Change in Federal taxes[3] | | Federal taxes[3] under present law | | Federal taxes[3] under proposal | | Effective tax rate[4] | |
|---|---|---|---|---|---|---|---|---|
| | Millions | Percent | Billions | Percent | Billions | Percent | Present law (percent) | Proposal (percent) |
| 40,000 to 50,000 | −5,490 | −5.4 | 102 | 5.9 | 97 | 5.7 | 17.4 | 16.4 |
| 50,000 to 75,000 | −11,546 | −4.5 | 256 | 14.6 | 244 | 14.4 | 19.1 | 18.3 |
| 75,000 to 100,000 | −8,488 | −3.5 | 244 | 13.9 | 235 | 13.9 | 21.7 | 21.0 |
| 100,000 to 200,000 | −10,488 | −2.6 | 408 | 23.3 | 397 | 23.5 | 24.2 | 23.6 |
| 200,000 and over | −6,997 | −1.3 | 555 | 31.7 | 548 | 32.4 | 27.8 | 27.4 |
| Total, All Taxpayers | −57,536 | −3.3 | 1,748 | 100.0 | 1,690 | 100.0 | 21.4 | 20.7 |
| **CALENDAR YEAR 2002** | | | | | | | | |
| Less than $10,000 | −75 | −1.0 | 7 | 0.4 | 7 | 0.4 | 9.2 | 9.1 |
| 10,000 to 20,000 | −3,596 | −13.3 | 27 | 1.5 | 23 | 1.3 | 7.6 | 6.6 |
| 20,000 to 30,000 | −7,124 | −11.3 | 63 | 3.4 | 56 | 3.2 | 13.5 | 12.0 |
| 30,000 to 40,000 | −6,849 | −7.6 | 91 | 4.9 | 84 | 4.8 | 16.1 | 14.8 |
| 40,000 to 50,000 | −6,198 | −5.8 | 106 | 5.8 | 100 | 5.7 | 17.5 | 16.5 |
| 50,000 to 75,000 | −13,251 | −5.0 | 267 | 14.5 | 254 | 14.4 | 19.0 | 18.0 |
| 75,000 to 100,000 | −10,227 | −4.0 | 255 | 13.9 | 245 | 13.9 | 21.7 | 20.8 |
| 100,000 to 200,000 | −14,416 | −3.3 | 442 | 24.1 | 427 | 24.3 | 24.2 | 23.4 |
| 200,000 and over | −16,557 | −2.9 | 578 | 31.5 | 562 | 32.0 | 27.9 | 27.1 |
| Total, All Taxpayers | −78,294 | −4.3 | 1,836 | 100.0 | 1,758 | 100.0 | 21.5 | 20.6 |
| **CALENDAR YEAR 2003** | | | | | | | | |
| Less than $10,000 | −83 | −1.1 | 8 | 0.4 | 8 | 0.4 | 9.7 | 9.6 |
| 10,000 to 20,000 | −3,516 | −12.9 | 27 | 1.4 | 24 | 1.3 | 7.6 | 6.6 |
| 20,000 to 30,000 | −7,135 | −11.0 | 65 | 3.3 | 58 | 3.1 | 13.6 | 12.1 |
| 30,000 to 40,000 | −6,946 | −7.5 | 93 | 4.8 | 86 | 4.6 | 16.0 | 14.8 |
| 40,000 to 50,000 | −6,155 | −5.7 | 108 | 5.6 | 101 | 5.5 | 17.4 | 16.4 |
| 50,000 to 75,000 | −13,554 | −4.9 | 279 | 14.4 | 266 | 14.3 | 18.9 | 18.0 |
| 75,000 to 100,000 | −10,553 | −4.0 | 265 | 13.7 | 255 | 13.8 | 21.7 | 20.8 |
| 100,000 to 200,000 | −15,487 | −3.2 | 479 | 24.8 | 464 | 25.1 | 24.2 | 23.4 |
| 200,000 and over | −17,453 | −2.9 | 609 | 31.5 | 591 | 31.9 | 28.1 | 27.3 |
| Total, All Taxpayers | −80,882 | −4.2 | 1,933 | 100.0 | 1,852 | 100.0 | 21.5 | 20.6 |
| **CALENDAR YEAR 2004** | | | | | | | | |
| Less than $10,000 | −69 | −0.9 | 8 | 0.4 | 8 | 0.4 | 10.0 | 9.9 |
| 10,000 to 20,000 | −3,429 | −12.6 | 27 | 1.3 | 24 | 1.2 | 7.6 | 6.6 |
| 20,000 to 30,000 | −7,121 | −10.8 | 66 | 3.3 | 59 | 3.1 | 13.6 | 12.2 |
| 30,000 to 40,000 | −6,964 | −7.3 | 96 | 4.7 | 89 | 4.6 | 16.0 | 14.8 |
| 40,000 to 50,000 | −6,320 | −5.8 | 110 | 5.4 | 103 | 5.3 | 17.4 | 16.4 |
| 50,000 to 75,000 | −15,049 | −5.2 | 288 | 14.2 | 273 | 14.2 | 18.7 | 17.8 |
| 75,000 to 100,000 | −12,913 | −4.6 | 279 | 13.8 | 266 | 13.8 | 21.5 | 20.5 |
| 100,000 to 200,000 | −22,095 | −4.3 | 512 | 25.2 | 490 | 25.3 | 24.1 | 23.0 |
| 200,000 and over | −21.671 | −3.4 | 642 | 31.6 | 620 | 32.1 | 28.2 | 27.3 |
| Total, All Taxpayers | −95,630 | −4.7 | 2,028 | 100.0 | 1,932 | 100.0 | 21.6 | 20.6 |
| **CALENDAR YEAR 2005** | | | | | | | | |
| Less than $10,000 | −76 | −1.0 | 8 | 0.4 | 8 | 0.4 | 10.1 | 10.0 |
| 10,000 to 20,000 | −3,867 | −14.0 | 28 | 1.3 | 24 | 1.2 | 7.6 | 6.5 |
| 20,000 to 30,000 | −7,937 | −11.6 | 68 | 3.2 | 60 | 3.0 | 13.7 | 12.1 |
| 30,000 to 40,000 | −7,720 | −7.9 | 98 | 4.6 | 90 | 4.4 | 16.0 | 14.7 |
| 40,000 to 50,000 | −6,945 | −6.2 | 112 | 5.3 | 105 | 5.2 | 17.2 | 16.2 |
| 50,000 to 75,000 | −16,630 | −5.5 | 303 | 14.2 | 286 | 14.1 | 18.7 | 17.6 |
| 75,000 to 100,000 | −14,709 | −5.1 | 287 | 13.5 | 273 | 13.5 | 21.4 | 20.3 |
| 100,000 to 200,000 | −24,654 | −4.5 | 547 | 25.7 | 522 | 25.8 | 24.0 | 22.9 |
| 200,000 and over | −21,182 | −3.1 | 678 | 31.9 | 657 | 32.4 | 28.3 | 27.4 |
| Total, All Taxpayers | −103,720 | −4.9 | 2,129 | 100.0 | 2,025 | 100.0 | 21.6 | 20.6 |
| **CALENDAR YEAR 2006** | | | | | | | | |
| Less than $10,000 | −76 | −0.9 | 8 | 0.4 | 8 | 0.4 | 10.4 | 10.3 |
| 10,000 to 20,000 | −3,789 | −13.6 | 28 | 1.2 | 24 | 1.1 | 7.6 | 6.6 |
| 20,000 to 30,000 | −7,853 | −11.4 | 69 | 3.1 | 61 | 2.9 | 13.7 | 12.2 |
| 30,000 to 40,000 | −7,839 | −7.9 | 99 | 4.4 | 91 | 4.4 | 16.0 | 14.7 |
| 40,000 to 50,000 | −7,570 | −6.5 | 116 | 5.2 | 108 | 5.2 | 17.2 | 16.0 |
| 50,000 to 75,000 | −18,755 | −6.0 | 313 | 14.0 | 294 | 14.0 | 18.6 | 17.5 |
| 75,000 to 100,000 | −17,212 | −5.8 | 297 | 13.3 | 280 | 13.3 | 21.3 | 20.0 |
| 100,000 to 200,000 | −30,208 | −5.1 | 588 | 26.3 | 558 | 26.6 | 23.9 | 22.7 |
| 200,000 and over | −44,177 | −6.1 | 719 | 32.1 | 675 | 32.1 | 28.3 | 26.6 |
| Total, All Taxpayers | −137,476 | −6.1 | 2,238 | 100.0 | 2,100 | 100.0 | 21.7 | 20.3 |

[1] Includes provisions affecting the child credit, individual marginal rates, a 10% bracket, limitation of itemized deductions, the personal exemption phaseout, the standard deduction, 15% bracket and EIC for married couples, deductible IRAs, and the AMT.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest; [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels.

[3] Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.

[4] the effective tax rate is equal to Federal taxes described in footnote (3) divided by: income described in footnote (2) plus additional income attributable to the proposal.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

## UPDATED DISTRIBUTION OF CERTAIN FEDERAL TAX LIABILITIES BY INCOME CLASS FOR CALENDAR YEAR 2001

(Prepared by the staff of the Joint Committee on Taxation, August 2, 2001)

### INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, shows the update distribution for calendar year 2001 of certain Federal tax liabilities of individuals by income class. This distribution has been updated to reflect changes enacted in the Economic Growth and Tax Reconciliation Relief Act of 2001 (Public Law 107–16).

The first table shows the distribution of the Federal individual income tax and the second table shows the distribution of the Federal individual income tax, Federal excise taxes, and Federal employment taxes.

For purposes of these tables, the income concept used for classifying taxpayers is adjusted gross income ("AGI") plus: (1) tax-exempt interest, (2) employer contributions for health plans and life insurance, (3) employer share of FICA tax, (4) worker's compensation, (5) nontaxable Social Security benefits, (6) insurance value of Medicare benefits, (7) alternative minimum tax preference items, and (8) excluded income of U.S. citizens living abroad.

The first table shows the distribution of the Federal individual income tax, including the outlay portion of the earned income credit ("EIC") and the child credit. The table shows, by income category, (1) the number of returns and the percent of all returns represented by the category, (2) the aggregate income and the percent of all income represented by the category, (3) the aggregate individual income taxes paid and the percent of all individual income taxes paid by the category, and (4) the number of returns with zero or negative tax liability and the percent of all returns with zero or negative tax liability represented by the category.

The second table show the distribution of the combined Federal individual income tax (including the outlay portion of the EIC and the child credit), Federal excise taxes, and Federal employment taxes (those taxes required under the Federal Insurance Contributions Act and Federal Unemployment Tax Act). The table shows (1) the number of returns and the percent of all returns represented by the category, (2) the aggregate income and the percent of all income represented by the category, and (3) the aggregate Federal taxes paid and the percent of all Federal taxes paid by the category.

DISTRIBUTION OF FEDERAL INDIVIDUAL INCOME TAX LIABILITY[1]—CALENDAR YEAR 2001

[Updated August 2, 2001]

| Income category[2] | No. of returns[3] | | Income | | Individual income tax | | No. of returns with zero or negative liability | |
|---|---|---|---|---|---|---|---|---|
| | Millions | Percent | Billions | Percent | Billions | Percent | Millions | Percent |
| Less than $10,000 | 19.9 | 14.0 | $83 | 1.0 | −6 | −0.7 | 18.9 | 37.4 |
| 10,000 to 20,000 | 23.3 | 16.4 | 347 | 4.2 | −13 | −1.3 | 16.4 | 32.4 |
| 20,000 to 30,000 | 18.5 | 13.0 | 460 | 5.6 | 3 | 0.4 | 8.5 | 16.9 |
| 30,000 to 40,000 | 15.8 | 11.1 | 549 | 6.7 | 22 | 2.4 | 3.8 | 7.5 |
| 40,000 to 50,000 | 13.1 | 9.2 | 589 | 7.2 | 33 | 3.5 | 1.8 | 3.7 |
| 50,000 to 75,000 | 21.9 | 15.4 | 1,337 | 16.4 | 100 | 10.6 | 1.0 | 2.0 |
| 75,000 to 100,000 | 12.9 | 9.1 | 1,121 | 13.7 | 110 | 11.6 | 0.1 | 0.2 |
| 100,000 to 200,000 | 12.8 | 9.0 | 1,683 | 20.6 | 226 | 23.9 | (4) | 0.1 |
| 200,000 and over | 3.8 | 2.7 | 1,999 | 24.5 | 471 | 49.7 | (4) | (5) |
| Total, All Taxpayers | 142.0 | 100.0 | 8,168 | 100.0 | 948 | 100.0 | 50.6 | 100.0 |
| Highest 10% | 14.2 | 10.0 | 3,431 | 42.0 | 670 | 70.7 | (4) | 0.1 |
| Highest 5% | 7.1 | 5.0 | 2,556 | 31.3 | 559 | 59.0 | (4) | (5) |
| Highest 1% | 1.4 | 1.0 | 1,402 | 17.2 | 357 | 37.6 | (4) | (5) |

[1] Includes the outlay portion of the EIC and child credit.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at $107,455, the highest 5% at $145,199 and the highest 1% at $340,306.

(3) Includes filing and nonfiling units. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded.

(4) Less than 50,000.

(5) Less than 0.005%.

Source: Joint Committee on Taxation.
Detail may not add to total due to rounding.

DISTRIBUTION OF FEDERAL TAX LIABILITY[1]—CALENDAR YEAR 2001

[Updated August 2, 2001]

| Income category[2] | No. of returns[3] | | Income | | Federal tax liability | |
|---|---|---|---|---|---|---|
| | Millions | Percent | Billions | Percent | Billions | Percent |
| Less than $10,000 | 19.9 | 14.0 | $83 | 1.0 | $7 | 0.4 |
| 10,000 to 20,000 | 23.3 | 16.4 | 347 | 4.2 | 23 | 1.4 |
| 20,000 to 30,000 | 18.5 | 13.0 | 460 | 5.6 | 56 | 3.3 |
| 30,000 to 40,000 | 15.8 | 11.1 | 549 | 6.7 | 83 | 4.9 |
| 40,000 to 50,000 | 13.1 | 9.2 | 589 | 7.2 | 97 | 5.7 |
| 50,000 to 75,000 | 21.9 | 15.4 | 1,337 | 16.4 | 244 | 14.4 |
| 75,000 to 100,000 | 12.9 | 9.1 | 1,121 | 13.7 | 235 | 13.9 |
| 100,000 to 200,000 | 12.8 | 9.0 | 1,683 | 20.6 | 397 | 23.5 |
| 200,000 and over | 3.8 | 2.7 | 1,999 | 24.5 | 547 | 32.4 |
| Total, All Taxpayers | 142.0 | 100.0 | 8,168 | 100.0 | 1,689 | 100.0 |
| Highest 10% | 14.2 | 10.0 | 3,431 | 42.0 | 890 | 52.7 |
| Highest 5% | 7.1 | 5.0 | 2,556 | 31.3 | 686 | 40.6 |
| Highest 2% | 1.4 | 1.0 | 1,402 | 17.2 | 391 | 23.2 |

[1] Federal taxes are equal to individual income tax (including the outlay portion of the EIC and child credit), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax and estate and gift taxes are not included due to uncertainty concerning the incidence of these taxes.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable Social Security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2001 levels. The highest 10% begins at $107,455, the highest 5% at $145,199 and the highest 1% at $340,306.

[3] Includes filing and nonfiling units. Individuals who are dependents of other taxpayers with negative income are excluded.

Source: Joint Committee on Taxation. Detail may not add to total due to rounding.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Nebraska.

Mr. HAGEL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Five minutes forty-five seconds.

Mr. HAGEL. I yield myself such time as I consume.

Mr. President, this debate in which our body has engaged over the last 5 days I believe has been helpful for our country because it has focused on a critical need, a need to come forward with a Medicare prescription drug plan, a plan that is focused on those who need it most and that is responsible.

None of the programs we have debated over the last few days have been perfect. The proposal that Senator ENSIGN and I and others have brought to the floor is not perfect. We were not given much of an opportunity to work through these issues where we normally have opportunities to work through issues, and that is in committee. So we debated something so critical to our seniors, to the future of our country on the floor of the Senate. When we do it that way, we have to rush. We slam things together. There are imperfections in that process, but nonetheless, again, I believe this has been an important, enlightened, educational, and helpful process.

We now have one option before us. We voted down two options yesterday. We have the Hagel-Ensign plan that we will vote on within the hour. What this plan does is give our seniors a very significant benefit. I ask: Would we really deny our seniors not only the benefit—the real, practical, relevant, tangible benefit—of this program, but also something maybe more important, and that is the peace of mind that they will not be ruined by catastrophic drug costs? Let's again review quickly what this amendment does.

This is immediate. It can be up and running on January 1, 2004. It is permanent, unlike the Democratic plan that we voted down yesterday.

It offers discount drug card programs with 20- to 40-percent discounts for all who enroll.

It is affordable. Seniors pay only a $25 annual fee and then a small copayment after they have reached their out-of-pocket expense level.

It provides catastrophic coverage. We use the market system. We do not invent more government, bigger government, impersonal government. We propose a real-world solution to a real-world problem with this proposal.

This bill gives our seniors the protection they need and for those who need it most. I encourage my colleagues to look seriously and closely at what we are proposing today.

It is accountable, it is responsible, it fits within the $300 billion budget resolution that we passed last year for a prescription drug plan over the next 10 years. We are giving the seniors an opportunity for peace of mind and real benefits that will enhance their quality of life and enhance the ability for not just this senior generation but future generations to pay for their health care costs, at the same time taking into consideration the generations ahead who will have to pay for this program.

Someone will pay for this program. We need a program, but let us use some common sense. Let us find a center of gravity, an equilibrium, and do it right. We believe our amendment accomplishes that.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Massachusetts.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM THE RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES, 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 4775. The clerk will report the conference report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of July 19, 2002, at page 4935.)

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, how much time is allotted for debate on the conference report?

The PRESIDING OFFICER. Thirty minutes equally divided between the chairman and the ranking member.

Mr. BYRD. I thank the Chair. Madam President, Senator STEVENS is on his way. He is the ranking member on the Appropriations Committee and he will share the time with me. I have been informed he has indicated I should proceed immediately with my statement, and he will shortly reach the floor and speak on the conference report himself.

The Senate will then vote on the conference report for the fiscal year 2002 supplemental appropriations bill. This conference agreement provides critical investments in national defense, both at home and abroad. Let me say that again. This conference report provides critical investments in national defense, both at home and abroad. So let the world know that the Appropriations Committee has acted expeditiously, working with the House Appropriations Committee in conference, and that Senators on both sides of the aisle have worked hard with their staffs to provide for these investments in the Nation's defense, both at home and abroad.

This agreement is the result of true bipartisan, bicameral cooperation, and I urge its adoption.

Last fall, America was in shock. The World Trade Center and the Pentagon had been attacked. Thousands of Americans had lost their lives to the brutal terrorist attacks. Our eyes were opened to the new reality of war in the 21st century, a different kind of war. No longer were we immune from attack on the homeland that we all love. No longer did the great oceans shield our country from the violence that had scarred so many nations elsewhere in the world. The danger was real. The enemy was among us, not just in some foreign land on another continent. We could not ignore the massive gaps in our security any longer.

In response, within days of the attacks, Congress adopted a $40 billion emergency supplemental bill to fund our military efforts overseas and to protect Americans from further attacks at home. I say that again. Within 3 days, Congress adopted a $40 billion—not million but $40 billion—emergency supplemental bill to fund our military efforts overseas and to protect Americans from further attacks at home.

That funding helped our U.S. troops to bring the downfall of the Taliban, the shakeup of the terrorist al-Quida network, and the start of worldwide commitment to end terrorism—wherever it could end, if we could end it at home, that initial funding paid for more than 2,200 agents and inspectors to guard our long, porous borders with Canada and Mexico. The foreign student visa program, which has been identified as one of the Immigration and Naturalization Service's chief loopholes, is undergoing a tighter tracking system because of funding that Congress this body and the House included in that initial funding package.

Across the country, local police officers, firefighters, and emergency medical teams are receiving new training and equipment to handle threats that, before last fall, they hardly considered possible. Who would have imagined that their community fire department and paramedics would need training on how to respond to a chemical or biological or radiological attack? Bake sales and bingo nights could not possibly fund terrorist response efforts. Congress had a responsibility to respond, and Congress did respond. We responded within 3 days. We knew what our duty was. We knew where our duty lay—and we acted.

Federal law enforcement also benefited from the work of this Congress, from the work of this committee, this Appropriations Committee. Because of the funding contained in the initial supplemental bill, the FBI started to hire hundreds of new agents. Because the Appropriations Committees in both Houses appropriated the moneys, more than 300 additional protective personnel were hired to protect the Nation's nuclear weapons complex. Air marshals are coming on board to protect our planes. Madam President, 750 food inspectors were hired to ensure the safety of the meals served at America's kitchen table because—and they were able to do this—because this Appropriations Committees, which I chair, and which Senator TED STEVENS of Alaska has chaired before me, and on which he now sits as the ranking member, because this committee acted in a bipartisan way. No split; no aisle between the two parties on the Appropriations Committee. We joined together. We did not have to be told. We did not have to be ordered. We knew where our duty lay. So 750 food inspectors were hired.

These are just a few, just a few of the examples of the good work that came about because of the investments, the infusion of funds by Congress, starting with the Appropriations Committees, because of the commitment of the men and the women of this body to identify the gaps in homeland security and invest funds—your money, the taxpayers' money—to close those gaps.

In the months that followed that first supplemental, many congressional committees held hearings on homeland security. In the Senate Appropriations Committee, Senators STEVENS of Alaska and I convened 5 days of hearings.

They were long. They were arduous. They were time consuming. They were tiring. Members heard from mayors. Members heard from Governors. Members heard from county officials. We received testimony from police officers, from firefighters, from local health officials, from terrorism experts, from experts on port security, from experts on water security and nuclear security. Seven Cabinet Secretaries and the Director of the Federal Emergency Management Agency, FEMA, appeared before this Appropriations Committee. The House Appropriations Committee did not hold a hearing. The Senate Appropriations Committee held a hearing. And Senator STEVENS and I joined in selecting everyone. Everything was done in a bipartisan way. So seven Cabinet Secretaries and the Director of the Federal Emergency Management Agency appeared before the Committee, as well as two former colleagues—Senator Sam Nunn of Georgia and Senator Warren Rudman of New Hampshire.

What we learned was eye opening. What we learned was that despite all of the efforts of Congress and of the men and women at the local level, the task before us was massive. As a result of the incredible backlog of homeland security needs, one truth was clearly evident; namely, this country was not prepared. We are vulnerable today.

Earlier this summer, it seemed the administration issued another terrorist warning to the American people almost daily. Those warnings only underscored the fact that the new enemy lives in our midst—here among us. So, as Christopher Wren would say, if you seek my monument, look about you. If you seek the enemy, look about you. He is somewhere. He is invisible. But he is sure in our midst.

So the enemy, the new enemy, lives among us, moving through our society with ease, crafting life-threatening weapons with everyday aspects of life: Tanker trucks, postal mail, airplanes, waste radiological material from hospitals and energy plants. Any of these, and more, we are told can be fashioned into weapons to cause death, destruction, fear, panic.

The Appropriations Committee of the Senate heard testimony that indicated America's adversaries could cripple the U.S. economy without great difficulty. That was one of the main objectives of the enemy. They could cripple the economy, but at a far greater cost than any corporate scandal even. The enemy can disrupt the economy without great difficulty and at far greater cost than even any corporate scandal, and the roots of a corporate scandal are running deep, as we know.

Yet what we do not know is the most vexing: Where will the terrorists attempt to strike next? And when? We may not know the answer to those questions until it is too late and the attacks are upon us.

What this Congress has a responsibility to do is to invest in protections that work to prevent attacks before they can occur, and we must help to train our emergency responders to be prepared should another attack strike within our border. We need to do more. We need to do more now. That is why the conference report before the Senate is so critical.

This afternoon, the Senate Governmental Affairs Committee is writing legislation to create a new Department of Homeland Security. But that Department, no matter how well crafted, will take time before it can be an effective tool against terrorism. I am thankful for the fact that the ranking member of the Senate Appropriations Committee, Senator STEVENS, sits on that committee.

We all know where the holes are in our protections—borders, ports, at our nuclear facilities, and throughout our transportation system. If we know where those holes are, then surely the terrorists know, don't you think?

We should not wait—we must not wait—for the next fiscal year or the next calendar year to plug the holes in our homeland security. Congress and the President should make the critical investments that will protect Americans now—today!—without delay.

This conference report makes those investments. It directs $6.7 billion for homeland security initiatives, including $3.85 billion for the Transportation Security Administration. Another $14.4 billion will allow the men and women in the Armed Services to continue to track down those responsible for the terrorist attacks almost 11 months ago. The conference report also fulfills Congress's promise to the people of New York to provide $20 billion to help them recover from the attacks on the World Trade Center with a final installment in this bill of $5.5 billion. The remainder of the funding will go toward other national emergencies including fire suppression in the West, flood recovery efforts in the Midwest and South, and veterans' health care. The shortfall in the Pell Grant program is resolved, and Amtrak, the nation's passenger rail service, will be able to stave off bankruptcy, because there are $2.5 billion included in this conference report for Amtrak.

This is a balanced bill, a responsible bill, and one that I hope the President will sign. I hope he will sign all of this emergency funding into law quickly.

Why do I say "all of this emergency funding"? I say that because Congress gives the President a choice. We have stated that it is the Congress's position that these investments are an emergency and they should be made. If the President signs this bill, he will have 30 days to decide whether to agree with Congress and designate more than $5.1 billion in this legislation as an emergency. If he does not make the emergency designation, the funds cannot be spent.

How much time do I have?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Madam President, I ask unanimous consent that I may proceed for an additional time not to exceed 7 minutes and that my partner, my fellow Senator, my colleague, may be also allowed that time, and that the time for the vote be changed accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Within the $5.1 billion there is nearly $2.5 billion for homeland security. That includes funding for firefighters, police officers, port and border security, and airport security, search and rescue teams, food safety, drinking water safety.

Let me back up just a moment. The self-imposed interruption might cause listeners to lose sight of just where we were.

So we say the President has 30 days in which to decide whether to agree with Congress and designate more than $5.1 billion in this legislation as an emergency. If he doesn't make the emergency designation, the funds cannot be spent—I am talking about the President. If he doesn't make the designation, the funds can't be spent. Within the $5.1 billion—that is what we are talking about—included as emergencies, within that $5.1 billion which the President must agree to if it is to be spent, there is nearly $2.5 billion for homeland security. That includes funding for firefighters, police officers, port and border security and airport security, search and rescue teams, food safety, drinking water safety.

If the President does not make the emergency designation, he will block nearly $2.5 billion in homeland security investments. I hope that the President will join with Congress in this bipartisan approach to homeland security, declare these items to be an emergency, and make these important investments immediately to protect the American people from terrorist attacks.

In addition, if the President decides not to make the emergency designation, he also will block funding for the National Guard and Reserves; election reform; combating AIDS, tuberculosis; and malaria overseas; flood prevention and mitigation; embassy security; aid to Israel and disaster assistance to Palestinians; wildfire suppression; emergency highway repairs; and veterans health care.

These critical appropriations for the American people have been delayed for too long, sometimes as a result of Administration intervention, and the time has come for its speedy passage and the President's signature.

Once again I want to thank my Ranking Member, Senator STEVENS, the former chairman of this committee, for his dedication, his assistance, and, indeed for his leadership on this bill. If it were not for Senator STEVENS, his work, this bill would not be here today. Without his hard work and constant efforts, we would not be here to present this conference report to the Senate today. I also thank our House colleagues, Chairman BILL YOUNG of Florida and Ranking Member DAVID OBEY of Wisconsin, for their cooperation and commitment to the well-being of the American people.

Between the supplemental bill last fall and this conference report, Congress has approved $15 billion for homeland security initiatives, $5.3 billion above the President's request. This legislation is a real victory for the American people. It speeds protections that are so desperately needed at our borders and our ports. It provides vital training for police, firefighters, and emergency medical personnel. Through this legislation, Congress is making investments today that will help to protect Americans from terrorist attack for many years to come.

I urge my colleagues to support this conference agreement, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am pleased to join the Chairman of our Committee, Senator BYRD, in recommending this conference report to the Senate. The consideration of this conference report today in the Senate, following its overwhelming adoption in the other body yesterday, reflects the true consensus that surrounds this agreement.

While not an easy process, the compromises reached on this bill meet the most vital Defense and Homeland Security needs facing our Nation.

In addition, this agreement fulfills the commitment of the Congress and the President to meet the needs of the victims of the attacks of September 11 of last year.

While passed in very different forms by both Houses of Congress, this conference report adheres to the priorities submitted to Congress by the President. With the funds added by Congress in the form of contingent emergency appropriations, the President will have even greater flexibility to address challenges not fully foreseen when his request was transmitted on March 21, if he approves the emergency designation.

Additional funds for the Department of Defense will address the mobilization of National Guard and Reserve personnel from around the Nation.

Funds for port security grants and the Coast Guard will protect our Nation's maritime commerce and trade.

Funds added in this bill for aids response in Africa will jump start the international effort to address that scourge.

The House and Senate Both included additional funds to assist Israel, and those prepared to join Israel in seeking a permanent and lasting peace.

The conference report makes an initial down payment to respond to dramatic flood and fire emergencies in several states, particularly in the West.

While many activities were reduced during the conference to meet the funding limit sought by the President, and the OMB, one component not touched was support for New York.

Governor Pataki and Mayor Bloomberg deserve our continued support for their leadership and determination to recover from the attacks last year. This bill keeps our word to New York and to those officials.

Despite suggestions from OMB, the conferees rejected any cut to the funding for reconstruction and renovation of the Pentagon.

Restoration of the sector of the Pentagon damaged on September 11 is on track for re-opening on the one year anniversary of the attack—really our Nation's center of military strategy. We will keep faith with those who died defending our Nation at the Pentagon as well as those in New York.

I want to commend our Chairman, Senator BYRD, and the House Chairman, BILL YOUNG, for their exceptional work to bring this conference report before the Congress.

Along with House Ranking Member OBEY, I have worked to ensure completion of this bill prior to the August recess and in time to make a difference during the remainder of this fiscal year.

If the President makes the certification that he has the authority to do within 30 days after passage of this bill, the moneys will be available to use for the contingent emergencies we have specified. The sooner that happens, the better it will be for our Nation.

But above all, I urge all Members of the Senate to approve this conference report and send it to the President as quickly as possible so it will be possible to get this money to our people—particularly to the Department of Defense and all our people in uniform—by the beginning of August.

Mr. KYL. Madam President, I rise today in support of an improved supplemental appropriations bill for fiscal year 2002. I am glad to see that the Senate conferees have reassessed their position and agreed to reduce the amount they had originally sought by more than $2.5 billion. The conference report now totals $28.9 billion, which is only $1.8 billion over the President's request, and an amount he said he would support.

Additionally, the vast majority of the funds will now be appropriated as a contingent emergency, giving the President discretion on whether they should be spent, instead of forcing him to designate "all or none" of the non-defense funding items as emergency items.

The bill has been improved in other areas as well, signifying a marked realignment of priorities by the conferees. For example, I am pleased that this report increases defense funding by $330.9 million. Although this is an increase over the President's request, the conferees used updated Department of Defense execution data to make many of their adjustments. They also made rescissions to un-executable programs and took back unobligated funds resulting from revised economic assumptions in order to offset much-needed increases to the defense budget. I note that the increase is primarily focused on operations and maintenance, $723.6 million, an area most critical to the Department.

Specifically, I support increases to the Navy flying hour account by $140 million, the ship operations account by $225 million, the Air Force airlift account by $626 million, and the Army's logistical support account by $1.03 billion. These increases will go a long way in helping our troops around the globe. In the procurement line, much of the funding is related to purchasing advanced C3I equipment. And in the Research and Development line, the conferees provided additional funds to upgrade existing C3I programs, increases that will be crucial to the successful execution of our war on terror.

Additionally, this bill includes the American Service Members' Protection Act language that was proposed by both Chambers, and it maintains the Senate's provision giving our military the flexibility to conduct operations in coordination with international efforts to pursue foreign nationals accused of war crimes, crimes against humanity, and genocide.

On the domestic front, I would also note that the conference report includes $100 million in disaster assistance for fires and floods, funds that are critically important to the State of Arizona. I strongly believe that this amount of funding is still woefully inadequate to address the dire circumstances surrounding the fires in the Western States; however, I am confident that there will be other legislative opportunities in which to adequately fund these firefighting efforts.

While this bill has improved in many ways, I still believe it spends too much money on low-priority programs that are not truly emergencies, for example, provisions dealing with another Amtrak bailout and numerous non-emergency pork projects such as coral reef mapping. That said, especially given the need to support our war on terrorism, the merits of this legislation now outweigh its deficiencies. Although not perfect, the bill deserves the support of my colleagues. President Bush has asked that we get this bill to his desk before August recess. I am glad that we will be able to do so.

Mr. WELLSTONE. Madam President, I support this important supplemental appropriations bill, which primarily contains crucial spending that is immediately needed for homeland security purposes. I commend the managers for their efforts on it. I know that the chairman of the Appropriations Committee and the ranking member worked hard and diligently, as did others, to complete this bill. And I know that they are not responsible for its delay. I am glad the bill will now go to the President, and this funding can go quickly to meet urgent national security needs.

I would like briefly to highlight three topics touched upon by the bill, items which are not the largest matters dealt with here, but which I consider to be very important. The issues are workforce development, disaster assistance and veterans' health care.

First, as chair of the Employment, Safety and Training Subcommittee, with jurisdiction over workforce development issues, I want to address the elimination of emergency funding for job retraining services through the Workforce Investment Act, WIA, which occurred late during the conference on this bill.

What has happened in connection with WIA programs is, I fear, just the tip of the budgetary iceberg. Although confronted with severe economic distress and uncertainty and record unemployment, we are being told by the administration that we lack the resources for key job-training services. Having spent our surplus on tax cuts for the well to do, we do not have the resources to fund services that are essential in helping displaced workers train for and find new employment and in helping businesses find the skilled workers they need to stay competitive in our global economy.

Yet investments in a skilled workforce are precisely what we need right now. As former Treasury Secretary Rubin recently said, to rebuild confidence in our financial markets and economic system, "[b]udgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy . . . "

The irony is that additional support for WIA was in the President's initial fiscal year 2002 supplemental request. He proposed $750 million for WIA, including the restoration of last year's $110 million rescission of dislocated worker formula funds. The Senate and the House followed, both including WIA funding at lower levels.

But then, in the quest to reach the overall target the President and OMB Director Mitch Daniels set for the emergency supplemental, all of the WIA funding was cut.

Frankly, this seems to contradict what the President is saying elsewhere. Just yesterday the President was quoted as saying that his biggest concern about Sunday's record bankruptcy filing by WorldCom was the effect on employees who lose their jobs. Well, the best thing we can do for people who have lost their jobs through Enron, WorldCom, and the other bankruptcies is to help them retrain and retool to find new jobs.

And earlier this year when he submitted his supplemental request, we were told: "The President's supplemental budget request provides the urgent assistance that is needed now to ensure that affected workers get the assistance and jobs they need."

This decision is a harsh one for the tens of thousands of workers who will not get the training they need to retool their careers. Already they are finding that the courses they want to take are closed or they are put on endless waiting lists. Workers dislocated because of the impact of trade and certified to receive Trade Adjustment Assistance find they are unable to get training because States have run out of resources and the National Emergency Grant funds that typically see the States through such shortages are themselves depleted

It is harsh as well for businesses that cannot find the skilled workers to stay competitive and take advantage of market opportunities to help fuel our economic recovery.

And it also threatens to undercut WIA's key reforms. States and localities, along with their private sector partners are now at a critical stage in the process of building the new systems called for in WIA. Without adequate funding and without stable funding this essential systems building will be undermined.

Moreover, all of this is happening while the new WIA infrastructure is being stretched to its limits with demands for services triggered by the catastrophic after effects of September 11, the highest unemployment in years, and the continuing dislocations from the largest bankruptcies ever seen in this Nation's history.

This is why I am concerned. This is why I felt I had to speak out. I understand that we are not going to change the fiscal year 2002 emergency supplemental to address this problem. But I do want my colleagues to understand the full impact of the decisions that have been made in this bill concerning some very important priorities. I urge my colleagues to reflect on these implications so that when we take up the fiscal year 2003 Labor/HHS Appropriations bill, we will be especially careful not to further undermine the WIA programs that are so critical to American workers, businesses, and our economic recovery.

The second topic I would like to address is disaster assistance. As a result of severe flooding in Northwestern Minnesota 17 counties are under a federally declared disaster: Becker, Beltrami, Clay, Clearwater, Itasca, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, McLeod, Norman, Pennington, Polk, Red Lake, Roseau, and Wright.

In the 17 counties that are currently included in the federally declared disaster, 1,785 homes were damaged. In Roseau alone over 1,180 homes were damaged.

I am pleased that the supplemental includes some much needed funding for FEMA. The disaster assistance included here represents a down payment in terms of the assistance that the families, businesses and communities in my State will need as they move forward and begin the process of rebuilding their homes, offices and cities.

The Minnesota Recovers Task Force estimates that there will be over $85 million in disaster funding needs as a result of this spring/summer flooding. Of this amount, nearly $50 million will be eligible for FEMA funding. That will leave approximately $35 million in recovery needs that will not be covered by existing FEMA and SBA assistance programs.

I am working closely with my colleagues, Senator DAYTON and Representative PETERSON, to secure additional flood recovery funding in the fiscal year 2003 HUD Appropriations bill. This funding will be used for the distinct purpose of meeting unmet needs for buyouts, relocation, rehabilitation, long-term recovery, and mitigation to aid the business community of Roseau, MN and the surrounding counties that have received a Federal disaster declaration. The funding will be used in coordination with other Federal, State, and local assistance.

While these FEMA programs are very important, unfortunately they are not geared to handle agricultural losses. In Northwest Minnesota an extraordinary rich agriculture region now lies devastated. According to the Farm Service Agency, this season's crop losses are estimated at more than $267 million across 14 counties. Overall, total agricultural flood losses, including damage to agricultural small businesses, are estimated at more than $370 million.

That is why Senator DAYTON and I introduced legislation to provide disaster assistance to agricultural producers last week. This legislation is a starting point to providing the needed assistance to farmers, many of whom, without this emergency assistance will be driven off their farms.

I believe the supplemental appropriations bill would have been the appropriate place to add emergency agricultural disaster assistance to cover weather-related losses. However, the Bush administration continues to oppose any emergency appropriation to provide disaster assistance to farmers. The administration's position is that in order to provide any relief to family farmers who lost their crop due to a flood or drought, money must be taken away from commodity program supports that assist other farmers. In other words, they are saying that when the President signed the farm bill, that was going to be all farmers could expect until 2008, no matter what.

That doesn't work for Northwestern Minnesota. The farm bill was not a disaster-assistance bill. It is a 6-year policy to help stabilize farm income and rural economies. Its funding is absolutely needed for that purpose.

We tried to include separate, emergency weather-disaster assistance in the farm bill, but the administration opposed that, too. They also opposed it when we tried to include it in the supplemental appropriations bill. When Congress decides to help areas affected by hurricanes or fires, we don't tell people to pull their emergency assistance out of somebody else's highway fund. Sometimes the Federal Government just needs to be there for people. The President needs to change his position and help us get some assistance to Northwestern Minnesota.

Finally, the supplemental appropriation bill includes $417 million for veterans health care that I requested which was included in the Senate's bill. These funds are critically important to the veterans in Minnesota. The need for services has simply overwhelmed the VA and in some ways there is more of a crisis now in VA health care now than there was even during the era of flat-lined budgets.

The $417 million for Veterans health care in this bill will mean that Minnesota's Network, VISN 23, will get an additional $19 million to reduce waiting times, keep clinics open, open new clinics, and improve the quality of healthcare. This is very badly needed.

I want to thank Senators MIKULSKI and BOND on the VA-HUD Subcommittee especially, because I know they fought to keep this money in conference, as well as Senators BYRD and STEVENS. We did right by veterans in this supplemental.

Mr. DODD. Madam President, I rise to comment briefly about Title II, the American Service Members Protection Act of H.R. 4775 in order to clarify the Senate''s intent in insisting on the retention of Sec. 2015 of that Title which was added during Senate consideration of the supplemental.

I read with interest the remarks of Chairman HENRY HYDE during House consideration of the conference report on July 23. I am certainly not in any position to dispute his comments concerning the first 14 sections of Title II relating to the American Service Members Protection Act, ASPA, as I was not a party to those discussions. I leave it to the administration and to others involved in those discussions to make that judgment.

I do, however, know something about the intent behind Sec. 2015 as I was the author of the amendment that was ultimately included in the Senate passed version of ASPA. A review of the Senate debate makes clear that I was offering the second degree amendment because of my concern with respect to the complexity of the House passed language which was offered as a first degree amendment by Senator WARNER. As written, I was concerned that it unduly restricted the ability of the President to cooperate with international efforts to bring foreign nationals accused of genocide, war crimes or crimes against humanity to justice if he chose to do so.

Sec. 2015 makes clear that regardless of the other sections contained in Title II, the President is not prohibited from rendering assistance to any such international efforts, including to the International Criminal Court. An amendment to exclude cooperation with the ICC was proposed during the conference on H.R. 4775, but was rejected by the conferees. Therefore, as the language now stands the President has the discretion to cooperate with any and all international efforts to bring such criminals to justice.

I thank my colleagues for the opportunity to clarify an important addition to the House version of ASPA.

### FUNDING OF HUMANITARIAN GOODS THROUGH COMMERCIAL SHIPPING

Mr. STEVENS. Madam President, the supplemental provides language supporting the shipment of humanitarian supplies to poor nations. My friend from Alabama was the initiator of this language and I was hoping he could provide the Senate with more information on this topic.

Mr. SESSIONS. Madam President, I would be glad to discuss the national Forum Foundation's TRANSFORM Program. With the help of my good friend from Alaska, I offered an amendment to the supplemental that was accepted by the Senate. I understand that it was modified during conference—but will now permit organizations, such as the National Forum Foundation's TRANSFORM program, to receive the much needed authority to receive funds to pay for administrative expenses.

TRANSFORM began 3 years ago as a natural extrapolation of the Denton Program. The Denton Program allows U.S. Air Force Transport aircraft under the control of CINCTRANS to deliver overseas on a space available basis, humanitarian aid donated by 501(c)(3) charity organizations.

In analyzing the transportation of humanitarian aid, the National Forum Foundation has learned that commercial ships have 2000 times the space than our Air Force aircraft and with the export-import imbalance, are usually relatively empty departing our ports.

The TRANSFORM program brings the 501(c)(3) charitable organizations, which collect and wish to distribute these goods, to the commercial shipping lines willing to carry them space-available. The charity has to be indoctrinated to conform to the loading dates and times, port locations and the specific loading manner required by the ship-line. TRANSFORM exercises special means to ensure no delays in ports or customs issues.

Finally, TRANSFORM's system has a leverage of 250-1 meaning that for every dollar of its budgetary expenses, TRANSFORM gets $250 to needy recipients.

Mr. STEVENS. Madam President, may I make an inquiry to my friend from Alabama? Is it correct that the TRANSFORM program recently gained global recognition of its activities at a transportation conference hosted by USAID? I understand that in speaking of its activities, the World Food Programme's representative praised the program and offered it the use of spare space on their ships. This spurred others to offer their vessels—such as American President Line, Maersk and CSX.

Mr. SESSIONS. My friend from Alaska is correct. And I must commend him for the work that he did with the help of the House foreign Operations Subcommittee on this issue. The conferees were able to ensure that organizations that are working for the benefit of developing communities on behalf of the United States government and charitable organizations receive the assistance they need to execute their much laudable goals. I am very grateful to him for this support.

Mr. STEVENS. I am optimistic that the larger this program becomes, the more humanitarian aid will be delivered to those in need around the world. Gain, I thank my friend for bringing this amendment and look forward to its future success.

(At the request of Mr. STEVENS, the following statement was ordered to be printed in the RECORD.)

• Mr. HELMS. Madam President, I commend Senators BYRD and STEVENS and the entire Appropriations Committee, as well as the leadership of Senators WARNER and MILLER for ensuring that American soldiers, sailors, aviators and marines will not be subject to the jurisdiction of the International Criminal Court (ICC). (I, unfortunately, could not be here to offer an amendment on June 6 as I was recovering from surgery to replace a valve in my heart.) With inclusion of the American Servicemembers Protection Act, ASPA, in the emergency supplemental appropriations bill we can all be proud that the Congress put these brave men and women at the top of our priority list.

During Senate action on the emergency supplemental appropriations bill, Senator WARNER offered a unanimous consent request to include section 2015 in ASPA as generous gesture in the face of concerns raised about the spirit of the legislation. I have been assured by Senator WARNER that he did not intend to limit in any way the applicability of the bill or the binding nature of its substance. The hortatory nature of section 2015 was plain at the time it was adopted, and confirmed by the fact that, during debate shortly before ASPA was overwhelmingly approved, no Senator uttered a word—not a single word—to suggest that section 2015 made any substantive change to ASPA whatsoever.

Section 2015 was not part of ASPA language negotiated with the Administration. It merely reiterates that ASPA applies only to the International Criminal Court. It does not apply to other international efforts to bring to justice foreign nationals accused of genocide, war crimes, or crimes against humanity.

Section 2015 must be read in line with ordinary canons of statutory construction. Our courts have long affirmed that in interpreting laws the specific controls the general unless otherwise provided. There are many very specific provisions in ASPA about what is permitted and what is forbidden regarding the International Criminal Court. Had the Senate wished to weaken ASPA's restrictions through section 2015—thereby weakening its protections for American servicemembers—it would have had to amend them, strike them, or not withstand them directly. However, this would have been completely inconsistent with the plain language of the legislation, and the intent of its supporters.

The full text of sections 2004, 2006, and 2011, along with other provisions of the American Servicemembers' Protection Act, was adopted by the Senate by a vote of 78–21 when I offered an amendment to the Defense Appropriations for fiscal year 2002 bill on December 7, 2001. When Senator WARNER offered these same provisions as an amendment to this supplemental appropriations bill, the Senate had essentially the same debate it had on December 7th of last year. No Senator suggested that section 2015, which was included by voice vote during the final minutes of debate, was intended to alter the legislation that passed the Senate previously. The final vote in favor of the ASPA amendment, 75–19, reflected complete uniformity with the December 7, 2001 legislation.●

Mr. McCONNELL. Madam President, the conference agreement includes bill language recommending that $1 million should be provided by the Administration for programs and activities which support the development of independent media in Pakistan. This action was taken by the conferees in recognition of the important role independent media will play in improving democracy in Pakistan. I am aware of the excellent work that has been done by Internews in this area and urge that their experience be used in the development of this project.

I also want to note that the agreement includes report language encouraging the United States Agency for International Development and the Department of State to provide $1 million for programs and activities that provide professional training for journalists from the Middle East. My colleagues and the Administration should know that Internews and Western Kentucky University have jointly conducted similar training for journalists from Indonesia and Southeast Asia. This has been a very successful partnership, and I expect that funding provided in the supplemental bill will be used to expand these efforts to the Middle East, particularly Egypt.

Mr. HARKIN. Madam President, I come to the floor today deeply disappointed by the outcome of the final agreement on the supplemental appropriations bill, which deleted the Senate recommendation of $400,000,000 for dislocated worker assistance under the Workforce Investment Act.

I know that to break the impasse with OMB to get this supplemental enacted, with vitally important items for national defense and homeland security, the leadership of the House and Senate had to agree to reduce the overall size of this supplemental. Our leadership was hard-pressed by the administration to accept unpopular cuts. Sadly, the final agreement eliminated all supplemental funding for dislocated worker assistance.

Most disturbing was the elimination of the $110,000,000 component which had been requested by the administration, and included in both House and Senate versions of the supplemental, to restore last year's rescission of dislocated worker funding. This rescission was enacted when it appeared there was sufficient unspent carryover funding in a brandnew workforce system, and Congress needed to offset an emergency supplemental for Low-Income Home Energy Assistance. Since that time, spending by local workforce agencies has accelerated, while the economic downturn has resulted in a continuing, nagging rise in unemployment. In the last year, more than 2 million workers have lost their jobs.

Fortunately, July marks the beginning of a new program year under the Workforce Investment Act, and $1,549,000,000 in new dislocated worker funding will be available for the next 12 months. Of this amount, the law provides that the States receive $1,239,200,000, or 80 percent, with the remaining $309,800,000 available for the Secretary of Labor to target areas particularly hard hit by mass layoffs. Nevertheless, I am fearful that the deletion of supplemental funding will send the wrong message to local sponsors of job training projects that will cause them to slow down spending of funds that are so desperately needed by the growing numbers of dislocated workers. As chairman of the Labor-HHS-Education Appropriations Subcommittee, I intend to do my best to send a strong message that Workforce Investment Act funding will be maintained despite the attempt of the President to slash more than $500 million out of the fiscal year 2003 budget. At my recommendation, the Senate Appropriations Committee has fully restored these proposed cuts in the fiscal year 2003 budget, recommending a total of $5,633,364,000 for job training for the program year beginning in July of 2003. We rejected the President's proposal to cut dislocated worker assistance by $177,500,000, maintaining the appropriation at $1,549,000,000. We also fully restored the President's proposed cuts of $362,000,000 in youth job training programs, recognizing that young adults, ages 16 to 24, have been disproportionately affected by the decline in total employment over the past year. I wish we could have done more, but our subcommittee's allocation was extremely tight.

In conclusion, let me say I am not at all satisfied with the level of resources devoted to employment and training services, and I intend to work with my colleagues to explore every means to further augment assistance for the more than 8 million Americans who are now unemployed.

Mr. McCAIN. Madam President, I rise today to speak about the conference report for the Supplemental Appropriations bill for fiscal year 2002. When we debated the Senate version of this bill in June, I stated my strong opposition to any item included that was not for the stated purpose of the bill: the "further recovery from and response to terrorist attacks on the United States." As I said before, using the guise of responding to the terrorist attacks of September 11th to spend federal funds on items that obviously have nothing to do with fighting terrorism is war profiteering.

The conference report before us today contains $28.9 billion in federal spending. That is about $1.8 billion over the President's budget request of $27.1 billion—a request, I might add, he made over three months ago—but at least it is lower than the $31.4 billion in the Senate-passed bill.

Even so, I have reviewed the conference report to determine whether the bill contains items that are low-priority, unnecessary, wasteful, or have not been appropriately reviewed in the normal, merit-based prioritization process. I understand that some of these provisions may be meritorious, or included in unfunded priority lists for certain agencies. However, I have listed them because they were not requested by the President or should not be considered an "emergency" for funding purposes on this bill or are unrelated to our war on terrorism and should be considered for funding in the regular appropriations process. All told, I have identified approximately $5 billion in such spending in the conference report.

Before I proceed, I want to especially commend the Director of the Office of Management and Budget, Mitch Daniels, for his valiant charge to reign-in the free-spending ways of Congressional appropriators. In this town, the louder the opposition gets, the more sense you are making, so keep up the good work Mr. Daniels—and let them howl.

In the absence of a Senate-passed budget resolution, we need fiscal discipline now more than ever. Where we once saw surpluses as far as the eye could see, now we have mounting deficits, a national debt clock that is again ticking, and both houses of Congress voting to raise the government's debt limit by $450 billion. You don't have to be a five-time Jeopardy winner to grasp the bottom line: With the tremendous demands on the federal budget today and with the coming retirement of the Baby Boom generation, we must be even more prudent about where we devote limited taxpayers' dollars.

According to the Congressional Budget Office, the government is running a deficit of $122 billion for the first nine months of this fiscal year, a sharp reversal from the $169 billion surplus recorded for the same period a year ago. And the Office of Management and Budget recently unveiled their mid-year review of the budget showing that there will be a $165 billion deficit for the entire fiscal year. It doesn't take an Nobel Prize-winning economist to conclude that at the rate we are increasing spending, this sizable deficit will increase proportionately in the years to follow.

It is unfortunate that in a time of war, my colleagues cannot curb their appetite for non-emergency, wasteful spending. At this moment, the national interest must prevail over politicians' parochial concerns. Unfortunately, as this conference report and the recent Farm Bill attests, this message has still not gotten through to Congress.

For example, the recent Farm Bill contained an astounding $83 billion above the baseline in new spending for farm programs. This increase brought the total level of spending in the legislation to a mammoth $183 billion for the 10-year life of that bill. It ranks amongst the most expensive in recent history for farm legislation. As has been the trend of previous farm bills, this legislation lacked any payment restrictions to prevent most of the subsidy funding from continuing to benefit large farms and agribusinesses. Widely available information has also shown the overwhelming disparity of farm payment distributions. The General Accounting Office has shown that over 80 percent of farm payments primarily benefited large and medium-sized farms. Other studies have similarly found that the top 10 percent of big farmers and agribusiness consumed about 80 percent of farm benefits, leaving small farmers out in the cold. And yet, despite the evidence of the great inequity in distribution of the farm payments and their whopping price tag, the Senate passed it by a vote of 64–35.

Now the bulk of the supplemental conference report does contain provisions that have been designated as emergencies in response to the terrorist attacks of September 11th, but the story doesn't end there, Mr. President. Can anyone say with a straight face that everything in this conference report, which is officially titled the "2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States," is directly related to the bill's stated purpose?

There is a long list of items under the Commerce Committee's jurisdiction that were not requested by the President or have been earmarked.

I am particularly concerned about the funding allocation and directives made by the appropriators with respect to the Transportation Security Administration, TSA. The funding level provided falls short of the President's request for $4.4 billion. Further, the conference agreement would take away the TSA's flexibility to allocate the funds to areas its considers to be transportation security priorities and instead earmarks nearly $1 billion for expenditures considered important to the appropriators.

While these directives may not sound unreasonable, much of the funding is being directed toward unauthorized programs. How do the appropriators know if these are the most important transportation security priorities and that the level of funding they provided is correct?

The conference report goes so far as to prohibit TSA from using federal funds to recruit or hire the personnel the Administration says it needs to meet the statutory directives in the Aviation Security Act, including the directive to, by year end, inspect all baggage. If we do not give them the resources, how can we possibly expect the TSA to meet its statutory directives?

Yesterday, Secretary Mineta testified before the House Aviation Subcommittee expressing grave concerns over the fact that TSA is not being provided its full request and that the earmarks will have a serious impact on TSA's ability to meet its statutory obligations with regard to baggage screening and other directives. Specifically, Secretary Mineta said in his prepared statement:

> The Administration's Emergency Supplemental request was the amount we needed to do the job. No more, no less. Last Friday, the appropriations Conference Committee voted to cut $1 billion from the $4.4 billion requested by President Bush and to impose new restrictions on our ability to get the job done. Here are five facts about the Conference report:
>
> First, it eliminates $550 million off the top; second, it sets aside $480 million in a so-called contingency fund that may not be available to TSA; third, it imposes $445 million in numerous earmarks not requested or supported by the Administration; fourth, it limits the total number of full-time TSA employees to 45,000—at least 20,000 employees short of what TSA needs to meet its statutory mission; and finally, report language severely restricts my discretionary authority to manage TSA.
>
> In short: TSA's budget was cut by at least $1 billion, possibly up to $1.5 billion. That is a whopping 34 percent cut from the President's request.
>
> Here is the dilemma Congress has created. You have not yet changed TSA's mission, yet the budget to do the job is apparently on the way to being radically diminished while new restrictions and mandates are being imposed. What can be done? The amount of money Congress is about to approve simply will not support the mandates and timetables for aviation security that Congress set last Fall for TSA.
>
> Less money with no flexibility means fewer TSA employees, less equipment, longer lines, delay in reducing the hassle factor at airports, and/or diminished security at our nation's airports. Frankly, these conflicting signals sent by Congress have forced us to regroup and revise the TSA business plan. That will likely take several more weeks. It will involve complex negotiations, and a review of literally thousands of TSA commitments and plans.

These are not my words. These are the words of the Secretary of Transportation. I hope my colleagues pay close attention to the Secretary's concerns. When the TSA is unable to meet its statutory deadlines and fully address critical security issues, we should all know it will largely come back to this funding measure.

Other questionable provisions regarding the TSA should also be mentioned. For example, in the Statement of Managers, the appropriators have earmarked money for the field testing of a particular security technology referred to as Pulsed Fast Neutron Analysis (PFNA). There is only one company that has developed this technology: Ancore Corporation of Santa Clara, California. Unfortunately, earlier this month, the National Research Council (NRC), concluded that PFNA is not ready for airport deployment or testing. Even though the main role for PFNA is the detection of explosives in full cargo containers, the appropriators are directing money for field testing on checked bags. This earmark could be a total waste of critical research money that should be contributing to our effort to increase aviation security.

Further, the Statement of Managers directs that the TSA "be attentive to the needs" of Seattle-Tacoma International Airport, Anchorage International Airport, and Kansas City International Airport when allocating resources provided above the Administration's request for the costs of physical modifications of airports for installing explosive detection systems. This directive is just another thinly veiled attempt at earmarking. I am sure there are many airports that have significant needs in terms of physical alterations that must be made to permit the effective use of bomb detection machines. We should not elevate three airports for special attention. The TSA should be attentive to the needs of all airports and should have the flexibility to establish priorities on how best to meet those needs.

I note that the conference report would take $150 million out of the Airport and Airway Trust Fund to reimburse airports for costs associated with new security requirements imposed on or after September 11. Let me point out there is no statutory authorization to use the Trust Fund for such purposes, nor was this funding requested by the President. While I'm not opposed to reimbursing airports, if it is for emergency purposes it should come out of the General Fund, as was authorized in last year's aviation security bill. Once again, the jurisdiction of the Commerce Committee is being circumvented.

It comes as no surprise that there is funding in the bill for Amtrak $205 million to keep Amtrak operating through September. We all know Amtrak is again in financial crisis, nearly $4.6 billion in debt. Amtrak's independent accountant concluded this year—after 31 years of losses—that a company that loses over a billion dollars annually is not a going concern. Imagine. The upshot is that Amtrak hasn't been able to access a line of credit from its banker, so once again, Congress must make up the shortfall.

I accept, although reluctantly, that Congress must provide assistance. It would not be in the best interest of the country for Amtrak to shut down its entire system in the next few weeks, particularly since Amtrak has not prepared any type of contingency plan to keep its corridor trains, which are paid for by the states, and commuter operations, which are also paid by the states, in operation even if it were to shut down its intercity service. But I regret that the conferees opted to give more money directly to Amtrak in the form of a straight appropriation.

After providing a $100 million loan earlier this month, the Administration requested that it be allowed to provide Amtrak another loan in the amount of $170 million. By providing a loan rather than a grant, the Administration could better control how the funds are used and at least try to protect the interests of the American taxpayers. Instead, Amtrak is being given another infusion of cash without any real restrictions on how it is spent.

Not only are we not holding Amtrak and its Board of Directors responsible for the current crisis, we're not even making an attempt to ensure these funds are spent wisely. I question the need to expend emergency funds for planning a new route to Las Vegas or investing in high-speed rail projects when the Northeast Corridor has a capital backlog of over $5 billion and the tunnels under New York's Penn Station need $1 billion in safety and reliability improvements. But Amtrak is spending its emergency funds on the Las Vegas route and other projects that sure don't sound like emergency expenditures to me.

While I support the intent of the conferees to ensure that Amtrak provides Congress the same information it is now required to supply DOT as a condition of its $100 million loan, I believe this information should also be coming to the authorization committees, not just the appropriators. The Senate Commerce Committee and the House Transportation and Infrastructure Committee are responsible for setting policy with respect to Amtrak not the Appropriations Committees.

Perhaps one of the more egregious provisions in the conference report deals with earmarked highway projects. My colleagues may recall the enormous controversy raised late last year when the appropriators took the unprecedented action in the FY 2002 DOT Appropriations Bill in which every state lost a portion of their highway funding that was to be allocated by formula under the Transportation Equity Act for the 21st Century, TEA-21. The appropriators redirected the states' formula funding to projects primarily in the appropriators' home states. Well, they are at it once again.

The conference report includes language making eligible 49 projects earmarked in the FY 2002 DOT Appropriations Bill that, under TEA-21, are not eligible to receive the earmarked funds. It is very troubling that the authorizing Committee of jurisdiction is not more concerned about maintaining the integrity of the multi-year highway funding formula law. Even more than I, the members whose states lost the predominant share of their formula and RABA funds to projects in the appropriators' states, should be vehemently objecting to this latest overreach.

Does anyone even know how their state fared as a result of the appropriators' handiwork last year? Of course, it should come as no surprise that the big winner was the state of West Virginia, which received $96.7 million in highway funding earmarks through the funding re-directives. This is followed by Kentucky which received $70 million; Washington which received $61 million; Mississippi which received $60.7 million; and Alabama which received $60.6 million.

Compare this to other states, such as Delaware, which received $100,000 but suffered a reduction of its formula funds of $2.496 million. Many other states also took substantial hits because of the appropriators' funding redirection efforts, including:

| State | New Earmarks (millions) | Cut in Formula/RABA funds (millions) |
|---|---|---|
| Wyoming | +$1 | −$4.387 |
| Georgia | +8.2 | −22.4 |
| Michigan | +17.3 | −21.397 |
| New Jersey | +16.1 | −18.153 |
| North Carolina | +15.9 | −17.598 |
| North Dakota | +2.9 | −3.684 |
| Ohio | +20.5 | −24.624 |
| Oregon | +7.750 | −9.815 |
| Pennsylvania | +13.97 | −40.325 |
| Tennessee | +10.6 | −16.656 |

I will ask at the end of my remarks that two charts showing the winners and losers based on information provided by the Federal Highway Administration be printed in the RECORD. I will also include the list of the projects being deemed TEA-21 eligible projects in the conference report.

The conference report would also ensure funding distributed under the highway trust fund for the upcoming fiscal year will not be reduced by the statutory requirements under TEA-21 to adjust the program based on adjustments to the revenue aligned budget authority provisions of the Act. Instead of following the law, the conference report provides for an additional $4.4 billion over the President's budget request for fiscal year 2003. I think all of us have known this funding would be provided even though the President's budget request actually fulfilled the requirements that so many members voted for when TEA-21 was passed in 1998. But why does this provision need to be included in this emergency supplemental legislation?

With respect to funding provided for the Coast Guard, the conference report directs $12.1 million, above the President's request of $26 million, to acquire, repair, renovate or improve vessels, small boats and related equipment. The Statement of Managers further indicates the funding shall be used for the procurement of additional 87-foot Barracuda class coastal patrol boats. The conference report further directs $200 million, not requested by the President, to acquire new aircraft and increase aviation capability; and $50.171 million above the President's request of $12 million, for shore facilities and aids to navigation facilities. Unfortunately, we are provided little other information to explain the purpose of these funds. $200 million is a significant funding level and we have no clear understanding of this provision.

The conference report provides $33.1 million over the President's request for "Scientific and Technical Research and

Services" for emergency expenses resulting from new homeland security activities and increased security requirements of which $20 million is for a cyber-security initiative.

It is also worth noting that a provision pertaining to the Advanced Technology Program at the Department of Commerce was also included. The supplemental bill would change the program which currently imposes a ceiling of $60.7 million on the amount of new grants that can be awarded by the end of the fiscal year, to establishing a floor of $60.7 million that can be awarded in new grants by the end fiscal year 2002. The President did not request this change and why it is necessary, I do not know.

The conference report also includes $400 million for election administration reform, contingent upon completion of the ongoing conference on election reform legislation. Since it is highly unlikely a conference agreement can be reached before the August recess, I question why we need to include this funding in this emergency supplemental measure. Instead, we should appropriate the funding upon completion of the conference report and as part of the Fiscal Year 2003 Appropriations process.

The conference report would provide so-called technical corrections for the Fisheries Finance Program Account. Specifically, it would authorize up to $5 million for Individual Fishing Quota Loans and up to $19 million for traditional loans under the direct loan program authorized by the Merchant Marine Act of 1926. As I mentioned when the Senate considered the supplemental in June, these are authorizations which have not been considered by the Senate Commerce Committee. Further, with some limited exceptions, Individual Fishing Quota Programs are not allowed under current law. Therefore, this funding will only help fisheries where a Quota Program already exists, such as the halibut fishery in Alaska.

The conference report also amends the Oceans Act of 2000 to extend the deadline for the Ocean Commission's report by an additional 11 months. The Oceans Act of 2000 was drafted in the Commerce Committee and any amendments should start there, yet we were not even consulted on this provision.

The conference report directs $2.5 million of funding provided in the Commerce, Justice State Appropriations Bill for Fiscal Year 2002 to now be dedicated to conducting coral mapping in the waters of the Hawaiian Islands. We debated this issue on the floor in June. While my amendment to strike the earmark failed, that doesn't mean the funding proposal is meritorious. This directive was not requested by the President and the funding would be earmarked for the National Defense Center of Excellence for Research in Ocean Sciences.

The conference report also includes $2 million to address what the appropriators call "critical mapping and charting backlog requirements" and $2.8 million for backup capability of the National Ocean and Atmospheric Administration, NOAA, satellite products and services. None of this funding was requested by the President and even though it falls within the jurisdiction of the Senate Commerce Committee, again we were not consulted. Moreover, this funding has no relation that I can see to address emergency homeland security needs which is the purported purpose of this bill.

The conference report also includes a total of $11 million for economic assistance to New England fishermen and fishing communities. This funding was not requested by the President, although I understand it is in response to unforeseen circumstances resulting from a federal court order which restricts the number of days that fisherman can fish. The Statement of Managers then earmarks that funding based on the Senate report, as follows:

Maine, $2 million; New Hampshire, $2 million; Massachusetts, $5.5 million; and Rhode Island, $1.5 million.

The conference report places a limitation on apparel articles that are eligible for preferential treatment under the Caribbean Basin Initiative, CBI, and the Andean Trade Preferences Act, ATPA. Under this provision, all dyeing, printing, and finishing of knit and woven fabrics must take place in the United States in order for nations under CBI and ATPA to benefit from reduced-rate treatment.

This measure is one in a series of protectionist actions recently undertaken by the United States. The U.S. textile industry has carved out a protective shell around itself to avoid competition at all costs. In this case, the Caribbean Basin and the Andean region nations are the victims along with American consumers.

Due to recent political and special interest pressures, House appropriators inserted this protectionist provision into the supplemental limiting the dyeing, printing and finishing of certain apparel articles to United States manufacturers, with no objection from the Senate appropriators. Caribbean nations received greater access to the United States' apparel market through the Caribbean Basin Economic Recovery Act. This law granted the Caribbean Basin nations similar privileges as those afforded Mexico under the North American Free Trade Agreement, NAFTA.

This provision will scale back the Caribbean Basin Initiative, preventing their growing industry access to the U.S. apparel market. In addition, it would preclude the Andean Trade Preferences Act, ATPA, beneficiary nations from entering the apparel market to begin with.

Moreover, this is yet another example of the appropriators legislating on an appropriations bill. While a trade bill that would, among other things, extend and expand the expired ATPA, sits mired in conference, the appropriators have reached their own conclusions regarding provisions of that bill which would hopefully allow Andean beneficiary nations greater access to U.S. apparel markets. Despite a letter objecting to the actions of the appropriators from the Chairman and Ranking Member of the Senate Finance Committee, the Committee that holds jurisdiction over ATPA, this provision remained.

This is an unfortunate turn of events that is becoming all too common: Leaders of the U.S. rhetorically expounding their commitment to free trade while actively pursuing protectionist policies.

The reorganization of our armed services was, of course, an extremely important subject before September 11th, and it is all the more so now.

In the months ahead, no task before the Administration and the Congress will be more important or require greater care and deliberation than making the changes necessary to strengthen our national defense in this new, uncertain era. Needless to say, this transformation process will require enlightened, thoughtful leadership, and not the pork barreling of military funds, if we are to best serve America in this time of rapid change in the global security environment.

Again, I question the requirement for certain items in the defense portion of this supplemental appropriations bill. We are waging war against a new enemy. The dangers in Afghanistan to our service members are real. However, I do not believe that our "special forces" units are threatened by any perceived torpedo attack that would cause the appropriators to include in the conference Report a provision to include $1 million for the Tripwire Torpedo Defense Program or $1 million for the Undersea Warfare Support Equipment AN/SLQ 25A.

The conference report improves on the Senate-passed language regarding U.S. policy in Colombia by providing the Departments of State and Defense with the authority to support the Colombian government's unified campaign against narcotics trafficking and terrorism. However, I regret that the final language imposes a burdensome requirement on the President of Colombia to commit in writing to a series of benchmarks regarding his policy and reform plans. I also regret that the conferees have seen fit to cut the President's peacekeeping requests by nearly $28 million—at a time when America's global presence, and the importance of standing shoulder to shoulder with our allies in defense of our common interests, matters.

I do applaud this legislation's requirement for reports setting forth a strategy for meeting the security needs of Afghanistan to ensure effective delivery of humanitarian aid, build the rule of law and civil order, and support the Afghan government's efforts to bring stability and security to its people. History shows that America cannot walk away from Afghanistan if we are to protect our interests there. Our first requirement in this post-war phase must be to help the Afghan government bring basic security and order to all parts of the country. America must do more, not less, to consolidate our victory in Afghanistan by helping to build an environment in which our values can flourish.

Let there be no doubt that this war will be long: Therefore, we should not frivolously spend today like there is no tomorrow. For when tomorrow comes, we must have the fiscal resources to not only fight this war to victory, but to provide for our nation's other priorities including tax relief for the lower- and middle-income Americans, adequate funding for Social Security and Medicare, and significant debt reduction.

I ask unanimous consent to print in the RECORD the information I earlier referenced.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**FY2002 Designated Discretionay Projects -- Statutorily Ineligible**

| State | Project | Amount | State Total |
|---|---|---|---|
| Alabama | I-10 Irvington Interchange | $ 800,000 | |
| | I-65 and Valley Dale Road interchanges | $ 8,000,000 | $ 8,800,000 |
| Arkansas | Great River Bridge | $ 7,500,000 | $ 7,500,000 |
| California | I-10 Riverside Avenue interchange | $ 500,000 | |
| | I-5 Corridor arteries | $ 1,000,000 | |
| | I-5 HOV/general purpose lanes | $ 4,000,000 | |
| | Tippecanoe/I-10 interchange | $ 2,500,000 | |
| | Gerald Desmond | $ 4,000,000 | $ 12,000,000 |
| Connecticut | Cross Road | $ 3,500,000 | |
| | Peral Harbor Memorial Bridge | $ 5,000,000 | $ 8,500,000 |
| Florida | A. Max Brewer | $ 3,000,000 | $ 3,000,000 |
| Hawaii | Sand Island | $ 5,000,000 | $ 5,000,000 |
| Illinois | US-30 Morrison/Whiteside County expansion, IL | $ 750,000 | $ 750,000 |
| Iowa | US 34/Plattsmouth | $ 1,500,000 | $ 1,500,000 |
| Kansas | Topeka Avenue | $ 2,000,000 | $ 2,000,000 |
| Louisiana | I-49 southern extension from I-10 | $ 1,000,000 | |
| | I-12 interchange at LA 1088 | $ 1,500,000 | |
| | I-12/Northshore Blvd. interchange | $ 2,000,000 | |
| | US 167/I-20 interchange | $ 1,000,000 | |
| | Kerner | $ 1,000,000 | |
| | Leeville | $ 3,000,000 | $ 9,500,000 |
| Maine | City of Brewer waterfront redevelopment shoreline stablilization, ME | $ 1,000,000 | |
| | I-95 Northern Maine | $ 4,500,000 | |
| | I-295 Connector, Commercial Street | $ 500,000 | $ 6,000,000 |
| Massachusetts | Padanarim | $ 1,500,000 | $ 1,500,000 |
| Michigan | Pennsylvania Avenue | $ 3,300,000 | $ 3,300,000 |
| Nevada | I-215 Southern Beltway to Henderson | $ 500,000 | $ 500,000 |
| New Jersey | Sandy Hook ferry terminal, NJ | $ 1,000,000 | |
| | Jersey City Pier redevelopment and terminal construction project | $ 2,000,000 | $ 3,000,000 |
| New York | 145th Street | $ 5,800,000 | |
| | I-84/Delaware | $ 2,000,000 | |
| | Warren County scenic byway | $ 30,000 | $ 7,830,000 |
| Ohio | Cleveland Trans-Erie Ferry Service | $ 800,000 | $ 800,000 |
| Oklahoma | I-40 crosstown expressway realignment | $ 5,500,000 | $ 5,500,000 |
| Pennsylvania | I-180 Lycoming Mall Road interchange | $ 2,000,000 | |
| | I-79/SR 910 interchange | $ 250,000 | |
| | I-79/Warrendale Technology Park Interchange | $ 1,750,000 | |
| | I-80 Exit at Stoney Hollow Road | $ 3,000,000 | |
| | State Route 0039 & I-81interchange | $ 750,000 | |
| | Route 113 Heritage Corridor, PA | $ 170,000 | $ 7,920,000 |
| Rhode Island | Sand Point dock, RI | $ 250,000 | $ 250,000 |
| South Dakota | US 61/Missouri River | $ 1,000,000 | $ 1,000,000 |
| Texas | Leon River | $ 1,500,000 | $ 1,500,000 |
| Vermont | Blueberry Lake road improvements, Green Mountain National Forest, VT | $ 500,000 | |
| | Missiaquoi | $ 4,000,000 | $ 4,500,000 |
| Washington | Oak Harbor Municipal Pier terminal, WA | $ 200,000 | $ 200,000 |
| West Virginia | I-79 Bridgeport to Meadowbrook | $ 10,000,000 | |
| | I-79 Connector | $ 4,800,000 | |
| | I-81 South Martinsburg I/C Bridge, Berkeley County | $ 7,000,000 | $ 21,800,000 |
| **TOTAL** | | **$ 124,150,000** | **$ 124,150,000** |

### State-by-State Earmarks of Revenue Aligned Budget Authority (RABA) Funding in the Transportation Appropriations Act Shifted from States Highway Formula Programs & Allocated Highway Programs

(Chart reflects total earmarked amount and number of projects per state per program)

| | Ferry Boats & Ferry Terminal Facilities | National Corridor Planning & Development & Corridor Border Infrastructure | Transp. & Community & System Preservation Pilot Program | Interstate Maintenance Discretionary | Bridge Discretionary | Public Lands Discretionary | Total for Allocated Programs Earmarks with $ Bolstered by RABA cuts to State formula programs & Allocated Programs | Total Number of Projects |
|---|---|---|---|---|---|---|---|---|
| AL | | $27 m, (6) | $24 m, (13) | $ 8.8 m; (2) | | $ .825; (2) | $60.625 million | 23 projects |
| AK | $10 m; (1) | $16 m, (2) | $ 1.6 m, (2) | | | $ 6.8 m; (7) | $34.4 million | 12 projects |
| AZ | | | | | | $11 m; (2) | $11 million | 2 projects |
| AR | | $27.750 m; (4) | $ 3.250 m, (3) | | $ 7.5 m; (1) | | $38.5 million | 8 projects |
| CA | $ 2.9 m; (3) | $22.5 m; (8) | $16.925 m; (18) | $ 8 m; (4) | $ 6.3 m; (3) | $10 m; (4) | $66.625 million | 40 projects |
| CO | | | $ 2.250 m. (2) | $ 5 m ; (1) | | $ 4.2 m; (2) | $11.45 million | 5 projects |
| CT | $ 1.5 m; (1) | $2.3 m, (1) | $ 4.750 m (5) | $1.5 m, (1) | $ 8.5 m; (2) | | $18.55 million | 10 projects |
| DE | | | $ .100; (1) | | | | $ .100 | 1 project |
| FL | $ 1.6 m; (3) | $28.5 m; (4) | $13 m, (10) | $ 2.5 m; (1) | $ 2 m; (1) | $ 1 m; (1) | $49.6 million | 20 projects |
| GA | $ 1 m; (1) | $ 1 m; (1) | $ 6.2 m; (2) | | | | $8.2 million | 4 projects |
| HI | | | $ 6 m, (2) | | $ 5 m, (1) | $ 6 m, (1) | $17 million | 4 projects |
| ID | | $10 m, (2) | $ .105; (1) | | | $ 4.5 m; (2) | $14.605 million | 5 projects |
| IL | | $17.5 m; (4) | $ 6.420 m; (10) | | $ 6 m, (1) | $ .750, (1) | $30.67 million | 16 projects |
| IN | | $ 7.836 m, (5) | $ 3.915 m; (4) | $ 2.5m, (1) (includes KY) | | | $14.251 million | 10 projects |
| IA | | $ .700 m; (1) | $ 3 m, (1) | $ 6 m; (1) | $ 1.5 m, (1) | | $11.2 million | 4 projects |
| KS | | $ 5 m; (2) | $ 2.6 m; (2) | | $ 2 m, (1) | $ 1.5 m, (1) | $11.1 million | 6 projects |
| KY | | $43.220 m; (18) | $18.567 m; (15) | $ 2.375 m, (2) | | $ 5.895 m; (4) | $70 .057 million | 39 projects |
| LA | $ 1.2 m; (1) | $30.8 m; (5) | $1.665 m; (4) | $ 5.5 m; (4) | $ 4 m; (2) | | $43.165 million | 16 projects |
| ME | $ 1 m, (1) | $ 3.5 m; (1) | $ 1.6 m; (2) | $ 5 m; (2) | $5 m; (1) | $ 1 m; (2) | $17.1 million | 9 projects |
| MD | | $ 1 m, (1) | $ 3.5 m; (2) | $ 8 m; (1) | | | $12.5 million | 4 projects |
| MA | $ 1.45 m; (1) | $ 5.5 m, (2) | $ 2.3 m; (5) | | $ 3 m, (2) | $ .963, (2) | $13.213 million | 12 projects |
| MI | | $ 9 m; (1) | $ 1.5 m; (2) | $ 3.5 m, (1) | $ 3.3 m, (1) | | $17.3 million | 5 projects |
| MN | | $10 m, (2) | $ 7.350 m; (3) | | $ 7 m, (1) | | $24.35 million | 6 projects |
| MS | $ .500; (1) | $34.500 m, (7) | $ 8.4 m; (5) | $ 8.9 m, (1) | | $ 8.4 m; (2) | $60.70 million | 16 projects |
| MO | | $15.250 m; (5) | $ 8 m; (2) | $20 m; (4) | $ 2.5 m (2) | | $45.75 million | 13 projects |
| MT | | $ 3.5 m; (1) | $ 2.9 m, (4) | $ 1 m; (1) | | $10.9 m, (6) | $18.3 million | 12 projects |
| NE | | | $ 4.6 m; (3) | | | $ .325, (1) | $4.925 million | 4 projects |
| NV | | | | $ .500; (1) | | $12 m, (2) | $12.5 million | 3 projects |
| NH | | $ 1 m; (1) | $ 3.550 m, (5) | | | | $4.550 million | 6 projects |
| NJ | $ 3 m; (2) | | $ 7.150 m, (11) | | $ 5 m, (2) | $ 1 m, (1) | $16.150 million | 16 projects |
| NM | | $ 1 m; (1) | $ 5 m; (1) | $ 6.5 m, (2) | | $ 3.150 m; (4) | $15.65 million | 8 projects |
| NY | $ 9.34 m; (8) | $10.350 m; (4) | $16.275 m; (19) | | $ 9.6 m; (3) | $ .280; (1) | $45.845 million | 35 projects |
| NC | $ 2.139 m, (2) | $3.5 m; (1) | $ 5.35 m; (5) | $ 5 m; (2) | | | $15.989 million | 10 projects |
| ND | | | $ 1.5 m, (2) | | | $ 1.1 m; (2) | $2.9 million | 4 projects |
| OH | $ 1.3 m; (2) | $ 7 m; (3) | $ 7.5 m, (4) | $ 1.5 m, (2) | $ 2.750 m, (2) | | $20.5 million | 13 projects |
| OK | | $ 1.5 m, (1) | $ 1.450 m, (3) | $ 5.5 m; (1) | | | $8.45 million | 5 projects |
| OR | | $ 5 m, (1) | | $ 1.0 m. (1) | | $ 1.750 m, (1) | $7.750 million | 3 projects |
| PA | $ 2 m, (2) | $1 m (includes NY); $.550,(3) | $ 2.5 m; (4) | $ 7.750 m, (5) | | $ .170; (1) | $13.97 million | 15 projects |
| RI | $ .250; (1) | | $ 1 m; (1) | $ 4 m; (2) | $ 4 m, (1) | $ 2.150 m; (2) | $11.4 million | 7 projects |
| SC | | | $17 m, (5) | | $ 7 m; (1) | | $24 million | 6 projects |
| SD | | $12 m, (1) | $ .250; (2) | | $ 1 m; (1) | $ 5.650 m; (3) | $18.9 million | 7 projects |
| TN | | $ 1 m; (1) | $ 9.6 m; (5) | | | | $10.6 million | 6 projects |
| TX | $ .200; (1) | $20.4 m, (9) | $ 6.790 m, (9) | $25.9 m, (5) | $ 1.5 m; (1) | $ 5.5 m; (2) | $60.29 million | 27 projects |
| UT | | | $ 2 m; (1) | $ 6 m; (2) | | $ 2.250 m; (3) | $10.250 million | 6 projects |
| VT | | | $ 4.5 m; (3) | | $ 4 m, (1) | $ .500; (1) | $9 million | 5 projects |
| VA | | $ .900; (2) | $2.180 m; (4) | | | $11.150 m, (6) | $17.23 million | 12 projects |
| WA | $ 4.2 m; (2) | $34 m, (5) | $10.3 m, (6) | $ 2 m; (2) | $10.5 m; (3) | | $61 million | 18 projects |
| WV | | $54 m; (4) | $ .400; (1) | $21.8 m; (3) | $17 m; (2) | $ 3.5 m; (1) | $96.7 million | 11 projects |
| WI | | $17 m; (3) | $13.5 m; (4) | | $ 7.5 m, (1) | | $38 million | 8 projects |
| WY | | | $ 1 m. (1) | | | | $ 1 million | 1 project |
| DC | | | $ 2.5 m; (2) | | | | $2.5 million | 2 projects |
| TOTAL FY02 Approps | $43,579,000 | $492,256,000 | $276,092,600 | $176,025,000 | $134,450,000* | $127,508,000 | $1,249,910,600 | 540 projects |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| TOTAL FY02 Approps | $43,579,000 | $492,256,000 | $276,092,600 | $176,025,000 | $134,450,000* | $127,508,000 | $1,249,910,600 | 540 projects |
| FY02 Funding includes: | | | | | | | | |
| TEA21 auth. for FY02 | $18,000,000 | $140,000,000 | $25,000,000 | $100,000,000 | $100,000,000 | $82,385,400 | $465,385,400 | |
| TEA-21 RABA for FY02 | $ 5,059,012 | $ 18,633,932 | $3,324,822 | $13,310,772 | $13,310,772 | $0 | $ 53, 639,310 | |
| **Additional RABA $ per DOT Approps. | $20,519,988 | $333,622,068 | $247,767,778 | $62,714,228 | $21,139,229 | $45,122,600 | $730,885,890 | |
| | 33 projects;<br>17 states | 123 projects;<br>38 states | 221 projects;<br>47 states + DC | 55 projects;<br>27 states | *38 projects;<br>25 states | 70 projects;<br>30 states | 100% Earmarked | |

*Chart does not include two earmarks in the Bridge Discretionary Program (totaling $28 million) which are not designated for site/state specific projects.

**Additional RABA funding was also provided for Long-term Pavement ($10,000,000) and for State Border Infrastructure ($56,300,000) programs, but is not designated for site/state specific projects.

Note, depending on final computation of the funds available to stay within the total obligational authority available for FY'02, the actual amounts distributed, in all likelihood, will be less than the specific amounts shown.

Total RABA dollars shifted: $825,185,890 (comprised of $449,445,030 from state highway formula programs and $375,850,860 from allocated programs (including $236,671,037 from High Priority Projects and $139,179,823 from other allocated programs). Note, it can also be viewed in the context of this chart as $730,885,890 + $28,000,000 + $10,000,000 + 56,300,000 = $825,185,890.

### State-by-State Impact of Transportation Appropriations Cuts of Revenue Aligned Budget Authority (RABA) Funding from State Highway Formula Programs & TEA-21 High Priority Projects

| | RABA Reductions from State Highway Formula Programs | RABA Reductions from TEA- 21 Projects | TOTAL RABA reductions: State Highway Formula & TEA 21 Projects |
|---|---|---|---|
| **AL** | (8,461,327) | (5,190,512) | **(13,651,839)** |
| **AK** | (5,829,941) | (1,741,836) | **(7,571,777)** |
| **AZ** | (7,729,419) | (1,531,711) | **(9,261,130)** |
| **AR** | (5,955,806) | (3,875,677) | **(9,871,483)** |
| **CA** | (41,475,828) | (22,334,954) | **(63,810,782)** |
| **CO** | (6,092,240) | (1,721,986) | **(7,814,226)** |
| **CT** | (7,149,904) | (3,237,793) | **(10,387,697)** |
| **DE** | (2,268,322) | (224,234) | **(2,492,556)** |
| **FL** | (20,220,425) | (7,154,508) | **(27,374,933)** |
| **GA** | (15,251,592) | (7,177,923) | **(22,429,515)** |
| **HI** | (2,171,286) | (1,286,515) | **(3,457,801)** |
| **ID** | (3,112,998) | (2,964,757) | **(6,077,755)** |
| **IL** | (13,965,042) | (9,389,587) | **(23,354,629)** |
| **IN** | (10,772,904) | (5,111,418) | **(15,884,322)** |
| **IA** | (5,489,664) | (2,762,724) | **(8,252,388)** |
| **KS** | (4,893,976) | (2,812,739) | **(7,706,715)** |
| **KY** | (7,342,459) | (3,842,350) | **(11,184,809)** |
| **LA** | (7,652,445) | (4,475,708) | **(12,128,153)** |
| **ME** | (2,247,308) | (1,188,431) | **(3,435,739)** |
| **MD** | (7,989,589) | (3,340,023) | **(11,329,612)** |
| **MA** | (8,220,727) | (5,584,742) | **(13,805,469)** |
| **MI** | (13,612,972) | (7,784,478) | **(21,397,450)** |
| **MN** | (6,767,624) | (4,508,409) | **(11,276,033)** |
| **MS** | (5,923,344) | (2,914,185) | **(8,837,529)** |
| **MO** | (10,584,023) | (6,488,102) | **(17,072,125)** |
| **MT** | (5,123,563) | (503,313) | **(5,626,876)** |
| **NE** | (3,367,832) | (618,977) | **(3,986,809)** |
| **NV** | (3,104,508) | (860,500) | **(3,965,008)** |
| **NH** | (2,397,302) | (1,715,640) | **(4,112,942)** |
| **NJ** | (10,818,293) | (7,334,770) | **(18,153,063)** |
| **NM** | (4,570,032) | (2,016,540) | **(6,586,572)** |
| **NY** | (22,418,882) | (15,062,102) | **(37,480,984)** |
| **NC** | (11,947,529) | (5,651,117) | **(17,598,646)** |
| **ND** | (3,162,499) | (521,848) | **(3,684,347)** |
| **OH** | (15,893,797) | (8,731,177) | **(24,624,974)** |
| **OK** | (6,534,095) | (3,018,793) | **(9,552,888)** |
| **OR** | (5,434,066) | (4,381,392) | **(9,815,458)** |
| **PA** | (20,095,856) | (20,229,756) | **(40,325,612)** |
| **RI** | (2,755,082) | (728,053) | **(3,483,135)** |
| **SC** | (7,883,348) | (2,694,477) | **(10,577,825)** |
| **SD** | (3,304,789) | (2,153,254) | **(5,458,043)** |
| **TN** | (11,222,191) | (5,434,368) | **(16,656,559)** |
| **TX** | (33,430,729) | (12,506,040) | **(45,936,769)** |
| **UT** | (3,266,491) | (2,040,562) | **(5,307,053)** |
| **VT** | (2,301,880) | (535,249) | **(2,837,129)** |
| **VA** | (13,052,845) | (5,093,819) | **(18,146,664)** |
| **WA** | (7,348,768) | (5,020,263) | **(12,369,031)** |
| **WV** | (5,010,811) | (4,620,722) | **(9,631,533)** |
| **WI** | (8,393,502) | (4,126,031) | **(12,519,533)** |
| **WY** | (3,656,131) | (731,619) | **(4,387,750)** |
| **DC** | (1,659,044) | (785,066) | **(2,444,110)** |
| Total | **(449,335,030)** | (235,760,750) | **(685,095,780)**[1] |

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[1] Chart does not include $910,287 in RABA cut from American Samoa, Puerto Rico, and the Virgin Islands. Further, Chart does not include $139,179,823 in RABA cut from other allocated Federal-Aid Highway Programs which are discretionary programs that cannot be broken out on a state-by-state basis.

Total RABA dollars shifted: $825,185,890 (comprised of $685,095,780 + $910,287 + $139,179,823)

Mr. GRASSLEY. Madam President, today, I rise to object to the Dyeing and Finishing Provision found in the 2002 supplemental appropriations bill, H.R. 4775, that is now going through the conference process within the Senate and will soon be voted on by this body.

This provision is of serious concern to me because it falls within the jurisdiction of the Finance Committee and it was not voted on nor reviewed by the committee.

Senator BAUCUS and I sent a joint letter in June expressing our deep concern about the inclusion of this provision in the bill and asked the chairman of the Appropriations Committee to oppose this provision due to our jurisdiction concerns.

Section 1405 of the House bill pertains language that will amend two U.S. trade preference programs: the Caribbean Basin Economic Recovery Act and the Andean Trade Preference Act.

The amendment requires certain fabric to be dyed and finished in the United States in order for apparel sewn from such fabric in the Carribean or Andean region to enter the United States duty-free.

Regardless of how my colleagues feel about the requirement for fabric to be dyed and finished in the United States to qualify for duty-free treatment they should respect the jurisdiction of the Finance Committee under the trade laws of this Congress.

Our committee has oversight over carefully balanced programs that were developed after years of close study and deliberations in the Finance Committee and the House Committee on Ways and Means.

During the debate of the Bipartisan Trade Act of 2002 when Senator BYRD asked for Senator BAUCUS and I to respect the jurisdiction of the Appropriations Committee by striking all authorization language in the trade bill while we were debating the legislation on the floor.

Senator BAUCUS and I addressed the Senator's concerns by stopping the debate and revising the legislation so as to not encroach upon the jurisdiction of the Appropriations Committee.

I am deeply dismayed about the Finance Committees' concerns not seriously being considered about the dyeing and finishing provision which is clearly in our jurisdiction.

I would hope my colleagues would be more considerate of the problem we have with the House being able to slip provisions in the supplemental hoping to sneak it through the legislative process otherwise the legislative process will become a free-for-all.

If the provision is a good piece of legislation then my colleagues in the House should be willing to have an open dialogue with the Finance Committee members and address our concerns.

Alarms should go off when people try to slip legislation by hoping that no one will catch it.

I am disappointed because this is not the way we are suppose to do business around here.

There are several good reasons why committees were established and given jurisdiction over specific issues.

The Finance Committee members are the experts on trade, therefore all issues involving trade should come through our committee.

I am just asking my colleagues to respect the rules established by the Senate. I am disappointed that the chairman of the Appropriations Committee did not respect our jurisdiction.

This is bad policy and I oppose it.

I also want to strongly emphasize how important it is that we do not set a precedent allowing Members to thwart the committee process and smuggle legislation through the Senate under the radar screen.

Mr. STEVENS. Madam President, a provision I have worked on with my Alaska colleagues, Congressman DON YOUNG and Senator FRANK MURKOWSKI, is included in this bill as section 3002. In conversations with air carriers in Alaska and the Postal Service, we have found that there are serious problems with mail delivery to rural Alaska under the current bypass mail system. This provision, titled the Rural Service Improvement Act of 2002, is derived from S. 1713 in the Senate and H.R. 3444 in the House. It contains several technical changes that will resolve these problems.

The bypass mail system is unique to my State: It was created by section 5402 of title 39 of the U.S. Code, and attempts to ensure reliable and affordable passenger service and the delivery of food, goods, and basic consumer necessities to rural Alaska communities.

I have stated on numerous occasions during Postal Service hearings before the Senate Governmental Affairs Committee that the establishment and maintenance of post offices and post roads applies to my State as it does the rest of the Union. As a member of the committee with oversight over Postal operations, I take the responsibilities of the Postal Service very seriously. As an Alaskan, I am even more concerned. Almost every item found on the shelf of a rural Alaska general store arrives via the bypass mail system. This system was created through legislation originated by the Senate in 1970 and today it is the lifeline of rural Alaska.

In addition to ensuring delivery of food and goods, the bypass mail system assured that passenger seats would be available to rural Alaskans. The revenues paid to air carriers to transport the bypass mail helps underwrite the cost of this passenger service. The Federal Government's vast ownership of lands in Alaska and the limited access to those lands means that air transportation is the only way to reach most rural communities in Alaska. We are prohibited by the Federal Government from building roads to connect most of our communities and this system assures access by air.

In recent years there has been an explosion in the number of carriers eligible to carry bypass mail in Alaska because the threshold requirements for eligibility have been very low. However, few of these new carriers operate in ways that reflect the intent behind the bypass mail program. Instead of providing air transportation to passengers, these carriers use the system to underwrite a portion of their total business plan. Other mail-only carriers use it as the basis of their entire operation. They provide little to no passenger service to Alaska's rural communities.

The bypass mail system is divided into two categories: mainline routes and bush routes. Mainline routes are flown by carriers operating larger aircraft capable of carrying many pallets of food and goods. These pallets usually weigh a minimum of 1,000 pounds. To be qualified as a mainline carrier under the current regulations, carriers must operate aircraft certified to carry at least 7,500 pounds of payload capacity. These mainline carriers take bypass mail from one of two acceptance points, Anchorage or Fairbanks, and carry it to "hubs" such as Bethel, Barrow, and Nome. From these hubs the mail is distributed to bush communities by smaller bush aircraft. To operate properly and efficiently the system needs healthy mainline and bush carriers.

The Rural Service Improvement Act of 2002 resolves many of the problems with mainline operations. It clarifies who is eligible to be a mainline carrier, stabilizes mainline markets, and supports increased passenger service. It limits the entry of new all-cargo carriers to mainline markets where current cargo service is deficient. This bill also gives existing carriers 30 days to correct problems with mail delivery, schedule adherence, or repeated mail damage that the Postal Service deems unacceptable. If no improvements are made new mainline carriers would be eligible to offer service on these routes.

In addition, the bill allows new carriers to enter otherwise closed mainline routes if they provide substantial passenger service. This determination will be made on a route-by-route basis. To qualify, a new carrier must regularly make available to the public at least 75 percent of the number of passenger seats on the largest carrier on a give route for 6 consecutive months. After a new carrier is certified as a mainline carrier it must carry 20 percent of the actual passengers on the route to remain qualified. Carriers will design their business plans around passenger service, not just bypass mail.

This will enable the bypass mail system to fulfill our original intent: to provide mail and air transportation to Alaskans.

The bill also addresses a current problem on routes that receive subsidies from the Department of Transportation's Essential Air Service, EAS, program. Currently DOT establishes a subsidy rate based on a combination of factors, including the size of the community, the desired level of service an show much revenue the EAS carrier can expect to earn from other sources. However, DOT has no role in determining how much mail is carried by EAS carriers. This act addresses this flaw by requiring all nonpriority mail and nonpriority bypass mail be tendered to the contracted EAS carrier on each route, as long as the needs of the Postal Service are being met. This will reduce the cost of the EAS program in Alaska and ensure mail is delivered in a timely fashion. First class and priority mail will still be carried by the Postal Service's preferred provides based on premium delivery standards on these routes.

This bill also ensures adequate passenger service for under served communities. Under this act, a new passenger carrier may immediately be tendered bypass mail on a mainline route if all passenger carriers operating under Federal Aviation Rules part 121 leave the market or no part 121 passenger service is available. These provisions mean that under such conditions a new 121 carrier will not have to wait 6 months to provide services. It will get bypass mail immediately in mainline markets with no passenger service. This change will provide mainline communities with quality passenger service as mail revenues underwrite passenger transportation.

In addition, this bill addresses a serious problem for rural Alaska. Currently, some rural markets are classified as mainline by the Postal service but have no mainline passenger or bypass mail service. This bill allows bush carriers currently serving those routes to continue carrying bypass mail even if a mainline carrier begins service there. The bush carriers will be paid the lower mainline rate which will reduce costs for the Postal Service while preserving existing passenger service on the those routes. To preserves bush passenger and non-mail freight service on rural routes, if a mainline carrier beings providing service on a traditional bush route, existing bush passenger and on-mail freight carriers may continue to receive bypass mail if they agree to be paid the lower mainline rate.

This act allows for equalization on those mainline routes with no current mainline service and on traditional bush routes where a mainline carrier enters. It specifically prohibits bush carriers from entering or operating on mainline routes with existing mainline service, except under specialized circumstances, to ensure that larger aircraft capable of carrying many pallets fly full to the hubs. The act allows the Postal Service to tender bypass mail to bush carriers on mainline routes with existing mainline service if three conditions are met. First, the bush carrier must meet the minimum technical requirements of the operating statute. Second, no similar service is available on the route by the existing mainline carriers. Third, the Postal Service determines that the tender of mail to a bush carrier on the mainline route will not decrease the efficiency of the hub or increase costs for the Postal Service. This test will be applied by the Postal Service on a case-by-case basis.

Another feature of the bill is the explicit authorization of "composite equalization," to protect and enhance passenger service. Currently almost all bypass mail flows from an acceptance point to a hub and then on to a bush point. This act allows bush carriers to receive mail at the acceptance point for a direct flight to bush villages without first stopping in the hub. Bush carriers are paid based on what they would have flown to the hub point at the lower mainline rate and then based on what they would have flown from the hub point to the bush village at the lowest bush rate. The provision also recognizes routes where composite equalization or direct flights bypassing the hub exist today. The intent is to promote additional savings for the Postal Service and to preserve existing direct flights for rural Alaskan residents.

The act also allows for the creation of future routes at composite rates if carriers meet a four-part test. First, a carriers seeking tender at composite rates must meet the minimum passenger service requirements of the bill. Second, the carriers must qualify to be tendered mail in the hub point being bypassed by the proposed direct route. Third, the carrier must prove that carrying bypass mail on direct routes will not reduce the efficiency of the entire hub operations. Lastly, the Postal Service must determine that allowing the direct flight will save money for that portion of the system. The Postal Service will take into account the cost of flying the mail directly to the bush village from the acceptance point along with the cost of not flying the mail through the hub in terms of payments to other carriers, especially the mainline carriers.

The act restricts entry of new cargo-only capacity in mainline markets. All new mainline carriers must also meet the passenger requirements of the bill to be tendered mainline bypass mail. A carrier otherwise qualified to be tendered non-priority bypass mail on January 1, 2001, but not engaged in the regular carriage of mainline bypass mail on that date, is not qualified as an existing carrier. A carrier not qualified as a mainline carrier on January 1, 2001, which has since become qualified does not fulfill the definition of an existing carrier for the purposes of carrying mainline bypass mail. Likewise, a carrier that was tendered mainline bypass mail on January 1, 2001 in improperly sized aircraft does not qualify as an existing carrier.

The Rural Service Improvement Act of 2002 also resolves problems with bush community operations. Currently any carrier meeting very minimum qualifications may be tendered bush bypass mail. In a community with 10 qualified carriers each carrier receives approximately 10 percent of the bypass mail on that route. Not all of those carriers also provide passenger or non-mail freight service. This act intends to change this situation by establishing rural mail pools on a route-by-route basis.

First, 70 percent of the mail will be tendered to those carriers which provided at least 20 percent of the passenger service on a given route. Twenty percent of the mail will go to non-mail freight carriers which provide at least 25 percent of the non-mail freight service on a given market. The remaining 10 percent of the bypass mail will go to the remaining carriers on the route. After 3 years this 10 percent mail pool will terminate and its mail will be divided among the remaining two pools. The amount of mail in the passenger pool should increase to 75 percent; the remaining 25 percent of bypass mail will go to non-mail freight carriers. The creation of these pool for passenger and non-mail freight carriers should ensure competition in each market without having the mail revenue split between an infinite number of carriers.

Based on advice from the department of Transportation, this act includes provisions to increase safety standards. It permits markets to convert from operations under part 135 of the Federal Aviation Rules to part 121 if a part 121 carrier becomes qualified to receive bypass mail in a given market. If this happens, all 135 carriers in the market have 5 years to convert to operations under part 121 in order to continue receiving bypass mail. The bill defines part 121 operations as aircraft carrying passengers and non-priority bush bypass mail on aircraft type certificated to carry at least 19 passengers, which according to the Department of Transportation, are the most efficient aircraft on an air-ton-mile basis that are still reasonably sized for use in rural Alaska. For the purposes of part 121 operators, the bill focuses on the aircraft which actually carry the mail.

All carriers in Alaska are put on notice of the requirements of conversion from part 135 to part 121. After a 6-year period if a 121 carrier becomes eligible for bypass mail on any route, 135 carriers on that route have one year to convert to part 121 to continue receiving mail.

Saving the Postal Service money by requiring the use of more efficient and larger aircraft, because of conversion to part 121 is an important goal of this bill. This also improves passenger service and safety. In a market which can physically support 121 operations, all passenger carriers in that market should be encouraged to provided increased safety and efficiency.

Some markets in Alaska may not receive 121 passenger service due to a lack of ground infrastructure or the population base to support 19-seat passenger aircraft. In these communities smaller airplanes operated under part 135 are an integral part of the Alaska transportation system. Also, if a 121 carrier begins service in a market and withdraws, 135 carriers in that market need not convert 121 in order to carry bypass mail in the market.

The bill encourages passenger competition in bush markets. Where there is only one qualified passenger carrier under the bill, meaning it carries at least 80.01 percent of the passengers on a given route, then no other carrier could qualify as a passenger carrier in that market. As an incentive for other passenger carriers to enter the market to become the second largest carrier, thus increasing competition, the act requires the Postal Service to tender 20 percent of the 70 percent mail pool to the next largest passenger carrier during the first three years of the act, 14 percent of the overall bypass mail volume for the market. After the first 3 years the Postal Service may provide 20 percent of the 75 percent pool to the next largest passenger carrier, or 15 percent of the bypass mail for the market.

As previously stated, carriers operating under part 121 must use aircraft type-certificated to carry at least 19 passengers. Carriers operating under part 135 must use aircraft type-certificated to carry at least five passengers. Finally, recognizing the special needs of markets with water-only airports the bill requires water-landing aircraft to be type-certificated to carry at least three passengers. These requirements do not require these seats to be installed at all times. Rather, carriers must use minimum sized aircraft to increase efficiencies for the Postal Service and, passenger seats must be installed and insured when needed on such aircraft. A carrier may fly an extra section with only cargo or mail as long as the plane meets the minimum size requirements and the carrier otherwise qualifies to carry mail as a qualified passenger or non-mail freight carrier under the Act.

Under provisions in the bill, to avoid over-concentration in the markets, no carrier which qualifies both as a passenger carrier and a non-mail freight carrier may get mail under both the 70 percent—75 percent pool in 3 years—and the 20 percent pool—25 percent in 3 years—at the same time unless no other carrier qualifies in the market.

A substantial amount of the savings for the Postal Service comes from the creation of new bush rates for the carriage of mail. After collecting all of the carriers' cost data the Department of Transportation should first calculate the costs for all bush part 121 passenger carriers, then for 135 carriers, and finally for 135 carriers where only water landings are available to create a new rate for each class of carrier. In markets with qualified 121 carriers, all passenger carriers will be paid the 121 rate, including all 135 passenger carriers operating in those markets. For markets with only 135 carriers and water landing markets the new 135 rate will be applied evenly.

The act provides significant penalties for carriers which substantially misstate data just to qualify for bypass mail. However, it also gives DOT and the Postal Service the flexibility they need. Under this bill, both DOT and the Postal Service may grant waivers for otherwise unqualified passenger carriers if the carriers are operating in good faith, meaning they are making great efforts to provide passenger or non-mail freight service and are not using the bypass mail revenues as the primary means of their business. In addition, if the Postal Service or DOT determines a carrier meets all of the technical qualifications to operate in the system, but is not providing another substantial service, i.e. passenger or non-mail freight service, then it may be removed from the system. When making this determination DOT and the Postal Service should look at the quantity and quality of existing service in the community, including passenger carriage, and the proposed quality and quantity of service for the carrier seeking a waiver, to allow a 121 passenger carrier to become qualified if it reduces costs for the Postal Service and improves passenger service in a market, even if it has not provided a full 12 months of service in the market at the required levels under the Act.

To allow the Postal Service and DOT to collect 12 months of T–100 data from the carriers before establishing the new tender policy and setting new rates, most of the bush provisions will not take effect for 15 months from the date of enactment. Also, the bill requires the DOT to review the need for a bush rate case at least every 2 years. To maximize the savings for the Postal Service initial rate reviews by DOT should be performed expeditiously. All carriers in the State are allowed at least 1 year to begin providing additional services to the communities before reductions in mail tender go into effect.

Stating 6 months after the enactment date, the act permits the Postal Service and DOT to remove a carrier from the bypass mail program if the carrier was not attempting to qualify as a passenger or non-mail freight carrier.

The bill intends to promote safety by empowering the Secretary of Transportation to shut down any operation where substantial evidence exists that the carrier is flying in an unsafe manner to qualify for the tender of bypass mail. Such evidence includes flying in unsafe conditions or without proper training and equipment, especially with passengers on board.

The bill allows for the merger or acquisition of airlines. If two or more airlines merge, the two carriers' data for the previous period of time may be counted together for the purpose of qualifying for bypass mail. The merged carrier must show it is otherwise qualified to carry bypass mail under the provisions of the act. Also, where two or more air carrier certificates merge into one certificate, the carriers cannot later be split up and operated separately.

To allow the Postal Service to deliver the mail in the most efficient manner possible, under the provisions of this act, and under its internal statutory and regulatory provisions, the Postal Service may remove a carrier from the bypass mail system if it does not meet the requirements of this act. The act states previous carriage of bypass mail does not create a contract for guaranteeing future tender of bypass mail. Rather, the tender of bypass mail is only a contract for the carriage of each particularly batch of mail.

In summary, this bill intends to reduce the Postal Service's losses on the bypass mail program while improving safety and stabilizing passenger service. The full Senate Governmental Affairs Committee agreed, unanimously voting to pass the bill out of Committee on May 22, 2002. While some may argue this is re-regulation of the airline industry in Alaska, it is not. This bill requires carriers seeking eligibility to carry the bypass mail in Alaska to meet basic tests and minimum requirements. This is the time to correct the problems with the Alaska system before it collapses completely. To do otherwise would be to turn our backs on the rural communities of Alaska and the commitments the Federal Government has made to them as a result of broad Federal land ownership in Alaska.

Mr. CONRAD. Madam President, I rise to offer for the record the Budget Committee's official scoring of the conference report to H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery and Response to Terrorist Attacks on the United States.

The conference report provides $29.356 billion in net, new discretionary budget authority, of which $14.492 billion if for defense activities and $14.864 billion is for nondefense activities. That additional budget authority will increase outlays by a total of $7.8 billion in 2002. Of the total spending authority provided, H.R. 4775 designates $29,886 billion as emergency spending, which will increase outlays by $7.783 billion in 2002. Per section 314 of the Congressional Budget Act, I have adjusted the Appropriations Committee's allocation for 2002 by the amount of that emergency funding. The conference report is within the committee's revised section 302(a) and 302(b) allocations for budget authority and outlays.

The conference report to H.R. 4775 is subject to several budget points of order. First, by including language increasing the 2003 cap on highway spending, the conference report violates section 306 of the Congressional Budget Act, which requires that such language be reported by the Budget Committee. Second, by amending the Caribbean Basin Economic Recovery Act, H.R. 4775 decreases revenues by $60 million in 2003 and $785 million over the 2003–2012 period. Because the Congress has already breached the revenue aggregates under the 2002 budget resolution, the conference report violates section 311 of the Congressional Budget Act. Finally, H.R. 4775 violates section 205 of H. Con. Res. 290, the Concurrent Resolution on the Budge for Fiscal Year 2001, by including a number of emergency designations for spending on nondefense activities.

I ask for unanimous consent that two tables displaying the Budget Committee scoring of H.R. 4775 be inserted in the record at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparison—302(a) Allocations to Appropriations Committee)

[In millions of dollars]

| | Current Level Plus Supplemental | Senate Allocations | Difference |
|---|---|---|---|
| General purpose: | | | |
| BA | 733,597 | 734,126 | −529 |
| OT | 694,579 | 700,500 | −5,921 |
| Highways: | | | |
| BA | 0 | 0 | 0 |
| OT | 28,489 | 28,489 | 0 |
| Mass Transit: | | | |
| BA | 0 | 0 | 0 |
| OT | 5,275 | 5,275 | 0 |
| Conservation: | | | |
| BA | 1,758 | 1,760 | −2 |
| OT | 1,392 | 1,473 | −81 |
| Mandatory: | | | |
| BA | 358,567 | 358,567 | 0 |
| OT | 350,837 | 350,837 | 0 |
| Total | | | |
| BA | 1,093,922 | 1,094,453 | −531 |
| OT | 1,080,572 | 1,086,574 | −6,002 |

Note: Details may not add to totals due to rounding. The conference report includes $29,886 million in emergency BA and $7,783 million in emergency outlays.

TABLE 2.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparisons—Conference Report)

[In millions of dollars]

| | Defense | Nondefense | Mandatory | Total |
|---|---|---|---|---|
| Conference Report:[1] | | | | |
| Emergency: | | | | |
| Budget Authority | 15,008 | 14,878 | 0 | 29,886 |
| Outlays | 5,444 | 2,339 | 0 | 7,783 |
| Nonemergency: | | | | |
| Budget Authority | −516 | −14 | 0 | −530 |
| Outlays | −100 | 117 | 0 | 17 |
| Total: | | | | |
| Budget Authority: | 14,492 | 14,864 | 0 | 29,356 |
| Outlays | 5,344 | 2,456 | 0 | 7,800 |
| Senate-passed bill: | | | | |
| Emergency: | | | | |
| Budget Authority | 13,932 | 17,690 | 0 | 31,622 |
| Outlays | 5,286 | 3,161 | 0 | 8,447 |
| Nonemergency: | | | | |
| Budget Authority | 0 | −107 | 0 | −107 |
| Outlays | 0 | 190 | 0 | 190 |
| Budget Authority | 13,932 | 17,583 | 0 | 31,515 |
| Outlays | 5,286 | 3,351 | 0 | 8,637 |
| House-passed bill:[2] | | | | |
| Emergency: | | | | |
| Budget Authority | 16,074 | 12,955 | 0 | 29,029 |
| Outlays | 5,632 | 2,441 | 0 | 8,073 |
| Nonemergency: | | | | |
| Budget Authority | −54 | 1,112 | 0 | 1,058 |
| Outlays | −7 | 261 | 0 | 254 |
| Total: | | | | |
| Budget Authority | 16,020 | 14,067 | 0 | 30,087 |
| Outlays | 5,625 | 2,702 | 0 | 8,327 |
| President's request:[3] | | | | |
| Emergency: | | | | |
| Budget Authority | 14,048 | 13,095 | 0 | 27,143 |
| Outlays | 5,310 | 2,491 | 0 | 7,801 |
| Nonemergency: | | | | |
| Budget Authority | 0 | 1,262 | 0 | 1,262 |
| Outlays | 35 | 232 | 0 | 257 |
| Total: | | | | |
| Budget Authority | 14,048 | 14,357 | 0 | 28,405 |
| Outlays | 5,345 | 2,723 | 0 | 8,068 |
| Conference Report Compared To:<br>Senate-passed bill: | | | | |
| Emergency: | | | | |
| Budget Authority | 1,076 | −2,812 | 0 | −1,736 |
| Outlays | 158 | −822 | 0 | −664 |
| Nonemergency: | | | | |
| Budget Authority | −516 | 93 | 0 | −423 |
| Outlays | −100 | −73 | 0 | −173 |
| Total: | | | | |
| Budget Authority | 560 | −2,719 | 0 | −2,159 |
| Outlays | 58 | −895 | 0 | −837 |
| House-passed bill: | | | | |
| Emergency: | | | | |
| Budget Authority | −1,066 | 1,923 | 0 | 857 |
| Outlays | −188 | −102 | 0 | −290 |
| Nonemergency: | | | | |
| Budget Authority | −462 | −1,126 | 0 | −1,588 |

TABLE 2.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO—Continued TERRORIST ATTACKS ON THE UNITED STATES (Spending comparisons—Conference Report)

[In millions of dollars]

| | Defense | Nondefense | Mandatory | Total |
|---|---|---|---|---|
| Outlays | −93 | −144 | 0 | −237 |
| Total: | | | | |
| Budget Authority | −1,528 | 797 | 0 | −731 |
| Outlays | −281 | −246 | 0 | −527 |
| President's request: | | | | |
| Emergency: | | | | |
| Budget Authority | 960 | 1,783 | 0 | 2,743 |
| Outlays | 134 | −152 | 0 | −18 |
| Nonemergency: | | | | |
| Budget Authority | −516 | −1,276 | 0 | −1,792 |
| Outlays | −135 | −115 | 0 | −250 |

TABLE 2.—CONFERENCE REPORT TO H.R. 4775, 2002 SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES (Spending comparisons—Conference Report)—Continued

[In millions of dollars]

| | Defense | Nondefense | Mandatory | Total |
|---|---|---|---|---|
| Total: | | | | |
| Budget Authority | 444 | 507 | 0 | 951 |
| Outlays | −1 | −267 | 0 | −268 |

[1] In addition to its increase in spending, the conference report retains the House-passed provision amending the Caribbean Basin Economic Recovery Act, which decreases revenues by $60 million in 2003 and $785 million over 10 years.

[2] The table removes directives of the House Budget Committee to the Congressional Budget Office on how to score certain provisions in the House-passed supplemental bill.

[3] Includes the President's request, transmitted with his 2003 budget, to provide supplemental funding in 2002 for Pell grants.

Notes: Details may not add to totals due to rounding. The conference report is within both the Committee's 302(a) and 302(b) allocations and the statutory caps on discretionary spending for 2002.

**Mr. INHOFE.** Madam President, I am pleased that the supplemental bill contains $75 million additional funding for the Federal Aviation Administration's operational account. It was facing some severe cutbacks in service without this funding.

In particular, the FAA had reduced funding for proficiency and developmental training of air traffic controllers. This funding was reduced by about $10 million without reprogramming approval from the Transportation Appropriations Subcommittee. It is my hope and desire that the FAA add back at least $2 million to the Air Traffic Instructional Services program. This is a vital program that should never have been cut back. It provides ongoing in-service developmental training all across the country. It has proven to lower error rates by air traffic controllers, thus making the skies safer for the flying public. I believe they should restore the funding immediately.

**Ms. CANTWELL.** Madam President, I have come to the floor today to discuss an item that is not in the conference report that we will soon vote on, but is critical for our national defense, our future economic vitality, and the ability of our workers to turn this national disaster into new opportunities.

As my colleagues know, the Senate supplemental bill contained $400 million for job training and employment assistance for our Nation's workers.

These are funds that were requested by the administration and supported by a bipartisan group of Senators, and are critically needed throughout our Nation.

Unemployment nationwide has hovered around 6 percent throughout most of this year, and in my State, it has been considerably higher than the national average. With the loss of nearly 20,000 commercial aviation jobs in Washington State and severe slowdowns in other major industries, we are likely to suffer secondary layoffs that extend throughout the next 2 years.

But throughout the Nation, we are seeing more and more workers who are unable to find employment for extended periods of time.

A report released last week by the National Employment Law Project found that long-term employment is higher now than in any of the last four recessions.

The number of workers unemployed for more than 26 weeks has grown over 140 percent from March of 2001,

Former Treasury Secretary Robert Rubin wrote on Sunday in the Washington Post that, to get our economy on a sound footing and restore the prosperity of the '90s, we need to do three things: one, look seriously at our nation's long term fiscal position; two, expand trade by granting trade promotion authority; and three, invest in the training of our workers . . .

Mr. Rubin went on to say that "Budgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy."

I have supported this bill and I still believe that we need to get these funds out there to replenish vital defense accounts and to implement immediate improvements in homeland security.

But in trimming the bill down to reach the level of spending the President feels necessary, I believe that this bill does a disservice to the workers in this nation trying to upgrade or learn new skills and identify new opportunities, and continues to short-change the systems that we have established to support those efforts.

While we are experiencing massive layoffs throughout the nation, businesses continue to find a serious skills shortage in our workforce, which slows our economic recovery.

Reducing WIA funding at this time by allowing last year's rescission to be enacted, will seriously impede our ability to get workers the training they need to secure high-paying jobs and strengthen U.S. competitiveness in the global economy. Such cuts would be short-sighted at a time when long-term unemployment is at a record-high.

So I am disappointed that these funds have fallen through at the eleventh hour.

We are facing a tidal wave of demand for job training services. One-stop centers throughout this nation are experiencing record visits by displaced workers and those seeking to upgrade their skills.

In my State, the Renton "Worksource Center" is serving over 4,500 workers per month; and the Benton-Franklin County center recently served 991 job seekers in a single day last month;

And our one-stop systems are already producing results. In Washington, we have estimated that, for every dollar invested in programs for dislocated workers and youth training, we get $8 in participant earnings growth and taxes collected.

As these programs get further institutionalized, and as workers get to know the one-stop sites created throughout our States, we will see even greater usage by workers seeking to upgrade their skills or find a more ideal job.

But it won't happen if we don't commit to getting the system up and running. If we continue to short-change workforce development systems, the effects will be felt on our economy for years to come.

That is why I and over 50 of my colleagues joined together in requesting an increase in funding in the regular Labor-HHS appropriations bill currently under consideration by the committee. Despite my concerns about the immediate needs, I am pleased that the committee has decided to restore last year's rescission and provide increases in job these training accounts.

I urge my colleagues on the committee to work with us in ensuring that those funds are protected and maintained as we proceed to moving that bill through both Houses, and that we expeditiously reach consensus on that bill in the interest of our Nation's future.

I ask unanimous consent to print the Washington Post article by Robert Rubin in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the washingtonpost.com, July 21, 2002; Page B07]

### TO REGAIN CONFIDENCE

(By Robert E. Rubin)

There has been much confusion and uncertainty among investors and in Washington about the economy and the stock market, and about what to do in response to a seemingly significant loss of confidence in our system. Much of the focus has been on accounting and corporate governance. These issues are important, but I think the restoration of confidence and the establishment of sound fundamentals going forward require a much broader focus.

To address accounting and corporate governance first: Clearly reforms are needed to deal with the systemic issues revealed by the recent spate of corporate problems, as are specific enforcement actions where appropriate. The accounting and corporate governance bill passed recently by the Senate seems to me on the whole sensible and responsive to these needs. Similarly, the New York Stock Exchange has issued thoughtful proposals on corporate governance. Expensing of stock options is, in my view, worth serious consideration, though practical problems such as valuation need to be resolved. And the conflicts between research and investment banking need a dispositive, industry-wide solution.

These accounting and corporate governance problems developed over time—as seems to happen after extended good times—but only really came to the fore during the past year. From the time the magnitude of the problems became clear, the need was for a response that was energetic, effective and as rapid as possible. But that response—both in regulatory and legislative changes and in enforcement—should be balanced and appropriate. Our accounting and corporate governance systems have great strengths—in allowing for decisive management decisions, rapid change and agility, experimentation and risk taking—and those strengths should not be unwisely eroded.

Having said that, these accounting and corporate governance issues—though very important—are only part of a much broader question of how to best promote confidence and strong fundamentals, for the short and the long term.

That was exactly the question the new administration faced in the beginning of 1993, and the strategy then put in place contributed centrally to the remarkably strong economic conditions and sound economic fundamentals for the balance of the 1990s. Unemployment fell from over 7 percent to 4 percent and was under 5 percent for 40 consecutive months; private investment in productive equipment grew at double-digit rates for eight years; annual productivity growth more than doubled by the end of the period; inflation was low; GDP growth averaged roughly 4 percent per annum, and 20 million new private-sector jobs were created. Moreover, instead of the huge 10-year deficits projected by the Office of Management and Budget at the end of 1992, deficits were reduced and in time surpluses began.

Certain imbalances did develop—for example, the levels of consumer and corporate debt, the level of the stock market, and excess capacity—as they always do after extended good times, and an adjustment period was inevitable. How difficult that period was going to be would be affected by many factors, very much including the actions of government. Also, the legacy of the 1990s provided strong fundamentals to ameliorate this adjustment, e.g., a large fiscal surplus, strong productivity growth, low unemployment, more open markets around the world and a healthy banking system.

In my view, we need to restore the sound, broad-based strategy that was so central to the prosperity of the '90s. More specifically, I would focus especially on the following:

(1) Virtually the entire $5.6 trillion surplus projected by the nonpartisan Congressional Budget Office in January 2001, including $2.5 trillion of Social Security surplus, has now been dissipated. I wrote when last May's 10-year tax cuts were being debated that their direct cost—later estimated by the CBO as $1.7 trillion including debt service—and even more important, their indirect cost in undermining political cohesion around fiscal discipline, threatened the federal government's long-term fiscal position. And that is precisely what has happened.

Long-term fiscal discipline and a sound long-term fiscal position contribute substantially, over time but also in the short term, to lower interest rates, increased consumer and business confidence, and to attracting much-needed capital from abroad to our savings-deficient country. In addition, a sound long-term fiscal position would far better enable us to meet our long-term Social Security and Medicare commitments.

The portion of the 10-year tax cut that occurred in the short-term may well serve a useful expansionary purpose at a time of economic weakness. But the great preponderance of this tax cut occurs in outer years. Moreover, nobody is talking about a tax increase; the question is whether the cuts enacted for later years should be canceled. In my view, all matters pertaining to taxes and spending should be on the table, with a commitment to reestablishing a sound long-term fiscal position for the federal government.

(2) Trade liberalization and our own open markets contributed greatly to our economic well-being during the 1990s, and are critically important looking forward. The president should be given trade promotion authority, and the recently adopted steel tariffs and agricultural subsidies—which present such a threat to global trade liberalization and to business confidence in the outcome of the struggle over continued globalization—should be corrected. Also—a related matter—we should be prepared to engage in and lead an effective and sensible response to financial crisis abroad when our interests can be affected.

(3) Budgeting priorities should heavily emphasize preparing our future workforce to be competitively productive in the global economy, including improving our public school system and equipping the poor to join the economic mainstream.

Finally, we must deal effectively—building on the strong response to the terrible attack of Sept. 11—with the immensely complex challenges of terrorism and geopolitical instability that are of enormous importance to our economy as well as to our national security.

Much of this is difficult, substantively and politically, but the willingness to deal with exceedingly difficult public issues was central to our economic well-being in the '90s and is centrally important today and for the years and decades ahead.

The writer was head of the National Economic Council from 1993 to 1994 and secretary of the Treasury from 1995 to 1999. He is now director and chairman of the executive committee of Citigroup Inc.

Mr. STEVENS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I yield any time on our side. The Senator from West Virginia authorizes me to yield back all time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 7, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—92

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feinstein
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid

Roberts
Rockefeller
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stabenow
Stevens
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—7

Feingold
Fitzgerald
McCain
Santorum
Specter
Thomas
Voinovich

NOT VOTING—1

Helms

The conference report was agreed to.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

### AMENDMENT NO. 4315

The PRESIDING OFFICER. Under the previous order, there will now be 5 minutes of debate, equally divided, on the Hagel amendment No. 4315 prior to the vote on or in relation to the amendment.

Who yields time?

Mr. KENNEDY. Madam President, as I understand it, we are on the Hagel amendment and we have 5 minutes evenly divided. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I imagine the Senator from Nevada would want recognition to make a statement in favor of his amendment.

Madam President, I will yield myself 2½ minutes and ask to be notified of the last 15 seconds.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, yesterday we voted in the Senate on whether we were going to deal with a comprehensive prescription drug program for our senior citizens—the 13 million who have none, the 10 million who have employer-based systems and are losing it, and the 4 million who have HMO coverage but have caps of $500 and $750. We debated that.

I strongly supported the Graham-Miller proposal because it is built upon the Medicare model, a tried and tested program. It was comprehensive, affordable, and it would have met the needs of our senior citizens. I differed with our Republican friends on this particular proposal, but they believe they would achieve the same goal.

That isn't what the Hagel proposal is all about. It will only amount to 10 or 12 cents out of every health care dollar. I think our seniors are entitled to better. They are the men and women who fought in the world wars, brought this country out of depression, and now are frail and elderly.

The question is, Are we prepared to do for them what we did for them in hospital care and physician services? They need the prescription drugs. I believe we can still find common ground. I would like to find common ground. It is the position of our Democratic leader to try to find common ground in terms of a comprehensive program.

This is a drop in the bucket. This is smaller than a fig leaf to cover the needs of our senior citizens. Let us in the Senate of the United States perform nobly and protect our senior citizens: let's pass a comprehensive program. The Hagel proposal does not do that. We need to do that or we fail our senior citizens.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, I yield to my distinguished colleague from Nevada 1½ minutes of our 2½ minutes.

Mr. ENSIGN. Madam President, our plan is affordable to seniors as well as to taxpayers in future generations. Our plan keeps senior citizens involved in the choices they are making because they will pay the first dollar out of pocket. They have the prescription drug discount card so they will save 25 to 40 percent on the drugs they purchase; but they will pay the first dollar out of pocket so it keeps them involved in the choices they are making and helps the market work and keeps downward pressure on prices.

It also works well with State plans. My State of Nevada used some of its tobacco money to cover senior citizens below $21,500 in income. Our plan fits in well with any of the State plans that have already been put into effect.

The other advantage that this plan has is that it goes into effect at least a year earlier than any of the other plans.

Lastly, our plan gives the help to those seniors who truly need it. Regarding the really sad stories we have heard on the floor of the Senate, this plan helps those seniors more than the Democrat plan, and it helps them even more than the tripartisan plan. If you are a moderate-income senior, with $17,000 of income or so and have $5,000 a year in drug costs, our plan helps those seniors more than any of the other two plans.

I urge the other Senators in this Chamber to support the Hagel-Ensign plan.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, my friend and distinguished colleague, the senior Senator from Massachusetts, talks about a common ground. This proposal is the common ground. As my colleague, Senator ENSIGN, has just stated, this addresses those who need the help the most. We do prioritize. We do focus on those seniors who need the help. Yet we do it in a responsible way. We stay within the $300 billion budget cap that this body voted on for a prescription drug plan over the next 10 years. It is immediate, it is permanent, and it uses the present market system.

We don't build a new government bureaucracy. It is not impersonal. It is direct. It caps the catastrophic dark cloud that hangs over all senior citizens. We are doing something for this generation of seniors as well as the next generation of seniors.

I hope our colleagues give this consideration and will vote for our amendment.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the AARP opposes this amendment. Every senior citizen group opposes this amendment for the reasons in this letter.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF
RETIRED PERSONS,
*Washington, DC, July 23, 2002.*

DEAR SENATOR HAGEL: Enacting a comprehensive prescription drug benefit in Medicare this year remains the top priority for AARP. Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries. Our members were promised in the last election that a comprehensive drug benefit would be a priority, and we are counting on you to make good on that promise this year.

We appreciate the intent of your bill, S. 2736, the "Medicare Rx Drug Discount and Security Act of 2002," to provide a prescription drug discount card and stop-loss protection to Medicare beneficiaries. However, in addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches. We believe Congress should focus its efforts on enactment of a more comprehensive drug benefit this year.

In addition to the timing of your proposal, AARP has concerns about the approach taken in your bill, including:

Catastrophic coverage—While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the program. This would set an extremely dangerous precedent in Medicare. Further, the stop-loss levels set in the bill do not provide enough protection for lower income beneficiaries. A low-income couple could spend 25 percent of their income just for drugs before this plan offered assistance. Thirdly, there are a number of issues involved in using tax returns to determine program eligibility levels, and we believe other options should be explored.

Discount card—While AARP supports the use of a discount card program as a building block for a Medicare prescription drug benefit, your proposal lacks the necessary specifications to guaranty the level of discount, what level of discount would be passed to beneficiaries, and the degree of consumer protections required of plans.

Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries and we look forward to working with you on legislation that our members can support.

Sincerely,

WILLIAM D. NOVELLI,
*Executive Director and CEO.*

Mr. KENNEDY. Mr. President, I yield back the remainder of my time. I believe all time has been yielded back.

Mr. President, I make a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

Mr. HAGEL. Mr. President, I move to waive the respective sections of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—51

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Cantwell
Carnahan
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Hutchinson
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this question, the yeas are 51, the nays are 48. Three fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. GRAMM. I move to reconsider the vote.

Mr. HAGEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia, Mr. ROCKEFELLER, is recognized to offer a second-degree amendment.

Mr. REID. Mr. President, before the Senator from West Virginia begins, I have spoken to the Senator from New Hampshire, who is the manager of this bill. Following the debate on the Rockefeller second degree amendment, we will go to Senator GREGG or his designee on a second degree amendment, and then Senator REID of Nevada or his designee on the next second degree amendment. I ask unanimous consent that that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

AMENDMENT NO. 4316 TO AMENDMENT NO. 4299

Mr. ROCKEFELLER. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN, Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, and Mr. CLELAND, proposes an amendment numbered 4316 to amendment No. 4299.

Mr. ROCKEFELLER. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide temporary State fiscal relief)

At the appropriate place, insert the following:

**SEC. . TEMPORARY STATE FISCAL RELIEF.**

(a) TEMPORARY INCREASE OF MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2002, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2003, before the application of this subsection.

(3) GENERAL 1.35 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002 AND FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 1.35 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 2.7 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after January 1, 2002, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) DEFINITIONS.—In this subsection:

(A) FMAP.—The term "FMAP" means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) REPEAL.—Effective as of October 1, 2003, this subsection is repealed.

(b) ADDITIONAL TEMPORARY STATE FISCAL RELIEF.—

(1) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

**“SEC. 2008. ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.**

“(a) IN GENERAL.—For the purpose of providing State fiscal relief allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000. Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

“(b) ALLOTMENT.—Funds appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

| “State | Allotment (in dollars) |
|---|---|
| Alabama | $33,918,100 |
| Alaska | $8,488,200 |
| Amer. Samoa | $88,600 |
| Arizona | $47,601,600 |
| Arkansas | $27,941,800 |
| California | $314,653,900 |
| Colorado | $27,906,200 |
| Connecticut | $41,551,200 |
| Delaware | $8,306,000 |
| District of Columbia | $12,374,400 |
| Florida | $128,271,100 |
| Georgia | $69,106,600 |
| Guam | $135,900 |
| Hawaii | $9,914,700 |
| Idaho | $10,293,600 |
| Illinois | $102,577,900 |
| Indiana | $50,659,800 |
| Iowa | $27,799,700 |
| Kansas | $21,414,300 |
| Kentucky | $44,508,400 |
| Louisiana | $50,974,000 |
| Maine | $17,841,100 |
| Maryland | $44,228,800 |
| Massachusetts | $100,770,700 |
| Michigan | $91,196,800 |
| Minnesota | $57,515,400 |
| Mississippi | $35,978,500 |
| Missouri | $62,189,600 |
| Montana | $8,242,000 |
| Nebraska | $16,671,600 |
| Nevada | $10,979,700 |
| New Hampshire | $10,549 400 |
| New Jersey | $87,577,300 |
| New Mexico | $21,807,600 |
| New York | $461,401,900 |
| North Carolina | $79,538,300 |
| North Dakota | $5,716,900 |
| N. Mariana Islands | $50,000 |
| Ohio | $116,367,800 |
| Oklahoma | $30,941,800 |
| Oregon | $34,327,200 |
| Pennsylvania | $159,089,700 |
| Puerto Rico | $3,991,900 |
| Rhode Island | $16,594,100 |
| South Carolina | $38,238,000 |
| South Dakota | $6,293,700 |
| Tennessee | $81,120,000 |
| Texas | $159,779,800 |
| Utah | $12,551,700 |
| Vermont | $8,003,800 |
| Virgin Islands | $128,800 |
| Virginia | $44,288,300 |
| Washington | $66,662,200 |
| West Virginia | $19,884,400 |
| Wisconsin | $47,218,900 |
| Wyoming | $3,776,400 |
| **Total** | **$3,000,000,000** |

“(c) USE OF FUNDS.—Funds appropriated under this section may be used by a State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

“(d) PAYMENT TO STATES.—Not later than 30 days after amounts are appropriated under subsection (a), in addition to any payment made under section 2002 or 2007, the Secretary shall make a lump sum payment to a State of the total amount of the allotment for the State as specified in subsection (b).

“(e) DEFINITION.—For purposes of this section, the term ‘State’ means the 50 States, the District of Columbia, and the territories contained in the list under subsection (b).”.

(2) REPEAL.—Effective as of January 1, 2005, section 2008 of the Social Security Act, as added by paragraph (1), is repealed.

(c) EMERGENCY DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

Mr. ROCKEFELLER. Mr. President, I rise to offer this amendment on behalf of many Senators. It is a very long list.

Most of my colleagues know we should have included State fiscal relief and, in fact, did include it in our original stimulus package, which we debated both before Christmas and afterward but did nothing about. This is a stimulus package that we need now and need to complete because we have very dangerous cuts going on in Medicaid and in the health care programs in our States that affect our most vulnerable Americans.

The amendment which I and about 30 other Senators offer is to provide States with the assistance they need right now. State budgets, as the Presiding Officer is more than aware, having been a Governor himself, are in really bad shape financially, and 49 States, of course, cannot spend any deficit money at all. More than 40 States in this fiscal year faced a combined budget shortfall of between $40 and $50 billion, according to the National Governors Association and the National Association of State Budget Offices. It is a crisis. I hear from my Governor from West Virginia as often as the Presiding Officer from the State of Delaware hears from his Governor.

These deficits were caused by a combination of lower-than-expected revenues, higher-than-expected expenditures, including increased Medicaid costs, and Medicaid is our key, partly a result of the rise in unemployment. When that happens, what is a State going to do but to offer Medicaid?

There are some signs of an economic recovery at the national level. I say that without any particular reason to know that or even to be hopeful, but I will say that rather than just be pessimistic. However, it will certainly take 12 to 18 months, if I am right in my optimism, for the State to recover.

We offer this amendment to help address the States' fiscal crises. Yes, we are the Federal Government. Yes, they are States. However, they are deeply responsive to us and reactive to us with respect to Medicaid and virtually all of our health care programs.

This amendment will provide about $9 billion to States over the next year and a half by increasing the Federal Medicaid match, also by holding States harmless for reductions in their Medicaid match that would occur under current law and providing about $3 billion in new money that States can use for other social service needs such as child care.

I will explain that simply by saying when I conceived of this amendment originally, it was all about the Federal matching percentage. And then I got together with Senator COLLINS from Maine and Senator NELSON from Nebraska and we worked out a compromise, which I think is a far stronger amendment, which is to say that we want to do the Medicaid match problem but we also want to work on social services block grants.

There is a block grant component here of $3 billion, which means less for Medicaid but, more for block grants, which means States can use it for child care, for education, for child abuse and negligence, and a variety of other services. It is a creative and good approach.

It is important that my colleagues support this amendment. I will say a word or two about some of its provisions.

Some Senators might say we should help the States. That is what we do. We often impose requirements and they get into trouble; we wander off, forgetting what we have done.

Some might say, look, they got themselves into this mess; why should we get them out of this mess? But the problem with that approach is, No. 1, they didn't get themselves into that mess. It was a result of what was going on nationally, economically, the way the whole formula is figured, and I can get into that if my colleagues want to talk about it.

Regardless of that, the problem is the people are affected, the people of our States are the ones affected. Governor Patton of Kentucky has noted:

> Without fiscal relief the cuts necessary to close the budget gaps will have profound effects on our Nation's children and the programs which serve our most needy populations.

Several States have already cut back coverage under their Medicaid programs. If States cut back on Medicaid benefits, their residents will be out in the cold. So we need to stop pointing fingers at the States and ensure that the safety net is strong for this Nation's people who are our most vulnerable citizens.

Despite the downturn in the economy that is affecting most areas of the country, the proportion of Medicaid costs that the Federal Government bears—in my State, it is 77, 78 percent, but the proportion that the Federal Government is now paying is declining in 29 States. It is declining in 29 States including the State of West Virginia.

So the States with reduced matched rates will lose well over half a billion dollars. This is as a consequence of what is now going on under current law. Our amendment would hold States harmless for these decreases.

Our amendment will also provide a temporary increase in the Federal Medicaid matching rates. I say temporary; it is not permanent. There will be people here who will try to argue we are creating an entitlement. It is a temporary program which we write into law.

I would say to the Presiding Officer, when we did the tax decreases, we wrote that into law. We could write this into law. It will last a certain period of time, the Medicaid match will be up until a certain year, the social services block grant up until a certain year. We write it into law. That is what we did with tax cuts. That is what we could do in this amendment.

The pressure on States to cut back health insurance for low-income families and individuals is enormous. The Governor of my State, this Senator's State, Gov. Bob Wise, calls me constantly about this. The State is in deficit for many reasons. It is not a wealthy State—it is a wonderful State, but it is not a wealthy State—and he agonizes over this because he knows at the end of the day he will have to make cuts in Medicaid. He already has had to. He doesn't want to do that because it affects so many of the people I represent—that we all represent.

Finally, I say to the Presiding Officer, the amendment will provide States with money they can use for other social services. It is very creative. It can be education. It can't be health care, but it can be education; it can be child care, which plays very strongly into the whole welfare reform debate issue. It can be for child abuse and neglect.

All of us will offer meaningful assistance to States with ailing budgets, lessening the need for States to cut programs or raise taxes in the middle of something called a very bad recession. I cannot think of a more important time to pass this than now.

My State will receive about $58.5 million under this amendment, which it desperately needs in order to ensure coverage for our people.

I want to stress that this proposal is temporary. It will be effective for 18 months from April 2002. Our amendment includes an emergency designation. Why do we do that? Because that is the way it originally was. That is the way it always was. It was part of the stimulus package. It was part of getting America going again. Now more than ever we need to get America moving again economically.

The total estimated cost of the proposal, for both the block grant part and the FMAP part, the Medicaid match part, is $9 billion over 10 years. I believe it is appropriate that we provide the States with this relief under the traditional emergency designation.

I will be glad to speak further, but I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today with my colleagues, Senator ROCKEFELLER, Senator BEN NELSON, and Senator GORDON SMITH, as well as with several other of our colleagues, to offer an amendment that begins to address the fiscal plight of our States. I congratulate Senator ROCKEFELLER and Senator NELSON for their hard work on this issue.

Originally, we had slightly different approaches but, in an attempt to get something done that will help our States that are struggling with fiscal crises, and more important, the low-income families who are dependent on Medicaid for their health care needs, we joined together and came up with a compromise that I hope will win widespread bipartisan support.

Here in Washington, consumed with our own budget issues, we too often forget that we have 50 partners in our efforts to provide needed health care, education, and other essential services to our citizens. Our partners are our States, and they need our help and they need it now.

The recession may officially have come to an end, but its effects still linger and they are being felt acutely by States from Maine to Nebraska, from West Virginia to Oregon. The resulting rise in unemployment, as well as the decline in tax revenues, coupled with the aftermath of September 11, have placed enormous and unanticipated strains on our State governments' budgets. States are facing a dramatic and unexpected decrease in government revenues at precisely the time when more revenues are needed to respond to the needs of more and more Americans who are having difficulties making ends meet.

The combination of increasing demand for services and resources that have declined is causing a fiscal crisis for States across the Nation. According to the National Governors Association and the National Association of State Budget Officers, more than 40 States are facing an aggregate budget shortfall of between $40 billion and $50 billion. Most States have seen their estimates of tax collections decrease, often precipitously and unexpectedly. State governments are scrambling to respond.

Forty-nine States are required by law or their constitution to balance their budgets, so running a temporary deficit for these States is not a possibility.

Moreover, the problem is getting worse. It is not likely to improve anytime soon. A survey by the National Governors Association shows that individual tax revenues for the first 4 months of this year are running nearly 15 percent behind last year's level.

The problem also is not an isolated one. It is not limited to just one area of the country. Mr. President, 39 States have been forced to reduce their already-enacted budgets for fiscal 2002 by cutting programs, tapping rainy day funds, laying off employees, and reducing important services.

According to the Conference of State Legislators, States have been forced to cut a number of critical programs. Twenty-nine States have attempted to balance their budgets by cutting spending on higher education—something no one likes to see; 25 States have cut corrections programs. Others have cut K–12 education and the Medicaid Program; 10 States have reduced aid to local governments. In addition, a number of States have resorted to increasing taxes and fees by a total of $2.4 billion.

The situation in my home State of Maine is typical of the problems faced by many States. Our fiscal year just ended on June 30. Just this past March, State revenues appeared to be on target at approximately $2.4 billion. In April, after the State legislature had adjourned for the year, State forecasters projected a shortfall of $90 million, largely due to sluggish capital gain receipts.

By mid-June, the expected shortfall had risen by another $20 million, due to lower than expected sales taxes, income taxes, and corporate income tax receipts. All were off projections.

So you can see how quickly the financial system turned from relatively positive to negative in my State and many others.

The shortfall in the fiscal year that just began in May looks even worse. We may experience a shortfall of $180 million. That is enormously difficult for a State such as Maine to deal with in a way that does not hurt the people we serve.

To close the books on last year, the Governor of Maine had nearly emptied our State's rainy day fund. This year, the choices are going to be far tougher. Already, cuts in education funding, furloughs for government workers, and cuts in the Medicaid Program are on the horizon.

I believe States need to tighten their belts in times of fiscal difficulty just as the Federal Government should do in austere fiscal times.

We are not talking about taking the States off the hook. They are still going to have to make a number of very difficult choices in order to balance their budgets. But the unexpected nature and the severity of the crisis that States now face has convinced me we need to give them some temporary help. We should do so by targeting resources where they are most needed for health care and social services programs.

Our amendment would provide a temporary increase in the Federal Medicaid matching rate. It would also provide block grant funds to every State.

Specifically, it would provide $6 billion to States by holding each State's Medicaid matching rate harmless for the next 18 months. It would also provide a temporary increase in the Medicaid matching rate.

I note that over 30 States are scheduled to see a decrease in their Federal matching under the Medicaid Program.

So we would hold these States harmless. They would no longer see their Medicaid rate drop at the worst possible time for them from a fiscal standpoint.

The legislation would also provide $3 billion through a temporary block grant to help States pay for the rising demand in social services resulting from the economic downturn. As Senator ROCKEFELLER indicated, that could be used, for example, for child care programs that are so important to our States.

In order to be eligible for the increased Medicaid funds, States are asked to maintain their Medicaid Programs. There are some States that have acted to contract their Medicaid Programs in order to cut their costs. But these States could reverse those actions and, thus, become eligible for the increased Medicaid match that is provided by this bill.

Regardless, every State is going to benefit from the package we put together. Every State will receive a share of the block grant funding and will be protected by the provisions that maintain the Medicaid matching rates at no less than the current level. Those are the so-called hold harmless provisions.

Our amendment is strongly supported by the National Governors Association, as you might well expect. They need our help. But it is also strongly endorsed by a number of health care providers that are very concerned about their ability to continue to provide much-needed quality health care to citizens who rely on the Medicaid Program. It has been endorsed by the American Hospital Association, the American Health Care Association, which represents our nursing homes, the Visiting Nurse Associations of America, and a host of other health care provider groups.

The support that our legislation has received underscores the importance of providing assistance to States at a time when many are being forced to look toward cuts in vital health care programs in order to balance their budgets.

Our amendment targets most of our assistance on Medicaid. The reason is that the Medicaid Program is the fastest growing component of State budgets. While State revenues were stagnant or declined in many States last year, Medicaid costs increased by 11 percent. This year, Medicaid costs are increasing at an even greater rate—13.4 percent. My home State of Maine is one of only a number of States that have been forced to consider resorting to cuts in Medicaid in order to make up for their budget shortfall.

The amendment we are offering today—I want to stress this point—would not free States from the burden of making painful, difficult choices in crafting their budgets for the current year. But it would help to lessen the impact of the cuts. It would help to soften the blow from a situation in which the States are really not to blame. It is a combination of events—of declining tax revenues, lingering impact of a recession, and the events of September 11—that has created the fiscal crisis for our States.

Our legislation would help protect vital programs for those who can least bear the cuts in services. To the State of Maine, our amendment would mean $54 million for health care and social services that would help our most needy citizens and assist our Governor and the legislature in producing a balanced budget without resorting to draconian cuts that would have a terrible impact on our State citizens.

Congress is most effective when it stands arm in arm—not toe to toe—with our partners, the States. Our States face a crisis of vast and still expanding dimensions. I think we need to help, and we need to help now. The longer we wait, the more difficult it is going to be for our partners, the States.

This amendment is a modest amendment. Other versions of this amendment were far more expensive. But in recognition of the fiscal realities we face, we have limited its scope. But it is an amendment that would make a difference to the States and to needy citizens across our Nation. I urge my colleagues to join me in providing much needed but temporary fiscal relief to the States.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I rise today to join my colleagues and good friends, Senator COLLINS and Senator ROCKEFELLER, in discussing this issue, and to urge the support of our colleagues as we strengthen the partnership that exists between the States and the Federal Government as it relates to the Medicaid Program and social services.

With the Presiding Officer having led the National Governors Association, and having served as a Governor with the Presiding Officer in the National Governors Association, I feel perhaps a little bit like I am preaching to the choir. On the other hand, I think it is important that we continue to point out the challenges facing the States today which will put in doubt the continuing relationship of providing the kinds of benefits necessary for Medicaid and for social services.

There is, in fact, a partnership. It has been a partnership—a partnership where all the parties have responsibility and all the parties have an opportunity to help the most vulnerable among our society and our population. But as my colleagues have pointed out, States today are experiencing the necessity of making cuts in spending for important social services as well as for education and for a number of other programs.

The current economic indicators suggest it could be years before revenue levels return to what they were in the late 1990s. It will continue, therefore, to be a herculean challenge for the States to maintain a semblance of the services they were able to provide only a few years ago. As is the case in any economic downturn, now is the time when people need the services most.

Senator COLLINS and Senator ROCKEFELLER have indicated the importance of this particular legislation to their home States. I ask for the opportunity and the courtesy to be able to do the same.

In my home State of Nebraska, unemployment levels are at their highest mark in 15 years. For only the second time in history, Nebraska will collect less revenue this year than it did last year. When those two figures are put together, it should be abundantly clear that the budget is being pressed on both sides, and eventually something will break.

In Nebraska, cuts have already been made to child care programs, rural development, and other essential services. A tax increase has been passed by the legislature. These measures might relieve the strain for today and tomorrow. But next year there will be more tough choices and even fewer options.

Many of those options will likely involve cuts to Medicaid unless we act to provide fiscal relief. According to the National Governors Association, Medicaid spending has been a particular struggle for States since expenditures have risen an average of 12 percent over the past 2 years while State revenues rose to a total of 5 percent—where they even increased, let alone where they decreased.

Medicaid spending has been driven by increases in health care costs generally. For example, Medicaid costs for prescription drugs have increased by 18 percent annually over the past 3 years. It has also been increased by the recession-related increases in the number of people who have become eligible for Medicaid due to the downturn in the economy. This continues to grow worse.

As we look for a solution for Medicare and the prescription drug benefit that we want to see provided to our seniors and to those who have the need as part of the Medicare Program, we know what the increase in cost has done to the average citizen. This program has felt the same impact.

To date, most States have been able to reduce Medicaid spending without cutting back eligibility significantly. Mr. President, 28 States have failed to budget enough funds for Medicaid this year, and nearly all States have implemented Medicaid cost-containment measures, such as reducing some benefits, increasing beneficiary cost-sharing, or cutting or delaying payment to providers.

But as fiscal pressures continue to mount, many States are likely to consider substantial reductions in Medicaid eligibility that would leave hundreds of thousands more children, families, and seniors uninsured. Medicaid, as you know, is often the second largest share of State budgets after education, and States have already exhausted the traditional budget balancing tools, such as tapping reserve funds and using one-time measures, such as using tobacco settlement funds or forward-funding spending programs, as well as Medicaid spending cuts unrelated to eligibility. But the States need help.

It is important that we help the States today because part of the partnership we have established with the States is welfare reform. To the extent they are now faced with making cuts that will reverse the success we have had in welfare reform, it would be a tremendous shame to sit by and not do what we can to help avoid that sort of result.

As you know, Medicaid, as well as the eligibility requirements and transitional benefits in social services, have helped transition people from welfare to work. I think it would be a tremendous disservice if we saw the absence and the withdrawal of those programs reverse the trend, where people go from work back to welfare because they lose their child support care and other valuable programs that have helped in the transition.

For the past several months, we have been working together, Senator COLLINS and I—and we have been so pleased to have been joined by Senator ROCKEFELLER in bringing about this coalition—to craft a measure to help States through this period of fiscal crisis.

During the journey to bring our measure to the floor, it has gone through some changes, but, more importantly, it has become even more of a consensus measure along the way. As Senator COLLINS indicated, it has the support of the National Governors Association, with the letter today supporting it. And these are members of all political parties, a tripartite group, where they are now supporting it and truly recognize how important it is we work as quickly as we can to provide this support to the States.

The Rockefeller-Collins-Nelson amendment will provide $9 billion, as has been mentioned. It is a temporary measure that will provide enough help, over the next 18 months, to ensure that low-income families, children, seniors, and persons with disabilities most affected by the economic downturn will get the health care as well as the other services they need. It will also help to provide financial resources for various hospitals, clinics, nursing homes, doctors, and other providers that offer such services.

It is clear this amendment is, by no means, perfect. But it is a consensus amendment, and it is a step in the right direction, on a temporary basis, to help the States through these difficult times and, moreover, to help the residents and the citizens of the States get through this.

So I urge my colleagues to adopt this amendment and take this step to avert, at least in part, potentially damaging cuts to Medicaid, as well as to other social service programs.

I hope, as the list of supporters is included in the RECORD, numerous senior groups and other groups interested in the outcome of the Medicaid Program and social services—that that list will show there is strong support, not only among the States but by those who are equally interested in the outcome for seniors and for others, and that that support will encourage and bring about the support of others of our colleagues, so this amendment can be adopted.

It appears we are going to need the requisite 60 votes for this to be adopted. We hope people will support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Idaho.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CRAPO are printed in today's RECORD under "Morning Business.")

Mr. KYL. Mr. President, I rise to express my concerns with Senator ROCKEFELLER's amendment. As you know, it would provide every state with a 1.35 percent point increase in their Federal Medical Assistance Percentage, FMAP,—the amount that the Federal Government supplements States for their Medicaid costs.

Under FMAP, Medicaid funds are distributed to States based upon a formula designed to provide a higher Federal matching percentage to those States with lower relative per capita income, and a lower Federal matching percentage to those States with higher per capita income. This formula, although not perfect, is justified because States cannot manipulate it for their own gain; the data is periodically published and can be estimated with reasonable accuracy. Additionally, the use of per capita income is a proxy for State tax capacity which, in turn, relates to a State's ability to pay for medical services for needy people. To put it simply: poorer states get more help than wealthier States.

The Rockefeller amendment ignores the Medicaid formula and gives each State a 1.35 percent point increase. Under the amendment, states that have been determined by the Medicaid formula to receive the lowest FMAP of 50 percent receive the greatest percentage increase in FMAP. States with the highest FMAP receive the lowest percentage increase. This is the exact opposite of how the funds should be allocated. The Medicaid formula, whatever its faults, does indicate a relative sense of need. It would be wrong to the give the least needy States the largest percentage increase.

For example, Illinois' FMAP for fiscal year 2003 is 50 percent. Increasing this to 51.35 percent, as the chairman's mark does, increases Illinois' FMAP by 2.7 percent. Arizona's FMAP for fiscal year 2003 is 67.25 percent. Increasing this to 68.60 percent, as the amendment does, increases Arizona's FMAP by only 2 percent and, obviously, a much lower dollar figure. Illinois is receiving a 35 percent greater increase in its FMAP than Arizona, yet by the formula's standards, Arizona has shown that it needs a far greater FMAP than Illinois.

While the amendment is supposed to be a temporary increase in the FMAP for just 18 months—I also worry that this temporarily increase would become permanent, in which case it could cost upwards of $30 billion over 10 years.

Additionally, the Chairman of the Finance Committee had scheduled a mark up on a proposal similar to this amendment. Unfortunately, the mark up was canceled. I do not think that having an amendment on the Senate floor without the legislation going through the committee process is the best way to make changes in the Medicaid formula that could become permanent.

Given these facts, I will not be able to support the Rockefeller amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, there are a variety of things that have been said about this amendment, and there are a few more things that could be said, but, basically, the nature of the amendment has been laid out.

We are talking about an emergency designation. We did that in the pre-last Christmas stimulus conference, of which I was a member, but it did not get anywhere. We have talked about maintenance of effort. We talked about the fact that this started out as just for Medicaid, and now it is bifurcated in two parts, both of which are good. And it is a stronger amendment.

I notice the presence of my distinguished colleague, Senator SMITH, on the floor, and hope that he will have some comments he will want to make.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, first, I thank the Senator from West Virginia for his leadership in bringing together this coalition.

The amendment, that I hope we soon adopt by an over 60-vote margin, is, in part, like what we adopted last December when, as part of the supplemental bill or the stimulus package, Senator BAUCUS and I authored an amendment that would have helped a great deal with respect to Medicaid in the States' use of these funds. This bill is broader. It allows States more discretion.

Senator BEN NELSON, Senator COLLINS, Senator TIM HUTCHINSON, I, and others have come together to provide an amendment that our States desperately need us to adopt.

Medicaid is an essential part of our health care safety net. Last year, the Medicaid Program provided health coverage for 44 million of the most vulnerable Americans 22.6 million children, 9.2 million adults in low-income families, and 12 million elderly and disabled.

One in four American children are covered by this important program. Yet, despite the program's importance, states around the country are struggling to fund their share of their Medicaid programs.

The National Governors' Association reported several weeks ago that States are in the worst financial situation in 20 years, and that they expect next year's situation to be even worse.

During this current fiscal year, more than 40 States are experiencing budget shortfalls totaling $45 billion. To close the gaps in funding, many States are cutting public education, services to the elderly, and health care to the poor—Medicaid—even as families are struggling to get by in the weakened economy.

Twenty-two States have already acted to cut costs by eliminating planned expansions of Medicaid or slashing current Medicaid eligibility.

To keep State budgets in balance this year, Governors have cut spending in many departments, tapped "rainy day" funds, and depleted tobacco settlement funds. What this means is that, as we enter 2003, the one-time fixes have been used up. In the words of Idaho's Governor Kempthorne, "The cupboard is bare."

Going into legislative session this year, my home State of Oregon faced a budget shortfall of more than $800 million, and the majority of States are facing similar conditions.

The cruel irony of this situation is that just as State revenues have dropped due to poor economic conditions, many more families are turning to Medicaid as their only source of health care.

I know that in Oregon, the number of people on Medicaid has risen by more than 10 percent since June of last year, and I suspect that many of your States have experienced similar increases in demand.

Last year, more than 40 million Americans lived and worked without health insurance, and it is estimated that the economic downturn will add another 4 million to the ranks of the uninsured.

The amendment before the Senate today addresses a very real emergency. It will allow States to continue providing health care to our society's most vulnerable members in this economic downturn by providing a temporary increase in the federal medical assistance program, FMAP, funds States receive to pay their portion of the Medicaid bill.

It will prevent the erosion of health insurance coverage and help maintain a strong health care safety net for vulnerable Americans during the economic downturn.

By temporarily increasing the Federal portion of the Medicaid bill, the scope and depth of possible State budget cuts or tax increases will be lessened, minimizing the potential negative impact on the economy and our most vulnerable citizens across the country.

Including funds for States to use for a variety of social services will also help provide services to the needy at a time when demand for such services is demonstrably on the rise.

It is the right thing to do, and the right time to do it.

I urge my colleagues to support our amendment so we can clear the 60-vote threshold.

Again, I thank our colleague from West Virginia, Senator ROCKEFELLER, for his leadership and look forward to joining him in support of this critical and timely amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank Senator ROCKEFELLER for his leadership on this amendment and on health care policy. I have said to the Senator from West Virginia, it is a little bit like the E.F. Hutton ad: When E.F. Hutton speaks, people listen. Senator ROCKEFELLER has that credibility.

This is critically important. I know in Minnesota it is about $123 million in additional Medicaid funding. There is also the additional social services block grant money that would also come to Minnesota. Our State, just like many States in the country, is under siege financially.

The other important feature is that one of the conditions upon receiving this is to not cut back on Medicaid or medical assistance eligibility which is extremely important. People need to be able to keep their health insurance.

I ask unanimous consent to be an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank Senator ROCKEFELLER for stepping forward and taking the lead. I indicate to my colleagues my very strong support as a Senator from Minnesota for this amendment.

I yield the floor.

Mr. REID. Mr. President, I say to my friend from West Virginia, the sponsor of this amendment, the Senator from West Virginia would agree to a reasonable time on this amendment; would he not?

Mr. ROCKEFELLER. The Senator is correct.

Mr. REID. There is not a manager on the floor, and there are other things going on, such as the memorial service for the fallen police officers in a few minutes. I would hope that we would be in a position in the near future to arrive at some reasonable time to vote on this amendment. It appears to have wide support. I would hope on this amendment the majority leader would not have to file a cloture motion. It is my understanding that the last time there were at least eight or nine Republican cosponsors of this legislation; is that not true?

Mr. ROCKEFELLER. The Senator is correct. If the Senator will yield for an additional comment.

Mr. REID. Yes.

Mr. ROCKEFELLER. It is a very interesting situation because we have a compromise. It has very broad support. Nobody has come to speak against it. There is a temptation to call for the yeas and nays; we are ready to vote. We could have voted on this already. We voted in the Finance Committee. If we voted on the floor, this is something I think would pass well and easily. It is incredibly important to the States. I will say something about that after I yield back to the Senator from Nevada.

Mr. REID. I appreciate the work that has been done by the Senator. I hope this isn't happening. This is very typical, when someone knows there is a good piece of legislation on the floor, to just ignore it and go away. People don't want to speak against this because States are helped as a result of the amendment of the Senator from West Virginia. It is shaping up that maybe this will be our Friday vote. The leader has indicated he will not go off this legislation at the drop of a hat. He is working very hard to get a bipartisan prescription drug amendment added to this underlying legislation.

We should move on this legislation the Senator has offered and not waste time. The Senator from West Virginia or the Senator from Nevada can't make that decision.

But we can suggest to the majority leader that it appears a big stall went on here and maybe there should be a cloture motion filed on the amendment of the Senator from West Virginia. Nothing is happening here and this amendment has been on the floor. I have been watching all the floor proceedings. Has anybody spoken against this amendment?

Mr. ROCKEFELLER. I say to the Senator, not a single voice has been raised against it.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I say to the majority whip that there is one individual—Senator GRAMM of Texas—who came by as I was about to speak and asked to speak before there is a vote or any final agreement. He intends to speak in opposition to my position. He made that clear. I will not speak for him, but as a courtesy to him I note his interest in making a statement in opposition.

Mr. REID. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, it is very perplexing, really, because I was noting when the Senator from Nebraska was here, the floor was crowded with Senators on our last votes. Obviously, all of a sudden, the Senate floor was empty when we came to what is the single most important part of the relationship with the Federal Government that States are worried about and that is their Medicaid match.

This Senator was a Governor for 8 years. I remember what happened in the early 1980s when we had the recession. I remember what happened in Medicaid and I remember what happened in the public employees insurance. Everything sort of collapsed. And then there is this body up there in Washington that thinks it is so high and mighty that it doesn't need to pay attention to the problems of States. We only pay attention to the problems of the world and the country. This is an example where this was part of the stimulus package and we were dealing with the absolutely most critically important part of whether a child eats, whether a child has medical services, whether a family has medical services, and everybody is silent.

I have a very strong feeling that if this were taken to a vote, it would get well over 60 votes. I know the Senator from Illinois is here and so is the Senator from Minnesota. But there is this strange silence, which sounds like a rolling filibuster without voice. I think it is wrong. We are ready to go to a vote. I am going to keep saying that because it is important.

Mr. WELLSTONE. Will the Senator yield for a question and comment?

Mr. ROCKEFELLER. Yes.

Mr. WELLSTONE. I urge the Senator—and I know he will do so—it is hard to figure out the opposition, but I hope all of us think about our States. This is an enormous contribution the Senator is making.

I ask the Senator from West Virginia whether he intends to persevere and to keep it on the floor and do whatever he needs to do to bring it to a vote.

Mr. ROCKEFELLER. This amendment is going to be voted on.

I notice the presence of the distinguished Senator from Illinois.

Mr. DURBIN. I would like to speak on behalf of the Senator's amendment. I will seek recognition on my own time if that would be appropriate.

Mr. ROCKEFELLER. I was trying to be courteous and friendly and encourage the Senator to speak, and he will proceed as he does so well.

Mr. DURBIN. The Senator from West Virginia is always courteous.

Mr. President, the amendment before us, offered by the Senator from West Virginia, is one of critical importance across the Nation. In Illinois, we have cities large and small, hospitals large and small; but we have health care needs that are universal. Whether you live in small town America or in the middle of Chicago, there is genuine concern about health care and its cost.

Now, one of the groups of Americans that we have made a special effort to try to help are those who are in low-income situations. The Medicaid Program is an effort by our country to say that no matter how poor you might be, whatever your economic circumstances, we will not let you go without basic medical care. That has been a commitment in place for almost 50 years, and it is one that I think we honor as Members of the Senate, both Democrats and Republicans.

What the Senator from West Virginia challenges us to face is the fact that the amount of money we are sending to the States to meet that obligation is not enough. It is not enough for several reasons. The state of the economy is so poor, with unemployment, with businesses in trouble, with people not receiving health insurance at their place of employment. They turn in desperation to this Medicaid Program. I think you will find that a substantial portion of those who turn to it are children—the children of a working mother, the children who otherwise might not receive the most basic medical care. So the demand for services is increasing because of the sad state of our economy.

The Senator from West Virginia knows that. He comes before the Senate and says: If you are going to talk about health care in America, for goodness' sake, be sensitive to the fact that there are more and more people in desperate need. If the commitment of our Federal Government to Medicaid is to be honored, certainly we must pay close attention to the amendment.

Second, he raises a serious element, which is the fact that the cost of this medical care is increasing. Ironically, one of the elements that drives up cost is the cost of prescription drugs under the Medicaid Program—under virtually every health care program. So in the State of Illinois, in West Virginia, in North Carolina, and in California, when you try to keep some young person, for example, healthy so they don't have to be hospitalized, under Medicaid the cost of prescription drugs to do it keeps increasing.

On a national average, the cost of prescription drugs went up 17 to 18 percent last year. So is it little wonder that, as we look at this program, it is suffering because not only are there more demands but the costs have gone up? Senator ROCKEFELLER appropriately says to us, for goodness' sake, you cannot ignore these realities. If you don't provide additional resources for Medicaid, fewer people will be served and we will literally threaten the quality of health care to millions of Americans.

This bill sounds so simple—and it is—because it asks the Senate to keep its word. If you are committed to the families of America, rich and poor, that they will not be left without quality health care, are you willing to vote for it?

It amazes me. As the Senator comes to the floor, you would expect opponents of this legislation to be gathered and make the arguments they are going to make. Yet you could shoot a cannon across this floor and not hit an opponent. No one is here. I don't know if this is an effort or a conspiracy of silence to not come and say anything and then pray that the amendment doesn't come to a vote. Some colleagues live and dread that they may have to vote for this one way or the other.

I am reminded of one of my favorite colleagues from the House of Representatives, the late Mike Synar of Oklahoma, who used to say to me, when a tough vote would come up on the House floor: I know you don't want to cast that tough vote, but if you don't want to fight fires, don't be a firefighter. If you don't want to vote on tough issues, don't run for Congress.

Well, this is a tough call. We are saying to Democrats and Republicans alike: Come to the floor and vote on whether we are going to adequately fund Medicaid and reimburse the States that are struggling with this economy. If you don't believe we should, then vote no. But if you believe we should, as I do, join Senator ROCKEFELLER in this effort.

We all know what the States are going through. There is not a State in the Nation that hasn't faced serious shortfalls in terms of State revenue. My State of Illinois, and virtually every other State, has had to make cuts and changes when, in fact, each and every one of them is paying for them. At the same time, since September 11, all of the States and localities are putting more money into security as we expect them to do. They are providing law enforcement so we have a safe and secure Nation. They are trying to maintain and protect our basic infrastructure of America.

So as the economy is weakening, the demands on State revenue increase and the costs of the Medicaid Program go up, and Senator ROCKEFELLER says it is time for the Federal Government to meet its obligation. What he has proposed that we do is to increase the Medicaid reimbursement in all States by 1.35 percent.

As I stand here and say that, many people listening to this debate will say: How big a difference could that make? The fact is it could make a substantial difference. It could provide our States up to $6 billion over the next 18 months; $6 billion right into the Medicaid system, making certain that people receive basic health care.

It also says States with a lower FMAP this year than last year will be held harmless. States do not lose money under this proposal. It says States will also receive, if I understand correctly, $3 billion in fiscal relief grants for a variety of social service programs which are now suffering.

The Urban Institute estimates that Medicaid enrollment can be expected to increase because of our weak economy by approximately 800,000 adults, 2 million children, and 260,000 people with disabilities, if the unemployment rate rises from 4.5 percent to 6.5 percent. With that, of course, are the demands for more Federal money and more State money.

I applaud my colleague from West Virginia. We have worked on this before. We tried to bring this to the floor several different times. This is the moment. If we are talking about health care costs, whether it is the cost of prescription drugs, the availability of generic drugs, as we address each of these issues, let's not overlook the basics.

There are many people in this country struggling to get by today, working part-time, unemployed, trying to keep their children healthy. States are struggling to provide the services these folks need. In my State, I can find them in rural areas, I am sure in Arkansas and North Carolina. There are many small town hospitals which are threatened with going out of existence. They are going to leave.

In one part of my State, as I traveled around, I said in Calhoun County: What does it mean if that local hospital closes? They said instead of a woman traveling 40 miles to deliver a baby, it is 75 miles. I have been through that three times with my wife, and the prospect of getting in a car and driving 75 miles when she thinks the baby is on the way is something no father, no member of any family can look forward to. That is the real world effect of this amendment.

If we do not provide the assistance through Medicaid for those hospitals and those doctors, we are going to say to some parts of America, whether it is inner-city or rural America: You are going to find a dramatic decline in the services and quality of service available to you.

The block grant which Senator ROCKEFELLER proposes to the States is also going to help us in providing a variety of social services. This increase in Federal support is essential if we are going to honor our commitment to act as partners with our States to help our Nation's most vulnerable people.

I urge my colleagues to support Senator ROCKEFELLER's amendment and to increase Federal assistance to States that are struggling to make ends meet. This increase in Federal support is long overdue. We first started talking about it last November. Senator ROCKEFELLER and I tried to include this in the energy package, if I am not mistaken. That was one of our efforts. We cannot delay it further.

Anyone who opposes it—I hope no one does—if anyone opposes it, come forward, make your argument, suggest your own amendment, but for goodness' sake, let's not let this important issue slide by. There are literally people in communities across America who are dependent on our good work, and if we do not respond to this national emergency, there are families and people who will suffer.

I thank Senator ROCKEFELLER for his leadership on this issue. I ask unanimous consent to be shown as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I wish to say a special thanks to Senator ROCKEFELLER who has been tireless in this effort on behalf of his constituents in West Virginia. The similarities in our States have certainly given me a wonderful partner in fighting on behalf of this issue. We have been fighting to increase Arkansas' share of Medicaid dollars since last fall.

I remind the Senator from West Virginia that back in November, when we were taking up the stimulus bill in the Finance Committee, we tried even there to offer this type of an amendment, to recognize the shortfall in our rural States and the problems they were suffering at that point. We know that in terms of stimulating the economy, it is pretty hard to go to work if you are sick and cannot get health care. It is pretty hard for children to learn and become a great part of the future leadership and the future workforce of this country if they are sick and cannot go to school.

Back in February, we argued to get it into a slimmed down stimulus package, but we did not pass it there either.

I worked with Senator ROCKEFELLER to try to amend the energy bill, but we did not get a vote on that back in March. Again, in April, I cosponsored stand-alone legislation with Senator ROCKEFELLER and Senator SMITH, and in May I cosponsored stand-alone legislation with Senator COLLINS and Senator NELSON.

We have been working on this issue for quite some time. We recognized last fall when many of our State Governors were having to take cuts that those who were most vulnerable in our society were going to be hurt the most, and we needed to do something and we needed to act.

I am a proud cosponsor of the amendment before us in which the two previous proposals I mentioned have been merged. I thank my colleagues, certainly Senator ROCKEFELLER, Senator SMITH, Senator COLLINS, and Senator NELSON for their leadership and their perseverance.

In times of tight budgets and economic downturns in our States, States are cutting their Medicaid budgets, and we are seeing it right and left across this country. Who suffers because of this? Our most vulnerable citizens: Our low-income families, our children, and our senior citizens.

Medicaid funding plays a critical role in senior care, with two-thirds of the residents of America's nursing homes depending on Medicaid payments for their care. But many States, including Arkansas, are facing real budget crunches with their Medicaid budgets. We are seeing, because of a multitude of other medical underpayments, whether it be UPL, whether it be physician payment reimbursement cuts, whether we are talking about ambulance provider fee schedules, we are looking at a crisis in rural America in the delivery of health care.

It is a serious problem that we are facing now, but if we do not do something pretty quickly, we are going to see some devastation. I have heard from hospitals in my State that are going to, in the next couple of months, stop providing OB care. I have constituents at that point who will have to travel 90 miles to get obstetric care. We are going backward, not forward, in providing the health care across the board in rural areas, as well as urban areas, that is so necessary to the quality of life that each American deserves.

In Arkansas, our population of seniors is a snapshot of where the Nation is going to be in the next few years. So we are already facing the challenges with which other States will have to contend, the challenges that other States will have to face in the next 10 to 15 years.

It is also true that we have a disproportionately high number of seniors living in poverty, and many of them rely on Medicaid funding for health care and long-term care. Especially in rural States such as Arkansas where health care services are harder to come by, Medicaid makes a huge difference in helping families afford care for their seniors.

We need greater investment in Medicaid funding to States, especially at a time when our States are in such a devastating budget situation.

The bills I have helped introduce in the Senate will adjust the FMAP level so that States can benefit from greater Medicaid funding, which will go a long way toward helping our most vulnerable citizens, particularly our seniors.

I appreciate the support I have received from our colleagues today, those who have worked tirelessly on this issue. And I can tell you that we will all keep fighting to get this done. No matter what barriers people may put before us, we are going to continue to make this fight. I think the fact we have been doing it since last November should indicate to our colleagues that this is essential, we know it is important, our constituents know it is important, and the rest of the Senate must learn that it is important enough for us to act now.

Under this amendment, Arkansas stands to gain $80 million over 18 months. This is a much needed injection into our economy and into the quality of life of our most vulnerable citizens.

To my colleague from West Virginia, I thank him so much for his leadership on this issue. I have enjoyed working with him since last fall, and we are going to continue on this effort because we know how important it is to the lives of the people we represent in this body. It is so important we move forward as quickly as we possibly can.

I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, for 60 seconds, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Mississippi, Mr. COCHRAN, be added as a cosponsor of the Rockefeller-Collins-Smith, et cetera, amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MOMENT OF SILENCE TO HONOR OFFICER CHESTNUT AND DETECTIVE GIBSON

The PRESIDING OFFICER. Under the previous order, the Senate will now observe a moment of silence to honor the memory of Officer Chestnut and Detective Gibson.

(Moment of Silence.)

Mr. ROCKEFELLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, Senator DASCHLE and I and other members of the leadership of the Senate have joined the House of Representatives at the memorial entrance to have a moment of silence in memory of Officer Chestnut and Detective Gibson. I know that moment of silence was honored in the Senate. We do not want this moment to go by without making some specific remarks.

We remember today with fondness and in prayer and everlasting gratitude the sacrifice of two great men of peace who lost their lives in the line of duty in our Capitol 4 years ago at precisely 3:40 p.m.

Officer J.J. Chestnut and Detective John Gibson were part of our congressional family, a family whose security was their life and for whose safety they died.

On July 24, 1998, our gift of freedom was challenged every bit as determinedly as it was on September 11. And just as the Nation witnessed on September 11, we saw on July 24, selfless protectors and guardians rise to the defense of the liberty of all Americans. No one who was in the Capitol that day 4 years ago or who revels in the triumph of democracy that this great dome symbolizes could help but be affected by the profound heroism of these fallen comrades, Officer Chestnut and Detective Gibson, and also of the courage and the dedication and the loving of their families.

We cherish their memory and gratefully accept responsibility every day of proving ourselves worthy of their example and the cherished gift of freedom they left us. Our thoughts and prayers and gratitude are with the Chestnut and Gibson families today and every day.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. This is a sad day for the Capitol Hill family. Four years ago today, two very good men—two members of our Capitol Hill family, Officer J.J. Chestnut and Detective John Gibson—were killed defending this Capitol Building.

As Senator LOTT has noted, a few moments ago we paused for a moment of silence to pay tribute to these fallen heroes for their selfless service and their enormous sacrifice.

Just before that moment of silence, there was a ceremony at the memorial door entrance to this building. Under the bronze plaque that bears the names and likenesses of Officer Chestnut and Detective Gibson, we laid roses in their honor.

Yesterday at that same spot someone left another tribute: a small basket of red, white, and blue flowers. Attached to the basket was a card. Inside the card was a handwritten note that read: We will never forget. You were my friends. God bless. It was signed by a member of the Capitol Police Force.

Also yesterday John Gibson's beloved Boston Red Sox trounced the Tampa Bay Devil Rays 22 to 4—in the first game of a double hitter, no less. So I know John Gibson is smiling up in heaven today.

And even though the gardening he loved is struggling in this heat and drought, I am sure J.J. Chestnut is right there with him—smiling, too.

For those of us down here who knew them, it is a little harder to smile today. The great poet Emily Dickinson wrote, after someone you loved dies, you feel "the presence of their absence everywhere."

The absence of J.J. Chestnut and John Gibson is felt today by many people, by their friends, their fellow officers, most of all by their families, their wives and children, and in Officer Chestnut's case, his grandchildren. The Gibson and Chestnut families have felt the presence of the absence of John and J.J. for three Thanksgivings and three Christmases, at too many birthday parties, weddings, and graduations.

Those of us who work in the Capitol want the Gibson and Chestnut families to know that in all those moments our hearts have been with them. We also want them to know that we, too, feel the presence of the absence of their loved ones. We feel it when we pass the memorial door entrance. We feel it when we see Capitol Police officers working double shifts to protect us. We felt it on September 11 when our Nation was attacked and on October 15 when the anthrax letter was opened.

During this past year, we have all been reminded with terrible certainty that there are people in the world who would like to destroy this building, the people's House, and the government and the ideals for which it stands. We also know with absolute certainty that as long as there are patriots such as John Gibson and J.J. Chestnut who are willing to sacrifice their lives to defend our freedom and safety, this people's House and this great Nation will endure.

As the note on the basket said: We will never forget. They were our friends and our protectors. God bless them today and always.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

## GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

Mr. ROCKEFELLER. Mr. President, understanding the gravity of the moment, I do not want to leave a very important piece of legislation. Before I say a word, I would like to add Senator ZELL MILLER as a cosponsor to the amendment and I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, as I look at the situation, we have a whole lot of meetings going on around this Capitol—conference committees on trade, conference committees on prescription drugs. We have a generic drug bill. That is the underlying bill here with a prescription drug amendment attached to it. We have a Federal matching Medicaid amendment which I am offering. There is so much going on on health but there is so little that is going on on health, and it perturbs me.

Senator DURBIN, when he was talking, pointed out the importance of Medicaid to hospitals, nursing homes, and others. It makes it extremely important for me to note that in the State I represent, 80 percent of our hospitals are losing money. They are mostly rural hospitals, and most of them depend upon Medicaid and Medicare in combination, usually at 85, 80, sometimes 75 percent of their total reimbursement of everything that they do. That is the nature of the State I represent. So many others are like that. It is the nature of part of the State that the Presiding Officer represents.

So the question of are we doing Medicaid and reimbursing States so they can keep their health facilities open and Medicaid available to their people is a profoundly important matter. But we treat it as if it were not.

We are trying our best to come to an agreement on prescription drugs. There is no particular compromise in sight at the moment. We had two votes yesterday. Both failed. The American people ask us: What are you doing about health care for our people? My people ask, What are you doing about health care for our people? What am I to answer? What am I to tell them?

I can refer, if I want, to the catastrophic health bill experience of a number of us, where we had a terrific bill that the House turned down three times, the Senate refused to turn down three times. But the point was that we finally had to yield, and there was no catastrophic health care bill.

Then we had something called the Pepper Commission where we came up with a very good solution for both long term and acute care, and it went nowhere. It was declared dead on arrival, and those who so declared it were correct. Nothing happened.

Then we had the very large health care experience of the early 1990s when everything got very politicized. The result was twofold: One, that we passed nothing on that health care bill; and, two, everybody retreated inside their shells. Nobody seemed to want to take up health care, and health care became something that somehow, either politically or for whatever reason—because it was complex—people did not want to undertake.

Senator Jack Danforth and I, and now Senator FRIST and I, started something called the alliance for health reform. The whole idea was to get those who did not serve on the Finance Committee more acquainted with the intricacies and difficulties of what is a very difficult problem; that is, all the acronyms and complexities associated with health care. Now there are a lot more people who know a lot more about health care, and we are still not getting anything done.

Now we are talking about the Federal matching adjustment for Medicaid to our most vulnerable people, to people to whom, we go to our Jefferson and Jackson Day Dinners, when we appeal and bring out emotion and speak emotionally, and then when we come up here, we do nothing to help them.

I put this amendment on the floor with endless cosponsors. I am looking at SUSAN COLLINS, a good Republican from Maine, and there she stands, perhaps ready to speak, and she and seven other Republicans are cosponsors of this amendment. Senator ZELL MILLER just became a cosponsor. So we have, I don't know, 35, 40 sponsors.

I come to two conclusions. No 1, I think this amendment is going to pass and that there may be those who are not coming to this floor to speak against it because they do not want to because they know their Governors feel so passionately about it. Whether they be Republican, Democratic, or Independent, Governors are absolutely passionate about passing this amendment. But they cannot do it. We have to do it for them.

We are not doing universal health care. We haven't done anything on prescription drugs yet. We have not done a generic drug bill yet. We have not done anything about importation. We passed a bill—the White House said they do not want to implement it—about bringing drugs in from Canada, produced here, at a lower cost.

So we are talking, debating, having compromises, having caucuses, and we are not accomplishing anything. Here is an amendment in which we can do something real for the people in our States who need it. They are not just children, but that is a very basic part of it. It is also reimbursement for hospital facilities. It is reimbursement for skilled nursing facilities, for nursing homes. And they need it more than ever because Medicaid is the one program in government, other than the Veterans Administration, which does have prescription drugs. It does have prescription drugs.

As the Presiding Officer has said so many times so eloquently as the leader of this fight, the cost of prescription drugs has been going up in a terrifying manner in these last several years. Who bears the brunt of that? Medicaid. Medicaid bears the brunt of it. And here we are trying to do something which the States cannot do for themselves, which we can do for them, which they are unanimously—Republicans, Democrats and Independent—on record unanimously wanting.

I stand here on the floor accompanied only by a distinguished Senator from Maine and the distinguished Presiding Officer. I find this perplexing and troubling. Are we risk averse? Have we become risk averse? That is a health care term. Maybe it ought to be a Senate term. Have we become afraid of doing things which require tough votes?

As the Senator from Illinois said, this is a very easy process. People put legislation forward, it goes through committees or doesn't go through committees, it comes to the floor, doesn't come to the floor, but if it comes to the floor, then you have a chance to vote on it. If people want to filibuster it, then you can file a cloture motion, you wait 2 days, and you get a vote on it. People have to eventually vote up or down, or else, as the Senator from Illinois said, they should not be in this profession.

I conclude with a sense of awe and tremendous anger, I would say to the Presiding Officer. I started out my career in public life—which I never intended to enter and which my parents were not fond of as a career. They were not pleased as I entered it as a career.

I went to a little coal mining community in the State of West Virginia which was nothing but people who had no health insurance, who wanted to work but had no job, who wanted to go to school but had no bus. They had one 1-room school through the sixth grade, 1 through 6, lined up row by row, just in a row.

They fed me; they took care of me; we worked together; we developed community programs. They had something called the dollar-an-hour program in West Virginia. You went out and you worked and you cleaned up the roads—men for the most part, at that point—and you got $1 an hour. Glory be, you got 8 hours a day. Any health insurance? Of course not. Nobody had health insurance. No one had health insurance.

That seared my soul then, and it sears me today, and it sears me as I talk now, as we sit here and avoid a chance to vote on something with which we can immediately help our States and our people. Are we only to legislate on Afghanistan or broad national concepts or are we here to help people? Is there something wrong, in fact, about actually doing something which would help people?

Some people say it would because it would cost money. Then why was it they put this in the emergency supplemental? They put the Medicaid match formula in the emergency supplemental because it was considered that important to the country. And now here we are, 9 months later, 10 months later—whatever it is—and we have done absolutely nothing. This Senator is tired of it. This Senator is very pleased to note that, with eight Republican cosponsors and a whole lot of people waiting to vote for this, there is a cloture motion being filled out, and we are going to vote on this, and we are going to show the people of our States that we care about our children and our families, our prescription drug programs, and that we are not risk averse. We are quite capable, yes, of helping people when it comes to health care. We have not shown that very much in recent years. We are going to show it this time.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Maine.

Ms. COLLINS. Madam President, I share the concern of the Senator from West Virginia that we should not delay action on this important matter.

Support for our proposal is growing with each hour. I am excited about that. This proposal offers real relief to our State governments that are struggling with budget shortfalls. But, most importantly, it offers the promise that low-income families who depend on Medicaid will not face a cutoff of some of their important benefits.

The Senator from West Virginia raises a very good point. There are health care providers in my State, as well as his, rural hospitals in particular, that are struggling to make ends meet. The threat of Medicaid cuts imposed by States trying to balance their budgets during this very difficult fiscal time poses a threat to their ability to continue to provide quality care.

That is why we have the support of so many health care provider groups.

I am going to read from some of letters that we have received that endorse our proposal. In some cases, the letters speak to earlier legislation that I introduced along with my friend and colleague, Senator BEN NELSON of Nebraska. But, as I said earlier, we have pooled our efforts because we want to get relief to the States as fast as possible.

Let me tell you what our visiting nurses say about the importance of providing this relief.

This is a letter that I will read from the Visiting Nurse Associations of America. It is signed by the president, Carolyn Markey.

She writes:

> On behalf of the Visiting Nurse Associations of America (VNAA), I would like to express our strong support for you and Senator Ben Nelson's proposed legislation that would provide temporary fiscal relief to states for Medicaid-covered health care services. VNAA is the national membership association for non-profit, community-based Visiting Nurse Agencies (VNAs), which collectively care for approximately 50% of all Medicaid home health patients each year.
>
> VNAA is concerned that approximately one-half of the states across the nation have had to cut their FY 2002 Medicaid budgets in order to avoid a budget crisis. We fear that the majority of states will implement additional cost-containment measures, including reducing benefits, increasing beneficiary cost-sharing and further reducing Medicaid reimbursement to health care providers.
>
> On average, Medicaid already reimburses providers significantly less than the cost of care.

That is an important point. There are already reimbursement levels that aren't covering the cost of providing this essential care.

The letter goes on to say:

> VNAA's 2001 data shows that, collectively, VNAs are incurring an average $565 loss per Medicaid patient, with an annual loss of $148,500. VNAs' mission is to provide care to all eligible persons regardless of their condition or ability to pay. Because of this mission, VNAs will attempt to continue to admit all eligible Medicaid beneficiaries, but subsidizing Medicaid will force VNAs to cut other social service programs that are funded through charity contributions, such as Meals on Wheels and preventive health clinics.
>
> Your legislation is sorely needed at this time. It would help states maintain eligibility and program levels in order for low-income families, children, seniors and persons with disabilities to continue to receive the health care they need. It will also prevent the exodus of some providers from Medicaid participation, and prevent other providers from having to cut vital community-based social services.

Those are the stakes. The stakes are high.

I ask unanimous consent to have the full text of the letter from Carolyn Markey, the president of the Visiting Nurse Associations of America, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VISITING NURSE ASSOCIATIONS
OF AMERICA,
*Washington, DC, May 29, 2002.*

Hon. SUSAN M. COLLINS,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the Visiting Nurse Associations of America (VNAA), I would like to express our strong support for your and Senator BEN NELSON's proposed legislation that would provide temporary fiscal relief to states for Medicaid-covered health care services. VNAA is the national membership association for non-profit, community-based Visiting Nurse Agencies (VNAs), which collectively care for approximately 50% of all Medicaid home health patients each year.

VNAA is concerned that approximately one-half of the states across the nation have had to cut their FY 2002 Medicaid budgets in order to avoid a budget crisis. We fear that the majority of states will implement additional cost-containment measures, including reducing benefits, increasing beneficiary cost-sharing and further reducing Medicaid reimbursement to health care providers.

On average, Medicaid already reimburses providers significantly less than the cost of care. VNAA's 2001 data shows that, collectively, VNAs are incurring an average $565 loss per Medicaid patient, with an annual loss of $148,500. VNAs' mission is to provide care to all eligible persons regardless of their condition or ability to pay. Because of this mission, VNAs will attempt to continue to admit all eligible Medicaid beneficiaries, but subsidizing Medicaid will force VNAs to cut other social service programs that are funded through charity contributions, such as Meals on Wheels and preventive health clinics.

Your legislation is sorely needed at this time. It would help states maintain eligibility and program levels in order for low-income families, children, seniors and persons with disabilities to continue to receive the health care they need. It will also prevent the exodus of some providers from Medicaid participation, and prevent other providers from having to cut vital community-based social services.

Thank you for all you do for the nation's most vulnerable populations.

Sincerely,

CAROLYN MARKEY,
*President and CEO.*

Ms. COLLINS. Madam President, I see the Senator from New York is in the Chamber. If he would like to speak on this issue at this point, I would be happy to yield.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I thank my colleague from Maine, and I thank her for her leadership on this bill.

I thank the Senator from West Virginia for his sponsorship of this important legislation. He has done a great job on every aspect of this proposal. I want to once again clarify for the record the help he has been not only on this issue, not only on adding prescription drugs to Medicare, but on generic drugs as well. We all owe the Senator from West Virginia a debt of gratitude for the great work he has done on the generic drug issue.

This is an extremely important amendment that I am proud to support. My State, as so many of the

States, is in fiscal trouble. We have found great difficulty in doing what we have to do. Our State tends to be a generous State in terms of health care benefits. Programs enacted throughout the years make our Medicaid benefit generous. We have gone beyond Medicaid. We tried to help a little bit on prescription drugs with the Epic Program, as I know 17 other States have done a little bit here and there. We tried to help in a whole variety of ways.

During times of prosperity, we do quite well. But, obviously, the attacks of September 11, which cost us dearly in terms of life, and then secondarily in terms of dollars, as well as the downturn in the financial markets, which probably hit our State harder than any other, have caused real problems. If there was ever a time that this amendment was appropriate for New York, it is now.

I think the amendment is appropriate to all of our States. Not only are they all under fiscal strains—my State may be under greater strain than others—but we all know that Medicaid spending is probably the fastest growing part of most State budgets. It is certainly mine.

I would add one other point about New York. Our localities will get help, if this aid passes, because we are one of the few States where we ask the localities to pay half of the non-Federal share of Medicaid. In other words, we are 50-25-25. A city such as New York that is straining—our budget deficit is about $4 billion in the next fiscal year, it is estimated, and some estimates go as high as $5 billion—would also get a real shot in the arm. Our communities upstate are hurting because of the poor economy—Buffalo, Albany, Rochester, Binghamton, and Utica are all hurting and need the help as well.

Certainly, the amendment is needed from a fiscal point of view. Certainly, it helps the Medicaid Program meet the promise that was made early on in terms of its help. It is appropriate that it be added to this bill.

If you ask the States the No. 1 cause of their fiscal problems, most of them would say it is Medicaid. Then, if you ask the head of Medicaid in each State what the No. 1 reason is for costs going up, that person would say prescription drugs. In fact, Medicaid drug costs nationally have increased 18 percent every year for the past 3 years. That is something that cannot keep going on.

Our States are now faced with terrible choices—either go more deeply into debt or cut benefits to the most vulnerable. That is something we really do not want to do.

I support the amendment. It would be a tremendous shot in the arm for New York. It would be a tremendous shot in the arm to all State governments. And it is the right thing to do.

The cost is large. I believe it is something like $8 billion. But the benefits are larger still.

Every time any part of America has a child who doesn't get the appropriate coverage, it sets him back or her back—it sometimes sets the family back in ways from which they never recover. The fact that our country has decided to say health care for everyone is important—and not say because you have no money you should get no health care—is one aspect that makes us a great country. The fact that today we are saying that during this time of crisis, the Federal Government will step up to the plate and fulfill its role is really important.

Let me go over the numbers for New York.

In fiscal year 2002, if the Rockefeller-Collins-Nelson amendment were adopted, we would receive, in terms of our Medicaid help, $244 million. This is the temporary FMAP increase. In 2003, we would receive $553.8 million. That means, for the total of the 18 months—the second half of 2002 and all of 2003—it would be $797.8 million.

In terms of temporary grants, we would get an additional—these are available through 2004—an additional $461 million.

That is $1.2 billion. That is real help. That is not just a nice little bauble around the edges. And it could not come at a more appropriate, needed time in my State.

So I say to my colleagues, you all have your problems in your States. We have our problems in New York. Let's unite. This amendment is a bipartisan amendment. Let's unite and adopt it.

Let's make sure that our poor people get the medical help they need. And let us say to the States that during these extremely difficult times—as I say, made doubly difficult in New York because we were the epicenter of the 9/11 attacks—we are not going to punish you because of your generosity in helping the poor attain some modicum of health care.

So I am proud to support the amendment. Again, I compliment my colleague from West Virginia, who has been such a leader on this issue, as on so many others. I thank my colleague from Maine as well.

I look forward to quickly adopting this amendment as part of our base bill which, as you know, I am proud is the bill that Senator McCAIN and I introduced in terms of generic drugs.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Madam President, the National Partnership for Women and Families has issued a statement today endorsing the amendment I have offered with Senators Rockefeller, Ben Nelson, and Gordon Smith. It includes some very important information that helps us better understand why this debate is so important.

The National Partnership cites the National Governors Association's May report that over 40 States are facing budget shortfalls totaling $40 to $50 billion overall.

Since Medicaid makes up, on average, 20 percent of State spending, it is often the first place that States look to make cuts. So our amendment would provide $9 billion in total fiscal relief that would help sustain critical State Medicaid Programs and bolster the States' ability to keep providing vital social services to those most in need.

Let's look at whom this benefits.

Medicaid provides health insurance to approximately 40 million low-income Americans, including 21 million children and young adults, 11 million elderly and disabled individuals, and 8.6 million adults in families, most of whom are single mothers. That is the population that is hurt when Medicaid budgets are slashed. That is the most vulnerable of populations. They need our help.

The States need our help in order to maintain vital health care services for those 40 million low-income Americans. Without this critical safety net, millions of women and their families would be left with no health insurance at all.

So that is why we must act. And we must act before more time elapses and more States are forced to cut their Medicaid budgets. Time is of the essence.

I urge my colleagues to join with us in supporting this absolutely critical bipartisan proposal.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. Madam President, the proposal that is before the body today, to enhance the partnership between the Federal Government and the States with regard to Medicaid and with regard to welfare reform and social services that are so critical to the most vulnerable in our society, is a very important piece of legislation.

It merits our total support, not because it is just about money but because it is about doing the right thing to continue the gains and not see a spiral downwards back to welfare for those who have been able to make it to the workforce. It is for those who are teetering on the brink who would, if their eligibility for Medicaid were taken away, be unable to support themselves and/or their families. It is for the seniors who need, so much today, the kind of support the Medicaid Program provides when they are in nursing homes.

So it is about people. That is what it is truly about. It is about doing the right thing. It is continuing the relationship and the partnership that has been developed between our Governors, our State legislatures, and our Federal Government. It is an important partnership that must be maintained.

It is also, important that we recognize it is a temporary fix. It is not a permanent solution. No one is expecting that kind of a permanent solution today, given the temporary, and hopefully only temporary, nature of the downturn in the economy. But it is essential we do something soon because of the plight of the States and the experience they have in terms of not being able to meet all of their obligations as they move forward on these programs.

The truth of the matter is, we can work together with the States as we have in the past. Many of our colleagues here, as you know, are former Governors. You may be able to take us out of the Governor's office, but you cannot take the experiences we have gained in that position away from us simply because we have changed our titles or we have new responsibilities.

It is important, also, that we recognize that the States, in making these tough decisions, will have to make them on the basis of how they balance their budgets because all but a handful have to balance their budgets and can't have deficit spending. So they either balance their budgets with major cuts or with tax hikes or with a combination.

In any event, most of the States have made the cuts they believe they can make, up until this point, without affecting Medicaid. But as their budgets continue to flow with red ink, now they are looking at these social programs for the necessary cuts. They have cut education. They have cut many of the other essential programs. Now they are faced with cutting this program.

So if we wait until they have made the cuts, there will be the casualties of those who are not able to have the benefits—the elderly, the young people, those who in our society today are reliant on the availability of these programs.

We have asked people to work their way out of welfare, to join the workforce. We have created at the State level, with welfare reform at the Federal level, the opportunity for people to transition out of the levels of poverty and welfare, with the opportunity to join the workforce. We have done it with transitional benefits that are comprised of child care, some Medicaid continuing coverage, so these individuals and their families have the capacity to leave the welfare rolls to join the workforce.

If we pull back on these and other programs like it, they will teeter, and it is very likely that they will fall back into the welfare situation. While already experiencing higher unemployment levels than we have experienced over the last 10 years, we see that the growing population of Medicaid is putting more pressure on Medicaid expenditures at the State level.

I remember looking at the growth of Medicaid and the opportunities that were there to try to reform it and to make it so it worked not to create incentives for unemployment but opportunities for employment and incentives for joining the workforce. But when you see it today and you see the growth in this program, you recognize that something must be done in order to stem that growing tide.

The truth is, we can and we should do this. There will be some who will say we don't have an obligation, a further obligation to the States. But it is not about just from one government to another; it is about to the people of the United States who have the need for these very important benefits. Those are the people we need to be supporting. In supporting them, we work through the States in our partnership.

That is the opportunity we have. I hope if there are some who have a different, opposing point of view, they will come down to the floor and explain why they don't think we ought to support this Federal Medicaid assistance program on a temporary basis to permit the States to continue to support the kinds of programs that are important to the most vulnerable of our population. I hope they will come to the Chamber so we have the opportunity for a full debate and so, if there are opposing views, we will be able to respond to them rather than speak to an empty Chamber. That is not what this should be about. If there is to be spirited debate, I hope we will have that begin in the near future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I would like to direct a question through the Chair to my friend from West Virginia, the author of the amendment. I was here about an hour and a half ago. I ask the Senator from West Virginia if anyone has spoken against the merits of his amendment.

Mr. ROCKEFELLER. I say to the Senator from Nevada, I am not sure, but I believe Senators have been here discussing it favorably for 2 to 2½ hours. Not a single Senator has come to the floor opposing this amendment.

Mr. REID. I say to my friends, whoever opposes this amendment, I don't know where they are. We were told by one of the sponsors of the amendment, the distinguished Senator from Oregon, Mr. SMITH, that he didn't oppose it, but he, on information and belief, understood that the senior Senator from Texas opposed the amendment. I would hope that my friend from Texas, if that, in fact, is the case, would come here and defend his position. I will say that if that isn't the case, that I will ask for the yeas and nays and move forward on the amendment. It is just simply not fair.

We have an order in effect that as soon as this amendment is completed, we would move to something that Senator GREGG or someone he designates would offer. And then following that we have a Democratic amendment in order. We should move through those. I hope that if there are people other than the distinguished Senator from Texas who oppose this amendment or the Senator from Texas, that they would come to the floor and explain themselves.

I will say that I am getting the feeling that this is one of those kinds of stealth oppositions we get around here a lot of times. People know this is a good amendment, supported by the Governors of the States, supported by people in the States who are desperate for dollars. States are suffering. I think there are people who would like to come and oppose this, but they really don't quite know why. So they just stay away hoping it will go away.

It is not going to go away. If I come back here again and there is no one within a reasonable period of time who has voiced any opposition to the amendment or there is no one on the floor speaking against it, I will ask for the yeas and nays and move on to something else.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, the National Governors Association has written a letter, dated July 24—very current—to the minority and majority leaders of the Senate strongly urging support for the Rockefeller-Collins-Nelson-Smith compromise.

I ask unanimous consent to print it in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
*Washington, DC, July 24, 2002.*

Hon. THOMAS A. DASCHLE,
*Majority Leader, U.S. Senate, The Capitol, Washington, DC.*

Hon. TRENT LOTT,
*Minority Leader, U.S. Senate, The Capitol, Washington, DC.*

DEAR SENATOR DASCHLE AND SENATOR LOTT: The nation's Governors strongly support the Rockefeller-Collins-Nelson-Smith compromise state fiscal relief legislation. We urge its consideration as an amendment to S. 812 on the Senate floor and its swift passage into law.

The legislation to temporarily increase the federal share of the Medicaid program as well as provide a temporary block grant to states will assist during the current fiscal crisis so that states will not be forced to make deep cuts in health, social services, and even education programs. It will thus ensure that low-income vulnerable families are protected from drastic cuts in these key programs.

One of the major contributors to the rising state Medicaid costs is prescription drug expenses. Immediate Federal assistance with these costs would provide real fiscal relief to the states. We urge timely Senate action on the Rockefeller-Collins-Nelson-Smith amendment.

We would very much appreciate your support and we look forward to working with you to ensure that meaningful state fiscal relief legislation is enacted.

Sincerely,

PAUL E. PATTON,
*Governor.*
DIRK KEMPTHORNE,
*Governor.*

Mr. NELSON of Nebraska. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Madam President, the Senator from West Virginia, in my view, has outlined a very important position with respect to a critical health issue for the States. I commend him for his outstanding work. It is going to make a difference in Oregon and across the country.

I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. WYDEN are printed in today's RECORD under "Morning Business.")

Mr. WYDEN. Madam President, I am a strong supporter of the Rockefeller amendment which will make a huge difference for our States at a time when the situation is truly dire with respect to health care. So I thank my colleague. When we get to a vote on the Rockefeller amendment—I know Senator NELSON of Nebraska has done excellent work on this as well—I hope the amendment will pass with a resounding majority.

I yield the floor.

Mr. ROCKEFELLER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Madam President, I wanted to speak on a couple of issues. First is the underlying effort here to pass major legislation in the area of assisting senior citizens, specifically, with the cost of their prescription drugs.

I think we all understand very well that there has been a fundamental shift in the way medicine is practiced in our country, and it has been a positive shift. That shift is that we have gone from a society which had basically as its first line of defense for significant health concerns an invasive medical procedure using a scalpel, to a society which has as its first line of defense for major medical concerns the use of pharmaceuticals. This has been a revolution, a biotech revolution.

As a result, it is not so much that pharmaceuticals have become more expensive—but not outrageously so, with respect to inflation and other costs—but they have become so much more aggressively utilized. As a result, senior citizens and all citizenry that have medical concerns are finding that they are more often than not going down to the pharmacy and purchasing a pill in order to address a physical ailment versus going into the hospital and receiving some sort of remedial medical care that might involve an operation or some sort of therapy within the physical confines of a hospital. So utilization has gone up dramatically in the area of pharmaceuticals. This is a change in the way we practice medicine as a country.

The practical effect of that is that all Americans, but seniors especially because as a practical fact, as people begin to get older, they have more health needs in most instances.

Seniors are finding themselves more and more put into the situation of having to purchase pharmaceutical goods, which are adding up, and because there is more significant utilization, they are expensive and sometimes unaffordable, especially to low-and middle-income seniors. So we as a Congress and the President are attempting to address this through passing some sort of a package that will give senior citizens the opportunity to take some of the pressure off of the cost of this new need to use prescription drugs.

The goal, in my opinion, should be basically twofold: One, to assure that low- and moderate-income seniors—especially low-income seniors—who find it virtually impossible to fit into their budgets, which are usually very constricted, the cost of pharmaceuticals, to allow those individuals to receive assistance as they have to purchase these medications; second, to address the situation where a senior who has reasonable income and reasonable wealth confronts a catastrophic situation where simply the cost of medication exceeds even their capacity to pay for it. Those should be our two primary goals as we put together this package of relief for senior citizens, in my opinion.

Also, there are a lot of secondary goals. Secondary goals should be—and it is fairly significant—that we do not undermine the ability of our society to bring new drugs to the market.

As a society, we have basically become the creators of most of the major new pharmaceuticals that are created in this world, and that is because we have a vibrant research capability going on in this country and a vibrant commercialization of goods and products which are created within that research market. It is important that we not kill the goose that is laying the lifesaving drug, as I said earlier, and that we allow the entrepreneurs in our society, who are research scientists for the most part, to evolve a capability of continuing to bring to market drugs which save people's lives and benefit people and make their lives better, and that we not in the process of developing a package of drug benefits end up creating an atmosphere which works against the bringing to market of new pharmaceutical drugs. That should be a subsidiary effort as we move forward to address the question of a drug benefit for senior citizens.

In that context, we are now working aggressively to try to pull together a package. We have had three major votes on different drug packages. We had the Democratic proposal which, regrettably, was, in my opinion, fundamentally flawed because it did not meet the conditions I have laid out.

First, it was extraordinarily expensive, and I should have mentioned that as a fourth line of consideration, which is that as we put this benefit package in place for seniors, we should not have it created in such a way that it transfers a huge new cost on to working Americans, especially young Americans with young families, who are trying to make ends meet, who have other issues, such as education, housing, the day-to-day costs of raising a family.

We should not make the cost of this major new drug benefit so high that the tax burden to pay for it—which will fall on working Americans for the most part will significantly disadvantage working Americans in their ability to live a good life.

This new drug benefit is not like the Medicare proposals under which we presently work. There is no premium in most instances. Some have premiums, most do not. There is also no earned benefit—in other words, over the years people paying into the Part A insurance fund and building up a fund. In this instance, seniors are going to simply receive this benefit without it having been paid for through building it up over the years, paying through Part A. It is essentially going to be a tax. To pay for this drug benefit, there is going to be a tax levied on working Americans, especially young Americans, to assist senior citizens with the issue of how they pay for drugs.

We have to be very careful in putting this package together that we do not end up putting such a huge burden on young working Americans that it makes it very difficult for them to raise their families.

As I mentioned, there have been three votes on this issue in the Senate in the last few days. The first was on the Democratic plan. The Democratic plan failed in a number of areas.

One, it was extraordinarily expensive. It would have passed $600 billion—and that was the estimate. We all know estimates end up being low. For example, when Medicare was originally passed in the 1960s, it was estimated in 1990 to cost $9 billion. Medicare in 1990 cost about $70 billion. It was off by almost 1,000 percent. We know the $600 billion pricetag attached to the Democratic package is a pricetag which is probably low. Even if it were accurate, it is a huge pricetag to pass on to working Americans, younger Americans, and far more than we should put on the backs of the working American who is trying to raise that young family. It is far too high a burden on those individuals.

It is disproportionate in the way it deals with the intergenerational issues in benefiting dramatically, in terms of dollars spent, senior citizens at the expense of young Americans who are trying to raise a family. It exceeded the budget allocation by $300 billion, by 100 percent. There was $300 billion budgeted. This was a $600 billion package, which is far too expensive.

Also, it undermined the marketplace. It was a public program, which in and of itself is an undermining of the marketplace, but it was a public program which had an incredibly regressive element to it. It essentially said that you could only, for a certain ailment—let's take arthritis—purchase one type of drug for that ailment, one. There are probably 20 different drugs on the market to address arthritis. Why would you limit the ability of a senior to only purchase one and have it covered by insurance? It is a foolish idea from the standpoint that doctors may not want to prescribe that one drug, and it may not be medically a good idea, plus it is just not conducive to creating a marketplace which is going to bring more pharmaceuticals on to the market so seniors have more choices and that we drive down the prices of pharmaceuticals generally because we have competition.

It is truly a regressive idea from the standpoint of health care and from the standpoint of how you develop a strong and vibrant market for producing pharmaceuticals. That bill, in my opinion, was fundamentally flawed. Plus, of course, it had the little gimmick in it—rather large actually—that it was not a permanent benefit. It lapsed after 5 years. It would not exist anymore. I do not know what was going to happen then. It would be gone and who knew what was going to happen.

It was a black hole or a cliff proposal where everybody gets a benefit for 5 years and suddenly they look down and there is no more benefit and they have to step off the cliff into the abyss, not knowing what is going to happen. It was a poorly constructed idea and it failed because it did not get 60 votes.

The second idea that came through was the tripartisan proposal. Again, it is a fairly expensive proposal, $370 billion, but significantly less than the Democratic proposal, but much more reasonable in the way it approached the issue. It opened the marketplace. It gave seniors options as to what pharmaceuticals they could use.

Senator SNOWE was talking about how many more pharmaceuticals it covered than the Democratic proposal, dramatically more. I am not sure of the numbers. In any event, the specific numbers were that it covered far more specific pharmaceutical products, and made those available to seniors, than the Democratic plan—dramatically more.

In addition, it had language which significantly protected the low-income senior. It gave them basically a 90-percent subsidy and had positive catastrophic language.

That also failed to get 60 votes.

The third vote we had was on the Hagel-Ensign proposal, which is an idea I am attracted to, although I also voted for the tripartisan plan. It says what I have been saying. You take low-income seniors and protect them. You give them the ability to buy the pharmaceutical, you give them support to do that and it does not wipe out their income. The plan was very progressive in this way.

You say to seniors, who are in the general population, who are not low-income seniors: If you have a serious illness which throws you into a high-cost pharmaceutical situation, and you are spending a dramatic amount of your basic wealth, your income, your assets on pharmaceuticals, the Government will come in and pick it up. There was a catastrophic cap which the Government picked up.

Again, this was built in, as I understood it, in a progressive way so higher income people had to spend more than middle- and moderate-income people had to spend. It was very progressive in a thoughtful way. This idea made a lot of sense and got a very good vote. In fact, it got as high a vote as any other proposal that came to the floor. I hope from this idea we can evolve a package that can work effectively.

That is basically where we stand today. We have now had three major packages. None have passed because the sequence of events that are set up is that the Democratic leadership refused to take these bills through committee and created a situation where we could not pass them on the floor because they all required 60 votes.

Had Hagel-Ensign, for example, come out to the floor after having gone through the committee, with the vote it got on this floor it would have passed the Senate, and we would now have in place a drug benefit. It would not have been subject to a budget point of order because it was under $300 billion—just barely, $294 billion. That was not allowed to happen because of the way this whole exercise was set up, which is unfortunate.

Where do we go from here? It is my hope we will reach some sort of consensus on a catastrophic package, a package that takes care of low-income seniors and makes sure they have adequate coverage, that takes care of people who have a huge impact on their assets through a catastrophic event, and allows seniors who have moderate income, if they wish, to purchase the insurance if they want to cover the difference through some sort of Medigap insurance. This, to me, is a logical way of resolving this issue.

Independent of all that, however, we have had other amendments dealing with this bill. One of them is the amendment which we presently have before us which is a $9 billion bailout for the States—some States, not all States. States such as mine, which do not happen to meet the formula because we have been very frugal in the way we have managed our Medicaid accounts and, as a result, have kept our reimbursement at 50 percent, do not benefit a whole lot from this proposal. For States which have been less effective in their ability to deal with Medicaid, this bill basically is a $9 billion bailout. Is the $9 billion offset? No, it will simply be a vote by the Senate which says we are going to spend another $9 billion on Medicaid to assist the States.

First off, this is the wrong place to bring forth this amendment. This bill started out as a generic drug bill. It has moved on to an all-inclusive drug bill debate, but it has always been a bill that has been debated in the context of Medicare and drug initiatives, and this is a Medicaid bailout, which is totally separate from the underlying issue of what we discussed in these other bills. This amendment should have gone through committee and should have been brought out here as a committee bill versus being brought out here separately.

Secondly, it sets a very dangerous precedent in that it waters down the FMAP formula even on a temporary basis. The purpose and fairness of the formula will be eroded over time. Around here, temporary changes rarely turn out to be temporary, although they claim it is temporary.

This amendment sets a precedent, and if it is passed, any State that ever faces an FMAP decrease in the future will lobby Congress to override the formula. Instead of an automatic process based on a fair formula, future FMAP rates will become a political fight in Congress, which is exactly what this exercise is.

It is basically an attempt to use the fact that a number of States believe they need more money and to pull enough people together from those States so there are enough to vote for this $9 billion bailout. It is called logroll. It is working very effectively on this amendment, I am afraid, which is too bad.

This is totally fiscally irresponsible. Such a process as this disrupts the whole process and will not likely produce a program that benefits those who need it most but, rather, States that have been most ineffective in managing their Medicaid accounts.

FMAP rates are not designed to change according to short-term economic developments. Although FMAPs are based on State per capita income levels and other economic indicators, they have not typically risen at all and with short-term economic trends. If State logic suggests raising FMAP now, then it would also apply to lowering them in times of economic boom.

If we had followed such a course after 9 years of economic recovery, current FMAP rates would be much lower than they are today. Such cyclical movements are contrary to the intent of Medicaid statutes and in the long term would serve the interests neither of the States nor the Federal Government to pursue this action.

States have other options to making Medicaid benefits more secure. States can take steps to make their benefits more efficient, enabling more persons to be covered with the same or lower costs using the health insurance flexibility and accountability initiatives unveiled in August 2001. The HIFAI demonstration is designed to help States reduce the number of uninsured through innovative and cost-effective approaches using Medicaid and CHIP funds. The initiative emphasizes private insurance options rather than public program expansions. To date, HHS has approved HIFAI demonstrations in Arizona and California, and it could approve more if more States are willing to be aggressive.

The simple fact is what we have is an effort by a large number of States that have had problems with their Medicaid accounts for a variety of reasons to basically raid the Federal Treasury to the tune of $9 billion. I guess they are probably going to have enough votes to do that because they have structured this formula so that enough States are going to pick up money from it that is significant. But I have to ask the question, Why are we not offsetting this $9 billion? Why are we just coming out and saying let's take another $9 billion hit on the Federal Treasury, in which we do not happen to have any money right now, and add that to the deficit? It makes very little sense from the standpoint of fiscal policy.

Fifty States have the power to energize this type of support for $9 billion. I would think they would have the power to go find money to offset it somewhere, but unfortunately they are not doing that in this amendment. It is an unfortunate, in my opinion, effort to raid the Treasury, as a result of which we will not only get bad policy but we will get a significant increase in Federal debt.

I yield the floor and make a point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. MILLER). The Senator from West Virginia.

Mr. ROCKEFELLER. Am I correct in understanding that the distinguished Senator raised a point of order?

Mr. GREGG. No, I have not raised a point of order.

The PRESIDING OFFICER. He did not.

The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, the distinguished Senator from New Hampshire raised a number of very important questions regarding this FMAP proposal to expand the support that the Federal Government is providing to the States as part of the partnership that has existed for many years.

I think it would be very difficult to go back and tell our partners that we are unable to or we should not increase the amount of the Federal match because we did not follow the procedures that some people in the Senate believed we ought to follow. Inside baseball is not going to make those friends who are on the outside experiencing some major financial challenges very happy. They may not be very happy at all with that kind of an explanation.

I think it is important to remember how the Medicaid Program developed, as well as some of the social benefits programs that are also included as part of this bill. If the Chair remembers—and I know he does as a former Governor from Georgia—this was a big part of his budget. He probably was surprised, as I was, on the day we took office and put our budgets together to find out what a big piece of the pie this Medicaid Program amounted to as part of the budget. If the Chair remembers what happened, as I am sure he does, as do all former Governors, and I believe all of our colleagues do, this came about because of a Federal mandate. The Federal Government said we are going to have a Federal Medicaid Program and the States are going to be parties to it and the Federal Government is going to decide how much the Federal Government contributes to it, and the Federal Government is always going to be able to raise or lower the amount of the Federal match on the basis of a formula that has been established. The States, as the junior partners, have to go along with whatever the Federal Government proposes.

It was a mandate—not an unfunded mandate but an underfunded Federal mandate.

The States generally made innovative challenges, but I know the distinguished former Governor of Georgia will recall when States came to the Federal Government and said, we would like to make some changes to the program, you had to get a waiver and come back to Washington and ask, will you please allow us to make these innovative changes that our distinguished colleague from the Northeast was talking about that have been made in some areas. Many proposed innovative changes were denied.

It has been essentially a Federal program where the States have been the junior partner. In this situation, all we are saying is, instead of reducing the amount of the Federal match over the next 19 months, as it has been scheduled to be reduced in various States, we are going to hold that constant. In addition, we are going to add 1 percent to the State in the Federal match, so for 18 months we will help the States so they do not have to take away benefits from the most needy and most vulnerable in our society today.

It is recognizing we have a partnership. This was part of the stimulus package worked on this last year. It just did not survive into the ultimate stimulus package that was passed earlier this year. Last year and this year, when the stimulus package was being discussed, there was little talk about offsets. Now, when it is convenient to talk of offsets, in getting in a direction the way this is heading, we talk of assets. There is not anyone in this body not in favor of offsets, unless the whole discussion of offsets is designed to set this off the tracks so we can get it passed.

It seems to me what we have to do is recognize how the program began, how it works, and what assistance this plan we are proposing today—how it will help the States and why it is necessary to help the States deal with our citizens, citizens of the United States of America who happen to reside in the various States.

It seems to me we do have a responsibility, that we can meet that responsibility, and, yes, I would love to have offsets, but I want to make sure the search for offsets is not what gets this off the track.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent I be allowed to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. WELLSTONE are printed in today's RECORD under "Morning Business.")

Mr. WELLSTONE. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, what is the matter before the Senate?

The PRESIDING OFFICER. The pending question is the Rockefeller second-degree amendment.

### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the Rockefeller and others amendment No. 4316.

John D. Rockefeller IV, E. Benjamin Nelson of Nebraska, John Edwards, Paul Wellstone, Harry Reid, John F. Kerry, Blanche L. Lincoln, Richard J. Durbin, Jack Reed, Edward M. Kennedy, Susan Collins, Daniel K. Inouye, Patrick Leahy, Tom Daschle, Debbie Stabenow, Charles Schumer, Ron Wyden.

Mr. REID. Mr. President, I have been advised that Senators GRASSLEY and GRAMM wish to come to the floor and speak on the Rockefeller amendment. I am also advised that one of the Senators is going to raise a point of order, which we will attempt to waive. But we need them here to do that. I am sure they will be here soon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding we now are on the Rockefeller amendment. Is that right?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Texas.

Mr. GRAMM. Under section 205 of H. Con. Res. 290, I raise a point of order against the emergency designation of section (c) of the pending amendment, No. 4316.

Mr. REID. Madam President, I move to waive section 205 of the Budget Act. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is pending.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I have spoken to Senator GRAMM. He and others wish to speak. This is a debatable motion. We will set some time. Senator GRAMM has graciously acknowledged he doesn't want to speak too long since we already have a cloture motion filed. But we will shortly determine how much time will be needed and will debate this in the morning and vote sometime in the morning.

Hopefully, while we are waiting on the unanimous consent agreement to get the legislative branch appropriations bill, which also kicks in the fact that prior to next Wednesday—or on next Wednesday I should say, we will start debating the DOD appropriations bill.

So we have a lot to do in the next few days. This will move us down the road.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

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## VIOLENCE IN THE MIDDLE EAST

Mr. WARNER. Madam President, I and other Members of the Senate from time to time have taken the floor to address the tragedies which daily, weekly, monthly, and yearly come forth in the Middle East. Today, we were greeted by a headline in the Washington Post: U.S. Decries Israeli Missile Strike, Ponders The Effect On The Peace Bid.

I ask unanimous consent that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. WARNER. Madam President, again, I have taken the floor several times to give just one Senator's viewpoint. I am almost at a loss for words to describe the tragic situation that has unfolded in the past 24 hours, or 36 hours—whatever the case may be—where a plane that was manufactured here in the United States delivered a missile into a residential area controlled by the Palestinians and brought about the deaths of many innocent people.

It is characterized and described at length in the article which appeared in this paper and the papers across the world today.

The raid, as told by the reports, took the life of an individual who has brought about great harm to the people of Israel over a long period, but along with that life went the lives of many children and innocent people.

Preceding this use of force—again, use of force which is perceived by the Israeli leadership as necessary to protect the integrity of their sovereign nation and the safety of the people, and I will not debate that at this point in time—preceding this event were the tragic bombings by humans going into the Israeli areas with the bombs strapped to them giving up their lives and taking the lives of innocent people on the streets. And on and on it goes.

What do we do about it?

I reiterate that I have spoken about this on this floor several times, and I intend to this time formalize it in a letter which I will be sending perhaps tonight or early tomorrow morning to the President of the United States. The thoughts in that letter are basically the same thoughts that I have said on this floor two or three times, and also at the time that the NATO Ambassadors came to visit the Congress of the United States. We had an informal meeting hosted by several of our colleagues. I was invited to speak. The very thoughts that I am referring to tonight I shared in that meeting some 2 weeks ago.

Our Nation recently celebrated our traditional Fourth of July holiday. It is normally a time of joyful reflection of our history, of patriotism, and just plain, old-fashioned summer fun. Thankfully, it was a peaceful day for America. But when we entered that holiday period, I remember so well that we were confronted with yet another warning by responsible individuals in our Government of a possible terrorist attack. In varying degrees in varying places here in our great United States, it had a dampening effect. I remember that so well.

A number of constituents—who I am proud to represent in Virginia, which adjoins the Nation's Capital—called to inquire whether it was safe to go down and watch the fireworks on The Mall. We gave them encouragement, in our opinion, to do so.

I myself was in the area during part of that day. Indeed, there was an enormous outpouring of our citizens and visitors from all around the world who enjoyed those fireworks that night. I say that thankfully it was a peaceful day. But we ended that holiday period confronted with that warning.

It is, indeed, prudent that our citizens be warned of such threats. There is no criticism of what I believe is a very responsible and prudent program of persons in our Government entrusted to make the decision to alert our people when they have reason to believe because of intelligence gathering that they should promulgate those warnings.

I, however, have to ask myself: Do these warnings continue indefinitely? Will people begin to ask of me and my colleagues, of our President and of all those in positions of authority, what is the root cause of this hatred towards the United States? Are we in leadership positions doing everything we can to learn of those causes, to lessen that hatred, to tell the truth about America's cause for freedom, and how our men and women of the Armed Forces—as the Presiding Officer knows so well having served in the military himself—have gone forth from our shores throughout these 200-plus years of this Republic only in the cause of freedom—never have taken a square mile of property and kept it. Temporarily, we have administered certain geographic areas throughout our history, but never used force to acquire land to augment this Nation.

People will begin to say: Has our Government done everything it can do? I think our President has exhibited—in the past, today, and will in the future—extraordinary leadership, together with his principal Cabinet officers and his military men and women for whom he is Commander in Chief.

The scourge of terrorism in the 21st century is a complex and multifaceted problem. None of us fully understand all the root causes and all the means with which we have to deal with it.

This Chamber, hopefully next week, will resonate with a strong debate on the bill for homeland defense. We will soon be giving final approval to the division in the military of commander in chief, forces north. Just think, Mr. President, CINC, commander in chief, for homeland defense, which means marshaling all the military assets and other assets of this Nation to try to protect our citizens against further terrorist attack.

There is not a single cause for this terrorism and hatred but many, including disparate economic development around the world, lack of political and economic opportunity in many regions, the alarming spread of radical fundamentalist religions, the dogmas, especially Islam, amongst those feeling disenfranchised from the mainstream of the world, and the tyrannical rise of ethnic conflicts after decades of repression by communists and other tyrannical regimes.

In this environment of perceived hopelessness and despair for many people, particularly the world's youth, seemingly unsolvable events continue to fan the flames of anger and hatred that lead to irrational acts, acts which are almost beyond comprehension.

This is manifested in the individual acts of terror we witness almost daily on the streets of Israel against the freedom-loving people of the State of Israel and in the recruitment of angry young men and women into radical terrorist organizations that encourage them to vent their anger in most destructive ways, most notably human suicide of themselves and against the innocent citizens of Israel.

Israel really has no recourse but to strike back in a manner that clearly indicates not only to the Palestinians but to the rest of the world that it is a sovereign nation and has the right to exercise every possible resource of that nation to protect its people.

Solving the conditions that have bred this hate and total disregard for peaceful solutions will be complex, but it must be systematically addressed. Again, clearly, our President and his administration have shown leadership.

But is our Congress showing leadership to help? Can more be done by others? These are the questions I ponder daily.

Clearly, the Israeli-Palestinian conflict, prolonged over a period of time that none of us ever envisioned, contributes, in some measure, to the unrest and anger in the Arab world directed towards the people of this great United States of America.

I cannot quantify it—I do not think anyone else can—but clearly that conflict is part of the root cause of hatred against us, hatred which is causing us to create a brand new Department of Government, Homeland Defense, an entirely new military command, to take all types of precautions in our daily life—whether it is at the airports or people just coming to visit here in the Congress of the United States—with security measures.

This conflict between the Israelis and the Palestinians often is presented and distorted in a very biased manner to the citizens throughout that region by the media in the Arab nations. We must confront that. We must take actions which are clear to show that we want to bring about peace in that region.

We have to address the disaffection and dissatisfaction felt by the people of that region. Each act of violence by either side in this unending conflict erodes hope for the peaceful future for Israel—it is in this article—and for the peaceful future of the people in Palestine.

In fact, each act of senseless violence in the Middle East further erodes hope that someday we can be more secure here at home.

All reasonable options to bring about an end to this violence and indiscriminate loss of life must be considered. We can never, ever abandon hope. We must act together to renew hope in this land of the Middle East, the land of faith, the land from which so much history has emanated for the rest of the world.

One option I believe must be considered—and I said this many times here on the floor—is the use of NATO peacekeepers. But that can only be achieved if certain criteria are met.

First, I call upon the administration to explore, with the other member nations of NATO: Are they willing to take on this task, a task with unknown risks? Clearly there are risks, but the quantum of risk is unknown. Are they willing to take it on if these conditions are met—first, the people of Palestine and the people of Israel, ask them to take on this obligation to maintain conditions of stability. That is the first.

Second, if both the Palestinian people and the people of Israel, through their respected, elected leaders, will pledge to cooperate in every way with those NATO forces.

Now, Mr. President, there is a perception in the world that the Europeans are more sympathetic to the Palestinian causes, and that we here in the United States are more sympathetic to the Israeli causes. But NATO bonds us together, as we have been for these 50 years, in one constituted force.

And we would then go, as a constituted military organization, for the stated purpose, only, of trying to bring about stability, so that the diplomatic discussions, not only between the leaders of the Palestinian people and the leaders of the Israeli people can commence, but other leaders in the world, who desire, can step up.

There are those who have looked at this problem, and I respect them, and they disagree. I ask unanimous consent an article by a noted author, Mr. Kagan, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

### EXHIBIT 1

[From the Washington Post, July 24, 2002]

### U.S. DECRIES ISRAELI MISSILE STRIKE, PONDERS EFFECT ON PEACE BID

(By Karen DeYoung)

The White House yesterday denounced Israel's missile strike in a densely populated area in the Gaza Strip as "heavy-handed" and described it as "a deliberate attack against a building in which civilians were known to be located."

Rejecting Israel's contention that it did not intend to kill innocents with a strike that was directed against a leader of the Hamas militant group, spokesman Ari Fleischer said. "These were apartment buildings that were targeted." In addition to Salah Shehada, the intended target, the missile fired from an Israeli F–16 warplane killed 14 other people, most of them under the age of 11, and injured about 150.

Although President Bush continues "to be a lead defender of Israel around the world and will speak out about Israel's right to self-defense," Fleischer said, "this is an instance in which the United States and Israel do not see eye to eye."

The Monday night attack was widely condemned in Europe and the Arab world. Many, particularly in Arab capitals, said it demonstrated that the government of Israeli Prime Minister Ariel Sharon was trying to undercut recent progress in the Middle East peace process.

The attack appeared initially to have stunned U.S. officials involved in peace efforts. They said they had no warning of Israel's plans despite talks here Monday between high-level representatives of the two governments. By yesterday, shock had turned to depression and uncertainty over where the process would go.

"There is considerable agreement that this represents something really problematic, something unique," one administration official said.

U.S. reaction to the attack, which occurred around 7 p.m. Washington time, was delayed until there was a clear picture of what had happened, the official said. After a flurry of telephone calls to the region, "within an hour, we knew what we were dealing with. Then discussions began on how to respond."

Talks Monday night among Secretary of State Colin L. Powell; his deputy, Richard L. Armitage; and William Burns, the assistant secretary for the region, were quickly joined by national security adviser Condoleezza Rice and her deputy, Stephen Hadley. While acknowledging deep and longstanding differences between the State Department and the White House over Middle East policy, the official said, "this particular time, there was agreement across the board."

Under the rhetorical code that has long surrounded statements on the Middle East, the United States normally "condemns" Palestinian terrorist attacks and uses the somewhat softer verb, "deplore," to criticize Israeli actions.

Officials considered, then rejected, condemning the Israelis or describing their actions as "counterproductive" before settling on "heavy-handed," as something they believed "captured the deploring," as one official put it.

It was decided that Daniel C. Kurtzer, the U.S. ambassador to Israel, would deliver the message to Sharon. U.S. officials here described that discussion yesterday as unpleasant, and said Sharon said little in private that differed from his description of the attack as "one of our major successes."

White House public comment was left to Fleischer, and Bush made no statement yesterday on the attack. "The president views this as a heavy-handed action that is not consistent with dedication to peace in the Middle East," Fleischer said.

Asked why Israel's action in Gaza was different from U.S. attacks against al Qaeda fighters in Afghanistan that resulted in the loss of innocent civilian lives—a comparison Israel has made—Fleischer replied: "It isn't accurate to compare the two. . . . There are going to be losses of innocents in times of war, and I think that's recognized around the world.

"What's important is, in pursuit of the military objectives, as the United States does in Afghanistan, to always exercise every restraint to minimize those losses of life," Fleischer said. "But in this case, what happened in Gaza was a knowing attack against a building in which innocents were found."

European Union foreign policy chief Javier Solana called the attack an "extra-judicial killing operation" that "comes at a time when both Israelis and Palestinians were working very seriously to curb violence and restore cooperative security arrangements."

Solana represents the EU in the "quartet" group on the Middle East that also includes Powell, U.N. Secretary General Kofi Annan and Russian Foreign Minister Igor Ivanov.

Annan issued a statement late Monday deploring the attack, saying, "Israel has the legal and moral responsibility to take all measures to avoid the loss of innocent life; it clearly failed to do so."

There was no direct contact yesterday between Powell and the other quartet members, and no one seemed to have a clear idea how to proceed beyond waiting for the immediate fallout—including widely expected Palestinian retaliation—and its unpredictable impact on the wider peace process.

After months in which the process has been frozen, and despite Palestinian terrorist attacks against Israeli civilians as recently as last week, significant recent progress had been reported.

Plans to restructure the Palestinian Authority's security and financial infrastructure and prepare for elections in January were near completion. Israeli Foreign Minister Shimon Peres met with senior Palestinian officials last weekend for the first time in months, amid signs that Israeli troops would begin to withdraw from occupied Palestinian cities.

Egypt, Saudi Arabia and Jordan, the Arab countries most active in the peace process, all condemned the Israeli action. Egyptian Foreign Minister Ahmed Maher called it a "war crime," and his Saudi counterpart, Saud Faisal, said it was "a repulsive act that will be registered against [Sharon] in history."

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EXHIBIT 2

[From the Washington Post, Apr. 18, 2002]

## CAN NATO PATROL PALESTINE?

(By Robert Kagan)

When Pulitzer-Prize winning New York Times columnist Tom Friedman talks, people listen. Now one of Friedman's most radical ideas—to put a NATO peacekeeping force on the ground between the Israelis and Palestinians as a key part of an overall peace settlement—is actually starting to pick up steam around the world. U.N. Secretary General Kofi Annan has endorsed the idea of an international force as part of a settlement that would be imposed on Israel and the Palestinians. So has German Foreign Minister Joschka Fischer. More important, Secretary of State Colin Powell is believed to be mulling such a plan. He has publicly talked about putting American observers on the ground. Even some Israelis have warmed to the idea, provided of course that any force includes American troops. After Europe's lynching of Israel these past few weeks, that's the only army they trust.

Friedman's idea deserves to be taken seriously. And to those of us who have supported American troop deployments for peacekeeping in Bosnia, Kosovo, Haiti and elsewhere over the past decade, peacekeeping in the Middle East seems at least as worthy, in principal. Our strategic interest in a stable peace there is clear, and so is the moral case for doing something to end the bloodshed, defend the Israeli democracy and given the Palestinians a chance for a better life. After Sept. 11, we have to engage in peacekeeping and nation-building in messy places such as Afghanistan and, one hopes, post-Saddam Iraq, whether we like it or not. So why not in the Palestinian territories.

But if the idea of a U.S.-led force between Israel and a Palestinian state is starting to get serious attention, it's time for Friedman and others to spell out what exactly they have in mind, and with a little more candor about the costs and risks.

Take the size and role of the force, for instance. To carry out its mission and avoid disaster, the American force would have to be, as they say in the military, "robust." For one thing, the demarcation line between Israelis and Palestinians that will have to be patrolled and controlled will be long, twisty, and difficult. For another thing, Americans are going to be the prime target for terrorist attacks. Friedman denies this, arguing that the Palestinian people will view the Americans as saviors—they will be "the midwife of a Palestinian state." But Hamas, Hezbollah and Islamic Jihad probably won't see it that way. Rallying to the cry of "Remember Beirut!" they'll look for ways to take out another 240 Marines. And they'll have help from Iran, Iraq, al Qaeda and all other jihadists out there.

That means any American force will have to be big—10,000 to 20,000 troops, with another 10,000 to 20,000 backing them up. And they'll have to be heavily armed. Potential attackers will need to be intimidated by American firepower every day and every night for as many years as it takes. And that means Tom Friedman and Kofi Annan and Joschka Fischer will need to become full-time lobbyists for massive increases in the American defense budget, because right now we have neither the troops nor the money to carry out their plan.

Now for the hard part. Let's say we get a peace agreement and we put the peacekeeping force on the ground between the Israelis and Palestinians. What happens when, despite all our best efforts, the occasional Hamas suicide bomber gets through anyway and commits the occasional massacre in Jerusalem or Tel Aviv? Count on it: This will happen. And what about when Hezbollah tries to use the new Palestinian state created by the peace settlement the way it now uses southern Lebanon, as a convenient place from which to launch Katyusha rockets at Israeli population centers? What do we do then?

Friedman et al. can't wish this problem away. And the options are less than enticing. One option is that the American-led peacekeeping force does nothing. But then we will have effectively created an American shield for terrorist attacks against Israel. This, by the way, was exactly the role a U.N. peacekeeping force played in Lebanon for several years in the late 1970s and early '80s, right up until the Israeli army invaded Lebanon and pushed the U.N. force (known as UNIFIL) aside.

Option two is that the peacekeeping force could, like UNIFIL, just get out of the way and let the Israeli military retaliate for any terrorist attacks. Then at least American forces wouldn't be helping the terrorist attack Israel. They'd be helping Israel attack the state of Palestine. That's how it would look to the Palestinians, anyway. So much for the Americans as saviors.

Option three is that the American-led force goes to war. We tell the Israelis to hold their fire and then send our own forces in to stop the terrorists. In essence, we take on the job the Israelis are currently doing in the territories. This prevents the outbreak of a new Israeli-Palestinian conflict—and begins the first round of the U.S.-Palestinian conflict. Maybe that's kind of progress, but it's not very attractive.

Is there another option I'm missing? If not, the proposal for an international peacekeeping force looks less like a real plan than a desperate if noble attempt to solve the insoluble in the Middle East—a deus ex America summoned to provide a miracle when all roads to peace have reached a dead end. Even Ehud Barak's idea of building a very, very big fence between Israel and the Palestinians looks better. Help us out, Tom.

Mr. WARNER. Mr. President, I yield to our leaders. They have an important matter.

The PRESIDING OFFICER. The majority leader.

## UNANIMOUS CONSENT AGREEMENT—H.R. 5121 AND H.R. 5010

Mr. DASCHLE. Mr. President, let me compliment the distinguished Senator from Virginia on his remarks. I appreciate very much his willingness to yield the floor for this unanimous consent request.

I have been consulting with the distinguished Republican leader for the last several hours with regard to additional work on appropriations bills. We are now in a position to offer a unanimous consent request with regard to at least two more of these bills.

I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 504, H.R. 5121, the legislative branch appropriations bill; that debate on the bill and the committee amendment be limited to 30 minutes equally divided and controlled between the chair and ranking member of the subcommittee; that immediately after the bill is reported, the text of the Senate committee-reported bill be inserted at the appropriate place in the bill; that the only first-degree amendments in order be those enumerated in this agreement, with the debate time limited to 10 minutes each, equally divided and controlled in the usual form; except that the Dodd and Specter amendments listed below not have a time limitation; that they be subject to relevant second-degree amendments that would also not be subject to a time limit; that upon disposition of these amendments, the bill be read a third time and the Senate then vote on passage of the bill, as amended; that upon passage, the Senate insist on its amendment and request a conference with the House; that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate; provided further that the Senate proceed to the consideration of Calendar No. 505, H.R. 5010, the Department of Defense appropriations bill, no later than Wednesday, July 31—Durbin amendment regarding Capitol Police; Cochran amendment regarding congressional awards; Landrieu amendment regarding bicentennial commission; Specter amendment regarding mass mailings; Dodd amendment regarding mobile offices.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader.

Mr. LOTT. Mr. President, with the unanimous consent agreement, I do want to get one clarification as to my understanding with Senator DASCHLE. First, I appreciate the work that has been done on this matter. I think it will help us move the legislative process forward, get some appropriations bills done, get the legislative appropriations done, but not too far down this pike without doing the Department of Defense appropriations bill. This is a way to get both of them done and hopefully maybe even some other action before we leave. I want to make sure we understand that the intent is to complete the Department of Defense appropriations bill prior to the recess; is that correct?

Mr. DASCHLE. Mr. President, that is correct. I would also note something the Senator mentioned: It is important for us not to consider this the complete list. It would be my hope, if we could entertain other unanimous consent requests regarding additional appropriations bills—we expect that that possibility could also be one we would want to entertain. My expectation and determination would be to complete work on the DOD appropriations bill next week.

Mr. LOTT. I yield the floor.

Mr. DASCHLE. I yield the floor and thank my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR NO SECOND-DEGREE AMENDMENTS—H.R. 5121

Mr. REID. Mr. President, I want to clarify that with respect to the agreement on the legislative branch appropriations bill, there are no second-degree amendments in order to the Durbin, Cochran, or Landrieu amendments. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONFERRING HONORARY CITIZENSHIP OF THE UNITED STATES ON THE MARQUIS DE LAFAYETTE

Mr. WARNER. Mr. President, with the consent of the leadership on both sides, I ask that the Chair lay before the Senate a message from the House on the joint resolution, S.J. Res. 13, conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

S.J. Res. 13

*Resolved*, That the joint resolution from the Senate (S.J. Res. 13) entitled "Joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette", do pass with the following amendments:

Strike out all after the resolving clause and insert:

*That Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette, is proclaimed posthumously to be an honorary citizen of the United States of America.*

Strike out the preamble and insert:

*Whereas the United States has conferred honorary citizenship on four other occasions in more than 200 years of its independence, and honorary citizenship is and should remain an extraordinary honor not lightly conferred nor frequently granted;*

*Whereas Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette or General Lafayette, voluntarily put forth his own money and risked his life for the freedom of Americans;*

*Whereas the Marquis de Lafayette, by an Act of Congress, was voted to the rank of Major General;*

*Whereas, during the Revolutionary War, General Lafayette was wounded at the Battle of Brandywine, demonstrating bravery that forever endeared him to the American soldiers;*

*Whereas the Marquis de Lafayette secured the help of France to aid the United States' colonists against Great Britain;*

*Whereas the Marquis de Lafayette was conferred the honor of honorary citizenship by the Commonwealth of Virginia and the State of Maryland;*

*Whereas the Marquis de Lafayette was the first foreign dignitary to address Congress, an honor which was accorded to him upon his return to the United States in 1824;*

*Whereas, upon his death, both the House of Representatives and the Senate draped their chambers in black as a demonstration of respect and gratitude for his contribution to the independence of the United States;*

*Whereas an American flag has flown over his grave in France since his death and has not been removed, even while France was occupied by Nazi Germany during World War II; and*

*Whereas the Marquis de Lafayette gave aid to the United States in her time of need and is forever a symbol of freedom: Now, therefore, be it*

Amend the title so as to read "Joint Resolution conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.".

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to the joint resolution, that the Senate concur in the amendment to the preamble, that the Senate concur in the House amendment to the title, and that the motion to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, this is a matter on which I and a number of others have worked for some time. I thank my distinguished colleague from Virginia, Congressman VIRGIL GOODE, whom I asked to introduce this measure in the House. He did so with great skill. It was passed by the House. It had previously been adopted by the Senate, but now the House bill has been adopted by the Senate. Hopefully it will be forthcoming to the President for signature.

I rise in support of this resolution which has been an idea I have had for many years.

It bestows honorary citizenship on the Marquis de Lafayette. I think it is an honor long overdue. This great Frenchman fought with Washington, as I shall enumerate, in a battle for our independence. He was very influential in having the French Government intervene, as they did decisively, at Yorktown to enable that long, drawn-out conflict to be brought to an end. He later came back to Virginia and traveled throughout my State and other parts of this great Nation and is remembered with great fondness.

In his greatest time of need when the Austrians imprisoned him for his supposed involvement in the fall of the French monarchy, the United States did not acknowledge Lafayette as a U.S. citizen despite his cries for help all across our land.

This young man risked so much to help build the America we know today, and we are now correcting this long-delayed injustice to Lafayette and celebrating him not only as a patriot of freedom and liberty but as a U.S. citizen.

At the young age of 19, Lafayette disobeyed the wishes of King Louis XVI of France, risking his own personal wealth and status to aid in our quest for freedom from Great Britain. He proved his dedication to our liberty when he was wounded in the battle of Brandywine, forever endearing himself to the American soldiers.

Throughout the American Revolution, Lafayette acted as a liaison between France and the American colonies. He urged influential policymakers to have France make the decisive military, naval, and financial commitment to save the American colonists. His tireless efforts, both as a liaison and as a general, aided America in her ultimate victory.

During the war, Lafayette proved himself over and over as a soldier and a good friend to George Washington. George Washington was impressed with Lafayette's military tactics which lured British General Cornwallis and his army to Yorktown, VA. The American Army, led by General Washington, along with French forces led by General Rochambeau, came south and trapped Cornwallis and his troops at Yorktown. As a result, the British were forced to surrender. The famous French fleet appeared on the horizon and they prevented any resupply to the British forces from their ships offshore. It was a decisive part of that battle. Here we are today enjoying freedom 200-plus years later because of Lafayette and the French contribution.

Lafayette's services to America extended beyond the battlefield. He worked diligently as an adviser, helping to win concessions from Britain during the treaty negotiations. At Versailles, when negotiating with the French Government, our representatives, Franklin and Jefferson, found him invaluable. Moreover, his impartial friendship was extended to the first seven U.S. Presidents.

One of Lafayette's major contributions was bridging these cultural gaps between America and France. His early influence on America still holds true today as we try to bridge the cultural gaps to many countries across the globe to help cultivate freedom. With this in mind, now more than ever, it is important to remember who our friends are in the world as we try to create a coalition against terror.

The Marquis de Lafayette is celebrated by many as a symbol of freedom and liberty. I am happy and honored for the opportunity to offer this resolution for citizenship before the Senate.

Congress has before shown its respect and gratitude for Lafayette when both the Senate and the House of Representatives draped their Chambers in black for his contribution to the independence of this great Nation.

Now, I would like to say to the Marquis de Lafayette as John J. Pershing did in World War I when he stood before the patriot's grave and said: "Lafayette, we are here."

Our Nation has only bestowed this honor on a few persons. I shall place into the RECORD the names of those, such as Winston Churchill and others. So here now, at long last, we honor this great patriot.

First, I thank Senator LEAHY, chairman of the Judiciary Committee. I also thank, from my staff, John Frierson; former staff member, Don Lefeve; and Congressman VIRGIL GOODE from Virginia and his assistant, Rawley Vaughn, for their help. The French Ambassador to the United States has been of great help and encouragement, as has Mr. Jim Johnston of the Virginia Film Foundation, Wyatt Dickerson, and Dr. James Scalon, a history professor at Randolph-Macon University.

It is interesting how many people have joined to make this possible. I now enumerate those who have received honorary citizenship by our Government: British Prime Minister Winston Churchill, on April 9, 1963; Swedish diplomat Raoul Wallenberg, October 5, 1981; William Penn and his wife Hannah, October 4, 1984; Mother Teresa, November 16, 1996.

It is very interesting. I am deeply humbled to have been one of several to make this possible.

Again, I say that the distinguished chairman of the Judiciary Committee, Mr. LEAHY, was of invaluable help to make this legislation possible. I spoke with him earlier today. He helped me facilitate the adoption of this matter this evening.

## ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 812, there be 1 hour of debate relating to the motion to waive the Budget Act, equally divided between Senators ROCKEFELLER and GRAMM of Texas or their designees prior to the vote on the motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak therein for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ISRAEL AND PALESTINE

Mr. WELLSTONE. Mr. President, normally I try not to use written text on the floor of the Senate, but I want to make sure that I say what I say in the Senate in a careful and hopefully the right way.

Tuesday's missile strike against the home of Sheik Salah Shehaded was an unsettling departure from the more careful methods Israel has typically used against its terrorist enemies. The sheik, who was killed in the operation, was the Gaza terrorism chief of Hamas, a group that has slaughtered hundreds of innocent Israelis and who seeks the destruction of Israel. Unfortunately, the attack killed not only the sheik but also 14 of his family members and neighbors, including nine children—terrible, terrible, toll.

It is true that these deaths were not the purpose of the operation. Unlike suicide bombers, the Israeli military does not target civilians. And perhaps, given the sheik's role in killing civilians, maybe you could argue that more innocent lives were saved than would ultimately have been lost if he had continued to live.

But military planners should have known that this operation, taking place in a densely populated residential complex, might result in the death of many civilians. Surely other military options could have been considered.

The rising toll on innocent civilians in this conflict is heartbreaking. There must be a greater effort by all—the Government of Israel, the Palestinians, the Arab States, and the United States—to break this cycle of revenge and spiraling violence.

Four weeks ago Monday, President Bush outlined his latest ideas for resolving the Israeli-Palestinian conflict.

He laid out a vision of the future for the Middle East, declaring that he wanted to see two democratic states living side by side with secure borders, and he believed this goal could be achieved within 3 years. He called for movement on three tracks. First, aggressive action to end terrorist attacks on innocent Israeli citizens; second, reform of Palestinian legal and security structures; and third, substantial assistance to relieve the suffering of ordinary Palestinians who now are on the brink of humanitarian disaster.

The Bush speech, with its important elements, now needs to be recast into a concrete work plan where there is movement on all three tracks. Behind the scenes, Secretary Powell and members of the Quartet have been seeking to flesh out plans for overhauling the Palestinian Authority, yet movement there has been slow. The bottom line is that the political roadmap that was missing from the President's speech has yet to appear. The United States must lead a diplomatic process to end the endless cycle of violence and get to the end game—an independent Palestinian state and security for Israel. There must be action on all fronts, or what little hope is left will vanish.

I wish I had a clear answer, but thought as a Senator from Minnesota I should at least speak out in the Senate. I am absolutely convinced that there is no hope in the present course, that we have to figure out how to get from where we are back on a political track. As tiring and tiresome as it might sound to some, we have to continue to call for political negotiation. What is the alternative? There is no alternative. There is no alternative.

## COMMENDING NATIONAL PUBLIC RADIO AND BOISE STATE RADIO

Mr. CRAPO. Mr. President, with great pride, I commend National Public Radio and its Idaho affiliate, Boise State Radio, for their creative application of wind power technology.

With unprecedented innovation, in what is believed to be the first public radio transmitter site to rely on the power of wind, Boise State Radio and National Public Radio have erected three state-of-the-art wind turbines in order to provide broadcast service to previously unreachable areas in southern Idaho and northeastern Nevada.

In an age when just 3 percent of electricity in today's national mix comes from renewable sources, Boise State Radio and National Public Radio have committed to expanding their services while advancing the use of clean, efficient power sources.

The American Wind Energy Association estimates that Idaho has the potential to generate over 8,000 megawatts of wind power, placing our State in a unique position to contribute significantly to domestic energy production.

At the same time, it is clear that the overall economy is changing and that rural America is shouldering a great deal of this weight. The fact is, many of the jobs that have been lost over the last decade might never return. While continuing to support our traditional industries, we must also be creative in capitalizing on new opportunities for rural communities.

By expanding communications and providing a new facet to the rural economic infrastructure, the generation of wind power serves not only to maintain our Nation's available resources, but also to advance economic opportunity in rural America.

Recognizing Idaho's wind power potential and its benefits to our economies, National Public Radio and Boise State Radio are emerging as leaders in the advancement of environmentally efficient energy technology. This further serves as evidence that opportunities exist right at home to increase energy production that would boost our electricity supply and reduce dependence on foreign fuels, such as oil, which we import primarily from the Middle East.

We need to make the best use of our domestic renewable energy resources to ensure a secure, reliable, and clean energy supply while improving the economies of rural Idaho and rural America.

National Public Radio and Boise State Radio: On behalf of Idahoans and millions of Americans, I salute you.

## STOCK OPTIONS

Mr. WYDEN. Mr. President, I rise to outline briefly an approach with respect to the stock option issue that I am hopeful could bring together Senators of varying philosophies in both political parties.

It seems as if every morning Americans wake up to yet another headline about the collapse of a major U.S. corporation. These failures have devastated the savings of millions of hard-working Americans, savings they were depending on for their retirement or to pay for their kids' college. When the smoke clears and the fallout settles, the issue of stock options invariably comes to the fore.

I serve as chair of the Science and Technology Subcommittee, and I have spent a considerable amount of time analyzing the stock option issue. There is no question in my mind that some companies have abused stock options, using them as a vehicle for funneling large amounts of wealth to top executives. What is more, options have been granted in ways that fail to serve their intended purpose of aligning the interests of management with the long-term interests of the company.

Instead, a number of these massive option grants have created perverse incentives, enabling top executives to get extraordinarily rich by pumping up a company's short-term share price. The tactics they use can jeopardize the company's long-term financial health, but by the time the long-term impact is felt, the executives invariably have cashed out and left the firm. When an executive develops a big personal stake in options, it can lead to a big conflict of interest. Too often the company's long-term interests take a backseat to that executive's desire for personal reasons to boost the short-term share price.

When the betting is between massaging the numbers to "manage" quarterly profit projections and improving the quality of the business through such initiatives as long-term research and development investments, short-term profits and the value of executive stock options can be the odds-on favorite.

The abuse of stock options in the executive suite should not be taken as an indictment of all stock options that are offered.

I remain convinced that stock option plans, as long as they are broad based and have significant shareholder investment protection, can play a very important role in our economy. They can enable corporations to attract and retain good workers and top talent. They can motivate and increase productivity by giving employees a strong personal interest in the long-term success of the corporation.

The program I would like to outline this afternoon is based on the premise that it is time for the Senate to act to stop abuses at the top, while not gutting options that are so vital to rank and file workers. This can best be done by restoring the link between the long-term interests of the company and those of senior management and giving shareholders knowledge about control over the stock options of corporate leaders.

So I hope we will be looking to discuss with Senators of both parties the differing philosophies on the stock option issue, and that we can come together as a Senate around reform based on three issues.

First, the rule should increase shareholder influence and oversight with respect to grants of stock options to corporate officers and directors by requiring shareholder approval. This would help prevent the all-too-common "I'll scratch your back if you scratch mine" culture of clubby directors and top executives voting each other huge option packages with little or no shareholder input.

Second, new rules should seek to ensure that stock options provide incentives for corporate officers and directors who act in the best long-term interests of their corporation, not incentives to stimulate short-term runups in stock prices. I believe the way to do this is to establish substantial vesting periods for options and holding periods for stock shares so that top executives do not have the ability to quickly cash out and jump ship.

Specifically, I believe there needs to be a multitiered holding period. Directors and officers should be allowed to sell a modest proportion of shares, for example, to permit a degree of diversification; but for the large majority, they should have to wait a substantial period of time and they should be required to hold on to a portion of their stock until at least 6 months after leaving the company.

Finally, a third requirement in the proposal I outline today would be new rules improving the transparency of stock option grants to directors and officers. It is critical that better and more frequent information be provided to shareholders and investors. They deserve more information than what is buried in the typical footnote. Stock option information ought to be reported quarterly, not just annually, and broken out into an easy-to-find section in each company's public SEC filings.

In concluding, there have been two paths presented in the Senate in recent months with respect to the issue of stock options. Some now think the problem is so severe that options should be pared back across the board and that Congress should take that action. Others say that business as usual should continue, that this is a problem that has affected just a handful of companies.

The principles I have described today lay out a third path—a path that will ensure that broad-based stock options can continue to be a useful tool for deserving workers, shareholders, and the economy as a whole, while at the same time curbing abuses by those in the executive suites whose conduct is over the line.

On the Science and Technology Subcommittee, which I chair, we have heard again and again how important these stock options are. There is no question that is correct. But I think it is also correct to say that the job of cleaning up corporate corruption is not going to be complete until Congress acts to curb the abuse of stock options.

I look forward to working with my colleagues to put in place tough, new rules that will ensure that stock options remain broad based, but also address this issue of abuse that, unfortunately, has drawn options and their value into question.

## AN UNWARRANTED BLOW TO GLOBAL FAMILY PLANNING

Mrs. FEINSTEIN. Mr. President, I rise today to express my very deep regret that the Bush administration has decided not to release the $34 million allocated for the United Nations Fund for Population Activities, UNFPA. I would ask the White House to reconsider its decision.

At stake here is vital assistance for needy individuals throughout the developing world, living under the threat of HIV infection and deteriorating health conditions.

Indeed, it is a shame that such assistance—assistance that can save lives—is being held hostage by domestic politics, and the misconceptions of the anti-choice wing of the Republican Party.

I would remind the administration that the $34 million was appropriated by Congress in a spirit of bipartisan consensus, after 2 months of negotiations. During these talks there was never any question whether or not to allocate the funds, but simply how much.

The White House's own budget proposal for fiscal year 2002 included $25 million for the fund, $3.5 million more than allocated by the Clinton administration.

Within this context, the administration's decision is all the more perplexing. It stands as painful proof that the debate over U.S. support for international family planning has been distorted all out proportion.

In particular, there remains a belief, in some quarters, that the United Nations Fund for Population Activities either condones or even assists in abortion and coercive sterilization.

This is, at best, nothing but hearsay. And if such proof does exist, why haven't we seen or heard anything substantive about it?

With respect to China, in May the State Department sent a mission to investigate such allegations, and it found no evidence at all of that the fund was involved, in any way, in abortion or coercive sterilization. A month before, a British delegation drew a similar conclusion.

For the record, I would like to quote directly from the State Department's conclusions. "We find no evidence that UNFPA has knowingly supported or participated in the management of a program of coercive abortion or involuntary sterilization in [China]."

In light of this finding, the report recommends, and I quote, "that not more than $34 million which has already been appropriated be released to UNFPA."

I would also argue that it is precisely because of the questions raised about China's policies, that United Nations presence there becomes that much more important. The United Nations Fund for Population Activities remains the best way to do this.

Only last year, Secretary of State Colin Powell praised the United Nations Fund for Population Activities, saying that it was engaged in "critical population and assistance to developing countries."

This explains why the Department of State provided $600,000 to the fund for sanity supplies, clean undergarments, and emergency infant delivery kits for Afghan refugees in Iran, Pakistan, Uzbekistan, and Tajikistan.

The facts speak for themselves. The United Nations Fund for Population Activities does not subsidize abortion services in any country. Its executive director, Madame Thoraya Ahmed Obaid, has said that the fund would cease its family planning program in China, if any allegations of coercive abortion or involuntary sterilization could be verified.

I would also argue that we would be wise to focus on the wider role that the United Nations Fund for Population Activities plays, most notably in the critical area of HIV prevention. And I would remind my colleagues of just a few of the troubling facts revealed at the recent AIDS conference in Barcelona.

In Botswana, for example—a country where 38 percent of the adult population is infected with HIV—20 percent of high-school-age students believe that you can tell whether a person has HIV/AIDS simply by looking at them.

In Malawi, where 15 percent of all adults are HIV positive, 64 percent of young men admit to not using a condom with their most recent sexual partner. The scourge of AIDS throughout sub-Saharan Africa is a human tragedy of terrifying proportions.

How can we turn our backs on those not yet infected, especially when the reason for doing so is based on unfounded allegations and a misunderstanding of the term "family planning."

There are no hidden meanings; there is no secret agenda. Family planning does not condone or promote abortion. Simply put, family planning means: women able to control their reproductive destinies; couples given the information necessary to make their own choices about family size and the timing of births; health care officials reaching out to adolescents and young adults, as a means to educate them, and in turn prevent HIV infection and unwanted pregnancies.

Healthy families—the heart of any healthy society—depend upon women being able to make informed choices. The United Nations Fund for Population Activities helps women do just that—make a choice—which I hold to be a fundamental right of women everywhere, regardless of their economic circumstances.

Women here in the United States take such information for granted, and we can not forget that this is all too often unavailable to poor women in the developing world.

How to protect themselves from HIV or other sexually transmitted diseases, how to space pregnancies so that they can better manage the size of their families, and how to lower the risks of childbirth and increase their chances of delivering healthy babies—this is at the heart of the information the United Nations Fund for Population Activities provides. This strikes me as hardly immoral or illegal.

In closing, Mr. President, let me remind my colleagues that the world's population today stands at more than six billion—a figure that shows no signs of stabilizing. In fact, the United Nations estimates this number could double, to 12 billion, by the year 2050.

The brunt of this growth will impact precisely those areas least able to absorb it—namely, the developing world. Overpopulation has already caused significant problems, like malnutrition, disease, environmental degradation, and political instability.

If we in the United States bury our heads in the sand here, it will become increasing likely that overpopulation could overwhelm such fragile societies.

Given such alarming facts, the purpose of the United Nations Fund for Population Activities—to reduce poverty, improve health and raise living standards around the world—will become only more important in the years to come. The United States, in my mind, has two options: one, either we help support international family planning efforts, in a way that is both responsible and accountable; or two, we relinquish our leadership role, and turn our backs on the developing world.

The Bush Administration seems to have taken the latter course, and I can only hope that it reconsiders its decision and will do what is right.

It should release the $34 million allocated to the United Nations Fund for Population Activities. Failure to do so would set an unfortunate precedent.

## TRIBUTE TO SERGEANT JOHN H. MORENO AND ALL FALLEN HEROES

Mr. KERRY. Mr. President, last month I attended the dedication of the Massachusetts Vietnam War Memorial in Worcester, MA where I joined my fellow veterans and their families to memorialize the 1,537 heroes from Massachusetts who gave their lives in Vietnam.

During the ceremony, I was passed a copy of a poem Mrs. Eileen Moreno wrote in honor of her son, Sergeant John H. Moreno, whose name graces the Place of Names in Worcester. John Moreno, who grew up in Brookline, loved baseball and the Red Sox, and planned to attend art school so that he could teach art at an elementary school, was like so many brave young men and women who gave so much to their families, communities, and country.

With her compelling tribute to her son, Mrs. Moreno reminds us all of the high price of freedom, a price paid both by the soldiers who went thousands of miles away to protect our Nation and the families who remember their loved ones. I thank her for passing along these words of tribute and respectfully ask unanimous consent to print her poem, "Memorium—Elegy for a Son," in the RECORD so that others may read her beautiful words.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### MEMORIUM—ELEGY FOR A SON

Yes, we still grieve.
In the stillness of the night
Echos the silent primal howl
of rage and refusal to believe.

In private moments of the day to day
We weep our quiet tears;
Sorrow does not lessen with the
passage of the years.

Oh, yes we weep and hide our
desolation with words like duty,
gallantry and pride.

Still we cry.

For the bright, sweet child who was,
We cry.

For the valiant man he became,
We cry.

We grieve.
With dry and sighting eyes

We weep tears that can't relieve.
For his loneliness, his fear, his pain
Knowing our aching, empty arms
Cannot hold him close again,
We cry.

But for the solace that it gives,
In the love he left for us in our care
And in his memory we'll forever share
Still he lives—Eternity is his legacy.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 16, 2001 in Newmarket, NH. Thung Phetakoune, 62, a man of Laotian descent, died of injuries he suffered in an attack apparently motivated by racial hatred. According to authorities, Richard Labbe, 35, assaulted the victim amid an anti-Asian tirade. Phetakoune died from injuries stemming from a fractured skull, subsurface bleeding, and swelling of the brain.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## EFFECTS OF CLIMATE CHANGE IN ALASKA

Mr. STEVENS. Mr. President, a recent article from the New York Times describes the infestation of spruce bark beetles on the Kenai Peninsula in Alaska. This is another aspect of global climate change that has deadly implications in my state. On the Kenai Peninsula, the spruce bark beetle has infested nearly 95 percent of the spruce trees, which represents about four million acres of dead or dying forest. Some scientists believe that a succession of warm years in Alaska has allowed spruce bark beetles to reproduce at twice their normal rate. This warming trend in Alaska has coincided with a huge outbreak of these beetles and the death of a forest nearly twice the size of Yellowstone National Park. This terrible situation, in one of my state's most beautiful tourist destinations, has created a dangerous environment for a large scale fire in this region.

Over half of the people of Alaska live in the path of this fire.

The Forest Service, under the previous Administration, in my State would not permit the selective cutting of infested trees, which would have mitigated, if not stopped, the outbreak of the deadly beetle. When timber sales were offered in this area extreme environmental lawsuits stopped any removal of the ever growing fuel load. My state is now in a very dangerous situation—eight years of beetle kill stands in the forests on the Kenai Peninsula and the insect continues to spread.

This article demonstrates that. I call it to the attention of the Senate because of the emphasis placed on fires already started in the West and that are ongoing.

This is the most deadly situation I have ever encountered in terms of potential fire and the hazard in this enormous area—4 million acres of dead or dying trees caused by this beetle. I think it ought to be dealt with by all concerned. I hope we have some money in the regular bill for this matter.

I ask unanimous consent that the article be printed in the RECORD. I call it to the attention of the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Science Times, June 25, 2002]

### ON HOT TRAIL OF TINY KILLER IN ALASKA

(By Timothy Egan)

SOLDOTNA, Alaska—Edward Berg has a pair of doctorates, one in philosophy and another in botany, but for the last decade he has been a forensic detective in the forest, trying to solve a large murder mystery.

The evidence surrounds him on his home in the Kenai Peninsula: nearly four million acres of white spruce trees, dead or dying from an infestation of beetles—the largest kill by insects of any forest in North America, federal officials say.

Beetles have been gnawing at spruce trees for thousands of years. Why, Dr. Berg wondered, has this infestation been so great?

After matching climate records to the rate of dying trees, Dr. Berg, who works at the Kenai National Widlife Refuge, believes he has come up with an answer.

He says a succession of warm years in Alaska has allowed spruce bark beetles to reproduce at twice their normal rate. Hungry for the sweet lining beneath the bark, the beetles have swarmed over the stands of spruce, overwhelming the trees' normal defense mechanisms.

If Dr. Berg is correct—and he has won many converts as well as some skeptics—then the dead spruce forest of Alaska may well be one of the world's most visible monuments to climate change. On the Kenai, nearly 95 percent of spruce trees have fallen to the beetle. Now, conditions are ripe for a large fire and could lead to bigger changes in the ecosystem, affecting moose, bear, salmon and other creatures that have made the peninsula, just a few hours' drive from Anchorage, a tourist mecca.

"The chief reason why the beetle outbreak has been the largest and the longest is that we have had a unprecedented run of warm summers," said Dr. Berg, 62 a soft-spoken man in suspenders and running shoes.

Temperatures in Alaska have risen sharply in the last 30 years, causing sea ice to break up off the northern coastlines, some glaciers to recede and permafrost, to melt. But until Dr. Berg began matching raising temperatures to the number of trees killed by beetles, no one of had tied the death of a forest nearly twice the size of Yellowstone National Park to warming temperatures.

Dr. Berg believes the larger culprit is global warming, brought on by increased emissions of greenhouse gases, which trap heat in the atmosphere. But that is a bigger debate, one which Dr. Berg's findings for other forests vulnerable to bugs is that as climate warms in the north, some species of evergreen trees that cover vast acreage could be mowed down by an ever-expanding population of bettles.

The dead spruce forest of Alaska is also a lesson, to some ecologists, of how warmer temperatures present intractable problems for living things anchored to a certain area. People can adapt, or even more, but trees that have been growing in one area for 8,000 years cannot—at least not quickly enough.

Other scientists who work on global warming issues are now looking at Dr. Berg's findings.

"His work is very convincing; I would even say unimpeachable," said Dr. Glenn Juday, a forest ecologist at the University of Alaska. "For the first time, I now think beetle infestation is related to climate change."

While Dr. Juday did not collaborate on Dr. Berg's spruce studies, he relayed some of the findings at a recent conference on climate change in Oslo, as part of the Arctic Climate Impact Assessment Project, a study by scientists from several nations. It was also presented by Dr. Berg himself in a speech at an American forestry conference this year.

"There is enormous excitement over Ed Berg's studies," Dr. Juday said.

But other scientists are still skeptical, saying it may be only a coincidence that rising temperatures go hand in hand with growing beetle infestations. Some say he has found a big piece of the puzzle, but not all of it.

"I think Ed Berg is only partially correct," said Dr. Ed Holsten, who studies insects for the Forest Service in Alaska. The trees on the Kenai are old, and ripe for beetle outbreaks. If they had been logged, or burned in fire, it might have kept the bugs down, Dr. Holsten said.

The spruce beetle, which is about a quarter-inch long with six legs, is barely visible to most people who roam through evergreen forests in the West and Alaska. Large swaths of forest in Colorado, Idaho and Wyoming have been felled by the bug. But nothing has approached the Alaska kill.

The beetles take to the air in spring, looking for trees to attack. When they find a vulnerable stand, they will signal to other beetles "a chemical message," Dr. Holsten says. They burrow under the bark, feeding on woody capillary tissue that the tree uses to transport nutrients.

In Dr. Berg's office, he has a cross-section of a tree that has been under attack by beetles. They build a web of canals as they eat. Eventually, the tree loses its ability to feed itself; it is essentially choked to death, a process that can take several years, Dr. Berg said.

. Spruce trees produce chemicals, called terpenes, that are supposed to drive beetles off. But when so many beetles go after a single tree, the beetles usually win. As it dies, the normally green needles of spruce will turn red, and then, in later years, silver or gray, Ghostly stands of dead, silver-colored spruce—looking like black and white photographs of a forest—can be seen throughout south-central Alaska, particularly on the Kenai. Scientists estimate that 38 million spruce trees have died in Alaska in the current outbreak.

"It's very hard to live among the dead spruce; it's been a real kick in the teeth," said Dr. Berg. "We all love this beautiful forest."

One reason Dr. Berg may have been able to see the large implications of the beetle attack when others saw only dead trees is that he is one of few government scientists for the Fish and Wildlife Service who is paid to study the big picture.

His title is ecologist for the Kenai refuge. "When they hired me they felt the need to look at things from a broader scale rather than simply do moose counts," he said.

Working with a doctoral student, Chris Fastie, on a federal grant, Dr. Berg has been matching the volume of dead trees to climate. Since 1987, he said, the Kenai Peninsula has had a string of above-normal temperature years, particularly in the summer. Each of those years coincided with huge outbreaks of beetle infestation and dead trees, matching warmer years and a rise in spruce kills in the early 1970's. Dr. Berg found a similar pattern in the Kluane area of the Canada's Yukon Territory, where it is much colder.

Spruce beetle eggs normally hatch by August, then spend the winter, dormant, in larvae beneath the bark. They can withstand temperatures of up to 35 degrees below zero. The normal life of a spruce beetle—if not picked off by woodpeckers or other birds—is two years. But in the warmer years, Dr. Berg and others found that the beetles were completing a two-year cycle in a single year. This mass of insects has consumed nearly every mature spruce tree on the Kenai, until there is very little left to eat. Most of the trees are more than 100 years old.

Other scientists say the warming climate may be responsible for a big part of the huge bug outbreak, but not all of it.

"These bugs are coldblooded," Dr. Holsten said. "They are an early warning indicator of climate change. If it warms up enough they can complete that two-year life in a single year."

WARMER WEATHER ALLOWS VORACIOUS INSECTS TO THRIVE

Spruce has grown on the Kenai Peninsula for about 8,000 years. Other infestations have killed up to 30 percent of a forested area, before bug populations died from fire or freeze or other natural causes. The current infestation never slowed until the beetles ran out of food.

"It slowed down only after they had literally eaten themselves out of house and home," Dr. Berg said.

The Forest Service has been studying beetle-killed spruce for some time, but has yet to come up with any way of attacking the insects, other than suggestions of logging and controlled-burn fires—each of which is hotly contested.

What may follow in the path of the dead forest will be likely be a mix of grasses, and more hardwood trees like birch, alder and aspens, said Dr. Berg.

Climate records have been kept for barely a hundred years in most places in Alaska. By studying tree rings—which expand in warmer years and barely grow in cold years—scientists in Alaska say the current warming period is unmatched for at least 400 years. By studying dead trees, they say they can find no evidence of a spruce beetle outbreak of this magnitude, ever.

## ADDITIONAL STATEMENTS

### TRIBUTE TO PATRICIA OBRADOVICH

• Mr. SMITH of Oregon. Mr. President, the late Oregon Governor Tom McCall once said, "Heroes are not giant statues framed against a red sky. They are people who say, 'This is my community and it's my responsibility to make it better.'"

I rise today to pay tribute to Patricia Obradovich, a remarkable Oregonian who was a true hero, because she dedicated her entire career to making her community, her State, and her Nation a better place. Patricia passed away last month at the young age of 44, after a courageous battle against cancer. Her legacy, however, will continue long into the future.

Patricia dedicated her entire professional life to working for the Federal. Government. I have long believed that government service is a high and important calling. The hours are often long, the pressures are great, and the monetary compensation is frequently lower than what is available in the private sector. Patricia was one of those individuals who was more concerned with making a difference than making a fortune.

Patricia joined the U.S. Army Corp of Engineers as an economist with the Portland, OR District in May of 1981, and continued with the Corps for 21 years. In that time, she served in many roles, including Chief of Economics, Acting Chief of Planning, and Outreach Coordinator.

During her two decades of service, Patricia earned a reputation in Oregon and across the Nation as a public servant of great intelligence and integrity. She played a leadership role in formulating policy on many projects of national significance, including salmon restoration and navigation projects along the Oregon coast and the Columbia River. As an employee of the Federal Government, Patricia received a remarkable 26 awards, including an Achievement Medal for Civilian Service.

I had the occasion to meet Patricia several times, and know the very high regard in which she was held by her coworkers, her countless friends, and her loving family. It is my hope they will take solace in the fact that through two decades of doing the day-to-day work of democracy, Patricia Obradovich truly earned the title of "hero."●

## PRAISE ON THE 12TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

● Mr. JOHNSON. Mr. President, I rise today in praise of the Americans with Disabilities Act on the occasion of its 12th anniversary. The advances in law, health care, education, transportation, and technology promoted in this historic legislation over the past 12 years have given Americans with disabilities a new lease on life.

Today, 53 million Americans live with a disability, of which 1 in 8 is severely disabled. Yet due to the landmark Americans with Disabilities Act, the stereotypes against these persons are crumbling and they are able to lead increasingly integrated fulfilled lives. The Americans with Disabilities Act has provided disabled individuals protection from discrimination in both the public and private sector, and guarantees equal access to employment, public services, and public accommodations. The Act has also spurred research and improved care for seniors, children and mentally disabled persons. In going so, this monumental Act has ensured an improved quality of life for people living with disabilities and has promised disabled children hope for a successful future. The contributions of the Americans with Disabilities Act over the past 12 years are an inspiration for what can be done to improve the lives of Americans living with disabilities, and a proponent of more progress in the future.

Once again, it gives me great pleasure to recognize and honor today's celebration on behalf of the millions of disabled Americans who may continue to benefit throughout this country.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3609. An act to amend title 49, United States Code, to enhance the security and safety of pipelines; to the Committee on Commerce, Science, and Transportation.

H.R. 4547. An act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003; to the Committee on Armed Services.

## ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1209. An act to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

H.R. 2175. An act to protect infants who are born alive.

H.R. 3487. An act to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

At 11:08 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3479. An act to expand aviation capacity.

H.R. 3609. An act to amend title 49, United States Code, to enhance the security and safety of pipelines.

H.R. 4547. An act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3479. An act to expand aviation capacity.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Appropriations, without amendment:

S. 2778: An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–218).

By Mr. LEAHY, from the Committee on Appropriations, without amendment:

S. 2779: An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–219).

By Mr. REID, from the Committee on Appropriations, without amendment:

S. 2784: An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–220).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LIEBERMAN for the Committee on Governmental Affairs.

James E. Boasberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

*Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency.

(*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAIG:

S. 2777. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds; to the Committee on Finance.

By Mr. HOLLINGS:

S. 2778. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LEAHY:

S. 2779. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. FEINGOLD:

S. 2780. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Environment and Public Works.

By Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN):

S. 2781. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

By Mr. SMITH of Oregon (for himself, Mr. REID, Mr. WYDEN, Mr. ENSIGN, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 2782. A bill to amend part C of title XVIII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

By Mrs. CARNAHAN:

S. 2783. A bill to amend the Internal Revenue Code of 1986 to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Finance.

By Mr. REID:

S. 2784. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. JOHNSON (for himself and Mr. DURBIN):

S. 2785. A bill to amend the Internal Revenue Code of 1986 to provide a tax filing delay for members of the Armed Forces serving in a contingency operation; to the Committee on Finance.

By Mr. ALLARD:

S. 2786. A bill to provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 2787. A bill to amend the Internal Revenue Code of 1986 to exempt certain United States international ports from the harbor maintenance tax; to the Committee on Finance.

By Mr. DASCHLE:

S. 2788. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 2789. A bill to expand the eligibility for membership in veterans organizations; to the Committee on Finance.

## ADDITIONAL COSPONSORS

S. 121

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 121, a bill to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes.

S. 281

At the request of Mr. HAGEL, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 454

At the request of Mr. BINGAMAN, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 882

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 882, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of all oral anticancer drugs.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 2188

At the request of Mr. BREAUX, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act.

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 2188, supra.

S. 2211

At the request of Mr. HUTCHINSON, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2211, a bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2221

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the Medicaid program.

S. 2233

At the request of Mr. THOMAS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a Medicare subvention demonstration project for veterans.

S. 2466

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2466, a bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes.

S. 2531

At the request of Ms. COLLINS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2531, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 2592

At the request of Ms. LANDRIEU, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2592, a bill to provide affordable housing opportunities for families that are headed by grandparents and other relatives of children, and for other purposes.

S. 2596

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2596, a bill to amend the

Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 2602

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2602, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependency and indemnity compensation.

S. 2683

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 2683, a bill to amend the Internal Revenue Code of 1986 to clarify that church employees are eligible for the exclusion for qualified tuition reduction programs of charitable educational organizations.

S. 2734

At the request of Mr. KERRY, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. 2748

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2748, a bill to authorize the formulation of State and regional emergency telehealth network testbeds and, within the Department of Defense, a telehealth task force.

S. 2753

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2753, a bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes.

S. 2760

At the request of Mr. ENZI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2760, a bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Illinois (Mr. DURBIN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

S. RES. 289

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 289, a resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to celebrate the Bicentennial of the Louisiana Purchase.

S. CON. RES. 107

At the request of Mr. CRAIG, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 107, a concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association "Collaborative 10-Year Strategy for Reducing Wildland Fire Risks to Communities and the Environment", as signed August 2001, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National prescribed Fire Strategy that minimizes risks of escape.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG:

S. 2777. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds; to the Committee on Finance.

Mr. CRAIG. Mr. President, I rise today to introduce. The Permanent Tax Relief for School Construction Act to make permanent the tax benefits we enacted last year relating to private activity bonds for school construction.

Last year, we approved a tax bill which had many important provisions. Unfortunately, these provisions only last until the end of 2010. That's a pretty poor way to engineer the tax code. American families and businesses only have nine years to reap the benefits of lower taxes, and right when they are getting used to the current tax code, it will revert to its pre-2001 level. That is simply unfair. In order to plan for the long term, families and businesses need to know that the lower taxes we enacted last year will be permanent.

An important part of the tax package that we approved last year was the inclusion of elementary and secondary public education under the private activities for which tax exempt bonds are issued. This provision will make it easier for States and school districts to raise money to build schools. In a State like mine, where there is a pressing need for school construction and not much revenue to fund it, this tax provision is very important. To see it end in 2010 would prevent many necessary facilities from being built.

The harm caused by the sunsetting of this tax provision is clearly illustrated by the plight of many of my State's school districts. During may travels throughout Idaho, I visited quite a few schools, many of which were the products of New Deal work projects in the 1930's. These schools are falling part now, though, and school districts have a very difficult time raising the necessary revenue to construct new buildings. Idaho, like many States, is suffering from reduced tax revenue, so aid from the State is just not available to supplement school districts' revenue. Another problem is that it takes a super-majority to pass a levy to raise property taxes to finance school districts, and in quite a few of Idaho's districts, taxpayers are already paying high taxes. In many instances, the revenue isn't there for school districts.

We recognized that problem last year and helped out school districts by providing tax incentives for school construction bonds. This type of tax relief is the best way we in Washington can help school districts. Even though we've been increasing the Federal role in education over the past few years, education matters such as school construction are still primarily a local function, as they should be. Every step we take to insert a Federal role into this local authority is a step that must be carefully considered. By providing tax incentives for these local school districts, though, we are not undermining their authority. We are giving them tools to help themselves, and help the children they are serving. Let's make sure that the tax code lets them continue to help these children after 2010, so that no child is ever left behind.

By Mr. FEINGOLD:

S. 2780. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United Sates; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce important legislation to affirm Federal jurisdiction over isolated wetlands. I am please to be joined by Representatives OBERSTAR and DINGELL, who are today introducing companion legislation in the House of Representatives.

In the U.S. Supreme Court's January 2001 decision, Solid Waste Agency of Northern Cook County versus the Army Corps of Engineers, a 5 to 4 majority limited the authority of Federal agencies to use the so-called migratory bird rule as the basis for asserting Clean Water Act jurisdiction over nonnavigable, intrastate, isolated wetlands, streams, ponds, and other waterbodies.

This decision, known as the SWANCC decision, means that the Environmental Protection Agency and Army Corps of Engineers can no longer enforce Federal Clean Water Act protection mechanisms to protect a waterway solely on the basis that it is used as habitat for migratory birds.

In its discussion of the case, the Court went beyond the issue of the migratory bird rule and questioned whether Congress intended the Clean Water Act to provide protection for isolated ponds, streams, wetlands and other waters, as it had been interpreted to provide for most of the last 30 years. While not the legal holding of the case, the Court's discussion has resulted in a wide variety of interpretations by EPA and Corps officials that jeopardize protection for wetlands, and other waters. The wetlands at risk include prairie potholes and bogs, familiar to many in Wisconsin, and many other types of wetlands.

In effect, the Court's decision removed much of the Clean Water Act protection for between 30 percent to 60 percent of the Nation's wetlands. An estimate from my home state of Wisconsin suggested that more than 60 percent of the wetlands lost Federal protection in my State. My State is not alone. The National Association of State Wetland Managers have been collecting data from states across the country. For example, Nebraska estimates they will lose more than 40 percent of their wetlands. Indiana estimates they will lose 31 percent of total wetland acreage and 74 percent of the total number of wetlands. Delaware estimates the loss of 33 percent or more of their freshwater wetlands. These wetlands absorb floodwaters, prevent pollution from reaching our rivers and streams, and provide crucial habitat for most of the nations ducks and other waterfowl, as well as hundreds of other bird, fish, shellfish and amphibian species. Loss of these waters would have a devastating effect on our environment.

In addition, by narrowing the water and wetland areas subject to Federal regulation, the decision also shifts more of the economic burden for regulating wetlands to State and local governments. My home State of Wisconsin has passed State legislation to assume the regulation of isolated waters, but many other States have not. This patchwork of regulation means that the standards for protection of wetlands nationwide is unclear, confusing, and jeopardizes the migratory birds and other wildlife that depend on these wetlands.

Therefore, Congress needs to re-establish the common understanding of the Clean Water Act's jurisdiction to protect all waters of the U.S. the understanding that Congress had when the Act was adopted in 1972 as reflected in the law, legislative history, and longstanding regulations, practice, and judicial interpretations prior to the SWANCC decision.

The proposed legislation does three things. It adopts a statutory definition of "waters of the United States" based on a longstanding definition of waters in the Corps of Engineers' regulations. Second, it deletes the term "navigable" from the Act to clarify that Congress's primary concern in 1972 was to protect the nation's waters from pollution, rather than just sustain the navigability of waterways, and to reinforce that original intent.

Finally, it includes a set of findings that explain the factual basis for Congress to assert its constitutional authority over waters and wetlands, including those that are called isolated, on all relevant Constitutional grounds, including the Commerce Clause, the Property Clause, the Treaty Clause, and the Necessary and Proper Clause. Additionally, the findings clarify Congress' view that protection of isolated wetlands and other waters is critical to protect water quality, public safety, wildlife, and other public interests, including hunting and fishing.

I also am very pleased to be have the support of so many environmental and conservation groups, and well as organizations that represent those who regulate and manage our country's wetlands such as Natural Resources Defense Council, Earthjustice, National Wildlife Federation, Sierra Club, and the National Association of State Wetland Managers. They know, as I do, that we need to re-affirm the Federal role in isolated wetland protection. This legislation is a first step in doing just that.

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By Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN):

S. 2781. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, during the 103rd Congress in 1994, the Petroleum Marketing Practices Act, PMPA, was amended to protect independent petroleum wholesalers and retailers from arbitrary and unfair termination or nonrenewal of their franchise relationships with major oil companies.

However, this protection was provided only to motor and diesel fuel franchisees. Franchisees of other petroleum products sold by the major oil companies lack similar protection.

Today, I rise with Senators BURNS and ENSIGN to introduce a bill that extends the same protections enjoyed by the motor fuel industry to the lubricant industry.

I have heard from a constituent in Nevada that his franchise agreement to sell lubricating oils to car dealers in Las Vegas was arbitrarily canceled with 30 days notice. In essence, he had thirty days to convert all of his customers to a new brand.

This seem grossly unfair and, in fact, if the product sold by my constituent were gasoline or diesel fuel rather than lubricating oil, it would have been illegal.

I have been made aware of similar terminations or non-renewals in other states.

Without equal protection under the law, lubricant franchisees are vulnerable to predatory cancellation by their suppliers. This situation is exacerbated by recent mergers and acquisitions in the petroleum industry.

The merger of oil giants Chevron and Texaco and Shell Oil's recent acquisition of Penzoil-Quaker State will undoubtedly result in the termination of many independent lubricant franchisees. In New Mexico, there was a lubricant franchisee who had been promoting and distributing a branded lubricant to his customers for over 30 years, only be canceled with 30 days notice following a merger of refiners. This unfair practice stifles competition in the marketplace and invariably results in raising the price of the product, which hurts American consumers and small business. This is especially troublesome in rural areas.

Given the increasingly anti-competitive nature of the petroleum industry, the time has come to extend protections under current law for motor fuel marketers to include lubricant franchisees.

There are approximately 3,500 independent distributors and nearly 25,000 commercial retail lube oil outlets that could be impacted by the increasing frequency of lubricant franchise cancellations. Refiners have not suffered by complying with PMPA in motor fuels. Consequently, it is hard to believe it would be much of an imposition to include the much small segment of lubricant franchisees.

I introduce this bill today because it protects small businesses, benefits consumers and ensure fair competition in the marketplace.

In short, this bill is the right thing to do and I hope my colleagues will support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2781

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.**

(a) DEFINITIONS.—Section 101 of the Petroleum Marketing Practices Act (15 U.S.C. 2801) is amended—

(1) in paragraph (1)(B)—

(A) in clause (ii)(II), by striking "and" at the end;

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following:

"(iii) any contract under which a refiner authorizes or permits a distributor to use, in connection with the sale, consignment, or distribution of lubricating oil, a trademark that is owned or controlled by the refiner; and";

(2) in paragraphs (2), (5), and (6), by inserting "or lubricating oil" after "motor fuel" each place it appears;

(3) by striking paragraphs (3) and (4) and inserting the following:

"(3) FRANCHISEE.—The term 'franchisee' means—

"(A) a retailer or distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

"(B) a distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of lubricating oil.

"(4) FRANCHISOR.—The term 'franchisor' means—

"(A) a refiner or distributor that authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

"(B) a refiner that authorizes or permits, under a franchise, a distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel."; and

(4) by adding at the end the following:

"(20) LUBRICATING OIL.—The term 'lubricating oil' means any grade of paraffinic or naphthenic lubricating oil stock that is refined from crude oil or synthetic lubricants.".

(b) PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.—Section 102(b)(2) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)(2)) is amended by inserting after subparagraph (E) the following:

"(F) FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.—In the case of a franchise between a refiner or a distributor for the sale, distribution, or consignment of trademarked lubricating oil, a determination made by the franchisor in good faith and in the normal course of business to withdraw from the marketing of the lubricating oil in the relevant geographic market in which the franchised lubricating oil is distributed, if—

"(i) the determination is made—

"(I) after the date on which the franchise is entered into or renewed; and

"(II) on the basis of a change in relevant facts or circumstances relating to the franchise that occurs after the date specified in subclause (I); and

"(ii) the termination or nonrenewal is not for the purpose of converting any accounts subject to the franchise to the account of the franchisor.".

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By Mr. SMITH of Oregon (for himself, Mr. REID, Mr. WYDEN, Mr. ENSIGN, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 2782. A bill to amend part C of title XVII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I rise today to introduce a bill that will make Medicare's Social Health Maintenance Organization, SHMO, demonstration a permanent part of the Medicare+Choice, M+C, program. I am joined by my colleagues from Oregon, New York, Arizona, and California. The Social HMO demonstration was authorized 17 years ago to test models for improving care for frail seniors, expanding access to social and supportive services and better integrating these expanded benefits with medical services. Clearly, a seventeen year test is long enough—it's time for this successful program to become a permanent choice for Medicare beneficiaries.

Close to 80 percent of national health care expenditures are for persons with chronic conditions. Medicare beneficiaries are disproportionately affected by chronic illness. About 85 percent of people 65 and older have one chronic condition, and two thirds have two or more. Fully a third of Medicare beneficiaries have four or more chronic conditions. This group accounts for almost 80 percent of all Medicare spending. Yet, despite the predominance of chronic illness among seniors, Medicare continues to operate as an acute care model. So many of the services that are central to the health care needs of seniors are not covered by Medicare, including a number of preventive services, care coordination and disease management services, and home and community-based support services.

Social HMOs provide the care coordination and disease management services so critically important to frail and at-risk seniors with multiple chronic conditions and complex care needs. They are required to provide expanded care benefits such as prescription drugs, ancillary services such as eyeglasses and hearing aids, and community-based services such as personal care, homemaker services, adult day care, meals, and transportation. These services meet the chronic health care needs of seniors, helping them remain independent, while reducing Medicaid expenditures by avoiding or delaying nursing home placement.

Several recent studies have shown that Social HMO members are about 40 percent to 50 percent less likely to have long-term nursing home placements than comparison group members. Further, in a recent survey of Social HMO beneficiaries, over three-quarter of respondents indicated that the special services offered by their Social HMO were important to allowing them to keep living at home. Enhanced Social HMO services, such as early detection of illness, development of coordinated care plans to address problems identified during routine assessments, screening, and ongoing monitoring of care, has paid off in improved health outcomes for beneficiaries.

I am fortunate to represent one of the four original Social HMOs that were approved as part of the initial Medicare demonstration project in 1985. Senior Advantage II, offered by Kaiser Permanente's Northwest Division, currently serves about 4,300 Medicare beneficiaries from Salem, OR to Longview, WA, with its primary service area in Portland, OR. Since Kaiser opened its Social HMO program, it has served close to 15,000 beneficiaries with its enhanced benefits and special geriatric programs, which have led to fewer overall nursing home care days and a more consumer-oriented approach to care for frail or ill seniors.

The legislation I am introducing with my distinguished colleagues today would make permanent the existing Social HMO plans, like Kaiser, and would lay the ground work for evaluating whether to expand and replicate this model. Our bill requires the Secretary to conduct a comparative study of beneficiary and family member satisfaction to see how Social HMOs compare to Medicare+Choice and fee-for-service Medicare. It also requires MedPAC to evaluate the cost-effectiveness of Social HMOs with respect to reduced nursing home admissions, reduced incidence of Medicaid spend-down, and other aspects of the model that represent potential cost-savings. If MedPAC finds that Social HMOs are cost-effective, it must make recommendations to Congress on expanding and replicating this model.

To ensure that beneficiaries continue to receive the value added they have come to enjoy under this program, the Social HMOs must continue to provide the expanded benefit package currently offered under this legislation. Further, this benefit could not be changed by the Secretary without notification of Congress. Finally, to ensure that Social HMOs, which have significantly higher risk levels than average Medicare+Choice plans, can continue to finance a high level of benefits, any changes in plans' existing payments would need to go through a formal rulemaking process.

The Social HMO demonstration project has been re-validated by six acts of Congress since its creation. It is time to make this program permanent and lend a measure of stability to the plans and beneficiaries served by this innovative model. This program represents a fiscally sound approach to helping manage the chronic health care needs of our Nation's seniors, and I urge all of my colleagues to join with me and the rest of this bill's cosponsors in support of this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2782

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Seniors Health and Independence Preservation Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Making the social health maintenance organization (SHMO) projects permanent.
Sec. 3. Expansion of SHMO projects into noncontiguous service areas within a State.
Sec. 4. Permanence of SHMO planning grant sites.
Sec. 5. Procedures for SHMO benefit and payment mechanism changes.
Sec. 6. Comprehensive MedPAC study on SHMO I and SHMO II cost-effectiveness and potential expansion.
Sec. 7. SHMO Beneficiary satisfaction survey.
Sec. 8. Conforming cross-references.
Sec. 9. Legislative purpose and construction.
Sec. 10. Repeals.

### SEC. 2. MAKING THE SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) PROJECTS PERMANENT.

Part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.) is amended by inserting after section 1857 the following new section:

“WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

“SEC. 1858. (a) ESTABLISHMENT OF SHMO PROJECTS.—In the case of a project described in subsection (b), the Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effected not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494) in the case of an application or protocol submitted before the date of enactment of such Act. Not later than 36 months after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388), the Secretary shall approve applications or protocols described in paragraph (1) for not more than 4 additional projects described in subsection (b).

“(b) PROJECTS DESCRIBED.—A project referred to in subsection (a) is a project—

“(1) to demonstrate—

“(A) the concept of a social health maintenance organization with the organizations as described in Project No. 18–P–9 7604/1–04 of the University Health Policy Consortium of Brandeis University; or

“(B) in the case of a project conducted as a result of the amendments made by section 4207(b)(4)(B)(i) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118), the effectiveness and feasibility of innovative approaches to refining targeting and financing methodologies and benefit design, including the effectiveness of feasibility of—

“(i) the benefits of expanded post-acute and community care case management through links between chronic care case management services and acute care providers;

“(ii) refining targeting or reimbursement methodologies;

“(iii) the establishment and operation of a rural services delivery system;

“(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or

“(v) the effectiveness of second-generation sites in reducing the costs of the commencement and management of health care service delivery;

“(2) which provides for the integration of health and social services under the direct financial management of a provider of services;

“(3) under which all services under this title will be provided by or under arrangements made by the organization at a fixed annual prepaid capitation rate for medicare of 100 percent of the adjusted average per capita cost; and

“(4) under which services under title XIX will be provided at a rate approved by the Secretary.

“(c) WAIVERS.—The waivers referred to in subsection (a) are appropriate waivers of—

“(1) certain requirements of this title, pursuant to section 402(a) of the Social Security Amendments of 1967 (Public Law 90–248; 81 Stat. 930), as amended by section 222 of the Social Security Amendments of 1972 (Public Law 92–603; 86 Stat. 1390);

“(2) certain requirements of title XIX, pursuant to section 1115; and

“(3) in the case of a project conducted as a result of the amendments made by section 4207(b)(4)(B)(i) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118), any requirements of title XVIII or XIX that, if imposed, would prohibit such project from being conducted.

“(d) AGGREGATE LIMIT ON NUMBER OF MEMBERS.—The Secretary may not impose a limit on the number of individuals that may participate in a project conducted under this section, other than an aggregate limit of not less than 324,000 for all sites.

“(e) REPORTS.—

“(1) PRELIMINARY REPORT.—The Secretary shall submit a preliminary report to Congress on the status of the projects and waivers referred to in subsection (a) 45 days after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494).

“(2) INTERIM REPORT.—The Secretary shall submit an interim report to Congress on the projects referred to in subsection (a) not later than 42 months after the date of enactment of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 494).

“(3) SECOND INTERIM REPORT.—The Secretary shall submit a second interim report to Congress on the project referred to in paragraph (1) not later than March 31, 1993.

“(4) REPORT ON INTEGRATION AND TRANSITION.—

“(A) IN GENERAL.—The Secretary shall submit to Congress, by not later than January 1, 1999, a plan for the integration of health plans offered by social health maintenance organizations (including SHMO I and SHMO II sites developed under this section and similar plans) as an option under the Medicare+Choice program under this title.

“(B) PROVISION FOR TRANSITION.—The plan submitted under subparagraph (A) shall include a transition for social health maintenance organizations operating under the project authority under this section.

“(C) PAYMENT POLICY.—The report shall also include recommendations on appropriate payment levels for plans offered by such organizations, including an analysis of the application of risk adjustment factors appropriate to the population served by such organizations.

“(5) HHS REPORT.—The Secretary shall submit a report on the projects conducted under this section not later than the date that is 21 months after the date on which the Secretary submits to Congress the report described in paragraph (4).

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,500,000 for the costs of technical assistance and evaluation related to projects conducted as a result of the amendments made by section 4207(b)(4)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118).”.

### SEC. 3. EXPANSION OF SHMO PROJECTS INTO NONCONTIGUOUS SERVICE AREAS WITHIN A STATE.

Not later than the date that is 90 days after the date of enactment of this Act, the Secretary shall promulgate a regulation that permits each social health maintenance organization participating in a project conducted under section 1858 of the Social Security Act (as added by section 2) to expand the service area of such organization to include areas within the State served by the organization that are not contiguous to any other service area of the organization.

### SEC. 4. PERMANENCE OF SHMO PLANNING GRANT SITES.

(a) ORIGINAL SHMO II DEMONSTRATIONS.—The 5 organizations authorized by section 4207(b)(4)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–118) to demonstrate the concept of social health maintenance organizations that were approved by the Secretary of Health and Human Services in 1995 shall be permitted to participate in the program under section 1858 of the Social Security Act (as added by section 2).

(b) SHMO II DUAL-ELIGIBLE PLANNING GRANTS.—Each entity that received a planning grant in 1998 under the 1997 Grants Program for Reforming Service Delivery for Dual Eligible Beneficiaries to develop a Second Generation Social HMO Demonstration Program shall be permitted to participate in the program under section 1858 of the Social Security Act (as added by section 2).

### SEC. 5. PROCEDURES FOR SHMO BENEFIT AND PAYMENT MECHANISM CHANGES.

(a) CONGRESSIONAL NOTIFICATION OF BENEFIT CHANGES.—The Secretary of Health and Human Services shall notify the appropriate committees of Congress prior to making any change to the benefits available under a project under section 1858 of the Social Security Act (as added by section 2).

(a) RULEMAKING REQUIREMENT FOR PAYMENT MECHANISM CHANGES.—The Secretary may not change the payment mechanism applicable with respect to any social health maintenance organization project under section 1858 of the Social Security Act (as added by section 2), except by regulation.

### SEC. 6. COMPREHENSIVE MEDPAC STUDY ON SHMO I AND SHMO II COST-EFFECTIVENESS AND POTENTIAL EXPANSION.

(a) STUDY.—

(1) IN GENERAL.—The Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6) (in this section referred to as the “Commission”) shall conduct a study on the cost-effectiveness of the projects and the potential expansion of such projects.

(2) COST-EFFECTIVENESS.—

(A) IN GENERAL.—In determining the cost-effectiveness of the projects under the study conducted under paragraph (1), the Commission shall take into account—

(i) the extent to which the per beneficiary costs to the medicare program for enrollees in a social health maintenance organization do not exceed the average per beneficiary costs to the medicare program for a comparable case mix of beneficiaries who are enrolled in the original medicare fee-for-service program;

(ii) the actuarial value of items and services available to beneficiaries enrolled in a social health maintenance organization but not available to beneficiaries enrolled in the original medicare fee-for-service program; and

(iii) the extent to which social health maintenance organizations reduced expenditures under the medicaid program under title XIX of the Social Security Act by—

(I) preventing individuals from being eligible for medical assistance under such program as medically needy individuals through the application of spend-down requirements for income and resources; or

(II) reducing the number of nursing home bed days associated with stays of 60 days or longer for medicaid beneficiaries.

(B) COMPARABLE CASE MIX.—In evaluating a comparable case mix of beneficiaries for purposes of clause (i)(I), the Commission shall take into account the following factors:

(i) Age.

(ii) Gender.

(iii) Diagnoses.

(iv) Functional status.

(v) Any other available demographic or illness factor deemed appropriate by the Commission.

(C) DATA.—In determining the cost-effectiveness of social health maintenance organizations under this subsection, the Commission shall evaluate data from social health maintenance organizations for the period beginning on January 1, 1997, and ending on the first December 31 occurring after the date of enactment of this Act.

(b) REPORT.—

(1) IN GENERAL.—Not later than the date that is 24 months after the date of enactment of this Act, the Commission shall submit to the Secretary of Health and Human Services and to the appropriate committees of Congress a report on the study conducted under subsection (a)(1).

(2) CONTENTS.—The report submitted under paragraph (1) shall contain—

(A) a statement regarding whether the Commission finds social health maintenance organizations to be cost-effective;

(B) recommendations regarding whether the projects should be expanded to include additional sites and whether additional social health maintenance organizations should be permitted to participate in the projects;

(C) recommendations on whether to modify or eliminate the aggregate limit on number of members under section 1858(d) of the Social Security Act (as added by section 2); and

(D) if the Commission recommends expansion or replication of the projects, recommendations on the appropriate implementation of such expansion.

(c) DEFINITIONS.—In this section:

(1) PROJECT.—The term "project" means a project conducted under section 1858 of the Social Security Act (as added by section 2) other than a project described in subsection (b)(1)(B)(iv) of such section.

(2) MEDICARE PROGRAM.—The term "medicare program" means the health benefits program under title XVIII of the Social Security Act.

(3) ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM.—The term "original medicare fee-for-service program" means the program under parts A and B of the medicare program.

(4) SOCIAL HEALTH MAINTENANCE ORGANIZATION.—The term "social health maintenance organization" means an organization participating in a SHMO I project described in subparagraph (A) of section 1858(b)(1) of the Social Security Act (as added by section 2) or a SHMO II project described in subparagraph (B) of such section (other than a project described in clause (iv) of such subparagraph).

### SEC. 7. SHMO BENEFICIARY SATISFACTION SURVEY.

(a) SURVEY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a comparative qualitative survey of the satisfaction of medicare beneficiaries enrolled in—

(A) the original medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act;

(B) a Medicare+Choice plan under part C of title XVIII of such Act; and

(C) a social health maintenance organization under section 1858 of such Act (as added by section 2).

(2) CONSIDERATIONS.—In determining beneficiary satisfaction, the Secretary of Health and Human Services shall take into account—

(A) the differences in the program or plan benefit structure;

(B) the extent to which the program or plan benefit structure enables beneficiaries to avoid or delay institutionalization;

(C) the amount of out-of-pocket costs saved by beneficiaries under the program or plan for traditional and expanded care services;

(D) the access to services by beneficiaries under the program or plan; and

(E) the satisfaction level of family members and caregivers of beneficiaries enrolled in the program or plan.

(b) PUBLICATION OF RESULTS AND SUBMISSION TO CONGRESS.—Not later than the date that is 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall post the results of the survey conducted under subsection (a)(1) on an Internet website and shall submit such results to the appropriate committees of Congress.

### SEC. 8. CONFORMING CROSS-REFERENCES.

(a) SOCIAL SECURITY ACT.—

(1) The last sentence of section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w-23(a)(1)(B)), as added by section 605(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-556), is amended by striking "(established by section 2355 of the Deficit Reduction Act of 1984, as amended by section 13567(b) of the Omnibus Budget Reconciliation Act of 1993)" and inserting "(established by section 1858)".

(2) Section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)) is amended by striking "section 2355 of the Deficit Reduction Act of 1984" and inserting "section 1858".

(b) MEDICARE, MEDICAID, AND SCHIP BENEFITS IMPROVEMENT AND PROTECTION ACT OF 2000.—Section 542(b)(2)(B)(iv) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-551), as enacted into law by section 1(a)(6) of Public Law 106-554, is amended by striking "section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203)" and inserting "section 1858 of the Social Security Act".

### SEC. 9. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) PRINCIPAL SUBSTANTIVE CHANGES TO MAKE SHMO PROJECTS PERMANENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), section 2—

(A) restates, without substantive change, laws enacted before January 24, 2002, that were replaced by that section;

(B) may not be construed as making a substantive change in the laws replaced; and

(C) is superseded by any law that is enacted after January 24, 2002, that is inconsistent with such section or that supersedes that section to the extent of the inconsistency.

(2) PERMANENCY.—Section 2 extends the social health maintenance organization projects for an indefinite time period (beyond the date that is 30 months after the date that the Secretary submits to Congress the report described in section 1858(e)(4) of the Social Security Act, as added by section 2).

(3) MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.—

(A) The report required to be submitted by the Secretary of Health and Human Services under section 1858(e)(5) of the Social Security Act (as added by section 2) is the same report as is required under the first sentence of section 4018 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-65), except that such report is no longer characterized as a final report.

(B) The Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b-6) shall not be required to submit the report described in the second sentence of section 4018 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-65).

(b) REFERENCES.—A reference to a law replaced by section 2, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by section 2 shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS UNDER PRIOR LAW.—An action taken under a law replaced by section 2 is deemed to have been taken under the corresponding provision enacted by this Act.

(e) INFERENCES.—No inference of legislative construction may be drawn by reason of a heading of a provision.

(f) SEVERABILITY.—If a provision enacted by this Act is—

(1) held invalid, each valid provision that is severable from the invalid provision shall remain in effect; and

(2) held invalid with respect to any application, the provision shall remain valid with respect to each valid application that is severable from the invalid application.

### SEC. 10. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) LAWS REPEALED.—Except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act, the following provisions (and amendments made by such provisions) are repealed:

(1) Section 2355 of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1103).

(2) Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-65).

(3) Section 4207(b)(4) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-118).

(4) Section 13567 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 607).

(5) Paragraphs (6) through (8) of section 160(d) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4443).

(6) Section 4014 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 336).

(7) Section 531 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F of Public Law 106–113; 113 Stat. 1501A–388).

(8) Section 631 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F of Public Law 106–554; 114 Stat. 2763A–566).

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By Mrs. CARNAHAN:

S. 2783. A bill to amend the internal Revenue Code of 1986 to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Finance.

Mrs. CARNAHAN. Mr. President, I send a bill to the desk and ask that it be appropriately referred.

Today I am introducing legislation to correct a flaw in our tax system that penalizes the families of those who die while serving in our Armed Forces. The Honor Our Heroes Act will restore compassion to the tax code. It exempts from taxation the money the government provides following the death of an active duty servicemember. This payment is known as the death gratuity benefit.

Families are often crushed by the weight of funeral and other immediate expenses after a spouse, parent, or child is killed while serving in the military. Congress recognized that, at the very least, we owe these men and women assistance with this burden. In 1986, when the benefit was set at $3,000, Congress made this payment tax free. Over the years, rising costs led Congress to increase the payment to $6,000, but Congress did not make a corresponding change in the tax code. As a result, today, half of the payment is subject to the income tax.

Now, bereaved families receive this money with a red flag. Families are getting get less than the $6,000 Congress meant for them to have. We end up giving with one hand and taking away with the other.

Missouri has given two of her sons in the War on Terrorism. The families of these men made the greatest sacrifice possible. We should not be asking them to pay taxes on the benefit the government gives them to help pay for funeral expenses and other costs. But since 1991, thousands of families have had to pay these taxes. During this time, especially, when so many of members of the military are putting themselves directly in harm's way, we cannot let this unfair taxation continue.

Our colleagues in the House have taken an important step toward repairing this flaw, but they neglect the families for whom a future increase in the death gratuity would lead to tax liability. My bill leaves no such doubt. The Honor Our Heroes Act makes the entire amount of the death gratuity payment exempt from taxes, immediately and permanently. This bill ensures that payments made to families of servicemembers are never taxed again.

The legislation I am introducing today will make our Nation's gratitude tax-free to families coping with the death of a loved one. We owe this to our men and women in uniform, and pray that their families never have to face such a loss. I encourage my colleagues to support this bill.

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By Mr. JOHNSON (for himself and Mr. DURBIN):

S. 2785. A bill to amend the Internal Revenue Code of 1986 to provide a tax filing delay for members of the Armed Forces serving in a contingency operation; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to rise today to introduce the Armed Forces Filing Fairness Act of 2002.

Current law allows for servicemembers serving in a combat zone, like Afghanistan, to receive a tax filing extension. The Armed Forces Filing Fairness Act will extend that filing deadline for military servicemembers serving in contingency operations as well. This bill would allow the military servicemember to delay filing taxes until they have returned to the United States, or when the combat zone or contingency area is no longer designated as such by the Department of Defense.

As the father of a son who serves in the Army and has recently returned from Afghanistan, I am pleased to introduce legislation that will help to lift some of the burdens from our military men and women serving so bravely in combat zones and contingency operations around the world. I am committee to improving the quality of life for our military servicemembers and their families, and I am proud to introduce the Armed Forces Filing Fairness Act of 2002, which will help make life just a little easier for our men and women in uniform.

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By Mr. ALLARD:

S. 2786. A bill to provide a cost-sharing requirement for the construction of the Arkansas Valley Conduit in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, water is a precious resource that nourishes our civilization and cultivates our society. Yet finding clean, inexpensive water in Southeastern Colorado, can be difficult. That is why today I am introducing legislation that paves the way for expedited construction of the Arkansas Valley Conduit, a pipeline that will provide the small, financially strapped towns and water agencies along the Arkansas River with safe, clean, affordable water. By providing for the Federal Government to pay for 75 percent of the construction costs of the Conduit, we can put Southeastern Coloradans in the position of being able to provide themselves with the water that they so vitally need.

The Conduit was originally authorized with the enactment of the Fryingpan-Arkansas Project in 1962. Due to Southeastern Colorado's depressed economic status and the fact that the authorizing statute lacked a cost share formula, the Conduit was never built. Until recently, the region has been fortunate enough to enjoy an economical and safe alternative to pipeline-transportation of Project Water: the Arkansas River. Sadly, the water quality in the Arkansas has seriously declined. At the same time, the federal government has continued to strengthen its water quality standards while providing no assistance to water municipalities struggling to meet those standards. In order to comply with these standards. In order to comply with these standards, the region's municipalities have begun exploring options for water treatment, some of which are estimated to cost between $20,000,000 and $40,000,000. Taken together, the municipalities alone are facing potential expenditures of $320,000,000 to $640,000,000, simply to comply with federally mandated water quality standards. As you know, this is not a financially feasible option for small farming communities.

The local sponsors of the project have initiated, and are nearing the completion of, an independently funded feasibility study of the Conduit. They have developed a coalition of support from water users in Southeastern Colorado and are exploring options for financing their 25 percent share of the costs.

Because forty years have passed between the enactment of the authorizing statute and the current efforts to build the Conduit, the Bureau of Reclamation has stated that a Reevaluation Statement, rather than a Reconnaissance Study, is the next appropriate action. I would like to see the Bureau begin the Reevaluation Statement as quickly as possible. To help make this happen, I have made a request for an additional $300,000 in the Bureau's General Investigations account to be used to prepare the Statement and to begin work in earnest on the Conduit.

I am pleased to learn that the Appropriations Committee is currently working to include the funding for the Reevaluation Statement, the Conduit's next step.

With the help of my colleagues, the promise made by Congress forty years ago to the people of Southeastern Colorado, will finally become a reality. Thank you. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2786

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COST-SHARING REQUIREMENT FOR THE ARKANSAS VALLEY CONDUIT IN THE STATE OF COLORADO.**

(a) IN GENERAL.—Section 7 of Public Law 87–590 (76 Stat. 393) is amended—

(1) by striking "SEC. 7." and inserting the following: "SEC. 7. AUTHORIZATION OF APPROPRIATIONS.";

(2) in the first sentence, by striking "There is hereby authorized" and inserting the following:

"(a) CONSTRUCTION.—There is authorized";

(3) in the second sentence, by striking "There are also" and inserting the following:

"(b) OPERATIONS AND MAINTENANCE.—There are"; and

(4) by adding at the end the following:

"(c) ARKANSAS VALLEY CONDUIT.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to pay the Federal share of the costs of constructing the Arkansas Valley Conduit in accordance with subsection (a) of the first section.

"(2) NON-FEDERAL SHARE.—

"(A) IN GENERAL.—The non-Federal share of the total costs of construction (including design and engineering costs) of the Arkansas Valley Conduit shall be not more than 25 percent.

"(B) FORM.—Up to 100 percent of the non-Federal share may—

"(i) be in the form of in-kind contributions; or

"(ii) consist of amounts made available under any other Federal law.".

(b) APPLICABILITY.—The amendments made by subsection (a) apply to any costs of constructing the Arkansas Valley Conduit incurred during fiscal year 2002 or any subsequent fiscal year.

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By Mr. DASCHLE:

S. 2788. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

Mr. DASCHLE. Mr. President, today I am introducing the Wind Cave National Park Boundary Revision Act.

Wind Cave National Park, located in southwestern South Dakota, is one of the Park System's precious natural treasures and one of the Nation's first national parks. The cave itself, after which the park is named, is one of the world's oldest, longest and most complex cave systems, with more than 103 miles of mapped tunnels. The cave is well known for its exceptional display of boxwork, a rare, honeycomb-shaped formation that protrudes from the cave's ceilings and walls. While the cave is the focal point of the park, the land above the cave is equally impressive, with 28,000 acres of rolling meadows, majestic forests, creeks, and streams. As one of the few remaining mixed-grass prairie ecosystems in the country, the park is home to abundant wildlife, such as bison, deer, elk and birds, and is a National Game Preserve.

The Wind Cave National Park Boundary Revision Act will help expand the park by approximately 20 percent in the southern "keyhole" region. This land currently is owned by a ranching family that wants to see it protected from development and preserved for future generations. The land is a natural extension of the park, and boasts the mixed-grass prairie and ponderosa pine forests found in the rest of the park, including a dramatic river canyon. The addition of this land will enhance recreation for hikers who come for the solitude of the park's back country. It will also protect archaeological sites, such as a buffalo jump over which early Native Americans once drove the bison they hunted, and improve fire management.

This plan to expand the park has strong, but not universal, support in the surrounding community, whose views recently were expressed during a 60-day public comment period on the proposal. Most South Dakotans recognize the value in expanding the park, not only to encourage additional tourism in the Black Hills, but to permanently protect these extraordinary lands for future generations of Americans to enjoy. Understandably, however, some are legitimately concerned about the potential loss of hunting opportunities and local tax revenue.

Governor Janklow has expressed his conditional support for the park expansion, stating that there must be no reduction in the amount of lands with public access that currently can be hunted, that there must be no loss of tax revenue to the county from the expansion, and that chronic wasting disease issues must be dealt with effectively. There are reasonable conditions that should be met as this process moves forward.

The legislation I am introducing today protects hunting opportunities for sportsmen by excluding 880 acres of School and Public Lands property from the expansion. In addition, Wind Cave National Park and the Trust for Public Lands are working with interested parties to find a way to offset the loss of local county tax revenues. Finally, I understand that the South Dakota Game, Fish, and Parks Department has reached an agreement with Wind Cave officials to expand research into chronic wasting disease, which will benefit wildlife populations nationwide. I am satisfied that the legitimate concerns about the potential expansion have been effectively addressed and today am moving forward to begin the legislative phase of this process.

In conclusion, Wind Cave National Park has been a valued American treasure for nearly 100 years. We have an opportunity with this legislation to expand the park and enhance its value to the public so that visitors will enjoy it even more during the next 100 years. It is my hope that my colleagues will support this expansion of the park and pass the legislation in the near future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2788

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Wind Cave National Park Boundary Revision Act of 2002".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) MAP.—The term "map" means the map entitled "Wind Cave National Park Boundary Revision", numbered 108/80,030, and dated June 2002.

(2) PARK.—The term "Park" means the Wind Cave National Park in the State.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of South Dakota.

**SEC. 3. LAND ACQUISITION.**

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) BOUNDARY.—

(1) MAP AND ACREAGE.—The land referred to in subsection (a)(1) shall consist of approximately 5,675 acres, as generally depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) REVISION.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

**SEC. 4. ADMINISTRATION.**

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as "Bureau of Land Management land".

**SEC. 5. GRAZING.**

(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4316. Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN, Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, Mr. CLELAND, Mr. MILLER, and Mr. COCHRAN) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812)' to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

SA 4317. Mrs. CLINTON (for herself, Mr. DEWINE, Mr. DODD, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 812, supra; which was ordered to lie on the table.

SA 4318. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 812, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 4316.** Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, Mrs. LINCOLN, Mr. DURBIN, Mr. CORZINE, Mr. HARKIN Mr. MURKOWSKI, Mr. HUTCHINSON, Mrs. CLINTON, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Ms. MIKULSKI, Mr. KERRY, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. SNOWE, Mr. ENZI, Mr. JOHNSON, Mr. SARBANES, Mr. DAYTON, Mr. LEAHY, Ms. CANTWELL, Mr. BAYH, Mr. KENNEDY, Mr. JEFFORDS, Mr. CLELAND, Mr. MILLER, and Mr. COCHRAN) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Co:

At the appropriate place, insert the following:

**SEC. . TEMPORARY STATE FISCAL RELIEF.**

(a) TEMPORARY INCREASE OF MEDICAID FMAP.—

(1) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2002, before the application of this subsection.

(2) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraph (5), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2003, before the application of this subsection.

(3) GENERAL 1.35 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2002 AND FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to paragraphs (5) and (6), for each State for the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the FMAP (taking into account the application of paragraphs (1) and (2)) shall be increased by 1.35 percentage points.

(4) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to paragraph (6), with respect to the third and fourth calendar quarters of fiscal year 2002 and each calendar quarter of fiscal year 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 2.7 percent of such amounts.

(5) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this subsection shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(A) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r-4); or

(B) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(6) STATE ELIGIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a State is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after January 1, 2002, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under paragraph (3) or an increase in a cap amount under paragraph (4) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on January 1, 2002.

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(7) DEFINITIONS.—In this subsection:

(A) FMAP.—The term "FMAP" means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(B) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) REPEAL.—Effective as of October 1, 2003, this subsection is repealed.

(b) ADDITIONAL TEMPORARY STATE FISCAL RELIEF.—

(1) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397-1397f) is amended by adding at the end the following:

**"SEC. 2008. ADDITIONAL TEMPORARY GRANTS FOR STATE FISCAL RELIEF.**

"(a) IN GENERAL.—For the purpose of providing State fiscal relief allotments to States under this section, there are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000. Such funds shall be available for obligation by the State through June 30, 2004, and for expenditure by the State through September 30, 2004. This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under this section.

"(b) ALLOTMENT.—Funds appropriated under subsection (a) shall be allotted by the Secretary among the States in accordance with the following table:

| "State | Allotment (in dollars) |
|---|---|
| Alabama | $33,918,100 |
| Alaska | $8,488,200 |
| Amer. Samoa | $88,600 |
| Arizona | $47,601,600 |
| Arkansas | $27,941,800 |
| California | $314,653,900 |
| Colorado | $27,906,200 |
| Connecticut | $41,551,200 |
| Delaware | $8,306,000 |
| District of Columbia | $12,374,400 |
| Florida | $128,271,100 |
| Georgia | $69,106,600 |
| Guam | $135,900 |
| Hawaii | $9,914,700 |
| Idaho | $10,293,600 |
| Illinois | $102,577,900 |
| Indiana | $50,659,800 |
| Iowa | $27,799,700 |
| Kansas | $21,414,300 |
| Kentucky | $44,508,400 |
| Louisiana | $50,974,000 |
| Maine | $17,841,100 |
| Maryland | $44,228,800 |
| Massachusetts | $100,770,700 |
| Michigan | $91,196,800 |
| Minnesota | $57,515,400 |
| Mississippi | $35,978,500 |
| Missouri | $62,189,600 |
| Montana | $8,242,000 |
| Nebraska | $16,671,600 |
| Nevada | $10,979,700 |
| New Hampshire | $10,549,400 |
| New Jersey | $87,577,300 |
| New Mexico | $21,807,600 |
| New York | $461,401,900 |
| North Carolina | $79,538,300 |
| North Dakota | $5,716,900 |
| N. Mariana Islands | $50,000 |
| Ohio | $116,367,800 |
| Oklahoma | $30,941,800 |
| Oregon | $34,327,200 |
| Pennsylvania | $159,089,700 |
| Puerto Rico | $3,991,900 |
| Rhode Island | $16,594,100 |
| South Carolina | $38,238,000 |
| South Dakota | $6,293,700 |
| Tennessee | $81,120,000 |
| Texas | $159,779,800 |
| Utah | $12,551,700 |
| Vermont | $8,003,800 |
| Virgin Islands | $128,800 |
| Virginia | $44,288,300 |
| Washington | $66,662,200 |
| West Virginia | $19,884,400 |
| Wisconsin | $47,218,900 |
| Wyoming | $3,776,400 |
| **Total** | **$3,000,000,000** |

“(c) USE OF FUNDS.—Funds appropriated under this section may be used by a State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

“(d) PAYMENT TO STATES.—Not later than 30 days after amounts are appropriated under subsection (a), in addition to any payment made under section 2002 or 2007, the Secretary shall make a lump sum payment to a State of the total amount of the allotment for the State as specified in subsection (b).

“(e) DEFINITION.—For purposes of this section, the term ‘State’ means the 50 States, the District of Columbia, and the territories contained in the list under subsection (b).”.

(2) REPEAL.—Effective as of January 1, 2005, section 2008 of the Social Security Act, as added by paragraph (1), is repealed.

(c) EMERGENCY DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

**SA 4317.** Mrs. CLINTON (for herself, Mr. DEWINE, Mr. DODD, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. PEDIATRIC LABELING OF DRUGS AND BIOLOGICAL PRODUCTS**

(a) IN GENERAL.—Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505A the following:

**“SEC. 505B. PEDIATRIC LABELING OF DRUGS AND BIOLOGICAL PRODUCTS.**

“(a) NEW DRUGS AND BIOLOGICAL PRODUCTS.—

“(1) IN GENERAL.—A person that submits an application (or supplement to an application)—

“(A) under section 505 for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration; or

“(B) under section 351 of the Public Health Service Act (42 U.S.C. 262) for a biological product license;

shall submit with the application the assessments described in paragraph (2).

“(2) ASSESSMENTS.—

“(A) IN GENERAL.—The assessments referred to in paragraph (1) shall contain data, gathered using appropriate formulations, that are adequate—

“(i) to assess the safety and effectiveness of the drug, or the biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), for the claimed indications in all relevant pediatric subpopulations; and

“(ii) to support dosing and administration for each pediatric subpopulation for which the drug, or the biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), is safe and effective.

“(B) SIMILAR COURSE OF DISEASE OR SIMILAR EFFECT OF DRUG OR BIOLOGICAL PRODUCT.—If the course of the disease and the effects of the drug are sufficiently similar in adults and pediatric patients, the Secretary may conclude that pediatric effectiveness can be extrapolated from adequate and well-controlled studies in adults, usually supplemented with other information obtained in pediatric patients, such as pharmacokinetic studies.

“(3) DEFERRAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

“(A) the Secretary finds that—

“(i) the drug or biological product is ready for approval for use in adults before pediatric studies are complete; or

“(ii) pediatric studies should be delayed until additional safety or effectiveness data have been collected; and

“(B) the applicant submits to the Secretary—

“(i) a certified description of the planned or ongoing studies; and

“(ii) evidence that the studies are being conducted or will be conducted with due diligence.

“(b) MARKETED DRUGS AND BIOLOGICAL PRODUCTS.—After providing notice and an opportunity for written response and a meeting, which may include an advisory committee meeting, the Secretary may by order require the holder of an approved application relating to a drug under section 505 or the holder of a license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262) to submit by a specified date the assessments described in subsection (a) if the Secretary finds that—

“(1)(A) the drug or biological product is used for a substantial number of pediatric patients for the labeled indications; and

“(B) the absence of adequate labeling could pose significant risks to pediatric patients; or

“(2)(A) there is reason to believe that the drug or biological product would represent a meaningful therapeutic benefit over existing therapies for pediatric patients for 1 or more of the claimed indications; and

“(B) the absence of adequate labeling could pose significant risks to pediatric patients.

“(c) DELAY IN SUBMISSION OF ASSESSMENTS.—If a person delays the submission of assessments relating to a drug or biological product beyond a date specified in subsection (a) or (b)—

“(1) the drug or biological product—

“(A) shall be deemed to be misbranded;

“(B) shall be subject to action under sections 302 and 304; and

“(C) shall not be subject to action under section 303; and

“(2) the delay shall not be the basis for a proceeding to withdraw approval for a drug under section 505(e) or revoke the license for a biological product under section 351 of the Public Health Service Act (42 U.S.C. 262).

“(d) WAIVERS.—

“(1) FULL WAIVER.—At the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments under subsection (a) or (b) if—

“(A) necessary studies are impossible or highly impracticable;

“(B) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups; or

“(C)(i) the drug or biological product—

“(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients; and

“(II) is not likely to be used for a substantial number of pediatric patients; and

“(ii) the absence of adequate labeling would not pose significant risks to pediatric patients.

“(2) PARTIAL WAIVER.—At the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments under subsection (a) with respect to a specific pediatric subpopulation if—

“(A) any of the grounds stated in paragraph (1) applies to that subpopulation; or

“(B) the applicant demonstrates that reasonable attempts to produce a pediatric formulation necessary for that subpopulation have failed.

“(3) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

“(e) MEETINGS.—The Secretary shall meet at appropriate times in the investigational new drug process with the sponsor to discuss background information that the sponsor shall submit on plans and timelines for pediatric studies, or any planned request for waiver or deferral of pediatric studies.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)) is amended in the second sentence—

(A) by striking “and (F)” and inserting “(F)”; and

(B) by striking the period at the end and inserting “, and (G) any assessments required under section 505B.”.

(2) Section 505A(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(h)) is amended—

(A) in the subsection heading, by striking “REGULATIONS” and inserting “PEDIATRIC STUDY REQUIREMENTS”; and

(B) by striking “pursuant to regulations promulgated by the Secretary” and inserting “by a provision of law (including a regulation) other than this section”.

(3) Section 351(a)(2) of the Public Health Service Act (42 U.S.C. 262(a)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

“(B) PEDIATRIC STUDIES.—A person that submits an application for a license under this paragraph shall submit to the Secretary as part of the application any assessments required under section 505B of the Federal Food, Drug, and Cosmetic Act.”.

(c) FINAL RULE.—Except to the extent that the final rule is inconsistent with the amendment made by subsection (a), the final rule promulgating regulations requiring manufacturers to assess the safety and effectiveness of new drugs and biological products in pediatric patients (63 Fed. Reg. 66632 (December 2, 1998)), shall be considered to implement the amendment made by subsection (a).

(d) NO EFFECT ON AUTHORITY.—Section 505B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) does not affect whatever existing authority the Secretary of Health and Human Services has to require pediatric assessments regarding the safety and efficacy of drugs and biological products in addition to the assessments required under that section. The authority, if any, of the Secretary of Health and Human Services regarding specific populations other than the pediatric population shall be exercised in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act.

**SA 4318.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

### TITLE —ETHICAL PRESCRIPTION DRUG MARKETING ACT OF 2002

**SEC. 1. SHORT TITLE.**

This title may be cited as the "Ethical Prescription Drug Marketing Act of 2002".

**SEC. 2. PROHIBITION ON OFFERING OR PROVIDING ITEMS OR SERVICES FROM DRUG MANUFACTURERS TO HEALTH CARE PROFESSIONALS.**

Section 503 of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 353) is amended by adding at the end the following:

"(h)(1) A drug manufacturer shall not offer or provide any item or service to a health care professional in a manner or on a condition that would interfere with the independence of the health care professional's prescribing practices.

"(2)(A) A drug manufacturer shall not offer or provide any money (including cash or a cash equivalent) to a health care professional, except as compensation under an arrangement for bona fide services, such as services as a consultant, as a participant in speaker training meetings, or as a researcher.

"(B) A drug manufacturer shall not offer or provide any non-monetary item or service to a health care professional intended primarily for the personal benefit of the health care professional.

"(C) A drug manufacturer shall not offer or provide any non-monetary item or service, of substantial value, to a health care professional, except that a drug manufacturer may distribute a drug sample in compliance with subsection (d).

"(3) Each drug manufacturer shall be subject to a civil monetary penalty of not more than $10,000 for each violation of this subsection. Each unlawful offer or provision shall constitute a separate violation. The provisions of paragraphs (3), (4), and (5) of section 303(g) shall apply to such a violation in the same manner as such provisions apply to a violation of a requirement of this Act that relates to devices.

"(4)(A) For purposes of this subsection, an arrangement between a drug manufacturer and a health care professional for the services of the health care professional shall be considered to be an arrangement for bona fide services if, of the factors described in subparagraph (B), the factors that are relevant to the arrangement are present.

"(B) The factors referred to in subparagraph (A) are—

"(i) a legitimate need for the services, identified in advance of requesting the services and entering into the arrangement;

"(ii) a written contract specifying the nature of the services and the basis for payment for those services;

"(iii) selection of the health care professional to provide the services, based on criteria directly related to the identified need, and conducted by a person with the expertise necessary to evaluate whether health care professionals meet the criteria;

"(iv) a number of health care professionals retained under the arrangement that is not greater than the number reasonably necessary to address the identified need;

"(v) maintenance of appropriate records concerning, and appropriate use of the services of, the health care professional; and

"(vi) a venue and circumstances for any meeting that is conducive to providing the services, with any social or entertainment events at the meeting clearly subordinate to the provision of the services.

"(5) In this subsection:

"(A) The term 'drug manufacturer' means—

"(i) a person who manufactures a prescription drug approved under section 505 or a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262); or

"(ii) a person who is licensed by a person described in clause (i) to distribute or market such a drug or biological product.

"(B) The term 'health care professional' means a physician, or other individual who is a provider of health care, who is licensed under the law of a State to prescribe drugs.

"(C) The term 'substantial value' means $100 or more.".

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## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Wednesday, July 24, 2002, at 3 p.m. in SD–366.

The purpose of the hearing is to examine issues related to the need for and barriers to development of electricity infrastructure. The hearing will focus on DOE's National Transmission Grid Study and on information developed in a series of technical conferences held by the Federal Energy Regulatory Commission starting in November 2001.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS COMMITTEE ON FOREIGN RELATION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet jointly with the Committee on Foreign Relations on Wednesday, July 24, 2002, at 10:30 a.m. to conduct a hearing to review environmental treaties implementation. The hearing will be held in SD–406.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 24 2002 at 10:30 a.m. to hold a hearing on Environmental Treaties.

#### Agenda

*Witnesses*

Panel I: Mr. John F. Turner, Assistant Secretary for the Bureau of Oceans and International Environment and Scientific Affairs, U.S. Department of State, Washington, DC; Mr. James Connaughton, Chair, White House Council on Environmental Quality, Washington, D.C.

Panel II: Mr. Maurice Strong, Chairman, Earth Council Institute Canada, Toronto, Ontario, Canada; Professor John C. Dernbach, Widener University Law School, Harrisburg, PA; Mr. Christopher C. Horner, Counsel, Competitive Enterprise Institute, Washington, D.C.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, at 2:30 p.m. to hold a nomination hearing.

#### Agenda

*Nominees:*

Ms. Kristie A. Kenney, of Maryland, to be Ambassador to the Republic of Ecuador.

Mr. Larry L. Palmer, of Georgia, to be Ambassador to the Republic of Honduras.

Mrs. Barbara C. Moore, of Maryland, to be Ambassador to the Republic of Nicaragua.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 24, 2002, at 9:30 a.m. for a business meeting to consider pending business.

#### Agenda

1. To authorize withdrawal of the Committee amendments and offering of a floor amendment in the nature of a substitute to the National Homeland Security and Combating Terrorism Act of 2002 (S. 2452) which the Committee ordered reported on May 22, 2002.

2. Nominations:

(a) James "Jeb" E. Boasberg to be an Associate Judge of the Superior Court of the District of Columbia.

(b) Michael D. Brown to be Deputy Director of the Federal Emergency Management Agency.

(c) The Honorable Mark W. Everson to be Deputy Director for Management, Office of Management and Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 24, 2002, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1344, a bill to Encourage Training to Native Americans Interested in Commercial Vehicle Driving Careers.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, beginning at 9:00 a.m. in room 428A of the Russell Senate Office Building to markup pending legislation.

### Agenda

S. 2753 Small and Disadvantaged Business Ombudsman for Procurement;

S. 2335 Office of Native American Affairs at SBA;

S. 2734 Non-Farm Drought Relief;

S. 1994 Small Business Federal Contracts;

HR 2666 Vocational and Technical Entrepreneurship Development Program;

S. 2483 Pilot Program To Provide Regulatory Compliance Assistance To Small Business;

S. 2466 Contract Consolidation Requirements.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON VETERANS' AFFAIRS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, for a hearing on "Mental Health Care: Can VA Still Deliver."

The hearing will take place in SR–418 of the Russell Senate Office Building at 9:30 a.m.

THE PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON CRIME AND DRUGS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on "Ensuring Corporate Responsibility: Using Criminal Sanctions to Deter Wrongdoing," on Wednesday, July 24, 2002, at 2:30 p.m. in SD226.

*Tentative Witness List*

The Honorable G. William Miller, Former Secretary of the U.S. Treasury, Former Chairman of the Federal Reserve Board, Chairman, G. William Miller & Co.

The Honorable Roderick Hills, Former Chairman of the U.S. Securities and Exchange Commission, Founder, Law Firms of Hills & Stern, Chairman, Hills Enterprises Ltd.

The Honorable J. Carter Beese, Jr., Former Commissioner of the U.S. Securities and Exchange Commission, Senior Advisor and Chairman, International Financial Markets Project of the Center for Strategic and International Studies.

The PRESIDING OFFICER. Without objection it is so ordered.

### SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 24, 2002, at 2:30 p.m. to conduct an oversight hearing on "HUD's Management Challenges."

The PRESIDING OFFICER. Without objection it is so ordered.

### SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 24, 2002, at 2:30 p.m. on Women in Science and Technology.

The PRESIDING OFFICER. Without objection it is so ordered.

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## PRIVILEGE OF THE FLOOR

Mr. DAYTON. Madam President, I ask unanimous consent that my staff person, Krystle J. Klema, be able to be on the floor for my colloquy with Senator WELLSTONE.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 107–171, announces the appointment of the following individuals to serve as members of the Board of Trustees of the Congressional Hunger Fellows Program: the Senator from Iowa (Mr. HARKIN); the Representative from North Carolina (Mrs. CLAYTON).

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## YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE EQUITABLE COMPENSATION ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 507, S. 434.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 434) to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with amendments, as follows:

[Omit the part in black brackets and insert the part printed in italic.]

S. 434

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the "Flood Control Act of 1944" (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the "Pick-Sloan program")—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) Indian tribe.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) Santee sioux tribe.—The term "Santee Sioux Tribe" means the Santee Sioux Tribe of Nebraska.

(3) Yankton sioux tribe.—The term "Yankton Sioux Tribe" means the Yankton Sioux Tribe of South Dakota.

### SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) Establishment.—There is established in the Treasury of the United States a fund to be known as the "Yankton Sioux Tribe Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) Funding.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) Investment of Trust Fund.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) Payment of Interest to Tribe.—

(1) Withdrawal of interest.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) Payments to yankton sioux tribe.—

(A) In general.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) Limitation.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 6.

(C) Use of payments by yankton sioux tribe.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(e) Transfers and Withdrawals.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

### SEC. 5. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) Establishment.—There is established in the Treasury of the United States a fund to be known as the "Santee Sioux Tribe Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) Funding.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) Investment of Trust Fund.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) Payment of Interest to Tribe.—

(1) Withdrawal of interest.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) Payments to santee sioux tribe.—

(A) In general.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) Limitation.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 6.

(C) Use of payments by santee sioux tribe.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(e) Transfers and Withdrawals.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

### SEC. 6. TRIBAL PLANS.

(a) In General.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 4(d) or 5(d) (referred to in this subsection as a "tribal plan").

(b) Contents of Tribal Plan.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under [subsection (d)] *section 4(d) or 5(d)* to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) Tribal Plan Review and Revision.—

(1) In general.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) Updating of tribal plan.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) Consultation.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) Audit.—

(A) In general.—The activities of the tribes in carrying out the tribal plans shall be audited as part of the annual single-agency audit that the tribes are required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

(B) Determination by auditors.—The auditors that conduct the audit described in subparagraph (A) shall—

(i) determine whether funds received by each tribe under this section for the period covered by the audits were expended to carry out the respective tribal plans in a manner consistent with this section; and

(ii) include in the written findings of the audits the determinations made under clause (i).

(C) Inclusion of findings with publication of proceedings of tribal council.—A copy of the written findings of the audits described in subparagraph (A) shall be inserted in the published minutes of each tribal council's proceedings for the session at which the audit is presented to the tribal councils.

(d) Prohibition On Per Capita Payments.—No portion of any payment made under this Act may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

### SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) In General.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) Exemptions From Taxation.—No payment made pursuant to this Act shall be subject to any Federal or State income tax.

(c) Power Rates.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

### SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this Act, any treaty right that is in effect on the date of enactment of this Act, *or* any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 4 and the Santee Sioux Tribe [of Nebraska] Development Trust Fund under section 5.

**SEC. 10. EXTINGUISHMENT OF CLAIMS.**

Upon the deposit of funds under sections 4(b) and 5(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 2(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendments be agreed to; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 434), as amended, was read the third time and passed.

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## VICKSBURG NATIONAL MILITARY PARK BOUNDARY MODIFICATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 546, S. 1175.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1175) to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment, as follows:

Strike out all after the enacting clause and insert the part printed in italic.

S. 1175

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the "Vicksburg National Military Park Boundary Modification Act of 2001".

**[SEC. 2. MODIFICATION OF BOUNDARY.**

[The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton's Headquarters, as generally depicted on the map entitled "Boundary Map, Pemberton's Headquarters at Vicksburg National Military Park", numbered 80,015, and dated July, 2001. The map shall be on file in the appropriate offices of the National Park Service of the Department of the Interior.

**[SEC. 3. ACQUISITION OF PROPERTY.**

[The Secretary of the Interior may acquire the property described in section 2 from a willing seller or donee by donation, purchase with donated or appropriated funds, or exchange.

**[SEC. 4. ADMINISTRATION.**

[Upon acquiring the property described in Section 2, the Secretary of the Interior shall administer the property as part of Vicksburg National Military Park in accordance with applicable laws and regulations.

**[SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

[There are authorized to be appropriated such sums as may be necessary to carry out this Act.]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Vicksburg National Military Park Boundary Modification Act of 2002".*

***SEC. 2. BOUNDARY MODIFICATION.***

*The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton's Headquarters, as generally depicted on the map entitled "Boundary Map, Pemberton's Headquarters at Vicksburg National Military Park", numbered 306/80015A, and dated August, 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.*

***SEC. 3. ACQUISITION OF PROPERTY.***

*(a) PEMBERTON'S HEADQUARTERS.—The Secretary of the Interior is authorized to acquire the properties described in section 2 and 3(b) by purchase, donation, or exchange, except that each property may only be acquired with the consent of the owner thereof.*

*(b) PARKING.—The Secretary is also authorized to acquire not more than one acre of land, or interest therein, adjacent to or near Pemberton's Headquarters for the purpose of providing parking and other facilities related to the operation of Pemberton's Headquarters. Upon the acquisition of the property referenced in this subsection, the Secretary add it to Vicksburg National Military Park and shall modify the boundaries of the park to reflect its inclusion.*

***SEC. 4. ADMINISTRATION.***

*The Secretary shall administer any properties acquired under this Act as part of the Vicksburg National Military Park in accordance with applicable laws and regulations.*

***SEC. 5. AUTHORIZATION OF APPROPRIATIONS.***

*There is authorized to be appropriated such sums as may be necessary to carry out this Act.*

Mr. REID. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1175), as amended, was read the third time and passed.

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## HONORING CORINNE "LINDY" CLAIBORNE BOGGS ON 25TH ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN'S CAUCUS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H. Con. Res. 439 just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 439) honoring Corinne "Lindy" Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. LANDRIEU. Mr. President, I rise today to express my admiration and gratitude to a woman who served the State of Louisiana and indeed the entire Nation with devotion and sense of unwavering dedication. Throughout her life, she answered every call to service made to her.

Lindy came to Washington in 1940 with her husband, the late Hale Boggs and following his tragic death in 1972, she became the first woman to elected to the House of Representatives from the State of Louisiana. She continued her service to Congress until 1990, when she retired to New Orleans. In Congress she sat on the Appropriations Committee and the Select Committee on Children, Youth, and Families, spearheading legislation on issues ranging from civil rights to pay equity for women. She chaired the committees on the Bicentennials of the American Constitution in 1987 and the House of Representatives in 1989. In 1997, President Clinton asked her to assist her country once again, this time as the American ambassador to the Vatican.

But the reasons to honor Lindy go far beyond a recitation of her resume, distinguished as it may be. Lindy Boggs continues to be a role model for those of us in Congress and thousands of young women across this country who aspire to public service. She used her Southern charm and keen political mind to become one of the most formidable forces in the U.S. House of Representatives. She served as a mentor and teacher to me as well as the Congresswomen that followed her. She not only taught them the rules and expectations of Members of Congress, she taught us how to be a strong, independent women.

Lindy is the founder of the Congressional Women's Caucus, a legislative body that has done so much in its 25-year history. Twenty-five years ago, very few women had served in the Senate, and today we have 13. Thirteen women, and that number is sure to grow. As women, we champion the rights of women everywhere from Afghanistan to China and even here at home. We are a force to be reckoned with, and Lindy is our leader.

What is most impressive about Lindy is the long list of firsts that accompany her biography. She was the first female Representative elected from Louisiana, the first women to chair the National Democratic Convention, the first women to sit on the Board of Regents of the Smithsonian Institution and the first woman to serve as ambassador to the Holy See.

She continues to be my mentor and even more, my friend. It is an honor to join the entire Louisiana delegation and I am sure women in public service everywhere to honor this very special Louisiana and American, Lindy Boggs.

Mr. REID. I ask unanimous consent that the concurrent resolution and preamble be agreed to and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE CALENDAR

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## NOMINATION OF JULIA SMITH GIBBONS, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

Mr. REID. Mr. President, I move that the Senate proceed to Executive Session to consider Calendar No. 810, Julia Smith Gibbons, to be United States Circuit Judge.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

### CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 810, the nomination of Julia Smith Gibbons, of Tennessee, to be U.S. Circuit Judge for the Sixth Circuit.

Harry Reid, Tom Daschle, Charles Schumer, Mitch McConnell, Fred Thompson, Bill Frist, Phil Gramm, Jon Kyl, Charles Grassley, Wayne Allard, Trent Lott, Don Nickles, Larry E. Craig, Craig Thomas, Mike Capo, Jeff Sessions, Pat Roberts, Jim Bunning, John Ensign, Orrin G. Hatch.

Mr. REID. I ask unanimous consent that the live quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. REID. I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR THURSDAY, JULY 25, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, July 25; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period for morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee and the second half of the time under the control of the Democratic leader or his designee; that at 10:30 a.m., the Senate resume consideration of S. 812.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I apologize to the Presiding Officer. I indicated we would be finished by 7 p.m. and we missed that by 35 minutes.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:33 p.m., adjourned until Thursday, July 25, 2002, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate July 24, 2002:

### BROADCASTING BOARD OF GOVERNORS

JOAQUIN F. BLAYA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2002, VICE CARL SPIELVOGEL, RESIGNED.

JOAQUIN F. BLAYA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2005. (REAPPOINTMENT)

### BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING JUNE 5, 2006. (REAPPOINTMENT)

### HARRY S TRUMAN SCHOLARSHIP FOUNDATION

JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2003, VICE STEVEN L. ZINTER, TERM EXPIRED.

### DEPARTMENT OF JUSTICE

ROBERT MAYNARD GRUBBS, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS, VICE JAMES DOUGLAS, JR., TERM EXPIRED.

JOHNNY MACK BROWN, OF SOUTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE ISRAEL BROOKS, JR., TERM EXPIRED.

DENNY WADE KING, OF TENNESSEE, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE EDWARD SCOTT BLAIR, TERM EXPIRED.

# HOUSE OF REPRESENTATIVES—*Wednesday, July 24, 2002*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*July 24, 2002.*

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Reverend Samer Youssef, Antiochian Orthodox Church of the Redeemer, Los Altos Hills, California, offered the following prayer:

O God, who miraculously revealed Your teaching that evil cannot be overcome except by good, in the preserved pages of the Scriptures recovered from the arsonist-burned Antiochian Orthodox Church of the Redeemer in Los Altos Hills, California, on April 7, 2002, where we read: "You have heard an eye for an eye and a tooth for a tooth, but I say to you do not resist the one who is evil, but if anyone strikes you on your right cheek, turn to him the other also."

I beseech You, O Lord, on behalf of these Your servants who are gathered here together under Your divine authority, the Members of this House of Representatives, to guide them in all goodness and righteousness for the welfare of this Nation. Bestow Your grace, wisdom, and strength upon them. Protect them at all times. Enlighten their hearts and minds to be instruments of Your love and compassion in leading this great Nation as it seeks to offer Your principles of peace and justice to the entire world; now and ever and unto ages of ages. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain one 1-minute to be given by the gentlewoman from California (Ms. ESHOO), who represents the guest chaplain.

The Chair will entertain ten 1-minutes on each side following the suspension vote.

## TRIBUTE TO FATHER SAMER YOUSSEF

(Ms. ESHOO asked and was given permission to address the House for 1 minute.)

Ms. ESHOO. Mr. Speaker, this morning the House of Representatives welcomes Father Samer Youssef, who has come here from California, from my congressional district in Northern California in the heart of the Silicon Valley.

On April 7, a tragedy befell our community and the Parish of the Church of the Redeemer in Los Altos Hills, the Antiochian Church. An arsonist set fire to that magnificent church, and it burned to the ground. But Father Youssef and the entire Parish, together with our entire community, firefighters, the sheriff's department, churches, the temple, the Catholic Church came together to heal and his leadership is healing. His leadership has spoken to the magnificence of the great principles of America, that we believe in justice but more importantly or just as importantly we believe in one another.

And so we have come past this tragedy in our community. Together people from throughout our congressional district have placed contributions at the table to not only rebuild the church through their good faith and their contributions but to send a signal to people across our country and across the world that no arsonist, that no one who tries to terrorize our community will win. We are stronger, we are better, we are faith filled because of Who and what we believe in.

So I thank Father Youssef for coming to Washington. I thank him for his faith and leadership, and I thank my colleagues for his warm welcome, to not only the father but to his magnificent family who is seated in the gallery. And we can hear his son's approval, his 18-month-old son's approval.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members not to refer to people in the gallery.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

On July 24, 1998, at 3:40 p.m., Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol Police were killed in the line of duty defending the Capitol against an intruder armed with a gun.

At 3:40 p.m. today, the Chair will recognize the anniversary of this tragedy by observing a moment of silence in their memory.

## COST OF WAR AGAINST TERRORISM AUTHORIZATION ACT OF 2002

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4547, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and pass the bill, H.R. 4547, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 3, not voting 18, as follows:

[Roll No. 335]

YEAS—413

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

## NAYS—3

Kucinich
Lee
McKinney

## NOT VOTING—18

Bishop
Bonior
Burton
Clay
Condit
Ehrlich
Engel
Hall (OH)
Johnson, Sam
Kaptur
Lipinski
Meek (FL)
Paul
Platts
Stearns
Traficant
Young (AK)
Young (FL)

□ 1032

Messrs. WELLER, JACKSON of Illinois, and CAMP changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REMEMBERING OFFICER CHESTNUT AND DETECTIVE GIBSON

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, another year has passed since we lost our dear friends, Officer J.J. Chestnut and Detective John Gibson. They were struck down as they stood tall for everyone that works in this building that we love so deeply.

This past year brought forth a renewed appreciation across America for the virtues that both of these men showed all of us 4 years ago: bravery, fortitude, tenacity, and commitment. Officer Chestnut and Detective Gibson inspired all of us with unflinching devotion.

They now stand at the proud formation of the New York firefighters and police officers and the soldiers and sailors that also died saving lives on September 11.

Mr. Speaker, Churchill once said, "Courage is rightly esteemed the first of human qualities because it is the quality which guarantees all others.".

The courage of citizens like J.J. Chestnut and John Gibson has always been and will always be the true, firm foundation of American democracy.

The willingness of millions of Americans to place themselves between danger and freedom over the years has always been the most powerful natural force for change in history.

Some may have thought that our sense of gratitude and our love for these men would have been dimmed with the passage of time, but the opposite is true. We are now even more sharply aware of the danger present in our world and the enormous debt we owe the men and women who protect us.

Our hearts and our prayers go out to the families of Officer J.J. Chestnut and Detective John Gibson. They can be certain that we will always cherish the memories of their loved ones, we will always remember their sacrifice, and we will always defend the freedom that they loved.

## COMMEMORATING DELTA SIGMA THETA SORORITY, INC.

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I would like to join with my colleague, the gentleman from Texas (Mr. DELAY), today as we memorialize the loss of Officer Chestnut and Detective Gibson on behalf of the whole House, and I speak on behalf of the Democratic side as well.

I rise this morning, Mr. Speaker, to commemorate my sorority, Delta Sigma Theta Sorority, Inc., that is celebrating its annual convention in Atlanta, Georgia. I am proud to be a member of that sorority that hosts more than 200,000 members across this country and internationally, women who have graduated from colleges all over this world. We are not only a sorority in the sense that people talk about sororities, but we are a national service sorority, having been involved in many projects throughout this country to raise the level of consciousness of women and folk across the country.

So I just want to celebrate the President of our organization, Gwendelynn Boyd, and all of our other national members, and the immediate past president, Marsha Fudge, now the mayor of the city of Warrensville Heights, Ohio.

## RECOGNIZING AND COMMENDING THE BRAVERY AND COURAGE OF TERESA JACOBO

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today I rise to recognize and commend the bravery of a young, 10-year-old girl from Elko, Nevada.

Teresa Jacobo's quick thinking and courage saved her family possibly from death or injury from a House fire last week.

Last Wednesday morning, young Teresa immediately called the fire department and 911 when she heard the smoke detector go off and woke her up in her room. She then woke up her family to alert them to danger.

Elko Fire Marshal Dave Greenan said Teresa's "actions prevented what could have been a true disaster."

The young girl has been recognized by the Elko Fire Department for her actions, and I too would like to echo their sentiment.

It is my hope that all children would react so bravely to such a situation.

Like the firefighters that responded to her call, Teresa represents the best of the American spirit, and she probably never even thought twice about doing what she did.

Thank you, Teresa. You not only saved your family, but you made Nevada proud.

## RECOGNITION IN THE SAMANTHA RUNNION CASE

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise to recognize the tireless efforts of the Orange County Sheriff's Department, the Riverside County Sheriff's Department, the FBI, and the numerous local law enforcement agencies who contributed to a prompt arrest last week in one of the largest manhunts in Orange County's history.

Tragically, 5-year-old Samantha Runnion's body was found last Tuesday, a day after she was abducted from her apartment complex.

Four minutes after Samantha's kidnapping was reported, an Orange County Sheriff'S Deputy was right there on the scene. A county-wide alert was sounded within 10 minutes, and the Child Abduction Regional Emergency Signal went out within the hour, allowing local radio stations to broadcast a description of the kidnapper.

When Samantha's body was found, 400 FBI and Orange County investigators responded to the scene, collecting physical evidence and following up on over 2,000 tips they received from the public. This investigation led to the arrest of a key suspect in Samantha's murder just 4 days after she was reported missing. The Orange County Sheriff's Department remains dedicated to this investigation until a conviction in this case.

Law enforcement and the local community in Orange County have delivered a strong message in this case: Samantha's death and other such horrendous crimes will not be tolerated in our community.

## CONGRATULATING SANDRA PEEBLES

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to congratulate Sandra Peebles, a constituent of my congressional district, for her support of the Leukemia and Lymphoma Society in its fight to find a cure for these deadly diseases.

Susan became involved with the society's team and training with the goal of completing a 13-mile marathon by September 1.

Leukemia is the number one killer of children under the age of 15; and with the commitment of individuals like Susan, however, the cure for lymphoma and leukemia will one day become a reality.

Susan gets donations from concerned citizens as she runs her marathon on behalf of the Leukemia and Lymphoma Society.

I am proud to know generous and concerned individuals like Susan Peebles who give up their time for such a worthy cause. I ask my congressional colleagues to join me in congratulating Susan Peebles and the Leukemia and Lymphoma Society.

## HONORING TIM MILLER AND MEMBERS OF THE TEXAS EQUUSEARCH MOUNTED SEARCH AND RECOVERY TEAM

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Mr. Speaker, I rise today to honor Tim Miller and the members of the Texas EquuSearch Mounted Search and Recovery Team.

The first official meeting of this organization was held in August of 2000; and since then, Texas EquuSearch has been on nearly 100 searches in 2 short years. They have an admirable record of working constructively with our Nation's local law enforcement and the Federal Bureau of Investigation; and right now, Tim and Texas EquuSearch are on still another search near their headquarters in Dickinson, Texas.

Texas EquuSearch stands for a great deal. Tim Miller founded the search team in loving memory of his 16-year-old daughter, Laura Miller, who was abducted and murdered in 1984. The success rate of Texas EquuSearch in finding our missing and returning many of them home alive to their loved ones is truly impressive and a living tribute to the spirit of Laura Miller. Her spirit is alive today in the heart of the Texas EquuSearch members and supporters.

Texas EquuSearch Mounted Search and Recovery Team searches for our Nation's missing and abducted children and adults.

Mr. Speaker, I rise today to applaud and to urge on Texas EquuSearch to continue forward in their mission, assuring that "the lost are not alone."

## JOIN THE FIGHT AGAINST CORPORATE CORRUPTION

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, last week I asked this body to consider immediately the Sarbanes bill. Thank God we had a conference committee, because our bill is actually now stronger than the Senate product, including more jail time, including forfeiture of ill-gotten gains.

Now, on the other side of the aisle, they have been asking for hearings; they have been talking about the Vice President and the President.

Let me suggest to them if they want to have good hearings, let us call Senator CORZINE who headed Goldman Sachs, and let us call Secretary Robert Rubin, the Clinton Secretary of the Treasury, who headed CitiGroup. When we talk about Enron, we ought to talk about all of the players.

There seems to be some real mischief. In fact, Goldman Sachs, Mr. CORZINE used $60 million to run for the Senate. Goldman Sachs was hyping Enron stock past $90. They encouraged people to buy it. So if we are going to have hearings, Mr. Speaker, let us have Goldman Sachs, let us have CitiGroup.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would ask Members not to make references to sitting Senators in violation of the rules.

## WEALTHY CORPORATIONS AVOID THEIR FAIR SHARE OF TAXES

Mr. STRICKLAND. Mr. Speaker, the American people need to know what is happening. Wealthy corporations are choosing to leave America, go to Bermuda, get a post office box, simply to avoid paying their fair share of taxes.

This is happening at a time when our colleague, the gentlewoman from Connecticut (Ms. DELAURO), tried to get an amendment to the Postal-Treasury appropriations bill that would say, if a corporation does this, they should not have access to lucrative Federal contracts. But the leadership in this House said oh, no, we cannot do that.

At a time when we are raising the cost of prescription drugs on our veterans from $2 to $7 a prescription, and at a time when the pension for wartime veterans' widows is a measly $534 a month, we are allowing wealthy corporations, in a time of war, to avoid their fair share of American taxes.

□ 1045

Who is going to pay those taxes? Are veterans?

## BORN-ALIVE INFANTS PROTECTION ACT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, thank you, Jill Stanck. Jill is an obstetrical nurse at Christ Hospital in Illinois. After observing a child born alive after an abortion procedure and left to die, she became involved in righting this wrong through the legislative process, hence, the Born Alive Infant Protection Act.

On July 18 the other body voted unanimous consent to approve the Born Alive Infants Protection Act. The bill is now sent to the President for his signature. This bill passed both Chambers easily because we all felt, prolifers and those that are pro-choice, that infants who are born alive at any stage of development are individual human beings who are entitled to the full protection of the law.

Thanks to the work of Jill Stanck, the Concerned Women of America, Members of both the House and the Senate, and soon President Bush, a baby born alive will not be left to die in a hospital again.

## CUBAN POLITICAL PRISONER DR. OSCAR ELIAS BISCET

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, many of us here in this Chamber have adopted Cuban political prisoners in order to publicize their unjustified incarceration. We have done so in hopes of helping them to regain their freedom and shed light on the numerous injustices and human rights violations of the Castro regime in Cuba.

Mr. Speaker, it is my honor today to discuss my adopted Cuban prisoner, Dr. Oscar Biscet. Inspired by Gandhi and Dr. Martin Luther King, Dr. Biscet's nonviolent resistance to the Cuban government has received international attention. As president of the Lawton Foundation for Human Rights, Dr. Biscet was arrested 40 times in three months for his peaceful opposition and organizing activities.

In 1999, he carried out a 40-day prayer fast and organized schools on nonviolent tactics. This soft-spoken physician was condemned to 3 years in prison for hanging a Cuban flag upside down at a press conference.

Recognized by Amnesty International as a prisoner of conscience, Dr. Biscet has suffered through solitary confinement, torture, and an appalling lack of medical care. Still his faith in mankind endures, as he demonstrated when he told the policemen who were torturing him with lit cigarettes, God loves you.

Mr. Speaker, allowing for political dissent and debate is a fundamental reason why democracy adapts to, and represents the will of the people. I urge the Cuban government to listen to the will of its people, to end its continued human rights abuses, and to release Dr. Biscet and other political prisoners like him immediately.

## COMMEMORATING INDIA'S INDEPENDENCE DAY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on August 15, 1947, India became an independent nation. Just as Americans look forward to their day of freedom every July 4, people of all faiths come together in India to celebrate a struggle for independence begun by Mahatma Gandhi.

Both America and India fought against British domination to secure freedom for their nations. People in both countries cherish the freedoms found in our respective constitutions, such as freedom of speech and freedom of religion. The framers of India's constitution were greatly influenced by the founding fathers of America, James Madison, Thomas Jefferson, John Adams and George Washington.

America is now the world's oldest parliamentary democracy and India the world's largest democracy. The future looks bright for both of our countries. We have grown closer since victory in the Cold War, and rightfully so since we share the same values. America and India should take action to boost our bilateral trade and must coordinate defense strategies to maintain stability in South Asia. Both America and India serve as models for democracy and freedom around the world. And our independence days are symbols of these achievements.

## STOP THE VIOLENT OFFENDERS AGAINST CHILDREN DNA ACT OF 2002

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this Nation must express outrage about its murdered, abused and sexually violated children. Samantha Runnion, and Elizabeth Smart and Laura Ayala in my own district and Danielle Van Dam and Rilya Wilson out of Florida missing for a year. We must express our outrage.

Only 22 States in this Nation require of sex offender registries to keep DNA samples, the very materials that allow those very effective law enforcement in California to find the horrific alleged murderer of Samantha Runnion. That is why this week I will offer the Save Our Children, Stop the Violent Offenders Against Children DNA Act of 2002, that will instruct the Attorney General to hold a separate, free-standing DNA database for all sex offenders and offenders against children in this Nation.

We wish we did not have this kind of violence against our children, our most precious resources, but we should give every opportunity to our law enforcement to be able to find the perpetrator quickly and bring he or she to justice.

What an outrage, killing our babies, and no one standing up to say a word. We must have the ability to solve these crimes and stop these crimes.

## DEPARTMENT OF HOMELAND SECURITY

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, shortly after the events of September 11, we made a promise that we would fight the war on terror to its finish in order to ensure security of every American. Recognizing this, President Bush has outlined a plan to consolidate homeland security functions into the Department of Homeland Security.

The President warned us that making such a major change could be very contentious and this has been proven to be somewhat true. Some are afraid that the traditional missions not related to homeland security may not be adequately filled after restructuring. Others simply balk at the idea of leaving the status quo.

We must use every resource to ensure that the loss of innocent life does not occur again. To achieve that again, we will cut through bureaucracies and consolidate numerous agencies to ensure that future terrorist attacks are prevented.

Our best tool to accomplish this goal is to establish a Department of Homeland Security. Let us keep our promise to the American people.

## WAR WITH IRAQ

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, last night the House passed a $28.9 billion supplemental appropriations bill, $14.5 billion of which was for military funding. Today the House has authorized another $10 billion for an undefined war on terrorism. Barely a day goes by where we do not see reports that the administration is in the advanced stages of planning a preemptive military strike against Iraq. H.R. 4547, the Cost of War Against Terrorism Authorization Act, would authorize over $480 million for chemical and biological defense as well as $598 million in funding for a Tomahawk missile conversion.

Is this military hardware needed in Afghanistan or are these funding priorities directed at preparing the United States for war with Iraq?

## EXCELLENCE IN MILITARY SERVICE ACT

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, I rise today to introduce the Excellence in Military Service Act. This legislation would increase the active duty service obligation of military service academy graduates from 5 to 8 years.

This free and highly competitive college education costs the average taxpayer approximately $300,000 per cadet/midshipman.

As college tuitions continue to escalate, I believe our U.S. military academies will become even more attractive to prospective college students. In light of this fact, we need to ensure that a free education does not become a primary motivation for future applicants. I maintain that increasing the active duty service obligation is an effective way to accomplish this without jeopardizing the viability of these historic institutions.

I hope my colleagues will join with me in co-sponsoring this legislation, and I look forward to working with them to protect the U.S. taxpayers' investments and our Nation's future and ensure the integrity of one of our Nation's most precious resources.

## CORPORATE REFORM

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I rise in support of real corporate reform legislation and urge the conference committee to adopt the proposals put forth by Senator SARBANES.

Financial markets around the world are in a highly anxious mood, U.S. fiscal policy is plunging our country back into deficits, and the credibility of some of our most trusted companies' financial statements is undermined. This is no time to delay the establishment of fully independent oversight of the industry by a newly created public accounting board that is not under accounting industry control.

As the conference committee nears its completion, the funding for the new oversight board must not be used as a means of undermining its independence.

Senator SARBANES' legislation provides the board with funding from public companies as they are audited, a mechanism that separates the board funding from the accounting firms it will oversee and it protects its independence.

The Sarbanes legislation will not turn the markets around by itself but it will send a message to investors here and abroad that Congress is serious about removing the conflicts of interest.

## MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT OF 2002

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, it is time to provide prescription drugs for our senior citizens. It is time to stop fussing and discussing and get down to business.

We just passed recently in this House a Medicare Modernization and Prescription Drug Act of 2002. This Act provides immediate relief from high drug costs with prescription drug discount cards and immediately implements a program to assist low income beneficiaries with their costs. It supplies significant front-end coverage of drug costs from government coverage. 80 percent paid on the first $1,000. It saves seniors more on their drug costs than any other bill in Congress. It lowers pharmaceutical manufacturing drug prices by $18 billion with best price provisions, offers catastrophic protection, 100 percent coverage after $3,700 in drug costs, and it covers all costs except nominal co-pays for low income seniors up to 175 percent of poverty.

Mr. Speaker, it is time that the two bodies come together and provide our senior citizens with prescription drug coverage. Now is the time. Today is the day and we should do it before this year is out.

## PUNISH CORRUPT CEO'S AND ACCOUNTANTS

(Mr. ISRAEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISRAEL. Mr. Speaker, as a New Yorker I know that on the hottest ticket on Broadway has been a comedy, The Producers. The tragedy with recent financial scandals is that we are running the plot line of The Producers in real life.

In The Producers, the accountant, Leo Bloom, is sent to conduct an independent audit of the producer, Max Bialystock. Bialystock begs the accountant to find a way to fudge the books to enhance his earnings. So the accountant finds a way to sell 2,000 percent of stock options in Bialystock's company, losing his independence and becoming part of a scam.

The difference is only on Broadway and in the movies do the accountants and CEO's go to jail. In real life, no one has gone to jail, no personal bankruptcies in senior management, no disgorgements, no accountability. Just victims who have lost it all.

Unlike in The Producers, no one is laughing, not our senior citizen, not our middle class families who are watching their children's tuition funds disappear, not hard-working taxpayers who have to put their retirements on hold. The American dream is turning into an American tragedy right before our eyes and no one is laughing.

## BRING MAIN STREET ETHICS TO WALL STREET

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, back in April 24 when the House Republicans passed Financial Accountability we had three main points to it. Number one, disclosure of facts. Disclosure of facts to employees, to shareholders, to anyone who may have something at stake that there are some problems, so that people can make intelligently investment decisions.

Number two, if you break the law you are going to jail. We have laws against robbing banks, but people still rob banks, but when they do we put them in jail. There is no difference when you steal somebody's pension plan, you are stealing money. You ought to go to jail. You do not have the guts of somebody who would grab a purse and do it in person. You do it behind the cloak of corporate secrecy, behind the cloak of some accounting firm that you are in cahoots with. But if you are caught, you are going to jail.

Number three, if you are the CEO of some big corporation and you have done this, you do not get to retire in your mansion. You do not get to go off to your mountain home. In fact, you get to be a guest of the government inside a penitentiary. That is what we are after.

Let me say this: We need to bring the ethics of Main Street to Wall Street. It is time to have corporate accountability and pass a Republican plan.

## TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 488 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the

Union for the further consideration of the bill, H.R. 5120.

□ 1059

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 23, 2002, amendment No. 5 offered by the gentleman from New York (Mr. RANGEL) had been disposed of and the bill was open from page 75, line 11, through page 103, line 10.

Pursuant to the order of the House of that day, no further amendment to the bill may be offered except:

Pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments numbered 2, 8, 12, and 18 printed in the CONGRESSIONAL RECORD, debatable for 5 minutes each;

An amendment offered by the gentleman from Georgia (Mr. BARR) regarding a national media campaign, and an amendment by the gentleman from California (Mr. GEORGE MILLER) regarding Federal acquisition regulation, debatable for 20 minutes each;

Amendment No. 16, printed in the CONGRESSIONAL RECORD, an amendment offered by the gentleman from Maryland (Mr. HOYER) regarding high sea repairs, and the amendment at the desk offered by the gentleman from Colorado (Mr. HEFLEY) debatable for 10 minutes each;

Amendment No. 21 printed in the CONGRESSIONAL RECORD, debatable for 40 minutes; and

An amendment offered by the gentleman from Vermont (Mr. SANDERS) regarding taxation of pension plans, debatable for 30 minutes.

Each amendment may be offered only by the Member designated in the order of the House, or a designee, or the Member who caused it to be printed, or a designee, shall be considered read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for a division of the question.

### AMENDMENT NO. 21 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. MORAN of Virginia:

At the end of title VI (page , line ), insert the following:

SEC. . None of the funds made available in this Act may be used by an executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Virginia (Mr. MORAN) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

This amendment is necesary because the Office of Management and Budget has issued an arbitrary requirement on all of the Federal agencies to privatize 127,500 Federal jobs by the end of this fiscal year, and as many as 425,000 Federal jobs by the end of fiscal year 2004. That is nearly a quarter of the entire Federal workforce.

OMB's one-size-fits-all arbitrary privatization quotas do not consider the unique needs of different Federal agencies, and we believe will harm the ability of those Federal agencies to most effectively carry out their missions. My amendment today is wholly consistent with what is called the FAIR Act. This is an act that requires the Federal agencies to identify what jobs could possibly be performed by the private sector. In other words, what jobs could be subject to outsourcing.

This amendment does not put a halt to any agency's ability to contract out a single Federal job, and I am not opposed to privatization where it works. There is $120 billion being contracted out now. In fact, there are more people working for the private sector doing Federal work than actual Federal employees. What this amendment is all about is imposing arbitrary one-size-fits-all quotas on all of the Federal agencies.

They are not all alike. The Internal Revenue Service is different from the Department of Defense; the Department of Defense is different from the Department of Justice; and on and on. We think managers should be able to exercise their own individual judgment and knowledge of their agency's mission. I supported the FAIR Act, I still do, but the FAIR Act intentionally left those decisions on how many or how few jobs to contract out to Federal executives.

Now, there was a Commercial Activities Panel, controversial because many of the Federal employee union organizations felt that they were not adequately represented, but they stated, as one of their principles, that the Federal Government should avoid arbitrary numerical goals. That is what this amendment does. It simply says that OMB cannot issue these arbitrary quotas across all the Federal agencies.

The Commercial Activities Panel said the success of government programs should be measured by the results achieved in terms of providing value to the taxpayer, not the size of the in-house or the contractor workforce. The use of arbitrary percentages, and I am quoting, "the use of arbitrary percentages or numerical targets can be counterproductive." That is the purpose of this amendment.

On that panel was Kay Coles James, who is Director of the Office of Personnel Management, and Angela Styles, the Administrator of the Office of Federal Procurement Policy.

The Federal workforce has been reduced by 600,000 Federal jobs for functions carried out by private contractors. That trend is going to continue, but it should continue in a logical, intelligent, responsible way. This quota approach is not responsible, Mr. Chairman.

Now, as I said, there is over $120 billion for services being contracted out. That does not include any of the submarines ships, planes, tanks, et cetera. This is an effort that is going to continue, but it should continue in a responsible manner.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Oklahoma (Mr. ISTOOK) seek time in opposition to the amendment?

Mr. ISTOOK. Yes, Mr. Chairman, I seek to manage the time in opposition.

The CHAIRMAN. The gentleman is recognized for 20 minutes.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe this is an amendment that is a wolf in sheep's clothing. We heard from its sponsor that this is supposedly to stop people from being arbitrary; to stop people from setting some arbitrary quota, as they call it. The amendment has nothing to do with whether things are being done in an arbitrary fashion. The amendment has as its goal stopping the Federal Government from privatizing or outsourcing, or even trying to, anything that involves work that is currently being done by Federal workers.

It has as its goal stopping the Bush administration's management initiative that is trying to save taxpayers significant dollars. Indeed, they project that typically, when it is proper to do so, outsourcing work can save the taxpayers 30 to 50 percent of normal cost for doing certain functions.

There is a process that is established by prior legislation of this Congress, what is called the FAIR Act, what is known as the A76 process, and through this there has already been underway for months an effort to identify work that is done by Federal workers that is considered competitive in nature, where it is competing with the private sector. It may involve data processing, it may involve food services.

The Marine Corps, for example, Mr. Chairman, has just contracted out hiring people to feed our Marines. Rather than having to hire them at the wage rates and the benefit rates and the built-in bureaucracy of Federal employees, they hire people who are experienced in handling food; in ordering it, in preparing it, in keeping the inventories on hand, in managing the right numbers, seeking to save the taxpayers tens, if not hundreds, of millions of dollars a year.

We have already had a process that has identified, through the process that the gentleman from Virginia (Mr. MORAN) claims he supports, it has already identified 850,000 people that are on the Federal payroll, doing work that could be done by the private sector, saving the taxpayers potentially 25 to 50 percent of what we are paying now. However, the Federal employees unions, which are perhaps the strongest labor unions in the country, say we do not want that to happen. We do not care if it saves taxpayers money, we want to make sure that these are union jobs.

That is what is really behind the amendment. The amendment does not say what we have been told it says. I want to read to you, Mr. Chairman, and to the other Members, what the amendment actually says. The amendment states: "None of the funds made available in this act may be used by an executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy."

What it does is to try to stop cold the process of identifying government jobs that are commercial in nature that could be performed by the private sector. It is not about stopping some supposed arbitrary quota. The term arbitrary is not in the amendment. It says you cannot set any goal that involves a number. You cannot set any target that involves a number.

If the goal was to save the taxpayers $1, that is a numerical goal that is outlawed by this outrageous amendment. It is so overreaching. It is not trying to stop people from being arbitrary in having private-public competition, to see who can do the job, who can do it best and who can do it at the best cost for the taxpayers, it is trying to stop the very concept. It is not trying to stop quotas.

If the measure offered by the gentleman from Virginia only said we are going to stop arbitrary quotas and then defined what arbitrary quotas were, then perhaps he might have a case. But his amendment says we are outlawing any numerical goal, any numerical target. And what the Bush administration has done, through the Office of Management and Budget, after going through this process, mandated by statute, mandated by laws passed by this Congress, the process has identified 850,000 jobs currently held by Federal workers that could be done by the private sector and possibly done for as much as 50 percent less than we are paying, they have said, okay, let us try in the next year to compete 15 percent of those. That is 127,500.

It does not say we are going to award those to the private sector. It is saying that 15 percent of these Federal jobs that are commercial in nature, in the next year, are going to have to justify whether they should be Federal jobs or whether they should be outsourced potentially to the private sector, and let the private sector come in and compete and tell us this is what we say we can do and how much we say we can do it for and how we can save the taxpayers money. No guarantee of who is going to win that competition.

But the Moran amendment, by saying we outlaw any goal or any target that has a number, the number may be one employee, the number may be trying to save $1, or the number could be saying we are trying to save the taxpayers $100 million, it does not matter. Any goal, any target that involves a number under this outrageous, overreaching amendment could not happen. We would be locked into the current rate of spending.

Now, right now I am very concerned about how much of the taxpayers' money we are spending and the Moran amendment would guarantee that we could not accomplish savings for the taxpayers. We could not try to hold the line on the size of the Federal Government. We could not try to make things more efficient. We could not let the private sector save us money when they say they can. No. By using language that I believe is deceptive to people, we are told that we cannot have any sort of numerical target because they want to say, oh, that is a quota or that is not a quota.

There is no guarantee of results under the process that is underway, but there is a guarantee of results if we adopt the Moran amendment. The guarantee is taxpayers will lose money. That is the guarantee of adopting the Moran amendment. It denies opportunity to those who want to be able to perform services, whether it be data processing, delivery services, food handling, you name it. If they want to try to provide a service for less to taxpayers, the Moran amendment says "no."

□ 1115

Mr. Chairman, we ought to say "no" to the Moran amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to respond to the gentleman from Oklahoma (Mr. ISTOOK), I have a letter that I would like to share with the gentleman from the Federal Managers Association, which represents 200,000 executives, managers, and supervisors in the Federal Government. They say: "This amendment would simply allow agencies to have the flexibility to make the best decisions for the use of taxpayer dollars without being forced to comply with target percentages." That is all they want to be able to do, to be able to exercise their executive judgment. The FAIR Act, which we supported, intentionally left the decision to the agencies on how many or how few jobs to contract out, so those agencies would have the discretion to determine how best to balance their work loads with their budgets.

I do not understand why it would jeopardize the Federal taxpayers' money when private contractors are now receiving $120 billion just for services and Federal payroll is $108 billion.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA), who is a valued member on the Subcommittee on Civil Service, Census and Agency Organization.

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am proud to be a cosponsor and strong supporter of the amendment. The attempt to set quotas to contract out an arbitrary number achieves nothing. It is bad policy, and I would like to point out some of the misconceptions with regard to the plan: one, that the Federal employee workforce is enormous; and, two, that contracting out immediately makes the government a more efficient, cost-effective workforce. Those are both patently untrue.

Do Members know what the size of the Federal Government was in 1964? It was roughly 1.8 million workers. Do Members know what the size of the Federal work force is today? It is roughly 1.8 million employees. Those individuals railing against big government do not know the facts. If there is a big government problem, it certainly is not due to number of employees. The real growth of government has come through expansion of grants, contracts and entitlements.

Each year the Federal Government doles out $120 billion to contractors compared to $108 billion in salaries and benefits for the Federal workforce. So given this reality, I am puzzled by the recent OMB directive telling agencies to develop plans for competing at least 5 percent of positions listed on their FAIR Act inventories in the next fiscal year. OMB also says all agencies will eventually be required to compete 50 percent of their commercial jobs. That decision is even more puzzling when studies comparing public servants with private contractors have shown that keeping work in-house is a better deal for taxpayers.

In 1994, GAO studied nine contracting-out situations, finding out that in each case tax dollars would have been saved if the work had been done by public servants. A 1998 Army study, the most comprehensive ever done, found that it was paying 46 percent more for each private contractor employee than for each Army public servant.

So the facts are in. Federal employees are a good deal for taxpayers. They do great work for the American people. Really, it is about time that we recognize that situation and stop supporting measures that undermine their efforts. It is clear that setting an arbitrary number of positions that should be outsourced compounds the problems that we have in many agencies.

To meet OMB's quotas, the Department of the Interior can contract out 97 percent of its FAIR Act jobs without public-private competition, and HHS is contracting out 70 percent of its jobs without public-private competition.

This amendment deserves to be passed, and that is why the Moran-Wolf-Morella amendment is so important and so logical.

Mr. MORAN of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise to speak in favor of the amendment. The question has always been do we take a matter inhouse or outsource it. The overriding goal of procurement policy should always be, how did we get the best value for the American taxpayer, period; how do we pay the least cost for the best service.

Sometimes this can best be done inhouse with trained Federal workers who have done something over a long period of time. Sometimes it can be done more efficiently by taking it out to the private sector. Sometimes it can be done because the private sector has a certain expertise and experience level we just cannot get through the Federal employees.

Now, the previous administration had numerous initiatives whereby they would eliminate Federal jobs, and they defined their success by how few Federal employees they had. This was a mistake. What we should have been asking was how much money do we save the American taxpayer, not how many employees we have, how much we are outsourcing and the like.

In some cases the jobs eliminated did not save anything because these jobs were off-budget. They were fee paid for, and they were not costing the taxpayers or the general fund a nickel. In some cases we found out we eliminated Federal jobs, but it ended up costing us more money by going outside. But it was driven by quotas, it was driven by numbers, and I submit that is the wrong approach; and that is the problem with the current legislation, which is why I support the Moran amendment because the current legislation looks at arbitrary percentages and says when it comes to outsourcing and competing things in-house, we are going to look at certain percentages in certain agencies, and we are going to define it by this rather than where do we think we can get the best value for the American taxpayer, not how much money will it save.

There is precious little evidence that the elimination of Federal employees by itself saved money during the previous administration. In some cases, as I noted before, these were fee-based employees, and whatever happened was not going to cost the taxpayers or fee payers a penny, but it was arbitrary.

Competitive sourcing is a good thing; but arbitrary quotas, numerical targets, are a bad thing. I would say to this body that the Moran amendment eliminates the arbitrary numbers. This will still allow discretion within Federal agencies to go and compete things. We should encourage them to do that where it makes sense and where we can bring savings to the American taxpayers.

Our goal should not be to preserve jobs at the Federal level, nor should it be to get a certain percentage to get outsourced. Our number one priority that should drive procurement policy, how do we get the best value to the American taxpayer, this amendment furthers that goal. That is why I urge my colleagues to support it.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I rise in strong support of the Moran amendment, and also acknowledge the gentlewoman from Maryland (Mrs. MORELLA) for her work on this amendment and all of the hard work she does for Federal employees.

To meet OMB's quotas, agencies can contract out these Federal employee jobs without even conducting a public-private competition to determine what the best deal is for the American taxpayer. These targets have absolutely no demonstrated managerial, scientific, or economic justification.

The gentleman from Virginia (Mr. MORAN) is exactly right, they were picked to meet an arbitrary quota. That is not the way to run the government. Under these quotas, the IRS and the Department of Commerce and the Department of Justice, which includes the FBI which is in the forefront of the battle with regard to terrorism, will all be required to meet the same targets.

With the current response effort with the war on terrorism, that does not make any sense. This one-size-fits-all mandate does not consider the unique needs of different agencies and certainly harms the ability of Federal agencies to effectively carry out their mission. For instance, Customs Service, working under heightened levels of security, so much so that the President wants to put it into the new Department of Homeland Security, has no flexibility under these arbitrary quotas.

The Moran amendment would give Federal agencies the flexibility to contract out as much or as little of government work as they feel is necessary to meet the mission requirements. I urge Members to join us in supporting the amendment of the gentleman from Virginia (Mr. MORAN), which recognizes that decisions about how best to deliver government services at the lowest cost to taxpayers should be driven by unique agency mission requirements and not some arbitrary, numerical target or quota that no one understands.

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think part of the problem with this as part of not being what it is said to be, is that this amendment seeks to outlaw math. It says we cannot adopt a target or a goal for outsourcing jobs if there is a number involved in the goal. We cannot set a numerical target.

Each agency has identified under law what they have that are jobs being done by Federal workers that are actually commercial in nature. It could be cleaning, data processing, payroll services, construction. This says the administration's goal for each agency, take whatever they have identified, and do not try to compete them all, just compete 15 percent. They say because it is a number, they outlaw it.

If they are serious about this, they should say we should not try to compete more than this percentage of each agency's jobs; but they are trying to say we cannot set a goal that involves a number, which means we cannot set a goal. This effort to save taxpayers money will not do anything because they will stop that effort.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, today what we are talking about is the effectiveness of the United States Government. Today is yet another attempt by those who wish to place handcuffs and arbitrarily stop the government from making sure that the best available worker is available to do a job that is very important for the American people. This administration understands what this amendment is about, and they said the following: "The administration understands that an amendment may be offered on the floor that would effectively shut down the administration's competitive sourcing initiatives to fundamentally improve the performance of the government's many commercial activities. If the final version of the bill would contain such a provision, the President's senior advisors would recommend that he veto the bill."

Mr. Chairman, it is very plain what this is about. This is about an opportunity to hamper the President of the United States, the OMB, from their ability to manage what is a dynamic workforce today on behalf of the United States Government, a workforce that is not just someone who is concerned about inherently governmental activities that the government performs, but about tens of millions of other jobs, tens of thousands of other jobs, that the government can no longer effectively manage and be able to properly make sure that the American taxpayer gets their dollar in return.

I am in favor of this government having every single penny that they need, but not more than that. We need to make sure that this government has the ability to manage its resources, whether we are talking about cooks, or people who take care of lawns, or whether we are talking about people who provide secretarial services or administrative services. What this will do today is to say directly to the OMB, who falls underneath this bill, that they cannot manage outsourcing activities to make sure that the government is properly organized and run.

□ 1130

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SESSIONS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I would like to say to the gentleman that one of the major concerns on our side for people who represent thousands of government employees, is that there is supposed to be a competition under A76 in order to let the civilian employees try to maintain their jobs. Sometimes they reorganize into a smaller unit and then they try to compete. Part of our concern is that OMB is saying do not do competition in order to achieve these quotas, and I think that is wrong. I think that violates the existing law. That is why we are so concerned about it. We do not object to the A76 competition if the civilians have an opportunity to compete for their jobs. I thank the gentleman for yielding.

Mr. SESSIONS. Mr. Chairman, I do appreciate that. The gentleman is a friend of mine. This is an honest discussion. The fact of the matter is that it stops dead in its tracks the Bush Administration for reform to make sure that every single government job that is performed on behalf of a grateful Nation is reviewed and looked at in terms of its ability to be price competitive and efficient, and that is what this is all about. And I believe that even those people who stand up today who are offering this amendment would argue with me. We want a more efficient Government. But this is a process that will be stopped dead in its tracks. It is not something that would maybe balance out a circumstance.

The Bush Administration, now more than ever, in dealing with the events of September 11, has had to employ many, many people outside of the Government because the Government is busy doing the things they do. The Government is having to provide all sorts of things to help people even in New York City today that would not come from a Government organization but would come from the Government. The Government simply needs the help, they need the ability, and they need the flexibility.

This is about stopping the Bush Administration from providing efficiency and the flexibility to Government. Not on a balanced measure, but on a total stopping basis because they did it right. The people who do not want this went right to OMB and where they are funded.

I urge my colleagues, I urge Members, please do not do this when now more than ever this Government needs the flexibility to address people's issues, to do it effectively and efficiently.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1½ minutes to the very distinguished gentlewoman from the District of Columbia (Ms. NORTON), our foremost advocate for civil rights and civil service.

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time and for this amendment that I hope brings us to our senses. I am bemused to hear some Republicans on this floor arguing for quotas. I thought the administration and the Republican Congress stood against quotas. I want to make it clear I do not support quotas in any context, and I certainly do not support or believe Government can tolerate deciding who gets to perform Government work by the numbers. Let us be clear. The Moran amendment leaves in place total ability to contract out work. It is contracting out without competition that assures a fair deal for the taxpayers that is at issue here on this floor. Contracting by the quotas is arbitrary on its face.

Here is an example. In 1 year, they are supposed to go from 15 percent quota to 50 percent quota in certain job categories. That does not exactly lead to careful analysis. And the DOD has decided that the way to meet such an escalated quota is to simply contract out all of the work without any competition. The other agencies are sure to follow when they see that that is how DOD is going to do it. Why not let civil servants compete to do this work? They have been doing it. Let us see who does it best. I thought that is what the other side stood for.

Another reason that makes no sense is that we need to retain workers for 3 years. We on the Subcommittee on Civil Service and Agency Organization, the House and Senate, have been working to keep workers in this Government. When they hear their work is going to be contracted out, they are going to be out of here.

PARLIAMENTARY INQUIRY

Mr. ISTOOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ISTOOK. Is it correct that as the advocate of the committee's position, I have the right to close?

The CHAIRMAN. The gentleman is correct.

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute and 20 seconds.

Mr. Chairman, I noticed the gentleman from Washington (Mr. DICKS) said that the intent is to make sure that, under the laws that we have passed, there is competition for jobs that are commercial in nature so that Federal employees have the right to compete against the private employees and they are not automatically outsourced. I think that is a very valid position. It is not, however, what the amendment advocates, because the amendment by its express terms prevents public-private competitions.

Any time that you set a goal, if you say we are going to have one competition between the public and private sector, it is outlawed. If you say that 1 percent of the commercial jobs in the Federal sector is going to be competed, it is outlawed. The amendment does not do what many people claim it does. The amendment stops all efforts to have public-private competitions to see if we can save taxpayers' money which typically those competitions save the taxpayers 30 to 50 percent.

The Department of Defense reports that during the Clinton administration years, they outsourced some 550 different initiatives that will be saving taxpayers about $1.5 billion each year. Those efforts could not be pursued by the administration under the language proposed by the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

The gentleman is absolutely wrong. The Federal executives will be able to contract out all the jobs they want based upon their judgment of what is in the best taxpayers' interest.

Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. DICKS), the ranking member on Interior appropriations.

Mr. DICKS. Mr. Chairman, I strongly support this amendment. The FAIR Act was created to list these commercial jobs. It said nothing about quotas or forcing these jobs to be contracted out. That is all we are asking for. Do not set quotas. Let them go in and have a competition under A-76 for these jobs.

I would say to the gentleman, I have served on the Defense Subcommittee, and I know for a fact that once we contract these jobs out, then the cost of the work goes up. OMB fought against us. We used to have postcontracting audits to make certain that once the thing was contracted out, that we actually saved money and did not pay all these contractors more money than we were paying the civil servants. This is ridiculous. This Moran amendment is needed. We do not need quotas. We need A76 competition. Let us have competition between the public employees and the private employees and let us see who can do the best job and let us do it on an agency by agency basis. Let us support the Moran amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Chairman, as the founder and cochairman of the Correctional Officers Caucus, I rise in support of this amendment.

I rise today in support of the Moran-Wolf-Morella amendment. As a co-chairman of the Congressional Correctional Officers Caucus, I am acutely aware of the placement of thousands of correctional jobs in our Federal prisons on the FAIR Act inventory. Here's a list from the Department of Justice—it lists 10,260 DOJ jobs that are quote-unquote "commercial activities." Of those ten thousand jobs that the OMB would have us turn over to the private sector, 7,670 are from the Federal Bureau of Prisons. Quite frankly, anyone who says that a job in a prison is "not inherently governmental" has not spent enough time in a prison. I worked in a state correctional facility in Ohio for eight years and I will not accept that OMB should be able to force a prison to replace its trained correctional workers with untrained, private-sector cooks or night-shift janitors just because the cost is cheaper. Prisons can be dangerous, and workers cannot switch between private-sector jobs and prison jobs without risking their own safety and that of others. Now, more than ever, with our increased focus on terrorism, we need trained, Federal, correctional workers in our Federal prisons. These prisons often serve as administrative holding pens for the INS and Federal courts for terrorists. For example, in 1998, two defendants on trial for the 1993 World Trade Center bombing assaulted an employees of a facility in Lower Manhattan, immobilizing him for life. This amendment would prevent OMB from setting prison policy. It would ensure that our Federal correctional workers are just that: Federal. For this House to vote to federalize all baggage screeners at airports, and then to allow OMB to force ill-prepared workers into the ranks of our Federal prisons is abominable. Let's let the agencies manage their own personnel, and let OMB manage itself. Vote "Yes" on the Moran-Wolf-Morella amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, this amendment recognizes the principle that competition should drive decisions about work management. We all know that over the years, there has been some sentiment that somehow or another government work is inferior, that the private sector can do it more effectively, more efficiently and save the taxpayers money. But that is a flawed notion. It is a flawed argument. There is a cadre, a corps of competent, hard-working Federal employees who have the expertise and skill to do the job. We need to provide for them the opportunity to compete, to display their skills and talent. That means the only way we can do it is to support the Moran amendment. I urge its support.

Mr. ISTOOK. Mr. Chairman, I yield myself 2½ minutes.

I think the most important thing that anybody can do, Mr. Chairman, in this particular debate, or any debate when people say, well, this amendment does one thing and someone says, no, it does not, it does something else, the most important thing people can do is read the amendment. Look for yourself.

The gentleman from Virginia would have people believe that this amendment is just about outlawing quotas, that it is about outlawing arbitrariness.

Not at all. Nothing in the amendment says anything about arbitrary decisions. And although, yes, it does mention outlawing quotas, it goes far, far beyond that. It outlaws setting goals. It outlaws the very first steps in the process of trying to determine whether taxpayers are best served by having certain work done by government workers or by workers in the private sector.

We spent a lot of time in this Congress setting up this process to compete public and private jobs, but the amendment states, you cannot establish, and I quote, any numerical goal, target or quota. It does not say we are outlawing quotas. It says we are outlawing numerical goals. We are outlawing targets. We are outlawing things in the very first stage of the process, the goal-setting stage. If you say our goal is to save the taxpayers $10 million, oh, no, can't do it under the Moran amendment. If you say our goal is to compete 1 percent of the jobs that have already been identified by the agencies as being commercial in nature and we just want to have a competition to see can it best be done in the public sector or can it best be done in the private sector, no, because you said we want to compete 1 percent.

If the Bush administration or its Office of Management and Budget, should they contact an agency and say we want you to try to at least compete 1 percent of the jobs you have, or just one job, under the gentleman from Virginia's amendment, that is illegal. Nobody has any control over the Federal bureaucracy under the gentleman from Virginia's amendment except, of course, the Federal employees labor unions. That is not right.

Let people set goals and have the competition. Let us see who wins the competition. Which is best for the taxpayer in each specific instance: Is it best that this work be done by the public sector or best to be done by the private sector? Do not be afraid of finding out. Vote against the Moran amendment. When in doubt, read the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. Mr. Chairman, let us make no mistake about what this debate is all about. It is about privatization, not about whether we should save taxpayers' money.

Did you know that today, any Federal manager who wants to outsource or privatize any or all of his or her Federal workforce's jobs can do so? Today they can outsource or privatize any or all of their work if they can demonstrate it saves taxpayers' money. So why has the Bush administration and so many of my Republican colleagues said we need a quota where by the end of fiscal year 2003, 85,000 Federal jobs must be privatized when they can do so now if the managers feel it is important and will save taxpayers' money?

□ 1145

Why do they want that privatization quota? Because my friends on the Republican side of the aisle, most of them, and this President, believe in privatization. That is why they still want to privatize Social Security. That is why when we talked about prescription drugs for seniors, Democrats said put it under Medicare where it will be safe and all seniors can get it. My Republican friends said, no, prescription drugs for seniors, give it to private insurance companies to manage. Privatize it, just like the Medigap coverage. They believe in privatization.

They hate big government. That is why they wanted to privatize Social Security, that is why they voted against Medicare when it first came up, and they want to do this now with prescription drugs and these employees.

Support the Moran amendment, and let competition be the rule of the day, not quotas and privatization.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, you have heard the truth today. This is all about employee labor unions, government labor unions, versus the White House. But there is so much more that needs to be said. We have talked about government efficiency. The fact of the matter is that this United States Congress is going to provide the most money we have ever provided, ever, to the United States Government to perform its tasks and duties that need to be done. The Bush White House believes that government will and should get every dollar it needs, but not a penny more that might go to waste.

What this Bush Administration is asking for is the ability that they have to manage the workforce with the dollars that have been given to them. There are things that happen every day, not just September 11, but disasters across this country. The Bush administration may want to do the right thing by outsourcing things that might be done to where people can be helped.

The bottom line is this is about whether we are going to stop the Bush Administration from doing those things that are oriented to reform, about whether the Bush administration is not going to be able to manage its resources and assets out of the OMB. It is real simple. I understand it, and I get it.

I think this body should respond by saying we need to give this President the opportunity to not only reform government, but to make sure that efficiency and correctness is done with the efficiency and assets that are given to the government.

George Bush is honest and sincere about taking care of people's problems and needs, but he needs the ability to manage that in a dynamic workplace and in a dynamic country where the needs pop up every day.

If you say all the work only has to be done by government employees, then I think that the American people are missing out. I support what we are doing today to say no to the Moran amendment, because it is wrong and does not help government efficiency.

Mr. MORAN of Virginia. Mr. Chairman, how much time is left?

The CHAIRMAN. The gentleman from Virginia (Mr. MORAN) has 1½ minutes remaining, and the time of the gentleman from Oklahoma (Mr. ISTOOK) has expired.

Mr. ISTOOK. Mr. Chairman, my time has expired? Would you double-check that, please?

The CHAIRMAN. Two minutes was yielded to the gentleman from Texas (Mr. SESSIONS), and that expired all the time for the gentleman from Oklahoma.

Mr. MORAN of Virginia. Mr. Chairman, I reserve the balance of my time.

Mr. HOYER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman cannot move to strike the last word until the time for debate has expired.

Mr. HOYER. Mr. Chairman, under the rule, I am the ranking member.

The CHAIRMAN. The amendment is pending. There are 1½ minutes remaining for debate under the amendment offered by the gentleman from Virginia (Mr. MORAN), and until that time has been completed, the Member cannot strike the last word.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I rise in favor of the Moran amendment. It is an important amendment, and I urge all Members to vote for it.

Mr. Chairman, this amendment is simple. It would prohibit federal agencies from using arbitrary quotas to subject federal employees to either public-private competitions or direct conversions.

This Administration has directed agencies to review for outsourcing 425,000 jobs by the end of 2004. In March 2001, OMB directed all agencies to contract out at least 5 percent of the jobs capable of being outsourced. That's 42,500 jobs. That quota increases to 10 percent in FY 03—another 85,000 jobs.

The use of these quotas has been roundly criticized for their one-size-fits-all approach to improving efficiency in the federal government. Arbitrarily assigning quotas is poor management practice. It demoralizes the workforce and forces reductions where none may be warranted.

These quotas will also encourage agencies to contract out the jobs of federal employees through direct conversions, without the often time-consuming public-private competitions. This unfairly denies Federal employees the opportunity to defend their jobs and denies the taxpayer the benefits of such competition.

I know that Representative TOM DAVIS from the Government Reform Committee agrees with these concerns. At a hearing last year he said he was "alarmed" by OMB's use of quotas and that "No justification for these percentages has been offered to date."

So this amendment should not be controversial. It would not prevent agencies from competing, converting, or contracting out Federal jobs. However, agencies would no longer be forced to comply with arbitrary quotas. .

When debating this issue, we used to hear the argument that we needed to wait for GAO's Commercial Activities Panel to issue its report before prohibiting the use of quotas. Well that report was issued in April and one of its principle recommendations was to "Avoid arbitrary full-time equivalent or other arbitrary numerical goals." It goes on to say that "the success of government programs should be measured by the results achieved in terms of providing value to the taxpayer, not the size of the in-house or contractor workforce. . . . The use of percentage or numerical targets can be counterproductive."

OMB has generally endorsed the results of the GAO Panel report. It should endorse the recommendation on quotas. They are generally recognized to be bad management technique and we should eliminate them. I urge members to vote for the Moran amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the point I want to make is that we are not opposing privatization, we are not opposing outsourcing, and the point that the gentleman from Oklahoma was trying to make simply is not consistent at all with this amendment.

We are opposed to arbitrary quotas. They are arbitrary because they apply to every single Federal agency. The Department of Defense is different from the IRS. More than 225,000 jobs in the Department of Defense are supposed to be privatized by the end of 2004. The managers at DOD said that is not going to work. But at the IRS, do we really want to apply the same arbitrary quotas? Do we really want private accounting firms reviewing income tax returns, private collection agencies enforcing income tax receipts? I do not think so.

Every agency is different, and every Federal manager understands their agency. We do not want arbitrary quotas, but we certainly want the best use of the Federal taxpayers' money. It is only managers that can identify what jobs should be privatized by function.

Mr. Chairman, OMB's directive is so burdensome that the result is direct conversion of jobs to the private sector against the wishes of the managers, because the managers know that the only way they are going to get a green light, which is the system that OMB is imposing, is to meet these targets. But they also know they are arbitrary. They know they are not in the best interests of the taxpayer.

The CHAIRMAN. All time has expired on this amendment.

Mr. HOYER. Mr. Chairman, I ask unanimous consent that there be an additional 5 minutes of debate on this amendment, and that that time be equally divided, 2½ minutes to the chairman of the committee and 2½ minutes to the gentleman from Virginia (Mr. MORAN).

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. The gentleman from Virginia (Mr. MORAN) is recognized for 2½ minutes.

Mr. MORAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I rise in very strong support of this amendment.

The gentleman from Texas (Mr. SESSIONS) makes a good point. All of us want the government managed so that we save taxpayers' dollars and we effect the ends that this Congress wants effected on behalf of the American people. This is not a partisan amendment. This is not a union amendment, let me say. I want to read you two quotes that I hope Members listen to.

One is from David Walker, the Comptroller General of the United States. By the way, he is not a Democrat, as you probably know. In considering this issue, and the issue is simply whether or not you set numerical, and that is the key, "numerical," that is the word in this amendment, and, yes, I have read the amendment, numerical, because once you set the numerical, then you in effect say either you have to or you in fact have an expectation that you will get to X percentage, irrespective of whether the competition and the analysis shows you save money. Irrespective of that. That is the problem with the policy that the President is pursuing through OMB.

Now, what does the Comptroller General, a Republican, the head of GAO, the head of overlooking efficiency and effectiveness in government, say? "It is inappropriate to have quantitative targets in the area of competitive sourcing." The Comptroller General. He disagrees with your proposition, therefore. He disagrees with the President's proposition. Why? Because it is not an effective and efficient way to accomplish the objective that all of us share.

Secondly, not a partisan politician, Paul Light, respected overseer of the Brookings Institution view of public employment, says this: "The Bush administration should show that it means business by imposing a moratorium on its competition initiative which has a," listen to this, "ready-fire-aim quality, and think more systematically about what the Federal Government needs to do its job."

That is what the Moran amendment says.

Support the Moran amendment. Reject arbitrary and capricious management by numbers.

The CHAIRMAN. The gentleman from Oklahoma (Mr. ISTOOK) is recognized for 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I continue to be amazed by the difference between the rhetoric and the reality. The amendment that we are asked to approve does not outlaw just results, it outlaws the competition. The amendment states you cannot set a goal for what percentage of jobs or how many or what dollar targets. You cannot set a goal for how many jobs you will compete.

We are not talking about a guarantee of the results of the public-private competition. They want to stop the competition from ever happening.

A couple of years ago, Mr. Chairman, we in Oklahoma were so proud that the Oklahoma Sooners had a chance to play for the national championship game in football against Florida State in the Orange Bowl. But under their scenario each side could say, "You know, we have got the better team," but you could never play the game.

They outlaw the competition under this amendment. They say you cannot play the game. So it does not matter what else they may say about it or what else they may include in the amendment. The killer in their amendment is you cannot set a goal for what you are going to subject to competition.

The Bush administration is not setting a goal saying you must transfer so many jobs from the public sector to the private sector. They are saying of the jobs that you have already identified as being commercial in nature, take 15 percent of the jobs that you identified and find out. Have the competition between the public sector and the private sector, but do not outlaw the game from being played.

You cannot set a goal, you cannot set a target, without including a number. They say any goal, any target that has a number in it, is illegal. That is wrong. That undercuts the reforms that this Congress has adopted trying to save the taxpayers money.

The Department of Defense says they are already saving about $1.5 billion each year because they have followed this process. We have the potential for hundreds of millions or billions of dollars of savings to Federal taxpayers by saying, Federal employees, compete against the private sector for activities that are inherently commercial in nature.

Let it happen. Play the game. Find out who is right or wrong. Do not stifle competition. Do not outlaw competition, like the Moran amendment does. Vote no.

Mr. DAVIS of Illinois. Mr. Chairman, I rise in support of the amendment offered by my colleague Mr. MORAN of Virginia, which affords flexibility to Federal agencies in decisions concerning contracting out of government work.

There has been a growing sentiment over the years that government work is inherently inferior to that offered by the private sector—that somehow the private sector has a monopoly on brains, diligence, and professionalism. As a result, there has been a thrust towards establishing across-the-board quotas to privatize more and more of the work traditionally done by the government.

However, these assumptions are flawed. We have certainly learned a lot in the last year. First, there is a core of extremely competent Federal employees dedicated to serving the American public. Second, there is an undercurrent of greed and abuse in the private business world that is not worthy of emulation.

Representative Moran's amendment recognizes that decisions about how best to deliver government services in a quality manner at the lowest cost should depend on unique agency mission requirements, and not on arbitrary across-the-board quotas for privatization. I urge my colleagues to vote in support of this amendment.

Mr. KIND. Mr. Chairman, I rise today to support the Moran-Wolf-Morella amendment that would prohibit the use of arbitrary outsourcing quotas for federal jobs. The Office of Management and Budget (OMB) issued a requirement that every federal agency open up 15 percent of the federal jobs listed on its Federal Activities Inventory Reform (FAIR) Act inventory to outsourcing by the end of FY 2003. OMB has also stated its ultimate desire to establish a final quota to outsource 50 percent of these inventoried positions, roughly a quarter of the entire federal workforce.

This one-size-fits all mandate does not consider the unique need of different agencies and could harm the ability of federal agencies to effectively carry out their mission. Some agencies have more experience with outsourcing than others. At present, the Department of Defense (DOD) is a leader in outsourcing federal jobs. However, the Government Accounting Office (GAO) has found that DOD has had difficulty determining the actual costs of contracting out services and these problems call into question the purported savings incurred.

Currently, I am experiencing this issue first hand in western Wisconsin where the employees at Ft. McCoy lost a contract bid to provide administrative services at the Fort. This decision threatens over 400 jobs. I, along with other members of the Wisconsin delegation, have asked DOD to review the decision to determine if outsourcing, in this instance, is the best way to optimize Ft. McCoy's mission and achieve real savings.

Opponents claim that the Moran-Wolf-Morella amendment would end the contracting out program. This is simply false. The amendment would provide the agencies with the flexibility to outsource as they see fit. It just would prohibit OMB or another agency from using numerical quotas, targets or goals for opening up federal employment jobs to private contractors.

Decisions regarding how to best deliver government services at the lowest cost should be driven by unique agency mission requirements, not arbitrary numerical requirements for privatization. I urge my colleagues to support the Moran-Wolf-Morella amendment.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MORAN of Virginia. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. MORAN) will be postponed.

### AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HEFLEY:

Page 103, after line 10, insert the following new section:

SEC. . The amount otherwise provided by this act under the heading "Allowances and Office Staff for Former Presidents" is hereby reduced by $339,000.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each will control 5 minutes.

Mr. HOYER. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN. The gentleman from Maryland (Mr. HOYER) will control 5 minutes in opposition.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for the first time in our Nation's history, we have five former presidents alive at the same time. We are also in the process of recovering from an economic downturn and all Americans are being asked to tighten their budgets to make ends meet.

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That should include all government employees and agencies, even our former Presidents. We should make a strong effort to use cost-effective methods of operating our offices.

The trend of drastically increasing the amount of money we give our former Presidents to operate their offices is a trend that we have the ability to control. We have a situation where former President Clinton's rental expenses will end up costing taxpayers at least $436,000 next year, whereas the expense of Ford, Carter, Reagan and Bush's offices combined would only cost $528,000.

We are also seeing a drastic increase in miscellaneous services. Former President Clinton received $80,000 for what is called "other services" in fiscal year 2002. That is roughly five times the amount that former President Reagan used, six times the amount that former President Bush used, and eight times the amount that former President Ford used in fiscal year 2002.

Now, I am not picking on President Clinton. What I am trying to do here is simply show a trend. After all, there are more Republican former Presidents than there are Democrat former Presidents, and may it always be the case; but there is a trend there.

Many of the allowances for former Presidents are necessary; no question about that. However, numerous costs leave room to be reduced.

I am asking for a reduction in these budgets, as they have seen strong growth in the past few years. I want to take care of our past Presidents, but enough is enough. I am merely asking for a slight reduction in allotting these funds. We cannot continue to increase the allowance at the rate of more than 10 percent every year.

What I am asking for, Mr. Chairman, is that in the time of impending budget deficits, we tighten our belts where we can. What we are talking about is a little over $300,000 worth of reduction here, not a monumental amount as our budgets go; but at least it would reverse this trend of ever increasing these particular accounts.

Mr. Chairman, I reserve the balance of my time.

Mr. HOYER. Mr. Chairman, I rise in opposition to the gentleman's amendment, and I yield myself such time as I may consume.

Mr. Chairman, we passed on suspension a bill that passed overwhelmingly that allocated $10 billion. It was subjected to 40 minutes of debate on this floor last night. We voted. There were hardly any votes in opposition.

This issue is so de minimis in terms of its dollars, any dollar is important, I understand that, but that it must be interpreted simply as either symbolic or annoying.

The gentleman from Colorado projects this as a small amount of dollars but, relatively speaking, I will tell my friend, they are a relatively large number of dollars. In fact, they are 41 percent of the discretionary dollars from which this cut would have to be made, almost half.

Now, why do I say that? Because pensions are given, salaries of those currently on board working for President Ford, President Clinton, President Bush, President Carter are not going to be cut, so that the remaining money will simply be cut from the $880,000 for all five Presidents, and Mrs. Johnson, the widow, who gets a very, very small sum and, therefore, the sum that the gentleman suggests, while yes, presumably a smaller sum of the whole, but because so much of the whole is already committed, that which remains, the discretionary dollars from which it is cut, it is a 41 percent cut.

Now, Mr. Chairman, there are more Republican former Presidents, but let me tell my colleagues one that I speak to most frequently, interestingly enough, not a Democrat, but a Republican, for whom I have great respect and unlimited affection, and that is President Gerald Ford, who has used his resources, his position, his experience, his wisdom in a very positive way, as has President Carter, and as have all of the other Presidents. I will tell my colleagues that President Ford believes these kinds of amendments are, in effect, simply scratching former Presidents, as if somehow they are a problem fiscally for the country. Indeed, I look at them as just the opposite: a great resource for this country, that we spend some $3.3 million on, to allow them to be effective in their role, unique role, as former Presidents.

So I would ask my colleagues to review this amendment in the terms of, A, it is a relatively small amount of money in the context of the dollars that we are talking about, even in this relatively small bill, but a significant sum in undermining the ability of former Presidents to travel and, frankly, when they travel on the private sector, my colleagues must understand, they travel at private sector expense, not a public expense, not at taxpayer expense.

Mr. Chairman, I reserve the balance of my time.

Mr. HEFLEY. Mr. Chairman I yield myself such time as I may consume.

I think the gentleman from Maryland has a good point, this is a small amount, and it is somewhat symbolic. It is saying, when we are trying to get our budget back in balance, we need to cut wherever we can cut. But even though I would say to the gentleman from Maryland (Mr. HOYER) that it is a small amount, it amounts to all of the taxes, Federal income taxes paid by 60 American taxpayers, average taxpayers. That is a lot of money for them. That is all their taxes.

What we are saying is, for those 60 taxpayers, we are going to use your money in a more effective way. We are going to use it for things that maybe are a little more important.

I tell my colleagues, when we are in this kind of a situation, when we are in great times, we do not seem to worry about it much; but when we are in these kinds of tight times, we really do need to put value judgments on where we spend our money and where we do not spend our money and where we save money wherever we can.

So I would again encourage the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HOYER. Mr. Chairman, I yield 50 seconds to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, although I have, frankly, a great amount of sympathy for the amendment offered by the gentleman from Colorado (Mr. HEFLEY) and I think there is a need for us to do something regarding the accounts of former Presidents, I do not believe this amendment is the way to do it, because I believe we need to lay a groundwork and to do whatever we might accomplish through an understanding between the Congress and the offices of the former Presidents.

These accounts were established, of course, back in the years when former Presidents did not have a stipend, did not have very huge speaking fees and other sources of revenue, and played a very different role than they do today. I think there are some things that we can accomplish in having some savings, but I believe that comity between the executive and the legislative branches requires that we try to do that in an orderly fashion and lay a groundwork with former Presidents, rather than try to change the ground rules that we have followed for many years arbitrarily.

So, therefore, despite my sympathy for it, I do urge a "no" vote on the amendment by the gentleman from Colorado (Mr. HEFLEY).

Mr. HOYER. Mr. Chairman, I yield myself such time as I may consume.

I would hope that not only the respect for these five former Presidents, unique Americans, but also an understanding of the important role they play in our country, would lead to Members opposing this amendment, and I urge them to do so.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

I respect our former Presidents, and I think they have a unique role to play; and I want them to play that role, and I want us to provide for them so that they can play that role. But do we really need half a million dollars to support them playing that role each year? Ford, Carter, Reagan, about a half a million dollars, a little more, a little less, about a half a million dollars.

By the way, President Carter, who I have great respect for as a former President, a tremendous former President, I think, he asked for no increase whatsoever this year. President Bush, former President Bush, he is moving up towards three-quarters of a million dollars, and, of course, President Clinton is $1.1, a little over $1.1 million. Do we really need, for instance, in Clinton's case, to spend $436,000 for rent? Do we really need that? Now, he chose New York City. He could have chosen Arkansas, where he is from; but he chose New York City. Do we really need to spend half a million dollars on his rent? Do we need to spend $174,000 for the rent of President Bush in Houston? Mr. Chairman, I question these things. I think this symbolically does send a message that we are trying to get a grip on spending up here. It does not make a great impact on the total budget of the United States Government, but it does send a message.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, does the gentleman agree with me that the items he has mentioned and, obviously, they go down the further the President is a past President; does the gentleman agree with me that the dollars he seeks to cut would not and could not be cut from those items?

Mr. HEFLEY. Mr. Chairman, no, I do not.

Mr. HEFLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment of the gentleman from Colorado (Mr. HEFLEY) will be postponed.

### AMENDMENT NO. 18 OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. KUCINICH:

At the end of the bill (before the short title), add the following new section:

SEC. ___. None of the funds provided in this Act shall be used to enforce or implement discounts for the statistical value of a human life estimated during regulatory reviews through implementation of OMB Circular A-94 Guidelines and Discount Rates for Benefit Cost Analysis of Federal Programs or any guidance having the same substance.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each will control 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I reserve a point of order.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to offer the Value of Human Life Amendment. I believe that all human lives are equal. Our founders said as much when the Declaration of Independence was drafted: "All men are created equal." Whether young or old, born last year or next year, no one person is worth more money than the other intrinsically. I think that nearly all of my colleagues in the House would agree with me on this point. Unfortunately, the Office of Management and Budget has been acting in a way contrary to this deeply held principle of human equality.

When the Office of Management and Budget goes through a regulatory review, it expects that an agency has completed a cost-benefit analysis. As part of the cost-benefit analysis, sometimes, human lives are included.

For example, the arsenic rule that was accepted by the EPA last year will result in a savings of many human lives that otherwise, if exposed to a higher exposure to arsenic, would have been lost. For the cost-benefit analysis for that rule, all of the lives that would have been saved were added up in dollars at a rate of about $6.1 million per person. In the cost-benefit analysis, EPA included the total figure, in dollars, as part of the total benefits of lowering arsenic levels in the drinking water.

Now, what if, instead of being worth all the same, many lives were valued at a much lower level, say $1.1 million. This is exactly what an outside group, the AEI-Brookings Joint Center for Regulatory Studies did in its study. It did not want to see arsenic levels in drinking water lowered, so it employed the tactic of human discounting. Human discounting is when a discount rate is applied over a time period to reduce the dollar value of the human lives that are saved. So instead of calculating the number of lives saved at the same value, human discounting artificially reduces the dollar value of human lives. By reducing the value, it makes the benefit appear smaller.

AEI-Brookings assumed that the cancers caused by arsenic would not apply for 30 years, so it applied a discount rate over 30 years. Applying these calculations, it estimated the value of a life at $1.1 million instead of the EPA's estimate of $6.1 million.

The impact of using discounting on the value of human life was enormous.

Relying upon the AEI-Brookings study, the Washington Post ran a series criticizing EPA, and the Administration held off on the rule for 8 months, accepting it only after enormous public outcry.

The use of human discounting is a tactic used to distort the benefits of a policy. Instead of having a discussion of saving lives, it allows opponents to reduces lives to dollars, and then reduce the dollar value. Human discounting is literally, a discount on life. It places a reduced value on a human life. Human discounting cheapens life. Human discounting says, a person is not worth as much next year as he is today, and the dollar value or his or her head is less next year than it is today.

For tangible objects, like buildings or machines, the concept of discounting makes sense. We employ depreciation rates all the time. Capital things depreciate, and that can be reasonably measured. But is it just to or even reasonable to employ depreciation rates for people? Congress has never allowed it before.

Since 1992, when the OMB presented Circular A–94 that specifically advised agencies to use a 7 percent discount rate, it has continued to issue guidance and communications to agencies to apply this discount rate to human lives. However, there is no statute that Congress has passed that tells agencies to sue a discount on human lives. There is no statute that even permits it. Yet OMB has advised agencies that discounts should be applied to human lives when cost-benefit analyses are completed.

Ending human discounting is the ethical thing to do by refusing to put different dollar values on different people. If OMB advises agencies to discriminate between different ages of people, what is to stop it from putting different values on people based on income, race or gender?

I urge OMB and other agencies to stop this practice and use the same value for all human lives.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KUCINICH) has expired.

Mr. ISTOOK. Mr. Chairman, before taking time or pressing a point of order, I would ask the gentleman if he would be willing to withdraw his amendment.

The CHAIRMAN. Let me just state that each Member was recognized for

2½ minutes, a total of 5 minutes debate under the unanimous consent agreement on this amendment.

Mr. ISTOOK. Mr. Chairman, rather than my consuming the time and pressing the point of order, I would inquire of the gentleman from Ohio if he is willing to withdraw his amendment.

Mr. KUCINICH. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

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AMENDMENT NO. 16 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. HEFLEY:

At the end of the bill (before the short title), insert the following:

SEC. . Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am asking we make a 1 percent reduction in our spending for the Treasury and Postal Services appropriations. With a discretionary budget of roughly $18.5 million, a 1 percent reduction with amount to $185 million, which is a lot of money to most of us but not a lot compared to the overall budget. When dealing with these billions and billions of dollars of spending, this is a figure that the agencies can easily work around.

I am not criticizing, Mr. Chairman, the work of the committee. I know the dynamics of getting a bill through the committee and getting it to the floor, and I think they have done a good job on this bill. But the last estimate for this year's budget deficit would amount to roughly $150 billion dollars.

In order to balance this budget, Mr. Chairman, I am asking that every agency make a minor decrease in its rate of spending. I am not asking for any agency to take a big cut. I am requesting that they reduce their spending. If every agency complies with this request, we can actually come close to offering a balanced budget this year. We would the excuse that. We are at war and we are at a time of economic downturn. And, by gosh, that is a good excuse. It is not only an excuse, it is a reason. And if we want a reason to not balance the budget this year, we have got reasons for not balancing the budget this year. But I think we need to adopt the philosophy that if we do not have it, we do not spend it. We tighten our belts and we figure a way to maintain that balanced budget.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Oklahoma is recognized for 5 minutes.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Despite my great sympathy for the amendment offered by the gentleman from Colorado (Mr. HEFLEY), I cannot support it. This particular bill, were it subjected to across-the-board cuts, would find that we have significant cuts and reduction in homeland security efforts which are the major focus of the bill.

We have already identified in the subcommittee and the committee several places where we have applied significant cuts, for example, the Bureau of Public Debt, some $23 million. Bureaucracy within the Office of Narcotics and Dangerous Drugs in excess of $10 million. The First Accounts Program with the Treasury Department, approximately $6 million say from what we had last year and yet improve the program, I believe. These are certain examples and there will be others.

We have what we have done, Mr. Chairman, in this bill is to try to accomplish savings every place we can and plow those into the front lines of homeland security. Border security, in particular with the Customs Service, where we have significant increases in the air and marine program, the investment and information technology, in the research and developments to use better levels of technology to secure our borders, the Container Security Initiative, trying to protect us from having something brought in within the $8 billion daily of commodities that come into the country as part of the international trade. I do not think we could accomplish an across-the-board cut without jeopardizing those.

I do agree with the gentleman about the need for significant cuts overall in Federal spending. Unfortunately, because of the extreme needs of homeland security and national defense and the as yet unwillingness of people to make some sacrifices in some other places in the government, I do not think it is a practical amendment at least certainly not in this particular bill. I do want to work with the gentleman and everyone else in this body to try to identify more specific cuts that can be made in all of our bills, but I cannot support this particular amendment.

Mr. Chairman, I yield the balance of my time to the ranking member, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I rise in opposition to this amendment. A one percent across-the-board cut, small number.

First of all, let me say to the gentleman something he did not say, the committee has already adopted the President's administrative cuts of $50 million across the agencies with the exception of the law enforcement agencies, with the exception of the law enforcement agencies because as the gentleman has pointed out, we are confronting terrorism here at home and around the world.

But let me speak to the larger question that the gentleman, I think, probably does not know, and too many of our Members do not know this fact, the public probably does not know this fact either.

In 1962, 40 years ago, this country spent 3.4 percent of its gross domestic products on domestic discretionary spending. That is what this is all about, spending on the Treasury Department, GSA building, the President's salary, expenses that we are talking about, 3.4 percent. The last year for which we have record, we are in 2002, for 2001, I tell the gentleman, notwithstanding all the rhetoric about exploding expenses, we spent 3.4 percent of GDP on domestic discretionary spending.

Only one year I tell my friend, from 1981 through 1993, the presidencies of Ronald Reagan and George Bush, only one of those years did we spend as little as 3.4 percent of GDP. All the rest of the years were either in the 3.5's or above or in the 4 percent of GDP.

So I tell my friend, the Committee on Appropriations, which all the authorizers think is spending money willy nilly, is spending less money today as a percentage of GDP than we did in the Reagan and Bush years. So the belt has been tightened. That is important that the public understand that.

I speak in strong opposition to this bill. It is so easy to come to the floor and say do 1 percent across-the-boards, or 2 percent or 5 percent or 10 percent. That is easy. What is tough is to come to this floor and say cut X or Y or Z because it is not as effective and efficient.

Mr. HEFLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Idaho (Mr. OTTER) is not here, so I guess I will go ahead and close. I do not want to hold things up.

Both the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Maryland (Mr. HOYER) mentioned the law enforcement portions of this thing. I am not going into any accounts and picking out and saying cut that except for the presidential thing that I did earlier. You have to make choices. If law enforcement is the important thing now, we need to put the emphasis on law enforcement.

I think the gentleman from Maryland (Mr. HOYER) had very good figures there about the percentage we were spending before and now, the point is we have had a history of spending far, far too much money at the Federal level over the years, and we continue this history. Now, we have tightened our belts.

I have listened to the gentleman from Maryland (Mr. HOYER) but I have to close this thing out. We have spent too much money traditionally. It is the habit here and as I said in my statement, I am not criticizing the committee for their work.

By golly, the gentlemen here do a good job on this committee. They do the best they can. I understand too it is very tough to get a bill with any cuts out of it out of committee because everybody has something they are particularly interested in. Everybody has at least one thing that is the most important thing in their life, and in committee those dynamics work. On the floor, it may be those dynamics do not work as well. It might be easier for us to pass something like this on the floor than it is in committee.

Mr. Chairman, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I understand the gentleman's point. The point I was going to make is when the gentleman says we spend too much money, I agree with him. I am one of Democrats that voted on the balanced budget amendment. I agree that we need to live within our means. The point I want to make to my friends who are not on the Committee on Appropriations, is this is an OMB figure I read, it is not because we are spending more discretionary dollars. That is what we focus on because those are the bills on the floor.

In the tax bills, it is not entitlement bills, et cetera, et cetera, where we are spending the real money and when we look at those figures, that is where the additional expenditures are occurring that the gentleman is concerned about, not in the appropriations process.

I know it is difficult for Members who only get a chance to make their point only when we come to the appropriations process. So it is frustrating to say this is not the problem, but this is not the problem.

Mr. HEFLEY. Reclaiming my time, I will say to the gentleman, we have to try to save the money wherever we can save it, and there is where we have a chance to save it.

Mr. OTTER. Mr. Chairman, I rise today in strong support of the amendment offered by my friend and colleague from Colorado, Mr. HEFLEY. Our simple amendment is a sensible response to the more than $109 billion deficit we will run next year. Reducing spending by one percent in the bill, we lower that number by $185 million and speed the return of balanced budgets.

This amendment does not defund critical programs, but rather encourages federal bureaucrats to become more efficient. Asking federal agencies to get by with 99 cents on the dollar is fair when the American people will be stuck with more than $100 billion of debt to burden their children. Every family cuts back on expenditure when their budget is cut. If federal bureaucrats cannot do the same then they do not deserve the tax dollars of those families.

This bill, as written, is $537 million over the President's request and more than 8 percent higher than last year. Passing the Hefley/Otter Amendment will still leave this bill more than 6.9 percent larger than last years bill and $352 million above the President's request. I appreciate the efforts of Chairman ISTOOK and the entire Appropriations Committee in crafting this bill. They have worked diligently and responsibly under difficult circumstances. I urge them to join with me in supporting this Amendment.

Mr. HEFLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

### AMENDMENT NO. 12 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. JACKSON-LEE of Texas:

At the end of the bill (before the short title), insert the following:

SEC. . None of the funds made available in this Act may be used to prevent the rehabilitation of urban and rural post offices.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentlewoman from Texas (Ms. JACKSON-LEE) will be recognized for 2½ minutes, and a Member opposed to the amendment will be recognized for 2½ minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, so many of us come to this floor with frustrations that we would hope that our colleagues would join us in fixing.

This amendment deals with the urban and rural post offices so many of us have in our respective districts that go unattended, with dilapidated leaking roofs, and not lighted. This amendment in particular deals with that concept of not preventing resources to be used for fixing those post offices that so many of us use.

Mr. Chairman, I would like to be able to enter into a colloquy on this issue with the distinguished ranking member and the distinguished chairman of this committee. They brought forth an excellent bill, but I have a problem and so many of us have a problem. Mine in particular deals with the Jensen Drive Postal Station in my district where, so many times, I have been promised that it would be repaired for the seniors who use it. First go to Washington, then go back to Houston.

I am concerned that the U.S. Postal Service is not doing enough to improve this facility to serve its customers better. Right now it has only 8 available parking slots of which one is for disabled parking and only 2 are for senior citizens. This is an area dominated by senior citizen residents. This causes traffic jams and creates an unsafe environment.

As this bill moves forward, I would ask the chairman and ranking member, who work so good together, to consider the inclusion of report language that would encourage the Postal Service to work with local officials and community leaders so the need of its facility and its customers are addressed, particularly our elderly and disabled.

Mr. ISTOOK. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I am pleased to engage in a colloquy with the gentlewoman, and I would be pleased to work with her to address this issue with report language as we go to conference on this bill.

Ms. JACKSON-LEE of Texas. Reclaiming my time, I thank the gentleman for yielding and for his commitment.

Mr. HOYER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentlewoman for raising this issue. She has talked to me and I know she has talked to the chairman. She has been working tirelessly on this issue and has great concern about it. I would be happy to work with her and the Postal Service to address the facilities need of the Jensen Drive Postal Station in Houston.

As the gentlewoman knows, the committee is very concerned with the financial system the Postal Service is in. As the Postal Service continues to address their fiscal deficits, they should not lose sight of the local communities that they serve. That is the gentlewoman's point. She is absolutely right on that point. Her concerns for those with disabilities and the elderly in accessing the Postal Service is absolutely essential.

To that end, I think the gentlewoman will be successful in her efforts working with us.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

### AMENDMENT NO. 2 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FLAKE:

At the end of the bill (before the short title), insert the following:

SEC. ____ . None of the funds made available in this Act may be used to provide any grant, loan, loan guarantee, contract, or other assistance to any entity (including a State or locality, but excluding any Federal entity) identified specifically by name as the recipient in a report of the Committee on Appropriations of the House of Representatives or the Senate, or in a joint explanatory statement of the committee of conference, accompanying this Act unless the entity is also identified specifically by name as the recipient in this Act.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Arizona (Mr. FLAKE) will be recognized for 2½ minutes and a Member opposed will be recognized for 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

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Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume. We just had a discussion about our ability to rein in spending by the Federal Government. The gentleman from Colorado (Mr. HEFLEY) is exactly right. We ought to save money where we can. We all know that entitlements are running out of control. There are other things that spend money, but we do have control over appropriation bills and discretionary spending that comes to this floor. The problem is we have far too little control. Those of us who do not serve on the Committee on Appropriations are forced to look at only the bill language when we amend on the floor. All we have is the bill. We can only amend what is in the bill. The problem is the bill here in this case for this bill that we are looking at is 103 pages. The committee report, on the other hand, is 135 pages. The bill contains what are called hard marks or directions for spending money. The committee report contains soft marks. We do not have any control. We cannot get at the soft marks here on the floor. Ordinary Members of Congress cannot go in and cut out pork barrel spending because most of the pork barrel spending happens and is directed within the conference report.

When I brought this amendment on the last appropriation bill we did, I was ruled out of order because we cannot legislate on appropriation bills. My amendment would assume that those who spend the money in Federal agencies actually read our bills. Apparently we do not assume that. They are not directed to. But we know they do because in every case when they spend money they spend the soft marks. If they do not, they are punished the next year by the Committee on Appropriations.

All my amendment says is that unless it is appropriated in a bill, not in a report, in a bill that Members have the ability to amend, then Federal agencies cannot spend it. That is not unreasonable. It is not saying that we not have earmarks. The House, the Congress, has a prerogative to earmark. It simply is saying do it in a bill where we have sunlight, where everybody can see it, we are where we have an open process, not hidden away in some committee language or conference language or a report that nobody can get at. So I think that is a reasonable request. However, I realize that I will be ruled out of order again. I will commit to work on the language to make sure that we can get around the problem.

Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

### AMENDMENT NO. 7 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. SANDERS:

At the end of the bill before the short title, insert the following new section:

SEC. . None of the funds appropriated by this Act may be used by the Internal Revenue Service for any activity that is in contravention of Internal Revenue Service Notice 96–8 issued on January 18, 1996, section 411(b)(1)(H)(i) or section 411(d)(6) of the Internal Revenue Code of 1986, section 204(b)(1)(G) or 204(b)(1)(H)(i) of the Employee Retirement Income Security Act of 1974, or section 4(i)(1)(A) of the Age Discrimination in Employment Act of 1967.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

This tripartisan amendment is cosponsored by the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from New York (Mr. HINCHEY), and the gentleman from California (Mr. GEORGE MILLER). This amendment has the strong support of the AARP, the largest senior citizen group in America, and the 13 million members of the AFL–CIO. It has the support of the Pension Rights Center and many other groups.

Mr. Chairman, this amendment is about corporate accountability. Today corporation after corporation has been caught misleading their investors. Many of these same companies are doing exactly the same thing with respect to employees' pensions. Mr. Chairman, enough is enough.

This amendment addresses two issues. First it tells companies they must stop discriminating against workers based on age by shifting to the so-called cash balance scheme. Secondly, it tells companies that they must not cheat their employees out of their hard-earned pension benefits. Specifically this amendment would prohibit the Internal Revenue Service from using any funds for activities that violate current pension age discrimination laws, laws that have been on the books since 1986. A similar amendment was passed by voice vote during the consideration of the Fiscal Year 2001 Treasury Postal Appropriations bill but was stripped from the conference report.

Mr. Chairman, age discrimination in general and age discrimination with regard to pensions is unacceptable and must not be allowed to happen. Unfortunately, hundreds of profitable companies across the country, including IBM, AT&T, CBS, and Bell Atlantic, have converted their traditional defined benefit pension plans to the controversial cash balance approach. Cash balance schemes typically reduce the future pension benefits of older workers by as much as 50 percent. Not only is this immoral, it is also illegal because reductions in benefits are directly tied to an employee's age which is in violation of Federal age discrimination law.

What makes these conversions even more indefensible is the fact that many of the companies that make these conversions have pension fund surpluses in the billions of dollars. It is simply unacceptable that during the time of large corporate profits, pension fund surpluses, massive compensation for CEOs including, by the way, very generous retirement benefits, that corporate America reneges on the commitments they have made to workers by slashing their benefits and their pensions.

Mr. Chairman, Congress must stand with older workers and insist that anti-age discrimination statutes are enforced.

Mr. Chairman, let me quote from the letter from the AARP written to me. "AARP believes that cash balance plans violate current law prohibitions on age discrimination. We commend you," me, "for offering this timely and important amendment. AARP hopes that this amendment will send a strong message that we value older workers and that we reaffirm that older workers should not be subject to age discrimination in their pension plans." End of quote from the letter that AARP wrote to me.

In addition, the Pension Rights Center writes in a letter to me, and I quote, "The Center has long been concerned that cash balance conversions have deprived older workers of their hard-earned expected pension benefits. The Center has joined labor and retiree organizations in taking the position that cash 'balance conversions should be stopped because they violate age discrimination laws and deprive older employees of expected future benefits that they counted on earning in their traditional defined benefit plans. As a public policy matter, cash balance conversions rank high among abusive practices that corporations have instituted to surreptitiously cut employees' benefits. It is noteworthy that before the current calamities that befell Enron and WorldCom, both companies had converted their secure defined benefit plan to cash balance plans for the purpose of reducing their older employees' benefits and increasing the corporate balance sheet. Both companies then purported to "improve" the 401(k) plan only to lure employees into investing into employer stock that soon became worthless." Letter from the Pension Rights Center.

Mr. Chairman, through my involvement with the IBM cash balance conversion, I have heard from hundreds of workers throughout the country who have expressed their anger, their disappointment, and feelings of betrayal by cash balance conversions. These are employees who had often stuck with their company when times were tough, these were employees who had often stayed at their jobs precisely because of the pension program that the company offered, and these are the same employees who woke up one day to discover that all of the promises that their companies made to them were not worth the paper they were written on.

Mr. Chairman, this is not acceptable. We must provide protections for these workers who have been screaming out to Congress for help. We must pass this amendment. Large multinational corporations with defined benefit pension plans receive $100 billion a year in tax breaks alone, according to the Office of Management and Budget. Mr. Chairman, the IRS should not be giving tax breaks to companies that willfully violate the pension age discrimination statutes. To do so not only violates public law and policy, it also provides taxpayer subsidies for illegal pension conversions.

Mr. Chairman, there should be no tax breaks for companies that discriminate on the basis of age.

This amendment also has another very important component designed to protect the pension benefits of American workers. This amendment would also prohibit any funding to the IRS to dilute the requirements of current law as articulated by IRS Notice 96–8. This notice simply tells companies what interest rate to use when calculating their employees' pension benefits. This notice has been upheld by two U.S. Court of Appeals and is vitally important to protecting American workers who have seen their pensions slashed as a result of cash balance conversions.

Mr. Chairman, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I would like to claim the time in opposition.

The CHAIRMAN. The gentleman from Texas is recognized for 15 minutes.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to the amendment offered by the gentleman from Vermont (Mr. SANDERS) and I rise as chairman of the Subcommittee on Employer/Employee Relations which has jurisdiction over ERISA, and a member of the Committee on Education and the Workforce with jurisdiction over age discrimination issues. I am also a member of the Committee on Ways and Means which also has jurisdiction on pension issues.

Despite some assertion made recently by the gentleman from Vermont (Mr. SANDERS) as ranking member of the Subcommittee on International Monetary Policy and Trade, he has no jurisdiction over any pension issues.

Congress should be in the business of encouraging, not discouraging, employer-sponsored pension plans. Currently less than half of the Americans who work in the private sector are covered by a retirement plan. The reason for this anemic number is that we have so overregulated these plans that many employers simply decide not to offer this important employee benefit.

The decline in the defined benefit pension plans has been particularly shocking. Earlier this year the Committee on Ways and Means held a hearing on defined benefit pension plans and we heard testimony on the decline of these plans that provide retirees guaranteed income for life. The number of defined benefit pension plans peaked in 1985 at 114,000 plans. In 2001 the number of these plans had fallen to 35,000, a staggering decline of almost 70 percent. The reason for this drop is that these plans were wrapped in so much red tape that employers chose to stop offering this benefit to their employees.

One type of defined benefit pension plan that provides some glimmer of hope that we will not see these plans become extinct is cash balance pension plans. The accrued benefits in these plans are guaranteed not to be reduced, a deal that many of us wish we could find for our shrinking 401(k) and TSP balances. I think that it is important that we maintain the employer's ability to do these things. The employer makes contributions and the employer bears the risk of market reductions, not the employee.

Finally, the United States Government insures cash balance plans through the Pension Benefit Guarantee Corporation in the event that the employer goes bankrupt. These traits are enough of an incentive to businesses that some have begun to offer cash balance defined benefit plans. However, the Sanders amendment would put an end to businesses implementing new cash balance plans. The amendment would prohibit any new guidance being issued by Treasury or the IRS regarding cash balance plans. The sponsors of this amendment claim that it is meant only to prevent the IRS from changing its position on a notice and to prevent them from violating age discrimination law. In reality the amendment attempts to establish new pension rules and is fully within the jurisdiction of the House Committee on Education and the Workforce and the House Committee on Ways and Means. The Department of Treasury is now in the process of issuing new cash balance regulations, some of which we mandated in a bill last year that passed with overwhelming support. Yet this amendment would undercut those regulations. This is not a shoot-from-the-hip type of an issue. It needs to go through a committee of jurisdiction and I urge a no vote on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SANDERS. Mr. Chairman, how much time is remaining, please?

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 8 minutes remaining. The gentleman from Texas (Mr. SAM JOHNSON) has 11 minutes remaining.

Mr. SANDERS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman from Vermont for yielding me this time, and I thank him for bringing this amendment.

This amendment just addresses a very fundamental question: When will the corporations of America stop raiding the pensions of their workers? If one listens to the gentleman from Texas (Mr. SAM JOHNSON), the suggestion is that corporations will only go to a defined benefit plan or they will only go to a cash balance plan if they think they can continue to raid the cash balance of the pension plan. What they promise their workers they will give them is different than what they will give them. And how do they do that? Because they are down working with the Department of Labor, with the Department of Treasury trying to concoct a means by which they can have unrealistic assumptions about the rates of return and then use that to gyp the workers out of their money.

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This is not just the gentleman from Vermont (Mr. SANDERS) who says this; this is not just me who says this. This is what the Inspector General found as they have audited these plans. We find out that the workers are underpaid.

Now, we have been through Enron, we have been through Dynergy, we have been through Merck, and we have been through one scandal after another. What is interesting is that these are many of the same companies that not only killed their workers' 401(k) plans, but now they are also in the process of looting the cash balance plans.

So the question is: Is this Congress going to put a stop to it? Is it going to tell the Treasury Department that they should be able to do as they have been doing and making realistic assumptions about rates of return on these plans, or are they going to engage in some kind of fiction and cooking of the books with the very corporations that have destroyed families across this country?

This is a moment of truth for the Congress. Because the Treasury and the IRS have been doing it one way, it has been upheld in court, it is determined to be fair to the workers, it is determined to return to them the value of the cash out of their pension plan; and now, in come the companies. In come the companies, who have destroyed the stock market, who have destroyed confidence in the American investment system, who have destroyed these people's lives, and now they want us to become their partner in depriving people of tens of millions of dollars that they are owed, that they worked for, and that they were promised.

Now maybe promising somebody something and keeping the promise was old-fashioned in the 1990s, but I have a sneaking suspicion that it is coming back into vogue; that it is going to be a basic value. These companies promised these workers this pension for the work that they did; and when they changed plans, they promised them that they would have a balance; that it was the equivalent of the cash balance of that. Now they want to cook the books.

The question for this Congress is: Are we going to be part of that? The Sanders amendment gives us an opportunity to say no; to say no to age discrimination and to say no to having this Congress and the Treasury Department and the Labor Department be partners in cooking the books. We must pass the Sanders amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

The complexity of cash balance plans has been the subject of study of both the Clinton and Bush administrations, and there is no Federal agency in any administration that found that cash balance plans discriminate on the basis of age.

By its own admission, the Internal Revenue Service is trying to clarify some of the ambiguities under its own notice 96-8. The passage of this amendment, in our view, would prevent the IRS from modifying 96-8, a circumstance which could cause significant harm to many workers.

So I would say that this amendment simply bars the administration, which started under Clinton and now continues under Bush, from trying to fix some of the problems that occur with our pension system.

Mr. Chairman, I reserve the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I want to thank the gentleman for yielding me this time, and I rise in support of the Sanders amendment.

Mr. Chairman, I agree with some of the things the gentleman from Texas just said, and, that is, that the IRS has been studying this thing for about 5 years, 5 years, and during that time millions of Americans have seen their pensions change and the amount of money they expected to receive dramatically changed while the IRS has studied this.

This amendment is pretty straightforward. It just says it is time for the IRS to get off the dime and come to a clear conclusion, the conclusion that I think anyone who studies this issue objectively for more than 10 minutes will come to, and, that is, for older workers, when they convert from a defined benefit plan to a cash balance plan, the older workers lose. That is a fact.

Now, I am not on any of the committees of jurisdiction. I am not on the Committee on Ways and Means; but I did serve on the pension commission back in the State legislature, and I do come from a part of the country where a deal is a deal and a bargain is a bargain. And what happened many years ago, the Congress made a bargain with large employers. We called it ERISA. And the bargain was this: if you take good care of your workers, we will protect you from legislation in the 50 States. You will only have to deal with one set of regulations.

Now, my colleagues, we never broke that bargain; but major corporations have. They have changed the bargain on pensions. And when they make these conversions, the truth of the matter is a lot of that money is freed up and can be transferred to other parts of that company's budget. Now, you may not want to call it raiding the pension funds, but that has been the net practical effect, and millions of workers have lost.

This is a straightforward amendment. It makes sense. It sends a clear signal to the IRS that it is time to get off the dime and make it clear that when they make these conversions, older workers lose. That is wrong, and it is time for Congress to do something about it.

Mr. SAM JOHNSON of Texas. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Texas has 10 minutes remaining.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from Vermont.

I happen to feel, and I have been around this pension business a long time, that the Sanders amendment is going to unfairly tie the hands of the Treasury Department. Now, that is not important to some people, but it is to the general public.

When it comes to writing new rules and issuing determination letters for defined benefit pension plans, the history is this: the Treasury and IRS issued a proposed ruling in 1996, and of course this is now in need of updating and improvement. The Sanders amendment, and I can understand where the gentleman from Vermont is coming from, but it really, I think, could have damaging effects if adopted.

The cash balance pension conversions have already been thoroughly addressed by this body right on this floor. A number of hearings in the 105th and 106th Congresses were held by the relevant committees of jurisdiction; and Congress included in the 2001 tax law a provision expanding the disclosure, the disclosure obligations of employers when they convert to a cash balance defined benefit plan. Congress concluded at that time that enhanced disclosure was the proper response to the issue surrounding cash balance conversions, not stopping action by the IRS to revise guidance on the proposed rules.

The Federal agencies, such as the IRS and the Treasury, responsible for jurisdiction over the pension age issues, are currently engaged in a thorough review of these age discrimination questions. The Subcommittee on Oversight of the Committee on Ways and Means, which I am a member of, held a hearing last month on defined benefit plans; and we would have the jurisdiction over any changes to the existing law. Unfortunately, this amendment that we are looking at today cuts into the legislative jurisdiction of the Committee on Ways and Means and also the work which it is trying to do.

So, Mr. Chairman, I really feel that this is an unfortunate amendment at this particular time, and I would hope people would oppose it.

Mr. SANDERS. Mr. Chairman, could I inquire about the time for both sides, please?

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 3 minutes remaining, and the gentleman from Texas (Mr. SAM JOHNSON) has 7½ minutes remaining.

Mr. SANDERS. Mr. Chairman, I am proud to yield 1½ minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, beginning in 1995, this Congress began a process of reducing regulations and freeing up the activities of corporations across America. They also, during the beginning of that period of time, weakened the IRS. The result of that is the kind of corporate scandals, the kind of corporate crime wave we see sweeping across the country today.

One of the less noticed aspects of that corporate crime wave includes the way in which corporations have been robbing the pension systems of American workers. They have been doing that by shifting from a so-called defined benefit program, where the benefits are clear and well stated, to a cash balance program, which enables them to manipulate the pension program and, in fact, provide lesser benefits to the employees, to the workers, over periods of time as they retire.

That has got to stop. The only way it can be stopped is by requiring the IRS, which has been weakened by the leadership of this House, to step forward and enforce the laws as they were intended to be enforced. That is what this amendment would do. It would require the IRS to enforce the laws, and it would stop the pension abuse that is going on by corporations across this country that are costing American workers and their families hundreds of millions of dollars.

We have the obligation and the responsibility to stop it. The only way we can stop it is by passing this amendment. Therefore, I hope and trust that the majority of the people in this House will step forward and recognize their responsibilities and pass this amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding me this time, and let me rise today in opposition to the amendment offered by the gentleman from Vermont (Mr. SANDERS) and others that really would be a back-door attempt at making substantive changes to our pension law.

The fact is that this issue has been debated in the Portman-Cardin bills from 1998, 1999, 2000, and 2001. We also dealt with it in the Pension Reform Act we had on the floor of this House this past spring. In every case, the Congress has decided not to discourage the conversion to cash balance plans.

Now, cash balance plans are a hybrid between traditional defined benefit plans and defined contribution plans like 401(k) plans. Companies that have traditional defined benefit plans were under pressure, under pressure from younger workers, who felt that they were not getting the benefit of their pension benefits until they had stayed there for 20 or 30 years. These conversions to cash balance plans, these hybrids, are in the best interest of all employees of these companies.

Now, we should all know that there have been over 500 conversions from defined benefit plans to cash balance plans. In almost every single case, companies made all employees whole. Now, there is a case, and maybe a case and a half, where companies early on did not do this. And the gentleman who is the sponsor of the amendment, and his colleagues who are sponsoring amendments, all happen to represent various facilities of the one company who did not do a very good job in their conversion.

We do not want to make this huge change in pension laws on an appropriation bill. It is not the right venue. The gentleman, I am sure, is well aware of that. On top of that, the policy that is being proposed here is not the right policy for the interest of American workers.

Younger workers want to be able to see what kind of pension benefits they have accumulated. Cash balance plans are a way for traditional companies with defined benefit plans to in fact do that.

I think this is unwise. We should not go down this path today, and I would urge my colleagues to reject the amendment offered by the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman from Vermont for yielding me this time.

Mr. Chairman, the previous speaker made an indication that many companies have switched over or converted to cash balance plans and employees have been made whole. That simply is not the fact. It is not what is happening. A large number of older Americans, people 40 years and older, have in fact lost up to 50 percent of the value of their plans.

This is not some substantive change in the law that is being asked for here. The gentleman from Vermont, much to his credit, has come forward and said we will just make sure that the IRS is not adding insult to injury, and that in fact, when people stand that risk of having their pension that they worked long and hard to secure taken away from them by a conversion, the IRS will not allow any monies to go to doing that. They will in fact have to enforce the law.

□ 1300

The law says we cannot discriminate in such situations. The Inspector General at the Department of Labor has found out that discrimination is going on when you shift to a cash balance plan. Over 20 percent of the 60 plans that were audited resulted in those employees not getting what they were entitled to. If we extrapolate that number out, we find out the damage is $185 million to $190 million annually.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY), a member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Chairman, I want to begin by congratulating the sponsors of this amendment for their tireless efforts, in particular on behalf of employees in their particular districts affected by a poorly executed conversion and their efforts thereafter to make sure that the concern realized in that particular instance is not realized again.

I also congratulate them for advancing this amendment because I believe it calls attention to a very important issue of pension conversion and our great concern that people be treated fairly and there not be age discrimination as their conversions move forward.

Having said that, I respectfully disagree with this amendment on this appropriations bill. This is a very substantive alteration of ERISA law. It is technical, it is complex, and there could be unintended consequences. The consequence I am most worried about is, rather than the conversion from defined benefit to cash balance, we are going to have something even more dramatic and disadvantageous to the employee, movement to defined contribution plans or gradual elimination of the pension benefit altogether.

We operate in an environment where employers are not mandated to provide these benefits, and 50 percent of the people in the workforce today have no at-work savings. Therefore, as we try to address these concerns, if we smack employers with perceived additional costs, we absolutely stop the efforts to get additional employers to offer retirement savings plans, and I believe we accelerate the conversion from defined benefit to defined contribution plans.

Reasonable minds may differ on this, and I do not question for one instance the absolute sincerity in the purpose behind this amendment. I just think strategically that this is not the way to go at this time. I think the fact that the amendment has been offered and is debated sends a very clear signal to the Department of Treasury that this is not the time for them to be altering that rule.

I think on the other hand their administrative processes should move forward, the committees of jurisdiction should carefully watch over those processes, and particularly interested Members of Congress should also watch this process; and if we, indeed, see the rule being altered in a way that has a discriminatory effect on elderly workers, we ought to act at that time.

But to react now changing ERISA by an amendment on an appropriations bill without a hearing, without careful deliberation about the full range of what the consequences might be, this is reckless stuff on very important business. There is not a worker in the workplace today with a retirement savings plan that is not darn scared about what is happening in the stock market and their security of income and retirement. We should not compound the confusion, the anxiety, or raise other questions by passing this amendment at this time.

Mr. SANDERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the American people are outraged at the degree to which corporate America has ripped off investors and workers, and millions of American employees are equally outraged at the degree to which corporate America has ripped off their pension plans.

Let us pass this amendment. Let us join with the AARP, let us join with the AFL–CIO, let us join with the Pension Center and say "yes" to American workers that they deserve what they have been promised.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, both the Department of Labor and the Treasury Department are trying to examine the regulations and their effect on cash balance plans.

The recent DOL Inspector General's report indicates there is confusion on the part of employers as to the rules to be applied to distributions from cash balance plans. The two Departments need time to develop rules that are both understandable to employers and not harmful to workers' benefits under these plans.

Congress must not impede the normal regulatory process of the agencies by removing the flexibility they presently enjoy to craft rules in the pension area. The Congress should be trying to encourage the growth of employer-sponsored pension plans; and passage of the Sanders amendment will have a chilling effect on cash balance plans. The Federal Government should promote policies that will encourage employers, particularly small businesses, to sponsor pension plans. As the baby boomers age, we need increased pension plan coverage. Passage of this amendment will impede that growth. I recommend a vote against this amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

### AMENDMENT NO. 23 OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 offered by Mr. BARR of Georgia:

Insert at the end before the short title the following:

SEC. . None of the funds made available in this Act under the heading "Special Forfeiture Fund (Including transfer of funds)" to support a national media campaign shall be used to pay any amount pursuant to contract number N00600-02-C-0123.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Georgia (Mr. BARR) and the gentleman from Maryland (Mr. HOYER) each will control 10 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very simple amendment. It is just as important for what it does not do as for what it does. This amendment, goes to an issue regarding funding for the antidrug media campaign, which is a very important part of our government's overall antidrug message, and whether or not that program shall continue to be administered by outside companies benefiting greatly, to the tune of hundreds of millions of dollars of taxpayers' money, should be limited to companies with a good, honorable, upstanding, noncorruptible track record in dealing with the government.

There is one company in particular which has benefited greatly from taxpayer dollars in putting together the ads and buying the ad time for the media antidrug campaign, and that is Ogilvy & Mather Corporation. This company has already entered into a civil settlement with the government well in excess of $1 million, almost $2 million, for fraud in connection with overbilling and other fraudulent contracting practices. The company is reportedly still under investigation by the Department of Justice, that is the FBI and the U.S. Attorney's Office for the Southern District of New York.

Insofar as there is a contract which has just been let which would go through the year 2003 or through fiscal year 2003 for many hundreds of millions of dollars, we think it is prudent right now here in the House, and the Senate is doing likewise, to say to the American people through this amendment on the House side that none of the funds made available under this act may be used right now for the continuation of this particular contract because of the very serious questions which have been raised about this company.

I would like to make very clear that this amendment, if adopted, and I do believe the gentleman from Oklahoma (Mr. ISTOOK) is prepared to accept this amendment, and I hope the other side will, too, this amendment will not and is not intended to stop in any way, shape, or form or slow down the antidrug media campaign. It is designed to strengthen it by ensuring that we have corporations involved in the delivery of that message and the buying of the time to get that message out that are reputable and do not themselves raise serious questions about the integrity of the program.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. BARR of Georgia. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, we are both very supportive of the media campaign, and we wish for it to continue; but what I want to make sure that we clarify through the colloquy is that despite what may be the concerns that some may have with the language, the intent of this amendment is not to shut down the media campaign.

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for that question. Like the gentleman, I support the antidrug media campaign. It delivers a powerful message to youth and families across the country about the dangers of illicit drugs. It is an important weapon aimed at reducing drug abuse.

I am not seeking to prevent that message from being delivered loud and clear. The message I also want to send loud and clear through this amendment is that this media campaign is too important to allow a company that has already admitted to defrauding the government and reportedly remains under criminal investigation to receive more taxpayer dollars at this time.

Mr. ISTOOK. Mr. Chairman, if the gentleman would continue to yield, I understand the intent of the amendment is to allow further competition to make sure that other capable media firms are able to compete for the public funds to buy time for this important antidrug campaign on different media outlets.

Mr. BARR of Georgia. Mr. Chairman, yes. Again, I seek to restore integrity to the media campaign to ensure its ongoing success, not to end it. It is time to draw a line in the sand and take a stand. It is shameful for the government to reward any company that has admitted to fraud and reportedly is subject to part of a criminal investigation for its action.

Mr. ISTOOK. Mr. Chairman, if the gentleman would continue to yield, I do understand and I sympathize with the concerns of the gentleman from Georgia (Mr. BARR). I want to make sure that the gentleman understands that the purpose of this is to ensure that this program continues in a proper fashion, that the ad campaign is not disrupted, and that only those who properly should be handling it are involved in contracts for this matter.

I ask the gentleman, will he be willing to work with us during conference to modify the language as I expect will probably be necessary to ensure that there are no unintended consequences from this amendment, and that there is no disruption of this very important national antidrug campaign?

Mr. BARR of Georgia. Mr. Chairman, I wish to assure the gentleman that is my intent. My intent is that we continue the campaign and spend taxpayer dollars appropriately. Should we find another approach to reach that goal, I would be happy to join with the chairman and others in refining the language appropriately.

Mr. Chairman, I reserve the balance of my time.

Mr. HOYER. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I was pleased to hear the sponsor say that he wanted to see the program continue. One of the things I was interested in is that there have been defense contractors, like Halliburton, which have done things that were illegal; and I was just wondering whether the gentleman will take the same stand with regard to defense contractors who might have violated the law?

Mr. BARR of Georgia. Mr. Chairman, will the gentleman yield?

Mr. CUMMINGS. I yield to the gentleman from Georgia.

Mr. BARR of Georgia. Mr. Chairman, if the gentleman from Maryland looks at my record both as a United States Attorney and as a member of the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Financial Services, he will see that I am very consistent in going after corruption, regardless of party, regardless of company.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Chairman, I stand to support the Barr amendment, and to thank the chairman for agreeing to work with the gentleman from Georgia (Mr. BARR) and others as we go to conference to make sure that we do not stop this worthy program. Drugs in America is a cancer. We must do all we can to support our children.

□ 1315

At the same time, we must make sure that our Federal dollars that have been appropriated are spent wisely.

This company in question has padded their books, has been found guilty of $1.8 million overcharging the Federal Government. It is important that we monitor all of these contracts and that the moneys being used for advertising go to those communities where the most need is.

It is important that the gentleman from Georgia has introduced this amendment. I look forward to working with him and the chairman and our ranking member and just to reiterate how important it is that as we spend these advertising dollars, we select those companies who have the same mission that we have, which is to make sure the advertising gets out correctly, that they do not pad their bills and mischarge the Federal Government and come back for further business.

I stand in support of the gentleman's amendment barring payment of contracts to support a national media campaign to any company that has entered into a settlement to pay claims against it by the Federal Government.

As far back as March of 1999, I began investigating the policies and procedures of awarding Federal advertising contracts. My investigation began with the advertising agency that had the ONDCP contract prior to the current agency that has settled with the government to pay 1.8 million dollars for padding vouchers.

The amendment is necessary not only to prohibit funds to the current agency (Ogilvy & Mather) who padded their invoices and overcharged the government, but also because there are several large Federal Government advertising contracts where the same allegations are being made.

The Army has an approximately $150 million annual advertising campaign to recruit and retain enlistees. The Center for Disease Control (CDC) has launched an annual $125 million advertising campaign to combat obesity to target kids.

Once awarded most government advertising contracts can be renewed for up to four additional years. Mr. Speaker, we must put a stop to the practice of blindly awarding government advertising contracts.

In this era of corporate irresponsibility we must make corporations more accountable for their actions. We cannot allow taxpayer dollars to go to corporations that shortchange the American People.

I urge a yes vote on the gentleman's amendment.

Mr. HOYER. Mr. Chairman, I thank the gentlewoman from Michigan (Ms. KILPATRICK) for her contribution to the debate.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I rise as chairman of the authorizing subcommittee for the Office of National Drug Control Policy and the media campaign to raise a couple of points about this important matter. I believe the most important thing we need to do is protect the media campaign, and there is a big dispute about the best way to do that. I was hoping this could be worked out in conference and I am comforted by some of the words here in the debate, but I am reluctantly going to oppose the amendment.

I believe the media campaign is one of our only national programs that we have to try to reduce demand for illegal drugs, and I appreciate the efforts of the gentleman from Georgia as well as other members of our subcommittee to try to hold accountability and effectiveness in the media campaign, and we agree on that fundamental point. I am very disturbed about some of the process of the bidding. I am disturbed about the violations of the law that Ogilvy has committed.

I am concerned about the processes of how the creativity is done. But I also do not want the media campaign to go dark which the administration has maintained could happen depending on how this goes. I am concerned that if the Senate language and the House language are too similar, this could be conferenced and not give us the flexibility.

We have a hearing scheduled for Friday to look and see whether this would cause the media campaign to go dark. We need tougher answers from the administration to make sure that they are not being biased in the bidding process as opposed to real concerns that the media campaign can go dark. I believe this needs a more careful approach. Generally speaking, I totally agree with the gentleman from Georgia's point. When somebody has violated the confidence of the taxpayers, they should not be rebid unless there is compelling evidence, but in the Committee on Government Reform, we have seen other agencies where, for example, in long-term care, we have had to continue with some organizations, at least for a period of time, to make sure that the people are serviced as opposed to using an arbitrary one-size-fits-all standard.

I agree with the goals of this amendment. I believe that we need to carefully review the process. I would hope that whatever happens with this amendment, that the conference committee will continue to look through and make sure that the media campaign can stay up and on the air. We have a very effective antiterrorism message right now, but at this point, I reluctantly oppose the amendment.

Mr. BARR of Georgia. Mr. Chairman, I yield myself such time as I may consume.

The opposition by the distinguished chairman is completely mystifying. There is plenty of money in the pipeline, I would remind the distinguished chairman of the subcommittee. This amendment that we are looking at now, I would remind respectfully the chairman of the subcommittee, does not kick in even if it is adopted until the next fiscal year. There is absolutely nothing in this amendment, and I wish to again assure the chairman of the subcommittee as I assured in the colloquy with the chairman of the appropriations subcommittee, it is not our intent to cause any part of the antidrug program to go dark. It will not go dark. I do not know how much clearer we can make that. That is not our intent. This will not do it. This has to do with the next fiscal year. There is already money fully in the pipeline for whatever company the government contracts with, including Ogilvy & Mather, to continue their work. This simply gets a marker into the conference and that is what I wish to assure the chairman of the subcommittee and ask for his support on that basis.

Mr. SOUDER. Mr. Chairman, will the gentleman yield?

Mr. BARR of Georgia. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, does the drug czar of the administration agree that the campaign will not go dark?

Mr. BARR of Georgia. It does not matter whether they agree or not. There is nothing in this amendment, absolutely nothing, I assure the chairman, that will cause it to. And if, in fact, there is any problem that makes it apparent that this specific approach would cause a problem, as I stated in the colloquy and I state to the distinguished gentleman from Indiana, we will be glad to work, and I am sure that the other members of the conference committee would be glad to work to assure that that does not happen.

Mr. Chairman, I reserve the balance of my time.

Mr. HOYER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Chairman, as someone who, with the gentleman from Ohio (Mr. PORTMAN) and others has worked on this important program, I am glad to hear the assurances that this program will continue. We have to be careful about the integrity of the contracting process. I hope all of us agree on that. As we implement our care with the integrity of the process, we also have to be sure that this important program is not shut down. It has had some successes and it has had some lack of successes, but overall, it is critical that the media effort, the outreach on drugs, that this effort continue.

So we will take the assurances of the sponsor of the amendment and it will go over to the Senate and then into conference, and I assume that those assurances will be implemented in the final language. It is the next fiscal year, but if there has to be recontracting, there could be a hiatus if we are not careful and we have to make sure there is no hiatus in this effort to make sure that the message about the danger of drugs is carried throughout this country effectively.

Mr. HOYER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland (Mr. CUMMINGS), the ranking member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources.

Mr. CUMMINGS. Mr. Chairman, I thank the gentleman for yielding time. I just want to reiterate what the gentleman from Michigan (Mr. LEVIN) just said. I think that it is very important that at a time when so many of our young people are becoming addicted to drugs, and certainly I, along with the gentleman from Indiana (Mr. SOUDER) of our drug subcommittee, have traveled with our subcommittee all over this country, and we realize that drugs have no boundaries, that we keep the campaign intact. The campaign is not perfect. There are some things that we need to do to make it more effective, but we really do not want it to go dark. I understand the gentleman's concerns, but I want to make sure that we give every parent every tool that they can possibly have to help lift their children up so that they can be all that God meant for them to be.

Mr. Chairman, I rise in opposition to the amendment by Mr. BARR.

Mr. BARR's amendment would prohibit ONDCP from honoring a contract with advertising firm Ogilvy & Mather, under which Ogilvy would continue to provide advertising and advertising-related services that are central to the operation of ONDCP's Youth Anti-Drug Media Campaign.

If this provision is enacted, it will shut down the media campaign for at least the next year, and it will only make more difficult the task of reauthorizing and retooling this important program. Mr. BARR states that this is not his objective, but it will be the effect. So while the ostensible target is Ogilvy, the real victims of the Barr amendment will be American families who might benefit from the campaign's anti-drug messaging.

If this amendment passes, Mr. Chairman, it will effectively shut down the National Youth Anti-Drug Media Campaign—at least for the next year. If this amendment passes, the Media Campaign will go dark in most media markets by January 2003 and totally dark by March 2003. In fact, the consequences are even more far-reaching: (1) there would be no activity for nearly 75 percent of the program; (2) the Advertising Council would lose nearly 50 percent in pro bono match; and (3) the Partnership for a Drug Free America and ONDCP would lose an additional match of $23 million. These are irreversible consequences.

Additionally, the Campaign would be required to eliminate all local market and state-by-state media activity (local newspapers, local radio, local out-of-home media and local television media buys).

As Ranking Minority Member of the Government Reform Subcommittee on Criminal Justice and Drug Policy, I believe that the National Youth Anti-Drug Media Campaign is an important part of our national drug control strategy. Anti-drug messaging has worked in the past to reduce drug use among children and teens, and in many places across the country it appears to be working now.

Recent evaluations of the media campaign have not shown us the overall results we'd like to see in terms of reducing marijuana-usage among youth. But the same evaluations do show that anti-drug ads are being seen and remembered by parents and youth, and that ads targeting parents have been effective in getting parents to engage their children on the issue of drugs. Mr. Chairman, as a parent, one of the anti-drugs ads that I remember so vividly states this level of effectiveness most accurately—it reads and I paraphrase: Parents are the anti-drug. In my own 7th Congressional district in MD, there are 60,000 addicts in the City of Baltimore alone. Most of whom started using drugs in their early teens. I firmly believe that if their parents had talked to them about drugs and drugs use—there would be a lot fewer than 60,000 addicts. I think many of my colleagues would agree with this conclusion.

Mr. Chairman, the Barr amendment attempts to circumvent Federal contracting law in order to impose upon one company punishment that similarly-situated companies would not suffer.

Take, for example, Halliburton. This is a company that has profited, and continues to profit, enormously from multiple contracts with the Department of Defense. In February of this year, Halliburton subsidiary KBR reached a $2 million settlement with the government, amid criminal allegations of fraud, false claims, and false statements. KBR was subsequently awarded a ten-year unlimited-cost contract with the Army. Did we see a similar Barr amendment to the Defense Department Appropriations bill? No, Mr. Speaker, we didn't. And I think we have to ask why we are singling out one company and one program for special treatment—especially in view of the crippling effect this provision would have on the media campaign.

If we're going to set aside the duly enacted laws and regulations that the Congress and executive branch have devised to prevent abuse by Federal contractors, it seems to me we ought to be fair and consistent about it. Either it's good policy or it's not. If it's good for Ogilvy and ONDCP, then it ought to be good for Halliburton and the Army as well.

Can the campaign do better? I believe so. Will it do better? It will if we work together to make it better. For my part, I am committed to working with Mr. SOUDER, Mr. PORTMAN, members of the drug policy subcommittee, our counterparts in the Senate and ONDCP Director Walters to work through the problems with the campaign, with the single aim of making it as effective as it can be.

The amendment by Mr. BARR is simply not constructive toward this end. While it may make Members feel better to go after an easy political target in Ogilvy, the bottom line we should all be concerned with is this: passing this amendment will not improve the campaign. It will simply shut it down. I know that my colleagues want to avoid this result.

So I would say to my colleagues that if shutting down the media campaign is what Members want to accomplish, then they should vote for the Barr amendment. If they want to see the campaign live to do a better job of deterring our children from using drugs, then they should join Mr. SOUDER, Mr. PORTMAN and me in opposing this amendment. Let's not cut off our nose to spite our face.

### Defense Criminal Investigative Service Press Release

The Office of the Inspector General (OIG), Department of Defense (DoD), announced today that on February 7, 2002, a settlement was reached with Brown and Root Services Corporation (BRSC), Houston, TX, regarding allegations of fraud, false claims and false statements. BRSC will pay $2 million in damages to the U.S. Government.

BRSC was the subject of a qui tam lawsuit filed by a former BRSC employee who alleged BRSC engaged in international false statements and misrepresentations to the Army Corps of Engineers during negotiations for individual delivery orders issued under a job order contract (JOC) for the former Fort Ord, CA, military installation. Over 200 individual delivery orders were issued under the Fort Ord JOC, valued in excess of $18.4 million. The alleged conduct resulted in the overvaluation of the cost of material and construction methods provided by the BRSC. The former BRSC employee who filed the qui tam lawsuit alleged that BRSC project general managers directed BRSC construction cost estimators to inflate the quantity and quality of higher cost materials and then present the inflated value of those materials to U.S. Army Corps of Engineers personnel during negotiations.

The settlement reached with the BRSC releases them from the civil claims addressed in the qui tam lawsuit. The qui tam relater will receive an undisclosed amount of the collected damages.

This investigation was conducted by the Defense Criminal Investigative Service (the criminal investigative arm of the OIG, DoD). Assistant United States Attorneys Michael Hirst, Chief of the Affirmative Civil Enforcement Unit, and Kandall Newman, Eastern District of California, Sacramento, CA, negotiated the global settlement.

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[From the New York Times; July 13, 2002]

### In Tough Times, A Company Finds Profits in Terror War

(By Jeff Gerth and Don Van Natta, Jr.)

The Halliburton Company, the Dallas oil services company bedeviled lately by an array of accounting and business issues, is benefiting very directly from the United States efforts to combat terrorism.

From building cells for detainees at Guantanamo Bay in Cuba to feeding American troops in Uzbekistan, the Pentagon is increasingly relying on a unit of Halliburton called KBR, sometimes referred to as Kellogg Brown & Root. Although the unit has been building projects all over the world for the federal government for decades, the attacks of Sept. 11 have led to significant additional business. KBR is the exclusive logistics supplier for both the Navy and the Army, providing services like cooking, construction, power generation and fuel transportation. The contract recently won from the Army is for 10 years and has no lid on costs, the only logistical arrangement by the Army without an estimated cost.

The government business has been well timed for Halliburton, whose stock price has tumbled almost two-thirds in the last year because of concerns about its asbestos liabilities, sagging profits in its energy business and an investigation by the Securities and Exchange Commission into its accounting practices back when Vice President Dick Cheney ran the company. The government contracts, which the company said Mr. Cheney played no role in helping Halliburton win, either while he led the company or after he left, offer the prospect of a long and steady cash flow that impresses financial analysts.

Since the Sept. 11 attacks, Congress has appropriated $30 billion in emergency money to support the campaign against terrorism. About half has gone to the Pentagon, much of it to buy weapons, supplies, and services. Although KBR is probably not the largest recipient of all the government contracts related to terror efforts, few companies have longer or deeper ties to the Pentagon. And no company is better positioned to capitalize on this trend.

The value of the contracts to Halliburton is hard to quantify, but the company said government work generated less than 10 percent of its $13 billion in revenue last year.

The government business is "very good, a relatively stable source of cash flow," said Alexandra S. Parker, senior vice president of Moody's Investors Service. "We view it positively."

By hiring an outside company to handle much of its logistics, the Pentagon may wind up spending more taxpayer money than if it did the work itself.

Under the new Army contract, KBR's work in Central Asia, at least for the next year, will cost 10 percent to 20 percent more than if military personnel were used, according to Army contract managers. In Uzbekistan, the Army failed to ascertain, as regulations require, whether its own units, which handled logistics there for the first six months, were available to work when it brought in the contractor, according to Army spokesmen.

The costs for KBR's current work in Central Asia could "dramatically escalate" without proper monitoring, but adequate cost control measures are in place, according to Lt. Col. Clay Cole, who oversees the contract.

The Army contract is a cost-plus arrangement and shrouded in secrecy. The contractor is reimbursed for its allowable costs and gets a bonus based on performance. In the past, KBR has usually received the maximum performance bonus, according to Pentagon officials. Though modest now, the Army contract could produce hundreds of millions of dollars for the company. In the Balkans, for instance, its contract with the Army started at less than $4 million and turned into a multibillion-dollar agreement.

Mr. Cheney played no role, either as vice president or as chief executive at Halliburton, in helping KBR win government contracts, company officials said.

In a written statement, the company said that Mr. Cheney "steadfastly refused" to market KBR's services to the United States government in the five years he served as chief executive. Mr. Cheney concentrated on the company's energy business, company officials said, though he was regularly briefed on the company's Pentagon contracts. Mr. Cheney sold Halliburton stock, worth more than $20 million, before he became vice president. After he took office, he donated his remaining stock options to charity.

Like other military contractors, KBR has numerous former Pentagon officials who know the government contracts system in its management ranks, including a former military aide to Mr. Cheney when he was defense secretary. The senior vice president responsible for KBR's Pentagon contracts is a retired four-star admiral, Joe Lopez, who was Mr. Cheney's military aide at the Pentagon in the early 1990's. Halliburton said Mr. Lopez was hired in 1999 after a suggestion from Mr. Cheney.

"Brown & Root had the upper hand with the Pentagon because they knew the process like the back of their hand," said T.C. McIntosh, a Pentagon criminal investigator who last year examined some of the company's Army contracts in the 1990's. He said he found that a contractor "gets away with what they can get away with."

For example, KBR got the Army to agree to pay about $750,000 for electrical repairs at a base in California that cost only about $125,000, according to Mr. McIntosh, an agent with the Defense Criminal Investigative Service.

KBR officials did not dispute the electrical cost figures, which were part of an $18 million contract. But they said government investigators tried to suggest wrongdoing when there was not any.

"The company happened to negotiate a couple of projects we made more money on that others," said one company lawyer, who insisted on anonymity. He added, "On some projects the contractor may make a large or small profit, while on others it may lose money, as KBR sometimes did on this contract."

Mr. McIntosh said he and an assistant United States attorney in Sacramento were inclined to indict the company last year after they developed evidence that a few KBR employees had "lied to the government" in pricing proposals for electrical repair work at Fort Ord. Mr. McIntosh said the Sacramento prosecutor said to him, "Let's go for this, it's a winnable criminal case."

A KBR lawyer said that the government's theory "was novel and unfairly tried to criminalize what was only a preliminary proposal."

The United States attorney's office in Sacramento declined to discuss its internal deliberations in the cast. But it dropped the criminal inquiry and reached a civil settlement in February, in part because of weak contract monitoring by the Army, according to Mr. McIntosh and a lawyer involved in the case.

As part of the settlement, KBR paid $2 million but denied any liability.

Last December the Army's Operations Support Command, unaware of the criminal investigation, found KBR's past contracting experiences to be exemplary as it awarded the company the 10-year logistical support contract, according to a command spokeswoman, Gale Smith.

The Army command's lengthy review of bidders did not discover that KBR was the target of a criminal investigation though it was disclosed in Halliburton's annual report submitted with the bid, according to Ms.

Smith. She said that if the support command's managers had known of the criminal inquiry, they would have looked further at the matter but not changed the award.

KBR's ability to earn the Pentagon's trust dates back decades.

"It's standard operating procedure for the Department of Defense to haul in Brown & Root," said Gordon Adams, who helped oversee the military budget for President Bill Clinton.

The company's first military contract was in 1940, to build a Naval air station in Corpus Christi, Tex. In the 1960's, it built bases in Vietnam. By the 1990's, KBR was providing logistical support in Haiti, Somalia and the Balkans.

KBR's military logistics business began to escalate rapidly with its selection for a $3.9 million contract in 1992, Mr. Cheney's last year at the Pentagon. Over the last 10 years, the revenues have totaled $2.5 billion, mostly a result of widening American involvement in the Balkans after 1995.

"We did great things to support the U.S. military overseas—we did better than they could support themselves," said Charles J. Fiala, a former operations officer for KBR. "I was in the Department of Defense for 35 years. We knew what the government was like."

Robert E. Ayers, another former KBR executive who still consults for the company, said Mr. Cheney "stayed fairly well informed" on the Balkans contract.

Stan Solloway, a former top Pentagon procurement official who now heads an association of contractors, said the company "understood the military mind-set" and "did a very good job in the Balkans."

But reports in 1997 and 2000 by the General Accounting Office, the audit arm of Congress, found weak contract monitoring by the Army contributed to cost increases in the Balkan contract that benefited KBR.

The audit agency's 1997 report concluded that the Army allowed KBR to fly in plywood from the United States, at a cost of $85.98 a sheet, because it did not have time to procure it in Europe, where sheets costs $14.06.

Mr. Ayers, the former KBR executive, had worked on the Balkans contract. "If the rules weren't stiff and specific," he said, "the contractor could make money off of overspending by the government."

The contract awarded last December by the Army's Operations Support Command, is "open ended" with "no estimated value," said Ms. Smith, the command's spokeswoman. She said that was mainly "because the various contingencies are beginning to unfold."

KBR won this and most of its other Pentagon contracts in a competition with other contractors, but KBR is the sole source for the many tasks that fall under the umbrella contract.

Pentagon officials said the company had recently taken over a wide range of tasks at Khanabad Air Base in Uzbekistan, from running the dining operation to handling fuel and generating power for the airfield. The company employs Uzbeks, paying them in accordance with "local laws and customs" but operating under United States health and safety guidelines, according to Halliburton's statement.

For the first six months that American troops were at Khanabad, the logistical support was provided by the Army's First Corps Support Command. Mr. Cole, the contract manager for the joint command in Kuwait, said the contract would initially cost 10 to 20 percent more than if the Army had done the work itself. He said that he and his staff recommended using the contractor because "they do a better job of maintaining the infrastructure." In addition, he said, the contractor should provide long-term flexibility, an asset in a war with many unknowns, and cost savings by avoiding Army troop transfers.

Ms. Smith said that the criticisms by the G.A.O. had led the Army to build additional controls into the contract.

At its base in Cuba, the Navy has followed the same pattern as the Army: use the military first and augment it with KBR. The Navy's construction brigade, the Seabees, built the first detention facility for battlefield detainees at Guantanamo Bay. Then the Navy activated a recently awarded $300 million, five-year logistic support contract with KBR to construct more permanent facilities, some 600 units, built mostly by workers from the Philippines and India, at a cost of $23 million.

John Peters, the Navy Facilities Engineering Command spokesman, said the permanent camp was "bigger, more sophisticated than what Seabees do." But the Seabees built the facilities for the troops guarding the detainees, and in the 1990's the Seabees built two tent cities capable of housing 20,000 refugees in Guantanamo Bay.

"Seabees typically can perform the work at about half the cost of contractors, because labor costs are already sunk and paid for," said Daryl Smith, a Seabees spokesman.

Zelma Branch, a KBR spokeswoman, said the company relied on its excellent record rather than personal relationships to win its contracts. But hiring former military officers can help the company understand and anticipate the Pentagon's needs.

"The key to the company's success is good client relations and having somebody who could anticipate what the client's needs are going to be," Mr. Ayers, the former company executive, said.

Mr. HOYER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I took the time in opposition, but I am not going to oppose this amendment. Number one, it is my understanding with the chairman, pursuant to the colloquy, this amendment will not be affected as it now reads by the conference committee. Why? Because we want to make sure that the program does not go dark, I say tangentially, notwithstanding the fact that Mr. Walters says it is a program that has not worked, or recently has not worked, and he was, of course, an opponent of the program when it initially was adopted. That aside, let me say that one of the reasons I will not oppose it is because I believe the premise of the amendment is a premise that we all can share.

The distinguished gentleman from Maryland already mentioned this, but I think it bears mentioning again, not solely for political purposes, although obviously it is a high-visibility item, but also because this company is seeking to do business with the drug media program. I mention Halliburton because it is a high-visibility company. Obviously the Vice President had some dealings with it. But it falls into the Ogilvy category. It is a company that has profited and continues to profit enormously from multiple contracts with the Department of Defense.

In February of this year, Halliburton subsidiary KBR reached a $2 million settlement, very similar to the Ogilvy settlement, with the government amid criminal allegations of fraud, false claims and false statements. KBR was subsequently, notwithstanding that, awarded a 10-year unlimited cost contract with the Army. There were no amendments to preclude that.

But the principle that the gentleman from Georgia puts before us is a very valid principle, and the principle is, if you want to do business with the government, play by the rules. We had an amendment on this floor that the gentleman from Virginia (Mr. MORAN) fought very strongly for that said if you want to abscond, if you want to dodge American taxes and dodge your responsibility and go overseas, to Bermuda or someplace else, then hey, we're not going to contract with you, we're not going to give you millions, tens of millions and hundreds of millions in contracts.

That is essentially the proposition that this amendment puts forward. I think it is a proposition frankly that the other body has sympathy with on both sides of the aisle. I do not think this is a partisan issue. I think the gentleman from Georgia is absolutely correct on that. Therefore, I have discussed this with the chairman, I think the chairman and I are in agreement, A, we are going to make sure that this program does not go dark. It may need to be made to operate more effectively and better so that it has the impact.

We have spent a lot of money on it although we have cut the money, as you know, that was originally asked for by the President by some $10 million, but this is an important program. But we want to make sure that this program is conducted in a fashion that all of us can have faith and trust and is not advantaging those who have undermined their responsibility to deal fairly with the government and deal fairly and legally with others.

In that context, Mr. Chairman, I will not object to this amendment, would hope that we could adopt it by a voice vote and then, working with the gentleman from Georgia and others, we will work in the conference to come to a conclusion that I think will stand for the proposition that this amendment stands for, and at the same time, protect the program that all of us feel is an important one.

Mr. BARR of Georgia. Mr. Chairman, the eloquence of the distinguished gentleman from Maryland cannot be added or subtracted to without doing it an injustice. I appreciate the words of the gentleman from Maryland in support of this amendment. I understand his concerns, which I share about making sure the program continues. We wish to strengthen it through this amendment and that is what I will work to do. I appreciate also the support of the distinguished gentleman from Oklahoma (Mr. ISTOOK) to whom I yield the balance of my time.

Mr. ISTOOK. How much time, may I inquire, remains, Mr. Chairman?

The CHAIRMAN pro tempore (Mr. LATOURETTE). The gentleman had 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I appreciate the gentleman from Georgia's efforts to make sure that this contract that comes under the jurisdiction of our subcommittee for this national antidrug campaign is handled responsibly. The reason we have these questions is because there has been a GAO inquiry into the prior performance of this same contract by the Ogilvy firm and there has been a major fine assessed for improper charges and handling and abuses in their performance of that contract. That is why we have this language, to make sure that we can have it reviewed to make sure that that contract is handled properly.

However, Mr. Chairman, I do not believe that this was a proper occasion for people to try to bring up extraneous matters that have not been the subject of such investigation. We have not been here talking on the floor about, for example, Global Crossing and tens of millions of dollars—or was it hundreds of millions of dollars—obtained by insiders and obtained by Terry McAuliffe, the Democratic National Committee chairman; we have not been bringing up the allegations of abuses related to Enron and the possible involvement of Citibank chaired by the former Secretary of the Treasury Robert Rubin from the Clinton administration; and I do not think it was appropriate for people to try to bring this up as an opportunity to take shots at other people in the debate here.

We have plenty of time to focus on each misdeed as we learn of it and to make sure that we hold every person in America fully accountable under our laws. That is what we want to make sure that we do in this particular contract with the people that are involved in performing it. We do not need to go far afield as I heard some people do earlier and as I did myself only to point out that this is inappropriate. We are here talking about the drug contract. We are here talking about the firm that abused their position as a contractor with the taxpayers on this and to make sure that abuse does not happen but that correcting that abuse will not disrupt this important national drug effort.

□ 1330

The CHAIRMAN pro tempore (Mr. LATOURETTE). All time for debate has expired.

The question is on the amendment offered by the gentleman from Georgia (Mr. BARR).

The amendment was agreed to.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6, rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 21, offered by the gentleman from Virginia (Mr. MORAN), the amendment offered by the gentleman from Colorado (Mr. HEFLEY); amendment No. 16, offered by the gentleman from Colorado (Mr. HEFLEY); and amendment No. 7, offered by the gentleman from Vermont (Mr. SANDERS).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

### AMENDMENT NO. 21 OFFERED BY MR. MORAN OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. MORAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 166, not voting 7, as follows:

[Roll No. 336]

### AYES—261

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Chambliss
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Forbes
Ford
Fossella
Frank
Frost
Ganske
Gekas
Gephardt
Gilman
Gonzalez
Gordon
Granger
Graves
Green (TX)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hayes
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Riley
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano
Sherman
Shimkus
Shows
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Wolf
Woolsey
Wu
Wynn

### NOES—166

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Castle
Chabot
Coble
Collins
Combest
Cooksey
Crane
Crenshaw
Cubin
Culberson
Cunningham
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Everett
Flake
Foley
Frelinghuysen
Gallegly
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Green (WI)
Greenwood
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Keller
Kennedy (MN)
Kerns
Kirk
Knollenberg
Kolbe
Latham
Lewis (CA)
Linder
Lucas (OK)
Manzullo
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Otter
Oxley
Paul
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood

Shuster
Simmons
Simpson
Skeen
Smith (TX)
Souder
Stump
Sullivan
Sununu
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

### NOT VOTING—7

Bonior
Cannon
Cox
Delahunt
Stearns
Tancredo
Traficant

☐ 1353

Messrs. COBLE, LEWIS of California, and COOKSEY changed their vote from "aye" to "no."

Messrs. CHAMBLISS, KINGSTON, LaHOOD, FORBES, OWENS, THOMPSON of Mississippi, JOHN, and STENHOLM changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

### AMENDMENT OFFERED BY MR. HEFLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 165, noes 265, not voting 4, as follows:

[Roll No. 337]

### AYES—165

Akin
Armey
Bachus
Ballenger
Barcia
Barr
Barrett
Bartlett
Bass
Bereuter
Berry
Biggert
Bilirakis
Boozman
Boswell
Bryant
Burr
Burton
Buyer
Camp
Cannon
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cramer
Crane
Cubin
Cunningham
Davis, Jo Ann
Deal
DeFazio
DeMint
Doggett
Doolittle
Duncan
Ehrlich
Evans
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Gallegly
Ganske
Gibbons
Gilman
Goode
Goodlatte
Gordon
Graham
Green (TX)
Green (WI)
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Hulshof
Hyde
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind (WI)
Kingston
Kirk
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Luther
Manzullo
Matheson
McInnis
McIntyre
Mica
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Myrick
Nethercutt
Ney
Norwood
Osborne
Otter
Oxley
Paul
Pence
Petri
Phelps
Pickering
Pitts
Platts
Radanovich
Ramstad
Rehberg
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shimkus
Shows
Shuster
Simmons
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stenholm
Stump
Sullivan
Sununu
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)

### NOES—265

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Baird
Baker
Baldacci
Baldwin
Barton
Becerra
Bentsen
Berkley
Berman
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Callahan
Calvert
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Cox
Coyne
Crenshaw
Crowley
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Fossella
Frank
Frelinghuysen
Frost
Gekas
Gephardt
Gilchrest
Gillmor
Gonzalez
Goss
Granger
Graves
Greenwood
Grucci
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
  (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kerns
Kildee
Kilpatrick
King (NY)
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-
  McDonald
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Simpson
Skeen
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tauscher
Tauzin
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOT VOTING—4

Bonior
Stearns
Tancredo
Traficant

☐ 1402

Mrs. BIGGERT changed her vote from "no".to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 16 OFFERED BY MR. HEFLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 147, noes 282, not voting 5, as follows:

[Roll No. 338]

### AYES—147

Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boswell
Brady (TX)
Bryant
Burr
Burton
Buyer
Cannon
Cantor
Castle
Chabot
Chambliss
Clement
Coble
Collins
Cooksey
Costello
Cox
Crane
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeMint
Diaz-Balart
Doggett
Duncan
Ehrlich
English
Everett
Flake
Foley
Forbes
Fossella
Gallegly
Gibbons
Goode
Goodlatte
Graham
Graves
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Hyde
Issa
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kirk
Linder
Lucas (KY)
Luther
Manzullo
Matheson
McInnis
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Norwood
Nussle
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts

Platts
Ramstad
Rehberg
Reynolds
Riley
Roemer
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shows
Simmons
Smith (MI)
Smith (TX)
Smith (WA)
Stenholm
Stump
Sullivan
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)

NOES—282

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Callahan
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Combest
Condit
Conyers
Coyne
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Ford
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hastings (FL)
Hastings (WA)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Serrano
Shaw
Sherman
Sherwood
Shuster
Simpson
Skeen
Skelton
Smith (NJ)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sununu
Sweeney
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—5

Bonior
Slaughter
Stearns
Tancredo
Traficant

□ 1411

Mrs. CLAYTON changed her vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. SLAUGHTER. Mr. Speaker, I missed rollcall No. 338, Hefley amendment #16.

Had I been present, I would have voted "no".

### AMENDMENT NO. 7 OFFERED BY MR. SANDERS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 308, noes 121, not voting 5, as follows:

[Roll No. 339]

AYES—308

Abercrombie
Ackerman
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Green (TX)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (FL)
Hayes
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hunter
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Platts
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walden
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—121

Aderholt
Akin
Armey
Ballenger
Barr
Barton
Bereuter
Biggert
Blunt
Boehner
Bonilla
Bono
Boozman
Boswell
Brady (TX)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Chabot
Chambliss
Collins
Combest
Crane
Crenshaw
Cubin
Culberson
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Flake
Gallegly
Gibbons

Granger
Graves
Green (WI)
Greenwood
Hart
Hastings (WA)
Hayworth
Herger
Hostettler
Houghton
Hulshof
Hyde
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kennedy (MN)
Kerns
Kirk
Kolbe
Linder
Lucas (KY)
Lucas (OK)
McCrery
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Northup
Norwood
Osborne
Otter
Oxley
Paul
Pence
Pitts
Pombo
Pomeroy
Portman
Putnam
Ramstad
Rehberg
Riley
Rogers (MI)
Ryan (WI)
Sensenbrenner
Sessions
Shays
Simpson
Skeen
Smith (TX)
Stenholm
Stump
Tauzin
Thomas
Thornberry
Tiahrt
Tiberi
Vitter
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Wicker
Wilson (SC)
Wolf

NOT VOTING—5

Bonior
Knollenberg
Stearns
Tancredo
Traficant

☐ 1420

Mr. MORAN of Kansas changed his vote from "aye" to "no."

Mrs. JO ANN DAVIS of Virginia and Mr. FORBES changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. WYNN

Mr. WYNN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. WYNN:

At the end of the bill (before the short title), insert the following new section:

SEC. ___. (a) CENTRALIZED REPORTING SYSTEM.—Not later than 180 days after the date of the enactment of this Act, each agency shall establish a centralized reporting system in accordance with guidance promulgated by the Office of Management and Budget that allows the agency to generate periodic reports on the contracting efforts of the agency. Such centralized reporting system shall be designed to enable the agency to generate reports on efforts regarding both contracting out and contracting in.

(b) REPORTS ON CONTRACTING EFFORTS.—(1) Not later than 180 days after the date of the enactment of this Act, every agency shall generate and submit to the Director of the Office of Management and Budget a report on the contracting efforts of the agency undertaken during the 2 fiscal years immediately preceding the fiscal year during which this Act is enacted. Such report shall comply with the requirements in paragraph (3).

(2) For the current fiscal year and every fiscal year thereafter, every agency shall complete and submit to the Director of the Office of Management and Budget a report on the contracting efforts undertaken by the agency during the current fiscal year. Such reports shall comply with the requirements in paragraph (3), and shall be completed and submitted not later than the end of the first fiscal quarter of the subsequent fiscal year.

(3) The reports referred to in this subsection shall include the following information with regard to each contracting effort undertaken by the agency:

(A) The contract number and the Federal supply class or service code.

(B) A statement of why the contracting effort was undertaken and an explanation of what alternatives to the contracting effort were considered and why such alternatives were ultimately rejected.

(C) The names, addresses, and telephone numbers of the officials who supervised the contracting effort.

(D) The competitive process used or the statutory or regulatory authority relied on to enter into the contract without public-private competition.

(E) The cost of Federal employee performance at the time the work was contracted out (if the work had previously been performed by Federal employees).

(F) The cost of Federal employee performance under a Most Efficient Organization plan (if the work was contracted out through OMB Circular A-76).

(G) The anticipated cost of contractor performance, based on the award.

(H) The current cost of contractor performance.

(I) The actual savings, expressed both as a dollar amount and as a percentage of the cost of performance by Federal employees, based on the current cost, and an explanation of the difference, if any.

(J) A description of the quality control process used by the agency in connection with monitoring the contracting effort, identification of the applicable quality control standards, the frequency of the preparation of quality control reports, and an assessment of whether the contractor met, exceeded, or failed to achieve the quality control standards.

(K) The number of employees performing the contracting effort under the contract and any related subcontracts.

(c) REPORT ON CONTRACTING EFFORTS.—(1) For the current fiscal year and every fiscal year thereafter, every agency shall complete and submit to the Director of the Office of Management and Budget a report on the contracting efforts undertaken by the agency during the current fiscal year. Such reports shall comply with the requirements in paragraph (2), and shall be completed and submitted not later than the end of the first fiscal quarter of the subsequent fiscal year.

(2) The reports referred to in paragraph (1) shall include the following information for each contracting in effort undertaken by the agency:

(A) A description of the type of work involved.

(B) A statement of why the contracting in effort was undertaken.

(C) The names, addresses, and telephone numbers of the officials who supervised the contracting in effort.

(D) The cost of performance at the time the work was contracted in.

(E) The current cost of performance by Federal employees or military personnel.

(d) REPORT ON EMPLOYEE POSITIONS.—Not later than 30 days after the end of the current fiscal year and every fiscal year thereafter, every agency shall report on the number of Federal employee positions and positions held by non-Federal employees under a contract between the agency and an individual or entity that has been subject to public-private competition.

(e) COMMITTEES TO WHICH REPORTS MUST BE SUBMITTED.—The reports referred to in this section shall be submitted to the Committee on Government Reform of the House of Representatives and to the Committee on Governmental Affairs of the Senate.

(f) PUBLICATION.—The Director of the Office of Management and Budget shall promptly publish in the Federal Register notices including a description of when the reports referred to in this section are available to the public and the names, addresses, and telephone numbers of the officials from whom the reports may be obtained.

(g) AVAILABILITY ON INTERNET.—After the excision of proprietary information, the reports referred to in this section shall be made available through the Internet.

(h) REVIEW.—The Director of the Office of Management and Budget shall review the reports referred to in this section and consult with the head of the agency regarding the content of such reports.

(i) DEFINITIONS..—As used in this section:

(1) The term "employee" means any individual employed—

(A) as a civilian in a military department (as defined in section 102 of title 5, United States Code);

(B) in an executive agency (as defined in section 105 of title 5, United States Code), including an employee who is paid from nonappropriated funds;

(C) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service;

(D) in the Library of Congress;

(E) in the Government Printing Office; or

(F) by the Governors of the Federal Reserve System.

(2) The term "agency" means any department, agency, bureau, commission, activity, or organization of the United States, that employs an employee (as defined in paragraph (1)).

(3) The term "non-Federal personnel" means employed individuals who are not employees, as defined in paragraph (1).

(4) The term "contractor" means an individual or entity that performs a function for an agency under a contract with non-Federal personnel.

(5) The term "privatization" means the end result of the decision of an agency to exit a business line, terminate an activity, or sell Government owned assets or operational capabilities to the non-Federal sector.

(6) The term "outsourcing" means the end result of the decision of an agency to acquire services from external sources, either from a non-Federal source or through interservice support agreements, through a contract.

(7) The term "contracting out" means the conversion by an agency of the performance of a function to the performance by a non-Federal employee under a contract between an agency and an individual or other entity.

(8) The term "contracting in" is the conversion of the performance of a function by non-Federal employees under a contract between an agency and an individual or other entity to the performance by employees.

(9) The term "contracting" means the performance of a function by non-Federal employees under a contract between an agency and an individual or other entity. The term "contracting", as used throughout this Act, includes privatization, outsourcing, contracting out, and contracting, unless otherwise specifically provided.

(10)(A) Subject to subparagraph (B), the term "critical for the provision of patient care" means direct patient medical and hospital care that the Department of Veterans Affairs or other Federal hospitals or clinics are not capable of furnishing because of geographical inaccessibility, medical emergency, or the particularly unique type of care or service required.

(B) The term does not include support and administrative services for hospital and clinic operations, including food service, laundry services, grounds maintenance, transportation services, office operations, and supply processing and distribution services.

(j) APPROPRIATION.—There is appropriated $2,000,000 for fiscal year 2003 to carry out this section, to be derived by transfer from the amount appropriated in title I of this Act for "Internal Revenue Service—Tax Law Enforcement". The Director of the Office of Management and Budget shall allocate such amount among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

(k) APPLICABILITY.—(1) The provisions of this section shall apply to fiscal year 2003 and each fiscal year thereafter.

(2) This section—

(A) does not apply with respect to the General Accounting Office;

(B) does not apply with respect to depot-level maintenance and repair of the Department of Defense (as defined in section 2460 of title 10, United States Code); and

(C) does not apply with respect to contracts for the construction of new structures or the remodeling of or additions to existing structures, but shall apply to all contracts for the repair and maintenance of any structures.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, July 23, 2002, the gentleman from Maryland (Mr. WYNN) and a Member opposed each will control 2½ minutes.

Mr. ISTOOK. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume.

I do intend to withdraw this amendment, but I want to bring to the attention of the House, and more importantly, the American people a very important issue, and that is, contracting out and whether the American taxpayer is receiving best value. Some people have characterized this issue as private contractors versus Federal employees. It is not. The issue before us today is whether the American taxpayer is getting best value for the services we contract out.

The essence of this amendment is to ensure that there is transparency and scrutiny of government contractors to determine whether the American public is receiving best value, both quantitatively and qualitatively, by establishing a centralized reporting by each agency of its contracting efforts.

In recent years, the notion that outsourcing is the most cost-efficient approach to providing government services has gained considerable momentum. However, when we asked the Government Accounting Office to tell us how many contracts were being let by the Federal Government, who was involved and how much the savings were, they could not tell us, and they said they could not tell us because there was no centralized accounting so that they could identify how much each agency was doing.

In the absence of accountability and congressional oversight, indiscriminate outsourcing and privatization of government services will grow with no guarantee of actual cost savings.

My amendment is very simple. It will require that each agency establish a centralized reporting system on its contracting practices. The reports submitted to the director of the Office of Management and Budget would include the contract number and the Federal supply class of service code; a statement of why the contracting effort was undertaken; the name of the supervisors and officials involved; the cost of Federal employee performance at the time the work was contracted out, if the work had been previously performed by Federal employees.

It would also report the anticipated cost of contractor performance and the cost of, the anticipated cost and the actual cost of contract performance, and most importantly, the reports would include the actual savings, if any, compared with performance by Federal employees. The number of contract employees would also be listed.

This oversight responsibility would be accomplished by submitting these reports to the Committee on Government Reform in the House and the Committee on Government Affairs in the Senate.

The director of the Office of Management and Budget would publish in the Federal Register notices of when the reports would be available to the public so that the public could determine if they are getting best value.

Currently, agencies do not closely monitor the cost efficiency of the billions of dollars in contracting out and privatization. There is no oversight of contracts after they have been awarded to compare past costs with current costs or to consider the potential effects of cost overruns.

If outsourcing and privatization are to work, it must be transparent. It must be truthful. All the parties must be disclosed, identified and held responsible and accountable for their actions.

My amendment very simply would add basic safeguards such as reporting and oversight, two that are currently missing from the process. I believe this is a good amendment and an important issue for this Congress.

Mr. WYNN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Maryland?

There was no objection.

### AMENDMENT OFFERED BY MR. HOYER

Mr. HOYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HOYER:

In the appropriate place at the end of the bill (before the short title), include the following:

SEC. . None of the funds provided to the Customs Service under this Act shall be used to require reports on repairs to U.S. flag vessels on the high seas.

Mr. CRANE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. Pursuant to the order of the House Tuesday, July 23, 2002, the gentleman from Maryland (Mr. HOYER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I yield myself such time as I may consume.

I thank the distinguished gentleman from Illinois (Mr. CRANE) for reserving and giving me the opportunity to explain this amendment.

Mr. Chairman, this amendment frankly was brought to me just within the last 48 hours. It does, however, seem to raise an issue of significant importance and difficulty for a number of those in the shipping business.

The problem apparently is that if a person has a ship repaired while on the high seas, that is not within the territorial waters of any nation, and those repairs are effected using non-U.S. parts, then they must fill out very substantial paperwork, and very substantial reporting requirements are implicated in that instance, so that we are causing a great burden to shipping companies that are U.S.-flagged. Obviously, we want shipping to be U.S.-flagged. We know that that is a difficulty.

I have introduced this amendment to try to address that issue. Because I introduced the amendment as a "none of the funds" and it is, therefore, a very blunt instrument, I agree with the gentleman from Illinois (Mr. CRANE) that this amendment should not pass in its present form. Even if it were added to the bill, I would be in favor of dropping it in conference. Its purpose was solely to protect our ability to address this issue.

It is, however, my understanding from the gentleman from Illinois (Mr. CRANE) and his staff that they share the view that this is a problem and that they are going to look at that and look at it closely. I do want to thank the gentleman from Illinois (Mr. CRANE) for his attention to this matter and for his staff working with us to see if we can come to a resolution of this matter.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding and want to reassure him that his concerns are valid, legitimate concerns, and that we on the committee will look into this issue because it is something that needs to be resolved.

Mr. HOYER. Mr. Chairman, I thank the gentleman for his comments.

Mr. HOYER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments?

If not, the Clerk will read the last two lines.

The Clerk read as follows:

This Act may be cited as the "Treasury and General Government Appropriations Act, 2003".

Mr. BLUMENAUER. Mr. Chairman, today I voted for the fiscal year 2003 Appropriations Bill for Treasury, Postal Service, and General Government. This bill contains key provisions that I have supported in Congress.

The appropriations bill before us contains a measure that prohibits the use of funds in the bill to finalize, implement, administer or enforce the proposed Treasury Department rule declaring that real estate brokerage is "an activity that is financial in nature or incidental to a financial activity." I agree with this prohibition and am a cosponsor of H.R. 3424, which would accomplish the same objective. The banking industry provides an invaluable function in our economy and the integrity of its operations and security of deposits is critical. The Gramm-Leach-Bliley Act is speeding ongoing changes in the United States financial services industry and allows banks flexibility in responding to economic trends. However, I do not believe the benefits of allowing banks to engage in real estate brokerage and property management activities outweigh the risks.

Regarding the Postal Service, the bill specifically requires that six-day delivery of mail be continued. It also requires that mail for overseas voting and for the blind continue to be free. I have always believed post offices play an integral role in the livability of our communities. They serve as business, social and often historical centers in our neighborhoods. It's for these reasons that I am a sponsor of legislation, H.R. 1861, which requires the Postal Service to engage local officials and the public it serves when opening, closing, relocating, or renovating facilities. I hope we continue to work to ensure the Postal Service is a good partner with our communities and follows local laws and regulations.

I am pleased that the final bill, for the second year in a row, ends the travel ban to Cuba and allows for private financing of agricultural sales to Cuba by U.S. farmers. In addition, the House approved an amendment to allow Cuban-Americans to send money to their relatives in Cuba without restrictions. Food and medicine should not be used as weapons. The Cuban people should not have to suffer because the United States does not agree with the Cuban government. These provisions show that there is growing momentum in favor of getting rid of the embargo against Cuba altogether. Only through engagement will we be able to effectively promote the ideals of human rights and democracy.

The CHAIRMAN pro tempore. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. LATOURETTE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 488, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1430

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) "An Act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.".

## PROVIDING FOR CONSIDERATION OF H.R. 4965, PARTIAL-BIRTH ABORTION BAN ACT OF 2002

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 498 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 498

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) two hours of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, on Tuesday the Committee on Rules met and granted a closed rule for the Partial-Birth Abortion Ban of 2002. H.R. 4965 would ban performance of a partial-birth abortion except if it were necessary to save the mother's life. As an original cosponsor of this legislation, I am pleased to see the legislation reach the floor of the House. I also believe that President Bush deserves the opportunity to put an end to this horrific act of human violence by signing this legislation into law.

I must tell my colleagues, as a mother and a grandmother, it is still astonishing to me today that this is even remotely legal in America, but it is, and as we will no doubt hear on the floor today, it is practiced all too often in this country. The vast majority of partial-birth abortions are performed on healthy babies and healthy mothers. Although language banning this procedure has been struck down in the past by the Supreme Court, this new legislation has been tailored to address the Court's concerns. The five-Justice majority in Stenberg vs. Carhart thought that Nebraska's definition of partial-birth abortion was vague and could be construed to cover not only abortions in which the baby is mostly delivered alive before being killed but also the more common dilation and evacuation, D&E, method.

H.R. 4965 defines partial-birth abortion as an abortion in which the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of a breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

The tighter definition not only clarifies the procedure so that the Court will not reject it, it also draws attention to the violence of partial-birth abortion by describing how far out the baby can be.

I am pleased that we are bringing the Partial-Birth Abortion Ban Act of 2002 to the floor again. We have changed the bill, adding findings of fact to overcome constitutional barriers, and I am confident that it will survive judicial review.

The American people, Mr. Speaker, want this bill in overwhelming numbers, believing in their hearts that we are better than this. We are a better people. To that end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentlewoman from North Carolina for yielding me the customary 30 minutes.

Mr. Speaker, we are about to begin our annual debate on a procedure that is not really recognized by the medical profession, which is totally unconstitutional, and would not go anywhere. The Supreme Court just recently said again that all the laws that they have had brought before them, and particularly the one on Nebraska, were unconstitutional. Given that, it is very tempting for us on our side to talk about the things that American people are concerned about. Their pensions, their jobs, corporate responsibility, accounting measures, the regulation that we can try to do to make things better for us, creation of jobs, education, health care, prescription drugs. But, no, we are going to spend 3 hours on this issue right here which will not be taken up by the Senate and which is unconstitutional and, frankly, we should not be messing with it. It really is a hoax on the public and I am sorry to be a part of it.

But, Mr. Speaker, I certainly oppose the closed rule. They have shut out all meaningful debate on this. Anybody who had a right to talk about this on the other side was totally ignored, given no opportunity. No amendment will be allowed. You heard me correctly; no amendment to protect the lives of women will be allowed. For a bill that impacts so fundamentally the life of women, this is unconscionable and wholly unsurprising, given the contempt shown in this House for measures that impact our sisters and our daughters.

We have been given 2 hours of general debate on this issue, and I would not be at all surprised if that is more time, given the nature of the rule, than we give to the national security issue this afternoon on homeland security.

Mr. Speaker, election season is upon us. In the face of a crumbling stock market, an exploding deficit, and uncertain war on terrorism at home and around the globe, of this we can be sure: Congress will use the floor of the House of Representatives to push propaganda restricting a woman's right to choose. Direct mail pieces distorting this issue will hit the streets as soon as the vote is completed, just in time for the August recess. This vote before us is pure politics. The measure is cynical, it is unconstitutional, and it demeans this institution and those who serve in it.

On its face, H.R. 4965 suffers from the same two flaws that led the Supreme Court to declare a similar Nebraska law unconstitutional: It fails to include an exception to protect maternal health, and it places an undue burden on a woman's right to obtain an abortion prior to viability by banning the most common second trimester abortion procedure.

Fifteen pages of congressional findings do nothing to remedy this unconstitutionally flawed bill. In fact, the case law is clear. The Supreme Court articulated the three principles that govern abortion laws: One, a woman has the right to choose to terminate her pregnancy prior to viability. That is the law of the land. Two, the State cannot impose an undue burden on the woman's right to terminate a pregnancy. And, third, after viability, a State may regulate abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

How strange it is that we do not really care about the life or the health of the mother. The measure before us today does not include an exception to protect the health of the woman, and certainly poses an undue burden on her.

Moreover, and very importantly, this bill will turn doctors into criminals and put them in jail for performing a safe medical procedure which, in their best judgment, is the best way to protect a woman's right to having further children. The civil sanctions and criminal remedies, along with previous references by legislative proponents to medical professionals as assassins, exterminators, and murderers are part of a design to intimidate medical professionals from performing abortions generally.

In the context of abortion clinic demonstrations and bombings, it is clear that many in the movement have an agenda of banning all abortions. The measure before us today is clearly a part of this ongoing effort. Criminal sanctions for doctors would chill any medical professional from performing many of the most common procedures. Given the vague and the overbroad language of the bill, doctors can reasonably fear prosecution for using the safest and most common abortion methods, and they probably will not perform them. Who could blame them?

I assure my colleagues that the primary concern of most physicians will not be protecting the health of the woman, but protecting their own professional life. For this reason, the American Medical Association does not support this bill. Indeed, they are not the only ones. The American Public Health Association, the American Nurses Association, the American Medical Women's Association, Physicians for Reproductive Choice and Health, the American College of Nurse Practitioners, the American Medical School Student Association, the Association of Reproductive Health Professionals, Association of Schools of Public Health, Associations of Women Psychiatrists, National Asian Women's Health Organization, National Association of Nurse Practitioners and Reproductive Health, The National Black Women's Health Project, and the National Latina Institute for Reproductive Health.

But the bill does not stop here. Not content to cause the woman great harm or put the doctor in jail, in one of its most egregious provisions, it allows the woman to be sued by her husband or parents if she receives this procedure. In essence, proponents of this measure want to give a husband the veto power over a woman's decision. The Supreme Court has expressly held this to be unconstitutional.

Think about it for a moment. Are we really prepared to allow an abusive husband, or a husband who has abandoned his wife, to threaten his wife with a lawsuit if she obtained a procedure to protect her health and future fertility? Who do we think we are? The last time you were facing a life-or-death decision, do you want Congress with you in the emergency rooms? If, God forbid, you should find yourself in this terrible position, are you not going to allow the doctors to make a decision until your Member of Congress arrives because he or she will be the last word? Sitting down with your family, do you need Congress there to do it?

Congress does not have the right or the expertise to make these decisions for the American people; and, indeed, in the history of the Congress of the United States, no medical procedure has ever been outlawed. We are literally practicing medicine without a license.

It is unconscionable for this Congress to continually place its political agenda ahead of a woman's ability to have access to safe and appropriate medical care. Just like any other patient, a woman deserves to receive the best care based on the circumstances of her particular situation. As a Member of Congress, a mother of three daughters, and a long-time advocate of women's health, I strongly believe that the health of American women matters, and I urge my colleagues to vote "no" on this rule and no on the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 4 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, during the Stenberg v. Carhart case, Supreme Court Justice Clarence Thomas accurately described the partial-birth abortion method when he said the following, and I apologize for the graphic nature of the quote, but this is the reality of what a partial-birth abortion act is. He says: "After dilating the cervix, the doctor will grab the fetus by its feet and pull the fetal body out of its uterus into the vaginal cavity. At this stage of development, the head is the largest part of the body. The head will be held inside the uterus by the cervix. While the fetus is stuck in this position, dangling partly out of the woman's body and just a few inches from a completed birth, the doctor uses an instrument, such as a pair of scissors, to tear or perforate the skull. The doctor will then either crush the skull or will use a vacuum to remove the brain and other intracranial contents from the fetal skull, collapse the fetus's head, and pull the fetus from the uterus."

□ 1445

Mr. Speaker, this terrible act, known as partial-birth abortion, is what we are urging our colleagues to ban today.

As noted in H.R. 4965, congressional findings further signal that partial-birth abortion is not medically indicated to preserve the health of the mother; and it is in fact unrecognized as a valid abortion procedure by the mainstream medical community.

To quote the American Medical Association: "The partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians."

Furthermore, the AMA could not find any identified circumstance in which the procedure was the only safe and effective abortion method.

Mr. Speaker, contrary to what the deceptive, pro-abortion lobby would like us to believe, partial-birth abortions involve killing almost fully delivered babies from the later stages of pregnancy, and not only in cases of fetal disorders or maternal distress. Contrary to the lies of the pro-abortion campaign, this is not a rare act that is only performed in extraordinary circumstances. In fact, most are performed for strictly elective reasons, and I quote abortionist Martin Haskell, who reported to the American Medical News, "most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent are performed for genetic reasons, and the other 80 percent are purely elective."

But the worst tragedy of all is that partial-birth abortions are currently legal. This legislative body has twice approved to ban this atrocious act, only to have it vetoed twice by former President Bill Clinton. Today we have another historic opportunity to help stop this abhorrent act of killing the innocent unborn. I urge Members to take action and vote in favor of H.R. 4965.

Ms. SLAUGHTER. Mr. Speaker, I yield 6 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, today on this serious and most sensitive issue, the Republican leadership has turned the people's House into nothing more than a poser's House, posing for holy pictures, as the gentleman from Wisconsin (Mr. OBEY) would have us say. The world's greatest deliberative body will not engage in democratic debate today. It will engage in a contrived, cynical charade.

In 1994 after the GOP majority captured the House, Gerald Solomon, the former Republican chairman of the Committee on Rules stated, "The guiding principles will be openness and fairness." He was referring to the guiding principles of the Committee on Rules. He went on to say, "The Rules Committee will no longer rig the procedure to contrive a predetermined outcome." "From now on," Mr. Solomon went on, "the Rules Committee will clear the stage for debate, and let the House work its will."

I do not know how genuine was Mr. Solomon's conviction when he made those comments, but I presume that they were sincere. But the practice has been the opposite. Today's debate will not be open. It will not be fair. And it will not be a serious attempt to legislate. The rule ensures a rigged procedure to contrive a predetermined outcome, the very process the Republican Party derided when it regained the majority.

If the Republican leadership was really committed to fair and open debate, it would permit the Members to vote on the bipartisan Late Term Abortion Restriction Act which I and the gentleman from Pennsylvania (Mr. GREENWOOD), my Republican colleague, introduced last year and a number of years previous to that.

But the Committee on Rules has denied us that opportunity four times since 1995. Let Members be clear, the Partial-Birth Abortion Ban Act will not prevent a single abortion. Let me repeat that. The bill before us and on this floor reported out of the Committee on the Judiciary will not prevent a single abortion. Not one.

And the gentlewoman from Florida (Ms. ROS-LEHTINEN), who just spoke, testified to that fact when she said this procedure was not necessary and medical experts have said there are other methods to terminate the pregnancy. In other words, the issue here in this bill that is proposed by the Republican majority is not about preventing abortion, it is about a procedure.

I have asked those who are for this bill if this procedure were worse than others that are used to terminate a pregnancy. Is there anyone here who doubts the answer to that question is a clear and resounding "no."

The bill that the gentleman from Pennsylvania (Mr. GREENWOOD) and I introduced and which we asked to have made in order would have precluded all post-viability abortions because I believe the majority of us in this House believe that postviability abortion ought not to be by choice, but we do what the Supreme Court mandates we do and in my opinion is appropriate to do, and that is to provide for an exception so that the life of the mother might be saved if in the medical judgment such a procedure is necessary to accomplish that objective.

Furthermore, as the Supreme Court requires, and in my opinion is appropriate, it provides that if the mother's health will be put at risk, the medical procedure can be affected, but only in those instances. Otherwise late-term abortion, postviability abortion, would be precluded. The partial-birth abortion bill is sometimes I think by a sloppy press referred to as a late-term abortion. It has nothing to do with late term because the process can be used at any point in the pregnancy.

In fact, this bill would ban a rare medical procedure reserved for the most tragic of circumstances. In contrast, our bill will preclude all late-term abortions. Members may ask why is this not made in order? Why are they afraid to have us debate it? They can oppose it and say they do not agree with the exceptions. They can say the Supreme Court is wrong. But why preclude the opportunity in the people's House to adopt an amendment which reflects the law in 43 States of the United States of America?

Mr. Speaker, I will vote against this rule. What a shame that the majority fears open debate on this issue.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I rise in support of both this rule and the underlying legislation, H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This rule will allow adequate time for debate on this measure in addition to a motion to recommit with or without instructions, which will allow the House to work its will on this bill.

Today I will spare the House the horrible details of partial-birth abortion, for I am certain that many of my colleagues are all too familiar with the gruesome reality of this deadly procedure. I am also well aware of the Supreme Court's decision in Stenberg v. Carhart and the attempts by opponents of this bill to use that 5–4 decision as a safety net for their pro-abortion agenda.

Opponents of this measure will tell us that H.R. 4965 is unconstitutional because of the Supreme Court's Carhart decision. They will tell us we have no right to legislate a ban on this horrible practice because the Supreme Court says we cannot. I find that argument ironic, considering 413 Members of this body voted to pass a child pornography bill last month after the Supreme Court told us in Ashcroft v. Free Speech Coalition that we could not. Although I certainly respect the Supreme Court exercising its article III duties, I believe the Congress has its own duty to create and pass laws that protect the people of this country.

Before today, the House of Representatives had passed a ban on this procedure by veto-proof majorities in the last three Congresses. Why? Because an overwhelming bipartisan majority of this body, Members who represent the collective voice of the people of this country, believe that the line differentiating this practice and homicide is gray at best. How can any Member of the House turn to their constituents and tell them yes, I support a practice where the legal definition of murder and abortion are separated by mere inches? I, for one, cannot.

As such, I support both this rule and the underlying measure. It is time we put an end to this procedure which has been historically opposed not only by an overwhelming majority of this body but by an overwhelming majority of the citizens of this country. We will not relent on this issue. We will continue to fight for a ban on partial-birth abortions, and I ask that Members join with us in prohibiting this abhorrent practice.

In closing, let me say that when a Nation puts people in jail and fines them for destroying the potential life of an unborn loggerhead turtle or bald eagle, and then pays people for destroying the potential life of unborn babies, that Nation has lost its way.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentleman who just spoke, the Hoyer amendment was not eligible for a motion to recommit because it is out of scope and would require a waiver.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, this House has had many fine moments where it has stood up to correct the wrongs of this Nation. For me personally, I remember the Civil Rights Act of 1964, as well as the Voter Rights Act of 1965, a life-changing experience for the community from which I come.

Today this House steps away from that fine hour. Not because I do not agree with the underlying principles that we have a responsibility to appreciate and honor life, but I believe that when we engage in frivolous legislation, we have a very large explanation to make.

The Stenberg case made a simple principle regarding this procedure, that a medical doctor can make a judgment in order to provide for the health of the mother. This has not been defined as an abortion. It has been defined as helping to save the life or the health of a mother. Over and over again we have said that decisions should be made between that mother's God, family, and physician. Yet this body now brings before us legislation that is denied an amendment that I offered, and many other Members offered, that would at least allow us to put into the bill that a procedure could be done, a medical judgment could be made, in order to save the life of the mother.

We realize that Congress has in its past overridden the United States Supreme Court; but at the same time, the Supreme Court can come back and say it is unconstitutional. It is the highest law of the land, and so we can keep going back and forth and back and forth. Justice Thomas said himself, "We know of no support for the proposition that if the constitutionality of a statute depends in part on the existence of certain facts, a court may not review Congress' judgment that the facts exist." That is the key.

Again they ruled a Nebraska ban on partial-birth abortion, a label that has only been defined by this Congress, unconstitutional because it did not have a provision that allowed that physician to make a determination on the basis of the health of that mother.

□ 1500

We come again to talk about what our doctors do. We are not talking about criminals. We are talking about physicians who are being asked after many, many occasions for that mother to go and find a way to save the life of her unborn child. Yet when the decision has to be made to save her life and/or her health in order to have her procreate again, we put it on the floor of this House and make it a political decision.

I know that many of us can offer our own personal stories. Many women testified and pleaded with us as we listened to their testimony over the years. They did not want to have this procedure. They tried to go anywhere that they could. But because of the determination, the medical judgment, that decision had to be made. Because of the health of that mother, that medical judgment had to be made.

Can you imagine that this legislation then adds to the provisions, that they would then imprison and fine, make criminal the physician who had to do the decision or make the judgment based upon the Hippocratic oath in order to save the life and/or in this instance, rather, to do this without the governance of this particular legislation. In this instance, it would be if the physician made the judgment on the basis of saving the health of the mother.

We can do better in this body. This is not a question of stopping abortions. It is not judged that. It is a medical procedure. I ask my colleagues to vote "no" on the rule.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Let me thank my colleague from the Committee on Rules for yielding me this time.

Mr. Speaker, first I rise in support of the ban and this rule. As most of you know, I never come to the floor to speak on an abortion-related issue. Under normal circumstances, I do not believe this is an issue or the business of government. It is a woman's business, a medical business, a family business, a moral business. But it is not government's business. And that also means no taxpayer money for abortions. I make an exception to this bill today, because it involves a medical procedure that the American Medical Association itself says is unnecessary and it is unnecessarily cruel.

We just heard from the gentlewoman from Florida (Ms. ROS-LEHTINEN) how cruel and how painful this procedure is. This procedure is used primarily in late-term abortions, when there is absolutely no question about the viability of the fetus. It involves the partial delivery of what clearly is a viable fetus, and that, by any standard, should amount to murder.

Regardless of anyone's position on the general issue of abortion rights, I find it incredible that anyone could condone such an abhorrent procedure, particularly one that is by no means an exclusive medical remedy.

I urge my colleagues to support this rule, and I urge them to support the ban as most Americans do. There is no reason for this procedure, there are other options than this procedure, and I think we need to stand up and recognize the life of the unborn deserves merit and consideration on this floor today.

Ms. SLAUGHTER. Mr. Speaker, I think Congress should also stand up for the rights of women and their right to live.

Mr. Speaker, I yield 3½ minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I strongly oppose late-term abortions, but I believe, like many Americans, that when the health of the mother is at risk, that is a decision that should be made by a woman and her doctor and not by a bunch of politicians in Washington, D.C.

Mr. Speaker, I am sad to say that this rule is shameful and this bill is a false promise. I do find it interesting that those supporting this rule and this bill' keep quoting the American Medical Association. I do not know if they just did not want to hear it or if they refuse to accept it. The organization they are quoting opposes this legislation.

Why do I say this rule is shameful? First, it ensures that when this bill passes today, were it then to become law, no bill will ever have the impact of law or save one baby because the Supreme Court has made it absolutely clear, not just once but on five different occasions in their 2000 decision, that you must have a health exemption when the mother's health is at risk.

So maybe Ralph Reed was right when he said this is the political silver bullet, the partial-birth abortion bill, but what a tragedy.

The proponents of this bill and this rule are forcing a false promise upon the American people, a promise that will not help one child. This rule is shameful because it denies Members of this House a vote of conscience. I respect your conscience. I respect your right to express your conscience. You have no right on an issue of this magnitude, of such deep conscience for so many Members, no one in this House has that right to deny us the right to a vote, to a vote for an amendment that the Supreme Court would then interpret is making this bill constitutional.

I tried to offer an amendment to the Committee on Rules, it was not really radical, it was a bill I helped pass in 1987 in Texas to outlaw not one late-term abortion procedure which is not going to save a single baby, it would outlaw all late-term abortion procedures but with a health exception. For 15 years, the constitutionality of that Texas law has not been challenged. I would note that during the time that President Bush was then Governor of Texas, there was no effective effort or to my knowledge even serious effort made to change that bill. It was constitutional and it worked.

Supreme Court Justice O'Connor has made it very clear, in case anybody does not understand English, that if you do not have a health exemption in this bill, it will not ever have the impact of being law. Let me quote her from the court case of June 28 of 2000: "First, the Nebraska statute is inconsistent because it lacks an exception for those instances when the banned procedure is necessary to preserve the health of the mother."

In case that is not clear enough for the supporters of this rule and this unconstitutional bill, she then goes on to outline all that a legislative body has to do to make such a bill constitutional. Just add the words "where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." That would be the circumstance for an exception.

The people who should be upset at this bill should be pro-life Americans all across this country who have been deluded by this unconstitutional bill into thinking it is going to save one child. Had this rule allowed us to vote on a constitutionally acceptable amendment for a health exception, we actually could do some good. What a shame.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

I would just like to remind the House that the minority does have a motion to recommit on every bill that we do. Mr. Solomon had said that he wanted to be sure that the minority always had a motion to recommit. I say that just for the record.

Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I rise today in support of H.R. 4965, the partial-birth abortion ban, and its rule as well. Partial-birth abortion is a cruel and painful procedure. In this method the child is partially delivered. Only the baby's head is inside the mother's body. At this point the doctor inserts scissors into the baby's skull and removes the baby's brains with suction.

It is a medical fact that unborn infants can feel the pain of scissors puncturing their skull. In fact, the baby's perception of pain is even more intense at this early stage of life. A practice such as this has no place in the medical field. Even the physician credited with developing this procedure agrees that no medical situation exists to warrant the use of partial-birth abortion.

Aside from being cruel to the infant, it poses a serious health risk for the mother, including complications with future pregnancies and even death. We must protect these precious lives, these precious infants, who are only moments away from their first breath.

I urge my colleagues in joining me in voting to ban partial-birth abortion and to support the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 4½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. I thank the gentlewoman for yielding me this time.

Mr. Speaker, this bill before us will not prohibit any abortions. It prohibits a procedure. The abortion will still take place using another procedure, and I will not inflame the debate by describing in detail the alternative procedures that may be used. But I will point out that Nebraska had a law banning this procedure, the so-called partial-birth abortion. Nearly 2 years ago, the United States Supreme Court held in Stenberg v. Carhart that the law was unconstitutional.

The Supreme Court said many times in its majority opinion and other times in concurring opinions that in order to make the partial-birth abortion ban constitutional, the law must contain a health exception to allow the procedure when it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. That is what five Supreme Court justices said is necessary to make the bill constitutional. All five of those justices are still on the Supreme Court.

In the Stenberg case, the court said, "The question before us is whether Nebraska's statute making criminal the performance of a partial-birth abortion violates the Constitution as interpreted by Planned Parenthood v. Casey and Roe v. Wade. We conclude that it does for at least two independent reasons." They said the first reason was that the law lacks an exception for the preservation of the health of the mother. The Stenberg court reminded us what a long line of cases has held, that, quote, subsequent to viability, the State in promoting its interest in the potentiality of human life may if it chooses regulate, and even proscribe abortion, except, and they put this in italics, when it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother, unquote.

It goes on to say in quotes, in case we did not understand it in italics, that the governing standard requires an exception—listen up—where it is necessary in the appropriate medical judgment for the preservation of the life or health of the mother.

The court continues talking about the health exception by saying, quote, Justice Thomas said that the cases just cited limit the principle to situations where the pregnancy itself creates a threat to health. The court says, "He is wrong. The cases cited, reaffirmed in Casey, recognize that a State cannot subject women's health to significant health risks both in that context, and also where State regulations force women to use riskier methods of abortion. Our cases have repeatedly invalidated statutes that, in the process of regulating the methods of abortion, imposed significant health risks.

They make clear that a risk to a woman's health is the same whether it happens to arise from regulating a particular method of abortion or from barring abortion entirely."

Finally, the court says, "Nebraska has not convinced us that a health exception is never medically necessary to preserve the health of the mother." It continues by saying, "A statute that altogether forbids the partial-birth abortion creates a significant health risk. The statute consequently must contain a health exception."

And in case we did not get it, the court said again, "By no means must a State grant physicians unfettered discretion in their selection of a method of abortion but where substantial medical authority supports the proposition that banning a particular abortion procedure could endanger the woman's health, Casey requires the statute to include a health exception when the procedure is"—listen up—"necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Requiring such an exception in this case is no departure from Casey, but simply a straightforward application of its holding."

Mr. Speaker, whatever our views are on the underlying issue of abortion, we ought to read the decision and apply the law. The Supreme Court, in one decision, said at least five times that a health exception must be included for the statute to be constitutional. Furthermore, they put "necessary, in appropriate medical judgment, for the preservation of the life or health of the mother" in italics and quotation marks.

This rule that we are considering proposes a bill without a health exception. It prohibits amendments that would create a health exception. The court has made it clear that the health exception is required and, therefore, any bill that passes without the health exception will be found unconstitutional. Thus, this rule which does not allow the required health exception should be defeated.

☐ 1515

Mrs. MYRICK. Mr. Speaker, I reserve my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman for yielding me time and for her tremendous leadership on this issue and so many others.

Mr. Speaker, this bill is nothing more than a cruel ploy to prevent women from obtaining the safest and best medical care from their doctors. What is more, it is unconstitutional.

This bill is no different from the Nebraska law struck down by the Supreme Court 2 years ago in Stenberg v. Carhart. It has the same flaws and the same dangers. Like the Nebraska law, this bill's broad language bans the safest and most common form of abortion used in second trimester, posing an undue burden on a woman's right to choose. It has no exception for preserving a woman's health. It ties the hands of medical practitioners, condemning women to less safe procedures that may put their lives at risk.

Sandra Day O'Connor's opinion was very clear that government "may promote, but not endanger, a woman's health when it regulates the methods of abortion." The decision went on to say, "Where a significant body of medical opinion believes a procedure may bring with it greater safety for some patients and explains the medical reasons supporting that view, neither Congress nor the States may ban the procedure."

The Supreme Court has said neither Congress nor the States may ban the procedure, so if we already know that this bill is unconstitutional, then why are we here? I believe it is to give the anti-choice forces one more chance to spread the lie that this is about a particular procedure at a particular phase of pregnancy.

So let us set the record straight. This ban covers many procedures and all phases of pregnancy. This is not about late-term abortions, this is not about the D&E procedure, this is about outlawing choice, pure and simple. It is an extreme measure that sacrifices women's health to further an ideological agenda that opposes choice.

Mr. Speaker, I ask my colleagues to join me in voting against this deceptive attempt to deny women access to choice. I urge a no vote on this rule and the underlying bill, and I urge this body to follow the words of Sandra Day O'Connor and the majority of the members of the Supreme Court that have already ruled that the bill before us is unconstitutional.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to comment that, once again, an unconstitutional measure which we recently did, too, that was passed by this House was to prohibit young women from crossing State lines in the United States. I have no idea who is going to police that or whether we are going to put borders up at every State to make sure people do not cross it "illegally," according to the Congress. Obviously that is not going to ever become law. There is no way we can keep American citizens from going from one State to another.

Once again we try this, which is not a serious attempt to do much except make points. I urge a no vote on this rule.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote on this rule will be followed by a 5-minute vote on H.R. 5120 and a 5-minute vote on House Concurrent Resolution 188.

The vote was taken by electronic device, and there were—yeas 248, nays 177, not voting 9, as follows:

[Roll No. 340]

YEAS—248

Aderholt
Akin
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Kolbe
LaFalce
LaHood
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Mascara
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stenholm
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—177

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett

Becerra
Bentsen
Berkley
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Armey
Bonior
Condit
Knollenberg
Northup
Pryce (OH)
Stearns
Traficant
Whitfield

☐ 1542

Messrs. LARSON of Connecticut, DEFAZIO, KLECZKA, GILMAN, and SIMMONS, and Ms. PELOSI changed their vote from "yea" to "nay."

Mr. PAUL and Mr. CRAMER changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## MOMENT OF SILENCE IN MEMORY OF OFFICER JACOB B. CHESTNUT AND DETECTIVE JOHN M. GIBSON

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the Chair's announcement of earlier today, the House will now observe a moment of silence in memory of Officer Jacob J. Chestnut and Detective John M. Gibson.

Will all present, both in the gallery and on the floor, please rise for a moment of silence.

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## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that the vote on House Concurrent Resolution 188 will be postponed until later today.

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## TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. The pending business is the question on the passage of the bill (H.R. 5120) on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 308, nays 121, not voting 5, as follows:

[Roll No. 341]

YEAS—308

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Baird
Baldacci
Ballenger
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capps
Cardin
Castle
Chambliss
Clay
Clayton
Clyburn
Combest
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Granger
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mink
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Pickering
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schakowsky
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Sununu
Sweeney
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—121

Akin
Bachus
Baker
Baldwin
Barcia
Barr
Barrett
Barton
Berry
Boswell
Brady (TX)
Bryant
Capito
Capuano
Carson (IN)
Carson (OK)
Chabot
Clement
Coble
Collins
Conyers
Costello
Crane
Cubin
Culberson
Davis (CA)
Davis, Jo Ann
Deal
DeMint
Deutsch
Diaz-Balart
Doggett
Duncan
Etheridge
Everett
Flake
Foley
Forbes
Ford
Fossella
Goode
Goodlatte
Graham
Graves
Green (TX)
Gutknecht
Hall (TX)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Inslee
Israel
Jenkins
Johnson (IL)
Jones (NC)
Kerns
Kind (WI)
Kleczka
Kucinich
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Matheson
McInnis
McKinney
Menendez
Mica
Miller, Jeff
Moore
Moran (KS)
Napolitano
Norwood
Otter
Oxley
Paul
Pence
Peterson (MN)
Petri
Phelps
Pitts
Platts
Pomeroy
Ramstad
Riley
Roemer
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shows
Slaughter
Smith (WA)
Strickland
Stump
Stupak
Sullivan
Tancredo
Tanner
Taylor (MS)
Terry
Thune
Thurman
Tiberi
Toomey
Turner
Weldon (FL)
Wilson (SC)

NOT VOTING—5

| | | |
|---|---|---|
| Bonior | Knollenberg | Traficant |
| Condit | Stearns | |

□ 1601

Mr. GRAVES changed his vote from "yea" to "nay."

Mr. LAMPSON and Mr. RUSH changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PARTIAL-BIRTH ABORTION BAN ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 498 adopted earlier today, I call up the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 4965 is as follows:

### H.R. 4965

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Partial-Birth Abortion Ban Act of 2002".

**SEC. 2. FINDINGS.**

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart, 530 U.S. 914, 932 (2000), the United States Supreme Court opined "that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure" for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an "undue burden" on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the "health" of the mother.

(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not "clearly erroneous". A finding of fact is clearly erroneous "when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed". Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1985). Under this standard, "if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently". Id. at 574.

(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the "clearly erroneous" standard. Rather, the United States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public services," the Court stated that "[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case.". Id. at 653.

(10) Katzenbach's highly deferential review of Congress's factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the "bail-out" provisions of the Voting Rights Act of 1965, (42 U.S.C. 1973c), stating that "congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose". City of Rome, Georgia v. U.S., 472 F. Supp. 221 (D. D. Col. 1979) aff'd City of Rome, Georgia v. U.S., 446 U.S. 156 (1980).

(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See Turner Broadcasting System, Inc. v. Federal Communications Commission, 512 U.S. 622 (1994) (Turner I) and Turner Broadcasting System, Inc. v. Federal Communications Commission, 520 U.S. 180 (1997) (Turner II). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be "seriously jeopardized". The Turner I Court recognized that as an institution, "Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here". 512 U.S. at 665–66. Although the Court recognized that "the deference afforded to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law,'" its "obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence." Id. at 666.

(12) Three years later in Turner II, the Court upheld the "must-carry" provisions based upon Congress' findings, stating the Court's "sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'" 520 U.S. at 195. Citing its ruling in Turner I, the Court reiterated that "[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to "amass and evaluate the vast amounts of data" bearing upon' legislative questions," id. at 195, and added that it "owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power." Id. at 196.

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a "health" exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th and 105th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th and 105th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: an increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, "there are very few, if any, indications for . . . other than for delivery of a second twin"; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is "not an accepted medical practice," that it has "never been subject to even a minimal amount of the normal medical practice development," that "the relative advantages and disadvantages of the procedure in specific circumstances remain unknown," and that "there is no consensus among obstetricians about its use". The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is "ethically wrong," and "is never the only appropriate procedure".

(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood v. Casey, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child "in a state of being born and before actual birth," was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a "person" under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a "person". Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are "ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb". According to this medical association, the "'partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body".

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

**SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.**

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

### "CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.
"1531. Partial-birth abortions prohibited.

**"§1531. Partial-birth abortions prohibited**

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.

"(b) As used in this section—

"(1) the term 'partial-birth abortion' means an abortion in which—

"(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

"(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

"(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

**"74. Partial-birth abortions ................ 1531".**

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 498, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 1 hour.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER: Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4965, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, this bill, the Partial-Birth Abortion Ban Act of 2002, would prohibit the gruesome procedure of partial-birth abortion that unfortunately we are now all too familiar with. An abortionist who violates this ban will be subject to fines, a maximum of 2 years imprisonment, or both. This bill includes an exception for those situations in which a partial-birth abortion is deemed necessary to save the life of the mother.

A moral, medical, and ethical consensus exists that partial-birth abortion is an unsafe and inhumane procedure that is never medically necessary and which should be prohibited. Contrary to the claims of partial-birth abortion advocates, this type of abortion remains an untested, unproven, and potentially dangerous procedure that has never been embraced by the medical profession.

As a result, Congress has voted to ban partial-birth abortion during the 104th, 105th, and 106th Congresses, and at least 27 states enacted bans on the procedure. Unfortunately the two Federal bans that reached President Clinton's desk were promptly vetoed.

In June 2000, the Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar but not identical to bans previously passed by the Congress. The Court concluded that Nebraska's ban did not clearly distinguish the prohibited procedure from other more commonly performed second trimester abortion procedures. The Court also held, on the basis of the highly disputed factual findings of the district court, that the law was required to include an exception for partial-birth abortions deemed necessary to preserve the health of a woman.

This bill has a new definition of partial-birth abortion. It addresses the Court's first concern by clearly and unambiguously defining the prohibited procedure. It also addresses the Court's second objection to the Nebraska law by including extensive congressional findings based upon medical evidence received in a series of legislative hearings that, contrary to the factual findings of the district court in Stenberg, partial-birth abortion is never necessary, never medically necessary to preserve a woman's health, poses serious risks to a woman's health, and is in fact below the requisite standard of medical care.

The bill's lack of a health exception is based upon Congress's factual determination that partial-birth abortion is a dangerous procedure that does not serve the health of any woman. The Supreme Court has a long history, particularly in the area of civil rights, of deferring to Congress's factual conclusions. In doing so, the Court has recognized that Congress's institutional structure makes it far better suited than the judiciary to assess facts upon which it will make policy determinations. As Chief Justice Rehnquist has stated, the Court must be "particularly careful not to substitute its judgment of what is desirable for that of Congress or its own evaluation of evidence for a reasonable evaluation by the Legislative Branch." Thus in Katzenback v. Morgan, while addressing section 4(e) of the Voting Rights Act of 1965, the Court deferred to Congress's factual determination that section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public."

Similarly, in Fullilove v. Klutznick, when reviewing the minority business enterprise provision of the Public Works Employment Act of 1977, the Court repeatedly cited and deferred to the legislative record and factual conclusions of Congress to uphold the provisions as an appropriate exercise of congressional authority. Based upon the Supreme Court precedent and separation of powers principles, I am confident that H.R. 4965 will withstand judicial scrutiny.

Mr. Speaker, it also is important for this body to understand that in addition to the health risk to women who undergo the partial-birth abortion procedure, it is particularly brutal and inhumane to the nearly-born. Virtually all of the infants upon whom this procedure is performed are alive and feel excruciating pain.

A child upon whom a partial-birth abortion is being performed is not significantly affected by the medication administered to the mother during the performance of the procedure. As creditable testimony received by the Subcommittee on the Constitution confirms, current methods for providing maternal anesthesia during partial-birth abortions are unlikely to prevent the experience of pain and stress that the child will feel during the procedure. Thus, claims that a child is almost certain to be either dead or unconscious and near death prior to the commencement of the partial-birth procedure are unsubstantiated.

H.R. 4965 enjoys overwhelming support from Members of both parties, precisely because of the barbaric nature of the procedure and the dangers it poses to women who undergo it. Additionally, the American Medical Association has recognized that partial-birth abortions are either ethically different from other destructive abortion techniques because the fetus, normally 20 weeks or longer in gestation, is killed out of the woman. Thus, partial birth gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body.

Implicitly approving such a brutal and unjustifiable procedure by choosing not to prohibit it will further coarsen society to humanity of all vulnerable and innocent human life. Thus, Congress has a compelling interest in acting to prohibit this procedure.

Mr. NADLER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from New York (Mr. NADLER), the ranking member of the subcommittee, for managing the bill, and I would like to welcome everyone back to yet another debate since 1995 on partial-birth abortion. We have lost track of how many times this has come to the floor, been to the committee, been to the subcommittee, and is here again.

I will spare my colleagues the list of issues, but in the last 2 days, before we go on our summer recess, of legislation that is waiting by the American people to be dealt with, why and how this measure got to the floor is one of the great mysteries of the national legislative process, but we are here again, and so we have to go through this again.

It does not matter to some that the great weight of medical opinion is against this legislation that would ban partial-birth abortion, which is, by the way, very rarely used, and that is why the American Medical Association is not in support of this legislation.

It is also why the American College of Obstetricians and Gynecologists are opposed to the bill. It is also why the American Public Health Association, the American Nurses Association, the American Medical Women's Association, the California Medical Association, the Physicians for Reproductive

Choice and Health, the American College of Nurse Practitioners, the American Medical Students Association, the Association of Reproductive Health Professionals, the Association of Schools of Public Health, the Association of Women's Psychiatrists, the National Asian Women's Health Organization, the National Association of Nurse Practitioners and Reproductive Health, the National Black Women's Health Project, the National Latina Institute for Reproductive Health, and the Rhode Island Medical Society are all against this bill.

They do not understand medicine or the procedures that are debated here? Maybe. They are inhumane or insensitive to their responsibilities as medical doctors? Maybe. But I doubt that seriously.

This measure is now being brought during the 7th year for an infinite number of times and the result always comes out the same.

It is important, because there is going to be maybe some debate on it. We went through this before, but the American Medical Association has stated that they are not in support of this bill. I have a letter here to that effect and would be happy to show it to anyone who is not convinced or needs more encouragement about this matter.

It is important that we realize that there is one major reason that this bill is not supported by these medical associations, and that is that the measure contains no protection for the woman, the mother. There is no exception for the fact that this procedure may save the life of the mother.

□ 1615

There is no consideration about that in this legislation. And so, therefore, these medical institutions and associations cannot support this legislation, and the legislators, for reasons known only to themselves that promote the bill, will not put this provision in the bill.

Now, only last week when this bill came up in the Committee on the Judiciary, the gentlewoman from Wisconsin introduced an amendment to cure this defect that has been repeated by the Supreme Court every time this measure goes to the Supreme Court. It has been repeated by circuit courts wherever the cases have occurred; it has been repeated in State courts wherever it has occurred; that unless there is an exception to this ban for the safety and the health of the mother, this bill cannot stand muster. Even if it passes the House and the Senate, the Supreme Court still will tell us the same thing; that we must have an exception for the life and health and safety of the mother, or this provision is not valid.

Now, is that so difficult to understand? It has been repeated for years. It has been stated in nonlegal, simple English, and yet the authors of this bill consistently refuse, as of last week they refused, as of today, if we could amend it, and we cannot, they would refuse. Even if we went to conference and we asked to put it in, I presume they would continue to refuse. Why, I cannot offer my colleagues any logical reasons.

But, Mr. Speaker, since there is no chance of this ever becoming law, I wonder why, if my colleagues want it into law so badly, they do not accede to the existing court decisions that have never varied on protecting the mother's life in the event a partial-birth abortion would save an endangered mother's life. And so I urge once again that the majority of the Members of this body reject the measure that is before us.

Mr. SENSENBRENNER. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time, and I wish to respond to something the gentleman from Michigan said relative to a health exception and why a specific health exception is not in there.

No matter how narrowly drafted a health exception might be, it gives the abortionist unfettered discretion in determining when a partial-birth abortion might be performed, and abortionists have demonstrated that they can justify any abortion on this ground. Dr. Warren Hearn of Colorado, for example, the author of the Standard Textbook on Abortion Procedures, who also performs many third-trimester abortions, has stated, and I quote, "I would certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health." It is unlikely, then, that a law that includes such an exception would ban a single partial-birth abortion.

Partial-birth abortion, after all, is the termination of the life of a living baby just seconds before it takes its first breath outside the womb. This procedure is violent, it is gruesome, it is, in the words of one of the Senators from New York some years ago, a Democratic Senator, I might add, it is infanticide.

Now, proponents of this procedure will tell a different story today. They want us to believe it is about politics or ideology. They will do anything to divert attention from the cold, hard facts about partial-birth abortion. I would remind everyone that we have seen these same tactics for many years, and that the misinformation touted by the abortion lobby was exposed as blatant propaganda back in 1997.

My colleagues might recall that the executive director of the National Coalition of Abortion Providers admitted that he "lied through his teeth" when he stated that partial-birth abortions were rarely performed. He went on to admit that the procedure is most often performed on healthy mothers who are about 5 months along in the pregnancy, and they are performed with healthy fetuses.

So as we debate this compassionate bill today, I ask that my colleagues remember the truth. Partial-birth abortion remains an untested, unproven, and dangerous procedure that has never been embraced by the mainstream medical community.

I would like to take a few minutes to discuss this legislation in a little more detail. Two years ago, in the Stenberg v. Carhart case, the United States Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar but not identical to bans passed by previous Congresses. To address the constitutional concerns raised by the majority in Stenberg, our legislation differs from previous proposals in two areas:

First, the bill contains a new, more precise definition of the prohibited procedure that, as expert medical testimony received by the Subcommittee on the Constitution indicated, clearly distinguishes it from more commonly performed abortion procedures.

Second, our legislation addresses the Stenberg majority's opinion that the Nebraska ban placed an undue burden on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the health of the mother.

The Stenberg court based its conclusions on the trial court's factual findings regarding the relative health and safety benefits of partial-birth abortions, findings which were highly disputed. Under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the so-called clearly erroneous standard. Rather, as the Supreme Court explained in Turner Broadcasting System, Inc. v. Federal Communications System, the United States Congress is entitled to reach its own factual findings, findings that the Supreme Court consistently relies upon and accords great deference, and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution and draws reasonable inferences based upon substantial evidence.

The first section of our legislation contains Congress's extensive factual findings that, based upon extensive medical evidence compiled during congressional hearings, partial-birth abortions pose serious risks to women's health. So the partial-birth abortion itself poses a serious medical risk on a woman's health. It is never medically indicated, and it is outside the standards of medical care in this country.

In fact, the district court's factual findings in the Stenberg case are inconsistent with the overwhelming weight of authority regarding the safety and medical necessity of partial-birth abortion. According to the American Medical Association, and I quote, "There is no consensus among obstetricians about its use, and it has never been subject to even a minimal amount of the normal medical practice development," and "It is not in the medical textbooks." That is according to the American Medical Association.

In addition, no controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are safe or superior in any way to established abortion procedures.

Leading proponents of partial-birth abortion also acknowledge it poses additional health risks because, among other things, the procedure requires a high degree of skill to pierce the infant's skull with a sharp instrument in a blind procedure. Dr. Warren Hearn, the author of the Standard Textbook on Abortion Procedures, who also performs many of these types of procedures, has testified that he "had very serious reservations about this procedure, and it is definitely not the safest."

I would strongly encourage my colleagues in the House to no longer make available in this country this barbaric, inhumane practice of partial-birth abortion.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I appreciate the gentleman from Ohio's presentation. Could he explain to me why over a dozen of the medical organizations and associations that I have cited have all come out against this measure? What is the gentleman's answer to their statements?

Mr. CHABOT. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Speaker, if I had time, I could list all the organizations in favor of this legislation. But just using the AMA, for example, they have sent us letters indicating they are opposed to this legislation, but what they do not like at this point is the fact a doctor could go to jail.

Mr. CONYERS. Mr. Speaker, reclaiming my time, I would ask the gentleman, what about the other dozen organizations? Does the gentleman have any reason to think why they would be opposed to this legislation?

Mr. CHABOT. If the gentleman will continue to yield, using the AMA again, for example, they do not like the fact that abortionists would have to go to jail if caught.

Mr. CONYERS. I am talking about the other dozen organizations outside the AMA that I named. Why are they opposed to the bill?

Mr. CHABOT. I would be happy to provide a long list of organizations that are in favor of this legislation. Be happy to trade lists with the gentleman. This is an inhumane, barbaric, brutal procedure which ought to be banned.

Mr. CONYERS. That is an inadequate response.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise once again in opposition to this bill. We have been through this debate often enough to know that we will not find the term partial-birth abortion in any medical textbooks. There are procedures that we will find in medical textbooks, but the authors of this legislation would prefer to use the language of propaganda rather than the language of medical science.

This bill, as written, fails every test the Supreme Court has laid down for what might or might not be a constitutional regulation on abortion. It reads almost as if the authors went through the Supreme Court's recent decision in Stenberg v. Carhart and went out of their way to thumb their noses at the Supreme Court, and especially at Justice Sandra Day O'Connor, who is generally viewed as a swing vote on such matters and who, wrote a concurring opinion stating specifically what would be needed to uphold a statute.

Unless the authors think that when the court has made repeated and clear statements over the years of what the Constitution requires in this area they were just pulling our leg, this bill has to be facially and obviously unconstitutional.

Now, if people wanted to write a bill that said we are going to ban late-term abortions, which this bill is sometimes referred to, although incorrectly, if they wanted to write a bill that said we are going to ban late-term abortions after viability, and we are going to include in the bill an exception for when the abortion is necessary for the life or health of the mother, they could do that. It would be a constitutional bill and Members could debate it in good conscience.

But they have chosen not to do that. They have chosen to write a facially unconstitutional bill that they know perfectly well is unconstitutional, despite all the nonsense we have heard today; that they know will never see the light of day because it is unconstitutional, and the Supreme Court has given us a specific precise recipe of what a constitutional bill would look like.

So this bill is political propaganda. It gives people something to go home and talk about, but falsely talk about, because it is clearly unconstitutional. The bill does not contain a life and health exception, which the Supreme Court has repeatedly said is necessary throughout pregnancy, even post viability.

I know that some of my colleagues may not like this rule. The gentleman from Ohio (Mr. CHABOT) talked about why he did not like a health exception. But there it is in the Constitution as interpreted by the Supreme Court, whether we like it or not. We have to put it in a bill if we want the bill to be constitutional.

□ 1630

Even the Ashcroft Justice Department, in its brief defending a similar Ohio statute, has recently acknowledged that a health exception is required by the Constitution. I may disagree with Mr. Ashcroft's Justice Department on whether the Ohio statute adequately protects women's health, at least Attorney General Ashcroft and his Department acknowledge that the law requires a health exception, requires that protection if it is not going to be factually unconstitutional.

This bill purports to solve this problem with findings; 15 of the 18 pages of the bill are findings, congressional findings of fact. Congressional findings of medical fact, as if we are expert doctors here, all of us. If there is one thing that this activist Supreme Court that we have now has made clear, it is that it is not very deferential to Congress' findings of fact.

Congress can declare anything it wants. It can declare the moon is made of green cheese, but it does not make it factual and it does not make the courts bound to accept anything that we say at face value simply because we say so.

While I realize that many of the proponents of this bill view all abortions as tantamount to infanticide, that is their view. It is not a mainstream view, and it is not the view of the Supreme Court of the United States. If the proponents of this bill wanted to deal with post-viability abortions where a woman's life and health are not in jeopardy, they could write a bill dealing with that issue. Forty-one States have such laws, including my own State of New York.

Members should know better than to believe that this activist conservative Supreme Court that we now have, we should know that they do not feel any particular need to defer to Congress. Members should know what comes of Congress ignoring the will of the Supreme Court. Whatever power Congress had under section 5 of the 14th amendment to effectuate the purposes of 14th amendment as a result of Katzenbach v. Morgan, which was cited by the proponents of the bill, and is cited copiously in the bill's findings, I think the more recent Boerne decision of the Supreme Court vastly undercuts those powers. And even if Katzenbach was still fully good law, as I personally wish it were for other reasons, that case empowered Congress only to expand rights under the 14th amendment, not to curtail rights under the 14th amendment.

The Supreme Court has held that the right to choose to have an abortion is a woman's right under the 14th amendment, with some limits that the Supreme Court has recognized; and the Katzenbach decision says those rights can be expanded, but not curtail them. This bill aims to curtail those rights.

Mr. Speaker, we are told that the Supreme Court must defer to congressional fact-finding even if Congress' so-called facts conflict with the preponderance of evidence in litigation before the Court. But the drafters of this bill are wrong. First, it is one of the fundamental tenets of our constitutional structure which establishes three separate branches of the Federal Government that Congress can enact laws, but it cannot decide whether those laws are constitutional. That is exclusively the Supreme Court's role.

I realize that one of the members of the Committee on the Judiciary said that the Supreme Court wrongly decided Marbury v. Madison, but for 200 years that has been the law of the land.

Second, the Supreme Court is not required to defer to our fact-finding. The Court has the power and duty to independently assess the evidence that is presented to it as it did in the Carhart decision. In the Carhart decision, the Supreme Court also specifically rejected the argument made by the bill's sponsors that the legislation need not contain the health exception because intact dilation and extraction, so-called intact D&E or D&Ex, is never necessary for a woman's health. That statement is right in the bill. The Supreme Court stated a law like H.R. 4965 that altogether forbids D&Ex creates a significant health risk and is, therefore, unconstitutional.

Mr. Speaker, this bill is not a serious attempt to deal with a problem, any problem. This bill is an attempt to fool the people of the United States into thinking that they are trying to deal with a problem.

If the sponsors of this bill wanted to deal with the problem, they know how to do it. Justice O'Connor told them specifically. They do not want a bill that would ban late-term abortions with an exception for when the health or life of the mother is threatened. They do not want that. If they wanted that, they would write it, we would pass it, and it would be constitutional. What they want is a charade, a bill that is flatly unconstitutional, will accomplish nothing, will not see the light of day in the Senate; and, frankly, it is a charade, and the time of the House should not be wasted on charades like this when we cannot find time to do a lot of things that the welfare of this country demand that we do.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, if the gentleman from New York (Mr. NADLER) wishes to speed the process up, I am prepared to yield back the balance of my time and go to an immediate vote if the gentleman from New York will do the same.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, I understand that the sponsors of this bill do not want an open debate.

Mr. SENSENBRENNER. Mr. Speaker, I reclaim my time.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise in strong support of the Partial-Birth Abortion Ban Act. Partial-birth abortion is an antiseptic word for a barbaric procedure. Democratic Senator Daniel Patrick Moynihan, a supporter of abortion rights, described it accurately as near infanticide.

Mr. Speaker, the arguments for this bill are legion, and endeavors by the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. NADLER), they are also arguable, and we will hear those arguments today: the argument that our bill as we believe is superior to the Nebraska bill which has been rejected and struck down and will pass constitutional muster; the argument that will ensue today that this procedure is never medically necessary. The AMA said it is ethically wrong. They said it is never the only appropriate procedure, but we can argue the medicine and the endorsements. What is not arguable is that this practice is inherently and morally wrong.

What is not arguable is that the practice of delivering a newborn child alive, feet first, and holding it in the birth canal squirming while the back of its head is stabbed with a suction device is evil. That is not arguable.

Today we will render unlawful or at least begin to render unlawful what virtually every American knows in their heart is evil and morally wrong. That is why the overwhelming majority of the American people reject this practice and want it banned in the United States of America. Justice has always been defined by how societies protect the innocent and punish those who do them harm. The Partial-Birth Abortion Ban Act is such a bill. Of the innocent and defenseless the Bible admonishes that "whatsoever you do for the least of these you do for me." Banning partial-birth abortion is the least we can do for the least of these.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, on page 16 of the bill it reads "partial-birth abortion," a term that does not exist in medicine, "is never medically indicated to preserve the health of the mother."

Mr. Speaker, all of us here came to Congress having done other things in our lives; and sometimes I think that God sends us here to tell a particular story, and I feel that way today because I can tell the story of someone who had to have this procedure, and that person is the daughter-in-law of my friend, Susie Wilson. Before I was elected to Congress, Susie was so excited that her daughter-in-law, Vicki, was going to have a little girl. Susie had three boys and there were grandsons, but no girls. We were excited for Susie, and we found out at the end of Vicki's pregnancy that the granddaughter, they had already picked out a name, Abigail, that the baby's brains had formed almost completely outside of the cranium.

I saw the ultrasound picture, and it looked like there were two heads on this child. The question was not whether they would have the Abigail they wanted and prayed for, but how they would terminate this pregnancy, and whether in addition to having no Abigail, whether Vicki would also live; and if she lived, whether she would be healthy enough to continue to care for her two boys. So this procedure was what was safest for Vicki, and Susie went down there to be with her at this trying time, and it was devastating not just for Vicki but for her husband and for her whole family. It is not just a woman's issue.

So when I read these words, I know there is something else afoot here today, and it is not about medicine and caring for women's health and respecting the trauma that families go through in these very devastating circumstances. It is about 30-second ads.

That is why we are here today. We are here to tee up another round of 30-second ads in the November election. I think it is shameful. I hope we can vote against this bill and speak out against this outrageous politicization.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in strong support of H.R. 4965, the Partial-Birth Abortion Ban Act. My constituents in western Pennsylvania and a majority of the public in general have urged us as a Congress to end partial-birth abortion. Congress has tried to end this unnecessary and horrific procedure, and instead we have entered into a debate of semantics about what this procedure should be called, or if it is ever necessary.

No matter what one calls it, the fact is that this is a horrific procedure that is tantamount to murder. It is a tremendously violent procedure. During a partial-birth abortion, the abortionist pulls a living baby, feet first, out of the womb and into the birth canal, except for the head. He then punctures the base of the baby's skull with surgical scissors, inserts a tube into that wound, removes the brain, causing the skull to collapse at which time the now-dead baby is then delivered. This procedure actually co-opts the birth process to take the child's life.

This procedure that we are voting to ban today, no matter what we want to label it, is unconscionable and must be ended. Critics of the bill have attempted to cloud the issue of the gruesome murder of children by saying the bill fails women because it does not permit an exception for the health of the woman.

The findings of the bill clearly note, after extensive hearings on the issue, substantial evidence exists that the preservation of the health of the mother is never cited as a factor for partial-birth abortions. No studies of this procedure have been done. It is not a medically accepted procedure.

Neither the plaintiff in Stenberg v. Carhart, Dr. Leroy Carhart, nor the experts who testified on his behalf have identified a single circumstance during which a partial-birth abortion is necessary to preserve the health of a woman. In fact, the opposite is true; and this creates a health risk for the woman, this procedure of partial-birth abortion.

It is imperative for us to act and ban partial-birth abortion once and for all. As the civilized and compassionate country that we are or hope to be, it is imperative that we act now.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the previous speaker would be more impressive if the gentlewoman would acknowledge that the AMA now opposes this bill.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue.

Mr. Speaker, we are just days away from the August recess, but instead of using this time to pass the very important spending bills that we have not even looked at yet, the GOP leadership has once again scheduled a vote on an issue that the Supreme Court has already struck down.

Let us be clear. This debate on the so-called partial-birth abortion procedure is nothing more than a ploy to advance the political agenda of the anti-choice community, and they have made it quite clear that their political schemes are worth sacrificing the health of American women. But we cannot fall for this. We cannot fall for this outrageous propaganda of the anti-choice community. We cannot let them twist another health care issue into a political issue.

□ 1645

We should be promoting a woman's health, not endangering it. We should be debating concrete measures to reduce the number of unintended pregnancies and to ensure that all pregnant women have affordable access to the care they need so they can deliver healthy babies, not telling doctors how to practice medicine.

American women are counting on us to ensure that their doctors can provide the care that best meets their individual medical needs. The highest court in the land ruled that our government has no authority to force a woman to risk her health or her life in order to carry a pregnancy to term. Let us put politics aside and think of American women first. The Federal Government has no business poking its nose in decisions that are best left to a woman and to her doctor.

I urge my colleagues to reject this blatant attack on women's health and vote against H.R. 4965.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, it never ceases to amaze me when I listen to debates on the floor at the tremendous disconnect between the rhetoric we hear and the substance of the bill. This afternoon we will hear a lot of people talking about choice when they know this bill is not about choice. We will hear them talk about abortion, and this bill is really not about abortion. This bill, substantively when you look at it, is about one procedure, one procedure that is so painful to an unborn baby, so barbaric, so egregious that even the most extreme proponent of abortion has to look at it and say it shocks even their conscience.

Mr. Speaker, when we leave here tonight and all the pounding on the podium is done and all the rhetoric is finished and the lights are turned off, one thing will loom ever present, and that is this fact, that all of the testimony that we have heard on this bill suggests that an unborn baby feels pain even more than the actual baby when it is born, because of the development of the nervous system.

Mr. Speaker, when it all comes down to whether this bill should be passed or not, the question is very simple. Is there no amount of pain that is so great that we would inflict upon an unborn baby? Is there no procedure that is so egregious that we will not be prepared to step up and say that goes too far and we cannot allow that to happen? Mr. Speaker, if that is what this bill says, that this procedure goes too far, we cannot allow it to happen, we cannot allow this kind of pain to be inflicted on an unborn baby, that is why, Mr. Speaker, it is important that we pass this piece of legislation, and I hope we will do just that this afternoon.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New York (Mr. NADLER) for being the leader on this issue for our committee as the ranking member on the Subcommittee on the Constitution. I also come to the floor acknowledging that this poses an emotional dilemma for so many of us, whether or not you happen to want to describe a very personal and private medical procedure that is known to be a small percentage of the judgment of physicians and individuals who have to subject themselves to such procedure out of the necessity of saving lives, I believe that it is key that we look at this as straightforward as we possibly can.

For, Mr. Speaker, I could relate to you as a woman the pain that I have experienced or I have seen from women who have tried in all manner to be able to bring a loving child into this world, women who have gone beyond any expression or any belief to be able to secure the opportunity to procreate. That is really the main definition, if you will, of a mother. It is someone who wants to nurture, wants to love and wants to be able to raise a child. But what my friends and colleagues are doing year after year after year, and appropriately for them it comes right at the time of an election, is to demonize a woman for simply wanting to have an opportunity, one, to live and, two, to be able to procreate.

I think we should pay attention to the Stenberg decision which has now come since the last time we debated this matter, and I do not believe we should take lightly the decision of six Supreme Court justices. That is right, Mr. Speaker, six, some of them concurring on this opinion. It means that the principle of a right to choose and privacy in this Nation is well documented in Supreme Court law. That is the basis of this Nation, three distinct branches of government; the Marbury decision suggesting that the Supreme Court is the supreme law of the land.

My colleagues have said that when the pornography law came forward, we came to the floor of the House. They are absolutely right. That has not yet been tested by this court. But we have before us a Stenberg decision which, let me cite for this body, makes it very clear of where the Supreme Court is going. Justice Breyer writes very eloquently that he knows what a personal decision this is for so many who debate the question of abortion. He recognizes that when we debate this question, the court has to move in and reconcile the diverse opinions, the emotion that grabs hold to individuals of their different opinions.

Justice Breyer says that this court, in the course of a generation, has determined and then redetermined that the Constitution offers basic protection to the woman's right to choose, and we shall not revisit those legal principles. We shall not revisit these legal principles. Rather, we apply them to the circumstances of this case.

They go on to say that three basic principles that we determine before us is that, in fact, we shall put them forth in the language of this opinion, the woman has a right to choose to terminate her pregnancy. Secondarily, a law designed to further the State's interest in fetal life which imposes an undue burden on the woman's decision before fetal viability, it is unconstitutional, the undue burden concept. And, third, subsequent to viability the State, in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

Mr. Speaker, that is why this bill is unfortunately a political exercise, despite the emotion that comes to this floor, because we have asked those who propose this legislation to include an exception on the health of the mother, those who want to be able to procreate. They have not looked at the personal concerns of those who begged to have a child but yet they suggest that the medical judgment that has been made by a physician is wrong and they should be put in jail.

We have obstetricians from the American College of OB-GYN who clearly say that this bill is wrong because it denies them the right to treat their patients and save lives and protect the health of the mother.

I hope that we will see the light and be able to yield forth legislation that truly helps the American people.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I stand here today in strong support of banning partial-birth abortion. As a citizen of this great country, I am ashamed that this barbaric act occurs in the greatest country in the world, the United States of America, the greatest civilized country in the world. And I stand here as a parent, as a lawmaker, and I feel a moral obligation to stand up to fight for the rights of the unborn.

I want to describe this horrific procedure. First, the doctor sticks forceps into the mother and grabs ahold of the baby's feet so they can turn it around and pull it out. They pull the baby into the birth canal by its legs and the baby does feel pain at this point. They get the baby out and at this point the doctor has to make sure that he blocks the head before it can come out because if he does not, he cannot murder the baby, it is considered a live birth. He blocks the head into the mother and sticks scissors into the back of the skull, opening the scissors and the baby is withering around at this point because it is feeling the pain and sticks a tube, a suction tube, into the skull and sucks the brains out, collapsing the skull, killing the baby, the baby goes limp and then they pull the baby out dead. This is a horrible act and I think we should support this bill.

People on the left talk about the life and health of the mother. What about the life and health of the baby? We ought to be protecting them and thinking about them. It is a human life. It is a human life. I have heard my friends on the left as well stand up and fight harder to protect laboratory rats. These are human beings. We have a moral obligation to stand up and fight for them. I urge my colleagues to support banning this horrific act, partial-birth abortion.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. I thank the gentleman from New York for yielding time and compliment him for his strong leadership on this issue and so many others.

Mr. Speaker, I rise in strong opposition to this bill and I would like to put this debate in perspective. Today marks the 167th vote against women and their right to choose since the Republicans came to this House in the majority beginning with the 104th Congress. It is nothing more than a cruel ploy to prevent women from obtaining the safest and best medical care from their doctors. This is a deceptive and unconstitutional, extreme abortion ban. Once again, some of my colleagues are trying to strip away difficult private decisions that belong in the hands of women and their doctors.

Many things are the same since the last time we voted on this type of ban that puts the rights and health of women in jeopardy. Under this bill, women are still prevented from receiving necessary and safe medical care. Under this bill, doctors who are sworn to save lives are still criminals for doing what they are supposed to do, save lives.

Under this bill, women are still at risk of losing their future fertility, their health and even their lives. But one very important thing is very different and that is a Supreme Court decision. In 2000, in Stenberg v. Carhart, a law that is very similar to the one we are discussing today, banning late-term abortions in Nebraska, was ruled unconstitutional because it did not have an exception for the health of the woman and because it places an undue burden on a woman's ability to obtain an abortion. This means that in addition to being restrictive and cruel policy, this bill is unconstitutional.

The writers of this bill are trying to be both the Supreme Court and every woman's doctor. They are making a mockery of the separation of powers and are stealing decisions from women and their doctors. This bill is a direct assault on Roe v. Wade and a direct attack on a woman's right to choose. It politicizes families' tragedies and disregards the life and health of the woman.

The bill is unconstitutional, unsafe and puts an undue burden on women. Furthermore, ACOG, the American College of Obstetricians and Gynecologists, which represents 90 percent of the doctors in this field, rejected the ban, and I quote, as inappropriate, ill-advised and dangerous.

With this bill, Congress is doing something that we have never done before and something that we should never do, and, that is, dictating to doctors and the entire medical establishment which procedure they may choose. Congress is overriding the medical profession's best judgments, even in emergency situations, and it is in direct conflict with a Supreme Court decision ruling it as unconstitutional.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to give my wholehearted support to H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. The partial-birth abortion procedure is a brutal and a violent act performed on an innocent victim. We cannot continue to discuss this issue in the sterile language of the right to choose. We must call partial-birth abortion what it is, the murder of a baby during delivery as he or she fights for their first breath of air and struggles to survive. We have to come face to face with the cruel injustice of lives quickly and callously ended.

I will also note that there is an appropriate choice for these growing children, the choice of allowing them to be raised by a loving, adoptive family. Former Surgeon General C. Everett Koop has stated that a partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both. In fact, were the same child at the same stage of development outside the mother's womb, he or she would be provided life-preserving care and continual medical attention. But if that same child is deemed unwanted by the mother, its life is violently ended. I say to my colleagues that this makes no sense and it is time for Congress and the President to act to end this madness.

Mr. Speaker, the argument has been made that this bill is somehow unconstitutional and that the Supreme Court will strike it down like it did the Nebraska partial-birth abortion ban. I will note that I trust the expertise of the Committee on the Judiciary in crafting a bill that will pass muster with the court. But even if it were certain that this legislation as soon as it was passed would be struck down by an imperial judiciary, we must, as Members of Congress, discharge our duties to at least attempt to protect the civil rights of the most vulnerable, those least able to protect themselves.

I am proud to be a cosponsor and to support this legislation. I urge my colleagues to do the same.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. SOLIS).

□ 1700

Ms. SOLIS. Mr. Speaker, I would like to thank the manager on this side for yielding me time to speak this evening.

Mr. Speaker, I am disappointed also that we are spending these last few hours here while we are in session before we go on a 5-week break to talk about this issue, because I do not think it is one that the public and constituents in my district really think is of an urgent nature. I say that in a very respectful way, because I truly believe that to understand this issue of late-term abortion is to understand the circumstances that some women have had to take in their past because of something that was not in their control.

I also want to share a personal experience, not one of my own, but of a family member. My older sister many years ago had to have a late-term abortion. This was going to be her third child. The last one she had was already at age 12, so she wanted to have another child. She was very excited about her pregnancy. In her fifth month she was told by her doctor that this fetus was not forming or developing appropriately, in fact, it did not have a brain, so if she were to continue with this pregnancy, she in fact would not be giving birth to anything that would be able to sustain itself. She was therefore then required to make a decision.

She is a Catholic. She grew up in the same household I did. She has the same values, if not stronger. I do not happen to have any children. She has. I will never forget the day she got out of hospital and I visited with her at home. She was traumatized. She did not want to part with that fetus she was carrying for five months. It was a part of her and her family.

Let me tell you there are many women that feel that way that have to make those kinds of decisions, not because they wanted to abort for the sake of aborting, but because there are other physical limitations that are out of our control.

You can shake your head and say no, you are not talking the truth. Let me tell you, there are millions and millions of people out there who do understand this issue and do know that there is sympathy across the country regarding a woman's right to choose. This is a wrong approach, and I would ask my colleagues to vote against this proposition.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. BRYANT), a former member of the committee.

Mr. BRYANT. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, as I was sitting here thinking as we have had this debate a couple of times in the past, it comes to my mind that the baby eagle in an egg actually has more Federal legal protection from injury and harm than a partially born baby has.

I do rise in strong support of this legislation. We passed it twice before with the help of all our pro-life Members and actually many pro-choice Members, because this procedure is so gruesome. The bills were vetoed in 1996 and 1997 by then-President Clinton, but we now, I believe, have a President who will sign a ban on this horrible procedure.

The legislation that we are considering today has a new, more precise definition of the prohibited procedure and should withstand the Supreme Court scrutiny, if challenged.

Furthermore, our bill includes a Congressional finding that the partial-birth abortion is never, and I underline that, is never necessary to protect the woman's health. Former Surgeon General C. Everett Koop has said, "Partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, though, this procedure can pose a significant threat to both the mother and her future fertility."

I agree with Dr. Koop. There is actually no evidence that partial-birth abortion is a necessary procedure to protect a woman's health. However, there is an abundance of evidence that a baby in the final trimester of pregnancy is extremely sensitive to pain.

Folks who oppose this have insisted that anesthesia kills the babies before they are removed from the womb. This is a myth that has been refuted by professional societies of anesthesiologists. In reality, the babies are alive and experience great pain when subjected to a partial-birth abortion.

I believe the Federal Government has a duty to protect all Americans, including the born, unborn and partially unborn. I ask my colleagues today, both pro-life and pro-choice, to join in banning this gruesome procedure.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, well, here we are with 2 days left before the August recess, and here is what we still have to do: Consider expulsion of only the second Member of Congress in our Nation's history, have nine appropriation bills left to pass, establishing a Department of Homeland Security so we can protect our country against terrorism, and dealing with the financial crisis our country is facing. Instead, what are we doing? The Republican leadership has scheduled 2 hours of debate on so-called partial-birth abortion. What is going on?

Well, like the swallows returning to Capistrano, it is an election year, and now it is time to bring up this hot button issue. But with a difference this year, with a twist, because this year the Supreme Court has held a bill almost identical to the bill up for consideration today unconstitutional.

From the wild rhetoric we are hearing on the other side today, one would think that women wake up suddenly in their ninth month of pregnancy and say, "You know, I am tired of being pregnant. I think I am going to go have a partial-birth abortion." This is insulting to the women of this country and to the women whose tragic stories we have heard on the House floor today.

It is simply not true. This is a very rare and tragic procedure which happens only under the most difficult of circumstances and which the U.S. Congress should not be legislating, but which a woman and her family and her doctor should be deciding.

For the woman whose health is in serious danger, being able to make the most medically sound decision is vital. These are tragic moments in people's lives, as we have been hearing today, and we should not be interfering in that.

The gentleman from Virginia and others said this bill is just simply about outlawing one medical procedure. Well, that may be true, but Congress would not think about getting involved in medical procedures of any other kind.

It is really appalling to me, because this is an issue where politicians for electoral gain try to dictate a woman's actions, impugn her motives, question her morality and ultimately remove her authority to make a decision about her own body, and that is what we are debating on the floor today.

But there are two things different, as I said. The first one is the Supreme Court overturned the Nebraska case on the grounds that you have to have a health exception for the woman. Guess what? This bill has no health exception. There is no health exception whatsoever. If this bill were passed into law, the Supreme Court would find it unconstitutional. This is a fact. Let me say it again: If this bill were passed into law, the Supreme Court would find it unconstitutional. Why on Earth would we pass a bill we know for a fact is unconstitutional?

Secondly, while the bill purports to ban only a certain procedure, in fact the actual language is much broader and could be used to ban many other kinds of abortion. To be honest, that is the true ultimate goal of the proponents of the bill.

So I say vote yes on the motion to recommit, which will add a health exception, and vote no on final passage.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that saving the lives of some partially-born babies is worth 2 hours of our time.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE), the distinguished former chairman of the Committee on the Judiciary,.

Mr. HYDE. Mr. Speaker, there is so much fantasy about this issue. The pro-abortion people shudder from using that term, and they use a euphemism, "reproductive rights." They do not refer to the unborn baby in the womb, they refer to the "products of conception." And when that unborn baby dies as a result of an abortion, by the way, they want to "terminate" a pregnancy. It is exterminate. That is what they want to do. And the "choice," for pro-choice, they get the choice of a dead baby or a live baby.

You can listen carefully, as I did, to the statements made by the opponents of this legislation, and you listen and strain your auditory nerves. You will not hear the word "baby" or "child." That is the X factor. That is the missing element here. You will hear about the woman. You will hear about her difficulties, and well we should.

But the baby is absolutely missing, although if you look through an ultrasonograph, a pregnant woman knows she has a little tiny member of the human family. And at what point does that tiny member of the human family get protected by the Equal Protection Clause and due process of our Constitution? No person shall be deprived of life, liberty and the pursuit of happiness, nor shall any person be deprived of equal protection of the law.

When does that attach? When the baby is four-fifths born, as in this grotesque, gruesome process called partial-birth abortion? Four-fifths born, and the doctor takes a scissors, called a Metzenbaum scissors, and shoves it in the back of the neck of the little baby, and then, with the opening, sucks out the brains to collapse the skull.

Talk about grotesque. You would not treat a laboratory rat like that. But the baby, the X factor, the fetus, the product of conception. Well, maybe when it is in the womb and you have to use an ultrasonograph to see it, you can abstract it that way. But when it is four-fifths born, it is there and you cannot avoid it.

This situation is lamentable. But I would say to the women who defend abortion, look around the globe and see who takes the brunt. The little girl babies. They are the ones that are thrown away in certain countries because there are too many of them.

It is to protect every little child that the pro-life movement advances its cause. Human life is precious. I see Members with little children on the floor. Those little children were once fetuses, embryos. They were tiny, tiny little cells, and an abortion kills that life. That is wrong.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, Coreen Costello was a pro-life Republican and mother of three when her pregnancy turned tragically fatal for her child. Her doctors preserved Mrs. Costello's fertility with a procedure being outlawed in this bill. She then became pregnant again and gave birth to her fourth child.

Listen to this loving mother's words. "Because of this procedure, I now have something my heart ached for, a new baby, a boy named Tucker. He is our family's joy, and I thank God for him."

Mr. Speaker, no Member of this House has the right to substitute his or her judgment for that of a physician and a mother faced with a rare but tragic situation where a pregnancy is failing, a child has no chance of living outside of the mother's womb, and the goal is to save a mother's fertility or health. No Member has that right, not one.

If there is one late-term abortion in America for frivolous reasons, that is one too many, regardless of the procedure used. I am strongly opposed to late-term abortions. But I believe when the health of the mother is at risk, that is a choice, a decision that should be made by a woman and her doctors, and not by politicians in Washington, D.C.

That is not just my opinion, that is the opinion of the United States Supreme Court in its opinion dated June 28, 2000. In that indication, the Supreme Court and its majority of justices made it very clear that the Nebraska partial-birth abortion law was unconstitutional, in these words.

□ 1715

". . . Because it lacks an exception for those instances when the banned procedure is necessary to preserve the health of the mother."

That is as clear as the English language can be. Justice O'Connor, the swing vote on this issue, has made it clear. No health exception for a woman, no law; no law, not one baby saved.

Mr. Speaker, this bill has two flaws in it that make it little more than politics at its worst, as Ralph Reed said, a political silver bullet. First, it is unconstitutional, therefore meaningless. It is a false promise. Second, if the authors of this bill truly believe that American women are monsters who would take a perfectly healthy baby seconds before a perfectly healthy child birth and puncture its brain and kill that innocent child, then why is it that they just want to outlaw one procedure? If you assume the woman is that kind of a monster, then under your bill even if it were law and were constitutional, which it is not, then the woman can choose to use other late-term abortion procedures. Once again, a meaningless law, a meaningless bill that will not save one baby's life.

I think the people who should really be offended by this bill are those genuine pro-life Americans who want to stop late-term abortions. I want to stop late-term abortions, and I hope others who do would ask the proponents of this bill two questions. Is politics so important, you would rather pass a clearly unconstitutional bill than a bill that could actually become law, a bill like I helped pass in Texas 15 years ago that is still the law of that State today? Second question: Why are you outlawing one procedure and leaving every other late-term abortion procedure perfectly legal?

This bill is politics at its worst. It is a false promise.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in strong support of this measure to ban a horrific procedure. For my generation, we have walked in as mothers and fathers into our doctors' offices and we have had the stethoscope with amplifier hooked to the mother's stomach. We have heard the heartbeat of the child at 11 weeks fill the room with a beating and a pounding and a pulsing of life. In the second trimester in the fourth month, we walk in and with modern technology in the window through the womb we see our babies. We know whether it is a boy or a girl. We see their heartbeat, we see their arms and legs kick and move. We see them suck their thumbs. We as a generation have had the experience of being in the delivery room to actually hold a baby as it arrives, to cut the umbilical cord, to know that what was once hidden is no more, what was once a mystery is now a revelation of life. I would ask us all, then, to stand for the life that we know, to stop this horrific practice.

Mr. Speaker, my generation has had the opportunity to walk into our doctor's office, and through the use of technology we have heard the beating of our unborn child's heart, we have seen the movement of the child's arms and legs. We know whether the child is a boy or girl. We have been able to be present in the delivery to room to hold the newborn child and cut the umbilical cord. What was once hidden is now known. What was once a mystery is now a wonderful revelation of newborn life.

I would ask my colleagues that before they cast a vote on this measure, listen to that heartbeat. Look into the womb. Feel the kick of the baby's legs and arms.

Before the abortionist sticks the scissors into the baby's skull, turn the baby. Look at that face and the fullness of life that resides in it. Feel the baby's body and the very essence of life. If you still have the courage, then insert the scissors. Collapse the brain, and take the life. But, if you do that, our nation, our people, or anyone who allows this or commits this act violates the nation's ideal that all are created equal and are endowed with the unalienable rights of life, liberty, and the pursuit of happiness.

If we allow this to continue as a nation, we have lost our moral compass. We have lost our conscience.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, the more I listen to this debate, the more opposed I come to this legislation. This ban on late-term abortion unconstitutionally endangers women's health. In the Stenberg v. Carhart trial, which ruled a Nebraska law that banned the so-called partial-birth abortion bill unconstitutional, the Supreme Court concluded that women's health must always be protected. According to the Court, the abortion restriction would force women to use riskier forms of abortion. Additionally, they ruled that if a current medical procedure set in place may be safer for some women in certain circumstances, then it cannot be banned. For this reason and reaffirmed in 1999, this ban is still unconstitutional. As of today the American Medical Association, which is one of the largest physician organizations in America, who usually supports abortion ban legislation, has changed their stance and concluded this late-term abortion act unhealthy.

Mr. Speaker, I support a woman's right of choice. I am in favor of medical decisions being made in private by women and their families in consultation with their doctors, and not politicians. I am a full supporter of choice without reservation. It should be the definitive right of the individual to make personal decisions regarding their health. I believe the late-term abortion ban invites the government into our doctors' offices and limits the choices of women.

I trust women to make decisions that affect their life, body and destiny. There is no more fundamental challenge than protecting a woman's reproductive health. That means guaranteeing a woman's right to choose. This so-called partial-birth abortion ban is part of a political scheme to sensationalize the abortion debate.

The truth is that the phrase "partial-birth abortion" is a political term, not a medical term. Partial-birth abortion bans have never been about banning one procedure nor about late-term abortions. They are deceptively designed to be intentionally vague in the attempt to ban abortion entirely. This bill opens the door for legislators to ban even more safe abortion procedures. Therefore, I urge that we protect the woman's right to choose, we protect the woman's right to protect her health, and vote to protect the woman's right to protect her life. Vote "no" to the partial-birth abortion ban.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding me this time.

I heard the gentleman from Illinois (Mr. DAVIS), my good friend, quarrel with the term "partial-birth abortion."

If we think of the operation, the procedure, as they laughingly call it, it is partial birth, and it is an abortion. I know my colleagues hate the word "abortion." We never see a doctor saying, I am an abortionist. But that is what they are; they are abortions. "No Member has the right." What? We have a duty to defend the defenseless, and there is nothing weaker, more pitiful, more vulnerable than a little baby in the mother's womb, and the mother, who should be its protector, has suddenly become its adversary. Somebody has to speak for that little baby.

Former Senator Moynihan never voted with us once over the years; but when this came along, he said that it is too close to infanticide, infanticide, and that is exactly what it is.

As far as the Supreme Court, we can keep trying to have them get it right, can we not? You would not be satisfied with Dred Scott, would you?

Mr. Speaker, this is a good bill and ought to be supported.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, there are no third-term abortions of healthy babies in America. It is illegal. But it is an absolutely horrendous insult to the women of America to think that we would carry an infant through pregnancy and arbitrarily and lightly choose to take that infant's life. It is not done. Women do not do it.

As one who has carried children, four children full term and experienced both the joy and the pain of childbirth, I know of no woman who is not transformed by pregnancy and does not value that life she carries within her; and the implication that we do not is so offensive to me that I am astounded that my colleagues can get up here and present the image of women, for convenience sake, choosing a late-term abortion.

There are no late-term abortions of healthy babies that are legal, and this bill does not ban late-term abortions. This bill attempts to ban a specific procedure, and it does it so clumsily that it does not differentiate between the constitutionally prescribed pre-viability and post-viability procedures and, therefore, tramples on the rights of women to make choices about the responsibilities they are going to take throughout their lives.

We have in America the right to make that choice early in a pregnancy. We need that choice. We deserve that choice. We have that right, and we have the right to do it in a medically responsible way; and this bill abrogates that right because it does not differentiate between the normal surgical procedure that is used early in pregnancy and the specific procedure it is trying to eliminate.

This legislation, as introduced, applies throughout a pregnancy and disregards the crucial constitutional distinction between pre- and post-viability abortions.

Furthermore, it completely disregards the issue of the woman's health. It does not matter in this bill whether she has two, three, or four children depending upon her; the government is going to make the decision about how her health should be managed.

In 2000, the Supreme Court ruled in Stenberg v. Carhart that a Nebraska statute banning so-called partial-birth abortion was unconstitutional for two independent reasons. The statute lacked the necessary exception for preserving the health of the woman, and the definition of the targeted procedure was so vague it could prescribe other abortion procedures. Well, these arguments apply to this bill, both of those arguments. Mr. Speaker, H.R. 4965 contains no exception to preserve the health of the woman; and it is so vague it can be applied to the D&E procedure. Its prohibition can be applied to that and, therefore, does, without question, abrogate the right of women to handle their reproductive capabilities responsibly.

This is, in my estimation, the worst bill that has come before this Congress. I have wanted for a long time to just say how deeply offended I am that my male colleagues and some pro-life colleagues whose views I deeply respect could assume that American women would choose to abort a late-term child that they have carried within them. I know of no woman who ever has; I know of no case that shows a healthy child being aborted for the purposes of destroying that child. I hope that this will be the last time we will debate this, and I hope we will defeat this issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BARCIA).

Mr. BARCIA. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in support of H.R. 4965, the Partial-Birth Abortion Act of 2002, and I urge my colleagues to vote in favor of this important legislation. I also am proud to serve as the cochair of the pro-life caucus along with the gentleman from New Jersey (Mr. SMITH). The courageous leadership of the gentleman from New Jersey (Mr. SMITH) in legislative efforts to boldly and consistently protect the unborn is unparalleled. It has been a pleasure to share this important chairmanship with him these past several years. It is also a pleasure, as the lead Democratic sponsor of H.R. 4965, to say how much I appreciate the leadership of the gentleman from Ohio (Mr. CHABOT) for his steadfast leadership and commitment on this issue and so many other important pro-life issues that we deal with here in the Congress. I thank the gentleman.

Partial-birth abortions are most often performed in the second or third trimester, and I am particularly troubled by the horrifying aspects of late-term abortions, because there is no doubt that the partial-birth abortion procedure inflicts terrible pain upon the baby being killed. H.R. 4965 not only bans this type of atrocious procedure, but imposes fines and a maximum of 2 years imprisonment for any person who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life, and if 80 percent of abortions are elective, we must reconsider and reevaluate the values society places on human life. In many cases, this is a cold, calculated, and selfish decision.

□ 1730

This is not a choice issue, this is a life and death issue for an innocent child. It is long overdue that this heinous procedure is made illegal.

Although I am a pro-life Democrat, I am that grateful we now have a pro-life president who is signing this critical piece of legislation into law. The President's support will abrogate the need for a two-thirds vote in the Senate which has proven impossible to attain. The prospects for making the Partial Birth Abortion Ban Act the law of this land have improved greatly. Please vote to end this horrific procedure once and for all.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I come to the floor today and have had to come in and out, because it is very difficult for me to consume the kind of emotionally charged graphic illustration and display of the subject matter that is contained in this legislation.

I came to Congress, Mr. Speaker, in 1997, and since the time that I was sworn in to the 105th Congress, I have had to vote on abortion 109 times; 109 times this House, this United States Congress has brought before it this issue of abortion. It is mind boggling that we have children, on a daily basis, since we are all concerned about the well-being of our children, and I doubt that none of us are truly concerned that we have children around this country who have malnutrition, who lack proper medical care, who commit suicide, and it has been in the news on a regular, daily basis about children who are being abused, who are being sexually molested, who are being kidnapped from their homes, and there is not one squeak of any comment from the other side about the vulnerability of those children.

Yet, I have to come down to this floor 109 times since I have been in Congress to vote on a matter of abortion.

It does make you mighty suspicious that an issue as delicate as this, the choice that a woman makes with the help of her medical doctor, would have to come before the United States Congress. And it is especially suspicious that medical privacy is an issue here; and there is no reference to medical privacy at all. How would anyone know in the House of Representatives that a woman, in consultation with her doctor, a very private decision engaging in a very private medical procedure, how would one here know about it unless there is something in this bill that I have not read that provides hidden cameras maybe in a hospital room or doctor's office that allows some peeping tom to stand there and watch what procedure is administered against a woman in consultation with her doctor.

What privilege is there in this bill that violates medical privacy? How would any Members know that a woman has had an abortion unless there is some peeping tom exemption in this bill that allows you to see what happens?

It just makes me ill, and I know my opponent is recording this because the other side has called him and told him to do that. And I hope he plays the full thing.

Every time this is here I vote against it. We have voted $594 million worth of pay raises for this Congress since I have been in here, but we have not done diddly squat about all of these innocent and vulnerable children who have been kidnapped from their homes who are being killed on their driveways by predators.

The gentlewoman from Texas (Ms. JACKSON-LEE) has a concept about a DNA bank at the Attorney Generals Office. Those are the kind of issues that we need to be exploring for the children of America, and not providing some peeping tom, ill-conceived, 110th time in the Congress on an abortion issue.

There is a poet that all of us are all familiar with that starts off, "Hear my humble cry; and while on others you are calling, do not pass me by." And I do not want all of these kids who are victimized by these criminals in this country to be passed by while we are spending two crazy hours engaging in an unconstitutional debate that only further the feathers of somebody's political aggrandizement.

Mr. SENSENBRENNER. Mr. Speaker, shortly the Democrats will offer a motion to recommit, and I hope the vote on that is not charged against us.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Speaker, I have listened to the entire debate today and I cannot help but think of a television program I was watching about crime the other day about pickpockets and purse snatchers. There are groups of people that create a diversion so that someone else can go up and commit the evil deed, but the diversion takes place, and this debate today reminds me of that.

Being accused of trying to eliminate a brutal, violent, inhumane act for political purposes for, or questions of constitutionality simply reminds me of pickpockets because the diversion just does not cut it.

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, and some other medical sources, it appears that partial birth abortions are performed 3,000 to 5,000 times annually. Even those numbers could be low. Based on published interviews with numerous abortionists and interviews with Mr. Fitzsimmons in 1997, the "vast majority" of partial birth abortions are performed in the fifth and sixth months of pregnancy on healthy babies of healthy mothers.

We have already heard that the statement from former Surgeon General C. Everett Koop that "partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

Dr. James McMahon, who is considered to be the developer of this method, explicitly acknowledged that he performed such abortions on babies with no flaw whatsoever, even in the third trimester for reasons such as the mere youth of the mother or psychiatric difficulties.

These abortions do occur. It is arrogant of anyone to regard human life as flawed, and we need to support this bill and stop this violent process.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, well, as President Reagan has often said, "Here we go again."

It is amazing to me that we have been on this floor, especially during an election year, with this very issue that comes before us as if to say, as my dear friend from Indiana (Ms. CARSON) said, it raises a certain amount of suspicions.

Mr. Speaker, I stand here today protesting strongly against H.R. 4965 which seeks to limit a woman's right to choose medical options appropriate for herself and her family in consultation with her physician.

As Members of Congress, we are elected by our constituents to present their interests fairly here in Washington. We are not sent here to enact poorly-constructed legislation that would hinder the health and well-being of those entrusting us to make laws. Therefore, I must vehemently register my opposition to H.R. 4965 as an infringement on the personal choice and free will of women and families I am here to represent.

H.R. 4965 is bad legislation because it eliminates a health exception for women, and given that the Supreme Court has indicated that every restriction must allow an abortion when necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Women and their families must be able to make decisions regarding their medical care along with their doctors and without the interference of Congress.

It seems to me then, Mr. Speaker, we are being subjected once again to the narrow political agenda of a group of people in deference of what is good for women's health and what is defined as legal by the Supreme Court. We must continue to be vigilant in preserving a woman's right and to make necessary choices for her own health in accordance with the law.

I would say simply that women across this country now are looking in on this and they too are concerned about why we have to constantly be given the time spent on this type of misguided piece of legislation when we can well be talking about the 11 million children who are uninsured. I have yet to see that type of law come to the floor.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BARR), a member of the Committee on the Judiciary.

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished chairman of the Committee on the Judiciary for the privilege of standing in the well of this House to address the barbaric procedure commonly euphemistically known as partial birth abortion. It is murder, pure and simple.

The previous speaker quoted that great president, the greatest president of the 21 century, Ronald Reagan, "Here we go again." You are darn right. It needs to be reminded over and over again to the American people what a barbaric procedure this is. And at least in this instance, all Americans can join together and say we, at least, draw this line. We, at least, say enough is enough.

President Reagan, to quote him, also spoke in January of 1985 when he was sworn in as our President for a second term of something he very quietly but very eloquently called the "American sound." He said the American sound is that sound which is echoed out across the ages, across the continent, across our continent. It is the sound, he said, of a Nation conceived by God, created in God's image for God's purposes. He said, it is a Nation that has always held in its heart compassion and love for fellow human beings.

I think if President Reagan were here today, he would say the American sound is alive and well in the House of Representatives. It is indeed the sounds of love and compassion, belief in God, and belief in the unborn, and belief in the right of that child, that precious baby to be born and to serve in God's image on this great land and in this great country.

I believe if President Reagan were here today he would say, thank you, Congress, thank you America, for standing up for the least defensive among us, for the most defenseless among us.

If, indeed, our colleagues join us as we expect today in passing this ban on this barbaric procedure, which no American can truly justify or defend, then President Reagan would indeed say, It is morning again in America for America's babies. Thank God.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time.

Here we are on cue, Mr. Speaker. The annual late term abortion bill. This is the bill where Congress tries not to make law but to make mischief. Why would Congress want to put a woman in jeopardy of her health and a physician in jeopardy of prison for 2 years and a fine by prohibiting one and only one procedure?

Actually, Congress does not want to put the physician in jeopardy. What Congress wants to do is to keep the physician from performing any abortion including legal abortions. And if this bill passes, that is exactly what will happen across this country.

The point of this bill is to make it legally risky to perform any abortion because the physician cannot be sure he will not be prosecuted. That is why the courts have struck down these late-term abortion bans time and time again.

The bill tries to simply hop over Roe versus Wade with 15 pages of congressional findings. But congressional findings cannot overrule a Supreme Court decision. Congressional findings cannot nullify a woman's constitutional right. Congressional findings cannot defeat a woman's right to have an abortion if her health is in danger. This bill is not even a nice try. It is plainly unconstitutional. Worse, it is an insult to the women of America.

□ 1745

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, partial-birth abortion is one of the most violent and gruesome acts known to mankind. It is hard to believe that it is legal at all in a Nation that was founded on the principle of human rights.

Some years ago it was believed that partial-birth abortion was a very rare procedure only performed in the direst of emergencies. That was not true. The fact is there are some people in this country who are so radical and extreme in their defense of abortion that they are willing even to lie to defend this violent kind of act.

Five years ago, the executive director of the National Coalition of Abortion Providers told the New York Times that he had lied about how often partial-birth abortions are performed, lied about how healthy the mothers were, and lied about the viability of the children who were needlessly killed and, in fact, he said he "lied through his teeth." His words, not mine.

More often than not, this is a baby that would have every chance of surviving if it were delivered normally, and usually the baby has developed well beyond the stage where it can feel every bit of pain we would feel if we were subjected to the same procedure. We have heard the horrific procedure described here on the floor.

Understand that the baby is given no anesthetic or painkiller of any kind. Imagine being stabbed in the back of the neck with a pair of scissors. Imagine how it must hurt. That is how much it hurts the baby.

All of this is done, Mr. Speaker, and it is perfectly legal today in the United States. Legal, yes; necessary, never. No partial-birth abortion is ever medically necessary, according to the best medical experts in America.

The vast majority of the American people want this barbaric, violent procedure to be illegal. Vote for banning the partial-birth abortion procedure.

Mr. NADLER. Mr. Speaker, may I inquire how much time I have left, please.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from New York (Mr. NADLER) has 5½ minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 23 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding me the time.

This bill is an affront to all women, and it is an insult to the medical profession, and it violates the Constitution.

Abortion is a constitutionally protected medical procedure in this country, and this bill flatly aims to take away that right. It does not aim to ban a single procedure that proponents of this bill like to call partial-birth abortion. If it did, the sponsors of this bill would have accepted medical language that actually describes a medical procedure, but they rejected this language.

Instead, the proponents chose to play doctor and describe a so-called medical procedure in their own words. This bill does not even ban what some may call late-term abortion because it never specifies a point in the pregnancy after which an abortion is banned.

What this bill really does is chip away at Roe v. Wade which established the constitutional right of women to control their own bodies. The proponents of this bill do not trust women to make their own decisions about their reproductive health. They do not trust women to talk to their doctors about their health, about their choices, and then make their own informed decisions. They do not want to give women the power and freedom to make their own decisions about their reproductive lives, despite the fact that the Supreme Court has repeatedly upheld this right in the face of countless challenges.

I urge a no vote.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the distinguished chairman for yielding me the time.

Mr. Speaker, a society can be measured by how well—or poorly—it treats the most vulnerable in its midst, and partial-birth abortion, like all abortions, is a horrific violence against women and violence against vulnerable little boys and girls.

Mr. Speaker, 30 years after Roe v. Wade, I believe it is time for a serious reality check and a compassion check. Mr. Speaker, abortion on demand has claimed the lives of more than 42 million children and although grossly underreported, has resulted in death, injury and emotional trauma to women. Forty-two million babies have disappeared off the face of the earth—slaughtered by abortion. Look at it this way. Yankee Stadium holds about 57,500 people. If we filled Yankee Stadium to capacity with children slated for execution, we would fill that stadium every day for 730 days. Perhaps this to give us some idea of the magnitude of the loss of life—42 million dead. It is of genocidal proportions.

Abortion methods, Mr. Speaker, are violence against children. Abortion methods dismember and chemically poison children. There is absolutely nothing compassionate or benign about dousing a baby with superconcentrated salt solutions or lethal injections or hacking them to pieces with surgical knives, and there is absolutely nothing compassionate or caring about sucking a baby's brains out with partial-birth abortion. It is child abuse.

Today, Mr. Speaker, because of the gentleman from Wisconsin's (Mr. SENSENBRENNER) and because of the gentleman from Ohio's (Mr. CHABOT) human rights legislation and their courage in proposing it, we can stop some of this violence.

Today, Mr. Speaker, we inform America that a partial-birth abortion is gruesome and includes pulling a living baby feet first out of the womb and into the birth canal, except for the head, and it is there the abortionist jams the baby's head with the scissors for the purposes of creating a hole in the back of the head. Then that baby has his or her brains sucked out with a high powered vacuum.

Why is that deed—that act, compassionate? I say to my colleagues, and you can snicker and laugh all you want. It is violence against children. It is violence and you my colleagues are sanctioning it, and only because of this legislation do we have an opportunity to save at least some of these children from this terrible, horrific "procedure."

Mr. Speaker, in 1998 a 6-pound baby girl known as Baby Phoenix was born with a skull fracture and lacerations on her face after the abortionist, Dr. John Biskind, unsuccessfully attempted to perform a partial birth abortion on her 17-year-old mother. Baby Phoenix survived that murder attempt. There was a lot of controversy abut that abortion and do my colleagues know what the controversy was about? That the abortionist miscalculated the baby's age rather than the horrific, horrible violence that was visited upon that baby. That baby survives but carries those scars. Let us be reminded of Baby Phoenix—the lucky one who survived—and all those others who did not.

This is human rights legislation. I have been in Congress 22 years. I do a lot to combat torture. I chair the Commission for Security and Cooperation in Europe. I have written two torture victims relief bills and many other human rights pieces of legislation including a historic antitrafficking law. Partial birth abortion is torture—torture of little baby boys and little baby girls, and I am ashamed of my colleagues who stand up here and call efforts to stop it, an insult to women.

This procedure is an insult and infinitely more to boys and girls who are killed in the womb or partially born. It is an insult and more to the mothers who are the co-victims. I urge my colleagues to vote yes and against the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. JEFF MILLER).

Mr. JEFF MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today also in support of the partial-birth abortion ban of 2002. We have been accused of being political with this piece of legislation. We have been told that this is an infringement on women's rights, and I will tell my colleagues that what this is is an infringement on a person's right who is too young to speak, certainly too young to vote.

I believe the life of the unborn child begins at conception, and I do believe that every time an abortion occurs, a life is lost. Each year over a million babies are slain at the hands of doctors performing abortions. Some doctors willingly and routinely kill babies during the second and sometimes third trimester.

We have already heard that this is an excruciatingly painful procedure where the doctor violently manipulates the baby's position, creating a breech delivery, and then mercilessly stabs through the child's skull to remove the baby's brain with a vacuum. This procedure is appalling and disturbing, and I feel it is nothing short of murder.

In response to the Supreme Court's split decision in the Stenberg-Carhart ruling, this will help give clear guidelines to what is considered constitutional and prohibited.

Mr. NADLER. Mr. Speaker, I yield myself the remaining time.

Let me summarize this bill first on the substance. This bill is really simply an attack on the very idea of the woman's right to choose to have an abortion, a right guaranteed by the Constitution of the United States. It is an appeal to people's emotions, using falsehoods and false claims.

Let me remind my colleagues of several facts. One, there are no abortions in this country in the last trimester of pregnancy except to save the life, the health of the mother, because that would be illegal.

Two, the gentleman says that the procedures outlined in this bill are never necessary to save the health of the mother, but I would point out that the American College of Obstetricians and Gynecologists, the American Nurses Association, the American Medical Women's Association in an amicus curiae brief to the Court, cited approval by the Supreme Court, concluded "especially for women with particular health conditions, there is medical evidence that D&X procedures may be safer than available alternatives." The political posturing of Congress is no substitute for the medical expertise of doctors.

The distinguished chairman said there was a moral consensus against this procedure, but the fact is when put before the voters in referenda in Colorado, Maine and Washington State, voters rejected bans very similar to this bill. What moral consensus?

The Supreme Court has very clearly told us that this bill is unconstitutional because despite the rhetoric that this is a late-term abortion bill to save fully formed fetuses, the fact is that it bans abortions well before viability, and the Supreme Court in Carhart said, "Even if the statute's basic aim is to ban the D&X procedure, its language makes clear that it also covers a much broader category of procedures and therefore imposes an unconstitutional burden on women."

The health of the mother. The Supreme Court has told us that for such a bill to be constitutional, it must have an exception for the health of the mother, and what human being would not want to have an exception for the health of the mother? So we destroy her health for an ideological reason?

The findings of the bill that such procedures are never relevant, are never necessary for health are political findings, not medical findings, as we have noted above, and would be disregarded by the Supreme Court, as the Court has told us in the most recent cases.

By its own terms, because lacking a health exception, this bill would sanction grievous bodily harm to a woman rather than let her and her doctor do what is necessary in their judgment to safeguard her health and her welfare.

Finally, Mr. Speaker, this bill is a sham. Because it is unconstitutional, because it is clearly and facially unconstitutional, it can do nothing to avert any of the horrors cited by the gentleman from New Jersey (Mr. SMITH) and by other supporters of the bill. If the supporters wanted, we could enact a bill that would ban late-term abortions with an exception for where the life and health of the mother is at risk. Such a bill would be constitutional and might accomplish something.

It would not be clearly disingenuous and hypocritical, but the sponsors of this bill do not want to do that. They prefer a sham bill.

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They prefer posturing. Instead of doing something, they would rather have a lot of emotion against a woman's right to choose. But make no mistake, this bill is a sham. It would do nothing. It is unconstitutional.

We should vote against this bill. It is an insult to American women, and it is an insult to our collective intelligence.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is an important debate. It is an important debate because it puts before Congress and, thus, the American people whether or not there should be a line drawn and whether there should be any meaningful and effective restrictions on abortion.

The partial-birth abortion procedure is barbaric and grotesque, and most medical societies, including those that generally oppose restrictions on physicians being able to practice any type of medicine, have said that there are other types of abortion procedures that would be more proper than a partial-birth abortion.

Let me quote from the committee report. It says, "The absence of any basis upon which to conclude that partial-birth abortions are safe has not gone unnoticed by the American Medical Association, which has stated that partial-birth abortion is 'not an accepted medical practice,'" not an accepted medical practice, and that "it has never been subjected to even a minimal amount of the normal medical practice development; that the relative advantages and disadvantages of the procedure and specific circumstances remain unknown." The AMA says it is an experimental procedure and that there is no consensus among obstetricians about its use.

The AMA has further noted that "Partial-birth abortion is broadly disfavored by both medical experts and the public, is ethically wrong," and I repeat, is ethically wrong, "and is never the only appropriate procedure." Thus, a select panel convened by the AMA could not find any identified circumstance where the partial-birth abortion was the only appropriate alternative.

So, if my colleagues want to do away with partial-birth abortions but are talking about a woman's right to choose, there are other alternatives, according to the AMA.

Now, I grant that the AMA does not support the criminal sanctions that are contained in this bill against physicians who perform partial-birth abortions in violation of the law, but they still condemn the partial-birth abortion procedure in their statements that they issued several years ago when Congress first took this issue up.

The American College of Obstetricians and Gynecologists, which is an organization that has consistently opposed legal restrictions on abortions, including the partial-birth abortion ban, has reported a select panel convened by ACOG could identify no circumstances under which this, meaning the D&X procedure, would be the only option to save the life or preserve the health of the woman.

Now, former Senator Daniel Patrick Moynihan, whom I am sure was very strongly supported politically by my colleague from New York, and who never voted for restrictions on abortion during his long and distinguished career in the other body, said that partial-birth abortion is very close to infanticide. I would strike very close. It is infanticide, because the difference between a legal partial-birth abortion and first degree murder is three inches. Three inches. The size of the head, which has not been delivered, where the scissors are inserted into the back of the baby's head and the brains are sucked out. This is what we want to ban. And this, I think, is supported by the vast majority of the American people.

Now, we have also heard a lot from people who are opposed to this legislation; that this always should be something that is in the professional opinion of a physician. Well, many of the physicians whose professional opinion is requested have an inherent conflict of interest because they will charge a fee and make money by saying that this is a proper procedure, even though the vast majority of their colleagues say it is never a proper procedure and other alternatives are available.

Finally, we have heard a lot about the Stenberg decision. This is a different bill than the law from the Nebraska case that was struck down by the Supreme Court. It contains extensive findings by the Congress of the United States, which is our right as a legislative body to make. It is up to the court to determine whether or not the findings that are made by the Congress are valid when it considers the constitutionality of this bill, should it be enacted into law, just like it was in the province of the court to consider the findings of the district court when it struck down the Nebraska law in the Stenberg decision.

The doctrine of separation of powers gives us the right to make those findings. Those findings are all medically supported by the testimony that the Committee on the Judiciary has received since 1995.

I believe this bill is constitutional. I believe this bill is good public policy. But, most importantly, I believe it is our right and our duty to stop this grotesque procedure, which is three inches away from infanticide.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise in opposition to H.R. 4965, the Late Term Abortion Ban Act. In 2002, the U.S. Supreme Court held, by a 5–4 decision, in Stenberg v. Carhart that a Nebraska law prohibiting later term abortions was unconstitutional. The Court's decision makes clear that federal legislation addressing this issue must include exceptions to protect the life and health of the mother. H.R. 4965 ignores this health exception clearly outlined by the Supreme Court.

I am a cosponsor of House Resolution 2702, the Late Term Abortion Restriction Act. This legislation would prohibit all abortions after fetal viability unless it is in the judgment of the attending physician it is necessary to preserve the life or health of the mother. The Supreme Court concluded in Stenberg v. Carhart that a woman's health must remain the physician's primary concern and that a physician must be given the discretion to determine the best course of treatment to protect women's lives and health. H.R. 2702 will pass constitutional scrutiny. In addition, this measure addresses the termination of viable fetuses in the late stages of pregnancy.

Mr. Speaker, it is unfortunate that we are debating a bill ruled unconstitutional by the United States Supreme Court. Instead, we should be debating and voting on H.R. 2702, a bipartisan measure to ban all late term abortions except "to preserve the life of the woman or to avert serious adverse health consequences to the woman."

Mr. Tiahrt. Mr. Speaker, I rise today in strong support of H.R. 4965, the Partial-Birth Abortion Ban Act. Regardless of whether one is pro-life or for abortion rights, the partial-birth abortion procedure is clearly morally indefensible. While every abortion sadly takes a life, a partial-birth abortion takes a baby's life as he/she emerges from the mother's womb and while the baby is still in the birth canal. My fellow colleagues have described the horrific process with pictures that make one sick to his stomach. It is unfathomable that someone could do this to another human being, especially a helpless baby.

Specialists who perform the partial-birth abortion have testified there is no medically-accepted use for the partial-birth procedure, and that, in fact the procedure itself presents health risks for the mother.

There is talk of including a provision to allow for exceptions when the "mental health" of the mother is at risk. This is a phony ban. My home state of Kansas passed such a bill, which has essentially meant that partial-birth abortions are banned unless a woman wants one. I am ashamed to report that in Wichita, the infamous late-term abortionist George Tiller performed 182 partial-birth abortions in 1999 alone under this weak law. That is 182 viable babies who were brutally murdered. We cannot allow that to happen.

Congress has passed a partial-birth abortion ban twice, which President Clinton vetoed both times—over the wishes of the American people. President Bush strongly supports H.R. 4965 and is looking forward to signing a partial-birth abortion ban. 70% of Americans believe that partial-birth abortions should be banned. This body that is expressly the "people's House" needs to listen to the will of the people.

As a father of three beautiful children and a strong defender of human life, I am embarrassed that our wonderful country permits partial-birth abortions. I urge you to vote in favor of this important legislation so that all the beautiful children who come into this world are treated as the human beings they are.

Mr. PAUL. Mr. Speaker, like many Americans, I am greatly concerned about abortion. Abortion on demand is no doubt the most serious social-political problem of our age. The lack of respect for life that permits abortion significantly contributes to our violent culture and our careless attitude toward liberty.

Whether a civilized society treats human life with dignity or contempt determines the outcome of that civilization. Reaffirming the importance of the sanctity of life is crucial for the continuation of a civilized society. There is already strong evidence that we are indeed on the slippery slope toward euthanasia and human experimentation. Although the real problem lies within the hearts and minds of the people, the legal problems of protecting life stem from the ill-advised Roe v. Wade ruling, a ruling that constitutionally should never have occurred.

The best solution, of course, is not now available to us. That would be a Supreme Court that recognizes that for all criminal laws, the several states retain jurisdiction. Something that Congress can do is remove the issue from the jurisdiction of the lower federal courts, so that states can deal with the problems surrounding abortion, thus helping to reverse some of the impact of Roe v. Wade.

Unfortunately, H.R. 4965 takes a different approach, one that is not only constitutionally flawed, but flawed in principle, as well. Though I will vote to ban the horrible partial-birth abortion procedure, I fear that the language and reasoning used in this bill do not further the pro-life cause, but rather cement fallacious principles into both our culture and legal system.

For example, 14G in the "Findings" section of this bill states, ". . . such a prohibition [upon the partial-birth abortion procedure] will draw a bright line that clearly distinguishes abortion and infanticide . . ." The question I wish to pose in response is this: Is not the fact that life begins at conception the main tenet of the pro-life community? By stating that we are drawing a "bright line" between abortion and infanticide, I fear that we are simply reinforcing the dangerous idea underlying Roe v. Wade, which is the belief that we as human beings can determine which members of the human family are "expendable," and which are not.

The belief that we as a society can decide which persons are "expendable," leads us directly down a slippery slope of violence and apathy toward humanity. Though many decry such ethicists as Peter Singer of Princeton, who advocates the "right" of parents to choose infanticide, as well as euthanasia, his reasoning is simply a logical extension of the ethic underlying Roe v. Wade, which is that if certain people are not "useful" or "convenient," they should be done away with.

H.R. 4965 also depends heavily upon a "distinction" made by the Court in both Roe v. Wade and Planned Parenthood v. Casey, which established that a child within the womb is not protected under law, but one outside of the womb is. By depending upon this false and illogical "distinction," I fear that H.R. 4965, as I stated before, ingrains the principles of Roe v. Wade into our justice system, rather than refutes them as it should.

Despite its severe flaws, the bill nonetheless has the possibility of saving innocent human life, and should therefore be supported. I fear, though, that when the pro-life community uses the arguments of the opposing side to advance its agenda, it does more harm than good.

I wish to conclude with a quote from Mother Theresa, who gave a beautiful and powerful speech about abortion on February 3, 1994, at the National Prayer Breakfast in Washington DC: ". . . From here, a sign of care for the weakest of the weak—the unborn child—must go out to the world. If you (in the United States) become a burning light of justice and peace in the world, then really you will be true to what the founders of this country stood for . . ."

May we see bills in the future that stay true to the solid principles the founders of this country stood for, rather than waver and compromise these principles.

Mr. BARCIA. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act of 2002 and I urge my colleagues to vote in favor of this important legislation.

I am proud to serve as Co-Chair of the Pro-Life Caucus along with Representative CHRIS SMITH. Representative CHRIS SMITH's courageous leadership in legislative efforts to boldly and consistently protect the un-born is unparalleled. It has been a pleasure to share this important Chairmanship with him.

And as the lead Democratic sponsor of H.R. 4965 I also want to thank Representative CHABOT for his steadfast leadership on this and so many other important pro-life issues.

Partial-birth abortions are most often performed in the second or third trimester and I am particularly troubled by the horrifying aspects of late term abortions because there is no doubt that the partial-birth abortion procedure inflicts terrible pain upon the baby being killed.

H.R. 4965 not only bans this type of atrocious procedure but imposes fines and a maximum of two years imprisonment for any person who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life and if 80 percent of abortions are elective, we must reconsider and re-evaluate the value society places on human life. In many cases, this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life and death issue for an innocent child. It is long overdue that this heinous procedure is made illegal.

Although I am a Pro-Life Democrat, I am grateful that we now have a Pro-Life President who will sign this critical piece of legislation into law. The President's support will abrogate the need for a two-thirds vote in the Senate—which has proven impossible to attain.

The prospects for making the Partial-Birth Abortion Ban Act the law of the land have improved greatly. Please vote to end this horrific procedure once and for all.

Ms. HARMAN. Mr. Speaker, as we consider H.R. 4965, the Late Term Abortion Ban Act, I would like to clarify what this debate is really about.

We are not debating so-called "partial-birth" abortion.

We are not debating late-term abortion.

We are debating a broad and unconstitutional attack on a woman's fundamental right to protect her life and health, our right to make our own decisions—our right to choose whether or not to have an abortion.

The Supreme Court has repeatedly ruled not simply that women have the right to an abortion, but that we have the right to the safest abortion procedure available.

States and Congress cannot place an undue burden on a women's right to choose, and cannot endanger the life or health of a woman seeking an abortion.

This bill fails on both counts. Its overbroad definition of "late term" abortion could include some of the most commonly used medical procedures for abortion in the second trimester—making it difficult for a woman to get an abortion. Its denial of an exception to preserve the health of a woman is dangerous. Ample evidence exists that the procedures described by my colleagues may be the safest for women with certain health conditions.

If the sponsors of this bill wanted to ban one medical procedure, why didn't they use medical terms to describe it?

If they wanted to ban post-viability abortions, why didn't they include a time limit in their bill?

I can only conclude that this bill is intended—just as the Nebraska law struck down by the Supreme Court was—to ban some of the most common abortion procedures used, even before a fetus is viable.

This bill is unconstitutional and it is harmful to women's health. Let's keep medical decisions where they belong—in the doctor's office, not the House floor.

Vote no on H.R. 4965.

Mr. VITTER. Mr. Speaker, I rise today with strong unequivocal support for H.R. 4965, the Partial-Birth Abortion Ban. Passage of this act into law is long overdue, and I hope the American people—who overwhelmingly want this ban enacted—will get their victory in this House today and in this Congress. Time and a gain we hear the myths and propaganda that this barbaric procedure is necessary to somehow protect women. But what do doctors and experts have to say about the procedure?

The head of National Coalition of Abortion Providers in 1997 said that the "vast majority" of partial-birth abortions are performed on healthy babies and healthy mothers.

The American Medical Association, regarding legislation to ban partial-birth abortions, wrote "Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine."

The Physicians' Ad Hoc Coalition for the Truth (PHACT) stated, "Never is the partial-birth procedure medically indicated. Rather such infants are regularly and safely delivered live . . . with no threat to the mother's health or fertility."

Lastly, former Surgeon General C. Everett Koop issued a statement that not only is the procedure never medically necessary for mother or child but "on the contrary, this procedure can pose a significant threat to both."

We also know now that the infant feels tremendous pain, contrary to prior statements by pro-abortion groups. Yet these same organizations would have us believe that this grisly procedure is actually necessary—this same procedure where an infant, in the late second or third trimester, is removed from the mother's uterus save only his or her head, and then an abortionist pierces the skull and vacuums the brain, collapsing the skull.

Allowing any procedure as gruesome as this is simply unacceptable to me, and should be so for this Congress. The American people have spoken loudly and clearly on this issue. This ban has passed the House of Representatives in the past, and we should do so here again today. This legislation before us is carefully crafted to address concerns of the Supreme Court. President Bush has indicated that he will sign this much-needed legislation.

I urge my colleagues to support passage of the Partial-Birth Abortion Ban, and let's hope that it's the last time we have to fight for this common sense legislation.

Mr. TERRY. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act.

Two years ago, the Supreme Court ruled 5 to 4 that my home state of Nebraska's ban of this grisly procedure was unconstitutional. Justice Scalia wrote in his dissent that "the notion that the Constitution prohibits the States from simply banning this visibly brutal means of eliminating our half-born posterity is quite simply absurd." He further noted that even "the most clinical description of [a partial-birth abortion] evokes a shudder of revulsion."

H.R. 4965 contains several provisions to address the Court's concerns. A partial-birth abortion is more clearly defined to distinguish it from the "dilation and evacuation" procedure used to end early-term pregnancies. The bill also contains extensive Findings of Fact based on years of Congressional hearings and testimony. They prove beyond a shadow of a doubt that partial-birth abortion is unrecognized by the mainstream medical community, never necessary to preserve the health of the mother, and may in fact harm her health.

I sincerely hope these changes will withstand the scrutiny of the Court. I urge my colleagues to join me in voting to end the barbarism of partial-birth abortion once and for all and protect children who are just inches away from taking their first breath.

Mr. CRANE. Mr. Speaker, as a cosponsor of H.R. 4965, I rise in strong support of the Partial-Birth Abortion Ban Act of 2002. By passing this legislation we will once again take a step towards banning the truly horrifying practice whereby an innocent life is taken in the most gruesome of procedures.

Used in second and third trimester abortions, the "partial-birth" procedure involves pulling some portion of the fetus into the birth canal, crushing the skull and killing the fetus, before removing the fetus from the mother's body.

Congress passed legislation in each of the last three Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abortion bans. Both times the House voted to override the veto, but the Senate sustained it.

This bill makes it a federal crime for a physician, in or affecting interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under this legislation, anyone who knowingly performs a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board on whether his or her conduct was necessary to save the life of the mother and those findings may be admissible at trial.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. By passing H.R. 4965 today, we will take a giant step towards protecting innocent babies who, through no fault of their own, never have a chance.

Mr. GEPHARDT. Mr. Speaker, it is regrettable that today the Republican leadership ignored an opportunity to resolve the issue of late-term abortion in an effective and constitutional way, moving forward yet again with a ban that does not include an exception to protect the health of the woman. The Supreme Court has spoken on this matter. Banning this procedure without such an exception is unconstitutional. Repeatedly on the Floor of this House an alternative that contains this crucial exception has been offered, and repeatedly I have voted for it. That a ban would be before us today without that exception can only mean that the Republican leadership wants a political issue more than an effective law. I would hope that any future consideration of this legislation would not suffer from such a flaw.

Mr. SIMMONS. Mr. Speaker, I rise today in opposition of H.R. 4965, the "Partial-Birth Abortion Ban of 2002."

Since Congress last voted on this issue two year ago, the U.S. Supreme Court, by a 5–4 vote, found that the Nebraska law making it a crime to perform so-called "partial birth abortions" was unconstitutional because it imposed an undue burden on women's decision to end a pregnancy and it lacked the constitutionally required exception to protect women's health.

In spite of the U.S. Supreme Court's rulings, the "Partial-Birth Abortion Ban of 2002" fails to include heath exceptions for women and imposes an undue burden on a woman's ability to choose an abortion procedure.

The difficult and personal medical decisions made by a woman, her families and her medical doctors should not be influenced by the agendas of politicians. A free people must assume responsibility to make vital decisions involving them; and not allow their decisions to be made by the federal government.

While I remain concerned about the number of abortions in America today, I continue to fully support the U.S. Supreme Court decision. I will also continue to strongly support programs that can reduce the number of abortions worldwide. These include domestic and international family planning programs, age-appropriate education programs and increased availability of adoptive services.

Mr. SOUDER. Mr. Speaker, as a cosponsor of H.R. 4965, the Partial-Birth Abortion Ban Act, I believe the Congress must act now to pass this important bill. We should not allow the heinous killing of a partially delivered baby to be lawful any longer.

In a partial-birth abortion, the abortionist pulls a living baby feet-first out of the womb and into the birth canal, except for the head, which the abortionist purposely keeps lodged just inside the cervix. The abortionist then punctures the base of the skull with a surgical instrument, such as a long surgical scissors or a pointed hollow metal tube called a trochar. He or she then inserts a catheter into the wound and removes the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now-dead baby.

H.R. 4965 would ban performance of this abhorrent procedure except if it were necessary to save a mother's life. It defines partial-birth abortion as an abortion in which "the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside of the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the naval is outside the body of the mother," and then kills the baby. The bill would permit use of the procedure if "necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself."

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, partial-birth abortions are performed 3,000 to 5,000 times annually, usually in the fifth and sixth months of pregnancy, on healthy babies of healthy mothers. It has also been used to perform abortions as late as in the third trimester, which is the seventh month and later. Many of these babies are old enough to live, and many of them are developed enough to feel the pain of this horrendous procedure.

The Congress has voted to ban partial-birth abortions twice, only for the ban to be vetoed both times. We must pass H.R. 4695 now to ensure that partially delivered babies are protected and that the awful procedure used to perform partial-birth abortions is banned under law.

Mr. WELDON of Florida. Mr. Speaker, as a physician, I find the practice of partial-birth abortion extremely disturbing. This is a gruesome practice where the abortionist delivers the entire child except the head. The head is left in the mother's womb until the abortionist kills the child by puncturing the back of the child's neck. If the baby's head were three inches further out of the birth canal, this practice would be recognized as murder under our court system.

"Critics of a partial-birth abortion ban have asserted that the ban could endanger the life and/or health of the mother, but such is not the case. Even the American Medical Association has said that the partial-birth abortion procedure is 'not good medicine' and is 'not medically indicated' in any situation.

"Congress has approved legislation to ban partial-birth abortions in the 104th, 105th, and the 106th Congresses with support by scores of Members who have never voted pro-life. Even many abortion supporters find this practice reprehensible.

"President Bush has said that he would sign a bill banning this practice. My hope is that the 107th Congress will give the President the Partial-Birth Abortion Ban Act of 2002 for him to do just that. I'm hopeful that we will soon see progress in ending this gruesome practice. I urge my colleagues to do the right thing today and vote for this ban."

Mr. BLUMENAUER. Mr. Speaker, I oppose the bill before us today, H.R. 4965, which would ban late-term abortions. Congress has no business substituting its judgment for families in cases that may jeopardize not just the health, but the life of the mother, and a family's ability to have a healthy child in the future. I have consistently opposed efforts by politicians in Congress to play politics with the most difficult and personal decisions a family can face.

Access to this procedure helps ensure a woman's health and her constitutional rights. It is the safest and most commonly used type of abortion in the second trimester of pregnancy. In fact, the American College of Obstetricians and Gynecologists has recognized that it "may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman."

Today's bill also fails to address a ruling in June 2000 by the U.S. Supreme Court, which struck down a Nebraska ban on late-term abortions in the case Stenberg v. Carhart. The Court invalidated the Nebraska law because it did not contain an exception to protect a woman's health, and it placed an "undue burden" on a woman's right to choose. Now, two years later, the House of Representatives is once again moving forward with a similar unconstitutional ban. The only substantive change in today's bill is the addition of a lengthy "findings" section that does not correct the blatant constitutional defects.

The timing of this debate and procedures used to bring it to the floor suggest that the anti-choice House Republican leadership is playing anti-abortion politics rather than having a serious legislative discussion. I disagree with the unfair closed rule that the Republican Leadership has set for debate on this bill because it denies pro-choice lawmakers the opportunity to offer amendments or substitute legislation to address the constitutional defects of the legislation.

Not everyone would make the same decision when faced with the wrenching decision of choosing between this procedure and the life of a loved one, but it is wrong for Congress to make that choice for American families.

I urge my colleagues to vote against the unfair rule and the underlying bill.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This legislation would ban a gruesome procedure that kills a child who is just inches from birth. I will not go into the details of this cruel procedure. What I will mention, however, is that numerous medical experts have testified that fetuses are able to fully feel pain after 20 weeks of development, the time at which most partial birth abortion procedures occur.

Some have questioned the constitutionality of partial-birth abortion bans. This legislation, however, clearly addresses questions that have surrounded previous bans in two key ways. First, H.R. 4965 narrowly defines what constitutes a partial-birth abortion. Second, this legislation deals with the question of health exemptions. H.R. 4965 presents extensive Congressional findings, based on the testimony of experts, that partial-birth abortions are never needed to save the life of the mother and that they often pose serious health risks to women.

Mr. Speaker, the American Medical Association has concluded that partial-birth abortions are "not an accepted medical practice." Yet, this cruel practice continues to take place. Congress has twice passed legislation to ban partial-birth abortions. Unfortunately, both times the legislation was vetoed by President Clinton.

The time for Congress to act on this issue is here. President Bush has said that he would sign a ban on partial-birth abortions. Mr. Speaker, we finally have an opportunity to put in place a ban that protects the most innocent of our society—I urge passage of the Partial-Birth Abortion Ban Act of 2002.

Mr. MCDERMOTT. Mr. Speaker, as a physician I must stand against H.R. 4965.

This bill bans a legitimate medical procedure and jeopardizes the lives of thousands of childbearing women. Supporters of H.R. 4965 claim to ban only a certain kind of abortion procedure that they happen to find offensive. However, the language of the bill is purposefully vague and would ban multiple types of abortion procedures. Further, this bill fails to provide a viability line for the fetus, so certain abortions that occur during the first two trimesters would be prohibited.

In 2000, the Supreme Court ruled on Carhart v. Stenberg. It decided that any ban on so-called "partial birth abortions" must contain an exception for the mother's health. But this bill does not provide any exception to protect the health of the mother.

This is the fifth time in seven years that the Congress has considered this legislation. H.R. 4965 is merely used as a political instrument to inflame the abortion debate through heated and graphic rhetoric. Republican leadership has brought this bill before the House in an effort to grossly mischaracterize abortions in this country.

Mr. Speaker; I can tell that it must be the silly season again, because this bill is about nothing other than election-year politics.

Several reputable medical organizations including the American College of Obstetricians and Gynecologists, and the American Medical Women's Association oppose this ban. Even the American Medical Association has withdrawn their support. We should not be interfering with the very personal, ethical, and medical decisions made between a patient and a doctor.

The Supreme Court specifically recognizes a woman's right to choose a safe abortion under the principles of Roe v. Wade and I will not support any bill designed to erode that fundamental right.

Mr. CHAMBLISS. Mr. Speaker, we have an opportunity today in the House of Representatives to pass H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This legislation will outlaw the deplorable procedure known as partial-birth abortion.

This issue is important to my state of Georgia, where in 1997, then Governor Zell Miller signed the ban on partial birth abortion into state law. This body has garnered nearly 300 supporters for each of the four separate times we have had the opportunity to cast votes on this important matter.

The American Medical Association concludes that partial-birth abortion is "not an accepted medical practice," while a wealth of other medical research shows this procedure is never medically necessary.

This is not a partisan issue, Senator Daniel Patrick Moynihan the retired Democratic Senator from the State of New York, known for giving voice to the public conscience, compared the procedure to murder by stating, "It is as close to infanticide as anything I have come upon in our judiciary." I agree with Senator Moynihan, partial-birth abortion is brutal and ruthless and must be banned. It is a disgrace that this reckless disregard for innocent young life is permitted here in United States of America.

I urge my colleagues to vote in favor of H.R. 4965 and I remain hopeful that we will be able to outlaw this despicable procedure once and for all.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 4965, "The Partial Birth Abortion Ban."

Today's debate on this issue is offensive. It's an insult to millions of women in this country and political grandstanding at its worst. For each of the past three sessions of Congress, the House has debated and passed this bill. It has never become law. The Supreme Court has already ruled this type of ban to be unconstitutional having struck down an almost identical Nebraska law.

The truth is "partial birth abortion" is a political term, not a medical one. Republicans have included a fuzzy definition in this bill that could take away protected representative freedoms. At best, they would ban what is almost always an emergency procedure performed to protect the health of a mother.

This is a highly personal decision—and an emotionally difficult one—that is best left to a woman and her doctor. Congress shouldn't tie the hands of physicians by making it illegal for them to make sound medical decisions that could save their patient's life. This should not be a political issue!

We ought to be respectful of the deeply personal tragedies involved. Instead, Republicans exploit them for political purposes. They jubilantly jump on this issue like it's a new Tonka truck at Christmas, when they ought to consider what this experience is like for the women involved. They ought to think about the real facts, not just the extreme rhetoric and gory pictures on the latest Christian Coalition voting card.

Most of the women involved are expectant mothers that encounter medical difficulties near the end of their pregnancy and must undergo this painful, but safe procedure to save their life. Others are the victims of sexual assault who often don't come to terms with their pregnancy until well into the second trimester. Imagine the painful process of determining whether you will bear the child of someone who has raped and assaulted you. These women have a right to make this choice. This bill provides no exemption for this basic freedom.

Indeed, this bill is yet another deceptive hoax in a protracted assault against the rights of women and all Americans. We must never let the right to choose be taken away just as we must never allow another back alley abortion to ever take place in this country again. I urge my colleagues to stand up for the freedom to choose and vote no on this cynical and senseless bill.

Mr. UPTON. Mr. Speaker, I rise today as a cosponsor of the Partial Birth Abortion Ban Act. I urge colleagues to join me in voting decisively in support of this legislation, as we have in the past two Congresses. As a civilized society founded on respect for life, we cannot allow this cruel and dehumanizing procedure to continue.

In these abortions, healthy infants who could survive are brutally killed just a breath away from birth. Although the consensus in the medical community is that this procedure is never necessary to save the life of the mother, this bill does include that exception to the ban.

On many issues that we debate in this body, there are shades of gray and room for honest disagreements on principle and substance. But on this issue, there is no question. There are no shades of gray. Partial birth abortions are acts of evil, pure and simple. They turn the wonder, the miracle, of the birth of a human being into a terrible travesty of horrible death and suffering.

Yesterday, the President and Mrs. Bush announced an adoption initiative to extend the welcome of family to a vulnerable child. Isn't it sadly ironic that we are here today, actually arguing about banning a procedure that dashes the hopes of childless couples for an infant to love and nurture.

The greatness of nation is judged not only by the size of its armies or the strength of its economy, but also by the way it treats its most vulnerable and frail. In the name of simple human decency and of our belief in all this nation must stand for, I call on this body to ban this procedure.

Mr. SHOWS. Mr. Speaker, I rise today in support of H.R. 4965, the Partial-Birth Abortion Ban act.

Mr. Speaker, protecting innocent human life is a preeminent concern of mine. I am opposed to abortion and the gruesome partial birth abortion procedure in particular.

I am as strong an advocate as there can be against the killing of unborn children. As Democratic Whip of the Congressional Bipartisan Pro-Life Caucus, I work closely with my colleagues to stress the importance of passing pro-life legislation such as H.R. 4965, which we are considering today.

Abortion is wrong. Partial birth abortion is the cruelest form of torture and we must put an end to it now, today!

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in opposition to H.R. 4965, the Partial Birth Abortion Ban Act. This bill is unconstitutional and will jeopardize the health of women.

This so-called "partial birth" abortion ban is part of a political scheme to sensationalize the abortion debate. The truth is that the phrase "partial birth abortion" is a political term, not a medical term. "Partial birth" abortion bans have never been about banning one procedure, nor about late term abortions. They are deceptively designed to be intentionally vague in the attempt to ban abortion entirely. This bill opens the door for legislators to ban even more safe abortion procedures.

H.R. 4965 is neither designed, nor written to ban only one procedure, and it deliberately lacks any mention of a viability time line, therefore is applicable throughout the pregnancy. These bans are deliberately designed to erode the protections of Roe v. Wade. We cannot sit back and watch the reproductive rights of women in America disappear.

This bill bans a variety of safe and common abortion procedures, both before and after viability, therefore imposing an undue burden on women seeking access to abortion services. This abortion restriction would, without exception, force women to use riskier methods of abortion.

But perhaps the strongest argument against this bill is that it ignores a constitutionally required exception to protect women's health. In 2000 the Supreme Court ruled in the Carhart v. Stenberg case that women are entitled to medical procedures that are found safest for their individual health. The Supreme Court stated unequivocally that every abortion restriction must contain a health exception that allows an abortion when "necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Anti-choice lawmakers have ignored this constitutional right, and refused to include into their legislation an exception to protect women's health.

H.R. 4965 unduly interferes with the doctor-patient relationships by giving Congress the ability to punish physician and put patients at risk. The American Medical Association, one the largest and most politically active groups of physicians in the U.S., who in the past has often supported abortion bans, withdrew their support on this bill. The following is a statement that was released by the AMA, "The physician must retain the discretion to make that judgment, acting within the standards of good medical practice and in the best interest of the patient."

Along with the American Medical Association many other medical organizations oppose this legislation, including the American Medical Women's Association, American Nurses Association, American Public Health Association, American College of Nurse Practitioners, American Medical Student Association, and the Association of Schools of Public Health, to name only a few. These organizations have recognized that it would endanger women's health and inappropriately interfere with medical decision-making. These groups have implored Congress not to intrude into decisions that are more appropriately made by women and their families, in consultation with their physicians. Their medical judgment should not be ignored.

For the safety and the constitutionally required right of women, I urge you to vote in opposition to H.R. 4965.

Mr. WATTS of Oklahoma. Mr. Speaker, I rise in support of the Partial-Birth Abortion Ban Act of 2002.

This is an issue that has opened the eyes of many Americans. The rhetoric of "choice" is turned on its head when a procedure as barbaric as partial-birth abortion is the subject.

When the Democrat leadership discussed the schedule of the House here on the Floor last week, it was amazing to hear the term "partial-birth abortion" partially uttered, then quickly changed to words softening the reality of the procedure we are debating today. To describe partial-birth abortion as a "certain late-term abortion," as many members of the media also do, is factually incorrect. Partial-birth abortions are performed as early as twenty weeks into the life of an unborn child. The devil is always in the details, which is why you will hardly ever hear the fact that thirty-six percent of all abortions in American are on children of African descent.

Those who oppose a ban on partial-birth abortion often admit the procedure is gruesome, yet defend it because they believe it is necessary when a baby deemed imperfect is about to be born. But we must step back and ask ourselves what authority we have to decide who gets to live and who becomes a casualty of choice. The quality of life of an unborn child or an elderly Americans is just as valuable as the life enjoyed by members of Congress.

Let me propose the following scenario to you.

You are a doctor who has been contacted by a patient—a woman in her early thirties. After you examine her medical history, you discover she suffers from tuberculosis. She is not well. Her husband has syphilis—and it is possible she has also contracted the deadly disease.

This lady previously gave birth to four children, three of whom are still living. One is blind and two are deaf. She asks you about terminating this pregnancy with an abortion. You consider her health, her previous births and the state of her children.

What would do yo do?

Well, if you said, "have an abortion," you just killed Beethoven.

Mr. Speaker, all life is precious. All life is sacred. And under the Declaration of Independence of the United States, all Americans are endowed by our Creator and have been given an unalienable right to life.

Partial-birth abortion represents the antithesis of civility. It is an insult to humanity. And an overwhelming majority of Americans think it has no place in our country.

This legislation is practical, warranted and, I believe, constitutional. I urge my colleagues to support the bill so the legalized version of infanticide known as partial-birth abortion will never again take the life of an innocent, precious baby in our great nation.

Mrs. LOWEY. Mr. Speaker, my colleagues, we are here today, considering a ban on so-called "partial-birth abortions" for the eighth time in seven years, because the proponents of this bill want to overturn Roe v. Wade.

This ban is not about outlawing one method of abortion—it's about access to safe abortion methods used throughout pregnancy. It's not about post-viability abortion—it's about the right of all women to choose.

It's about Roe v. Wade. And those who support this ban—much as I respect their convictions—do not want Americans to hear that because they know Americans support to right to choose.

Roe v. Wade guaranteed that right to choose by expressing three very important values that make sense and have been widely accepted by the American people.

First, the decision to terminate a pregnancy is private and personal, and should be made by a woman and her family without undue interference from the government. At the earliest point in pregnancy, the government has no place in this process. Therefore, a state cannot ban access to abortion before fetal viability, the point at which a fetus can live outside of the woman.

Second, a woman must never be forced to sacrifice her life or damage her health in order to bring a pregnancy to term. The woman's life and health must come first and be protected throughout pregnancy.

Third, determinations about viability and health risks must be made for each woman by her physician. A blanket government decree on medical determinations is irresponsible, offensive, and dangerous.

Despite the Supreme Court's decision in Stenberg v. Carhart—which confirmed these principles—H.R. 4965 clearly rejects each of these values.

The Court made clear that a "partial birth abortion" ban was extreme and dangerous because it limited safe options for women and failed to protect the health of women. Yet the bill before us contains no mention of fetal viability, no protection for the health of the woman, and leaves no role for the physician treating a woman. The government makes all the decisions.

The proponents of the bill may deny it, but their tireless efforts to ban so-called "partial birth abortions" is in fact a calculated, nationwide effort to undermine support for Roe v. Wade. Please do not be fooled by today's charade, this is just another attempt to make abortion illegal.

My colleagues, we believe that women matter. We believe their lives are irreplaceable and worth protecting. That is why we oppose this ban.

I urge my colleagues to respect the law of the land by supporting the values in Roe v. Wade and Stenberg v. Carhart—let's leave decisions in the hands of families and protect the health of women. Vote against this terrible harmful bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Pursuant to House Resolution 498, the bill is considered as having been read for amendment and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MS. BALDWIN

Ms. BALDWIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. BALDWIN. Yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. BALDWIN moves to recommit the bill H.R. 4965 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

In section 3, of the bill, in proposed new section 1531 of title 18, in subsection (a), strike "that is necessary" and all that follows through "itself." and insert "where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.".

Ms. BALDWIN (during the reading). Mr. Speaker, I ask that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes in support of her motion.

Ms. BALDWIN. Mr. Speaker, I rise today to offer a motion to recommit with my colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), that would provide an exception in order to protect the health of the mother.

The families that are affected by this bill are dealing with the tragic circumstances of crisis pregnancies. In most cases, they have just learned that their babies will not survive. They are then confronted by choices that none of us would wish upon any human being. This is the context and these are the circumstances under which this legislation comes into play. And any suggestion to the contrary deceives the American public about the realities of this issue.

The experiences that families face with crisis pregnancies are real. Their stories demonstrate the need for this exception to protect the health of the mother. Kathy and Chris, from Wisconsin, were married and were excited when they found out that Kathy was pregnant 6 years ago. They received the best prenatal care for their baby, and the pregnancy seemed to be going fine. She was over 6 months along when they went to their doctor to have an ultrasound and discovered that their baby was developing with no brain. There was a tumor in the baby's brain cavity and other factors that would compromise and jeopardize Kathy's health. Her doctor recommended that she have an abortion.

Imagine the pain of these parents who so much wanted to have this child. Tragically, their doctor could not locate a provider in Wisconsin, so they also had to travel over a thousand miles to Colorado. After extensive tests, the doctor in Colorado determined that this procedure was medically necessary to protect Kathy's health. Because of the stigma associated with this procedure, neither Chris nor Kathy even told their parents that they had to have this procedure. But now she is speaking out because she believes that women must know that when they are faced with an extremely dangerous pregnancy, they deserve the right to protect their own health.

Typically, women who must face this decision want nothing more than to have a child and are devastated to learn that their baby would not survive outside the womb. In consultation with their doctors and families, they make difficult decisions to terminate pregnancies, to preserve their own health, and, in many cases, to preserve their ability to have children in the future.

This was the case for Kathy and Chris, who, because they took steps to terminate her first pregnancy, now have a beautiful 4-year-old son, Frederic. How can we look a woman like

Kathy in the eye and tell her that she cannot have a safe procedure that would preserve her health and give her the best chance to have children in the future? Our compassion alone should be sufficient to justify a health exemption.

But if my colleagues need more ammunition, the U.S. Supreme Court has made it clear that such an exemption is constitutionally required. In Stenberg v. Carhart, the court, in striking down a Nebraska statute, held that it was unconstitutional because there was no health exception for the mother. The language in this motion is taken directly from that Supreme Court's ruling.

My colleagues, denying a maternal health exemption is wrong and it is unconstitutional. If this bill passes today without the adoption of this motion, women who are already dealing with the tragic consequences of a crisis pregnancy will have their health put in serious danger.

I urge Members to support this motion to recommit on behalf of Kathy, on behalf of all which women who have faced this most difficult decision, and on behalf of Frederic and all the children who have been brought into this world because their mothers had access to safe abortions, including this procedure, and were able to have children again.

Vote for this motion to recommit to preserve the life and health of women.

Mr. Speaker, I yield 40 seconds to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I would like to, as the cochair of the Congressional Pro-Choice Caucus, I would like to extend my thanks and the thanks of the caucus to the gentlewoman from Wisconsin for bringing this motion to recommit, and also to the gentleman from New York for managing the time on the bill, and the entire Committee on the Judiciary for their tireless work.

Our view is this: Given Stenberg v. Carhart, we need to decide are we going to pass a constitutional bill or not. This motion makes it constitutional. We urge a "yes" vote on the motion to recommit.

Ms. BALDWIN. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I join her in offering this motion to recommit.

Let me simply state that in the State of Texas, where then-Governor Bush, now President Bush, presided, included in the provision of their ban on this procedure was an exemption for the health of the woman. This is all that we are asking for today. This is a medical procedure, and the only time this is done is when it is needed to save the life or the health of the mother.

Let us vote for this motion to recommit in order to be consistent with the Supreme Court decision in Stenberg.

Mr. CHABOT. Mr. Speaker, I rise in opposition to the motion to recommit.

This motion to recommit should be opposed for several reasons. The overwhelming weight of the evidence compiled in a series of congressional hearings indicates that partial-birth abortions are never necessary to preserve the health of a woman and, in fact, pose substantial health risks to women undergoing the procedure.

No controlled studies of partial-birth abortions have been conducted, nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. There have been no articles published in any peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures, nor did the plaintiff in Stenberg v. Carhart, Dr. Leroy Carhart, or the experts who testified on his behalf, identify even a single circumstance during which a partial-birth abortion is necessary to preserve the health of the woman.

In fact, according to Dr. Carhart's own testimony, when he has chosen to perform a partial-birth abortion, he has done so based upon the happenstance of the presentation of the unborn child and not because it was the only procedure that would have preserved the health of the mother.

Dr. Martin Haskell, the physician credited with developing partial-birth abortions, has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired result. Furthermore, leading proponents of the partial-birth abortion acknowledge that it poses additional health risks because, among other things, the procedure requires a high degree of surgical skill to pierce the infant's skill with a sharp instrument in a blind procedure. In other words, they cannot really see what is going on.

Dr. Warren Hearn has testified that he had "very serious reservations about this procedure," and that he "could not imagine a circumstance in which this procedure would be the safest."

□ 1815

Although he was opposed to legislation banning partial-birth abortions, he also stated, "You really cannot defend it. I am not going to tell somebody else that they should not do this procedure. But I am not going to do it." He has also stated, "I would dispute any statement that this is the safest procedure to use."

The procedure also poses the following additional health risks to the woman: an increase in a woman's risk of suffering from cervical incompetence as a result of a cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child and the footling breech position, a procedure which, according to "Williams Obstetrics," a leading obstetrics textbook, "There are very few, if any, indications for . . . Other than delivery of a second twin"; and a risk of iatrogenic and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock and could ultimately result in maternal death. Let me repeat that. Maternal death, mother's death. This also creates a high risk of infection should she suffer a laceration.

Finally, a health exception, no matter how narrowly drafted, gives the abortionist unfettered discretion in determining when a partial-birth abortion may be performed; and abortionists have demonstrated that they can justify any abortion on this ground. Dr. Warren Hearn of Colorado, for example, the author of the standard textbook on abortion procedures, who also performs many third-trimester abortions, has stated: "I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health." Let me repeat that: "I will certify that any pregnancy is a threat to a woman's health and could cause grievous injury to her physical health."

So it is clear, then, that a law that includes such an exception would not ban a single partial-birth abortion. A partial-birth abortion ban with this so-called health exception is nothing but a sham. It would not prevent any partial-birth abortions at all, and our goal in this is to protect both unborn children and women in this country by once and for all stopping this horrible procedure.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Ms. BALDWIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and 9 of rule XX, the Chair announces that this 15-minute vote will be followed by a 5-minute vote on passage, if ordered, followed by a 5-minute vote on the motion to suspend the rules and agree to House Current Resolution 188 on which further proceedings were postponed on Monday.

The vote was taken by electronic device, and there were—ayes 187, noes 241, not voting 6, as follows:

[Roll No. 342]

### AYES—187

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kelly
Kennedy (RI)
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
Kucinich
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Obey
Olver
Ose
Owens
Pallone
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOES—241

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
LaFalce
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stenholm
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOT VOTING—6

Bonior
Condit
Knollenberg
Stearns
Traficant
Weldon (PA)

☐ 1841

Mrs. WILSON of New Mexico, Mr. PASCRELL, Ms. KAPTUR and Mr. ROSS changed their vote from "aye" to "no."

Ms. KILPATRICK, Mr. TANNER and Mr. HORN changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LaHood). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

### RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 274, noes 151, answered "present" 1, not voting 8, as follows:

[Roll No. 343]

### AYES—274

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
King (NY)
Kingston
Kleczka
LaFalce
LaHood
Lampson
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Manzullo
Mascara
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Visclosky
Vitter
Walden

Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—151

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Blagojevich
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Frost
Gilman
Gonzalez
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holt
Honda
Hooley
Horn
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kilpatrick
Kind (WI)
Kirk
Kolbe
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Morella
Nadler
Napolitano
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—1

Kucinich

NOT VOTING—8

Bonior
Condit
Cunningham
Knollenberg
Phelps
Stearns
Traficant
Weldon (PA)

□ 1849

Mr. LEWIS of Georgia changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CUNNINGHAM. Mr. Speaker, on rollcall vote 343 concerning partial-birth abortion, I was detained. Had I been present, I would have voted "aye."

## SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

The SPEAKER pro tempore (Mr. LaHood). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 188, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. Ros-Lehtinen) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 188, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 344]

YEAS—420

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Bachus
Barcia
Bonior
Condit
Conyers
Dicks
Foley
Gephardt
Issa
Istook
Knollenberg
Stearns
Traficant
Weldon (PA)

□ 1859

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1900

## IN THE MATTER OF REPRESENTATIVE JAMES A. TRAFICANT, JR.

Mr. HEFLEY. Mr. Speaker, I call up the privileged resolution (H. Res. 495) in the matter of JAMES A. TRAFICANT, Jr., and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 495

*Resolved*, That, pursuant to Article I, Section 5, Clause 2 of the United States Constitution, Representative James A. Traficant, Jr., be, and he hereby is, expelled from the House of Representatives.

The SPEAKER. The resolution constitutes a question of the privileges of the House and may be called up at any time.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before our debate begins, the Chair will make a statement about the decorum expected in the Chamber.

The Chair has often reiterated that Members should refrain from references in debate to the conduct of other sitting Members where such conduct is not the question actually pending before the House, either by way of a report from the Committee on Standards of Official Conduct, or by way of another question of the privileges of the House.

This principle is documented on pages 174 and 703 of the House Rules and Manual and reflects the consistent rulings of the Chair.

It is also well established that indecent language either against the proceedings of the House or cast against its Membership is out of order.

Disciplinary matters, by their very nature, involve personalities. The calling up of a resolution reported by the Committee on Standards of Official Conduct or the offering of a resolution as a similar question of the privileges of the House embarks the House on consideration of a proposition that admits references in debate to a sitting Member's conduct.

This exception to the general rule against engaging in personality, admitting references to a Member's conduct when that conduct is the very question under consideration by the House, is closely limited.

This point was well stated by the Chair on July 31, 1979, as follows: while a wide range of discussion is permitted during debate on a disciplinary resolution, clause 1 of rule XVII still prohibits the use of language which is personally abusive.

This was reiterated by the Chair as recently as January 27, 1997. It also extends to language which is profane, vulgar or obscene and to comportment which constitutes a breach of decorum.

On the question about to be pending before the House, the resolution offered by the gentleman from Colorado (Mr. HEFLEY), as chairman of the Committee on Standards of Official Conduct, Members should confine their remarks in debate to the merits of that precise question.

Members should refrain from remarks that constitute personalities with respect to members of the Committee on Standards of Official Conduct, with respect to other sitting Members whose conduct is not the subject of the pending report, or to Members of the other body.

The Chair asks and expects the cooperation of all Members in maintaining a level of decorum that properly dignifies the proceedings of this House.

As always, the galleries must refrain from any manifestation of approval or disapproval of the proceedings.

Pursuant to clause 4 of rule XVII, the Chair intends to take necessary initiatives to ensure proper decorum.

### MOTION OFFERED BY MR. LATOURETTE

Mr. LATOURETTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LATOURETTE moves to postpone further consideration of House Resolution 495 until September 4, 2002.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Ohio (Mr. LATOURETTE) is recognized for 1 hour.

Mr. LATOURETTE. Mr. Speaker, as a first matter of business, I ask unanimous consent to yield 30 minutes of my time to the gentleman from Colorado (Mr. HEFLEY), the distinguished chairman of the Committee on Standards of Official Conduct, and further ask that he be permitted to yield time from that 30 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion to postpone would postpone the proceedings until a date certain, as a matter of fact, the day we would return from recess.

Mr. Speaker, this is a historic moment in the House of Representatives. Not since 1861, nearly 120 years ago, has the House expelled one of its Members. As we consider the resolution of expulsion today, it seems to me that we should do so with all the care and due regard for both this institution and the individual involved. This institution makes the Nation's laws; therefore, we have the obligation to be more concerned with the rule of law and the observance of law than any other institution in America.

Mr. Speaker, I wish I could take credit for those words, but I cannot. Those words were spoken by the Honorable Louis Stokes in 1980, the only other time that the House of Representatives has taken upon this course of action since the American Civil War; and on that particular occasion, which was the expulsion vote of Representative Myers of Pennsylvania, Congressman Stokes rose and made the same motion that I am making here this evening.

I would ask Members to pay attention to the similarities between where we find ourselves today and where the Congress found themselves in 1980, the only other time that this happened in this Congress's history, again, since the Civil War. Representative Myers had been convicted by a jury of a felony, of felonies. Representative TRAFICANT has been convicted by a jury of felonies. Representative Myers was pending sentence and had not been sentenced on the date that the resolution was brought to the floor. Congressman TRAFICANT has not been sentenced by the judge in Ohio. The House considered the resolution against Representative Myers on the last day before Congress left town for a 1-month recess in 1980. Tonight, we are 2 days from a 1-month recess in 2002. Representative Myers was caught on videotape accepting $50,000 from an individual who was dressed up as an Arab sheik; he admitted his conduct before the Committee on Standards of Official Conduct. Congressman TRAFICANT, in his case, there is no videotape, there is no audiotape, there are no fingerprints, and he has denied the allegations.

In this matter, although there were numerous witnesses that testified in the proceeding in Cleveland, Ohio, in Federal court, I would submit to Members, in my opinion, it boils down to a case of direct testimony in conflict. There are, and those of my colleagues that have practiced law know that there is something that we prosecutors used to do called "putting lipstick on the pig," and you would have one witness that was seminal to your case, but you would call on other witnesses to say oh, I went to the bank, or I picked up the newspaper that morning, or I did this or I did that, seemingly to corroborate the main witness's testimony.

I would give an example, because since I have traveled the floor since this matter came about, the one count, although all are serious, and I will tell my colleagues right now, so that there is no confusion about where I come from, that if Congressman TRAFICANT committed these acts, I will vote to expel him, because they are reprehensible.

The most serious example that has been given to me as I have talked to other Members on the floor deals with kickbacks, the allegation that a member of his staff was hired and was required to deposit his congressional paycheck and every month take $2,500 in cash and deliver it to the Congressman.

Over the course of time, and this fellow's name was Sinclair. Over the course of time that this was alleged to have occurred, it would have been $2,500 a month for the months of his employment; it adds up to $32,500. During the same period of time, the government also indicated that Congressman TRAFICANT had received $13,000 in cash bribes from another individual. That is count 3, not only on the indictment, but also the charges before us this evening.

The government introduced witnesses that said that, in fact, Mr. Sinclair went to his bank, deposited his congressional paycheck and took out $2,500 in cash. Mr. Sinclair also came forward and indicated that he brought some burnt envelopes to the FBI, the Federal Bureau of Investigation and said that Mr. TRAFICANT, after suspicion was cast upon him, brought him the cash back in the burnt envelopes; and that was introduced as evidence as well.

The competing evidence, and why it is conflicting and why it is different than Representative Myers where we have a videotape and audiotape and other matters is that 1,000 documents were submitted to the FBI lab, one of the best in the world, if not the best, and no fingerprints are found on any money, any envelopes, any plastic bags, nothing.

Further, I would tell my colleagues that they looked at Congressman TRAFICANT's bank account as well. Over the same time period, over the 2 years, he had deposits of $7,600. If the government's case is to be believed on that point and, again, we are talking about direct evidence; I am not asking anybody to subscribe to my view of the evidence, but about $40,000 is missing. Now, I would note, and I would ask what we used to ask in the law business, Members of Congress to take judicial notice, we know that that $40,000 was not spent at Brooks Brothers.

We have an issue where Mr. Sinclair says, this is what happened. Congressman TRAFICANT says, it did not. And that creates the backdrop for why I decided to file this motion, the same motion that was introduced by Louis Stokes in 1980.

When this matter came before the Committee on Standards of Official Conduct, and I want to give praise at this moment in time to the gentleman from Colorado (Mr. HEFLEY), the chairman of that committee, who has the toughest job in the House of Representatives, for his work. And I also want to commend the gentleman from California (Mr. BERMAN), the ranking member, not only because he has the second toughest job, but I just want to, just as a personal, point of personal privilege for a minute, when I filed this motion, I was originally told that there may be some who would seek to file a motion to table so we could not even have this discussion this evening. The gentleman from California (Mr. BERMAN) worked very hard to make sure that I had the opportunity to speak tonight and those who wanted to agree with me, and I thank him very much.

This sets the backdrop for what I think brings us here this evening, or at least me here this evening, and it is a fellow by the name of Richard Detore. Richard Detore is an individual who was indicted in a superseding indictment to the Congressman. He did not testify at the trial, because he has fifth amendment concerns. He did come against those concerns to testify before the Committee on Standards of Official Conduct in open session.

He testified, and again, we were free to believe or disbelieve, but that is not the point, and we will get there from here, that he was asked by the assistant United States Attorney to tell a story, and the story was that he was in a room here in the Capitol and he overheard a conversation between a fellow by the name of J.J. Cafaro and another individual wherein it was discussed that Congressman TRAFICANT was being bribed in return for favors, and the specific favor had to do with technology, laser technology for landing airplanes, which most of you voted for if you voted for AIR 21.

Mr. Detore testified to us, and again he did not appear at trial, that when he declined, and he said, I will tell you anything that I do know; he was originally given a grant of immunity: I will tell you anything that I do know, but that is not true, that did not happen. First, he was threatened with the Internal Revenue Service. Next, it was indicated to him that he would be charged with bank fraud. I want my colleagues to listen to the description of bank fraud because this is very telling.

When he got the job with U.S. Aerospace Group, he was promised employment of $240,000 a year. His employer, one of the accusers of the Congressman, gave him a letter saying, you are going to be the new CEO of this company and you are going to make $240,000. He took that letter to the bank to get a mortgage, as I think many of us in this room have done. When the accuser in another count of the Congressman told the story, he said, you know, you can get him, because we never signed his employment agreement. So his using the letter saying we are going to pay him in the future, he did not have a signed employment agreement; he has committed bank fraud.

When he did not believe that, and no reasonable human being would, he said they would indict him. He said, you know what? Indict me. And he stands indicted today.

Since his testimony, again, not seen by the jury, a juror in Cleveland, Ohio, has come forward to the newspaper; and, Mr. Speaker, I will introduce an article for the RECORD appearing in the Cleveland Plain Dealer on July 20 written by an excellent journalist by the name of Sabrina Eaton, and the headline is: "Traficant juror changes his mind; now convinced conviction was wrong," and I will include the article in the RECORD at this time.

### TRAFICANT JUROR CHANGES HIS MIND; NOW CONVINCED CONVICTION WAS WRONG

(By Sabrina Eaton and John Caniglia)

WASHINGTON.—A juror who helped convict U.S. Rep. James Traficant says his vote to find the Youngstown congressman guilty of 10 felonies in April was a mistake. He says he changed his mind after watching televised testimony before a House ethics panel this week.

"I know it's after the fact, but now I believe that there's no doubt that the government was out to get him, and if they want you, they'll find enough evidence to make you believe that the Earth is flat," said Leo Glaser of Independence, who was juror No. 8 at Traficant's nine-week trial in Cleveland.

Glaser, 54, said he was swayed by the testimony of Richard Detore, a Virginia executive accused of bribing Traficant. Detore, who faces trial in October, chose not to testify in Traficant's trial because he could have hurt his own case. But he did give his version to a House ethics panel that later recommended that Traficant be tossed from his job.

Detore told the panel he hadn't tried to bribe Traficant and that the chief prosecutor in the case against Traficant, Assistant U.S. Attorney Craig Morford, urged him to fabricate a story to say he overheard Traficant seeking favors from Youngstown businessman John J. Cafaro in exchange for political influence. He said his refusal to lie about Traficant resulted in his own indictment.

Morford, who was unable to present his side of the story when Detore testified in Washington, yesterday categorically denied "any improper conduct" and said Traficant brought up the same allegations last year in legal motions that were rejected by Judge Lesley Wells. He declined to comment on Glaser's statements.

Under federal law, Glaser's change of heart won't change the verdict against Traficant. Although it's unusual for jurors to change their minds after a trial, Case Western University law professor and political scientist Jonathan Entin said Traficant probably won't succeed if he tries to use Glaser's reversal to appeal the verdict, because Detore voluntarily refused to testify in Cleveland.

Madison Republican Rep. Steve LaTourette, a member of the ethics panel that recommended Traficant's expulsion on Thursday, said that Glaser contacted his office several weeks ago to discuss the case but that ethics committee lawyers barred him from talking to the juror because of his role in deciding Traficant's fate.

LaTourette said he'll ask Speaker Dennis Hastert to bring Glaser's concerns to the attention of the House of Representatives before it decides whether to eject Traficant next week.

Another ethics committee member, Cleveland Democrat Stephanie Tubbs Jones, said she wasn't sure how Glaser's statements would affect Traficant's case.

"He's certainly not the first juror to reconsider his decision after a trial," Tubbs Jones said.

Glaser, who came to public attention when a Cleveland judge dismissed a traffic citation he was issued while trying to feed a homeless man during the 1996 holiday season, said he would have voted to acquit Traficant of all charges if Detore had testified at the bribery and racketeering trial.

"It would have give me reasonable doubt," said Glaser, a design technician at the Cleveland Electric Illuminating Co., who has twice run for mayor of Independence.

But other jurors said the evidence, with or without Detore's story, buried Traficant. Traficant's employees said he made them give kickbacks from their salaries and do unpaid work on his farm and boat. Local contractors said they gave Traficant bribes in exchange for assistance. Wells is scheduled to sentence Traficant on July 30.

"There was just so much evidence in the case and so many witnesses that the wealth of information against [Traficant] was overwhelming," said Jeri Zimmerman, a juror from Mentor. "I kept saying to myself, 'Please, please show me something, anything, that would make me wonder.' but [Traficant] never did. And the witnesses he called hurt him more than helped him."

Asked about Detore's testimony before the panel, Zimmerman said: "That's one person. What about the other 50 people that we saw? The government's case was overwhelming."

Mr. Speaker, that article is based upon his observation of the hearings here in Washington, D.C.

Then, another juror came forward on Monday of this week and, in pertinent part, his affidavit indicates: "I did not believe the testimony of the key government witnesses, and I did not believe that the government proved that James Traficant committed any offense," and I will include this affidavit for the RECORD at this time.

AFFIDAVIT

LORAIN COUNTY, STATE OF OHIO

Affidavit of Scott D. Grodi

Now comes Scott D. Grodi, and being first duly sworn upon oath, deposes and states the following:

1. I was selected as a juror in the case of *United States of America* vs. *James Traficant* in January 2002. I did not know anything about James Traficant at that time.
2. I served on the jury for eleven weeks and was excused by the Judge, without objection from either the government or the defense so that I could take care of family obligations.
3. I listened to the testimony of all government witnesses, all defense witnesses, in addition to hearing closing arguments before being dismissed.
4. When I was dismissed as a juror, I did not believe the testimony of the key government witnesses and I did not believe that the government proved that James Traficant committed any offense.
5. I do not believe today that James Traficant was guilty of the charges brought against him.

Further affiant sayeth naught.

SCOTT D. GRODI.

Sworn and subscribed before me on this the 24th day of July, 2002 by Scott D. Grodi in Lorain County, Ohio.

JOHN P. KILROY.

☐ 1915

Next week, Mr. Speaker, the judge in Cleveland will consider justice in the Myers case, whether or not to pronounce sentence and what that sentence should be, but first will have to dispose of some due process procedural motions filed by the respondent, Mr. TRAFICANT, including a motion for a new trial.

And I will say I do not know everybody in this House well, but I have been here for 8 years, and I would trust that those Members who know me know I am not a black helicopter guy, I am not a big conspiracy theorist, but Mr. TRAFICANT's argument was, if we believe him, that the Government was out to get him because of other things. And I would say to my friend, and particularly my friends from Massachusetts, I would ask my colleagues if they could have imagined that Joseph Salvati could have been a subject of rogue FBI agents and kept in prison by our Government unlawfully for 35 years.

If my colleagues watched the Today Show and they saw the preview of Mr. TRAFICANT's hearing here today, the second story was about a man who had spent 17 years in prison for murder and the prosecuting attorney was in possession of a confession from another individual, but suppressed it and the man spent 17 years in prison.

I would just close at this point with another observation from 1980, and this observation says: "I too am a former assistant U.S. attorney. I think I share the feelings of all the Members that have had a chance to review those videotapes," again, those are the Myers videotapes, "that the conduct of the Member in question certainly was repugnant to all of the standards that I believe the Nation expects from this Congress, but I have to agree with the gentleman," Mr. Stokes, "that we do not have the responsibility to judge each other's character, unfortunately, and I think until this matter is finally resolved in the courts that we should really come back and address ourselves to the issue in a climate that is not as political as the one we find ourselves in today." That was the gentleman from New York (Mr. RANGEL).

Mr. Speaker, I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, first of all, I yield 15 minutes of my 30 minutes to the gentleman from California (Mr. BERMAN), the ranking member of the Committee on Standards of Official Conduct, for his control of that 15 minutes.

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the gentleman from California (Mr. BERMAN) will control 15 minutes.

There was no objection.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume. I rise to speak in opposition to the motion by the gentleman from Ohio (Mr. LATOURETTE), and I oppose the motion for the following reasons: The bipartisan membership of the Committee on Standards of Official Conduct has worked diligently, and I think fairly, over the course of several months, and this has brought us to the resolution under consideration today to expel Representative TRAFICANT. The committee following regular order has placed this matter in the hands of the leadership to schedule it whenever the leadership deemed appropriate.

In fact, when asked what I wanted in this, I said, "If you let it lay over until September, that is fine with me. If you schedule it now, that is fine with me. Whatever you think is best for the schedule, that is fine with me." They scheduled it for tonight, and so tonight is the night that we need to do this business.

The committee reached its decision to sustain nine counts of misconduct against Representative TRAFICANT based on clear and convincing evidence before it. In an article in the Youngstown, Ohio Vindicator, dated July 23, yesterday, the juror, I think the same juror that Mr. LATOURETTE mentioned: "Leo Glaser said today that his vote to convict U.S. Representative James A. Traficant, Jr., stands. Glaser, juror number 8 in the Federal District Court trial in Cleveland, said his quotes in a newspaper story over the weekend were somewhat inaccurate.

"He said he found the headline in the Cleveland Plain Dealer story, 'Traficant juror changes his mind; now convinced conviction was wrong,' especially inaccurate." So while I have sympathy for what Mr. LATOURETTE is trying to do, I do not know if this juror thinks he made the right decision or he did not make the right decision. I cannot tell from these stories. But, Mr. Speaker, I would urge that Members vote against this motion.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself up to 7 minutes.

I oppose the motion of the gentleman from Ohio (Mr. LATOURETTE), who is a very diligent and very valuable member of the committee, who joined in the unanimous vote to recommend expulsion.

A word about the testimony before the committee of Richard Detore, for when we hear the gentleman from Ohio's (Mr. LATOURETTE) argument, we realize that only one issue has come up since the time that the committee recommended expulsion that changes the facts before us since the committee completed its deliberations, and that is the comments of jurors. I will address those comments in a few moments, but first I want to talk about the testimony that I think is underlying some of the concern, that of Richard Detore.

Unlike the jurors in Cleveland, the eight members of our adjudicatory subcommittee, including myself, heard Mr. Detore's efforts to exculpate Mr. TRAFICANT.

We nonetheless determined that the allegations against the gentleman had been proven by clear and convincing evidence, including count 3, the only count, the single count on which Mr. Detore arguably had pertinent firsthand information. Despite his limited familiarity with the full range of charges against Mr. TRAFICANT, Mr. Detore nonetheless spoke with assurance about matters of which he could not possibly have had direct knowledge, including events in Youngstown, of which this Washington area resident could not have been aware and private conversations which did not include him.

He testified about conversations between Mr. TRAFICANT and J.J. Cafaro, a business plan for whom Mr. TRAFICANT secured a $1.3 million appropriation and who engaged in a sham transaction involving $13,000 in cash and $26,000 additionally in repairs and boat slip fees in a sham transaction pretending to buy Mr. TRAFICANT's boat. Cafaro and the former USAG chief engineer, Al Lange, Cafaro and Cafaro Company treasurer Dominic Roselli, and Cafaro and his accountant Patricia DiRenzo. Mr. Detore testified on all of these conversations and there is not a bit of evidence that he was a party to or a participant in any of these conversations.

The adjudicatory subcommittee found Mr. Detore either lacking in credibility or found his testimony outweighed by the overwhelming evidence against Mr. TRAFICANT.

It has been argued that as an indicted co-defendant, which he is, he placed himself in great peril by testifying before our committee and that this bolsters his credibility. I think it can be argued just as well that this was his Hail Mary pass to discredit the Assistant U.S. Attorney before his case goes to trial. Mr. Detore clearly demonstrated that ours is the forum where he intended to try to save his neck.

He has repeatedly failed to show up at pretrial hearings in Cleveland citing ill health, yet he managed to make a surprise appearance before our committee last week, testifying for hours late into the night. For that reason, he is now facing contempt charges in Cleveland, charges that he and the gentleman from Ohio will doubtless argue is further evidence by their persecution by the Assistant U.S. Attorney.

Casting further doubt on the voracity of Mr. Detore's allegations of misconduct by the assistant U.S. attorney, is the fact that he similarly hurled accusations of misconduct against the staff of the Committee on Standards of Official Conduct, staff which we know to a certainty acted appropriately and the allegations are patently false.

Let us look at the recantations by juror Leo Glaser. He has been cited as saying that he heard at trial the testimony he heard of Mr. Detore last week. If he had heard that, he might not have voted to convict. I would point out that the conclusion of the Adjudicatory Subcommittee and the recommendation that the gentleman be expelled were based not to the conviction, but on the evidence presented at trial.

Furthermore, Mr. Glaser has gone on to say to the press that he also did not have the opportunity to hear how the Assistant U.S. Attorney might have cross-examined Mr. Detore so he cannot be sure how he would have weighed the Detore testimony. Nor does he know what his fellow jurors might have argued in their deliberations after Mr. Detore's testimony in cross-examination.

And finally, Mr. Detore could have testified at trial. Mr. TRAFICANT did not call him. We do not know whether he would have taken the fifth amendment at trial. He did not take it in our Committee on Standards of Official Conduct hearing. If anyone denied Mr. Glaser the opportunity to hear Mr. Detore during the trial, it was the gentleman from Ohio. It is intriguing to me that suddenly Mr. Detore is made available to make a statement to us.

With regard to the second juror, he did not even participate in the jury deliberations at all. He left the jury to attend a family funeral, an alternate was selected. He has no idea what the give and take was inside the jury room during the deliberations.

Let me reiterate that unlike the jurors in Cleveland, we did hear from Mr. Detore, yet we were not persuaded. We voted for the count with regard to which he testified, count 3, and for eight other counts, finding that the evidence established by clear and convincing evidence that the rules of the House have been violated.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Mr. Speaker, I do not rise tonight in defense of guilt or innocence of our colleague, the gentleman from Ohio (Mr. TRAFICANT). I rise tonight in a sense of what I think is fairness. I have a tremendous respect for this body and an overwhelming respect for the Committee on Standards of Official Conduct and the difficult job that they have. I too compliment the gentleman from Colorado (Mr. HEFLEY) and the gentleman from California (Mr. BERMAN), for their tremendous efforts and integrity that has been so prevailed throughout this trial.

I rise tonight in support of this resolution. I am not blessed with a law degree, I do not apologize for that, I just do not have one. But I do know that in court language, when one is going through a trial process, judges sometimes overrule things because of a clause. They say that a bell cannot be unrung. And, indeed, if we tonight ring this bell of guilt against the gentleman from Ohio (Mr. TRAFICANT) during this appeal process, we are only talking about a 6-week delay, in order to make this ultimate decision, in my opinion, it is unfair to my colleague.

I think we ought to give him the benefit of the doubt. It is not professing that we believe he is innocent by delaying this action until September. It is just saying that we are going to give him a chance. Even if someone is convicted of murder in most every State in the Nation, there is always an escape valve because the governor has the right to overturn if evidence is presented that convinces the governor that the defendant is deserving of a new hearing.

What we do tonight is ring the guilt bell upon the gentleman from Ohio (Mr. TRAFICANT) when it is not necessary at this time. Certainly if he is charged with what he is charged with by the Committee on Standards of Official Conduct, and I have no reason to doubt that he has not been charged correctly, then we should act. Certainly we ought to give one of our own colleagues the benefit of doubt. Delay this action for 6 weeks until we get back in September and then vote our convictions.

Mr. HEFLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I rise to urge my colleagues to reject the motion to postpone H.R. 495.

I know how difficult this proceeding is for the gentleman from Ohio (Mr. LATOURETTE), himself a former prosecutor and for the other Members of the Ohio delegation who have served many years with the gentleman from Ohio (Mr. TRAFICANT) and developed close friendships.

If the subject today were a friend and colleague from the Illinois delegation, I cannot say for certain that I would not try to do the same thing. But the subject today is the gentleman from Ohio (Mr. TRAFICANT) and whether this body is best served by postponing the consideration of this resolution until after August.

It is said that there may be new developments in the gentleman's Federal case, and that a month's time might yield a new outcome.

In fact, there was a new development just today in the gentleman from Ohio's (Mr. TRAFICANT) Federal case when a three-judge panel of the U.S. Court of Appeals for the Sixth Circuit denied the gentleman from Ohio's writ of mandamus on a petition relating to jury selection. We heard a great deal about that petition during our hearing, and there is no doubt in my mind that there will be other appeals and other petitions on the gentleman's behalf. But my point is, regardless of whether these approaches succeed or fail in the Federal courts, they are, by no means, relevant to the status of his case in the U.S. House of Representatives.

Why do I say this? For one, our subcommittee did not rely strictly on the transcript from the Federal case.

□ 1930

We went well beyond it and heard from the gentleman from Ohio's (Mr. TRAFICANT) witnesses, including those who were not allowed to testify on his behalf in Federal court.

Second, our standard of proof is much lower than what a jury faces in a Federal criminal case. In Federal court, it is beyond a reasonable doubt that a crime was committed. In the U.S. House, it is clear and convincing evidence that our code was violated, a very important distinction.

Last, our mission was not to determine whether the gentleman from Ohio (Mr. TRAFICANT) is guilty of a felony count or 10 felony counts. It was to determine whether the gentleman from Ohio (Mr. TRAFICANT) violated the Code of Official Conduct and the Code of Ethics for Government Service, again a very important distinction.

We Members of the House are not a Federal court of appeals nor are we here to second-guess or predict the rulings of juries or judges in the Federal courts of Ohio. We are here to serve our duty under article I, section 5, clause 2 of the Constitution.

As a member of the adjudicatory subcommittee that reviewed the evidence in this case, I would respectfully urge my colleagues to vote against the motion to postpone and for the resolution. Neither justice nor this body will be served by delay.

Mr. BERMAN. Mr. Speaker, I yield myself 1 minute.

I would like to respond to the comments of my very good friend, my colleague from Alabama, because there is a certain quick appeal in the argument that this process is still under way, the sentencing occurs next week, there are appeals, there are writs of habeas corpus following that process.

The motion to postpone is a motion to postpone till September 4. The gentleman from Ohio (Mr. TRAFICANT) has made a motion for a new trial, and that motion has been denied with an extensive opinion by the judge. No one can argue that this appellate process will be even seriously under way, little less completed, by September 4.

The logical conclusion of a process which says we wait until all appeals are exhausted means that the provision of the Constitution which provides that we expel Members for the most egregious behavior is rendered a nullity. I do not think that is what our Founding Fathers intended, and that is not what we should do.

Mr. Speaker, I yield 2½ minutes to the gentlewoman from Ohio (Mrs. JONES), a former judge, a former prosecutor, a great member of our committee.

Mrs. JONES of Ohio. Mr. Speaker, I thank the ranking member, the chairman, and my colleagues who served on the Committee on Standards of Official Conduct. What an experience.

Service on the Committee on Standards of Official Conduct is not a committee assignment for which there is a lot of competition. In fact, it is not even an enviable position. However one is called into service, each Member must accept his or her responsibility and obligation to serve with honor and integrity, consistent with the tradition of this great House of Representatives which we love and revere.

I seriously considered not speaking before the full House, in part because I believe that the misfortunes of one of my colleagues should not be used for political purpose or grandstanding. However, having accepted this responsibility of serving on the Committee on Standards of Official Conduct, I believed it my duty and obligation to speak out in support of the decision that we made and in opposition to delay.

Let me say at the outset that I have known the gentleman from Ohio (Mr. TRAFICANT) for many years. As he stated many times in that hearing, he was a vocal supporter of my candidacy for the Ohio Supreme Court, and for that I will ever be thankful. Some even questioned my ability to serve, and I knew that I could be fair and so did the gentleman from Ohio (Mr. TRAFICANT).

Let me go for a moment to this question about where the money was if the gentleman from Ohio (Mr. TRAFICANT) got the money. If my colleagues got the money, would they put it in the bank?

Let us talk a little bit about these jurors. I have tried many cases, both as a judge and as a prosecutor, and there were many times where jurors, once they rendered that decision, wanted to back up and say, I do not know if that was the right decision; judge, can tell us whether he was guilty or not or whatever it was. Jurors make decisions based on all the facts and evidence that is before them at that particular time, and this is what those jurors did.

The burden was beyond a reasonable doubt, the highest burden of proof in our Nation. Our committee has a job and our committee is, and we are not governed by the same rules that my great colleague, Mr. Stokes, whom I have a lot of respect for, was when he made the motion back on Mr. Myers. Our rules of ethics are different. They are not the same as they were back when Mr. Myers was presented before this House.

The rules say that this body can make a decision to expel a Member prior to sentencing and prior to conviction, and that is what this committee recommended to my colleagues.

We are not a jury. We are not a criminal court. We are in the court of the House of Representatives and the court of public opinion which expects us to do our job, unlike the gentleman from Ohio (Mr. TRAFICANT), but my job is to make a decision right here on the House of Representatives. Vote against the motion.

Mr. LATOURETTE. Mr. Speaker, I yield myself 30 seconds to make the following observation.

Both the distinguished chairman and the distinguished ranking member, I think, said what I have been trying to say. They repeatedly said that we do not know, we do not know this, we do not that. That is the point of laying this over.

Secondly, to my good friend from Illinois, with all due respect, I could be fair if this respondent was from Idaho, Iowa or Timbuktu.

To the gentlewoman from Ohio (Mrs. JONES), my good friend and former colleague who was a prosecutor in Ohio, the rules have changed but justice has not since 1980, I hope.

Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, the prosecutor allegedly threatened a witness and said if he did not say what he wanted him to say he would be indicted. He did not say what he wanted him to say and he was indicted. That could be prosecutorial misconduct. I do not know. If the court upholds the decision that they have made and they sentence the gentleman from Ohio (Mr. TRAFICANT) to prison, I certainly will vote for expulsion, but I do not know whether there was prosecutorial misconduct.

I do know that two jurors, after watching the ethics hearing, said if we had known and seen what we saw before the Committee on Standards of Official Conduct, we would have voted otherwise. That creates a little bit of doubt in my mind, and I do not know and I do not think any of my colleagues know tonight if the judge might say, hey, because of the jurors' reevaluation of this, maybe we should order a new trial. I do not know if he will do that or not. He may not, but that is his decision.

I do know that he is going to be making that decision next week and he is also going to be making a decision on whether or not to send the gentleman from Ohio (Mr. TRAFICANT) to prison for how long, and for the life of me, and I say this to both my Democrat and Republican colleagues, I cannot understand why we cannot wait until we come back from break to vote on this issue.

That is why I support the motion of my colleague who serves on the Committee on Government Reform with me, and I am sure that he would have the same attitude whether the gentleman from Ohio (Mr. TRAFICANT) was from California, New York or whatever, because that is the kind of man that the gentleman from Ohio (Mr. LATOURETTE) is.

Another reason why I feel very strongly about this is we have had hearings, numerous hearings about what went on in Boston about 30 years ago where they put an innocent man in jail for over 30 years for a crime he did not commit, and I believe all the way up to J. Edgar Hoover, they knew he was innocent, but they were protecting Mafia informants.

So many times there are miscarriages of justice. I am not saying that is the Traficant case, but it happens, and for that reason alone I think we ought to say let us take a deep breath, go on break, come back in 4 or 5 weeks and then vote on this issue. If he is sentenced, if he goes to prison, he should be expelled, and I will vote for expelling, but what in the world is wrong with waiting for 4 or 5 weeks? I simply do not understand that.

Mr. HEFLEY. Mr. Speaker, I yield myself 1 minute, and then I am going to yield to the gentleman from Missouri.

There is a lot that we do not know, as the gentleman from Ohio (Mr. LATOURETTE) said, about the argument that the gentleman from Ohio (Mr. TRAFICANT) made about judicial misconduct or prosecutorial misconduct. There is a lot we do not know about that.

What we do feel we know, however, is that there was clear and convincing evidence on the charges that he was charged with before the Committee on Standards of Official Conduct, and in summary, that is four counts of bribery over a long period of time; that is obstruction of justice; that is defrauding the government through the use of congressional staff for personal service; and there was false statements on income tax returns. We think we know that by clear and convincing evidence.

Clear and convincing, those of my colleagues who are attorneys know better than I do, equals highly probable. Clear and convincing evidence means it is highly probable that he is guilty of these offenses. It does not equal absolute certainty, and it does not even equal the reasonable doubt standard that the judge mentioned over here. It means it is highly probable. That is what the committee's conclusion was.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, let me say at the outset that I hold the gentleman from Ohio (Mr. LATOURETTE) in highest esteem. Over the course of the past 10 days, during this very long and arduous process, we have agreed and we have disagreed. We have passionately advocated different points of view, and I respectfully disagree with this motion and urge my colleagues to vote down that motion to continue.

What I would like to do is really just address just the folks who may be harboring these thoughts or fears of an acquittal or some different outcome during this appellate process, which I absolutely agree with the gentleman from California (Mr. BERMAN) will not be concluded within 6 weeks.

Our task today, Mr. Speaker, is as different from that criminal jury verdict as the legislative branch is different from the judiciary. Our task tonight is as dissimilar as article I is different and separate and apart from article III.

Unlike the matter that was debated on this House floor on October 2, 1980, in Mr. Myers' case, the Committee on Standards of Official Conduct relied entirely upon the guilty verdicts. Mr. Myers had not been given a full-blown hearing before the Committee on Standards of Official Conduct.

As my colleagues know and has been discussed, we had that hearing. In fact, the gentleman from Ohio (Mr. TRAFICANT) was given great latitude. He was treated generously by a committee of his colleagues who respected the gravity of the occasion which brought us face to face. Would that the gentleman from Ohio (Mr. TRAFICANT) had acted in a reciprocal manner, but even the antics of last week are irrelevant to the decision that was reached by our committee.

We reached our decision on 9 of 10 violations of House rules independent and apart from the jury verdict in Cleveland. So on the process and procedural grounds the gentleman from Ohio's (Mr. LATOURETTE) motion must fail, but on substance, it fails as well.

This witness, Mr. Detore, the committee considered his testimony and rejected it. As the gentleman from California (Mr. BERMAN) pointed out, and let me reiterate, Mr. Detore exonerated himself for the criminal charge with which he was indicted, and yet he offered no defense to the gentleman from Ohio's (Mr. TRAFICANT) kickback scheme of accepting $30,000. Mr. Detore offered no defense on the $30,000 kickback scheme between the gentleman from Ohio (Mr. TRAFICANT) and a congressional staffer. Mr. Detore provided no testimony on the illegal gratuities supplied by constituents to the gentleman from Ohio (Mr. TRAFICANT) at the gentleman from Ohio's (Mr. TRAFICANT) behest.

Mr. Detore offered nothing on the charge of obstructing justice by encouraging others to give false testimony to the authorities.

Mr. Speaker, there has been a lot of reference and comparison between what we are doing today and tonight compared to that same debate that was within these hallowed halls some 22 years ago. Perhaps one other comparison, I hope, is appropriate. The House of Representatives in the Myers case voted down Mr. Stokes' motion 332 to 75. For procedural and substantive grounds, the motion from the gentleman from Ohio (Mr. LATOURETTE) must fail.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN), a distinguished member of the committee.

□ 1945

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I am the newest member of the Committee on Standards of Official Conduct, and like all of my colleagues, I did not want it. In fact, I had to be asked three times by the leadership on our side before I would say yes. But I rise tonight to oppose the motion to postpone until September 4.

This House is more important than any of us individually. We will come and go. Our voters will make that decision. What my concern is what this looks like for our House of Representatives for the future. Sentencing for the gentleman from Ohio (Mr. TRAFICANT) is set for next Tuesday, July 30. We will be in recess until September 4. We could actually have our colleague serving with us and also serving in Federal prison for a month.

I would hope we would not think about us as individuals but think about us as a House and ask ourselves if we want that for our House of Representatives, and not really ours, as Members, but the people of this United States. I do not think it is right, and I do not think it does this House honor.

I will not repeat what my colleagues have said who heard the testimony. I listened to Mr. Detore, and I found that he must be a very nice fellow, but I did not find him to be a credible witness on even the issues he was trying to talk about. I felt like he was out of the loop even on those issues, much less that we need to remember that the jury in Cleveland convicted our colleague of nine other felony counts. The committee found eight other counts and unanimously voted for expulsion.

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the motion by the gentleman from Ohio.

It is not easy to do this, obviously, and it is difficult for all of us to be here because it seems like, on the surface, there was unethical, probably illegal, and certainly bizarre behavior, and we feel offended by this and we feel compelled to do something to prove that we are keeping our House in order.

I am not an expert on the legal part of this case. I would not pretend to be, and the Committee on Standards of Official Conduct deserves the credit for the effort they went through to dig out the information. But the process disturbs me, and that is why I wanted to take a minute or two to talk about that.

The point was made earlier that the House's conditions are a lot different than the legal conditions for guilt and, therefore, they are not as stringent. But we would not be here if Mr. TRAFICANT had not been convicted, and so that is key. That is the important issue.

And that trial bothers me. I do not accept it as a good, fair, legitimate trial. I do not think all the witnesses were heard that should have been heard, and I think some of the witnesses may well have been "bribed" into doing and saying certain things.

But there is more that bothers me. I would like to see the appeals process completed. I was here in 1984, on my first tour of duty here in the House, and the George Hansen case came up and we voted then to convict. I think he had FEC violations and we voted to censure him. He lost his election, he lost his job, he lost his money, he went to jail and served time, and then he was exonerated on everything. He won all his appeals. I do not see the need to rush to judgment, certainly tonight.

I am not happy that when the gentleman finally gets an opportunity to come and defend himself, he gets a total of 30 minutes. Really? And have my colleagues looked at the record of the case in Ohio? It contains a stack a foot high. Thirty minutes to defend himself? I do not think that is really fair.

But there is another thing that bothers me, and that is the change of venue. I believe that the change of venue has been used historically in this country to make sure that the most horrible criminal gets a fair trial and gets his case moved from a area unduly influenced by media coverage. Have any of my colleagues ever heard of a trial being moved for the benefit of the State and to the disadvantage of the defendant? It may have happened, but I do not know about it, and I think that in itself is a reason to step back, take a look at this, and vote for the motion by the gentleman from Ohio.

Mr. Speaker, many of Congressman TRAFICANT's actions are impossible to defend. Mr. TRAFICANT has most likely engaged in unethical behavior. I would hope all my colleagues would join me in condemning any member who would abuse his office by requiring his staff to pay kick-backs to him and/or do personal work as a condition of employment. I also condemn in the strongest terms possible using one's office to obtain personal favors for constituents, the people we are sent here to represent. Such behavior should never be tolerated.

However, before expelling a member we must consider more than eccentric behavior and even ethical standards. Questions of whether the process of his court conviction and expulsion from Congress respected Mr. TRAFICANT's constitutional right to a fair trail and the right to be represented of those who elected him to office, are every bit as important.

Many Americans believe that Congress daily engages in ethically questionable and unconstitutional actions which are far more injurious to the liberty and prosperity of the American people than the actions of Mr. TRAFICANT. Some question the ability of Congress to judge the moral behavior of one individual when, to take just one example, we manage to give ourselves a pay raise without taking a direct vote on the issue.

Mr. Speaker, after carefully listening to last week's ethics hearing, I have serious concerns over whether Mr. TRAFICANT received a fair trial. In particular, I am concerned over whether the change of venue denied Mr. TRAFICANT a meaningful opportunity to present his care to a jury of his peers. Usually change of venue is instituted in cases where the defendant is incapable of receiving a fair trial. I am unaware of any case where the venue is changed for the benefit of the state.

However, the most disturbing accusations concern the possibility that Mr. TRAFICANT was denied basic due process by not being allowed to present all of his witnesses at the trial. This failure raises serious questions as to whether Mr. TRAFICANT had the opportunity to present an adequate defense. These questions are especially serious since one of the jurors from Mr. TRAFICANT's criminal trial has told the Cleveland Plain Dealer, that had he heard the testimony of Richard Detore at Mr. TRAFICANT's trial, he would have voted "not guilty."

Mr. Speaker, I also question the timing of this resolution and the process by which this resolution is being brought to the floor. Mr. TRAFICANT's conviction is currently on appeal. Many Americans would reasonably wonder whether the case, and the question of Mr. TRAFICANT's guilt, can be considered settled, until the appeals process is completed. I fail to see the harm that could be done to this body if we waited until Mr. TRAFICANT has exhausted his right to appeal.

Prior to voting to expel Mr. TRAFICANT before he has completed his appeals, my colleagues should consider the case of former Representative George Hansen. Like Mr. TRAFICANT, Mr. Hansen was convicted in Federal court, censured by the Congress, and actually served time in Federal prison. However, Mr. Hansen was acquitted on appeal—after his life, career and reputation were destroyed.

If my colleagues feel it is important to condemn Mr. TRAFICANT before the August recess, perhaps we should consider censure. Over the past 20 years, this body has censured, instead of expelled, members who have committed various ethical and even criminal activities, ranging from being convicted of bribery to engaging in sexual activity with underage subordinates.

I am also troubled that Mr. TRAFICANT is only being granted a half-hour to plead his case before the house. Spending only an hour to debate this resolution, as if expelling a member of Congress is of no more importance than honoring Paul Ecke's contributions to the Poinsettia industry, does no service to this Congress.

In conclusion Mr. Speaker, because of my concerns over the fairness of Mr. TRAFICANT's trial I believe it is inappropriate to consider this matter until Mr. TRAFICANT has exhausted his right to appeal.

Mr. HEFLEY. Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, it is now my pleasure to yield 3 minutes to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, it is not easy for a freshman to get up and talk about a Member that I do not know very well. Although I was born in Ohio, I am not here because of some relationship to Ohio. I am a California representative. I was voted by, in my particular case, over 800,000 people I now represent, until we get reapportioned. All of my colleagues got here because of over 600,000 or more voters. They put us here, this body did not. Our governors did not put us here; a court did not put us here.

We are a unique body. We get here by one and only one reason, and that is 1/435th of the country votes to put us here. I do not know the people of Youngstown all that well, but they put the gentleman from Ohio (Mr. TRAFICANT) here, and I take it as an extremely important and extremely solemn duty to decide to take the extraordinary measure of removing him.

I must tell my colleagues that I am also not a lawyer, but I am going to have to decide, hopefully in the next month rather than the next hour, whether or not to, for the second time in modern history, I guess for the second time in history practically, to remove a Member. I do not have enough information.

I respect the gentleman from California (Mr. BERMAN). I respect the chairman. I believe that they have looked at this long and hard. But I have not had the opportunity. And as lawyers often say, I must look at this sua sponte. I am sorry, de novo. See, I am not an attorney. I have to look at this anew, and I am not prepared to do it now. I would appreciate the opportunity to see what the court in Cleveland does over the break. I would appreciate the opportunity to review the records and have my staff assist me. I will probably, when the times comes, vote as my colleagues do.

Now, if I can just make one statement to this body, because there was a reference from one of my colleagues that in fact we had to worry about the image of this body. We will be gone after tomorrow, more or less, for a month. There will be no votes. There will be no activity. Whether the gentleman from Ohio (Mr. TRAFICANT) is a Congressman or an ex-Congressman, he has a cloud that he is living under that he will have to deal with. It will make no difference to them. This body will survive one month of somebody with a conviction not yet sentenced or sentenced and not yet incarcerated.

I believe that if we give it that time, if all of us go and soul-search, take the time to understand the case, when we come back, whatever the vote is, we will feel better for ourselves and for this body if we have taken the deliberative time, and I ask my colleagues to please support this motion to give enough time for us to do the job right. We do not do it that often.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield myself the balance of my time.

I would just sum up with a few statements at this point. This is no rush to judgment. We have been struggling with this for some time. Most of my colleagues have not been as intensely involved with it, nor should you be, because you have other responsibilities and you have given us this responsibility.

The gentleman from Ohio (Mr. TRAFICANT) is not getting 30 minutes to defend himself. He is getting 30 minutes here on the House floor. He had 5 hours before the committee, and it amounted to a great deal more than that because we gave additional time for him. He had the entire hearing process to defend himself.

The gentleman that just spoke said he had not had time to really study it and understand. Well, the trial transcripts have been on the Internet for at least a week. Monday, the exhibits and the transcripts were all delivered to Members' offices. We are busy, and I know it is hard to have time to go through, and it is volumes of material, so I am not criticizing anybody for that, but my colleagues have heard tonight from the members of the Committee on Standards of Official Conduct, members that have been deeply and intensely involved in this over the last few weeks and months, as a matter of fact. And not one member of that committee did I sense was out to get JIM TRAFICANT. I sensed no hint of partisanship in that hearing. And I would suspect that JIM TRAFICANT would agree to that, that there was not a partisanship angle to this in the committee. I think this was a very painful decision for every one of us. JIM TRAFICANT and I have been friends. JIM TRAFICANT has been a friend to most of you in here.

This is not a pleasant time or a pleasant task. If I thought that between now and September 4 the landscape would change substantially, then I might be with the gentleman from Ohio (Mr. LATOURETTE) and say let us put this off until September. But, my colleagues, I must say that the largest single profession represented in the United States Congress is lawyers, so you know, and I am not a lawyer, but my colleagues know that the appeals process can drag on and on and on for months, sometimes for years.

So if we do not do this tonight, I do not know exactly when we are going to do it. I just do not think it is going to change between now and September 4. So I would respectfully ask that Members reject the motion of the gentleman from Ohio (Mr. LATOURETTE).

Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN), the ranking member of the subcommittee that investigated and prepared the statement of alleged violations. She has been a member of this committee for 5½ years. She has performed wonderfully far more than her share of the burdens of this committee in this and other matters.

Ms. LOFGREN. Mr. Speaker, as the gentleman from California (Mr. BERMAN) has said, I have been a member of the Committee on Standards of Official Conduct now for 5½ years, and in those 5½ years, in every case, every member of the Committee on Standards of Official Conduct has tried to discharge their duty fairly and to do the right thing. That has always been the goal. There has never been a drop of partisanship in the committee.

As we have worked through this, I think it is important to share what the Committee on Standards of Official Conduct reviewed before coming here today.

We have heard about this Mr. Detore, who was not found to be a credible witness by the adjudicatory subcommittee. But in addition to that testimony offered to the committee, we reviewed 6,000 pages of testimony, more than 50 witnesses for the prosecution, and 29 witnesses called by the gentleman from Ohio (Mr. TRAFICANT).

What we found in the review of the statements of those witnesses that were subject to cross-examination is, regrettably, a pattern of tens of thousands of dollars that were delivered to the gentleman from Ohio (Mr. TRAFICANT) in kickbacks and bribes, the most serious misconduct that we need to address here.

Now, it has been suggested that we delay these proceedings. If we delay to September 4, we will know nothing more than we do this evening. We will not have an appellate decision. We will just know what we know today.

□ 2000

Mr. Speaker, I would note that article I, section 5, says it is for each House to determine with the concurrence of two-thirds whether to expel a Member. It is not for the House to delegate to the judiciary the decision on who is fit to serve in each body.

I would urge that we step up to our unpleasant duty this evening, that we discharge our obligations granted to us under article I, section 5 of the Constitution, and that we act this evening, unhappy as that task may be.

Mr. BERMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to talk about the quote "rush to judgment." Quite a long time ago, well over a year and a half ago, the Chair and the ranking member of the committee and the staff of the committee were aware of articles talking about indictments, investigations, facts for which there would have been ample evidence for the committee to proceed at that time to investigate totally separate from the criminal justice process.

The committee chairman and the ranking member said no, let us wait; let the criminal justice system work. Let us not rush and push this. We know the complications when there is a dual-track investigation, and we refrained from acting.

There was a trial and there was a conviction, and the only thing this committee did was to make sure they gathered the information and the transcripts from the trial as that trial went on. Now the conviction comes in; and many Members of this body, either proposed or wanted to propose privileged resolutions essentially saying we have a Member of our body, a colleague of ours who has been convicted of 10 felony counts. This is intolerable, we want to expel, and they could have brought a privileged resolution to this floor. We went to those colleagues, and we persuaded them to defer to this process. Let us do it according to the rules, give the subcommittee the adjudicatory committee and the full committee a chance to look at the evidence, gather it, and produce it. We did that.

We come forward in regular order. I ask Members to reject the motion, do not reject the committee's process and the process of restraint and justice that we have shown and vote "no" on the motion to postpone.

Mr. LATOURETTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, again for those colleagues who have been involved in the criminal justice system, I would tell them, and I do not disagree with things that have been said by other members of the committee, Mr. Detore, whom I found to be credible, and with all due respect to the gentlewoman from California, I would ask Members to ask other members of the adjudicatory subcommittee whether they found Mr. Detore to be credible or not, but the difference is this. The committee was left with a cold hard 6,000-page transcript. We were not able to see the accusers of the gentleman from Ohio (Mr. TRAFICANT), whether they sweat, whether they reacted under cross-examination.

Mr. Detore came in, and I just want to read one portion of what I was able to see him say in response to the questions put to him by the committee, the gentleman from Ohio (Mr. TRAFICANT), and counsel for the committee.

He said, "I have lost faith in my ability to tell my kids to be honest, to be truthful, to be fair to others, and others will be fair to you. This is not where I was born. I don't know what is going on here. This is like having an out-of-body experience in another planet. The amount of treachery, deceit and lies throughout is unbelievable.

"I got a wife laying home with shingles from stress, she can't even move, paralyzed. I have two children crying, upset, a nervous wreck. I have never had situations where I passed out in my entire life. But 2 years of pure hell, and I defy anybody to walk in my shoes. And I could have simply just taken an easy path and just said, okay, I will say what you want me to say."

I had the chance to see him, and so did the other members of the committee. We were deprived of the opportunity to see any other witness who accused the gentleman from Ohio (Mr. TRAFICANT) of anything. And so the committee was in a position of substituting our judgment as to whether they were more credible than the Congressman, whether they were more credible than Mr. Detore. We had to accept the judgment of 12 jurors, 350 miles and 6 months away.

I made this example in my conference earlier that, again, being a prosecutor, I am familiar with death penalty cases. In a death penalty case if we receive information that something is not right, I think everybody in this Chamber would pick up the phone and call the Governor and say, Governor, we have to give it a couple of days until we check it out because it is irreversible.

What we are being asked to do tonight is the equivalent. It is the political death penalty. We cannot put the toothpaste back in the tube. If the gentleman gets a new trial next Tuesday, we cannot unexpel him next Wednesday. This is final tonight. All we are asking is for Members to follow what Mr. Stokes and the gentleman from New York (Mr. RANGEL) asked the body to do in 1980.

In closing, I want to thank all of the Members who spoke on behalf of our motion, but I want to highlight the comments of the gentleman from California (Mr. ISSA) in particular. I mentioned that both of these motions are occurring days before a month-long recess; and in that debate in 1980 a Member said, "I think the conduct engaged in by Mr. Myers is reprehensible and, if we do proceed to a final vote on the issue today, I shall vote to expel him. I deeply believe that this is precisely the wrong time for this House to act. I say that for a very simple reason . . . This is the last week of the session, and almost every Member is doing what I am doing. We are closeted in meetings with our staffs. We are trying to clear the deck to get out of here. We are paying attention not to the Myers case, but we are paying attention to what we have to put into our briefcases to go home . . . I would submit that this is not the correct atmosphere in which to take the historic action which we will be taking today."

That Member of Congress was the gentleman from Wisconsin (Mr. OBEY), again on October 2, 1980.

Mr. Speaker, I am not asking Members to do anything tricky, anything that violates their conscience. This is a vote of conscience; and I want to thank everybody in the debate, the chairman, the ranking member and all of the members of the committee, and the staff of the committee was tremendous. I agree with everything that Members said. Not one person on that committee was out to get the gentleman from Ohio (Mr. TRAFICANT). Every Member of that committee listened carefully to the evidence.

But I am telling Members, when we have to compare warm bodies who come in and we can see in their eyes and their souls as to whether or not they are credible, and you put that up against a book of 6,000 pages, the book should not win; and the book should not especially win when all we are asking, we are not asking for the appeals process to go through habeas corpus and all of the hoops that may take place, we are leaving on Friday. The first day we come back, if Members want to kick the gentleman from Ohio (Mr. TRAFICANT) out of Congress, we have not lost anything. We could still do it. The only thing we have done is given, and perhaps we will get questions that the ranking member and the chairman asked, we do not know. Maybe on September 4 we will know. I ask Members to think about it.

Mr. LaTOURETTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HANSEN). All time for debate on the motion has expired.

Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LaTOURETTE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BERMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 285, not voting 3, as follows:

[Roll No. 345]

AYES—146

Abercrombie
Aderholt
Bachus
Ballenger
Barr
Bartlett
Bilirakis
Boehner
Bonilla
Boswell
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Cannon
Carson (IN)
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Condit
Cooksey
Costello
Coyne
Crane
Cubin
Cummings
Cunningham
Davis (IL)
Deal
Delahunt
Diaz-Balart
Doolittle
Duncan
Edwards
English
Everett
Foley
Fossella
Gekas
Gibbons
Gillmor
Gilman
Goode
Gordon
Goss
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hart
Hastings (FL)
Hilleary
Hilliard
Hinchey
Hobson
Horn
Hunter
Inslee
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson, E. B.
Jones (NC)
Kaptur
Kerns
King (NY)
Kingston
Kucinich
LaFalce
Larson (CT)
LaTourette
Lee
Lewis (CA)
Lewis (KY)
Lipinski
Lucas (OK)
McDermott
McGovern
McInnis
McKeon
McKinney
Miller, Gary
Mink
Neal
Ney
Norwood
Oberstar
Osborne
Ose
Otter
Oxley
Paul
Payne
Peterson (MN)
Peterson (PA)
Petri
Pitts
Pombo
Portman
Pryce (OH)
Regula
Riley
Rohrabacher
Rothman
Rush
Ryun (KS)
Sandlin
Scott
Serrano
Sessions
Sherwood
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thompson (MS)
Tiahrt
Tiberi
Towns
Traficant
Wamp
Waters
Watkins (OK)
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Young (AK)
Young (FL)

NOES—285

Ackerman
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bono
Boozman
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Castle
Clement
Combest
Conyers
Cox
Cramer
Crenshaw
Crowley
Culberson
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gephardt
Gilchrest
Gonzalez
Goodlatte
Graham
Granger
Graves
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Isakson
Israel
Istook
Jefferson
John
Johnson (IL)
Johnson, Sam
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
Leach
Levin
Lewis (GA)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Northup
Nussle
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Pence
Phelps
Pickering

Platts
Pomeroy
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Royce
Ryan (WI)
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Shimkus
Shows
Simmons
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Watson (CA)
Waxman
Weiner
Wexler
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

NOT VOTING—3

Bonior
Knollenberg
Stearns

☐ 2026

Mr. WYNN, Mrs. EMERSON and Mr. JOHN changed their vote from "aye" to "no."

Mr. NEAL of Massachusetts changed his vote from "no" to "aye."

So the motion to postpone consideration was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Colorado (Mr. HEFLEY) is recognized for 1 hour.

Mr. HEFLEY. Mr. Speaker, first of all I would like to yield half of that time, 30 minutes, to the gentleman from Ohio (Mr. TRAFICANT). That leaves me with 30 minutes. And I would like to yield for control of the time, half of that time, 15 minutes, to the gentleman from California (Mr. BERMAN) who is the ranking member of the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The SPEAKER pro tempore. In both cases, the gentleman yields for purposes of debate only.

Mr. HEFLEY. For debate only.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Again I renew my call for the privileged resolution, I think it has been read, so I rise in support of that House Resolution 495 which calls for the expulsion of Representative JAMES A. TRAFICANT, Jr., from the House of Representatives.

On July 17, 2002, the Adjudicatory Subcommittee of the Committee on Standards of Official Conduct held pursuant to the vote requirements of committee rule X that nine of the 10 counts contained in the statement of alleged violations adopted by the Investigative Subcommittee in the matter of JAMES A. TRAFICANT, Jr., had been proved by clear and convincing evidence. These counts involved findings that Mr. TRAFICANT engaged in the following acts that did not reflect credibly on the House of Representatives:

Bribery by trading official acts and influence for things of value; demanding and accepting salary kickbacks from his congressional employees; influencing a congressional employee to destroy evidence and to provide false testimony to a Federal grand jury; receiving personal labor and the services from his congressional employees while they were being paid by the taxpayers to perform public service; and filing false income tax returns.

On July 18, 2002, the full Committee on Standards of Official Conduct held a public sanction hearing to determine what sanction, if any, the committee should recommend to the House of Representatives with respect to the nine counts of the statement of alleged violations proven by clear and convincing evidence in this matter.

With respect to any proved counts against Mr. TRAFICANT, the committee may recommend to the House one or more of the following sanctions: We could recommend a fine, we could recommend a reprimand, we could recommend censure or we could recommend expulsion from the House of Representatives, and two other possible recommendations would be denial or limitation of any right, power, privilege or immunity of Mr. TRAFICANT if permitted under the U.S. Constitution, or any other sanction determined by the committee to be appropriate.

With respect to the sanctions that the committee may recommend, reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion is appropriate for the most serious violations.

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Due to the most serious nature of the conduct in which Representative TRAFICANT engaged, including repeated and serious breaches of the public trust, the committee reported this resolution to the House on July 19, 2002, with its unanimous recommendation that Representative TRAFICANT be expelled from the House of Representatives.

In its 213-year history, the House has expelled only four of its Members. Three of those expulsions occurred during the Civil War and were based on charges of treason. The fourth expulsion was that of Representative Michael J. Myers in 1980 and was based on Representative Myers' conviction on Federal bribery and conspiracy charges arising from the ABSCAM investigation.

It is important to note, however, that the number of actual expulsions from the House should be considered with regard in light of the fact that a number of Members who committed violations of the most serious nature resigned their seats or lost elections before formal action could be taken.

Mr. Speaker, when each of us was sworn in as a Member of the House of Representatives, we took an oath to support and defend the Constitution of the United States. Article I, section 5 of the Constitution states that each House of Congress may punish its Members for disorderly behavior and expel a Member with the concurrence of two-thirds of its Members. One of the last lines of our oath of office states that each of us will "well and faithfully discharge the duties of the office on which I am about to enter." To my thinking, it is this section of the oath that is the focal point of the proceedings tonight.

None of us ever wants to sit in judgment of our peers. There are some unique occasions, however, when the behavior of an elected official violates the public trust to such an extent that we are called upon to uphold this provision of the Constitution that we swore to support and defend.

It is for this reason, and I have to tell you, friends, with a genuine sense of sadness, that I bring this resolution to the floor of the Chamber tonight.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. HANSEN). The Chair recognizes the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, like the chairman, I rise in sadness, but in strong support of the motion to expel. The gravity of the offenses of the gentleman from Ohio against the rules of the House compel us to impose the most severe of sanctions, and thereby uphold the honor and integrity of the people's House.

I say this, and I can say this with certainty, because of the rigor and the evenhandedness of the process undertaken by the committee, consistent with House and committee rules, and with the resolve of a chairman who, in every instance he could, bent over backwards to ensure fairness and afford the gentleman from Ohio a full and fair opportunity to present his defense.

We gave the assertions of the gentleman every consideration. We entertained every motion, admitting into evidence virtually every document he offered, and, despite having the trial transcript before us, nonetheless heard from a number of additional witnesses, including some who had testified for him at trial.

And what was the gentleman's defense? That he paid for the labor and materials provided to him on his farm; that, in the alternative, the farm wasn't his; that he paid for the cars provided to him; that the kickbacks he demanded from the staff were in fact loans voluntarily tendered to him and repaid by him.

But take a closer look. The gentleman had a very busy winter of 1999–2000. The Federal investigation of him had started, and suddenly he was constructing his defense. In December 1999, he transfers the title to his farm to his wife and daughter. He pays J.J. Cafaro $7,000 for three cars that had been given to him from 1997 to 1999, and he pays, this is count two, David Sugar's company $1,100 for work done on the farm 6 months earlier. Not until April of 2000 does Sugar instruct his secretary to create false invoices for the work.

In January 2000, after learning of the investigation, he gives his Congressional employee, Alan Sinclair, $18,500 in cash, indicating that the cash came from Cafaro, telling Sinclair to keep the cash at home to justify the withdrawals he had made from his paycheck. He gives Sinclair a note, again after he knows the investigation is going on, saying, "They may ask you if you ever gave me money, and you did. You lent me cash on several occasions and I did pay you back in cash."

The next month he gives Sinclair another $6,000 and gives Cafaro $3,000 more for the three cars. These transparent fabrications did not impress the committee.

Mr. TRAFICANT protests that he is the victim of selective prosecution, indeed of government misconduct, but in order to believe his assertions you would have to accept the gentleman's notion of a vast, unparalleled conspiracy involving not only the self-interested and disreputable characters from Youngstown, but also involving the Office of the U.S. Attorney, the IRS, the FBI, a respected U.S. District Judge, the counsel for the Committee on Standards of Official Conduct, a conspiracy designed by Janet Reno and implemented by John Ashcroft.

You would have to believe that thousands of pages of testimony by prosecution witnesses, including many low-ranking employees accused of no wrongdoing who testified of being ordered to do work for the gentleman, and the hard documentary evidence against him, are all a tissue of lies, the result of evil intent, manipulation, coercion and intimidation by a treacherous cabal, for which there is simply no evidence and which is preposterous on its face.

In the end, the committee found that the evidence was overwhelming, establishing by clear and convincing evidence that the rules of the House had been violated, flagrantly, I would add.

Mr. Speaker, we are much preoccupied these days, both as elected officials and as private citizens, by breaches of public trust. We may enact legislation before we recess to protect the public from unethical conduct in the corporate arena. But to state what should be obvious, each of us in this very body has weighty responsibilities in this vein as well; not to abuse those who seek government assistance through our offices and not to abuse those who work for us.

To fail to expel the gentleman from Ohio in the face of the vast evidence spread out in the record is to say that a Member can behave as he has and retain membership in this institution. That cannot be our message today.

I urge my colleagues to take the difficult action, thankfully rare, but abundantly warranted in this case, of voting for the motion to expel.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, in lieu of the gravity of this matter, the number of counts, I respectfully request unanimous consent of this body that an additional 15 minutes be awarded to me.

The SPEAKER pro tempore. Does the gentleman from Colorado yield for that request?

The gentleman from Colorado has yielded for debate purposes only and must yield to permit another Member to make a unanimous consent request to change the procedure.

Mr. HEFLEY. Mr. Speaker, I will yield for that request. That is not passing judgment on the motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. TRAFICANT) is recognized for an additional 15 minutes.

Mr. TRAFICANT. Ladies and gentlemen, you heard on the news, the first national news story that I was involved in, a murder scheme by contract. It made national headline news. The woman was a friend of mine. She was so distraught, she called me every name in the book by phone. I didn't know what she was talking about.

She later called and recanted, after they put her in protective custody for 8 weeks, paid $800 to keep her dogs in Kentucky, and then brought her to the grand jury twice. And when she said that JIM TRAFICANT committed no crimes, then they demeaned her. But through the process they told her, to ensure her safety, to go public.

Now, if you are a juror and you have heard about a JIM TRAFICANT, if that isn't poisoning a voir dire, what is?

But then the next one that was in the national news was the $150,000 barn addition. Now, I am an old sheriff. Finally a man with a conscience, Henry Nimitz, sees me at a restaurant and comes up and says, "JIM, I want to apologize. They were going to indict me, take away my business, ruin my life. My attorney said, why do you have to spend a half a million dollars? Tell them what they want to hear. I did, and I feel like a coward."

But what he failed to recognize, I had a friend with me by the name of John Innella. I immediately went back to my office and did an affidavit with John Innella. Then the next day, as an old sheriff, I called Mr. Nimitz' girlfriend, who admitted that Mr. Nimitz called and admitted what he said to JIM TRAFICANT. So now the $150,000 barn was not brought.

Now, I am going to get right to the point. I want you to imagine there is a small army of patriots, and they are facing a gigantic army armed to the teeth. And the captain, trying to show strength, calls his assistant and says, "Go to the tent and get my bright red vest."

He goes and gets the red vest. He puts the red vest on, and he says, "To show the power and courage of our people, without a sidearm I am going to carry this sword and I am going to attack the enemy, and, as they slay me, the blood will not be seen because of my bright red vest and you will be encouraged to fight for our homeland." He gave a banshee cry. He ran out into battle and was destroyed.

His assistant come up and he called his attendant. He said, "Go to the tent and get me those dark brown pants."

Think about it.

Tonight I have dark pants on. Am I scared to death? No. I will go to jail before I will resign and admit to something I didn't do.

Now, I want to go case by case. Forget all these witnesses. The judge's husband is a senior partner in the law firm that represented one of the key witnesses in my case, and that is part of now legal action relative to 28 U.S.C. 455. In addition, that person, Cafaro, I am not going to mention names, admitted giving hundreds of thousands of dollars to politicians, I might add, mostly Democrats.

He said he gave me a $13,000 bribe. Because we were at a public meeting, he said he waited until everybody left, and then we walked out together, we got in his car, and he gave me the money.

One of the attorneys handling my appeal is a bright young black attorney by the name of Attorney Percy Squire, Chief Clerk to the Chief Judge of the Northern District of Ohio, and I called him as a character witness. And he said, "JIM, what do you want me as a character witness for? I came late to that event where you were trying to put a quarter percent sales tax together, so you could leverage funds, and I walked you out and saw you get in the green truck," that another witness said he picked me up in a green truck, because his had a cap on, and we had built prefab siding for a hunting hut. We went and got my truck and went and put the hut up.

And they accepted Cafaro's testimony even though he admitted to lying in a previous RICO trial. That is one count.

Richard Detore is a patriot. I didn't subpoena Detore because his attorney said, "Don't subpoena Richard, subpoena me." To tell you the truth, I was a gentleman, and I did it. I felt sorry for him.

Before I was indicted, before Detore was indicted, I have a tape where he says everything on that tape that he told the Committee on Standards of Official Conduct. He said, "JIM, I think I am living in Red China. If I didn't have two kids, I would blow my brains out."

Now, let's look at a few affidavits. Dealing with David Sugar, just yesterday caught up with him. They said it was a half mile, Jack, across the State line, and they might now pull me into jail for being out of my district.

With one of my staffers close by to listen, Sugar admitted that he told Harry Manganaro that after the second FBI visit, because he had backdated some invoices, if he did not lie against JIM TRAFICANT he would not only be indicted, his daughter, his wife and his son would be indicted. I have a tape of Harry Manganaro. He wasn't allowed to testify, nor was the tape admitted at trial.

Now, in addition to that, a man by the name of Joe Sable told another one of my constituents three days ago, "I feel so bad for JIM." David Sugar told me the same thing. And David Sugar said to me, "JIM, I would love to help you." Now he is saying in the paper, "I never said that to TRAFICANT."

By the way, Nimitz' attorney, who I taped his girlfriend, his attorney said he admits to meeting TRAFICANT, but did nothing illegal.

Now, let's talk about Tony Bucci. His fourth plea agreement, his brother in Cuba, fled the country on a fugitive warrant, they sentenced him to 6 weeks arrest, and here is what he said. He did $12,000 worth of work at the Traficant farm, and he owned me. Now, not all of you know me personally, but if you think someone owned me, you would throw me the hell out of here.

Witnesses testified that I asked him for jackhammers because we had an old bank barn. I never owned the farm. But this old bank barn didn't have enough height for horses, Ralph. I asked him to let me use their jackhammers. He said, "It is an insurance problem. I will send some people out." I said, "I don't want you to do that. You will get too close to that old bank barn and you will drop it in."

And that is what happened, folks. And the whole corner of that barn, Cynthia, fell down. Harry Manganaro came out and helped me prop it up. It cost my dad $15,000.

Now, guess what? Harry Manganaro came to my office yesterday and said his building happened to be firebombed last weekend and all his records are missing, including the bill, $15,000, not counting materials, to my dad who owned it.

Sinclair. Now, look. You are prosecutors. Mr. CALLAHAN made a hell of a point. Mr. LATOURETTE, thank you. But now I want a prosecutor to think, you really want JIM TRAFICANT. They didn't allow a witness to testify, they wouldn't allow a vendetta defense. She voir dired nine of my witnesses outside the presence of the jury, didn't allow them to testify. Allowed none of my tapes. All of my tapes are exculpatory. Even on those who took the 5th Amendment, she didn't allow them.

Bucci lied through his teeth. His sister-in-law told me that there were three brothers and a brother that lived across the street from the farm and he was my friend. And she said he was sick, they took him to Florida, where he had his leg amputated; brought him back, stole the money from the family, and her children did not even attend the funeral. She submitted an affidavit and testified.

God almighty here.

Now, they said the prosecutor said, "TRAFICANT is touchy-feely. TRAFICANT is too intelligent to be taped." Why did they have Sinclair tape an attorney, Madovich? Why didn't they fake body injury? I have a device, Mr. HEFLEY, that I could tape you right now, your conversation in the midst of all of this, and you wouldn't know you are being taped.

Now not one wiretap, with the number one target in the United States of the Department of Justice prosecutors. My phone wasn't tapped. They didn't want to get an admission. They didn't want to get TRAFICANT saying listen, go to it, that grand jury, do this.

J.C., everybody that testified against me would have gone to jail and lost their law license and ruined their life.

Now, a brother-in-law testifies. He said his brother-in-law told him that he was taped by someone that he had bribed a county engineer, hundreds of millions of dollars. He told his brother-in-law that he would go to jail for 10 years and lose $15 million, but all they wanted was TRAFICANT. So he told his brother he added up all the campaign contributions, which was $2,300 or $2,400 and said he bribed TRAFICANT.

You know what is amazing about this one? She didn't even allow the brother-in-law, who was subject to jeopardy, being sentenced in another case, to testify.

And guess what I did? I used the government's own picture because he said I did this, Ellen, in a barn. So I held up the picture and said, "What barn was it?" Couldn't identify the barn.

I said, "What was I doing in a barn?"

He said, "You were cleaning a horse's hoof."

"Which one?"

He said, "The back one."

I said, "Was he tied, or was he being held?"

He said, "Someone was holding him."

"Anybody else in the barn?"

"Oh, all kinds of people."

"What was the floor like?"

"Can't remember. Too much manure."

The jury even threw that one out.

I have an affidavit or a tape on every one of these counts.

Now, Sandy Ferrante testified that she personally saw me repay over a period of years money to staffers that I borrowed from them. When the IRS nailed me, they took me to civil court, and I made $2,400 a month. And that just run out, and now they are going to put me in jail for 12 years, take everything that my wife and I owned, and I never owned that farm.

I will go to jail, but I will be damned if I will be pressured by a government that pressured these witnesses to death to get a conviction on a target, the number one target in the country.

Jim Kirsham, who was an FBI-paid special agent, she would not let him testify, said, "If you get us anything on TRAFICANT, we will build a monument to you."

I got an affidavit from a guy just sent to me from Canada that I helped in a case where 11 Chinese were arrested, and he said, "I want to thank JIM TRAFICANT publicly," and they said, "Stay away from TRAFICANT. Don't mention his name. We are going to get him."

I had an FBI agent that compromised one of my constituents under mental instability, desperately trying to save custody of her child, compromised her into sex. She said, "Jim, he didn't throw me to the ground. I don't want my 87-year-old mother to know about it."

FBI agent Anthony Speranza. I will be damned if someone is going to rape one of my constituents.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore. The gentleman will suspend.

The gentleman will avoid profanity or indecent language.

Mr. TRAFICANT. How much time do I have left?

The SPEAKER pro tempore. The gentleman has 30½ minutes remaining.

Mr. TRAFICANT. I read an affidavit of a Scott Grodi. He sat through the whole trial. I would like your attention. I got this affidavit today, about an hour before I came here. He was released two days before the trial, his aunt died. He said he wanted to finish. I thought we had it resolved for the U.S. Marshals to take him so he would be a pallbearer. When he came back, he was dismissed.

He didn't put in his affidavit, Cynthia, but you can write and talk to him; John Grodi, Scott Grodi. He said he knew the prosecutor wanted him out. He said, "I knew JIM TRAFICANT was innocent." He said, "I could see how he impeached their witnesses and how they were lying."

Now, Mr. BERMAN said that there was a recant by Mr. Glaser. This is today's newspaper just faxed to me. Mr. Glaser said he did not recant, and, on the evidence, he couldn't see himself convicting JIM TRAFICANT now.

Mr. Grodi said the woman next to him also felt I was innocent. I tried to get an affidavit from her. Her attorney informed us that she was afraid to get involved. Now, folks, if she had something good to say about the government, would she be afraid?

Look here, that Cafaro Company and that Laser, I saved them with a $4 million appropriation. Thank you, Bill Young. But most air flights miss on their airports, and that technology is already used on our submarines and our naval aircraft carriers. And the only deal I have with Cafaro is bring those jobs, Ellen, and bring those headquarters from Manassas, and screw Frank Wolf.

I have helped everybody in my district and every one of these people, yeah. I did not even like some of them. But when they had 150 employees and got a contract for a highway that hired another 200, I had a 22 percent unemployment rate. Did I go to bat for them? Yes. Did I write letters to the Secretary of State? Yes. Did I write letters to the Secretary of Commerce? Yes. Secretary of Labor? Yes. Department of Transportation? Yes.

But here is where I am at tonight. I have been pressured for 20 years. Now, in 1996, read this. "Dear Sheriff, after watching your deal in Washington and listening to the courageous admission of Mr. Detore concerning Morford pressuring him, I decided to come forward. Mr. Morford pressured me to lie about you in front of a grand jury in 1996. I would not lie. I am proud now that I did not lie after hearing Mr. Detore. Enclosed is my truthful affidavit. You can see it any way you wish."

Here is what they wanted Mr. Detore to say, he was outside the door and heard me and Cafaro make a bribery deal. What Mr. BERMAN didn't mention is I paid $10,000 for cars that didn't run, and Mr. Cafaro sold these cars made in Youngstown, the whole company, for $1. They are considered worthless. He owed me money, never gave me the titles. Flying Members of Congress around, getting Senators' girlfriends' gifts.

But you get out of jail free by getting the man right here.

Here is the problem in America, and you must take America back. And I am running as an independent, and don't be surprised if I don't win behind bars.

The American people are afraid of their government. Why are we afraid of our government? Now, I want you to listen to this. Bob, they didn't bring one FBI or IRS investigator who investigated me to the stand so I could cross-examine them. They brought a 30-year veteran from Philadelphia, Mr. CALLAHAN, he had seven trips, spent 40 days, a quarter of a million dollars, and all he did was add up the numbers the prosecutor gave him. And said he did no investigation. When he left, he was so confused he walked into the edge of the jury edge, right in the sore spot.

The other one was an FBI rookie. Now, listen carefully. When it come to fingerprints, the judge smiled like a fox. She dismissed the jury. The prosecutor says, "Your Honor, we have no fingerprints of the defendant." One thousand documents. And listen to this. He said the one time I gave him an envelope of four, five, whatever thousand, and he took it immediately to the FBI guy who sent it to the lab.

Now, I am an old sheriff. I want to get TRAFICANT? I steam that thing open, I fix a few bills, say, "Look, you tell TRAFICANT you don't want to go any further. You are not going to hurt him. When you come out of that restaurant, just have that damn money on him."

What I am trying to tell you, there is no physical evidence. And when they talk about this Sinclair, $2,500, they fail to mention that he had five accounts. And every time he took 2,500 out of one, 2,500 went into another one. And after he left my employment for 22 months, $2,500 didn't go into the other account. And while he was in my employ, he said he earned $50,000 from me and $50,000 from the government.

□ 2100

He bought a $300,000 house, a brand new Buick van, rented a new car for $300 month and spent $60,000 on advertising. They went back 15 years on a horse transaction I had in Uhrichsville, Ohio, George Hooker. They could not find one citizen to say JIM TRAFICANT bought a pencil for cash. Now look, if you drink five gallons of Gatorade, you are going to expend five gallons of Gatorade somewhere in one of these restrooms. You know what you have before you? We are getting to the point where a RICO case is going to be brought against a group of housewives for conspiring to buy Kellogg's cereal.

I am prepared to lose everything. I am prepared to go to jail. You go ahead and expel me, but I am going to tell you what, Mr. LATOURETTE was right about Salvati, but do you know what was mentioned of Mr. Detore? Do you know what JIM TRAFICANT said about Janet Reno? The administration wants him out. Now, I said this on radio and I am on the House floor. I am going to say it to you right now. I called Janet Reno a traitor and I believe in my heart she is.

I believe Monica and Henry Cisneros were not that important, but I think that Red Army Chinese general giving money to the Democrat National Committee was an affront to our intelligence, and now I am going to tell it like it is. The Republicans want a permanent trade status with China. You let it slide. Democrats did not want Clinton and the party hurt. You let it slide. And what you let slide was the freedom of the United States of America. And I called her a traitor.

And Janet Reno, if I do not go to jail, I will be in Orlando August 15 and you are not going to be elected to any damn thing. Nobody should fear our Government.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HANSEN). The Chair would caution the gentleman to please avoid the use of profanity or indecent language, and the gentleman should address the Chair and not other Members by their first names. The gentleman may proceed.

Mr. TRAFICANT. I apologize. As a fashion leader, it is tough for me at times to comport with some rules.

It was brought up and said, JIM, why don't you go to Speaker HASTERT? HASTERT owes you. I didn't go to the Speaker. I didn't vote for the Speaker to get something from the Speaker. Now, you go ahead and expel me, but you ran this place for 50 years, Democrats, and you made the IRS and the FBI and the Justice Department so strong, our people are afraid to death of them.

I want to thank Bill Archer and the Republican Party, and that is why I voted for you, Speaker. For 12 years I tried to change the burden of proof in the civil tax case and protect the American people's homes from being seized, and now, I want to give those statistics because they are relevant to my case and the IRS hates me for it.

The law was passed in 1998, the Traficant language wasn't in, Clinton threatened to veto it. Ninety-five percent of the American public wanted the Traficant bill. The Republican Chairman, Bill Archer, called me and said he talked to the Speaker and leaders and said, JIM, we are going to put your burden of proof in and we are going to put your language on seizure in the conference, and wrote me a letter giving me the credit.

Now, let me give you the statistics that I am proud of and I want to share, because this may be the last time on the floor, and I expect it. The year before compared to the year after the law, wage attachments dropped from $3.1 million to $540,000. Thank you, Mr. Archer. Thank you, ROB PORTMAN. Property liens dropped from $688,000 to $161,000, but now let us think of our communities. Seizures of individual family-owned homes dropped from 10,067 to 57 in 50 States when they had to prove it, and you guys did it. Congratulations.

I want to fight these people. I want to fight them like a junkyard dog.

They tied my hands behind my back and that first vote was 7–5. I am not going to get into some of the personal dynamics, but there were some people that Mr. Grodi told me that were predisposed to vote against me before that case started, and that upset him. By the way, one of the jurors said, it is unfortunate he got caught, but most of those Members of Congress are crooks anyway. I don't think you are crooks. I never ripped off Mr. SKELTON.

I have a lot of Hispanics mad at me, and I think Ms. SANCHEZ is a great member, but yes, I voted for Mr. Dornan because I thought we set an illegal precedent by allowing possible illegal immigrants to vote in a Federal election, and I voted with Mr. Dornan. And I am sorry, but that's the way it is. Now, since then I think you have an been an excellent Member. If you have been offended by this, I am sorry.

I also want to say this. I urge you to put our troops on our border. I think anybody who jumps the fence shouldn't be made a citizen, they should be thrown out. And you are going to be dealing with homeland security, and I am saddened in my heart I can't vote on it.

Now, I don't know how much time I have left, but show me one piece of physical evidence.

Mr. Detore, by the way, spent $600,000 and is now without an attorney. His last attorney he paid $239,000 who went to the judge without him knowing and asked to be withdrawn from the case, because Richard Detore would not give him $100,000. He had already given him $239,000, and all he did was submit 3 motions for him. And one thing rang true: Every one of the witnesses that testified; significant, they had some witnesses scared to death. The key witnesses all would have gone to jail, lost their license, wives should have been indicted, and you know what? Back to my valley. I don't blame any one of you.

I think if they had something on Mr. Detore, who knows what to God he would do, but I am going to say this. Someone who impugns the character of Mr. Detore is, in my opinion, violating the sanctity of this House. Because he said, I checkered my wife and I will not lie. And if they indict me, go ahead and indict me.

They talked about a Corvette that cost $1,000. It was supposed to be $1,000, but ended up being $6,000 that I paid for it. They said, why did you pay so much for the Corvette? I rented a Corvette because I wanted to get a car to drive to visit Mr. COOKSEY to go hunting and to speak at one of his events. But he got tied up 3 weeks later, and I had the car for 3 weeks, and when I drove back, the license plate expired in 30 days, got picked up on 395.

I ended up paying $6,000 for a car. I paid for it and got the records. Everything I paid was by check or a credit card. No cash in 20 years. My God, if you don't give me a right to appeal a judge whose husband was taking his law firm fees from the Cafaro company, who is the predicate act of the RICO, then who is our last bastion of appeal if it is not the people's House?

Mr. Speaker, I voted for you; I thought you were better for the country, period. I thought the Republicans' program was better. Mr. GEPHARDT, if you're here, I apologize for my comments; it was in the heat of battle. If you had been there, I probably would have hit you too. But I apologize for those words.

With that, with that, I retain the balance of my time, or however you word it. How much time do I have?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Ohio (Mr. TRAFICANT) has 14½ minutes remaining.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Do I go last, Mr. Chairman? Parliamentary inquiry.

The SPEAKER pro tempore. Would the gentleman state his inquiry?

Mr. TRAFICANT. Mr. Speaker, do I go last, since I am the subject of the demise?

The SPEAKER pro tempore. The gentleman from Colorado (Mr. HEFLEY) has the right to close.

Mr. TRAFICANT. Mr. Speaker, I ask the gentleman from Colorado (Mr. HEFLEY) as a gentleman to relinquish his right to close, surrender to me and give me his time.

Mr. HEFLEY. Mr. Speaker, I will hold that decision in abeyance until we get down to that time. I will take it into consideration.

Mr. TRAFICANT. Mr. Speaker, if the gentleman has any time left.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. HASTINGS), who is the chairman of the Investigative Subcommittee in this matter.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is a day that each of us hoped would never come, and we pray that it will not come again. Simply put, there is absolutely no satisfaction in judging one of our own. But the Constitution makes clear that we are the only ones who can judge a fellow Member of Congress in cases such as Mr. TRAFICANT.

It is certainly difficult for me, as I am sure it is difficult for my fellow members of the Committee on Standards of Official Conduct, to recommend the expulsion of a colleague. Our recommendation in this matter is based solely on the facts as we know and understand them. This recommendation is one that I know the entire committee took very seriously.

My only responsibilities in this matter were twofold. First, I served as chairman of the Investigative Subcommittee. Along with 3 of my colleagues, our responsibility was to examine the evidence from Mr. TRAFICANT's trial in Cleveland, Ohio, and to determine whether there was "substantial reason to believe" that violations of the House rules occurred. At this point, Mr. Speaker, I would like to thank each of my colleagues on the subcommittee for their service and their support during this long and painstaking investigation.

My cochair, the gentlewoman from California (Ms. LOFGREN), the gentleman from Mississippi (Mr. WICKER), and the gentleman from Georgia (Mr. LEWIS) should all be commended for the fair and even-handed way that they carried out this difficult assignment that none of them sought.

Mr. Speaker, on the Investigative Subcommittee, our role was similar to that of a grand jury in that our threshold of substantial reason to believe is lower than the clear and convincing evidence threshold used by Chairman HEFLEY's Adjudicatory Subcommittee.

We were charged to review the evidence presented at trial and then make our determination regarding any possibility of violation of the Rules of the House. I should emphasize that we were not simply to accept the verdict of Mr. TRAFICANT's trial at face value, nor were we to base our recommendations on that verdict.

By a unanimous, bipartisan decision, the vote on the subcommittee concluded that in fact, it had "substantial reason to believe" that the Rules of the House were violated, and this the next phase, the adjudicatory phase, should move forward.

Now, my second responsibility was not as the whole committee had or the adjudicatory committee; my second responsibility was to determine the appropriate sanction in the event that the adjudicatory phase was so warranted. This part, I must say, was very, very difficult, difficult because measuring Mr. TRAFICANT's transgressions against past transgressions by other Members, then determining the appropriate sanction is, by far, far from a black and white exercise. But, the Constitution assigns us this responsibility, and to us alone, and so we proceed.

After considering all of the evidence, I concluded that Mr. TRAFICANT's offenses were so serious and so purposeful that expulsion from the House is the only appropriate sanction.

□ 2115

So with a heavy heart that is how I will vote at the conclusion of this debate, but not only for the sake of this great institution, but out of respect for the rule of law.

Mr. Speaker, if any greater good is to come from these proceedings, let us hope that by facing our responsibilities squarely we have begun to rebuild public confidence in the integrity of the people's House. Whether we like it or not, in recent years too many Americans have come to believe that holding high office means a person gets to play by different rules than everyone else. That perception has helped fuel growing public cynicism about the honesty and integrity of Congress itself. Nothing could be more dangerous to our democracy, and we simply cannot allow that perception to grow unchecked.

Here in the House of Representatives, we all know there are rules governing Members and the conduct of their official duties, and we also know that those rules must be enforced fairly, without fear or favor.

Mr. Speaker, this is a day each of us hoped would never come. Mr. Speaker, this is a very difficult time for all of us, and I know it is difficult for all of my colleagues sitting here tonight, but I think that we must vote aye on this resolution.

Sadly, when the Rules of the House are violated so willfully and flagrantly, we have little choice but to punish those who break them. For, by their actions, Members who violate the rules undermine not only our own internal order here in this great institution, but the very foundation of public trust and confidence on which the people's House must always rest.

Today, it's up to us to repair that foundation.

Mr. BERMAN. Mr. Speaker, I yield 2¼ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I was the ranking member on the investigative subcommittee serving with the gentleman from Washington (Mr. HASTINGS), examining the testimony and evidence presented during the trial.

The subcommittee unanimously concluded that the evidence showed that the gentleman from Ohio (Mr. TRAFICANT) engaged in official misconduct of the most serious nature. He traded his official office and powers repeatedly for money, free labor, equipment at his farm and other things. He did so repeatedly and with several different people and companies.

He demanded and received tens of thousands of dollars, with salary kickbacks from his congressional employees. He filed two false income tax returns that failed to report more than $75,000 in income from gratuities. As I mentioned earlier, the trial lasted more than 30 days with over 6,000 pages of transcript, more than 50 witnesses called for the prosecution and 29 by the gentleman from Ohio (Mr. TRAFICANT).

We took this testimony and reviewed it, but we made an independent review of the sworn testimony and other evidence during the trial, and we unanimously decided that the gentleman from Ohio (Mr. TRAFICANT) should be charged with violation of House rules based on the evidence, not criminal charges.

There was testimony, evidence by the businessman who gave the gentleman from Ohio (Mr. TRAFICANT) gratuities, and that was supported by testimony of public servants who were pressured by the gentleman from Ohio (Mr. TRAFICANT). Eight witnesses testified relative to the kickbacks the gentleman from Ohio (Mr. TRAFICANT) received, and that testimony was also substantiated. Five employees of the gentleman from Ohio (Mr. TRAFICANT) testified as to the work they were directed by the gentleman from Ohio (Mr. TRAFICANT) to perform on his farm or boat. One employee testified that he had been there between 100 and 300 different times.

The gentleman from Ohio (Mr. TRAFICANT) repeatedly asserts there is no physical evidence of his crimes, but, in fact, there is abundant evidence, including check, bank records, memos, faxes, letters and other documents.

I would finally just say that when the gentleman from Washington (Mr. HASTINGS) and I rejoined the remainder of the committee for the penalty phase, we joined eight others with the unanimous recommendation, with great sadness, that the expulsion remedy is one that we must do. I feel very sad this evening to listen to this testimony, but I know what our duty calls us to do, and I hope that the House is up to it.

Mr. TRAFICANT. Mr. Speaker, how much time remains with all parties?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Ohio (Mr. TRAFICANT) has 14½ minutes remaining. The gentleman from Colorado (Mr. HEFLEY) has 6 minutes remaining. The gentleman from California (Mr. BERMAN) has 7¼ minutes remaining.

We would close in this order unless someone elects different: The gentleman from California (Mr. BERMAN), the gentleman from Ohio (Mr. TRAFICANT), the gentleman from Colorado (Mr. HEFLEY), in that order.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Number one, the businessman my colleague is talking about that corroborated Mr. Cafaro's testimony. was Al Lang, and I did not find out until after the trial that there was a demand note from Mr. Cafaro to Al Lang to repay the money for the boat he was to buy.

Number two, that also Mr. Cafaro paid for Mr. Lang's attorney. So it was really Mr. Lang and attorney or Mr. Lang was represented by Mr. Cafaro's attorney? My God.

Second of all, the Committee on Standards of Official Conduct allowed me to subpoena one witness. I asked for 11 subpoenaed and 20 that did not need subpoenas. They finally come back and retracted. The one witness testified she personally made the loans when I could not make it to the farm. One fellow saw me make loans to the other fellow.

My colleagues had a hearsay transcript. Now I want to ask the committee, and I wish the committee would hear me. I want to know what witness the committee called to refute my witnesses or the hearsay in that transcript. Why was I willing to bring 31? Why did the judge tie my hands behind my back?

The point I am making to my colleagues is I am not unique. I know why I was targeted. I do not need American history to beat them, and I was an embarrassment, and then I brought home John Demjanjuk, the infamous Ivan the Terrible. I was labeled an anti-Semite. No one would look into his case. The headlines in my paper said Nazi sympathizer. What they did not say when the family came in, they came to me last because no one would listen to him because they said "the case was too sensitive."

I said come on in and what they also did not print, I said, if your dad has been convicted and I will go over and pull the switch, but whether he was Ukrainian or Jew made no difference to me. I literally, through my investigation, discovered the evidence that proved that Ivan the Terrible was 9 years older, taller, black hair, long scar on neck and his name was Ivan Marchenko and then presented a picture to Israeli Supreme Court, and for all of the people calling me anti-Semite, let me tell my colleagues something. I never voted for a foreign aid bill until we had a surplus, and then I voted for aid, and I support Israel, a democratic State, surrounded by a cluster of monarchs and dictators who have held us hostage for oil, but he was not Ivan, and the Israeli Supreme Court taught me something that I think Congress should know. They literally delivered him to me on an El Al flight to take home. Congress would not even hold a hearing in light of my compelling evidence that the Israeli Supreme Court freed him, because it was too sensitive.

What has happened to us, Congress? Am I different? Yeah. Have I changed my pants? No. Deep down my colleagues know they want to wear wider bottoms; they are just not secure enough to do it. I do wear skinny ties. Yeah, wide ties make me look heavier than I am and I am heavy enough. Do I do my hair with a weed whacker? I admit.

Take into consideration what my colleagues are doing. The Democrats, and I agree with the gentleman from Wisconsin (Mr. OBEY), and I have had my run-ins with him, probably no one brighter in this whole place.

Mike Myers, an FBI undercover agent posing as an Arab sheik gave him $250,000, captured by videotape, and my colleagues let him go till after the break. The two Members who violated a 17-year-old page boy and a 17-year-old page girl, which is rape in every State, were not expelled.

If my colleagues know law enforcement and they have got a target, they want a confession, and when they cannot get that confession, they want an admission, and I am telling my colleagues this right now. They have more tapes on me than NBC. I did nothing wrong. That is why go ahead and expel me, and I believe this judge is so afraid of what is resonating throughout America, who believes that they should not have to fear their government and that Congress is the last hope to take it back, and I am saying to the Speaker, take it back.

No American should fear their government and this guy does not. I am ready to go. Expel me. It will make it easier for them to really jack me good.

But do my colleagues know what they will have done? They will have taken the standards of a RICO case down to less than a DUI where a person needs a .10 to get a conviction.

Let me tell my colleagues what happened to me early Saturday morning. I was up in Portage County, a new part of the district of the gentleman from Ohio (Mr. STRICKLAND), and I did not run against the gentleman because I thought I would beat him easily, and I wanted to give him a break.

I left my car, and at 2:30 in the morning I pulled out, and I got pulled over by a township police car and a county sheriff. The window does not work on the car, so I opened up the door. They could not see me but said, "Mr. TRAFICANT, can we see your registration and license." It had dealer tags on it. I did. He asked me to get out of the car.

They asked me to walk around the back of the car. They asked me to do my ABCs. They asked me to do this with all four fingers on both hands, and they asked me to stand and put my foot in front of my right, take nine steps, stop, turn and return. Then they asked me to lift my right knee, with my left foot on the ground and count to 30. Try that. Then they said reverse, put your right foot on the ground, pick your left knee up, count to 30, and I did that, and they said would you mind a breathalyzer. I said knock yourself out. I was .001.

Here is what I asked them: Did the FBI tell you that was my car and ask you to see if you can get a DUI on me? They looked at each other real funny, and I cannot tell my colleagues exactly what I told them because of House decorum, but I told them if I find out it is an FBI agent that did it, I will tear his throat out, and if they lied to me, I would come back to them and tear their throats out.

They are not going to frighten me. I am ready to go to jail. I will go the jail before I admit to a crime I did not commit, and there was never any intent to commit a crime, and when they start bringing letters that my colleagues send to Cabinet members trying to help their people, there is a dangerous precedent set in U.S. v. Traficant.

Mr. Speaker, I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a member of the committee.

Mrs. BIGGERT. Mr. Speaker, it is with sadness and regret that I rise today to express my support for H. Res. 495 in the matter of JAMES A. TRAFICANT, JR. Let me make this very clear. No Member of Congress ever wishes to sit in judgment of a colleague, least of all a colleague as colorful and as indomitable as the gentleman from Ohio (Mr. TRAFICANT).

Yet at the same time no Member ever wishes to see the rules of this institution broken or the standards of its Members brought low. Many Americans who have read or heard of the gentleman from Ohio's (Mr. TRAFICANT) conviction in Federal court wonder why we in the House have bothered with our own investigation and hearings.

□ 2130

They ask, "Why go through all of that? A jury found him guilty on 10 felony counts." They find it hard to find to understand why expulsion from the House would not be automatic once a jury finds a Member guilty of felony offenses in a court of law. The answer, quite simply, is found in the Constitution. Our Founding Fathers left it not to the Judiciary nor to the executive branch to determine when, how, or if expulsion of a Member is warranted. They left it to us, the Members of this body.

It falls to us today to look at three things: One, the statement of violations of our own code of official conduct, drawn by our own investigative subcommittee; two, the evidence presented at our own adjudicatory hearing by our own subcommittee counsel and the gentleman from Ohio (Mr. TRAFICANT); and, three, the findings and sanctions recommended by our own full Committee on Standards of Official Conduct.

If my colleagues will look at these three things, they will conclude that there is clear and convincing evidence that the violations occurred and that the resolution should be approved by this body today.

Mr. Speaker, I would like to thank our chairman, the gentleman from Colorado (Mr. HEFLEY), and our ranking member, the gentleman from California (Mr. BERMAN) for their outstanding work on this resolution. Throughout the long weeks and days leading up to and including the hearings, they showed the greatest integrity, patience, and fairness, often going out of their way to give the gentleman from Ohio (Mr. TRAFICANT) every opportunity to counter the clear and convincing evidence presented against him.

I salute my colleague, the gentleman from Ohio (Mr. LATOURETTE), for his outstanding work.

Mr. BERMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I rise today in support of the motion to expel our colleague, the gentleman from Ohio (Mr. TRAFICANT). I know, too, that many of my colleagues are questioning the propriety of expelling the gentleman from Ohio, something that has not happened in this House in some 40 years. And Members are questioning it notwithstanding the fact that a jury was convinced beyond a reasonable doubt of his guilt, the highest burden of proof required in our legal system, and notwithstanding the fact that the Committee on Standards of Official Conduct, who was vested and duty bound by this body to review the conduct of our colleagues, has reviewed the facts and determined that his conduct was of such nature that it violated the House rules of conduct, and that it was of such character and so serious that it merited the highest sanction from the House of Representatives.

Let me assure my colleagues that when we try cases in criminal justice courtrooms, we often talk about a subject called a red herring. Now, today, we have had an opportunity to hear from our colleague, the gentleman from Ohio. In fact, the wonderful thing about our justice system and the hearings that we have had here in the House are that they were public. We had an opportunity to hear the presentation or the defense presented by the defendant.

I will not go through all the red herrings, but we talked about: "I paid for the car, I never owned the farm; everybody would have gone to jail or lost his license; I repaid the money to my staffers; do not be surprised if I win, I will win behind bars; 1,000 items; no fingerprints; hearsay transcripts; when the play is cast in hell, none of the witnesses in the trial will be angels; you cannot believe that the credibility of some of these witnesses could be better if they were someone else.

Forget the witnesses for a moment. Forget that the judge's husband was a member of the firm, and forget that his clerk was the chief clerk for a chief justice of the Supreme Court or other trial court. We have a duty. We have an obligation. The public is watching us, and they are saying, "House of Representatives, you have a duty. You have an obligation as elected Members of Congress to take into consideration what has been presented to you by this Committee on Standards of Official Conduct."

It is not easy. When I was a judge, I was required to sentence somebody to death. And people used to say, oh, he should get the death penalty. But it was not that easy to stand up there and say I sentence him to death. And it is not easy today, my colleagues, but it is our job. It is our duty. Uphold the integrity of this House of Representatives and vote to expel the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Number one, to the gentlewoman from Illinois (Mrs. BIGGERT), I say that I am sadder than you are.

To my colleague from Ohio, after the public hearings, 80 to 90 percent of the viewing public supports my position. Number three, all the witnesses that testified against me at trial were either felons or would-be felons, with no physical evidence.

The gentlewoman is a very astute legal criminal mind. I just want her to think before she votes.

In the case of staff, they said one afternoon I invited them down to the boat, they did some sanding, it was a bonding thing, and they drank beer. The ones that came to the farm, came for the weekend, voluntarily; wanted to use it as a health spa.

One guy that said he was there 300 times, I had it before the trial, but I heard he took $2,500 to bribe a judge in a DUI case. I thought they had no evidence, and I did not even question him on it. I have a tape from one of his fellow trustees that I will submit to the committee. His name is Jim Price, Weathersville Township, relative to the testimony of that staffer that I will not mention.

Look, show me the beef. Come up with a transcript. They could not even bring an FBI or IRS investigator to the stand, they are so afraid of me. And I am going to tell my colleagues something, and they are not going to believe it. My hands tied behind my back, I believe in my heart I won that trial, and that trial was manipulated. I would not rush in haste.

Now, if my colleagues do not expel me tonight, I am convinced this judge is going to put me in jail. She cannot stand my guts. And she is deathly afraid of me getting on national TV, because it is beginning to resonate around the country about how people do fear our government. And why do we?

I expect my colleagues to expel me. It is going to hurt me when some of you do.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. HANSEN). Does the gentleman from Colorado have any other speakers?

Mr. HEFLEY. Just this gentleman, and then myself to close.

The SPEAKER pro tempore. Does the gentleman from California have additional speakers?

Mr. BERMAN. One additional member of the committee and myself.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. HEFLEY) may proceed.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes and 45 seconds to the gentleman from Missouri (Mr. HULSHOF), who is a member of the committee.

Mr. HULSHOF. My colleagues, let me first thank you all for your attention and presence here. The gentleman from Minnesota (Mr. OBEY) pointed out to me during the vote that back in 1980, as this matter was being discussed, only a handful of Members were here for that debate over the expulsion of Mr. Myers. And so your continued presence here is a testament to this institution.

The gentleman from Ohio has referenced the lack of evidence and the quality of evidence. Is there anybody in this Chamber who believes that the gentleman from Ohio (Mr. TRAFICANT) could be captured incriminating himself on tape? Should we, in this case or any other case, reward a wrongdoer because he has the wherewithal to avoid being captured in the act? Shall a clever criminal who has enriched himself at taxpayer expense be further enriched because he almost avoided detection?

I paraphrased comments made by a member of the Committee on Standards of Official Conduct back in 1980 in that matter. The gentleman from Ohio (Mr. TRAFICANT) has violated the House rules not only as an individual who happened to be a public servant, but as a public servant who traded upon that very elected office.

There is no one who disputes that the gentleman has fought aggressively for his constituents in the 17th Congressional District of Ohio. I daresay that 435 Members who come here every week do the same for constituents back home across this land, and yet we come here in the public good, not to enrich ourselves for private profit.

To my colleagues who were sworn in in this Chamber on January 7, 1997, in the 105th Congress, what an interesting tenure we have had. Our first vote for Speaker of the House, who had an ethics cloud hanging over his head; our last vote as freshmen members on the impeachment matter of a sitting president; and here we are again tonight with the lens of history trained upon us.

There are some who have been fretting about this vote and that we are debating it in prime time, of all things. Well, my colleagues, I believe that tonight is going to be one of this institution's finest hours.

To the gentleman from California (Mr. ISSA), I absolutely agree with his statements on the previous motion. It should take extraordinary wrongdoing to override the wishes of a voter in a Congressional district. I believe that. And I believe this is one such case.

Sometimes when we walk in darkness, we are overcome with the brilliant light of truth. A little over 300 days ago, we assembled as a body on the darkest day of our Nation's history, and we sent a glimmer of light to the people we represent that you can extinguish thousands of American lives, but you will not extinguish the American spirit. And yet when you destroy that fragile bond of trust between the elected and the electorate, expulsion is the only appropriate remedy, regrettably, and I ask for that vote.

Mr. HEFLEY. Mr. Speaker, I do have some additional comments I will give at the appropriate time, but I would like the gentleman from Ohio (Mr. TRAFICANT) to know at this time that I am going to waive my right to close in this serious matter and give him the right to close.

The SPEAKER pro tempore. The gentleman is allowing the gentleman from Ohio (Mr. TRAFICANT) the right to close?

Mr. HEFLEY. Yes, Mr. Speaker. So that when the gentleman from California (Mr. BERMAN) is through, I will make a few comments.

Mr. TRAFICANT. Mr. Speaker, would the gentleman from Colorado yield me the balance of the time he does not use?

Mr. HEFLEY. I will be happy to yield the balance, if I do have some left, but I do not believe I will.

Mr. BERMAN. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from California has 4¾ minutes remaining.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I have never spoken to my colleagues from this mike, that I can remember.

Mr. Speaker, we do not enjoy what we are doing today, but I am proud to follow my colleague, the gentleman from Missouri (Mr. HULSHOF). When we have to discipline ourselves, it is a task we try to avoid. We avoid it to give due process to the accused, but in all reality, we really do not want to air our dirty linen in public. We really do not. Nobody does. Because we are a family, and families do not do that.

With that said, I could not be more proud in my four of five terms here. I did not want the Committee on Standards of Official Conduct, but I am proud to serve on it with the gentleman from Colorado (Mr. HEFLEY) as the Chair and the gentleman from California (Mr. BERMAN) as our ranking member. This is not something that any of us wanted. In fact, we would resign tomorrow, except it is our duty.

This is the people's House and we have to do our job. If we cannot remove a Member of Congress who has been convicted of 10 felonies, including using his office for personal gain, we risk losing the faith and trust of the American people that we have.

As a duly elected Member from the 17th district of Ohio, I do not fault the gentleman from Ohio (Mr. TRAFICANT) for doing everything he can to bring economic assistance to his constituents. As my colleague from Missouri said, we do that every day; 434 of us try to do that, and we work hard for our constituents, for jobs and economic development. The line of legality is crossed when we help ourselves for our benefit instead of helping our constituents for their benefit.

The gentleman from Ohio crossed that line when he worked for a company to get road contracts for his district, and then that company did improvements on his own private property. That is not lawful. And when he helped a family move an imprisoned loved one closer to home and then provided a list of improvements to be made to his properties, that was illegal. When he created a system of kickbacks by his congressional employees, that was outrageous and unlawful. When he helped a company receive Federal tax dollars that we vote for for worthwhile projects, and then they accept benefits to use personally, that was illegal.

□ 2145

Mr. Speaker, I know I am out of time, but we need to do our job, and we need to make sure that we remember we are only here temporarily, and this is the people's House.

These examples of violations of House Rules and U.S. Statutes by Congressman TRAFICANT clearly demonstrates a continuing abuse of his congressional office. That is why the Committee on Standards of Official Conduct voted unanimously to expel him. Congressman TRAFICANT is our colleague, and I do not like having to list his past mistakes, but I value the honor of this body above all else. Our colleague has brought disrespect on his House by his violations of law and for that reason, he must be expelled.

Mr. Speaker, Congressman TRAFICANT has been judged guilty by a jury of his peers in Ohio and a Committee of his peers in the House of Representatives. I urge my colleagues to show the American people that this body believes in the "rule of law" and vote to expel Congressman JAMES TRAFICANT.

We should all be appalled by this activity—we should not continue the image that elected officials are crooks who get special treatment. We need to act on this immediately—well after conviction but before sentencing next week.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from California (Mr. BERMAN) has 2¾ minutes remaining.

Mr. BERMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from Ohio (Mr. TRAFICANT) is our colleague. We are involved in what is in a certain way a profoundly anti-democratic decision, one contemplated by our Founding Fathers, but anti-democratic because we are talking about expelling a Member who was elected for a term of office before that term is completed.

He is a friend to many. He has an irrepressible nature that all of us coming from a lot of different backgrounds have known about for a long time. In many ways he has been an effective colleague for the causes and issues that the gentleman believes in. But this body in its wisdom created a committee. The leadership of both sides appointed Members who have spent an incredibly large amount of time sifting through the evidence relating to four counts of conspiracy to commit bribery, each of them involving totally separate transactions with totally different witnesses; illegal gratuities under our bribery statute, filing false tax information, two separate counts; obstruction of justice.

Our committee, involving an equal number of Democrats and Republicans, covering an incredible range of philosophies and ideologies, going from people who barely new the respondent to a gentleman who has termed himself publicly as his closest friend in this House, have applied our rules to the facts as we see them and unanimously recommended expulsion. No one did it easily. For some, it was an incredibly difficult conclusion to reach.

Mr. Speaker, I think in the context of this process and our obligation to the American people, we are compelled to vote "aye" on the resolution to expel.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. HEFLEY) has 1¼ minutes remaining.

Mr. HEFLEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from Ohio (Mr. TRAFICANT) is a Member with whom many of us have served for years and years. Many of us are very fond of the gentleman from Ohio (Mr. TRAFICANT); but at times like these we are required to set aside those personal feelings, those feelings of friendship, and fulfill this weighty responsibility.

As chairman of the Committee on Standards of Official Conduct, it is my duty to ask the House of Representatives to expel the gentleman from Ohio (Mr. TRAFICANT).

I want to thank the members of the committee that I have served with through this. They serve us well. I want to thank our outstanding staff. They serve us well. And I particularly want to thank Members for being here for almost 3 hours. It is seldom that I have seen almost every Member of the House of Representatives on the floor for 3 hours. What that tells me is that Members take this as seriously as I do and as the rest of the committee does, and thank you for that. It is important that we do not take something like this lightly. We do not take it lightly.

Mr. Speaker, if I have any time remaining, I yield it to the gentleman from Ohio (Mr. TRAFICANT).

The SPEAKER pro tempore. The gentleman's time has expired.

The gentleman from Colorado (Mr. HEFLEY) has relinquished to the gentleman from Ohio (Mr. TRAFICANT) the right to close. The gentleman from Ohio has 3 minutes remaining.

Mr. TRAFICANT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, 20 years and not one tape. Mr. Prosecutor from Missouri, am I that good? Come on.

$1.3 billion in that budget that I brought back, much of it from the help of the Republicans, the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Florida (Mr. YOUNG), thanks. Twenty-two percent unemployment, been under 7, and we are still hurting. I am proud of that.

He said that I took money from companies that did me favors. Look at the testimony of Susan Bucci. She said that they owed me money. I bushhogged 40 acres of their fields every year because her husband, Dan, was sick; and baled 25 acres of his hay every year for 5 years using my equipment and never charged him. She came to me when the brothers ripped her off.

You know, there is something unusual here. You did not elect me. Yes, you have the right to throw me out. My people do not want me out. There is something that was not allowed to be brought, and I give the gentleman from Colorado (Mr. HEFLEY) and the committee great respect; but ladies and gentlemen, you passed a 1967 Jury Service and Selection Plan in the Northern District of Ohio before TRAFICANT was indicted, passed a jury selection plan that was not ratified until after my indictment. They excluded people from my area that knew me and these witnesses from the jury pool.

This is not going to help me with the judge, but I think we have an aristocratic judiciary that looks at Congress like an advisory board. I think you better take that back.

Not one person who knew me or these witnesses was on the jury, and you did not subpoena one witness to validate that hearsay transcript.

Here is what I am saying to you. It is not a matter of liking me. A lot of Members do not like me because to get that $1.3 billion, I raided a lot of appropriations bills. But I want your vote. I want 145 votes and I want to be able to go up and I want to fight the Department of Justice and the IRS.

If they put me in jail, you have a very easy vote, and I predict you will. I think as a Member of Congress, I want you to think of this. There may come a time when you might get targeted.

You know what I was told? Watch what you say. You are too outspoken. Watch what you say. Shut up about the Reno case.

I am not going to shut up. I want your vote because I think my vote is your vote, and my people elected me and I do not think you should take their representative away. With that, thank you for giving me additional time, at least listening to me, and vote your conscience, nothing personal; and I hope I am back and get another $1.3 billion.

Mr. UDALL of New Mexico. Mr. Speaker, I had the honor to serve New Mexico as Attorney General. As Attorney General, I had the unfortunate task to prosecute elected officials for their violation of the law and the public's trust. Although, I accepted this duty, this was not an easy task to perform but one that had to be done. The Committee on Standards of Official Conduct has been asked to take on a difficult charge to examine whether Representative TRAFICANT violated the Code of Official Conduct while serving as a Member of Congress. And if so, whether those violations warrant his expulsion from the U.S. House of Representatives. I thank them for their service on this difficult matter.

This great body has expelled only four Members (three Members and one Member-elect) in its history—Three of whom were expelled during the Civil War period in 1861 for disloyalty to the Union and the fourth occurred in 1980 following a bribery conviction. There have been other Members who were subject to expulsion for offenses such as bribery, illegal gratuities and obstruction of justice—but rather than force the hand of the House to expel them, they took the noble way out and resigned their office. I had hoped that Representative TRAFICANT would have done the same thing, and resign his office rather than force the House to remove him. However, the current situation is before us, and we must act.

On April 11, 2002 the Committee on Standards of Official Conduct gave notice that the federal jury returned a guilty verdict in the criminal trial of Representative TRAFICANT. Six days later the Committee voted to establish an Investigative Subcommittee to conduct a formal inquiry regarding Representative TRAFICANT. On June 27, 2002 the Investigative Subcommittee transmitted to the full Committee on Standards of Official Conduct a 10 count Statement of Alleged Violations and set the stage for a public adjudicatory hearing to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence. I would like to read from the statement issued by the Committee:

"The Statement of Alleged Violations charge that Representative TRAFICANT violated the Code of Official Conduct of the House of Representatives and the Code of Ethics for Government Service through a number of means, including: Agreeing to perform, and performing, official acts on behalf of individuals and/or businesses for which those individuals and/or businesses agreed to and did provide Representative TRAFICANT with things of value; Agreeing to employ a member of his congressional district staff in exchange for $2,500 per month in salary kickbacks from the employee; Endeavoring to persuade this same employee to destroy evidence and to give false testimony to a federal grand jury; Defrauding the United States of money and property by a variety of means; Filing false income tax returns; Engaging in a continuing pattern and practice of official misconduct through which he misused his office for personal gain".

From July 15 through July 18 the adjudicatory House subcommittee heard from Representative TRAFICANT where he argued that he broke no laws and contended that the government was out to get him—the same argument he made during his criminal trial. He argued against each of the points that the Subcommittee Counsel raised and was unable to make a clear argument against the evidence raised. The Subcommittee eventually determined that he was guilty of several ethics violations and that nine of the ten counts were proven by clear and convincing evidence.

Representative TRAFICANT misused his office for personnel gain; he misused the public trust; he misused the public's money, through his conduct in receiving congressional salary kickbacks from employees and receiving personal labor and services from congressional staff while they were on congressional work time; and he misused his powerful position to persuade individuals to destroy evidence and provide false testimony to a federal jury to conceal his abuse of office.

Mr. Speaker prior to entering office we each made the following declaration:

I solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take his obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

While the power of removal is a strong measure and one that should never be taken lightly, it is one tool afforded to us by the Constitution to use on those who have violated their public trust as Members of Congress. Besides violating the public trust Representative TRAFICANT broke his solemn oath of office. He did not faithfully discharge the duties of the office, which he now serves, and because of this and the clear evidence before us he should be expelled from the House of Representatives.

Mr. HEFLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

RECORDED VOTE

Mr. HEFLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 1, answered "present" 9, not voting 4, as follows:

[Roll No. 346]

AYES—420

Abercrombie
Ackerman

Aderholt
Akin

Allen
Andrews

Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier

Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly

Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence

Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

### NOES—1

Condit

### ANSWERED "PRESENT"—9

Bartlett
Bilirakis
Callahan
Ford
Hostettler
Otter
Paul
Simpson
Young (AK)

### NOT VOTING—4

Bonior
Knollenberg
Stearns
Traficant

□ 2211

Mr. DELAHUNT changed his vote from "no" to "aye."

So (two-thirds having voted in favor thereof) the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Clerk will notify the Governor of the State of Ohio of the action of the House.

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## GENERAL LEAVE

Mr. HEFLEY. Mr. Speaker, due to the significance of these proceedings and the desire of many Members to express their views on these grave and somber proceedings, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks for the Record.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 497 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 497

*Resolved,* That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 2215

The SPEAKER pro tempore (Mr. Isakson). The gentleman from Florida is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of the debate only, I yield the customary 30 minutes to the distinguished gentleman from Florida (Mr. Hastings), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, this is the standard rule that we have used for many years on the intelligence authorization. As far as I know, it is not controversial in any way. As in past years, we have thought it best to allow Members good opportunity to review the bill and debate the issues they feel are important to our Nation's security. Of course, that is particularly appropriate now. Therefore, as has been the tradition, the rule is a modified open rule, providing for 1 hour of general debate, equally divided between the chairman and ranking member of the Permanent Select Committee on Intelligence.

The rule further provides for the consideration of only pro forma amendments for the purpose of debate and those amendments printed in the Congressional Record prior to their consideration, as we heard in the Clerk's reading. This has allowed for vetting of amendments regarding classified matters in years past and has proved to be good practice.

Finally, this rule provides for a motion to recommit with or without instruction. So I think it is a very clear, fair rule that suits the purpose well.

Mr. Speaker, just one year ago we met to consider this bill in the wake of the tragic terrorist attacks and rallied support for our intelligence community and national security initiatives. Our country has come a long way since then, but there is still a lot more that needs to be done. This year's intelligence authorization bill contains the most significant investment by the administration for the intelligence community in more than 8 years. This is an important bill. These funds allow the Permanent Select Committee on Intelligence to continue the work that we have been promoting to address many of the longstanding shortfalls that have besieged our intelligence community throughout the 1990s.

In the upcoming general debate, we will discuss in more detail some of the specific provisions of H.R. 4628. However, I would like to briefly highlight a few of the critical areas upon which the Permanent Select Committee on Intelligence has focused in this year's bill.

We have further enhanced efforts to rebuild our Nation's human intelligence capabilities, human, spies; and shortfalls in the intelligence community's analytic core, more analysis; as well as addressing longstanding recapitalization needs for technical intelligence, heavy investment in important equipment. Of specific note are actions we are taking to address critical needs in the area of linguistic capabilities, people who speak the languages we need to understand. Addressing these critical areas is crucial to meeting our immediate counterterrorism challenges and to correcting our longer-range problems facing the intelligence community and the basic structure of the U.S. intelligence establishment.

The Permanent Select Committee on Intelligence continues bold initiatives on these points, knowing that true intelligence community reform will be necessary if our intelligence establishment is to successfully meet all of the national security challenges this Nation faces in today's puzzling and dangerous world. Through our regular oversight work and in our joint inquiry efforts with our Senate counterparts, the Permanent Select Committee on Intelligence is and will be further addressing the pressing need for appropriate intelligence community reform.

Meanwhile, this bill provides the President with the intelligence tools to win the war on terrorism and to remedy many other longstanding problems of the intelligence community, which we have pointed out several years in this process.

In sum, this is a good, noncontroversial, bipartisan bill with very few, if any, contentious amendments to consider. The rule that has been crafted for its consideration is fair and will provide ample opportunity for debate. I urge support for the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. First let me thank my good friend from Sanibel for yielding me the customary time. It is a pleasure to serve with the gentleman from Florida (Mr. GOSS) on the Committee on Rules, and I look forward to rejoining him on the Permanent Select Committee on Intelligence in the near future.

Mr. Speaker, I rise in support of this rule providing for the consideration of H.R. 4628, the Intelligence Authorization Act for Fiscal Year 2003. The rule is a modified open rule, as Mr. GOSS has said, requiring that amendments be preprinted in the CONGRESSIONAL RECORD. As we all know, the preprinting requirement for the intelligence authorization bill has been the accepted practice of this Chamber for several years because of the sensitive nature of much of the bill and the need to protect classified information.

The underlying bill, H.R. 4628, is noncontroversial and it was reported from the Permanent Select Committee on Intelligence by a unanimous vote. Members who wish to do so can go to the Permanent Select Committee on Intelligence office to examine the classified schedule of authorizations for the programs and activities of the intelligence and intelligence-related activities of the National Intelligence Program.

This includes authorizations for the CIA, as well as the foreign intelligence and counterintelligence programs within, among others, the Department of Defense, the National Security Agency, the Departments of State, Treasury and Energy and the FBI.

I might add, for Members who have not done so at any point, as a Member having served most recently on the Permanent Select Committee on Intelligence and hoping to rejoin it again in the future, I would urge them to take advantage of the opportunity to review the programs and activities of the Permanent Select Committee on Intelligence.

Also included in the classified documents are the authorizations for the tactical intelligence and related activities and joint military intelligence program of the Department of Defense.

Today, more than ever, we must make the creation of a strong and flexible intelligence apparatus one of the highest priorities of this body. The terrorist attacks of September 11, combined with the continuing threat of further attacks, underscores the importance of this legislation, and I am pleased that it has been brought to the floor before the August recess.

Now, Mr. Speaker, while this bill is noncontroversial, it is not closed to improvement. Today is not the first time that I have noted on the floor that experts in the intelligence community continue to argue that our intelligence operations must not only be a strong and flexible intelligence apparatus, but also a diverse one. For the past 15 years, Members of the Permanent Select Committee on Intelligence and the directors of our country's largest intelligence agencies have labored to create a more diverse intelligence community. Although their efforts have borne some fruit, much more needs to be done.

Later this evening I will be offering two amendments to H.R. 4628, both of which are aimed at increasing diversity in our Nation's intelligence agencies. The first of the two amendments expresses the sense of Congress that the CIA, DIA, NSA and NIMA make minority recruitment a priority in their hiring decisions. Of the 13 agencies that currently make up the U.S. intelligence community, only the DIA boasts a minority population that even comes close to the average percentage of minorities in the Federal workforce.

The second amendment instructs the Director of Central Intelligence to issue an annual report to Congress on the hiring and retention of minorities by the intelligence community. Such a report will allow this body to monitor the progress of the intelligence community's efforts to recruit and retain minorities.

I do hope that my colleagues will support both of the amendments, and I believe they will be supported, having spoken with the chairman in this regard.

Further, I would also like to urge my colleagues to support the amendment which will be offered by my good friend, the gentleman from Indiana (Mr. ROEMER), and he is my good friend.

The Roemer amendment establishes an independent commission to examine the events leading up to and ensuing the September 11 attacks. Though later this week the House may pass a bill creating a new Department of Homeland Security, the bill will in no way identify nor fix the problems that currently exist in the United States intelligence community. The Roemer amendment, in examining the intelligence failures of September 11, will provide a comprehensive examination and critique on this issue, and I urge my colleagues to support it.

Mr. Speaker, H.R. 4628 provides authorizations and appropriations for some of the most important national security programs in this country. Any hesitation by this body in passing it would be a disservice to the American people.

I urge my colleagues to support this rule, and I ask that they support my amendments, the Roemer amendment and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I am privileged to yield 5 minutes to the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science and a member of the Permanent Select Committee on Intelligence.

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman for yielding me time, and I rise in support of a very fair rule.

Mr. Speaker, this bill is complex in its specific recommendations, but simple in its intent: To restore our Nation's intelligence capabilities so that we can absolutely minimize the possibility of another surprise terrorist attack on our homeland. Our goal; no more surprises, no more attacks.

The President is absolutely correct; homeland security is and must continue to be the number one priority of government at all levels, and the first priority of the Federal Government is to guarantee, as much as humanly possible, the peace and security of the American people. They, we, all of us, have a right to live our lives without fear.

The largest increase in spending for our national intelligence activities in over a decade is provided for in this bill.

□ 2230

For the first time in many years, the administration has requested an increase in intelligence operations and capabilities. We are providing the total funding the President requested, placing greater emphasis on areas which require the most attention.

Specifically, this bill addresses not just with words, but with deeds, dollars to back up what we say: the shortfall in human intelligence with essential language capabilities. We must aggressively pursue a program to significantly increase a number of foreign language-qualified individuals in the intelligence community. It adds significant funding for initial and follow-on training for linguists, and there is a provision to create a new language university for the entire intelligence community.

I believe this is critical to developing the human intelligence officers of the future that will be able to collect and, more importantly, analyze information on those who would pose a threat to the United States of America. It does not serve our national interests if we are the best at collecting intelligence if we are lacking in our ability to analyze and disseminate to decision-makers sensitive information in a timely manner. That possibility exists today because of our deficiencies in language capabilities.

This bill takes on, in a very direct way, the issues of intelligence, collection, analysis, and production against threats of terrorism. We do so by placing added emphasis and resources where I think they are most needed: on human intelligence, our eyes and ears with a global reach.

Let me state the obvious. It does not do much good if we have the right people in the right places dealing with collecting or analyzing if they do not have the language ability to understand what is being collected or what is being analyzed.

Mr. Speaker, as I said, the intent of this bill is simple. It is designed to provide the necessary resources, direction, and authorizations for the Nation's intelligence community to provide the best foreign intelligence possible to defend the United States against the many worldwide threats. The threats are not going to go away; and from my days as a boy scout, I know we must be prepared.

Mr. Speaker, I will close with a thank you. Thank you to the dedicated men and women of the U.S. intelligence community. We owe them a debt of gratitude for the tough and unheralded work they do for all of us. The memory of a failure of intelligence to present something as horrific as September 11 will forever be seared in our minds. It is important to never forget the untold numbers of threats that never materialized into anything but words, with no action following, because of the endless number of intelligence success stories where the system worked as intended.

The system is not perfect; it probably never will be. But we must continue to strive for perfection. This bill is a contribution toward that end. Thank you, all of you, in the intelligence community for quietly being there, working behind the scenes, to discover and counter the threats to our security and our liberties.

I also want to thank the committee chairman, the gentleman from Florida (Mr. GOSS), and the ranking member, the gentlewoman from California (Ms. PELOSI), for their leadership and hard work on this bill. And I want to express my respect and admiration for my colleagues on the Permanent Select Committee on Intelligence and their very able professional staff. They work hard, very hard for the cause.

Mr. Speaker, I urge my colleagues to support H.R. 4628.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from Georgia (Mr. BISHOP), my good friend, and he is my friend.

Mr. BISHOP. Mr. Speaker, I appreciate the gentleman yielding me this time and recognizing me.

I want to talk about the need in this bill and in our intelligence community for diversity. Intelligence and the intelligence community has a mission for providing the best real-time information for our policymakers and our warfighters. It is about information. It is about having a heads-up; and if 9-11 has taught us anything, it certainly has taught us that we need to have a heads-up.

All of the professionals, as has been stated already, have indicated to us that if we are to be the best that we can be in our intelligence community, we must have the best human assets for collecting information and the best technical assets for collecting information; and we must be able to process, analyze, and disseminate that information where it needs to go.

But the problem that we face, the challenge we face, is that as hard as the men and women in our intelligence community are working to gather the necessary information so that when our servicemen and women go into harm's way they know what they will be facing, we still do not have adequate human assets and the kind of technical analysis assets that will allow us to have the information that we need real-time.

Why should we not have diversity in the intelligence community? Every intelligence professional, the heads of the CIA, NSA, DIA, NIMA, Army intelligence, naval intelligence, all have indicated that we will be much more effective in our collection by our human assets, if our targets are hard to distinguish from our collectors. So if we need to have information about Islamic culture, our intelligence collectors need to be knowledgeable of that. Yes, if we are going into Rwanda and we need information of what is happening there, maybe some Rwandan-Americans ought to be a part of our collection force, Somalians or Pakistanis or Afghans or Africans or Latinos; Asian Americans, Arab Americans, Indian Americans, Mexican Americans, Cuban Americans, Turkish Americans, Nigerian Americans, Muslim Americans, Christian Americans, Jewish Americans, Irish Americans, human assets. We must have racial diversity, cultural diversity, and language diversity if we are to be effective in our efforts.

When we put the men and women who fight and defend this country and who go all over the world protecting American interests, when we put them in harm's way, they need to know what they will be faced with, and the policymakers who send them there need to have that real-time information; and they need to have the best quality information. They need to be able to penetrate the sources of the information so that we can, indeed, have a heads-up.

The creation of a more diverse intelligence workforce must be a priority, the intelligence agencies, the undergraduate training programs that use these programs to increase their minority efforts. I was proud this morning to be able to go out to one of the agencies and participate in the graduation ceremony of one of the programs designed to help create that diversity. But this is a start. We have a long way to go. We have challenges that we face, and unless we accelerate our efforts to create and maintain the kind of diversity in our intelligence community, we will not achieve the success that we desire.

Racial diversity, cultural diversity, language diversity are necessities. They not only are the right thing to do, but they make good business sense for gathering and disseminating and analyzing and understanding the information that we must have.

Mr. Speaker, this is a good rule; this is a good bill. With the amendments, it will be a better bill; and I urge my colleagues to support it so that we can have the best intelligence-gathering apparatus that our country can possibly have.

Mr. GOSS. Mr. Speaker, I am very happy to yield 5 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM), a very valued member of our committee.

Mr. CUNNINGHAM. Mr. Speaker, it is an honor to serve on the Committee on Intelligence with Members on both sides of the House. I also sit on the Subcommittee on Defense of the Committee on Appropriations, two committees I think that work together in this House, together for national security and the best interests of the American people. That is why most of us came here, and we wish that all committees that we served on have that decorum to work in a single direction. It makes my heart soar like an eagle to serve on those kinds of committees and do the people's work.

I think when we look at what the committee does, and the gentleman from Florida (Mr. GOSS), the chairman of our committee, and I have seen chairmen and leaders that micromanage; he does not. He kind of gives you the reins and he says, go out there and do your thing and do it for the betterment of both sides of the aisle and the American people. He does not micromanage; he gives us that free rein and for that I thank the chairman.

The committee staff, I want to tell my colleagues that each Member has a right to go to the committee staff and get these briefings. I would recommend that my colleagues do it; and these staff members, some are the James Bonds of the world. Some work in technology; some work in administration. But if my colleagues want a brief on any area, ask, and they will be delighted to give it. That is the kind of committee that we serve on.

A good example is that if you are going to best determine what the needs of the future, whether it is in defense or whether it is our intelligence agencies, you need to be able to know for a fact what the current threat is.

I see the gentleman from Washington (Mr. DICKS) and he looks to the B–2, because he knows what the future threat is, the F–22.

So if we know what the threat is today through our intelligence agencies, then we know better what to plan. For example, why do we need a B–2 and its effectiveness with stealth? Why do we need the F–22? In my opinion, we ought to double the buy, because it is the only airplane in the system that can meet the threat of the SU–30 and the SU–37 and plus whatever they have now. If we shorten that buy in defense, as some are talking about in the White House, I think it is foolhardy.

But the basis that we get in this committee in a bipartisan way to go forward with national security needs is laudatory.

I would tell my colleagues that when people start going after defense, or they go after our intelligence services, most of us on the committee get very defensive. Because as a body, this body and the other body, in many cases we have not given our military or intelligence agencies the assets they need to do the job.

In the last administration, we went on 149 deployments. That spread our military thin. We only had 22 percent re-enlistment, and people were stretched, and 25-year-old airplanes were stretched. The reason I bring it up is because every time we deployed, our intelligence agencies had to deploy also, and many of the systems that they had on the drawing board to give us SIGINT and ELINT and HUMINT information had to be scuttled because it went to pay for the war.

This committee, in a bipartisan way, is attempting to rectify some of those things. We cannot make that up over the next 5 years. But the committee is doing the best they can, based on the testimony from our services. That is why it is such a neat deal to work on this committee. We are doing something very, very positive and something good for this country.

Is the war on drugs dead? No. But we have problems there as well as with al Qaeda.

Mr. HASTINGS of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I am happy to yield 2 minutes to the distinguished gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I rise in support of this rule and this bill. No one is more qualified to guide our intelligence legislation than the gentleman from Florida (Mr. GOSS). Our intelligence community grew from World War I and the Cold War to be supremely able to monitor foreign militaries and governments.

□ 2245

No more Pearl Harbors and powerful support to the war fighter. I served for 13 years as a reserve Naval intelligence officer and received vital intelligence that saved American lives in Haiti, Bosnia, Kosovo and Iraq.

Our intelligence community must now be upgraded to meet the terrorist threat. Our system is supremely designed to monitor foreign militaries, but has left ability to monitor clandestined terror organizations backed by familiar relations. We must upgrade our linguistic defenses. We have Russian linguists but now need to speak Pastoon, Dari, Urdu and dozens of other languages where terrorists are recruited from. Our defense language institute in Monterey will play a key part of that role.

Analysts now receive huge numbers of messages but they need back up to rapidly translate and analyze information to develop actionable intelligence in time. We are all aware of the failures of September 11. We should know more about the successes of the intelligence community in defeating the millennium bombers and Hezbollah in Bosnia or dozens of other victories won, but not reported on the front page of The Washington Post.

I want to thank the professionals from DIA, CIA, NSA, NIMA and the military services who are on watch tonight protecting America. This bill provides critical resources and, more importantly, new flexibility to meet the new challenge. We face terrorists, wealthy terrorists who may one day have weapons of mass destruction. Without the intelligence community, we would some day face a nuclear Pearl Harbor. With the community we will extend security and freedom for our people and allies. I urge adoption of the rule and the bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time in the interest of all the Members tonight, in spite of the fact that I feel I could talk about this matter for a substantial period of time, I would just urge the Members at this time to vote for this good rule and for the underlying bill which serves a great purpose for our Nation.

Mr. Speaker, I yield back the balance of my time.

### GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 497.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would echo my colleague and friend's sentiment. This a fair and good rule. It deserves everybody's support.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. TAUZIN). Pursuant to House Resolution 497 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4628.

□ 2248

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with Mr. ISAKSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida (Mr. GOSS) and the gentleman from Georgia (Mr. BISHOP) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise this evening in very strong support of this bill, which is the annual authorization for intelligence and intelligence-related activities, as required by law. This is a unique authorization bill in that sense. This is a very good bill that was crafted on a bipartisan basis. In fact, I think it more appropriate, I should say, nonpartisan basis. And it passed unanimously from our committee.

This would not have been possible without the attention and involvement of all of our stellar members, and I truly mean that, but especially the tireless efforts of our ranking member, the gentlewoman from California (Ms. PELOSI), who, I am sorry to say, is on other duties before the Committee on Rules now which is never a great place to be if you can be on the intelligence community.

I cannot say enough about her support and guidance in this process, all in the spirit of ensuring that our intelligence community is positioned in the best possible way to protect our Nation. I want to thank the gentlewoman for the number of hours that she has contributed to the committee's all-important work and for the good nonpartisan work you do and for the leadership she provides for her side.

Mr. Chairman, this bill turns a corner on rebuilding our intelligence capabilities. The administration has requested a significant amount of investment into these capabilities which is frankly long overdue. More importantly, the bill lays the groundwork for sustained investment in programs that will take a while to rebuild, but they are crucial, absolutely crucial to our success against today's and tomorrow's threats, which we have begun to better recognize and this bill begins to address some of the issues that have heretofore been placed on a back burner, despite the fact that some of us have been urging they be moved to a more forward place.

In some ways, I see this bill as emphasizing the needs to get back to the basics of intelligence. Often of the last decade especially, many have gotten overly enamored with technology and finding ways to collect data with the least amount of risks, the intelligence version of the no-casualties policy.

Although, I will be the first to emphasize the need to keep on top of various technologies and the importance of them to our intelligence capabilities, our real security relies on some of the most fundamental aspects of intelligence. Unfortunately, Mr. Chairman, despite our concerns and warnings, we learned in a very tragic way how important these fundamentals really are, notwithstanding the extraordinarily good work a great many men and women representing our country are providing for us around the world in the intelligence community.

The terrorist attacks on September 11, 2001 were well conceived; they were coordinated; they took advantage of liberties that we have come to rely on in our quality of life in this country. That also confirmed our fears that the world is, indeed, a very dangerous and very unstable place. And for the committee it unfortunately proved our worst fears that the Nation's intelligence community was not sufficiently robust or positioned to provide the first line of defense we need and do count on.

Mr. Chairman, the price was much too high, and we owe it to those who lost their lives, some of whom were members of the intelligence community, I might add, to make sure we rebuild our capabilities and our people to the best of our ability is the mission of this bill.

Other members of committee will highlight certain provisions of the bill, so I am not going through them. I will make the point, however, that certain lessons are involved in the getting back to the basics part of this. They include: That the way to gain the most vital information, plans and intentions of the enemy, what they are actually thinking of doing, is more often than not to be physically close to the target, that is the right way to do it, whether that is through the human agent assets or assets of other types, like technical assets or such things an unmanned aerial vehicles or manned aircraft, even.

This involves taking risks, both in terms of who you may have to work with and in terms of, frankly, potential loss of life and tragically we have seen casualties in the intelligence community in the war on terrorism this year.

Once you collect that data, you have the mechanisms and capabilities to analyze, understand and use the data, get it to the right people in a timely way, and that involves having the right people with the right training and the right skills and armed with the right tools to make sure those who get that information can get it, and the right management and guidance are available to you through the intelligence community, and that community is structured in such a way to allow the management to be effective.

Those are all things that we need to work on.

Mr. Chairman, this bill addresses many of these basics, save the structure question. And I want to emphasize that this is a task that is yet to be completed, but is every bit as important as the investment in the basics. This is an area that the committee hopes to address soon as has actually been somewhat sidetracked because of the 9–11 review, but it remains a major priority on the House Permanent Select Committee on Intelligence to deal with the intelligence architecture.

Before I close, let me recognize two groups of people. First are the men and women of the intelligence community whom I referred to previously who are working tirelessly around the globe, and they are doing everything they can to protect us. They work 7–24, and they working in dangerous conditions and not very nice conditions and they do things that a lot of us would not be very happy, to do, and they take up that work. They are the front lines of America. They are remarkable people. I think anyone on the committee would tell you, we owe them a great deal of gratitude and thanks. And I am sorry we cannot actually reveal some of the exploits and success of these people because it would make Americans proud, as it makes us on the committee proud when we get to know these things.

The second group of people is close to home, Mr. Chairman. We would not be here tonight if it were not for our committee members and our committee staff. I have spoken my in the committee and my membership, my vice chairman, the gentleman from Nebraska (Mr. BEREUTER) who does a great job taking care of me and pinch-hitting for me, and all the other members of committee. We have now broken down into subcommittee so we have more subcommittee chairman and ranking members and everybody has risen to the occasion and the extra tasks that our committees this year has been asked to take.

We have expanded by something like 25 percent in terms of our membership and staff. We have been given many extra responsibilities because of 9–11 and everybody has risen to the task. I must say the committee staff has impressed me every day. When I arrive at the committee, I admire their work ethic and their understanding of the very complex and arcane activities of the Intelligence Community. I think they represent the committee and Congress very well. Special thanks to staff director Tim Sample, Mike Sheehy, the senior minority staffer who worked to make sure the functions of the committee occur in the least partisan atmosphere possible. And I am extremely proud of that accomplishment on their park. Thank to Chris Barton, our chief counsel, and Chris Healey, a minority counsel, as well as Michele Lang, our deputy chief counsel, and Mike Meermans, our budget coordinator for their tireless work on preparing this bill.

Obviously, each and every person on this staff beyond those I named deserve our thanks and praise for jobs well done.

In the atmosphere I want to particularly thank our security staff who have been given some extraordinary problems to cope with and I think have done an amazingly good job. Mr. Chairman, I ask my colleagues to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BISHOP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4628. The committee has worked hard to provide the resources that our military forces and the intelligence community require in order to prevail in the war on terrorism and to safeguard all of our other national security interests.

This is a bipartisan bill for which the gentleman from Florida (Mr. GOSS), the ranking Democrat, the gentlewoman from California (Ms. PELOSI), my counterpart on the technical and tactical subcommittee, the gentleman from Delaware (Mr. CASTLE) and all of the other committee members deserve great credit.

I want to thank the committee staff for the tireless hours and the hard work that they have put into the preparation of this bill. It is a good bill. And I urge all of my colleagues to support it.

I want to emphasize a few points to my colleagues in the House as well as the administration about what the bill accomplishes, as well as some of my concerns for the future.

As is well known from press accounts, unmanned aerial vehicles performed superbly in Afghanistan. With some exceptions in the past, reconnaissance systems flew over or passed the battlefields in a matter of seconds or minutes, and therefore provided only a sort of snapshot of what was going on. Given the time delays in getting that information to our tactical forces, it was extremely difficult to attack mobile targets. What these UAVs provide is persistence, a constant presence. Once targets are detected, UAV's can loiter and track them until an attack can be mounted as demonstrated repeatedly in Afghanistan.

Now the Secretary of Defense and the Chairman of the Joint Chiefs are advocating adding persistent surveillance capability from space. For example, by launching many small radar satellites that can detect and track moving vehicles. I believe this is the direction next generations collection systems must take. DOD is also right to plan on buying many UAV's and equipping them with capable sensor, but so far DOD has failed to plan to buy the communication and ground processing capacity necessary to support these platforms.

□ 2300

This makes no sense and clearly it must be corrected.

The war also showed that no single sensor system alone is able to perform all of the functions necessary to attack mobile targets, wide area surveillance, target detection, identification, tracking and precise target location. The only solution is to work the separate sensor systems together in a network. Building this network of sensors is feasible and it is very affordable, but although DOD appears to understand its importance, progress has been slow.

I was disappointed that the administration, despite the large budget increases, failed to request sufficient funds to support the contract award for NIMA's modernization program. The committee corrected this problem by redirecting other funds to that area. The committee also added funds to begin acquiring the capability to receive and process airborne imagery.

I am encouraged with regard to commercial imagery by the NIMA director's progress in developing a rational strategy for the first time. However, NIMA to date has received funding adequate to support only one satellite collection company but no policy guidance to rely on a single source. If NIMA is to support multiple companies and meet DOD's readiness requirements for geospatial products, NIMA must receive more funding. It is as simple as that. That key issue must be resolved, and it must be resolved soon.

Finally, a word about the National Security Agency. Unfortunately, NSA's serious acquisition management problems persist, preventing the agency from keeping pace with the global telecommunications industry. These problems contributed to limiting NSA's operational capabilities in key areas relevant to the war on terrorism and other so-called transnational threats as noted in the report of the Subcommittee on Terrorism and Homeland Security on the events of September 11. NSA's problems could have very serious consequences and, in my opinion, demand more attention from the Secretary of Defense.

Mr. Chairman, I reserve the balance of my time.

Mr. GOSS. Mr. Chairman, I am privileged to yield 3 minutes to the gentleman from Nebraska (Mr. BEREUTER), the distinguished vice-chairman of the committee, who also takes care of all of the policy coordination on our committee, which always dazzles me.

Mr. BEREUTER. Mr. Chairman, this Intelligence Authorization Act addresses a number of pressing intelligence needs. For example, the legislation takes steps to strengthen the intelligence community's absolutely critical analytical core.

In recent years, the U.S. has been forced to focus on terrorists, proliferators and drug traffickers. These are far more difficult targets to track, and frankly, the intelligence community took too long to adapt to these new threats. It did not reach out aggressively to recruit the human intelligence sources that could have provided us with invaluable information. We lost far too many skilled analysts whose job was to provide early warning.

This legislation provides much-needed funding to help rebuild a dynamic, wide-ranging, global analytical capability. It is an effort for which this committee has been serving a leading role for some years now.

A second important component of the Intelligence Authorization Act relates to terrorist finances. One of the major intelligence initiatives in the wake of 9/11 has been a serious effort to attack the financial assets of terrorist organizations and their supporters. Terrorist networks such as al Qaeda obviously cannot function without significant financial backing.

Al Qaeda, for example, is supported by, one, a shadowy network of fundraisers, money lenders and shakedown artists; two, businesses and charities serving as front organizations; and three, unscrupulous facilitators and middlemen. However, with the decision of the executive branch to fully exploit its existing authorities to target terrorist finances, and with the granting of additional authorities under the U.S. PATRIOT Act, we are now aggressively attacking the money flow. To date, over $100 million in suspected terrorist money has been seized or frozen by the United States and its allies.

Mr. Chairman, this is an important and powerful set of financial tools in the war on terrorism.

Mr. Chairman, there are other important initiatives here, but I want to say that I think one of the important things that we have done is close an important loophole caused by the Freedom of Information Act. Our adversaries were able to make requests that had to be dealt with for very sensitive information, and we have taken a commonsense approach to ending that loophole.

Mr. Chairman, I would conclude by congratulating the gentleman from Florida (Mr. GOSS), the chairman of the committee and the distinguished gentlewoman from California (Ms. PELOSI) for the leadership they have demonstrated in bringing this genuinely bipartisan product to the floor. This legislation is a very serious effort and was unanimously approved by the Permanent Select Committee on Intelligence.

Each and every member of the committee and our extraordinary staff dedicated long hours to the hearings and drafting of the bill. Each Member, I think, and the staff clearly recognizes the importance of our actions and our responsibilities to the body, and I think my colleagues can take, if I may say so, justifiable pride in the efforts of HPSCI and our staff and particularly the leadership of the gentleman from Florida (Mr. GOSS) and the gentlewoman from California (Ms. PELOSI).

Mr. Chairman, I urge strong support and the adoption of H.R. 4628.

Mr. BISHOP. Mr. Chairman, I yield 3¼ minutes to the distinguished gentlewoman from California (Ms. HARMAN), the ranking member on the Subcommittee on Terrorism and Homeland Security.

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding commend him for his leadership on the Subcommittee on Technical and Tactical Intelligence, and commend our colleagues for their strong bipartisan contributions to this committee.

I rise in strong support of the Intelligence Authorization Act and join others in expressing my pride in the bipartisan way in which this committee works. For those who question whether this House can tackle the tough ones, tonight proves it. Our actions over the past three hours in the Traficant matter were a somber and clear example of bipartisanship and facing up to our responsibilities. This bill is another such example.

Members of this committee have traveled all over the world and have met U.S. intelligence personnel working in many shabby and often dangerous conditions. They do this despite their family's understandable fears that they are in harm's way. This bill is designed to give good people better tools, to fill gaps in performance. It is not about gaps in the dedication, commitment and patriotism of thousands of Americans who work in the intelligence agencies, both here and abroad.

Many issues addressed in this bill, Mr. Chairman, were identified in a report that our Subcommittee on Terrorism and Homeland Security released last week. Our full intelligence committee wants no time to elapse before implementing that report's recommendations, and this bill recommends action, action that the families of those who died on 9/11 deserve.

Our report said, for example, that inadequate penetration of the al Qaeda target stemmed in large part from too few resources devoted to counterterrorism and an overreliance on assistance from allies to collect information. We fix that in this report; we insist that we invest more resources in human intelligence (humint), and we spell out how that should happen.

Penetration of the al Qaeda target, our report says, requires multiyear investment and cutting edge technologies. This bill directs that mission-critical technology is available and improved.

Our report said that watch lists were inadequate. This bill calls on the intelligence community to provide global coverage and common access to information, which should help fix the watch list problem.

Our report said that we were concerned about the HUMINT career structure. Too often, individuals get promoted based on their broad and general knowledge in wide-ranging areas. Those who stay focused in one area or even one country, where an understanding of local political conditions is key to our fight against terrorism, are not being given the credit or rewards deserved. This bill recommends that those rewards be given.

Regrettably, there is a huge language problem. This bill addresses that problem.

As in past years, this bill also expresses continuing concern about the organizational framework in place to produce intelligence capabilities that can meet future national security demands. This bill addresses that problem.

□ 2310

Mr. Chairman, our language is terse, our calls for reform are urgent, but we also state that "the successes of the intelligence community normally go unnoticed for obvious and correct reasons . . . The problem is not with the individuals, but with the tools and the organization with which they work."

This is a good bill. I urge its support, and I urge support later this week for a bipartisan homeland security bill.

Mr. GOSS. Mr. Chairman, I am pleased to yield 3½ minutes to the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Technical and Tactical Intelligence, and former Governor of Delaware.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for that introduction and for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 4628, the fiscal year 2003 intelligence authorization bill. Before I move to the substance of my statement, I would like to recognize and commend the gentleman from Florida (Mr. GOSS), the chairman of the committee, and the ranking member, the gentlewoman from California (Ms. PELOSI), for the outstanding leadership they have provided to the Nation and particularly to the intelligence community during this past year.

This has been a difficult time for our intelligence community. There have been failings, but there have been many successes that have not and should not be publicized. The gentleman from Florida and the gentlewoman from California have been at the forefront of efforts to ensure our professional intelligence offices get the resources necessary to do their vital work for our national security. I thank them both.

Mr. Chairman, those of us on the Permanent Select Committee on Intelligence are among the few who understand that the world has not changed, despite the tragedy that befell us on September 11. We have been painfully aware for a long time that while many regions of the world are working together with us to promote peace and stability, there are many elements that are committed to undermining such efforts.

We are intimately familiar with the difficult tasks our intelligence professionals are up against, and, moreover, with the outstanding work they do day in and day out around the globe. For all they do, I would like to extend my gratitude to them for all their unheralded successes.

Oddly, their past successes have resulted in the American public having a combination of a low awareness of the magnitude of the threats and the high expectation that the intelligence community would always be able to counter them. The difficulty of such a task is daunting. What makes this intelligence community all the more special is that they have done as well as they have, in spite of years of resource neglect.

This year's funding request begins to restore the capabilities that have withered over the years. Today, the intelligence community's challenges remain large, but we will continually assess the intelligence community's ability to meet their challenges. Because this year represents a significant point in our history to consider the priorities and needs for intelligence activities and set a new course for the future, I am particularly concerned with how much the strategic vision has been dedicated toward our future collection needs and systems, and, more importantly, whether the administration is willing to sustain the investment through the duration necessary to deliver the new capabilities.

As chairman of the Subcommittee on Technical and Tactical Intelligence, I understand the critical need to invest in and modernize our technical intelligence systems. These systems take years to field and tens of thousands of highly skilled scientists and engineers to complete. In this bill, I am happy that we address the resource strain of the legacy programs in hopes that we avoid sacrificing our future.

I am concerned that the U.S. technology industry has not held itself to a high enough standard of accountability. When the country needs special capabilities, we cannot be held captive to a single contractor, regardless of their performance, simply because there are no alternatives. I believe even the intelligence community must take some calculated risks in order to ensure we acquire the kinds of capabilities that future threats demand. The bill before us details how we intend to ensure the country is on an appropriate and sustainable technology path for the future.

Although this budget represents a significant increase over the past years, we need to support it with the full knowledge and understanding that there is a great deal more work to be done. Rebuilding the intelligence capabilities of the United States is not going to be done with a single budget. Congress and the American people need to understand that these threats against our Nation will not be eliminated with the demise of al Qaeda. In order to close the gap between demands on intelligence and the complexity of the current and future threats, we must commit to a long-term intelligence capability restoration.

The next attack against us may be to undermine our confidence in some critical part of our infrastructure, or may be chemical or biological warfare. We do not know. But what we do know is that the threats are real and we need to act accordingly. Mr. Chairman, this bill is a downpayment to provide our senior policymakers with the capabilities and tools for the near term. It is a responsible, reasonable, and appropriate request to fund our Nation's national security needs.

The President, our policymakers, our military, the people of the United States, and al Qaeda deserve nothing less; and I ask the Members of the House to give H.R. 4628 their full support.

Mr. BISHOP. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Indiana (Mr. ROEMER), who is a very hard-working member of the Permanent Select Committee on Intelligence.

Mr. ROEMER. Mr. Chairman, I thank my good friend from the State of Georgia for yielding me this time; and I want to note, as some of my colleagues may have, that this is the first entire budget put together by the United States Congress since the horrific attacks on our people, our homeland, and our country on September 11. I could not be more proud to serve in this Chamber and with the people that have put this intelligence budget together: our chairman, the gentleman from the State of Florida (Mr. GOSS), who it is a pleasure to work with; the gentlewoman from California (Ms. PELOSI), who provides such strong leadership; the other members of the committee, who do such honorable work; and the bright and dedicated staff that we serve with and who serve us so well.

Mr. Chairman, we have debated many bills this year. I am not sure we will debate a more important one for the security and the strength of our Nation. I want to thank the intelligence community for the hard work they do, the work on U.S. goals, U.S. programs, U.S. policies, and U.S. interests. Every day they make us a little bit more secure.

I want to say, too, Mr. Chairman, that the events of 9–11 may not have been absolutely preventable; but mistakes were made, failures were made, there were gaps and cracks that the snakes crawled through on 9–11, and we intend to fix them and to close those gaps. There are too many stovepipe agencies that make communication difficult across agencies, there is still too much outdated technology, there is still too many old structures and cultures, there is not enough emphasis on human intelligence and language skills and analytical capabilities; and we need to work on ways to turn information into knowledge to help mitigate and prevent future attacks.

This bill takes significant steps forward in those areas. But there is a very important caveat written in our report that I encourage all Members to read on page 13: investment, but not in old structures. New resources, but not toward old ideas and old mistakes.

We say on page 14, and I quote, "The committee must emphasize, however, that investment alone, without reorganization or reform of some of the basic components and practices of the intelligence community, will not provide effective national intelligence capabilities."

President Lincoln, in one of the most dire times in our Nation's history, when we were fighting in the Civil War, said, "As the times are new, we must think anew and act anew." That is certainly the challenge today as we are in a global war on terrorism. Let us think in new ways to reform the old structure and make it new so that these investments in language, in analytical capabilities, and in human intelligence pay off and make our country stronger.

Mr. GOSS. Mr. Chairman, I am very pleased to yield 4 minutes to the distinguished gentleman from Georgia (Mr. CHAMBLISS), the chairman of our Subcommittee on Terrorism and Homeland Security, and the partial author with the gentlewoman from California (Ms. HARMAN) of the recent report that has been well received on the first outing of our efforts on counterterrorism.

Mr. CHAMBLISS. Mr. Chairman, I thank the chairman for yielding me this time, and I say to my chairman and our ranking member what a great job they have done in leading our committee; and to the staff, I do not think I have ever worked with a greater staff on both sides of the aisle than what we have in the Permanent Select Committee on Intelligence, and I thank both for that.

To my ranking member on my subcommittee, the gentlewoman from California (Ms. HARMAN), who has been such a great partner in this effort to fight this war on counterterrorism, what a great partner she has been in this.

I rise today in support of H.R. 4628, the Intelligence Authorization Act for fiscal year 2003. As chairman of the Subcommittee on Terrorism and Homeland Security, I have spent considerable time these past months reviewing the capabilities, gaps, and needs of the intelligence community. In fact, last Wednesday we released the unclassified summary of our report to the Speaker on gaps in counterterrorism capabilities at CIA, FBI, and the National Security Agency.

□ 2320

It is true that the community was not adequately prepared for the events of September 11, 2001, and the report was very critical in some areas. By and large we found that in spite of the best efforts of this body and the many hard-working rank-and-file on the front lines in the intelligence community, not enough resources and effort were dedicated to key mission areas, such as HUMINT and SIGINT over a protracted period of time.

Available resources, moreover, were sometimes redirected by senior community managers away from core collection and analytic activities to feed a growing bureaucracy at headquarters.

There were not and still are not enough CIA agents on the streets of the world collecting against our enemies. NSA's signals intercept and exploitation capabilities, once second to none, are now badly in need of retooling.

There are insufficient foreign language capabilities, both to conduct effective intelligence operations against terrorists and to exploit material acquired in such operations.

The FBI lacked analytic capability to enable it to pursue preventive measures rather than simply to respond to crimes that have already been committed. And no one was sharing information in such a way that all the consumers with a need-to-know actually got everything relevant to their responsibilities.

While no single authorization bill can hope to fix all of these problems, H.R. 4628 will give the community the means to get its collective house in order by addressing the most pressing of these shortcomings. The intelligence community will be in a position to hire more collectors, analysts, linguists, and technicians. It will be able to make long-needed investments in infrastructure, systems integration, and training that will pay significant dividends over the long-term and will, perhaps, make it possible to penetrate the hitherto impenetrable terrorist organization at a level sufficient to get at plans and intentions.

Resources alone, however, will not be enough. Community managers will have to get moving on reform before new intelligence dollars will have full effect. The community must accept this criticism in the right way; and upon that being done, I am confident that long-needed reforms of the community will be hastened by this bill.

As one notable example, DCI George Tenet, in response to our report, repealed the human rights guidelines that have had a chilling effect on counterterrorist recruitment operations since 1995.

Will H.R. 4628 stop all future 9–11-type attacks? No one can make such a guarantee, but this bill will make it much more likely we will have the intelligence capabilities to identify and thwart such hostile actions in the future. We are going to be facing potentially catastrophic threats from terrorists and other adversaries over the long haul. This is not something we are going to be able to stop on a global basis all at once. Therefore, it is critically important that we move swiftly to make the necessary investments in our intelligence capabilities that H.R. 4628 provides.

Mr. Chairman, I urge passage of this bill.

The neglect of the 1990s in the form of decreasing resources and political support for intelligence can never be allowed to be repeated in this country. And it will necessarily require considerable time and effort on all our parts to correct. America needs and deserves an intelligence capability that is second-to-none, and as 9–11 proved, we do not yet have that capability.

Rather than the Cold War threats of old, today's threats are likely to be aircraft hijackings, suicide bombings, cyber attacks, the poisoning of agriculture or our water supply, the use of biological or chemical agents, or the use of radioactive materials to devastate cities. Such threats require a much more innovative and robust Intelligence Community than we have ever had before.

I urge all of my colleagues to vote for H.R. 4628. This bill will move us towards the kind of Intelligence Community all Americans need and deserve. We simply cannot afford to wait any longer to make the necessary investments. H.R. 4628 will make America safer.

Mr. BISHOP. Mr. Chairman, I yield 7 minutes to the gentlewoman from California (Ms. PELOSI), the ranking member of the Permanent Select Committee on Intelligence.

Ms. PELOSI. Mr. Chairman, I thank the distinguished gentleman for managing this bill for the Democrats and for the gentleman's distinguished work on the committee.

I have to be excused for having to be upstairs in the Committee on Rules speaking for the rule on the homeland security bill which will come to the floor hopefully tomorrow.

I begin by complimenting the gentleman from Florida (Chairman GOSS) for the manner in which he has guided the committee. He has been consistently fair and always true to his word. I think that is a great compliment and one that he deserves completely. The committee's reputation for bipartisanship has been enhanced by his disposition toward encouraging and respecting the views of all of our members, as will be clear when we see how easy it is for this bill to pass on the floor.

The chairman has explained well the provisions of the bill. It recommends substantially more money, many billions of dollars more, than was provided for the current fiscal year. If the amounts recommended in the bill are appropriated, the community will receive the largest one-year increase in funding on a percentage basis in at least the last two decades. Much of this increase is directly attributable to the September 11 attacks.

Although no amount of money can guarantee that there will not be additional instances of terrorism, the funding recommended by this bill should make it harder to undertake in a successful way future terrorist attacks like those conducted on September 11. The committee's priority must be on making sure that this money is spent well on programs and activities that will produce results, not only against terrorism, but against other important intelligence targets as well.

We have worked very closely in a bipartisan way on our committee under the leadership of the gentleman from Florida (Mr. GOSS). I want to commend the gentleman from Georgia (Mr. BISHOP), the gentlewoman from California (Ms. HARMAN), the gentleman from California (Mr. CONDIT), the gentleman from Indiana (Mr. ROEMER), the gentleman from Texas (Mr. REYES), the gentleman from Iowa (Mr. BOSWELL), the gentleman from Minnesota (Mr. PETERSON), and the gentleman from Alabama (Mr. CRAMER) for their distinguished service on the committee as well, and join others in commending the staff for the excellence of their work and their service to our country.

I leave it to the distinguished chairman to recognize the majority members, but every one of them makes a tremendous contribution to our country's security.

Intelligence is integral to that security, to the protection of the American people and our national interests at home and abroad. Whether our interests are defined as providing security to a special operations team in Afghanistan or passengers in an airliner in the skies over California, timely and reliable intelligence is a necessity.

Although there may be differences over the manner in which some intelligence activities are conducted, and indeed we have our differences, I think we all place a high value on the protective responsibility being discharged effectively by the intelligence community. To do that, a big investment in technology and in people is needed. The investments necessary to enhance mission success in this area are recommended in this bill.

Mission success is produced by things other than money. The world has changed greatly since I joined the committee 10 years ago. I think I have served longer on the committee than anyone. Now my service is coming to an end. At that time, 10 years ago, the intelligence community was primarily focused on the aftermath of the collapse of the Soviet Union. Today, as we know, it is primarily focused on fighting terrorism.

I have been concerned that the intelligence agencies have not been quick enough to recognize the changes in training, tactics and methods of operation required to shift from dealing with a fixed target, like the Soviet Union, to more nimble targets like the terrorists and the proliferators of weapons of mass destruction. I think the record suggests that the shift has been harder to accomplish than had been presumed. In fact, in some areas it has not been fully implemented yet.

For example, the pace toward creating a more diverse workforce in the intelligence community, and in improving the language capabilities of the workforce, have been too slow. Although I recognize that the relatively small number of new employees able to be hired across the community since the end of the Cold War made that a difficult challenge, today a significant increase in the workforce is happening through an acceleration in hiring, and it presents a tremendous opportunity for us to attract and reach out for the diversity that will make mission success more possible.

I expect that community leaders will use this opportunity by redoubling their efforts to attract and advance people with diverse religious, ethnic, and cultural backgrounds, and with capabilities in those languages in which the agencies have traditionally been weak.

H.R. 4628 does much to emphasize language training and to provide incentives to maintain proficiency. Partnerships with entities outside the government to improve the language skills of current employees, as well as new hires, are encouraged. An amendment is expected to study the feasibility of establishing a reserve core of linguists. These are good initiatives which do much to address one of the intelligence community's biggest needs. I commend the gentleman from Indiana (Mr. ROEMER), the gentleman from California (Mr. CONDIT), the gentleman from Texas (Mr. REYES), the gentleman from New York (Mr. BOEHLERT), and the gentleman from Nevada (Mr. GIBBONS) for their leadership within the committee on the language issue. Their efforts have been assisted from outside the committee by the gentleman from California (Mr. FARR). He knows well the importance of this issue, the Defense Language Institute is located in his district, and he has worked tirelessly to improve language training programs.

The bill continues to emphasize the kind of human and technical collection programs necessary to deal with targets like terrorist groups. This emphasis, however, should not ignore the imbalance across the intelligence community between collection and the ability to make use of that which is collected through timely processing, exploitation, and dissemination.

Progress has been made on dissemination, which was one of the most important intelligence shortcomings during the Gulf War, but not enough attention has been paid to making sure that analytic capabilities are sufficient.

□ 2330

Agencies need more analysts, more translators, and more equipment to speed the process of converting data into intelligence. This bill provides some much needed funding in these areas. I hope that the administration will sustain these important initiatives in future budget submissions.

Finally, Mr. Chairman, we are rapidly approaching the first anniversary of September 11. The terrorist attacks of that day are always on our minds. Although the World Trade Center site has been cleared and the rebuilding of the Pentagon proceeds, the mourning for the victims continues and the life of the Nation has been affected profoundly. The committee is engaged in a process of evaluating the performance of the intelligence agencies in the months leading up to the attacks and in assessing how that performance can be improved to better ensure our security in the future.

An important step in that process was taken last week with the release of the report on intelligence capabilities prepared by the Subcommittee on Terrorism and Homeland Security, ably led by the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN). The report will be a valuable tool for the inquiry being conducted jointly by the House and Senate Intelligence Committees. When the report of the joint inquiry is completed, I believe the Nation will have a better understanding of the strengths and weaknesses of our intelligence agencies on September 11 and how weaknesses can be addressed.

The report of the joint inquiry, however, will be limited necessarily by the jurisdiction of the intelligence committees. Despite our best efforts, many of the questions of the families of the victims will not be answered by the committee's work. We owe those families the most thorough and independent investigation possible. Examining all of the issues raised by the attacks will require, in my judgment, an independent commission. I hope such a commission will be established soon. I commend the gentleman from Indiana (Mr. ROEMER) for his leadership on this issue. I look forward to discussing his amendment.

In closing, I want to acknowledge, again the contributions of my colleagues. I will continue my remarks during the amendment process.

Mr. GOSS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS), a decorated pilot from the services and the distinguished chairman of the Subcommittee on Human Intelligence, Analysis and Counterintelligence which covers quite a spectrum.

Mr. GIBBONS. Mr. Chairman, I rise in support of the intelligence authorization bill and I thank my friend and colleague from Florida for yielding me this time.

This is a good bill, Mr. Chairman. It addresses intelligence needs that were identified in past years by the Permanent Select Committee on Intelligence, but only now, after the deaths of many innocent Americans, are these needs getting the broad attention they deserve?

Throughout much of the 1990s, after the end of the Cold War, there was a debate about whether America really needed to spend so much on defense. As for intelligence, some people even said there was no longer any need for the CIA. I believe, and indeed I believe America believes, that this debate is now over. As we know now, prior to September 11, we simply did not have enough intelligence on the plans and intentions of foreign terrorist groups. We paid a high price for that lack of intelligence. The bill before you today will help the intelligence agencies build up their capabilities.

If you want to know the plans and the intentions of terrorist groups, you have to have HUMINT, human intelligence. This is the information you get from human sources, known as "assets" or "agents" or just plain "spies." I want to emphasize that this year's intelligence authorization bill does a great deal to strengthen our HUMINT capability.

For one thing, there is money to hire more CIA operations officers. Last fall after the September attacks, our committee freed CIA's operations officers from the Deutch guidelines, implemented by former CIA Director John Deutch, which literally tied the hands of our CIA intelligence operatives working against so-called "unsavory characters," such as terrorists and narcotics traffickers.

Since last fall, America's intelligence operatives have been doing a great job, but they are now few and far between. We need more and this bill will help ensure that there will be more. This bill also provides money to hire more intelligence analysts and language specialists. Likewise, there is more funding for foreign language training. It is not hard to understand that if your operations officers and analysts have not learned the language of your enemy, you will not succeed in learning his plans and intentions.

In addition, to help strengthen our linguistic expertise nationwide, my Intelligence Committee colleague the gentleman from Indiana (Mr. ROEMER) has offered an amendment to establish a nationwide linguistic reserve corps. I am happy to cosponsor his amendment. These HUMINT and foreign language-related items are just some of the good provisions in this intelligence authorization bill. They are long overdue.

In sum, we have a good bill that provides the proper resources to the intelligence community for this year. The clock is ticking and America's enemies continue with their planning. I urge your support for our intelligence professionals, and I urge your support for this bill.

Mr. BISHOP. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from Texas (Mr. REYES), a very valuable member of our committee who has former ties to the Border Patrol.

Mr. REYES. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of this bill. First I want to thank both Chairman GOSS and Ranking Member PELOSI for developing a bill that is designed to meet the intelligence challenges that our Nation is currently facing. Their leadership on critical intelligence issues has been an inspiration and very noteworthy for all of us on the committee.

Since the events of September 11, we have been wrestling with many issues in our quest to enhance our intelligence-gathering capabilities. It is apparent now more than ever that intelligence is the cornerstone in successfully prosecuting the war on terror and securing our homeland. Chairman GOSS and Ranking Member PELOSI have ensured that this outstanding bill provides for the funding and the policy guidance to get this job done. I thank them for their continued commitment to our Nation and to our committee.

One of the things that we have also learned is the need for reliable human intelligence. The lives of our citizens are much too valuable to be trusted to proxy agents. This bill addresses this issue. We need analysts and case officers with language skills and expertise in foreign areas. At both the NSA and CIA, literally thousands of pieces of data are never analyzed, or are analyzed after the fact because there are too few analysts and even fewer with the necessary language skills.

I am proud to have played a role in the construction of this bill, especially the components of it that exemplify the mindset of thinking out of the box, something that will be essential in our future success in fighting terrorism. If we do not innovate and ride the dragon of change, then surely that dragon will ride us. That is why I am especially proud to be a cosponsor of the gentleman from Indiana's amendment to authorize additional funding for the national security education program and to establish the national flagship language initiative.

One of the lessons we have learned in the current conflict is a shortage of qualified linguists who are central to intelligence-gathering operations such as interrogations and signals intelligence. This bill will alleviate that shortage.

Mr. Chairman, I urge all my colleagues to support this bill.

Mr. GOSS. Mr. Chairman, I am very pleased to yield 2½ minutes to the distinguished gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Chairman, I rise in support of the intelligence authorization bill and thank our good friend and colleague, the gentleman from Florida (Mr. GOSS) for the good work that he does and also the gentlewoman from California (Ms. PELOSI) for the good work that she does and all the members of the committee and the staff.

I would like to take just a couple of minutes also to praise the dedicated men and women of our intelligence agencies. America's rank and file intelligence specialists were working hard prior to September 11. Since then they have been working overtime and in overdrive, and there is no let-up in sight. Our intelligence authorization bill gives these dedicated professionals the resources they need. I strongly urge colleagues to support it. I am proud of our committee's work. It has been a strong bipartisan effort that we can all be proud of.

This year's bill helps build its human intelligence capabilities. HUMINT, the information we get from individual human sources overseas, is something we need a lot more of. We need to know a lot more about the internal workings and plans of terrorist groups. Every American understands that we have enemies who are plotting future attacks. We need to maximize our ability to neutralize these plots, and this bill provides funding and resources to do just that. The bill helps address the crying need for more foreign language expertise in the intelligence agencies. Each agency has traditionally been responsible to hire and train an adequate number of linguists, but no agency has ever been able to meet its goals, and the lack of foreign language capability remains a community-wide problem.

Ladies and gentlemen, it stands to reason that if America's intelligence officers cannot understand what our enemies are saying to each other, we will never be able to adequately protect our citizens and our interests.

□ 2340

However, with our bill Congress steps into increased resources for language training and for transition efforts across the entire intelligence community.

Let me just say that when the amendment of the gentleman from Indiana (Mr. ROEMER) to establish a commission comes before the floor, I will strongly oppose that amendment and speak against it as strongly as I can. I think it is an ill-timed amendment, and I hope we do not pass it.

In conclusion, I repeat I am proud of America's rank-and-file intelligence professionals, and I likewise am proud of the Permanent Select Committee on Intelligence's work to provide them the resources they need. I urge strong support of all Members for this bill.

Mr. BISHOP. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, I thank my friend for yielding me this time.

Mr. Chairman, I want to congratulate the gentleman from Florida (Mr. GOSS), the gentlewoman from California (Ms. PELOSI), and all of the members of the committee for bringing forward an excellent bill. I encourage all of my colleagues to support the legislation.

I wholeheartedly agree with the committee's report that the success of intelligence normally goes unnoticed, for obvious and correct reasons, while failures seem to be immediately brought to the public's eye.

I want to commend the dedicated and hard-working employees of the NSA in my district who work tirelessly in secret with little public reward or praise for their many accomplishments.

Mr. Chairman, I have visited NSA on many occasions, and I agree with the committee report that there are two critical challenges that NSA faces. One is sufficient linguists. We have talked about that already today, the fact is that the inability of budget support to attract sufficient linguists has compromised NSA's mission and that we need to improve the current language programs. The legislation before us authorizes additional funds for us to be able to accomplish that very important challenge.

The second issue is how to deal with the buy-versus-make policy for the outsourcing of nonmission critical programs. I think the committee report addresses that issue appropriately.

Mr. Chairman, the bottom line is that this legislation provides the additional resources to our intelligence community so they can collect and analyze the necessary information, set the priorities as to what is important for national security, and do that in a timely way. It also at NSA provides resources for additional research to protect U.S. communications.

I think this is a very balanced bill. It is a bill that responds to the security challenges of our Nation, providing the resources and providing the direction that is necessary, and I urge my colleagues to support the legislation.

Mr. GOSS. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from Michigan (Mr. HOEKSTRA), a very valuable member of the committee.

Mr. HOEKSTRA. Mr. Chairman, I rise in strong support of H.R. 4628, the Intelligence Authorization Act for Fiscal Year 2003. Over the past decade, Americans have witnessed extraordinary changes in the international security environment. To the average American, some of these new threats were unforeseen. To others, they were simply unimaginable.

We live in a different world than that which existed prior to September 11, 2001; and this body is obligated to ensure that every step is taken to protect our Nation against all threats, new and old.

Mr. Chairman, H.R. 4628 provides important funding that permits the intelligence community to better confront these threats and ensure greater security of Americans at home and abroad.

It is a good, a bipartisan bill. H.R. 4628 addresses numerous intelligence needs, some of which have been underscored by the dramatic events of the past year.

One of the country's most important weapons in the war on terrorism is a diverse, well-trained and experienced intelligence personnel. Intelligence officers, whether they are collectors, analysts, linguists or support personnel, have been working in an overload capacity since 9–11. These brave, patriotic men and women deserve the recognition of this body, and H.R. 4628 takes steps to encourage these officers to continue their tireless service to the country by recommending for them fair compensation, benefits and stronger career planning.

In addition to receiving enhanced specialized training and collecting and analyzing critical intelligence, these officers need strong foreign language skills to operate effectively in parts of the world where our adversaries might lurk. H.R. 4628 addresses the intelligence community's critical need for better language training, targeting specific training for its officers as well as the long-standing issue of the recapitalization of specific technological intelligence platforms.

Mr. Chairman, this Member urges support for H.R. 4628.

Mr. BISHOP. Mr. Chairman, I reserve the balance of my time.

Mr. GOSS. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from North Carolina (Mr. BURR.)

Mr. BURR of North Carolina. Mr. Chairman, I rise today in support of the Intelligence Authorization Act for Fiscal Year 2003. As a member of the Subcommittee on Terrorism and Homeland Security, I am particularly eager for this bill to be voted into law.

During the course of the 107th Congress, the subcommittee, which began as a Speaker's working group in January 2001, heard testimony from dozens of intelligence officials, both at home and abroad, from counterterrorism commissioners, foreign officials and hosts of other terrorism experts. In the end, we found an intelligence community that has suffered severely over the protracted period from budget shortfalls and poor internal management decisions about the allocation of available resources. Significant collection gaps, not just in the realm of counterterrorism, were identified, and many of these problems have proven to be systemic.

H.R. 4628 provides a significant new resource for the most neglected areas of the community and guidance for how the most pressing gaps can be expeditiously closed. The community's most crucial counterterrorism shortcomings, as we judged in a classified report released in unclassified summary form last Wednesday, are as follows: a chronic linguistic shortfall across the community; a shortage of core human intelligence collectors out on the streets in bazaars hunting potential terrorist spies; a culture of risk aversion that has permeated collection operation and is manifest in the CIA's

1995 "Internal Human Rights Guidelines" promulgated by Director of Central Intelligence John Deutch. These management-generated guidelines have tied the hands of those brave men and women on the front lines for far too long.

George Tenet finally repealed these guidelines just last Thursday, the day after the counterterrorism gaps report was released, and some 7 months after he was directed to do so in the fiscal year 2002 intelligence authorization.

The community also lacks analysts in sufficient numbers and with sufficient skills at the CIA, FBI, and NSA to connect all the dots out there that are being unearthed and examined in isolation. The FBI needs to change its culture and traditional methods of operating from emphasis on after-the-fact.

Does H.R. 4628 solve all the problems? No one authorization could possibly do that. But this bill takes us further in terms of targeting resources than we have seen in some time. I submit this bill is critical in getting the intelligence community on the right track and that there is no time to waste in this endeavor.

Mr. GOSS. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from Alabama (Mr. EVERETT), a valued member of the committee as well.

Mr. EVERETT. Mr. Chairman, I, too, rise today in strong support of H.R. 4628, the Intelligence Authorization Bill for Fiscal Year 2003. I am proud of the bipartisan work that went into the crafting of this bill. The gentleman from Florida (Chairman GOSS) and the ranking member, the gentlewoman from California (Ms. PELOSI), deserve a great deal of credit for this bipartisan effort and the great product that we have before us today.

□ 2350

It would be disingenuous to state that all is well within the United States intelligence community. The House Permanent Select Committee on Intelligence has been for a number of years identifying a number of major shortfalls and providing for our foreign intelligence needs. We have identified shortfalls, major limitations in human intelligence officers and assets. We have pointed out the limited capabilities this Nation has with respect to foreign language specialists. We have identified problems with aging systems and capabilities. And we have identified a serious problem with respect to taking calculated risks in collecting critical intelligence against those who would do our Nation harm.

Mr. Chairman, this bill represents a major step forward in correcting many of these problems by funding programs, operations, and personnel that are vital to the security of this Nation. This bill is important in particular in that it begins to focus on modernization and upgrading our signals intelligence capacities. It provides funding authorizations to modernize capabilities that have long been ignored.

Although I am supportive of the fund recommendations and policy directions of this bill, I have been personally concerned that it may be difficult for a national security agency to effectively obligate the large infusion of funding. Therefore, the bill directs executive oversight actions for these acquisition programs of the National Security Agency. I believe the guidance and direction in the bill will result in honest appraisals and recommendations to the Congress to ensure the taxpayers' dollars are most effectively spent. I feel this is a good bill that balances the increased investments against critical priorities with procedures, and I recommend its passage to my colleagues.

Mr. Chairman, I rise today in strong support of H.R. 4628, the Intelligence Authorization Bill for fiscal year 2003.

I am proud of the bipartisan work that went into the crafting of the bill. Chairman GOSS and our Ranking Member, NANCY PELOSI deserve a great deal of credit for this bipartisan effort and for the great product that we have before us today.

It would be disingenuous to state that all is well within the United States Intelligence Community. The House Permanent Select Committee on Intelligence has been for a number of years systematically identifying a number of major shortfalls in providing for our foreign intelligence needs. We have identified funding shortfalls, major limitations in human intelligence officers and assets. We have pointed out the limited capabilities this nation has with respect to foreign language specialists. We have identified problems with aging systems and capabilities. And, we have identified a serious problem with respect to taking calculated risks in collecting critical intelligence against those who would do our nation harm.

Mr. Chairman, this bill represents a major step forward in correcting many of these problems by funding programs, operations, and personnel that are vital to the security of the United States. This bill represents the largest increase for foreign intelligence funding in our a decade, and provides the necessary resources for improving our efforts to protect the homeland and support our forces—civilian, military and diplomatic—waging the current war on terrorism. The policies and programs in this bill will enable us to strengthen our intelligence capabilities to ensure the best foreign intelligence efforts possible.

This bill is important, in particular, in that it begins to focus on modernizing and upgrading our signals intelligence capabilities. It provides funding authorizations to modernize capabilities that have long been ignored. While focusing on modernization, it maintains a fair balance to ensure that current and legacy capabilities continue to be viable and contribute to our national security efforts by providing the necessary collection and analysis capabilities.

Although I am supportive of the funding recommendations and policy directions in the bill, I have been personally concerned that it may be difficult for the National Security Agency to effectively obligate the large infusion of funding. Therefore, the bill directs specific executive oversight actions for these acquisition programs of the National Security Agency. I believe the guidance and direction in the bill will result in honest appraisals and recommendations to the Congress to ensure the taxpayers' dollars are most effectively spent.

Mr. Chairman, this bill puts a great deal of emphasis on getting the Intelligence Community "back to the basics." In short, this bill begins to correct the systemic problems that left us under-prepared for warning against the terrorist attacks on America.

I feel that this is a good bill that balances the increased investment against critical priorities with procedures for effectively monitoring the wise investment of the taxpayers money. Mr. Chairman, I urge my colleagues to support H.R. 4628.

Mr. BISHOP. Mr. Chairman, we have no further requests for time. I think the bill has been very adequately explained and debated. It is a good bill, and I urge my colleagues in the House to support it.

Mr. Chairman, I yield back the balance of our time

Mr. GOSS. Mr. Chairman, I want to congratulate the Members for their participation and their help in explaining what this bill does for the American people and our national security.

Mr. BLUMENAUER. Mr. Chairman, I would like to thank my colleagues, Congressmen FARR, ROEMER, GIBBONS, and REYES, for their leadership in taking steps to establish a Civilian Linguistic Reserve Corps. As we search for ways to improve the functioning of our intelligence agencies, we must take advantage of our existing resources, including individuals highly trained in linguistics. In fact, the idea of utilizing citizen linguists was presented to me by one of my constituents who is a former U.S. Army Arabic linguist. He shared useful suggestions regarding how we can benefit from the skills of linguists, such as himself.

The Civilian Linguist Reserve Corps would be comprised of United States citizens with advanced levels of proficiency in foreign languages who would be available to perform services using these foreign languages as the President may specify.

I compliment my colleague SAM FARR for working to establish a registry of these linguists, which the Civilian Linguistic Reserve Corps builds upon. The Defense Language Institute (DLI) is located in Monterey, California in Rep. FARR's district. The DLI trains many members of our military in languages such as Dari, Pashto, Urdu, Uzbek, Georgian, Chechen, and Albanian. We cannot afford to lose these capabilities and the Civilian Linguistic Reserve Corps is a perfect solution to facilitate the continued service of these linguists.

Mr. SIMMONS. Mr. Chairman, I rise today in strong support of the fiscal year 2003 Intelligence Authorization bill (H.R. 4628). Since the end of the Cold War we have permitted our intelligence community to grow weak by under funding accounts and imposing politically correct restrictions. Our nation cannot afford to keep its guard down. The live of our citizens are at stake.

This legislation moves us forward in reconstructing our intelligence gathering and analytical capabilities. H.R. 4628 builds on the progress of last year's authorization measure adding more money in critical areas we have now identified as deficient in the analysis of the attacks on our country last September 11.

This week the House will vote on the biggest restructuring of our government in 50 years so that we better meet the challenges of terrorism. But we should never think that structural changes alone could bring security. H.R. 4628 addresses a critical dimension of our security needs—better intelligence for early warning.

This legislation enhances efforts to rebuild our Nation's human intelligence capabilities: sharpening skills and expertise and strengthening presence and reach. The measure addresses shortfalls in our intelligence community's analytical abilities so that we might fortify that capability and provide consumers of intelligence the precise data and thorough analysis they require.

The measure also shores up shortfalls in the Defense Department's signals intelligence and Unmanned Airborne Vehicle programs. Directly addressing the shortage of capability in interrogation, the measure enhances our ongoing efforts to acquire valuable information from combatant detainees at Guantanamo Bay.

Finally, the measure addresses the essential need to upgrade our intelligence community's language skills programs. I spent 10 years as an operation officer in the CIA. Five of those years were spent overseas in the Far East where my language training and ability was an important tool in my daily routine and success. I know that language skills are critical to operational effectiveness. Not only must we improve these skills for our operations officers but also for our communications specialist and analysts.

Mr. Chairman, recently the Greek police arrested ten members of the Revolutionary Organization November 17. This elusive group has terrorized Greece for over 25 years killing more than a dozen diplomats, civilians and police officers.

One person killed by that group was Richard Welch, the CIA station chief in Athens, whose name had been exposed by an anti-intelligence publication. Masked gunmen had cut him down in front of his home, a few days before Christmas. I remember his murder well. Later I would meet his widow and work with the late Senator John H. Chafee to pass the Intelligence Identities Protection Act in 1982 to protect other clandestine operatives from similar assassination.

The dismantlement of this group is timely in that it reminds us of the importance of intelligence work today, and the risks involved for many who serve in our intelligence community. I find comfort that the assassins of Richard Welch have been captured, that Greek citizens are free of its terrors, and that justice may finally be served.

Mr. Chairman, our intelligence community remains on the front lines of the war on terrorism. Many of them serve with great courage and without recognition. Many of them gather information at great risk to their lives and those of their families. They provide information of great value to the defense of our nation. This bill brings more resources, tools, skills, and more assets to the people whose tireless and courageous efforts help protect our nation.

I strongly support this legislation and applaud the members of the committee and the staff on their fine work.

Mr. GOSS. Mr. Chairman, I too am happy to yield back the balance of our time.

The CHAIRMAN pro tempore (Mr. PETRI). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment, and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

*(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2003".*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*Sec. 1. Short title; table of contents.*

*TITLE I—INTELLIGENCE ACTIVITIES*

*Sec. 101. Authorization of appropriations.*
*Sec. 102. Classified schedule of authorizations.*
*Sec. 103. Personnel ceiling adjustments.*
*Sec. 104. Community Management Account.*
*Sec. 105. Authorization of emergency supplemental appropriations for fiscal year 2002.*

*TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM*

*Sec. 201. Authorization of appropriations.*

*TITLE III—GENERAL PROVISIONS*

*Sec. 301. Increase in employee compensation and benefits authorized by law.*
*Sec. 302. Restriction on conduct of intelligence activities.*
*Sec. 303. Sense of Congress on intelligence community contracting.*
*Sec. 304. Semiannual report on financial intelligence on terrorist assets (FITA).*
*Sec. 305. Modification of excepted agency voluntary leave transfer authority.*
*Sec. 306. Additional one-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.*
*Sec. 307. Prohibition on compliance with requests for information submitted by foreign governments.*
*Sec. 308. Cooperative relationship between the National Security Education Program and the Foreign Language Center of the Defense Language Institute.*
*Sec. 309. Establishment of National Flagship Language Initiative within the National Security Education Program.*
*Sec. 310. Deadline for submittal of various overdue reports.*

*TITLE IV—CENTRAL INTELLIGENCE AGENCY*

*Sec. 401. Two-year extension of Central Intelligence Agency Voluntary Separation Pay Act.*
*Sec. 402. Prohibition on implementation of compensation reform plan.*

*TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES*

*Sec. 501. Use of funds for counter-drug and counterterrorism activities for Colombia.*
*Sec. 502. Protection of operational files of the National Reconnaissance Office.*
*Sec. 503. Eligibility of employees in intelligence senior level positions for Presidential Rank Awards.*

### *TITLE I—INTELLIGENCE ACTIVITIES*

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

*Funds are hereby authorized to be appropriated for fiscal year 2003 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:*

*(1) The Central Intelligence Agency.*

*(2) The Department of Defense.*

*(3) The Defense Intelligence Agency.*

*(4) The National Security Agency.*

*(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.*

*(6) The Department of State.*

*(7) The Department of the Treasury.*

*(8) The Department of Energy.*

*(9) The Federal Bureau of Investigation.*

*(10) The National Reconnaissance Office.*

*(11) The National Imagery and Mapping Agency.*

*(12) The Coast Guard.*

**SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

*(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2003, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 4628 of the One Hundred Seventh Congress.*

*(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.*

**SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

*(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2003 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.*

*(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.*

**SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.**

*(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2003 the sum of $176,179,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for*

*the Advanced Research and Development Committee shall remain available until September 30, 2004.*

*(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized 350 full-time personnel as of September 30, 2003. Personnel serving in such elements may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.*

*(c) CLASSIFIED AUTHORIZATIONS.—*

*(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there are also authorized to be appropriated for the Community Management Account for fiscal year 2003 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2004.*

*(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 2003, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.*

*(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2003 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.*

*(e) NATIONAL DRUG INTELLIGENCE CENTER.—*

*(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), $34,100,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2003, and funds provided for procurement purposes shall remain available until September 30, 2004.*

*(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.*

*(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).*

*(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.*

### *SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.*

*(a) AUTHORIZATION.—Amounts authorized to be appropriated for fiscal year 2002 under section 101 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108) for the conduct of the intelligence activities of elements of the United States Government listed in such section are hereby increased, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased by the following:*

*(1) The Emergency Supplemental Act, 2002 (contained in division B of Public Law 107–117), including section 304 of such Act (115 Stat. 2300).*

*(2) An emergency supplemental appropriation in a supplemental appropriations Act for fiscal year 2002 that is enacted after May 1, 2002, amounts as are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).*

*(b) RATIFICATION.—For purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), any obligation or expenditure of those amounts deemed to have been specifically authorized by the Act referred to in subsection (a)(1) and by the supplemental appropriations Act referred to in subsection (a)(2) is hereby ratified and confirmed.*

## *TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM*

### *SEC. 201. AUTHORIZATION OF APPROPRIATIONS.*

*There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2003 the sum of $351,300,000.*

## *TITLE III—GENERAL PROVISIONS*

### *SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.*

*Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.*

### *SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.*

*The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.*

### *SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.*

*It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.*

### *SEC. 304. SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS (FITA).*

*(a) SEMIANNUAL REPORT.—*

*(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:*

*"SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS*

*"SEC. 118. (a) SEMIANNUAL REPORT.—On a semiannual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees (as defined in subsection (c)) that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding six-month period—*

*"(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;*

*"(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities, that were granted, modified, or denied;*

*"(3) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and*

*"(4) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Unit (managed and coordinated by the Counterterrorism Center of the Central Intelligence Agency).*

*"(b) IMMEDIATE NOTIFICATION FOR EMERGENCY DESIGNATION.—In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.*

*"(c) DEFINITION.—In this section, the term 'appropriate congressional committees' means the following:*

*"(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.*

*"(2) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.".*

*(2) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 117 the following new item:*

*"Sec. 118. Semiannual report on financial intelligence on terrorist assets.".*

*(b) CONFORMING AMENDMENT.—Section 501(f) of the National Security Act of 1947 (50 U.S.C. 413(f)) is amended by inserting before the period the following: ", and includes financial intelligence activities".*

### *SEC. 305. MODIFICATION OF EXCEPTED AGENCY VOLUNTARY LEAVE TRANSFER AUTHORITY.*

*(a) IN GENERAL.—Section 6339 of title 5, United States Code, is amended—*

*(1) by striking subsection (b);*

*(2) by redesignating subsection (c) as subsection (b); and*

*(3) by inserting after subsection (b) (as so redesignated by paragraph (2)) the following:*

*"(c)(1) Notwithstanding any provision of subsection (b), the head of an excepted agency may, at his sole discretion, by regulation establish a program under which an individual employed in or under such excepted agency may participate in a leave transfer program established under the provisions of this subchapter outside of this section, including provisions permitting the transfer of annual leave accrued or accumulated by such employee to, or permitting such employee to receive transferred leave from, an employee of any other agency (including another excepted agency having a program under this subsection).*

*"(2) To the extent practicable and consistent with the protection of intelligence sources and methods, any program established under paragraph (1) shall be consistent with the provisions of this subchapter outside of this section and with any regulations issued by the Office of Personnel Management implementing this subchapter.".*

*(b) CONFORMING AMENDMENTS.—Section 6339 of such title is amended—*

*(1) in paragraph (2) of subsection (b) (as so redesignated by subsection (a)(2)), by striking "under this section" and inserting "under this subsection"; and*

(2) in subsection (d), by striking "of Personnel Management".

### SEC. 306. ADDITIONAL ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301 note; 115 Stat. 1401) is amended—

(1) in the heading, by striking "ONE-YEAR" and inserting "TWO-YEAR"; and

(2) in the text, by striking "October 1, 2002" and inserting "October 1, 2003".

### SEC. 307. PROHIBITION ON COMPLIANCE WITH REQUESTS FOR INFORMATION SUBMITTED BY FOREIGN GOVERNMENTS.

Section 552(a)(3) of title 5, United States Code, is amended—

(1) in subparagraph (A) by inserting "and except as provided in subparagraph (E)," after "of this subsection,"; and

(2) by adding at the end the following:

"(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to—

"(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or

"(ii) a representative of a government entity described in clause (i).".

### SEC. 308. COOPERATIVE RELATIONSHIP BETWEEN THE NATIONAL SECURITY EDUCATION PROGRAM AND THE FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.

Section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding at the end the following new subsection:

"(h) USE OF AWARDS TO ATTEND THE FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.—(1) The Secretary shall provide for the admission of award recipients to the Foreign Language Center of the Defense Language Institute (hereinafter in this subsection referred to as the 'Center'). An award recipient may apply a portion of the applicable scholarship or fellowship award for instruction at the Center on a space-available basis as a Department of Defense sponsored program to defray the additive instructional costs.

"(2) Except as the Secretary determines necessary, an award recipient who receives instruction at the Center shall be subject to the same regulations with respect to attendance, discipline, discharge, and dismissal as apply to other persons attending the Center.

"(3) In this subsection, the term 'award recipient' means an undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been a fellowship under subsection (a)(1)(B) who—

"(A) is in good standing;

"(B) has completed all academic study in a foreign country, as provided for under the scholarship or fellowship; and

"(C) would benefit from instruction provided at the Center.".

### SEC. 309. ESTABLISHMENT OF NATIONAL FLAGSHIP LANGUAGE INITIATIVE WITHIN THE NATIONAL SECURITY EDUCATION PROGRAM.

(a) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—

(1) EXPANSION OF GRANT PROGRAM AUTHORITY.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(A) by striking "and" at the end of subparagraph (B)(ii);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) awarding grants to institutions of higher education to carry out a National Flagship Language Initiative (described in subsection (i)).".

(2) PROVISIONS OF NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—Such section, as amended by section 308, is further amended by adding at the end the following new subsection:

"(i) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—(1) Under the National Flagship Language Initiative, institutions of higher learning shall establish, operate, or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

"(2) An undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been awarded a fellowship under subsection (a)(1)(B) may participate in the activities carried out under the National Flagship Language Initiative.

"(3) An institution of higher education that receives a grant pursuant to subsection (a)(1)(D) shall give special consideration to applicants who are employees of the Federal Government.

"(4) For purposes of this subsection, the Foreign Language Center of the Defense Language Institute and any other educational institution that provides training in foreign languages operated by the Department of Defense or an agency in the intelligence community is deemed to be an institution of higher education, and may carry out the types of activities permitted under the National Flagship Language Initiative.".

(3) WAIVER OF FUNDING ALLOCATION RULES.—Subsection (a)(2) of such section is amended by adding at the end the following flush sentences: "The funding allocation under this paragraph shall not apply to grants under paragraph (1)(D) for the National Flagship Language Initiative described in subsection (i). For the authorization of appropriations for the National Flagship Language Initiative, see section 811.".

(4) BOARD REQUIREMENT.—Section 803(d)(4) of such Act (50 U.S.C. 1904(d)(4)) is amended—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) which foreign languages are critical to the national security interests of the United States for purposes of section 802(a)(1)(D) (relating to grants for the National Flagship Language Initiative).".

(b) FUNDING.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

### "SEC. 811. ADDITIONAL ANNUAL AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—In addition to amounts that may be made available to the Secretary under the National Security Education Trust Fund (under section 804 of this Act) for a fiscal year, there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, $10,000,000, to carry out the grant program for the National Flagship Language Initiative under section 802(a)(1)(D).

"(b) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to the authorization under subsection (a) shall remain available until expended.".

### SEC. 310. DEADLINE FOR SUBMITTAL OF VARIOUS OVERDUE REPORTS.

(a) DEADLINE.—The reports described in subsection (c) shall be submitted to Congress not later than 180 days after the date of the enactment of this Act.

(b) NONCOMPLIANCE.—(1) If all the reports described in subsection (c) are not submitted to Congress by the date specified in subsection (a), amounts available to be obligated or expended after that date to carry out the functions or duties of the following offices shall be reduced by 1/3:

(A) The Office of the Director of Central Intelligence.

(B) The Office of Community Management Staff.

(2) The reduction applicable under paragraph (1) shall not apply if the Director of Central Intelligence certifies to Congress by the date referred to in subsection (a) that all reports referred to in subsection (c) have been submitted to Congress.

(c) REPORTS DESCRIBED.—The reports referred to in subsection (a) are reports mandated by law for which the Director of Central Intelligence has sole or primary responsibility to prepare, or coordinate, and submit to Congress which, as of the date of the enactment of this Act, have not been submitted to Congress by the date mandated by law.

## TITLE IV—CENTRAL INTELLIGENCE AGENCY

### SEC. 401. TWO-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) in subsection (f), by striking "September 30, 2003" and inserting "September 30, 2005"; and

(2) in subsection (i), by striking "or 2003" and inserting "2003, 2004, or 2005".

### SEC. 402. PROHIBITION ON IMPLEMENTATION OF COMPENSATION REFORM PLAN.

No plan by the Director of Central Intelligence that would revise the manner in which employees of the Central Intelligence Agency, or employees of other elements of the United States Government that conduct intelligence and intelligence-related activities, are compensated may be implemented until the plan has been specifically authorized by statute.

## TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

### SEC. 501. USE OF FUNDS FOR COUNTER-DRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

Notwithstanding any other provision of law, funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities for fiscal years 2002 and 2003, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

### SEC. 502. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 105C (50 U.S.C. 403–5c) the following new section:

"PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE

"SEC. 105D. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) The Director of the

*National Reconnaissance Office, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.*

*"(2)(A) Subject to subparagraph (B), for the purposes of this section, the term 'operational files' means files of the National Reconnaissance Office (hereafter in this section referred to as 'NRO') that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.*

*"(B) Files which are the sole repository of disseminated intelligence are not operational files.*

*"(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—*

*"(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;*

*"(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or*

*"(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:*

*"(i) The Permanent Select Committee on Intelligence of the House of Representatives.*

*"(ii) The Select Committee on Intelligence of the Senate.*

*"(iii) The Intelligence Oversight Board.*

*"(iv) The Department of Justice.*

*"(v) The Office of General Counsel of NRO.*

*"(vi) The Office of the Director of NRO.*

*"(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.*

*"(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.*

*"(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.*

*"(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.*

*"(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.*

*"(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.*

*"(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:*

*"(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined ex parte, in camera by the court.*

*"(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.*

*"(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.*

*"(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).*

*"(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.*

*"(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.*

*"(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.*

*"(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.*

*"(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.*

*"(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.*

*"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.*

*"(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:*

*"(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.*

*"(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".*

*(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 105C the following new item:*

*"Sec. 105D. Protection of operational files of the National Reconnaissance Office.".*

### *SEC. 503. ELIGIBILITY OF EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS FOR PRESIDENTIAL RANK AWARDS.*

*Section 1607 of title 10, United States Code, is amended by adding at the end the following new subsection:*

*"(c) AWARD OF RANK TO EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507a of title 5 to employees in Intelligence Senior Level positions designated under subsection (a). The award of such rank shall be made in a manner consistent with the provisions of that section.".*

The CHAIRMAN pro tempore. No amendment to that amendment shall be in order except those printed in the designated place in the CONGRESSIONAL RECORD and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments to the bill?

### AMENDMENT NO. 9 OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. ROEMER:

At the end (page 30, after line 7), add the following new title:

## TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

### SEC. 601. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

### SEC. 602. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—Subject to the requirements of subsection (b), the Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—No member of the Commission shall be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service and intelligence gathering.

(c) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to the requirement of paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(d) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(e) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

**SEC. 603. FUNCTIONS OF THE COMMISSION.**

(a) IN GENERAL.—The functions of the Commission are to—

(1) review the implementation by the intelligence community of the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks against the United States which occurred on September 11, 2001;

(B) other reports and investigations of the House Permanent Select Committee on Intelligence of the House of Representatives and the Senate Select Committee on Intelligence of the Senate; and

(C) other such executive branch, congressional, or independent commission investigations of such the terrorist attacks or the intelligence community;

(2) make recommendations on additional actions for implementation of the findings, recommendations and conclusions referred to in paragraph (1);

(3) review resource allocation and other prioritizations of the intelligence community for counterterrorism and make recommendations for such changes in those allocations and prioritization to ensure that counterterrorism receives sufficient attention and support from the intelligence community;

(4) review and recommend changes to the organization of the intelligence community, in particular the division of agencies under the jurisdiction of the Secretary of Defense and the Director of Central Intelligence, the dual responsibilities of the Director of Central Intelligence as head of the intelligence community and as head of the Central Intelligence Agency, and the separation of agencies with responsibility for intelligence collection, analysis, and dissemination; and

(5) determine what technologies, procedures, and capabilities are needed for the intelligence community to effectively support and conduct future counterterrorism missions, and recommend how these capabilities should be developed, acquired, or both from entities outside the intelligence community, including from private entities.

(b) DEFINITION OF INTELLIGENCE COMMUNITY.—In this section, the term "intelligence community" means—

(1) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence and the National Intelligence Council;

(2) the Central Intelligence Agency;

(3) the National Security Agency;

(4) the Defense Intelligence Agency;

(5) the National Imagery and Mapping Agency

(6) the National Reconnaissance Office;

(7) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(8) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard;

(9) the Bureau of Intelligence and Research of the Department of State; and

(10) such other elements of any other department or agency as are designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the intelligence community under section 3(4)(J) of the National Security Act of 1947 (50 U.S.C. 401a(4)(J)).

**SEC. 604. POWERS OF THE COMMISSION.**

(a) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this title—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(b) SUBPOENAS.—

(1) SERVICE.—Subpoenas issued under subsection (a)(2) may be served by any person designated by the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(c) CLOSED MEETINGS.—Notwithstanding any other provision of law which would require meetings of the Commission to be open to the public, any portion of a meeting of the Commission may be closed to the public if the President determines that such portion is likely to disclose matters that could endanger national security.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department, agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this title. Each such department, agency, or instrumentality shall, to the extent authorized by law, furnish such information directly to the Commission upon request.

(f) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(g) GIFTS.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, accept, use, and dispose of gifts or donations of services or property.

(h) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(i) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

**SEC. 605. STAFF OF THE COMMISSION.**

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(b) STAFF.—The Chairperson, in consultation with the Vice Chairperson, may appoint additional personnel as may be necessary to enable the Commission to carry out its functions.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual appointed under subsection (a) or (b) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(d) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(e) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

**SEC. 606. COMPENSATION AND TRAVEL EXPENSES.**

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

**SEC. 607. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

**SEC. 608. REPORTS OF THE COMMISSION; TERMINATION.**

(a) INITIAL REPORT.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing—

(1) such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members; and

(2) such findings, conclusions, and recommendations regarding the scope of jurisdiction of, and the allocation of jurisdiction among, the committees of Congress with oversight responsibilities related to the scope of the investigation of the Commission as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a final report containing such updated findings, conclusions, and recommendations described in paragraphs (1) and (2) of subsection (a) as have been agreed to by a majority of Commission members.

(c) NONINTERFERENCE WITH CONGRESSIONAL JOINT INQUIRY.—Notwithstanding subsection (a), the Commission shall not submit any report of the Commission until a reasonable period after the conclusion of the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks against the United States which occurred on September 11, 2001.

(d) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

**SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Commission to carry out this title **$3,000,000**, to remain available until expended.

Mr. ROEMER. Mr. Chairman, I offer an amendment which is bipartisan, by Democrats and Republicans, to create a bipartisan commission, a blue ribbon commission, to look back at what happened prior to 9–11 and fix the problems, not through a political witch hunt, not through blame, but looking back to fix mistakes so we can move forward and prevent future terrorist attacks.

This is a bipartisan amendment offered by the gentleman from New Jersey (Mr. SMITH), the gentlewoman from New Jersey (Mrs. ROUKEMA), the gentleman from New York (Mr. QUINN), the gentleman from New Jersey (Mr. FERGUSON), the gentleman from California (Mr. ROHRABACHER), the gentleman from Mississippi (Mr. TAYLOR), the gentlewoman from California (Ms. PELOSI), the gentleman from Mississippi (Mr. SHOWS), and a host of other 108 Members, including the gentleman from Washington (Mr. DICKS), distinguished former chairman; and the gentleman from Missouri (Mr. SKELTON), distinguished ranking member from Defense.

Back on 9–11, I distinctly remember just a few days after our Twin Towers were hit in New York City, going up to that site with members of the Permanent Select Committee on Intelligence. We were talking to emergency workers, family members, people affected in New York directly by these attacks. It is one of the most difficult things I think anybody can do in public life, and I can only imagine what the people themselves have been through, losing wives and husbands, brothers and sisters.

Now, we might say, why should we create this blue ribbon commission? The United States, after Pearl Harbor was attacked, it took them 11 days to create a commission to look into what happened. President Roosevelt acted and acted immediately. After Kobar Towers were attacked, we put a commission together. When the Marines were killed in Lebanon, we put a commission together. When the embassies were attacked in Africa, we put a commission together.

Why have we not put a commission together yet after we lose 3,000 Americans in the worst terrorist attack in the Nation's history? That is what I am asking. We need to do it.

Second, we will hear some arguments, maybe from some of my colleagues, that we are doing a joint inquiry with the House and the Senate. I serve on that joint inquiry, and I am very proud of it. But when we have lost 3,000 people, when this report that we read today on the House floor says that we see a host of different intelligence problems out there, language, human intelligence, analytical capabilities, too much stovepiping, not enough communications between Departments, not enough good communication between Washington and field offices, a host of problems across the board, we are not going to take another 18 months to look at these and fix them? We cannot get Lee Hamilton or George Schultz or people that know the right answers and questions and have worked on these things without elections intervening, without timelines in the way, without politics, to look at this, when we have done it almost every other time?

I think we need two looks. The joint inquiry will do a nice job, and so can this blue ribbon commission.

We also, thirdly, Mr. Chairman, will be creating a Homeland Security Department tomorrow or the next day; 170,000 people, $20 billion, $30 billion. We should get it right. We should make sure that that can attack our enemy who is not a sovereign state, but comprised of cells across the world, of four people. Let us make sure this commission can get it right.

Finally, Mr. Chairman, let me conclude. I recently met with a woman, Kristen Breitweiser, who lost her husband in the attacks in 9–11. In my office, she handed me a ring that was around her finger, just like the one I have. And she said, Mr. ROEMER, I want you to help create this commission. This is my husband's ring who died at the World Trade tower when it collapsed. This is all I have left. Congress has not done anything yet to answer the questions. My daughter does not have the answers. You have done it every time in U.S. history. Why not now? Why not today, and why not build better intelligence for the future?

Mr. Chairman, I urge my colleagues to support this bipartisan blue ribbon commission.

Mr. GOSS. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, I wish I could agree with everything that my colleague, the gentleman from Indiana (Mr. ROEMER), just said. I agree with a great deal of what he just said. The problem is, this is the wrong vehicle, and this is the wrong type of blue ribbon committee.

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In fact, in order to be germane to this bill, this blue ribbon committee will be limited in what it can do to just what the oversight and intelligence committees actually do. Otherwise, this would be a nongermane amendment, as we all know, and actually the intelligence committees are planning to continue doing just what they are doing. And, in fact, they are not only doing their daily job but we are doing a joint bicameral 9–11 review.

So virtually actually everything that the gentleman from Indiana (Mr. ROEMER) said this blue ribbon commission could do, is being done by the committee in their daily work and the joint committee, the 9–11 review.

I would also point out that while I agree with the gentleman's idea to have a genuine bona fide blue ribbon national committee that has much broader scope to deal with this as they did in Pearl Harbor, that would include such things as Presidential appointees in addition to the congressional appointees, that would include such things as looking into the oversight of how Congress does its job. We should be held accountable too on the oversight committees. And a true blue ribbon commission could do that. This commission is not going to be able to do that.

What we basically have is a proposal that is a little strangulated in order to comply with the germaneness rules. So what we have is a lot of duplication to what we are already doing. In fact, a lot of work that the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN) and their subcommittee did so well and so proudly, and I think it is being digested now. So we have duplicative work in part of this. Then we have a part of this that talks about a lot of provisions that I do not think are very well crafted. I am not sure how the noninterference provision works, and we do not want to have interference with the 9–11 work that is ongoing because it is extremely important.

I know a good faith effort was made to make sure there is no interference but I am not sure that is actually the result. I think there does need to be an executive branch appointment to this. I do not think Congress should reserve the right to make all the appointees.

I think back to the Aspen Brown Commission and how it profited from having outsiders come in. I think that was a valuable lesson that I learned because that is sort of what we are looking for here, another 9–11.

I would also point out there are other committees of jurisdiction that should be involved in appointing a blue ribbon committee. We have not had hearings on that. I know there is a freestanding bill which I believe deserves to be heard by those committees. They should go through the process, and we should come out with a blue ribbon committee that actually provides the views of the working standing committees of this House and all of those who have equity in it, rather than to try at midnight on this lovely day to put together what is really sort of a jury-rigged proposal. Well-intended, I take nothing away from that.

I think, finally, the one thing I want to congratulate the gentleman for is I agree entirely with him. He is doing something which is very important here which is requiring that there be a look at intelligence architectural reform. I totally support him in that effort. I think that part of this is good, but when you add it all up, I do not think this is the right place to do what he wants to do. And I am afraid his cosponsors from New Jersey are going to be very disappointed. They are going to be delivering a product to those survivors who are also talking to me, believe me, and we have some in my district. This is not going to do the job they want because it does not have the scope to do it.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Indiana.

Mr. ROEMER. As the Chairman knows, if we had crafted the amendment the way the gentleman would have suggested to be a bit broader, he probably would have objected to it on a point of order. And the Committee on Rules did not protect my amendment to do those very things. Does the gentleman have a suggestion?

Mr. GOSS. Reclaiming my time, there are four other chairmen and four other ranking committee members, and all the members of those committees who are counting on the rules of the House to make sure that they get their equities protected in what the gentleman is trying to propose.

And the gentleman knows, and as we have talked before, I am not opposed to what he is trying to do. I am opposed to trying to do it in this restricted scope way that does not accomplish his purpose and adds a burden to my bill and which, frankly, I do not think will serve the purpose either of us wants.

Mr. BISHOP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, last fall the committee approved a creation of an independent commission to examine all aspects of the September 11 attacks. In the course of the legislative process, that proposal was first weakened and ultimately eliminated. I supported the commission concept not because I was concerned that the intelligence committees could not review adequately the performance of the intelligence agencies in the months leading up to September 11, but because I knew that review would be limited necessarily to those agencies.

The September 11 story extends beyond the intelligence agencies, and to be told comprehensively, needs to assess the performance of agencies outside the intelligence community. A commission that is unencumbered by jurisdictional concerns could take that kind of comprehensive look at September 11.

I would hope that the House tonight would have a chance to again consider a commission proposal like the one that was approved by the Permanent Select Committee on Intelligence last year. Although that will apparently not be the case, I believe the commission amendment offered by the gentleman from Indiana (Mr. ROEMER) will make a valuable contribution to a better national understanding of the September 11 events and what is being done within the intelligence community to respond to them. Therefore, I urge the adoption of the amendment.

Mr. LAHOOD. Mr. Chairman, I move to strike the requisite number of words.

We have a blue ribbon commission. It has already been established. The gentleman is a member of it. We are standing around here for an hour praising each other about what great experts we are, what a great chairman we have, what a great ranking member we have. Does the gentleman know why? Because they are all experienced people. Some of the people having doing the work for years.

I have only been on it for 2½ years. I know the gentleman from Indiana (Mr. ROEMER) has been on it longer than that. You are an expert. In certain areas you are an expert. Yes, you are. You know you are.

I certainly think the gentlewoman from California (Ms. HARMAN) and the gentleman from Georgia (Mr. CHAMBLISS) are experts after the work they did on the anti-terrorism report that they just came out with. And no one would deny that the gentleman from Florida (Mr. GOSS) and the gentlewoman from California (Ms. PELOSI) are experts.

We have a blue ribbon commission and it has been working. We have 25 professional staff people from both sides that are working very hard on this. And the last thing we need to do is establish another commission that would take a year to establish, to hire staff. You talk about being behind the eight ball and getting answers for people, it is not going to happen.

What about the leaks? The two chairmen just sent a letter to the FBI asking for an investigation of leaks. So what are we going to do? Share information with the world? Under the Roemer amendment, they can subpoena people. They will have public hearings. They can bring in the CIA director, the FBI director, they will testify before the whole world. What purpose will that serve, particularly when we are trying to help the intelligence community become better at what they are doing? Not by sharing it with the world, not by having subpoena power, not by allowing people to hold public meetings.

This is a ridiculous idea, particularly given the fact that we have a blue ribbon commission by the people that are already experts in it anyway.

We had this debate a year ago in the committee. We had a real, real spirited debate and we had it here on the floor. And eventually when the bill, the conference committee from the Intelligence Committee came forward, this was not included because I think people realize what a bad idea it is. There is really a bad idea.

The gentleman talked about four commissions, and he cited them very well but what did they accomplish? I guarantee that their reports are sitting on shelves somewhere around here.

What the recommendations they made, nobody could probably really cite. So I do not know what purpose they really have served.

This is a bad idea because it would take too long to establish, to hire the staff. This is a bad idea because they do have good people working on this. And the last thing I think we want is to really infringe on the ability of the intelligence community, to be subpoenaed, to testify in public, to reveal the secrets.

If people wanted to see the bill that we are going to pass here, it is not here. Do you know why? If you want to go up to the committee you can see it, but it is not here because we do not want people to know how much money we are spending, how many more people we are going to hire because that really infringes on the ability of the Permanent Select Committee on Intelligence to do their work. And yet the gentleman wants to have a commission established to shine light on 9–11.

We all want answers, and I think we will get answers. We have gotten some answers from the good report that was done by the gentlewoman from California (Ms. HARMAN) and the gentleman from Georgia (Mr. CHAMBLISS). We will get answers from our joint staff committee. We have great staff people working on that. I think the last thing we need to do is ask distinguished Americans, who would take a long time to appoint, to come forward and do this.

I really ask Members to think about this. This is very bad for the intelligence community. It is very bad for our ability to keep secrets. It is very bad for the professional people who would have to come and testify and swear under oath, the CIA director, the FBI director, people who work in these agencies. This is just unworkable. We are going to get the answers we want. We are going to get the answers for the families of victims. I have no doubt of that because we have good people working on this. And I think in the end, we will come out with a report that will shed light and give answers to many of the things that we need to know.

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I hope Members will vote against this; and I hope when we do vote it down, this will be the end of it, and we will not have to revisit this again because this just does not make any sense for the kind of work that we do in the intelligence-gathering community.

So I ask Members to vote against this very, very bad amendment. It is a lousy amendment. It is not going to serve any purpose, and it really does not make any sense in light of all the other things we are doing around here, all the activity that is going on, all the staff that are hired and collecting information and trying to figure out what is happening.

All the members of the committee have been sitting through those 2-day-a-week full-day hearings that are going on by our joint committee. There is a lot of information. Members really have to pay attention, and to think that some blue ribbon group from around the country is going to get up to speed on this, it is going to take a year to appoint them, and then to get up to speed, it will be another 2 years with a recommendation.

Bad idea, bad amendment. Vote it down. My colleagues will be doing a favor to the intelligence community.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

I rise in very strong support of this well-thought-out amendment. Let me preface my remarks by saying how much respect and admiration I have for the members of the Permanent Select Committee on Intelligence. I want to acknowledge the hours and hours of work they have put in, their integrity, their dedication to this process. I think they have done their country a great service, and I commend each and every member of the committee for that.

Many Members of the Chamber will remember a lot about the events of September 11, 2001, as do I. I also remember how I felt on the morning of September 12, 2001. I woke up, and the first thought that came to my mind was that in the 11 years that I had served in this body I had voted to spend about a half a trillion dollars' worth of taxpayers' money on building an intelligence establishment; and I asked myself what role I had, what responsibility I had in what seemed to me to be a failure of that establishment to defend our country against the calamities of September 11.

I am not here tonight to point any fingers at any agency or any person. I do not know what the chain of causation was that led to the events of September 11, but here is one thing that I do know. I do know that each one of us and each Member in the other body and each institution in American government has questions that need to be asked about it and about its role.

I want to reemphasize, the leadership and work of the individuals who served on the Permanent Select Committee on Intelligence is not the point of my remarks. I wish that we all had the degree of expertise and effort that these individuals have put in, but I think we have to ask some hard questions about the House and about the other body, about what we have done, about what we have failed to do, about what policy-making institutions in this country have done dating back to 1995 and some of the other controversial decisions and policies that have been implemented.

I think we are never going to be able to go forward and put together a prospective strategy to do everything we can to avoid another calamity like the one we saw last September unless every institution is subjected to scrutiny; and with all due respect to my colleagues in this House, I do not believe that we can subject ourselves to that same kind of scrutiny because we have a vested interest in the answer to that question.

No impugning of anyone's integrity or ability, but I would simply make the point that part of this assessment of the future strategy of success for our intelligence capability must include answering the hard question, What responsibility do we have to bear for the decisions that led up to September 11? I think the question needs to be evaluated by people outside of this institution who do not stand for election and do not stand for the back and forth of the legislative process that we do.

So, again, in full respect for and commendation for the work of the Permanent Select Committee on Intelligence and its various subcommittees, I believe we need the gentleman from Indiana's (Mr. ROEMER) proposal. I think we need to have people outside of our own structure take a look at our own responsibility, and I think is the way to do it.

I would urge a "yes" vote in favor of this amendment.

Mr. HOLT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today we have an opportunity to take an important step for the security of our Nation to establish an independent, and I want to emphasize that, bipartisan, and I want to emphasize that, commission, external commission that will determine where our defense and intelligence systems failed on September 11, so that we can prevent future tragedies and we can say with assurance that there were defense and intelligence system failures on September 11, and in order to identify those, we need help, for people to step back and look at it.

There is a place for the kinds of studies that the committee has done. There is a place for internal evaluations in each of the Federal agencies involved, but with the Roemer amendment, we would establish an independent commission consisting of, say, 10 Members, appointed in a bipartisan way, and the commission would report its findings and conclusions in a way that would earn the trust of the American public; and believe me, we need to do that if we are going to come up with conclusions that will be useful to America in preventing future calamities.

Some would say that investigations will be used to play politics, but this amendment is not about politics. This independent commission is about fact finding, not fault finding. We need to look at our government's weaknesses and correct them. It is our duty as legislators.

A few weeks ago, I joined a group of central New Jerseyians, principally widows and surviving family members of those who were killed in the attack on the World Trade Center. I joined them at a rally here in Washington where they were calling for just this kind of commission, and I would say any of my colleagues who spoke with those family members that day or since would understand why passing this amendment is so important.

Our government leaders from the White House keep telling the public that another terrorist attack is inevitable. It is not a question of whether, but when, they say. Well, another attack would be inevitable only if we do not learn from our previous mistakes, if we do not fully examine what went wrong prior to September 11, 2001.

I urge my colleagues to pass this amendment.

Ms. HARMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I may be in a minority of one on this floor on this subject. I was not a fan of the broad commission proposal. I am a fan of the narrower version that the gentleman from Indiana (Mr. ROEMER) is offering. I believe I am the only person on this floor and I may be the only person in the House to have served on an independent, bipartisan, external national commission on terrorism.

I was appointed by the minority leader in 1999 to serve on a 10-member commission, sounds a lot like this one, that was to investigate the terrorist threat. It was ably chaired by Ambassador L. Paul Bremer, called the Bremer Commission, and I became one of the 10 commissioners.

We reported in 2000 that we believed there could be a major terrorist attack on U.S. soil in the near future. We recommended suspending the guidelines on recruiting human assets, that have been discussed earlier, that we thought hampered their recruitment. We recommended strengthening legal authorities for FBI investigations. We recommended better monitoring of students in the U.S.

Guess what, Mr. Chairman. These were good recommendations. We testified to them in the Senate. They were printed up all over and praised on the editorial pages, and they were ignored. So I would say to the survivors of the horrific September 11 attacks that setting up a new commission may be a good idea, but it may also raise expectations that will ultimately be dashed.

That is why I like the narrow version of the commission because what the narrow version says is this commission, if it is enacted, will focus on whether the recommendations of prior commissions and the joint inquiry and the Chambliss subcommittee will be implemented.

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That, it seems to me, is a function we ought to be undertaking.

It also will talk about additional ways to make certain that the counterterrorism mission is central to all our intelligence agencies. And then it will do the thing that our chairman has just said needs doing, which is tackle the tough organizational questions of our intelligence community, which too often get ignored because they are long range and they are too hard for anyone to deal with.

So I would say to this body that in its narrower form, this commission makes a very good contribution to our work. It is not duplicative. It will not disappoint people. And I think that the gentleman from Indiana (Mr. ROEMER) has been very flexible here in revising it so that, at least in the view of this Member, it performs a more useful function than his earlier drafts. And so I am going to support the Roemer amendment.

Mr. BURR of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I truly believe tonight that none of the debate will change people's minds about how they vote on this amendment, but I think it is important that we read from the amendment itself.

In fact, this amendment says that the responsibility of this commission is to review the implementation by the intelligence community of the findings, conclusions, and recommendations of, A, the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committees on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

B, other reports and investigations of the House Permanent Select Committee on Intelligence of the House of Representatives and the Senate Select Committee on Intelligence of the Senate;

C, other such executive branch, congressional, or independent commission investigations of such terrorist or the intelligence community; and make recommendations on additional actions for implementation of such findings, recommendations and conclusions. In fact, the mission of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

It goes on in point (2) to say, review resource allocation and other prioritizations of the intelligence community for counterterrorism, which are current missions of the House and Senate intelligence committees;

(3) to review and recommend changes to the organization of the intelligence community, in particular the division of agencies under the jurisdiction of the Secretary of Defense and the Director of Central Intelligence. In fact, now current responsibilities of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

(4) determine what technologies, procedures and capabilities are needed for the intelligence community to effectively support and conduct future counterterrorism missions, and recommend how these capabilities should be developed, acquired, or both from entities outside the intelligence community, including from private entities. Again, a current mission of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

Let me just say to my colleagues that I commend the gentleman from Indiana (Mr. ROEMER). The gentleman is impassioned on this. We have a joint inquiry currently in progress of the House and Senate committees. Our hope is that by the end of the year to come to this body, the Senate, and the American people with a report, and it will be the responsibility, then, of the House and Senate committees to make sure the recommendations, to make sure the findings, to make sure the changes, to make sure the resources, and to make sure the technologies that have been identified are incorporated.

It is the core responsibility of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence today to take up practically every point of this amendment. I would urge my colleagues, let us do our work on the House Permanent Select Committee on Intelligence without the burden of people looking over our shoulders, questioning what we are doing. Let us get to the facts, let us keep the focus that we have, let us make progress at fixing those things that we find are broken, and we will air it to the American people in the correct way.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of this amendment by the gentleman from Indiana (Mr. ROEMER). I served for 8 years on the Permanent Select Committee on Intelligence, and I have no doubt that the chairman, the gentleman from Florida (Mr. GOSS), and the gentlewoman from California (Ms. PELOSI) can do a fine investigation.

What I think is important for the credibility for the American people is an independent commission, standing alone, with experts who can take a longer view. We all know what the schedule around here is like, and that Members have multiple responsibilities, and we understand the time it takes to do one of these jobs, to focus in on this and get it right.

President Roosevelt understood this after Pearl Harbor. He set up a commission, a public commission. I think that is a very good model for this.

And I would say to my friends tonight, late in the evening, does anyone have a doubt that this debate might be reversed if Al Gore were the President of the United States or if Bill Clinton were still President? I can remember all of the investigations of President Clinton, one after another. There was great energy on the other side of the aisle to have every imaginable investigation.

I can remember the Permanent Select Committee on Intelligence looking into Haiti, looking into Iranian arms to Bosnia, technology transfer to China, campaign finance reform, and impeachment.

I think the American people understand the politics of this body, and I think we will do ourselves a great service to have an independent commission looking at this so that the people of this country will have confidence that objective people have looked at it not from a political perspective.

The gentleman from California (Mr. COX) and I did a great job with our select subcommittee regarding the transfer of technology. We had a unanimous recommendation. But I could still see a commission having dealt with that. And I think on this issue, because of its importance to the country, the importance to our history, having a commission look at this that the American people can have complete faith in, I believe, is the right way to go, and I think we should all support the Roemer amendment.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words, and I apologize to my colleagues, because the time is getting late.

Mr. Chairman, I have 80 families who lost loved ones in 9–11; sons, daughters, fathers, mothers, sisters, brothers, husbands, wives, best friends, and they want to know why. And I want to know why.

I know it is beyond just a little part. It is Congress, it is the White House, it is a whole host of things that have to be looked at. And with no disrespect, no disrespect to the Permanent Select Committee on Intelligence, they are one part of this issue. And, frankly, they are a part of it. They are not independent.

I chair the Subcommittee on National Security, and we had 19 hearings before 9–11. We tried as hard as we could to get someone from the CIA to testify. They came with a permission slip from the Permanent Select Committee on Intelligence that said they did not have to testify. We wanted them to come testify because we wanted to know how was the CIA talking to the FBI. My committee has jurisdiction of terrorism at home and abroad. We had jurisdiction. We wanted to know how did they communicate, and we could not get them before the committee because they had a permission slip from one of our committees saying they did not have to come.

We need an independent commission. And the gentleman from Indiana (Mr. ROEMER) is on target in what he wants to accomplish. Unfortunately, his amendment does not allow him to offer the kind of amendment he needs to, given its jurisdiction. We need a presidential commission that is independent that will tell us ultimately what we all know.

If we had just listened to what the terrorists said in Arabic, we would have known about this attack.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, on the point that the gentleman made about that this amendment is not perfect. This amendment could be perfected in the conference committee between the House and the Senate.

I would suggest to the chairman and the ranking member, if they have some problems with this particular amendment, work it out in the conference committee. That is what we have done over the years.

Mr. SHAYS. Reclaiming my time, Mr. Chairman, I think there are many ways to work it out. I ultimately believe this should be a commission of people outside Congress and outside working for the administration. It needs to be people totally independent; people like a Sam Nunn or a Warren Rudman, or some others of that status.

□ 0030

There should not be so many from the Speaker or the minority leader. We should not be saying these are our people and the other side of the aisle's people.

I believe the victims, the families of September 11, are ultimately going to get a commission because they deserve it, and so do the American people. I salute my colleague for bringing this forward, but it is not the kind of commission that I would hope we would have.

Mr. KIND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too want to voice my strong support of the Roemer amendment being offered this evening. I believe it is the right thing to do because this is what great democracies do; they let the sunshine in. It is never easy to air dirty laundry for anyone, or to admit to certain shortcomings or failings, but there are still many unanswered questions that the American people have.

A great democracy that derives our power by the consent of the people, that can only function if we have the faith and confidence of the people, need an independent review of what happened to our Nation on September 11. This is not without precedence. Prior Presidents have called for this when great tragedy was visited upon this country. As the gentleman from Indiana (Mr. ROEMER) acknowledged, 11 days after the attack on Pearl Harbor, President Roosevelt called for an independent commission based on the sneak attack at Pearl Harbor. President Reagan did the same thing after the Marine barracks incident in Lebanon.

Let me also state that this is not an easy amendment for the gentleman from Indiana (Mr. ROEMER) to bring. He is a distinguished member of the Permanent Select Committee on Intelligence. He, as do I, has a great deal of respect for all of our colleagues serving and working on the Permanent Select Committee on Intelligence, along with the very capable and bright staff working on that committee. This is not an indictment or questioning the work that they are doing. Yes, there is a joint review and an investigation taking place between the Senate and the House looking into the events of September 11. We should be doing that, and it is being done.

But what is a little bit sad in the course of this debate this evening is that we are having to have this discussion at 12:30 in the morning within the House of Representatives when the President of the United States himself should have been calling for the establishment of a nonpartisan, outside independent commission looking into the events of September 11. That is the type of leadership that we need right now in this country, and it can only be provided by the President of the United States.

I appreciate the concerns of the gentleman from Florida (Mr. GOSS) regarding the wording of this amendment and certain restrictions that the gentleman from Indiana (Mr. ROEMER) had to meet in order to make this amendment germane so we could at least have a discussion of this important topic this evening; but if the President were to move forward by calling for a commission, certain accommodations can be made so that the commission can be comprised of a distinguished group of individuals, and we all have a list of who those people could be serving on it, that could approach this subject in a cool, dispassionate, and nonpartisan fashion.

They could conduct their work without interfering with the ongoing duties and responsibilities taking place in the Permanent Select Committee on Intelligence. They could also conduct their work so that it protects the basic operation and methods of intelligence gathering so we do not air to the rest of the world, especially our enemies and future terrorists, how we gather this type of information.

These things can be done because they have been done in the past. That is why I think this amendment has merit. I think ultimately the American people will not be satisfied unless they get an objective answer by a distinguished panel of outside experts that can come in, take a look at this, take the time that they need to analyze what happened on September 11, not with the purpose to assess blame or point fingers, but to find answers so the changes that we have to make will be made.

In the next 24 hours we may be debating the greatest single change of the Federal Government in the last 55 years. The President is requesting $40 billion for a new homeland security agency. I agree with that. We need to restructure the government to deal with current threats; but all of this will not matter if we do not get the intelligence aspect of defending our Nation and preventing future terrorist attacks right.

That has to be done. I think there is a great deal of wisdom in calling upon a group of outside experts, those who have served in the Congress, those who have devoted a lifetime of study and analysis of intelligence gathering, to give them the authority on a parallel track along with the investigation, the review that is currently taking place between the Permanent Select Committees on Intelligence, and working with the administration to learn from the mistakes of the past and then recommend the policy changes, the structural changes that we have to make and move forward on in order to enhance our intelligence-gathering capabilities in order to prevent another tragedy from occurring against the United States of America. I encourage my colleagues to support the Roemer amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of the Roemer amendment. I hope that our colleagues will join a bipartisan group of Members in voting "aye" at the end of this debate. This is a very important debate for our country. Not only do I support the Roemer amendment for an independent commission, I authored legislation for an independent commission last year. Indeed, that commission was accepted by the Permanent Select Committee on Intelligence. It was not until we came to the floor when others chimed in that my commission was changed and then struck from the bill in conference.

But I want to read from the committee bill from last year because I think it is important for the committee to know why an independent commission is necessary. The Permanent Select Committee on Intelligence said, "The committee believes that the commission will only be successful if it is seen to be truly independent of any perceived notions about the effectiveness of the activities of the departments and agencies it will review. Appointing members with a reputation for challenging conventional wisdom, wide perspective, bold and innovative thought and broad experience in dealing with complex problems will contribute directly to instilling the commission with an independent spirit which will enhance the credibility of its work. Those given the authority to appoint members of the commission are urged to be especially sensitive to the committee's concerns in this regard."

I read this, Mr. Chairman, because I think it speaks directly to the difference between what this commission's product could be and the work of our joint inquiry. As one who has served 10 years, longer than anyone on the Permanent Select Committee on Intelligence, and I do not mean to equate longevity with expertise, certainly our distinguished chairman's reputation for knowledge in the intelligence community is unsurpassed, but that does not mean that we cannot have a disagreement about how we should go forward.

In our committee we are engaged in a joint inquiry into September 11. We owe the families affected by that tragedy some answers. We need to reduce risk to the American people, and finding out how September 11 happened will help us protect the American people.

Tomorrow we will start debate on the floor on the Department of Homeland Security which too has as its goal to reduce risk and increase safety for the American people. But there is more that we can do to give some answers to the families affected and indeed to every person in America about how we can increase safety as much as is humanly possible in the world that we live in today.

What is the harm, I ask Members, of finding out more? What is the disadvantage of having fresh eyes look at a situation? When we have had some of the family members come to visit us about the September 11 tragedy, they tell us that just a simple thing like a plane flying overhead or a warning of a suspected terrorist attack, and that is not ordinary, fills them with terror.

□ 0040

That is the goal of terrorists, of course, to fill people with terror, so that a country changes the way it conducts itself. We are a strong country. We will protect and defend the American people as we protect and defend the Constitution. In order to do that, we need the best possible information. Our joint inquiry is an excellent inquiry. Great people are at work on it. I know that we will produce an excellent report, largely because of the leadership of the gentleman from Florida (Mr. GOSS) in the House and Senator GRAHAM in the Senate and the rest of us working closely in a bipartisan fashion. We know firsthand the excellent work of the people in the intelligence community. They need answers, too, I believe, from an independent commission with fresh eyes and an entrepreneurial look at what the possibilities are.

We have reviewed in our committee the intelligence aspects. That is what the gentleman from Indiana's amendment serves to do as well. I would have hoped that he could have gotten a waiver from the Committee on Rules for a broader investigation so that we could assess the performance of every agency of government which had every responsibility. Since that is not the case, I urge our colleagues to support this narrower commission, fresh eyes, more safety. Vote "aye" on the Roemer amendment.

Mr. CHAMBLISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. There has been some comparison with what happened at Pearl Harbor and what happened in another number of incidents around the world in recent decades, comparing that to September 11.

September 11 was not a military failure. September 11 was a massive intelligence failure. There is a marked difference. There is a difference because our intelligence community operates behind closed doors. It operates in a fashion where it needs to operate in order to gather information on terrorist groups and criminal organizations around the world. The terrorist groups around the world would love for us to open up our intelligence community to their eyes. I think that is a terrible mistake that we would be making and a bad precedent that we would be setting.

Our subcommittee has been working for the last 8 months on a report. We have a 142-page classified report on record in the Permanent Select Committee on Intelligence. We issued a nine-page summary of that report. That is the difference. There are nine pages out of 142 pages that we can talk to the American public about. In our report, we did not pat the intelligence community on the back. We criticized the intelligence community where they needed to be criticized and we pointed out where their shortfalls existed leading up to September 11.

The current bicameral committee, the joint inquiry committee, is focusing now on the plot. Our committee was a broader investigation, but the joint committee is focusing on the plot of September 11. The 19 hijackers involved, we are looking into exactly where they came from, how they got here, what their mindset was and what they did leading up to September 11.

I assure you at the end of the day when that inquiry is completed, there will be another classified report that will be a massive document. But there will also be a summary report that the American people will have that will focus on the plot and the American people will have a very good idea of what happened leading up to September 11 in the minds of those 19 hijackers.

There has been conversation, also, publicly and it has been stated over and over here tonight that we may be subject to another attack. God forbid that we are, and our intelligence community is working better than ever today to ensure that we are not. But what if we are? Are we going to have another commission? Where is this going to lead? How many commissions are we going to wind up having for any number of particular incidents? Suppose we have successes. Are we going to have a commission to look into what we did right to disrupt a terrorist act that might have been prevented? I think we are asking ourselves tonight for the setting of a bad precedent if we do have this commission established and this commission moves towards looking at what the joint inquiry is looking at today.

I think at the end of the day when the joint inquiry is completed, every single family is going to get satisfaction out of that report in knowing what did happen leading up to September 11 and why we were unable to prevent it more so than what we were able to see in the report that was issued last week. I urge a "no" vote on this amendment, even though my friend the gentleman from Indiana (Mr. ROEMER) is very passionate and I respect his opinion on this, but I think it is the wrong way to go.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

I appreciate the chants of my colleagues, but I think you do disservice to the families when we discuss this when you suggest that somehow we should vote without a discussion of the Roemer proposal.

I cannot think of anything more important to the American people with the loss that they suffered, that all of us suffered on 9/11, than an effort to determine what happened, an effort to determine what happened by, as Ranking Member PELOSI said, fresh eyes. To simply have the same community looking at itself to make those determinations is insufficient.

The Roemer proposal is not new, radical or mysterious because the Permanent Select Committee on Intelligence has commissioned many independent studies. The gentleman suggested if you have the Roemer proposal, then everything has to be public. No, we would have classified annexes just like you have a classified annex in the report that the gentlewoman from California (Ms. HARMAN) and others put out the other day.

The suggestion is that it is not perfect. Gee, it has been on the table for 4 months and I have not seen anybody reach across and say, this is what we could do, this would be better, we will help you, we could get a waiver because this would be an improvement. Maybe you do not see that as your burden. But those are all institutional arguments for not doing this and they are the arguments of great institutions in decline because great institutions in decline become more and more insular. They refuse to listen to the outside. They refuse to seek outside knowledge.

The suggestion was that this would be one more report that Congress would ignore. Maybe this report would tell us that Congress failed in its duty to the American people by ignoring Hart-Rudman. Maybe there was negligence in this body by not addressing Hart-Rudman, because apparently it indicated a lot of things that we should have been paying attention to in the intelligence community but we were not.

Think of when NASA lost the space shuttle and the argument was, in and out of NASA, how this was going to be done and what had to be done to correct it and get the fleet back up and get it flying and return to our missions; all laudable goals. But think of the moment when the member of the independent commission, Dr. Feynman, took the O-ring and put it into the ice water. Think of that moment and what that meant to the American people about what was wrong with the shuttle program and assumptions that were made about temperature and launches and weather conditions, all of which could be justified but turned out to be catastrophically wrong. When other great systems, complicated systems and sophisticated systems suffer catastrophic failures, in the business world they generally turn immediately to outside experts.

When we suffered the catastrophic failure of the oil rigs in the North Sea, we immediately turned to outside experts. The Alaska pipeline. The catastrophic fire in the London subway. You say, well, that is not 9/11. But when they turned to outside experts, they found everyday practices that every day put people's lives at risk in the subway. I think it was a Georgia company that did the studies, experts in catastrophic failures. Why? Because over time they had built up practices that were at odds with the safe passage of people in the subway and it had to be redesigned.

What is the other reason this is important? There are a number of them. One, an obligation to the families as has been mentioned by so many already. There is also another obligation to the American people. The American people have a lot at stake. They have a lot on the table with the outcome of this study. What do they have on the table? They have their freedoms, because there has been much suggestion that this is simply a failure of laws, new laws that need to be enacted or old laws, and that is simply the failure.

□ 0050

That may be the case. But we do not know that yet. Yet people are being asked to given up their freedoms, people are being asked to let their neighbors spy on them, people are being asked to have their freedom of travel changed, all of which appears necessary to me. But we do not know that, because we do not know the threat assessment versus those freedoms and the failures of the system prior to that.

But somehow we cannot do this. Somehow we are told that if we have an independent review, that would be catastrophic for this system, because all of the arguments are interesting, they just do not go to the point of whether or not we are going to participate.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The time of the gentleman from California (Mr. GEORGE MILLER) has expired.

(By unanimous consent, Mr. GEORGE MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. GEORGE MILLER of California. Mr. Chairman, the suggestion that somehow when we all know the list of Americans who could participate in this system and their credentials and their experiences and their expertise, to suggest that somehow those Americans would be less loyal, more subject to leaks, than the existing system, I mean, the best kept secret apparently was Hart-Rudman, the best kept secret in the Nation until 9/11.

So I think we have to think about what this means. I think we have to think about what it means for the American people, what it means for the families and what it means for this institution. The day we start to suggest after a catastrophic failure like 9/11 that we cannot have an independent review of that event is the day that democracy is in decline.

We all know the mechanisms are in place to provide for the secrecy and the classification and the right to know and all the rest of that, and we all respect the importance of what that means. But those cannot be excuses for failing to discharge our obligation to the American people.

We need the Roemer amendment. We need the Roemer amendment to be perfected. That is within the purview of the Permanent Select Committee on Intelligence. I would not pretend that I could perfect it, but that is your expertise. But it is that expertise applied to the notion of a public independent review that is so important to the families of victims of 9/11, to the American people, and, ultimately, to this institution, to this institution, because it is about whether or not we will have the credibility to proceed with the very difficult choices that we have yet to make about our homeland security, about our national defense and about our intelligence capabilities.

I urge support of the Roemer amendment.

### AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY TO THE AMENDMENT NO. 9 OFFERED BY MR. ROEMER

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey to Amendment No. 9 offered by Mr. ROEMER:

At the end of section 602(b), as proposed to be added by the amendment, insert the following:

(4) REPRESENTATION OF FAMILY MEMBERS OF VICTIMS OF TERRORIST ATTACKS.—Of the members appointed under paragraphs (1) and (2) of subsection (a), at least one member appointed under each such paragraph shall be a member of the family, or a representative designated by such a family or families, of an individual who died in the terrorist attacks against the United States which occurred on September 11, 2001.

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Chairman, this amendment is a friendly amendment that I offer to the Roemer amendment. It modifies the makeup of the blue ribbon commission to ensure that at least two members of the commission are family members of those who lost their lives because of the murderous attacks on September 11. This idea came out of meetings that I had and my staff had with specific widows, Kristen Breitweiser, who lost her husband Ronald, Patty Casazza, who lost her husband John, Mindi Kleinberg, who lost her husband Alan, and Lorie Van Auken, who lost her husband Kenneth.

They have asked, as have other family members, to be included, to be a part of this investigation. Why wait until conference, or some later time that may or may not materialize. The families should be included right at the passage of this legislation. They are part of this and should not be left on the outside.

They feel, frankly, after numerous meetings, that they have been neglected, that their concerns have not been adequately addressed. That is why I am offering this amendment.

I support the Roemer amendment. As a matter of fact, I just testified before the Committee on Rules asking that the more expansive version that he has proposed to be made part of the Homeland Security Act.

I would say to my colleagues, I chaired the Subcommittee on International Operations and Human Rights for 6 years. We did the Embassy Security Act. I was a prime sponsor of the bill, a $6 billion authorization to try to beef up our embassies. That came out of the specific recommendations that Admiral Crowe made as part of the Accountability Review Board that met after the two terrible bombings of our embassies in Africa.

What we found was there were all kinds of mistakes that were made, ones that should have been anticipated, some that had been anticipated by Admiral Inman, many, many years before that, but had not been acted upon.

A blue ribbon commission, I would respectfully suggest, will give us the opportunity to bring it all together.

I was just in Berlin heading up the OSCE Parliamentary Assembly there with many Members on both sides of the aisle. I met with one of our consulars who worked in Bangladesh. He told me that 31 people had come to our consulars in Bangladesh and had requested visas for flight training. They wanted to come to the United States to learn how to fly. That was in 1999. We do not know who they are. Those records were done away with 2 years later, because of the statute of limitations on retaining those records. They may have been the very same people who found their way into this country and ended up doing the terrible deeds they did on 9/11.

This is a good amendment. Still I do not think it goes far enough. I would disagree with the gentlewoman from California about narrowing the scope. We need to expand it. We need to investigate other law enforcement agencies, the FAA, INS and all of the others. Then we could come up with a very, very comprehensive set of recommendations so there is a lesson learned.

Let me also tell my colleagues the anthrax problem hit my district, in Hamilton Township, New Jersey. Hamilton was shut down and is still shut down. I am amazed how much we still have not done in follow-up to what happened as a result of the anthrax.

I sat in on those meetings. The left hand did not know what the right hand was doing time and again. Very, very competent people, but, again, the left hand very often was unaware of what the right hand was doing, whether it be CDC, NIH, or other agencies of government. This is a good amendment. I hope you will back it.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I thank my good friend from New Jersey for sponsoring our amendment, for supporting it, and take his amendment not only as a friendly amendment, but a family amendment that represents many of the victims of this, and I would encourage my colleagues to support this amendment.

Mr. SMITH of New Jersey. Mr. Chairman, reclaiming my time, just let me conclude, I hope that this language in this amendment grows, is expanded upon, and is more inclusive as it relates to other agencies of government. For purposes of germaneness, it had to be narrow, but this is a good place holder and a good first step.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I represent the district that had perhaps the most impact here. The World Trade Center used to stand in the middle of it, and the catastrophe that was visited on my district and on the entire country represented, among other things, a monumental and catastrophic failure of intelligence. When such a thing happens, I think it behooves us to take a complete and fresh look at it.

Look at every aspect of it. Look at every aspect of every establishment that we have to deal with that, and that includes, frankly, the way this Congress and its intelligence and other committees that are relevant deal with it. That is why I support the Roemer amendment for an independent blue ribbon commission.

Now, maybe we have not spent enough on intelligence. I have joined in the past in voting for amendments to cut the intelligence budget. Maybe we were wrong. Maybe, on the other hand, we have spent enough but we have not spent it properly. Maybe we spent too much on electronic intelligence and not enough on human intelligence. Maybe people were not talking to each other who should have been. Maybe the analytical capability was neglected in favor of just collecting huge amounts of information which could not then be analyzed in time. I do not know.

Maybe the Permanent Select Committees on Intelligence of this Congress have functioned perfectly and wonderfully, and maybe they have not, and maybe there are changes we could make in our own establishment and how we set up things. That is why we need a totally new and outside and independent look and why I support the Roemer amendment.

□ 0100

Let me also say one word in opposition to the amendment by the gentleman from New Jersey (Mr. SMITH). There are plenty of survivors and family members of victims in my district, and they certainly have a very great interest in all of this. I have supported the role of victims in commissions and on committees and so forth in determining the type of memorial to be erected in New York and the rebuilding and so forth. But the fact that someone is a relative of someone who died in the World Trade Center does not make that person an expert on intelligence, does not make that person an expert on the military; and, frankly, this commission ought to be not a commission of people who we put there sentimentally because we sympathize with their loss. It ought to be a commission of people who are experts in the things that have to be examined, experts determined by the President, by the leadership of the House and the Senate, the other body, and so forth.

So I urge Members, do not add sentimentality to this commission which will not really accomplish anything, but do approve the Roemer amendment.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Roemer amendment.

Mr. Chairman, I think I know the direction of the debate here, but I think it is important that we not deceive ourselves. All of the impassioned comments that I have heard here in the last few minutes are for a commission that would not be created by the Roemer amendment. The Roemer amendment is a very narrow shadow of the commission that the gentlewoman from California described, a broad-based commission. And I would say, to the gentleman's credit, he understands this, because he had to craft something that would be germane to this legislation.

This legislation, if we take a look at the four points that are covered here, focuses exclusively on the intelligence community. The first element is to make sure that the inquiry, the joint inquiry under way is implemented. Well, that can take place only after we have seen it; but I will tell my colleagues one thing, a joint committee, or a joint inquiry by the two intelligence committees' recommendations to itself cannot be ignored by the two intelligence committees.

Now, what happened on 9–11 was certainly representative of deficiencies in the intelligence community, no doubt about that; and there may be some failures. But the biggest deficiencies, the biggest failures were in the law enforcement community, I say to my colleagues, and the relationship of the law enforcement community to the domestic agencies.

In the particular terrorist event that ravished this country on that day, both here across the river and in New York City, of course, it was the failure, the link between the FAA and the commercial airlines and the law enforcement agencies, at least the Federal law enforcement agencies. That was the failure.

The gentleman from New Jersey, just a few minutes ago, said some things that he would like to see it broadened. Well, if we are going to have a commission here, and I am not opposed to it, it is going to have to look at the whole array of problems that we had. We cannot simply look at the intelligence community. We have to look at where the response to information would be acted upon.

If we take a look at all of the agencies, a part of which are being merged under the proposed homeland security agency or department, those are all of the elements of domestic response and law enforcement that have to be there to do something with the intelligence we hope we have. We were surprised. We had deficiencies in intelligence.

I say to my colleagues, it is not going to give us the Commission that everybody here is talking about. It is not going to give us that comprehensive examination. I say it is a cruel hoax to suggest to the families of the victims of what happened across the river and in New York City that such a commission is going to give us those answers. It is too narrowly focused. It had to be, to be offered by way of this amendment. So we may vote for it, but let us not kid each other. This is not going to do it, I say to my colleagues. It is a part of it; it is not the significant part, in my judgment.

The biggest failures that took place on 9–11 were in the law enforcement and domestic agency fronts.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Washington.

Mr. DICKS. But does the gentleman not agree, Mr. Chairman, that we could fix it in the conference committee between the House and Senate committees? We have done that many times in the past. If the committee wants to change this commission and make it broader, make it more effective, and cover the broad range, we could do that in the conference between the House and the Senate, and we could agree to it when the conference report comes back.

Mr. BEREUTER. Mr. Chairman, reclaiming my time, the gentleman from Florida has already pointed out the problems that this creates for the other committees of this Congress, that they should have some input in the preparation of a conference report.

Mr. HASTINGS of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have not heard much that I disagree with. As one of the more recent persons to serve on the Committee on Intelligence, I certainly would not come here to the floor of the House of Representatives and suggest that the joint select committee or the joint committee of the House and Senate that is doing the work now of looking back with reference to what happened on 9–11 will not do a good job. But a good job is not good enough in this particular situation. We need the very best.

The fact of the matter is that this group of persons who are doing the work are from inside this body and the other body. We tend to think we know everything, and no one else can tell us that we do not know everything. It is sort of like as an aside and not meant to impugn either of the States, but I lived in New York and California, and I left California thinking that Californians thought they knew everything, but I knew that New Yorkers knew they knew everything.

The fact is, we do not. And in this instance when the report is finished, which will be a magnificent work, it can become the starting point for an independent group.

Now, let me give my colleagues three things that have taken place in our history in addition to those that have pointed out how swiftly President Roosevelt, after Pearl Harbor, appointed an independent commission. We have had in our lifetimes three significant, and there are others kinds of reports about what happens, in our government. When President Kennedy was killed, we had a select committee to do an investigation. When we found ourselves with President Nixon's problems in Watergate, we had a select committee of the House and Senate. But when we had civil rights disturbances and immense destruction in this country, we went to an independent commission that is called the Kernell Report that all of us that are old enough to remember know as the seminal report on race in America that is still looked to by all intellectuals in academia and otherwise.

Mr. DICKS. Mr. Chairman, I object. The Committee is not in order. The gentleman deserves to be heard. He is making a very eloquent statement and I think the Members ought to pay attention.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The gentleman is correct. The House will be in order.

Mr. HASTINGS of Florida. Mr. Chairman, I thank my good friend and colleague from Washington and the Speaker for seeing to it that this debate itself is carried on in a manner consistent with all of our thoughts. Everybody has made major contributions and has had something here to say, and our feelings and passions run high.

What I was saying is that the Kernell Commission became the seminal report for all in America and is still looked to as the most definitive matter that has undergone a survey of race in America. That said, what have we from Watergate from our inside baseball select committee still puzzled by what transpired? I do not even have to begin to tell my colleagues the conspiracy theories that have been spawned by virtue of yet another of those inside groups of people who made a determination.

Now, I do not think we have anything to hide, and I do not think we should try to hide anything, and none of us are going to do that. None of the Members of the committee that is presently working for the House and the Senate are going to do anything other than the best that they can. These are the finest Americans that anybody could possibly expect that will look at this matter. But I can assure my colleagues that when they finish, they will not have made a determination that an independent commission of people could make, and it will not allow for the kind of credibility that all of us deserve in this country.

What happened to us is mind-numbing. It boggles the mind, as the gentleman from California (Mr. LANTOS) is fond of saying, and all of us are stunned by what transpired. We need to get beyond ourselves, and the only way to do that is to allow some other people who have an approach to this situation that may not be one that is politically motivated in some respects, yet out of the conviction of our beliefs, we think that we will have done all that is necessary.

☐ 0110

We will do something, and the American public will still have questions. Let us give them more input than just those of us who represent them.

I urge this body to help us learn how we can identify and fix the problems that all of us know have been created by virtue of this awful tragedy.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Roemer amendment. Let us note tonight the gravity of what we are talking about. America has been relying on an arrogant, bloated and incompetent intelligence bureaucracy to protect us against foreign threats. We spend billions of dollars and the likes of bin Laden blindsides us and slaughters our people; 3,000 Americans were slaughtered on 9-11. And it was not a tragedy not beyond our control. It was a failure of the system and a failure of the people in the system.

bin Laden was, let us note, the number one target of American intelligence prior to that attack, the number one target of American intelligence for a year or more before that attack. Yet this operation, an operation of this magnitude with millions of dollars being spent, being transferred from one account to another, hundreds of people being involved in many different countries, yet it went undetected. The FBI, the CIA, the National Security Agency, the DIA, our intelligence community let us down.

And let us note this, they let us down in such a way that we deserve to know that everything has been done to straighten the situation up so it cannot happen again. We should all know about a major house-cleaning that has been going on in our intelligence community. I know nothing about a major house-cleaning. In fact, it appears to me that the same people are in charge in the intelligence community today as were in charge before.

We cannot go on with business as usual; and I am sorry, relying on those in this body, in the legislative branch, whose job it was to oversee American intelligence before 9-11, is not good enough. We need some outside people of prestige who we can trust to focus on this, who are not part of the system and do not feel compelled to watch out for whose turf they are standing on in terms of getting on this committee or that committee.

A new homeland defense committee is not business as usual. A new homeland defense department is not business as usual. A blue ribbon commission is not business as usual.

Tonight we heard in this discussion we heard that this proposal by the gentleman from Indiana (Mr. ROEMER) described as not a favor to the intelligence community. Well, I am not interested in doing favors to the intelligence community. The CIA and the State Department played down the threat that the Taliban posed to the United States and to the free world. They have played down the importance of the heroin crop that was being harvested every year in Afghanistan. They have played down the role of Saudi Arabia and Pakistan with bin Laden and his terrorist gang that was becoming a fixture in Afghanistan.

And let us note, we all had briefings during that time period. Over the last several years we all had briefings by the CIA and over there in our secret room up here. How many of us felt insulted by those intelligence briefings because there was nothing secret given to us? There was nothing that gave us any more insight than what we could read in the newspaper. It is time for Congress to reassert that we are not going to stand by with "business as usual" after a tragedy of this magnitude.

This was a catastrophic failure of American intelligence. Those people who have been running American intelligence should have the decency to step down, but at the very least we need to hold them accountable. You hear time and again people saying, oh, this commission will not be assigning blame or pointing fingers? Oh, yeah. Why not? We should be assigning blame and pointing fingers. Three thousand of our citizens have been slaughtered. We have let the intelligence community keep us at arm's length for too long.

This is a free society and we will remain free as long as they know that we, as the elected officials of this land that make the policy, and not the intelligence community that will lead us around like they think we were dumb bells.

Tonight, by passing the Roemer amendment, whether or not it is the specific wording and the specific outline, we send a message that we will do something about this failure.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Might I thank the Chairman for the leadership he is showing this evening on a very important debate.

Mr. Chairman, might I associate myself with the words of my colleague from California (Mr. GEORGE MILLER), that there can be no time limit on expressing the need to tell the truth to the American people; and that is what this debate is about, Mr. Chairman. The American people need to know and deserve to know the truth. And whether or not this amendment is narrowly drawn, I agree with the gentleman from Washington (Mr. DICKS) that the wise people who will be assigned to the conference committees can expand the definition of this commission.

And might I read to my colleagues the definition or the establishment of this commission. The language says, "There is established a national commission on terrorist attacks upon the United States."

It is important that we realize that after September 11, and even before that, we turned a new page in American history. We are subject to terrorist attacks. Before I came to this Congress I represented the family of someone who was lost in Pan Am 103, before we even understood about the terrorism that struck America through that explosion and that airplane crash. Today the family does not know all the details as to what happened and whether or not that was a terrorist attack on the United States of America.

The family of those Marines who were lost in Beirut, Lebanon, today do not know the facts about that terrorist attack.

We are in need, Mr. Chairman, of the truth. We are in need of understanding the impact on families, if you will, by investigation on what happens or what the follow-up is, if you will, on families who have been subjected to terrorist attacks by those who they lost. We need to know that. We need to understand what Coleen Rowley was speaking about.

And even though my good friend indicated that the way this is framed we will not find about why law enforcement agencies did not communicate with each other, I have confidence we can decide that in the conference committee. We need to understand why the FBI and CIA were not talking to each other, and we have the procedures in a commission structure to make sure that classified documents are not released.

Mr. Chairman, some few years ago I served as a staff person on the Select Committee on Assassination because the people wanted to know about the assassination of Martin Luther King, Jr. And they wanted to understand even better the assassination of one of their dearest Presidents, President John F. Kennedy. The American people wanted to know, and even today we realize that there are still questions about those two terrible acts.

I do not believe we get anything, Mr. Chairman, by hiding the ball. And the gentleman from Indiana (Mr. ROEMER) has drafted a very reasonable, very reasonable amendment that frames this commission seeking the expertise of those in America who understand intelligence but understand societal issues, understand psychological issues that deal with the failing that we have experienced.

□ 0120

So, Mr. Chairman, I believe that this legislation will add to that question, though I had different legislation and still believe that the Committees of Armed Services, Judiciary and International Relations should have their opportunity to review this question.

We need to know the truth, Mr. Chairman, and let me share something with my colleagues for a moment that went almost unnoticed a few days ago or maybe a week ago.

About a week ago, the U.S. attorney decided in the Virginia District to agree to a plea bargain by John Walker Lindh. It was under the pretense that his trial would open up his opportunities or the opportunities for the American people to see and hear issues that they should not hear, that the intelligence community would be paraded before the American people in an open court. They know full well, Mr. Chairman, that they could have prevented classified information and witnesses that should not have been shown from being shown.

A decision was made. They gave Mr. John Walker Lindh 20 years. Right after that decision was made or that plea bargain was accepted, to the shock of the judge, it leaked out that he may not know that much anyhow.

What do we say to the Spann family, a member of the CIA who lost his life? What do we say to those who could have benefited from understanding and getting information that might have been helpful to us by an open airing of what happened?

I understand that this young man's family loves him and I expect for them to support him, but when his father came out and suggested that this young man was Nelson Mandela, I think we stretched it beyond recognition. It is important, Mr. Chairman, that we support this commission, support the gentleman from Indiana's (Mr. ROEMER) amendment, because the American people need to know the truth.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to speak on this issue, but as my colleagues know, I devote a great deal of time to our national security and issues in emerging threats, and I have done so for the past 16 years.

I heard some accusations made earlier that the problem with 9/11 was basically a domestic problem of the FBI. That is just not true, Mr. Chairman, and therefore, I rise to support this amendment.

We think we have all the answers. Let me tell my colleagues something. I think back to NIE 95–19 where the intelligence community told us that the emerging threat to our security was 15 years away. We challenged that. We challenged that through an independent commission. It was not challenged through our intelligence committee. It was challenged through the Rumsfeld Commission, five members appointed by the Republican side and four Members appointed by the Democrat side, and what did they prove? They proved the intelligence community was wrong, that NIE 95–19 was politicized, that the threat was going to be much sooner than 15 years.

The Rumsfeld Commission shared by Donald Rumsfeld led to the passage of H.R. 4, my bill on missile defense, which passed with bipartisan support and a veto-proof margin. What does that have to do with the issue at hand?

As far back as 1997, Mr. Chairman, the Committee on Armed Services proposed that we merge together 33 Federal classified systems into one integrated national operations and analysis center or national collaborative capability. We proposed it in writing. Two successive defense bills had language in those bills, telling the Defense Department, the CIA and the FBI to lead the other agencies, the NRO, the NSA, Commerce State Justice, DIA to have a collaborative capability to do massive data mining, using new software tools like Starlight and Spires to do analysis, including unclassified information.

What would that have given us? Let me give my colleagues an example. When the CIA does analysis, Mr. Chairman, the CIA does an analysis but do not include open source information. In September of 2000, there was an interview in an Italian newspaper of an al Qaeda leader who publicly said that they were training Kamikaze pilots. If we would have had a data mining capability, that open source information would have been fused with the raw data of the immigration service, of the Customs Department, of the CIA and the FBI, and we would have seen the picture of what was about to occur, and this Congress called for that for three years.

Why did we not do it? Deputy Secretary of Defense John Hamre said to me, Curt, I agree with you; the problem is the CIA and the FBI will not go along with it. He said, So I have a suggestion for you, why do you not bring over the CIA and the FBI counterparts to me and let us have a meeting in your office. So I did in 1999.

The deputy director of the CIA and the deputy director of the FBI and John Hamre, deputy director of Defense, and John Hamre said I will pay the bill, I will foot the bill for this new data fusion center but the agencies have to go along. The CIA's response was we are doing CI 21, that is all we need and that was not what we were talking about. We were talking about an integrated capability of all 33 Federal classified systems.

When General Downing just stepped down at the White House, the top adviser to President Bush, what did General Downing say? He said that his top priority when he was there was to build a national data fusion center. What did he say when he left? The FBI and the CIA did not want it. So General Downing left his job and walked away.

The CIA is not above this institution. I have held myself back for too long because I have seen on the inside the agencies manipulating the process, and as someone who cares desperately about emerging threats, I am not satisfied that we in this body can do service to an investigation of our intelligence, and therefore, I come to the conclusion that the gentleman from Indiana's (Mr. ROEMER) idea is a good one because we need to send a signal to the CIA and the FBI. They are not the end all and the cure-all. They do not determine the end result of analysis and they can fuse data and they can do it and vet information so that we do not affect an individual's civil liberties of people whose names may surface.

In fact, every major defense company, Lockheed Martin, Northup-Grumman, Boeing, the Army at their LIWA Center down at Fort Belvoir, the Air Force, Navy and SPAWAR, special forces command down in Florida all have data fusion capabilities. They are all doing it now, but do my colleagues know who does not do it? The CIA and the FBI because they do not want to share their data. They do not want raw intercepts being provided to other agencies, and that does not give us the best intelligence analysis for the war fighter or the policy-makers.

So I urge my colleagues to do the right thing and support the Roemer amendment.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Roemer amendment. Mr. Chairman, 3,000 Americans died on September 11, and I think that the gravity of this situation requires the kind of an approach that the gentleman from Indiana (Mr. ROEMER) has taken in asking for the creation of a national commission on terrorist attacks upon the United States.

I have been listening to this debate both in the Chamber and from my office, and as the ranking Democrat on the oversight subcommittee that has jurisdiction over national security, I well understand the concerns that have been articulated here this evening regarding an intelligence failure, but I will also say to my friends who have advanced that position here tonight, that they can support this amendment even if they strongly believe in the capabilities of our intelligence community.

As a matter of fact, I am certain that the Roemer amendment does not stem from lack of appreciation for the work of the men and women of the CIA and the FBI. I happen to believe that our FBI and our CIA are actually very competent, and it may be and they may be working under constraints which would be of interest to the American people which could be determined by this kind of a commission.

So this debate does not have to be interpreted as an attack on our intelligence community, and I do not seek to attack those agencies. It would be helpful to determine how they can function more effectively.

One of the things that I would hope that would come from not only this debate but also the Roemer amendment, if passed, is a renewed sense of what we can do to help heal our country because I think one of the things we have to come to a conclusion about is that Americans do not need to attack each other. We have already been attacked. Let us not attack each other. If there have been failures, we can face those. We are strong enough.

One of the things that has concerned me, Mr. Chairman, is there seems to have been some kind of a disconnect on matters of causality relating to 9/11. There are people who seem to have an aversion to looking at the actual reasons behind 9/11, and in a sense, the homeland security bill, which this House will vote on, has been brought to this House without a strategy, without a risk assessment, but with a raft of legislative initiatives preceding it such as the PATRIOT Act and acts that deal with cyber security which have caused broad-based restructuring of criminal justice principles in our society and in a challenge to civil liberties themselves, even without the analysis that a commission could offer.

□ 0130

So I certainly think that such a commission is warranted. And then maybe we can take another look at proposals to create a national spy network through the TIPS program, the proposal that the gentleman from Texas (Mr. ARMEY) fortunately rejected for a national ID card through drivers licenses; raise questions about cameras that have been put all over this campus and in other cities; questions about barricades that go up everywhere; questions about military tribunals and suspension of habeas corpus.

I mean, our way of life has been dramatically changed, and we have lacked a sufficient evaluation as to whether or not those changes have been essential to be able to challenge the root causes of 9–11. The approach has been totally reactive.

Now, I say America is a Nation of strength, and it is weakness which does not seek to know the truth. America is a Nation of courage, and it is fear which seeks not to know the truth. America is a Nation of light, and it is darkness where the truth is not asked. You shall know the truth and the truth shall set you free.

Freedom is what we seek. Freedom is what we seek to protect, freedom is what we seek to reclaim, and we will reclaim our freedom when we have a commission that will enable us to get to the truth.

Mr. WU. Mr. Chairman, I move to strike the requisite number of words. The hour is late, Mr. Chairman, and I am sicker than a dog, so brevity will have to substitute for eloquence.

It has been an aphorism in American culture, at least since the days of Benjamin Franklin, that those who will not learn from the past are doomed to repeat it. If we do not support this common sense amendment to form an independent commission to investigate exactly what happened around September 11, will we have done everything within our power to learn what happened and to avert future tragedies?

I would like each Member who is considering voting against this amendment to ask themselves to search in their heart. If there is a future recurrence, will you be able to look in your heart and say to yourself we did everything we could to learn from the past and to prevent future recurrences?

I ask you to vote for this commonsense amendment to fully investigate September 11 and prevent future tragedies from occurring.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. WU. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding to me.

As the gentleman from Washington started to say, it is time to vote. We have had a good lively debate for 1:30 in the morning. We started out on a bipartisan bill in a bipartisan way with comity and respect toward one another. We have had bipartisan agreement with much of this amendment. And, Mr. Chairman, thank you for the honorable way you have conducted yourself in the chair at this late hour and this long day.

Mr. Chairman, I put the question on the Smith amendment.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The question is on the amendment offered by the gentleman from New Jersey (Mr. SMITH) to the amendment offered by the gentleman from Indiana (Mr. ROEMER).

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. ROEMER), as amended.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 188, not voting 27, as follows:

[Roll No. 347]

### AYES—219

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett
Bartlett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Brady (PA)
Brown (FL)
Brown (OH)
Burton
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Frank
Frelinghuysen
Frost
Ganske
Gephardt
Gilchrest
Gilman
Gonzalez
Green (TX)
Gutknecht
Harman
Hastings (FL)
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rohrabacher
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Smith (NJ)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tancredo
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)

Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu
Wynn

### NOES—188

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barton
Bass
Bereuter
Biggert
Bilirakis
Boehlert
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Hall (TX)
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Ney
Northup
Norwood
Nussle
Osborne
Ose
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Sullivan
Sununu
Sweeney
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (FL)

### NOT VOTING—27

Blunt
Boehner
Bonior
Boucher
Callahan
Clay
Combest
Condit
Cox
Davis, Tom
Gordon
Gutierrez
Hall (OH)
Hansen
Issa
Knollenberg
LaFalce
McCarthy (MO)
Murtha
Otter
Roukema
Slaughter
Smith (WA)
Stearns
Stump
Turner
Young (AK)

□ 0158

Mr. WALSH, Mr. EHLERS and Mrs. KELLY changed their vote from "aye" to "no."

Mr. HILL changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Ms. McCARTHY of Missouri: Mr. Speaker, during rollcall vote No. 347, I was unavoidably detained. Had I been present, I would have voted, "aye."

Mr. GOSS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. WHITFIELD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, had come to no resolution thereon.

□ 0200

## LIMITING AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 4628, INTELLIGENCE AUTHORIZATION ACT OF FISCAL YEAR 2003

Mr. GOSS. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 4628 in the Committee of the Whole pursuant to House Resolution 497, no further amendment to the committee amendment in the nature of a substitute may be offered after the legislative day of July 24, 2002, except pro forma amendments offered by the chairman or ranking minority member of the Permanent Select Committee on Intelligence or their designees for the purpose of debate.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

## MAKING IN ORDER AT ANY TIME ON THURSDAY, JULY 25, 2002, CONSIDERATION OF CONFERENCE REPORT ON H.R. 3763, SARBANES-OXLEY ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that it be in order at any time on Thursday, July 25, 2002, to consider a conference report to accompany H.R. 3763; that the conference report be considered as read; and that all points of order against the conference report and against its consideration be waived.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## PERSONAL EXPLANATION

Mr. PHELPS. Mr. Speaker, I regret that I was inadvertently detained and missed rollcall vote 343 on H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. I have very strong convictions against very partial-birth abortions.

Please let the record show I would have voted yes on rollcall 343.

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The SPEAKER pro tempore. Pursuant to House Resolution 497 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4628.

□ 0201

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with Mr. WHITFIELD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, Amendment No. 9 printed in the CONGRESSIONAL RECORD offered by the gentleman from Indiana (Mr. ROEMER) had been disposed of.

Pursuant to the order of the House of today, no further amendment to the committee amendment in the nature of a substitute may be offered after the legislative day of July 24, 2002, except pro forma amendments offered by the chairman or ranking minority member of the Permanent Select Committee on Intelligence or their designees for the purpose of debate.

### AMENDMENT NO. 3 OFFERED BY MR. CHAMBLISS

Mr. CHAMBLISS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. CHAMBLISS:

At the end (page 30, after line 7), add the following new title:

### TITLE VI—INFORMATION SHARING

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Homeland Security Information Sharing Act".

**SEC. 602. FINDINGS AND SENSE OF CONGRESS.**

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

**SEC. 603. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.**

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies determine—

(A) whether, how, and to what extent homeland security information may be shared with appropriate State and local personnel, and with which such personnel it may be shared;

(B) how to identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term "homeland security information" means any information (other than information that includes individually identifiable information collected solely for statistical purposes) possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "State and local personnel" means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

**SEC. 604. REPORT.**

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 603. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 603, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

**SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out section 603.

**SEC. 606. AUTHORITY TO SHARE GRAND JURY INFORMATION.**

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting ", or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6," after "Rule 6"; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting "or of a foreign government" after "(including personnel of a state or subdivision of a state";

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: "or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation";

(ii) in subclause (IV)—

(I) by inserting "or foreign" after "may disclose a violation of State";

(II) by inserting "or of a foreign government" after "to an appropriate official of a State or subdivision of a State"; and

(III) by striking "or" at the end;

(iii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iv) by adding at the end the following:

"(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat."; and

(C) in subparagraph (C)(iii)—

(i) by striking "Federal";

(ii) by inserting "or clause (i)(VI)" after "clause (i)(V)"; and

(iii) by adding at the end the following: "Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

**SEC. 607. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.**

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

"(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

"(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

**SEC. 608. FOREIGN INTELLIGENCE INFORMATION.**

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001 (Public Law 107–56; 50 U.S.C. 403–5d) is amended by adding at the end the following: "Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

Mr. CHAMBLISS. Mr. Chairman, this amendment is a very simple amendment. It is an amendment that was debated very thoroughly on the House floor some 3 weeks ago. It is an information sharing bill coauthored by the gentlewoman from California (Ms. HARMAN), myself and the gentleman from Connecticut (Mr. SHAYS), who has now joined us in offering this amendment.

Basically what this amendment does, it is in response to some information that we discovered as the Subcommittee on Terrorism and Homeland Security during our hearing process about the lack of information sharing that exists between the intelligence gatherers at the Federal level and State and local officials, who are the first responders on the site of any terrorist attack that may be perpetrated against the United States.

This bill basically requires the administration to develop an information sharing plan such that they take the individual intelligence gatherers, whether it is NSA, FBI, CIA or whoever, put it into a common funnel, and that information be redacted and declassified and disseminated out to State and local officials in real time so that those first responders on the ground can have the information necessary to be on the lookout to hopefully disrupt any terrorist activity that may be forthcoming.

Ms. HARMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am proud to be a coauthor of this amendment, which passed the House by a vote of 422 to 2 several weeks ago. I believe that every member of the Permanent Select Committee on Intelligence was an original cosponsor of the amendment. It has been a pleasure to work on it with the gentleman from Georgia, the gentleman from Connecticut and many others, and to see it become such an important legislative action of this season. By attaching it to this bill, we ensure that it becomes law sooner.

We are looking at every vehicle we can find to make certain that it will pass the Senate and be agreed upon in conference, and we do know that we have support from the administration.

I would just add that at 2 o'clock in the morning, Mr. Chairman, somewhere in America there is a terrorist cell that intends to do us harm. By having this mechanism that will share information with first responders and help them know what to look for, we are protecting the citizens of that part of America who are under threat. So I am very pleased to stand here tonight in support of this amendment. I urge its adoption quickly.

Mr. SHAYS. Mr. Chairman, will the gentlewoman yield?

Ms. HARMAN. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I am delighted to join the authors of this legislation, the gentleman from Georgia (Mr. CHAMBLISS) and the gentlewoman from California (Ms. HARMAN). I am not an author, but I am a cosponsor, because at the 30 hearings my Subcommittee on National Security has had, this issue has shown up almost at every instance.

Protecting the safety and security of the Nation against terrorist attacks requires unprecedented cooperation between Federal, State and local agencies. Timely information sharing is an absolutely indispensable element of the Nation's ability to detect and preempt, disrupt or respond to any terrorist attack.

I absolutely am amazed at how stubborn the procedural process has been, the cultural barriers that have blocked the information sharing on the local level. These individuals on the local level need to have the ability to gain security clearance. We need to encourage the Federal and State to interact better.

I just commend the gentleman from Georgia (Mr. CHAMBLISS), and I commend the chairman of the Permanent Select Committee on Intelligence and ranking member for their recognizing the need for this legislation and their past support.

Mr. BISHOP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as has been noted, this amendment is substantially the same as the Homeland Security Information Sharing Act which was overwhelmingly passed and endorsed by the House last month. I was pleased to be a cosponsor of that bill.

I commend the gentlewoman from California (Ms. HARMAN), the gentleman from Georgia (Mr. CHAMBLISS), the gentleman from Michigan (Mr. CONYERS), the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Connecticut (Mr. SHAYS) and the gentleman from New York (Mr. WEINER) again for their hard work on it.

Timely and effective information is one of the most important tools in the fight against terrorism. Local communities need to be able to count on receiving that kind of information.

This amendment will help in that effort, and I certainly urge its adoption.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank those involved in this amendment. I know that this has been a success story already on the floor, but I am pleased it is added to the bill. I think it is important as it has been explained. I congratulate the gentlewoman from California (Ms. HARMAN), the gentleman from Georgia (Mr. CHAMBLISS) and the gentleman from Connecticut (Mr. SHAYS). The committee accepts the amendment offered by the gentleman from Georgia (Mr. CHAMBLISS).

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The CHAIRMAN pro tempore (Mr. WHITFIELD). The question is on the amendment offered by the gentleman from Georgia (Mr. CHAMBLISS).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. PELOSI:

Amend section 501 to read as follows:

**SEC. 501. USE OF FUNDS FOR COUNTER-DRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.**

(a) AUTHORITY.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities for fiscal years 2002 and 2003, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) REQUIREMENT FOR CERTIFICATION.—(1) The authorities provided in subsection (a) shall not be exercised until the Secretary of Defense certifies to the Congress that the provisions of paragraph (2) have been complied with.

(2) In order to ensure effectiveness of United States support for such a unified campaign, prior to the exercise of the authority contained in subsection (a), the Secretary of State shall report to the appropriate committees of Congress that the newly elected President of Colombia has—

(A) committed, in writing, to establish comprehensive policies to combat illicit drug cultivation, manufacturing, and trafficking (particularly with respect to providing economic opportunities that offer viable alternatives to illicit crops) and to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations;

(B) committed, in writing, to implement significant budgetary and personnel reforms of the Colombian Armed Forces; and

(C) committed, in writing, to support substantial additional Colombian financial and other resources to implement such policies and reforms, particularly to meet the country's previous commitments under "Plan Colombia".

In this paragraph, the term "appropriate committees of Congress" means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

(c) TERMINATION OF AUTHORITY.—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(d) APPLICATION OF CERTAIN PROVISIONS OF LAW.—Sections 556, 567, and 568 of Public Law 107-115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106-246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(e) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

Ms. PELOSI. Mr. Chairman, just briefly, this amendment, which I am offering with the gentleman from Florida (Mr. GOSS), has a simple purpose: to harmonize the intelligence authorization bill and the emergency supplemental appropriations conference report passed yesterday on an issue relating to Colombia. That issue is the use to which funds designated for counterdrug activities for Colombia in fiscal year 2003 and made available but not expended in previous fiscal years can be put.

When this matter was considered by the Select Committee on Intelligence, it was clear that we intended to mirror actions taken by the Committee on Appropriations in the emergency supplemental. Section 501 of the bill, which is nearly identical to the provision in the emergency supplemental as reported by the Committee on Appropriations, reflects that intention.

In conference, the Colombia provisions in the emergency supplemental were modified. These modifications condition the use of counternarcotics money for counterterrorism purposes in Colombia on certain certifications being made by the Secretaries of State and Defense and limit participation of U.S. personnel in combat operations in Colombia to instances of self-defense or the rescue of U.S. citizens. The task which remains is to bring the intelligence bill in line with the emergency supplemental on this matter. This amendment acknowledges that purpose. I am pleased to have the chairman's support for it, and I urge its adoption by the House.

Mr. GOSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as stated in our report language, section 501 of the Intelligence Authorization Act for fiscal year 2003 regarding the use of funds for counterdrug and counterterrorism activities for Colombia is intended to be consistent with similar language included in fiscal year 2002 Defense Department appropriations bills. The gentlewoman from California has properly, rightly and helpfully offered an amendment to replace section 501 in order to conform with the language in H.R. 4775, as voted out of conference and approved by the House on July 23, 2002. Therefore, the Committee accepts the amendment and thanks the gentlewoman for the gracious and harmonizing effort to make this all work better.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from California (Ms. PELOSI).

The amendment was agreed to.

### AMENDMENT NO. 5 OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. GOSS:

At the end of title I (page 9, after line 4), insert the following new section:

**SEC. 106. LIMITATION ON USE OF CERTAIN APPROPRIATIONS FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES.**

(a) IN GENERAL.—Subject to subsection (b), the amounts requested for the Defense Emergency Response Fund that are designated for the incremental costs of intelligence and intelligence-related activities for the war on terrorism may only be obligated or expended for the intelligence and intelligence-related activities specified in the letter dated July 19, 2002 of the Deputy Director for Central Intelligence to the Permanent Select Committee on Intelligence of the House of Representatives.

(b) LIMITATIONS.—The amounts referred to in subsection (a)—

(1) may only be obligated or expended for activities directly related to identifying, responding to, or protecting against acts or threatened acts of terrorism;

(2) may not be obligated or expended to correct programmatic or fiscal deficiencies in major acquisition programs which have not achieved initial operational capabilities within two years of the date of the enactment of this Act; and

(3) may not be obligated or expended until the end of the 10-day period that begins on the date notice is provided to the Select Committee on Intelligence and the Committee on Appropriations of the Senate and the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives.

### MODIFICATION TO AMENDMENT NO. 5 OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form at the desk, and that the modification be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida (Mr. GOSS) to dispense with the reading?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will designate the modification.

The text of the modification is as follows:

Modification to amendment No. 5 offered by Mr. GOSS:

The amendment is modified as follows:

Strike the heading and subsection (a) of section 106, as proposed to be added by the amendment, and insert the following:

**SEC. 106. LIMITATION ON INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES.**

(a) IN GENERAL.—Subject to subsection (b), the amounts requested in the letter dated July 03, 2002, of the President to the Speaker of the House of Representatives, related to the Defense Emergency Response Fund and that are designated for the incremental costs of intelligence and intelligence-related activities for the war on terrorism are authorized.

In subsection (b)(1) of such section, strike "may only be obligated or expended" and insert "are authorized only".

In subsection (b)(2) of such section, strike "may not be obligated or expended" and insert "are not authorized".

In subsection (b)(3) of such section—

(1) strike "may not be obligated or expended" and insert "are not available"; and

(2) insert "written" before "notice is provided".

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Florida (Mr. GOSS)?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified.

Mr. GOSS. Mr. Chairman, I am pleased to have the ranking member as a cosponsor of the amendment as modified. This language has been coordinated with the gentleman from California (Mr. LEWIS) on the Committee on Appropriations, and I wish to express my gratitude for his support as well.

The committee is concerned about a recent budgetary trend to use supplemental funding to cover intelligence needs not met through the regular budget process. The committee believes the practice of seeking and receiving large supplemental appropriations has become part of the expected yearly process and only grown worse with a new type of "emergency fund" created in the wake of the tragedy of September 11.

By continuing to rely on supplemental appropriations year after year, the intelligence community risks fostering a budget process that is ripe for abuse and long-term funding gaps. Moreover, the creation of the Defense Emergency Response Fund, the DERF, has further complicated matters. The Defense Emergency Response Fund was originally created to pay for emergency items that arose due to the war on terrorism, but it has now turned into just another vehicle to fund items that the intelligence community did not receive funding for through the regular budget and planning process.

It is bad budget practice and bad government to do it that way. Congressional oversight is minimized, and finally, the committee believes that the supplemental gravy train will not last.

In any sustained "crisis" action, there comes a point where short-term stopgap practices must be phased out and long-term strategic plans put into place. This amendment is meant to highlight this concern to the administration.

Ms. PELOSI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am pleased to join Chairman GOSS on this amendment. As he has explained, the amendment seeks to ensure that money authorized for intelligence activities in the Defense Emergency Response Fund is used for the war on terrorism. The amendment makes clear that the DERF funds are not to be used to address shortfalls in the intelligence programs not directly related to the terrorism campaign, and requires Congress to be notified before these funds are obligated or expended. I understand that the language in the amendment as modified has been worked out with the Committee on Appropriations.

Congress needs to oversee carefully the operations of the DERF. This amendment will contribute to effective oversight and I support it, and I commend the gentleman for his amendment and am pleased to join in it.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Florida (Mr. GOSS).

The amendment, as modified, was agreed to.

### AMENDMENT NO. 4 OFFERED BY MR. ENGEL

Mr. ENGEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ENGEL:

At the end of title III (page 21, after line 11), insert the following new section:

**SEC. 311. LIMITATIONS ON ASSISTANCE TO THE PALESTINIAN SECURITY SERVICES.**

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS ON ASSISTANCE TO THE PALESTINIAN SECURITY SERVICES

"SEC. 118. (a) PROHIBITION ON LETHAL ASSISTANCE.—Notwithstanding any other provision of law, no assistance in the form of lethal military equipment may be provided, either directly or indirectly, by any element of the intelligence community to the security services of the Palestinian Authority, or to any officials, employees or members thereof.

"(b) REQUIREMENTS FOR OTHER FORMS OF ASSISTANCE.—With respect to forms of assistance other than the provision of lethal military equipment, provided by any element of the intelligence community to the security services of the Palestinian Authority, or to any officials, employees or members thereof, such assistance may only be provided if the assistance is designed to—

"(1) reduce the number of security services of the Palestinian Authority to no more than two; and

"(2) reform such security services so that its officials, employees, and members—

"(A) respect the rule of law and human rights;

"(B) no longer fall under the command of, or report to, Yasir Arafat; and

"(C) are not compromised by, and will not support, terrorism.

"(c) Quarterly Reports on Assistance Provided Since 1993.—(1) Not later than 3 months after the date of the enactment of this section, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report that describes all forms of assistance that have been provided to the security services of the Palestinian Authority since the date on which the Declaration of Principles was signed, including the dates on which such assistance was provided and whether any member of the security services of the Palestinian Authority who received any such assistance has committed an act of terrorism.

"(2) After the submittal of the report under paragraph (1), the Director of Central Intelligence shall submit to the appropriate committees of Congress quarterly reports on the forms of assistance under paragraph (1) provided during the preceding calendar quarter and progress toward—

"(A) reducing the number of security services of the Palestinian Authority to no more than two;

"(B) ensuring that officials, employees, and members of such security services are not compromised by, and will not support, terrorism;

"(C) reforming the security services of the Palestinian Authority so that they respect the rule of law and human rights; and

"(D) ensuring that the security services of the Palestinian Authority are no longer under the control of Yasir Arafat.

"(3) Reports shall be submitted in unclassified form, but may include a classified annex.

"(d) Definitions.—In this section—

"(1) the term 'lethal military equipment' has the meaning given the term for purposes of the Foreign Assistance Act of 1961; and

"(2) the term "appropriate committees of Congress" means the Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives and the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate.".

(b) Clerical Amendment.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 117 the following new item:

"Sec. 118. Limitations on assistance to the security services of the Palestinian Authority.".

Mr. ENGEL. Mr. Chairman, at the conclusion of offering this amendment, I will request to withdraw it by unanimous consent.

Mr. Chairman, 1 month ago today, President Bush, I guess 1 month ago yesterday now, President Bush made a very important speech on the Middle East. He said that the United States would support the establishment of a Palestinian state, but only if Palestinian leaders meet specific benchmarks, including reformed, noncorrupted political processes, a new leadership not compromised by terror, and a unified restructured security force.

I strongly supported the President's speech and his plan. The Palestinians need new leaders. Yasar Arafat is too compromised by terrorism, not only to fight Hamas and Islamic jihad, but to stand up to elements of the PLO itself. Under Arafat's watch, his own PLO Fatah faction, which includes the Al Aqsa Martyrs Brigade, has established a long track record of terror attacks against innocent Israeli civilians. The Palestinians deserve leaders who will stand up for their interests, not turn down peace plans like the one presented at Camp David 22 months ago.

I agree with the President that the Palestinian Authority's security apparatus must be reformed so that it can effectively fight terrorism, and I am glad that CIA Director Tenet will take personal hold of this project. The amendment I offer, and will shortly withdraw, is in line with U.S. policy and designed to support Tenet's effort to create a functional, unified Palestinian security network by providing guidelines for his efforts.

First, the amendment would prohibit lethal assistance to the Palestinian security officials, employees or members. I have seen report after report of PA security personnel participating in or inciting acts of violence. There are some very unsavory characters throughout the Palestinian Authority, and we should not arm its security apparatus. Although I will withdraw my amendment, we must be very careful that we do not try to create a security force of people who have been behind the violence of the last 22 months or even those who have known and looked the other way.

Secondly, my amendment states that other types of U.S. assistance must be designed to promote reform in the PA security services. This is precisely what President Bush called for in his June 24 speech, and in my amendment American assistance should reduce the number of PA security services to a unified command structure and, by all means, not more than two separate units. As my colleagues are likely aware, the PA has more than 10 security services which Arafat plays off against each other for his own purposes. In fact, some have competed as to which can more effectively fight and kill innocent Israelis.

American training and other help must further be designed to reform the security service so that its members or employees respect the rule of law on human rights, are no longer commanded by Yasar Arafat, and are not compromised by terrorism. These guidelines for U.S. assistance are in line with the policy laid out by President Bush and should be the basis for CIA Director Tenet's program.

Finally, my amendment would direct the Central Intelligence Agency to report about the assistance we give the Palestinian Authority security services in the 1990s, and every 3 months thereafter, the progress we are making in reforming the Palestinian Authority security services. Even after I withdraw this amendment, consultation with Congress about our program to reform the Palestinian security services should be expanded.

Once again, I support the President's policy of reforming the Palestinian Authority and security services. The Palestinians need better leadership and a security force which will actually and faithfully strive to halt terror. While I strongly support this effort, it should not proceed without boundaries.

□ 0220

I believe that my amendment would have passed today. However, in a few days, CIA Director Tenet will send an assessment team to the region to begin analysis of what reform might require. As this process is just beginning, I have decided that now is not the time to legislate limitations. Yet, if the process gets off track, I will be back here on the floor trying to set the program straight. In the meantime, it is my hope with this amendment, which I now ask unanimous consent to withdraw, offers a set of practical guidelines which the administration will take to heart as it works to reform the PA service.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from New York.

Mr. GOSS. Mr. Chairman, may I congratulate the gentleman from New York for his attention to this problem and the process. A very constructive conversation I know has taken place. I have read his amendment. I understand what he is trying to accomplish, and I appreciate his understanding and his explanation tonight of the problem we have doing it that way. I sympathize very much with what the gentleman is trying to accomplish and I hope that the people who are working on this problem will be able to get the results we both desire and I appreciate his understanding.

The CHAIRMAN. The time of the gentleman from New York (Mr. Engel) has expired.

(By unanimous consent, Mr. Engel was allowed to proceed for 2 additional minutes.)

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I want to join the distinguished chairman in congratulating the gentleman from New York (Mr. Engel) for his leadership, not only tonight but on an ongoing basis on this very important issue, addressing violence in the Middle East and our desire for peace there. I appreciate the constructive nature of his amendment and the more constructive nature of his with drawing it at this time and look forward to working with him to ensure an end to violence and promotion of peace in the Middle East.

Mr. ENGEL. Mr. Chairman, I now ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

### AMENDMENT NO. 1 OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. ROEMER:

At the end of title III (page 21, after line 11), insert the following new section:

**SEC. 311. REPORT ON ESTABLISHMENT OF A CIVILIAN LINGUIST RESERVE CORPS.**

(a) REPORT.—The Secretary of Defense, acting through the Director of the National Security Education Program, shall prepare a report on the feasibility of establishing a Civilian Linguist Reserve Corps comprised of individuals with advanced levels of proficiency in foreign languages who are United States citizens who would be available upon a call of the President to perform such service or duties with respect to such foreign languages in the Federal Government as the President may specify. In preparing the report, the Secretary shall consult with such organizations having expertise in training in foreign languages as the Secretary determines appropriate.

(b) MATTERS CONSIDERED.—

(1) IN GENERAL.—In conducting the study, the Secretary shall develop a proposal for the structure and operations of the Civilian Linguist Reserve Corps. The proposal shall establish requirements for performance of duties and levels of proficiency in foreign languages of the members of the Civilian Linguist Reserve Corps, including maintenance of language skills and specific training required for performance of duties as a linguist of the Federal Government, and shall include recommendations on such other matters as the Secretary determines appropriate.

(2) CONSIDERATION OF USE OF DEFENSE LANGUAGE INSTITUTE AND LANGUAGE REGISTRIES.—In developing the proposal under paragraph (1), the Secretary shall consider the appropriateness of using—

(A) the Defense Language Institute to conduct testing for language skills proficiency and performance, and to provide language refresher courses; and

(B) foreign language skill registries of the Department of Defense or of other agencies or departments of the United States to identify individuals with sufficient proficiency in foreign languages.

(3) CONSIDERATION OF THE MODEL OF THE RESERVE COMPONENTS OF THE ARMED FORCES.—In developing the proposal under paragraph (1), the Secretary shall consider the provisions of title 10, United States Code, establishing and governing service in the Reserve Components of the Armed Forces, as a model for the Civilian Linguist Reserve Corps.

(c) COMPLETION OF REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the report prepared under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Defense $300,000 to carry out this section.

Mr. ROEMER. Mr. Chairman, this amendment I think is noncontroversial and has been worked out previously with the distinguished chairman and the ranking member who have supported this. It is to establish a civilian linguist reserve corps. First of all, I am very greatful to the co-sponsors of the amendments the gentleman from Nevada (Mr. GIBBONS) who is extremely knowledgeable on these linguist issues and who has been very helpful in crafting this amendment; the gentleman from California (Mr. FARR) who has worked very diligently on language issues and has a distinguished institute in his State; the gentleman from Texas (Mr. REYES) and a member of our committee; and also Jim Bamford, who has also come up with some ideas.

I am also very grateful to the staff on our committee. We have said how many times how professional and dedicated and talented they are, Chris Barton on the majority side and Chris Healey on our side have been very helpful to us.

This amendment requires the Secretary of Defense acting through the National Security Education Program to prepare a report on the feasibility of establishing a civilian linguist reserve corps comprised of individuals with advanced skill levels in foreign languages.

I am not going to take the time of House at this hour. I am going to enter my statement into the record.

Mr. Chairman, I hope this is accepted as it was previously worked out and thank again the committee members for their help.

This amendment requires the Secretary of Defense, acting through the National Security Education Program, to prepare a report on the feasibility of establishing a civilian linguist reserve corps comprised of individuals with advanced skill levels in foreign languages.

The idea behind the amendment is to move forward on a promising approach to this country's multi-faceted problem of finding qualified linguists to serve in the Federal Government.

Often, the Federal Government finds it suddenly needs linguists with skills in relatively obscure languages for a relatively short-term crisis, but these linguists are not to be found among regular government employees.

A reserve corps would help ensure that individuals with skills in a wide variety of languages were trained and ready when needed to come to the aid of the government.

We would like the Secretary of Defense to give us not just a report, but an action plan that comprehensively addresses all of the issues involved in establishing a civilian linguist reserve corps.

We expect the National Security Education Program to utilize organizations with expertise in language issues to conduct this study, such as the National Foreign Language Center at the University of Maryland. This Center is a leading institution on language issues and has already begun work on how a reserve corps could be made operational.

The report should also take into account the assets that already exist in the Federal Government that might facilitate the establishment of the corps, such as the capability of the Defense Language Institute to test for language proficiency and maintenance of skills. Foreign language skill registries, such as the one proposed by the gentlemen from California, Mr. FARR, could also be the basis for drawing up a reserve corps.

I am grateful to James Bamford for his work on this issue and for proposing the idea of a reserve corps. This amendment is co-sponsored by Messrs. GIBBONS, FARR and REYES.

Mr. BISHOP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to begin by congratulating the gentleman from Indiana (Mr. ROEMER), the gentleman from Nevada (Mr. GIBBONS), the gentleman from Texas (Mr. REYES), the gentleman from New York (Mr. BOEHLERT), and the gentleman from California (Mr. FARR) for their work on this amendment. They have been leaders on the language issue, constantly seeking creative solutions to what is a very serious problem.

Looking outside the ranks of current employees for highly skilled linguists who are willing to bring their talents to bear in an emergency situation is an idea that is well worth exploring. This amendment would permit a thorough study of the idea, which would, in turn, permit a reasoned judgment to be made on the potential.

I urge the adoption of the amendment and I congratulate those who have offered it. It is very well taken.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in strong support of this amendment. I want to congratulate my colleague and friend from Indiana (Mr. ROEMER) for his leadership on this issue, as well as my other colleagues who are in co-sponsor of this and who have worked hard to provide a rather remarkable amendment that I think is going to do great work to improve the bill and to improve our linguistic skills. I also want to thank the chairman of the committee, the gentleman from Florida (Mr. GOSS) and the ranking member, the gentlewoman from California (Ms. PELOSI) for their work and their help on getting this amendment through.

I also want to thank one of the staff members who is not here this evening who has not been mentioned, Mr. Brant Bassett, a staff director for HUMINT committee, whose work and insight into this amendment has been very helpful.

Mr. Chairman, I have served for 6 years on the Permanent Select Committee on Intelligence, and throughout that time I have heard a constant theme, that we lack linguistic skills across the board in terms of needed languages that are going to help us identify areas that we can gather intelligence from. And as a result, this amendment is going to allow us to expand our horizons with the ability to pull together a cadre of skilled people with languages skills that we need.

Terrorists today are speaking all kinds of languages, many of which we do not have adequate levels of trained individuals in. Languages like Pashtu, Urdu, Arabic. These language skills are available out there if we pull these people together and train them in a cadre of reserve organization that allow them in a time of crisis to be drawn together, to be utilized to help this Nation do better with its intelligence needs and language skills.

With that, Mr. Chairman, I would like to conclude my remarks once again by thanking the gentleman for his leadership on this issue.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope I do not have to consume 5 minutes. I just want to thank everybody who helped co-sponsor this and the committee members who have really focused on what I think is a very important issue. I think while we are thanking them we also have to thank the desk staff would have been here all day and they have to be back here early tomorrow morning. This has been a long day, and the old adage that the mind cannot comprehend what the seat cannot endure, I hope we can continue to finish this work.

What this amendment is all about is recognizing, America has linguists and we have language teachers and we have language institutions but we have not brought them all together so we can make them skilled linguists. And in order to do that, I come from a district where we have a really relevant assets, relevant institutions to do that, to teach the languages.

The largest foreign language school in the world is the the old Army language school now called the Defense Language Institute in Monterey, California, and next to it a private nonprofit called the Monterey Institute of International Studies which offers the Nation's only masters degree in translation and interpretation.

The committee has clearly identified one of the most acute problems in our intelligence collection efforts and that is how do you keep training and upgrading and learning how to train with the technology that we have skilled linguists. So I applaud my colleagues on the committee on their efforts to improve our Nation's assets by calling for the Intelligence Community Language University. There can be no doubt that the time is now to stand up this new foreign language school. It does not necessarily have to be a new place at a new university so to speak. It could be a university within a university and that is what the report will inform us.

□ 0230

The committee adopted another initiative at my suggestion to foster a cooperative relationship between the National Security Education program and the Defense Language Institute to enhance the development of national security professionals and foreign area experts with high levels of foreign language proficiency.

In the effort to help the Federal Government meet the challenge of hiring linguists more quickly, I was successful in adding report language to the DOD appropriations bill and the DOD authorization bill this year to create the National Language Skills Registry. What happens is that we train people as linguists, and as long as they are in the Federal employment, we can keep track of them; but the minute they leave the Federal employment, we have no knowledge of them.

So by creating this National Foreign Language Skills Registry, it is a voluntary program where ones with these skills could be kept in a file and an electronic file, and we would know exactly where our language assets are around the United States rather than having, as we saw last year after 9–11, the FBI director having to go out and advertise for people, people that spoke Farsi and other languages.

The Permanent Select Committee on Intelligence report will look at the national foreign language skills registry as a starting point and consider the resources of the Defense Language Institute in making its recommendation to create a civilian linguist reserve corps.

Taken together, I think my colleagues on the House Permanent Select Committee on Intelligence are taking the first real substantial step to close the gap in language capacity among our intelligence community.

I urge the adoption of this amendment, and I really want to thank our colleagues. The hour is late. They have done a marvelous job, and I appreciate their focus on this very important issue.

Mr. GOSS. Mr. Chairman I move to strike the requisite number of words.

I thank the gentleman from Indiana (Mr. ROEMER), the gentleman from Nevada (Mr. GIBBONS) and the gentleman from California (Mr. FARR) and several others I suspect have had a hand in this and they have actually made a very valuable contribution in offering this amendment to establish a civilian linguist reserve corps.

I think it is a good idea, and I think I read an article not too long ago by Jeff Porter saying that we had capabilities that were not being properly utilized in this area, and I think this is a very creative response and I am very happy to accept it.

The events of September 11, 2001, and the ongoing war against terrorism has shown us that America must have a linguistic quick response capability, and there is no reason why we cannot.

On behalf of the committee, I am very pleased to congratulate those involved in this and to accept the bipartisan amendment that we have.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The question is on the amendment offered by the gentleman from Indiana (Mr. ROEMER).

The amendment was agreed to.

### AMENDMENTS NO. 6 AND NO. 7 OFFERED BY MR. HASTINGS of florida

Mr. HASTINGS of Florida. Mr. Chairman, I offer two amendments, No. 6 and No. 7, and I ask unanimous consent they be considered en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments.

The text of the amendments are as follows:

Amendments No. 6 and No. 7 offered by Mr. HASTINGS of Florida:

At the end of the title III (page 21, after line 11), insert the following new section:

**SEC. 311. SENSE OF CONGRESS ON DIVERSITY IN THE WORKFORCE OF INTELLIGENCE COMMUNITY AGENCIES.**

(a) FINDINGS.—Congress finds the following:

(1) The United States is engaged in a war against terrorism that requires the active participation of the intelligence community.

(2) Certain intelligence agencies, among them the Federal Bureau of Investigation and the Central Intelligence Agency, have announced that they will be hiring several hundred new agents to help conduct the war on terrorism.

(3) Former Directors of the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency have stated that a more diverse intelligence community would be better equipped to gather and analyze information on diverse communities.

(4) The Central Intelligence Agency and the National Security Agency were authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 1987.

(5) The Defense Intelligence Agency was authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 1988.

(6) The National Imagery and Mapping Agency was authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 2000.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of the Federal Bureau of Investigation (with respect to the intelligence and intelligence-related activities of the Bureau), the Director of Central Intelligence, the Director of the National Security Agency, and the Director of the Defense Intelligence Agency should make the creation of a more diverse workforce a priority in hiring decisions; and

(2) the Director of Central Intelligence, the Director of National Security Agency, the Director of Defense Intelligence Agency, and the Director of National Imagery and Mapping Agency should increase their minority recruitment efforts through the undergraduate training program provided for under law.

AMENDMENT NO. 7. At the end of title III (page 21, after line 11), insert the following new section:

**SEC. 311. ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES IN THE INTELLIGENCE COMMUNITY.**

Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Annual Report on Hiring and Retention of Minority Employees.—(1) The Director of Central Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

"(2) Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

"(A) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

"(B) Of all individuals employed in the element during the fiscal year involved at the levels referred to in clauses (i) and (ii), the percentage of covered persons employed at such levels:

"(i) Positions at levels 1 through 15 of the General Schedule.

"(ii) Positions at levels above GS–15.

"(C) Of individuals hired by the head of the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

"(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

"(4) Nothing in this subsection shall be construed as providing for the substitution of any similar report required under another provision of law.

"(5) In this subsection, the term 'covered persons' means—

"(A) racial and ethnic minorities,

"(B) women, and

"(C) individuals with disabilities.".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Chairman, let me join those that have thanked everyone that has been involved in developing this very fine legislative undertaking, and especially thank all of the staff that have worked with all of us in developing this. Specifically I would like to thank Wendy Parker for her efforts in working with my office, as well as other members of the staff and also to thank the court reporters and the desk staff from the Clerk's office and all of those with the Speaker's office who have stayed with us throughout the night.

With the permission of the Chair, and with the ranking member designee's permission and the Chair's permission, my understanding is that neither of the amendments that I am offering are likely to be controversial, and in the interest of time, I am placing my full statement in the Record, and allow me, since they know that one of these measures speaks to the subject of diversity and ethnicity and helps to strengthen our ability to achieve that, as has been stated by many in the agencies that they wish to accomplish.

The other amendment facilitates the reporting, seguing off of the one that we just finished in an effort to fill some of the community's gaps in language and analytical skills, and I am submitting the statement for the Record.

Mr. Chairman, I rise to introduce the second of two amendments I am offering to H.R. 4628. The first calls for increased minority recruitment by the intelligence community, in an effort to fill some of that community's gaps in language and analytical skills. The second amendment facilitates Congressional oversight of that process.

Mr. Chairman, the amendment I am offering at the current moment instructs the Director of Central Intelligence to issue an annual report to Congress on the hiring and retention of minorities by the intelligence community. Such a report will allow this body to monitor the progress of the intelligence community's efforts to recruit and retain minorities.

Like my previous amendment and the underlying bills, this amendment is non-controversial. After all, intelligence agencies have been providing reports on minority hiring and retention to the House Permanent Select Committee on Intelligence since the early 1990's. My amendment simply makes the unclassified versions of those reports available to the larger Congress.

Likewise, this amendment does not in any way jeopardize our national security by revealing the number of individuals working at our various intelligence agencies. Figures published in the report would be percentages, not absolute numbers. This provision is in keeping with current guidelines for maintaining the integrity of classified information.

Mr. Chairman, let me reiterate, minority recruitment is critical to the maintenance of our national security. Congress has a role in the maintenance of our intelligence infrastructure. That role is to provide effective oversight. This amendment will allow myself and my colleagues in this body to do just that.

I urge my colleagues to support my amendment.

Mr. Chairman, it was just 3 years ago that the Director of Central Intelligence, George Tenet, stated, and I quote:

> To combat the threats our country will be facing in the decades ahead, we will need [intelligence] collectors from diverse Ethnic backgrounds and with a wide range of expertise who can think and communicate like our targets and pierce their human and technical networks. We will also need analysts whose deep knowledge of other societies, cultures and languages can bring important perspectives to intelligence assessments.

At the time that Mr. Tenet made this statement, only 11 percent of the case officers at the CIA were racial or ethnic minorities. Tragically, that number has barely changed in the intervening years.

Realize, Mr. Chairman, this country is attempting to gather information on a world which is 50 percent non-white with an intelligence apparatus that is barely 11 percent non-white.

How can we expect to understand them if we do not talk like them? How can we expect to infiltrate them if we do not look like them?

And what has the intelligence community's failure to recruit and retain minorities brought us? Today, Mr. Speaker, there are large areas of this globe where the United States is unable to collect intelligence for want of agents who possess the requisite cultural literacy and language skills. At the FBI, CIA and NSA, untranslated tapes of wiretapped conversations pile up, awaiting analysts with the proper language skills to translate them.

Right now, as we sit here in this chamber, the intelligence operation in Guantanamo Bay is bogged down by a lack of translators. This sorry state of affairs must not be allowed to persist.

My amendment expresses the sense of Congress that the directors of the CIA, DIA, NIMA and the NSA use every means at their disposal to make minority recruitment and retention a priority in their hiring decisions. The CIA, DIA, NSA, and NIMA all have Undergraduate Training Programs; a minority scholarship program introduced by former Chairman of the House Permanent Select Committee on Intelligence, Louis Stokes, in 1987. My amendment urges the directors of these agencies to use this existing program to increase minority recruitment.

Mr. Chairman, make no mistake, minority recruitment is critical to the maintenance of our national security. The passing of this amendment will send a strong message that the House of Representatives supports the goal of increasing minority representation in the intelligence community for the purpose of strengthening our intelligence infrastructure.

I urge my colleagues to support this much needed amendment.

Mr. BISHOP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in my view, few things could contribute more to enhancing the mission success in the intelligence community than increasing diversity in the workforce. When he was on the committee, the gentleman from Florida (Mr. Hastings) was a leader working with the gentleman from Texas (Mr. Reyes), me, along with several others, to encourage efforts by the agencies to place a priority on hiring people with diverse ethnic, religious and cultural backgrounds.

It is a tribute to his commitment that despite his absence from the committee the gentleman from Florida (Mr. Hastings) continues to work hard on this important issue.

With hiring being accelerated in the intelligence agencies, now is the time to make significant progress on the diversity issues by making full use of existing recruitment programs targeted on minorities, and by developing creative new ones, I am confident that such progress can be made.

The gentleman from Florida's (Mr. Hastings) amendments expressing the sense of Congress on diversity and in the intelligence community and requiring an annual report on hiring and retention of minority employees will contribute to this end. I commend him for this work and I urge that the amendments be adopted.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

It is true that my colleague from Florida has been a champion on the Permanent Select Committee on Intelligence and elsewhere on behalf of the thoughts that these two amendments contain and that is making sure that we are getting adequate reporting back from the intelligence community on their efforts on diversification and encouraging a broader and richer, I think, capability in the community by utilizing diversification, and we have had a couple of hearings that I think have been helpful.

I know that the gentlewoman from California (Ms. PELOSI) has also been a champion in this area, and I congratulate all involved and particularly the gentleman from Florida (Mr. HASTINGS) this evening.

The fact is the intelligence community does need diversity in a very bad way. This is a global world and that message needs to continue to be reinforced. So I am very happy to accept the en bloc amendment presented by the gentleman from Florida (Mr. HASTINGS).

The one caveat I would offer is a minor caution, and that is, we have some reporting now and I want to make sure we are not creating a duplication. I would rather take what we have and make sure it is what we need and what we want rather than create another requirement. So if the gentleman from Florida (Mr. HASTINGS) will help me with that, maybe we can streamline that a little bit.

Mr. HASTINGS of Florida. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Chairman, the gentleman has my assurance that I will do everything I can to strengthen it in the way he has put forward.

Mr. GOSS. The gentleman continues to make a contribution to the committee, and we hope to see him again.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the hour is late and I would like to say more, but I do want to very enthusiastically commend the gentleman for this very important amendment.

On the committee we have had a tradition of chairman Louis Stokes, our former colleague, when he was the Chair of the committee, was a champion for promoting diversity in the intelligence community. That banner was later carried by our late colleague Congressman Julian Dixon as ranking member of the committee, and now the gentleman from Florida (Mr. HASTINGS) and others on the committee are advancing this.

All of us have worked very hard to impress upon the intelligence community the value of diversity to mission success. We want the very best people, and we want to draw upon the knowledge of other cultures, the language, the possibility, the opportunities, the personalities that are in our country and that understand the culture of other countries.

Part of the success of intelligence is understanding plans and intentions. It takes a great deal of access and imagination. Diversity brings both of those in a way that I think we are missing and have a deficit in our current intelligence resources.

□ 0240

We have tremendous resources, however. We are blessed with courageous and patriotic people who work every day to protect the American people. That resource can be improved and enhanced by the work that the gentleman from Florida (Mr. HASTINGS) is presenting here this evening.

We cannot say it enough. We need to expand the diversity of our workforce, and we need to expand the language capabilities to another issue that was addressed here this evening. We hope that the amendment of the gentleman from Florida will build upon the work of Mr. Stokes and our dear late colleague Mr. Dixon in a way that will be exponential in light of the new hires that will have to happen in light of September 11.

Again, I commend the gentleman and my distinguished chairman for agreeing to the amendment.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The question is on the amendments offered by the gentleman from Florida (Mr. HASTINGS).

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PORTMAN) having assumed the chair, Mr. WHITFIELD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, pursuant to House Resolution 497, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed, and a motion to reconsider was laid on the table.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GOSS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4628, just passed, the Clerk be authorized to make such technical and conforming changes as necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 9 a.m. today.

Accordingly (at 2 o'clock and 45 minutes a.m.), the House stood in recess until approximately 9 a.m.

□ 0900

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 9 a.m.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report

(Rept. No. 107–611) on the resolution (H. Res. 500) providing for consideration of the bill (H.R. 4546) relating to consideration of the Senate amendment to the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–612) on the resolution (H. Res. 501) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KNOLLENBERG (at the request of Mr. ARMEY) for today after 2:00 p.m. and July 25 on account of a death in the family.

## ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4775. An act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

## ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 2 minutes a.m.), the House adjourned until today, Thursday, July 25, 2002, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8194. A letter from the Under Secretary, Acquisition and Technology, Department of Defense, transmitting the annual report detailing test and evaluation activities of the Foreign Comparative Testing Program during FY 2001, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

8195. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Restriction on Acquisition of Vessel Propellers [DFARS Case 2002-D006] received July 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8196. A letter from the Register Liasion Officer, DoD, Department of Defense, transmitting the Department's final rule — Enrollment of Certain Family Members of E-4 and Below into TRICARE Prime [0720-AA59] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8197. A letter from the Secretary, Department of the Treasury, transmitting the annual report on the operations of the Exchange Stabilization Fund (ESF) for fiscal year 2001, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Financial Services.

8198. A letter from the Assistant Secretary, Department of Education, transmitting Final Priorities —— Rehabilitation Engineering Research Centers Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

8199. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Digoxin Products for Oral Use; Revocation of Conditions for Marketing [Docket Nos. 76N-0080 and 00N-1610] (RIN: 0910-AC12) received July 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8200. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Secondary Direct Food Additives Permitted for Direct Addition to Food for Human Consumption; Materials Used as Fixing Agents in the Immobilization of Enzyme Preparations [Docket No. 89F-0452] received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8201. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Tennessee Implementation Plan [TN-121; TN-205-200206a; FRL-7245-7] received June 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8202. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Section 112(l) Authority for Regulating Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emissions Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of Maine [A-1-FRL-7240-7] received July 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8203. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Commonwealth of Puerto Rico: Control of Emissions from Existing Municipal Solid Waste Landfills [Region 2 Docket No. PR10-244, FRL-7246-7] received June 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8204. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Tennessee Implementation Plan [TN-121; TN-205-200206a; FRL-7245-7] received July 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8205. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 97-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8206. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 136-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8207. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 144-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8208. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 116-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8209. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 113-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8210. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India [Transmittal No. DTC 131-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8211. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 71-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8212. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 109-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8213. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 110-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8214. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 149-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8215. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 137-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8216. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Canada [Transmittal No. DTC 157-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8217. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the United Kingdom [Transmittal No. DTC 160-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8218. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Greece, Belgium, France, Israel, South Korea, the Netherlands and the United Kingdom [Transmittal No. DTC 161-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8219. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan [Transmittal No. DTC 139-02], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

8220. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Canada [Transmittal No. DTC 150-02], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

8221. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Germany and Turkey [Transmittal No. DTC 111-02], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

8222. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed transfer of major defense equipment from the Government of Germany [Transmittal RSAT-2-02], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

8223. A letter from the Director of Congressional Affairs, Central Intelligence Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8224. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8225. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Circular 2001-08 — received July 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8226. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Charter Vessel and Heatboat Permit Moratorium [Docket No. 020313055-2148-02; I.D. 021902F] (RIN: 0648-A062) received July 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8227. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; St. Croix, U.S. Virgin Islands [CGD07-01-048] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8228. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Ports of Houston and Galveston, TX [COTP Houston Galveston-02-012] (RIN: 2115-AA97) received July 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8229. A letter from the Secretary, Department of State, transmitting a report assessing the voting practices of the governments of UN member states in the General Assembly and Security Council for 2001, and evaluating the actions and responsiveness of those governments to United States policy on issues of special importance to the United States, pursuant to 22 U.S.C. 2414a; jointly to the Committees on International Relations and Appropriations.

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## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY. Committee of Conference. Conference report on H.R. 3763. A bill to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes (Rept. 107-610). Ordered to be printed.

*[Filed on July 25 (legislative day of July 24, 2002)]*

Mrs. MYRICK: Committee on Rules. House Resolution 500. Resolution relating to consideration of the Senate amendment to the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 107-611). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 501. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 107-612). Referred to the House Calendar.

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## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. OBERSTAR (for himself, Mr. Dingell, Mr. DeFazio, and Mr. Borski):

H.R. 5194. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Transportation and Infrastructure.

By Mr. COBLE (for himself and Mr. Wilson of South Carolina):

H.R. 5195. A bill to amend title 10 and title 14, United States Code, and the Merchant Marine Act, 1936, to increase the period of the service obligation for graduates of the military service academies, the Coast Guard Academy, and the United States Merchant Marine Academy; to the Committee on Armed Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JO ANN DAVIS of Virginia (for herself and Mr. Taylor of Mississippi):

H.R. 5196. A bill to declare, under the authority of Congress under Article I, section 8 of the Constitution to "provide and maintain a Navy", a national policy for the naval force structure required in order to "provide for the common defense" of the United States throughout the 21st century; to the Committee on Armed Services.

By Mr. DEMINT (for himself, Mr. Etheridge, Mr. Spratt, Mr. Ballenger, Mr. Thune, Mr. Hayes, Mr. Price of North Carolina, and Mr. Matheson):

H.R. 5197. A bill to provide emergency assistance to certain small business concerns that have suffered substantial economic harm from drought; to the Committee on Small Business.

By Mr. DOOLITTLE:

H.R. 5198. A bill to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve; to the Committee on Small Business.

By Ms. DUNN (for herself, Mr. McDermott, Mr. Dicks, Mr. Larsen of Washington, Mr. Smith of Washington, Mr. Nethercutt, Mr. Inslee, and Mr. Hastings of Washington):

H.R. 5199. A bill to amend the Internal Revenue Code of 1986 to exempt certain United States international ports from the harbor maintenance tax; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 5200. A bill to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes; to the Committee on Resources.

By Mr. GILLMOR (for himself, Mr. Regula, Mr. Hall of Ohio, Mr. Oxley, and Mr. Sawyer):

H.R. 5201. A bill to designate the Federal building located at 111 West Washington Street in Bowling Green, Ohio, as the "Delbert L. Latta Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. HALL of Ohio:

H.R. 5202. A bill to amend title 38, United States Code, to provide for preservation and protection of historic buildings under the jurisdiction of the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HULSHOF:

H.R. 5203. A bill to provide that the education savings incentives of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent, and for other purposes; to the Committee on Ways and Means.

By Ms. LEE:

H.R. 5204. A bill to provide for coverage of hormone replacement therapy and alternative treatments for hormone replacement therapy (HRT) under the Medicare and Medicaid programs, group health plans and individual health insurance coverage, and other Federal health insurance programs; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, Government Reform, Veterans' Affairs, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA:

H.R. 5205. A bill to amend the District of Columbia Retirement Protection Act of 1997 to permit the Secretary of the Treasury to use estimated amounts in determining the service longevity component of the Federal benefit payment required to be paid under such Act to certain retirees of the Metropolitan Police Department of the District of Columbia; to the Committee on Government Reform.

By Mr. OSBORNE:

H.R. 5206. A bill to authorize the Secretary of Agriculture to enter into cooperative agreements and contracts with the Nebraska State Forester to carry out watershed restoration and protection activities on National Forest System land in the State of Nebraska; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD:

H.R. 5207. A bill to designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the "Thomas E. Burnett, Jr. Post Office Building"; to the Committee on Government Reform.

By Mr. REYES (for himself, Mr. FILNER, Mr. PASTOR, Mr. HINOJOSA, Mr. RODRIGUEZ, and Mr. ORTIZ):

H.R. 5208. A bill to establish an Adult Job Corps demonstration program for the United States-Mexico border area; to the Committee on Education and the Workforce.

By Mr. ROEMER (for himself, Mr. GIBBONS, Mr. CASTLE, and Mr. REYES):

H.R. 5209. A bill to authorize additional funding for the National Security Education Program, to establish the National Flagship Language Initiative under such Program, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Armed Services, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. RIVERS:

H.R. 5210. A bill to amend the Solid Waste Disposal Act to require implementation by brand owners of management plans that provide refund values for certain beverage containers; to the Committee on Energy and Commerce.

By Mr. LYNCH:

H.J. Res. 107. A joint resolution to commend Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training; to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGERS of Michigan:

H. Con. Res. 446. Concurrent resolution expressing the sense of Congress regarding the establishment of a College Savings Month; to the Committee on Government Reform.

By Ms. WOOLSEY (for herself, Mr. HILLIARD, Ms. LEE, and Mr. LANTOS):

H. Con. Res. 447. Concurrent resolution expressing the sense of the Congress regarding the Chinese Government's oppression of Falun Gong in the United States and in the People's Republic of China; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAPUANO:

H. Res. 499. A resolution condemning attempts to boycott Israeli scientific institutions and scholars; to the Committee on Education and the Workforce.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

342. The SPEAKER presented a memorial of the Senate of the State of Texas, relative to Senate Resolution No. 1206 memorializing the Congress of the United States to bestow on Doris Miller the Congressional Medal of Honor; to the Committee on Armed Services.

343. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 241 memorializing the Congress of the United States to call upon the United States Supreme Court to overturn the 9th U.S. Circuit Court of Appeals decision to ban the recital of the Pledge of Allegiance in public schools; to the Committee on the Judiciary.

344. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 58 memorializing the Congress of the United States to adopt and place on the ballot a national referendum on a constitutional amendment to allow voluntary prayer in schools; to the Committee on the Judiciary.

345. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 91 memorializing the Congress of the United States to enact enabling legislation that would permit state regulation of interisland air carriers by an Air Carrier Commission pursuant to Act 332, Session Laws of Hawaii 1993; to the Committee on Transportation and Infrastructure.

346. Also, a memorial of the Legislature of the State of Alaska, relative to Senate Joint Resolution No. 31 memorializing the Congress of the United States to support H.R. 959 and S. 615 to remove the portion of the Internal Revenue Code which restricts access to state veterans' home loan programs for veterans who served after 1976 so they and their families may enjoy the same benefits as their earlier counterparts; to the Committee on Ways and Means.

347. Also, a memorial of the Legislature of the State of Michigan, relative to Senate Concurrent Resolution No. 53 memorializing the Congress of the United States to turn over the management of federal forest lands to the states through a block grant program; jointly to the Committees on Agriculture and Resources.

348. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 91 memorializing the Congress of the United States to express full support to the efforts of the Louisiana Congressional Delegation for the creation of a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana; jointly to the Committees on Energy and Commerce and Agriculture.

349. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 576 memorializing the Congress of the United States to permanently eliminate the 15% cut in the Medicare home health benefit and extend the 10% rural add-on to Medicare home health providers; jointly to the Committees on Ways and Means and Energy and Commerce.

350. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 210 memorializing the Congress of the United States to permanently eliminate the 15% cut in the Medicare home health benefit and extend the 10% rural add-on to Medicare home health providers; jointly to the Committees on Ways and Means and Energy and Commerce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 187: Mr. BALDACCI and Mr. PHELPS.

H.R. 218: Mr. OBERSTAR.

H.R. 537: Mr. SANDERS.

H.R. 548: Mr. TOM DAVIS of Virginia, Mr. ROGERS of Kentucky, and Mr. TIBERI.

H.R. 747: Mr. FARR of California.

H.R. 818: Mrs. MINK of Hawaii, Mr. ENGLISH, Mr. HASTINGS of Florida, and Ms. KILPATRICK.

H.R. 870: Mr. HILLEARY.

H.R. 1109: Mr. WHITFIELD.

H.R. 1184: Mr. BAIRD.

H.R. 1232: Mr. CARSON of Oklahoma.

H.R. 1294: Mrs. MALONEY of New York, Mr. BOYD, and Mr. RAHALL.

H.R. 1786: Mr. POMEROY.

H.R. 1928: Mr. PRICE of North Carolina.

H.R. 1943: Mr. SCHAFFER.

H.R. 1990: Mr. UDALL of New Mexico.

H.R. 2037: Mr. BOSWELL.

H.R. 2160: Mr. BACA.

H.R. 2161: Mrs. JO ANN DAVIS of Virginia.

H.R. 2232: Mr. SANDERS, Mr. OWENS, Ms. KILPATRICK, and Mr. DOOLEY of California.

H.R. 2357: Mr. BARCIA.

H.R. 2380: Mr. LYNCH.

H.R. 2442: Mr. FILNER and Mr. ROSS.

H.R. 2520: Ms. PELOSI.

H.R. 2527: Mr. OWENS, Mr. OSBORNE, and Mr. OXLEY.

H.R. 2570: Mr. MEEKS of New York and Mr. LEWIS of Georgia.

H.R. 2691: Ms. NORTON.

H.R. 2820: Mr. BOSWELL.

H.R. 2886: Mr. BACA.

H.R. 3154: Mr. MATHESON.

H.R. 3320: Mr. FORBES and Mr. LATHAM.

H.R. 3449: Mr. BLUMENAUER.

H.R. 3533: Mrs. NORTHUP and Mr. HOEKSTRA.

H.R. 3545: Mr. EVANS, Ms. MILLENDER-MCDONALD, and Ms. VELÁZQUEZ.

H.R. 3584: Mr. ACKERMAN.

H.R. 3805: Mr. LATHAM.

H.R. 3880: Mr. CROWLEY.

H.R. 3974: Mr. MEEKS of New York and Mrs. MEEK of Florida.

H.R. 4033: Mr. PASTOR.

H.R. 4058: Mr. BECERRA.

H.R. 4483: Mr. FROST.

H.R. 4554: Mr. WEXLER.

H.R. 4582: Mr. WILSON of South Carolina.

H.R. 4600: Mr. SHADEGG, Mr. CALVERT, and Mr. RYAN of Wisconsin.

H.R. 4604: Mr. GRUCCI.

H.R. 4646: Mr. FARR of California, Mr. WAXMAN, and Mr. JEFFERSON.

H.R. 4653: Mr. JENKINS.

H.R. 4665: Ms. WATERS.

H.R. 4711: Ms. MCKINNEY.

H.R. 4720: Mr. HALL of Texas.

H.R. 4728: Ms. BERKLEY and Mrs. NAPOLITANO.

H.R. 4738: Mr. TOM DAVIS of Virginia, Mr. GREENWOOD, Mr. SAWYER, and Mr. LATHAM.

H.R. 4777: Mr. FERGUSON.

H.R. 4785: Mr. BOSWELL.

H.R. 4887: Mr. BECERRA.

H.R. 4900: Mr. GREEN of Texas and Mr. SIMMONS.

H.R. 4914: Mr. ROHRABACHER.

H.R. 4993: Mr. ABERCROMBIE, Mr. EVANS, Ms. MILLENDER-MCDONALD, Mr. SHERMAN, Mr. VISCLOSKY, Mr. ACKERMAN, Mr. SERRANO, Mrs. CAPPS, Mr. LANGEVIN, Ms. VELÁZQUEZ, Ms. WATERS, and Mr. HINOJOSA.

H.R. 5002: Mr. STEARNS and Mr. DAVIS of Florida.

H.R. 5013: Mr. BILIRAKIS.

H.R. 5033: Mr. KINGSTON and Mr. CAMP.

H.R. 5047: Mr. GREEN of Texas and Mr. LIPINSKI.

H.R. 5054: Mr. GILCHREST.

H.R. 5064: Mr. CAMP, Mr. TIAHRT, and Mr. BRYANT.

H.R. 5082: Mr. BOSWELL.

H.R. 5088: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCDERMOTT, Mr. BECERRA, and Mr. PASTOR.

H.R. 5104: Mr. FRANK.

H.R. 5011: Mr. JEFF MILLER of Florida.

H.R. 5122: Ms. BERKLEY.

H.R. 5123: Mr. DOOLITTLE, Mr. MCKEON, Mr. CUNNINGHAM, Mr. GARY G. MILLER of California, Mr. TANCREDO, and Mr. ISSA.

H.R. 5131: Mr. FRANK and Mr. TANCREDO.

H.R. 5135: Mr. NORWOOD and Mr. UDALL of Colorado.

H.R. 5139: Mr. SABO and Mrs. MINK of Hawaii.

H.R. 5144: Mr. JACKSON of Illinois.

H.R. 5146: Mr. ISRAEL.

H.R. 5147: Mr. BEREUTER, Mr. SHIMKUS, Mr. WELDON of Pennsylvania, and Mr. GILLMOR.

H.R. 5155: Mr. FILNER.

H.R. 5157: Mr. SHAYS.

H.R. 5158: Mr. BOEHLERT and Mr. QUINN.

H. Con. Res. 101: Mr. HALL of Ohio.

H. Con. Res. 327: Mr. GUTKNECHT, Mr. PITTS, Mr. WAXMAN, and Mr. STEARNS.

H. Con. Res. 349: Mr. SMITH of New Jersey and Ms. ROS-LEHTINEN.

H. Con. Res. 406: Mr. POMBO and Mr. PITTS.

H. Con. Res. 409: Mr. HOEKSTRA, Mr. EHLERS, Mr. SMITH of Michigan and Mr. ROGERS of Michigan.

H. Con. Res. 417: Mr. DOYLE and Mr. ANDREWS.

H. Con. Res. 421: Mr. MEEKS of New York.

H. Con. Res. 438: Mr. JEFFERSON.

H. Con. Res. 444: Mr. BEREUTER, Mr. COBLE, and Mr. FORBES.

H. Res. 106: Mr. LYNCH, Mr. HINCHEY, Mr. MCNULTY, Ms. MILLENDER-MCDONALD, Ms. HARMAN, Mr. FROST, Mr. KILDEE, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WOOLSEY, Ms. MCKINNEY, Mr. DAVIS of Illinois, Mr. FRANK, and Mr. LARSEN of Washington.

H. Res. 253: Mr. KUCINICH.

H. Res. 295: Mr. BOSWELL and Ms. KILPATRICK.

H. Res. 410: Mr. COX.

H. Res. 429: Mr. ISRAEL, Mr. ENGLISH, Mr. FORBES, Mr. PETERSON of Minnesota, Mr. FRANK, Mrs. MYRICK, Mr. STUMP, Mr. WEXLER, Mr. CARSON of Oklahoma, Mr. GREEN of Texas, Ms. HART, Mr. DIAZ-BALART, Mr. HEFLEY, Mr. BAKER, Mr. FOSSELLA, Mr. BALDACCI, Mr. ACEVEDO-VILA, Mr. VITTER, Mr. MORAN OF VIRGINIA, MR. RAHALL, Mrs. MINK of Hawaii, Mr. WOLF, Mr. MCGOVERN, Mr. FROST, Mr. LEVIN, Mr. GOODE, Mr. WYNN, Mr. BARTLETT of Maryland, Mr. BRADY of Texas, Mr. KERNS Mr. TURNER, Mr. TAYLOR of Mississippi, Ms. BALDWIN, Mr. GREEN of Wisconsin, Mr. BONIOR, Mr. SIMPSON, Mr. BERRY, Mr. SKEEN, Mr. CALVERT, Mr. BARR of Georgia, Mr. SESSIONS, Mr. SANDLIN, Mr. JONES of North Carolina, Mr. CRANE, Mr. ROHRABACHER, MR. TIAHRT, Mr. GILMAN, Mr. GILCHREST, Ms. GRANGER, Mr. RODRIGUEZ, Mr. HOYER, Ms. HOOLEY of Oregon, Mr. TANNER, Mr. DINGELL, Mr. BROWN of Ohio, Ms. BROWN of Florida, Mr. DOYLE, Mr. FLETCHER, Mr. CUNNINGHAM, Mr. UNDERWOOD, Mr. BUYER, Mr. WILSON of South Carolina, Mr. HOLDEN, Mr. FALEOMAVAEGA, Mr. DELAHUNT, Mr. COSTELLO, Ms. SLAUGHTER, Ms. MCKINNEY, Mr. STRICKLAND, Mr. COOKSEY, Mr. GIBBONS, Mr. SULLIVAN, Mr. SHERMAN, Mr. GOODLATTE, Mr. YOUNG of Florida, Mr. WATT of North Carolina, Mr. KINGSTON, Mr. RANGEL, Ms. SCHAKOWSKY, Mr. CUMMINGS, Mr. ISAKSON, Mr. LYNCH, Mr. GONZALEZ, Mr. PHELPS, Mrs. THURMAN, and Mr. LIPINSKI.

H. Res. 454: Mr. ROHRABACHER, Mr. MCNULTY, and Mr. LIPINSKI.

## AMENDMENTS

Under clause 8 of the rule XVIII, propose amendments were submitted as follows:

H.R. 5005

OFFERED BY: MR. ROEMER

AMENDMENT NO. 4: Amend title II to read as follows:

### TITLE II—DIRECTORATES OF INTELLIGENCE AND OF CRITICAL INFRASTRUCTURE PROTECTION

### SEC. 201. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established a Directorate of Intelligence which shall serve as a national-level focal point for the analysis of all information available to the United States Government for the purpose of preventing, deterring, protecting against, preparing for, and responding to threats of terrorism against the United States and other threats to homeland security.

(B) SUPPORT TO DIRECTORATE.—The Directorate of Intelligence shall be supported by—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community as defined under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a) including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) Receiving and analyzing law enforcement information, intelligence, and other information in order to understand the nature and scope of threats to the homeland and to detect and identify threats of terrorism against the United States and other threats to homeland security.

(2) Ensuring timely and efficient access by the Directorate to—

(A) information from agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, private sector entities; and

(B) open source information.

(3) Working with the Director of Central Intelligence and the agencies described under subsection (a)(1)(B), to establish overall collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States and other threats to homeland security.

(4) Directing the agencies described under subsection (a)(1)(B), on behalf of the Secretary and subject to disapproval by the President, on a case-by-case basis, to provide additional information relating to threats of terrorism against the United States and other threats to homeland security.

(5) Disseminating information to the Directorate of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism against the United States and other threats to homeland security.

(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department, and in conjunction with the appropriate officers at the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, including data mining and other advanced analytical tools, to permit the Directorate's analysts to access, receive, and analyze law enforcement, intelligence, and other information in the possession of agencies, to the extent that such information may lawfully be obtained from State and local governments, local law enforcement and intelligence agencies, and private sector entities.

(7) Developing, in conjunction with the Chief Information Officer of the Department, and in conjunction with appropriate officers at the agencies described under subsection (a)(1)(B) appropriate software, hardware, and other information technology, and security and formatting protocols, to ensure that the Federal Government databases and information technology systems containing information relevant to terrorist threats, and other threats against the United States, are—

(A) compatible with the secure communications and information technology infrastructure referred to under paragraph (6); and

(B) comply with Federal laws concerning privacy and the prevention of unauthorized disclosure.

(8) Ensuring, in conjunction with the Director of Central Intelligence and the Attorney General, that all material received by the Department related to threats of terrorism against the United States and other threats to homeland security is protected against unauthorized disclosure and is utilized by the Department only in the course and for the purposes of fulfillment of official duties, and is transmitted, retained, handled, and disseminated consistent with—

(A) the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures; or

(B) as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information, and the privacy interests of United States persons as defined under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(9) Referring, through the Secretary, to the appropriate law enforcement or intelligence agency, intelligence and analysis requiring further investigation or action.

(10) Providing training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence information revealed in their ordinary duties or utilize information received from the Department.

(11) Reviewing, analyzing, and making recommendations through the Secretary for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats of terrorism against the United States and other threats to homeland security within the Federal government and between the Federal government and State and local governments, local law enforcement and intelligence agencies, and private sector entities.

(12) Assisting and supporting the Secretary in conducting threat and vulnerability assessments and risk analyses in coordination with other appropriate entities, including the Office of Risk Analysis and Assessment in the Directorate of Science and Technology.

(13) Performing other related and appropriate duties as assigned by the Secretary.

(c) ACCESS TO INFORMATION.—

(1) IN GENERAL.—The Secretary shall have access to, and agencies described under subsection (a)(1)(B) shall provide, all law enforcement, intelligence, and other information in the possession of agencies described under subsection (a)(1)(B) relating to threats of terrorism against the United States and other threats to homeland security, including all reports, assessments, analytical information, and unevaluated data the Secretary determines necessary in order to fulfill the responsibilities of the Secretary, except when the President determines otherwise in writing. If there is uncertainty to an agency possessing certain information as to the relevance of that information, that agency shall provide that information to the Secretary who shall determine the relevance of the information, except when the President determines otherwise in writing.

(2) OBTAINING INFORMATION.—The Secretary may obtain information described under paragraph (1) by directing agencies described under subsection (a)(1)(B) to provide such information in such form and at such intervals as the Secretary determines necessary to fulfill the responsibilities of the Secretary under this division. Agencies shall provide the Secretary with information through secure means, including direct access to specific databases, and through secure communications and information technology infrastructure, consistent with the protection of such information from unauthorized disclosure.

(3) AGREEMENTS.—To facilitate access to information under this subsection, the Secretary may enter into cooperative arrangements or memoranda of understanding with agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities, as the Secretary determines necessary and appropriate. Failure to reach an agreement under this paragraph with the Secretary shall not constitute grounds for an agency to withhold from the Secretary information that the Secretary determines necessary for the fulfillment of the responsibilities of the Secretary.

(d) AUTHORIZATION TO SHARE LAW ENFORCEMENT INFORMATION.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of information sharing provisions of—

(1) section 203(d) of the USA PATRIOT Act of 2001 (Public Law 107-56);

(2) section 2517(6) of title 18, United States Code; and

(3) rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(e) ADDITIONAL RESPONSIBILITIES.—The Under Secretary for Intelligence shall also be responsible for—

(1) developing intelligence about the means terrorists are likely to use to exploit vulnerabilities in the homeland security infrastructure;

(2) developing and conducting experiments, tests, and inspections to test weaknesses in homeland defenses;

(3) developing methods to conduct countersurveillance of critical infrastructure and potential targets for terrorism against the United States;

(4) conducting risk assessments to determine the risk posed by specific kinds of terrorist attacks, the probability of successful attacks, and the feasibility of specific countermeasures; and

(5) working with the Directorate of Critical Infrastructure Protection, other offices and agencies in the Department, other agencies, State and local governments, local law enforcement and intelligence agencies, and private sector entities, to address vulnerabilities.

(f) MANAGEMENT AND STAFFING.—

(1) IN GENERAL.—The Directorate of Intelligence shall be staffed, in part, by analysts as requested by the Secretary and assigned by the agencies described under subsection (a)(1)(B). The analysts shall be assigned by reimbursable detail for periods as determined necessary by the Secretary in conjunction with the head of the assigning agency.

(2) EMPLOYEES ASSIGNED WITHIN THE DEPARTMENT.—The Secretary may assign employees of the Department by reimbursable detail to the Directorate.

(3) SERVICE AS FACTOR FOR SELECTION.—The President, or the designee of the President, shall prescribe regulations to provide that service described under paragraph (1) or (2), or service by employees within the Directorate shall be considered a positive factor for selection to positions of greater authority within all supporting agencies.

(4) PERSONNEL SECURITY STANDARDS.—The employment of personnel in the Directorate shall be in accordance with such personnel security standards for access to classified information and intelligence as the Secretary, in conjunction with the Director of Central Intelligence, shall establish for this subsection.

(5) PERFORMANCE EVALUATION.—The Secretary shall evaluate the performance of all personnel detailed to the Directorate, or delegate such responsibility to the Under Secretary for Intelligence.

(g) INTELLIGENCE COMMUNITY.—Those portions of the Directorate of Intelligence that concern information analysis under subsection (b)(1), and the intelligence-related components of agencies transferred by this division to the Department, including the United States Coast Guard, shall be—

(1) considered to be part of the United States intelligence community within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a); and

(2) for budgetary purposes, within the National Foreign Intelligence Program.

### SEC. 202. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Receiving relevant intelligence from the Directorate of Intelligence, law enforcement information, and other information in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant information, intelligence analysis, and vulnerability assessments (whether such information, analyses, or assessments are provided by the Department or others) to identify priorities and support protective measures by the Department, by other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States.

(3) As part of the Strategy, developing a comprehensive national plan for securing the key resources and critical infrastructure in the United States.

(4) Establishing specialized research and analysis units for the purpose of processing intelligence to identify vulnerabilities and protective measures in—

(A) public health;

(B) food and water storage, production and distribution;

(C) commerce systems, including banking and finance;

(D) energy systems, including electric power and oil and gas production and storage;

(E) transportation systems, including pipelines;

(F) information and communication systems;

(G) continuity of government services; and

(H) other systems or facilities the destruction or disruption of which could cause substantial harm to health, safety, property, or the environment.

(5) Enhancing the sharing of information regarding cyber security and physical security of the United States, developing appropriate security standards, tracking vulnerabilities, proposing improved risk management policies, and delineating the roles of various Government agencies in preventing, defending, and recovering from attacks.

(6) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department and assuming the responsibilities carried out by the Critical Infrastructure Assurance Office and the National Infrastructure Protection Center before the effective date of this division.

(7) Coordinating the activities of the Information Sharing and Analysis Centers to share information, between the public and private sectors, on threats, vulnerabilities, individual incidents, and privacy issues regarding United States homeland security.

(8) Coordinating with the Federal Communications Commission in helping to establish cyber security policy, standards, and enforcement mechanisms and working closely with the Federal Communications Commission on cyber security issues with respect to international bodies.

(9) Establishing the necessary organizational structure within the Directorate to provide leadership and focus on both cyber security and physical security, and ensuring the maintenance of a nucleus of cyber security and physical security experts within the United States Government.

(10) Performing such other duties as assigned by the Secretary.

(c) Transfer of Authorities, Functions, Personnel, and Assets to the Department.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department of Commerce.

(2) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section).

(3) The National Communications System of the Department of Defense.

(4) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.

(6) The Federal Computer Incident Response Center of the General Services Administration.

(7) The Energy Security and Assurance Program of the Department of Energy.

(8) The Federal Protective Service of the General Services Administration.

H.R. 5005

Offered By: Mr. Roemer

Amendment No. 5: Amend section 203 to read as follows:

**SEC. 203. ACCESS TO INFORMATION.**

The Secretary shall have access to all reports, assessments, and analytical information relating to threats of terrorism in the United States and to other areas of responsibility described in section 101(b), and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any executive agency. The Secretary shall also have access to other information relating to the foregoing matters that may be collected, possessed, or prepared by an executive agency. With respect to the material to which the Secretary has access under this section—

(1) all executive agencies promptly shall provide to the Secretary—

(A) all reports, assessments, and analytical information relating to threats of terrorism in the United States and to other areas of responsibility described in section 101(b);

(B) all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed;

(C) all information relating to significant and credible threats of terrorism in the United States, whether or not such information has been analyzed, if the President has provided that the Secretary shall have access to such information; and

(D) such other material as the President may further provide;

(2) the Secretary shall have full access and input with respect to information from any national collaborative information analysis capability (as referred to in section 924 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1199)) established jointly by the Secretary of Defense and the Director of Central Intelligence; and

(3) the Secretary shall ensure that any material received pursuant to this section is protected from unauthorized disclosure and handled and used only for the performance of official duties, and that any intelligence information shared under this section shall be transmitted, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act and related procedures or, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

H.R. 5005

Offered By: Mr. Roemer

Amendment No. 6: Strike section 402(5) of the bill (and redesignate subsequent paragraphs accordingly).

In 502(1) of the bill, strike "Except" and all that through "the Integrated" and insert "The Integrated".

H.R. 5005

Offered By: Mr. Roemer

Amendment No. 7: At the end of the bill, add the following new title:

## TITLE —NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

**SEC. 01. ESTABLISHMENT OF COMMISSION.**

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

**SEC. 02. PURPOSES.**

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks against the United States that occurred on September 11, 2001;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(4) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

**SEC. 03. COMPOSITION OF THE COMMISSION.**

(a) Members.—Subject to the requirements of subsection (b), the Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) Qualifications.—

(1) Political party affiliation.—Not more than 5 members of the Commission shall be from the same political party.

(2) Nongovernmental appointees.—No member of the Commission shall be an officer or employee of the Federal Government or any State or local government.

(3) Other qualifications.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(c) Chairperson; Vice Chairperson.—

(1) In general.—Subject to the requirement of paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) Political party affiliation.—The Chairperson and Vice Chairperson shall not be from the same political party.

(d) Initial Meeting.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(e) Quorum; Vacancies.—After its initial meeting, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

**SEC. 04. FUNCTIONS OF THE COMMISSION.**

(a) In General.—The functions of the Commission are to—

(1) investigate the relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) SCOPE OF INVESTIGATION.—For purposes of subsection (a)(1), the term "facts and circumstances" includes facts and circumstances relating to—

(1) intelligence agencies;

(2) law enforcement agencies;

(3) diplomacy;

(4) immigration, nonimmigrant visas, and border control;

(5) the flow of assets to terrorist organizations;

(6) commercial aviation; and

(7) other areas of the public and private sectors determined relevant by the Commission for its inquiry.

### SEC. 05. POWERS OF THE COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this title—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(b) SUBPOENAS.—

(1) SERVICE.—Subpoenas issued under subsection (a)(2) may be served by any person designated by the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(c) CLOSED MEETINGS.—Notwithstanding any other provision of law which would require meetings of the Commission to be open to the public, any portion of a meeting of the Commission may be closed to the public if the President determines that such portion is likely to disclose matters that could endanger national security.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department, agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this title. Each such department, agency, or instrumentality shall, to the extent authorized by law, furnish such information directly to the Commission upon request.

(f) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(g) GIFTS.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, accept, use, and dispose of gifts or donations of services or property.

(h) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(i) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

### SEC. 06. STAFF OF THE COMMISSION.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(b) STAFF.—The Chairperson, in consultation with the Vice Chairperson, may appoint additional personnel as may be necessary to enable the Commission to carry out its functions.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual appointed under subsection (a) or (b) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(d) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(e) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

### SEC. 07. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

### SEC. 08. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

### SEC. 09. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing—

(1) such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members; and

(2) such findings, conclusions, and recommendations regarding the scope of jurisdiction of, and the allocation of jurisdiction among, the committees of Congress with oversight responsibilities related to the scope of the investigation of the Commission as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a final report containing such updated findings, conclusions, and recommendations described in paragraphs (1) and (2) of subsection (a) as have been agreed to by a majority of Commission members.

(c) NONINTERFERENCE WITH CONGRESSIONAL JOINT INQUIRY.—Notwithstanding subsection (a), the Commission shall not submit any report of the Commission until a reasonable period after the conclusion of the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks against the United States which occurred on September 11, 2001.

(d) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

### SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

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## CONFERENCE REPORT ON H.R. 3763, SARBANES-OXLEY ACT OF 2002

Mr. OXLEY submitted the following conference report and statement on the bill (H.R. 3763), to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–610)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3763), to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

*(a) SHORT TITLE.—This Act may be cited as the "Sarbanes-Oxley Act of 2002".*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

*Sec. 1. Short title; table of contents.*
*Sec. 2. Definitions.*
*Sec. 3. Commission rules and enforcement.*

*TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD*

*Sec. 101. Establishment; administrative provisions.*
*Sec. 102. Registration with the Board.*
*Sec. 103. Auditing, quality control, and independence standards and rules.*
*Sec. 104. Inspections of registered public accounting firms.*
*Sec. 105. Investigations and disciplinary proceedings.*
*Sec. 106. Foreign public accounting firms.*
*Sec. 107. Commission oversight of the Board.*
*Sec. 108. Accounting standards.*
*Sec. 109. Funding.*

*TITLE II—AUDITOR INDEPENDENCE*

*Sec. 201. Services outside the scope of practice of auditors.*
*Sec. 202. Preapproval requirements.*
*Sec. 203. Audit partner rotation.*
*Sec. 204. Auditor reports to audit committees.*
*Sec. 205. Conforming amendments.*
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*TITLE V—ANALYST CONFLICTS OF INTEREST*

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*TITLE VI—COMMISSION RESOURCES AND AUTHORITY*

*Sec. 601. Authorization of appropriations.*
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*TITLE VII—STUDIES AND REPORTS*

*Sec. 701. GAO study and report regarding consolidation of public accounting firms.*
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*Sec. 703. Study and report on violators and violations*
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*TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY*

*Sec. 801. Short title.*
*Sec. 802. Criminal penalties for altering documents.*
*Sec. 803. Debts nondischargeable if incurred in violation of securities fraud laws.*
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*TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS*

*Sec. 901. Short title.*
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*Sec. 903. Criminal penalties for mail and wire fraud.*
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*TITLE X—CORPORATE TAX RETURNS*

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*Sec. 1101. Short title.*
*Sec. 1102. Tampering with a record or otherwise impeding an official proceeding.*
*Sec. 1103. Temporary freeze authority for the Securities and Exchange Commission.*
*Sec. 1104. Amendment to the Federal Sentencing Guidelines.*
*Sec. 1105. Authority of the Commission to prohibit persons from serving as officers or directors.*
*Sec. 1106. Increased criminal penalties under Securities Exchange Act of 1934.*
*Sec. 1107. Retaliation against informants.*

**SEC. 2. DEFINITIONS.**

*(a) IN GENERAL.—In this Act, the following definitions shall apply:*

*(1) APPROPRIATE STATE REGULATORY AUTHORITY.—The term "appropriate State regulatory authority" means the State agency or other authority responsible for the licensure or other regulation of the practice of accounting in the State or States having jurisdiction over a registered public accounting firm or associated person thereof, with respect to the matter in question.*

*(2) AUDIT.—The term "audit" means an examination of the financial statements of any issuer by an independent public accounting firm in accordance with the rules of the Board or the Commission (or, for the period preceding the adoption of applicable rules of the Board under section 103, in accordance with then-applicable generally accepted auditing and related standards for such purposes), for the purpose of expressing an opinion on such statements.*

*(3) AUDIT COMMITTEE.—The term "audit committee" means—*

*(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and*

*(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.*

*(4) AUDIT REPORT.—The term "audit report" means a document or other record—*

*(A) prepared following an audit performed for purposes of compliance by an issuer with the requirements of the securities laws; and*

*(B) in which a public accounting firm either—*

*(i) sets forth the opinion of that firm regarding a financial statement, report, or other document; or*

*(ii) asserts that no such opinion can be expressed.*

*(5) BOARD.—The term "Board" means the Public Company Accounting Oversight Board established under section 101.*

*(6) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.*

*(7) ISSUER.—The term "issuer" means an issuer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)), the securities of which are registered under section 12 of that Act (15 U.S.C. 78l), or that is required to file reports under section 15(d) (15 U.S.C. 78o(d)), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.), and that it has not withdrawn.*

*(8) NON-AUDIT SERVICES.—The term "non-audit services" means any professional services provided to an issuer by a registered public accounting firm, other than those provided to an issuer in connection with an audit or a review of the financial statements of an issuer.*

*(9) PERSON ASSOCIATED WITH A PUBLIC ACCOUNTING FIRM.—*

*(A) IN GENERAL.—The terms "person associated with a public accounting firm" (or with a "registered public accounting firm") and "associated person of a public accounting firm" (or of a "registered public accounting firm") mean any individual proprietor, partner, shareholder, principal, accountant, or other professional employee of a public accounting firm, or any other independent contractor or entity that, in connection with the preparation or issuance of any audit report—*

*(i) shares in the profits of, or receives compensation in any other form from, that firm; or*

*(ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm.*

*(B) EXEMPTION AUTHORITY.—The Board may, by rule, exempt persons engaged only in ministerial tasks from the definition in subparagraph (A), to the extent that the Board determines that any such exemption is consistent with the purposes of this Act, the public interest, or the protection of investors.*

*(10) PROFESSIONAL STANDARDS.—The term "professional standards" means—*

*(A) accounting principles that are—*

*(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(m)); and*

*(ii) relevant to audit reports for particular issuers, or dealt with in the quality control system of a particular registered public accounting firm; and*

*(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines—*

*(i) relate to the preparation or issuance of audit reports for issuers; and*

*(ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.*

*(11) PUBLIC ACCOUNTING FIRM.—The term "public accounting firm" means—*

*(A) a proprietorship, partnership, incorporated association, corporation, limited liability company, limited liability partnership, or other legal entity that is engaged in the practice of public accounting or preparing or issuing audit reports; and*

*(B) to the extent so designated by the rules of the Board, any associated person of any entity described in subparagraph (A).*

*(12) REGISTERED PUBLIC ACCOUNTING FIRM.—The term "registered public accounting firm" means a public accounting firm registered with the Board in accordance with this Act.*

*(13) RULES OF THE BOARD.—The term "rules of the Board" means the bylaws and rules of the Board (as submitted to, and approved, modified, or amended by the Commission, in accordance with section 107), and those stated policies, practices, and interpretations of the Board that the Commission, by rule, may deem to be rules of the Board, as necessary or appropriate in the public interest or for the protection of investors.*

*(14) SECURITY.—The term "security" has the same meaning as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).*

*(15) SECURITIES LAWS.—The term "securities laws" means the provisions of law referred to in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), as amended by this Act, and includes the rules, regulations, and orders issued by the Commission thereunder.*

*(16) STATE.—The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.*

*(b) CONFORMING AMENDMENT.—Section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) is amended by inserting "the Sarbanes-Oxley Act of 2002," before "the Public".*

### ***SEC. 3. COMMISSION RULES AND ENFORCEMENT.***

*(a) REGULATORY ACTION.—The Commission shall promulgate such rules and regulations, as may be necessary or appropriate in the public interest or for the protection of investors, and in furtherance of this Act.*

*(b) ENFORCEMENT.—*

*(1) IN GENERAL.—A violation by any person of this Act, any rule or regulation of the Commission issued under this Act, or any rule of the Board shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this Act, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules or regulations.*

*(2) INVESTIGATIONS, INJUNCTIONS, AND PROSECUTION OF OFFENSES.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended—*

*(A) in subsection (a)(1), by inserting "the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm," after "is a participant,";*

*(B) in subsection (d)(1), by inserting "the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm," after "is a participant,";*

*(C) in subsection (e), by inserting "the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm," after "is a participant,"; and*

*(D) in subsection (f), by inserting "or the Public Company Accounting Oversight Board" after "self-regulatory organization" each place that term appears.*

*(3) CEASE-AND-DESIST PROCEEDINGS.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)(2)) is amended by inserting "registered public accounting firm (as defined in section 2 of the Sarbanes-Oxley Act of 2002)," after "government securities dealer,".*

*(4) ENFORCEMENT BY FEDERAL BANKING AGENCIES.—Section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(i)) is amended by—*

*(A) striking "sections 12," each place it appears and inserting "sections 10A(m), 12,"; and*

*(B) striking "and 16," each place it appears and inserting "and 16 of this Act, and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002,".*

*(c) EFFECT ON COMMISSION AUTHORITY.—Nothing in this Act or the rules of the Board shall be construed to impair or limit—*

*(1) the authority of the Commission to regulate the accounting profession, accounting firms, or persons associated with such firms for purposes of enforcement of the securities laws;*

*(2) the authority of the Commission to set standards for accounting or auditing practices or auditor independence, derived from other provisions of the securities laws or the rules or regulations thereunder, for purposes of the preparation and issuance of any audit report, or otherwise under applicable law; or*

*(3) the ability of the Commission to take, on the initiative of the Commission, legal, administrative, or disciplinary action against any registered public accounting firm or any associated person thereof.*

## ***TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD***

### ***SEC. 101. ESTABLISHMENT; ADMINISTRATIVE PROVISIONS.***

*(a) ESTABLISHMENT OF BOARD.—There is established the Public Company Accounting Oversight Board, to oversee the audit of public companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports for companies the securities of which are sold to, and held by and for, public investors. The Board shall be a body corporate, operate as a nonprofit corporation, and have succession until dissolved by an Act of Congress.*

*(b) STATUS.—The Board shall not be an agency or establishment of the United States Government, and, except as otherwise provided in this Act, shall be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act. No member or person employed by, or agent for, the Board shall be deemed to be an officer or employee of or agent for the Federal Government by reason of such service.*

*(c) DUTIES OF THE BOARD.—The Board shall, subject to action by the Commission under section 107, and once a determination is made by the Commission under subsection (d) of this section—*

*(1) register public accounting firms that prepare audit reports for issuers, in accordance with section 102;*

*(2) establish or adopt, or both, by rule, auditing, quality control, ethics, independence, and other standards relating to the preparation of audit reports for issuers, in accordance with section 103;*

*(3) conduct inspections of registered public accounting firms, in accordance with section 104 and the rules of the Board;*

*(4) conduct investigations and disciplinary proceedings concerning, and impose appropriate sanctions where justified upon, registered public accounting firms and associated persons of such firms, in accordance with section 105;*

*(5) perform such other duties or functions as the Board (or the Commission, by rule or order) determines are necessary or appropriate to promote high professional standards among, and improve the quality of audit services offered by, registered public accounting firms and associated persons thereof, or otherwise to carry out this Act, in order to protect investors, or to further the public interest;*

*(6) enforce compliance with this Act, the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, by registered public accounting firms and associated persons thereof; and*

*(7) set the budget and manage the operations of the Board and the staff of the Board.*

*(d) COMMISSION DETERMINATION.—The members of the Board shall take such action (including hiring of staff, proposal of rules, and adoption of initial and transitional auditing and other professional standards) as may be necessary or appropriate to enable the Commission to determine, not later than 270 days after the date of enactment of this Act, that the Board is so organized and has the capacity to carry out the requirements of this title, and to enforce compliance with this title by registered public accounting firms and associated persons thereof. The Commission shall be responsible, prior to the appointment of the Board, for the planning for the establishment and administrative transition to the Board's operation.*

*(e) BOARD MEMBERSHIP.—*

*(1) COMPOSITION.—The Board shall have 5 members, appointed from among prominent individuals of integrity and reputation who have a demonstrated commitment to the interests of investors and the public, and an understanding of the responsibilities for and nature of the financial disclosures required of issuers under the securities laws and the obligations of accountants with respect to the preparation and issuance of audit reports with respect to such disclosures.*

*(2) LIMITATION.—Two members, and only 2 members, of the Board shall be or have been certified public accountants pursuant to the laws of 1 or more States, provided that, if 1 of those 2 members is the chairperson, he or she may not have been a practicing certified public accountant for at least 5 years prior to his or her appointment to the Board.*

*(3) FULL-TIME INDEPENDENT SERVICE.—Each member of the Board shall serve on a full-time basis, and may not, concurrent with service on the Board, be employed by any other person or engage in any other professional or business activity. No member of the Board may share in any of the profits of, or receive payments from, a public accounting firm (or any other person,*

*as determined by rule of the Commission), other than fixed continuing payments, subject to such conditions as the Commission may impose, under standard arrangements for the retirement of members of public accounting firms.*

*(4) APPOINTMENT OF BOARD MEMBERS.—*

*(A) INITIAL BOARD.—Not later than 90 days after the date of enactment of this Act, the Commission, after consultation with the Chairman of the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, shall appoint the chairperson and other initial members of the Board, and shall designate a term of service for each.*

*(B) VACANCIES.—A vacancy on the Board shall not affect the powers of the Board, but shall be filled in the same manner as provided for appointments under this section.*

*(5) TERM OF SERVICE.—*

*(A) IN GENERAL.—The term of service of each Board member shall be 5 years, and until a successor is appointed, except that—*

*(i) the terms of office of the initial Board members (other than the chairperson) shall expire in annual increments, 1 on each of the first 4 anniversaries of the initial date of appointment; and*

*(ii) any Board member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.*

*(B) TERM LIMITATION.—No person may serve as a member of the Board, or as chairperson of the Board, for more than 2 terms, whether or not such terms of service are consecutive.*

*(6) REMOVAL FROM OFFICE.—A member of the Board may be removed by the Commission from office, in accordance with section 107(d)(3), for good cause shown before the expiration of the term of that member.*

*(f) POWERS OF THE BOARD.—In addition to any authority granted to the Board otherwise in this Act, the Board shall have the power, subject to section 107—*

*(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, with the approval of the Commission, in any Federal, State, or other court;*

*(2) to conduct its operations and maintain offices, and to exercise all other rights and powers authorized by this Act, in any State, without regard to any qualification, licensing, or other provision of law in effect in such State (or a political subdivision thereof);*

*(3) to lease, purchase, accept gifts or donations of or otherwise acquire, improve, use, sell, exchange, or convey, all of or an interest in any property, wherever situated;*

*(4) to appoint such employees, accountants, attorneys, and other agents as may be necessary or appropriate, and to determine their qualifications, define their duties, and fix their salaries or other compensation (at a level that is comparable to private sector self-regulatory, accounting, technical, supervisory, or other staff or management positions);*

*(5) to allocate, assess, and collect accounting support fees established pursuant to section 109, for the Board, and other fees and charges imposed under this title; and*

*(6) to enter into contracts, execute instruments, incur liabilities, and do any and all other acts and things necessary, appropriate, or incidental to the conduct of its operations and the exercise of its obligations, rights, and powers imposed or granted by this title.*

*(g) RULES OF THE BOARD.—The rules of the Board shall, subject to the approval of the Commission—*

*(1) provide for the operation and administration of the Board, the exercise of its authority, and the performance of its responsibilities under this Act;*

*(2) permit, as the Board determines necessary or appropriate, delegation by the Board of any of its functions to an individual member or employee of the Board, or to a division of the Board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any matter, except that—*

*(A) the Board shall retain a discretionary right to review any action pursuant to any such delegated function, upon its own motion;*

*(B) a person shall be entitled to a review by the Board with respect to any matter so delegated, and the decision of the Board upon such review shall be deemed to be the action of the Board for all purposes (including appeal or review thereof); and*

*(C) if the right to exercise a review described in subparagraph (A) is declined, or if no such review is sought within the time stated in the rules of the Board, then the action taken by the holder of such delegation shall for all purposes, including appeal or review thereof, be deemed to be the action of the Board;*

*(3) establish ethics rules and standards of conduct for Board members and staff, including a bar on practice before the Board (and the Commission, with respect to Board-related matters) of 1 year for former members of the Board, and appropriate periods (not to exceed 1 year) for former staff of the Board; and*

*(4) provide as otherwise required by this Act.*

*(h) ANNUAL REPORT TO THE COMMISSION.—The Board shall submit an annual report (including its audited financial statements) to the Commission, and the Commission shall transmit a copy of that report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, not later than 30 days after the date of receipt of that report by the Commission.*

### SEC. 102. REGISTRATION WITH THE BOARD.

*(a) MANDATORY REGISTRATION.—Beginning 180 days after the date of the determination of the Commission under section 101(d), it shall be unlawful for any person that is not a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer.*

*(b) APPLICATIONS FOR REGISTRATION.—*

*(1) FORM OF APPLICATION.—A public accounting firm shall use such form as the Board may prescribe, by rule, to apply for registration under this section.*

*(2) CONTENTS OF APPLICATIONS.—Each public accounting firm shall submit, as part of its application for registration, in such detail as the Board shall specify—*

*(A) the names of all issuers for which the firm prepared or issued audit reports during the immediately preceding calendar year, and for which the firm expects to prepare or issue audit reports during the current calendar year;*

*(B) the annual fees received by the firm from each such issuer for audit services, other accounting services, and non-audit services, respectively;*

*(C) such other current financial information for the most recently completed fiscal year of the firm as the Board may reasonably request;*

*(D) a statement of the quality control policies of the firm for its accounting and auditing practices;*

*(E) a list of all accountants associated with the firm who participate in or contribute to the preparation of audit reports, stating the license or certification number of each such person, as well as the State license numbers of the firm itself;*

*(F) information relating to criminal, civil, or administrative actions or disciplinary proceedings pending against the firm or any associated person of the firm in connection with any audit report;*

*(G) copies of any periodic or annual disclosure filed by an issuer with the Commission during the immediately preceding calendar year which discloses accounting disagreements between such issuer and the firm in connection with an audit report furnished or prepared by the firm for such issuer; and*

*(H) such other information as the rules of the Board or the Commission shall specify as necessary or appropriate in the public interest or for the protection of investors.*

*(3) CONSENTS.—Each application for registration under this subsection shall include—*

*(A) a consent executed by the public accounting firm to cooperation in and compliance with any request for testimony or the production of documents made by the Board in the furtherance of its authority and responsibilities under this title (and an agreement to secure and enforce similar consents from each of the associated persons of the public accounting firm as a condition of their continued employment by or other association with such firm); and*

*(B) a statement that such firm understands and agrees that cooperation and compliance, as described in the consent required by subparagraph (A), and the securing and enforcement of such consents from its associated persons, in accordance with the rules of the Board, shall be a condition to the continuing effectiveness of the registration of the firm with the Board.*

*(c) ACTION ON APPLICATIONS.—*

*(1) TIMING.—The Board shall approve a completed application for registration not later than 45 days after the date of receipt of the application, in accordance with the rules of the Board, unless the Board, prior to such date, issues a written notice of disapproval to, or requests more information from, the prospective registrant.*

*(2) TREATMENT.—A written notice of disapproval of a completed application under paragraph (1) for registration shall be treated as a disciplinary sanction for purposes of sections 105(d) and 107(c).*

*(d) PERIODIC REPORTS.—Each registered public accounting firm shall submit an annual report to the Board, and may be required to report more frequently, as necessary to update the information contained in its application for registration under this section, and to provide to the Board such additional information as the Board or the Commission may specify, in accordance with subsection (b)(2).*

*(e) PUBLIC AVAILABILITY.—Registration applications and annual reports required by this subsection, or such portions of such applications or reports as may be designated under rules of the Board, shall be made available for public inspection, subject to rules of the Board or the Commission, and to applicable laws relating to the confidentiality of proprietary, personal, or other information contained in such applications or reports, provided that, in all events, the Board shall protect from public disclosure information reasonably identified by the subject accounting firm as proprietary information.*

*(f) REGISTRATION AND ANNUAL FEES.—The Board shall assess and collect a registration fee and an annual fee from each registered public accounting firm, in amounts that are sufficient to recover the costs of processing and reviewing applications and annual reports.*

### SEC. 103. AUDITING, QUALITY CONTROL, AND INDEPENDENCE STANDARDS AND RULES.

*(a) AUDITING, QUALITY CONTROL, AND ETHICS STANDARDS.—*

*(1) IN GENERAL.—The Board shall, by rule, establish, including, to the extent it determines appropriate, through adoption of standards proposed by 1 or more professional groups of accountants designated pursuant to paragraph (3)(A) or advisory groups convened pursuant to*

*paragraph (4), and amend or otherwise modify or alter, such auditing and related attestation standards, such quality control standards, and such ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports, as required by this Act or the rules of the Commission, or as may be necessary or appropriate in the public interest or for the protection of investors.*

*(2) RULE REQUIREMENTS.—In carrying out paragraph (1), the Board—*

*(A) shall include in the auditing standards that it adopts, requirements that each registered public accounting firm shall—*

*(i) prepare, and maintain for a period of not less than 7 years, audit work papers, and other information related to any audit report, in sufficient detail to support the conclusions reached in such report;*

*(ii) provide a concurring or second partner review and approval of such audit report (and other related information), and concurring approval in its issuance, by a qualified person (as prescribed by the Board) associated with the public accounting firm, other than the person in charge of the audit, or by an independent reviewer (as prescribed by the Board); and*

*(iii) describe in each audit report the scope of the auditor's testing of the internal control structure and procedures of the issuer, required by section 404(b), and present (in such report or in a separate report)—*

*(I) the findings of the auditor from such testing;*

*(II) an evaluation of whether such internal control structure and procedures—*

*(aa) include maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer;*

*(bb) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer; and*

*(III) a description, at a minimum, of material weaknesses in such internal controls, and of any material noncompliance found on the basis of such testing.*

*(B) shall include, in the quality control standards that it adopts with respect to the issuance of audit reports, requirements for every registered public accounting firm relating to—*

*(i) monitoring of professional ethics and independence from issuers on behalf of which the firm issues audit reports;*

*(ii) consultation within such firm on accounting and auditing questions;*

*(iii) supervision of audit work;*

*(iv) hiring, professional development, and advancement of personnel;*

*(v) the acceptance and continuation of engagements;*

*(vi) internal inspection; and*

*(vii) such other requirements as the Board may prescribe, subject to subsection (a)(1).*

*(3) AUTHORITY TO ADOPT OTHER STANDARDS.—*

*(A) IN GENERAL.—In carrying out this subsection, the Board—*

*(i) may adopt as its rules, subject to the terms of section 107, any portion of any statement of auditing standards or other professional standards that the Board determines satisfy the requirements of paragraph (1), and that were proposed by 1 or more professional groups of accountants that shall be designated or recognized by the Board, by rule, for such purpose, pursuant to this paragraph or 1 or more advisory groups convened pursuant to paragraph (4); and*

*(ii) notwithstanding clause (i), shall retain full authority to modify, supplement, revise, or subsequently amend, modify, or repeal, in whole or in part, any portion of any statement described in clause (i).*

*(B) INITIAL AND TRANSITIONAL STANDARDS.—The Board shall adopt standards described in subparagraph (A)(i) as initial or transitional standards, to the extent the Board determines necessary, prior to a determination of the Commission under section 101(d), and such standards shall be separately approved by the Commission at the time of that determination, without regard to the procedures required by section 107 that otherwise would apply to the approval of rules of the Board.*

*(4) ADVISORY GROUPS.—The Board shall convene, or authorize its staff to convene, such expert advisory groups as may be appropriate, which may include practicing accountants and other experts, as well as representatives of other interested groups, subject to such rules as the Board may prescribe to prevent conflicts of interest, to make recommendations concerning the content (including proposed drafts) of auditing, quality control, ethics, independence, or other standards required to be established under this section.*

*(b) INDEPENDENCE STANDARDS AND RULES.—The Board shall establish such rules as may be necessary or appropriate in the public interest or for the protection of investors, to implement, or as authorized under, title II of this Act.*

*(c) COOPERATION WITH DESIGNATED PROFESSIONAL GROUPS OF ACCOUNTANTS AND ADVISORY GROUPS.—*

*(1) IN GENERAL.—The Board shall cooperate on an ongoing basis with professional groups of accountants designated under subsection (a)(3)(A) and advisory groups convened under subsection (a)(4) in the examination of the need for changes in any standards subject to its authority under subsection (a), recommend issues for inclusion on the agendas of such designated professional groups of accountants or advisory groups, and take such other steps as it deems appropriate to increase the effectiveness of the standard setting process.*

*(2) BOARD RESPONSES.—The Board shall respond in a timely fashion to requests from designated professional groups of accountants and advisory groups referred to in paragraph (1) for any changes in standards over which the Board has authority.*

*(d) EVALUATION OF STANDARD SETTING PROCESS.—The Board shall include in the annual report required by section 101(h) the results of its standard setting responsibilities during the period to which the report relates, including a discussion of the work of the Board with any designated professional groups of accountants and advisory groups described in paragraphs (3)(A) and (4) of subsection (a), and its pending issues agenda for future standard setting projects.*

### SEC. 104. INSPECTIONS OF REGISTERED PUBLIC ACCOUNTING FIRMS.

*(a) IN GENERAL.—The Board shall conduct a continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with this Act, the rules of the Board, the rules of the Commission, or professional standards, in connection with its performance of audits, issuance of audit reports, and related matters involving issuers.*

*(b) INSPECTION FREQUENCY.—*

*(1) IN GENERAL.—Subject to paragraph (2), inspections required by this section shall be conducted—*

*(A) annually with respect to each registered public accounting firm that regularly provides audit reports for more than 100 issuers; and*

*(B) not less frequently than once every 3 years with respect to each registered public accounting firm that regularly provides audit reports for 100 or fewer issuers.*

*(2) ADJUSTMENTS TO SCHEDULES.—The Board may, by rule, adjust the inspection schedules set under paragraph (1) if the Board finds that different inspection schedules are consistent with the purposes of this Act, the public interest, and the protection of investors. The Board may conduct special inspections at the request of the Commission or upon its own motion.*

*(c) PROCEDURES.—The Board shall, in each inspection under this section, and in accordance with its rules for such inspections—*

*(1) identify any act or practice or omission to act by the registered public accounting firm, or by any associated person thereof, revealed by such inspection that may be in violation of this Act, the rules of the Board, the rules of the Commission, the firm's own quality control policies, or professional standards;*

*(2) report any such act, practice, or omission, if appropriate, to the Commission and each appropriate State regulatory authority; and*

*(3) begin a formal investigation or take disciplinary action, if appropriate, with respect to any such violation, in accordance with this Act and the rules of the Board.*

*(d) CONDUCT OF INSPECTIONS.—In conducting an inspection of a registered public accounting firm under this section, the Board shall—*

*(1) inspect and review selected audit and review engagements of the firm (which may include audit engagements that are the subject of ongoing litigation or other controversy between the firm and 1 or more third parties), performed at various offices and by various associated persons of the firm, as selected by the Board;*

*(2) evaluate the sufficiency of the quality control system of the firm, and the manner of the documentation and communication of that system by the firm; and*

*(3) perform such other testing of the audit, supervisory, and quality control procedures of the firm as are necessary or appropriate in light of the purpose of the inspection and the responsibilities of the Board.*

*(e) RECORD RETENTION.—The rules of the Board may require the retention by registered public accounting firms for inspection purposes of records whose retention is not otherwise required by section 103 or the rules issued thereunder.*

*(f) PROCEDURES FOR REVIEW.—The rules of the Board shall provide a procedure for the review of and response to a draft inspection report by the registered public accounting firm under inspection. The Board shall take such action with respect to such response as it considers appropriate (including revising the draft report or continuing or supplementing its inspection activities before issuing a final report), but the text of any such response, appropriately redacted to protect information reasonably identified by the accounting firm as confidential, shall be attached to and made part of the inspection report.*

*(g) REPORT.—A written report of the findings of the Board for each inspection under this section, subject to subsection (h), shall be—*

*(1) transmitted, in appropriate detail, to the Commission and each appropriate State regulatory authority, accompanied by any letter or comments by the Board or the inspector, and any letter of response from the registered public accounting firm; and*

*(2) made available in appropriate detail to the public (subject to section 105(b)(5)(A), and to the protection of such confidential and proprietary information as the Board may determine to be appropriate, or as may be required by law), except that no portions of the inspection report that deal with criticisms of or potential defects in the quality control systems of the firm under inspection shall be made public if those criticisms or defects are addressed by the firm, to the satisfaction of the Board, not later than 12 months after the date of the inspection report.*

*(h) INTERIM COMMISSION REVIEW.—*

*(1) REVIEWABLE MATTERS.—A registered public accounting firm may seek review by the Commission, pursuant to such rules as the Commission shall promulgate, if the firm—*

*(A) has provided the Board with a response, pursuant to rules issued by the Board under subsection (f), to the substance of particular items in a draft inspection report, and disagrees with the assessments contained in any final report prepared by the Board following such response; or*

*(B) disagrees with the determination of the Board that criticisms or defects identified in an inspection report have not been addressed to the satisfaction of the Board within 12 months of the date of the inspection report, for purposes of subsection (g)(2).*

*(2) TREATMENT OF REVIEW.—Any decision of the Commission with respect to a review under paragraph (1) shall not be reviewable under section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y), or deemed to be "final agency action" for purposes of section 704 of title 5, United States Code.*

*(3) TIMING.—Review under paragraph (1) may be sought during the 30-day period following the date of the event giving rise to the review under subparagraph (A) or (B) of paragraph (1).*

### SEC. 105. INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.

*(a) IN GENERAL.—The Board shall establish, by rule, subject to the requirements of this section, fair procedures for the investigation and disciplining of registered public accounting firms and associated persons of such firms.*

*(b) INVESTIGATIONS.—*

*(1) AUTHORITY.—In accordance with the rules of the Board, the Board may conduct an investigation of any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, regardless of how the act, practice, or omission is brought to the attention of the Board.*

*(2) TESTIMONY AND DOCUMENT PRODUCTION.—In addition to such other actions as the Board determines to be necessary or appropriate, the rules of the Board may—*

*(A) require the testimony of the firm or of any person associated with a registered public accounting firm, with respect to any matter that the Board considers relevant or material to an investigation;*

*(B) require the production of audit work papers and any other document or information in the possession of a registered public accounting firm or any associated person thereof, wherever domiciled, that the Board considers relevant or material to the investigation, and may inspect the books and records of such firm or associated person to verify the accuracy of any documents or information supplied;*

*(C) request the testimony of, and production of any document in the possession of, any other person, including any client of a registered public accounting firm that the Board considers relevant or material to an investigation under this section, with appropriate notice, subject to the needs of the investigation, as permitted under the rules of the Board; and*

*(D) provide for procedures to seek issuance by the Commission, in a manner established by the Commission, of a subpoena to require the testimony of, and production of any document in the possession of, any person, including any client of a registered public accounting firm, that the Board considers relevant or material to an investigation under this section.*

*(3) NONCOOPERATION WITH INVESTIGATIONS.—*

*(A) IN GENERAL.—If a registered public accounting firm or any associated person thereof refuses to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation under this section, the Board may—*

*(i) suspend or bar such person from being associated with a registered public accounting firm, or require the registered public accounting firm to end such association;*

*(ii) suspend or revoke the registration of the public accounting firm; and*

*(iii) invoke such other lesser sanctions as the Board considers appropriate, and as specified by rule of the Board.*

*(B) PROCEDURE.—Any action taken by the Board under this paragraph shall be subject to the terms of section 107(c).*

*(4) COORDINATION AND REFERRAL OF INVESTIGATIONS.—*

*(A) COORDINATION.—The Board shall notify the Commission of any pending Board investigation involving a potential violation of the securities laws, and thereafter coordinate its work with the work of the Commission's Division of Enforcement, as necessary to protect an ongoing Commission investigation.*

*(B) REFERRAL.—The Board may refer an investigation under this section—*

*(i) to the Commission;*

*(ii) to any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an investigation that concerns an audit report for an institution that is subject to the jurisdiction of such regulator; and*

*(iii) at the direction of the Commission, to—*

*(I) the Attorney General of the United States;*

*(II) the attorney general of 1 or more States; and*

*(III) the appropriate State regulatory authority.*

*(5) USE OF DOCUMENTS.—*

*(A) CONFIDENTIALITY.—Except as provided in subparagraph (B), all documents and information prepared or received by or specifically for the Board, and deliberations of the Board and its employees and agents, in connection with an inspection under section 104 or with an investigation under this section, shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be exempt from disclosure, in the hands of an agency or establishment of the Federal Government, under the Freedom of Information Act (5 U.S.C. 552a), or otherwise, unless and until presented in connection with a public proceeding or released in accordance with subsection (c).*

*(B) AVAILABILITY TO GOVERNMENT AGENCIES.—Without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) may—*

*(i) be made available to the Commission; and*

*(ii) in the discretion of the Board, when determined by the Board to be necessary to accomplish the purposes of this Act or to protect investors, be made available to—*

*(I) the Attorney General of the United States;*

*(II) the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), other than the Commission, with respect to an audit report for an institution subject to the jurisdiction of such regulator;*

*(III) State attorneys general in connection with any criminal investigation; and*

*(IV) any appropriate State regulatory authority,*

*each of which shall maintain such information as confidential and privileged.*

*(6) IMMUNITY.—Any employee of the Board engaged in carrying out an investigation under this Act shall be immune from any civil liability arising out of such investigation in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.*

*(c) DISCIPLINARY PROCEDURES.—*

*(1) NOTIFICATION; RECORDKEEPING.—The rules of the Board shall provide that in any proceeding by the Board to determine whether a registered public accounting firm, or an associated person thereof, should be disciplined, the Board shall—*

*(A) bring specific charges with respect to the firm or associated person;*

*(B) notify such firm or associated person of, and provide to the firm or associated person an opportunity to defend against, such charges; and*

*(C) keep a record of the proceedings.*

*(2) PUBLIC HEARINGS.—Hearings under this section shall not be public, unless otherwise ordered by the Board for good cause shown, with the consent of the parties to such hearing.*

*(3) SUPPORTING STATEMENT.—A determination by the Board to impose a sanction under this subsection shall be supported by a statement setting forth—*

*(A) each act or practice in which the registered public accounting firm, or associated person, has engaged (or omitted to engage), or that forms a basis for all or a part of such sanction;*

*(B) the specific provision of this Act, the securities laws, the rules of the Board, or professional standards which the Board determines has been violated; and*

*(C) the sanction imposed, including a justification for that sanction.*

*(4) SANCTIONS.—If the Board finds, based on all of the facts and circumstances, that a registered public accounting firm or associated person thereof has engaged in any act or practice, or omitted to act, in violation of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, the Board may impose such disciplinary or remedial sanctions as it determines appropriate, subject to applicable limitations under paragraph (5), including—*

*(A) temporary suspension or permanent revocation of registration under this title;*

*(B) temporary or permanent suspension or bar of a person from further association with any registered public accounting firm;*

*(C) temporary or permanent limitation on the activities, functions, or operations of such firm or person (other than in connection with required additional professional education or training);*

*(D) a civil money penalty for each such violation, in an amount equal to—*

*(i) not more than $100,000 for a natural person or $2,000,000 for any other person; and*

*(ii) in any case to which paragraph (5) applies, not more than $750,000 for a natural person or $15,000,000 for any other person;*

*(E) censure;*

*(F) required additional professional education or training; or*

*(G) any other appropriate sanction provided for in the rules of the Board.*

*(5) INTENTIONAL OR OTHER KNOWING CONDUCT.—The sanctions and penalties described in subparagraphs (A) through (C) and (D)(ii) of paragraph (4) shall only apply to—*

*(A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or*

*(B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.*

*(6) FAILURE TO SUPERVISE.—*

*(A) IN GENERAL.—The Board may impose sanctions under this section on a registered accounting firm or upon the supervisory personnel of such firm, if the Board finds that—*

*(i) the firm has failed reasonably to supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission under this Act, or professional standards; and*

*(ii) such associated person commits a violation of this Act, or any of such rules, laws, or standards.*

*(B) RULE OF CONSTRUCTION.—No associated person of a registered public accounting firm shall be deemed to have failed reasonably to supervise any other person for purposes of subparagraph (A), if—*

*(i) there have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of the Board and that would reasonably be expected to prevent and detect any such violation by such associated person; and*

*(ii) such person has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that such procedures and system were not being complied with.*

*(7) EFFECT OF SUSPENSION.—*

*(A) ASSOCIATION WITH A PUBLIC ACCOUNTING FIRM.—It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any registered public accounting firm, or for any registered public accounting firm that knew, or, in the exercise of reasonable care should have known, of the suspension or bar, to permit such an association, without the consent of the Board or the Commission.*

*(B) ASSOCIATION WITH AN ISSUER.—It shall be unlawful for any person that is suspended or barred from being associated with an issuer under this subsection willfully to become or remain associated with any issuer in an accountancy or a financial management capacity, and for any issuer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.*

*(d) REPORTING OF SANCTIONS.—*

*(1) RECIPIENTS.—If the Board imposes a disciplinary sanction, in accordance with this section, the Board shall report the sanction to—*

*(A) the Commission;*

*(B) any appropriate State regulatory authority or any foreign accountancy licensing board with which such firm or person is licensed or certified; and*

*(C) the public (once any stay on the imposition of such sanction has been lifted).*

*(2) CONTENTS.—The information reported under paragraph (1) shall include—*

*(A) the name of the sanctioned person;*

*(B) a description of the sanction and the basis for its imposition; and*

*(C) such other information as the Board deems appropriate.*

*(e) STAY OF SANCTIONS.—*

*(1) IN GENERAL.—Application to the Commission for review, or the institution by the Commission of review, of any disciplinary action of the Board shall operate as a stay of any such disciplinary action, unless and until the Commission orders (summarily or after notice and opportunity for hearing on the question of a stay, which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that no such stay shall continue to operate.*

*(2) EXPEDITED PROCEDURES.—The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of a stay pending review of any disciplinary action of the Board under this subsection.*

### ***SEC. 106. FOREIGN PUBLIC ACCOUNTING FIRMS.***

*(a) APPLICABILITY TO CERTAIN FOREIGN FIRMS.—*

*(1) IN GENERAL.—Any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer, shall be subject to this Act and the rules of the Board and the Commission issued under this Act, in the same manner and to the same extent as a public accounting firm that is organized and operates under the laws of the United States or any State, except that registration pursuant to section 102 shall not by itself provide a basis for subjecting such a foreign public accounting firm to the jurisdiction of the Federal or State courts, other than with respect to controversies between such firms and the Board.*

*(2) BOARD AUTHORITY.—The Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this title.*

*(b) PRODUCTION OF AUDIT WORKPAPERS.—*

*(1) CONSENT BY FOREIGN FIRMS.—If a foreign public accounting firm issues an opinion or otherwise performs material services upon which a registered public accounting firm relies in issuing all or part of any audit report or any opinion contained in an audit report, that foreign public accounting firm shall be deemed to have consented—*

*(A) to produce its audit workpapers for the Board or the Commission in connection with any investigation by either body with respect to that audit report; and*

*(B) to be subject to the jurisdiction of the courts of the United States for purposes of enforcement of any request for production of such workpapers.*

*(2) CONSENT BY DOMESTIC FIRMS.—A registered public accounting firm that relies upon the opinion of a foreign public accounting firm, as described in paragraph (1), shall be deemed—*

*(A) to have consented to supplying the audit workpapers of that foreign public accounting firm in response to a request for production by the Board or the Commission; and*

*(B) to have secured the agreement of that foreign public accounting firm to such production, as a condition of its reliance on the opinion of that foreign public accounting firm.*

*(c) EXEMPTION AUTHORITY.—The Commission, and the Board, subject to the approval of the Commission, may, by rule, regulation, or order, and as the Commission (or Board) determines necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions exempt any foreign public accounting firm, or any class of such firms, from any provision of this Act or the rules of the Board or the Commission issued under this Act.*

*(d) DEFINITION.—In this section, the term "foreign public accounting firm" means a public accounting firm that is organized and operates under the laws of a foreign government or political subdivision thereof.*

### ***SEC. 107. COMMISSION OVERSIGHT OF THE BOARD.***

*(a) GENERAL OVERSIGHT RESPONSIBILITY.—The Commission shall have oversight and enforcement authority over the Board, as provided in this Act. The provisions of section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)(1)), and of section 17(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(b)(1)) shall apply to the Board as fully as if the Board were a "registered securities association" for purposes of those sections 17(a)(1) and 17(b)(1).*

*(b) RULES OF THE BOARD.—*

*(1) DEFINITION.—In this section, the term "proposed rule" means any proposed rule of the Board, and any modification of any such rule.*

*(2) PRIOR APPROVAL REQUIRED.—No rule of the Board shall become effective without prior approval of the Commission in accordance with this section, other than as provided in section 103(a)(3)(B) with respect to initial or transitional standards.*

*(3) APPROVAL CRITERIA.—The Commission shall approve a proposed rule, if it finds that the rule is consistent with the requirements of this Act and the securities laws, or is necessary or appropriate in the public interest or for the protection of investors.*

*(4) PROPOSED RULE PROCEDURES.—The provisions of paragraphs (1) through (3) of section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) shall govern the proposed rules of the Board, as fully as if the Board were a "registered securities association" for purposes of that section 19(b), except that, for purposes of this paragraph—*

*(A) the phrase "consistent with the requirements of this title and the rules and regulations thereunder applicable to such organization" in section 19(b)(2) of that Act shall be deemed to read "consistent with the requirements of title I of the Sarbanes-Oxley Act of 2002, and the rules and regulations issued thereunder applicable to such organization, or as necessary or appropriate in the public interest or for the protection of investors"; and*

*(B) the phrase "otherwise in furtherance of the purposes of this title" in section 19(b)(3)(C) of that Act shall be deemed to read "otherwise in furtherance of the purposes of title I of the Sarbanes-Oxley Act of 2002".*

*(5) COMMISSION AUTHORITY TO AMEND RULES OF THE BOARD.—The provisions of section 19(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(c)) shall govern the abrogation, deletion, or addition to portions of the rules of the Board by the Commission as fully as if the Board were a "registered securities association" for purposes of that section 19(c), except that the phrase "to conform its rules to the requirements of this title and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this title" in section 19(c) of that Act shall, for purposes of this paragraph, be deemed to read "to assure the fair administration of the Public Company Accounting Oversight Board, conform the rules promulgated by that Board to the requirements of title I of the Sarbanes-Oxley Act of 2002, or otherwise further the purposes of that Act, the securities laws, and the rules and regulations thereunder applicable to that Board".*

*(c) COMMISSION REVIEW OF DISCIPLINARY ACTION TAKEN BY THE BOARD.—*

*(1) NOTICE OF SANCTION.—The Board shall promptly file notice with the Commission of any final sanction on any registered public accounting firm or on any associated person thereof, in such form and containing such information as the Commission, by rule, may prescribe.*

*(2) REVIEW OF SANCTIONS.—The provisions of sections 19(d)(2) and 19(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d)(2) and (e)(1)) shall govern the review by the Commission of final disciplinary sanctions imposed by the Board (including sanctions imposed under section 105(b)(3) of this Act for noncooperation in an investigation of the Board), as fully as if the Board were a self-regulatory organization and the Commission were the appropriate regulatory agency for such organization for purposes of those sections 19(d)(2) and 19(e)(1), except that, for purposes of this paragraph—*

*(A) section 105(e) of this Act (rather than that section 19(d)(2)) shall govern the extent to which application for, or institution by the Commission on its own motion of, review of any disciplinary action of the Board operates as a stay of such action;*

*(B) references in that section 19(e)(1) to "members" of such an organization shall be deemed to be references to registered public accounting firms;*

*(C) the phrase "consistent with the purposes of this title" in that section 19(e)(1) shall be deemed to read "consistent with the purposes of this title and title I of the Sarbanes-Oxley Act of 2002";*

*(D) references to rules of the Municipal Securities Rulemaking Board in that section 19(e)(1) shall not apply; and*

*(E) the reference to section 19(e)(2) of the Securities Exchange Act of 1934 shall refer instead to section 107(c)(3) of this Act.*

*(3) COMMISSION MODIFICATION AUTHORITY.—The Commission may enhance, modify, cancel, reduce, or require the remission of a sanction imposed by the Board upon a registered public accounting firm or associated person thereof, if the Commission, having due regard for the public interest and the protection of investors, finds, after a proceeding in accordance with this subsection, that the sanction—*

*(A) is not necessary or appropriate in furtherance of this Act or the securities laws; or*

*(B) is excessive, oppressive, inadequate, or otherwise not appropriate to the finding or the basis on which the sanction was imposed.*

*(d) CENSURE OF THE BOARD; OTHER SANCTIONS.—*

*(1) RESCISSION OF BOARD AUTHORITY.—The Commission, by rule, consistent with the public interest, the protection of investors, and the other purposes of this Act and the securities laws, may relieve the Board of any responsibility to enforce compliance with any provision of this Act, the securities laws, the rules of the Board, or professional standards.*

*(2) CENSURE OF THE BOARD; LIMITATIONS.—The Commission may, by order, as it determines necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, censure or impose limitations upon the activities, functions, and operations of the Board, if the Commission finds, on the record, after notice and opportunity for a hearing, that the Board—*

*(A) has violated or is unable to comply with any provision of this Act, the rules of the Board, or the securities laws; or*

*(B) without reasonable justification or excuse, has failed to enforce compliance with any such provision or rule, or any professional standard by a registered public accounting firm or an associated person thereof.*

*(3) CENSURE OF BOARD MEMBERS; REMOVAL FROM OFFICE.—The Commission may, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, remove from office or censure any member of the Board, if the Commission finds, on the record, after notice and opportunity for a hearing, that such member—*

*(A) has willfully violated any provision of this Act, the rules of the Board, or the securities laws;*

*(B) has willfully abused the authority of that member; or*

*(C) without reasonable justification or excuse, has failed to enforce compliance with any such provision or rule, or any professional standard by any registered public accounting firm or any associated person thereof.*

### SEC. 108. ACCOUNTING STANDARDS.

*(a) AMENDMENT TO SECURITIES ACT OF 1933.—Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended—*

*(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and*

*(2) by inserting after subsection (a) the following:*

*"(b) RECOGNITION OF ACCOUNTING STANDARDS.—*

*"(1) IN GENERAL.—In carrying out its authority under subsection (a) and under section 13(b) of the Securities Exchange Act of 1934, the Commission may recognize, as 'generally accepted' for purposes of the securities laws, any accounting principles established by a standard setting body—*

*"(A) that—*

*"(i) is organized as a private entity;*

*"(ii) has, for administrative and operational purposes, a board of trustees (or equivalent body) serving in the public interest, the majority of whom are not, concurrent with their service on such board, and have not been during the 2-year period preceding such service, associated persons of any registered public accounting firm;*

*"(iii) is funded as provided in section 109 of the Sarbanes-Oxley Act of 2002;*

*"(iv) has adopted procedures to ensure prompt consideration, by majority vote of its members, of changes to accounting principles necessary to reflect emerging accounting issues and changing business practices; and*

*"(v) considers, in adopting accounting principles, the need to keep standards current in order to reflect changes in the business environment, the extent to which international convergence on high quality accounting standards is necessary or appropriate in the public interest and for the protection of investors; and*

*"(B) that the Commission determines has the capacity to assist the Commission in fulfilling the requirements of subsection (a) and section 13(b) of the Securities Exchange Act of 1934, because, at a minimum, the standard setting body is capable of improving the accuracy and effectiveness of financial reporting and the protection of investors under the securities laws.*

*"(2) ANNUAL REPORT.—A standard setting body described in paragraph (1) shall submit an annual report to the Commission and the public, containing audited financial statements of that standard setting body.".*

*(b) COMMISSION AUTHORITY.—The Commission shall promulgate such rules and regulations to carry out section 19(b) of the Securities Act of 1933, as added by this section, as it deems necessary or appropriate in the public interest or for the protection of investors.*

*(c) NO EFFECT ON COMMISSION POWERS.—Nothing in this Act, including this section and the amendment made by this section, shall be construed to impair or limit the authority of the Commission to establish accounting principles or standards for purposes of enforcement of the securities laws.*

*(d) STUDY AND REPORT ON ADOPTING PRINCIPLES-BASED ACCOUNTING.—*

*(1) STUDY.—*

*(A) IN GENERAL.—The Commission shall conduct a study on the adoption by the United States financial reporting system of a principles-based accounting system.*

*(B) STUDY TOPICS.—The study required by subparagraph (A) shall include an examination of—*

*(i) the extent to which principles-based accounting and financial reporting exists in the United States;*

*(ii) the length of time required for change from a rules-based to a principles-based financial reporting system;*

*(iii) the feasibility of and proposed methods by which a principles-based system may be implemented; and*

*(iv) a thorough economic analysis of the implementation of a principles-based system.*

*(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required by paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.*

### SEC. 109. FUNDING.

*(a) IN GENERAL.—The Board, and the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 108, shall be funded as provided in this section.*

*(b) ANNUAL BUDGETS.—The Board and the standard setting body referred to in subsection (a) shall each establish a budget for each fiscal year, which shall be reviewed and approved according to their respective internal procedures not less than 1 month prior to the commencement of the fiscal year to which the budget pertains (or at the beginning of the Board's first fiscal year, which may be a short fiscal year). The budget of the Board shall be subject to approval by the Commission. The budget for the first fiscal year of the Board shall be prepared and approved promptly following the appointment of the initial five Board members, to permit action by the Board of the organizational tasks contemplated by section 101(d).*

*(c) SOURCES AND USES OF FUNDS.—*

*(1) RECOVERABLE BUDGET EXPENSES.—The budget of the Board (reduced by any registration or annual fees received under section 102(e) for the year preceding the year for which the budget is being computed), and all of the budget of the standard setting body referred to in subsection (a), for each fiscal year of each of those 2 entities, shall be payable from annual accounting support fees, in accordance with subsections (d) and (e). Accounting support fees and other receipts of the Board and of such standard-setting body shall not be considered public monies of the United States.*

*(2) FUNDS GENERATED FROM THE COLLECTION OF MONETARY PENALTIES.—Subject to the availability in advance in an appropriations Act, and notwithstanding subsection (i), all funds collected by the Board as a result of the assessment of monetary penalties shall be used to fund a merit scholarship program for undergraduate and graduate students enrolled in accredited accounting degree programs, which program is to be administered by the Board or by an entity or agent identified by the Board.*

*(d) ANNUAL ACCOUNTING SUPPORT FEE FOR THE BOARD.—*

*(1) ESTABLISHMENT OF FEE.—The Board shall establish, with the approval of the Commission, a reasonable annual accounting support fee (or a formula for the computation thereof), as may be necessary or appropriate to establish and maintain the Board. Such fee may also cover costs incurred in the Board's first fiscal year (which may be a short fiscal year), or may be levied separately with respect to such short fiscal year.*

*(2) ASSESSMENTS.—The rules of the Board under paragraph (1) shall provide for the equitable allocation, assessment, and collection by the Board (or an agent appointed by the Board)*

of the fee established under paragraph (1), among issuers, in accordance with subsection (g), allowing for differentiation among classes of issuers, as appropriate.

(e) ANNUAL ACCOUNTING SUPPORT FEE FOR STANDARD SETTING BODY.—The annual accounting support fee for the standard setting body referred to in subsection (a)—

(1) shall be allocated in accordance with subsection (g), and assessed and collected against each issuer, on behalf of the standard setting body, by 1 or more appropriate designated collection agents, as may be necessary or appropriate to pay for the budget and provide for the expenses of that standard setting body, and to provide for an independent, stable source of funding for such body, subject to review by the Commission; and

(2) may differentiate among different classes of issuers.

(f) LIMITATION ON FEE.—The amount of fees collected under this section for a fiscal year on behalf of the Board or the standards setting body, as the case may be, shall not exceed the recoverable budget expenses of the Board or body, respectively (which may include operating, capital, and accrued items), referred to in subsection (c)(1).

(g) ALLOCATION OF ACCOUNTING SUPPORT FEES AMONG ISSUERS.—Any amount due from issuers (or a particular class of issuers) under this section to fund the budget of the Board or the standard setting body referred to in subsection (a) shall be allocated among and payable by each issuer (or each issuer in a particular class, as applicable) in an amount equal to the total of such amount, multiplied by a fraction—

(1) the numerator of which is the average monthly equity market capitalization of the issuer for the 12-month period immediately preceding the beginning of the fiscal year to which such budget relates; and

(2) the denominator of which is the average monthly equity market capitalization of all such issuers for such 12-month period.

(h) CONFORMING AMENDMENTS.—Section 13(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end; and

(2) in subparagraph (B), by striking the period at the end and inserting the following: "; and

"(C) notwithstanding any other provision of law, pay the allocable share of such issuer of a reasonable annual accounting support fee or fees, determined in accordance with section 109 of the Sarbanes-Oxley Act of 2002.".

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to render either the Board, the standard setting body referred to in subsection (a), or both, subject to procedures in Congress to authorize or appropriate public funds, or to prevent such organization from utilizing additional sources of revenue for its activities, such as earnings from publication sales, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual and perceived independence of such organization.

(j) START-UP EXPENSES OF THE BOARD.—From the unexpended balances of the appropriations to the Commission for fiscal year 2003, the Secretary of the Treasury is authorized to advance to the Board not to exceed the amount necessary to cover the expenses of the Board during its first fiscal year (which may be a short fiscal year).

### TITLE II—AUDITOR INDEPENDENCE

### SEC. 201. SERVICES OUTSIDE THE SCOPE OF PRACTICE OF AUDITORS.

(a) PROHIBITED ACTIVITIES.—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is amended by adding at the end the following:

"(g) PROHIBITED ACTIVITIES.—Except as provided in subsection (h), it shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) that performs for any issuer any audit required by this title or the rules of the Commission under this title or, beginning 180 days after the date of commencement of the operations of the Public Company Accounting Oversight Board established under section 101 of the Sarbanes-Oxley Act of 2002 (in this section referred to as the 'Board'), the rules of the Board, to provide to that issuer, contemporaneously with the audit, any non-audit service, including—

"(1) bookkeeping or other services related to the accounting records or financial statements of the audit client;

"(2) financial information systems design and implementation;

"(3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

"(4) actuarial services;

"(5) internal audit outsourcing services;

"(6) management functions or human resources;

"(7) broker or dealer, investment adviser, or investment banking services;

"(8) legal services and expert services unrelated to the audit; and

"(9) any other service that the Board determines, by regulation, is impermissible.

"(h) PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if the activity is approved in advance by the audit committee of the issuer, in accordance with subsection (i).".

(b) EXEMPTION AUTHORITY.—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

### SEC. 202. PREAPPROVAL REQUIREMENTS.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:

"(i) PREAPPROVAL REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) AUDIT COMMITTEE ACTION.—All auditing services (which may entail providing comfort letters in connection with securities underwritings or statutory audits required for insurance companies for purposes of State law) and non-audit services, other than as provided in subparagraph (B), provided to an issuer by the auditor of the issuer shall be preapproved by the audit committee of the issuer.

"(B) DE MINIMUS EXCEPTION.—The preapproval requirement under subparagraph (A) is waived with respect to the provision of non-audit services for an issuer, if—

"(i) the aggregate amount of all such non-audit services provided to the issuer constitutes not more than 5 percent of the total amount of revenues paid by the issuer to its auditor during the fiscal year in which the nonaudit services are provided;

"(ii) such services were not recognized by the issuer at the time of the engagement to be non-audit services; and

"(iii) such services are promptly brought to the attention of the audit committee of the issuer and approved prior to the completion of the audit by the audit committee or by 1 or more members of the audit committee who are members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

"(2) DISCLOSURE TO INVESTORS.—Approval by an audit committee of an issuer under this subsection of a non-audit service to be performed by the auditor of the issuer shall be disclosed to investors in periodic reports required by section 13(a).

"(3) DELEGATION AUTHORITY.—The audit committee of an issuer may delegate to 1 or more designated members of the audit committee who are independent directors of the board of directors, the authority to grant preapprovals required by this subsection. The decisions of any member to whom authority is delegated under this paragraph to preapprove an activity under this subsection shall be presented to the full audit committee at each of its scheduled meetings.

"(4) APPROVAL OF AUDIT SERVICES FOR OTHER PURPOSES.—In carrying out its duties under subsection (m)(2), if the audit committee of an issuer approves an audit service within the scope of the engagement of the auditor, such audit service shall be deemed to have been preapproved for purposes of this subsection.".

### SEC. 203. AUDIT PARTNER ROTATION.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:

"(j) AUDIT PARTNER ROTATION.—It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer.".

### SEC. 204. AUDITOR REPORTS TO AUDIT COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:

"(k) REPORTS TO AUDIT COMMITTEES.—Each registered public accounting firm that performs for any issuer any audit required by this title shall timely report to the audit committee of the issuer—

"(1) all critical accounting policies and practices to be used;

"(2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the issuer, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the registered public accounting firm; and

"(3) other material written communications between the registered public accounting firm and the management of the issuer, such as any management letter or schedule of unadjusted differences.".

### SEC. 205. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

"(58) AUDIT COMMITTEE.—The term 'audit committee' means—

"(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and

"(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.

"(59) REGISTERED PUBLIC ACCOUNTING FIRM.—The term 'registered public accounting firm' has the same meaning as in section 2 of the Sarbanes-Oxley Act of 2002.".

(b) AUDITOR REQUIREMENTS.—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is amended—

*(1) by striking "an independent public accountant" each place that term appears and inserting "a registered public accounting firm";*

*(2) by striking "the independent public accountant" each place that term appears and inserting "the registered public accounting firm";*

*(3) in subsection (c), by striking "No independent public accountant" and inserting "No registered public accounting firm"; and*

*(4) in subsection (b)—*

*(A) by striking "the accountant" each place that term appears and inserting "the firm";*

*(B) by striking "such accountant" each place that term appears and inserting "such firm"; and*

*(C) in paragraph (4), by striking "the accountant's report" and inserting "the report of the firm".*

*(c) OTHER REFERENCES.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—*

*(1) in section 12(b)(1) (15 U.S.C. 78l(b)(1)), by striking "independent public accountants" each place that term appears and inserting "a registered public accounting firm"; and*

*(2) in subsections (e) and (i) of section 17 (15 U.S.C. 78q), by striking "an independent public accountant" each place that term appears and inserting "a registered public accounting firm".*

*(d) CONFORMING AMENDMENT.—Section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(f)) is amended—*

*(1) by striking "DEFINITION" and inserting "DEFINITIONS"; and*

*(2) by adding at the end the following: "As used in this section, the term 'issuer' means an issuer (as defined in section 3), the securities of which are registered under section 12, or that is required to file reports pursuant to section 15(d), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.), and that it has not withdrawn.".*

### ***SEC. 206. CONFLICTS OF INTEREST.***

*Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1), as amended by this Act, is amended by adding at the end the following:*

*"(l) CONFLICTS OF INTEREST.—It shall be unlawful for a registered public accounting firm to perform for an issuer any audit service required by this title, if a chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for the issuer, was employed by that registered independent public accounting firm and participated in any capacity in the audit of that issuer during the 1-year period preceding the date of the initiation of the audit.".*

### ***SEC. 207. STUDY OF MANDATORY ROTATION OF REGISTERED PUBLIC ACCOUNTING FIRMS.***

*(a) STUDY AND REVIEW REQUIRED.—The Comptroller General of the United States shall conduct a study and review of the potential effects of requiring the mandatory rotation of registered public accounting firms.*

*(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by this section.*

*(c) DEFINITION.—For purposes of this section, the term "mandatory rotation" refers to the imposition of a limit on the period of years in which a particular registered public accounting firm may be the auditor of record for a particular issuer.*

### ***SEC. 208. COMMISSION AUTHORITY.***

*(a) COMMISSION REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Commission shall issue final regulations to carry out each of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title.*

*(b) AUDITOR INDEPENDENCE.—It shall be unlawful for any registered public accounting firm (or an associated person thereof, as applicable) to prepare or issue any audit report with respect to any issuer, if the firm or associated person engages in any activity with respect to that issuer prohibited by any of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title, or any rule or regulation of the Commission or of the Board issued thereunder.*

### ***SEC. 209. CONSIDERATIONS BY APPROPRIATE STATE REGULATORY AUTHORITIES.***

*In supervising nonregistered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.*

## ***TITLE III—CORPORATE RESPONSIBILITY***

### ***SEC. 301. PUBLIC COMPANY AUDIT COMMITTEES.***

*Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:*

*"(m) STANDARDS RELATING TO AUDIT COMMITTEES.—*

*"(1) COMMISSION RULES.—*

*"(A) IN GENERAL.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraphs (2) through (6).*

*"(B) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.*

*"(2) RESPONSIBILITIES RELATING TO REGISTERED PUBLIC ACCOUNTING FIRMS.—The audit committee of each issuer, in its capacity as a committee of the board of directors, shall be directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by that issuer (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work, and each such registered public accounting firm shall report directly to the audit committee.*

*"(3) INDEPENDENCE.—*

*"(A) IN GENERAL.—Each member of the audit committee of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be independent.*

*"(B) CRITERIA.—In order to be considered to be independent for purposes of this paragraph, a member of an audit committee of an issuer may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee—*

*"(i) accept any consulting, advisory, or other compensatory fee from the issuer; or*

*"(ii) be an affiliated person of the issuer or any subsidiary thereof.*

*"(C) EXEMPTION AUTHORITY.—The Commission may exempt from the requirements of subparagraph (B) a particular relationship with respect to audit committee members, as the Commission determines appropriate in light of the circumstances.*

*"(4) COMPLAINTS.—Each audit committee shall establish procedures for—*

*"(A) the receipt, retention, and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters; and*

*"(B) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.*

*"(5) AUTHORITY TO ENGAGE ADVISERS.—Each audit committee shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.*

*"(6) FUNDING.—Each issuer shall provide for appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation—*

*"(A) to the registered public accounting firm employed by the issuer for the purpose of rendering or issuing an audit report; and*

*"(B) to any advisers employed by the audit committee under paragraph (5).".*

### ***SEC. 302. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.***

*(a) REGULATIONS REQUIRED.—The Commission shall, by rule, require, for each company filing periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—*

*(1) the signing officer has reviewed the report;*

*(2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;*

*(3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;*

*(4) the signing officers—*

*(A) are responsible for establishing and maintaining internal controls;*

*(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;*

*(C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and*

*(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;*

*(5) the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—*

*(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and*

*(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and*

*(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls*

*subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.*

*(b) FOREIGN REINCORPORATIONS HAVE NO EFFECT.—Nothing in this section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under this section 302, by an issuer having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.*

*(c) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.*

### SEC. 303. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.

*(a) RULES TO PROHIBIT.—It shall be unlawful, in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors, for any officer or director of an issuer, or any other person acting under the direction thereof, to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of that issuer for the purpose of rendering such financial statements materially misleading.*

*(b) ENFORCEMENT.—In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation issued under this section.*

*(c) NO PREEMPTION OF OTHER LAW.—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation issued thereunder.*

*(d) DEADLINE FOR RULEMAKING.—The Commission shall—*

*(1) propose the rules or regulations required by this section, not later than 90 days after the date of enactment of this Act; and*

*(2) issue final rules or regulations required by this section, not later than 270 days after that date of enactment.*

### SEC. 304. FORFEITURE OF CERTAIN BONUSES AND PROFITS.

*(a) ADDITIONAL COMPENSATION PRIOR TO NONCOMPLIANCE WITH COMMISSION FINANCIAL REPORTING REQUIREMENTS.—If an issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the issuer shall reimburse the issuer for—*

*(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and*

*(2) any profits realized from the sale of securities of the issuer during that 12-month period.*

*(b) COMMISSION EXEMPTION AUTHORITY.—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.*

### SEC. 305. OFFICER AND DIRECTOR BARS AND PENALTIES.

*(a) UNFITNESS STANDARD.—*

*(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking "substantial unfitness" and inserting "unfitness".*

*(2) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking "substantial unfitness" and inserting "unfitness".*

*(b) EQUITABLE RELIEF.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:*

*"(5) EQUITABLE RELIEF.—In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.".*

### SEC. 306. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS.

*(a) PROHIBITION OF INSIDER TRADING DURING PENSION FUND BLACKOUT PERIODS.—*

*(1) IN GENERAL.—Except to the extent otherwise provided by rule of the Commission pursuant to paragraph (3), it shall be unlawful for any director or executive officer of an issuer of any equity security (other than an exempted security), directly or indirectly, to purchase, sell, or otherwise acquire or transfer any equity security of the issuer (other than an exempted security) during any blackout period with respect to such equity security if such director or officer acquires such equity security in connection with his or her service or employment as a director or executive officer.*

*(2) REMEDY.—*

*(A) IN GENERAL.—Any profit realized by a director or executive officer referred to in paragraph (1) from any purchase, sale, or other acquisition or transfer in violation of this subsection shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.*

*(B) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this subsection may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter, except that no such suit shall be brought more than 2 years after the date on which such profit was realized.*

*(3) RULEMAKING AUTHORIZED.—The Commission shall, in consultation with the Secretary of Labor, issue rules to clarify the application of this subsection and to prevent evasion thereof. Such rules shall provide for the application of the requirements of paragraph (1) with respect to entities treated as a single employer with respect to an issuer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986 to the extent necessary to clarify the application of such requirements and to prevent evasion thereof. Such rules may also provide for appropriate exceptions from the requirements of this subsection, including exceptions for purchases pursuant to an automatic dividend reinvestment program or purchases or sales made pursuant to an advance election.*

*(4) BLACKOUT PERIOD.—For purposes of this subsection, the term "blackout period", with respect to the equity securities of any issuer—*

*(A) means any period of more than 3 consecutive business days during which the ability of not fewer than 50 percent of the participants or beneficiaries under all individual account plans maintained by the issuer to purchase, sell, or otherwise acquire or transfer an interest in any equity of such issuer held in such an individual account plan is temporarily suspended by the issuer or by a fiduciary of the plan; and*

*(B) does not include, under regulations which shall be prescribed by the Commission—*

*(i) a regularly scheduled period in which the participants and beneficiaries may not purchase, sell, or otherwise acquire or transfer an interest in any equity of such issuer, if such period is—*

*(I) incorporated into the individual account plan; and*

*(II) timely disclosed to employees before becoming participants under the individual account plan or as a subsequent amendment to the plan; or*

*(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction involving the plan or plan sponsor.*

*(5) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term "individual account plan" has the meaning provided in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34), except that such term shall not include a one-participant retirement plan (within the meaning of section 101(i)(8)(B) of such Act (29 U.S.C. 1021(i)(8)(B))).*

*(6) NOTICE TO DIRECTORS, EXECUTIVE OFFICERS, AND THE COMMISSION.—In any case in which a director or executive officer is subject to the requirements of this subsection in connection with a blackout period (as defined in paragraph (4)) with respect to any equity securities, the issuer of such equity securities shall timely notify such director or officer and the Securities and Exchange Commission of such blackout period.*

*(b) NOTICE REQUIREMENTS TO PARTICIPANTS AND BENEFICIARIES UNDER ERISA.—*

*(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating the second subsection (h) as subsection (j), and by inserting after the first subsection (h) the following new subsection:*

*"(i) NOTICE OF BLACKOUT PERIODS TO PARTICIPANT OR BENEFICIARY UNDER INDIVIDUAL ACCOUNT PLAN.—*

*"(1) DUTIES OF PLAN ADMINISTRATOR.—In advance of the commencement of any blackout period with respect to an individual account plan, the plan administrator shall notify the plan participants and beneficiaries who are affected by such action in accordance with this subsection.*

*"(2) NOTICE REQUIREMENTS.—*

*"(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall include—*

*"(i) the reasons for the blackout period,*

*"(ii) an identification of the investments and other rights affected,*

*"(iii) the expected beginning date and length of the blackout period,*

*"(iv) in the case of investments affected, a statement that the participant or beneficiary should evaluate the appropriateness of their current investment decisions in light of their inability to direct or diversify assets credited to their accounts during the blackout period, and*

*"(v) such other matters as the Secretary may require by regulation.*

*"(B) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—Except as otherwise provided in this subsection, notices described in paragraph (1) shall be furnished to all participants and beneficiaries under the plan to whom the blackout period applies at least 30 days in advance of the blackout period.*

*"(C) EXCEPTION TO 30-DAY NOTICE REQUIREMENT.—In any case in which—*

*"(i) a deferral of the blackout period would violate the requirements of subparagraph (A) or (B) of section 404(a)(1), and a fiduciary of the plan reasonably so determines in writing, or*

*"(ii) the inability to provide the 30-day advance notice is due to events that were unforeseeable or circumstances beyond the reasonable control of the plan administrator, and a fiduciary of the plan reasonably so determines in writing,*

*subparagraph (B) shall not apply, and the notice shall be furnished to all participants and beneficiaries under the plan to whom the blackout period applies as soon as reasonably possible under the circumstances unless such a notice in advance of the termination of the blackout period is impracticable.*

*"(D) WRITTEN NOTICE.—The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.*

*"(E) NOTICE TO ISSUERS OF EMPLOYER SECURITIES SUBJECT TO BLACKOUT PERIOD.—In the case of any blackout period in connection with an individual account plan, the plan administrator shall provide timely notice of such blackout period to the issuer of any employer securities subject to such blackout period.*

*"(3) EXCEPTION FOR BLACKOUT PERIODS WITH LIMITED APPLICABILITY.—In any case in which the blackout period applies only to 1 or more participants or beneficiaries in connection with a merger, acquisition, divestiture, or similar transaction involving the plan or plan sponsor and occurs solely in connection with becoming or ceasing to be a participant or beneficiary under the plan by reason of such merger, acquisition, divestiture, or transaction, the requirement of this subsection that the notice be provided to all participants and beneficiaries shall be treated as met if the notice required under paragraph (1) is provided to such participants or beneficiaries to whom the blackout period applies as soon as reasonably practicable.*

*"(4) CHANGES IN LENGTH OF BLACKOUT PERIOD.—If, following the furnishing of the notice pursuant to this subsection, there is a change in the beginning date or length of the blackout period (specified in such notice pursuant to paragraph (2)(A)(iii)), the administrator shall provide affected participants and beneficiaries notice of the change as soon as reasonably practicable. In relation to the extended blackout period, such notice shall meet the requirements of paragraph (2)(D) and shall specify any material change in the matters referred to in clauses (i) through (v) of paragraph (2)(A).*

*"(5) REGULATORY EXCEPTIONS.—The Secretary may provide by regulation for additional exceptions to the requirements of this subsection which the Secretary determines are in the interests of participants and beneficiaries.*

*"(6) GUIDANCE AND MODEL NOTICES.—The Secretary shall issue guidance and model notices which meet the requirements of this subsection.*

*"(7) BLACKOUT PERIOD.—For purposes of this subsection—*

*"(A) IN GENERAL.—The term 'blackout period' means, in connection with an individual account plan, any period for which any ability of participants or beneficiaries under the plan, which is otherwise available under the terms of such plan, to direct or diversify assets credited to their accounts, to obtain loans from the plan, or to obtain distributions from the plan is temporarily suspended, limited, or restricted, if such suspension, limitation, or restriction is for any period of more than 3 consecutive business days.*

*"(B) EXCLUSIONS.—The term 'blackout period' does not include a suspension, limitation, or restriction—*

*"(i) which occurs by reason of the application of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934),*

*"(ii) which is a change to the plan which provides for a regularly scheduled suspension, limitation, or restriction which is disclosed to participants or beneficiaries through any summary of material modifications, any materials describing specific investment alternatives under the plan, or any changes thereto, or*

*"(iii) which applies only to 1 or more individuals, each of whom is the participant, an alternate payee (as defined in section 206(d)(3)(K)), or any other beneficiary pursuant to a qualified domestic relations order (as defined in section 206(d)(3)(B)(i)).*

*"(8) INDIVIDUAL ACCOUNT PLAN.—*

*"(A) IN GENERAL.—For purposes of this subsection, the term 'individual account plan' shall have the meaning provided such term in section 3(34), except that such term shall not include a one-participant retirement plan.*

*"(B) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of subparagraph (A), the term 'one-participant retirement plan' means a retirement plan that—*

*"(i) on the first day of the plan year—*

*"(I) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated), or*

*"(II) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation (as defined in section 1361(a) of the Internal Revenue Code of 1986)),*

*"(ii) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this paragraph) without being combined with any other plan of the business that covers the employees of the business,*

*"(iii) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses),*

*"(iv) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and*

*"(v) does not cover a business that leases employees.".*

*(2) ISSUANCE OF INITIAL GUIDANCE AND MODEL NOTICE.—The Secretary of Labor shall issue initial guidance and a model notice pursuant to section 101(i)(6) of the Employee Retirement Income Security Act of 1974 (as added by this subsection) not later than January 1, 2003. Not later than 75 days after the date of the enactment of this Act, the Secretary shall promulgate interim final rules necessary to carry out the amendments made by this subsection.*

*(3) CIVIL PENALTIES FOR FAILURE TO PROVIDE NOTICE.—Section 502 of such Act (29 U.S.C. 1132) is amended—*

*(A) in subsection (a)(6), by striking "(5), or (6)" and inserting "(5), (6), or (7)";*

*(B) by redesignating paragraph (7) of subsection (c) as paragraph (8); and*

*(C) by inserting after paragraph (6) of subsection (c) the following new paragraph:*

*"(7) The Secretary may assess a civil penalty against a plan administrator of up to $100 a day from the date of the plan administrator's failure or refusal to provide notice to participants and beneficiaries in accordance with section 101(i). For purposes of this paragraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.".*

*(3) PLAN AMENDMENTS.—If any amendment made by this subsection requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after the effective date of this section, if—*

*(A) during the period after such amendment made by this subsection takes effect and before such first plan year, the plan is operated in good faith compliance with the requirements of such amendment made by this subsection, and*

*(B) such plan amendment applies retroactively to the period after such amendment made by this subsection takes effect and before such first plan year.*

*(c) EFFECTIVE DATE.—The provisions of this section (including the amendments made thereby) shall take effect 180 days after the date of the enactment of this Act. Good faith compliance with the requirements of such provisions in advance of the issuance of applicable regulations thereunder shall be treated as compliance with such provisions.*

### SEC. 307. RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.

*Not later than 180 days after the date of enactment of this Act, the Commission shall issue rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of issuers, including a rule—*

*(1) requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof, to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof); and*

*(2) if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors of the issuer or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the issuer, or to the board of directors.*

### SEC. 308. FAIR FUNDS FOR INVESTORS.

*(a) CIVIL PENALTIES ADDED TO DISGORGEMENT FUNDS FOR THE RELIEF OF VICTIMS.—If in any judicial or administrative action brought by the Commission under the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) the Commission obtains an order requiring disgorgement against any person for a violation of such laws or the rules or regulations thereunder, or such person agrees in settlement of any such action to such disgorgement, and the Commission also obtains pursuant to such laws a civil penalty against such person, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of the disgorgement fund for the benefit of the victims of such violation.*

*(b) ACCEPTANCE OF ADDITIONAL DONATIONS.—The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United States for a disgorgement fund described in subsection (a). Such gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the disgorgement fund and shall be available for allocation in accordance with subsection (a).*

*(c) STUDY REQUIRED.—*

*(1) SUBJECT OF STUDY.—The Commission shall review and analyze—*

*(A) enforcement actions by the Commission over the five years preceding the date of the enactment of this Act that have included proceedings to obtain civil penalties or disgorgements to identify areas where such proceedings may be utilized to efficiently, effectively, and fairly provide restitution for injured investors; and*

*(B) other methods to more efficiently, effectively, and fairly provide restitution to injured investors, including methods to improve the collection rates for civil penalties and disgorgements.*

*(2) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives*

*and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after of the date of the enactment of this Act, and shall use such findings to revise its rules and regulations as necessary. The report shall include a discussion of regulatory or legislative actions that are recommended or that may be necessary to address concerns identified in the study.*

*(d) CONFORMING AMENDMENTS.—Each of the following provisions is amended by inserting ", except as otherwise provided in section 308 of the Sarbanes-Oxley Act of 2002" after "Treasury of the United States":*

*(1) Section 21(d)(3)(C)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(C)(i)).*

*(2) Section 21A(d)(1) of such Act (15 U.S.C. 78u-1(d)(1)).*

*(3) Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)).*

*(4) Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(3)(A)).*

*(5) Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(e)(3)(A)).*

*(e) DEFINITION.—As used in this section, the term "disgorgement fund" means a fund established in any administrative or judicial proceeding described in subsection (a).*

## *TITLE IV—ENHANCED FINANCIAL DISCLOSURES*

### *SEC. 401. DISCLOSURES IN PERIODIC REPORTS.*

*(a) DISCLOSURES REQUIRED.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:*

*"(i) ACCURACY OF FINANCIAL REPORTS.—Each financial report that contains financial statements, and that is required to be prepared in accordance with (or reconciled to) generally accepted accounting principles under this title and filed with the Commission shall reflect all material correcting adjustments that have been identified by a registered public accounting firm in accordance with generally accepted accounting principles and the rules and regulations of the Commission.*

*"(j) OFF-BALANCE SHEET TRANSACTIONS.—Not later than 180 days after the date of enactment of the Sarbanes-Oxley Act of 2002, the Commission shall issue final rules providing that each annual and quarterly financial report required to be filed with the Commission shall disclose all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.".*

*(b) COMMISSION RULES ON PRO FORMA FIGURES.—Not later than 180 days after the date of enactment of the Sarbanes-Oxley Act fo 2002, the Commission shall issue final rules providing that pro forma financial information included in any periodic or other report filed with the Commission pursuant to the securities laws, or in any public disclosure or press or other release, shall be presented in a manner that—*

*(1) does not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the pro forma financial information, in light of the circumstances under which it is presented, not misleading; and*

*(2) reconciles it with the financial condition and results of operations of the issuer under generally accepted accounting principles.*

*(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—*

*(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—*

*(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and*

*(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.*

*(2) REPORT AND RECOMMENDATIONS.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—*

*(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;*

*(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;*

*(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;*

*(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and*

*(E) any recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.*

### *SEC 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.*

*(a) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:*

*"(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—*

*"(1) IN GENERAL.—It shall be unlawful for any issuer (as defined in section 2 of the Sarbanes-Oxley Act of 2002), directly or indirectly, including through any subsidiary, to extend or maintain credit, to arrange for the extension of credit, or to renew an extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer. An extension of credit maintained by the issuer on the date of enactment of this subsection shall not be subject to the provisions of this subsection, provided that there is no material modification to any term of any such extension of credit or any renewal of any such extension of credit on or after that date of enactment.*

*"(2) LIMITATION.—Paragraph (1) does not preclude any home improvement and manufactured home loans (as that term is defined in section 5 of the Home Owners' Loan Act (12 U.S.C. 1464)), consumer credit (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), or a charge card (as defined in section 127(c)(4)(e) of the Truth in Lending Act (15 U.S.C. 1637(c)(4)(e)), or any extension of credit by a broker or dealer registered under section 15 of this title to an employee of that broker or dealer to buy, trade, or carry securities, that is permitted under rules or regulations of the Board of Governors of the Federal Reserve System pursuant to section 7 of this title (other than an extension of credit that would be used to purchase the stock of that issuer), that is—*

*"(A) made or provided in the ordinary course of the consumer credit business of such issuer;*

*"(B) of a type that is generally made available by such issuer to the public; and*

*"(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such extensions of credit.*

*"(3) RULE OF CONSTRUCTION FOR CERTAIN LOANS.—Paragraph (1) does not apply to any loan made or maintained by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), if the loan is subject to the insider lending restrictions of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).".*

### *SEC. 403. DISCLOSURES OF TRANSACTIONS INVOLVING MANAGEMENT AND PRINCIPAL STOCKHOLDERS.*

*(a) AMENDMENT.—Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by striking the heading of such section and subsection (a) and inserting the following:*

### *"SEC. 16. DIRECTORS, OFFICERS, AND PRINCIPAL STOCKHOLDERS.*

*"(a) DISCLOSURES REQUIRED.—*

*"(1) DIRECTORS, OFFICERS, AND PRINCIPAL STOCKHOLDERS REQUIRED TO FILE.—Every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered pursuant to section 12, or who is a director or an officer of the issuer of such security, shall file the statements required by this subsection with the Commission (and, if such security is registered on a national securities exchange, also with the exchange).*

*"(2) TIME OF FILING.—The statements required by this subsection shall be filed—*

*"(A) at the time of the registration of such security on a national securities exchange or by the effective date of a registration statement filed pursuant to section 12(g);*

*"(B) within 10 days after he or she becomes such beneficial owner, director, or officer;*

*"(C) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note)) involving such equity security, before the end of the second business day following the day on which the subject transaction has been executed, or at such other time as the Commission shall establish, by rule, in any case in which the Commission determines that such 2-day period is not feasible.*

*"(3) CONTENTS OF STATEMENTS.—A statement filed—*

*"(A) under subparagraph (A) or (B) of paragraph (2) shall contain a statement of the amount of all equity securities of such issuer of which the filing person is the beneficial owner; and*

*"(B) under subparagraph (C) of such paragraph shall indicate ownership by the filing person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under such subparagraph.*

*"(4) ELECTRONIC FILING AND AVAILABILITY.—Beginning not later than 1 year after the date of enactment of the Sarbanes-Oxley Act of 2002—*

*"(A) a statement filed under subparagraph (C) of paragraph (2) shall be filed electronically;*

*"(B), the Commission shall provide each such statement on a publicly accessible Internet site not later than the end of the business day following that filing; and*

*"(C) the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website, not later than the end of the business day following that filing.".*

*(b) Effective Date.—The amendment made by this section shall be effective 30 days after the date of the enactment of this Act.*

### SEC. 404. MANAGEMENT ASSESSMENT OF INTERNAL CONTROLS.

*(a) Rules Required.—The Commission shall prescribe rules requiring each annual report required by section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) to contain an internal control report, which shall—*

*(1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and*

*(2) contain an assessment, as of the end of the most recent fiscal year of the issuer, of the effectiveness of the internal control structure and procedures of the issuer for financial reporting.*

*(b) Internal Control Evaluation and Reporting.—With respect to the internal control assessment required by subsection (a), each registered public accounting firm that prepares or issues the audit report for the issuer shall attest to, and report on, the assessment made by the management of the issuer. An attestation made under this subsection shall be made in accordance with standards for attestation engagements issued or adopted by the Board. Any such attestation shall not be the subject of a separate engagement.*

### SEC. 405. EXEMPTION.

*Nothing in section 401, 402, or 404, the amendments made by those sections, or the rules of the Commission under those sections shall apply to any investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).*

### SEC. 406. CODE OF ETHICS FOR SENIOR FINANCIAL OFFICERS.

*(a) Code of Ethics Disclosure.—The Commission shall issue rules to require each issuer, together with periodic reports required pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reason therefor, such issuer has adopted a code of ethics for senior financial officers, applicable to its principal financial officer and comptroller or principal accounting officer, or persons performing similar functions.*

*(b) Changes in Codes of Ethics.—The Commission shall revise its regulations concerning matters requiring prompt disclosure on Form 8–K (or any successor thereto) to require the immediate disclosure, by means of the filing of such form, dissemination by the Internet or by other electronic means, by any issuer of any change in or waiver of the code of ethics for senior financial officers.*

*(c) Definition.—In this section, the term "code of ethics" means such standards as are reasonably necessary to promote—*

*(1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;*

*(2) full, fair, accurate, timely, and understandable disclosure in the periodic reports required to be filed by the issuer; and*

*(3) compliance with applicable governmental rules and regulations.*

*(d) Deadline for Rulemaking.—The Commission shall—*

*(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and*

*(2) issue final rules to implement this section, not later than 180 days after that date of enactment.*

### SEC. 407. DISCLOSURE OF AUDIT COMMITTEE FINANCIAL EXPERT.

*(a) Rules Defining "Financial Expert".—The Commission shall issue rules, as necessary or appropriate in the public interest and consistent with the protection of investors, to require each issuer, together with periodic reports required pursuant to sections 13(a) and 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reasons therefor, the audit committee of that issuer is comprised of at least 1 member who is a financial expert, as such term is defined by the Commission.*

*(b) Considerations.—In defining the term "financial expert" for purposes of subsection (a), the Commission shall consider whether a person has, through education and experience as a public accountant or auditor or a principal financial officer, comptroller, or principal accounting officer of an issuer, or from a position involving the performance of similar functions—*

*(1) an understanding of generally accepted accounting principles and financial statements;*

*(2) experience in—*

*(A) the preparation or auditing of financial statements of generally comparable issuers; and*

*(B) the application of such principles in connection with the accounting for estimates, accruals, and reserves;*

*(3) experience with internal accounting controls; and*

*(4) an understanding of audit committee functions.*

*(c) Deadline for Rulemaking.—The Commission shall—*

*(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and*

*(2) issue final rules to implement this section, not later than 180 days after that date of enactment.*

### SEC. 408. ENHANCED REVIEW OF PERIODIC DISCLOSURES BY ISSUERS.

*(a) Regular and Systematic Review.—The Commission shall review disclosures made by issuers reporting under section 13(a) of the Securities Exchange Act of 1934 (including reports filed on Form 10–K), and which have a class of securities listed on a national securities exchange or traded on an automated quotation facility of a national securities association, on a regular and systematic basis for the protection of investors. Such review shall include a review of an issuer's financial statement.*

*(b) Review Criteria.—For purposes of scheduling the reviews required by subsection (a), the Commission shall consider, among other factors—*

*(1) issuers that have issued material restatements of financial results;*

*(2) issuers that experience significant volatility in their stock price as compared to other issuers;*

*(3) issuers with the largest market capitalization;*

*(4) emerging companies with disparities in price to earning ratios;*

*(5) issuers whose operations significantly affect any material sector of the economy; and*

*(6) any other factors that the Commission may consider relevant.*

*(c) Minimum Review Period.—In no event shall an issuer required to file reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 be reviewed under this section less frequently than once every 3 years.*

### SEC. 409. REAL TIME ISSUER DISCLOSURES.

*Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:*

*"(l) Real Time Issuer Disclosures.—Each issuer reporting under section 13(a) or 15(d) shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer, in plain English, which may include trend and qualitative information and graphic presentations, as the Commission determines, by rule, is necessary or useful for the protection of investors and in the public interest.".*

## TITLE V—ANALYST CONFLICTS OF INTEREST

### SEC. 501. TREATMENT OF SECURITIES ANALYSTS BY REGISTERED SECURITIES ASSOCIATIONS AND NATIONAL SECURITIES EXCHANGES.

*(a) Rules Regarding Securities Analysts.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15C the following new section:*

### "SEC. 15D. SECURITIES ANALYSTS AND RESEARCH REPORTS.

*"(a) Analyst Protections.—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this section, rules reasonably designed to address conflicts of interest that can arise when securities analysts recommend equity securities in research reports and public appearances, in order to improve the objectivity of research and provide investors with more useful and reliable information, including rules designed—*

*"(1) to foster greater public confidence in securities research, and to protect the objectivity and independence of securities analysts, by—*

*"(A) restricting the prepublication clearance or approval of research reports by persons employed by the broker or dealer who are engaged in investment banking activities, or persons not directly responsible for investment research, other than legal or compliance staff;*

*"(B) limiting the supervision and compensatory evaluation of securities analysts to officials employed by the broker or dealer who are not engaged in investment banking activities; and*

*"(C) requiring that a broker or dealer and persons employed by a broker or dealer who are involved with investment banking activities may not, directly or indirectly, retaliate against or threaten to retaliate against any securities analyst employed by that broker or dealer or its affiliates as a result of an adverse, negative, or otherwise unfavorable research report that may adversely affect the present or prospective investment banking relationship of the broker or dealer with the issuer that is the subject of the research report, except that such rules may not limit the authority of a broker or dealer to discipline a securities analyst for causes other than such research report in accordance with the policies and procedures of the firm;*

*"(2) to define periods during which brokers or dealers who have participated, or are to participate, in a public offering of securities as underwriters or dealers should not publish or otherwise distribute research reports relating to such securities or to the issuer of such securities;*

*"(3) to establish structural and institutional safeguards within registered brokers or dealers to assure that securities analysts are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of those whose involvement in investment banking activities might potentially bias their judgment or supervision; and*

*"(4) to address such other issues as the Commission, or such association or exchange, determines appropriate.*

*"(b) Disclosure.—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment*

of this section, rules reasonably designed to require each securities analyst to disclose in public appearances, and each registered broker or dealer to disclose in each research report, as applicable, conflicts of interest that are known or should have been known by the securities analyst or the broker or dealer, to exist at the time of the appearance or the date of distribution of the report, including—

"(1) the extent to which the securities analyst has debt or equity investments in the issuer that is the subject of the appearance or research report;

"(2) whether any compensation has been received by the registered broker or dealer, or any affiliate thereof, including the securities analyst, from the issuer that is the subject of the appearance or research report, subject to such exemptions as the Commission may determine appropriate and necessary to prevent disclosure by virtue of this paragraph of material non-public information regarding specific potential future investment banking transactions of such issuer, as is appropriate in the public interest and consistent with the protection of investors;

"(3) whether an issuer, the securities of which are recommended in the appearance or research report, currently is, or during the 1-year period preceding the date of the appearance or date of distribution of the report has been, a client of the registered broker or dealer, and if so, stating the types of services provided to the issuer;

"(4) whether the securities analyst received compensation with respect to a research report, based upon (among any other factors) the investment banking revenues (either generally or specifically earned from the issuer being analyzed) of the registered broker or dealer; and

"(5) such other disclosures of conflicts of interest that are material to investors, research analysts, or the broker or dealer as the Commission, or such association or exchange, determines appropriate.

"(c) DEFINITIONS.—In this section—

"(1) the term 'securities analyst' means any associated person of a registered broker or dealer that is principally responsible for, and any associated person who reports directly or indirectly to a securities analyst in connection with, the preparation of the substance of a research report, whether or not any such person has the job title of 'securities analyst'; and

"(2) the term 'research report' means a written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.".

(b) ENFORCEMENT.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended by inserting "15D," before "15B".

(c) COMMISSION AUTHORITY.—The Commission may promulgate and amend its regulations, or direct a registered securities association or national securities exchange to promulgate and amend its rules, to carry out section 15D of the Securities Exchange Act of 1934, as added by this section, as is necessary for the protection of investors and in the public interest.

## TITLE VI—COMMISSION RESOURCES AND AUTHORITY

### SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

### "SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

"In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, $776.000,000 for fiscal year 2003, of which—

"(1) $102,700,000 shall be available to fund additional compensation, including salaries and benefits, as authorized in the Investor and Capital Markets Fee Relief Act (Public Law 107–123; 115 Stat. 2390 et seq.);

"(2) $108,400,000 shall be available for information technology, security enhancements, and recovery and mitigation activities in light of the terrorist attacks of September 11, 2001; and

"(3) $98,000,000 shall be available to add not fewer than an additional 200 qualified professionals to provide enhanced oversight of auditors and audit services required by the Federal securities laws, and to improve Commission investigative and disciplinary efforts with respect to such auditors and services, as well as for additional professional support staff necessary to strengthen the programs of the Commission involving Full Disclosure and Prevention and Suppression of Fraud, risk management, industry technology review, compliance, inspections, examinations, market regulation, and investment management.".

### SEC. 602. APPEARANCE AND PRACTICE BEFORE THE COMMISSION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4B the following:

### "SEC. 4C. APPEARANCE AND PRACTICE BEFORE THE COMMISSION.

"(a) AUTHORITY TO CENSURE.—The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found by the Commission, after notice and opportunity for hearing in the matter—

"(1) not to possess the requisite qualifications to represent others;

"(2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or

"(3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

"(b) DEFINITION.—With respect to any registered public accounting firm or associated person, for purposes of this section, the term 'improper professional conduct' means—

"(1) intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards; and

"(2) negligent conduct in the form of—

"(A) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which the registered public accounting firm or associated person knows, or should know, that heightened scrutiny is warranted; or

"(B) repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.".

### SEC. 603. FEDERAL COURT AUTHORITY TO IMPOSE PENNY STOCK BARS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)), as amended by this Act, is amended by adding at the end the following:

"(6) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM PARTICIPATING IN AN OFFERING OF PENNY STOCK.—

"(A) IN GENERAL.—In any proceeding under paragraph (1) against any person participating in, or, at the time of the alleged misconduct who was participating in, an offering of penny stock, the court may prohibit that person from participating in an offering of penny stock, conditionally or unconditionally, and permanently or for such period of time as the court shall determine.

"(B) DEFINITION.—For purposes of this paragraph, the term 'person participating in an offering of penny stock' includes any person engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of, any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from inclusion in such term.".

(b) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following:

"(g) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM PARTICIPATING IN AN OFFERING OF PENNY STOCK.—

"(1) IN GENERAL.—In any proceeding under subsection (a) against any person participating in, or, at the time of the alleged misconduct, who was participating in, an offering of penny stock, the court may prohibit that person from participating in an offering of penny stock, conditionally or unconditionally, and permanently or for such period of time as the court shall determine.

"(2) DEFINITION.—For purposes of this subsection, the term 'person participating in an offering of penny stock' includes any person engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of, any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from inclusion in such term.".

### SEC. 604. QUALIFICATIONS OF ASSOCIATED PERSONS OF BROKERS AND DEALERS.

(a) BROKERS AND DEALERS.—Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended—

(1) by striking subparagraph (F) and inserting the following:

"(F) is subject to any order of the Commission barring or suspending the right of the person to be associated with a broker or dealer;"; and

(2) in subparagraph (G), by striking the period at the end and inserting the following: "; or

"(H) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

"(i) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

"(ii) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.".

(b) INVESTMENT ADVISERS.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e)) is amended—

(1) by striking paragraph (7) and inserting the following:

"(7) is subject to any order of the Commission barring or suspending the right of the person to be associated with an investment adviser;";

(2) in paragraph (8), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like *functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—*

*"(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or*

*"(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.".*

*(c) CONFORMING AMENDMENTS.—*

*(1) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—*

*(A) in section 3(a)(39)(F) (15 U.S.C. 78c(a)(39)(F))—*

*(i) by striking "or (G)" and inserting "(H), or (G)"; and*

*(ii) by inserting ", or is subject to an order or finding," before "enumerated";*

*(B) in each of section 15(b)(6)(A)(i) (15 U.S.C. 78o(b)(6)(A)(i)), paragraphs (2) and (4) of section 15B(c) (15 U.S.C. 78o–4(c)), and subparagraphs (A) and (C) of section 15C(c)(1) (15 U.S.C. 78o–5(c)(1))—*

*(i) by striking "or (G)" each place that term appears and inserting "(H), or (G)"; and*

*(ii) by striking "or omission" each place that term appears, and inserting ", or is subject to an order or finding,"; and*

*(C) in each of paragraphs (3)(A) and (4)(C) of section 17A(c) (15 U.S.C. 78q–1(c))—*

*(i) by striking "or (G)" each place that term appears and inserting "(H), or (G)"; and*

*(ii) by inserting ", or is subject to an order or finding," before "enumerated" each place that term appears.*

*(2) INVESTMENT ADVISERS ACT OF 1940.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(f)) is amended—*

*(A) by striking "or (8)" and inserting "(8), or (9)"; and*

*(B) by inserting "or (3)" after "paragraph (2)".*

## *TITLE VII—STUDIES AND REPORTS*

### *SEC. 701. GAO STUDY AND REPORT REGARDING CONSOLIDATION OF PUBLIC ACCOUNTING FIRMS.*

*(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—*

*(1) to identify—*

*(A) the factors that have led to the consolidation of public accounting firms since 1989 and the consequent reduction in the number of firms capable of providing audit services to large national and multi-national business organizations that are subject to the securities laws;*

*(B) the present and future impact of the condition described in subparagraph (A) on capital formation and securities markets, both domestic and international; and*

*(C) solutions to any problems identified under subparagraph (B), including ways to increase competition and the number of firms capable of providing audit services to large national and multinational business organizations that are subject to the securities laws;*

*(2) of the problems, if any, faced by business organizations that have resulted from limited competition among public accounting firms, including—*

*(A) higher costs;*

*(B) lower quality of services;*

*(C) impairment of auditor independence; or*

*(D) lack of choice; and*

*(3) whether and to what extent Federal or State regulations impede competition among public accounting firms.*

*(b) CONSULTATION.—In planning and conducting the study under this section, the Comptroller General shall consult with—*

*(1) the Commission;*

*(2) the regulatory agencies that perform functions similar to the Commission within the other member countries of the Group of Seven Industrialized Nations;*

*(3) the Department of Justice; and*

*(4) any other public or private sector organization that the Comptroller General considers appropriate.*

*(c) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.*

### *SEC. 702. COMMISSION STUDY AND REPORT REGARDING CREDIT RATING AGENCIES.*

*(a) STUDY REQUIRED.—*

*(1) IN GENERAL.—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market.*

*(2) AREAS OF CONSIDERATION.—The study required by this subsection shall examine—*

*(A) the role of credit rating agencies in the evaluation of issuers of securities;*

*(B) the importance of that role to investors and the functioning of the securities markets;*

*(C) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;*

*(D) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers;*

*(E) any measures which may be required to improve the dissemination of information concerning such resources and risks when credit rating agencies announce credit ratings; and*

*(F) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.*

*(b) REPORT REQUIRED.—The Commission shall submit a report on the study required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than 180 days after the date of enactment of this Act.*

### *SEC. 703. STUDY AND REPORT ON VIOLATORS AND VIOLATIONS.*

*(a) STUDY.—The Commission shall conduct a study to determine, based upon information for the period from January 1, 1998, to December 31, 2001—*

*(1) the number of securities professionals, defined as public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing before the Commission—*

*(A) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated thereunder (collectively referred to in this section as "Federal securities laws"), but who have not been sanctioned, disciplined, or otherwise penalized as a primary violator in any administrative action or civil proceeding, including in any settlement of such an action or proceeding (referred to in this section as "aiders and abettors"); and*

*(B) who have been found to have been primary violators of the Federal securities laws;*

*(2) a description of the Federal securities laws violations committed by aiders and abettors and by primary violators, including—*

*(A) the specific provision of the Federal securities laws violated;*

*(B) the specific sanctions and penalties imposed upon such aiders and abettors and primary violators, including the amount of any monetary penalties assessed upon and collected from such persons;*

*(C) the occurrence of multiple violations by the same person or persons, either as an aider or abettor or as a primary violator; and*

*(D) whether, as to each such violator, disciplinary sanctions have been imposed, including any censure, suspension, temporary bar, or permanent bar to practice before the Commission; and*

*(3) the amount of disgorgement, restitution, or any other fines or payments that the Commission has assessed upon and collected from, aiders and abettors and from primary violators.*

*(b) REPORT.—A report based upon the study conducted pursuant to subsection (a) shall be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives not later than 6 months after the date of enactment of this Act.*

### *SEC. 704. STUDY OF ENFORCEMENT ACTIONS.*

*(a) STUDY REQUIRED.—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the 5-year period preceding the date of enactment of this Act, to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.*

*(b) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 180 days after the date of enactment of this Act, and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.*

### *SEC. 705. STUDY OF INVESTMENT BANKS.*

*(a) GAO STUDY.—The Comptroller General of the United States shall conduct a study on whether investment banks and financial advisers assisted public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the rule of investment banks and financial advisers—*

*(1) in the collapse of the Enron Corporation, including with respect to the design and implementation of derivatives transactions, transactions involving special purpose vehicles, and other financial arrangements that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company;*

*(2) in the failure of Global Crossing, including with respect to transactions involving swaps of fiberoptic cable capacity, in the designing transactions that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company; and*

*(3) generally, in creating and marketing transactions which may have been designed solely to enable companies to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.*

*(b) REPORT.—The Comptroller General shall report to Congress not later than 180 days after*

the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

## TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

### SEC. 801. SHORT TITLE.

This title may be cited as the "Corporate and Criminal Fraud Accountability Act of 2002".

### SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) In General.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

**"§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy**

"Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

**"§ 1520. Destruction of corporate audit records**

"(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

"(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies. The Commission may, from time to time, amend or supplement the rules and regulations that it is required to promulgate under this section, after adequate notice and an opportunity for comment, in order to ensure that such rules and regulations adequately comport with the purposes of this section.

"(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation imposed by Federal or State law or regulation to maintain, or refrain from destroying, any document.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

"1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.
"1520. Destruction of corporate audit records.".

### SEC. 803. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting "; or"; and

(3) by adding at the end, the following:

"(19) that—

"(A) is for—

"(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), any of the State securities laws, or any regulation or order issued under such Federal or State securities laws; or

"(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

"(B) results from—

"(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

"(ii) any settlement agreement entered into by the debtor; or

"(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.".

### SEC. 804. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) In General.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Except"; and

(2) by adding at the end the following:

"(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

"(1) 2 years after the discovery of the facts constituting the violation; or

"(2) 5 years after such violation.".

(b) Effective Date.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

(c) No Creation of Actions.—Nothing in this section shall create a new, private right of action.

### SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

(a) Enhancement of Fraud and Obstruction of Justice Sentences.—Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the base offense level and existing enhancements contained in United States Sentencing Guideline 2J1.2 relating to obstruction of justice are sufficient to deter and punish that activity;

(2) the enhancements and specific offense characteristics relating to obstruction of justice are adequate in cases where—

(A) the destruction, alteration, or fabrication of evidence involves—

(i) a large amount of evidence, a large number of participants, or is otherwise extensive;

(ii) the selection of evidence that is particularly probative or essential to the investigation; or

(iii) more than minimal planning; or

(B) the offense involved abuse of a special skill or a position of trust;

(3) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this title, are sufficient to deter and punish that activity;

(4) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of a substantial number of victims; and

(5) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

(b) Emergency Authority and Deadline for Commission Action.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than 180 days after the date of enactment of this Act, in accordance with the prcedures set forth in section 219(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

### SEC. 806. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) In General.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

**"§ 1514A. Civil action to protect against retaliation in fraud cases**

"(a) Whistleblower Protection for Employees of Publicly Traded Companies.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

"(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

"(A) a Federal regulatory or law enforcement agency;

"(B) any Member of Congress or any committee of Congress; or

"(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

"(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

"(b) Enforcement Action.—

"(1) In general.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

"(A) filing a complaint with the Secretary of Labor; or

"(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay *is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.*

*"(2) PROCEDURE.—*

*"(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.*

*"(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.*

*"(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.*

*"(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.*

*"(c) REMEDIES.—*

*"(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.*

*"(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—*

*"(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;*

*"(B) the amount of back pay, with interest; and*

*"(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.*

*"(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:*

*"1514A. Civil action to protect against retaliation in fraud cases.".*

### *SEC. 807. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.*

*(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:*

**"§ 1348. Securities fraud**

*"Whoever knowingly executes, or attempts to execute, a scheme or artifice—*

*"(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or*

*"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));*

*shall be fined under this title, or imprisoned not more than 25 years, or both.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:*

*"1348. Securities fraud.".*

## *TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS*

### *SEC. 901. SHORT TITLE.*

*This title may be cited as the "White-Collar Crime Penalty Enhancement Act of 2002".*

### *SEC. 902. ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMINAL FRAUD OFFENSES.*

*(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1348 as added by this Act the following:*

**"§ 1349. Attempt and conspiracy**

*"Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:*

*"1349. Attempt and conspiracy.".*

### *SEC. 903. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.*

*(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking "five" and inserting "20".*

*(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "five" and inserting "20".*

### *SEC. 904. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.*

*Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—*

*(1) by striking "$5,000" and inserting "$100,000";*

*(1) by striking "one year" and inserting "10 years"; and*

*(3) by striking "$100,000" and inserting "$500,000".*

### *SEC. 905. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.*

*(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this Act.*

*(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—*

*(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this Act, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;*

*(2) consider the extent to which the guidelines and policy statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this Act are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this Act;*

*(3) assure reasonable consistency with other relevant directives and sentencing guidelines;*

*(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;*

*(5) make any necessary conforming changes to the sentencing guidelines; and*

*(6) assure that the guidelines adequately meet the purposes of sentencing, as set forth in section 3553(a)(2) of title 18, United States Code.*

*(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than 180 days after the date of enactment of this Act, in accordance with the procedures set forth in section 219(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.*

### *SEC. 906. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.*

*(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1349, as created by this Act, the following:*

**"§ 1350. Failure of corporate officers to certify financial reports**

*(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.*

*"(b) CONTENT.—The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act pf 1934 (15 U.S.C. 78m or 78o(d)) and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.*

*"(c) CRIMINAL PENALTIES.—Whoever—*

*"(1) certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than $1,000,000 or imprisoned not more than 10 years, or both; or*

*"(2) willfully certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than $5,000,000, or imprisoned not more than 20 years, or both.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:*

*"1350. Failure of corporate officers to certify financial reports.".*

## *TITLE X—CORPORATE TAX RETURNS*

### *SEC. 1001. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.*

*It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.*

## *TITLE XI—CORPORATE FRAUD ACCOUNTABILITY*

### *SEC. 1101. SHORT TITLE.*

*This title may be cited as the "Corporate Fraud Accountability Act of 2002".*

### *SEC. 1102. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.*

*Section 1512 of title 18, United States Code, is amended—*

*(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and*

*(2) by inserting after subsection (b) the following new subsection:*

*"(c) Whoever corruptly—*

*"(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to*

*do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or*

*"(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,*

*shall be fined under this title or imprisoned not more than 20 years, or both.".*

### SEC. 1103. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

*(a) In General.—Section 21C(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)) is amended by adding at the end the following:*

*"(3) Temporary freeze.—*

*"(A) In general.—*

*"(i) Issuance of temporary order.—Whenever, during the course of a lawful investigation involving possible violations of the Federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents, or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a Federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days.*

*"(ii) Standard.—A temporary order shall be entered under clause (i), only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest.*

*"(iii) Effective period.—A temporary order issued under clause (i) shall—*

*"(I) become effective immediately;*

*"(II) be served upon the parties subject to it; and*

*"(III) unless set aside, limited or suspended by a court of competent jurisdiction, shall remain effective and enforceable for 45 days.*

*"(iv) Extensions authorized.—The effective period of an order under this subparagraph may be extended by the court upon good cause shown for not longer than 45 additional days, provided that the combined period of the order shall not exceed 90 days.*

*"(B) Process on Determination of violations.—*

*"(i) Violations charged.—If the issuer or other person described in subparagraph (A) is charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the order shall remain in effect, subject to court approval, until the conclusion of any legal proceedings related thereto, and the affected issuer or other person, shall have the right to petition the court for review of the order.*

*"(ii) Violations not charged.—If the issuer or other person described in subparagraph (A) is not charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the escrow shall terminate at the expiration of the 45-day effective period (or the expiration of any extension period, as applicable), and the disputed payments (with accrued interest) shall be returned to the issuer or other affected person.".*

*(b) Technical Amendment.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)(2)) is amended by striking "This" and inserting "paragraph (1)".*

### SEC. 1104. AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

*(a) Request for Immediate Consideration by The United States Sentencing Commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—*

*(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;*

*(2) expeditiously consider the promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and*

*(3) submit to Congress an explanation of actions taken by the Sentencing Commission pursuant to paragraph (2) and any additional policy recommendations the Sentencing Commission may have for combating offenses described in paragraph (1).*

*(b) Considerations in Review.—In carrying out this section, the Sentencing Commission is requested to—*

*(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;*

*(2) assure reasonable consistency with other relevant directives and with other guidelines;*

*(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;*

*(4) ensure that guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;*

*(5) ensure that the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;*

*(6) make any necessary conforming changes to the sentencing guidelines; and*

*(7) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553 (a)(2) of title 18, United States Code.*

*(c) Emergency Authority and Deadline For Commission Action.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 180 days after the date of enactment of this Act, in accordance with the procedures sent forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.*

### SEC. 1105. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

*(a) Securities Exchange Act of 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following:*

*"(f) Authority of the Commission to Prohibit Persons From Serving as Officers or Directors.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.".*

*(b) Securities Act of 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end of the following:*

*"(f) Authority of the Commission to Prohibit Persons From Serving as Officers or Directors.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.".*

### SEC. 1106. INCREASED CRIMINAL PENALTIES UNDER SECURITIES EXCHANGE ACT OF 1934.

*Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended—*

*(1) by striking "$1,000,000, or imprisoned not more than 10 years" and inserting "$5,000,000, or imprisoned not more than 20 years"; and*

*(2) by striking "$2,500,000" and inserting "$25,000,000".*

### SEC. 1107. RETALIATION AGAINST INFORMANTS.

*(a) In General.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:*

*"(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.".*

And the Senate agree to the same.

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

Michael G. Oxley,
Richard H. Baker,
Ed Royce,
Robert W. Ney,
Sue W. Kelly,
Chris Cox,
John J. LaFalce,
Barney Frank,
Paul E. Kanjorski,
Maxine Waters,

Provided that Mr. Shows is appointed in lieu of Ms. Waters for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference:

Ronnie Shows,

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference:

John Boehner,
Sam Johnson,
George Miller,

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference:

Billy Tauzin,
James Greenwood,
John D. Dingell,

From the Committee on the Judiciary, for consideration of section 105 and titles VIII and IX of the Senate amendment, and modifications committed to conference:

F. James Sensenbrenner,
Lamar Smith,
John Conyers,

From the Committee on Ways and Means, for consideration of section 109 of the Senate amendment, and modifications committed to conference:

William Thomas,
Jim McCrery,
Charles B. Rangel,
*Managers on the Part of the House.*

Paul Sarbanes,
Christopher Dodd,
Tim Johnson,
Jack Reed,
Patrick J. Leahy,
Richard C. Shelby,
Robert F. Bennett,
Michael B. Enzi,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3763), to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The Managers on the part of the House and the Senate met on July 19 and July 24, 2002 (the House chairing), and reconciled the differences between the House bill and the Senate amendment.

From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference:

Michael G. Oxley,
Richard H. Baker,
Ed Royce,
Robert W. Ney,
Sue W. Kelly,
Chris Cox,
John J. LaFalce,
Barney Frank,
Paul E. Kanjorski,
Maxine Waters,

Provided that Mr. Shows is appointed in lieu of Ms. Waters for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference:

Ronnie Shows,

From the Committee on Education and the Workforce, for consideration of sections 306 and 904 of the Senate amendment, and modifications committed to conference:

John Boehner,
Sam Johnson,
George Miller,

From the Committee on Energy and Commerce, for consideration of sections 108 and 109 of the Senate amendment, and modifications committed to conference:

Billy Tauzin,
James Greenwood,
John D. Dingell,

From the Committee on the Judiciary, for consideration of section 105 and titles VIII and IX of the Senate amendment, and modifications committed to conference:

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Lamar Smith,
John Conyers,

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William Thomas,
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Charles B. Rangel,
*Managers on the Part of the House.*

Paul Sarbanes,
Christopher Dodd,
Tim Johnson,
Jack Reed,
Patrick J. Leahy,
Richard C. Shelby,
Robert F. Bennett,
Michael B. Enzi,
*Managers on the Part of the Senate.*

# EXTENSIONS OF REMARKS

## PERSONAL EXPLANATION

### HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 296, H.R. 3482, the Cyber Security Enhancement Act of 2002. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 297, H.R. 4755, the Clarence Miller Post Office Designation Act. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 298, H.R. 3479, the National Aviation Capacity Expansion Act. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 299, H.R. 5118, the Corporate Fraud Accountability Act of 2001. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 300, H. Res. 482, Honoring Ted Williams. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 301, H. Res. 452, Congratulating the Detroit Red Wings. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 302, H. Res. 483, providing for consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 303, H.R. 4866, the Fed Up Initiative Technical Amendments. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 304, H. Con. Res. 395, celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico. Had I been present I would have voted, "yea."

I was also unavoidably detained for rollcall No. 305, the Toomey of Pennsylvania Amendment to H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, "no."

I was also unavoidably detained for rollcall No. 306, On Motion to Limit Debate on H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, "no."

I was also unavoidably detained for rollcall No. 307, the Flake of Arizona Amendment to H.R. 5093, Department of Interior Appropriations for Fiscal Year 2003. Had I been present I would have voted, "no."

I was also unavoidably detained for rollcall No. 308, on Motion That the Committee Rise. Had I been present I would have voted, "no."

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## LEXINGTON CATHOLIC: BASKETBALL EXCELLENCE

### HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize basketball excellence at Lexington Catholic High School. Lexington Catholic High School represents a long tradition of Catholic education in the Bluegrass Region, a region where basketball is loved and cherished. The Lexington Catholic basketball tradition has evolved with the academic excellence of the high school, representing not only its students, but oftentimes, Lexington, and the state of Kentucky.

The school was formed in 1951 through the merger of two secondary schools, St. Catherine's Academy, founded in 1823, and Lexington Latin School, founded in 1924, and began their basketball program the same year. After many impressive years as a program in the most competitive area in the country, the Lexington Catholic High School Knights earned a national reputation as a powerhouse. Lexington Catholic is Kentucky's winningest basketball program over the past decade and has won premier tournaments in and out of the state. The program has been ranked as high as No. 3 nationally in USA Today, defeating powerhouses Oak Hill Academy in Virginia, and Chicago's Whitney Young.

However, this year's team accomplished what no other Lexington Catholic team in history had achieved: the Kentucky state title. Through hard work of the players and the determination of long time coach Danny Haney and Principal Sally Stevens, the 2001–2002 Lexington Catholic High School basketball team delivered what students and alumni have been coveting for years.

I would like to recognize the achievements of this year's state champion, the Lexington Catholic Knights, and their perennial successes. The state championship team members include: Chas Allen, Mark Balthropk, Scott Becker, Corey Canter, JD Christman, Adam Cooke, William Graham, Demetrius Green, Chase Hillenmeyer, Wes Lawrence, Mike McGrath, Martiese Morones, Drew Morton, Christian Postel, Ryan Morton, Harrison Morton, David Noble, Ryan Postel, John Rompf, Trey Server, Brian Smith, Joseph Tunde. The coaching staff consists of: Danny Haney, Tommy Huston, Mike Mendenhall II, Mark E. Davidson, John Albaugh, Dave Tramontin, Brandon Salsman, Dan Tilghman, and Mike Mendenhall III.

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## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30 2003, and for other purposes;

Ms. PELOSI. Mr. Chairman, I rise in support of the Capps-Rahall-Miller amendment, which would prohibit oil drilling off the coast of California in the coming year.

I commend my colleagues for offering this important amendment, particularly Congresswoman CAPPS, whose vigilance and leadership on this issue never flags.

It is for good reasons that Californians from all walks of life oppose drilling for oil off our coast.

All it would take is one spill—like the blowout that dumped 4 million gallons of crude oil in the Santa Barbara Channel in 1969—to devastate the marine environment, eliminate tourism along a long stretch of our beautiful coast, and destroy commercial and recreational fishing for years to come.

And for what?

There is little oil available and what is there is of low-quality oil.

It is primarily used to make asphalt.

So let me see if I've got this right: In exchange for hundreds of miles of lovely beaches, thousands of marine mammals, millions of tiny sea creatures, and billions of dollars in tourism and fishing revenues, we would get—asphalt?!

Mr. Chairman, this is a bipartisan issue.

It was President Bush's father, President George H.W. Bush who in 1990 placed a 10-year moratorium on new oil leases off the California coast.

President Clinton renewed that moratorium in 1998.

We in California were happy in May for our friends in Florida when President Bush announced a buyout of federal oil leases off the coast of Florida.

Now we call on the President to do the same for the 36 oil and gas leases threatening California—even though his brother is not the Governor of our state.

I also urge the Bush Administration to drop its opposition to California's activities under the Coastal Zone Management Act.

The Act gives the state the authority to review the potential environmental effects of offshore drilling.

My colleagues, your vote for the Capps-Rahall-Miller amendment is your endorsement of termination of the California offshore leases.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Please vote yes.

## PROVIDING FOR CONSIDERATION OF H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

SPEECH OF

**HON. DAVE CAMP**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 18, 2002*

Mr. CAMP. Mr. Speaker, today I rise to express my support for the fiscal year 2003 Legislative Branch Appropriations bill. This is a responsible bill that will provide necessary resources for the Legislative Branch to carry out its duties in fiscal year 2003.

For the past several years, I have proposed an amendment to the Legislative Appropriations bill that requires all unspent office funds from Members' Representational Allowances be returned to the U.S. Treasury and used for debt reduction. This amendment has received bipartisan support every year and I am pleased the committee has included the proposal in the base bill.

I have been proud to work with my colleagues in the House of Representatives to reduce the national debt and incorporate fiscal responsibility into federal spending. We have reviewed programs and guidelines to make them more effective. Today, we again have the opportunity to reaffirm our promise of fiscal responsibility and deficit reduction to the American people by passing this legislation.

Although we are in a mild recession and a time of economic hardship we must maintain our commitment to pay off the national debt by pushing for more frugal spending. Without the unspent office funds provision, left over funds can be spent on other budget purposes. We must maintain our commitment to end wasteful spending and incorporate fiscal responsibility into this Legislative Branch Appropriations bill.

National security and winning the global campaign on terrorism are our top priorities, but if the government pursues pro-growth policies and maintains spending discipline, we can quickly return the budget to surplus. Now more than ever, every penny must be looked after and accounted for and it is important to reduce spending and cut government waste.

I would like to thank the Chairman Lewis for his support and for including my unspent office funds provision in H.R. 5121 and I urge all members to support and pass this legislation.

## VETERANS HEALTH CARE AND PROCUREMENT IMPROVEMENT ACT OF 2002

SPEECH OF

**HON. STEVE BUYER**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. BUYER. Mr. Speaker, First, I want to thank our Full Committee Chairman Chris Smith and the Health Subcommittee Chairman Jerry Moran for all their hard work on the bills before us today.

I rise in strong support of H.R. 3645, the "Veterans Health Care and Procurement Improvement Act of 2002," introduced by Representative Lane Evans. H.R. 3645, as amended, would, among other things, provide for improved management of the purchasing of medical and surgical supply equipment through the Federal Supply Schedule as prescribed by the VA Procurement Task Force. The bill ensures that current and future VA–DOD sharing initiatives would not be impacted by passage of this measure. The legislation also increases health care benefits to certain World War II Filipino veterans; authorizes dental care and services for all former POWs; and provides the authority to allow DOD to purchase medical supplies through VA's revolving supply fund; provides for the renaming of the VA community outpatient clinic in New London, Connecticut by designating it as the John J. McGuirk outpatient clinic.

There is one provision, in particular, that I would like to talk about. Section 7 of the bill provides for greater accountability for VA Research and Education Corporations. This provision is legislation I introduced, H.R. 5084, the "Department of Veterans Affairs Research Corporations Accountability Act of 2002," which was incorporated into H.R. 3645. I introduced H.R. 5084 because we need to insure that the strictest set of accounting measures are in place to make sure we know how funding to these corporations is being administered. It's important to point out that these corporations were established by Congress in 1988 to provide a flexible funding mechanism for approved research being performed at medical centers. Prior to giving VA this authority, any funding received from private sources, such as pharmaceutical companies, was placed in a General Post fund. However, it became virtually impossible to track the funding stream. There was no way to identify the source of the funding, nor how the money was being spent. The impetus behind establishing the research corporations was to create an accounting mechanism whereby the VA would submit to Congress an annual report on the number and location of corporations established and the amount of contributions made to each such corporation.

Earlier this year, the Subcommittees on Oversight and Investigations and Health held a hearing on VA Research Corporations. We heard from the VA's Assistant Inspector General for Auditing that during the years 1994 through 1997, that his office published three reports which identified the need for stricter accountability and oversight with regard to the administration of funds by the Veterans Health Administration research corporations. For instance, in 1994, the IG audit of a million dollars of the $3.6 million in expenditures spent at three research corporations identified approximately $625,000 that was spent on salaries of medical residents, staff travel not clearly related to research or administration. Funds were also spent for non-research related conferences, honorary gifts, awards, entertainment, other than non-research expenditures. This is just one example of how money can be misspent when in this case the corporation is not held accountable.

Under current law, the VA nonprofit research corporations are required to provide Congress with an annual report summarizing their activities and accomplishments. These reports have turned out to be nothing more than bare bones financial statements.

The VA Research Corporation Accountability Act amends section 7366 of Title 38 of the United States Code to require each VA corporation to submit a detailed statement that includes the corporation"s operations, activities, and accomplishments during the preceding year to the Secretary of the VA. The report should include the amount of funds received along with the source of funding; and an itemized accounting of all disbursements. Those corporations with funding in excess of $300,000 must obtain an audit of the corporation for that year, corporations with funding totaling less than $300,000 must obtain an audit every three years. These audits must be conducted by an independent auditor and shall be performed in accordance with generally accepted Government auditing standards.

The VA's Inspector General will be required to randomly review audits to determine whether or not they were carried out in accordance with the auditing standards outlined in the legislation. My bill would also extend the life of the corporations by providing authority to establish such corporations until December 31, 2006.

The VA has made tremendous contributions in the field of medical research. I think we all recognize the many accomplishments made by the VA in discovering new drug therapies and developing medical devices that have benefited not only veterans but all Americans. For instance, the VA invented the implantable cardiac pacemaker, developed the nicotine patch, performed the first successful liver transplant, and the development of the first oral vaccine for smallpox.

It is not my intention to prevent VA research from continuing to make great strides as it has in the past, but we must ensure that all research funds are directed with focus and accountability.

I urge my colleagues to vote in favor of H.R. 3645, which was favorably reported by the full VA committee and has widespread support among our nation's veterans.

## PERSONAL EXPLANATION

**HON. BOB RILEY**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. RILEY. Mr. Speaker, I was unavoidably detained for Rollcall No. 324, H. Con. Res. 439, Honoring Lindy Boggs and Honoring Corinne "Lindy" Claiborne Boggs. Had I been present I would have voted yea.

I was also unavoidably detained for Roll Call No. 325, H. Res. 492, Expressing Gratitude for the World Trade Center Cleanup and Recovery Efforts at the Fresh Kills Landfill on Staten Island, New York. Had I been present I would have voted, "yea."

## EXPRESSING SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS

SPEECH OF

**HON. SHEILA JACKSON LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to strongly support H. Con. Res. 188, Sense of Congress that the Government of the People's Republic of China Should Cease Its Persecution of Falun Gong Practitioners. I urge the immediate release of the organization's leaders and members arbitrarily detained in a nationwide sweep aimed at suppressing the group. When the Chinese government judged the organization of Falun Gong as illegal, and banned all its activities, stories about Falun Gong have made headlines of major news media around the world. The Chinese authorities have launched a crackdown on the practice of Falun Gong on the Chinese mainland.

The suppression of Falun Gong in China has been brutal. It has been systematic. The police used force against the group, reportedly kicking and jumping on the peaceful protesters before removing them. The leaders of the People's Republic of China have arrested, jailed, beaten and tortured thousands of peaceful followers of Falun Gong, a religious synthesis of traditional Chinese physical exercises and Buddhist and Taoist teachings. Adherents to this meditation movement have done nothing more than express their humble belief that people should be kind to one another and work on themselves to change their own lives. They are nonviolent and have not adopted any so-called foreign beliefs. They do not promote nor do they use drugs. They are not a cult. They only want to meditate, take their lives into their own hands and attempt to live productive and peaceful lives.

H. Con. Res. 188 expresses the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners. Falun Gong is a peaceful and nonviolent form of personal belief and practice with millions of adherents. There are millions of practitioners in the United States. This is wrong and must be stopped. H. Con. Res. 188 requires that the United States Government use every appropriate public and private forum to urge the Government of the People's Republic of China to (1) release from detention all Falun Gong practitioners and put an end to the practices of torture and other cruel, inhumane, and degrading treatment against them and other prisoners of conscience; and (2) abide by the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights by allowing Falun Gong practitioners to pursue their personal beliefs.

China should stop persecuting the practitioners of Falun Gong and stop exporting its tactics of terrors.

Therefore, I strongly support H. Con. Res. 188.

## IN RECOGNITION OF A GREAT AMERICAN SOLDIER: MR. ELTON L. HATLER

**HON. ERNIE FLETCHER**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize a great soldier and a great American, Mr. Elton L. Hatler. On May 2, 1945, Mr. Hatler was serving as a Browning Automatic Rifleman of Company G, Second Battalion, Fifth Marines, First Marine Division, action against enemy Japanese forces on Okinawa, Ryukyu Islands.

Private Hatler's platoon had been forced to withdraw in the face of heavy enemy fire. Although Private Hatler had suffered wounds from the enemy fire, he refused to leave the side of a Marine whose legs had been blown off below the knee. Private Hatler held off the enemy for three grueling hours, attempting to drag his fallen comrade to the safety of American lines. It was only after the man succumbed to his wounds, and Private Hatler had expended his ammunition, that he abandoned his position.

In a citation directed by the Secretary of the Navy on behalf of the President of the United States, Private Elton L. Hatler was awarded the prestigious Distinguished Navy Cross, stating that "His personal valor and devotion to duty were in keeping with the highest traditions of the United States Naval Service."

The Kentucky Department of Veterans Affairs will again honor Mr. Hatler, a resident of Winchester, Kentucky, at a special ceremony on July 26, 2002.

## NURSE REINVESTMENT ACT

SPEECH OF

**HON. ELIOT L. ENGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. ENGEL. Mr. Speaker, I am pleased we are here today to pass this legislation that will immediately begin to alleviate the nursing shortage across the nation. I introduced legislation last year to address the nursing shortage because of the tremendous impact the lack of nurses has had in New York and across the country. I am pleased that many of the provisions in my legislation are included in the bill before us today.

Mr. Speaker, the nursing shortage is quite possibly the most important issue in health care. Nurses are on the front lines of the delivery of health care. They provide direct day to day care to patients and are invaluable to our health care system. As the number of nursing vacancies continues to rise, the number of nurses entering the field continues to decline. Statistics have shown that the average age of the nursing workforce is about 44 and that many are leaving the field for more lucrative professions. Enrollment in nursing schools is down as well, which leads many to believe that this is a problem that will only get worse. Compounding the problem, the baby boomer generation will soon hit retirement age and will require more acute care.

For these reasons, the legislation before us today is critically important. Included in the Nurse Reinvestment Act are provisions to create scholarships for nurses wishing to enter the field and loan repayment programs to encourage nurses to continue practicing. In an effort to address the number of nurses leaving the nursing profession, the legislation includes grants for nurses to continue their education while practicing nursing.

Mr. Speaker, nurses deserve these programs and I congratulate everyone involved in this process for their hard work and commitment to this issue. This is truly legislation that will help us all. Everyone at one time or another is in need of care and the first person you see when you get that care is a nurse. So we can all be proud to pass this legislation today. As a Member of the Subcommittee on Health, I urge all of my colleagues to vote yes.

## FLIGHT 93 NATIONAL MEMORIAL ACT

SPEECH OF

**HON. JANICE D. SCHAKOWSKY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Ms. SCHAKOWSKY. Mr. Speaker, on the morning of September 11th, 2001 passengers of United Airlines Flight 93 were getting ready for the long flight to California. Their thoughts may have been consumed with family, friends, or work. What was about to occur on that tragic journey was probably the furthest thing from their minds. As the mayhem of that morning unfolded in New York City and in our nation's capital, the passengers of Flight 93 were about to directly experience the horror for themselves. Four terrorist hijackers had moved all of the passengers to the rear of the plane and attempted to seize control of the cockpit and direct the plane to its destination of destruction.

One can only imagine the fear that rushed through the veins of each passenger on that doomed flight. Like many people, I have wondered, "What would be going through my mind? What would I have done?" The passengers and crew of Flight 93 provided us with their answers. Knowing of the chaos that was taking place on the ground below, these brave individuals decided to push fear aside and control their destinies and our futures for the last time.

Although the outcome was fatal for the passengers and crew of Flight 93, one could only guess at the countless number of lives they may have saved had those passengers not reacted with bravery, courage, and pride. September 11th was a day that showed us how vulnerable we as Americans can be, but the passengers and crew of Flight 93 reminded us of how the greatness of this country can still shine through us, even in our darkest hour.

I urge my colleagues to support H.R. 3917, which establishes a memorial at the crash site of United Airlines Flight 93 to honor the passengers and crew of Flight 93, to always remind us of what it truly means to be an American.

## CONFERRING HONORARY CITIZENSHIP ON THE MARQUIS DE LAFAYETTE

SPEECH OF

**HON. TIM ROEMER**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. ROEMER. Mr. Speaker, I rise in strong support of S. J. Res. 13, a joint resolution conferring honorary membership of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

At a time in our history when we face challenges from enemies who oppose the very ideals that make our nation great, we are reminded of those brave individuals throughout our nation's history who have made sacrifices to advance American principles of freedom and representative government. Marie Joseph Paul Yves Roch Gilbert du Motier, the Marquis de Lafayette, was a man who in his affection for the ideal of liberty, made great personal sacrifices.

A citizen of France, the Marquis de Lafayette first demonstrated his passion for freedom when, at the young age of 19, he decided to make a four-month voyage to America to fight alongside Americans during the Revolutionary War. Marquis de Lafayette was assigned to the staff of George Washington with the rank of Major General in 1777 and served with distinction. During the war, he demonstrated great leadership and unrelenting bravery to American troops, as he led Americans to several victories and sustained an injury during the Battle of Brandywine.

General Lafayette not only risked his life for the pursuit of American freedom, but he freely used his position of influence in France to garner additional support for the American war effort. In 1779, he persuaded the French government to fully support America in the war against Britain, which led to the commitment of French troops and much needed supplies to the American army. He also contributed $200,000 of his personal fortune in support of the colonies during the Revolution. After the war, Lafayette continued to assist American diplomatic relations with France in establishing close relationships with American ambassadors to France, Benjamin Franklin and Thomas Jefferson.

The most striking of General Lafayette's qualities was undoubtedly his steadfast and fearless devotion to the principle of liberty. Even after the Revolutionary War, Lafayette continued to support and promote the institution of representative government. Upon his return to France, Lafayette was one of the first to advocate a National Assembly, and worked toward the establishment of a constitutional monarchy during the years leading up to the French Revolution. In 1830, he became the leader of a Revolution that dethroned the Bourbons and made possible a constitutional monarch in France. These actions came at a great personal expense to Lafayette as he lost support among the French nobility, was forced to flee the country, and had his personal wealth confiscated. Just before his death in 1834, Lafayette was a vocal proponent of the move to a pure republic in France.

The portrait of the Marquis de Lafayette now displayed opposite President Washington in the United States House chamber is a tribute to his loyalty to America and his vital role in winning our freedom. Lafayette's friendship and affiliations with the most prominent figures in our nation's history, including George Washington, John Adams, Thomas Jefferson, James Madison, James Monroe, and John Quincy Adams, and the respect he garnered from them is a testament to his commitment to our nation's founding and its principles.

Mr. Speaker, in light of the events of September 11th, stories of personal sacrifice, bravery, and commitment take on a new meaning and greater importance for all Americans. The story of General Lafayette is one, in particular, that inspires us to continue, in the face of adversity, to fearlessly protect our nation's principles and to advance them globally. In Lafayette's words: "Humanity has won its battle. Liberty now has a country."

## AMENDMENT TO FREEZE MEMBER'S PAY

**HON. BOB RILEY**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. RILEY. Mr. Speaker, ask the average American working in the private sector about his automatic yearly pay raise and he will look at you like you're crazy. Most Americans don't get an annual Cost of Living Adjustment (COLA), so why should members of Congress?

It is time that we restore the American people's confidence in their elected leaders. It is time we eliminate the automatic pay increases for members of Congress and live by the same standards as the people we represent.

Mr. Speaker, this amendment will freeze Member's pay at its current level and eliminate the annual COLA given to them under the Government Ethics Reform Act. Nothing in this law will prohibit Congress from raising its pay. However, if members of Congress think they deserve a pay raise, then they must vote for it in full view of the American people.

I urge my colleagues to support this amendment and do what is moral and honorable—If you want a raise, let's have an up or down vote, before your boss—your constituents, the American people.

## SENSE OF CONGRESS REGARDING OVARIAN CANCER

SPEECH OF

**HON. DAN BURTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support of H. Con. Res. 385, a resolution which states that the Department of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and that health care programs and health insurance plans should cover these tests.

Specifically, H. Con. Res. 385 would encourage the development and wide-spread use of a blood test that would detect ovarian cancer in its early stages, thus significantly reducing fatalities that result from the most lethal form of ovarian cancer. Currently, more than 75 percent of women with ovarian cancer are not diagnosed until they are in the fourth stage of the disease. The new protein-screening blood test would detect almost all ovarian cancers in the first stage of the disease when 5-year survival rates approach 95 percent. This is an extremely important step in helping to eliminate the threat of ovarian cancer. Early detection is critical for survival success and should be everyone's goal.

There are many new cancer screening devices becoming available, and we must use these new technologies to help protect more Americans from the scourge of cancer. I know first-hand the pain that cancer can put a family through. On May 10, 2002 my wife passed away after a very long and difficult battle with colon cancer. I hope that all health insurance plans utilize to the fullest extent existing and promising detection methods for all cancers. Early detection can go a long way toward sparing other families from the pain of having a loved one suffer from cancer.

## IN RECOGNITION OF A GREAT AMERICAN SOLDIER: MR. RICHARD S. STARKS

**HON. ERNIE FLETCHER**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. FLETCHER. Mr. Speaker, it is an honor for me to stand here today to recognize a great soldier and a great American, Mr. Richard S. Starks. Mr. Starks served as a second lieutenant, 414th Bombardment Squadron, 97th Bombardment Group, Air Corps, United States Army. He is being honored today for his extraordinary heroism in action over occupied territory in Continental Europe, August 21, 1942.

As chronicled in the official service record dated August 23, 1942, Lieutenant Richard S. Starks was a B–17E bomber pilot on a bombardment mission when his aircraft was attacked by 20–30 enemy fighters at an attitude of approximately 21,000 feet. The cockpit of his aircraft became severely damaged by heavy enemy fire and the co-pilot was fatally wounded. Lieutenant Starks was seriously wounded in the arm, neck and face and his oxygen mask became dislodged. Despite these handicaps, and overwhelming odds, Lieutenant Starks directed the operation of his aircraft and, when physically able to do so, gave material assistance in its operation, to the end that he safety landed his aircraft at a friendly airdrome.

On August 23, 1942, in a citation directed by General Dwight D. Eisenhower, Lieutenant Richard S. Starks was awarded the prestigious Distinguished Service Cross, stating that his "cool courage and heroic action upheld the highest tradition of the military forces of the United States and contributed materially to the success of a mission of vital importance."

The Kentucky Department of Veterans Affairs will again honor Mr. Starks, a native of Midway, Kentucky, at a special ceremony on July 25, 2002, at the Aviation Museum of Kentucky.

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## GARDEN CITY HIGH SCHOOL GIRLS LACROSSE TEAM

### HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KING. Mr. Speaker, I rise today to congratulate the Garden City High School Girls Lacrosse Team for winning a fourth consecutive New York State Championship. The athletes, parents, and citizens of Garden City should all be very proud of this enormous accomplish.

On June 8, 2002, the Garden City defeated East Rochester 8–6 at SUNY, Cortland to win their fourth consecutive Class B Small Schools State Championship. On behalf of the 3rd District of New York, I would like to recognize and honor the following students whose feat this past year will certainly be ranked among the best in New York State high school athletics:

GIRLS LACROSSE TEAM

Brittany Barry
Kerin Boghosian
Katie Cox
Meghan Crisafulli
Erin Daly
Bradie Dwyer
Jackie Fiore
Lauren Gallagher
Ali Holland
Brittany Jesser
Kaitlain Kamrowski
Meg Lindsay
Allie Lloyd
Kerry McCaffrey
Ali McDonough
Tara McKennett
Anna Mitchell
Jenna Piscopo
Jessie Riccio
Meghan Rose
Caitlin Sotell
Kristin Strief
Meg Sullivan
Erin Walters

I would also like to extend special recognition to Garden City High School Head Girls Lacrosse Coach Diane Chapman, Assistant Coach Janet Walsh, Principal John Okulski, and Athletic Director Nancy Kalafus.

Once again, congratulations to all the students, coaches, and parents on this wonderful achievement.

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## TRIBUTE TO ABE ROSENTHAL

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. SMITH of New Jersey. Mr. Speaker, I rise to pay tribute to Abe Rosenthal, the New York Times journalist who received the Presidential Medal of Freedom earlier this month for his consistently insightful comments on human rights, and his outspoken defense of persecuted Christians and Jews throughout the world.

Many observers of foreign affairs have difficulty believing that Christians in the modern era have been, and continue to be, persecuted on a wide-scale basis throughout the world. Rosenthal's articulate and passionate writings helped bring much-needed awareness to their plight. In 1997 alone, he wrote over 20 stories about persecuted Christians, detailing the plight of Christians in a wide variety of regions, including China, the Sudan, and Pakistan.

The awareness he raised about people of many different faiths who suffer religious persecution helped win passage of the historic "International Religious Freedom Act of 1998" which established the United States Commission on International Religious freedom, and laid out a framework for denying foreign assistance to egregious violators of religious freedom.

I was very proud to have had a direct hand in writing portions of that legislation. I personally chaired several hearings on religious persecution around the world, and my committee covered the persecution of every faith. We took testimony from Muslim Uighurs, who are persecuted by Communist China; the worldwide problem of Anti-Semitism; as well as persecution against Christians.

The creation of the Commission and the office of the Special Ambassador, as well as the institution of the annual Religious Freedom Reports, were among a number of measures provided by Congressman Frank Wolf's landmark legislation on international religious freedom, which my committee—the Subcommittee on International Operations and Human Rights—marked up in 1997, and enacted by Congress in 1998. All these measures represented important steps toward helping millions of people around the world who are persecuted simply because they are people of faith. But the Reports themselves clearly demonstrate that we need to do more.

Some find it odd that a man who has become such a great champion for persecuted Christians is himself Jewish. But this is not really so unusual when you look beneath the surface. When Rosenthal learned that Christians suffered for their faith, while most in the world have turned a blind eye, he felt compelled to act. The Jewish community has a special sensitivity to religious persecution, because when it happens, it almost always hits their community first. "Never again" has a special meaning to a community that was almost exterminated while the rest of the world looked on and watched.

Rosenthal's passionate and steadfast desire to speak out for basic human dignity was formulated in a profound way because of a brutal murder that occurred in 1964 in Queens early in his career with the New York Times. In that year, a woman named Catherine Genovese was brutally murdered in her own neighborhood. Although approximately 38 of her neighbors heard her cries for help, not one person responded as she was stabbed over 30 times.

The incident caused Rosenthal to question our responsibility to speak out against injustice, not just for a neighbor suffering in our midst, but for all those who suffer injustice and persecution throughout the world. "I am not going to be one of the 38," he said—one of those who failed to speak out or act.

I am proud to say that Mr. Rosenthal has remained true to his promise. He has consistently spoken out on behalf of those suffering for their faith. He has acted boldly not only through moving readers and inspiring persecuted Christians all over the globe, but also by challenging leaders of government who would rather not be bothered by the sufferings of the oppressed, and business leaders bent on a drive for profits above all else. He has moved many to show a concern for basic human rights and re-evaluate their priorities.

Mr. Rosenthal, you have acted, speaking out on behalf of so many, and you have called so many others, including us here in this Congress to do the same. For this, you deserve our thanks and praise.

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## PAYING TRIBUTE TO THE LAO VETERANS OF AMERICA, MICHIGAN CHAPTER

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today in recognition of the Lao Veterans of America, Michigan Chapter. These veterans who served in the United States "Secret Army" are Hmong and Lao combat soldiers. They served in Laos during the Vietnam War from 1961 until 1975.

The Lao Veterans of America is made up of tens of thousands of Hmong and Lao combat veterans and their families who played a historic role in the covert operations during the Vietnam conflict era. Fearless Hmong men, women and children fought and died alongside U.S. soldiers. It is reported that approximately 35,000 to 40,000 Hmong soldiers lost their lives in combat, 50,000 to 58,000 were wounded, and 2,500 were missing in action. Even when the war had ended, North Vietnamese Communist forces continued to commit deadly acts of violence on the innocent people of Laos.

The Lao Veterans of America represent a group of selfless men and women, who risked their lives in the fight for world freedom and democracy. Mr. Speaker, I ask my colleagues to join me in recognizing the Lao Veterans of America, Michigan Chapter, for their outstanding efforts and contributions to this world.

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## HONORING ALBERT NI ON HIS FIRST PLACE FINISH AT THE MATHCOUNTS CHAMPIONSHIPS

### HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mrs. BIGGERT. Mr. Speaker, I rise today to recognize Albert Ni for placing first at the MATHCOUNTS Championships. As an eighth-grader from Kennedy Junior High School in Lisle, Illinois, Albert defeated 227 other competitors to finish first in the nation as an individual champion.

This year was Albert's second time participating in the MATHCOUNTS competition, improving on his 37th place finish in the nation last year. At the competition this year, Albert aimed to place in the top three in the individual competition, but far surpassed his goal by placing first. As the MATHCOUNTS Individual National Champion, Albert received an $8,000 college scholarship, a computer, and a trip to space camp.

Additionally, Albert competed as a member of the hard-working and talented Illinois team, which included Christopher Chang, Greg Gauthier, and Jeffrey Kuan. In the MATHCOUNTS Team Championships, the Illinois team finished second in the country after a team from California—an impressive accomplishment.

The success of Albert and his teammates demonstrates the excellence in education that the communities and schools in Illinois—and in the 13th Congressional District in particular—have always worked hard to achieve. Our students and teachers know that a solid math and science education is key to future success, and competitions like MATHCOUNTS simply underscore that students in Illinois and the 13th Congressional District are leading the way to excellence in mathematics.

This fall Albert will attend the Illinois Mathematics and Science Academy and he is looking forward to continuing his involvement in math competitions at the high school level. We wish him much continued success.

## PERSONAL EXPLANATION

### HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mrs. CLAYTON. Mr. Speaker, on Thursday afternoon July 18, 2002, I was called back to my district for emergency purposes. As a result, I missed 4 rollcall votes.

Had I been present, the following is how I would have voted:

Rollcall No. 320 (On Agreeing to the Amendment) to H.R. 5121—"Moran of Virginia Amendment"—"Yea"

Rollcall No. 321 (On Passage—H.R. 5121—Legislative Branch Appropriations for Fiscal Year 2003—"Yea"

Rollcall No. 322 (On Ordering the Previous Question)—"Yea"

Rollcall No. 323 (On Agreeing to the Resolution—"Yea"

## HONORING COLONEL JAMES A. MARKER UPON HIS RETIREMENT FROM THE UNITED STATES AIR FORCE

### HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing Colonel James A. Marker upon his retirement from the United States Air Force.

Colonel Marker, who has served in active duty for 43 years, is the longest serving member of the Air Force currently on active duty. When he first enlisted on June 1, 1959, Dwight D. Eisenhower was the President of the United States. He served as an enlisted airman for 14 years before being commissioned as an officer in October of 1973.

Colonel James A. Marker, Jr. is the Inspector General, 375th Airlift Wing, Scott Air Force Base, Ill. As Inspector General, he supports the wing commander through oversight of the wing fraud, waste, abuse, and complaints program, processing complaints from the military and civilian work force, their families, the general public, elected state and federal officials, and higher headquarters personnel. He performs complaint analyses to determine the appropriate investigation method or referral agency, appoints and trains investigation officers, conducts investigations, reviews evidence, coordinates legal and appointing authority review of completed reports of investigation, and notifies complainants of investigation findings.

Colonel Marker is a graduate of Jefferson Union High School, Richmond, Ohio in 1958. The Colonel earned a Bachelor of Science degree in Sociology in 1973 from the College of Great Falls, Mont. and a Master of Science degree in Criminal Justice in 1983 from Central Missouri State University, Warrensburg, Mo.

Colonel Marker entered the Air Force as an airman basic and performed various duties as an enlisted security policeman. He was commissioned as a second lieutenant in October 1973 through the Bootstrap Commissioning Program and remained in the security police career field. If the Air Force published a list of air force terminology, the word "lifer" would surely be in it. Next to it, possibly, would be a picture of Col. James Marker. And he'd be smiling. Being called a lifer no longer offends him. On the contrary, he sees the term lifer as a badge of honor, a proud testimony of his long, devoted service.

However, his career almost didn't get off the ground. Marker had three relatives who fought in World War II and inspired the 18-year-old to join the Air Force. But the teen from Steubenville, Ohio, wasn't thinking of a lifelong commitment when he signed up in Pittsburgh. He wanted to be a photographer. But the Air Force needed cops, air policemen back then.

He soon married Bev, and they both decided he'd re-up. He's has been doing that ever since. The couple raised five children and lived in too many places to count—three tours were in Alaska. He is ending up here at Scott Air Force Base, Illinois. After 14 years, Marker, then a technical sergeant, decided to become an officer. Col. Marker stayed because he loves the people, his job and the service he's given his country. That he's a true patriot is apparent when he talks about that service. "If it were up to me," Marker has said, "I'd stay in the Air Force until the day I die."

Mr. Speaker, I ask my colleagues to join me in honoring Colonel James A. Marker and to congratulate him on his retirement after 43 years of active duty service in the Air Force.

## PERSONAL EXPLANATION

### HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. BARRETT. Mr. Speaker, because of commitments in my home state of Wisconsin, I was unable to vote on rollcall No. 320 through 325. Had I been present, I would have voted:

Aye on rollcall No. 320
Aye on rollcall No. 321
No on rollcall No. 322
No on rollcall No. 323
Aye on rollcall No. 324
Aye on rollcall No. 325

## PERSONAL EXPLANATION

### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes due to a family medical emergency. If I had been present, I would have voted as follows:

Rollcall vote 324, on agreeing to H. Con. Res. 439, I would have voted yea.

Roll call vote 325, on agreeing to H. Res. 492, I would have voted yea.

## PERSONAL EXPLANATION

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. BECERRA. Mr. Speaker, on Monday, July 22, 2002, I was unable to cast my floor vote on rollcall Nos. 324, and 325. The votes I missed include rollcall vote 324 on the Motion to Suspend the Rules and Agree to H. Con. Res. 439, Honoring Corinne "Lindy" Claiborne Boggs; and rollcall vote 325 on the Motion to Suspend the Rules and Agree to H. Res. 492, Expressing Gratitude for the 10-month World Trade Center Cleanup and Recovery Efforts.

Had I been present for the votes, I would have voted "aye" on rollcall votes 324 and 325.

## HONORING ALEXANDER MOULTON OF CLIFTON, TEXAS

### HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. EDWARDS. Mr. Speaker, the 11th Congressional District and Central Texas lost an outstanding young citizen and one of the leaders of the next generation with the untimely death in June of Alexander (Alex) Moulton of Clifton.

Alex and his twin sister Alyson were born in Austin on December 14, 1982, the children of Robert and Carol Moulton. In his all-too-brief life, Alex lived in Texas, Virginia, New Hampshire and New Mexico before the family settled in Clifton, a city of approximately 3,500 residents just north of Waco.

On a hot Texas summer afternoon in June, Alex and a group of friends were swimming at nearby Lake Whitney when one of Alex's friends started struggling in the water. Two of the group ran for help and Alex went into the water to help his friend. Alex was able to keep the struggling swimmer afloat until help arrived, but by then, he was exhausted himself. Alex went under and stayed under. When his friends were able to pull him to shore, they could not resuscitate him. Alex Moulton, at 19½ years of age, had given his life so that another could live.

Losing a friend and a loved one is always a heavy burden, a loss made even harder to bear and more difficult to accept when it is someone with the promise of such a bright future. For Alex Moulton, who grabbed each minute of life with joy, and held on until he had wrung it dry of all the possibilities, every day sparkled and every tomorrow looked even more dazzling. This was the life that he sacrificed to help someone in trouble.

Mr. Speaker, I ask the Members of the House of Representatives to join me in honoring and celebrating the life of Alex Moulton.

## HONORING THE CHILDREN'S HOME OF LUBBOCK

### HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. COMBEST. Mr. Speaker, I rise today to honor and recognize the Children's Home of Lubbock, Texas for the outstanding work it does on behalf of children in the State of Texas. The Children's Home of Lubbock has shown an unwavering commitment to service and placement of disadvantaged and deserving children.

The doors of The Children's Home of Lubbock opened in 1954. The house began as an extension of the Broadway Church of Christ in Lubbock, Texas. Since that time more than 4,400 children have been helped either through placement in a family or by receiving a loving environment at the home itself. This early faith based program has been an exemplary model for other similar homes in Texas. The Home provides not only shelter, food, and safety but therapy and love also. Permanent placement is a goal of the home, but the overriding concern is caring for the children regardless of the problem or situation.

As it becomes increasingly difficult for children in this world, it is imperative that centers like the Children's Home of Lubbock continue to perform the good work that they do. The home functions as more than just a center for children; it is an invaluable community resource on which many local, county, and State agencies have come to depend. The staff and volunteers are top notch, Christian individuals who give not only of their time, but also of their heart and soul.

It is with great respect, Mr. Speaker, that I call on all Members to join me in congratulating and thanking the Children's Home of Lubbock. The Children's Home of Lubbock's years of service have benefitted not only the community, but the children and the adopting families. The contributions of the Children's Home of Lubbock number more than these mere words can express.

## HUMAN RIGHTS IN CUBA

### HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. TANCREDO. Mr. Speaker, in my office hangs a picture of a woman—Marta Farias holding a photograph of her son—Lazaro Planes Farias. Mr. Planes is one of an estimated 400 Cuban political prisoners who have been unjustly imprisoned for having the courage to publicly speak out against the Communist regime, a regime which lives in perpetual terror of its citizens exercising the most basic forms of human rights. The Cuban Government's official charge against Mr. Planes is that he committed "disrespect and resistance." His "disrespect" was to have the audacity to form an opposition political party to promote freedom. knowing the grave risk he was taking by openly opposing Fidel Castro, Planes continued to speak out—demading human rights and democracy for all Cubans.

He was released from prison following a request by Pope John Paul—the Second in 1998, but soon after the Pope's visit—the Communist authorities deemed him too great a risk, and imprisoned him again. Planes suffers today in Castro's gulags—recognized by human rights groups as some of the worst prisons in the world. Castro has not allowed the International Committee of the Red Cross to inspect prison conditions since 1989. And it's no wonder—men and women who refuse to undergo "re-education" in the gulag are subjected to daily beatings, malnourishment and an appalling lack of medical care.

The United States of America and the rest of the world can no longer remain silent. The struggle undertaken by these courageous men and women demands international recognition. That is why I have joined with 17 of my colleagues in the House and Senate in the Congressional Cuban Political Prisoners Initiative. Each month we will feature a new prisoner. And each month there will be a new name, a new face and a new story which strikes down Castro's lie that there are no political prisoners in Cuba.

I am here today to urge my colleagues on both sides to stand with me in demanding the unconditional release of Mr. Farias and all Cuban political prisoners.

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

SPEECH OF

### HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 17, 2002*

The House in Committee of the Whole House on the State of the Union had under consdieration the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes:

Ms. McCOLLUM. Mr. Chairman, I rise today in support of the amendment to provide an additional $10 million to the National Endowment for the Arts (NEA) and $5 million for the National Endowment for the Humanities (NEH). I commend the authors for their commitment to the arts and urge my colleagues to vote in favor of this amendment.

This amendment will support the NEA's Challenge America initiative, which has been successful in expanding access to the arts for underserved communities. To broaden the reach of federal arts funding, Challenge America supports arts education, after-school arts programs and community arts development initiatives.

In my state of Minnesota, an NEA grant helped to establish "Creating the Link"—an after-school program for Hmong youth. St. Paul is home to the largest concentration of Hmong in the United States. Many Hmong children who have grown up in this country have not had opportunities to learn about the culture and traditional art of their elders. "Creating the Link" provides the connection between these children and traditional Hmong folk art—preserving this cultural richness for future generations.

Through support of programs such as "Creating the Link," the National Endowment for the Arts has brought the enrichment of artistic experience to communities in every corner of the nation. Art is no longer considered a pastime reserved for the elite class, but is widely recognized as central to the cultural, social and cognitive development of a well-rounded public.

Further support for the National Endowment for the Arts is an important investment for all of our communities. I urge my colleagues to support this amendment.

## TRIBUTE TO HOWARD W. PHILLIPS

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize a lifetime of achievements by Howard W. Phillips from Mt. Vernon, Illinois.

Mr. Phillips dedicated his life to being a good citizen. He was a leader that was not only well respected, but loved by the people that knew him. Howard put the needs of his community above his own.

As a veteran of the United States Navy, Howard defended his country and did it well. He entered the Navy on May 26, 1944. He served while World War 11 was devastating Europe. After his time in Active Duty, he became involved with veterans groups. Mr. Phillips was a member of American Legion Post 141. He served on the Military Burial Detail and was chaplain of the detail for 21 years. As chaplain he conducted almost 1,000 funerals. The Legion designated him Legionnaire of the Year in 1993 and again in 1997. He is the only person to receive this award twice.

Mr. Phillips was past commander of AMVETS Post 4. While commander, Howard was designated by the state executive as the outstanding AMVET Adjutant in the state. Post 4 was also named the outstanding AMVET post by the National Commander while Howard was in charge. Another of his many achievements was being appointed chairman of all Jefferson County Veterans Groups in order to rename 42nd Street and Fishers Lane, in Mt. Vernon, to Veterans Memorial Drive.

Howard was also an active member of Epworth United Methodist Church. His faith in God shined through in his personality. Mr. Phillips' love for others was demonstrated by involvement throughout the community. He participated in such groups as the American Cancer Society, the Mt. Vernon Fire and Police Commission, and the Murray Parents Association. Howard received the Dr. Plassman award for Outstanding Volunteer Service from the Murray Parents Association for his work with the handicapped.

I would like to take this time to honor the memory of my friend that gave so much to his country and community. All men should aspire to hold themselves to a standard equal to that of this man, Howard W. Phillips. My heart and prayers go out to his family and friends.

## THE RESTORATION OF THE DAVENPORT HOTEL

### HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. NETHERCUTT. Mr. Speaker, I rise with great pride as a native of Spokane, Washington, to recognize the reopening of the historic Davenport Hotel. Mr. Speaker, this historic event would not have been possible without the commitment and perseverance of Walt and Karen Worthy, the owners of the property.

Designed by renowned architect Kirtland Cutter and built in 1914 by Louis Davenport, this grand hotel has been the centerpiece of downtown Spokane and an immense source of community pride. It has played host to American presidents, generals, statesmen, an stars of the opera, stage and screen. During the 1980s and most of the 1990s, the Davenport fell into great disrepair. Over almost two decades several owners tried to save the Davenport Hotel, but could not gather the necessary resources or assemble community support behind a restoration project of this magnitude.

The project needed someone who was willing to be completely dedicated to this monumental venture of restoring a part of our local history. Enter Walt and Karen Worthy. Walt and Karen purchased the Davenport in 2000, and made the top-to-bottom restoration of this landmark their labor of love. With great attention to detail and personal investment, Walt and Karen, with the help of many highly skilled tradesmen, have brought to life the Davenport lobby in all of its original splendor. They have restored the elegant beauty and fine points of the thematic ballrooms, fine restaurants and guest rooms to a state that would make Mr. Davenport proud.

On behalf of the residents of Spokane and the 5th Congressional District of Washington, our thanks go to Walt and Karen Worthy for preserving and restoring this magnificent part of our Pacific Northwest heritage.

## HONORING CORINNE "LINDY" CLAIBORNE BOGGS ON OCCASION OF 25TH ANNIVERSARY OF FOUNDING OF CONGRESSIONAL WOMEN'S CAUCUS

SPEECH OF

### HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mrs. ROUKEMA. Mr. Speaker, I rise in support of this resolution honoring the career and achievements of Former Congresswoman Corrine "Lindy" Claiborne Boggs. Lindy Boggs, representing the 2d district of Louisiana, served in this House from March 20, 1973, to January 3, 1991. I was fortunate enough to serve with Lindy, and I feel fortunate to be able to honor her accomplishments in Congress, and on behalf of women in Congress.

Lindy's time in the House of Representatives and in Washington was an environment quite different than what we now understand. During her service, she achieved a number of firsts. She was the first woman elected to the House of Representatives from Louisiana; the first woman to serve as a Regent of the Smithsonian Institute; the first woman to preside over a national convention (the Democratic National Convention in 1976); the first woman to receive the Congressional Medal from the Veterans of Foreign Wars; as well as the first woman to receive a Tulane University Distinguished and Outstanding Alumni Award.

Lindy focused on many issues while in Congress and lent a voice to the many policy debates that took place during her tenure. She accomplished much in the areas of literacy, housing, scientific research, and technology development. These are not the typical "Women's issues" assumed for her time, and I am sure she felt much pressure to focus on issues affecting women in particular. However these issues were viewed through a woman's eye. I can relate to that experience. In my early campaigns for Congress, reporters constantly asked me what I would do about "women's issues." My response was that "all issues are women's issues."

However once I got to Washington, I had a similar experience to the one Lindy's daughter Cokie Roberts describes in her book, We Are Our Mothers' Daughters, "most [congresswomen] arrived with no agenda for women in mind, but they all found, once they started serving, that women all over the country came to them with their concerns." I found that some of the so-called "women's issues" weren't being addressed by the men in power. It wasn't that the men were opposed to these issues—they just were not sufficiently aware of them. I realized that if the women in Congress don't act on these issues, no one else would.

After over 20 years in Congress, I still believe that women make a unique and necessary contribution to the policymaking process in all areas of public policy. We bring our experience as wives, mothers, daughters, sisters, citizens, entrepreneurs, or workers to the table when deliberating important issues of the day.

Lindy understood this, and contributed much to what Congress achieved during her time here. It is for this reason that we stand on the House floor today lauding her success and accomplishments in this Body. I am proud to have served with Congresswoman Boggs, and I am grateful for all that she has accomplished for women in Congress and in this country.

Mr. Speaker, I ask my colleagues to support this legislation in her honor.

## PAYING TRIBUTE TO THE CHILD WELFARE LEARNING COLLABORATIVE

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the accomplishments of Catholic Social Services of Lansing/St. Vincent Home and Michigan State University for development of the Child Welfare Learning Collaborative.

The new collaborative will focus on applying the resources and expertise of both organizations to explore and develop models of best or even better practice in service delivery to children and families.

By calling on a variety of expertise across disciplines, including human medicine, social work, the legal profession and community leaders, the collaborative will bring these forces together with the very families served to increase the effectiveness of working with those families and their children.

On September 4, 2002, the collaborative will gather to launch this new initiative, committed to bringing the latest, cutting edge research and scholarship to practice, gathering input from well-seasoned practitioners, talented graduate students, and the children and families receiving services.

The collaborative will transform what is known and learned into best practice models that will benefit the children and their families. Especially critical is the collaborative's intention to provide a voice and face for foster children who must remain sheltered by confidentiality protections.

The September 4 kickoff event features Michigan State University Professor John Seita, a former foster child himself, as keynote speaker. Mr. Seita is an accomplished author on the topic of foster care.

Mr. Speaker, we wish to extend congratulations to Catholic Social Services of Lansing/St. Vincent's Home and Michigan State University for their commitment to serving the children of Michigan and to developing a program that will serve as a model across the nation. We are honored to support their efforts and ask that our colleagues in the U.S. House of Representatives Join us in recognizing their very worthy achievements.

## HONORING MR. RON OATES

### HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. CLEMENT. Mr. Speaker, Congressman Phelps and I rise today to recognize Ron Oates and his accomplishments in the music industry.

Ron Oates' name is a familiar one to anyone who has ever read the back of an album cover, or a CD insert. His list of friends and artists with whom he's recorded, sounds like a page from "Lifestyles of the Rich and Famous." He is referred to by many in Nashville as "Oatesart" because of his incomparable style, arrangements and original interpretations of every music category.

A 32-year veteran of the music industry, his contributions as a keyboard player, arranger, producer, and writer are often referred to as "Impeccable" by his peers. He has worked with such greats as Gladys Knight, Olivia Newton-John, Anita Pointer, Dolly Parton, The Oak Ridge Boys, Eddy Arnold, Lefty Frizzell, The Judds, Keith Whitley, Marty Robbins, Bobby Goldsboro, Dottie West, Linda Davis, Sawyer Brown, and the list goes on. His credits as a producer include such diverse artists as Engelbert Humperdink, Vern Gosdin, Cristy Lane, Doug Supernaw, Maurice Williams, and the Zodiacs, Dobie Gray, and many others.

Ron was born in Washington D.C. Following College and a five-year stint with the Navy Band, Ron and his son made the move to Nashville in late October 1969. In November of 1969, Ron played on his first hit record, with singer Bobby Goldsboro. From that point on, his music career has spanned from records, to jingles, to motion picture sound tracks.

His talents brought America's famous jingles to life, such as McDonalds, Burger King, RC Cola, 7-UP, Kraft, Miller Beer, Coors, United Airlines, and we cannot forget the most notable commercials of all, the famous, "Where's The Beef." His film credits include such hit titles as "The Best Little Whorehouse in Texas," "Nine To Five," "Sesame Street-Follow That Bird," (which won a Grammy in 1985 for best children's album), "Smokey And The Bandit," and the themes from "The Exterminator" and "The Buddy System" (entitled "Here's That Rainy Day," performed by Gladys Knight and the Pips).

Ron Oates is indeed one of the most talented and gifted all around musicians of our time. He truly knows how to bring a song to life, and has been a major part of the formula of success for many careers over the past 32 years. He is indeed one of ". . . the boys who make the noise on 16th Avenue" in Nashville, Tennessee.

Ron Oates is referred to by many in Nashville as "Oatesart" because of his incomparable style, arrangements and original interpretations of every music category.

Phelps said, "Whether it is true-form country, contemporary, rock, children's music, classical, rhythm and blues or even Southern Gospel, he's the very best at bringing the best in music of any class."

When the new $37 million Country Music Hall of Fame and Museum opened May 17, 2001, Ron was honored to be the first recording pianist/arranger to be included in the museum's permanent tribute to studio musicians. One of his famous keyboards and some of his hit arrangements are on display there. He is . . . "One of the major creative forces behind an amazing list of hit records and millions of record sales."

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## BURNHAM FILE COMPANY 100TH ANNIVERSARY

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate the Burnham Fire Company for their 100th Anniversary and to thank them for their service and dedication to their community.

The Burnham Fire Company was started in September 1902 due to an overwhelming need for fire protection in their community. Until this time, the community relied on nearby cities whose fire departments could not respond as rapidly as needed due to the distance they had to travel. The company in Burnham was assembled of volunteers, a hand pulled hose cart, and a motto that described with incredible foresight what personal sacrifices must be made to be fire fighters. That motto is "Semper Puratus," which means "Always Ready."

Since the tragedy that befell this nation on September 11th, America has rediscovered her many heros. Heros come from all walks of life and display every day how they, like the Burnham Fire Company, follow the motto "Semper Puratus." They are the men and women that are always ready to put themselves at risk for the greater good of others. Volunteers who are always ready to unselfishly give of their time to serve their communities. Individuals who are always ready to contribute to the success of the team rather than striving for personal glory.

Burnham Fire Company still largely consists of a volunteer work force. These men and women are well trained and equipped, providing exceptional service to a community that is proud of thejob they have been doing for the past 100 years. I would like to again congratulate them on their 100th Anniversary and thank them for all their hard work and service.

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## TRIBUTE TO SUSAN HIRSHMANN

SPEECH OF

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. CAMP. Mr. Speaker, I rise today to honor Susan Hirshmann as she gets ready to leave her post as the chief of staff to House Majority Whip TOM DELAY. Susan has proven to be invaluable and a trusted employee, friend and ally.

Susan Hirshmann is a remarkable individual who has become one the most important and influential women on Capitol Hill. She is highly respected by all who know her; and her comprehensive political grasp and policy expertise have set her apart as one of the greatest strategists in Washington. Susan has been an indispensable asset to Majority Whip's Office and the entire Whip organization.

For five years, she has been an advisor and top staffer, as well as a trustworthy ally to those who have worked with her.

Her intelligence and skill are complemented by a great sense of humor, which has made her contribution to this institution all the more praiseworthy.

We will all miss Susan, but we will always remember her hard work and steadfast devotion to this institution and her country.

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## JACK H. BACKMAN

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. FRANK. Mr. Speaker, last weekend, Massachusetts suffered a great loss. Indeed, when Jack Backman died, the world lost a man who was as fiercely dedicated to the cause of social justice as anyone of whom I have ever known.

My association with Jack Backman began in January 1973, when I became a freshman Member of the Massachusetts Joint Legislative Committee on Social Welfare, of which he was the Senate chair. I was proud to work under his leadership in those years for policies that would preserve some minimally decent life for the least fortunate among us. I have never worked with an elected official more willing to follow where his conscience led him with no regard whatsoever for electoral consequences than Jack Backman. And to my pleasant surprise and often to the chagrin of others, it turned out that when voters were presented with an example of someone prepared to do exactly that, they responded in a favorable way. Jack Backman genuinely brought out the best in democracy.

Mr. Speaker, in the Boston Globe for Tuesday, July 23, Renée Loth, Chief Editorial Writer, drew on her years as a reporter to give people a fair portrayal of this extraordinary man. I very much appreciate her doing this, in such a personal and compelling way, and because I think this model of how we Representatives should do our jobs ought to be widely shared, I ask that Ms. Loth's eloquent and accurate tribute to Jack Backman be printed here.

[From the Boston Globe, July 23, 2002]

JACK H. BACKMAN

(By Renée Loth)

I LAST SAW Jack Backman at a forum on women's issues at the University of Massachusetts in Boston in May. I told him the state could use him back in the Senate, where he had served for 16 years, and I meant it. Jack H. Backman, who died Friday at age 80, represented not just his constituents in liberal Newton and Brookline but an entire population of otherwise disenfranchised citizens: prisoners, mental patients, street people, drug addicts.

Concern for the less fortunate has become so marginalized in state politics that social spending is usually connected to a "sympathetic" interest group, such as children, or politically sophisticated groups such as the elderly or women. But Backman, whether in flush times or lean, represented causes for which there was no obvious political reward. With characteristic clarity, he once said he found it "morally abhorrent" that the dispossessed had no voice in government. So he gave them one.

During Backman's tenure in the House and Senate (1965 to 1987), Massachusetts was at the national forefront of social reform, much of it tied to his efforts. His legislation created the first Office for Children, the first lead paint removal act, and a guaranteed annual income for the blind and the disabled. He helped fund and implement the groundbreaking consent decrees that U.S. District Judge Joseph Tauro ordered to improve conditions at state facilities for the retarded. He led regular tours for freshman legislators of the state's maximum security prison in Walpole.

He pushed to pay welfare mothers a living wage, to divest state funds involved in the apartheid regime in South Africa, to deinstitutionalize juvenile justice, to give prisoners rights to education and training. He worked with a calm persistence some found maddening, using the Committee on Human Services (then called the Social Welfare Committee), which he chaired, as a pulpit for hearings on society's ills. He annually filed one bill—to appropriate $100 million in housing construction funds—for at least 11 years, mostly to illustrate the housing woes of the poor and the elderly.

Philip Johnston served for eight years with Backman on the Human Services Committee. "He always took the view that it was his role and our committee's role to push the envelope on social justice," Johnston said. "He felt that someone needed to articulate what was right and let others decide what was feasible."

In 2002, elected officials are reviving the chain gang and charging prisoners a day rate for room and board. The Legislature just passed a budget that eliminates health care coverage for 50,000 low-income and disabled adults. We really do need Jack Backman—dreamer, believer, humanist, optimist—back at the State House. He was the rarest of politicians: someone whose heart was bigger than his ambition.

## HONORING MR. JOHN SEIGENTHALER OF NASHVILLE, TENNESSEE FOR A LIFETIME OF OUTSTANDING ACHIEVEMENT ON THE OCCASION OF HIS 75TH BIRTHDAY

### HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. CLEMENT. Mr. Speaker, today I rise to honor my good friend John Seigenthaler, a great American and an outstanding Tennessean, on the occasion of his 75th birthday.

Throughout his career, Seigenthaler has been a consistent leader on free speech and civil rights issues and a staunch defender of patriotism and democracy. Because of his reputation for offering sound advice, he has served as an advisor to key national leaders including President John F. Kennedy, Attorney General Robert F. Kennedy, and numerous statesmen and women including members of the U.S. House of Representatives and the U.S. Senate.

In 1949, Seigenthaler began his career as a cub reporter at The Tennessean in Nashville, Tennessee. Eventually, he rose through the ranks to become editor, publisher, and CEO of the newspaper where he worked for some 43 years. An award-winning journalist, he currently serves as the chairman emeritus of The Tennessean and at one time served as president of the American Society of Newspaper Editors.

Seigenthaler was named editorial director of USA Today in 1982, and served in that capacity for nearly 10 years. In 1991, he founded the First Amendment Center at Vanderbilt University in order to inspire and create a national dialogue concerning First Amendment principles. Today, as an independent affiliate of the Freedom Forum, the First Amendment Center is world-renowned for its innovative discussions and initiatives with locations in both Arlington, Virginia, and Nashville, Tennessee.

According to the First Amendment Center, it "works to preserve and protect First Amendment freedoms through information and education." Further, the center "serves as a forum for the study and exploration of free-expression issues, including freedom of speech, of the press and of religion, the right to assemble and petition the government."

Seigenthaler played an integral role in civil rights history by serving as chief negotiator with the Governor of Alabama during the Freedom Rides of the 1960s, where he was attacked by a group of Klansmen for his efforts. Briefly during this era, he worked for the Justice Department under Attorney General Robert F. Kennedy.

He currently serves on the boards of trustees of The Freedom Forum and the First Amendment Center and hosts a "A Word On Words," a weekly book review program which airs on public television stations throughout the nation.

Additionally, he serves on advisory boards of schools of journalism and communications at American University, the University of Tennessee and the University of Maryland, and a $3 million endowment has been made to Middle Tennessee State University (MTSU) for a First Amendment Chair.

His volunteer work also includes service on the 18-member National Commission on Federal Election Reform, and as a participant in the Constitution Project Initiative on Liberty and Security, which came about as a result of the Sept. 11th tragedies in New York and Washington.

Seigenthaler remains active on the national scene as well as in Tennessee, where he often works tirelessly, behind the scenes, on projects of benevolence for the betterment of the community.

Married to the former Delores Watson, the couple has one child, John Seigenthaler, of New York City, a weekend anchor for MSNBC networks.

Seigenthaler is to be honored for his leadership, courage, and compassion at this milestone in his life. His life's work has impacted the masses and will continue to influence generations to come.

## PERSONAL EXPLANATION

### HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mrs. McCARTHY of New York. Mr. Speaker, due to a death in my family, I was absent for votes on July 18, 2002. Had I been present, I would have opposed H. Res. 489, supported the amendment offered by Mr. Moran (VA), and supported final passage of H.R. 5121.

I would have also opposed the previous question to H. Res. 488 and opposed H. Res. 488.

## SENSE OF CONGRESS REGARDING OVARIAN CANCER

SPEECH OF

### HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. WYNN. Mr. Speaker, I rise in support of H. Con. Res. 385, a resolution supporting research on tests used to screen for ovarian cancer.

Currently, among women in the United States, cancer of the ovary ranks fifth in the number of women affected.

Approximately half of the women with ovarian cancer die within five years. Therefore, the need to detect and treat ovarian cancer in its earliest stages is critical.

This resolution would express support for the National Institutes of Health to conduct or support research on the effectiveness of screening technologies to detect ovarian cancer. With improved technologies we will be able to better detect ovarian cancer in its initial stages.

H. Con. Res. 385 is about improving the quality of life of our loved ones—mothers, daughters, sisters, wives and friends. I urge my colleagues to support the resolution.

## IN HONOR AND REMEMBRANCE OF DEVOTED FAMILY MAN, PAUL VOINOVICH

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Paul Voinovich, devoted husband, father and grandfather, successful businessman, and trusted friend to many.

Following his graduation from Ohio University, Mr. Voinovich, followed in his father's footsteps by taking over the family architectural business, once known as the Voinovich Companies.

Mr. Voinovich was an intuitive and savvy businessman, and was highly adept at the art of the deal. He was a loyal colleague and business mentor to many, and a treasured friend as well. He warmly embraced life, and possessed a generous spirit. Mr. Voinovich was known to frequently help others in need, and did so in a quiet way away from the spotlight.

Mr. Speaker, Mr. Paul Voinovich will be remembered as a devoted husband, father and grandfather, and trusted friend to many. Although he will be deeply missed, his devotion to family, kind nature, generous spirit, and great zest for life will live on through all who knew him well.

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## CHILD STATUS PROTECTION ACT

SPEECH OF

## HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong support of H.R. 1209—The Child Protection Act of 2002. Too many children of U.S. citizens and legal permanent residents are penalized under the Immigration and Nationality Act. Specifically, children of legal permanen't residents whose visa petitions are reclassified when their parents become naturalized citizens face prolonged delays due to their reclassification. Enacting H.R. 1209 makes sure that these children do not face such additional delays. It also ensures that the length of time it takes for INS to process petitions does not adversely affect children who are being petitioned from overseas to join their parents.

Under current law, when immigration visa petitions for children of permanent residents are moved from the second preference categories to first preference categories due to their parent's naturalization, they are faced with increased backlog for the new category, resulting in additional years of delay.

Many of my constituents in the second district of Hawaii face these tremendous obstacles in being reunited with their family. In one instance, the son of a legal permanent resident had waited 7 years to have his petition processed by INS under the second preference category. However, when his father became a U.S. citizen, he was reclassified to the FI preference category and reassigned a new priority date. Under the new date, it could take an additional decade for his petition to be processed! I have another case in which the children of a U.S. citizen mother have been waiting for over 13 years to be reunited with their parents because they were reclassified when their mother became a U.S. citizen. Ironically, if their mother had not become a citizen, they would already be in the U.S. with their mother!

Last year, I introduced H.R. 133 which amends the Immigration and Nationality Act to ensure that immigrants do not have to wait longer for an immigrant visa as a result of reclassification of their petition. I am encouraged to see that the version of H.R. 1209 on the floor today includes the same protection to assure that when the alien children are reclassified due to their parents' naturalization, they retain the same priority date assigned to them under the original visa category.

I also want to voice my strong support for provisions of H.R. 1209 that erase current "age-out" provisions in the law penalizing immigrant children of U.S. citizens. Under current law, when children of U.S. citizens turn 21 years of age, they "age-out" of their immediate relative status to the status of family-first preference: the FI category. Unlike the immediate relative status that has no quota, this category is subject to a limited number of visas per year. These children are moved to the bottom of this wait list, which results in years of delays or even loss of eligibility to apply. H.R. 1209 would ensure that an alien child of a U.S. citizen does not age-out during the petitioning process by using the age on the application and not the age on the date the application is processed.

Finally, H.R. 1209 also expands the age-out protection to children of parents applying for refugee or asylum status and to children of legal permanent residents who are seeking status as a family-sponsored, employment-based, or diversity lottery child immigrant.

I urge my colleagues to vote for H.R. 1209 which corrects the delays caused by reclassification and helps many children of U.S. citizens, refugees, asylum seekers, and immigrants who are now denied entry as immediate relatives because they are over the age of 21.

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## IN HONOR OF JOAN ADLER GAUL

## HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Joan Adler Gaul, tutor of special needs children, long-time volunteer, devoted wife and mother, and beloved grandmother.

Mrs. Gaul was born and raised in Cleveland's West Park Neighborhood. After receiving her diploma from St. Stephen High School, she worked briefly as an executive assistant for a railway company, then left to begin raising her eight children. Above all, her family remained the focal point of her life.

Mrs. Gaul warmly embraced life, and possessed a generous spirit. She channeled her talent, kindness and patience by volunteering her time to help special needs children. In addition, Mrs. Gaul was very active in her church, St. Angela Merici Catholic Church, where she was president of the Altar and Rosary Society. Her great enthusiasm and energy for life extended to her participation in many musicals produced by the St. Angela Players, and she also enjoyed golfing in the warmer months.

Mr. Speaker, Mrs. Joan Adler Gaul will be remembered as a devoted wife and trusted friend to many. Although she will be deeply missed, her legacy of caring, volunteer spirit, and great zeal for life, will live on through all who knew her well.

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## REASONABLE RIGHT-OF-WAY FEES ACT OF 2002

SPEECH OF

## HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mr. CANNON. Mr. Speaker, Last evening, the House approved H.R. 3258, a bill sponsored by my friend and colleague from Wyoming, Mrs. CUBIN. I believe that the Reasonable Rights-of-Way Fees Act of 2002 is a significant and worthy piece of legislation, and I hope that the other body will act on it favorably before the end of the current Congress.

H.R. 3258 will ensure that the fees paid by telecommunications providers for the use of rights-of-way on Federal lands are reasonable. This is especially important in parts of the rural West like my district in Utah where it is difficult to deploy the long-haul facilities needed to connect small towns to the Internet and the public switched telephone network without at some point crossing Federal lands.

However, as good a bill as H.R. 3258 is, it is only a first step. The Federal Communications Commission (FCC) must strive across the board to attain a reasonable balance between government's need to manage public rights-of-way and industry and consumers equally important need to have non-discriminatory, inexpensive, and timely access to these rights-of-way for the deployment of critical telecommunications infrastructure.

Specifically, the FCC, in conjunction with Federal land management agencies, must take steps to ensure that:

(1) All telecommunications providers have non-discriminatory access to public rights-of-way for the purpose of providing intrastate, interstate or international telecommunications or telecommunications services or deploying facilities to be used directly or indirectly in the provision of such services;

(2) Government entities should act on a request for public rights-of-way access within a reasonable and fixed period of time from the date that the request for such access is submitted, or such request should be deemed approved;

(3) The fees charged for public rights-of-way access should reflect only the actual and direct costs incurred in managing the public rights-of-way and the amount of public rights-of-way actually used by the telecommunications provider;

(4) All telecommunications providers should be treated uniformly and in a competitively neutral manner with respect to terms and conditions of access to public rights-of-way;

(5) Entities that do not have physical facilities in, require access to, or actually use the public rights-of-way, such as resellers and lessees of network elements from facilities-based telecommunications providers, should not be subject to public rights-of-way management practices or fees; and

(6) Waivers of the right to challenge the lawfulness of particular governmental requirements as a condition of receiving any public rights-of-way access should be invalid.

I believe that, consistent with the Telecommunications Act, the Federal Communications Commission should vigorously enforce existing law and use expedited procedures for resolving preemption petitions involving access to public rights-of-way.

Expeditious removal of barriers to right-of-way access will help ensure that all telecommunications providers—incumbent local exchange carriers, competitive local exchange carriers, wireless carriers, and cable providers—can better deploy telecommunications services to the greatest number of Americans at reasonable costs.

I yield back the balance of my time.

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## IN HONOR OF IVAN MILETIC

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of esteemed author Ivan Miletic, who co-authored: From the Adriatic to Lake Erie. A History of Croatians in Greater Cleveland.

Through the research and writings of Mr. Miletic, an accomplished historian, and equally esteemed historians and educators—Dr. Ivan Cizmic and Dr. George J. Prpic— the public now has permanent access to understanding the significant impact that Croatian Americans have had upon the Cleveland community.

This important book chronicles the history and evolution of Croatian immigrants, and their individual and collective influence in the Northeast Ohio region—from the first wave of Croatian immigrants seeking opportunity and freedom, to modern-day Americans of Croatian descent—all of whom have added to the rich cultural fabric of Cleveland. Croatian Americans have positively defined, and greatly contributed to, all aspects of our community—from religion, culture and the arts, to politics and law, to education and the sciences.

Mr. Speaker, please join me in honor and tribute of author Ivan Miletic, who, along with authors Dr. Ivan Cizmic and Dr. George J. Prpic, have succeeded in the eloquent and adept historical account of Croatian immigrants, and their profound collective impact on all aspects of the Cleveland community. Moreover, as an American whose grandfather emigrated from Croatia, I am honored that my family, and my own public service, was noted in this book. The struggles, hardships and injustices that many immigrants have experienced, and overcome, are significant aspects of American history, that deserve an accurate and permanent historical account—to be learned from for generations to come—as is noted in From the Adriatic to Lake Erie: A History of Croatians in Greater Cleveland.

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## HONORING CONGRESSMAN JOHN BAYARD ANDERSON

SPEECH OF

**HON. PATSY T. MINK**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 22, 2002*

Mrs. MINK. Mr. Speaker, I rise today to honor our distinguished, former colleague John Bayard Anderson who represented the 16th District of Illinois for ten terms with great distinction.

I remember him well. John is bright, articulate, and thoughtful; a pleasure to have served with and an honor to know. He worked diligently not only for his constituents, but for the Nation as a whole.

In 1964, John was assigned a coveted seat on the Rules Committee. He introduced numerous bills on establishing better communication between and oversight of the various standing committees. He also diligently worked on campaign and election reform. In 1968 John was faced with a very difficult decision. His party, to which he had been very faithful, wanted his support in the gutting of the civil rights bill. He switched his committee vote, and instead supported this critical piece of legislation. On the House floor, John stated "I legislate today not out of fear, but out of deep concern for the America I love." I still remember these strong and moving words from my honorable colleague, and I am sure they echo in the minds of others as well.

In 1980 John made another tough decision: he was going to join the race for the White House. He began the race as a Republican, but ended it as an Independent. There were many who thought that John's decision to run was a very foolish one. But John was willing to take the risk because he firmly believed that he could do a better job than the others. Six million voters across the Nation believed in him.

I am sure that John is enjoying his tenure as Chair of the Center for Voting and Democracy. I am sure that as a former third-party Presidential candidate, John is able to provide a unique point-of-view. This race that he entered against all odds must serve as fuel to the fire in the campaign for runoff voting and forms of proportional representation as alternatives to winner-take-all plurality elections.

I would finally like to wish John a very happy belated birthday. May you enjoy many more.

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## ENVISIONING A NEW AMERICA

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, on July 6th when I began the trip from Cleveland, I caught a glimpse of a misty rainbow, evanescent in a nearly cloudless western sky. It is one of nature's paradoxes that you do not need rain to have a rainbow. A many colored, broad spectrum reality can be perceived at any time if we train ourselves to look for that light. When a storm does occur, the rainbow is nature's gift. How brilliant is a rainbow against a very dark sky.

Hope informs us to look for light in all situations, under all conditions, in all persons, in all nations. How important it is at this time in our nation's history that we attempt to comprehend the light which shines in the darkness. How important it is that we grasp how a shaft of light can spring from the luminous nature of our own hearts and light a new path for ourselves, our loved ones, the nation we love and a world so in need of love.

Today, even as we celebrate the red, white and blue, our nation is bathed in the off colors of threat levels of conjured attacks. We are cautioned to be ever on the alert, to beware the stranger, to travel warily, to watch the crowds, to watch the skies. We are offered the strange solace of nuclear weapons we should never wish to use, missile systems which do not work, metal detectors, bomb sniffing dogs, war planes patrolling our major cities, the FBI marching parade routes and attending religious services. And we are told to have a nice day.

The projections of a menacing external environment breeds fear which percolates paranoia which becomes withdrawal and isolation.

Americans know intuitively fear is not our home. Indomitability fostered Independence. Courage created a Constitution. Fearlessness birthed freedom. Francis Scott Key's Star Spangled Banner gave insight into the American character when, in the closing lines he asked: "Oh say does that Star Spangled Banner yet wave, o'er the land of the Free and the home of the Brave." Key made a connection between freedom and bravery. At Gettysburg, Lincoln declaimed we were "conceived in Liberty" and asked whether a nation so conceived could endure a Civil War.

It is worth asking today if a nation conceived in Liberty can long endure. A war on terrorism, where fear and democracy are at odds. It is worth contemplating the cost to liberty in the face of assertions that the only way we can protect our freedoms is to become more dependent on the armed power of government, or to give up some of our constitutional rights.

It is only courage which can meet the thief at the door or the terrorist in the crowd. It is only courage which gives us the ability to recite resolutely Lincoln's prayer that a "government of the people, by the people, and for the people shall not perish". It is only courage which can enable us to see with our heart the possibilities which still exist for America as the nation of our dreams, as a beacon of hope for the world.

So today let us begin the work of summoning all the love and courage we have in our hearts and send it out as a stream of brilliant light to lift the darkness which has dropped like a shroud over the consciousness of some of our countrymen and women.

Today let us envision a new role for America in the world. Let that vision be informed by the immortal intimations of our founders. Let that vision spring from our spiritual intuition. Let that vision be expressed in our every word. Let that vision leap from the golden chalice of our hearts. Let that vision be incarnated through our hands. Let us fashion a new nation through a new vision, filled with new hope from which new possibilities arise.

Let America begin anew in Afghanistan. Stop the bombing. We have no quarrel with the Afghan people. The Taliban are overthrown. Al Queda has fled. Bin Laden has vanished. And yet the bombs still drop, indiscriminately. Is there any American who has not been shaken at the mere thought of the horror of U.S. warplanes bombing a wedding celebration in the village of Kakrak, killing dozens of innocent civilians?

Whatever moral authority our nation had at the beginning of the conflict is rapidly being lost. This act does not represent America. Democracy does not wed terror. This act must not be cloaked in the irresponsible and inhuman euphemism of "collateral damage". Stop the bombing. Let an international police force continue in Afghanistan. Let the humble people of Afghanistan be spared friendly fire issued from skies. Enough of bombing the villages to save the villages! Stop the bombing!

Let America begin anew in Iraq. Stop planning for an invasion. The lives of a quarter of a million young American men and women must not be placed in jeopardy. Put a renewed emphasis on preventive diplomacy instead of pre-emptive strikes. Practice deterrence. Practice containment. Do not practice war in Iraq. Practice instead humanitarian aid to children who are dying because hospitals lack medical supplies. If Saddam Hussein would visit destruction upon his people let us not compound their woes.

Let America begin anew by putting an end to the Bomb as the ultimate metaphor. Let us lead the way towards the abolition of nuclear weapons. Let us set aside plans for a missile shield. Let us end the manufacture of new nuclear weapons. Let us stop the testing of nuclear weapons. Let us disavow any right to a nuclear first strike. Let us begin again to work toward nonproliferation worldwide and secure the goal of the Nuclear Nonproliferation Treaty which is a world free of nuclear threats. Let us put an end to the bomb as the ultimate metaphor.

Let America once again confirm its leadership and secure its position as a righteous nation among nations by fully participating in the global community through treaty-making and upholding international law. Let us reinstate the ABM Treaty, so that all nations who possess or would possess nuclear weapons can trust the United States will not try to gain advantage.

Let America fulfill a half century commitment to the use of outer space for peaceful purposes by setting aside plans to weaponize space and leading the way to ban all weapons in space, which is the purpose of HR 3616.

Let America commit to the Kyoto Treaty to protect this planet earth and to assure all nations that we recognize our responsibility to limit the production of greenhouse gases. In this we demonstrate an understanding of the interconnectedness of all life. In this we ensure the life of the planet far into the future. In this we show confidence in the future. In this we show a love of life.

Let America spare this planet and its people the scourge of biological and chemical weapons by leading the way toward world-wide agreement of the Biological and Chemical weapons conventions.

Let America commit itself to the Landmine Treaty and the Small Arms Treaty.

Let America pledge itself to justice everywhere by supporting the International Criminal Court.

Let us bring a new awareness to America. One which speaks and listens compassionately to those with whom we disagree. One whose power derives from the morality of our principles, not the armaments of our military.

Let America lead the way for a world at peace through inclusionary governance, upholding human rights, protecting workers' rights everywhere, assuring sustainability through enabling renewable energy resources to be brought forth.

Let America replace its principles of perpetual war with new organizing principles which protect the natural world, and affirm the interconnectedness of all life. Let us make nonviolence an organizing principle in our society through the creation of a Department of Peace.

Let us be the generation which began the work with people of all nations which leads to the day when war itself becomes archaic. "Not to believe in the possibility of permanent peace is to disbelieve the godliness of human nature" said Gandhi.

We can evolve. We can understand that war, violent death, the arms race, threats, terror, environmental destruction, adverse global climate change, corporate corruption, poverty, ignorance and sickness are not our ultimate destiny. Our eternal home is not eternal darkness. We are made for something better, a higher purpose, a higher calling here and now.

The world's ills represent conditions which are not beyond our understanding nor beyond our control, but which yield to human intelligence, the wisdom of the human heart and the aspirations of the human spirit.

As we face uncertain times, let us call upon our capacity for love. Let us call upon our capacity for hope. Let us call upon our capacity to believe in ourselves and in each other. Let us call upon our capacity to make a difference. Let us call upon our capacity to evolve as a nation. Let us call upon our recognition of the power of unity which brings us here, and which enables us to envision the America of our fondest dreams.

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## NEW HAMPSHIRE'S 2001–2002 VFW VOICE OF DEMOCRACY SCHOLARSHIP CONTEST REACHING OUT TO AMERICA'S FUTURE

### HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. BASS. Mr. Speaker, I rise today to enter into the CONGRESSIONAL RECORD, the speech written by the 2002 Veterans of Foreign Wars Voice of Democracy Scholarship winner, Clarissa Anderson.

REACHING OUT TO AMERICA'S FUTURE

(By Clarissa Anderson)

America, the beautiful country in which we live, has a future brighter than most may see. It is the country where many families raise their children, brave people reside, intelligent people create, scientists explore, and foreigners and citizens vacation. It is a country with immense power and glory behind its name, but the future of such a place is yet to be discovered. The future of the country that we love the most is what we will make it to be. It is up to us now, who are living here today, to make the history of America one that will make those who follow behind us proud of the ones who walked before them.

Many battles have been fought in the past to gain the freedoms we take for granted today, yet there are still battles to be won amongst America's own people. They are not battles over hate or differences, but they are rather battles over the hunger and the need of the people of whom we belong. The future of America lies within each American living here today. There are several civil topics that could be improved upon to make the future of our country one to be proud of.

While there are rich and famous stars making the latest movies, and the most well known scientists discovering, there are still ones on the street who are in need of homes, love, care, clothing, and jobs. The able-minded and able-bodied people of America should stand up and make this country proud by making it a better place for all to live, even the less fortunate. Volunteering an hour here or there to counsel a job searcher, to serve meals to the hungry, or even to show a little love and care to a child, can make a difference slowly, one step at a time, one life at a time, a little love at a time, and a little care at a time, we will slowly create the brightest age in America's history.

When Americans can truly say that the quality of living in America is better than any other country, America will have succeeded as a whole. When all Americans can feel protected not only by the laws and power of the country, but also by the care of its people, we will have succeeded. There are countless ways for a single soul to change or alter the life of another, if only a seed of compassion or care were sown within those who are able to give such things to others in need.

To the future of America I would like to offer a country full of helping hands, ones that will reach out to others in need. I would like to see men and women and children alike, not only caring for their circle of friends and for their families, but also assisting the people that are in need in their towns and communities. Our country has proven to be able to accomplish many great feats and this is one feat that can be achieved within the boundaries of our own country. To conquer such a challenge we need to set ourselves aside and lose all selfishness, putting our focus on others and their needs as well. While making our changes one heart at a time, one step at a time, and one life at a time, we'll be reaching out to the future of America. Our country will be all that we've dreamed it could be. America it's the beautiful country in which we live and as Americans, we should be proud of what we accomplish as a nation, one step at a time.

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## IN HONOR OF THE UNION & LEAGUE OF ROMANIAN SOCIETIES, INC.

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Union & League of Romanian Societies, Inc., on the occasion of their 96th Anniversary, to be celebrated in July, 2002, in Cleveland, Ohio.

In 1928, two separate Romanian organizations—The Union and The League—unified to become The Union & League of Romanian Societies, Inc. The organization continues to be one of the largest Romanian organizations in the United States, and has maintained its rich history and legacy of service to others.

For almost one hundred years, the members and leaders of the Union & League of Romanian Societies have offered a source of hope, faith, support and resources to American citizens of Romanian heritage, and Romanians abroad. The organization has undoubtedly been a great source of strength for thousands of Romanian immigrants, and fosters the continuity of Romania's significant cultural, religious and historic heritage.

The Union & League of Romanian Societies, Inc. has an impressive record of assisting and supporting Romanians in their homeland. In 1989, a Union & League Relief Fund was established to assist Romania in its economic and social reconstruction. In 1990, a Relief Fund was created with funds specifically earmarked for Romania's most vulnerable citizenry—its children and elderly. The Society continues to demonstrate support of its homeland—connecting the old world with the new—and never forgetting the sacrifices of ancestors who journeyed before them.

Mr. Speaker, please join me in honor and recognition of the Union & League of Romanian Societies, Inc., based here in Cleveland. Americans of Romanian descent have bestowed their professional talents, sense of community, and tradition and culture, within every facet of American society. Moreover, thousands of Americans of Romanian descent have made the ultimate sacrifice—giving their lives to protect the freedoms in their new American homeland, beginning with the Civil War. I stand in honor of the significant and noteworthy contributions and sacrifices that members of the Romanian community have made here in Cleveland, and across the nation.

## PERSONAL EXPLANATION

### HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. ABERCROMBIE. Mr. Speaker, yesterday and this morning, I was unavoidably detained and I was unable to vote on matters before the House at the time. Had I been present, I would have voted:

Rollcall 324—H. Res. 439, Honoring Corinne "Lindy" Claiborne Boggs on the 25th Anniversary of the founding of the Congressional Women's Caucus "yes"; Rollcall 325—H. Res. 492, Expressing Gratitude for the World Trade Center Clean-up and Recovery Efforts at Fresh Kills Landfill "yes".

## IN HONOR OF 50TH ANNIVERSARY OF THE GARFIELD HEIGHTS BASEBALL LEAGUE

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition and celebration of the Golden Anniversary of the Garfield Heights Baseball League. I also stand in honor of the founding members of the League: Arthur Grugle, Dan Kostell and John Rawlins, and all the individuals over the past fifty years who have volunteered countless hours to ensure that the League remain a viable and significant recreational outlet for the youth of Garfield Heights.

The Garfield Heights Baseball League has the noteworthy distinction of being one of the oldest self-supporting leagues in the nation. Over the years, the League has grown and changed, reflecting our evolving society in many ways. Beginning with less than one hundred players, the League grew to over ninety teams playing on nine fields by the late seventies. Today, over 1,000 youth, both boys and girls are active players in the Garfield Heights Baseball League.

In 1987, the League formed the Garfield Heights Baseball League Hall of Fame. This honor is reserved for those individuals who have gone well beyond the normal call of duty in supporting or enhancing the day-to-day operations of the League, There are currently eighty-nine members in the Hall of Fame. In 1992, the League founded the Steve Huntz Alumni Award, named after the only League alumnus to play in the Major Leagues.

Mr. Speaker, please join me in honor, tribute, and celebration of the past and present leaders of the Garfield Heights Baseball League, for their fifty years of commitment to the youth of Garfield Heights. These leaders are the guardians of the most beloved and historic game in American history, and because of them, the boys and girls in Garfield Heights will come to know the joy of fielding a ground ball, hitting the winning run, teamwork, and winning and losing gracefully. The Garfield Heights Baseball League has given its youthful ballplayers much more than the love of the game—they've given generations of kids an understanding of life's lessons in the form of a baseball game, and they've created cherished childhood memories that last from the early innings of childhood, to the bottom of the ninth, two down, tie score, bases loaded. Batter up.

## ARTICLE ON REPRESENTATIVE MATSUI

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. RANGEL. Mr. Speaker, I would like to call your attention to the attached article on Rep. MATSUI featured in the Monday, July 22, 2002 edition of Roll Call entitled: Bob Matsui: the Democrats' Balancing Act.

Rep. MATSUI has been an outstanding and exemplary Member of the United States House of Representatives for 24 years. On the Ways and Means Committee, which I am privileged to serve as Ranking Democrat, Mr. MATSUI has been a stalwart protector of Social Security and a champion of expanding free and fair trade. It is with pleasure and pride that I ask that this article, which profiles his unwavering commitment and service to the committee, this august body, and the American people be included in the CONGRESSIONAL RECORD.

### BOB MATSUI: THE DEMOCRATS' BALANCING ACT

(By Ben Pershing)

ROLL CALL—JULY 22, 2002 MONDAY

Try to get Rep. Robert Matsui (D–Calif.) to talk politics. You won't get very far.

After 24 years in Congress, he's no stranger to polls and tactics, and he's happy to explain why Democrats are better than Republicans. But he'd really rather talk about policy, which is why the current uproar over accounting practices and corporate governance suits him so well.

On an issue in which the politics are all about policy and reporters are writing breathless front-page stories about off-balance sheet partnerships, wonks can be weapons. And that's where Matsui comes in. As a senior member of the Ways and Means Committee, Matsui, who currently serves as ranking member on the panel's subcommittee on Social Security, has had to spend the past several years playing defense. He's expended most of his energy trying to combat Republican proposals, with little opportunity to advance his own.

But as he sees it, the current climate gives Democrats a chance to attack. And he doesn't think there is much the GOP can do about it.

"To some extent—and this is my belief," Matsui said in an interview last week, "They are somewhat immobilized because they've received so much help from corporate America they really can't take them on in an effective way."

AN OPPORTUNITY

Democrats have certainly received plenty of corporate contributions themselves and have also played a role in blocking reforms in the past. But Matsui thinks charges that Republicans are in bed with big business fit neatly into a long-established Democratic storyline, meaning GOP efforts to fight back will fall on deaf ears.

"Just like the public knows that the Democrats are better on Social Security and Medicare and the Republicans have historically been better on defense, they know that Republicans are beholden to the business community," Matsui said. "Republicans can't change that, and for them to try to deny that would almost be counterintuitive."

Matsui is part of a group of more than two dozen senior Democratic lawmakers—dubbed the "extended leadership"—who meet in Minority Leader Richard Gephardt's (D–Mo.) office every day at 5 p.m. when the House is in session. Lately, "business-gate" has been a prime topic of discussion.

Democrats see the business scandals as a way to segue into their other top campaign issues—prescription drugs and, especially, Social Security. The Democratic Congressional Campaign Committee sends out daily press releases accusing GOP lawmakers of "breaking the trust," and now Democrats charge that Republican plans for Social Security reform will take money promised to seniors and give it to those same scheming Wall Street brokers.

When House and Senate Democrats held a press conference July 12 to hit the GOP on corporate issues, Matsui's contention that "Republicans have a secret plan to privatize Social Security" was CNN's sound bite of the night.

Aside from pointing out that much of the corporate malfeasance now being spotlighted happened during the Clinton administration, Republicans also hope that the Democrats may go too far and paint themselves as the anti-business party.

Matsui is not particularly worried about a backlash because he is 100 percent convinced of the efficacy of Democratic policies.

"I think the business community knows that the Democratic Party has been essentially responsible for the growth in the economy in the last 50 years," Matsui said, echoing the common Democratic refrain that the current economic downturn coincided with the Republicans moving back into the White House.

### MAN IN THE MIDDLE

Democrats believe it makes sense to deploy Matsui on the corporate scandals because he is seen as a relative voice of reason on the Ways and Means minority roster.

"He doesn't have a long list of sort of knee-jerk, anti-business stuff," said a senior Gephardt aide, arguing that Matsui's relatively moderate record on economic issues lends him added credibility.

Matsui is by no means the only—or even the most prominent—member of Ways and Means to focus on this topic. With Gephardt and ranking member Charlie Rangel (D–N.Y.) coordinating, committee Democrats such as Reps. Richard Neal (Mass.), Sander Levin (Mich.), Jim McDermott (Wash.) and Lloyd Doggett (Texas) have all carved out their niches.

Matsui's specialties are Social Security and trade, though he is comfortable with just about everything in Ways and Means' broad portfolio.

"He knows the subject well, but he also knows how to place it in a larger context," said Levin. "He knows the forest and the trees."

In terms of style, Matsui sits on the Ways and Means median. He gets less attention than Rangel, the party's political standard-bearer on the panel, and he is not as liberal as Rep. Pete Stark (D–Calif.), who is just ahead of Matsui and behind Rangel on the seniority list. But Matsui is also less inclined to cut deals with the GOP than someone like Rep. Benjamin Cardin (D–Md.).

"You look at those three, he always seems to play the middle," an aide to a GOP Ways and Means member said of Matsui vis-a-vis Rangel and Stark. "You always have Matsui trying to sound like the voice of reason among those three."

But the aide cautioned that, while Matsui is pragmatic and relatively easy for Republicans to deal with, "don't let that fool you, He's very partisan."

"There's something in between being low-key and being a table thumper," suggested Levin. "He's in the middle."

Matsui's most prominent policy role in the past several years has been on trade promotion authority, also known as fast-track. An avowed free-trader, Matsui whipped his fellow Democrats to support fast-track in 1993 and 1997, and he backed permanent normal trade relations with China in 2000.

But Matsui doesn't support the current version of trade promotion authority, arguing that it may give the World Trade Organization the power to undermine American domestic laws. The bill passed the House last December by just one vote, with only 21 Democrats voting in favor.

Rep. Jim Kolbe (R–Ariz.) worked very closely with Matsui on trade issues in the past when the two lawmakers were on the same side of the fight. But Matsui's more recent stances on trade bills have meant that, on a professional level, "that relationship has become somewhat strained," said Kolbe, hastening to add that he still likes and respects Matsui personally.

"We miss him a lot on the trade issues. I wish we could get him back."

### AMBITION

With 12 terms in the House under his belt and a decent record of achievement, the 60-year-old Matsui could look to expand his horizons.

But, having been in the minority now for eight years, Matsui doesn't aspire to elected leadership and says his biggest goal is simply to become chairman of the Ways and Means subcommittee on Social Security.

Matsui is loyal to Rangel and won't even entertain a question about whether he would like to become Ways and Means' leading Democrat if the New Yorker leaves the House before he does (and there's no indication that Rangel is going anywhere in the near future).

Yet it's hard to imagine that Matsui wouldn't want the job given his love for the committee's work. And with Stark's well-documented history of outlandish remarks and unpredictable behavior, it appears unlikely that Democrats would ever hand him the top job on a major committee.

"I don't think there's any question that if Rangel leaves Matsui is the natural next candidate" to run Ways and Means, said a senior Democratic leadership aide.

On the political front, Matsui has toyed with running for governor or the Senate in the past, but he points out now that the best way to run statewide in California is to shoot first for a position such as lieutenant governor, a job that he sees as far less attractive than his current post in the House.

Matsui also did stints as treasurer and deputy chairman of the Democratic National Committee in the '90s, and his wife, Doris, worked in the Clinton White House. But he'd still rather focus on substance.

"I enjoy the mechanics. When we had the trade issues and I was whipping it on behalf of the Clinton administration, I enjoyed that," he recalled. "On the other hand, I really enjoy policy. It is my strength."

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## IN HONOR OF BLACKIE HOWLETT

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Blackie Howlett, United States Veteran, pilot, devoted husband, father and grandfather, and dear friend to many.

Mr. Howlett was born Jack J. Howlett II eighty-two years ago in his parents' home on Cleveland's Westside. After attending John Marshall High School, he attended Baldwin-Wallace College. During the 1930's, Howlett learned to fly open-cockpit planes here in Cleveland, from the Cosby Brothers, who were local stunt pilots.

Mr. Howlett was an expert aviator, and utilized his skills and knowledge for the protection and service of the United States. As a U.S. Marine, Mr. Howlett was part of the military crew that helped to build an airport in Kinston, NC. During that time, renown pilot Charles Lindbergh visited the base to train pilots. Mr. Howlett was one of Lindberg's students. Toward the end of WWII, he was stationed on Wake Island in the Pacific, as a Commanding Officer of the Marine detachment. Mr. Howlett accepted the surrender of Japanese troops on Wake Island. Later, he remained in the service and was in command of an airport at Osaka, Japan. Several years after WWII, Mr. Howlett left the military, and had achieved the status of Major.

After his military tenure, Mr. Howlett joined Irving Cloud Publishing, where he founded Aviation Equipment and Maintenance Magazine. Later, he founded Howlett and Associates, a consultancy company, for aviation publications located around the globe. Mr. Howlett maintained his involvement and participation in aviation throughout his life. During his senior years, he founded the local chapter of the Silver Wings Fraternity, an organization comprised of senior pilots.

In addition to his passion for flying through the air, Mr. Howlett had a life-long interest in flying across the ice. He was an active speed skater in his youth, and was an original member of the Lake Erie Speed Skating Association. He also helped organize the United States Luge program, and was a team manager for the United States Luge Team in the Olympics. In 1989, Mr. Howlett was inducted into the Cleveland Sports Hall of Fame.

Mr. Howlett's beloved wife, Dorothea, passed away in 2000. He was the beloved father of Jeffrey, Carrie and Jennifer, and one grandchild.

Mr. Speaker, Mr. Blackie Howlett was an extraordinary pilot, accomplished businessman, dedicated citizen, and devoted family man. Mr. Blackie Howlett will be greatly missed by all who knew him well, yet his legacy of living life to its absolute fullest—a man who dared to soar where sunlight settles on the highest cloud, a man whose energy and spark belied a gentle nature—will live on for generations to come.

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## 48 HOURS IN A CHINESE DETENTION CENTER

**HON. JAMES P. McGOVERN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. McGOVERN. Mr. Speaker, today I met with Daniel Pomerleau a student from Clark University in Worcester, Massachusetts. Last March, Mr. Pomerleau traveled to China to meet with fellow practitioners of Falun Dafa and to learn more about the Chinese government's persecution of its people. As a result of his interaction with Chinese citizens, Mr. Pomerleau was held in a Chinese Detention Center for nearly 48 hours.

Mr. Pomerleau gave me a copy of Clark University's WheatBread Magazine. The magazine has a detailed description written by Mr. Pomerleau of his experiences in China. I ask unanimous consent to have Mr. Pomerleau's article inserted in the CONGRESSIONAL RECORD.

Mr. Speaker, I am certain that the U.S. House of Representatives join me in thanking Mr. Pomerleau for bringing his story to our attention.

## 48 Hours in a Chinese Detention Center

(By Daniel Pomerleau)

Three weeks ago, my older brother and I were detained in China for talking to people about Falun Dafa. I would like to share with you my experience in the article below. But before I do, I would like to briefly explain our reasons for going, as well as the current situation in the persecution in China.

We departed from Logan airport on Sunday morning, March 24. We split up in Vancouver, Canada, both of us heading in different directions; my older brother Jason to Hong Kong and myself to Beijing. We planned to meet in Beijing a few days later and travel by train through the Northeast of China.

We were traveling to China for similar reasons. We both wanted to expose the persecution of Falun Dafa to the Chinese people and share with them our personal experiences with the practice. We have experienced many first-hand benefits from practicing Falun Dafa and its principles of truthfulness, compassion, and forbearance. We couldn't understand how people could be tortured and killed for doing something as harmless as meditating and trying to be good people. Good people should not be treated like criminals.

While watching the persecution grind on for the past two and half years, we have been horrified by the accounts of harassment, extortion, torture, rape, and killing of Falun Dafa practitioners in Chinese prisons and labor camps every day. Over 150,000 people have been detained and physically abused, and nearly 400 have been tortured to death. Groundless propaganda is spewed out day after day by the Chinese President through all media outlets to vilify the practice and keep the death cases silent. As a result, the average Chinese person knows nothing about the deaths, and even less about the thousands of honors and proclamations bestowed on Falun Dafa outside of China. Because all the books about the practice are outlawed, they only know what's aired in the media. It's really sad. They are the biggest victims.

The Chinese president, the man responsible for this persecution, claims that Falun Dafa is detrimental to China's social stability and must be crushed at all costs. Why then is it proven to be so beneficial to the social stability of over 50 countries, where it has been practiced freely and peacefully for the past seven years? Why does the Chinese government say bad things about it while the other 50 countries and their people, with various types of cultures, religions, and governments, support it? What is the real motive behind this persecution? Is what the Chinese people hear everyday true?

My brother and I went to China simply to ask the Chinese people to think about these questions. We had no intentions of holding a protest or getting arrested, and we have no interest in political matters or attacking the Chinese government. We also weren't planning on creating a media hype. I was set on quietly returning home after a week or so of travel, and most of you would never have known I had gone if I hadn't been arrested. I felt that if I could talk to just one person and clarify the truth to them so that this person knew the truth about this persecution and no longer wanted to go along wit it, I would have accomplished what I had set out to do.

Unfortunately, however, I didn't make it very far.

I arrived at the Beijing International Airport at approximately 4:00 pm on March 25, and headed to a nearby subway station. I got off at a busy Beijing street with people on Bicycles bustling about. Remembering my purpose of coming to China, I took the opportunity to begin talking to a few people and hand them small pieces of information. Everyone I handed it to looked at it, read a few words, and exclaimed "Oh, Falun Dafa! Thank you!" They seemed very happy to be receiving such information from a westerner.

After talking briefly with about five people, a big ruffian approached me from behind, grabbed my arm and pulled me to the side of the street. I was immediately surrounded by several other men and couldn't move. The men had red bandanas tied around their arms and didn't identify who they were. One of them had the information I had handed out in his hand, so I knew who they were and what they were up to. They were thugs hired by the Chinese government to specifically arrest Falun Dafa practitioners. Most likely, they got an award for each new person they arrested. At that point, having read countless stories of the beatings and tortures that have occurred, I knew what I could be about to face. It was pretty scary.

When I tried to leave and continue on my way, they grabbed my luggage and didn't allow me to move. They seemed very nervous and didn't want the Chinese people on the street to know what was going on. Soon a police van came and about seven uniformed police began forcing me towards the van. At this point, I knew it was probably my last chance to do what I had come to China to do, so I called out as loud as I could to the huge crowd that had gathered around me "Falun Dafa Hao!" (Falun Dafa is Good). They looked stunned.

This was my first encounter with the viciousness of this persecution; for, as soon as I said those words, the police began slapping me in the face and kicking me in the legs to keep me quite. "Falun Dafa is Good" is the last thing they wanted the Chinese people to hear. As I continued to call it out to the crowd, I was picked up and thrown into the police van. The visors were closed and they continued to kick me to keep me silent.

I was taken to a nearby police substation, where I immediately asked to call the U.S. Embassy. They denied the request and instead took away my passport, airplane tickets, and wallet. Upon finding Falun Dafa information in my bag, they said I had broken the law and must be punished. I told them that they were the ones breaking the law. Their own constitution guarantees the right to freedom of speech and belief, and the Chinese president was breaking the International Covenant of Human Rights by torturing and killing innocent people. They said that it didn't matter because I was in China and had to do what they said. I didn't agree. They began asking me many questions and kicked, slapped, and shoved me when I refused to answer. After about one and a half hours of interrogation, I was taken to a hidden detention center located in a parking garage.

The detention center had two cells in it. I was put into a cell by myself and my luggage was kept away from me. The cell was very dirty and the bed was covered in stains. Most of the policemen watching me were very young and had no interest in arresting me. They were just doing their jobs. I felt very sorry for them because of this. Upon reading the information about Falun Dafa that I had brought with me, they seemed shocked to see the pictures and read the information about the people who have been killed.

I was locked in the cell by myself for the next 45 hours until about 4:00 p.m., Wednesday the 27th. On different occasions, the guards tried to get me to answer several questions as to where I was from, who I traveled to China with, where I got the information I had brought with me, and if I had been in contact with anyone in China. I refused to answer any questions I thought could be used to distort the truth or used to hurt other people. They also tried to get me to sign a form several times, but I refused. On two occasions, the guards were very violent.

One of these times was in the afternoon on Tuesday the 26th. After being escorted to and from the bathroom, I asked them if I could do my homework (which I had brought with me from school). At this point, one of the guards became very angry and pushed me back into the cell. He punched me in the mouth and stomach, and kicked me down to the bed. I had a bloody lip for about 20 minutes.

The other time was in the morning on Wednesday, the 27th. When the guards were still asleep, I used a coin to write Chinese characters on the wall. The characters read 'Falun Dafa is good', 'truthfulness, compassion, and forbearance is good', and 'Falun Dafa is a righteous practice.' I signed it 'an American college student, March 27th.' I wrote the words because I felt it was the only way left I had to let the people who came into the detention center know why I was there. Upon waking up, the guards were stunned, and stared at the writing over and over again. Two hours later, they came into the cell and washed the words away, demanding that I leave the cell with them so they could take my photo and thumbprints. I refused. Again, I told them I was not a criminal and had done nothing wrong. I shouldn't be here, and they should be out on the street arresting people who commit real crimes and rob people. Two of them dragged me out at that point and began punching me in the head and kicking me in the torso. In the end, they were unsuccessful at taking my thumbprints or photo. Later in the day, one of the mean-spirited guards spit in my face after I told him he shouldn't persecute good people.

It was 24 hours before they asked me if I wanted any food or water. At this point, I went on a hunger strike for the remaining 24 hours of my stay. I told them that my detention was illegal and I would not eat or drink until I was released. I practiced the Falun Dafa exercises frequently to keep my energy up and the guards got very quiet and looked on intently as I went through the slow motion movements. Probably most of them were very intrigued to watch a westerner perform the exercises. There were always at least two guards on duty at all times, but there were frequently up to five or six at various times.

During the whole time, I tried to remain calm and put the principles of truthfulness, compassion, and forbearance into practice. For some of the guards, the ones that had a little bit of kind heart in them, it had a positive effect. After a while, they could see I was a good person and their consciences began to function. They were more open to what I said and didn't yell back in reply. They didn't want to have anything to do with the beatings.

At around 4:00 pm on March 27, the guards entered my cell and told me that it was time to leave. Upon walking out of the cell, I grabbed my luggage and was escorted into a police van with seven more uniformed police. I was taken to a place where they picked up my new return trip tickets, and then to the airport. At the airport, they drove the police van up to the plane itself so that I was not allowed to come into contact with any other people while in China. They treated me like a highly dangerous criminal. They most likely feared that I would tell the people I came into contact with that Falun Dafa was good and expose the beating I had received while in custody.

Though it was very brutal, what I experienced is nothing compared to what the people in China have been facing everyday for the past two and a half years; and they don't have a safe home to come home to. Hundreds of thousands are languishing in labor camps and detention centers all across the country where they are tortured with electric batons, beatings, sleep deprivation, and mind-altering drugs. If they refuse to sign statements to give up practicing Falun Gong, they are forced into brainwashing classes where they are barraged with hate propaganda designed to break their wills. The physical and mental suffering is unimaginable.

The day I arrived in China, there was a huge police sweep in the northeast city of Changchun. The police sweep came after a state order from the Chinese President two weeks earlier to "kill without pardon" Falun Dafa practitioners who post information or expose the truth of the persecution to other people. The police were given a quota: five practitioners for every one policeman. In one day, over 5,000 people were arrested. Over the course of a single week, dozens have reportedly been executed.

The situation becomes increasingly urgent with each passing day, and is approaching the severity of Nazi Germany. Though I didn't get to talk to many Chinese people directly while in China, I am glad that at least more people here are aware of the situation. I hope that all kind-hearted people can offer any support that they can.

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## IN HONOR OF ALLISON McCORMACK

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of June Allison McCormack, community and political activist, successful businesswoman, beloved mother, grandmother, and trusted friend.

Mrs. McCormack was an extremely kind soul with a generous spirit, who was always looking for ways to help others. She traveled frequently to points across the globe, looking for ways to improve the environment for children living in impoverished areas.

Mrs. McCormack donated her time and money to several worthy charitable organizations, and encouraged others to do so. Instead of accepting holiday and birthday gifts from families and friends, she requested that they donate to the charity of their choice.

Besides her philanthropic work and commitment to volunteerism, Mrs. McCormack possessed a sharp sense for business, and successfully operated June McCormack Realty for 25 years, before retiring in the mid-eighties.

Mr. Speaker, please join me in honor and remembrance of June Allison McCormack, beloved wife of the late Earl Patrick McCormack, devoted mother of four, and devoted grandmother of ten. Mrs. McCormack leaves behind a legacy of a generous spirit and devotion to helping others, especially children, and she will be greatly missed.

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## FIGHTER PILOTS HONORED

### HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to a group of individuals who did a great service to our nation. These men are fighter pilots from the Royal Australian Air Force and the New Zealand Royal Air Force who were assigned to US combat units and served as Forward Air Controllers during the Vietnam War. I would like to honor the following individuals:

ROYAL AUSTRALIAN AIR FORCE

Wg. Cdr. Col Ackland, Flt. Lt. Ray Butler, Fg Off. Peter Condon, Flt. Lt. Garry Cooper, Flg. Off. Mac Cottrell, Wg. Cdr. Vance Drummond, Flg. Off. Huck Ennis, Flt. Lt. Brian Fooks, Flt. Lt. Tony Ford and Flg Off. Frank Fry.

Flt. Lt. Dick Gregory, Flt. Lt. Jack Hayden, Flg. Off. Chris Hudnott, Flg. Off. Dick Kelloway, Flt. Lt. Chris Langton, Wg. Cdr. Peter Larard, Flg. Off. Chris Mirow, Flt. Lt. Ken Mitchell, Flg. Off. Bruce Mouatt, Sqn. Ldr. Graham Neil, Sqn. Ldr. Dave Owens, Wg. Cdr. Tony Powell, Sqn. Ldr. Rex Ramsay and Flt. Lt. Doug Riding.

Flg. Off. Dave Robson, Flg. Off. Barry Schultz, Flt. Lt. Bruce Searle, Flt. Lt. Ken Semmler, Flt. Lt. Arthur Sibthorpe, Flt. Lt. Ron Slater, Flt. Lt. Peter Smith, Wg. Cdr. Barry Thomas, Flt. Lt. Gavin Thoms, Sqn. Ldr. Nobby Williams, Flt. Lt. Roger Wilson and Flt. Lt. Bruce Wood.

NEW ZEALAND ROYAL AIR FORCE

Flt. Lt. Murray Abel, Flg. Off. Mike Callanan, Flt. Lt. J.M. Denton, Flg. Off. B.W. Donnelly, Flt. Lt. Ross Ewing, Flt. Lt. Graeme Goldsmith, Wg. Cdr. R.F. Lawry, Flt. Lt. Bryan Lockie, Fg. Off. Darryl McEvedy, Flt. Lt. Dick Metcalfe, Sqn. Ldr. John Scrimshaw, Flt. Lt. G.R. Thompson, Wg. Cdr. Wallingford and Flt. Lt. Peter Waller.

I would also like to recognize Lt. Col. Eugene Rossel and Flt. Lt. Garry Copper for actively pursuing decorations for these men who served our country in a time of need.

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## IN HONOR OF REVEREND GARY HOOVER

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Reverend Gary Hoover, OSB, on the occasion of his 25th Anniversary of his profession of vows, on July 16, 2002.

Reverend Hoover, a Benedictine monk, has taught theology at Benedictine High School for the past eighteen years. He has recently been assigned to the position of Director of Alumni Affairs at the High School.

In addition to his new position and teaching duties, Reverend Hoover is the director of Campus Ministry, and is the chaplain for Benedictine's athletic teams.

Reverend Hoover continues to demonstrate his commitment and dedication to his faith, and to the students and families he serves. He is an integral part of what makes Benedictine High School an outstanding, faith-centered, educational institution.

Mr. Speaker, please join me in honor and recognition of Reverend Gary Hoover, on the occasion of his 25th Anniversary in the priesthood. Reverend Hoover's dedication, counsel, and teaching have enhanced and strengthened the entire Benedictine community.

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## TRIBUTE TO JEANNIE VAN VELKINBURGH

### HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Ms. DEGETTE. Mr. Speaker, today, I join all of Denver in sorrow at the tragic loss of one our city's great heroines and in offering my heartfelt condolences to her sons, Joseph and Anthony. A person of great courage and selflessness, Jeannie Van Velkinburgh exemplifies the virtues Denver strives for.

On the night of November 18, 1997, Jeannie was shot and paralyzed while trying to prevent the murder of Oumar Dia, a West African immigrant living in Denver, who was attacked just because he was black.

Despite struggling everyday with her paralysis, Jeannie never regretted putting her own life at risk to try save the life of a stranger. Just last week she reiterated her conviction that she had done the right thing, saying, "You're supposed to help people when things are going wrong . . . If you walk away, how can you call yourself a good person?"

Everyone in our community can learn from Jeannie's legacy of love and respect for all people, regardless of their race, religion, or ethnicity. While her ongoing efforts to recover from the attack were so difficult, Jeannie remained an icon of the fight for equality. Esquire Magazine recognized her in 1998 as one of the "New American Heroes" for standing up for a man she had never met before. In 1999 she received the prestigious Hubert H. Humphrey Award from the Leadership Conference on Civil Rights for exemplifying Humphrey's legacy of selflessness and devoted service for equality.

The men involved in wounding her so deeply, both physically and emotionally, are now behind bars, but that does not mean the fight for justice is over. I urge all Denverites to follow her belief that, "we should stick together no matter what color you are."

For my part, I will continue to introduce and support legislation that will strengthen the regulations for purchasing assault weapons by working to close the "gun show loop hole". Furthermore, I will continue to work towards strengthening the penalties for hate crimes, the kind of crime that took the lives of both Jeannie Van Velkinburgh and Oumar Dia.

## IN HONOR OF FRANCIS SCOTT CWIKLINSKI

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Francis Scott (Frank) Cwiklinski, U.S. Military Academy graduate, Persian Gulf War veteran, executive editor of the Cleveland State Law Review, and trusted friend to many.

Following his graduation from Valley Forge High School in 1985, Mr. Cwiklinski attended West Point Academy, and graduated in 1989. Following his college graduation, he served in the Army as a First Lieutenant during Operation Desert Storm. Mr. Cwiklinski worked on renovating rental properties in Cleveland's Tremont neighborhood prior to attending law school.

Besides writing for the Law Review, Mr. Cwiklinski was a columnist for The Gavel, the official newspaper of Cleveland-Marshall College of Law. He was ranked in the top ten percent of his class, and was scheduled to graduate this December.

Mr. Speaker, Mr. Cwiklinski's endless energy, quick smile, and friendly demeanor greatly enriched the lives of all who knew him, especial his family, friends and colleagues, and though he will never be forgotten, he will be greatly missed.

## SERIOUS CRIMINAL DEEDS MUST BE PUNISHED

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. OWENS. Mr. Speaker, the massive suffering being inflicted on millions of employees and investors by corporate thieves is still difficult to comprehend. Members of Congress have a duty to clarify the murky "infectious greed" scenarios unfolding everyday. Stealing by very sophisticated means is still thievery. When an executive is granted a 400 million dollar loan, there is no way to explain it as a rational business decision. Congress must confront this dirty business by pushing harder for the confiscation of stolen money. We must establish a system for restitution to swindled employees, current and retired. And Congress must push for greater criminal penalties.

The very rich insiders must be forced to confront their crimes. Deprival of liberty by sentencing corporate crooks to prison is a necessary step to foster deterrence and restore confidence in our financial systems and markets. Already our constituents are ahead of the lawmakers in demanding justice. Those members who are soft on white collar crime will pay at the polls. It is the Great American Middle Class that is now being victimized. The following RAP poem summarizes their sentiment:

MESSAGE TO THE REPUBLICAN MOB

Before you merely mauled welfare mothers,
But now you're messing with
The Great American Middle Class;
We'll kick your rear!
Grandfathers are full of fear,
New anger after every tear,
Our pensions down the drain,
No shelter from old age rain;
O say Newt can you see
Pain and suffering you contracted for me?
Chisel swindle in the great greed spree,
Criminals still strutting free,
Lock up that mugger
With the 400 million dollar loan,
Tell the crook building that
Multi-million dollar home
You'll shoot if he lays another stone.
Stage a raid
On all the board room whores
Hiding behind fancy carved doors;
Bring out the hand cuffs,
Shine bright lights in haughty faces,
Drag them through drug pusher paces;
Grill Martha and the Hamptons crowd,
Make them confess
Early and loud.
Special prosecutors to the front lines.
In 2002 we have real crimes,
Whitewater was just kid stuff;
Let's play Harkin and Halliburton bluff:
At each turn
Take ten million and run—
Insiders have all the fun,
A tax break bonus
For each step you mount,
Ordinary dumb investors
Can't follow the count.
Chisel swindle in the great greed spree,
O say Newt can you see
Pain and suffering you contracted for me?
Before you merely mauled welfare mothers,
But now you're messing with
The Great American Middle Class;
At the November showdown
We'll be kicking your elephant (bleep)!

## THE FINANCIAL MARKETS, SECURITIES AND ACCOUNTING INDUSTRIES HAVE CAUSED AMERICAN TAXPAYERS AND INVESTORS TO LOSE $4 TRILLION SINCE 2000

### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. DAVIS of Illinois. Mr. Speaker, before Enron Corporation's bankruptcy filing in December 2001, the firm was widely regarded as one of the most innovative, fastest growing, and best managed businesses in the United States. With the swift collapse, shareholders, including thousands of Enron workers who held company stock in their 401(k) retirement accounts, lost tens of billions of dollars. It now appears that Enron was in terrible financial shape as early as 2000, burdened with debt and money-losing businesses, but manipulated its accounting statements to hide these problems. Now, WorldCom, the nation's second-largest long distance telephone company has been charged with fraud by the Securities and Exchange Commission. Reports have revealed that WorldCom defrauded investors by improper accounting practices for $3.9 billion in expenses during 2001.

We are discovering that publicly traded companies have contributed to bilking the American investors and taxpayers out of about $4 trillion since 2000 due to unaccountable financial filings, accounting errors, misinformation, and mismanagement of funds that has caused the financial markets to become unstable. Where are our watchdogs? They were nowhere to be found when it comes to integrity.

In order to ensure corporate accountability, we need to establish under the jurisdiction of the Securities Exchange Commission (SEC) ways to regulate accounting firms that audit SEC registrants (publicly trade firms). This type of structure could be empowered to charge registrants with annual fees to pay for the cost of staff to carry out the suggested plan of surveillance of auditors. This concept would intervene between a registrant and it's auditor before, during and at the end of an audit, it would be more effective than the current regulatory system in achieving:

An early warning of potential financial disasters such as Enron and WorldCom;

Requiring a change in auditors when the SEC deems it appropriate;

Require pre-approval of consulting engagements for a registrant to be conducted by its auditor;

And, improve the format and content of financial and the auditor reports by including information about labor relations, research and development, marketing programs, and new products.

These are the kinds of things that must be done. Therefore, I have introduced today a bill to establish an Office of Audit Review within the Securities and Exchange Commission to ensure the audits of certain public companies.

## PERSONAL EXPLANATION

### HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. MALONEY of Connecticut. Mr. Speaker, I was absent on Monday, July 22, 2002, and missed rollcall votes No. 324 and No. 325. Had I been present, I would have voted "aye" on rollcall No. 324, and "aye" on rollcall No. 325.

## RECOGNIZING THE U.S.S. "SIERRA" VETERANS ASSOCIATION'S RESOLUTION OF SUPPORT FOR OUR WAR AGAINST TERRORISM

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. GILMAN. Mr. Speaker, I rise today to express my gratitude to the U.S.S. *Sierra* Veterans' Association for their patriotism and support of our President, the Congress, and our armed forces as we wage our war against terrorism.

At the 14th Annual Reunion on September 28th 2001, the U.S.S *Sierra* Veterans' Association passed a Resolution expressing their anger at the terrorists attacks of September 11, 2001 and voicing their support of the President and Congress taking appropriate action in combating terrorism. In addition, the association expressed their condolences for the destruction and loss of so many innocent lives following those barbaric attacks against the World Trade Center and the Pentagon, and over the skies of Pennsylvania.

It is important for us to recognize individuals and organizations that are expressing their patriotism, for just as we appreciate their support of our efforts to protect the American public, they must know that we appreciate their steadfast resolve towards fighting terror in their hearts and minds.

Accordingly, it is my privilege to present the house with the U.S.S. *Sierra* Veterans' Association Resolution in support of our war against terrorism and assure them that their message has been received and that we will work diligently and act decisively to protect innocent American lives.

The Domain of the Golden Dragon (Ruler of the 180th Meridian) Invaded September 7, 1944

U.S.S. *Sierra* (AD 18) Veterans Association

"THE SHIP WITH THE HELPING HANDS"

A RESOLUTION

Whereas: We of the U.S.S. *Sierra* [AD–18] Veterans' Association have gathered in Portsmouth, Virginia on September 28, 2001 for our 14th annual reunion.

Whereas: We, United States Veterans, are very angry and disturbed over the terrorists" attacks on the United States which occurred on September 11, 2001 with the resulting destruction and loss of so many innocent lives.

Be it resolved that we, U.S.S. *Sierra* Veterans, encourage and support our commander-in-chief, the United States Congress and those so delegated in all efforts to locate those individuals and groups responsible in any way for the tragic disruption of our security and freedom and to impose appropriate punishment in a timely and thorough manner.

## THE 50TH ANNIVERSARY OF THE CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO

## HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. ACEVEDO-VILÁ. Mr. Speaker, this Thursday, July 25, Puerto Rico celebrates the 50th Anniversary of the adoption of its Constitution as a Commonwealth. This Constitution established a unique relationship between Puerto Rico and the United States, which has enabled Puerto Ricans to preserve and promote our cultural identity, while guaranteeing our United States citizenship and protecting the values of liberty and justice that we share with all Americans.

This Constitution established a republican form of government, and provided for a broad Bill of Rights that followed both the U.S. Constitution and the Universal Declaration of the Rights of Man. This Constitution also provided for the election of all members of the legislature by the free will of the people. The ratification of the constitution by the people of Puerto Rico is the most significant democratic achievement for Puerto Rico in the 20th Century.

At the outbreak of the Spanish-American War, Puerto Rico already had a strong sense of nationhood and had achieved a high degree of autonomy under Spanish colonial rule. However, the initial U.S. rule on the Island, did not automatically bring democracy and progress for Puerto Rico. For decades Puerto Ricans continued to strive for autonomy and democratic rights. In 1917, the United States granted Puerto Ricans U.S. citizenship, but very little was provided to increase Puerto Rican participation in local government. In the 1940's, a new generation of Puerto Rican leaders sought a transformation in the relationship between the United States and Puerto Rico, in order to provide the necessary democratic tools for the economic, social and political development of the Island.

Leaders like Luis Muñoz-Marín, Antonio Femos, Jaime Benitez, and others, worked to pave the way for a new relationship between Puerto Rico and the United States.

In 1950, the U.S. Congress responded to Puerto Rico's claim to autonomy, by approving Public Law 600, which recognized the right of the Puerto Rican people to write and adopt their own constitution as a compact between the two nations. A Puerto Rican Constitutional Convention drafted the new Constitution, which was signed into law by President Truman and subsequently ratified by the overwhelming majority of Puerto Rico.

The Commonwealth is the result of a great generation of Puerto Rican and American leaders driven by a progressive vision and commitment to democratic values. President Harry Truman said: "The Commonwealth of Puerto Rico will be a government which is truly by consent of the governed. No government can be invested with higher dignity and greater worth than one based upon the principle of consent. The people of the United States and Puerto Rico are entering into a new relationship that will serve as an inspiration to all who love freedom and hate tyranny."

The Commonwealth is based on the free will of the Puerto Rican people who have supported the commonwealth status in all 3 plebiscites celebrated on the issue to date. The majority of Puerto Ricans prefer commonwealth over statehood and independence because it is the only status that allows them to preserve and promote their cultural identity, while maintaining the benefits of their political relationship with the United States.

Commonwealth is the only political and legal arrangement that harmonizes two central aspirations of the Puerto Rican people. On the one hand, Puerto Rican's will to preserve their autonomy and promote their distinct national identity, and on the other, their desire to preserve their U.S. citizenship and ties with the United States. Both aspirations are realized under the commonwealth. Moreover, the pro-commonwealth movement represents the Puerto Rican center, accommodating two radically conflicting political forces: independence and statehood.

The Commonwealth is based on four pillars: (1) common U.S. citizenship, (2) common defense, (3) common currency and trade; and (4) fiscal and political autonomy.

Puerto Ricans treasure the U.S. citizenship. They believe it represents the values of our democracy, liberty and justice that they share with all Americans. Thousands of Puerto Ricans have fought with valor and died as U.S. soldiers in all armed conflicts since World War I, and today they are proudly fighting the war against terrorism.

The economic and social benefits of the Commonwealth have been extraordinary. Puerto Rico's economic transformation was led by Governor Luis Muñoz-Marín and his Popular Democratic Party. The economic development project named "Operation Bootstraps" combined government investment, education, training and tax exemptions. Muñoz-Marín's leadership along with the U.S. government's assistance, transformed Puerto Rico into a modern and competitive country.

Puerto Rico's fiscal autonomy has been crucial to these achievements. Fiscal autonomy means that for tax purposes Puerto Rico is considered a foreign jurisdiction. This tool allows Puerto Rico to collect its own taxes, set its own fiscal priorities, and compete effectively with other foreign jurisdictions. Although U.S. residents in Puerto Rico do not pay federal income tax, they do pay federal payroll taxes.

The Commonwealth's success has been very beneficial for the United States as well. Today, Puerto Rico is the #1 per capita consumer of U.S. products in the world; and the 9th largest market for U.S. goods in the world. In 1999, Puerto Rico purchased $16 billion worth of U.S. products, which translates into 320,000 jobs on the mainland.

Today, the overwhelming majority of Puerto Ricans live a better life thanks to the Commonwealth. Moreover, in my view, commonwealth status was ahead of its time. The commonwealth is a pragmatic model capable of dealing with real problems; it is flexible and adaptable to the new global context. In fact, contemporary political theorists and scholars have recognized the benefits of an autonomous arrangement such as the Commonwealth of Puerto Rico. In the new world order, traditional concepts of political theory such as sovereignty, state and citizenship have changed and become more flexible. The focus today is on cooperation, integration and openness.

As anticipated by its creators, the Commonwealth may be continuously improved and enhanced. Under an enhanced commonwealth, Puerto Ricans have a prosperous future ahead.

The view that Commonwealth is the best alternative for the island is shared by the majority of Puerto Ricans. Statehood has never been favored in any plebiscite on status. Independence today has less than 5 percent of support. The Commonwealth was chosen by the voters in 1952, and it has been favored in every plebiscite since—in 1967, 1993 and 1998.

That being said, the issue is not settled and Puerto Ricans are still divided. It is important to understand that in the 1950–52 process, Puerto Rico exercised, but did not exhaust its right to self-determination. In other words, Puerto Rico still preserves its fundamental right to self-determination.

In fact, one of the primary obstacles to any process to deal with the status of Puerto Rico has been a fundamental lack of agreement as to which mechanism would allow the people of Puerto Rico to reach a decision on this matter in the fairest manner possible.

Puerto Ricans believe that Congress will respect their expressed will. But Congress will respond only if we come to Washington with one voice, as a people. If we come divided, as in tribes, history has taught us, nothing will be accomplished.

To deal with this persistent obstacle, Governor Calderón have invited all three political parties in Puerto Rico to join in a process to reach a consensus as to the procedural mechanism we should follow, and will soon announce the formation of a Commission of Puerto Rican Unity and Consensus.

This Commission will be composed of equal numbers of representatives of Puerto Rico's three political parties, as well as a number of renowned jurists and other eminent private citizens, selected by the three parties in consensus. The Commission will then seek to reach non-partisan consensus on the procedure to be followed in future status discussions.

Notwithstanding this historic non-partisan process proposed by the Governor, I must tell you that the overwhelming majority of the people of Puerto Rican respect and cherish our Commonwealth constitution.

This week all Americans ought to celebrate the 50th Anniversary of the Constitution of the Commonwealth of Puerto Rico, not only because for the extraordinary achievements of the past 50 years but also for the bright future of growth that we have ahead.

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## INTRODUCTION OF THE RETIREMENT SECURITY FOR ALL AMERICANS ACT

### HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. POMEROY. Mr. Speaker, I rise today to introduce the "Retirement Security for All Americans Act," legislation that will help all of our nation's workers save for their retirement. Senator JEFF BINGAMAN (D–N.M.) has already introduced a companion bill in the Senate, and I am proud to sponsor this bill in the House.

Although there are several ways to measure pension coverage, there is one constant statistic—less than half of the workers in our country are covered by an employer sponsored pension plan. In spite of numerous incentives provided by Congress over the years, this coverage rate has remained virtually unchanged for the past three decades: In my home state of North Dakota, the plan participation rate is lower than the national average. Only 40 percent of workers participate in a retirement plan in the state. Therefore, about 60 percent of North Dakota's workers are without coverage and will have to fund their retiremnent through personal savings and Social Security. Unfortunately, most private sector workers who do not have a pension or retirement plan will not have significant savings, leaving them only with Social Security as their main source of income in retirement.

The legislation I am introducing today addresses this need by encouraging small- and mid-size employers, where pension coverage is severely deficient, to not only offer plans, but to provide contributions to their lower paid workers. Each of these provisions standing alone would improve coverage and our national savings rate. Combined, they strongly complement each other making passage of this bill imperative.

The first provision expands and makes permanent the current Savers' Credit that was signed into law last year. Currently, married couples earning less than $30,000 are entitled to a credit of half their retirement plan contribution. Those with income between $30,001 and $32,500 are eligible for a 20 percent credit, and a 10 percent credit is available for those with incomes above $32,500 and less than $50,000.

This bill would gradually phase the credit rate down for married couples with incomes between $30,000 and $55,000 and other filers with incomes between $15,000 and $27,500, eliminating the cliff-like structure of the current credit.

North Dakotans will greatly benefit from this provision. The average median household income in North Dakota is about $35,000. Over one-third (38 percent) of households in the state have incomes of less than $30,000. Workers in these households will receive $.50 for every dollar that they save in their 401(k) or IRA. An additional 34 percent of households in North Dakota have incomes between $30,000 and $50,000. Workers in these households will receive between $.10 and $.20 for every dollar that they save in their 401(k) or IRA. This additional money will help North Dakotans, and especially baby boomers, plan for their retirement.

The second provision of the bill requires all employers with more than 10 employees, who do not currently offer their employees a qualified retirement plan, to provide their workers with the option of a payroll deduction IRA. A payroll deduction IRA will allow workers to save small amounts out of each paycheck instead of making periodic or annual contributions to an IRA. This savings mechanism is desperately needed among workers and small employers who cannot afford to establish pension plans. To offset any administrative cost, a tax credit of $200 for the first year and $50 for subsequent years is provided to the employer.

The final section incorporates the Senate passed provision that was eliminated in the Economic Growth and Tax Relief Reconciliation Act of 2001 conference that provides small businesses with a tax credit for their contributions to the retirement accounts of their non-highly compensated employees. This should not only encourage many employers to offer a plan for the first time, but also create a noteworthy incentive to contribute to these employees' accounts.

I look forward to working with my colleagues to bridge this gap in pension coverage in our country. We must continue to advance proposals that will make meaningful improvements. I know this legislation is needed in North Dakota, and I hope my colleagues will join me in passing this important legislation.

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## COMMENDING THE TROOPS AT U.S. NAVAL BASE GUANTANAMO BAY

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. LANGEVIN. Mr. Speaker, I rise today to pay tribute to the patriotism of 100 of my fellow Rhode Islanders, who are members of the 43rd Military Police Brigade of the Rhode Island Army National Guard. As I speak, these fine men and women are deployed to U.S. Naval Base Guantanamo Bay in Cuba, where they are part of Joint Task Force-160. The mission of Joint Task Force-160 is to oversee the care, custody and control of the detainees who have been apprehended by United States and international forces in the global war on terrorism. The 43rd Military Police Brigade is serving as the core staff and headquarters for the entire Joint Task Force, as well as providing critical security requirements for Camp Delta, where the detainees are being held. Additionally, they support the efforts of Joint Task Force-170, which includes both the FBI and the CIA, who are handling interrogation of the detainees. In deploying to Guantanamo Bay, they have been reunited with their commander and fellow Rhode Island Guardsman, Brigadier General Rick Backus, who became the Task Force Commander in March of this year.

U.S. Naval Base Guantanamo Bay is over 45 square miles and is not only the oldest U.S. base overseas but it is also the only one in a Communist country. It is located on the southeast corner of Cuba, and is about 400 air miles from Miami, Florida. For these Guard members it is home because it is where their country needs them to be. They are an integral part of the 1,700 members of Joint Task Force-160, made up of servicemen and women from the Air Force, Army, Navy, Marines and Coast Guard, and they are all unsung heroes of the war on terrorism.

The 43rd Military Police is a mobilized National Guard unit from my hometown of Warwick, Rhode Island. They recently made history when, on May 20, 2002, they became the first National Guard unit to assume the role of a joint task force command. Clearly this demonstrates the ability of the National Guard to seamlessly transition into an active duty command. This complete integration of a National Guard Unit into a Joint Task Force is a tribute to both the National Guard Bureau and the U.S. Army.

A member of my staff recently had the privilege of visiting these Guard members at Guantanamo. He told me that it was impossible not to be struck by the professionalism and dedication of these men and women. Their morale is excellent, despite the incredibly stressful task they have. They make every daily decision, which affects the lives of 1,700 troops and 564 detainees, and they are our next-door neighbors. They are accomplishing something they have constantly prepared for but never imagined would become reality in this way. They have been assigned an awesome challenge and have risen to the occasion.

In recognizing these members of the Rhode Island National Guard, I also want to acknowledge the outstanding support that they receive from their families and their employers. Most of these Guard members are traditional members, or "weekend warriors", as they are often known. Many are self-employed or hold critical positions in their companies. The extremely unique demand of this war on terrorism is a duty that is shared by employers and employees alike. Many Guard members expect to be away from their families and jobs for four months, which could impose a significant financial and psychological burden on members at a time when they need to be functioning at 100 percent. The support they receive is critical to the success of their mission.

I am proud as an American and a Rhode Islander to recognize this partnership in patriotism displayed by the guardsmen of the 43rd Military Police Brigade, their families and their employers in their deployment as part of Joint Task Force 160.

## LEAP AWARD WINNERS IN ORANGE COUNTY

### HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Ms. SANCHEZ. Mr. Speaker, Today I rise to honor Chongge Vang and Debbie Barba for their leadership and dedication to the Asian community of Orange County.

Debbie, a third generation Japanese-American, worked her way up from telephone operator to Vice President of Local Operations for Pacific Bell. During her tenure, she provided a wonderful example to others in our community by returning to school and working to obtain her undergraduate degree from the University of Redlands.

Chongge Vang fled Laos in the late 1970's after fighting alongside the American CIA in a secret war. Since his arrival in Orange County, he has helped countless members of the Hmong community to become U.S. citizens and receive health care and other social-service support.

A modest man, Vang considers himself more of a helper than a leader. He stated that he became a leader only because others did not answer the call.

The Leadership Education for Asian Pacifics organization has recognized these two leaders. I would like to personally thank them for their hard work and the positive example they set for others in my district.

## KEEPING CANADIAN TRASH OUT OF MICHIGAN

### HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. BONIOR. Mr. Speaker, our state is a cathedral—not a dumping ground for Canadian trash.

For nearly 30 years, those of us in Michigan have taken responsibility for our own trash.

In the early 1970s, I worked with my colleagues in the State Legislature and the Michigan United Conservation Clubs (MUCC) to make Michigan the first industrial state in the nation to enact a bottle bill.

Michigan families wait in line to return their bottles and cans, meanwhile people in Canada and other states throw them in the garbage and truck them into our state. It is long past time to enact a ban on imported trash.

I introduced the first bill to allow local communities the ability to say "no" to out-of-state and Canadian trash in 1989 and passed it through the House in 1994—only to have Republicans block it in the Senate.

Today, Representative ROGERS offers an approach that many of us have been talking about for some time. We need to stop these trash trucks at our bridges and make it as difficult as possible for them to do business in Michigan.

Ensuring our border agents do not use their scarce resources to facilitate the flow of trash from Canada is a good first step, but we need to do more. We need to enact the Bonior-Dingell-Doyle-Greenwood-Upton legislation, which would allow local communities to ban out-of-state and Canadian trash.

I commend Representative ROGERS for drawing attention to this critically important issue for Michigan's families and look forward to working with him to enact a permanent ban on imported trash.

## TRIBUTE TO ANN MORGAN, U.S. BUREAU OF LAND MANAGEMENT'S COLORADO STATE DIRECTOR

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to Ann Morgan, the State Director of the Colorado Office of the U.S. Bureau of Land Management—the BLM. Ann will be leaving this position this week, after nearly five years of distinguished service in that demanding job.

Ann started as Colorado State Director of the BLM in October 1997. In our state, the BLM manages 8.4 million acres that include the full range of Colorado's diverse land forms, from forested areas, to river corridors, to red rock plateaus and open range expanses along the western slope. Managing these varied landscapes presents many challenges. Important balances must be struck between those that wish to use these lands for wildlife protection, open space, recreation, mineral development, grazing, timbering and oil and gas extraction.

As State Director, Ann had to work with the diverse interests to strike that balance. Her approach was to work for the kind of community-based partnerships that are so important for true multiple-use management. An example of this is the Colorado Outdoor Recreation Roundtable, where Ann was an active member. She also served as a co-chair of the Colorado Environmental Partnership, and has been an advisor to the University of Colorado Natural Resources Law Center. She also encouraged BLM to work across jurisdictional lines with the U.S. Forest Service and Colorado State Parks to better manage these lands and serve the public.

Ann recognized the value in conserving landscapes so that today's and future generations of visitors can enjoy the beauty and recreational potential of these public lands. To that end, she has helped build support for and increased the size of National Landscape Conservation System units. Working with the Colorado Congressional delegation, she was instrumental in the designation of the Gunnison Gorge and Colorado Canyons National Conservation Areas and the designation of wilderness areas within those NCAs.

Through her leadership and the good work of the BLM employees, important guidelines are in place to make sure that recreation, grazing and other uses do not negatively impact our public lands. These guidelines help underscore that the environment can be protected in concert with economic benefits that inure to communities by these resources and activities.

She also helped BLM make important strides toward integrating fire into overall land management. Today, the Colorado BLM has in place state-of-the-art Fire Management Plans, which utilizes naturally ignited fires to meet resource objectives. She has also helped create local community support for the BLM's fire program, and helped local communities develop fire management plans.

She has also been helpful on wilderness protection. She demonstrated strong leadership when she agreed to re-evaluate areas that contained wilderness characteristics to determine if the management of these areas should be revised to protect their wilderness values. She also was a supporter of the BLM's Colorado policy of providing interim protection of areas that have been proposed for wilderness in order to give Congress the flexibility to determine this ultimate disposition of these lands.

Before coming to Colorado, Ann served three years as BLM's State Director in Nevada, where she concentrated on developing standards and guidelines for rangeland health, improving the quality and timeliness of hardrock mining environmental analysis, and securing strong working relationships with local governments in a state where the BLM manages 67 percent of the land.

Before embarking on her BLM career, Ann was manager of the Washington State Department of Natural Resources Division of Aquatic Lands. There she was responsible for the multiple use management of more than 2 million acres of state public lands. She directed leasing, resource inventories and harvesting, public access and recreation, habitat protection and restoration, and statewide aquatic lands enhancement programs. Prior to that she managed engineering and construction projects for geothermal power plants for the Pacific Gas and Electric Company.

Ann will be moving on to work on public land and environmental issues with, the Natural Resources Law Center at the University of Colorado Law School in Boulder, Colorado. She also will be working with the U.S. Institute for Environmental Conflict Resolution on special projects. At these positions, I know that she will have an opportunity to continue to make important contributions to public lands management. Her experience and expertise will help these organizations better understand and respond to natural resource issues.

I wish her well in these endeavors and ask my colleagues to join me in thanking her for her dedicated public service to Colorado and the nation.

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## SALE OF ISRAELI ARROW WEAPON SYSTEM TO INDIA

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. PALLONE. Mr. Speaker, I rise on the House floor this evening to discuss the sale of the Israeli Arrow Weapon System to India.

According to several reports, Mr. Speaker, there is support within the Pentagon and support from Israel to make the sale of the Arrow Weapon System a reality. However, Secretary Powell and the State Department are preparing to express objection to India's purchase of this missile defense system from Israel, due to the current military standoff between India and Pakistan.

I sent a letter today to Secretary Powell, requesting that the Secretary not delay or oppose India's purchase of this missile defense system from Israel.

I strongly believe that the State Department's support for the Arrow Weapon System sale to India would further solidify the new defense relationship between the United States and India. For the past several months, the U.S. and India have participated in numerous joint military exercises which have fostered a strong defense relationship between the two countries, which share democratic interests and have been working together well against global terrorism.

In addition, the Arrow Weapon System was created to defend against short-range and medium-range ballistic missiles. Therefore, Mr. Speaker, India's interest in the Arrow Weapon System is to improve missile defense, not offense, which is a key factor regarding this sale that needs to be considered.

There have also been reports that indicate that India is preparing to buy parts from the United States for military equipment such as helicopters, jets and radar systems. The sale of this equipment was initially delayed due to sanctions imposed on India in May 1998. Those sanctions have been lifted for nearly one year and I requested that the sale of this equipment not be delayed as well due to the current situation between India and Pakistan.

Mr. Speaker, I am hoping that during Secretary Powell's trip to India this week, he will voice approval of this Israeli sale to India. This is a positive step for U.S.-India relations and because of the defensive nature of this defense system, the U.S. should not delay this sale due to the conflict between India and Pakistan.

JULY 23, 2002.

Hon. COLIN POWELL,
*Secretary, U.S. Department of State,*
*Washington, DC.*

DEAR MR. SECRETARY: I am writing today to urge you not to delay the sale of the Israeli Arrow Weapon System to India.

According to several reports, there is support within the Pentagon and support from Israel to make this sale a reality. However, I understand that during your upcoming trip to India, you are preparing to express your objection to India's purchase of this missile defense system from Israel, due to the current military standoff between India and Pakistan.

I strongly believe that the State Department's support for the Arrow Weapon System sale to India would further solidify the new defense relationship between the United States and India. For the past several months, the US and India have participated in numerous joint military exercises which have fostered a strong defense relationship between the two countries, which share democratic interests and have been working together well against global terrorism.

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I am hoping that during your trip this week, you will voice approval of this Israeli sale to India and I thank you for taking my views into consideration.

Sincerely,

FRANK PALLONE, *Jr.*

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## HONORING THE DISTINGUISHED CAREER OF BOBBY LEE THOMPSON

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding career of Bobby Lee Thompson, who recently retired as the United Auto Workers Region 8 director. Bobby Lee served as the Region 8 director for more than 11 years and served the UAW for 48 years.

Bobby Lee began his nearly five decades of service to the UAW when he was hired as an assembler at the General Motors assembly plant in Wilmington, Delaware, on January 11, 1954. He served in numerous capacities with the union, including president of UAW Local 435 and as an international representative.

Bobby Lee has been a tremendous advocate for the working man and woman in the auto industry. His hard work and dedication to the UAW has earned him many accolades. He has even earned international recognition as an advocate for workers in the field of independent arbitration. Bobby Lee has also taken an active and appreciated role in numerous Middle Tennessee community organizations and boards.

His leadership and vision at the UAW will be sorely missed. I congratulate Bobby Lee on his outstanding career and wish him well in his retirement.

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## TRIBUTE TO THOMAS J. DOUGHERTY, NATIONAL WILDLIFE FEDERATION

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to and acknowledge the outstanding work of Thomas J. Dougherty, a Senior Advisor with the National Wildlife Federation. Tom will be retiring at the end of this year after serving 18 years with the National Wildlife Federation and decades of work on environmental and wildlife protection efforts.

For over a quarter century, Tom Dougherty, who now lives in Loveland, Colorado, has worked to protect wildlife and its habitat on behalf of conservationists and the Wyoming and National Wildlife Federations. Tom's passion and talent for protecting wildlife first appeared in 1983, when Tom, then president of the Wyoming Wildlife Federation, roused the State of Wyoming and its legislature to pass an instream flow law. That law recognizes that leaving water in the stream for the sake of fish and wildlife is a legitimate and beneficial use of water.

About the same time, and on much drier ground, Tom began a campaign which found its way to the national evening news and into the courts. Tom dedicated himself to getting rid of a rancher's lethal twenty-eight mile fence, which blocked antelope from reaching their crucial winter range on Red Rim in south-central Wyoming. Thanks to Tom (with an assist from NBC Nightly News and the federal courts), the five foot high mesh wire fence, which was impenetrable to antelope, was completely removed, saving antelope from starving to death in severe winters. Several years later, Tom helped the Wyoming Game and Fish Department acquire the private lands on Red Rim so the Department and the Bureau of Land Management could manage those lands as The Red Rim Wildlife Habitat Management Area.

In the later 1980s Tom moved to the National Wildlife Federation's office in Boulder, Colorado, where he eventually became Western Staff Director. At this position, he worked with Representatives Pat Schroeder and Wayne Allard, the City of Denver, the United States Army, Shell Oil Company, the State of Colorado, and the United States Fish and Wildlife Service to designate the Rocky Mountain Arsenal as a National Wildlife Refuge—an unusual urban wildlife refuge. Tom's advocacy for the new refuge and talent for bringing people together to fight for wildlife were becoming nationally known.

That recognition may help explain his participation in the early 1990s of efforts to reform the grazing of livestock on our public lands. When then Secretary of the Interior Bruce Babbitt was embarking on reform efforts, heated controversy in the west naturally ensued. The Secretary, in order to forge a compromise, turned to Colorado, where Governor

Roy Romer was working to bring all sides together to develop a workable slate of reform proposals. Governor Romer included Tom in these efforts as he knew of Tom's ability to work with all sides, understand the concerns of the ranchers, and bring a spirit of collaboration—along with a passion for protecting the sustainability of the land for livestock and wildlife. When that effort expanded through Secretary Babbitt's participation, the Secretary and Governor Romer included him in the grazing roundtable that ultimately lead to new grazing regulations. Once again Tom's talent for bringing diverse interests together for the sake of wildlife was making a big difference on the ground.

While Tom was working on the Arsenal Refuge and Red Rim, there was a sound absent from Yellowstone National Park. Now, you might be lucky enough to hear a wolf howl in Yellowstone, and if so you owe some thanks to Tom Dougherty. He and the National Wildlife Federation, along with many other conservation organizations, worked with citizens, teachers, biologists, ranchers, hunters, lawyers, politicians, and regulators (to name just a few) to bring back the gray wolf Tom was among those invited to be in the Park with Secretary Babbitt during the release of the first wolves back into Yellowstone.

Tom's dedication to wildlife and his thoughtful and heartfelt encouragement for those who care about wildlife is not limited to federal lands. South and east of Yellowstone, Tom and the National Wildlife Federation joined with the Shoshone and Arapaho Indian Tribes on the Wind River Indian Reservation in an effort to convert the Tribes agricultural water rights into instream flow rights. Keeping the water in the river would have restored the Wind River and bolstered the Tribes cultural and economic hopes to once again rely on the river's formerly fertile fishery.

All of this dedication and commitment may be traced to an event early in his life that Tom likes to recite and that he swears is a true story. Forty years ago, as a boy at a Cheyenne, Wyoming, high school, he helped dangle another student by his heels out of a second story school window. Perhaps those few seconds of outdoor aerial suspension created a heightened appreciation of the earth and its environment—the boy who was dangled became a leader of private property rights advocates, and Tom, who kept a firm grip on those inverted heels, became the dedicated environmental leader, teacher, and wildlife guardian that he is today.

Perhaps those few seconds at the sill of that second story high school window gave Tom a knack for recognizing serious wildlife issues before most even realize there's a threat. A decade ago he led the National and Wyoming Wildlife Federations into court to enforce Wyoming's laws against game ranching. Today, game ranches in other states are often at the center of concern about the spread of chronic wasting disease.

Tom Dougherty has been the instigator, producer, coach, minister, and manager for those working to protect wildlife. Certainly one beneficiary of his passionate guardianship and persistent defense is the wildlife we enjoy in the Rocky Mountain region. But the creatures who thrive thanks to Tom are but a token compared to his greatest contribution: his recognition and nurturing of those willing to join in defending wildlife. Tom has motivated hundreds to care for and defend wildlife across the west. The allies Tom has mentored will ensure the West's wildlife legacy will endure.

For these reasons and more, I am proud to call Tom Dougherty a friend, and urge my colleagues to join me in recognizing his contributions to wildlife, our county, and the hundreds of citizens he has inspired to join together to make the West a better place for wildlife and people.

## LEGISLATION TO AWARD THE CONGRESSIONAL GOLD MEDAL TO JUSTIN DART, JR.

### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mrs. MORELLA. Mr. Speaker, I rise to introduce legislation to award the Congressional Gold Medal to Justin Dart Jr., a legendary advocate for disability and human rights, who died on June 22. He was 71 years old.

Justin Dart was a leader in the disability rights movement for over 30 years and was an instrumental force behind the Americans with Disabilities Act (ADA) of 1990, a landmark law protecting the civil rights of persons with disabilities. He was widely regarded as one of the "fathers of the ADA."

At age 18, Mr. Dart contracted polio, which left his legs paralyzed. He attended college at the University of Houston, where he earned his bachelor's and master's degrees. In college, Justin Dart became involved in the civil rights movement and founded an organization to end the racial segregation of the university he attended. Throughout his life, he was active in promoting and protecting the rights of women, persons of color, and gays and lesbians, in addition to people with disabilities.

A successful entrepreneur, Mr. Dart established several businesses in Mexico and Japan during the 1950s and 1960s, but turned away from these ventures so that he and his wife, Yoshiko, could fully devote themselves to human rights causes. In the 1980s, he was appointed by Presidents Reagan and Bush to a number of government posts, including membership on the National Council on Disability, Commissioner of the Rehabilitation Service Administration, and chair of the President's Committee on Employment of People with Disabilities. He also headed the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities. He remained a strong proponent of the ADA, the Individuals with Disabilities Education Act, and other legislative milestones after his service in government, and helped found an organization, "Justice for All," to protect the achievements of the disability rights movement.

In 1998 Justin Dart was awarded the Presidential Medal of Freedom, the nation's highest civilian award. Mr. Speaker, it is only fitting that Congress honor this civil rights advocate with the Congressional Gold Medal as well.

This week on July 26, we will celebrate the 12th anniversary of the ADA. On that day the disability community will come together in our Nation's Capital to pay tribute and celebrate the life of Justin Dart, and for his work to champion the cause of people with disabilities.

Mr. Speaker, let Congress, too, celebrate the life of Justin Dart, and let Congress reaffirm its commitment to the civil rights of all Americans with disabilities, by honoring this outstanding and visionary American with the Congressional Gold Medal.

## INTRODUCTION OF THE PATIENT NAVIGATOR, OUTREACH, AND CHRONIC DISEASE PREVENTION ACT OF 2002

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. MENENDEZ. Mr. Speaker, I'm pleased to be joined by my Colleague from Florida, ILEANA ROS-LEHTINEN, to introduce the Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2002.

The existence of significant health disparities in this nation is undeniable. For years, research has told us that minorities and low-income populations are the least likely to receive the health care they need to live a long, healthy life. We've done a very good job of identifying this problem—it's high time we do something to solve it.

That's why I'm very excited about the bill we are introducing today and the strong support we've already received for it. The bill is supported by the American Cancer Society, the National Association of Community Health Centers, the National Alliance for Hispanic Health, the National Hispanic Medical Association, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Prostate Cancer Center, MHz Networks, Asian and Pacific Islander American Health Forum, and Dia de la Mujer Latina, Inc.

This bill addresses what I believe are the root causes of health disparities in minority and underserved communities: lack of access to health care in general—and particularly lack of access to prevention and early detection—as well as language and cultural barriers to care.

The bottom line is: the only way to stay healthy is to see a doctor when you are healthy. Yes, there are a number of explanations for the higher rates of disease among minority populations, including higher rates of uninsured, reduced access to care, and lower quality of care. But all of these barriers point to the same underlying problem—minority patients are less likely to receive early screening and detection, so their disease is found at a much later stage and they have less chance of survival.

The bill we're introducing today will ensure that all Americans, regardless of race, ethnicity, language, or geography, will have access to prevention screening and treatment, and that they will have an advocate at their side, helping them navigate through today's complicated health care system.

It does this by building upon the existing infrastructure of the Consolidated Health Center program, the Indian Health Service, the Office of Rural Health Policy, and the National Cancer Institute.

It creates model programs to ensure that people are educated about the importance of prevention screening and early detection. A key component of the proposal is year-round outreach to the target community, in a language that they can understand.

It funds culturally and linguistically competent providers that reach out into the community, build their trust, build relationships, and educate the public, while providing prevention screenings and follow-up treatment.

And it ensures that navigators are available to help patients make their way through the health care system —whether it's translating technical medical terminology, making sense of their insurance, making appointments for referral screenings, following-up to make sure the patient keeps that appointment, or even accompanying a patient to a referral appointment.

The original concept for the legislation comes from Dr. Freeman's "navigator" program, which he created while he was Director of Surgery at Harlem Hospital. Recently, I was fortunate to get to visit Dr. Huerta's local Cancer Preventorium, which replicates Dr. Freeman's navigator concept within a comprehensive model of prevention services. This bill will translate the work of Dr. Harold Freeman and Dr. Elmer Huerta into a legislative model for cancer and chronic disease prevention and treatment for minorities and underserved communities.

The track record of these programs speaks for itself. It's very clear that these are not new ideas or new concepts—they're models that have been proven to work. And it's time that we take what's worked and use it to benefit underserved populations across the country. That's exactly what this legislation will do.

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## TRIBUTE TO MARILYN FAGERSTROM

## HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. UDALL of Colorado. Mr. Speaker, as many of my colleagues know, in Colorado we are experiencing some of the worst wildfires in our state's history. We owe an enormous debt to the men and women who have heroically battled these blazes to save lives, protect homes, and lessen the damage to other resources.

In particular, I would like to take this opportunity to recognize one such firefighter, Ms. Marilyn Fagerstrom. Ms. Fagerstrom is an example of the people who always strive to use their abilities to make positive contributions to their communities.

At 71 years of age, Marilyn Fagerstrom is an esteemed firefighter—and a grandmother of six. After having moved to the mountains nearly twenty years ago, Ms. Fagerstrom decided that becoming a volunteer firefighter was the best way to give back to her community. Through the years she has stood shoulder to shoulder with firefighters who, more often than not, were much her junior.

In recent days, she has been tirelessly working to help fight the Big Elk wildfire burning between Estes Park and Lyons, Colorado. It has been said that Marilyn Fagerstrom does more in retirement than many people do during their careers. As such, she is a source of inspiration deserving of our respect and commendations.

For my colleagues' interest, I have attached a news story about Ms. Fagerstrom's firefighting efforts. I ask my colleagues to join with me today in honoring Mariyln Fagerstrom for her spirit, service and tenacity. I wish her continued health and happiness.

[Denver Post Northern Colorado Bureau]

### 71-YEAR-OLD STAYS YOUNG FIGHTING FIRES

(By Coleman Cornelius)

Sunday, July 21, 2002—LYONS—Marilyn Fagerstrom's graying hair, pearl earrings and round spectacles form the image of a grandmother. Then there are her Nomex fire-retardant shirt and black lug-soled boots.

Fagerstrom is 71 years old, a grandmother of six—and an esteemed firefighter. She is the oldest firefighter among nearly 400 at the Big Elk blaze and a veteran of the Hayman wildfire. Fagerstrom began fighting fires at age 53, when she retired to a mountain home northwest of Boulder and realized it was the best way to give back to her wildfire-prone community.

"I suddenly realized I live in an area that could burn. I began investigating. 'Do we have a fire department? What's going on?' " said Fagerstrom, a former physical-education teacher. Fagerstrom quickly joined the Lefthand Fire Protection District, a volunteer force that responds to blazes primarily in Boulder County. As part of the district's engine team, she drives the heavy rig, hauls hoses and sprays down threatened homes and structures with water and fire retardant. In the devastating fire season of 2000, she spent six straight weeks in the field on wildfires including the monster at Mesa Verde National Park in southwestern Colorado. She slept in tents, bathed in portable showers and ate elbow-to-elbow with sweaty, soot-smudged firefighters, many of whom are younger men and women.

At the Big Elk wildfire, Fagerstrom has an office job. She works as an information officer for the federal team managing fire response.

Her engine crew was in the field protecting homes in the Big Elk Meadows subdivision as Fagerstrom came through leading a media tour.

"She brings us intelligence, charm, wit, wisdom and experience—definitely experience," Lefthand volunteer David Keyek said of Fagerstrom.

Added Dave Nyquist, chief of the Lefthand Fire Protection District: "Marilyn is one of those people who makes things work. She's busier in retirement than most people are in their normal jobs."

Fagerstrom said she has made firefighting her life because it allows her to experience camaraderie, adrenaline-laced physical challenge and the reward of helping others. She also wears the hats of information officer and treasurer for the Lefthand Fire Protection District. "It keeps me going. I'm not ready to sit in the rocker yet," she said with a laugh.

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## A TRIBUTE TO STANLEY "MIKE" LARSON: FINALLY COMING HOME

## HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. MANZULLO. Mr. Speaker, fifty-seven years after he died on December 16, 1944 in the Battle of the Bulge, Stanley Larson finally received the funeral reserved for heroes.

He was just a 19-year-old kid, one year out of high school, looking forward to the same things all kids want: lasting friendships, a good job, a loving family. War has a tendency to permanently interrupt dreams of young men. One such was Stanley Larson of Rochelle, a resident of the same county where I live.

I had the opportunity to present an American flag to Stanley's family, the least I could do on behalf of a grateful America.

The enclosed story from the Rockford Register Star, July 23, 2002, tells his remarkable story:

### BELGIANS MAKE TRIP FOR SOLDIER'S HOMETOWN BURIAL

(By Gale Worland)

ROCHELLE.—Jean-Louis Seel had always thought of Stanley E. Larson, and the other American soldiers whose remains he had recovered, as a soldier.

But at Rochelle United Methodist Church, as a young boy rounded a corner, Seel made the connection: Stanley the young boy. Stanley the teenager.

Here was his hometown, his past. Stanley, the high school basketball star. The fresh-faced boy who had a kind word for everyone. The young gentleman in glasses whose keen personality and confident smarts had made him student council president his senior year.

Monday was a day of strange contrasts for the Larson family, who laid to rest one of its oldest members, who was also one of the youngest: Pfc. Stanley E. "Mike" Larson, struck down by enemy fire at the age of 19 in a war that most of the people at his funeral were much too young to have seen.

After being buried in a common grave for 57 years not far from where he fell on Dec. 16, 1944, during the Battle of the Bulge, Larson's remains were discovered last summer deep in the Monschau Forest by a group of Belgian "diggers"—four men, including Seel, who have taken on the recovery of American MIAs as a personal mission.

They had traveled from another hemisphere to see Stanley come back to his hometown, a Midwestern crossroads ringed by tassle-headed cornfields and shingled red barns.

And now they stood in the oppressive summer heat to say farewell to a young man killed on a historic, bitter winter's day. About 200 people gathered alongside them at Stanley's gravesite, including the great-grandnieces and great-grandnephews he never knew but who, today, tenderly walked to his silver casket and left a handful of red poppies.

Stanley's father, Elmer, had bought that plot for his youngest son nearly half a century ago. Now 16 members of VFW posts from throughout northern Illinois saluted their fallen comrade with a color guard. Seven white-gloved men and women sent by the U.S. Army from Fort Leonard Wood in Missouri raised their rifles and sounded the crack of three volleys for one of America's 58,000 World War II MIAs who had finally come home.

And as a bugler played taps, a train whistle in the distance blew in an uncanny, solemn harmony.

"These people are here today to give the family final closure," said Kenneth Seay of Loves Park VFW Post 9759. Seay, the POW/MIA director for the state, held the POW/MIA flag in the formal color guard at the gravesite. On his wrist he wears a thick band engraved with the names of the 98 Vietnam POW/MIAs from Illinois.

"With everything that's gone on in the past year, we really need to pay respect to those who've gone before," said Sen. Brad Burzynski, R-Clare, who attended the funeral.

"I believe God was with Stanley and his buddies when that barrage of hot steel came down upon them," said the Rev. Brian Channel, a military history buff who gave the sermon during the church funeral preceding Stanley's burial with military honors. "Stanley's journey ends today after half a century."

The casket lay in the church draped with a U.S. flag—just as it had at a similar ceremony months ago in a village church near where Stanley's body was found. Close to 2,000 people, many of them Belgians wanting to show gratitude to the American troops who helped secure their liberty, attended that day.

On Monday, the flag of Belgium, with its bold vertical stripes in black, gold and red, flanked the altar along with the Stars and Stripes. Belgian "digger" Jean Philippe Speder told the congregation how, when he was a teenager, he'd heard his grandparents talk about the war. But later he realized that those memories were dimming among his peers. "The picture of the GI was fading as a new generation, including mine, grew up," he said. Speder painted the woods where Stanley lay for 57 years as a place of "serene and magnificent deep forest, known for its high marshes and spring waters." More MIAs lie in unknown pockets of those woods. "Those boys will always be home," he said, "and live in our hearts forever."

The friends and family who spoke at the funeral unraveled the compelling tale of how Stanley was searched for and found. In few words, Battle of the Bulge veteran Roger Foehringer reminded all why they had come: "He's the real hero. He gave his life, his life for us."

"Home is where I belong," Foehringer said, speaking for Stanley, "Goodbye, friends."

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## THE I.R.I. PROMOTES DEMOCRACY AND FREEDOM AROUND THE WORLD

### HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. ROYCE. Mr. Speaker, the importance of democracy and strong democratic institutions in today's world cannot be overstated; we have too many recent examples of the dangers posed by their absence. I would like to salute the International Republican Institute (IRI) and its dedicated work to promote and strengthen democracy around the world.

It is now impossible for us to ignore the potential that unstable states have as breeding grounds for terrorists and terrorist activities—particularly in Africa, where many weak and undemocratic states make fertile ground for terrorism. Africa has been the scene of past terrorist acts, as we saw in the tragic bombings of U.S. Embassies in Kenya and Tanzania.

In my role as Chairman of the International Relations Africa Subcommittee, I have had the opportunity to witness IRI's work in a number of African countries in which political development has been seriously challenged by ethnic and religious conflict, mass violence, and corrupt leadership. In 1999 I led an IRI election observation delegation to observe the historic democratic elections in Nigeria.

In that key country today, IRI is working with Nigerian political parties to prepare for upcoming elections and to encourage the increased participation of women in the political process. IRI also conducted, along with the National Democratic Institute and the International Foundation for Election Systems, a pre-election political assessment of Angola, a country that may be starting to make democratic progress from a savage civil conflict. A current program in Burundi is providing training and support to a legislature struggling to move forward after a genocide of horrific proportions and ongoing violent unrest that threatens the stability of the entire Great Lakes region.

In these constantly changing political landscapes, IRI continues to work in innovative ways to address democratic priorities. For example, building on several years of successful training with local government in South Africa's young democracy, IRI is now constructing a program which will strengthen a local government and community-level response to the AIDS epidemic, a national crisis which threatens both development and democratic stability.

By working to foster strong democratic institutions, transparency and accountability in government, and political empowerment at the grassroots level, institutions such as IRI promote international political stability and further the ideals of democratic freedom throughout the world.

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## TRIBUTE TO PETE SEIBERT, FOUNDER OF COLORADO'S VAIL SKI RESORT

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 23, 2002*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to note the passing of Pete Seibert—a great man and a true pioneer. Mr. Seibert has often been described as a humble visionary guided by his passions more than his quest for material gains. His vision pioneered the Colorado ski industry and will no doubt continue to shape the industry for years to come.

Mr. Seibert started skiing on a pair of his mother's wooden skis at the age of seven. He quickly fell in love with the sport and soon decided that he would one day create a ski resort of his own. As a young man, he joined the Army's storied 10th Mountain Division where he learned unparalleled mountaineering skills and served his country honorably during World War II. After being severely wounded in 1945, during some of the most difficult combat of the war, Pete Seibert was sent home from Italy with a Bronze Star and Purple Heart and was told that he would likely never walk again. He did not accept that verdict—in fact, he totally rejected it, and went on to overcome the odds against rehabilitation. So complete was his success that in 1950 he qualified for the U.S. Alpine Ski Team.

A few years later, Pete Seibert set out in earnest to create a ski resort. After considering many possible locations, he chose the site near Gore Creek that is now known as Vail Mountain. With the same tenacity with which he overcame his war injury, Mr. Seibert shrugged off suggestions that, the area was too flat, too close to the interstate and too close to Aspen.

Chris Jouflas, a lifelong rancher in the area, tells about tending sheep high on the mountain before it was ever referred to as Vail. He remembers one day encountering two young men scanning the mountain, excitedly pointing out terrain features and taking copious notes. The two men were Pete Seibert and his friend Earl Eaton. Mr. Jouflas asked them what they were doing. They matter-of-factly replied that they were going to turn the mountainside into a world class ski resort. Mr. Jouflas likely had his doubts, but Pete Seibert's dreams of that day evolved into one of the most successful ski resorts in North American history.

Vi Brown, a longtime local in Vail, recalls, "Pete was a real hero. If you saw him when you were walking down the street people would say to their kids, 'There goes Pete Seibert. He is the man that invented Vail.'" But despite his achievements and his fame he remained sincerely humble and was an imminently likable man. I believe that humility may well have come from his deep love and understanding of the mountains. Any real mountaineer will come to recognize that you must have perseverance, respect and humility in order to fully experience a mountain. One would be hard pressed to find a man who better embodied these qualities than did Pete Seibert.

It was not greed but passion that inspired him to create a place where millions of people have been able to experience the beauty of that mountain through the years. Our great state and skiers around the world owe a huge debt to Pete Seibert. He will be deeply missed but never forgotten. I ask my colleagues to join with me in expressing our gratitude for his contributions and our sorrow for his passing.

For the information of our colleagues, I attach a news story from the Denver Post about Mr. Seibert and his life and accomplishments.

SKI PIONEER SEIBERT DIES OF CANCER AT 77—10TH MOUNTAIN VETERAN FOUNDED VAIL RESORT

[From the Denver Post Mountain Bureau, July 17, 2002]

(By Steve Lipsher)

VAIL.—Pete Seibert, the visionary ski pioneer who turned Vail and Beaver Creek from dreams into two of the world's pre-eminent ski resorts, has died at age 77.

Seibert, who succumbed to cancer Monday evening, more than 50 years after Italian artillery shells nearly claimed his life during

World War II, was one of a small cadre of 10th Mountain Division veterans who developed Colorado skiing into an industry that generates billions of dollars annually.

"Peter is the one who really founded Vail and Beaver Creek, and . . . those two areas are giants in the ski industry," said lifelong friend Bill Brown, one of the original nine men recruited by Seibert.

It was Seibert who, along with local rancher Earl Eaton, saw the potential in 1957 in what would become Vail Mountain, 100 miles west of Denver.

"Willy Schaeffler, God bless him, said Vail will never work as a resort; it's too flat," Seibert said in a December 2000 Denver Post interview, recalling the legendary former University of Denver ski coach. "I'd seen the places in Europe that worked. They were pretty easy, cruising. People liked that. They don't want to be holding an edge all the time. The skis should flow, and you should be able to go with them."

Seibert also rallied skeptical investors into paying $10,000 apiece for shares in the company—along with homesites in the village and lifetime ski passes—that now are worth millions. And it was Seibert who oversaw the cutting of the original ski trails, and ultimately it was Seibert who first lured the World Alpine Ski Championships to Vail.

"He had an idea a minute, almost, in the early days, and he saw the potential of Vail," said Bob Parker, another 10th Mountain Division veteran who left his job as editor of Skiing magazine to join Seibert as Vail's first marketing manager. "We all believed in Vail because we believed in Peter. It was his real leadership and enthusiasm."

Pat O'Donnell, head of Aspen Skiing and chairman of industry trade group Colorado Ski Country USA, credited Seibert with setting the industry standard in resort development.

### HE'S AN ICON, A VISIONARY

"He's an icon, a role model, a visionary and is largely responsible for the success, through his dreaming and implementation, of what the ski industry is today for the state of Colorado and the nation," O'Donnell said.

Fired as CEO by incoming Vail owner Harry Bass in the 1970s, Seibert later returned to the company under George Gillett as a full-time adviser, a position he held until his death.

"He was always one to share his experience, to brainstorm ideas of how to improve our business," said Beaver Creek chief operating officer John Garnsey. "He was such an innovator and just a great thinker. He was always coming up with ideas, and he never stopped challenging us to come up with better ways of running our resort."

Two years ago, when Vail opened Blue Sky Basin—finally realizing the full scope of the ski area envisioned by Seibert in the 1950s—the company named one of the expanses "Pete's Bowl."

"That is the signature homage to Pete Seibert," said Vail Resorts CEO Adam Aron. "There were a number of people who were involved in the founding and funding of Vail. But clearly, Pete Seibert was the conductor of that orchestra and deserves the great credit."

In recent years, Vail attracted the ire of environmentalists, who complain that it is too big and caters to the wealthy at the expense of nature. Seibert once told a Denver Post reporter: "We weren't trying to save the world. We were just trying to build a ski area."

Born in Sharon, Mass., on Aug. 7, 1924, Seibert started skiing at age 7 on a pair of his mother's wooden skis, winning races by age 15.

After graduating from high school, he joined the U.S. Army's famed 10th Mountain Division, which trained at Camp Hale and then fought in the 1945 siege of Fiva Ridge—the name of one of the seminal runs at Vail—and Mount Belvedere.

Wounded so badly in the battle for Mount Terminale a few days later that doctors warned him he probably wouldn't walk again, much less ski, Seibert was sent home with a Bronze Star and a Purple Heart.

Seibert, however, endured a painful rehabilitation and quickly took up skiing again, teaching himself to get down the hill practically on his one good leg with such speed that he made the U.S. Ski Team in 1950, wrapping his damaged right leg heavily before each run.

"One way or another, skiing was going to be my life," he wrote in his book on the history of the resort, "Vail: Triumph of a Dream."

After working for Aspen and Loveland ski areas, training as a gourmet chef and attending L'Ecole Hoteliere de Lausanne, an international school for hotel management in Switzerland, Seibert began in earnest pursuing his dream of creating a world-class ski resort of his own.

### THE GREATEST PERSONALITY

"He could sell an icebox to an Eskimo," Brown said. "Pete has the greatest personality."

Despite repeated run-ins with Paul Hauk, the U.S. Forest Service supervisor for ski-area development, as well as a mad scramble for money from investors, Seibert and Vail Associates finally opened for business in 1962.

Little snow had fallen that autumn, but after a stunt in which Seibert hired Indians to perform a snow dance, a blizzard struck, and Vail was off and running.

Still, it was hand-to-mouth for a while, as all profits had to be dumped back into improvements on the mountain.

"As Vail was being built, we were always balancing on the brink of failure," Seibert recounted in his book.

Soon, however, the resort achieved success, accompanied by the development of an upscale town modeled after a Bavarian village.

But, truth be told, Seibert never achieved the wild wealth of many of the later arrivals to Vail, although after he was hired again by Gillett, he certainly lived comfortably and was as accustomed to wearing a tuxedo as a ski parka.

"He always seemed driven by his dreams and vision rather than by material considerations," said Vail Mayor Ludwig Kurz, the longtime former director of the Beaver Creek ski school who helped Seibert sketch out the treacherous Birds of Prey downhill course at that mountain that challenges top World Cup skiers today.

Seibert was diagnosed with stomach cancer last year, and although he underwent aggressive treatment, it spread into his lungs and esophagus.

"We all knew that he was fighting a tough battle," Garnsey said. "But Pete had overcome a lot of tough battles and adversity in his life, and he always came through."

He died in his sleep at his Edwards home, surrounded by his former wife, Betty, with whom he remained very close, two of his three sons and family friends. He also is survived by three grandchildren.

"He was really a patriot of skiing and tried to make the town something," said prominent Vail hotel and restaurant owner Sheika Gramshammer, who came to Vail in the early days with her husband, Pepi, at Seibert's insistence. "Vail was really a small family, and Pete was like our patron, our father. I think he was born to do this kind of thing. He was a dreamer."

The family has asked that, instead of flowers, donations be sent to the Shaw Regional Cancer Center at the Vail Valley Medical Center. No services have been announced.

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## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 25, 2002 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### JULY 26

9:30 a.m.
Armed Services
To hear and consider the nominations of Lt. Gen. James T. Hill, USA, for appointment to the grade of general and assignment as Commander in Chief, United States Southern Command; and Vice Adm. Edmund P. Giambastiani Jr., USN, for appointment to the grade of admiral and assignment as Commander in Chief, United States Joint Forces Command.
SR–222

Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine birth defect screening, focusing on strategies for prevention and ensuring quality of life.
SD–430

#### JULY 29

2:30 p.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine certain measures to strengthen multilateral nonproliferation regimes.
SD–342

#### JULY 30

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine finances in the telecommunications marketplace, focusing on maintaining the operations of essential communications facilities.
SR–253

Environment and Public Works
To hold hearings to examine the effectiveness of the current Congestion Mitigation and Air Quality (CMAQ) program, conformity, and the role of new technologies.
SD–406

Foreign Relations
Business meeting to consider pending calendar business.
SD–419

Governmental Affairs
Investigations Subcommittee
To resume hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.
SD–342

10 a.m.
Indian Affairs
To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Task Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.
SR–485

Health, Education, Labor, and Pensions
To hold hearings to examine.
SD–430

10:30 a.m.
Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine criminal and civil enforcement of environmental laws.
SD–226

11 a.m.
Foreign Relations
To hold hearings on the nominations of Nancy J. Powell, of Iowa, to be Ambassador to the Islamic Republic of Pakistan, and Richard L. Baltimore III, of New York, to be Ambassador to the Sultanate of Oman.
SD–419

2:30 p.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine improvement in consumer choice with regard to automobile repair shops.
SR–253

Armed Services
Emerging Threats and Capabilities Subcommittee
To hold hearings to examine the report of the General Accounting Office on nuclear proliferation and efforts to help other countries combat nuclear smuggling.
SR–232A

### JULY 31

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner.
SR–253

Foreign Relations
Business meeting to consider pending calendar business.
SD–419

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

9:45 a.m.
Commerce, Science, and Transportation
Surface Transportation and Merchant Marine Subcommittee
To hold hearings to examine railroad shipper issues.
SR–253

10 a.m.
Indian Affairs
To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.
SR–485

Environment and Public Works
Superfund, Toxics, Risk, and Waste Management Subcommittee
To hold oversight hearings to examine the Environmental Protection Agency Inspector General's Report on the Superfund Program.
SD–406

Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine consumer safety and weight loss supplements, focusing on the extent of the use of supplements for weight loss purposes, the validity of claims currently being made for and against weight loss supplements, and the structure of the current federal system of oversight and regulation for dietary supplements.
SD–342

Judiciary
To hold hearings to examine class action litigation issues.
SD–226

10:30 a.m.
Foreign Relations
To hold hearings to examine threats, responses, and regional considerations surrounding Iraq.
SD–419

1:30 p.m.
Judiciary
To hold hearings on the proposed Prison Rape Reduction Act of 2002.
SD–226

2:30 p.m.
Foreign Relations
To continue hearings to examine threats, responses, and regional considerations surrounding Iraq.
SD–419

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 934, to require the Secretary of the Interior to construct the Rocky Boy's North Central Montana Regional Water System in the State of Montana, to offer to enter into an agreement with the Chippewa Cree Tribe to plan, design, construct, operate, maintain and replace the Rocky Boy's Rural Water System, and to provide assistance to the North Central Montana Regional Water Authority for the planning, design, and construction of the noncore system; S. 1577, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act; S. 1882, to amend the Small Reclamation Projects Act of 1956; S. 2556, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; and S. 2696, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project.
SD–366

3 p.m.
Armed Services
To hold hearings to examine the status of Operation Enduring Freedom.
SD–106

### AUGUST 1

10 a.m.
Indian Affairs
To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.
SR–485

Foreign Relations
To hold hearings to examine national security perspectives regarding Iraq.
SD–419

2 p.m.
Indian Affairs
To hold oversight hearings to examine problems facing Native youth.
SR–485

Foreign Relations
To continue hearings to examine national security perspectives regarding Iraq.
SD–419

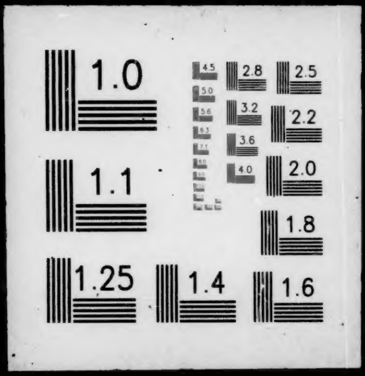
## POSTPONEMENTS

### JULY 30

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine Food and Drug Administration regulation of tobacco products.
SD–430

### JULY 31

9:30 a.m.
Finance
To hold hearings to examine the Report of the President's Commission to Strengthen Social Security.
SD–215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